

2020 Annual Report

OFFICE OF INTERNAL AFFAIRS

Boise Police Department



INTRODUCTION

The Office of Internal Affairs (OIA) is established within the Professional Development and Standards Division of the Boise Police Department (BPD). The commander of this office is a Police Captain, who reports directly to the Deputy Chief of Police and Chief on Internal Affairs matters. Three Professional Staff members comprise the unit with two Investigators and one Administrative Specialist. The investigators are responsible for conducting internal investigations and special projects. The Administrative Specialist is responsible for primary complaint intake, office coordination, case tracking, maintenance of the IAPro database and other administrative duties.

The primary function of OIA is to ensure the highest level of professionalism within the Boise Police Department. This is accomplished through ongoing analysis of National trends, policy analysis and review of training methods. OIA also works to ensure the highest level of service is maintained by individual employees through the receipt, assignment and investigation of complaints received from citizens or initiated by department supervisors regarding the actions of employees. OIA investigators handle investigations of more serious complaints. Both OIA investigators and other department supervisors handle less serious complaints. OIA monitors all investigations for timely completion and reports the findings to the complaining citizen and subject employee(s).

Other functions of OIA include critical incident investigations, assignment and investigation of citizen, and administrative inquiries. OIA also reviews and tracks reports of employee uses of force, pursuits, vehicular accidents, missed court appearances, administrative incident reviews, lawsuits, notice of claims and assigns them to staff for follow-up when required. Additionally, OIA manages and tracks the

Department's discipline process as well as coordinates risk management and employee grievance matters.

For purposes of this report, the term "employee" is used throughout to denote both sworn (officer) and non-sworn (professional staff) members of the Boise Police Department. While most citizen complaints are lodged against sworn police officers, the increased amount of contact between non-sworn personnel and the public has resulted in some complaints of misconduct against non-sworn employees. Therefore, we have chosen to use "employee" as a generic term for all Boise Police Department members.

COMPLAINTS

OIA defines a *complaint* as a singular incident which gives rise to one or more allegations of misconduct. A single complaint may allege misconduct by multiple employees and/or multiple violations of policy by a single employee. Therefore, the number of complaints filed will not equal the number of allegations and findings resulting from the complaint investigation.

CITIZEN COMPLAINTS AND INQUIRIES

Citizen complaints are now captured solely by the allegation type. OIA also classifies some citizen concerns as *citizen inquiries*. An Inquiry differs from a complaint, in where no officer misconduct is alleged.

DEPARTMENT INITIATED COMPLAINTS

If a complaint is initiated by BPD supervisors or brought to supervisory attention by any BPD employee, it is classified as a department-initiated complaint.

