

ASHEVILLE POLICE DEPARTMENT



2016 PROFESSIONAL STANDARDS ANNUAL REPORT

January 31, 2017

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INTRODUCTION

In 2016, the Asheville Police Department continued with department wide changes and restructuring to increase operational efficiency. Numerous promotions and transfers occurred along with the hiring of new police officers. The department continues to move forward and look for ways to improve.

In previous years, annual documented analyses and reviews by the Professional Standards Section were created and submitted separately. Beginning in 2016, all of these reports will be combined and submitted as one report, the Professional Standards Annual report. By presenting the information and findings together, a more comprehensive picture of the department's performance can be developed. This report contains the following reviews and analyses:

- » Vehicle Pursuit Analysis and Review
- » Use of Force Analysis
- » Bias Based Policing Review
- » Analysis of Grievances
- » Internal Affairs Statistical Summary

The annual and historical review of the department's complaints of employee misconduct, use of force actions, vehicle pursuits, and bias based policing practices allows the department as well as city officials to evaluate the department's service to the community.

VEHICLE PURSUIT ANALYSIS & REVIEW

Methodology & Procedure

Pursuant to Asheville Police Department Policy 1032 – Vehicle Pursuits, any officer involved in a pursuit is required to complete an internal report via the department's internal reporting system. These reports are submitted for evaluation and review through the involved employee's chain of command.

All internal report submissions and subsequent chain of command reviews are maintained electronically by the Professional Standards Section and are separate from standard incident reports within the department's Records Management System.

Compilation and review of this data, in conjunction with officer narratives and chain of command review, allows for analysis of various factors to identify trends or patterns related to pursuit initiation, termination, and other related issues. Areas selected for analysis include:

- Pursuit initiations (reasons & initial violations)
- Accidents and property damage
- Injuries resulting from pursuits
- Time of day and weather
- Pursuit distances
- Pursuit terminations and persons terminating pursuit
- Driving under the influence factors
- Use of forcible stopping techniques
- Policy compliance

This analysis will be focused on pursuits involving this department during the calendar year of 2016 but will include data for comparison and reference from at least the three preceding calendar years.

Analysis of Data

Policy Compliance and Discipline

This area of analysis will review compliance with policy guidelines. Figure 1 provides the overall total of pursuits in comparison with previous years. There were a total of six vehicle pursuits in 2016, which is slightly lower than the two previous years.

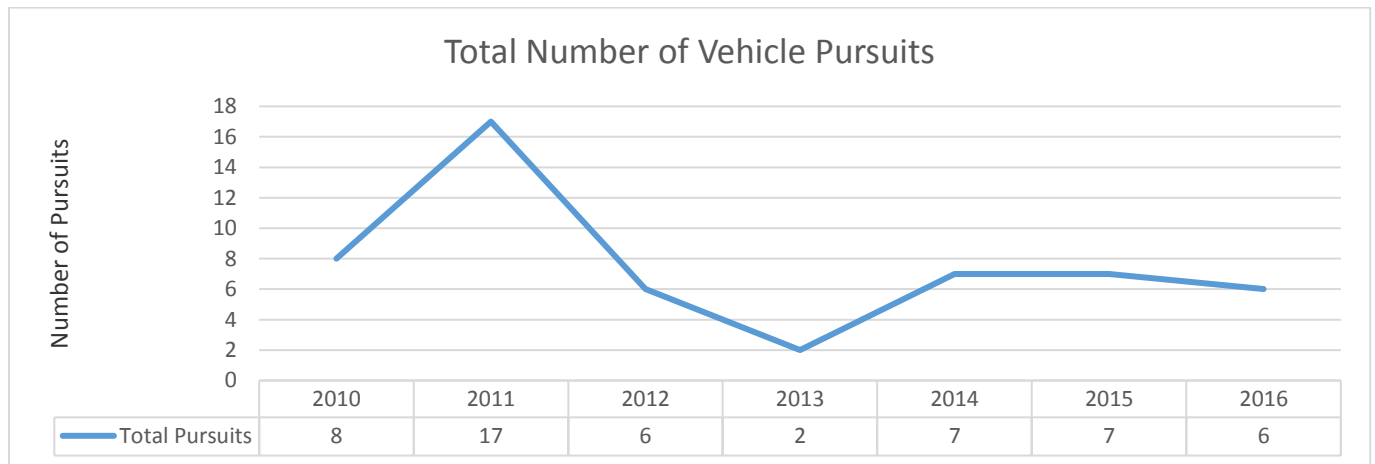


Figure 1

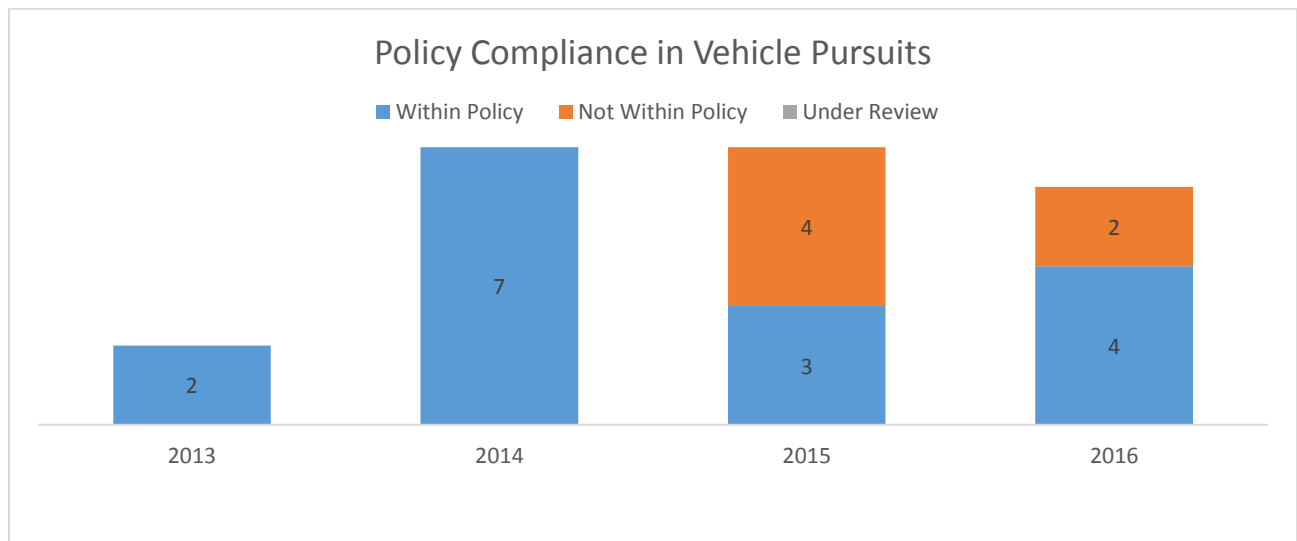


Figure 2

There were two pursuits found not to be within department policy in the 2016 calendar year. Both pursuits were not within the department's policy related to authorized initiation. One pursuit was initiated to assist an outside agency, while the other was related to a traffic stop. In both instances the involved officers were counseled on department policy. Overall, policy compliance has increased.

There were no identified trends or serious issues discovered from either of the pursuits found to be outside of department policy.

Property Damage and Injury

Analysis of property damage and related injuries from vehicle pursuits may be related to several factors, such as weather/time of day, the use of forcible stopping techniques, or impairment of a driver. Figure 3 provides a comparison of the number of accidents occurring during pursuits overall for the past four calendar years.

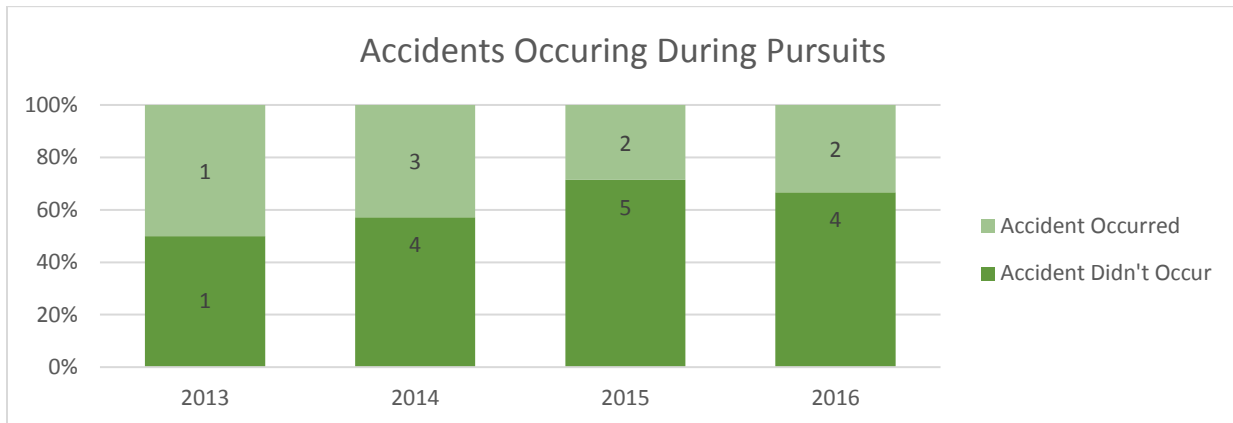


Figure 3

In 2016, two accidents did occur as the result of pursuits. These accidents were the result of the vehicles leaving the roadway in an attempt of the driver to quickly flee on foot. Neither accident involved forcible stopping techniques or the pursued drivers being suspected/arrested for driving under the influence. Weather also did not appear to be a contributing factor.

