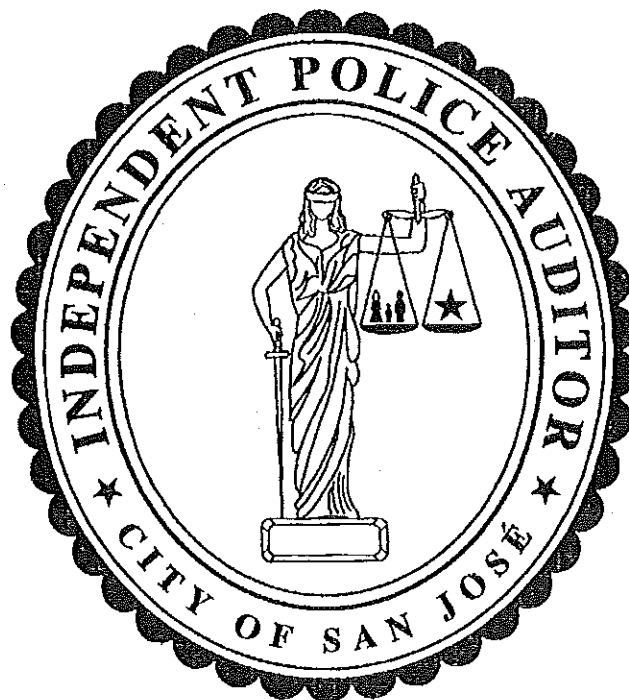


Please Do Not Remove

OFFICE OF THE INDEPENDENT POLICE AUDITOR

1995 YEAR END REPORT



**A REPORT TO THE
SAN JOSE CITY COUNCIL**

**TERESA GUERRERO-DALEY
INDEPENDENT POLICE AUDITOR**

THIS REPORT WAS REPRODUCED AT TAXPAYERS' EXPENSE.

You are welcome to keep this copy if it is useful to you.
If you no longer need this copy, you are encouraged to return it to:

OFFICE OF THE INDEPENDENT POLICE AUDITOR
CITY OF SAN JOSE
4 NORTH SECOND ST., STE. 650
SAN JOSE, CA 95113

We maintain an inventory of past audit reports and your cooperation
will help us save on extra copying costs.



CITY OF SAN JOSÉ, CALIFORNIA

Office of the Independent Police Auditor
4 North Second Street, Suite 650
San José, California 95113
Telephone (408) 977-0652
FAX (408) 977-1053

TERESA GUERRERO DALEY
Independent Police Auditor

March 26, 1996

Honorable Mayor and
Members of the City Council
801 North First St., Ste. 600
San Jose, CA 95110

Dear Honorable Mayor and Members of the City Council:

Enclosed is the 1995 Year End Report submitted for your review and approval. This report covers the period from January 1 to December 31, 1995. It incorporates the statistics for year 1995 and pending issues from the 1995 Midyear Report. This report also contains one new issue and recommendations on the subject of police officer's off-duty employment.

The 1995 Year End Report contains the format which this office has found most useful in meeting the reporting requirements. One section that will be in future reports and is not ready for inclusion is an analysis of the audits from the investigations. I welcome your comments and suggestions in the improvement of this document.

I would also like to publicly thank and acknowledge this office's dedicated staff, Lucy Solis, Nancy Duong and Marivel Sosa, for their skill, resourcefulness and dedication to the development of this report.

Respectfully submitted,

Teresa Guerrero-Daley
Independent Police Auditor



EXECUTIVE SUMMARY

NEW ISSUE

The statistical and substantive information was compiled and analyzed from citizen complaints filed against officers working off-duty jobs. The Independent Police Auditor (IPA) reviewed the existing process used to track and oversee off-duty employment. In addition, the IPA conducted interviews with police officers, members from the City Attorney's Office, and nightclub employers of off-duty officers.

Fifty percent (50%) of the Citizen-Initiated (CI) and Department -Initiated (DI) complaints filed against the San José police officers who worked off-duty involved Unnecessary Force (UF) allegations. The majority of the use of force complaints originated at a bar or nightclub.

In 1995, there were 927 work permits issued to 596 officers with some officers having as many as three off-duty work permits on file. Approximately fifty percent (50%) of the entire San Jose Police Department (SJPD) has off-duty work permits issued.

The area that has generated more calls and complaints to the IPA involved officers who wear police uniforms while working off-duty. Of the 596 officers with work permits, 352 (59%) officers work off-duty in uniform. Officers are permitted to wear police uniforms and use police equipment for off-duty employment subject to approval by the Chief of Police.

There are three vulnerable areas in the process regulating off-duty employment: accountability, public perception, and conflict of interest. Accountability is lacking because there is no systematic oversight process to check the number of hours and the type of off-duty employment conducted. With as many as three off-duty jobs, an officer's ability to effectively conduct his/her primary job can be compromised. The inherent danger to the public from an officer who is fatigued or stressed is of great concern.

A frequent complaint expressed by the citizens is that officers' response to non-emergency calls is slow or not forthcoming. The officers working in uniform have high visibility unlike those working off-duty in civilian clothes. Citizens have complained that officers are seen standing idly outside bars instead of on patrol. The public perception and expectations are that officers in uniform should be willing and ready to serve the public.

Another area that is vulnerable to negative public perception is the cash payment to off-duty officers. Opportunities exist for speculation on the reasons for the exchange of cash between the officers and employers.

Conflicts of interest arise if an officer working outside a nightclub sees patrons that look to be under age being admitted or if patrons entering or leaving the establishment appear to be drunk to the point that they are unable to care for themselves, or situations where the club is filled over capacity. Officers are placed in situations where job security with the clubs is in direct conflict with their duties as police officers.

This is a complex issue and the solution will require the expertise of the various internal police units and external City departments. Discussions are underway between the IPA and the Chief of Police to address this issue.

POLICY AND PROCEDURAL CHANGES

Ongoing communication with the PSCU has resulted in the implementation of positive changes in the classification and intake of complaints. The PSCU and the IPA have devised ways of implementing recent state law which changed the manner in which complaints are received. The complainant is required to sign and acknowledge a warning that if he/she is untruthful, criminal prosecution can result.

UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

Certain goals for PSCU were recommended in previous IPA public reports. One goal was to complete the investigation of 75% of the complaints within 120 days. Twenty-eight percent (28%) of this goal was met in 1995. This continues to be a concern because it affects the credibility of the PSCU and the IPA.

The issue concerning Consent Searches has seen some progress. The Police Department has drafted a policy that, while not mandatory, nevertheless provides some guidelines to the officers. Its success will be tracked and reported in future reports. The Unlawful Search allegation was the only allegation that increased in 1995, over 1993 and 1994.

STATISTICS

All Complaints Received
January 1 - December 31, 1995

• Citizen-Initiated (CI) Complaints	160
• Department-Initiated (DI) Complaints	71
• Informal (IN) Complaints	87
• Procedural (PR) Complaints	96
• Policy (PO) Complaints	5
• In-Process¹	44
<i>TOTAL</i>	<u>463</u>

The above statistic is a breakdown of the total number (463) and types of complaints filed between January 1 and December 31, 1995.

¹In-Process category includes complaints that have been initiated but not yet classified.

CITIZEN-INITIATED CASES AND ALLEGATIONS

Period Received	UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Total CI Allegs.	%	Total CI Cases	%
Jan.-Dec.1995	34	37	122	71	10	3	56	9	10	39	391		160	
Jan.-Dec.1994	58	36	198	120	13	8	104	25	23	58	643	-39%	217	-26%
Jan.-Dec.1993	48	15	168	103	3	4	104	11	16	15	487	-20%	182	-12%

<i>Legend</i>	
UA = Unlawful Arrest	ES = Excessive Police Service
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

There was a decrease in the cases and allegations filed in 1995. The number of Unnecessary Force allegations had a significant decline.

Of the 112 cases closed in 1995, seventeen (17) CI and 51 DI cases were sustained. There were three terminations and two resignations pending termination in this time period also.

A new statistic reported this year is the composition of the subject officers. The majority of the complaints were filed against officers assigned to the Bureau of Field Operations (BFO). The difference in the gender of officers receiving complaints in proportion to the number of officers employed by the Police Department was only 7% higher for men. The ethnic background of the officers in proportion to the number employed by the Police Department revealed the highest ratio for Hispanic officers. The officers with two to four years of experience had the highest number of complaints.

Summary of Complaints Received by Council District

January 1-December 31, 1995

Districts	Type of Complaints					TOTAL COMPLAINTS	%
	CI	DI	IN	PR	PO		
JOHNSON 1	11	3	7	7	0	28	7%
POWERS 2	12	2	4	8	0	26	6%
PANDORI 3	39	37	24	30	0	130	31%
FERNANDES 4	8	0	7	5	2	22	5%
DIAZ 5	20	4	7	7	0	38	9%
FISCALINI 6	14	5	8	9	0	36	9%
SHIRAKAWA, JR. 7	17	5	6	8	0	36	9%
WOODY 8	17	1	10	9	1	38	9%
DIQUISTO 9	9	3	8	7	0	27	6%
DANDO 10	11	2	5	6	1	25	6%
² Unk/OCL	2	9	1	0	1	13	3%
TOTAL CASES	160	71	87	96	5	419	100%
%	38%	17%	21%	23%	1%	100%	

Legend	
CI = Citizen-Initiated	PR = Procedural
DI = Department-Initiated	PO = Policy
IN = Informal	

The table above illustrates the total number of all complaints received by City Council District; however, forty-four (44) complaints categorized as In-Process are not included because they are still awaiting classification.

GOALS FOR 1996

The goals for the 1996 calendar year will involve improvements in the investigation of Unnecessary Force cases. Ways to prioritize Unnecessary Force investigations so that the most serious are completed sooner will be addressed. Finding methods to automate the transfer of information from the PSCU to the IPA will be the second goal. Automating the data from the 1995 case audits and thereafter keeping current with the 1996 cases audits will be realized in 1996. Lastly, the IPA will identify and maintain distribution sources for its upcoming IPA newsletter.

²Unknown/Outside City Limit.

TABLE OF CONTENTS

I.	Introduction	1
II.	New Issue: Off-Duty Employment Practices Should Be Reexamined	2
	A. Background	2
	B. Methodology	3
	C. Statistical Information	4
	D. Accountability	5
	E. Public Perception	7
	F. Conflicts of Interest	9
	G. Commentaries	10
	H. Recommendation	12
III.	Policy and Procedural Changes	13
	A. Background	13
	B. Legislation Affecting PSCU and IPA	13
	C. Changes in the Intake of Complaints at IPA	14
	D. Interaction with Complainants	15
	E. Classification of Complaints	15
	F. Gathering Statistics	15
	G. Procedural Changes for Strip Searches	16
IV.	Updates on Prior Issues & Recommendations	16
	A. Length of Time to Complete Investigations	16
	B. Consent Searches	18
	C. Central Contact Log	19
	D. Additional Space at PSCU	20
	E. Referral of Complaints	20
	F. Standard Format for Police Officers' Interviews	21
V.	Statistical Methodology	22
VI.	Year End Statistics	24
VII.	Citizen-Initiated Complaints Analysis	26
VIII.	Department-Initiated Complaints Analysis	31
IX.	Discipline Imposed	33
X.	Intervention Counseling	35

XI.	Statistical Background of Subject Officers	37
XII.	Statistical Background of Complainants	41
XIII.	Gay/Lesbian Related Complaints	45
XIV.	Complaints & Allegations by Council District	46
XV.	Conclusion	63
	Table of Appendices	68

I. INTRODUCTION

The Office of the Independent Police Auditor (hereafter referred as "IPA") opened its doors to the public on September 13, 1993. The office was established for the purpose of auditing the investigations of citizen complaints¹ alleging misconduct by members of the San José Police Department (hereafter referred as "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 IPA 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 and Conduct Unit; 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 IPA has printed and distributed a brochure in three languages to inform the general public about its functions. Furthermore, the IPA is in the process of completing a newsletter which is to be published biannually and will contain information about the number and type of complaints, trends and news items. The newsletter will be distributed to local organizations.

REPORTING REQUIREMENTS

Reports are prepared on a semiannual basis as required by the City Council.² The first semiannual report covers the period from January to June; the second semiannual report is a comprehensive report for the entire year. This is the sixth report produced by the IPA pursuant to the requirements of the San José Municipal Code Section 2.06.020c. This ordinance requires that the IPA'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.

¹Citizen complaint is denoted as a complaint filed by an individual, not reflective of U.S. citizenship.

²In accordance to the change adopted by the City Council on September 6, 1994.

CONTENTS OF THE 1995 YEAR END REPORT

The following information is included in this report:

- New issue: Off-Duty Employment Practices Should Be Reexamined
- Changes at the Professional Standards and Conduct Unit and the Office of the Independent Police Auditor
- Updates on Prior Issues and Recommendations
- Three one-year blocks of statistics comparatively analyzed from January through December for the years 1995, 1994, and 1993
- Statistical background of subject officers and complainants
- Complaints and allegations by Council District

II. NEW ISSUE

OFF-DUTY EMPLOYMENT PRACTICES SHOULD BE REEXAMINED

A. BACKGROUND

Approximately 50% of the 1,214 San José police officers work off-duty jobs. Off-duty jobs are supplemental employment considered to be secondary in importance and subject to the approval by the officer's chain of command. They are also subject to regulations and restrictions imposed by the City of San José, to discipline, and to citizen complaints.³ These secondary jobs are conducted in civilian status during the officer's days off, and for employers other than the City of San José. Off-duty jobs can include officers working in full uniform or in civilian clothes, as consultants, authors, teachers and in many other professions. The locations of these secondary jobs vary and include places such as school districts, colleges, festivals, parades, special events, nightclubs, hospitals, apartment complexes, restaurants, flea markets, theaters or the officers' own businesses.

Officers engaging in off-duty employment must abide by the rules and regulations of the *San José Police Department's Duty Manual*, and are also subject to disciplinary action for off-duty conduct. The

³See Footnote 1.

Professional Standards and Conduct Unit (PSCU) and the IPA accept citizen complaints for conduct of officers working off-duty jobs. These complaints are received, investigated and audited in the same manner as if the officers were on-duty. These complaints are tracked by individual officer, are cumulative, and are subject to Intervention Counseling.

Off-duty employment contributes greatly towards helping the Police Department successfully meet the increase in demand for police services. The financial responsibility for the increase in demand for services is placed on those entities that create and benefit from this added demand for police services. The City requires that the consumer pay directly for added security through private security or by hiring off-duty police officers.

When an officer applies for supplemental employment, he/she is subject to review by the City to determine if the officer's efficiency and effectiveness would be impaired by such outside employment, or if the employment is incompatible with the officer's City employment.

Statistical and substantive information from citizen complaints filed against officers working off-duty jobs was compiled and analyzed for this report. The existing process used to track and oversee off-duty employment was reviewed, as well.

B. METHODOLOGY

INTERVIEWS: The IPA conducted interviews with members from the City Attorney's Office and the On-Duty Coordinator of Events. This On-Duty Coordinator is a San José police sergeant and spends approximately 75% of his time working on the administration of police services for these events. He handles all the needs involving City sponsored, first-time or annual events such as Cinco de Mayo Parade, Veterans' Day Parade, and events from the Office of Cultural Affairs.

The Director of the Reserve Unit, who is a San José police sergeant, was also interviewed. This Director, as part of his police duties, administers the reserve program and schedules reserve officers or

off-duty police officers to work short term events such as Christmas in the Park, America Festival, private functions, and requests from non-profit organizations.

The officer in charge of processing the off-duty work permits and other related duties was also interviewed. In addition, the IPA talked to a San José police sergeant who is assigned to coordinate the hiring of off-duty officers to work for the East Side Unified School District. Finally, the IPA met with three members of the San José Police Department who are familiar with and working on this issue.

SURVEY: Surveys of eight clubs randomly chosen from citizen complaints involving off-duty officers were conducted. Their responses provided background information on this issue, but were not sufficient in number to do a statistical analysis.

POLICIES: Off-duty employment policies such as the *Entertainment Permit Ordinance* and the policies and procedures of the *San José Police Department's Duty Manual* were reviewed, and samples of the various forms used to track off-duty employment were gathered. Statistical information was derived from information obtained from various units of the San José Police Department.

