



City of Frederick
Frederick, Maryland

Frederick Police Department



Professional Services Division 2015 Annual Report On Complaints and Internal Investigations

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Introduction

This Professional Services Division (PSD) annual report is part of a continuing effort to educate the citizens of Frederick in the operations of their police department. The information contained in this report covers:

- 2015 complaint statistics,
- Analyses of various data.

As a support element, the PSD is committed to providing support to operational units in many ways. The PSD includes the following support section, units, and additional functions:

- Records Section
- Internal Affairs Unit
- Planning Unit
- Automated Enforcement

Staff

Lieutenant Bruce DeGrange, Commander
Sergeant John Corbett, Internal Affairs Unit Supervisor
Dana Kelly, Supervisor of Records and Agency Accreditation
Janine Campbell, Internal Affairs Unit Administrative Assistant
Robert Marker, Safe Streets Coordinator
Officer First Class Stephanie Sparks, Planning Unit
Wade Brown, Automated Enforcement Coordinator
Jenny Henneberry, Special Vehicle Coordinator

Complaints and Internal Investigations

The Frederick Police Department received or generated 79 complaints involving its employees in 2015. See Table 12, below. This amount represents a decrease of 24.8 percent as compared with the 2014 total of 105 complaints. It is important to understand that:

- “Complaint” refers to any report, allegation, accusation or statement in which an individual describes a problem or dissatisfaction with the behavior or performance of any departmental employee or departmental policy/procedure. It does not automatically indicate the alleged activity actually occurred.
- Complaint Category 1 is an expression of dissatisfaction or concern by a citizen that does not involve any violations of laws, ordinances, or general orders, and lends itself to *direct and immediate* resolution by the supervisor/command officer who speaks to the citizen.
- Complaint Categories 2A and 3A are formal investigations to find facts that can either prove or disprove the alleged minor violations.
- Complaint Categories 2B and 3B are minor violations considered to be performance issues. They are non-disciplinary in nature, and are addressed by counseling, remedial training, or both.
- Complaint Category 4 is a formal investigation of more serious allegations, or allegations requiring more extensive investigation.
- Each complaint may involve more than one alleged violation of rules, so the number of allegations is higher than the number of total complaints.

Table 12
2015 Complaints Received by Category

Complaint Category	Total
1 (No Violation / Resolved at Intake)	9
2A (Citizen Generated—Formal Investigation)	8
2B (Citizen Generated—Performance Issue)	12
3A (Department Initiated— Formal Investigation)	4
3B (Department Initiated—Performance Issue)	25
4 (Potentially Serious Complaints)	21
Total Complaints in all Categories:	79

