

# Principled Policing: The Mayor's 2015 Police Accountability Report

## MAYOR'S MESSAGE

For Oakland to achieve its goal of improving safety for the entire community, it is essential that residents have faith in the Oakland Police Department (OPD). Community members must be able to trust that the decisions police make are fair, and the outcomes of those decisions are just. Principled, community-based policing will re-establish and maintain a relationship of trust and cooperation with the Oakland community to increase safety.

Oakland has looked across the nation and deep within to improve the culture and operations of our police department. By adopting nationally-recognized best practices, and closely collecting and examining data, OPD has enacted new training procedures, hiring and promotion practices, and enforcement and discipline policies that have led to more principled policing. These measures help ensure the integrity of law enforcement actions, and produce better safety outcomes.

While the efforts I will outline in this report represent measurable, important improvements, we fully recognize that this work is not done. The road that led us to this place has been extremely painful for far too many Oaklanders, especially those in our communities of color. There is a long and shameful history of abuses of authority by members of the Oakland Police Department from which we are actively working hard to recover and rebuild community trust.

Part of restoring trust is bringing greater transparency to police data so residents know firsthand how our police department is meeting the goals it has outlined for itself, as well as those specified by the Court Negotiated Settlement Agreement the department entered into in 2003 (**Progress on the Negotiated Settlement Agreement** section). While the negotiated settlement agreement has been prescriptive, many of the lasting changes our police department has made are the result of direct community action and the department's own initiative.

The report that follows is another example of a proactive step we are taking to bring about meaningful change. This is the first in a series of bi-annual reports I will be releasing as mayor to outline where the City of Oakland is in its effort to ensure police accountability and provide a closer and more accessible look at the data around police discipline.

In addition to a narrative that offers much-needed context for the work OPD has taken on, this report provides data on the number of discipline cases received in 2015, the types of allegations made and the outcome of the cases investigated. It also looks at the policies dictating how discipline is handled by OPD and the steps being taken to ensure that disciplinable acts do not occur in the first place. Reliable metrics give us a baseline from which to improve and a measure by which we can be held accountable. This is why we are being deliberate in collecting and making this data available.

I know that recent reports of alleged off-duty police misconduct outrage all of us and damage this community's trust in law enforcement. I remain extremely disturbed about the allegations of off-duty misconduct in this department. We are thoroughly investigating these recent allegations

to uncover the truth and hold anyone who engaged in on-duty or off-duty misconduct fully accountable.

On May 13, 2016 in response to recent allegations of off-duty officer misconduct, former Police Chief Sean Whent, City Administrator Sabrina Landreth and I announced a series of measures to reinforce the integrity of police investigations into misconduct, and ensure that officer conduct meets the highest professional and ethical standards.

- 1) Issued a new executive order on investigative integrity. Effective, May 13, 2016 any allegations of criminal misconduct by an employee of the Oakland Police Department, on or off duty, will be immediately reported to the district attorney in the county where the incident is alleged to have occurred.
- 2) To further safeguard the independence of the District Attorney's investigation, only DA personnel who have not previously worked for the Oakland Police Department will be assigned to any investigatory team involving OPD.
- 3) In addition, the Police Chief called for a joint audit by the City Auditor Brenda Roberts and the OPD Inspector General to examine OPD recruitment and early warning systems for any practices or patterns that would identify unsuitable candidates from the applicant pool, and ensure the continued suitability of current officers to be on the force.
- 4) We use objective standards and tests to ensure we do not relax standards for police recruits just to fill academies, nor to graduate a certain number of officers. The Oakland Police Academy is 29 weeks with an additional 16 weeks of Field Training which is a total of roughly 1,100-1,200 hours for every trainee. This is nearly double the POST (Peace Officers Standards and Training) requirement of 664 hours. Beginning with the next class in July there will be an extra week in the academy and a specific block of instruction related to off-duty ethics.

Unlike many law enforcement agencies around the country that have responded poorly to the national outcry over police accountability, the Oakland Police Department has been pioneering in its gathering and transparent sharing of police data. Having this data means we can better hold ourselves accountable for policies and practices, but also for how they manifest themselves in outcomes. While the array of data may at times show varying degrees of success, the action we take to improve these outcomes demonstrate this department's sincere commitment to building a learning organization that is always working to make Oakland a safer and more equitable community.



