PS COMMITTEE #2
March 30, 2015

MEMORANDUM

March 26, 2015

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst SJF

SUBJECT: Update: Office of Consumer Protection

Today, the Committee will receive an update from the Office of Consumer Protection (OCP) on its current initiatives and future plans. The following are expected to brief the Committee:

Eric Friedman, Director of the Office of Consumer Protection
Marsha Carter, OCP
Lorena Bailey, OCP

OFFICE OF CONSUMER PROTECTION BACKGROUND

OCP's primary mission is to prohibit unfair and deceptive trade practices in order to protect consumers and maintain a level playing field for merchants. OCP is a law enforcement agency responsible for administering nine statutes, licensing several types of businesses (new home builders, auto repair and towing, appliance repair, and secondhand personal property dealers), and collaborating with numerous County agencies. In addition, OCP is currently responsible for staffing the Commission on Common Ownership Communities (CCOC) and serves as the Patient Advocate Position for the Emergency Medical Services (EMS) Insurance Reimbursement Program.

OCP investigates and resolves consumer complaints involving such issues as automotive sales and repairs, new home warranties, home improvements, non-consensual towing, credit issues, retail sales, and many other types of consumer transactions. OCP has the authority to execute settlement agreements, issue civil citations and subpoenas, conduct administrative hearings, and initiate legal action through the Office of the County Attorney. The nature of the

work requires an in-depth knowledge of various industries and local, state, and federal consumer protection statutes.

OCP has conducted several live online chats and continues to help produce a cable TV show, "*Consumer Compass.*"

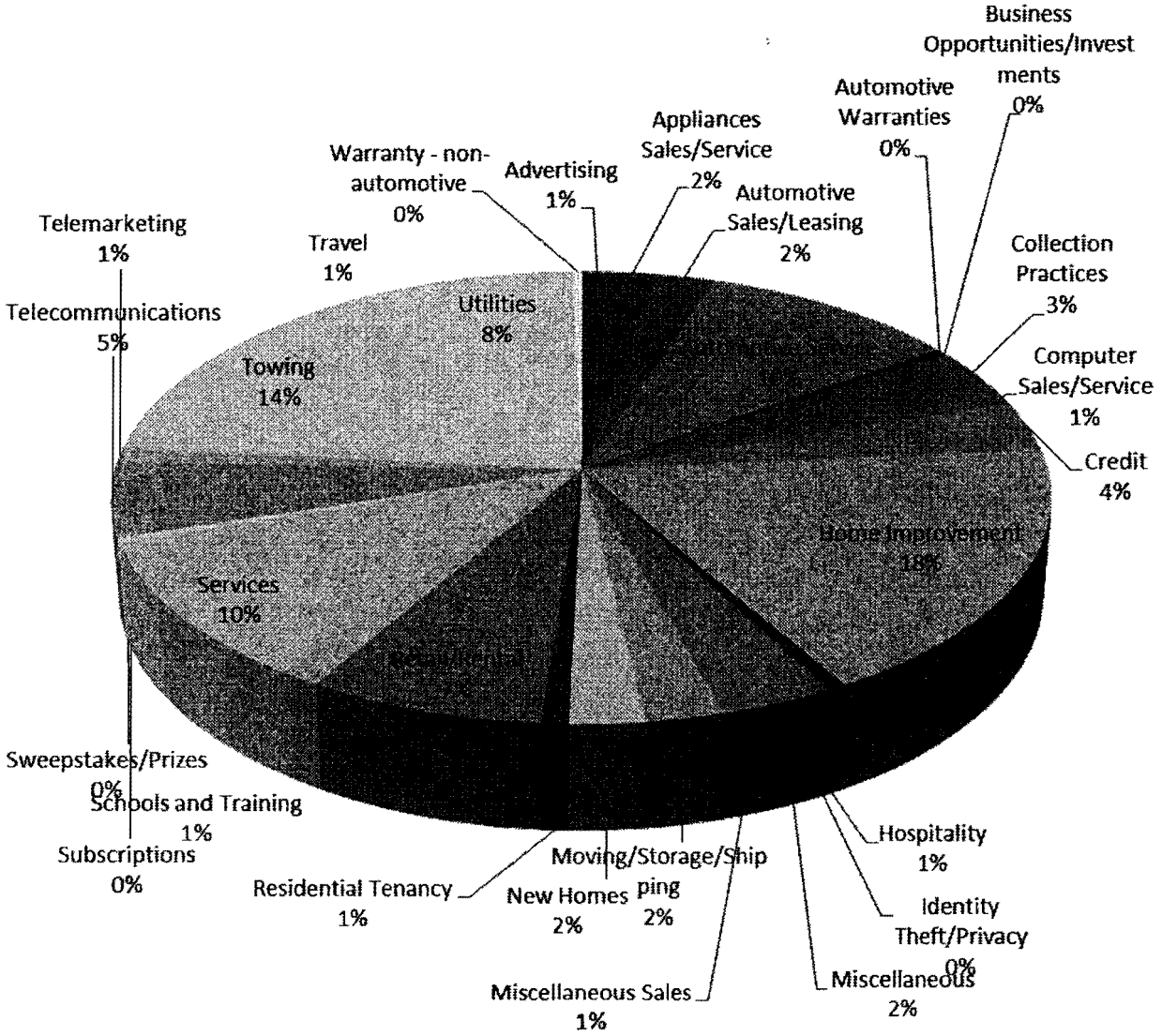
OCP handles these duties with a staff of only 18, including several bilingual personnel. To meet these needs, OCP has investigators on staff with subject matter expertise with consumer issues including home improvement, towing, and retail sales.

