



CITY OF AUSTIN

OFFICE OF THE POLICE



AUSTIN  TEXAS

2014 ANNUAL REPORT

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» The Office of the Police Monitor

Mission and Objectives

The Office of the Police Monitor (OPM) is the primary resource for accepting and filing complaints brought by the general public against officers of the Austin Police Department (APD). The OPM also monitors the investigation of complaints within APD (i.e., internal complaints by one officer concerning the conduct of another officer). The OPM seeks to educate the community and law enforcement through its outreach efforts and promote the highest degree of mutual respect between police officers and the public. By engaging in honest dialogue over issues and incidents that impact the community and law enforcement, the OPM's goal is to enhance public confidence, trust, and support in the fairness and integrity of the APD.

The duties of the Office of the Police Monitor include:

- Assessing complaints involving APD officers;
- Monitoring the APD's entire process for investigating complaints;
- Attending all complainant and witness interviews;
- Reviewing the patterns and practices of APD officers;
- Making policy recommendations to the chief of police, city manager, and city council; and
- Assisting the Citizen Review Panel (CRP) in fulfilling its oversight duties.

How the Process Works

Complaint Specialists from the OPM are tasked with addressing allegations of police misconduct or concerns raised by the public. Complaints are taken via telephone, e-mail, facsimile, and mail. The public may also visit the OPM at any time during the business day in order to speak with a Complaint Specialist in person or may visit after business hours through special appointment. Given that the duties of the Complaint Specialist often require them to be out of the office, it is best for the public to call ahead to schedule a time and date. The OPM is readily accessible to physically challenged, hearing impaired, and non-English speaking complainants.

When a complaint is received by the OPM, a Complaint Specialist conducts a preliminary interview with the complainant to gather the relevant facts and ascertain whether a possible violation of policy exists. During this consultation, the complainant is made aware of the avenues available to him/her.

The avenues are:

- 1) **Filing a Formal complaint** – this is the most serious of complaints and is investigated by the Internal Affairs Division (IAD) or by a chain of command;

- 2) **Filing a Supervisor Referral** – this is a less serious complaint handled by the officer’s chain of command;
- 3) **Mediation** – an opportunity for the complainant to be in a neutral location with the officer and a mediator in order to discuss areas of concern or issues with how the officer treated the complainant.

When a person has an issue with an APD officer they would like addressed, they typically file a “Supervisor Referral” or opt to file a “Formal” complaint. As noted, mediation is also an option, but the result of this will not appear in an officer’s personnel file. Additionally, if the mediation option is chosen, the officer will not be subject to discipline unless the officer fails to show up for the mediation session.

In situations where it appears clear no policy violation will be found, the Complaint Specialist educates and informs the complainant about the particular APD policies and procedures, known as Lexipol,¹ applicable to the complainant’s situation.

Supervisor Referrals

Supervisor Referrals (SRs) are commonly used for less-severe policy violations, such as allegations of discourtesy or rudeness, or a disagreement about the level of police services. The Supervisor Referral is suitable for those complainants who do not wish to go through the Formal complaint process and would like a faster result. Many people use this course of action because they want to make the department aware of an unpleasant interaction with an officer, but do not wish to file a Formal complaint.

The Complaint Specialist gathers the information from the complainant and forwards this information to the IAD. IAD will then forward the Supervisor Referral to the involved officer’s chain of command. From this point, a supervisor (usually the immediate supervisor) conducts an inquiry to gather the facts, including the officer’s version of the incident, to better ascertain the nature of the complaint. During this stage, if the immediate supervisor or the IAD commander determines that a more serious infraction has occurred, a Formal Internal complaint may be initiated by IAD or by the officer’s chain of command. The supervisor may also address the issue with the officer through counseling, training, or a reprimand. In most cases, the complainant opts to be contacted by the officer’s immediate supervisor to discuss the matter at greater length and to achieve a degree of closure on the issue. At any time during the Supervisor Referral process, the complainant may opt to file a Formal complaint.

¹ All APD policies and procedures are outlined in the APD Policy Manual known as “Lexipol.” The guidelines, rules, and regulations are set forth by the Chief of Police and govern the day-to-day activities of the Austin Police Department.

Formal Complaints

There are two types of Formal complaints – Internal and External. The difference between internal and external cases is:

- **Internal** – complaints filed by an APD officer, typically a member of the officer’s chain of command, regarding the conduct of another APD officer;
- **External** – complaints filed by a member of the public regarding the conduct of an APD officer.

Regardless of whether the complaint is Internal or External, the Formal complaint process is designed to register complaints, review the matter, and, if appropriate, have an investigation conducted by IAD or by the chain of command.

The process begins when an external complainant indicates they want to use the Formal complaint process. After a brief explanation of the process, a statement is taken by the Complaint Specialist via dictation from the complainant onto an official affidavit form. The interview is tape recorded and the complainant is given an opportunity to review the statement and make any corrections that are necessary. In some cases, the complainant chooses to prepare his/her own statement on the official affidavit form. Once the complainant is in agreement with the statement, the complainant then signs the statement before a notary (all Complaint Specialists are notaries) to comply with state law which requires an External Formal complaint to be sworn to before a notary. The Complaint Specialist then submits the paperwork to IAD. A copy of the completed affidavit form is provided to the complainant if one is requested.

The Complaint Specialist will notify the complainant through an OPM letter of the classification of the investigation as well as the name of the investigator assigned to the matter. The Complaint Specialist attends all complainant, witness, and involved officer interviews. During the investigation, the Complaint Specialist will monitor the investigation and provide input to IAD in an effort to ensure a fair and thorough investigation. At the end of the investigation, IAD will prepare an investigative summary which the OPM reviews. The Complaint Specialist reviews the entire file upon its completion and forwards comments, concerns, or issues about the case to the Police Monitor. The Police Monitor may make recommendations to the chief of police and/or the chain of command regarding whether an allegation should be sustained and the appropriate discipline, if any.

The complainant is given the results of the investigation in writing. A complainant may then hold a meeting with the OPM—a Police Monitor’s Conference (PMC)—to find out the details of the investigation. The written documentation of the underlying investigation (i.e., statements, documentary evidence, etc.) is not given to the complainant due to civil service limitations on what can and cannot be provided. However, if, after discussed in detail, the complainant is still not satisfied with the

investigation, the complainant may also choose to have the matter presented to the Citizen Review Panel (CRP). The CRP is a volunteer group of seven citizens that meet at least once a month. The CRP meets to hear cases in dispute as brought by either the complainant or the OPM or to discuss oversight issues. If a complainant chooses to utilize the CRP to hear their case, they are given ten (10) minutes during the public portion of the meeting to outline their issues with APD and/or the outcome of the investigation. The CRP may ask clarifying questions of the complainant during this time. Afterwards, the CRP will meet in a private executive session to deliberate on the actions to take, if any. The CRP may make recommendations on policy and/or training to the chief of police or choose to make no recommendations. The CRP may also request that the case be investigated further. If the case involves a critical incident, in addition to the actions the CRP may take in any case, the CRP may make a recommendation to the chief of police as to whether the officer violated policy and may recommend discipline. The decision to sustain or not sustain the allegation and/or administer discipline is within the province of the chief of police.

Mediation

Mediation is a third option available to a complainant. Lexipol Policy 902.6.5, Mediation, went into effect in April 2014. The policy clearly outlines the provision of mediation for resolving select external, Class B complaints—rudeness, profanity, belittling and inadequate police services. The policy revision sets forth timelines for utilization, identifies a mediation coordinator through the Office of the Police Monitor and names the Dispute Resolution Center as the third party mediation service provider.

Mediation is designed to provide the complainant an opportunity to be in a neutral location with the officer and a mediator. The use of this process brings the officer and the complainant together with a neutral third-party in order to air and, hopefully, resolve their issues. If the mediation option is used, the complainant cannot opt for a Formal complaint once the mediation process has concluded regardless of the outcome. In addition, the nature of the complaint itself must reach the level of a class “B” investigation in order for the mediation process to be utilized. This option will not result in any discipline for the involved officer (or officers) and will not be placed in the officer’s personnel record.

Mediations take place at the Dispute Resolution Center (DRC) which is located inside the Chase Bank building at Capital Plaza. Mediation sessions are facilitated by volunteer mediators. The mediation sessions between the APD officers and complainants do not normally yield any written agreements between the parties. The sessions are also not audio or video recorded. Information shared in the mediation session is confidential. Nothing in the course of the mediation session can be used at a later date or time in any court matter or civil proceedings.

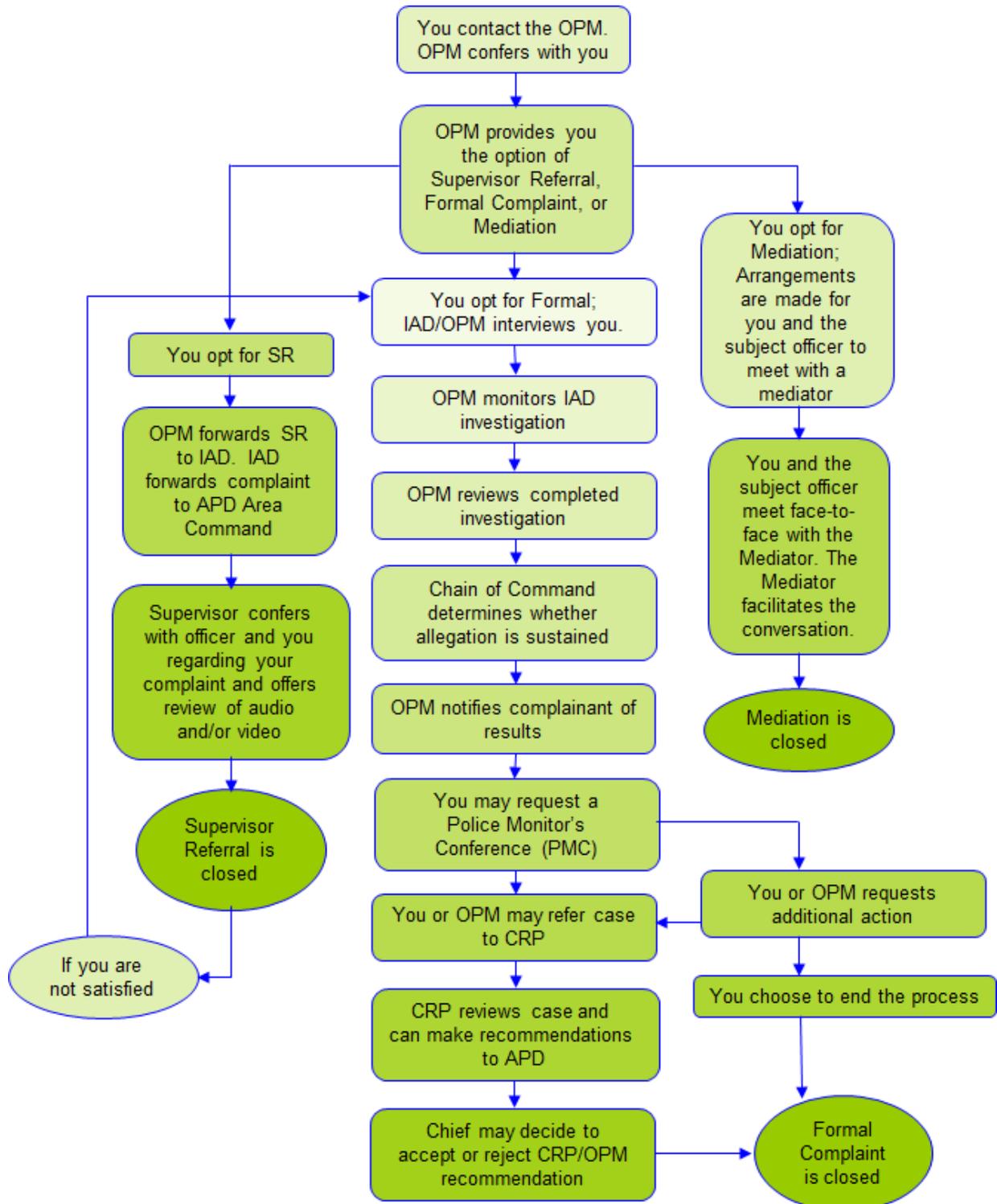
Unlike typical mediation, the parties are not required to make any offers in compromise and are not asked to work toward an equitable resolution of their differences. The APD Lexipol policy only requires that the parties participate in a respectful and productive conversation related to the complaint. Neither party is required to admit any wrongdoing or make any apologies for their actions. The parties may, however, after talking to one another and hearing the other's perspective, extend an apology. Complaints that are mediated cannot be returned to IAD for investigation.

With strong support from the Austin Police Association and the Austin Police Department, the Office of the Police Monitor hopes that the citizens of Austin and Austin police officers will avail themselves to mediation as a complaint resolution option.

To file a complaint with the OPM, an individual may contact the office in person, by telephone at (512) 974-9090, by facsimile at (512) 974-6306, by e-mail at police.monitor@austintexas.gov, or by mail. The office is located in the City of Austin Rutherford Complex at 1520 Rutherford Lane, Bldg. 1, Suite 2.200A, Austin, TX 78754. The mailing address is: PO Box 1088, Austin, TX 78767.

For more information, including a full copy of this report, please visit the OPM website at <http://www.austintexas.gov/department/police-monitor>.

Figure 1. OPM Complaint Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division
SR: Supervisor Referral **CRP:** Citizen Review Panel **DRB:** Disciplinary Review Board

Section 1: 2014 Serious Incident Review

While there were many types of complaints brought throughout 2014, below is a brief summary of the more serious cases. When determining the type and severity of discipline to be administered to an officer, the APD consults its Discipline Matrix. The Matrix is attached in Appendix B. The Matrix serves as a guideline when assessing discipline on sustained allegations. Different policy violations carry different discipline; discipline becomes more severe if an officer has violated a particular policy more than once.

The cases are presented in chronological order.

On January 25, 2014, an officer was approached on foot by a driver who reported that a truck had hit his vehicle and fled. The officer observed a truck matching the description and saw the driver backing up the truck and making his way into the parking lot of a gas station. The officer observed the driver hitting cars with the truck in the gas station parking lot. The officer was heard on the DMAV video recording yelling to the driver to stop the vehicle. The audio also revealed that the driver hit the accelerator as opposed to the brakes. The sound of squealing tires is heard as the officer again yelled to stop the vehicle. The officer reported that the driver had already hit two vehicles at the gas station and that he believed the driver intended to use his vehicle as a deadly weapon. The officer then fired three rounds from his duty weapon. The officer stated that the truck came toward him and he felt that the driver intended to hit him. The driver of the truck was taken into custody after a short pursuit. The driver did not sustain any injuries. The Citizen Review Panel (CRP) reviewed the matter and recommended that the officer be found to have complied with policy. The case was Administratively Closed. (Case Number 2014-0078)

On March 18, 2014, a sergeant responded to a call of a male and a female fighting. The female was reportedly hit in the eye and a window had been broken. The sergeant made contact with a female who was out of breath from running. The female acknowledged there was something going on between her and her boyfriend. As the sergeant told the female to sit down, he observed a male subject round the corner of the apartment building with what appeared to be a handgun in his hand. The sergeant ordered the male three times to drop the weapon. The male did not comply with the sergeant's orders. The sergeant discharged his duty weapon striking the male subject in the shoulder and cheek. The male was transported to the hospital with non-life threatening injuries. Ballistics later revealed that the gun held by the male was a replica BBG that had been modified to resemble an actual firearm. The CRP reviewed the matter and recommended that additional witnesses be interviewed. Those witnesses refused to cooperate. The case was Administratively Closed. (Case Number 2014-0212)

On October 31, 2014, an investigation was opened in response to a YouTube video showing a clip from video captured on the DMAV unit of an APD police vehicle. The video showed two officers engaged in an inappropriate and unprofessional conversation regarding rape. The investigation resulted in a three-day (3) suspension for one officer and a five-day (5) suspension for the other. (Case Number 2014-0959)

On November 26, 2014, an external complaint was received alleging that an APD officer used his affiliation with the APD to secure reduced rent for a female friend and failed to report secondary employment to APD. Additionally, it was alleged that the officer seized drug-related evidence found in the apartment, did not immediately turn in the evidence, was not forthright regarding circumstances under which the drugs were found, and on one or two occasions witnessed his female friend smoke marijuana in his presence. Evidence found through text message records also revealed that the officer offered the woman the opportunity to stay in the apartment and keep furniture in exchange for sexual favors. The officer was indefinitely suspended. (Case Number 2014-0981)

Section 2: Executive Summary

The Office of the Police Monitor's (OPM) annual report is presented to the public as a means to provide transparency into the Austin Police Department's (APD) complaint investigative process. This report reviews behavior patterns of APD officers and makes policy recommendations. Below are some of the key findings from the 2014 reporting year.

- In 2014, 1,116 persons contacted the OPM or the APD's Internal Affairs Department (IAD) wishing to file a complaint against one or more members of the APD. This was a decrease of 9% (106 contacts/complaints) from 2013. Of these contacts, a little more than half of those who reached out to either the APD or the OPM (582 of the 1,116) actually resulted in some type of complaint being filed.
- There were 277 Formal complaints filed in 2014 – 67 External Formal complaints and 210 Internal Formal complaints. In aggregate, this was a total decrease of 15% (50 cases) from the number filed in 2013. There were 23 *fewer* External Formal complaints (↓ 26%) and 27 *fewer* Internal Formal complaints (↓ 11%).
- The total number of Supervisor Referrals monitored by the OPM was up in 2014 to 305 complaints, an increase of 18% (47) from 2013. Supervisor Referrals had decreased steadily from 2010 through 2012 then increased in 2013 and again in 2014. During this same time period, the number of External Formal complaints has been up and down.
- When combining the two types of external complaints, there was an increase of 6% (24 total complaints) in 2014 versus 2013. This is the second year in a row in which the total number of external complaints has risen.
- There was considerable movement this year with regard to the number of complaints filed by Hispanics/Latinos. Caucasians continue to file the most complaints overall and filed a few more Supervisor Referrals in 2014 than they did in 2013. Blacks/African Americans also filed more Supervisor Referrals in 2014 but the same number of External Formal complaints as they have each year for the past three years, 21. The biggest change was the Hispanic/Latino group. In 2014, this group's filing of External Formal complaints dropped by 79%, 22 cases. In 2013, Hispanics/Latinos had the highest number of complaints – a number more in line with their representation in the voting age population of Austin. This year, they are responsible for only six (6) Formal complaints.
- Caucasians make up the vast majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 12% less than their representation in the population.

- Blacks/African Americans make up 8% of the voting age population within the City of Austin but filed 31% of the External Formal complaints in 2014. This translates to a difference of 23% (almost four times) between their representation in the population and the percentage of External Formal complaints filed.
- Hispanics/Latinos filed External Formal complaints at a rate 22% lower than their representation in the Austin voting age population. With 2013 being the exception, historically, this group has filed complaints at a rate much lower than their representation in the population for the majority of the years the OPM has been reporting.
- Caucasians and Hispanics/Latinos were stopped at a rate basically on par with their representation in the voting age population. Blacks/African Americans were stopped at a rate above their representation within the City of Austin's voting age population.
- Caucasians accounted for 52% of the stops and 31% of the searches.
- Blacks/African Americans accounted for 12% of the stops and 24% of the searches.
- Hispanics/Latinos accounted for 30% of the stops and 43% of the searches. .
- Despite being searched the greatest number of times in 2014, Hispanics/Latinos had a 1 in 9 chance of being searched after being stopped which is the same as last year as well as the year before.
- Blacks/African Americans had a 1 in 6 chance of being searched if stopped, also the same as 2012 and 2013.
- The probability of Caucasians being searched once stopped was 1 in 22 in 2014 and 1 in 20 in 2013.
- APD reported there were no instances where the reason for the search was not documented in 2014. However, it is unlikely officers complied with the policy 100% of the time and, therefore, the OPM is of the opinion there are searches being conducted which are not being reported properly. Revelations in 2015 confirmed this suspicion.
- The 54% overall rate at which nothing was found means that something was found less than half of the time. This is a slightly lower rate of discovery than last year.
- Looking at the APD's 2014 amended racial profiling data, it can be seen that the hit rate by race is between 29% and 42%. For the most part, the hit rate seems to correspond to the number of searches conducted.

- In looking at arrest numbers from the 2014 APD Response to Resistance report and comparing these numbers to the voting age population of the City of Austin, we can see that Blacks/African Americans were arrested at a rate 17% (three times) higher than their representation in the voting age population of Austin.
- Blacks/African Americans made up 24% of all arrests in Austin in 2014 and accounted for 28% of the force used during the course of the arrest. By comparison, Caucasians made up 40% of the arrests but only 34% of the force used. Simply put, Blacks/African Americans had force used *more* while Caucasians had force used *less* than their percentage of arrests.
- Supervisor Referrals were up in 2014 to 305 from 258 in 2013. As a percentage of complaints filed, there was a small increase among Caucasians in 2014 (↑ 5% over 2013) while the rate among Blacks/African Americans and Hispanics/Latinos increased significantly (↑ 32% and ↑ 24%, respectively over 2013).
- Males file External Formal complaints at a rate higher than their representation within the City (66% of complaints; 53% of the population) while females file at a rate lower (31% of complaints; 47% of the population).
- External Formal complaints as a whole were down in 2014, from 90 to 76. The Downtown area command, which frequently has the most complaints, had the second most complaints in 2014 with 9. DTAC is tied with the Northeast area command which also had 9. The area command with the highest number was the Central East with 13 External Formal complaints. The Northwest area command is typically at the bottom of this list but rose to number four this year with seven complaints.
- In 2014, 53% of all External Formal complaints received a “D” classification. This is the second highest percentage of “D” classifications in the past five years and a step backward in the opinion of the OPM.
- As in years past, Code of Conduct-type issues continue to be the most frequently reported allegation for both Supervisor Referrals as well as External Formal complaints. This has been the case since the OPM began tracking complaints.
- There were 15 allegations of bias-based profiling in 2014. In addition to these, the OPM identified an additional five times in External Formal complaints and 17 times in Supervisor Referral complaints where the complainant stated they believed the APD acted prejudicially toward them.
- In looking at the composition of those bringing allegations in 2014, the OPM found that in External Formal complaints, Caucasians were responsible for 35% of all allegations (71 of the 204 allegations). Blacks/African Americans accounted for 82 of the 204 (40%) and Hispanics/Latinos accounted for 6 of the 204 (3%)

which is fewer than Native Hawaiians/Pacific Islanders who accounted for 11% (23 of the 204 allegations).

