

# History of Portland Force Policy

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# The History Of Force Policy

- Confusion before 1989.
- Graham v. Connor – 1989 – no room for confusion?
- Confusion in the 90's.
- Confusion in the aughts – is 'reasonableness' enough for good management?
- The 2007 force policy changes.
- The 2013 force and performance policy changes.

# Confusion Before 1989

Multiple, competing standards:

- 14<sup>th</sup> Amendment – subjective standard that focused on good faith of the officer and whether conduct “shocked the conscience of the court”
- 4<sup>th</sup> Amendment – objective reasonableness standard
- Levels of control decision making models

# Graham v. Connor

Adopted 4<sup>th</sup> Amendment “objective reasonableness” standard

- Balance of interests given the totality of circumstances.
- Officers to be judged from perspective of a reasonable officer at the scene.
- No 20/20 hindsight.
- Officers are given allowance for tense, uncertain and rapidly-developing conditions.
- Reasonable choice required – not ‘perfection’ or ‘best’.

# Reasonableness standard

“Today we hold that *all* claims that law enforcement officers have used excessive force - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” of a free citizen should be analyzed under the Fourth Amendment and its “reasonableness” standard, rather than under a “substantive due process” approach.”

# Balancing inherent –

“Determining whether the force used to effect a particular seizure is “reasonable” under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake.”

# Components of totality

“Because the test of reasonableness under the Fourth Amendment is **not capable of precise definition or mechanical application**, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. **The question is whether the totality of the circumstances justifies a particular sort of seizure.”**

# **Courts Must Judge An Officer From The Perspective Of A Reasonable Officer On The Scene – And No Hindsight**

“The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”



# Reasonableness analysis must accommodate realities of police work

“Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation.”

**Graham Totality Factors Connor / PPB Directive**  
**1010.20**

<b>Severity of the crime</b>		
<b>Impact of person's behavior on the public</b>		
<b>Extent of immediate threat to safety</b>		
<b>Extent of active resistance to control</b>	<b>VS.</b>	<b>Intrusion on person's interests</b>
<b>Whether person attempts to avoid control by flight</b>		
<b>Time, tactics and resources available</b>		
<b>Any circumstance that affects balance of interests</b>		

# Confusion In The 90's And 0's

- Levels of control = reasonable
  - Or does it?
- Weird trials – what concept is central for the ‘objectively reasonable officer’? For the court?
- Regression
  - Levels of control was so “helpful” it was not displaced as the primary thinking tool by Graham
  - Increasingly thin reports and impoverished officer force analysis

# Graham's Benefits

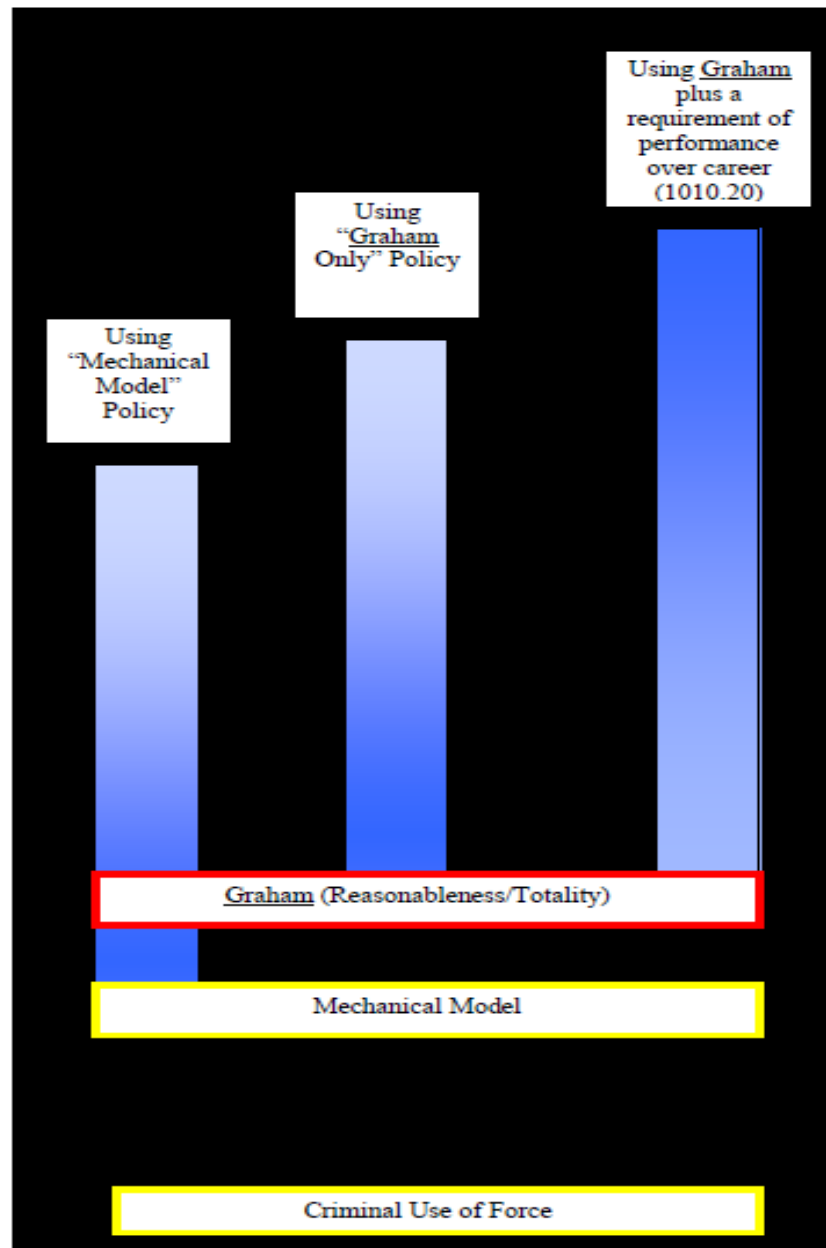
Fair and realistic as an outer limit.

- Recognizes officers can not completely control confrontations.
- Recognizes complexity of force events.
- Avoids Monday morning quarterbacking.
- Requires those sitting in judgment to put themselves in the position of the officer at the moment of decision.
- Allows a range of reasonable solutions.

# Graham's Failings

- Outer boundary – not highest level of performance.
- Edge is far from public expectations.
- Edge is far from most officers' expectations.
- Defines a prohibition.
- Does not define the agency's goal.
- Use of force is a political act – it builds or diminishes the legitimacy of PPB.

# USE OF FORCE STANDARDS



# 1010.20 - 2007

It is the policy of the Bureau that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely.

# 1010.20 - 2007

## Totality includes:

- Severity of the crime.
- Impact of person's behavior on public.
- Whether person poses a threat.
- Extent of resistance to control.
- Effort to avoid control by flight.
- Time, tactics and resources available.
- Any circumstance that affects the balance of interests.



# 1010.20 - 2007

- The Bureau's levels of control model describes a range of effective tactical options and identifies an upper limit on the force that may potentially be used given a particular level of threat.
- However, authority to use force under this policy is determined by the totality of circumstances at a scene rather than any mechanical model.