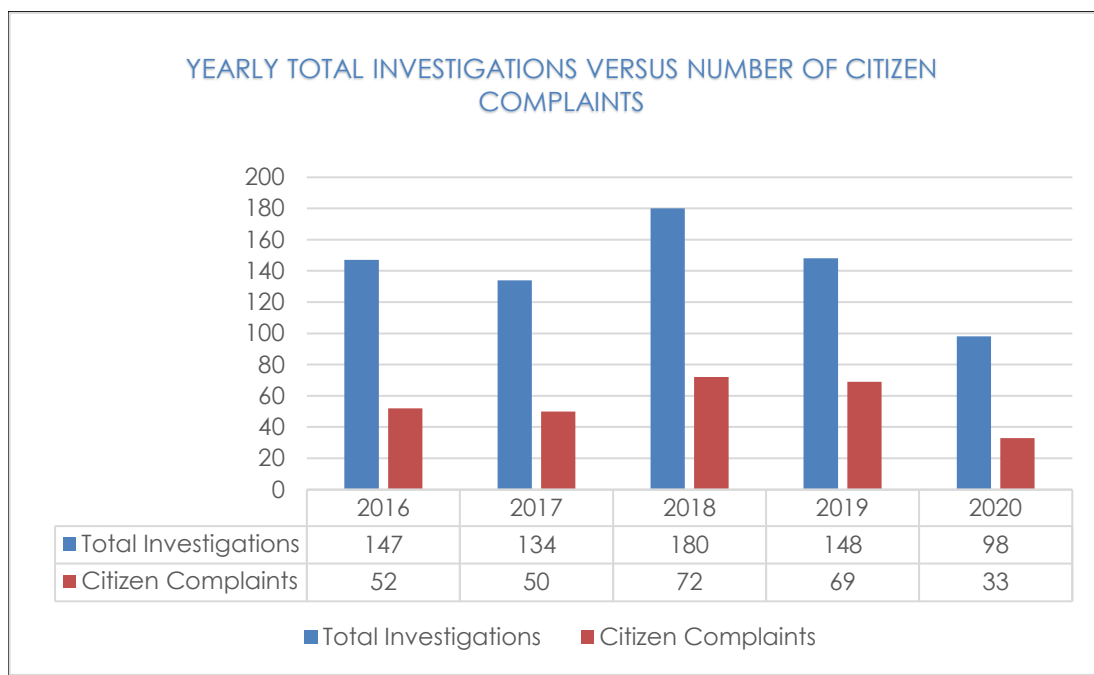
COMPARISON OF THE NUMBER OF INVESTIGATIONS BY YEAR

	2016	2017	2018	2019	2020
Citizen Complaints	52	50	72	69	33
Citizen Inquiries – includes OPO Referral inquiries	49	50	36	44	37
Department Initiated	46	54	72	35	28
Total Investigations	147	134	180	148	98

- ✓ There is a decrease in Citizen Complaints and Department-Initiated investigations from the previous year.
- ✓ Of the reported 37 Citizen Inquiries, only 3 of those were forwarded from the Office of Police Oversight (OPO).

- ✓ Although the population increased in 2020, the calls for service decreased.

3 Year Comparison of Calls for Service and Population			
	2018	2019	2020
Calls for Service	156,466	152,574	149,698
Population	224,300	226,115	229,993



CLASSIFICATION OF COMPLAINTS

As stated previously, a single complaint may result in multiple allegations of misconduct. Since the types of allegations may be vastly different, it is difficult to categorize complaints. However, it is possible to gain some insight into

the concerns of citizens and the department by looking at the most serious allegation from each complaint. The following table represents the distribution of these allegations.

	Citizen Complaints	Department Initiated
Conduct Unbecoming	1	3
Constitutional Rights Violation	3	0
Criminal Conduct	1	1
Demeanor / Rudeness	9	1
Driving Violations	2	1
Duty Performance	11	16
Use of Force	6	2
Failure to Audio/Video Record	0	4
Workplace Harassment	0	0
Total	33	28

ALLEGATIONS AND FINDINGS

Allegations represent a distinctly different category than complaints. They are assertions of an employee's behavior that, if proven, would amount to a violation of department policy. A single complaint may result in multiple allegations of misconduct against one employee, single allegations against multiple employees, or any combination thereof.

Findings are issued for each allegation in an investigation, including those made by the complainant as well as any allegations of misconduct not included in the original complaint, but that may be discovered during the investigation. Findings are also issued when policy violations are discovered during a review of employee performance following an incident such as a pursuit, a use of force or an

employee vehicular accident. For these reasons, the number of findings issued will exceed the number of complaints reported.

Although complaints are the primary basis for our statistical reporting, we also track the findings for each allegation, rather than a single overall finding for each individual complaint. Examining allegations separately from complaints is useful in gaining a more accurate understanding of areas of concern to citizens and to the department.

Findings fall into one of five categories, which are explained in detail in Appendix A of this report. The following table represents the findings issued for 2020 cases.

