



CITY OF TUCSON

INDEPENDENT POLICE AUDITOR

IPA 2015 Annual Report

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By

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Independent Police Auditor

City of Tucson

Mayor and Council and City Manager



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Jonathan Rothschild



City Manager
Michael Ortega



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Regina Romero



Ward Two
Paul Cunningham



Ward Three
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Ward Five
Richard Fimbres



Ward Six
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Office of the Independent Police Auditor

Introduction

On March 17, 1997, the Mayor and Council established the position of the Independent Police Auditor (IPA). Mrs. Liana Perez was appointed to the position and remained until June 2014 when she retired. Previously, the IPA was attached to the City of Tucson Equal Opportunity Programs Division (EOPD). Mrs. Tristy Terwilliger was appointed in August 2014 and the position was separated from EOPD to focus solely on the IPA mission. The IPA was created for the purpose of auditing Internal Affairs investigations of citizen complaints alleging misconduct and/or improper service by the Tucson Police Department (TPD) and its employees. The goal of this type of civilian oversight is to instill confidence and transparency in the complaint process.

The Auditor independently reviews investigations conducted by the TPD Office of Internal Affairs (OIA) for the purpose of determining if the investigation was complete, thorough, objective and fair. The Auditor may review all reports, statements, videos, and evidence contained in the investigative file. A complaint may be returned for further investigation should the Auditor determine that the investigation is not complete. The Auditor does not have the authority to conduct a separate investigation or to make determinations regarding disciplinary action. The IPA is appointed by and reports directly to the City Manager.

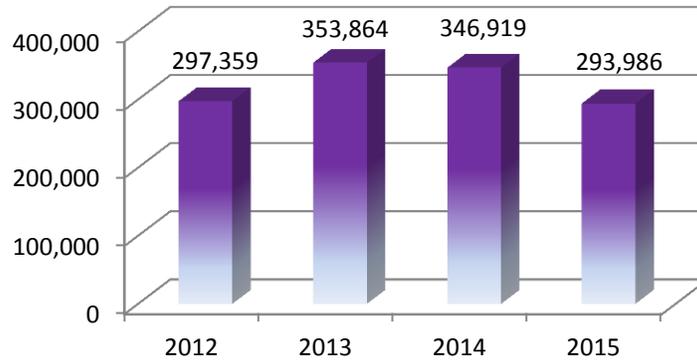
Responsibilities of the Independent Police Auditor

The responsibilities of the Office of the Independent Police Auditor are: (1) to serve as an alternative forum where citizens may file complaints; (2) to review all completed investigations of citizen complaints by TPD OIA; (3) to monitor on-going investigations as deemed necessary; (4) to be an independent civilian oversight of major incidents such as officer involved shootings and deaths in custody; and (5) to conduct outreach and public awareness of the checks and balances that exist within the civilian oversight of TPD.

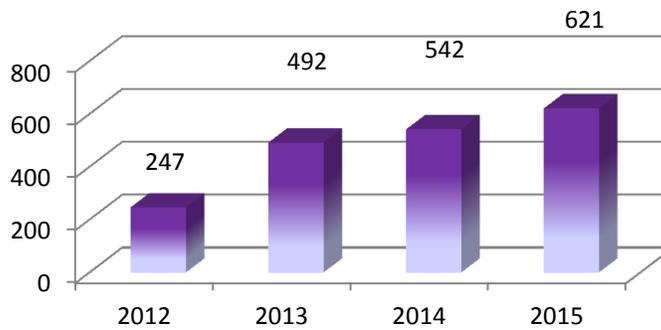
Complaints and Allegations

It is important to first understand the difference between a “complaint” and an “allegation”. A complaint is the general term used to describe the dissatisfaction with an event or encounter with the Tucson Police Department. There can be several allegations per complaint and/or per officer. For instance, in a routine traffic stop with two officers you could have an allegation of poor standard of conduct, operational action, and customer service. This single complaint would result in three allegations per officer, for a total of six allegations. This report separates complaints and allegations to get a better perspective of trends and areas identified for improvement.

TPD Total Calls for Service

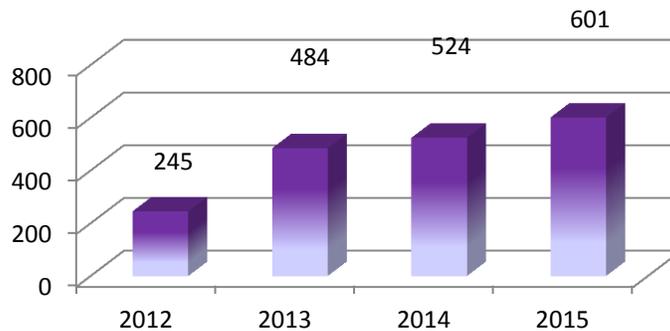


Total Complaints Audited by IPA*



*Total complaints audited include the complaint category "Contact", which do not contain an allegation.