- Blacks/African Americans levied Use of Force/Response to Resistance allegations more than any other racial group, 20 of the 29 Use of Force/Response to Resistance allegations. Caucasians were responsible for the other nine (13% of their filed allegations).
- When combining allegations for both Supervisor Referrals and External Formal complaints, the area command with the highest number of allegations was Central East with 124. This was followed by Downtown and Northwest with 59 and 57, respectively. The Southeast area command was fourth with 45 allegations total.
- The Downtown area command typically sees the highest number of allegations but this year Central East had the highest with more than double that of Downtown. Central East not only had the highest number of External Formal allegations, it also had the highest number of Supervisor Referral allegations.
- The number of allegations that were Administratively Closed was 81%. This is a large increase over 2013 when 54% were closed administratively. The OPM continues to advocate that “Administratively Closed” be used sparingly.
- The number of External cases determined to be Unfounded was down in 2014 to 7%. This means very few of the complaints actually investigated were found to be without merit.
- There were only 21 allegations in External Formal complaints sustained in 2014 that resulted in some sort of discipline. Five officers received written reprimands involving seven allegations, two officers received oral reprimands involving two allegations, three officers received suspensions involving three allegations and two officers received indefinite suspensions involving nine allegations.
- For those with complaints in 2014, the average length of time the officer had served on the force until the date of the incident with the public was 8.0 years for Supervisor Referrals and 7.1 years for Formal complaints. This is interesting as officers with 7-9 years of experience make up the smallest percentage of the APD, 11%.
- The allegation type levied most often was Code of Conduct related. For the 0-3 years of experience group, the second most mentioned category is the Use of Force category. For those with 10 or more years of service, the second highest number of allegations was in the Interviews, Stops and Arrests category.

- As with External Formal complaints, officers with the least amount of experience have the highest number of allegations in Supervisor Referral complaints followed by those with the greatest amount of experience.
- As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force and, of course, this is reflected in the number of allegations lodged against the officer.
- The majority of allegations filed in both External Formal and Supervisor Referral complaints against both female and male officers involve Code of Conduct issues. In 2014, the second highest number of allegations levied against male officers in External Formal complaints involved Use of Force issues (28). This was followed closely by Interviews, Stops and Arrests.
- Caucasian officers were overrepresented in total allegations compared to their population within the APD while Black/African American and Hispanic/Latino officers were slightly underrepresented.
- Caucasian officers are overrepresented compared to their presence on the APD in terms of repeat case subject officers. Black/African American subject officers are very slightly below their representation with repeat subject officers. Hispanic/Latino officers are on par compared to their presence on the APD with single case subject officers and significantly below their APD representation with repeat subject officers.
- For those officers with External complaints in 2014, meaning both External Formal complaints as well as Supervisor Referrals, the OPM found that 57% of these officers have had at least one previous complaint from the public sometime between 2010 and 2013.

Section 3: OPM Recommendations

- While state regulation may not require the reporting of stops or searches that do not result in a citation or arrest, APD should make that data available to the OPM and the public. This data should include not only stops of vehicles, but also pedestrian stops that resulted in frisks or searches.
- The OPM recommends that routine audits of traffic stops videos and reports be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the report should be supplemented.
- APD should take greater care in classifying cases as a “D.” If it is not clear on the face of the complaint that it has no merit, the case should be classified as an “A” or “B.” If it is determined that the officer did not commit a violation, the case should then be “unfounded” as opposed to being administratively closed.
- Given the number of incidents in which the APD uses force, the number of external allegations seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted by the OPM and the APD. If deficiencies are discovered, training, policy development, and/or discipline should be considered.
- It is recommended that the APD continue to review the staffing assignments to allocate the most experienced officers and least experienced officers in at least a more balanced manner taking into consideration the level of activity and crime rate.

Section 4: End of Year Statistical Review

Complaints

Number & Types of Complaints

In 2014, 1,116 persons (Internal & External) contacted the OPM or the APD's Internal Affairs Department (IAD) wishing to file a complaint against one or more members of the APD. This was a decrease of 9% (106 contacts/complaints) from 2013. Of these contacts, a little more than half of those who reached out to either the APD or the OPM (582 of the 1,116) actually resulted in some type of complaint being filed.

When a member of the public files a complaint with the OPM, they are made aware of the avenues available to them during a consultation with a Complaint Specialist. They have a choice regarding the type of complaint they would like to file and whether to file a complaint at all. Should they choose to proceed with their complaint, they have the option of filing a Supervisor Referral, filing a Formal complaint or opting for Mediation.

The following graph includes all individuals contacting the OPM or the APD regarding an issue with an APD officer including those from within the APD. In this figure, the term "contacts only" means that a person reached out to the OPM, reached out to the IAD or requested to speak to a supervisor while the officer and the complainant were still on the scene of the incident or shortly thereafter. For those that reached out to the OPM or IAD, a contact as defined here means that the person did not file a Supervisor Referral or a Formal complaint. The complaint may not have been filed because:

- The incident did not meet the criteria outlined in the APD's policy manual, Lexipol;
- After speaking with the Complaint Specialist, the individual had a better understanding of the officer's actions and no longer desired to file a complaint;
- The individual did not provide sufficient information for follow up;
- The individual was not available for follow up;
- The individual failed to follow through with the complaint process;
- The incident involved a complaint against a law enforcement agency other than APD; or,
- Was a matter best handled by the courts or another agency.

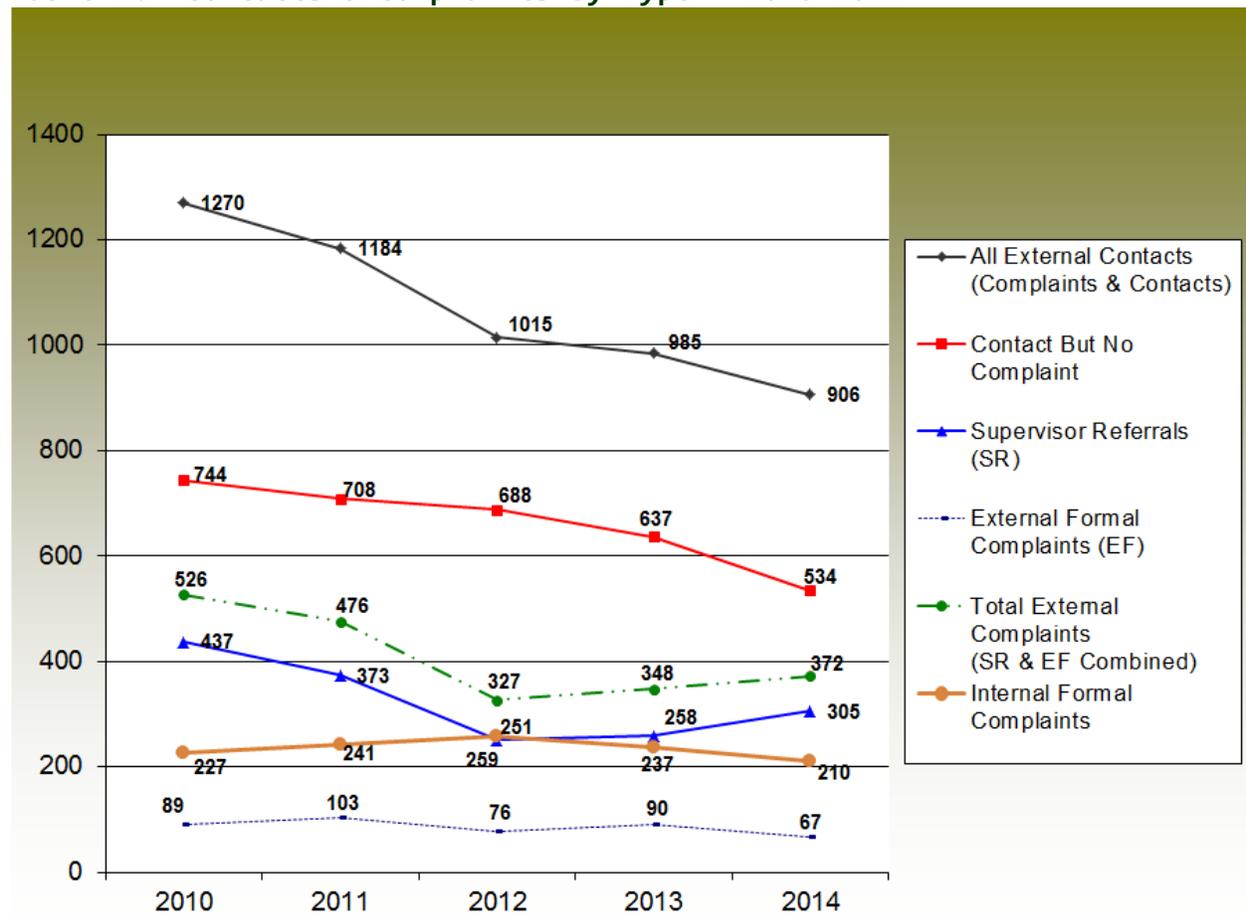
For those people who requested a supervisor be sent to the scene of the incident, they remain a "contact" for the purposes of this report because they were either satisfied with the answers provided to them by the supervisor and/or chose not to come to the OPM to file a complaint.

There were 277 Formal complaints filed in 2014 – 67 External Formal complaints and 210 Internal Formal complaints. In aggregate, this was a total decrease of 15% (50 cases)

from the number filed in 2013. There were 23 fewer External Formal complaints (↓ 26%) and 27 fewer Internal Formal complaints (↓ 11%).

The total number of Supervisor Referrals monitored by the OPM was up in 2014 to 305 complaints, an increase of 18% (47) from 2013. Supervisor Referrals had decreased steadily from 2010 through 2012 then increased in 2013 and again in 2014. During this same time period, the number of External Formal complaints has been up and down. When combining the two types of external complaints, there was an increase of 6% (24 total complaints) in 2014 versus 2013. This is the second year in a row in which the total number of external complaints has risen.

Table 1: Contacts & Complaints by Type – 2010-2014



When a complainant files a Supervisor Referral, they have the option of speaking directly to an officer’s supervisor about the issue. Supervisor Referrals are usually initially handled by the individual officer’s supervisor and sometimes by the entire chain of command. The process was developed jointly by the APD and the OPM in an effort to provide members of the public the option to speak directly with an officer’s supervisor when the complaint is of a less serious nature.

While the OPM believes the option of speaking directly to an officer’s supervisor is one of the factors leading complainants to choose this avenue, other factors may also come into play. One factor is time—Supervisor Referrals normally take less than 30 days to complete while a Formal complaint may take as long as 180 days. The other is that, in general, the vast majority of complaints being brought do not involve accusations of serious misconduct.

The OPM assesses complainant satisfaction with the resolution of the Supervisor Referral via a follow-up conversation with the complainant. During this time, the complainant is made aware that if they are not satisfied with the outcome of the case, they have the option to file an External Formal complaint. In 2014, eleven (11) complainants chose to advance to an External Formal complaint after first going through the Supervisor Referral process. This is significantly higher than in 2013 when only four (4) complainants chose to move their complaint into the formal complaint process and 2012 when there were three (3).

Complaints & Complainant Demographics

Complaints may be filed at the OPM in person, by telephone, e-mail, facsimile, or mail. Because of the various methods of contacting the OPM, thorough collection of all demographic data points continues to be a challenge. Often complainants simply do not wish to share this information, particularly over the phone. This challenge proves to be even more problematic with Supervisor Referrals as can clearly be seen in the high percentage of missing or unknown data in this category. The OPM continues to strive to improve data collection methods while respecting the wishes of the complainants who do not wish to provide this information.

Please note that the data presented in the table below are not made up of unique individuals as a person may file more than one complaint and/or more than one type of complaint if they were involved in more than one incident.

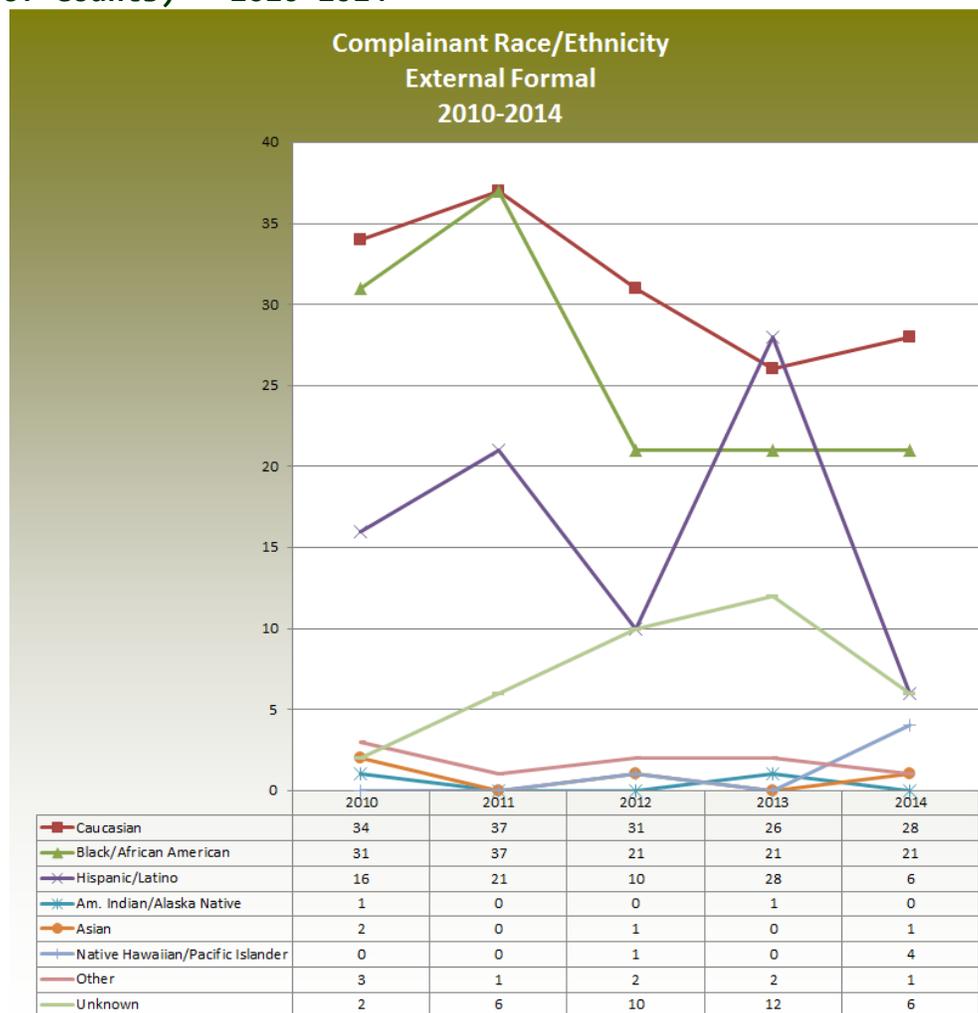
Table 2: Race/Ethnicity of Complainants - 2014

Ethnicity/Race	Supervisor Referrals		External Formals		Total	
	#	%	#	%	#	%
Caucasian	103	34%	28	42%	131	35%
Black/African American	74	24%	21	31%	95	26%
Hispanic/Latino	72	24%	6	9%	78	21%
Am. Indian/Alaska Native	0	0%	0	0%	0	0%
Asian	4	1%	1	1%	5	1%
Native Hawaiian/Pacific Islander	0	0%	4	6%	4	1%
Other	5	2%	1	1%	6	2%
Unknown	47	15%	6	9%	53	14%
Total	305	100%	67	100%	372	100%

*May not total to 100% due to rounding.

There was considerable movement this year with regard to the number of complaints filed by Hispanics/Latinos. Caucasians continue to file the most complaints overall and filed a few more Supervisor Referrals in 2014 than they did in 2013. Blacks/African Americans also filed more Supervisor Referrals in 2014 but the same number of External Formal complaints as they have each year for the past three years, 21. The biggest change was the Hispanic/Latino group. In 2014, this group's filing of External Formal complaints dropped by 79%, 22 cases. In 2013, Hispanics/Latinos had the highest number of complaints – a number more in line with their representation in the voting age population of Austin.² This year, they are responsible for only six (6) formal complaints.

Table 3: External Formal Complainant Race/Ethnicity (Graph of Counts) – 2010-2014



² The voting age population was chosen in order to more closely approximate the ages of members of the public most likely to have interaction with the APD as well as to better reflect the age range of complainants coming into the OPM. The voting age population is also viewed as a closer approximation of those operating motor vehicles (as opposed to the total population which includes children).

**Table 4: External Formal Complainant Race/Ethnicity
(Table of Counts & Percentages) – 2010-2014**

Ethnicity/Race	External Formal									
	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Caucasian	34	38%	38	37%	31	41%	27	30%	28	42%
Black/African American	31	35%	38	37%	21	28%	21	23%	21	31%
Hispanic/Latino	16	18%	21	20%	10	13%	28	31%	6	9%
Am. Indian/Alaska Native	1	1%	0	0%	0	0%	1	1%	0	0%
Asian	2	2%	0	0%	1	1%	0	0%	1	1%
Native Hawaiian/Pacific Islander	0	0%	0	0%	1	1%	0	0%	4	6%
Other	3	3%	1	1%	2	3%	2	2%	1	1%
Unknown	2	2%	5	5%	10	13%	12	13%	6	9%
Total	89	100%	103	100%	76	100%	91	100%	67	100%

*May not total to 100% due to rounding.

In analyzing complaints, the OPM looks at how the percentages compare to the voting age population of Austin. The focus here is on the three largest groups of people as based on their population numbers. Caucasians make up the vast majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 12% less than their representation in the population. Blacks/African Americans make up 8% of the population but filed 31% of the External Formal complaints in 2014. This translates to a difference of 23% between their representation in the population and the percentage of External Formal complaints filed. This has not changed year over year as Blacks/African Americans file complaints at a rate significantly higher than their representation in the population while Caucasians file at a rate that is lower.

Hispanics/Latinos filed External Formal complaints at a rate 22% lower than their representation in the Austin voting age population. With 2013 being the exception, historically, this group has filed complaints at a rate much lower than their representation in the population for the majority of the years the OPM has been reporting.

Because of their low complaint rate in the past, the OPM has made a concerted effort to reach out to the Hispanic/Latino community. Part of this effort has been to stress that the OPM will not inquire as to the immigration status of the complainant or any of the witnesses. While this may have had an impact on this group in 2013, it was clearly not the case in 2014. Because of the dramatic decrease in External Formal complaints from Hispanics/Latinos, and given the perceived reticence of this group to file complaints, the OPM remains concerned about the number of issues this group may *not* be reporting.

Table 5: 2014 External Formal Complainant Race/Ethnicity versus 2010 City of Austin Voting Age Population

Ethnicity/Race	External Formals		2010 City of Austin Voting Age Population		Gap: % Complaints vs. % Population
	Count	%	Count	%	
Caucasian	28	41.8%	329,500	53.4%	-11.7%
Black/African American	21	31.3%	46,219	7.5%	23.8%
Hispanic/Latino	6	9.0%	188,318	30.5%	-21.6%
Am. Indian/Alaska Native	0	0.0%	1,639	0.3%	-0.3%
Asian	1	1.5%	39,604	6.4%	-4.9%
Native Hawaiian/Pacific Islander	4	6.0%	1,639	0.3%	5.7%
Unknown/Other	7	10.4%	9,645	1.6%	8.9%
	67	100%	616,564	100%	

*May not total to 100% due to rounding.

A greater emphasis on outreach to the Asian community was made in 2014 including producing brochures in both Vietnamese and Mandarin on how to file a complaint. Despite having concentrated on outreach to the Asian community (as it is one of the fastest growing population groups in Austin), those classified as Asian constitute 6% of the voting age population but filed no External Formal complaints.

The APD Racial Profiling Report

Each year the APD produces a report on racial profiling that includes the number of vehicle stops and searches within the City by race/ethnicity of the driver. The 2014 Racial Profiling report was first published in early 2015. After it came to light that the APD was deleting records from the report when these records did not contain race/ethnicity data, the APD re-issued these data as part of its' 2015 Racial Profiling report.³ It is these amended data that are included here.

The APD states that Caucasians were stopped 75,218 times in 2014, or 52% of all traffic stops. Blacks/African Americans were stopped 17,178 times, or 12% of all reported traffic stops, and Hispanics/Latinos were stopped 43,794 times, or 30% of all traffic stops. As can be seen in the table below, when comparing the number of stops to the voting age population for each group within the City of Austin, Caucasians and Hispanics/Latinos were stopped at a rate basically on par with their representation in the voting age population. Blacks/African Americans were stopped at a rate above their representation within the City of Austin's voting age population. Thus, the largest disparity between stops and the voting age population within any racial/ethnic group is again amongst the Black/African American group. At a 4% difference, this is virtually the same as last year.

³ <http://www.austintexas.gov/departments/apd-reports>

Table 6: 2014 Traffic Stops by Race/Ethnicity versus 2010 City of Austin Voting Age Population

APD Category	2014 Traffic Stops		2010 City of Austin Voting Age Population		Difference: Population vs. Stops	Percent of Population Stopped	Likelihood of Being Stopped
	Count	Percentage	Count	Percentage			
Caucasian	75,218	51.9%	329,500	53.6%	-1.7%	22.8%	1 out of 4
Black/African American	17,178	11.9%	46,219	7.5%	4.3%	37.2%	1 out of 3
Hispanic/Latino	43,794	30.2%	188,318	30.6%	-0.4%	23.3%	1 out of 4
Asian	4,267	2.9%	39,604	6.4%	-3.5%	10.8%	1 out of 9
Am. Indian/Alaska Native	63	0.0%	1,639	0.3%	-0.2%	3.8%	1 out of 26
Middle Eastern	1,948	1.3%	**	**	**	**	**
Unknown/Other	2,438	1.7%	9,645	1.6%	**	**	**
	144,906	100%	614,925	100%			

*May not total to 100% due to rounding.

There have been attempts by others to explain the overrepresentation in stops of Blacks/African Americans by suggesting that Blacks/African Americans residing in surrounding communities come into Austin to work and/or for entertainment. While the OPM finds little reason to suggest that Blacks/African Americans would commute into Austin at a higher rate than any other racial/ethnic group, the OPM also compared the percentage of stops to the voting age population within Travis County as well as the Austin Metropolitan Statistical Area (MSA) voting age population. The Austin MSA covers the counties of Travis, Williamson, Hays, Bastrop and Caldwell and includes the communities of Austin, Round Rock, Cedar Park, San Marcos, Georgetown, Pflugerville, Kyle, Leander, Bastrop, Brushy Creek, Buda, Dripping Springs, Elgin, Hutto, Jollyville, Lakeway, Lockhart, Luling, Shady Hollow, Taylor, Wells Branch, and Windemere. There is very little difference in the percentage of stops data between the City of Austin and Travis County voting age population, and only a slight difference when looking at the MSA data. The data still show that Blacks/African Americans are stopped in a greater percentage than their representation in each population.

