

Principled Policing: The Mayor's 2016 Q3 & Q4 Police Accountability Report

Dear Oaklanders,

This is the Principled Policing Report for the second half of 2016. The purpose of the report is to bring greater transparency to police data and outline how the City of Oakland's Police Department (OPD) is managing and meeting its accountability goals.

Most notably, compared to our base reporting period of January - June 2012:

- **OPD has decreased its Use of Force by 73%** (page 12);
- **No officer discipline has been reversed by arbitration for two years** (page 9); and
- **OPD has reduced the number of Officer Misconduct Legal Claims by 68%** (page 15).

Of concern is a slight increase in misconduct complaints brought by residents in 2016 compared with 2015 (although it's still roughly half the number filed in 2012) (page 2), as well as a slight annual increase in per officer sick leave (page 15).

Pages 7-8 detail some recent policy and training changes prompted by internal affairs investigations. These are just some of the steps we're taking to ensure that misconduct doesn't occur in the first place. Just and principled policing is not only about ensuring individual officers are fit and equipped to conduct themselves according to our community's highest expectations. It also means that we as leaders are constantly adjusting policies, practices and training to reduce harm and increase trust.

We need this community's partnership to make Oakland the safe community it deserves to be, as well as delivering responsive and trustworthy government services. Please send your feedback and suggestions to me at OfficeoftheMayor@oaklandnet.com.

