

# I- INTRODUCTION

## A. FUNCTIONS OF THE IPA

On September 13, 2002, the Office of the Independent Police Auditor (IPA), will celebrate its ninth anniversary. The IPA continues to be focused on its mission of providing an independent review of the citizen complaint process in an effort to increase accountability and public satisfaction with services provided by the San Jose Police Department (SJPD).

The Office of the Independent Police Auditor (IPA) has four 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,
- (3) it promotes public awareness of a person's right to file a complaint, and
- (4) it makes policy recommendations.

## B. REPORTING REQUIREMENT

The San Jose City Council directed the Office of the Independent Police Auditor (IPA) to begin providing mid-year reports in addition to annual reports. This report covers the activity of the first six months of the 2002 calendar year and complies with the reporting requirements outlined in the San Jose Municipal Code Section 2.06.020 (c). This section mandates that the IPA's report contain, but not be limited to the following:

- 1- A statistical analysis documenting the number of complaints by category, the number of

complaints sustained, and the actions taken;

- 2 - An analysis of trends and patterns; and
- 3 - Specific recommendations for change.

## C. CONTENTS OF THIS REPORT

This report is intended to provide a brief update in three areas: statistics, recommendations, and updates on prior recommendations. The information covered in this report will be included and expounded on, in a comprehensive year-end report detailing all the activity of the Office of the Independent Police Auditor (IPA) for the 2002 calendar year.

**Mission**

*The Independent Police Auditor's mission is to provide an independent review and to promote public awareness of the citizen complaint process; thereby, increasing greater police accountability by the San José Police Department.*

## II- MID-YEAR 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).

This section will report the number of cases received from January 1, 2002 through June 30, 2002. It will also provide a breakdown of the allegations in the different types of cases filed, the degree of injury, the sustained rate and the findings. The analysis is only statistical and should not be used to deduce specific and/or conclusive results from the data.

### *A-How the Complaint Process Works*

A complaint is an act of expressed dissatisfaction, which relates to Department operations, personnel conduct or unlawful acts<sup>1</sup>. Typically the Internal Affairs Unit conducts administrative investigations that are generally adjudicated through the department. However, in some cases the IA unit may be required to conduct a parallel investigation with a criminal investigation.

The Internal Affairs Unit investigates all allegations involving officer misconduct. Investigators at Internal Affairs 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 supports sustainable allegations, the investigation is sent to the

subject officer's chain of command. The commanding officer reviews the investigation and/or conducts further investigation to determine if the complaint should be sustained. If the Chief of Police agrees with the recommendation from the commanding officers to sustain the complaint, the case is sent to the Discipline Review Panel to determine the type of discipline to impose.

Once an investigation is completed, a copy of the investigative file is sent to the IPA for auditing. By prior practice, the IA unit would immediately send the complainant and the subject officer a closing letter advising them of the finding in their case. Because this practice did not allow time for the IPA to agree or disagree with the results of the investigation before a notification was sent, the IPA and the IA Unit mutually agreed to a change in the process. The new process gives the IPA two weeks to review the completed investigation before a notification is made or a closing letter sent. During this two-week period, if the IPA determines that there is an area of concern with the investigation, 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. This process provides the IPA an opportunity to request an investigation before notices are sent. If the IPA makes no request during the two-week period, the IA unit proceeds to send the closing letters/notices to the complainant and subject officer.

## B- Complaint Classification

All cases are documented thoroughly and divided into six classifications: Formal, Command Review, Policy, Procedural, No Boland, and Inquiry. A **Formal** complaint may be citizen initiated (CI) or department-initiated (DI), which is a complaint initiated by the Chief of Police. These complaints involve the most serious type of allegations and require more in-depth investigation. A **Command Review**<sup>2</sup> complaint involves allegations of minor transgressions. A Command Review complaint is handled by bringing the matter to the attention of the subject officer's supervisor. A **Policy**<sup>3</sup> complaint relates to an established policy properly employed by the officer, which the complainant believes to be inappropriate or invalid. A **Procedural**<sup>4</sup> is a complaint 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 Boland** complaint is a complaint that is closed within 30 days from the date the complaint 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. However, if serious misconduct is alleged, the complaint will be investigated even if the complainant does not sign the Boland form. An **Inquiry** refers to a complaint that is immediately resolved to the satisfaction of the citizen, without requiring an extensive investigation.