Table 7: 2014 Traffic Stops by Race/Ethnicity versus 2010 Travis County and Austin MSA Voting Age Population

APD Category	2014 Traffic Stops		2010 Travis County Voting Age Population		Difference: Population vs. Stops	2010 Austin MSA Voting Age Population		Difference: Population vs. Stops
	Count	Percentage	Count	Percentage		Count	Percentage	
Caucasian	75,218	51.9%	429,849	55.2%	-3.3%	756,128	59.0%	-7.1%
Black/African American	17,178	11.9%	60,875	7.8%	4.0%	87,873	6.9%	5.0%
Hispanic/Latino	43,794	30.2%	228,123	29.3%	0.9%	352,400	27.5%	2.7%
Asian	4,267	2.9%	46,461	6.0%	-3.0%	62,996	4.9%	-2.0%
Am. Indian/Alaska Native	63	0.0%	2,117	0.3%	-0.2%	3,861	0.3%	-0.3%
Middle Eastern	1,948	1.3%	**	**	**	**	**	**
Unknown/Other	2,438	1.7%	11,804	1.5%	**	18,271	1.4%	**
	144,906	100%	779,229	100%		1,281,529	100%	

*May not total to 100% due to rounding.

There were 11,307 searches included in the amended 2014 racial profiling data. This is up 4% from the 2013 Racial Profiling report when there were 10,884 searches reported.

The OPM often hears from complainants that they were searched without probable cause or permission and that the officer told them, "I am going to give you a break and only give you a warning." Such searches are no longer listed in the APD's Racial Profiling report. In 2012, the APD changed its Racial Profiling report to exclude all stops where the driver was issued a warning only or where a field observation card was generated but the driver was not arrested, issued a citation or had their vehicle towed. The OPM will continue to monitor the search activity of the APD to ensure all members of the community are treated fairly.

Recommendation

While state regulation may not require the reporting of stops or searches that do not result in a citation or arrest, APD should make that data available to the OPM and the public. This data should include not only stops of vehicles, but also pedestrian stops that resulted in frisks or searches.

According to the amended 2014 racial profiling data, Caucasians accounted for 52% of the stops and 31% of the searches.

Blacks/African Americans accounted for 12% of the stops and 24% of the searches.

Hispanics/Latinos accounted for 30% of the stops and 43% of the searches. For the past three years, more searches of Hispanics/Latinos were conducted than of any other group.

Despite being searched the greatest number of times in 2014, Hispanics/Latinos had a 1 in 9 chance of being searched after being stopped which is the same as last year as well as the year before. Blacks/African Americans had a 1 in 6 chance of being searched if stopped, also the same as 2012 and 2013. The probability of Caucasians being searched once stopped was 1 in 22 in 2014 and 1 in 20 in 2013. Either way, there is a double digit difference between Caucasians and the other two large racial groups.

Table 8: 2014 Traffic Stops and Searches by Race/Ethnicity

APD Category	2014 Traffic Stops		2014 Searches		Likelihood of Being Searched if Stopped	
	Count	Percentage	Count	Percentage	Percentage	Ratio
Caucasian	75,218	51.9%	3,474	30.7%	4.6%	1 out of 22
Black/African American	17,178	11.9%	2,726	24.1%	15.9%	1 out of 6
Hispanic/Latino	43,794	30.2%	4,890	43.2%	11.2%	1 out of 9
Asian	4,267	2.9%	97	0.9%	2.3%	1 out of 44
Am. Indian/Alaska Native	63	0.0%	8	0.1%	12.7%	1 out of 8
Middle Eastern	1,948	1.3%	51	0.5%	2.6%	1 out of 38
Unknown/Other	2,438	1.7%	61	0.5%	2.5%	1 out of 40
	144,906	100%	11,307	100%		

*May not total to 100% due to rounding.

Table 9: 2013 Traffic Stops and Searches by Race/Ethnicity

APD Category	2013 Traffic Stops		2013 Searches		Likelihood of Being Searched if Stopped	
	Count	Percentage	Count	Percentage	Percentage	Ratio
Caucasian	68,445	51.2%	3,437	31.6%	5.0%	1 out of 20
Black/African American	16,748	12.5%	2,772	25.5%	16.6%	1 out of 6
Hispanic/Latino	42,807	32.0%	4,535	41.7%	10.6%	1 out of 9
Asian	3,866	2.9%	93	0.9%	2.4%	1 out of 42
Am. Indian/Alaska Native	108	0.1%	5	0.0%	4.6%	1 out of 22
Middle Eastern	1,729	1.3%	42	0.4%	2.4%	**
Unknown/Other	**	**	**	**	**	**
	133,703	100%	10,884	100%		

*May not total to 100% due to rounding.

In August of 2012, a new policy was instituted wherein the APD began requiring officers to have drivers sign a form before a consent search could be performed on their vehicles. This policy came into effect after the OPM's 2011 Annual Report pointed out that more drivers of color were being searched than their Caucasian counterparts despite there being virtually no difference in contraband found. The OPM believes most people do not understand they do not have to consent to a search and/or that they have the right to revoke the consent. In 2014, consent searches accounted for 99 of the 11,307 searches conducted, or less than 1% of all searches.

Recommendation

As noted above, APD no longer reports stops and searches which do not result in a citation or arrest. Thus, there may be consent searches occurring which are not being reported. The OPM recommends that APD make the data on all searches conducted incident to consent available to the OPM and the public.

Table 10: 2014 Consent vs. Non-Consent Searches by Race/Ethnicity

APD Category	Consent Search		Non-Consent Search								Total All Searches	
			Arrest		Contraband		Probable Cause		Tow			
Caucasian	36	36.4%	2,382	34.2%	24	24.7%	829	23.3%	203	34.3%	3,474	30.7%
Black/African American	24	24.2%	1,457	20.9%	31	32.0%	1,117	31.3%	97	16.4%	2,726	24.1%
Hispanic/Latino	36	36.4%	2,995	43.1%	41	42.3%	1,552	43.5%	266	45.0%	4,890	43.2%
Asian	0	0.0%	65	0.9%	0	0.0%	23	0.6%	9	1.5%	97	0.9%
Am. Indian/Alaska Native	0	0.0%	5	0.1%	0	0.0%	2	0.1%	1	0.2%	8	0.1%
Middle Eastern	0	0.0%	34	0.5%	0	0.0%	15	0.4%	2	0.3%	51	0.5%
Unknown/Other	3	3.0%	18	0.3%	1	1.0%	26	0.7%	13	2.2%	61	0.5%
Total by Search Type	99	100%	6,956	100%	97	100%	3,564	100%	591	100%	11,307	100%
Percent of All Searches	0.9%		61.5%		0.9%		31.5%		5.2%			

*May not total to 100% due to rounding.

Non-consent searches make up the majority of all searches. Non-consent searches include searches made incident to arrest, those based on probable cause, those based on some sort of contraband reported to be in plain view, and towing situations when a vehicle's contents need to be inventoried before it is impounded.

In the amended 2014 racial profiling data, the APD reported 6,956 searches subject to arrests, 97 searches where some form of contraband was reported to be in plain view, 3,564 searches pursuant to probable cause and 591 searches where a vehicle was towed. These instances total 11,208, or 99% of all searches. In 2013, the percent of non-consent searches was also 99%.

Searches subject to arrest were up by 596 (↑ 9%) while probable cause searches were up by 17 (↑ <1%). Searches pursuant to a tow were down by 137 (↓ 19%).

APD reported there were no instances where the reason for the search was not documented in 2014. The OPM does not believe this is factual and believes these data were simply omitted from the report. While the OPM views any true reduction of the percentage of searches for which the APD has not properly recorded the basis for the search as a positive, the decrease needs to be a true reduction and not a result of data manipulation. As officers are required by APD policy 306 to document the reason for the search, any failure constitutes a policy violation. In 2014, there was only one internal complaint filed for violation of this policy. The OPM finds it unlikely that only those officers involved in this one complaint violated this policy.

As mentioned earlier, in 2015, it was revealed in a media-based investigation that when data required by statute were missing, the stop and/or search record was deleted from the dataset as opposed to indicating the data were incomplete.

Recommendation

The OPM recommends that routine audits of traffic stops videos and reports be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the report should be supplemented.

Overall, Blacks/African Americans account for 24% of *all* searches while representing 12% of those stopped, and 8% of the voting age population of Austin.

Hispanics/Latinos account for 31% of the population and represent 30% of stops but make up 43% of all searches. There are double digit gaps between these two minority groups and the percent of time they are stopped and searched for any reason. There is a double digit gap for Caucasians as well but as an underrepresentation.

Searches incident to arrest and towing are considered low discretion searches. In other words, by policy, the officer must search. Searches based on consent, probable cause, and contraband are high discretion searches. While the search of a motor vehicle is normally exempted from the search warrant requirement, police do need a basis for the search. The most common reasons cited are consent, incident to arrest, probable cause, contraband in plain view, and subject to towing; these are reported here. Many factors contribute to the existence of probable cause, but the basic premise is that probable cause requires facts or evidence that would lead a reasonable person to believe the vehicle contains contraband or evidence. There is disagreement as to what is an acceptable hit rate for contraband. While it is not expected that officers will be right 100% of the time, most literature suggests that “probable” means more likely than not contraband or evidence will be found. The 54% overall rate at which nothing was found means that something was found less than half of the time. This is a slightly lower rate of discovery than last year.

The 58% rate and the 74% rate at which nothing was found in probable cause searches of Hispanics/Latinos and Asians, respectively, is very concerning even keeping in mind the relatively low numbers of Asians searched.

Table 11: 2014 What Found in Probable Cause and Contraband in Plain View Searches by Race/Ethnicity

APD Category	Probable Cause			Contraband		
	Search	Nothing Found		Search	Nothing Found	
	#	#	%	#	#	%
Caucasian	829	436	52.6%	24	10	41.7%
Black/African American	1,117	547	49.0%	31	12	38.7%
Hispanic/Latino	1,552	904	58.2%	41	16	39.0%
Asian	23	17	73.9%	0	0	0.0%
Am. Indian/Alaska Native	2	1	50.0%	0	0	0.0%
Middle Eastern	15	9	60.0%	0	0	0.0%
Unknown/Other	26	21	80.8%	1	1	0.0%
Total	3,564	1,935	54.3%	97	39	40.2%

*May not total to 100% due to rounding.

APD calls the finding of some form of contraband a “hit.” Looking at the APD’s 2014 amended racial profiling data, it can be seen that the hit rate by race is between 29% and 42%. For the most part, the hit rate seems to correspond to the number of searches conducted. Blacks/African Americans have a slightly higher hit rate than their search percentage but when looking at the likelihood of a hit, there is virtually no difference between the groups. Again, the OPM is concerned about skewed data being reported due to the elimination of search data when nothing was found and no citation was issued.

Table 12: 2014 Searches and “Hits” by Race/Ethnicity

APD Category	2014 Searches		2014 “Hits”		Likelihood of a “Hit”		
	Count	Percentage	Count	Percentage	Count	Percentage	Ratio
Caucasian	3,474	30.7%	1,002	28.5%	1,002	28.8%	1 out of 3
Black/African American	2,726	24.1%	1,003	28.5%	1,003	36.8%	1 out of 3
Hispanic/Latino	4,890	43.2%	1,467	41.7%	1,467	30.0%	1 out of 3
Asian	97	0.9%	18	0.5%	18	18.6%	1 out of 5
Am. Indian/Alaska Native	8	0.1%	2	0.1%	2	25.0%	1 out of 4
Middle Eastern	51	0.5%	12	0.3%	12	23.5%	1 out of 4
Unknown/Other	61	0.5%	16	0.5%	16	**	** **
	11,307	100%	3,520	100%			

*May not total to 100% due to rounding.

The OPM recognizes the results presented here are not without flaw. The data needed for a more comprehensive analysis based on 2014 geographic location has been made available to the OPM. The OPM is in the process of reviewing these data at the time of this writing and will publish a separate report of our findings at a later date.

The APD Response to Resistance Report

Each year the APD produces a Response to Resistance report. This report looks at the number of arrests APD made over the course of the year as well as how often force was used against someone who was arrested. The report includes the race/ethnicity of the individual who was arrested.

According to the 2014 APD Response to Resistance report, APD made 48,649 arrests in 2014 and used force in those arrests 1,683 times. Caucasians were arrested 19,531 times, or 40% of the arrests and had force used against them 571 times, or 34% of the force used in arrests. Blacks/African Americans were arrested 11,832 times, or 24% of the arrests and had force used against them 466 times, or 28% of the force used in arrests. Hispanics/Latinos were arrested 16,385 times, or 34% of the arrests and had force used against them 583 times, or 35% of the force used in arrests.

When comparing these numbers to the voting age population of the City of Austin, we see that Blacks/African Americans were arrested at a rate three times higher than their representation in that population.⁴ Given that Blacks/African Americans made up 24% of all 2014 arrests and accounted for 28% of the force used during the course of the arrest, these numbers tell us that Blacks/African Americans had force used against them more often during their arrests. By comparison, Caucasians made up 54% of the population, 40% of the arrests but only 34% of the force used. Caucasians had force used less than their percentage of arrests. Hispanics/Latinos were arrested and had force used against them slightly more than their representation in the population, i.e., 34% of those arrested compared to 35% of the force used in arrests. It is, therefore, not surprising that Blacks/African Americans levied more Use of Force/Response to Resistance allegations than any other racial group, 20 of the 29 Use of Force/Response to Resistance allegations. Caucasians were responsible for the other nine (13% of their filed allegations).

Table 13: 2014 Arrests by Race/Ethnicity versus 2010 City of Austin Voting Age Population

APD Category	2014 Arrests		2010 City of Austin Voting Age Population		Difference: Population vs. Arrests
	Count	Percentage	Count	Percentage	
Caucasian	19,531	40.1%	329,500	53.6%	-13.4%
Black/African American	11,832	24.3%	46,219	7.5%	16.8%
Hispanic/Latino	16,385	33.7%	188,318	30.6%	3.1%
Unknown/Other	901	1.9%	50,888	8.3%	-6.4%
	48,649	100%	614,925	100%	

Table 14: 2014 Use of Force/Response to Resistance in Arrests by Race/Ethnicity

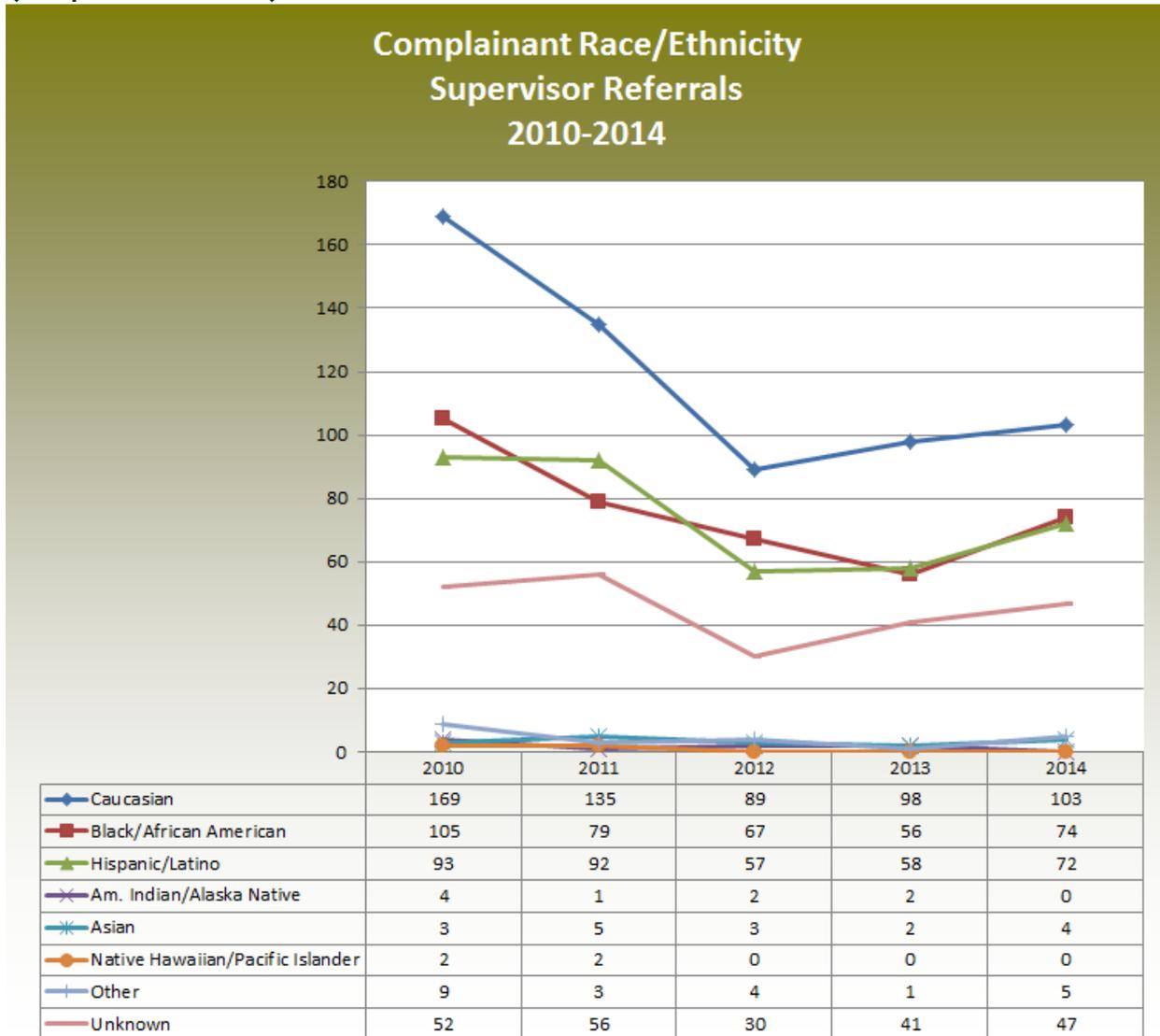
APD Category	2014 Arrests		2014 Use of Force in Arrests		Difference: Arrests vs. Force	Percent of Arrests Where Force Used	Likelihood of Having Force Used
	Count	Percentage	Count	Percentage			
Caucasian	19,531	40.1%	571	33.9%	6.2%	2.9%	1 out of 34
Black/African American	11,832	24.3%	466	27.7%	-3.4%	3.9%	1 out of 25
Hispanic/Latino	16,385	33.7%	583	34.6%	-1.0%	3.6%	1 out of 28
Unknown/Other	901	1.9%	63	3.7%	-1.9%	7.0%	1 out of 14
	48,649	100%	1,683	100%			

Moving on to Supervisor Referral complaints, in terms of quantity, Supervisor Referrals were up in 2014 to 305 from 258 in 2013. As a percentage of complaints filed, there was a small increase among Caucasians in 2014 (↑ 5% over 2013) while the rate among

⁴ https://www.austintexas.gov/sites/default/files/files/Police/2014_response_to_resistance_dataset_051815.pdf

Blacks/African Americans and Hispanics/Latinos increased significantly (↑ 32% and ↑ 24%, respectively over 2013).

Table 15: Supervisor Referrals Complainant Race/Ethnicity (Graph of Counts) – 2010-2014



**Table 16: Supervisor Referrals Complainant Race/Ethnicity
(Table of Counts & Percentages) – 2010-2014**

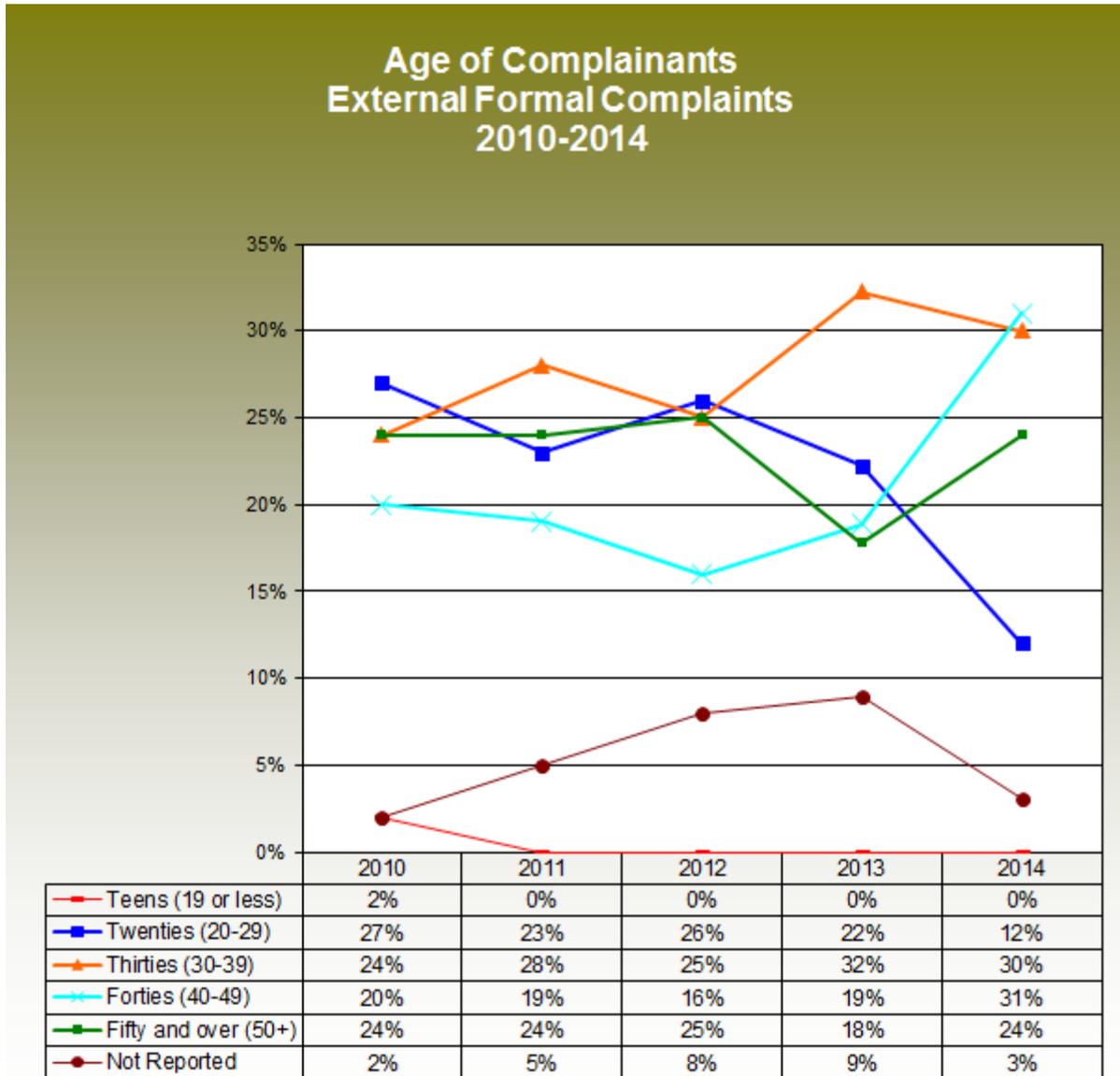
Ethnicity/Race	Supervisor Referrals									
	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Caucasian	169	39%	135	36%	89	35%	98	38%	103	34%
Black/African American	105	24%	79	21%	67	27%	56	22%	74	24%
Hispanic/Latino	93	21%	92	25%	57	23%	58	22%	72	24%
Am. Indian/Alaska Native	4	1%	1	0%	2	1%	2	1%	0	0%
Asian	3	1%	5	1%	3	1%	2	1%	4	1%
Native Hawaiian/Pacific Islander	2	0%	2	1%	0	0%	0	0%	0	0%
Other	9	2%	3	1%	4	2%	1	0%	5	2%
Unknown	52	12%	56	15%	29	12%	41	16%	47	15%
Total	437	100%	373	100%	251	100%	258	100%	305	100%

*May not total to 100% due to rounding.

