



OAKLAND POLICE COMMISSION

REGULAR MEETING MINUTES

February 23, 2023
6:30 P.M.

I. Call to Order, Welcome, Roll Call and Determination of Quorum

Chair Tyfahra Milele called the meeting to order at approximately 6:32 p.m. and took roll.

Roll Call:

Present: Chair Tyfahra Milele; Vice Chair David Jordan; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Regina Jackson; Commissioner Jesse Hsieh; Commissioner Marsha Peterson; Alternate Commissioner Angela Jackson-Castain; Alternate Commissioner Karely Ordaz

II. Open Forum Part 1

Public comments were made by 3 persons (Contreras; Grinage; Adams).

III. Update from Oakland Police Department (OPD)

An update was provided by Dr. Leigh Grossman and Chief Darren Allison, including data on stops, collisions, pursuits, complaints and arrest statistics, as requested by the Chair. Questions were taken from Commissioners Jackson, Ordaz, Howell, and Jackson-Castain. These questions were answered by Chief Allison, Dr. Grossman, and Sergeant Doria Neff.

Public comments were made by 5 persons (Grinage; Jaffe; Olugbala; Jenkins; Wiley). After public comment, Chief Allison responded to some of the questions raised.

IV. Update from Community Police Review Agency (CPRA)

CPRA Interim Director Charlotte Jones provided an update on CPRA complaint statistics and made a presentation on the intake process. Director Jones answered questions from Commissioners Howell, Peterson, Jackson-Castain, Ordaz, Harbin-Forte, and Jackson. Commission Counsel Garcia weighed in on a question raised by Commissioner Ordaz concerning CPRA's role in investigations.

Public comments were made by 9 persons (Grinage; Olugbala; Jaffe; Wiley; Vale; Cleveland; Leonard; Jenkins; Conteras).

V. Presentation and Possible Approval of Changes to Militarized Equipment Policies

- **TB V-F.02 (Chemical Agents)** — Approved 9/16/22
- **TB-III-H (Specialty Impact Munitions)** — Approved 9/16/22

Commissioner Hsieh provided an update on behalf of the Militarized Equipment Policies Ad Hoc. Information was also provided by OPD Lieutenant Steve Toribio regarding the above policies, including modifications made to the language of the policies for the purpose of the consideration of vulnerable populations and persons present during potential instances where force and/or specialty munitions are deployed. Public comment was made by 2 persons (Beck; Olugbala) and answered by Commissioner Hsieh and Lt. Toribio.

After public comment, Commissioner Hsieh made a motion, seconded by Vice Chair Jordan, to send the above policies to City Council with the recommendation to approve them for the Department. The motion carried by the following vote:

Ayes: 7 - Milele, Peterson, Harbin-Forte, Howell, Jackson, Hsieh, Jordan

Nays: 0

Absent: 0

VI. Budget Proposals for the Oakland Police Commission, Community Police Review Agency, and Office of the Inspector General

Prior to hearing about the budget proposals for the Office of the Inspector General and Community Police Review Agency, Chair Milele made a statement regarding the need for additional Police Commission staff and the Charter requirements involved in this process.

IG Michelle Phillips presented on the OIG's budget priorities and the Human Resources process involved in hiring more permanent staff, including three auditors, a policy analyst, and a deputy director position.

CPRA Director Jones provided an update on CPRA staffing needs, including administrative support and a project manager for a mediation program.

Chair Milele also provided an update on OPC staff needs, including a Senior Policy Analyst, Program Analyst II, and a Public Information Officer I.

A robust discussion on the subject of budget and staffing needs was had by the Commission, OIG Director Phillips, and CPRA Interim Director Jones. Commissioner Harbin-Forte made a motion, seconded by Chair Milele, to extend the meeting to midnight. The motion carried by the following vote:

Ayes: 7 - Milele, Peterson, Harbin-Forte, Howell, Jackson, Hsieh, Jordan

Nays: 0

Absent: 0

Prior to public comment, Chief of Staff Yun commented on the intersection of budgets with the OIG and CPRA, prioritization of staffing needs based on Commission goals, and the rationale

behind strategizing the currently proposed positions for OPC.

Public comments were made by 5 persons (Wiley; Vale; Olugbala; Jaffe; Contreras).

VII. Committee Reports

Staff Searches (Commissioners Milele (Chair), Jordan, Howell)

This committee is tasked with completing staff searches on behalf of the Police Commission. Chair Milele provided an update on the Staff Search Ad Hoc, including progress on the Chief of Staff search and second-round interviews for the CPRA Executive Director search. Questions were raised by Commissioners Jackson and Peterson.

Oakland Black Officers Association “OBOA” Allegations Investigation (Commissioners Harbin-Forte (Chair), Jackson, Ordaz)

The mission of the OBOA Allegations Investigation Ad Hoc Committee is to select an outside firm through the City’s Request for Proposal process to investigate allegations by the Oakland Black Officers Association that the Oakland Police Department engages in racially discriminatory hiring and promotions.

