ATTACHMENT 4

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CALIFORNIA 94612

City Administrator's Office
Citizens' Police Review Board

(510) 238-3159
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June 8, 2017

On Tuesday, May 23, 2017, at the City Oakland's Public Safety Committee (PSC) meeting, Agenda item #4, CPRB Annual Report presentation was rescheduled to the June 13, 2017 PSC meeting. PSC Chair Desley Brooks requested a supplemental report to address suggestions presented by a community member.

The suggestions are as follows:

- Analysis of trends within OPD as they relate to allegations (mentioned at the PSC meeting on May 23, 2017)

These suggestions were first mentioned to the CPRB on April 13, 2017:

- Number of investigations that were not done timely and resulted in #3304 violation need to be reported.
- Pg. 11 – present data in chart/matrix form rather than narrative in paragraphs
- Pg. 13 – note that IAD referrals lack demographic profiles of complainants
- Pg. 14 – represent the incident locations by Council districts
- Pg. 15 - reference the 151 complaints that could have been referred to mediation had the proposal not be stymied by prolonged MOU discussions.
- Pg. 17- provide information about whether discipline was imposed for MOR non-compliance and, if so, what was the discipline

Below is the actual email of this communication. The email, dated April 14 2017, represents the information requested from Rashidah Grinage by CPRB Chair Chris Brown. Ms. Grinage made these comments/suggestions to the CPRB at our meeting on April 13, 2017. For some unknown reason neither Board Chair Chris Brown or myself received the original email; we first learned of the email on May 24, 2017 (as you can see from the email thread I received).

I present these suggestions to the board for consideration in preparation of the supplemental report.

Anthony,

See below.

Chantal

Sent from my mobile device. Please excuse brevity and typos.

From: Brooks, Desley <dbrooks@oaklandnet.com>
Sent: Tuesday, May 23, 2017 11:21 PM
Subject: Re: notes on CPRB 2016 Report as requested
To: rashidah grinage <rashidah@earthlink.net>
Cc: Cotton, Chantal <ccotton@oaklandnet.com>

Thanks, Rashidah.

Chantal, can you have the supplement report respond to the questions in Rashidah's email.

Thanks.

Desley

Get Outlook for iOS

From: rashidah grinage <rashidah@earthlink.net>
Sent: Tuesday, May 23, 2017 11:15:55 PM
To: Brooks, Desley
Subject: FW: notes on CPRB 2016 Report as requested

Desley,

Fyi – I gave my comments on the CPRB Annual report on April 13th when the draft was presented at the CPRB. I was asked to put them in writing and send, which, as you can see below, I did.

None of them were incorporated! So, I'll be very curious to see what, if anything, they change in the supplemental.

Rashidah
Coalition for Police Accountability
http://coalitionforpoliceaccountability.com
From: rashidah grinage [rashidah grinage [mailto:rashidah@earthlink.net]
Sent: Friday, April 14, 2017 3:36 PM
To: afinnell@oaklandnet.com; cbrown2020@att.net

Subject: notes on CPRB 2016 Report as requested
Importance: High

Preliminary:
Number of investigations that were not done timely and resulted in #3304 violation need to be reported.

By page:
11 – present data in chart/matrix form rather than narrative in paragraphs
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prolonged MOU discussions.
17- provide information about whether or not discipline was imposed for MOR non-compliance and, if so, what was
the discipline

Thank you for considering these suggestions.

Rashidah
Coalition for Police Accountability
http://coalitionforpoliceaccountability.com

Proposed Language for Supplement to CPRB 2016 Annual Report in Response to Community Input

Analysis of trends with OPD as they relate to allegations of police misconduct.

