

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 1:15-CV-01046
	)	
Plaintiff,	)	
vs.	)	JUDGE SOLOMON OLIVER, JR.
	)	
CITY OF CLEVELAND,	)	
	)	<b><u>CITY OF CLEVELAND’S STATUS</u></b>
Defendant.	)	<b><u>REPORT RE: OFFICE OF</u></b>
	)	<b><u>PROFESSIONAL STANDARDS</u></b>

**I. Introduction**

As was noted in the City’s prior report to the Court (Dkt. 245), two major goals were established last year relative to completing work on complaints received by the City’s Office of Professional Standards (“OPS”). The first goal remains ensuring that OPS stays current in completing the necessary reviews and investigations for complaints received by OPS after December 1, 2017. Presently, OPS employs eight permanent investigators and one temporary investigator for this purpose.

Concurrently, the second goal addressed the resolution and completion of work necessary to eliminate the backlog of open cases stemming from complaints received by OPS in 2015, 2016, and through November, 2017. As noted previously, the City has contracted with Hillard Heintze, a Chicago based investigative firm, to complete the review and investigation necessary to close out these backlogged cases. The City contemplates the backlog will be eliminated prior to the end of calendar year 2019.

This report advises the Court on the continued progress in meeting both goals.

**II. First Goal: Timely OPS Investigation of Current Complaints**

The following table summarizes the status of the 396 complaints received by OPS during the period December 1, 2017 to September 4, 2019.

<u>Time Period</u>	<u>Number of Cases Opened</u>	<u>Number of Cases Completed</u>	<u>Number of Cases Open</u>
December 2017	24	24	0
2018 (Jan – Dec)	227	210	17
2019 (Jan – Sep 4)	<u>156</u>	<u>72</u>	<u>84</u>
Total	407	306	101

Of the 306 cases completed by OPS during the period December 1, 2017 through September 4, 2019, a total of 190 complaints have been fully investigated to completion, with 116 complaints having been administratively resolved.<sup>1</sup> The following additional detail is provided for each of the three periods.

**Dec. 2017**

The 24 cases that were opened for complaints received in December 2017 have now been completed by OPS and have been closed.

**2018**

There were 227 cases opened by OPS for complaints received in 2018. As of September 4, 2019, OPS had completed its work on 210 of the 2018 filed cases. This represents a current

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<sup>1</sup> The 116 complaints that have been administratively resolved include 77 cases that were “administratively dismissed”, with 39 cases having been “administratively closed.” An administrative dismissal of a complaint occurs when the allegations received by OPS (a) are made against an individual who is not a CDP employee; (b) are made against a CDP employee who cannot be identified despite the best efforts of the OPS investigators; (c) are of a civil nature and address a CDP employee’s off-duty conduct; or (d) concern the issuance of a traffic or parking citation without other allegations being made. The separate category of “administrative closure” occurs (a) where a new complaint against a CDP employee contains the same allegations made in a prior complaint or (b) when the allegations against a CDP employee are determined by OPS to raise new, but similar claims to those presented in a previously filed case involving the same CDP employee.

completion rate of almost 93 percent. The following table reviews the number of cases opened in each quarter of 2018, along with the number of cases closed and completion rate.

<b><u>2018</u></b>	<b><u>Cases Opened</u></b>	<b><u>Cases Closed</u></b>	<b><u>Completion Rate (%)</u></b>
Jan – March	48	48	100
Apr – June	54	54	100
Jul – Sept	49	44	90
Oct – Dec	<u>76</u>	<u>64</u>	<u>84</u>
Total	227	210	93 %

Of the remaining 17 open 2018 cases, 12 cases remain under active investigation by OPS, with The remaining five (5) of the open cases presently being investigated for potential criminal violations by the Internal Affairs (“IA”) section of the Cleveland Division of Police (“CDP”).<sup>2</sup>

### **2019**

As of September 4, OPS has received 156 new complaints in 2019. OPS has completed work on 72 of the 2019 cases, with 84 of these cases remaining open. The following table provides a review of the number of cases opened during the first two quarters along with the number of cases closed, and what has been received and closed to date in the third quarter of the year.