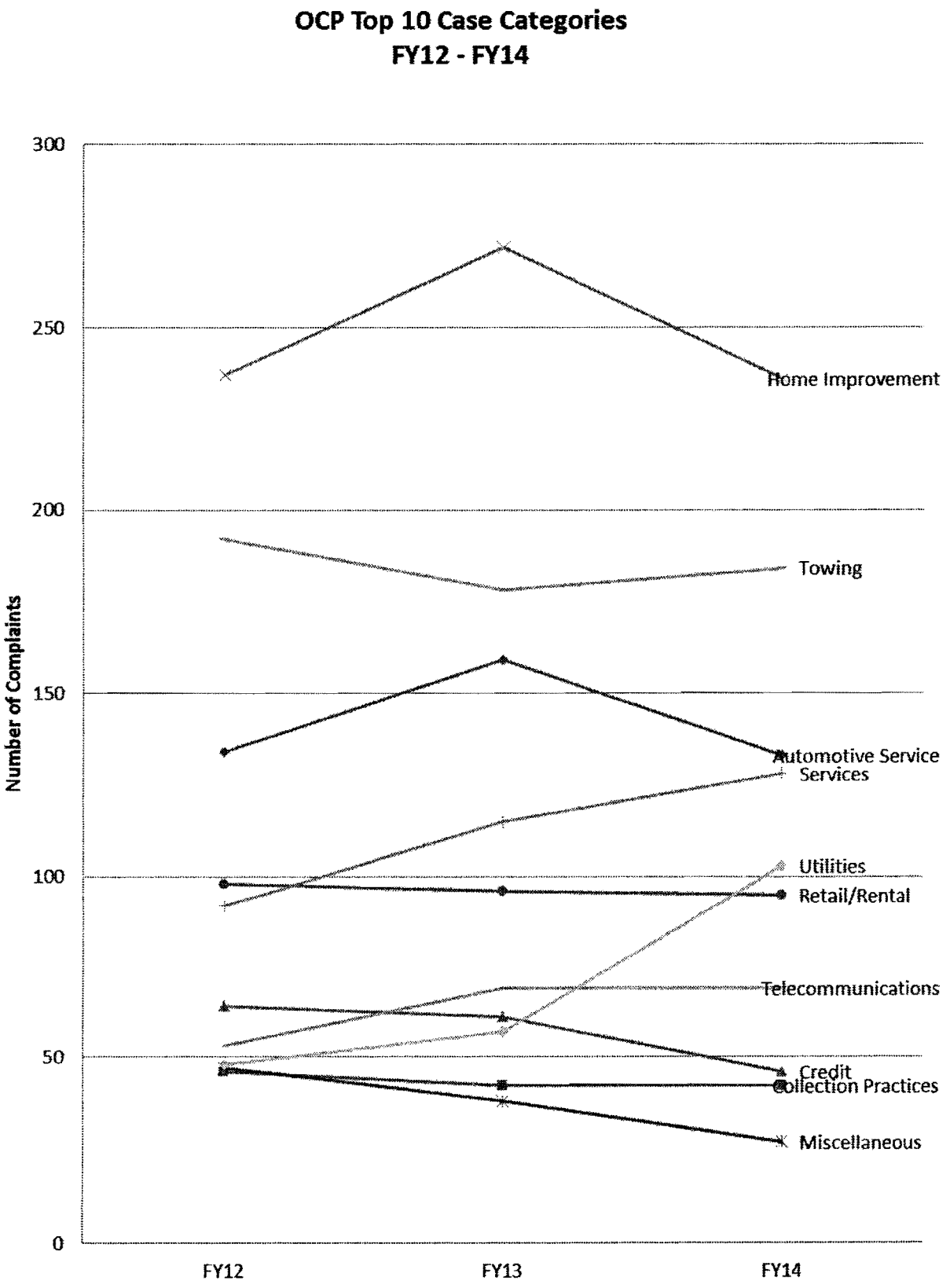
CONSUMER ISSUE TRENDS

OCP continues seeing a large volume of home improvement related and trespass towing complaints. In addition, OCP indicates that the marketplace is currently experiencing a systemic change related to a "sharing economy" in which businesses like Uber, Lyft, Airbnb, and GoFundMe are new entrants to the marketplace. This shift in the marketplace creates complex issues in which new businesses may not fit well into the structure of traditional government regulation. OCP has started seeing a small number of these new cases. At this stage, OCP expects to help the County formulate policies towards these new ventures.

In FY14, OCP continued its trend of having Home Improvement and Towing cases dominate its case load. Overall, during FY14, OCP received 1,312 cases. During the past three (3) years, these two categories combined have accounted for approximately 30% of all cases. Rounding out the top 10 categories are Automotive Service, Other Services, Retail/Rental, Utilities, Telecommunications, Credit, Collection Practices, and Miscellaneous. Almost all categories have remained stable over the past three years with the exception of Utilities which has doubled since FY12. In addition to formal complaints, in FY14, OCP staff handled over 3,000 consultation requests for consumer advice.

OCP Consumer Complaint Categories
FY14




OCP Top 10 Case Categories
FY12 - FY14
Number of Complaints
300
250
200
150
100
50
0
FY12
FY13
FY14
Home Improvement
Towing
Automotive Service Services
Utilities
Retail/Rental
Telecommunications
Credit
Collection Practices
Miscellaneous

CURRENT CONSUMER ISSUES

