

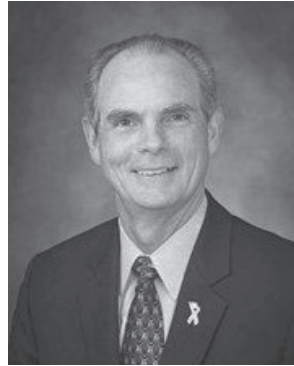


2013 IPA Year End Report



Office of the Independent Police Auditor
City of San José

San José Mayor & City Council



Mayor Chuck Reed

408-535-4800

mayoremail@sanjoseca.gov



Pete Constant

District 1

408-535-4901

District1@sanjoseca.gov



Pierluigi Oliverio

District 6

408-535-4906

Pierluigi.oliverio@sanjoseca.gov



Ash Kalra

District 2

408-535-4902

District2@sanjoseca.gov



Madison Nguyen

Vice Mayor

District 7

408-535-4907

District7@sanjoseca.gov



Sam Liccardo

District 3

408-535-4903

District3@sanjoseca.gov



Rose Herrera

District 8

408-535-4908

rose.herrera@sanjoseca.gov



Kansen Chu

District 4

408-535-4904

District4@sanjoseca.gov



Donald Rocha

District 9

408-535-4909

District9@sanjoseca.gov



Xavier Campos

District 5

408-535-4905

District5@sanjoseca.gov



Johnny Khamis

District 10

408-535-4910

District10@sanjoseca.gov

2013 IPA Year End Report



Issued April 2014

by

Judge LaDoris H. Cordell (Ret.)

Independent Police Auditor

and Staff

Independent Police Auditor & Staff



Judge LaDoris H. Cordell (Ret.)

Independent Police Auditor



Shivaun Nurre

Assistant IPA



Vivian Do

IPA Senior Analyst



Diane Doolan Diaz

IPA Senior Analyst



Jessica Flores

Office Specialist



Erin O'Neill

IPA Analyst II

The Office of the Independent Police Auditor

Creation of the Office of the Independent Police Auditor

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 Office of the Independent Police Auditor 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 Office of the Independent Police Auditor

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.)



City of San José Organizational Chart

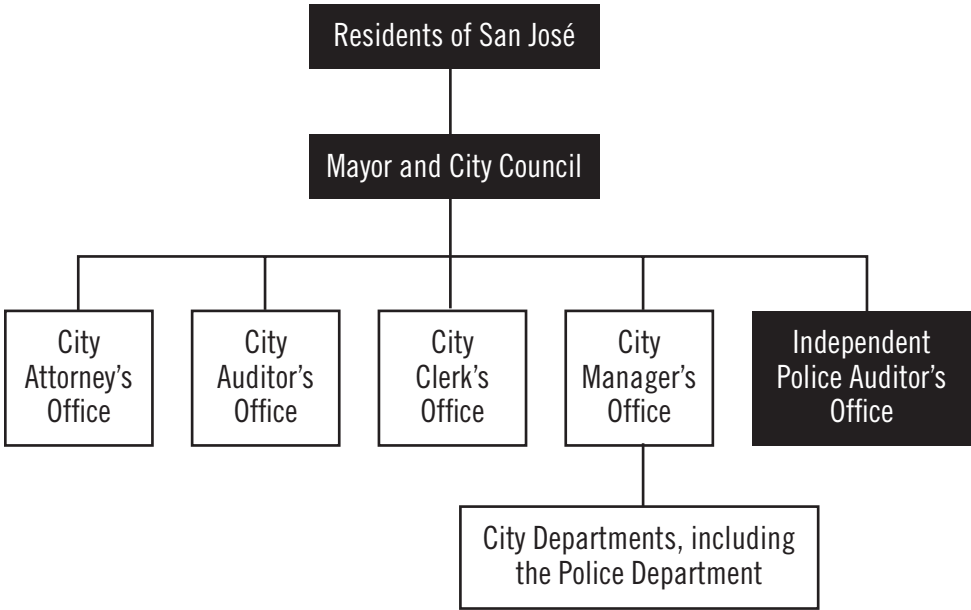


Table of Contents

| | |
|---|----|
| Creation of the IPA Office | 3 |
| Chapter 1. Overview of 2013 | 7 |
| Chapter 2. A Look Back at Civilian Oversight in the City of San José | 10 |
| Chapter 3. Community Outreach | 17 |
| I. A New Approach to Outreach | 17 |
| II. General Outreach Overview | 18 |
| III. Outreach Targeted to Particular Populations | 20 |
| IV. Media..... | 21 |
| V. IPA Publications..... | 22 |
| VI. IPA Website & Facebook Page | 22 |
| VII. Independent Police Auditor Advisory Council..... | 23 |
| VIII. Volunteer Contributions..... | 23 |
| IX. Outreach by City Council District..... | 23 |
| X. Public Contacts: Purposes and Referral Sources | 24 |
| Chapter 4. The Complaint Process From Intake To Audit | 28 |
| I. Step One: Intake | 28 |
| II. Step Two: Classification | 30 |
| III. Step Three: Investigation | 33 |
| IV. Step Four: Findings Made By Internal Affairs | 33 |
| V. Step Five: IPA Audit..... | 35 |
| VI. Officer Discipline, Complaint Rates and Experience Levels..... | 37 |
| The IPA-SJPD Mediation Program | 40 |
| Chapter 5. Use of Force | 41 |
| I. Force Complaints and Allegations | 41 |
| II. Force Complaints Closed and Audited in 2013..... | 43 |
| III. Force Complaints Demographics | 44 |
| IV. Data Tracked from Force Complaints..... | 46 |
| V. Officer-Involved Shootings and In-Custody Fatal Incidents..... | 50 |
| Chapter 6. Sustained Cases in 2012 and 2013 | 55 |
| Sustained Allegations in Complaints Closed in 2012 and 2013 | 57 |

| | |
|--|-----|
| Chapter 7. IPA Recommendations | 69 |
| A. 2013 IPA Recommendations to SJPD..... | 69 |
| B. Update on 2012 IPA Recommendations to SJPD..... | 75 |
| Frequently Asked Questions about the IPA Office | 80 |
| Glossary | 83 |
| Appendices | 86 |
| A. San José Municipal Code Chapter 8.04 and San José City Charter §8.09..... | 86 |
| B. California Penal Code §832.5 and §832.7 | 89 |
| C. IPA Statement of Values..... | 91 |
| D. IPA No-Gift Policy..... | 92 |
| E. The Complaint Process Flow Chart..... | 93 |
| F. IPA 2013 Community Outreach Activities..... | 94 |
| G. IPA 2013 Bus Signage | 98 |
| H. IPA Presentation Evaluation..... | 99 |
| I. IPA 2013 Media Contacts, Articles, and Interviews..... | 100 |
| J. Additional Statistical Information..... | 102 |
| K. Selected Newspaper Articles about the IPA Office..... | 104 |
| L. 2013 IPAAC Members..... | 115 |

Chapter One: Overview of 2013

Twenty Years and Counting:

Twenty years ago, San José attorney Teresa Guerrero-Daley opened the City's first Office of the Independent Police Auditor (IPA). Since then, the IPA office has thrived and become a vital part of San José's city government, due in large measure to her creativity and hard work. In Chapter Two of our 2013 Year End Report, we recount the founding of this office pay homage to the dedication and commitment of now-Superior Court Judge Teresa Guerrero-Daley, to the city officials and community activists who were responsible for bringing civilian oversight of law enforcement to the City of San José two decades ago.

Highlights in 2013:

- **Intakes—A Record High at the IPA Office**

Civilian complaints about San José police officers may be initiated with our office or with San José Police Department's (SJPD) Internal Affairs Unit (IA). Since the inception of our office in 1993, more complaints have been lodged with IA each year than with the IPA office. But starting in 2010, the numbers began to change. The percentage of complaints filed with our office steadily increased from 43% in 2010 to a high of 51% in 2013. This year marks the first time in the history of our office that IPA intakes of complaints exceeded the intakes at IA. This increase is likely a direct result of our expanded and improved public outreach. As more and more people have become aware of our office, they are more inclined to contact us with their concerns.

- **Timely Closings by IA—Mission Accomplished in 2013**

In 1997, our office recommended that IA

set a deadline of 300 days in which to close its investigations into complaints of officer misconduct. We made this recommendation because officers must receive notices of their discipline within 365 days of the date that complaints against them were received. So, if IA were to close these complaints after the 365-day period, the subsequent notices of discipline to the officers would not be timely, and thus, discipline could not be imposed. In 2010, IA closed four percent (4%) of its investigations (10 of 228) a year or more after the complaints were received; in 2011 IA closed nine percent (9%) of its investigations (22 of 246) a year or more after the complaints were received, and in 2012, it dropped to three percent (3%) (8 of 302). Finally, *in 2013, under the leadership of the IA Unit Commander Michael Knox, IA closed all of its investigations within 365 days of when the complaints were received.* We commend Lt. Knox and the IA staff for remedying this long-standing problem.

- **Detention Documentation—Building Trust**

In 2011, our office recommended that SJPD document all pedestrian and vehicle detentions that did not result in arrests or the issuance of citations. The perception of some complainants and of many in the Latino and African American communities is that officers target people of color when they handcuff detained individuals or order them to sit on the curb or in the back of patrol cars. This concern led us to recommend that officers document their activities during all detentions. Since 2011, we have continually encouraged SJPD leadership to implement our recommendation; in 2013, they did. Even though the Department has always maintained

that detentions are conducted in a lawful and unbiased manner, the SJPD leadership rightly recognized that requiring officers to document these activities as we recommended, would verify that its officers' actions are fair and not bias-based.

Once this data is collected and evaluated, the public and the Department will have an accurate picture of how and why officers are detaining individuals in the City. The implementation of this recommendation is groundbreaking because few, if any, law enforcement agencies require the collection of this type of data. SJPD's willingness to document detentions represents a major step in building trust between the Department and San José's communities of color. Information about all of our 2013 recommendations to SJPD is in Chapter Seven.

- **New Database—A First**

In the twenty years that our office has existed, our database has never been upgraded—until now. In 2013, the database we utilize to analyze data about misconduct complaints was upgraded resulting in enhanced capabilities to track audit data and eliminating duplicate data entry. IPA Senior Analyst Vivian Do worked tirelessly to implement this major project. Substantial assistance was provided by the City's IT Department with the support of SJPD's IT personnel. The IPA office now utilizes a database that is far more efficient and secure than in the past.

- **Targeted Outreach—A More Effective Approach**

Under the leadership of Diane Doolan-Diaz, Senior Analyst and Outreach Specialist, we have expanded our outreach program to target individuals who live and work in the City's "Hot Spots"— geographical areas where officers

most frequently interact with the public. In the past, one of our outreach goals was to conduct outreach presentations in each of the City's ten districts. While a laudable goal, we recognized that complaints and concerns about the police most frequently arose from individuals who live and work in city districts that have a heavy police presence. In 2013 we concentrated our outreach efforts by (1) placing signage about our office inside more than 100 buses that travel through these Hot Spots, (2) increasing the number of presentations in these Hot Spots, and (3) reaching out to youth at risk of joining gangs, as well as active gang members in some of the City's Hot Spots. You can read about all of our outreach activities in Chapter Three.

- **Sustained Cases—More Transparency**

In Chapter Six of this Report we present summaries of cases in which SJPD officers were found to have engaged in misconduct in 2012 and in 2013. These cases resulted in "Sustained" findings for which the officers were disciplined. Even though the number of officers with Sustained findings is small (31 in a 24-month period), we believe that the public should be provided information about these cases in order to promote transparency in the civilian oversight process. It is not our purpose to embarrass the officers or the Department by publishing this information. Quite the contrary, the fact that the Department has identified and disciplined these officers is a testament to the Department's integrity and its determination to forthrightly address officer misconduct. None of these officers are identified by name because they are entitled to confidentiality under California law.

- **Solving Homicides—A Unique Collaboration**

Our office collaborated with SJPD and CreaTV to create "Make the Call, San José!" a television

program that encourages members of the public to phone in tips to SJPD to solve cold homicide cases. This first-ever collaboration, funded by SJPD and produced by Judge Cordell, profiles two unsolved murder cases per half-hour episode. You can watch the first episode of “Make the Call, San José!” on a CreaTV channel, and via links to the program that are

on the IPA website (www.sanjoseca.gov/ipa), the SJPD website (www.sjpd.org) and the CreaTV website (www.creatvsj.org). Our office is now working with school officials to hold screenings of the program for students who attend the high schools that are located near the sites of the homicides to encourage witnesses to come forward.

Professional Consultations

The IPA office has a reputation for excellence in the field of civilian oversight of law enforcement. For that reason, individuals and agencies from around the state and the nation contact the IPA office throughout the year for information and advice.

- 02/19/13** A civilian oversight office in Washington contacted the IPA regarding our community outreach plan, particularly the creation of a brochure describing services.
- 04/2/13** From New Mexico, a police oversight commissioner requested information regarding our Student Guide.
- 04/19/13** The National Council on Crime and Delinquency in Washington, D.C. consulted the IPA on ways to establish a presence on the West Coast.
- 05/3/13** A Stanford Law School professor met with the IPA while working on a new book on systemic changes in local policing systems.
- 05/8/13** A civilian oversight agency in Colorado consulted with the IPA about the collection and management of complaint and investigation information.
- 08/01/13** A student member of the Asian Pacific American Leadership Institute at De Anza College interviewed the IPA regarding police interactions with Asian Americans and IPA office functions.
- 10/30/13** A SJSU graduate student working consulted the IPA about the effectiveness of the independent police auditor model.
- 11/20/13** From the University of Minnesota, a law school fellow requested information on civilian oversight bodies in the United States.
- 11/21/13** An employee of the California Hispanic Chamber of Commerce contacted the IPA to discuss the need for civilian oversight within his community.
- 12/12/13** The Executive Director of a local nonprofit community services agency contacted the IPA for clarification regarding the SJPD’s new policy requiring the documentation of limited detentions.

Chapter Two: A Look Back at Civilian Oversight in the City of San José

The City of San José is one of over 200 cities in the United States with an office dedicated to civilian oversight of law enforcement. Each city has its own story, and the establishment of each office marks a time when residents have demanded accountability and oversight of their local law enforcement agency. The City of San José is no exception.

With a growing population and a vibrant community of different cultures and ethnicities, the City of San José's Independent Police Auditor's Office opened its doors 20 years ago, on September 13, 1993. Although many civilian oversight offices attribute their

establishment to one powerful event prompting change, that was not San José. Twenty-three years before the City Council voted 11-0 for the establishment of the Independent Police Auditor's Office, protests following the "Fiesta de las Rosas" Parade in 1969 precipitated a demand for an office dedicated to civilian review of law enforcement.

"Fiesta de las Rosas" Parade

Local news coverage described parade participants stating, "shop clerks grew sideburns and wore colorful Spanish costumes...a man [was in] a Mexican peon costume pushing a donkey."¹



Poster advertising the "Fiesta de las Rosas" Parade (1927)

Initially penned the "Carnival of Roses", San José's rose parade tradition began in 1896 and included floats, bands, and decorated cars. The parade route stretched from Mission Santa Clara, down the Alameda, and ended in downtown San José.

Designed to celebrate Spanish heritage, the parade became an annual tradition through the early 1900's.

The "Carnival of Roses" successfully drew tourists to San José, including President McKinley in 1901. Although attendance at the parade ebbed and flowed throughout the years, by 1969, it had become very popular.

By this time, San José's Mexican-American population increasingly perceived a parade celebrating Spanish heritage to be offensive.

Many in this population were opposed to celebrating the culture of Spain—a country that they believed had brutally oppressed the Native Mexican population since the days of Columbus.

¹San José Mercury News: "Parade Routes—25 years After the Fiesta de Las Rosas, Participants Remember the Chaos and the Controversy—and the Different Directions their Lives Took," May 31, 1994.

Ernestine Garcia, a local community activist at the time, remembered the parade and explained to the *San José Mercury News* 25 years later, “That was an insult to me. If you are going to put something in a parade to honor Mexicans, you don’t put someone pushing a burro. That is something poor people in Latin cultures do, but it does not honor our culture.”² A common sentiment in the Mexican-American community was frustration — why was the City spending money on this parade and not spending money on paving roads and other needed improvements in East San José?

In 1969, Garcia and others decided to walk behind the parade in peaceful protest. Bob Gonzalez, former Santa Clara County Supervisor and Mayor Ron Gonzalez’s father, was a protestor who told the *Mercury News* that the protestors were “church people, families, [and] students.”³ It was not long into the protest before police officers started “hitting people because they didn’t want any disruption of the parade.”⁴ In 1994, a *Mercury News* article written 25 years after the incident reflected on this protest:

The bloody battle left dozens injured, 23 arrested and a city changed forever. For a minority community that saw itself oppressed and ignored by the establishment, it was the Rodney King verdict, the Los Angeles riots of its day.⁵



Police response to the 1969 “Fiesta de Las Rosas” parade protesters⁶

The SJPD Police Chief at the time, Bill Lansdowne, told the *Mercury News* that “It was one of the first confrontations we had in the city. It got out of hand and we didn’t have enough people to deal with the problem... We got training for crowd control as a result of that.”⁷ What emerged from this incident was a demand from the Mexican-American community to stop police violence against its community and establish a citizen group to monitor SJPD officers.

Community Alert Patrols (1972)

In the wake of the “Fiesta de Las Rosas” incident, community members came together to form Community Alert Patrols. These groups were comprised of San José residents who monitored the police. Their “headquarters” was located at Our Lady of Guadalupe Church in San José. There they had police scanners and two-way radios, so they would be alerted to where police would be dispatched — and often times, beat them to the scene. On Friday and Saturday evenings, the Community Alert Patrols followed police in East San José and documented any instances of police violence.

Patrol members recorded police badge numbers, patrol car numbers, and took photos of anyone injured by the police. However, these patrols insisted they did not interfere with police investigations. One activist said, “The Community Alert Patrol changed how the police treated us... We had over 1,000 people going out into the San José community, particularly into the East Side.”⁸

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Regua, Nannette, and Arturo Villarreal. *Mexicans in San José*. San Francisco: Arcadia, 2009.

⁷ Ibid.

⁸ Jimenez, Francisco, et al. *Ethnic Community Builders: Mexican Americans in Search of Justice and Power: the Struggle for Citizenship Rights in San José, California*. Lanham: Alta Mira Press, 2007.



Front page of *The San José Maverick* from July 1969 following the “Fiesta de Las Rosas” protests⁹

In the years following the momentous “Fiesta de Las Rosas” parade and the establishment of the Community Alert Patrols, three SJPD officer-involved shootings led to civilian fatalities. The deaths of Manuel Villa (1969), John Henry Smith, Jr. (1971), and Danny Trevino (1976) intensified the community’s demand for civilian review.

• **Manuel Villa (1969)**

Manuel Villa was a Hispanic male killed by an SJPD officer after he fled from questioning about an unarmed robbery. The District Attorney labeled it a “justifiable homicide,” but many San José residents wanted a civilian review board to conduct its own investigation into the incident.

• **John Henry Smith, Jr. (1971)**

John Henry Smith, Jr. was an African American IBM research technician. He was pulled over for making an illegal U-turn in front of his apartment building. When the SJPD officer tried to give him a traffic ticket, the officer alleged that Smith became irate, exited his car holding a tire iron, and could not be subdued. However, nearby residents claimed they heard Smith yell, “Help me! I’m afraid!” before

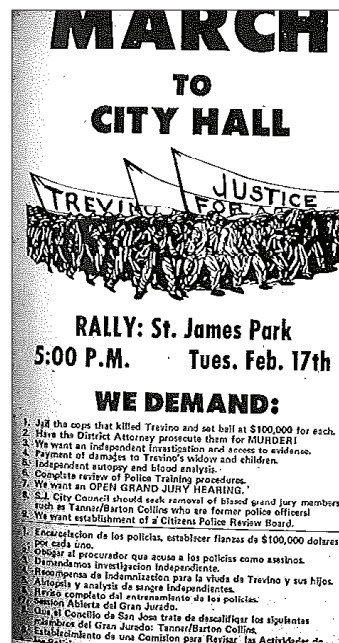
being shot by the officer. Residents called for a civilian oversight after Smith’s killing, but their pleas went unheard.

Although civilian review was not established in response to these shootings, there was a significant political shift. At the time, the City Council had five at-large members—none of whom represented individual districts. But after the Smith killing, community activists fought to change from at-large elections to district elections that would have City Council members who represented the neighborhoods in which they lived.

• **Danny Trevino (1976)**

Danny Trevino was a 26-year old Hispanic male. He and his girlfriend had gotten into a fight and he started to get violent. A friend called the police. When officers arrived, Trevino and his girlfriend had reconciled and they were seated in his car talking.

Police arrived and ordered Trevino out of his car. He did not respond, and two more patrol cars arrived.



Poster advertising a community march to City Hall following the death of Danny Trevino in 1976¹⁰

⁹ Regua, Nannette, and Arturo Villarreal. *Mexicans in San José*. San Francisco: Arcadia, 2009.

¹⁰ Regua, Nannette, and Arturo Villarreal. *Mexicans in San José*. San Francisco: Arcadia, 2009.

One officer came around the side of Trevino’s car. As Trevino’s girlfriend was exiting the car, the officer allegedly saw Trevino put his hand *under* his seat. Trevino’s girlfriend said he put his hand *on* his seat. Two officers fired their weapons and killed Danny Trevino. No weapons were found on Trevino or in his car.

That year, SJPD received 800 complaints alleging officer misconduct.

Rodney King — A Spark That Could Not Be Ignored

Until 1991, allegations of police brutality did little to further the push for civilian review. It was the Rodney King incident in Los Angeles that generated popular community support for and shifted the political wind in favor of civilian oversight. Rodney King had been pulled over by a Los Angeles Police Department (LAPD) officer for speeding. In the course of his detention, King was beaten by a dozen LAPD officers wielding batons. A Los Angeles resident captured the incident on a video recorder that went viral.

The subsequent trial and riots garnered national attention. As the *Mercury News* reported following the incident, “a bystander with a video camera has given America a lasting and vivid reminder that police brutality remains a threat to public safety.”¹¹

The King beating gave national exposure to the need for civilian oversight. While the killings of Villa, Smith, and Trevino did not result in the creation of a civilian review board in San José, the video recording of the Rodney King beating elevated the issue to a city-wide concern. The Santa Clara

County Bar Association adamantly insisted that a citizen review board be created. Chris Burdick, the Executive Director stated, “The time to set up the proper checks and balances is not after a Rodney King incident or a riot in the streets. It’s before a crisis happens, when we’re still in an era of relatively good police-community relations.”¹²

San José Reacts

Less than one year after the Rodney King incident, many San José residents and city officials agreed that there was a need to establish a civilian review office to examine allegations of police misconduct. However, the *form* that civilian oversight would take was unclear. Two civilian review models were considered:

Civilian Review Board

- Investigate complaints
- Subpoena power
- Hold public hearings
- Make recommendations to the Police Chief about officer discipline
- Direct questioning of officers

Independent Police Auditor

- Audit Internal Affairs’ investigations
- No investigatory power
- No direct questioning of officers

SJPD was vehemently opposed to any type of civilian review of their department. They argued that at the time, SJPD was sustaining 16.4% of all complaints filed against officers. The national sustained rate average for cities with citizen review offices was lower —10%. Why then, they asked, do we need a separate office to monitor our officers when we do a better job sustaining complaints than the civilian review offices?

