

## I. INTRODUCTION

The Independent Police Auditor's Office (IPA) opened its doors to the public on September 13, 1993. The office was established for the purpose of auditing the investigations of citizen complaints alleging misconduct by members of the San José Police Department (SJPD). The IPA is independent from all other City entities and reports directly to the Mayor and to the City Council.

### ***FUNCTIONS OF THE OFFICE***

The Office of the Independent Police Auditor has three primary functions: (1) it serves as an alternative forum where citizens may file a complaint; (2) it reviews the investigations of citizen complaints conducted by the San José Police Department's Professional Standards & Conduct Unit (PSCU); and (3) it promotes public awareness of a citizen's right to file a complaint. The Independent Police Auditor routinely meets with various groups and organizations to increase public awareness of a citizen's right to file a complaint. The Office of the Independent Police Auditor has printed and distributed a brochure in three languages to inform the general public about the functions of this office. Furthermore, this office is in the process of completing a newsletter which is to be published quarterly and will contain information about the number and type of complaints, trends and news items. This newsletter will be distributed to local organizations.

### ***REPORTING REQUIREMENTS***

Reports are prepared on a semiannual basis in accordance to the change adopted by the City Council on September 6, 1994. Semiannual reports cover from January to June and July to December. This is the first of two semiannual reports and the fifth report produced by the Office of the Independent Police Auditor pursuant to the requirements of the San José Municipal Code Section 2.06.020c. This ordinance requires that the Auditor's report includes:

- A. A statistical analysis documenting the number of complaints by category, the number of complaints sustained, and the actions taken;
- B. An analysis of trends and patterns;
- C. Specific recommendations for change.

***CONTENTS OF FIFTH REPORT***

- This fifth report includes three six-month blocks of statistics comparatively analyzed from January through June for the years 1993, 1994, and 1995.
- Changes at the Professional Standards & Conduct Unit
- New issues
- Assessment of the Office of the Independent Police Auditor by the Citizens' Advisory Group
- Conclusion

## II. STATISTICAL DATA

### A. METHODOLOGY

The Independent Police Auditor's Office (IPA) is in the process of finalizing a database separate from the Professional Standards and Conduct Unit (PSCU) in order to independently track complaints and trends. In addition, the statistical information from this database will include information from audits of the complaints, contacts with the complainants, and trends tracked by this office. By creating an encompassing data bank, this office will be able to obtain information much faster and supply more statistical information to the public.

The PSCU classifies the type of complaint and number of allegations in Formal (Citizen-Initiated<sup>1</sup> and Department-Initiated<sup>2</sup>) complaints. There are four classifications of complaints: Formal, Informal, Procedural and Policy.<sup>3</sup> Formal complaints are reported by the number of cases and allegations, whereas the Informal, Procedural and Policy complaints are reported by the number of complaints only.

Formal complaints involve allegations such as Unlawful Arrest (UA), Unlawful Search (US), Unnecessary Force (UF), Rude Conduct (RC), Discrimination/Harassment (D/H), Excessive Police Service (ES), Improper Procedure (IP), Failure to Take Action (FA), Unofficerlike Conduct (UC), Delay in Response (DR) and Missing/Damaged Property (M/DP).<sup>4</sup>

The Auditor reviews all complaints alleging Unnecessary Force. The Citizen-Initiated (CI)

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1 Citizen-Initiated (CI) complaints are those complaints which are initiated by a civilian alleging misconduct on the part of a member of the San Jose Police Department.

2 Department-Initiated (DI) complaints are initiated by the Office of the Chief.

3 See Appendix A (Classifications of Complaints).

4 See Appendix B (Misconduct Allegations).

complaints are fully audited. The Department-Initiated (DI) complaints are not fully audited unless the complaint involves a citizen complaint or the complaint is specifically requested by this office. The remaining DI complaints are only partially audited; however, they are tracked for trends, patterns, and statistical values. The Unnecessary Force cases, which were filed before the inception of this office but subsequently closed, are also sent at the Auditor's request for review. The Auditor is also required to review at least 20% of all other misconduct complaints, in addition to the Unnecessary Force complaints.

### ***B. MIDYEAR STATISTICS***

The following is a breakdown of the total number (170) and types of complaints filed from January 1 to June 30 of 1995. The numbers of Formal (Citizen and Department-Initiated), Informal, Procedural, and Policy complaints are based on the Office of the Independent Police Auditor's data gathered as of June 30, 1995. These numbers will be used for the analyses section.

• Citizen-Initiated complaints	58
• Department-Initiated complaints	32
• Informal complaints	42
• Policy complaints	2
• Procedural complaints	36
<b>TOTAL</b>	<b>170</b>

### ***C. THREE SIX-MONTH COMPARATIVE ANALYSES***

The analyses of the statistical data will focus on the Formal complaints. The other three complaint categories such as Informal, Procedural and Policy were implemented in June of 1994; therefore, no comparison will be possible for several reporting periods.

The Formal complaints involve the most serious cases. Each case is divided into separate

allegations with individual findings.<sup>5</sup> The time periods used for statistical comparisons are January-June 1993, January-June 1994, and January-June 1995. The analysis will compare the total number of cases and allegations for the aforementioned periods respectively. The following is the statistical data for Formal complaints categorized by allegations for the three six-month periods:

**Citizen and Department Initiated Formal Complaints<sup>6</sup>**  
**Categorized by Type of Allegation**

Time Period	UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Total Allegations	Total Cases
1/1/95 to 6/30/95	16	19	50	30	10	0	49	6	14	13	207	90
1/1/94 to 6/30/94	27	23	117	86	10	6	78	10	32	29	418	156
1/1/93 to 6/30/93	25	10	74	52	0	1	71	5	10	8	256	113

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

Formal complaints are CI and DI complaints. The above information includes all cases initiated during the specified time frames regardless if the complaint was opened or closed. Appendices D1 and D2 show the findings of the allegations of cases which have been closed.

There has been a decrease in the total number of Citizen-Initiated complaints filed during the period from January to June 1995 as compared to the previous two years.

<sup>5</sup> See Appendix C (Definitions of Findings).

<sup>6</sup> See Appendices D1 and D2. This data provided by the PSCU was verified by the IPA.

### Citizen-Initiated Cases and Allegations

	CI Cases	1995 CI Cases Compared with Previous Years	Total Allegations	1995 Allegations Compared with Previous Years
<i>Jan. - June 1995</i>	58		162	
<i>Jan. - June 1994</i>	116	-50%	346	-53%
<i>Jan. - June 1993</i>	88	-34%	229	-29%

Of the ninety (90) total Formal complaints, the number of Citizen-Initiated complaints received during January to June 1995 was fifty-eight (58). January to June 1995 saw a decrease of 50% of CI complaints received from January to June 1994 and a 34% decrease of CI complaints from January to June of 1993.

The number of allegations for the Citizen-Initiated complaints also decreased since there has been a decrease in the number of CI complaints. The fifty-eight (58) CI complaints filed during the period from January to June 1995 produced 162 allegations, creating a decrease of 53% over the period from January to June 1994 and a decrease of 29% over the same period in 1993.

During this reporting period, there was a decrease in all categories of allegations as compared to 1994. The only allegation category which has remained the same from 1994 is Discrimination/ Harassment where there were eight (8) CI allegations.

### UF Allegations

	UF Allegations	1995 UF Allegations Compared with Previous Years
<i>Jan. - June 1995</i>	50	
<i>Jan. - June 1994</i>	117	-57%
<i>Jan. - June 1993</i>	74	-32%

The total number of Unnecessary Force allegations for the period from January to June 1995 is fifty (50). When compared to the previous two six-month periods, UF allegations have

decreased by 57% over the period from January to June 1994 and decreased by 32% from January to June 1993. In 1993 and 1995, no Unnecessary Force allegations were initiated by the Office of the Chief. Seldom are Unnecessary Force allegations initiated by the Office of the Chief. However, in 1994 there were two complaints which raised two allegations of Unnecessary Force. The two allegations filed in 1994 resulted in one allegation being Sustained and the officer resigned while the other Unnecessary Force allegation was Exonerated but counseling was recommended.

### Department-Initiated Cases and Allegations

	DI Cases	1995 DI Cases Compared with Previous Years	Total Allegations	1995 Allegations Compared with Previous Years
<i>Jan. - June 1995</i>	32		45	
<i>Jan. - June 1994</i>	40	-20%	72	-38%
<i>Jan. - June 1993</i>	25	28%	27	67%

There were thirty-two (32) Department-Initiated complaints filed during the period from January to June 1995. There was a 20% decrease over the period from January to June 1994; however, there was an increase of 28% over the period from January to June 1993.

The thirty-two (32) Department-Initiated complaints produced forty-five (45) allegations during the period from January to June 1995. This resulted in a decrease of 38% over the period from January to June 1994 and an increase of 67% over the period from January to June 1993.

Possible **Contributing Factors** for the increase and decrease in the above-mentioned statistics:

- Some officers whose complaints are not sustained are nevertheless counseled and/or receive training.
- There is less police misconduct being reported.

- The number of complaints filed in this reporting period is too small a sample to assess changes in the conduct of the officers, given that there are approximately 300,000 police to citizen contacts.
- There were one termination and two resignations with pending terminations which may have heightened the officers' awareness of the consequences of police misconduct.
- The training provided to all 1200 supervisors and officers by the PSCU Commander reduced the incidents of police misconduct.
- Intervention counseling to officers receiving multiple complaints reduced the number of subsequent complaints.
- The PSCU Commander attends the daily briefings of police officers in an effort to make himself available to discuss issues in a non-threatening environment. While attending the police briefings, the PSCU Commander will generally describe to the officers the numbers and reasons for the officers' termination, suspensions, or other disciplines.
- Police officers have an increased awareness of the probability of a citizen filing a complaint.
- There has been an increase in anonymous complaints to the IPA. Several of these complaints were made by the San José Police Officers which may indicate a willingness to do more self policing.
- In all Informal complaints, a conciliation process is available. Supervisors have direct contact with the complainants following an allegation of less serious misconduct which provides an opportunity for dialogue between the citizen and the police.

#### ***D. SUSTAINED CASES***

The following table indicates the number of closed cases and sustained rates for the three six-month periods. A complaint cannot be sustained unless it is closed. The number of cases that were closed is not the same as the number of cases that were initiated. This is because the closed cases include cases that were initiated either in 1993, 1994, or 1995, and were completed during their respective reporting periods. In 1993, very few DI complaints were filed, but of those that were filed there was a high sustained rate.



Period Complaints Closed	CI	CI Sustained	DI	DI Sustained
Jan. - June 1995	111	14 (13%)	35	24 (69%)
Jan. - June 1994	67	19 (28%)	36	27 (75%)
Jan. - June 1993	23	3 (13%)	18	15 (83%)

The Citizen-Initiated sustained rate for the three respective periods is as follows: January to June 1995 had fourteen (13%) sustained cases; January to June 1994 period had nineteen (28%) sustained cases; and January to June 1993 period had three (13%) sustained cases. The 1995 and 1993 sustained cases in proportion to the cases filed are consistent.

