

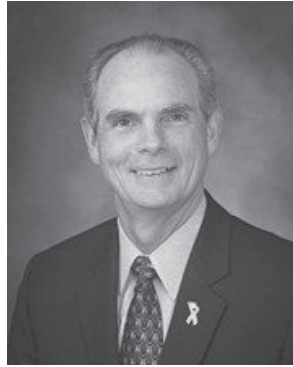


2010 IPA Year End Report



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2010 IPA Year End Report



Issued May 2011

by

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Independent Police Auditor & Staff



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The Office of the Independent Police Auditor

Creation of the Independent Police Auditor Office

The Office of the Independent Police Auditor was established by the San José City Council in 1993 with the enactment of a city ordinance codified in the San José Municipal Code. Thereafter, on November 6, 1996 the voters of San José amended the City Charter to establish the Independent Police Auditor Office as a permanent arm of city government. (Please see Appendix A for Municipal Code Section 8.04.010 and City Charter Section 809.)

In the seventeen years that the IPA office has existed, there have been four Independent Police Auditors: Teresa Guerrero-Daley (1994-2005), Barbara J. Attard (2005-2008), Shivaun Nurre, Interim IPA (2009-2010) and Judge LaDoris H. Cordell (Ret.), the current IPA, appointed in April 2010.

Mission of the Independent Police Auditor Office

The mission of the Office of the Independent Police Auditor is four-fold: (1) to provide independent oversight of and instill confidence in the complaint process through objective review of police misconduct investigations; (2) to conduct outreach to the San José community; (3) to propose thoughtful policy recommendations to the City Council; and (4) to strengthen the relationship between the San José Police Department and the community it serves.

Independence of the Police Auditor

Pursuant to San José Municipal Code Section 8.04.020, the Independent Police Auditor shall, at all times, be totally independent such that requests for further investigations, recommendations and reports shall reflect the views of the Independent 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 San José Municipal Code Section 8.04.020. (Please see Appendix A for Municipal Code Section 8.04.020.)



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Chapter One: Introduction

The debate over who should police the police has been ongoing since the 1800's, when policing was introduced to America. The importance and benefit of police oversight, however, is no longer a topic that engenders contentious debate. Today, most major cities and many smaller ones have adopted some form of police oversight.¹ The City of San José has given the responsibility of police oversight to the Independent Police Auditor (IPA). Since 1993, when the IPA office was established by the San José City Council, there have been only four Auditors — Teresa Guerrero-Daley, Barbara J. Attard, Shivaun Nurre (Interim IPA), and now, me. Before I applied for this position, I gave long and serious thought to the work of this office. It was public knowledge that interactions between then-IPA Barbara Attard and the SJPD and City officials had been contentious. Fortunately, during her tenure as the Interim IPA, Shivaun Nurre began the process of restoring respect and trust between the IPA office and SJPD leadership and city officials. I applied for this position because I believed in the oversight mission of the IPA office, because I had respect for the members of the SJPD, and because I saw the IPA office as a vehicle to restore trust between the community and the police department. When I accepted the position of IPA on April 13, 2010, I could not have known how extraordinary a sojourn this would be. I had no inkling that the challenges that awaited me would begin to surface in my first week on the job.



Judge Cordell commenting on her appointment by Mayor Reed and the City Council to the position of IPA.

The “Leak” and Its Aftermath:

I began my work as the Independent Police Auditor for the City of San José on May 17, 2010. On May 24, 2010, after just one week on the job, I learned of an allegation that a member of the IPA staff had leaked confidential information to a San José police officer in 2009. Given the seriousness of this accusation, I asked the City Attorney to immediately initiate a formal investigation. The City Attorney retained a San Francisco attorney to conduct the investigation and to produce a written report of his findings.

Following an exhaustive investigation, the attorney concluded that no one on the IPA staff had revealed any confidential information to the police officer or to anyone else. Determined to ensure that the public could trust the investigative process and the findings, I immediately released the report, in its entirety, to the public — unedited and unredacted.²

¹Cities/counties with some form of police oversight include Austin TX, Baltimore MD, Boise ID, Boston MA, Chicago IL, Cincinnati OH, Dallas TX, Denver CO, Detroit MI, Honolulu HI, Indianapolis IN, Kansas City MO, Las Vegas NV, Los Angeles City & County, CA, Miami FL, Oakland CA, Philadelphia PH, Portland OR, Sacramento CA, St Louis MO, Salt Lake City UT, San Diego CA, San Francisco CA, Seattle WA, New Orleans LA, New York City NY, and Washington DC. A listing of all jurisdictions with police oversight is listed by the National Association for Civilian Oversight of Law Enforcement's (NACOLE) website at <http://nacole.org/resources>.

²The investigative report can be read in its entirety on the IPA website: www.sanjoseca.gov/ipa.



Judge Cordell announcing that no breach of confidentiality by IPA staff was established by an independent investigation.

Even though the report exonerated our staff of any breaches of confidentiality, the allegation and the ensuing investigation called into question the integrity of the IPA Office. I knew that I needed to do more to restore the public's trust in our office. So, I quickly implemented several policies that demonstrated the IPA's commitment to integrity, independence, and transparency:

(1) Statement of Values:

I established a Statement of Values for our office. These values are Integrity, Independence, Confidentiality, Respect, Objectivity, and Professionalism. Each member of the IPA staff has pledged to uphold these values. Our Statement of Values is displayed prominently in the IPA reception area and can be read on the IPA website and in Appendix B to this Report.

(2) No-Gift Policy:

Key to the public's trust in the IPA office is our ability to perform police oversight responsibilities without any actual or perceived outside influences. To this end, I established a No-Gift Policy for the IPA staff. The policy prohibits anyone in the IPA office from accepting

gifts or giving gifts to anyone, other than to family members or close personal friends. This means that we cannot accept gifts such as complimentary tickets, holiday presents, or even the friendly cup of coffee. All gifts are prohibited. In this way, the public knows that the word "Independent" in our title means just that. The IPA's No-Gift Policy is on the IPA website and in Appendix C to this Report.

(3) Public Calendar:

To promote transparency, I took the unprecedented step of opening my calendar to the public. By visiting the IPA website, anyone can view the IPA's calendar to learn of upcoming community outreach activities and city events in which I will be participating. IPA calendar postings do not include complaint-related matters in order to preserve the confidentiality of the police misconduct complaint process. All other meetings with representatives of public and private organizations are posted on my calendar.

(4) Media Statement to the Community:

Even with the establishment of new policies and safeguards, I felt it important to make one final statement to the public about the integrity and independence of the IPA office. I did so in my op-ed entitled, "Who Will Guard the Guards?" published in the San José Mercury News on July 20, 2010.³

The New IPAAC:

The IPA Advisory Committee (IPAAC) was established in 1999 to promote the mission of the IPA and provide input/feedback on police-related concerns and issues. It is my belief that the IPAAC can be of greatest assistance to the IPA staff if its members are diverse, philosophically and demographically. I, therefore, re-evaluated the

³"Who Will Guard the Guards?" can be read in Appendix D to this Report and on the IPA website.

IPAAC's mission and restarted the IPAAC with a new membership roster, a formal application process, and formal membership rules. Forty-two people applied for membership, from whom we selected twenty-two. More information about the IPAAC, including the roster of current members, is in Chapter Two of this Report.

Improving the IPA Relationship with the SJPD:

Another daunting challenge to the IPA office in 2010 was that of restoring trust and confidence to the relationship between the IPA office and the SJPD. It was no secret that at the time of my appointment as the IPA, the relationship between the SJPD and the IPA office was strained. It became quickly obvious to me that in order to begin repairing the relationship with the SJPD leadership and the line officers, it was critical that I meet with them, as soon as possible. In early June, over a period of just two days, I attended eight SJPD shift change/briefings that allowed me to address nearly 700 officers. These briefings that are held at 6 a.m., 6:30 a.m., 3 p.m., and 9 p.m. on Mondays and Thursdays, gave me the opportunity to introduce myself to the officers and to explain to them our intention to work collaboratively with, yet independently of, the SJPD. My outreach to law enforcement also included meetings with the leadership and members of the San José Police Officers Association (POA), meetings with the Commander of the Internal Affairs Unit (IA), and monthly check-ins with the Police Chief.

By September 2010, the tide had turned. The once contentious relationship between the SJPD and the IPA office had become one marked by civility, respect and goodwill. One example of our improved relationship was the response of the SJPD leadership in October 2010 when the IPA recommended that the homepage on the SJPD's website include a link to the Internal Affairs Unit.

They quickly created the link, and then went one step further, adding a link on their homepage to the IPA website.

The IPA/SJPD Mediation Program:

Not long after becoming the IPA, I advocated for the creation of a mediation program wherein complaints of rude conduct or discourteous behavior by SJPD officers could be resolved without going through the oftentimes lengthy IA investigation process. My experience as a judge and as a mediator convinced me that mediation had the potential to promote understanding between the police and the public by giving to complainants and the officers an opportunity to sit and talk to one another, an option not available in the IA investigative process. I envisioned a mediation program that was entirely voluntary so that neither the officer nor the complainant could be compelled to participate.

After discussions with several SJPD officers, I included a requirement that complainants withdraw their complaints as a condition for participating in mediations. I reasoned that without this condition, mediations would become one-sided affairs — the complainants would get “face time” with the officers, but for the officers, little would change---the IA investigation would continue on. To encourage both complainants and officers to mediate, we felt that there had to be a benefit for both of the participants.

The next step was to identify our mediators. In August 2010, I wrote a letter to the entire roster of the county's retired judges asking them to volunteer as mediators for the IPA/SJPD program.⁴ Mayor Reed and Chief Davis graciously agreed to join me as signatories. Within sixty days, four retired judges volunteered. I have no doubt that more retired judges will join the program in the coming months.

⁴The IPA office is most appreciative of then-Presidenting Judge Jamie Jacobs-May who emailed the letter to all of the county's retired judges.

Finally, with input from IA and the Office of the City Attorney, I drafted a mediation protocol and a confidentiality agreement that all participants are required to sign.⁵ By November 2010, the IPA/SJPD mediation program was ready. There is no other mediation program that utilizes retired judges who volunteer their time to mediate. The IPA/SJPD mediation program is the first of its kind in the nation.

The responses of the SJPD leadership and the POA leadership to this mediation program have been uniformly positive. All of us view mediation as a win-win for the officers and for the community. It is also a win-win for San José's taxpayers because the IPA/SJPD mediation program is entirely cost-free. All that remains is the selection of appropriate courtesy complaints, along with officers and complainants who are willing to mediate them. It is my belief that the first mediation will take place early in 2011.

IPA Partnership with the Mexican Consulate:

David Figueroa is the Consul General of Mexico who attends to the needs and concerns of Mexican Nationals residing in the City of San José. In July 2010 the Consul General met with me to discuss negative reports he had been receiving from his constituents about their interactions with San José police officers. He was concerned that his constituents were not utilizing the complaint process because of their fear of police and their lack of knowledge about the IPA office. When I suggested that a member of the IPA staff, fluent in Spanish, hold office hours at the Mexican Consulate to inform his constituents about our services, the Consul General readily agreed. With the assistance of the Office of the City Attorney, we drafted a Memorandum of Understanding ("MOU") to memorialize the partnership between the IPA Office and the Mexican Consulate. The MOU, approved by

the Mexican government and signed by the Consul General and me, and will become operational in February 2011. (The MOU is in Appendix G to this Report.)

Outreach in San José:

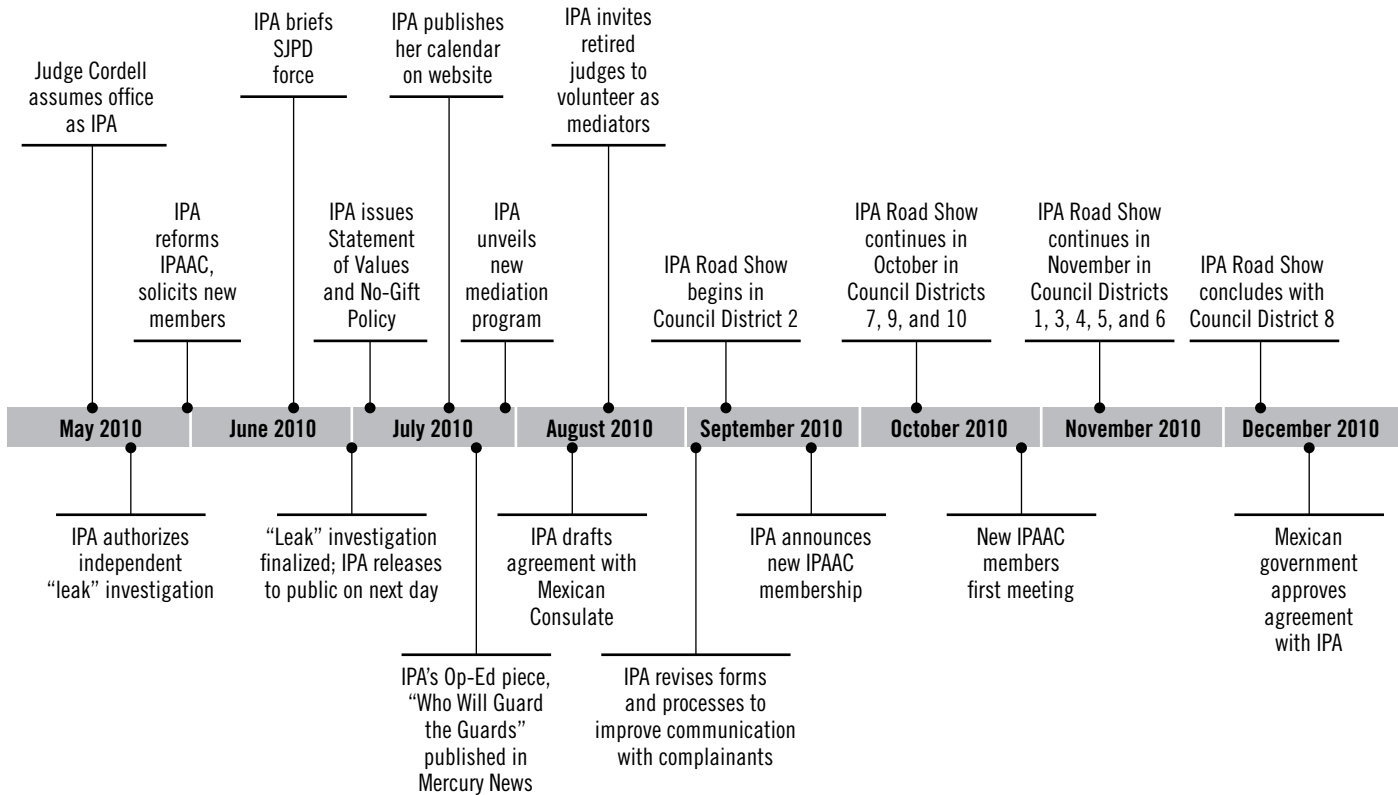
During the search to fill the IPA position, I was asked by the Community Interview Panel and by the Mayor and City Council how I would conduct outreach in the City of San José. My response to both entities was that I would do whatever it took to spread the word about our office. I am pleased to report that in 2010, the IPA office contacted more people than have ever before been contacted by the IPA office in any given year. We attended and/or made presentations to individuals and organizations on 192 occasions, making contact with more than 8,000 people.

In October 2010, I announced the creation of the IPA Roadshow, a plan to deliver IPA presentations in all of the city's ten districts by the end of the year. We contacted neighborhood groups and associations in each district, and working with district leaders, City Councilmembers and their staff, we achieved our goal. By December 2010, the IPA Roadshow traveled to every district in the city. A detailed look at our outreach in 2010 is presented in Chapter Two of this Report.

In 2010 we revised and expanded some of our outreach materials. Our IPA brochures, available in English, Spanish, and Vietnamese, are now redesigned to make them more reader-friendly and informative. We also introduced new outreach materials. To young people who found brochures a bit old fashioned, we gave the easy to-carry, wallet-size cards with IPA information. We also gave them IPA pencils. And we distributed to several thousand individuals of all ages, wristbands with the IPA name and telephone number on them.

⁵The mediation protocol and confidentiality form are in Appendices E and F to this Report.

Illustration 1-A: Highlights of the IPA's First Eight Months*



**Additionally, the IPA completed the regular duties of the office, including conducting audits, attending IA interviews, receiving intakes, performing additional outreach, and administrative responsibilities.*

Improved Service to the Public:

I have implemented several internal changes to better serve the members of the public who file complaints with our office. We revised the 30-day letters that are sent to complainants after their cases have been opened, to include an advisory that interpreters and support persons are permitted to accompany complainants to their IA interviews. Also, we now include more information about the IPA audit process in the letters that we send to complainants when their cases have been closed.

A few weeks into my tenure as the IPA, I heard from complainants who felt let down by the complaint process because no one had been in touch with them about the status of their complaints for months, and sometimes years. I responded to that concern by implementing the IPA's first 60-day Contact Program. Since July 2010, all complainants with open cases are contacted every sixty days by Jessica Flores, our Office Specialist, to give them status updates until their cases are closed.

IPA Audit of Recommendations to SJPD:

From 1993, when the IPA office was created, through 2008, the IPA issued numerous recommendations to improve SJPD policies and procedures. More than 70 of these recommendations were adopted by the SJPD.⁶ An audit of the status of these recommendations had never been undertaken. I deemed it time to do so. In August 2010, I asked Chief Davis to provide documentation to us showing the current status of these recommendations. By November 2010, thanks to the diligence of the SJPD's Research and Development Unit, the IPA office received the documentation. We are now auditing this information. In 2011, the IPA office will release the results of the audit to the public on the IPA website.

The IPA Staff:

The IPA office, with just six full-time employees, is the smallest department in the city. Two of our staff are fluent in Spanish, one is fluent in Vietnamese, Japanese and Cantonese, and four are lawyers. It has been and continues to be a wonderful experience for me to work with such intelligent, talented, dedicated and hardworking individuals.

Moving Forward:

When I look back at the first eight months of my tenure as the IPA, I am truly amazed at the breadth of the accomplishments of our office. Our outreach numbers have soared over past years; our groundbreaking programs are working, our relationship with the SJPD is positive, and the support of the community and City government is strong. And, this is just the beginning. In 2011, the IPA/SJPD mediation program will take off, our youth advisory group will be in place, and the IPA Roadshow will hit the airwaves. I have no doubt that we will introduce more innovations as we continue to engage in police oversight and in doing so, assist in rebuilding trust between the SJPD and the community.

⁶See the [2009 IPA Year End Report](#) for a complete list of these recommendations.

Frequently Asked Questions About The IPA Office

What is the IPA?

The Independent Police Auditor (IPA) is a City Council appointee whose office does mainly three things: (1) takes in complaints from members of the public about San José police officers; (2) makes sure that the Internal Affairs Unit of the SJPD investigates those complaints thoroughly and fairly, and (3) recommends improvements to SJPD's policies and procedures.

The IPA is Judge LaDoris Cordell (Ret.), who has a staff of five people.

Why does the Office of the IPA matter?

The Office of the IPA matters because, by auditing the investigations into claims of police misconduct to ensure that those investigations are fair and thorough, it helps keep SJPD accountable to the communities it serves. The work of the Office of the IPA has resulted in improved police policies. For example, because of the IPA, SJPD officers must follow better rules about how to treat a person who is:

- watching an officer in the field (i.e. onlooker policy)
- hurt by an officer
- suspected of being drunk in public
- asking for an officer's name or badge number
- filing a Conduct Complaint

Is the IPA part of the police department? Why should I trust the IPA?

No, the IPA is not part of the police department. The IPA answers to the Mayor and the City Council. The Chief of Police answers to the City Manager.

You should trust the IPA because the IPA is independent. The IPA is free to agree or disagree with the decisions of the SJPD.

What can I do if I think an SJPD officer did something wrong?

One of the things you can do is file a Conduct Complaint with the IPA.

What is a Conduct Complaint?

A Conduct Complaint is a statement from you explaining why you think an SJPD officer broke one (or more) of the rules that the officer has to follow, and requesting that the officer's conduct be investigated by the SJPD. The rules are in the SJPD Duty Manual.

What if I don't know which rule the officer may have violated?

There are many rules officers have to follow and you don't need to know them all. If you have a question about whether a certain kind of behavior by an officer is against the SJPD rules, you can contact the IPA to ask.

Does it matter whether I file a Conduct Complaint?

Yes, it does matter. By speaking out about a possible problem with an officer, you are alerting the SJPD leadership about ways to improve the SJPD.

Also, the IPA looks for trends in Conduct Complaints. When we identify patterns, we make recommendations to the SJPD for improvements.

Do I have to know the officer’s name or badge number?

No, you don’t. While it’s useful information, if you don’t have that information, you can still file your complaint.

Can I file a complaint with the IPA against an officer who is not with the San José Police Department?

No. The Office of the IPA can only process your complaint if it is about an SJPD officer. Complaints about officers employed by other law enforcement agencies cannot be filed with the IPA.

Who can file a Conduct Complaint with the IPA?

Any member of the public can file a Conduct Complaint about a SJPD officer. You can file a Conduct Complaint about something that happened to you, or about something that happened to somebody else. You can live in San José or outside the city. You can be a U.S. citizen, or you can be an immigrant – with or without papers. IPA staff are fluent in English, Spanish, Vietnamese, Cantonese and Japanese. You can be a young person or you can be an adult.

You can also file a complaint if you are a defendant in a criminal case; but if the case is related to the complaint you want to tell us about, we recommend that you talk to your lawyer first.

How do I file a complaint?

You can file your complaint in writing (email, mail, fax, or hand delivery), or by talking to us about it by phone or in person. We have a form that you can fill out if you prefer to file your complaint this way. You can be anonymous if you want, although it will be harder to investigate and prove your complaint. If you file in writing, we will need to reach you if we have any questions about your complaint.

What happens after I file a Conduct Complaint?

When the Office of the IPA receives your complaint, we identify specific allegations that you have made against the officer(s). Then we forward your complaint to Internal Affairs (IA) for investigation. The IPA does not investigate any complaints. Unlike the IPA, IA is a part of SJPD. IA investigates all Conduct Complaints. As part of IA’s investigation, you and any witnesses may be contacted for more information about the incident. If you claim that you were injured by an officer, you might be asked to sign a release of medical records. IA may obtain documents about the incident from the SJPD, and may interview the subject officer(s) and any witness officers. The IA investigation can take from several months to a year.

When the investigation is finished, IA issues a finding for each allegation. The possible findings are Sustained, Not Sustained, Exonerated, Unfounded, No Finding, Withdrawn, or Other. (You can read the definitions of these findings in the Glossary.) Based on these findings, the SJPD decides whether or not to discipline the subject officer(s).

The IPA gets involved again at this stage. The IPA audits IA’s investigations and findings. The IPA and her staff review the investigations by IA to ensure that those investigations are *thorough, objective, and fair*. Sometimes the IPA agrees with the findings and sometimes the IPA disagrees. When there is a disagreement, the IPA can discuss the matter with IA. Sometimes this causes IA to re-open the investigation or change its findings. The IPA can also bring the disagreement to the attention of the Police Chief and the City Manager. You can read the IPA’s Year-End Report for more details about the complaint process.

After the entire process is over and your case is closed, you will get a letter in the mail telling you the findings of the investigation.

Will I have more problems with the police if I file a Conduct Complaint?

The SJPD has strict rules that prohibit officers from retaliating against complainants.

Is the process fair to the officers?

Yes, we believe that it is. The Peace Officers Bill of Rights (POBR) is a state law that provides many protections to officers during this process. These protections include the right to have a representative present during misconduct investigation interviews, the right to an administrative appeal, and the right to review and respond to adverse comments in the officer's personnel file. POBR also places restrictions on how interviews of police officers are conducted and timelines in which investigations must be completed.

What if I don't have a Conduct Complaint against an individual officer, but I don't like a pattern I see with the police?

You can file a policy complaint. Policy complaints are not requests for individual officers to be investigated and disciplined. Instead, they are requests that the SJPD change its policies or procedures or adopt new ones. You can file a policy complaint with the Office of the IPA.

What if an officer did a good job and I want to give him or her a compliment?

You can submit compliments with Internal Affairs at SJPD by calling 408-277-4094 or by going to the SJPD website: <http://www.sjpd.org/COP/IA.html>

Can you tell me what happened to the officer about whom I complained?

No, we can't. Because we must follow very strict confidentiality rules, we are not allowed to give you any information about this. In fact, it is against the law for us to talk about this with any member of the public.

What if I think that the police should have to pay me money because of what they did to me. Can the IPA help me with this?

No, we can't. This complaint process looks only at possible officer discipline. You should seek the advice of a lawyer about other remedies.

I have been charged with a crime. Will filing a complaint affect the criminal case against me?

No. The complaint you file with us is completely separate from your criminal case. The IPA cannot advise or represent you on any legal matter.

As a community member, how can I be supportive of the IPA Office?

You can help us spread the word by inviting us to give presentations in your communities. Also, there are two groups who advise the IPA: IPAAC (IPA Advisory Committee) and the IPA-TLC (Teen Leadership Council). You can visit the IPA website to learn more about these groups and how you can get involved.

Glossary

Agreed (IPA determination): a complaint is closed as “agreed” if the Independent Police Auditor (IPA) determines that the Internal Affairs (IA) investigation of a complaint was thorough, objective, and fair.

Agreed After Further (IPA determination): a complaint is closed as “agreed after further” if the IPA determines that the IA investigation of a complaint was thorough, objective, and fair after additional inquiry and/or investigation.

Allegation: a person’s accusation that a member of the SJPD violated Department or City policy, procedure, rules, regulations, or the law. Only Conduct Complaints contain allegations. There are eight types of allegations: Procedure, Search or Seizure, Arrest or Detention, Bias-Based Policing, Courtesy, Conduct Unbecoming an Officer, Force, and Neglect of Duty. A Conduct Complaint can have more than one allegation. When IA finishes a Conduct Complaint investigation, IA issues a finding on each allegation.

Arrest or Detention (an allegation): an arrest lacked probable cause or a detention lacked reasonable suspicion

Audit: the process the IPA uses to decide if a Conduct Complaint investigation by IA was thorough, objective and fair

Bias-Based Policing (an allegation): an officer engaged in conduct based on a person’s race, color, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identity, medical condition, or disability. The SJPD changed its definition of Bias-Based Policing in February 2011 to clarify that this form of misconduct can occur at

any time during an encounter between an officer and another person, not only when the encounter begins.

Classification: a decision about whether an issue or complaint raised by a member of the public about an officer is a Conduct Complaint, a Policy Complaint, or a Non-Misconduct Concern. Classification is an IA determination; the IPA can appeal the classification determination through the appeal process.

Closed With Concerns (IPA determination): a complaint is “closed with concerns” if the IPA questioned the IA investigation and/or the IA analysis. The complaint is closed without an Agree or Disagree determination. The IPA first implemented this determination in 2010.

Complainant: any member of the public who files a complaint

Complaint: an expression of dissatisfaction that contains one or more allegations of police misconduct

Complaint process: the sequence of events that begins when a person files a complaint, continues when IA investigates the complaint and issues findings, and concludes when the IPA audits the investigation and issues a determination

Conduct Complaint (a classification): a statement from any member of the public that alleges that a SJPD officer broke one (or more) of the rules he or she must follow, and requesting that the officer’s conduct be investigated by the SJPD

Conduct Unbecoming an Officer (an allegation): an officer’s on or off-duty conduct could reflect

adversely on the SJPD or that a reasonable person would find the officer's on or off duty conduct unbecoming a police officer

Courtesy (an allegation): an officer used profane or derogatory language, wasn't tactful, lost his/her temper, became impatient, or was otherwise discourteous. This definition went into effect in October 2010. Previously, only an officer's use of profane words, derogatory language or obscene gestures was considered misconduct.

Department-Initiated Investigation: an investigation into a misconduct allegation that is initiated by someone within the SJPD, and not by a member of the general public

Disagreed (IPA determination): A complaint is closed as "disagreed" if the IPA determines that the IA investigation of a complaint was not thorough, objective, or fair.

Documented Oral Counseling: a form of officer discipline

Duty Manual, the: a book of rules that each SJPD officer must follow. An officer's failure to abide by the rules in the Duty Manual can result in discipline. The Duty Manual is a public document and can be viewed on the SJPD website

Exonerated (finding): the officer engaged in the conduct described by the complainant, and the officer's conduct was justified, lawful, and proper.

Finding: When a misconduct investigation is finished, IA makes a finding for each allegation. The possible findings are Sustained, Not Sustained, Exonerated, Unfounded, No Finding, Withdrawn, or Other.

Force (an allegation): the amount of force the officer used was not "objectively reasonable"

Force Case: a Conduct Complaint that includes one or more allegations of improper use of force by a San José police officer(s)

Independent Police Auditor (IPA): a City Council appointee who leads the office that takes complaints from the public about SJPD officers, audits investigations of those complaints, and makes recommendations to improve police practices and policies

Independent Police Auditor Teen Leadership Council (IPA-TLC): young people selected by the IPA to advise the IPA staff about how to improve outreach to youth in San José

Independent Police Auditor Advisory Committee (IPAAC): adult volunteers selected by the IPA to promote community awareness of the services offered by the IPA office and inform the IPA office about police-related issues within the San José community.

Intake: the first step in the process of filing a complaint

Internal Affairs (IA): the unit within the SJPD that investigates allegations of officer misconduct

Letter of Reprimand: a form of officer discipline

Misconduct: an act or omission by an officer that is a violation of policy, procedure, or law

Neglect of Duty (an allegation): an officer neglected his/her duties and failed to take action as required by policy, procedure, or law

No Finding (finding): The complainant failed to disclose promised information needed to further the investigation, or the complainant is no longer available for clarification of material issues, or the subject officer is no longer employed by the SJPDP before the completion of the IA investigation.

Non-Misconduct Concern (classification): a concern expressed by a member of the public about an officer's conduct that IA determines does not rise to the level of a violation of policy, procedure, or law or that would not result in officer discipline.

Not Sustained (finding): The IA investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation[.]” This means it was a “he said-she said” situation where it is one person's word against another and IA can't tell which version to believe.

Officer-involved shooting: an incident that involves an officer's discharge of his or her firearm.

Other (finding): when SJPDP declines to investigate because of too long a delay from the date of the incident to the date of filing, or because the officer was not a SJPDP officer, or because a duplicate complaint exists.

Police Officer's Association (POA): The bargaining unit (union) that represents SJPDP police officer interests

Policy Complaint (classification): complaints from the public about SJPDP policies or procedures

Procedure (an allegation): an officer did not follow appropriate policy, procedure, or guidelines

Search or Seizure (an allegation): a search or seizure violated the 4th Amendment of the United States Constitution

Sustained (finding): The investigation disclosed sufficient evidence to clearly prove that the allegation about the conduct of the officer was true.