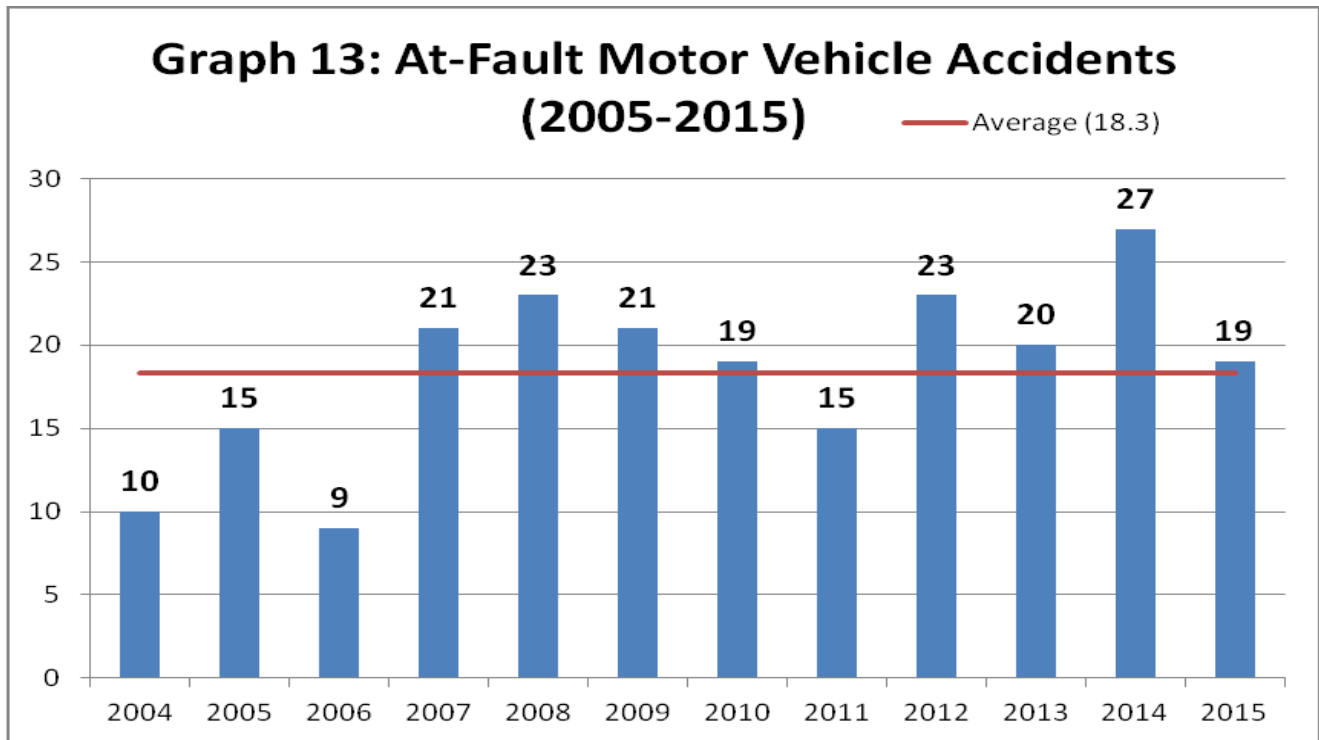
A comparison of some of the most frequent allegations follows in Table 13.

Table 13
2013 – 2015 Most Common Alleged Violations
(Please note some complaints involve multiple allegations.)

Alleged Violation	2013	2014	2015	% Change 14-15
At-Fault Motor Vehicle Accidents	20	27	19	-29.6%
Excessive / Inappropriate Force	9	5	4	-20%
Untruthfulness	5	11	5	-54.5%
Lack of Civility & Respect	25	22	18	-18.2%
Unprofessional / Unbecoming Conduct	10	6	5	-16.7%
Missed Court	14	11	1	-90.9%
Laws & Directives	7	11	10	-9.1%