COMPLAINTS: A study was conducted of all the off-duty complaints submitted for review to the IPA since the inception of this office on September 13, 1993. Fifty-three (53) complaints involved off-duty employment. Off-duty complaints were reviewed for trends and patterns. Allegations, sustained rate and discipline imposed for these complaints were also examined.⁴

C. STATISTICAL INFORMATION

COMPLAINTS: A statistical analysis of the complaints filed by the citizens and the Police Department revealed that 50% of off-duty complaints involved Unnecessary Force allegations. The majority of the use of force complaints originated at a bar or nightclub. There were only two complaints filed against officers working off-duty at a festival or event, and neither complaint involved use of force.

⁴See Appendix A (Misconduct Allegations) and Appendix B (Definitions of Findings).

Unnecessary Force, Rude Conduct and Improper Procedure allegations accounted for 70% of all allegations from off-duty complaints originating at different locations. Discipline imposed from complaints involving off-duty jobs ranged from Documented Oral Counseling to Termination.

WORK PERMITS: The following reflects the total number of sworn officers, the number of officers authorized to work off-duty, and the percentage of officers holding off-duty work permits. There is a greater number of work permits issued than number of officers working off-duty because some officers work up to three supplemental jobs.

- Total number of officers in the Police Department: 1214
- Total number of officers granted work permits: 596
- Total number of work permits issued: 927
- Percentage of officers issued work permits: 49%

UNIFORMED OFFICERS: The area that has generated more calls and complaints to the IPA involve officers who wear police uniforms while working off-duty. Of the 596 officers with work permits, 352 or 59% work off-duty in uniform. Officers are permitted to wear police uniforms and use police equipment for off-duty employment subject to approval by the Chief of Police.

- Total number of officers using SJPD uniform off-duty: 352
- Total number of work permits authorizing use of uniform: 501
- Percentage of officers working in uniform off-duty: 59%

D. ACCOUNTABILITY

REQUIREMENTS: Officers must submit yearly applications for outside employment to their respective chain of command for approval for each separate employer. One to three work permits have been issued for each officer, and the type of employment varies. In addition, uniformed officers must submit Pay Job Tracking Sheets weekly stating the number of off-duty hours worked. An officer's work hours are not to exceed 14 consecutive hours in a 24-hour period or more than 20 hours per week in off-duty employment.

The required weekly time sheets officers must submit indicating the number of hours worked are not verified. Compliance in providing these time sheets and its contents is operated on an honor system. There is a central place where work permits and weekly time sheets are stored; however, there is no systematic inspection of these documents. An inspection of these documents is at times triggered by the filing and subsequent investigation of a complaint.

The obvious purpose behind requiring time sheets is to guard against outside employment interfering or impairing the officer's efficiency and effectiveness as a police officer. The inherent danger to the officer and the public from an officer who is fatigued or stressed due to over extending himself/herself is of great concern.

UNAUTHORIZED EMPLOYMENT: There are also certain categories of jobs which officers are prohibited from working. Those types of off-duty employment have not been monitored. The *San José Police Department's Duty Manual* lists the types of employment which an officer is prohibited from working; nevertheless, applications for work permits involving unauthorized employment have been approved by the officer's chain of command. One such example is in the area of investigations. The *San José Police Department's Duty Manual* section C 1357.2 states:

All members of the Department are prohibited from working in any of the following outside employment situations: as a process server, bill collector, investigator, or in any employment in which police powers might be used for private purposes of a civil nature.

An examination of the work permits revealed that at least nine officers are engaged in off-duty employment conducting investigations. The merit of whether officers should or should not conduct investigations off-duty is not at issue here. The issue is that supervisors approve applications for employment inconsistent with Department policy. If conducting investigations is an approved off-duty job category, then the Duty Manual should be amended. A central oversight process to monitor the work permits after they are authorized would provide a check and balance between the jobs approved and the actual off-duty work performed.

Gender	
April 17 - December 31, 1995	
Male	84
Female	53
Unspecified	3

The sixth question inquired about the gender of the complainant. Sixty percent (60%) of the complainants were male, and 38% were female complainants.

Age Range	
April 17 - December 31, 1996	
Under-18	11
18-30	53
31-59	71
60+	1
Unspecified	4

The final question requested information about the age of the complainant. Fifty-one percent (51%) of the complainants were within the age range of 31-59, thirty-eight percent (38%) were in the age range of 18-30 years. Complainants under the age of 18 accounted for 8% of the distribution, and only one complainant was over 60 years old.

The Voluntary Questionnaire will continuously be requested for the complainants to fill out.

Currently, the process of receiving the Voluntary Questionnaire from each complainant is more systematic. The IPA will track the complaints missing the questionnaires and will provide this list to the PSCU for the completion of the Voluntary Questionnaire. Due to improved procedures for compliance, the next reporting period will give a more complete description of the complainants.

XIII. GAY / LESBIAN RELATED COMPLAINTS

The number of complaints involving a gay or lesbian issue is a new trend tracked by the Office of the Independent Police Auditor (IPA) for complaints filed between January and December 1995. There were three gay or lesbian related complaints; two complaints were classified as Citizen-Initiated, and

one was classified as an Informal complaint.⁴⁶ The allegations in the complaints involved multiple allegations of Rude Conduct, Failure to Take Action and Discrimination/Harassment. These allegations were not sustained.

XIV. COMPLAINTS & ALLEGATIONS BY COUNCIL DISTRICT

All types of complaints received between January and December 1995 were compiled by City Council District. In addition, Citizen-Initiated (CI) and Department-Initiated (DI) complaints will be further categorized by the number and type of allegations.⁴⁷ The following table illustrates the total number of all complaints received by each City Council District; however, the complaints categorized as In-Process are not included because they are still awaiting classification.

Summary of Complaints Received⁴⁸
January 1-December 31, 1995

Districts	Type of Complaints					TOTAL COMPLAINTS	%
	CI	DI	IN	PR	PO		
JOHNSON 1	11	3	7	7	0	28	7%
POWERS 2	12	2	4	8	0	26	6%
PANDORI 3	39	37	24	30	0	130	31%
FERNANDES 4	8	0	7	5	2	22	5%
DIAZ 5	20	4	7	7	0	38	9%
FISCALINI 6	14	5	8	9	0	36	9%
SHIRAKAWA, JR. 7	17	5	6	8	0	36	9%
WOODY 8	17	1	10	9	1	38	9%
DIQUISTO 9	9	3	8	7	0	27	6%
DANDO 10	11	2	5	6	1	25	6%
⁴⁹ Unk/OCL	2	9	1	0	1	13	3%
TOTAL CASES	160	71	87	96	5	419	100 %
%	38%	17%	21%	23%	1%	100%	

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

⁴⁶See Appendix D (Classifications of Complaints).

⁴⁷See Appendix D (Classifications of Complaints).

⁴⁸See Appendix I (Classified Complaints Received in 1995 by Council District).

⁴⁹Unknown/Outside City Limit.

The table below specifies the number and type of allegations by City Council District from the CI and DI cases received from January to December 1995.

CITIZEN- and DEPARTMENT-INITIATED Allegations Received⁵⁰

Districts	Type of Allegations										TOTAL ALLEGS.	%
	UA	US	UF	RC	DH	ES	IP	FA	UC	MDP		
JOHNSON 1	1	1	7	4	0	1	6	0	3	3	26	5%
POWERS 2	2	4	9	4	2	0	9	2	1	2	35	7%
PANDORI 3	7	4	35	18	10	0	30	4	26	12	146	29%
FERNANDES 4	3	1	6	2	0	0	1	1	0	2	16	3%
DIAZ 5	3	7	9	11	1	2	15	6	1	4	59	12%
FISCALINI 6	3	5	8	6	0	0	8	1	2	4	37	7%
SHIRAKAWA, JR. 7	4	2	17	5	0	0	4	3	3	3	41	8%
WOODY 8	6	5	16	10	3	0	4	2	1	1	48	10%
DIQUISTO 9	3	2	2	6	0	0	6	0	7	3	29	6%
DANDO 10	2	6	8	8	0	0	4	0	1	8	37	7%
⁵¹ Unk/OCL	1	0	7	2	0	0	2	0	8	3	23	5%
TOTAL ALLEGS.	35	37	124	76	16	3	89	19	53	45	497	99%⁵²
%	7%	7%	25%	15%	3%	1%	18%	4%	11%	9%	100%	

Legend	
UA = Unlawful Arrest	ES = Excessive Police Service
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

Allegations are found in both CI and DI complaints. There may be more than one allegation per complaint; therefore, the number of allegations and the number of complaints are different.

The following information will display cases, the time when the incidents of the complaints arose⁵³, and allegations per City Council District. The complaints providing these statistics were filed from January 1 to December 31, 1995. Complaints categorized as In-Process are not part of the following statistics because they are still awaiting classification.

⁵⁰See Appendix J (Citizen- and Department-Initiated Allegations Received in 1995 by Council District).

⁵¹Unknown/Outside City Limit.

⁵²The data was rounded off to the nearest percentage.

⁵³See Appendix K (Time of Incident by Council District).

DISTRICT 1**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 1 Cases	Total Cases	%
11	3	7	7	0	28	419	7%

Incidents that occurred within District One led to 28 complaints, which accounted for 7% of the 419 total cases classified from January to December 1995. CI cases accounted for most of the complaints (39%) received from District One. The table above lists the different classifications of complaints from District One.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 1 Cases
6	6	15	1	28

Of the 28 total complaints received for this District, 54% of the incidents arose from the swing shift hours between 4:01 p.m. and 12 midnight.⁵⁴ The graveyard shift, from 12:01 a.m. to 8:00 a.m., and the daytime hours each made up 21% of the distribution. The table above depicts the time of the incident leading to a complaint for District One.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 1 CI Allegs.	Total CI Allegs.	%
1	1	7	4	0	1	5	0	0	2	21	391	5%

Eleven (11) CI complaints generated 21 CI allegations, which contributed 5% of the total CI allegations received in 1995. Unnecessary Force allegations against the subject officer were the highest percentage (33%) of CI allegations received for District One.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 1 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	1	0	3	1	5	106	5%

The above statistics display the DI allegations for District One. The five DI allegations accounted for 5% of the total 106 DI allegations received between January and December 1995; the highest allegation was found in Unofficerlike Conduct (60%).

⁵⁴The time range given for each shift was not based on the San José Police Department's schedule because their work shifts overlap. The time ranges were based on three shifts in a 24-hour day, each shift accounting for eight hours of the day.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 1 CI & DI Allegs.	Total CI & DI Allegs.	%
1	1	7	4	0	1	6	0	3	3	26	497	5%

District One generated 20 allegations between July and December 1995 as compared to six allegations filed in the first six months of 1995. This is a 4% increase in the distribution of CI and DI allegations in proportion to the total allegations received for the respective time periods. Additionally, the Unnecessary Force (UF) allegations distribution for District One increased by 6% in the last six months of 1995; six UF allegations from this District were received between July and December 1995 as compared to one UF allegation received in the first six months of 1995.

DISTRICT 2**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 2 Cases	Total Cases	%
12	2	4	8	0	26	419	6%

District Two received 26 complaints, which contributed 6% of the total cases received in 1995. Most of the complaints were found in the CI category, which accounted for 46% of the cases.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 2 Cases
8	9	9	0	26

The incident times of the complaints received from District Two were almost all evenly distributed throughout the day, as displayed on the previous table.⁵⁵ The day and swing shifts each accounted for 35% of the times, while the graveyard shift made up 31% of the distribution.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 2 CI Allegs.	Total CI Allegs.	%
2	4	9	4	2	0	7	1	0	2	31	391	8%

The above statistics show the 31 CI allegations received from District Two, which contributed 8% of the total CI allegations received in 1995. The most frequent allegation received under this classification was the Unnecessary Force allegation, which accounted for 29% of the allegations.

⁵⁵See Footnote 54.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 2 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	2	1	1	0	4	106	4%

Derived from the two DI complaints were four DI allegations, which made up 4% of the total DI allegations received in 1995. The most common allegation was the Improper Procedure of the subject officer.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 2 CI & DI Allegs.	Total CI & DI Allegs.	%
2	4	9	4	2	0	9	2	1	2	35	497	7%

District Two received 22 CI and DI allegations between July and December 1995 as compared to 13 allegations received in the first six months of 1995. This is a 2% increase in the distribution of CI and DI allegations in proportion to the total allegations received for the respective time periods. The UF allegations distribution for District Two decreased by 5% in the last six months of 1995; four UF allegations from this District were received between July and December 1995 while five UF allegations were received in the first six months of 1995.

DISTRICT 3**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 3 Cases	Total Cases	%
39	37	24	30	0	130	419	31%

District Three received 130 complaints during January and December of 1995. The complaints received from this District were significant because they contributed 31% of the 419 total complaints received in 1995. This District received the highest number of complaints compared to other Districts, including the Unknown/Outside City Limit category. The CI and DI cases accounted for the highest number of complaints; CI cases contributed 30% of the complaints and DI cases contributed 28% of the total complaints received from District Three. Of the 37 DI complaints, 19 of these DI complaints occurred at the San José Police Department, which is located in District Three.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 3 Cases
25	41	52	12	130

Most of these complaints (40%) occurred during the hours of 4:01 p.m. and 12 midnight, as displayed on the table above.⁵⁶ Incidents that occurred during the daytime hours made up 32% of the complaints. District Three had the most complaints that occurred during various times of the day. Nine of the 12 complaints that occurred during various times of the day were DI complaints that originated at the Police Department, located in District Three. For example, descriptions of these DI complaints varied from time sheet fraud, excessive sick leave to improper disclosure of information by the subject officers.

Citizen-Initiated Allegations (Jan.- Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 3 CI Allegs.	Total CI Allegs.	%
7	4	35	15	4	0	10	0	4	11	90	391	23%

The 39 CI complaints from this District produced 90 CI allegations, which were 23% of the total CI allegations. Most of the allegations in this District were Unnecessary Force; specifically, UF allegations accounted for 39% of the allegations.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 3 DI Allegs.	Total DI Allegs.	%
0	0	0	3	6	0	20	4	22	1	56	106	53%

District Three contributed 53% of the total DI allegations. Unofficerlike Conduct (39%) and Improper Procedure (36%) allegations accounted for most these DI allegations. There were more DI allegations in this District because the location of 19 DI complaints originated at the Police Department, located here.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 3 CI & DI Allegs.	Total CI & DI Allegs.	%
7	4	35	18	10	0	30	4	26	12	146	497	29%

District Three generated 84 CI and DI allegations between July and December 1995 as compared to 62 allegations received between January and June 1995. In proportion to the total number of allegations

⁵⁶See Footnote 54.

received for each respective time period, District Three allegations distribution decreased by 1% in the last half of 1995. The Unnecessary Force (UF) allegations distribution for this District decreased by 6% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; 19 UF allegations from this District were received between July and December 1995 while 16 UF allegations were received in the first six months of 1995.

Overall, District Three had the most number of complaints and allegations compared to the other Districts. District Three covers the downtown area which has a denser and more transitory population than the other Districts and generates more police-to-citizen contacts.

DISTRICT 4

Cases Filed (Jan. - Dec. 1995)

CI	DI	IN	PR	PO	Dist. 4 Cases	Total Cases	%
8	0	7	5	2	22	419	5%

District Four had 22 complaints during the period from January to December 1995 which accounted for 5% of the total complaints. The CI complaints accounted for 36% of the cases, followed by Informal cases (32%).

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 4 Cases
3	7	10	2	22

Forty-five percent (45%) of these 22 complaints occurred during the swing shift, between 4:01 p.m. and 12 midnight.⁵⁷ The daytime hours, from 8:01 a.m. to 4:00 p.m., produced 32% of the complaints.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 4 CI Allegs.	Total CI Allegs.	%
3	1	6	2	0	0	1	1	0	2	16	391	4%

District Four produced less CI allegations compared to the other nine Districts. The eight CI complaints in this District generated 16 allegations shown on the table above, which accounted for 4%

⁵⁷See Footnote 54.

of the 319 total CI allegations received in 1995. The highest number of allegations was in the Unnecessary Force category, which made up 38% of the allegations.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 4 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	0	0	0	0	0	106	0%

District Four did not receive any DI complaints, so there were no DI allegations.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 4 CI & DI Allegs.	Total CI & DI Allegs.	%
3	1	6	2	0	0	1	1	0	2	16	497	3%

District Four produced 15 CI and DI allegations between July and December 1995 as compared to one allegation received between January and June 1995. In proportion to the total number of allegations received for each respective time period, District Four allegations distribution increased by 5% in the last six months of 1995. In addition, there were six Unnecessary Force (UF) allegations filed between July and December 1995 while no UF allegations had been filed in the first six months of 1995.