Sustained rate: the percentage of Conduct Complaints (not allegations) that received a sustained finding(s) for one or more allegations

Unfounded (finding): The investigation conclusively proved either that the act or acts complained of did not occur, or that the officer named in the allegation was not involved in the act or acts, which may have occurred. This means that the IA investigation concluded that the acts never happened.

Withdrawn (finding): the complainant expressed an affirmative desire to drop the complaint.

Chapter Two: Community Outreach

The San José City Charter mandates that the IPA perform community outreach. It is an essential function; we want to ensure that community knows who we are, what we do, and how to contact us. Informing almost a million people in the tenth largest city in the nation about the IPA services is a daunting task, but one we tackled with enthusiasm. In April 2010, the current IPA was appointed and immediately launched a major outreach effort. By the end of the year, the IPA and staff had participated in 192 outreach activities involving approximately 8,408 community members, a 16% increase over the number of activities the IPA and staff participated in all of 2009. More significantly, there was an increase of 71% in the number of people contacted in 2010 over the previous calendar year.⁷ Outreach activities in 2010 included the following:

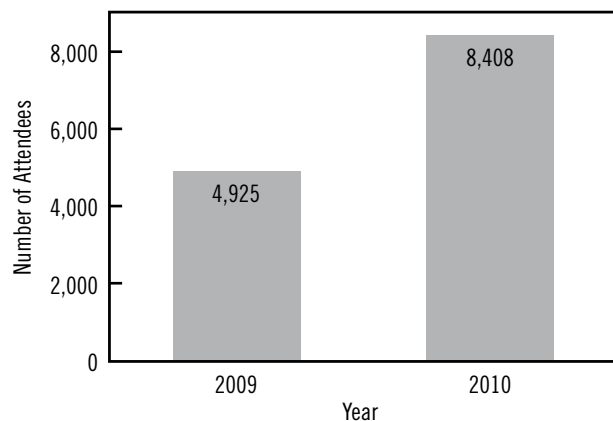
- participation in community events, such as resource fairs, meetings and public forums
- presentations to students, neighborhood groups, and community-based organizations
- press releases to the media, city officials, and community organizations
- press conferences and interviews for television, radio, newspapers and on-line media



At the Little Orchard Homeless Shelter, Judge Cordell describes the duties of the IPA office.

The success of our community outreach in 2010 was due in large measure to the strong commitment of our new IPA to reach out to those who live and work in San José. Even before she actually started her work as the IPA, Judge Cordell attended three large community events on behalf of the IPA office. The new IPA brought renewed energy and focus to our outreach efforts. A list of all of our 2010 outreach activities is in Appendix H to this Report.

Illustration 2-A: Attendees at Community Outreach 2009 and 2010



Types of Activity/Event	Events	%	Attendees	%
Community Events/ Meetings	133	69%	5,683	68%
IPA Presentations	59	31%	2,725	32%
2010 Community Outreach Totals	192	100%	8,408	100%

Community Events/Meetings⁸

In 2010, our outreach efforts connected us to 5,683 individuals at 133 community meetings and events. The IPA and staff participated in many large local events such as Crime Stoppers event at Fahrenheit Lounge, Disability Awareness Day, Rotary Club meetings, and several meetings of the Mayor's Gang Prevention Task Force Technical Team.

⁷The arrival of the new IPA was a welcome development for the IPA office. Prior to Judge Cordell's appointment, the office functioned for 16 months below its normal staffing level. The impact of the staffing deficit in 2009 was most evident in the area of community outreach.

IPA Roadshow

Following her appointment in April 2010, the IPA made a special effort to reach neighborhood groups throughout San José and to connect with individuals in every single council district.

The “IPA Roadshow” began on September 11th and ended on December 2nd, 2010; presentations ranged from 30 minutes to an hour. The IPA introduced herself to community members, updated them on recent IPA developments, explained the functions of the IPA Office, and listened to concerns about the police. Over 200 individuals attended and their responses were overwhelmingly positive.

- District 1: November 13 - District 1 Leadership Group, Community Policing Center
- District 2: September 11 - Neighborhood Leadership Group, Southside Community Center
- District 3: November 18 – 13th Street Neighborhood Action Committee, Joyce Ellington Library
- District 4: November 4 - Alviso Neighborhood Group, Alviso Youth Center
- District 5: November 15 - East Valley/680 Neighborhood Action Committee, Mayfair Community Center
- District 6: November 30 - District 6 Leadership Group, Hoover Community Center
- District 7: October 7 - Tully-Senter Neighborhood Action Committee, Santee Action Center
- District 8: December 2 - District 8 Community Roundtable, Evergreen Library
- District 9: October 4 - Cambrian Community Council, Cambrian School Board Room
- District 10: October 21 - District-wide event, Almaden Community Center

Due to popular demand, the IPA will give encore presentations of the Road Show in all ten City Council Districts in 2011.

Many outreach activities focused on specific districts or on the concerns of residents in particular neighborhoods. We participated in 20 such events and meetings in 2010 that included National Night Out in Districts 1, 2, 4, 5, 6, 9 and 10, community resource fairs in Districts 2, 7, 8 and 9, and Senior Resource Fairs in Districts 6 and 8.

Presentations by the IPA and Staff

We made 59 presentations to 2,725 attendees in 2010, a significant increase over our 34 presentations and 624 attendees in 2009. In 2010 we addressed several forums organized by the American Leadership Forum at Roosevelt Community Center, the Black Leadership Kitchen Cabinet at Antioch Baptist Church, a First Thursdays Panel at Asian Americans for Community Involvement, and the Vietnamese Citizens Academy of the SJPD.

Positive Public Response

We asked attendees to complete evaluation forms to gauge the effectiveness of IPA presentations.⁹ In 2010, evaluations were returned by 824 attendees,¹⁰ an 85% increase over the number of completed evaluations returned to the IPA in 2009.



Judge Cordell with Rotary Club of San José Sunrise members.

⁸When the IPA or staff actively participate in an event or are introduced to the audience, we count the number of attendees.

⁹The evaluation form is contained in Appendix I to this Report.

¹⁰It is not always feasible to distribute our evaluation form. If the presentation involves a very large audience, does not include a full description of IPA functions, is made outside of the City of San José, or involves a panel discussion involving non-IPA staff, we sometimes forgo its use.

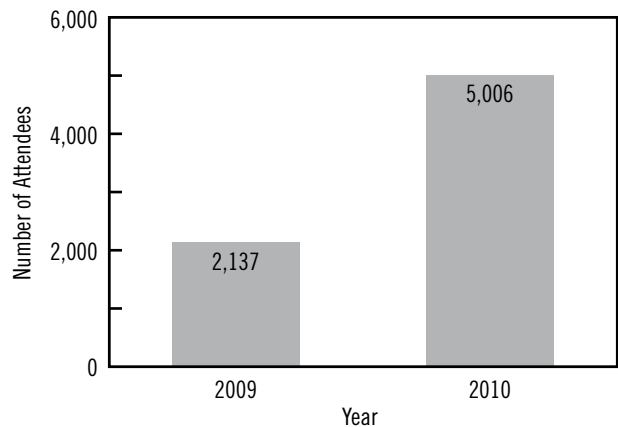
Ninety-four percent of the responders rated the IPA presentations as good or excellent. Attendees consistently reported that their knowledge about the IPA office and the police misconduct complaint process increased. They found the IPA informational materials helpful and the presenters knowledgeable. The evaluation questions and responses by percentage are provided below.

- *Did today's presentation increase your knowledge about the Office of the Independent Police Auditor?*
 - 99% replied yes
- *Did today's presentation increase your knowledge about the complaint process?*
 - 97% replied yes
- *Was the presenter knowledgeable about the subject matter?*
 - 99% replied yes
- *Were the materials provided helpful?*
 - 96% replied yes
- *Overall, how would you rate the presentation? (Excellent, Good, Average or Poor)*
 - Excellent: 61%
 - Good: 33%
 - Average: 4%
 - Poor: 0.2%
 - No response: 1.8%

Outreach to Targeted Populations

Several years ago, at the direction of the Mayor and City Council, the IPA identified three populations for targeted outreach: people of color, immigrants and youth. While San José is a very diverse city, the IPA staff does not ask members of the public who attend our outreach events to identify their ethnicities and ages. However, to ensure that we are reaching these populations, we target our outreach activities to communities where these groups are most evident.

Illustration 2-B: Outreach to People of Color and Immigrants in 2009 and 2010



Year	Outreach Activities	% of Total	Attendees	% of Total
2010	100 (out of 192)	52%	5,006 (out of 8,408)	60%
2009	72 (out of 166)	43%	2,137 (out of 4,925)	43%

Outreach to People of Color & Immigrants

In 2010, we participated in 100 events involving people of color, immigrants, and agencies that serve those populations, 52% of the total number of IPA activities for the year. This outreach included the annual Juneteenth Community Festival sponsored by the African American Community Service Agency, a Vietnamese Parent/Student Forum at Yerba Buena High School, a Latino parents' group meeting at the East Side Union High School District, and several monthly La Raza Roundtable meetings.

Outreach to Youth

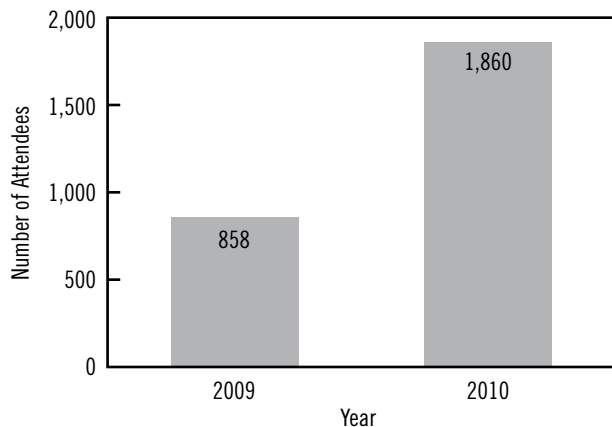
The IPA and staff strongly believe that it is important to educate young people about police practices and to inform them about the services of the IPA. In 2010, IPA staff participated in 54 events involving 1,860 teenagers and the staff who work with them. Youth outreach activities made up 28% of the IPA's 192 outreach activities in 2010. The IPA staff attended youth events that included the City Youth Commission's Annual Conference, the City's Crime and Gang Prevention Conference, a Youth



Judge Cordell addressing hundreds of students at the Latino/Latina Role Model Conference at Overfelt High School.

Revolution Resource Fair at SJSU, and several Clean Slate Steering Committee meetings. In addition, the IPA and staff addressed attendees at the Women & Girls Summit at City Hall, the Latino/Latina Role Model Conference for Youth at Overfelt High School, and the Fresh Lifelines for Youth Graduation Ceremony.

Illustration 2-C: Outreach to Youth in 2009 and 2010



Year	Outreach Activities	% of Total	Attendees	% of Total
2010	54 (out of 192)	28%	1,869 (out of 8,408)	22%
2009	43 (out of 166)	26%	858 (out of 4,925)	17%

A Student's Guide to Police Practices (Student Guide) is designed to address common concerns expressed by youth about the police. It serves as the foundation for our presentations designed to reach young people. We stimulate class participation with questions calculated to promote group discussion such as, *Have you had contact with the police? Did it go well or not? If you had it to do again, would you change anything?* We don't lecture the young people. Instead, we encourage them to think and to question what choices will work best for them when interacting with the police. We give each young person a copy of the Student Guide to keep; and, we encourage the young people who attend our presentations to share the guides with their family and friends. The Student Guide is available in English, Spanish and Vietnamese; the Guide is available in print format, CD format and can be downloaded from the IPA website.

Of the 59 total presentations we made in 2010, 26 involved youth presentations centered around our Student Guides. Approximately 500 San José teens from low-income homes attended the IPA/Work2Future presentation at the St. James Community Center. The IPA staff gave nine presentations to teens at San José high schools in classes that ranged in size from 25 to 85 students. We gave youth presentations at Andrew Hill High School, Billy DeFrank LGBT Center, Catholic Charities, Independence High School, James Lick High School, Juvenile Hall, Muriel Wright Youth Ranch, Oak Grove High School, San José Community High School, and Yerba Buena High School.

The success of the IPA's targeted youth outreach program is the result of the cooperation of a number of local agencies and organizations such as Asian Americans for Community Involvement (AACI), Catholic Charities, and the Girls Scouts of Santa Clara County's "Got Choices" Program.



Margaret (Peggy) Stevenson and Professor Mark Correia with Judge Cordell following her convocation speech to the SJSU Justice Studies Program graduates.

Outreach by Council District

In 2007 the City Council asked the IPA for outreach information by City Council district. The majority of IPA outreach events occurred in District 3 — the district that includes City Hall and the downtown area, a popular location for many events that draw attendees from other districts. For example, the nearly 500 young people (from more than 25 different high schools) who attended presentations through the Work2Future summer program (discussed above) were included in the count for District 3, even though most resided in districts throughout the city of San José. Even though it is impossible for us to identify the City Council districts of every person who attended IPA events, an estimate of district by district participation is still useful in reviewing IPA outreach and for setting future targets.

IPA Publications

Each year we distribute informational publications at resource fairs, presentations, and community events. IPA publications include the following:

- brochure describing IPA functions and the complaint process

Illustration 2-D: Outreach by Council District in 2010

Council Districts	%
District 1	1%
District 2	5%
District 3	52%
District 4	5%
District 5	7%
District 6	7%
District 7	11%
District 8	4%
District 9	2%
District 10	1%
N/A*	5%
Total	100%

*N/A: Events, meetings, and presentations that did not occur in San José but involved attendees who reside or conduct business here.

- wallet-sized “info card” providing IPA contact information and a brief description of IPA services
- *A Students Guide to Police Practices*¹¹ (Student Guide) in print & CD form
- IPA reports to City Council

We revised our brochure so that it is now available in three separate publications, one for each of three languages -- English, Spanish, and Vietnamese. Previously, these three languages had been included in one brochure which made the brochure difficult to read. The revised brochure now contains an abbreviated complaint form that the reader can detach from the brochure, complete and then mail to the IPA office. In 2010, we added new items to our outreach materials — a pocket-sized IPA info card, IPA pencils and IPA silicone wristbands. Nearly 4,000 persons received wristbands from IPA staff between June and December. The Student Guide, mentioned earlier in this chapter, remains

¹¹Originally released in 2003 and updated in 2008, the guide is a valuable tool to educate youth about their rights and responsibilities when interacting with police officers. It contains information about police practices as well as information on drugs, trespassing, curfew, profile stops, gangs, cyber bullying, and dating abuse.

immensely popular with youth, parents and teachers. In total, we distributed more than 6,000 outreach publications in 2010 to individuals, agencies and community groups — 2,000 more than in 2009. Most of the IPA publications can be downloaded on the IPA website: www.sanjoseca.gov/ipa

IPA Website

The IPA website www.sanjoseca.gov/ipa/ offers IPA outreach materials such as the Student Guide, year-end and mid-year reports, information about the complaint process, and general information about civilian oversight of law enforcement. There were 43,648 visitors to the IPA website during 2010 and a total of 542,709 hits or files requested by visitors¹² — an increase of 27% in visitors and 23% in hits from the 2009 numbers for hits and visitors.

Media

In 2010, we used newspapers, radio and television interviews in its outreach efforts. While it is not possible to count the exact number of individuals we reached via media outreach, it is possible to conclude that we received widespread media coverage. The IPA office had over 50 media contacts in 2010 and issued several press releases:

- New Independent Police Auditor to Address SJSU Justice Studies Graduates, May 26
- New Independent Police Auditor to Publish On-Line Calendar, May 27
- Independent Police Auditor Seeks Advisory Committee Members, June 25
- Investigation of Alleged Inappropriate Disclosures Concluded, June 30
- Local Forum to Feature Independent Police Auditor, July 26
- Independent Police Auditor Selects Advisory Committee, September 28
- Report on Audits of SJPD Complaints in 2009 is Released, October 12



IPA staff member Vivian Do and Judge Cordell interviewed by Teresa Le, VTTV Director of Operations.

Throughout the year the IPA was featured in several articles in local newspapers including the San José Mercury News, Metro Silicon Valley, and El Observador. The appointment of Judge Cordell as San José's IPA received national attention in the Wall Street Journal in a story entitled "San José Police Auditor Enters the Fray" — published on May 20, 2010. Also Judge Cordell was interviewed on various police oversight issues by local television, including CBS, KTVU Channel 2, Univision Channel 14, and VTTV,¹³ and local radio stations including KGO, KLIV, and KPIX. A list of all of our 2010 media contacts is in Appendix J to this Report.

Independent Police Auditor Advisory Committee (IPAAC)

The Independent Police Auditor Advisory Committee (IPAAC) was established in 1999. Following her May 2010 appointment, Judge Cordell revised the IPAAC's mission to reflect these primary functions:

1. promote community awareness of the services offered by the IPA office; and,
2. inform the IPA office about police-related issues and concerns that arise within the San José community.

¹²The number of times a specific visitor views the IPA website during the year equals the number of visitors (43,648). Each file requested by a visitor on the website registers as a hit. There can be several hits on each page.

¹³VTTV is a Direct TV Cable Channel with a national viewership of nearly 500,000.

Through extensive outreach, the IPA staff recruited a diverse and highly qualified group of 42 applicants, of whom 22 were invited to serve on IPAAC's new membership roster. The support, advice, and insights offered by the IPAAC are integral to the success of the IPA. More information about IPAAC is available at the IPA website.

Below is the roster of IPAAC members.



IPAAC Members: Bob Bailey, Telina Martinez, Yesenia Ramirez, Mark Correia, Elisa Marina Alvarado, Delorme McStoval, Nancy Freeman, Panteha Saban, Mauricio Astacio, Hilbert Morales, Linda Young Colar, Otis Watson, Norma Callendar, Wiggys Sivertsen, Joshua Barousse, Alofa Taliva'a, Ken Kelly, and B.J. Fadem.

Name	Employer	Occupation
Alvarado, Elisa Marina	Teatro Vision	Artistic Director & LCSW
Astacio, Mauricio	Self-employed	Consultant
Bailey, Robert	Pratt & Whitney Space Propulsions(Ret.)	Naval Officer/Rocket Scientist
Barousse, Joshua	Commissioner	Human Rights Commission, City of San José
Bui, Mydzung	Santa Clara Valley Health & Hospital	School Psychologist Clinical Psychology Post-Doc
Callender, Norma	Self-employed	Semi-retired Independent Paralegal
Correia, Mark	Justice Studies - San José State University	Associate Professor & Chair
Fadem, B.J.	Law Offices of B.J. Fadem & Associates, APC	Attorney
Freeman, Nancy	Former Juvenile Justice Commissioner	Community Volunteer
Kelly, Kenneth	Crime Stoppers USA	Regional Director
Martinez, Telina	Fresh Lifelines for Youth	Director of Law Programs
McKee-Stovall, Delorme	SCC Office of Human Relations	Human Relations Manager
Morales, Hilbert	SCC Santa Clara Valley Medical Center Publisher	Director of Planning (Retired) El Observador
Ramirez, Yesenia	Enlace Program Specialist	Evergreen Valley College
Saban, Panteha	SCC Public Defender's Office	Attorney
Shelton, Merylee	San José City College	Professor
Sivertsen, Wiggys	San José State University	Professor
Taliva'a, Alofa	Sierra Neighborhood Association	Chairperson
Vasquez, Herman	California Commercial Cleaning, Inc.	Director Sales/Human Resources
Watson, Otis	Comerica Bank	Banking/Financial Services
Wong, Jorge	Asian Americans for Community Involvement	Director of Behavioral Health Services
Young Colar, Linda	Small Business Owner – The Colar Team	Realtor

Meetings with City Officials & Participation in City Events

While meetings with City officials and participation in City events do not technically constitute “community outreach,” we believe that IPA communication with our City government officials is important. Throughout 2010 the IPA met with the Mayor, City Councilmembers, City Council Appointees, and with members of the SJPD. The IPA staff regularly attended a variety of City meetings:

- Public Safety, Strategic Support, and Finance Committee
- Agenda Reviews
- City Manager’s Use of Force Advisory Group
- Public Safety and Neighborhood Services City Service Areas

A highlight of the IPA’s outreach efforts was her unprecedented meetings with law enforcement. She attended eight SJPD patrol briefings over the course of one week to introduce herself and to explain the role of the IPA office to 700 members of San José’s police force. The IPA also attended the Annual Memorial Event for Fallen Police Officers and a San José Police Officers Association (POA) breakfast.

Chapter Three: A Statistical Review of the Complaint Process

This chapter takes the reader, step-by-step, through the complaint process, using 2010 statistics to highlight some of the issues that the Independent Police Auditor (IPA) examines and addresses. The statistics in this chapter are supplemented by the charts in Appendix K.

The complaint process tracks the path of a complaint that is filed by a member of the public. The process begins when the person brings a complaint to the IPA or Internal Affairs (IA) staff by telephone, by email or letter, or in person. The process continues when IA investigates and then closes the investigation, after which the IPA audits the closed investigation. The last section of this chapter explores officer discipline and complaint trends.

Step One: Complaint Intake

The complaint process begins when a member of the public files a complaint about one or more members of the San José Police Department (SJPD).¹⁴ Anyone can file a complaint, regardless of age, immigration status, or city of residence. The person filing the complaint – the complainant – doesn’t need to know exactly what rule the officer may have broken or every detail of the event, but does need to be able to describe enough of the officer/s conduct to get an investigation started. The complainant does not have to be involved in the incident. You can hear about an incident from a friend, TV, or any other source. The complainant can choose to be anonymous, although this can make it more difficult

to investigate the allegation. The complainant can submit the complaint in person, by phone, by email, fax, or letter. More than one person can file together as co-complainants.

It is important to submit the complaint while the event is fresh in witnesses’ minds and evidence can be preserved. Also, SJPD has discretion not to investigate allegations involving incidents that occurred more than 12 months before the complaint is filed.¹⁵

Both the IPA and IA can receive complaints. When the complainant brings the complaint by phone or in person, the person taking the complaint will ask for permission to record the interview, because recordings help ensure the complainant’s statement is represented accurately throughout the investigation. In 2010, members of the public filed a total of 281 complaints; 120 (43%) with the IPA and 161 (57%) with IA. Additional statistics are available in Appendix K. A discussion of factors that may influence the annual number of filed complaints is presented in the 2009 IPA Year End Report, on pages 26-28. These potential factors include:

- positive change in SJPD
- outreach
- publicity and media attention
- public confidence
- retaliation or fear

¹⁴Sometimes a member of the public files a complaint that is later re-classified because it is actually either a Non-Misconduct Concern or a Policy Complaint. Classification is described in the next section. The discussion of allegations in this section assumes the matter proceeds as a Conduct Complaint.

¹⁵An officer usually cannot be disciplined if more than 12 months elapse from the date the complaint is filed to the date the investigation is closed by IA. It doesn’t matter when the incident occurred. What matters is that there was a prompt investigation by SJPD once SJPD received notice of the allegation. So, if someone makes a complaint about an incident that happened more than a year earlier, IA can still investigate and the SJPD can impose discipline (if warranted), as long as IA closes its investigation and the SJPD imposes discipline within one year of when the case was opened. See Government Code Section 3304.

Illustration 3-A: Complaints/Concerns by Council District Where the Incidents Occurred

Council Districts	2010	%
District 1	22	8%
District 2	14	5%
District 3	67	24%
District 4	14	5%
District 5	25	9%
District 6	33	12%
District 7	27	10%
District 8	13	5%
District 9	18	6%
District 10	11	4%
Unknown/Outside City Limits	37	13%
Total Cases Reviewed*	281	100%

* Includes all cases received, regardless of classification

Complaints are broken down into allegations. One complaint can have more than one allegation. While complaints in 2010 numbered 281, allegations of police misconduct that year numbered 565. This was up from 527 allegations in 2009.

The table on the following page describes the allegations that, if proven, can result in officer discipline. They are listed in descending order of frequency, with examples of each. The examples are allegations taken from actual cases opened, audited, or closed in 2010. Refer to the tables in Appendix K for more detail.

Misconduct Allegations — Listed By Frequency

Procedure: The officer did not follow appropriate policy, procedure, or guidelines.

- 179 allegations (32%)
- **Example:** An officer did not provide his/her written name or badge number upon request.

Force: The amount of force the officer used was not “objectively reasonable”, as defined by SJPD Duty Manual, Section L 2602.¹⁶

- 98 allegations (17%)
- **Example:** Although a suspect did not resist arrest, an officer pulled his arm painfully during handcuffing.
- Turn to Chapter Four to read more about Force complaints.

Arrest or Detention: An arrest lacked probable cause or a detention lacked reasonable suspicion.

- 90 allegations (16%)
- **Example:** An officer pulled a driver over for tinted windows when the windows were not illegally tinted.

Courtesy: The officer used profane or derogatory language, wasn’t tactful, lost his/her temper, became impatient, or was

otherwise discourteous.¹⁷

- 66 allegations (12%)
- **Example:** An officer called a person “stupid” for parking in a red zone.

Search or Seizure: A search or seizure violated the 4th Amendment of the United States Constitution.

- 57 allegations (10%)
- **Example:** An officer performed a vehicle search during a routine traffic stop without consent or reasonable suspicion that the vehicle contained contraband or evidence of a crime.

Bias-Based Policing: An officer engaged in conduct based on a person’s race, color, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identity, medical condition, or disability.¹⁸

- 29 allegations (5%)
- **Example:** An officer stopped a luxury vehicle because of a broken tail light and questioned each of its four

¹⁶The Duty Manual is a book of rules that all SJPD officers must follow.

¹⁷SJPD changed its Duty Manual definition of Courtesy in October 2010. A broader range of discourteous conduct can now make an officer subject to discipline. Previously, only profane or derogatory language or an obscene gesture was misconduct. The IPA will monitor whether this change will affect the number of Courtesy allegations or the sustained rate of those allegations that are filed.

¹⁸SJPD changed its Duty Manual definition of Bias-Based Policing in February 2011 to clarify that this form of misconduct can occur at any time during an encounter, not only at the initiation of contact between an officer and a member of the public, and need not be the sole factor influencing the officer to act.

African-American occupants, asking whether they were on probation or parole and running background checks on each; the complainant disputed that the tail light was broken and alleged the stop reflected racial bias.

Conduct Unbecoming an Officer: A reasonable person would find the officer's on or off duty conduct unbecoming a police officer, or it could reflect adversely on the SJP.

- 24 allegations (4%)

- **Example:** An officer sexually harassed a driver during a traffic stop by searching her in an inappropriate manner.

Neglect of Duty: An officer neglected his/her duties and failed to take action required by policies, procedures, or law.

- 22 allegations (4%)
- **Example:** An officer did not document in a police report a suspect's admission of guilt.

Although Bias-Based Policing constituted only 5% of allegations filed in both 2009 and 2010, concerns about racial profiling were frequently raised by attendees at the IPA's 192 outreach events during 2010. Among the 23 individuals who filed Bias-Based Policing allegations and also identified their own race or ethnicity, 52% were Hispanic/Latino, 26% were African-American, and 13% were Caucasian.

The new Chief of Police has expanded the Duty Manual definition of Bias-Based Policing to include conduct of an officer during an encounter with a person, and not just when the encounter begins. The IPA will monitor whether this change will affect the number of Bias-Based Policing allegations or the sustained rate of Bias-Based Policing allegations that are filed in 2011.

After the IPA receives a complaint, the IPA forwards it to IA for *classification*.

Step Two: IA Classification

After intake, the case is forwarded to IA to receive one of three classifications. The IPA does not classify complaints; it is only IA that does this.

1. Conduct Complaints. A conduct complaint contains one or more misconduct allegations.
2. Policy Complaints. A policy complaint is an

allegation that a policy is inappropriate, invalid, or one that is not specific to an officer's conduct. A policy complaint can also question the lack of a policy. These matters are referred to SJP's Research and Development unit for review.

3. Non-Misconduct Concerns. Non-misconduct concerns are allegations about conduct that does not rise to the level of a violation of any policy, rule, or law the officer must follow, or conduct that would not subject the officer to discipline. A Non-Misconduct Concern is forwarded to the officer's supervisor with instructions that the supervisor discuss the matter with the officer. When IA decides to classify a case as a Non-Misconduct Concern, IA notifies the IPA staff so that we can review the basis for IA's classification.

Of the 281 complaints members of the public filed in 2010, IA classified 206 as Conduct Complaints and 10 as Policy Complaints.¹⁹

IA classified 53 cases as Non-Misconduct Concerns, only about half of the 103 Non-Misconduct Concerns in 2009.

SJP also has a process to bring forward misconduct concerns about officers. These are called Department-Initiated Investigations. SJP brought forward 66 Department-Initiated Investigations

¹⁹In addition, one matter was still unclassified at the end of 2010, three were duplicate complaints, six did not involve SJP officers, and two were filed concerning incidents that occurred more than a year before.

Case Studies: Timing Matters

Diligent and timely investigations are important because they affirm that SJPD takes misconduct allegations seriously. Closing investigations promptly, thereby allowing the IPA sufficient time to review them, sends the message that officers cannot easily evade accountability for their actions.

Delaying investigations can undermine the integrity of the complaint process. The following are two examples.

One case involved the search of a complainant's vehicle. IA did not forward the closed investigation to the IPA until 348 days after it was filed, leaving just 17 days before the one-year deadline required by state law. There was no action documented in the IA file for nearly eight months. During the audit process, the IPA took issue with IA's analysis justifying the search of the vehicle. But the delay in IA's investigation meant that there was not sufficient time for the IPA's analysis to be considered. The investigation was not re-opened by IA and the findings remained unchanged. The IPA closed the case as Disagreed, meaning we did not believe the investigation was thorough, objective, and fair.

In another case, an off-duty officer allegedly made threats against his neighbor. The complainant provided documentation establishing the identity of the officer. Nevertheless, IA required the complainant to attend a photo lineup. When the complainant was unable to attend, IA did not act on the case for six months, at which time the subject officer retired. Four days after the officer's retirement, IA confirmed the subject officer's identity without a photo lineup. IA closed the case with No Finding.

in 2010. SJPD does not permit the IPA to audit these investigations. The IPA office is aware that these investigations typically have a much higher sustained rate than Conduct Complaints filed by members of the general public, but SJPD does not provide the IPA with other statistical information, other than that presented to the Mayor and City Council. Unless stated otherwise, all references to allegations and complaints in this chapter exclude these Department-Initiated Investigations.