The CPRB is proud to present its 2016 Annual Report to the Council and residents of the City of Oakland. The 2016 Annual Report represents a ground-up overhaul and improvement of the CPRB's annual reporting in response to the statutory requirement that "No less than twice each year the Board shall issue a detailed statistical report to the Public Safety Committee regarding complaints filed with the Board, the processing of these complaints and their dispositions." (City of Oakland Ordinance No. 12102 C.M.S.) As such, the Report contains unprecedented disclosure of the Board's public and confidential work product, including extensive changes that provide a more granular level of detail with respect to citizen complaints and board activities, and a richer narrative structure designed to provide the public – who is not privy to the Board's confidential closed-session work product -

"Preliminary: Number of investigations that were not done timely and resulted in #3304 violation need to be reported"

The CPRB Board and Staff assume that this "preliminary" recommendation refers to CPRB investigations which were not closed within the §3304 Statute of Limitations. Per California Law, a one-year statute of limitations applies to bringing disciplinary action against a public safety officer after the formal initiation of a complaint of misconduct (CA Government Code §3304). Therefore, CPRB investigations of officer misconduct that generate Sustained findings which would lead to officer discipline must be concluded within 1 calendar year of the initiation of the complaint process or no discipline related to these Sustained findings may be imposed upon the subject officer.

The appointed CPRB Board considered this suggestion, and Board members concurred that information relating to the number of investigations which exceeded the §3304 Statute of Limitations during the 2016 calendar year was an important community concern and that it should therefore be included in the Board's Annual Report. In response to this Board request, CPRB Staff reviewed every case closed during 2016 and found that due to exigent circumstances the statutory §3304 date had been exceeded in one instance, but that this did not constitute a §3304 violation because there was no affect on OPD officer discipline as the Administrative Closure of that complaint contained no Sustained findings of officer misconduct. ***This information was incorporated into the final version of the CPRB Board's Annual Report on page 22 – 3304 Violation.***

By page:
11 – present data in chart/matrix form rather than narrative in paragraphs

The Appointed CPRB Board considered this recommendation. However, the paragraphs on page 11 were written not to report on the work product of the CPRB or complaint investigations, but rather to provide a narrative description of the workload of the Appointed Board and a window into the confidential and closed-session processes of the Board's ongoing efforts on behalf of the

Citizens of Oakland. This is the first time this additional process-oriented information has ever been compiled, and it was incorporated into the 2016 Annual Report's introduction to the CPRB Appointed Board's work to increase transparency and improve the Oakland Community's understanding of the work which takes place behind the scenes. The Board therefore determined that this information was rightly presented within the narrative description introducing the non-public process of complaint resolution rather than as a separate set of charts devoid of context. Furthermore, ***all data regarding Citizen Complaints, CPRB Investigations, Board Recommendations, and Recommendations regarding Disciplinary Outcomes – including significant improvements and expansions of data and details which have never been included within any previous CPRB Annual Report – are presented in charts within the body of the report as required by the CPRB's Authorizing Ordinance and requested by the Appointed Board of the CPRB.***

13 – note that IAD referrals lack demographic profiles of complainants

Complaints of officer misconduct arrive at the CPRB through a variety of channels including complaints which are filed directly with the CPRB either as walk-ins or via telephone, and complaints which are lodged with the OPD through the Internal Affairs Division's formal complaint submission process or verbally to officers and supervisors in the field. The CPRB 2016 Annual Report provides information on the demographic profile of complainants who self-report such information (page 13 of the Annual Report), usually by checking the appropriate boxes on the applicable complaint forms. The CPRB can only report demographic information as it is self-reported however. Therefore, where complainants fail to self-report on their demographic backgrounds, or where their complaints are submitted through verbal communications with officers in the field, no reportable data exists. This is not an issue of differential treatment of complainants between IAD and the CPRB, but rather to variations in self-reporting and the fact that complainants who complain of misconduct through verbal reports to officers in the field do not necessarily fill out complaint forms themselves, and so are unable to self-report their demographic details. As the CPRB moves forward with the implementation of new case management and electronic complaint and evidence submission systems, it is likely that the quality and extent of self-reporting will improve. Until such time, more extensive demographic data simply does not exist.