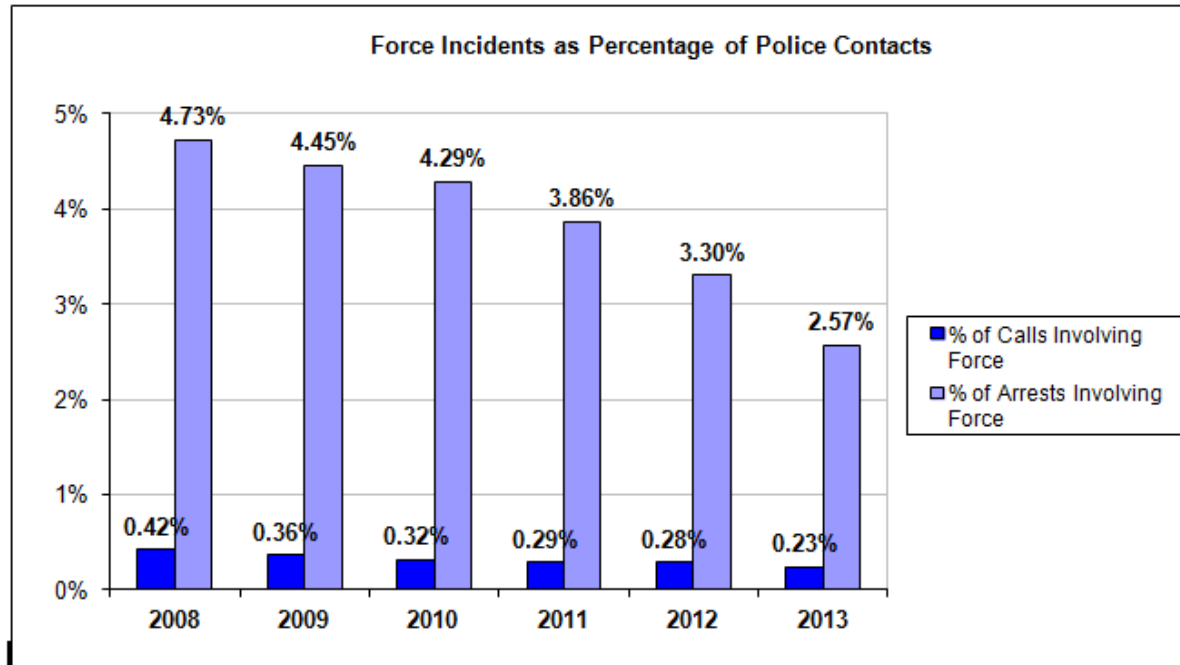
# 1010.20 - 2007

The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law. The Bureau also places a high value on the use of de-escalation tools that minimize the need to use force.

# 1010.20 - 2007

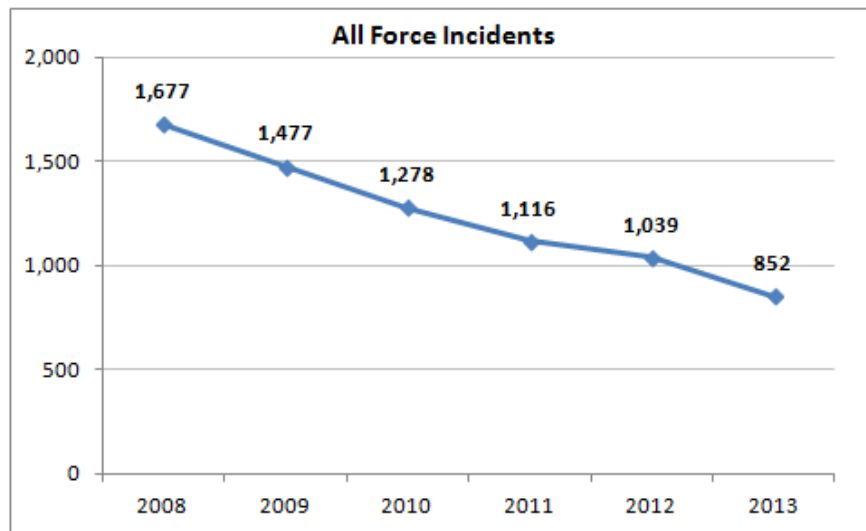
- The Bureau expects members to develop and display, over the course of their practice of law enforcement, the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of allowable force.

