

2001 YEAR END REPORT



A Report to the San José City Council

Teresa Guerrero-Daley

INDEPENDENT POLICE AUDITOR



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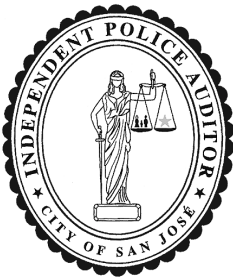
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Independent Police Auditor

March 30, 2002

Honorable Mayor and
Members of the City Council
801 North First Street, Suite 600
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Dear Mayor and City Council Members:

Enclosed is the 2001 Year End Report submitted for your review and approval. This report covers the period from January 1 to December 31, 2001. In addition to comprehensive statistics, this report presents several new issues.

The 2001 Year End Report will be presented at the April 23, 2002 City Council Meeting. If you have any questions or would like an explanation of any portion of this report prior to the city council presentation, please feel free to call me. I welcome your comments and suggestions regarding the improvement of this report.

I would like to thank and acknowledge the IPA staff and the IPA Advisory Committee for their contributions to the development of this report.

Respectfully submitted,

Teresa Guerrero-Daley
Independent Police Auditor

INDEPENDENT POLICE AUDITOR & STAFF



Teresa Guerrero-Daley, Police Auditor - is the Independent Police Auditor for the City of San José. She has experience as a lawyer specializing in criminal law. Prior to becoming a lawyer, Mrs. Guerrero-Daley was an investigator and a Drug Enforcement Agent for the U.S. Department of Justice. Mrs. Guerrero-Daley is a professor and the Vice-Chair of the Board of Trustees at Lincoln Law School. She is also on the Board of Directors of the National Association for Civilian Oversight of Law Enforcement (NACOLE). Mrs. Guerrero-Daley is a recipient of a Women of Achievement Award, of an Exemplary Leadership Award in public service, and a “Breaking the Glass Ceiling Award” from the National Center for Women in Policing .

Steve Wing, Assistant Auditor - Mr. Wing comes to the IPA with more than twenty-four years of public service experience, including work in legal services as a public interest lawyer and service with the City of San José in various capacities, including work as a policy analyst, administrative manager, and equal opportunity director. Mr. Wing was one of the founding members of the Asian Law Alliance, a non-profit legal service agency. Mr. Wing obtained his Juris Doctor from Santa Clara University after obtaining a Bachelor’s degree in Criminology from the University of California, Berkeley.

Vilcia N. Rodriguez, Public & Community Relations - Prior to joining the City of San José, Mrs. Rodriguez worked in the news department at KSTS Channel 48-Telemundo in San José. Mrs. Rodriguez works closely with the community. She is a member of the City of San José Family/Domestic Violence Task Force and the Hispanic Foundation of Silicon Valley. Mrs. Rodriguez holds a bachelor's degree in Spanish with an emphasis in News Production from Pepperdine University.

Alfred J. Morales, Citizen Complaint Examiner - Mr. Morales retired as Detective Sergeant from a Bay Area law enforcement agency after 26 years of service. He helped develop and host a local government channel community outreach television program that aired for over five years. Mr. Morales was a major contributor to the development of a Mayor’s Anti Gang Task Force. Mr. Morales is a certified instructor at the South Bay Regional Public Safety Consortium, Police Academy, and he has also worked as a part time teacher at a local high school. Mr. Morales is retired from the United States Army Reserve Components as a First Sergeant with 24 years of service. Mr. Morales attended San José State University and Saint Mary’s College. Throughout his career, Mr. Morales has put much of his efforts in educating the public and bringing the community and law enforcement together for a collaborative, joint effort approach to issue resolution. Mr. Morales has spent all of his adult life in public service.

Kit Kwan, Data Analyst - Mr. Kwan joins the IPA with two years of public service experience from the Building Division in the City of San José. Mr. Kwan speaks fluent Cantonese with some knowledge of Mandarin. He works actively with the Asian community. Mr. Kwan received his bachelor’s degree in Accounting and Management Information Systems from San José State University.

Marifel Juan, Office Specialist - Ms. Juan is currently attending DeAnza College and will soon be transferring to San José State University where she will seek a degree in Business. Ms. Juan has been involved in recreational activities for younger children. Ms. Juan takes pleasure in helping the community.

ACKNOWLEDGEMENT

INDEPENDENT POLICE AUDITOR ADVISORY COMMITTEE

MISSION

The Mission of this group is to assist the Office of the Independent Police Auditor by providing information on ways to improve the police complaint process, by helping promote public awareness of a person's right to file a complaint, and by increasing police accountability to the public by the San José Police Department.

PURPOSE & OBJECTIVES

The purpose is to identify, mobilize, and coordinate resources to assure maximum public, private, agency, and individual commitment to provide effective police oversight.

The objectives are to:

1. Promote the mission of the IPA, and inform the IPA of the needs/problems of various communities.
2. Promote the maintenance and improvement of standards of quality of police oversight in the City of San José.
3. Increase the forums, sources, and methods of informing the public about the complaint process.

PARTICIPATION

Participation is exclusive to those individuals selected by the Independent Police Auditor and who reside, do business, or have significant human interest in police oversight for the City of San José or neighboring community. The IPA will call meetings on an average of three (3) times per year.

INDEPENDENCE OF THE POLICE AUDITOR

The Police Auditor shall, at all times, be totally independent, and requests for further investigations, recommendations, and reports shall reflect the views of the Police Auditor alone. No person shall attempt to undermine the independence of the Police Auditor in the performance of her duties and responsibilities as set forth in the San José Municipal Code Section 2.06.020.

INDEPENDENT POLICE AUDITOR ADVISORY COMMITTEE MEMBERS

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Ahmad Al-hewel

Member of the South Bay Islamic Association.

Tony Alexander

Past president of the NAACP, San José Branch. President of the Silicon Valley African American Democratic Coalition.

Rose Amador

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President of the NAACP, San José Branch. Member of the San José Silicon Valley Chamber of Commerce, the SCC Network for a Hate Free Community, and the Anti-Tobacco Youth Coalition.

Bob Dhillon

Member of the McLaughlin Corridor Neighborhood Association, the SCC Association of Realtors, and the American Sikh Association.

Minh Steven Dovan

Hosted Vietnamese television talk show from 1985-1997. Former member of the Judicial Council Advisory Committees on Racial/Ethnic, Bias, and Interpreters.

Larry Estrada

Attorney for the United States Postal Services.

Paul Feci

Chairman of the San José Human Rights Commission. Vice President of United Food Commercial Workers Union, South Bay AFL CIO Labor Council.

Victor Garza

Chairman of La Raza Roundtable. Member of the American G.I. Forum and the CTC Board of Directors.

Dr. Roy Gilbert-Higginson

Member of the SCC Network for a Hate Free Community, the SCC Suicide Prevention Task Force, and the South Bay Safe School Coalition.

Aminah Ayoola Jahi

Member of the Alliance of African American Community Organization. Past president and member of the NAACP, San José Branch.

Kenneth D. Lee

Member of the Korean IT Network, the Korean Americans for Political Empowerment, and the Korean-American Professional Society.

Craig Mann

Member and past president of the East Side School Board. Member of the Board of Directors of MACSA.

ACKNOWLEDGEMENT

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Member of the Latino Advisory Committee for San José Unified School District, the National Council on La Raza, and Chair of the Community Child Care Council.

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Wiggy Siversten

Member of the SCC Domestic Violence Council and the Safe School Coalition. Board Member of the Bay Area Municipal Elections Committee.

Jennifer Tait

Member of Friends Outside National Organization, Families & Corrections, and the American Jail Association.

Alfredo Villaseñor

Member of the CA Child Care Resource & Referral Network, the CA Alternative Program Payment Association, and the Child Development Policy Institute.

Gertrude Welch

Member of the Criminal Justice Committee of the Hate Free Community Network, the Interfaith Council, and the Council on Churches.

Gary L. Wood

Board Member of the Citizen Tribunal. Member of the Human Rights Defense Committee and the Santa Clara County Human Relations Commission Justice Task Force.

Bill Yaeger

Member of the Master Composters of SCC and the Home Church in Campbell. Volunteer in the Second Harvest Food Bank.

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EXECUTIVE SUMMARY

CHAPTER ONE INTRODUCTION

A critical social issue that is of great concern to many people is the relationship between the police and the community. Police misconduct is a serious issue that deeply impacts the trust and support the public will have in its police department. The Independent Police Auditor (IPA), in cooperation with the San José Police Department (SJPD), serves to assure the residents of San José that adequate mechanisms are in place to thoroughly investigate citizen complaints.

FUNCTIONS OF THE IPA

The IPA has three primary functions: (1) it serves as an alternate office where people may file a complaint, (2) it monitors and audits the investigations of citizen complaints conducted by the SJPD; and (3) it promotes public awareness of a person's right to file a complaint. The IPA's primary objective is to provide independent civilian review of the citizen complaint process and to bring about change through the policy recommendations it makes.

REPORTING REQUIREMENTS

The IPA reports are prepared on an annual basis however, starting this year, the IPA will be required to prepare a midyear statistical report. This Year End Report covers the period from January first through December thirty-first of 2001. This is the fourteenth report prepared by the IPA pursuant to the requirements of the San José Municipal Code Section 2.06.020 (c). This section states that the IPA's report shall contain, but not limited to the following:

- 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; and
- C. Specific recommendations for change.

CHAPTER TWO

NEW ISSUES AND RECOMMENDATIONS

One of the most important functions of the Independent Police Auditor (IPA) involves identifying patterns and trends that will serve as the basis for the recommendations made to the San José Police Department (SJPD). These patterns and trends are identified through analysis of the data extracted from citizen complaints. Some of the IPA recommendations result from a significant number of complaints alleging similar misconduct, while other recommendations are corollary to concerns raised in complaints but have a significant impact on the SJPD. Every year, the IPA selects certain issues to research and bring forth in the year-end reports published by this office.

In this report, the IPA focuses on two issues: “Improvements Needed at the SJPD Information Center” and “Strategies in Recruitment and Retention.” The first issue addresses the need for customer service training and the overcrowding that exists at the SJPD Information Center. The second issue addresses the need to recruit and retain officers with excellent communication and interpersonal skills.

IMPROVEMENTS NEEDED AT THE SJPD INFORMATION CENTER

As a result of several reported and personal experiences and observations, the IPA decided to examine the operational procedures, policies, and training associated with the SJPD Information Center (Front Desk). At the outset, the IPA recognized that the police officers assigned to the front desk of the SJPD Information Center work in a stressful environment and deal with a wide range of people, from emotionally distraught victims, to suspects, to visitors who are there merely for business purposes. The IPA also recognized that the behavior of these officers has a major impact on the impression the public will have of the San José Police Department.

The IPA review of this subject revealed that being assigned to work as a front desk officer is not held in high esteem by other members of the SJPD and in law enforcement, in general. The IPA found that the lack of status for this assignment creates a training challenge in motivating desk officers to apply good customer service skills and techniques. It was also discovered that other factors exist which contribute to this situation, including the difficult duties and work environment for desk officers, the bidding process resulting in officers with the least amount of seniority and experience being assigned to work the front desk, the lack of incentive or premium pay for desk officers, and the limited training officers receive before being assigned to the front desk.

The IPA also noted that conditions for customers of the SJPD Information Center need improvement and described the following situations: the lobby is often overcrowded and uncomfortable; it is not easy to determine whether you are waiting in the proper line or where you should go to obtain the particular service needed; and families with small children and others must wait for long periods of time in the same confined area as convicted violent offenders and suspects who may be self-surrendering themselves for minor or serious crimes.

To address these needs, the IPA makes several recommendations in the area of modifying procedures, expanding the lobby, expanding customer service training, making safety improvements, and providing more opportunities for professional development for desk officers.

STRATEGIES IN RECRUITING AND RETENTION

POLICING IS ABOUT PUBLIC SERVICE

The City of San Jose, like many other cities across the country, established community or service-oriented policing, which emphasizes communication and cooperation with citizens as well as informal problem solving. Fostering strong partnerships between the public and the police has led to making the City of San Jose the safest large city in the nation with the lowest crime rate. Of the 525,000 citizen and police contacts that occurred in 2001, less than 5% resulted in an arrest. The remainder involved police officers performing service oriented functions requiring varying degrees of communication with members of the public.

Since the police spend 95% of their time handling service related calls, it stands to reason that the San Jose Police Department (SJPD) recruit and hire officers with strong communication and interpersonal skills. It is a known observation that there is a direct correlation between officers who seldom generate citizen complaints, lawsuits or pre-lawsuit claims, with officers possessing strong people skills.

Research conducted in the United States and internationally indicates that female officers utilize a style of policing that relies less on physical force and more on verbal skills.¹ According to studies conducted by the National Center for Women and Policing (NCWP), female officers are more successful at defusing potentially violent confrontations, and are less likely to become involved in the use of excessive force. Female officers often successfully resolve situations that might otherwise lead to allegations of excessive force, by

using tactics and techniques that de-escalate potentially violent situations.²

In a study conducted by the Feminist Majority Foundation and NWCP, about the Rampart scandal, their study revealed that there was a significant gender gap in the cost of police brutality and misconduct as a result of civil liability against the Los Angeles Police Department (LAPD). Male officers were involved in excessive-force and misconduct lawsuits at rates disproportionately higher than their female counterparts.³ The City of Los Angeles paid out at a rate of 23 to 1 for male officers vs. female officers even though the male to female ratio is 4 to 1 for the patrol division.⁴

More than ten years ago, the Christopher Commission⁵ recommended that the LAPD hire more women as a means of reducing police brutality. This recommendation followed an already existing federal consent decree known as the Blake Decree, which set hiring goals for women, Hispanics and African-Americans.

The IPA examined statistical data to assess whether there is any indication that less complaints result from enforcement actions taken by San Jose female officers, whether this is attributed to better communication skills, and how to attract a higher percentage of female applicants to the SJPD force.

METHODOLOGY

In preparing this analysis, the IPA reviewed different sources of information. A review of all citizen complaints filed in the last five years was conducted. In addition the number and type of lawsuits and city claims were examined. Current recruiting and retention policies, procedures, written materials, and approaches were studied. Interviews were conducted with selected members of the San Jose Police Department. Information from other law enforcement agencies was also examined. The primary reference tool used to prepare this report was the publication entitled "Recruiting and Retaining Women," published by the National Center for Women & Policing (NCWP).

STATISTICAL ANALYSIS

An analysis of citizen complaints from 1997 through 2001 was conducted. During this time period a total of 1,379 complaints were filed and of those only 5% were filed against female officers. Female officers comprise 9% of the San Jose Police Department. A further breakdown of those complaints revealed that of the 728 Unnecessary Force allegations, only 2% were filed against female officers. Also, of the 210 complaints

that were sustained in the last five years, only 5% were sustained against female officers.

The IPA also examined lawsuits and claims filed against the City of San Jose resulting from a police action. In the last three years, 1999 through 2001, there were 89 lawsuits that resulted from a police action. Individual police officers were named as defendants in only 41 of these lawsuits and only two of these officers were female.

Claims are separate actions from lawsuits however, some claims did result in subsequent lawsuits. For the two years of data reviewed, 2000 and 2001, there were a total of 78 claims. In 18 claims, no specific officer was named. Of the remaining 60 claims, there were 63 officers named and of those, only three were female.

The data above indicates that quantitatively, female officers generated fewer citizen complaints, had fewer Unnecessary Use of Force allegations, were named less often in law suits, and were named less frequently in pre-lawsuit claims against the City of San Jose.

UNDER-REPRESENTATION OF WOMEN IN POLICING

The San Jose Police Department has made significant advances in recruiting, retaining, and promoting women in the last ten years. The leadership of the San Jose Police Department is committed to increasing the number of female officers. There is a total of 132 female officers and approximately 11% are part of the command staff. Currently, there are nine Sergeants, four Lieutenants, and one Deputy Chief serving in the San Jose Police Department. Two of the three department recruiters are women.

Even with all these efforts, representation of women in the SJPD is still low. The optimum goal would be to have the percentage mirror the female workforce of the County of Santa Clara, which is 46%. Women comprise 9% of the total police force and in the past five years the percentage of women in the SJPD has only increased by 1%. Nationwide, women average between 13% and 15% of sworn law enforcement personnel in cities of over 100,000 population.

RECRUITMENT STRATEGIES

Traditional recruitment strategies throughout the country have failed to emphasize those areas that are of particular concern to women such as mentoring, support groups, acceptance by their male colleagues, opportunities for advancement, and maternity-family leave related issues. Organizations like the Feminist Majority Foundation and the National Center for Women & Policing (NCWP) under the direction of retired Chief Penny E. Harrington, have spent many years studying and creating comprehensive tools to address the recruitment, hiring, and retention of policewomen.

A review of the job descriptions posted on the internet by several law enforcement agencies including the San Jose Police Department, revealed that they all list similar minimum. Only one agency incorporated in its job description other dimensions suggested by the Peace Officers Standards & Training (POST) such as: Interest in people, interpersonal sensitivity, communication skills, problem solving ability, good judgment under pressure, integrity, and credibility as a witness.

According to the National Center for Women & Policing, the key to developing the best job description for the position of a law enforcement officer, is to emphasize the value the organization places on community policing and detail the skills and duties required to successfully implement community policing.

Recruitment materials should be reviewed and designed so that it is clear that the SJPD values having women serving in all capacities. Recruitment materials should prominently display women in a variety of law enforcement assignments. These materials should also acknowledge and reinforce the importance of family and the reality that many officers have spouses working in the same profession and/or agency.

PROMOTIONAL ADVANCEMENT FOR WOMEN

While men and women join the police department for similar reasons, the reasons for leaving may be different. The reasons female officers leave may be due to family related issues such as the birth of a child, childcare problems, shift work, and challenges with children entering school. While family related challenges are not exclusive to women, the impact is greater to an already small pool of female officers.

Policies should be in place to ensure that officers are not leaving the SJPD because of a lack of opportunity for assignment into specialized units. Specialty units offer new challenges and experiences that expand the scope of an officer's background and which directly impact promotional opportunities.

A concern expressed by some sergeants, is that there is no written mandate that openings, for sergeants into specialized units, be posted or open to all qualified candidates. While the San Jose Police Department's Sergeant Transfer Policy does not explicitly require that openings be formally announced, the police department for years has encouraged a practice consistent with the transfer policy for officers that does require posting. The goal is to make assignments to all units open, accessible and gender neutral.

In order to attain this goal, the SJPD should address the following: how job openings are posted, the application process, how to expose all sergeants to different unit commanders, how to increase the pool of eligible candidates, and how to ensure that all candidates are fairly considered for the assignments.

CONCLUSION

Statistical data analyzed by the IPA revealed that, in proportion to the number of female officers represented in the SJPD, female officers received significantly fewer citizen complaints and had less complaints sustained against them. Female officers had less allegations of using excessive force. In addition, female officers were named less frequently in lawsuits, and generated fewer pre-lawsuit claims. With the limited research conducted by the IPA, it cannot be concluded that the low number of complaints and lawsuits generated by female officers is based on gender. However, in assessing the totality of the research and the data collected, there is a baseline of information from which to infer that female officers at the SJPD may have used a more conciliatory approach to policing and may possess a higher degree of communication and interpersonal skills.

In addition, ongoing training for all officers to better develop their communication skills, which are also known as perishable skills, is recommended. Emphasis in communication and interpersonal skills is intended to augment officer safety training because it must be acknowledged that there are those calls police officers respond to where no degree of communication skills will peacefully resolve the situation. In the Independent Police Auditor's (IPA) 1999 Year End Report, the Auditor recommended that the SJPD provide training to improve officer's basic, day to day communication skills. A pattern that was detected in analyzing citizen complaints was that the genesis of the complaint was attributed to a breakdown in communications between the officer and the citizen. A two hour "Tactical Communication" class was designed for the purpose of improving the officer's approach and interaction with the public. All officers, including command staff, attended this training which, has now been adopted as part of the continuing professional

training.

The information reviewed also found that the department has made, over the past several years, ongoing improvements to its recruiting efforts and is currently working to further refine those efforts. Some targeted efforts, however, have been precluded by recent changes in the law restricting affirmative action practices. Still, the success rate of community policing can be increased by incorporating additional approaches to policing such as practicing a more conciliatory, less aggressive style of policing. The changes advocated above and the recommendations below, in recruitment and retention policies, are not intended to establish preferential treatment for women. Rather, these changes simply make sure women are included in all phases of recruitment in order to increase the quality and quantity of SJPD applicants. Similarly, the retention recommendation will improve the work-life and work atmosphere for all officers.

RECOMMENDATIONS

1. Develop job descriptions that also include those skills necessary to effectively implement community policing such as communication, conflict resolution, and interpersonal skills.
2. Design and implement recruiting strategies that address family related issues.
3. Revise the policies governing sergeant transfer opportunities to require that openings be posted, and that the application and selection process provide all candidates a fair opportunity for the assignment.
4. Continue to develop and provide training in communication and interpersonal skills.