No injuries were reported as the result of either crash.

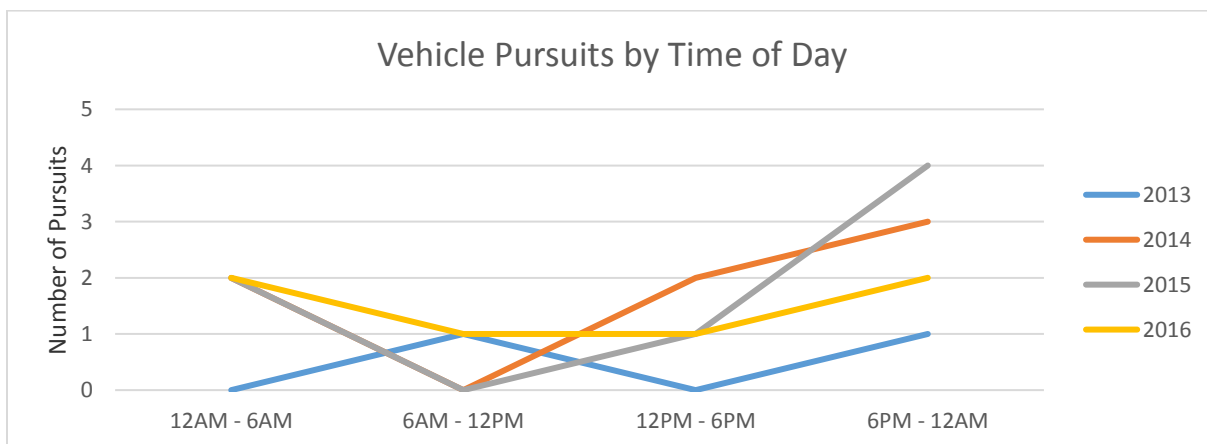


Figure 4

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Figure 4 illustrates the continuing correlation between pursuits and time of day. From 2013-2016, a majority of pursuits have occurred during late and early morning hours (6AM to 6PM), with pursuits more likely to occur overall after 12PM.

The two vehicle crashes as a result of a pursuit in 2016 occurred between 12PM and 12AM. The first crash occurred at 12:30PM and the second crash occurred at 9:30PM. Traffic density did not play a role in either of the crashes, nor did the crashes occur during a rush hour.

Pursuit Initiation and Termination

Of the six pursuits initiated in 2016, a majority were initiated for activity surrounding gun discharges.

2016 Vehicle Pursuit Initiations	
Initiation Reason	Number of Pursuits
License Plate Violation	1
Suspicious Activity	1
Warrants	1
Assisting Another Agency	1
Other	2

Figure 5

As mentioned above in Policy Compliance review, two pursuit initiations were considered outside of department policy. All other initiations were found to be within policy. There are no significant trends identified related to the initiation of vehicle pursuits for 2016.

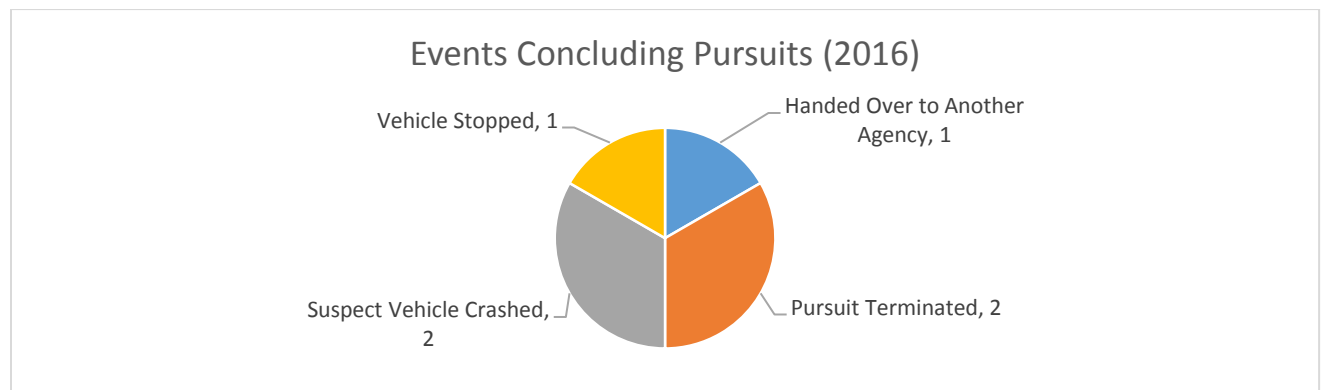


Figure 6

In 2016, the majority of pursuits were concluded by department terminating the pursuit or the pursuit ending in a vehicle crash. In the two terminated pursuits, one was terminated by a supervisor and one terminated by the initiating officer. Figure 6 shows a breakdown of the conclusion of all department pursuits in 2016.

The average distance of pursuits in 2016 was 1-2 miles, consistent with averages from previous years. The longest pursuit was 5-10 miles, and the shortest less than 1 mile.

Pursuit Policy and Procedures

As part of the department's larger policy revision process, the vehicle pursuit policy is currently under review. Past pursuit analysis reports and recent policy issues are being considered during the revision process, as well as recommendations from an internal department committee. Significant changes pending in the revision vary from the previous directive and will address the following:

- Adjustment to conditions under which a pursuit can be initiated
- Expansion of factors to be considered when initiating or continuing a pursuit
- Guidelines added for the pursuit of motorcycles, mopeds or other two wheeled vehicles
- Expanded operational / tactical guidelines such as:
 - » Clarified guidelines for communication and radio responsibilities
 - » Updated guidelines for department un-marked or specialty vehicle involvements
- Section added specific to police supervisor responsibilities
- Forcible stopping (tire deflation devices) provisions were updated to meet current best practices
- Clearer guidelines for pursuits leaving and entering the department's jurisdiction

No forcible stopping techniques were used during the 2016 calendar year, so a specific evaluation of the department's policies and procedures related to forcible stopping cannot be conducted. No issues were identified with the reporting procedures for pursuit reports via the BlueTeam platform.

Conclusion

The department's limitation on pursuit initiation means there are relatively few pursuits to evaluate. In comparison to recent years, however, the total number of department vehicle pursuits is remaining consistent while policy compliance has remained lower than desired – primarily concerning pursuit initiation.

The nature of police vehicle pursuits can often lead to motor vehicle crashes, property damage, and/or injury. Vehicle pursuits conducted by the department in 2016 resulted in two crashes but with no injuries to any involved party. It can be concluded that the department's current initiation and pursuit procedures are helping to reduce factors which contribute to undesirable outcomes, although may require consideration.

No significant trends were identified relating to the department's vehicle pursuits in 2016.

USE OF FORCE ANALYSIS

The regular review and analysis of the uses of force employed by Asheville Police Department employees is central to ensuring the delivery of fair, safe, and effective police services to the citizens of Asheville.

Methodology & Procedure

Pursuant to Asheville Police Department Policy 1030 – Use of Force any officer involved in a use of force incident is required to complete a report using the department’s internal reporting system. These reports are submitted for evaluation and review through the involved employee’s chain of command.

All internal incident report submissions and subsequent chain of command reviews are maintained electronically by the Professional Standards Section and are separate from incident reports within the department’s standard Records Management System.

Compilation and review of this data, in conjunction with officer narratives and chain of command review allows for analysis of various factors to identify trends or patterns related to the department’s use of force. Areas selected for analysis include:

- Overall number of use of force incidents
- Force applications by type
- Use of force incidents by month and time of day
- Officer and citizen injuries
- Policy compliance

Specific factors will be selected for comparison focusing on policy compliance, injury, and force applications. This analysis will be focused on pursuits involving this department during the calendar year of 2016 but may include data for comparison and reference from preceding calendar years.

Analysis of Data

Total Use of Force Incidents

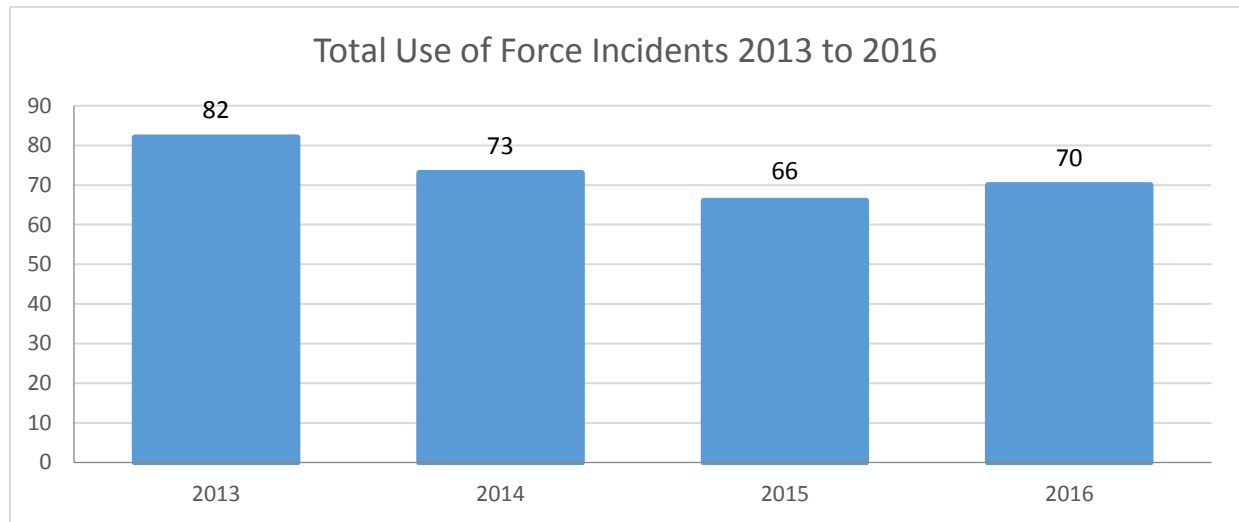


Figure 7

There is no significant trend in the number of use of force incidents in comparison to the previous two years. The overall number of use of force incidents has been trending downward since 2013.