Step Three: IA Investigation and IPA Monitoring

After classifying the case as a Conduct Complaint, IA investigates it. The IPA office does not investigate these Conduct Complaints, or any other complaints, no matter what their classifications are. During the IA investigation, IA gathers evidence to determine what facts support or refute the allegations, such as police reports, force response reports, witness statements, dispatch logs, medical records and photographs. IA may interview the subject officer(s) and any witness officer(s) as part of the investigation.

While IA investigates the complaint, the IPA monitors the investigation to some extent. The ways that the IPA monitors investigations include

- spot-checking Conduct Complaints received at IA to confirm all of the complainant's allegations are accurately represented in the complaint;
- spot-checking the progress of investigations prior to officer interviews to confirm the interviewer has vital information such as, for Force cases, medical records and Taser downloads;
- attending officer interviews, or requesting that IA ask certain questions of the officers, if the IPA is unable to attend; and
- fielding questions from complainants about the status of their Conduct Complaints and updating the IA investigators and the complaint database, as appropriate.

The IA guidelines establish that the timeline for IA to complete its investigation is within 300 days, unless one of several special conditions exists that extend that timeline.²⁰ This timeline generally provides sufficient time for the IPA to review and give input. One area of concern has been delays in IA investigations. See Chapter Five for a discussion of this issue.

²⁰For example, the one-year deadline can be tolled (put on hold) during the time any criminal or civil court action is proceeding, or if the investigation is particularly complex because it is multijurisdictional or involves multiple officers. Government Code Section 3304(d)(2).

When it appears that an allegation may be Sustained, or when the use of force has resulted in serious injury, IA forwards the case up the SJPD Chain of Command for review.

Step Four: IA Closing

IA analyzes the evidence and then issues a written finding for each allegation.

Below are the possible findings for any one allegation. The most common findings are listed first. In 2010, IA made findings on a total of 636 allegations. These findings were for Conduct Complaints that were closed in 2010. Some of these Conduct Complaints were filed before 2010.

Findings for Misconduct Allegations — Listed by Frequency

Exonerated: “The act or acts, which provided the basis for the allegation or complaint, occurred, however, the investigation revealed they were justified, lawful, and proper.”²¹ This means that the officer engaged in the conduct, and the conduct was proper.

- **Result:** The officer cannot be disciplined when there is an Exonerated finding. However, the officer may be required to undergo counseling or training.
- 314 allegations (49%) in complaints closed in 2010

Not Sustained: “The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation[.]” This means it was a “he said-she said” situation where it is one person’s word against another and IA can’t tell which version to believe.²²

- **Result:** This finding does not result in officer discipline. However, the officer may be required to undergo counseling or training.
- 115 allegations (18%) in complaints closed in 2010

Unfounded: “The investigation conclusively proved either that the act or acts complained of did not occur, or that the Department member named in the allegation was not involved in the act or acts, which may have occurred.” This means that the IA investigation concluded that the acts never happened.

- **Result:** The officer is not disciplined.
- 80 allegations (13%) in complaints closed in 2010

No Finding: “The complainant failed to disclose promised information needed to further the investigation, or the

complainant is no longer available for clarification of material issues, or the subject Department member is no longer employed by the Department before the completion of the investigation.” This means that the complainant didn’t follow through with necessary information for IA, or the officer doesn’t work there any more.

- **Result:** The officer is not disciplined.
- 53 allegations (8%) in complaints closed in 2010

Withdrawn: “The complainant affirmatively indicates the desire to withdraw his/her complaint.” This means the complainant said he/she wanted to drop the complaint.²³

- **Result:** This finding does not result in officer discipline.
- 29 allegations (5%) in complaints closed in 2010

Sustained: “The investigation disclosed sufficient evidence to prove clearly the allegation made in the complaint.” This means that IA determined that the officer did engage in misconduct.

- **Result:** This finding results in officer discipline.
- 27 allegations (4%) in complaints closed in 2010

Other: Allegations in 2010 were closed as “Other” when SJPD declined to investigate because of a delay of years from the date of the incident to the date of filing or because the subject officer turned out not to be an SJPD officer at all. This means the case is old or doesn’t fit into any other category.

- **Result:** No officer is investigated.
- 18 allegations (3%) in complaints closed in 2010

²¹All definitions in quotations in this table are from the 2010 Duty Manual, C 1723. As described in the 2009 IPA Year End Report, pages 30-32, the IPA has urged the City Manager to revise the definitions to conform with language used in state law to describe the appropriate burden of proof (see Penal Code Section 832.5(d)(3)), including adding the word “clearly” to the definition of Exonerated, and removing the word “clearly” from the definition of Sustained.

²²For example, in the absence of a witness, a Courtesy allegation often boils down to the word of the officer against the word of the complainant, with no witnesses. IA issued Not Sustained findings for 56% of Courtesy allegations, the highest Not Sustained rate for any type of allegation.

²³IPA staff generally follows up to make sure the complainant was not pressured to withdraw.

After making written findings, IA forwards the Conduct Complaint investigation to the IPA office.

Step Five: IPA Audit

The IPA audits closed IA investigations to examine whether they were thorough, fair and objective. The

IPA is required to audit all Conduct Complaints with at least one Force allegation, and at least 20% of all other Conduct Complaints. The IPA audited 183 complaints in 2010. These included all 65 Force complaints, and 118 (72%) of all other complaints.

Issues Reviewed During IPA Audit	
Timeliness / tolling	<ul style="list-style-type: none"> • Was the investigation completed in a timely manner?
Classification	<ul style="list-style-type: none"> • Was the case properly classified?
Presence/absence of allegations	<ul style="list-style-type: none"> • Do the listed allegations adequately capture the concerns voiced by complainant? • Were any allegations removed? If so, why?
Presence/absence of supporting documentation	<ul style="list-style-type: none"> • If pertinent, did the investigator obtain and review documentation such as: <ul style="list-style-type: none"> – CAD (SJPD Computer Aided Dispatch logs) – Medical records – Photographs – Police reports/citations – Taser downloads – Use of force response reports
Presence/absence of interviews conducted by Internal Affairs	<ul style="list-style-type: none"> • Witnesses — what efforts were taken to identify and contact witnesses? • Witness officers — what efforts were taken to identify and interview officers who witnessed the incident? • Subject officers — what efforts were taken to identify and interview subject officers?
Presence/absence of logical objective application of policy to the facts	<ul style="list-style-type: none"> • What is the policy/Duty Manual section that governs the conduct in question? • Is this authority applicable to the case or is other authority more pertinent? • Does the analysis apply all the factors set forth in the authority to the facts?
Presence/absence of objective weighing of evidence	<ul style="list-style-type: none"> • What weight was given to officer testimony? Why? • What weight was given to civilian testimony? Why? • Does the analysis use a preponderance standard? • Does the analysis logically address discrepancies?

The audit process results in one of three outcomes. See Illustration 3-A for a list of these outcomes.

Illustration 3-B: Audit Determinations in Investigated Cases in 2010

Audit Determinations in Investigated Cases	2010	
	Audits	%
Agreed at First Review	137	75%
Agreed after Further Action	26	14%
Disagreed after Further Action	20	11%
Total Complaints Audited	183	100%

In 2010, the IPA agreed with IA’s investigations and findings upon first review 75% of the time.

The next section addresses those 25% of audited cases where the IPA did not agree with the case at first review.

Step Six: IPA Appeal

If the IPA determines IA’s investigation and findings are in some way not thorough, objective, and fair, the IPA can choose whether to contact IA with the concerns or to close the case with a formal Disagreement Memorandum. This memorandum states our reasons for the disagreement. It is sent to the Chief of Police, and when appropriate, to the City Manager. The IPA prefers to initially contact IA to discuss matters of disagreement. In some cases, the IPA persuaded IA to re-open the case.²⁴ For 26 of the 46 cases with which the IPA did not initially agree, these further communications resulted in the IPA closing these cases as Agreed After Further. The IPA closed the remaining 20 cases as Disagreed.

Case Studies: IPA Audits Change Outcomes

An officer stopped a young person and questioned him about his school attendance. During the interaction, the young person requested the officer’s badge number, and the officer provided it verbally. The young person filed a complaint with IA about the officer’s failure to produce his identification. In its analysis, IA reasoned that because the complainant did not specifically request the officer’s business card or a field incident card, the officer was not under a duty to produce either one. As a result, IA issued a “Not Sustained” finding. Upon first review, the IPA raised the concern that the Duty Manual requires officers to provide a business card or a field incident card, whenever they are asked to identify themselves. As a result, IA re-opened the case and, upon further review, IA changed the finding to Sustained.

In a different case, an elementary school student was asked to sign a Juvenile Contact Report form when an officer cited him for an after-school fight. His mother was not notified until her son came home. She filed a Procedure complaint with the IPA. IA investigated and then Exonerated the officer because the Duty Manual did not require him to contact the mother under the circumstances, and the form he used did require the suspect’s signature. The IPA contacted IA and requested that the Duty Manual and the form be changed to set a minimum age limit before juveniles can be required to sign it, and to implement timely, mandatory notification of parents. IA has agreed to make these changes.

Step Seven: Officer Discipline and Complaint Trends

If, after investigation, IA issues a Sustained finding, SJPD imposes a disciplinary action.²⁵ With the Chief of Police’s approval, the officer is disciplined and a copy of the disciplinary record is placed in the officer’s personnel file. The imposition of discipline is entirely within the SJPD’s purview. The IPA is not involved in the officer discipline process.

²⁴Re-opening a case can involve IA adding an allegation, conducting additional investigation including interviews, and/or re-evaluating the basis for the original finding.

²⁵Some officers receive training or counseling not as discipline, but as a corrective, non-punitive measure, following a finding of Not Sustained or Exonerated.

Illustration 3-C: Discipline Imposed on Subject Officers in 2010

Discipline Type	# of officers	%
Training	1	6%
Training & Counseling	4	25%
Documented Oral Counseling (DOC)	5	31%
DOC & Training	1	6%
Letter of Reprimand	2	13%
4 Month Suspension	1	6%
7-Month Suspension	2	13%
Total Discipline Imposed	16	100%

In 2010, 16 of 240 subject officers received discipline or corrective action as a result of Conduct Complaints filed by members of the public. Eleven of these subject officers received some form of training and/or Documented Oral Counseling. One officer received a Letter of Reprimand. Three received suspensions.

In calendar year 2010, 240 officers received Conduct Complaints, 19% of all sworn officers, down from a high of 28% in 2008. Most subject officers, 196 or 82% of all who received Conduct Complaints, received only one Conduct Complaint. Thirty-seven officers, 15% of those receiving complaints, received two Conduct Complaints each. Four officers received three Conduct Complaints each. Two officers received four Conduct Complaints each. One officer received five Conduct Complaints in 2010. The proportion of subject officers receiving more than one Conduct Complaint was about 18% of all subject officers in 2006, 2009, and 2010. In 2007 and 2008, 24% of subject officers received more than one Conduct Complaint. See Table 5 in Appendix K for more detail on complaint rates in past years.

Of concern to the IPA are those officers who receive multiple complaints. The SJPD Early Warning System is discussed in Chapter Five.

Illustration 3-D: Officers Receiving 1 or More Complaint/s in 2010

1 Complaint	196
2 Complaints	37
3 Complaints	4
4 Complaints	2
5 Complaints	1
6 or more Complaints	0
Total # of Officers Receiving Complaints	240

Ethnicity and Gender

By and large, the ethnicity and gender of subject officers tracked quite closely with their proportional representation in the SJPD force. The one exception is that officers who are Asian American/Pacific Islander were 7% of subject officers and 10% of the SJPD force. See Tables 6 and 7 in Appendix K for details.

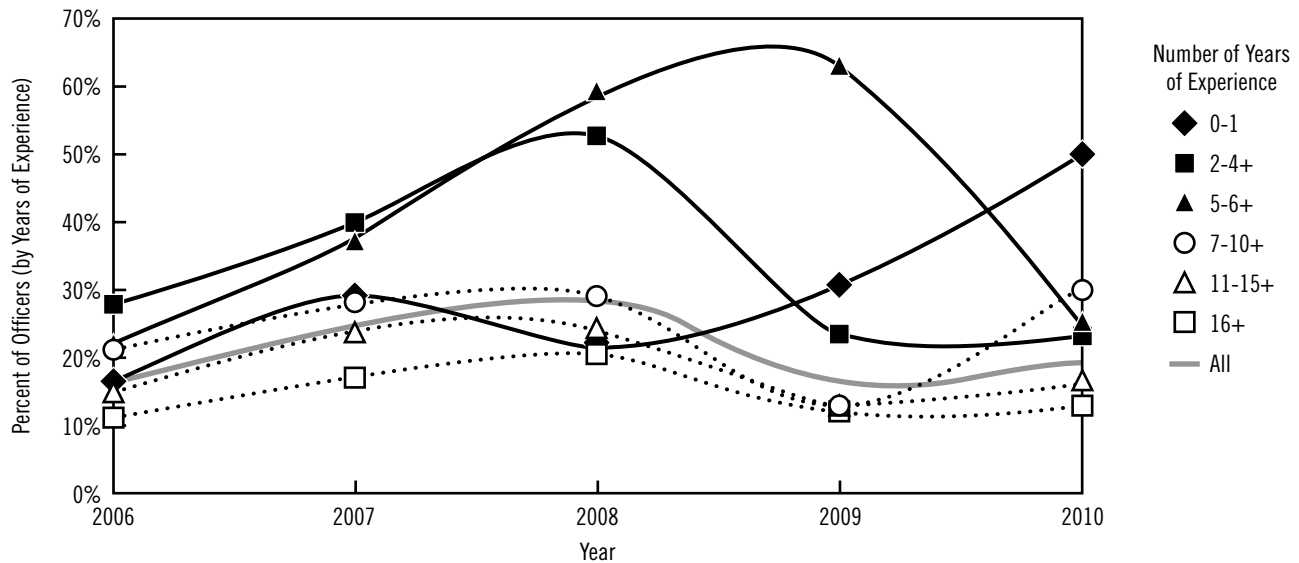
Years of Experience

The Conduct Complaint rate for officers with 2-4 and 5-6 years of experience has declined. After spiking up from 28% in 2006 to 53% in 2008, the Conduct Complaint rate for 2-4 year officers dropped to 23% in 2010. Similarly, for 5-6 year officers, the Conduct Complaint rate jumped from 23% in 2006 to 63% of 5-6 year officers in 2009, and then dropped to 25% in 2010.

Illustration 3-E: Percent of Officers Receiving Complaints by Number of Years of Experience

Years of Experience	2010	2009	2008	2007	2006
0-1	50%	31%	22%	29%	16%
2-4+	23%	24%	53%	40%	28%
5-6+	25%	63%	59%	38%	23%
7-10+	30%	13%	29%	28%	21%
11-15+	17%	13%	24%	24%	15%
16+	13%	12%	20%	17%	11%
All	19%	16%	28%	24%	16%

Illustration 3-F: Percent of Officers Receiving Complaints by Number of Years of Experience



Similarly, more senior officers, with 11-15 years and 16+ years of experience, received Conduct Complaints at a diminished rate since 2008. Twenty-four percent of officers with 11-15 years of experience received Conduct Complaints in 2008; this rate was down by nearly a third to 17% in 2010. The most senior officers, those with 16 or more years of experience, also received Conduct Complaints at a lower rate than in 2008. The overall complaint rate for the SJPD (i.e. all officers who received one or more Conduct Complaints) dropped by a third from 2008 to 2010, from 28% to 19%.

The dramatic drop in the complaint rate for officers between their 2nd and 6th years of service, and the more modest drop for senior officers are welcome signs.²⁶

Fully 50% of officers with less than two years' experience received Conduct Complaints in 2010, more than double the complaint rate for the force as a whole. This high complaint rate has not always been the case for new officers. In 2009, about 30% of officers with less than two years' experience received Conduct Complaints. In 2008, a year when 28% of all officers received Conduct Complaints, only 22% of new officers received them.

²⁶See IPA 2009 Year End report, pages 26-28, for more discussion of factors affecting the number of complaints filed against SJPD officers from year to year.

Chapter Four: Use of Force

This chapter provides data from Force Cases closed and audited in 2010.

I. Force Cases and Allegations

A. Overview

Police work poses both expected and unexpected dangers. On occasion, the use of force by officers is necessary. A police officer who has reasonable cause to believe that a suspect has committed a public offense, may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. The use of unnecessary or excessive force is one of the most serious allegations made against an officer. The IPA is required by the City’s Municipal Code to audit all investigations of force conducted by Internal Affairs (IA).

B. Force Cases

“Force Case” describes a complaint that includes one or more allegations of improper use of force by a San José police officer. The term “Force Case” helps us to discuss, in general, all those types of cases that have one thing in common — an officer’s use of force.²⁷ Each of the scenarios below is an example of a Force Case.

An IA investigation of a Force Case should answer three questions: (1) Was the force response

lawful? (2) Was the force response reasonable? (3) Was the force response within SJPD policy? The IA investigation must examine all the facts and circumstances associated with the incident in order to determine whether or not the officer acted reasonably. The severity of the crime, the threat presented by the suspect and the resistance offered by the suspect are factors that IA evaluates.

Sixty (60) Force Cases were filed in 2010.²⁸ That number is comparable to the 59 Force Cases filed in 2009, and significantly lower than the number of Force Cases filed in 2007 and 2008 respectively. Illustration 4-A shows the number of Force Cases received from 2007 through 2010.

Illustration 4-A: Force Cases Received from 2007 through 2010

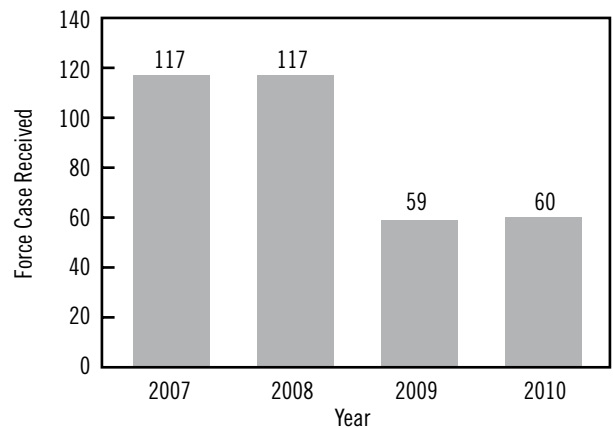
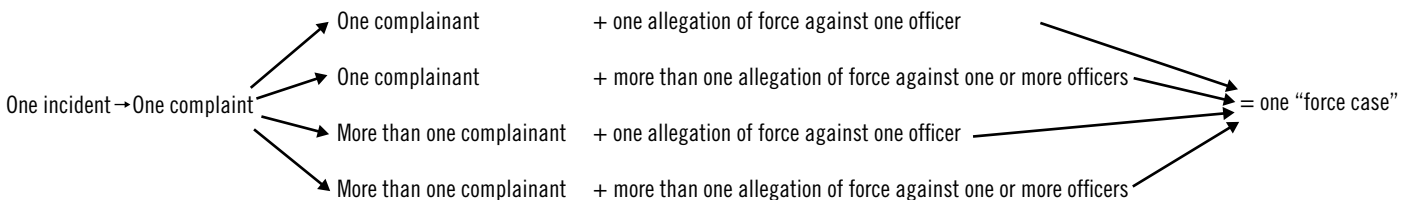


Illustration 4-B: How Force Cases Are Defined



²⁷Use of the term “Force Case” assists in making comparisons from year to year. Specific data about the number and findings on all force allegations is also discussed in this chapter.

²⁸Even if a case is filed in 2010, it may not necessarily be closed in 2010.

C. Force Allegations

The annual number of Force allegations in complaints can be higher than the annual number of Force Cases because, as shown in the illustration “How Force Cases are Defined,” each single complaint may contain more than one force allegation. Of the 565 allegations contained in all 2010 complaints from members of the public, 98 (17%) were force allegations. In 2009, 19% of all allegations filed by the public were force allegations.

Illustration 4-C shows the number of force allegations received from 2007 through 2010.

Illustration 4-C: Force Allegations Received from the Public from 2007 through 2010

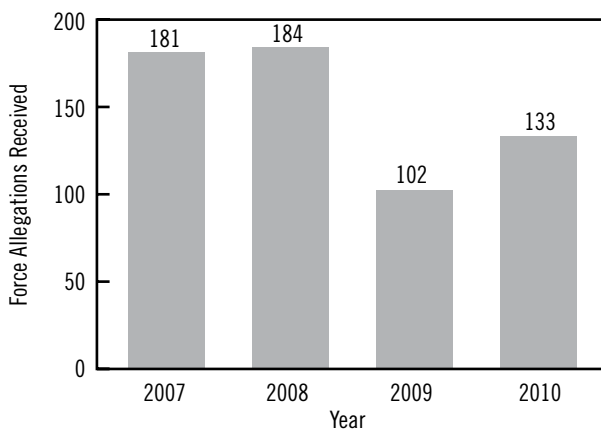


Illustration 4-E: Force Case Complainants by Ethnicity*

Ethnicity From Complainants' Surveys & Intakes	Force Complainants		Total Complainants		% of San José Population**
	Number	%	Number	%	
African American	10	12%	38	12%	4%
Asian / Pacific Islander	0	0%	6	2%	13%
Caucasian	18	22%	75	23%	36%
Filipino	1	1%	2	1%	5%
Hispanic / Latino	36	44%	99	31%	30%
Native American	1	1%	3	1%	1%
Vietnamese	2	2%	10	3%	9%
Other	4	5%	10	3%	2%
Decline / Unknown	9	11%	77	24%	0%
Complainants' Responses to Surveys / Intakes	81	100%	320	100%	100%

*Information on ethnicity of complainants is obtained during intake and from voluntary surveys.

Not all complainants reside within the City of San José; however all complainants are members of the public.

**Source: U.S. Census Bureau, Census 2010

Illustration 4-D shows the number of Force Cases and the number of complaints received from the public from 2007 to 2010. The percentage of complaints that contained force allegations has remained steady.

Illustration 4-D: Force Complaints and Allegations — Four-Year Overview

Year	Total Force Complaints	Total Force Allegations	Total Number of Complaints*	% Total Complaints
2007	117	181	491	24%
2008	117	184	467	25%
2009	59	102	214	28%
2010	60	133	216	28%

*This illustration reflects only complaints filed by members of the public.

D. Force Case Complainants by Ethnicity

The IPA attempts to identify the ethnicity of complainants during the initial complaint intake, as well as through voluntary surveys. We obtained information on ethnicity from 243 individuals complainants in 2010. We were not able to capture the ethnicity of all complainants because some declined to disclose this information to us. The percentage of 2010 investigated Force Cases by ethnicity of the complainants are as follows:

- Hispanic/Latino complainants filed 44% of the Force Cases and 31% of the total complaints filed in 2010.
- African American complainants filed 12% of the Force Cases and 12% of the total complaints filed in 2010.
- Caucasian complainants filed 22% of the Force Cases and 23% of the total complaints filed in 2010.

E. Force Cases Closed and Audited in 2010

The IPA audited all of the closed IA investigations of Force Cases in 2010 of which there were 65. The IPA agreed with the findings of IA in most of these cases after a first review.

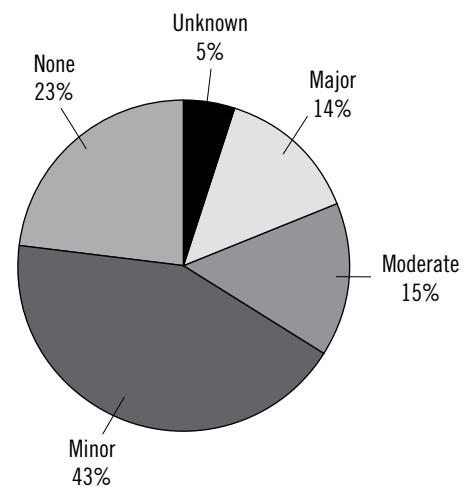
Illustration 4-F: IPA Audit of Force Cases

IPA Audit Determination	Explanation of IPA audit of the IA investigation of Force cases	2010 Audits
Agreed	IPA audit determined that the IA investigation was thorough, complete and objective.	46 (71%)
Agreed After Further Action	IPA requested and reviewed supporting documentation from IA or requested IA re-examine its analysis.	9 (14%)
Closed with Concerns	IPA questioned the IA investigation and/or IA analysis.	1 (2%)
Disagreed	IPA audit concluded that the IA investigation was not thorough, complete or objective.	9 (14%)
Total Force Cases Audited		65 (100%)

The IPA tracks data from the Force Cases filed in 2010 and from our audits of force investigations closed in 2010. In order to determine whether any trends or patterns can be detected from Force Cases, the IPA tracks the following information as reported by complainants: (1) the level of injury caused by the force used; (2) the part of the complainant’s body impacted by the force; and (3) the type of force used by the officer. Illustrations 4-G and 4-H contain data that reflect the degree of injury and areas of the body impacted by force *alleged by a complainant* and *not* the injury level or impact location *reported by the officer* or contained in medical reports.

Illustration 4-G provides data about the level of injury resulting from the complainant’s allegations of force used by the officer. There are five categories of injury ranging from “major” to “none.” Major injuries require significant medical attention, whereas minor injuries require little or no medical attention. For example, minor injuries can involve minor abrasions, bruising or skin irritation from the use of chemical agents. Moderate injuries include lacerations. Major injuries include fractures.

Illustration 4-G: Complainants’ Alleged Levels of Injury



Data from Force cases closed in 2010 show that allegations of minor injuries account for the highest percentage of alleged injury levels. There were twenty-seven Force Cases in which minor injuries were alleged. For a four-year overview of data reflecting complainants’ reported levels of injury, see Table 8 in Appendix K.

Illustration 4-H provides data showing the parts of the body that complainants reported were impacted by the alleged force. The IPA tracks this data to determine if any trends exist in Force Cases. The IPA captures data for five areas of the body: head, torso, limbs, multiple body parts and unknown. The force alleged in a complaint can impact more than one body area. The IPA closely monitors the number of allegations of head injuries because force to the

head has the greatest potential to cause serious injury. There has been a small but gradual increase over the last four years in the percentage of reports by complainants of force applications to the head.

Illustration 4-H: Location of Force Applications — Four-Year Overview

Location of Force Applications	2007		2008		2009		2010	
	Number	%	Number	%	Number	%	Number	%
Head	23	19%	27	22%	31	25%	29	33%
Torso	18	15%	24	20%	26	21%	22	25%
Limbs	36	31%	30	25%	36	29%	20	23%
Multiple Body Parts	36	31%	38	31%	28	23%	14	16%
Unknown	5	4%	3	2%	2	2%	2	2%
Total	118	100%	122	100%	123	100%	87	100%

We collect data about the types of force used in order to track the frequency as shown in Illustration 4-I. The total number of types of force alleged is greater than the total number of Force Cases because there can be more than one type of force alleged in one complaint; and, there can be more than one officer

alleged to have used force in one complaint. For example, a complainant may allege that one officer struck him with a baton, and another officer hit him with fists and slammed him against a wall. This example illustrates three different types of force allegations against multiple officers in one complaint.

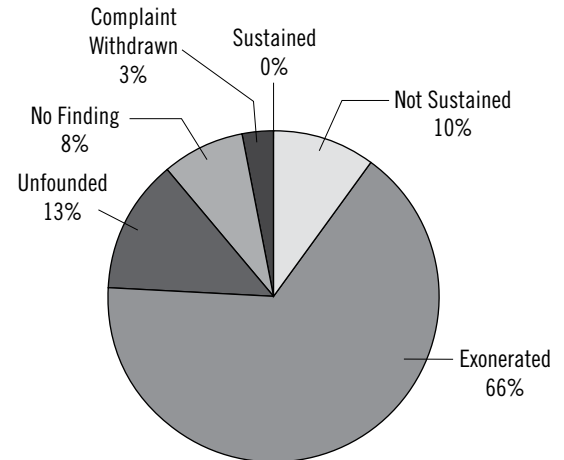
Illustration 4-I: Type of Force Allegation — Four-Year Overview

Type of Force	2007		2008		2009		2010	
	Number	%	Number	%	Number	%	Number	%
Baton	19	12%	13	7%	14	9%	8	7%
Canines	0	0%	2	1%	1	1%	1	1%
Car	0	0%	1	1%	5	3%	1	1%
Chemical Agent	6	4%	3	2%	1	1%	1	1%
Gun	2	1%	3	2%	2	1%	2	2%
Feet	6	4%	12	7%	11	7%	7	6%
Ground	13	8%	30	17%	21	13%	14	12%
Hands	64	41%	73	41%	67	42%	51	44%
Handcuffs	14	9%	6	3%	8	5%	4	3%
Knee	8	5%	16	9%	15	9%	13	11%
Taser	13	8%	12	7%	9	6%	7	6%
Object	2	1%	1	1%	0	0%	0	0%
Other	10	6%	4	2%	6	4%	6	5%
Unknown	1	1%	2	1%	1	1%	1	1%
Total	158	100%	178	100%	161	100%	116	100%

Illustration 4-I shows that overall, the different types of force allegations decreased from 161 in 2009 to 116 in 2010. Complainants alleged that “use of hands” was the type of force used most frequently by officers over the last four years, ranging from 41% to 44% of force applications. In 2010 the next most frequently alleged type of force was “use of the ground” (slamming onto the ground and takedowns). The “use of knees” and the “use of batons” were the third and fourth most frequently alleged types of force. The percentage of taser use has decreased from 8% of force application in 2007 to 6% in 2010.

Illustration 4-J provides general information about how IA treated force allegations in the complaints that they closed in 2010. No force allegations were Sustained in 2010. The majority of the force allegations were closed with a finding of Exonerated, meaning that the IA investigation determined that the level and the type of force used by the officers were reasonable and justified.

Illustration 4-J: Disposition of Force Allegations in Cases Closed in 2010



II. Officer-Involved Shooting and In-Custody Fatal Incident

Illustration 4-K: Officer-Involved Shootings in 2010

Case	Ethnicity	Mental Illness History	Person Armed?	Police Weapons Used	Prior Criminal Record	CIT* at Scene?	Cause of Injury/Death	Within Policy?
1	Hispanic	No	No	Handgun	Yes	No	Injuries caused by flying glass	Determined accidental
2	Hispanic	No	Vehicle	Handgun	Yes	No	Dog Bite injury	Pending
3	Caucasian	No	Nail Gun & Knife	Handgun	Yes	Yes	Fatal gunshot wound	Pending
4	Hispanic	No	Handgun	Handgun	Yes	No	Non-fatal gunshot wounds	Pending
5	Hispanic	No	Vehicle	Handgun	Yes	No	Non-fatal gunshot wound	Pending

* In 1999, the SJPD developed Crisis Intervention Team Training (CIT). This training addresses a variety of mental health issues and crisis intervention situations encountered by police officers on a regular basis.