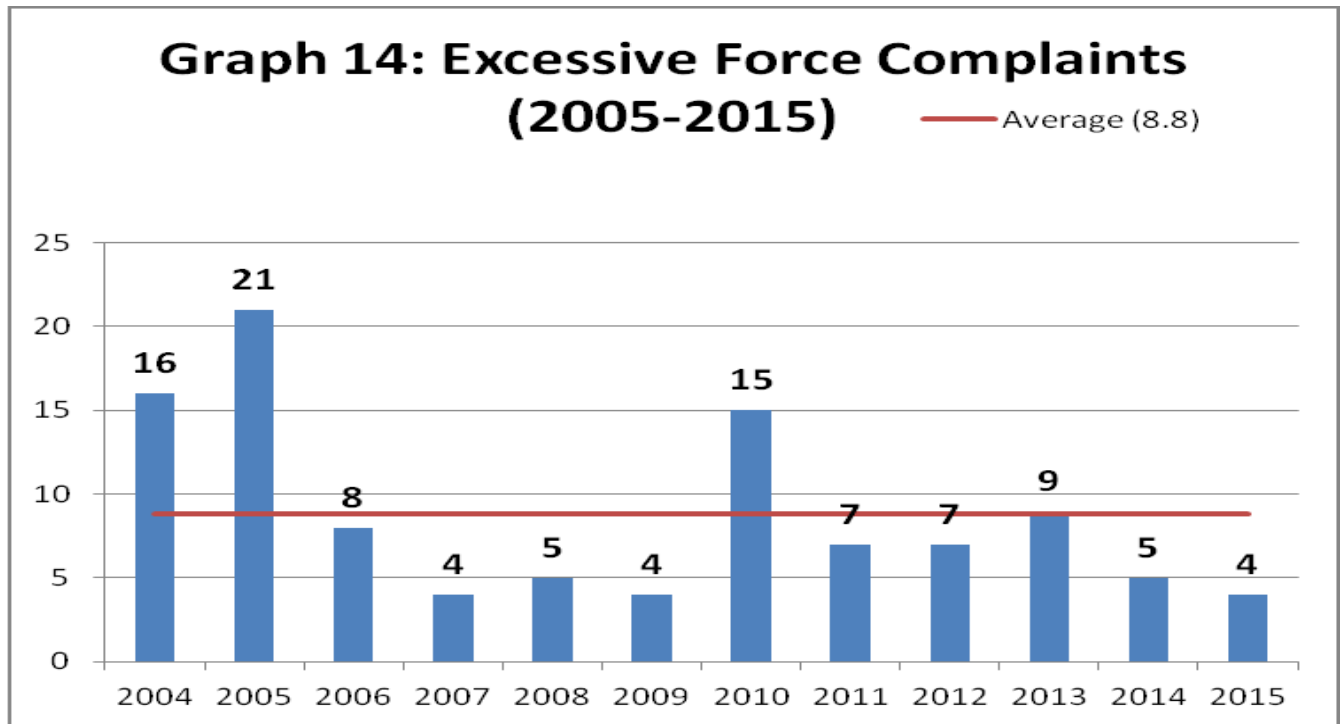
At-Fault Motor Vehicle Accidents

FPD experienced a decrease in at-fault motor vehicle accidents in 2015. From 2009 through 2011, there had been a gradual downward trend, but in 2012 such incidents spiked to 23. The 2014 total of 27 at-fault accidents is markedly higher than the nine-year average (2005-2013) of 18.3 at-fault accidents per year. Including the total for 2015, the 10-year average is 18.3. See Graph 13. The vast majority of the at-fault accidents in 2015 were very minor in nature. For a detailed breakdown, refer to the Training Division’s 2015 Departmental Motor Vehicle Accident Analysis.



