

2002 YEAR END REPORT



Teresa Guerrero-Daley
Independent Police Auditor

Professionalism

Integrity

Independence

A REPORT TO THE SAN JOSE CITY COUNCIL

San José Mayor & City Council



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Welcome to new Council members Terry Gregory (District 7) and Judy Chirco (District 9). Our thanks and appreciation to outgoing members George Shirakawa, Jr. (District 7) and John Diquisto (District 9).



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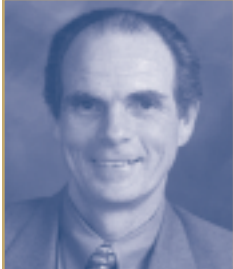
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Office of the Independent Police Auditor

TERESA GUERRERO-DALEY

Independent Police Auditor

April 30, 2003

Honorable Mayor and City Council Members
801 North First Street, Suite 600
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Enclosed is the Independent Police Auditor's (IPA) 2002 Year End Report submitted for your approval. This annual report incorporates the statistics and recommendations made in the 2002 IPA Mid-year Report. This report captures the activities, progress, recommendations, and statistics for the 2002 calendar year. This report contains a comprehensive Executive Summary and separate chapters that expound on areas such as: New recommendations, updates on prior recommendations, statistics, and community relations.

I will be providing an overview of this report at the City Council meeting scheduled for May 6, 2003. On this same date, Chief Lansdowne will be providing a response to this report.

I welcome your comments and am available to meet with you to respond to questions and/or offer further explanations.

I would like to thank and acknowledge your continued support, the work of my staff, and the IPA Advisory Committee for their contributions to the development of this report. I would also like to recognize and commend the San José Police Department for providing our office with all the requested information necessary to prepare this report and for their ongoing cooperation.

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, for exemplary leadership 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.

Alfred J. Morales, Citizen Complaint Examiner - Mr. Morales is a retired police sergeant with over 26 years of service in the Bay Area. He is also certified instructor at the South Bay Regional Public Safety Consortium, Police Academy. Mr. Morales retired from the United States Army Reserve Components as a First Sergeant with 24 years of combined active and reserve service. Mr. Morales attended Saint Mary’s College from where he achieved a Baccalaureate Degree in Management. Mr. Morales has spent all of his adult life in public service.

Xochitl E. Yanez, Public & Community Relations - Ms. Yanez’s primary role is to promote public awareness citywide about the Office of the Independent Police Auditor by conducting presentations, attending community events, and developing partnerships with the community at large. Prior to joining the Office of the Independent Police Auditor, Ms. Yanez most recently worked as a Senior Executive Assistant for the City Manager’s Office in San José and as the Legislative Assistant for Texas House Representative Trey Martinez Fischer. Ms. Yanez holds a Bachelor in Economics with a minor in Spanish from the University of Texas at San Antonio, and a Masters in Public Administration as a National Urban/Rural Fellow from Baruch College of Public Affairs in New York City.



Photo from left to right:
Alfred J. Morales, Marifel
Juan, Xochitl E. Yanez,
Teresa Guerrero-Daley,
Steve Wing, & Vivian D. Do

Photograph courtesy of Kit Kwan

Vivian D. Do, Data Analyst - Ms. Do joined the IPA from the private sector where she was experienced in Information Technology. Ms. Do enjoys the working environment at the IPA where she can focus her technical skills on computer and technology related needs, such as data analysis; database management and desktop publishing. Her skills are an integral part of the process of producing the IPA annual reports. Ms. Do received a Bachelor of Science degree from San José State University, California.

Marifel C. Juan, Office Specialist - When you call the Office of IPA, it is Ms. Juan's attentive and engaging voice you will hear. She has varied experience assisting IPA staff and public. Ms. Juan is currently attending Evergreen 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 (IPAAC)

Mission

The Mission of this group is to assist the Office of the Independent Police Auditor to provide independent review of the police complaint process, to promote public awareness of a person's right to file a complaint, and to increase police accountability to the public by the San José Police Department.

Purpose and Objectives

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

The objectives are to:

1. Promote the mission of the Independent Police Auditor and inform the Independent Police Auditor of the specific needs/problems in the 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.

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 set forth in San José Municipal Section 8.04.020.

Advisory Committee Members

Yoyi Aglipay

Founder and Executive Director of the Filipino American Heritage Project; the Filipino Heritage Festival; and the Filipino-American Youth Club.

Tony Alexander

President of the Silicon Valley African American Democratic Coalition; and past president of the NAACP-San José Branch.

Ahmad Al-Hewel

President of the South Bay Islamic Association.

Rose Amador

Member of the National Council of La Raza; La Raza Roundtable; Enlace Mentor and Advisory Council; the Silicon Valley Workforce Investment Network; the Leonard Peltier Support Group; the PGE/Green lining Partnership; the San Jose State University Cesar Chavez Memorial Committee; the San Jose American GI Forum; the Evergreen Community Roundtable; and the San José Job Corps Advisory Board.



Meeting of the Independent Police Auditor Advisory Committee (IPAAC)

Robert Bailey

Chairman of the Human Rights Commission.

Rick Callender

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

Bob Dhillon

Member of the McLaughlin Corridor Neighborhood Association; the Santa Clara County Association of Realtors; and the American Sikh Association.

Minh Steven Dovan

Hosted Vietnamese television talk show from 85-97 and Former member of the Judicial Council Advisory Committee on Racial/Ethnic, Bias, and Interpreters.

Larry Estrada

Member of the Santa Clara County La Raza Lawyers; the National Latino Peace Officers Association-Santa Clara Chapter; and board member of Los Lupenos de San José.

Victor Garza

Chairman of La Raza Roundtable; Member of the American G.I. Forum; and board of directors for the Center for Training and Careers.

Roy Gilbert-Higginson

Program Director for the Billy DeFrank Lesbian & Gay Community Center; member of the Santa Clara County Network for a Hate Free Community; the Santa Clara County Suicide Prevention Task Force; and the South Bay State School Coalition.

Aminah Ayoola Jahi

Member of the Alliance of African Community Organization; and past president and current member of the NAACP-San José Branch.

Acknowledgement Cont.

Kenneth Lee

President of the Korea IT Network.

Sofia Mendoza

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

Madison P. Nguyen

Founder of the Vietnamese American Center; board Member of the Volunteers in Asia; and member of the Vietology Group.

Helal Omeira

Member of the Santa Clara County Network for a Hate Free Community; the Bay Area Hate Crimes Investigators Association; and the Council on American-Islamic Relations.

Merylee Shelton

Chair of the Communication Studies Department at San José City College; coordinator of Community Arts and Lectures Program; and member of the Human Relations Commission of Santa Clara County.

Wiggys Sivertsen

Chair of the Network for a Hate Free Community for Santa Clara County; Chair of the Bay Area Municipal Elections Committee (BAYMEC); Member of the San José City Domestic Violence Task Force; and the Santa Clara County Bar Association-Rainbow Committee.

Jennifer Tait

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

Alfredo Villaseñor

Member of the California Child Care Resource & Referral Network; the California Child Care Alternative Payment Association; the California Latino Child Development Association; the Child Development Policy Institute; the National Council of La Raza; and La Raza Roundtable.

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.

William Yeager

Member of the Master Composters of Santa Clara County; the Home Church in Campbell; and volunteer in the Second Harvest Food Bank.



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About the Independent Police Auditor

Introduction

In nine years the Office of the Independent Police Auditor (IPA) has developed into a model of civilian oversight of law enforcement that has been recognized and replicated throughout the United States. The IPA has an open channel of communication with the San José Police Department (SJPD) which has lead to collaborations in such areas as creating informational material for the public, community presentations, training sessions and most important, the implementation of IPA recommendations. While agreement is not always reached between the IPA and the Chief of Police, there is an understanding that there will be professional disagreements.

A. Establishment of the Independent Police Auditor

The Independent Police Auditor was initially established by the San José City Council and thereafter, on November 4, 1996, San José residents voted to amend the City Charter making the IPA a permanent city office. The change to the City Charter also directed the City Council to appoint the Police Auditor to serve four year terms and that the removal of the Police Auditor, midterm, requires a vote of at least ten of the eleven City Council members.

B. Independence of the Police Auditor

As set forth in Title 8 of the San José Municipal Code, Section 8.04.020:

1. 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.
2. No person shall attempt to undermine the independence of the Police Auditor in the performance of the duties and responsibilities set forth in Section 8.04.010.

C. Functions of the IPA

Section 8.04.010 of the San José Municipal Code, states that the Independent Police Auditor shall have the authority and responsibility to receive, review, and report on citizen complaints filed against peace officers employed by the San José Police Department (SJPD). The Independent Police Auditor’s Office shall be separate from all other City functions and shall report directly to the Mayor and City Council.

The Office of the Independent Police Auditor (IPA) has three primary functions:

- It serves as an alternate forum where people may file a complaint.
- It reviews the investigations of complaints conducted by the San José Police Department to determine if the investigation was complete, thorough, objective, and fair. Based on these reviews, the IPA makes recommendations for policy changes to the SJPD.
- It promotes public awareness of a person’s right to file a complaint.

E. Requirements

The IPA reports are prepared on a semi-annual basis. This Year End Report covers the period from January first through December thirty-first of 2002. This report is prepared by the IPA pursuant to the requirements of the San José Municipal Code Section 8.04.101 (D). This section states that the IPA’s report shall:

- Include a statistical analysis documenting the number of complaints by category, the number of complaints sustained, and the actions taken;
- Analyze trends and patterns; and
- Make recommendations.

Highlights of this Report

A. Year 2002, No Officer-Involved Shootings resulting in injuries or deaths:

For the third consecutive year, officer-involved shootings decreased in the City of San José. Four years ago, the San José Police Department was involved in eight officer shootings that resulted in seven people fatally shot and one seriously wounded. The SJPD and the IPA worked on implementing changes that focused on the use of deadly force. These efforts contributed to ending the year 2002 with no officer-involved shootings that either injured or killed a citizen or police officer.

B. New Recommendations:

1. This report contains recommendations based on an analysis of the San José Police Department “Early Warning Program”. This program tracks the number of complaints officers receive. Subject officers receiving three Formal complaints or a combination of five complaints of any type within a 12-month period are scheduled to participate in a counseling session with his/her chain of command up to the bureau Deputy Chief and the Internal Affairs Commander. This is a “non-disciplinary” process and no record of the substance of the session is kept. The IPA made recommendations based on the findings of this study analyzing the impact of the Early Warning System on the subject officers’ proactive policing.
2. The second recommendation seeks to implement, as a preventative measure, clear policy addressing conflicts of interest when handling complaints against top ranking San José Police Officers.

C. Citizen Complaints Patterns and Trends:

In this section, the different type and number of complaints are analyzed to detect varied patterns and trends. Statistics are reported by geographic areas, by demographics of the complainant and subject officer, by the type of allegation and the discipline imposed.

D. Community Relations:

In this section, the purpose, results, frequency, and nature of the IPA’s community outreach is chronicled. Communication and interaction with the citizens of San José is crucial to the success of this office. The IPA’s mandate to conduct outreach is based on the premise that the IPA must build a trust relationship with the public in order to carry out its mission. Because the IPA works with confidential police personnel matters, state law prohibits public disclosure of the contents of a citizen complaint investigation. Therefore, the public is asked to have faith that the IPA will

properly and ethically discharge its duties. The word faith is used because the public is asked to believe in the objectivity, thoroughness, and fairness in reaching a finding without seeing the evidence that lead to the outcome of their complaint.

E. Pending Recommendations:

Every year the IPA reviews prior and any pending recommendations and reports on their status. This is a critical and revealing measure of the effectiveness of this office because it tracks the changes and improvements made by the SJPd as a result of the IPA’s oversight function.

New Recommendations

“Early Warning Systems”:

A. Introduction

The San Jose Police Department’s “Early Warning System” (EWS) is designed to identify possible errant behavior by officers, and to take corrective action. The EWS is intended to be a proactive attempt to address real or perceived unacceptable behavior before it becomes a serious problem that can result in: injury to an officer or citizen, criminal prosecution, and/or civil liability. The Intervention Counseling Program is “Not” a form of discipline and only the fact that a session took place is recorded. The EWS allows for post-intervention monitoring of each subject officer. In addition, the Independent Police Auditor (IPA) uses this system to track the number, type, and disposition of subsequent complaints for officers that received counseling and statistical information is compiled and included in the IPA’s public reports.

Most police administrators agree that early warning systems are necessary and an effective management tool. However, a concern voiced by some officers is that this type of tracking system negatively impacts proactive policing, results in a decrease in the number of self initiated contacts, and that the fear of receiving complaints leads to an increased risk in officer safety. The IPA sought answers to these very serious allegations by conducting analysis of the subject officer’s self-initiated contacts, subject officer’s perceptions, and an analysis of subsequent complaints to determine the existence and degree of impact of the EWS.

B. Methodology

The IPA used standard auditing techniques and incorporated steps used in the Scientific Method style of research. The IPA followed eight different steps in a developmental chain of procedures to test the following hypotheses.

1. The SJPd’s Early Warning System does not result in a decrease of self-initiated contacts.
2. Intervention Counseling triggered by the SJPd’s Early Warning System did not negatively impact the subject officers.
3. The SJPd’s Early Warning System and the Intervention Counseling resulted in a decrease in subsequent complaints for the officers that were part of this study.

C. Analysis

There were 23 different officers that were identified through the early warning system as having the required number of complaints to qualify for Intervention Counseling in the 2001 calendar year. Three were excluded from this analysis because two officers resigned and one was terminated during this period.

This study analyzed data for the period of six months prior and six months after the subject officer's Intervention Counseling (IC) date. The IC date was used as the midpoint between the broadest possible ranges examined, which were from 8/1/00 to 6/30/02. For example, the data collected for an officer receiving Intervention Counseling on 1/1/01 ranged from 8/1/00 to 7/1/01. The data for an officer receiving Intervention Counseling on 12/31/01 ranged from 6/30/01 to 6/30/02.

The following are the results: 20% of the subject officers had a 100% increase in self initiated contacts, 35% had a 40% decrease in self initiated contacts, and 45% had no change in self-initiated contacts. These figures indicate that 65% of the subject officers did not experience a reduction in the number of contacts they made of their own volition therefore, their proactive policing did not decrease. Most officers in each of the three groups, (increase, decrease, no change in self-initiated contacts), received complaints subsequent to their Intervention Counseling.

D. Conclusion

Through this study, the IPA sought to determine if there was evidence to support the perception that the Early Warning System (EWS), a system that tracks the number of complaints an officer receives and then intervenes by providing counseling, results in a work slowdown, negatively impacts the officers, and/or decreases the number of subsequent complaints. The analysis of the data revealed that 65% of the subject officers' proactive work did not decrease and of the group that experienced a positive impact, their combined number of self-initiated contacts increased 100%. Officers in all three groups studied received complaints subsequent to attending Intervention Counseling. Though not every applicable variable that could have impacted this issue was identified, the data studied was sufficient to make general findings that support two of the hypotheses studied.

1. The SJPD's Early Warning System **did not** result in a decrease of self-initiated contacts for 65% of the subject officers studied.
2. The SJPD's Early Warning System **did not** negatively impact the subject officers who received Intervention Counseling.
3. The SJPD's Early Warning System and Intervention Counseling **did not** result in a decrease of subsequent complaints for subject officers that were counseled.

E. Recommendations

1. It is recommended that the Chief of Police continue to provide Intervention Counseling for subject officers meeting a set criterion.
2. It is recommended that the Chief of Police implement procedures to insure that officers attending Intervention Counseling are well informed about the early warning system and Intervention Counseling prior to participating.

3. It is recommended that the Chief of Police direct the Command staff to factor an officer's work assignment and level of proactive policing as part of the discussion held during the intervention counseling session.
4. It is recommended that the Chief of Police direct the Command staff to incorporate discussion about the allegations and findings of the officer's complaint history to determine if a pattern exists.
5. It is recommended that the Chief of Police upgrade the SJPD's early warning system to include other indicators such as civil claims and lawsuits.

Complaints Against High Ranking Officers

A very sensitive and important concern that needs to be addressed involves conflicts, real or perceived, that arise from internally investigating allegations of misconduct against high-ranking¹ San Jose Police Department command officers. For purpose of this discussion, high-ranking officers include the Assistant Chief and the Chief of Police. While these types of complaints are not common, nevertheless they have the propensity of having very serious and far reaching negative consequences.

Over five years ago, the Independent Police Auditor, the former City Manager, and the former Chief of Police agreed that if allegations of misconduct were made against the Chief or Assistant Chief of Police that it would be the City Manager who would determine if the allegations gave rise to a misconduct complaint. If they did, the complaint would be investigated by personnel outside the San Jose Police Department. The completed investigation would then be audited by the Independent Police Auditor. This oral agreement was made as a result of the investigation of a complaint, which was filed against a high-ranking officer, was internally investigated, and resulted in much controversy and animosity between all parties involved. This agreement was not memorialized in writing.

The recent indictment of the top command staff of the San Francisco Police Department is a reminder of the need to have a written policy. This policy should also address conflicts of interest that could arise when misconduct allegations are filed against an officer who because of his/her rank or familial ties may be given preferential treatment. The purpose of having policies in place to address potential conflicts is to inform, guide, and depersonalize sensitive operational decisions that officers are forced to make when a conflict arises. As stated earlier, allegations against top ranking officers are rare but when they occur, they have the potential for devastating consequences. It is therefore important to take proactive steps to anticipate and thwart such situations.

Recommendation:

It is recommended that the Chief of Police in conjunction with the City Manager develop a written policy that addresses the procedure to follow when serious misconduct allegations are filed against top ranking SJPD officers. This policy should include clear guidelines that specify what constitutes a serious allegation, the process to notify the City Manager, address conflicts that could arise during the handling of such complaints, and the process for notification to the Independent Police Auditor to monitor and audit these complaints.

¹ For purpose of this report, high ranking officers include the Assistant Chief and the Chief of Police

Updates On Prior Recommendations

An important element in bridging the gap between the San José Police Department and the citizens of San José is recognizing issues or concerns that exist between the police department and the public. Only by identifying these issues or concerns can change take place to create a healthier relationship between the public and those entrusted to serve and protect. The Office of the Independent Police Auditor (IPA) focuses on trends in police conduct and actions that are counter-productive in creating a favorable relationship between the police and the public. The IPA makes recommendations based on identified trends to improve the SJPD's level of service, enhancing police relations with the public. When the IPA submits recommendations, research and studies are conducted to reveal the feasibility of proposed changes. Changes may be proposed about police practices, policies, procedures, facilities, and resources available to the public. Recommendations ultimately are adopted or not adopted. Recommendations that have been adopted have consistently affected positive change. Recommendations not adopted were the result of obstacles that were beyond our ability to overcome. In many cases recommendations are not adopted due to current conditions that exist such as the current economic situation. While these recommendations are not adopted, it does not necessarily mean that they have been rejected. The recommendation may become suspended or dormant until such time when conditions allow the recommendation to be reintroduced.

Recommendations made by the IPA that have not been adopted include:

- Adding an additional area in the police department's front lobby area to separate potentially dangerous individuals from the rest of the public.
- Adding monitors in the police department main lobby to provide information to the waiting or visiting public.
- Making the public rest rooms more easily accessible from the police department main lobby.
- Employment of a receptionist in the police department main lobby to direct people and answer commonly asked questions.
- Incentives to attract officers to work at the police department's Information Center.