In 2016 there was a 6% increase in uses of force when compared to 2015. 2015, however, experienced a 9% decrease in incidents when compared to 2014. The four year average is 73 incidents, making 2016 in line with previous calendar years.

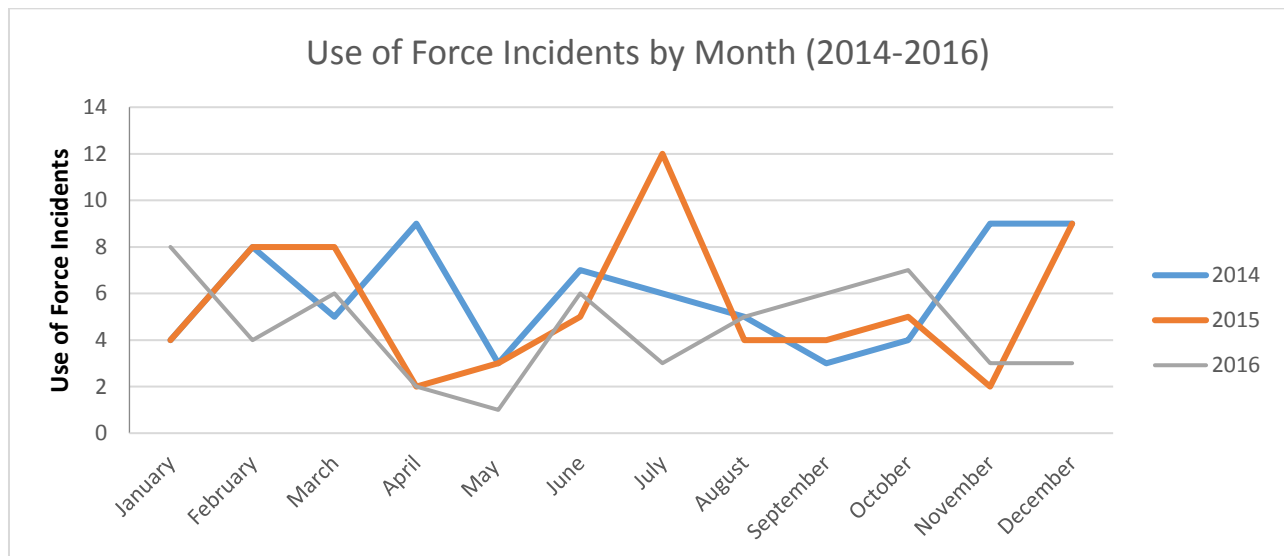


Figure 8

The data illustrated in Figure 8 shows that there is no specific correlation to uses of force and time of day. The spike in reports from July of 2015 appears to have been an anomaly.

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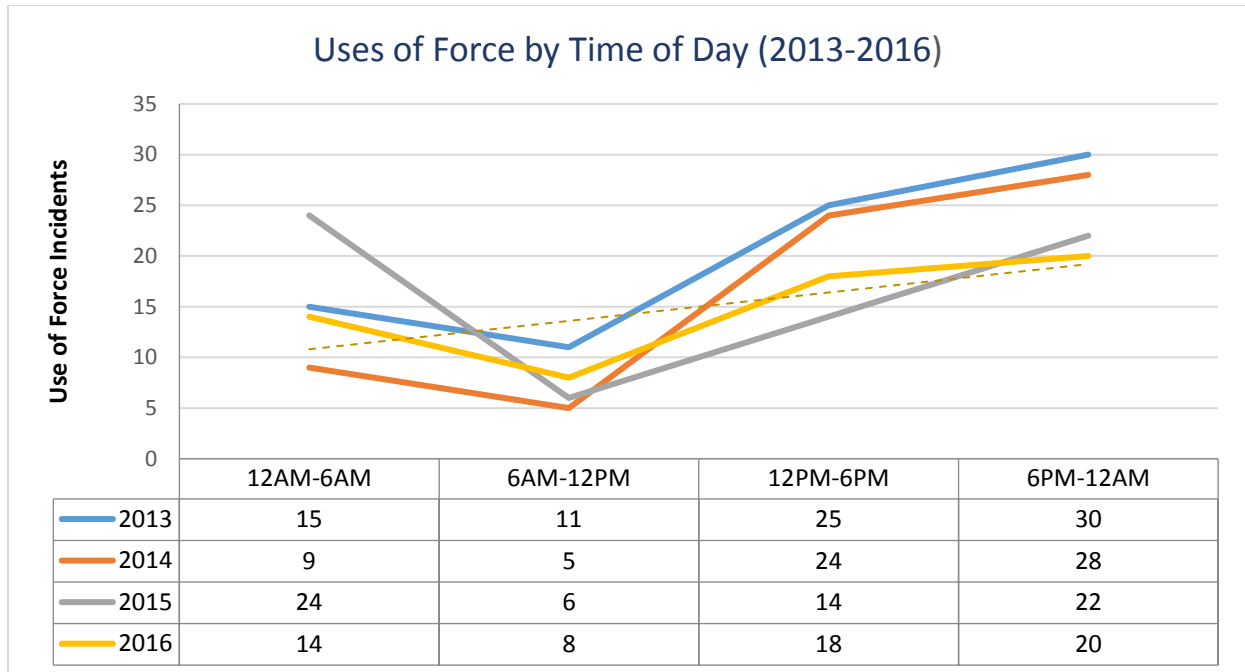


Figure 9

Figure 9 displays a continuous trend of a consistently higher occurrence in uses of force in the afternoon and evening hours. The hours of 6PM until midnight see the highest instances of force being used.

Force Applications by Type

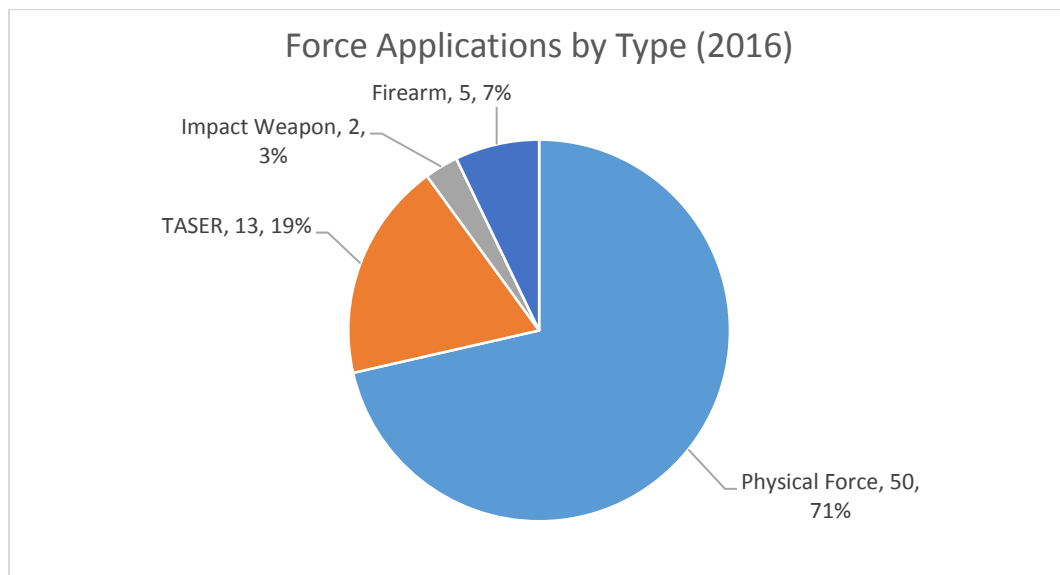


Figure 10

In 2016, the most common force application was physical force, totaling 50 incidents, or 71% of the whole. There were 13 incidents of TASER usage, 2 incidents involving impact weapons, and 5

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firearm usages. 4 of the 5 firearm usages were compassionate measures to end the life of severely injured animals. One firearm usage was a deadly force encounter between an officer and a citizen.