Total Allegations Reviewed by IPA



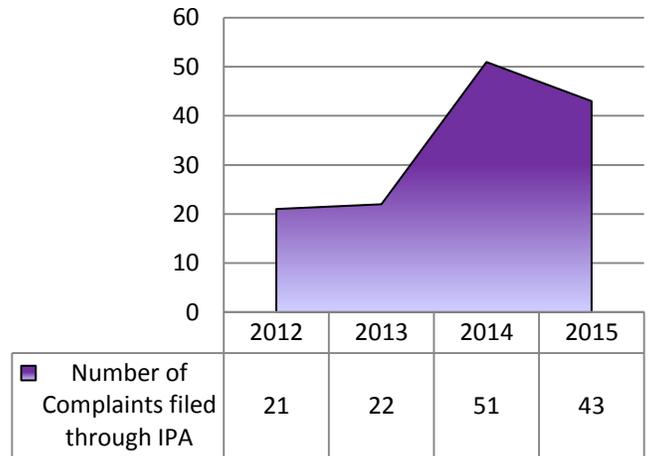
The Complaint Process

Intake

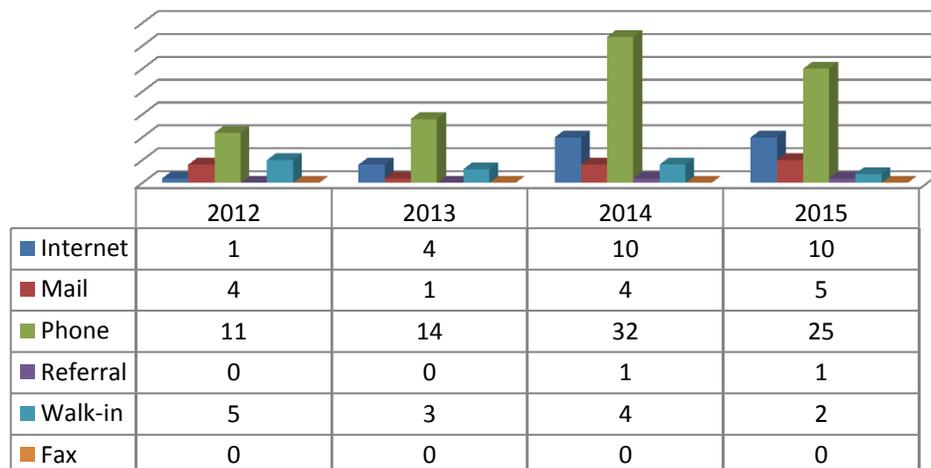
The IPA is located within City Hall, outside the scope of the Tucson Police Department, to accommodate citizens who may feel intimidated by going directly to a police facility to file a complaint. Citizens have several options for filing a complaint. Complaints may be filed in person, by telephone, email, facsimile, US mail, and an online complaint submission. The complainant is contacted to acknowledge receipt of the complaint and provide a brief description of the investigative process and options available to the complainant. An initial interview may be necessary to obtain all the necessary information for the intake file.

Complaints must be filed within 180 days of the incident. The OIA Commander has the discretion to accept complaints of a serious nature that are in excess of 180 days old. TPD OIA may accept third party complaints depending on the nature of the complaint and at the discretion of the OIA Commander. Complaints filed on behalf of a minor by their parent or guardian or someone that is incapacitated and unable to submit the complaint for themselves will be handled the same as a first party complainant.

Number of Complaints Filed through IPA



Method of Complaint Submission to IPA



Classification of Complaints (TPD General Order 3152.2, External Investigations)

A Category 1, formal complaint is:

The OIA will investigate External Investigations (EC1) that require extensive follow up. This includes complaints involving three (3) or more non-departmental witnesses, complaints that are pending civil litigation or other complaints as directed by the commander of OIA. An internal due date of 30 days shall be assigned.

In External Investigations (EC1) where the Chain of Command conducts the investigation, the complaint will be documented by OIA and forwarded to the affected member's Chain of Command. The immediate supervisor of the member will be responsible for contacting the complainant and conducting the investigation. A Commander shall contact the complainant and advise them of the disposition once the investigation has been completed. The commander making such contact will explain the procedure involved in the complaint process and attempt to answer any questions from the complainant. This contact shall be documented on the appropriate paperwork and returned to OIA.

External Investigations (EC1) are due from the Chain of Command thirty (30) calendar days from the date of distribution. An extension may be granted by the appropriate Bureau Commander.

A Category 2, informal complaint is:

Category 2 External Investigations (EC2) involve allegations of a non-serious nature where the complainant elects not to pursue a formal investigative process. The complainant may simply request notification be made to the supervisor via e-mail for notification purposes only. The complaint will be classified as an EC2 and closed within OIA. This type of complaint is also known as a Supervisory Referral.

A Category 3 complaint is:

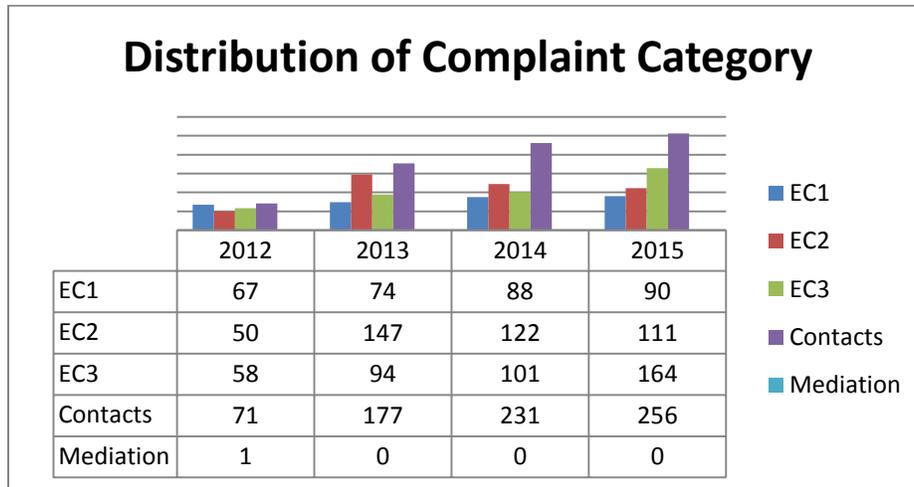
Category 3 External Investigations (EC3) involve allegations of a non-serious nature where the person is unable to articulate a bonafide complaint. Additionally this category is used for concerns regarding police conduct that do not rise to the level of a Formal or Informal External Investigation due to a lack of valid facts or no apparent General Order violations. This category of investigation will be closed within OIA as an EC3.

A Contact is:

Frequently, citizens call the IPA or TPD OIA to obtain information on police policies and General Orders, have informal inquiries regarding the complaint process, request contact information for detectives and investigating officers, inquire on how to obtain a police report, or share their concerns or opinions regarding particular issues. These interactions are documented as "Contacts". The IPA also receives a substantial number of inquiries from citizens requesting to file complaints about other area law enforcement agencies. In these instances the IPA can only refer the individual to the Internal Affairs Office for each specific agency.

A "Contact" is also created for people that are awaiting criminal adjudication. Since non-serious allegations that occur over 180 days are not accepted, this could be a problem

for complainants who desire to wait until their criminal cases are adjudicated to discuss the events that occurred. A complainant can call the IPA and give a brief synopsis of the date, time, location, case number, and officer(s) and a “Contact” will be generated as a notification of intent to file a complaint. This allows for information and evidence associated with the event to be preserved. Once the charges have been adjudicated the complainant can initiate contact and request the complaint be investigated. The complaint process can then move forward outside the 180 day filing requirement. If the Individual does not re-initiate contact with IPA or OIA the case remains closed as a “Contact”.



Investigation

Once a complaint is filed, a copy of the IPA intake documentation is provided to the TPD OIA to initiate an external complaint and conduct the appropriate category of investigation. OIA will contact the complainant to obtain additional information in the form of a statement. At the request of the citizen, the IPA may be present during the OIA interviews. However, in most cases of a non-serious nature, the initial statement obtained by OIA is taken telephonically for the convenience of the individual being interviewed. The IPA also has the ability to monitor interviews conducted in support of open IPA cases. In these instances, the Auditor will provide advance notification to the OIA Sergeant which case interviews have been designated by the IPA for observation. The IPA may also request that OIA present specific questions to focus officers and witnesses during the course of the interview.

