

**CITY OF PORTLAND
CIVIL SERVICE COMMISSION**

POLICE CITIZEN REVIEW SUBCOMMITTEE

FOURTH ANNUAL REPORT

2005

MAY 15, 2006

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1. INTRODUCTION

The Police Citizen Review Subcommittee had a successful year, staying up to date with all of the IA reports and becoming members of the National Association of Civilian Oversight of Law Enforcement (NACOLE). Dr. Robert McAfee continued as Chair of the Subcommittee during a period of turnover in Subcommittee positions. As of this report, the Subcommittee has a full complement of its members. At the same time, there was a transition in the Police Department itself, with Chief Michael Chitwood leaving and being replaced by Deputy Chief Timothy Burton. Chair McAfee was invited and did participate in the final interview process of the top two candidates, including Chief Burton who was appointed.

Cases were provided to the Subcommittee expeditiously as they were closed; however, with far fewer complaints being filed, there were no new cases the last quarter of the year. That trend has continued into 2006.

The Subcommittee spent time on a few issues, i.e., the use of handcuffs and “double locking”, discussion of the need for more senior officers to continue to model good behavior, as well as good police techniques, for younger officers, and the training of police officers which is ongoing by the Department. “Verbal judo” was discussed and it was noted by the Subcommittee that the majority of citizen complaints are coming from the Old Port area and from cases involving persons with mental health issues. Progress in both these areas was noted. The role of the Subcommittee vis a vis the Police Department also continued to be discussed and Chief Burton expressed his support for the Subcommittee’s role and work. Both Chief Chitwood and Chief Burton met with the Subcommittee during 2005.

The attendance of the Internal Affairs officers at the Subcommittee's meetings in order to answer questions during review of the cases was continued. The Subcommittee feels it is particularly helpful to them, and appreciates the Department's cooperation in making them available.

One area which has not been fully addressed is the area of public input into the Subcommittee's meetings. The Department has continued to express concern about the issue of confidentiality if the complainants were invited to address the Subcommittee about their particular complaints. The Subcommittee continues to be concerned about both this issue of confidentiality and citizen "expectations" as well, i.e. that this is not an appellate review of the merits of their complaint, but is simply an opportunity to address the IA procedure itself, as to its thoroughness and timeliness. There has been some public attendance at the Subcommittee's meetings, which resulted in a recommendation that the individuals file their complaints. Concern has also been expressed about maintaining the confidentiality of the complainants themselves at the public hearing.

The Subcommittee has not yet held its annual public hearing and continues to discuss ways that attendance can be increased.

The Subcommittee's jurisdiction continues to be limited to review of the "thoroughness, objectivity, fairness and timeliness of the police Department's Internal Affairs' unit methods and procedures" in regard to the handling of citizen complaints against the Portland Police Department. Review continues to occur only after the Department's review of the case and subsequent disciplinary appeals, if any, have been completed. The review is an internal audit of the Internal Affairs unit itself, as to its methods and procedures in handling citizen complaints. With membership in NACOLE,

there will be access to a broader view of how police civilian or citizen review committees work throughout the country.

2. 2005 REVIEW OF CASES AND SUBCOMMITTEE WORK

The Subcommittee continued its methodology for review of cases of having one person assigned primarily to each case to review in depth and present conclusions to the Subcommittee. All Subcommittee members are required, however, to read all of the cases in order to ensure a diverse review of each case. Having a “primary” person lead the discussion on each case has worked well and the Subcommittee will continue that procedure.

The Subcommittee met 8 times in 2005, and reviewed 14 cases. These represented all of the completed investigations which fell into the categories of allegations of excessive force, civil rights or criminal violations.

The following is the Subcommittee’s case list, identified by number only, along with the name of the primary Subcommittee member assigned to present the case:

<u>PCRS No.</u>	<u>IA No.</u>	<u>Subcommittee. Member</u>	<u>SOP’s involved</u>	<u>Result</u>
47	04-031	Segal	SOP10. Conduct toward Public	N/S*
48	04-050	Finn	SOP 42. Criminal Investigations SOP 10. Conduct toward Public SOP 71A Handcuffs	N/S N/S N/S
49		(Reviewed in 2004)		
50	04-032	Segal	SOP 10. Conduct toward Public SOP 1. Use of Control SOP 71. Handcuffs	N/S N/S N/S
51	04-030	Northrup	SOP 1. Use of Control SOP 12. Supervisory	N/S N/S

52	05-001	McAfee	SOP 1. Use of Control	N/S
53	05-002	Smith	Unlawful sexual contact	N/S
54	05-013	McAfee	SOP 1. Use of Control	N/S
55	04-072	Segal	SOP 10. Conduct toward Public SOP 41. Warrantless S & S	N/S N/S
56	04-020	Segal	SOP 44. Juvenile Operations SOP 1. Use of Control SOP 1. Use of Control Report SOP 41 Field Interview Cards	S** N/S N/S N/S
57	05-021 & 60 (Supplemental)	Targett	SOP 1. Use of Control	N/S
58	05-016	Hunter	SOP 41F. Arrest Domestic SOP 10. Conduct toward Public	N/S N/S
59	05-018	Smith	SOP 71A. Handcuffs SOP 1. Use of Control	N/S N/S
R-6	05-020	Targett	SOP 1. Use of Control	S**

*N/S = Not Sustained;

**S = Sustained. A written reprimand was issued.

The Subcommittee's Minutes for each of its meetings are found in Appendix II.

3. RESULTS FROM RECOMMENDATIONS IN PRIOR REPORTS

The Subcommittee has not identified any significant systemic weakness in the Police Department's investigations of citizen complaints, and notes that there have been significant improvements in procedures over the past 4 years. Timeliness of review of IA Reports has improved, and undue delay in these reviews is now the exception rather than the rule. The Subcommittee commends the Department in this improved process and

adoption of the goal of completion of each investigation with 60 days, including all reviews, barring unusual circumstances.

4. 2004 RECOMMENDATIONS

1. Development of an SOP regarding the use of HTE background checks during an IA investigation.

As noted above, the Department is in the process of producing a written manual for conduct of Internal Affairs investigations by the Sergeants. The Department intends to address the issue of use of background checks during investigations in the manual, and the Subcommittee encourages them to do so.

2. Focus on senior and superior officers and their role in situations which result in citizen complaints.

As noted above, the Subcommittee felt that in one or two cases, the senior or superior officer who arrived at a scene behaved or spoke in such a manner that it escalated rather than defused the situation. The Subcommittee encourages the Department to ensure that the senior and superior officers understand how important it is for them to model desirable behavior which will resolve situations efficiently and safely and to emphasize techniques for doing so in training.

3. Continue to make IA Sergeants available to answer questions with cases they investigate.

The Subcommittee has had consistent attendance by IA officers and has found it invaluable to be able to ask questions of the IA Sergeant who investigated the complaint.

5. SUBCOMMITTEE CONCERNS AND PROCEDURES

In addition to the above specific recommendation, the Subcommittee continues to discuss the issues of encouraging public input into the Subcommittee's process and the scope of the Subcommittee's jurisdiction.

i. Annual hearing. The Subcommittee notes that none of the previous annual public hearings has resulted in significant public participation. This year, the Subcommittee is holding its annual hearing at a later time when the weather has improved. Suggestions have also included holding the annual hearing in a community center such as Riverton, and having smaller, neighborhood meetings in various City locations. No firm decision has yet been made on how to proceed and the Subcommittee will continue to consider alternatives to the current annual hearing process.

ii. Public input at meetings. Subcommittee meetings are composed of both public sessions and executive sessions. Upon completion of the Subcommittee's agenda, other than case review, the Subcommittee has heard from any members of the public who are present. Depending upon the Subcommittee's anticipated agenda, the Subcommittee allots time during the meeting for general public comment, in addition to permitting comment on specific agenda items. This has resulted in some public comment at meetings this year.

iii. Complainant input. The Subcommittee has discussed implementing a more direct approach for giving complainants the potential to address the Subcommittee, in a confidential environment that protects the rights of the officers in regard to confidentiality. That has not been done, in part because of continued confidentiality concerns as noted above. The Subcommittee will continue to review this issue.