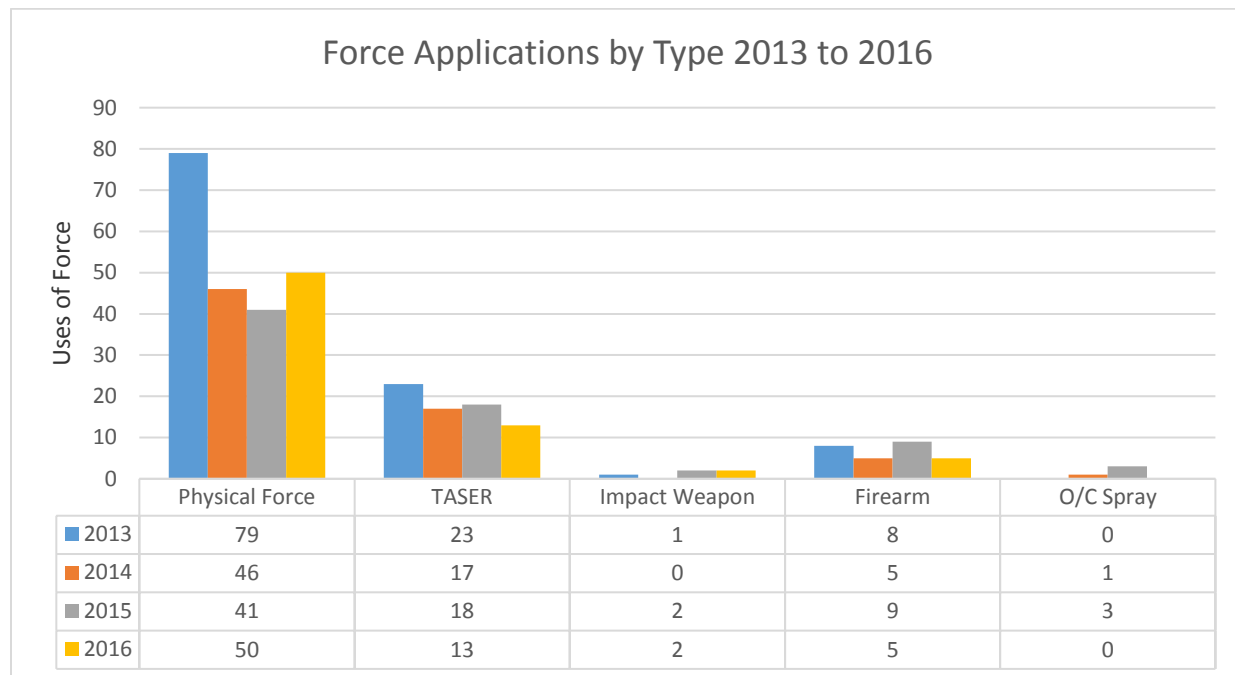


Figure 11

The type of application of force is overall consistent with recent years, although 2016 saw an increase in physical force incidents over the previous two calendar years. The increase in use of physical force may be attributed to procedural changes, issued in February 2016, which altered the conditions under which an officer is authorized to deploy a TASER weapon. Use of all other force application types have continued to trend downward or remain consistent.

Officer and Citizen Injuries

In 2015, departmental uses of force resulted in nineteen incidents where a citizen suffered injury. Fourteen of those persons received treatment at the hospital for those injuries. Officers were injured in fifteen incidents in the same time period, with five being treated at the hospital.

In 2016, departmental uses of force resulted in twenty-six incidents where a citizen suffered an injury. Twenty-two of those persons received treatment at the hospital for those injuries. Officers were injured in fifteen incidents in the same time period, with six being treated at the hospital.

Policy Compliance

In 2016, there were two force incidents that were found to have been not within policy, representing 2% of the total number of force encounters by police personnel in that year.

Use of Deadly Force

One incident in July 2016 resulted in the use of deadly force by an Asheville Police Officer. The incident was investigated by the North Carolina State Bureau of Investigation, who presented their findings to the District Attorney of the 28th Judicial District. In December 2016, the District Attorney announced that he was declining to prosecute the officer after finding that his actions were lawful. The Professional Standards Section began its review of the matter following the announcement of the District Attorney and the review is still ongoing at the time of this report.

Use of Force Policy and Procedures

Taser Usage

In response to a 4th Circuit US Court of Appeals decision regarding the use of TASER weapons, a directive was issued in February 2016 in regard to procedures for the use of TASER weapons. These procedures introduced a number of new requirements. Below is an excerpt from the issued directive:

“The Taser will only be deployed [...]:

- a. *When the subject is actively resisting;*
- b. *An articulable risk of immediate danger is present; and*
- c. *It is reasonably likely that deploying the Taser will alleviate the danger.*

The officer will **not** use the Taser under the following conditions:

- a. Flammable materials are present;
- b. Innocent bystanders can be injured;
- c. The subjects could call onto an obstacle and injure or kill themselves.
- d. *Against persons displaying physical conditions for which the EID could be detrimental to the subject's health as outlined in training.*
- e. ***When taking a mentally incapacitated person into custody to prevent the person from harming themselves so long as the person does not present an immediate risk of causing death or bodily injury to the officer or a third party and using the Taser is reasonably likely to alleviate the risk of harm. This applies even if the person is actively harming themselves.***

Use of Force Policy Updates

In 2016, APD in partnership with the Vera Institute of Justice (Vera), undertook a process of engaging with the Asheville community to develop new de-escalation policies that incorporated community feedback and priorities. As part of this process, Vera facilitated a forum aimed at obtaining community input for development of the department's use of force de-escalation policy. The forum engaged 21 department officials and community members from the Racial Justice Coalition, NAACP, Black Lives Matter, Asheville Public Schools, and various other

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organizations in a discussion focused on the notion and purpose of de-escalation as it pertains to police use of force, as well as the benefits of such a policy for police and community.

The final report from Vera, along with the department's use of force policy draft was released to the public for review and comment in November of 2016. Public comment extended into January and the use of force policy is scheduled for release in early 2017 in conjunction with de-escalation training for all of the department's sworn employees.

The newest draft of the use of force policy will include a separation of the department's use of force policy from less-lethal weapon procedures and include de-escalation provisions.

BIAS BASED POLICING

Background

This review is intended to provide a basis for evaluating officer's actions, identifying topics for possible future training, and ensuring compliance with APD Policy 304 – Unbiased Policing. The department's policy related to Bias-Based profiling was revised in late January 2016 and included updates to definitions and includes a broader policy for not only prohibitions against biased-based profiling, but for fair and balanced policing overall. Bias-based policing is strictly prohibited by the department.

This review will focus on the practice of bias-based policing, which is defined in department policy as: "[...] prejudicial decisions affecting individuals in classes protected by federal and state law. It also includes, for example, persons with whom members have such personal involvement that they cannot act impartially [...]".

In North Carolina, every law enforcement agency is required by General Statute § 143B-903 to collect demographic information on traffic stops for submission to the North Carolina Department of Public Safety. Summaries of the submitted traffic stop data is available publicly and will be used for this report.

A review of the number of traffic stop reports submitted to the NCSBI was conducted regularly during the 2016 calendar year to ensure accurate field reporting. Field submission of data will continue to be monitored to ensure consistent results and compliance with state and department reporting requirements.

There are a number of factors which must be considered when reviewing the traffic stop data, such as stops made in conjunction with a traffic checkpoint where no enforcement action was taken (which requires no report), or other factors which may affect accurate reporting such as improper interpretation of a driver's race or ethnic background, equipment malfunctions, etc.

To evaluate the department's bias-based profiling practices, the available data will be compared against the most recently released census data. This review will also examine any received complaints related to bias-based profiling practices received in 2016.

Review of Data

City of Asheville Demographics

Table 1 shows the last available comprehensive demographic data collected during the 2010 Federal census. Census data from the 2000 data is shown for comparison purposes.

City of Asheville Demographics (Race/Ethnicity)		
	2000 Census	2010 Census
City of Asheville Population	68,889	83,393
White	78%	79.3%
Black or African American	17.6%	13.4%
American Indian/Alaska Native	0.4%	0.3%
Asian	0.9%	1.4%
Hawaiian / Pacific Islander	0.1%	0.2%
Other	1.5%	3.3%
Two or more races	1.6%	2.6%
Hispanic/Latino Origin (Any Race)	3.8%	6.5%

Traffic Stops by Race and Ethnicity

The figures below provide a comparison of traffic stop data reported to the NCSBI and the 2010 demographics from the last federal census for the City of Asheville based on racial and ethnic background.