Age of Complainants

People in their 30s and 40s had the highest percentage of complaints in 2014—nearly two-third of all External Formal complaints. People in their 50s filed twice as many complaints as people in their 20s.

Table 17: Age of Complainants filing External Formal Complaints – 2010-2014

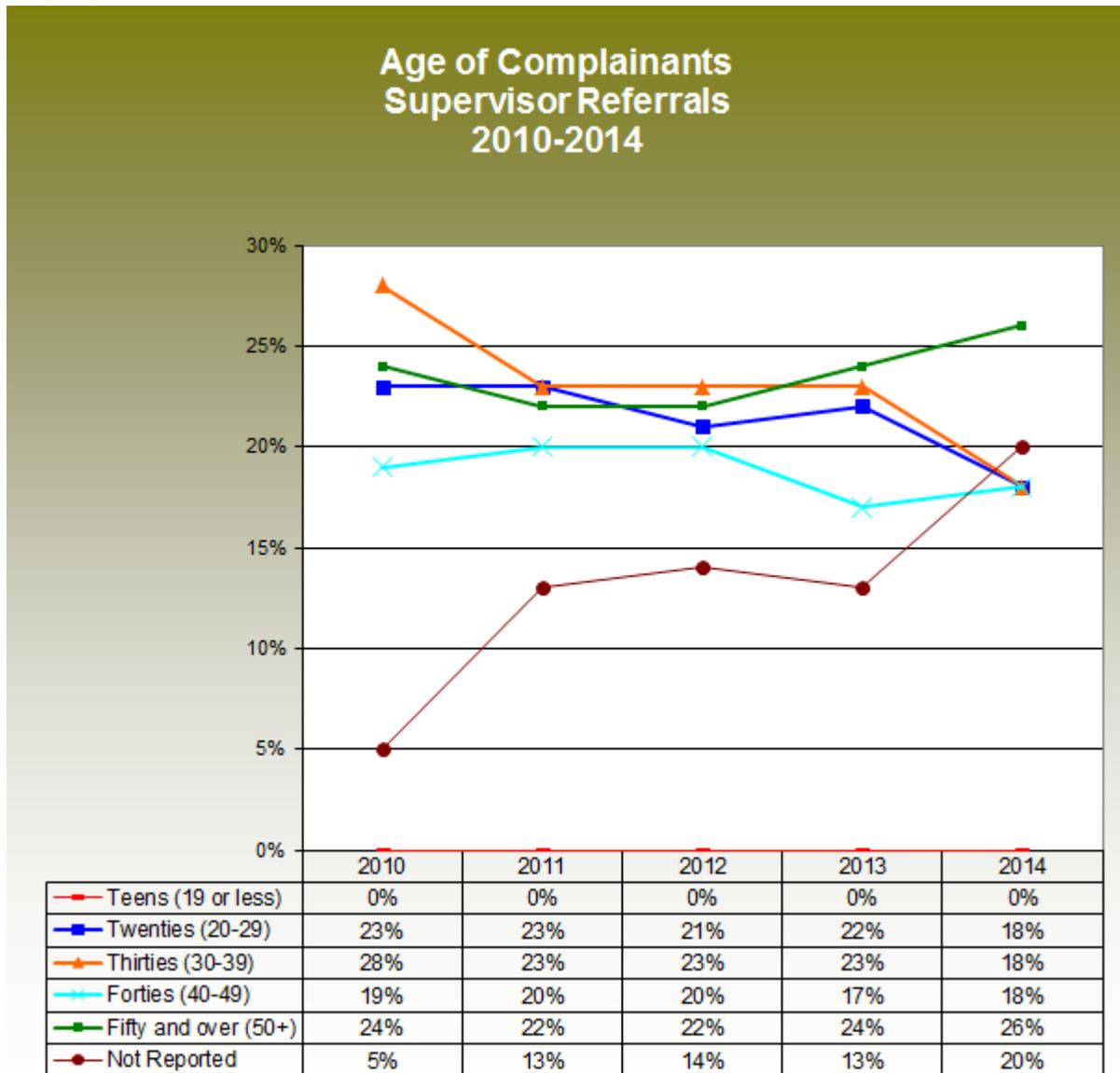


*May not total to 100% due to rounding.

The age of persons filing Supervisor Referral complaints has remained relatively consistent over the past four years. In 2014, the percentage of Supervisor Referral complaints was fairly evenly distributed and down slightly for most people under 50

and up slightly for those 50 years of age and older. Unfortunately, the largest percentage of change was among people who refused to provide their age.

Table 18: Age of Complainants filing Supervisor Referrals – 2010-2014



*May not total to 100% due to rounding.

Gender of Complainants

The gender composition of Austin in 2014 was estimated at approximately 53% male and 47% female. When looking at complainant gender (below), it can be seen that, overall, people file complaints at a rate that is fairly consistent with their representation in the population. However, there are notable disparities between the type of complaint and the population percentages. Males file External Formal complaints at a rate higher than their representation within the City (66% of complaints; 53% of the population) while females file at a rate lower (31% of complaints; 47% of the population).

With Supervisor Referrals, the difference is less pronounced with men filing 50% of complaints and women filing 48% of complaints. External Formal complaints were down for men in 2014 (71% in 2013 versus 66% in 2014) and, of course, up for women (27% in 2013 versus 31% in 2014).

Table 19: Gender of Complainants - 2014

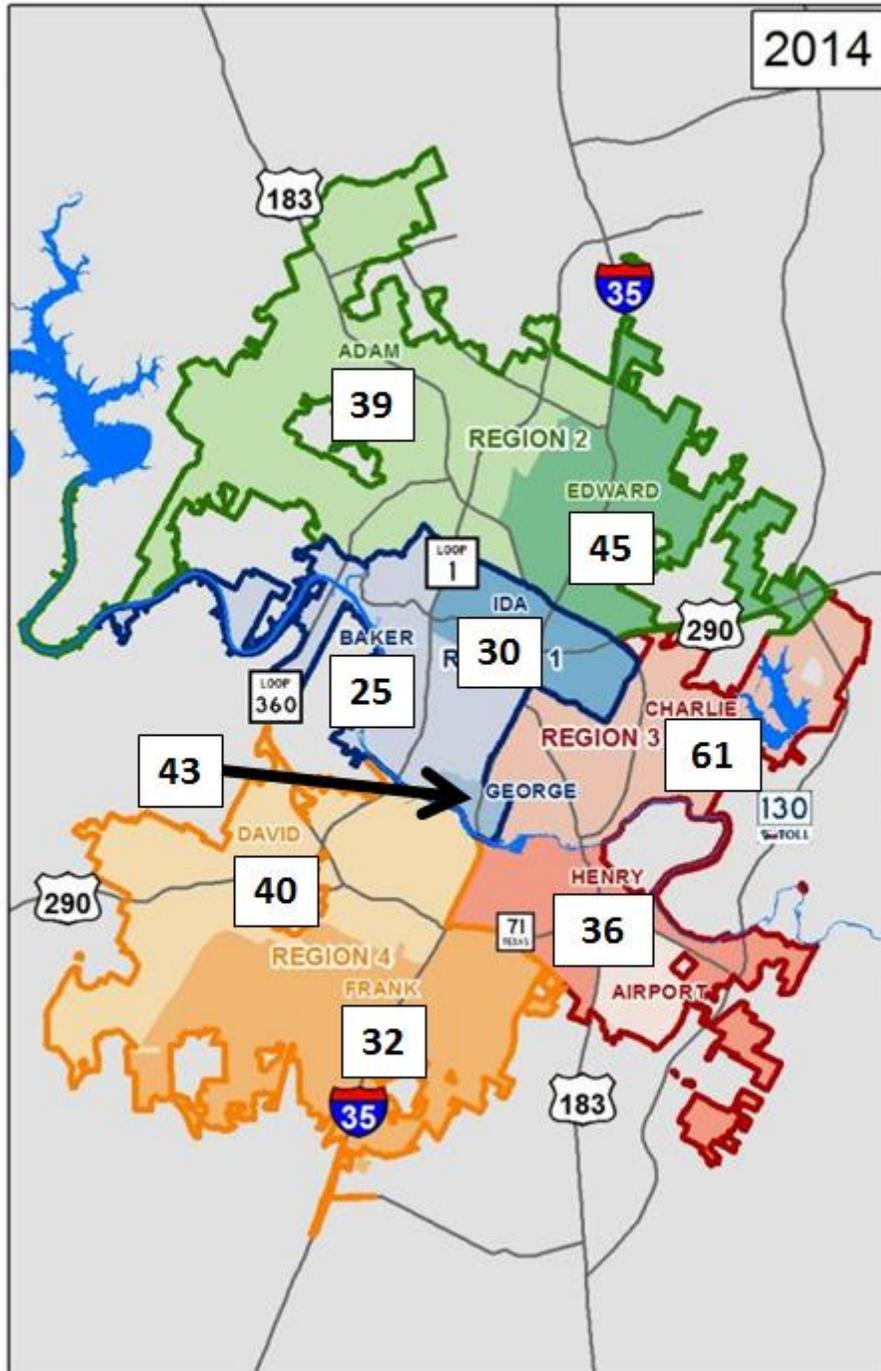
Complainant Gender	Supervisor Referrals		External Formals		Total	
	#	%	#	%	#	%
Male	151	50%	44	66%	195	52%
Female	147	48%	21	31%	168	45%
Unknown	7	2%	2	3%	9	2%
Total	305	100%	67	100%	372	100%

*May not total to 100% due to rounding.

Complaints by Area Command

The City of Austin had nine (9) area commands in 2014. Below find a map of the geographic areas and their respective external complaint numbers.

Figure 2: APD Area Commands



Adam = **Northwest (NW)**; Baker = **Central West (CW)**; Charlie = **Central East (CE)**;
David = **Southwest (SW)**; Edward = **Northeast (NE)**; Frank = **Southeast (SE)**;
George = **Downtown (DTAC)**; Henry (includes APT) = **South Central (SC)**; Ida = **North Central (NC)**

The area commands listed here are where the incident occurred, regardless of the officer's actual assigned area.

Table 20: External Formal Complaints by Area Command – 2010-2014

EXTERNAL FORMAL Area Command	2010		2011		2012		2013		2014		Change 2014 vs. 2013	
	#	%	#	%	#	%	#	%	#	%	#	%
Central East (CE)	12	13%	18	17%	2	3%	15	17%	13	19%	-2	-13%
Downtown (DTAC)	17	19%	16	16%	14	18%	18	20%	9	13%	-9	-50%
Northeast (NE)	5	6%	10	10%	5	7%	9	10%	9	13%	0	0%
Northwest (NW)	8	9%	14	14%	5	7%	1	1%	7	10%	6	600%
South Central (SC)	10	11%	10	10%	6	8%	8	9%	6	9%	-2	-25%
Southeast (SE)	8	9%	9	9%	10	13%	7	8%	5	7%	-2	-29%
Central West (CW)	4	4%	7	7%	5	7%	8	9%	4	6%	-4	-50%
Southwest (SW)	10	11%	6	6%	11	14%	7	8%	4	6%	-3	-43%
North Central (NC)	10	11%	10	10%	8	11%	7	8%	2	3%	-5	-71%
Out of City	3	3%	1	1%	9	12%	9	10%	6	9%	-3	-33%
Unknown	2	2%	2	2%	1	1%	1	1%	2	3%	1	100%
Total	89	100%	103	100%	76	100%	90	100%	67	100%	-23	-26%

*May not total to 100% due to rounding.

External Formal complaints as a whole were down in 2014, from 90 to 76. The Downtown area command, which frequently has the most complaints, had the second most complaints in 2014 with 9. DTAC is tied with the Northeast area command which also had 9. The area command with the highest number was the Central East with 13 External Formal complaints. The Northwest area command is typically at the bottom of this list but rose to number four this year with seven complaints.

As can be seen in the table below, when adding Supervisor Referral complaints to External Formal complaints, the top four area commands in terms of total complaints shifts a bit when compared to reporting External Formal complaints only. The Central East area command has the highest number of external-type complaints at 61. It is followed by the Northeast area command with 45 total, Downtown with 43 and then the Southwest area command with 40.

Table 21: Number of External Complaints by Area Command - 2010-2014

Total External Complaints	2010		2011		2012		2013		2014	
Area Command	#	%	#	%	#	%	#	%	#	%
Central East (CE)	66	13%	43	9%	45	14%	54	16%	61	16%
Northeast (NE)	57	11%	50	11%	29	9%	37	11%	45	12%
Downtown (DTAC)	69	13%	63	13%	36	11%	41	12%	43	12%
Southwest (SW)	65	12%	58	12%	49	15%	38	11%	40	11%
Northwest (NW)	45	9%	31	7%	29	9%	34	10%	39	10%
South Central (SC)	54	10%	40	8%	23	7%	42	12%	36	10%
Southeast (SE)	47	9%	79	17%	43	13%	31	9%	32	9%
North Central (NC)	56	11%	49	10%	35	11%	24	7%	30	8%
Central West (CW)	46	9%	42	9%	24	7%	27	8%	25	7%
Out of City	5	1%	8	2%	11	3%	16	5%	12	3%
Unknown	16	3%	13	3%	3	1%	4	1%	9	2%
Total	526	100%	476	100%	327	100%	348	100%	372	100%

*May not total to 100% due to rounding.

In cases where an area command is “Unknown,” it may be that a specific officer could not be identified, the complaint could have been more generic in nature rather than relating to a specific officer, there were patterns of behavior that occurred in varying locations, and/or the location where the complaint occurred could not be specifically identified.

Classification of Complaints

When a Formal complaint is filed, it is sent to IAD with a recommendation for classification. The classification is intended to reflect the severity of the charges, if true. When classifying complaints, IAD uses the following criteria:

- **Administrative Inquiry** – an inquiry into a critical incident, ordered by the Chief, that could destroy public confidence in, and respect for, the APD or which is prejudicial to the good order of the APD;
- **A** – allegations of a serious nature, that include, but are not limited to: criminal conduct, objectively unreasonable force resulting in an injury requiring emergency treatment at a medical facility;
- **B** – allegations of a less serious nature, that include, but are not limited to: less serious violations of APD policy, rules or regulations, objectively unreasonable force with injury or with minor injuries not requiring emergency treatment at a medical facility, negligent damage or loss of property, negligent crashes;
- **C** – allegations that do not fit into a Class A or B category and do not

rise to the level of a policy violation, or those that would be best handled through other APD processes (such as training or a performance improvement plan); or,

- **D** – the allegation is not a policy violation, a preliminary investigation using audio or video recordings show the allegation is not true, or the complaint is about the probable cause for arrest or citation.

Please remember that only Formal complaints will receive one of the classifications listed above. Supervisor Referrals are not subject to the same classifications as they typically contain less serious allegations.⁵

Since the OPM began its mission of oversight, there has been a notable difference in case classifications between external and internal cases. Cases are classified by the IAD according to the severity of the allegations included in the complaint. At this point, it is generally accepted that the discrepancy in case classifications between internal and external complaints has much to do with the cases themselves.

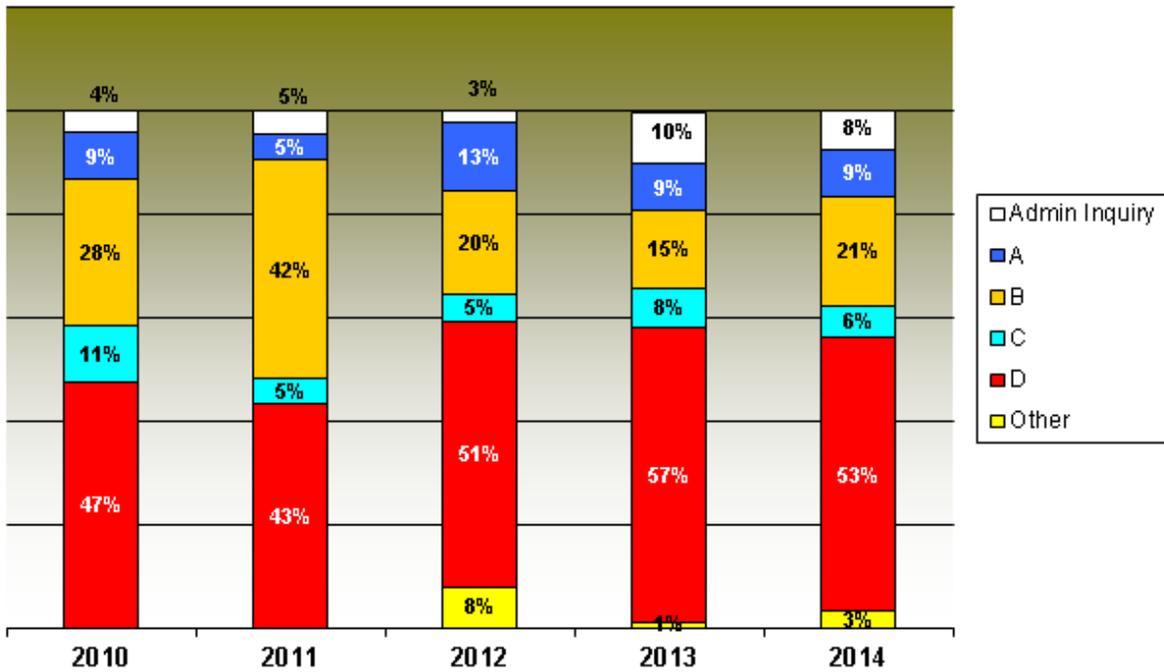
When an internal case is filed, it typically involves a supervisor bringing forth an allegation concerning the conduct of an officer. In these circumstances, the officers bringing the case will have extensive knowledge of policy. The assignment of a classification, therefore, is fairly apparent. As such, Internal Formal complaint classifications have remained relatively static over the years. External Formal complaints have seen more flux.

In 2014, 53% of all External Formal complaints received a “D” classification. This is the second highest percentage of “D” classifications in the past five years and a step backward in the opinion of the OPM. The OPM’s concern with “D” classifications stems from the fact that per APD policy, a “D” is defined as a complaint that carries an allegation that is: a) not a policy violation, b) a preliminary review of the allegation shows it is not true (e.g., video or audio recording shows allegation is false), or c) the complaint is about the probable cause for an arrest or citation.

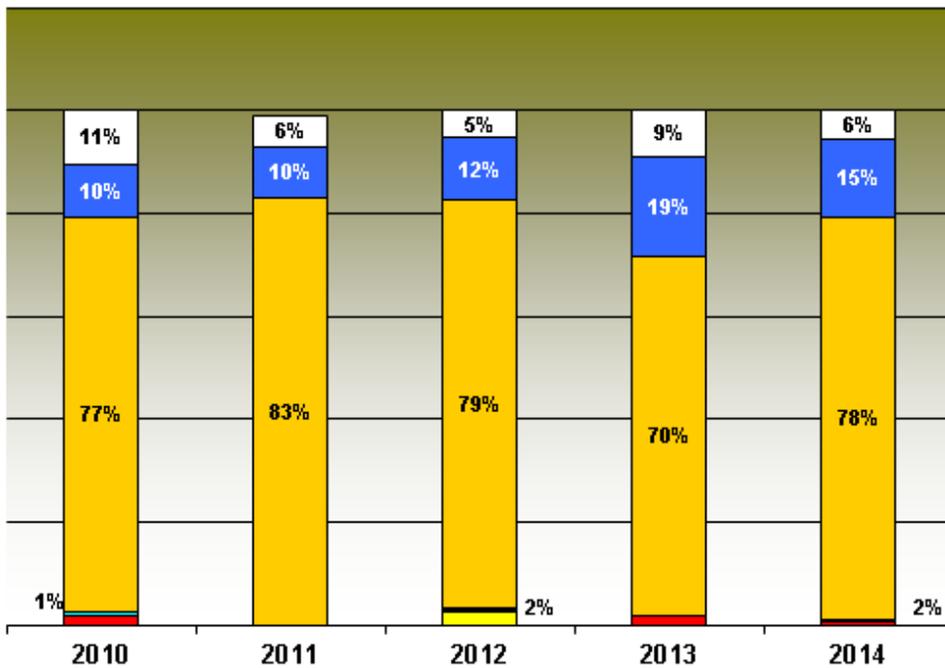
⁵ Should more serious allegations be uncovered during a Supervisor Referral, the case may be elevated to a Formal complaint and would then be classified.

Table 22: Classification of Complaints - 2014

Classification of External Formal Complaints



Classification of Internal Formal Complaints



*May not total to 100% due to rounding.

The OPM's position is that caution should be taken when classifying a complaint as a "D." A "D" classification essentially predicts the result of the investigation or precludes actually conducting an investigation. As written, classifying something as a "D" seems to infer from the beginning that IAD has recommended to the chain of command that the allegation has no merit. Complainants whose complaints are classified as a "D" often state they do not feel their complaint was taken seriously.

To be fair, it should be noted that there are cases for which the OPM recommends a "D" classification or agrees with IAD's case classifications. Beginning in mid-2011, the OPM's procedure was changed to require the OPM to advise IAD as to the classification the OPM believed the complaint should be given when the complaint was submitted. This change allowed the OPM and IAD to discuss differences of opinion early in the process. Historically, most of the disagreement in case classifications has stemmed from those cases that were ultimately classified by IAD as lower level cases, e.g., "D" classifications.

Recommendation

APD should take greater care in classifying cases as a "D". If it is not clear on the face of the complaint that it has no merit, the case should be classified as an "A" or "B". If it determined that the officer did not commit a violation, the case should then be "unfounded" as opposed to being administratively closed.

Allegations

Number & Types of Allegations

The Austin Police Department previously used a set of rules known as the General Orders, Policies, and Procedures. In August of 2011, a new Austin Police Department Policy Manual was adopted known as “Lexipol”.⁶ The General Orders, and now Lexipol, contain all the policies by which members of the APD must abide. When a complaint is made, the IAD assigns an allegation(s) based on the alleged policy violations it can see after reviewing the description of events. In 2014, the data show 5 fewer allegations were levied in Formal complaints compared to 2013.

Table 23: Number of Allegations by Complaint Type – 2010-2014

Number of Allegations	2010		2011		2012		2013		2014		Change 2014 vs. 2013	
	#	%	#	%	#	%	#	%	#	%	#	%
Supervisor Referrals	376	44%	403	43%	215	28%	215	25%	294	35%	79	37%
Formal Complaints	479	56%	530	57%	542	72%	637	75%	553	65%	-84	-13%
External	170	35%	218	40%	187	29%	227	36%	204	37%	-23	-10%
Internal	309	65%	312	58%	355	56%	410	64%	349	63%	-61	-15%
Total	855	100%	933	100%	757	100%	852	100%	847	100%	-5	-1%

*May not total to 100% due to rounding.