The reasons for classifying the complaints into different types are:

- (1) to streamline the investigation process so that cases that 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, Command Review, 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.

## C- Break Down of Cases

There were 257 contacts from the public at either the IA or IPA offices from January 1 through June 30, 2002. Illustration I shows a breakdown of the total number of cases (257) received from January 1 through June 30, 2002 by the type of case and by the office that received the complaint. Inquiries was the most numerous type of contact with 85, seven of which were received by the IPA and 78 received by IA. There were 75 Formal Complaints filed either externally by a citizen or internally by the Chief of Police.

**Illustration I: Type of Cases**

Type of Cases	IPA Intake	IA Intake	Total Cases
Formal Complaints	10	65	<b>75</b>
Command Review Complaints	9	15	<b>24</b>
Procedural Complaints	5	18	<b>23</b>
Policy Complaints	1	0	<b>1</b>
No Boland and Withdrawn Cases	11	12	<b>23</b>
Inquiry (Cases immediately resolved)	7	78	<b>85</b>
Citizen Contacts (Informational)	7	14	<b>21</b>
Pre-Classified (Cases awaiting classification)	4	1	<b>5</b>
<b>Total Cases in 2002 Mid-Year</b>	<b>54</b>	<b>203</b>	<b>257</b>

Formal Complaints involve allegations of misconduct of a more serious nature and are broken into three subcategories. Of the 75 Formal Complaints, 51 were external complaints filed by a citizen, 22 were internal complaints filed by the Chief of Police, and 2 were external complaints initiated by the Chief and involved a citizen.

Illustration II displays the total number of cases received during the years 1998, 1999, 2000, 2001 and from 1/1/2002 to 6/30/2002 at the IPA and IA. During the first half of 2002, the IPA received 54 cases and IA received 203 cases. The IPA received 21% of the total complaints filed during this reporting period.

**Illustration II: IPA and IA Intake**

Cases Filed at IPA or IA	1998	1999	2000	2001	2002 Mid-Year
IPA Cases	120	229	251	140	54
IA Cases	244	590	443	321	203
<b>Total Cases Received</b>	<b>364</b>	<b>819</b>	<b>694</b>	<b>461</b>	<b>257</b>
<b>Percentage of IPA Received</b>	<b>33%</b>	<b>28%</b>	<b>36%</b>	<b>30%</b>	<b>21%</b>

***D- Unnecessary Force Complaints***

**T**here were 27 cases that alleged Unnecessary Force (UF). Unnecessary Force complaints are divided into two categories: Class I and Class II.

A Class I complaint involves allegations of moderate and major bodily injuries. All others are Class II complaints, which include alleged injuries ranging from minor to none visible injuries. A complaint can have more than one allegation.

**Illustration III: Unnecessary Force Allegations**

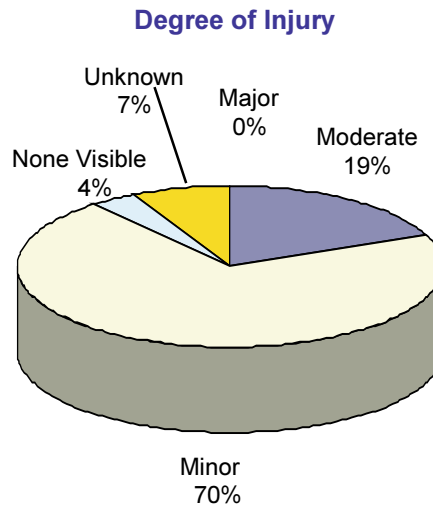
Unnecessary Force	2002 Mid-Year
Class I (Moderate)	4
Class II (Minor)	23
<b>UF Total</b>	<b>27</b>

In illustration IV, the range of injury resulting from the alleged use of force can be from minor to major and includes categories for “None Visible” and “Unknown” degrees of injury.

