

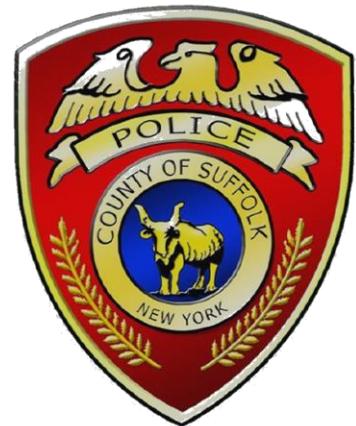


**SUFFOLK COUNTY  
POLICE  
DEPARTMENT**

**2016**

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Annual Report on Biased Policing  
Complaints



INTERNAL AFFAIRS BUREAU

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## The Internal Affairs Bureau

The Suffolk County Police Department is committed to maintaining the highest level of professional responsibility among all its officers and civilian personnel. It strives to maintain the trust and confidence of all the diverse communities which it serves, and to that end investigates all complaints of employee misconduct. The Internal Affairs Bureau is responsible for overseeing these investigations in a timely, thorough and impartial manner, pursuant to exacting policies and procedures.<sup>1</sup>

The Internal Affairs Bureau reports directly to the First Deputy Police Commissioner. It is commanded by a Deputy Chief, an Inspector is the Executive Officer, and three Captains each head a team of 5-6 investigators. All investigators are experienced police supervisors, holding the rank of Sergeant or above. Four senior professional support staff bring total unit staffing to 24-27.

## Complaint Procedures

All complaints lodged with the Department make their way to the Internal Affairs Bureau [IAB] within 48-72 hours. Most are received by IAB the same day in which they are lodged. This is made possible by a software platform, accessible to all Department supervisors, which routes complaint information into a centralized database maintained in IAB. That platform also flags high priority complaints, such as excessive force and Biased Policing, and sends email alerts to the IAB command staff. Complaints lodged by means other than telephone or direct contact are routed immediately to IAB through the Department's inter-office mail system, or email server. Once received by IAB, these complaints are entered into the database by members of the IAB command or support staff. Finally, any civil lawsuit filed against the Department alleging misconduct is routed to IAB, entered into the database and assigned for investigation.

All complaints are accepted regardless of the complainant's personal involvement in the incident. Family members, witnesses, advocates, attorneys, members of the Department and even anonymous sources may lodge complaints. All employees of the Department have a responsibility to accept complaints and immediately refer them to a supervisor holding the rank of Sergeant or higher. That supervisor in turn has the responsibility of entering the complaint into the software platform described above. Should a complainant require, language assistance services are made available regardless of the means chosen to lodge the complaint, i.e., telephonic or face-to-face interpretation, email or document translation, etc.<sup>2</sup>

Once an investigation is opened, it is assigned to an investigator and contact with the complainant is made within 72 hours. All information obtained from complainants is kept in strict confidence. Contact with the complainant on regular intervals throughout the investigation is mandated by command procedure, as is notification of the final disposition of the complaint. All cases must be disposed of in one of four ways. Those in which the investigation uncovers sufficient evidence to establish that the act occurred and that it constituted misconduct are "Substantiated". Cases in which the investigation discloses that the act complained of constitutes misconduct, but insufficient evidence is discovered to establish that it occurred are "Unsubstantiated". When the investigation discloses that the alleged act occurred, but did not constitute misconduct, the case is "Exonerated". Finally, cases in which the investigation discloses sufficient evidence

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<sup>1</sup> Rules and Procedures Chapter 5, §2 (D.G.O15-56, 12/04/2015)