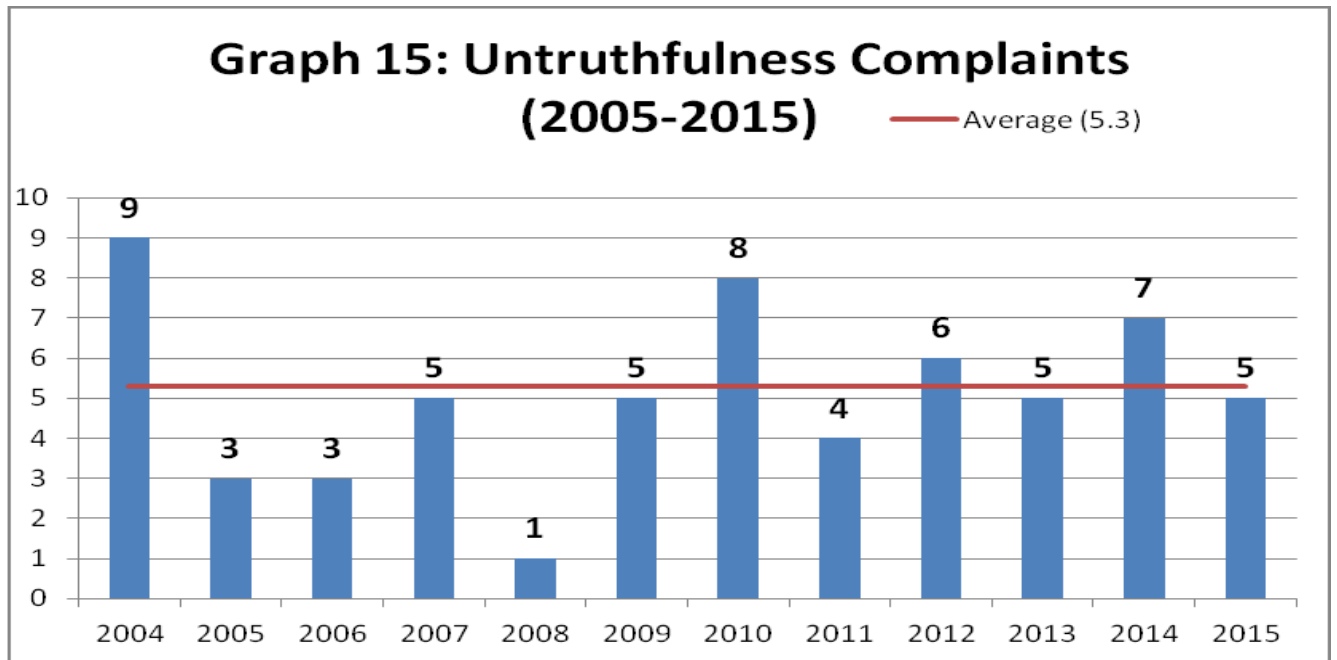
Excessive / Inappropriate Force

FPD initiated investigations into 4 excessive force complaints in 2015. In those 4 cases, 5 officers were accused. For comparison, in 2014, FPD’s Internal Affairs Unit investigated 5 allegations of excessive force involving 8 officers. As of March of 2015, 3 of the 4 excessive force investigations from 2015 have been closed, and one is still open. In the closed investigations, the excessive force allegations were unfounded. See Graph 14.



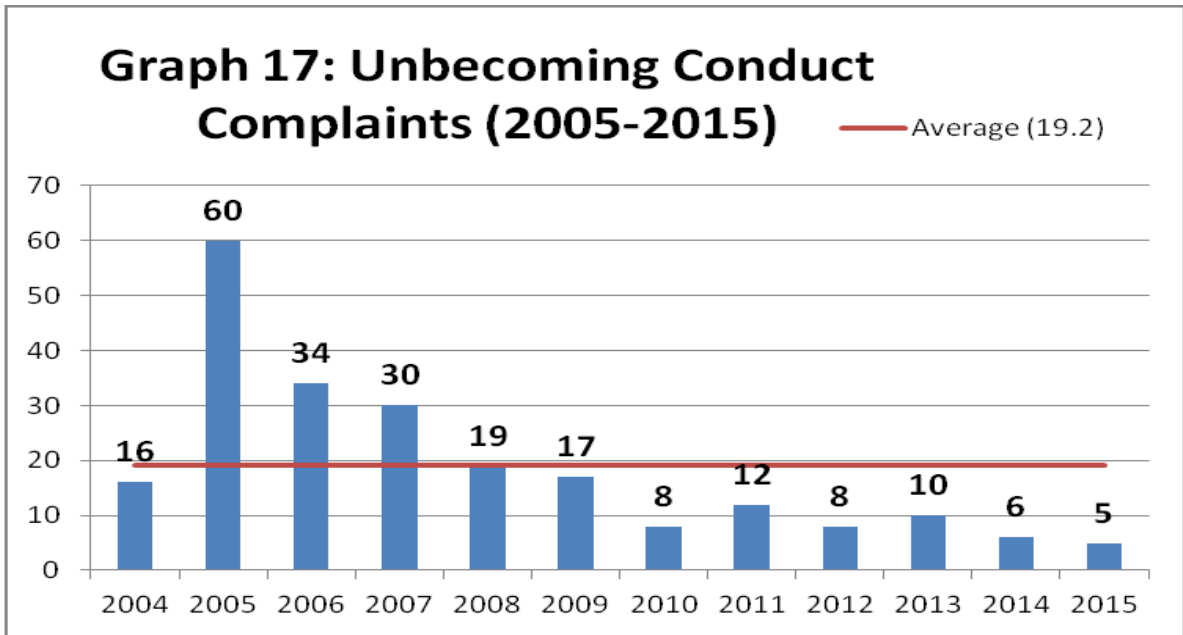
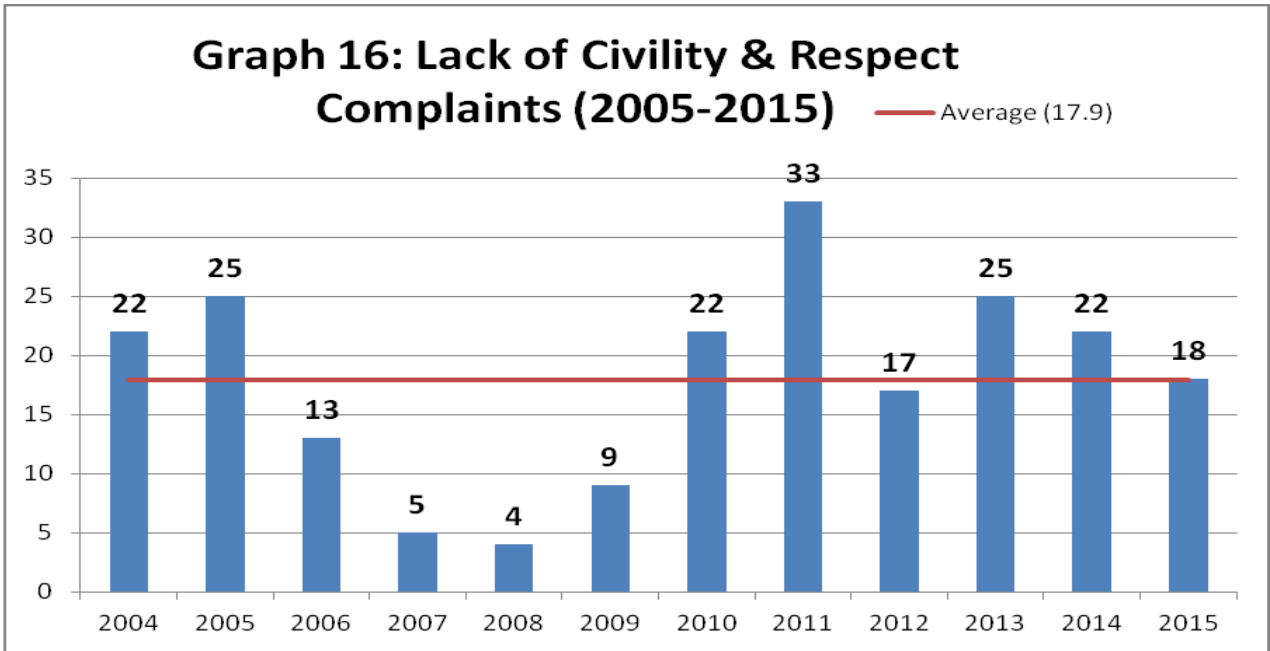
Untruthfulness