END NOTES

¹ National Center for Women and Policing

² Men, Women, and Excessive Force: A Tale of Two Genders, Dr. Kimberly A. Lonsway.

³ Los Angeles Times, October 2, 2000, "More Women in the Ranks Would Stem LAPD Brutality"

⁴ Men, Women, and Excessive Force: A Tale of Two Genders, Dr. Kimberly A. Lonsway.

⁵ The Christopher Commission was appointed to investigate allegations of police brutality by the LAPD following the Rodney King incident. This commission analyzed all of the use of force reports, citizen's complaints, and lawsuits involving excessive force against the LAPD.

CHAPTER THREE

UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

This chapter contains updates on prior recommendations made by the Independent Police Auditor (IPA). The IPA tracks all prior and pending recommendations until a final resolution to each recommendation is reached. In addition, random audits to measure compliance with prior recommendations are also reported in this chapter.

PROVIDING THE PUBLIC INFORMATION ABOUT THE IPA AND COMPLAINT PROCESS

In the 1995 Mid-Year Report, the IPA recommended that the San Jose Police Department educate and train command staff, all officers, and dispatchers on the purpose and functions of the Office of the Independent Police Auditor, including where a complaint could be filed. During the 2001 calendar year, IPA staff called three different SJPD telephone numbers to determine if proper information was being provided to the public about the IPA, IA, and the procedures for filing a misconduct complaint against a SJPD officer. IPA staff called SJPD telephone numbers that members of the public would most likely call for this type of information, including the SJPD Watch Commander, the 311 non-emergency extension and the Bureau of Field Operations.

None of the calls produced a correct referral to either the Internal Affairs Unit or the IPA nor was any information provided about how a misconduct complaint could be filed. In only one case was the caller referred to the IPA office and in that case the wrong number was provided.

RECOMMENDATION

To ensure that accurate and updated information is being provided to the public about the citizen complaint process and the functions of IA and the IPA, an on-going training program for all SJPD staff members, especially those who are in positions to provide information to the public, should be instituted and maintained. Information should be available within the SJPD Lobby officer's duty station, so that officers can provide the public with expedient and accurate information. Desk officers working this station who are not able to locate the necessary information to make the proper referrals should direct the caller to the Customer Service Call Center (277-4000). The SJPD should adopt a procedure that directs all San Jose police representatives who receive a citizen complaint, or potential complaint, to refer that citizen to the on-duty Watch Commander, Internal Affairs Unit, or the Independent Police Auditor.

ETHICS & INTEGRITY STANDARDS

In the 2000 Year End Report, the IPA recognized that public trust in police is defined as having a strong reliance on the integrity, ability, and character of the police. It can only exist when the police execute their duties fairly, courteously and with no more force than necessary. Last year's report reviewed the ethics and integrity standards of the SJPd and found them to be aligned with those of the community, in large part, because Chief Lansdowne requires that all members of the SJPd take the four hour ethics training class offered by the department.

However, the IPA felt there needed to be a better way for the SJPd to evaluate the effectiveness of this training program and the overall ethical conduct of its officers. To address this need, the IPA recommended that the SJPd implement a process by which the police department can assess the current knowledge, attitudes, or views of police officers towards the required ethical conduct expected of each officer.

The IPA, in conjunction with the SJPd, has developed a survey form that is based on a successful program utilized by the Research and Preventative Division of the Australia Criminal Justice Commission. This survey is designed to measure attitudinal changes in ethical conduct by regularly administering the survey to recruits, first year and experienced officers. It is anticipated that the SJPd will begin administering the survey in the 2002 calendar year.

To further develop an environment where employees would feel encouraged to report misconduct, the IPA also recommended that the SJPd incorporate the federal Whistleblower guidelines and develop a comprehensive Whistleblower policy. However, the SJPd felt that since SJPd employees were already subject to the same local, state or federal requirements that are applicable to all City employees, a separate policy for police employees was not necessary.

Having adopted the IPA's recommendations, the SJPd now includes the following statement in all printed complaint materials, "Retaliation against complainants is prohibited. The Chief of Police will not tolerate retaliation and immediate action will be taken if an officer retaliates against a complainant directly or indirectly." Also, the SJPd continues to require that all officers from patrol officers to the Chief of Police receive the department's four-hour ethics training.

VEHICLE STOP DEMOGRAPHICS

Since July 1, 1999, the SJPD has been collecting data that identifies the ethnicity, gender, and age of every individual who is the subject of a vehicle stop by a San José police officer. The action taken against the driver as a result of the stop and the location of the stop is also tracked. The SJPD was one of the first major city police departments to voluntarily undertake this type of data collection effort in response to community concerns that officers engaged in racial profiling and conducted pretext stops of minority community members.

This data was analyzed by the SJPD in their report, Vehicle Stop Demographic Study for the period of July 1, 1999 to June 30, 2000, and they concluded that the data indicated that its officers do not engage in racial profiling. The IPA's analysis, however, determined the data indicated that Hispanics were stopped in certain areas of the City at a higher percentage than their population percentage and that further review was needed. Data from subsequent years would also be important to track in order to determine if any trends supported either analysis. However, a comparative analysis with data from July 1, 2000 to June 30, 2001 is yet to be done by the SJPD. It is recommended that the SJPD should compile and review vehicle-stop data on an annual basis and prepare a report to the City Council with this information.

Last year, while acknowledging that the SJPD was one of the first law enforcement agencies to collect vehicle stop data, the IPA recommended that the SJPD expand the types of data collected to include search and arrest data similar to the San Diego and Sacramento police departments. This data would provide a more detailed and reliable data to determine whether or not Hispanic or African Americans are being racially profiled.

However, it was anticipated at that time that the state would enact legislation that would require all law enforcement agencies to gather and report vehicle stop data. Therefore, the IPA agreed to place on hold its recommendation that the SJPD expand the fields of data collection to include search information, the factual basis for a stop, and the action taken by the officer as a result of the stop. Since it now appears that the state will not adopt such legislation, the IPA renews this recommendation and the SJPD should move forward to implement this recommendation.

OFFICER INVOLVED SHOOTINGS

The IPA has continued to participate as a member of the Officer-Involved Shooting Incident Training Review Panel, a formal process recommended by the IPA in 1998. This panel reviews all police shootings resulting in injury or death. The purpose of this review process is to determine if any training needs exist or if any changes need to be made to a current police policy or procedure.

In 2001, there were four officer-involved shootings, two of which resulted in fatal wounds to the suspect. In two of the four cases, the suspects were armed with weapons other than firearms. The suspect in one of these cases was injured, but the suspect in the second case was mortally wounded. Since both of these cases occurred late in the year, the review panel has not yet had the opportunity to review them.

However, even without a review of these cases, the IPA feels it is still important to re-emphasize one of our recommendations from last year that addresses this type of case: *“when suspects are not armed with a firearm, officers may have an opportunity to use alternatives other than shooting if they are not in imminent danger. In these situations, it is important to have less lethal weapons readily available. Retreat is not legally required but is an alternative in cases where officers need time to reassess the situation.”*

In the 2000 Year End Report, the IPA recommended that the SJPD continue to identify less lethal weapons, make them more readily accessible to officers and to provide more training in handling suspects with weapons other than firearms and suspects with mental illness histories. During the past year, the SJPD has expanded the number of less lethal weapons available to officers, such as the “L-8,” a shotgun-type weapon that fires a large 40 millimeter projectile which is designed to disable a suspect without killing or seriously injuring the suspect. The SJPD has also continued to improve and expand its force-option training. This training allows officers to react to live computer generated simulations that can be altered as the simulation progresses.

CITIZEN REQUEST FOR OFFICER IDENTIFICATION

This has been a long-standing issue for the IPA as it was first raised in the IPA 1997 Year End Report. Unfortunately, there has not been a significant reduction in the number of cases where this allegation has been raised. In 2000, there were 18 officer failure to identify cases. In 2001, there were 19 such cases. In 2000, the IPA recommended that the SJPD Internal Affairs Unit formally investigate allegations of officers refusing to identify him/herself under an Improper Procedure allegation.

Since there still has not been a reduction in this type of case, the IPA recommends that these cases continue to be formally investigated. The IPA also recognized that many of these cases result in a finding of "Supervisor Review" which does not imply that the subject officer did or did not commit the transgression as described by the complainant. The purpose of the Supervisor Review process is to provide an informal counseling opportunity between the subject officer, the subject officer's direct supervisor, and a supervisor from the Internal Affairs Unit.

During these meetings, the IA supervisor should stress the importance of complying with the requirements of Section C1409 of the Duty Manual and that even if the officer may have met the spirit of the rule, (i.e., writing name and badge number on the citation) officers are expected to strictly comply with its requirements and either provide the requesting citizen a department approved Incident Card with the officer's name and badge number or a department approved business card.

MEDIATION PROGRAM

As proposed by the IPA in 2000, the Mediation Program would be an alternative to the formal complaint investigation process that would allow the complainant and the subject officer to engage in meaningful dialogue with the hope of providing a resolution to the complaint. After completing a feasibility study, the SJPD and the IPA continued work in 2001 to design a pilot program in which members of the Judicial Arbitration and Mediation Services (JAMS) would act as mediators.

Mediation would only be recommended and intended to resolve those complaints where the misconduct alleged is minor, where the complaint is about demeanor, or where there is a misunderstanding about an enforcement action, a neglect of duty, or a police procedure. The process that was developed requires that complaints must meet strict criteria in order to qualify for consideration by the Voluntary Mediation Program. The key elements are that detailed reports articulating the circumstances surrounding the complaint must have been submitted, all parties involved must have voluntarily agreed to the process, and each agrees to maintain its confidentiality.

Update: Guidelines and procedures for the use of the mediation process were developed and adopted and the first mediation case was scheduled by the end of 2001.

CHAPTER FOUR

COMMUNITY OUTREACH

One of the three primary functions of the IPA is to increase community awareness of the citizen complaint process. This component is one element that sets this office apart from other police oversight models. Other police oversight models do not have community outreach as part of their primary functions.

In 2001, the IPA participated in 50 community events, which included eight presentations to the youth and three training sessions to San José Police officers. The IPA conducts surveys at every community presentation to identify those communities not familiar with the IPA and to learn more about the needs of the residents. In 2001, 74% of those surveyed said that they felt comfortable filing a complaint against a police officer. 65% said they have in the past wanted to file a complaint. Over 70% reported that they have called for police service and some had requested information from the police department or a police officer in the past three years. Residents were also asked to rate their major police concerns in their neighborhoods and communities. Police accountability to the public was rated as number one, followed by gangs, traffic, and burglaries/robberies. Juvenile crimes, police patrol, and graffiti were last.

WORKING WITH THE YOUTH

As in past years, the IPA focused resources in reaching out to the young adult community in San José. The IPA worked with various high schools and agencies that serve the youth in coordinating presentations to provide information about topics such as police practices and the different ways to file a complaint. The IPA was also able to dispel misconceptions about the law and police practices as well as provide the youth with suggested behavior when interacting with the police, thus helping to prevent conflict between the youth and the police.

REFERRAL SITES

This is the third year for the IPA referral sites program. Referral sites are located throughout the City, with at least one in every council district. Preferred locations for referral sites are community centers or other places frequently visited by the public. The goal of the referral sites is not to perform the duties of the IPA office, but to serve as information centers for residents who may be seeking information on the citizen complaint process.

This past year, the IPA added five new referral sites to its list of participants bringing the total to 36 referral sites city-wide. The first referral site was established in District 1, and more referral sites were added in Districts 3, 5, and 6. The IPA is also working with the San José Library and Fire Department by having IPA brochures available at 17 branch libraries and 31 fire stations.

PROFESSIONAL RECOGNITION

As one of the recognized experts in the profession of police oversight, the IPA continues to be contacted by other cities throughout the country for information about the IPA program. Representatives from the cities of Omaha, Nebraska; Austin, Texas; Providence, Rhode Island; and Fresno and Long Beach, California each interested in establishing or improving their own police oversight functions, invited the IPA to meet with their city officials and community leaders to provide information about San José's program.

CHAPTER FIVE YEAR END STATISTICS

This chapter provides a review of the complaint process, an explanation of the case classification definitions, and information about the different types of cases and complaints that were received in 2001. It provides statistical information about the allegations in the complaints, the findings for the investigations of these complaints, and the discipline imposed.

In 2001, there was a total of 461 cases received, which is a 34% decrease from the 694 cases received in 2000. Of these cases, 143 were classified as Formal complaints, which are those cases that contain serious misconduct allegations. This is a decrease of 77 Formal complaints from 2000. Similar statistical data is provided for Formal cases with Unnecessary Force allegations with a further breakdown of the type of injuries received by complainants.

In addition to data about Formal complaints, a variety of other data is provided including the number of complaints that were sustained after investigation, the number of complaints that were audited by the IPA; the number of cases audited in which the IPA requested further action, the number of complaints where the IPA disagreed with the findings of the SJPDP, the number of each type of discipline that was imposed in 2001, and the number of officers that received Intervention Counseling

CHAPTER SIX

CASES BY COUNCIL DISTRICT

In this chapter, the Council District charts show cases and allegations in their respective City Council Districts. Typically, the highest number of cases (132 or 29% of all complaints) is generated in District 3, largely because of the diverse activities generated in the downtown area. District 5, a neighboring district, has the second highest number of cases with 46, and District 6 is a very close third highest with 45 cases.

CHAPTER SEVEN

STATISTICAL BACKGROUND OF THE SUBJECT OFFICER

Various types of statistical data concerning police officers receiving complaints are presented in this chapter. In 2001, 334 (24%) of the 1379 San José police officers received citizen complaints. Of the 334 officers receiving complaints, female officers received 15 or 4% of the complaints, which is lower than the 9% female make up of San José police officers.

The data also indicates that San José police officers received complaints by ethnicity in numbers comparable to their ethnic make up of the San José police force. For example, European American officers received 58% of the complaints and they represent 55% of the police force; Hispanic/Latino officers received 31% of the complaints and they represent 26% of the police force; and Asian American officers received 9% of the complaints and they represent 8% of the police force.

CHAPTER EIGHT

BACKGROUND OF COMPLAINANT BY COUNCIL DISTRICT

This chapter provides a visual representation of the background of the complainants for 2001. This information is gathered from a voluntary questionnaire complainants are asked to fill out. 121 male and 84 female complainants responded by returning the survey for a sample of 205 complainants. The data from this sample indicated, among other things, that complainants of Hispanic/Latino ethnicity filed 34% of the complaints; European American complainants filed 28%, and African American complainants filed 22% of the complaints. Other data presented concerns the Council district, age, educational level, and occupation of the complainant.

CHAPTER 1

INTRODUCTION

A critical social issue that is of great concern to many people is the relationship between the police and the community. Police misconduct is a serious issue that deeply impacts the trust and support the public will have in its police department. The Independent Police Auditor (IPA), in cooperation with the San José Police Department (SJPD), serves to assure the residents of San José that adequate mechanisms are in place to thoroughly investigate citizen complaints.

The Office of the Independent Police Auditor (IPA) was established in 1993 and, through a vote of the residents of San José, became a chartered office in 1996. The IPA's auditor model started a new trend for civilian oversight. The IPA has received national recognition for its innovative approach to civilian review of police practices. This office has served to mentor cities across the country looking to

implement civilian oversight of the citizen complaint process.

The success of the IPA is attributed to the working relationship it has developed between the police department and the police auditor's office. Both entities work independently but in a true spirit of cooperation. Over 90% of the police auditor's recommendations have been adopted and implemented by the San José Police Department.

The events of September 11, 2001, impacted our nation in many ways and in particular, raised our consciousness about threats to our personal safety and the safety of our cities from a type of threat we had not experienced. During 2001, the San José Police Department continued to make significant gains in approval and confidence in the community at large. There was greater police presence at various locations throughout our city; however,

citizen complaints did not increase, even in places with heavy police presence such as the airport. On the contrary, for a second year in a row, complaints declined by 30 %.

The IPA, in its eighth year, continues to strengthen the oversight process in what has become a systematic, impartial, and thorough review. Not only are the investigations examined, but also the manner in which services are provided to the residents of San José by the IPA and by the San José Police Department (SJPD). The City of San José is ranked as the safest large city in the country. In addition to safety, a mutual goal is to rank as the city that provides police services in the most courteous and professional manner.

FUNCTIONS OF THE IPA

The IPA has three primary functions: (1) it serves as an alternate

office where people may file a complaint, (2) it monitors and audits the investigations of citizen complaints conducted by the SJPD; and (3) it promotes public awareness of a person's right to file a complaint. The IPA's primary objective is to provide independent civilian review of the citizen complaint process and to bring about change through the policy recommendations it makes.

REPORTING REQUIREMENTS

The IPA reports are prepared on an annual basis however, starting this year, the IPA will be required to prepare a midyear statistical report. This Year End Report covers the period from January first through December thirty-first of 2001. This is the fourteenth report prepared by the IPA pursuant to the requirements of the San José Municipal Code Section 2.06.020 (c). This section states that the IPA's report shall contain, but not limited to the following:

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; and

C. Specific recommendations for change.

CONTENTS OF THIS REPORT

Citizen contacts are reported this year by dividing them into serious and minor complaints, and into cases that are resolved without giving rise to a complaint. The handling from beginning to end of each type of complaint is thoroughly covered in this report. Two new areas were examined in this report: the Information Center, and Recruiting and Retention Policies. Public outreach and the expansion of the IPA into the neighborhoods are also reported. As in every IPA report, pending issues and recommendations are carried forward every year and the status of these recommendations is reported.

CHAPTER 2

NEW RECOMMENDATIONS

One of the most important functions of the Independent Police Auditor (IPA) involves identifying patterns and trends that will serve as the basis for the recommendations made to the San José Police Department (SJPD). These patterns and trends are identified through analysis of the data extracted from citizen complaints. Some of the IPA recommendations result from a significant number of complaints alleging similar misconduct, while other recommendations are corollary to concerns raised in complaints but have a significant impact on the SJPD. Every year, the IPA selects certain issues to research and bring forth in the year-end reports published by this office.

In this report, the IPA focused on two issues: "Improvements Needed at the SJPD Information Center" and "Strategies in Recruitment and Retention." The first issue addresses the need for customer service training and the

over crowding that exists at the SJPD Information Center. The second issue addresses the need to recruit and retain officers with excellent communication and interpersonal skills.

IMPROVEMENTS FOR THE INFORMATION CENTER

INTRODUCTION

In both private and public service, the job of a front desk professional is anything but easy. Police officers assigned to work the front desk of the Information Center of the San José Police Department (SJPD) face personal and professional challenges every day. Front desk officers work in a stressful environment and deal with a wide range of people, from emotionally charged victims, to suspects, to visitors who are there merely for business purposes.

Front desk officers are required to meet the demands of multiple

duties, which include paperwork, phone calls, and walk-ins. That is a tall order to ask of any one person. Nevertheless, officers in charge of the front desk must carry out one of the most important duties in the police department in a courteous and helpful manner. Because officers assigned to work the front desk are the first person many visitors come in contact with, the impression these officers make has a major impact on the impression the public will have of the San José Police Department.

SELECTION PROCESS AND TRAINING

The police profession, for the most part, has not held the position of Desk Officer in high esteem, nor has it recognized that this position also requires specialized training and selection of officers who possess excellent communication and interpersonal skills. Most Desk Officers rarely receive positive reinforcement

from police peers or command staff and seldom do these officers receive letters of commendation from the public. On the contrary, in some police departments officers assigned to front desk duties are viewed unfavorably and have been referred to as the “House Mouse” and other derogatory names by police officers. The lack of status towards this assignment creates a training challenge in motivating Desk Officers to apply good customer service skills and techniques.

The San José Police Department (SJPD) has a bidding process for officers to request assignment to specialized units. Working the front desk is seldom a choice of most officers. The officers assigned to work the front desk at the police department include officers that have recently completed their probationary period but are often among the officers with the least experience. This is not a new officer’s choice of assignment since often their preference is to work on patrol. Desk Officers are allowed to work on patrol one day every other

week. Desk Officers do not receive incentive or premium pay as do other assignments such as MERGE or Motors.

Officers working the front desk receive a one-day combination training-orientation in interacting with people coming to the Information Center of the police department. Desk officers are not trained on the use of customer service techniques such as offering a greeting or asking how they can be of service. A nod or “next” followed by “what do you need” or “want” often greets people coming to the front desk of the San José Police Department.

Desk Officers need to be equipped with practical techniques on how to master the many critical responsibilities of that assignment including dealing with difficult people face to face and over the phone. It is imperative that officers be trained to maintain control even in the most stressful situations and to project a professional image for the San José Police Department.