It should be noted that a single complaint may include multiple allegations. These multiple allegations can apply to a single officer or multiple officers. It is also possible that a single allegation may be brought against a single officer or multiple officers. No matter the configuration, since each allegation is counted, the total number of allegations will always equal or exceed the total number of complaints.

In general, the policies in the old General Orders and the new Lexipol are largely the same. There are differences, however, in both the arrangement of the policies as well as their titles. For example, in the General Orders, there is a policy known as “Use of Force.” In Lexipol, this is called “Response to Resistance.” In the General Orders, Code of Conduct policies are primarily contained within one section. In Lexipol, these policies can now be found in three different chapters. Because the OPM reports some data going back five years, we will continue to transition by using both the old and new policy numbers and/or combining data into categories. In 2017, the OPM will be able to switch entirely to Lexipol.

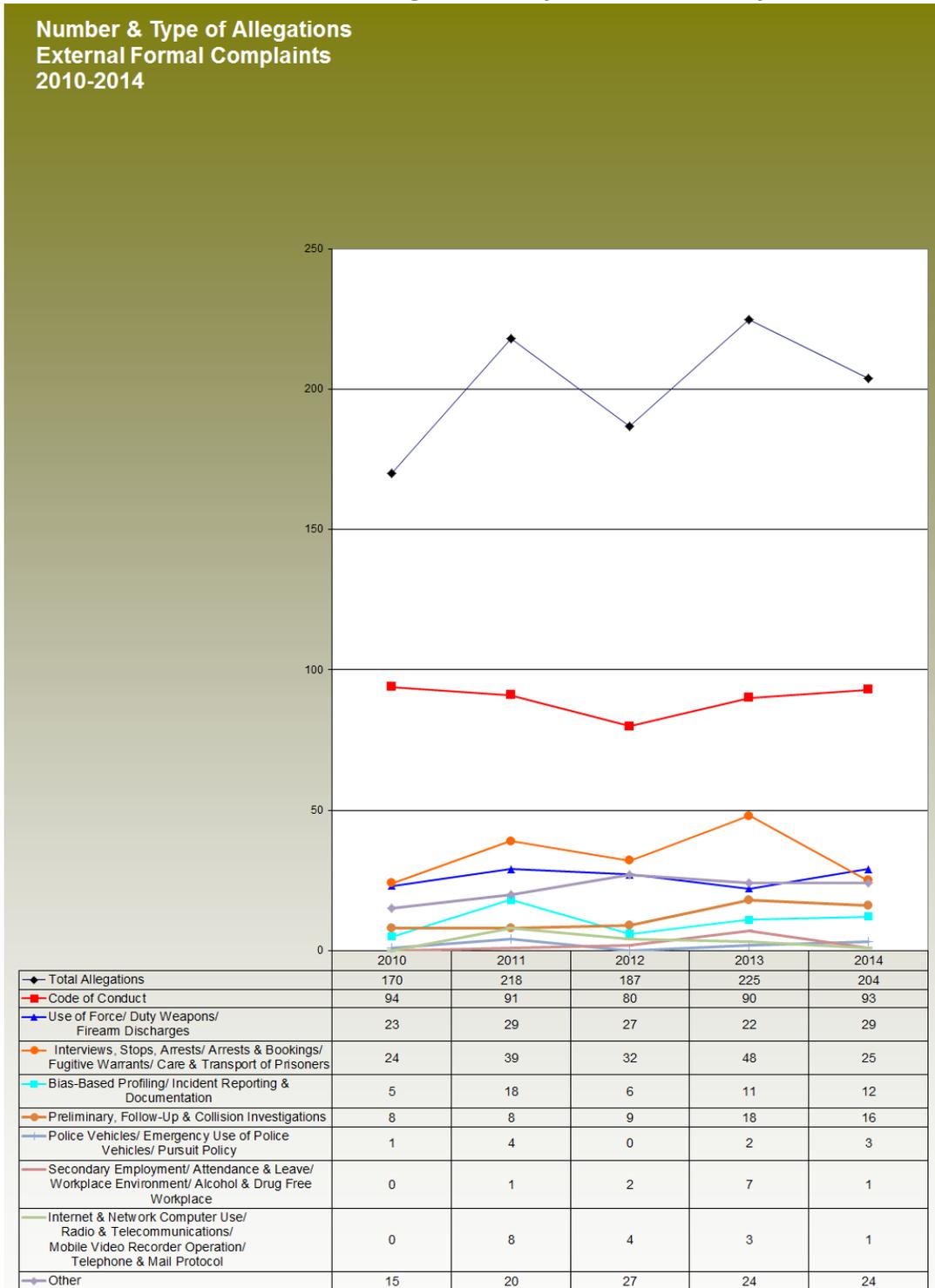
As in years past, Code of Conduct-type issues continue to be the most frequently reported allegation for both Supervisor Referrals as well as External Formal complaints. This has been the case since the OPM began tracking complaints.

⁶ Lexipol was implemented by the APD in August of 2011. The most recent version of the manual available as of this writing can be found at: http://austintexas.gov/sites/default/files/files/Police/APD-Policy_Manual_August_14_2011_.pdf

Code of Conduct allegations include, but are not limited to, the following:

- **Compliance** – knowing, understanding, complying with, and reporting violations of laws, ordinances, and governmental orders;
- **Individual Responsibilities** – dishonesty, acts bringing discredit to the department, police action when off-duty, etc.;
- **Responsibility to the Community** – courtesy, impartial attitude, duty to identify, etc.;
- **Responsibility to the Department** – loyalty, accountability, duty to take action, etc.; and
- **Responsibility to Co-workers** – relations with co-workers, sexual harassment, etc.

Table 24: External Formal Allegations by Number and Type – 2010-2014



Given that the vast majority of allegations involve Code of Conduct issues and because the Code of Conduct policies are so numerous, the OPM requested that the IAD provide more detail regarding these types of allegations. This does not always happen so based on available data, the Code of Conduct allegations break down as follows:

Table 25: Code of Conduct Allegations by Subcategory and Complaint Type - 2014

Code of Conduct Allegations by Subcategory	Supervisor Referrals		External Formal	
	#	%	#	%
Responsibility to the Community	142	92%	49	53%
Bias-Based Profiling	10	6%	3	3%
General Conduct	3	2%	41	44%
Total	155	100%	93	100%

*May not total to 100% due to rounding.

At the sub-categorical level, there is one allegation listed more often than any other – “Responsibility to the Community.” The Responsibility to the Community subcategory includes policy regarding:

- Impartial Attitude;
- Courtesy;
- Duty to Identify;
- Neutrality in Civil Actions;
- Negotiations on Behalf of Suspect; and
- Customer Service and Community Relations.

“Courtesy” or rudeness is the most frequent complaint made against officers. Most troubling, however, is the allegation of “Impartial Attitude.” The Impartial Attitude policy states that (APD) employees are “expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual preference, or social or ethnic background.”

Lexipol captures the behavior previously covered under “Impartial Attitude” and labels it “Bias-Based Profiling.” As a result, there may be some confusion regarding this allegation and one in the General Orders that is also called “Bias-Based Profiling.”

Often in the past, when an allegation regarding bias-based profiling (i.e., prejudicial behavior) was filed, it was filed using the incorrect General Order entitled “Bias-Based Profiling.” The problem with that particular General Order had to do with how this type of act was documented and not the fact that some sort of prejudicial behavior may have occurred. It is fairly easy to see, given the name of this General Order, how it was listed erroneously so often. It should be noted that listing an incorrect General Order did not have an impact on how the investigation proceeded as each case contains a description of events that would have made it clear as to the specific complaint. In other words, this was simply an administrative error.

Even with the Lexipol allegation of “Bias-Based Profiling” available, this allegation was recorded 15 times when External Formal complaints and Supervisor Referral complaints are combined. In addition to these 15 allegations, the OPM identified an additional 5 times in External Formal complaints and 17 times in Supervisor Referral complaints where the complainant stated they believed the APD acted prejudicially toward them.

Table 26: Number and Type of Allegations by Complaint Type - 2014

Allegation/Allegation Category	2014					
	SR		External Formal		Internal Formal	
	#	%	#	%	#	%
Code of Conduct	155	53%	93	46%	94	27%
Use of Force/ Duty Weapons/ Firearm Discharges	7	2%	29	14%	32	9%
Interviews, Stops, Arrests*/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	28	10%	25	12%	35	10%
Bias-Based Profiling/ Incident Reporting & Documentation	3	1%	12	6%	20	6%
Preliminary, Follow-Up & Collision Investigations	42	14%	16	8%	3	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	7	2%	3	1%	120	34%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	0	0%	1	0%	7	2%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	4	1%	1	0%	3	1%
Other	48	16%	24	12%	35	10%
Total	294	100%	204	100%	349	100%

*** Includes Searches**

*May not total to 100% due to rounding.

Allegations & Complainant Demographics

In looking at the composition of those bringing allegations in 2014, the OPM found that in External Formal complaints, Caucasians were responsible for 35% of all allegations (71 of the 204 allegations). Blacks/African Americans accounted for 82 of the 204 (40%) and Hispanics/Latinos accounted for 6 of the 204 (3%) which is fewer than Native Hawaiians/Pacific Islanders who accounted for 11% (23 of the 204 allegations).

Table 27: External Formal Allegations by Complainant Race/Ethnicity - 2014

EXTERNAL FORMALS Allegation Category	Caucasian		Black/ African American		Hispanic/ Latino		Am Indian/ Alaska Native		Asian		Native Hawaiian/ Pacific Islander		Other		Unknown	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	33	46%	24	29%	2	33%	0	0%	0	0%	16	70%	1	100%	17	81%
Use of Force/ Duty Weapons/ Firearm Discharges	9	13%	20	24%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	7	10%	16	20%	2	33%	0	0%	0	0%	0	0%	0	0%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	3	4%	7	9%	1	17%	0	0%	0	0%	0	0%	0	0%	1	5%
Preliminary, Follow-Up & Collision Investigations	6	8%	3	4%	0	0%	0	0%	0	0%	7	30%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	2	3%	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	1	17%	0	0%	0	0%	0	0%	0	0%	0	0%
Other	10	14%	11	13%	0	0%	0	0%	0	0%	0	0%	0	0%	3	14%
Total	71	100%	82	100%	6	100%	0	0%	0	0%	23	100%	1	100%	21	100%

Frequency Missing = 1

*May not total to 100% due to rounding.

Code of Conduct issues make up almost half of the allegations cited by Caucasians in External Formal complaints, were 29% of the allegations cited by Blacks/African Americans, were cited 33% of the time among Hispanics/Latinos and were cited 70% of the time among Native Hawaiians/Pacific Islanders.

Blacks/African Americans levied more Use of Force/Response to Resistance allegations than any other racial group, 20 of the 29 Use of Force/Response to Resistance allegations. Caucasians were responsible for the other nine (13% of their filed allegations).

Blacks/African American also levied the most Interviews, Stops and Arrests allegations in External Formal complaints with 16 (20% of their filed allegations).

In Supervisor Referral complaints, Code of Conduct issues are almost always cited most often and that is the case again this year. Half of all SR complaints from Caucasians are Code of Conduct (49%) and a little more than half are from Blacks/African Americans and Hispanics/Latinos (both groups at 56%). This is down from last 71% for Caucasians, 77% for Blacks/African Americans and 64% for Hispanics/Latinos last year.

Table 28: Supervisor Referral Allegation Categories by Complainant Race/Ethnicity - 2014

SUPERVISOR REFERRALS	Caucasian		Black/ African American		Hispanic/ Latino		Am Indian/ Alaska Native		Asian		Native Hawaiian/ Pacific Islander		Other		Unknown	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	48	49%	46	56%	35	56%	0	0%	1	50%	0	0%	4	67%	21	49%
Use of Force/ Duty Weapons/ Firearm Discharges	1	1%	4	5%	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	7	7%	5	6%	8	13%	0	0%	1	50%	0	0%	2	33%	5	12%
Bias-Based Profiling/ Incident Reporting & Documentation	2	2%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	2%
Preliminary, Follow-Up & Collision Investigations	19	19%	12	15%	9	14%	0	0%	0	0%	0	0%	0	0%	2	5%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	3	3%	2	2%	1	2%	0	0%	0	0%	0	0%	0	0%	1	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	1	1%	2	2%	0	0%	0	0%	0	0%	0	0%	0	0%	1	2%
Other	17	17%	11	13%	8	13%	0	0%	0	0%	0	0%	0	0%	12	28%
Total	98	100%	82	100%	63	100%	0	0%	2	100%	0	0%	6	100%	43	100%

*May not total to 100% due to rounding.

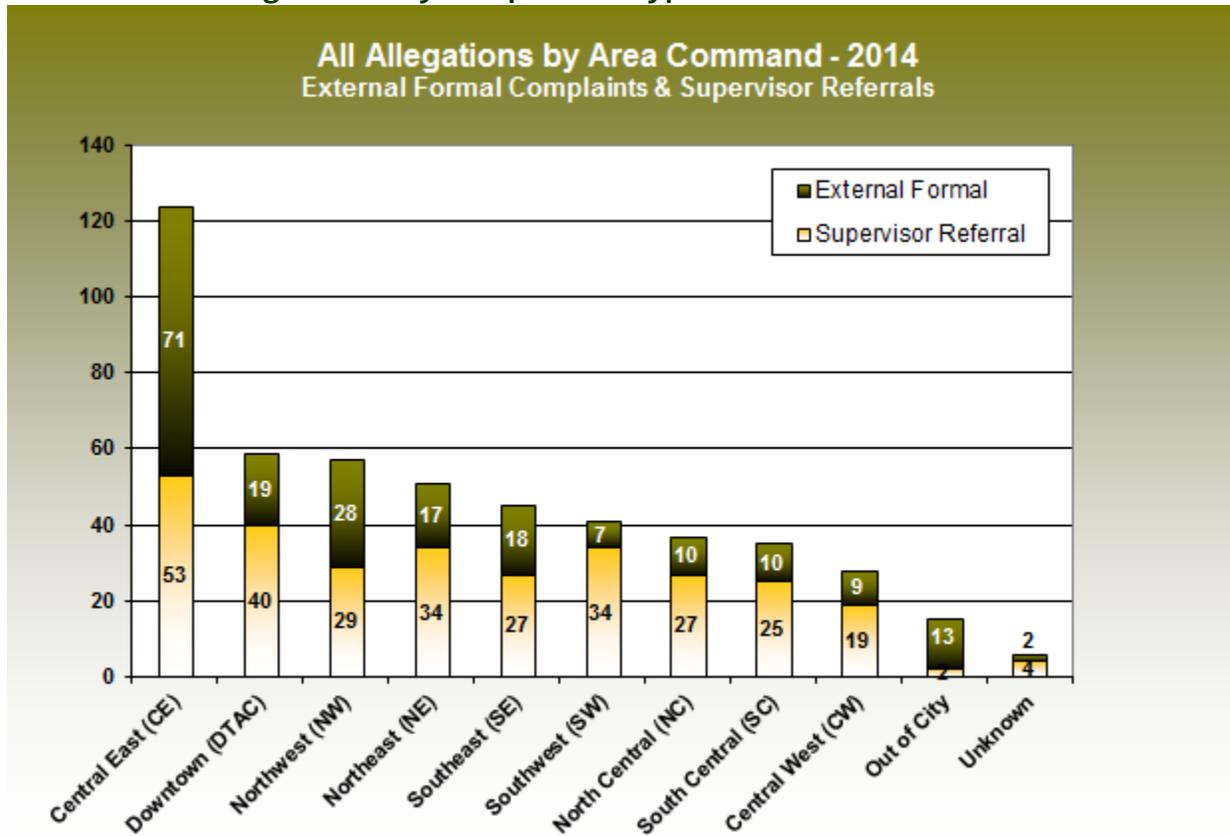
Allegations by Area Command

Fewer complaints results in fewer allegations and that is the case in 2014.

When combining allegations for both Supervisor Referrals and External Formal complaints, the area command with the highest number of allegations was Central East with 124. This was followed by Downtown and Northwest with 59 and 57, respectively. The Southeast area command was fourth with 45 allegations total.

The Downtown area command typically sees the highest number of allegations but this year Central East had the highest with more than double that of Downtown. Central East not only had the highest number of External Formal allegations, it also had the highest number of Supervisor Referral allegations.

Table 29: Allegations by Complaint Type and Area Command - 2014



A little less than half of all Central East’s allegations were Code of Conduct related. There were 16 Code of Conduct allegations in External Formals and 39 in Supervisor Referrals. There was one more Use of Force/Response to Resistance allegation in Central East than Code of Conduct allegations. There were also 14 Interviews, Stops and Arrests allegations. These three categories make up the bulk of all allegations levied in Central East.

Table 30: Code of Conduct Allegations by Complaint Type and Area Command - 2014

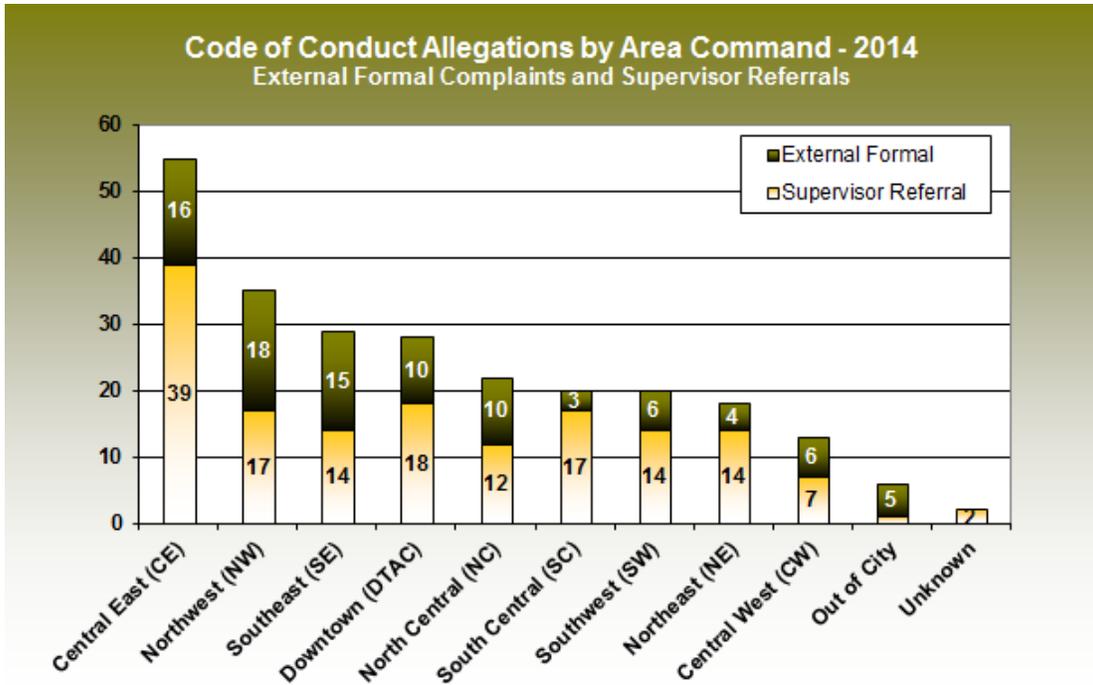
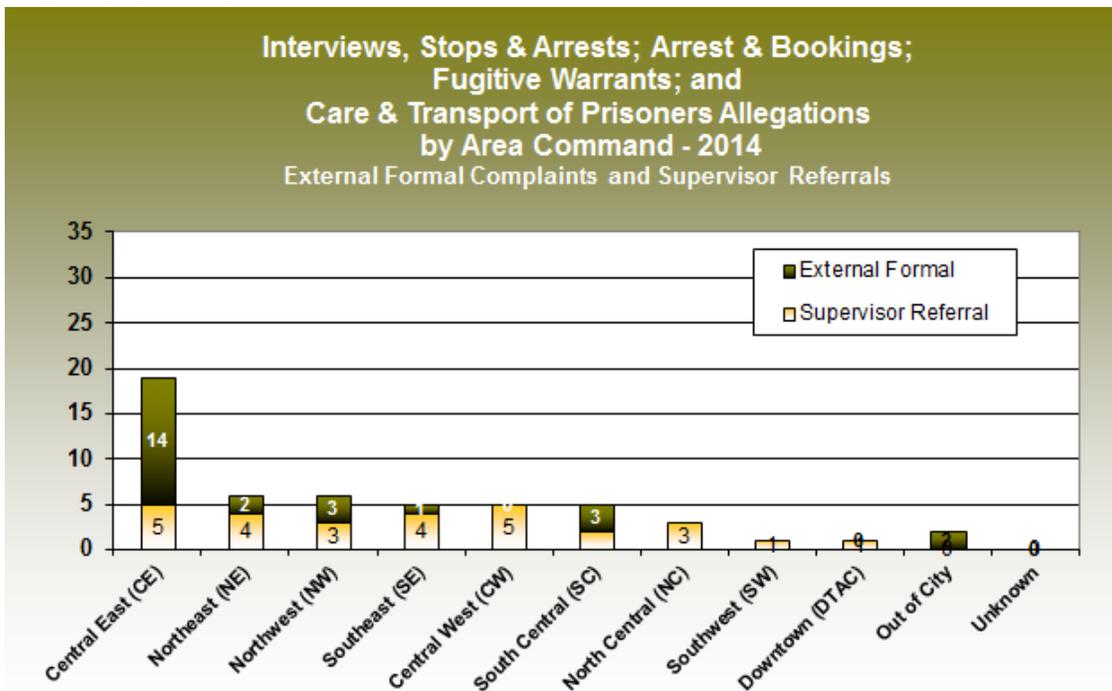


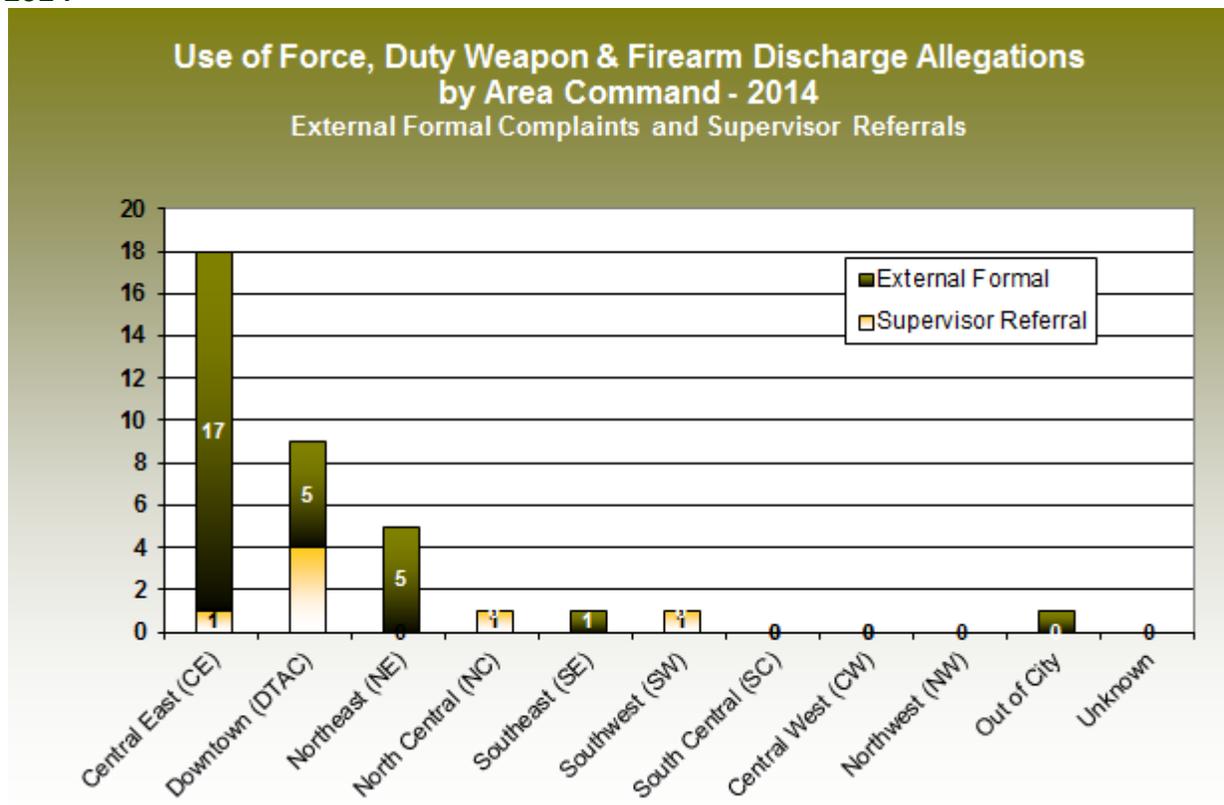
Table 31: Interviews, Stops & Arrests, et al by Complaint Type and Area Command - 2014



Looking at Interviews, Stops and Arrests allegations for both External Formal complaints and Supervisor Referrals, the OPM has found that the Central East area

command had the greatest number of allegations in this category, 14, with no other area command even coming close.