6. SUBCOMMITTEE JURISDICTION

As noted in the prior two reports, the Subcommittee continues to discuss the scope of its jurisdiction to review the handling of citizen complaints. Membership in NACOLE will enable the Subcommittee to obtain broader familiarity with how other citizen review agencies were established, how they operate, their cost, the scope of their review, and to compare Portland's procedures with those in other municipalities, particularly municipalities of comparable size.

7. STATISTICAL SUMMARIES – INTERNAL AFFAIRS' ANNUAL REPORTS

The Subcommittee has been concerned about the lack of consistency from year to year in the reporting of statistical information regarding Internal Affairs. One of the Subcommittee's specific charges has been to "do a statistical analysis of all cases reviewed, including an analysis of trends and patterns of complaints or results of investigations of complaints". Format changes from year to year in the collection of statistics by the Department has made this difficult to accomplish. 2004 saw another change in format, one which the Department indicated evolved from the recommendation of the Justice Department, and which should be standard in future reports, and which has continued in 2005.

According to the Department's 2003 Internal Affairs Annual Report, the total number of complaints filed in 2003 was 73, with 44 generated externally and 29 internally (i.e. citizen complaints). In 2004, there were 31 external complaints and 14 internal complaints (filed by the department against an officer). In 2005, there was a 1/3 decrease in external complaints from 31 to 20 and a 50% decrease in internal investigations from 14 to 7.

While the numbers are not directly comparable because of changes in the way that the statistics are kept, this shows a substantial decline over the past 4 years in citizen complaints, from a total of 80 internal and external complaints in 2002 to 73 in 2003, 45 in 2004 and 27 in 2005.

In the area of external citizen complaints, the trend is clearly in the right direction, from 47 in 2002, to 44 in 2003 to 31 in 2004 and 20 in 2005. The Subcommittee and the Department need to be sure, however, that access to the filing of citizen complaints remains open and available, and that all complaints are thoroughly and objectively investigated.

8. CONCLUSION

The Subcommittee desires to have a positive role in its review of the Portland Police Department's procedures. It is not our role to criticize individual officers nor to interfere with the Chief's management of the Department. It is critical, however, that the public have faith in the integrity and professionalism of the Portland Police Department. Changes implemented over the past few years should help to reassure the public as it does the Subcommittee. However, to the extent that there may continue to be a perception, rightly or wrongly, that the Department cannot objectively investigate allegations of wrongdoing by fellow police officers, the Subcommittee can play a positive role in improving both the public's perception of the Department's ability to conduct fair and impartial investigations of citizen complaints of wrongdoing, and of the investigations themselves. The Subcommittee can serve both the public interest and the

Department interest in ensuring citizen confidence in the Department's ability to fairly investigate citizen complaints against officers.

ACKNOWLEDGEMENT

We want to acknowledge the excellent staff assistance we receive. Clarkson Woodward has made sure that we had copies of all of the cases. Staff who have taken our minutes have been professional and prompt in producing them. William McClaran, former Portland Police Chief and currently professor at SMTC, has attended almost all of our meetings and has enlightened us about appropriate investigative techniques, different approaches to training of police officers, and the unique and powerful stresses which police officers encounter daily. He has also provided training to new members as they were appointed. He has done all this as a volunteer. Lt. William Preis, Sgts. Steve Reece, Kevin Cady and now Scot Mattox have been invaluable in helping us to understand the nuances of the cases we have reviewed. Beth Anne Poliquin and Deputy Chief Ridge have provided information regarding departmental policies. Elizabeth Boynton, Associate Corporation Counsel, has provided legal advice to us and on related issues such as collective bargaining and state confidentiality requirements. The Corporation Counsel's support staff has diligently ensured both the availability and the confidentiality of the IA reports. We thank them all for their energy, time, insight and assistance.

Last, but not least, we thank Austin Smith for his work during his term as a member of the Subcommittee.

Dr. Robert McAfee, Chair
Janis Beitzer
Julia Finn
Karen Hunter
Madeleine Segal
Daniel Skolnik
Edward (Ted) Luebbert

APPENDIX I
ORDINANCE

CHAPTER 2

ARTICLE IV. CIVIL SERVICE*

***Charter reference(s)--**Mandate for civil service, Art. VI, § 3.

***Cross reference(s)--**Commissions generally, § 2-31 et seq.

***Cross reference(s)--**32 M.R.S.A. § 7166 (Limitation on use of polygraph in employment)

***Editor's Note--**The Civil Service Ordinance was substantially reorganized and revised by Council Order No. 89-02/03, 11-4-02.

DIVISION 1. GENERALLY

Sec. 2-46. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them unless the context otherwise indicates:

. . . .

Civil service commission means collectively the two independent subcommittees constituting the commission, i.e. the employment subcommittee and the police citizen review subcommittee.

. . . .

DIVISION 2. CIVIL SERVICE COMMISSION*

Sec. 2-47. Created.

There is hereby created a civil service commission, also referred to in this article as the commission. The commission shall consist of two separate and independent subcommittees as follows: the civil service employment subcommittee and the civil service police citizen review subcommittee. Commissioners shall be appointed to, and serve on, one of the two subcommittees only.

Sec. 2-48. Composition.

. . . .

(b) The police citizen review subcommittee shall consist of six (6) commissioners and one (1) alternate who shall serve in the absence of any commissioner.

Sec. 2-49. Qualifications.

(a) *Qualifications of commissioners.* Every civil service commissioner and alternate shall be a resident of the City of Portland and shall be of good moral character. In addition, the following persons shall not be eligible for appointment to, or service on the commission:

- (1) Any present or former employee of the city;
- (2) Any present or former member of the city council; or
- (3) Any civil service commissioner who has completed two (2) consecutive full terms of three (3) years as provided in section 2-70 below.

(b) Additional subcommittee eligibility requirements:

(1) *Employment subcommittee.* The following persons shall not be eligible to serve on the employment subcommittee:

any relative of a present member of the police or fire departments.

(2) *Police citizen review subcommittee.* In order to ensure an objective and unbiased audit of the police department's internal affairs investigation process, any applicant for service on the citizen review subcommittee shall be disqualified from serving on said subcommittee if:

- a. any member of the applicant's immediate family is or has been a Portland police officer;
- b. the applicant or any member of his or her immediate family has been arrested by any member of the Portland police department;
- c. the applicant or any member of his or her immediate family has filed a complaint with the internal affairs unit of the Portland police department alleging excessive force, civil rights violations or conduct on the part of a police officer that would constitute a criminal offense; and
- d. the applicant or any member of his or her immediate family has brought suit against the Portland chief of police, the department or

any individual police officer.

- e. "Immediate family" as used herein shall mean and include spouse, domestic partner, children, grandchildren, parents, grandparents, and siblings.

(c) Failure to disclose any grounds for disqualification or falsification of any information in the application process shall disqualify the person from service on the commission and shall constitute "cause" within the meaning of section 2-46.

(d) Any civil service commissioner or alternate who becomes ineligible to serve during his or her term shall resign, and failure to do so shall be "cause" within the meaning of section 2-46. A commissioner or alternate on the employment subcommittee who is a relative of any candidate for appointment under this article shall inform the secretary in writing of such relationship and shall not attend any meeting of the subcommittee dealing with such candidacy, nor participate in nor attempt to influence any action by the commission with respect to the position for which such relative has applied.

(e) Reasonable efforts shall be made to ensure that the appointments to the civil service commission are diverse and representative of the community.

Sec. 2-50. Appointment.

Civil service commissioners and the alternates shall be appointed by the city council. Such power of appointment shall be exercised only after the city clerk has published a notice announcing such position or positions, describing the responsibilities thereof, and soliciting applications by qualified persons in a newspaper of general circulation within the city not less than fifteen (15) calendar days in advance of action by such council. Applications may be solicited whether or not there is a vacancy, and such applicants may be considered for any vacancy which occurs within one hundred eighty (180) days of the closing date for such applications. Such applicants may also be considered for appointment as a commissioner pro tem pursuant to section 2-74 below. Nothing herein shall limit the city's authority to solicit applications whenever the city manager deems that it is necessary.

Sec. 2-51. Terms.

(a) *Term.* Each civil service commissioner or alternate shall be appointed to a three-year term, unless appointed to fill a vacancy. Police citizen review subcommittee commissioners first appointed hereunder shall be appointed for one-, two- and three-year terms so that only two (2) are initially selected each year other than by reason of resignation, removal or death. A commissioner or alternate shall serve until his or her successor is appointed and qualified, but in no case longer than one hundred twenty (120) days from the expiration of his or her term.