Respectfully,



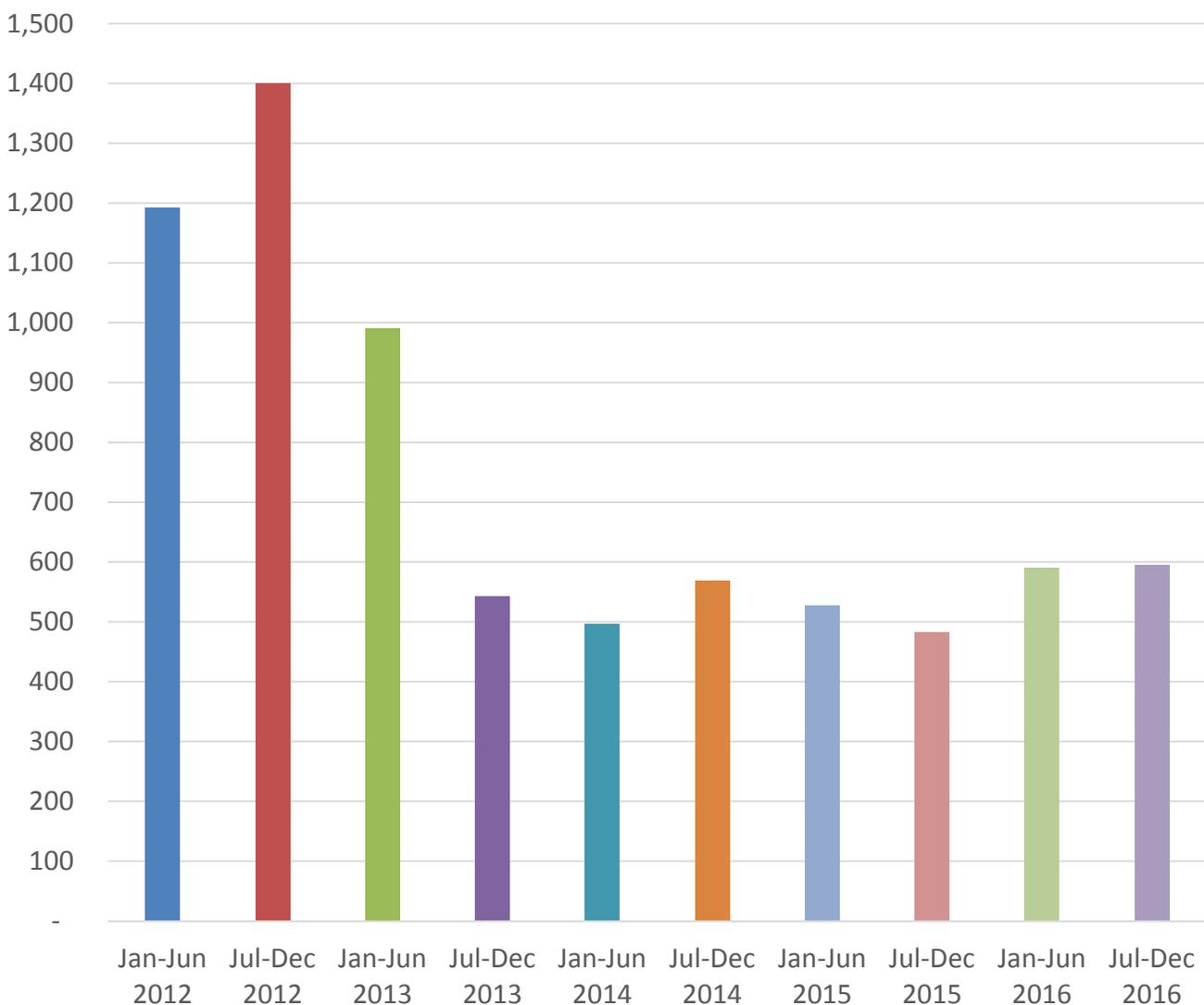
Oakland Mayor Libby Schaaf

COMPLAINTS

The Manual of Rules, General Orders and Lexipol Policies contain the all the policies and procedures that govern police conduct for both sworn and civilian staff. OPD keeps all its rules on-line [here](#) and continually trains officers to reinforce knowledge and practice application of proper conduct. OPD closely tracks and monitors complaints against officers and regularly reviews complaints, looking for early signs that individual officers or squads need interventions, as well as searching for overall trends that suggest a need for new policies or training.

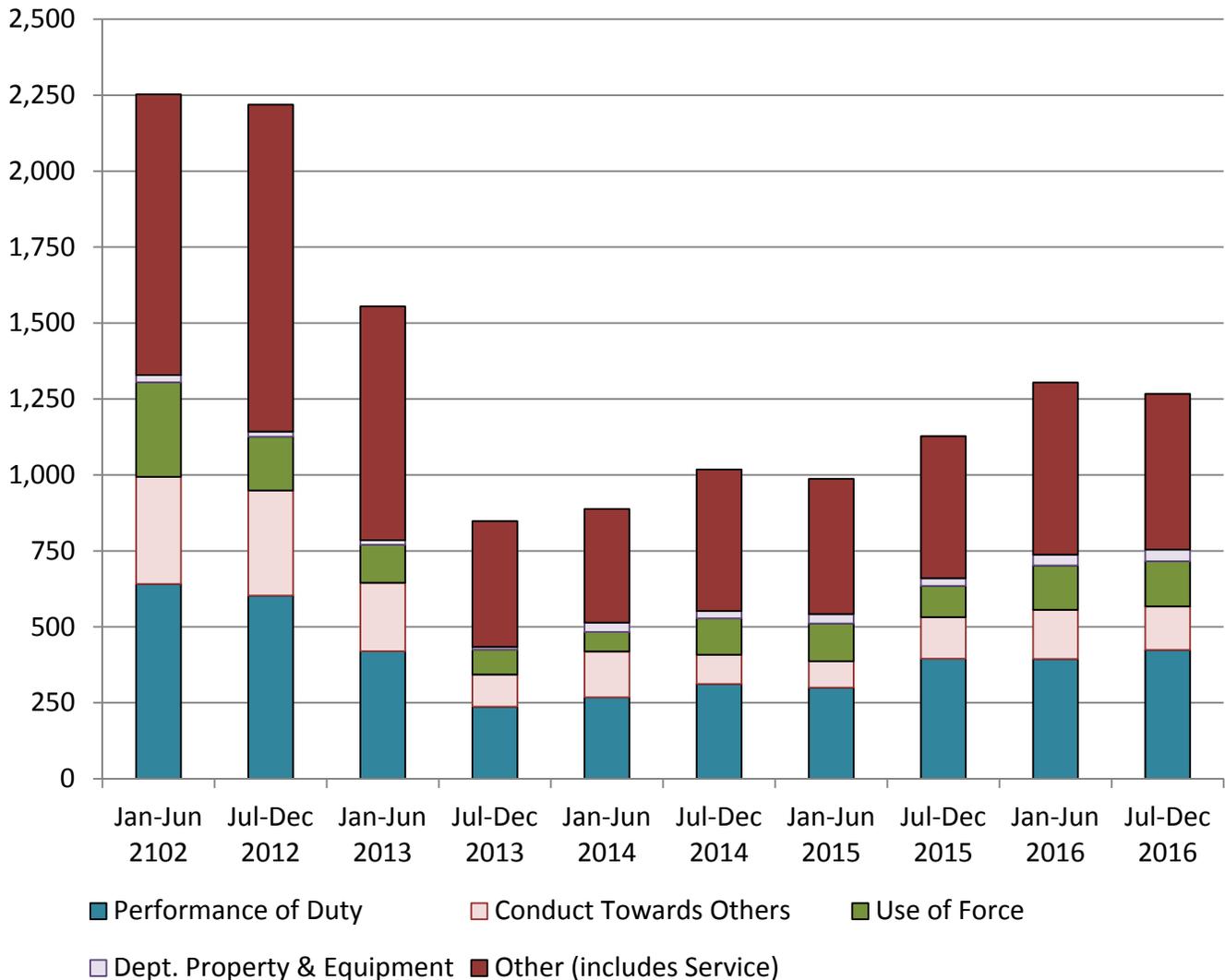
Additionally, the Citizen Police Review Board conducts independent investigations of some of these complaints. This system will change soon due to the passage of Measure LL which will create a Citizen Police Commission in 2017. Currently, OPD's Internal Affairs Division (IAD) reviews all complaint cases. Its complaint acceptance policy can be viewed by the public [here](#).