Recommendations that have been adopted include:

- Expansion of the front lobby area of the police department.
- An interview room to interview victims and witnesses.
- Additional courtesy telephone for the public's use in the main lobby of the police department.
- Customer service training for desk officers.

The primary responsibility of Information Center Sergeants is to be at the front desk of the SJPD lobby.

- Job descriptions to include skills such as communications, conflict resolution, and interpersonal skills.

- Implement recruiting strategies that address family related issues.
- Revise transfer opportunities for SJPD sergeants.
- Provide training in communication and interpersonal skills to all SJPD staff.
- Compile vehicle-stop data continuously for comparative analysis.
- Expansion of the fields of data collection pertaining to the treatment of individuals during police stops.
- Develop a process for tracking “racial profiling” allegations.

The IPA has historically been instrumental in affecting positive change within the San José Police Department. This would not have been possible however, without the cooperation and willingness of the Police Department to adopt to the IPA’s recommendations and to take an active role in making the necessary changes. These collaborative efforts have facilitated bringing the community and the SJPD closer together, creating a more positive and open relationship.

Use of Force Analysis

A. Introduction

This chapter focuses on analyzing the use of force that officers employed during the 2002 calendar year and that gave rise to a citizen complaint investigation. In 2002, the members of the SJPD handled a total of 463,984 calls for service and only 11% involved making an arrest or issuing of a criminal citation. This is consistent with the overall low crime rate in the City of San José.

B. Officer–Involved Shootings

Lethal force, obviously the highest level of force used by the police, results in the most severe injuries to a citizen and therefore, commands the greatest attention from the IPA, SJPD, elected officials, community, and media. The year 2002 marked the fourth consecutive year that officer-involved shootings decreased in the City of San José. Four years ago, the SJPD was involved in eight officer shootings, which resulted in seven people fatally shot and one seriously wounded. In 2002, there were no citizens wounded or killed by the police.

In addition to the creation of a shooting review panel, other measures were implemented such as greater use and availability of less lethal weapons. In 2000, the SJPD completed a state of the art training center where scenario-based firearms training is taught. There was also an increase in the number of officers trained in recognizing and handling incidents involving people with mental disabilities. It is difficult to conclusively point to the precise reasons for the decrease in officer-involved shootings. However, it cannot be ignored that a correlation exists between the measures described above and the fact that in 2002 no one was injured or killed by a San José Police Officer as a result of an officer-involved shooting.

C. Use of Force Allegations

In 2002, 141 Formal complaints were filed. Of these complaints, 54 included allegations of the use of Unnecessary Force (UF) which is two more UF complaints than were filed the prior year.

Nine of the UF complaints contained allegations that were classified as Class I complaints (three more than in 2001). Class I complaints involve allegations of serious bodily injury requiring medical care.

The IPA tracks different data regarding UF complaints to determine whether any trends or patterns can be detected regarding use of force by San José police officers. Data provided concerning the “Degree of Injury” indicated that the vast majority (75%) of UF complaints continue to involve allegations of “Minor” injuries.” 18% of the UF complaints involved allegations of “Moderate” injuries and in 7% of the complaints, “No Visible” injuries could be seen.

Data concerning the “Type of Alleged Unnecessary Force Used” shows that the type of force used most often was an officer using his or her hands (41%). The use of the ground (14%) and tight handcuffs (13%) were the next most frequent types of force alleged. The unnecessary use of a baton by an officer accounted for only eight percent of the allegations. Another data table indicates that the percentages for the types of unnecessary force alleged in 2002 are consistent with percentages from the previous four years. It should be noted that allegations of the use of more severe types of force such as batons, chemical sprays or guns, remains relatively low, an indication that officers are adhering to the department’s force-option policy more frequently.

One area of some concern is the data about what portion of the complainant’s body was impacted by the force used by the officers. The distribution of injuries to different parts of the body in 2002 saw an increase in injuries to the head, which is the fourth year in a row that these allegations have increased. SJPD officers are trained to apply force to limbs. This is an area that the IPA will continue to monitor.

Community Relations

The success of San José’s Independent Police Auditor (IPA) is highly attributed to extensive community involvement. Unlike other City offices, this office cannot share information with the public about cases. The community is asked to have faith and trust the IPA’s decisions. The trust and relationships this office has established and continues to foster is of an essence and is a key to the office’s success. Such relationship is maintained by actively engaging the community and doing the following:

- Having a strong, representative, and active advisory committee (IPAAC);
- Actively serving on community organizations;
- Staying up to date with current events and legislation;
- Researching and offering solutions along with recommendations;
- Networking with national organizations; and
- Mentoring and advising cities nationwide.

IPAAC

The Independent Police Auditor Advisory Committee (IPAAC) serves as the “eyes and ears” of the IPA in the community. Members of this committee help identify, mobilize and coordinate resources to assure maximum public, private, agency and individual commitment to provide expanded police oversight.

2002 Spotlight: Youth Guide

The IPA published the first youth guidebook titled, “A Student’s Guide to Police Practices.” The goal of the youth guide is to provide information about interacting with police officers and to help them make smart decisions.

IPA in the Local Community

In 2002 the IPA attended many community events, and on several occasions, was asked to return and present to other organizations. The IPA believes that going out to the community and engaging with groups citywide is what has created visibility of the services available. Examples of such efforts are the 36 referral sites located citywide.

Beyond Recommendations

In 2002, the IPA took the initiative to research and attain professional training on mediation, conciliation, and conflict resolution in an effort to provide training in customer service to the San José Police Department (SJPD). The office anticipates training to begin in 2003.

A National Role Model

The Independent Police Auditor serves as a board member for the National Association for Civilian Oversight of Law Enforcement (NACOLE). The IPA presented a successful panel discussion at NACOLE’s Annual Conference entitled, “Building Your Public, Media, and Political Base.” The IPA recognizes and embraces the expectations set by the community, and is committed to serving the public with the highest regard for professionalism, courtesy, and sensitivity.

The Complaint Process and Year End Statistics

This chapter describes the complaint process and provides statistical information about the different types of cases received in 2002 by both the Office of the Independent Police Auditor (IPA) and the Internal Affairs Unit (IA) of the San José Police Department (SJPD). It also provides information about the allegations made in the cases filed, the investigation findings, and the discipline imposed for sustained cases.

There was a total of 430 cases filed in **2002** at the IPA and IA offices combined which is slightly less than the **461** cases filed in **2001**. While not as large, this reduction continues a trend that began in 2000. There are several factors to which the lower number of recorded cases can be attributed, including: 1) SJPD implementation of IPA recommendations; 2) self-initiated policy changes by the SJPD; 3) the informal handling of complaints by supervisors in the field; and 4) the office move and change of telephone number for the IPA office.

Cases must be classified as a complaint before the Internal Affairs Unit of the SJPd will conduct an investigation. Of the 430 cases filed in 2002, 232 were classified as complaints that required investigation by the Internal Affairs Unit. By comparison, there were 258 complaints filed in 2001.

This chapter also includes a variety of other data, including:

- the number of audits conducted by the IPA
- the number of times the IPA requested additional information from IA concerning complaints being audited
- the Sustained Rate for formal complaints
- the number of complaints audited in which the IPA disagreed with the SJPd concerning the finding of the complaint
- the number of complaints in which discipline was imposed
- a five-year comparison of the types of discipline imposed

Cases by Council District

In this chapter, the Council District charts show cases and allegations in their respective City Council Districts. Illustration A lists each Council District and the types of cases that were received in each District. Typically, the highest number of cases (162 or 38% of all complaints) is generated in District 3, largely because of the diverse activities generated in the downtown area. District 6, a neighboring district, has the second highest number of cases with 39, and District 5 is a very close third highest with 37 cases. District 3 also had the highest number of Unnecessary Force allegations followed by District 5, District 6 and District 7.

Subject Officer Demographics

Various types of statistical data concerning police officers receiving complaints are presented in this chapter. In 2002, 314 (22%) of the 1399 San José police officers received citizen complaints. Of the 314 officers receiving complaints, female officers received 16 or 5% 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. Years of experience data indicate that officers with two to four years of experience received the highest number of complaints. These officers were responsible for 27% of all the complaints received. This is a reduction from the previous year's 30%.

Of the 1399 officers in the SJPd in 2002, 260 different officers received complaints. However, only 41 different officers received two or more complaints. Therefore, 19% of the SJPd received at least one complaint while only 3% received multiple complaints.

Complainant Demographics

This chapter provides a visual representation of the background of the complainants for 2002. This information is gathered from a voluntary questionnaire complainants are asked to fill out. 114 male and 71 female complainants responded by returning the survey for a sample of 185 complainants. The data from this sample indicated, among other things, that complainants of European American ethnicity filed 35% of the complaints; Hispanic/Latino complainants filed 34%, and African American complainants filed 20% of the complaints. Other data presented concerns the age, educational level, and occupation of the complainant.

Conclusion

The year 2002 ended without a serious ethical or operational police crisis. Complaints continued to maintain a similar number and pattern as last year. As the Office of the Independent Police Auditor (IPA) approaches its 10th anniversary, the IPA will continue to introspectively evaluate the quality of the services it provides to the community and to the San José Police Department (SJPD).

The success of this office is attributed to the support from the community, elected officials, and the working relationship it has developed over the years with the San José Police Department. The IPA and the SJPD operate independently but in a true spirit of cooperation.

Chapter One

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 JOSE POLICE DEPARTMENT.

I. Introduction:

A. Police and Auditor: A Symbiotic Working Relationship

In nine years the Office of the Independent Police Auditor (IPA) has developed into a model of civilian oversight of law enforcement that has been recognized and replicated throughout the United States. This accomplishment did not happen overnight nor was it without challenges and aggression. Like many other cities and counties that have civilian oversight, the IPA also experienced initial resistance to its establishment. When the concept of civilian oversight was first raised the former Chief of Police, threatened to resign. However, today, Chief William Lansdowne openly supports and acknowledges the work of the IPA. No longer does the presence and existence of the IPA evoke suspicion nor opposition from the San José Police Department (SJPD) and the focus is now on the issues and recommendations presented by the IPA. While agreement is not always reached between the IPA and the Chief of Police, there is an understanding that there will be professional disagreements. The role and responsibilities that this office was charged to administer have become an accepted and essential practice in the City of San José. Having an open channel of communication between the IPA and the SJPD has led to collaborations in such areas as creating informational material for the public, community presentations, training sessions and most important, the implementation of IPA recommendations.

Although the IPA has forged a professional and cooperative relationship with the SJPD, it retains its independence by setting clear objectives. The IPA prepares annual Business and Investment

Strategy Plans with clear measurable goals and an Achievement Plan detailing all significant projects the IPA will undertake in each fiscal year. Further evidence of how this “Police – Auditor” symbiotic relationship works without compromising the IPA’s independence is found in the high percentage of structural changes that the SJPD has made in direct response to recommendations made by the IPA. Lastly, the San José Municipal Code clearly states that no person shall attempt to undermine the independence of the Police Auditor in the performance of its duties.



Former U.S. Attorney General congratulates joint effort of IPA and SJPD.

Left to Right: Lt. Christopher Moore- former IA Commander, Janet Reno- former U.S. Attorney General, Teresa Guerrero-Daley, Independent Police Auditor

B. Establishment of the Independent Police Auditor

Nine years ago, the San José City Council passed an ordinance to establish the Office of the Independent Police Auditor (IPA). The IPA was created to provide civilian oversight of the citizen¹ complaint process and to make policy recommendations to the San José Police Department. Unlike in some cities, police oversight was not created in the aftermath of a specific

¹The word citizen in this report is used to describe any person without relating to a person’s citizenship, immigration status, or country origin.

police crisis but the Rodney King incident did provide momentum to a grassroots effort seeking to implement civilian oversight.

Thereafter, on November 4, 1996, San José residents voted to amend the City Charter making the IPA a permanent City office. The change to the City Charter also directed the City Council to appoint the Police Auditor to serve four year terms and that the removal of the Police Auditor, midterm, requires a vote of at least ten of the eleven City Council members.

C. Independence of the Police Auditor

As set forth in Title 8 of the San José Municipal Code, Section 8.04.020, subsection C and D:

- 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 the duties and responsibilities set forth in Section 8.04.010.

D. Functions of the Independence Police Auditor

Section 8.04.010 of the San José Municipal Code, states that the Independent Police Auditor shall have the authority and responsibility to receive, review, and report on citizen complaints filed against peace officers employed by the San José Police Department (SJPD). The Independent Police Auditor's Office shall be separate from all other City functions and shall report directly to the Mayor and City Council, see appendix D. The Office of the Independent Police Auditor (IPA) has three primary functions:

- It serves as an alternate forum where people may file a complaint.
- It reviews the investigations of complaints conducted by the San José Police Department to determine if the investigation was complete, thorough, objective, and fair. Based on these reviews, the IPA makes recommendations for policy changes to the SJPD.
- It promotes public awareness of a person's right to file a complaint.

E. Reporting Requirements

The IPA reports are prepared on a semi-annual basis. This Year End Report covers the period from January first through December thirty-first of 2002. This report is prepared by the IPA pursuant to the requirements of the San José Municipal Code Section 8.04.101 (D). This section states that the IPA's report shall:

- Include a statistical analysis documenting the number of complaints by category, the number of complaints sustained, and the actions taken;
- Analyze trends and patterns; and
- Make recommendations.

II. Highlights of this Report

A. Year 2002, No Officer-Involved Shootings resulting in injuries or deaths:

For the third consecutive year, officer-involved shootings decreased in the City of San José. Four years ago, the San José Police Department was involved in eight officer shootings that resulted in seven people fatally shot and one seriously wounded. The SJPD and the IPA worked on implementing changes that focused on the use of deadly force. These efforts contributed to ending the year 2002 with no officer-involved shootings that neither injured nor killed a citizen or police officer.

Although the new training and equipment played a major role, ultimately, it was good judgement used by San José Police Officers that should be credited for diffusing situations and resolving conflict without the use of lethal force.

B. New Recommendations:

1. This report contains a study of the San José Police Department's "Early Warning System." This system tracks the number of complaints officers receive. Subject officers receiving three Formal complaints or five complaints of any type within a 12-month period are scheduled to participate in a counseling session with his/her immediate supervisor, the Internal Affairs Commander and the Deputy Chief of the bureau the officer is assigned to. This Intervention Counseling is a non-disciplinary process and no record of the substance of the session is kept. The IPA made recommendations based on the findings of the study analyzing the impact of the "Early Warning System" on subject officers' proactive policing.
2. The second recommendation seeks to implement, as a preventative measure, clear policy addressing conflicts of interest when handling complaints against top ranking San José Police Officers.

C. Citizen Complaints Patterns and Trends:

In this section, the different type and number of complaints are analyzed to detect patterns and trends. Statistics are reported by geographic areas, demographics of complainants and subject officers, the type of allegation, and the type of discipline imposed.

D. Community Relations:

In this section, the purpose, results, frequency, and nature of the IPA's community outreach is chronicled. Communication and interaction with the citizens of San José is crucial to the success of this office. The IPA's mandate to conduct outreach is based on the premise that the IPA must build a trust relationship with the public in order to carry out its mission. Because the IPA works with confidential police personnel matters, state law precludes the IPA from publicly disclosing the contents of a citizen complaint investigation. Therefore, the public is asked to have faith that the IPA will properly and ethically discharge its duties. The word faith is used because the public is asked to believe in the objectivity, thoroughness, and fairness in reaching a finding without seeing the evidence that lead to the outcome of their complaint.

E. Pending Recommendations:

Every year the IPA reviews prior and any pending recommendations and reports on their status. This is a critical and revealing measure of the effectiveness of this office because it tracks the changes and improvements made by the SJPD as a result of the IPA's oversight function.

III. Acknowledgment of Support

The success of the IPA is attributed to the support from the community, elected officials, and the working relationship it has developed over the years with the San José Police Department. The IPA and the SJPD operate independently but in a true spirit of cooperation. Over 90% of the IPA's recommendations have been adopted and implemented by the San José Police Department.

“OUR FAILURE TO CAREFULLY
REVIEW REPORTS, TO EXAMINE
EVENTS CLOSELY TO IDENTIFY
PATTERNS AND TO PROVIDE
EFFECTIVE OVERSIGHT AND
AUDITING CREATED THE
OPPORTUNITY FOR THIS CANCER
TO DEVELOP AND GROW.”

Quote by: L.A. Police Chief Bernard C. Parks

Source: Los Angeles Times, March, 1, 2000

Chapter Two

I. “Early Warning System”:

A. Introduction

The San José Police Department’s “Early Warning System” (EWS) is designed to identify possible errant behavior by officers, and to take corrective action. The EWS is intended to be a proactive attempt to address real or perceived unacceptable behavior before it becomes a serious problem that can result in: injury to an officer or citizen, criminal prosecution, and/or civil liability. The EWS flags officers that receive three Formal complaints or a combination of five complaints of any type within a 12-month period. Officer’s meeting this criteria are scheduled to participate in Intervention Counseling¹ (IC). These counseling sessions involve a review of the complaints filed against the subject officer without regard to the finding. The subject officer is asked to meet with his/her supervisor, the Internal Affairs Commander, and the Deputy Chief of the bureau the subject officer is assigned to. During these sessions the Command Staff has an opportunity to informally talk to the officer about personal or work related topics, provide counseling, and recommend training for the subject officer. Intervention Counseling is “Not” a form of discipline and only the fact that a session took place is recorded.

Intervention Counseling is one of several types of counseling that SJPD officers have available to them. Officers involved in a shooting or other high stress enforcement action are encouraged to participate in the Critical Incident Stress Debriefing. This type of counseling session also involves the officer and his/her chain of command and may include the Police Chaplain. In addition, officers can receive professional counseling

through the City of San Jose’ Employee Assistance Program which is available to all city employees.

Subject officers qualify for Intervention Counseling every time they meet a set criterion. The EWS allows for post-intervention monitoring of each subject officer. In addition, the Independent Police Auditor (IPA) tracks the number, type, and disposition of subsequent complaints for officers that received counseling and statistical information is compiled and included in the IPA’s public reports.

The process of tracking complaints by subject officer is at the core of the San Jose Police Department’s (SJPD) Early Warning System. The lack of such a system has been identified by police critics as one reason why police departments fail to identify and intervene in the misconduct of police officers, especially those with a long history of misconduct. In 1981, the U.S. Commission on Civil Rights recommended that all police departments create an early warning system to identify officers who were frequently named in complaints or who demonstrated identifiable patterns of inappropriate behavior².

Most police administrators agree that early warning systems are necessary and an effective management tool. However, concerns voiced by some officers are that this type of tracking system negatively impacts proactive policing, results in a decrease in the number of self initiated contacts, and that the fear of receiving complaints increases the risk to officers’ safety. The IPA sought answers to these very serious allegations by conducting an analysis of the subject officer’s self-initiated contacts, subject officer’s perceptions, and an analysis of subsequent complaints to determine the existence and degree of correlation to the EWS.

¹Intervention Counseling (IC) is part of the early warning system which identifies and/or corrects possible errant behavior. Officers that receive three or more Formal complaints or a combination of five or more complaints of any type within a 12-month period are referred for intervention counseling. This counseling is non-punitive and is an opportunity to have a meaningful dialogue between the subject officer and his/her chain of command.

²Who is Guarding the Guardians? Washington, DC: U.S. Commission on Civil Rights, (1981):81.