In 2010 there were five officer-involved shootings resulting in injury or death, and one in-custody fatal incident. When these incidents occur, the IPA has specific mandated responsibilities. Information about these incidents and the IPA’s responsibilities are discussed in this section.

A. Officer-Involved Shooting

The SJPD Duty Manual Section L 2638 describes when an officer may use deadly force. It states, “An officer may discharge a firearm under any of the following circumstances: . . . When deadly force is objectively reasonable in self-defense or in

defense of another person's life." When a person is injured or killed as a result of an officer-involved shooting, there is community concern; questions inevitably arise about the need for the use of lethal force. In recognition of the serious nature of these issues, the IPA has been given specific responsibilities, including responding to the scene when these incidents occur and participating on the Shooting Review Panel that evaluates the SJPD investigation. See Illustration 4-L.

Every officer-involved shooting that results in death is subject to a thorough investigation and review process that is depicted in Illustration 4-M. As the illustration indicates, the SJPD Homicide Unit conducts a criminal investigation that is monitored by IA. The criminal investigation is presented to the County Grand Jury by the Santa Clara County District Attorney to determine whether there is sufficient evidence to institute criminal proceedings against the officer. The Grand Jury can make one of two determinations:

- **No True Bill:** If the Grand Jury deems that there is insufficient evidence to initiate criminal action against the officer, IA conducts an administrative review to determine whether the officer's actions were within SJPD's own policies.

- **True Bill:** If the Grand Jury deems that there is sufficient evidence, a "true bill" of indictment is filed and the officer proceeds through the criminal trial process. If the officer is acquitted of criminal conduct, IA still conducts an administrative review to determine whether the officer's actions were within the SJPD policy. Thus, although the officer may not receive punishment or penalty in the criminal system, the officer may receive discipline if the SJPD determines that his/her actions fell outside of SJPD's policy.²⁹ If the officer is convicted, the officer is usually terminated from SJPD employment.

B. IPA Review

The IPA's role and responsibilities in connection with an officer-involved shooting depend entirely upon whether a member of the public has filed a complaint about the incident with either IA or the IPA. If there is no public complaint about the incident, the IPA's role is limited.³⁰ In 2010, there was only one officer-involved shooting incident that resulted in a complaint from the public.³¹

²⁹A conviction in a criminal trial is based upon a "beyond a reasonable doubt" standard — that standard is very high. The standard used to determine whether an officer acted outside of SJPD policy is lower; it is the "preponderance of the evidence" standard.

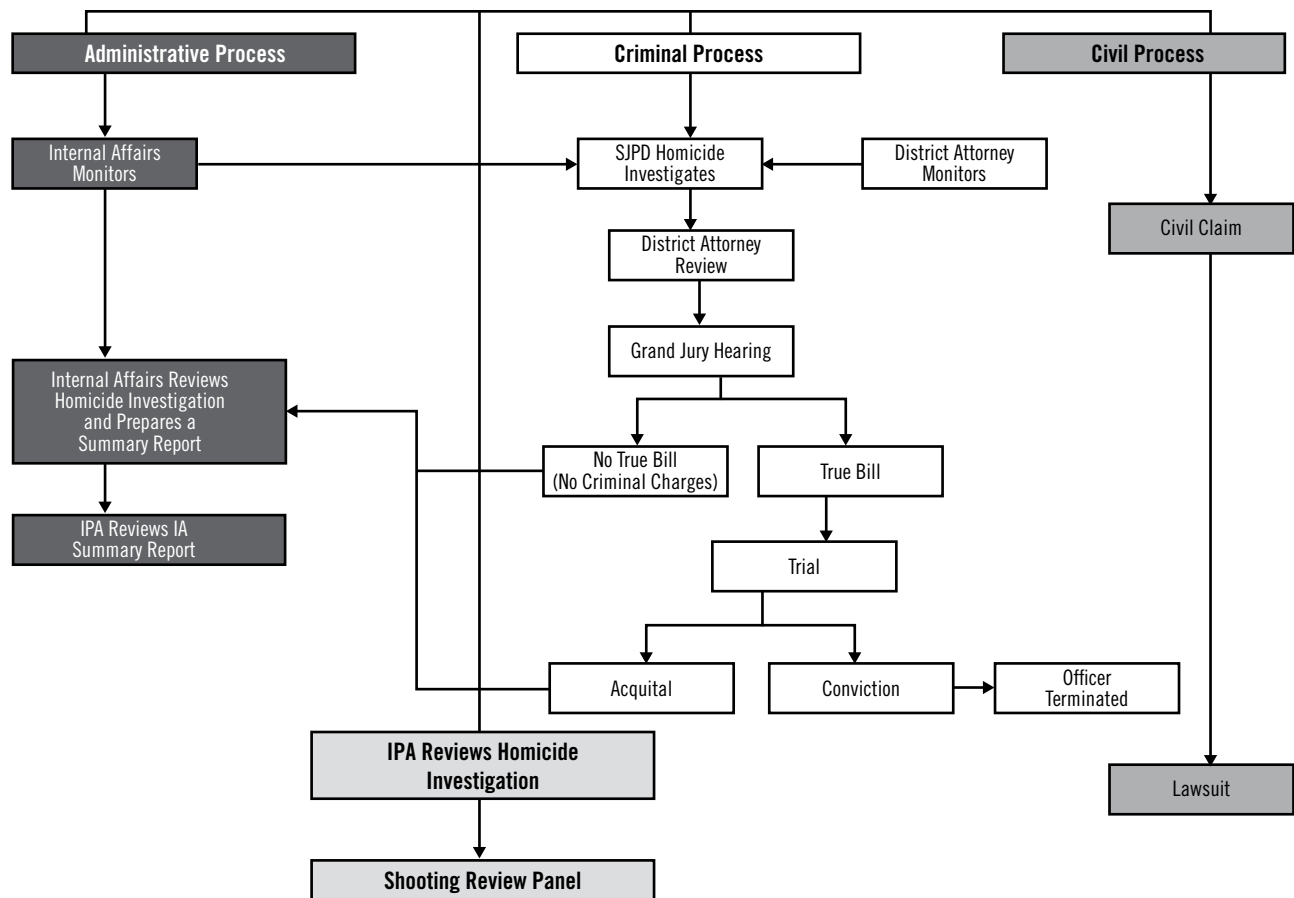
³⁰The SJPD may initiate an investigation of the officer's conduct. However, the IPA is not permitted to review or audit Department-Initiated Investigations.

³¹Because this was deemed by IA to be an accidental discharge case, no formal shooting review panel will be convened.

Illustration 4-L: Role of IPA in Officer-Involved Shootings

All Officer-Involved Shooting Incidents	Officer-Involved Shooting Incident in which a public complaint is filed
IPA is notified of incident, and can respond to scene and be briefed by IA Commander.	IPA is notified of incident, and can respond to scene and be briefed by IA Commander.
IPA can participate in the shooting review panel. IPA is provided with pertinent documents to prepare for panel.	IPA can participate in the shooting review panel. IPA is provided with pertinent documents to prepare for panel.
The purpose of the panel is to determine whether any training or equipment needs exist or if any changes to SJPD policies are warranted. The panel does not determine whether the officer acted within SJPD policy.	The purpose of panel is to determine whether any training or equipment needs exist or if any changes to SJPD policies are warranted. The panel does not determine whether the officer acted within SJPD policy.
	IPA can attend interviews of witnesses and any subject officers conducted by IA.
	The IA investigation determines whether the officer acted within SJPD policy. The IA audits the IA investigation to determine whether it was fair, thorough, complete and objective.
	IPA can appeal IA's determination to the Chief of Police and to the City Manager.

Illustration 4-M: Officer-Involved Shooting Review Process



In-Custody-Death Training Review Panel

In 1999 the SJPD established an officer-involved shooting incident training review panel. The Panel is convened to review officer-involved shootings where a person was wounded or killed in order to determine whether any training or equipment needs exist or if changes to SJPD policies are warranted. This panel, however, was limited to incidents in which an officer fired his/her gun — it does not include a review of other deaths that occurred while a suspect was in police custody.

In January 2008 the SJPD established a separate review panel designed to address incidents in which a death occurs, not as the result of an officer-involved shooting, but while a person is in the custody of an SJPD officer.

An in-custody death can occur anywhere at any time. Generally “custody” ends when the person is released from the police department or the jail booking process is completed.** However, when a death occurs while a suspect is under the physical control of SJPD officers, such as being restrained, arrested, transported, or during the jail booking process, the death may be considered “in-custody.” The In-Custody-Death Training Review Panel was created to provide a review of SJPD policies and procedures related to these deaths.

The In-Custody-Death Training Review Panel consists of individuals selected by the Chief of Police and includes command staff and management level SJPD personnel, as well as a representative from the Office of City Attorney and the Office of the Independent Police Auditor. Similar to the protocol following the officer-involved-shooting incidents, this review is limited to discussions of concerns and recommendations relating to SJPD policy/procedure, training/tactics, officer safety, equipment and communication. The panel does not determine whether the officer acted in or out of policy.

Unlike the policy for an officer-involved shooting where the IPA is promptly advised of the incident and may respond to the scene, the In-Custody-Death protocol does not indicate when the IPA will be notified, and states that the Chief of Police will determine if the IPA may respond to an In-Custody death scene and receive a briefing.

The Internal Affairs investigation determines whether the officer acted in or out of policy. Unless a citizen files a misconduct complaint with IA or the IPA related to the in-custody death, the IPA does not have the authority to audit the Internal Affairs investigation of the event and the IA determination about whether the officer acted in or out of policy.

** If the death occurs after release, and it is established that a San José officer used reportable force prior to the release, the Chief of Police has the discretion to refer the case to the panel for review.

Chapter Five: Recommendations & Concerns

I. Recommendations

One of the responsibilities of the Independent Police Auditor (IPA) is to recommend improved police procedures and policies. In the past, the IPA presented recommendations to the San José Police Department (SJPD) once a year. In 2010, the IPA decided to convey recommendations to the SJPD throughout the year when issues came to our attention in the cases that we audited.

Below are recommendations made by the IPA to Internal Affairs (IA) in 2010:

- Generally, IA investigations into police misconduct must be completed within one year. If criminal charges are filed — either against the complainant or an officer — that one year time frame is extended until the criminal case is over. The IPA recommended better coordination between IA and the SJPD’s criminal investigation unit. In this way, the IA investigation will be completed a timely fashion, leaving sufficient time for IPA review and input.
 - The IPA requested that the policies governing an officer’s use of a taser be re-evaluated. This request was prompted by review of complaint incidents in which tasers were used by SJPD officers and several Ninth Circuit Federal Court decision about when a taser can be lawfully used.³² Separate and apart from this request, the SJPD was already engaged in its own intensive review of its taser use policy. This review was prompted by the developing federal case law, changes in the manufacturer’s guidance on taser use, the growing scientific
- literature on tasers, and the SJPD’s own experience. This review resulted in the issuance of a revision to SJPD’s Duty Manual Section L 2615 in 2010.
 - The IPA requested that SJPD enact a policy requiring officers to document in their police reports on what specific areas of the body the deployed taser darts were located.
 - The IPA requested that a policy be established that restricts an officer from engaging in any enforcement action if the officer has a personal connection to the incident. We recommend that officers who are related by family or have friendship ties to people involved in incidents must avoid any involvement.³³
 - The IPA recommended that the SJPD adopt a new “sting” policy that prohibits the use of an officer’s own money in the sting operation. We also recommended that approval procedures for undercover sting operations be clarified.
 - There are different types of investigative interviews. Criminal interviews attempt to glean facts about whether a person broke the law. Administrative interviews attempt to glean facts about whether an officer broke a rule in the Duty Manual. If force is used during an arrest, the SJPD may wish to ask the person arrested in an administrative interview about the officer’s use of force. The IPA recommended that SJPD remind officers that they are required to give arrestees a Miranda warning before proceeding with administrative

³²*Bryan v. McPherson*, 590 F.3d 767 (9th Cir. 2009), opinion superceded, *Bryan v. McPherson*, 608 F. 3d 805 (9th Cir. 2010)

³³In 2011, the SJPD revised its policy on conflict of interest. Duty Manual C 1450.

interviews. This warning prohibits the officer from questioning the person if that person invokes the Fifth Amendment right to remain silent. This requirement is in Duty Manual Sections L 2605, L 2606, and L 2607.

- The misconduct complaint process allows a complaint to be closed with “No Findings.” If an officer were to resign from SJPD before the IA investigation were completed, then any allegations still pending against that officer would be closed as “No Findings.” Therefore, the precise definition of the IA investigation completion date is very important. The IPA recommended that IA guidelines include an exact definition of when an IA investigation is deemed completed.
- The IPA recommended that the Juvenile Contact Report form³⁴ be revised to require the mandatory notification of parents. This form is used to document contact between an officer and a juvenile that does not result in the juvenile being taken into custody. We also recommended that an age threshold be set before juveniles can be required to sign the form. Because the Juvenile Contact Report form is used by all law enforcement agencies in the county, IA is working with Santa Clara County to make this revision.
- Since July 2008, the IPA has recommended that SJPD implement a policy clearly directing officers to be courteous to the public and tactful in the performance of their duties. Throughout 2008 and 2009, SJPD policy had narrowly defined courtesy as the inappropriate use of profane or derogatory language or obscene

gestures. Effective October 14, 2010, the Chief of Police revised Duty Manual Section C 1308 that now expressly directs all officers to be courteous and professional to the public and tactful in the performance of their duties.

- The IPA recommended that the SJPD home webpage include a link to Internal Affairs so that members of the public could easily find information about the misconduct complaint process and contact information for the IA Unit. In 2010, SJPD established on its home webpage a clearly visible link entitled “Internal Affairs Compliments and Complaints.”
- Throughout 2010, Judge Cordell recommended and advocated for higher staffing levels at the IA Unit to ensure that misconduct investigations were completed in a timely fashion.

II. Concerns

The IPA office was created, in part, to provide independent oversight of and to instill confidence in the complaint process through objective review of IA’s police misconduct investigations. Confidence in the process can be accomplished only if the process is effective. The City’s Municipal Code grants to the IPA the discretion to request that IA conduct additional investigations or to re-evaluate its analyses.³⁵ Additionally, the Municipal Code gives the IPA the ability to appeal decisions, first to the Police Chief and then to the City Manager.³⁶ In 2010, the IPA had some concerns about the complaint process. These concerns are discussed next.

³⁴Report Form #2259.

³⁵See San José Municipal Code 8.01.010(A)(4) in Appendix A to this Report.

³⁶Id.

A. Timeliness

In order to be meaningful, the IA investigative process must be timely. In general, IA has 365 days to investigate an allegation of police officer misconduct.³⁷ That one-year period includes the audit that must be performed by the IPA. If Internal Affairs uses most of those 365 days to investigate, then that leaves little to no time for IA to do further investigation and re-analysis, if requested to do so by the IPA. When there is insufficient time for re-investigation and re-analysis, the IPA oversight responsibility is rendered useless. Likewise when the 365-day period has elapsed, the IPA's right to appeal to the City Manager evaporates.

The timeliness of the investigations is controlled primarily by IA.³⁸ This means that the same entity (IA) which submits its investigations to the IPA, determines which investigations can be impacted by the IPA. And when IA investigations are completed in an untimely manner, there are no consequences.

In 2010, IA closed investigations of 228 conduct complaints. Of these closed investigations, 49 cases (21% of the 228 cases closed), were closed by IA after 300 days had passed — leaving the IPA 65 or fewer days to review and file an appeal. Illustration 5-A lists these cases showing the date the complaint was received by IA and the date IA completed the investigation. Of these 49 cases, 26 of them (53% of the 49 cases) were Force Cases. Appendix L lists all 228 closed conduct complaints with the dates that IA and the IPA received them and the dates that IA completed the investigations.

³⁷Government Code Section 3304(d) states that, within one year of the Department's knowledge of possible officer misconduct, the Department must complete its investigation into the alleged misconduct and notify the officer that the department intends to impose discipline. There are limited exceptions that temporarily halt the 365-day deadline.

³⁸When IA determines that there may be sufficient evidence for a Sustained finding, the IA investigation is sent to a SJPD Lieutenant or SJPD Sergeant outside of IA. That Lieutenant or Sergeant reviews the IA investigation, may conduct additional investigation, and recommends the findings on these cases. IA has limited control over the speed in which this second layer of SJPD review is conducted.

Illustration 5-A: All Cases (Including Force Cases)

Closed Over 300 Days in 2010*

Note: cases in bold contain one or more allegations of force

*The 365-day time limit was tolled pursuant to Government Code Section 3304.

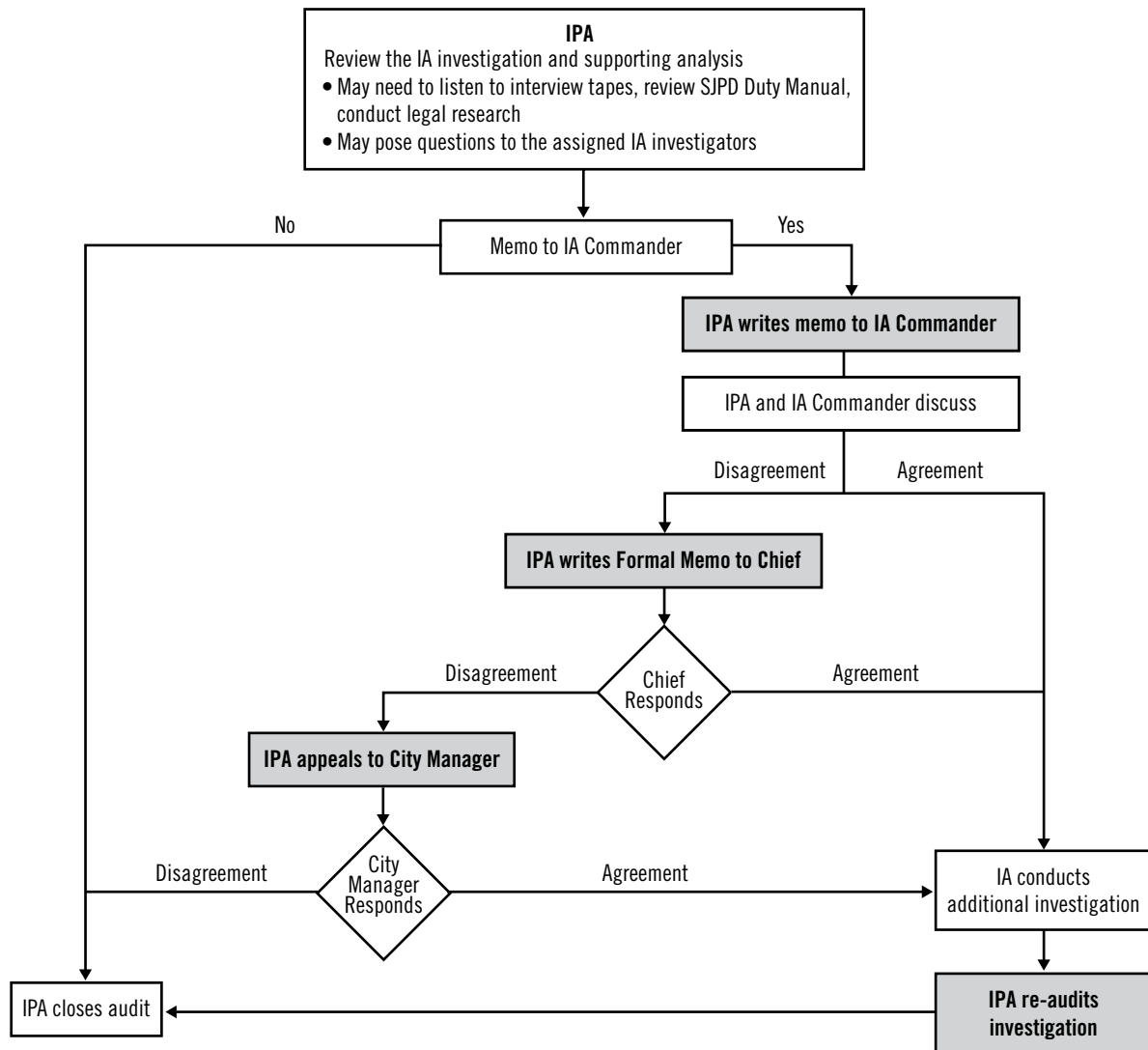
No	Received Date	Completed Date	# of Days
1	1-Jun-07	25-Jun-10	1120
2	20-Sep-07	18-May-10	971
3	24-Nov-08	19-Apr-10	511
4	28-Oct-08	15-Apr-10	458*
5	8-Jun-09	13-Aug-10	431
6	17-Jun-09	18-Aug-10	427
7	24-Oct-08	8-Apr-10	412*
8	17-Mar-09	28-Apr-10	407
9	23-Apr-09	3-Jun-10	406
10	1-May-08	5-Jan-10	381*
11	14-May-09	19-May-10	370
12	12-Aug-09	16-Aug-10	369
13	4-Nov-09	4-Nov-10	365
14	26-Jan-09	25-Jan-10	364
15	19-May-09	15-May-10	361
16	10-Nov-09	4-Nov-10	359
17	14-Apr-09	2-Apr-10	353
18	11-Feb-09	29-Jan-10	352
19	16-Nov-09	2-Nov-10	351
20	17-Jun-09	1-Jun-10	349
21	10-Feb-09	14-Jan-10	338
22	10-Feb-09	14-Jan-10	338
23	11-Feb-09	14-Jan-10	337
24	28-Sep-09	30-Aug-10	336
25	13-Feb-09	14-Jan-10	335
26	20-Mar-09	18-Feb-10	335
27	28-Sep-09	25-Aug-10	331
28	18-Feb-09	14-Jan-10	330
29	9-Jul-09	1-Jun-10	327
30	19-Nov-09	12-Oct-10	327
31	15-Jan-10	8-Dec-10	327
32	4-Sep-09	27-Jul-10	326
33	23-Feb-09	14-Jan-10	325
34	21-Sep-09	12-Aug-10	325
35	26-Feb-09	14-Jan-10	322
36	18-Mar-09	3-Feb-10	322
37	23-Apr-09	11-Mar-10	322
38	15-Oct-09	2-Sep-10	322
39	15-Dec-09	1-Nov-10	321
40	4-Aug-09	15-Jun-10	315
41	29-Sep-09	10-Aug-10	315
42	17-Dec-09	26-Oct-10	313
43	13-Jul-09	19-May-10	310
44	6-Nov-09	10-Sep-10	308
45	2-Feb-10	7-Dec-10	308
46	4-Mar-09	5-Jan-10	307
47	7-Oct-09	10-Aug-10	307
48	9-Dec-09	12-Oct-10	307
49	5-Jan-10	2-Nov-10	301

The purpose of the IPA audit is to assess whether the IA investigation was fair, thorough, complete and objective. When the IPA receives a case from IA with just 65 days remaining, we must do several things. We review the IA investigation and the analysis supporting the finding on each allegation. To do this, it may be necessary for IPA staff to listen to recordings of interviews, review SJPD Duty Manual sections, and/or conduct legal research. We may pose questions to the assigned IA investigators. IPA staff discuss each closed investigation at a staff audit meeting. We do this so that no one staff person controls the IPA audit process. If we identify concerns, Judge Cordell discusses them with the IA Commander. If these discussions do not resolve

the issues, the IPA has the right to file a formal appeal, first with the Chief of Police and then to the City Manager. If the Chief of Police and/or the City Manager agrees with the IPA that further investigation and/or analysis should be done, there must be sufficient time within that 365-day period for that investigation or analysis to occur. Fewer than sixty-five days is insufficient time for us to complete this rigorous audit process.

The illustration below shows the IPA audit process that must be completed within 65 days when the IPA receives an investigation from IA that IA has closed 300 days after receipt of the complaint.

Illustration 5-B: What the IPA Must Do Within 65 Days



It is imperative that SJPD establishes clear goals and corresponding performance measures for the timeliness of IA investigations. Timely investigations yield several benefits. They eliminate “stale interviews” – interviews of witnesses or officers conducted many months after the incidents, so that the officers can no longer recall what transpired. Timely investigations mean that the IPA has sufficient time to review and request additional investigation or re-analysis. Timely investigations mean that the City Manager has time to thoroughly consider any appeal so that if any discipline is imposed it can be carried out. Timeliness ensures that the investigation and audit processes truly have meaning.

B. Objectivity

The IPA does not investigate conduct complaints. Investigations of officer misconduct complaints are investigated exclusively by officers assigned to the IA. Some community members have expressed skepticism about the police investigating the police. They worry that officers are inherently biased in favor of fellow officers and therefore, will minimize any misconduct. By auditing these investigations, the IPA attempts to ensure that the investigation process is objective. In 2010, the IPA identified issues of concern about the objectivity of IA investigations. We have raised these concerns with IA, the Chief of Police and the City Manager, and we are encouraged by their willingness to examine these issues.

1. Subject Officer Interviews

Only the IPA or the Assistant IPA may attend an IA interview of an officer who is the subject of a complaint.³⁹ Pursuant to the City’s Municipal Code, the IPA is not allowed to directly participate in the questioning of the officer; instead, the IPA

may suggest questions to the IA investigator who conducts the interview. Occasionally, the manner in which the interviews were conducted led us to question their objectivity.

For example, there were several instances in which leading questions were asked. Leading questions are not appropriate in these interviews because they suggest the answers to the questions being asked. They “lead” the person to give the answer that the questioner wants.⁴⁰

As noted above, questions posed by the IPA and Assistant IPA must be directed to the IA investigator, who then asks that question of the officer. The IA interviewer *may*, but is not required to ask the questions posed by the IPA. The IA interviewers are sworn SJPD officers who do not have formal legal training. The IPA is a retired judge and the Assistant IPA is a former Deputy County Counsel. Yet there were instances when questions requested by the IPA and Assistant IPA were refused because our questions were deemed “not relevant.” It is our hope that, after further discussions with IA staff, our questions will be deemed relevant and viewed as promoting objectivity in the investigative process.

2. Investigatory Analysis

After IA has gathered the necessary evidence such as police reports, photographs, dispatch records, witness and/or subject officer interview statements, the IA investigation proceeds to the analysis stage. In this stage, the investigator must review the applicable Duty Manual sections, examine the alleged facts and perceptions, weigh the credibility of witnesses, and address any discrepancies. The investigator must connect the facts to the Duty Manual sections and using the preponderance of evidence standard, determine whether the officer’s

³⁹Both the IPA and the Assistant IPA are attorneys with formal training in the conduct of interviews (depositions) and familiar with the legal concept and scope of relevancy.

⁴⁰Examples of leading questions are, “You didn’t strike the suspect after he was handcuffed, right?” or “Didn’t the suspect fall because he was very drunk?”

conduct violated the Duty Manual.⁴¹

During 2010, the IPA had concerns about the quality of IA analysis in some cases. These concerns included the following:

- failing to identify and apply the appropriate Duty Manual sections
- interpreting the facts to justify the officer's conduct
- assessing the facts from the officer's perspective without considering the perspective of the complainant
- dropping allegations listed in the original intake complaint without explanation
- making conclusions without attempting to explain discrepancies
- making conclusions without assessing the credibility of the witnesses when there are multiple witnesses
- inappropriately applying technical or academic definitions to commonly used words⁴²
- making assumptions about the officer's conduct instead of examining what the officer actually did
- failing to properly apply the preponderance of the evidence standard

In a limited number of complaints, IA sends its investigation files to SJPD lieutenants, who are not assigned to IA, for further investigations and analyses. Oftentimes these lieutenants lacked IA experience. As a result, objectivity concerns surfaced in their investigations and analyses.

C. Sustained Rates

Chapter Three provides data on the number and type of findings that were generated on each allegation closed in 2010. Discipline can be imposed on an officer only when there is a Sustained finding on an allegation of misconduct. "Sustained" means

that the IA investigation disclosed sufficient evidence to prove clearly that the allegation made in the complaint is true. The sustained rate is the percentage of Conduct Complaints (not allegations) that result in a finding of Sustained for one or more allegations. The sustained rate has held steady at about 7% for the last two years, after a dip to 5% in 2008. In 2010 IA did not issue a Sustained finding for any Force, Bias-Based Policing, or Neglect of Duty allegations. There were 201 of these allegations.

Illustration 5-C: Sustained Allegations by Type in 2010

Allegation	Number Closed	Number Sustained	Sustained Percentage by Type
Procedure	188	14	7%
Force	152	0	0%
Arrest or Detention	81	3	4%
Courtesy	77	2	3%
Search or Seizure	69	3	4%
Bias-Based Policing	30	0	0%
Conduct Unbecoming an Officer	20	5	25%
Neglect of Duty	19	0	0%

It is important to note that some allegations are difficult to prove. Some allegations reflect conduct that does not feel fair or right to the complainant, but is nevertheless permitted by law. This may be especially true when a person cannot know all of the circumstances surrounding an officer's action. Laws have developed that give preference to officer experience and perception in ways that can seem unfair to a person who is the subject of a law enforcement action. If the officer's conduct does not actually violate a rule, law, or policy, the officer cannot be disciplined.

However, even taking these considerations into account, we are concerned about the zero percent Sustained Rate for Force, Bias-Based Policing,

⁴¹The preponderance of evidence means the greater weight of the evidence or the evidence that has the most convincing force.

⁴²In one case, a complainant alleged that an officer called her "dumb." The IA analysis justified the officer's use of the word "dumb" by referencing Webster's Dictionary and relying upon the more obscure definition of "dumb" (lacking the human power of speech), while ignoring the more common Webster's definition of "dumb" (stupid) which was pertinent to the complainant's allegation.

and Neglect of Duty allegations. We are concerned because these zero percent sustained rates may indicate a lack of objectivity in the IA investigation and analysis. Our concerns specific to officers' use of force are addressed in Chapter Four. The IPA will continue to monitor the zero percent sustained rates and will discuss this concern with the appropriate City officials.

D. Other Concerns

The following concerns are not related to the complaint process but address SJPD policy and procedures.

1. Taser Utilization and Tracking

As is reflected in the data in Chapter Four, allegations that an officer improperly deployed a taser have decreased each year from 2007 to 2010. However, the public's continuing concern about taser usage was expressed at numerous IPA outreach meetings and presentations in 2010.

In the spring of 2004, the SJPD began issuing to every patrol officer a taser device. Because the taser was a relatively new tool to law enforcement at that time, Chief of Police Rob Davis initiated a *Taser Usage Study* to determine whether the devices were being deployed effectively and whether training issues existed. After a second *Taser Usage Study*, the SJPD determined how taser usage compared with the use of other force options, such as control holds and batons. In 2005 the SJPD developed a Force Response Report form and directed the officers to track not only taser use but also all uses of force.⁴³ The *SJPD 2006 Annual Force Response Report* was issued in March 2007; the *SJPD 2007 Annual Force Response Report* was issued a year later. There have been no *Annual Force Response Reports* released since March 2008. However,

officers are still required to complete Force Response Reports when warranted.