ALLEGATIONS AND FINDINGS (CONTINUED)

The Findings reflected in this report are for incidents occurred/reported during the year 2020. The Department opened and investigated 33 Citizen Complaints and 28 Department Initiated cases: with a total of 113 allegations, as distributed below.

FINDINGS FROM ALLEGATIONS DURING 2020

	Citizen Complaints	Department Initiated
Exonerated	21	8
Not Sustained	14	4
Sustained	7	34
Unfounded	23	2
No Finding	0	0
Total	65	48

DISTRIBUTION OF SUSTAINED FINDINGS DURING 2020

	Citizen Complaints	Department Initiated
Conduct Unbecoming	1	10
Constitutional Rights Violation	0	0
Criminal Conduct	2	2
Demeanor / Rudeness	1	1
Driving Violations	0	2
Duty Performance	3	13
Use of Force	0	2
Failure to Audio/Video Record	0	4
Workplace Harassment	0	0
Total	7	34

CRITICAL INCIDENTS

A **critical incident** is an event in which an employee intentionally uses deadly force or in which death or life-threatening bodily injury result from the actions of an employee.

When a critical incident occurs, the Office of Internal Affairs conducts an administrative investigation to determine whether employees complied with applicable policies and procedures, to evaluate the effectiveness of those policies and procedures, and to assess quality control issues. In addition to the investigation conducted by OIA, the Office of Police Oversight conducts an administrative investigation and the Critical Incident Task Force, which is comprised of five area law enforcement agencies, conducts a criminal investigation.

During 2020, the Boise Police Department experienced two officer-involved critical incidents.

SUMMARY ONE

In the early morning hours of August 31, 2020, Boise Police Officers responded to a request for assistance from a neighboring law enforcement agency for a call in which a subject was shooting a firearm inside his recreational vehicle in a densely occupied campground. Multiple occupants in the RVs surrounding the subject called into dispatch to report the incident. Officers from multiple agencies assembled and took positions of cover. As officers approached the subject's RV, they could hear the subject continuing to fire his weapon. Through the rear window of the RV, officers could clearly see the subject and could hear him reloading his weapon. Officers observed the subject face towards the east, raise a black handgun and fire towards a row of occupied RVs to the east. The subject then repeated this movement and prepared to fire again in the same direction towards the occupied RVs.

Observing the threat to innocent citizens occupying the nearby RVs, Boise Police Officers

fired their duty weapons to stop the threat posed to innocent citizens. The subject was fatally wounded.

The Critical Incident Task Force conducted a criminal investigation into the incident which was reviewed by a Prosecuting Attorney who deemed the officers' actions in the matter to be justified. The Boise Police Department Office of Internal Affairs is in the process of conducting their administrative review of the incident.

SUMMARY TWO

On October 27th, 2020, a victim located their stolen vehicle at a Walmart in Boise. The victim then followed their stolen vehicle to a residence in Boise and notified Boise Police. Officers arrived to investigate the stolen vehicle and learned the suspect had possibly left the residence on foot.

Officers observed a male walking from behind the residence and proceeded to get into a taxicab and leave the area. Officers began to follow the taxi southbound on Maple Grove and observed multiple traffic violations committed by the driver of the taxi. When a traffic stop was initiated, the driver of the taxi was pushed from the vehicle and advised the suspect claimed to have a gun.

A pursuit ensued and the suspect was observed driving into oncoming lanes, deactivating headlights, and attempted to collide with civilian and law enforcement vehicles. An attempt was made to deploy spike strips, but the suspect drove toward the deputy who deployed the strips. The suspect then attempted to ram a deputy and citizen vehicle, causing both to swerve off the roadway.

An officer rammed into the suspect causing a collision, which ultimately terminated the pursuit. The suspect was taken into custody after a short foot pursuit. The CITF conducted a criminal investigation into the incident.