In response, the President of the Santa Clara County Bar Association, then attorney Brian

¹¹ *San José Mercury News*: “A Brutal Image the Sight of Police Beating a Prone Man Diminishes Public Confidence in Police,” March 7, 1991.

¹² *San José Mercury News*: “SJ Police Review Dispute Echoes Back to 1969 A Claim of Brutality Began an Earlier Round of Lobbying for a Board to Check on Police Actions,” November 1, 1992.

Walsh, stated, “The community isn’t talking about stats, it’s talking about confidence, the process and openness.” The *Mercury News* added, “It’s not how often complaints are sustained that counts...but the fact that a board provides a public window to the hitherto closed world of cop discipline.”¹³

San José City Council Meets

The City Council planned to discuss the issue of civilian oversight at its October 20, 1992 meeting. Proponents of both types of civilian review, as well as those opposed to any oversight, came to the meeting eager to voice their opinions. Seventy people gathered in the City Council chambers. After 90 minutes of discussion of other agenda items and at the request of the Bar Association, the City Council decided to postpone discussion on the issue of civilian review to the Council’s November 17, 1992 meeting.

Residents who attended the meeting were infuriated; more than half of the crowd stormed onto the Council platform. Mayor Susan Hammer unsuccessfully tried to calm the crowd, but eventually called for a 10-minute recess. The council members withdrew into the council chamber anteroom.

The City Council Votes

On November 18, 1992, the City Council, voting 11-0, approved the establishment of an Independent Police Auditor (IPA). This model incorporates elements from other cities’ civilian oversight auditor models, but does not duplicate any one single model.

The highlights of the original IPA’s function included

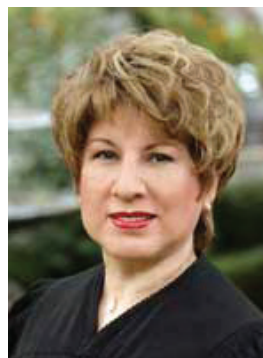
- Audit Internal Affairs’ investigations of civilian complaints
- No investigative or subpoena power
- Authority to interview witnesses

- Authority to attend and propose questions at subject officer interviews
- Authority to make recommendations to SJPD
- No authority to view or audit IA investigations of Department-Initiated complaints
- Salaried position
- Salaried staff trained to take complaints at a location outside of City Hall.

Although the IPA lacked any investigative or disciplinary authority, the City Council was confident that this model would allow the public an impartial view into the complaint process. The *Mercury News* reported that this decision “pleased neither rank-and-file cops nor community activists with its hybrid plan for an independent watchdog—hoping to earn the public’s trust without giving the public a civilian review board.”¹⁴ After the vote, at 2:30 a.m., the civilian review board supporters started pounding tables and yelled, “Guilty! Guilty! Guilty!”¹⁵ SJPD made 24 arrests in order to disperse these demonstrators.

Teresa Guerrero-Daley

San José’s First Independent Police Auditor



Teresa Guerrero-Daley was confirmed as the first Independent Police Auditor on June 29, 1993. Teresa Guerrero-Daley’s parents were migrants from Mexico. She became a young mother and a high school dropout at age 15. At 25, she was divorced and moved to East

San José. She worked and went to school at night, eventually becoming a DEA agent and finally an attorney.

¹³ *San José Mercury News*: “Cops Fire Statistics at Oversight Proponents,” November 11, 1992.

¹⁴ *San José Mercury News*: “Cop-Review Compromise Pleases Almost No One,” November 19, 1992.

¹⁵ *San José Mercury News*: “Cop Review Board Rejected a Compromise Auditor Plan is Approved In a Stormy S.J. Council Meeting that Ends in 24 Arrests,” November 18, 1992.

Even with these impressive credentials, would she be successful at gaining the public’s respect as the first Independent Police Auditor? She could take complaints, but could not investigate them. She could sit in on officer interviews, but could not direct questions to the officers. She could recommend policy changes to the Chief, but could not make them mandatory. So what was the function and the goal of this new role, given its limitations?

With no predecessor, Guerrero-Daley knew she was paving the way for civilian oversight in San José. She explained, “I’m not naïve. I come to this position with my eyes wide open...I’m an investigator and a lawyer. I’m not a politician. I’m nervous, a little scared...[but] I have to go to the

community and give them an opportunity to get to know me. I want to know them. I am a very ordinary person. I will be able to relate to them, and they will be able to relate to me.”¹⁶

The First IPA Office

IPA Teresa Guerrero-Daley opened the doors of San José’s first Independent Police Auditor’s Office on September 13, 1993 with two staff members—an intake coordinator to receive complaints, and an administrative assistant.

By 1996, San José voters amended the City Charter to establish the Independent Police Auditor’s Office as a permanent branch of city government.

Significant Milestones of the IPA Office

| | | | |
|--|--|---|--|
| <p>1994 IA adopts investigation timetable recommended by the IPA</p> | <p>2004 IPA granted expanded authority at reviews of officer-involved shootings</p> | <p>2011 IPA Implements mediation program</p> | |
| <p>1998 Blood collection procedure recommended by the IPA adopted by SJPD</p> | <p>1999 IPA joins officer-involved shooting review panel</p> | <p>2005 New Taser Guidelines recommended by the IPA, adopted by SJPD</p> | <p>2013 SJPD implements detention documentation protocol recommended by the IPA</p> |

IA Investigation Timetable (1994)

In the initial stages of civilian oversight, the IPA noticed that many investigations were taking an excessive amount of time to complete. In one case, IA took 554 days to complete its investigation. The IPA reiterated that a timely investigation was essential to the credibility and the transparency of the complaint process. The IPA recommended and SJPD adopted the policy that all cases be classified within 30 days and investigated within 300 days.

Blood Collection Procedure (1998)

In 1998, a number of complainants alleged that their blood had been drawn by SJPD in parking lots, on the hood of patrol cars, or on the pavement. The IPA was concerned that this methodology was not in “accordance with accepted medical practices.”¹⁷ Teresa Guerrero-Daley described this current practice as “barbaric and inhumane.”¹⁸ SJPD agreed to change these practices and to designate a place within the pre-processing center at SJPD where violent or hostile arrestees would have their blood drawn.

¹⁶ *Metro News*: “Independent Police Auditor Tries to Build Trust With Only the Power of Persuasion,” September 6, 2007.

¹⁷ *San José Mercury News*: “S.J. Cops to Alter Blood Policy Chief’s Action Follows Auditor’s Critical Report,” April 9, 1998.

¹⁸ *Ibid.*

IPA participates in Officer-Involved Shootings (2004)

In 1999, the IPA joined the Officer-Involved Shooting Review Panel established by the SJPDP. In 2003, SJPDP officers responded to a domestic disturbance involving a 25-year old Vietnamese woman, her husband, and two small children. When officers arrived, the woman was holding a “dao bao”—a Vietnamese vegetable peeler. Mistaking the vegetable peeler for a cleaver, the officers shot and killed her. This incident enraged the Vietnamese community. In response, the IPA believed that it was necessary to become more involved in the initial response to officer-involved shootings. After much debate, SJPDP enacted the following policy:

- The IPA will be notified immediately after an officer-involved shooting by the IA Commander;
- The IPA may respond to the scene of the officer-involved shooting and contact the IA Commander at the outer perimeter of the crime scene; and
- On-scene personnel will then brief the IPA and IA Commander as to the details of the incident.

New Taser Guidelines (2005)

In April 2004, SJPDP armed every officer with a Taser to de-escalate the use of deadly force. In 2005, in response to allegations of officer misuse of Tasers, SJPDP adopted written Taser guidelines. The “TASER Usage Guidelines” are now a part of the training curriculum and all officers are responsible for understanding and implementing these guidelines.

Mediation (2011)

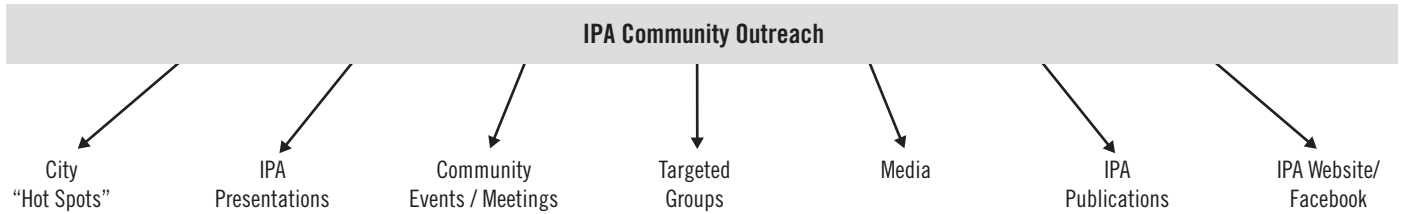
In 2011, the SJPDP and the IPA initiated a voluntary mediation program whereby complainants who file complaints with “Courtesy” and “Bias-Based Policing” allegations, have the opportunity to sit with the subject officers in a neutral and confidential setting to “talk it out.” Retired judges

serve as volunteer mediators. This process is completely voluntary both for the complainant and the officer. When a complainant agrees to mediation, he/she withdraws the complaint. The officer has the benefit of the complaint being removed from his/her record, and the complainant has the benefit of having a candid discussion with the officer. The mediation process has proved to be a positive experience for both complainants and officers.

Detention Documentation (2013)

In 2013, SJPDP implemented a 2011 IPA recommendation requiring officers to document limited detentions during officer-initiated pedestrian and vehicle stops. These limited detentions include temporary handcuffing, an order to temporarily sit in a patrol vehicle, or an order to temporarily sit on the curb. The officers must note the reason for the stop, the reason for the detention, the type of detention, and the race of the subject of the detention. This policy was recommended by the IPA in response to complaints of unlawful detentions based on bias. This new policy will inevitably increase officer accountability and transparency.

Chapter Three: Community Outreach



I. A New Approach to Outreach

Each year, the IPA office receives numerous invitations to provide presentations to the community and to participate in local events. In addition, IPA staff solicit public outreach opportunities to ensure that a diverse cross-section of the community learns of our services. We base our decisions concerning whether or not to accept an invitation or to solicit an opportunity on the following factors:

- Location of event (Is it in San José? If not, are the participants likely to live, work or regularly visit San José?)
- Audience size (Does the event have ten or more attendees?)
- Target groups (Are participants likely to be people of color, immigrants, youth and/or young adults?)
- Staff availability (What is the current IPA staff workload? Will there be sufficient staffing levels at our office?)

- Length of event (If it is a presentation, will we be given at least 30 minutes to present and answer questions?)
- Council District (Have we had a presence in each district this year?)

During 2013 we continued to use the above criteria, but added another consideration. We explored whether or not the outreach event was in a “Hot Spot,” an area where officers frequently interact with the public.

The SJPD Research and Development Unit identified locations in San José from which the largest number of requests for SJPD services originated in 2012 and/or the areas at which SJPD officers initiated the largest number of stops (pedestrian or vehicle). We also obtained information from the Mayor’s Gang Prevention Task Force (MGPTF) to further refine these locations.¹⁹

Illustration 3-A: Top 10 Hot Spot Locations in 2012

| Location | # of Events | Most Common “Call Description” |
|--|-------------|-----------------------------------|
| Hot spot 1 – S. King Rd/Story Rd | 417 events | selective enforcement (98 of 417) |
| Hot spot 2 – N.1st St/E.Santa Clara St | 08 events | disturbance (73 of 308) |
| Hot spot 3 – Blossom Hill Rd/Snell Av | 301 events | vehicle stop (58 of 301) |
| Hot spot 4 – 777 Story Rd | 286 events | theft (119 of 286) |
| Hot spot 5 – Monterey Rd/Senter Rd | 262 events | pedestrian stop (68 of 262) |
| Hot spot 6 – 2151 Monterey Road | 252 events | citizen flagdown (51 of 252) |
| Hot spot 7 – N.2nd Street/E.Santa Clara St | 244 events | vehicle stop (58 of 244) |
| Hot spot 8 – Monterey Rd /Tully Rd | 242 events | vehicle stop (55 of 242) |
| Hot spot 9 – Almaden Ex/Blossom Hill Rd | 238 events | vehicle stop (61 of 238) |
| Hot spot 10 – S. King Rd/ Tully Rd | 231 events | selective enforcement (92 of 231) |

¹⁹ The MGPTF is made up of local residents, government leaders, school officials, community and faith-based organizations, and local law enforcement.



Our outreach in Hot Spot locations was multi-faceted. In addition to conducting presentations in those neighborhoods,

participating in community events and initiating individual meet-and-greets with pedestrians, we utilized targeted advertising. IPA posters were



placed on the interior of several public buses operated by the Valley Transit Authority

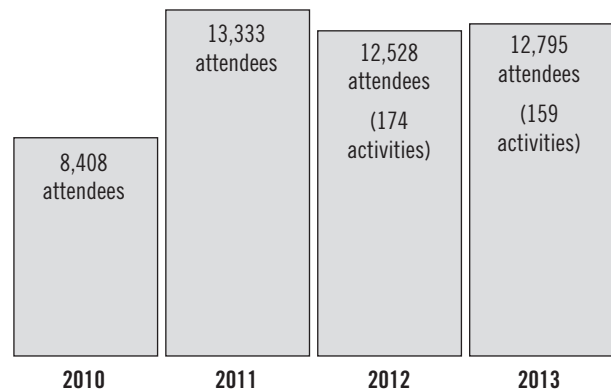
(VTA). The signs, two feet long and almost a foot tall, read, “Concerns about a San José Police Officer? Call 408.794.6226,” and were printed in English, Spanish and Vietnamese. We selected the VTA’s Chaboya Line since a majority of San José Hot Spots fall along that particular bus route. Our signs were placed in the interior of 100 Chaboya Line VTA buses in November 2013.

We next created a smaller, multi-language version of the bus signage for displays in local businesses, agencies and organizations IPA staff and volunteers delivered the posters to various businesses located near the number one Hot Spot identified by the SJPD – the intersection of S. King Road and Story Road. We also distributed these posters at IPA presentations in 2013.

II. General Outreach Overview

In 2013 we participated in 159 outreach activities in which we contacted approximately 12,795 members of the public. Although the number of outreach activities in 2013 declined relative to 2012, the number of attendees increased. We attribute the increase to our continued effort to maximize limited IPA staff resources by participating in meetings, events and presentations that are likely to draw large audiences.

Illustration 3-B: Attendees at IPA Community Outreach Activities 2010 to 2013



IPA outreach activities include participation in community events, presentations to the public, and media appearances or interviews. You can view our 2013 outreach activities and media contacts in Appendix F and Appendix I.

Illustration 3-C: Attendees at Community Outreach 2012 and 2013

| Types of Activities/Event in 2013 | Events | % of Total Events | Attendees | % of Total Attendees |
|---------------------------------------|------------|-------------------|---------------|----------------------|
| IPA Presentations | 53 | 33% | 1,679 | 13% |
| Community Events/Meetings | 106 | 67% | 11,116 | 87% |
| 2013 Community Outreach Totals | 159 | 100% | 12,795 | 100% |

Not included in the 2013 outreach totals are approximately five community events that the IPA participated in outside of San José that were not directly related to IPA functions. For example, the IPA delivered the keynote address at an event in Berkeley sponsored by the Center for Youth Development through Law, lectured foreign exchange students at Stanford University, and served as a panelist at the 75th Anniversary Celebration of the League of Women Voters of Palo Alto. At each of these events, the IPA was introduced as San José's Independent Police Auditor.

A. Presentations by the IPA and Staff

Presentations by the IPA and staff are the most effective means to accurately and thoroughly convey the purpose and functions of the IPA office. Presentations often include question and answer periods so that audience members may request clarification or simply express their views and concerns. We delivered 53 presentations to 1,679 audience members in 2013.

B. Positive Public Response

We request attendees at IPA presentations to complete evaluation forms so that we can gauge the effectiveness of IPA presentations.²⁰ In 2013, evaluations were completed by approximately 850 attendees.²¹ The overwhelming majority (98%) 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. 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?

– 98% replied yes

- Did today's presentation increase your knowledge about the complaint process?

– 98% replied yes

- Overall, how would you rate the presentation? (Excellent, Good, Average or Poor)

– Excellent – 83%

– Good – 15%

– Average – 2%

– Poor – 0%

– No response – 0%

C. Community Events/Meetings

Community events and meetings differ from IPA presentations. At presentations, we talk to audiences about the work of the IPA office. At community events, we engage with attendees on a one-to-one basis or are introduced to large groups of attendees. We also attend monthly meetings that include participation from the local community. The total number of community events and meetings attended by the IPA office in 2013 was 106, an increase of five percent (5%) over 2012. Accordingly, the number of people we contacted at these events rose by 68%, from 6,605 individuals in 2012 to 11,116 individuals in 2013.

D. Meetings with City Officials & Participation in City Events

While meetings with city officials and participation in City events do not constitute "community outreach," we believe that IPA communication with our government officials is of sufficient importance to mention in this Report. Throughout 2013, the IPA met regularly with the Mayor, City Council members, City Council appointees, and SJPD Command staff. The IPA gave a presentation about the functions of her office to 43 SJPD police cadets in March 2013. IPA staff periodically attended a variety of City meetings, including Agenda Review meetings and meetings of the Public Safety and Neighborhood Services City Service Areas.

²⁰ The evaluation form is in Appendix H of this Report.

²¹ It is not always feasible to distribute our evaluation forms. If the presentation involves a large audience, does not include a full description of IPA functions or is made outside of the City of San José, we are unlikely to distribute evaluation forms.

III. Outreach Targeted to Particular Populations

In 2006, the Mayor and City Council approved the identification of targeted outreach in a number of areas. The IPA has a strong commitment to reaching diverse groups of individuals who may benefit from the services of the IPA office. People of color and youth have been the subject of focused IPA outreach efforts for several years. To ensure that we are reaching these populations, we target some of our activities at communities where these groups are most evident. We also target those who provide assistance and services to these populations.

A. Outreach to People of Color and Immigrants

In 2013, we participated in 97 events involving people of color, immigrants, and agencies that serve those populations. This outreach constituted 61% of the total number of IPA outreach activities, including a presentation to the Oak Grove High School Latino Parents Group, participation in the Mayfair Community Center’s National Night Out activities, and resource tabling at the 6th Annual Vietnamese American Family Empowerment Program. Nineteen (19) of our IPA outreach activities in 2013 were conducted in Spanish or with translation services provided by IPA staff or volunteers.

Illustration 3-D: Outreach to People of Color & Immigrants in 2012 and 2013

| Year | Outreach Activities | % of total | Attendees | % of total |
|------|---------------------|------------|-----------|------------|
| 2013 | 97 out of 159 | 61% | 5,413 | 42% |
| 2012 | 91 out of 174 | 52% | 5,923 | 47% |

B. Outreach to Youth

Our youth outreach encourages young people to consider positive ways to respond to law enforcement officers and teaches teenagers about their legal rights and responsibilities. In 2013, we participated in 62 events involving 1,935 teenagers, young adults and the staff who serve them. Youth

outreach activities comprised 39% of the IPA’s outreach activities in 2013.

Illustration 3-E: Outreach to Youth in 2012 and 2013

| Year | Outreach Activities | % of total | Attendees | % of total |
|------|---------------------|------------|-----------|------------|
| 2013 | 62 out of 159 | 39% | 1,935 | 15% |
| 2012 | 53 out of 174 | 30% | 2,207 | 18% |

We distributed over 1,200 copies of the 4th edition of A Student’s Guide to Police Practices (Guide) to youth, parents, teachers and service providers in 2013. Created by the IPA office in 2003, the Guide is designed to address common concerns expressed by youth about the police; it has been a critical tool in IPA youth outreach for many years. Twenty-three (23) of our 62 presentations to the youth community in 2013 focused on the Guide. Most of those presentations were made possible through the generous assistance of community agencies such the Girl Scouts Got Choices Program, Catholic Charities, the Mexican American Community Services Agency (MACSA), and Ujima Adult and Family Services.

The distribution of the Guide throughout San José remains an IPA priority. The IPA office strives to ensure that the Guide is available to youth and parents throughout the City. (The Guide is also available on-line at www.sanjoseca.gov/ipa, under “Publications.”) In 2013 we distributed Guides to the following:

- 14 schools
- 200 high school students during “College Day” at San José State University (SJSU)
- 103 participants in the annual Sister to Sister Conference at the San José Masonic Center
- girls housed at Juvenile Hall and the Bill Wilson Center
- boys participating in MACSA’s Youth Empowerment Group
- Year Up Silicon Valley participants
- young adults in Work2future’s Green Cadre Program

- teens and parents at the Mexican Consulate and
- attendees at several City resource fairs
- Biblioteca Latinoamericano and the East San José Carnegie Branch Libraries
- Firehouse Community Development Corporation
- Santa Clara County Public Defender's Office
- Center for Training and Careers
- Planned Parenthood Miramonte Teen Success Program
- SJSU journalism students
- graduate students at Santa Clara University planning to serve at-risk youth.

The IPA continued to build future leaders in 2013 with our IPA-Teen Leadership Council (TLC). Established by our office in April 2011, the TLC is a diverse group of 15 San José residents, ages 15 to 18, who live or attend school in the City of San José. Several TLC Emerita, former TLC members who are now work and/or attend college, remain connected to the group. The TLC members provide advice to the IPA on the most effective ways to conduct outreach to youth in San José, inform the IPA about police-related issues that are on the minds of youth in San José, and develop their leadership skills. They interact with city officials, community leaders and police officers, and they participate in IPA community outreach events.

The TLC meets at least once a month with the IPA and staff to work on projects and to discuss issues and concerns. Guest speakers often attend the meetings to tell their personal stories and leadership paths. In 2013 TLC guest speakers included SJPD Chief Larry Esquivel, Assistant Chief Edgardo Garcia, Vice Mayor Madison Nguyen, Sgt. Frederick Kotto from SJPD's Internal Affairs Unit, Rodney Tabares from Year Up Silicon Valley and Rosa Vargas from Gardner Family Services.

With generous funding from the Castellano Family

Foundation, the Comerica Foundation, and a number of private individual donors, we convened our second TLC Annual Retreat in June at the San José Airport Garden Hotel. In addition to team building exercises, the youth discussed what it meant to be a leader, designed a community survey regarding youth/police interactions, and practiced giving outreach presentations. There were several other TLC activities during 2013:

- In August, they traveled to Sacramento to tour the Capitol Building and to meet Assembly member Nora Campos, who graciously introduced them to the California legislature on the Galley floor at the start of an Assembly session.
- In September, TLC members were given a tour of the SJPD Pre-Processing Center by Assistant Chief Edgardo Garcia.
- In November, several staff from the City's Safe Schools Campus Initiative attended a TLC meeting and conducted a focus group on crime and gang trends. The staff opened up to the youth and shared their own personal and moving stories.