B. Methodology

In seeking to distinguish between intuitive reasoning and reasoning based on empirical data, the Independent Police Auditor (IPA) collected and analyzed statistical and experiential data. The use of empirical and experiential data is intended to provide an objective and unbiased evaluation of an identified concern. The IPA used standard auditing techniques and incorporated steps used in the Scientific Method style of research. The IPA used the following eight steps in a developmental chain of procedures:

1. Selection of the problem/issue to be evaluated.

The issues that the IPA selected to study involved:

- a. Allegations of a work slowdown due to officers' reactions to the San Jose Police Department's (SJPD) early warning system and their mandatory participation in Intervention Counseling.
- b. The impact on the performance of an officer who was counseled as a result of being selected through the SJPD's early warning system.
- c. A determination on whether officers that were counseled experienced an increase or decrease in complaints.

2. Review existing research and applicable policies and procedures.

The history, implementation, policies and procedures of the SJPD's Early Warning System and the Intervention Counseling Program were researched and used to identify the variables for this study. In addition, the IPA utilized a very informative study conducted on early warning systems. This study was published and appeared in a National Institute

of Justice publication where Professor Sam Walker, a leading authority in civilian oversight, was a key participant³. Also examined was the publication, "Turning Necessity into Virtue," Pittsburgh's Experience with a Federal Consent Decree⁴.

3. Develop a hypothesis or research question.

The hypotheses tested were:

- a. The SJPD's Early Warning System does not result in a decrease of self-initiated contacts.
- b. Intervention Counseling triggered by the SJPD's Early Warning System did not negatively impact the subject officers.
- c. The SJPD's Early Warning System and the Intervention Counseling resulted in a decrease in subsequent complaints for the officers that were part of this study.

4. Determine an appropriate methodology/research design.

All officers receiving Intervention Counseling in the year 2001 were identified. Data detailing the number of self initiated contacts made by these subject officers during the six months before and six months after the counseling session was analyzed. The counseling date was used as the mid-point for gathering data, the period studied covered from 8/1/00 to 6/30/02. Personal interviews were conducted with 30% of the subject officers that participated in Intervention Counseling. An analysis was conducted of the complaint history within one year of the date the officers attended Intervention Counseling.

5. Identify the variables and collect the relevant data.

There were approximately 30 variables identified for analysis in this study. The selection of these variables was based on the IPA's experience and best estimate of what information was needed in

³Early Warning Systems: Responding to the Problem Police Officer, National Institute of Justice, (July 2001) U.S. Department of Justice.

⁴"Turning Necessity into Virtue," Pittsburgh's Experience with a Federal Consent Decree, Robert C. Davis, (September 2002), Vera Institute of Justice.

order to prove or disprove the hypotheses. Some of these variables included determining the total number of days worked before and after Intervention Counseling, and then subtracting all the time the officers were not at work. Also analyzed were the number and type of self initiated contacts made within a one year span; the officer's years of experience, the type, nature, and finding of prior and subsequent complaints; interviews with officers and command staff participating in the Intervention Counseling sessions. Other variables included the unit, team, and shift the officer was assigned to before and after Intervention Counseling.

6. Analyze the data and interpret the results.

Significant variances, patterns, and groupings in the data emerged requiring additional data, which was provided by the SJPD's Research and Development Unit. The data was transposed into charts and numerical graphs that illustrated patterns. A survey was prepared and a random sample of subject officers that participated in IC during the 2001 year, were interviewed. Their responses to a set of predetermined questions were synthesized. Other experiential data was obtained by interviewing the last two Internal Affairs Commanders.

7. Present the results in appropriate form.

Logical deductions from the numerical and experiential data were extrapolated. The IPA based its conclusions and recommendations on the totality of the information examined.

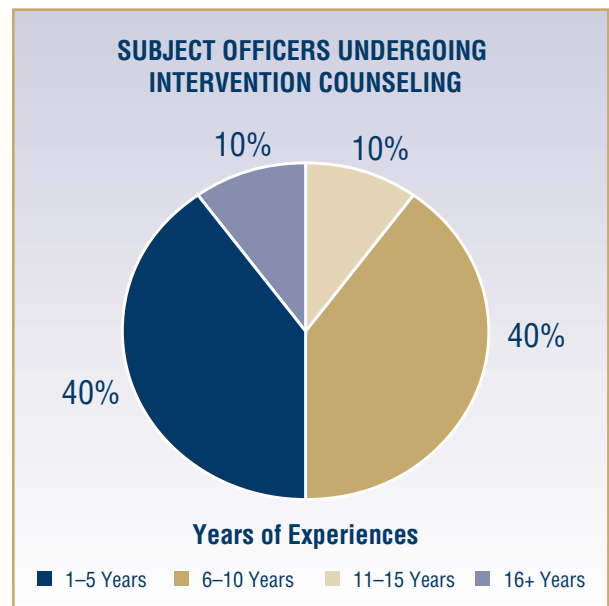
8. Replicate the study (when necessary).

This study will be replicated and reported in future IPA reports.

C. Analysis

There were 23 different officers that were identified through the early warning system as having the required number of complaints to qualify for Intervention Counseling in the 2001 calendar year. Three were excluded from this analysis because two officers resigned and one was terminated during this period. Two of the three officers that were separated from employment with the San Jose Police Department had a history of sustained complaints. There is no indication that the departure of the third officer was because of complaints in fact, that officer did not have sustained complaints nor received any complaints subsequent to his Intervention Counseling.

This study analyzed data for the period of six months prior and six months after the subject officer's Intervention Counseling (IC) date. The IC date was used as the midpoint between the broadest possible ranges examined, which were from 8/1/00 to 6/30/02. For example, the data collected for an officer receiving Intervention Counseling on 1/1/01 ranged from 8/1/00 to 7/1/01. The data for an officer receiving Intervention Counseling on 12/31/01 ranged from 6/30/01 to 6/30/02.

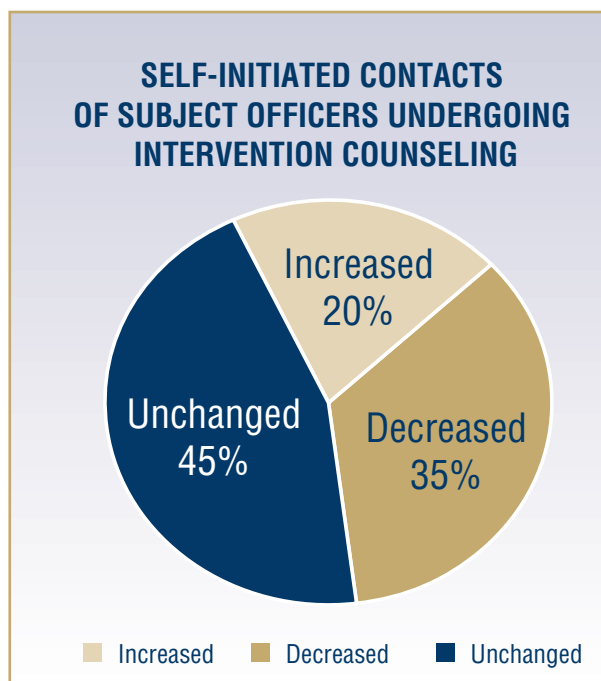


Subject Officers Years of Experience

The first area for analysis involved grouping the twenty subject officers by years of experience. The data indicated that 40% of the subject officers qualifying for Intervention Counseling had five years or less experience, 40% of the subject officers had six to ten years of experience, 10% had eleven to fifteen years of experience and 10% had sixteen and over years of experience. This is consistent with prior IPA findings that indicate that officers with less experience are more likely to be assigned to patrol, have more citizen-to-police contacts, and incur more citizen complaints.

Proactive Policing

Determining if there was a decrease or increase in work productivity after attending Intervention Counseling required an in-depth analysis. A ten-hour, four-day workweek was used for this analysis. Based on six months or twenty-six weeks, the average number of days a subject officer would have worked was approximately 104 days. All vacation, sick leave, compensatory, administrative, and military time off was added and then subtracted from 104 days to arrive at an actual number of days that the subject officer was at work. The number of self-initiated contacts for each subject officer, six months before and after Intervention Counseling was determined. Self-initiated contacts⁵ included those contacts that were designated as Priority Five⁶ and Six⁷. A further breakdown of priority 5 and 6 contacts determined an average number of self-initiated contacts per day before and after Intervention Counseling for each subject officer. A comparison was made of these two sets of numbers to determine if the number of self-initiated calls decreased or increased. Other variables that were considered were any changes in assignments, shifts, and teams.



The results were: 20% of the subject officers had a 100% increase in self initiated contacts, 35% of the subject officers had a 40% decrease in self initiated contacts, and 45% had no change in self-initiated contacts. These figures indicate that 65% of the subject officers did not experience a reduction in the number of contacts they initiated therefore, their proactive policing level did not decrease.

Complaints Subsequent to Intervention Counseling

The next analysis focused on the number of complaints that the subject officers received within one year after attending Intervention Counseling. The twenty officers were grouped according to whether they increased, decreased, or had no change in self-initiated contacts. The following are the results:

⁵All officers are required to call the police dispatch center once they decide to initiated contact with a person or make an inspection of a premise. Contacts that officers make not in response to a call for service are tracked by the dispatchers and are designated a priority five or six type of contact.

⁶Priority five contacts are those contacts that self-initiated site checks conducted at businesses, schools, other locations

⁷Priority six contacts are those contacts that self-initiated contacts involving vehicle and pedestrian stops.

Group with an increase in self-initiated contacts:

Three of the four officers in this group received between one and three subsequent complaints. Only one officer in this group had a complaint with a sustained finding. The type of allegations ranged from Improper Procedure to Use of Force to Unofficer like Conduct. There was no pattern detected in the type of complaints for this group.

Group with a decrease in self-initiated contacts:

Two of the seven officers in this group did not receive any complaints within one year after their Intervention Counseling session. The remaining five officers received between one and three complaints each. There was no pattern detected in the type of complaints for this group. This group had no complaints with a sustained finding.

Group with no change in self-initiated contacts:

Three of the nine officers in this group did not receive any subsequent complaints. Four of the nine officers received only one complaint. One officer received three complaints and one officer received four complaints. There was no pattern detected in this group and only one officer had a sustained complaint.

The fact that some officers in all three groups (increase, decrease, no change) received complaints within one year after receiving Intervention Counseling indicates that there was no significant deterrent effect.

Perceptions of Subject Officers

In addition to analyzing statistical data, the IPA conducted personal interviews of a random sample of subject officers who received the required number of complaints to qualify for Intervention Counseling. While ten officers were randomly selected, only six officers or 30% were interviewed. These officers were asked a pre-determined set of questions. The responses from the

subject officers to the survey questions as well as the IPA observations were synthesized. For some officers the Intervention Counseling took place almost two years from the date of the interview. Below are some of the officer's responses and IPA observations:

- 50% of the officers were familiar with the Intervention Counseling Program (ICP) prior to attending while 50% were not. Of those that were familiar with the ICP, their knowledge was primarily through word of mouth. They did not receive written information to supplement their limited understanding and when pressed to describe what they knew about the ICP, their response was, "Three complaints and you go to see the Chief." Another officer said that all he knew was that it was not a good thing to have to go to IC. One officer said that his Sergeant was not well informed about the ICP either.
- 100% of the officers had a negative reaction when first notified that they were scheduled to attend an IC session. In further discussing their negative reaction, all officers said that their negative perception of the ICP dissipated afterwards and was positively changed. Some stated that it was not what they expected, meaning that it was not punitive or threatening. Another officer said that he was not surprised because he knew that it was his third complaint.
- 100% of the officers said that the Command Staff treated them courteously during the IC session. All of the subject officers praised the Deputy Chiefs that participated in their session and described them as being very understanding and encouraging. Some suggested that the session be conducted without the Internal Affairs Commander or their Sergeant present. Others expressed relief that their Sergeant was present. When asked if they would rather have

the counseling session with a group of their peers, the response was no because it would not be taken “seriously”.

- 100% of the officers felt comfortable expressing their point of view during the IC session. Officers stated that they were given ample time to talk in a positive atmosphere where there was no threat of discipline and without a recorder taping their comments. Officers stated that they felt listened to. Another comment was that the officer felt like a victim because he had to restate the circumstances that gave rise to the complaints even though he had already had to explain them to Internal Affairs investigators. Another officer stated that he felt better after the session and no longer felt threatened by the ICP.
- Only one officer felt that the IC session was not conducted in an objective manner. After further inquiry, the officer explained that it wasn't that the IC session wasn't objective but that he felt that the process was not objective because of the perceived stigma that officers, “messed up” even though the complaints were exonerated.
- Only one officer felt that he experienced a decrease in self-initiated calls. However, most of the officers did say that this was a real concern because the more contacts made the greater the probability of getting a complaint. Other comments made were that if an officer had to go to IC again, the second meeting wouldn't be as nice. A few officers stated that getting complaints would not deter them from being proactive and “taking care of business”. Another stated that it had a positive impact

that resulted in greater work productivity. Another comment was that a change in self-initiated calls would depend more on the type of assignment. Another officer said that it might affect the decision of officers to initiate stops.

- 50% of the officers felt that attending IC because they received three complaints was unfair. Concerns expressed were that they felt branded as “troublemakers” while others said that they realized the need to have such a program in place. Many questioned the need for counseling after three complaints if the complaints were different in nature or did not reveal a pattern of bad behavior. Another officer stated that there could be circumstances where one complaint could justify counseling. Another officer said that the counseling helped him, “grow up” because it forced him to learn different tactics and communication skills.

Other comments and suggestions offered by the officers interviewed were the following:

- The ICP could be improved by taking a closer look at the complaints for trends and patterns.
- Get rid of the program altogether.
- Prefer that the IC be with the Deputy Chief only.
- Count only sustained complaints.
- Factor productivity of the subject officer in determining the number of complaints before ICP is necessary.
- Overall ICP is a good program.

CHAPTER TWO | NEW RECOMMENDATIONS

Intervention Counseling Program Analysis

SO No.	Years of Service	IC Date	Self-Initiated Contacts				% Change (+ / -)	Complaints				Time off (sick/vac/com)(By days)				Unit Assgmt	Team Assgmt	Watch Assgmt	Unit Transfer	Team Transfer	Watch Transfer	Date Transferred		
			Prior to IC Date		After IC Date			After IC	Before IC	After IC	% Change	Unit Assgmt	Team Assgmt	Watch Assgmt	Unit Transfer								Team Transfer	Watch Transfer
			Total	Daily Avg	Total	Daily Avg																		
INCREASE IN SELF-INITIATED CONTACTS																								
1	10	1/1/01	15	0	203	2	1253%	3	18	16	-11%	FB	CC	01	FO	38	02	3/18/01						
6	8	2/15/01	87	1	433	5	398%	2	17	11	-35%	FO	99	04	FO	24	03	3/17/01						
8	11	2/20/01	220	3	310	4	41%	2	13	13	0%	FO	88	02	FO	45	03	3/17/01						
19	4	9/4/01	326	4	397	5	22%	0	27	20	-26%	FO	031	01	FO	099	02	9/29/01						
DECREASE IN SELF-INITIATED CONTACTS																								
16	10	4/4/01	319	4	2	0	-99%	0	18	28	56%	DT	Military	01	DT	Military	01	6/10/01						
17	7	7/10/01	168	2	112	1	-33%	1	24	18	-25%	VE	003	04	VE	002	04	3/6/02						
9	7	2/20/01	156	2	126	1	-19%	3	27	18	-33%	MT	06	02	MT	08	02	3/17/01						
23	4	12/17/01	189	2	113	1	-40%	0	23	24	4%	FO	016	02	FO	014	02	3/16/02						
4	4	2/13/01	442	4	278	3	-37%	1	4	14	250%	FO	20	03	FO	64	02	3/17/01						
10	8	2/21/01	368	4	318	3	-14%	2	12	9	-25%	CZ	CMD	04	FO	85	04	9/29/01						
18	4	8/31/01	645	7	478	6	-26%	2	10	18	80%	FO	046	03	FO	011	02	9/29/01						
NO CHANGE IN SELF-INITIATED CONTACTS																								
3	27	2/13/01	4	0	4	0	0%	0	14	6	-57%	PP	222	01	PP	222	01	3/28/01						
14	12	3/13/01	14	0	7	0	-50%	3	15	15	0%	AJ	AS	01	FO	27	01	8/31/02						
20	20	9/27/01	36	0	30	0	-17%	1	10	14	40%	MT	DEZ	04	CZ	CMD	04	3/16/02						
5	6	2/14/01	89	1	107	1	20%	0	19	17	-11%	FO	72	03	FO	67	03	3/17/01						
11	5	2/26/01	140	2	195	2	39%	1	20	23	15%	FO	75	01	FO	95	01	9/29/01						
21	4	12/10/01	174	2	154	2	-11%	1	19	35	84%	FO	016	02	FO	014	02	3/16/02						
12	7	2/27/01	248	3	263	3	6%	5	13	22	69%	VE	001	04	VE	001	04	1/10/02						
13	5	3/5/01	308	3	232	3	-25%	0	11	15	36%	FO	84	02	FO	100	04	3/17/01						
2	5	1/30/01	603	6	529	6	-12%	1	12	27	125%	FO	93	03	FO	95	02	3/18/01						

SO No: Subject Officer number assigned to maintain confidentiality

IC Date: Date that subject officer went to Intervention Counseling

Priority 5: Self-initiated site checks conducted at businesses, schools, other locations

Priority 6: Self-initiated contacts involving vehicle and pedestrian stops

Complaints After IC: Complaints that subject officer received within one year after going to Intervention Counseling

Unit Assgmt: Unit Assignment

Team Assgmt: Team Assignment

Date Transferred: Unit that subject officer transferred to different unit after receiving Intervention Counseling

Unit Transfer: Unit that subject officer transferred to

Team Transfer: Team that subject officer transferred to

Unit Codes Abbreviation:

AJ: Assault Juvenile

CZ: Cruise Management Detail

DT: Drug Task Force

FB: Financial Crimes/Burglary

FO: Field Operations Patrol

MT: Metro Unit

PP: Pre-Processing Center

VE: Violent Crime Enforcement

Team Codes Abbreviation:

AS: Assaults

CC: Curfew Center

DEZ: Downtown Entertainment Zone

CMD: Commander

D. Conclusion

Through this study, the IPA sought to determine if there was evidence to support the perception that the Early Warning System (EWS), a system that tracks the number of complaints an officer receives and then intervenes by providing counseling, results in a work slowdown, negatively impacts the officers, and/or decreases the number of subsequent complaints. The analysis of the data revealed that 65% of the subject officers' proactive work did not decrease and of the group that experienced a positive impact, their combined number of self-initiated contacts increased 100%. Officers in all three groups studied received complaints subsequent to attending Intervention Counseling. Though not every applicable variable that could have impacted these issues was identified, the data studied was sufficient to make general findings about the hypotheses studied.

The prevailing comments from the officers interviewed indicated that the EWS could be improved, but most also acknowledged that this system is fair and necessary. One of the officers interviewed captured the sentiment behind the officer's suggestions for improving the EWS and ICP, he said, "The Deputy Chief and everyone present were real nice but what did I learn, my complaints had nothing in common." The officers interviewed had two primary suggestions for improvement: (1) that the subject officer's overall work productivity be used as a performance indicator and (2) that the complaints counseled on reveal some pattern of behavior. These suggestions are sound and according to the Internal Affairs Commander are already in practice. The Internal Affairs Commander and the Deputy Chief of the Bureau the subject officer is assigned to, meet prior to conducting these counseling sessions to review the subject officer's work and complaint history.