14 – represent the incident locations by Council districts

Historically, CPRB Annual Reports have provided very limited information about the location of the incidents which lead to complaints of police misconduct. Indeed, the only such location information provided was a count of the number complaints filed in each City Council District. This presentation of the information was problematic on many levels. Because many complaints relate to officer misconduct in or near police stations and other areas in which officers are likely to be found, Council Districts such as District 3 (encompassing Downtown Oakland including the OPD headquarters building at 7th and Broadway) have always had a larger count of complaints than other areas of the City of Oakland. This does not mean that police conduct in District 3 is demonstrably worse than in other areas of the City, but rather is an artifact of factors that have little to do with either police conduct or patterns of misbehavior. Likewise, reporting location information only through a simple count by Council District provides little insight into the density

of such complaints City-wide, or the distribution of problems of officer misconduct within the City. For the CPRB 2016 Annual report, the Staff and Appointed Board decided to report the location of incidents generating complaints of police misconduct using a much richer format – namely, by showing the location of every complaint received during the calendar year on a map of Oakland (included on Page 14). Oakland residents and their representatives on the City Council are therefore provided with far more information about the geographic distribution of reports of police misconduct than has ever been made publicly available by the CPRB, while also avoiding the problems inherent in the simplistic presentation of complaint counts by Council District available in previous years' reports.

15 – reference the 151 complaints that could have been referred to mediation had the proposal not be stymied by prolonged MOU discussions.

This recommendation was considered by the Appointed CPRB Board. However, as stated, the recommendation does not accurately reflect either ongoing internal negotiations over the introduction of a mediation and/or other informal dispute resolution process or the proper role of the CPRB Annual report and the Board and Staff's statutory authority. The Annual Report is a record of citizen complaints of police misconduct and CPRB accomplishments during the 2016 calendar year as required by the Board's enabling ordinance, not of every initiative currently being pursued by the Appointed Board and Staff. There are several important initiatives that are currently underway, and that consumed many hours of Board and Staff time during the calendar year, which were not included in the 2016 Annual Report. Among other initiatives, these include an important upgrade of the CPRB database and case management system which will, when fully implemented, both improve and expand the Board's IT systems and allow the CPRB to receive complaints and evidence of misconduct electronically, and the introduction of Mediation and alternative complaint resolution process' mentioned in this recommendation. Fully implementing any of these ongoing initiatives is both time-consuming and complex however, and they require cooperation and work across City Departments. When these initiatives are fully implemented, information about them will be released to the public and they will be included in the Annual report corresponding to the year of their introduction. Until that time, public reporting on these initiatives is premature.

Furthermore, and quite aside from the fact that the implementation of mediation and other informal complaint resolution mechanisms are not in fact being "stymied by MOU discussions," it would be highly inappropriate for the CPRB Board to comment on negotiations between the City of Oakland and public employee bargaining units as requested here. Any discussion of MOU discussions – to which the CPRB is not a negotiating party – much less a comment including highly prejudicial language such as "stymied" as presented in this comment, would not only exceed the CPRB's statutory authority but would likely constitute a violation of public sector ethical standards which could subject the CPRB to disciplinary review by the City's Public Ethics Commission.

17 - provide information about whether discipline was imposed for MOR non-compliance and, if so, what was the discipline.

The CPRB assumes this recommendation refers to officers who violate OPD General Order M-3.2 requiring compliance with CPRB administrative subpoenas to appear for interviews and Board Hearings related to investigations of officer misconduct. The CPRB reports all data it collects on officer compliance with CPRB interview requests and administrative subpoenas on page 17 of the 2016 Annual Report. However, while the CPRB does forward information about non-compliance to the Oakland Chief of Police and the City Administrator's Office for disciplinary review, the imposition of discipline for such violations is determined by the Chief and City Administrator. Therefore, this request calls for information outside of the statutory authority of the Board and Staff of the CPRB and this information is not included in the Board's Annual Report. Any such request is properly directed towards the OPD.