As of June 30, 2002, there were 27 UF cases with the following distribution of degree of injury: 0% major, 19% moderate, 70% minor, 4% none visible, and 7% unknown. As in past years, minor injuries remain the highest degree of injury alleged by the complainant. Overall, 81% of all reported UF allegations involved minor, none visible, or unknown injuries. Only 19% or five of the 27 UF allegations involved a moderate degree of injury.

**Illustration IV: Degree of Injury**

Range of Injury	Number	%
Minor	19	70%
Moderate	5	19%
Major	0	0%
Non-visible	1	4%
Unknown	2	7%
<b>Total</b>	<b>27</b>	<b>100%</b>



**E- Sustained Rate**

During the first half of 2002, four out of 42 Formal CI complaints were sustained. This represents a 10% sustained rate which is down from the 26% sustained rate in 2001, see Illustration V. In contrast, 14 out of 23 Formal DI complaints were sustained resulting in a 61% sustained rate which is slightly lower than the 69% sustained rate recorded in 2001. It should be noted that DI complaints include both internal and external matters. An external matter is where a citizen brought the incident to light, and an internal matter involves misconduct but also personnel issues such as tardiness, abuse of sick leave, etc. The combined sustained rate for Formal cases overall is 28%, down from the 36% recorded in 2001. All these comparisons are intended to provide a mid-year assessment only since it is contrasting a six month period to a year.

**Illustration V: Formal Cases Sustained**

Formal Complaints	Cases Closed	Cases Sustained	Sustained Rate
Citizen Initiated (CI) and Citizen Nexus	42	4	10%
Department Initiated (DI)	23	14	61%
<b>Total</b>	<b>65</b>	<b>18</b>	<b>28%</b>

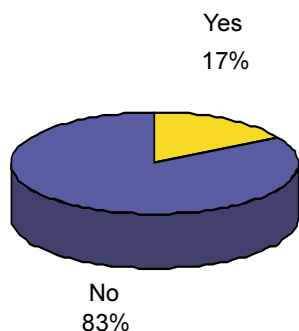
**F- Did the IPA Request Further Action from IA?**

The IPA requested further action from IA in 18 cases, or 17%, of the Formal cases it reviewed. This is a slight increase over the 15% recorded in 2001. Requests varied from reopening an investigation to providing the IPA with additional information or documentation.

**Illustration VI: Request for Further Action**

Request Further Action	Cases Audited	%
Yes	18	17%
No	91	83%
<b>Total Cases Audited</b>	<b>109</b>	<b>100%</b>

**IPA Requested for Further Action**



**G- 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 five of the 109 Formal cases audited between January 1 and June 30, 2002. Even though the IPA may disagree with the finding of a case for a number of reasons, in most cases where there is a disagreement, weight given to the credibility of the witnesses appears to have been the difference.

**Illustration VII: Finding of the Complaint**

Agreed/Disagreed with Finding	Cases Audited	%
Agreed	104	95%
Disagreed	5	5%
<b>Total Cases Audited</b>	<b>109</b>	<b>100%</b>

## *H- Cases where the IPA Disagreed with the Finding*

### **Case #1 –**

The complainants alleged that when an officer stopped them for crossing a street, outside of a crosswalk, he yelled at them rudely. The complainants also alleged that when they asked the officer for his name and badge number, the officer pointed to his badge and nametag and said, “here, here”. The officer refused to loan the complainants a pen to write down his name or badge number.