**Oakland Mayor Libby Schaaf**

## **INTRODUCTION**

The purpose of this report is to provide data regarding police discipline to ensure accountability of Department actions. The period of evaluation for this report is January through December of 2015. It will be published by the Mayor's Office bi-annually. The next report will cover the first half of 2016 and be released within the next six months. In addition to data on police accountability, (**Appendix B**), this report provides updates on the following areas:

- 1) Oakland as a national leader for open police data;
- 2) Police discipline;
- 3) Reductions in uses of force;
- 4) Progress on the Negotiated Settlement Agreement.

## **OPEN POLICE DATA: OAKLAND AS A NATIONAL LEADER**

In 2014, President Obama launched the Task Force on 21st Century Policing to identify the best means to provide an effective collaboration between law enforcement and local communities that reduces crime and increases trust.

In response to several of the Task Force recommendations that speak to the importance of technology and transparency, the White House launched the Police Data Initiative (PDI) in May 2015. PDI is a community of practice that includes leading law enforcement agencies, technologists, and researchers committed to improving the relationship between citizens and police through uses of data that increase transparency, build community trust, and strengthen accountability.



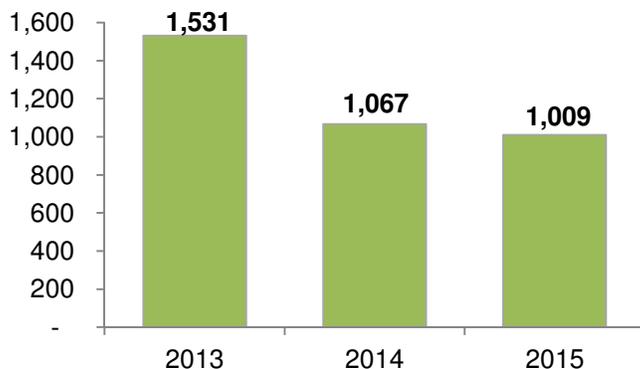
The Oakland Police Department (OPD) was one of two dozen law enforcement agencies around the country initially selected by the White House to participate in this initiative. The group has since grown to 53 cities. Lynn Overmann, Senior Policy Advisor to the White House Chief Technology Officer for Criminal Justice was in Oakland on May 19, 2016 to present on the national effort to increase public access to police data. She discussed how opening up police data to the public and using advanced analytics increases police accountability and community trust.

## **OPD POLICE DISCIPLINE: MAKING SENSE OF THE DATA**

The practices, policies and procedures that govern police conduct are clearly outlined for both sworn and civilian staff. In addition, training is given to assist members of the department in performing their assigned and sworn duties with principle at the highest level. OPD closely tracks and monitors complaints against officers and has a system for reviewing those

