

Principled Policing: The Mayor's 2016 Q1 & Q2 Police Accountability Report

This is the Principled Policing Report for the first 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 the goals it has outlined for itself.

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 the first half of 2016, 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 we're taking to ensure that misconduct doesn't occur in the first place.

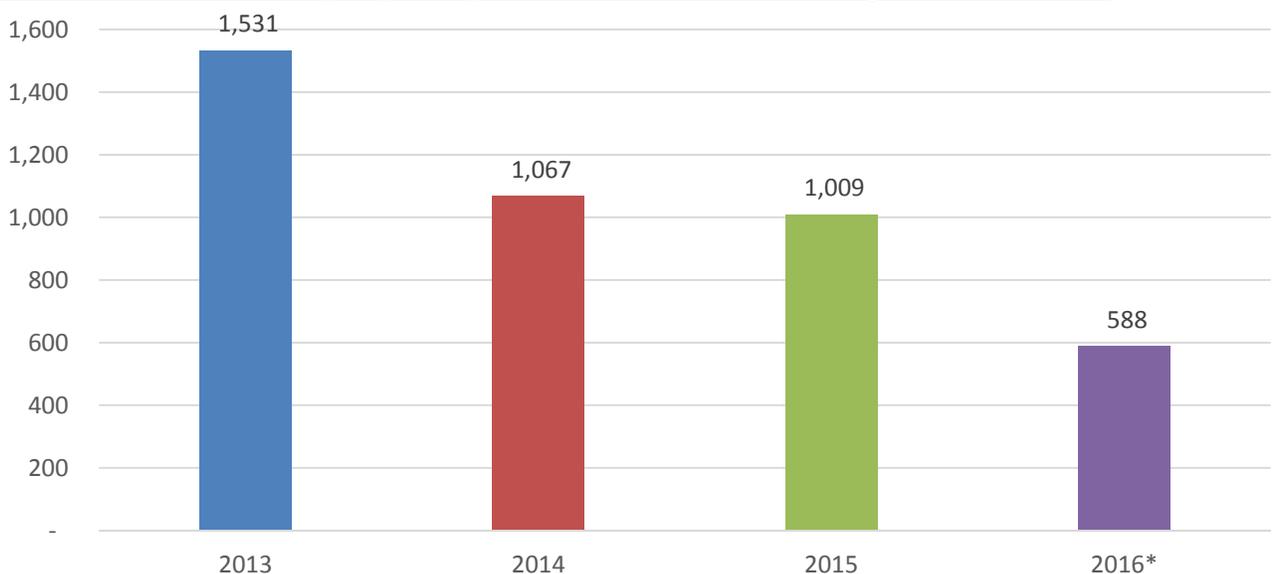


Oakland Mayor Libby Schaaf

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](#).