Several outstanding TLC members received recognition in 2013 upon their graduation from high school. Local Union 393 Plumbers, Steamfitters & Refrigeration Fitters generously provided Apple computers and printers to three TLC members, all of whom are now attending college.

IV. Media

Throughout the year, the work of the IPA office was the subject of print, radio, television and the internet. The IPA or her staff were interviewed, quoted, or mentioned in the media no less than 62 times in 2013.²² A list of the 2013 IPA media contacts and interviews is in Appendix I.

²²We do not track the number of times the IPA is interviewed, quoted, or mentioned concerning non-IPA related matters. (For instance, the IPA was interviewed in 2013 regarding racial tensions at SJSU.)

A. IPA Media Highlights in 2013:

- April 23, 2013 – A *San José Mercury News* article entitled, “Annual Audit: Complaints about police fall.”
- April 27, 2013 – A *San José Mercury News* article entitled, “San José: ‘Curb sitting’ rollout urged.”
- July 10, 2013 – A *Metro Silicon Valley* article entitled, “Kicked to the Curb.”
- October 6, 2013 – A *San José Mercury News* article entitled, “Police auditor reaches out to VTA bus riders.”
- November 22, 2013 – A *San José Mercury News* article entitled, “Local TV to tell stories of unsolved murders.”

To read these articles, please see Appendix K.

B. Make the Call, San José!

Our office collaborated with the San José Police Department (SJPD) and CreaTV to produce *Make the Call, San José!* — a 30-minute program that encourages the public to give tips to solve homicides in our City. The program is produced by Judge Cordell with the support of SJPD Chief Larry Esquivel and the SJPD Homicide Unit. The first episode profiles the stabbing death of 17-year old Anthony Santa Cruz near San José High School, and the shooting death of 20-year old Justin Watkins near the Oakridge Mall. In the program, Judge Cordell interviews the victims’ family members. *Make the Call, San José!* first aired on Friday, November 29th, 2013 on CreaTV cable Channel 30. It is available for viewing on YouTube (www.youtube.com, search for *Make the Call, San José!*) and on the IPA website (www.sanjoseca.gov/ipa, under “Related Links”).

V. IPA Publications

Each year the IPA office distributes informational publications at resource fairs, presentations, and community events. You can find many of the

materials online at www.sanjoseca.gov/ipa. IPA publications include the following:

- *A Student’s Guide to Police Practices* (Student Guide) in print & CD form,
- IPA Year End Reports to City Council,
- brochures describing IPA functions and the complaint process, and
- information card (wallet-sized) providing IPA contact information and a brief description of IPA services.

We distributed approximately 5,000 bright green wristbands displaying the IPA phone number to the community in 2013. The IPA staff distributed our “Frequently Asked Questions About the IPA Office” (FAQ) handout in English, Spanish and Vietnamese at our outreach events. You can find the FAQ on page 80 and on our website at www.sanjoseca.gov/ipa.

VI. IPA Website & Facebook Page

Available on the IPA website www.sanjoseca.gov/ipa are IPA outreach materials such as the Guide, Year End Reports, information about the complaint process, and general information about civilian oversight of law enforcement. Under the section “News & Announcements,” you can find links to current IPA developments, announcements and events. The IPA can be found on Facebook as “Office of the Independent Police Auditor, San José.” In the past, we have been able to provide the total number of visitors and total hits or files requested by visitors in our Year End Reports. However, due to modifications made to the City’s internet server in 2013, the availability and format of that information has changed. We were unable to obtain internet access figures for the entire 2013 year, but anticipate making that information available in future Year End Reports.

VII. Independent Police Auditor Advisory Council

The Independent Police Auditor Advisory Council (IPAAC)²³ was established in 1999. The group has two 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 in San José. The support, advice, and insights offered by the IPAAC are integral to the success of the IPA. A roster of the 2013 IPAAC members is in Appendix L.

VIII. Volunteer Contributions

We are enormously grateful to the community members who generously volunteer their time to serve on the IPA Advisory Council (IPAAC) and the Teen Leadership Council (TLC). In 2013 IPAAC members and IPA volunteers contributed 1,417 hours to our office.

Members of the IPAAC engaged in approximately 240 hours of volunteer work associated with the IPA office in 2013. In addition to attending quarterly meetings, members assisted the IPA with community outreach and provided support to the TLC.

- Norma Callendar staffed the National Night Out resource table on behalf of the IPA at the Hayes Mansion.
- BJ Fadem, Mydzung Bui and Joshua Barrouse chaperoned the annual TLC retreat.
- Otis Watson engaged in fundraising for our teen leaders.
- Linda Young Colar mentored a TLC member and staffed an IPA resource table at a community event.
- Yesenia Ramirez and Hilbert Morales joined Judge Cordell at an IPA presentation to the community.

²³ In 2013, the Independent Police Auditor Advisory *Committee* changed its name to Independent Police Auditor Advisory *Council*.

Members of the TLC engaged in approximately 437 hours of volunteer work with the IPA office in 2013 that included monthly meetings, participation in outreach events, and the annual retreat. TLC members Nicolas Avila, Yajaira Chavez, Johnson Tran, Armando Sepulveda, Alejandra Yanez Valencia and Kayla Williams attended community events with IPA staff, such as the Corazon Project's Unity Day, the Green Light Project's Youth Rally and Walk, the Public Safety Resource Fair at Sierramont Middle School.

Three young adult interns volunteered a total of 720 hours in 2013 to support the IPA's outreach efforts and provide assistance to the TLC program. Interns Ernesto Hernandez, Karla De La Torre and Jeannette Ramos spent considerable time with TLC members, chaperoned events, and assisted with the planning and presentation of monthly meetings.

The Vietnamese version of our Guide was updated by two San José community members Tin Quan and Kim Phuong Nguyen, who generously donated approximately 20 hours of their time and talent to translate the Guide into Vietnamese.

IX. Outreach by City Council District

In 2007 the City Council asked the IPA for outreach information by City Council district. Even though it is impossible for us to identify the City Council

Illustration 3-F: Outreach by City Council District in 2012 and 2013

| Council District | % in 2012 | % in 2013 |
|------------------|-------------|-------------|
| District 1 | 1% | 1% |
| District 2 | 3% | 4% |
| District 3 | 41% | 36% |
| District 4 | 11% | 11% |
| District 5 | 10% | 10% |
| District 6 | 5% | 8% |
| District 7 | 13% | 12% |
| District 8 | 5% | 7% |
| District 9 | 2% | 2% |
| District 10 | 3% | 3% |
| N/A | 6% | 6% |
| Total | 100% | 100% |

district of each person who attended an IPA event, we believe that our outreach by district provides a rough estimate. As in prior years, the majority of IPA outreach in 2013 was in District 3 – the district that includes City Hall and the downtown area. District 3 is a popular location for city-wide events and draws attendees from other City Council districts.

A. Neighborhood Events

Each year, some of our community outreach is directed to residents of particular neighborhoods. We participated in 34 such events and meetings in 2013, including

- National Night Out events in Districts 2, 3, 5, 6, 9 and 10,
- Community resource fairs in Districts 8 and 9,
- Public safety related events in Districts 2, 3, 4 and 8, and
- Senior walks in Districts 6, 8 and 10.

The IPA gave presentations to the Community Leadership Commission in District 3, the Berryessa Citizens Advisory Council in District 6, the Goodyear/Mastic Neighborhood Association in District 7, and the Almaden Valley Community Association in District 10. For a complete list of IPA outreach events and activities in 2013, please see Appendix F.

X. Public Contacts: Purposes and Referral Sources

When individuals bring concerns about the SJPD to us, we ask them where or from whom they heard about the IPA office. This information helps us to identify the most common source of referrals to the IPA office and to improve the effectiveness of our outreach and marketing efforts. In 2013, for the first time, we solicited referral information not only from individuals who contacted us to file complaints, but from those who inquired about our services or who requested our informational materials. The data

collected provided interesting information about why members of the public contact us and how they learn about our office.

We obtained information from 221 individuals who contacted us in 2013 by phone, email or in-person visits. Until early 2013, our tracking system was unable to capture requests for IPA presentations or for IPA information materials. The 221 total, therefore, is lower than the actual number of contacts during this first year of tracking. Nevertheless, we were able to glean valuable information. We did not track contact data from individuals in the following categories: contacts from City Council members and staff regarding City business, contacts from media sources, and contacts from individuals who followed up with us about their complaints.

A. Purposes

Of the 221 contacts in 2013, 63% expressed a desire to file complaints. This was the most common reason that individuals contacted our office. Twenty-one percent (21%) of contacts were wrong number, hang-up calls, or were recorded as “unknown purpose.”

Illustration 3-G: Purpose of Contacts with the IPA Office in 2013

| Purpose of Contact | Quantity | % of 221 contacts |
|---|------------|-------------------|
| Complaint Inquiries | 140 | 63% |
| Hang Up, Wrong Number or Unknown Information or Questions | 47 | 21% |
| Other | 13 | 6% |
| Other | 21 | 10% |
| Total Recorded Contacts | 221 | 100% |

B. Referral Sources

Members of the public were referred to us or heard about our office from a variety of sources. Illustration 3-H shows a breakdown of referral sources in 2013.

Illustration 3-H: Referral Sources of Contacts with the IPA Office in 2013

| Source Of Referral | Quantity | % of 221 Contacts |
|------------------------------------|------------|-------------------|
| General | 143 | 65% |
| • Declined to State/Did not Recall | 3 | 1% |
| • Family member/Friend | 28 | 13% |
| • IPA Outreach/Presentation | 12 | 6% |
| • Lawyer/Public Defender | 14 | 7% |
| • Minister/Priest, etc. | 0 | 0% |
| • Other/Unknown | 85 | 38% |
| • Teacher/School Administrator | 1 | >1% |
| Media/Advertising | 45 | 20% |
| • Internet | 16 | 7% |
| • Newspaper | 4 | 2% |
| • Phonebook | 3 | 1% |
| • Posters/Bus Signage | 6 | 3% |
| • TV/Radio | 4 | 2% |
| • Utility Bill Insert | 12 | 5% |
| City of San José | 18 | 8% |
| Community Agency/Group | 15 | 7% |
| Total Recorded Contacts | 221 | 100% |

IPA Community Outreach 2013 – Year In Photos



On “Make the Call, San Jose!” Judge Cordell interviewed the mother & sister of homicide victim Anthony Santa Cruz regarding his unsolved murder.



2013 IPAAC members



Former City Manager Debra Figone (left) & Judge Cordell (right) attended a Pride of San Jose Reception.



Judge Cordell (center), Bill Wilson Center Exec. Director Sparky Harlan & Supervisor Cindy Chavez (right) at homeless youth walk.



Students at SJSU speak to Judge Cordell after her presentation.



Judge Cordell (far left) & IPA Senior Analyst Vivian Do (front row, left) with Year Up Silicon Valley staff & students.



Attorney Kim Nguyen (right) interviewed Judge Cordell (left) & IPA Senior Analyst Vivian Do (center) for the VT News Radio show.



Former HRC Chairperson Joshua Barousse, Judge Cordell & District 7 Chief of Staff Stephanie Fong.



Judge Cordell answered questions from the Story Road & King Road community.



Psychology interns complete IPA evaluations after Judge Cordell's presentation.



Judge Cordell spoke to an at-risk girls group.



Judge Cordell (far left) & SJPD Chief Esquivel (center) after his presentation to TLC members.



Assistant Chief Garcia led TLC members on a tour of the SJPD Pre-Processing Center.



Judge Cordell presented TLC member Yajaira Chavez and other 2013 high school graduates with small gifts.



Interns Jeanette Ramos & Ernesto Hernandez conducted community outreach at SJSU.



Chaperones & TLC members at annual retreat.



IPA Analyst Erin O'Neill awaited the start of a resource fair at a local mall.



IPAAC member BJ Fadem & Senior Analyst Diane Doolan-Diaz chaperoned the TLC retreat.



Speaker pro Tem Nora Campos (left) spoke with the TLC after they observed a meeting of the California Assembly.



Judge Cordell was interviewed for numerous media stories in 2013.



TLC members, staff & volunteers visit the Memorial of Fallen Police Officers in Sacramento.



At the State Capitol, TLC Emeritus Mariah Romero (left) chatted with IPA Analyst Erin O'Neill as intern Karla Reyes (right) looked on.

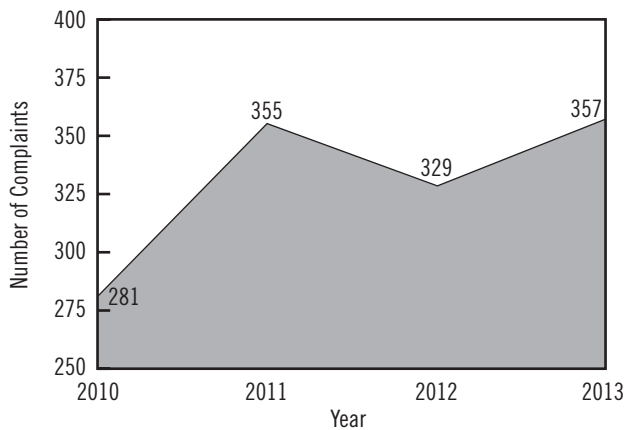
Chapter Four: The Complaint Process from Intake to Audit

I. Step One: Intake

The complaint process begins when a person files a complaint with the IPA or the Internal Affairs (IA) Unit of the SJPD about a San José Police Department (SJPD) officer(s) or a SJPD policy. Complaints or concerns may be filed in person, by phone, fax, email or postal mail with either office. Anyone can file a complaint regardless of age, immigration status, or city of residence. It is not necessary for the complainant to be the subject of the police interaction or a witness to the event. A complaint can also be filed anonymously.

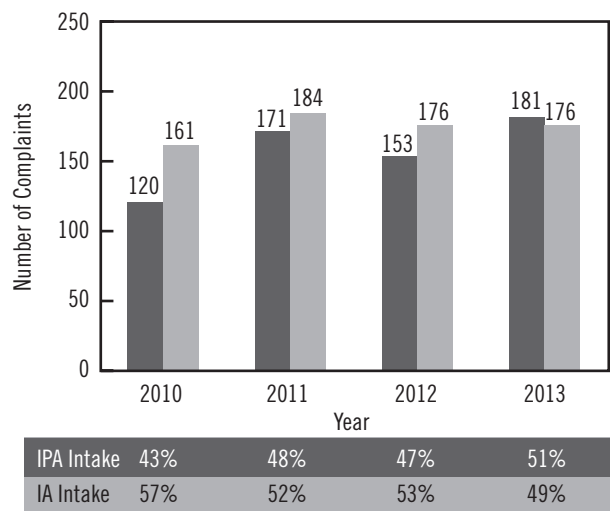
With the complainant’s consent, IPA or IA staff record the complainant’s statement to ensure the information provided by the complainant is captured accurately. The complaint is then entered into a shared IA/IPA database. This initial process is called **intake**. In 2013, 357 complaints and concerns were received—a nine percent (9%) increase in the number of complaints and concerns received in 2012.

Illustration 4-A: Complaints Received from 2010 to 2013



In 2013, 51% of complainants brought their complaints and concerns directly to the IPA office, while the remaining 49% contacted IA. **This is the first time in the 20—year history of the IPA office that the IPA has received more complaints than the Internal Affairs Unit.** We attribute this increase to our continued and more focused outreach efforts. Please refer to Chapter Three for more detailed information on IPA outreach in 2013.

Illustration 4-B: Complaints/Concerns Filed at IPA and IA From 2010-2013



A. Why Each Complaint Matters

- **Holding Officers Accountable**

Every time a complaint is filed, the complaint must be reviewed by IA, regardless of the alleged severity.

- **Mediation**

Many times, complainants say they want to discuss the complaint with the officer “face to face.” Mediation provides a confidential and respectful setting for both the complainant and the officer to talk things out. This promotes a

better understanding between the officers and the community they serve. See a description of the IPA-SJPD Mediation Program at page 40 of this Report.

- **Counseling**

If an officer receives too many complaints, the officer will receive mandatory Intervention Counseling to identify and correct problematic behaviors.

- **Policy Changes**

When civilians voice concerns about SJPD policies, the IPA has the unique opportunity to make policy recommendations to the Police Chief. Our recommendations can have a positive impact on policing in the City.

B. Demographics of Complainants and Subject Officers

1. Complainants

During the intake process, IA and the IPA office gather demographic data about complainants. Although completely voluntary, 74% of complainants chose to identify their ethnicities during the intake process in 2013. Below is a summary of complainant demographics in 2013:

- Hispanic/Latino complainants filed 31% of the complaints in 2013. Hispanics/Latinos comprise 33% of the population of San José.
- Caucasian complainants filed 22% of the complaints in 2013. Caucasians comprise 29% of the population of San José.
- African American complainants filed 11% of the complaints in 2013. African Americans comprise 3% of the population of San José.

Understanding the People Involved in the Complaint Process

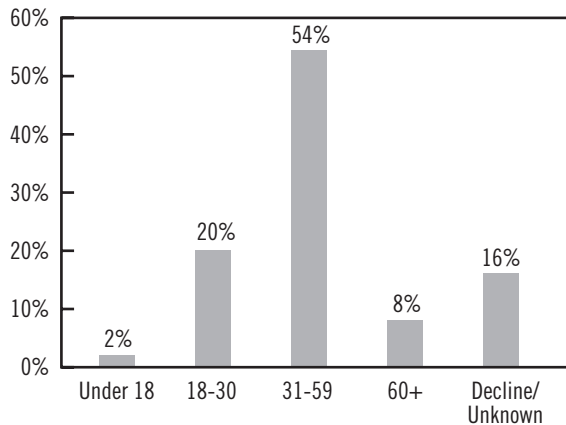
- **Complainant**—The complainant is the person who files the complaint.
- **Subject Officer**—The subject officer is the officer who engaged in the alleged misconduct.
- **Witness Officer**—The witness officer is an officer who witnessed the alleged misconduct. The complaint is not against this officer.
- **Civilian Witness**—A civilian witness is a person with firsthand knowledge about the incident that gave rise to the complaint.
- **Internal Affairs Investigator**—The Internal Affairs investigators are police officers assigned to the Internal Affairs Unit who receive and investigate the complaints. The investigators analyze the complaints by applying the relevant SJPD Duty Manual sections. The IA Commander determines the appropriate findings. IA then sends investigations to the IPA office for audit.
- **IPA Staff**—The IPA staff receive complaints and audit IA investigations to ensure that IA investigations are fair, thorough, and objective.

- Asian American/Pacific Islander complainants filed 2% of the complaints in 2013. Fifteen percent (15%) of the population of San José identifies as Asian American/Pacific Islander.

Table 2 in Appendix J provides details on the ethnicities of other complainants and the proportions of the ethnic populations in San José according to the 2010 U.S. Census.

In 2013, 84% of complainants disclosed their ages during intake. Approximately 54% of complainants ranged between the ages of 31-59, with just 8% over 60 years of age. Only 2% of complainants who disclosed their age were under the age of 18.

Illustration 4-C: Age Range of Complainants in 2013



2. Subject Officers

We obtain demographic data about subject officers from SJPd. The ethnicity data reflect officers employed during the 2013 calendar year. The data reveal that the number of subject officers in 2013 identified with specific ethnicities continues to closely mirror their representation in the Department.²⁴

- Caucasian officers comprise 54% of the Department and were subject officers in 58% of complaints.
- Hispanic/Latino officers comprise 23% of the Department and were subject officers in 22% of complaints.
- African American officers comprise 4% of the Department and were subject officers in 4% of complaints.
- Asian American/Pacific Islander officers comprise 12% of the Department and were subject officers in 9% of complaints.

As illustrated below, male and female officers received complaints comparable to their representation in the Department.

²⁴ Table 1 in Appendix J

Illustration 4-D: Gender of Subject Officers in 2013*

| Gender | Subject Officers | | SJPd Sworn Officers | |
|--------------|------------------|-------------|---------------------|-------------|
| | Subject Officers | % | SJPd Sworn Officers | % |
| Male | 278 | 93% | 964 | 91% |
| Female | 20 | 7% | 98 | 9% |
| Total | 298 | 100% | 1062 | 100% |

*Does not include officers named in Department-Initiated Investigations, Policy Complaints, and Non-Misconduct Concerns.

II. Step Two: Classification

Complaints fall into five classifications: Conduct Complaints, Policy Complaints, Non-Misconduct Concerns, Decline to Investigate²⁵, and Other.²⁶ Illustration 4-E is a breakdown of the various complaints received in 2013. This illustration shows that 74% of all complaints received in 2013 were classified as Conduct Complaints.

Illustration 4-E: Complaints/Concerns Received in 2013*

| Matters Received in 2013 | IA | IPA | Total | % |
|--------------------------|------------|------------|------------|-------------|
| Conduct Complaints | 139 | 124 | 263 | 74% |
| Policy Complaints | 14 | 11 | 25 | 7% |
| Non-Misconduct Concerns | 11 | 25 | 36 | 10% |
| Decline to Investigate | 7 | 11 | 18 | 5% |
| Other | 5 | 10 | 15 | 4% |
| Total | 176 | 181 | 357 | 100% |

*Excludes Department-Initiated Investigations

After intake, IA assigns an allegation to each concern raised by the complainant. IA is responsible for assigning allegations prior to investigations. However, IPA staff reviews IA's assignments early in the process to ensure that misconduct allegations are properly captured.

²⁵ Eighteen (18) cases were classified as "Decline to Investigate." This classification indicates that the facts in the complaint are so fantastical that they are unlikely to be based on reality. These cases are not investigated, but are retained and tracked for statistical purposes.

²⁶ Fifteen (15) cases were classified as "Other" this year because (a) the complaint concerned an incident occurring many years ago (two cases), (b) the complaint did not involve any SJPd officers (nine cases) and (c) the complaint was duplicative of an existing case (four cases). The IPA reviews all cases classified as "Other" to ensure this classification is appropriate.

A. Conduct Complaints

Conduct Complaints allege that a specific SJPD officer violated one or more of the rules in the SJPD Duty Manual. Any member of the public may access the Duty Manual on the SJPD website (www.sjpd.org/Records/Duty_Manual_2010_Electronic_Distribution.pdf) and on the IPA website (www.sanjoseca.gov/ipa/).

Conduct Complaints assert allegations. An allegation is an accusation that an SJPD officer

violated Department or City policy, procedure, or the law. A Conduct Complaint can have more than one allegation. There are eight types of allegations that, if proven, may lead to officer discipline: Procedure, Search or Seizure, Arrest or Detention, Bias-Based Policing, Courtesy, Conduct Unbecoming an Officer, Force, and Neglect of Duty. Complainants made 263 Conduct Complaints containing 799 allegations in 2013. Illustration 4-F explains each allegation and lists examples of allegations from cases that the IPA audited in 2013.