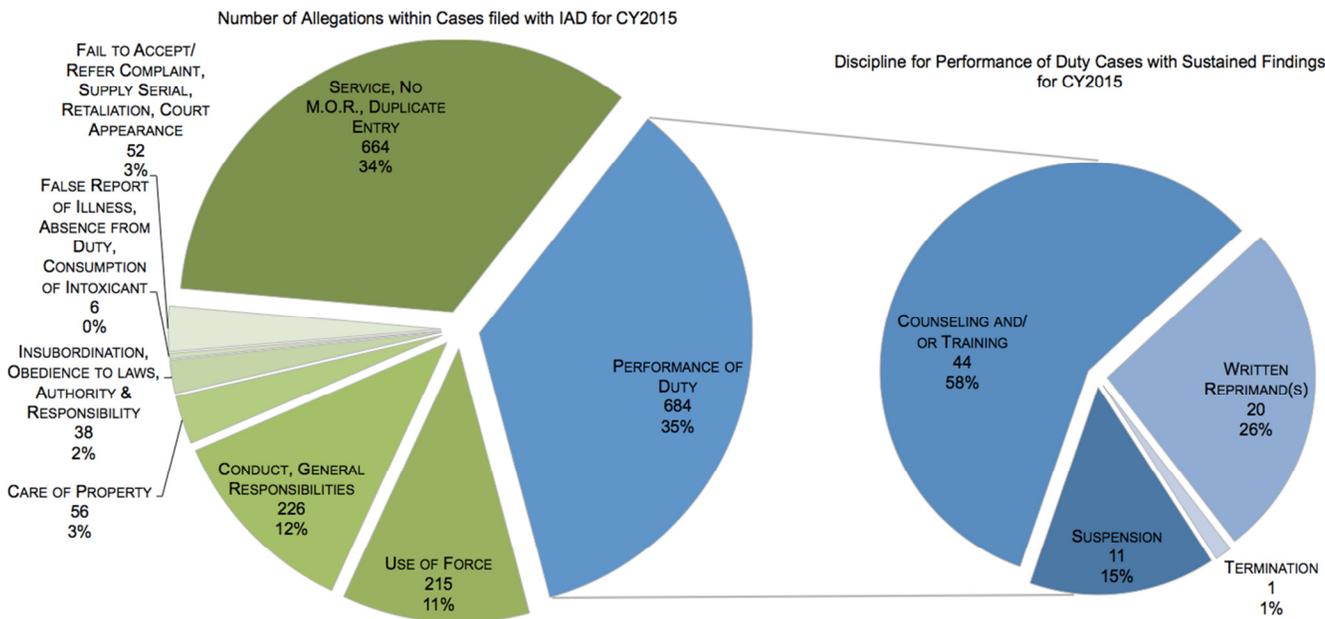
complaints. Complaint cases are reviewed by OPD's Internal Affairs Division (IAD), as well as other division supervisors. [OPD's complaint acceptance policy can be viewed by the public here.](#)

**Figure 1. IAD Complaints Received 2013-2015**



As seen in **Figure 1**, IAD received 1,531 complaints in 2013 and 1,067 in 2014, representing a 30 percent decrease. The complaint process was restructured pursuant to a policy revision in 2013. As a result, there continues to be a significant corresponding decrease in IAD cases and an inherent increase in communication with the community, particularly by way of field supervisor responses to incidents. This downward trend continued in 2015 with a combined total of 1,009 misconduct cases representing both Internal Affairs cases and those reviewed by division supervisors.

**Figure 2. Individual Policy Violations alleged for Cases filed with IAD in CY2015**



A review of 2015 complaint trends revealed that complaints most commonly lodged against the Police Department did not contain allegations of misconduct against specific officers or employees. Complaints categorized as “Service Complaints” voice concern with a police practice mandated by policy or law such as towing of a vehicle, or report a delay in service (such as a long wait for an officer’s presence due to call for service volume). In 2015, 343

alleged service complaints were received, while an additional 312 allegations were determined to contain no alleged violation of rule or law regarding a specific Police Department officer or employee.

Review of 2015 complaint trends also revealed that of the allegations which alleged officer or employee misconduct, 684 allegations were received that an officer or employee did not perform his or her assigned duties and responsibilities as required or directed by law or departmental rule. Violations of performance of duty include, but are not limited to, the following:

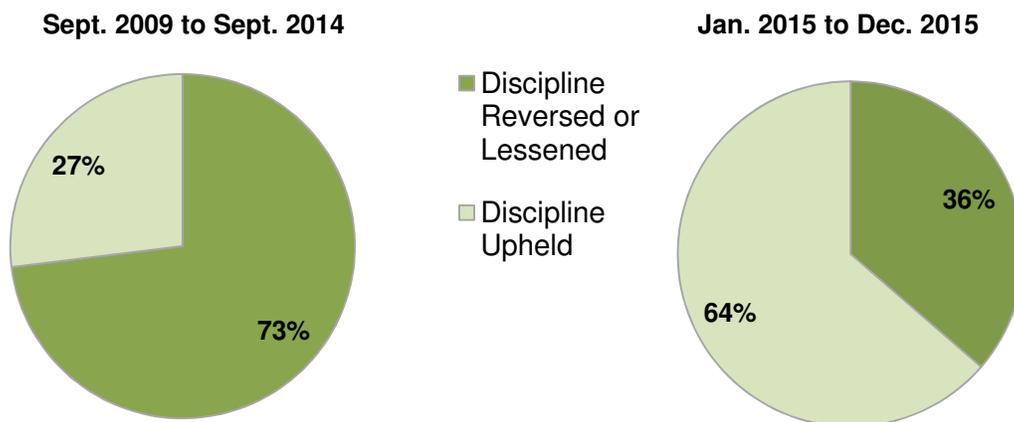
- Intentional illegal search, seizure, or arrest;
- Unintentional or improper search, seizure, or arrest;
- Failure to perform duties as required or directed by law, Departmental rule, policy, or order;
- Improper care of the property of persons; and
- Changing a work assignment without authority.