Commissioner Harbin-Forte provided an update on the work of this committee, including the current status of the City’s possible extension of the contract with StoneTurn, the firm selected to conduct the investigation.

Negotiated Settlement Agreement “NSA” (Commissioners Harbin-Forte (Chair), Hsieh, Milele)

The purpose of this committee is (1) to represent the Commission in all deliberations and discussions with other City stakeholders pertaining to OPD’s Sustainability Period and efforts to resolve court oversight; (2) review the status of OPD compliance with NSA Tasks 5 (investigations) and 45 (racial disparity in discipline), and make recommendation for policy changes to achieve compliance, including review and assessment of the policy recommendations made in the January 18, 2023 Clarence, Dyer & Cohen report; and (3) recommend policies and actions required to ensure that the constitutional policing mandated by the NSA continue beyond the Sustainability Period.

Commissioner Harbin-Forte provided comments on Judge Orrick’s orders from last month’s NSA status conference and provided detailed information on her vision for this ad hoc committee’s upcoming work. She reported that the committee would hold an organizing meeting to set a meeting schedule and stated that the committee would post all public meetings on the ad hoc committee’s web page.

Public comments were made by 3 persons (Olugbala; Jaffe; Contreras), followed by a brief discussion between several Commissioners.

VIII. **Consent Calendar**

Commissioner Harbin-Forte made a motion, seconded by Commissioner Hsieh, to approve Police Commission meeting minutes from 11/5/22; 1/26/23; 2/9/23; and 2/15/23. The motion carried by the following vote:

Ayes: 7 - Milele, Peterson, Harbin-Forte, Howell, Jackson, Hsieh, Jordan

Nays: 0

Absent: 0

IX. **Upcoming/Future Agenda Items**

Commissioner Hsieh suggested for a future agenda that an interconnected three-tier informational report consisting of data from MACRO, OPD, and CARES. Commissioner Hsieh requests this report provide data on:

- how many intakes CARES has received from OPD and MACRO
- a report from MACRO on their OPD referrals and the outcomes of those referrals for tracking purposes
- and finally, from OPD to see; the numbers of arrests that are eligible for CARES, the dispatches to MACRO and the types of cases involved, and the juvenile cases that are appropriate for juvenile pre-filing diversion and the outcomes of those cases

Commissioner Ordaz requested a plan for the hiring of the new Chief of Police.

Commissioner Jackson requests the agendizing of the continued budget discussion.

Commissioner Harbin-Forte requests the agendizing of the proposed CPRA policies and procedures manual for the tentative date of March 23rd, and requests something akin to a general order where reporting agencies or presenters at Commission meetings can use to be abreast of the information and items generally needed for report outs and updates.

Alternate Commissioner Jackson-Castain requests a follow-up presentation from Dr. Grossman on stop data.

Commissioner Peterson requests to hear about CPRA's outreach for appropriate training to ensure they are ready for post-sustainability.

Public comments were made by 2 persons (Olugbala; Jaffe).

X. **Open Forum Part 2**

Public comments were made by 1 person (Olugbala).

XI. **Adjournment**

Chair Milele adjourned the meeting at approximately 11:35 p.m.

Public Comment for Police Commission
items: 2, 3, 7



Open Forum or Agenda



Thu 2/23/2023 4:08 PM

To: OPC General Mailbox <opc@oaklandcommission.org>

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Police Commission:

As a 26 year resident of the city of Oakland and a recent retiree from the City of Oakland, I want to Thank the Police Commission for your courage to step into the midst of this highly publicized debacle. I am hugely disappointed, angry and appalled amidst all of the highly confidential public disclosures and leaks directly designed to smear Police Chief Armstrong’s career & character. We the people, for whom the Police Commission was established were anxiously awaiting the Commission’s intervention & results of its Disciplinary panel to balance the power dynamics. We anxiously awaited to receive their unbiased review and analysis. I remain frustrated and angry, that the Mayor acted without regard to the community. She acted disenguously and in bad faith, against the interest of the community to undermine and undercut the “power of the police commission”, the very body put in place to represent the citizens, without a political agenda, unlike the Mayor. Sheng Thao’s preemptive action to fire the Chief prior to the Police Commission’s meeting clearly demonstrated her disenguous and premeditated political agenda. It was a direct “slap in the face” to the citizens of Oakland and denied its citizens the opportunity to hear from this duly empowered body without an agenda.

After 20 years of NSA oversight, we were very close to compliance under this community policing, reform minded Chief. The Mayor’s short sighted view and lack of insight will cost the city millions & millions more rather than allowing the police commission to possibly enact reasonable discipline and allow the city to move forward successfully.