Internal Affairs Division (IAD) Complaints Received January 2012 through December 2016



Between July 1 and December 31, 2016, 1,267 allegations concerning police services – including misconduct – were filed, resulting in 595 cases. A single case often involves multiple allegations.

Individual MOR Allegations Received by IAD January 2012 through December 2016

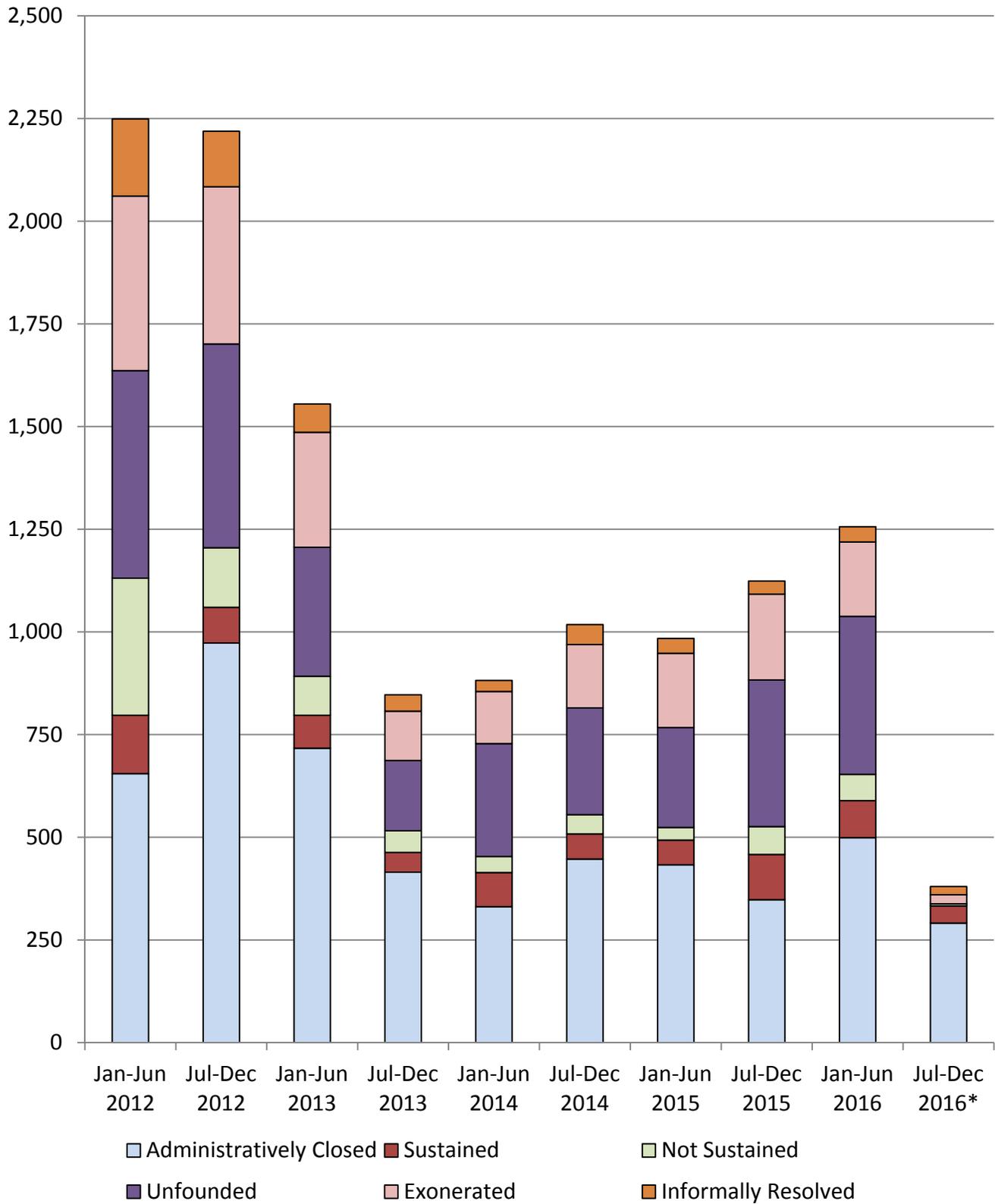


A review of complaints received between July 1 and December 31, 2016 shows the largest number (40 percent) of the complaints against the Police Department included duplicates and service complaints. Service complaints are not actionable because they did not involve allegations of misconduct against specific employees, but instead pertained to a police practice mandated by policy or law – such as towing of a vehicle, or a delay in service – such as a long wait for an officer’s presence due to call for service volume.