CPRB 2016 Annual Report

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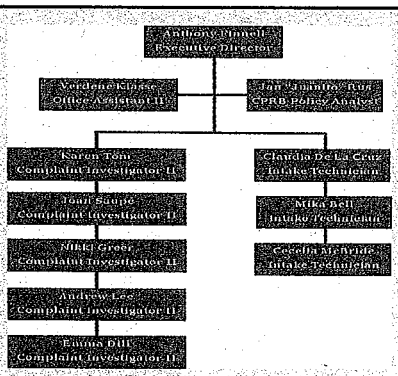
510-238-3159
ANTHONY W. FINNELL
EXECUTIVE DIRECTOR



CPRB 2016 Annual Report

- CPRB Board and Staff Training
  - Interview and Interrogation – John E. Reid and Associates
  - 40-hr. Mediation/Conflict Resolution Certification
  - 2016 Sgt. CPT – OPD Training Staff
  - Diversity – City of Oakland
  - Citizens' Police Academy – OPD
  - NACOLE Annual Conference
  - NACOLE Academic Symposium
  - Excess of 570 total hours

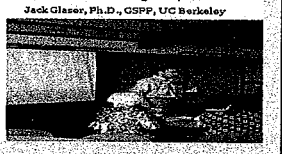
CPRB 2016 Annual Report

Cameron McElhiney, NACOLE

Assistant Chief Paul Figueroa, OPD

Walter Katz, San Jose Independent Police Auditor

Jack Glaser, Ph.D., GSPP, UC Berkeley



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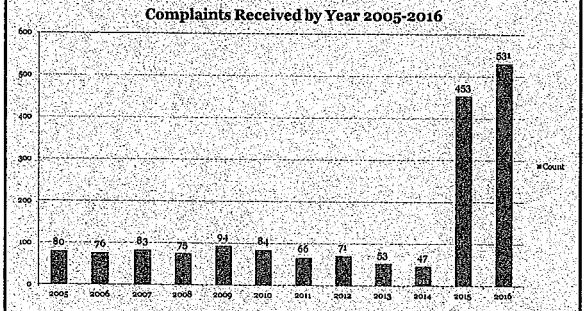

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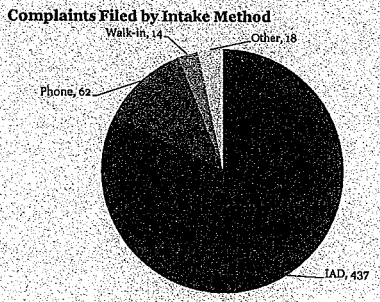

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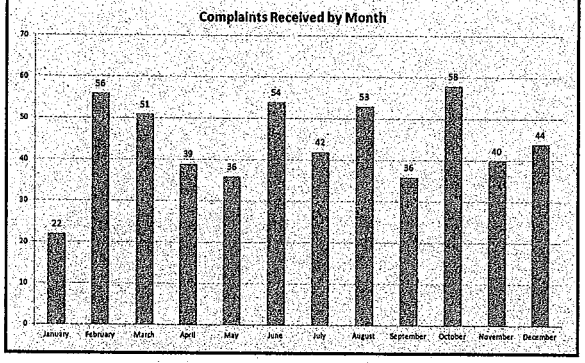

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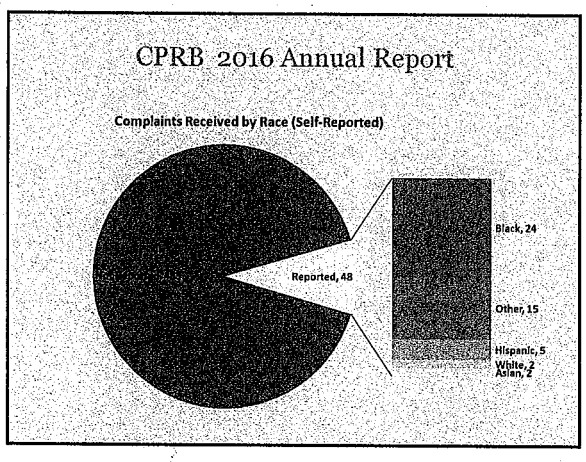