The IPA agreed with the “Not Sustained” finding for the Rude Conduct allegation and disagreed with the finding for the Improper Procedure allegation. The IA investigation concluded that the officer did not comply with current policy, which requires that officers provide citizens with their name and badge number. Instead of sustaining the allegation, the IA bifurcated the complaint and had that allegation addressed by having the subject officer counseled by his supervisor. This is called a Command Review and is one of the options available in handling minor transgressions. The IPA recognizes that at times it is appropriate to address an officer’s actions in the least punitive manner, as is done under a Command Review. The subject officer in this case did not have prior complaints therefore, while the IPA disagrees with the finding, it understands the rationale for the decision and opted not to appeal the finding to the City Manager.

### **Case #2 –**

The complainant alleged that officers twisted his arms and handcuffed him for no reason and slammed his head down on the hood of his car. The complainant alleged that the officers asked him if they could search him and he replied “no” and the officers searched him despite his objection. The complainant asked for the names of the officers and they refused to provide them. The complainant alleges that the officers had no reason to contact him. The supervisor was called to the scene and the complainant was released.

The IPA disagreed with the finding in two of the four allegations. The IPA found that there should have been a separate allegation of Improper Procedure for the officers’ failure to properly identify themselves. This issue was covered in the investigation, but was omitted as a charged allegation. The IPA also disagreed with the Chain of Command’s finding of “Exonerated” for the use of force allegation because the investigation did not prove or disprove the complainant’s or the subject officer’s version of the facts. A Not Sustained finding is more appropriate for the Unnecessary Force allegation. Two of the four allegations were sustained\* therefore, the IPA did not appeal this case to the City Manager.

### **Case #3 –**

The complainant alleged that the officers conducted an unlawful search of his home. The complainant alleges that he did not give the officers permission to search his home and

alleges that they did not have a warrant or cause to search his home

The IPA disagreed with the “Exonerated” finding by the Chain of Command because the evidence supports a “Sustained” finding for the unlawful search allegation against the subject officer. It is clear that the subject officer exceeded the scope of his protective sweep search when he searched a small package found in the complainant’s bedroom. The allegation of Improper Procedure was sustained by the Chain of Command because the subject officer did not include in the police report any information about the search of the home or the package. Since one of the allegations was sustained\*, the IPA did not appeal the case to the City Manager.

#### Case #4 –

The complainant alleged that when his vehicle was stopped by an officer, the officer was rude in telling him to “shut up” several times. The complainant also believed he was being harassed by the officers because he questioned the reason for being stopped and because there were four or five officers present during the stop.

While the IPA agrees with the IA finding concerning the justification for the vehicle stop, the IPA disagrees with the IA finding in this case because the investigation was not thorough since it did not interview the subject officer in order to address the allegation of rude conduct. Internal Affairs is currently re-examining this case.

#### Case #5 –

The complainant alleged that the subject officer stopped her vehicle because he thought she made an illegal turn in front of him almost colliding with his vehicle. The complainant stated that the officer was very angry because of the near collision and this caused the officer to behave in a very rude, angry, and out of control manner. The subject officer is alleged to have used excessive force against a witness bystander who attempted to intervene. The subject officer denied behaving in this manner and stated that his use of force against the witness bystander was justified because the witness was interfering with his official duties. The complainant and witness were unknown to each other. They both described the subject officer’s behavior as extremely rude and out of control. They both stated that the officer pushed, choked and handcuffed the witness for no apparent reason.

The IPA disagreed with the findings of the IA investigation because the IPA found the complainant and witness’ version of the facts to be more consistent. The IPA appealed this case to the City Manager. The finding was not changed.

\* It should be noted that the SJPD imposes discipline per case and not for each allegation.