As seen in **Figure 2**, Of the 684 allegations, 76 cases resulted in findings that were sustained. The resulting disciplinary action was one termination, 11 suspensions, 20 written reprimands, and 44 counseling or training referrals.

The City received 11 arbitration decisions in 2015. The arbitrator fully upheld the City’s discipline in seven (or 64 percent) of those cases. In three cases (or 27 percent), the discipline was reduced, and in one case (or 9 percent) the discipline was overturned. Due in part to a review of OPD discipline cases and arbitration results, the City of Oakland – including the OPD, Mayor’s Office, City Administrator’s Office and City Attorney’s Office – has strengthened the OPD investigation and discipline process to help ensure that fair and consistent investigations which sustain misconduct are upheld during the arbitration process. These steps include regular collaborative review of resulting discipline processes, expanded scope of work with the City Attorney’s Office, and a revised discipline process within the Department to strengthen and substantiate the appropriateness of recommended discipline.

In the five years from September 2009 through September 2014, arbitrators fully upheld the City’s discipline in seven of 26 cases (or 27 percent). For 2015, The City more than doubled its historic success rate, with discipline in 7 of 11 cases (or 64 percent) fully upheld, (**Figure 3**).

**Figure 3. Outcomes of Arbitration Cases**



## REDUCTIONS IN USES OF FORCE

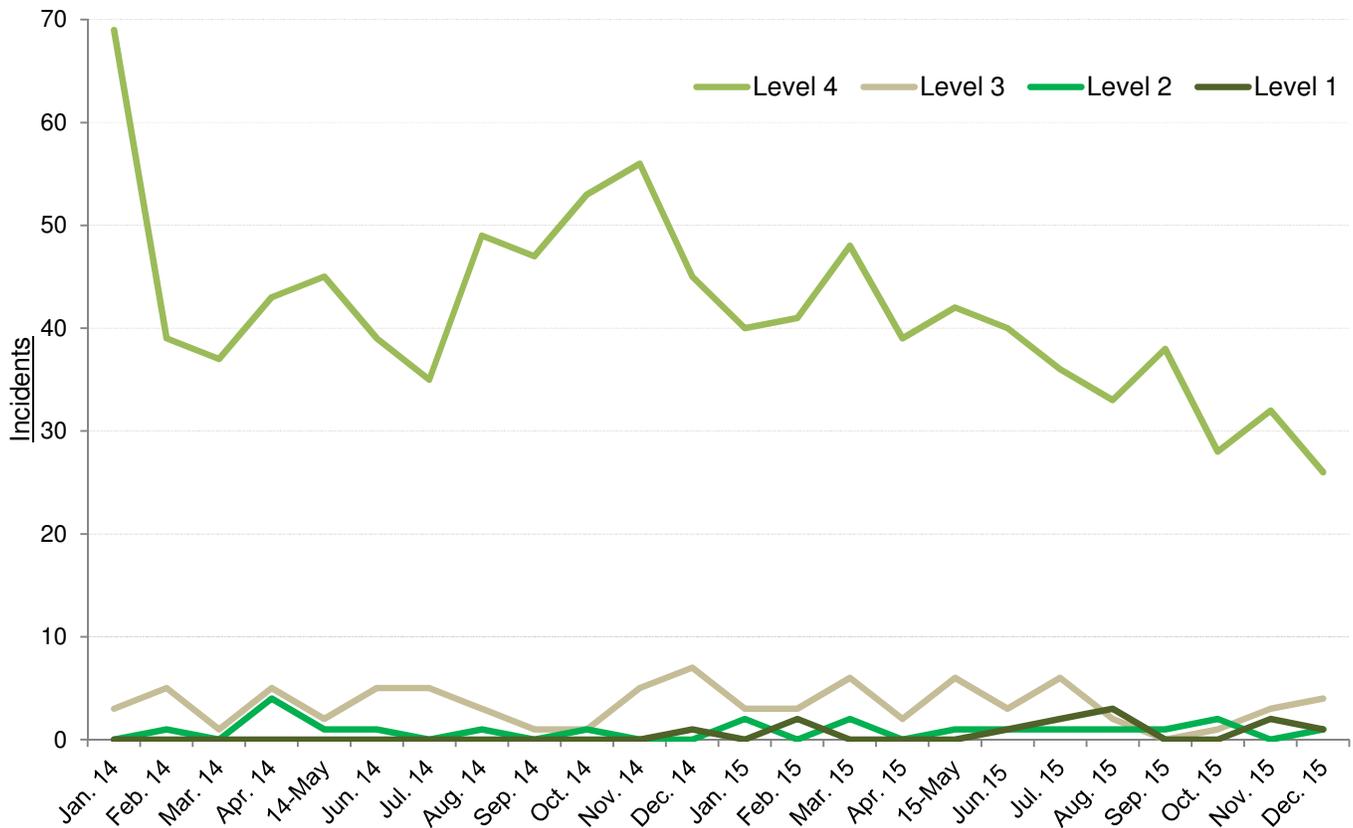
OPD defines Use of Force as:

- **Use of Force** - Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.
- **Reasonable Force** - That amount of force that is objectively reasonable to affect a lawful police purpose and protect the safety of members or others based upon the totality of the circumstances.
- **Lethal Force** - Any force that creates a substantial risk of causing death or serious bodily injury.
- **Less-Lethal Force** - Any use of force, other than lethal force, which by design and application is less likely to cause serious bodily injury or death.
- **Officer-Involved Shooting** - Any non-accidental discharge of a firearm by an officer outside of training.

OPD evaluates any state-sanctioned use of force in four levels:

<b>FORCE LEVEL: LEVEL 4</b>	
A firearm intentionally pointed at a person	An on-duty firearm discharge to dispatch an injured animal
A Weaponless Defense Technique: hair grab, pressure to mastoid or jaw line, shoulder muscle grab	A Weaponless Defense Technique Control Hold: escort (elbow), twist lock, arm-bar, bent-wrist
<b>FORCE LEVEL: LEVEL 3</b>	
Oleoresin Capsicum/Pepper Spray applied to a person	The baton used for a non-striking purpose
The use of a Taser	A Weaponless Defense Technique: hand/palm/elbow strikes, kicks, leg sweeps, takedowns
Any impact weapon w/o contact	An on-duty firearm discharge at an animal
<b>FORCE LEVEL: LEVEL 2</b>	
Any strike to the head	Any unintentional firearm discharge w/o injury
Carotid restraint w/o the loss of consciousness	A police canine bites
Use of impact weapons w/contact	Any use of force w/injury
<b>FORCE LEVEL: LEVEL 1</b>	
Any use of force resulting in death	Any unintentional firearm discharge w/injury
Any intentional firearm discharge at a person	Any intentional impact weapon strike to the head
Any force w/a substantial risk of causing death	Any UOF investigation that is elevated to a Level 1
Serious bodily injuries	

**Figure 3. OPD Use of Force Incidents by Level, CY2014-CY2015**



**Table 1. Use of Force Incidents in CY2015**

Level	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Level 4	40	41	48	39	42	40	36	33	38	28	32	26	<b>443</b>
Level 3	3	3	6	2	6	3	6	2	0	1	3	4	<b>39</b>
Level 2	2	0	2	0	1	1	1	1	1	2	0	1	<b>12</b>
Level 1	0	2	0	0	0	1	2	3	0	0	2	1	<b>11</b>
<b>Total</b>	<b>45</b>	<b>46</b>	<b>56</b>	<b>41</b>	<b>49</b>	<b>45</b>	<b>45</b>	<b>39</b>	<b>39</b>	<b>31</b>	<b>37</b>	<b>32</b>	<b>505</b>