Average Days to Investigate

	2012	2013	2014	2015
EC3 and Contacts	16.96	20.90	19.02	29.08
EC2	25.96	18.74	23.80	34.20
EC1	112.24	131.11	110.16	143.77

IPA Audit

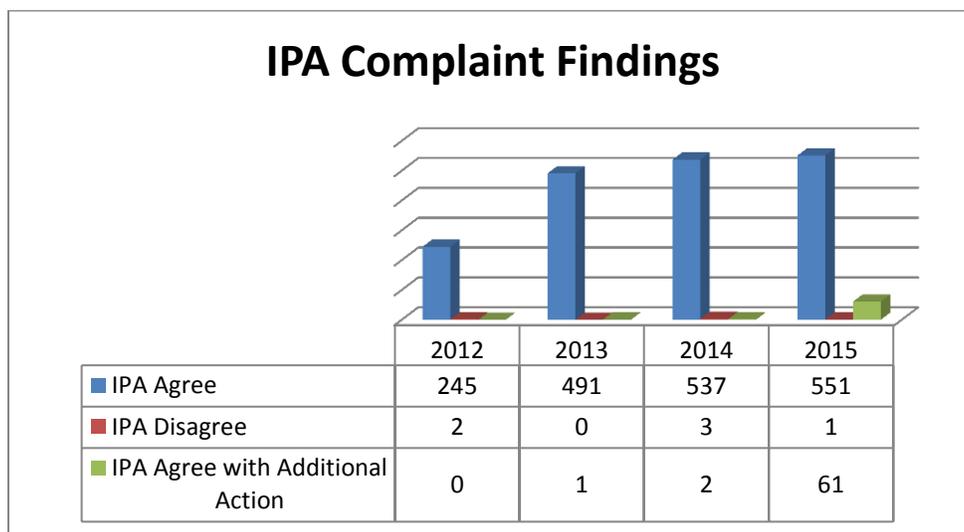
Once the investigation is complete and has been approved by the OIA commander, the IPA reviews the closed case file, all supporting documents, and all interviews. During the audit the IPA reviews the OIA investigative product to ensure it meets the following criteria:

1. Timeliness
2. Proper Classification of Investigation
3. Properly Assigned Allegation(s)
4. Supporting Documents Included
5. Proper Interviews Completed
6. Logical Application of General Orders to the Facts
7. Proper Data Entry for Pattern and Practice Tracking

When the IPA finds a case that generates specific concerns about the investigation, the lead OIA Sergeant is contacted and the issue is discussed. If the issue cannot be resolved, the matter is taken to the OIA Commander. If the IPA's concerns are not addressed to the satisfaction of the Auditor, ultimately it is forwarded to the Deputy Chief or Chief of Police for review.

IPA Closure and Findings

The IPA considers the audit closed once a finding of Agree, Disagree, or Agree with Additional Action is assigned. Prior to 2014, there were only two closure categories, "Agree" and "Disagree". Having only two findings was problematic in determining the impact the IPA was having on the investigative process. If the IPA determined a case needed additional investigation, a "Disagree" finding was issued, but later changed to "Agree" once the issue was resolved. No tracking data of the change, besides the Auditor notes in the complaint file, existed. An additional finding of "Agree with Additional Action" was created in order to identify the cases that were returned to OIA for correction or additional action. With the creation of this finding, the City of Tucson now has a better metric for capturing data pertaining to the IPA's overall impact on OIA investigations and the citizen complaint process.



TPD Allegations and Findings

TPD findings classifications are only determined in EC1 (Formal) Complaints. The most common allegations are divided into the categories of Police Powers, Standards of Conduct, Operational Actions, and Customer Service. Below are the total number of EC1 findings and a breakdown of findings in each of these categories.

Disposition Definitions (TPD General Order 3170, Dispositions)

Sustained - Member committed the alleged violation.

Inclusive* - Member committed an alleged violation and there were additional violations within the complaint.

Not Sustained - Cannot be determined if the member committed the alleged violation

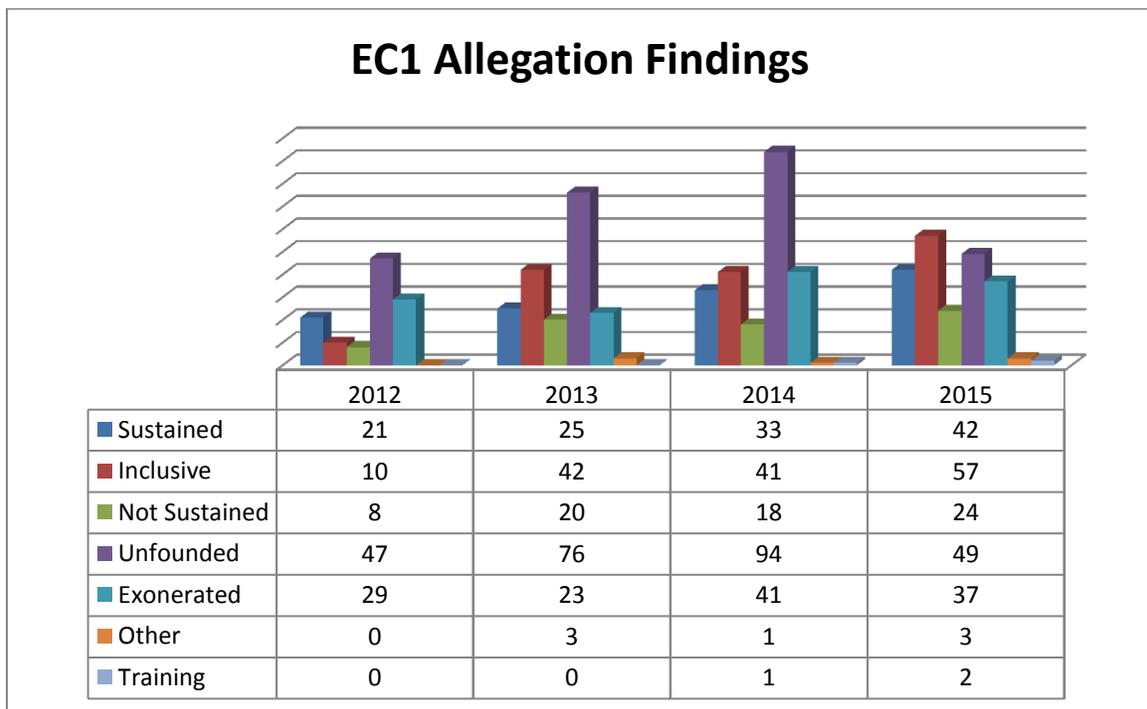
Unfounded - Member did not commit the alleged violation

Exonerated - Member was justified in taking the course of action, and/or it was not a violation of General Orders.