Illustration 4-F: Misconduct Allegations

MISCONDUCT ALLEGATIONS LISTED BY FREQUENCY

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

- 240 allegations (30%)
- **Example:** An officer allegedly failed to provide the complainant with his name and badge number after the identification was requested.

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

- 136 allegations (17%)
- **Example:** An officer allegedly directed vulgar language at a complainant.

Force: The amount of force the officer used was not "objectively reasonable," as defined by SJPD Duty Manual section L 2602.

- 177 allegations (22%)
- **Example:** A complainant alleged that she accidentally drove into an area during road construction. An officer who was directing traffic approached her, yelled at her to get off the road, put his hand through her window, and started twisting her arm until she moved her car.

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

- 74 allegations (9%)
- **Example:** A complainant alleged that an officer approached him as he was sitting on a bench in downtown San José, detained him, handcuffed him, and searched his backpack without his consent.

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

- 80 allegations (10%)
- **Example:** A complainant alleged that an officer searched his car without consent after he was pulled over for an unsafe lane change.

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.

- 46 allegations (6%)
- **Example:** A complainant, pulled over while driving his car in East San José, was detained, administered a field sobriety test, and pat searched. He was ultimately released without being cited for a traffic violation. The complainant believed he was pulled over because he was Hispanic.

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

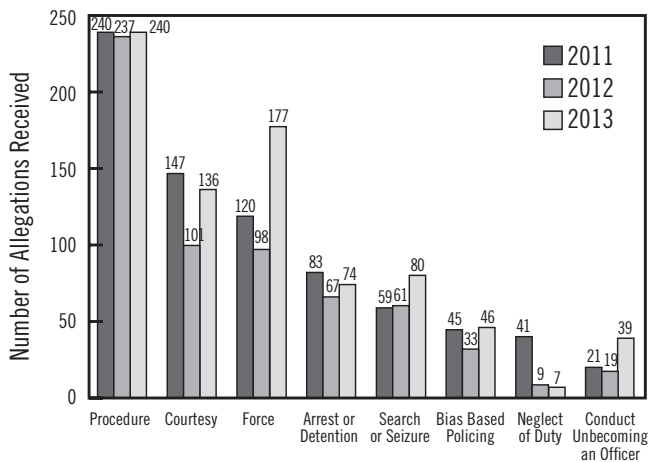
- 7 allegations (1%)
- **Example:** An officer allegedly failed to thoroughly investigate an incident involving a firearm discharge.

Conduct Unbecoming an Officer: A reasonable person would find the officer's on or off duty conduct to be unbecoming a police officer, and such conduct reflected adversely on the SJPD.

- 39 allegations (5%)
- **Example:** A complainant alleged that an officer stole an electronic tablet from her son during a search of his car.

Illustration 4-G depicts the allegations in Conduct Complaints that were received from 2011-2013. In 2013, there was a nine percent (9%) increase in the number of **complaints** received. However, there was a 28% increase in the number of **allegations** received. These increases indicate that complainants raised multiple issues of concern in their individual interactions with police.

Illustration 4-G: Allegations Received from 2011-2013



B. Policy Complaints

Policy Complaints are complaints that are not directed against any individual officer, but are complaints about SJPD policies or procedures. These Policy Complaints are typically forwarded to SJPD’s Research and Development Unit for review.

IA and the IPA received 25 Policy Complaints in 2013. Similar to 2012, 44% of these complaints derived from SJPD’s lack of response to calls for service, including home burglaries, and lack of investigative resources. Some complainants alleged that they have provided SJPD with significant investigative leads, including video surveillance of the crime, without any follow-up investigation by officers.

Although SJPD has publicly stated that they are understaffed and do not have enough resources to complete thorough investigations in all cases, the IPA has recommended that officers be required

to secure and review any video surveillance that claims to capture images of crimes or suspects. For a list of all 2013 IPA recommendations, refer to Chapter Seven.

C. Non-Misconduct Concerns

Non-Misconduct Concerns (NMC) are complaints that do not rise to the level of a violation of policy, procedure, or law that could result in officer discipline. Once classified as a NMC, the case is forwarded to the IPA so that the basis for this classification may be reviewed. If there is a concern about the NMC classification, the IPA first discusses the matter informally with IA staff, and then can appeal the classification of these matters if informal discussions with IA staff prove unsuccessful.

When an officer receives a NMC, it is no longer classified as a “complaint.” However, the subject officer’s supervisor receives notice of the NMC and addresses the matter with the officer. Although the officer cannot be formally disciplined at this point, this procedure provides a means to notify both the subject officer and his/her supervisor that a member of the community was concerned enough to alert SJPD or the IPA about the officer’s conduct.

Finally, the matter is closed as a NMC after the supervisor confirms that the matter has been addressed with the subject officer. Once a case is closed as a NMC, the officer’s name and allegations are removed, but the allegations are tracked for policy purposes. In 2013, 36 complaints (10% of all complaints) were classified as NMCs.

D. Department-Initiated Investigations

Department-Initiated Investigations are complaints about officer misconduct that are initiated by someone within SJPD, as opposed to a member of the public. IA and SJPD Command staff handle these complaints. The IPA has no role in the classification, review, or audit of these

investigations. Annually, the Department presents a report to the City Council about Department-Initiated Investigations.

III. Step Three: Investigation

After intake and classification, IA investigates all Conduct Complaints. IA investigations may include the review of police reports, medical records, photos, and the CAD.²⁷ IA may also conduct follow-up interviews with the complainants, witnesses, and officers to gather more information about the complaints. This evidence is collected to determine what facts support or refute the allegations in the complaints. The evidence is then analyzed in light of relevant SJPD policies and procedures as listed in the Duty Manual.

The IPA office does not investigate complaints. However, the IPA monitors the progress of all investigations in order to assess the objectivity and thoroughness of the investigation, the fairness of the interview process, and the collection of supporting documentation. The IPA accomplishes this in the following ways:

reviews complaints received at IA to ensure that complaints are properly classified and that the allegations reflect all of the complainants' concerns; attends officer interviews or requests that IA ask subject officers specific questions; and updates complainants about the status of IA investigations.

IA must notify the IPA of officer interviews for (1) all complaints opened at the IPA office and (2) all complaints containing allegations of Force or Conduct Unbecoming an Officer. IPA staff may request notifications of IA interviews in other cases. Only the IPA and the Assistant IPA are authorized to attend officer interviews. When neither the IPA nor the Assistant IPA are able to attend officer interviews, they have the option of sending questions to IA to be asked in the interviews.

IV. Step Four: Findings Made By Internal Affairs

In each complaint, the IA investigator must conduct a full and fair review of all available information and determine whether or not the alleged misconduct occurred. Findings are based on an objective analysis of this information. The possible findings are: Sustained, Not Sustained, Exonerated, Unfounded, No Finding, Withdrawn, or Other. Illustration 4-H lists and defines all of the findings that IA made in 2013.

Generally, officer discipline is imposed only if there is a Sustained finding for an allegation. The standard used by IA is "preponderance of the evidence." This means that the evidence must indicate that it is more likely than not that the officer committed a violation of the Duty Manual.

²⁷ The CAD (Computer-aided Dispatch) is a log of all of the events from the moment the police are called, until the moment they leave. The information is logged by dispatch as it is relayed by the officers and the reporting parties.

Illustration 4-H: Findings for Misconduct Allegations

FINDINGS FOR MISCONDUCT ALLEGATIONS

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.”²⁸ 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.
- 266 allegations (48%) were Exonerated in 2013.

Not Sustained: “The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation[.]” This means the alleged misconduct was a “he said-she said” situation where it is one person’s word against another and IA cannot determine, by a preponderance of the evidence, which version to believe.

- **Result:** This finding does not result in officer discipline. However, the officer may be required to undergo counseling or training.
- 30 allegations (5%) were Not Sustained in 2013.

Sustained: “The investigation disclosed sufficient evidence to prove clearly the allegation made in the complaint.” This means that the Police Chief and the Chain of Command determined that the officer did engage in misconduct.

- **Result:** This finding results in officer discipline.
- 35 allegations (6%) were Sustained in 2013.

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, or that no SJPD officers were involved in the alleged acts.

- **Result:** The officer is not disciplined.
- 178 allegations (32%) were Unfounded in 2013.

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 did not follow through with necessary information for IA, or the officer is no longer employed by SJPD.

- **Result:** The officer is not disciplined.
- 26 allegations (5%) were closed with No Finding in 2013.

Withdrawn: “The complainant affirmatively indicates the desire to withdraw his/her complaint.” This means the complainant said he/she wanted to drop the complaint.²⁹

- **Result:** This finding does not result in officer discipline.
- 11 allegations (2%) were Withdrawn in 2013.

Other: Allegations in 2013 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 officer who allegedly engaged in the misconduct was employed by another law enforcement agency – not by SJPD.

- **Result:** No officer is investigated.
- 14 allegations (3%) were closed as Other in 2013.

²⁸ All definitions in quotations in this table are from the 2010 SJPD Duty Manual Section C 1723.

²⁹ IPA staff routinely follows up to ensure that the complainants’ decisions to withdraw their complaints are entirely voluntary.

A. How Allegations Were Closed by IA in 2013

Illustration 4-I lists the number of allegations closed by IA in 2013 and their respective findings.

Illustration 4-I: Dispositions of Allegations in 2013

| | Arrest/ Detention | Bias- Based Policing | Courtesy | Conduct Unbecoming an Officer | Force | Neglect of Duty | Procedure | Search/ Seizure | Total | Percent |
|--------------------------|----------------------|----------------------------|-----------|-------------------------------------|-----------|--------------------|------------|--------------------|------------|-------------|
| Sustained | 0 | 0 | 3 | 5 | 0 | 0 | 27 | 0 | 35 | 6% |
| Not Sustained | 1 | 0 | 18 | 2 | 0 | 0 | 8 | 1 | 30 | 5% |
| Exonerated | 43 | 0 | 14 | 0 | 75 | 3 | 81 | 50 | 266 | 48% |
| Unfounded | 1 | 38 | 34 | 13 | 14 | 2 | 65 | 11 | 178 | 32% |
| No Finding | 2 | 3 | 4 | 0 | 4 | 0 | 11 | 2 | 26 | 5% |
| Complaint Withdrawn | 1 | 0 | 2 | 2 | 0 | 1 | 4 | 1 | 11 | 2% |
| Other | 1 | 0 | 0 | 0 | 0 | 0 | 12 | 1 | 14 | 3% |
| Total Allegations | 49 | 41 | 75 | 22 | 93 | 6 | 208 | 66 | 560 | 100% |

*Excluding Department-Initiated Investigations

B. The Sustained Rate

The **Sustained rate** is the percentage of Conduct Complaints that have at least one Sustained allegation. The Sustained rate for Conduct Complaints filed by the public increased from three percent (3%) in 2012 to nine percent (9%) to 2013—an 80% increase in Sustained complaints. The 2013 Sustained rate mirrors previous years' Sustained rates as displayed in Illustration 4-J. For summaries of sustained cases in 2013, please refer to Chapter Six.

Illustration 4-J: Sustained Complaints Over Five Years

| Year of Complaint | Sustained Rate | Sustained Complaints | Closed Complaints |
|----------------------|-------------------|-------------------------|----------------------|
| 2009 | 7% | 20 | 291 |
| 2010 | 7% | 15 | 228 |
| 2011 | 10% | 24 | 246 |
| 2012 | 3% | 10 | 302 |
| 2013 | 9% | 18 | 202 |

V. Step Five: IPA Audit

After IA completes its investigation, writes an analysis, and makes a finding, it forwards the case to the IPA for audit. The IPA is required to audit all cases with Force allegations and at least 20% of all other cases. In 2013, the IPA fulfilled this requirement by auditing all complaints containing Force allegations (57) and 76% of all remaining non-Force cases (179).

IPA staff reviews various issues during the IPA audit to determine if IA's investigations and analyses were fair, thorough, and objective. These issues include the application of policy to the facts, the presence/absence of interviews/supporting documentation, and IA's analysis of the evidence.

Illustration 4-K: Issues Reviewed During IPA Audit

| 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? |

After reviewing the case, the IPA made one of the following determinations:

- **Agreed** with IA's investigation of the case (179 or 76% of audited cases in 2013),
- **Agreed After Further Action**, such as receiving from IA a satisfactory response to an IPA request for additional clarification or investigation (32 or 14% of audited cases);
- **Closed With Concerns**, which indicates the IPA did not agree with the IA investigation and/or analysis, but the disagreement did not warrant a formal disagreement (12, or 5% of audited cases); or
- **Disagreed**, meaning the IPA determined that IA's investigation and findings were not thorough, objective, and fair (13 or 6% of audited cases).

Illustration 4-L: 2013 IPA Audit Determinations

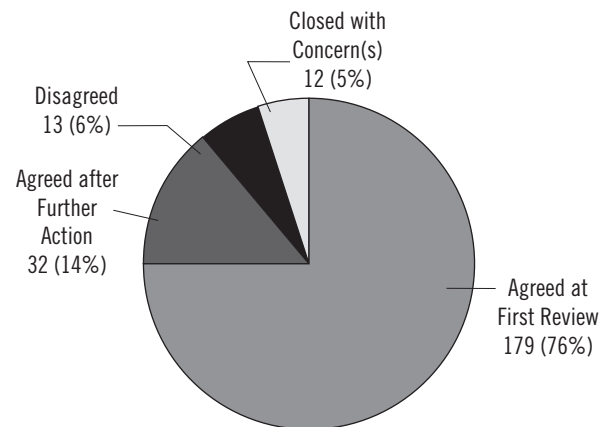


Illustration 4-M: IPA Audit Determinations in Investigated Cases in 2012 and 2013

| Audit Determination in Investigated Cases | 2012 | | 2013 | |
|---|------------|-------------|------------|-------------|
| | Audits | % | Audits | % |
| Agreed at First Review | 257 | 74% | 179 | 76% |
| Agreed after Further Action | 35 | 10% | 32 | 14% |
| Disagreed | 23 | 7% | 13 | 6% |
| Closed with Concern(s) | 30 | 9% | 12 | 5% |
| Total Complaints Audited | 345 | 100% | 236 | 100% |

The 2013 IPA audit determinations resemble last year's results, but with an increase in the number of Agreed Cases. In 2012, the IPA agreed with 85% of IA's determinations (including Agreed at First Review and Agreed After Further Action). In 2013, the IPA agreed with 90% of IA's investigations and analyses. Also, the IPA agreed on first review with 76% of IA's investigations and findings in 2013,

indicating that the IPA found that a majority of IA's initial investigations and analyses were fair and objective.

VI. Officer Discipline, Complaint Rates and Experience Levels

A. Officer Discipline

SJPD disciplined 23 officers in 2013 as a result of Sustained findings in Conduct Complaints. This is a 109% increase from the 11 officers disciplined in 2012. Not only did the number of Subject Officers disciplined in 2013 increase, but the level of discipline imposed was also more severe. In 2012, the most severe discipline imposed by the Department was Documented Oral Counseling/ Letter of Reprimand (DOC/LOR), whereas in 2013, there were four suspensions/settlements.

Illustration 4-N: Discipline Imposed on Subject Officers in 2012 and 2013

| Type of Discipline | 2012 | | 2013 | |
|---------------------------------------|------------|---------------------|------------|---------------------|
| | # of Times | % of All Discipline | # of Times | % of All Discipline |
| Training | 0 | 0% | 1 | 4% |
| Training & Counseling | 9 | 82% | 14 | 61% |
| ALL TRAINING AND/OR COUNSELING | 9 | 82% | 15 | 65% |
| Documented Oral Counseling (DOC) | 1 | 9% | 2 | 9% |
| DOC & Training | 1 | 9% | 0 | 0% |
| Letter of Reprimand (LOR) | 0 | 0% | 2 | 9% |
| ALL DOC & LOR | 2 | 18% | 4 | 17% |
| 120-Hour Suspension | 0 | 0% | 1 | 4% |
| 160-Hour Suspension | 0 | 0% | 1 | 4% |
| ALL SUSPENSIONS | 0 | 0% | 2 | 9% |
| Settlement Agreement | 0 | 0% | 2 | 9% |
| ALL SETTLEMENTS | 0 | 0% | 2 | 9% |
| TOTAL DISCIPLINE IMPOSED | 11 | 100% | 23 | 100% |

B. Complaint Rates and Experience Levels

IA and the IPA collect data regarding subject officers, such as

- the number of complaints received by each subject officer;
- the types of allegations attributed to each subject officer in the complaint; and
- the experience level of each subject officer.

In 2013, 298 officers were named in Conduct Complaints — 28% of all SJPD officers. Of these officers, most (218 or 73% of subject officers) received only one complaint. Fifty-three (53) subject officers received two complaints (18% of subject officers). Eighteen (18) subject officers received three (3) complaints and nine (9) subject officers received four (4) complaints.

Illustration 4-O provides a five-year overview of complaints received by individual officers. This data reflect only those cases in which individual officers are identified by name either by the complainant or through the IA investigation process. There were 47 Conduct Complaints this year in which officers could not be identified (“Unknown” officers).

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

| Officers Receiving | 2009 | 2010 | 2011 | 2012 | 2013 |
|--|------------|------------|------------|------------|------------|
| 1 Complaint | 178 | 196 | 201 | 178 | 218 |
| 2 Complaints | 30 | 37 | 42 | 30 | 53 |
| 3 Complaints | 6 | 4 | 8 | 5 | 18 |
| 4 Complaints | 3 | 2 | 4 | 3 | 9 |
| 5 Complaints | 1 | 1 | 0 | 0 | 0 |
| Total Number of Officers Receiving Complaints | 218 | 240 | 255 | 216 | 298 |

*Subject officer names are not retained in complaints classified as Non-Misconduct Concern, Policy, or Withdrawn.

Our review of the years of experience associated with each subject officer provided some interesting information. This data, however, requires clarification. As with any other employees, police officers have differing employment start dates throughout the calendar year. For this 2013 Year End Report, data reflecting the total number of sworn officers employed by SJPD was captured on January 1, 2014. For each complaint, however the experience level of the subject officers is captured at the time of the complaint incident — any date during the 2013 calendar year. Additionally, throughout the year, some officers move from one experience level to another and therefore, can belong to two groups of “years of experience.” Also, the total number of sworn SJPD officers with any given years of experience may increase with new/lateral hires or decrease due to retirements, resignations, or terminations.

Despite these data constraints, a few trends emerged. **In general, officers with more experience received more complaints than officers with less experience.** For example, 59% of all subject officers were officers with at least 11 years of experience. Of the 53 subject officers who received two complaints, 53% were officers with 11 or more years of experience. Of the 18 officers who received 3 complaints, 61% were officers with at least 11 years of experience. In contrast, officers with 0-1 year of experience were named in only 11% of all complaints received in 2013. Refer to Table 4 in Appendix J.

Illustration 4-P: Years of Experience of Subject Officers in 2013

| Years of Experience | Total Subject Officers | | Total SJPDP Sworn Officers | | % of SJPDP |
|---------------------|------------------------|-------------|----------------------------|-------------|------------|
| | Officers | % | Officers | % | |
| 0-1+ | 32 | 11% | 133 | 13% | 24% |
| 2-4+ | 16 | 5% | 20 | 2% | 80% |
| 5-6+ | 26 | 9% | 53 | 5% | 49% |
| 7-10+ | 47 | 16% | 137 | 13% | 34% |
| 11-15+ | 67 | 22% | 226 | 21% | 30% |
| 16+ | 110 | 37% | 493 | 46% | 22% |
| | 298 | 100% | 1062 | 100% | 28% |

We examined additional data to determine whether officers with a particular experience level received a specific type of allegation over another.³⁰

- There were 235 allegations contained in the Conduct Complaints filed against officers with 16 or more years of experience. Of these allegations, 34% (80) were Procedure, and 19% (45) were Force.
- There were 161 allegations contained in the Conduct Complaints filed against officers with 11-15 years of experience. Of these allegations, 34% (54) were Procedure and 17% (28) were Courtesy.

- Force allegations increased by 81% in 2013. Force was the type of allegation filed most frequently against officers with seven to ten years of experience (34% of the 119 total allegations) and against officers with five to six years of experience (48% of the 54 total allegations).
- Courtesy allegations increased by 35% in 2013. In addition, 60% of all Courtesy allegations were against officers with 11+ years of experience.
- CUBO allegations increased by 105% in 2013. Also, 56% of all CUBO allegations involved officers with 11+ years of experience. Lastly, 23% of all CUBO allegations were sustained.

³⁰ See Table 3 in Appendix J for data showing all types allegations filed against officers by years of experience.

THE IPA-SJPD MEDIATION PROGRAM

The IPA-SJPD Mediation Program, initiated in 2011, has provided to complainants and the officers against whom they have complained, a positive environment for discussion of their perceptions about the alleged misconduct. The allegations typically referred for mediation address concerns about officers who are perceived to be discourteous or to have engaged in bias-based policing.

In 2013, there were only four mediations. In 2012, there were 13. It is unclear why there were fewer mediations this year. Complaints are referred for mediation by either SJPD's Internal Affairs (IA) Unit or by the IPA office. It is also the case that both IA and our office must agree on each referral before it can proceed to mediation. There were a few instances in which we did not agree to IA referrals. For example, officer complaint histories were reviewed by IA and by our office to determine if the officers had been subjects of frequent complaints or have allegedly engaged in very serious misconduct. Such complaints do not proceed to mediations.

Mediations are entirely voluntary; neither the complainants nor the subject officers are obligated to participate. Some officers and some complainants simply declined to mediate. The most common reason that complainants gave for not participating was their objection to withdrawing their complaints, a prerequisite for mediation. We do not know why some officers refused to participate because it is IA and not our office who solicits their participation.

The mediator/judge for all four mediations in 2013 was the Hon. James Emerson (Ret.) who volunteered his time to the mediation program.

The mediation surveys completed by the participants revealed the following demographics of the participants:

- Complainant: Hispanic female, age was not listed
- Officer: Caucasian male, 44 years old, 19 years with SJPD
- Complainant: Caucasian female, 43 years old
- Officer: Hispanic male, 30 years old, 6 years with SJPD
- Complainant: Hispanic female, 21 years old
- Officer: Caucasian male, 44 years old, 22 years with SJPD
- Complainant: Caucasian male, 50 years old
- Officer: Caucasian male, 32 years old, 6 years with SJPD

FACTUAL BACKGROUNDS OF IPA-SJPD MEDIATIONS IN 2013

- A complainant alleged that a police officer refused to write a report after bouncers forced her and her son to leave a downtown bar.
- A complainant alleged that a police officer was rude, aggressive and impatient to her when she came to the aid of a motorist with an inoperable vehicle.
- A complainant, the victim of a strong-arm robbery, alleged that the police officer who took the report was discourteous when the officer called his actions "dumb" and "stupid," and told him that this case would not be investigated.
- A complainant alleged that a police officer was unprofessional with her during a telephone conversation, calling her a "child" and "pathetic."