## III- NEW RECOMMENDATIONS

### A- Background

In this report, one new recommendation is made: **To reduce the time taken to complete the investigation of a citizen complaint from ten months to six months.** One of the most frequent complaints expressed by both the public and San Jose Police Officers is that the investigation of citizen complaints takes too long. People filing complaints desire and expect a quick resolution to their complaint. Officers who are the subject of a complaint also desire and expect that a pending investigation alleging wrong doing be resolved expeditiously. These are not unreasonable expectations considering the impact these type of investigations can have on both the public and the officers involved. Another reason is that the integrity of the investigation is affected because with time memories wane, witnesses' whereabouts change, and complainant's lose interest in pursuing or cooperating with the investigation. Lastly, officer's awaiting assignment to a specialty unit could be negatively impacted by pending investigations of citizen complaints alleging misconduct or violations of policies or procedures.

Since the inception of the Office of the Independent Police Auditor (IPA), the San Jose Police Department's Internal Affairs Unit (IA) has made significant inroads in reducing the time taken to investigate citizen complaints. The 1994 Third Quarterly IPA Report<sup>5</sup> revealed that some complaint investigations involving minor allegations

took over two years to complete. At the time, the San Jose Police Department (SJPD) had a goal for the Internal Affairs Unit to complete 75% of all cases within 120 days<sup>6</sup>. An audit of this goal was conducted by the IPA and it was discovered that this goal had never been met<sup>7</sup>. Therefore, a more realistic timeline was recommended and adopted by the SJPD which called for the completion of 100% of all investigations within 365 days<sup>8</sup>. To achieve this goal, more investigators were assigned to the Internal Affairs Unit.

In the 1996 Year End Report, the IPA recommended that cases alleging use of force be divided into two categories: Class I and Class II. Class I would cover those complaints alleging serious bodily injury and would therefore be given priority and investigated within 180 days. Class II Use of Force Complaints and all other complaints would have a completion goal of 365 days from the date they were filed.

Beginning January 1, 1999 the goal to complete all investigations was reduced from 365 days to 300 days. This goal was initially recommended in the 1997 IPA Year End Report. By the end of 1999, the SJPD had met the new goal by completing 98% of all investigations within 300 days, see illustration I.

**Illustration I: A Five Year View of Complaints Completed**

Time Period	Total Cases	Goal	Achieved Goal	%
Closed between Jan.1- Dec.31, 1995	470	Complete all investigations within 365 days	399	85%
Closed between Jan.1- Dec.31, 1996	570	Complete all investigations within 365 days	520	91%
Closed between Jan.1- Dec.31, 1997	489	Complete all investigations within 365 days	420	86%
Closed between Jan.1- Dec.31, 1998	454	Complete all investigations within 365 days	398	88%
Closed between Jan.1- Dec.31, 1999	327	Complete all investigations within 300 days	319	98%

## B- Statistical Analysis

Intake Received	1999	2000	2001	2002 Mid-Year
Total Cases Received	819	694	461	257
Formal Complaints	229	220	143	75

**Illustration II: Cases Received and Formal Complaints Investigation**

The goal proposed is to complete all investigations within six months of the date they were filed. An analysis of the number of cases filed within the last three years reveals that the total number of contacts, from the public, at both the IPA and IA offices have declined every year, see illustration II. The number of formal complaints, which are those cases alleging more serious misconduct and which require more extensive investigation, also declined, see illustration II. Therefore, if the trend continues, there will be less complaints to investigate making it feasible to shorten the investigative time to six months.

Investigation Timelines	Closed Cases					
	Year 1999		Year 2000		Year 2001	
	Number	%	Number	%	Number	%
3 months (90 days)	131	70%	116	51%	64	44%
6 months (91 to 180 days)	37	20%	60	27%	44	30%
10 months (181 to 300 days)	12	7%	32	14%	27	18%
Over 10 months (over 300 days)	6	3%	18	8%	11	8%
<b>Total Cases Closed Per Year</b>	<b>186</b>	<b>100%</b>	<b>226</b>	<b>100%</b>	<b>146</b>	<b>100%</b>

### Illustration III: Formal Complaints Investigation Timelines in the Last 3 Years

The data in illustration III shows an analysis of the actual time taken to complete the investigation of complaints filed by either a citizen or by the Chief of Police. These are also referred to as Formal Complaints. An analysis of the last three years, (1999 through 2001) reveal that 81% of all Formal Complaints were completed within six months. For those complaints filed by the Chief of Police and known as Department Initiated complaints<sup>9</sup>, 76% were completed with six months. Overall, 78.5% of all cases classified as Formal Complaints, closed in the last three years, have been investigated within six months. Formal complaints include the most serious types of misconduct allegations and therefore require a more in-depth investigation.