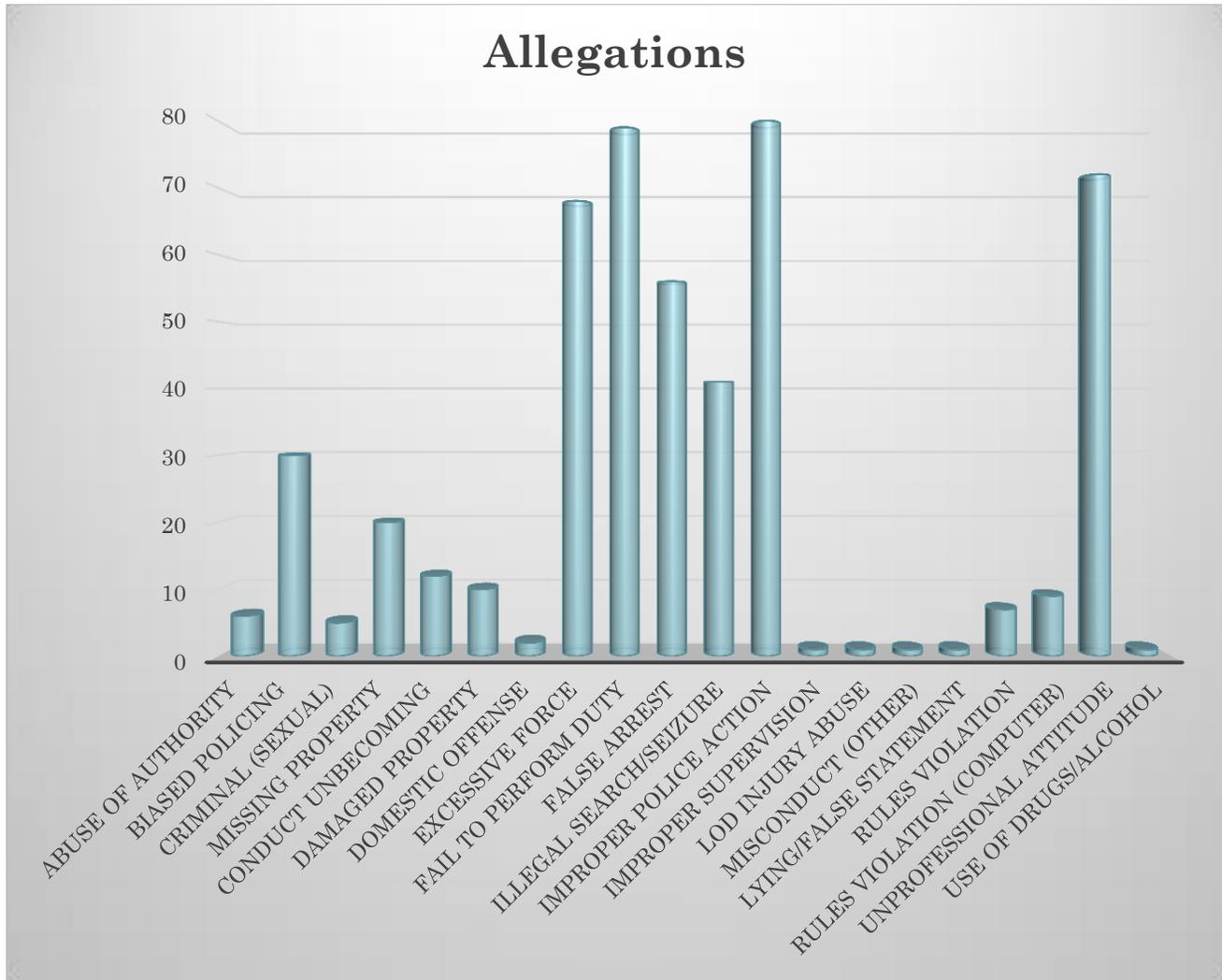
<sup>2</sup> Rules and Procedures Chapter 26, §5 (D.G.O16-59, 05/13/2016)

to establish that the alleged acts did not occur are “Unfounded”. Once an investigation is complete it is reviewed by the First Deputy Police Commissioner, and all substantiated findings of misconduct are referred for disciplinary action according to Civil Service Law and the applicable collective bargaining agreement.

## 2016 Complaints

The Department received 251 complaints in 2016, containing an aggregate of 502 separate allegations of misconduct.

**Chart 2016-1**

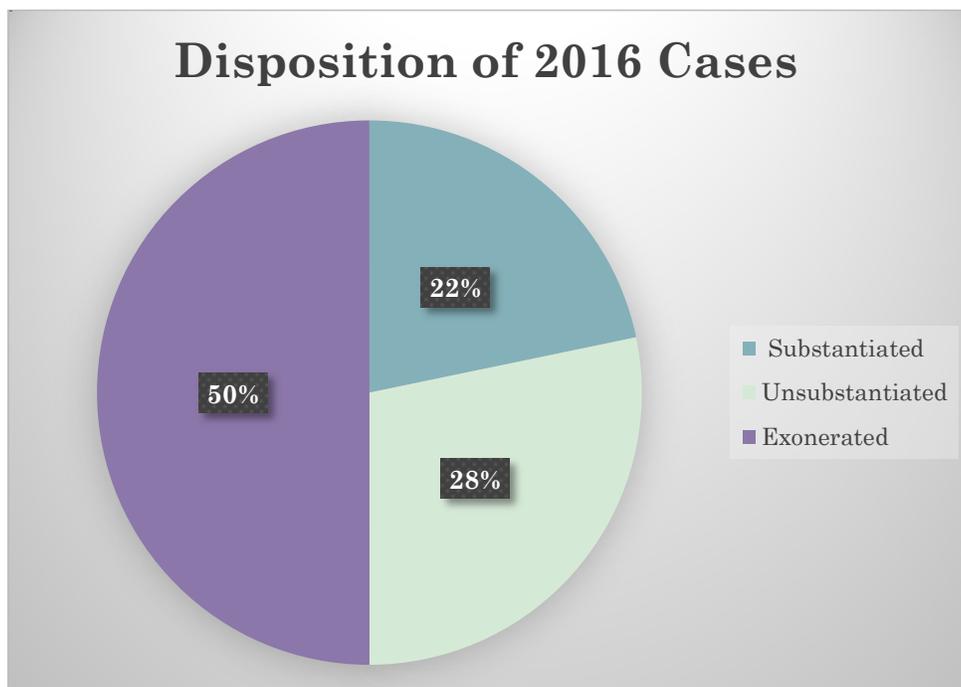


According to policy, the Internal Affairs Bureau retained 134 complaints for investigation, and delegated 117 to subordinate commands.<sup>3</sup> Of the 134 complaints investigated by Internal Affairs, 46 were completed

<sup>3</sup> Rules and Procedures Chapter 5, §2 VI(C) (D.G.O. 15-56, 12/04/2015)

within the 2016 calendar year.<sup>4</sup> The disposition of these cases is displayed in Chart 2016-2. The average time for case completion was 176 days, with a low of 56 and a high of 293.