COMMENTS BY OFFICERS AND COMPLAINANTS ABOUT MEDIATIONS (TAKEN FROM SURVEYS COMPLETED BY MEDIATION PARTICIPANTS)

Officers' Comments:

"It saved the Sergeant [in IA] 60-80 hours of investigation--- and I was able to speak honestly. We all signed confidentiality waivers---both positive."

Complainants' comments:

"Thank you."

"Thank you for taking your time to do this!"

Chapter Five: Use of Force

This chapter provides information about complaints containing Force allegations. The data include Force Complaints received in 2013, as well as Force Complaints closed by Internal Affairs and audited by the Independent Police Auditor's office in 2013.

I. Force Complaints and Allegations

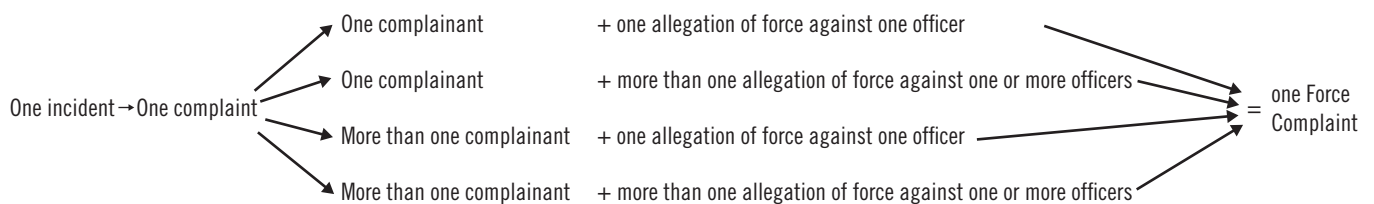
A. Overview

Police work poses both expected and unexpected dangers. On occasion, the use of force by officers is necessary. A police officer who has probable 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 Office of the Independent Police Auditor (IPA) is required by the City's Municipal Code to audit all investigations conducted by Internal Affairs (IA) of Force allegations filed by members of the public.

B. Force Complaints

In this report, a "Force Complaint" describes a complaint that includes one or more allegations of improper use of force by a San José police officer. The term "Force Complaint" helps us to discuss, in general, all types of cases that have one thing in common — an officer's use of force. Each of the scenarios below is an example of a Force Complaint.

Illustration 5-A: How Force Complaints are Defined



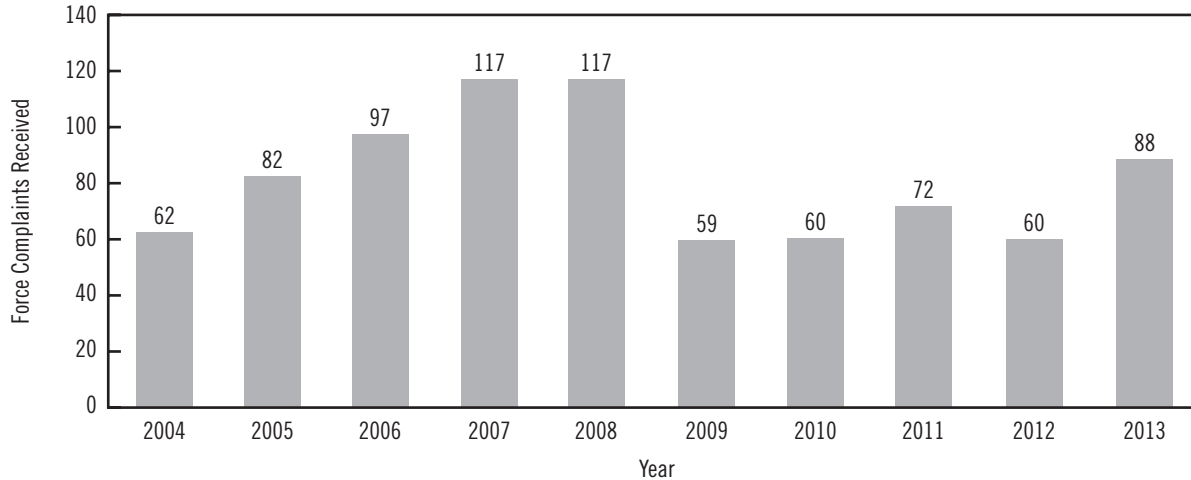
An IA investigation of a Force Complaint should answer three questions: (1) Was the force response lawful? (2) Was the force response reasonable? (3) Was the force response within SJPD policy? The IA investigation must examine all the facts and circumstances associated with the incident in order to determine whether or not the officer acted reasonably. The factors that IA evaluates include the severity of the crime, the threat presented by the suspect and the resistance offered by the suspect.

Eighty-eight (88) Force Complaints were received in 2013.³¹ That number is higher than the number of Force Complaints received between 2009 and 2012 but fewer than Force Complaints received in years 2006-2008. Illustration 5-B shows the number of Force Complaints³² received over the last ten years (2004-2013).

³¹ Even if a complaint is received in 2013, it may not necessarily be closed in 2013.

³² Excluding complaints classified as "inquiry."

Illustration 5-B: Force Complaints* Received from 2004 through 2013



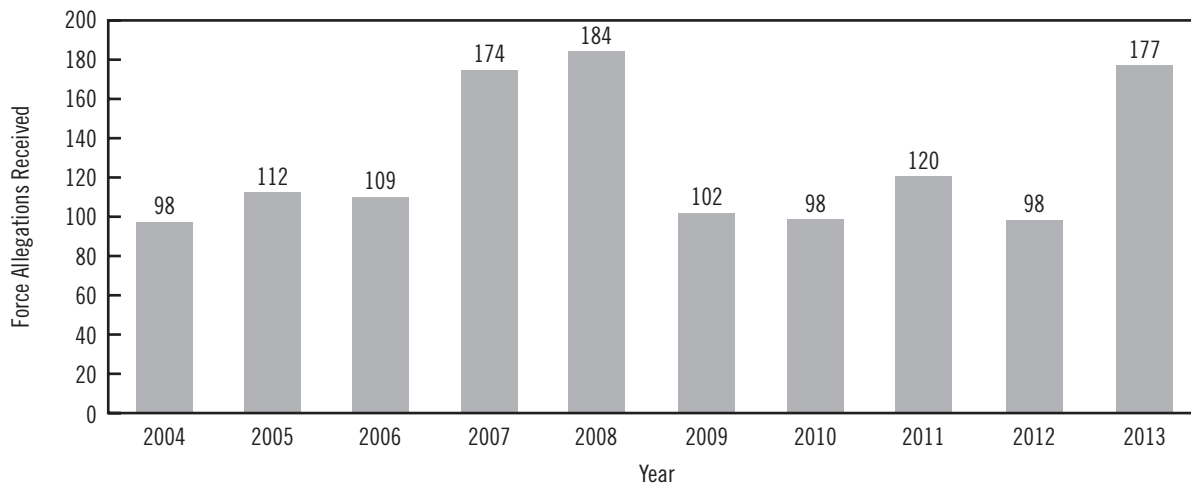
*Excluding complaints classified as “inquiry.”

C. Force Allegations

The annual number of Force **allegations** in complaints is higher than the annual number of Force Complaints because, as shown in Illustration 5-A “How Force Complaints are Defined,” each single complaint may contain more than one Force allegation. For example, a complainant might allege that one officer shoved him against a fence and then another officer tackled him to the ground; this example reflects one Force Complaint with two

possible force allegations. The 88 Force Complaints received in 2013 contained 177 force allegations. More force allegations were received in 2013 than in the four prior years; however, the number of force allegations received in 2013 is comparable to the force allegations received in years 2007-2008. Illustration 5-C shows the number of force allegations received from 2004 through 2013.

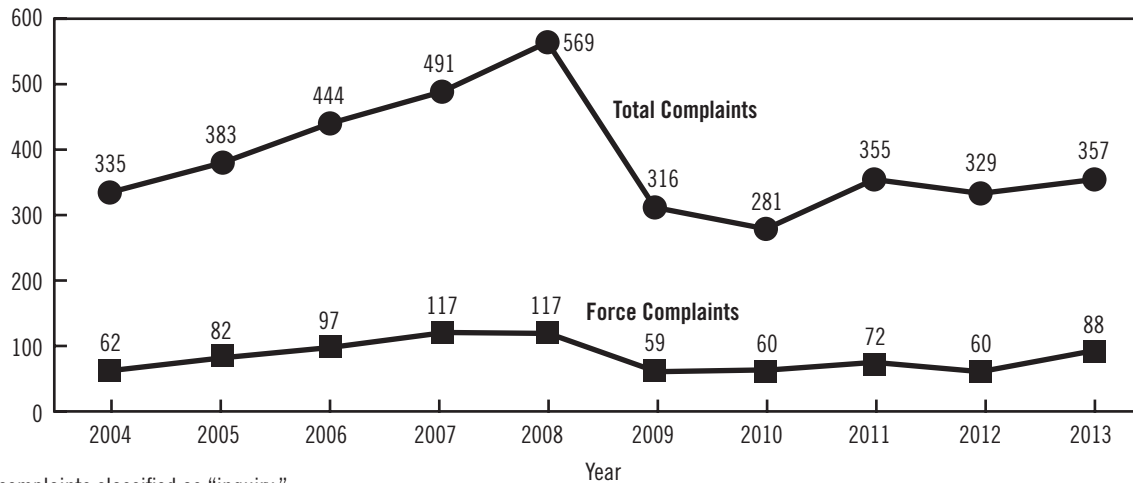
Illustration 5-C: Force Allegations Received from the Public from 2004 through 2013



Twenty-five percent (25%) of complaints received in 2013 contained one or more force allegations. Illustration 5-D shows the percentage of Force Complaints relative to all complaints received from the public from 2004 to 2013. The percentage of

Force Complaints received in 2013 is comparable to the percentage of Force Complaints received in years 2008-2010. See Table 5 in Appendix J for additional detail.

Illustration 5-D: Force Complaints* Relative to Total Complaints — 10 Year Overview



*Excluding complaints classified as “inquiry.”

Illustrations 5-B, 5-C, and 5-D reflect that more Force Complaints were filed in 2013 than in the previous four years, that those complaints contained more force allegations than in the previous four years and that the percentage of Force Complaints relative to other complaints increased over the previous two years. However, the 2013 data does not appear to be abnormal if one considers the data over a ten-year period.

II. Force Complaints Closed and Audited in 2013

A. IPA Audit Determination

The IPA is mandated to audit all complaints in which force is alleged. In 2013, the IPA audited 57 Force Complaint investigations. The IPA agreed with the findings of IA in 86% of these cases after a first review. In 11% of the Force Complaints, the IPA requested that IA provide additional documentation, conduct additional interviews or obtain more evidence, and/or complete re-analyses of the facts and supporting rationales. In four percent (4%) of Force Complaints, the IPA concluded that

the IA investigation was not complete or objective (“Disagreed”) or the IPA closed the case despite having some reservations about the IA investigation and/or analysis (“Closed with Concerns”).

Illustration 5-E: IPA Audit Determination of Force Complaints Closed in 2012 and 2013

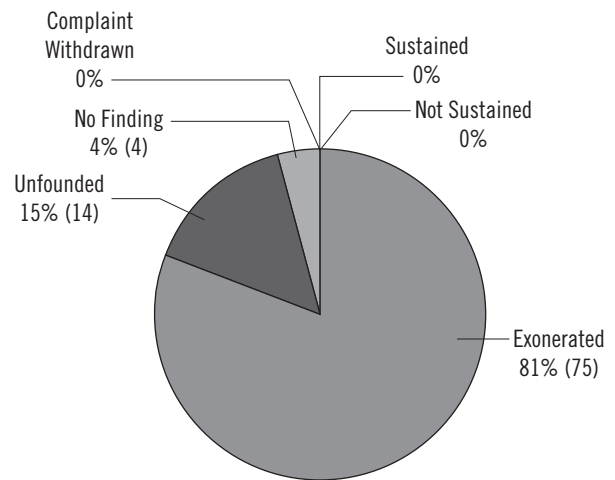
| IPA Audit Determination | Explanation of IPA Audit of the IA Investigation of Force Complaints | 2012 Audits | 2013 Audits |
|---------------------------------------|--|------------------|------------------|
| Agreed | IPA audit determined that the IA investigation was thorough, complete and objective. | 64 (77%) | 49 (86%) |
| Agreed After Further | The IPA requested and reviewed supporting documentation from IA or requested IA re-examine its analysis. | 8 (10%) | 6 (11%) |
| Closed with Concerns | IPA questioned the IA investigation and/or IA analysis | 5 (6%) | 1 (2%) |
| Disagreed | IPA audit concluded that the IA investigation was not thorough, fair and objective. | 6 (7%) | 1 (2%) |
| Total Force Complaints Audited | | 83 (100%) | 57 (100%) |

Illustration 5-E reflects that the IPA agreed with about three-quarters (3/4) of the IA investigations of Force Complaints after first review in 2012; in 2013, that figure increased to close to 90% of the Force Complaints. The percentage of Force Complaints in which the IPA disagreed or had reservations about the IA investigation and/or analysis decreased from 13% in 2012 to four percent (4%) in 2013.

B. IA Findings for Force Allegations

Illustration 5-F provides general information about how IA treated Force allegations in the complaints that they closed in 2013. Not one of the 93 Force allegations closed in 2013 was “Sustained.” IA closed the majority of the Force allegations with findings of “Exonerated,” meaning that the IA investigation determined that the level and the type of force used by the officers were reasonable and justified. Seventy-five (75) out of 93 force allegations (81%) were closed in 2013 with an “Exonerated” finding; in 2012, 67% of force allegations (107 of 159) were closed as “Exonerated.”

Illustration 5-F: IA Findings for Force Allegations in Complaints Closed in 2013



III. Force Complaint Demographics

A. Ethnicities of Complainants

The IPA attempts to identify the ethnicities of complainants during the initial complaint intakes. We obtained information on ethnicity from 388 individual complainants in 2013. We were not able to capture the ethnicity of all complainants because some declined to disclose this information to us. Illustration 5-G shows the ethnicities of the 104 complainants who filed Force Complaints, as well as the ethnicities of all complainants, and the percentage of those ethnic groups within the San José population.

Illustration 5-G: Force Complaints Received in 2013 — Complainants by Ethnicities*

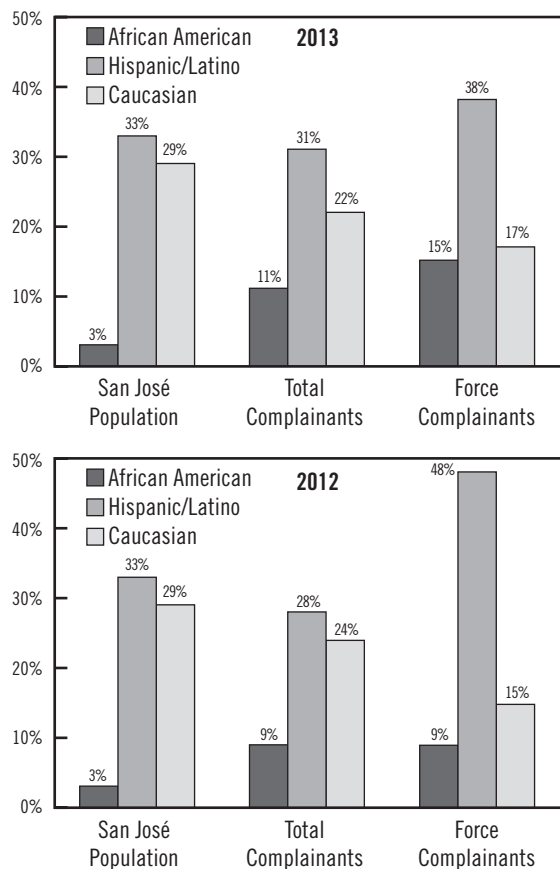
| Ethnicity From Complainant Intakes | Force Complainants | | Total Complainants | | % of San José Population** |
|---|--------------------|-------------|--------------------|-------------|----------------------------|
| | Number | % | Number | % | |
| African American | 16 | 15% | 42 | 11% | 3% |
| Asian American / Pacific Islander | 2 | 2% | 9 | 2% | 15% |
| Caucasian | 18 | 17% | 85 | 22% | 29% |
| Filipino*** | 1 | 1% | 4 | 1% | 6% |
| Hispanic / Latino | 39 | 38% | 119 | 31% | 33% |
| Native American | 2 | 2% | 4 | 1% | 1% |
| Vietnamese*** | 0 | 0% | 14 | 4% | 11% |
| Other | 2 | 2% | 9 | 2% | 2% |
| Decline / Unknown | 24 | 23% | 102 | 26% | 0% |
| Complainant Responses to Intakes | 104 | 100% | 388 | 100% | 100% |

* Information on ethnicities of complainants is obtained during intake. 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

***For the purpose of this illustration, Filipino and Vietnamese are listed separately from Asian/Pacific Islanders.

Review of the data reflected in Illustration 5-H over the last three years reveals the following trends:

Illustration 5-H: Force Complaints Received in 2013 and 2012 — Complainants by Selected Ethnicities



- The percentage of Hispanic/Latino complainants has remained steady – 31% in 2013 and 2011 and 28% in 2012. This percentage is close to their representation in the City’s population. According to 2010 U.S. Census data, the Hispanic/Latino population in San José is 33%. However the percentage of Hispanic/Latino complainants who alleged force significantly decreased in 2013. Thirty-eight percent of force complainants self-identified as Hispanic/Latino in 2013; this percentage was much higher in prior years ranging from 47% (2010) to 48 (2012).
- The percentage of African American complainants has also remained steady - 11% in

2013 and 9% in 2012 and 2011. Over the past three years, the percentage of African American complainants who alleged force has ranged from a high of 15% in 2013 to a low of 8% in 2011. These percentages are higher than the representation of African American in the City’s population. According to 2010 U.S. Census data, the African American population in San José is 3%.

- The percentage of Caucasian complainants has remained steady over the past three years – 22% in 2013, 24% in 2012, and 20% in 2011. Over the past three years, the percentage of Caucasian complaints who alleged force has ranged from a high of 17% in 2013 to a low of 15% in 2012. These percentages are lower than the representation of Caucasians in the City’s population. According to 2010 U.S. Census data, the Caucasian population in San José is 29%.

B. Demographics of Persons Against Whom Force Was Allegedly Used

Complaints are accepted from members of the public, regardless of the complainants’ connections to the incidents. A complainant may be the subject of force, a witness to force used on another, a relative of the suspect, or a civilian who, having learned about force used upon another, has concerns about that force. Since anyone can file a complaint, the demographics of complainants may not reflect the demographics of the persons upon whom police are allegedly using force. For example, it is not uncommon for parents to file complaints about the force police allegedly used upon their adult or minor children. The demographics of the parents (the complainants) may be different from those of the children (the subjects of the force). The IPA reviewed the 57 Force Complaints closed in 2013 to determine the ethnicities, ages and genders of the persons on whom force was allegedly used. This more detailed information was gleaned from police reports, citations, and/or medical records.

SJPD Duty Manual Section C 1305

Equality of Enforcement

“People throughout the city have a need for protection, administered by fair and impartial law enforcement. As a person moves about the city, such person must be able to expect a similar police response to the person’s behavior -- wherever it occurs. Where the law is not evenly enforced, there follows a reduction in respect and resistance to enforcement.

“The element of evenhandedness is implicit in uniform enforcement of law. The amount of force or the method employed to secure compliance with the law is governed by the particular situation. Similar circumstances require similar treatment -- in all areas of the city as well as for all groups and individuals. In this regard, Department members will strive to provide equal service to all persons in the community.”

Illustrations 5-I, 5-J and 5-K show the ethnicities of 64 persons against whom force was allegedly used, the genders of these persons and the ages of these persons.

Illustration 5-I: Ethnicities of Persons Against Whom Force Was Allegedly Used in Force Complaints Closed in 2013

| | Number of persons | Percentage of total persons | Percentage of San José population* |
|-------------------------------------|-------------------|-----------------------------|------------------------------------|
| African American | 2 | 3% | 3% |
| Asian American/ Pacific Islander | 1 | 2% | 15% |
| Caucasian | 11 | 17% | 29% |
| Filipino | 2 | 3% | 6% |
| Hispanic / Latino | 32 | 50% | 33% |
| Native American | 0 | 0% | 1% |
| Vietnamese | 1 | 2% | 11% |
| Other | 1 | 2% | 2% |
| Decline/unknown | 14 | 22% | 0% |
| Total persons | 64 | 100% | 100% |

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

Illustration 5-J: Genders of Persons Against Whom Force Was Allegedly Used in Force Complaints Closed in 2013

| | Number of persons | Percentage of total persons |
|----------------------|-------------------|-----------------------------|
| Male | 49 | 77% |
| Female | 15 | 23% |
| Total persons | 64 | 100% |

Illustration 5-K: Ages of Persons Against Whom Force Was Allegedly Used in Force Complaints Closed in 2013

| | Number of persons | Percentage of total persons |
|----------------------|-------------------|-----------------------------|
| Under age 20 | 6 | 9% |
| 20-29 years | 16 | 25% |
| 30-39 years | 13 | 20% |
| 40-49 years | 7 | 11% |
| 50-59 years | 8 | 13% |
| 60 and over | 4 | 6% |
| Unknown | 10 | 16% |
| Total persons | 64 | 100% |

IV. Data Tracked from Force Complaints

The IPA tracks data from Force Complaints received in 2013 and from our audits of IA force investigations closed in 2013 to determine whether any trends or patterns can be detected. The IPA tracks information reported by complainants, as well as information gleaned from the IA investigation process — primarily officer interviews, witness interviews, police reports and medical records. We gather additional trend information regarding the consistency of the data reported by the complainant versus the data reported by the SJPD officers and/or reflected in written documents.

A. Types of Force Applications

We collect data about the types of force used in order to track the frequency as shown in Illustration 5-L. The total number of types of force alleged is greater than the total number of Force Complaints because there can be more than one type of force alleged in one complaint; also 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

Force Options: Selected Terms

Force: SJPD Duty Manual section L 2603 describes force options ranging from mere physical contact (touching) to impact weapons, tasers and deadly force. While the Duty Manual also lists *voice commands* as a force option, the use of voice commands does not provide a basis for a force allegation under the misconduct complaint process.

Control Hold: an officer's use of his/her limbs, torso or body weight, to move or restrain a person or to constrict a person's movements.

Takedown: an officer's use of his/her limbs, torso or body weight to force a person against an immovable object (such as a car or a wall) or to force a person to the ground.

Body Weapons: an officer's use of her/her limbs in a manner similar to an impact weapon, e.g. using his/her hands to punch, hit or slap a person.

hit him with fists and slammed him against a wall. This example illustrates three different types of force applications against multiple officers in one complaint. Additionally an allegation of force may focus only on one application of one type of force or it may encompass multiple applications of force. Our review of the data showed that the 93 Force allegations encompassed 133 applications of force.