### C- Conclusion

The six-month timeline is intended to assist management in tracking and resolving citizen complaints promptly. This new recommended goal should not diminish the quality of the investiga-

tions, nor the quality of the services provided to the public and the subject officers. Such a concern was previously addressed and analyzed when the timeline was reduced from an indefinite period to one year. If the trend of the last three years continues, with a decline in total cases filed, this new recommendation, while challenging the IA investigators, should not pose an undue burden. Greater confidence and satisfaction from the public and the subject officer's will be the expected outcome.

### D- Recommendation

Complete the investigation of all citizen complaints within six months.

## IV- UPDATES ON PRIOR RECOMMENDATIONS

### A. INFORMATION CENTER RECOMMENDATIONS AND SJPD RESPONSES

**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.**

As of July 30, 2002, this has been implemented. The front lobby area has been expanded to 40% over its previous size.

**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.**

This recommendation is not feasible. Due to the physical limitations of the facility, there is not enough room to create a separate waiting area to separate those here to self surrender or to register as narcotic/sex registrants.

**3. It is recommended that an interview room be made available for Desk Officers to take victim's statements in private.**

This issue has already been implemented. When necessary, witnesses are taken downstairs to the Witness Center where statements are taken in private.

**4. It is recommended that additional courtesy phones be installed in the Information Center.**

A second phone has been ordered and should be installed shortly.

**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.**

This is an excellent idea. The department is studying a variety of possibilities including scrolling message signs and television monitors with PowerPoint announcements.

**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.**

Security issues are being studied. This includes facility improvements which might include public restrooms.

**7. It is recommended that a receptionist be placed in the lobby to provide assistance and information.**

The Department is not in a financial position to

hire additional personnel to act as greeters. The VOLT volunteer program has been contacted and a search is underway for a suitable volunteer.

**8. It is recommended that customer service training be developed and that desk officers receive initial and ongoing training.**

Customer service training was implemented six months ago. The IPA will be conducting the next round of training for all new officers on 8/14/02.

**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.**

The Information Center sergeants are being asked to spend more time in the immediate area, although the office for them is less than 10 feet from the Information Center.

**10. It is recommended that the Chief of Police implement incentives to attract officers to work at the Information Center.**

This issue must be addressed through contract agreement with the POA. Hours and working conditions are governed by the contract. The current contract is for 3 years, and will expire this year. Therefore, the IPA recommendation will be brought up in the negotiations with the POA for the next contract. At that time, we will study the possibilities of implementing incentives to work at the Information Center.

## ***B. RECRUITING AND RETENTION RECOMMENDATIONS AND SJPD RESPONSES***

**1- Develop job descriptions that also include those skills necessary to effectively implement community policing such as communication, conflict resolutions, and interpersonal skills.**

These issues are addressed through the Oral Board Testing and current on-going meetings with Human Resources. During the oral testing, candidates are asked questions dealing with community policing, communication and conflict resolution. Human Resources has also been informed about developing job descriptions that cover those areas.

**2- Design and implement recruiting strategies that address family related issues.**

Several recruiting strategies have been implemented that addresses family related issues. We have partnerships with the Convention Center's Visitor and Conventions Bureau regarding marketing strategies for recruiting personnel, where those issues are addressed. We also have a number of new strategies that are designed and deployed for recruiting purposes.

**3- Revise the policies governing transfer opportunities for SJPD sergeants to require that openings be posted, and that the application and selection process provides all candidates an equal opportunity for the assignment.**

Sergeant transfer opportunities are now announced and are available through the City's Intranet.