Citywide Risk Management Meeting Slide Deck

February 22, 2022

Stop Data

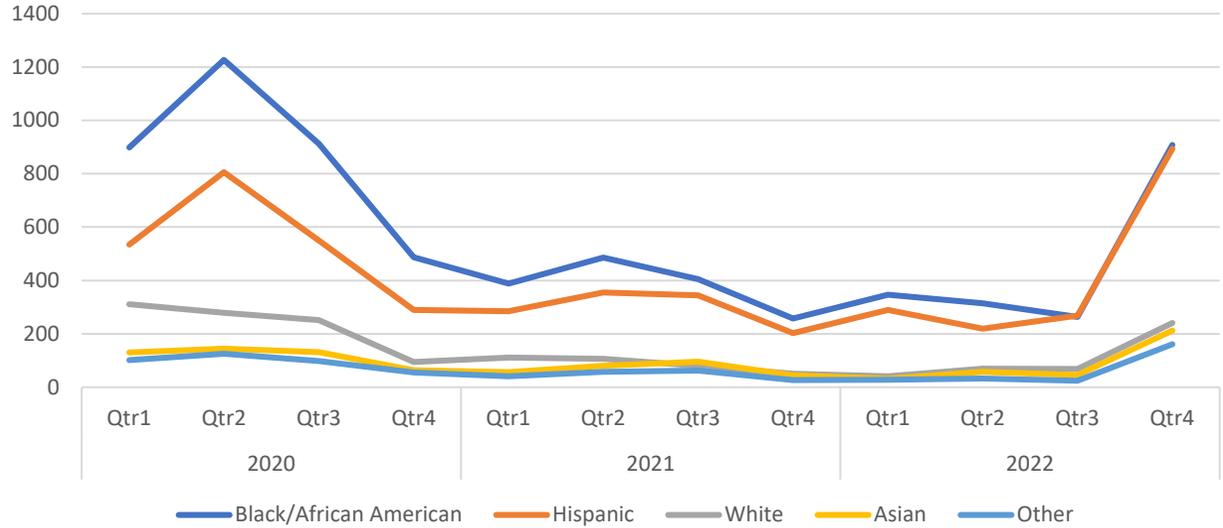
- Dispatch stops declined 11% in 2022 and non-dispatch stops increased 24% in 2022 (Q4 drove the increase)
- Intelligence-led rate for non-dispatch stops is at 41% for the year, down from 42% in 2021.
- African Americans comprise 41% of non-dispatch, non-intel led stops, decrease of 2%. Hispanics comprise 37%, a 3% increase from last year.
- Traffic stops make up 88% of non-dispatch, non-intel led stops this year compared to 81% last year.
- 96% of traffic stops are moving violations, in line with Departmental directives.
- The work done in Q4 resulted in an overall 76% citation rate for traffic violations in 2022 compared to 72% in 2021.

Stops by Traffic Officers in Q4 2022

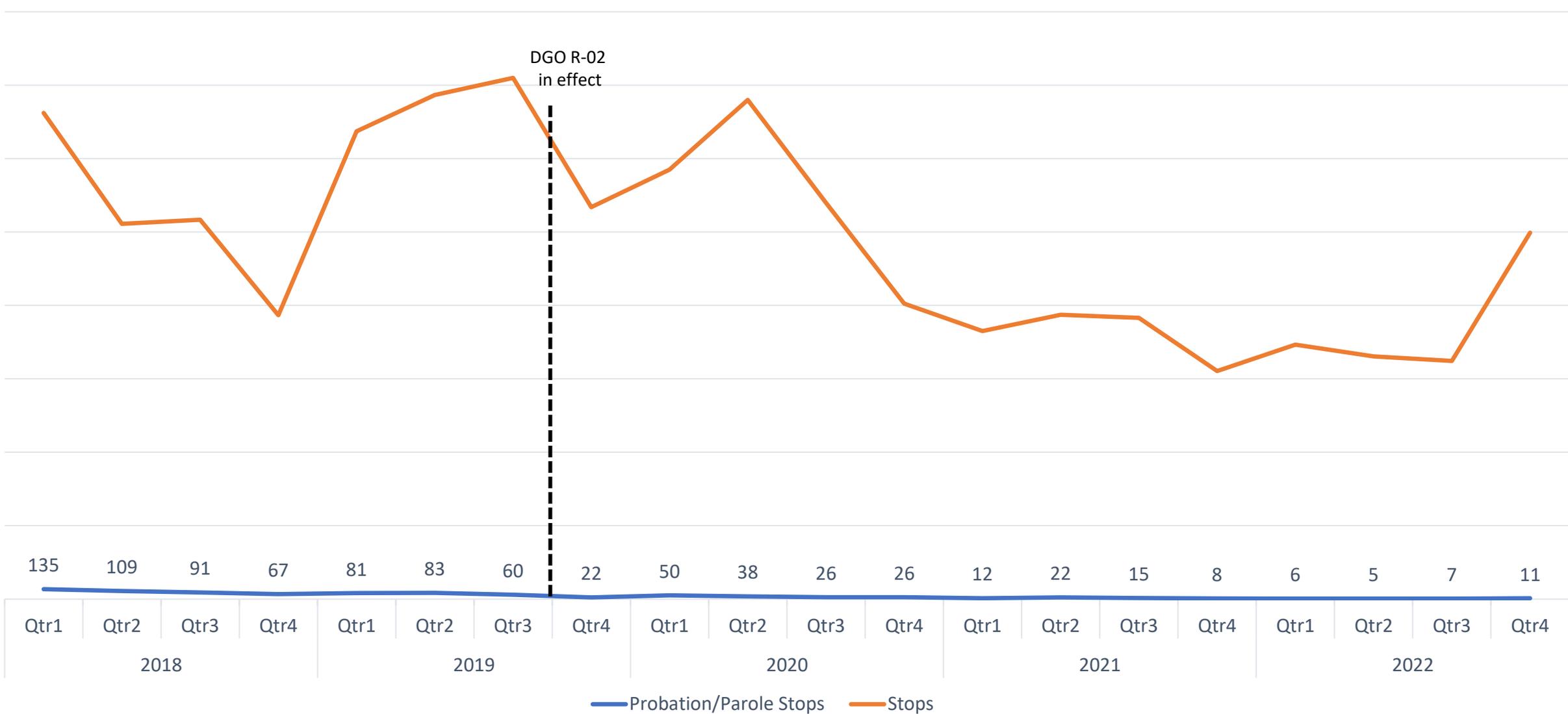
- Officers assigned to the traffic squad made 1,764 traffic violation stops (driver only). Of these, 99.7% were moving violations.
- 35% of traffic violations involved African American subjects. 37% of subjects were Hispanic.
- A citation was issued 98.5% of the time.
- 26% of the stops occurred in Area 5, 22% in Area 6, and 19% in Area 4.