The empirical rule for data variation in statistics states that “approximately 68% of the measurements will lie within 1 standard deviation of their mean ... 95% of the measurements will lie within 2 standard deviations of their mean ... almost all the measurements will lie within 3 standard deviations of their mean.”<sup>7</sup> For the CI sustained cases, a weighted mean (average) for the three time periods is 12.06 sustained cases. This produced a standard deviation of 8.19, reflecting that the number of sustained cases for 1994 and 1995 fall within one standard deviation from the mean, and the number of CI sustained cases for 1993 fall within two standard deviations from the mean. Thus, in spite of the large range in the number of closed CI cases (111 vs. 23), the IPA statistics lie close to the weighted average of the CI sustained cases.

The Department-Initiated sustained rate for the three respective periods is as follows: January to June 1995 had twenty-four (69%) sustained cases; January to June 1994 had twenty-seven (75%) sustained cases ; and January to June 1993 had fifteen (83%) sustained cases.

For the DI sustained cases, the weighted mean for the three time periods is 22.03 sustained cases. The resulting standard deviation is 6.30; therefore, the number of DI sustained cases of 1994 and

<sup>7</sup> William Mendenhall and Terry Sincich, *Statistics for Engineering and the Sciences*, 3rd ed., (San Francisco: Dellen Publishing Co., 1992), 31.

1995 fall within one standard deviation from the weighted mean. The number of DI sustained cases for 1993 fall within two standard deviations. Similarly to the CI sustained cases, DI sustained cases lie close to the weighted mean, despite the fluctuations in the total number of DI closed cases.

Based on the analysis of the sustained cases for the three periods, the sustained rate has remained steady in both the CI and DI complaints.

### ***E. DISCIPLINE IMPOSED***

An officer with sustained allegation(s) receives discipline based on the case and not on each separate allegation. For example, an officer may have had three allegations sustained, but only received one letter of reprimand as discipline imposed for the three sustained allegations.<sup>8</sup> The table indicates the percentage breakdown of discipline imposed for Citizen-Initiated (CI) complaints, Department-Initiated (DI) complaints and a combination of those two types of formal complaints ranked by the most frequent type of discipline imposed. The sustained allegations from Formal complaints closed during the period from January to June 1995 were imposed the following disciplines.

<b>Types of Discipline Imposed</b>	<b>CI</b>	<b>DI</b>	<b>% of Discipline Imposed</b>
Documented Oral Counseling (DOC)	60%	35%	43%
Letter of Reprimand (LOR)	20%	13%	15%
Training and Counseling		19%	13%
10-Hour Suspension		19%	13%
Resignation	13%		4%
160-Hour Suspension	7%	3%	4%
120-Hour Suspension		3%	2%
80-Hour Suspension		3%	2%
Termination		3%	2%
* The data above is rounded off to the nearest percentage.			

<sup>8</sup> See Appendix E (Sustained Allegations).

The Percentage of Discipline Imposed derived from the total number of CI and DI for each type of discipline divided by the total of all Types of Disciplines. For example, there were nine (9) CI allegations and eleven (11) DI allegations, for a total of twenty (20), which imposed DOC as the discipline. The total number of discipline in all categories was forty-six (46). Thus, twenty (20) divided by forty-six (46) equals 43%; therefore, 43% of all disciplines imposed was DOC.

The DI discipline imposed is dependent on several factors: whether it is the first sustained complaint or a repeated conduct, the type and severity of prior discipline imposed, the experience of the officer, the seriousness of the allegation, and if the conduct result from poor judgment or intentional action.

#### ***F TIME TAKEN TO CLASSIFY AND COMPLETE FORMAL COMPLAINTS***

The targeted goal for classifying complaints is 30 days. Of the ninety (90) Formal complaints received during the period of January to June 1995, the PSCU classified eighty-five (85) cases (94%) within 30 days and five (5) cases (6%) took over 30 days to classify.<sup>9</sup> Even though the set goals have not actually been met, the PSCU is close to the target of investigating complaints.

The targeted goal for completing the investigation is 75% (109) of the cases within 120 days and 100% (146) of the cases within 300 days. The PSCU closed 146 Formal complaints, which were filed between January 1, 1993 and June 30, 1995. Of the 109 case goal, 73 cases were completed within 120 days. Of the 146 case goal, only 97 cases were completed within 300 days.

#### ***G STATISTICAL BACKGROUND INFORMATION OF COMPLAINANTS***

The Office of the Independent Police Auditor recently created a complainant Voluntary Questionnaire requesting information about the complainant's background upon filing a

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<sup>9</sup> See Appendix F (Length of Time Taken from Receipt to Classification of Cases).

complaint. The sole purpose is to monitor trends in an effort to better serve the complainant and the community. This survey became effective as of April 17, 1995.

According to the data received between April 17, 1995, and June 30, 1995, there were approximately forty-four (44) new complaints filed at the PSCU and the IPA. There were nineteen (19) questionnaires which were completed by the complainants. Because this is a new process implemented at both the IPA and the PSCU, the PSCU intake officers did not systematically request the complainants to complete the questionnaire. Since complaints can be filed over the telephone, some of the complainants called to file their complaints at the PSCU and the intake officers obtained no questionnaire from them. This explains why only nineteen (19) questionnaires were the basis of our statistics. The survey asks for information such as the complainant's occupation, primary language, ethnicity, educational level, gender, age range, and type of referral to either the PSCU or the IPA.

<i>TYPE OF REFERRAL</i>	<i>TO IPA</i>	<i>TO PSCU</i>
Friend / Organization	5	5
Personal Knowledge	0	2
Police	0	3
City Official	0	1
Media	1	1
Other	1	0

There were seven questions in the survey. The first question asked how the complainant had been referred to the PSCU or the IPA, whichever office the complainant contacted. Most of the complainants had been referred to both the PSCU and the IPA through their friends. But unlike the PSCU, where three persons were referred by officers, no one was referred to the IPA by police officers.

<i>OCCUPATION</i>			
Claims examiner	1	Sales	1
Custodian	1	Self employed	2
Government employee	1	Service representative	1
Homemaker	1	Student	2
Hostess / Waitress	1	Telemarketer	1
Manager	1	Unemployed	2
Musician	1	Unspecified	1
Nurse	1	Welder	1

The second question inquired about the current or latest occupation which the citizen held. The occupations were diverse and ranged from business owners to custodians.

<i>EDUCATION LEVEL</i>	
9TH	0
10TH	2
11TH	2
12TH	5
College 1	5
College 2	1
College 3	1
College 4+	3

Similarly, the third question asked for the education level of the complainant. The response ranged from persons who had not graduated from high school to those complainants with advanced degrees. Fifty-three percent (53%) of the complainants indicated some college education.

The fourth question asked about the ethnic background of the citizen. The ethnic composition of the complainants was predominantly Hispanic/Latino. Forty-seven percent (47%) of the complainants identified themselves as Hispanic/Latino and forty-two percent (42%) identified themselves as White/European-American.

<i>ETHNICITY</i>	
Hispanic / Latino	9
White / European - American	8
African / Black	1
Asian	1
Native - American	0
Filipino	0
Vietnamese	0
Other	0

<i>PRIMARY LANGUAGE</i>	
English	16
Spanish	3
Vietnamese	0
Other	0

The primary language spoken by most of the complainants asked in question number five was English with only three complainants speaking predominantly Spanish.

<i>GENDER</i>	
Male	12
Female	7

The sixth question dealt with the gender of the citizen. Sixty-three percent (63%) of the complainants were male. There were twelve (12) males who filed complaints versus only seven females.

<i>AGE RANGE</i>	
Under 18	0
18 - 30	7
31 - 59	11
60+	1

The final question requested information about the age of the complainant. Fifty-eight percent (58%) of the complainants were within the age range of 31-59, thirty-six percent (36%) were in the age range of 18-30 years, and only five percent (5%) were over 60 years old.

The Voluntary Questionnaire will continuously be requested for the complainants to fill out. Next reporting period will give a more accurate description of the complainants.

### III. COMPLAINTS & ALLEGATIONS BY COUNCIL DISTRICT

#### SUMMARY OF COMPLAINTS RECEIVED

January 1 - June 30, 1995

By Council District

DISTRICTS	CI	DI	IN	PO	PR	TOTAL COMPLAINTS	%
JOHNSON 1	2	3	3	0	2	10	6%
POWERS 2	4	1	3	0	3	11	6%
PANDORI 3	15	18	9	0	10	52	31%
FERNANDES 4	1	0	4	0	3	8	5%
DIAZ 5	7	1	3	0	3	14	8%
FISCALINI 6	8	3	5	0	4	20	12%
SHIRAKAWA 7	6	0	3	0	4	13	8%
WOODY 8	7	0	7	0	5	19	11%
DIQUISTO 9	3	0	5	0	2	10	6%
DANDO 10	4	2	0	1	0	7	4%
Unknown/Outside City Limit	1	4	0	1	0	6	4%
<b>TOTAL</b>	<b>58</b>	<b>32</b>	<b>42</b>	<b>2</b>	<b>36</b>	<b>170</b>	<b>100%</b>
%	34%	19%	25%	1%	21%	<b>100%</b>	

<i>Legend</i>	
CI = Citizen-Initiated	PO = Policy
DI = Department-Initiated	PR = Procedural
IN = Informal	

All types of complaints received during the period from January to June 1995 were compiled by City Council district.<sup>10</sup> In addition, Formal complaints were further categorized by the number and type of allegations for the same time period as above. The table shows the total number of all types of complaints received by City Council district. The highest number of complaints was received in District Three (3). However, nine (9) of the eighteen (18) DI complaints were incidents which occurred at the San José Police Station which is located in District Three (3).

<sup>10</sup> See Appendix G (Complaints by Council District).

**SUMMARY OF ALLEGATIONS RECEIVED**

January 1 - June 30, 1995

By Council District

**CITIZEN AND DEPARTMENT INITIATED ALLEGATIONS**

DISTRICTS	UA	US	UF	RC	DH	IP	FA	UC	MDP	TOTAL	%
JOHNSON 1	0	0	1	2	0	1	0	1	1	6	3%
POWERS 2	0	3	5	1	0	2	1	0	1	13	6%
PANDORI 3	2	4	16	9	5	15	0	8	3	62	30%
FERNANDES 4	0	0	0	0	0	0	0	0	1	1	0%
DIAZ 5	3	0	5	5	0	8	3	0	0	24	12%
FISCALINI 6	0	4	2	3	0	7	1	1	1	19	9%
SHIRAKAWA 7	3	0	7	2	0	3	0	0	0	15	7%
WOODY 8	4	3	9	3	3	3	1	0	1	27	13%
DIQUISTO 9	2	2	0	3	0	5	0	1	0	13	6%
DANDO 10	2	3	3	3	0	3	0	0	4	18	9%
Unknown/Outside City Limit	0	0	2	0	0	2	0	3	0	7	3%
<b>TOTAL</b>	<b>16</b>	<b>19</b>	<b>50</b>	<b>31</b>	<b>8</b>	<b>49</b>	<b>6</b>	<b>14</b>	<b>12</b>	<b>205<sup>11</sup></b>	<b>100%</b>
<b>%</b>	<b>8%</b>	<b>9%</b>	<b>24%</b>	<b>15%</b>	<b>4%</b>	<b>24%</b>	<b>3%</b>	<b>7%</b>	<b>6%</b>	<b>100%</b>	

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

Formal complaints are Citizen-Initiated and Department-Initiated complaints. Allegations are found only in Formal complaints. Therefore, the number of allegations and the number of complaints are different. In the near future, our database will be able to categorize the origin and

<sup>11</sup> The IPA gathered statistics as of June 30, 1995, while the PSCU based their statistics as of July 17, 1995. This explains the discrepancy in the column entitled total number in Appedices D1 and D2 with the above number of 205 for the January to June 1995 time period.



type of police conduct that lead to the complaint. At this time, the database is not fully operational. We are currently in the process of contracting with a computer consultant to complete the database. With the addition of a data analyst to the IPA, more detailed information will be provided. The table depicts the total and type of allegations received for the time period of January to June 1995, compiled according to City Council district.<sup>12</sup>

The highest number of allegations (50) was found in the Unnecessary Force category. None of these (50) allegations were Department-Initiated. District Three had the majority of these allegations for a total of sixteen (16).