Thirty-three percent of allegations alleged officer or employee misconduct, indicating 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.

Disposition of Individual Allegations January 2012 to December 2016

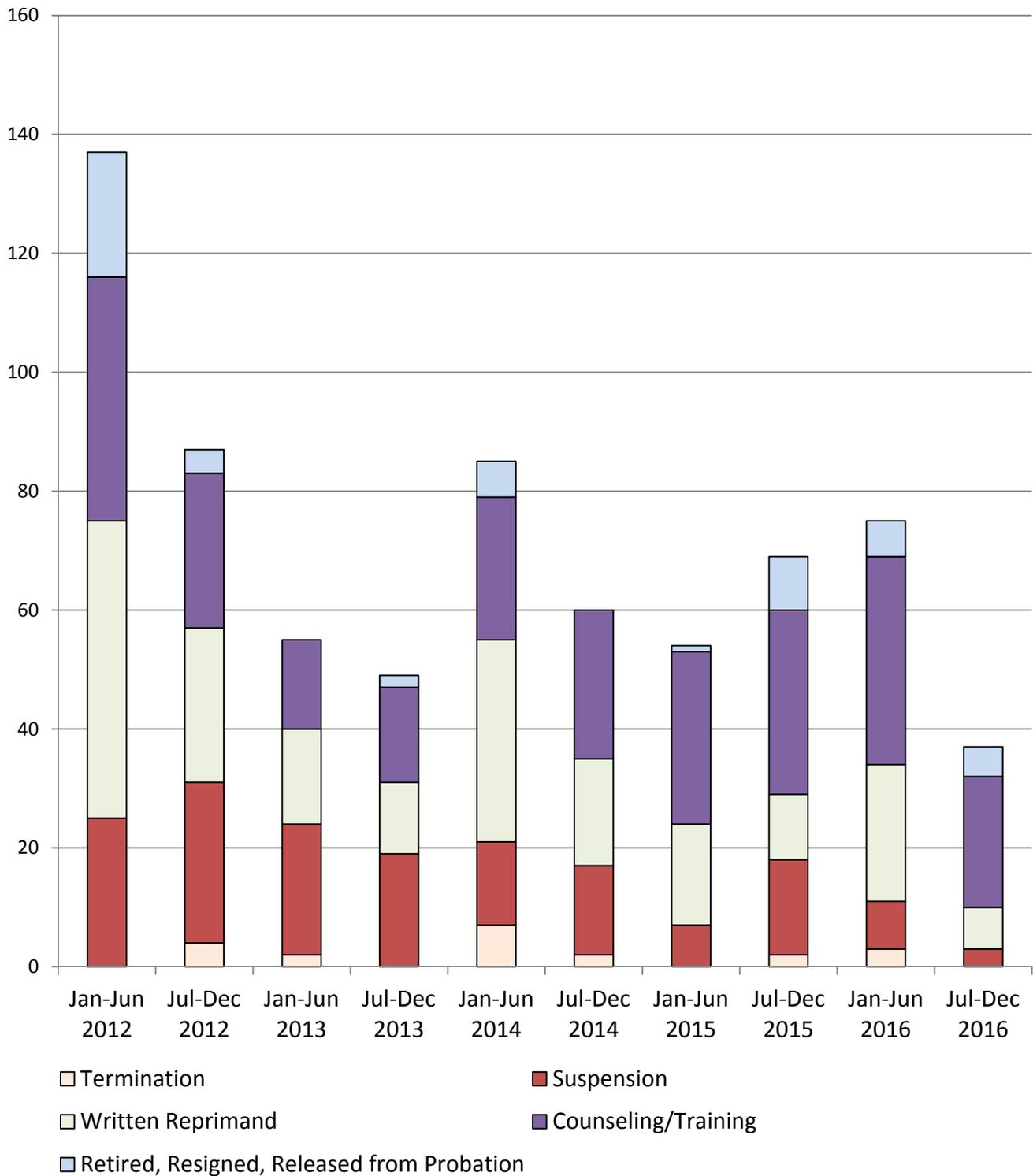


* For the period of July to December 2016, not all cases have yet resulted in a finding. Investigations may take up to 180 days to complete. This figure will be updated next report.