An enhancement to this process could include obtaining the number of self-initiated contacts as an indicator of the officer's work productivity. Those officers that are very proactive would obviously have a higher probability of getting complaints since the number of contacts with the public would be greater than those officers that initiate very few contacts. Without acknowledging this reality, it will be difficult to dispel the belief that in order to avoid getting complaints, officers should avoid initiating citizen contacts.

All of the officers interviewed said that they had an initial negative reaction when first notified that they were scheduled to attend Intervention Counseling. This negative reaction appeared to stem from a lack of information about the nature and contents of the counseling session. All of the officers indicated that their negative perception of the IC dissipated afterwards and was positively changed. SJPD officers and supervisors need to be better informed about the goals and benefits of the early warning system to defuse the notion that this system is necessarily detrimental to officers.

The SJPD'S early warning system currently relies only on citizen complaints to identify officers for intervention while most police departments use a combination of performance indicators. While no standards have been established for identifying which officers should participate in early warning programs, factors that can help identify these officers include: citizen complaints, firearm-discharge reports, use-of-force reports, civil litigation, resisting-arrest incidents, and vehicular pursuits and accidents⁸.

A comprehensive early warning system allows command staff to monitor officer productivity and to spot officers whose performance differs significantly from their peers⁹. Early warning systems are

⁸Early Warning Systems: Responding to the Problem Police Officer, U.S. Department of Justice, National Institute of Justice, (July 2001), page 2.

⁹Turning Necessity into Virtue, Pittsburgh Experience with a Federal Consent Decree, Robert C. Davis, (September 2002), page 62.

a check on supervisor's actions as much as they are a way to identify problem officers. Even when problem officers identified by an early warning system are known to supervisors, the advantage is that the system forces supervisors to take action or justify their inaction. This leaves little room for playing favorites or for abuses in discretion.

Early warning systems can be extremely complex, high-maintenance administrative operations that require close and ongoing human attention¹⁰. While a complex system may be viewed as more desirable, there are also serious drawbacks with these type of systems. The SJPD has utilized their EWS very effectively and a reason may be the simplicity in which the information is gathered and tracked. The more complex the system, the less reliable the data can become because of the greater need for human resources to update, maintain, and learn how to use it. A cumbersome system can lead to a reduction in the actual use by command staff and ultimately in a loss of confidence in the entire process.

Incorporating existing indicators such as civil claims and lawsuits could enhance the SJPD's early warning system. While there is some overlap because some police conduct can generate all three actions: complaints, civil claims, and lawsuits; the addition of these two external sources of information would not create an undue burden since this information is already available to the SJPD. The information contained in complaints, civil claims, and lawsuits can collectively provide a more comprehensive resource in evaluating conduct.

The IPA acknowledged the importance of addressing officer's perceptions about a work slow down resulting from the SJPD's use of the early warning system. However, the SJPD should not lose sight

that anecdotal accounts only raise inferences of what may or may not be true; arriving at the "truth" with any accuracy can only be revealed through a series of objective analysis. The analysis conducted by the IPA of the EWS should be repeated on a regular basis to determine fluctuations in officer's proactive policing.

E. Recommendations

1. It is recommended that the Chief of Police continue to provide Intervention Counseling for subject officers meeting a set criterion.
2. It is recommended that the Chief of Police implement procedures to insure that officers attending Intervention Counseling are well informed about the early warning system and Intervention Counseling prior to participating.
3. It is recommended that the Chief of Police direct the Command staff to factor an officer's work assignment and level of proactive policing as part of the discussion held during the intervention counseling session.
4. It is recommended that the Chief of Police direct the Command staff to incorporate discussion about the allegations and findings of the officer's complaint history to determine if a pattern exists.
5. It is recommended that the Chief of Police upgrade the SJPD's early warning system to include other indicators such as civil claims and lawsuits.

¹⁰Early Warning Systems: Responding to the Problem Police Officer, U.S. Department of Justice, National Institute of Justice, (July 2001), page 6.

II. Complaints Against High-Ranking Officers:

A very sensitive and important concern that needs to be addressed involves conflicts, real or perceived, that arise from internally investigating allegations of misconduct against high-ranking¹¹ San Jose Police Department command officers. For purpose of this discussion, high-ranking officers include the Assistant Chief and the Chief of Police. While these types of complaints are not common, nevertheless they, have the propensity of having very serious and far reaching negative consequences.

Over five years ago, the Independent Police Auditor, the former City Manager, and the former Chief of Police agreed that if allegations of misconduct were made against the Chief or Assistant Chief of Police that it would be the City Manager who would determine if the allegations gave rise to a misconduct complaint. If they did, the complaint would be investigated by personnel outside the San Jose Police Department. The completed investigation would then be audited by the Independent Police Auditor. This oral agreement was made as a result of the investigation of a complaint, which was filed against a high-ranking officer, was internally investigated, and resulted in much controversy and animosity between all parties involved. This agreement was not memorialized in writing.

The recent indictment of the top command staff of the San Francisco Police Department is a reminder of the need to have a written policy. This policy should also address conflicts of interest that could arise when misconduct allegations are filed against an officer who because of his/her rank or familial ties may be given preferential treatment. The purpose of having policies in place to address potential conflicts is to inform, guide, and depersonalize sensitive operational decisions that officers are forced to make when a conflict arises. As stated earlier, allegations against top ranking officers are rare but when they occur, they have the potential for devastating consequences. It is therefore important to take proactive steps to anticipate and thwart such situations.

Recommendation:

It is recommended that the Chief of Police in conjunction with the City Manager develop a written policy that addresses the procedure to follow when serious misconduct allegations are filed against top ranking SJPD officers. This policy should include clear guidelines that specify what constitutes a serious allegation, the process to notify the City Manager, address conflicts that could arise during the handling of such complaints, and the process for notification to the Independent Police Auditor to monitor and audit these complaints.

¹¹For purposes of this report, top ranking officers include the Assistant and the Chief of Police.

INDEPENDENT POLICE AUDITOR
(IPA) HAS TRACKED
ALL PRIOR AND PENDING
RECOMMENDATIONS SUBMITTED
BY THE IPA FOR APPROVAL TO
THE SAN JOSE CITY COUNCIL.

Chapter Three

Historically the Office of the Independent Police Auditor (IPA) has tracked all prior and pending recommendations submitted by the IPA for approval to the San José City Council. The IPA views this process as a crucial measurement of the impact it has on improving the San José Police Department (SJPD). The IPA also ensures compliance with prior recommendations by conducting random audits of SJPD policies and procedures that were the subject of prior IPA recommendations. In keeping with this tradition this chapter provides updated information on the recommendations made by the IPA in the 2001 Year End Report, and the actions taken by the SJPD.

I. San José Police Department Information Center

In the 2002 Year End Report, the IPA identified issues involving the Information Center (Front Desk) of the San José Police Department through reports made by citizens, and personal observations. On several IPA visits to the lobby, crowded conditions were observed including people waiting in lines for an extended amount of time before being assisted. The level of customer service being provided to the public was noticeably less than what would be considered desirable.

People go to the police station for many different reasons. While some people were there as victims of crimes, to conduct business regarding minor legal matters, or simply to obtain information, others were there for much more serious offenses. Among the mix of people were children and generally law-abiding citizens along with offenders of violent or sexual crimes. People communicating with officers at the front desk about personal or sensitive situations were forced to speak in the presence of others. Confidentiality was virtually non-existent in the lobby. This condition was problematic in that it discouraged people from communicating with the officers or were embarrassed unnecessarily.

The IPA also observed other customer service shortcomings including, the lack of clear and obvious information, the existence of only one courtesy telephone to reach police personnel, and the lack of public restrooms. These customer service issues combined with complaints of unprofessional or discourteous behavior on the part SJPD Information Center officers resulted in the IPA making ten recommendations to the SJPD. These recommendations and updates on their status are provided below.

A. A study should be conducted to assess the feasibility of expanding the front lobby to alleviate the crowded conditions that exist.

Update: This recommendation has been adopted and as of July 30, 2002, the front lobby area of the main police station has been expanded 40% above its previous area size. While the number of seats still remains the same, they were rearranged to accommodate the public’s demand specifically for vehicle releases at the “auto desk.” In addition, specific area delineators using stanchions have enhanced mobility and reduced confusion by the public within the lobby. And the installation of additional courtesy telephones in the lobby area is reported to have alleviated delay in scheduled appointments, by allowing the public the capability to contact police employees who are stationed within the secured areas of the police station.

B. A separate waiting area should be developed 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 area of the main police station.

Update: It has been determined that this recommendation is not feasible due to the physical limitations of the facility. There is not sufficient space available to create a separate waiting area to separate individuals that pose a threat to others or who are there to register for sex or narcotics offenses



Left, front lobby area of SJPD station before IPA's recommendation. Right, front lobby area of SJPD station has been reconstructed and expanded 40% above its previous area size.

from those who are there for other reasons. Presently there is nothing in place to separate sex or narcotics offense registrants from the rest of the public utilizing the lobby of the police station.

C. An interview room should be made available for desk officers to obtain statements from victims or witnesses of crimes in a private environment.

Update: This recommendation has been adopted. Officers are now able to communicate with victims or witnesses in a private environment. This area is located in the Witness Center, in the lower level of the San José Police Department. The Witness Center allows for confidentiality between the public and the police. It is conducive to conducting interviews, specifically in cases that are sensitive in nature. It has proven to be particularly helpful in domestic violence cases that require photographs of the victim(s). A concern that surfaced as a result of this change is that when an officer assigned to front desk duty is required to use the Witness Center, the front desk is left with one less person and therefore understaffed.

D. Additional courtesy telephones should be installed in the Information Center.

Update: This recommendation has been adopted. Another telephone has been installed beside the original existing telephone. In addition a third telephone that allows the public access to police records personnel has also been installed. As mentioned previously, the results of the added telephones have decreased delays in providing assistance to the public and less congestion within the lobby of the police station.



Two additional courtesy telephones have been installed in the SJPD Information Center (Front Desk) as recommended by the IPA.

E. Monitors should be installed in the lobby of the San José Police Station displaying information such as activities, services, and meetings taking place in the Police Administration Building.

Update: This recommendation was not adopted due to the lack of funding. While this recommendation is considered to be an excellent tool for the general public and officers assigned to the lobby desk, budget constraints forestall any possibility of the installation of monitors at this time. This recommendation will be reintroduced if funding sources become available in the future.

F. Access to public restrooms should be made available to the public from the San José Police Station lobby. This would eliminate the requirement to sign-in with desk officers, go through the security gate, and provide access to restricted areas of the police department.

Update: This recommendation was not adopted due to the lack of funding. The monetary considerations to modify the existing security gate leading from the lobby of the San José Police station into restricted access areas makes it impossible to do at this time. The public restrooms are located within the restricted access areas, approximately thirty feet from the security gate. Due to funding constraints, building additional restrooms outside the restricted areas of the police station is not feasible but they are made available to the public upon request and after registering at the front desk for security reasons and accountability. Because only one person at a time is allowed into the restricted areas of the police station to use the restrooms, a waiting line and delay can develop, creating an inconvenience to the public. Security concerns remain a priority and leave no other alternatives under the existing conditions.

G. A receptionist should be placed in the San José Police Station lobby to provide

assistance and information to the general public.

Update: This recommendation has not been adopted due to financial constraints. The police department, like all other departments of the City of San José, is currently in a financial situation that prohibits employing additional personnel as receptionists or greeters. Volunteers through the VOLT volunteer program are being sought however, and a search for suitable volunteers to perform these important tasks is in process. Some VOLT volunteers have been intermittently assigned to work at the front lobby of the police station during the past year and they have proven to be effective in providing assistance to the public.

H. Customer service training should be developed and desk officers receive initial and ongoing training.

Update: Customer service training was implemented six months ago. The IPA has conducted this training since August 14, 2002 for all new officers assigned to the front desk.

I. Information Center Sergeants should have the front desk as their primary responsibility and they should be provided office space where they can monitor the activities of the Information Center.

Update: The Information Center sergeants are being asked to spend more time in the immediate area. Even though the sergeant's office is less than 10 feet from the Information Center, they are not able to see or hear the activity occurring at the front desk from their office.

J. The Chief of Police should implement incentives to attract officers to work at the Information Center.

Update: This recommendation has not been adopted because this issue must be addressed through contract agreement with the San José

Police Officer’s Association (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, the SJPD will study the possibilities of implementing incentives to work at the Information Center.

II. Strategies in Recruiting and Retention

In the 2002 Year End Report, the IPA made recommendations designed to attract, recruit, retain and promote officers with better communication, conflict resolution and interpersonal skills. These recommendations were based on research and analysis by the IPA that recognized that since 11% of police contacts with citizens resulted in an arrest being made, almost all police-citizen contacts involved the need for good communication and interpersonal skills.

The IPA found that there is a direct correlation between officers who seldom generate citizen complaints, lawsuits or pre-lawsuit claims with officers with strong people skills. The IPA also cited studies from the National Center for Women in Policing (NCWP) indicating that female officers are more successful at defusing potentially violent confrontations, and are less likely to become involved in the use of excessive force. Consistent with this research, the IPA data analysis indicated that while female officers make up 9% of the officers in the SJPD and also 9% of all officers assigned to patrol. However, only 5% of misconduct complaints were filed against female officers. IPA data analysis also indicated that only 2% of the unnecessary force complaints were against female officers.

The IPA recognized that despite recruitment efforts by the SJPD to increase the number of females in the department over the past years,

females were still significantly under-represented even when comparing the 9% female make up of the department to other police departments.

Based on this data and research, the IPA made the following recommendations that are followed by an update of their status:

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

Update: These issues are addressed through the Oral Board Testing and current on-going meetings with the Employee Services Department. During the oral testing, candidates are asked questions dealing with community policing, communication and conflict resolution. The Employee Services Department has also been informed about developing job descriptions that cover those areas. In addition, these areas are also emphasized in job preparation seminars, job fairs, promotional materials and advertising.

B. Design and implement recruiting strategies that address family related issues.

Update: Several recruiting strategies have been implemented that address family related issues. The SJPD has partnerships with the San José Convention and Visitor’s Bureau regarding marketing strategies for recruiting personnel, where those issues are addressed. These partnerships have unfortunately not proven to be very effective, which can be attributed to the high turnover rate of personnel at the Visitor’s and Convention Bureau. The SJPD also has a number of new strategies that were designed and deployed for recruiting purposes. Some examples include opportunities for candidates who do not meet the required standards on physical agility tests to re-test. The SJPD noted however, that the trend indicates that individuals who fail to meet the required physical agility standards are not likely to pass with

other attempts. Another alternative that has been studied to address family related issues is child-care benefits for police personnel. This would attract individuals, especially females with children, to consider a career in law enforcement with the City of San José. However, the current economic impact that has dramatically affected the City of San José has unfortunately made this attractive possibility not feasible at this time. This proposal will remain suspended until such time that the state of the economy improves to the point that it can be re-activated as a viable proposal.

Despite the current economic conditions, recruiting strategies that address family related issues are being utilized. The San José area remains a favorable place to work, live, and raise a family, and salaries for San José police officers are among the highest in the nation. These facts are being emphasized in current recruiting efforts. In the January 2002 police academy there were eight female police recruits out of 34 total recruits. In the July 2002 academy the number of female recruits dropped to three of 39 total recruits. The number of females was back up to eight female recruits in January 2003. While it may be possible that this most recent rise in female recruits is due to the recruiting efforts being made, it is more likely that it is a result of more people becoming unemployed and considering careers in public service. Tracking trends into the future will provide us with more information by which to make a determination of the effectiveness of the efforts to increase female recruits.

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

Update: This recommendation was adopted. Sergeant transfer opportunities are now announced and are available through the City's Intranet.

D. Continue to develop and provide training in communication and interpersonal skills.

Update: 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. The effort made by the SJPD in designing this type of training has been recognized by the "Peace Officer Standards Training" (POST), and will now be required training for all California peace officers.

III. Information About the IPA and SJPD

The public expects and deserves prompt and accurate responses by the IPA and SJPD. This is especially true in providing the public information about the citizen complaint process, Internal Affairs Unit, or the IPA. Because it is in the best interest of the public and the SJPD to provide accurate information regarding the citizen compliant process or departments that specialize in this area, the IPA submitted the following recommendation.

Recommendation: A training program for all SJPD staff members, especially those, who are in positions to provide information to the public, should be instituted and maintained. This is 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.

Update: This recommendation has been adopted. 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. This training extends to civilian personnel employed as call-takers such as 311, 911, dispatchers, and Information Center personnel. Training for police officers about the IPA and SJPD will be provided as part of the SJPD's Continued Professional Training program (CPT).

IV. Recommendations and SJPD Responses

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 were engaged in racial profiling and conducted pretext stops of minority community members. The IPA identified the need to define “racial profiling”.

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 higher rate than their overall representation within San José. 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. The IPA noted that in areas of the City where the makeup of the larger population was not Hispanic Americans, there still existed disproportionate figures of Hispanic Americans being stopped, that justified further examination. As a result, the IPA made the following recommendations in the 2001 Year End Report. Updates for each recommendation are also included.

A. Recommendation: The SJPD should compile vehicle stop data on an annual basis so that a comparative analysis can be made.

Update: The SJPD has continued to compile vehicle stop data since the Vehicle Stop Demographic Study was implemented on June 1, 1999. The SJPD will now issue an annual report, which contains details of the data that was collected and is available to the public.

B. Recommendation: The Chief of Police should expand the fields for data collection to determine how an individual who has been stopped by the police was treated during the contact, i.e. was a search conducted. The data should include search information, the factual basis for the stop and action taken by the police officer as a result of the stop.

Background: The IPA originally introduced this recommendation during the year 2001. It was not adopted at that time because of the possibility that the State of California would enact legislation requiring that all law enforcement agencies within the State gather vehicle stop data however, this legislation was not adopted, and as a result this recommendation was reintroduced.

The IPA’s reasoning for making this recommendation was to create a process by which sufficient data could be collected in order to assess whether police initiated vehicle stops are disproportionately impacting minorities.

Update: This recommendation has been adopted and the data collection by the San José Police Department is in progress. It is the expectation of the IPA that sufficient data will be available to make an assessment and to present this information in the IPA's 2003 Year End Report.

C. Recommendation: It is recommended that the Chief of Police develop a uniform definition of what constitutes a racially motivated vehicle stop or police contact and a process for tracking all "Racial Profiling" allegations.

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

D. Recommendation: 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: 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 IPA. While there is no specific date for this upgrade to be completed, the SJPD Systems Development Unit is committed to make this project a high priority.

USE OF FORCE ANALYSIS

THE YEAR 2002 MARKED
THE FOURTH CONSECUTIVE
YEAR THAT OFFICER-INVOLVED
SHOOTING DECREASED
IN THE CITY OF SAN JOSE.
**IN 2002, THERE WERE NO
CITIZENS WOUNDED OR KILLED
BY THE POLICE.**

Chapter Four

I. Introduction

This chapter focuses on analyzing the use of force that officers employed during the 2002 calendar year and that gave rise to a citizen complaint investigation. As a society we authorize the police to use force in the discharge of their duties provided that they apply only the force needed to resolve a given situation. Police work is distinguished from other occupations by their authority to lawfully apply force when necessary and police officers are the only public servants that are authorized to take a life. This degree of authority must rightfully receive extensive scrutiny. Investigations into the use of force are conducted by the San José Police Department's Internal Affairs Unit and closely monitored and audited by the Independent Police Auditor (IPA).