The IPA is aware that preparation of these reports can be labor-intensive. However, the issues that prompted the first *Taser Usage Study* remain — namely, whether the devices are being deployed effectively and whether there are any training concerns. The SJPD cannot analyze these issues without tracking taser use. If the SJPD is tracking taser use, the IPA recommends that the SJPD release an annual report on taser use to the public. Concerns about taser use may lessen if the public knows that taser usage is tracked, analyzed and reported in a public document. Failure to provide such information to the public contributes to community distrust, fear and potentially inflated rumors. We believe that it would be very beneficial for the public to see taser usage in comparison to other force options. However, if the generation of this data renders this annual reporting unwieldy, then we encourage the SJPD to issue an annual report that focuses only on taser usage.

2. Expanding SJPD's Early Warning System

Currently, the SJPD tracks officers who receive three or more complaints containing the same type of allegation or officers who have a combination of five complaints within a 12-month period. Those officers who are flagged under this Early Warning System (EWS) are provided with non-disciplinary intervention counseling wherein supervisors and Command staff speak with the officer informally about personal and work-related issues. The IPA is concerned that the parameters of this program are too narrow and that too few officers are being identified who could benefit from non-disciplinary intervention counseling.

⁴³Officers are directed to document "reportable uses of force" which does not include all force used by an officer. Minimal force or force that does not result in a complaint of residual pain is generally not documented on this form. Such force may, or may not, be described by the officer in the police or incident report.

The SJPD leadership shares this concern and has stated its intention to us to re-evaluate and improve the Early Warning System. We applaud this commitment; and while we realize that budget and staffing cuts may delay full implementation of an expanded EWS, we believe that an important first step in improving the effectiveness of the EWS can be taken now. By simply extended the early warning period to two or more years, it is likely that more officers may immediately receive the benefits of non-disciplinary intervention counseling.

Appendix A

San Jose Municipal Code Chapter 8.04 and San Jose City Charter §809

SAN JOSE MUNICIPAL CODE CHAPTER 8.04

OFFICE OF THE INDEPENDENT POLICE AUDITOR

8.04.010 Duties and responsibilities.

In addition to the functions, powers and duties set forth elsewhere in this code, the independent police auditor shall have the duties and responsibilities set forth in this section.

A. Review of internal investigation complaints. The police auditor shall review police professional standards and conduct unit investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair.

1. The minimal number of complaints to be reviewed annually are:
 - a. All complaints against police officers which allege excessive or unnecessary force; and
 - b. No less than twenty percent of all other complaints.

2. The police auditor may interview any civilian witnesses in the course of the review of police professional standards and conduct unit investigations.

3. The police auditor may attend the police professional standards and conduct unit interview of any witness including, but not limited to, police officers. The police auditor shall not directly participate in the questioning of any such witness but may suggest questions to the police professional standards and conduct unit interviewer.

4. The police auditor shall make a request, in writing, to the police chief for further investigation whenever the police auditor concludes that further investigation is warranted. Unless the police auditor receives a satisfactory written response from the police chief, the police auditor shall make a request, in writing, for further investigation to the city manager.

B. Review of officer-involved shootings. The police auditor shall participate in the police department's review of officer involved shootings.

C. Community function.

1. Any person may, at his or her election, file a complaint against any member of the police department with the independent auditor for investigation by the police professional standards and conduct unit.

2. The independent police auditor shall provide timely updates on the progress of police professional standards and conduct unit investigations to any complainant who so requests.

D. Reporting function. The police auditor shall file annual public reports with the city clerk for transmittal to the city council which shall:

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

E. Confidentiality. The police auditor shall comply with all state laws requiring the confidentiality of police department records and information as well as the privacy rights of all individuals involved in the process. No report to the city council shall contain the name of any individual police officer.
(Ords. 25213, 25274, 25922.)

8.04.020 Independence of the police auditor.

A. 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.

B. 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, above.
(Ord. 25213.)

SAN JOSE CITY CHARTER §809

OFFICE OF THE INDEPENDENT POLICE AUDITOR

The Office of the Independent Police Auditor is hereby established. The Independent Police Auditor shall be appointed by the Council. Each such appointment shall be made as soon as such can reasonably be done after the expiration of the latest incumbent's term of office. Each such appointment shall be for a term ending four (4) years from and after the date of expiration of the immediately preceding term; provided, that if a vacancy should occur in such office before the expiration of the former incumbent's terms, the Council shall appoint a successor to serve only for the remainder of said former incumbent's term.

The office of Independent Police Auditor shall become vacant upon the happening before the expiration of his or her term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k) and (l) of Section 409 of this Charter. The Council, by resolution adopted by not less than ten (10) of its members may remove an incumbent from the office of the Independent Police Auditor, before the expiration of his or her term, for misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties, provided it first states in writing the reasons for such removal and gives the incumbent an opportunity to be heard before the Council in his or her own defense; otherwise, the Council may not remove an incumbent from such office before the expiration of his or her term.

The Independent Police Auditor shall have the following powers and duties:

- (a) Review Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair.
- (b) Make recommendations with regard to Police Department policies and procedures based on the Independent Police Auditor's review of investigations of complaints against police officers.
- (c) Conduct public outreach to educate the community on the role of the Independent Police Auditor and to assist the community with the process and procedures for investigation of complaints against police officers.

Added at election November 5, 1996

§ 809.1. Independent Police Auditor; Power Of Appointment

(a) The Independent Police Auditor may appoint and prescribe the duties of the professional and technical employees employed in the Office of the Independent Police Auditor. Such appointed professional and technical employees shall serve in unclassified positions at the pleasure of the Independent Police Auditor. The Council shall determine whether a particular employee is a "professional" or "technical" employee who may be appointed by the Independent Police Auditor pursuant to these Subsections.

(b) In addition, subject to the Civil Service provisions of this Charter and of any Civil Service Rules adopted pursuant thereto, the Independent Police Auditor shall appoint all clerical employees employed in the Office of the Independent Police Auditor, and when the Independent Police Auditor deems it necessary for the good of the service he or she may, subject to the above-mentioned limitations, suspend without pay, demote, discharge, remove or discipline any such employee whom he or she is empowered to appoint.

(c) Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the Independent Police Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the Independent Police Auditor anything pertaining to the appointment and removal of such officers and employees.

Added at election November 5, 1996

Appendix B

Statement of Values



Office of the Independent Police Auditor

STATEMENT OF VALUES

I acknowledge that as a member of the staff of the Office of the Independent Police Auditor for the City of San Jose, I am expected to demonstrate the highest standards of personal integrity and honesty in all activities and in all settings in order to inspire public confidence and trust in the Office. My conduct in both my official and private affairs must be above reproach and my standards, views and behavior will comply with the following values:

1. **Integrity:** Demonstrate the highest work ethic; be honest and accountable.
2. **Independence:** Perform work that is free from actual influence or the appearance of influence of any individual or group; adhere to the No-Gift Policy of the Office.
3. **Confidentiality:** Understand and appreciate the critical importance of confidentiality to the Office; demonstrate unwavering adherence to the rules of confidentiality at all times.
4. **Respect:** Treat everyone fairly and be considerate of diverse views.
5. **Objectivity:** Be equitable, fair and neutral in the evaluation of complaints and issues considered by this Office.
6. **Professionalism:** Be committed to the mission of the IPA Office; refrain from making statements which may be viewed as compromising the independence and integrity of the IPA Office, its work, and its staff.

Adopted July, 2010 – IPA and Staff

Appendix C

No-Gift Policy



Office of the Independent Police Auditor

NO-GIFT POLICY

Employees of the Office of the Independent Police Auditor must be held to the highest standard of conduct, to ensure that the independence and integrity of the unique work of the Office is maintained.

The acceptance of gifts or gratuities of any kind by the staff of the Office could be perceived or interpreted as an attempt by the donors to influence the actions of the staff. **Therefore, no gifts of any value may be accepted by members of the staff of the Office of the Independent Police Auditor from any individual or organization that may be impacted by the work of the employee or the Office.** However, gifts from family members and close personal friends are permissible, so long as they are consistent with state law and the City's Gift Policy and Ordinance.

Gifts include, but are not limited to the following: (1) any rebate or discount in the price of anything of value, unless the rebate or discount is made in the regular course of business to members of the public; (2) complimentary tickets; (3) meals, (4) holiday presents, and (5) non-informational materials.

This policy is more stringent than and supersedes the City's Gift Policy and Ordinance, as applied to the IPA Office, to the extent the City's Gift Policy and Ordinance conflict with this policy.

Adopted July, 2010 – IPA and Staff

Appendix D

Media Statement to the Community

Opinion: Who will guard the guards? San Jose's independent police auditor

By LaDoris Cordell
Special to the Mercury News
Posted: 07/20/2010 12:01:00 AM PDT

Quis custodiet ipsos custodes? This question, posed by the Roman poet Juvenal, translated literally, means, "Who will guard the guards themselves?" This same question was pondered by the Greek philosopher Plato, who concluded that the guards should guard themselves.

Fast forward to modern day, when his daughter Lisa asked Homer Simpson, "If you're the police, who will police the police?" Homer's response was, "I don't know — the Coast Guard?" Not really. But in the wake of events such as the videotaped beating of Rodney King in 1991, Plato's answer is also lacking, for two reasons.

First, the police, no less than the rest of us, are not gods but mortals — composites of strength and weakness, insight and obtuseness. Second, and no less important, it is not enough that the police be fair, they must be perceived to be fair by the public they serve — a perception that is undermined when guards are left to guard themselves.

The debate over who should oversee the police has existed since the beginning of American policing. From local political bosses to police commissions to civilian review boards to police auditors, just who is best suited to police the police has changed over the years. In San Jose, the Office of the Independent Police Auditor was established by the City Council in 1993 and made a permanent branch of city government by San Jose residents in 1996. The office's primary mandates are to serve as an alternative location for individuals to file complaints against San Jose police officers and to monitor and audit the Internal Affairs Unit's investigations of these complaints.

The independence of the IPA Office is vital to its police oversight function. When allegations recently surfaced that confidential information had been leaked by our office to a police officer in 2009, our independence and integrity were questioned. Despite a thorough investigation that firmly established that there were no such leaks, the public's trust and confidence in the IPA Office was shaken. The work of rebuilding that trust is now underway.

This month the office adopted a Statement of Values which can be viewed on our website: www.sanjoseca.gov/ipa. Our staff has affirmed its understanding and support of these values: integrity, independence, confidentiality, respect, objectivity, and professionalism, all of which must guide our work. Also enacted this month is our No-Gift Policy, posted on our website, which prohibits the IPA staff from accepting gifts of any value from individuals or organizations, with the exception of family and close personal friends. This ensures that the staff of the IPA Office will remain free of actual and perceived influence.

The IPA is a public official appointed by the City Council and mayor. Because members of the public have the right to know what the IPA is doing and with whom the IPA is meeting, the calendar can be viewed on the office's website.

The IPA Office is in the process of rejuvenating and reorganizing its Advisory Committee to include a diverse array of individuals who live and work in the City of San Jose. The mission of this committee, which will meet four times a year, is to promote community awareness of the services offered by the IPA Office, to keep the office informed of police-related issues and concerns, and to find creative ways to support the work of the office. This partnership with community members will go far to restore confidence in the IPA Office. Applications for membership may be downloaded at our website.

So, quis custodiet ipsos custodies? We in the Office of the Independent Police Auditor will, that's who. And we will do it well.

LADORIS CORDELL, a retired Superior Court judge, is San Jose's Independent Police Auditor. She wrote this article for this newspaper.

Appendix E

Mediation Protocol

PROTOCOL FOR MEDIATION OF RUDE CONDUCT/COURTESY COMPLAINTS

1. **Purpose:** The purpose of mediation is to provide a safe and confidential venue in which to discuss the circumstances of the rude conduct/courtesy complaint, and to arrive at an understanding of the parties' respective points of view, with the assistance of a mediator.
2. **Confidentiality:** What is said in the mediation session by the police officer, the complainant and the mediator is confidential and may not be divulged to anyone. Nothing that is said in the mediation can be used in any forum, including, but not limited to administrative, civil and criminal court proceedings. Only the fact that the mediation has taken place and the parties' opinions about the mediation may be disclosed. Under no circumstances can the identities of the officer and the complainant as participants in the mediation be disclosed unless the subject officer or complainant chooses to reveal his/her own identity. The name of the mediator is not confidential and may be disclosed by any of the participants in the mediation.
3. **Agreement:** Each party and the mediator must sign a confidentiality agreement at the start of the mediation, and will be provided with copies of the signed agreement. The original of the agreement will be lodged in the Office of the Independent Police Auditor, with a copy provided to the Internal Affairs Unit (IA).
4. **Voluntary:** Mediation is entirely voluntary. Neither the officer nor the complainant can be compelled to participate in mediation, and no pressure may be placed upon either party to participate. There is no penalty for refusing to engage in mediation.
5. **Good Faith:** Parties who participate in mediation are expected to participate in good faith, and to be respectful and civil to one another and to the mediator.
6. **Status of the Complaint:** The Rude Conduct/Courtesy Complaint must be withdrawn by the complainant prior to the start of the mediation. The complainant will sign an agreement to withdraw the complaint, in the presence of the mediator, a copy of which is attached to this Protocol. The original of the signed agreement to withdraw the complaint will be lodged with the Office of the Independent Police Auditor, with a copy provided to the Internal Affairs Unit.

Appendix F

Mediation Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

The parties to this Agreement agree to participate in confidential mediation. So that we may speak freely, we agree to keep this mediation completely confidential and not divulge to any person any statements made during the mediation.

Further, we acknowledge that California Evidence Code Sections 703.5 and 1115 *et seq* apply to this mediation. Accordingly, we understand that

1. We may not call the mediator to testify about information obtained in mediation and may not seek to compel the production of any of her records or name her as a party in any proceeding of any kind;
2. Unless we agree otherwise, statements or admissions made in the mediation or any documents created for the mediation may not be introduced into evidence or made the subject of discovery in any legal or administrative proceeding;
3. Evidence Code Section 1119, does not preclude us from discovering and introducing evidence that is otherwise available to us outside of mediation in any legal or administrative proceeding; and
4. In the event the mediation does not fully resolve the dispute in the initial session, the participants agree that the confidentiality provisions of Sections 1115 through 1128 and this Agreement continue in full force and effect past the 10 calendar day period set forth in Evidence Code Section 1125(a) (5), unless the mediation is terminated through any of the mechanisms set forth in Section 1125(a)(3) and (4) or (b)(1) and (2).

We do not intend Evidence Code Section 1123 to prevent us from introducing this Agreement or any signed Settlement Agreement into evidence where relevant and otherwise admissible in any subsequent legal or administrative proceeding.

Because we, the participants, are disclosing information in reliance on this Agreement, any breach of this Agreement would cause irreparable injury for which monetary damages would be inadequate. Consequently, any party to this Agreement may obtain an injunction to prevent disclosure of any such confidential information in violation of this Agreement.

We acknowledge that we have read this Agreement, understand it and intend it to be fully binding upon us and anyone representing us in a legal or administrative proceeding of any kind. Further, we have reviewed the Protocol for Mediation of Rude Conduct/Courtesy Complaints, attached hereto, and agree to the terms and conditions in the Protocol.

Dated:

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Appendix G

Memorandum of Understanding



Memorandum of Understanding

Between the

Consulate General of México in San José, California

And the

Office of the Independent Police Auditor for the City of San José

Recitals

1. The Office of the Independent Police Auditor for the City of San José was established in 1993 to provide independent oversight of investigations that are conducted by the San José Police Department into civilian complaints. Among its duties and responsibilities are receiving citizen complaints as an alternative to the Police Department, making recommendations regarding Police Department policies and procedures, and conducting public outreach and education. Its office is located at 75 E. Santa Clara Street, San José, California. The Independent Police Auditor is the Honorable LaDoris H. Cordell (Ret.).
2. The Consulate General of México in San José, California, is the official representation of the government of the United Mexican States in the Counties of Santa Clara, San Benito, Santa Cruz and Monterey. Among other duties, the Consulate General is required to provide consular protection and assistance to the Mexican nationals who reside or who find themselves temporarily within these counties. The United States of America federal government, through the United States Department of State, recognizes this office as a foreign government consular post as defined in the Vienna Convention on Consular Relations of 1963. The Consulate is located at 2125 Zanker Road, San José, California, and Honorable David Figueroa Ortega is currently the Consul General of Mexico in San José, California.
3. The Consul General has brought to the attention of the Independent Police Auditor his concern that there are Mexican Nationals who live and work in the City of San José who are fearful of going to the San José Police Department or to the Office of the Independent Police Auditor to file complaints about San José Police Officers.

Accordingly, the Consul General and the Independent Police Auditor have proposed that the Mexican Consulate serve as an alternative location for the Independent Police Auditor to apprise the public about the services offered by that Office.

Terms

The Consul General and the Independent Police Auditor agree that commencing January 2011, and for one-half day per month thereafter, on a schedule to be mutually agreed upon, the Mexican Consulate in San José will provide an office at the Consulate for staff of the Office of the Independent Police Auditor to inform the public about the purpose of the Independent Police Auditor and to encourage members of the public to bring any complaints or concerns about San José police officers to the Office of the Independent Police Auditor.

Immunity: The Consulate and representatives acting on behalf of the Consulate in this Memorandum of Understanding do not waive any kind of Consular or Diplomatic immunity that they are entitled to according to the applicable international laws, which may include, but not limited to, agreements, treaties, and conventions.

This Memorandum of Understanding is not intended to and does not create any contractual rights or obligations with respect to the signatories, their agencies or any other parties.

This Memorandum of Understanding is entered into this 13th day of January, 2011, and may be terminated by either party at any time.

On behalf of the Consulate General
of México in San José, California,



**Honorable David Figueroa Ortega
Consul General**

On behalf of the Office of the Independent
Police Auditor for the City of San José,



**Judge LaDoris H. Cordell (Ret.)
Independent Police Auditor**

Appendix H:

IPA 2010 Community Outreach Activities

Date	Name	Type	District	Notes
01 13 10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	3	Roosevelt Community Center
01 19 10	Michele Lew, Executive Director	Meeting or Event	3	Asian Americans for Community Involvement
01 20 10	Girl Scouts Got Choices	Meeting or Event	2	Oak Grove High School
01 23 10	Crime & Gang Prevention Conference	Meeting or Event	3	City Hall
01 23 10	Neighborhood Leaders Budget Session	Meeting or Event	3	Assistant IPA introduced by Mayor
01 25 10	Andrew Hill High School	Presentation	7	Girl Scouts Got Choices Program
01 26 10	Immigrant Contributions Press Conference	Meeting or Event	3	re: release of CIPC report
01 29 10	Juvenile Hall, Unit G1	Presentation	3	Girl Scouts Got Choices Program
01 29 10	La Raza Roundtable	Meeting or Event	7	Monthly meeting
02 02 10	City Council Meeting	Meeting or Event	3	IPA Recruitment
02 02 10	Juvenile Hall, Unit G2	Presentation	3	Girl Scouts Got Choices
02 03 10	San José Community High School	Presentation	3	Girl Scouts Got Choices
02 04 10	1st Thursday Event - panel	Presentation	6	Asian Americans for Community Involvement
02 05 10	SJPD Promotion Ceremony	Meeting or Event	3	
02 10 10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	3	Roosevelt Community Center
02 11 10	Work 2 Future	Presentation	6	afternoon session
02 11 10	Work 2 Future	Presentation	6	morning session
02 12 10	Latina Coalition Luncheon	Meeting or Event	3	Prof. Jimenez on immigration
02 17 10	Work 2 Future	Presentation	6	afternoon session
02 17 10	Work 2 Future	Presentation	6	morning session
02 18 10	Human Rights Commission	Presentation	3	IPA updates
02 22 10	Jorge Wong, PhD	Meeting or Event	3	Asian Americans for Community Involvement
02 24 10	Muriel Wright Youth Ranch	Presentation,	2	Girl Scouts Got Choices
02 25 10	IPA Recruitment Meeting	Meeting or Event	3	organized by CSJ
02 26 10	Department of Justice	Meeting or Event	3	re: juveniles/language access
02 26 10	La Raza Roundtable	Meeting or Event	7	re: history of Chicano movement in San José
03 02 10	City Council Meeting	Meeting or Event	3	IPA 5 year table on agenda
03 03 10	Oak Grove High School	Presentation	2	Girl Scouts Got Choices
03 06 10	Resource Fair/Job Fair	Meeting or Event	7	Goodyear-Mastic Neighborhood Association
03 10 10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	3	Roosevelt Community Center
03 11 10	American Leadership Forum	Presentation	3	Roosevelt Community Center
03 12 10	Blue & Gold Award Lunch	Meeting or Event	3	Wyndham Hotel
03 12 10	Latina Coalition Luncheon	Meeting or Event	3	Councilmember Madison Nguyen
03 15 10	California Highway Patrol event	Meeting or Event	3	Event honoring CHP officers
03 17 10	Know Your Rights Event	Meeting or Event	3	ACLU & others, materials distributed
03 24 10	Candidate Orientation	Meeting or Event	3	Community members running for office
03 24 10	Jaime Alvarado, Executive Director	Meeting or Event	3	Somos Mayfair
03 26 10	La Raza Roundtable	Meeting or Event	7	Supervisor Cortese
03 29 10	Public Safety Meeting for District 4	Meeting or Event	4	Berryessa Branch Library
04 01 10	American Leadership Forum	Meeting or Event	3	Roosevelt Community Center
04 09 10	Latina Coalition Luncheon	Meeting or Event	3	panel of local executive directors
04 09 10	Senior Walk	Meeting or Event	6	Co-sponsored by Districts 1 and 6

Date	Name	Type	District	Notes
04 13 10	City Council Meeting	Meeting or Event	3	announcing new IPA
04 14 10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	5	Mayfair Community Center
04 14 10	Special PSFSSC meeting	Meeting or Event	3	re: public safety issues
04 19 10	ESUHSD Latino Parents	Presentation	4	East Side Union High School District
04 20 10	Silicon Valley Faces	Meeting or Event	5	Program description, etc.
04 21 10	IPAAC meeting	Meeting or Event	3	Advisory Committee
04 21 10	Vietnamese Citizens Academy	Presentation, in Vietnamese	3	overview of IPA/complaint process, SJPD
04 22 10	Human Resources Breakfast	Meeting or Event	3	Office of Human Relations
04 22 10	Neighborhood Commission	Meeting or Event	3	overview of IPA services, City Hall
04 23 10	Youth Commission Conference	Meeting or Event	3	distributed guides, City Hall
04 29 10	Bill Wilson Center Luncheon	Meeting or Event	n/a	Santa Clara Convention Center
04 30 10	La Raza Roundtable	Meeting or Event	7	Miguel Marquez, County Attorney
05 08 10	NAACP 58th Annual Gala	Meeting or Event	3	Crown Plaza Hotel
05 08 10	Somos Mayfair	Meeting or Event	5	mothers day event
05 11 10	NHSSV (Neigh. Housing Services)	Meeting or Event	3	Absentee Landlord Project
05 12 10	Lt. George Beattie & Sgt. Jim Unland	Meeting or Event	3	POA President & Vice President
05 13 10	District 5 Candidate Forum	Meeting or Event	5	resource table, Mexican Heritage Plaza
05 14 10	Latina Coalition Luncheon	Meeting or Event	3	Bella Mia
05 15 10	Camden Resource Fair	Meeting or Event	9	Camden Community Center
05 17 10	Bill Wilson Drop-in Youth Center	Meeting or Event	3	Services for homeless youth
05 17 10	Judge Teresa Guerrero-Daley	Meeting or Event	3	
05/21/10	Youth Resource Fair	Meeting or Event	3	Santee Neighborhood
05/22/10	Senior Fair & Walk	Meeting or Event	8	Eastridge Mall
05/26/10	SJSU Convocation Speaker	Meeting or Event	3	Department of Justice Studies
05/27/10	Crime Stoppers Fundraiser	Meeting or Event	3	Fahrenheit Lounge
05/28/10	Employment Connection	Presentation	7	
05/28/10	La Raza Roundtable	Meeting or Event	7	Monthly meeting
06/03/10	Rev. Jeff Moore, President	Meeting or Event	3	NAACP
06/04/10	PACT 25th Anniversary reception	Meeting or Event	n/a	Saratoga, CA
06/07/10	Coalition for Justice & Accountability	Meeting or Event	6	Asian Americans for Community Involvement
06/07/10	Ken Kelly, Board Member	Meeting or Event	3	Crime Stoppers
06 08 10	City Council Meeting	Meeting or Event	3	City Hall
06/08/10	Michele Lew, Executive Director	Meeting or Event	3	Asian Americans for Community Involvement
06/08/10	Teresa Castellanos, Acting Executive Dir.	Meeting or Event	3	Office of Human Relations
06/09/10	Bob Bailey	Meeting or Event	3	Community member
06 09 10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	2	Victory Outreach
06/10/10	Scott Knies, Executive Director	Meeting or Event	3	Downtown Association
06/10/10	Sheila Mitchell, Chief	Meeting or Event	3	County Probation Department
06/11/10	David Figueroa, Counsel General	Meeting or Event	3	Mexican Consulate in San José
06 11 10	Latina Coalition Luncheon	Meeting or Event	3	Bella Mia
06/11/10	Lessie James, CCCO/JEWL	Meeting or Event	3	Evergreen Valley College
06/11/10	Matt Hammer, Executive Director	Meeting or Event	3	People Acting in Community Together (PACT)
06/14/10	Raj Jayadev, Executive Director	Meeting or Event	3	Silicon Valley DeBug
06/15/10	Laurie Smith, Sheriff	Meeting or Event	3	Santa Clara County
06/15/10	Vietnamese Family Night	Meeting or Event	7	Tully Library
06/16/10	Chris Block, Executive Director	Meeting or Event	3	American Leadership Forum
06/17/10	American Leadership Forum	Meeting or Event	3	planning meeting for their July forum
06/17/10	Clean Slate Steering Committee	Meeting or Event	6	Valley Medical Center

Date	Name	Type	District	Notes
06/17/10	Human Rights Commission	Presentation	3	City Hall
06/20/10	Juneteenth Festival	Meeting or Event	3	Plaza de Cesar Chavez Park, resource fair
06/24/10	Patty Diaz, Executive Director	Meeting or Event	3	Service, Immigrants Rights, and Education Network (SIREN)
06 25 10	La Raza Roundtable	Meeting or Event	7	Monthly meeting
06/27/10	CommUnity Resource Fair	Meeting or Event	7	Resource fair, History Park
06/28/10	API Justice Coalition	Meeting or Event	3	Asian Pacific Islanders
07/13/10	Rev. Chuck Rawlings	Meeting or Event	3	Council of Churches
07/14/10	Neighborhoods Commission	Meeting or Event	3	City Hall
07/15/10	Samina Sundas, AMV & Zahra Billoo, CAIR	Meeting or Event	3	Muslim Community Representatives
07/20/10	Rick Callender	Meeting or Event	3	former IPAAC Member
07 21 10	Elisa Marina Alvarado, Artistic Director	Meeting or Event	3	Teatro Vision
07/27/10	American Leadership Forum	Presentation	3	Roosevelt Community Center
07/27/10	Pedro Espinoza, Legal Director	Meeting or Event	3	Regarding IPA/Mexican Consulate MOU
07/29/10	Hispanic Youth Symposium	Meeting or Event	n/a	San José high school students, SCU campus
07/30/10	Asian Pacific American Institute	Meeting or Event	n/a	DeAnza College
07/30/10	La Raza Roundtable	Meeting or Event	7	Monthly meeting, Judge was speaker
08/02/10	PACT Community Leaders	Meeting or Event	2	Christ the King Church
08/03/10	Hilbert Morales, Editor	Meeting or Event	3	El Observador
08/03/10	National Night Out	Meeting or Event	1	CM Pete Constant's District
08/03/10	National Night Out	Meeting or Event	2	CM Ash Kalra's District
08/03/10	National Night Out	Meeting or Event	4	CM Kansen Chu's District
08/03/10	National Night Out	Meeting or Event	5	CM Nora Campos District
08/03/10	National Night Out	Meeting or Event	6	CM Pieluigi Oliverio's District
08/03/10	National Night Out	Meeting or Event	9	CM Judy Chirco's District
08/03/10	National Night Out	Meeting or Event	9	CM Judy Chirco's District
08/03/10	National Night Out	Meeting or Event	10	CM Nancy Pyle's District
08/03/10	Work 2 Future	Presentation	3	
08/04/10	Work 2 Future	Presentation	3	
08/05/10	Walter Wilson	Meeting or Event	3	African American Community Services Agency
08/05/10	Work 2 Future	Presentation	3	
08/05/10	Youth Revolution	Meeting or Event	3	Resource Fair at San José City College
08/06/10	Work 2 Future	Presentation	3	
08/10/10	Work 2 Future	Presentation	3	
08/11/10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	8	Most Holy Trinity Church
08/11/10	PACT Staff members	Meeting or Event	3	Neighborhood & Police Issues
08/11/10	Rachel Camacho	Meeting or Event	8	Community Crime Prevention Associates
08/11/10	Work 2 Future	Presentation	3	
08/12/10	Work 2 Future	Presentation	3	
08/17/10	Work 2 Future	Presentation	3	
08/19/10	Clean Slate Steering Committee	Meeting or Event	6	Valley Medical Center
08/19/10	Work 2 Future	Presentation	3	
08/26/10	Women's Equality Day	Meeting or Event	n/a	Triton Museum
08/30/10	New Chief Recruitment Meeting	Meeting or Event	3	City Hall
09/02/10	New Chief Recruitment Meeting	Meeting or Event	4	East Side Union High School District
09/08/10	Billy De Frank Youth Group	Presentation	3	LGBT support group
09/08/10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Presentation	3	Center for Employment & Training
09/09/10	Richard Santos & Bob Gross	Meeting or Event	4	Regarding Alviso Neighborhood
09/10/10	Latina Coalition Luncheon	Meeting or Event	3	Bella Mia Restaurant