Chart 2016-2



## Biased Policing

The Department prohibits all of its members from engaging in Biased Policing, which is defined as:

the selective enforcement or non-enforcement of the law, including the selecting or rejecting of particular policing tactics or strategies, based upon an individual's race, ethnicity, national origin, age, gender, religion, sexual orientation, or gender identity. *[disability and Limited English Proficiency added 2017]* Biased-based policing does **not** mean using any trustworthy information, relevant to the locality and timeframe, to identify a person of a particular race, ethnicity, national origin, age, gender, religion, sexual orientation, or gender identity *[disability and Limited English Proficiency added 2017]* in a reliable and recent suspect-specific description.<sup>5</sup>

Prior to April of 2014, conduct which violated this prohibition was categorized under several allegations, such as "civil rights violation", and "discrimination". Beginning in April of 2014, all conduct described in

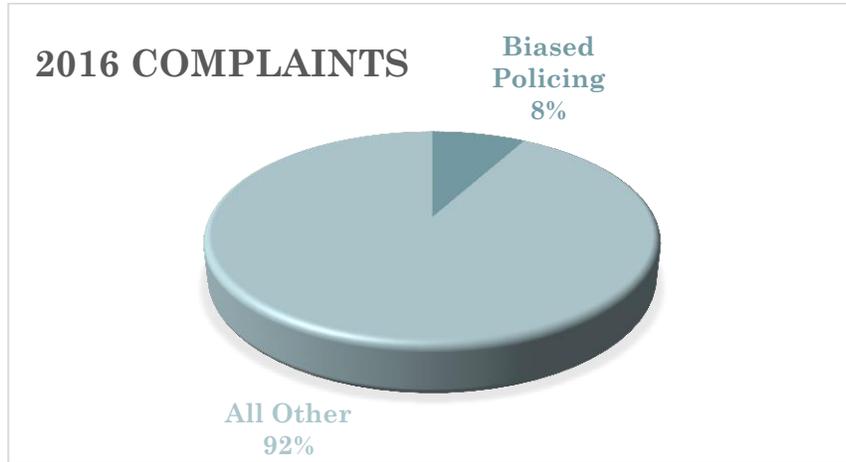
<sup>4</sup> More than 200 additional IAB investigations, opened prior to 2016, were also closed in the 2016.

<sup>5</sup> Rules and Procedures Chapter 1, §11 (D.G.O15-52, 11/02/2015)

the above prohibition has been classified as “Biased Policing” in order to provide consistency in administering discipline and to facilitate proper tracking and analysis.

The Department analyzes all Biased Policing complaints by reviewing the facts of each complaint, the demographics of the complainants and the involved officers and the geographic location of the underlying incident. Identifying details have been removed in this report to comply with applicable privacy laws.

**Chart 2016-3**



## Case Review

Twenty-two new Biased Policing complaints were received by the Department in 2016, 11 of which were closed within the year.<sup>6</sup> An additional 13 Bias Policing complaints from previous years were also closed in calendar 2016.<sup>7</sup>

### Case #1

An African-American male alleged that he was stopped and asked for his identification while in the company of a Caucasian male. Complainant believes that he was stopped because of his race and the fact that he was with a white companion. The complainant also alleged that the officer used vulgarity during the stop.

Involved Officer(s)	Caucasian males
Command	1 <sup>st</sup> Precinct
Allegations:	Biased policing, unprofessional language

<sup>6</sup> Of the 11 cases lodged and closed in 2016, 2 were Unsubstantiated and 9 were Unfounded or Exonerated.

<sup>7</sup> All 24 closed cases were forwarded to the U.S. Justice Department. (Settlement Agreement III(b)(iii))

Case #2

A Caucasian male alleged, via email, that he was arrested for Petit Larceny in a retail store because the responding officer did not listen to his side of the story. The complainant believes that this was due to his heavy accent.

Involved Officer(s)      Caucasian female  
Command                    2<sup>nd</sup> Precinct  
Allegations:                Biased policing, improper police action, false arrest

Case #3

This complaint was made via telephone directly to the Highway Patrol Bureau. The complainant, a Caucasian male, alleged that an officer had stopped him for speeding. The complainant alleged that while speaking to him, the officer stated, "it must be nice to be white and have money".

Involved Officer(s)      African-American male  
Command                    Highway Patrol Bureau  
Allegations:                Biased policing, unprofessional language

Case #4

This complaint was received from the Human Rights Commission. The complainant, an African-American female, stated that she was arrested for harassment following a neighbor dispute. She alleges that she was falsely accused of harassment and stalking and treated in a discriminatory manner by the officer because of her race.

Involved Officer(s)      Caucasian males  
Command                    7<sup>th</sup> Precinct  
Allegations:                Biased policing, false arrest

Case #5

The complainant, an African-American male, sent a letter to the Department in which he alleged that he was arrested because he is Black. The complainant alleged that he had a dispute with a white male and when police were called to the scene they refused to listen to the complainant's side of the story.

Involved Officer(s)      Caucasian males  
Command                    1<sup>st</sup> Precinct  
Allegations:                Biased policing, false arrest

Case #6

This complaint was lodged by the complainant's attorney. The attorney alleged that officers were not properly investigating her client's criminal complaint because they held an anti-gay bias and may have had a pre-existing relationship with the alleged perpetrators.