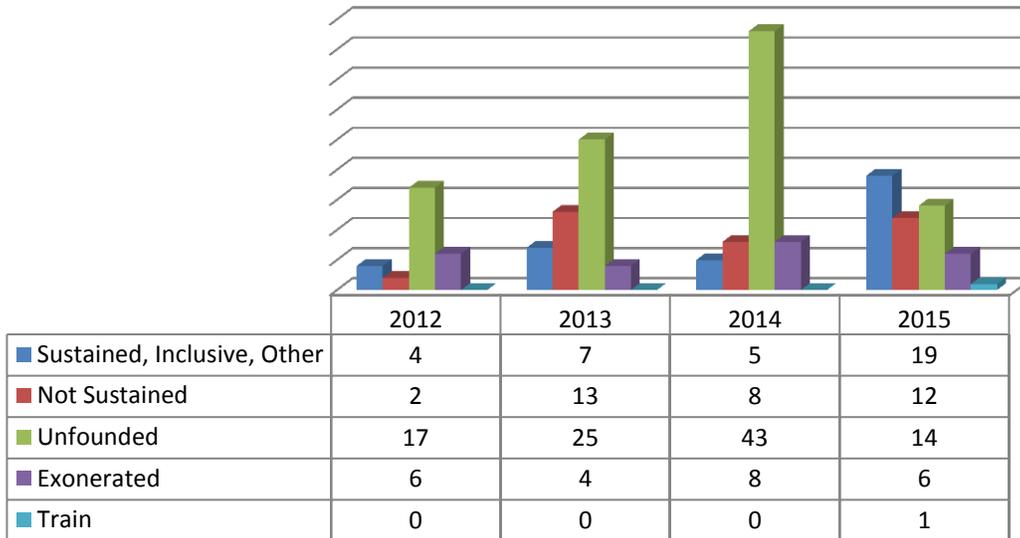
Other - The member was determined to have committed a violation other than what was originally alleged.

Training* - The member's actions were justified and no Department Policy was violated. However, the investigation revealed tactical errors that could be addressed through non-disciplinary, tactical or training improvement endeavors.

* Inclusive and Training are not defined in TPD General Order 3170. They are being utilized within the scope of the above definitions.

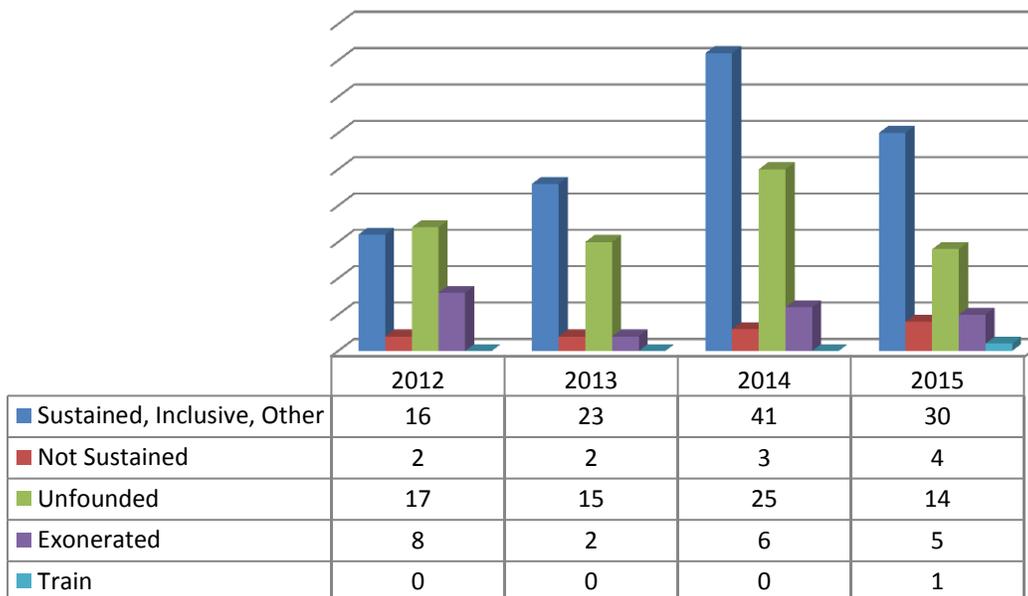


Customer Service Allegations and Findings*

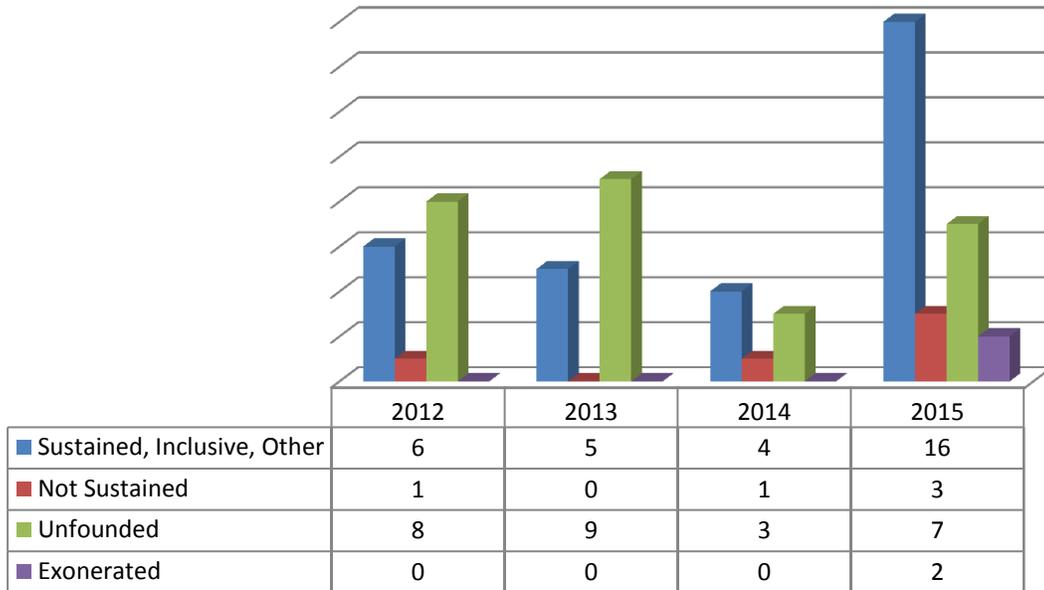


*Biased Based Policing Allegations are reported separately.