Date	Name	Type	District	Notes
09/11/10	Roadshow District 2	Presentation	2	Southside Community Center
09/13/10	Black Leadership Kitchen Cabinet	Presentation	3	Brazilian Steak House
09/16/10	Clean Slate Steering Committee	Meeting or Event	6	Valley Medical Center
09/16/10	Mexican Independence Celebration	Meeting or Event	3	Mexican Heritage Plaza
09/16/10	PACT Press Conference	Meeting or Event	5	Our Lady of Guadalupe Church
09/18/10	District 2 Community Festival	Meeting or Event	2	George Page Park
09/23/10	Rotary Club of San José Sunrise	Presentation	4	Bay 101 Casino
09/24/10	BAYMEC Dinner	Meeting or Event	3	Fairmont Hotel
09/24/10	La Raza Roundtable	Meeting or Event	7	Monthly meeting
09/27/10	Police Chief Selection Meeting	Community Meeting	3	American Leadership Forum
09/30/10	Ethnic Media Mixer	Meeting or Event	6	Silicon Valley DeBug
09/30/10	Somos Mayfair	Meeting or Event	5	
09/30/10	Mayor's Gang Prevention Task Force Retreat	Presentation	N/A	IPA staff presentation, San Juan Baptista
10/02/10	Day in the Park	Meeting or Event	8	resource fair, Lake Cunningham
10/02/10	Santee Neighborhood Action Center	Meeting or Event	7	resource fair
10/04/10	Roadshow District 9	Presentation	9	Cambrian School District Offices
10/05/10	James Lick High School	Presentation	5	
10/05/10	James Lick High School	Presentation	5	
10/06/10	James Lick High School	Presentation	5	
10/06/10	James Lick High School	Presentation	5	
10/07/10	Disability Awareness Day	Meeting or Event	3	resource fair, City Hall
10/07/10	Roadshow District 7	Meeting or Event	7	Santee Action Center
10/08/10	Downtown Association Breakfast	Meeting or Event	3	
10/08/10	Latina Coalition Luncheon	Meeting or Event	3	Bella Mia
10/13/10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	7	Franklin McKinley School District
10/14/10	Silicon Valley DeBug Event	Meeting or Event	6	Police Chief Selection Meeting
10/16/10	Latino/Latina Role Model Conference	Meeting or Event	8	Overfelt High School
10/19/10	City Council Meeting	Meeting or Event	3	IPA Year End Report Presentation
10/19/10	Rotary Club Presentation	Presentation	8	Ranch Golf Club
10/21/10	Roadshow District 10	Presentation	10	Almaden Community Center
10/23/10	Vietnamese Community Resource Fair	Meeting or Event	7	Yerba Buena High School
10/25/10	New Police Chief Community Forum	Presentation	3	Antioch Baptist Church
10/28/10	IPAAC Meeting	Meeting or Event	3	Advisory Committee
11/02/10	Independence High School	Presentation	4	AACI – Project PLUS Program
11/04/10	Black Leadership Kitchen Cabinet	Presentation	4	Bible Way Church
11/04/10	Roadshow District 4	Presentation	4	Alviso Youth Center
11/05/10	Yerba Buena High School	Presentation	7	AACI – Project PLUS Program
11/06/10	Vietnamese Forum Seeking New Police Chief	Meeting or Event	7	Tully Library
11/10/10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	5	Mt. Pleasant High School
11/10/10	PACT Press conference	Meeting or Event	2	Christ the King Church
11/13/10	Roadshow District 1	Presentation	1	Community Policing Center
11/15/10	Roadshow District 5	Presentation	5	Mayfair Community Center
11/18/10	Roadshow District 3	Presentation	3	Joyce Ellington Library
11/29/10	American Leadership Forum	Presentation	3	Community policing forum
11/30/10	Catholic Charities	Presentation	7	
11/30/10	Roadshow District 6	Presentation	6	Hoover Community Center
12/02/10	Roadshow District 8	Presentation	8	Evergreen Library
12/03/10	Women & Girls Summit	Meeting or Event	3	City Hall

Date	Name	Type	District	Notes
12/03/10	Yerba Buena High School	Meeting or Event	7	A.V.I.D. Class
12 06 10	Little Orchard Homeless Shelter	Presentation	7	Emergency Housing Consortium
12/08/10	Mayor's Gang Prevention Task Force – Technical Team Meeting	Meeting or Event	5	San José Job Corps.
12/09/10	FLY graduation	Meeting or Event	3	IPA staff was guest speaker
12/18/10	Somos Mayfair Posadas	Presentation	5	Mexican Heritage Plaza

Appendix I

IPA Presentation Evaluation



OFFICE OF THE INDEPENDENT POLICE AUDITOR
City of San Jose

Presentation Evaluation

Audience _____
(To Be Filled Out By Presenter)

Date: _____

Location: _____

Name of Presenter(s): _____

1. Did today's presentation increase your knowledge about the **Office of the Independent Police Auditor**?

Yes No

2. Did today's presentation increase your knowledge about the **citizen complaint process**?

Yes No

3. Were the presenters knowledgeable about the subject matter?

Yes No

4. Were the materials provided helpful?

Yes No

5. Overall, how would you rate the presentation?

Excellent Good Average Poor

6. Are there additional issues you wish the presenters had addressed?

7. What was the most important or most interesting part of the presentation?

Appendix J:

IPA 2010 Media Contacts, Articles, and Interviews

Date	Name	Notes
03 14 10	Munitoday (blog)	
03 14 10	Onespot.wsj.com	
03 14 10	KCOY.com	
03 21 10	San José Mercury News	"Retired Judge a finalist for post" by Sean Webby
03 22 10	Watchdog Silicon Valley (blog)	IPA finalists revealed
03 22 10	KCBS (radio)	Prominent legal figure as IPA finalist
03 26 10	San José Mercury News	"Four Make Final Cut for SJ Police Auditor" by Sean Webby
04 13 10	SF Gate	Appointment of Judge Cordell as IPA
04 13 10	KLIV (radio)	Appointment of Judge Cordell as IPA
04 13 10	KGO (radio)	Appointment of Judge Cordell as IPA
04 14 10	San José Mercury News	"Stunning pick for police auditor" by Sean Webby
04 14 10	San José Mercury News	"Will Cordell find her new job too limiting?" by Scott Herhold
04 14 10	KLIV (radio)	More on Appointment of JD as IPA
04 14 10	Examiner.com	Appointment of Judge Cordell as IPA
04 14 10	Monterrey County Herald	Appointment of Judge Cordell as IPA
04 14 10	Watchdog Silicon Valley (blog)	Appointment of Judge Cordell as IPA
04 15 10	San José Mercury News	"Cordell strong pick to be police auditor" - Editorial
04 15 10	Watchdog Silicon Valley (blog)	Appointment of Judge Cordell as IPA
04 15 10	CBS 5 Benjamin (blog)	Appointment of Judge Cordell as IPA
04 15 10	ABC.local.go.com KGO	Appointment of Judge Cordell as IPA
04 15 10	Forums silicon valley.com	Appointment of Judge Cordell as IPA
04 15 10	Wopular.com KGO	Appointment of Judge Cordell as IPA
04 15 10	Munitoday (blog)	Appointment of Judge Cordell as IPA
04 15 10	KLIV (radio)	More on Appointment of JD as IPA
04 15 10	San José Mercury News	"Cordell is perfect for new role" -- Reader letter
04 16 10	El Observador	"San José City Council appoints new Independent Police Auditor" by Cinthia Rodriguez
04 16 10	KLIV.com	By Robert Kieve
04 18 10	San José Mercury News	IPA mentioned in "Who's Up & Down"
04 19 10	San José Mercury News	"New Challenge: Cordell used to skepticism, tough terrain" by Sean Webby
04 21 10	San José Mercury News	"Police auditor will fix problems" -- Reader letter
05 20 10	Wall Street Journal	"San José Police Auditor Enters the Fray" by Bobby White
05 18 10	San José Mercury News	mention re: keynote at SJSU graduation
05 28 10	San José Mercury News	SJSU graduation
06 10 10	San José Mercury News	"Spy alleged at SJ police auditor office" by Sean Webby
06 11 10	San José Mercury News	"Distrust 'no longer a conspiracy theory" by Sean Webby
06 11 10	San José Mercury News	"Ethics breach erodes trust in IPA and officers" - Editorial
06 30 10	CBS 5	Alleged leak at IPA Office
06 30 10	KLIV (radio)	Alleged leak at IPA Office
06 30 10	IPA Press Conference	Results of leak investigation--numerous media interviews
06 30 10	San José Mercury News	"Police auditor asks upset residents, cops to talk it out" by Sean Webby
07 01 10	San José Mercury News	"Was there a spy? Police auditor to answer" by Sean Webby
07 02 10	San José Mercury News	"Probe fails to find spy for police" by Sean Webby
07 08 10	San José Mercury News	"Police auditor terminates staff analyst" by Sean Webby
07 09 10	San José Mercury News	"San José police auditor acts to shore up trust" -- Editorial
07 11 10	San José Mercury News	IPA mentioned in "Who's Up & Down"

Date	Name	Notes
07 11 10	San José Mercury News	"Case rekindles debate over jury diversity" by Tracey Kaplan, IPA quoted
07 14 10	Metro Silicon Valley (& www.sanjoseinside.com)	"Cordell: No Spy In IPA's Office" by Silicon Valley Newsroom
07 12 10	San José Beez	Interview by Demone Carter regarding IPA services
07 14 10	Metro Silicon Valley (& www.sanjoseinside.com)	"Former police union leader clams up following allegations of leaks in the Independent Police Auditor's Office" by Jessica Fromm
07 14 10	KTVU Channel 2	re: Amador force case
07 20 10	San José Mercury News	"Office will do better job of policing the police" – Opinion piece by Judge Cordell
07 27 10	San José Mercury News	re: IPA contracting outside vendors
07 30 10	KLIV (radio)	re: IPA outside employment
07 30 10	San José Mercury News	"S.J. police auditor looking to moonlight" by John Woolfolk
07 30 10	KLIV (radio)	new SJ police chief search
08 02 10	San José Mercury News	"Side job shouldn't affect Cordell's auditor duties" -- Editorial
08 02 10	San José Mercury News	"Judge's outside-job article was hateful" – Reader letter
08 02 10	San José Mercury News	"Police must abide by moonlighting policy" – Reader letter
08 06 10	El Observador	"Independent Police Auditor Needs Hispanic Input" by Hilbert Morales
09 11 10	KTVU Channel 2	"Officer abuse of power when pretended to arrest step daughter's boyfriend" – by ?, quote from Judge Cordell
09 23 10	KGO-TV/DT	"Cop investigated for fake arrest of teen" by Karina Rusk, IPA quoted
11 08 10	VTTV Direct TV Channel	IPA Interview regarding IPA services
11 19 10	San José Mercury News	"Man says he was roughed up by U.S. marshals acting like 'a bunch of cowboys' – and he's not the guy they wanted" by Sean Webby, IPA quoted
11 30 10	CreaTV	Interview regarding new SJPD Chief
12 31 10	Silicon Valley Metro	IPA Office mentioned regarding alleged leak

Appendix K: Additional Statistical Information

Table 1: Complaints/Concerns Received in 2010*

Matters Received in 2010	IPA	IA	Total	%
Conduct Complaints	81	125	206	73%
Policy Complaints	5	5	10	4%
Non-Misconduct Concerns	24	29	53	19%
Pre-Classification	1	0	1	0%
Other	9	2	11	4%
Total	120	161	281	100%

*Excludes Department-Initiated Investigations

Table 2: Types of Allegations Received

Allegations Received	2009		2010		Change %
	#	%	#	%	
Procedure	143	27%	179	32%	25%
Force	102	19%	98	17%	-4%
Arrest or Detention	77	15%	90	16%	17%
Courtesy	71	13%	66	12%	-7%
Search or Seizure	60	11%	57	10%	-5%
Bias Based Policing	29	6%	29	5%	0%
Conduct Unbecoming an Officer	26	5%	24	4%	-8%
Neglect of Duty	14	3%	22	4%	57%
Missing/Damaged Property	5	1%	0	0%	-100%
Total Allegations	527	100%	565	100%	

Table 3: Dispositions of Allegations

	Dispositions of Allegations in 2010*									%
	AD	BBP	C	CUBO	F	ND	P	SS	Total	
Sustained	3		2	5			14	3	27	4%
Not Sustained	1	2	43	5	15		36	13	115	18%
Exonerated	69	3	10	5	101	5	73	48	314	49%
Unfounded	1	20	14	1	20	5	18	1	80	13%
No Finding	3	1	2	2	12	4	28	1	53	8%
Complaint Withdrawn	2	1	6	1	4	2	11	2	29	5%
Other	2	3		1		3	8	1	18	3%
Total	81	30	77	20	152	19	188	69	636	100%

*Excludes Department-Initiated Investigations. **CUBO** includes both Conduct Unbecoming an Officer and Unbecoming Conduct allegations. **P** includes Procedure, Improper Procedure, and Missing/Damaged Property Allegations

Legend of Allegations

AD: Arrest or Detention; **BBP:** Bias-Based Policing; **C:** Courtesy; **CUBO:** Conduct Unbecoming an Officer;

F: Force; **ND:** Neglect of Duty; **P:** Procedure; **SS:** Search or Seizure

Table 4: Five-Year Overview of Complaints**Received by Individual Officers**

Officers Receiving	2006	2007	2008	2009	2010
1 Complaint	177	257	298	178	196
2 Complaints	35	59	67	30	37
3 Complaints	5	18	16	6	4
4 Complaints	0	3	10	3	2
5 Complaints	0	1	2	1	1
6 Complaints	0	0	1	0	0
7 Complaints	0	0	0	0	0
8 Complaints	0	1	0	0	0
Total Number of Officers Receiving Complaints	217	339	394	218	240

Table 5: Five-Year Overview of Complaint Rates

# of Complaints	Subject Officers by Number of Complaints				
	2006	2007	2008	2009	2010
1 Complaint	82%	76%	76%	82%	82%
2 Complaints or more	18%	24%	24%	18%	18%
3 Complaints or more	2%	7%	7%	5%	3%
4 Complaints or more	0%	1%	3%	2%	1%

Table 6: Ethnicity of Subject Officers

Ethnicity	Subject Officers	%	SJPD Sworn Officers	%
Native American	2	1%	7	1%
Asian American/Pacific Islander	16	7%	120	10%
African American	12	5%	52	4%
Filipino American	5	2%	32	3%
Hispanic/Latino	57	24%	291	23%
Caucasian	135	56%	708	57%
Not Available	13	5%	35	3%
Total	240	100%	1,245	100%

Table 7: Gender of Subject Officers

Ethnicity	Subject Officers	%	SJPD Sworn Officers	%
Male	219	91%	1,121	90%
Female	21	9%	124	10%
Total	240	100%	1,245	100%

Table 8: Four-Year Overview of Complainants' Levels of Injury

Degree of Injury	2007		2008		2009		2010	
	Number	%	Number	%	Number	%	Number	%
Major	8	9%	7	7%	6	6%	9	14%
Moderate	10	11%	12	12%	18	19%	10	16%
Minor	49	55%	50	51%	40	41%	28	43%
None	12	13%	23	23%	29	30%	15	23%
Unknown	10	11%	7	7%	4	4%	3	5%
Total	89	100%	99	100%	97	100%	65	100%

Appendix L:

Closed Conduct Complaints in 2010

Many of the cases listed here contain multiple findings. This is because each complaint may contain multiple allegations against a single officer or allegations against multiple officers. IA makes findings on every allegation. Allegations of force are **highlighted in bold**.

*The 365-day time limit was tolled pursuant to Government Code Section 3304.

No	Received Date	Completed Date	# of Days	Findings
1	1-Jun-07	25-Jun-10	1120	Exonerated Exonerated Exonerated Exonerated
2	20-Sep-07	18-May-10	971	Exonerated Exonerated Not Sustained Exonerated
3	24-Nov-08	19-Apr-10	511	Exonerated Exonerated Not Sustained Exonerated Exonerated Not Sustained
4	28-Oct-08	15-Apr-10	458*	Sustained Exonerated
5	8-Jun-09	13-Aug-10	431	Unfounded Not Sustained Not Sustained
6	17-Jun-09	18-Aug-10	427	Sustained
7	24-Oct-08	8-Apr-10	412*	Not Sustained Not Sustained Sustained Sustained Sustained Sustained Sustained Sustained Sustained
8	17-Mar-09	28-Apr-10	407	No Findings Exonerated Exonerated
9	23-Apr-09	3-Jun-10	406	Exonerated Exonerated Exonerated
10	1-May-08	5-Jan-10	381*	Sustained Sustained Sustained Sustained

No	Received Date	Completed Date	# of Days	Findings
11	14-May-09	19-May-10	370	No Findings Unfounded Not Sustained No Findings Unfounded No Findings No Findings Not Sustained No Findings
12	12-Aug-09	16-Aug-10	369	Sustained Exonerated Not Sustained Exonerated
13	4-Nov-09	4-Nov-10	365	Not Sustained Sustained
14	26-Jan-09	25-Jan-10	364	Unfounded
15	19-May-09	15-May-10	361	Not Sustained Not Sustained Unfounded
16	10-Nov-09	4-Nov-10	359	Sustained Sustained Exonerated Unfounded Exonerated
17	14-Apr-09	2-Apr-10	353	Exonerated Exonerated Unfounded Exonerated Exonerated Exonerated Exonerated Exonerated Exonerated
18	11-Feb-09	29-Jan-10	352	Not Sustained Unfounded Not Sustained Unfounded Exonerated Sustained
19	16-Nov-09	2-Nov-10	351	Unfounded Not Sustained Exonerated Exonerated Exonerated Not Sustained
20	17-Jun-09	1-Jun-10	349	Exonerated Exonerated Unfounded Not Sustained Exonerated

No	Received Date	Completed Date	# of Days	Findings
				Not Sustained
				Exonerated
				Not Sustained
				Not Sustained
				Not Sustained
				Not Sustained
				Not Sustained
				Sustained
21	10-Feb-09	14-Jan-10	338	Exonerated
22	10-Feb-09	14-Jan-10	338	Exonerated
23	11-Feb-09	14-Jan-10	337	Exonerated
				Exonerated
				Exonerated
				Exonerated
24	28-Sep-09	30-Aug-10	336	Exonerated
				Exonerated
				Exonerated
				Exonerated
25	13-Feb-09	14-Jan-10	335	Unfounded
26	20-Mar-09	18-Feb-10	335	Not Sustained
				Exonerated
				Not Sustained
				Exonerated
				Not Sustained
				Exonerated
27	28-Sep-09	25-Aug-10	331	Exonerated
				Exonerated
				Not Sustained
28	18-Feb-09	14-Jan-10	330	No Findings
				No Findings
29	9-Jul-09	1-Jun-10	327	Exonerated
				Not Sustained
				Exonerated
				Not Sustained
				Exonerated
				Not Sustained
30	19-Nov-09	12-Oct-10	327	Unfounded
				Exonerated
				Unfounded
31	15-Jan-10	8-Dec-10	327	Exonerated
				Exonerated
				No Findings
32	4-Sep-09	27-Jul-10	326	Not Sustained
				Exonerated
				Exonerated
				No Findings
				No Findings
				Not Sustained
				Not Sustained
				Not Sustained

No	Received Date	Completed Date	# of Days	Findings
				Unfounded Exonerated Not Sustained Exonerated
33	23-Feb-09	14-Jan-10	325	Exonerated No Findings No Findings Exonerated
34	21-Sep-09	12-Aug-10	325	Exonerated Exonerated Exonerated
35	26-Feb-09	14-Jan-10	322	Exonerated Exonerated
36	18-Mar-09	3-Feb-10	322	Unfounded Not Sustained Not Sustained Exonerated
37	23-Apr-09	11-Mar-10	322	Exonerated Unfounded Not Sustained Exonerated Unfounded Exonerated Unfounded Exonerated Exonerated Exonerated Exonerated Unfounded Exonerated
38	15-Oct-09	2-Sep-10	322	Exonerated No Findings No Findings No Findings No Findings
39	15-Dec-09	1-Nov-10	321	Exonerated Not Sustained
40	4-Aug-09	15-Jun-10	315	Sustained Not Sustained
41	29-Sep-09	10-Aug-10	315	Exonerated Exonerated Unfounded Exonerated Not Sustained Unfounded
42	17-Dec-09	26-Oct-10	313	Exonerated
43	13-Jul-09	19-May-10	310	Exonerated Not Sustained Not Sustained Not Sustained

No	Received Date	Completed Date	# of Days	Findings
				Not Sustained
				Not Sustained
				Exonerated
				Exonerated
				Exonerated
				No Findings
				No Findings
				Exonerated
				Not Sustained
				Exonerated
				Not Sustained
44	6-Nov-09	10-Sep-10	308	Unfounded
				Exonerated
				Exonerated
				Exonerated
				Exonerated
				Unfounded
				Unfounded
				Unfounded
				Unfounded
45	2-Feb-10	7-Dec-10	308	Exonerated
46	4-Mar-09	5-Jan-10	307	Unfounded
				Unfounded
				Not Sustained
				Exonerated
				Unfounded
				Unfounded
				Not Sustained
				Not Sustained
				Unfounded
				Exonerated
				Exonerated
47	7-Oct-09	10-Aug-10	307	Complaint Withdrawn
				Complaint Withdrawn
				Complaint Withdrawn
48	9-Dec-09	12-Oct-10	307	Exonerated
				Not Sustained
49	5-Jan-10	2-Nov-10	301	No Findings
				Exonerated
50	8-Apr-09	1-Feb-10	299	Not Sustained
				Not Sustained
				Not Sustained
51	6-Jan-10	1-Nov-10	299	Exonerated
				Exonerated
				Exonerated
52	14-Aug-09	7-Jun-10	297	Not Sustained
				Exonerated
53	7-Oct-09	30-Jul-10	296	Exonerated
				Unfounded
				Exonerated

No	Received Date	Completed Date	# of Days	Findings
				Exonerated Unfounded No Findings
54	1-Mar-10	21-Dec-10	295	Not Sustained Unfounded Exonerated Sustained Sustained
55	3-Mar-09	24-Aug-10	295	Not Sustained Not Sustained Not Sustained Not Sustained
56	8-Sep-09	25-May-10	259	Not Sustained Sustained Not Sustained
57	26-May-09	16-Mar-10	294	Exonerated
58	17-Nov-09	7-Sep-10	294	Not Sustained
59	15-May-09	4-Mar-10	293	Not Sustained No Findings Unfounded
60	8-Jul-09	27-Apr-10	293	Not Sustained
61	14-Oct-09	2-Aug-10	292	Exonerated Not Sustained Exonerated
62	30-Apr-09	15-Feb-10	291	Not Sustained Exonerated Unfounded
63	30-Mar-09	14-Jan-10	290	Complaint Withdrawn
64	18-Aug-09	2-Jun-10	288	No Findings Not Sustained Exonerated Exonerated Exonerated
65	19-Oct-09	3-Aug-10	288	Exonerated Exonerated Not Sustained Not Sustained
66	19-Oct-09	3-Aug-10	288	Unfounded No Findings Exonerated Exonerated
67	10-Feb-10	24-Nov-10	287	No Findings
68	20-Aug-09	2-Jun-10	286	Unfounded Exonerated Unfounded No Findings Exonerated Exonerated Not Sustained
69	4-Jun-09	16-Mar-10	285	Exonerated

No	Received Date	Completed Date	# of Days	Findings
70	15-Jul-09	26-Apr-10	285	Not Sustained Exonerated Unfounded Exonerated
71	18-Mar-10	28-Dec-10	285	Exonerated Not Sustained Exonerated Exonerated Not Sustained Exonerated Exonerated
72	5-Jun-09	16-Mar-10	284	Complaint Withdrawn Complaint Withdrawn Complaint Withdrawn
73	1-Feb-10	12-Nov-10	284	Exonerated Not Sustained Not Sustained Not Sustained Unfounded
74	14-Apr-09	22-Jan-10	283	Exonerated
75	14-May-09	19-Feb-10	281	Not Sustained Not Sustained
76	26-Jan-10	1-Nov-10	279	Unfounded
77	8-Sep-09	10-Jun-10	275	Exonerated
78	14-Apr-09	13-Jan-10	274	Exonerated Exonerated Not Sustained Exonerated Exonerated Exonerated
79	1-Oct-09	1-Jul-10	273	Unfounded Not Sustained Not Sustained Unfounded
80	8-Feb-10	8-Nov-10	273	No Findings Not Sustained Exonerated No Findings
81	29-Apr-09	23-Jan-10	269	Exonerated Exonerated Exonerated
82	15-Jun-09	11-Mar-10	269	Exonerated Not Sustained Not Sustained
83	29-Jun-09	25-Mar-10	269	Not Sustained Exonerated
84	10-Jun-09	5-Mar-10	268	Exonerated Exonerated Exonerated No Findings

No	Received Date	Completed Date	# of Days	Findings
				No Findings
85	10-Dec-09	2-Sep-10	266	Sustained
86	4-Aug-09	26-Apr-10	265	Unfounded
87	10-Sep-09	1-Jun-10	264	Complaint Withdrawn Complaint Withdrawn
88	5-May-09	23-Jan-10	263	No Findings
99	12-Apr-10	30-Dec-10	262	Not Sustained Exonerated
90	7-Jul-09	23-Mar-10	259	Unfounded
91	8-Sep-09	25-May-10	259	Not Sustained Sustained Not Sustained
92	1-May-09	13-Jan-10	257	Unfounded Exonerated Not Sustained
93	25-Sep-09	9-Jun-10	257	Exonerated
			0	Exonerated
94	3-Dec-09	16-Aug-10	256	Not Sustained Not Sustained Not Sustained
95	12-May-09	22-Jan-10	255	Exonerated Exonerated
96	19-Apr-10	28-Dec-10	253	Not Sustained Exonerated Not Sustained
97	24-Nov-09	3-Aug-10	252	Exonerated Exonerated
98	4-Jan-10	13-Sep-10	252	No Findings
99	11-Jun-09	15-Feb-10	249	Exonerated Not Sustained
100	24-Aug-09	28-Apr-10	247	Exonerated Exonerated Exonerated Exonerated
101	7-Jul-09	9-Mar-10	245	Unfounded
102	7-May-09	6-Jan-10	244	Other
103	31-Jul-09	30-Mar-10	242	Exonerated Exonerated Exonerated Not Sustained Exonerated
104	20-Jul-09	15-Mar-10	238	Exonerated Exonerated Unfounded No Findings Unfounded No Findings
105	21-Oct-09	15-Jun-10	237	Unfounded Unfounded No Findings

No	Received Date	Completed Date	# of Days	Findings
				Exonerated
				Unfounded
				No Findings
106	23-Jul-09	10-Mar-10	230	Exonerated
107	9-Oct-09	27-May-10	230	No Findings
108	24-Mar-10	8-Nov-10	229	Exonerated
				Exonerated
				Not Sustained
109	15-Jan-10	31-Aug-10	228	No Findings
110	1-Jun-09	13-Jan-10	226	Exonerated
				Not Sustained
				Unfounded
				No Findings
				No Findings
111	10-May-10	20-Dec-10	224	Not Sustained
				Not Sustained
112	23-Apr-10	30-Nov-10	221	Non-Misconduct Concern
113	10-Aug-09	18-Mar-10	220	Exonerated
				Not Sustained
				Unfounded
				Unfounded
114	4-Aug-09	10-Mar-10	218	Not Sustained
115	1-Jul-09	27-Jan-10	210	Not Sustained
116	24-Nov-09	22-Jun-10	210	Exonerated
				No Findings
117	18-May-10	13-Dec-10	209	Not Sustained
				Exonerated
				Exonerated
118	1-Oct-09	27-Apr-10	208	Exonerated
119	2-Jul-09	23-Jan-10	205	Unfounded
				Not Sustained
120	27-Jan-10	19-Aug-10	204	Exonerated
				Exonerated
				Exonerated
121	26-Jun-09	14-Jan-10	202	Exonerated
122	2-Sep-09	23-Mar-10	202	Not Sustained
				Not Sustained
				Unfounded
123	7-Jul-09	23-Jan-10	200	Exonerated
124	19-Oct-09	5-May-10	198	Other
				Other
				Other
				Other
				Other
125	8-Dec-09	22-Jun-10	196	Not Sustained
126	17-Jun-10	30-Dec-10	196	Not Sustained
				Not Sustained
127	3-Sep-09	17-Mar-10	195	Exonerated
				Exonerated
				Exonerated

No	Received Date	Completed Date	# of Days	Findings
				Exonerated
128	14-May-10	22-Nov-10	192	Exonerated Exonerated Exonerated Exonerated Exonerated
129	12-Jan-10	22-Jul-10	191	No Findings
130	22-Dec-09	30-Jun-10	190	Exonerated Exonerated Unfounded
131	22-Jan-10	30-Jul-10	189	Complaint Withdrawn Complaint Withdrawn
132	1-Apr-10	6-Oct-10	188	Unfounded
133	8-Dec-09	11-Jun-10	185	Not Sustained Not Sustained
134	6-Apr-10	7-Oct-10	184	Other
135	5-Apr-10	2-Oct-10	180	Exonerated Exonerated
136	20-Jul-09	13-Jan-10	177	Exonerated Exonerated Exonerated Exonerated
137	10-Nov-09	5-May-10	176	Other Other
138	4-Mar-10	24-Aug-10	173	Complaint Withdrawn
139	26-Mar-10	14-Sep-10	172	Exonerated Exonerated Exonerated Exonerated Exonerated
140	29-Jul-09	13-Jan-10	168	No Findings No Findings No Findings
141	24-May-10	8-Nov-10	168	Exonerated Exonerated
142	17-Feb-10	30-Jul-10	163	Complaint Withdrawn
143	12-Feb-10	22-Jul-10	160	Unfounded Exonerated
144	17-Aug-09	23-Jan-10	159	Exonerated Unfounded
145	20-Nov-09	27-Apr-10	158	Complaint Withdrawn
146	1-Jul-10	6-Dec-10	158	Other
147	26-Aug-09	29-Jan-10	156	Complaint Withdrawn
148	25-Feb-09	29-Jul-09	154	Unfounded Sustained Sustained
149	4-Feb-10	6-Jul-10	152	Other Other
149	30-Nov-09	29-Apr-10	150	Exonerated Exonerated