(b) *Limitation on service.* No person shall be appointed to, nor serve, more than two (2) consecutive full terms as a commissioner. Such limitation shall not include time served as an alternate; nor shall it include time served as a commissioner when appointed to fill a vacant partial term prior to appointment to a full term. Any person who completes two (2) consecutive full three (3) year terms of service shall not be eligible for appointment to either subcommittee of the commission until after three (3) consecutive calendar years from the date of completion of such maximum term.

(c) *Applicability.* The limitation on terms provided by this amendment shall apply to any person serving on the civil service commission as of the effective date of this amendment (7/5/1991) and to any person appointed after said effective date.

. . . .

Sec. 2-54. Officers.

Each subcommittee of the civil service commission shall annually elect one (1) of its members as the chair. The director of human resources or his or her designee shall serve as secretary to the employment subcommittee and shall furnish any necessary administrative assistance. The corporation counsel or his or her designee shall serve as secretary to the police citizen review subcommittee and shall furnish any necessary administrative assistance to that subcommittee.

. . . .

Sec. 2-56. Meetings.

(a) *Calling of meetings.* Meetings or hearings of either subcommittee of the civil service commission may be called at any time by its chair, or in the absence from the city or disability of the chair, by any member of the subcommittee. The chair of a subcommittee shall call a meeting upon request from any subcommittee commissioner.

. . . .

(b) *Quorum.*

A quorum of the Police Citizen Review Subcommittee shall be four (4). Notwithstanding the foregoing, the quorum shall be reduced to three (3) during any period when there is a vacancy on the Subcommittee, including a vacancy in the position of alternate.

. . . .

DIVISION 4. POLICE CITIZEN REVIEW SUBCOMMITTEE

Sec. 2-76. Functions and duties.

(a) *Duties.* The duties of the police citizen review subcommittee are as follows:

(1) To determine whether police investigations into citizens' complaints against police officers are thorough, objective, fair and timely by auditing the police department's internal affairs' unit investigative methods and procedures;

(2) To report in writing to the city manager periodically, but no less than annually beginning in January 2003, as follows:

a. on the subcommittee's determination as to the thoroughness, objectivity, fairness and timeliness of the police internal affairs' investigation of citizen complaints against police officers;

b. a statistical analysis of all cases reviewed, including an analysis of trends and patterns of complaints or results of investigations of complaints; and

c. any recommendations and/or proposals for improvements or modifications in the police internal affairs investigative process, policies or training, and for enhancing public confidence in the methods and process of investigation of citizen complaints against police officers.

(3) To hold a public hearing at least annually to receive comments upon the police citizen complaint process.

(4) Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the subcommittee shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable.

(5) Reports of the subcommittee shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 et. seq.

(6) To make suitable procedural rules, from time to time, for the conduct of its duties. Proposed rules shall be submitted to the city council and shall become effective only when approved by the city council. All such rules shall be recorded in the office of the city clerk.

(b) *Complaints to be reviewed.* Effective with complaints completed, as defined in subsection (3) immediately below, on or after January 1, 2002, the

subcommittee shall review the internal affairs investigation of the following citizen complaints against police officers:

1. complaints alleging excessive force;
2. complaints alleging civil rights violations;
3. complaints alleging conduct that would constitute a criminal offense; and
4. any other complaint which the subcommittee deems necessary to review in order to carry out its duties hereunder.

In addition to the foregoing, the subcommittee shall review any complaint upon request of the complaining party, subject to the January 1, 2002 completion date.

(c) *Timing of review.* All subcommittee reviews of complaints shall take place only after final disciplinary action has been taken and all appeals exhausted or the case has been finally closed with no disciplinary action taken.

(d) *Scope of authority.* The subcommittee shall conduct its duties solely to determine the thoroughness, objectivity, fairness and timeliness of the police department's internal affairs' methods and procedures in regard to citizen complaints against police officers, and the subcommittee shall have no power or authority to subpoena or call witnesses nor to impose or modify any disciplinary action, or lack of action, against any police officer. The subcommittee shall make no recommendations nor offer any findings or comments relative to any disciplinary action, or lack of action, against any officer.

(e) *Training.* Prior to assuming their duties hereunder, subcommittee commissioners shall attend training by city staff as to the subcommittee's duties and responsibilities, applicable state and local law and regulations, issues relevant to the conduct of the citizen review function, accepted police practices and the department's internal affairs investigation process. Such training shall be provided by the city at no cost to the subcommittee members.

(f) *Resources.* To facilitate the effectiveness and objectivity of the police citizen review subcommittee, the city shall make available to the subcommittee the services of a technical advisor for the purposes of training; briefing the subcommittee on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the subcommittee on aspects of the internal investigation process. The advisor shall be retained by the city manager after consultation with the chief of police, representatives of the police unions and the subcommittee chairperson. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor.

The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the subcommittee to

conduct its duties hereunder. In no case shall the subcommittee have access to police officers' personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the state Freedom of Access law.

Sec. 2-77. Confidentiality.

Each member of the civil service commission is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will be cause for removal from the commission. All reports and requests for disclosure of any information shall be referred to the corporation counsel for review prior to release.

APPENDIX II
MINUTES FROM MEETINGS, 2005

CITY OF PORTLAND
POLICE CITIZEN REVIEW SUBCOMMITTEE

Meeting Notes – February 9, 2005
Portland Police Conference Room
109 Middle Street

Subcommittee Members present: Chairman Robert McAfee, James Northrup, Julia Finn, Austin Smith and Madeleine Segal. Member not present: Antwane Hinton.
Staff present: Bill McClaren, Deputy Chief Bill Ridge, Sergeant Kevin Cady, Elizabeth Boynton, Beth Poliquin and Patty Rosen.
Public in attendance: Kate Bucklin, Portland Forecaster

Chair McAfee called the meeting to order at 6:10 p.m. Chair McAfee raised a number of issues: 1) Clarkson Woodward will no longer staff the subcommittee but will assist periodically, 2) the need for 2 more members to be appointed quickly due to Josh Dolby's and Jim Northrup's resignations, 3) the need to have the orientation for the new members who have not yet received the training, 4) that there is no budget for snacks and food, and members are welcome to bring food as needed, and 5) that any committee member should feel free to bring up the time set for the meetings (6-8 p.m.) for discussion if another time would work better. Madeleine Segal asked that when there is a Subcommittee opening to let them know so that they can encourage people to apply. Chair McAfee said anyone interested in applying for the Subcommittee can notify the City Clerk who has application forms and that he has asked that the City Clerk provide some advance information to him about any new appointees. The Subcommittee's thanks for Clarkson's participation and contribution were noted.

The minutes from the December 8, 2004, meeting were reviewed, followed by a general discussion about issues for the upcoming annual report. Chair McAfee said that concern about the language in the union agreement will be a matter for the Subcommittee's annual report, along with the issue of the scope of authority of the Subcommittee. The Chair inquired about the status of the Department's IA annual report. Deputy Chief Ridge explained that the IA annual report format will be different this year. He noted that the review process of the Department of Justice was more stringent than the accreditation process. Since accreditation took up substantial Departmental resources, it was decided not to participate any longer. DoJ is close to wrapping up their investigation. The Chair asked that the Department's IA report be provided to the Subcommittee as soon as it was ready which should be shortly. Beth Poliquin was asked to arrange for Charles Reynolds from DoJ to come to the Subcommittee's March 9 or April 13 meeting.

An inquiry was made about the IA division's current caseload. Three cases are now being investigated, five are in the review process, and the total case load is less than ten. Clarkson will continue to notify the Subcommittee about the availability of cases in the legal office and that every third case would continue to be provided on a random basis.

Julia Finn moved to approve the minutes, it was seconded and the minutes were unanimously approved.

Chair McAfee asked Jim Northrup for his thoughts about the past year since this was his last meeting. Mr. Northrup said he will put his concerns in writing but that he had continuing concerns about the availability of IA sergeants for case review; who controls and participates in case review from the Department; and what he feels is over reaction by the Department to minor levels of challenge by Subcommittee members. He also said that his focus has changed from the investigatory procedures themselves, to concern about appropriate role modeling and expectations by senior police staff and how these contribute to the behavior of line officers. Mr. Northrup noted that this Subcommittee is an oversight board that needs to be more assertive and that the Department needs more input from them. He suggested that perhaps a Subcommittee member could participate on the Department's SOP Committee.