Illustration 5-L shows that “control holds” was the type of force most frequently alleged within Force Complaints in 2013. The next most frequently alleged type of force was “body weapons.” The use of “takedowns” and batons were, respectively, the third and fourth most frequently alleged types of force. In 2012, the most frequently alleged types of force were “control holds,” “takedowns,” “body weapons” and batons. The frequency of force allegations arising out of taser applications has declined each year since 2006. In 2006, taser applications comprised nine percent of the total number of force

Illustration 5-L: Force Complaints – Types of Force Application Alleged in 2013

| Types of force | Number of Applications | % of Total Force Applications |
|------------------|------------------------|-------------------------------|
| Baton | 10 | 8% |
| Body weapons | 38 | 29% |
| Canine bite | 1 | 1% |
| Car impact | 0 | 0% |
| Chemical agent | 1 | 1% |
| Control hold | 53 | 40% |
| Flashlight | 0 | 0% |
| Gun* | 8 | 6% |
| Lifting up cuffs | 1 | 1% |
| Takedown | 19 | 14% |
| Taser | 2 | 2% |
| Total | 133 | 100% |

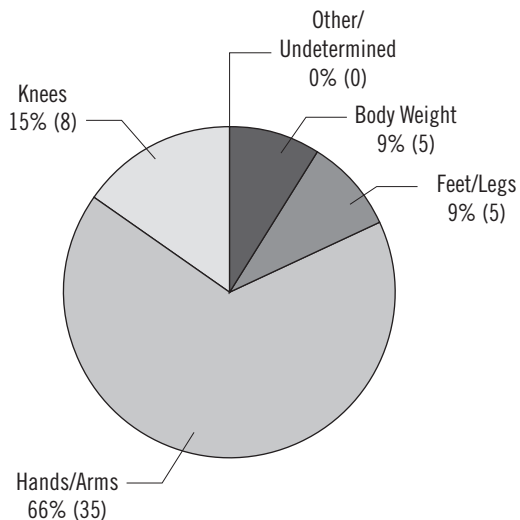
* Two gun applications involved use of a “less lethal” projectile weapon that fired rubber bullets.

applications; in 2013, taser applications comprised just two percent (2%).

1. Control Holds

A control hold is generally defined as the application of force or pressure by the officer to move, push, pull a person, to keep a person in one position, or to restrain a person's limbs, torso or head. For example, an officer may use a control hold to grab a suspect's arm and to force the arm behind the suspect's back. The hold both prevents the suspect from striking the officer and allows the officer to handcuff the suspect behind his/her back. If a suspect is on the ground, an officer may use control holds to pull his/her arms from underneath the suspect's body and then force them behind his/her back for handcuffing. During this process, the officer may place his/her knee on the suspect's back to prevent the suspect from getting up and fleeing. In 2013, there were 53 control hold applications that formed the bases of Force allegations. Most of these, 66% (35) involved officers' uses of hands.

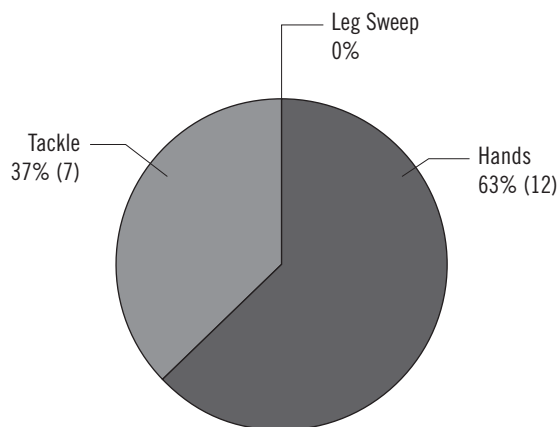
Illustration 5-M: Methods of Alleged Applications of Control Holds (53 total)



2. Takedowns

A takedown is generally defined as the application of force or pressure by the officer to force a person against an immovable object, usually a car, a wall or the ground. For example, an officer chasing a fleeing suspect may tackle the suspect to the ground. An officer may force a suspect against a car in order to better control his/her movements during handcuffing. In 2013, there were 19 takedown applications that formed the bases of Force allegations. Most of these, 63% (12) involved officers’ uses of their upper limbs (including hands, forearms, and elbows) to push or pull suspects. Complainants alleged that officers tackled suspects in seven cases (37%). The 2013 data differs from 2012 in two aspects. The use of the tackle method of takedown increased substantially from 5% in 2012 to 37% in 2013. There was a corresponding drop in the percentage of officers’ allegedly using a leg sweep method of takedown from 27% in 2012 to 0% (no applications) in 2013.

Illustration 5-N: Methods Used for Alleged Takedowns (19 total)

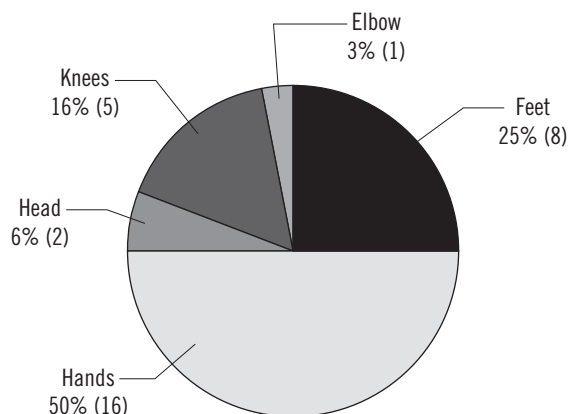


3. Body Weapons

Depending on the circumstances, an officer may need to strike, punch or kick a suspect in order to counter the suspect’s force, to gain compliance or to protect the officer or other persons. For example, if a fleeing suspect suddenly turns and throws a punch at the pursuing officer, that officer may respond with a punch or kick to the suspect. SJPD calls these strikes or blows “body weapons” because the officer is using a part of his/her body in a manner similar to an impact weapon (e.g., a baton). In 2013, there were 38 body weapon applications that formed the bases of Force allegations. Most of these, 42% (16) involved officers’ use of hands/fists to punch or hit suspects.

In 2013, the IPA began tracking “distraction blows” as a separate category within body weapon applications. The term “distraction blow” generally means a strike, punch or kick delivered by an officer to distract the suspect so the officer can gain compliance. For example, an officer trying to handcuff a suspect who is on the ground with his hands underneath his body, might punch or slap the suspect to distract the suspect’s concentration on keeping his hands under his body. The primary goal of the distraction blow is to gain compliance from the suspect and not to inflict injuries, although injuries are inevitable. Through the audit process, IPA staff reviewed the use of distraction blows in four Complainants.

Illustration 5-O: Method Used for Alleged Applications of Body Weapons (32 total)



B. Consistency Between Complainants’ and Officers’ Accounts of Officers’ Use of Force

The IPA staff was interested in examining whether — in general terms — the force alleged by complainants was consistent with the force described by the officers. The descriptions of the force alleged by complainants were obtained mostly through the intake interviews. The IPA obtained descriptions of the officers’ use of force from interviews of the subject officers (if any), written police reports and force response reports. In most instances, 44%, complainants’ descriptions of force (25 of 57) were fairly consistent with the force described by the officers. However, in 37% of complaints (21), the force alleged by complainants was significantly inconsistent with the force described by the officers. We were unable to make a determination about consistency in 19% (11) complaints. It should be noted that some complainants who lodge force complaints are not on-scene witnesses or the subjects of the force. In those instances, the complainants have filed complaints on behalf of others and rely upon descriptions provided by others. Additionally, in a significant percentage of Force Complaints, the IPA noted that the complainant and/or the subject of the force was likely under the influence of alcohol (30%) and/or drugs (16%) — substances that can impair the ability to accurately perceive and/or recall details.

Illustration 5-P: Consistency between Complainants’ and Officers’ Accounts of Officers’ Use of Force

| | Number of Force Complaints | % of Total Force Complaints |
|---|----------------------------|-----------------------------|
| Mostly consistent | 25 | 44% |
| Significantly inconsistent | 21 | 37% |
| Unable to determine | 11 | 19% |
| Total number of Force Complaints | 57 | 100% |

C. Injuries Allegedly Sustained as a Result of Force

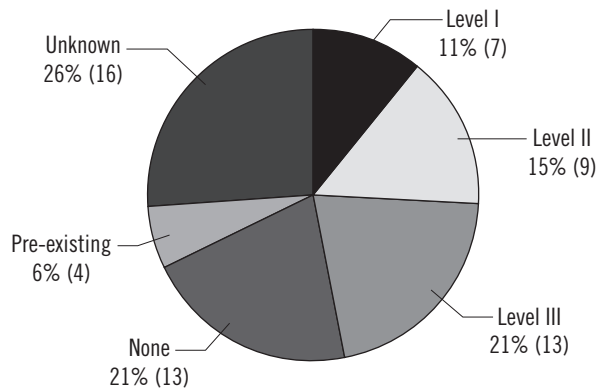
1. Level of Injury Alleged by Complainant

Illustration 5-R provides data about the levels of injuries alleged by complainants. We tracked six categories of injury — Level I, Level II, Level III, “none,” pre-existing,” and “unknown.” Level I reflects the most serious injuries and Level III reflects the least serious injuries. Examples of these three levels are shown in Illustration 5-Q.

Illustration 5-Q: Levels of Alleged Injuries

| Level I | Level II | Level III |
|---|-------------------------------------|------------------|
| Fatal injuries | Minor bone broken | Bruising |
| Major bone broken | Major laceration requiring stitches | Minor laceration |
| Compound fracture | Minor concussion | Minor abrasion |
| In-patient hospital stay required | Brief loss of consciousness | |
| Blood loss requiring transfusion | Chipped or lost tooth | |
| Major concussion | Major abrasion | |
| Longer than brief loss of consciousness | Sprain | |
| Debilitating chronic pain | | |
| Damage to organ (other than skin) | | |
| Effective Tasings | | |

Illustration 5-R: Complainants' Alleged Levels of Injuries in 2013



Data from Force Complaints closed in 2013 show that allegations of Level III injuries account for 21% (13 of 62) of alleged injuries. In addition, 21% (13 of 62) of complaints alleged officer used force but they sustained no injury as a result of that force. The level of injury was unknown for 26% (16 of 62) of complainants alleging force.

2. Consistency between Injuries Alleged and Supporting Records

This year the IPA tracked whether the injuries described by the complainants were consistent with the injuries reflected in medical reports and records. In 22% (13 of 59) of the complaints, the injuries described by complainants were consistent with the injuries reflected in medical reports/records. In 47% (28) of the complaints, there were no supporting medical records, and thus a determination could not be made. The lack of supporting medical records does not necessarily negate an injury. Medical records may not be obtained if the complainant refused to sign a medical release or if the complainant was not the person injured and therefore, could not authorize the release of another person's medical records. In 14% of the complaints (8), the injuries described by the complainants were significantly inconsistent with the injuries described in their medical reports/records. In 17% (10) of the complaints, the complainants did not seek medical care for their injuries, or the force allegedly used by the officers did not result in injuries.

3. Location of Alleged Force Applications

Illustration 5-S provides data showing the parts of the body that complainants reported were impacted by the use of force. The IPA tracks this data to determine if any trends exist in Force Complaints. The IPA captures data for five areas of the body: head, neck, torso, limbs, 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.

Illustration 5-S: Locations of Alleged Force Applications

| Location of Force Applications | # | % |
|--------------------------------|------------|-------------|
| Head | 20 | 20% |
| Neck | 8 | 8% |
| Torso | 37 | 37% |
| Limbs | 33 | 33% |
| Unknown | 3 | 3% |
| Total | 101 | 100% |

V. Officer-Involved Shootings and In-Custody Fatal Incidents

In 2013, there were six officer-involved shootings resulting in injury or death, and one in-custody fatal incident; in 2012 there were two officer-involved shooting incidents. When officer-involved shootings occur, the IPA has specific mandated responsibilities. This section discusses information about these incidents and the IPA's responsibilities.

A. Officer-Involved Shooting Incidents

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

Illustration 5-T: Officer-Involved Shootings in 2013

| Case | Ethnicity | Mental Illness History | Person Armed? | Police Weapons Used | Prior Criminal Record | CIT* at Scene? | Cause of Injury/Death | Within Policy? |
|------|-----------|------------------------|---------------|---------------------|-----------------------|----------------|-----------------------|----------------|
| 1 | Caucasian | No | No | Handgun | Yes | No | Death/Gunshot | Pending |
| 2 | Hispanic | No | No | Handgun | Yes | No | Death/Gunshot | Pending |
| 3 | Caucasian | No | No | Handgun | Yes | No | Injury/Gunshot | Pending |
| 4 | Hispanic | No | No | Handgun | Yes | No | Injury/Gunshot | Pending |
| 5 | Hispanic | No | Yes | Handgun | Yes | No | Injury/Gunshot | Pending |
| 6 | Hispanic | No | Yes | Handgun | Yes | No | Death/Gunshot | Pending |

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

force. In recognition of the serious nature of these issues, the IPA has been given specific, but limited responsibilities, including the option of responding to the scene when these incidents occur and participating on the Shooting Review Panel that evaluates the SJPD investigation.

Every officer-involved shooting that results in death is subject to a thorough investigation and review process that is depicted in Illustration 5-V. As the illustration indicates, the SJPD Homicide Unit conducts a criminal investigation that IA monitors. The Santa Clara County District Attorney presents a criminal investigation to the County Grand Jury 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 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 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.³³ If the officer is convicted, the officer is usually terminated from SJPD employment.

IPA Review

The extent of the IPA's role and responsibilities in connection with an officer-involved shooting depend upon whether a member of the public has filed a complaint about the incident with either IA or the IPA. As shown in Illustration 5-U, if a member of the public files a complaint about an officer-involved shooting incident, the role of the IPA in reviewing that incident is more extensive because the IPA will audit the IA investigation of the incident.³⁴ In 2013, there were several complaints from the public following media accounts of officer-involved shooting incidents.

³³ A 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.

³⁴ The SJPD may initiate an internal investigation of the officer's conduct. However, the IPA is not permitted to review or audit Department-Initiated Investigations (DII).

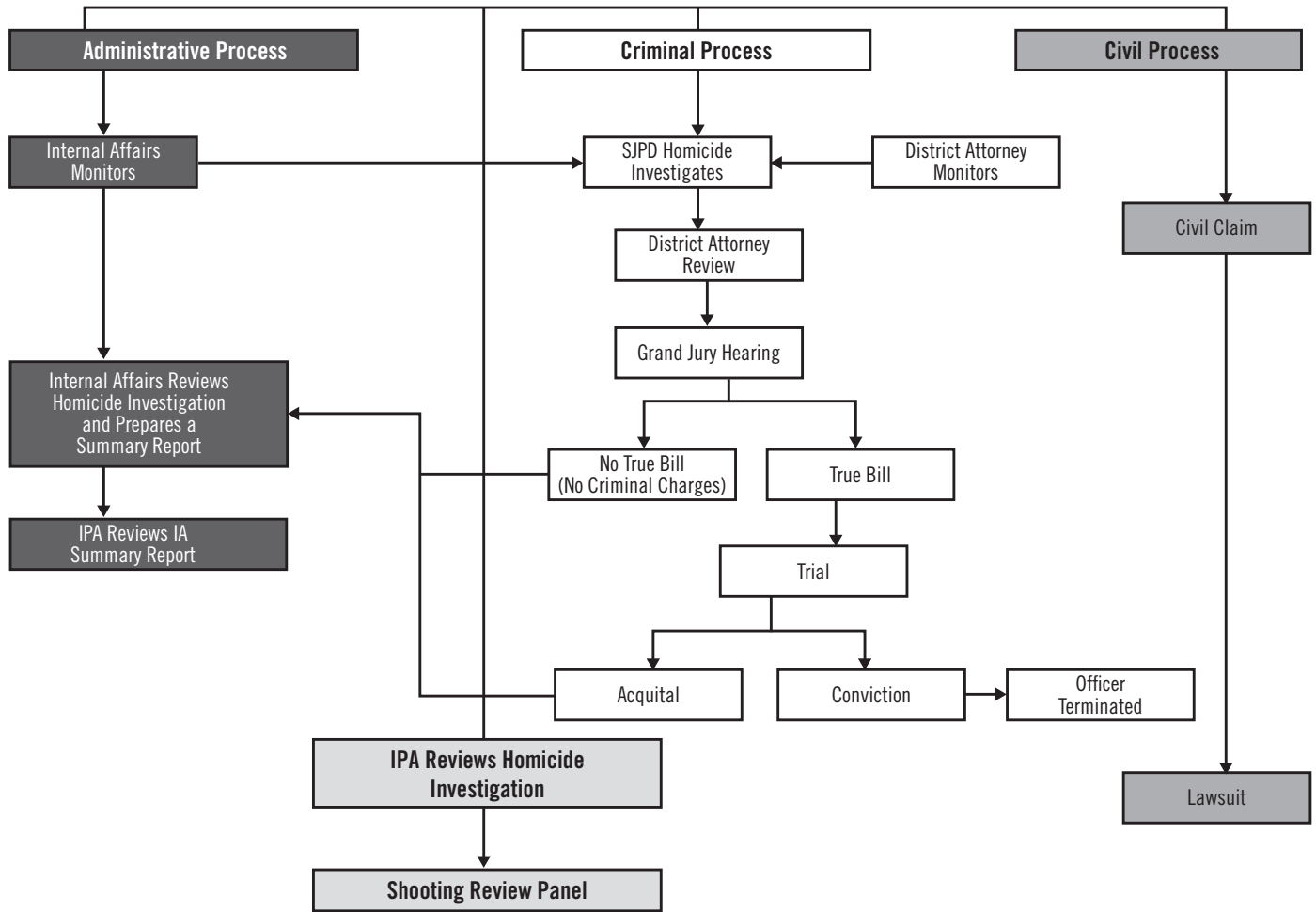
Illustration 5-U: Role of IPA in Officer-Involved Shooting Incidents

| 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 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. |
| | 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 IPA 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. |

The purpose of the shooting review panels is limited to determining whether, given the circumstances of the incident, any training or equipment needs exist and whether any changes to SJPD policies are warranted. In 2011, the IPA voiced concerns that these review panels were not convened until months or even years after the incidents, thereby

defeating their purpose. In 2012, SJPD convened eight review panels a significant improvement over the prior two years in which no panels were held. In 2013, however, only two panels were held. It is essential that these panels be convened shortly after the incidents so that SJPD can quickly implement changes, if any, to policies and procedures.

Illustration 5-V: 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 Six: Sustained Cases in 2012 and 2013

The Internal Affairs Unit (IA) of the San José Police Department (SJPD) investigates all allegations of police officer misconduct that are generated by the public and from within the Department. The IPA audits (i.e. reviews for objectivity and thoroughness) only the investigations conducted by IA into allegations of police misconduct from the public.

There are eight types of allegations:

- Arrest or Detention (AD)
- Bias-Based Policing (BBP)
- Courtesy (C)
- Conduct Unbecoming an Officer (CUBO)
- Force (F)
- Neglect of Duty (ND)
- Procedure (P)
- Search or Seizure (SS).

In 2013, IA closed 314 complaints from the public. Our office audited 236 of those complaints. There were 560 allegations in these closed complaints, of which 35 were Sustained (6%). In 2012, IA closed 411 complaints from the public, of which our office audited 344. There were 902 allegations in these closed and audited complaints. Fourteen (14) allegations were Sustained (2%).

A “Sustained” allegation means that the Department has determined that an officer has engaged in misconduct. Officers with sustained allegations are subject to discipline. The IPA office is not involved in the discipline of SJPD officers. Under California law, the names of the officers who are disciplined are kept confidential and are not available to the public.

Types of Sustained Allegations in 2012 & 2013

- Eighty percent (80%) of all Sustained allegations were for Procedure violations; there

were 12 in 2012, and 27 in 2013. A Sustained Procedure allegation means that the officer failed to follow an appropriate policy, procedure or guideline.

- Of the 159 Force allegations investigated by IA in 2012, none were Sustained. Likewise, in 2013, none of the 93 Force allegations investigated were Sustained.
- There were 22 CUBO allegations investigated in 2013, five of which were Sustained. In 2012, none of the 15 CUBO allegations were Sustained.
- With respect to Bias-Based Policing, there were 90 allegations during the two-year period, and not one such allegation was Sustained.

Officers with Sustained Allegations in 2012 & 2013

- In 2012 and 2013, there were 31 officers against whom allegations were Sustained; one was female and 30 were male.
- Twenty-six officers with Sustained allegations (84%) had 7+ years of law enforcement experience; 21 of the 26 (68%) had 11+ years of experience; and 12 of the 26 (39%) had 16+ years of experience.
- Only five officers with less than six years of law enforcement experience (16%) received Sustained allegations; just three of those five officers (10%) had one or fewer years’ experience.
- **All** of the Sustained CUBO allegations (5) and **all** of the Sustained Courtesy allegations (3) were against **the most experienced officers**—four officers with 11+ years in law enforcement and four officers with 16+ years. A Sustained allegation for Conduct Unbecoming an Officer (CUBO) means that an officer’s on or off-duty conduct reflected adversely on the

Department and/or that a reasonable person would find the officer's on or off-duty conduct unbecoming a police officer. A Sustained Courtesy allegation means that an officer used

coarse, profane or derogatory language, was not tactful, lost his/her temper, became impatient or was otherwise discourteous.

Illustration 6-A: Years of Experience of Officers with Sustained Findings in 2012 & 2013

| Years of Experience | Total Officers with Sustained Findings | % of Officers with Sustained Findings | Type of Allegations | | | | | Total Sustained Allegations | % of Sustained Allegations |
|---------------------|--|---------------------------------------|---------------------|----------|----------|-----------|----------|-----------------------------|----------------------------|
| | | | AD | C | CUBO | P | SS | | |
| 0-1+ | 3 | 10% | | | | 5 | | 5 | 10% |
| 2-4+ | 1 | 3% | 1 | | | | 1 | 2 | 4% |
| 5-6+ | 1 | 3% | | | | 1 | | 1 | 2% |
| 7-10+ | 5 | 16% | | | | 5 | | 5 | 10% |
| 11-15+ | 9 | 29% | | 1 | 3 | 14 | | 18 | 37% |
| 16+ | 12 | 39% | | 2 | 2 | 14 | | 18 | 37% |
| | 31 | 100% | 1 | 3 | 5 | 39 | 1 | 49 | 100% |

Legend of Allegations:

AD: Arrest or Detention; C: Courtesy; CUBO: Conduct Unbecoming an Officer; P: Procedure; SS: Search or Seizure

Sustained Case Studies Training

In December 2013 the IPA office presented a Sustained Case Studies Training to 40 SJPD recruits. The training focused primarily upon Procedure allegations, since they comprise the great majority of Sustained allegations in 2012 and 2013. The purpose of the presentation was preventative—educate new officers about the procedural rules that are most frequently violated by officers so that they may avoid committing those violations. The feedback that the recruits gave to our office about the training was uniformly positive. This was SJPD's first-ever Sustained cases training. It is our recommendation that SJPD include trainings about Sustained cases in its standard training program for all officers, new and experienced.