The next highest number of allegations (49) was in the Improper Procedure category. The district with the highest number of Improper Procedure allegations (15) was also District Three. However, of the fifteen (15) Improper Procedure allegations, seven (7) allegations were Department-Initiated and occurred on or about the police department's premises.

District Four produced eight (8) complaints; however, only one of these complaints was a Formal complaint. Since only Formal complaints are divided into allegations, there was only one Missing/Damaged Property allegation.

The highest number of all types of allegations occurred in District Three. District Three covers the downtown area which has a denser and more transitory population than other nine districts and generates more police to citizen contacts.

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<sup>12</sup> See Appendix H (CI and DI Allegations by Council District).

## IV. POLICY AND PROCEDURAL CHANGES

### A. BACKGROUND

The following policies and procedures are the result of problems arising and immediate corrective actions devised and implemented amongst the San José Police Department, Professional Standards and Conduct Unit, and the Office of the Independent Police Auditor. These agreements are in effect both at the IPA and the PSCU respectively. These written agreements will be added to the Office of the Independent Police Auditor's and the Professional Standards and Conduct Unit's guidelines.

### B. AUDITING COMPLAINTS

1. To properly audit Procedural, Informal, and Policy complaints, after the completion of the investigation, all available information will automatically be submitted to the IPA without the need for individual file requests. These complaints will be processed in the same manner as Formal complaints.
2. The Complaints alleging Unnecessary Force will automatically be processed without a request from the IPA. The IPA will be notified of upcoming officer interviews at least three days in advance. All available information about the complaint will be provided to the Auditor prior to the scheduled interview to facilitate preparation.

On several occasions, no notice about upcoming interviews from the investigators was given. Furthermore, scheduled interviews were canceled on short notice or rescheduling of interviews was done at a time when the Auditor was not available. Thus, the notification of the interview and all the information available are important to properly audit the complaints.

3. The nature of the complaint will be stated on the summary of the complaint face sheet, in order to facilitate detection and retrieval of trends and patterns from the IPA database. This is of particular importance especially with the Department-Initiated complaints, which are only partially audited.
4. When filling out the face sheets in the section marked "*Received by:* \_\_\_\_\_," the word Auditor is to be inserted next to the intake officer's name. This will apply to all

- cases that are initiated at the Office of the Independent Police Auditor. By inserting the word *Auditor*, it will facilitate the identification of the IPA initiated cases. The received date will be the same whether it is initiated at the PSCU or at the IPA.
5. All original documents, photos, tapes, and other evidence received at the IPA will be sent to the PSCU. The IPA will retain copies only, since the PSCU is the custodian of all records.
  6. When summarizing the complainant's statement on the face sheet, the investigator will only include statements made by the complainant. No opinions or conclusions will be included by the intake investigator .
  7. At the conclusion of the investigation of a complaint, a 30-day goal for closed files to be sent to the IPA will be adopted. If a file is needed immediately, then a memo will be sent/ faxed by the IPA.
  8. The Informal complaints will be offered as an option to a complainant only if the allegation is a minor transgression. Even if the complainant requests that the complaint be handled informally, the complaint will be investigated formally if of a serious nature at the discretion of the PSCU Commander.
  9. In writing the analysis for Procedural complaints, the investigators will include the applicable procedure or law which made the officer's conduct procedurally correct.
  10. In writing the analysis for Policy complaints, the policy with which the complainant does not agree should be identified and where applicable include a copy of the policy.
  11. In those complaints which are withdrawn by the complainant or where the complainant does not follow through, an effort should still be made to investigate the allegations. A finding of "No Finding" should only be given to those cases where the necessary information to conduct an investigation is not available to reach an appropriate finding.
  12. The IPA is authorized to audit any and all information related to a citizen's complaint. The PSCU will not withhold information from the IPA under the auspices of confidentiality.
  13. The face sheet of a complaint will include the unit to which each subject officer is assigned to at the time the complaint arose.
  14. The summary of the complaint on the face sheet will include the type of force used whenever Unnecessary Force allegations are made.

**C. INTERACTION WITH COMPLAINANTS**

1. The PSCU has revised the closing letter sent to the complainants at the completion of the investigation. This letter includes a paragraph informing the complainant that if he/she wishes to discuss the investigation and the outcome of the complaint, the complainant should contact the PSCU. Thereafter, if the complainant is not satisfied with the explanation from the investigator or commander, he/she may contact the IPA within 30-days.<sup>13</sup>
2. Complaints filed at the PSCU received after three years from the date of the incident require approval by the Chief of Police to determine if the PSCU investigation can be completed in accordance with legal requirements. Otherwise, a one-year limit after the date of incident will be used by the PSCU. The Chief in his discretion can waive the one-year limit. This period is consistent with the IPA policy.
3. The PSCU investigators will not hold a case open for more than 30 days where a complainant does not follow through or respond to letters or phone calls. During those 30 days the PSCU staff would take various steps to contact the complainant. The PSCU officers would make no less than three telephone calls at different hours and on different days. If there is no response from the complainant, then the PSCU would mail a letter informing the complainant that the case will be closed. The closed file would then be sent to the IPA for review. Thereafter, the IPA would send a letter to the complainant stating that he/she must respond within the next 30 days otherwise the case will remain closed. If the complainant responds within the allotted time, the case would be reopened. The same notification requirements by the PSCU would apply to witnesses who do not respond to phone calls and/or letters.

**D. COMPLAINTS AGAINST HIGH-RANKING OFFICERS**

1. Complaints involving high-ranking officers will be handled as follows: A complaint involving the Assistant Chief or a Deputy Chief will be conducted under the direct supervision of the Chief of Police. A complaint against the Chief of Police will be reviewed and a finding will be made by the City Manager.

**E. GATHERING STATISTICS**

1. Every complainant will be presented with a Voluntary Questionnaire form. A script will

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<sup>13</sup> See Appendix I (PSCU Closing Letter).

be provided for the intake officer to read to the complainants. In the case where the complainant declines to complete the form, the intake officer will then note the refusal on the form. These surveys will not be placed in any investigation file and will be routed to the Auditor. No other tracking or demands on the PSCU personnel will be required.<sup>14</sup>

#### ***F. MISCELLANEOUS***

1. The PSCU will send lists of new Orders and Directives to the IPA. The Orders and Directives are policies and procedures for the SJPD from the Office of the Chief. The Orders and Directives are effective for one year. If the Chief of Police chooses to make them permanent, they become a part of the San José Police Department's Duty Manual. The IPA will request those applicable to the IPA or the PSCU.
2. On a monthly basis, the Auditor will be provided with the list of officers who have received Intervention Counseling. This will be done in order for the Auditor to track officers receiving Intervention Counseling and for subsequent assessment of the effectiveness of this program.
3. The PSCU will continue the current process of routing an investigation to the chain of command before sending it to the IPA.
4. The SJPD will fax copies of press releases about serious cases such as officer involved shootings to the Office of the Independent Police Auditor. Such information is important for the IPA to be kept abreast of current police incidents in order to respond to calls from the public.

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<sup>14</sup> The procedure will be as follows:

- a. At the conclusion of the intake process, the complainant will be provided with the script explaining the questionnaire.
- b. The complainants will be provided assistance when necessary, i.e. language barriers.
- c. PSCU's presentation of the form and answers to possible complainant's questions regarding the purpose of the form are to be impartial and supportive of the Auditor's request for information.

## V. NEW ISSUES

**A. ALL PSCU INVESTIGATORS WORKING THE INTAKE ASSIGNMENT SHOULD USE A CENTRAL LOG TO DOCUMENT CONTACTS FROM POTENTIAL COMPLAINANTS.**

After restructuring the complaint classification system, the use of the contact log was abolished because some of the calls were being improperly classified. In order to keep control on the number and disposition of inquiries made from the public, a central ledger should be kept.

On two instances, citizens contacted the IPA to inquire about the status of their complaints which they thought they had filed with PSCU. Upon inquiry from the IPA, no record of a filed complaint was found. A reason why this may have occurred is that investigators rotate the intake assignment and keep their own notes of the citizen contact until the contact matures into a complaint or is resolved some other manner. During the 30-day window it takes to classify a complaint, that complaint is not entered in the computer or in a central place. If an investigator is on vacation or out of the office, there is no one else that can answer to an inquiry of whether a complaint was filed or the status of a complaint.

For statistical purposes, those unclassified cases are difficult to count or identify without repeatedly asking each individual investigator. A central ledger is necessary to insure that citizens' complaints are not lost, misplaced or under reported. When compiling statistics for the public reports, it becomes problematic to count the number of complaints that have been received but not classified. Unclassified complaints would be accounted for by having a central log.

**RECOMMENDATION:** The PSCU should implement the use of a contact log, identifying the citizen, intake officer, date, time, nature of the call, and how the contact was resolved. This could be done through a FileMaker Pro database which every investigator already has in his/her

own computer. The time and date can automatically be input on the log with this system. The PSCU is already linked to one central printer, so there would be no additional expense in linking the investigators to the database. This system would create a record of all citizens' inquiries, would make auditing possible, would facilitate the retrieval of information from unclassified complaints, and would insure that citizens' complaints are not being under reported.

***B. THE SAN JOSÉ POLICE DEPARTMENT SHOULD PROVIDE A MORE PRIVATE AND ENCOURAGING SETTING FOR CITIZENS FILING A COMPLAINT AT THE PSCU.***

The intake process at the PSCU takes place primarily in one very small office shared by two investigators. There is only enough room for one chair by each desk and literally no walking room between the desks. When one investigator is on the phone, it is disruptive for the other investigator taking a phone or a walk-in complaint. This office has no windows and because the lobby is next door, the door must be closed for privacy creating a stuffy and claustrophobic atmosphere. This environment is not conducive to a private, prolonged or meaningful interview. If the complainant wants privacy, one of the investigators would be displaced from his or her work place. The PSCU does not have a conference room where an intake officer can meet or interview more than one complainant. This presents a problem when interviewing a parent with a child present or vice versa. This interview room is the first point of contact that a complainant has with the PSCU. This small cluttered room impedes the PSCU from providing a setting where complainants are made to feel comfortable or welcomed.

