

# COMPLAINTS & ALLEGATIONS BY COUNCIL DISTRICT

## CHAPTER 6

### COMPLAINTS FILED IN 1998

The following illustrations analyze complaints and their allegations by Council District. The first column in the table lists the Council District<sup>8</sup> and its corresponding Council Member, and also indicates the location where the incident leading to a complaint occurred. The type of classification<sup>9</sup> applied to these complaints were Formal (CI or DI), Informal (IN), Policy (PO), and Procedural (PR). Classified complaints account for 359 of the 364 complaints received between January 1 through December 31, 1998. The remaining five (5) were awaiting classification as of December 31, 1998. Of those 359 cases, 321 complaints were closed in 1998.

**Illustration #6:** Complaints by Council District

Council Districts	CI	DI	IN	PO	PR	Total Cases	%
1 LEZOTTE	8	0	1	0	3	12	3%
2 POWERS	9	2	5	2	3	21	6%
3 CHAVEZ	54	20	25	9	20	128	36%
4 MATTHEWS	6	1	1	1	5	14	4%
5 DIAZ	18	2	5	0	6	31	9%
6 FISCALINI	13	3	1	2	7	26	7%
7 SHIRAKAWA, JR.	18	2	6	3	7	36	10%
8 WOODY	8	6	1	3	5	23	6%
9 DIQUISTO	6	2	6	3	2	19	5%
10 DANDO	3	0	3	1	8	15	4%
Unknown/Outside City Limits	3	29	1	1	0	34	10%
<b>Total Cases Received</b>	<b>146</b>	<b>67</b>	<b>55</b>	<b>25</b>	<b>66</b>	<b>359</b>	<b>100%</b>
<b>%</b>	<b>41%</b>	<b>19%</b>	<b>15%</b>	<b>7%</b>	<b>18%</b>	<b>100%</b>	
<b>Total Cases Closed</b>	<b>130</b>	<b>50</b>	<b>55</b>	<b>25</b>	<b>61</b>	<b>321</b>	

Formal: CI = Citizen-Initiated & DI = Department-Initiated  
IN = Informal, PO = Policy, PR = Procedural

<sup>8</sup> See Appendix E (San José City Council District Map).

<sup>9</sup> See Appendix F (Classification of Complaints).

Illustration No. 7 shows a comparative three year analysis of 1996, 1997, and 1998 classified complaints by Council District. The total number of complaints from January 1 through December 31, 1998 do not include the In-Process complaints. In-Process complaints are complaints that have been initiated, but not yet classified.

## FORMAL ALLEGATIONS

The 213 Formal complaints produced a total of 395 allegations. Each complaint may allege multiple instances of misconducts. For example, in 1998, there were 88 complaints which alleged 156 counts of unnecessary force. Thus, the number of allegations exceeded the number of complaints.

**Illustration #7:** Three Year Analysis of Classified Complaints by Council District

Council Districts	Jan. - Dec. 1996	Jan. - Dec. 1997	Jan. - Dec. 1998
1 LEZOTTE	28	27	12
2 POWERS	50	24	21
3 CHAVEZ	208	156	128
4 MATTHEWS	37	15	14
5 DIAZ	59	46	31
6 FISCALINI	66	42	26
7 SHIRAKAWA, JR.	35	45	36
8 WOODY	41	17	23
9 DIQUISTO	28	30	19
10 DANDO	39	20	15
Unknown/Outside City Limits	16	24	34
<b>Total Cases Received</b>	<b>607</b>	<b>446</b>	<b>359</b>

When these 395 allegations were closed with a finding,<sup>10</sup> 13% were Sustained, 11% Not Sustained, 43% Exonerated, 13% Unfounded, and 20% No Finding. The allegations with the most Sustained Finding were Improper Procedure and Unofficerlike Conduct. Unnecessary Force and Unlawful Arrest allegations more frequently received an Exonerated Finding. Rude Conduct allegations had either a Not Sustained, Unfounded, or No Finding.

<sup>10</sup> See Appendix G (Definition of Findings).