USE OF FORCE

In any incident requiring the use of force, officers may employ a variety of techniques in an attempt to control the situation. The department conducts a review of an officer's use of force whenever any of the following occurs:

- The subject is injured or complains of injury.
- A hard-empty hand technique is used (see Appendix B).
- A vascular neck restraint (VNR) is used.
- Intermediate weapons are used (includes baton, flashlight, less lethal flex round, OC spray, K-9, and Taser®).
- Firearms are discharged.

A separate use of force report is completed for each subject upon whom the force is used; therefore, more than one use of force report may be generated from the same incident. These reviews of an officer's use of force are reflected in the table below. For tracking purposes, OIA categorizes use of force by the highest level of force used upon a subject. Thus, of the incidents listed, more than one type of force may have been deployed on a subject due to a lower level of force not being effective. Therefore, an officer may have used several types of force during one single incident. Use of force categories are explained in greater detail in Appendix B of this report

continued the moratorium on its use. Efforts are continually being made to assess events nationally related to vascular restraints as well as chokeholds, in order to align BPD policy with Best Practices and to be responsive to what the community expects of us at this time.

In previous years this annual report included the statistical data on the use of the LVNR. The data below reflects the LVNR usage up to the date after this change occurred.

LVNR

In June 2020, BPD put out a news release regarding placing a moratorium on the use of the Lateral Vascular Neck Restraint, or "LVNR" technique, which is considered to be a type of force. In order to study the matter further, seek input and be responsive to community input, the Boise Police Department suspended the use of this technique, except in extreme cases (where deadly force would be justified).

When Chief Ryan Lee assumed his position on July 1, 2020, he concurred with this decision and

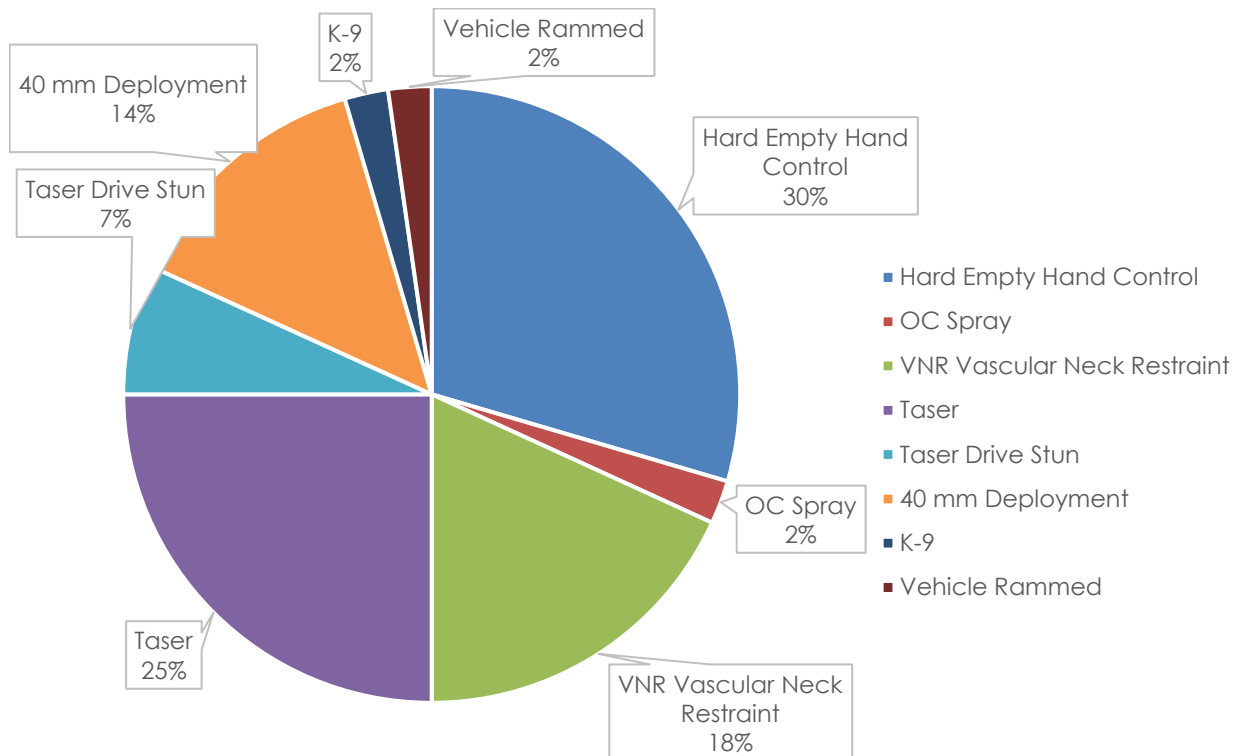
USE OF FORCE (CONTINUED)