DUTIES OF DESK OFFICER

The front desk is usually staffed with four officers, and one acts as the gatekeeper for those people requiring admittance into other units within the police department. All persons admitted beyond the front lobby are required to wear a name badge whether the person is a civilian or police officer. Civilians register at the front desk and their whereabouts are tracked through the use of a computer system. Desk Officers have to escort some people that require admittance into a unit in the interior of the police department.

Desk Officers take reports from victims on the phone or in person. They also do some follow-up investigation on those cases they intake. Desk Officers handle the processing of individuals, who come into the police department to surrender themselves for an outstanding warrant. Safety and maintaining peace in the lobby are also part of their duties. Should any altercations happen within the police department, these officers are the first to

respond. Desk Officers also inspect and sign off on "Fix-it" citations. Desk Officers also have collateral responsibilities such as staffing the Preprocessing Center, which is the place where people under arrest are processed prior to getting booked into the county jail.

WORKING CONDITIONS

The lobby of the police department is very crowded during most of the day, especially during high demand hours. Many times, there is nowhere to sit down. The temperature inside is hot, and the ventilation is poor. The same small lobby has to accommodate people doing business with the Records Division as well as people seeking a wide range of other services. Some of these services include annual registration by all sex offenders living in the City, pre-booking for people self-surrendering, obtaining copies of police and accident reports, victims filing police reports, permits for taxicabs and events, and stolen, towed, or recovered vehicles.

At times, people stand in line for twenty to thirty minutes only to find out that they were in the wrong line or that they missed the scheduled hours when the services they seek are provided. Sometimes the lobby is so crowded that it is necessary to have people wait outside because the lobby is over capacity. There is no access to public restrooms from the lobby, so it requires that Desk Officers facilitate access through the security gate. Having to wait outside the building, especially in bad weather, only exacerbates an already difficult situation. Another factor that contributes to conflict at the front desk is the lack of available parking near the police department. Visitor parking is extremely limited, causing people to park blocks away.

The Desk Officer's work area is very confined. A glass wall separates the officers and the people waiting in the lobby. This physical barrier, though necessary for security reasons, adds to the tendency to depersonalize the interaction between the desk

officers and the public. There is a small workstation located behind the area where the Desk Officers work. Officers use this area to write reports, do follow-up investigations, or take a break. Victims or witnesses coming to the police department to report a crime speak to the Desk Officers through the glass windows. There are no rooms available where a Desk Officer can take a victim's statement and where privacy can be provided especially for victims of certain crimes.

The sergeant assigned to supervise Desk Officers works in an office located away from the front lobby. Seldom is the Desk Sergeant within sight or hearing range of the Desk Officers because other collateral duties require that the Desk Sergeant be in another part of the building. Officers are sometimes seen seated behind the front desk window, reading the newspaper or talking on their cellular phones in what is or seems not business related. It is not readily apparent that the reason they are not helping customers is because

these officers are actually on their break. These actions can be misinterpreted and add to the frustration of those waiting in line. Staffing the Preprocessing Center takes precedence over the front desk; therefore, if the preprocessing center needs a Sergeant, the Desk Officers are left without a supervisor.



Desk officers work the same shifts as other officers in the police department, days, swing, and nights. The front desk of the police department is locked after midnight and people coming to the police department, needing service, have to use a courtesy phone located at the exterior of the building to contact the Desk Officer. The midnight Desk Officer is instructed not to allow entry to anyone; therefore, an outside patrol unit is called to provide service. Adding to a sense of isolation is the fact that there is only one officer assigned to work the midnight shift, and that officer is alone until 6:00 a.m., when the doors are unlocked.

According to the command staff,

Desk Officers have frequent opportunities to take breaks and are allowed to exercise in the police gym while on duty. It is not clear whether these break opportunities are consistent and are systematically provided, or if they are ad hoc and taken sporadically.

OBSERVATIONS AND ASSESSMENTS

After assessing the duties and work environment of Desk Officers, three areas were identified as needing improvement: Crowded conditions in the lobby, customer service, and work conditions for front desk officers.

The first obvious observation is

that the lobby is very crowded during high-demand hours, which are approximately between 10:30 a.m. and 3:30 p.m. every day. A person entering the lobby will see many lines formed that meander throughout the room. There is no clear indication of where a person is supposed to start, nor is there staff to ask basic questions before getting in line.

Desk Officers work in confined quarters, and the public waits for service in a very crowded lobby where convicted criminals can be found. Oftentimes, people wait for hours in the lobby of the police department. It is not uncommon to see families with small children waiting in the lobby. Alongside the families, sex offenders waiting

to register and suspects self-surrendering for minor or serious crimes also wait in the same confined area. The lobby is so small that designating an area where families can wait, away from sex offenders waiting to register, is not possible.

The conditions at the Information Center can be addressed by expanding the lobby area, using current space more efficiently, and by changing the operating procedures currently in place.

EXPANDING THE LOBBY

The size of the lobby poses a serious challenge in accommodating so many people into such a small area. Currently, there is no "Maximum Occupancy" posted; therefore, the maximum capacity of the lobby is unknown. As part of the seismic retrofit of the building, the SJPD is currently looking to expand the lobby area by expanding to include the overhang area. This area currently has some benches and is used as an outside waiting area. However during very cold or hot weather, this is not an adequate

waiting area nor are there sufficient seating accommodations.

Another suggestion is to increase the lobby by moving the Records Department service windows back and by relocating the paper files that are waiting to be converted to paperless files. Since this conversion process does not involve interaction with the public, it can be moved to a location away from the lobby. An example of where this is done is seen at the Building Department where their imaging/scanning section is located in another section of the building, away from the customer service area. This could add considerable space, which would



accommodate an expansion to the lobby, provide access to restrooms from the lobby, and private rooms for desk officers to use to conduct interviews with victims and witnesses.

The lobby currently has one row of seats that run along the wall and four rows parallel to the front doors. Also, there is one counter next to the front door where people can fill out forms. This counter has a service window to the Records Department, which is not currently used. Instead of having this counter and rows of seats, standing rails with small counters could be installed, similar to those used by banks, to fill out forms. Standing rails with counters that could take the place of some rows of seats would require less space.

In order to achieve any of these changes, an assessment of the physical layout of the front lobby and an estimate of the number of people coming to the front desk of the police department during peak hours must take place.

MODIFYING OPERATING PROCEDURES

Changing the operating procedures can help get visitors in and out faster. People entering the lobby need to be directed where to go. A receptionist at the entrance of the lobby is needed. That person can determine the nature of the service needed, can determine what window to go to, can provide information about the different schedules for certain services, or can send them on their way if their needs cannot be met there. There are many other uses for this position such as providing the extension numbers for people using the courtesy phones, assisting in disseminating police information, and even to do customer satisfaction surveys.

A receptionist could also be used to implement a numbering system. The numbers can be categorized into different series. For example, the 100 series can be for filing reports; the 200 series can be for sex registrants; the 300 series for those applying for permits; and so on. This system, called Q-Matic, is currently in

place in the Building Department. As soon as customers enter the Building Department, they go to the reception counter and get a number in a specific series according to the purpose of their visit – 100 for building, 200 for electrical, 300 for plumbing/mechanical, and 400 for commercial.

Years back, the San José Police Department had a civilian greeter that would perform some of the receptionist functions. However, since this was a volunteer position, when the volunteer left, the program ceased to exist. This greeter worked from a desk that was in the lobby, and his function was to greet people coming to the

police department. The greeter would direct people to the appropriate window reducing the frustration of waiting in the wrong line. The greeter would also act as a resource to answer basic questions such as whether their issue was within the jurisdiction of the San José Police Department. This kept the lobby less crowded.

A process that is in place, but needs to be evaluated, is the practice of directing people to the courtesy phones in the lobby. When people inform the Desk Officers that they are there to meet with an officer, the people are told to use a courtesy phone on the wall and to dial the extension of the unit or officer they are



looking for. There is only one courtesy phone to serve everyone, and often times people don't know the extension they need and there is no directory by the phone to refer to. If the courtesy phone is busy, there is no mandate that officers use their desk phones to assist the citizen in contacting their appointment, nor are Desk Officers compelled to provide them with a number.

If citizens come to the police department for a public meeting and the police coordinator does not inform the front desk, it creates a problem in identifying where the meeting is being held and whom to contact. Monitors in the lobby that display scheduled meetings, activities, or other services would assist the public and the desk officers to better coordinate the various functions taking place in the police department. The Santa Clara County Sheriff's Office uses such monitors.

Another operational change would be to have desks or workstations that are equipped with computers

and wired for internet use. People waiting in the lobby could perform such functions as filing electronic police reports, writing witness statements, filling out forms, or researching other city services and city websites. Waiting time for certain services can take as long as two hours. This would streamline the filing of reports and make the waiting less onerous.

Customer Service Training:

There are numerous communication and interpersonal skills that have been proven successful while working a customer service desk. For example:

- ◆ Communication skills to minimize conflict and reduce friction.
- ◆ Use of body language: Not being aware of how it is perceived can hurt one's credibility and image.
- ◆ Responding immediately to put visitors at ease, even when they have to wait.
- ◆ How to get your point across, even when talking to a person who is resistant, upset, or angry.

- ◆ Communication skills that will help to handle multiple calls with confidence and ease. Listening being the most effective communications skill.
- ◆ How to say no without causing resentment.
- ◆ Non-threatening responses to give when you are the target of verbal abuse.
- ◆ Polite and effective ways to encourage customers to get to the point.
- ◆ Phone finesse: Simple things to do to make the caller feel taken care of.
- ◆ Courtesy: Put yourself in the customer's place.

Safety: When considering the issue of safety, both the safety of the officers and the safety of the public need to be closely considered. Below are suggestions to address some of these issues:

- ◆ Designate an area in the lobby for families with children.
- ◆ Designate a separate waiting area for sex offenders waiting to register.

- ◆ Train officers how to project an image that commands respect without being offensive or alienating to the public, especially when dealing with difficult people and situations.
- ◆ Desk Officers need to employ skills that will help them remain calm even when events or others around them are out of control.
- ◆ It is important that clear guidelines be developed and implemented to address fights and arguments that break out in the lobby.
- ◆ Ongoing training should be part of the Desk Officer's safety and personal development.

Professional Development:

Making the job of a Desk Officer more fulfilling and challenging is the responsibility of the police administration. Below are some areas that should be considered.

- ◆ Organizing your time and environment for maximum efficiency.
- ◆ Using simple, practical

techniques to keep stress down and productivity high.

- ◆ Handling the role as gatekeeper with courtesy and efficiency.
- ◆ Ways to maintain high energy and enthusiasm throughout the shift.
- ◆ Creating an environment that supports the desk officer and represents the police department well.
- ◆ Methods to help officers achieve job satisfaction and enjoyment that will make their time on the job more fulfilling.
- ◆ Providing scheduled breaks and a place away from the front desk to take breaks.
- ◆ Provide better supervision, training, and incentives.
- ◆ Recognizing and holding in high esteem the assignment of Desk Officer by the police administration.

CONCLUSION

There are changes that can be immediately implemented while others will require further research. Changes that include customer service training, higher

recognition and appreciation of the duties of Desk Officers, alleviation of the crowded conditions in the lobby, closer supervision, and other streamlining ideas are needed at the Information Center. Improvements in these areas will lead to greater job satisfaction, provide a higher quality of service to the public, and improve the overall professionalism of the San José Police Department.

RECOMMENDATIONS

1. It is recommended that a study be conducted to assess the feasibility of expanding the front lobby to alleviate the crowded conditions that currently exist.
2. It is recommended that a separate waiting area for designated services such as, sex offenders waiting to register, criminals waiting to self-surrender, and other people that would pose a threat to the safety of others waiting in the lobby.

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| <p>3. It is recommended that a room, for Desk Officers to take victim's statements in private, be made available.</p> | <p>customer service training be developed and that desk officers receive initial and ongoing training.</p> | <p>ing strong partnerships between the public and the police has led to making the City of San Jose the safest large city in the nation with the lowest crime rate. The</p> |
| <p>4. It is recommended that additional courtesy phones be installed in the lobby.</p> | <p>9. It is recommended that Information Center Sergeants have the front desk as their primary responsibility and that they be assigned office space where they can monitor the activities of the Information Center.</p> | <p>low crime rate does not mean that officers respond to fewer calls for service. On the contrary, in the year 2001, the San Jose Police Department recorded approximately 525,000 police contacts with citizens. This total includes all calls for service, and self-initiated contacts by police officers. Of the 525,000 citizen and police contacts, less than 5% resulted in an arrest. Over 95% of the contacts the police had with the public involved providing service-oriented functions.</p> |
| <p>5. It is recommended that monitors to display information such as activities, services, and meetings taking place in the Police Administration Building be installed in the lobby to assist the public and the Desk Officers.</p> | <p>10. It is recommended that the Chief of Police implement incentives to attract officers to work at the Information Center.</p> | <p>Since the police spend approximately 95% of their time handling service related calls, it stands to reason that the San Jose Police Department (SJPD) recruit and hire officers with strong communication and interpersonal skills. It is a known observation that there is a direct correlation between officers who seldom generate citizen complaints, lawsuits or pre-lawsuit claims, with officers</p> |
| <p>6. It is recommended that access to public restrooms be made available from the lobby, which will eliminate the need to sign-in with the desk officers, go through the security gate, and provide access to unsecured areas of the police department.</p> | <p><i>STRATEGIES IN RECRUITING AND RETENTION</i></p> <p><i>POLICING IS ABOUT PUBLIC SERVICE</i></p> <p>The City of San Jose, like many other cities across the country, established community or service-oriented policing which emphasizes communication and cooperation with citizens as well as informal problem solving. Foster-</p> | |
| <p>7. It is recommended that a receptionist be placed in the lobby to provide services.</p> | | |
| <p>8. It is recommended that</p> | | |

possessing strong people skills. The SJPD strives to hire those officers who are in pursuit of service and not adventure.

Research conducted in the United States and internationally indicate that female officers utilize a style of policing that relies less on physical force and more on verbal skills.¹ According to studies conducted by the National Center for Women and Policing (NCWP), female officers are more successful at defusing potentially violent confrontations, and are less likely to become involved in the use of excessive force. Female officers often successfully resolve situations that might otherwise lead to allegations of excessive force, by using tactics and techniques that de-escalate potentially violent situations.²

In a study conducted by the Feminist Majority Foundation and NWCP, about the Rampart scandal, their study revealed that there was a significant gender gap in the cost of police brutality and misconduct as a result of civil liability against the Los Angeles

Police Department (LAPD). Male officers were involved in excessive-force and misconduct lawsuits at rates disproportionately higher than their female counterparts.³ The City of Los Angeles paid out at a rate of 23 to 1 for male officers vs. female offices even though the male to female ratio is 4 to 1 for the patrol division.⁴

More than ten years ago, the Christopher Commission⁵ recommended that the LAPD hire more women as a means of reducing police brutality. This recommendation, by the Christopher Commission, followed an already existing federal consent decree known as the Blake Decree which, set hiring goals for women, Hispanics and African-Americans.

The hiring steps described above were undertaken by the LAPD before the passage of Proposition 209 amended the California Constitution. Currently, any recruitment strategies or hiring efforts must comply with Proposition 209 and the California Constitution, which specifically

prohibits preferential treatment in public employment on the basis of gender. These changes in the law do not impact or preclude federal consent decrees because these federal actions are not vulnerable to changes in state law.

The IPA examined statistical data to assess whether there is any indication that less complaints result from enforcement actions taken by San Jose female officers, whether this is attributed to better communication skills, and how to attract a higher percentage of female applicants to the SJPD force.

METHODOLOGY

A review of all citizen complaints filed in the last five years was conducted. In addition the number and type of lawsuits and city claims were examined. Current recruiting policies, procedures, written materials, and approaches were studied. Promotional opportunities and retention programs were reviewed. In addition, interviews were conducted with selected mem-

bers of the San Jose Police Department. Recruiting and retention materials from other law enforcement agencies were also examined. The primary reference tool used to prepare this report was the publication entitled "Recruiting and Retaining Women," published by the National Center for Women & Policing (NCWP).

STATISTICAL ANALYSIS

An analysis of the information from citizen complaints was conducted for the last five years, 1997 through 2001. There was a total of 1379 complaints filed and of those only 5% were filed against female officers. Female officers comprise 9% of the San Jose Police Department. In the last five years, officers assigned to the Bureau of Field Operations generated almost 50% of all complaints. Nine percent of female officers are assigned to patrol. A further breakdown of those complaints revealed that of the 728 Unnecessary Force allegations, only 2% were filed against female officers. Of the

210 complaints that were sustained in the last five years, only 5% were sustained against female officers as compared to the 95% of complaints that were sustained against male officers.

Lawsuits filed against the City of San Jose, resulting from a police action, were examined. In the last three years, 1999 through 2001, there were 89 lawsuits that resulted from a police action. In 48 of the 89 lawsuits, where no particular officer was named, the City of San Jose and the San Jose Police Department were named as defendants. If the identity of the officer and gender was revealed at a later point in the proceedings, that information was not available to the IPA at the time of this study and therefore, was not part of this analysis. Of the remaining 41 lawsuits that did name an officer, 96% of these officers were male.

The IPA also examined all claims filed against the City of San Jose resulting from a police action. These claims are separate actions from lawsuits however,

some claims did result in subsequent lawsuits. For the two years of data reviewed, 2000 and 2001, there was a total of 78 claims. In 18 claims, no specific officer was named. Of the remaining 60 claims, there were 63 officers named and of those, only three were women.

The data above indicates that quantitatively, female officers generated fewer citizen complaints, fewer Unnecessary Use of Force allegations, were named less often in law suits, and were named less frequently in pre-lawsuit claims against the City of San Jose.

THE CHANGING ROLE OF WOMEN IN POLICING

The role of women in law enforcement has experienced significant changes in the past thirty-five years. In 1968, the Indianapolis Police Department made history in the United States by assigning the first two female officers to patrol on an equal basis with their male colleagues.⁶ Prior to 1968, women in law enforcement had

been relegated to administrative duties.

A question that is still asked today, is whether women are strong and aggressive enough to do police work. Nationally, physical strength has played a significant role in the testing used to qualify women to become police officers. There are no known studies to conclude that physical strength is an indicator of whether an officer will successfully handle a dangerous situation or be more effective in handling high-risk calls.⁷ On the contrary, the ability to diffuse or de-escalate potential violence and to exhibit more reasoned caution may be greater indicators of an officer's ability to handle volatile and life threatening situations; but when force has been necessary, studies have shown that, women use force with the same frequency as men⁸.

Physical strength for women applying to the SJPD has not been a significant obstacle. It has been the endurance required in running a 1½ mile in 14 min-

utes that has eliminated approximately 50% of all female applicants. If the applicant fails the run, she would have to wait until the next cycle to apply again. This waiting period could be as long as one year. The SJPD does provide assistance with the testing process, which includes the physical agility test. The SJPD realizes that the extended waiting period is hampering their recruiting efforts and is therefore, exploring ways to shorten the waiting period.

UNDER-REPRESENTATION OF WOMEN IN POLICING

The San Jose Police Department has made significant advances in recruiting, retaining, and promoting women in the last ten years. The leadership of the San Jose Police Department is committed and receptive to increasing the number of female officers. There is a total of 132 female officers and approximately 11% are part of the command staff. Currently, there are nine Sergeants, four Lieutenants, and one Deputy Chief serving in the San Jose

Police Department. Two of the three department recruiters are women.

Even with all these efforts, representation of women in the San Jose Police Department (SJPD) is still low. The optimal goal would be to have the percentage of female officers mirror the female workforce of the County of Santa Clara which, is 46%.⁹ Women comprise 9% of the total police force and in the past five years the percentage of women in the SJPD has only increased by 1%. Nationwide, women average between 13% and 15% of sworn law enforcement personnel in cities of over 100,000 population.¹⁰ Studies like the "New Workplace for Women Project", a program funded by the U. S. Department of Labor, have conducted research to help cities address this issue. Some police departments that participated in this project significantly increased the number of female officers. For example, in the Albuquerque Police Department the percentage of female recruits increased from 10 to 25%, and they were re-

tained at the same rate as their male counterparts.¹¹ In the Tucson Police Department, the number of female recruits increased from 10% to 29% in two classes.¹²

In the Bay Area, efforts to recruit qualified candidates, either men or women, reached a crisis low during the time that the economy peaked in the year 2000. Some police departments offered cash sign-up bonuses, starting salaries of over \$50,000, and other incentives. Police departments also recruited competitively from other law enforcement agencies.

Female applicants, for the last decade, have been aggressively sought by the SJPD and by most municipal and county law enforcement agencies. The low number of female officers in the SJPD is not reflective of a lack of desire or effort to hire women. Therefore, additional strategies to supplement existing policies may yield an increase in the percentage of women at the SJPD.

