

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



**AGENCY BUDGET OVERSIGHT HEARING
FISCAL YEAR 2012**

BEFORE THE

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY
PHIL MENDELSON, CHAIR**

**Testimony of
Philip K. Eure, Executive Director
Office of Police Complaints**

April 8, 2011

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PHILIP K. EURE, EXECUTIVE DIRECTOR
OFFICE OF POLICE COMPLAINTS

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Good afternoon Chairman Mendelson and members of the Committee on Public Safety and the Judiciary. I am Philip Eure, the executive director of the Office of Police Complaints (OPC). I am accompanied today by Christian Klossner, OPC's deputy director. We appreciate this opportunity to provide testimony regarding OPC's proposed budget for fiscal year 2012.

At OPC's performance oversight hearing on March 18, 2011, we discussed the agency's work during fiscal year 2010. We noted that from fiscal year 2009 to fiscal year 2010, the agency experienced a 5.8% increase in complaints and closed 6.6% more cases. OPC successfully mediated nearly 9% of all cases resolved last year. In addition, the agency issued two policy recommendations, conducted numerous outreach events, and handled 7.3% of all the year's requests made to District agencies pursuant to the Freedom of Information Act (FOIA). Overall, our agency's efforts have continued to further police accountability in Washington during fiscal year 2010 and into 2011.

We also testified last month that the agency faces significant challenges in the remainder of this year and in the coming fiscal year. OPC is on track to receive more complaints this year than in any other year since the agency opened in 2001. OPC finished last fiscal year with 18.1% more complaints pending than it did the previous year. We also noted that we have been unable to fill a vacant investigator position due to the District-wide hiring freeze.

These challenges come at the same time the District is making difficult budgetary choices. We recognize that OPC must look for savings wherever possible while maintaining service levels. During this fiscal year, OPC has already accepted some difficult cuts to reduce spending. The agency began fiscal year 2011 with a congressionally-approved budget of \$2,115,721. OPC was required to reduce \$58,132 in spending, or 2.7% of its budget. This was accomplished by furloughs, shifting health care costs to employees, and giving up funding for the salary and benefits of a vacant position which would have otherwise been reprogrammed to finance other agency priorities. This resulted in a revised 2011 budget of \$2,057,589.

The mayor's budget proposal starts at this reduced funding level, and goes even further. While we acknowledge the obligation to make sacrifices during difficult economic times, implementation of the proposed cuts will significantly hamper OPC's ability to investigate, adjudicate, and mediate complaints of police misconduct in the timely manner that the public and subject officers expect and deserve; it will limit the amount of outreach and education OPC can perform; and it will reduce the capacity to research and develop recommendations on police reform that lead to better policing and help shield the District from civil liability.

The proposed 2012 budget for OPC is \$1,858,546. This proposal represents an overall decrease of \$257,175 in OPC's budget from the congressionally-approved 2011 level, or 12.2%, and is a 9.7% decrease from the revised 2011 budget. Compared to the revised 2011 budget, the current proposal contains \$24,000 of reductions to personal services (PS), amounting to a 1.4% decrease, and \$175,000 in cuts to non-personal services (NPS), amounting to a staggering 59.5% decrease.

Looking first at personal services, it is important to note that while the net reduction is a relatively modest \$24,000, the actual reductions go much farther. The mayor's proposal

eliminates the salary and benefits for the investigator position that the Council added just last year to OPC's staff, as well as four paid summer intern positions. The proposal also eliminates \$3,000 in overtime funding for any First Amendment protest-monitoring the agency may perform. These cutbacks total \$89,314, and include two full-time equivalent (FTE) positions, or 8.6% of OPC's staff.

The \$24,000 net reduction figure was reached by offsetting the proposed decreases in FTEs with increased spending on step increases and fringe benefits. It is important to note, however, that these increases to the PS budget will have little or no effect on the agency's ability to investigate and resolve complaints of police misconduct, whereas the reductions will have a very direct and negative impact.

As of March 2011, OPC investigators had an average caseload of 24.4 complaints per investigator, higher than the agency's preferred caseload of fewer than 20 complaints per investigator. The data provide support for our argument that, if at all possible, the investigator vacancy should be filled, not eliminated, to address this issue. In addition, the three investigative internship positions, which are eliminated in the proposal, have been an invaluable and cost-effective method of bolstering the work of the investigative unit since the agency's inception. The loss of these intern slots would have a significant impact on the agency's ability to investigate complaints.

The mayor's proposal also eliminates a paid law student during the summer. This position has historically been important to OPC, as the incumbent has aided in the research and drafting of the agency's policy recommendations, which have brought about meaningful changes to MPD's policies and procedures. The majority of these recommendations have been adopted by the Department, and future proposals for police reform can be expected, over time, to reduce

police misconduct and limit the District's civil liability in lawsuits arising from officer wrongdoing.