Non-Consensual Towing: Overly aggressive or "predatory" towing practices continue to be one of OCP's largest category of complaints. There are both County and State trespass towing laws which regulate non-consensual towing in shopping centers and in residential areas. These practices and OCP's activities have received significant news media attention, including a recent report on the NBC Today Show:

http://www6.montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=14440

The County Executive and several Councilmembers have requested that OCP draft revisions to Montgomery County's trespass towing law. These proposed revisions are designed to seek a balance to curb overly aggressive behavior while at the same time maintaining parking rules. The State trespass towing law is currently being challenged by a towing firm in the Maryland Court of Appeals.

Unlicensed Contractors and New Home Builders: OCP is currently collaborating with the Department of Permitting Services (DPS) with respect to identifying and taking enforcement action with regard to contractors that engage in residential construction without the proper license. This joint effort involves having DPS generate monthly reports based upon their permit applications which OCP can use to conduct comprehensive research.

When these homes are sold, consumers do not receive the warranty protections that a licensed contractor is required to provide. These merchants typically attempt to exploit a perceived "loophole" in the licensing and permitting process which allows an individual to build or renovate his or her own home without being licensed.

OCP has been able to identify numerous homes that were constructed, renovated, and sold by contractors without the required permits and without providing the required warranties. Settlement agreements have been executed, compensation has been provided, and a NACo award application is being submitted regarding this initiative.