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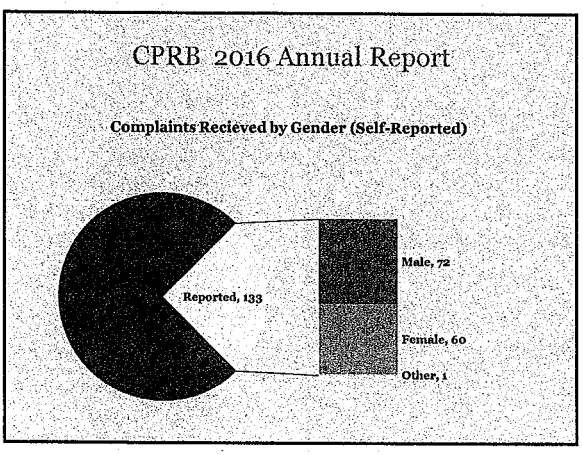

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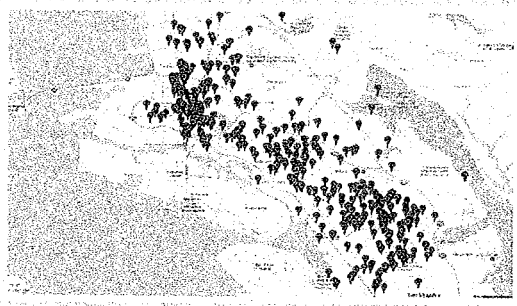

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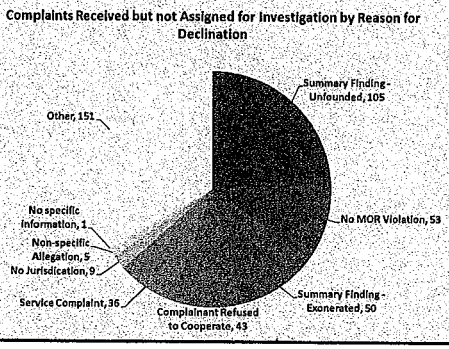


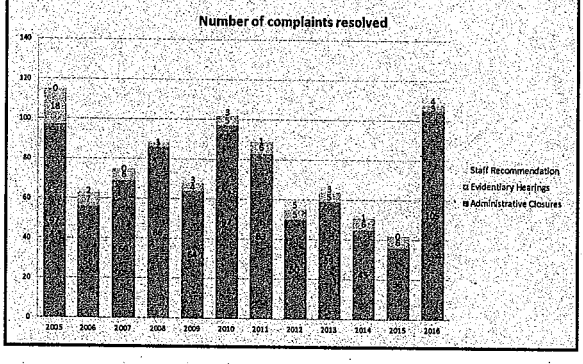
CPRB 2016 Annual Report

Cases Assigned for Investigation 2016	
Involving use of force/bodily injury	36
1 Minimal effort to complete	2
2 Average complexity	22
3 Most complex	12
Improper detention (profiling)	4
1 Minimal effort to complete	1
2 Average complexity	3
Service/Response/Reporting	18
1 Minimal effort to complete	10
2 Average complexity	7
3 Most complex	1
Grand Total	58

CPRB 2016 Annual Report

OPD Officer Compliance with CPRB Investigations	
Involved in CPRB Investigations as Witnesses or Subjects	250
Statements Released in Response to Interview Notices	184
Interviewed by the CPRB	18
Investigator did not Proceed with Interview	11
Legitimately Unavailable for Interview*	7
Non-compliant	8
CPRB HEARINGS	
Subpoenaed to Appear at Board Hearing	19
Legitimately Unavailable for Hearing*	3

CPRB 2016 Annual Report



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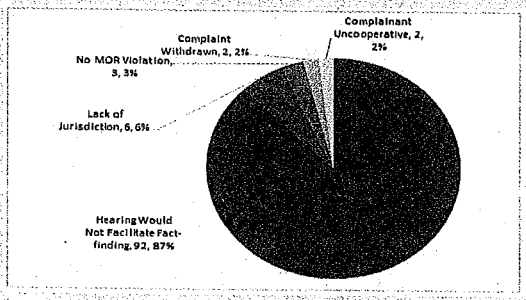
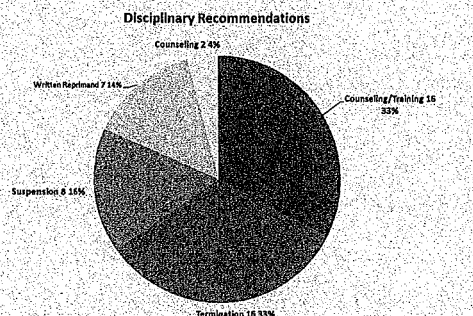