***RECOMMENDATION:*** Additional space should be provided in order to adequately conduct interviews with complainants. This should be done as soon as possible.

**C. THE POLICE DEPARTMENT SHOULD INFORM THE PUBLIC THAT A CITIZEN'S COMPLAINT CAN BE FILED AT EITHER THE PSCU OR THE IPA.**

The PSCU is still the main forum where citizen complaints are filed. When a complainant calls the police department to ask where they can file a complaint, the answer he/she generally receives from the dispatcher or desk officer at the police department is for he/she to contact the PSCU. A survey of the complainants who initiated their complaints through the IPA revealed that none had been referred to this office by the police department. Most of the complainants marked that they had been referred to the IPA either by a local organization or through a friend.

There are several reasons why the police department should offer the option to refer citizens to the IPA. First, by informing citizens that they can file a complaint at the IPA, the police department is giving the citizens a choice as to where they can file their complaints. Some complainants may be reluctant or intimidated to file a complaint at the PSCU and would prefer to file it at the IPA. Unlike the PSCU, the IPA is staffed by civilians and is centrally located in a modern, professional building. In addition, the police department would be taking part in educating the public about the function and existence of an alternative forum where citizens may file a complaint. Finally, the police department would be demonstrating to the public that they have confidence in the IPA system by referring them to the office.

**RECOMMENDATION:** The SJPD should educate the command staff, all the officers, and the dispatchers on the functions of the Office of the Independent Police Auditor. Thereafter, if a citizen calls to inquire where they can file a complaint they would be informed that they can do so at the PSCU or at the IPA.



**D. THE PSCU INTERVIEWS OF POLICE OFFICERS SHOULD FOLLOW A STANDARD FORMAT TO MAINTAIN CONTINUITY IN THE QUALITY AND INTEGRITY OF THE INTERVIEWS.**

Since the inception of this office the IPA has attended in excess of one hundred interviews of police officers at both the PSCU and at the Bureau of Field Operations (BFO). The quality of the interviews differ with each investigator. In addition, there is a continuous change of personnel at the PSCU due to promotions or change of assignment. There are certain components that should be included in every interview to safeguard the integrity and reliability of an officer interview. The IPA compiled a list of recommended interview techniques. These have been selected from interviews conducted by some of the most experienced and highly trained investigators at the PSCU. The goal sought is to standardize the manner and quality of all interviews conducted. The use of the following suggestions is recommended.

***PRE-INTERVIEW INTERACTION***

- When an officer arrives for an interview, the investigator should not provide to the officer a copy of the entire police report because it contains the statements of other officers. Officers should be instructed to answer the questions from independent recollection and only thereafter should the officer refer to the police report. The officer should only refer to that portion of the report that he or she wrote to refresh his/her recollection.
- The investigator should not have a discussion of the incident with the officer prior to activating a tape recorder.
- Greetings and other small talk should be brief. Fact finding is the main purpose of an interview; while a professional and comfortable atmosphere is desired, prolonged exchanges of pleasantries or “war stories” undermine the serious nature of the interview.

***THE INTERVIEW***

- Investigators should ask questions regarding the officer’s previous training and law enforcement expertise.

- Investigators should inquire into improper influences on witnesses. The investigator should ask what documents, photos or tapes the officer has reviewed relevant to the complaint. For instance, officers should be asked who they have talked to about the incident, whether they have spoke to the subject officer(s), how and from whom they first heard about the internal investigation.
- The investigator should inquire into bias for or against another officer(s) or citizen(s) in the particular complaint. In assessing the officer's credibility, it is important to know if the officer has had prior negative contact with the civilian witness(es) or other witness officer(s).
- The investigator should maintain control of the interview; Police Officer Association (POA) representatives or lawyers should not be allowed to respond for the officer. The representative's role is to ascertain facts favorable to the officer's position and accomplish this by asking the officer targeted questions. However, the officer is the focus of the investigation not the representative.
- When asking to describe what a civilian or police witness did or said, the questions about the tone of voice and demeanor of the parties is important. The investigator needs to obtain a clear description of what and how certain words were uttered and a pictorial description of the conduct manifested.
- Foundation questions should be asked prior to delving into a subject area. Leading questions should be used cautiously.
- Diagrams properly marked and described for the record should be used whenever appropriate. The investigator should become familiar with the physical layout of the location of the incident prior to the interview.
- Reference and use of photographs should be audibly described and a description of what the photo depicts should be stated for the record. The contents and essence of the interview need to be preserved as completely as possible because this aids in future review by the chain of command.
- The officer should be asked to demonstrate conduct that is difficult to audibly describe while the investigator clearly describes what he/she sees for the record. Audio equipment does not have the capability to record gestures and other body language which are an integral part of an interview.
- In addition, during the course of the interview, the investigator should review applicable law and department policies and procedures in an attempt to determine the officer's understanding and rational for the conduct.
- Finally, at the conclusion of the interview, the officer should be admonished to refrain from discussing any aspect of the interview and complaint with anyone.

***RECOMMENDATION***

The PSCU should incorporate the above techniques in their PSCU unit guidelines. Training to investigators, including BFO, that conduct internal investigation interviews is recommended.

## VI. UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

### A. *INTERVENTION COUNSELING*

**BACKGROUND:** The Intervention Counseling Program only applied to Formal complaints and was designed to monitor police officers with lengthy complaint histories more closely. However, at the Auditor's recommendation this program was expanded to include Informal and Procedural complaints. During Intervention Counseling, the subject officer will meet with the Deputy Chief of their bureau, the PSCU Commander and immediate supervisor for informal counseling when they have met the following criteria:

1. Three or more investigations involving misconduct within a 12-month period.
2. Five or more investigations involving Procedure or Informal complaints or a combination with Formal complaints within a 12-month period.

This informal counseling session will involve a review of the issues with the Department member in a positive attempt to assist the employee. No formal record will be made of the substance of the intervention counseling session.

In order to ensure that trends and patterns are identified in a timely manner, a review of the internal investigation files is conducted by the PSCU every month. When Department members are identified as a result of this review, a memorandum is written by the PSCU Commander to the subject officer's Bureau Chief requesting the scheduling and completion of Intervention Counseling (IC).

**UPDATE:** To date, Intervention Counseling has proven to be an effective tool to check and prevent the recurrence of misconduct complaints from the same officers. For instance, since 1994 only one officer received more than one subsequent complaint from the Intervention Counseling date to April 30, 1995.

**RECOMMENDATION:** There are no new recommendations at this time.

**B. LENGTH OF TIME TO COMPLETE INVESTIGATIONS**

**BACKGROUND:** A study of Formal complaints initiated between January 1, 1993 and June 30, 1995 and closed between January to June 1995 revealed that approximately 25% of the cases were taking longer than a year to complete. There were also complaints which were not classified until six months after the complaints were received which added to the amount of time required to complete an investigation. The following timetable was implemented:

Goal
30 days -- Classification of all complaints
120 days -- Completion of 75% of cases
300 days -- Completion of 100% of cases

**UPDATE:** The PSCU will continue to work towards the goal of achieving 100% of cases closed within 300 days.

Goal	Actual
30 days -- Classification of all complaints	94%
120 days -- Completion of 75% of cases	67%
300 days -- Completion of 100% of cases	66%

Currently 94% of the cases are classified within 30 days.<sup>15</sup> One of the goals is to complete the investigation of 75% of the cases within 120 days. Seventy-five percent (75%) of the cases were not finished within 120 days. Sixty-seven percent (67%) of that goal was completed. The goal is to complete 100% of the cases within 300 days. Only 66% of all cases were completed within 300 days. Thus, the goals have not been met.

<sup>15</sup> See Appendix F (Length of Time Taken from Receipt to Classification of Cases).

The PSCU is doing other things in order to classify and complete the investigation with the allotted time. In order to achieve this goal, investigators who are reaching the end of their term at the PSCU will be required to finish all their cases before they leave. If appropriate, the PSCU will stop assigning new cases to them during the last three months of their term to insure the cases are completed. In previous years, it was a common practice that when investigators reached the end of their term at the PSCU, the investigator who was leaving would take his or her caseload or the successors inherited the pending cases from their predecessors. Therefore, to ameliorate this lingering problem, in their last three months, the PSCU will no longer assign cases to departing investigators.

**RECOMMENDATION:** There are no new recommendations at this time. The PSCU is steadily working towards achieving the above goals.

### ***C. OBSERVATION POLICY***

**BACKGROUND:** There were allegations from citizens that they were dissuaded from observing or recording police related incidents. Although there were very few actual complaints where this conduct was alleged and then only as a collateral issue; nevertheless, the safeguarding of potential witnesses is such an important issue that recommendations were made to ensure their participation and availability.

**UPDATE:** The Chief of Police adopted a policy detailing how police officers should handle situations involving observations and recordings by potential witnesses. This policy created a balance between officer safety and the preservation of impartial witnesses and recorded evidence. The policy states that onlookers are permitted to observe and overhear conversations in detention or arrest situations in public areas when it is reasonable to do so.

Onlookers also have the right to record the incident with a recording device, and any film or tape

cannot be seized by the officer except with a search warrant.

For example, during a recent interview of a police officer this issue was mentioned. The Auditor, through the interviewer, questioned the officer's familiarity with the existing observation policy. The officer simply answered, "Onlookers are OK."

**RECOMMENDATION:** Command Staff should conduct periodical reminders of this policy.

#### ***D. PUBLIC INTOXICATION***

**BACKGROUND:** Pretext arrests are arrests which are known to occur when a person is arrested because the officer does not like the arrestee's attitude. The pretext arrest focuses on the attitude of the person instead of any wrongdoing. The Auditor examined these types of cases for any identifiable patterns. This examination revealed that the Drunk in Public (DIP) arrests were susceptible to pretext arrests. A typical conduct that gave rise to a so called pretext arrest for DIP was as a result of a person questioning or confronting the officer or not cooperating with or obeying the officer's commands. A recommendation was made to provide chemical testing as an option for any person requesting one in an arrest for drunk in public.

**UPDATE:** The San José Police Department provided additional training on the preparation of thorough and complete police reports. These reports now contain documentation of all the required elements necessary in order to substantiate a Drunk in Public arrest. The San José Police Department's Duty Manual was reviewed and updated to include any needed changes. First-line supervisors now assist in insuring that the police reports and/or booking sheets contain all the required information. Furthermore, the supervisor is required to sign off the pre-booking sheets in order to make sure that the charge can be substantiated. The basic information to satisfy the elements should now be in writing.

Seven complaints involving DIP were received between January and June of 1995. An audit of these seven complaints revealed that all but one complaint had the required forms completed.