Graph 15 shows no clear trend in untruthfulness complaints since 2005. The reason for the increase from 2011 to 2012 was that two officers were accused of being untruthful in multiple incidents. A likely explanation of the 2010 spike is: One case in 2010 resulted in the resignation of an employee, and it had been prominent in the media at the time. It is likely this negative publicity prompted additional untruthfulness complaints. In 2010, several complainants alleging truthfulness violations were represented by the same attorney who was involved in the publicized case.



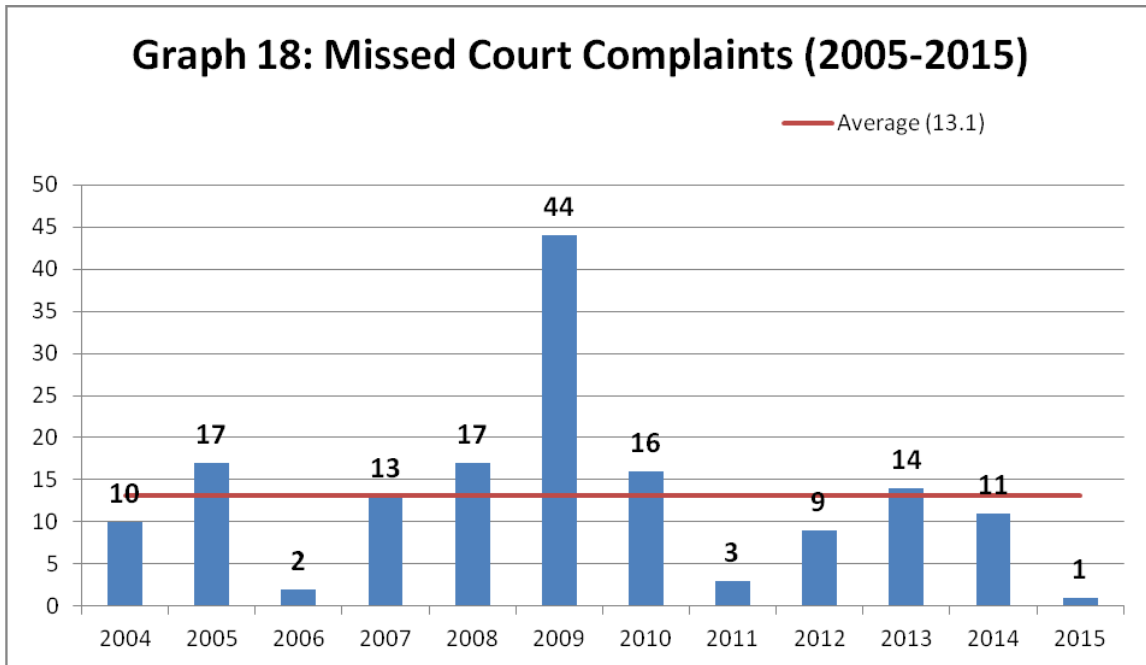
Lack of Civility and Respect / Unbecoming Conduct