Between July 1 and December 31, 2016, dispositions were reached on 455 cases involving complaints against OPD. Of these 455 dispositions, the vast majority (64 percent) were **Administratively Closed**, meaning they were based on a service complaint or the investigation cannot or should not proceed. Instances in which the investigation cannot or should not proceed include (but are not limited to) the complainant withdrawing the complaint; the affected OPD employee separating from employment; a failure of the complainant to identify an act or omission that would constitute an actual violation of the Manual of Rules; or a service complaint. The other findings are defined as follows:

- **Sustained:** When an investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. Nine percent of allegations were sustained in Q3 and Q4 2016.
- **Not Sustained:** When an investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member. One percent of allegations were not sustained in Q3 and Q4 2016.
- **Unfounded:** When an investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous are classified as unfounded. Sixteen percent of allegations were not sustained in Q3 and Q4 2016.
- **Exonerated:** When an investigation discloses that the alleged act occurred but was justified, lawful, and/or proper. Five percent of allegations were exonerated in Q3 and Q4 2016.
- **Informally Resolved:** OPD provides for an Informal Complaint Resolution (ICR) process. This is when a complainant agrees to have a subject employee's supervisor sit down with the employee for training, policy review, and/or a discussion of alternatives to handling whatever matter led to the complaint. The ICR is documented in the subject employee's electronic file and the IAD control file. Four percent of allegations were informally resolved in Q3 and Q4 2016.

Disciplinary Decisions for Sustained Cases January 2012 to December 2016



For sustained allegations of misconduct, discipline ranging from counseling/training to termination may be imposed. For Q3 and Q4 2016, the most common discipline imposed was counseling/training (59 percent); followed by written reprimand (19 percent); other (such as retirement, resignation, or release from probation – 14 percent); and suspension (eight percent). There were no terminations for misconduct in Q3 and Q4 2016.

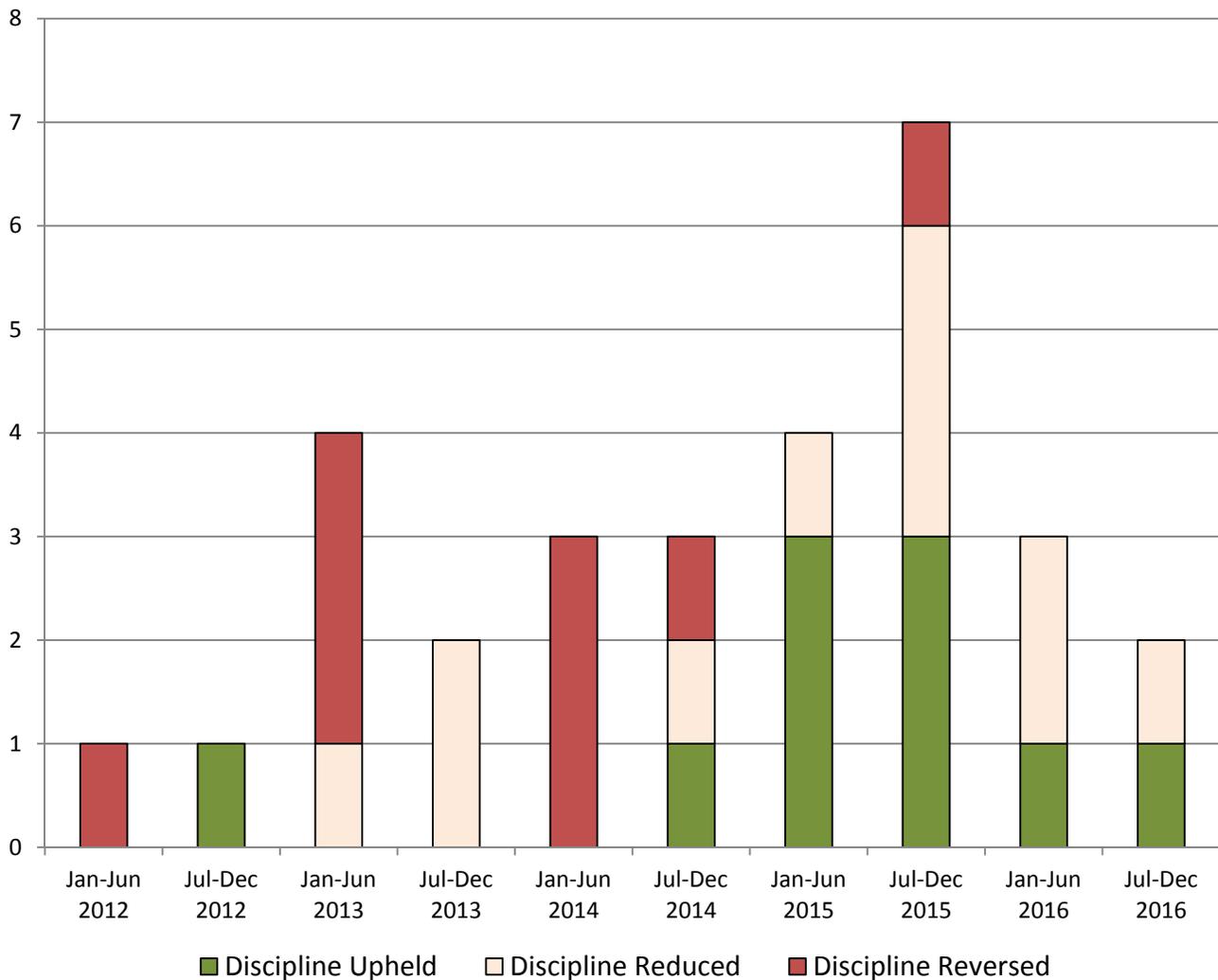
POLICY AND TRAINING RECOMMENDATIONS

In April of 2016, OPD began formally tracking all policy and training recommendations that resulted from Internal Affairs investigations. For 2016, these recommendations included:

- Training for investigators regarding their role in high risk operations
- Issuance of body-worn cameras to all sworn personnel (not just those in field assignments)
- More effective communication among officers on-scene as to who will be taking any necessary reports
- Training for Field Training Officers to ensure their visual presence for trainees at all stages of training
- Inclusion in the Field Training Workbook of a specific language that addresses personnel complaints
- Training of IAD Intake staff regarding citizen arrest laws and relevant case law
- Training on distinguishing enforceable from non-enforceable criminal violations
- Increased recording time for body-worn cameras
- Reconciliation of date/time stamping for body-worn camera footage
- Changing body-worn camera policy to require activation in additional situations
- Ensuring that there are adequate body-worn cameras at the front desk of the Police Administration Building to ensure officers have working cameras as often as possible
- Reminding officers to take vehicle collision reports in the field when one party is no longer present
- Addressing tactical communications following officer-involved shooting incidents
- Training on responding to medical crises following officer-involved shooting incidents where a subject poses a danger to him or herself and others
- Reminding personnel about procedures for towing vehicles with no license plates or altered vehicle identification numbers
- Reminding officers on appropriate search techniques for persons with disabilities
- Reviewing and revising the definition of “qualified interpreter”
- Printing the Miranda advisement in Spanish on statement forms
- Addressing processing time and comfort of arrestees, specifically juveniles
- Whether hinged handcuffs should continue being used
- Reviewing Communications Division policy concerning the term “Refused” in reference to callers who request anonymity and a call-back
- Addressing licensed firearms when interacting with an individual who can legally carry and/or possess a firearm
- Consideration of language used when engaging members of the public, including witnesses
- Evaluating policy on searching persons who are not being arrested
- Reviewing – and potentially enhancing – policy on protective sweeps
- Acknowledging the immediate need for obtaining time-sensitive evidence (such as video surveillance footage)

- Revising body-worn camera policy to require a second officer record the search of a person
- Training sergeants and officers on California Vehicle Code violations common to sideshow activity
- Updating the landlord-tenant policy
- Labeling the 124 Oakland streets that are private as private to avoid dispatching personnel to perform activities that are not legally valid
- Evaluating policy on Department-issued cell phones
- Reviewing – and possibly revising – body-worn camera policy to require activation during all public contacts
- Evaluating policy concerning accepting of personnel complaints when a sergeant accepting the complaint becomes a subject of the complaint
- Reviewing the detention-only language in the probable cause authorization policy since the OPD jail is no longer used
- Reviewing the policy on inmate release since the OPD jail is no longer used
- Assess Electronic Consolidated Arrest Report (ECAR) procedures to ensure that they are consistent with policy
- Including serial numbers of department business cards
- Granting sworn supervisors access to civilian employee files as part of the responsibilities of conducting administrative investigations
- Evaluating whether additional patrol rifle training is needed to determine whether the low-ready position hinders line of sight
- Considering requiring officers to document with their body-worn cameras when someone refuses to make a collision report
- Revising the policy on background investigations
- Reviewing and updating the policy on abating excessive noise
- Implementing policy review for Communications Division for the entire Communications Division to ensure compliance
- Revising the body-worn camera policy to include civil standby actions as a reason to activate the camera
- Revising the body-worn camera policy to activate the camera for all public contacts
- Advising the Communications Division of all consensual encounters and requests for service by the public
- Training Records Section personnel in how to interact with challenging members of the public to potentially include tactical communications training
- Providing recording devices for the Juvenile Intake Desk and provide training to staff on the benefits of recording calls at that desk

Arbitration Decisions January 2012 to December 2016



Between July 1 and December 31, 2016, two OPD matters went to arbitration. One resulted in a reduction in discipline and one resulted in the discipline being upheld.