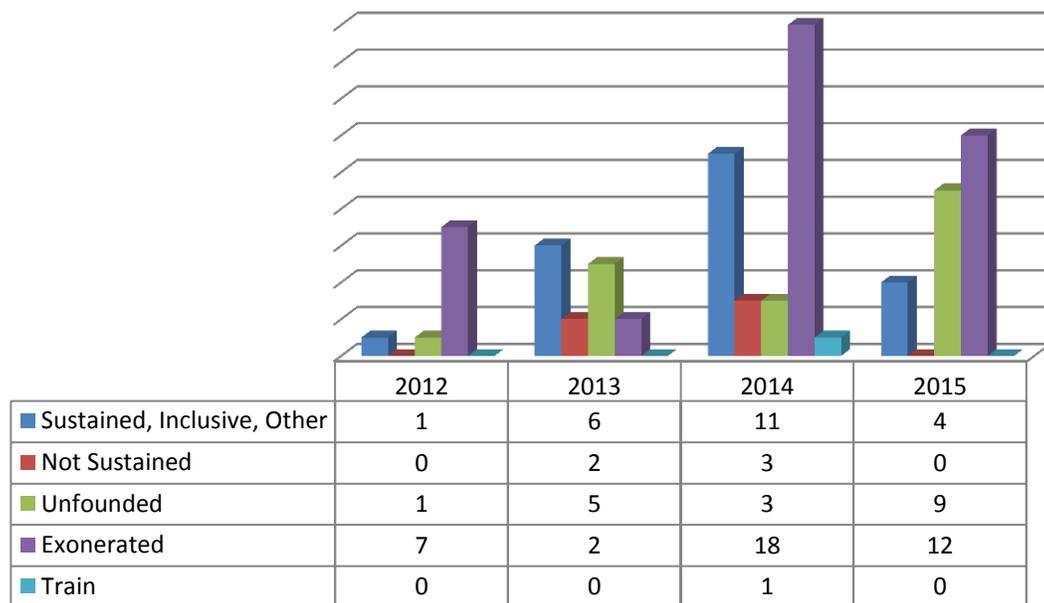
Operational Action Allegations and Findings



Standard of Conduct Allegations and Findings



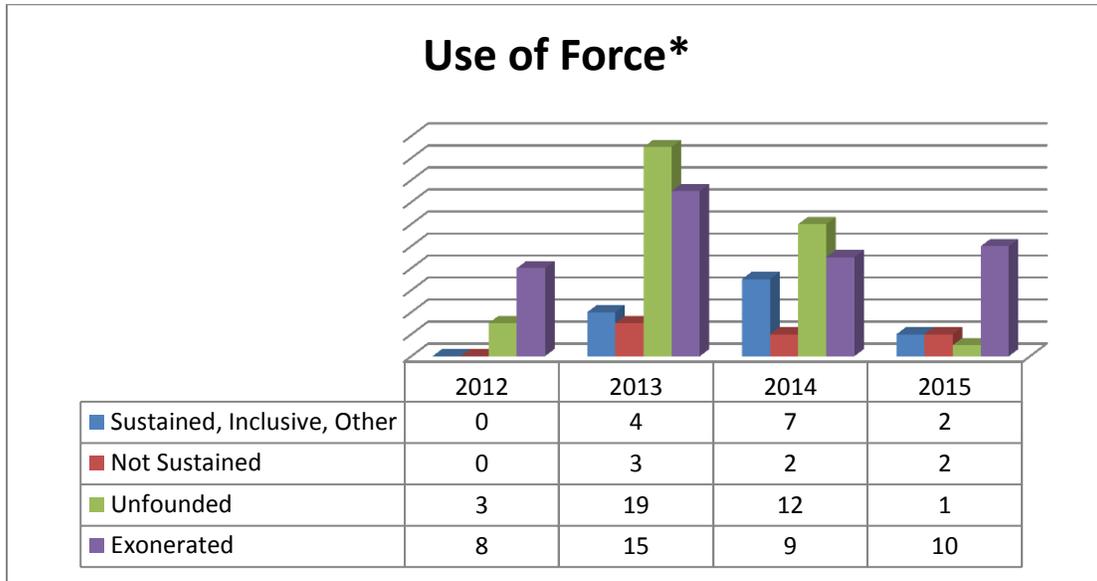
Police Powers Allegations and Findings*



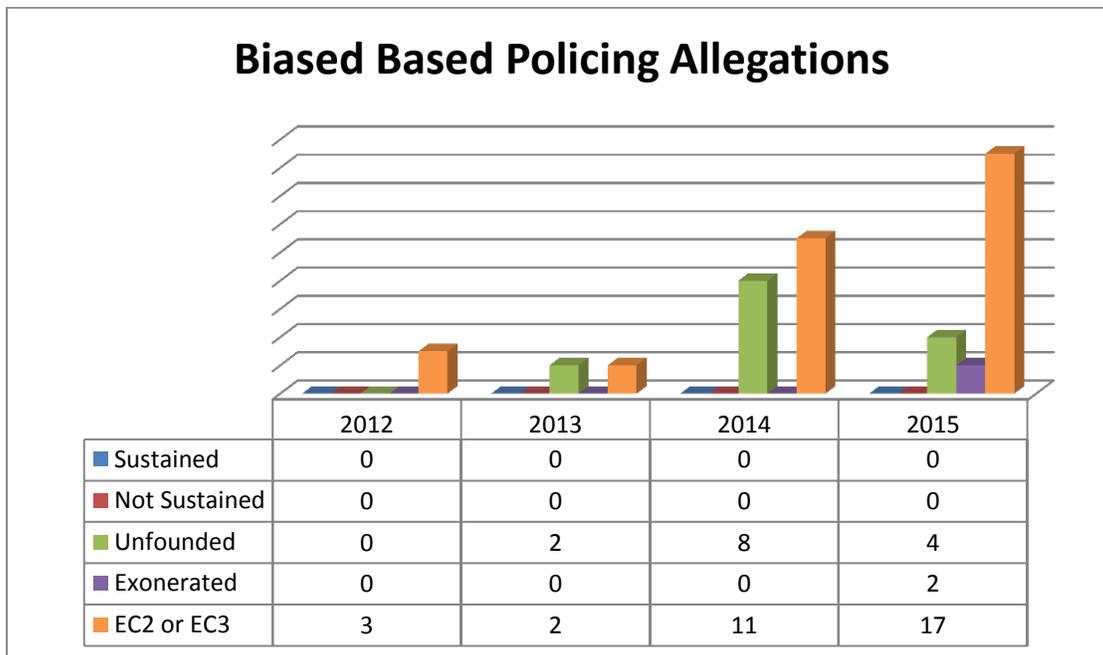
*Use of Force Allegations are reported separately.