The Oakland Police Department has made a strategic effort to reduce the use of force. We have had positive results in reducing force by:

- *Increased Training-* We have increased classroom training to remind officers of the legal requirements for using force – even lower level uses of force, such as the pointing of a firearm at a person. We have added additional dynamic training that includes simulated arrests, video simulators and role playing with non-lethal firearms as well as other force options. Additionally, more officers are trained in crisis Intervention techniques with a focus on interacting with persons experiencing mental distress.
- *Enhanced Policy-* Oakland Police Department policies and procedures emphasize decision making which weighs the need for immediate apprehension against the amount of risk immediate apprehension creates for community members, officers, and the person

to be apprehended. Policies are implemented which require and value accomplishing police objectives with respect and minimal reliance on the use of physical force.

- *Improved Review*- Executive commander and review board analyses of serious uses of force require assessments as to whether actions leading up to the use of force made a use of force more likely to occur. Analysis also requires an enumeration of other available options which could have or should have been considered.
- *Using Body-Worn Cameras*- The Oakland Police Department was the first large agency in the United States to equip all uniformed officers with body-worn cameras. Not only is there correlation between body-worn camera use and recent reductions in uses of force and complaints, but the Department is forging new ways of evaluating body-worn camera footage within contexts of officer performance data, citizen contact analysis, and risk management.
- *Increased Oversight*- All uses of force by Oakland police officers are reported, tracked, and reviewed. The lowest level uses of force are reviewed by the supervisor and commander of the officer using the force through a review of video. Higher level uses of force are investigated by the Oakland Police Department Homicide Section, the Internal Affairs Division, and the Alameda County District Attorney's Office.

## **PROGRESS ON THE NEGOTIATED SETTLEMENT AGREEMENT**

In July 2000, the Police Department discovered that four police officers who worked the night shift in West Oakland, the self-named "Riders," had allegedly abused their authority by using unlawful force, planting evidence and fabricating police reports. The alleged conduct of these officers gave rise to a lawsuit brought by multiple plaintiffs seeking both monetary compensation and specific reforms in the Department.

In January 2003, the City of Oakland resolved the litigation by mutually agreeing to a court-approved Negotiated Settlement Agreement (NSA) that required 51 tasks be completed toward major changes in how the Department reports and investigates use of force. The Agreement set up an effective system to identify potential problem officers, investigate complaints related to officer conduct and ensure that officers who train others are the best in the Department.

The NSA also required the development and implementation of systems to strictly monitor officer performance. These systems also require the prompt and appropriate disciplining of officers who violate rules and policies or who fail to report rule-breaking by others. The City of Oakland has invested valuable resources so that citizens will have confidence in the system and know that their complaints are handled properly and without delay.

The primary goals of the NSA are:

- To enhance our ability to protect the lives, rights, dignity and property of the community we serve.
- To use the best available practices for police supervision, training and accountability.

The Department was in full compliance with 32 of the 51 required Tasks, and in partial compliance with 16 additional tasks, by 2010. As a result, the number of Tasks under "Active Monitoring" was reduced to 22. By January 2015, 19 of these 22 Tasks had reached full compliance.

A Court Order in May of 2015 modified the monitoring plan to make more efficient use of monitoring resources while focusing on the long-term sustainability of the reforms in the NSA. Tasks which had been assessed as in sustainable compliance with NSA standards became inactive. At present, only three Tasks of the Agreement are subject to active monitoring: Task 5, complaint procedures for Internal Affairs; Task 34, assessment of vehicle stops, investigations and detentions; and Task 45, consistency of discipline. Monitoring of the remaining tasks has led—in part—to the production of this report. The public needs to be informed of progress as well as how much work still remains. In order to achieve the goal of a police department that sustains its commitment to principled policing, transparency and accountability are paramount.