USES OF FORCE

The Oakland Police Department 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:

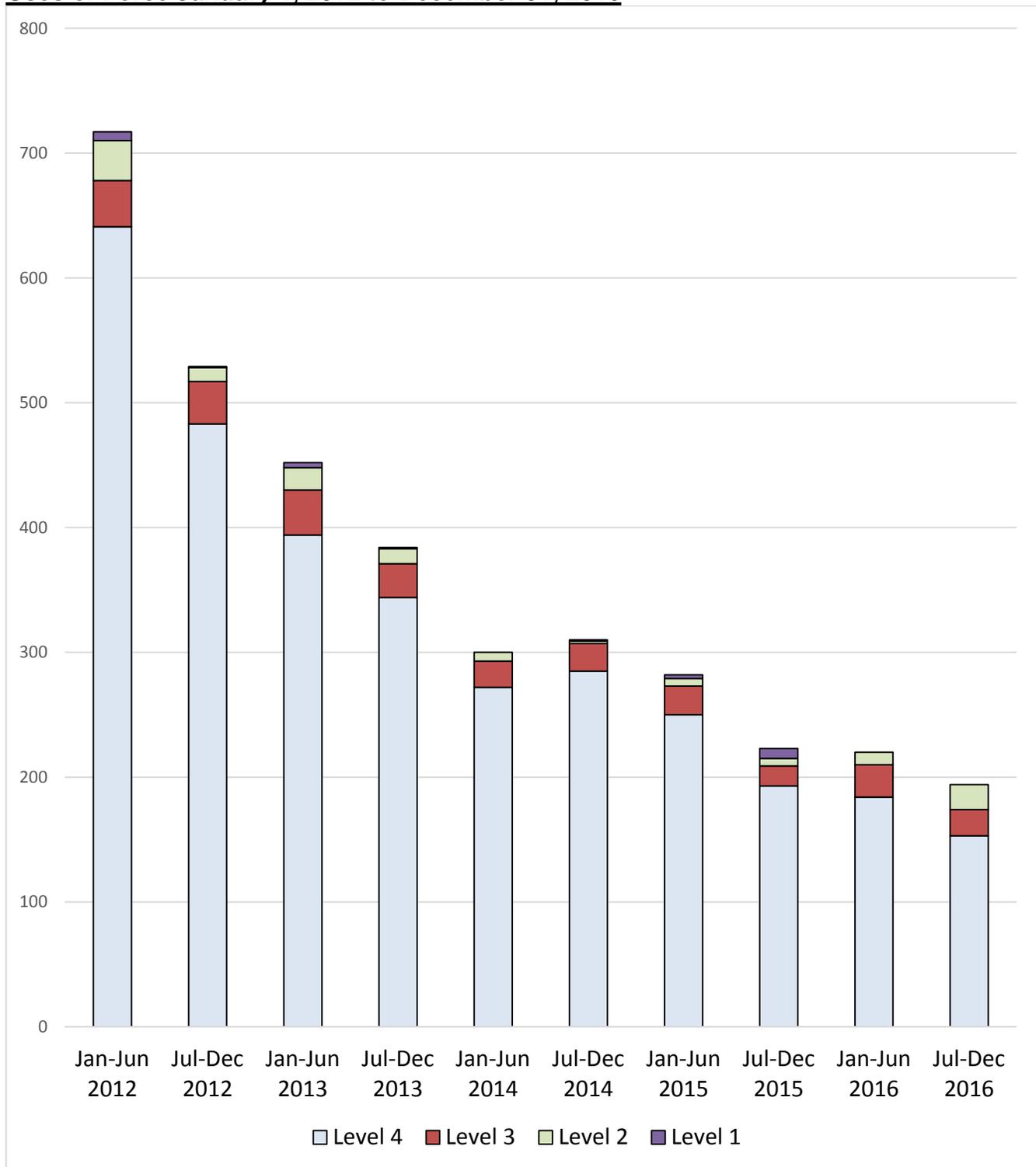
FORCE LEVEL: LEVEL 4	
A firearm intentionally pointed at a person	An on-duty firearm discharge to dispatch an injured animal
A Weaponless Defense Technique: hair grab, pressure to mastoid or jaw line, shoulder muscle grab	A Weaponless Defense Technique Control Hold: escort (elbow), twist lock, arm-bar, bent-wrist
FORCE LEVEL: LEVEL 3	
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
FORCE LEVEL: LEVEL 2	
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
FORCE LEVEL: LEVEL 1	
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	

The Oakland Police Department continues to make a strategic effort to reduce the use of force through the following means:

- *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.

Uses of Force January 1, 2012 to December 31, 2016



From July 1 to December 31, 2016, there were 194 uses of force, the lowest in five years. There were no Level 1 uses of force. Ten percent of the uses of force were Level 2; 11 percent were Level 3, and 79 percent were Level 4.

FORCE REVIEW BOARDS:

OPD conducts Force Review Boards (FRBs) and Executive Force Review Boards (EFRBs) to independently evaluate and review the factual circumstances surrounding force incidents and whether the incident suggests a need for policy or training changes going forward. FRBs analyze and assess lower level use of force incidents. EFRBs analyze and assess Level 1 lethal use of force incidents, in-custody deaths, 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. 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 2016, 24 EFRBs and FRBs were held, compared to 10 in 2014 and 11 in 2015. In 2016, these boards reviewed 66 instances of force, compared to 29 for 2015 and 48 for 2014. Use of force incidents are not always reviewed during the year in which they occurred. Below is a listing of each application of force by year. Multiple force applications are reviewed in each FRB and EFRB. In addition to updating 2016 to include the entire year, 2015 and 2014 have also been updated to include complete data.