Use of Force, Biased Based Policing, and Criminal Conduct

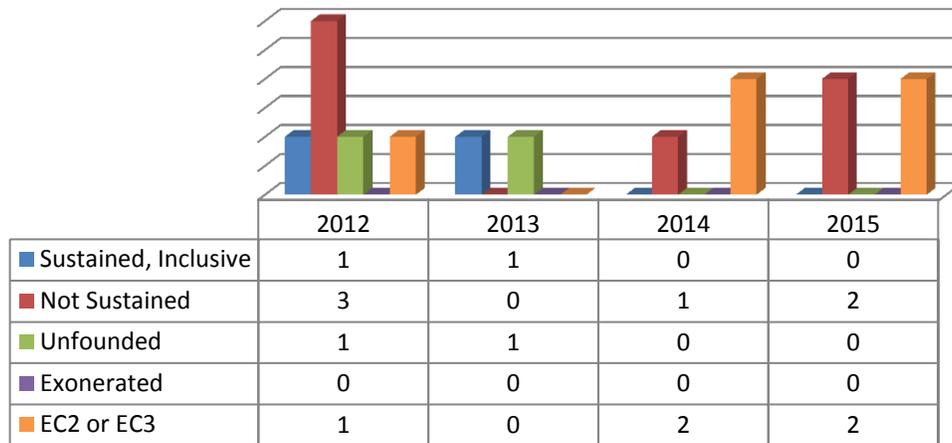
In 2014 and 2015 there has been a great deal of attention surrounding the topic of Use of Force and Biased Based Policing. These allegations are categorized within Police Powers and Customer Service, but in order to remain transparent, this report will document these two allegations separately. Officer involved shootings are treated as homicide investigations and therefore, not handled through the same TPD OIA complaint process. Officer involved shootings have different administrative closures and are addressed in the “Board of Inquiry” (BOI) section of this report.



*Officer Involved Shootings Reported Separately



Criminal Conduct On or Off Duty



Early Intervention Program (EIP)

(TPD General Order 4617, Early Intervention Program)

Purpose

This program is structured to monitor various performance and statistical classifications that are tracked by the Administrative Investigative Management (AIM) software. Experience has demonstrated that activity within these classifications may be utilized to identify employees that may need assistance. Many large and progressive police agencies have established tracking systems that systematically identify patterns of behavior of individual officers. Through an analysis of these patterns, strategic responses are possible. The Office of Internal Affairs provides an annual evaluation of the program. The purpose of the Tucson Police Department's Early Intervention Program is to:

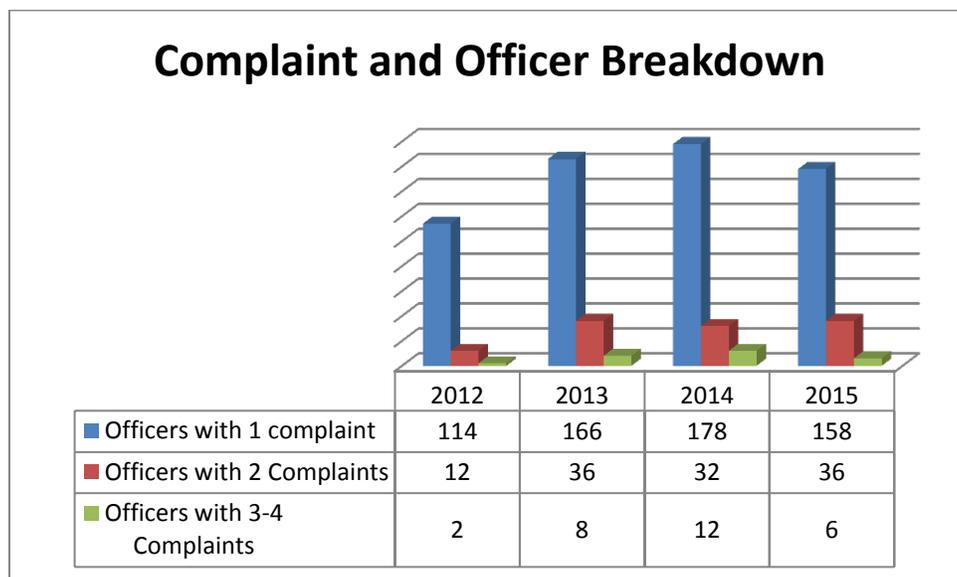
- Identify patterns of behavior that may be indicative of officers in need of training, direction, or other assistance.
- Protect the officer and the agency from inappropriate behavioral patterns.
- Identify activities or trends requiring changes in training or policy.

Process

When a Department member reaches a threshold in any of the monitored areas, the AIM system will signal an alert during a monthly scan. The OIA Administrative Sergeant will verify the alert. The Administrative Sergeant will then have the responsibility of presenting this information to an EIP Panel that will consist of the OIA Administrative Sergeant, a member of the Department's Human Resources Division, the Behavioral Sciences Unit, and a representative of the labor organization. Once the panel confirms the accuracy of the data the material will be sent to the member's Chain of Command. The immediate supervisor of the member that reaches an alert threshold shall:

- Review the information pertaining to the alert.
- Conduct an interview with the employee as needed.
- Make a recommendation for action.

- Forward the completed one-page, recommendation form through the affected member's Chain of Command level for information purposes.
- Send the information and recommendation back to the Office of Internal Affairs within 30 days of assignment.



Citizen Police Advisory Review Board (CPARB)

In addition to the IPA, the City of Tucson has a Citizen Police Advisory Review Board (CPARB) as part of the civilian oversight mechanism. Each City Council Member appoints a selected community representative to serve on the CPARB panel. The two entities have distinct functions and operate independently of each other, yet have the ability to jointly address critical issues related to police conduct when necessary. The most notable difference is that the CPARB meets monthly and reviews a random selection of cases per month, whereas the IPA audits all closed external investigations.

The Citizen Police Advisory Review Board reports to the Mayor and Council annually, and submits such additional reports as it deems necessary or as requested by the Mayor and Council. Some of the primary functions of CPARB are:

- 1) Refer citizens who wish to file complaints to TPD OIA or the IPA.
- 2) Conduct public outreach to educate the community of the roles of the Office of Internal Affairs and the Office of the IPA.
- 3) Request that the IPA monitor a particular citizen complaint being investigated by the TPD.
- 4) Request from the TPD a review of completed action taken by the department on a citizen complaint or a review of incidents which create community concern or controversy.
- 5) Request from the IPA a review of completed action taken by the IPA on a citizen complaint.

6) Review completed investigations of citizen complaints alleging police officer misconduct in order to comment on the fairness and thoroughness of an investigation and to report any concerns regarding the investigation to the Chief of Police, the IPA, the City Manager and/or the Mayor and Council.