Allegations of unnecessary force must be examined with the understanding that many times San José Police Officers successfully resolved situations without any or minimal use of force. In 2002, the members of the SJPD handled a total of 463,984 calls for service from the public. These contacts ranged from responding to life threatening situations, to issuing traffic citations, to responding to false alarms. Of all the citizen-to-police contacts in 2002, only 11% involved making an arrest or issuing a criminal citation. This is consistent with the overall low crime rate in the City of San José.



II. Officer-Involved Shootings

Most remarkable is the fact that in 2002, there were no officer-involved shootings that resulted in injury or death to a citizen.



L8 multi-launcher and rubber bullets.

In the last four years there was a total of 12 people killed and five wounded by San José police officers. Of the 17 people shot, 53% were suffering from some form of mental illness, 88% were armed with a weapon, 53% of those weapons were firearms, and 41% of those holding a firearm shot at the officers. In all of these cases, the officers' use of lethal force was found to be within policy. The year 2002 marked the fourth consecutive year that officer-involved shootings decreased in the City of San José. Four years ago, the SJPD was involved in eight officer shootings, which resulted in seven people fatally shot and one seriously

wounded. In 2002, there were no citizens wounded or killed by the police.

In 2002, the SJPD handled a total of 463,984 calls for service ranging from homicides to traffic citations.

Illustration: Four-Year Analysis of Officer Involved Shooting Cases

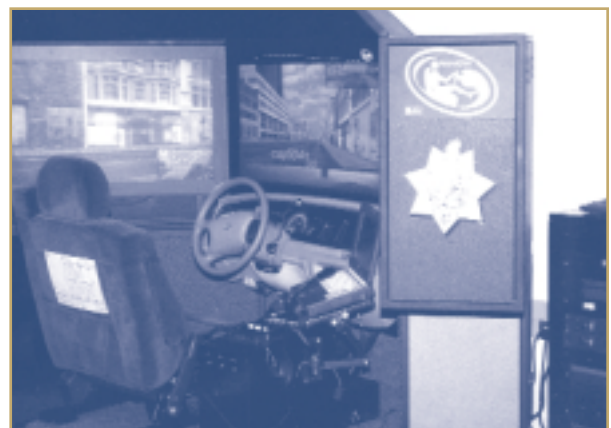
Period	Number of Citizens Shot	Ethnicity	Mental Illness History?	Citizen Shot Armed?	Type of Weapon	Citizen Shoot at Officer?	Prior Criminal Record?	CIT* at Scene?	Citizen's Injuries	Degree of Within Policy?
1999	Case 1	Hispanic	No	Yes	Pistol	Yes	Yes	No	Fatal	Yes
	Case 2	Asian	Yes	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 3	White	No	No	None	No	Yes	No	Wounded	Yes
	Case 4	Hispanic	Yes	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 5	Hispanic	Yes	Yes	Knife	N/A	No	No	Fatal	Yes
	Case 6	White	Yes	Yes	Pistol	Yes	No	Yes	Fatal	Yes
	Case 7	Black	No	No	None	No	Yes	No	Fatal	Yes
	Case 8	Hispanic	Yes	Yes	Knife	N/A	No	Yes	Fatal	Yes
2000	Case 1	Hispanic	No	Yes	Pistol	No	Yes	No	Wounded	Yes
	Case 2	Hispanic	Yes	Yes	Axe/knife	N/A	Yes	No	Fatal	Yes
	Case 3	Vietnamese	Yes	Yes	Spear	N/A	Yes	No	Wounded	Yes
	Case 4	Chinese	No	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 5	White	Unknown	Yes	Shotgun	Yes	Yes	Yes	Fatal	Yes
2001	Case 1	Middle Eastern	Unknown	Yes	Knife	N/A	Yes	No	Wounded	Yes
	Case 2	White	No	Yes	Pistol	Yes	Yes	No	Wounded	Yes
	Case 3	White	Yes	Yes	Rifle/handgun	No	Yes	Yes	Fatal	Yes
	Case 4	White	Yes	Yes	Hammer/knife	N/A	Yes	No	Fatal	Yes
2002	None	None	None	None	None	None	None	None	None	

III. Creation of The Shooting Review Panel

In 1998, the Independent Police Auditor (IPA) sought to increase its jurisdiction to include review of all officer involved shootings regardless of whether a complaint was filed. The Mayor and the City Council supported this recommendation and in August of 1999 the Chief of Police followed by creating a panel to review all officer-involved shootings. This panel conducts a “freeze-frame” analysis of the policies and tactics used in each shooting.

The shooting review panel consists of the Chief of Police, the Deputy Chief for the Bureau of Field Operations, the Independent Police Auditor, the Training Unit Commander, and a representative from the City Attorney’s Office. In preparation for

attending a shooting review, the IPA will go the SJPD homicide unit and read the completed investigation.



Defensive driver training is taught in a state of the art simulator.

CHAPTER FOUR | USE OF FORCE ANALYSIS

Scrutiny of officer involved shootings starts with a step by step presentation by the Homicide Investigators that handled the case. A discussion of the policies, procedures, and tactics used are followed by questions about whether the police officers involved lacked training, experience, restraint or lacked sufficient tactical training to defuse a situation before it became necessary to use deadly force. Once each case is evaluated, potential policy or procedural changes raised by each case are discussed and made. Below are examples of the questions and areas that the Shooting Review Panel covers during these reviews:

- What led to the shooting?
- How were the officers initially involved?
- Did the victim/suspect shoot at the officers?
- Were less lethal weapons used? If not, why not?
- Did the officer (s) exhaust all reasonable alternatives before firing?
- Was the officer's perception of immediate threat reasonable under the "Reasonable Officer Standard"?
- Was the deadly force used within department policy?
- What could have been done to avoid using lethal force?

While all the shootings reviewed were found to be within procedure, the close examination of these cases helped to raise the consciousness and awareness about the use of deadly force and the importance of preserving the sanctity of life.

IV. Other Measures to Reduce the Need to Use Lethal Force

In addition to the creation of the shooting review panel, other measures were implemented such as greater use and availability of less lethal weapons. The SJPD tested and acquired Sage Guns which replaced the "Bean Bag" type of weapon. Within the last four years the SJPD has built a state of the

art training center where scenario-based firearms training is taught. This type of training allows officers to experience simulated settings where they are forced to decide when to shoot or not. In addition, the number of officers trained in recognizing and handling incidents involving people with mental disabilities was increased. It is difficult to conclusively point to the precise reasons for the decrease in officer-involved shootings. However, it cannot be ignored that a correlation exists between the measures described above and the fact that in 2002 no one was injured or killed by a San José Police officer-involved shooting. This is an extraordinary achievement considering that the city of San José has a population of almost one million people, over 1400 police officers, and over 450,000 citizens to police contacts per year.



Lt. Babineau at the SJPD Training Center demonstrates holding a sage gun.

V. Use of Force Allegations

There were 141 Formal complaints filed in 2002. This is a decrease of only two Formal complaints from last year's figures. Of the 141 Formal complaints, 54 included allegations of Unnecessary Force (UF), two more than in the prior year. Each complaint may contain more than one allegation; there were 88 UF allegations filed in 2002, a slight decrease from the 92 UF allegations filed in 2001.



SJPD Officer conducting an arrest.

Unnecessary Force allegations are divided into two categories: Class I and Class II. A Class I allegation involves serious bodily injury requiring medical care.⁷ Class II allegations are incidents where the complainant did not require immediate medical care. Of the 54 UF complaints filed, nine were Class I complaints (three more than in 2001), and the remaining 45 were Class II complaints.

The IPA tracks different data regarding UF complaints to determine whether any trends or patterns can be detected regarding use of force incidents. The following charts present statistics for the past five years for 1) the degree of injury resulting from the force used; 2) the type of excessive force alleged to have been used; and 3) the part of the body impacted by the force.

Illustration B: Degree of Injury

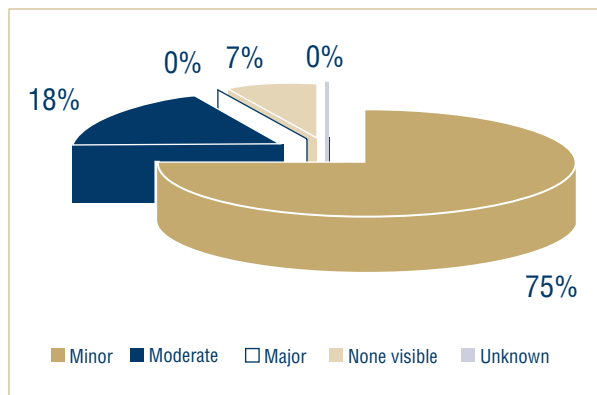


Illustration B, “Degree of Injury,” provides data about the degree of injury resulting from the alleged use of force. There are five categories ranging from “Major” to “None Visible.” Major injuries generally require major medical attention, whereas, Minor injuries usually do not require any medical attention. For example, minor injuries can involve minor abrasions, the use of chemical agents or bruising from tight handcuffs. It is significant to note that over the past two years there has been a significant reduction in the percentage of Major injuries and that Minor injuries, which always accounted for the highest percentage, now represent an even higher percentage of the degree of injury. This may be an indication that when officers have to use force, they are doing so with more circumspect.

Illustration C: Type of Force Alleged

Type of Alleged UF	Number	%
Baton	7	8
Canines	0	0
Car (officer)	3	3
Car (complainant)	1	1
Chemical Agent	4	5
Gun (officer)	0	0
Gun (complainant)	0	0
Feet	8	9
Ground	12	14
Hands	36	41
Handcuffs (tight)	11	13
Knee	5	6
Object	0	0
Other	1	1
Unknown	0	0
Total	88	100%

Illustration C, “Type of Alleged Unnecessary Force Used,” shows that there were 88 different types of unnecessary force alleged to have been used in 2002. This number is greater than the total number of UF cases because there can be more than

CHAPTER FOUR | USE OF FORCE ANALYSIS

one type of force alleged in the same case. For example, a complainant may have alleged that an officer or officers unnecessarily struck him with a baton, hit him with fists, kicked him and placed handcuffs on too tightly. This example would account for four different types of unnecessary force alleged in the same complaint.

The five-year comparison indicates that in 2002, there was little change in the distribution of the frequency of different types of force allegations. The use of hands, followed by the application of tight handcuffs, use of the ground and use of the feet continue to be the four types of unnecessary force alleged most often. It should be noted that allegations of the use of more severe types of force, such as batons, chemical sprays or guns, remains relatively low, an indication that officers are adhering to the department's force-option policy.

Illustration D: Type of Force Alleged – Five Years Comparison

Type of Alleged UF	1998 %	1999 %	2000 %	2001 %	2002 %
Baton	13	8	7	10	8
Canines	2	0	0	0	0
Car (officer)	5	5	7	3	3
Car (complainant)	1	1	1	0	1
Chemical Agent	5	5	2	3	5
Gun (officer)	3	0	1	0	0
Gun (complainant)	2	0	0	0	0
Feet	10	9	10	10	9
Ground	8	10	6	6	14
Hands	34	40	44	43	41
Handcuffs (tight)	7	4	5	10	13
Knee	6	6	4	6	6
Object	1	0	3	1	0
Other	3	6	5	6	1
Unknown	1	5	5	0	0
Total	100%	100%	100%	100%	100%

Illustration E: Location of Force Application - Five-Year Comparison

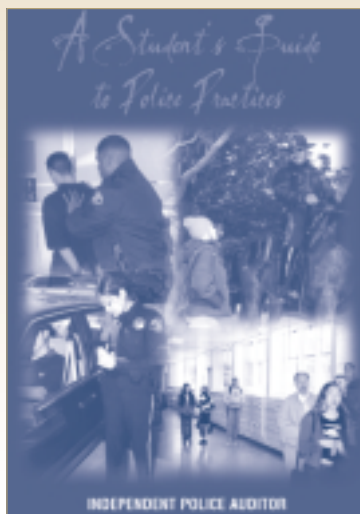
Area Afflicted by Alleged UF	1998 %	1999 %	2000 %	2001 %	2002 %
Head	30	20	22	28	33
Torso	12	13	18	19	22
Limbs	31	34	38	41	30
Multiple Body Parts	24	22	12	13	11
Unknown	4	11	10	0	4
Total	100%	100%	100%	100%	100%

Illustration E, “Body Area Afflicted by Force” tracks information about the area of the body that was involved with the use of force. The area afflicted is divided into five categories: head, torso, limbs, multiple body parts and unknown. In each complaint, the alleged unnecessary force can impact more than one body area. The distribution of injuries to different areas of the body in 2002 saw an increase in injuries to the head. This is the fourth year that injuries to the head increased. As injuries to the head and torso increased, force

applied to the limbs decreased. SJPD officers are trained to apply force to the limbs. This is an area that the IPA will continue to monitor.

COMMUNITY RELATIONS

THE INDEPENDENT POLICE
AUDITOR CONTINUES TO FOSTER
A STRONG PARTNERSHIP WITH
SCHOOLS, NONPROFIT ORGANIZA-
TIONS, AND AGENCIES THAT SERVE
YOUTH AND PARENTS BY
CONDUCTING EDUCATIONAL
PRESENTATIONS FOR YOUTH
AND PARENTS.



Chapter Five

I. Out in the Community:

San José's Independent Police Auditor (IPA) model of police oversight continues to be recognized as a role model in the field of police oversight. Cities across the country continue to invite the Police Auditor to speak to their communities about San José's IPA model and to provide guidance and assistance in developing their own programs. The national recognition San José's Independent Police Auditor has received is attributed to the success in providing an alternative forum for citizens to file complaints, the quality in which citizen complaint investigations are monitored and audited, and its continuous efforts in community awareness and involvement.

Community trust is essential for the Independent Police Auditor. California law precludes the IPA from publicly disclosing the contents of a citizen complaint investigation, as they entail confidential personnel information. Therefore, residents, business owners, visitors, elected officials and anyone else that requests information about specific cases has to trust and have faith in this office. How does the IPA maintain community trust? — By actively engaging the community and doing the following:

- Having a strong, representative, and active advisory committee.
- Actively serving on community organizations;
- Staying up to date with current events, laws, and legislation;
- Researching and offering solutions along with recommendations;
- Networking with national organizations; and
- Mentoring and advising cities nationwide.



IPA Staff conducting community outreach.

2002 was not only a busy year for the IPA office but a challenging one as well, because the Community and Public Relations position remained vacant for nine months. Nonetheless, the office is pleased that services continued to be provided to our community and that all requests for community presentations and community events were successfully met.

II. Independent Police Auditor Advisory Committee:

The Independent Police Auditor Advisory Committee (IPAAC) was established in 1999 with the purpose of identifying, mobilizing and coordinating resources to assure maximum public,

private, agency and individual commitment to provide expanded police oversight. The advisory committee is culturally comprised of 23 members. They are community leaders, grassroots organizers, and professionals that represent the Vietnamese, Mexican/Latino, African American, Filipino, Asian American, Islamic, Sikh, Gay/Lesbian, business, nonprofit and legal community. They are additional “eyes and ears” for the IPA in the community.

The group meets twice a year to discuss the concerns voiced in their communities, to explore possible opportunities for addressing the issues and methods of informing the public, and to brainstorm possible solutions. Such concerns and solutions are then reflected in the annual recommendations.

III. 2002 Spotlight: Youth Guide

The Independent Police Auditor continues to foster a strong partnership with schools, nonprofit organizations, and agencies that serve youth and parents by conducting educational presentations for youth and parents. Each youth presentation addresses the following information.

- Educates youth about police practices, procedures, and their civil rights;
- Creates awareness of the various ways to file a complaint; and
- Provides youth with suggested behavior when interacting with police officers to prevent conflict between them and the police officers.

2002 marked the beginning of a new approach in reaching and connecting with youth. The Office of the Independent Police Auditor believes that youth education needed to go beyond conducting

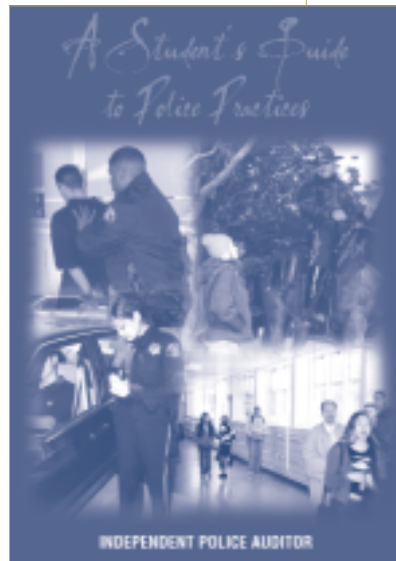


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presentations. Consequently, the IPA published the first youth guidebook titled, “A Student’s Guide to Police Practices.” The goal of the youth guide is to provide information about interacting with police officers and to help them make smart decisions. It contains fundamental information every youth and parent needs to know about police practices.

The guide has been requested by local and national organizations; moreover, youth intervention programs such as Striving Towards Achievement with new Direction (S.T.A.N.D.), Positive Action to School Suspension (P.A.S.S.) and Clean Slate have incorporated the guide in their curriculums. The IPA is pleased with the success of the “*A Student’s Guide to Police Practices*” and looks forward to working to increase awareness amongst our youth about their rights and their responsibilities. These youth guides will be translated into Spanish and Vietnamese and will serve as an excellent tool to reach Spanish and Vietnamese speaking youth and families.

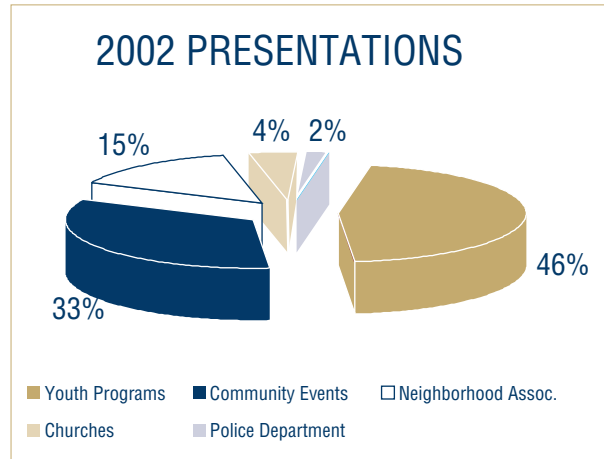
IV. IPA in the Local Community

In 2002 the IPA attended the “Forum with our State Legislators” event, sponsored by the Silicon Valley Council of Nonprofits. After speaking at the “Mosque Open House: Meet your Muslim neighbors,” the South Bay Islamic Association asked the IPA to conduct a second presentation at their Annual “Family Night” event. Other requests included the Santa Clara Resources for Families and Communities’ (RFC) 4th Annual Multicultural Conference and the California Association of Administration of Justice Educators.

The IPA believes that staying up to date with current events and legislation is of essence in communicating accurate information to all stakeholders. This past year the IPA attended a hearing presented by the Commission on Police

Accountability, a new Commission appointed by Herb J. Wesson, Jr., Speaker of the Assembly.

In 2002 the IPA office reached approximately 3,800 people by participating in 48 community events citywide.



V. Referral Sites

Accessibility to the services provided by the IPA office is a priority. In 1999 the IPA established partnerships with community centers, city programs, and public and private agencies establishing referral sites with the goal of increasing the visibility and accessibility of the IPA. Referral sites serve as information centers located citywide with at least one in every council district. There are currently 36 referral sites citywide. Due to a nine month vacancy of the Community Outreach position, limited contact was made with the referral sites in 2002.

Preferred sites are locations commonly visited by the public such as neighborhood centers. Once a referral site has been identified the IPA conducts an orientation on the services and functions of the IPA office. Each site receives literature about the office, the citizen complaint process, a hand out on “Commonly Asked Questions,” brochures, newsletters, and referral numbers for social and legal services. Brochures are made available in six different languages.