Regarding the recommendation for optional chemical testing for DIP cases, the San Jose Police Department responded that the dilemma they face is not having access to a “detox facility” or “sobering station” in which the test can be administered at the arrestee request and cost. The pre-processing facility is not an appropriate holding facility for DIP cases. Officers making a DIP arrest proceed straight to the Department of Corrections for processing. At that location, managed by Santa Clara County, no area exists to perform chemical testing.

The contributing factors that would lessen the need for chemical testing are:

1. Not complying with the completion of the forms;
2. Less incentive to abuse the Drunk in Public Penal Code;
3. The availability of the detox facility or sobering station.

**RECOMMENDATION:** There are no new recommendations at this time.

#### ***E. CONSENT SEARCHES***

**BACKGROUND:** A recurring theme found in these complaints involved situations where the allegation was an Unlawful Search by a San Jose police officer and the dispute of facts was the issue of the consent. Consent forms are necessary for the protection of both the citizens and the officers. The San Jose Police Department’s Duty Manual previously required officers to use a Consent to Search Form. This form was seldom used and has since been eliminated. These forms are important to inform and secure citizen’s consent. Likewise, these forms protect the officers from citizens who complain that they did not consent to the search and that the officers acted unlawfully.



Without written directives, internal investigations cannot insure compliance. The Office of the Independent Police Auditor made the following recommendations:

1. Officer training or refamiliarization on the use of the consent form should be immediately implemented.
2. Supervisors should hold the officers accountable for the inclusion of these forms as part of the case investigation where consent was an issue, especially in searches of a home or dwelling. If the party refuses to sign but gives verbal consent, the form should indicate this refusal.
3. The consent form should be revised to simplified wording to encourage its use. The present form contains too many legal terms which may appear confusing to the officers and the public.
4. Officers who fail to use the consent form in the duty manual after training or refamiliarization should run the risk of a “Sustained” finding for an allegation of Improper Procedure in a citizen complaint.

**UPDATE:** The San Jose Police Department is still consulting the City Attorney’s Office and the District Attorney’s Office on the legal issues associated with use of the consent form before developing appropriate policies.

**RECOMMENDATION:** The SJPD should require officers to either use consent forms or recording devices to document citizens’ consents when searching a home or dwelling.

#### ***F. LACK OF PHYSICAL EVIDENCE IN USE OF FORCE INCIDENTS***

**BACKGROUND:** The administrative investigation of a citizen complaint is different from a criminal investigation in that the method, style, and adversarial approach with which one associates criminal investigations are not present in citizen complaint investigations.

Investigation of citizen complaints was found to be lacking in physical evidence and the outcome was based primarily on testimonial evidence. Physical evidence is tangible evidence such as

blood stains, fingerprints, and weapons while testimonial evidence consists of oral or written statements. Physical evidence needs to be collected immediately at the scene because there is a high probability that it will not be subsequently available.

Without physical evidence or independent witnesses, the investigation is left only with the word of the complainant against that of the officer's. To allow available physical evidence to dissipate perpetuates a working environment where police brutality may go unpunished because of a lack of evidence to sustain a complaint.

Likewise, the lack of physical evidence creates the opportunity for fraudulent claims to be filed against the City of San Jose. This type of evidence is also helpful in defending law suits.

**UPDATE:** The San José Police Department captured the essence of the recommendation by writing a new section to the duty manual. Training on this new section and a plan of action for its implementation was also provided. The following is the policy and plan of action written verbatim from the San José Police Department's Duty Manual.

1. *Written policy*

The San Jose Police Department's Duty Manual states, "The member's immediate supervisor will personally respond for an evaluation of the case where an officer or other person receives injuries requiring treatment by a physician as a result of an enforcement action. The supervisor's name will appear on the "Crime Report" prepared by the officer to document the use of force. This supervisor will complete a memorandum through channels to the Chief of Police when additional comments are appropriate."

2. *Plan of Action*

In field situations where the application of force results in an injury to a citizen or officer that

requires medical treatment, the supervisor (command officer) has an affirmative duty to respond to the scene and ensure that a complete investigation is conducted. This would include:

- a. Obtaining statements (taped if possible) from the involved citizen
- b. Obtaining statements from witnesses (taped if possible)
- c. Conducting a canvas for independent witnesses
- d. Photographing/video taping of the scene (especially in a residence)
- e. Photographing the presence of injuries as well as lack of injuries
- f. Collecting any physical evidence available at the scene
- g. Supervisor to write a Supplemental Report, when necessary, documenting his/her observations and actions taken.
- h. Forward a “heads-up” short memo to the PSCU regarding the incident

This procedure would not preclude a supervisor from responding to incidents where an application of force occurs and there is no injury requiring medical treatment. These would include large parties, bar fights, etc., which may be a cause for concern and criticism at some future time.<sup>16</sup>

**RECOMMENDATION:** There are no new recommendations at this time.

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<sup>16</sup> SJPD Duty Manual, Section L1501.15

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## VII. ASSESSMENT OF THE INDEPENDENT POLICE AUDITOR'S OFFICE BY THE CITIZEN'S ADVISORY COMMITTEE

### A. INTRODUCTION AND BACKGROUND

On February 7, 1995, the City Council approved the reconvening of a Citizens' Advisory Group (CAG) to evaluate the effectiveness of the IPA. The CAG was to determine if additional resources or changes in the organizational structure were needed.

### B. THE REVIEW PROCESS

The CAG conducted eight (8) public meetings where comments and testimony about the Auditor's office were provided by the Auditor, San José Police Department staff and interested citizens.<sup>17</sup>

In addition to the oral interviews, the CAG mailed questionnaires to approximately 200 people who had contacted the IPA for various reasons during the time period from September 1993 to September 1994. Forty (40) responses were received and analyzed.<sup>18</sup> Some of these 200 people had filed complaints years prior to the inception of this office. One of the difficulties encountered in wording the questionnaire was an apparent correlation between the outcome of the complaint and the satisfaction of the complainant with the process. It should be noted that less than 18% of the Citizen Initiated complaints were sustained. Therefore, this may have affected the opinions given by those who filled out the questionnaire.

### C. RECOMMENDATIONS AND ACTIONS TAKEN

RECOMMENDATION (1): *The City should increase the IPA staff with one full time employee to do statistical input and analysis.*

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<sup>17</sup> Report of Citizens' Advisory Group, May 1995.

<sup>18</sup> See Appendix J (Results from Survey by Citizens' Advisory Group).

**ACTION TAKEN:** On August 7, 1995, a full-time person was hired as an analyst to do data entry, statistical reports and maintain and improve the master database. This individual is a graduate from Stanford University with a major in Industrial Engineering.

*RECOMMENDATION (2): The City should provide funds for consultant services to assist in statistical interpretation and data collection methodology.*

**ACTION TAKEN:** Six thousand dollars were allocated by the City for consultant services.

*RECOMMENDATION (3): The IPA should have formal direct access to the Police Chief and City Manager when needed to discuss information on issues that require direct attention.*

**ACTION TAKEN:** Several steps have been taken in addressing this issue.

- The IPA has met with the City Manager, Police Chief, and the PSCU Commander three times during the last two years.
- The Independent Police Auditor's Procedures Manual is replete with notations concerning the direct access to the Chief of Police.
- The City Manager and her staff have been available to address issues and/or conflicts that arise with the police department.
- From the inception of this office, an Assistant to the City Manager has been designated to assist the IPA.
- The periodic meetings with the Independent Police Auditor, the Chief of Police and the City Manager has developed into a formal venue in which to address ongoing issues.

*RECOMMENDATION (4): A qualified member of the IPA staff should be permitted to attend the PSCU interviews of any civilian witness or police officer when the Auditor is unable to attend such interviews.*

**ACTION TAKEN:** This issue is pending until information is available for further consideration by the IPA.

RECOMMENDATION (5): *The Auditor's office should be open to community input and suggestions, even those critical of the position and desirous of another form of review and should work with the Auditor as the office becomes more established.*

**ACTION TAKEN:** The following steps have been taken to promote community outreach:

- The Auditor has recorded several Public Service Announcements at local radio stations informing the public about the functions of the office and inviting the public to contact or visit the office.
- The Auditor maintains open channels of communication with groups which have opposed the IPA such as the Santa Clara County Bar Association and the American Civil Liberties Union (ACLU).
- The Auditor regularly attends community functions.
- Public Service Announcements were sent to 67 local stations. From these public service announcements, there were requests for the Auditor to present an editorial on subjects that affected the community at large.
- Newsletter: A newsletter is being prepared to be mailed to local organizations. This newsletter will inform the public about the functions of the IPA and issues or changes at the SJPD.
- Community Outreach: The Auditor participated and/or met with the following individuals and/or organizations.  
Manuel Herrera, Eastside School District  
Gil Villagrán, Nuestra Casa  
José Villareal, Santa Clara County Public Defender  
Dan Vasquez, Director of Corrections  
Santa Cruz Review Board Members  
Bay Area Police Oversight Network (BAPON)  
National Association for the Advancement of Colored People (NAACP)  
American Civil Liberties Union (ACLU)  
Met with City Manager Regina Williams and Chief Louis A. Cobarruviaz  
Attended SJPD Career Day  
Was a guest at Channel 11, Comunidad del Valle  
Over 12 hours of ride alongs with different SJPD officers
- Brochures: Two thousand new brochures were printed. Some have been distributed at the Santa Clara County Public Defender's Office, Santa Clara County Main Jail, Elmwood Correctional Facilities, San José Public Libraries, San José Police

Department's front lobby, Professional Standard and Conduct Unit's lobby, Neighborhood Community Centers and San José City Hall. These are some of the key places that were targeted to promote awareness of the existence of this office as an alternative forum where people may file complaints.

- A Voluntary Questionnaire was created and presented to the complainants after their complaint had been completed. This information will assist in identifying areas that the IPA needs to address.

*RECOMMENDATION (6): The Citizens' Advisory Group concurred with the Auditor's recommendation that the San José Police Department use the "Consent to Search" form.*

**ACTION TAKEN:** The San José Police Department is awaiting an opinion from the City Attorney's Office.

*RECOMMENDATION (7): The San José Police Administration should increase efforts to inform rank and file officers of the Auditor's functions, purposes, and procedures.*

**ACTION TAKEN:** The following steps have been taken:

- The Commander of the Professional Standards and Conduct Unit has provided a one and a half hour of mandatory training to every officer in the department. This training addresses citizen and departmental complaints and explains the role of the Auditor.
- The Chief of Police also makes a one and a half hour "question and answer" presentation regarding all issues facing the department, including the changes as a result of the Office of the Independent Police Auditor.
- The Commander of the PSCU and his staff attend patrol briefings, staff meetings and organizational updates to keep the rank and file notified of important issues and as a way to be available for questions as they arise.
- For the fiscal year 1995-96 training agenda, the Chief of Police will devote more time to explaining the role and the importance of the Independent Police Auditor.