**Portland Police Bureau  
Force Data Collection: 2008-2013**



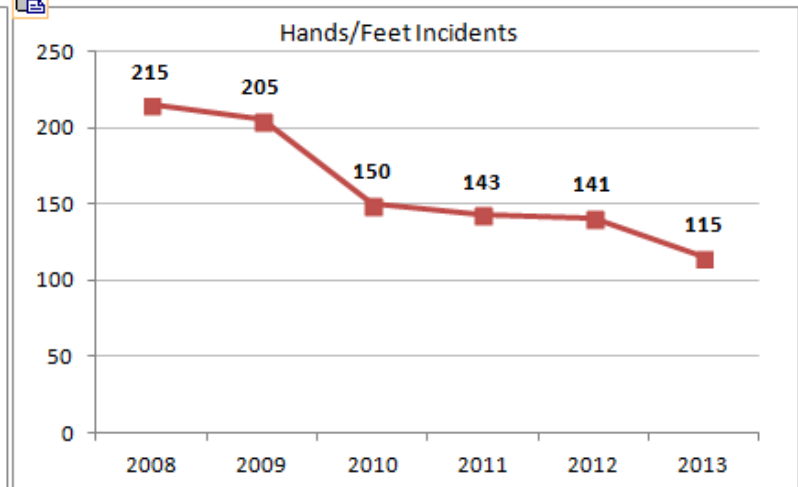
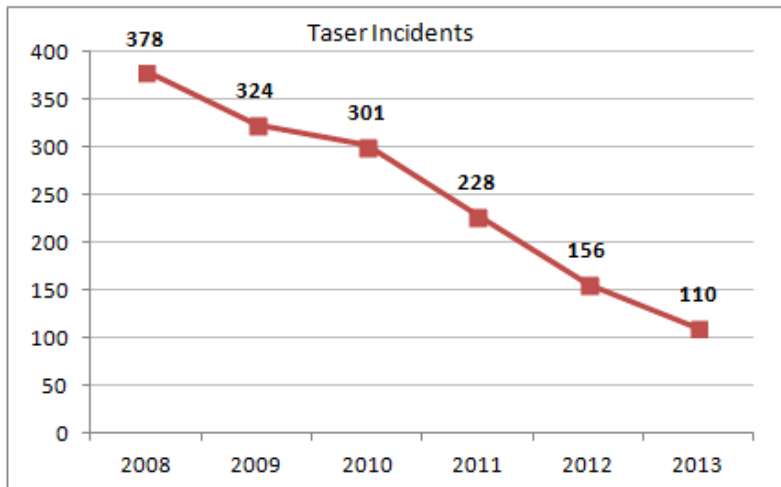
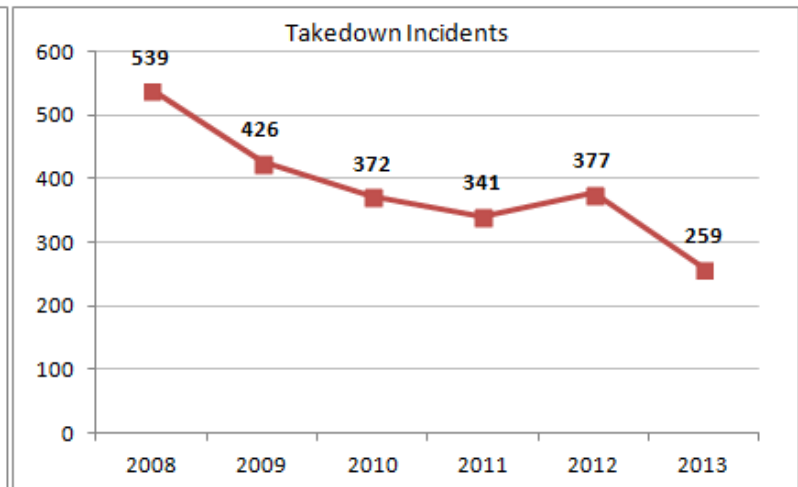
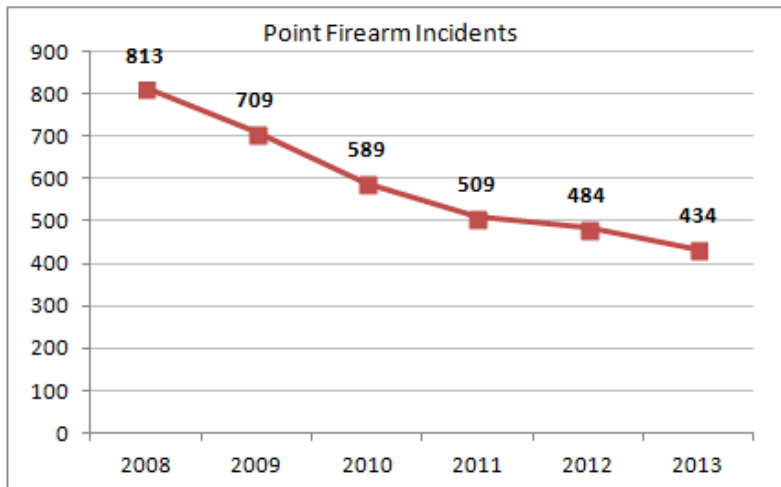
	All Force Incidents	CFS	Arrests	% of Calls Involving Force	% of Arrests Involving Force
<b>2008</b>	1,677	398,761	35,476	0.42%	4.73%
<b>2009</b>	1,477	406,408	33,204	0.36%	4.45%
<b>2010</b>	1,278	402,343	29,804	0.32%	4.29%
<b>2011</b>	1,116	389,777	28,919	0.29%	3.86%
<b>2012</b>	1,039	365,391	31,488	0.28%	3.30%
<b>2013</b>	852	365,391	33,201	0.23%	2.57%

**Portland Police Bureau  
Force Data Collection: 2008-2013**

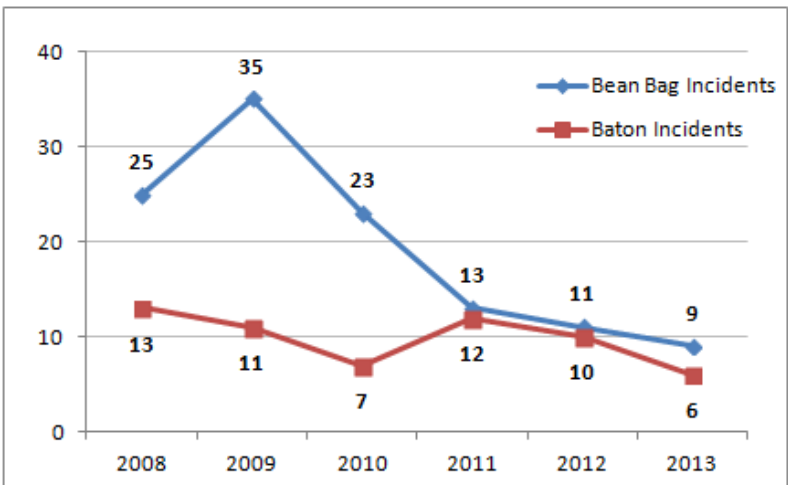
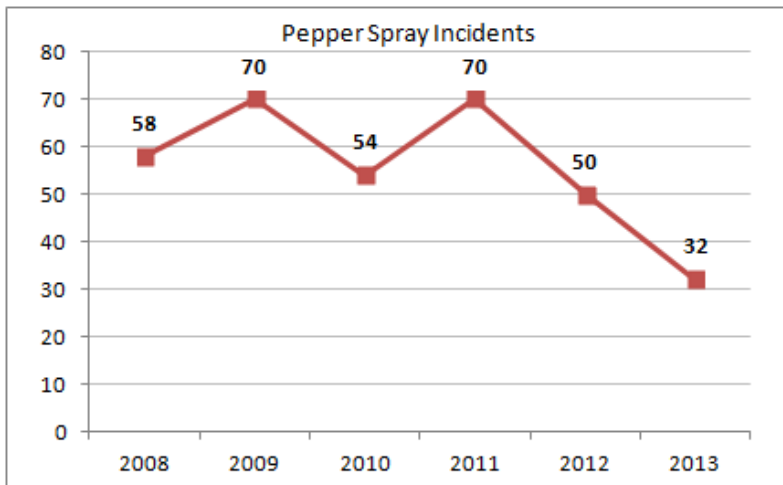
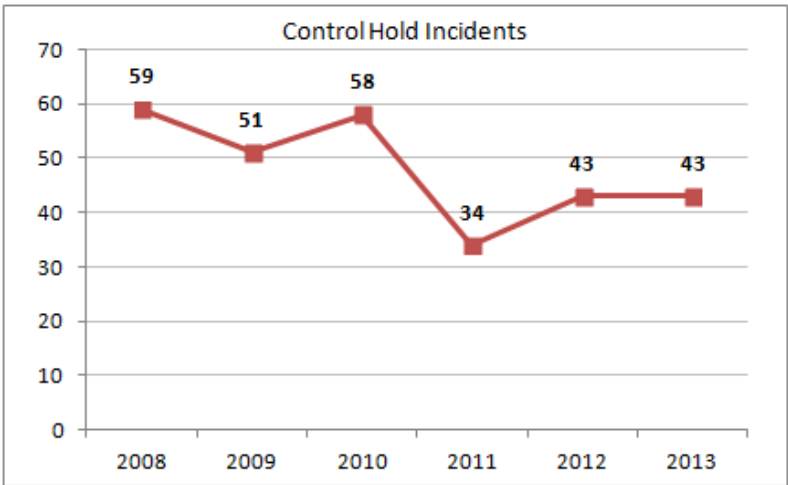
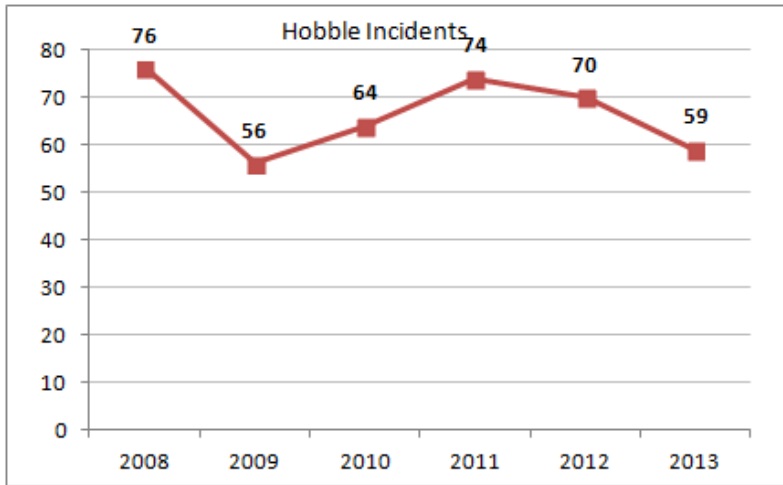