RECRUITMENT STRATEGIES

Traditional recruiting efforts in most law enforcement agencies have not been successful in hiring and retaining women in significant numbers in comparison to the number of women in the workforce. In contrast, women in other traditionally male dominated professions, like medicine and law, have made greater inroads in the past decade. In a study conducted in 1997, the data revealed that 43 percent of students in top-tier medical schools and 44 percent in law schools were women.¹³

Traditional recruitment strategies throughout the country have failed to emphasize those areas that are of particular concern to women such as mentoring, support groups, acceptance by their male colleagues, opportunities for advancement, and maternity-family leave related issues. Organizations like the Feminist Majority Foundation and the National Center for Women & Policing (NCWP) under the direction of retired Chief Penny E. Harrington, have spent many

years studying and creating comprehensive tools to address the recruitment, hiring, and retention of policewomen. Just a few of the many strategies recommended by the NCWP are examined below in the areas of recruitment and retention.

EVALUATING THE JOB DESCRIPTION

The internet is becoming the leading medium by which law enforcement agencies disseminate recruiting information. A review of the job descriptions posted on the internet by several law enforcement agencies including the San Jose Police Department, Santa Clara County Sheriff's Office, San Francisco Police Department, Oakland Police Department, California Highway Patrol, San Diego Police Department, and Los Angeles Sheriff's Office, revealed that they all list similar requirements such as:

- ◆ The minimum educational requirements,
- ◆ Possession of a valid CA

- ◆ Driver's License,
- ◆ Eligible age range,
- ◆ No felony convictions,
- ◆ U.S. Citizenship.

Of the above listed law enforcement agencies, only the San Diego Police Department incorporated in its job description other dimensions suggested by the Peace Officers Standards & Training (POST) such as: Interest in people, interpersonal sensitivity, communication skills, problem solving ability, good judgment under pressure, integrity, and credibility as a witness.

According to the National Center for Women & Policing, the key to developing the best job description for the position of a law enforcement officer, is to emphasize the value the organization places on community policing and detail the skills and duties required to successfully implement community policing. Examples of duties to include in preparing police job descriptions are conflict resolution, ability to de-escalate violent situations, ability to mediate disputes, ability

to communicate with diverse community members, ability to develop solutions for crime and community based problems, and ability to empathize with people holding different beliefs. These are in addition to law enforcement duties such as traffic control, response to crimes, and testifying in court. All skills necessary to further the mission and implementation of community policing should be part of the job description.

DESIGNING RECRUITMENT BROCHURES AND POSTERS

In selecting the themes and messages to include in recruiting brochures and posters, law enforcement agencies need to highlight those under-represented groups in order to increase the number of applicants.

A review of the recruiting material available on the Internet from the law enforcement agencies previously listed revealed that only the Los Angeles Sheriff's Office and the California Highway Patrol prominently display photos of

policewomen working in a variety of assignments including the following: bicycle, motorcycle, mounted, air, patrol, and other units. Women in these departments are also shown in fashionable poses wearing street clothes.

None of the agencies reviewed had brochures or posters depicting women in fundamental roles such as: mother, wife, athlete, and/or community volunteer. How these roles integrate with police work is a central issue that needs to be addressed. Obvious questions and concerns that many women have include the effect of maternity and/or family leave on retention and advancement opportunities. What policies, expressed or implied, are in place to address marriages within the same department? Is job sharing available? To address these types of questions and concerns, the Michigan State Police printed some very effective posters. For example, in a poster titled "Protecting your Family and Ours," a husband and wife are depicted in their state trooper

uniforms with their young son and their canine. In another poster titled, "Trooper.Wife.Mother," a woman is photographed in each of these three roles. These posters acknowledge the importance of family and the reality that many officers have spouses working in the same profession and/or the same law enforcement agency.

PROMOTIONAL ADVANCEMENT FOR WOMEN

While men and women join the police department for similar reasons, the reasons for leaving may be different. The reasons female officers leave may be due to family related issues such as the birth of a child, childcare problems, shift work, and challenges with children entering school. While family related challenges are not exclusive to women, the impact is greater to an already small pool of female officers.

Providing promotional opportunities for groups that are represented in small numbers in a police department is very impor-

tant to the advancement and retention of those officers. Policies should be in place to ensure that officers are not leaving the SJPD because of a lack of opportunity for assignment into specialized units. Specialty units offer new challenges and experiences that expand the scope of an officer's background and which directly impact promotional opportunities. Currently, 11% of SJPD female officers hold a rank of Sergeant and above.

A concern expressed by some sergeants is that there is no written mandate that openings, for sergeants into specialized units, be posted or open to all qualified candidates. While the San Jose Police Department's Sergeant Transfer Policy does not explicitly require that openings be formally announced, the police department for years has encouraged a practice consistent with the transfer policy for officers that does require posting. The goal is to make assignments to all units open, accessible and gender neutral.

With a police department the size of the SJPD, it is possible that officers could rise through the ranks and never be exposed to a significant number of Sergeants. It is logical that Unit Commanders would be inclined to select those Sergeants with whom they are familiar. While female sergeants have worked in a number of specialized units, the goal should be to eventually have female sergeants also assigned to units such as Gang Investigations, High Tech, Training, Metro, VCET, Auto Theft, and Canine Unit.

In order to avoid a perception that there is a systematic exclusion of qualified candidates, the department should address the following: how job openings are posted, the application process, how to expose all sergeants to different unit commanders, how to increase the pool of eligible candidates, and how to ensure that all candidates are fairly considered for the assignments.

CONCLUSION

Statistical data analyzed by the IPA revealed that, in proportion to the number of female officers represented in the SJPD, female officers received significantly fewer citizen complaints and had less complaints sustained against them. Female officers had less allegations of using excessive force. In addition, female officers were named less frequently in lawsuits, and generated fewer pre-lawsuit claims. With the limited research conducted by the IPA, it cannot be concluded that the low number of complaints and lawsuits generated by female officers is based on gender. However, in assessing the totality of the research and the data collected, there is a baseline of information from which to infer that female officers at the SJPD may have used a more conciliatory approach to policing and may possess a higher degree of communication and interpersonal skills.

In addition, ongoing training for all officers to better develop their communication skills, which is

also known as perishable skills, is recommended. Emphasis in communication and interpersonal skills is intended to augment officer safety training because it must be acknowledged that there are those calls police officers respond to where no degree of communication skills will peacefully resolve the situation. In the Independent Police Auditor's (IPA) 1999 Year End Report, the Auditor recommended that the SJPD provide training to improve officer's basic, day to day communication skills. A pattern that was detected in analyzing citizen complaints was that the genesis of the complaint was attributed to a breakdown in communications between the officer and the citizen. A two-hour "Tactical Communication" class was designed for the purpose of improving the officer's approach and interaction with the public. All officers, including command staff, attended this training which, has now been adopted as part of the continuing professional training.

The information reviewed also

found that the department has made, over the past several years, ongoing improvements to its recruiting efforts and is currently working to further refine those efforts. Some targeted efforts, however, have been precluded by recent changes in the law restricting affirmative action practices. Still, the success rate of community policing can be increased by incorporating additional approaches to policing such as practicing a more conciliatory, less aggressive style of policing. The changes advocated above and the recommendations below, in recruitment and retention policies, are not intended to establish preferential treatment for women. Rather, these changes simply make sure women are included in all phases of recruitment in order to increase the quality and quantity of SJPD applicants. Similarly, the retention recommendation will improve the work-life and work atmosphere for all officers.

RECOMMENDATIONS

1. Develop job descriptions that also include those skills necessary to effectively implement community policing such as communication, conflict resolution, and interpersonal skills.
2. Design and implement recruiting strategies that address family related issues.
3. Revise the policies governing sergeant transfer opportunities to require that openings be posted, and that the application and selection process provide all candidates a fair opportunity to be selected for the assignment.
4. Continue to develop and provide training in communication and interpersonal skills.

END NOTES

¹ National Center for Women and Policing

² Men, Women, and Excessive Force: A Tale of Two Genders, Dr. Kimberly A. Lonsway.

³ Los Angeles Times, October 2, 2000, "More Women in the Ranks Would Stem LAPD Brutality"

⁴ Men, Women, and Excessive Force: A Tale of Two Genders, Dr. Kimberly A. Lonsway.

⁵ The Christopher Commission was appointed to investigate allegations of police brutality by the LAPD following the Rodney King incident. This commission analyzed all of the use of force reports, citizen's complaints, and lawsuits involving excessive force against the LAPD.

⁶ Dorothy Moses Schulz, From Social Worker To Crime Fighter: Women in United States Municipal Policing (Praeger Publishers, 1995)

⁷ NCWP

⁸ NCWP

⁹ U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 4B.

¹⁰ NCWP

¹¹ Joseph Polisar and Donna Milgram, "Recruiting, Integrating, and Retaining Women Police Officers: Strategies that Work," The Police Chief, October 1998, 42-53.

¹² "Recruiting Women to Policing, Strategies that Work", www.iwitts.com/html/recruitment.htm

¹³ "Where are the women?", www.jobcircle.com

CHAPTER 3

UPDATES ON PRIOR ISSUES

Tracking all prior and pending recommendations made by the Office of the Independent Police Auditor (IPA) is a vital component of the overall operation of the IPA. The IPA tracks the status of all previous recommendations. The IPA also conducts random audits to measure compliance of prior recommendations. This chapter contains updated information of recommendations made by the IPA in last year's report and selected recommendations from prior years.

PROVIDING THE PUBLIC INFORMATION ABOUT THE IPA AND COMPLAINT PROCESS BACKGROUND

In the 1995 Mid-Year Report, the IPA recommended that the San Jose Police Department educate and train command staff, all officers, and dispatchers on the purpose and functions of the Office of the Independent Police Auditor, including where a complaint could be filed. This recom-

mendation was based on the need for police department staff to provide accurate and detailed information to the public about the IPA and the Internal Affairs (IA) Unit and the options available on where and how to report a complaint regarding police misconduct.

Update: During the 2001 calendar year, representatives of the IPA called three different SJPD telephone numbers to determine if proper information was being provided to the public about the IPA, IA, and the procedures for filing a misconduct complaint against a SJPD officer. The following are the results:

1. The IPA caller contacted the SJPD Watch Commander telephone number and asked where a complaint against a SJPD officer could be reported. The person who answered the call responded by asking the caller to provide her with the name of the

officer so that she could refer the caller to that officer's supervisor. The caller then asked if there was an agency that was not a part of the police department, where one could file a complaint. The caller was placed on hold for some time and then referred to the IPA. The caller was also informed that they did not know if the IPA took complaints and was provided with an old IPA telephone number, which is disconnected.

2. The IPA caller contacted a dispatcher by calling the 311 non-emergency Police Department telephone number. The dispatcher referred the IPA representative to the Watch Commander without providing the caller with any information about the IPA or Internal Affairs Unit.
3. The IPA caller contacted a SJPD staff member at the

Bureau of Field Operations, where the caller was asked the officer's name so that they could refer the caller to that officer's supervisor. The caller was also provided with an obsolete telephone number for the IPA and was told that the IPA does not take complaints but just audits them.

RECOMMENDATION

To ensure that accurate and updated information is being provided to the public about the citizen complaint process and the functions of IA and the IPA, an on-going training program for all SJPD personnel, especially those who are in positions to provide information to the public, should be instituted and maintained. The training should instruct all San Jose police representatives who receive a citizen complaint, or potential complaint, to refer that citizen to the on-duty Watch Commander, Internal Affairs Unit, or the Independent Police Auditor. This information should be available to the officers at the

SJPD Information Center (front lobby), so they can provide the public with expedient and accurate information. When SJPD personnel are in doubt about what information to provide a caller or where to refer a caller, they should direct the caller to the Customer Service Call Center (277-4000).

ETHICS & INTEGRITY STANDARDS BACKGROUND

In the 2000 Year End Report, the IPA recognized that public trust in police is defined as having a strong reliance on the integrity, ability, and character of the police. It can only exist when the police execute their duties fairly, courteously, and with no more force than necessary. A police department that conducts itself in this manner is said to be ethical and operating with integrity. This is the desired state that all police departments should strive to achieve.

The IPA also called attention to the fact that in order for community policing to be effective, police

officers must believe that they are in partnership with the public.

The police and community must develop mutual trust. This implies that the community will have faith in the integrity of the police and that police will go beyond the realm of only trusting other police officers and extend that virtue to community partners.

The report reviewed the ethics and integrity standards of the SJPD and found them to be aligned with those of the community, beginning with the vision and ethical tone set for the department by Chief William Lansdowne. Chief Lansdowne established a mandatory ethics training program as part of the Continuous Professional Training offered by the SJPD. Now, all members of the SJPD must receive this training and Chief Lansdowne emphasizes the importance of ethics training by making it a point to be present at the beginning of every ethics class. Furthermore, the IPA monitored the ethics training classes and found them to be effective in stressing the department's ethical standards.

While the IPA found the SJPD's ethics training to be commendable, it found a need to evaluate the effectiveness of this training program. The only way the SJPD is able to measure an officer's adherence to ethical conduct is through an examination of Internal Affairs files and yearly personnel evaluations. After researching various sources of information on this subject, the IPA concluded that the effectiveness of ethical training on individual officers depends on the organizational standards set by the department; whether the standards have been clearly communicated; whether these standards are strictly enforced; and what individual officers think and feel about different issues relating to ethics and integrity.

PRIOR RECOMMENDATIONS

As a result of this review, the IPA made the following recommendations, which were adopted by the Chief of Police and the City Council:

1. The SJPD should implement a process by which the police department can assess the current knowledge, attitudes, or views of police officers towards the required ethical conduct expected of each officer. The police department should find out what its officers think of the disciplinary and complaint procedures. Thereafter, the SJPD should conduct ongoing research to monitor any shifts in the attitudes or views of SJPD officers on issues relating to ethical conduct.

Update: The IPA in conjunction with the SJPD has developed a survey form that is based on a successful program utilized by the Research and Preventative Division of the Australia Criminal Justice Commission. This survey is designed to measure attitudinal changes in ethical conduct by regularly administering the survey to recruits, first year and experienced officers. It is anticipated that the SJPD will begin administering the survey in the 2002 calendar year.

2. San José Police Department policies do not include a comprehensive Whistleblower policy. By incorporating federal Whistleblower guidelines, the Chief of Police should create a comprehensive Whistleblower policy for the San José Police Department.

Update: In response to this recommendation the San José Police Department stated that SJPD employees were subject to the same local, state or federal Whistleblower requirements that are applicable to all City of San José employees and therefore a specific policy for the SJPD is not necessary.

3. The Chief of Police should include, in all citizen complaint printed materials, wording that clearly states that, "Retaliation against complainants is prohibited. The Chief of Police will not tolerate retaliation and immediate action will be taken if an officer retaliates against a complainant directly or indirectly," or other similar words that emphasize the Chief's position.

Update: Whenever citizen complaint materials are reprinted by the SJPD, this clause is now included. It is also included in the IPA's brochures.

4. The Chief of Police should continue to develop Ethics and Integrity training to reflect and align with the ethics expected by the citizens of San José.

Update: The SJPD continues to require that all officers from patrol officers to the Chief of Police receive the four-hour ethics training that is part of the SJPD's Continuous Professional Training program.

VEHICLE STOP DEMOGRAPHICS BACKGROUND

Since July 1, 1999, the SJPD has been collecting data that identifies the ethnicity, gender and age of every individual subject to a vehicle stop by a San José police officer. The action taken against the driver as a result of the vehicle stop and the location of the vehicle stop is also tracked. The SJPD was one of the first major

city police departments to voluntarily undertake this type of data collection effort in response to community concerns that officers engaged in racial profiling and conducted pretext stops of minority community members.

Racial profiling continues to be a sensitive issue and still lacks an accepted and recognized definition. With regard to vehicle traffic stops, racial profiling for the most part is a police officer's use of race or ethnicity as a deciding factor in making a traffic stop. Although the term racial profiling has been used to describe unwarranted stops of minority citizens, the terms "Driving While Black" or "Driving While Brown" (DWB) have been used by the general public to describe how minorities believe they are characterized by law enforcement throughout the country.

In the 2000 Year End Report, the IPA reviewed the SJPD's Vehicle Stop Demographic Study for the period of July 1, 1999 to June 30, 2000. In this first vehicle stop report, the SJPD found that

African Americans and Hispanic Americans were stopped at a slightly higher rate than their overall representation within San José. The SJPD attributed the increased number of stops of individuals from these minority groups to socio-demographic realities of the City and the necessity by the SJPD to deploy more officers accordingly. The SJPD study hypothesized that more officers are assigned to higher crime police districts and, therefore, minorities who live in these neighborhoods are likely to be stopped in greater numbers.

The IPA's analysis of the SJPD's Vehicle Stop Demographic Study indicated that Hispanic Americans were being stopped at a significantly higher rate when compared to their overall representation in the City, even in those areas of the City where Hispanic Americans do not make up as large a percentage of the population. The IPA concluded that these disproportionate figures appeared to be problematic and required further study.

Last year's IPA Report also acknowledged that while the initial vehicle stop data being collected by the SJPD was an acceptable starting point, other law enforcement agencies, including the San Diego Police Department and the Sacramento Police Department, had expanded the scope of the data being collected to include much more detail. In addition to the data collected by the SJPD, San Diego PD also documents whether the driver was searched or arrested. Sacramento PD collects this data and also requires the recording of the legal and factual basis for the search.

The availability of search and arrest data for persons who were stopped would enable an analysis of whether Hispanic Americans or other minorities are being searched and/or arrested at higher rates than would be expected based on the percentage they represent of the general population. This type of data combined with vehicle stop data would provide a more reliable basis for determining whether Hispanic or African Americans are

being disproportionately impacted by vehicle stops.

Update: Although the SJPD continues to collect the same vehicle stop data that was analyzed in the Vehicle Stop Demographic Study for the period of July 1, 1999 to June 30, 2000, they have not analyzed the data for the following year from July 1, 2000 to June 30, 2001. Therefore, a comparative analysis between the first and second years of collecting this type of data is not possible at this time.

PRIOR RECOMMENDATIONS

1. *"It is recommended that the Chief of Police expand the fields for data collection to determine how the individual stopped was treated, i.e. was there a search. This should include search information, the factual basis for a stop and the action taken by the officer as a result of the stop."*

Update: The IPA made this recommendation to better assess whether Hispanic Americans and other minorities are being dispro-

portionately impacted by vehicle stops. This recommendation was not adopted because of the possibility that the state would adopt legislation requiring all law enforcement agencies in the state to gather vehicle stop data.

However, by the end of 2001, it did not appear likely that any such state legislation would move forward and become law. Given the lack of any uniform mandate from the state to collect vehicle stop data, the IPA is renewing this recommendation as a new recommendation in this report.

2. *"It is recommended that the Chief of Police develop a uniform definition where the complainant alleges that his/her vehicle stop or police contact was racially motivated and a process for tracking all 'Racial Profiling' allegations."*

Update: The SJPD and the IPA are continuing to discuss modifying complaint classification and allegation definitions to provide a way to better track all complaints of racial discrimination including

those complaints that do not include specific allegations of racial terms, gestures or acts. The new definitions and classifications will be incorporated into the new IA/IPA shared database system in the 2002 calendar year.

3. *“The SJPD should expand the platform of the database used by the Internal Affairs Unit to facilitate the recording, tracking and analysis of ‘Racial Profiling’ and all other types of citizen complaints.”*

Update: IA and IPA have researched new database systems that will accomplish this and expect to finalize this process and purchase a new system before the end of the current fiscal year.

COMPLAINTS FILED ALLEGING RACIAL PROFILING

In last year’s Year End report, the IPA identified the difficulty of tracking complaints with racial profiling allegations. Currently, the SJPD complaint classification structure provides only one formal

case classification for a racial profiling allegation. It is named, Discrimination/Harassment (DH). This case classification is utilized for various types of discrimination and harassment complaints and is not limited to racial profiling complaints.

Also, in order for a racial profiling allegation to be formally investigated as a DH complaint, there must be “objective criteria” on which this allegation can be based. Objective criteria can include an allegation that the officer used a derogatory word, gesture or action that demonstrates racial bias or discrimination. It is insufficient if the allegation is based only on the complainant’s belief that the only reason he/she was stopped was because of their race. This determination remains unchanged even if it appears the officer had no other legitimate reason to stop the complainant in the first place. This is also true even if an officer handcuffed a person, searched his vehicle and then released them without taking any legal action against them.