Table 32: Use of Force, et al by Complaint Type and Area Command - 2014



In 2014, there were seven Response to Resistance (Use of Force) allegations in Supervisor Referrals and 29 in External Formal complaints. Of the Response to Resistance allegations associated with External Formal complaints, five of the nine area commands had at least one Response to Resistance allegation filed – one less area command than last year.

Starting in 2010, the OPM raised concerns regarding the relatively low number of Response to Resistance complaints because of the data cited by the APD in its Response to Resistance reports. In 2014, there were 2,887 use of force reports involving 1,686 subjects.

Recommendation

Given the number of incidents in which the APD uses force, the number of external allegations seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted by the OPM and the

APD. If deficiencies are discovered, training, policy development, and/or discipline should be considered.

APD Decisions

Once an investigation is finished, the chain of command makes a recommendation on the outcome of the case. In other words, they issue a finding. These findings fall into one of the following categories:

- **Exonerated** – The incident occurred but is considered lawful and proper.
- **Sustained** – The allegation is supported or misconduct discovered during investigation.
- **Unfounded** – The allegation is considered false or not factual.
- **Inconclusive** – There is insufficient evidence to prove/disprove the allegation.
- **Administratively Closed** – No allegations were made or misconduct discovered and/or the complaint was closed by a supervisor.

Table 33: Formal Complaint APD Investigative Decisions – 2011-2014

APD Decisions	External						Internal					
	2012		2013		2014		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%	#	%
Sustained	12	7%	16	7%	21	10%	250	74%	259	71%	225	70%
Inconclusive	0	0%	0	0%	0	0%	4	1%	4	1%	4	1%
Exonerated	7	4%	33	15%	3	1%	24	7%	13	4%	5	2%
Administratively Closed	121	66%	123	54%	165	81%	32	9%	63	17%	32	10%
Unfounded	42	23%	55	24%	15	7%	30	9%	25	7%	57	18%
Total	182	100%	227	100%	204	100%	340	100%	364	100%	323	100%

NOTE: Numbers shown here may be lower than the total number of allegations due to resignations/retirements

*May not total to 100% due to rounding.

In 2014, 10% of allegations in External Formal allegations were Sustained. This is up a bit from both 2013 and 2012 when it was 7% in both years. The number of allegations that were Administratively Closed was 81%. This is a large increase over 2013 when 54% were closed administratively.

As a matter of routine, all cases classified as a “D” are “Administratively Closed.” In addition to the “D” cases, many others are also “Administratively Closed.” The OPM continues to advocate that “Administratively Closed” be used sparingly. It is the opinion of the OPM that making a finding (e.g., “Sustained,” “Exonerated,” or “Unfounded”) regarding the conduct of an officer adds credence to the process. There are likely several factors within the APD that are driving the decision to Administratively Close an allegation as opposed to rendering a more definitive decision. The OPM believes these include, among others, issues related to the APD’s policies and the relationship between allegation decisions and the APD’s early intervention system.

The OPM is encouraged that, for the third year in a row, no External cases were found to be inconclusive. While inconclusive may sometimes be the appropriate finding if an investigation could not sort out whether the conduct occurred or not, if investigations are conducted fairly and thoroughly, it should be a rare finding.

The number of External cases determined to be Unfounded was down in 2014 to 7%. This means very few complaints were found to be without merit if actually investigated. However, as noted above, the OPM feels APD is much too likely to Administratively Close a case without investigation.

The number of Internal Formal allegations that were Sustained in 2014 was 70%. This is mostly on par with 2013 and 2012.

Disciplinary Action

After an investigation is completed and if allegations against an officer are sustained, the chain of command will then administer discipline. Discipline ranges from oral counseling and/or a reprimand to being Indefinitely Suspended (i.e., terminated). When looking at the table below, it is important to remember that disciplinary action is related to each unique allegation and not to the number of cases or the number of individual officers. So, for example, 22 officers were not terminated in 2011; there were, however, 22 allegations from which Indefinite Suspensions stemmed. In 2014, there were two officers Indefinitely Suspended⁷ as a result of an external complaint. The APD provides guidelines for the type and severity of discipline that may be administered. These guidelines are called the “Discipline Matrix.” A copy of the matrix is attached in Appendix B.

Table 34: External Formal Complaint Disciplinary Action – 2010-2014

EXTERNAL	2010		2011		2012		2013		2014		2014 vs. 2013
	#	%	#	%	#	%	#	%	#	%	% Change
Disciplinary Action Taken											
Oral Reprimand / Counseling	11	46%	5	12%	3	18%	4	25%	2	10%	-50%
Education-Based Discipline**	**	**	**	**	**	**	**	**	**	**	**
Written Reprimand	6	25%	10	23%	4	24%	12	75%	7	33%	-42%
Days Suspension	7	29%	6	14%	5	29%	0	0%	3	14%	300%
Indefinite Suspension / Termination*	0	0%	22	51%	5	29%	0	0%	9	43%	900%
Demotion	0	0%	0	0%	0	0%	0	0%	0	0%	0%
Total	24	100%	43	100%	17	100%	16	100%	21	100%	31%

* Includes Resignations and Retirements while Officer was under investigation

** Discipline Category Introduced in 2014

*** May not total to 100% due to rounding

In 2014, the total number of External Formal complaints was down from 2013. Again, because the total number of External Formal complaints was down, the number of

⁷ One of the two officers had their suspension overturned during arbitration and has been reinstated.

allegations was also down. However, fewer allegations does not necessarily mean there will be less discipline as we see in 2014.

There were only 21 allegations in External Formal complaints sustained in 2014 that resulted in some sort of discipline. Five officers received written reprimands involving seven allegations, two officers received oral reprimands involving two allegations, three officers received suspensions involving three allegations and two officers received indefinite suspensions involving nine allegations.

The table below comprises the disciplinary action taken on each allegation filed in Internal complaints in 2014.

Table 35: Internal Formal Complaint Disciplinary Action – 2010-2014

INTERNAL Disciplinary Action Taken	2010		2011		2012		2013		2014		2014 vs. 2013 % Change
	#	%	#	%	#	%	#	%	#	%	
Oral Reprimand / Counseling	79	31%	86	32%	99	36%	84	28%	63	26%	-25%
Education-Based Discipline**	**	**	**	**	**	**	**	**	1	>1%	100%
Written Reprimand	77	31%	92	34%	92	34%	93	31%	106	43%	14%
Days Suspension	51	20%	69	25%	48	18%	65	22%	45	18%	-31%
Indefinite Suspension / Termination*	44	18%	25	9%	32	12%	57	19%	30	12%	-47%
Demotion	0	0%	0	0%	1	<1%	1	<1%	0	0%	0%
Total	251	100%	272	100%	272	100%	300	100%	245	100%	-18%

* Includes Resignations and Retirements while Officer was under investigation

** Discipline Category Introduced in 2014

*** May not total to 100% due to rounding

With 48 fewer Internal complaints than last year, the aggregate amount of discipline administered also differed by 18%. There were fewer oral reprimands and/or counseling than last year, more written reprimands but fewer suspensions and indefinite suspensions. Twenty-six officers received suspensions relative to 45 allegations. There were eleven terminations in 2014 relative to 30 allegations in Internal complaints. One officer retired, four resigned, two officers resigned while under investigation, and two received Indefinite Suspensions. In all, the group of officers terminating employment with the APD accounted for 30 allegations between them.

Subject Officer Demographics

Presented in this section is some background information on the officers that were the subject of complaints in 2014. All tables contain information based on officers named in complaints filed by members of the public only, i.e., External Formal complaints and Supervisor Referrals unless otherwise noted as “All APD.” Please note that it is possible for a single officer to be involved in more than one complaint and in more than one type of complaint. Therefore, the data presented in the tables below may count the same officer more than once if that officer was the subject of more than one complaint.

Years of Service

Over half of the officers within the APD have 10 or more years of service.

Table 36: Years of Service - All APD - 2014

Years of Service	All APD Sworn Personnel	
	#	%
0-3	296	17%
4-6	257	15%
7-9	198	11%
10+	988	57%
Total	1,739	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

For those with complaints in 2014, the average length of time the officer had served on the force until the date of the incident with the public was 8.0 years for Supervisor Referrals and 7.1 years for Formal complaints. This is interesting as officers with 7-9 years of experience make up the smallest percentage of the APD, 11%. It is also interesting as the 2014 average for External Formal complaints is very close to last year. Last year, the average length of service was 7.6 years for those with a formal complaint.

The most common length of time officers have been on the force before receiving their first complaint in 2014 was 7.9 years for Supervisor Referrals and 2.4 years for External Formal complaints. Last year, the most common length of time for Supervisor Referrals was 1.3 years and 4.4 years for External Formal complaints.

Table 37: Subject Officer Years of Service - 2014

Years of Service	2014	
	Supervisor Referrals	External Formals
Average tenure	8.0	7.1
Longest tenure	29.4	21.8
Shortest tenure	<1	<1
Tenure midpoint	6.4	5.5
Most common tenure	7.9	2.4

The OPM is troubled by the average length of service of the officers involved in external complaints. While this average is not new, the fact that we see this year over year is a clear indication that not enough is being done to prevent this. The fact that complaints go down does not appear to be a function of any proactive attempt to provide additional training by the APD, it is merely a normal ebb and flow.

While the OPM has limited access to shift data, the OPM has tried to replicate, to the best of its ability, patrol assignments by years of experience in the following table.

Table 38: 2014 Patrol Assignments - All APD

Patrol Area	Years of Service				Total
	0-3	4-6	7-9	10+	
DTAC	22	30	14	29	95
Northwest	26	15	8	31	80
Northeast	39	14	7	20	80
Southwest	23	13	10	33	79
North Central	31	16	6	21	74
Central West	27	9	6	31	73
Southeast	31	12	9	20	72
Central East	24	16	8	22	70
South Central	26	12	9	20	67
Total	249	137	77	227	690
Percent of Patrol Total	36%	20%	11%	33%	100%
Patrol Percent of All APD (1,739 Sworn Personnel)	14%	8%	4%	13%	40%

Officers with 0-3 years of experience made up 17% of the total number of sworn officers in 2014. However, these new officers made up 36% of the patrol force. The patrol force accounts for 84% of the assignments for officers of this experience level. This is not unusual given that officers must have several years of experience before they are considered for specialized units or can test for promotion. However, in addition to patrol having the most inexperienced officers, many areas of the City have a disproportionate number of the 0-3 years of experience officers assigned. Topping that list in 2014 was the Northeast area command where a full 49% of officers on patrol have three or less years of experience with the APD.

In 2013, the Northeast area command had the highest crime rate in the City. Recognizing that data needs to be analyzed before changes are made, the expectation was that in 2014, this area would see an increase in patrol officers regardless of years of experience. It did. Coming into 2014, it had the second highest total number of officers on patrol. On the date these data were pulled, there were two additional 0-3 years of experience officers on patrol in this area and 14 more 10+ years of experience officers for a net gain of 16 officers over 2013. The crime rate in this area dropped by 12% from 2013 to 2014 (City-wide the crime rate dropped by 11%). Even so, the Northeast area command remained the area command with the highest rate of crime in 2014 as it did in 2013.

Table 39: 2014 Area Commands Patrolled by Least Experienced Officers (All APD Patrol)

Area Command	Years of Service	
	0-3	10+
	%	%
Northeast	49%	25%
Southeast	43%	28%
North Central	42%	28%
South Central	39%	30%

Central West had the lowest crime rate in the City going into 2014 and the highest percentage of the most experienced officers. The Southwest area command tied Central West for the highest percentage of experienced officers but came into 2014 with the third highest crime rate.

Table 40: 2014 Area Commands Patrolled by Most Experienced Officers (All APD APD)

Area Command	Years of Service	
	0-3	10+
	%	%
Central West	37%	42%
Southwest	29%	42%
Northwest	33%	39%

It should be noted that level of experience does not always correspond to frequency of complaints. The Central East area command had the highest number of external complaints in 2014 (61) and it fell in the middle between the highest- and lowest-experienced officers.

For repeat versus single case subject officers in 2014, the range of experience for those named in complaints varied widely from less than one year to 29 years of service. In 2013, officers with five years of experience most frequently had two or more complaints. In 2014, officers with two years of experience most frequently had two or more complaints. The average for single and repeat complaint officers was 7 years and 9 years, respectively. This is within the same range as what we have seen historically. The longest tenure is much longer than last year. In 2013, this was 19 years; in 2014, was 29 years of experience.

Table 41: Repeat versus Single Case Subject Officer Years of Service - 2014

Years of Service	Repeat Subject Officers	Single Case Subject Officers
Average tenure	6.7	8.6
Longest tenure	29.4	27.9
Shortest tenure	<1	<1
Tenure midpoint	4.4	7.3
Most common tenure	2.4	<1

When looking at External Formal complaints, and then comparing allegation types to years of services, in 2014, officers with 0-3 years of experience and those with 10 or more years of experience had the most number of allegations levied against them. This has changed from 2013, when officers with 10 or more years of experience and those with 4-6 years of experience had the greatest number of allegations. For both groups in 2014, the allegation type levied most often was Code of Conduct related. For the 0-3 year group, the second most mentioned category is the Use of Force category. For those with 10 or more years of service, the second highest number of allegations was in the Interviews, Stops and Arrests category. Nationally, most research points to officer burnout as the primary reason officers receive more complaints involving Code of Conduct after their tenth year of service.

Table 42: External Formal Allegation Categories by Subject Officer Years of Service - 2014

EXTERNAL FORMAL Allegation Categories	Years of Service									
	0-3		4-6		7-9		10+		Total	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	40	51%	24	47%	6	46%	21	37%	91	46%
Use of Force/ Duty Weapons/ Firearm Discharges	13	16%	9	18%	4	31%	3	5%	29	15%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	7	9%	6	12%	2	15%	10	18%	25	13%
Bias-Based Profiling/ Incident Reporting & Documentation	6	8%	1	2%	0	0%	3	5%	10	5%
Preliminary, Follow-Up & Collision Investigations	3	4%	6	12%	0	0%	7	12%	16	8%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	3	5%	3	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	1	1%	0	0%	0	0%	0	0%	1	1%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	1	2%	1	1%
Other	9	11%	5	10%	1	8%	9	16%	24	12%
Total by Years of Service	79	100%	51	100%	13	100%	57	100%	200	100%
Percent of Total for All Years of Service	40%		26%		7%		29%		100%	

Missing Frequency = 5

*May not total to 100% due to rounding.

In Supervisor Referrals, the distribution of allegations is somewhat different than for External Formal complaints. As with External Formal complaints, officers with the least amount of experience have the highest number of allegations followed by those with the greatest amount of experience. The OPM believes this is due to the lack of experience for the one group and burnout for the other. The OPM has limited access to officer shift information thus, the OPM does not know if any of this could be attributed to where an officer is assigned, or for how long the officer was assigned to an area (both duration and number of hours in a day). Nationally, research has shown that placing less experienced officers into areas where more police intervention is required is not the best course. Research has also shown that over the longer haul, burnout occurs more frequently with officers who have been assigned to the same area for extended periods of time.

Table 43: Supervisor Referral Allegation Categories by Subject Officer Years of Service - 2014

SUPERVISOR REFERRAL Allegation Categories	Years of Service									
	0-3		4-6		7-9		10+		Total	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	52	52%	28	52%	21	54%	52	53%	153	53%
Use of Force/ Duty Weapons/ Firearm Discharges	1	1%	3	6%	0	0%	3	3%	7	2%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	9	9%	10	19%	2	5%	6	6%	27	9%
Bias-Based Profiling/ Incident Reporting & Documentation	1	1%	1	2%	1	3%	0	0%	3	1%
Preliminary, Follow-Up & Collision Investigations	17	17%	5	9%	6	15%	14	14%	42	14%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	4	4%	1	2%	1	3%	1	1%	7	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	4	4%	4	1%
Other	16	16%	6	11%	8	21%	18	18%	48	16%
Total by Years of Service	100	100%	54	100%	39	100%	98	100%	291	100%
Percent of Total for All Years of Service	34%		19%		13%		34%		100%	

Missing Frequency = 31

*May not total to 100% due to rounding.

Gender of Officers

The vast majority of officers in the APD are men.

Table 44: Gender - All APD - 2014

Gender	All APD Sworn Personnel	
	#	%
Female	178	10%
Male	1,561	90%
Total	1,739	100%

As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force and, of course, this is reflected in the number of allegations lodged against the officer. There was a slightly higher percentage of allegations lodged against male officers than their representation within the APD.

Table 45: Gender of Subject Officers by Number of Allegations - 2014

Gender of Officer	Supervisor Referrals		External Formals		Total		Percent of All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Female	25	9%	13	7%	38	8%	178	10%
Male	267	91%	187	94%	454	92%	1,561	90%
Total	292	100%	200	100%	492	100%	1,739	100%

*Caution should be used when reading this table. This table is a report by gender only. It should NOT be used as a count of unique officers as an officer may be involved in more than one complaint. Also, it is possible that a Supervisor Referral may have no named officer.

*May not total to 100% due to rounding.

The majority of allegations filed in both External Formal and Supervisor Referral complaints against both female and male officers involve Code of Conduct issues. In 2014, the second highest number of allegations levied against male officers in External Formal complaints involved Use of Force issues (28). This was followed closely by Interviews, Stops and Arrests.

Table 46: External Formal Allegations by Subject Officer Gender - 2014

EXTERNAL FORMAL Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	7	54%	84	45%
Use of Force/ Duty Weapons/ Firearm Discharges	1	8%	28	15%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	1	8%	24	13%
Bias-Based Profiling/ Incident Reporting & Documentation	1	8%	9	5%
Preliminary, Follow-Up & Collision Investigations	2	15%	14	7%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	1	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	3	2%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	1	1%
Other	1	8%	23	12%
Total	13	100%	187	100%

Missing Frequency = 5

*May not total to 100% due to rounding.

In Supervisor Referral complaints after Code of Conduct issues, the second highest number of allegations levied against male officers involved Preliminary, Follow-Up and Collision Investigations (38). This was followed by Interviews, Stops and Arrests (26).

Table 47: Supervisor Referral Allegation Categories by Subject Officer Gender - 2014

Supervisor Referrals Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	12	48%	141	53%
Use of Force/ Duty Weapons/ Firearm Discharges	1	4%	6	2%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	2	8%	26	10%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	3	1%
Preliminary, Follow-Up & Collision Investigations	4	16%	38	14%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	4%	6	2%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	1	4%	3	1%
Other	4	16%	44	16%
Total	25	100%	267	100%

Missing Frequency = 30

*May not total to 100% due to rounding.

As a percentage of all complaints, more complaints are lodged against male officers compared to their representation within the APD. Men were slightly overrepresented as repeat subject officers while women were underrepresented.

Table 48: Repeat versus Single Case Subject Officer Gender - 2014

Gender of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Male	46	94%	221	90%	267	91%	1,561	90%
Female	3	6%	25	10%	28	9%	178	10%
Total	49		246		295		1,739	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

Race/Ethnicity of Officers

Most officers are Caucasian, 69%, with another 20% being Hispanic/Latino, and 9% being Black/African American.

Table 49: Race/Ethnicity - All APD - 2014

Officer Race/Ethnicity	All APD Sworn Personnel	
	#	%
Caucasian	1,201	69%
Black/African American	151	9%
Hispanic/Latino	350	20%
Asian/Pacific Islander	34	2%
American Indian/Alaska Native	3	0%
Total	1,739	100%

*May not total to 100% due to rounding.

Caucasian officers were overrepresented in total allegations compared to their population within the APD while Black/African American and Hispanic/Latino officers were slightly underrepresented.

Table 50: Number of Allegations by Subject Officer Race/Ethnicity and Complaint Type - 2014

Race/Ethnicity of Officer	Supervisor Referrals		External Formals		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	215	74%	161	81%	376	76%	1,201	69%
Black/African American	19	7%	10	5%	29	6%	151	9%
Hispanic/Latino	55	19%	28	14%	83	17%	350	20%
Asian/Pacific Islander	3	1%	1	1%	4	1%	34	2%
American Indian	0	0%	0	0%	0	0%	3	<1%
Total	292	100%	200	100%	492	100%	1,739	100%

Missing Frequency = 35

*May not total to 100% due to rounding.

Table 51: External Formal Allegations by Subject Officer Race/Ethnicity - 2014

EXTERNAL FORMAL Allegation Categories	Race/Ethnicity of Officers							
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander	
	#	%	#	%	#	%	#	%
Code of Conduct	72	45%	5	50%	14	50%	0	0%
Use of Force/ Duty Weapons/ Firearm Discharges	25	16%	0	0%	4	14%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	24	15%	1	10%	0	0%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	9	6%	1	10%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	9	6%	1	10%	6	21%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	1	4%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	3	2%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	1	1%	0	0%	0	0%	0	0%
Other	18	11%	2	20%	3	11%	1	100%
Total	161	100%	10	100%	28	100%	1	100%

Missing Frequency = 5

*May not total to 100% due to rounding.