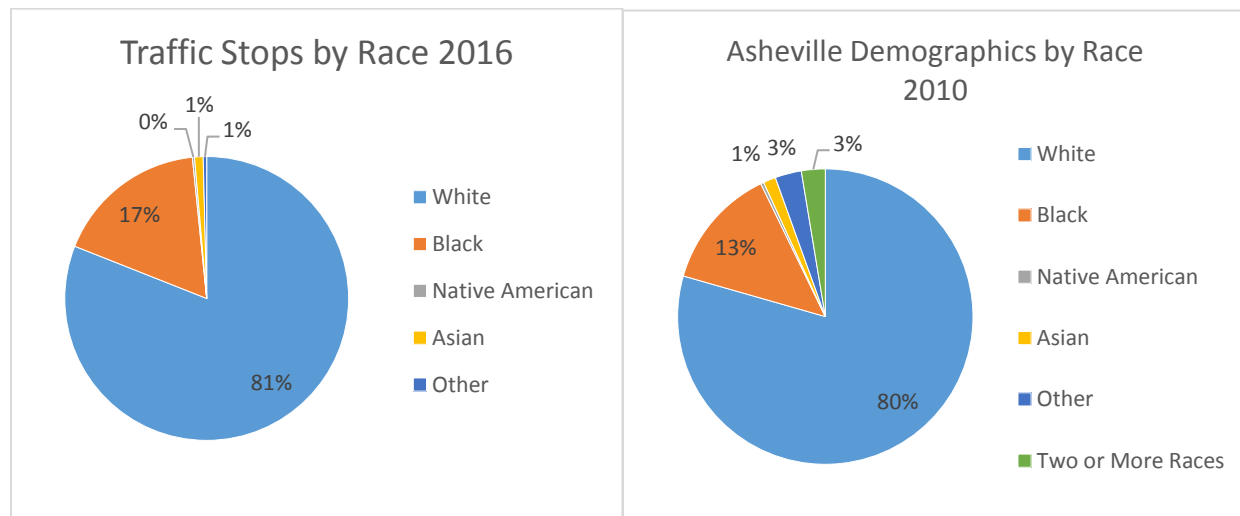


Figure 12

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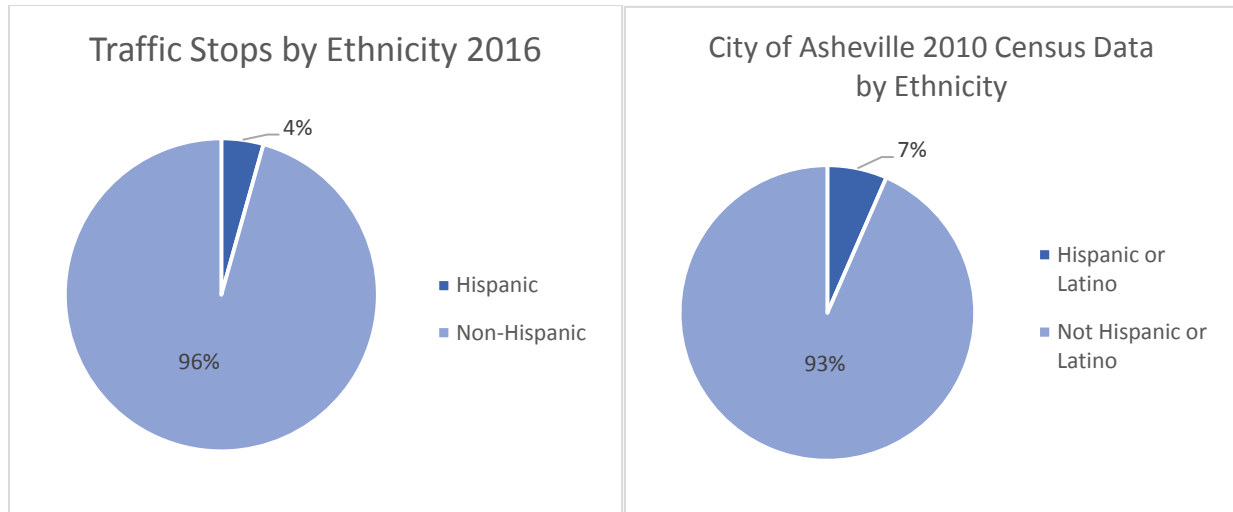


Figure 13

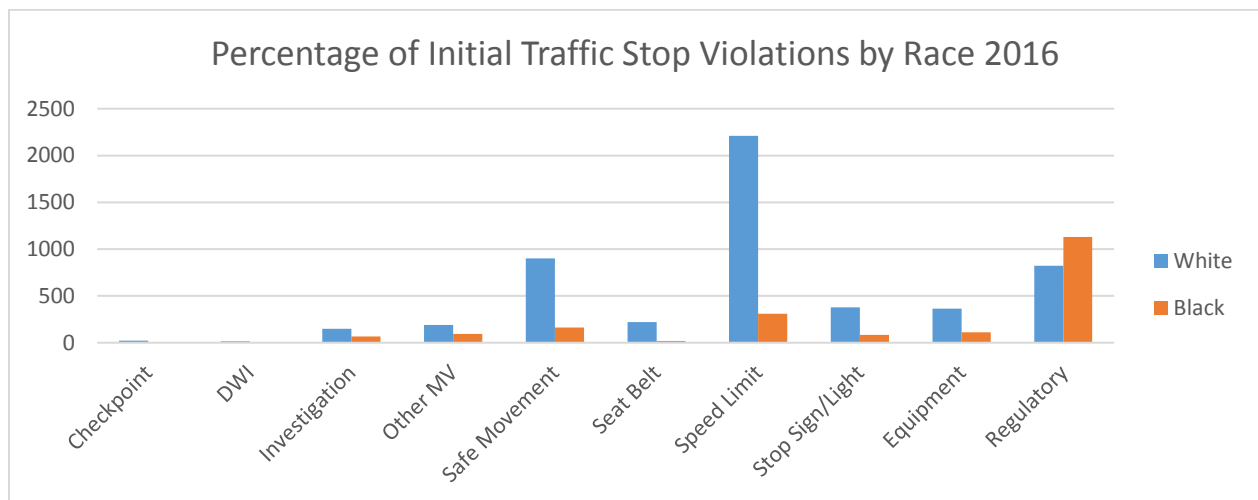


Figure 14

Complaints and Citizen Concerns

There were no complaints filed or concerns registered against Asheville Police Department employees based on racial or bias-based profiling in 2016.

In July 2016, there were several protests related to a deadly force incident involving a white officer and an African American citizen, although no specific complaints registered as a result.

Bias Based Profiling Policy and Procedures

In January of 2016 the department's biased based profiling policy was revised. The new revision covers not only prohibitions against bias-based profiling, but includes overall prohibitions against the practice of bias-based policing.

A significant change included updates and expansions of policy related definitions, specifically expansion of protected demographics. The policy's definition of individual demographics for which officers are forbidden from considering when performing law enforcement duties or delivering police services (except when part of a specific suspect description) was expanded to include gender identity, disability, and political status. The definition previously included personal characteristics including race, ethnic background, national origin, gender, sexual orientation, religion, socioeconomic status, age, and cultural group.

Language was also added requiring employees who witness or are aware of instances of bias-based policing to report the incident to a supervisor, and that such complaints must be forwarded to the department's Professional Standards Section.

So far, no issues have been identified related to the revision released on January 25th, 2016.

GRIEVANCE ANALYSIS

In accordance with the City of Asheville Personnel Policy, grievances (a complaint or dispute of an employee related to his/her employment) may be filed for reasons such as, but not limited to: unfair interpretation or application of policies, unfair or inappropriate disciplinary actions, unsafe workplace environments, unfair or discriminatory disciplinary or supervisory practices, sexual or racial harassment, or any other grievance related to conditions of employment.

Employees who wish to file a grievance may do so orally or in writing, formally or informally, present complaints to supervisors, starting with their immediate supervisor and proceeding through supervisory channels to the department director and City.

In 2016, the following employee grievances were initiated:

Date Filed	Type/Nature	Disposition
1/11/2016	Disciplinary Action	Resolved within the Department
1/18/2016	Disciplinary Action	City Manager upheld decision and employee appealed to Civil Service Board - final disposition still pending
1/20/2016	Disciplinary Action	Resolved within the Department
4/26/2016	Disciplinary Action	Not filed by deadline and did not move forward
5/27/2016	Dismissal	City Manager upheld decision - employee filed appeal but then withdrew
12/30/2016	Disciplinary Action	Resolved within the Department

The analysis of employee grievances filed for the calendar year of 2016 found that all were limited to specific disciplinary actions, with two linked to the same incident. No other patterns were noted or revealed from filed grievances in 2016.