In the field of independent police review, an important measure of an agency's ability to conduct professional and timely investigations is the oversight agency investigator to sworn officer ratio. Since its inception in 2001, OPC has strongly advocated for adequate funding to hire enough investigators to keep pace with the workload, and we thank you, Chairman Mendelson, and others who have served on this Committee, plus the Council as a whole, for your efforts to secure necessary resources for the agency.

Based on the proposed funding for only 11 staff investigators in fiscal year 2012 and the current MPD roster of 3879 sworn officers, OPC's ratio will be one investigator for every 353 MPD sworn officers. Comparable "investigative model" police oversight agencies have significantly lower ratios. For example, 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, while New York City Civilian Complaint Review Board's ratio is, at present, approximately one investigator for every 307 sworn officers.

On a related note, should the Council enact Councilmember Evans's legislation entitled "MPD Minimum Staffing Act of 2011," thereby ensuring a minimum police force of 4000 sworn officers, then the ratio would worsen to one investigator for every 363 sworn officers.

High ratios lengthen the amount of time it takes to investigate a complaint, which 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. According to nationally known police accountability expert Professor Samuel Walker, a high ratio significantly impedes the ability 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)).

Of equal concern is the reduction in OPC's NPS budget. The proposed budget for fiscal year 2012 is \$119,000, which is a decrease of \$175,000, or 59.5%, from the congressionally-approved fiscal year 2011 budget.

The large reductions in NPS directly relate to the agency's day-to-day ability to resolve complaints. OPC pays on a per-case basis to resolve many complaints through both adjudication and mediation. The money available for these programs is nearly \$79,000 in fiscal year 2011. The \$29,255 remaining for these two budget items after a proposed reduction of nearly \$50,000 would be inadequate to pay for the number of mediations OPC conducted in fiscal year 2010, let alone the adjudications that will need to be conducted. We anticipate that a minimum of approximately \$83,000 will be needed to adjudicate and mediate cases in 2012. If the proposed cuts are made, we estimate that dozens of citizen complaints that would otherwise have been adjudicated or mediated in fiscal year 2012 will have to be delayed until fiscal year 2013, or until such time as funds could be restored.

OPC is sometimes required to bring on board contract employees to perform discrete tasks on a range of projects that often cannot be anticipated but are simply the cost of doing business for a city agency devoted to enhancing police accountability. As a rule of thumb, OPC has found that it needs funding for such contracts in the amount of at least \$80,000 above and beyond the figures dedicated for complaint adjudication and mediation. Adding the adjudication/mediation figure of \$83,000 to this \$80,000 amount equals \$163,000, which is nearly \$45,000 more than the entire proposed NPS budget. In any given year, the agency needs to pay for office supplies and printing, software and maintenance expenses related to the

agency's complaint database, copier and printer maintenance, access to online legal databases, and a variety of other expenditures necessary for OPC's operations. This is only a partial list of agency expenses that generally recur on an annual basis. Therefore, taking into account these types of expenses, the gap between the agency's costs and what is currently proposed leaves the agency in a precarious situation.

We note that the mayor's proposal reduces OPC's operating budget 9.7% from the revised 2011 budget, while at the same time increasing MPD's operating budget by 0.2%. Furthermore, while OPC is slated to lose 8.6% of its FTEs under the proposal, MPD is only losing 5.4%. This is an important comparison since MPD is the primary focus of OPC's work. To put it simply, the greater the number of sworn MPD officers, the greater the workload is for OPC. In addition, due to the relatively small size of our agency, even an equal percentage cut in staffing would produce a more harmful effect on OPC as opposed to MPD.

Citizens may file a complaint with either OPC or MPD. MPD's 2009 annual report stated that the Department received from citizens 394 allegations of misconduct. In that same year, OPC received 550 complaints containing 1854 discrete allegations of misconduct. Complaints filed with MPD are generally investigated by a subsection of the Internal Affairs Bureau. We understand that this unit is poised to receive a 16% increase in its staffing level. We are concerned that this lack of parity will have negative consequences for the District's efforts to reduce police misconduct and promote greater police accountability.

To summarize, after careful review, we do not believe that the proposed budget submitted for OPC for fiscal year 2012 will allow us to maintain our current service level or permit us to address either the current volume of citizen complaints or the increase in pending cases. In light of the growing volume of citizen complaints and the possibility that MPD may be allowed to add

sworn officers, it is critical that the District protect the investment it has made in police accountability. We look forward to continuing to work with the Committee, the Council, and the Mayor to ensure that we have sufficient resources to carry out our agency's mission and address the challenges that lie ahead.

This concludes my prepared remarks. We thank the Committee for its time, and we are happy to answer any questions you may have.