No	Received Date	Completed Date	# of Days	Findings
				Exonerated
				Exonerated
				Exonerated
150	16-Jul-10	13-Dec-10	150	Exonerated
151	1-Sep-09	27-Jan-10	148	Complaint Withdrawn
				Complaint Withdrawn
				Complaint Withdrawn
152	28-Dec-09	25-May-10	148	Exonerated
				Unfounded
				Unfounded
153	25-Nov-09	20-Apr-10	146	Exonerated
154	15-Sep-09	23-Jan-10	130	Exonerated
155	30-Jul-10	6-Dec-10	129	Supervisor Referral
156	30-Jul-10	6-Dec-10	129	Supervisor Referral
157	16-Sep-09	22-Jan-10	128	Exonerated
				Exonerated
				Exonerated
				Exonerated
158	7-Jun-10	12-Oct-10	127	No Findings
159	17-May-10	20-Sep-10	126	Exonerated
160	3-Jun-10	4-Oct-10	123	Exonerated
				Exonerated
161	2-Dec-09	31-Mar-10	119	Complaint Withdrawn
162	5-Nov-09	3-Mar-10	118	Not Sustained
				Sustained
163	14-Jan-10	12-May-10	118	Exonerated
				Exonerated
164	15-Jun-10	11-Oct-10	118	Exonerated
165	14-Jun-10	6-Oct-10	114	Exonerated
				Unfounded
166	1-Aug-10	1-Dec-10	113	Supervisor Referral
167	12-Jan-10	29-Apr-10	107	Exonerated
				Unfounded
				Exonerated
				Exonerated
168	25-Mar-10	9-Jul-10	106	Exonerated
				Exonerated
170	5-Nov-09	18-Feb-10	105	No Findings
171	24-Mar-10	7-Jul-10	105	Exonerated
172	9-Oct-09	20-Jan-10	103	Other
173	5-Oct-09	14-Jan-10	101	Exonerated
174	8-Aug-10	11-Nov-10	95	Unfounded
				Unfounded
				Unfounded
				Unfounded
175	12-Apr-10	14-Jul-10	93	Exonerated
				Exonerated
176	17-Feb-10	19-May-10	91	Unfounded
				Unfounded
177	20-Sep-10	20-Dec-10	91	Exonerated

No	Received Date	Completed Date	# of Days	Findings
178	18-Feb-10	19-May-10	90	Unfounded Exonerated Exonerated Exonerated Exonerated
179	23-Apr-10	21-Jul-10	89	Exonerated Exonerated Exonerated Exonerated
180	7-Jan-10	5-Apr-10	88	Unfounded Exonerated Exonerated
181	4-Jun-10	31-Aug-10	88	Unfounded
180	2-Nov-09	28-Jan-10	87	Exonerated Exonerated Exonerated Exonerated Exonerated Exonerated Exonerated
182	8-Feb-10	5-May-10	86	Exonerated Unfounded
183	24-Aug-10	18-Nov-10	86	Exonerated Unfounded
184	21-Jun-10	13-Sep-10	84	Exonerated Exonerated
185	19-Apr-10	8-Jul-10	80	Exonerated Exonerated
186	6-Jul-10	17-Aug-10	71	Other
187	7-Apr-10	21-Jun-10	75	No Findings
188	13-May-10	22-Jul-10	70	Exonerated
189	6-Aug-10	14-Oct-10	69	No Findings Exonerated Exonerated
190	14-Jun-10	19-Aug-10	66	Exonerated Exonerated
191	1-Apr-10	7-Jun-10	66	Other
192	10-Nov-09	14-Jan-10	65	Exonerated
193	30-Nov-09	3-Feb-10	65	Exonerated Exonerated Exonerated Exonerated
194	8-Sep-10	12-Nov-10	65	Exonerated Exonerated
195	6-Jun-10	24-Aug-10	64	Other
196	3-Nov-09	6-Jan-10	64	Other
197	27-May-10	29-Jul-10	63	Exonerated
198	13-Sep-10	12-Nov-10	60	Exonerated Exonerated Exonerated

No	Received Date	Completed Date	# of Days	Findings
				Exonerated
				Exonerated
				Exonerated
				Exonerated
				Exonerated
				Unfounded
				Exonerated
				Exonerated
199	23-Sep-10	22-Nov-10	60	Exonerated
				Exonerated
				Exonerated
200	19-Jul-10	13-Sep-10	56	Exonerated
201	12-Aug-10	6-Oct-10	55	Exonerated
				Exonerated
				Exonerated
				Exonerated
				Exonerated
202	13-Oct-10	7-Dec-10	55	Exonerated
203	3-Mar-10	21-Apr-10	49	Complaint Withdrawn
204	8-Dec-09	25-Jan-10	48	Exonerated
				Exonerated
205	22-Sep-10	9-Nov-10	48	Exonerated
206	28-Aug-10	11-Oct-10	44	Complaint Withdrawn
				Complaint Withdrawn
				Complaint Withdrawn
207	20-Jul-10	31-Aug-10	42	Complaint Withdrawn
				Complaint Withdrawn
208	22-Feb-10	30-Mar-10	36	Complaint Withdrawn
209				Other
				Other
				Other
210	7-Jun-10	13-Jul-10	36	Exonerated
				Exonerated
211	22-Dec-09	26-Jan-10	35	No Findings
212				No Findings
213	4-Aug-10	8-Sep-10	35	No Findings
214	16-Sep-10	19-Oct-10	33	Exonerated
215	14-Dec-09	14-Jan-10	31	Exonerated
216	6-Feb-10	9-Mar-10	31	Complaint Withdrawn
217	22-Dec-09	13-Jan-10	22	No Findings
218	23-Dec-09	14-Jan-10	22	Exonerated
	23-Dec-09	14-Jan-10	22	Exonerated
219	27-Sep-10	18-Oct-10	21	Exonerated
220	27-Sep-10	18-Oct-10	21	Exonerated
221	7-Jan-10	27-Jan-10	20	Exonerated
				Exonerated
222	7-Oct-10	20-Oct-10	13	Exonerated
223	18-Mar-10	30-Mar-10	12	Complaint Withdrawn
224	28-Sep-10	7-Oct-10	9	Unfounded
225	19-Jul-10	28-Jul-10	9	Complaint Withdrawn

No	Received Date	Completed Date	# of Days	Findings
226	8-Sep-10	13-Sep-10	5	Exonerated
	8-Sep-10	13-Sep-10	5	Exonerated
227	12-Oct-10	14-Oct-10	2	Complaint Withdrawn
228	28-Sep-10	29-Sep-10	1	Other

Appendix M

Press Release and Selected Newspaper Articles About The IPA Office



Press Release
Office of Mayor Chuck Reed

For Immediate Release:
April 13, 2010

Contact:
Michelle McGurk, PIO
Office of Mayor Chuck Reed
(408) 535-4840 or (408) 655-7332 cell

San José City Council Appoints LaDoris Hazzard Cordell as Independent Police Auditor

***Former Superior Court Judge Brings Diverse Experience
and Community Connections to Role of IPA***

SAN JOSE –The San José City Council today appointed LaDoris Hazzard Cordell as San José’s Independent Police Auditor.

“LaDoris brings a depth of experience and a solid track record of community service that will serve the City of San José well in her new role of Independent Police Auditor,” said Mayor Chuck Reed.

Cordell recently retired from her role as Vice Provost and Special Counselor to the President for Campus Relations at Stanford University. A former Superior and Municipal Court Judge, she served on the Palo Alto City Council from 2004 to 2008.

“I look forward to serving the residents of San José in the role of Independent Police Auditor and reaching out to the variety of constituencies that the office serves,” Cordell said. “From my years as a state court judge and as a city councilmember, I have worked with all sides in the justice system from law enforcement to victims and their families to community organizations. My goal is to bring that experience to this new role and work collaboratively with all the stakeholders.”

Under San José’s City Charter, the Independent Police Auditor is appointed by the City Council and is responsible for reviewing San José Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair; making recommendations regarding Police Department policies and procedures based on the Independent Police Auditor’s review of investigations of complaints against police officers; conducting public outreach to educate the community on the role of the Independent Police Auditor and to assist the community with the process and procedures for investigation of complaints against police officers.

Cordell’s start date will be in late May, 2010.

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San Jose Mercury News

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DIVIDED SAN JOSE CITY COUNCIL

Stunning pick for police auditor

Police union leader criticizes choice of ex-judge Cordell; predecessor and a civil rights activist praise new watchdog

By Sean Webby

sewebby@mercurynews.com

With its Police Department dogged by allegations of racial profiling and overaggressive tactics, the San Jose City Council on Tuesday selected as the new police watchdog a retired judge and African-American woman who has talked of being stopped by police because of her race.

The vote to make LaDoris Cordell, a Santa Clara County Superior Court judge from 1982 to 2001, the city's independent police auditor was not unanimous. Mayor Chuck Reed — a staunch defender of the police — was one of three council members to vote against her. And the council's choice stunned both police officers who fear she'll be biased

against them and community activists who believe she won't shrink from confronting the 1,300-officer force. Speaking at a news conference alongside all 11 City Council members — but with no law enforcement representatives present — Cordell took a measured approach.

See **CORDELL**, Page 10



GARY REVES/MERCURY NEWS
Independent Police Auditor LaDoris Cordell talks after being introduced by Mayor Chuck Reed.

MORE INSIDE

Scott Herhold: Talented leader may find her new role limiting. **Page A10**



ONLINE EXTRA

What do you think of LaDoris Cordell as the choice for San Jose's independent police auditor? Vote in our poll at <http://forums.mercurynews.com/poll>.

Cordell

Continued from Page 1

She said she looked forward to “pushing the limits” of her new job, which monitors the Police Department’s investigations of its own officers but has little power to alter outcomes. She also said she would be fair to all sides and suggested that the community has many misunderstandings about the Police Department’s difficult task of ensuring public safety.

“I intend to be out there in the community and to be the face of the IPA,” said Cordell, 60, who retired as vice provost of Stanford University last year and will start her new job in May. “I care very much that the concerns of the community are heard and the concerns of law enforcement are heard.”

San Jose police Lt. George Beattie, the president of the police union, immediately criticized the choice.

“I have serious concerns about Ms. Cordell’s ability to be independent and objective,” he said in an e-mail. “While she has a right to be associated with community groups that have historically been critical and antagonistic to our officers, this should raise questions about her ability to be objective, just as Chris Constantin was considered biased because of his relationships. I consider this a double standard.”

The council last year picked Constantin, an auditor for the city, to replace police auditor Barbara Attard, whose contract was not renewed. But within days, Constantin withdrew after the Mercury News reported that his brother was a San Jose police officer. Shivaun Nurre has been the acting independent police auditor in the interim.

Attard, widely seen to have been

LADORIS CORDELL

Age: 60

Experience: Santa Clara County judge, Stanford University vice provost, Palo Alto City Council member

Education: 1974 graduate, Stanford Law School

Family: Two daughters

Noteworthy: First female African-American judge in Northern California

bounced from her position by a council who saw her as too ambitious to increase the office’s limited oversight power, greeted Cordell’s appointment with surprise and delight.

“Are you kidding me?” she said. “How did that happen? I have confidence that she will provide great strength and leadership to the position.”

Victor Garza, a prominent Latino civil rights activist who heads the local La Raza Roundtable, praised the surprising choice and called Cordell a fighter for social justice.

“I didn’t feel the city would give her the opportunity to do that,” he said when told of her appointment. “And having dealt with the Police Department for a long time they are not going to embrace it right away. She will have to have work hard to bring them into the fold.”

Indeed, Cordell’s appointment set off alarms among police because of her history. While a member of the Palo Alto City Council, she worked to create a police oversight process.

In an incident that echoes what some activists say is a problem in San Jose, Cordell has often talked publicly of having experienced personally the

pain and humiliation of racial profiling, when she was pulled over at gunpoint by police officers just after becoming a lawyer in the mid-1970s. And Cordell’s supporters include the NAACP and the Asian Law Alliance — community groups that have been leading critics of police and have called for San Jose Chief Rob Davis to resign.

But while on the Palo Alto council, Cordell voted to equip police with Tasers. She also hosts “Make the Call,” a cable television show that highlights unsolved homicide cases and other law enforcement issues in East Palo Alto. East Palo Alto Police Chief Ron Davis says he’s a “big fan” of Cordell.

Cordell was one of four finalists for the job, which pays about \$170,000 a year. In her community evaluations, obtained by the Mercury News, panelists wrote that Cordell was “inspiring,” “energetic,” “well qualified” and “an excellent communicator.” But they also said she was potentially “polarizing,” “may overshadow the position” and that “members of the council may feel threatened by her excellence.”

Meanwhile, city officials lined up behind the choice — at least publicly.

Reed and Councilman Pete Constant, who both voted against hiring Cordell, said they wished her well in her new job.

Police Chief Davis said, “We really look forward to establishing a positive relationship between the Police Department and the IPA so that we can work together to continue to build positive bridges between the Police Department and the community.”

Asked why no police officials attended the news conference announcing the hiring, Davis said police didn’t have enough time to get to the announcement. The chief said he would have attended.

Contact Sean Webby at 408-920-5003.



LaDoris Cordell, right, is congratulated by City Auditor Sharon Erickson after the announcement Tuesday by the San Jose City Council naming Cordell as San Jose's new independent police auditor. Cordell was one of four finalists for the job, which pays about \$170,000 a year.

GARY REYES/
MERCURY NEWS

Will Cordell find her new job too limiting?

In the small pond of Santa Clara County politics, LaDoris Cordell is a rock star: former judge, former Stanford official, ex-Palo Alto council member, outspoken crusader for civil rights, talented artist, superb athlete, recipient of multiple awards.

With Tuesday's announcement that she will become San Jose's independent police auditor, however, she takes on a job defined by the limits of its power.

It's a little like a celebrity — let's say Bono — accepting the job of lieutenant governor. The wattage of the incumbent outshines the capacity of the office tenfold.

For the sake of the city and Cordell herself, I hope I'm wrong. But I'd bet against this marriage lasting a long time. If I had to make an over-under bet, I'd put it at 24 months.

In a brief appearance at City Hall, Cordell said the right things. She intends to participate in the community, meet the cops, introduce mediation and listen to new ideas.

Anyone has to admit the ex-judge has remarkable talents: She's smart, politically savvy and deeply versed in our society's injustices. As an African-American woman and a lesbian, she has lived the litany of inequality.

But when you talk to people about Cordell, the phrase "team player" does not come to their lips. Both on the bench and on the Palo Alto council, she irritated colleagues. It was often for the right reason or cause, but it still left her isolated.



SCOTT HERHOLD

COLUMNIST

Cartoon story

Don't believe me? Let me remind you of Cordell's cartoons. In the late 1990s, when she was still a judge, she created a calendar to raise money for a nonprofit child advocacy group.

One of the cartoons, titled "Taking the Fifth," depicted a judge holding a fifth of Scotch, with an office calendar filled with golfing appointments.

Cordell later explained that the cartoon was simply

of a generic white guy. But the judge in her portrait happened to bear a remarkable resemblance to one of her adversaries on the bench — who, yes, was a golfer. The judge was reportedly

unamused.

That's what gives me pause about this appointment. Cordell will reinvigorate the auditor's office. She has a gift for defining a mission. She's good with the media. But I fear she will face a struggle in winning the cooperation of the cops.

You could already see some of the coming clash in a statement issued by police union President George Beattie on Tuesday.

'Barely included'

Saying that the cops were "barely included" in the process, Beattie warned that the new auditor cannot exhibit bias — which he defined as connections to "activist organizations with histories of antagonizing and criticizing our police force." Cordell belongs to the NAACP, which has occasionally criticized police.

Of course, the test of a new auditor ought not to be pleasing the cops. But remember, ex-auditor Barbara Attard was fired after she tried to expand her powers to investigate officers.

LaDoris Cordell is Barbara Attard on steroids. Yes, she might be savvier politically. But the job itself puts limits on what she can do. It's essentially to review and compile complaints and suggest changes. And I fear she may get frustrated living with the restrictions.

It's fair to say Cordell disagrees with me, and she cites her experience on the bench in rebuttal. "For almost 20 years, I did quite well working within the system," she told me. "I was able to come up with ways to achieve the kind of justice that should be achieved."

Like I say, I hope I'm wrong. This is one wonderfully gifted woman. Her heart is in the right place. She's cracker-jack smart. I'm just not sure this is the right job.

Opinion www.sanmateocountytimes.com

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Cordell strong pick to be police auditor

LaDoris Cordell is a daring choice for San Jose's police auditor — and a great choice for the time. The former Superior Court judge, Stanford provost and Palo Alto City Council member will bring credibility to the watchdog office and raise its public profile.

Cordell's predecessor, Barbara Attard, tried to expand the legal authority of the auditor, but Cordell accepts the ground rules. She says she'll improve the office's effectiveness by visiting neighborhoods and speaking to groups throughout the city, so people know where to turn for help. She plans to introduce mediation as an option to resolve individual complaints — an excellent idea that's used effectively in other cities, most notably New York.

Leaders of the police union are unnerved. Cordell, who is African-American, tells of personally experiencing profiling. She's outspoken, and she's supported by organizations that have criticized the police, such as the NAACP. But she says police officers are victims of profiling as well, and she'll be sensitive to that. We believe she can be fair.

Over the past year, the Mercury News has reported on arrest trends that indicate a more confrontational approach toward minorities. Some community groups feel marginalized and had given up on the auditor as a remedy. That should change now. Nobody can say minority concerns will be ignored by an office headed by LaDoris Cordell.

San Jose City Council appoints new Independent Police Auditor

Community -

By **Gintha Rodriguez**
El Observador

On Tuesday, April 13, the San Jose City Council appointed LADoris Hazzard Cordell as Independent Police Auditor (IPA).

Cordell is a former superior and municipal court judge and recently retired from her role as Vice Provost and Special Counsel to the President for Campus Relations at Stanford University. She also served on the Palo Alto City Council from 2004 to 2008.

"She brings a wealth of experience, talent and expertise to this job," said Mayor Chuck Reed. "She brings a lot of energy and we're all looking forward to working with her."

Under San Jose's City Charter, the Independent Police Au-

ditor is appointed by the City Council. The IPA is in charge of reviewing San Jose Police Department investigations of complaints against police officers to determine if the investigation was complete. The IPA can also make recommendations regarding Police Department policies and procedures based on their reviews, conducting public outreach and assist the community.

"I am very pleased to have been given this opportunity to come back to the City of San Jose and to work with some wonderful people in the auditors office and also to work with law enforcement and also city council, and the members of the community," said Cordell.

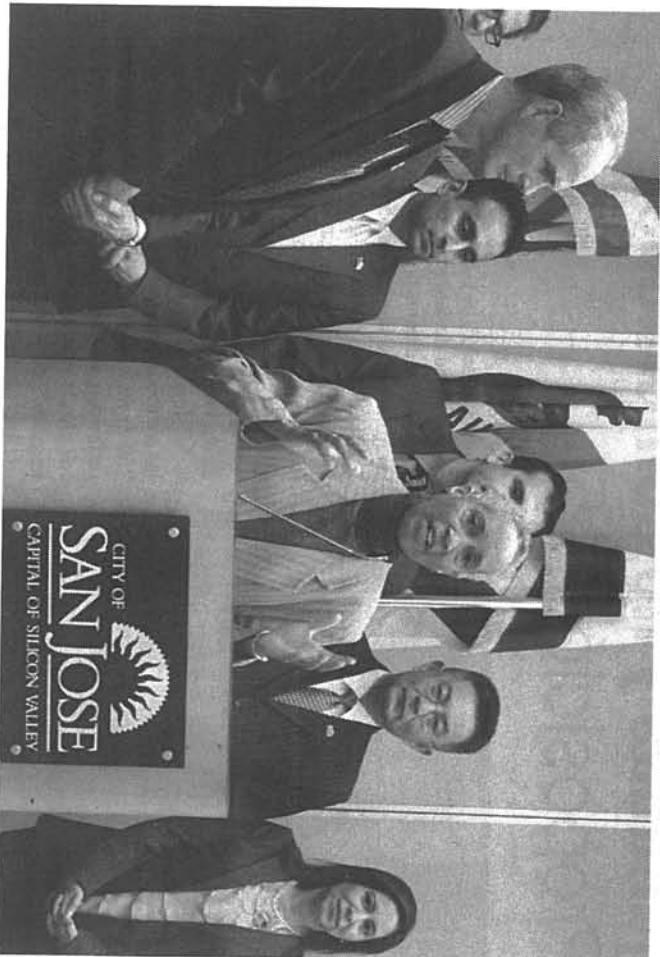
Cordell wants to continue doing things that are being done in the office, but considers pushing the limits a little more by being innovative. She wants to

see an end to such a separated community when it comes to people who strongly support the police department and those who are against it.

As IPA, Cordell wants to include mediation in resolving complaints that come from civilians about law enforcement and intends to be out there in the community. She wants people to know that concerns are being heard and intends to work collaboratively with all stakeholders. Stakeholders being city council, law enforcement, people who live and work in the city of San Jose and those in the auditor's office.

"It is my determination to work as effectively, make the office work as effectively as possible within the existing structure," said Cordell.

The City Council is very happy to announce her appointment.



The newly appointed Independent Police Auditor, LADoris Hazzard Cordell accepts her new job. The Mayor plans on presenting a resolution discussing her salary and benefits on April 27, in a public hearing. Cordell's start date will be in late May 2010. A

San Jose Mercury News

NEW CHALLENGE

Cordell used to skepticism, tough terrain

Former judge ready to take on job as San Jose police auditor

By Sean Webby

swebby@mercurynews.com

The knock against San Jose's newly appointed police watchdog LaDoris Cordell is that she will flat-out not be objective. She's a former judge, an avowed liberal who publicly disdained the controversial "three strikes" law, and a passionate civil rights activist who says she personally experienced racial profiling as a young woman.



Cordell

Yet, there she was in the early 1970s, a fiery, Philadelphia-bred, African-American law student at Stanford, taking a stand against many of her white classmates in a legal ethics class. The majority rushed to the defense of a black Oakland attorney disbarred for persuading someone to lie in court. They cited his

See CORDELL, Page 10

Cordell

Continued from Page 1

background as a working-class man who had dealt with racism. Not Cordell.

"LaDoris just let go and said, 'You don't have to go to a great law school to know that it is wrong to lie,'" said Barbara Babcock, a Stanford law professor.

It's a story that offers a more nuanced picture of the 60-year-old Palo Alto woman who is suddenly tasked with keeping an eye on a police department that critics say is heavy-handed against minorities. Still, many in the local law enforcement community are wary of Cordell in her new role of monitoring the department's sensitive and secret internal investigations of its own officers and recommending vital policy changes.

Is Cordell biased? Will she be fair?

More than a decade ago, some Santa Clara County prosecutors had these same questions.

Some boycotted Cordell when she was a judge, claiming she was so philosophically opposed to the three-strikes law that she wouldn't give their cases a fair shake.

"She thought three strikes was biased and disproportionately affected African-Americans," said David Tomkins, now the assistant district attorney, about having some cases reassigned away from her courtrooms. "The problem is, people get out of prison and they are victimizing people in these same communities, who have the right to live safely."

Overcoming injustice

In her first extensive interview since being tapped by a divided city council last week as San Jose's independent police auditor, Cordell told the Mercury News she was never reversed on appeal for reducing a legal "strike" — a conviction that counts toward a potential life sentence.

"I don't think that law is fair, and I don't care what color you are," Cordell said. "Concerns about justice for people of color does not equal lack of concern about justice

LADORIS CORDELL

Age: 60

Experience: Santa Clara County judge, Stanford University vice provost, Palo Alto City Council member

Education: 1974 graduate, Stanford Law School

Family: Two daughters, partner Florence Keller

Firsts: First female African-American judge in Northern California

Holds court: At the Hobe's Restaurant in south Palo Alto

About Mayor Chuck Reed's vote against her appointment: "Actually Mayor Reed was entirely gracious to me today. I could not have asked for more from him. People in politics do what they have to do. I think we will do just fine together."

for all."

In response to Tomkins, she said, "Everyone is entitled to his or her opinion, no matter how misguided."

While Cordell wears her lifelong civil rights mantle as comfortably and proudly as her Stanford hoodie, she and her supporters say she is taking on the new \$170,000-a-year job with a healthy and realistic perspective and an open mind — regarding both the community and the officers.

Despite her brimming self-confidence, Cordell finds herself facing the same kind of skepticism and distrust from police as she did from Tomkins and other prosecutors. It could be her greatest challenge.

Cordell has made her life a fight against many injustices. She is a Democrat, a proud feminist, an ACLU supporter and a gay woman who fights for gay marriage rights.

She has mentored black children in the Mississippi Delta; created diversion programs for youth in East Palo Alto; participated in a human rights conference in South Africa during apartheid, and created an organization intended to encourage more

African-American donors of blood, organs and bone marrow.

"The first way I define myself is as an African-American," she said. "Part of surviving in America as an African-American is that you have to be aware of who you are. There is discrimination, there is racism."

That is a challenge that began to become clear early in her life.

Cordell was raised within the Main Line, a swath of Philadelphia suburbs known for multimillion-dollar stone Colonial homes and prestigious universities. But her parents ran a dry cleaning business, as members of an African-American community who served the white upper-middle classes.

Cordell did well in school and attended Antioch College in Ohio. Around this time, Stanford University was making a concerted effort to redress its historical lack of minority students through recruitment.

Federal Judge Thelton Henderson, then an assistant dean for Stanford Law, said he was initially skeptical that this polymathic young woman — a writer, a pianist and composer, an athlete — could settle down to focus on the complex intricacies of law.

"We ended up deciding that she shouldn't be punished for being so good at so many things," Henderson told the Mercury News. "It was one of the best decisions I ever made. When you think of LaDoris, she has this huge energy and a thirst to learn. That's why she will be fitted so well for this new job."

Cordell went from Stanford to a private practice in East Palo Alto, the first such firm in the working-class community. It was around then — she estimates around 1976 — that she and two others were pulled over in their car at gunpoint by Palo Alto police officers who were apparently looking for black males on foot. She was terrified, but she was not arrested. Cordell declined to describe the incident further.

But her feelings on racial profiling are strong, which has sparked concern within the San Jose Police Depart-

ment.

"There is such a thing as racial profiling," she said. "It's here, and it's probably everywhere. There are excessive force issues in every city. Look, law enforcement is a tough job. The police have 400,000 contacts with the public a year. These issues arise. As far as San Jose, I can't make an assessment."

In 1982, at 32, she was appointed by then-Gov. Jerry Brown to the bench in Santa Clara County.

Cordell looks back on those years as rich, rewarding but often frustrating and isolating, as the first African-American woman on the bench in Northern California.

"I think some people thought of me as this black women judge who is gonna cut all these people loose," she said.

After 19 years, Cordell re-

tired from the bench and began working as vice provost of Stanford University. In 2003, she ran successfully for Palo Alto City Council.

While on the council, she cast the deciding vote that armed city officers with Tasers. It left a bitter taste in the mouths of some who advocated against them. But Cordell said she was proud of the swing vote and that she helped craft a restrictive and responsible policy for their use.

Determined to succeed

Even some people close to Cordell question whether she can hew to the limitations of the independent police auditor. The office has little power to make changes to internal investigations or policies it disagrees with, beyond making nonbinding dissents or recommendations. Cordell's predecessor, Barbara Attard, tried to enlarge those powers

only to be voted down, and soon afterward, voted out of office.

As Pete Constant, one of three council members who along with Mayor Chuck Reed did not vote for Cordell, said: "I have concerns that her star power may overshadow the role of the IPA."

But Cordell is adamant she has thoroughly thought out and can work within the office's charter-defined responsibilities while winning over her many skeptics.

"Am I biased against police officers? No. Do I have concerns that perhaps police officers are not acting appropriately? Yes. Do I have concerns that people in the community are making bogus allegations not based on reality? Yes. One of my jobs as a judge was to weed out the bull."

Contact Sean Webby at 408-920-5003.

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San Jose Police Auditor Enters the Fray

Tense Relations Between Police Department and Some Minority Groups Make Mediator's Post a Challenge for Former Judge

By BOBBY WHITE

LaDoris Cordell stepped into her new job as San Jose's independent police auditor Monday, hoping to patch up long-strained relations between the city's police department and some minority groups.

The 61-year-old former judge and Stanford University vice provost was appointed last month to the post, which functions as a mediator between San Jose's 1,300-member police force and the community. But while she is responsible for investigating residents' complaints about officers and recommending improvements in police policies, the office's powers are limited.

And Ms. Cordell begins her work as the police department faces internal and external challenges. The department grappled last year with allegations of police racism, spurring calls from some of the city's minority communities to remove Police Chief Rob Davis and to overhaul the department. Last month, police union leaders said Mr. Davis had lost the confidence of rank-and-file officers as the department dealt with budget cuts. Mr. Davis rejects both the racism allegation and the suggestion that he has lost the confidence of officers.

Ms. Cordell says she is going to work to smooth over the strains between police and San Jose's diverse population of 948,279, which is 48.6% white, 31.5% Latino, 31.2% Asian and 3.5% African-American, according to census data that include some residents in more than one category.

"This is going to be a fight, no question about it," said Ms. Cordell of her new post. "A fight to get parts of the minority population here to trust the police and a fight to get the department to trust me and patch up community relations."

Racial tensions have brewed in the city for years and were exacerbated by two high-profile



Independent police auditor LaDoris Cordell, left, meets Monday with Lynn Morison of the Bill Wilson Center, a community group, in San Jose.

the police department and minority communities, the chief had done little to address escalating tensions. Claims that the department is racist are absurd, Mr. Davis said. The incidents were unfortunate but such episodes "occur in a city of this size," he said.

Raj Jayadev, coordinator for Silicone Valley De-Bug, a nonprofit focused on fighting racial disparities in the justice system, says Ms. Cordell faces a tough road because many members of San Jose's minority communities have lost faith in the police-complaint process.

"She's parachuting into a battleground," he said. Still, "the hope is that by bringing in a clearly qualified person who has her own backbone that it will in-

still some integrity to the complaint process."

But Ms. Cordell says she is restricted by the powers of her office. In cities such as San Francisco and Richmond, police oversight is conducted by a committee composed of local leaders and community-group representatives that typically can initiate misconduct investigations without the consent of the police.

In contrast, San Jose's independent police auditor has little power to make changes to police policies or to initiate internal investigations managed by police without the consent of the police department. Ms. Cordell is only empowered to evaluate internal investigations and make recommendations to the city council and police based on the findings.

Previous attempts to give the auditor more authority have failed. Ms. Cordell's predecessor, Barbara Attard, who was auditor from 2005 to 2008, tried to increase the office's investigative powers but her efforts were unsuccessful. "The council did not agree with how I viewed some of the issues in the community," said Ms. Attard, "and they weren't in favor of how I planned to address them."

Some members of the council, which voted 8-3 to appoint Ms. Cordell, acknowledge the delicacy of the role. Ms. Cordell "has to let it be known that she isn't an advocate," said San Jose Mayor Chuck Reed, who sits on the city council and voted against appointing Ms. Cordell. "She can't push for reforms on



San Jose Police Chief Rob Davis, in October 2009.

behalf of a group or individual." Mr. Davis, the police chief, says the auditor's position is important in reassuring the community that there is an avenue to deal with police misconduct. He says Ms. Cordell has reassured him that she will remain objective. "Officers need to know they are getting a fair shake from the auditor, because they have a tough job and they face a lot of judgment," said Mr. Davis.