Non-Dispatch, Non-Intel Led Stops by Race

	2020				2021				2022			
	Qtr1	Qtr2	Qtr3	Qtr4	Qtr1	Qtr2	Qtr3	Qtr4	Qtr1	Qtr2	Qtr3	Qtr4
Black	45%	48%	47%	49%	44%	45%	41%	44%	47%	45%	39%	38%
Hispanic	27%	31%	28%	29%	32%	33%	35%	36%	39%	31%	40%	37%
White	16%	11%	13%	10%	13%	10%	8%	8%	5%	10%	10%	10%
Asian	7%	6%	7%	6%	6%	7%	10%	8%	4%	8%	7%	9%
Other	5%	5%	5%	6%	5%	5%	6%	5%	4%	5%	4%	7%



All Stops Compared to Probation/Parole Stops



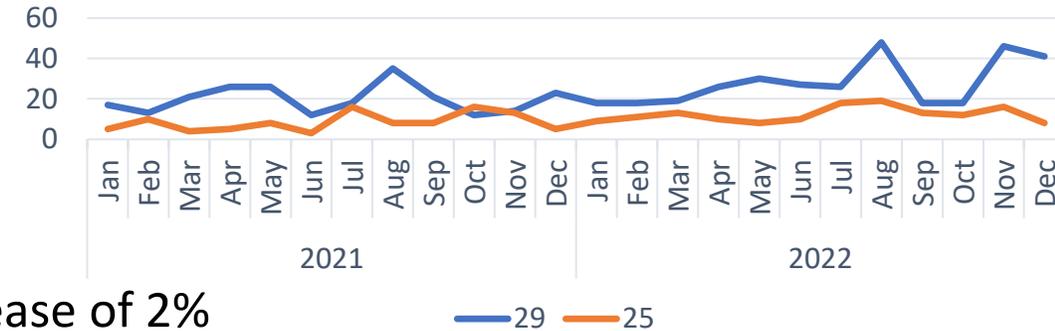
DGO R-02 went into effect October 11, 2019. Prior to R-02 Probation/Parole stops represented 2% of stops, in 2022, they represented 0%.

Force Data

(All force by every officer on every subject)

- There has been a 5% increase in force in 2022 (excluding K32).
- There were two L1 incidents in 2022 compared to five in 2021 (none in Q4). L2 and L3 incidents have decreased about 32%.
- At the end of Q3, L4 force had increased 3% compared to 2021, by the end of the year, it had increased to 7%.
 - 1% decrease in Type 22 (1177 v 1187)
 - 41% increase in Type 29 (335 v 238)
 - 46% increase in Type 25 (147 v 101)
 - Since June 4, there have been 2,275 Type 32 uses of force
- African Americans comprise 60% of subjects, a decrease of 5% from last year. Hispanics comprises 24% of subjects, an increase of 2%
- There was one officer involved shooting and two canine bites in 2022.