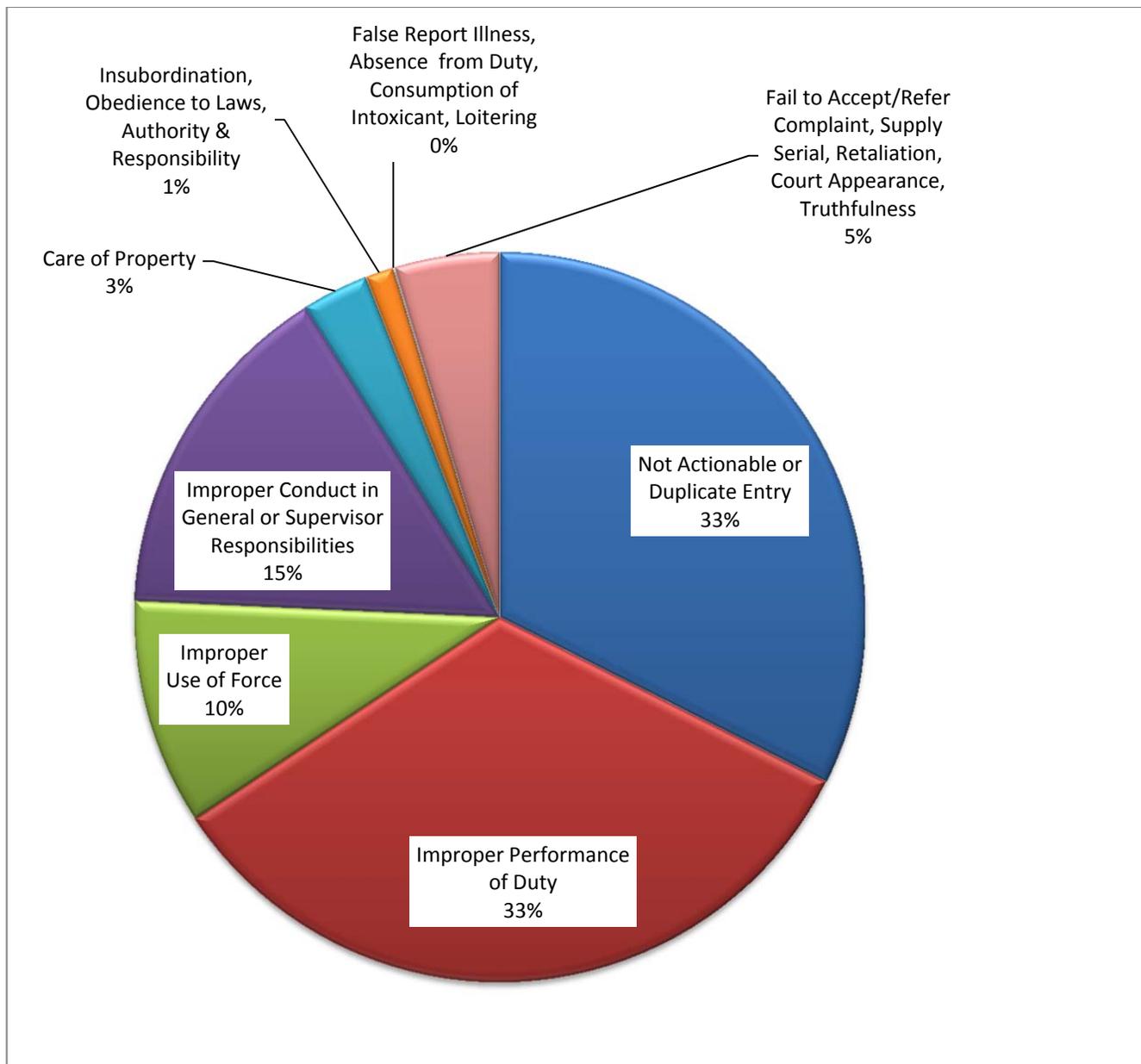
Internal Affairs Division (IAD) Complaints Received 2013 through June 30, 2016



* 2016 Data is for six months (January 1 through June 30)

Events that may have increased complaints include Occupy Oakland in 2013 and the Sexual Misconduct Scandal in 2016.

Individual Policy Violations alleged for Cases filed with IAD January 1, 2016 through June 30, 2016



A review of complaints made between January 1 to June 30, 2016 shows 33 percent of the complaints against the Police Department were duplicates or 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.

Another 33 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.

Table: Number of Cases Accepted, January 1-June 30, 2016

Cases	588
Allegations	1,227

Table: Summary of Allegations for Cases Filed with IAD, January 1-June 30, 2016

Manual of Rules Violation Number	Allegation Description	# of Allegations
000.01	Service Complaint	183
000.02	No Violation	211
000.03	Duplicate Entry	4
234.00	Authority and Responsibilities	2
285.90	Prevention of harassment, discrimination and retaliation	4
314.03	General Conduct	16
314.04	Conduct Toward Others- Harassment and Discrimination	36
314.07	Conduct Toward Others- Demeanor	123
314.08	Conduct Toward Others-Relationships	1
314.30	Insubordination- Disobedience to Orders	1
314.32	Insubordination-Disrespect	1
314.39	Performance of Duty	408
314.42	Obedience to Laws, Ordinances, Rules or Orders	10
314.48	Reporting Violation of Laws, Ordinances, Rules or Orders	4
314.69	Gifts, Gratuities- Soliciting or Accepting	1
314.70	Uses of Privileged Information	1
328.49	Absence from Duty	1
328.63	Consumption of Intoxicants	2
342.00	Department property and Equipment	36
356.30	Accessing, Viewing, Downloading, Providing, Sharing Inappropriate Material	2
370.27	Use of Force	123
370.36	Custody of Prisoners	4
398.73	Retaliation	3
398.76	Refusal to Accept or Refer Complaint	25
398.77	Refusal to Supply Name and Serial Number	21
398.80	Truthfulness	4

DISCIPLINE

Of the 1,227 allegations, 588 resulted in findings that led to actual cases being filed in Q1 and Q2 of 2016. Of the resulting disciplinary action 12 percent resulted in suspension, 65 percent in counseling or training and 23 percent in written reprimand.