There was a discussion of the role of the members as individuals and as members of the Subcommittee. Chair McAfee noted that the Subcommittee operates so that within the meeting every person is equal in terms of presenting and discussing an issue or concern, and once it has been discussed and a consensus of opinion reached, that is the Subcommittee's public position. In regard to press inquiries, if a member is approached about an issue and is not certain of the answer, he or she should discuss it with the Chair before answering. Chair McAfee asked that, if talking to the press, members distinguish between Subcommittee opinions and their personal opinions.

Madeleine Segal indicated that she had a continuing concern about not having the IA sergeants present at the Subcommittee's meetings, and that one of her concerns was the manner in which the Subcommittee had learned of the Chief's decision in regard to attendance. She expressed her desire that the Chief attend one or more of the Subcommittee's meetings. She also indicated that she had discussed the issue of the Subcommittee's authority and the union contract with the City Manager. The Chair noted that if the Subcommittee wanted to make suggestions in regard to the Union contracts that Trish Peightal could come and talk to the Subcommittee and that any discussion about bargaining should be done in executive session with Trish.

Julia Finn stated that she too is a little bit frustrated about the Subcommittee's scope of authority. Discussion followed during which the Chair noted that Boston Police Chief O'Toole is starting a Citizen Review Committee, and that there is a national association of Citizen Review Committees which holds annual meetings. He will provide information to the committee on the national association and its activities.

Chair McAfee discussed the complaint process and said that it should be noted in the annual report that the proper investigation of every citizen complaint requires a substantial commitment of time and money by the Department.

Madeleine Segal asked whether a decision had been made about Deputy Chief Ridge participating in the executive session case review. One of her concerns is she wants to make sure that Deputy Chief Ridge's staying does not have an inhibiting effect. Her other concern is what to do when there is a case by an IA sergeant who is not present. Chair McAfee noted there are cases that he wants to have Deputy Chief Ridge's opinions on and he thinks that Deputy Chief Ridge's presence is important and allows them to come to a quicker decision. Jim Northrup wants to make sure the comments made in executive session stay in executive session.

Noting that he was going outside of his role, Bill McClaran expressed concern that Madeleine Segal went to speak to the City Manager on her own and feels that it is not appropriate to go outside of the Subcommittee in that manner. Mrs. Segal responded that she did not feel that she got answers to her concerns in the Subcommittee. Chair McAfee requested that any member come and talk to him first before going to City Administration or the press. Beth Poliquin stated that she had already spoken with the Chair about having IA sergeants attend the meetings again before the newspaper article even came out.

It was moved and seconded that the Committee go into executive session at 7:00 p.m.

Case #50

Madeleine Segal led the discussion of this case investigated by Sergeant Cady. Chair McAfee's concern was that it took three weeks for it to go through the chain of command review. The procedure of the interviews and control over who does the talking during the interview was discussed. The role of the union rep at IA interviews was discussed. No significant issues were raised.

Chair McAfee requested that Sergeant Cady remain for the next case which he did.

Case #51

Jim Northrup lead the discussion of this case investigated by Sergeant Steve Reece who was not present. Questions were raised about the officer's responses during the IA interview and the differing conclusions reached by the command staff reviewing the case were noted. The Chief did not follow his deputy's recommendation, and it was noted that no explanation for this was provided.

Case #47

Madeleine led the discussion of this investigation by Sergeant Kevin Cady. No significant issues were raised.

Dr. McAfee said that Cases #48 and #52 will be discussed next time.

At 8:22 p.m. the committee adjourned.

**CITY OF PORTLAND
POLICE CITIZEN REVIEW SUBCOMMITTEE**

**Meeting Notes – March 9, 2005
Portland Police Conference Room
109 Middle Street**

Subcommittee Members present: Chairman Robert McAfee, Julia Finn, Karen Hunter, Madeleine Segal, Thomas Targett. Absent: Austin Smith
Staff present: Bill McClaran, Deputy Chief Bill Ridge, Sergeant Steve Reece, Elizabeth Boynton, Lisa Perrotta.
Public in attendance: Ed King, West End News

The meeting was called to order at 6:15.

Chairman McAfee welcomed new members Karen Hunter and Thomas Targett and announced that Antonio Hinton had resigned from the committee. There is currently one vacancy on the committee; it is hoped that vacancy will be filled in time for the April Council meeting. Chairman McAfee asked that Bill McClaran schedule an orientation session for the new members after the first week of April and that the session include a presentation by Captain Laughlin.

Chairman McAfee reviewed with the committee members the group's charter, confidentiality rules, annual reports and hearing, and explained the case review process to the new members. He also asked that members respect the consensus opinion of the committee when speaking publicly or to City leaders about committee business. He also updated the Committee on the status of the police contract, i.e. that the Council had approved a 1 year extension with no changes through the end of this year. It is likely police bargaining would begin again in the fall.

Madeleine Segal asked if the USDOJ consultant would be attending the April meeting. Chairman McAfee indicated that he plans to schedule a special meeting with DOJ, but that he would wait until after new member orientation. He also stated that he will postpone the annual public meeting until after the committee's annual report is complete and the weather improves.

Minutes from the February meeting were reviewed. In reference to a case discussed at the February meeting, Madeleine Segal questioned why the Chief of Police did not provide a written rationale when he made a finding that differed from that of the reviewing officers. Deputy Chief Ridge reviewed the changes in the IA process largely as a result of the DOJ review. He explained that per USDOJ, the "reviewing officers" must provide a written rationale for their finding, but the Chief is not a "reviewing officer," however, and has never provided a written rationale. Former Chief Bill McClaran confirmed this to be the case.

POLICE CITIZEN REVIEW SUBCOMMITTEE

Meeting Notes – April 13, 2005 Portland Police Conference Room 109 Middle Street

Subcommittee Members present: Thomas Targett, Karen Hunter, Madeleine Segal , Julia Finn, Austin Smith and Chairman McAfee

Staff: Deputy Chief William Ridge, Bill McClaran, Elizabeth Boynton, BethAnne Poliquin and Clarkson Woodward

The meeting was called to order at 6:05 and the minutes were reviewed. Julia Finn made a motion to approve, Madeline Segal seconded-the minutes were approved. Chairman McAfee announced that there would be an orientation for new members on Saturday May 14 at 8 AM. This class will be taught by Bill McClaran who will give an overview of policy, procedures, terms and concepts related to the committee's work. There was a lengthy discussion in regards to the draft annual report. Dr McAfee asked for clarification of language regarding sergeant's attendance and for mention of changing the time of year for the annual public meeting. Austin Smith asked for language defining the concerns regarding the nature of the relationship between younger and superior officers. DC Ridge answered questions regarding Internal Affairs's procedure relating to interviews. He explained that an IA manual is being done. BethAnne Poliquin responded to Madeline Segal's concerns regarding written explanation of reviews explaining that the DOJ had recommended changes in the review process, which the department is responding to. This process will keep the investigating sergeant as solely fact finder and will increase speed of the process. Chairman McAfee told the committee that he signed up for a national meeting of oversight committees to get more information on interaction between the public and similar committees. Madeline Segal requested that Elizabeth Boynton add a comment in the annual report that consistent attendance by IA sergeants is desirable. In addition, Madeline brought up that the Chief's attendance would be helpful.

There was a brief discussion regarding the 2004 Internal Affairs report and instruction on the various tables and charts. DC Ridge told the committee of the addition of IAPRO software which will allow for trend data to be compared easily from year to year. At 7:50 PM the public were excused and the committee went into executive session.

Case # 53

Austin Smith led discussion of this case. No significant issues were raised.

At 8:20 the committee adjourned.

POLICE CITIZEN REVIEW SUBCOMMITTEE

**Meeting Notes – May 11, 2005
Portland Police Conference Room
109 Middle Street**

Subcommittee Members Present: Chairman McAfee, Julia Finn, Madeleine Segal, Karen Hunter, Thomas Targett,

Staff: Elizabeth Boynton, William McClaran, Lt. William Preis, Elizabeth Cotter

Public: MaryLou Foley-Flaherty
Maureen Flaherty
Douglas Emerson
Ed King

Subcommittee Member Not Present: Austin Smith

The meeting was called to order at 6:15 P.M. The minutes from 4-13 were reviewed and approved.