Involved Officer(s) unspecified  
Command 4<sup>th</sup> Precinct  
Allegations: Biased policing, failure to perform duty, unprofessional language

Case #7.

This complaint was received via telephone directly to IAB. The complainant, an African-American male, alleged that he was stopped while driving because he is Black. The complainant was arrested for D.W.I. and admitted that he tested over the legal limit. He alleged no other misconduct.

Involved Officer(s) Caucasian male  
Command 6<sup>th</sup> Precinct  
Allegations: Biased policing

Case #8.

An African-American male alleged that while he was being arrested for robbery he was sexually assaulted and called the "n" word. This complaint was lodged in person during his arrest.

Involved Officer(s) Caucasian male  
Command 7<sup>th</sup> Precinct  
Allegations: Biased policing, criminal sexual, unprofessional language/attitude

Case #9.

This complaint was received via telephone to IAB. The complainant, an African-American male, alleged that he was pulled over twice in one month by the same officer. The complainant alleged he was pulled over for no reason other than he was being profiled for being black. He also alleged that the officer "talked down to him" and thinks he is "God" and can treat people poorly.

Involved Officer(s) Caucasian male  
Command Highway Patrol Bureau  
Allegations: Biased policing, unprofessional language

Case #10.

This complaint was received via telephone to 911. The complainant, a Latino male alleged that he was pulled over by an officer who falsely accused him of using his cell phone while driving, and who told him to remove the hood he was wearing because, "you all look alike". Complainant stated he feels racial profiling was used to pull him over and he was discriminated against for being Hispanic.

Involved Officer(s) Caucasian male  
Command Highway Patrol Bureau  
Allegations: Biased policing, unprofessional language

Case #11

This complaint was received via telephone to IAB. The complainant, a Latino male alleges he was stopped by plainclothes officers in an unmarked car. He alleges officers searched the truck he was driving after handcuffing him. He alleges one officer stated to him, upon looking at his tattoos, "You MS, Chico?" The complainant states that after the officers searched his truck and checked his sobriety, they un-cuffed him and released him. Complainant believes he was profiled because he is Latino.

Involved Officer(s)      Caucasian male  
Command                    2<sup>nd</sup> Precinct  
Allegations:                Biased policing, unprofessional language, improper police action, illegal search

Case #12

This complaint was received via telephone to IAB. The complainant, an African-American female, alleges she was racially profiled by a white male Highway Patrol Officer in the Second Precinct area. She alleges being followed for a while by the officer, being pulled over and being issued 4 tickets.

Involved Officer(s)      Caucasian male  
Command                    Highway Patrol Bureau  
Allegations:                Biased policing

Case #13

This case was self-initiated after a member of a local Latino community was quoted in a news source as being targeted by police because of his ethnicity.

Involved Officer(s)      unknown  
Command                    unknown  
Allegation:                Biased policing

Case #14

This case was a referral from the Human Rights Commission. The complainant alleged that police response to his calls for assistance were delayed and his request for a complaint number was ignored because he is disabled.

Involved Officer(s)      unknown  
Command                    4<sup>th</sup> Precinct  
Allegation:                Biased policing, failure to perform duty

Case #15

This case was opened in response to a Summons and Complaint served on the Department by an African-American male who was denied employment.

Involved Officer(s) Unknown  
Command Department  
Allegation: Biased policing

#### Case #16

This complaint was received via telephone to IAB from an African-American female who alleges that she was pulled over because of her race.

Involved Officer(s) Caucasian male  
Command 7<sup>th</sup> Precinct  
Allegation: Biased policing, unprofessional language/attitude

#### Case #17

This complaint was received as a referral from the Human Rights Commission and alleged that an African-American male who was applying for the job of police officer was denied due to his race. (Unrelated to Case #15)

Involved Officer(s) unknown  
Command Department  
Allegation: Biased policing

#### Case #18

This complaint was received as a referral from the Human Rights Commission and alleged that the complainant was treated unfairly by officers during a landlord tenant dispute because the complainant is Muslim.

Involved Officer(s) Caucasian males  
Command 6<sup>th</sup> Precinct  
Allegation: Biased policing

#### Case #19

This case was opened in response to a Notice of Claim served by an African-American male alleging that he was subjected to racial epithets and excessive force while being transported for a psychological evaluation.

Involved Officer(s) Caucasian males  
Command 7<sup>th</sup> Precinct  
Allegation: Biased policing, excessive force, improper police action

Case #20

The complainant in this case is a Latina who alleges that an officer responding to her car accident did not take her side of the story and did not render assistance to her and her children because of her ethnicity. Complainant also alleges that she was not offered an interpreter.

Involved Officer(s)      Caucasian male  
Command                    5<sup>th</sup> Precinct  
Allegation:                Biased policing, improper police action

Case #21

This case was opened in response to a televised news story which showed an officer forcibly removing an African-American female from a crashed vehicle.

Involved Officer(s)      Caucasian male  
Command                    1<sup>st</sup> Precinct  
Allegation:                Biased policing, excessive force, illegal search, false arrest, property damage, unprofessional language/attitude.

Case #22

This case was opened after the Department was served with a Notice of Claim alleging that the Department discriminated against a female-owned collision company in assigning tow services.