DISTRICT 5

Cases Filed (Jan. - Dec. 1995)

CI	DI	IN	PR	PO	Dist. 5 Cases	Total Cases	%
20	4	7	7	0	38	419	9%

District Five received 38 complaints during January to December 1995, which accounted for 9% of the 419 complaints filed in 1995. Most complaints received from this District were CI, which made up 53% of the distribution.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 5 Cases
11	14	12	1	38

The previous table displays the time of incident for the complaints received from District Five.⁵⁸ Most of the complaints here arose from incidents which occurred during the day; daytime incidents contributed 37% of the complaints. The swing shift, from 4:01 p.m. to 12 midnight, accounted for

⁵⁸See Footnote 54.

32% of the complaints. The graveyard shift, from 12:01 a.m. to 8:00 a.m., made up 29% of the complaints.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 5 CI Allegs.	Total CI Allegs.	%
3	7	9	11	1	2	10	3	0	4	50	391	13%

Twenty (20) CI complaints produced 50 allegations, which contributed 13% of the total CI allegations received in 1995. The above statistics display the different allegations here. Rude Conduct accounted for 22% of the CI allegations, Improper Procedure accounted for 20%, and Unnecessary Force made up 18%. District Five produced the second highest number in CI allegations compared to the other Districts.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 5 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	5	3	1	0	9	106	8%

Four DI complaints generated nine allegations and made up 8% of the total DI allegations, as shown on the table above. Fifty-six percent (56%) of the DI allegations in this District were found in the Improper Procedure category. Failure to Take Action by the subject officer accounted for 33% of the DI allegations.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 5 CI & DI Allegs.	Total CI & DI Allegs.	%
3	7	9	11	1	2	15	6	1	4	59	497	12%

District Five generated 35 CI and DI allegations between July and December 1995 as compared to 24 allegations received between January and June 1995. In proportion to the total number of allegations received for each respective time period, District Five allegations distribution remained constant in the second half of 1995. The Unnecessary Force (UF) allegations distribution for this District decreased by 5% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; four UF allegations from this District were received between July and December 1995 while five UF allegations were filed in the first six months of 1995.

DISTRICT 6**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 6 Cases	Total Cases	%
14	5	8	9	0	36	419	9%

From January to December of 1995, District Six produced 36 complaints, which made up 9% of the complaints distribution. Citizen-Initiated complaints composed 39% of the total cases received from District Six in 1995. The table above displays the number of cases received for this District.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 6 Cases
11	14	11	0	36

The statistics above display the time of incident that led to a complaint for District Six.⁵⁹ The daytime hours produced 39% of the complaints from this District. The graveyard and swing shifts were equally distributed, each accounted for 31% of the incident times.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 6 CI Allegs.	Total CI Allegs.	%
3	5	8	6	0	0	6	1	1	2	32	391	8%

The table above displays the composition of CI allegations. There were 32 CI allegations derived from the 14 CI complaints; these allegations contributed 8% of the total CI allegations received in 1995. The most common allegation for District Six was the Unnecessary Force allegation, which accounted for 25% of the 32 allegations.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 6 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	2	0	1	2	5	109	5%

The five DI allegations accounted for 5% of the total DI allegations received in 1995. The table above lists the DI allegations for District Six. Improper Procedure, Missing/Damaged Property, and Unofficerlike Conduct made up the five DI allegations.

⁵⁹See Footnote 54.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 6 CI & DI Allegs.	Total CI & DI Allegs.	%
3	5	8	6	0	0	8	1	2	4	37	497	7%

District Six produced 18 CI and DI allegations between July and December 1995 as compared to 19 allegations received between January and June 1995. In addition, the Unnecessary Force (UF) allegations distribution for this District increased by 4% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; six UF allegations from this District were received between July and December 1995 while two UF allegations were filed in the first six months of 1995.

DISTRICT 7**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 7 Cases	Total Cases	%
17	5	6	8	0	36	419	9%

District Seven generated 36 complaints in the period from January to December 1995 and made up 9% of the 419 total complaints received in 1995. The CI complaints accounted for 47% of the complaints received for this District. The above statistics list the different types of complaints received from District Seven.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 7 Cases
8	9	17	2	36

The table above outlines the time of incident for the complaints received from District Seven.⁶⁰ Most of the complaints (47%) here arose from swing shift incidents that occurred between 4:01 p.m. and 12 midnight.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 7 CI Allegs.	Total CI Allegs.	%
4	2	17	5	0	0	3	1	1	2	35	391	9%

The statistics above display the composition of the CI allegations from District Seven. The 17 CI complaints generated 35 CI allegations. The 35 allegations from District Seven made up 9% of the

⁶⁰See Footnote 54.

total CI allegations received in 1995. Most CI allegations received from District Seven were Unnecessary Force, and this category accounted for 49% of the allegations.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 7 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	1	2	2	1	6	106	6%

The previous table lists the Department-Initiated allegations from District Seven. The five DI complaints produced six DI allegations. The six DI allegations from this District contributed 6% of total DI allegations received in 1995.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 7 CI & DI Allegs.	Total CI & DI Allegs.	%
4	2	17	5	0	0	4	3	3	3	41	497	8%

District Seven generated 26 CI and DI allegations between July and December 1995 as compared to 15 allegations received between January and June 1995. In proportion to the total number of allegations received for each respective time period, District Seven allegations distribution increased by 2% in the second half of 1995. Furthermore, the Unnecessary Force (UF) allegations distribution for this District remained constant in the last six months of 1995 in proportion to the total UF allegations for each respective time period; ten UF allegations from this District were received between July and December 1995 while seven UF allegations were filed in the first six months of 1995.

DISTRICT 8

Cases Filed (Jan. - Dec. 1995)

CI	DI	IN	PR	PO	Dist. 8 Cases	Total Cases	%
17	1	10	9	1	38	419	9%

Thirty-eight (38) complaints were received from District Eight between January and December 1995, as listed on the table above. These 38 complaints accounted for 9% of the total complaints received in 1995. Most complaints received from this District were CI, approximately 45%. Informal complaints made up 26% of the complaints.

Time of Incident (Jan. - Dec. 1995)

Graveyard	Day	Swing	Various	Dist. 8
12:01 a.m. ...	8:01 a.m. ...	4:01 p.m. ...	Times	Cases
8:00 a.m.	4:00 p.m.	12:00 midnight		
8	14	16	0	38

The swing shift, from 4:01 p.m. to 12 midnight, contributed 42% of the incident times received from District Eight.⁶¹ The daytime hours, from 8:01 a.m. to 4:00 p.m., accounted for 37% of the complaint incidents, as the previous table displays.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 8 CI Allegs.	Total CI Allegs.	%
6	5	16	10	3	0	4	2	0	1	47	391	12%

Forty-seven (47) CI allegations were derived from the 17 CI complaints filed from this District. The 47 allegations were 12% of the total CI allegations received in 1995. Most of the CI allegations were Unnecessary Force, which accounted for 34% of this District's allegations. Rude Conduct allegations made up 21% of the allegations distribution for District Eight.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 8 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	0	0	1	0	1	106	1%

District Eight received only one Department-Initiated allegation, which was only 1% of the total DI allegations received in 1995. The DI allegation was for Unofficerlike Conduct of the subject officer.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 8 CI & DI Allegs.	Total CI & DI Allegs.	%
6	5	16	10	3	0	4	2	1	1	48	497	10%

District Eight produced 21 CI and DI allegations between July and December 1995 as compared to 27 allegations received between January and June 1995. In proportion to the total number of allegations received for each respective time period, District Eight allegations distribution decreased by 6% in the second half of 1995. Furthermore, the Unnecessary Force (UF) allegations distribution for this District decreased by 9% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; seven UF allegations from this District were received between July and December 1995 while nine UF allegations were filed in the first six months of 1995.

⁶¹See Footnote 54.

DISTRICT 9**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 9 Cases	Total Cases	%
9	3	8	7	0	27	419	6%

District Nine had 27 complaints during the period of January to December 1995 which made up 6% of the total complaints received in 1995. As shown above, most of the complaints were CI (33%), followed by 30% of the cases being Informal.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 9 Cases
7	9	9	2	27

Most of the complaints arose from incidents that occurred during the daytime hours and the swing shift, as seen on the above table.⁶² The day and swing shifts individually accounted for 33% of the complaints. The graveyard shift, from 12:01 a.m. to 8:00 a.m., accounted for 26% of the incident time distribution.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 9 CI Allegs.	Total CI Allegs.	%
3	2	2	6	0	0	6	0	4	3	26	391	7%

From the nine CI complaints received from this District, 26 CI allegations were generated. The 26 CI allegations made up 7% of the total CI allegations received in 1995. The above table indicates the composition of District Nine allegations. The most common allegations for this District were Rude Conduct and Improper Procedure, each accounted for 23% of the allegations.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 9 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	0	0	3	0	3	106	3%

Three Department-Initiated allegations from this District contributed 3% of the total DI allegations received in 1995. All three DI allegations were for Unofficerlike Conduct.

⁶²See Footnote 54.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 9 CI & DI Allegs.	Total CI & DI Allegs.	%
3	2	2	6	0	0	6	0	7	3	29	497	6%

District Nine generated 16 CI and DI allegations between July and December 1995 as compared to 13 allegations received between January and June 1995. In proportion to the total number of allegations received for each respective time period, District Nine allegations distribution decreased by 1% in the last six months of 1995. There were two Unnecessary Force (UF) allegations filed between July and December 1995 while no UF allegations had been filed in the first six months of 1995.

DISTRICT 10**Cases Filed (Jan. - Dec. 1995)**

CI	DI	IN	PR	PO	Dist. 10 Cases	Total Cases	%
11	2	5	6	1	25	419	6%

District Ten received 25 complaints in 1995, as displayed on the above table, accounting for 6% all 1995 complaints. The CI complaints made up 44% of the complaints received from this District.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Dist. 10 Cases
12	2	10	1	25

The above statistics tabulate the time of the incident of the complaints received from District Ten.⁶³ Approximately 48% of the incidents in this District occurred during the graveyard hours, from 12:01 a.m. to 8:00 a.m. The swing shift, from 4:01 p.m. till 12 midnight, made up 40% of the incident time distribution.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 10 CI Allegs.	Total CI Allegs.	%
2	6	8	8	0	0	4	0	0	7	35	391	9%

Thirty-five (35) CI allegations were generated from the 11 CI complaints received from this District. The CI allegations were 9% of the total CI allegations received in 1995. Unnecessary Force and Rude Conduct allegations were the most frequent allegations; each accounted for 23% of the CI allegations from District Ten.

⁶³See Footnote 54.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 10 DI Allegs.	Total DI Allegs.	%
0	0	0	0	0	0	0	0	1	1	2	106	2%

Only two DI allegations were generated from the two DI complaints of District Ten. These two allegations made up 2% of all the DI allegations received in 1995. The two allegations were Unofficerlike Conduct and Missing/Damaged Property.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Dist. 10 CI & DI Allegs.	Total CI & DI Allegs.	%
2	6	8	8	0	0	4	0	1	8	37	497	7%

District Ten generated 19 CI and DI allegations between July and December 1995 as compared to 18 allegations received between January and June 1995. Furthermore, the Unnecessary Force (UF) allegations distribution for this District increased by 1% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; five Unnecessary Force (UF) allegations were filed between July and December 1995 while three UF allegations had been filed in the first six months of 1995.

UNKNOWN/OUTSIDE CITY LIMIT (UNK/OCL)**Cases Filed (Jan. 1 - Dec. 1995)**

CI	DI	IN	PR	PO	Unk/OCL Cases	Total Cases	%
2	9	1	0	1	13	419	3%

The abbreviation used for the Unknown/Outside City Limit category was Unk/OCL, and it was used when the location of incident was not specified or the incident occurred outside of San José. This category generated 13 complaints and this accounted for 3% of the total complaints received in 1995. The DI complaints generated the majority of the cases (69%) from this section.

Time of Incident (Jan. - Dec. 1995)

Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	Unk/OCL Cases
2	4	1	6	13

Forty-six percent (46%) of the incidents occurred during various times of the day.⁶⁴ The above statistics list the time of the incident that led to a complaint. The daytime hours, from 8:01 a.m. to 4:00 p.m., accounted for 31% of the complaints from this category.

Citizen-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Unk/OCL CI Allegs.	Total CI Allegs.	%
0	0	5	0	0	0	0	0	0	3	8	391	2%

The two CI complaints from this category generated eight CI allegations. These allegations contributed only 2% of the total CI allegations received in 1995. The UNK/OCL category received the least number of CI complaints and CI allegations for 1995.

Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Unk/OCL DI Allegs.	Total DI Allegs.	%
1	0	2	2	0	0	2	0	8	0	15	106	14%

There were 15 DI allegations derived from the nine DI cases from this section. The allegations were 14% of the total DI allegations received in 1995. This UNK/OCL section received the second highest number of DI allegations compared to the ten City Council Districts. Most DI allegations were in the Unofficerlike Conduct category, which accounted for 53% of the DI allegations.

Citizen- and Department-Initiated Allegations (Jan. - Dec. 1995)

UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Unk/OCL CI & DI Allegs.	Total CI & DI Allegs.	%
1	0	7	2	0	0	2	0	8	3	23	497	5%

This UNK/OCL section generated 16 CI and DI allegations between July and December 1995 as compared to 7 allegations received between January and June 1995. In proportion to the total number of allegations received for each respective time period, this section's allegations distribution increased by 2%. Furthermore, the Unnecessary Force (UF) allegations distribution for this District increased by 3% in the last six months of 1995 in proportion to the total UF allegations for each respective time period; five Unnecessary Force (UF) allegations were filed between July and December 1995 while two UF allegations had been filed in the first six months of 1995.

⁶⁴See Footnote 54.

XV. CONCLUSION

OFF-DUTY EMPLOYMENT PRACTICES SHOULD BE REEXAMINED

Approximately 50% of the 1214 San José police officers work off-duty jobs. A statistical analysis of the Citizen-Initiated (CI) and Department -Initiated (DI) complaints revealed that 50% of off-duty complaints involved the use of force. The majority of the use of force complaints originated at a bar or nightclub. There were 596 different officers granted work permits in 1995. The total number of work permits issued were 927 with some officers having as many as three work permits.

An evaluation of the process used by the San José Police Department to monitor and flag problems arising from off-duty employment revealed that there is a lack of oversight by the Department's management. It is not sufficient for the Police Department to use an honor system to hold the officers accountable for the types and number of hours worked off-duty. There must be a system in place which monitors and detects early warnings of interference with an officer's performance of his/her primary job as a police officer.

Public safety is of utmost concern for everyone and a compelling reason for closely examining the benefits and detriments of off-duty employment. The Police Department is currently conducting a study of this issue. The Office of the Independent Police Auditor (IPA) will monitor the progress and report the outcome in future reports.

POLICY AND PROCEDURAL CHANGES

During the second year of operation, the IPA finalized its comprehensive database system. With the addition of a full-time analyst, the results of the audits from the investigations of citizen complaints will be available at the end of calendar year 1996. All the subject areas that the IPA will be tracking were defined and the input of previous data is in progress. The portion of the audits that is conducive to statistical analysis will be entered into the database for future analysis. A significant part of the audits is a comprehensive and subjective evaluation by the IPA, and will be reported in the form of general

observations and opinions. The statistical analysis and comprehensive audits are the sources from which issues and trends are extracted.

The policies and procedures by which the IPA office operates were finalized and implemented during this second year of operation. The IPA and the Professional Standards and Conduct Unit (PSCU) standardized the intake process to facilitate the gathering of statistics which are an integral part of these public reports. A systematic process between the PSCU and the IPA to request and return files, schedule witness and police interviews, request investigations, and accomplish the final audits of citizen complaints is in place. Formal meetings between the City Manager, Chief of Police and the IPA are also ongoing.

Three different PSCU Commanders have been assigned to the PSCU in the last two years. Each new commander has made improvements and helped bring about a broader acceptance of the functions of the IPA to the Police Department. With the passage of time, officers assigned to the PSCU seem to assimilate and adapt to the changes easier. Less resistance in coping with the added work load that the IPA generates is felt from the PSCU and the Bureau of Field Operations (BFO). The IPA is regularly invited to join the PSCU staff for training sessions or to the police academy where new officers are instructed about the functions of the PSCU and the IPA. Early exposure of new officers to the functions of the IPA will help lessen the apprehension to the IPA oversight.