In 2020, the Department opened a total of 79 (seventy-nine) use of force incidents, with a total of 143 (one-hundred forty-three) officers involved. Soft Empty Hand incidents are only recorded in our database when it's in conjunction with a reportable use of force.

Otherwise, soft empty hand incidents which do not involve complaints or injuries, are documented in the report writing system and are separate from what is reported to Internal Affairs.

The following is an illustrated breakdown of the types of force used:

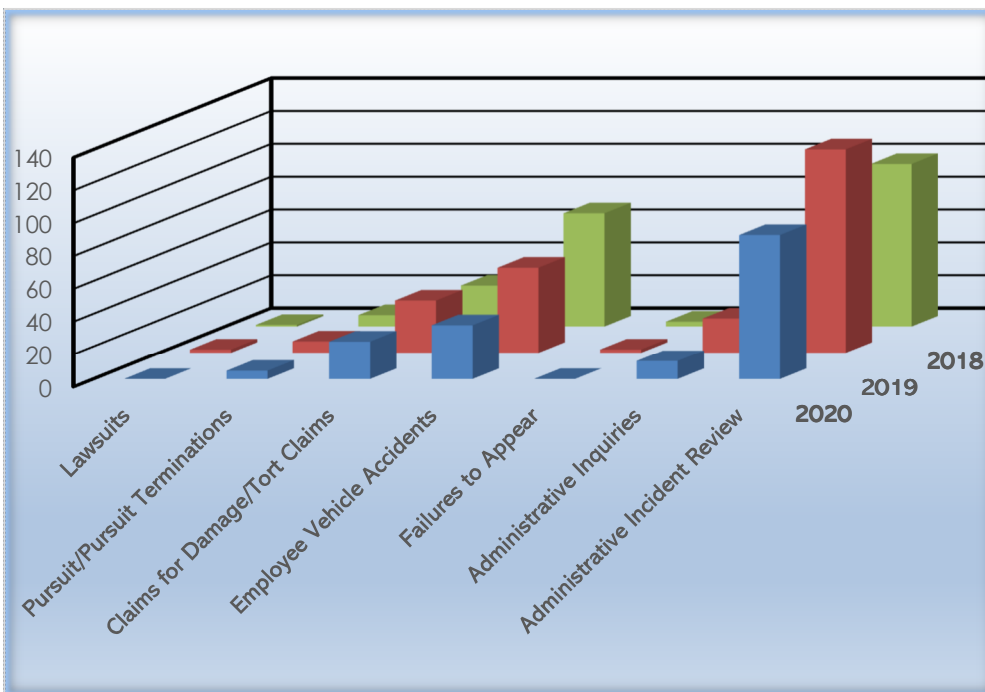
Hard Empty Hand	13
OC Spray	1
VNR Vascular Neck Restraint	8
Taser	11
Taser Drive Stun	3
40 mm Deployment	6
K-9	1
Vehicle Rammed	1



OTHER INFORMATION TRACKED BY OIA

In addition to Complaints and Department Initiated Investigations, the Office of Internal Affairs also tracks other reported activities, which bear on the performance of the Police Department. These activities include administrative reports and legal claims and are listed below and tracked for three years.