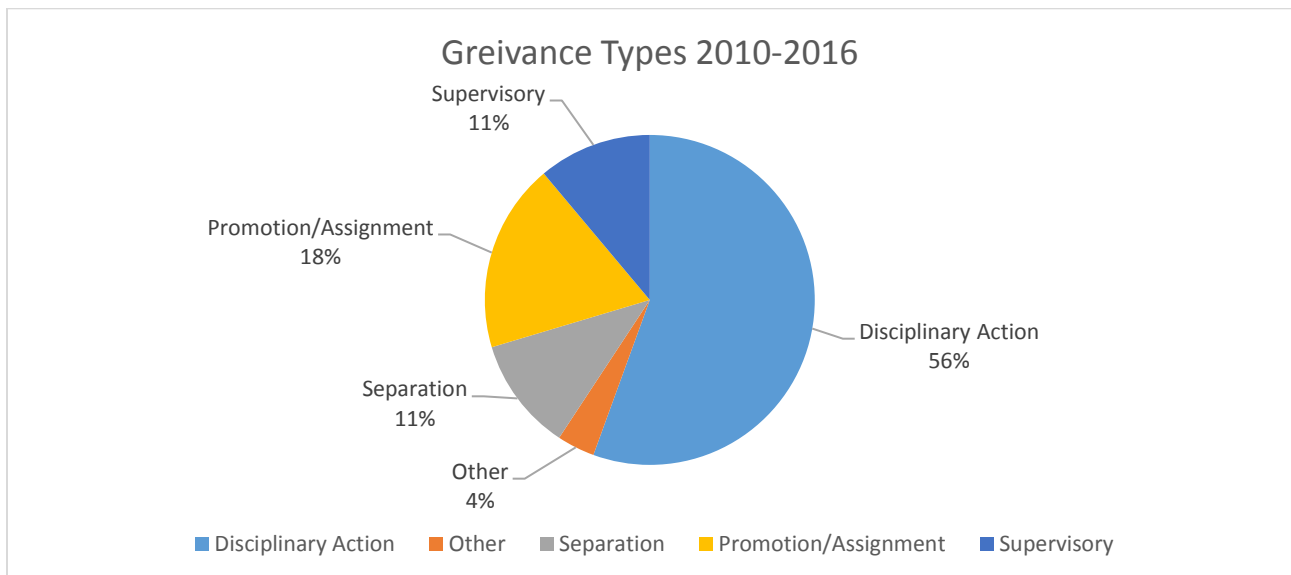


Figure 15

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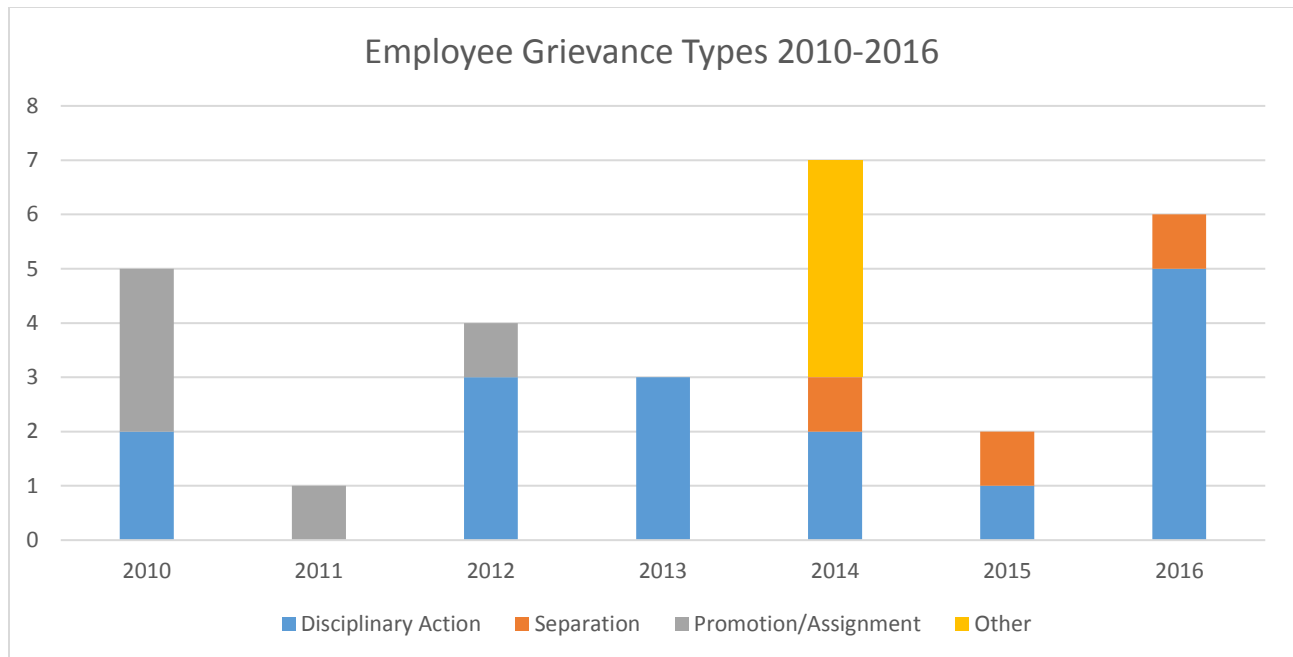


Figure 16

In 2014 grievances classified in the “other category” were related to workplace harassment (2), military leave (1), and personnel privacy (1). There has been a significant drop (absence) of promotional or assignment based grievances since 2013.

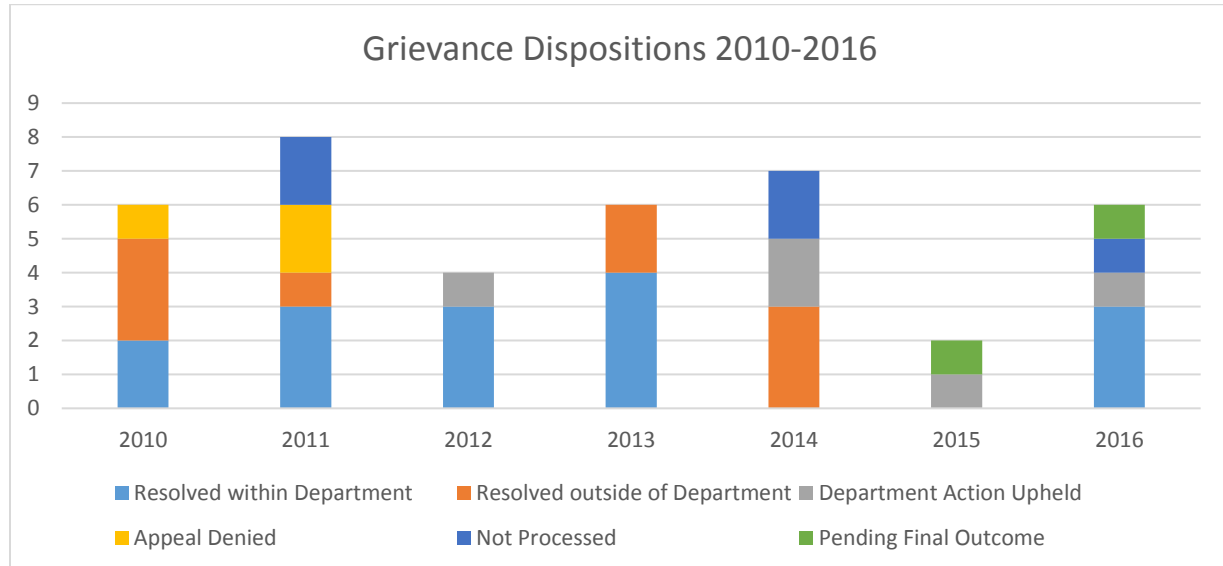


Figure 17

The department convened a committee in 2016 to review and discuss revisions to the department’s disciplinary policy and practices. Department level adjustments were recommended that do not conflict with the city’s established disciplinary system and are in process of being reviewed for implementation. Grievance policy and processes are dictated by local ordinance and civil service regulations.

INTERNAL INVESTIGATIONS STATISTIAL SUMMARIES

All complaints received by the Asheville Police Department are taken seriously and investigated fully. We recognize that despite our best efforts, there will be times when citizens, fellow employees or supervisors perceive an employee's behavior to be inappropriate. When this occurs, the department uses a well-established process for receiving, investigating, and adjudicating complaints.

The department accepts complaints from all sources, including those filed anonymously. Investigations may be initiated from an internal (generated by department employees) or external source (citizen complaints). Investigations are assigned for investigation after receipt.

The Professional Standards Section typically investigates allegations of significant concern, while other allegations of misconduct and peer related issued are typically investigated by a supervisor in the employee's chain of command.

The department makes every effort to investigate and adjudicate all complaint allegations within 60 days from the time the complaint is made. However, there are circumstances, including case complexity and witness availability which may not allow this goal to be achieved in every instance.