Involved Officer(s)      unknown  
Command                    Department  
Allegation:                Biased policing, improper police action

## Analysis

Most of the 2016 Biased Policing cases involved additional allegations of misconduct. Unprofessional Language/Attitude was the most common secondary allegation, while Improper Police Action and Failure to Perform Duty were the next most prevalent.

**Chart 2016-4**



Of the cases that did not contain additional allegations, three arose from scenarios unrelated to enforcement operations: Case number 22 dealt with municipal contracting, while numbers 17 and 15 both involved allegations of employment discrimination.

African-American was again the most prevalent complainant demographic in 2016, as it has been since reporting began. Prevalence is consistent with, but more marked than, statistics from 2014 and 2015. The number of Latino complainants dropped slightly from 2015, and three demographic categories also made their first appearance in 2016; religion, disability, and LEP.<sup>8</sup>

<sup>8</sup> Since reporting began under the new classification system.

Chart 2016-5

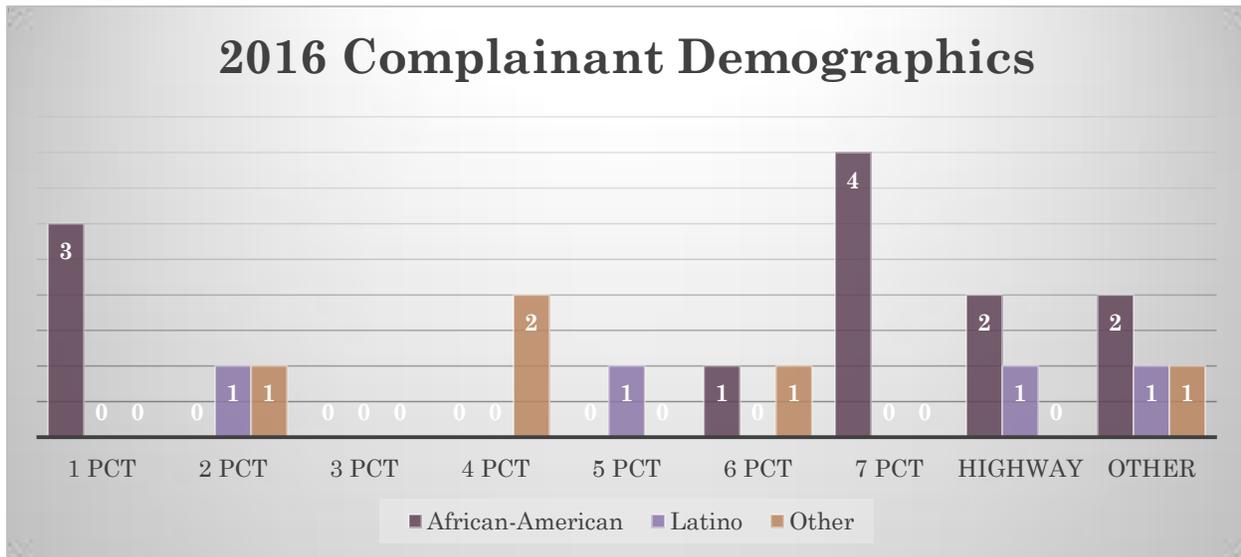


Chart 2016-6

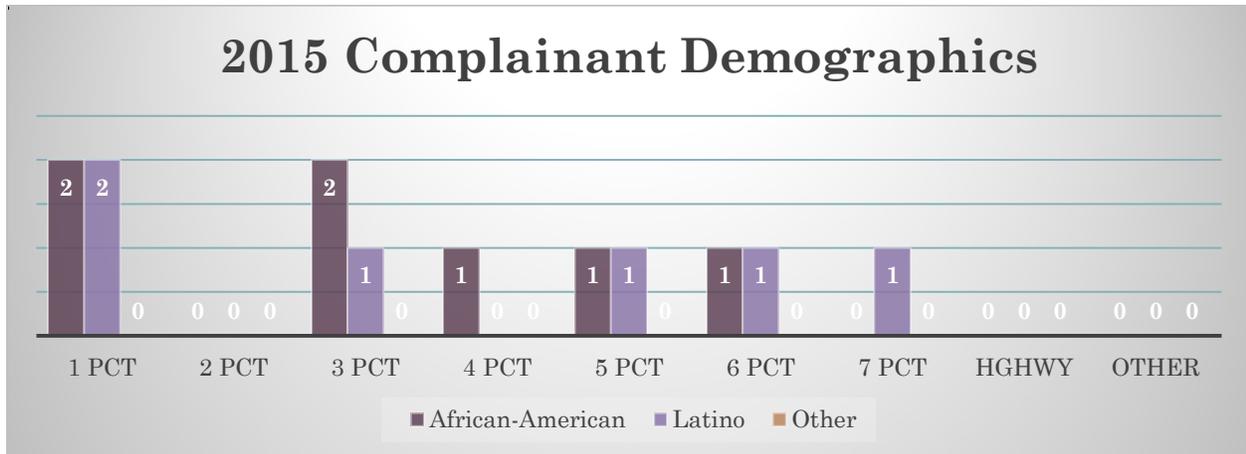
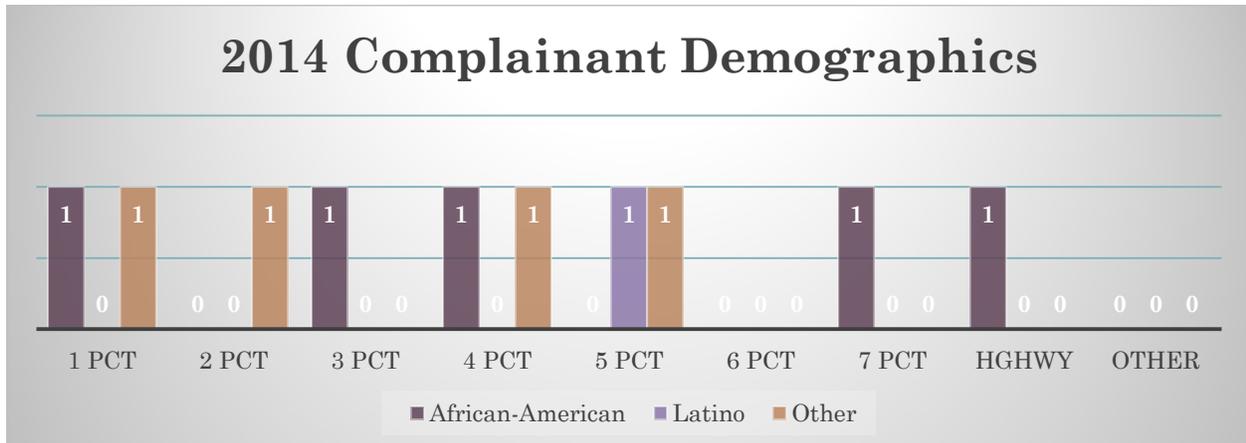
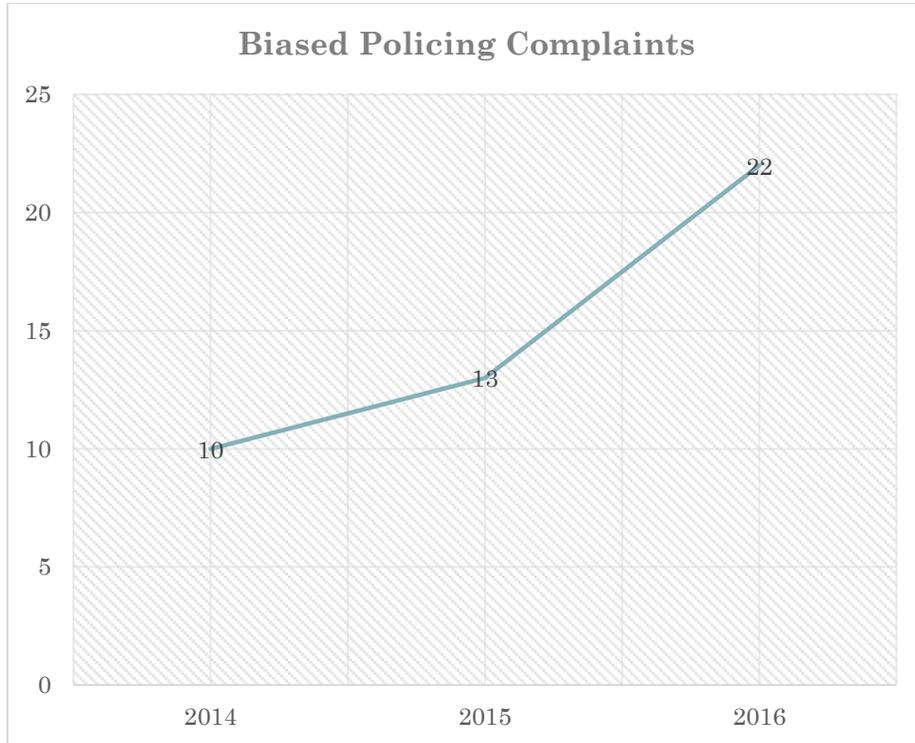


Chart 2016-7



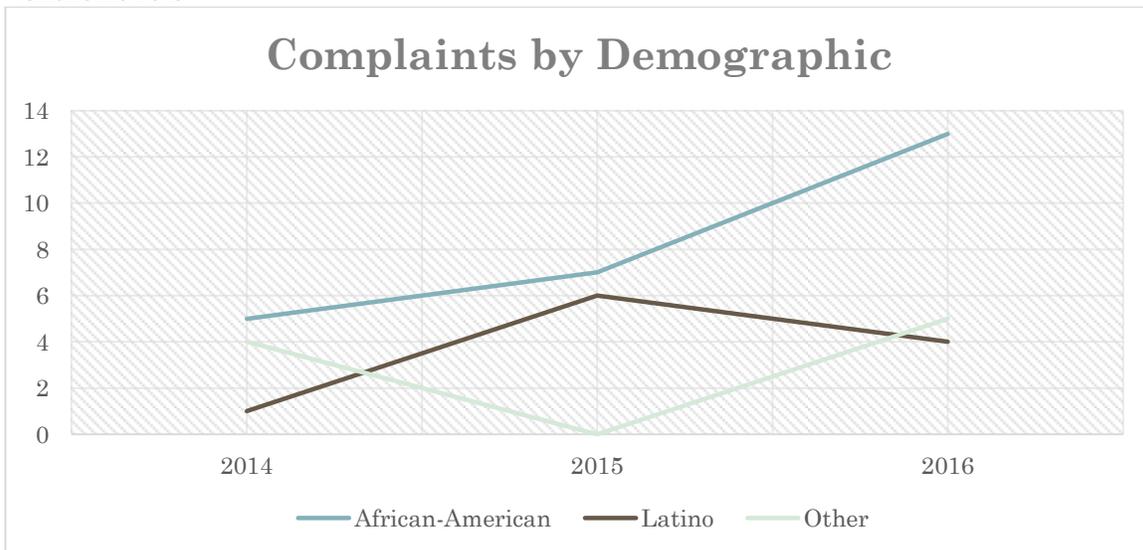
Overall, Biased Policing complaints rose significantly from 2015 to 2016, and have been trending upwards since reporting began in April of 2014.