Legislative Advocacy – Deceptive Auto Sales: OCP is working closely with Montgomery County's Intergovernmental Relations Office, the Maryland Consumer Rights Coalition, and private attorneys to oppose a bill that would enable some auto dealers to continue engaging in a deceptive trade practice commonly referred to as "spot delivery" or "yo-yo" sales. The proposed bill would amend Motor Vehicle Administration rules with respect to the issuance of temporary registration tags.

OFFICE OF LEGISLATIVE OVERSIGHT – CCOC

OCP and other stakeholders have recently been working with Montgomery County's Office of Legislative Oversight regarding its review and evaluation of Montgomery County's Commission on Common Ownership Communities (CCOC). This report made certain findings regarding the extent to which the CCOC operates as an informal dispute resolution program and

made certain recommendations regarding resources and staffing of the CCOC. Approximately 40% of Montgomery County's residents live in homeowner associations, condominiums, and cooperatives.

PATIENT ADVOCACY

In FY15, OCP continued its important role as Patient Advocate for the Emergency Medical Services (EMS) Insurance Reimbursement Program. While each call OCP receives will typically fall into a predefined category, no two calls are quite the same. OCP works quickly to determine the best action/response for each issue/request and consults regularly with Montgomery County Fire & Rescue Service to respond to patient's needs.

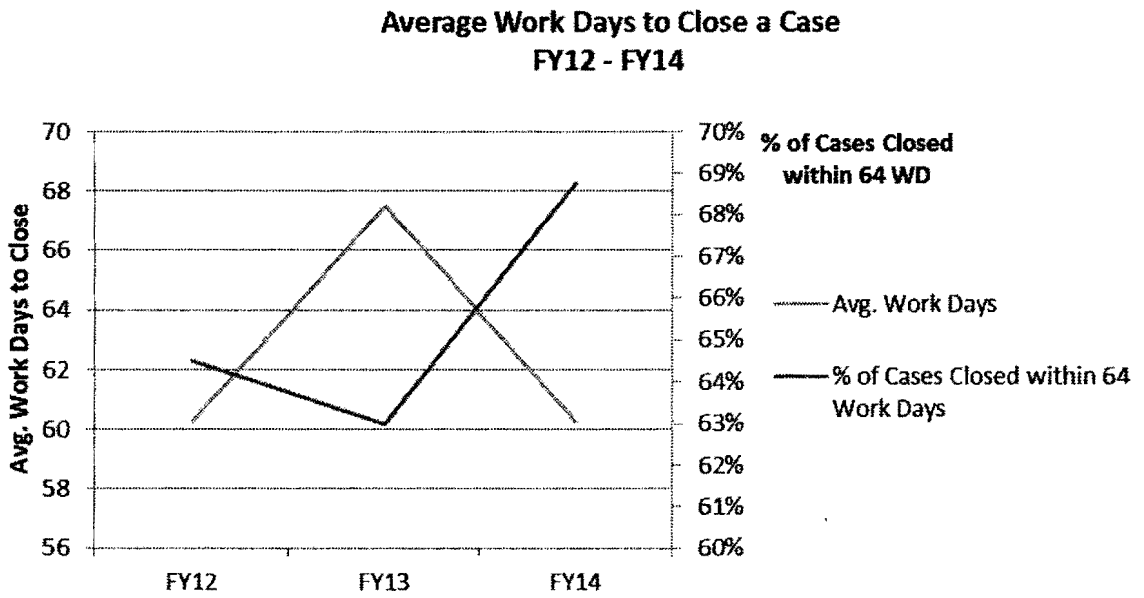
OCP provides a weekly report to MCFRS displaying the number and types of calls received. Below are the top three inquires received YTD in FY15:

- EMS record requests;
- Questions regarding the Request for Information form (used to obtain insurance information for billing purposes); and
- Access to program information.