VI. Beyond Recommendations:

The IPA conducts presentations to all police recruits as part of their police academy curriculum and required studies. The presentations explain the history, purpose and functions of the IPA, and addresses misunderstandings or misconceptions officers may have. Each presentation includes a lesson on the importance of providing quality customer service and how police officers can prevent conduct that may result in complaints.

In 2002, the IPA took the initiative to research and attain professional training on mediation, conciliation, and conflict resolution in an effort to provide options to the San José Police Department (SJPD). This derived from a prior recommendation made by the IPA geared to improving the level and quality of services provided by the SJPD. In 2003, the IPA will be conducting training in communication and interpersonal skills for SJPD officers using mediation, conciliation, and conflict resolution principals.

VII. A National Role Model:

The Office of the Independent Police Auditor continues to be an active member of the National Association for Civilian Oversight of Law Enforcement (NACOLE). NACOLE is a national organization that provides continuing education for practitioners of civilian oversight. The Independent Police Auditor serves as member of the board of directors.

NACOLE's Annual Conference is an opportunity for the oversight community nationwide to come together and discuss the most critical issues in police accountability. The theme of the 2002 conference was, "The Value of Civilian Oversight: Dollars and Sense." San José's IPA presented a successful panel discussion titled, "Building Your Public, Media, and Political Base."



IPA Panel presentation at 2002 National Association of Civilian Oversight of Law Enforcement (NACOLE) conference.

Left to right: Merylee Shelton, Bryan Monroe, Victor Garza, Vice Mayor Pat Dando, Teresa Guerrero-Daley



Northern Ireland's Police Ombudsman, Nuala O'Loan pictured with members of the IPA Panel.

The IPA moderated the discussion with speakers from the San José community, including Vice-Mayor Pat Dando, Vice-President for the San José Mercury News, Bryan Monroe, and IPAAC members Merylee Shelton and Victor Garza. The speakers represented the three key disciplines that are vital to the survival of every civilian oversight agency. They shared their perspectives as to how their participation played a critical role in making the City's Office of the Independent Police Auditor successful and effective without alienating the police or the community.



IPA presentation to the City of Fresno Study Committee to implement a police auditor's office.

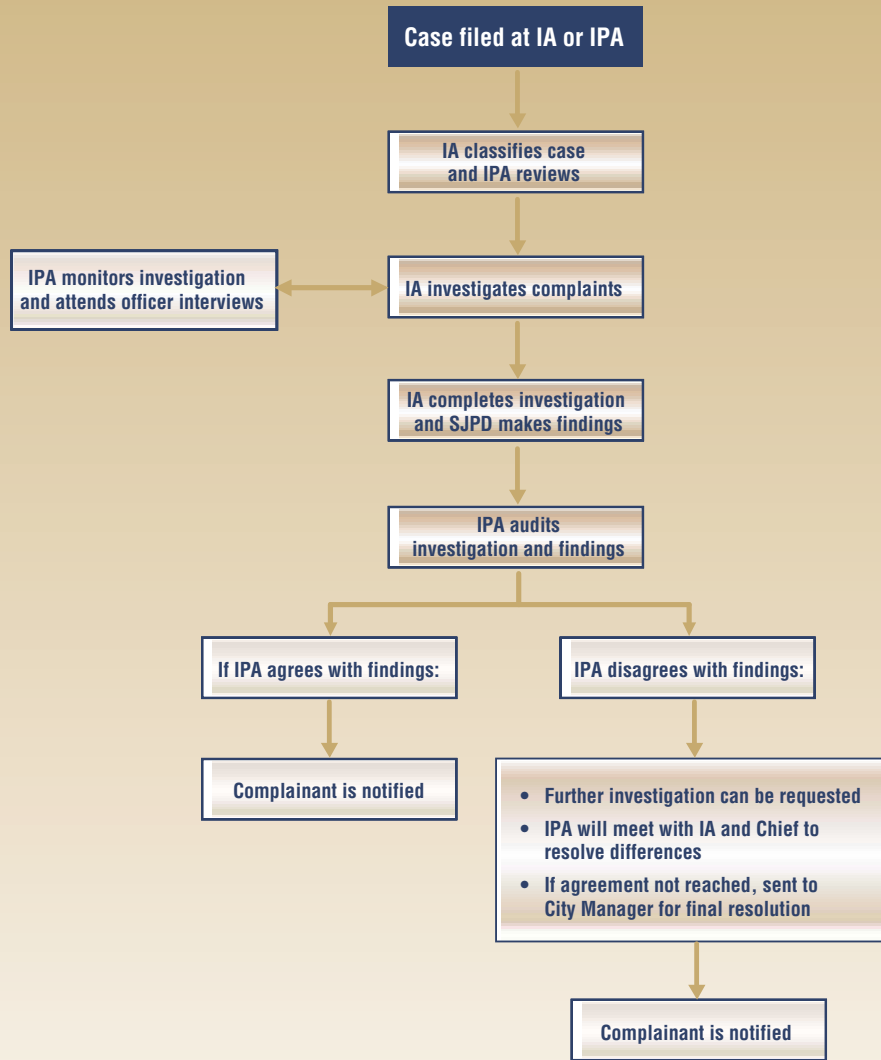
In 2002 the IPA had the pleasure of mentoring the Cities of Fresno and Santa Cruz. Each city that inquires about the office receives a packet of information that includes, complete information on the office's history, structure and functions, office publications, copies of the City's Charter and Ordinance, and an invitation to meet with the IPA.

The Fresno Police Department, the Mayor's Office, the City Attorney's office, and the Fresno Police Officer's Association met to review the

concept of civilian oversight and asked the IPA to discuss how San José's model was conceived, how it has evolved, the relationship with the San José Police Department's Internal Affairs, and community outreach programs. A similar presentation was made at the request of the Citizen's Police Review Board of the City of Santa Cruz.

The IPA recognizes and embraces the expectations set by the community and is committed to serving the residents of San José with the highest regard for professionalism, courtesy, and sensitivity.

THE COMPLAINT PROCESS AND YEAR END STATISTICS

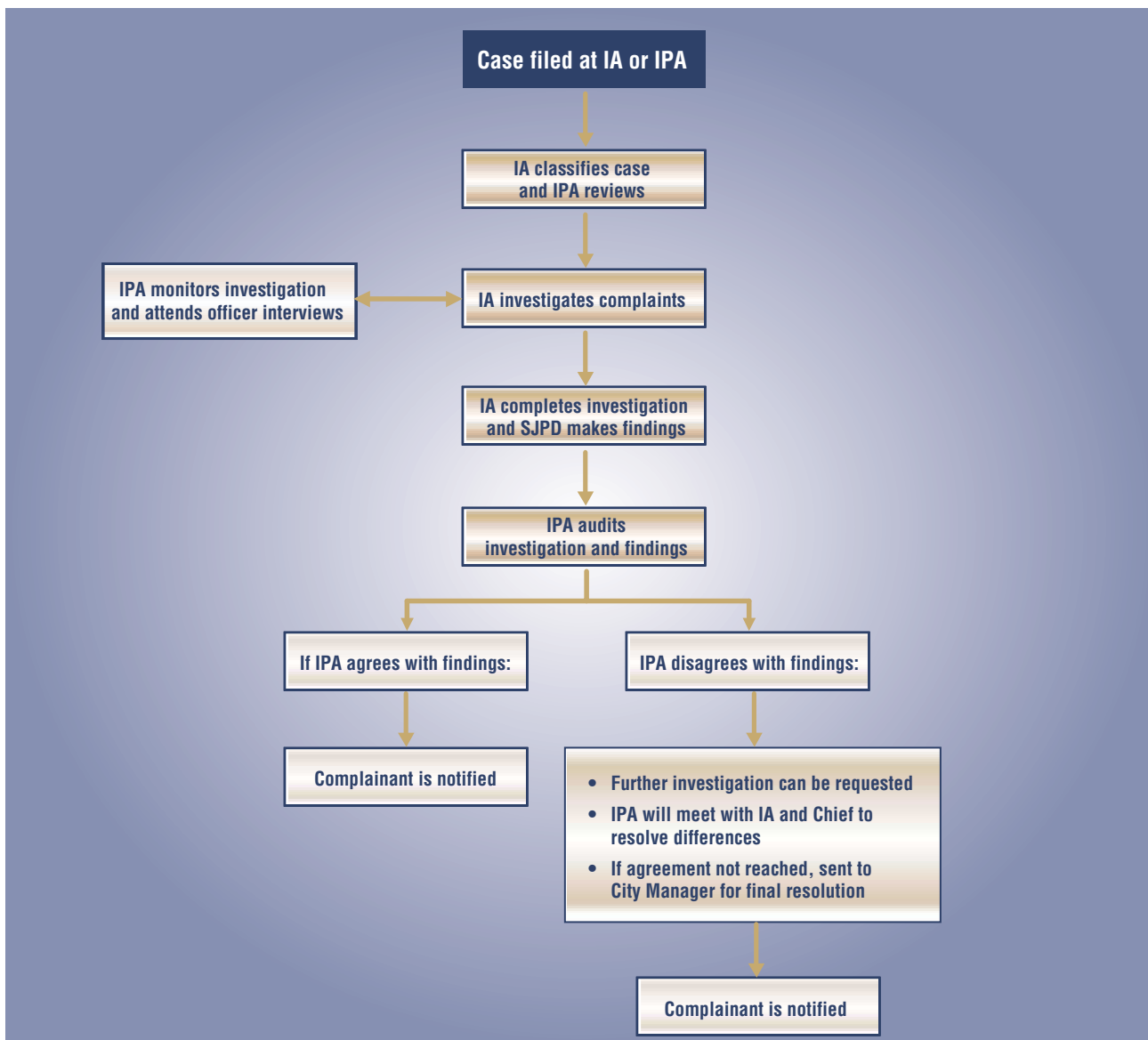


Chapter Six

This chapter describes the complaint process and provides statistical information about the different types of cases received in 2002 by both the Office of the Independent Police Auditor (IPA) and the Internal Affairs Unit (IA) of the San José Police Department (SJPD). It also provides information about the allegations made in the cases filed, the investigation findings, and the discipline imposed for sustained cases. The analysis is only statistical and should not be used to deduce specific and/or conclusive results from the data.

I. How the Complaint Process Works:

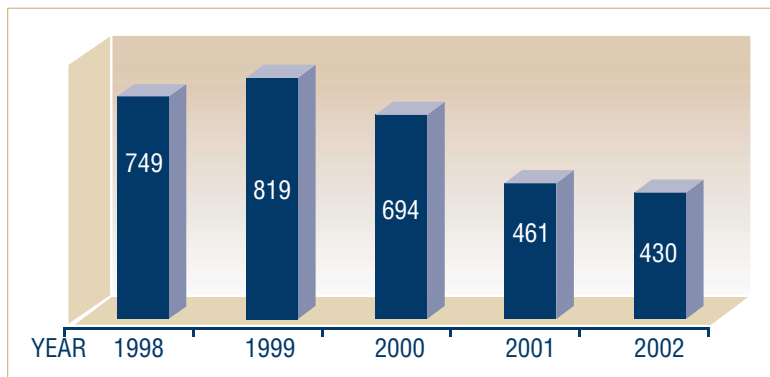
The following flowchart provides the main steps involved in the complaint process after a person contacts either the Independent Police Auditor’s office or the Internal Affairs Unit to file a complaint.



A. Case Filed

Members of the public can file complaints against SJPD officers with either IA or the IPA. Complaints can be filed in person, on the telephone, or in writing via regular mail or email. Complaints may even be filed anonymously. Although the IPA and IA are separate offices, case information is entered in a shared database that ensures coordination between the two offices and safeguards against under reporting.

Illustration A: Five Years View of Total Cases Filed



All contacts from the public are documented as cases. As indicated in Illustration A there was a total of 430 cases filed in 2002 at the IPA and IA offices combined which is a slight decrease from the 461 cases filed in 2001. While this decrease is not as large as it has been in the previous two years, it still continues a trend that began after 1999 when the total number of cases reached its highest point of 819. While this trend can be attributed in part to SJPD efforts to improve police services both in response to IPA recommendations and police department initiatives, there are other factors that have also contributed to the downward trend in cases. As a result of a change in SJPD procedures, many complaints are now addressed at the scene by a supervising Sergeant or handled informally by the Chief's office. Previously, these complaints would probably have been filed either at the IA or IPA office and recorded as case intakes. Also, the downward trend

in IPA case intakes can be attributed in part to the move of its offices at the end of the year 2000. Unfortunately, the IPA was forced to change its telephone number and the phone company failed to maintain a recorded message informing callers of the IPA's new number.

B. Classification of Cases:

After a case is received, Internal Affairs determines whether or not an investigation is necessary. IA will classify the case as either a "Formal," "Command Review¹," "Policy²" or "Procedural³" complaint. A complaint is defined as "an act of expressed dissatisfaction, which relates to department operations, personnel conduct, or unlawful acts.⁴" The IPA reviews the classification to ensure the complaint receives the appropriate level of review. Cases not requiring investigation because they are resolved before they become a complaint are classified as an "Inquiry⁵." "Citizen Contact" cases are informational or do not pertain to a SJPD officer. Additional information concerning Case classification is provided in Appendix A.



Complaint Intake at IPA office.

Illustration B: Type of Complaints Filed

Type of Complaints	IPA Intake	IA Intake Complaints	Total
Formal:Citizen-Initiated Complaints	24	73	97
Formal:Department-Initiated Complaints	0	44	44
Command Review Complaints	15	26	41
Procedural Complaints	12	37	49
Policy Complaints	1	0	1
Total Complaints in 2002	52	180	232

This table reflects the number of different types of complaints received by both the IPA and IA in 2002. The 232 total complaints received in 2002 is slightly lower than the 258 total complaints received in 2001. This slight decrease is consistent with the decrease in the overall number of cases received in 2002 as compared to 2001.

Cases are classified differently for several purposes, including the following:

1. It makes the investigative process more efficient by identifying cases that do not require a full investigation so they can be resolved more quickly while providing an adequate amount of time to investigate the more complex cases;
2. Tracking complaints by officers' names as part of an "Early Warning" system that identifies those officers qualifying for Intervention Counseling;
3. Complying with motions for discovery in criminal and civil proceedings; and
4. Identifying patterns or trends so that recommendations can be made to change an existing policy or procedure.

C. Investigation of Complaints:

IA conducts administrative investigations that can, if sustained by the department, result in discipline being imposed on the subject officer. In certain cases, a criminal investigation could be conducted by the SJPD

prior to or at the same time as the IA investigation. Generally, IA investigates most allegations involving officer misconduct. Since IA investigators are fact finders only, they do not sustain complaints 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 investigation completed by the IA investigator and may conduct further investigation to determine if the complaint should be sustained or not. 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 ensure that investigations of misconduct complaints against San José police officers are done thoroughly, objectively and fairly, the IPA monitors and reviews all stages of the complaint process from intake through final disposition of the complaint. One of the most critical stages of the investigation of Formal complaints is to ensure that officers accused of misconduct are interviewed objectively and thoroughly. The IPA participates directly in many of the officer interviews to ensure that this goal is achieved. By agreement

with IA, the IPA is notified of all officer interviews in Formal complaints involving an allegation of unnecessary force, Formal complaints that were initiated at the IPA and other Formal complaints requested by the IPA. The audits conducted on the 88 Formal complaints in 2002 indicated that the IPA attended and monitored 38 officer interviews conducted in these cases.

D. Audit of Complaints

Once an investigation is completed, a copy of the investigation report is sent to the IPA for auditing. The IPA then has two weeks to review the investigation report and determine either that it agrees with the IA findings or that there are areas of concern, in which case, 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 reopened 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.

Gathering data, monitoring, and auditing investigations to ensure the highest level of quality are of great importance. With this in mind, the IPA developed and employs 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, Command Review, Policy, and Inquiry. While every complaint is important, this section provides a synopsis of the Formal complaint audits only because of their heightened severity.

In 2002, the IPA audited 88 Formal complaints. It should be noted that the 88 Formal complaints represent the number of investigations completed by IA and audited by the IPA in 2002. This total will differ from the total number of Formal complaints filed in 2002 because some complaints audited in 2002 were filed in 2001 and completed in 2002, while others that were filed in 2002 may still be under investigation.

Illustration C: IPA Request For Further Action

Formal Complaints	Cases Audited	%
Further Action Requested	21	24%
No Further Action Requested	67	76%
Total Cases Audited	88	100%

The IPA requested further action from IA in 21, or 24%, of the Formal cases it reviewed. Requests varied from reopening an investigation to providing the IPA with additional information or documentation. These requests are an important part of the audit process and help to ensure that IA investigations are thorough and objective. In order to make this determination, the auditor closely examines all the evidence developed in the investigation, often reviewing interview recordings, the scene of the incident and any physical evidence.

E. Did the IPA Agree with the Finding of the Complaint?

After a complaint investigation is audited, the IPA determines whether it agrees or disagrees with the findings of the SJPD. If the IPA raises an issue of disagreement, the issue is discussed first with the IA Commander. Many disagreements are often worked out informally at this point. If the IPA and IA are unable to resolve their differences the IPA presents the issue to the Chief of Police in a formal memorandum. If the IPA is still unable to resolve its disagreement with the Chief, the matter is submitted to the City Manager for final resolution.

Illustration D shows the number of times the IPA ultimately agreed or disagreed with the resolution of the complaint. The IPA disagreed with the finding of the investigation in seven, or 8%, of the 88 Formal cases audited in 2002. In 2001, the IPA disagreed with the department’s finding in 5% of the Formal cases.

Illustration D: Disagreed Complaints

Formal Complaints	Cases Audited	%
Agreed	81	92%
Disagreed	7	8%
Total Cases Audited	88	100%

Even though the IPA may disagree with a complaint resolution for a number of reasons, in most cases where there has been a disagreement with the SJPD, weight given to the credibility of witnesses appears to have been the difference.

F. DISAGREED CASES BY THE IPA:

1 Case One

The complainant, a high school student, alleged that three officers working secondary employment at his school were rude to him when they questioned him about a school rule violation. He also alleged that one of the officers used unnecessary force by pushing him back into his chair. The IPA agreed with the findings for these allegations, but during the course of the investigation it was determined that none of the officers had valid secondary employment work permits as required by departmental regulations. However, IA did not include a sustained allegation for Improper Procedure in this complaint. The IPA disagreed with this part of the finding.

2 Case Two

The complainant alleged that two officers misunderstood what was occurring during a domestic disturbance at his home and should not have arrested him as he was not the aggressor. He also alleged that the officers used unnecessary force when they arrested him. There was a dispute of fact as to the type and amount of force initially utilized by the officers to affect the arrest of the complainant. The SJPD finding was to exonerate the officers on all allegations. For the unnecessary use of force allegation, the SJPD relied upon the statement of an independent witness they believed corroborated the statements of the officers. However, upon further review, the IPA determined that this witness did not corroborate the statements of the officers and that the investigating officers had misinter-

preted her statement. Without the support of this witness, the IPA believed that there was insufficient evidence to either prove or disprove the allegations of misconduct and, therefore, the finding should have been “Not Sustained” instead of “Exonerated.”

3 Case Three

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, but 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.

4 Case Four

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.

5 Case Five

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

6 Case Six

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.

7 Case Seven

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.