**Chart 2016-8**



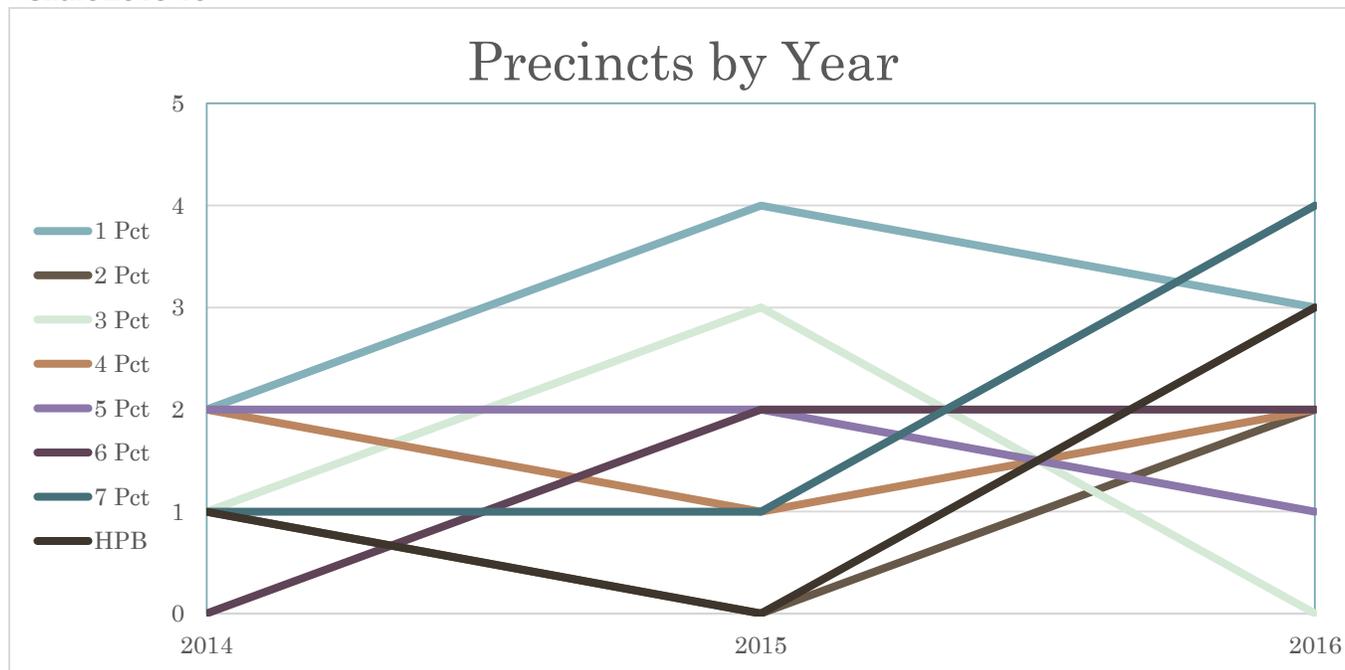
As noted above, African-American complainants continue to be the highest represented demographic

**Chart 2016-9**



Finally, complaints by Precinct of occurrence vary significantly from year to year.

**Chart 2016-10**



## Audit

Every six months the Police Commissioner, or his/her designee, reviews twenty percent of the completed Biased Policing cases. The complainants in each of the cases selected for audit are contacted, and their satisfaction with the way the investigation was handled is recorded.<sup>9</sup> Eleven biased policing cases were completed between July 1, 2016 and January 1, 2017, two of which were audited.<sup>10</sup>

The first subject of the audit had lodged the complaint addressed above in Case #2. He spoke with a moderate Eastern-European accent and stated that he did not require any language assistance. He stated that he had been wrongfully arrested and that no investigation had been done into his complaint. When asked how he lodged his complaint, the complainant stated that he had emailed the Police Commissioner. He was not sure how long it was before he spoke to an investigator, but estimated that it was “not long” after his email. He stated that he subsequently walked in to Headquarters seeking an appointment with the Commissioner, but was instead interviewed by two other IAB investigators. Finally, he stated that he received a letter of disposition from IAB in January of 2017.

When asked how he felt his investigation was handled, the complainant stated, “On a scale of 1 to 10, a 1.” He further elaborated that he felt that no investigation was done and that the whole Department was very

<sup>9</sup> Settlement Agreement VI(b)(vi).

<sup>10</sup> Overall, 5 complainants were contacted, two responded.

disorganized. He took exception to not being able to meet with the Commissioner, “or at least his secretary”, and stated that he was never interviewed face-to-face. He stated that he was not given the opportunity to submit evidence and when asked if he had any presently he stated “yes, but I’m not going to tell you.” The complainant ended the interview by stating that he was going to the media with his complaint and dissatisfaction.