Code of Conduct issues are always the most frequently cited allegation in both External Formal complaints and Supervisor Referrals. Since Use of Force is more serious, we typically do not see many of these in Supervisor Referrals.

Table 52: Supervisor Referral Allegation Categories by Subject Officer Race/Ethnicity - 2014

SUPERVISOR REFERRAL Allegation Categories	Race/Ethnicity of Officers							
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander	
	#	%	#	%	#	%	#	%
Code of Conduct	116	54%	13	68%	23	42%	1	33%
Use of Force/ Duty Weapons/ Firearm Discharges	5	2%	0	0%	2	4%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	21	10%	1	5%	5	9%	1	33%
Bias-Based Profiling/ Incident Reporting & Documentation	2	1%	0	0%	1	2%	0	0%
Preliminary, Follow-Up & Collision Investigations	27	13%	3	16%	12	22%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	6	3%	0	0%	1	2%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	2	1%	0	0%	2	4%	0	0%
Other	36	17%	2	11%	9	16%	1	33%
Total	215	100%	19	100%	55	100%	3	100%

Missing Frequency = 30

*May not total to 100% due to rounding.

Caucasian officers are overrepresented compared to their presence on the APD in terms of repeat case subject officers. Black/African American subject officers are very slightly below their representation with repeat subject officers. Hispanic/Latino officers are on par compared to their presence on the APD with single case subject officers and significantly below their APD representation with repeat subject officers.

Table 53: Repeat versus Single Case Subject Officer Race/Ethnicity - 2014

Race/Ethnicity of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	41	84%	175	71%	216	73%	1,201	69%
Black/African American	3	6%	19	8%	22	7%	151	9%
Hispanic/Latino	5	10%	49	20%	54	18%	350	20%
Asian/Pacific Islander	0	0%	3	1%	3	1%	34	2%
American Indian	0	0%	0	0%	0	0%	3	0%
Total	49	100%	246	100%	295	100%	1,739	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

Age of Officers

The vast majority of the APD is between 30 and 49 years old.

Table 54: Age of Officers - All APD - 2014

Age of Officer	All APD Sworn Personnel	
	#	%
21-29	143	8%
30-39	654	38%
40-49	704	40%
50+	238	14%
Unknown	0	0%
Total	1,739	100%

*May not total to 100% due to rounding.

The average age of repeat subject officers was 35 years old and 38 years old for single case subject officers. The lowest age for a repeat subject officer was 24. The highest age for a repeat subject officer was 56 and 76 for a single subject officer.

Table 55: Age of Repeat versus Single Case Subject Officers - 2014

Age of Officers	Repeat Subject Officers	Single Case Subject Officers
Average age	35	38
Greatest age	56	76*
Lowest age	24	24
Age midpoint	33	38
Most common age	27	32

*This individual is not on the APD patrol force.

In 2013, the most common age of single case officers was 41 years old. There was no common age among the repeat subject officers, although they ranged in age from 27-47 with the average and the midpoint, being 34 and 32, respectively.

Table 56: Subject Officer Age by Number of Allegations and Complaint Type - 2014

Age of Officer	Supervisor Referral Allegations		External Formal Allegations		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
21-29	45	15%	37	18%	82	16%	143	8%
30-39	135	46%	99	49%	234	47%	654	38%
40-49	86	29%	57	28%	143	29%	704	40%
50+	26	9%	7	3%	33	7%	238	14%
Unknown	2	1%	4	2%	6	1%	0	0%
Total	294	100%	204	100%	498	100%	1,739	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

As a group, the 30-39 year old officers have the most allegations lodged against them. This is not new from previous years.

Table 57: External Formal Allegations by Subject Officer Age - 2014

EXTERNAL FORMAL Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	16	33%	52	43%	21	40%	2	18%
Use of Force/ Duty Weapons/ Firearm Discharges	9	18%	15	12%	3	6%	2	18%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	11	22%	26	21%	11	21%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	5	10%	3	2%	3	6%	0	0%
Preliminary, Follow-Up & Collision Investigations	3	6%	8	7%	1	2%	6	55%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	1	2%	3	2%	2	4%	1	9%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	1	1%	1	2%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	1	2%	2	2%	0	0%	0	0%
Other	3	6%	12	10%	10	19%	0	0%
Total	49	100%	122	100%	52	100%	11	100%

Missing Frequency = 3

*May not total to 100% due to rounding.

Within Supervisor Referrals, all age groups have Code of Conduct allegations cited most often.

Table 58: Supervisor Referral Allegation Categories by Subject Officer Age - 2014

SUPERVISOR REFERRAL Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	25	56%	69	51%	40	47%	19	73%
Use of Force/ Duty Weapons/ Firearm Discharges	1	2%	2	1%	4	5%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	4	9%	18	13%	5	6%	1	4%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	1	1%	2	2%	0	0%
Preliminary, Follow-Up & Collision Investigations	9	20%	15	11%	17	20%	1	4%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	2%	4	3%	2	2%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	1	1%	3	3%	0	0%
Other	5	11%	25	19%	13	15%	5	19%
Total	45	100%	135	100%	86	100%	26	100%

Missing Frequency = 28

*May not total to 100% due to rounding.

Track Records

For this section, the OPM looked at “officer complaints,” i.e., we counted the number of complaints attributable to any one officer. Given that more than one officer can be named in a complaint, the number of “officer complaints” will always exceed the total number of complaints for a given year.

For those officers with a complaint in 2014, meaning External Formal complaints, Supervisor Referrals and/or Internal Formal complaints, the OPM counted 627 “officer complaints” between them. Again, more than one officer can be involved in the same complaint so the number of “officer complaints” will always exceed the number of complaints as counted by case number for the year. Seventy-one percent of these officers also had at least one previous complaint sometime between 2010 and 2013.

When aggregating the complaints against officers within the 2010-2014 timeframe, the OPM found that 76% of officers in this pool have had two or more complaints in the past five years. There were thirteen (13) officers who had ten or more complaints (i.e., External Formal complaints, Supervisor Referral complaints and/or Internal Formal complaints).

Each year for the past five years, the percentage of unique officers with a complaint lodged against them has ranged from 26% to 32%. This means that each year for the past five years, the majority of the force, 68% to 74% of all officers, have not had a complaint lodged against them.

Section 5: Citizen Review Panel & OPM Recommendation Memos

In 2014, sixteen cases went before the Citizen Review Panel. Nine of these 16 cases were Internal Complaints involving Critical Incidents that included eight firearm discharge cases and one in-custody death. Six of the remaining seven cases were complaints brought by members of the public and one was an APD internal case that was not a Critical Incident. Of the six External complaints that went to the CRP, five of these first had a meeting with the Police Monitor, called a Police Monitor's Conference (PMC).

Type of Case	Recommending Party	Recommendation	APD Response
Officer-Involved Shooting	CRP	While the CRP had no recommendations regarding discipline or policy concerning this matter, the CRP commended the supervisors and officers who were on the scene of this incident for their coordinated efforts and effective communication.	None.
Officer-Involved Shooting	CRP	Recommended IAD investigations be completed and discipline decisions made within the 180-day statutory deadline. Recommended the subject officer be issued a written reprimand and be trained and then re-evaluated for patrol skills. Recommended all witnesses to officer-involved shootings be interviewed.	None.
In-Custody Death	CRP	While the CRP had no recommendations regarding discipline or policy concerning this matter, the CRP made note that the involved officers demonstrated knowledge about the potential dangers of excited delirium and worked with personnel from other public safety departments in an attempt to avoid the outcome that ultimately occurred.	None.

Citizen Complaint	CRP	While the CRP had no recommendation regarding discipline, it expressed interest in communicating with leadership at the APD about whether any policy or operations changes are being considered for future large events such as SXSW.	APD advised that leadership will re-examine this policy to determine if changes need to be made.
Officer-Involved Shooting	CRP	<p>Recommended a more in-depth academy and in-service training around how to recognize a situation where specialty units may be needed, the resources available to APD officers, and how to attain those specialized assets.</p> <p>Recommended rigorous training for officers who intend to use military-style weapons during policing.</p> <p>Recommended supervisors be well versed on the ramifications of using such tools.</p> <p>Recommended the supervisor on scene of the incident undergo practical leadership training centered on interacting with the mentally ill population and how to approach a tactical situation when waiting for SWAT to arrive.</p>	<p>APD responded that it is well trained in these areas.</p> <p>APD responded that it has increased training with this weapon.</p> <p>APD stated that the supervisor's actions were appropriate for the situation.</p>
Officer-Involved Shooting	CRP	While the CRP had no recommendations regarding discipline or policy concerning this matter, the CRP commended the subject officer for his skill and restraint in discharging his weapon despite there being a clear threat to his safety.	None.
Officer-Involved Shooting	CRP	The CRP asked to be informed about the status of developing more detailed standard operating procedures to supplement the <i>Firearms Discharge Situations-Moving Vehicles</i> policy. It also recommended additional efforts to improve the amount and quality of training APD officers receive related to policy 202.1.3.	None.

Appendix A: Austin Police Department's Discipline Matrix

Below find the discipline matrix currently employed by the APD.

A109d – Discipline Matrix

This Matrix is designed as a guide to be used in conjunction with the APD Discipline Process policy and Internal Investigative Process policy. This matrix is not an all-encompassing document but should provide some guidance for the vast majority of investigations involving discipline. As a general rule, those violations below that are listed as "IS" (indefinite suspension) and "Fact Specific" or those that may include discipline greater than a 15-day suspension will be investigated by IA.

Discipline Matrix			
Violation General Category/Sub Category (APD General Orders)	1st Occurrence	2nd Occurrence	3rd Occurrence
CODE OF CONDUCT A201			
A. Dishonesty – False Official Statements	IS		
B. Criminal Violation while on duty or related to job duties	IS		
C. Other Criminal Violations	Fact Specific		
D. Reporting Responsibilities (Also See B206 Incident Reporting and Documentation)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
E. Individual Responsibilities			
• Associating with those of ill repute	Fact Specific		
• Improper use of City resources <u>not</u> involving personal gain	Written Reprimand to 1-3 days	Increased one level	Increased one level
• Improper use of City resources involving personal gain.	4-15 days	IS	
F. Responsibility to the Community			
• Duty to identify	Oral Reprimand to 1-3 days	Increased one level	Increased one level
• Courtesy (Rudeness Complaints)			
• Impartial Attitude	Fact Specific		
G. Responsibility to the Department			
• Requirements of duty			
• Time and attention to duty	Oral Reprimand to 1-3 days	Increased one level	Increased one level
• Unprofessional or abusive behavior--co-workers			
• Neglect of Duty -Misleading Statements	Fact Specific		
• Neglect of Duty	Fact Specific		
• Insubordination	4-15 days	IS	
• Duty to take action	Fact Specific		
• Dereliction of Duty	4-15 days to Demotion	Demotion to IS	
• Unauthorized Release of Information	4-15 days	IS	

A109d – Discipline Matrix (con't'd)

RADIO AND TELECOMMUNICATIONS B201			
A. Inappropriate Electronic Messages**	Written Reprimand	1-3 days	4-15 days
INTERNET/NETWORKED COMPUTER USE A312			
A. Internet/Computer Violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
RESPONSE TO RESISTANCE B101a			
A. Objectively Unreasonable Use of Deadly Force	IS		
B. Objectively Unreasonable Use of Force	Fact Specific		
C. Negligent Discharge involving serious bodily injury or death	Fact Specific		
D. Accidental Discharge not involving serious bodily injury or death	1-3 days	4-15 days	4-15 days up to IS
DUTY WEAPONS B101b			
A. Violations of duty weapons policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
OTHER			
A. Negligent/Reckless Conduct Resulting in SBI or Death	IS		
B. Violation of tactics, other than above "A".	Fact Specific		
BIASED BASED PROFILING B205			
A. Biased based profiling	Fact Specific		
B. Failure to document contacts	Written Reprimand to 1-3 days	Increased one level	Increased one level
DRUG AND ALCOHOL FREE WORKPLACE A408a			
A. Failure of random drug test or test resulting from Reasonable Suspicion	IS		
THE WORKPLACE ENVIRONMENT A201c			
A. Quid Pro Quo Sexual Harassment	IS		
INTERNAL AFFAIRS A109a			
A. Refusing to cooperate with Internal Affairs	IS		
SECONDARY EMPLOYMENT A307			
A. Secondary employment violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
MOBILE VIDEO RECORDER OPERATION A306b			
A. Mobile video recording violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
B. Intentional Mobile video recording violations	4-15 days	IS	
C. Intentional MVR violation in a critical incident	IS		
COURT APPEARANCES A304			
A. Missed court appearance	Oral Reprimand to 1-3 days	Increased one level	Increased one level

A109d – Discipline Matrix (con’t’d)

FOLLOW-UP INVESTIGATIONS B203a			
PRELIMINARY FIELD INVESTIGATIONS B202a			
A. Failure to properly investigate	Oral Reprimand to 1-3 days	Increased one level	Increased one level
PROPERTY AND EVIDENCE B208			
A. Improper handling of evidence (not related to criminal conduct)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
B. Improper destruction of evidence	Written Reprimand to 4-15 days	Increased one level	Increased one level
ATTENDANCE AND LEAVE A401a			
A. Abuse of sick leave	Oral Reprimand to 1-3 days	Increased one level	Increased one level
EMERGENCY OPERATION OF POLICE VEHICLES B102			
POLICE VEHICLES A306a			
PURSUIT POLICY B103a			
A. Violations of pursuit policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
B. Pursuit policy, Aggravated	1-15 days	4-15 days	4-15 days to IS
C. Operation of Police Vehicles (non-collision)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
D. At-Fault collision (Not involving serious bodily injury or death) ²	Oral Reprimand to 1-3 days	Increased one level	Increased one level

Notes:

*1 If inappropriate Electronic Messages bring discredit to the Department, increase one level.

*2 A written reprimand will normally be administered for violations under this heading as a first occurrence.

Supervisors will take into account the employees previous driving history, the severity of the collision and other contributing factors involve in the negligent collision. (See Discipline Process sections #5 and #8)

Appendix B: Community Outreach Conducted in 2014



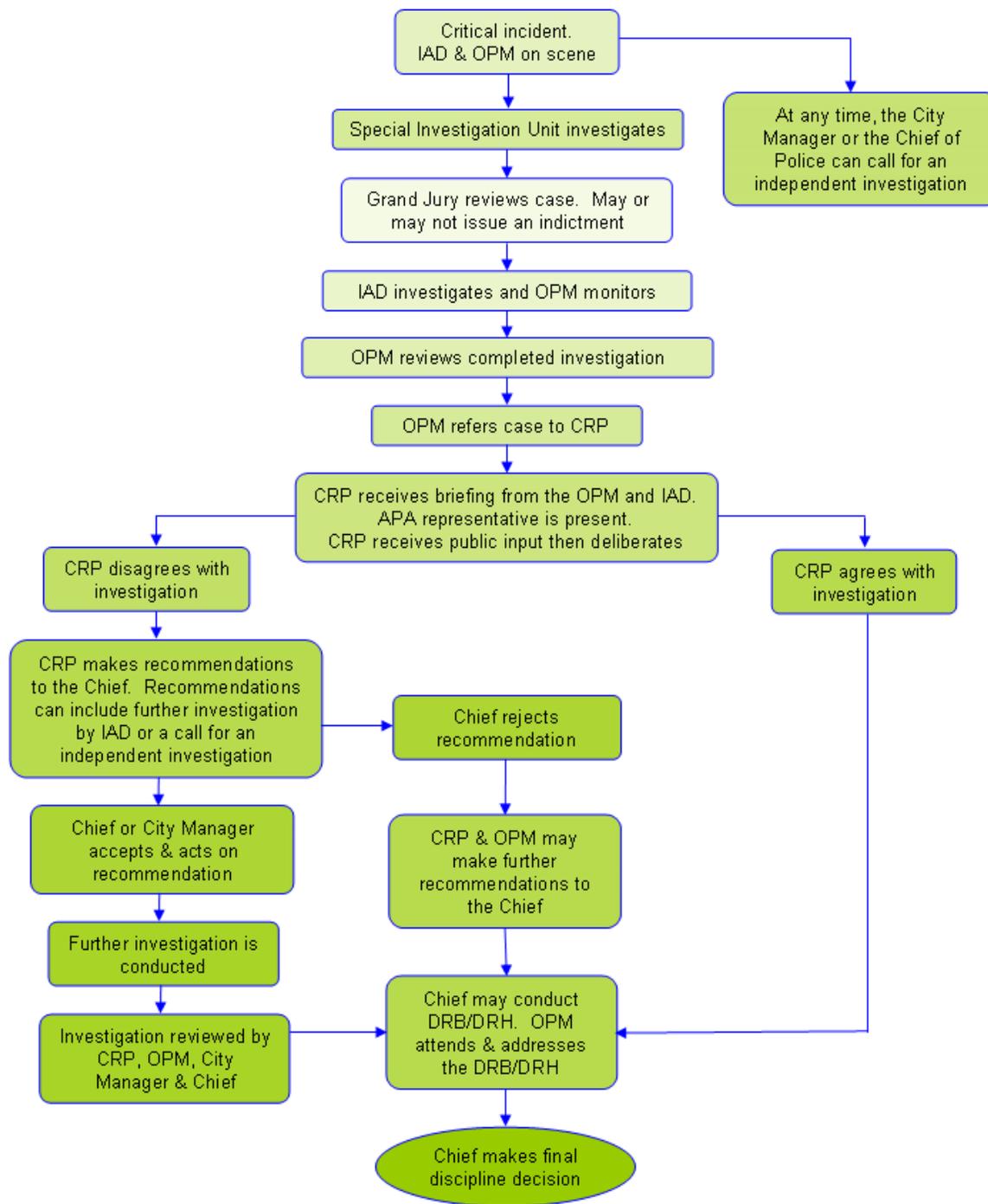
Office of the Police Monitor

OUTREACH EFFORTS
January – December 2014

Martin Luther King Celebration	January 20
City of Austin Black History Celebration	February 4
Lunar New Year	February 9
Martin Middle School Parent Fair	February 13
Feria Para Aprender	February 22
Austin Community College Eastview Campus	February 25
Social Workers Conference presentation	February 28
Home Away From Home	March 15
Women's Resource Fair	Marcy 9
Dove Springs Health Fair	March 29
Festival de los Ninos	April 26
Cinco de Mayo	May 3-4
Dobie Middle School Parent Appreciation presentation	May 6
Burnet Middle School Parent Appreciation	May 9
Martin Middle School Parent Appreciation	May 9
North Loop Housing Authority presentation	May 14
Meadowbrook Housing Authority presentation	May 26
Booker T. Housing Authority resource fair	May 20
Conley/Guerrero resource fair	May 23
Juneteenth Parade	June 21
AISD Back-to-School Bash	August 16
Mexican Consulate outreach	August 25
National Night Out Bag Building	September 10

Diez y Seis Celebration	September 13
Pride Fest	September 20
National Night Out	October 4
National Night Out Rosewood Salinas Housing Authority	October 7
Hope Fest	October 18
Workers Defense Project presentation	October 28
Harvest Fest	November 8

Appendix C: Critical Incident Monitoring Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division
APA: Austin Police Association **CRP:** Citizen Review Panel
DRB: Disciplinary Review Board **DRH:** Disciplinary Review Hearing

Appendix D: Meet and Confer Contract, Article 16

(Term of Contract begins October 1, 2013 and ends September 30, 2017)

ARTICLE 16 CITIZEN OVERSIGHT OF THE AUSTIN POLICE DEPARTMENT

Section 1. Citizen Oversight

a) Citizen Oversight means the process which incorporates citizen input into the administrative review of conduct of APD Officers and the review of the Austin Police Department's policies and procedures. The City of Austin may provide for Citizen Oversight of the Austin Police Department. Citizen Oversight may include an Office of the Police Monitor and a Citizen Review Panel. The CITY agrees that there will be no parallel process created in addition to the one contemplated by these provisions.

b) The purpose of Citizen Oversight is:

(1) To assure timely, fair, impartial, and objective administrative review of complaints against police officers, while protecting the individual rights of officers and citizens;

(2) To provide an independent and objective review of the policies and procedures of the Austin Police Department; and

(3) To provide a primary, but not exclusive, location for accepting administrative complaints of officer misconduct.

c) Except as otherwise provided by this AGREEMENT, the Chief of Police retains all management rights and authority over the process of administrative investigation of alleged misconduct by APD Officers that could result in disciplinary action.

d) Except as specifically permitted in this Article, the Citizen Oversight process, regardless of its name or structure, shall not be used or permitted to gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint of misconduct by an Officer. There shall be no legal or administrative requirement, including but not limited to subpoena power or an order from the City Manager or the Department, that an Officer appear before or present evidence to any individual, panel, committee, group, or forum of any type involved in Citizen Oversight. This provision has no application to any Independent Investigation

authorized by the Chief of Police or the City Manager, regardless of whether the Independent Investigation was recommended by a Panel or Police Monitor, or to any hearing of an appeal of disciplinary action pursuant to this AGREEMENT and/or Chapter 143 of the Texas Local Government Code. Police Officers remain subject to orders or subpoenas to appear and provide testimony or evidence in such investigations or hearings.

Section 2. Definitions

In this Article:

a) “Critical Incident” means:

(1) An alleged use of force or other action by an Austin Police Officer that directly results in serious bodily injury or death (The definition of “serious bodily injury” found in the Texas Penal Code, Section 1.07(a)(46) will apply.);

(2) A death in custody; or

(3) An officer involved shooting.

b) “Independent Investigation” means an administrative investigation or inquiry of alleged or potential misconduct by an Officer, authorized by the Chief of Police or City Manager and conducted by a person(s) who is not:

(1) An employee of the City of Austin;

(2) An employee of the Office of the Police Monitor; or

(3) A volunteer member of the Panel.

An “Independent Investigation” does not include attorney-client work product or privileged material related to the defense of claims or suits against the City of Austin.

c) “Complaint” means an affidavit setting forth allegations or facts that may form the basis of future allegations of misconduct against an officer and which serves as the basis for initiating an investigation.

d) “Complainant” means a person, including an Officer, claiming to be a witness to or the victim of misconduct by an Officer. “Complainant” does not include the Department designee in the case of an administrative referral.

Section 3. The Office of the Police Monitor (“OPM”)

a) Access to Confidential Information

The Police Monitor will have unfettered access to the Internal Affairs investigation process, except as provided herein. The Police Monitor may inquire of the Commander of the Internal Affairs Division or the Chief of Police, or the Chief's designee, as to the status of any pending IAD investigation.

b) Complaint Intake

(1) The OPM shall not gather evidence, contact or interview witnesses (except the complainant as provided herein), or otherwise independently investigate a complaint or other information of police misconduct. The OPM shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that an Officer appear or present evidence to the Police Monitor. The OPM is authorized to accept complaints of Officer misconduct as provided in this Section.

(2) The OPM may obtain the following information in connection with the filing of a complaint of officer misconduct:

- (a) The complainant's personal information;
- (b) The nature of the complaint;
- (c) Witness information;
- (d) The incident location, date, and time; and
- (e) The APD officer(s) involved.