	Number and % of Force Incidents Involving:									
	All Force	Point Firearm	Takedowns	Taser	Hands/ Feet	Hobble	Control Holds	Pepper Spray	Bean Bag	Baton
2008	1,677	813/48%	539/32%	378/23%	215/13%	76/5%	59/3%	58/3%	25/1%	13/1%
2009	1,477	709/48%	426/29%	324/22%	205/14%	56/4%	51/3%	70/5%	35/2%	11/1%
2010	1,278	589/46%	372/29%	301/24%	150/12%	64/5%	58/2%	54/4%	23/2%	7/<1%
2011	1,116	509/46%	341/31%	228/20%	143/13%	74/7%	34/2%	70/6%	13/1%	12/1%
2012	1,039	484/47%	377/36%	156/15%	141/14%	70/7%	43/4%	50/5%	11/1%	10/1%
2013	852	434/51%	259/30%	110/13%	115/13%	59/7%	43/5%	32/4%	9/1%	6/1%
% Change 2008-2013	-49%	-47%	-52%	-71%	-47%	-22%	-27%	-45%	-64%	-54%

Portland Police Bureau  
Force Data Collection: 2008-2013

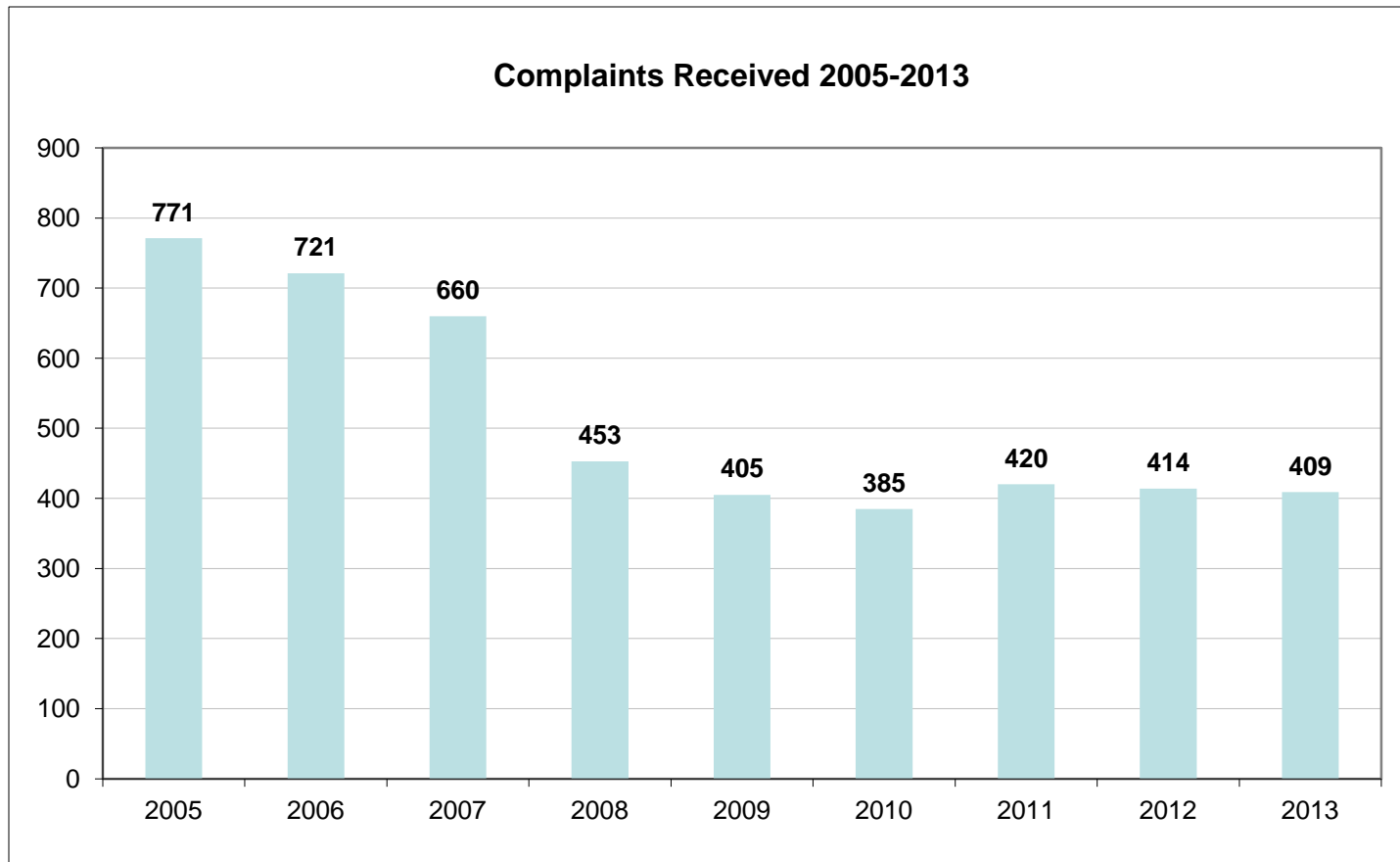


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Force Data Collection: 2008-2013