Unfinished business was discussed - Jim Northrup's written comments on the Annual Report will be sent to City Hall directly, the timetable for filling Sgt. Cady's position, and compliments to Lt. Preis for encouraging and continuing a positive attitude in the Internal Affairs department.

Chairman McAfee requested feedback and sign off on the Annual Report. Madeleine Segal requested clarification of the language concerning non-interference with the Chief's management of the department. Ms. Segal felt the language to be overly broad and that the committee should be allowed to make management recommendations. Chairman McAfee reviewed the role and function of the Citizen Review Committee and that any recommendations may be made through the Annual Report. The consensus was that the Report was ready to go to print. Elizabeth Boynton stated it would be ready for the June 6 Agenda of the City Council.

William McClaran confirms orientation, 05/14/05 at 8 a.m. and passed out handouts on the Use of Force and the Fourth Amendment.

At 6:35 PM the meeting was open to two members of the public. Discussion followed in regard to the citizen complaint process, accessibility of complaint paperwork/forms and avenues available to the public to express concerns regarding the above and treatment of complainants. Chairman McAfee explained that this type of discussion was outside the parameters of the Citizen Review Committee jurisdiction. At 6:45 p.m. Ed King of West End News and Douglas Emerson arrived. Ms. Boynton proposed going to Executive

Session and advised this is not the appropriate venue for discussions of complaints against individual officers.

The public were admonished again not to mention any names of officers. Chairman McAfee recommended that the two women utilize the proper channels for their concerns and introduced them to Lt. Pries. Lt. Pries recommended that the internal procedure be allowed to proceed and if it was felt that the issues have not been appropriately resolved, to return to the Citizen Review Committee.

Douglas Emerson discussed an incident that occurred over a year ago with no complaint being filed by him. Again he is instructed to utilize the proper channels and allow the process to run its course. Ms. Segal expressed concern with the ambiguity of two different forms and accessibility of complaint forms. Lt. Pries explained the two forms are simply different formats, one printed, the other on-line. Ms. Boynton suggested additional staff training and expanding accessibility of the complaint form packets. The Committee's function in the investigation of complaints was discussed, i.e. to facilitate the process. Lt. Pries recommended that no judgment be made in regard to any complaint until all sides are heard.

Chairman McAfee outlines the next case review assignments:

- Case No. 55 – Madeleine Segal
- Case No. 56 – Julia Finn
- Case No. 57 – Thomas Targett
- Case No. 58 – Karen Hunter
- Case No. 59 – Austin Smith

At 7:35 P.M., Public Meeting is ended and committee goes to Executive Session.

Case No. 54:

Chairman McAfee leads the discussion of this case. No significant issues were raised. Chairman McAfee indicated that the case was completed in a very timely fashion and that the process worked.

Case No. 55:

Madeleine Segal leads the discussion of this case. No significant issues were raised, no racial motivation was found.

Chairman McAfee recommends that if there are less than 2 cases ready, there be no meeting in June, move all reviews until the following Citizen Review Meeting.

At 8:15 P.M the Committee adjourns.

POLICE CITIZEN REVIEW SUBCOMMITTEE

Minutes of July 13, 2005 Meeting Portland Police Department Conference Room 109 Middle St., Portland

Subcommittee Members Present: Chairman McAfee, Thomas Targett, Karen Hunter, Madeleine Segal, Austin Smith

Subcommittee Member Absent: Julia Finn

Staff Present: Chief Chitwood, DC Bill Ridge, Sgt. Steve Reece, Elizabeth Boynton, Beth Poliquin, Susan Doody, Bill McClaran

The meeting was called to order at 6:05. Chairman McAfee met with Chief Chitwood as well as the City Council regarding the 3rd Annual Report. Chairman McAfee mentioned that the Council thanked the Subcommittee for its efforts and positive feedback.

Chairman McAfee then introduced Chief Chitwood to the newest members of the Subcommittee. The Chief handed out the review received from the Dept. of Justice outlining the issues/concerns that were raised and have since been resolved by the PPD. The Chief thanked the Subcommittee and appreciates what they stand for. The Chief mentioned that a fairly large number of citizens do not understand what the PPD does so the Subcommittee can educate the public.

Chairman McAfee asked the Subcommittee if they had any questions for the Chief. Madeleine Segal thanked the Chief for attending the meeting. Ms. Segal mentioned that during the May, 2005 meeting, two of her friends were present and had an unpleasant experience when entering the Station. Ms. Segal wanted to know if there was ongoing training at the Information Desk (front lobby area). It was noted that her friends did not make a complaint, therefore, no further action was taken. The Chief and DC Ridge explained that the front lobby has video cameras and if the complainants came in within 30 days, the videotape could be retrieved and viewed to see what actually happened. The Chief also mentioned the new training that all employees are in the process of taking - Verbal Judo, as well as ongoing training in other areas.

Madeleine Segal had a concern regarding the May meeting's minutes. She does not feel that the citizen's names should be put into the minutes. Chairman McAfee mentioned that it was a public meeting and at most public meetings, people present would introduce themselves. Chairman McAfee stated in the future if the public did not want their name entered into the minutes, then they would have to specify that request. Chairman McAfee requested the Subcommittee to discuss the confidentiality and privacy act at the next meeting.

POLICE CITIZEN REVIEW SUBCOMMITTEE

Meeting Notes – August 11, 2005 Portland Police Conference Room 109 Middle Street

Subcommittee Members present: Thomas Targett, Karen Hunter, Madeleine Segal, Julia Finn, Austin Smith and Chairman McAfee
Staff: Chief Tim Burton, Sgt. Steven Reece, Bill McClaran, Elizabeth Boynton, and Clarkson Woodward

The meeting was called to order at 6:10 PM and the minutes were reviewed. It was noted that Bill McClaran was not listed as present at the previous meeting and the minutes needed to be changed to reflect that. There was a brief discussion regarding barriers to filing complaints and whether names should be used in minutes-they will remain anonymous. Julia Finn made a motion to approve with the change discussed. Tom Targett seconded-the minutes were approved. Chairman McAfee introduced Tim Burton as the new acting Police Chief. A number of questions were posed to Chief Burton. He explained the new Verbal Judo class which officers will be mandated to attend. The Department is one third of the way through training employees. He further explained the policy on handling public relations- in matters of administrative nature, press would be handled by the Chief and then , based on knowledge of the subject, other department members may speak to the press as needed. The process for the search for the new police chief was explained by Elizabeth Boynton and Julia Finn noted that a member of the subcommittee would be appropriate on the hiring/ interview panel. At 6:35 PM the public were excused and the committee went into executive session.

Case # 58

Karen Hunter led discussion of this case. No significant issues were raised.

Case #59

Austin smith led discussion of this case. No significant issues were raised-Sgt. Reese explained handcuffing cards and use of force procedures.

At 7:10 the committee adjourned.

Minutes – November 9, 2005
Portland Police Dept. 1st Floor Conference Room
109 Middle Street, Portland, Maine

Subcommittee Members Present: Chairman McAfee, Ted Leubbert, Madeleine Segal, Austin Smith, Thomas Targett

Not Present: Julia Finn, Karen Hunter

Staff Present: DC Ridge, Attorney Beth Poliquin, Bill McClaran, Sgt. Steve Reece,

Minutes Taken By: Susan Doody

No Public present at this Meeting. The meeting was called to order at 6:10 p.m. with Chairman McAfee explaining the role of this subcommittee to its newest member, Ted Leubbert.

The minutes were reviewed. Tom Targett made a motion to approve the minutes and Austin Smith seconded the motion. The minutes from 8/11/05 meeting were approved.

Chairman McAfee explained the process of the search and hiring of Portland's newest Chief of Police. Chairman McAfee informed the committee that the National Assoc. of Citizen Oversight of Law Enforcement (NACOLE) meeting that was scheduled in October has been rescheduled to December. He will report back to the committee on December 21, 2005, his opinion/findings from this meeting.