Keeping Things in Perspective

In this chapter we briefly summarize the officers' conduct that resulted in the Sustained finding, referencing the specific Duty Manual provisions that were violated by the officers. These summaries are instructive because (1) they demonstrate

the objectivity of the IA officers who investigate complaints and make the initial determinations of misconduct, (2) they inform the public about the nature of the misconduct and the applicable rules, and (3) they suggest areas in which either retraining or enhanced training might be appropriate for SJPD officers.

It is important to view the data about Sustained allegations in perspective. The 49 Sustained allegations cover a period of two years (2012-2013) and were committed by 31 officers, a very small percentage of the SJPD force (1.5%). Allegations for which officers were Exonerated and allegations deemed to be Unfounded accounted for the disposition of 80% of all allegations in 2013 and 68% in 2012.

Caveat

The Sustained findings described in this Report were audited and closed by our office only after IA closed its investigations and the Department issued its findings. However, some of these Sustained findings may have been modified (changed or removed) as a

result of Skelley hearings or Settlement Agreements between the subject officers and the City of San José. Because our office is not privy to these negotiations,

any subsequent modifications to the Sustained findings are not reflected in this Report.

Sustained Allegations in Complaints Closed in 2012 and 2013

Case #1: The subject officer (SO) investigated a dispute between two neighbors. One of the neighbors had obtained a temporary restraining order against the other, that eventually became a permanent order. On three separate occasions, the SO responded to the home of the neighbor who complained that the other had violated the restraining order. Each time the SO made contact, the neighbor asked him to enforce the order, and each time, the SO investigated and concluded that there had been no violations of the order. On all three calls for service, the SO completed no documentation.

The Rule: Duty Manual section L 4104 requires that a crime report entitled Violation of Restraining Order “must be completed each time the officer has determined that an order is on file or alleged to be on file and there is a violation or an alleged violation, even if the suspect is no longer at the scene.”

The Finding: Procedure allegation (failure to file report) is SUSTAINED.

Case #2: Officers responded to a domestic disturbance involving several individuals, most of whom were primarily Spanish-speaking. The SO decided to arrest two of the individuals based on information that he received from the alleged victims. The SO did not take statements from the two before arresting them because they spoke Spanish and the SO did not. Because this was a citizen’s arrest, the SO believed that he was not required to take their statements.

The Rule: Duty Manual section L 3502 requires that prior to making a citizen’s arrest, “the officer will diligently investigate the factual circumstances in order to make a determination whether probable cause exists to believe that the person to be arrested has committed a crime ... **This includes interviewing both the complaining witness, the alleged perpetrator and any other witnesses who may have information regarding the incident.**”

The Finding: Procedure allegation (failure to investigate) is SUSTAINED.

Case #3: The SO conducted a traffic stop on a Hispanic male because his car had no license plates. During the stop, the SO photographed the male’s tattoos. The SO maintained that he asked and received the male’s consent prior to taking the photographs. At the conclusion of his shift, the SO did not document the verbal consent. The SO said that he was unaware that documentation of verbal consent was required.

The Rule: Duty Manual section L 3311 requires that when an officer takes photographs of a detained person and if consent to do so is required, “the act of consent will be recorded in the report. The exact verbal statement providing consent will be documented. Merely writing ‘consent’ is insufficient.”

The Finding: Procedure allegation (failure to document consent) is SUSTAINED.

Case #4: The SO was assigned to the desk at the Main Lobby of the police department when a male entered and reported that he had been sexually assaulted by another male. He also reported that he had visible bruising on his body. The SO interviewed the male in the lobby, did not photograph the injuries, and did not record the statement. He did not notify the Sexual Assault Investigative Unit nor did he submit his written report to be signed off by a supervisor.

The Rules:

- Duty Manual section L 6000 provides, in part, that “officers assigned to [sexual assault or other sex crimes] will remain sensitive to the victim’s emotional trauma and will conduct the investigation in a manner which encourages cooperation of person involved.”
- Duty Manual section L 6002 provides, in part, “If the crime is determined to be a freshly reported felony sexual assault ... officers will, during normal working hours, notify the Sexual Assault Investigations Unit.”
- The Main Lobby Standard Operating Procedures Manual section pertaining to Sexual Assaults provides, “The dignity of the victim is the utmost importance. The victim interview most likely will be conducted in the Witness Center. If possible, a second officer should be present during the interview.”
- Duty Manual section R 1801 provides, “Department members who initiate reports that require review are responsible for contacting an immediate supervisor, or a supervisor assigned to review such reports prior to submitting reports to the Records Division[.]”

The Findings:

- **Procedure allegation (failure to follow Main Lobby Standard Operating Procedures by failing to show due care for the dignity of the victim when conducting his sexual assault interview) is**

SUSTAINED.

- **Procedure allegation (failure to have a supervisor sign off on the report) is SUSTAINED.**
-

Case #5: The SO responded to a car accident and subsequently arrested one of the drivers for possession of an illegal weapon. The SO transported the arrestee in his patrol car to the Pre-Processing Center. The GPS on his patrol vehicle showed that the SO drove at speeds between 70 and 79 miles per hour. There were no exigent circumstances in the transporting of the arrestee.

The Rules:

- Duty Manual section L 1900 requires that Department members “will obey provisions of the law relating to the operations of vehicles.”
- Duty Manual section L 1907 states, “Vehicles should be driven in a manner that does not hinder the flow of traffic or jeopardize the safety of the public.”

The Finding: Procedure allegation (driving at excessive speed) is SUSTAINED.

Case #6: Officers responded to a disturbance between two neighbors. The SO spoke with one of the neighbors as she stood inside her apartment. He reached across the threshold of the door and grabbed her arm, pulling her outside. The SO stated that he did not believe a crime had been committed and was unable to articulate any threats that the neighbor posed to his immediate safety.

The Rules:

- Duty Manual section L 2819 provides that officers will not make a warrantless arrest in a private dwelling at any time unless an emergency situation requiring swift action exists.
- Duty Manual section L 3301 states that “A field interview is a temporary detention of a person

for purposes of investigating unusual actions which reasonably infer criminal activity.”

- Duty Manual section L 3302 states “If an officer has a reasonable suspicion that an individual has committed, is committing, or is about to commit any crime, such officer has the authority to stop that individual and conduct a field interview.”

The Findings:

- **Search/Seizure Allegation (improper entry into apartment) is SUSTAINED.**
- **Arrest/Detention Allegation (no reasonable suspicion for detention) is SUSTAINED.**

Case #7: A Sergeant on patrol conducted a registration check on a vehicle traveling on Highway 87. He received verbal confirmation by the dispatcher that the registration was expired. The SO heard radio traffic and stopped the vehicle for the expired registration and issued the driver a citation. The SO was unaware of a training bulleting about citing for expired registration.

The Rule: SJPD Training Bulletin #003-2011 provides, in part, that persons with vehicle registrations due “will be given a 30-day grace period after they receive their registration notice. . . For vehicles with registrations due during this time period, officers are directed not to issue citations until the first day of the second month after the vehicle registration has expired.”

The Finding: Procedure allegation (erroneous issuance of citation) is SUSTAINED.

Case #8: Two SOs responded to a three-car collision. They ran a records check on one individual that showed he had a suspended license. That person denied he was one of the drivers, but the officers determined that he was untruthful because his license was suspended. They cited him for causing the collision. Independent witnesses,

including the other involved parties and the paramedics, all refuted the officers’ findings about who caused the collision. Neither officer ran records checks on the other involved drivers, one of whom appeared to have actually caused the accident.

The Rule: Duty Manual section L 6906 provides that “Officers investigating motor vehicle accident will make a warrant check on [ALL] the drivers involved.”

The Finding: Procedure allegation (failure to run records check) is SUSTAINED for both officers.

Case #9: The SO responded to a domestic disturbance involving two roommates, one of whom claimed that the other assaulted him. The SO declined the roommate’s request to arrest his roommate and did not complete a police report.

The Rule: Duty Manual section L 3503 provides that “When a private person requests an officer to receive another person pursuant to a private person’s arrest and the officer determines that probable cause is lacking, officers shall ... complete a crime report (Form 200-2) detailing the allegations and factual circumstances bearing on an officer’s determination to refuse to accept custody.”

The Finding: Procedure allegation (failure to file report) is SUSTAINED.

Case #10: The SO stopped at an ATM machine to get money to buy lunch for herself. In order to do so, the SO parked in a red zone for fewer than two minutes while her partner waited in the patrol vehicle with the engine running. The SO did not have her hand pack radio and did not want to park and have to walk a far distance without a hand pack while she was in full uniform.

The Rules:

- Duty Manual section L 1900 provides, in part, that, “Under normal conditions, department members will obey provisions of the law relating to the operation of vehicles in the same manner required of any other person using the roadway.”
- California Vehicle Code section 22500(c) states, “No person shall stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic ... in any of the following places: ... within the area between the zone and the curb as may be indicated by a sign or red paint on the curb[.]”

The Finding: Procedure allegation (illegal parking) is SUSTAINED.

Case #11: The SO, when discussing the issuance of a traffic citation to a public official, asked the issuing officer if he could take a photo of the citation because he wanted to show it to his wife. The issuing officer agreed and handed the citation to the SO who placed it on the hood of a patrol car and took a photo of it with his personal cell phone. The SO then texted the photo of the citation to two officers.

The Rules:

- Duty Manual section S 3002 states, “All Department members will take positive steps to ensure the security and confidentiality of departmental records.”
- Duty Manual section S 3003 states, “Department members receiving criminal history information, case reports, or **any other Departmental records** will safeguard such information so that further dissemination is limited to those authorized to receive the information.”
- Duty Manual section C 1404 states, “A member’s conduct, either on or off duty, which adversely reflects upon the Department will be deemed to be conduct unbecoming an officer.”

- Department Memorandum 2009-027 provides, “**No Department member shall knowingly** post photographs, video images, audio files or **text documents that relate to official Departmental activities.**”

The Findings:

- **Procedure allegation (unauthorized disclosure of Department record) is SUSTAINED.**
 - **CUBO allegation is SUSTAINED.**
-

Case #12: The SO was working on a pay job as a security officer for an apartment complex. He accompanied the apartment manager to the apartment of one of the tenants where the officer served her with an eviction notice. He was in a SJPD uniform at the time.

The Rules:

- Duty Manual section C 1531 provides, in part, “All members of the Department are **prohibited from working ... as a process server**, bill collector, or in any employment in which police powers might be used for private purposes of a civil nature.”
- Duty Manual section L 1313 provides, in part, “Officers **will avoid involvement in disputes of a civil nature** in which they or the City are not a party and where there is no crime or potential for violence.”
- Duty Manual section C 1411 provides, in part, “When representing the Department, **members will not serve civil processes** nor will they render assistance in civil court cases, except when the City of San José is a party or they have been subpoenaed in the proper manner.”
- Duty Manual section C 1524 provides, in part, “Officers may work secondary employment outside the City of San José as long as the officer is acting as a private citizen without exercising police officer powers in any manner.”

The Findings:

- **Procedure allegation (unauthorized outside work) is SUSTAINED.**
- **Procedure allegation (serving civil process) is SUSTAINED.**

Case #13: The SO made frequent visits to his home while on duty. However, he failed to obtain his supervisor's permission to do so and did not provide his specific locations to SJPD Communications. He also engaged in sexual activity with a woman friend while in uniform. Finally, he was not truthful in his IA interview.

The Rules:

- Duty Manual section C 1300 states, in part, "Department members must combine high personal integrity with commitment ... and **maintain a high ethical standard** which will provide equitable treatment for all citizens, and which will **reflect positively upon the Department, the city, and the community.**"
- Duty Manual section C 1302 provides, in part, "**I will keep my private life unsullied** as an example to all ... **Honest in thought and deed** in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department."
- Duty Manual section C 1400 states, in part, "**[The] standards of conduct for police personnel are higher than standards applied to the general public. In this regard, Department members will conduct themselves in a manner that does not bring discredit upon individuals, the Department, the City or the community.**"
- San José City Policy Manual section 2.01 states, in part, "**City officials and employees are required to maintain the highest standards of integrity and honesty[.]**"
- Duty Manual section L 1808 states, "Officers may leave an assigned beat whenever any of the following conditions are met: When assigned or

authorized by competent authority; to aid and assist; when performing a follow-up process or pursuing a suspect; when ending a tour of duty. **When changing radio channels, the officer will advise Communications upon leaving one channel and advise upon entering the other channel."**

The Findings:

- **CUBO allegation (sexual intercourse while on duty) is SUSTAINED.**
- **CUBO allegation (untruthful during IA interview) is SUSTAINED.**
- **Procedure allegation (leaving his beat without his supervisor's approval) is SUSTAINED.**
- **Procedure allegation (failing to provide specific location to Communications) is SUSTAINED.**

Case #14: Officers responded to a domestic dispute in which a man claimed that he had been assaulted by his girlfriend's brother. The man was very inebriated and demanded that officers arrest the alleged perpetrator. The SO did not make a citizen's arrest after concluding that the inebriated man had been the aggressor. The SO did not document the interaction.

The Rule: Duty Manual section L 3503 provides that "When a private person requests an officer to receive another person pursuant to a private person's arrest and the officer determines that probable cause is lacking, officers **shall** ... complete a crime report (Form 200-2) detailing the allegations and factual circumstances bearing on an officer's determination to refuse to accept custody."

The Finding: Procedure allegation (failure to file report) is SUSTAINED.

Case #15: Officers responded to an altercation between two adult sisters. One of the women

complained that her minor child had been injured by her sister, the child's aunt. The SO interviewed the sisters and saw no noticeable injury to the child. The SO did not document the incident.

The Rule: Duty Manual section L 3024 states, in part, "An Offense Report shall be completed in all physical child abuse cases, including cases that are unfounded by the officer."

The Finding: Procedure allegation (failure to file report) is SUSTAINED.

Case #16: The SO was enroute to a staging area to attend a briefing about surveillance of a homicide suspect. The SO, who was in an unmarked vehicle, used excessive speed and drove the wrong way on two separate streets in order to get around a red light. He believed the briefing was urgent and felt that it was necessary to violate the traffic laws. He chose not to activate his red lights and sirens because he did not want to attract attention to himself and his vehicle.

The Rules:

- Duty Manual section L 1900 states, in part, "Under normal conditions, members of the Department will obey provisions of the law relating to the operation of vehicles in the same manner required of any other person using the roadway."
- Duty Manual section L 1907 states, in part, "Vehicles should be driven in a manner that does not hinder the flow of traffic or jeopardize the safety of the public."
- Duty Manual section L 2000 provides, in part, "The California Vehicle Code exempts emergency vehicles from the 'Rules of the Road' when in response to an emergency call, involvement in a rescue operation, or in the pursuit of a suspected violator of the law."
- Duty Manual section L 2007 states, in part, "When exercising the privileges of the

emergency vehicle, be sure that the emergency lights are on and that the siren is being used."

- California Vehicle Code section 22350 states, in part, "No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having the due regard for weather, visibility, the traffic on and the surface and width of the highway[.]"

The Finding: Procedure allegation (excessive speed) is SUSTAINED.

Case #17: The SO responded to a car accident involving a juvenile driver (14 years of age) who hit the car driven by an adult male. The juvenile driver had fled the scene of the collision and was pursued by the adult driver until both cars pulled over on the side of the road. The SO refused the male driver's request for the name and address of the juvenile driver and did not cite the juvenile driver. The SO did not write a collision report.

The Rules:

- Duty Manual section L 6901 provides, in part, that "Motor vehicle accidents will be investigated and reported on the 'Traffic Collision Report' (Form CHP 55) when one or more of the following circumstances exist: ... All hit-and-runs with suspect information or follow-up information. . . If the accident does not involve any injured parties, the officer will facilitate the exchange of information between the involved drivers."
- Duty Manual section L 6913 provides that with respect to **all** traffic accidents, "The individuals involved will be allowed to exchange names and addresses and be provided any other information pertinent to the accident when it is practical to do so."
- California Vehicle Code section 20002 states that in all hit-and-run accidents, "the driver shall also immediately ... locate and notify the owner or person in charge of that property of

the name and address of the driver and owner of the vehicle involved. . . The information shall include the current residence address of the driver and of the registered owner.”

The Findings:

- **Procedure allegation (failure to properly investigate) is SUSTAINED.**
 - **Procedure allegation (refusing to provide required information) is SUSTAINED.**
-

Case #18: The SO responded to a 911 call from a woman who claimed that her ex-boyfriend was violating a restraining order. The SO confirmed the validity of the restraining order and interviewed the complainant who stated she was inside a nightclub when her ex-boyfriend entered. The SO advised her to go home, made no arrests and did not write a police report.

The Rule: Duty Manual section L 4101 states, “A Crime Report entitled, ‘Violation Restraining Order’ **must be completed** each time the officer has determined that an order is on file or alleged to be on file and there is a violation or an alleged violation, even if the suspect is no longer present at the scene.”

The Finding: Procedure allegation (failure to file report) is SUSTAINED.

Case #19: The SO responded to the home of a man who reported that his daughter was missing. The man and his ex-wife were in a custody dispute over the child. During their conversation, the SO declined to write a missing person report because he believed that the child was with the mother. However, the officer did not follow up with the mother to establish the child’s whereabouts. Subsequently, the man called SJPd and eventually spoke with the SO. Unbeknownst to the SO, the man recorded the conversation. The SO became frustrated with the man and during the phone call, raised his voice and

used profanity.

The Rules:

- Duty Manual section C 1308 states, in part, “Members will be tactful in the performance of their duties, shall control their tempers and exercise the utmost patience and discretion, even in the face of extreme provocation, except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or derogatory language.”
- Duty Manual section L 6501 states, in part, “A missing person is defined as any person who is reported as such to a law enforcement agency. . . and Unknown Missing – Cases where there are insufficient facts to determine the missing person’s disposition.”
- Duty Manual section L 6502 states, in part, **“All reports of missing persons regardless of jurisdiction will be immediately taken when reported.”**

The Findings:

- **Courtesy allegation is SUSTAINED.**
 - **Procedure allegation (failure to file report) is SUSTAINED.**
-

Case #20: The SO had a pay job (secondary employment) at a private school. While working the pay job, the SO wore a windbreaker jacket with the words “San José Police” on the back. He also wore another officer’s polo shirt that had the other officer’s name and badge number on it. The SO’s secondary work employment permit was expired. He failed to log on to the CAD system multiple times and failed to report all of his hours when working at the school. He did not carry his Department-approved handgun while working on the pay job. The SO had a sexual relationship with one of the female employees at the school. On one occasion, the two had sex in a room at the school while at his pay job. The SO was investigated for criminal conduct when the woman with whom he had the affair

reported that he sexually assaulted her. During his criminal interview and in the SO's police report, he provided false information.

The Rules:

- Duty Manual section C 1509 states, in part, "Department members are prohibited from engaging in any outside employment until final approval has been granted for each request."
- Duty Manual section C 1511 states, in part, "The secondary work authorization is valid from the date of approval until the appropriate expiration date as listed below, or until the completion date shown on the authorization has been reached, unless canceled sooner by the Chief of Police or designee."
- Duty Manual section C 1520 provides, in part, "Members **will report all hours of secondary employment worked** on the 'Secondary Employment Tracking Form.' Forms will be submitted biweekly with the employee's timesheet."
- Duty Manual section C 1522 provides, in part, "When a member is working a uniformed secondary employment assignment ... members will contact Communications and 'log on' to CAD. Officers will provide Communications with their badge number, location, nature of assignment (e.g. traffic control, condo complex security, **school security**, etc.) ... At the completion of their assignment, officers must contact Communications and 'log off.'"
- Duty Manual section C 1512 states, "**The same requirements regarding the wearing of the uniform by on-duty officers applies to off-duty officers working for secondary employers.**"
- Duty Manual section C 1513 states, "All members who work secondary employment at any school may do so in full San José Police uniform or in the approved school uniform ... at the discretion of the school."
- Uniform and Specifications Manual 2011

states, in part, " ... the only polo style shirt that is authorized for enforcement action. . . Polo shirt, either white or black. . . Name and badge number embroidered on the front. ... On the left breast [of the windbreaker] will be a large SJPD star and on the **right will be the officer's name and badge number.**"

- SJPD Campus Police Officer Training Manual states, in part, "The officer's name and badge number embroidered on the right front in ½" block letters [pertaining to the required uniformed polo shirt]."
- SJPD Uniform and Equipment Specifications Manual states, in part, "**The handgun is worn whenever the sworn member is in uniform** except when in a prisoner processing facility."
- Duty Manual section C 1438 states, in part, "While on duty, department members will not ... engage in sexual activity."
- Duty Manual section C 1502 states, "When authorization is granted to engage in secondary employment, officers are reminded that they are subject to the same rules and regulations of the Duty Manual as are on-duty officers[.]"
- San José City Policy Manual section 2.01 states, in part, "City officials and employees are required to maintain the highest standards of integrity and honesty[.]"

The Findings:

- **Procedure allegation (no secondary employment permit) is SUSTAINED.**
- **Procedure allegation (failure to report all pay job hours) is SUSTAINED.**
- **Procedure allegation (failure to log on while at pay job) is SUSTAINED.**
- **Procedure allegation (failure to wear proper uniform at pay job) is SUSTAINED.**
- **Procedure allegation (failure to carry Department- approved handgun at pay job) is SUSTAINED.**
- **Procedure allegation (engaging in sexual activity at pay job) is SUSTAINED.**

- **CUBO allegation (engaging in sexual activity at pay job) is SUSTAINED.**
 - **CUBO allegation (false information in police report and during criminal interview) is SUSTAINED.**
-

Case #21: The SO responded to a hit and run collision. His follow-up investigation led him to the home of the registered owner where he interviewed her. Because the SO believed that the owner was being untruthful about who may have been driving her car and might be in collusion with the driver, he handcuffed her and questioned her further about the incident. The owner subsequently admitted that she knew who the driver was. The officer then removed the handcuffs and did not arrest the owner. At no time did the SO give the owner a Miranda warning.

The Rule: Duty Manual section L 4506 states, in part, “An officer may question person for purposes of obtaining information such as name, address, telephone numbers, occupation and other identifying data without advising such persons of their constitutional rights. . . However, whenever probable cause to arrest develops and the officer intends to restrict the freedom of the suspect while continuing to ask questions ... advisement of rights is conducted in accordance with Section L 4510 ‘Warnings Prior to Interrogation.’”

The Finding: Procedure allegation (failure to admonish) is SUSTAINED.

Case #22: The SO responded to a home burglary. He did not dust for fingerprints and did not take photographs. In his incident report, he failed to check the boxes for point of entry and method of entry. He did not document the scene or his observations. There was no indication of where from within the house the items were taken or the condition of the residence.