Other observations noted during this last year is an increase in public awareness of the existence of the IPA. From April through December 1995, 140 surveys completed by complainants were analyzed. Forty percent (40%) of these 140 complainants initiated their complaint with the IPA. Last year's survey of citizens who had filed Informal complaints indicated that less than 10% were aware of the existence of this office.

COMMUNITY OUTREACH

In the last year, the IPA met with several of the City Council members, members of the ACLU, members of the media, members of the NAACP, members of organizations such as the Lion's Club,

the Human Rights Commission and others. The IPA attended numerous community meetings where information and presentations about the function of this office were made. With the creation of the first edition of a biannual newsletter this year, there will be greater public awareness of the functions and accomplishments of the IPA. The newsletter will contain a synopsis of the contents of the public report. Dissemination of this information to a greater number of San José residents will help promote the IPA's mission and objectives.

STATISTICS

In June 1994, a new system of classifying complaints was instituted. This new classification process was in operation the entire 1995 year and only six months in 1994; therefore, a yearly statistical comparison is not possible until the end of 1996. A comparative analysis of the last three six-month periods, reflects a declining pattern in the number of complaints filed. The present classification system provides uniformity in the documentation of all complaints and future comparisons in statistics will be a more accurate and simple process.

The formal misconduct complaints, which are the most serious and affected the least by the implementation of the June 1994 classification system, revealed a decrease from 292 complaints filed in 1994 to 231 complaints in 1995. The number of Unnecessary Force allegations also decreased in 1995 from the two previous years. This trend will be monitored to find out if Unnecessary Force allegations continue to decline in 1996.

It is difficult to make a yearly comparison of the sustained rate because of the difference in the number of open and closed cases in each year. For the CI complaints filed in 1995, sixty-one percent (61%) of the complaints are still open and under investigation. At the end of the year and with 39% of the complaints completed, there was a 6% sustained rate. It is taking about two years to close 100% of the cases filed. The PSCU has not made any progress in closing cases sooner. Short of having more investigators assigned to the PSCU, alternative methods need to be explored. An evaluation of how cases are prioritized for investigation will be examined in 1996.

In 1995, three officers were terminated and two officers resigned pending termination. In 1994, there were no terminations; however, four officers were terminated in 1993. Whether the number of terminations is proportioned to the number of complaints filed is difficult to measure because cases get filed in one year, but are not closed until one or two years later.

A new statistic reported this year is the composition of the subject officers. The majority of the complaints were filed against officers assigned to the BFO which is logical; there is a greater number of officers assigned to the BFO and it generates more frequent police-to-citizen contacts. The difference in the gender of officers receiving complaints in proportion to the number of officers employed by the Police Department was only 7% higher for men. The ethnic background of the officers in proportion to the number employed by the Police Department revealed the highest ratio for Hispanic officers. Officers with two to four years of experience had the highest number of complaints.

The Voluntary Questionnaire completed by the complainants generated the following information. Occupations were diverse and ranged from business owners to unemployed complainants; furthermore, the student category received the highest number of complainants compared to other occupations. Eighty-one percent (81%) of the complainants had at least a high school diploma. Forty-four percent (44%) of the complainants attended at least one year of college. Sixty percent (60%) of the complainants were male. Complainants of Hispanic background filed the most complaints, approximately 40%. Fifty-one percent (51%) of the complainants were in the 31 to 59 age range.

The highest number of complaints originated in District Three which covers the downtown and the police headquarters. All the other Districts were within 4% of each other. Thirty-nine percent (39%) of the complaints resulted from a police-to-citizen contact which occurred between 4:00 p.m. and midnight, referred in this report as the swing shift.

This report will serve as a format for future reports. The categories of statistics reported for 1995 will be included in future reports. The only addition will be statistics based on the audit of the complaints which should be ready for inclusion in the 1996 Year End Report.

GOALS FOR 1996

The goals for the 1996 calendar year will focus on existing issues and on ways to improve the process currently used to address these issues. The most important issue involves the investigation of Unnecessary Force cases. Several areas will be evaluated to prioritize Unnecessary Force cases so that the investigations are completed sooner. In addition, better documentation to track complainants and civilian witnesses will be explored. Defining what is sufficient evidence for cases to be sustained as well as separating the serious verses the less serious use of force complaints will be addressed.

The second goal is to find ways to automate the transfer of information from the PSCU to the IPA. Automation is one way to keep personnel and supplies costs down and also makes the PSCU/IPA database more accessible. Automating the data from the 1995 case audits and thereafter keeping current with the 1996 cases audits will be realized in 1996.

Lastly, the IPA will identify and maintain distribution sources for its upcoming IPA newsletter. The cost of printing the public reports and having a wide distribution is cost prohibitive. Currently, the IPA prints approximately 200 copies of each report. The newsletter will highlight and condense the contents of the public reports and will be printed at less cost. In addition, targeted organizations will be encouraged to reprint the newsletter for distribution to their members.

The past accomplishments, ongoing projects and future goals will all be conducted consistent with the mission of the IPA which is to provide an independent civilian oversight of the investigations of citizen complaints. After two years of reviewing the citizen complaint process, it is the opinion of the IPA that while police misconduct occurs in the San José Police Department it is nevertheless not institutionalized.



TABLE OF APPENDICES

APPENDIX A	Misconduct Allegations
APPENDIX B	Definitions of Findings
APPENDIX C	Boland Admonishment
APPENDIX D	Classifications of Complaints
APPENDIX E	Consent Searches
APPENDIX F	All Complaints Received in 1995
APPENDIX G	Cases Received in Three Six-Month Periods
APPENDIX H	Citizen- and Department-Initiated Cases Classified as Formal Complaints
APPENDIX I	Classified Complaints Received in 1995 by Council District
APPENDIX J	Citizen- and Department-Initiated Allegations Received in 1995 by Council District
APPENDIX K	Time of Incident by Council District

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

APPENDIX A

MISCONDUCT ALLEGATIONS

Citizen- or Department-Initiated misconduct complaints 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/Harassment (sexual, racial, etc.)
6. Excessive Police Service (harassment, providing confidential information, etc.)
7. Improper Procedure (violation of City policy or SJPD Duty Manual.)
8. Delay In 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 B

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 C

BOLAND ADMONISHMENT

The following is the admonishment required by State Law that a potential complainant will sign:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Complainant Signature



APPENDIX D

CLASSIFICATIONS OF COMPLAINTS

1. **Citizen-Initiated (CI) Complaints**, initiated by a civilian alleging misconduct on the part of a member of the San Jose Police Department; these Formal complaints allege a serious violation of Department policy or a violation of law by an officer.
2. **Department-Initiated (DI) Complaints** allege a serious violation of Department policy or a violation of law by an officer; these Formal complaints are initiated by the Office of the Chief.
3. **Informal (IN) Complaints** involve allegations of minor transgressions on the part of a subject officer¹ which may be handled informally by bringing the matter to the attention of the officer's chain of command at the complainant's request.² This is typically the Rude Conduct complaint. However, if the complainant feels that such conduct was in his or her opinion egregious that a Formal (CI or DI) 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.
4. **Procedural (PR) 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 and 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."³
 - (b) The second portion of the definition includes: "The allegation is a 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 complainant." A finding of "No Misconduct Determined" will be assigned to the dispute of fact cases.⁴

For example, a person files a complaint alleging an Unlawful Search, where the complainant states that the police entered his or her home and conducted 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."
5. **Policy (PO) 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 with which the complainant disagrees.

¹ Subject officer refers to the officer of whom the complaint is about.

² San José Police Department, Response to Independent Police Auditor's First Quarterly Report, page 7, May 25, 1994.

³ Ibid., page 6.

⁴ Ibid., page 6.



APPENDIX E

CONSENT SEARCHES

Officers may conduct a warrantless search of a person, vehicle, or dwelling whenever such officers have legally detained the person or vehicle or have legally entered a dwelling and obtained consent to search from a person having authority to give such consent.

Whenever in the judgment of the officer it is possible and practical, the officer may obtain and document consent through optional, but not mandatory, compliance with the written Consent to Search, audio recording, video recording, and independent witnesses. Details of the consent will be documented in the Offense Report.

The Consent to Search Form may be used whenever an officer determines that a search of a residence, dwelling, vehicle, or other place or item is necessary and the person in control of the place or item to be searched is willing to give written consent to officers to perform a warrantless search.

The officers intending to conduct the search will then ensure that the person giving consent is made aware of the circumstances and that the search form is explained and made available in the appropriate language for the consenting party. The consenting party will sign the form in the presence of the initiating officer and one witness (officer or citizen), if available.

Officers will describe completely the place or item to be searched (location, residence, vehicle, etc.)

BELOW IS THE CONSENT TO SEARCH FORM

**SAN JOSE POLICE DEPARTMENT
CONSENT TO SEARCH**

CASE NUMBER _____ DATE _____

I understand that under the law I do not have to consent to give permission to the proposed warrantless search by the San Jose Police Department. However, on this day of _____, I do voluntarily and knowingly consent to the search of:
(DESCRIBE PREMISES, AUTOMOBILE, ETC.)

SIGNATURE CONSENTING PARTY

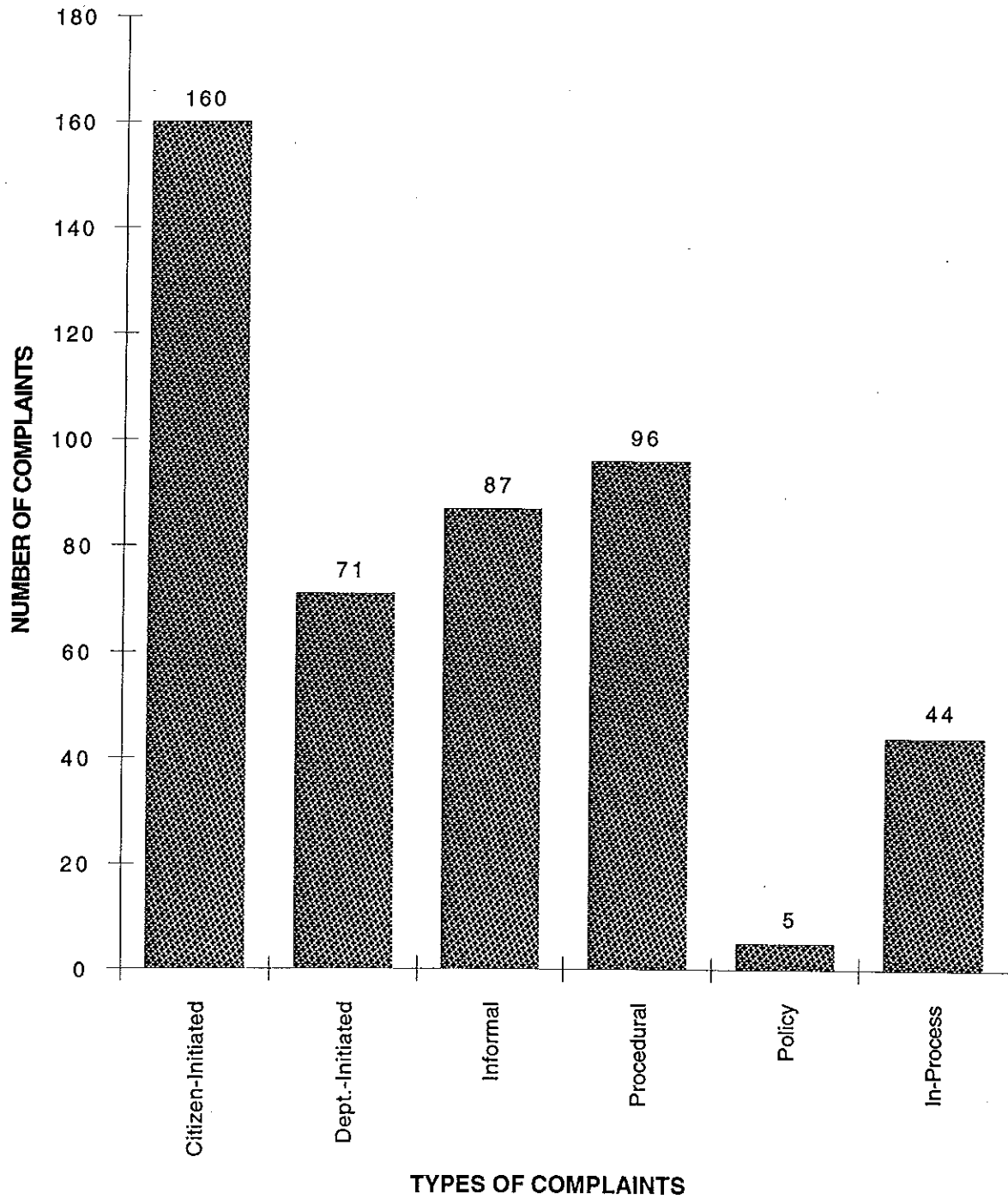
SIGNATURE POLICE OFFICER

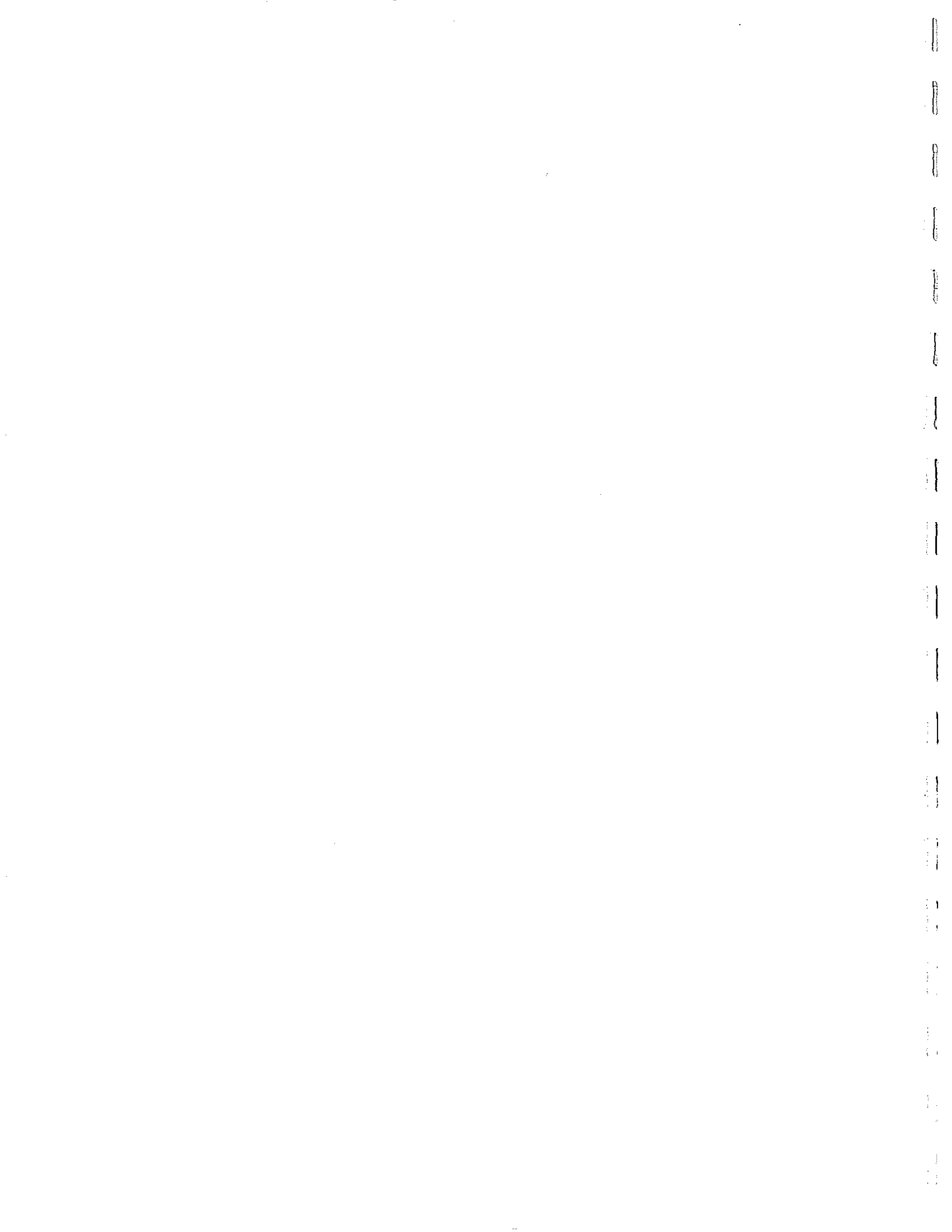
WITNESS (if available)