Complaints of lack of civility and unbecoming conduct sometimes go hand in hand. But “civility and respect” is generally applied to conduct when a complainant feels that an officer was terse, unfriendly, or rude. Unbecoming conduct is generally an unacceptable behavior that, if true, has the potential to have a negative effect on the agency’s reputation. Unbecoming conduct complaints have remained low over the past five years.



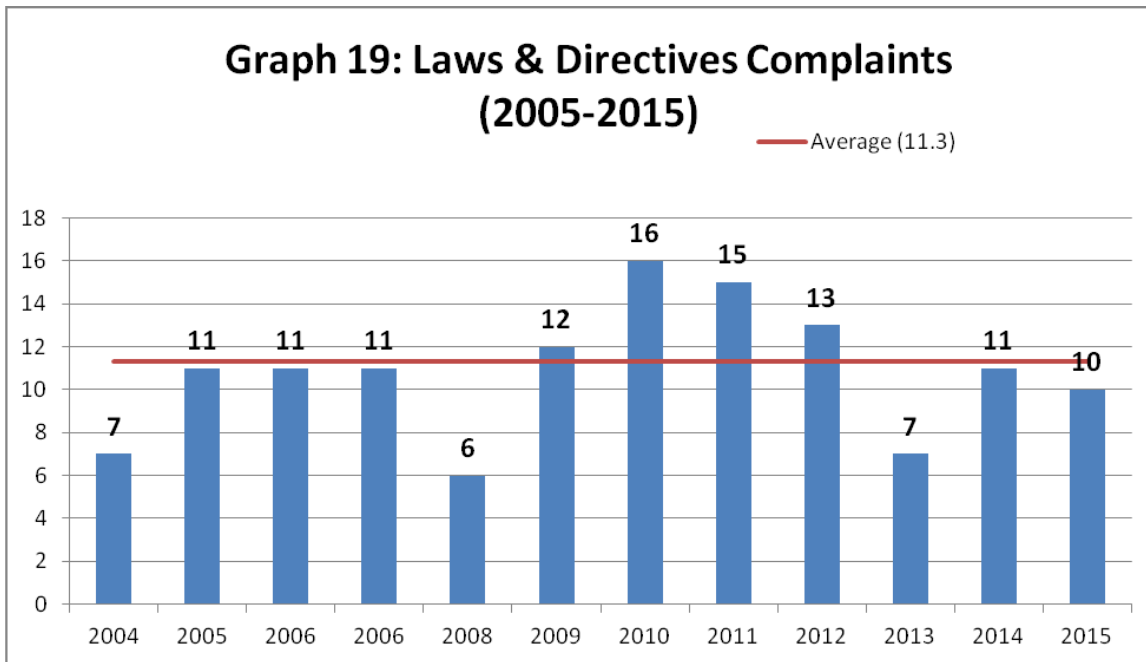
Missed Court

In 2015, FPD received 1 missed court notice from the District Court of Maryland for Frederick County.* This is down from 11 in 2014, and is lower than the 10 year average of 14.6 missed court complaints per year. Looking at Graph 20, it is obvious the missed court complaint totals for 2006 (2) and 2009 (44) were aberrations. The 2006 total was caused by tracking issues. The 2009 total was a result of instituting a more standardized missed court procedure: a formal complaint was initiated for **all** missed court notices received by the courts. It appears that the enhanced tracking of missed court appearances in 2009 may have had a positive effect on officers in the following years, by illustrating the importance of attendance and timely filing of continuance paperwork.