Complaints and Internal Investigations

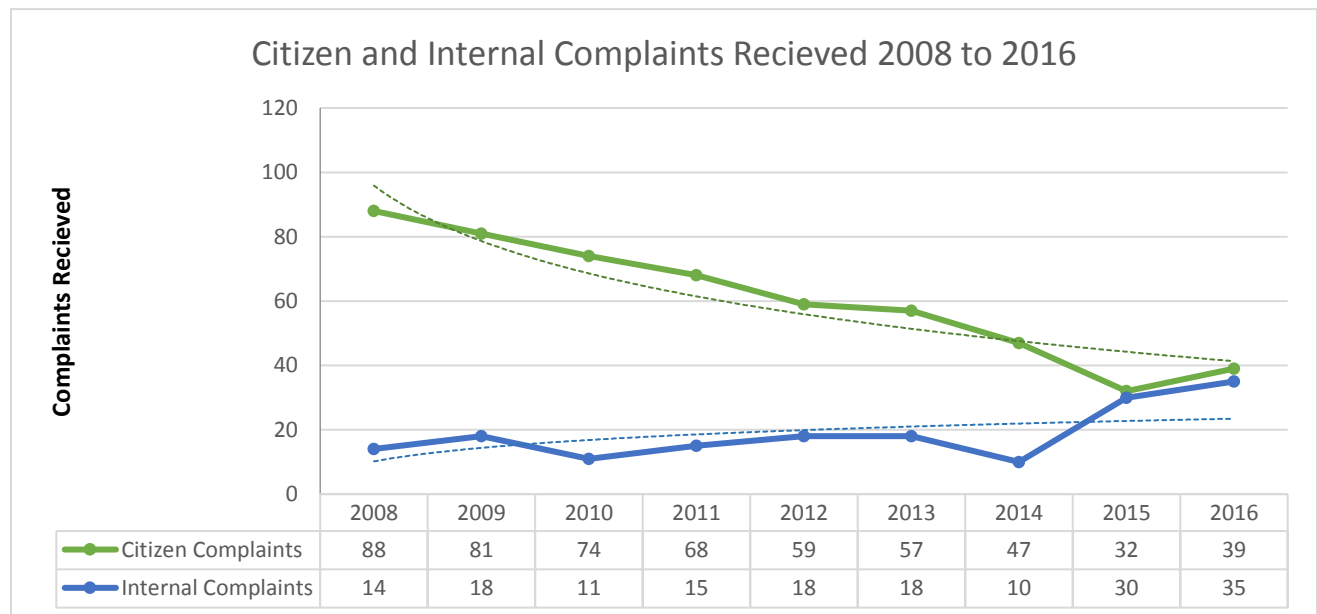


Figure 18

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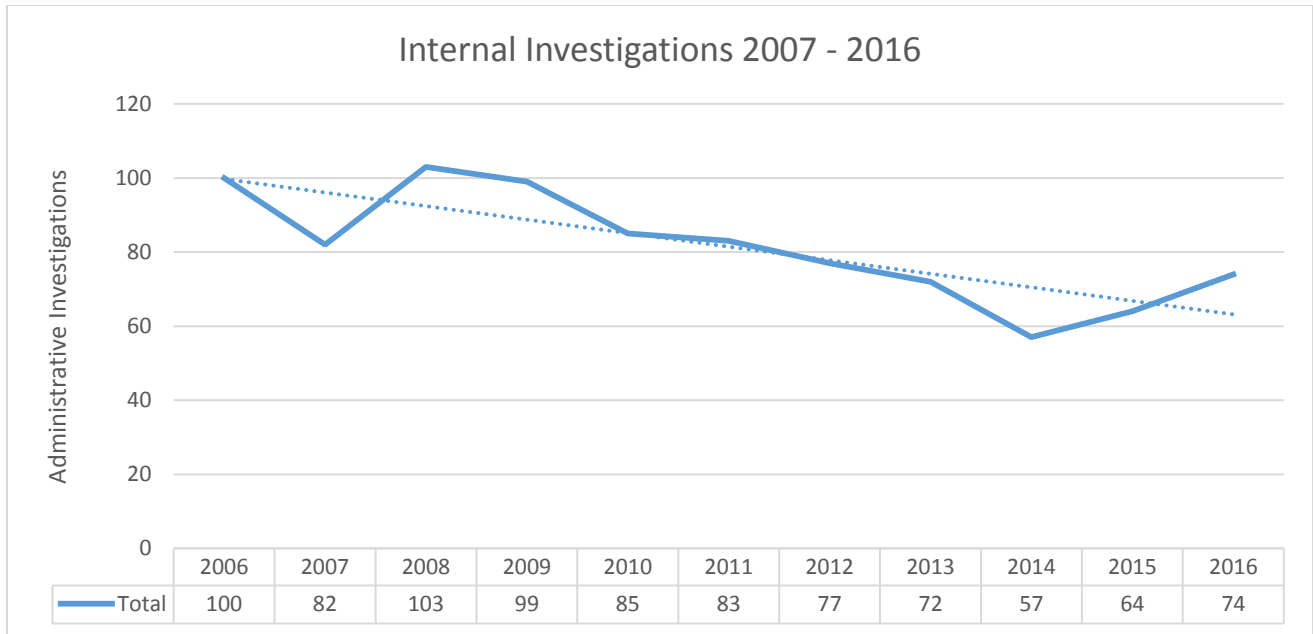


Figure 19

Complaint Origination

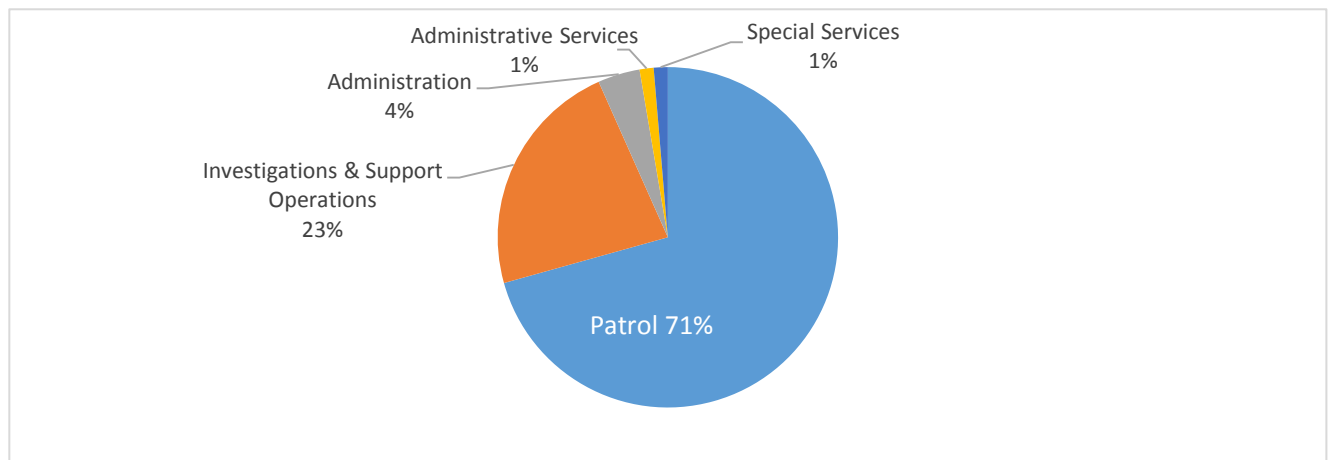


Figure 20

2016 Complaints by Department Division*		
Division	Number of Complaints	Percentage
Patrol	53	72%
Investigations & Support Operations	17	23%
Administration	2	4%
Administrative Services	1	1%
Special Services	1	1%
Total:	74	

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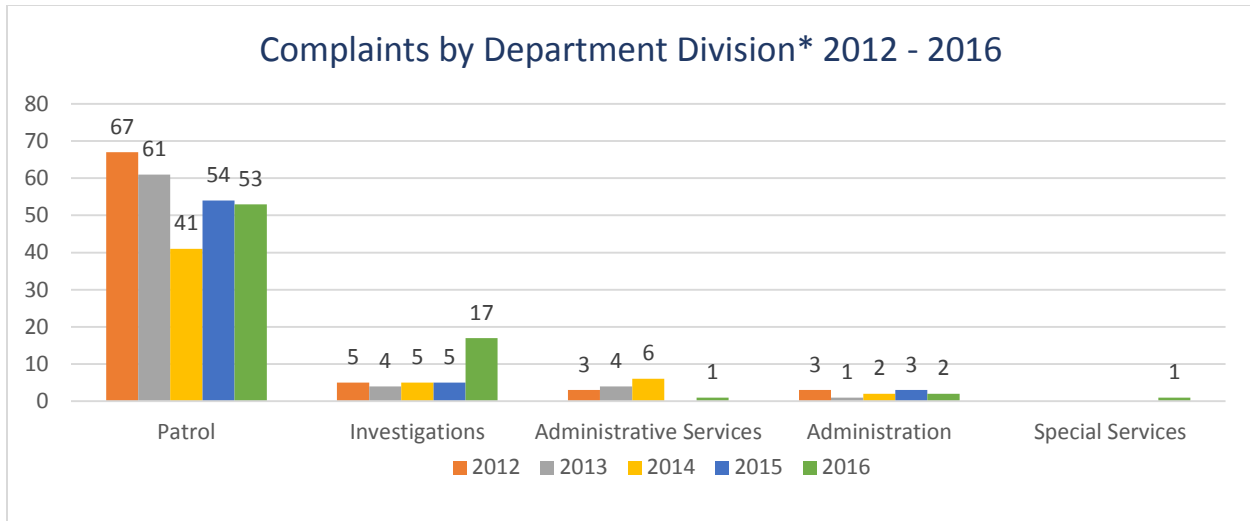


Figure 21

*The department's organizational structure was changed in late 2015 and a new department division was created. What was previously labeled as *Support* was divided into two Divisions, *Special Services* and *Administrative Services* for 2016 figures.

- The Patrol Division includes city Patrol Districts, as well as the department's Public Housing and Downtown Units.
- Investigations represents the department's Investigations & Operations Support Division, which includes Criminal Investigations, Forensics, Victims Services, Traffic and Animal Services, and the department's Special Operations Section.
- The Administrative Services Division includes primarily civilian support units, such as the department's Records and Communications Sections.
- The Special Services Division includes the Planning and Evidence Section and Recruitment and Career Development Section.
- Administration includes all other organizational components, including the Office of the Chief, the Professional Standards Section, and Financial Services Division.

In 2016, ten complaints were filed against employees in supervisory roles, and four were filed against civilian employees.

Type and Dispositions of Internal Investigations

After an investigation is completed, there are five possible dispositions:

- Exonerated: The allegation is true; the action of the department or the employee was consistent with department policy.
- Sustained: The allegation is true; the action of the department or the employee was inconsistent with department policy.
- Not Sustained: There is insufficient proof to confirm or refute the allegation.
- Unfounded: The allegation is demonstrably false.
- Policy Failure: The allegation is true; the action of the department or employee was not inconsistent with the agency policy. The policy requires modification.

The figures below show the totals for dispositions related to all internal investigations and related allegations investigated in 2016. Since one investigation may include several officers and/or allegations, multiple dispositions may be associated with one case resulting in a higher number of dispositions than total investigations.