APPENDIX F

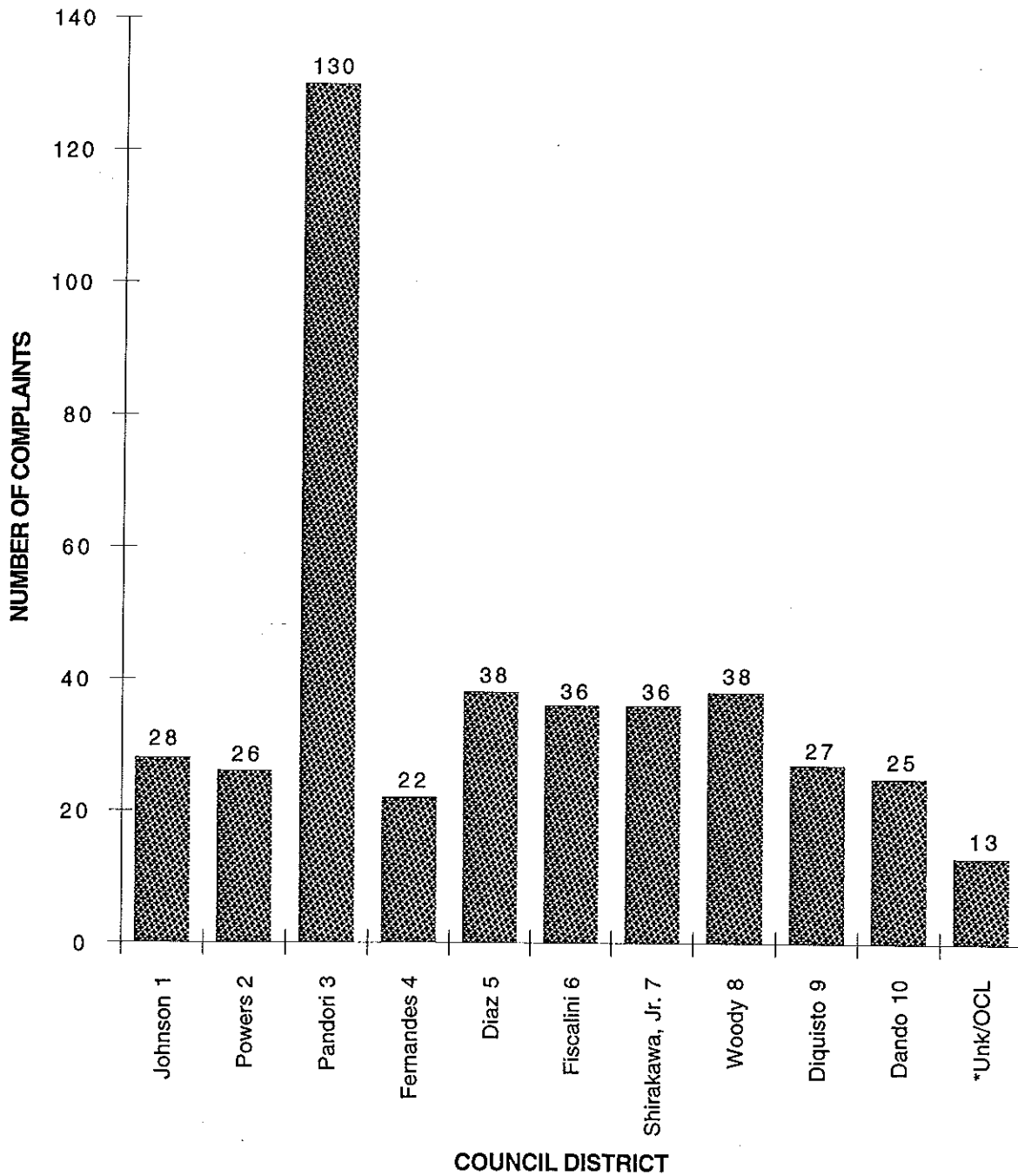
ALL COMPLAINTS RECEIVED IN 1995





APPENDIX I

**CLASSIFIED COMPLAINTS RECEIVED IN 1995
BY COUNCIL DISTRICT**

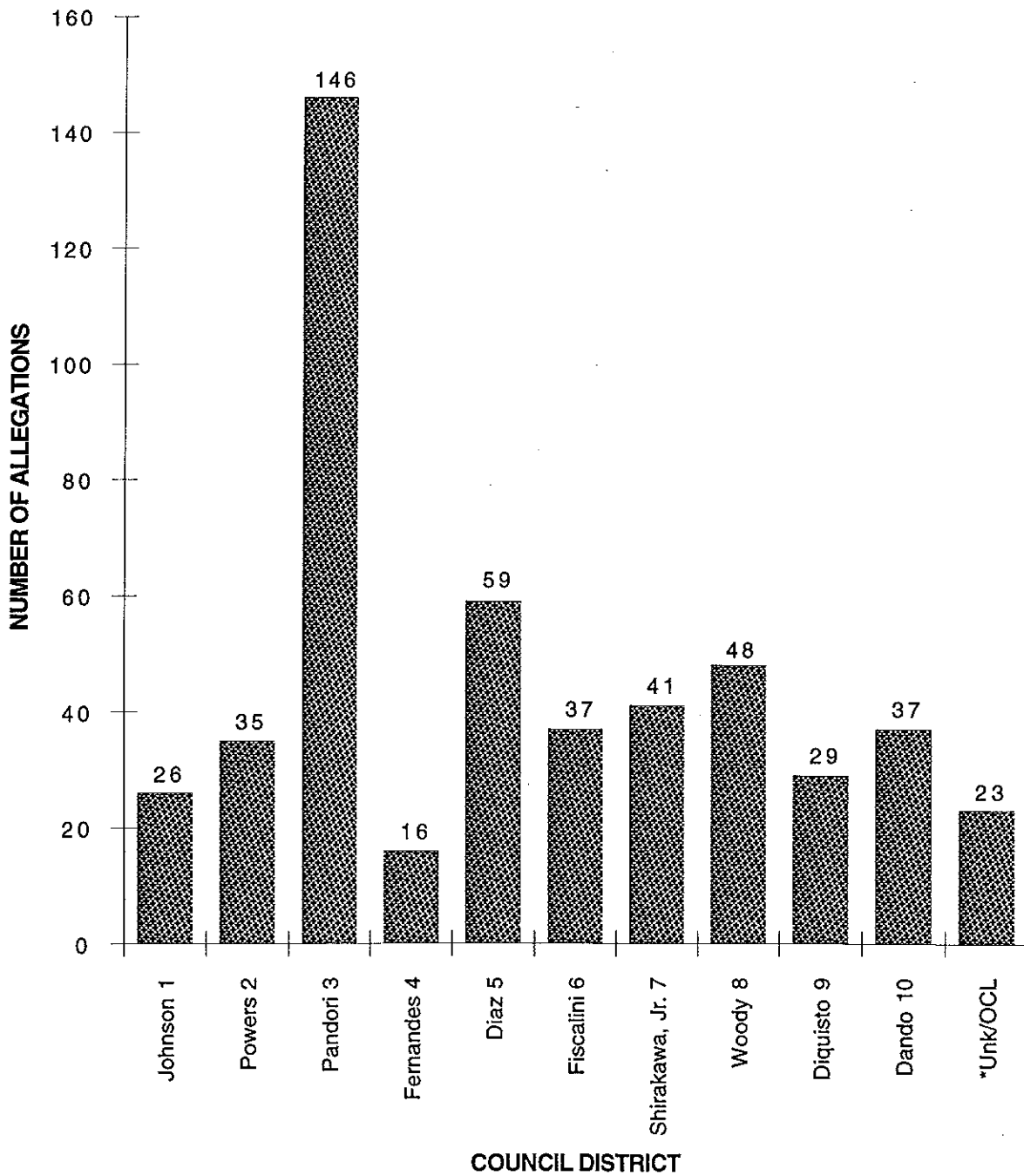


*Unknown/Outside City Limit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

APPENDIX J

**CITIZEN- AND DEPARTMENT-INITIATED ALLEGATIONS
RECEIVED IN 1995 BY COUNCIL DISTRICT**



*Unknown/Outside City Limit



APPENDIX K

TIME OF INCIDENT BY COUNCIL DISTRICT

Districts	Graveyard 12:01 a.m. ... 8:00 a.m.	Day 8:01 a.m. ... 4:00 p.m.	Swing 4:01 p.m. ... 12:00 midnight	Various Times	TOTAL CASES
JOHNSON 1	6	6	15	1	28
POWERS 2	8	9	9	0	26
PANDORI 3	25	41	52	12	130
FERNANDES 4	3	7	10	2	22
DIAZ 5	11	14	12	1	38
FISCALINI 6	11	14	11	0	36
SHIRAKAWA, JR. 7	8	9	17	2	36
WOODY 8	8	14	16	0	38
DIQUISTO 9	7	9	9	2	27
DANDO 10	12	2	10	1	25
¹ Unk/OCL	2	4	1	6	13
TOTAL CASES	101	129	162	27	419
%	24%	31%	39%	6%	100%

¹Unknown/Outside City Limit.



COMPLAINTS: A search of all complaints submitted to the IPA revealed that of the 596 officers working off-duty, 59 (10%) of these officers received complaints while working an off-duty job. These 59 officers also had complaints filed for on-duty conduct. The number of total complaints that these 59 officers received while working on- and off-duty was 155. The number of complaints per officer ranged from two to as many as eight.

There is great difficulty in identifying the subject officers working off-duty in citizen complaints. Most of the complaints, including on-duty, do not identify the officer by name or badge number. The PSCU investigators spend considerable time tracking the incident through dispatch records and conducting photo lineups of officers with the complainants to identify the subject officers. Unlike on-duty activities which require the officers to log in and out, complaints from off-duty jobs are difficult to identify and investigate because there is not a permanent record detailing the specific activity of the officer. Extra time and resources are expended to investigate these cases, and in at least four off-duty complaints, the officer(s) were never identified.

LACK OF SUPERVISION: Another problem area that was identified involves the lack of supervision of officers while working off-duty. These officers receive little or no supervision from their private employers regarding their duties, and are expected to know what they can or cannot do. Training and experience are two reasons the clubs hire off-duty police officers. The police coordinator or senior officer in a particular off-duty job will instruct the officers and usually set the tone for the behavior of the officers. Of the clubs surveyed, the majority stated that they expected the officer to know what to do or relied on the senior officer to instruct the other officers.

E. PUBLIC PERCEPTION

A frequent complaint expressed by the citizens is that officers' response to non-emergencies is slow or not forthcoming. Citizens have complained that officers are seen standing idly outside bars instead of on patrol. Public information may be lacking in the area of officers for hire. Public inquiries are made to the IPA about the appearance of preferential treatment by the Police Department towards certain

merchants because these merchants always have officers guarding their businesses. Such inquiries indicate a lack of public knowledge about uniformed officers working security.

Officers working in uniform have a high visibility unlike those working off-duty in civilian clothes. There are 501 work permits issued for officers to work in uniform off-duty. In addition, those officers working in the downtown entertainment district work stationary outside the club doors. These uniformed officers are prohibited from working inside the business; thus, promoting the perception that officers stand idly outside bars. There is a lack of understanding or awareness by the citizens that officers in full uniform are not always on-duty. It is natural for civilians to expect that officers in uniform be willing and ready to serve the public.

Another area that is vulnerable to negative public perception is the cash payment to off-duty officers working in uniform. Of those owners and managers of bars and nightclubs surveyed, all but one stated that officers were paid cash. Opportunities exist for patrons at these establishments to speculate on the reasons for the exchange of cash between the officers and the employers paying the officers. The IPA has no evidence to indicate that these cash payments are not reported as income by the officers or as expenses by the merchants.

Another source of criticism about off-duty officers using SJPD uniforms to work security comes from the private security industry. Complaints about unfair competition are heard from the private security industry who argue that unequal treatment is given to business establishments who do not hire off-duty police officers. Some of the club owners/managers surveyed replied that officers contacted them asking for off-duty jobs. Most clubs responded that the reason for hiring off-duty police over private security was the police uniform. In their opinion, the uniform carried more weight and clout, or had more presence.

Some merchants who filed complaints expressed feeling pressured or obligated to hire officers for fear that if they did not do so, their establishments would be targeted for more rigorous law enforcement. Only one club surveyed responded that he/she felt uncomfortable firing off-duty officers. A reluctance

to act against an officer of the Police Department whether it be not to hire or to fire is understandable because of a fear of retaliation or a change in police services.

F. CONFLICTS OF INTEREST

Some officers working off-duty at bars and nightclubs have admitted finding themselves in compromising positions. For example, an officer working outside a nightclub may see patrons that look to be under age being admitted, patrons entering or leaving the establishment that appear to be drunk to the point that they are unable to care for themselves, or situations where the club is filled over capacity. Situations like these can lead to unequal treatment or enforcement of laws. Officers are placed in situations where job security with the clubs is in direct conflict with their duties as police officers.

Coordinating officers can hire sergeants to work off-duty. Sergeants and officers work side by side as peers. The responses from the clubs surveyed indicated that the duty to fire officers was delegated to the senior officer or coordinator. The coordinating officer can arbitrarily fire an off-duty officer. A working relationship based on financial interest is developed among coordinators, off-duty officers and sergeants. These sergeants may find themselves having to discipline the same officer who hires him/her off-duty for on-duty conduct. This off-duty relationship among officers affects 50% of the San José Police Department.

Investigations involving citizen complaints that originated inside a bar or club usually involved an initial conflict between the complainant and another patron or the bouncers. The incident escalated to the point that off-duty officers had to take enforcement action. In these complaints, the officers based their enforcement action on the information given by the bouncer, manager, owner, or people with whom the officer has a financial relationship. Citizens complain that officers give the club's staff and management more credibility and are reluctant to investigate or attach the blame on their employers. The off-duty officers are placed in a situation where their objectivity is presumed to be compromised.

G. COMMENTARIES

The City of San José is the safest large city in California. In part, this is credited to the services of off-duty officers who handle and/or deter an added increase in demand for police services. On-duty officers are freed to do proactive policing without an increase in calls generated by businesses that attract large numbers of people and whose activities are more likely to require police services.

Fifty percent (50%) of off-duty complaints involved Unnecessary Force allegations and most of these complaints originated at a bar or nightclub. Intoxication which often induces combative behavior was offered by officers interviewed as the primary reason for the use of force at these establishments. Festivals like Cinco de Mayo or America Festival are attended by thousands of people and alcoholic beverages are ubiquitous, but not the main activity. These types of functions have yielded very few complaints. Therefore, the consumption of alcoholic beverages does not appear to be the sole factor contributing to the use of force in complaints originating at bars and clubs.

Those off-duty jobs that have a designated, on-duty officer coordinating the hiring and assignment of off-duty officers generate very few complaints. For example, special events, festivals and parades are coordinated by on-duty sergeants who handle the hiring, scheduling, disbursement of payment, administrative and other requirements for the particular events. These sergeants have no pecuniary or other interests in who they hire to work off-duty.

An evaluation of the process used by the San José Police Department to monitor and flag problems arising from off-duty employment revealed that there is a lack of oversight by the Department's management. Citizen complaints are directly impacted because the intake and investigation of these complaints are made more difficult in the identification of subject and witness officers involved.

The Duty Manual provides some guidelines by which to regulate the type, number and the conduct of officers engaged in off-duty employment. However, these guidelines are rendered ineffective because of a lack of enforcement. Officers provide the required documentation such as applications for work permits and time sheets, but there is no verification or random auditing of its contents.

There are many reasons why a primary employer has a vested interest in overseeing secondary employment. Police officers are vested with tremendous responsibility and authority. It is the only government agency that the public empowers to take a human life in a split second. This level of responsibility demands that officers be rested, alert, physically and mentally ready to conduct their duties. The type and number of hours worked in secondary jobs place added demands on the officer's time; it increases the fatigue and stress level which could ultimately impede an officer from adequately performing his/her primary job as a police officer.

The chain of command has the primary responsibility to oversee that secondary employment is not detrimentally affecting the performance of the officers. The filing of complaints whether by a citizen or the Chief of Police is one tool used to assess the conduct of an officer. Another tool is the personal observations of the supervisors. Unlike other professions, an officer's off-duty conduct is subject to intense scrutiny and discipline up to and including termination. However, this is a reactive rather than a proactive measure. It is also a process that takes a lengthy time to investigate and resolve. If the discipline imposed is distant from the misconduct, it may not bring about the desired change in behavior. Prevention through oversight of off-duty employment would minimize the opportunities for problems to occur.