**Illustration #8: Formal Allegations by Council District**

Council Districts	DH	ES	FA	IP	MDP	RC	UA	UC	UF	US	Total Alleg.	%
1 LEZOTTE	0	0	1	2	2	1	0	1	21	0	28	7%
2 POWERS	0	0	0	2	0	3	1	2	7	2	17	4%
3 CHAVEZ	0	0	2	24	14	25	10	9	48	1	133	34%
4 MATTHEWS	0	0	1	2	0	1	1	0	13	0	18	5%
5 DIAZ	0	0	0	5	1	9	4	2	20	3	44	11%
6 FISCALINI	0	0	1	4	0	7	5	2	10	1	30	8%
7 SHIRAKAWA, JR.	0	0	0	5	4	4	2	1	18	0	34	9%
8 WOODY	0	0	1	8	0	3	2	3	8	0	25	6%
9 DIQUISTO	0	0	0	3	0	0	4	1	9	0	17	4%
10 DANDO	0	0	1	1	0	0	0	1	1	0	4	1%
Unknown/Outside City Limits	4	0	0	17	1	3	0	19	1	0	45	11%
<b>Total Allegations</b>	<b>4</b>	<b>0</b>	<b>7</b>	<b>73</b>	<b>22</b>	<b>56</b>	<b>29</b>	<b>41</b>	<b>156</b>	<b>7</b>	<b>395</b>	<b>100%</b>
<b>%</b>	<b>1%</b>	<b>0%</b>	<b>2%</b>	<b>18%</b>	<b>6%</b>	<b>14%</b>	<b>7%</b>	<b>10%</b>	<b>39%</b>	<b>2%</b>	<b>100%</b>	

Allegation Legend	
DH = Discrimination/Harassment	RC = Rude Conduct
ES = Excessive Police Service	UA = Unlawful Arrest
FA = Failure to Take Action	UC = Unofficerlike Conduct
IP = Improper Procedure	UF = Unnecessary Force
MDP = Missing/Damaged Property	US = Unlawful Search

**Illustration #9: Three Year Analysis of Formal Allegations**

Time Period	DH	ES	FA	IP	MDP	RC	UA	UC	UF	US	Total Alleg.
Jan. - Dec. 1996	17	1	20	167	46	118	37	51	119	35	611
Jan. - Dec. 1997	7	4	11	105	42	78	45	41	165	27	525
Jan. - Dec. 1998	4	0	7	73	22	56	29	41	156	7	395

Illustration No. 9 presents three year data of formal allegations received from January 1 through December 31, 1996, 1997, and 1998. Even though total allega-

tions have decreased since 1996, Improper Procedure, Rude Conduct, and Unnecessary Force continue to yield the highest number of allegations.

## **THE MOST FREQUENT ALLEGATIONS FILED**

## **ANALYSIS OF UNNECESSARY FORCE COMPLAINTS**

Unnecessary Force (UF), Improper Procedure (IP), and Rude Conduct (RC) allegations consistently yield the highest number of complaints. To compare these allegations in the three year period of 1996, 1997, and 1998, please refer to Illustration No. 10.

There were 213 Formal complaints received from January 1 through December 31, 1998. Of the 213 Formal complaints, eighty-eight (88) complaints were Unnecessary Force cases, which produced 156 allegations. Use of Force complaints are divided into two categories: Class I and Class II. Class I cases involved those complaints in which the complainants require medical attention for their injuries. Class II cases include those complaints in which the complainant did not require immediate medical care. Of the complaints filed, thirty-seven (37) allegations were categorized as Class I Use of Force in 19 cases. The remaining 119 allegations were given a Class II Use of Force classification.

**Illustration #10:** The Three Most Frequent Allegations Received Over a Three Year Period

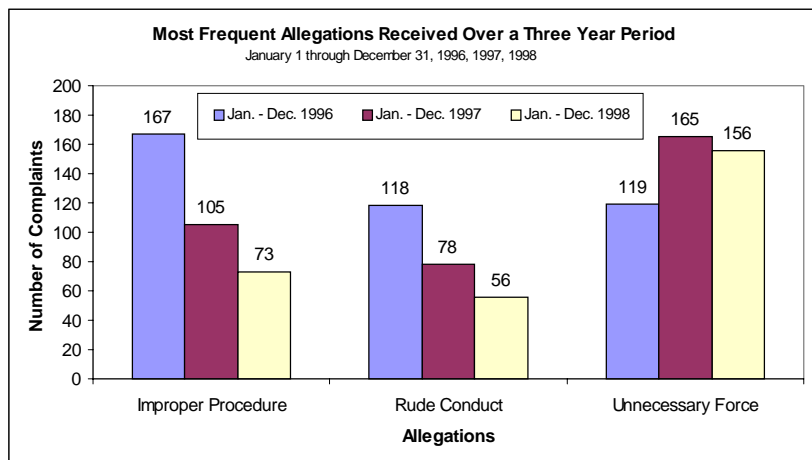


Illustration No. 10 shows how both the Improper Procedure and the Rude Conduct allegations decreased while the Unnecessary Force allegations increased since 1996.