If a racial profiling allegation is made without objective criteria, the complaint could be classified as an informal complaint or some other classification, which is not subject to a formal investigation. Therefore, in order to track and analyze future racial profiling allegations, the IPA has to capture racial profiling allegations as part of the complainant’s statement in all types of complaints whether or not the complaint is classified as an official discrimination allegation. In 2000, the IPA reported that there were 16 complaints that included racial profiling allegations. In 2001, 17 complaints included allegations of racial profiling. An analysis of these cases indicates that these complainants felt they were victims of racial profiling for the same types of reasons as those complainants in the previous year. Many thought they were stopped because of the type of car they were driving and solely because they were African American or Hispanic. Others thought that the minor vehicle code or vehicle equipment violation for which they

were stopped was just a pre-text for stopping them.

NEW RECOMMENDATIONS

A. The Chief of Police should expand the fields for data collection to determine how the individual stopped was treated, i.e. was there a search. This should include search information, the factual basis for a stop and the action taken by the officer as a result of the stop. (Renewed recommendation from last year)

B. The SJPD should compile and review vehicle-stop data on an annual basis and prepare a report to the City Council with this information.

OFFICER INVOLVED SHOOTINGS BACKGROUND

In response to a recommendation made in the IPA 1998 Year End Report, the SJPD established the Officer-Involved Shooting Incident Training Review Panel, a formal process to allow the IPA to

participate with the SJPD in a review of all police shootings resulting in injury or death whether or not a complaint was filed. The purpose of this review process is to determine if any training needs exist or if any changes need to be made to a current police policy or procedure. The members of the panel include the Chief of Police, the Deputy Chief of the Bureau of Field Operations, the Independent Police Auditor, the Training Unit Commander, the Internal Affairs Unit Commander, and a representative from the City Attorney's Office.

Members of the SJPD Homicide Unit provide an audio-visual presentation to the panel summarizing the events of the case, as they are responsible for investigating all officer-involved shootings. The panel considers all the information provided and makes recommendations that can lead to the adoption of a new training plan or a change/development of a policy or procedure.

In 1999, SJPD officers were involved in eight shootings, seven

of which resulted in fatal wounds to the suspect. All eight cases were reviewed by the shooting review panel. In 2000, there were five officer-involved shooting incidents, three of which resulted in fatal wounds to the suspect. Although these statistics demonstrated a decrease in the number of officer-involved shootings and fatalities, the IPA recommended that the SJPD continue to investigate methods to decrease these incidents further.

Since two of the five suspects were armed with a weapon other than a firearm and both these suspects had histories of mental illness, the IPA recommended that the SJPD continue to identify less lethal weapons, make them more readily accessible to officers and to provide more training in handling suspects with weapons other than firearms and suspects with mental illness histories.

These recommendations were adopted with the 2000 Year End Report.

Update: During the past year, the SJPD has expanded the number

of less lethal weapons available to officers, such as the "L-8," a shotgun-type weapon that fires a large 40 millimeter projectile which is designed to disable a suspect without killing or seriously injuring the suspect. The SJPD has also continued to improve and expand its force-option training. This training allows officers to react to live computer generated simulations that can be altered as the simulation progresses. The SJPD also has increased the number of officers who have received advanced training as members of the Crisis Intervention Team where among other things, officers receive special training on how to work with people with mental disabilities in a crisis situation.

In 2001, there were four officer-involved shootings, two of which resulted in fatal wounds to the suspect. In two of the four cases, the suspects were armed with weapons other than firearms. In one case the suspect was armed with a large kitchen knife and in the other, the suspect was armed with a hammer and a knife. The

suspect in the first case was injured, but the suspect in the second case was mortally wounded. Since both of these cases occurred late in the year, the review panel did not have the opportunity to review these cases until later this year. However, it is of continued importance to recognize as was stated in last year's report, *"when suspects are not armed with a firearm, officers may have an opportunity to use alternatives other than shooting if they are not in imminent danger. In these situations, it is important to have less lethal weapons readily available. Retreat is not legally required, but is an alternative in cases where officers need time to reassess the situation."*

It is promising to see that the number of officer-involved shootings has been reduced from five to four. It is probable that the SJPD has been successful in reducing the number of officer-involved shootings because of the increased training received by members of the department in the use of less lethal force and the increased deployment of less

lethal weapons.

In addition to officer-involved shootings where the suspect is injured or fatally wounded, the review panel also reviews other serious cases involving the use of firearms or where a suspect dies while in custody. In 2001, two such cases were reviewed. One case involved a situation in which two civilians and one officer were wounded when they were shot by the suspect. During the incident several San José officers initiated suppression fire to facilitate the rescue of trapped victims, shooting multiple rounds without hitting the suspect. The review panel also reviewed one of two cases in which the suspect died after officers had arrested the suspect and placed him in custody. The panel reviews these cases for the purpose of considering the potential need for new training or changes in department policies and procedures, just as it does for officer-involved shooting cases. The IPA participated in the review of both these cases.

CITIZEN REQUEST FOR OFFICER IDENTIFICATION BACKGROUND

This has been a long-standing issue for the IPA as it was first raised in the IPA 1997 Year End Report because, in part, readily providing identification when requested by a citizen should be one of the first steps to ensuring that the SJPD's community policing goals are attained. However, even though the SJPD Duty Manual was amended in 1998 to require that when a citizen requests the officer's identification the officer must provide his/her name, rank, and position on an Incident Card (Form 200-45a) or a Department approved business card, this issue continues to surface and has been given constant attention.

In the IPA 2000 Year End Report, we reported that of the 18 cases in 2000 where the issue of officer identification was alleged, nine of these cases were handled informally or without requiring a full investigation. The IPA hypothesized that handling these types

of cases informally was exacerbating the problem by minimizing the importance of the directive in the Duty Manual. As a result, the IPA recommended that SJPD Internal Affairs Unit should formally investigate allegations of officers refusing to identify him/herself under an Improper Procedure allegation.

In 2001, there were still 19 cases with allegations that an officer failed to properly identify him or herself. Six of these cases were handled informally or without requiring a full investigation, three were not investigated because the complainant failed to submit the required "Boland Admonishment" form and nine were formally investigated as part of formal investigations in cases with other allegations in addition to an allegation that an officer failed to provide proper identification. Of the 19 cases, one case was sustained after the IPA disagreed with the SJPD finding in the case.

In three of the cases investigated formally, the allegation of failure to properly identify oneself appeared

to be at least a technical violation of section C1409 of the SJPD Duty Manual and the assigned finding was "Supervisor Review." Four of the cases handled informally were also assigned a finding of "Supervisor Review."

A finding of Supervisor Review does not imply that the subject officer did or did not commit the transgression as described by the complainant. The purpose of the Supervisor Review process is to provide informal counseling opportunity between the subject officer, the subject officer's direct supervisor, and a supervisor from the Internal Affairs Unit. During these meetings, it should be stressed that even if the officer may have met the spirit of the rule in Section C1409 of the Duty Manual (i.e., writing name and badge number on the citation), officers are expected to strictly comply with its requirements and either provide the citizen requester a department approved Incident Card with the officer's name and badge number or a department approved business card.

Although the percentage of complaints with failure to identify allegations that were handled informally or without requiring a full investigation was reduced this year to 32% (6 out of 19) from last year's 50% (9 out of 18), the Internal Affairs Unit should continue to formally investigate these allegations under an Improper Procedure allegation.

Additionally, since the number of these types of allegations has not decreased, the SJPD should examine other potential methods to reinforce the importance of complying with Section C 1409 of the Duty Manual. The statement the IPA made last year concerning this type of complaint is even truer this year, "this is the type of complaint that should become obsolete."

MEDIATION PROGRAM

Recognizing the need for an alternative to the existing formal citizen complaint investigation process, the IPA thought of other possible means to meet the needs of the community in a

manner that would generate a more trusting and respectful relationship between citizens and members of the San Jose Police Department. The result was the evolution of a voluntary mediation program. A program that would provide citizens and San Jose Police Officers with an alternative in resolving concerns and issues deriving from alleged minor misconduct. After careful thought and analysis, the IPA recommended that the SJPD research the feasibility of a voluntary mediation program.

As a result of the 1999 Year End Report, the SJPD approved the recommendation and agreed to conduct such a feasibility study. The IPA's goal in considering such a program was to provide the means for citizens to meet with San Jose Police Officers in a controlled environment that was conducive to positive interaction.

After the San Jose Police Department completed the study, their proposal confirmed that a voluntary mediation program could be a viable option for both citizens and

police officers. The voluntary mediation process would allow citizens to obtain answers or clarification to issues or concerns when the citizen is seeking an opportunity to be heard, and not necessarily desiring the investigative process against police officers to be initiated. Often citizens express their wish to engage in conversation with the officer in order to voice their issues directly and to hear the officer's response.

A retired superior court judge will facilitate the mediation sessions and the outcome will be kept confidential. Great care went into the design of the program in order to ensure a non-threatening environment for both citizens and officers. The informal atmosphere in which the session occurs will facilitate communication and understanding differences, with the goal of improving relations between citizens and the police.

Update: The Voluntary Mediation Program was implemented in 2001 as a pilot program, and became available as an alternative

method of resolving citizen complaints. Because the program was finalized at the latter part of the year, there was one mediation session scheduled in 2001, which will be conducted in the year 2002.

CHAPTER 4

COMMUNITY OUTREACH

The Office of the Independent Police Auditor (IPA) continues to be a leader in the area of progressive and proactive police oversight. As a result, it has established itself as a role model for many other cities throughout the country. Officials from cities considering the IPA model of police oversight have invited the Police Auditor to speak to their communities about the IPA model of police oversight and to provide guidance and assistance to those developing their police oversight programs. The San José IPA model is recognized nationally for its success in providing alternative forum for citizens to file complaints, for the quality in which citizen complaint investigations are monitored and audited, and for its continuous community outreach programs. The IPA is committed to providing community outreach because of its recognized importance. Community outreach is the vehicle by which this office can provide education and assistance while

gaining the respect and the confidence of the community. The effort put forth in providing community outreach is a factor that has contributed significantly to the success of the San José IPA.

As in years past, the IPA remained extremely busy throughout 2001. It was also a very exciting year bringing many new ideas and two new staff members. A Citizen Complaint Examiner has replaced the Citizen Complaint Investigator, and a new Assistant Auditor filled a vacancy. While the two new individuals became members of the IPA, the number of staff members remains the same. With the added skills these individuals bring to the IPA, it is expected that a more concentrated effort on community outreach will be possible with an emphasis in providing more expansive information to the community.

The IPA is committed to providing

the citizens of this community the highest level of service possible.

It is expected that the changes in personnel experienced in 2001 to the IPA staff will contribute greatly toward achieving this goal. The IPA customer service surveys clearly indicate that citizens are receiving the quality service that they have come to expect from the IPA. Providing the highest levels of customer service is a continuous process at the IPA, and the surveys reflect that we have met this goal, but the IPA remains vigilant, continuously searching for new ideas on how we can provide greater and better service. The IPA recognizes and embraces the expectations that the community has of the IPA, and it will continue to serve the public in an efficient, professional, and caring manner.

COMMUNITY EVENTS AND PRESENTATIONS

One of the three primary functions of the IPA is to increase commu-

nity awareness of the citizen complaint process. This component is one element that sets this office apart from other police oversight models. Other police oversight models do not have mandatory community outreach as part of their primary functions.

The IPA understands the importance of community outreach, and for this reason, one of the staff positions has been dedicated to increase public awareness by attending community events, conducting neighborhood presentations, and developing partnerships with the community at large.

In the year 2001, the IPA participated in 50 community events and presentations; eight of them were presentations to the youth and three to San José police officers. The IPA considers every invitation to address the public a great opportunity to inform them about the IPA and to learn about their needs and concerns.

The months of February, May,



Marketing materials used to promote the IPA office at community events.

June, September, and October proved to be the busiest months for the IPA office, averaging seven presentations per month. Community presentations were conducted at neighborhood associations, community organizations/agencies, and cities interested in starting their own police oversight program. Over 3800 people were reached through these types of community activities in 2001.

San José is an ethnically diverse city. One of the greatest challenges for the IPA is its outreach to the different ethnic groups where language can sometimes be a barrier. To overcome some of these obstacles/barriers, the IPA has established partnerships

with community leaders from the different ethnic communities who have invited the IPA office as a guest speaker to their community meetings, and who have donated their time to translate IPA literature into their own native language. Currently, the IPA has information in English, Spanish, Vietnamese, Tagalog, Samoan, and Korean.

In the year 2001, several bilingual presentations were conducted. At every presentation and event, IPA marketing materials were distributed, including newsletters, year end reports, brochures, and various logo items used for promoting the IPA office.

COMMUNITY PRESENTATION SURVEYS

At every community presentation, the IPA conducts surveys to identify those communities not familiar with the office and its services, as well as to learn the needs of those communities and residents. This year, there was a visible increase in the number of

people who had already heard of the IPA prior to a presentation. Some residents attributed the media; others credited IPA community outreach efforts, family members, or co-workers for learning about the office. The information gathered from these surveys is essential in providing the IPA feedback on the status of its current community relations programs, identifying areas of improvement or need, and identifying and planning future office projects and programs.

Of the residents surveyed in 2001, 74% said that they felt comfortable filing a complaint against a SJPD police officer, and 65% said they have in the past wanted to file a complaint. Over 70% reported that they have called for police service, and some of them have requested information from the police department or a police officer in the past three years.

Community presentation surveys also have another function. They assist the office in identifying those areas where residents have a high contact rate with police

officers, and the results of these contacts, whether positive or negative. The surveys provide the IPA office with an indication of some of the major concerns and/or issues that are ranked high by residents. In 2001, community members were asked to rate their major police concerns in their neighborhoods and communities. Police accountability to the public was rated as number one, followed by gangs, traffic, and burglaries/robberies. Juvenile crimes, police patrol, and graffiti were last.

PRESENTATIONS TO NEW OFFICERS

Just as the IPA finds it important to educate the public, the IPA also finds it equally important to educate new officers about the functions of the office, but more importantly, how to prevent conduct that results in receiving complaints by providing quality customer service. For this reason, the IPA has for the past two years been conducting presentations at every police academy. This year the IPA

conducted three presentations; participants included new police officers and lateral police officers. Through these presentations, the IPA is able to dispel misunderstandings or misconceptions officers may have about the office and its role.

WORKING WITH THE YOUTH

As in past years, the IPA focused resources in reaching out to the young adult community in the City of San José. The IPA worked with Santa Teresa High School, Yerba Buena High School, Overfelt High School, and agencies that serve the youth in coordinating presentations. During these presentations, the IPA was able to inform the youth about topics such as police practices and procedures, and the different ways to file complaints. The IPA was also able to dispel misconceptions about the law and police practices as well as provide the youth with suggested behavior when interacting with the police, thus helping to prevent conflict between the youth and the police.

Surveys were administered at every presentation in order to collect input on the different level of interaction youth have had with police officers, the results of these interactions, and concerns and suggestions on improving youth and police relations.

Even though there was good attendance at each youth presentation, only 70 youths participated in the IPA's surveys, and not all surveys were answered completely. Participants were asked to describe the type of interaction they have had with law enforcement, their opinion of public safety concerning their schools and neighborhoods, and suggestions to improve youth and police relations. Close to 80% of the youth surveyed said they have been stopped at least once by a police officer. The surveys indicated that over 45% reported being searched by the police; 43% said they received verbal warnings; 39% received citations and 34% were detained or arrested.

When asked how safe they feel at school, in their neighborhoods, and in their "hang out" places, they reported the following: Close to 40% said they feel very safe in their schools while 54% said they feel very safe in their neighborhoods. Thirty-one percent (31%) said they feel safe in the places they "hang out."

Aside from collecting the above information, the IPA was also interested in learning how the relationship between the police and youth can be improved. What better way to find this

information; ask the youth.

Surprisingly, this was the one question the majority of survey participants answered completely. The number one suggestion was for officers to be polite and friendly, followed by treating youth with respect and being more helpful. In addition, 30% of the participants indicated that they wish to see more officers serve as role models and mentors.

The IPA is pleased with the success of its community outreach campaign to the youth. Local agencies and youth pro-



grams are requesting presentations from the IPA. Some youth programs have incorporated IPA presentations in their curriculums.

HOW THE PUBLIC RATE THE IPA AND THE SJPD

The City of San José, for the second year, commissioned a city-wide survey to measure public awareness and satisfaction with city services including the Independent Police Auditor (IPA) and the San José Police Department (SJPD).

INDEPENDENT POLICE AUDITOR

The 2001 survey revealed that:

❖ Among those people who had contact with the police, the percentage of people aware of the IPA office increased from 18% in 2000 to 26% in 2001. Of those people who had no contact with the police, only 12% were aware of the existence of the IPA office; this is down from 16% in 2000. This indicates that the IPA must continue to aggressively conduct community outreach and public awareness.

❖ Of those who were aware of the IPA, 51% rated the IPA as effective, 33% had no opinion, and 15% rated the IPA as ineffective. These results were very similar to last year's results.

SAN JOSÉ POLICE DEPARTMENT

The 2001 survey concerning the San José Police Department revealed that:

❖ About one in every four residents polled had contact with the SJPD in the 2001. Of these, three-quarters or 74% said that

the officer with whom they had contact was helpful. This was up 2% from the year 2000.

❖ The survey also indicated that 70% of the people responded that they believe that the SJPD treats people fairly. This is up from 64% in 2000.

❖ Lastly, the survey indicated that 63% of those people surveyed, who had contact with the SJPD in the year 2001, rated the officer (s) as courteous and pleasant to deal with. This was down from 77% in 2000.

REFERRAL SITES MAKE A DIFFERENCE IN THE COMMUNITY

Parents of a youth came to the IPA office to file a complaint against two San José officers for what they felt was police harassment. The family was referred to the IPA by the Mexican American Community Services Agency (MACSA), an IPA referral site.

The parents alleged that their son was stopped, searched, and questioned about drug possession by two officers. After reviewing the information and consulting with the SJPD, it was learned that the two individuals were impersonating San José police officers. The parents filed a police report with the San José Police Department, and the case was investigated.

Thank you to MACSA for referring the family to the IPA, and to the family for coming forward with the information.

REFERRAL SITES

This is the third year for the IPA referral sites program. Referral sites are located throughout the City, with at least one in every council district. Preferred locations for referral sites are community centers or other places frequently visited by the public. The IPA provides the staff at each referral site with an orientation session on the services and functions of the IPA. Each referral site is provided with a binder that

contains information about the IPA, the citizen complaint process, and referral numbers for social and legal services. The IPA also provides each site with copies of its “Commonly Asked Questions” brochures, and newsletter. The brochures are available in six different languages:

This past year, the IPA added five new referral sites to its long list of participants. This brings the total to 36 referral sites city-wide. The first referral site was established in District 1 and more referral sites were added in Districts 3, 5, and 6. The goal of the referral sites is not to perform the duties of the IPA office, but to serve as information centers for residents who may be seeking information on the citizen complaint process. For this reason, the IPA is also working with local library branches and fire stations in displaying IPA brochures at their front counters. Currently, IPA information is available at 17 local library branches and 31 fire stations, throughout the City as well as at the customer desks of

City Hall and the San José Police Department. Accessibility to IPA services and information is one of the top priorities for the office.

PROFESSIONAL RECOGNITION

The IPA takes pride in being considered as one of the leaders in the profession of police oversight. In 2001, cities throughout the nation contacted the IPA for information and presentations about the IPA program. Some of these cities were Omaha, Nebraska; Austin, Texas; Fresno and Long Beach, California; Providence, Rhode Island; and Akron, Ohio. The Police Auditor also participated in the establishment of a new auditor office in the cities of Austin and Omaha.

The Independent Police Auditor routinely provides information to many cities. Every city interested in implementing its own civilian oversight program is provided with a packet of information that includes, office publications, copies of the City’s Charter and Ordinance, and complete

information on the office’s structure and functions. The materials also cover the history of the office, its structure and functions, and its success stories and challenges.

The Office of the Independent Police Auditor also serves as a mentor to those newly established police oversight offices by providing them with tools to get their programs started. This may include copies of community presentations on PowerPoint, copies of the layouts of office publications, and copies of job descriptions/announcements.