Allegation Dispositions by Type (2016)						
	Sustained	Not Sustained	Unfounded	Exonerated	Pending	Total
Body-Worn Cameras	8	0	0	0	0	8
Conformance to Rules & Policy	8	5	2	1	1	17
Courtesy	3	2	4	2	0	11
Unbecoming Conduct	4	1	3	0	0	8
Unsatisfactory Performance	12	2	14	4	3	35
Use of Excessive Force	0	0	1	12	2	15
Other (categories with five or less allegations)						
Abuse of Position	0	0	0	2	0	2
Conduct Towards Supervisors	0	2	0	1	0	3
Dissemination of Info	1	0	1	0	0	2
Insubordination	0	1	0	0	0	1
Responsibility of Duty	3	1	0	0	0	4
Truthfulness	2	0	0	0	0	2
Ethics	1	0	0	0	0	1
Vehicle Operations	2	1	0	0	0	3
Totals	44	15	25	22	6	112

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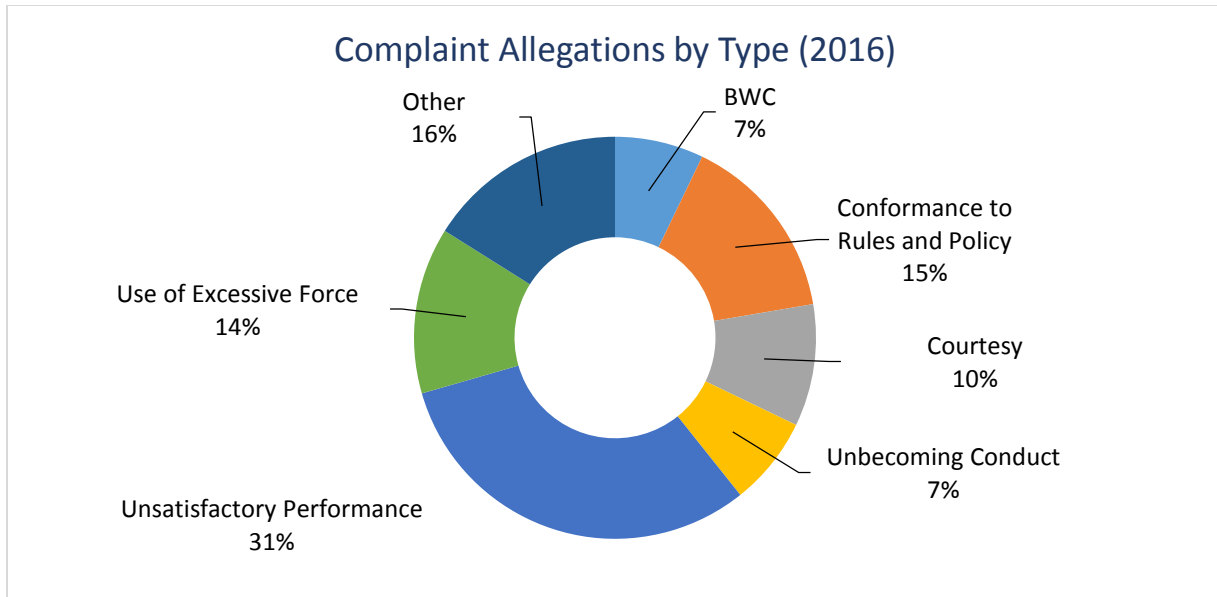


Figure 22

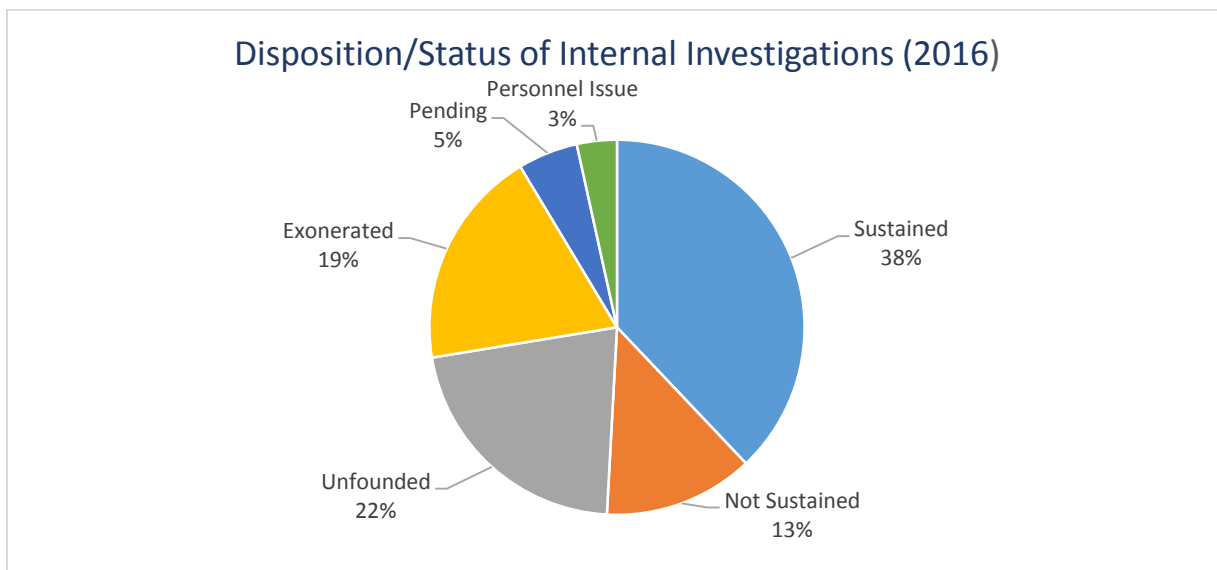


Figure 23

Disposition Status	Number of Dispositions	Percentage
Sustained	44	38%
Unfounded	25	22%
Not Sustained	15	13%
Exonerated	22	19%
Personnel Issue	4	3%
Pending Disposition	6	5%

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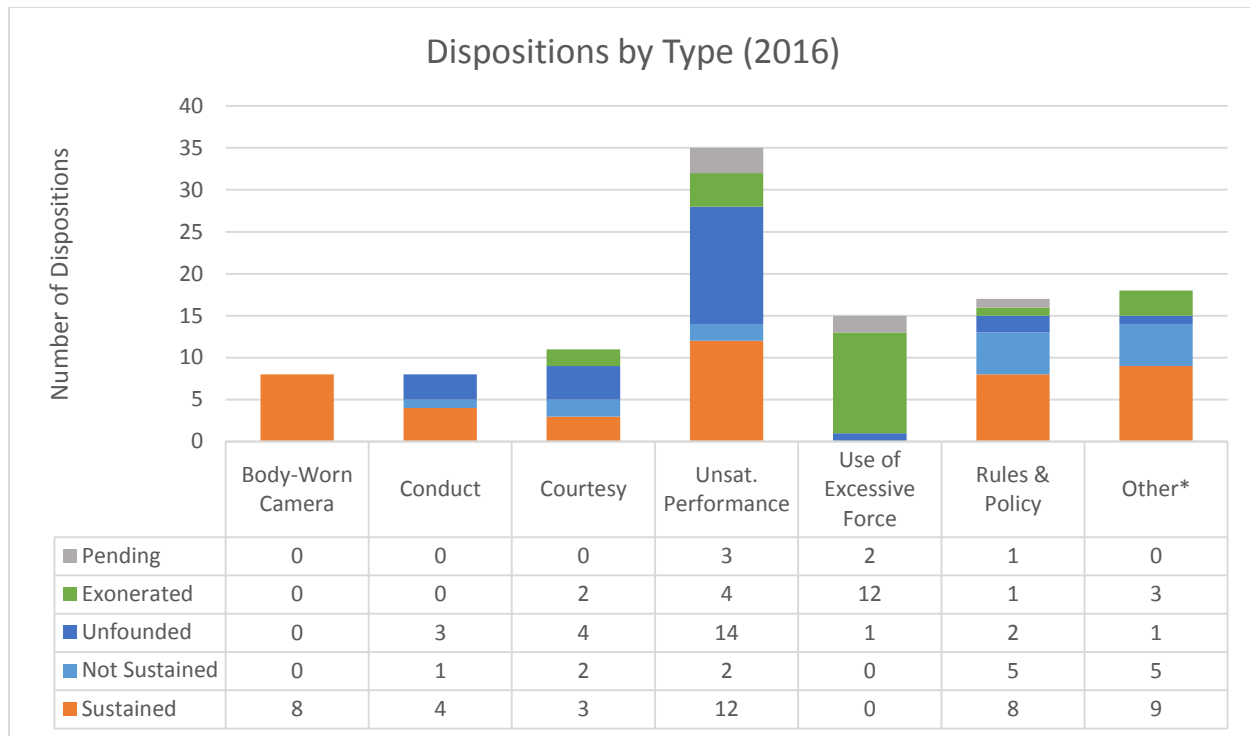


Figure 24

Demographics

Complainant-Employee Demographics (Citizen Complaints 2016)

Complainant Race/Gender		Employee Race/Gender			
	African American Male	White Male	African American Female	White Female	Totals
African American Female	0	1	0	0	1
White Female	1	7	0	4	12
African American Male	1	16	0	2	19
White Male	1	12	0	6	19
	3	36	0	12	51

Citizen complaints may involve multiple officers, resulting in a higher total of officers involved than the number of complaints filed by citizens. There was one anonymous citizen complaint in 2016 where the complainant's demographics are unknown.