G. Sustained Rate:

Illustration E: Five Years View of Formal Cases Sustained

Period Received	Closed Cases		Sustained Cases		Sustained Rate		Combined Sustained Rate
	CI	DI	CI	DI	CI	DI	
2002	81	52	8	34	10%	65%	32%
2001	113	35	29	24	26%	69%	36%
2000	187	41	18	31	10%	76%	21%
1999	96	25	8	22	8%	88%	25%
1998	162	28	21	23	13%	82%	23%

In order for a complaint to be sustained, the SJPD must determine that the investigation has produced a preponderance of evidence indicating that the alleged misconduct occurred. In 2002, 8 out of 81 closed Formal CI complaints were sustained, resulting in a 10% sustained rate, see Illustration E. This percentage is down from the 26% sustained rate achieved in 2001. By contrast, 34 out of the 52 Formal DI closed complaints were sustained or a 65% sustained rate. This rate is slightly less than the 69% sustained rate in the year 2001. It should be noted that DI complaints include both internal and external matters. An external matter is one that is filed by a citizen, while an internal matter is initiated by the Chief of Police and can involve any type of policy or procedural violation, including personnel issues such as tardiness, abuse of sick leave, etc. The combined sustained rate for Formal cases overall is 32%, which is a slight decrease from last year's combined sustained rate of 36%.

H. Discipline Imposed:

Of the 133 Formal complaints closed in 2002, discipline was imposed in 57 cases. (see Illustration F below) Discipline is only imposed when a Formal complaint is sustained. This type of complaint involves the most serious misconduct allegations and is either initiated by a citizen (Citizen-Initiated – CI complaints) or by the Chief of Police (Department-initiated – DI complaints). It is important to note that the IPA is involved only in reviewing the integrity of the complaint investigation and is not involved in the determination of the level or type of discipline to be imposed if a complaint is sustained.

Illustration F: Discipline Imposed on Closed Complaints

Discipline Imposed	CI	DI	Total	%
Training and/or Counseling	8	6	14	25%
Documented Oral Counseling (D.O.C.)	5	11	16	28%
Letter of Reprimand (L.O.R)	1	7	8	14%
Suspension	0	8	8	14%
Transfer	1	1	2	4%
Retired/Resigned	0	9	9	16%
Terminated	0	0	0	0%
Total Discipline Imposed	15	42	57	100%
%	26%	74%	100%	

CHAPTER SIX | THE COMPLAINT PROCESS AND YEAR END STATISTICS

Illustration F lists the type of discipline by increased level of severity. Suspensions can vary from 10-hours to 160-hours depending on the extent of the sustained misconduct. If an officer retires from the department, an open investigation of any complaint against this officer is closed with “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 allegations sustained in one complaint, but he or she will receive only one discipline. Also, an officer may receive training and/or counseling, even though the allegation in a complaint is not sustained.

Illustration G - Type of Discipline Imposed by Allegation

Type of Discipline Imposed	Allegations									
	DH	F1	F2	FA	IP	MDP	RC	UA	UC	Total
Training and/or Counseling	0	0	0	0	7	1	4	0	2	14
Documented Oral Counseling (D.O.C.)	0	0	0	2	10	2	0	0	2	16
Letter of Reprimand (L.O.R)	0	0	0	1	5	0	0	0	2	8
Suspension	1	0	0	1	5	0	0	0	1	8
Retired/Resigned	1	0	0	0	4	0	0	0	4	9
Disciplinary Transfer	0	0	0	1	1	0	0	0	0	2
Terminated	0	0	0	0	0	0	0	0	0	0
Total Allegations	2	0	0	5	32	3	4	0	11	57

Illustration G matches the level and frequency of discipline by type of allegation. This illustration indicates that the misconduct allegations resulting in the most discipline are procedural or involve conduct unbecoming of an officer suggesting that more training may be helpful in these areas.

Illustration H: Five Year View of Type of Discipline Imposed

Type of Discipline Imposed	1998	1999	2000	2001	2002	Total	%
Training and/or Counseling	20	11	22	9	14	76	24
Documented Oral Counseling (D.O.C.)	23	15	35	21	16	110	35
Letter of Reprimand (L.O.R)	11	7	5	9	8	40	13
Suspension	14	16	3	13	8	54	17
Transfer	0	1	0	0	2	3	1
Retired/Resigned	8	2	3	2	9	24	8
Terminated	1	2	0	1	0	4	1
Total Discipline Imposed	77	54	68	55	57	311	100%
%	25%	17%	22%	18%	18%	100%	

Illustration H indicates that the types of discipline imposed most frequently in 2002 were Training and/or Counseling (14), Documented Oral Counseling (16), and Letter of Reprimand (8). This is consistent with the trend established during the previous four years from 1998 to 2001.

II. Supervisor's Intervention Program:

The Supervisor's Intervention Program (SIP) embraces the concept of the "Early Warning System" under which the Intervention Counseling Program was 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 six months, 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 six-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.

In 2002, seven supervisors qualified for counseling through this program.

End Notes

¹ San José Duty Manual, Section C1716, Command Review 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.

² 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.

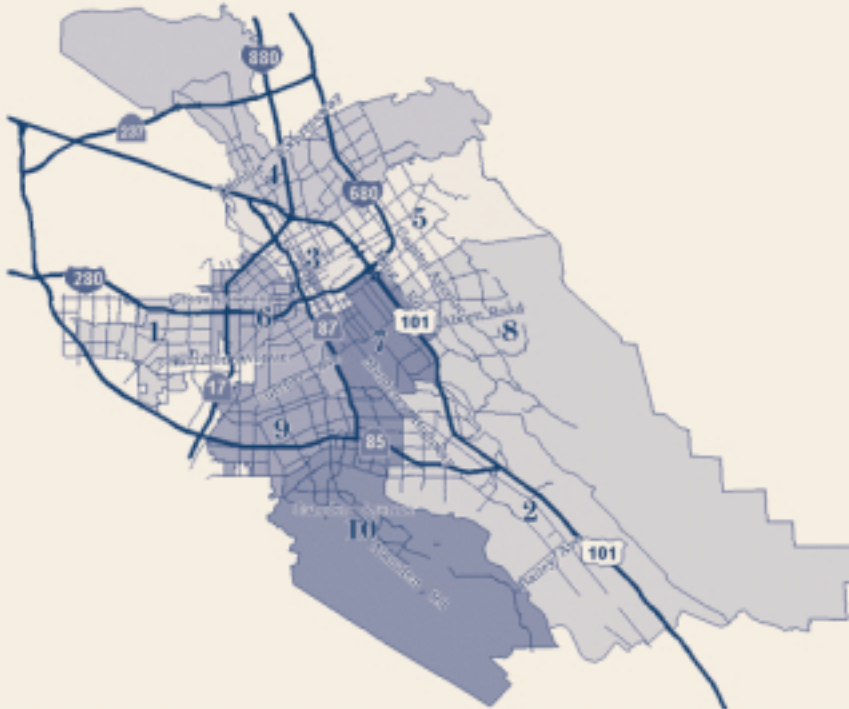
³ San José Duty Manual, Section C1711, Procedure Complaint defined: (A) After the initial investigation, it is determined that the subject member acted reasonably and within Department policy and procedure given the specific circumstances and the facts of the incident and that, despite the allegation 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.

⁴ 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.

⁵ 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.

CASES BY COUNCIL DISTRICT

COUNCIL MEMBERS ARE
INFORMED ABOUT COMPLAINTS
FILED IN THEIR DISTRICTS.



Chapter Seven

CHAPTER SEVEN | CASES BY COUNCIL DISTRICT

I. Cases by Council District in 2002

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 the type of cases filed: Formal (CI, DI, CR, PO, PR), Case Withdrawn, 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, 2002. Typically, the highest number of cases (162 or 38% of all complaints) were generated in District 3, largely because of the diverse activities generated in the downtown area. District 6, a neighboring district, has the second highest number of cases (39).

II. Five Years Comparison

Illustration B shows a comparative five-year analysis of all cases by Council District. These cases include all citizen contacts and complaints. The time period is January 1 through December 31 for the years 1998 through 2002. The five-year analysis indicates that between 2001 and 2002, the number of citizen contacts decreased by 7%.

Illustration A: Cases By Council District

Council District	Formal	CW	IQ	CC	Total Cases
District 1	3	2	5	1	11
District 2	21	4	8	1	34
District 3	106	12	30	14	162
District 4	5	2	9	1	17
District 5	20	5	10	2	37
District 6	23	4	10	2	39
District 7	19	5	13	0	37
District 8	14	2	9	0	25
District 9	11	1	3	3	18
District 10	4	4	7	0	15
Unknown/Outside City Limit	6	2	17	10	52
Total Cases Received	232	43	121	34	430

CHAPTER SEVEN | CASES BY COUNCIL DISTRICT

Illustration B: Five-Years View of Cases By Council District

Council District	1998	1999	2000	2001	2002
District 1	13	26	26	17	11
District 2	21	49	45	21	34
District 3	131	240	198	132	162
District 4	16	44	29	21	17
District 5	29	79	77	46	37
District 6	26	49	67	45	39
District 7	39	55	61	35	37
District 8	23	41	41	22	25
District 9	19	26	28	28	18
District 10	15	42	40	18	15
Unknown/Outside City Limit	32	65	82	76	35
Total Cases Received	364	716	694	461	430

III. Unnecessary Force Allegations by Council District

Illustration C shows the distribution of Unnecessary Force allegations for each Council District. These are allegations from formal complaints only. The highest count was in District 3. The distribution of this allegation category is consistent with their distribution of all cases received.

Illustration C: Unnecessary Force Allegations of Formal Complaints

Council District	Number of UF	%
District 1	0	0%
District 2	6	7%
District 3	25	28%
District 4	5	6%
District 5	13	15%
District 6	9	10%
District 7	9	10%
District 8	3	3%
District 9	7	8%
District 10	0	0%
Unknown/Outside City Limit	11	13%
Total UF Allegations	88	100%

SUBJECT OFFICER DEMOGRAPHICS



Chapter Eight

An additional statistical area tracked by the IPA is the background of the subject officers who are listed in three of the five categories of cases, Formal (Citizen-Initiated and Department-Initiated), Command Review, and Procedural complaints. Specific areas include the subject officer’s gender and years of experience with the SJPD at the time the incident occurred. It should be noted that cases that are classified as Inquiries and Contacts do not track with the subject officer. Therefore, they are excluded from a statistical analysis.

I. Gender of Subject Officer:

Illustration A: Complaints by Gender of Subject Officer

Gender	Number of Complaints	%	Number of Officers in the Police Department	%
Male	298	95%	1269	91%
Female	16	5%	130	9%
Total	314	100%	1399	100%

The gender of San José police officers named as subject officers in citizen complaints during the period beginning January 1, 2002 through December 31, 2002 is reflected in Illustration A. 22% or 314, out of a total of 1399 officers in the SJPD received at least one citizen complaint.

II. Ethnicity of Subject Officer:

This section breaks down the ethnicity of San José police officers who received citizen complaints during the period beginning January 1 through December 31, 2002.

European American officers received 60% or 188 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 75 complaints, which is 24% of all complaints made against officers. Asian American officers

received 26 complaints which is 8% of all complaints made against San José police officers.

Illustration B: Ethnicity of Subject Officer

Ethnicity of Subject Officer	Number of Complaints	%
Native American	5	2%
Asian American	26	8%
African American	14	4%
Filipino American	6	2%
Hispanic Latino	75	24%
European American	188	60%
Total	314	100%

African American officers received 14 complaints or 4% of all complaints initiated against officers. Filipino American officers received six complaints or 2% of the complaints reported against officers. Native American officers received five complaints which is 2% of all complaints reported against San José police officers. A total of 314 San José police officers received citizen complaints which is a decrease of 6% or 20 complaints from the year 2001.

III. Experience and Gender of Subject Officers:

The number of years of experience for San José police officers receiving complaints is displayed in Illustration C. This information covers the period beginning January 1, 2002, through December 31, 2002. The data is rounded off to the nearest percent. Officers with two to four years of experience account for 27% of all complaints. The statistics for 2002 show a decrease of complaints reported against officers within this experience range, down by 14 complaints more than were received in 2001. Police officers with 16 or more years of experience received 68 complaints in the year 2002. 68 complaints represent 22% of all reported complaints.

Illustration C: Experience and Gender of Subject Officers

Year of Experience	Gender		Grand Total	%
	Female	Male		
0-1+	8	43	51	4%
2-4+	20	150	170	12%
5-6+	14	123	137	10%
7-10+	24	256	280	21%
11-15+	29	201	230	17%
16+	31	463	494	36%
Grand Total	126	1236	1362	100%
	9%	91%	100%	

San José police officers with one year or less experience received 31 complaints, which make up 10% of all complaints. This group of officers received the least amount of complaints.

However, these officers receive greater supervision, are in field training and prior to that, approximately one quarter of their first year is spent attending the police academy.

IV. Subject Officer with One or More Complaints:

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

In 2002, 41 different San José police officers received multiple complaints. This equates to a 35% decrease from 2001. There was a 3% increase in 2002 over 2001 in the number of different San José Police officers receiving one complaint. During 2002 there were 219 different officers

receiving one complaint, while there were 212 different officers receiving one complaint in 2001.

There were 63 different San José police officers receiving multiple complaints in 2001, while 41 different officers received multiple complaints in 2002. There were 212 different San José police officers who received only one complaint during 2001 and 219 different officers that received one complaint during 2002. 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.

Illustration D: Five-Year View of Subject Officers by Number of Complaints

Time Period	Number of Complaints Per Subject Officer Per Year						Total Different Subject Officers	Subject Officers With Two or More Complaints
	1	2	3	4	5	6		
1998	207	51	11	3	1	0	273	66
1999	220	52	15	4	2	0	293	73
2000	241	58	19	5	1	1	325	84
2001	212	45	15	3	0	0	275	63
2002	219	31	9	1	0	0	260	41

Chapter Nine

TO PROVIDE SERVICES TO
SAN JOSE'S DIVERSE COMMUNITY,
INDEPENDENT POLICE AUDITOR
STAFF OFFERS BI-LINGUAL
SERVICE IN ENGLISH,
SPANISH AND VIETNAMESE.

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 6 are different because not all complainants provided the requested information. The accuracy of the data is dependent on the information provided by the complainants.

It is important to note that the numbers and percentages below are based on the data contained in 43% of returned questionnaires.

I. Gender of Complainant:

Illustration A: Gender of Complainant

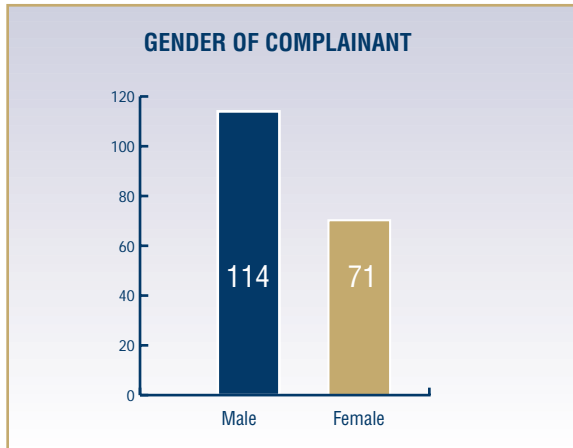


Illustration A provides a visual representation of the gender of the complainant from the period beginning January 1, 2002, through December 31, 2002. There were a total of 430 cases received in the year 2002, 314 of which required a full investigation. 115 male and 71 female complainants responded by returning the survey for a sample of 186 complainants in the year 2002. Keeping with past trends, there were more male complainants than female. Complaints filed by male complainants accounted for 62% of all complaints. Complaints made by female complainants accounted for 38%. This is a 3% increase in the number of male complainants and a 3% decrease in the number of female complainants over the year 2001.

II. Ethnicity of Complainant:

The information in this section is for the period beginning January 1, 2002 through December 31, 2002 and reflects data for only 43% of the complainants. European Americans, Hispanic/Latinos and African Americans ethnicity generated the majority of the complaints filed. Complainants of European American ethnicity filed the largest number of cases. This group reported 65 complaints according to the voluntary surveys collected from the complainants, which represents 35% of all reported cases. This percentile is consistent with the 36% of European American people that make up the entire population of San José.

Hispanic/Latinos filed the second highest number of cases, reporting 63 cases in the year 2002. This number of complaints represents 34% of all cases filed. Because Hispanic/Latino make up 30% of the entire San José population, the number of complaints they filed, as compared to the population they represent in San José, is consistent. This was a continuing trend in 2002 from the year 2001.



A complainant files a complaint at the IPA office.

African Americans reported 37 cases in the year 2002. This is the third highest number of complaints filed. This represents a decrease of eight cases from 2001. African Americans make up 3% of the entire San José population; however, they

filed 20% of all cases. The number of cases filed by African Americans is high in comparison to the percentage of population they represent in San José. Most of the complaints African Americans filed were classified as Formal complaints. Of the 37 cases filed by African Americans there were 16 cases classified as Formal Citizen Initiated complaint. Seven cases were classified as Command Review and seven cases were classified as Procedural complaints.

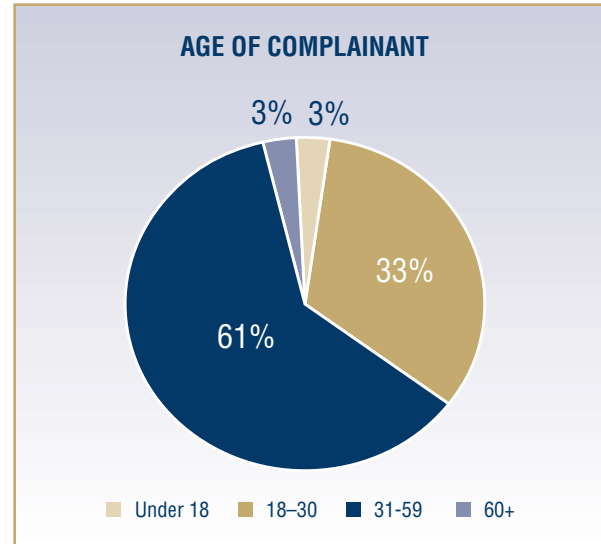
Illustration B: Ethnicity of Complainant

Ethnicity	Complainants	%	% of San Jose Population
African American	37	20%	3%
Asian American	6	3%	13%
European American	65	35%	36%
Filipino American	4	2%	5%
Hispanic/Latino	63	34%	30%
Native American	2	1%	1%
Vietnamese	0	0%	9%
Other	5	3%	3%
Decline	4	2%	0%
Total	186	100%	100%

III. Age of the Complainant:

Illustration C reflects the age of the complainant for the period beginning January 1 through December 31, 2002. The largest number of cases filed was from individuals between the ages of 31 and 59 years. This past trend continued in 2002 from the year 2001. What is worth noting is that there was a decrease in the number of cases received from individuals over 60 years of age in the year 2002. In 2002 the number of cases received from this same age group decreased 50% from 2001.

Illustration C: Age of the Complainant



Overall in 2002, six cases were reported from individuals under the age of 18 years. 62 cases were reported from individuals between the ages of 18 and 30 years. 113 cases were reported from individuals between the ages of 31 and 59 years, and five cases were received from persons over the age of 60.

IV. Educational Level of the Complainant:

There was no significant change in the levels of education for individuals filing complaints from the year 2001 to 2002. Surveys conducted by the IPA reveal that 50% of individuals initiating citizen complaints against San José police officers in 2002 had an education beyond the twelfth grade. Additionally, 20% of those had attended four years of college or more. These figures continue to discredit the general perception that most complainants are uneducated members of the community.