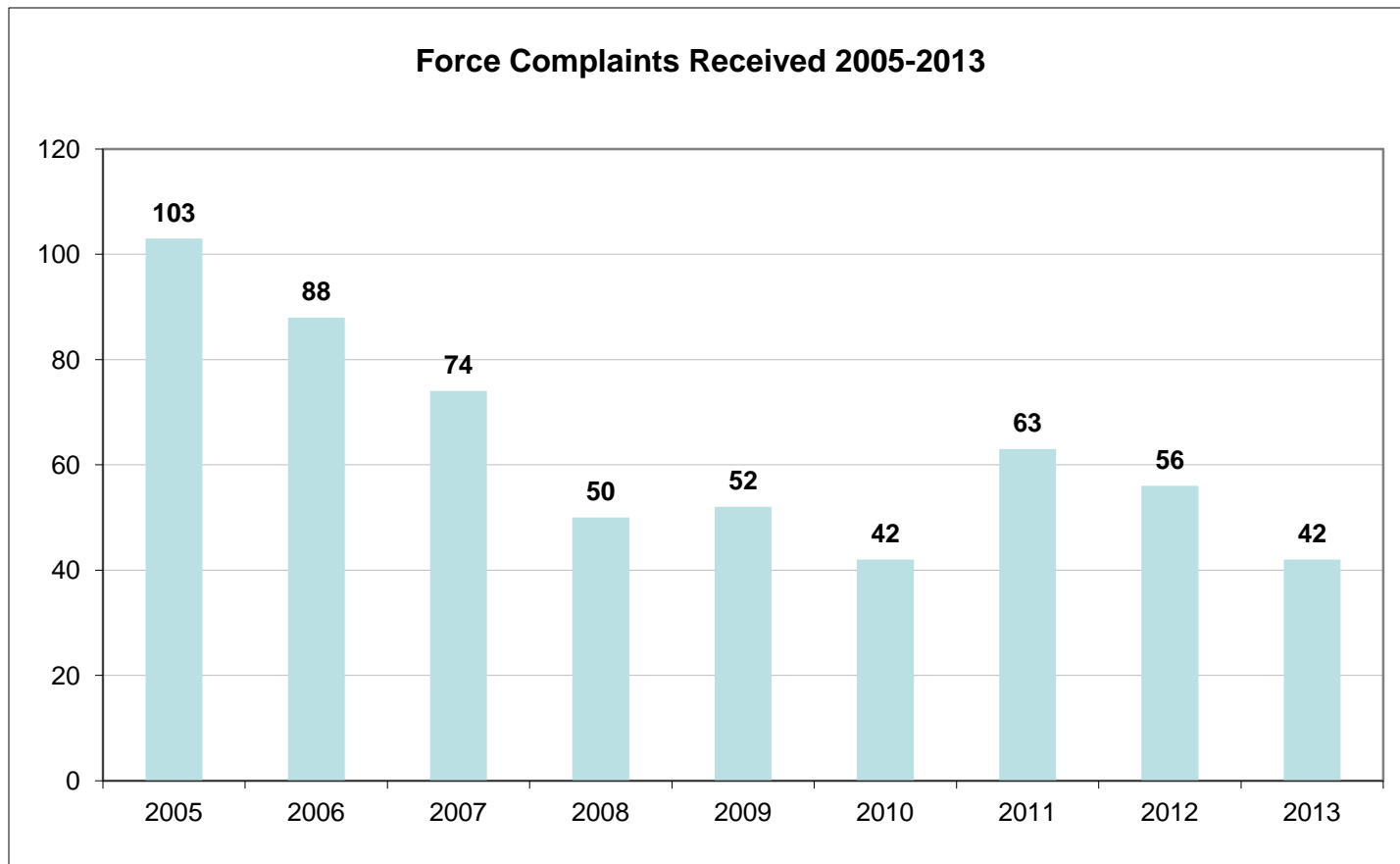
# CITIZEN COMPLAINTS ARE DOWN:

Citizen complaints have decreased 47% since 2005.