In each complaint, the complainant may allege more than one type of force used by the subject officer(s). There were a total of 194 use of force types used in 1998, which resulted in a 10% decrease from 1997 and a 24% increase from 1996. The subject officer’s use of hands, such as punching, pushing or grabbing a complainant, accounted for 34% of the force alleged. In comparison to 1996 and 1997, there was a decrease of two percent each year. The use of a baton for striking or injuring the complainant comprised 13%, this has increased in number since 1996. The alleged use of force from the subject officer’s feet, such as leg sweeps or kicking the complainant, comprised 10% of the distribution in 1998. Tight handcuffs causing pain or injury to the wrists of the complainant accounted for 7% of the different types of force alleged by the complainant in 1998. The category “ground” includes allega-

tions of being pushed to the ground or being hit/slammed against the ground. The category “other,” which includes the officer’s use of an arm, wall, elbow, table, or glass window, accounted for 3% of the alleged force used in 1998.

**Illustration #11a: Type of Force Used**

Type of Force Used	Jan. - Dec. 1996		Jan. - Dec. 1997		Jan. - Dec. 1998	
	Number	%	Number	%	Number	%
Baton	16	10%	27	13%	25	13%
Canines	3	2%	0	0%	4	2%
Car (officer)	4	3%	14	6%	9	5%
Car (complainant)	0	0%	2	1%	2	1%
Chemical Agent	7	4%	12	6%	10	5%
Gun (officer)	2	1%	3	1%	5	3%
Gun (complainant)	0	0%	0	0%	3	2%
Feet	22	14%	25	12%	20	10%
Ground	6	4%	19	9%	16	8%
Hands	60	38%	78	36%	66	34%
Handcuffs (tight)	15	10%	12	6%	13	7%
Knee	9	6%	9	4%	12	6%
Object	4	3%	2	1%	2	1%
Other	7	4%	11	5%	6	3%
Unknown	1	1%	2	1%	1	1%
<b>Total</b>	<b>156</b>	<b>100%</b>	<b>216</b>	<b>100%</b>	<b>194</b>	<b>100%</b>

**Illustration #11b: Body Area Afflicted by Use of Force**

Body Area Afflicted by UF	Jan. - Dec. 1996		Jan. - Dec. 1997		Jan. - Dec. 1998	
	Number	%	Number	%	Number	%
Head	34	34%	41	30%	34	30%
Torso	15	15%	18	13%	14	12%
Limbs	24	24%	50	36%	35	31%
MBP	27	27%	21	15%	27	24%
Unknown	0	0%	7	5%	4	4%
<b>Total</b>	<b>100</b>	<b>100%</b>	<b>137</b>	<b>100%</b>	<b>114</b>	<b>100%</b>

distribution was 30% UF cases which involved injuries to the head, 12% to the torso, 31% to the limbs, 24% to MBP, and 4% to unknown parts of the body.

The “Degree of Injury” resulting from the alleged use of force ranged from minor to major,<sup>12</sup> and included categories for “None Visible” and “Unknown” degrees of injury. The breakdown for these categories were 17% for major injuries, 20% moderate, 45% minor, 11% had no visible injury, and 6% were of unknown degrees of injury for the period between January 1 through December 31, 1998.

**Illustration #11c: Degree of Injury**

Degree of Injury	Jan. - Dec. 1996		Jan. - Dec. 1997		Jan. - Dec. 1998	
	Number	%	Number	%	Number	%
Major	9	10%	19	18%	15	17%
Moderate	16	18%	24	22%	18	20%
Minor	36	41%	48	44%	40	45%
None visible	26	30%	9	8%	10	11%
Unknown	1	1%	8	7%	5	6%
<b>Total</b>	<b>88</b>	<b>100%</b>	<b>108</b>	<b>100%</b>	<b>88</b>	<b>100%</b>

Each complaint may allege more than one area of the body afflicted by the alleged use of force. The area afflicted is divided into five categories: the head, torso, limbs, multiple body parts (MBP), and unknown.<sup>11</sup> In 1998, the

<sup>11</sup> The area of the force alleged is unknown because the case is an open investigation and the area where the force was applied is unclear at the present time.

<sup>12</sup> The degree of the force alleged is unknown because the case is an open investigation and the degree of injury is unclear at the present time. Major injury required medical attention usually arising from the use of baton. Moderate injury generally resulted from the use of chemical agent, canine and tight handcuffs. Minor injury included the description of bruises and cuts from being pushed, grabbed and slapped.