#### **4- Continue to develop and provide training in communication and interpersonal skills.**

The Training Unit has developed a program that addresses this issue. Officers are given training in the various aspects of communication and interpersonal skills, such as, car stops.

### ***C. INFORMATION ABOUT THE IPA AND SJPD RESPONSES***

It is recommended that a training program for all SJPD staff members, especially those who are in positions to provide information to the public, be instituted and maintained to ensure that accurate and updated information is being provided to the public about the citizen complaint process, the functions of the IPA and IA Unit, and where a complaint can be filed.

The SJPD has implemented a training program for all staff members working the Information Center so that accurate and updated information is being provided to the public.

Training for officers about information about the IPA and SJPD will be provided as part of the SJPD's Continued Professional Training program (CPT).

### ***D. PENDING RECOMMENDATIONS FROM 2001 AND SJPD RESPONSES***

#### **Vehicle Stops**

- 1. The IPA recommends that the SJPD compile vehicle stop data on an annual basis so that a comparative analysis can be possible.**

◆ SJPD has continued to compile vehicle stop data since the Vehicle Stop Demographic Study was implemented on June 1, 1999. SJPD issues an annual report which contains details on the data that was collected and is available to the public.

- 2. 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.**

◆ SJPD implemented the collection of vehicle *search* data in June 2002, by adding another field to document whether a search was conducted, and if any contraband was found as a result of that search.

- 3. 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.**

◆ SJPDP developed a working definition of profile stops which was issued to all Department members on September 12, 2000, and is currently included in the SJPDP Duty Manual. This is the definition that will be used in racial profiling allegations brought by any complainant.

**4. The SJPDP 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.**

◆ The allegation of racial profiling has historically been addressed by utilizing the complaint allegation of “Discrimination/ Harassment”. The racial profiling allegation was then documented in the body of the investigation. This procedure makes it difficult to analyze and track racial profiling allegations. The Internal Affairs Unit has secured funding which will allow the database to be upgraded to include racial profiling allegations as well as address other recommended changes by both the Internal Affairs Unit and the I.P.A. While there is no specific date for this upgrade to be completed, the SJPDP Systems Development Unit has committed to make this project a high priority.

## V- CONCLUSION

Mid-year reports published by the Independent Police Auditor (IPA) prepares and thereafter will be an ongoing process of providing the public, the San Jose Police Department (SJPDP), and elected officials with updates on the work of the IPA. Complaints continue to track at or below last year’s six-month period. There was only one recommendation made in this report, “*To reduce the timeline in which to complete the investigation of citizen complaints from ten to six months.*” This mid-year report is also an opportunity to review prior recommendations made by the IPA and to report the SJPDP’s response. The SJPDP adopted some of the recommendation and has already made inroads in implementing needed change. The SJPDP determined that some of the recommendations are not feasible at this time. Other recommendations are still pending a response. This mid-year report also reviews the audit findings of the IPA and for the most part concludes that the Internal Affairs Unit is doing an excellent job. The IPA and the SJPDP consistently work together to improve the citizen complaint process.

## End Notes

<sup>1</sup> 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. 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.

<sup>2</sup> San José Duty Manual, Section C1716, Informal Complaint defined: It is determined that the allegation involves minor transgressions 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 transgressions as described by the complaint.

<sup>3</sup> 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.

<sup>4</sup> 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 complaint.

<sup>5</sup> Independent Police Auditor, Third Quarterly Report (1994)  
p. 16.

<sup>6</sup> SJPDP Program Management Report.

<sup>7</sup> Independent Police Auditor, Third Quarterly Report (1994)  
p.15.

<sup>8</sup> Independent Police Auditor, Third Quarterly Report (1994)  
p.19.

<sup>9</sup> Department Initiated complaints are internal complaints initiated by the Chief of Police and mostly involve management issues. However, some DI complaints are external and have a nexus to a citizen.