Total Other Data Tracked by Year			
	2020	2019	2018
Lawsuits	0	2	1
Pursuit/Pursuit Terminations	5	7	7
Claims for Damage/Tort Claims	23	32	25
Employee Vehicle Accidents	33	52	69
Failures to Appear	0	2	3
Administrative Inquiries	11	21	14
Administrative Incident Review	88	124	99



✓ There continues to be a downward trend in Employee Vehicle Accidents.

✓ The zero number for *Failures to Appear* may be attributed from court proceedings being suspended during the pandemic.

✓ There were two police-related lawsuits that had initially filed tort claims; therefore, they are being tracked under the Tort Claims data.

CLASSIFICATION OF FINDINGS (APPENDIX A)

The Boise Police Policy Manual specifies the following definitions for required findings in internal investigations:

EXONERATED - The acts, which provided the basis for the complaint or allegation did occur, but were justified, lawful, and proper. This finding also may be used when the acts complained of did occur and were not proper or justified but resulted from a lack of policy or training.

NOT SUSTAINED - The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made.

SUSTAINED - The investigation disclosed sufficient evidence to clearly prove the allegation(s) made.

UNFOUNDED - The investigation conclusively proved that the act complained of did not occur. This finding also applies when the employee named was not involved in the act or in acts which may have occurred.

NO FINDING - The investigation cannot proceed because the complainant failed to disclose promised information to further the investigation, the complainant wishes to withdraw the complaint, or the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the employee involved.

USE OF FORCE CATEGORIES (APPENDIX B)

Soft Empty Hand Control - Soft empty hand control techniques are designed to control passive or defensive resistance. They are used when verbal commands aren't effective and there is noncompliance with lawful orders. While soft empty hand control techniques may inflict pain to gain control, they generally will not cause any form of bruising or injury to a subject. By definition soft empty hand control has little or no potential for injury.

Hard Empty Hand Control – Techniques which have a higher potential for injury, than soft empty hand control techniques. This includes open hand strikes, kicks, punches and (VNR)Vascular Neck Restraints.

Common Peroneal - This is a Motor Nerve Point and a target zone for knee strikes or a straight punch. This can cause muscular dysfunction (Charley horse) and pain compliance. Strikes to the Common Peroneal are considered Hard Empty Hand control.

Suprascapular Nerve Motor Point – This target area is at the top of the shoulder blade / scapula. It is used to cause muscular dysfunction. Strikes to the Suprascapular are considered Hard Empty Hand Control.

OC Spray - Oleoresin Capsicum aerosol spray, also, known as “pepper spray” is used for Defensive and higher levels of resistance. It is considered an Intermediate Weapon as the potential for injury is higher than either Soft or Hard Empty Hand Control.

Impact Weapon Strikes - A strike to any part of the body using an impact weapon. This may include a side handle baton, expandable baton, or improvised impact weapon. It is considered an Intermediate Weapon.

Conducted Energy Weapon- (CEW) more commonly referred to as a Taser: A CEW can either be used in “dart” or “drive stun” mode. The darts are deployed from the CEW with the intention of causing neuromuscular incapacitation. The “drive stun” is deployment against a body part typically causing pain compliance. It is considered an intermediate Weapon as the potential for injury is higher than either Soft or Hard Empty Hand Control.

K-9 Deployment- The deployment of a Police Service Dog / K9 for the purpose of locating and / or apprehending a suspect is considered an Intermediate Weapon as the potential for injury is higher than either Soft or Hard Empty Hand Control Techniques.

Lethal Force – Lethal Force is used when the officer believes his or her life or the life of another person is in danger of death or serious bodily injury.

Pursuit Intervention Technique/ Tactic – P.I.T. can be used prior to or during a pursuit to stop a vehicular pursuit. This technique/tactic disrupts the forward momentum of the subject's vehicle.