Madeleine Segal mentioned the upcoming police negotiations and wanted to make sure that the subcommittee would still be an acting committee. She also wanted to stress the importance of having a member of the Internal Affairs Unit present at all meetings. DC Ridge made it very clear that Chief Burton is in full support of this committee and IA will be represented at all meetings.

Ms. Segal also voiced an interest of having members of the subcommittee present at the Department's Use of Force Meetings. There is a question of confidentiality of the PCRS attending these meetings.

Case #60: Tom Targett led discussion of this case. No significant issues were raised.

Random Case 6#: Austin Smith led the discussion of this case. There were issues that were raised and DC Ridge informed the members that the complaint was sustained and the officer received a written reprimand. The officer violated an SOP related to handling of property.

Meeting adjourned at 7:30 p.m.

The next meeting will be Wed., December 21, 2005

POLICE CITIZEN REVIEW SUBCOMMITTEE

**Meeting Notes – December 21, 2005
Portland Police Conference Room
109 Middle Street**

Subcommittee Members present: Madeleine Segal, Julia Finn, Karen Hunter, Austin Smith and Chairman McAfee

Staff: William Ridge and Clarkson Woodward

The meeting was called to order at 6:00 PM and minutes of the previous meeting were reviewed. Clarkson noted that the cases mentioned were misnumbered and that she would have that changed in the minutes. Dr. McAfee reviewed his experience at the NACOLE conference (National Association of Citizen Oversight of Law Enforcement). He learned that there are three types of models, an audit or monitor, an internal model and an external model. From his experience at the conference he felt that one area where the committee was lacking was in outreach. He asked that the committee consider how they could enhance outreach here. Presentations at the conference included writer Mike Quinn, Janet Reno and the ACLU.

The topic of tasers was brought up at the NACOLE conference and Deputy Chief Ridge explained that the PPD does not use tasers and described the bean bag and pepper ball sprays that the department does use. Dr Macafee concluded his presentation by saying that he was going to request that the City Manager pay for dues and travel for the next conference. Any committee member interested in more information about NACOLE could access materials left in corporation counsel.

The committee briefly discussed negotiations and obstacles in making changes in the role of the committee. Deputy Chief Ridge explained that the Maine Labor Relations Board gave stipulations prior to the formation of the committee. There was general discussion regarding the role of the committee in relation to the department and their subsequent interaction. Dr McAfee suggested that the public meeting be in the spring.

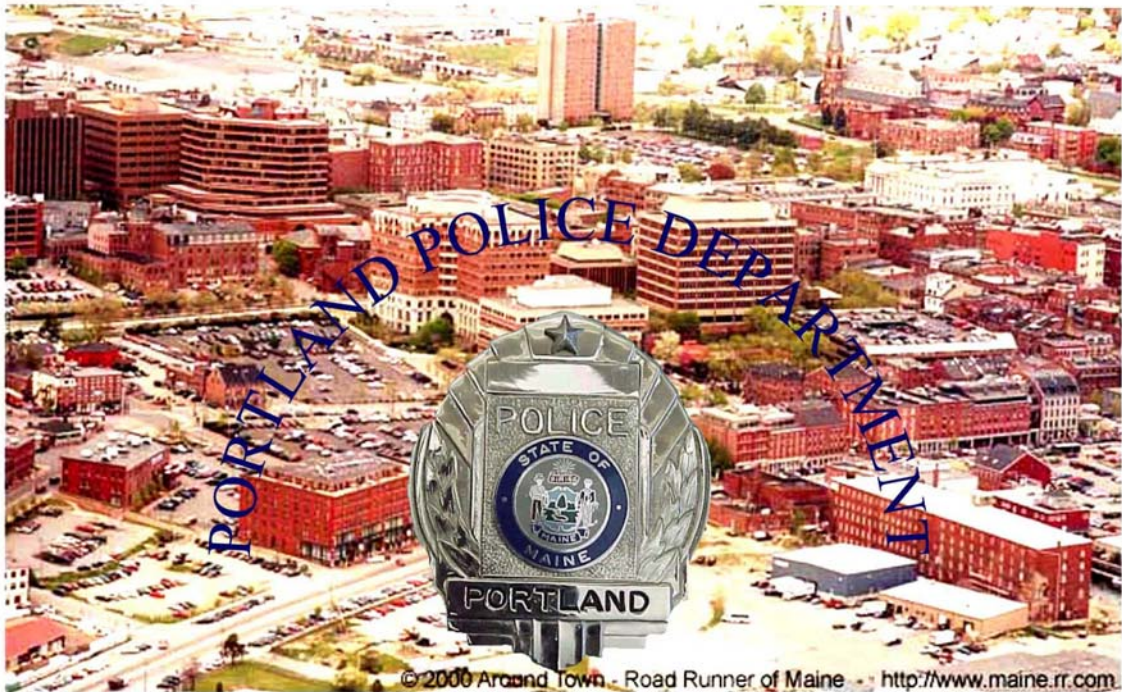
At 7:50 PM the committee adjourned.

POLICE CITIZEN REVIEW SUBCOMMITTEE

PORTLAND POLICE DEPARTMENT

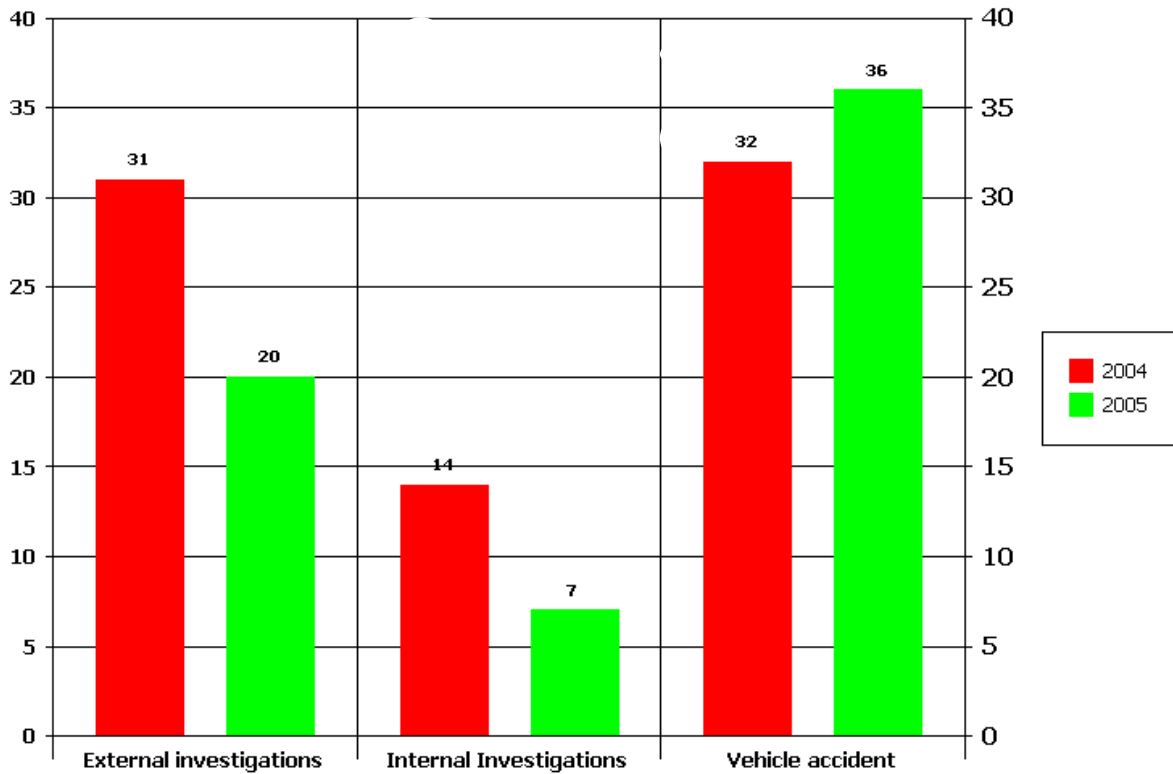
Internal Affairs

2005 Annual Report



Completed by Lieutenant William Preis 2/15/06

Internal Affairs investigations 2004 / 2005



Findings for 2005

Please note that these findings statistics are based on the total number of alleged SOP violations, as opposed to the total number of IA complaints. For example, one IA complaint can involve multiple SOP violations.