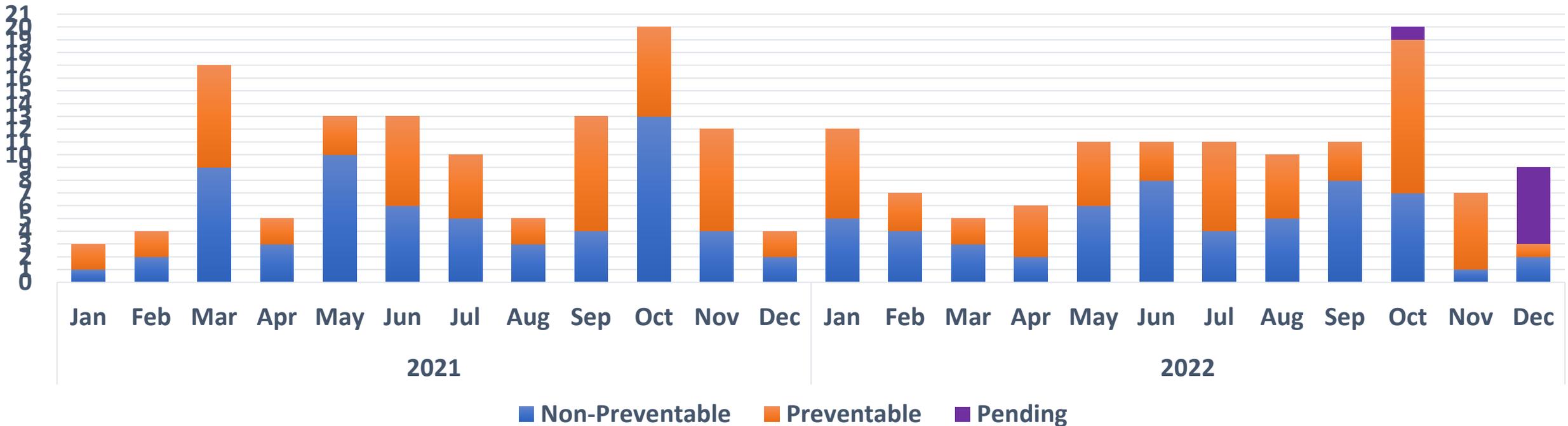
Type 25 & 29 Uses of Force



Type 32	318	341	290	306	306	412	302
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Collisions

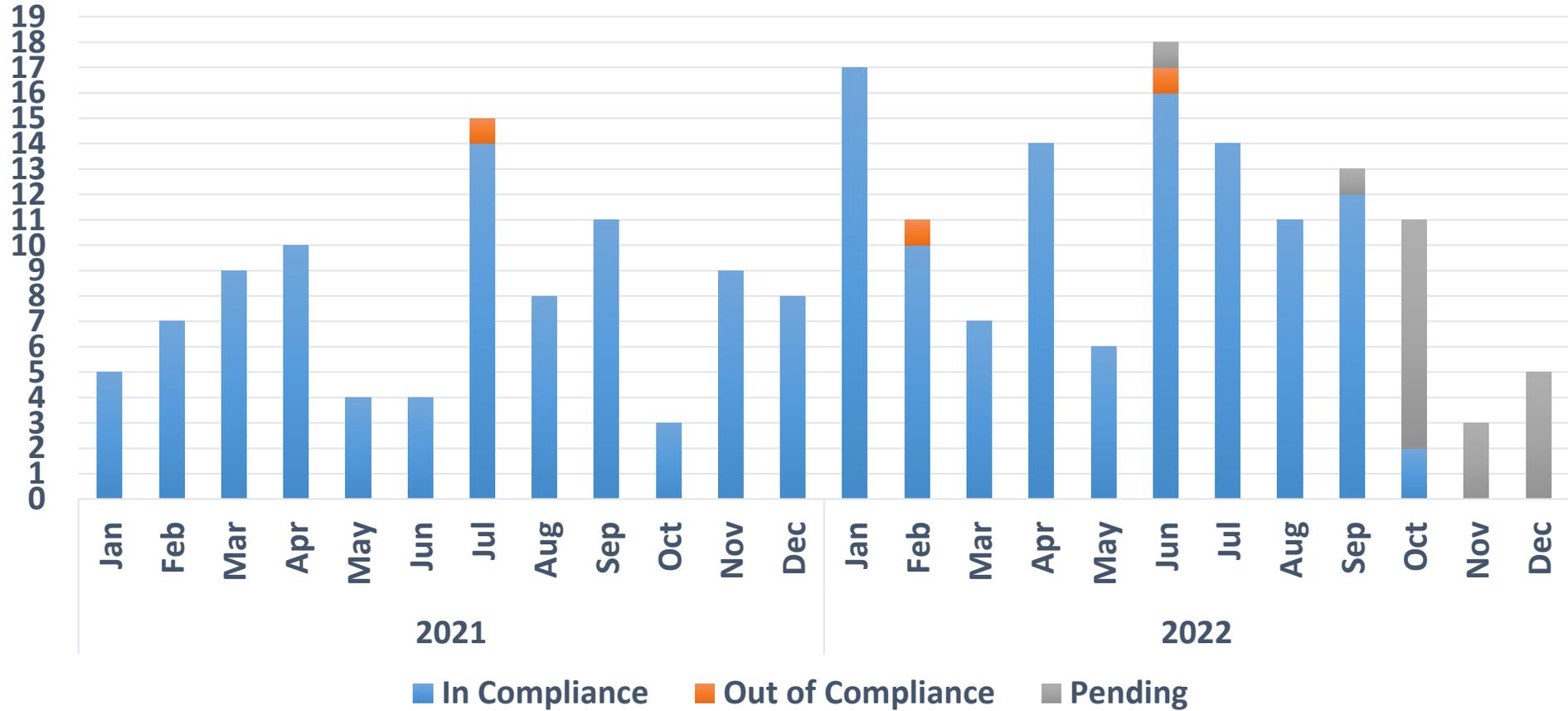
- There has been a 2% increase in collisions with sworn personnel this year (113 v 111) and collisions involving professional staff are down 1 incident (7 v 8)
- Area 5 experienced the most collisions in 2022 with 23. Area 6 experienced 14.
- The most common PCF for preventable collisions was unsafe turn though many incidents from Q4 are still pending.