Laws and Directives

An officer accused of a laws and directives violation may have been accused of a wide range of misconduct, such as committing any crime, civil offense, or traffic violation; disobeying an order; disregarding an assigned call for service from a Dispatcher; or not reporting a potentially serious violation by another employee. Laws and directives allegations had been decreasing slightly each year since 2011. 2014's total ended that trend, but it was still slightly below average, as it is for 2015. It is difficult to use alleged violations of this rule as a barometer for trends in officer behavior, because the rule is so broad. See Graph 19.



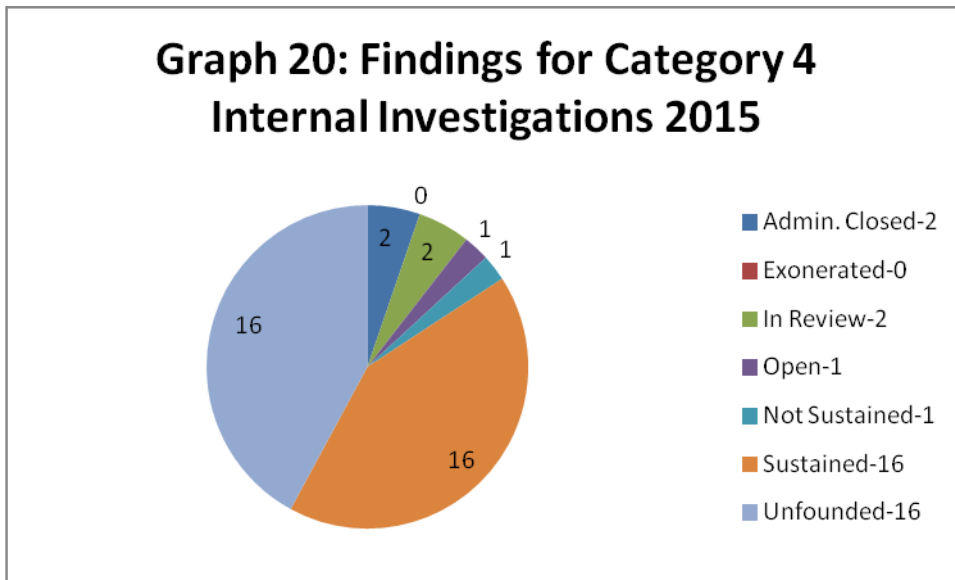
Category 4 Complaint “Findings”

The 21 Category 4 internal investigations in 2015 encompassed 41 alleged violations of Departmental rules. As of March, 2015, 18 of the 21 investigations have been closed, 2 are in the review process, and 1 is still an open investigation. 6 of the 41 allegations (14.6%) are related to open or in review cases, so no official findings are available. The closed investigations have been closed with the following findings (see Glossary, page 12):

- 16 (39%) of the allegations were “unfounded”;
- 16 (39%) of the allegations were “sustained”;
- 1 (2.4%) of the allegations was “not sustained”;
- 2 (4.9%) of the allegations were withdrawn by the complainants, and the investigations were “administratively closed.” (Another complaint with three sustained violations was administratively closed by the resignation of the employee. This will be counted in Graph 20 as three sustainments.)

Thus far, 39% of the alleged violations have been proven true. See Graph 20. The standard of proof in internal investigations and administrative hearings is a “preponderance of the evidence.” This burden of proof is set by Title 3 of the Public Safety Article.