Illustration D: Education Level of the Complainants

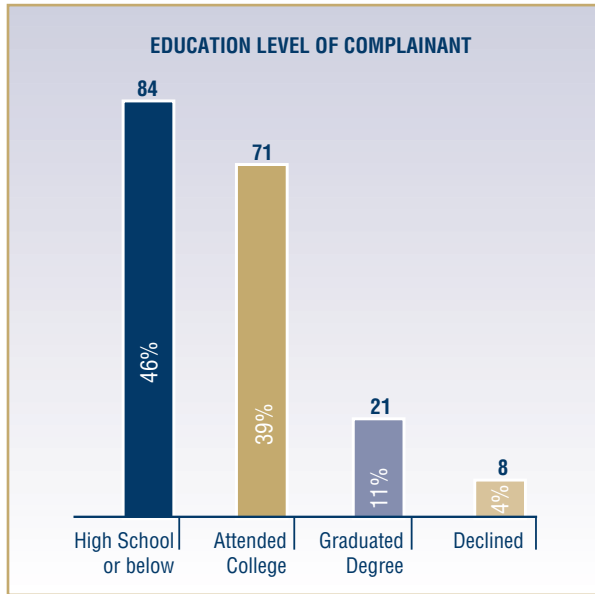
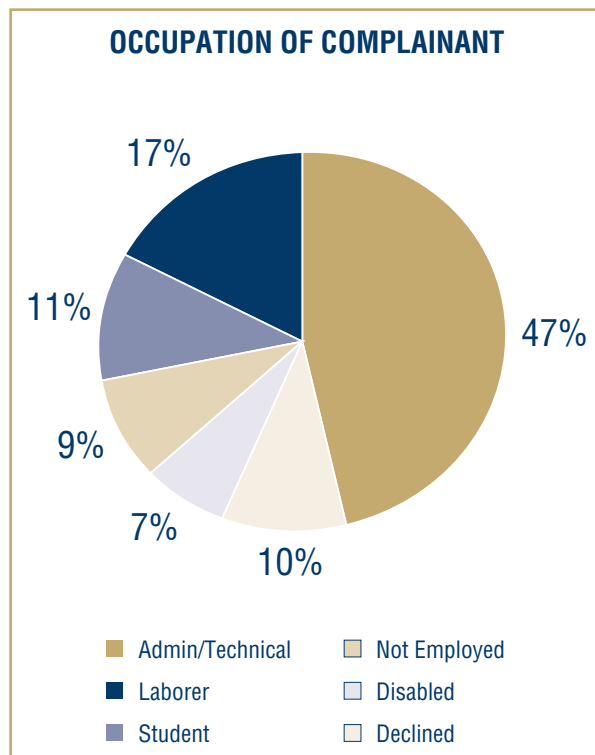


Illustration E provides information about the occupations held by complainants who filed complaints in the year 2002. As indicated by the information presented in the chart, the largest percentage of complainants (47%) was employed in the Administrative/ Technical areas which also includes persons employed in the services and professional areas. The laborer category, which includes drivers, janitors, construction workers, etc., accounted for 17% of the complainants. Students who account for 11% of complainants include students attending college, technical, equivalency or vocational schools.

These figures and percentages were obtained through our voluntary questionnaire survey process, and it is important to note that 57% of the surveys mailed to all complainants were not returned. There were 430 voluntary questionnaires mailed to complainants, and 186 were completed and returned.

V. Complainant's Occupation:

Illustration E: Occupation of the Complainants



THE RESIDENTS OF SAN JOSE
HAVE BENEFITED FROM THE
IPA AND SJPD'S COLLECTIVE
EFFORTS TO PROVIDE POLICE SERVICES
THAT ARE ETHICAL, EFFECTIVE,
AND FIDUCIAL.

The year 2002 ended without a serious ethical or operational police crisis. Complaints continued to maintain a similar number and pattern as in past years. As the Office of the Independent Police Auditor (IPA) approaches its 10th anniversary, the IPA will continue to introspectively evaluate the quality of the services it provides to the community and to the San José Police Department (SJPD). The positive working relationship with the SJPD continues to strengthen even in dissidence. Community support and commitment from the City of San José elected officials serve as the cornerstone that has enabled the IPA to develop into one of the best civilian oversight offices in the country. The residents of San José have benefited from the IPA and SJPD's collective efforts to provide police services that are ethical, effective, and fiducial. The police scandals in Los Angeles, Oakland, and San Francisco, are unfortunate reminders of the need to remain vigilant and recognize the inconstant nature of police work.

Appendix A

Classification of Cases

COMPLAINT DEFINED:

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 used by the SJPD:

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 citizen 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. **Command Review (CR) Complaints** involve allegations of minor transgressions on the part of a subject officer which may be handled informally by bringing the matter to the attention of the officer's chain of command at the complainant's request. At the end of the investigation, the assigned finding is "Command Review." This is typically a Rude Conduct complaint.
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."
 - 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.

APPENDIX A | CLASSIFICATION OF CASES

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.

Unofficer like Conduct (UC) allegation deals specifically with off-duty behavior. The conduct, which is the subject of Unofficer like 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.

Racial Profiling (RP) define per Duty Manual.

Appendix C

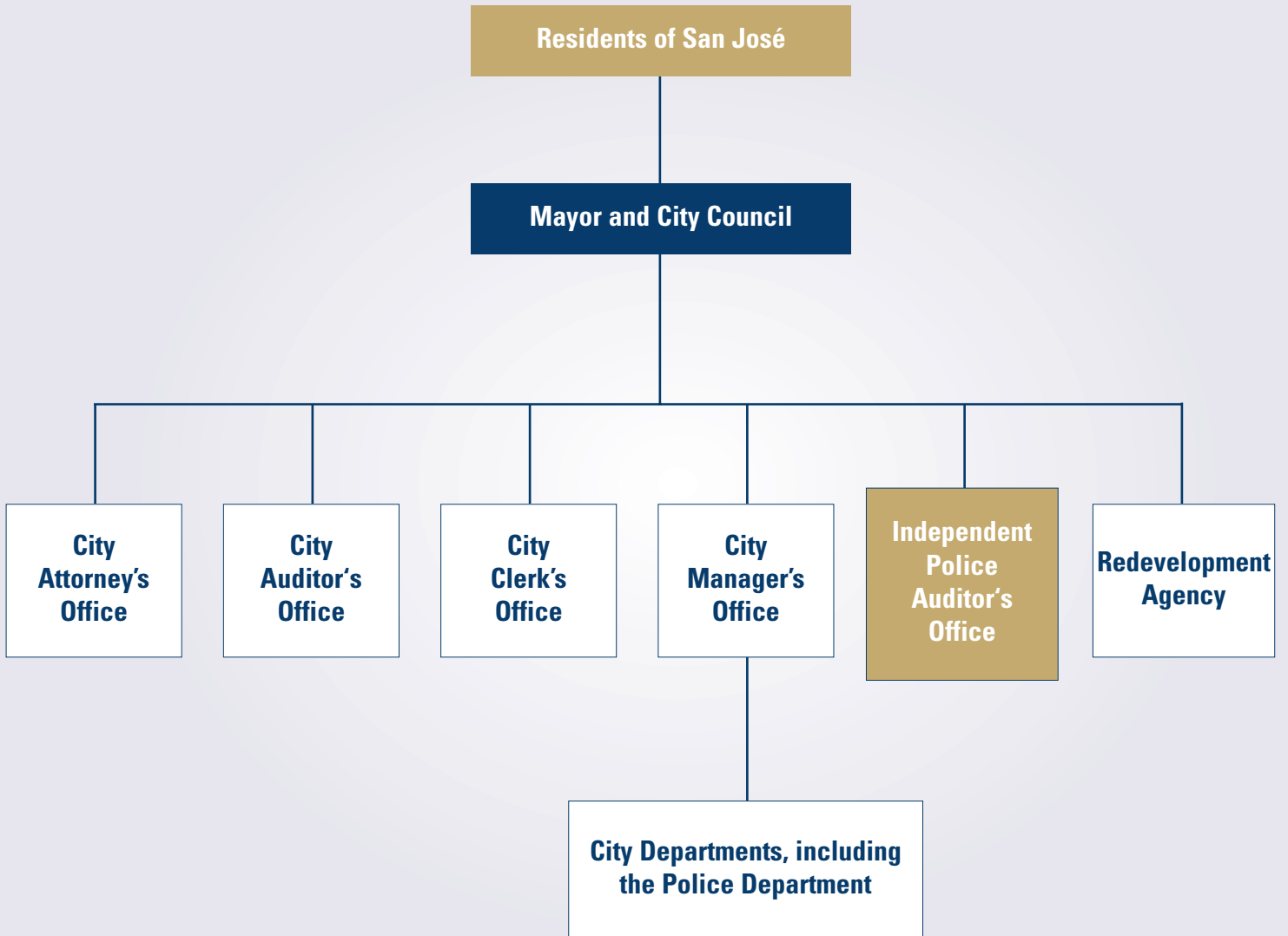
Definition of Findings

A Formal complaint alleges serious misconduct on the part of a member of the San José Police Department (SJPD). These complaints allege serious violations of City policy, Department policy or 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 findings 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.

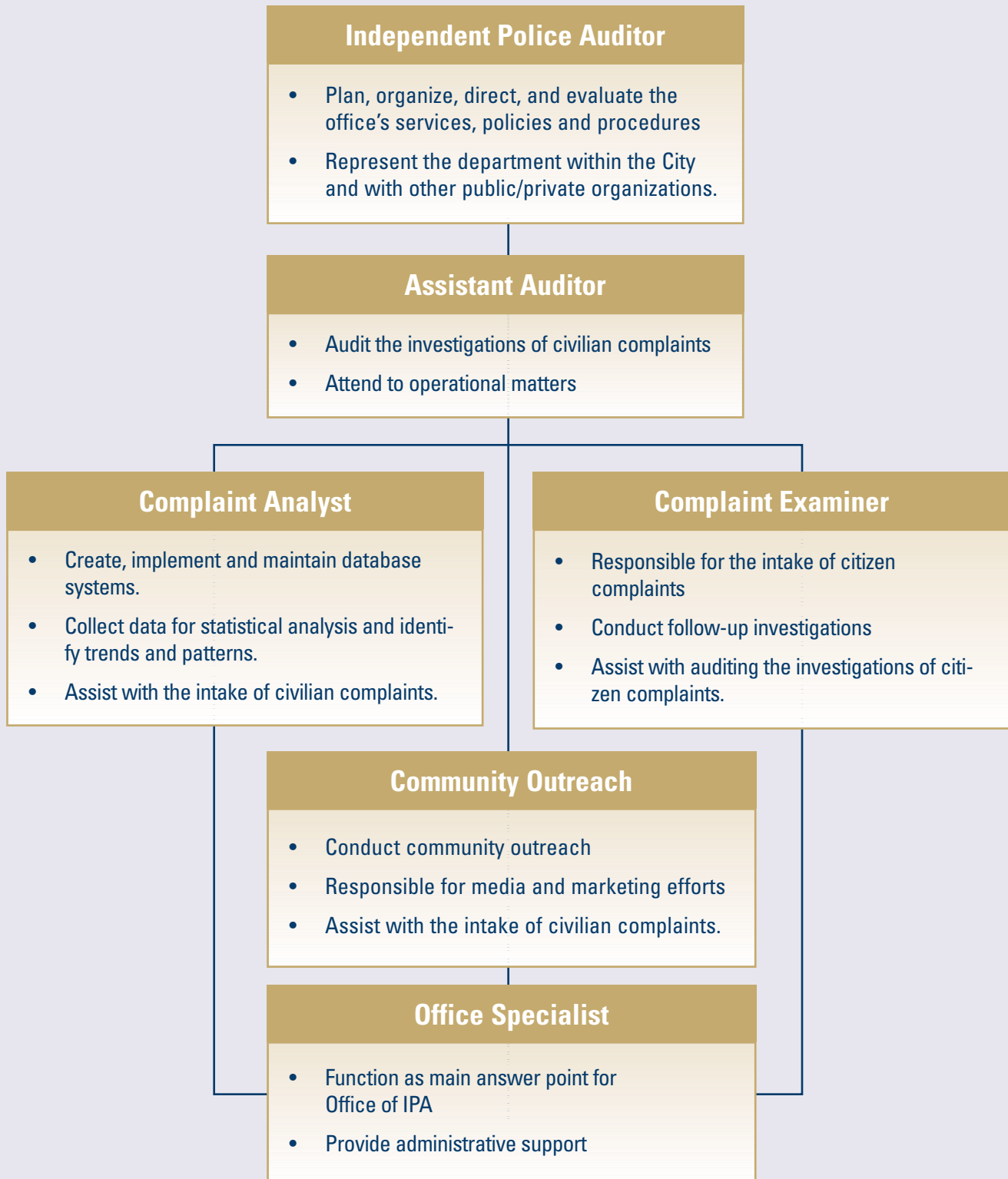
Appendix D

City San José Organization



Appendix E

OFFICE OF THE INDEPENDENT POLICE AUDITOR



Appendix F

OFFICE OF THE INDEPENDENT POLICE AUDITOR

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	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 Mid Year 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	
	Send minor complaints to BFO to expedite investigations.	Adopted	1994 Year End Report

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
1994 Year End Report	Establish neutrality in the classification of complaints.	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	
	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 Command Review 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 Mid Year Report	Maintain a central log of contacts from the public.	Adopted	1995 Year End Report

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
1995 Mid Year Report	Obtain additional office space for IA.	Adopted	1997 Year End Report
	Require the Police Department to offer complainants a choice to file complaints at 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 preliminary 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 of complaints.	Adopted	1996 Year End Report

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	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 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 a 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	Expand IPA jurisdiction 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

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
1999 Year End Report	<p>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.</p> <p>Amend the Municipal Code to define a citizen complaint audit and clarify that an audit includes follow up investigations.</p> <p>It is recommended that the SJPD explore the feasibility of implementing a voluntary mediation program within the next six months.</p> <p>It is recommended that the SJPD design a training course focused specifically on improving day to day verbal communications when dealing with the public.</p> <p>It is recommended that in cases where the police erred, i.e. the wrong home was searched, an explanation and/or apology be given as soon as possible, preferably at the onset.</p> <p>It is recommended that motorists be told the reason for the enforcement action such as stop, search, and detention as soon as possible and preferable at the onset.</p> <p>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.</p>	<p>Adopted</p> <p>Not Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted in practice</p>	<p>2000 Year End Report</p> <p>2000 Year End Report</p> <p>2000 Year End Report</p> <p>2000 Year End Report</p> <p>2000 Year End Report</p> <p>2000 Year End Report</p> <p>2000 Year End Report</p>

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
2000 Year End Report	<p>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.</p>	Adopted	2001 Year End Report
	<p>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.</p>	Adopted	2001 Year End Report
	<p>The San José Police Department Duty Manual does not include a comprehensive Whistle blower policy. By incorporating federal Whistle-blower guidelines, the Chief of Police should create a comprehensive Whistle Blower policy for the San José Police Department.</p>	Not Adopted but adopted in practice	2001 Year End Report
	<p>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.</p>	Adopted	2001 Year End Report
	<p>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.</p>	Renewed and Adopted	2001 Year End Report

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
2000 Year End Report	<p>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.</p> <p>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.</p> <p>The San José Police Department's Internal Affairs Unit should formally investigate allegations of officers refusing to identify themselves under an Improper Procedure allegation.</p> <p>Continue to identify alternate, less lethal weapons, and make them more readily accessible.</p> <p>Provide specialized training in handling suspects armed with non-automatic projectile weapons.</p> <p>The Crisis Intervention Team's presence at the scene is very important. Continue to provide special training in identifying and handling suspects with mental illness histories efforts.</p> <p>Continue to recruit and hire officers with bilingual skills.</p> <p>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.</p>	<p>Adopted</p> <p>In progress</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Adopted</p> <p>Not Adopted</p>	<p>2001 Year End Report</p> <p>2001 Year End Report</p> <p>2001 Year End Report</p> <p>2001 Year End Report</p> <p>2001 Year End Report</p> <p>2001 Year End Report</p> <p>2001 Year End Report</p>

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
2001 Year End Report	<p>A study should be conducted to assess the feasibility of expanding the front lobby to alleviate the crowded conditions that exist.</p>	Adopted	2002 Year End Report
	<p>A separate waiting area should be developed 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 area of the main police station.</p>	Not Adopted	
	<p>An interview room should be made available for desk officers to obtain statements from victims or witnesses of crimes in a private environment.</p>	Adopted	2002 Year End Report
	<p>Additional courtesy telephones should be installed in the Information Center.</p>	Adopted	2002 Year End Report
	<p>Monitors should be installed in the lobby of the San José Police Station displaying information such as activities, services, and meetings taking place in the Police Administration Building.</p>	Pending	
	<p>Access to public restrooms should be made available to the public from the San José Police Station lobby. This would eliminate the requirement to sign-in with desk officers, go through the security gate, and provide access to restricted areas of the police department.</p>	Not Adopted	

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
2001 Year End Report	A receptionist should be placed in the San José Police Station lobby to provide assistance and information to the general public.	Pending	
	Customer service training should be developed and desk officers receive initial and ongoing training.	Adopted	2002 Year End Report
	Information Center Sergeants should have the front desk as their primary responsibility and they should be provided office space where they can monitor the activities of the Information Center.	Adopted	2002 Year End Report
	The Chief of Police should implement incentives to attract officers to work at the Information Center.	Pending	
	Develop job descriptions that also include those skills necessary to effectively implement community policing such as communication, conflict resolutions, and interpersonal skills.	Adopted	2002 Year End Report
	Design and implement recruiting strategies that address family related issues.	Adopted	2002 Year End Report
	Revise the policies governing transfer opportunities for SJPD sergeants to require that openings be posted, and that the application and selection process, provide all candidates an equal opportunity for the assignment.	Adopted	2002 Year End Report
	Continue to develop and provide training in communication and interpersonal skills.	Adopted	2002 Year End Report

APPENDIX F INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

DATE OF REPORT	RECOMMENDATIONS	SJPD RESPONSES	RESOLUTION PERIOD
	<p>A training program for all SJPD staff members, especially those, who are in positions to provide information to the public, should be instituted and maintained. This is 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.</p>	Adopted	2002 Year End Report
	<p>The SJPD should compile vehicle stop data on an annual basis so that a comparative analysis can be made.</p>	Adopted	2002 Year End Report
	<p>The Chief of Police should expand the fields for data collection to determine how an individual who has been stopped by the police was treated during the contact, i.e. was a search conducted. The data should include search information, the factual basis for the stop and action taken by the police officer as a result of the stop.</p>	Adopted	2002 Year End Report
	<p>It is recommended that the Chief of Police develop a uniform definition of what constitutes a racially motivated vehicle stop or police contact and a process for tracking all "Racial Profiling" allegations.</p>	Adopted	2002 Year End Report
	<p>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</p>	Pending	



The IPA logo incorporates one of the most recognized legal symbols, Lady Justice. Lady Justice is blindfolded signifying impartiality. The IPA logo depicts the scales of justice with a badge symbolizing the SJPD on one side and an image symbolizing the people of San Jose on the other. In creating this logo, the IPA envisioned a trademark that would convey the message that it would be the weight of the evidence that would determine the outcome of a complaint. The virtues represented by Lady Justice: fairness, impartiality, without corruption, prejudice, or favor are virtues central to the mission of the IPA office and are the guiding principals by which the IPA seeks to operate.

Teresa Guerrero-Daley, Independent Police Auditor, designed this logo.

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