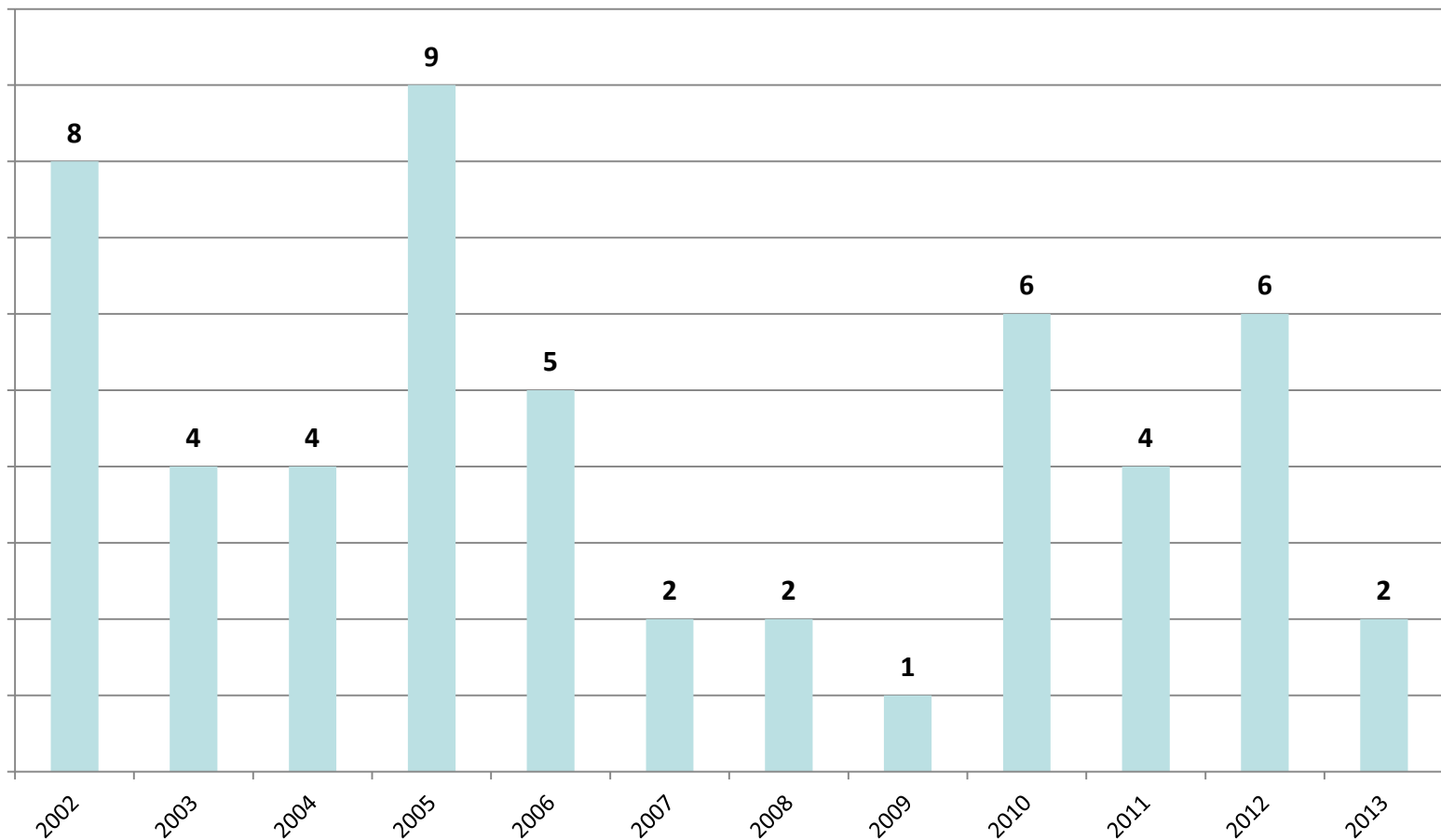


# **FORCE COMPLAINTS CONTINUE THEIR DECLINING TREND: Force complaints are down 59% since 2005.**



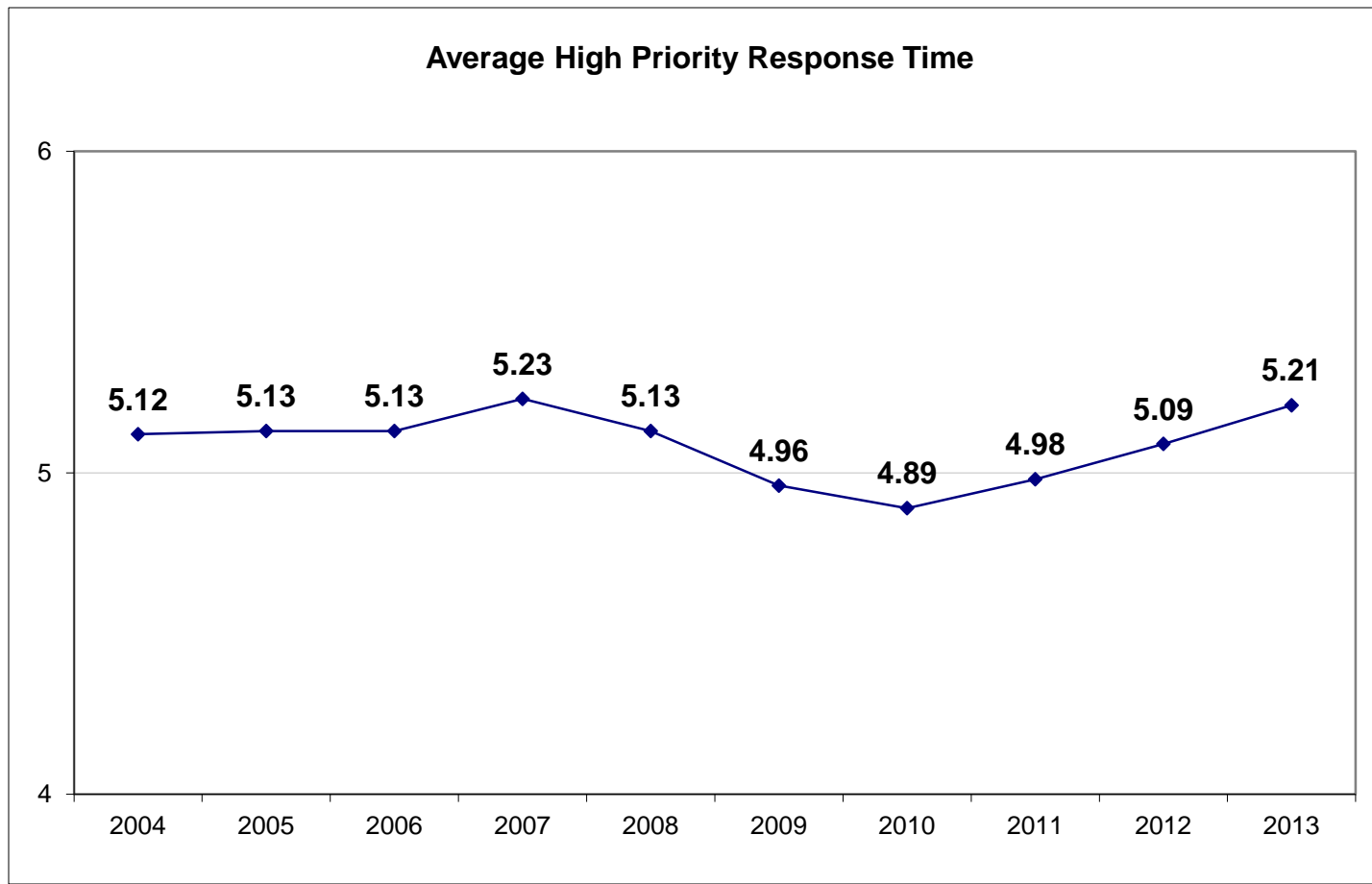
# OFFICER INVOLVED SHOOTINGS ARE

**DOWN:** Overall there have been 34% fewer shootings in the past six years compared to the previous six years.



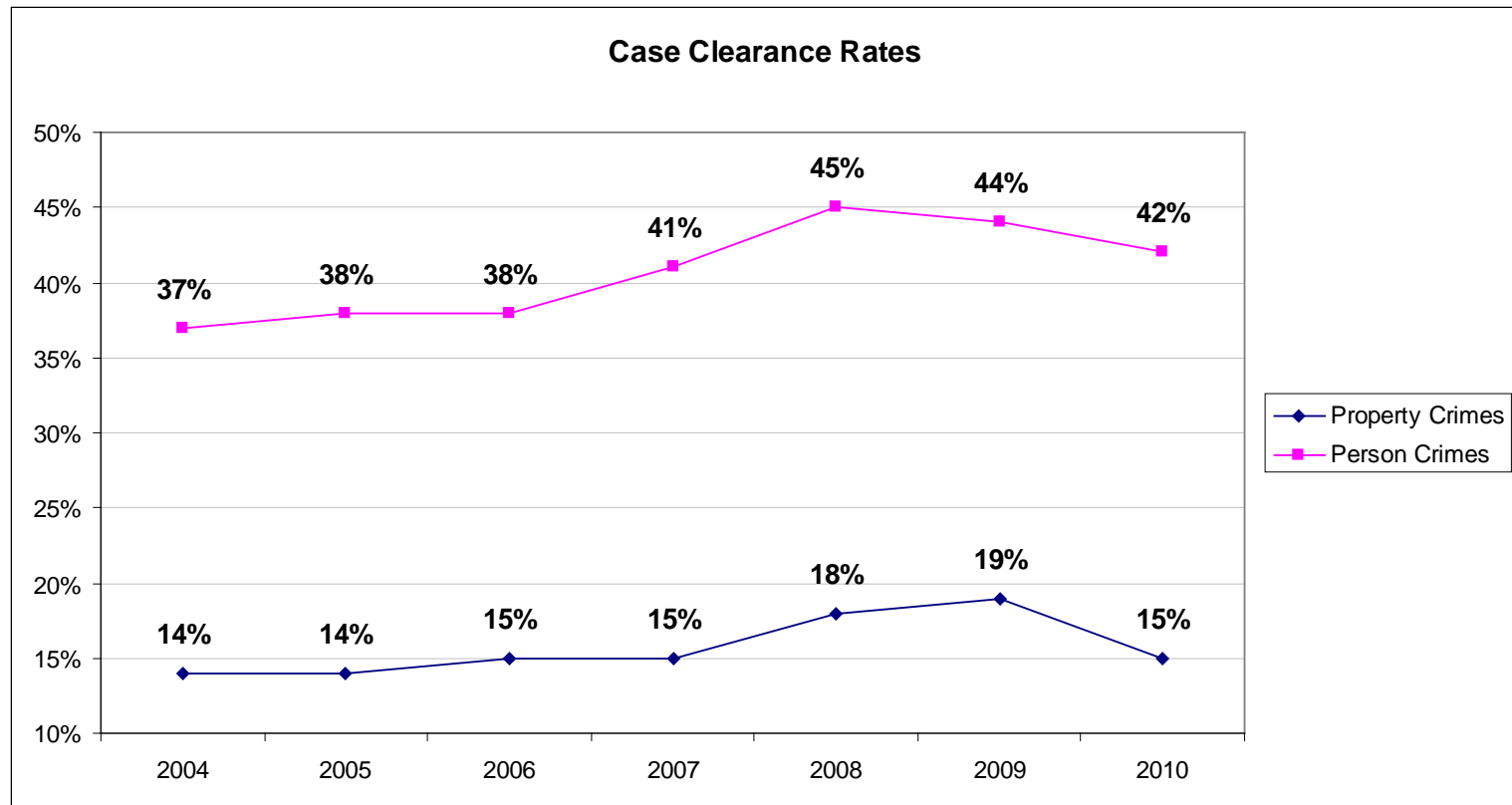