*RECOMMENDATION (8): The Advisory Group concurred with the Auditor's recommendation that to the extent permitted by law, the PSCU staff personally explain to the complainants how*

*he/she conducted the investigation and how he/she arrived at the conclusions.*

**ACTION TAKEN:** The following steps have been taken:

- The Auditor and the PSCU Commander have revised the “closing letter” mailed to all complainants at the closure of their case. The letter now instructs citizens with any questions regarding the investigation or finding of their complaint to personally contact the Commander and arrange for an appointment to discuss their case.
- The Commander will personally handle all inquiries on closed cases from citizens.
- If the citizens are still dissatisfied, the letter instructs the citizens to contact the IPA within 30 days of receipt of the closing letter.
- To date, nine complainants have contacted the PSCU Commander to discuss their complaints.



## VIII. CONCLUSION

In order to minimize police misconduct, an efficient and effective system of accountability must be inherent in a police oversight system. The Office of the Independent Police Auditor addresses this requirement by reviewing the PSCU using two different approaches. First, a case by case audit of the investigation of citizens' complaints focuses on individual accountability. Second, and more importantly, is the review of existing policies and procedures and the subsequent recommendations which addresses the source of the misconduct and reduces the opportunity for recurrence.

This office is entering its third year of operation and is continuing to improve and reexamine the manner in which citizen's complaints are received, classified, investigated, and concluded. Most of the policy changes thus far, have been reached by a consensus of the Professional Standards and Conduct Unit and the Independent Police Auditor. Other changes have come to fruition through the Office of the Chief and through the City Manager's Office. These changes have come about as a result of identifying issues during the audit of complaints, by evaluating current policy, by the recommendations for improvements and by subsequently adopting said recommendations.

On September 28, 1995, the Independent Police Auditor made a presentation on the investigation of Unnecessary Force complaints at the IACOLE<sup>19</sup> conference in Vancouver, British Columbia, Canada. The 144 attendees at the IACOLE conference included directors of police oversight organizations from Australia, Canada, England, Northern Ireland, Nigeria, Ghana, Puerto Rico, Korea, Scotland, Hong Kong, South Africa, New Guinea and the United States.

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<sup>19</sup> The International Association for Civilian Oversight of Law Enforcement (IACOLE) was formed in 1985. Membership is open to persons who are not sworn law enforcement officers and who work for or constitute agencies established by legislative authority to investigate and/or review complaints against police. Thomas Barker & David L. Carter, Police Deviance, 3rd ed., 401.

The Independent Police Auditor's presentation focused on the collection of physical evidence and the duty imposed on supervisors to gather this evidence after notification that force was used which was one of the recommendations recently adopted by the San José Police Department. The comments received from the audience and the speakers revealed that the San José Police Department is leading the country in innovative ways of investigating Use of Force complaints.

Few, if any, organizations are under such scrutiny as the San José Police Department's Professional Standards and Conduct Unit. Every report that this office produces contains the results of a constant and concentrated examination of the overall function of the PSCU. Improvements, new policies and procedures at the PSCU will continue the cyclical overview of the citizen complaint process by the Independent Police Auditor.

## APPENDIX A

## CLASSIFICATIONS OF COMPLAINTS

1. **Formal Complaints** are those complaints which alleged a serious violation of Department policy or a violation of law by an officer.
2. **Informal Complaints** are complaints involving allegations of minor transgressions on the part of a subject officer, refers to the officer of whom the complaint is about, which may be handled informally by brining the matter to the attention of the officer's chain of command at the complainant's request.<sup>1</sup> These are typically Rude Conduct complaints. However, if the complainant feels such conduct is in his/her opinion egregious that a Formal Complaint is warranted, the Professional Standards and Conduct Unit is then obligated to investigate this complaint as such. The complainant has ultimate control as to whether to treat the complaint as Formal or Informal.
3. **Procedural Complaints** are now defined in two separate portions:
  - (a) The first portion includes the following: "After the initial investigation by the Intake Officer, the Department determines the subject officer acted reasonably and within Department policy and procedure given the specific circumstances and facts of the incident that despite the allegation of misconduct, there is no factual basis to support the allegation." At the end of the investigation, the assigned finding will be "Within Department Policy."<sup>2</sup>
  - (b) The second portion of the definition includes: "The allegation is dispute of fact case wherein there is no independent information evidence or witnesses available to support the complaint and there exists another judicial entity which is available to process the concerns of the complaint." A finding of "No Misconduct Determined" will be assigned to the dispute of fact cases.<sup>3</sup>

For example, a person files a complaint alleging an Unlawful Search, where the complainant states that the police entered his/her home and conduct a search. After a preliminary investigation, the Professional Standards and Conduct officer discovers that the complainant is on parole and has a search clause. The case will be closed with a finding of "No Misconduct Determined."
4. **Policy Complaints** pertain to an established policy, properly employed by a Department member, which the complainant understands but believes is inappropriate or not valid. These complaints do not focus on the conduct of the officer but on the policy or law which the complainant disagrees.

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1 San José Police Department, Response to Independent Police Auditor's First Quarterly Report, page 7, May 5, 1994.

2 Ibid., page 6.

3 Ibid., page 6.

## APPENDIX B

### MISCONDUCT ALLEGATIONS

For Formal Misconduct Complaints each investigation will involve one or more of the following general allegations:

1. Unlawful Arrest
2. Unlawful Search
3. Unnecessary Force
4. Rude Conduct (abusive, threatening, profanity, poor attitude, etc., while on duty.)
5. Discrimination (sexual, racial, etc.)
6. Excessive Police Service (harassment, providing confidential information, etc.)
7. Improper Procedure (violation of City policy, duty manual)
8. Delay in Response / Slow Response
9. Failure to Take Action
10. Unofficerlike Conduct (off-duty behavior, violation of the law, drug / alcohol use, misuse of City property, gratuities, bribes, abuse of authority, etc.)
11. Missing / Damaged Property

## APPENDIX C

### DEFINITIONS OF FINDINGS

1. **SUSTAINED:** The investigation disclosed sufficient evidence to clearly prove the allegation made in the complaint.
  
2. **NOT SUSTAINED:** The investigation failed to disclose sufficient evidence to clearly prove the allegation made in the complaint or to conclusively disprove the allegation.
  
3. **EXONERATED:** The acts, which provided the basis for the complaint or allegation, occurred; however, the investigation revealed that they were justified, lawful and proper.
  
4. **UNFOUNDED:** The investigation conclusively proved that the act or acts complained of did not occur. This finding also applies when the individual member(s) or employee(s) named were not involved in the act or acts, which may have occurred.
  
5. **NO FINDING:** The complainant failed to disclose promised information to further the investigation; or the investigation revealed that another agency was involved and the complaint or complainant has been referred to that agency; or the complainant wishes to withdraw the complaint; or the complainant is no longer available for clarification.

APPENDIX D1

		L.A.																										
		SAN JOSE POLICE DEPARTMENT Professional Standards & Conduct Unit																										
		CITIZEN INITIATED COMPLAINTS																										
		NUMBER OF ALLEGATIONS																		(1)		(2)						
		Unlawful Arrest	Unlawful Search	Unnecess. Force	Rude Conduct	Discrimin. Harassment	Excessive Police Svc	Improper Procedure	Delay in Response	Failure to Take Actn	Unofflike Conduct	Missing Damagd/Prop	TOTAL	TOTAL	No.	%	No.	%	No.	%								
<b>1/1/93 to 6/30/93</b>		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%							
Unfounded		4	16.0	1	10.0	14	18.9	17	33.3			1	33.3			5	62.5	56	24.5	14	15.9							
Exonerated		19	76.0	8	80.0	44	59.5	3	5.9			1	33.3	1	20.0			96	41.9	39	44.3							
Not Sustained		1	4.0	1	10.0	10	13.5	18	35.3			4	7.7		3	60.0			38	16.6	14	15.9						
Sustained		1	4.0			4	5.4	8	15.7			12	23.1					25	10.9	15	17.0							
No Finding				1	1.4	3	5.9					3	5.8	1	33.3	1	20.0	2	25.0	11	4.8	5	5.7					
Open				1	1.4	2	3.9											3	1.3	1	1.1							
Subtotal		25	100	10	100	74	100	51	100			3	100	5	100	8	100	229	100	88	100							
%		10.9		4.4		32.3		22.3				1.3		2.2		3.5		100										
<b>1/1/94 to 6/30/94</b>		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%							
Unfounded		1	4.5	1	6.7	17	23.6	11	23.9	1	14.3			5	17.9			2	28.6	4	30.8	5	41.7	47	20.8	15	17.6	
Exonerated		15	68.2	8	53.3	38	52.8	10	21.7	2	28.6	3	42.9	1	7.7			3	42.9	1	7.7			88	38.9	33	38.8	
Not Sustained		2	9.1	2	13.3	12	16.7	21	45.7	4	57.1			2	7.1			1	14.3	2	15.4	5	41.7	51	22.6	18	21.2	
Sustained		2	9.1	3	20.0			1	2.2			10	35.7					1	14.3	2	15.4	2	16.7	21	9.3	12	14.1	
No Finding		2	9.1	1	6.7	5	6.9	3	6.5			1	25.0	3	10.7						4	30.8			19	8.4	7	8.2
Open		4	N/A	8	N/A	43	N/A	35	N/A	1	N/A	2	N/A	10	N/A							17	N/A	120	N/A	31	N/A	
Subtotal		26	100	23	100	115	100	81	100	8	100	6	100	38	100			7	100	13	100	29	100	346	100	116	100	
%		7.5		6.6		33.2		23.4		2.3		1.7		11.0		3.8		2.0				8.4		100				
<b>1/1/95 to 6/30/95</b>		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%							
Unfounded				1	20.0			1	7.7					2	16.7							1	25.0	5	12.5	2	10.5	
Exonerated		1	100	1	20.0	1	25.0					4	33.3											7	17.5	3	15.8	
Not Sustained				2	40.0	1	25.0	5	38.5			2	16.7									2	50.0	12	30.0	6	31.6	
Sustained								1	7.7												1	100	1	25.0	3	15.8		
No Finding				1	20.0	2	50.0	6	46.2			4	33.3											13	32.5	5	26.3	
Open		15	N/A	14	N/A	46	N/A	15	N/A	8	N/A			16	N/A			2	N/A	1	N/A	5	N/A	122	N/A	39	N/A	
Subtotal		16	100	19	100	50	100	28	100	8				28	100			2		2	100	9	100	162	100	58	100	
%		9.9		11.7		30.9		17.3		4.9		17.3				1.2		1.2		1.2		5.6		100				

(1) The allegation count is determined BASED ON THE NUMBER OF ALLEGATIONS PER CASE. The allegations per case are equal to the number of officers involved and the allegations attributed to each officer.  
 (2) For purposes of reporting a case count, cases containing more than one allegation are classified into one allegation. The prevailing allegation is determined from a PREVAILING CASE CLASSIFIED CHART, or the SUSTAINED ALLEGATION.