The public's perception of officers working off-duty at local clubs can improve with the implementation of some changes. Police officers at this time are restricted to stand outside the doorways of clubs and their function is primarily as a visual deterrence. If officers were allowed to work inside the clubs conducting random checks, conflicts could be lessened and the patrons might feel safer. The presence of a uniformed officer is better utilized inside the club where the problems originate. By the time the problem reaches the door, usually by the bouncers dragging or shoving the patrons outside, tempers are flaring and enforcement action is needed. The last contact after a negative incident is usually between the officer and the disgruntled customer. In addition, this contact usually occurs on the public sidewalk or streets in view of passersby. This may account for the high number of unnecessary force complaints from clubs.

Officers working off-duty jobs in uniform need to be sensitive to the fact that the general public may not be aware that he/she is not on-duty. Every effort should be made to give citizens information needed to handle their call. Brushing them off by stating that the officer is not on duty damages public perception of the entire Police Department.

The hiring, supervision, and payment of officers, especially those working the clubs, would be best served if it was administered in a fashion similar to the reserve unit or special events. This would address the issues of cash payments, officer solicitation of jobs, and hire and fire authority now vested in individual officers.

Factors such as: conflicts of interest between private employers and police officers; a financial dependence on secondary jobs; a lack of supervision from the Police Department or private employer; a lack of documentation of the officer's off-duty activities; lack of accountability of hours and type of off-duty jobs; public expectations of uniformed officers; unequal enforcement of laws; and fatigue can individually and collectively have a negative effect on police officers and the public at large.

H. RECOMMENDATION

This is a complex, multifaceted issue, and the solution will require the expertise of the various internal police units and external City departments. An in-depth study should be conducted by the Police Department: to review the guidelines in the Duty Manual; to identify and analyze the benefits and detriments of secondary employment; to gather information and knowledge from other cities with comparable demographics; and ultimately, to create a process which will oversee, verify and make the appropriate adjustments as needed.

Discussions are underway between the IPA and the Chief of Police to address this issue. Any solution should address the three areas discussed above, specifically, accountability, public perception and conflict of interests.

III. 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, the Professional Standards and Conduct Unit (PSCU), and the Office of the Independent Police Auditor (IPA). The following changes or adjustments resulted in additions to the Office of the Independent Police Auditor's and the Professional Standards and Conduct Unit's guidelines.

B. LEGISLATION AFFECTING PSCU AND IPA

A law authored by Paula Boland, State Assembly member from Granada Hills, and signed by Governor Pete Wilson, came into effect January 1, 1996. This law states that it is a misdemeanor to file an allegation of misconduct against any peace officer if one knows the complaint to be false. Any law enforcement agency accepting an allegation of misconduct must have the complainant read and sign a specified information advisory. This legislation does not affect the IPA because it is not a law enforcement agency; the IPA is an alternative forum where a complaint may be initiated. Any complainant filing through the IPA will be informed and notified that he/she will be requested by the PSCU to sign the advisement in person or by mail.

The IPA will explain to the complainant that the advisory is mandated by state law, but that the complainant should not be dissuaded or be intimidated by the verbiage unless the complainant is being untruthful. A complaint with a "Not Sustained" finding does not infer that the complainant is untruthful.⁵ The veracity of the complainant is only one reason why a complaint is not sustained. Thus, a "Not Sustained" finding should not bring a criminal prosecution. The complainant is encouraged to sign and return the form to the PSCU.⁶

⁵See Appendix B (Definitions of Findings).

⁶See Appendix C (Boland Admonishment).

The intent of the law is to discourage people from making complaints that they know are false. However, this threat of prosecution may have a chilling effect on some individuals filing complaints. From the IPA's perspective, this law is not necessary because there is an "Unfounded" finding that appropriately applies to cases with no merit. In addition, officers can file civil actions against complainants who file frivolous complaints. In the IPA's two and a half years of existence, only one complainant has been subjected to civil liability. The Chief of Police, City Manager, and the IPA oppose this law, however, the PSCU and the IPA will comply with the Boland Admonishment requirements. Those serious complaints, in which the complainant is not willing to sign the Admonishment, can still be investigated by the Chief of Police as a Department-Initiated complaint.

C. CHANGES IN THE INTAKE OF COMPLAINTS AT IPA

The IPA addressed the issue of the intake process in its first public report. Both the PSCU and the IPA seek better methods in which this initial contact with complainants can improve. Previously, the complainant would be interviewed several times. If the complaint initiated at the IPA, the complainant would be interviewed by the Assistant Auditor or the Auditor. At the PSCU, the complainant would be interviewed by the intake officer, and sometimes, again, by the investigating officer. Now, the following procedure will be in place.

When the IPA is contacted by a complainant, the intake process will be conducted immediately. The Assistant Auditor or the Auditor will intake the call as soon as the person expresses a desire to file a complaint. A brief synopsis will be requested and the information will contain a summary of what the complainant stated. This new procedure was implemented to expedite the intake process. Furthermore, the complainant should not feel as though he/she is being interviewed several times.

The synopsis form completed at the IPA will no longer require the signature of the complainant. That signature will be requested at the PSCU after a tape-recorded, in-depth interview has been conducted by the intake officer. With the recent changes in legislation, the complainant is now required to sign

the Boland Admonishment.⁷ Finally, the IPA staff will continue to explain the complaint process to the public. The intake procedures at both the IPA and the PSCU are evaluated continuously to improve the services to the public and to adjust to new legislation.

D. INTERACTION WITH COMPLAINANTS

It is vital for the function of the IPA to have continuous communication with the complainants, so that the complainants know that the IPA is overseeing the complaint procedure. All complainants who file a complaint through the IPA will receive a 30-day confirmation letter. This letter will explain the functions of the IPA and the PSCU. Furthermore, the function of the letter is to serve as a reminder to the complainant that he/she filed a complaint through the IPA and that an investigation is pending.

At the end of the investigation and after the review of the completed case, a closing letter is sent to the complainant explaining that the complaint was investigated and audited by the Auditor, and that the investigation has been closed by the IPA.

E. CLASSIFICATION OF COMPLAINTS

An area that requires special attention is the classification of complaints.⁸ There has been a continuous evolution to perfect the classification system. Some errors were noted in the classification of the Informal and Procedural type of complaints because the PSCU first completes the investigation and then sends it to the IPA for review, unlike Formal complaints which are classified and a copy immediately sent to the IPA prior to the investigation. The classification of a complaint is more difficult to resolve after the completion of an investigation. The PSCU and the IPA will work towards implementing a more systematic approach to classifying complaints.

has this happened

F. GATHERING STATISTICS

The PSCU statistics are the basis from which the IPA identifies the areas that have improved, need improvement or require an analysis. The cooperation from the PSCU is imperative for obtaining

⁷Refer to Section III., Subsection B. Legislation affecting PSCU and IPA.

⁸See Appendix D (Classifications of Complaints).

information that would otherwise not be available. Therefore, the PSCU has agreed to provide a copy of their Monthly Management Report which details an analysis of the amount of time the PSCU takes to classify complaints and the amount of time taken to complete the investigation of the complaints.

G. PROCEDURAL CHANGES FOR STRIP SEARCHES

A number of complaints revealed that persons arrested for suspicion of being under the influence of drugs were routinely strip searched because there was a presumption that they were in possession of drugs or contraband. The San José Police Department revised a section in its Duty Manual in accordance with state law to address strip searches of all persons arrested and processed at the Pre-Processing Center.

The new provisions specifically delineate under which circumstances a strip search will be conducted. Furthermore, a form will be completed and signed by the on-duty Pre-Processing supervisor in cases where an adult is arrested for a misdemeanor and a search is conducted. The form advises the officers of criminal repercussions for any person who conducts a search in violation of state law.

IV. UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

A. LENGTH OF TIME TO COMPLETE INVESTIGATIONS

BACKGROUND: A study of Citizen-Initiated (CI) complaints⁹, submitted for review between September 1993 and June 1994, revealed that approximately 25% of the cases were taking longer than a year to complete. There were also complaints that 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:

⁹See Appendix D (Classifications of Complaints).

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

UPDATE: The Professional Standards and Conduct Unit (PSCU) has not met the goals for the 1995 year.

Seventy-one percent (71%) of all the cases were classified within 30 days. The second goal is to complete the investigation of 75% of the cases within 120 days. The PSCU met only 28% of this goal. The third goal is to complete 100% of the cases within 300 days. Fifty-three percent (53%) of the cases were completed within this time period.

The Office of the Independent Police Auditor (IPA) and the PSCU met to discuss several issues that required clarification. To define the date used for classifying complaints, the IPA will look to the **Receive Date**. The **Receive Date** for these cases will be the actual date the complaint was first filed by the complainant regardless of whether it was filed at the PSCU or the IPA.

The PSCU Monthly Management Reports will include the tracking of statistics as of January 1, 1996, to compare with the statistics gathered by the IPA for inclusion in the public reports.

The PSCU is continuously seeking ways to classify and complete the investigation within the allotted time. Investigators who are reaching the end of their term at the PSCU are still required to finish all their cases before they leave. The PSCU does not assign new cases to them during the last three months of their term to ensure the completion of the cases. The requirement to have the complainant sign the Boland Admonishment may delay and add to the overall time required to investigate the complaint.

RECOMMENDATION: There are no new recommendations at this time.

B. CONSENT SEARCHES

BACKGROUND: A recurring theme found in citizen complaints¹⁰ involved situations where the allegation was an Unlawful Search¹¹ by a San José police officer. Consent Forms are necessary for the protection of both the citizens and the officers. The *San José 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.

Without written policies to define proper procedure when conducting a consent search, findings of investigations cannot be sustained.¹² The IPA made the following recommendations in the 1994 Year End Report:

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 simplify 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 Police Department has just completed a revised policy addressing consent searches. This policy includes the use of a consent form at the discretion of the officer.¹³

RECOMMENDATION: There are no new recommendations at this time; however, the IPA will continue to monitor this issue.

¹⁰See Footnote 1.

¹¹See Appendix A (Misconduct Allegations).

¹²See Appendix B (Definitions of Findings).

¹³See Appendix E (Consent Searches).

- 1) Training importance
- 2) new system
- 3) impact on under reporting

C. CENTRAL CONTACT LOG

BACKGROUND: After restructuring the complaint classification system in 1993, the use of the contact log was abolished because some of the calls were improperly classified. However, there were a few occasions when the complainants claimed to have filed a complaint at the PSCU and their complaint could not be located. Therefore, the IPA recommended, in the 1995 Midyear Report, that a central ledger be kept to know the number and disposition of inquiries made from the public .

A central ledger will reduce the likelihood that citizen complaints get lost, misplaced or under reported. A ledger of citizen contacts is also important because unclassified cases are difficult to count or identify without repeatedly asking each investigator. The previous recommendation was made to have a contact log that identifies the citizen, intake officer, date, time, nature of the call and how the contact was resolved.

UPDATE: The PSCU has implemented a contact log, identifying the citizen, intake officer, date of initial contact, and disposition. There are several situations that have arisen which have exposed weaknesses in their newly implemented contact log. *The following are examples of scenarios which have occurred.*

Misplaced complaints: A person files a complaint at the PSCU. The contact log has no information concerning this contact. This person calls the IPA, telling the IPA that he/she filed a complaint at the PSCU. The IPA contacts the PSCU. The PSCU responds that there is no record of the complaint. The IPA initiates a complaint on behalf of the complainant. Subsequently, the PSCU locates the complaint. The log did not contain the information because the handwritten notes were on an investigator's desk who was not in the office at the time of the initial inquiry.

Several names: Multiple complainants initiated a complaint about the same event. The log identifies only one complainant because the log only allows the entry of one name. A co-complainant calls the IPA. There is no record of the complaint in the PSCU log. The IPA initiates a complaint on behalf of the complainant duplicating efforts.

Disposition: A complainant contacts the IPA stating he/she filed a complaint at the PSCU. On the contact log the disposition is "Inquiry."¹⁴ The IPA contacted and questioned the PSCU about the disposition of the complaint. The PSCU informs the IPA that the disposition listed was an error and should have a disposition of "In-Process."¹⁵ This situation creates an under-reporting assumption.

¹⁴"Inquiry" disposition is a question from an individual not filing a complaint.

¹⁵"In-Process" disposition is a complaint that has been initiated, but not yet classified.

Incomplete names: The first name of a complainant is input in the column entitled "Name." A person with the same first name contacts the IPA. The IPA does not know if the person in the log is the same person contacting the PSCU. The IPA must contact the individual investigator. Investigator may not be in the office. The contact log does not expedite the process.

RECOMMENDATION: The following is recommended to improve the efficiency of the contact log:

1. All available information should be input immediately. This should include the names of all the complainants, the nature of the call and how the contact was resolved. The PSCU agreed that if a third-party complaint arises, the injured person will be listed as the co-complainant.
2. In addition to the contact log, the PSCU should provide, on a monthly basis, additional information about each entry in the contact log.

D. ADDITIONAL SPACE AT PSCU

BACKGROUND: The intake at the PSCU takes place in one very small, cluttered office shared by two investigators. The PSCU does not have a conference room where an intake officer can meet or interview more than one complainant. This small room appears to impede the PSCU from providing a setting where complainants feel comfortable or welcomed. Providing an environment that is conducive to putting the complainant at ease is very important to improve the public's perception of the PSCU. In addition, the intake officers, who conduct the most challenging job should work in an environment that fosters patience, tolerance and empathy for the complainants.

UPDATE: The City has begun an effort to develop a physical master plan for Civic Center Operations, including Police Department needs. The City has expanded beyond the capacity of its' existing facilities, causing the need to lease an increasing quantity of space in locations throughout the City. Consideration of additional space for the PSCU is part of the new master plan. A report on the master plan is scheduled to go to Council in June 1996.

RECOMMENDATION: The recommendation is the same, to provide adequate space.

E. REFERRAL OF COMPLAINTS

BACKGROUND: 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 where they can initiate their complaints. 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.

UPDATE: A Duty Manual change has been prepared which addresses the referral of complainants to the PSCU and/or the IPA, and is currently under review. The end of February 1996 was the anticipated date of implementation. On January 9, 1996, at 11:18 a.m., an IPA staff person called the San José Police Department's non-emergency phone number wanting to know who to contact in order to file a citizen complaint. The person stated, "Bureau of Fields Operation (BFO)." When asked if that was the only place to file a complaint, the person responded that it was the procedure followed and that he/she could connect the staff member. At no time was either the PSCU or the IPA mentioned as a forum for citizens to file a complaint against a San José police officer.

Analysis of the Voluntary Questionnaires completed by the complainants revealed that of the 36 complainants referred by the Police Department, 29 initiated their complaint at the PSCU and seven initiated their complaint at the IPA.

RECOMMENDATION: Police Department staff receiving inquiries about where to file complaints during business hours should advise the complainant of the existence and function of the IPA, and present the IPA as an alternative to the PSCU for acceptance of complaints. Furthermore, when appropriate, the PSCU and the IPA should be offered as equal alternatives for initiating complaints during non-business hours. Finally, police personnel should become familiar with this policy.

F. STANDARD FORMAT FOR POLICE OFFICERS' INTERVIEWS

BACKGROUND: Since its inception, the IPA has attended more than one hundred interviews of police officers at both the PSCU and at the Bureau of Field Operations (BFO). The quality of the interviews differs with each investigator. There are certain components that are recommended for

inclusion in every interview to safeguard the integrity and reliability of an officer interview. The IPA compiled a list of recommended interview techniques. The goal sought is to standardize the manner and quality of all interviews conducted.

UPDATE: The interview format guidelines were adopted and are available to the PSCU investigators. The PSCU will provide these guidelines to other bureaus when they investigate these administrative cases.

RECOMMENDATION: There are no new recommendations at this time.

V. STATISTICAL METHODOLOGY

The Office of the Independent Police Auditor (IPA) has 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 includes information from audits of the complaints, contacts with the complainants, and trends tracked by this office. By creating an encompassing data bank, the IPA is able to obtain information much faster and supply more statistical information to the public. The raw data for the IPA database comes from classified complaints stored at PSCU.

The IPA's analysis in the following sections is only statistical and not interpretive. There are too many factors to conclusively deduce results from the data. Any interpretive explanation is qualitative and is based on the IPA's knowledge and experience of reviewing over 1,000 complaints.