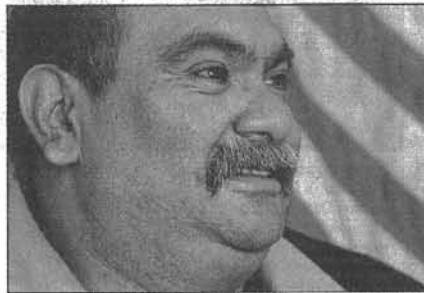
Ms. Cordell says her background has prepared her to be auditor. The Philadelphia native and Stanford Law School graduate was appointed to the Santa Clara Municipal Court as a judge in 1982 when she was 32, winning election to Santa Clara Superior Court in 1988. She served on the bench for nearly 20 years before becoming a vice provost at Stanford in 2001. She later served a four-year term on Palo Alto's City Council.

Ms. Cordell says she plans to institute a mediation program over the next two years, gathering residents with complaints together with police officers. She says she also hopes to rebuild police morale by conducting outreach programs that highlight the department's efforts to improve community relations.

"It's vitally important that people feel they are being treated fairly by the police department," she says.

Associated Press

INTERNAL LEAKS



KAREN T. BORCHERS/MERCURY NEWS ARCHIVES

Sgt. Bobby Lopez contends he was helping officers by using the source.

Spy alleged at S.J. police auditor office

Ex-chief of officers union says he was given confidential information

By Sean Webby

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In a breach that may have compromised investigations of alleged police misconduct, an employee of San Jose's Independent Police Auditor repeatedly leaked confidential information over several years to the San Jose police officers union, the union's former president told the Mercury News.

Police Sgt. Bobby Lopez said that the person, whom he would not identify, gave him inside information about complaints against police officers made to the IPA. At one point, he said he was tipped to an upcoming Mercury News story about the violent arrest of a San Jose State student.

Told of Lopez's comments, newly-appointed police auditor LaDoris Cordell said she had recently notified the San Jose city attorney of an allegation against an employee. Cordell would give no details, but Skyler Porras, former head of the local office of the American Civil Liberties

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Union, said she notified the IPA late last month of her belief that Lopez had a spy in the office.

Porras said she has since been interviewed by an attorney about the allegation.

"I take seriously any allegations that in any way might impugn the integrity and independence of my office," Cordell said, declining further comment about Lopez's statements.

The five-person staff of the Independent Police Auditor provides the primary independent oversight of the city's police department, receiving citizen complaints against the police and monitoring the police department's investigations of its own officers.

When asked why a person in the office would have given him confidential information, Lopez said: "They felt that, for many reasons, the office was being disingenuous" and being unfair to the department, particularly under the leadership of former IPA head Barbara Attard.

Lopez contended he was helping the officers and the department by using the secret source.

"If you are attacking the guys unfounded, then I needed to know," Lopez said. "And I didn't mind the intelligence."

Porras said Lopez had told her in June 2009 that "he knew that complaints were being mischaracterized and misrepresented because he gets calls from (IPA) staff."

Porras said she waited to bring forward the allegation to see if she could determine whether it was true and, if so, who the informant was.

Porras said she now felt the allegation was true, but declined to say who she suspected.

She said she was interviewed Wednesday by San Francisco attorney Mike Moye, who she believes was hired by the city to probe the allegation. The City Attorney's Office had no comment.

Police Chief Rob Davis said if what Lopez said is true, "then it is obviously inappropriate for the IPA to be sharing the information and it is equally inappropriate for the POA to be getting the information. As we learn more about this, if there is any chance that the outcome of a case could have been compromised then we will review that case."

It was unclear if such leaking would be illegal. California penal code protects personnel information from being disclosed except under rare circumstances.

But if Lopez's comments are true, then it raises the possibility that the auditor's work was undermined, at the very least giving officers an early warning, not dissimilar to someone under police investigation getting a heads up before being contacted by officers.

IPA-gathered complaints are referred to the department's Internal Affairs unit and officers are generally told of accusations before they are interviewed.

Lopez said he was approached by the IPA employee when Attard was the IPA head from 2004 through 2008.

The person, Lopez said, was upset that Attard was "pushing the organization in a direction that was contrary to being fair and truthful."

In some cases, Lopez contended, the insider would give him information which wasn't included in the official IPA complaint about an officer. Such information, Lopez said, would help the union fight against false allegations.

Last October, the person tipped the union president that the Mercury News had obtained a cell phone video of San Jose State student *Phuong Ho*, as he was being violently arrested, Lopez said.

In order to divert attention from the video, which some experts felt showed excessive force, Lopez then asked Taser Inc. to quickly announce that the department had been chosen to test AXON — a new technology that records through video and audio officers contacts with the public.

Both the AXON pilot program and the video made news in the following weeks, with the pilot program being used to paint San Jose police as progressive in their willingness to document arrests.

Lopez said he is positive the IPA staff member discontinued communicating with the union when he left at the beginning of this year.

But he would give no further details.

Former IPA Director Attard reacted with dismay: "The allegations are alarming. If true they reveal a violation and betrayal of IPA confidentiality agreements and community trust, possible violations of the law as well as an indication of corruption and undermining of the integrity of the office."

Attard was widely criticized for attempting to get more power to investigate police. Currently the IPA can collect complaints and advise police about complaints, but has no power to determine an outcome.

Eventually and in large part due to her public attempts to strengthen her office, the City Council voted not to renew Attard's contract.

Contact Sean Webby at swebby@mercurynews.com or 408-920-5003.

Editorial

Ethics breach erodes trust in IPA and officers

It's hard to say which is more outrageous: that an employee of San Jose's Independent Police Auditor apparently fed confidential information about police complaints to Sgt. Bobby Lopez while he was president of the police union — or that Lopez seems to see nothing wrong with it.

To have any hope of restoring public trust in the IPA, San Jose needs to thoroughly investigate what happened, make the results public and file charges if the conveyance of information broke the law.

The revelation by Mercury News reporter Sean Webby this week has embarrassed the current police union leadership, which claims to have known nothing of the leak and, to its credit, disowns Lopez's behavior. "This was absolutely unethical," Police Officers Association vice president Jim Unland said Thursday. "There is no other word for it." Police Chief Rob Davis promises to review disciplinary cases if they appear to have been affected.

To restore public trust, San Jose needs to thoroughly investigate what happened, make the results public and file charges if appropriate.

Rebuilding public trust in both the officers and the IPA will be a struggle, however. Already some activists are calling for a boycott of the IPA. The breach will revive questions as to whether it is a sufficiently independent agency to monitor police conduct and provide public accountability.

The spark of optimism is that since May, the IPA's office has been headed by retired Judge LaDoris Cordell, who is known for high ethical standards and a commitment to transparency. Cordell learned about the allegations last month and told the city attorney, who commissioned an independent

investigation. The auditor can be counted upon to push for full public disclosure and to shore up the integrity of the office.

People are supposed to be able to come to the police auditor with complaints against officers if they feel uncomfortable going to the police department's Internal Affairs unit. Lopez says his contact shared information because he or she felt the previous IPA, Barbara Attard, was being unfair to the police. He says the information helped the union fight accusations he believed were false.

In 2008, the latest year with statistics available, there were public complaints about use of force against 184 officers in 117 cases. That same year, zero complaints were sustained — although some of the complaints

resolved in 2008 may have been filed in previous years. That said, it's possible that inside information helped some officers to avoid disciplinary action, much like tipping off the target of a police investigation can help that person avoid arrest. Lopez was ousted as union president in January.

Attard tried to stretch the authority of the IPA, which led to conflict with the police chief and the union. When the mayor and City Council declined to renew Attard's contract, some saw it as a lack of commitment to police oversight — but then they hired Cordell. The former judge's tenure over the next few years will show whether the office can be effective. If she can't do it, no one can.

But first, she and the police department have to get the facts of this ethical breach out into the open — and then somehow put it all behind them.

INTERNAL LEAKS

Distrust 'no longer a conspiracy theory'

Report of spy within police auditor's office stirs anger and grief

By Sean Webby

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As the city probes for a possible mole for the San Jose police union within the Independent Police Auditor's office, police union officials reacted with feelings of disappointment at the allegation, city officials urged caution and a community activist called for a citizen boycott of the oversight agency.

Meanwhile, City Hall and police headquarters were buzzing about the explosive claim by police Sgt. Bobby Lopez that an employee with the agency responsible for monitoring police behavior had leaked confidential information to the police union about citizen complaints.

Community groups who already distrust the po-

lice questioned Thursday whether they could trust the police auditor's office any longer.

"Every suspicion anyone has ever had about the lack of independent oversight has been confirmed, it's no longer a conspiracy theory," said Raj Jayadev, a community activist and frequent police critic. "Think about what it took for people to muster up the courage to lodge a complaint against a police officer, then to be disrespected and insulted and betrayed like this."

Jayadev said he is urging the public not to go to the IPA with any complaints against officers until an internal city investigation is completed and the integrity of the office can be restored. He said people should come to his organization — Silicon Valley De-Bug — or other community organizations to make complaints against officers in

Online extra

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the interim.

"This issue undermines the lack of trust that the community has had for the city on issues of policing for some time," said Walter Wilson, a community activist. "It is our hope that the new IPA LabDoris Cordell will use this issue as an opportunity to take a hard look at her current staff and make changes as she sees fit, that will restore her office to the 'independence' that it needs to regain the trust of the community and the public."

Police oversight experts, national and local, urged the city to be as thorough and transparent as possible with its investigation to try to restore public trust.

The city has hired an at-

torney to investigate the claim. But no further information was released through the IPA or city Thursday.

"I am taking all necessary steps in pursuing our internal investigation as expeditiously and thoroughly as I possibly can," new auditor Cordell said.

The search for a city spy has once again put a spotlight on the small, formerly obscure city agency, whose main mission is to monitor internal police investigations of officers to make sure they are on the up and up. People with complaints against officers can make them to the IPA rather than go to the Internal Affairs office. Although the IPA has little power to change the outcomes of such investi-

gations, the agency was seen as a trustworthy, alternative outlet for people to make sensitive complaints.

Philip Bure, president of the National Association for Civilian Oversight of Law Enforcement, said he had never heard of a similar allegation and feared it would undermine the credibility of both the IPA and the Police Department.

"People have to know that when you make a complaint, it's handed in an appropriate way," said Bure, who heads the police oversight agency for Washington, D.C. "The key to helping to restore trust will be to do a full investigation and let the chips fall where they may."

Union officials, who took over the police labor organization from Lopez, said that if the allegations prove true, then they will be "extremely disappointed."

Jim Unland, the police

union's vice president, wrote in an e-mailed statement.

"If his conduct proves to be legal, it was at the least unethical. (Union president Police Lt. George Beattie) and I have always said that we want the IPA process to work. While this may undercut some people's confidence in the system, I would remind them that these actions were carried out by two people and do not reflect the values of the Office of the IPA or the SPOA."

City Councilman Sam Liccardo urged the community not to overreact.

"It's premature for us to jump to conclusions until the investigators have had an opportunity to find out if there is any substance to these allegations," Liccardo said. "It seems to me there is a lot we don't know right now."

Contact Sean Webby at [408-920-5003](tel:408-920-5003).

CLEARING THE AIR

Police auditor asks upset residents, cops to talk it out

Complaints of rude officers could
soon be mediated by retired judges

By Sean Webby

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Say a San Jose cop scolds you for jaywalking or berates you outside of a bar. You feel disrespected.

What do you do?

Independent Police Auditor LaDoris Cordell is proposing a plan that would offer a face-to-face meeting — handshakes, apologies all around and perhaps a greater understanding between police and the public.

Instead of months-long, secretive and expensive investigations, complaints of rude conduct could be mediated by retired judges, if both officer and complainant agree. Think of it as a bit like the cold beer President Barack Obama arranged between Harvard professor Henry

Louis Gates and the officer who arrested Gates for breaking into what turned out to be his own home.

Cordell suggests the idea of simply talking out the problem in front of a neutral party could resolve dozens of complaints a year, leave both resident and officer more satisfied and cut down on city expenses and litigation.

Inside

Most rude conduct cases are not sustained. See a breakdown of recent cases,

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Mediation

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"If you get the people to the table because they want to be there, then amazing things can happen," said Cordell, who pitched the idea to police, Mayor Chuck Reed and some City Council members this week.

She added: "One of my goals for this office is to be instrumental in bringing good will and stronger trust between the people and the San Jose Police Department because it's not anywhere as strong as it could be."

Cordell's concept, which she says could one day grow to encompass more serious complaints, is based on a growing police oversight model in the U.S. Similar programs are used in San Francisco, Denver, New York City and Washington, D.C.

"I like to say it's a win-win situation," said Phil Eure, president of the National Association for Civilian Oversight of Law Enforcement. He heads the police oversight agency in Washington, D.C., where a program using paid mediators resolves about 9 percent of such complaints each year.

Currently, complaints about rude San Jose officers are probed by the Police Department's Internal Affairs unit.

Even if they don't result in discipline, complaints may have negative consequences for an officer seeking pro-

Most rude conduct cases are not sustained

In 2008, the most recent year for which data is available, 248 complaints were filed against San Jose police officers for rude conduct. Only one was sustained. Under a new proposal from the independent police auditor, some rude conduct cases could be mediated instead of investigated by the police department.

Case outcome	Definition	Number of cases	Percent of cases
Sustained	Evidence clearly proved the allegation	1	0.4%
Not sustained	Insufficient evidence to prove or disprove the allegation	110	44%
No misconduct determined	No independent information to resolve a key factual dispute AND another forum exists to address the plaintiff's concerns	67	27%
No finding	The plaintiff failed to provide necessary information or the officer is no longer employed by SJPD	30	12%
Unfounded	The act did not occur or the officer was not involved	25	10%
Exonerated	Evidence showed the allegation did occur, but the officer's conduct was justified	9	4%
Within procedure	Officer's conduct was reasonable and there is no factual basis for the allegation	4	2%
Command review	No finding on whether the acts occurred; issues are addressed informally through the department's chain of command.	2	1%
		TOTAL 248	100%

Source: Office of the Independent Police Auditor

MERCURY NEWS

motions or transfers to specialized units. Meanwhile, it's difficult for a community member to find out the outcome of an investigation.

Although finer details have yet to be announced, Cordell's plan would offer residents and police a chance to air their disputes in front of retired Santa Clara County judges recruited to guide the sessions for free. Cordell is a retired judge herself and says she's confident

she could persuade her former colleagues to sign up.

Initial reaction to Cordell's plan has been mostly positive, including from the police officers union and department brass.

"We would be more than supportive to give her the opportunity to try it," Police Chief Rob Davis said. "The key to success would be to create an environment where both parties felt there was

objectivity in the meeting and that there was a chance to learn from the experience."

Police already have a mediation plan in place, but it utilizes paid mediators and is rarely used.

Community activists, some of whom believe that officers for years have systematically busted people simply for their attitudes, said the idea has promise.

Raj Jayadev, of Silicon Valley De-Bug, said he was "willing to explore the idea." But he worried that if the approach let officers off the hook too easily, it would take away an important incentive for professional behavior.

"Maybe an officer feels that they can be rude and say an apology and shake this guy's hand and that's all there is to it," Jayadev said. "There needs to be a bright line that officers know they cannot cross."

Angel Luna, a 26-year-old San Jose man who filed a rudeness complaint last year after an officer stopped him for jaywalking, said he supported the idea of mediation.

"I still would be in favor of talking to the officer," he said.

The police auditor's office is struggling to regain public trust as it investigates whether an employee leaked confidential information about citizen complaints to Sgt. Bobby Lopez, then-president of the police officers union.

Cordell has promised to release the results of that investigation when it is complete, most likely this week.

LOCAL NEWS

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Peninsula Edition

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Police auditor scheduled to reveal results of spy probe



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SAN JOSE

Was there a spy? Police auditor to answer

Office plans today to release results of investigation

By Sean Webby

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San Jose Independent Police Auditor TadDoris Cordell is expected to reveal today the results of a city probe into whether there was a spy for the police union within her office.

Cordell announced Wednesday that she will first release the results of the probe online at www.sanjoseca.gov/ipa around noon.

An hour later, she will hold a news conference at her of-

fice at City Hall.

Just a few weeks into her job, Cordell launched the probe in the wake of reported suspicions by a former local American Civil Liberties Union head and a story in the Mercury News, which published admissions by Sgt. Bobby Lopez that, while he was president of the police officers union, an employee of the police auditor's office leaked him confidential information.

Lopez did not identify the employee.

Since the revelations, Lopez has remained mum. But a report published this week said Lopez denied he was



Cordell

Independent police auditor to hold news conference today.

He said a whistleblower told him about "unethical behavior" by former Independent Police Auditor Barbara Attard.

The report named neither the alleged mole nor the al-

leged unethical practices.

The scandal over the possible spy has placed in peril the credibility and effectiveness of the city agency, which monitors police internal affairs investigations and takes in citizen complaints for those who are uncomfortable or unwilling to take them to police.

When the news broke, one prominent community activist asked citizens to stop going to the police auditor with complaints until the allegation was investigated and steps were made to protect against similar breaches.

Contact Sean Webby at 408-920-5003.

INTERNAL LEAKS



Lopez
Former head of police union recants spying accusation



Cordell
Police auditor can dismiss anyone on her staff at her discretion

Probe fails to find spy for police

Investigator: Auditor's office did not provide union with information

By Sean Webby

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Despite a former police union official's comments to the Mercury News that he had a spy in the San Jose police oversight office, an outside investigator announced Thursday that he could find no evidence to support that assertion.

INSIDE

Editorial: Auditor still has to prove herself to wary public.

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ONLINE EXTRA

Read the full report on the police auditor's case at www.mercurynews.com/extra.

access to inside information about investigations from the Independent Police Auditor.

But Moye concludes there were contacts between staff members of the Independent Police Auditor's office and the police union and he recommends new policies governing communication between members of the auditor's staff and police.

The report may close the investigation, but it will not swiftly end the challenge for police auditor LaDoris Cordell, who has been on the job since May and is seeking to restore public trust damaged by Lopez's original allegations.

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After the June 9 report on Lopez's comments, community leaders questioned whether it was safe for residents to lodge complaints about the police to the IPA. On Thursday, some of those leaders said their concerns continue.

"For Judge Cordell, I wish that it could be safe, but in actuality Bobby Lopez has made that whole thing questionable now," said the Rev. Jeff Moore II, head of the local NAACP. Moore was asked if he believes Lopez was being truthful when he told the Mercury News he had a spy.

Moore replied: "I think he was telling the truth, and somebody told him to shut up."

During a news conference, Cordell indicated she realizes the challenges ahead, saying she plans to sit down with each member of her staff, share her vision with them and then "make determinations."

"I want to confirm for myself that my staff share my values and my sense of integrity about the work that we do," Cordell said. She would not elaborate on the phrase "make determinations," but IPA employees serve at the will of the police auditor and can be disciplined or dismissed at any time.

Instead, Moye determined that Lopez may have "construed casual statements by IPA staff as criticism of office policy," but the office's independence and cases were not compromised.

City Councilman Sam Liccardo said that he's convinced that Lopez's allegations were unreliable "and that's the end of the story."

"Whatever was communicated to Bobby Lopez seems to change every time Bobby Lopez tells his story," Liccardo said. "It's almost as if we were hearing from BP petroleum's PR department."

But Raj Jayadev, a community activist, said he continues to have concerns about the IPA. "Even if this report is saying that the staff members of the IPA may have

been critical of the office and sympathetic toward police officers that they were auditing, I think that is extremely damaging," Jayadev said.

Jayadev asked Cordell after her news conference if she would examine past IPA complaints to see if they had been compromised. But Cordell said she had no need to do so.

Attard agreed in a Thurs-

day interview that it may be tough to restore public confidence in the IPA.

"Allegations like this do undermine the office and it will be difficult for the office to recover," she said. "I remain concerned over the scope of the allegations and also the fact that a staff member may have been talking out of turn about the issues. I think it's a

real problem."

Moye is recommending a series of new protocols for the IPA, including policy changes that clarify agency employees' confidentiality agreements and the consideration of guidelines about contacts between IPA staff and outside parties. Cordell said she was considering adopting Moye's recommendations.

Moye's report, which will cost the city an estimated \$10,000 to \$20,000, documents how Lopez denied to him, point by point, the allegations he made in multiple telephone interviews with the Mercury News last month. Lopez has not returned numerous telephone calls from the Mercury News since the publication of the allegations.

When first contacted by the Mercury News about the issue, Lopez was asked: "Do you have a spy in the IPA?" Lopez laughed and immediately answered: "Yes."

"I would know ahead of time what (former IPA head) Barbara (Attard) would be coming to investigations with," Lopez told the Mercury News.

Lopez also told the Mercury News that he received advance information from someone in the police auditor's office that the Mercury News was going to publish a story about the videotaped beating of a San Jose State student.

In his report, Moye said that tipoff could not have happened because the police auditor was unaware of the story in advance. But that assertion is incorrect: A Mercury News reporter did, in fact, notify the auditor's office of the story about the beating of Phuong Ho before publication.

Moye's report was derived from interviews with IPA staff and Lopez; Lopez's wife, Kathy Lopez, who worked for the police department's Internal Affairs; and a review of "available" IPA e-mails and IPA telephone records. Moye said he did not ask for private phone or computer records.

During Lopez's interview, he acknowledged to Moye that he communicated with someone at the police auditor's office once a month or so. While he received no confidential information, Lopez claimed that person expressed sentiments that made him believe former police auditor Barbara Attard was acting beyond her scope. Moye concluded that the statements were "offhand" comments and not illegal disclosures.

San Jose police auditor acts to shore up trust

San Jose Mercury News

There was no police spy in the office of San Jose's Independent Police Auditor, an investigator's report declared last week — and yet on Wednesday, the auditor, retired Judge LaDoris Cordell, fired Suzan Stauffer, the person who had been suspected of feeding information to Sgt. Bobby Lopez when he was president of the police officers association.

Cordell is not commenting on the dismissal reported by the Mercury News' Sean Webby in Thursday's paper, but Stauffer confirmed it. A public explanation by Cordell would have been better to close the episode. But the finding that no confidential information changed hands is not inconsistent with the possibility that inappropriate conversations took place between Lopez and a staff member, as hinted at in the investigator's report. Cordell said as much last week when she promised to talk with each employee and make "determinations." Fill in the blanks.

The finding that no confidential information changed hands is not inconsistent with the possibility that inappropriate conversations took place between Lopez and a staff member.

An already-fragile bond of trust with the community had been further frayed by the spying allegation, revealed shortly after Cordell took over the office in May. The whole point of the Independent Police Auditor is to monitor police conduct and provide a place to go when people are afraid to complain directly to the police department.

With Wednesday's action, Cordell did what she could to show that things would be different under her leadership. Fortunately, community activists have responded positively.

The only thing that remains unresolved from the spy allegations is Lopez's own shape-shifting account of what happened.

He clearly and directly told Webby he had an informant in the office who had provided him

with advance information about investigations that helped him craft a response ahead of time. When Webby's story appeared on the front page of the Mercury News in June, Lopez never complained that it was inaccurate. Yet when the investigator hired by the city talked to Lopez with a lawyer present, Lopez denied most of what had been published.

San Jose Councilman Pete Constant, a retired police officer, raised an interesting question this week.

"He said he had this snitch, and then he didn't," Constant told Webby. "One way or the other, he was being untruthful, and that concerns me with the level of author-

ity he has as a supervisor in the police department."

Fortunately, that's a matter for the police department to resolve. The auditor, for once, is off the hook.

One great idea that was obscured by the spy controversy was Cordell's proposal last week to offer mediation between officers and the people who've complained about their conduct. It's working in other cities, including New York, and it has the potential to save San Jose the money, time and aggravation involved in investigating complaints. Sometimes two people sitting down and talking through how things looked from their perspective can be a satisfying learning experience. Officers and civilians won't all go away happy, but people should feel heard and respected.

Cordell suggested that retired judges might volunteer for the mediator's role, and Judge Alfonso Fernandez, retiring at the end of the year, quickly stepped up to offer his services. We hope others will follow.

Office will do better job of policing the police

By Ladoris Cordell

quis custodiet ipsos custodes?

This question, posed by the Roman poet Juvenal, translated literally, means, "Who will guard the guards themselves?" This same question was pondered by the Greek philosopher Plato, who concluded that the guards should guard themselves.

Fast forward to modern day, when his daughter Lisa asked Homer Simpson, "If you're the police, who will police the police?" Homer's response was, "I don't know — the Coast Guard?" Not really. But in the wake of events such as the videotaped beating of Rodney King in 1991, Plato's answer is also

lacking, for two reasons.

First, the police, no less than the rest of us, are not gods but mortals — composites of strength and weakness, insight and obtuseness. Second, and no less important, it is not enough that the police be fair; they must be perceived to be fair by the public they serve — a perception that is undermined when guards are left to guard themselves.

The debate over who should oversee the police has existed since the beginning of American policing. From local political bosses to police commissions to civilian review boards to police auditors, just who is best suited to police the police has changed over the years. In San Jose, the Office of the Independent Police Auditor was established by the City Council in 1998, and made a permanent branch of city govern-

ment by San Jose residents in 1996.

The office's primary mandates are to serve as an alternative location for individuals to file complaints against San Jose police officers and to monitor and audit the Internal Affairs Unit's investigations of these complaints.

The independence of the IPA Office is vital to its police oversight function. When allegations recently surfaced that confidential information had been leaked by our office to a police officer in 2009, our independence and integrity were questioned. Despite a thorough investigation that firmly established that there were no such leaks, the public's trust and confidence in the IPA Office was shaken. The work of rebuilding that trust is now underway.

This month the office adopted

a Statement of Values which can be viewed on our website: www.sanjoseca.gov/ipa. Our staff has affirmed its understanding and support of these values: integrity, independence, confidentiality, respect, objectivity, and professionalism, all of which must guide our work. Also

enacted this month is our No-Gift Policy, posted on our website, which prohibits the IPA staff from accepting gifts of any value from individuals or organizations, with the exception of family and close personal friends. This ensures that the staff of the IPA Office will remain free of actual and perceived influence.

The IPA is a public official appointed by the City Council and mayor. Because members of the public have the right to know what the IPA is doing and with whom the IPA is meeting, the calendar can be

viewed on the office's website.

The IPA Office is in the process of rejuvenating and reorganizing its Advisory Committee to include a diverse array of individuals who live and work in the City of San Jose. The mission of this committee, which will meet four times a year, is to promote community awareness of the services offered by the IPA Office, to keep the office informed of police-related issues and concerns, and to find creative ways to support the work of the office. This partnership with community members will go far to restore confidence in the IPA Office. Applications for membership may be downloaded at our website.

So, *quis custodiet ipsos custodes?* We in the Office of the Independent Police Auditor will, that's who. And we will do it well.

LADORIS CORDELL, a retired Superior Court judge, is San Jose's Independent Police Auditor. She wrote this article for this newspaper.

Independent Police Auditor Needs Hispanic Input



By Hilbert Morales



Judge LaDoris H. Cordell (ret.) as pictured above, has been on the job for a bit more than 50 days as the new Independent Police Auditor (IPA), City of San Jose. EL OBSERVADOR had an exclusive and extensive discussion about priorities and strategies with her this past Tuesday. These are definitely community oriented, with the focus on the need to engage and involve the youth of our community, especially the ethnic communities. It was distressing to be informed that Anglosaxon men, African Americans, Asian Americans, and one Latina had applied for membership to the Independent Police Auditor Advisory Committee (IPAAC). Its purpose is to provide community input and favor plans with cultural and ethnic sensitivity and values. "Where are the Latinos?" asked Judge Cordell. "I am aware that Juvenile Hall and the jails have at least 65% Latino occupancy. Where are the interested and engaged Latinos needed to formulate public policy and establish approaches and priorities which are acceptable to the very large resident Hispanic community now residing in San Jose?" All need to understand that the IPA is the appointing authority, which also includes the authority to dismiss.

If you want to be an involved social change agent, here is an opportunity to begin to do something about the concerns that will create the future social order desired in this community. Be informed that Judge Cordell is thoughtfully proactive in a very logical and thorough manner. Application forms for the IPAAC appointment can be downloaded from the IPA web site (www.sanjoseca.gov/ipa/).

As El Observador's publisher, I agreed to do something about the underrepresentation of Latinos in the IPA's Advisory Committee which will meet four times per year to review, monitor, ad-

dress, be informed, establish priorities, and learn about the behavioral incidents which provide so many of Latino youth with their first police encounter. Two year terms and an embargo agreement (to practice total confidentiality) are required. You are encouraged to apply and serve because you will experience and learn much from a very distinguished and respected individual who is totally committed to public service.

In her first 50 days, Judge Cordell has been to many community meetings throughout the city to inform the public that one does not have to have an encounter with the police to have a reason to present a 'concern' which will be investigated by San Jose's new IPA. New pamphlets (in English and Spanish) are already prepared; wrist bands with the IPA phone number are available; and flyers are already prepared and available. The I.P.A. office is easy to access in downtown San Jose. Its address is 75 East Santa Clara Street (at Second Street); Suite P-93 (lower level); San Jose, CA 95113, Phone 408-794-6226; FAX 977-1053; and the receptionist is a Latina who is bilingual (English and Spanish languages).

Staff have been oriented to a new approach which is designed to communicate concerns; to present constructive commentary rather than criticism; to establish a community relationship through collaboration and cooperation as an ongoing effort to maintain peace and tranquility in San Jose's diverse community...especially the ethnic communities of Vietnamese and Hispanics.

The new IPA favors having individuals with complaints to meet face to face with the police personnel involved. Judge Cordell has experienced that approach leads to successful communication and resolution of issues while establishing communication channels coupled with trust.

It was very interesting that the City Council agenda of Tuesday, August 3, 2010 had item 2.8 Outside Employment Approval process. The Mayor and City Council members avoided practicing a double standard when the resolution "to delegate to the Mayor the authority to approve, after consultation with the City Attorney, requests by the IPA to engage in outside employment providing mediation services." This Agenda item 2.8 was approved by a vote of 9 ayés and 2 nayes (Nora Campos and Pete Constant were the 'no' votes.).

Remember that Hispanics are being sought to serve on the IPAAC as you read this article. I.P.A. Office: 408-794-6226, open 8:00AM to 5:00 PM, closed for lunch, noon to 1:00 PM



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 is the weight of the evidence that determines 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.

Judge Teresa Guerrero-Daly, former Independent Police Auditor, designed this logo.

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**Published by the
Office of the Independent Police Auditor**

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