## **APPENDIX A: Force Review Boards: Independent Accountability**

The Oakland Police Department has developed and implemented Force Review Boards (FRBs) and Executive Force Review Boards (EFRBs). These boards convene to evaluate and review the factual circumstances surrounding force incidents and associated use of force investigations, in-custody death investigations, and vehicle pursuit-related deaths. FRBs and EFRBs are independent review panels within the Oakland Police Department. FRBs analyze and assess Level 2 use of force incidents and to make recommendations. EFRBs analyze and assess Level 1 use of force incidents; in-custody death incidents; deadly incidents related to pursuits; and other incidents at the direction of the Chief of Police.

FRBs are comprised of three command staff members, all of whom must hold the rank of Captain of Police or higher. EFRBs are comprised of three command staff members, at least one of whom must hold the rank of Deputy Chief of Police and serve as Board Chair. The other two members of the EFRB must hold the rank of Captain of Police or higher. FRB and EFRB members are selected by the Chief of Police. The boards have two duties:

1. Determine whether the use of force complied with departmental policy
2. Identify any needed policy revision needed as a result of learnings from the investigation.

In 2015, FRBs reviewed 10 use of force instances, compared with nine in 2014:

### 2015

- Three (3) – Strike to the Head (Type 9)
- One (1) – Police Canine Bite (Type 14)
- Two (2) – Weaponless Defense Technique Other (Type 15-16)
- Four (4) – Pointing of Firearm (Type 22)

### 2014

- One (1) – Strike to the Head -(Type 9)
- Two (2) – Impact weapon with contact (Type 12)
- One (1) – Electronic Control Weapon (Type 11)
- One (1) – Weaponless Defense Technique (Type 16)
- Four (4) – Pointing of Firearm (Type 22)

## **APPENDIX B: Complaints and Allegations Data Tables**

**Table B.1:** Number of Cases Accepted, CY 2015

<b>Cases</b>	1009
<b>Allegations</b>	1942

**Table B.2:** Summary of Allegations for Cases Filed with IAD, CY2015

<b>Manual of Rules Violation Number</b>	<b>Allegation Description</b>	<b># of Allegations</b>
000.01	Service Complaint	341
000.02	No Violation	312
000.03	Duplicate Entry	11
234.00	Authority and Responsibilities	1
285.00	Authority and Responsibilities	6
314.03	General Conduct	11
314.04	Conduct Toward Others- Harassment and Discrimination	48
314.05	Conduct Toward Others-Workplace Violence	1
314.07	Conduct Toward Others- Demeanor	160
314.08	Conduct Toward Others-Relationships	1
314.15	Assistance	1
314.18	Member's General Responsibilities	1
314.30	Insubordination- Disobedience to Orders	4
314.32	Insubordination-Disrespect	2
314.38	Obstructing the Internal Affairs Process	1
314.39	Performance of Duty	608
314.42	Obedience to Laws, Ordinances, Rules or Orders	20
314.48	Reporting Violation of Laws, Ordinances, Rules or Orders	2
314.69	Gifts, Gratuities- Soliciting or Accepting	1
328.14	Loitering	1
328.49	Absence from Duty	2
328.53	False Report of Illness or Injury	1
328.63	Consumption of Intoxicants	3
342.00	Department property and Equipment	56
370.27	Use of Force	215
370.36	Custody of Prisoners	1
398.16	Court Appearances	1
398.70	Subversive Organizations	1
398.73	Retaliation	4
398.76	Refusal to Accept or Refer Complaint	21
398.77	Refusal to Supply Name and Serial Number	26
398.80	Truthfulness	1

**Table B.3: Outcomes of Sustained Cases, CY2015**

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Suspension(s)	11
Counseling and/or Training	44
Written Reprimand(s)	20
Termination	1
<b>Total Sustained Findings</b>	<b>76</b>

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**Table B.4: OPD Arbitration Decisions, CY2015**

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Arbitration Decisions	11
Discipline Upheld	7
Discipline Reduced	3
Discipline Overturned	1