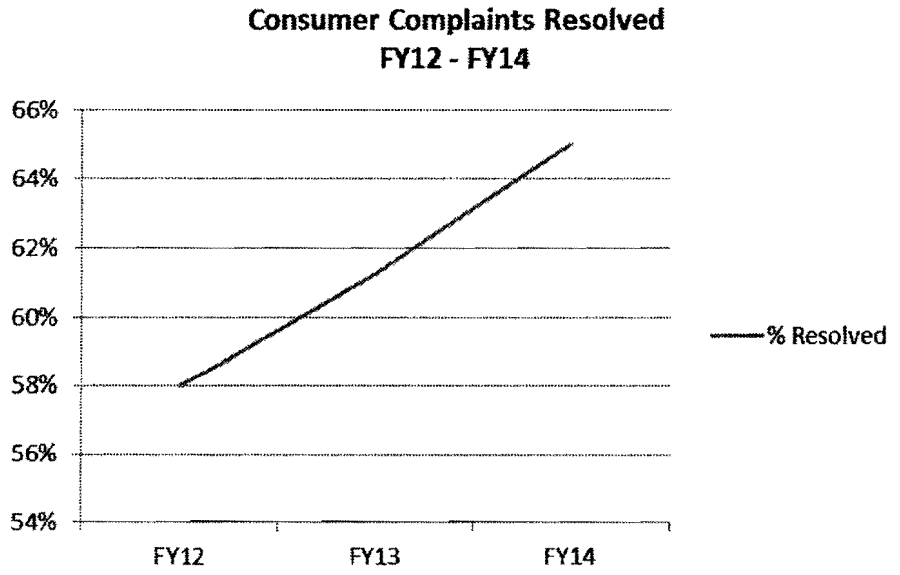
ONGOING STAFFING AND TECHNOLOGY ISSUES

OCP's sole, remaining manager recently retired, and OCP hopes to conduct a search to hire a strong candidate to fill this critically important position. In addition, OCP is working with Montgomery County's Department of Technology Services to find ways to address longstanding information technology issues.

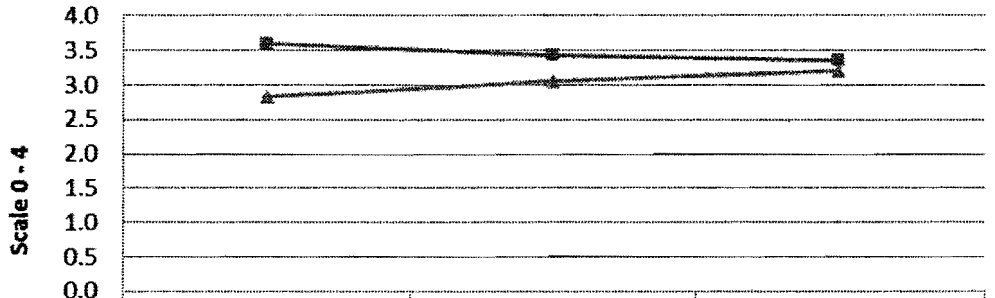
PERFORMANCE MEASURES



OCP closes the majority of cases within 64 work days. In FY14, 69% of all cases were closed within our stated goal.



OCP's resolution of cases has steadily increased over the past three years. In FY14, 65% of OCP cases were resolved to the consumer's satisfaction. OCP has, over the past two years, provided mediation training for staff. Some of the more difficult to solve cases involve transactions where investigators find no violation of law. After a thorough investigation, if an investigator finds no violation of law and the parties are not moving towards resolution, the investigator can offer mediation services that are at no cost and completely voluntary. This approach, used only for cases not involving a violation, enables OCP to offer a second level of service while minimizing the costs associated with bringing civil action.



	FY12	FY13	FY14
Customer Satisfaction Manner	3.6	3.4	3.4
Customer Satisfaction Outcome	2.8	3.1	3.2

In FY14, OCP has maintained favorable customer satisfaction ratings for manner in which an investigator handled a complaint and case outcome. OCP has steadily increased the outcome over the past two years. OCP continues to provide training opportunities to staff to continue improving our results.

Discussion Issues

1. OCP currently has two vacant positions, one of which is the sole manager position. Will OCP be able to get exceptions from the County hiring freeze to fill these positions?

2. What is the current status of discussions with the Department of Technology Services (DTS) regarding information technology upgrades?

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