For all its contributions to the police oversight field, the Office of the Independent Police Auditor has received much recognition. In 2001, the office was acknowledged in Samuel Walker’s recent publication, “Police Accountability – The Role of Citizen Oversight” for its success and contributions to the field of civilian police oversight. The office was commended for its proactive role in actively searching for the underlying causes of police misconduct or problems with the

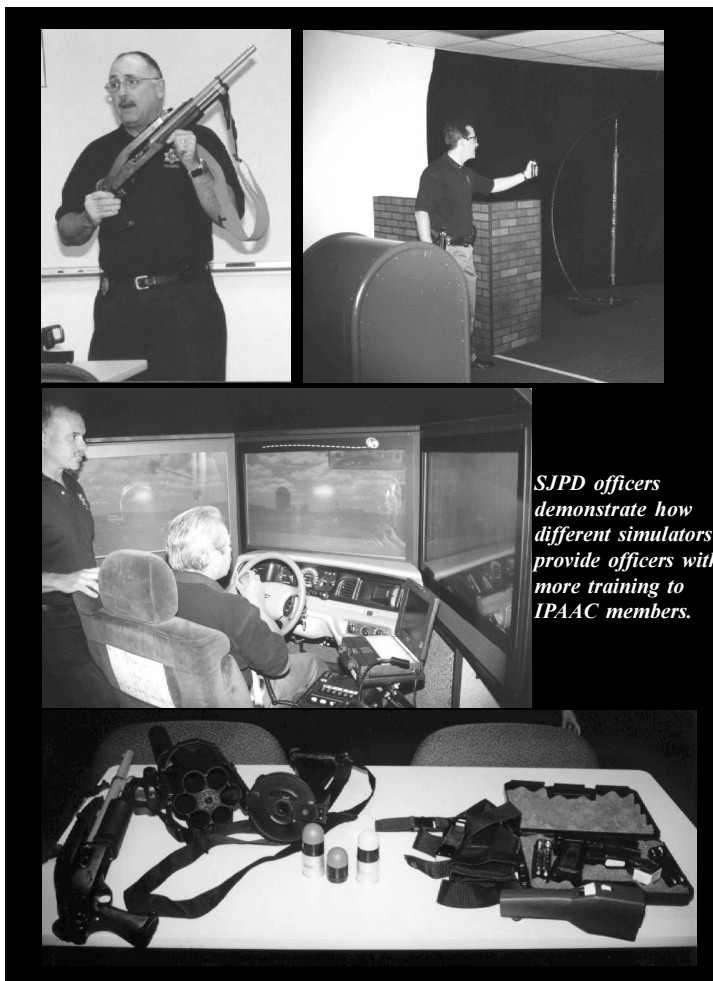
citizen complaint process. The IPA was presented with a “Breaking the Glass Ceiling” Award by the National Center for Women and Policing.

**INDEPENDENT POLICE
AUDITOR ADVISORY
COMMITTEE**

In 1999, the IPA formed an advisory committee called the Independent Police Auditor Advisory Committee (IPAAC)

comprised of culturally diverse community leaders. The purpose of the IPAAC is to: (1) promote the mission of the IPA and provide input/feedback on police related concerns and issues brought to its attention by the community; (2) promote the maintenance and improvement of standards of quality of police oversight in the City of San José; and (3) increase the forums, sources, and methods of informing the public about the complaint process.

IPAAC members serve at the pleasure of the Police Auditor and are required to attend a minimum of two meetings a year. In 2001, five new members were welcomed to the advisory committee bringing the total number of members to 24, among them are representatives from the following communities: Vietnamese, Mexican/Latino, African American, Filipino, Asian-American, Islamic, Sikh, and Gay/Lesbian, business, and legal community.



SJPD officers demonstrate how different simulators provide officers with more training to IPAAC members.

In the year 2001, there were a total of four meetings. One was a tour of the San José Police Department (SJPD) Training Facility organized by the IPA. At this meeting, IPAAC members and IPA staff gained valuable insight about the operation and mission of the SJPD Training Division and laws pertaining to the use of deadly force and escalating force. Officers demonstrated how the Driver and Force Option Training Simulator are used in training officers how to respond when facing calls that require split second decisions in life threatening situations. IPAAC members

also had an overview and hands-on exposure to the less-lethal weapons available to officers. Training and access to these types of weapons has been one of the most important recommendations made by the IPA.

This type of training proved to be beneficial and of much interest to the advisory committee members.

The IPA plans to continue to organize similar training sessions for the IPAAC. The goal is to provide the members with education on the police department's policies and procedures so they in turn can educate their communities. Knowing why officers do what they do gives each member a different perspective on the responsibilities of police officers.



The Independent Police Auditor, along with the SJPD Internal Affairs Lieutenant and other experts in the police oversight field shared their knowledge and experiences with NACOLE Conference attendees.

ago to provide training and a working network for people in the civilian oversight field. Every year NACOLE holds an annual conference. This year's conference, "Inclusion: The Balancing Act of Civilian Oversight," was held in Denver, Colorado. Representatives from all over the nation gathered for a one-week intense

training. The Independent Police Auditor and the Commander from the San José Police Department Internal Affairs Unit had the opportunity to present at one of the many workshops.

PUBLICATIONS

IPA year end reports and other publications are available on the

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

The Office of the Independent Police Auditor is an active member of the National Association for Civilian Oversight of Law Enforcement (NACOLE). The association was established over ten years



The IPA publishes an annual report and Mid-Year newsletter along with informational brochures in different languages.

IPA website at www.ci.sj.ca.us/ipa/home.html. Year End Reports are also available at the City Clerk's Office for a nominal fee. The 1999 and 2000 Year End Reports are available on audio tapes at the IPA office for people with vision disabilities. Audio tapes are free of charge and they are a donation/contribution from Books Aloud.

MEDIA RELATIONS

The IPA office has always enjoyed a professional working relationship with the media, primarily because the office has always made itself available to reporters. As in past years, the IPA worked with the local and out of town media.

The Police Auditor was a guest speaker on community and news shows. The Police Auditor conducted on-camera interviews with KTVU Channel 2, KNTV Channel 11, KSTS Channel 48, and KDTV Channel 14. The Police Auditor was also quoted/ referenced in several San José Mercury News articles, and other newspapers from cities throughout the country.



The Independent Police Auditor talks to local television reporter at one of the IPA's sponsored community forums.

CHAPTER 5

YEAR END STATISTICS

The Office of the Independent Police Auditor (IPA) and the San José Police Department Internal Affairs Unit (IA) are separate offices available for the public to file complaints against members of the San José Police Department (SJPD). The IPA is an oversight office that monitors and tracks investigations while they are being investigated by IA. The IPA also reviews and audits cases after IA has completed its investigation. Even though the IPA is not the primary investigatory agency, it does have the authority to attend IA interviews of subject and witness officers. In addition, the IPA has the authority to request additional investigation after the case has been closed as part of the audit process.

This chapter will discuss the different types of cases that were received from January 1, 2001 through December 31, 2001. It will also discuss the allegations in the cases filed, the findings, and the discipline imposed. The

analysis is only statistical and should not be used to deduce specific and/or conclusive results from the data.

POLICE CONTACT

In the year 2001, the SJPD recorded approximately 525,000 police contacts with citizens. This total includes all calls for service and self-initiated contacts by police officers. Of the 525,000 citizen contacts, less than 5% resulted in an arrest, and less than 500 citizen and police contacts resulted in the citizen contacting the IPA or IA.

HOW THE COMPLAINT PROCESS WORKS

All contacts from the public are documented as cases. Cases are further divided into several classifications such as: Formal, Informal, Procedural, Policy, and Inquiry, which are resolved before they become a complaint. A complaint is an act of expressed

dissatisfaction, which relates to department operations, personnel conduct, or unlawful acts.¹

Typically, IA conducts administrative investigations that are generally adjudicated through the department. However, in some cases, IA may be required to conduct a parallel investigation with a criminal investigation. Generally, IA investigates most allegations involving officer misconduct. Investigators at IA are fact finders only. They do not sustain a complaint, nor do they recommend discipline. In cases where the IA investigator concludes that the investigation may support sustainable allegations, the investigation is sent to the subject officer's chain of command. The commanding officer reviews the investigations and/or conducts further investigation to determine if the complaint should be sustained. In cases involving significant misconduct, the case may be sent to the Disciplinary Review Panel to assist the Chief of Police in determining the

appropriate level of discipline to be recommended to the City Manager.

Once an investigation is completed, a copy of the investigation is sent to the IPA for auditing.

After the IPA receives the copy of the closed investigation, the IPA has two weeks to review it. If the IPA determines that there is an area of concern with the investigation during this two-week period, the IA commander is notified and the two-week time line is stayed. Notifications and/or closing letters are held until the area of concern is satisfied, or the case is re-opened for further investigation. If the IPA makes no request during the two-week period, IA proceeds with sending the closing letters/ notices to the complainant and subject officer.

CASE CLASSIFICATION

There are seven case classifications: Formal, Informal, Policy, Procedural, No Boland, Inquiry, and Citizen Contact. A Formal complaint may be citizen-initiated (CI) or department-initiated (DI),

which is a complaint initiated by the Chief of Police. An Informal² complaint involves an allegation of minor transgressions. An Informal complaint is handled by bringing the matter to the attention of the subject officer's supervisor. A Policy³ complaint relates to an established policy properly employed by the officer, which the complainant believes to be inappropriate or invalid. A Procedural⁴ complaint is one that after the initial investigation, it is determined that the subject member acted reasonably and within department policy and procedure given the specific circumstances, and that despite the allegation of misconduct, there is no factual basis to support the allegation. A No Boland⁵ case is a case that is closed after 30 days from the date the case was received due to the complainant failing to sign the Boland Admonishment. State law requires that the complainant signs a Boland Admonishment form in order to have the complaint fully investigated. An Inquiry⁶ refers to a case that is immediately resolved to the

satisfaction of the citizen, without requiring a more extensive investigation. A Citizen Contact is a case that does not involve an expressed dissatisfaction with police services provided by a San José police officer.

The reasons for classifying the cases into different types are: (1) to streamline the investigative process so that cases, which do not require a full investigation are resolved sooner while the cases requiring more time are given appropriate time to investigate; (2) to track Formal, Informal, and Procedural complaints by officers' names as part of an "Early Warning" system that identifies those officers qualifying for Intervention Counseling; (3) to comply with motions for discovery in criminal and civil proceedings; and (4) to identify patterns or trends so that recommendations can be made to change an existing policy or procedure. Illustration B shows a breakdown of the total number of cases (461) received from January 1 through December 31, 2001 by the type of contact and the office contacted.

Illustration A: Type of Cases

Type of Cases	IPA Intake	IA Intake	Total Cases
Complaints	74	184	258
No Boland and Withdrawn Cases	11	19	30
Inquiry (Cases immediately resolved)	25	93	118
Citizen Contacts (Informational)	30	25	55
Total Cases in 2001	140	321	461

Illustration C reflects the cases received from January 1 through December 31 for the years 1997, 1998, 1999, 2000, and 2001 at the IPA and IA combined for each year. In 2001, the IPA received

140 cases while IA received 321 cases. The total cases received for both offices decreased from 694 in 2000 to 461 in 2001, a 34% decrease.

Illustration B: Type of Complaints

Type of Complaints	IPA Intake	IA Intake	Total Cases
Formal: Citizen-Initiated Complaints	24	82	106
Formal: Department-Initiated Complaints	0	37	37
Informal Complaints	17	32	49
Procedural Complaints	26	31	57
Policy Complaints	7	2	9
Total Complaints in 2001	74	184	258

Illustration C: IPA Intake vs. IA Intake

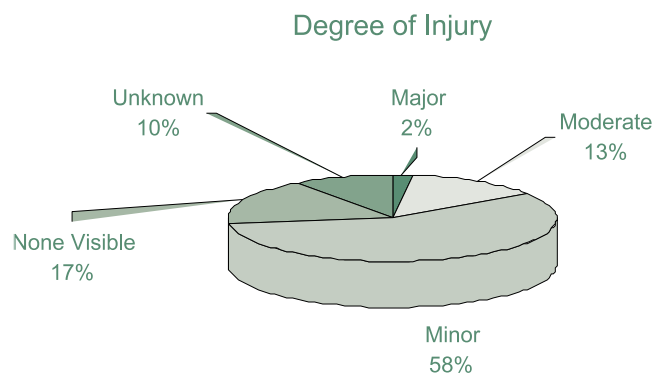
Intake Received	Time Period				
	1997	1998	1999	2000	2001
IPA Cases	127	249	229	251	140
IA Cases	319	500	590	443	321
Total Cases Received*	446	749	819	694	461
Percentage of IPA Received**	28%	33%	28%	36%	30%

ANALYSIS OF UNNECESSARY FORCE COMPLAINTS

In the year 2001, there were 143 Formal complaints received between January 1 and December 31. This is a decrease of 77 Formal complaints over last year's figures. Of the 143 Formal complaints, 52 were classified as Unnecessary Force (UF) complaints. This is a decrease of 32 UF complaints, or 38%, from the year 2000. Because each complaint may contain more than one allegation, there were 92 UF allegations this year. This is a decrease of 37 UF allegations, or 29%, from last year.

Unnecessary Force complaints are divided into two categories: Class I and Class II. A Class I case involves serious bodily injury.⁷ All others are Class II cases, which include complaints in which the complainant did not require immediate medical care. Of the 52 UF complaints filed, six were Class I, and the remaining 46 were Class II complaints. In Illustration D, the Degree of Injury resulting from the alleged use of force ranged from minor to

Illustration D: Degree of Injury



major and included categories for “None Visible” and “Unknown” degrees of injury. For example, a citizen alleged that the officer pushed him/her to the ground and stepped on his/her hand, causing scrapes, bruises, and a swollen hand. This is counted as a minor injury. In 2001, there were 52 UF cases with the following distribution of injuries: 2% major injuries, 13% moderate, 58% minor, 17%

with no visible injury, and 10% with unknown degree of injuries. Throughout the years, minor injuries remain the highest degree of injuries alleged by the complainant. In addition, the major degree of injuries dropped from 15% in 2000 to 2% in 2001, while the moderate degree of injuries increased from 6% in 2000 to 13% in 2001. Overall, 85% of all reported UF allegations involved

minor, no visible, or unknown injuries.

SUSTAINED RATE

In the year 2001, 297 out of 113 Formal CI closed cases were sustained, which resulted in a 26% sustained rate, see Illustration E. The Formal CI cases sustained are up from the 12% sustained rate in the year 2000. In contrast, 24 out of 35 Formal DI closed cases were sustained, a 69% sustained rate. This rate is down from the 76% sustained rate in the year 2000. It should be noted that DI complaints include both internal and external matters. An external matters is where a citizen brought the incident to light, and internal

Illustration E: Formal Cases Sustained

Formal Complaints	Cases Closed	Cases Sustained	Sustained Rate
Citizen Initiated (CI) and Citizen Nexus	113	29	26%
Department Initiated (DI)	35	24	69%
Total	148	53	36%

matters involve personnel issues such as tardiness, abuse of sick leave, etc. The combined sustained rate for Formal cases overall is 36%, which is an increase from last year's combined sustained rate of 24%.

AUDIT CRITERIA OF FORMAL COMPLAINTS

Gathering data, monitoring and auditing investigations to ensure the highest level of quality are of great importance. With this in mind, the IPA developed a checklist for the collection of data and a process for evaluating the quality of the investigations to insure that the data was captured consistently. The objective is to maximize the availability of data entered and secured in the IPA's computer databases.

This process allows for consistency between auditors and provides a database that can be manipulated and randomly searched for critical trends and patterns. The database is designed to highlight the critical elements, actions, and aspects of

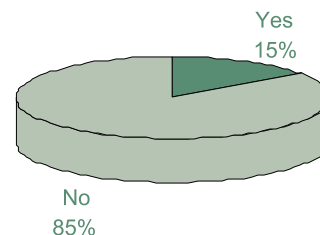
an investigation, providing the IPA with the capability to capture the trends and patterns. The database was also designed to capture the nature of the complaint, which is a significant capability, by using different auditing criteria for the different complaint classifications: Formal, Procedural, No Boland, Informal, Policy, and Inquiry. While every complaint is important, this section provides a synopsis of the Formal complaint audits only because of their heightened severity.

FORMAL COMPLAINTS

The SJPDP uses the Formal complaint classification to address serious violation of department policy, procedures, rules, or regulations by its officers. From January 1 through December 31, 2001, there were 73 Formal cases audited by the IPA. Of these, 28 complaints resulted from a call for service, 20 were self-initiated by the subject officer, 17 were traffic related, and eight were classified as other.

It is important to understand that the 73 Formal cases represent the number of investigations completed by IA and audited by the IPA in 2001. This total may differ slightly from the total number of complaints filed throughout 2001 because some cases may have been filed in 2000 and completed in 2001, while others that were filed in 2001 may still be under investigation.

Illustration F: Request for Further Action



DID THE IPA REQUEST FURTHER ACTION FROM IA?

The IPA requested further action from IA in 12, or 15%, of the Formal cases it reviewed. Requests varied from reopening an investigation to providing the IPA with additional information or documentation. Although the

number of complaints varies from year to year, this year marked an increase from last year's percentage of 6%.

DID THE IPA AGREE WITH THE FINDING OF THE COMPLAINT?

This section reflects the number of times the IPA agreed or disagreed with the resolution of the complaint. The IPA disagreed with the finding of the investigation in 4, or 5%, of the 78 Formal cases audited between January 1 and December 31, 2001. In 2000, the IPA disagreed with 2% of the Formal cases.

Illustration G: Finding of the Complaint

Agreed	74	95%
Disagreed	4	5%

Even though the IPA may disagree with a case resolution for a number of reasons, in most cases where there is a disagreement, weight given to the credibility and/or witnesses appears to have been the difference.

DISAGREED CASES BY THE IPA

Case #1 – The complainant alleged that he was given a citation in a private parking lot for impeding traffic. The complainant alleged that he was initially just given a warning, but when he asked the officers for their names, he was given a citation. The complainant alleged that he should not have received a citation on private property, and that the officers failed to provide him with their names and badge numbers. The findings by the SJPD exonerated the officers. The IPA disagreed because the officers did not properly identify themselves to a civilian when requested to do so.

Case #2 – Complainants alleged that an officer refused to let one of the complainants use the officer's pen to write his name and badge number down. When the other complainant asked for his name and badge, the officer allegedly pointed at his badge and said, "Here, here." The IPA disagreed because the officer failed to properly provide his name and

badge number in compliance with department policy.

Case #3 – The complainant alleged that officers twisted his arms and handcuffed him for no reason. When the complainant asked for the officers' names, they allegedly refused to provide them. The IPA disagreed with the investigation conducted by IA because the issue of the officers' failure to properly identify themselves was not covered in the IA investigation.

Case #4 – The complainant alleged that officers unlawfully searched his home after he was handcuffed and left in the rear seat of the patrol car. The complainant alleged that no warrant was shown to him, and no permission to search was acquired. The findings by the SJPD exonerated the officers. The IPA disagreed because the evidence in this case supports a sustained finding against one of the officers. The evidence showed that the officer exceeded the scope of his protective sweep search.

DISCIPLINE IMPOSED

Of the 146 cases closed in this reporting period, January 1 through December 31, 2001, discipline was imposed in 55 cases, see Illustration H. Discipline is only imposed on Formal complaints, which are the most serious misconduct complaints. This type of complaint is either initiated by a citizen (Citizen-Initiated – CI complaints) or by the Chief of Police (Department-initiated – DI complaints). In

Illustration H, the disciplines are listed by increased level of severity. When an officer is retired from the department, the open investigation is closed with a No Finding. The retired category is not a disciplinary action, but rather it is included for the purpose of tracking the number of officers who retire while the completion of a citizen complaint investigation is pending.

An officer receives discipline

based on the entire complaint and not based on each separate allegation. For example, an officer may have had three allegation sustained, but will receive only one discipline such as documented oral counseling, letter of reprimand, suspension, demotion, transfer, or termination. Also, an officer may receive training and/or counseling, even though the allegation in a complaint is not sustained.

Illustration H: Type of Discipline Imposed by Allegation

Type of Discipline Imposed	Allegations								
	F1	F2	FA	IP	MDP	RC	UA	UC	Total
Training and/or Counseling	0	0	0	7	0	0	1	1	9
Documented Oral Counseling (D.O.C.)	0	1	0	11	4	1	0	4	21
Letter of Reprimand (L.O.R.)	1	0	1	5	0	0	0	2	9
10-Hour Suspension	0	0	0	1	0	0	0	3	4
20-Hour Suspension	0	0	0	1	0	1	0	2	4
40-Hour Suspension	0	0	0	0	0	0	0	2	2
80-Hour Suspension	0	0	0	0	0	0	0	2	2
160-Hour Suspension	0	0	0	0	0	0	0	1	1
Retired	0	1	0	0	0	0	0	0	1
Resigned	0	0	0	0	0	0	0	1	1
Terminated	0	0	0	0	0	0	0	1	1
Total Allegations	1	2	1	25	4	2	1	19	55
F1 = Unnecessary Force -Minor F2 = Unnecessary Force - Major FA = Failure to Act IP = Improper Procedure					MDP = Missing/Damaged Property RC = Rude Conduct UA = Unlawful Arrest UC = Unofficerlike Conduct				

Illustration I: 5 Year - Type of Discipline Imposed

Type of Discipline Imposed	1997	1998	1999	2000	2001	Total	%
Training and/or Counseling	19	20	11	22	9	81	25%
Documented Oral Counseling (D.O.C.)	15	23	15	35	21	109	33%
Letter of Reprimand (L.O.R.)	13	11	7	5	9	45	14%
10-Hour Suspension	4	4	1	1	4	14	4%
20-Hour Suspension	5	3	5	1	4	18	6%
40-Hour Suspension	2	2	6	0	2	12	4%
80-Hour Suspension	1	2	2	1	2	8	2%
100-Hour Suspension	0	1	0	0	0	1	0%
120-Hour Suspension	2	1	0	0	0	3	1%
160-Hour Suspension	3	1	2	0	1	7	2%
13 Month Suspension	0	0	0	0	0	0	0%
Demotions / Transfers	0	0	1	0	0	1	0%
Terminations	0	1	2	0	1	4	1%
Retired	3	3	2	3	1	12	4%
Resigned	6	5	0	0	1	12	4%
Total Discipline Imposed	73	77	54	68	55	327	100%
%	22%	24%	17%	21%	17%	100%	

In Illustration H, the data reflects the type of allegation where discipline was imposed. In Illustration I, the three types of discipline imposed in 2001 for Formal cases with the highest frequency are: Training and/or Informal Counseling (9), Documented Oral Counseling (21), and Letter of Reprimand (9). Illustration I also depicts five years of Formal disciplines for cases closed from January 1 through

December 31, 1997, 1998, 1999, 2000, and 2001. Illustration I shows that the disciplines imposed most frequently are Training and/or Counseling, Documented Oral Counseling, Letter of Reprimand, and Suspension.