Top PCF for Preventable Collisions	2021				2022				Grand Total
	Qtr1	Qtr2	Qtr3	Qtr4	Qtr1	Qtr2	Qtr3	Qtr4	
UNSAFE TURN AND/OR WITHOUT SIGNAL	6	6	7	4	5	4	6	6	44
START PARKED VEHICLE/UNSAFE BACKING ON HIGHWAY	4	3	5	6	2	1	2	2	25
UNSAFE SPEED FOR PREVAILING CONDITIONS	2	2	3	2	1	3	1	2	16

Pursuits

- Pursuits increased 40% in 2022 going from 93 to 130.
- The average number of units involved per incident is 1.8 this year compared to 1.6 in 2021.
- So far this year, two pursuits were found out of compliance.
- Officers from VCOC initiated 35 pursuits in 2022 followed by officers from Area 5 with 30 pursuits.
- Special Order 9192 went into effect on Dec 16 and requires additional authorization for pursuits that reach certain speeds and also requires supplemental reports from authorizing and monitoring personnel.



Top Pursuit Wants	2021				2022				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Carjacking	8	10	8	10	11	19	16	5	87
Robbery/Attempt Robbery	4	2	6	1	16	9	12	4	54
Assault w/ Firearm on Person	4	2	6	2	4	3	4	3	28
Firearm Possession	0	0	4	3	1	3	2	5	18

Complaints

- Allegations are up 15% and cases are up 9% for 2022 compared to 2021.

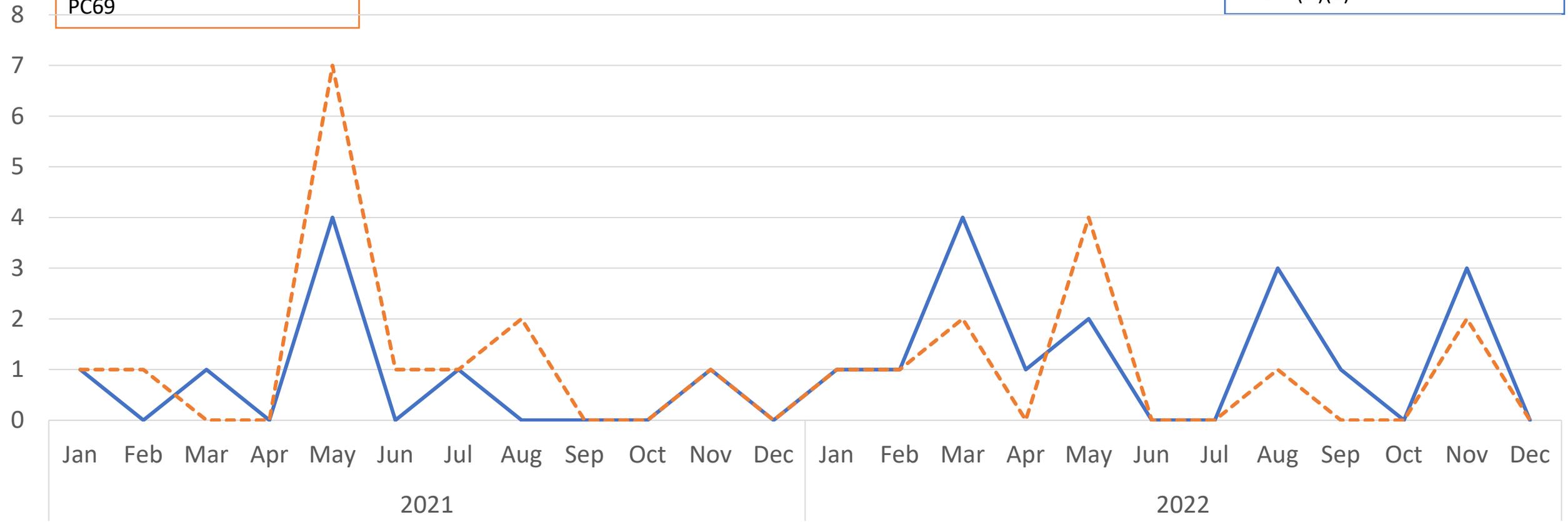
Top Allegations Q4	Oct-Dec 2021	Oct-Dec 2022	% Change
PERFORMANCE OF DUTY - UNINTENTIONAL/IMPROPER SEARCH, SEIZURE, OR ARREST	153	207	+35%
PERFORMANCE OF DUTY - GENERAL	124	112	-10%
USE OF PHYSICAL FORCE COMPARABLE TO LEVEL 4	56	81	+45%
CONDUCT TOWARD OTHERS - DEMEANOR	47	40	-15%
FAILURE TO ACCEPT OR REFER A COMPLAINT (UNINTENTIONAL)	43	18	-58%
DEPARTMENT PROPERTY AND EQUIPMENT - PREVENTABLE COLLISION	19	33	+74%