APPENDIX

		SAN JOSE POLICE DEPARTMENT Professional Standards & Conduct Unit														L.A.					
		DEPARTMENT INITIATED COMPLAINTS																			
		NUMBER OF ALLEGATIONS														(1)		(2)			
		Unlawful Arrest	Unlawful Search	Unnecess. Force	Rude Conduct	Discrimn Harassmt	Excessive Polke Svc	Improper Procedure	Delay in Response	Failure to Take Actn	Unofflike Conduct	Missing Damagd/Prop	TOTAL	TOTAL	No.	%	No.	%			
1/1/93 to 6/30/93		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%		
Unfounded								1	5.3					1	3.7	1	4.0				
Exonerated																					
Not Sustained					1	100								1	3.7	1	4.0				
Sustained							16	84.2		2	100			23	85.2	21	84.0				
No Finding							2	10.5						2	7.4	2	8.0				
Open																					
Subtotal					1	100		19	100	2	100			27	100	25	100				
%					3.7		70.4			7.4			18.5		100						
1/1/94 to 6/30/94		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%		
Unfounded														9	56.3			9	13.8	2	5.4
Exonerated		1	100					3	8.3					2	66.7			10	15.4	2	5.4
Not Sustained								3	8.3					1	6.3			4	6.2	2	5.4
Sustained				1	50.0	4	80.0	26	72.2	1	33.3			36	55.4	29	78.4				
No Finding								4	11.1					2	12.5			6	9.2	2	5.4
Open								4	N/A					3	N/A			7	N/A	3	N/A
Subtotal		1	100	2	100	2	100	40	100	3	100			72	100	40	100				
%		1.4		2.8	6.9	2.8		55.6		4.2			26.4		100						
1/1/95 to 6/30/95		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Unfounded								1	6.7					2	25.0			4	11.8	3	13.0
Exonerated																					
Not Sustained					1	100				1	25.0			1	12.5			3	8.8	0	0.0
Sustained							13	86.7		3	75.0			37.5	4	100		24	70.6	18	78.3
No Finding							1	6.7						2	25.0			3	8.8	2	8.7
Open					1	N/A		6	N/A					4	N/A			11	N/A	9	N/A
Subtotal				2	100	2	100	21	100	4	100			45	100	32	100				
%				4.4		4.4		46.7		8.9			26.7		100			8.9			

(1) The allegation count is determined BASED ON THE NUMBER OF ALLEGATIONS PER CASE. The allegations per case are equal to the number of officers involved and the allegations attributed to each officer.  
 (2) For purposes of reporting a case count, cases containing more than one allegation are classified into one allegation. The prevailing allegation is determined from a PREVAILING CASE CLASSIFIED CHART, or the SUSTAINED ALLEGATION.

## APPENDIX E

**SUSTAINED ALLEGATIONS**

January 1 to June 30, 1995\*

Case	CI & DI Initiated	Allegation	Finding	Discipline Imposed
1	Citizen-Initiated (CI)	Unnecessary Force Improper Procedure Rude Conduct	Sustained (S) S S	Letter of Reprimand
2	CI	Improper Procedure	S	Resignation -- Pending Termination
3	CI	Improper Procedure	S	Documented Oral Counseling
4	CI	Improper Procedure	S	Documented Oral Counseling
5	CI	Unofficerlike Conduct	S	160-hr Suspension
6	CI	Rude Conduct Improper Procedure	S S	Letter or Reprimand
7	CI	Unofficerlike Conduct	S	Letter or Reprimand
8	CI	Unnecessary Force	S	Documented Oral Counseling
9	CI	Improper Procedure	S	Documented Oral Counseling
10	CI	Missing Property Missing Property	S S	Documented Oral Counseling Documented Oral Counseling
11	CI	Improper Procedure	S	Documented Oral Counseling
12	CI	Unofficerlike Conduct	S	Resignation -- Pending Termination
13	CI	Rude Conduct	S	Documented Oral Counseling
14	CI	Missing Property	S	Documented Oral Counseling

\* The above allegations are from cases initiated between the years of 1993 and 1995 but received their findings during the time frame of January 1 and June 30, 1995.



## APPENDIX E

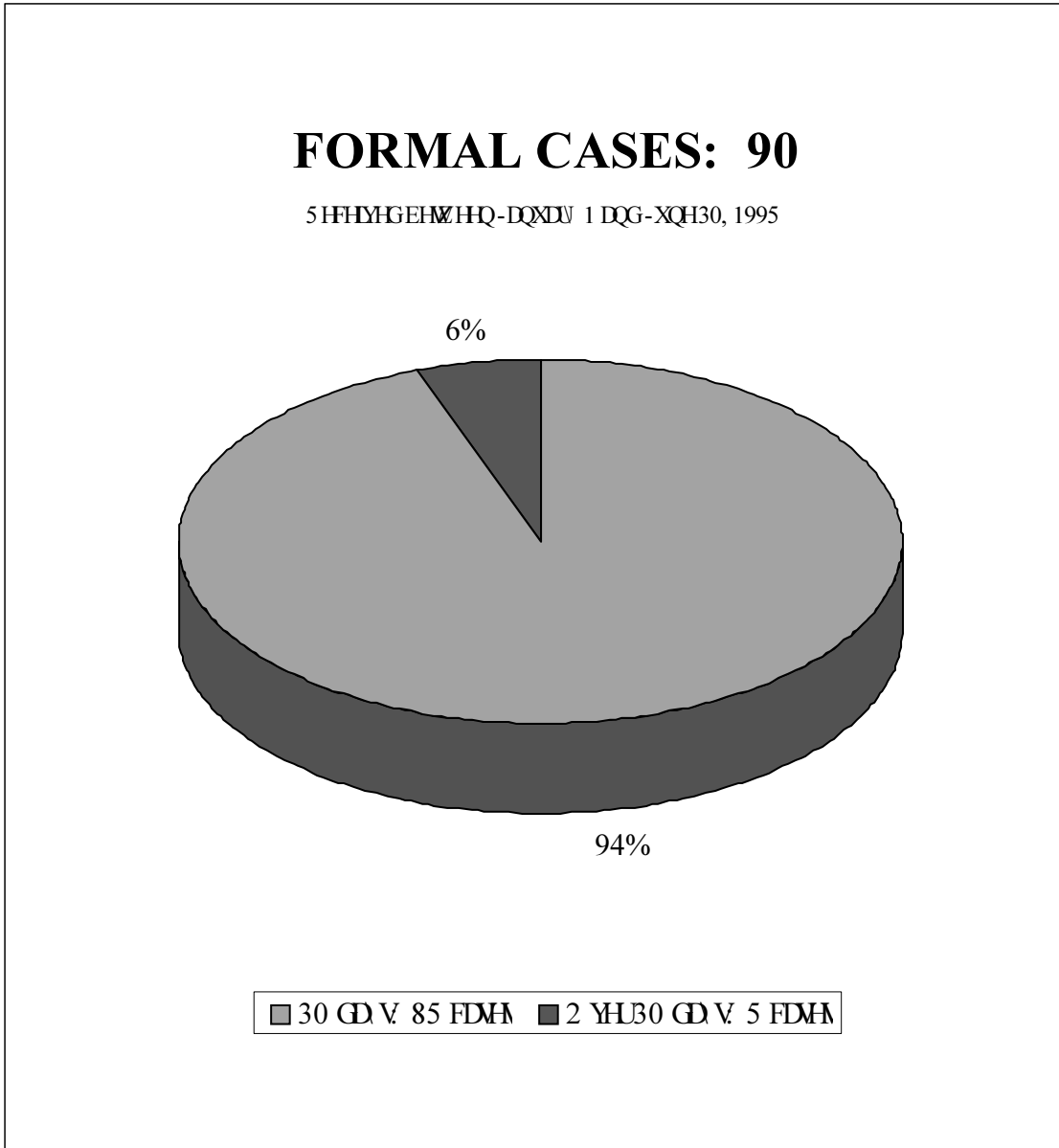
**SUSTAINED ALLEGATIONS**

January 1 to June 30, 1995\*

Case	CI & DI Initiated	Allegation	Finding	Discipline Imposed
15	Department-Initiated (DI)	Discrimination	S	Letter of Reprimand Documented Oral Counseling Documented Oral Counseling Training & Counseling Training & Counseling Training & Counseling
		Discrimination	S	
		Failure to Take Action	S	
		Failure to Take Action	S	
		Failure to Take Action	S	
		Failure to Take Action	S	
16	DI	Rude Conduct	S	120-hr Suspension  Documented Oral Counseling
		Unofficerlike Conduct	S	
		Rude Conduct	S	
17	DI	Improper Procedure	S	Termination  160-hr Suspension
		Unofficerlike Conduct	S	
		Improper Procedure	S	
		Unofficerlike Conduct	S	
18	DI	Unofficerlike Conduct	S	10-hr Suspension
19	DI	Improper Procedure	S	Documented Oral Counseling
20	DI	Improper Procedure	S	10-hr Suspension
21	DI	Improper Procedure	S	Letter of Reprimand
22	DI	Improper Procedure	S	Documented Oral Counseling
23	DI	Improper Procedure	S	10-hr Suspension
24	DI	Missing Property	S	Documented Oral Counseling
25	DI	Improper Procedure	S	Documented Oral Counseling
26	DI	Improper Procedure	S	10-hr Suspension
27	DI	Missing Property	S	Documented Oral Counseling
28	DI	Improper Procedure	S	Letter of Reprimand
29	DI	Improper Procedure	S	80-hr Suspension
30	DI	Improper Procedure	S	Training & Counseling
31	DI	Improper Procedure	S	Documented Oral Counseling
32	DI	Missing Property	S	Training & Counseling
33	DI	Missing Property	S	Documented Oral Counseling
34	DI	Improper Procedure	S	10-hr Suspension
35	DI	Unofficerlike Conduct	S	Documented Oral Counseling
36	DI	Improper Procedure	S	10-hr Suspension
37	DI	Improper Procedure	S	Training & Counseling
38	DI	Improper Procedure	S	Letter of Reprimand