**Graph 20: Findings for Category 4
Internal Investigations 2015**



Glossary

APPROPRIATE FORCE: The amount of force which a reasonable, trained law enforcement officer would apply or determine to be permissible to apply in a given situation in order to obtain compliance from a resistant individual, using established departmental and/or judicially accepted standards. Appropriate Force must be commensurate with the actual or potential threat posed based upon the articulable facts of a given situation, in keeping with the policies and procedures of the Department, and recognized by the courts as reasonable.

COMPLAINT: Any report, allegation, accusation or statement in which an individual describes a problem or dissatisfaction with the behavior or performance of any departmental employee or departmental policy/procedure.

COMPLAINT FINDINGS (DISPOSITION): The official result of the Department's inquiry or investigation into a Complaint that will determine whether or not any administrative and/or disciplinary action will be considered.

- **EXONERATED:** The incident complained about did occur but was justified, legal, and proper.
- **NOT SUSTAINED:** There is not sufficient evidence to support the allegation(s).
- **SUSTAINED:** The allegation is supported by sufficient evidence or there is sufficient evidence to show misconduct not based on the original Complaint.
- **UNFOUNDED:** The investigation has determined no facts to support that the incident complained about actually occurred.
- **ADMINISTRATIVELY CLOSED:** The Department has deemed it inappropriate or unnecessary to proceed with further investigation or disciplinary proceedings.

DEADLY FORCE: Physical force which, by its application, causes death or has a high probability of causing death or serious physical injury.

EMPTY-HAND CONTROL: Any weaponless control or technique performed with empty or open hands, such as control holds, joint locks and manipulation, pressure points, take downs and the intentional moving (pushing) of an uncooperative person, as well as instinctive weaponless control techniques used to gain control of a resistant subject. **Empty-hand control does not include any strikes or active use of personal weapons (feet, fists, elbows, knees, etc.) or the mere application of handcuffs.**

EXCESSIVE FORCE: Physical force that is grossly disproportionate to the actual or potential threat posed by an individual, and exceeds the amount of force that a reasonable, trained police officer would deem permissible to apply in a given situation. The application of excessive force either causes or may potentially cause injury to an individual.

FORCE: The amount of effort used by a police officer to gain compliance from a subject while acting in his official capacity, whether on or off duty. This definition includes both physical force and "constructive force" (presence, commands, pointing a firearm, etc.).

INAPPROPRIATE FORCE: A higher level of force than a reasonable, trained police officer would utilize or deem permissible to apply in a given situation using established departmental and/or judicially accepted standards.

INTERNAL INVESTIGATION: The administrative investigation of a Complaint by the Department.

LIGHT-HANDED CONTROL: Any minimal physical hand contact used by an officer to guide, direct or steer an individual in a given direction.

NON-DEADLY FORCE: Physical force which, by its application, is not intended to cause and/or has a low probability of causing death or serious physical injury.

PASSIVE RESISTANCE: Physical actions which do not actively or dynamically oppose an officer's attempt to control a suspect. Actions such as remaining limp or simply refusing to act as instructed are passive resistance. Verbally indicating an intention to actively oppose an officer's attempts at control raises a suspect's resistance above purely passive.

SERIOUS PHYSICAL INJURY: An injury that causes major disfigurement, severe tissue damage, broken bones, internal organ injury, or permanent paralysis.

TASER ® X26: A conducted energy weapon that utilizes compressed nitrogen to shoot two probes. The probes are connected to the weapon by insulated wire. When the probes make contact with the target, the Taser transmits electrical pulses along the wires and into the body of the target. The X26 Taser has a built-in memory to track usage. The Taser is a hand held unit that can be used in two modes:

- DRIVE STUN: The Taser acts as a drive stun system when it is brought into immediate or close proximity contact with the subject's body or clothing. Due to the narrow spread of the Taser probes, drive stun application will be less likely to create motor skill dysfunction.
- PROBE DEPLOYMENT: Utilizing compressed nitrogen gas to propel two (2) darts on wires from a cartridge. The Taser sends an electrical signal to the probes, via the wires, which can disrupt the body's ability and usually causes motor skill dysfunction.
- PROBES: Small metallic pins with a barbed point. The probes are used to transmit the electrical pulse into the target's body.

Complaints and Internal Investigations

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