Top Allegations for 2022	Jan-Dec 2021	Jan-Dec 2022	% Change
PERFORMANCE OF DUTY - UNINTENTIONAL/IMPROPER SEARCH, SEIZURE, OR ARREST	595	759	+28%
PERFORMANCE OF DUTY - GENERAL	481	511	+6%
USE OF PHYSICAL FORCE COMPARABLE TO LEVEL 4	240	302	+26%
CONDUCT TOWARD OTHERS - DEMEANOR	173	184	6%
FAILURE TO ACCEPT OR REFER A COMPLAINT (UNINTENTIONAL)	97	101	+4%
DEPARTMENT PROPERTY AND EQUIPMENT - PREVENTABLE COLLISION	58	92	+59%

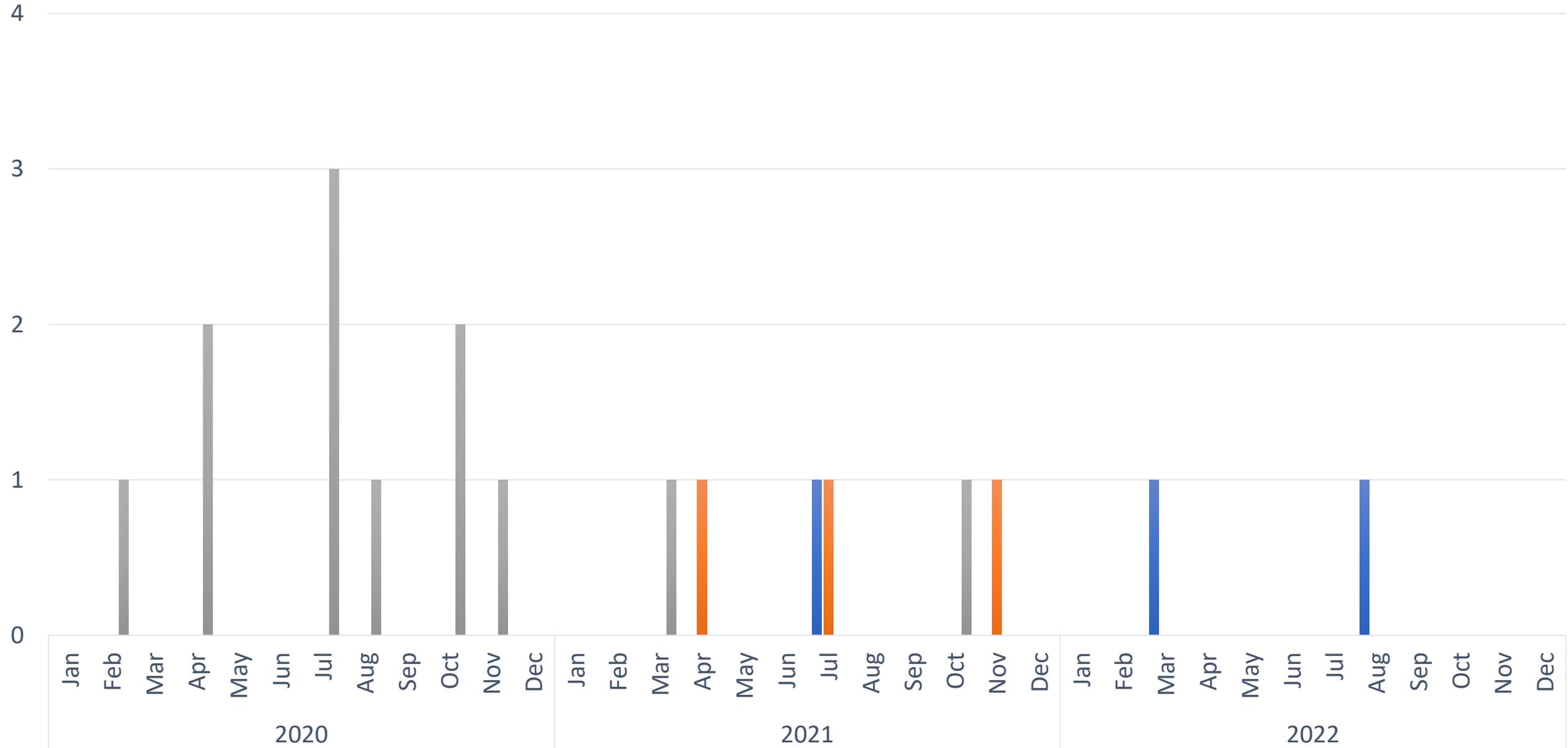
Assault/Battery on a PO & Obstruction/Resisting a PO (sole charges)