<b><u>2019</u></b>	<b><u>Cases Opened</u></b>	<b><u>Cases Closed</u></b>	<b><u>Completion Rate (%)</u></b>
Jan – March	44	32	73
Apr – June	61	30	49
Jul – Sep 4	<u>51</u>	<u>10</u>	<u>20</u>
Total	156	72	46 %

Of the 84 currently open cases for complaints filed in 2019, 72 are presently being investigated

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<sup>2</sup> IA is the responsible agency for undertaking the investigation of allegations filed with OPS against by CDP employees when OPS has identified potential criminal violations in the course of its investigation. OPS does not investigate criminal allegations and transfers cases involving potential criminal conduct to IA for investigation.

by OPS, with four (4) cases having been transferred to IA for review and six (6) recently filed complaints presently pending completion of the necessary initial review and assignment.

### **OPS Active Case Overview**

There are 101 currently open OPS case files for complaints received between December 1, 2017 and September 4, 2019. Of this total, 41 cases relate to recent complaints that were filed in July, August, and September of this year. Of the remaining 60 open cases, 17 were received between July and December 2018, with the remaining 43 open cases having been received in the first six months of 2019. Taking into account that nine (9) files have been transferred for investigation by CDP's IA section and that the most recent six (6) complaints are awaiting initial review and assignment, OPS investigators are currently working on an assigned caseload of 85 files, the oldest of which was received in June 2018.

### **III. Second Goal: Hillard Heintze Completion of Backlogged Cases.**

As addressed in prior status reports (see e.g. Dkts. 228, 245), the City has contracted with Hillard Heintze to address and resolve a backlog of 281 open OPS cases for complaints that were filed during 2015-2017 time period (also including 3 complaints filed in 2014). As noted above, OPS has continued its focus on the goal of ensuring the investigation and timely completion of complaints received on and after December 1, 2017, while Hillard Heintze addresses the existing 2015-2017 case backlog. Hillard Heintze's activities in attending to the backlog have occurred in three phases.

### **Phases One and Two**

In Phase One Hillard Heintze conducted a comprehensive review and assessment of the 281 backlogged 2015-2017 complaints. This assessment period allowed Hillard Heintze to evaluate the scope and quality of the investigation activities that had been completed to date by

OPS in each of the cases. Phase Two of the work accomplished by Hillard Heintze involved a case by case basis evaluation of each case and a determination of whether sufficient evidence existed to proceed. The company established an investigatory road map for each case where sufficient evidence was found to exist. At the completion of the Phase Two review of each file, Hillard Heintze had identified 144 backlogged cases for investigation and completion. The Phase One and Two reviews resulted in the closure of 137 cases.

### **Phase Three**

Hillard Heintze began its Phase Three activities in late March 2019. Hillard Heintze investigators have been present in Cleveland to complete the necessary investigative work and they operate out of the same facility as OPS. The Hillard Heintze investigations are held to the same standard as would be necessary to finalize and close an OPS handled investigation. Investigations completed by Hillard Heintze will be presented to the Cleveland Police Review Board for hearing and disposition.

During the course of its investigations, Hillard Heintze began officer interviews in early April 2019, and to date its investigators have completed more than 200 CDP officer interviews. As of September 4, Hillard Heintze has returned to OPS completed investigations in 106 of the 144 Phase Three investigations. It is anticipated that Hillard Heintze will have completed the Phase Three investigations by the end of September.

#### **IV. Conclusion**

OPS continues its efforts to remain current with complaints filed in 2018 and 2019. The above referenced statistics establish that its work on the great majority (93%) of the 251 complaints filed between December 2017 and December 2018 has now been completed. Of the 101 currently open cases, 41 were received in the period of July to the present.

As noted, Hillard Heintze is well advanced in completing the Phase Three work necessary to eliminate the 2015-2017 backlog of open cases. The City anticipates that Hillard Heintze will complete the remaining Phase Three investigations well before the end of the calendar year.

Respectfully submitted,

Barbara A. Langhenry (0038838)  
Director of Law

By: /s/ Gary S. Singletary  
Gary S. Singletary (0037329)  
Chief Counsel  
City of Cleveland  
601 Lakeside Avenue, Room 106  
Cleveland, Ohio 44114-1077  
Tel: (216) 664-2737  
Fax:(216) 664-2663  
E-mail: [gsingletary@city.cleveland.oh.us](mailto:gsingletary@city.cleveland.oh.us)

Counsel for the City of Cleveland

**CERTIFICATE OF SERVICE**

The undersigned certifies that the “City of Cleveland’s Status Report Re: Office of Professional Standards” was filed electronically on September 9, 2019. Notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system. Pursuant to the requirements of the Consent Decree the Monitor Team has been delivered a copy of this filing.

/s/ Gary S. Singletary  
Gary S. Singletary (0037329)  
Counsel for the City of Cleveland