The PSCU has five classifications of complaints: Citizen-Initiated (CI), Department-Initiated (DI), Informal (IN), Procedural (PR), and Policy (PO).¹⁶ CI and DI complaints are reported by the number of cases and allegations, whereas the IN, PR, and PO complaints are reported by the number of cases

¹⁶See Appendix D (Classifications of Complaints).

only. Complaints that have been initiated, but have not yet been classified are categorized as In-Process.

The CI and DI 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).¹⁷

SELECTION OF COMPLAINTS FOR REVIEW

Following the requirements of the San José Municipal Code Section 2.06.020a., the minimal number of complaints to be reviewed annually are:

- A. All complaints against police officers which allege excessive or unnecessary force; and
- B. No less than 20% of all other complaints.

The CI and DI complaints list the misconduct allegations against the subject officer(s). The IPA reviews all complaints alleging Unnecessary Force from CI and DI complaints.

The Auditor is also required to review at least 20% of all other misconduct complaints, in addition to the Unnecessary Force complaints. The DI complaints are not fully audited unless there is a nexus to a citizen complaint.¹⁸ The DI complaints that are only partially audited are tracked for trends, patterns, and statistical values. The IPA fully audits the majority of the CI complaints and all of the IN, PR, and PO complaints.

A new area of statistics for 1995 includes the number of complaints from the PSCU requested for review by the IPA. There were 419 complaints received and classified in 1995; of those, 333 (79%) complaints were requested for review by the IPA. All of the Unnecessary Force complaints were

¹⁷See Appendix A (Misconduct Allegations).

¹⁸See Footnote 1.

requested for review from the PSCU.¹⁹ The audit of complaints requested for review does not take place until the investigation is completed, usually a year after the complaint is received.

VI. YEAR END STATISTICS

The following is a breakdown of the total number (463) and types of complaints filed from January 1, 1995 to December 31, 1995. The number of Citizen-Initiated (CI), Department-Initiated (DI), Informal (IN), Procedural (PR), Policy (PO) and the complaints still In-Process are based on the Office of the Independent Police Auditor's data gathered as of December 31, 1995.²⁰ The number of complaints received will be used in the statistical sections of this report.

All Complaints Received²¹

January 1-December 31, 1995

• Citizen-Initiated (CI) Complaints	160
• Department-Initiated (DI) Complaints	71
• Informal (IN) Complaints	87
• Procedural (PR) Complaints	96
• Policy (PO) Complaints	5
• In-Process²²	44
TOTAL	<u>463</u>

¹⁹There were 81 Citizen-Initiated complaints and one Department-Initiated complaint that alleged Unnecessary Force in 1995.

²⁰See Appendix D (Classifications of Complaints).

²¹See Appendix F (All Complaints Received in 1995).

²²In-Process category includes complaints that have been initiated, but not yet classified.

THREE SIX-MONTH CASES COMPARISON FOR ALL CLASSIFICATIONS

The table below indicates the types of cases received in the three mentioned six-month periods. The six-month term was used because the three classifications of Informal, Procedural and Policy complaints were implemented in June of 1994.

Comparison of All Classifications²³

Period Received	CI	DI	IN	PR	PO	Total Complaints	Recent Term Comparison of Total Complaints
July - Dec. 1995	79	40	39	48	3	209	
Jan. - June 1995	81	31	48	48	2	210	- .05%
July - Dec. 1994	101	35	61	62	16	275	- 24%

In the recent period, there was a decrease of one complaint in total cases when compared to January through June 1995, and a 24% decrease when compared to July through December 1994.

The following is the breakdown of the complaints received during the three six-month periods by each classification:

Citizen-Initiated (CI): In the most recent term, the number of CI complaints decreased by 2% over January to June 1995, and decreased by 22% over July to December 1994.

Department-Initiated (DI): The DI complaints increased by 29% over January to June 1995, and increased 14% over July to December 1994, when compared to the number of DI complaints received in the last six months of 1995.

Informal (IN): The number of Informal complaints received from July to December 1995 decreased by 19% over January to June 1995, and decreased 36% over July to December 1994.

Procedural (PR): There was an equal number of Procedural complaints generated during July to December 1995 and January to June 1995; however, there was a 23% decrease compared to the PR complaints received from July to December 1994.

²³See Appendix G (Cases Received in Three Six-Month Periods).

Policy (PO): There were three Policy complaints filed between July and December 1995. Two complaints were filed from January to June 1995, and 16 complaints were filed during July to December 1994. There was an 81% decrease in PO complaints received during July to December 1995 in comparison to the last six months of 1994.

VII. CITIZEN-INITIATED COMPLAINTS ANALYSIS

The following analysis of statistical data will focus on the Citizen-Initiated (CI) complaints.²⁴ These complaints involve most of the serious misconduct allegations. Each case is divided into separate allegations with individual findings.²⁵ The time periods used for statistical comparisons are from January to December for the years 1995, 1994, and 1993. The analysis will compare the total number of cases and allegations for the aforementioned periods, respectively.

There was a decrease in CI complaints and allegations in 1995 compared to the previous two years. One reason for this decrease may be the three new classifications of Informal (IN), Procedural (PR) and Policy (PO) complaints implemented in June of 1994. With this updated classification system, complaints alleging Rude Conduct may be classified as IN, and those alleging Improper Procedure may be classified as PR complaints instead of CI complaints, depending on the conduct. Informal, Procedural, and Policy complaints are not assigned allegations and are reported by the number of cases only. A decrease in CI allegations and complaints does not necessarily mean less complaints are filed because four other classifications of complaints exist.

The following is the statistical data for CI complaints categorized by allegations for the three annual periods:

²⁴See Appendix D (Classifications of Complaints).

²⁵See Appendix A (Misconduct Allegations) and Appendix B (Definitions of Findings).

CITIZEN-INITIATED CASES AND ALLEGATIONS

Period Received	UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Total CI Allegs.	%	Total CI Cases ²⁶	%
Jan.-Dec.1995	34	37	122	71	10	3	56	9	10	39	391		160	
Jan.-Dec.1994	58	36	198	120	13	8	104	25	23	58	643	-39%	217	-26%
Jan.-Dec.1993	48	15	168	103	3	4	104	11	16	15	487	-20%	182	-12%

<i>Legend</i>	
UA = Unlawful Arrest	ES = Excessive Police Service
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

The above information includes all cases **initiated** during the specified time frames regardless of the subsequent status.²⁷ The number of CI allegations decreased since there was a decrease in the number of CI complaints. The 160 CI complaints filed in 1995 produced 391 allegations, causing a 39% decrease in the number of allegations filed from January to December 1994 and a decrease of 20% over the same period in 1993. The percentages of the decrease in allegations are displayed next to the total allegations category on the above table.

The number of CI complaints received from January to December 1995 was 160. As shown on the far right of the above table, January to December 1995 saw a 26% decrease when compared to the CI complaints received during January to December 1994 and a 12% decrease of CI complaints received from January to December 1993.

²⁶See Appendix H (Citizen- and Department-Initiated Cases Classified as Formal Complaints).

²⁷The status of a complaint can be open (under investigation) or closed (investigation completed).

CITIZEN-INITIATED UNNECESSARY FORCE ALLEGATIONS

Period Received	UF Allegations	1995 UF Allegations Compared with Previous Years
<i>Jan.-Dec. 1995</i>	122	
<i>Jan.-Dec. 1994</i>	198	-38%
<i>Jan.-Dec. 1993</i>	168	-27%

From the CI complaints received between January and December 1995, the total number of Unnecessary Force allegations for 1995 was 122. When compared to the previous two annual periods, UF allegations decreased by 38% over the period from January to December 1994 and decreased by 27% when compared to the period from January to December 1993.

Another area of statistics the IPA is tracking is the type of force the subject officers may have used as alleged by the complainant. The following table lists the number of times the complainant complained about a type of force allegedly used by the subject officer(s). This information was taken from the 81 CI cases alleging Unnecessary Force. Each complaint may describe more than one type of force, explaining why there are 120 different types of force from the 81 CI complaints. The CI complaints used in the statistics were filed in the period from January to December 1995.

Trends from Unnecessary Force Complaints
January 1 - December 31, 1995

Type of Alleged Unnecessary Force			
Hands	49	Car (officer)	5
Baton	14	Object	4
Feet	13	Taser	2
Tight Handcuffs	13	Deadly Force	2
Chemical Agent	10	Canines	2
Gun (officer)	5	Car (complainant)	1

The information for these statistics was based on the type of force the subject officers used as alleged by the complainants. Furthermore, the two deadly force incidents overlapped with the officer's alleged use of the gun. The subject officers' use of hands, such as pushing or slapping a complainant, accounted for 41% of the different types of force alleged by the complainants; the alleged use of the baton for striking or injuring the complainant accounted for 12%; and the alleged use of force from the

subject officers' feet, such as leg sweeps or kicking the complainant, made up 11% of the distribution. Tight handcuffs that caused injury to the wrists of the complainant also accounted for 11% of the different types of force alleged by the complaints.

CITIZEN-INITIATED CLOSED CASES

Citizen-Initiated Sustained Cases					
Period Received	Cases Filed	Open	Closed	Sustained Cases	Sustained Rate
Jan.-Dec. 1995	160	97	63	4	6%
Jan.-Dec. 1994	217	42	175	21	12%
Jan.-Dec. 1993	182	0	182	34	19%

The above table indicates the number of CI complaints filed from January to December 1995, 1994 and 1993, and their status as of December 31, 1995. The sustained rate was derived from the number of sustained cases divided by the number of closed cases. If one allegation in the case was sustained, then the case was considered sustained. For example, there were 160 CI cases filed in 1995, sixty-three (63) cases were closed and 97 cases were under investigation. From those closed cases, 4 cases were sustained. The sustained rate will vary for 1994 and 1995 until all the cases filed for each time period are closed. The sustained rate from the closed cases filed in 1994 was 12% and for 1993, the rate was 19%. One statistical reason for the decreased sustained rate since 1993 may be that some cases previously classified as Citizen-Initiated complaints are now handled as Informal complaints. For example, in 1995, eighty-seven (87) cases previously classified as CI complaints were handled as Informal complaints, which do not list allegations and findings. The higher the number of CI cases filed, the more allegations available and a greater possibility for sustained cases. Another reason for the decrease in the sustained rate since 1993 may be that 61% of the cases filed in 1995 and 19% of the cases filed in 1994 are still under investigation.

TIME TAKEN TO CLASSIFY AND COMPLETE CITIZEN-INITIATED CASES

The length of time to classify a CI complaint is the number of days from the received date of the complaint to the date when the complaint is assigned to an officer for investigation as a CI complaint. The length of time to complete an investigation is the number of days from the received date of the

complaint until the investigation is completed. The goals listed on the following table were implemented on June 30, 1994 to ensure complaints were classified and completed in a timely manner.

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

The targeted goal for classifying complaints is 30 days. The targeted length of time to complete 75% of the cases is 120 days, and the goal for completing all investigations is 300 days. The following table illustrates the actual percentage of CI complaints classified and completed within the goal, and the percentage of the goal achieved. The CI complaints used for the classification statistic were received between January and December 1995. The CI complaints providing the time to complete the investigation were those closed between January and December 1995.

Goal	Actual	% of Goal Achieved
30 days -- Classification of all complaints (received between January 1 - December 31, 1995)	71%	71%
120 days -- Completion of 75% of cases (closed between January 1 - December 31, 1995)	21%	28%
300 days -- Completion of 100% of cases (closed between January 1 - December 31, 1995)	53%	53%

Seventy-one percent (71%) of the CI complaints were classified within 30 days from the received date of the complaint. Seventy-one percent (71%) of that goal was achieved. Twenty-one percent (21%) of the CI complaints were closed within 120 days, which made up 28% of the goal. Fifty-three percent (53%) of the CI cases were completed within 300 days from the received date. Thus, 53% of that goal was achieved. Timeliness in classifying complaints and completing investigations continues to be a concern and is addressed in the "Updates on Prior Issues and Recommendations" section.

VIII. DEPARTMENT-INITIATED COMPLAINTS ANALYSIS

The following statistical analysis will focus on the Department-Initiated (DI) complaints.²⁸ Like the Citizen-Initiated (CI) complaints, the DI complaints also include the most serious allegations. Each case is divided into separate allegations with individual findings.²⁹ The time periods used for statistical comparisons are from January to December for the years 1995, 1994, and 1993. The analysis will compare the total number of cases and allegations for the aforementioned periods, respectively. The following is the statistical data for the DI complaints categorized by allegations for the three annual periods:

DEPARTMENT-INITIATED CASES AND ALLEGATIONS

Period Received	UA	US	UF	RC	DH	ES	IP	FA	UC	MDP	Total DI Allegs.	%	Total DI Cases ³⁰	%
Jan.-Dec.1995	1	0	2	5	6	0	33	10	43	6	106		71	
Jan.-Dec.1994	1	0	2	7	5	0	58	8	36	1	118	-10%	75	-5%
Jan.-Dec.1993	0	0	2	7	12	0	45	5	16	1	88	20%	65	9%

Legend	
UA = Unlawful Arrest	ES = Excessive Police Service
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

The previous table includes all allegations from the cases **initiated** during the specified time frames regardless of the subsequent status.³¹ The seventy-one (71) DI complaints produced 106 allegations during year 1995. This resulted in a 10% decrease in DI allegations over year 1994 and an increase of

²⁸See Appendix D (Classifications of Complaints).

²⁹See Appendix A (Misconduct Allegations) and Appendix B (Definitions of Findings).

³⁰See Appendix H (Citizen- and Department-Initiated Cases Classified as Formal Complaints).

³¹The status of a complaint can be open (under investigation) or closed (investigation completed).

20% in DI allegations over year 1993. The percentage comparisons of allegations are displayed next to the total allegations category on the previous table.

There were seventy-one (71) DI complaints filed in 1995. This was a 5% decrease in the number of DI cases received in 1994; however, there was an increase of 9% over year 1993. These percentages are illustrated on the far right of the previous table.

DEPARTMENT-INITIATED UNNECESSARY FORCE ALLEGATIONS

Period Received	UF Allegations	1995 UF Allegations Compared with Previous Years
<i>Jan.-Dec. 1995</i>	2	
<i>Jan.-Dec. 1994</i>	2	0%
<i>Jan.-Dec. 1993</i>	2	0%

The previous displays the two Unnecessary Force allegations from DI cases received for each time period. The number of DI Unnecessary Force allegations for 1995 remained the same as the previous two years.

The two Unnecessary Force allegations listed for 1995 arose from one DI case, and the type of force allegedly used by the subject officers was the use of their hands against the complainant.

DEPARTMENT-INITIATED CLOSED CASES

Department-Initiated Sustained Cases

Period Received	Cases Filed	Open	Closed	Sustained Cases	Sustained Rate
<i>Jan.-Dec. 1995</i>	71	22	49	39	80%
<i>Jan.-Dec. 1994</i>	75	5	70	49	70%
<i>Jan.-Dec. 1993</i>	65	0	65	51	78%

The previous table indicates the number of DI complaints filed in 1995, 1994 and 1993, and their status as of December 31, 1995. The sustained rate was derived from the number of sustained cases divided by the closed cases. If one allegation in the case was sustained, then the case was considered sustained. For example, there were 71 DI cases filed in year 1995, and 49 cases were closed; from

those closed cases, 39 cases were sustained. The sustained rate for year 1995 was 80%.³² The sustained rate for 1994 was 70%, and 78% for 1993.

IX. DISCIPLINE IMPOSED

An officer with sustained allegation(s) receives discipline based on the case and not on each separate allegation.³³ 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. The table below indicates the number of disciplines imposed from the sustained Citizen-Initiated (CI) and Department-Initiated (DI) complaints closed in 1995. The sustained complaints closed in 1995 were initiated from 1993 to 1995. The number of disciplines imposed is greater than the number of sustained complaints because a complaint may have more than one discipline, depending on the number of sustained allegations and officers per complaint.

Type of Complaint	Period Closed	Number of Disciplines Imposed	Number of Sustained Complaints	Time Period Sustained Complaints were Filed		
				1995	1994	1993
Citizen-Initiated	Jan.-Dec. 1995	20	17	4	10	3
Department-Initiated	Jan.-Dec. 1995	60	51	39	11	1

The tables on the following page indicate the percentage breakdown of discipline given to subject officers from CI and DI sustained complaints closed in 1995. The disciplines are ranked by the most frequent type of discipline imposed.

³²This 80% sustained rate was derived from the 39 sustained cases divided by the 49 closed cases.

³³See Appendix A (Misconduct Allegations) and Appendix B (Definitions of Findings).