INTERVENTION COUNSELING

The Intervention Counseling (IC) process is an early warning

system used for identifying and/or correcting possible errant behavior. The process is designed to identify officers that receive three or more Formal complaints or a combination of five or more complaints of any type within a 12-month period. The process for initiating a counseling session used to be dependent on the completion of an investigation, however, IA is now in the practice of scheduling and holding coun-

selling sessions when the criteria has been met, even if a case(s) is still open. Once an officer, who has met the above criteria, has been identified, he/she is required to attend an informal counseling session. Counseling sessions include the Deputy Chief of the subject officer's bureau, the IA Commander, and the officer's immediate supervisor. This non-disciplinary, informal counseling session involves a review of the complaints against the subject officer and is done without regard to the finding. This meeting is intended to be a proactive attempt to address real or perceived unacceptable behavior before it becomes a problem. Because this is an informal process, no formal record is made of the substance of the counseling session, and only the fact that the officer was counseled is tracked. This past year, 12 officers received Intervention Counseling.

Our data shows that the twelve officers who received IC in 2001 did not receive any subsequent complaints after their IC sessions. In 1999, a total of 15 officers

received counseling, and five did not receive any subsequent complaints after their IC sessions.

SUPERVISOR'S INTERVENTION PROGRAM

The Supervisor's Intervention Program (SIP) embraces the concept of the "Early Warning System" under which the Intervention Counseling Program is instituted. As part of this system, the SIP aims to assist supervisors in tracking complaint histories of their subordinates. This program enables supervisors to take a proactive approach by identifying trends and patterns of behavior in their teams, as well as develop risk management strategies. The following is the current criteria for the SIP:

- ◆ This policy applies to Citizen and Department initiated complaints.
- ◆ When the team assigned to a supervisor receives three or more complaints within 6 months, the IA informs the supervisor's chain of command

that the supervisor meets the criteria to participate in the SIP—the supervisor's chain of command consists of the lieutenant up to the deputy chief.

- ◆ During the supervisor's intervention session, the subject supervisor meets with the aforementioned chain of command and the IA Commander.
- ◆ "Unfounded" cases are excluded from the SIP criteria.
- ◆ Officers working temporarily under another supervisor will track with the regularly assigned supervisor.
- ◆ When more than one officer is named in a complaint, it is counted as only one towards meeting the SIP criteria.

◆ This criteria applies to a 6-month tracking period regardless of shift change. In other words, once a subordinate receives a complaint, the

supervisor remains on the case even when he/she no longer supervises the named officer.

Since the program became effective on March 15, 2001, four supervisors have met the 3-case criteria and have been given counseling.

END NOTES

¹ San José Duty Manual, Section C1703, Complaint defined: A complaint is an act of expressed dissatisfaction, which relates to Department operations, personnel conduct, or unlawful acts.

² San José Duty Manual, Section C1716, Informal Complaint defined: It is determined that the allegation involves minor transgression that may be handled by bringing the matter to the attention of the subject member's supervisor and chain of command.

The utilization of this process does not imply that the subject member has in fact committed the transgression as described by the complainant.

³ San José Duty Manual, Section C1721, Policy Complaint defined: A complaint which pertains to an established policy, properly employed by a Department member, which the complainant understands but believes is inappropriate or not valid.

⁴ San José Duty Manual, Section C1711, Procedure Complaint defined: (A) After the initial investigation, it is determined that the subject member acted reasonably and within Department policy and procedure given the specific circumstances and the facts of the incident and that, despite the allegation of misconduct, there is no factual basis to support the allegation. (B) 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.

⁵ Boland Admonishment. CA. Penal Code Section 148.6.

⁶ San José Duty Manual, Section C1703, Inquiry defined: Citizen contact with a Department member regarding an issue of concern that is immediately addressed and resolved to the satisfaction of the citizen. A concern that is not satisfactorily resolved can become a complaint.

⁷ CA. PC 243.4 F (4). "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; wound requiring extensive suturing; serious disfigurement.

CHAPTER 6

CASES BY COUNCIL DISTRICT

In this chapter, the charts show cases, complaints, and allegations filed in the ten city council districts. Illustration A lists each council district and the types of cases that were handled in each district. A council district indicates the location where the incident occurred and not necessarily where the complainant resides. The term Unknown/Outside City Limits means that

the location of the incident could not be identified, or the incident did not occur within the San José city limits. The top row in Illustration A lists the abbreviation of cases filed: Formal (CI and DI), Informal (IN), Policy (PO), Procedural (PR), No Boland (NB), Inquiry (IQ), and Citizen Contact (CC).

Illustration A shows not just the

number of complaints, but all the citizen contacts received from January 1 through December 31, 2001. Typically, the highest number of cases (132 or 29% of all complaints) were generated in District 3, largely because of the diverse activities generated in the downtown area. District 5, a neighboring district, has the second highest number of cases (46).

Illustration A: Cases by Council District

Council Districts	CI	DI	IN	PO	PR	Subtotal	NB	IQ	CC	Total Cases
DISTRICT 1	4	0	2	2	2	10	3	3	1	17
DISTRICT 2	5	2	3	0	1	11	2	8	0	21
DISTRICT 3	44	21	17	3	15	100	3	22	7	132
DISTRICT 4	4	1	2	0	6	13	1	6	1	21
DISTRICT 5	9	1	8	1	7	26	4	11	5	46
DISTRICT 6	10	0	2	1	10	23	3	15	4	45
DISTRICT 7	9	2	3	0	5	19	3	13	0	35
DISTRICT 8	3	0	3	0	0	6	6	10	0	22
DISTRICT 9	10	3	4	0	2	19	1	7	1	28
DISTRICT 10	6	3	2	0	4	15	0	2	1	18
Unknown/Outside City Limits	2	4	3	0	5	16	4	21	35	76
Total Cases Received	106	37	49	9	57	258	30	118	55	461

Formal: CI = Citizen-Initiated & DI = Department-Initiated, IN = Informal, PO = Policy, PR = Procedural, NB= No Boland, IQ = Inquiry and CC = Citizen Contact

Illustration B: 5 Year - Classied Cases by Council District

Council Districts	Jan. - Dec. 1997	Jan. - Dec. 1998	Jan. - Dec. 1999	Jan. - Dec. 2000	Jan. - Dec. 2001
DISTRICT 1	27	13	26	26	17
DISTRICT 2	24	21	49	45	21
DISTRICT 3	156	131	240	198	132
DISTRICT 4	15	16	44	29	21
DISTRICT 5	46	29	79	77	46
DISTRICT 6	42	26	49	67	45
DISTRICT 7	45	39	55	61	35
DISTRICT 8	17	23	41	41	22
DISTRICT 9	30	19	26	28	28
DISTRICT 10	20	15	42	40	18
Unknown/Outside City Limits	24	32	65	82	76
Total Cases Received	446	364	717*	694	461

*Note that the total cases received in 1999 was 819; one-hundred and two (102) Inquiry cases were not accounted for in the Council District distribution due to the conversion into the new database system.

Illustration B shows a comparative five-year analysis of classified cases by Council District. These cases include all citizen contacts, complaints and non-complaints. The time period is January 1 through December 31 for the years 1997 through 2001. The five-year analysis indicates that between 2000 and 2001, the number of citizen contacts decreased by 34%.

Illustration C shows the distribution of Discrimination/Harassment and Unnecessary Force allegations for each Council District. These are allegations from formal

complaints only. The highest count was in Districts 3. The distribution of these two allegation

categories is consistent with their distribution of all cases received.

Illustration C: Discrimination/Harassment and Unnecessary Force Allegations

Council Districts	DH	UF	Total Alleg.	%
DISTRICT 1	0	9	9	8%
DISTRICT 2	0	3	3	3%
DISTRICT 3	6	33	39	36%
DISTRICT 4	2	3	5	5%
DISTRICT 5	1	9	10	9%
DISTRICT 6	3	8	11	10%
DISTRICT 7	0	5	5	5%
DISTRICT 8	0	5	5	5%
DISTRICT 9	2	7	9	8%
DISTRICT 10	0	4	4	4%
Unknown/Outside City Limits	1	6	7	7%
Total Allegations	15	92	107	100%

CHAPTER 7

SUBJECT OFFICER BACKGROUND

GENDER OF SUBJECT OFFICER

The gender of San José police officers named as subject officers in citizen complaints during the period beginning January 1, 2001 through December 31, 2001 is reflected in Illustration A. Twenty-four percent, or 334, out of a total of 1379 officers in the SJPD received citizen complaints.

Nine percent of the total San José police officer staff are female and 91% are male.

There are 1038 officers assigned to the Bureau of Field Operations (BFO). There are 952 male officers assigned to the (BFO), which accounts for 92% of all personnel assigned to the BFO. There are 86 female officers assigned to the BFO, which accounts for 8% of all personnel assigned to the BFO.

Illustration A: Complaints by Gender of Subject Officer

Gender	Number of Complaints	%	Number of Officers in the Police Department	%
Male	319	96%	1256	91%
Female	15	4%	123	9%
Total	334	100%	1379	100%

Illustration B: Officers Assigned to Bureau of Field Operations

Gender	BFO Receiving Complaints	%	Officers in BFO	%
Male	105	97%	952	92%
Female	3	3%	86	8%
Total	108	100%	1038	100%

ETHNICITY OF SUBJECT OFFICERS

This section breaks down the ethnicity of San José police officers who received citizen complaints during the period beginning January 1 through December 31, 2001.

European American officers received 55% or 185 citizen complaints. This percentage is

consistent with the number of European American officers that make up the San José Police Department, which is 58%. Hispanic/Latino officers received 107 complaints, which is 32% of all complaints made against officers. Asian American officers received 29 complaints which is 9% of all complaints made against San José police officers. African American officers received

10 complaints or 3% of all complaints initiated against officers. Filipino American officers received two complaints or 1% of the complaints reported against officers. Native American officers received only one complaint which is 0.3% of all complaints reported against San José police officers. A total of 334 San José police officers received citizen complaints which is a decrease of 29% or 98 complaints from the year 2000.

YEARS OF EXPERIENCE OF SUBJECT OFFICER

The number of years of experience for San José police officers is displayed in Illustration C. This information covers the period beginning January 1, 2001, through December 31, 2001. The data is rounded off to the nearest percent. Officers with two to four years of experience account for 14% of the entire police force; however, they accounts for 30% of all complaints. The statistics for 2001 show an increase of complaints reported against officers within this experience range, up

by 30 complaints more than was received in 2000. Officers within this experience range also received the highest number of Unnecessary Force complaints, receiving 39, one more than in the year 2000.

Police officers with 16 or more years of experience account for 475 or 34% of the entire San José police officer staff. Officers within this experience range received 66 complaints in the year 2001. 66 complaints represent 20% of all reported complaints, which is the same percentage as in 2000.

San José police officers with one year or less experience received 23 complaints, which make up

7% of all complaints. This group of officers received the least amount of complaints. However, these officers are under constant close supervision while in the field training segment of their employment and prior to that, approximately one quarter of their first year is spent attending the police academy.

SUBJECT OFFICER WITH ONE OR MORE COMPLAINTS

Illustration D depicts the number of subject officers and the number of complaints filed against them in a five-year period.

In 2000, 84 different San José police officers received multiple

Illustration C: Subject Officer's Years of Experience

Year of Experience	Number of Complaints	%	Number of Officers in the Police Department	%
0-1+	23	7%	119	9%
2-4+	99	30%	189	14%
5-6+	62	19%	197	14%
7-10+	41	12%	196	14%
11-15+	43	13%	23	15%
16+	66	20%	475	34%
Total	334	100%	1379	100%

Illustration D: Subject Officers by Number of Complaints

Time Period	Subject Officers by Number of Complaints						Total Subject Officers	Subject Officers With Two or More Complaints
	1	2	3	4	5	6		
Jan. - Dec. 1997	253	56	14	4	2	1	330	77
Jan. - Dec. 1998	207	51	11	3	1	0	273	66
Jan. - Dec. 1999	220	52	15	4	2	0	293	73
Jan. - Dec. 2000	241	58	19	5	1	1	325	84
Jan. - Dec. 2001	211	40	10	3	0	0	264	53

complaints. This equates to a 15% increase from 1999. There was also a 10% increase in 2000 over 1999 in the number of different San José Police officers receiving one complaint. During 1999 there were 220 different officers receiving one complaint, while there were 241 different officers receiving one complaint in 2000.

There was a 37% decrease in the number of different San José police officers receiving multiple complaints from 2000 to 2001.

There were 84 different San José police officers receiving multiple complaints in 2000, while 53 different officers received multiple complaints in 2001. There were 241 different San José police

officers who received only one complaint during 2000 and 211 different officers that received one complaint during 2001. This reflects a 12% decrease in the number of different San José police officers receiving one complaint from 2000 to the 2001.

There were 84 different officers who received two or more citizen complaints in 2000, which reflects the highest number in the five year time period.

ETHNICITY OF SUBJECT OFFICERS AND COMPLAINANTS

A tabular representation of the number of San José police officers receiving complaints by

ethnicity and the ethnicity of the complainants is provided in Illustration E. This illustration encompasses the time period beginning January 1, 2001 through December 31, 2001. Each complaint represented in this illustration may have more than one complainant. However, only the primary complainant is reflected. It is important to note that unlike complainants, each subject officer involved in a case is tracked. This illustration shows the ethnicity of the primary complainant with the corresponding ethnicity of the subject officer(s). The primary complainant is either the first complainant listed in a case, or the complainant that was directly involved in the incident that resulted in a

complaint. The following is a fictitious scenario used to illustrate an example of how to read this chart. A citizen files a complaint against three subject officers. One officer is African-American, one is Hispanic/Latino, and the other is White/European American. There are two complainants in this case, the primary complainant being Asian American and the co-complainant is Arab American. Because the primary complainant is the only complainant that is counted, a table illustrating this particular scenario would show a (1) in the row tracking Asian-

American complainants. The columns for the subject officers would each indicate a (1) for the African American officer, Hispanic/Latino officer, and White/European American officer. Cases where the subject officer could not be identified, or the complaint is for a policy violation, are not represented in this table. Policy cases are determined to be a violation of a San José Police Department policy and not a complaint against an officer's action or failure to act. The purpose of Illustration E is to cross reference the ethnicity of

subject officers and complainants and to illustrate that no single ethnic community is filing complaints against a particular group of officers in disproportionate rates. For example, Hispanic/Latino complainants filed 38 complaints against European American officers and 31 complaints against minority officers. European American officers received 55% of all complaints, but they also represent 58% of the SJPD. Complainants of Hispanic/Latino ethnicity filed the most complaints, 34% of all citizen complaints.

Illustration E: Ethnicity of Subject Officers and Complainants

Complainants	Subject Officers Receiving Complaints						% of Complainants	% of San Jose Population
	African American	Asian American	European American	Filipino American	Hispanic / Latino	Native American		
African American	1	4	25	1	14	0	22%	3%
Asian American	0	1	4	0	3	0	4%	27%
European American	2	5	32	1	18	0	28%	36%
Filipino American	0	0	1	0	1	0	1%	0%
Hispanic / Latino	2	6	38	0	22	1	34%	30%
Native American	0	0	1	0	0	0	1%	0%
Vietnamese	0	0	1	0	0	0	1%	1%
Other	0	1	2	0	2	0	2%	3%
Decline	1	1	8	0	4	0	7%	0%
% of Officers receiving complaints	3%	9%	55%	1%	31%	1%		
% of Officers in San Jose Police Department	5%	8%	58%	2%	26%	1%		

CHAPTER 8

COMPLAINANT BACKGROUND

The statistics reported in this chapter are based on the data collected from voluntary surveys completed by complainants. However, the totals reported in this chapter and the totals in Chapter 5 are different because not all complainants provided their background information. The accuracy of the data in this chapter is dependent solely on the information reported by the complainants.

Illustration B: Ethnicity of Complainant

Ethnicity	Complainants	%	% of San Jose Population
African American	45	22%	3%
Asian American	8	4%	27%
European American	58	28%	36%
Filipino American	2	1%	0%
Hispanic/Latino	69	34%	30%
Native American	3	1%	0%
Vietnamese	1	0%	1%
Other	5	2%	3%
Decline	14	7%	0%
Total	205	100%	100%

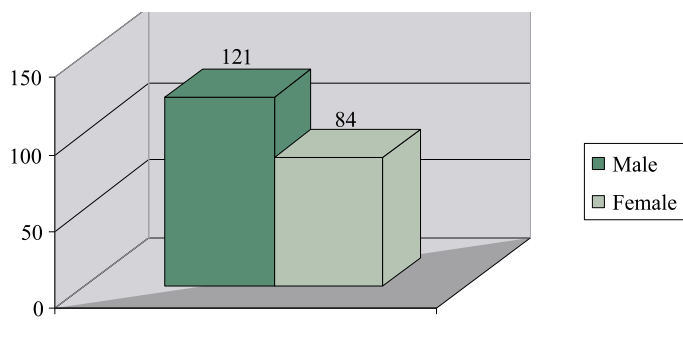
It is important to note that 56% of all voluntary questionnaires were not returned, and these numbers and percentages are based on the data contained only on the returned questionnaires.

GENDER OF COMPLAINANT

Illustration A provides a visual representation of the gender of the complainant from the period beginning January 1, 2001, through December 31, 2001.

There was a total of 461 cases received in the year 2001, 334 of which required a full investigation. One hundred and twenty-one (121) male and 84 female complainants responded by returning the survey for a sample of 205 complainants in the year 2001. Keeping with past trends, there were more male complainants than female. Complaints filed by male complainants accounted for 59% of all complaints. Complaints made by female complainants accounted for 41%.

Illustration A: Gender of Complainant



ETHNICITY OF COMPLAINANT

The information in this section is for the period beginning January 1, 2001 through December 31, 2001. Complainants of Hispanic/Latino ethnicity filed the largest number of cases. This group reported 69 complaints according to the voluntary surveys collected from the complainants, which represents 34% of all reported cases. This percentile is consistent with the 30% of Hispanic/Latino people that make up the entire population of San José. While the trend has been for Hispanic/Latino people to report the largest number of complaints, there was a significant decrease of 91 cases filed by Hispanics/Latinos in 2001.

European Americans filed the second highest number of cases, reporting 58 cases in the year 2001. This number of complaints represents 28% of all cases being filed. Because European Americans make up 36% of the entire San José population, the number of complaints they file, as compared to the population they

represent in San José, is low. This is a continuing trend from the year 2000.

African Americans reported 45 cases in the year 2001. This is the third highest number of complaints filed. This is a decrease of 10 cases from 2000. African Americans make up 3% of the entire San José population; however, they filed 22% of all cases. The number of cases filed by African Americans is high in comparison to the percentage of population they represent in San Jose.

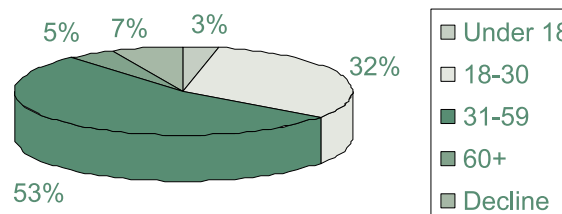
AGE OF THE COMPLAINANT

Illustration C illustrates the age of the complainant for the period beginning January 1 through December 31, 2001. The largest

number of cases filed was from individuals between the ages of 31 and 59 years. This past trend continued in 2001. What is worth noting is that there was a significant increase in the number of cases received from individuals over 60 years of age in the year 2000. In 2001 the number of cases received from this same age group decreased from 36 in 2000 to 10 in 2001.