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**Table B.5: Total Arrests by OPD. CY2015**

<b>Category</b>	<b>Jan. 15</b>	<b>Fen. 15</b>	<b>Mar. 15</b>	<b>Apr. 15</b>	<b>May 15</b>	<b>Jun. 15</b>	<b>Jul. 15</b>	<b>Aug. 15</b>	<b>Sep. 15</b>	<b>Oct. 15</b>	<b>Nov.15</b>	<b>Dec 15</b>
<b>All Arrests</b>	<b>1540</b>	<b>1433</b>	<b>1396</b>	<b>1516</b>	<b>1722</b>	<b>1444</b>	<b>1856</b>	<b>1628</b>	<b>1842</b>	<b>1941</b>	<b>1554</b>	<b>1786</b>
Arrests Associated with a Level 4 Use of Force (per reporting officer)	71	60	76	64	91	54	63	65	57	52	70	37
A Use of Force (levels 1,2,3 - per reporting officer)	7	8	12	4	12	10	9	9	1	3	8	6
A Use of Force (levels 1,2,3,4** - per reporting officer)	78	68	88	68	99	64	72	74	58	55	78	43
A Police Pursuit (per reporting officer)	9	6	10	11	13	9	12	8	2	4	5	0
An IA Complaint (per subject officer sworn only)	73	57	51	47	79	41	60	50	47	69	49	45
An In-Custody Injury	9	2	0	2	2	0	4	0	0	7	5	0
Officer Involved Shooting Level 1	0	2	0	0	0	1	0	3	0	0	1	0
Vehicle Collisions (excludes civilians)	9	3	0	1	0	0	9	3	1	4	2	0
Civil Suit (excludes civilians)	2	3	3	1	2	3	0	0	0	0	1	0

**Table B.6:** Select Statistics of OPD by Sworn Position. CY2015

<b>Statistics vs. Staffing</b>	<b>JAN 15</b>	<b>FEB 15</b>	<b>MAR 15</b>	<b>APR 15</b>	<b>MAY 15</b>	<b>JUN 15</b>	<b>JUL 15</b>	<b>AUG 15</b>	<b>SEP 15</b>	<b>OCT 15</b>	<b>NOV 15</b>	<b>DEC 15</b>
<b>Filled Sworn Positions</b>	<b>695</b>	<b>694</b>	<b>688</b>	<b>720</b>	<b>723</b>	<b>722</b>	<b>719</b>	<b>712</b>	<b>705</b>	<b>700</b>	<b>725</b>	<b>721</b>
Total Arrests	2.216	2.065	2.029	2.106	2.382	2.000	2.581	2.287	2.613	2.773	2.143	2.477
Uses of Force (L 1, 2, 3)	0.010	0.012	0.017	0.006	0.017	0.014	0.013	0.013	0.001	0.004	0.011	0.008
All Uses of Force	0.112	0.098	0.128	0.094	0.137	0.089	0.100	0.104	0.082	0.079	0.108	0.060
A Police Pursuit (per reporting officer)	0.013	0.009	0.015	0.015	0.018	0.012	0.017	0.011	0.003	0.006	0.007	0.000
An IA Complaint (per subject officer sworn only)	0.105	0.082	0.074	0.065	0.109	0.057	0.083	0.070	0.067	0.099	0.068	0.062
An In-Custody Injury	0.013	0.003	0.000	0.003	0.003	0.000	0.006	0.000	0.000	0.010	0.007	0.000
Each Hour of Sick Leave (excludes civilians)	2.849	2.063	0.882	2.336	2.432	1.641	1.943	1.757	1.861	2.157	2.261	2.404
OIS Level 1	0.000	0.003	0.000	0.000	0.000	0.001	0.000	0.004	0.000	0.000	0.001	0.000
Vehicle Collisions (excludes civilians)	0.013	0.004	0.000	0.001	0.000	0.000	0.013	0.004	0.001	0.006	0.003	0.000
Civil Suit (excludes civilians)	0.003	0.004	0.004	0.001	0.003	0.004	0.000	0.000	0.000	0.000	0.001	0.000