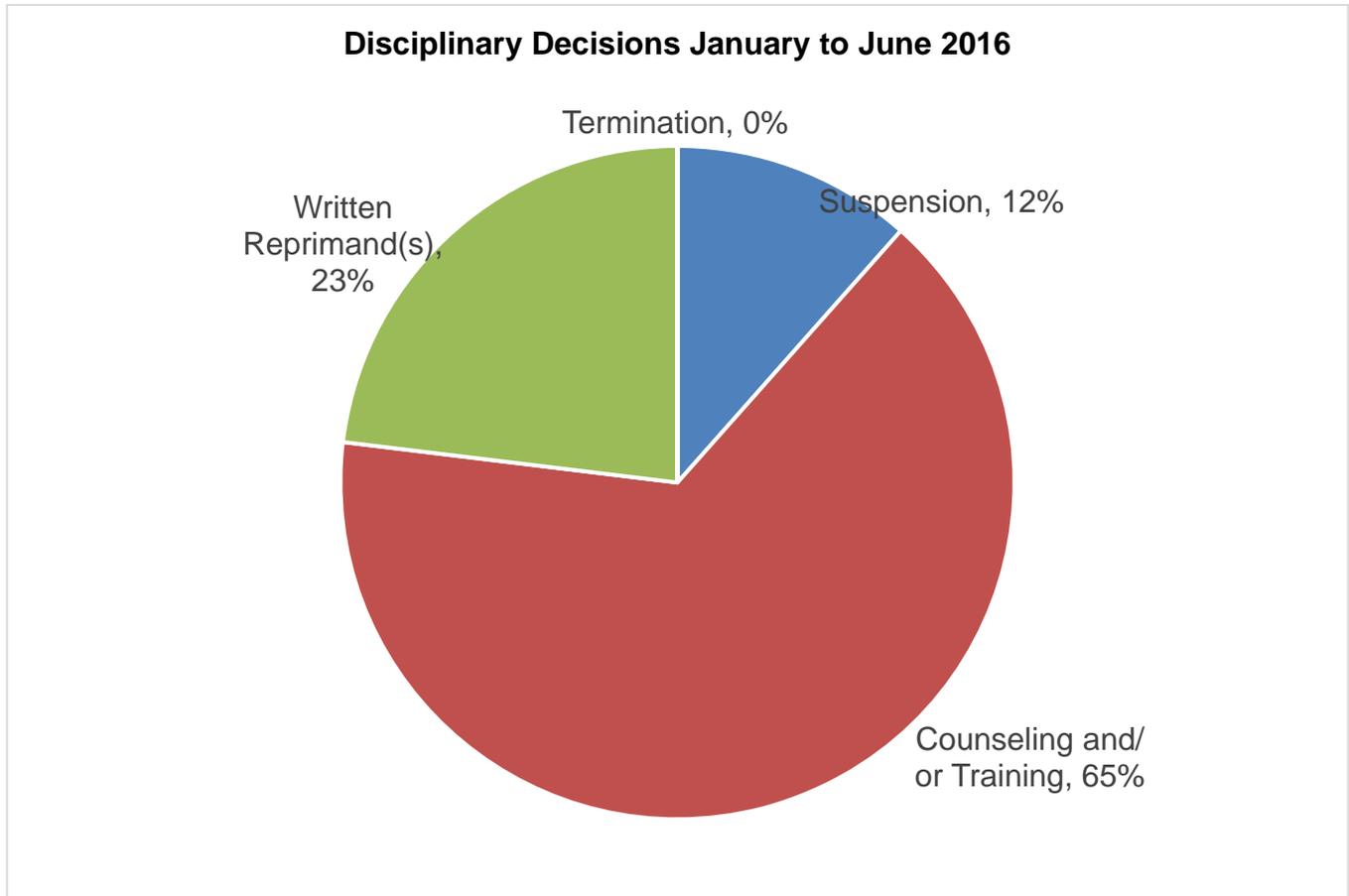


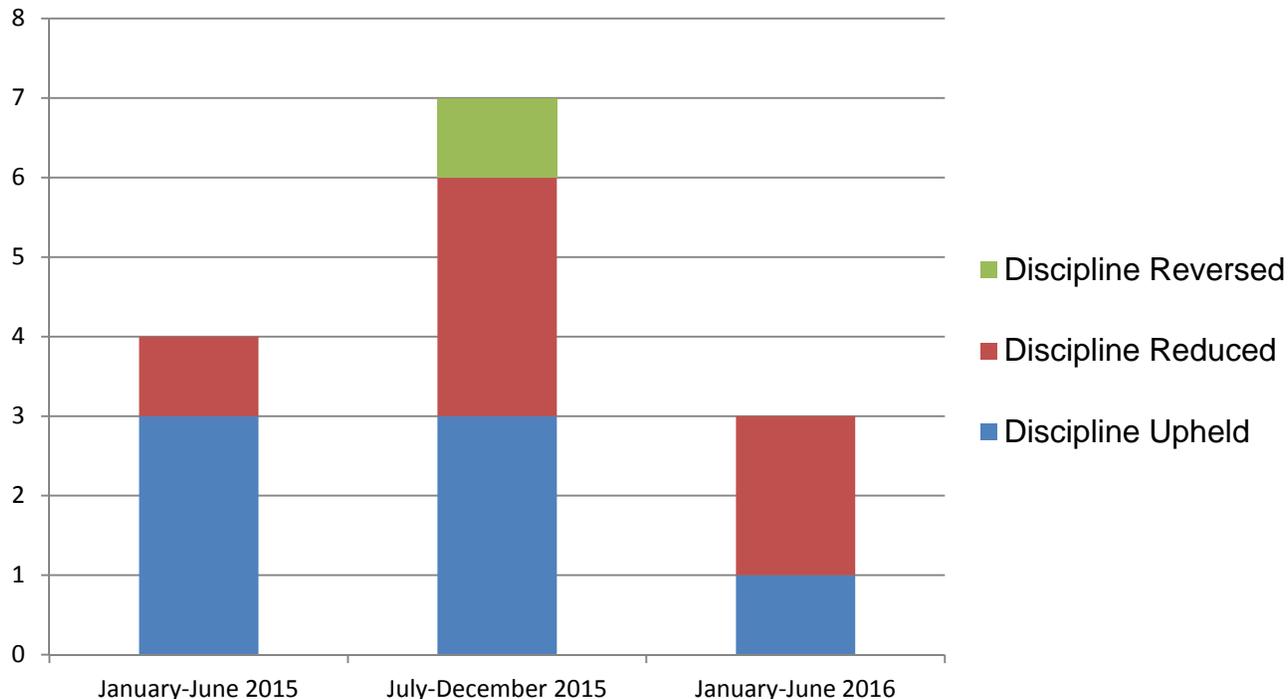
Table: Outcomes of Sustained Cases, January 1-June 30, 2016

Suspension(s)	3
Counseling and/or Training	17
Written Reprimand(s)	6
Termination	0
Total Sustained Findings	26

ARBITRATION DECISIONS:

In Q1 and Q2 of 2016 the City of Oakland received 3 arbitration decisions. The arbitrator fully upheld the City's discipline in two of the three cases. In the third case, the recommended discipline of a 12-day suspension was reduced to a 10-day suspension.

Arbitration Decisions: January 2015-June 2016



REDUCTIONS IN USES OF FORCE

The Oakland Police Department defines Use of Force as:

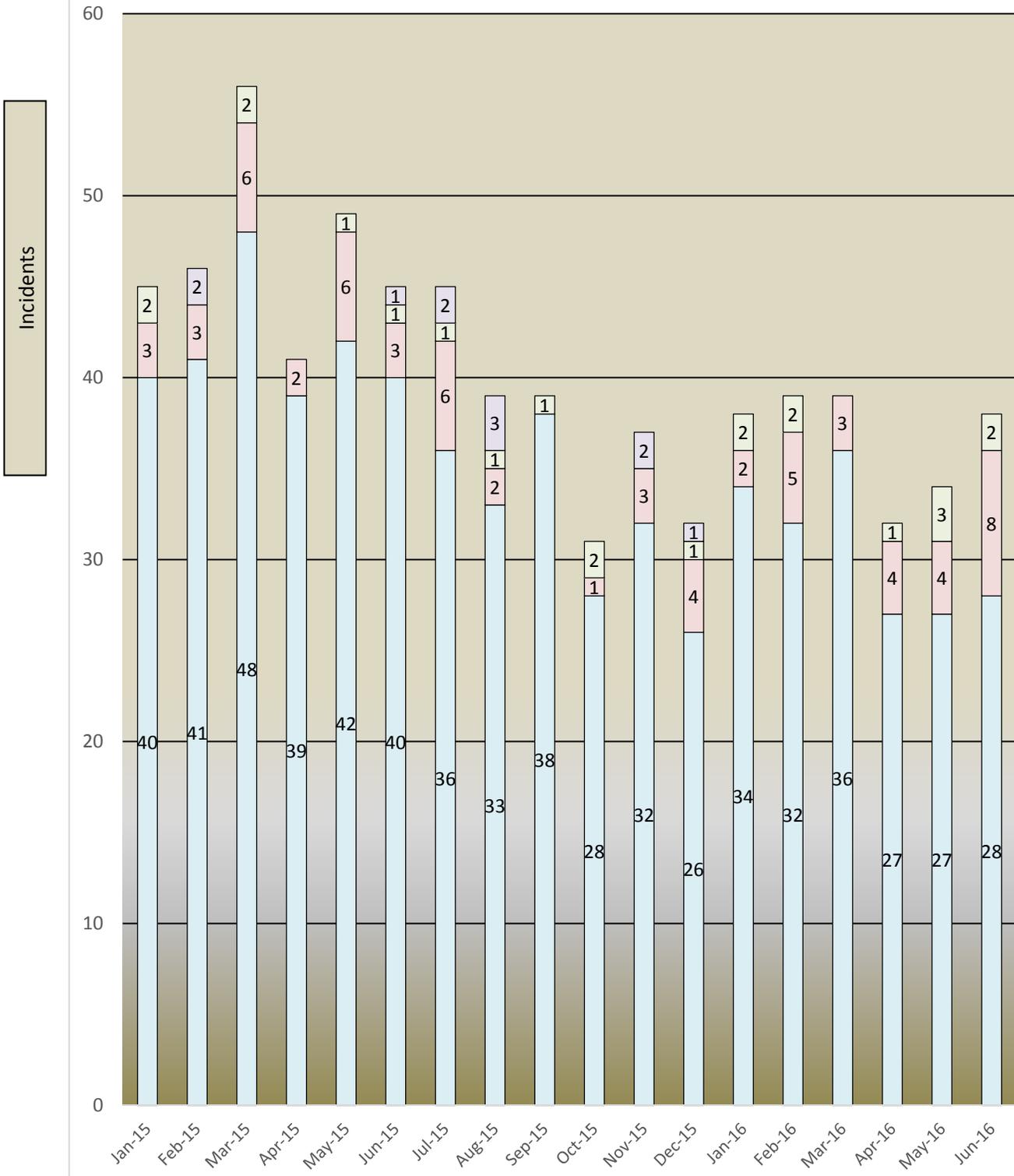
- **Use of Force** - Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.
- **Reasonable Force** - That amount of force that is objectively reasonable to affect a lawful police purpose and protect the 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	

OPD Use of Force Incidents by Month, January 2015 through June 2016

■ Level 4
 ■ Level 3
 ■ Level 2
 ■ Level 1



Use of Force Incidents January 2015 through June 2016

	2015												2016					
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J
Level 4	40	41	48	39	42	40	36	33	38	28	32	26	34	32	36	27	27	28
Level 3	3	3	6	2	6	3	6	2	0	1	3	4	2	5	3	4	4	8
Level 2	2	0	2	0	1	1	1	1	1	2	0	1	2	2	0	1	3	2
Level 1	0	2	0	0	0	1	2	3	0	0	2	1	0	0	0	0	0	0
Total	45	46	56	41	49	45	45	39	39	31	37	32	38	39	39	32	34	38

Overall, there has been a reduction in uses of force from January 2015 through December 2016. Level 1 Uses of Force have been reduced from 11 in 2015 to none in the first six months of 2016. A month-to-month comparison for the first six months of 2015 to 2016 shows overall reductions every month.

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.

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 the first half of 2016, FRBs and EFRBs reviewed 14 use of force instances, compared to a total of 10 for all of 2015 and nine for all of 2014. Multiple force applications are reviewed in each FRB and EFRB. Please note that use of force incidents are not always reviewed during the year in which they occurred.

2016 Reviews (January 1-June 30):

- Eleven (11) - Lethal Firearm Discharge (Type 1)
- Four (4) - Strike to the Head (Type 9)
- Six (6) - Electronic Control Weapon (Type 11)
- Four (4) - Impact Weapon with Contact (Type 12)
- Two (2) - Police Canine Bites (Type 14)
- One (1) - Weaponless Defense Technique (Elevated to Level 2 UOF, Type 15-16)
- Five (5) - Weaponless Defense Technique (Type 16)
- Four (4) - Other Chemical Agent Applied to a Person (Type 17a)
- One (1) - Attempted Impact Weapon Strike but Miss (Type 20)
- Twenty two (22) - Pointing a Firearm (Type 22)
- Six (6) - Escort, Twist Lock, Arm-Bar, Bent-Wrist (Type 25)
- Two (2) - Weaponless Defense Technique (Reduced to Level 4 UOF, Type 26-16)
- One (1) - Unintentional Firearm Discharge w/o Injury (Type 27)

2015 Reviews (Entire Year):

- 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 Reviews (Entire Year):

- 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)

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 Citizen Police Commission. We'll also continue implementing the 50 recommendations in Stanford's [Data for Change](#) to address implicit bias and racial disparities in policing. 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.