Overall in 2001, seven cases were reported from individuals under the age of 18 years. 65 cases were reported from individuals between the ages of 18 and 30 years. 109 cases were reported from individuals between the ages of 31 and 59 years, and 10 cases were received from persons over the age of 60.

Illustration C: Age of Complainant



EDUCATIONAL LEVEL OF THE COMPLAINANT

There was no significant change in the levels of education for individuals filing complainants from the year 2000 to 2001. Surveys conducted by the IPA reveal that 49% of individuals initiating citizen complaints against San José police officers in 2001 have received an education beyond the twelfth grade. Additionally, 22% of those have attended college four years or more. These figures continue to discredit the general perception that most complainants are uneducated members of the community.

COMPLAINANT'S OCCUPATION

Illustration D provides a description of the occupations held by complainants. The information on this chart is for the period beginning January 1, 2001 through December 31, 2001. As evident by the information presented in the chart, most complainants are employed in blue-collar jobs. 14% of all complainants surveyed

Illustration D: Occupation of Complainant

Complainant's Occupation	
Administration	15
Disabled	10
Homemaker	6
Government	5
Laborer	29
Professional	18
Retired	3
Self-employed	6
Services	38
Student	17
Technical	12
Unemployed	13
Decline	33

fall into this category. Complainants in this category work as drivers, janitors, construction workers, etc. 8% of all complainants work in professions such as lawyers, doctors, managers, etc. 6% of all complainants work in technical jobs such as engineers, technicians, electricians, etc., and 10% of complainants are students attending college, technical, equivalency, or vocational schools.

These figures and percentages were obtained through our voluntary questionnaire survey pro-

cess, and it is important to note that 53% of the surveys mailed to all complainants were not returned. There were 433 voluntary questionnaires mailed to complainants, and 205 were completed and returned.

CHAPTER 9

CONCLUSION

For two consecutive years, the number of cases, which transcend from questions to serious misconduct, has decreased by over 30%. The number of cases handled in 2001 is comparable to five years ago. In 1997, 446 cases were received. In 1999, the number of cases peaked at 819. While the number of complaints is not the best indicator of the quality of police services, it is a measure that can be used for comparison from year to year. A sudden decrease or increase in complaints can be a greater indicator of a problem than the total number of complaints filed each year.

One of the most frequently posed questions is, "Why did the number of citizen complaints decrease/increase?" The IPA contends that a very low number of complaints is not necessarily an indication of less dissatisfaction nor greater satisfaction with police services, but rather may be a lack of confidence in or awareness of the process. Likewise, a

sudden rise in complaints is only indicative of a problem if they are of a similar nature. Assessing with any certainty, why the number of complaints fluctuates, would require resources beyond those available to this office. Therefore, only general assumptions and observations can be offered.

What can be expressed with a high degree of certainty is that the citizens of San José who desire to file a complaint can do so free of obstacles, intimidation, or retaliation. The process for filing a complaint is user friendly, easily accessible, and the allegations unfiltered. Every case, regardless of the nature, is documented and used to identify trends and patterns that show policy failures, problem officers, or a need to change police procedures and practices. The outcome of an individual investigation does not hinder or advance the effectiveness of the oversight process because of the cumulative effect.

While state law mandates that the investigation and any discipline imposed be kept confidential, the existence and the work of the IPA serves to assure the public that their complaints will be handled fairly, objectively, and the finding supported by the evidence. In the last eight years, the greatest testament to the work of the IPA is the number of significant changes and improvements that have taken place at the San José Police Department.

APPENDIX A

CLASSIFICATION OF CASES

A complaint is an act of expressed dissatisfaction which relates to Department operations, personnel conduct or unlawful acts. A complaint involves an administrative process where discipline may be imposed by the SJPD and must not be confused with criminal charges which are filed by the District Attorney's office.

There are seven classifications of cases:

1. **Formal Complaint:** After the initial investigation by the Intake Officer, the Department determines that the facts of the allegations are such, that should they be proven, the allegation would amount to a violation of the law or of the Department policies, procedures, rules or regulations.
 - a. **Civilian-Initiated (CI) Complaint** initiated by a citizen¹ alleging misconduct on the part of a member of the SJPD.
 - b. **Department-Initiated (DI) Complaint** 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.
2. **Informal (IN) Complaint** involve allegations of minor transgressions on the part of a subject officer² which may be handled informally by bringing the matter to the attention of the officer's chain of command at the complainant's request.³ At the end of the investigation, the assigned finding is "Supervisor Review." This is typically a 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 Internal Affairs Unit is then obligated to investigate this complaint as such. The complainant has ultimate control as to whether to treat the complaint as Formal or Informal.
3. **Procedural (PR) Complaint** is 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."

¹ A citizen is denoted as an individual, not reflective of U.S. citizenship. Any member of the public may file a complaint. The complaint however, must be one that is directly affected by the wrongdoing of the officer involved or one who witnessed the incident.

² Subject officer refers to the officer of whom the complaint is about.

³ San José Police Department, Internal Affairs Unit Guideline, page 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.

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 Internal Affairs officer discovers that the complainant is on parole and has a search clause. The case will be closed with a finding of “No Misconduct.”

4. **Policy (PO) Complaint** pertains 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.
5. **No Boland (NB)** is a case that is closed within 30 days from the date the case was received due to the complainant failing to sign the Boland Admonishment. State law requires that the complainant sign a Boland Admonishment form in order to have the complaint fully investigated.
6. **Inquiry (IN)** refers to a case that is immediately resolved to the satisfaction of the citizen, without requiring a more extensive investigation. An inquiry that is not immediately resolved to the citizen’s satisfaction can be reclassified and be fully investigated.
7. **Citizen Contact (CC)** refers to an informational type of contact from the public.

APPENDIX B

MISCONDUCT ALLEGATIONS

Formal Civilian-Initiated or Formal Department-Initiated misconduct complaints will involve one or more of the following general allegations:

Discrimination/Harassment (DH) allegation is used to classify all types of discrimination or harassment either racial, sexual, etc.

Excessive Police Service (ES) allegation arises where a citizen feels unjustifiably harassed by a police officer or by multiple police officers on more than one occasion.

Failure To Take Action (FA) allegation involves no police service given to the citizen.

Improper Procedure (IP) allegation involves a violation of City policy or of a regulation in the San José Police Department Duty Manual.

Missing/Damaged Property (MDP) allegation arises when property is missing or damaged.

Rude Conduct (RC) allegation is abusive behavior or language, threats, profanity, and poor attitude while on duty.

Unlawful Arrest (UA) allegation is an arrest that is not lawfully conducted.

Unofficerlike Conduct (UC) allegation deals specifically with off-duty behavior. The conduct, which is the subject of Unofficerlike Conduct complaints often relates to violation of laws, drug or alcohol use, misuse of City property, gratuities, bribes and abuse of authority.

Unnecessary Force (UF) allegation is the level of force used on the citizen is excessive or improper.

Unlawful Search (US) allegation is a search that is not lawfully conducted.

APPENDIX C

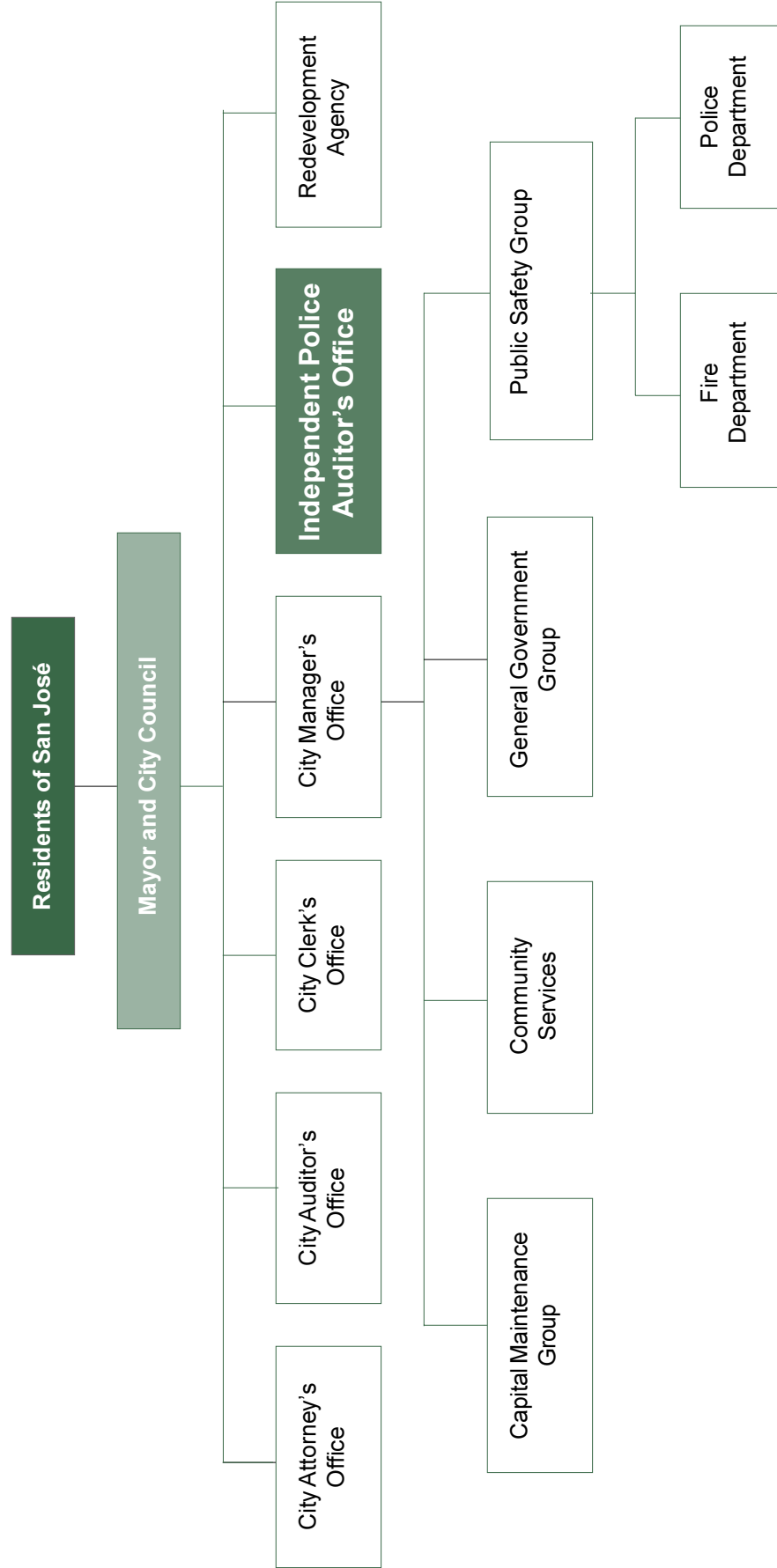
DEFINITION OF FINDINGS

A Formal complaint is a serious misconduct on the part of a member of the San José Police Department (SJPD). The complaint alleged a serious violation of the City policy, the Department policy or the law by an officer. A Formal complaint may be citizen-initiated (CI) or department-initiated (DI), which is a complaint initiated by the Chief of Police. The findings¹ available for a Formal complaint are:

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. The investigation revealed that another agency was involved and the complaint or complainant has been referred to that agency. The complainant wishes to withdraw the complaint. The complainant is no longer available for clarification(s). Additional reasons may include: lack of signature on the Boland Admonishment; officer resigned from the SJPD before the investigation was closed; or the identity of the officer could not be determined.

¹ See San José Police Department Duty Manual Section C 1513.20.

APPENDIX D SAN JOSE CITY ORGANIZATION



APPENDIX E

OFFICE OF THE INDEPENDENT POLICE AUDITOR

Independent Police Auditor

- Plan, organize, direct and evaluate the office's services, policies and procedures.
- Represent the department within the City and with other public/private organizations.

Assistant Auditor

- Audit the investigations of civilian complaints.
- Attend to operational matters.

Complaint Analyst

- Create, implement and maintain database systems.
- Collect data for statistical analysis and identify trends and patterns.
- Assist with the intake of civilian complaints.

Community Outreach

- Conduct community outreach.
- Responsible for media and marketing efforts.
- Assist with the intake of civilian complaints.

Complaint Intake/Investigator

- Responsible for the intake of citizen complaints
- Conduct follow-up investigations.
- Assist with auditing the investigations of citizen complaints.

Office Specialist

- Provide administrative support.

APPENDIX F

INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

ISSUES RAISED IN	RECOMMENDATIONS	DISPOSITION	RESOLUTION PERIOD
1993 1st Quarter Report	Create a new system for the classification of complaints	Adopted	1st Quarter, 2nd Quarter, and 1994 Year End Report
	Standardize the definition of Procedural and Informal Complaints	Adopted	2nd Quarter and 1994 Year End Report
	Apply Intervention Counseling to all complaints	Adopted	2nd Quarter and 1994 Year End Report
	Establish procedures to address potential bias within the Internal Affairs Unit	Adopted	2nd Quarter and 1994 Year End Report
	Enact policy to ensure objectivity of the intake process	Adopted	2nd Quarter and 1994 Year End Report
1994 3rd Quarter Report	Establish and comply with a timetable regarding the length of time required for complaint classification and investigation	Adopted	1994 Year End Report
	Implement citizen "Onlooker Policy"	Adopted	1995 Midyear Report
	Standardize investigation writing format	Adopted	1994 Year End Report
	Provide report writing training for "Drunk in Public" cases	Adopted	1994 Year End Report
	Provide chemical testing for "Drunk in Public" cases	Not Adopted	1994 Year End Report
	Send minor complaints to BFO to expedite investigations	Adopted	1994 Year End Report
1994 Year End Report	Establish neutrality in the selection of Formal or Informal complaint process	Adopted	1994 Year End Report
	Interview complainants and witnesses within three months of complaint initiation	Adopted	1994 Year End Report
	Contact complainants at regular intervals through updates and closing letters	Adopted	1994 Year End Report
	Provide a sample of all SJPD Reports to the Police Auditor	Adopted	1994 Year End Report
	Use of mandatory consent forms for consent searches	Not Adopted	1995 Year End Report

ISSUES RAISED IN	RECOMMENDATIONS	DISPOSITION	RESOLUTION PERIOD
1994 Year End Report	Enact policy for collecting physical evidence in use of force cases and immediate investigation by supervisor.	Adopted	1995 Year End Report
	Write complainant's statement in addition to recording and provide copy to complainant.	Adopted	1994 Year End Report
	Handle Informal Complaints through counseling by Field Supervisor and contact with complainant (where desired).	Adopted	1994 Year End Report
	Revise letters sent to complainants to include information about the IPA's role.	Adopted	1994 Year End Report
1995 Midyear Report	Maintain a central log of contacts from potential complainants.	Adopted	1995 Year End Report
	Obtain additional office space for IA.	Adopted	1997 Year End Report
	Require the Police Department to refer complainants to either IA or IPA.	Adopted	1995 Year End Report
	Implement policy to standardize format for officer's interviews.	Adopted	1995 Year End Report
	Create policy to require closer scrutiny of strip searches for misdemeanor arrests.	Adopted	1995 Year End Report
	Revise Off-Duty Employment Practices.	Adopted	1997 Year End Report
1996 Midyear Report	Connect IPA to City of San José's internet network.	Adopted	1997 Year End Report
	Conduct intake investigation of complaints lacking a signed Boland Admonishment.	Adopted	1996 Midyear Report
	Retain name of officer where Boland Admonishment is not signed (but need not place in personnel file).	Not Adopted	
	Require complaint classification to appropriately reflect the nature of the complaint.	Adopted	1996 Midyear Report
	Implementation and design a new computer database system to link IA to IPA.	Adopted	1996 Midyear Report
1996 Year End Report	Implement process for responding to citizen's request for officer identification	Adopted	1997 Year End Report
	Establish Class I and Class II of use of force categories.	Adopted	1996 Year End Report

ISSUES RAISED IN	RECOMMENDATIONS	DISPOSITION	RESOLUTION PERIOD
1996 Year End Report	Complete Class I Use of Force investigations within 180 days.	Adopted	1996 Year End Report
	Complete all investigations of citizen complaints within 365 days.	Adopted	1996 Year End Report
	Establish IPA's authority to audit relevant DI cases with a nexus to a citizen.	Adopted	1997 Year End Report
1997 Year End Report	Establish a procedure to require officers to identify themselves to civilians in writing.	Adopted	1998 Year End Report
	When forcibly taking a blood specimen from an uncooperative suspect, do so in an accepted medical environment, according to accepted medical practices and without the use of excessive force.	Adopted	1998 Year End Report
	All complaints not covered under a Cardoza exception should be investigated by the IA and reviewed by the Chain of Command within 10 months, allowing the IPA enough time to request additional investigation, if needed.	Adopted	1998 Year End Report
	Time limits and reliable tracking system should be set for every bureau and department involved with the complaint process.	Adopted	1998 Year End Report
1998 Year End Report	Authorize the IPA to review all officer-involved shootings.	Adopted	1999 Year End Report
1999 Year End Report	Increase the IPA staff, to increase communication and personal contact with individual complaints.	Adopted	2000 Year End Report
	Recommended that the City Council grant the IA subpoena power to compel the attendance of civilian witnesses and to compel the production of documentary or physical evidence.	Adopted	2000 Year End Report

ISSUES RAISED IN	RECOMMENDATIONS	DISPOSITION	RESOLUTION PERIOD
1999 Year End Report	Amend the Municipal Code to define a citizen complaint audit and clarify that an audit includes follow up investigations.	Not Adopted	2000 Year End Report
	It is recommended that the SJPD explore the feasibility of implementing a voluntary mediation program within the next six months.	Adopted	2000 Year End Report
	It is recommended that the SJPD design a training course focused specifically on improving day to day verbal communications when dealing with the public.	Adopted	2000 Year End Report
	It is recommended that in cases where the police erred, i.e. the wrong home was searched, an explanation and/or apology should be given as soon as possible, preferably at the onset.	Adopted	2000 Year End Report
	It is recommended that motorists should be told the reason for the enforcement action such as stop, search, and detention as soon as possible and preferable at the onset.	Adopted	2000 Year End Report
	It is recommended that the SJPD formalize a process whereby an officer is assigned to be the contact person or liaison to family members of people that were killed or died in police custody . This is in effort to assist family and/or provide them with necessary but non-confidential information.	Pending	2000 Year End Report
2000 Year End Report	To assure the public that it is safe to file complaints, the Chief of Police should create policy to prohibit actual or attempts to threaten, intimidate, mislead, or harass potential or actual complainants and/or witnesses.		2001 Year End Report
	The Chief of Police should include in all citizen complaint printed materials wording that clearly states that "Retaliation against complainants is prohibited. The Chief of Police will not tolerate retaliation, and immediate action will be taken if an officer retaliates against a complainant or witness directly or indirectly, " or similar words that emphasize the Chief's position.		

ISSUES RAISED IN	RECOMMENDATIONS	DISPOSITION	RESOLUTION PERIOD
2000 Year End Report	The San José Police Department Duty Manual does not include a comprehensive Whistleblower policy. By incorporating federal Whistleblower guidelines, the Chief of Police should create a comprehensive WhistleBlower policy for the San José Police Departmen.		2001 Year End Report
	The Chief of Police should continue to develop Ethics and Integrity Training to reflect and align with the ethics expected by the citizens of San José.		2001 Year End Report
	The Chief of Police should expand the fields for data collection to determine how the individual stopped was treated, i.e. was there a search. This should include search information and the factual basis for a stop, and the action taken by the officer as a result of the stop		2001 Year End Report
	Develop a uniform definition of and process for tracking all "Racial Profiling" allegations in all instances where the complainant alleges that his/her vehicle stop or police contact was racially motivated.		2001 Year End Report
	The San José Police Department should expand the platform of the database used by the Internal Affairs Unit to facilitate the recording, tracking, and analysis of "Racial Profiling" and all other types of citizen complaints.		2001 Year End Report
	The San José Police Department's Internal Affairs Unit should formally investigate allegations of officers refusing to identify themselves under an Improper Procedure allegation.		2001 Year End Report
	Continue to identify alternate, less lethal weapons , and make them more readily accessible.		2001 Year End Report
	Provide specialized training in handling suspects armed with non-automatic projectile weapons.		2001 Year End Report
	The Critical Incident Response Team's presence at the scene is very important. Continue to provide special training in identifying and handling suspects with mental illness histories.		2001 Year End Report
	Continue to recruit and hire officers with bilingual skills.		2001 Year End Report
	The Disciplinary Review Panel should document at the conclusion of the hearing how they reached their findings to enable the IPA to conduct an audit.		2001 Year End Report

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