Obstruction/Resisting a PO
Charges:
PC148(A)
PC148(A)(1)
PC148.10(A)
PC148.5(A)
PC148.9(A)
PC148.9(B)
PC69

Assault/Battery on a PO Charges:
PC148(B)
PC148(D)
PC243(B)
PC243(C)(1)
PC243(C)(2)
PC245(C)
PC245(D)(1)



Management-Level Liaison (MLL) Tracking



COMMUNITY POLICE REVIEW AGENCY INTAKE AND INVESTIGATIVE PROCESS

Charlotte Jones
Interim Executive Director

Previous Intake Process

- Majority of complaints (approx. *85%) received from IAD on a Complaint form (CIR)
- Based solely on information contained on the complaint form (CIR), CPRA would decide whether the case was mandated.
 - Mandated cases have allegations of: Use of Force, Truthfulness, Profiling/Harassment based on a protected class, In Custody deaths, and First Amendment assemblies.
- If the complaint form did not have one or more of these mandated allegations, on the face of the form, CPRA would essentially close the case – no work on it.
- If the complaint form did have one or more these mandated allegations, on the face of the form, the case would be assigned to an intake technician.

Previous Intake Process

- The intake technicians would gather reports and BWC evidence, review and assess the information and evidence, determine the allegations, and provide a recommendation as to the finding.
- If the intake technician determined based on their review and assessment of the evidence, that the allegations were either Unfounded, Exonerated, or Not Sustained, and the intake supervisor agreed – the supervisor would accept that recommendation and make that the finding of the case. The case would be closed with that finding and reported.
- If the intake technician determined based on their review and assessment of the evidence that the allegations might be Sustained, they would make that recommendation to the supervisor, and if the supervisor agreed, they would forward the case on to the investigative supervisor to be assigned for an investigation.

Current Procedures (in process)

- Majority of complaints still come from IAD. We have started more community outreach, and the goal is to **become a visible and viable resource** so that complainants can know that there is a civilian agency to file complaints with directly.
- **CPRA now determines** what the allegations are on a complaint – not based solely on the complaint form sent to us by IAD. The intake technician **listens to every statement** made by every complainant and provides a summary of that statement to the supervisor, who determines if there are mandated allegations.
 - This is one area where a different **perspective**—can effect the allegations and subsequently the findings in a case.

Current Procedures (in process)

- If there are no mandated allegations, and CPRA will not be conducting an investigation, the **summary** of the complainant's statement is **added to the file**, the **supervisor updates** the database with the **reason the case is closed**, and most importantly the **complainant will be notified** about the status of their case.
- Intake technicians are utilized as that – **technicians and not investigators**. Their **role has been more clearly defined** at the intake level, specifically to address online complaints, respond to voice mail messages, enter complaints, request reports, download BWC, send contact letters and similar duties. They do not make assessments, analyze, make determinations, or recommendations about the investigations.
- **All cases** with one or more **mandated allegations** is **assigned to an investigator** for investigation. No cases that the supervisor determines has a mandated allegation is closed at the intake stage.

Investigative Process

- Complainant Contact:
 - What the complainant has to say is important in an investigation
 - Investigative staff must contact every single complainant for their newly assigned cases via phone
 - Introduction, clarification, additional information, evidence, witness information, informing of the process and what CPRA investigates
 - Updates at certain intervals and provide a disposition of the case
- Mandated versus Not Mandated
 - CPRA's Charter mandate and priority is to focus on the areas that the community identified as most important – those 5 categories.
 - Goal: become SMEs in those areas because those are our focus of concentration
 - The Commission can direct us to investigate other misconduct allegations as well.
 - As we continue to train and hone our investigative skills in those areas, objective and accurate findings will be the natural result

Investigative Process

- Evidence

- For CPRA, evidence has primarily meant obtaining whatever evidence OPD has for a case, including video and witness statements.
- Majority of the evidence is derived from OPD - so our investigation is affected by OPD's perspective on what the most important evidence is.
- Goal: A more boots-on-the-ground type of investigative process (e.g., going out into the community).
 - Not possible right now as the staff have not been trained in that manner and do not have the resources but makes for a more complete investigation.

- Analysis

- The investigator considers the complainant's, witness', and officer's statements, the reports, the videos and any other evidence to determine the actions of the officer – then analyze those actions based on relevant written OPD policies, Orders, and training.
CPRA will always stand on what is written when analyzing and reaching a conclusion.

Investigative Process

- Objective report
 - Everything written in the report should be as comprehensive and objective as possible.
 - Previously there was information written at the onset of the reports – “Factual summaries” - that were subjective in nature and skewed the reports.
 - Even something as seemingly innocuous as a sentence like, “The officer was attempting to calm the complainant down”, paints a picture for the reader
 - Changed the format for most reports and removed the Factual summary
 - Investigator can just state the actual facts of what was said and what occurred without editorial or opinion.