(3) The OPM shall digitally audio record the taking of the information provided in subsection (b)(2). The OPM will promptly forward the completed complaint and audio recording to IAD. A complaint by a complainant who is not a Police Officer shall not be accepted unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. A complainant may be subsequently interviewed by the IAD investigator for purposes of clarification or to obtain additional information relevant to the investigation.

(4) Personnel from the OPM shall assist an individual in understanding the complaint process and the requirements for filing a complaint but shall not solicit or insist upon the filing of a complaint by any individual.

c) Access to Investigation Interviews

A representative from the OPM may attend an interview of the Officer who is the subject of the investigation or administrative inquiry, as well as all witness interviews. The OPM representative may directly question the Officer who is the subject of the investigation only if agreed to by the subject Officer or his/her representative and the IAD investigator. At the conclusion of or during a break in any interview, the OPM representative may take the IAD investigator aside and request that the investigator ask additional questions. Whether such information is sought in any witness interview is within the discretion of the IAD investigator.

d) Access to Dismissal Review Hearings

The Police Monitor may attend any Dismissal Review Hearing (or other administrative hearing conducted for the purpose of determining whether the Department shall take disciplinary action against an Officer for alleged misconduct). Neither the Police Monitor nor the Internal Affairs Representative(s) may remain in the Hearing while the chain of command and the Chief of Police or his/her designee discusses the final classification and/or appropriate discipline, if any, to be imposed. The final classification of an allegation of misconduct is within the sole discretion of the Chief of Police, subject to the Officer's right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this AGREEMENT.

e) Quarterly Meetings

On a quarterly basis, the Police Monitor, the Chief of Police, the Commander of the Internal Affairs Division, and the ASSOCIATION President shall meet to discuss any issues related to the citizen oversight process.

Section 4. Citizen Review Panel (“Panel”)

a) Function

The Panel shall serve to make recommendations to the Chief of Police as provided in this Article, and in addition to review individual cases of Officer conduct as authorized in this Article. Panel members shall perform their duties in a fair and objective manner.

b) Qualifications

To be eligible for appointment to the Panel, applicants must not have a felony criminal conviction, received deferred adjudication for a felony, or be under felony indictment. Prior to appointment, Panel members must submit to a criminal background investigation to determine their eligibility to serve on the Panel. A felony conviction, felony indictment, or felony deferred adjudication, after appointment, shall result in the immediate removal of the member from the Panel by the City Manager.

b) Training

Each member must complete the training prescribed herein prior to commencing their service on the Panel, except as specified herein. The required training shall include:

(1) Attending a three to four (3-4) day training by APD tailored specifically for Panel members including, at a minimum, the following:

- a. Special Investigations Unit
- b. Officer Involved Shootings;
- c. Response to resistance;
- d. The Police Training Academy;
- e. Crisis Intervention Team;
- f. Firearms, including FATS training;
- g. Bomb and SWAT;
- h. Ride-outs on at least two shifts (14 hours) in different parts of the City, one of which must include a Friday or Saturday night in Downtown Command from 11 pm to 3 am. The Downtown Command ride-out must be completed within six months of selection as a Panelist, and
- i. A presentation by the Association.

(2) Attending six (6) hours of training provided by the Internal Affairs Division.

These training requirements are subject to change by unanimous agreement of the Chief of Police, the ASSOCIATION President, and the Police Monitor.

d) Resign to Run

Any person involved in the citizen oversight process as a Panel member, who files for public elective office shall immediately resign from their position in the citizen oversight process, and failing such resignation shall be immediately removed by the City Manager.

e) Cases Subject to Review by Panel

The Panel may review the following two categories of cases regarding officer conduct:

(1) Review Requested by Complainant: Not later than thirty (30) calendar days after the Police Monitor forwards notice of the outcome of the investigation to the complainant, the complainant may request that the Police Monitor refer the complaint to the Panel. There is no limitation as to the type of case which may be referred to the Panel at the request of the complainant.

(2) No Review Request by Complainant: Without a complainant's request, only the following cases may be referred to the Panel:

- a. A "Critical Incident" as defined in this Article;
- b. The appearance of a pattern of serious misconduct by the Officer involved;
- c. The appearance of a pattern of Department-wide misconduct;
- d. The appearance of serious official misconduct by one or more members of the Department;
- e. The appearance of bias based misconduct; or

f. The appearance of issue(s) to be addressed by policy, procedure, or training recommendations.

f) Nature of Proceedings

(1) The review of any case by the Panel shall not be conducted as a hearing or trial. Except for the receipt of public input/communications as provided by this Section or an Independent Investigation authorized by this Article, the Panel shall not gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint. The Panel shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that a Police Officer appear or present evidence to the Panel. The Panel shall immediately forward any information or evidence of which it becomes aware to the Chief of Police through the Police Monitor.

(2) A quorum shall be established prior to beginning the review of any case by the Panel.

(3) Not less than five (5) business days prior to a Panel meeting, the OPM shall provide the Internal Affairs Division and the individual designated by the President of the ASSOCIATION as the Panel liaison, with a copy of the Panel meeting agenda. The Panel shall not take action upon or receive public input/communications concerning any case or issue not listed as an agenda item. Citizens wanting to address the Panel during the public input/communications section of the meeting must complete a speaker sign-up card listing the agenda item they wish to address, and will be limited to addressing the topic identified. The Internal Affairs Division shall promptly notify any Officer who is the subject of a complaint listed as an agenda item as to the scheduled Panel meeting. Notice of special meetings shall be handled in a similar manner, unless circumstances require a shorter notice, in which case the notice shall be issued as soon as the special meeting is scheduled.

(4) By virtue of its purely advisory role, the Panel is not a governmental body and is not subject to the Open Meetings Act. Those portions of the meeting during which public input/communication is accepted shall be open to the public and recorded by video and audio.

g) Access to Confidential Information

(1) Panel members shall have full access to all administrative investigative and disciplinary files necessary to perform their functions under this AGREEMENT. Panel members may ask questions and obtain specific facts, details and information from the Police Monitor, IAD, or the Chief's office. As part of such access, the Police Monitor shall make available to individual Panel members all IAD case files scheduled for review pursuant to subsection "f(3)" above. Individual Panel members may review the IAD case file for up to eight (8) hours, at the Police Monitor's office and in the presence of a member of the Monitor's staff. This review opportunity may occur before the Panel's private session and/or after the Panel's public session regarding such case. The Monitor's Office may hold a conference call with the Panel in which the Panel is given a preview of the general nature of the cases that will appear at the next Panel meeting. The focus of the discussion shall not be on the specific facts of any particular case. The

purpose of this conference call is so that the Panel members may decide if they need to review the file prior to the meeting. The prohibitions and restrictions in Section 8 of this Article apply to any confidential information viewed by Panel members during this review opportunity. Panel members shall not copy or remove any portion of the file. The Police Monitor shall be responsible for security of the file.

(2) In an effort to ensure the Panel has a more complete view of the types of cases the APD reviews, the Police Monitor shall meet with the Panel twice a year to provide them an overview of APD activity up to that point in the calendar year.

h) Private Case Briefing Session

(1) Prior to receiving any communication from the complainant or any other public input/communications, the Panel may meet in Private Session to be briefed concerning the facts of the particular case to be reviewed. The Police Monitor and/or the IAD representative shall present to the Panel the information obtained from the IAD investigation. The duties of the IAD representative may be performed by others, including the chain of command, training staff, and/or forensics. Members of the Panel may be provided with READ ONLY electronic access to all or part of the IAD files, or the physical files themselves, during these presentations.

(2) An APD Officer designated by the President of the ASSOCIATION and one individual from the Internal Affairs Division shall be present during the Panel Private Session case briefing, subject to the following provisions:

a. The Association's Representative will not participate in the briefing and is present only as an observer, with the following exceptions:

(i) The Association Representative may request that the Police Monitor allow the representative to present information relevant to a case before the Panel.

(ii) A Panel member may request that the Association Representative present information relevant to a case before the Panel.

(iii) Any information provided by the Association Representative shall be presented in a neutral manner.

b. The Association Representative may not be involved in the case as a witness, investigator, relative, or officer in the chain of command.

c. Information in the possession of the Association Representative as a result of participation in such briefing shall not be disclosed or revealed other than as necessary as a part of official Association business in monitoring and enforcing this AGREEMENT, or in the normal course of dispute resolution processes under this AGREEMENT.

(3) During any private Panel briefing, the presenter should exercise discretion and omit information from the briefing that the Police Monitor deems to be irrelevant to the citizen's

complaint, as well as information of a highly personal nature that would constitute an unwarranted invasion of an individual's personal privacy interests.

(4) In addition to those individuals involved in briefing the Panel, and the Association Representative, the Assistant Police Monitor, the staff member from the Office of the Police Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office may be present during the Private Case Briefing Session. No other individual may be present unless the Panel requests further information.

i) Public Session and Comments

After the Private Session, the Panel shall meet in Public Session to receive public input/communications. During the public session, the Police Monitor shall take precautions to prevent discussion of the facts of the particular case and to prevent the Public Session from being used as a forum to gather evidence, interview witnesses, or otherwise independently investigate a complaint. Any individual who indicates that he has new or additional evidence concerning the particular case shall be referred to the Chief of Police or his designee. The rules that apply to citizen communications with the City Council shall apply to the public session of the Panel meetings. The Police Monitor, in consultation with the Panel, shall set the time limits for such proceedings, and shall be responsible to prevent discussion of matters not on the Session agenda.

j) Communication from Complainant and/or Officer

(1) Public Session:

Subject to the provisions of Subsection "h," the Complainant shall be permitted to address the Panel in the Public Session. The Officer who is the subject of the complaint may, but is not required, attend and listen to the address by the complainant, and may also address the Panel.

(2) Private Session:

If the Complainant articulates relevant privacy or safety concerns, the Police Monitor may allow the complainant to address the Panel in a private session. The Officer who is the subject of the complaint may, but is not required, attend and listen to the address by the complainant, and may also address the Panel. If the complainant is anxious or intimidated by the presence of the Officer, the Panel shall videotape the complainant's address to the Panel, and allow the Officer to view and respond to the taped statement outside the complainant's presence. Other than the complainant and the responding police officer, only those persons authorized to attend the Panel Private case briefing may be present during this private Panel Session.

k) Deliberations

After receiving public input, if any, the Panel shall discuss the particular case under review in private session. The Police Monitor and/or the Assistant Police Monitor, the staff member from the Office of the Police Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office may be present during such discussion. No other individual may be

present unless, the Panel requests further information; if the Panel does so, the Police Monitor or Assistant Police Monitor, and the IA Commander or Lieutenant, must also be present.

1) Action and Recommendations

(1) The Panel shall not take action or make recommendations not authorized by this Article. At the conclusion of the review process set forth above, the Panel, upon a majority vote of its total members, may make the following written recommendations to Chief of Police:

- a. Further investigation by the Department is warranted;
- b. Department policies warrant review and/or change;
- c. An “Independent Investigation” is warranted; or
- d. A non-binding recommendation on discipline, limited to cases involving a “critical incident” as defined in this Article.

(2) The final decision as to appropriate discipline is within the sole discretion of the Chief of Police, subject to the Officer’s right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this AGREEMENT. Neither the OPM employees nor individual members of the Panel shall publicly express agreement or disagreement with the final disciplinary decision of the Chief, other than as set forth in the written recommendation. A deliberate violation of this provision shall be subject to the dispute resolution process set forth in Section of this Article, but a Panel member shall be permanently removed from the Panel upon a violation of this standard.

(3) Members must attend the meeting and hear the merits of the case in order to vote. The Panel’s recommendations shall be reduced to writing. The Panel’s written recommendations shall explain the Panel’s issues(s) or concern(s).

(4) The Police Monitor shall consult with the Panel in formulating any recommendations to the Chief of Police.

Section 5. Independent Investigation

a) The Chief of Police and the City Manager retain all management rights to authorize an Independent Investigation concerning police conduct.

b) If the Panel, pursuant to Section 4(1)(1)(c), recommends that an Independent Investigation is warranted, the Panel shall provide a public report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation. In addition, the Panel shall provide a public report setting forth the Panel’s conclusions and recommendations after its review of any Independent Investigation.

Section 6. Public Release of Information

a) Documents Subject to and Timing of Public Release:

The provisions of Section 143.089 (g) of the Texas Local Government Code are expressly modified to the extent necessary to permit public release of the following documents in the manner prescribed by this Section:

- 1) A Panel recommendation that Department policies warrant review and/or change, as authorized by Section 4(1)(1)(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, upon delivery to the Chief of Police.
- 2) A Panel recommendation that further investigation by the Department is warranted, as authorized by Section 4(1)(1)(a). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), and only if the Police Chief imposes discipline.
- 3) A Panel recommendation that an Independent Investigation is warranted, as authorized by Section 4(1)(1)(c). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 4) A Panel report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation, as authorized by Section 5(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 5) A Panel report setting forth the Panel's conclusions and recommendations after its review of any Independent Investigation, as authorized by Section 5(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 6) A panel recommendation on discipline in a case involving a critical incident, as authorized by Section 4(1)(1)(d). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.

7) The body of a final report (but not exhibits) prepared by an investigator who conducts an Independent Investigation authorized by the Chief of Police or City Manager concerning police conduct, whether or not recommended by the Panel. Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, the body of such report shall be subject to public release, in its entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.

It is expressly understood and agreed by the parties that any recommendation and/or report released pursuant to this Section may contain information which would otherwise be made confidential by Section 143.089(g) of the Texas Local Government Code.

b) The public release of information authorized in this AGREEMENT will be reviewed by the City of Austin Law Department to insure compliance with this AGREEMENT and to determine whether the release of such information may be prohibited by any other law.

c) Unauthorized Release of Confidential Documents/Information:

(1) Except as permitted by this AGREEMENT, employees of the OPM and members of the Panel shall not publicly comment on the specifics of pending complaints and investigations prior to a Panel decision. All public comments and communications by the OPM shall be factual and demonstrate impartiality to individual police officers, the Austin Police Department, the Austin Police Association, employees of the City of Austin, residents of the City of Austin, and community groups.

(2) Should a person participating on a Panel make public statements which, to a reasonable observer, would be perceived to express or demonstrate a position, bias, or prejudgment on the merits of a particular case that is under investigation or subject to review, prior to the completion of the citizen panel process for that case, such person will not be allowed to participate in the review, deliberation, or drafting of recommendations concerning that case. This provision does not prohibit the Panel or an individual Panel member from making generic, non-case related public statements about the Austin Police Department, or from providing information about the process, which does not appear to prejudge the merits, or demonstrate a bias on the case. In the event of a deliberate violation of this standard, the Panel member shall be permanently removed from the Panel as set forth below.

(3) No public comment or communication (including but not limited to oral or written statements, reports, newsletters, or other materials made, released, published or distributed) by the OPM or Panel members will make reference to or identify an Officer by name, unless such release is then permitted by law, or the Officer's name has become public as a matter of fact by lawful or authorized means, or by the Officer's own release. Public comments or communications by the OPM and the Panel shall conform to state and federal law and this AGREEMENT regarding confidentiality, and shall not contain information that is confidential or privileged under this AGREEMENT or state, federal or common law.

(4) All OPM written publications shall be provided to the APD and the APA simultaneously with distribution to the public.

(5) Any deliberate release of information that is made confidential by law or by this AGREEMENT shall result in the permanent removal of the offending member from the Panel. Any deliberate premature release of information before it may properly be released likewise will result in the permanent removal of the offending member from Panel.

Section 7. Dispute Resolution

a) Complaints concerning the conduct of OPM employees shall be filed with the Police Monitor, or if the complaint concerns the personal conduct of the Police Monitor, shall be filed with the City Manager. If not resolved at the first level, a fact finder shall be appointed to review relevant materials and take evidence to reach written findings of fact, which shall be expedited for final resolution within two weeks after appointment. The fact finder shall be appointed by striking an AAA list, if the parties do not otherwise agree on a fact finder. Upon conclusion of the fact finding, and after review and evaluation of the fact finder's report, the Police Monitor (or City Manager if the complaint concerns the personal conduct of the Police Monitor) shall make a decision. The final decision shall be made by the City Manager.

b) Complaints concerning the conduct of Panel members shall be filed with the City Manager. If a signed complaint is filed alleging specific comments by a Panel member that violate the standards in subparagraph (c) above, the Panel's consideration shall be postponed or the particular Panel member shall not participate, until the matter is finally resolved. A complaint may not be based on statements or conduct previously raised and found insufficient for disqualification. Only one of such Panel members may be temporarily disqualified under this provision on a particular case. The City Manager shall promptly determine the complaint. The ASSOCIATION may appeal from the decision of the City Manager through the expedited arbitration process in this AGREEMENT. If two (2) consecutive complaints are found insufficient on a particular Panel member, subsequent complaints on that Panel member shall not result in temporary removal, but upon final determination that there has been a violation, such member shall be subject to permanent removal. Nothing shall prevent the Chief from taking disciplinary action within the statutory time frame, under the provisions of Chapter 143, as modified by this AGREEMENT.

Section 8. Access to Section 143.089(g) Files

a) Information concerning the administrative review of complaints against Officers, including but not limited to Internal Affairs Division files and all contents thereof, are intended solely for the Department's use pursuant to Section 143.089(g) of the Texas Local Government Code (the 143.089(g) file). All records of the Police Monitor's Office that relate to individual case investigations and the APD 143.089(g) file, although same are not APD files or records, shall have the same statutory character in the hands of the Police Monitor, and shall not be disclosed by any person, unless otherwise authorized by law or this AGREEMENT. Public access to such information is strictly governed by this AGREEMENT and Texas law. To the extent necessary to perform their duties, individuals involved in the Citizen Oversight process are granted a right of access to the information contained within the 143.089(g) files of Officers to the extent authorized by this AGREEMENT.

b) Individuals involved in the Citizen Oversight process shall not be provided with information contained within a personnel file, including the 143.089(g) file of an Officer, that is

made confidential by a law other than Chapter 143 of the Texas Local Government Code, such as records concerning juveniles, sexual assault victims, and individuals who have tested positive for HIV. All persons who have access to IAD files or investigative information by virtue of this AGREEMENT shall not be provided with access to any records of criminal investigations by the APD unless those materials are a part of the IAD administrative investigation file.

c) All individuals who have access by virtue of this AGREEMENT to IAD files or investigative information, including the information contained within the 143.089(g) files of Officers, shall be bound to the same extent as the Austin Police Department and the City of Austin to comply with the confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act. All such individuals shall further be bound to the same extent as the Austin Police Department and the City of Austin to respect the rights of individual Police Officers under the Texas Constitution and the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, including not revealing information contained in a compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*, 6 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).

d) A breach of the confidentiality provisions of this AGREEMENT and/or Chapter 143 of the Texas Local Government Code by any individual involved in Citizen Oversight:

(1) Shall be a basis for removal from office;

(2) May subject the individual to criminal prosecution for offenses including, but not limited to Abuse of Official Capacity, Official Oppression, Misuse of Official Information, or the Texas Public Information Act; and/or

(3) May subject the individual to civil liability under applicable State and Federal law.

e) The confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act, are continuous in nature. All individuals involved in Citizen Oversight are subject to these confidentiality provisions even after their association with the Oversight process has terminated.

f) Following any review of an alleged violation of the confidentiality provisions of this AGREEMENT, the City Manager's office will provide information about the outcome of that review to any Officer(s) directly affected by the alleged violation.

Section 9. Use of Evidence from the Citizen Oversight Process in Disciplinary Appeal

Opinions or recommendations from individuals involved in Citizen Oversight in a particular case may not be used by a party in connection with an appeal of any disciplinary action under the provisions of Chapter 143 of the Texas Local Government Code and this AGREEMENT. No party to an arbitration or Civil Service proceeding may use or subpoena any member of the Citizen Review Panel or the Police Monitor (unless the Police Monitor took the complaint in the relevant case) as a witness at an arbitration or Civil Service proceeding including, but not limited to live or deposition testimony, which concerns their duties or responsibilities in the oversight process or their opinions or recommendations in a particular case. This provision shall not prevent any testimony for evidentiary predicate.

Section 10. Partial Invalidation and Severance

In the event that a Court Order, Judgment, Texas Attorney General Opinion, or arbitration decision, which is final and non-appealable, or which is otherwise allowed to take effect, which order, judgment, opinion, or decision holds that the right of access to the information contained within the 143.089(g) files of Officers granted by this Article or the public dissemination of information pursuant to this Article, results in “public information” status under the Texas Public Information Act of the information contained within the 143.089(g) files of an Officer, the provision or provisions resulting in such a change in the status of the 143.089(g) file shall be invalidated and severed from the balance of this AGREEMENT.

Section 11. Remedies

a) Benefit of the Bargain

The CITY expressly retains its right and ability to proceed with the determination of whether or not police misconduct occurred and the authority of the Chief to impose disciplinary action. The ASSOCIATION recognizes the fact that such reservations are essential to this AGREEMENT. No dispute concerning the operation and function of the Police Monitor’s Office or the Panel shall impair or delay the process of the Chief’s investigation and determination of whether or not police misconduct occurred and the degree of discipline, if any, to impose. This includes internal dispute resolution procedures in this AGREEMENT, any grievance process or arbitration, and any litigation over such issues. In other words, any such dispute resolution processes may proceed, as set forth in this contract or by law, but the disciplinary process may likewise and simultaneously proceed to its conclusion without delay. The statutory time period for the Chief of Police to take disciplinary action against an Officer shall be tolled to the extent of any period in which a court order, injunction, or TRO, obtained by the Officer involved or the ASSOCIATION on behalf of the Officer, halts the Department’s investigative or disciplinary process. In no event will the actual time exceed 180 calendar days. The parties agree that the processes in this AGREEMENT, together with the remedies set forth and the procedural protections and rights extended to Officers in this AGREEMENT are adequate remedies at law for all disputes arising under this Article.

b) Expedited Arbitration

The parties have agreed to expedited arbitration for all unresolved grievances related to the application or interpretation of this Article in order to achieve immediate resolution and to avoid the need for court intervention in equity. Such arbitrations shall be conducted pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association (“AAA”), and in effect at the time of the dispute. To be appointed, the arbitrator must be available to hear the arbitration within thirty (30) calendar days of selection and a decision shall be made within one (1) week of the hearing. The parties agree to create a list of pre-approved arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list, the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues and testimony by written submission or phone conference, but may also require live testimony where appropriate.



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The Police Monitor's Office is the main location for accepting complaints filed by members of the public against police officers. To file a complaint with the Office of the Police Monitor, the public can contact our office by telephone, facsimile, mail, email, or in person. The Police Monitor or a member of the Police's Monitor's office will conduct an initial interview with the complainant and will explain the oversight and investigative processes. The Internal Affairs Division of the Austin Police Department or the subject officer's chain of command will conduct an investigation. The Office of the Police Monitor will participate in the APD investigation. The Office of Police Monitor will make policy recommendations to APD. Upon conclusion of the investigation, the complainant will be notified in writing of the outcome.