A review of the investigative file for this case revealed that the complainant was interviewed on two occasions, one of which was recorded, and the assigned investigator also took 6 written witness statements and reviewed security camera footage of the entire incident. In addition to being interviewed twice, the complainant sent 2 emails to IAB detailing his version of events.

The second subject of the audit had lodged the complaint addressed above in Case #3. He stated that he had lodged his complaint via telephone after looking up the Department contact information on the internet. He stated that he was transferred to an IAB investigator when he called and then another investigator also called him sometime later to discuss his complaint. He stated that he had no evidence to submit and that he and the involved officer were the only witnesses to the interaction giving rise to his complaint. The complainant stated that he was very satisfied with the way in which the investigator handled the complaint and used the words, “thorough”, “courteous” and “excellent”. Complainant stated that he had not received a letter informing him of the disposition of his case, but that he was informed by the investigator that the subject officer was no longer employed by the Department.

A review of the investigative file for this case revealed that the involved officer retired 11 days after the complaint was filed. Even though disciplinary jurisdiction had expired, the assigned investigator still conducted an investigation with the information made available to him by the complainant and the retired officer’s record of employment.

## Conclusions

As addressed in prior reports, several initiatives were implemented over the past year to eliminate the backlog of open IAB cases. Primarily, increased staffing of the investigative ranks has resulted in a significant reduction in the time it takes to close cases. Tracking of case closure began in 2016 as detailed above, and will continue going forward. The Department anticipates that the average closure time will continue to decrease as the backlog is eliminated, recognizing that certain factors will persist in delaying the closure of some cases, such as pending criminal or civil litigation, and to a lesser extent, the availability of involved officers.

Review of prevalent allegations suggests that refinement may be appropriate in certain areas. Failure to Perform Duty and Improper Police Action are the two most prominent allegations for the year, and tie for the second most prominent among the secondary allegations in Biased Policing cases. While the facts which constitute Failure to Perform Duty are readily recognizable, those that constitute Improper Police Action are considerably more vague, and prone to overlapping with the other enumerated allegations. For example, Cases #7 and #12 above appear to contain nearly identical fact patterns, yet one alleges only Biased Policing,

while the other includes an allegation of Improper Police Action.<sup>11</sup> Understanding that single acts of misconduct often give rise to duplicative allegations, the continued viability of Improper Police Action will be assessed over the next reporting period.

Two of the 2016 cases highlighted a need to expand the Department's definition of "Biased Policing". Case #14 involved the allegation that officers ignored the requests of a complainant based upon his physical disability, a demographic not contained in the definition. While amending the relevant section of the Rules and Procedures, the word "physical" was excluded to expand the demographic to include all disabilities. Case #2 presented similar cause for amendment to the definition based upon a complainant's apparent limited ability to speak English. The complainant in Case #2 actually did not allege discrimination based on a limited ability to speak English, but rather on the fact that his accent identified him as a "foreigner", essentially falling into the "national origin" demographic. His initial allegation, however, alerted the Department to the fact that LEP was not included within the definition, and amendments were effected.

Regarding the enumerated demographics in the definition of Biased Policing, age became the focus of slight concern during the last reporting period. Some qualifying language appears necessary to provide an exception for enforcement efforts against underage driving and consumption of alcohol, which rely on officers' perception of a subject's age. The Department will seek to provide an amendment narrowly tailored to address these scenarios.

The cases themselves reveal a prevalence of Caucasian officers which is consistent with the overall demographics of the Department. African-Americans again make up the largest single demographic group of complainants. Distribution of complaints across geographic Precincts remains erratic, with the exception of the First Precinct where at least one complaint has been lodged by an African-American in each of the three years analyzed. Numbers of Latino complainants remain below that of African-Americans, and experienced a moderate decrease in 2016. The "other" category contains mixed demographics from year-to-year with no consistent patterns emerging. The most notable spike is that of African-American complaints lodged in the Seventh Precinct during 2016, marking an increase over the prior year. This increase cannot be tied to any particular event, individual officer(s), or geographic area within the Precinct.

Overall, although there is a demonstrable increase in Biased Policing complaints year-to-year, no underlying cause is apparent from the data. Recent initiatives to increase public awareness of the ability to lodge complaints may be a factor, as might the effect of events playing out on the national stage. As the Department continues to build this data set, it will continue to look for patterns and trends of analytic value.

Finally, the results of the audit reveal two vastly different perceptions of the efficacy of the accountability measures currently in place. Such divergence is not particularly useful in gauging overall success, but some issues have recurred in the several audits since 2014. Complainants frequently voice displeasure in the degree of detail contained in the disposition letter. While privacy statutes prevent disclosure of certain personnel records, the Department is researching ways to increase awareness among complainants while simultaneously complying with the law. Another recurring issue has been the time between lodging a complaint and having the initial interview with an investigator. This issue was directly addressed early in 2016, and concrete timeframes have been incorporated into policy. Although this issue arose in one of the

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<sup>11</sup> During their interviews, neither complainant claimed to be innocent of the offenses charged, but both alleged that illegal profiling was the basis of their stop.

2016 cases audited, review of the investigation revealed that the perceptions of the complainant were not based on documented facts.