7) Provide comments and recommendations to the chief of police, the IPA, the city manager and/or the mayor and council on the citizen complaint review process.

8) Provide comments and recommendations to the chief of police, the IPA, the city manager and/or mayor and council on police department policy, procedure, and practice.

A full description of the functions and limitation of CPARB, as well as their Annual Report, is included on their website, <https://www.tucsonaz.gov/clerks/boards?board=19>

Board of Inquiry

(TPD General Order 3200, Board of Inquiry)

Purpose

Boards of Inquiry (BOI) are convened as per policy or at the direction of the Chief of Police to conduct administrative reviews of the circumstances surrounding any department operation, police response or actions of a department member. These are generally focused around officer involved shootings, death or serious injury in custody, and incidents with significant media attention.

Duties of a Board of Inquiry

In completing an administrative review, a BOI, unless specifically directed otherwise by the Chief of Police, shall:

- Review and evaluate all pertinent facts and information, including all reports, statements, documents, and evidence.
- If necessary request additional investigation
- Review all applicable procedures and directives.
- Consider all aspects of training.
- Review all patrol and investigative methods.
- Prepare a written report to the Chief of Police.

BOIs are not designed to review compensation, assignments, discipline, grievances, or other matters covered by other review mechanisms or by the chain of command unless specifically authorized or directed by the Chief of Police.

The final report shall include all of the Board's findings and recommendations, which may include recommendations concerning revisions in Department policies, training or procedure. In addition, the report may recommend monetary charges when members are found responsible for loss or damage to Department property and equipment. The final report shall also include and incorporate any preliminary reports issued by the Board.

The Board's report to the Chief of Police must be broadly focused and should thoroughly examine the following factors as they apply to each incident. Each of the following areas must be addressed within the final report as a sub-section:

- Policy
- Training
- Supervision
- Tactics
- Equipment

Closures

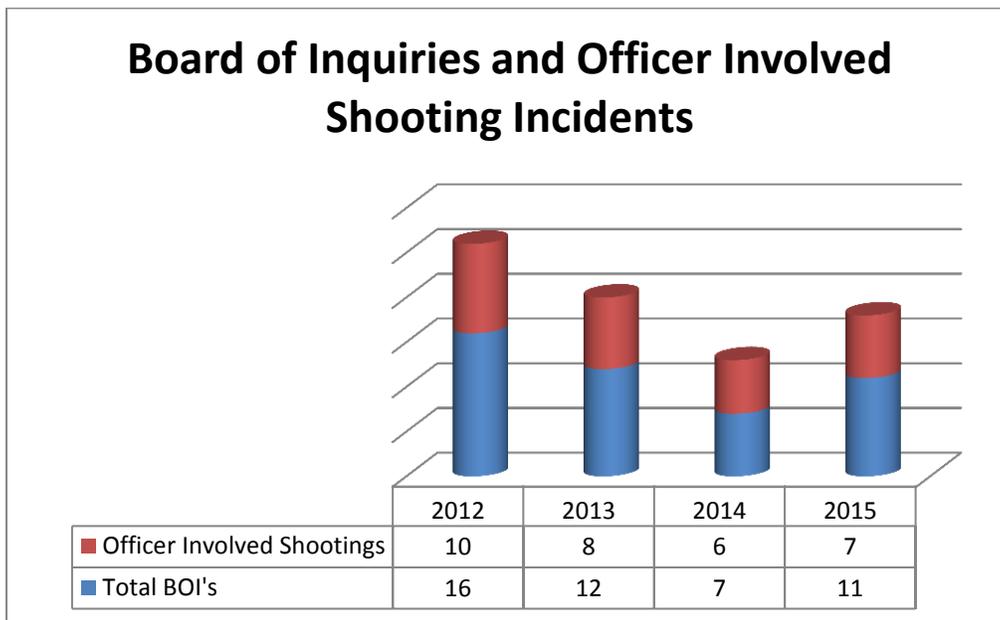
The following closures are available to the Board:

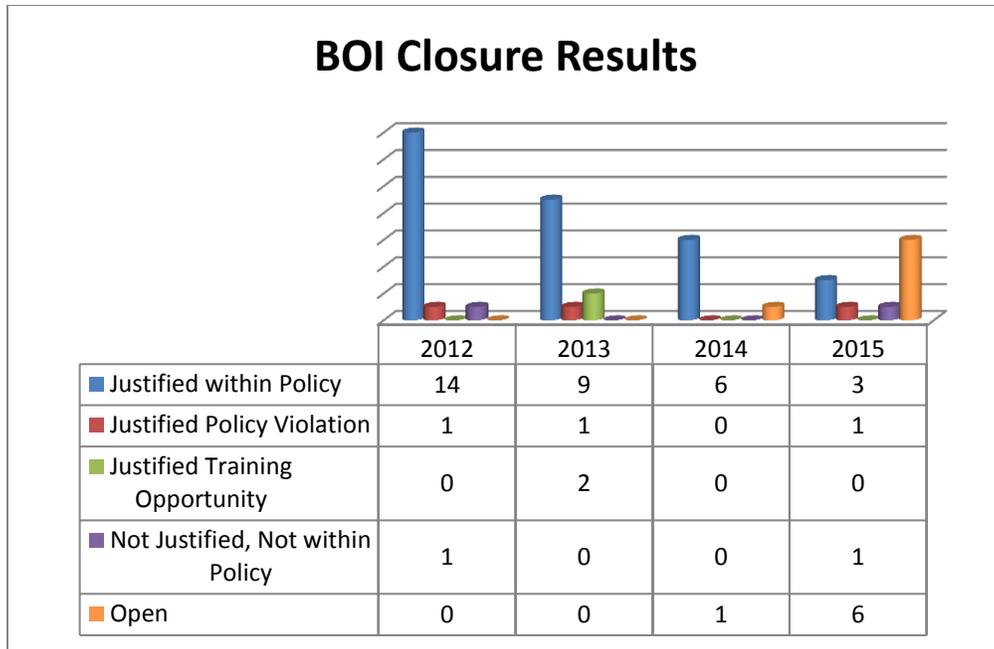
Justified, Within Departmental Policy: A BOI found that the member’s use of force or actions were determined to be justified and during the course of the incident, the subject officer did not violate any departmental policy.

Justified, Policy Violation: A BOI has found that the member’s actions were justified, but during the course of the incident, the subject officer violated a department policy.

Justified, Tactical/Training Improvement Opportunity: A BOI has found that the member’s actions were justified and during the course of the incident, no violations of departmental policy occurred. However, the investigation revealed tactical errors that could be addressed through non-disciplinary, tactical or training improvement endeavors.