	Total
10-day suspension	0
1-day suspension	7
3- day suspension	0
Discussed with officer	5
Exceptional	0
No basis for complaint	1

Not Sustained	54
Officer resigned	1
Policy revision	0
Sustained oral rep	13
Sustained training	2
Sustained written reprimand	5
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Total	88

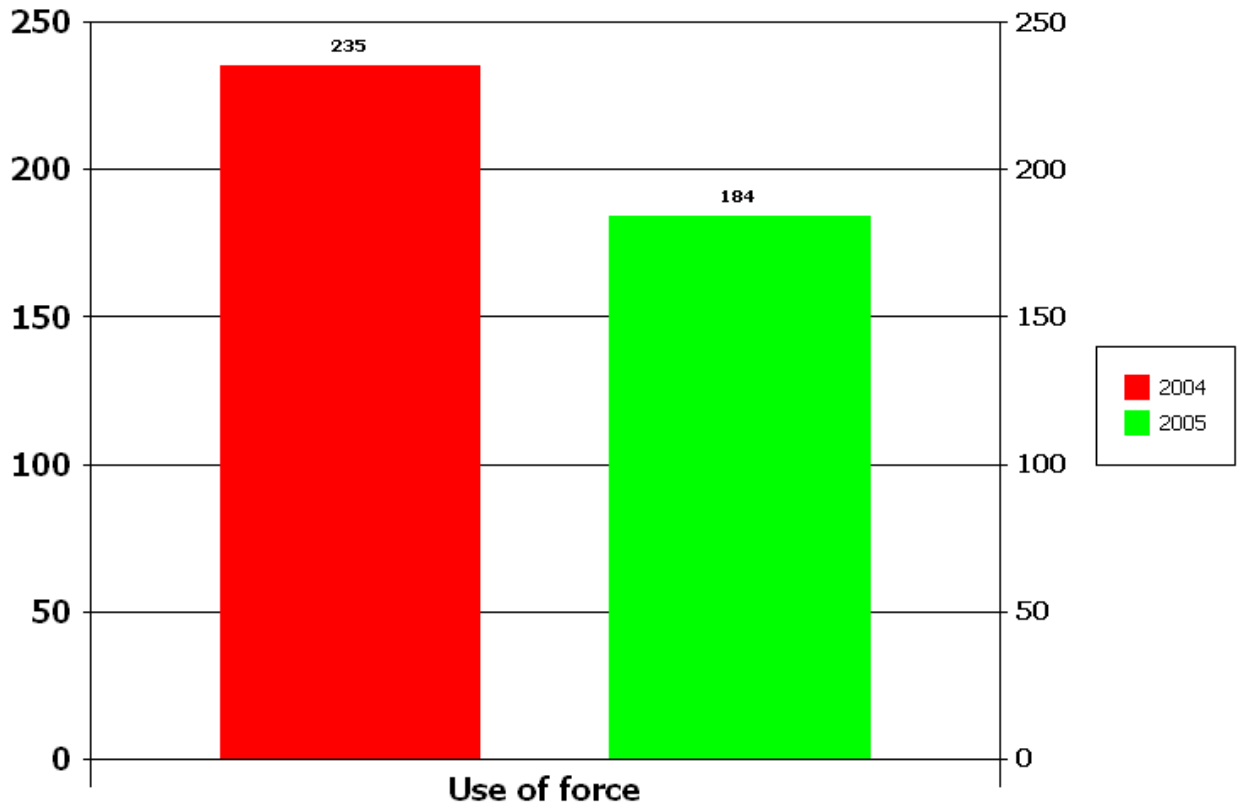
Allegations

	Total	Total
	2004	2005
Absence from duty	1	1
Arrest	3	2
Arrest requirements in domestic violence incidents	1	0
Assistance to citizens	2	1
Associations	1	0
Computer Services	3	0
Conduct toward the Public	19	12
Conduct towards supervisors, subordinates and asso	3	1
Control of property belonging to collision victims	1	0
Court Attendance	5	0
Criminal Investigations	5	2
Discretion	3	0
Divulging police information	1	0
Electronic messaging and internet service	1	0
Entry of dwellings	3	0
Field interview/ interrogation	1	0
General responsibility	1	0
Handcuffs	2	4
Harassment	1	0
Impartial attitude	3	0
Mobile recording equipment	1	0
Obedience to law	1	0
Operation of Police vehicles	33	16
Personal Behavior	8	2
Reporting for duty	1	0
Required Conduct	2	0
Search incident to arrest	6	0
Sexual Harassment	1	0
Stop and Frisk	1	0
Supervisory accountability	3	1
Traffic investigations	1	0
Truthfulness	1	0
Unsatisfactory performance	4	0
Use of Control	9	16

Use of Control Reports	1	5
Use of Force	1	3
Total	134	66

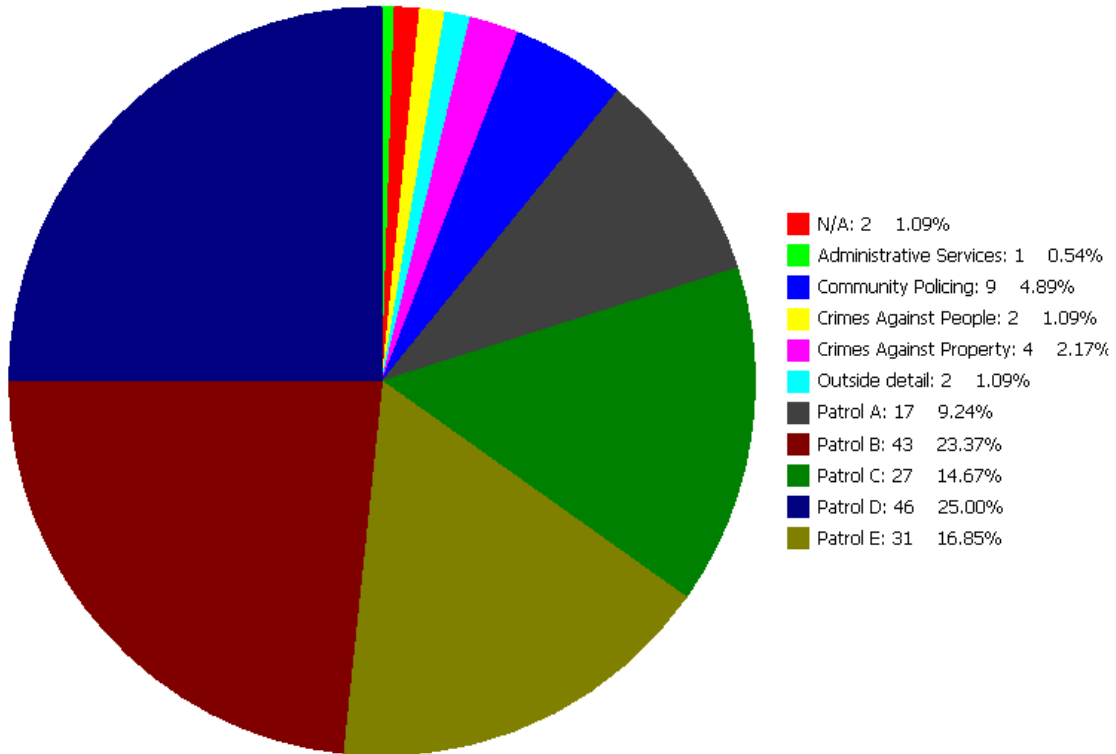
Use of force Incidents for 2004 / 2005

Please note that there can be more than one use of force report generated per incident.



Use of force Incidents by Division

Please note that there can be more than one use of force report generated per incident.



Type of force reported in 2005 Use of Force reports

Please note that this data does not include handcuffing cards.

OC spray	43
Flashlight as leverage	2
Baton as leverage	4
Forearm	1
Foot	10
MACH 1	7
Baton	5
Fist	16
MACH 4	5
Knee	44
Handcuffs 2X locked	114
MACH 2	9
MACH 3	1
Hands	212
Handcuffs	39
Elbow	3
Firearm discharge	4
Firearm no discharge	74
Tackle	1
Leg cuffs	6
Pepper ball	1
Canine	1

Citizen arrested in conjunction with use-of-force incidents:

Count Percent of total

No	25	14%
Yes	159	86%
Total	184	100%

Citizen taken to hospital in conjunction with use-of-force incidents:

	Count	Percent of total
No	165	90%
Yes	19	10%
Total	184	100%

Officer injured in conjunction with use-of-force incidents:

	Count	Percent of total
No	151	82%
Yes	33	18%
Total	184	100%

Officer taken to hospital in conjunction with use-of-force incidents:

	Count	Percent of total
No	177	96%
Yes	7	4%
Total	184	100%

Reason for use of force

Please note that there can be more than one use of force report generated per incident.