# AVERAGE HIGH PRIORITY RESPONSE

**TIME IS RISING:** The response time for these calls was down to 4.89 minutes in 2010 from 5.23 minutes in 2007. However, the average response time has continued to rise since.

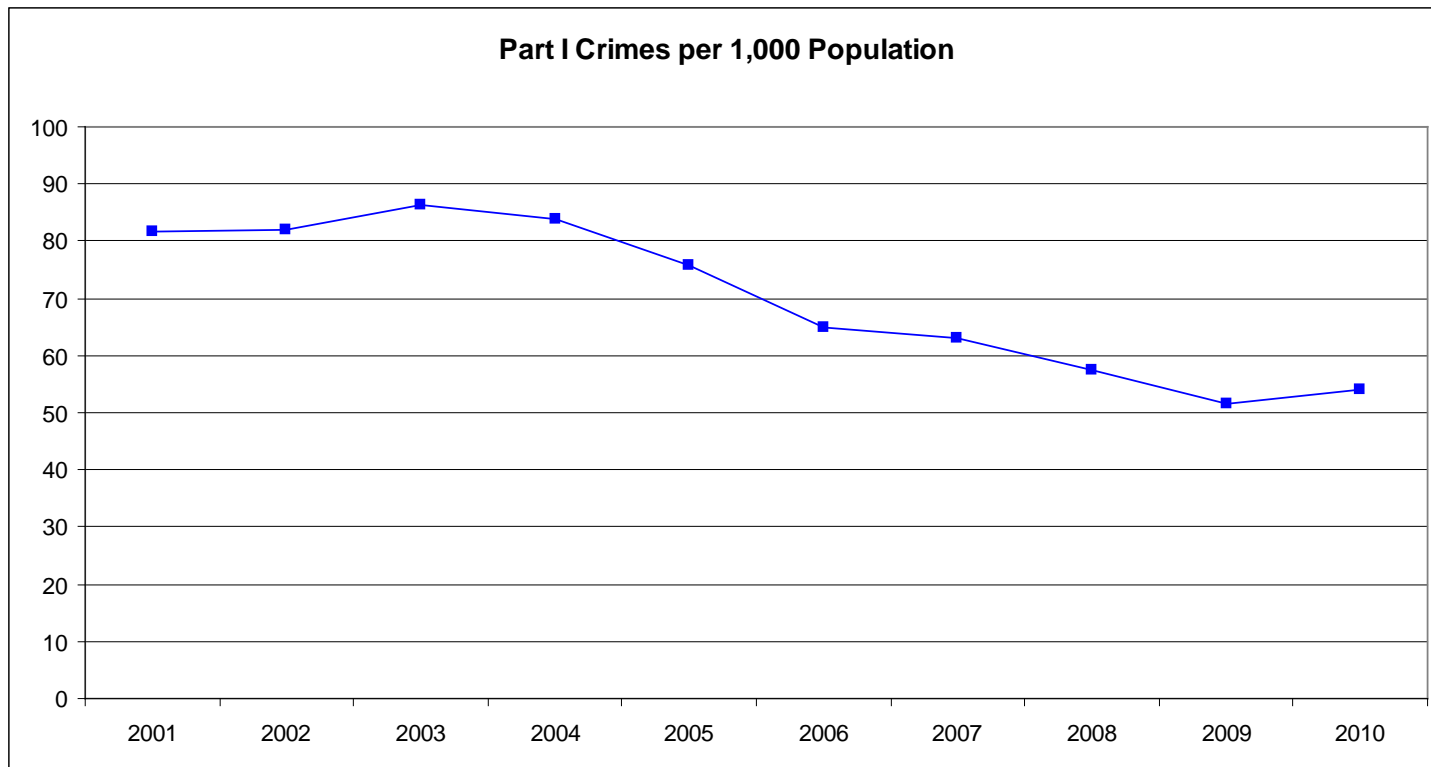


# CASE CLEARANCE RATES FOR PERSON AND PROPERTY CRIMES

**REMAIN RELATIVELY STEADY:** Although case clearance rates are on the decline since 2008, they remain higher than rates from 2004-2007.