Not Justified, Not Within Departmental Policy: A BOI has found that the member’s actions were not justified and during the course of the incident the subject officer violated a departmental policy.





Community Outreach

One of the primary functions of the IPA is to inform and educate citizens throughout the community about the existence of civilian oversight and the process by which complaints are filed, investigated and received. Citizens want to be assured that this process is thorough, fair and without bias. This year the IPA made presentations to community groups, professional organizations, neighborhood associations, and City of Tucson employees. Citizen comments and suggestions are very beneficial in enhancing the effectiveness and credibility of the oversight process and identifying programs and services that promote partnerships between the community and the Police Department. The City of Tucson website provides a description of the duties and responsibilities of the IPA as well as contact information and the ability to file a complaint online at any time.

In 2014 a flyer (created in English and Spanish) introducing the new IPA and describing the position and job functions was presented and distributed to the Neighborhood Associations, Council Members, Ward newsletters, community outreach events, and City Court employees. IPA brochures are available at all Council offices, City Hall, City Courts, and TPD substations.

The Tucson Police Department provides contact information for the IPA with notification letters that are sent to citizens regarding the disposition of their complaints. The letters, signed by the Chief of Police, provide information on how to contact the Auditor should the complainant be dissatisfied with the outcome of their investigation or have additional questions about the complaint process.

This year the Auditor taught at the Tucson Police Academy Post Basic and Sergeant's Course. The Post Basic presentation was to educate the new police recruits on the duties and responsibilities of the Police Auditor as well as to provide information on the most common complaints. The Auditor reinforced accepted methods to avoid getting a complaint and have respectful, but productive interaction with the community. The Sergeant's Academy training was to prepare new TPD Sergeants for their role in investigating and handling the informal

complaints they will receive as supervisors. The instruction provided by the IPA gives officers a citizen's perspective of police oversight, while allowing them to ask questions about the process. The Auditor emphasizes the expectations of the community in their interactions with law enforcement, particularly in the area of customer service.

Conclusion

Civilian oversight is an integral part of policing in the 21st century. Holding personnel accountable and celebrating law enforcement achievements are all part of the same mechanism for better relationships between community and government. This year the Tucson Police Department implemented body worn cameras into 70 patrol units and the impact on citizen complaint investigations can already be seen. A goal for 2016 will be to track cases that contain Body Worn Camera (BWC) and Mobile Video Recorder (MVR) footage to determine the value of the footage and trends associated with those complaints.

A significant issue identified while compiling information for the IPA Annual Report were database issues with the AIMS (see the section on the "Early Intervention Program" for details pertaining to the function and impact of AIMS) tracking system as well as the method in which the IPA retrieves complaint files for audit. It was discovered that failure to enter specific data into all available fields prevented cases from appearing on monthly and yearly OIA reports when filters were applied. The omission of cases from monthly reports, as well as routing errors, resulted in several cases over the last 4 years that were not reviewed by the IPA. These cases have since been reviewed and the issue with the database has been identified, but not resolved. The audits conducted this year have produced IPA recommendations for improvement and a higher degree of community satisfaction.

Recommendations

1. Decrease the time it takes to resolve formal complaints (EC1).
2. All utilized OIA dispositions should be clearly defined in the TPD General Orders. "Inclusive" and "Training" need to be added to the listed dispositions and properly defined.
3. Resolve filtering and data entry problems within the AIMS database to ensure more accurate reports and tracking in support of the Early Intervention Program (EIP).
4. Assess and evaluate General Orders 3100, Internal Affairs Policies to determine if the complaint process can be simplified with less subjectivity and more consistency specifically pertaining to allegations and category assignments.
5. Update technology based equipment in the field to prevent reporting problems, data loss, improper citation issuances, and extended response times.

Appendix

Complaint Categories

- Criminal Conduct - On Duty - Felony
- Criminal Conduct- On Duty - Misdemeanor
- Criminal Conduct - Off Duty - Felony
- Criminal Conduct - Off Duty - Misdemeanor
- Police Powers - Use of Force (Handcuffing)
- Police Powers- Use of Force (Striking)
- Police Powers- Use of Force (Impact Weapons)
- Police Powers- Use of Force (Flex Baton)
- Police Powers - Use of Force (OC Spray)
- Police Powers - Use of Force (Taser)
- Police Powers - Use of Force (Firearm)
- Police Powers - Use of Force (Other)
- Police Powers - False Report
- Police Powers - Search and Seizure
- Police Powers - Stop/Detainment
- Police Powers - Failure to Arrest
- Police Powers - Failure to Take Appropriate Action
- Customer Service - Failure to Provide Appropriate Service
- Customer Service - Biased Based Policing/Racial
- Customer Service - Biased Based Policing/Non Racial
- Customer Service - Racial/Ethnic Slurs
- Customer Service - Rudeness
- Customer Service - Profanity
- Customer Service - Comments/Language
- Customer Service - Refusal to Give Name/PR number
- Customer Service - Unprofessional
- Standards of Conduct - Untruthfulness
- Standards of Conduct - False Testimony/False Swearing
- Standards of Conduct - EEOC
- Standards of Conduct - Court Attendance
- Standards of Conduct - Misuse of MTC/Computer
- Standards of Conduct - Actions/On Duty
- Standards of Conduct - Actions Off Duty
- Standards of Conduct - Insubordination
- Standards of Conduct - Leave Without Pay
- Operational Actions - Property/Evidence
- Operational Actions - Failure to Make a Report
- Operational Actions - Incomplete/Inaccurate Report
- Operational Actions - Failure to Investigate
- Operational Actions - Incomplete Investigation
- Operational Actions - Release of Confidential Information
- Operational Actions - Tactical Operations
- Operational Actions - Prisoner Escape
- Operational Actions - Improper Search of Prisoner
- Operational Actions - Violation of Radio Procedures
- Operational Actions - Equipment/Loss or Damage of Departmental Property
- Operational Actions - Failure to Notify Supervisor
- Operational Actions - Procedures
- Operational Actions - Speeding/Poor Driving
- Operational Actions - Pursuits
- Department Vehicles - Collision

Websites

Tucson Independent Police Auditor (IPA): <https://www.tucsonaz.gov/oeop/independent-police-auditor>

Citizen's Police Advisory Review Board: <https://www.tucsonaz.gov/clerks/boards?board=19>

TPD Office of Internal Affairs (OIA): <https://www.tucsonaz.gov/police/internal-affairs>

US Department of Justice: <http://www.justice.gov/>

National Association for Civilian Oversight of Law Enforcement (NACOLE): <https://nacole.org/>

President's Report on 21st Century Policing: <http://www.cops.usdoj.gov/policingtaskforce>