Discipline Imposed for CITIZEN-INITIATED Cases

Closed Between January 1 - December 31, 1995

total
of
cases?

<u>Type of Discipline Imposed</u>	<u>CI Disciplines</u>	<u>Distribution</u>
Documented Oral Counseling (DOC)	11	55%
Letter of Reprimand (LOR)	3	15%
Training and Counseling	2	10%
10-Hour Suspension	1	05%
160-Hour Suspension	1	05%
Resignation Pending Termination	1	05%
Termination	1	05%

Discipline Imposed for DEPARTMENT-INITIATED Cases

Closed Between January 1 - December 31, 1995

<u>Type of Discipline Imposed</u>	<u>DI Disciplines</u>	<u>Distribution</u>
Documented Oral Counseling (DOC)	19	32%*
Letter of Reprimand (LOR)	19	32%
Training and Counseling	7	12%
10-Hour Suspension	7	12%
80-Hour Suspension	2	03%
160-Hour Suspension	2	03%
Termination	2	03%
120-Hour Suspension	1	02%
Resignation Pending Termination	1	02%

* The data above is rounded off to the nearest percentage.

Documented Oral Counseling accounted for 55% of the disciplines in CI cases and for 32% of the disciplines in DI cases. A Letter of Reprimand was more frequent (32%) in the DI cases than in the CI cases (15%). Training and Counseling accounted for 12% of the DI disciplines and 10% of the CI disciplines. The 10-Hour Suspension discipline made up 12% of the DI disciplines and 5% of the CI disciplines. The 80-Hour Suspension discipline was imposed 3% in the DI cases only. The 160-Hour Suspension of the subject officer was imposed twice in DI cases and once in a CI case. The 120-Hour Suspension discipline was imposed once in a DI case.

OFFICERS SEPARATED FROM SJPD

In 1995 five subject officers were either terminated or resigned pending termination from the San José Police Department as a result of CI and DI complaints. Three subject officers from complaints closed in 1995 were terminated; one officer was from a CI case and two officers were from DI cases. Two subject officers resigned pending termination from the San José Police Department; one officer was from a CI case and another officer from a DI case. The complaints which produced the terminations were closed but not all filed in 1995. The allegations in the complaints involved multiple allegations of Unofficerlike Conduct, Improper Procedure and Failure to Take Action. These allegations were all sustained.

X. INTERVENTION COUNSELING

Initially, the Intervention Counseling Program only applied to Citizen-Initiated (CI) and Department-Initiated (DI) complaints³⁴ and was designed to track police officers with lengthy complaint histories for the purpose of providing guidance. However, at the IPA's recommendation, this program was expanded to include Informal and Procedural complaints. To receive Intervention Counseling (IC), the subject officers would have to meet the following criteria:

1. Three or more investigations of Citizen-Initiated or Department-Initiated complaints within a 12-month period.
2. Five or more investigations involving Informal or Procedural complaints or a combination with Citizen-Initiated or Department-Initiated complaints within a 12-month period.

During Intervention Counseling, the subject officers meet with the Deputy Chief of their bureau, the PSCU Commander and immediate supervisor for informal counseling. This informal counseling session involves a review of the issues with the Department member³⁵ in a positive attempt to assist him/her. No formal record is made of the substance of the IC session.

³⁴See Appendix D (Classifications of Complaints).

³⁵The Department member is the subject officer of the complaint.

A review of the internal investigation files is conducted monthly by the PSCU to ensure that subject officers meeting the IC criteria are identified in a timely manner. 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.

Intervention Counseling (IC)

Time Period Counseling was Recommended	Total Number of Intervention Counseling Sessions	Number of Subsequent Complaints from IC Date to December 31, 1995					
		0	1	2	3	4	5
Jan. - Dec. 1995	19	18 ³⁶	0	0	1	0	0
Jan. - Dec. 1994	22	8	8	4	1	1	0

The previous statistics list the number of IC sessions recommended in 1995 and 1994. The number of subject officers with subsequent complaints from their Intervention Counseling date should not be compared due to the differences in time between the 1994 and 1995 sessions; a longer time period increases the possibility of having subsequent complaints after the IC date.

Nineteen (19) IC sessions were recommended in 1995. One subject officer received three subsequent complaints from the 1995 IC date. Ninety-five percent (95%) of the subject officers received no subsequent complaint from the IC date to December 31, 1995.

Twenty-two (22) IC sessions were recommended in 1994. Thirty-six percent (36%) of the subject officers had not received any subsequent complaints since they were counseled in 1994. An equal percentage (36%) of subject officers had received only one complaint since they were counseled. However, 18% of the subject officers received two subsequent complaints since their IC date in 1994. One subject officer (5%) received three subsequent complaints, and another subject officer had four subsequent complaints since their 1994 IC session.

In addition to Intervention Counseling, the police administration has implemented other avenues to address those officers receiving multiple complaints. For example, the subject officers and their

³⁶This value represents the number of subject officers that received no complaints since their IC date.

supervisors will enter into written agreement whereby certain steps are identified and followed in an effort to deter the misconduct from reoccurring.

XI. STATISTICAL BACKGROUND OF SUBJECT OFFICERS

A new statistical area being tracked by the Office of the Independent Police Auditor (IPA) is the background of the subject officers from the complaints received between **July 1 and December 31, 1995**. Specific areas include the police unit³⁷, gender, ethnicity, and years of experience of the subject officer. There were 12 unknown officers in the complaints received between July and December 1995; these officers will not be part of the police background data. Also, officers no longer working in the San José Police Department and non-sworn officers, such as dispatchers and reserve officers, will not be part of these statistics because these officers are not part of the IPA's police background database; these subject officers account for a total of 15 incidents in the aforementioned time period.

UNIT OF THE SUBJECT OFFICER

The following tables list the unit of the subject officers by the number of incidents from complaints received from **July 1 to December 31, 1995**.

Bureau of Field Operations (BFO)	
July 1 - December 31, 1995	
Patrol	181
Narcotics Enforcement Team (NET)	13
Traffic Enforcement	9
Merge/K-9	6
Street Crimes	5
Field Training	5
Violent Crime Enforcement Team	2
Gang Educ. Alternative Resources	1
Total incidents from BFO	222

³⁷The police unit of the subject officer at the time of the complaint incident.

Subject officers from the Bureau of Field Operations (BFO) accounted for 88% of all incidents from complaints; specifically, the patrol unit made up 82% of incidents within BFO. There is more police-to-citizen contact within the BFO, thus increasing the complaints specifying a BFO police unit.

Bureau of Investigations (BOI)	
July 1 - December 31, 1995	
Burglary/Fraud	5
Violent Crimes Unit	5
Narcotics/Covert Investigations	4
Drug Enforcement Admin.	2
Homicide/Crime Scene	2
Juvenile Crimes	2
Sexual Assault/Child Exploitation	2
Robbery/Night General	1
Auto Theft/Vehicular Crimes	1
Total incidents from BOI	24

The Bureau of Investigations (BOI) contributed to 10% of the total incidents from complaints received in the last six months of 1995.

The Permit Unit and the Training Unit within the Bureau of Administration (BOA) accounted for three incidents (1%) from complaints received in the last six months of 1995.

The Information Center within the Bureau of Technical Services (BTS) accounted for one incident and the Professional Standards and Conduct Unit from the Office of the Chief contributed another incident. The BTS and the Office of the Chief made up 1% of the total incidents from complaints received in this time period.

GENDER OF THE SUBJECT OFFICER

The following statistics report the gender of the subject officers from complaints received between July 1 and December 31, 1995.

Gender	Total Number of Incidents	Distribution of Incidents	Total Number of Officers in Police Dept.	Ratio of Incidents to Number of Officers in Police Department ³⁸
Male	237	94%	1115	21%
Female	14	6%	99	14%
Total	251	100%	1214	21%

The total number of incidents involving male subject officers in complaints received in the last six months of 1995 was 237. This accounted for 21% of the total number of male officers in the Police Department. Fourteen (14) incidents involved female subject officers, and the ratio with the total number of female officers in the Police Department was 14% for the last six months of 1995.

ETHNICITY OF THE SUBJECT OFFICER

The following table displays the ethnicity of subject officers from complaints received between July 1 and December 31, 1995.

Ethnicity	Total Number of Incidents	Distribution of Incidents	Total Number of Officers in Police Dept.	Ratio of Incidents to Number of Officers in Police Department ³⁹
White / Euro. Amer.	160	64%	790	20%
Hispanic	61	24%	257	24%
Asian American	16	6%	79	20%
African American	13	5%	62	21%
Filipino American	1	0%	20	5%
Native American	0	0%	6	0%
Total	251	100%	1214	21%

The White/European American officers accounted for 64% of the total number of incidents from complaints. Taking the ratio of incidents to the total number of officers in the Police Department with

³⁸This ratio was derived from the total number of occurrences divided by the total number of officers in the Police Department. For example, 237 male subject officers divided by 1115 male officers in the Police Department yielded 21%.

³⁹This ratio was derived from the total number of occurrences divided by the total number of officers in the Police Department. For example, 160 White/European subject officers divided by 790 White/European officers in the Police Department yielded 20%.

a particular ethnicity, the Hispanic officers had the highest ratio of 24%, followed by the African American officers with a ratio of 21% for the last six months of 1995.

YEARS OF EXPERIENCE OF THE SUBJECT OFFICER

The following statistics list the subject officers' years of experience in the San José Police Department as of December 1995. These statistics arose from the complaints received between **July 1 and December 31, 1995**.

Years of Experience	Total Number of Incidents	Distribution of Incidents	Total Number of Officers in Police Department	Ratio of Incidents to Number of Officers in Police Department ⁴⁰
0-1+	36	14%	144	25%
2-4+	50	20%	145	34%
5-6+	46	18%	155	30%
7-10+	43	17%	158	27%
11-15+	40	16%	254	16%
16+	36	14%	358	10%
Total	251	100%	1214	21%

The subject officers with two to four years of experience had the highest number of incidents from complaints received between July and December 1995, accounting for 20% of the incidents. The officers with five to six years of experience followed closely with 18% of the incidents. Taking the ratio of incidents to the total number of officers in the Police Department with the respective years of experience, those officers with two to four years of experience accounted for the highest ratio of 34%. Subject officers with five to six years of experience had the second highest ratio of 30% for the six-month period.

Nearly all San José officers with three years or less of experience are assigned to the BFO Patrol Unit, which has more police-to-citizen contact. Consequently, the high contact generates more incidents in complaints. With the passage of time, the officers may transfer out of the Patrol Unit into

⁴⁰This ratio was derived from the total number of occurrences divided by the total number of officers in the Police Department. For example, 36 subject officers (with 0-1+ years of experience when they received a complaint) divided by 144 officers in the Police Department (with 0-1+ years of experience) yielded 25%.

other specialized units. Officers return to the BFO for a minimum of one year after a specialized unit assignment, which is typically three years.

Subject officers with 11 years or more of experience are usually not in units that have high police-to-citizen contact, unless the officers are assigned to the BFO unit. Of the 76 incidents with subject officers that had 11 years or more of experience, 79% (60) were ranked as Officers.⁴¹ The complaint incidents involving officer rankings may possibly stem from units with more police-to-citizen contact. There was a total of 353 Officers with 11 years or more of experience in the Police Department as of December 31, 1995; the ratio comparing the number of incidents to the number of Officers with 11 years or more of experience in the Department was 17% for the last six months of 1995.

XII. STATISTICAL BACKGROUND OF COMPLAINANTS

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

From the data **received between April 17 and December 31, 1995**, there were 140 questionnaires completed by the complainants. When this process was first implemented at both the IPA and the Professional Standards and Conduct Unit (PSCU), the PSCU intake officers did not systematically request the complainants to complete the questionnaire. As complaints can be filed over the telephone, some of the complainants called the PSCU to file their complaints, and the intake officers obtained no questionnaire from them. There were 240 complaints⁴² **received between April 17 and December 31, 1995**; fifty-two (52) complaints were initiated by the IPA and 188 complaints were filed at the PSCU. There may be more questionnaires than complaints received in a

⁴¹The subject officer can be ranked as Officer, Sergeant, Lieutenant, Captain, Dep. Chief, Asst. Chief, or Chief.

⁴²Department-Initiated cases are not included in this number because there are no questionnaires completed for this classification. The 240 complaints include only those complaints classified as Citizen-Initiated, Informal, Procedural, and Policy.

time period because each complaint may have more than one complainant listed. Of the 140 questionnaires received as of December 31, 1995, fifty-six (56) were from the IPA and 84 were from the PSCU. Currently, the process is more systematic in tracking the Voluntary Questionnaire from each complaint, and almost all complainants complete a questionnaire.

The survey asked 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. There were seven questions in the survey.

Type of Referral	To IPA	To PSCU	Total
April 17 - December 31, 1995			
Friend / Organization	20	39	59
Police	7	29	36
Other	11	4	15
City Official	8	2	10
Media	7	2	9
Personal Knowledge	1	7	8
Unspecified	2	1	3
Total	56	84	140

The previous table displays the answer to the first question, ranked by the highest total number of responses. The first question asked how the complainant had been referred to the PSCU or the IPA, whichever office the complainant contacted. Twenty-eight percent (28%) of the complainants were referred to the PSCU and 14% to the IPA by friends or an organization. Of the 36 complainants referred by the Police Department, 81% initiated their complaint at the PSCU and 19% initiated their complaint at the IPA. Eleven percent (11%) of the complainants were referred to the PSCU or the IPA by another source not listed in the Voluntary Questionnaire.⁴³ For example, referrals from this category may include the Public Defender, Homeless Alliance, church, attorney, or the phone book.

⁴³This does not include the Unspecified referrals, in which the question was not answered by the complainant.

Occupation of the Complainants					
April 17 - December 31, 1995					
Architect	1	Homemaker	7	Retail	6
Artist	5	Inspector	1	Retired	2
Assembler	2	Lab assistant	1	Secretary	3
Broker - Real Estate	1	Laborer	6	Security	1
Claims Examiner	1	Landscape	2	Self employed	7
Company President	1	Machine operator	2	Service Rep.	1
Contractor	2	Management	5	Student	19
Custodian	4	Mechanic	1	Teacher	1
Day Care/Preschool	2	Nurse	3	Telemarketer	1
Disabled	3	Occupational Therapist	1	Train Operator	1
Commercial Driver	2	Production Department	1	Unemployed	18
Engineer	7	Restaurant employee	3	Unspecified	16

The second question inquired about the current or latest occupation of the complainant. The above table lists the occupations of complainants in alphabetical order. Occupations were diverse and ranged from business owners to unemployed complainants.

Educational Level	
April 17 - December 31, 1995	
Ninth grade	9
Tenth grade	5
Eleventh grade	9
Twelfth grade	51
College 1	14
College 2	13
College 3	7
College 4+	28
Unspecified	4

Similarly, the third question asked for highest educational level completed by the complainant. The responses ranged from persons who had not graduated from high school to those complainants with advanced degrees. Thirty-six percent (36%) of the complainants graduated from high school, and 44% indicated college education. The level of education of the complainants was higher than the average level of education for Santa Clara County.⁴⁴ Nineteen percent (19%) of the Santa Clara County population reported a high school education, and 31% attended college.

⁴⁴Claritas/NPDC 1992, Population by race, education level - Santa Clara County. Market research firm, 1990 census data for Santa Clara County projected into the current year.

Ethnicity	
April 17 - December 31, 1995	
Hispanic / Latino	56
White	50
African American	17
Asian	5
Native American	3
Filipino	1
Vietnamese	1
Unspecified	3
Other	4

The fourth question asked about the ethnic background of the complainant. The statistics above display the ethnic composition of the complainants, which was predominantly Hispanic/Latino. Forty percent (40%) of the complainants identified themselves as Hispanic/Latino and 36% identified themselves as White/European-American. African American complainants made up 12% of the distribution. Santa Clara County reported a 40% Hispanic/Mexican ancestry.⁴⁵ The County also reported a 76% white population, and a 4% African American population. More African American complainants were reflected in the survey distribution than the population distribution of Santa Clara County.

Primary Language	
April 17 - December 31, 1995	
English	123
Spanish	10
Vietnamese	1
Unspecified	3
Other	3

English was the primary language spoken by 88% of the complainants that completed a Voluntary Questionnaire, and only 7% of the complainants spoke predominantly Spanish.

⁴⁵Claritas/NPDC 1992, Population by race and select ancestries - Santa Clara County. Market research firm, 1990 census data for Santa Clara County projected into the current year. Ancestry may overlap and does not include race groups used for the population distribution.