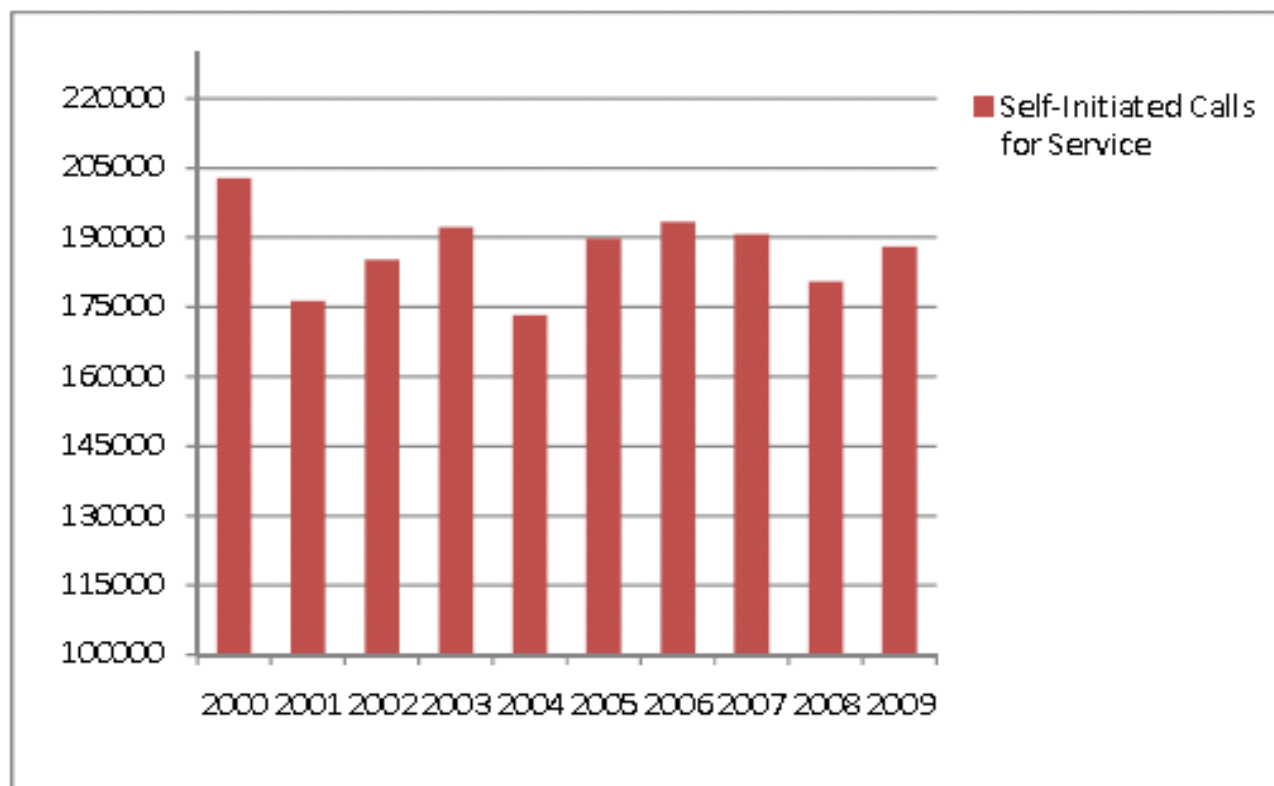
# CRIME IN PORTLAND CONTINUES TO DECREASE: Part I crimes have shown a 29% reduction in the past five years compared with the previous 5 years.



# Portland Police Bureau

## Citywide Self-Initiated Calls for Service 2000-2009

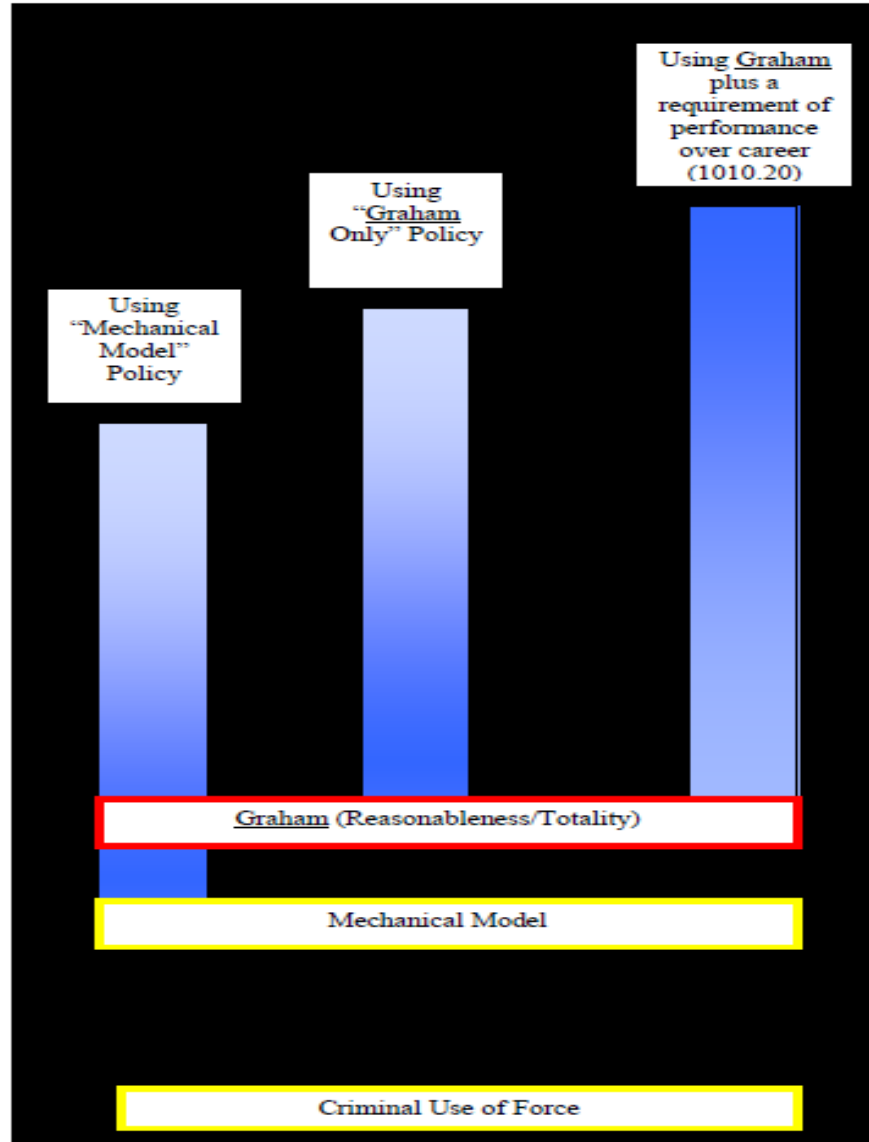
Year	Self-Initiated Calls for Service
2000	202,811
2001	176,363
2002	185,261
2003	192,184
2004	173,269
2005	189,861
2006	193,383
2007	190,705
2008	180,512
2009	188,077



NOTE: In October, 2008, "Walk & Talk" became a Priority 3 call type. Prior to that time it was not a call type but an indication of an officer's availability status. For comparison purposes, self-initiated "Walk & Talk's" are not included in the 2008-2009 numbers.

# The 2007 policy vs. poor performance

## USE OF FORCE STANDARDS



# 315.30 - Unsatisfactory Performance

- Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.
- Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Bureau.



# The process(es)

- 910.00 – report required.
- FDCR – after-action required.
- ‘Serious’ force – IA notification required.
- Deadly force – investigation required.

# FDCR / 940.00 requirement

- A force event is defined as an incident where the member is;
  - required to complete a Force Data Collection Form (except when the only force applied is the pointing of a firearm).
    - Control holds causing injury.
    - Takedowns.
    - Maximum restraint.
    - Hands / feet.
    - Baton.
    - Pepper spray.
    - Taser.
    - Bean bag rounds.
    - Point Firearm.
  - where the member's actions:
    - Caused physical injury;
    - Resulted in a complaint of physical injury by the subject;
    - Resulted in a subject or witness making a complaint of excessive force at the scene.

# 'Serious force'

- Pregnant women.
- Juveniles.
- Handcuffed subjects.
- Hospitalization.
- More than 2 ECW cycles.
- Any event deemed serious by supervisor.