Reason	Count	Percent of total
Attack on another	6	3%
Attack on PO	19	10%
Felony stop	10	5%

Not responding to commands	40	22%
Other	6	3%
Prior history with weapons	1	1%
Resisted PO control	62	34%
Threat of attack on another	10	5%
Threat of attack on PO	17	9%
Threat with weapon on other	2	1%
Threat with weapon on PO	7	4%
Visible weapon	4	2%
Total	184	100%

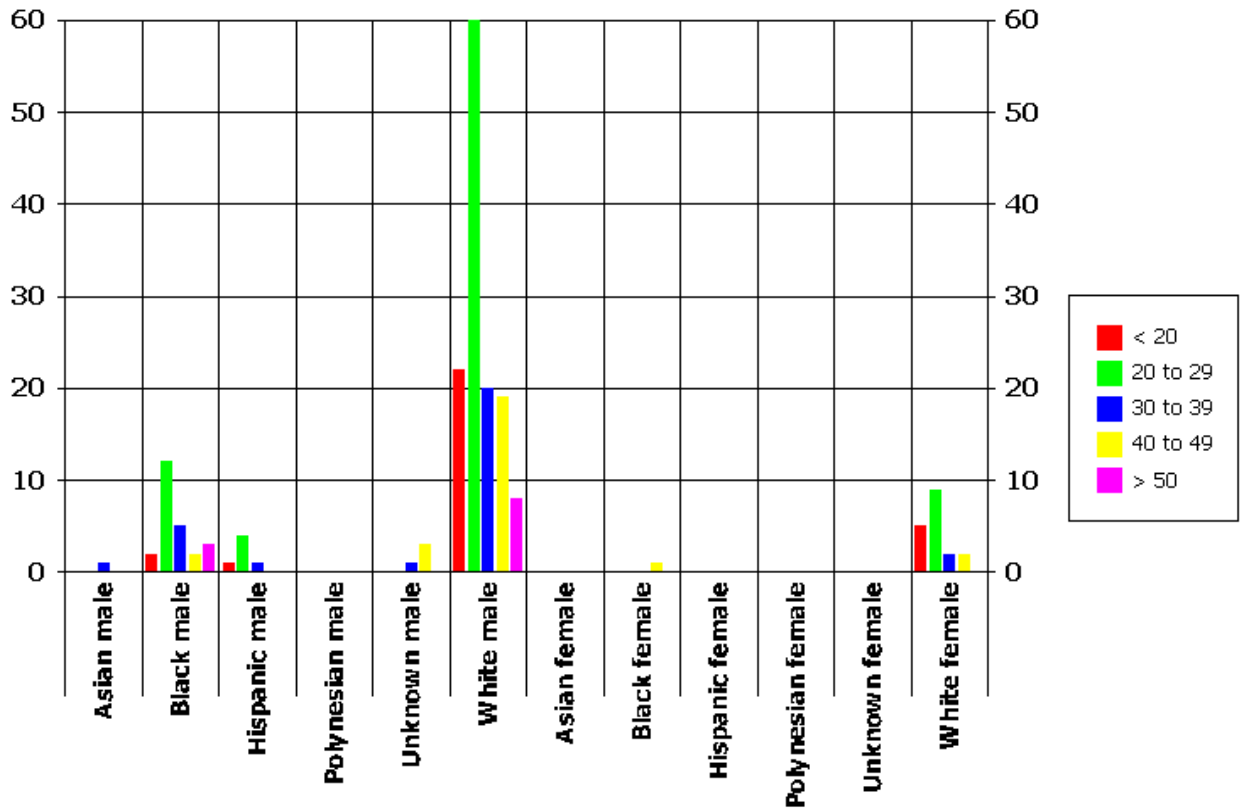
Type of service being rendered at time of use of force incident

Please note that there can be more than one use of force report generated per incident.

Service type	Count	Percent of total
N/A	4	2%
At jail	2	1%
Casualty	11	6%
Crime in progress	40	22%
Criminal investigation	10	5%
Felony stop	7	4%
Fight	40	22%
Investigation	6	3%
Man with knife	1	1%
OUI	1	1%
Outside detail	1	1%
Person bothering	27	15%
Probation violation	3	2%
Search warrant	1	1%
Suspicious activity	8	4%
Traffic enforcement	10	5%
Transporting arrest	1	1%

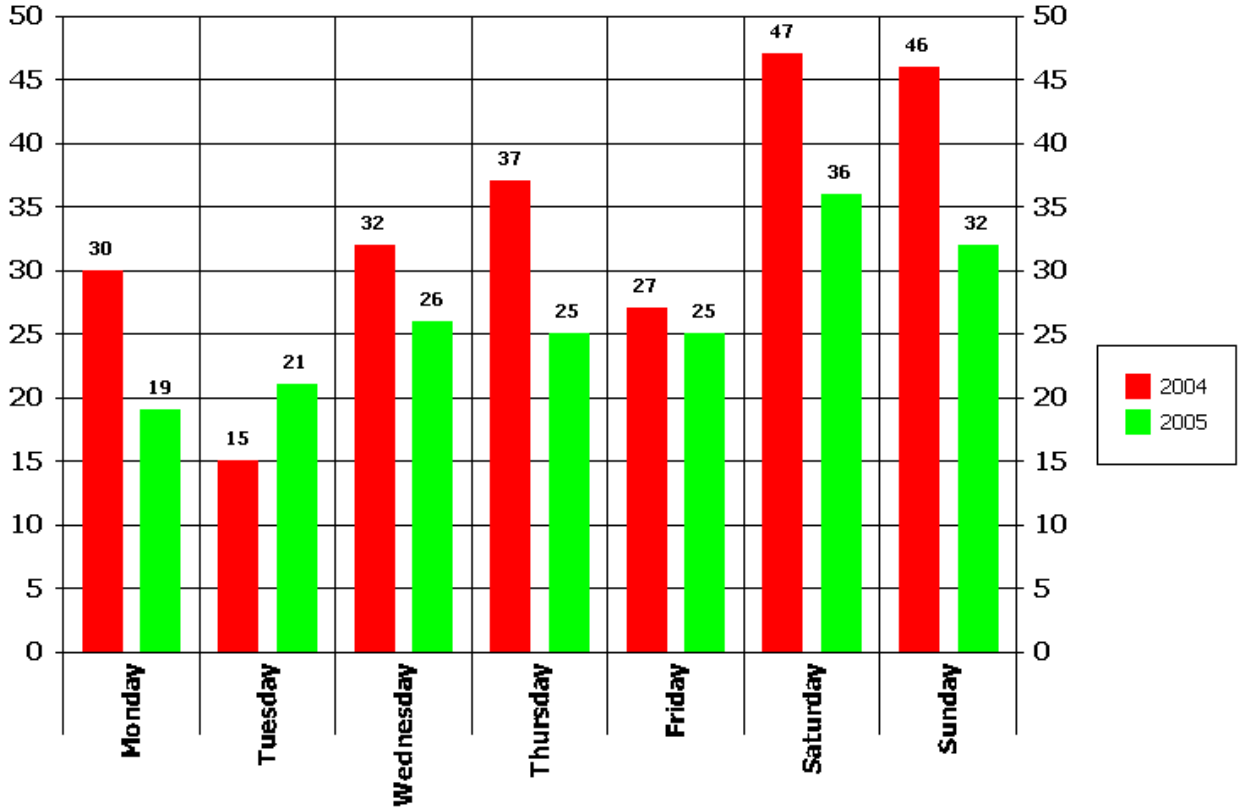
Warrant check	8	4%
Weapon call	3	2%
Total	184	100%

Use of force 2005: Involved citizen demographics



Use of force incidents: Days of the week

Please note that there can be more than one use of force report generated per incident.



Use of force incidents: Time of day

Please note that there can be more than one use of force report generated per incident.