Complainant(s) Hearing Date	Allegation	Allegation Category	Board Finding	Board Disciplinary Recommendations
Brandon Jones 1/28/2016	15-0221(01)	Improper/Unlawful Search - Person	Unfounded	
	15-0221(02)	Failure to Act - Failure to identify self	Sustained	Suspension
	15-0221(03)	Failure to Act - Failure to identify self	Sustained	Suspension
	15-0221(04)	Failure to Act - Failure to identify self	Sustained	Suspension
Kyle Robinson 2/25/2016	15-0248(01)	Harassment	Unfounded	
	15-0248(02)	Harassment	Unfounded	
	15-0248(03)A	Failure to Act - Failure to activate PDRD	Sustained	Suspension
	15-0248(03)B	Failure to Act - Failure to activate PDRD	Exonerated	
	15-0248(04)A	Failure to Act - Other	Sustained	Counseling/Training
	15-0248(04)B	Failure to Act - Other	Sustained	Counseling/Training
	15-0248(05)A	Failure to Act - Failure to accept or refer a complaint	Sustained	Written Reprimand
	15-0248(05)B	Failure to Act - Failure to accept or refer a complaint	Sustained	Written Reprimand
	15-0248(06)A	Verbal Misconduct - Rudeness	Sustained	Counseling/Training
	15-0248(06)B	Verbal Misconduct - Rudeness	Sustained	Counseling/Training
	15-0248(07)	Failure to Act - Other	Exonerated	
Carmen M. Johnson 7/28/2016	15-0749 (1)	Improper/Unlawful Detention/Stop	Exonerated	
	15-0749 (2)	Improper/Unlawful Detention/Stop	Exonerated	
	15-0749 (3)	Improper/Unlawful Search - Vehicle	Exonerated	
	15-0749 (4)	Improper/Unlawful Search - Person	Sustained	Written Reprimand
	15-0749 (5)	Improper/Unlawful Search - Other	Not Sustained	
	15-0749 (6)	Other	Exonerated	
	15-0749 (7)	Improper/Unlawful Search - Other	Sustained	Suspension
	15-0749 (8)	Improper/Unlawful Search - Other	Exonerated	
	15-0749 (9)	Bias/Discrimination	Sustained	Written Reprimand
	15-0749 (10)	Failure to Act - Failure to accept or refer a complaint	Sustained	Counseling
	15-0749 (11)	Improper/Unlawful Search - Person	Unfounded	
	15-0749 (12)	Improper/Unlawful Search - Other	Sustained	Written Reprimand
	15-0749 (13)	Other	Exonerated	

CPRB 2016 Annual Report



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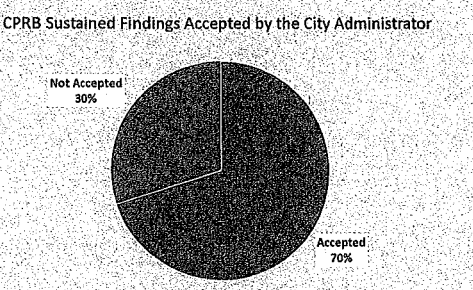

CPRB 2016 Annual Report

- Religious Headwear Policy
- Insufficient Filming of Pre- and Post-Search Sites
- Documentation and Recordkeeping during Multi-jurisdictional Searches
- Ability to Review Affidavits in Support of a Search Warrant
- Witness Statements
- Police Identification
- Police Documentation of the Basis for a Stop
- Language Access: Statements Given in a Foreign Language

CPRB 2016 Annual Report

- Going forward-
  - Complete hiring needs for Community Police Review Agency as part of the Police Commission
    - Complaint Investigator Supervisor
    - Complaint Investigator (2)
    - Intake Technician
  - Mediation Program – Complete Meet/Confer Process
  - Database and case management system – September, 2017
  - Continued training opportunities – Staff
  - Community Outreach and Collaboration