Force Applications Reviewed in 2016

- Eleven - Lethal Firearm Discharge (Type 1)
- Five - Strike to the Head (Type 9)
- Seven - Electronic Control Weapon (Type 11)
- Five - Impact Weapon with Contact (Type 12)
- One - Any Use of Force Resulting in Injury (Other than a Level 1 Force Type, Type 13)
- Two - Police Canine Bites (Type 14)
- Two - Electronic Control Weapon (Elevated to Level 2 UOF, Type 15-11)
- One - Weaponless Defense Technique (Elevated to Level 2 UOF, Type 15-16)
- Nine - Weaponless Defense Technique (Type 16)
- Four - Other Chemical Agent Applied to a Person (Type 17a)
- One - Attempted Impact Weapon Strike but Miss (Type 20)
- Twelve - Pointing a Firearm (Type 22)
- Three - Escort, Twist Lock, Arm-Bar, Bent-Wrist (Type 25)
- Two - Weaponless Defense Technique (Reduced to Level 4 UOF, Type 26-16)
- One - Unintentional Firearm Discharge w/o Injury (Type 27)

Force Applications Reviewed in 2015

- Two - Lethal Firearm Discharge (Type 1)
- One - Strike to the Head (Type 9)
- Three - Electronic Control Weapon (Type 11)
- Three - Impact Weapon with Contact (Type 12)
- One - Police Canine Bite (Type 14)

- One - Other Level 2 Use of Force (Type 15)
- Four - Weaponless Defense Technique (Elevated to Level 2 UOF, Type 15-16)
- Three - Taser Fired but Probes Missed (Type 18)
- Eleven – Pointing of Firearm (Type 22)

- **Force Applications Reviewed in 2014**
- One - Lethal Firearm Discharge (Type 1)
- Three - Force Resulting in Death (Type 2)
- Three - Strike to the Head (Type 9)
- Two - Electronic Control Weapon (Type 11)
- Three - Impact weapon with contact (Type 12)
- One - Any Use of Force Resulting in an Injury (Other than a Level 1 Force Type)
- Three - Police Canine Bites (Type 14)
- Three - Other Level 2 Use of Force (Type 15)
- Four - Weaponless Defense Technique (Elevated to Level 2 Use of Force, Type 15-16)
- Two - Weaponless Defense Technique (Type 16)
- Nineteen - Pointing of Firearm (Type 22)
- Two - Escort, Twist Lock, Arm-Bar or Bent-Wrist (Type 25)
- Two - Unintentional Firearm Discharge without Injury (Type 27)

ADDITIONAL INFORMATION

Below is additional information concerning sworn personnel within the Oakland Police Department.

	Jan- Jun 2012	Jul- Dec 2012	Jan- Jun 2013	Jul- Dec 2013	Jan- Jun 2014	Jul- Dec 2014	Jan- Jun 2015	Jul- Dec 2015	Jan- Jun 2016	Jul- Dec 2016
Number of complaints per officer	1.85	2.25	1.56	0.87	0.77	0.82	0.73	0.66	0.77	0.80
Uses of force per arrest	0.13	0.10	0.10	0.09	0.05	0.05	0.04	0.04	0.03	0.03
Level 1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Level 2	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Level 3	0.01	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00
Level 4	0.12	0.09	0.09	0.08	0.05	0.05	0.04	0.03	0.03	0.03
Uses of force per officer	1.11	0.85	0.71	0.61	0.46	0.45	0.39	0.31	0.28	0.26
Number of complaints per dispatched incident	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Uses of force per dispatched incident	0.11	0.09	0.07	0.05	0.04	0.04	0.03	0.03	0.02	0.02
Sick hours per officer	10.25	9.01	10.24	13.28	10.82	12.73	13.25	10.91	12.97	13.11
Officer-Involved Shootings	6	1	4	0	0	0	3	3	0	0
Vehicle Pursuits	81	70	78	70	22	21	28	24	21	36
All Claims against OPD	97	66	65	58	74	57	55	67	68	48
Police Misconduct Claims	76	45	50	41	43	34	29	31	47	24

CONCLUSION

As OPD enters 2017, we look forward to several promising developments that will strengthen our accountability and transparency. Oakland will welcome a new, permanent police chief, as well as create its first Police Commission. We will also continue to implement the recommendations in Stanford's [Data for Change](#) Report to address implicit bias and racial disparities in policing, as well as the goals of the OPD Strategic Plan. We welcome your continued feedback on how we can better share and explain our policing data by emailing officeofthemayor@oaklandnet.com or calling 510-238-3141.