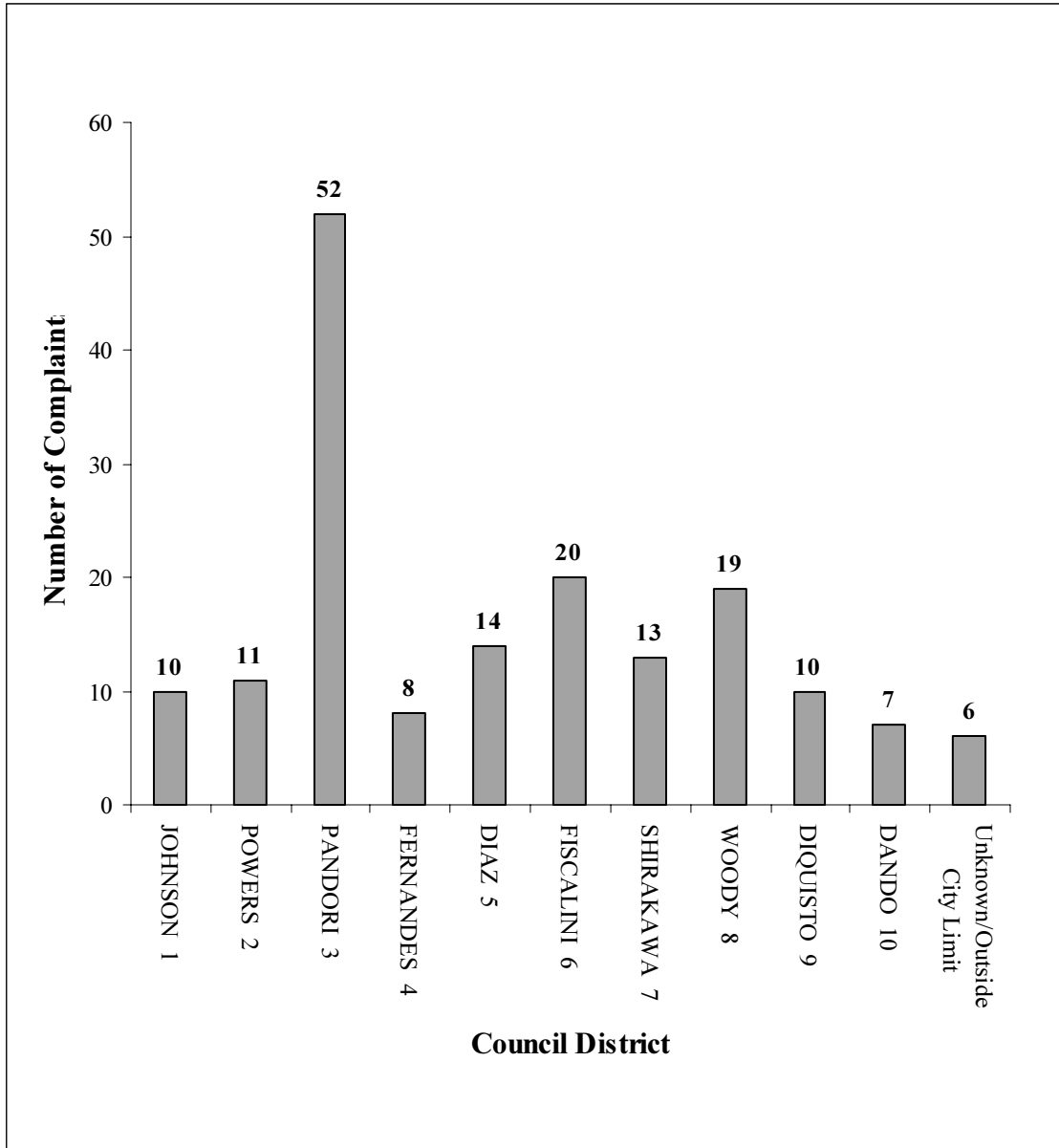
APPENDIX F

LENGTH OF TIME FROM RECEIPT TO CLASSIFICATION OF FORMAL CASES



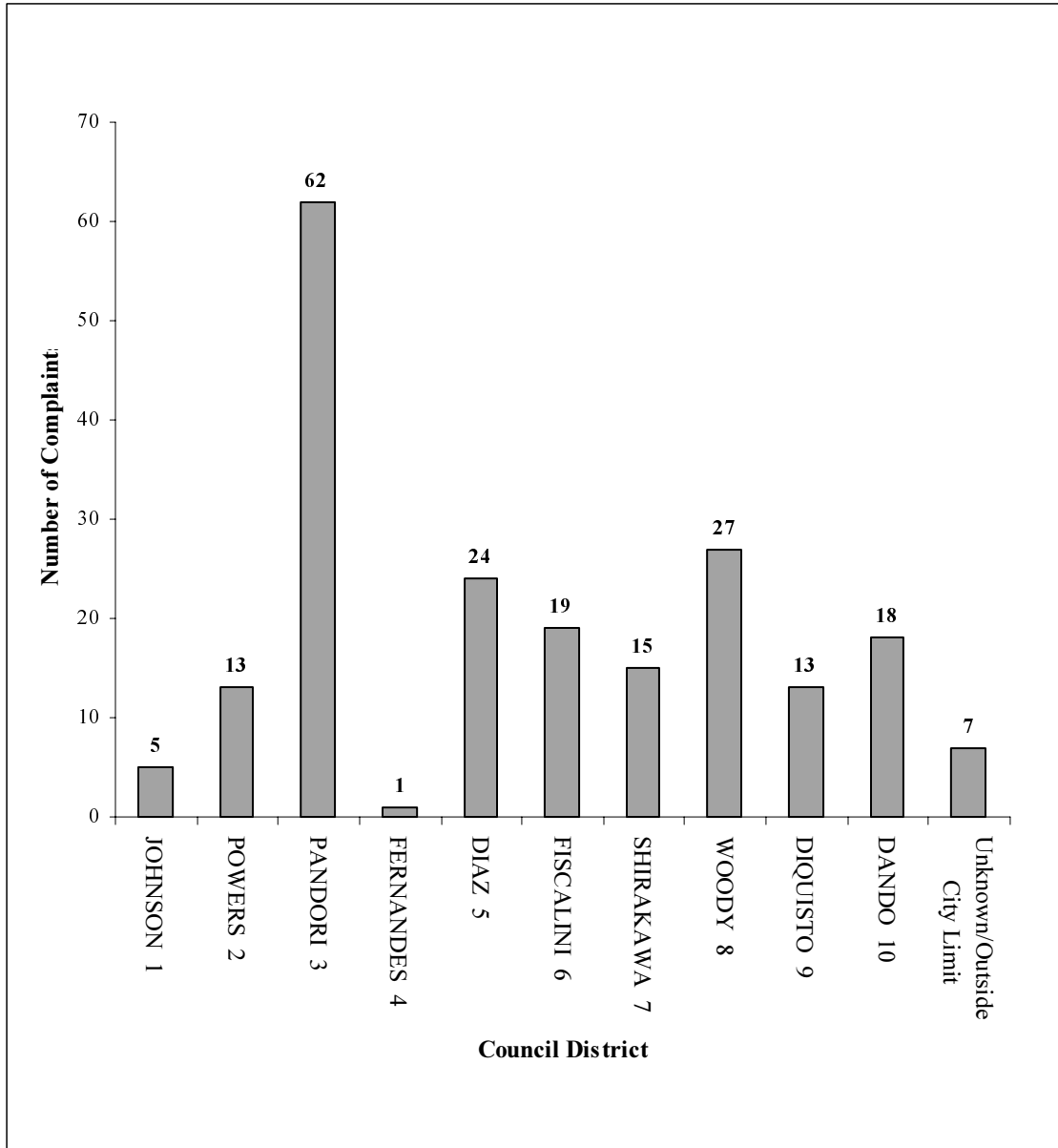
APPENDIX G

Complaints by Council District



APPENDIX H

**Citizen and Department Initiated Allegations by Council District**



APPENDIX I

PSCU SAMPLE CLOSING LETTER

(DATE)

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-----  
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RE: Notification of Disposition of Complaint - CPC 832.7 (c)

Dear \_\_\_\_\_:

The investigation into your complaint regarding the conduct of a San Jose Police Officer has been completed. After reviewing all of the available evidence, a disposition of \_\_\_\_\_ has been reached on your allegation of \_\_\_\_\_. The San Jose Police Department defines this disposition to mean \_\_\_\_\_

Because the California Penal Code classifies personnel investigations pertaining to peace officers as confidential. I am unable to disclose the type of discipline imposed in this matter or the details of the investigation; however, I can tell you that all allegations of misconduct are treated very seriously no matter what the final disposition may turn out to be. As such, I would like to share with you other processes that result from citizens registering a complaint.

All citizen complaints are maintained by the Professional Standards & Conduct Unit for six years after they are received. Should an officer receive three or more citizen complaints in a twelve-month period, he or she will automatically receive counseling by a Deputy Chief and the Professional Standards & Conduct Unit Commander. This counseling takes place even if the officer was exonerated for any or all of the complaints. Officers receiving five or more procedural and/or informal complaints in a twelve-month period will also receive Intervention Counseling.

Prior a promotion to a higher rank or prior to an assignment to a specialized unit, all officers wishing to compete for such an assignment must pass a review of their Professional Standards & Conduct file. Should an applicant officer have sustained complaints or a series of complaint with other dispositions, very careful consideration is given as to the officer's suitability or the job prior to any reassignment.

Notice of Disposition Complaint  
Page 2

The San Jose Police Department has instituted several programs to train officers on how to better serve the Community. These programs include Cultural Diversity Sensitivity Training, Peer Counseling, Crisis Intervention Stress Debriefing and Community Orientated Policing. All these programs are designed to better serve you and the Community.

Thank you for taking the time to bring this matter to our attention. If you would like to schedule an appointment to discuss the finding in your complaint, please contact me at (408) 277-4094. After contacting our office to discuss your case, you may also call the Independent Police Auditor, Terese Guerrero-Daley, within 30 days regarding a review of this matter. The Auditor is responsible for reviewing the Professional Standards & Conduct Unit investigative process and for receiving citizen complaints. You can contact her Monday - Friday, 8:00 a.m. - 5:00 p.m. at (408) 977-0652.

Sincerely,

LOUIS A COBARRUVIAZ  
Chief of Police

Lt. Mike O'Connor  
Commander  
Professional Standards & Conduct Unit

LAC:MO:  
Case #

## APPENDIX J

**Results from Survey by Citizens' Advisory Group**

QUESTION 1: How did you become aware of the Auditor's office?

Newspaper	14
Other	12
City Official	11
TV	5
Police Department	4
Radio	2

QUESTION 2: Was the Auditor's role in the processing of your complaint explained to you?

Yes	30
No	6
Very briefly	2
Unspecified	2

QUESTION 3: What did you find to be satisfactory about the Auditor's office?

Caring / Politeness	13
Nothing	11
Professional	8
Prompt response	7
Unspecified	3
Accessibility	1
Independent of police	1

QUESTION 4: What did you find to be unsatisfactory about the Auditor's office?

No thorough investigation	10
Lack of power	9
Unspecified	8
Outcome of complaint	5
Office function	4
Lack of interest	3
Conflict of interest	3
No follow up	3
Nothing	3
Difficult to contact	2
Delayed results	2

QUESTION 5: Did the Auditor's office respond to your calls promptly?

Prompt response	24
Slow response	16

QUESTION 5a: Did the Auditor's office respond promptly to your requests for further review?

Unspecified	14
Prompt response	11
Slow response	11

QUESTION 6: Would you recommend this office to others?

No	21
Yes	19



QUESTION 7: Did you know the function of the Auditor's office was separate from the SJPD's Professional Standards & Conduct Unit (PSCU)?

Yes	22
No	15
Unspecified	3

QUESTION 8: The Independent Police Auditor does not have the authority to determine the outcome of your case. With this understanding, how would you rate the service provided by the Auditor's office?

Below average	11
Needs improvement	11
Excellent	6
Good	5
Unspecified	5
Average	2

QUESTION 9: If you contacted the Auditor, was the conclusion reached by the PSCU explained to you by the Auditor's office?

No	18
Yes	15
Not specified	7

## QUESTION 10: Suggestions for improving Auditor's office.

Unspecified	8
More authority over police dept.	6
Office not needed	5
More control over case outcomes	5
Perform separate investigation	5
Case follow up	4
Have a citizens police review board	3
Increase public awareness	2
No improvements needed	2
More staff	1
More funds for equipment	1