The Rules:

- Duty Manual section L 4201 states, in part, “To properly obtain sufficient evidence to justify the arrest and prosecution of a perpetrator, an efficient and effective investigation must be accomplished.”
- Duty Manual section L 4203 states, in part, “The preliminary investigation ... includes, but is not limited to ... collection of evidence, preparation and submission of required reports.”
- Duty Manual section L 6400 states, in part, “The actions taken by officers initially responding to the scene of burglary or theft often determines the outcome of the overall investigation. These initial actions include: a proper response; establishing the nature of the incident; protection and collection of evidence and apprehension of perpetrators.”
- SJPD Training Bulletin (dated October 31, 2012) states, in part, “Officers should advise burglary victims of the following: ... Collect fingerprints if located.”
- Criminal Investigations Unit Notice (dated March 2012) states, in part, “Officers should always attempt to locate and process latent prints in both person and property crimes so they can be used at a later time to connect suspects to multiple crimes.”

The Finding: The Procedure allegation (failure to investigate) is SUSTAINED.

Case #23: The SO issued a citation to a public official, then showed the citation to a fellow officer who photographed it.

The Rules:

- Duty Manual section S 3003 states, “Department members receiving criminal history information, case reports, or any other Departmental records will safeguard such information so that further dissemination is limited to those authorized to receive the

information.”

- Duty Manual section S 3002 states, “All Department members will take positive steps to ensure the security and Confidentiality of Departmental records.”

The Finding: The Procedure allegation (failure to safeguard records) is SUSTAINED.

Case #24 The SO was directing traffic near an event at HP Pavilion. The complainant who was from out of town, attempted to go through an intersection and turn left. When she stopped in the intersection, preparing to turn into a parking lot, the SO stated, “Well, where are you from that they don’t have stoplights?”

The Rules: Duty Manual section C 1308 states that “Department members **will be** courteous and professional to the public. Members **will be** tactful in the performance of their duties, shall control their tempers and exercise the utmost patience and discretion, even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or derogatory language.”

The Finding: The Courtesy allegation is SUSTAINED.

Case #25: The complainant, a minor, was prevented by officers from entering a high school football game. School staff and officers believed that the complainant was intoxicated and wanted to search his backpack before he entered the field. Complainant resisted. Two SOs used force to overcome his resistance and to secure handcuffs. Neither of the SOs completed the required force response reports. One SO used his utility knife to cut the straps of the complainant’s backpack so that the complainant could lay flat on a gurney as requested by ambulance staff. That SO did not

document the damage to the backpack in his police report.

The Rules:

- Duty Manual section R 1577 states, in part, “This form [Force Response Report Form-#FRS-001] will be completed by an officer using any reportable force as defined in Duty Manual section L 2644.”
- Duty Manual section L 9012 states, “When officers find it necessary to damage property in the performance of their duties, such officers will complete form 20103 Repair of Private Property Damage. ... In all cases of damage, a General Offense Report (Form 200-2-AFR) will be completed and will describe the justification, type and extent of damage.”

The Findings:

- **The Procedure allegation (failure to submit Force Response Report Form) is SUSTAINED (for two officers).**
 - **The Procedure allegation (failure to submit damage reports) is SUSTAINED (for a third officer).**
-

Case #26: Multiple officers responded to a residence that had two vehicles, multiple vehicle parts, several engines, and numerous tools in the garage, backyard and residence. A records check showed that one of the cars was stolen. The complainant was arrested on various violations of the Penal Code including car theft. The SO (a supervising sergeant) believed that the complainant had been operating a “chop shop.” He instructed the officers that all the items involved in the “chop shop” should be removed as “possible evidence.” The SO failed to complete and submit a California Highway Patrol Form 180. The tow company responded to the scene and placed all of the tools and parts into the two impounded cars and then took this “evidence” to their tow yard for Regional Auto Theft Task Force to later identify. The complainant subsequently alleged

that many items that lawfully belonged to him were not returned. Since there was no inventory and documentation of the items seized, it was not possible to disprove the complainant's allegation.

The Rules:

Duty Manual section L 5302 states, "Except in cases involving the Homicide Unit, officers will complete an itemized list of the property or evidence using Versadex Property Maintenance feature. Evidence Continuity will be completed to document chain of custody. . . Once officers complete the appropriate property information in the Versadex Property Maintenance section, and the evidence continuity section, officers will utilize any available locker in the evidence processing room to book their property." Duty Manual section L 5406 states, "The Police Department and the contract tow company share a responsibility to protect the vehicle and its contents while in police custody. The towing officer has an obligation to make an inventory that is as complete as possible, given the limitations established by search and seizure case law and inaccessibility to certain areas of the vehicle. Therefore, the inventory section of CHP Form 180 should contain as much detail as possible before the officer releases the vehicle to the contract tow company."

The Findings:

- **The Procedure allegation (failure to itemize property and process for booking) is SUSTAINED.**
- **The Procedure allegation (failure to complete and submit CHP Form 180) is SUSTAINED.**

Case #27: The complainant, a retired SJPd officer, claimed that he was working as an investigator at a high school in San José when he ran into the SO working a pay job at the same high school. He said hello to the SO when he walked by, but the SO ignored him. When the complainant later walked to his car, he again said hello to the SO and asked

how he was doing. The SO accused the complainant of speaking poorly about him at the school district office. The complainant alleged that the SO directed vulgar and profane comments to him. When the complainant attempted to leave, the SO said, "You're not leaving until we're done talking." The complainant threatened to call IA if the SO did not step away from him. The complainant subsequently reported the incident to IA. In his IA interview, the SO admitted uttering one of the comments attributed to him.

The Rule: Duty Manual section C 1308 states, "Department members will be courteous and professional to the public. Members will be tactful in the performance of their duties, shall control their tempers and exercise the utmost patience and discretion, even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or derogatory language."

The Finding: The Courtesy allegation is SUSTAINED.

Case #28: The complainant alleged that an officer failed to make a police report when her ex-husband violated a restraining order. The investigation showed that the officer responded to the incident and was advised that a restraining order had been issued but that the order had not been properly served on the ex-husband. At the scene, the officer advised the ex-husband of the order and its terms orally. The officer did not document his actions.

The Rule: Duty Manual L 4104 allows an officer to orally advise a party about the existence and terms of a restraining order. However, "the officer should then complete a Proof of Service form if available from the petitioner, or complete a Verbal Service form (available from the Warrants Unit), and deliver it to the Warrants Unit by the end of their shift."

**The Finding: The Procedure allegation
(failure to document) is SUSTAINED.**

Chapter Seven: IPA Recommendations

A. 2013 IPA Recommendations to SJPD

In 2013 our office recommended 15 improvements to San José Police Department (SJPD) procedures and policies. These recommendations range from promoting privacy safeguards for the Department's Crisis Intervention Training, to improving the Department's Ride-Along policy, to the creation of Civil Stand-By procedures. The genesis of these recommendations were complaints filed by members of the public. Some complaints revealed areas in which the Department's policies could be improved, and others directed us to areas that could benefit from new policies and procedures.

For example, the Department currently has no procedures for officers to follow when they respond to requests for civil stand-bys. Because these calls for service are not uncommon, officers must be clear about what they are permitted and not permitted to do. Consequently, our office has recommended that civil stand-by procedures be established and incorporated into the Duty Manual. (Interestingly, our research revealed that in 2008 the San José City Council directed the SJPD to "create a checklist for individuals considering requesting Civil Stand-Bys.")

Our mandate to make recommendations for improved police procedures and policies frequently results in widespread and positive impacts on the community and the San José Police Department. Case in point was our 2011 recommendation that officers document their activities during pedestrian and vehicle stops that do not result in arrests or citations. We made this recommendation in response to concerns and anecdotal reports that officers directed certain detention activities (curb sitting, handcuffing, sitting in the back of patrol cars) more prevalently to people of color. After Chief Esquivel

and his Command Staff conducted a thorough and thoughtful review for a documentation process, SJPD implemented our recommendation in 2013. The data about these stops will be evaluated by SJPD and our office to ensure that the officers' directives during detentions are proper and not bias-based.

Two of our recommendations are in response to bias-based policing concerns raised by complainants and by members of the public. Recommendation #6 urges SJPD to revise its Field Training Officers (FTO) Handbook to provide clearer instruction and guidance for recruits when they interact with people of color. Recommendation #7 addresses the perception of many Latino and African American individuals and community organizations that the question frequently asked by officers, "Are you on probation or parole?" is directed primarily to people of color, simply because of their race or ethnicity. Our recommendation is to include guidance in the FTO Handbook about how officers can ask this question in a manner that will not be perceived as bias-based.

Recommendation #15 addresses the discipline of officers who are found to have been untruthful when answering questions of Internal Affairs (IA) investigators and the Department's criminal investigators. While our office is prohibited from weighing in on the discipline of officers who have engaged in misconduct, we can address policy issues that relate to discipline. In 2013, we noted that there were two instances in which officers were found by Internal Affairs to have been untruthful---one, to an Internal Affairs investigator and another who falsified his police report and lied to a criminal investigator. In the first case, SJPD recommended termination; in the second case, SJPD recommended

a suspension. In both cases, the officers received lengthy suspensions, but were not terminated from their employment with the Department. Our research revealed that many, if not most, law enforcement agencies recommend the termination of officers who give false statements to IA, who falsify their police reports, or who are untruthful

to the Department's criminal investigators. Recommendation #15 urges SJPD to adopt a zero-tolerance policy for such officers. The mandatory termination of officers whose moral turpitude has been clearly established will only strengthen the integrity of SJPD and build trust between the Department and the public.

2013 IPA Recommendations To SJPD

| IPA RECOMMENDATIONS | RATIONALE |
|--|--|
| <p>Recommendation #1: Require ALL sworn Department members to undergo Crisis Intervention Training (CIT) a minimum of 20 hours every other year.</p> | <p>CIT is now voluntary for SJPD officers; CIT training is not mandatory. CIT has been proven critical to safe and lawful police interactions with the mentally ill. Best practices support mandatory CIT for all police officers.</p> |
| <p>Recommendation #2: Relocate the CIT office off-site so that Department members seeking CIT support can do so without being observed by other officers.</p> | <p>Currently, SJPD houses the CIT office in the Police Administration Building so that officers seeking CIT assistance can be easily observed by other officers. Officers are understandably reluctant to seek such assistance if they cannot do so in a confidential manner.</p> |
| <p>Recommendation #3: Place the CIT Civilian Coordinator and the Department's CIT officer in separate and private offices.</p> | <p>Currently, SJPD houses the CIT officer and Civilian Coordinator together in a small office; such configuration does not provide a private setting to ensure confidentiality when Department members seek assistance from these individuals.</p> |
| <p>Recommendation #4: Update the SJPD website so that it is consistent with the current Department Bulletin that states that noise complaints can no longer be filed anonymously.</p> | <p>The complainant followed the directive on the SJPD website which stated that noise complaints could be filed anonymously. He was subsequently told that noise complaints could not be filed in this manner. Information on the website should accurately reflect SJPD policy.</p> |
| <p>Recommendation #5: Issue a policy on the enforcement of noise complaints. Currently there is no written policy on noise enforcement. Provide this information on the SJPD website.</p> | <p>See rationale for Recommendation #4, above.</p> |

IPA RECOMMENDATIONS

RATIONALE

Recommendation #6:

Revise the Field Training Officer (FTO) Handbook to include better instruction and guidance about how recruits should interact with people of color.

Currently the FTO Handbook's only reference to cultural sensitivity is in the "Recruit Problems and Possible Solutions" section at p. 85: "G. Recruit seems apprehensive when approaching people and/or minority people. 1. Explain to the recruit numerous ways (Muni, Vehicle and Penal Code violations) of making contacts with people. 2. Explain to the recruit that as long as they have a legitimate reason for the stop it will not matter if they are a minority person or not. 3. If there is a particular culture that the recruit may shy away from, have them do some research on that culture. If possible, let them talk to an officer of that culture."

This instruction provides woefully insufficient guidance to officers who work in our ethnically diverse city. If a recruit is uncomfortable with a particular culture, is it sufficient to simply "let them talk to an officer of that culture?" We think not. The issue of cultural sensitivity and the proper and lawful manner in which to approach civilians of various cultures is critical to building trust between SJPD and the communities it serves, and too important to be treated in a superficial manner.

Recommendation #7:

Revise the FTO Handbook to include guidance about when it is appropriate to ask the question, "are you on probation or parole," especially when interacting with people of color.

The FTO Handbook is silent on this issue. Complaints about this "probation or parole" question are frequently raised by people of color who perceive it, in many instances, as a form of racial profiling.

Recommendation #8:

Revise the "Ride-Along" policy in the Duty Manual (Sections S 1601-S 1604, S 1608) to add a provision limiting the number of ride-alongs any one officer can give to any one particular person.

A male officer gave ten ride-alongs to the same female at late-night hours. Policies must reflect that ride-alongs are educational – not social – opportunities.

Recommendation #9:

Revise RATTF operating procedures to include specific guidelines for the inventory of "chop shop" items to ensure the proper chain of custody.

Evidentiary items seized from an alleged "chop shop" were given over to a tow company for storage where the items were comingled. It was difficult to later determine what items should have been returned to the owner.

IPA RECOMMENDATIONS

Recommendation #10:

Provide a Department facility for the storage of seized “chop shop” items.

Recommendation #11:

Use the revised “Application for 72-Hour Detention” form.

An officer utilized a form that was no longer in use. The revised form is the only proper form to be used for 72-hour detention applications.

Recommendation #12:

Establish civil stand-by procedures for inclusion in the Duty Manual.

Recommendation #13:

Establish a policy for the enforcement of domestic violence restraining orders that is consistent with the Bureau of Investigations (BOI) Standard Operating Procedure (SOP) and the SJPD Family Violence Unit’s mission.

RATIONALE

“Chop shop” items were given over to a tow company for storage because SJPD lacked capacity to tow and store the evidence.

An officer utilized a form that was no longer in use. The revised form is the only proper form to be used for 72-hour detention applications.

In 2008, a City Council agenda included a directive to “create a checklist for individuals considering requesting civil stand-bys that would include what civil stand-bys entail; what SJPD can and cannot do during civil stand-bys.” There is currently no provision in the Duty Manual concerning Civil Stand-By’s. The Denver Police Department has such a provision. Having a specific protocol will provide essential guidance to the officers and help assess their conduct if a complaint is filed.

The complainant had a restraining order that was repeatedly violated by her spouse who threatened to kill her. Out of four such reported incidents, only two were assigned investigators by the Family Violence Unit. The remaining two were closed due to lack of investigative resources. The BOI SOP states that if there are not sufficient unit resources for follow up, then the case is to be entered into the Clearance Block.

However, according to the mission statement of the Family Violence Unit, it is “**committed first and foremost to the safety of the victims of family violence. This is accomplished primarily by the aggressive enforcement** of appropriate criminal statutes.” There is a conflict in these two approaches when applied to domestic violence restraining orders.

IPA RECOMMENDATIONS

Recommendation #14:

Establish a protocol for securing and reviewing videotape that might capture images of thefts or suspects. Recommend that officers use and document efforts to obtain and review videotape. Include review of available videotape as a criterion along with the other criteria currently used to triage, assign or close cases.

Recommendation #15:

Require that officers who provide false information to IA investigators or to the Department's criminal investigators, be terminated from the Department.

RATIONALE

The complainant's home was burglarized and her car stolen. A nearby gas station employee informed her that he had a video of the suspect driving her car. She contacted SJPD and requested that an officer obtain and watch the tape. Officers did not retrieve the video and never viewed it.

A subject officer provided false information in his incident report and in an interview with the Department's criminal investigators. In another case, a subject officer lied at his IA interview, in addition to committing other Duty Manual violations. In each instance, the discipline resulted in a suspension, and not in termination.

The practice in many police departments around the country is to terminate officers who provide false information to investigators and/or lie at their IA interviews. Such officers lack integrity and lack credibility if they are ever called to testify in court. Further, if these officers are not terminated, the message to others in the Department is that if you lie to IA, or provide false information in your incident report, or lie to criminal investigators, your job is safe. Such a message compromises the integrity of the Department.

Status of 2012 IPA Recommendations

| IPA RECOMMENDATIONS | RATIONALE | SJPD STATUS UPDATE |
|--|---|---|
| <p>Recommendation #1: Create written protocol requiring that all subject officer interviews conducted by the Chain of Command by non- IA officers 1) be recorded and 2) that the IPA be provided 48 hours notice of the interviews.</p> | <p>The IPA has audited cases in which second interviews of subject officers were conducted up the Chain of Command by officers not assigned to IA. The IPA had no notice of these interviews and because these interviews were not recorded, we were unable to review them in the audit process.</p> | <p>In Process Update DM C1717 and C1724 to include recording. (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #2: Revise the tow hearing procedure to ensure that civilians understand that their “conversations” with the tow officers are, in fact, tow hearings; and require that all tow hearings be recorded.</p> | <p>The IA investigation reported that, “The complainant likely didn’t realize her conversation with the tow officer was, in fact, a tow hearing. <u>Her confusion is understandable because ‘tow hearing’ is a misnomer.</u> The name appears to indicate some sort of formal event, something similar to a traffic court hearing. The ‘hearing,’ however, can simply be a telephone conversation with an officer assigned to the SJPD Auto Desk who collects all the facts and renders a decision about fee waivers and the legality of tows.”</p> | <p>In Process Interviews will be recorded. Update Unit manual. (R&D/ML) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #3: Require officers to log any time that they are driving city-owned vehicles, including the times that they are driving to and from their homes.</p> | <p>A civilian tailed an officer who was allegedly speeding recklessly in a SJPD-owned unmarked MERGE Unit vehicle during his commute on Hwy. 101. The officer had not logged onto the Automated Vehicle Locator/GPS during his commute, making it difficult to establish whether he was driving in the manner the anonymous complainant described.</p> | <p>In Process Training Bulletin DM L1900 and L1915. (R&D) Proof of implementation by 3/31/14</p> |

| IPA RECOMMENDATIONS | RATIONALE | SJPD STATUS UPDATE |
|---|--|---|
| <p>Recommendation #4: Require officers to obtain parental permission before transporting minors (who are not suspects) in patrol vehicles. In Process</p> | <p>The subject officer gave a school safety presentation at a local preschool. Afterward, he agreed to let a least one of the children ride in the car with him as he moved his vehicle a short distance. He acknowledged that he had not obtained parental permission for the ride. Had there been an accident and the child injured, the City would likely have been liable.</p> | <p>In Process Training Bulletin DM S1600 and R1531 (Form 201-1) (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #5: Ensure that officers who request social security information from civilians, advise them that they have the option of declining to provide this information.</p> | <p>The complainant was upset that a witness was asked to supply her social security number, which information was written by the officer on the “additional parties” form. Neither the complainant nor the witness was advised that she had an option not to provide the information.</p> | <p>In Process Training Bulletin DM R1612 (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #6: Discontinue the practice of signing affidavits of probable cause by officers who are not percipient witnesses.</p> | <p>The complainant was arrested for 647(f); the “Affidavit for Probable Cause” was signed by an officer who was not the percipient witness to the arrest, but instead by an officer who was given a synopsis of the events by the percipient witness officer.</p> | <p>In Process Training Bulletin on felony affidavits (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #7: Require officers who draw and point their weapons at or in the direction of a person to document such action in the CAD or in an incident report.</p> | <p>The complainant alleged that an officer threatened him and pointed a gun at him during the timeframe when complainant and his wife (the officer’s sister-in-law) were in divorce proceedings.</p> | <p>In Process Looking into best practices. (R&D) On going</p> |

| IPA RECOMMENDATIONS | RATIONALE | SJPD STATUS UPDATE |
|---|---|--|
| <p>Recommendation #8: Establish an Annual Taser Recalibration Day on which all Department-issued Tasers are recalibrated.</p> | <p>The complainant's father was shot and killed by an officer who, during initial contact, deployed his Taser. In the ensuing investigation, the Taser deployment could not be confirmed because the weapon had not been recalibrated for several years.</p> | <p>In Process Training Unit to implement a new Taser recalibration program available July 2014 (Training Unit) Proof of implementation by 7/31/14</p> |
| <p>Recommendation #9: Stop the practice of using Penal Code Section 849(b) "informally."</p> | <p>The complainant was purportedly released under Penal Code 849(b) but his release did not comply with the requirements of the statute. In discussions with IA, we were told that officers frequently release suspects under 849(b) "informally." The statute provides only three situations that permit an officer to release an arrested individual; any releases under 849(b) must comply with statutory limitations.</p> | <p>In Process Training Bulletin on 849(b)PC, DM L3607, L3608. (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #10: Include in standard briefings the requirements of limited searches for car registration documents at DUI checkpoints</p> | <p>The complainant was stopped at a DUI checkpoint. An officer retrieved his registration from his glove compartment without complying with limited search requirements.</p> | <p>Completed DUI checkpoint protocol and Unit manual has been revised. (TEU) May 2012</p> |
| <p>Recommendation #11: Revise DM section C 1411 to establish a flat prohibition on service of civil processes in any jurisdiction by officers, whether on or off duty.</p> | <p>An on-duty officer served a document on a law firm as a favor for his officer friend who was involved in a divorce proceeding. The officer maintained that he was not "representing" the Department when he served the document.</p> | <p>In Process Researching effects of such policy. (R&D/SEU/CAO) On going</p> |

| IPA RECOMMENDATIONS | RATIONALE | SJPD STATUS UPDATE |
|---|--|--|
| <p>Recommendation #12: Discontinue the practice of pre-signing LIDAR (Light Detection And Ranging) citations.</p> | <p>The LIDAR officer signed the speeding citation before it was issued. The citation was subsequently issued to the complainant, but not by the officer who signed it. L 7614 permits only the issuing officer to sign the citation.</p> | <p>Completed Memo revising DM L 7614.. (R&D) 3/28/14</p> |
| <p>Recommendation #13: SJPD should discuss and develop with Emergency Medical Services (EMS) a protocol for the transport of individuals with medical issues, chronic inebriants, and those with psychiatric issues.</p> | <p>The complainant, a paramedic, medically cleared a person who had inflicted a scratch on her neck with a knife and requested that officers transport the person to Emergency Protective Services. The sergeant on scene disagreed with the medical assessment, although he never saw the wound, and refused to transport her. Instead, he insisted that her medical condition should be treated at the hospital which required the ambulance to transport her.</p> | <p>In Process Contacted County EMS for training. (R&D/BFO) On going</p> |
| <p>Recommendation #14: Create guidelines for officers who may interact with transgendered individuals so that officers can avoid using words that are offensive to this population.</p> | <p>The complainant, a transgendered female, was offended when officers allegedly called her “muchacho” and insisted that she was a man and that she lied when she gave the officers her legally changed female name.</p> | <p>In Process CPT training to include cultural diversity. (Training Unit) July 2014</p> |
| <p>Recommendation #15: Include information on the SJPD website informing members of the public about how to file reports of hate incidents and hate crimes.</p> | <p>The complainant, the victim of a hate incident, was unable to find on the SJPD website information about filing a report of a hate-motivated incident or a hate crime.</p> | <p>Completed Website updated (R&D) April 2013</p> |

| IPA RECOMMENDATIONS | RATIONALE | SJPD STATUS UPDATE |
|---|--|---|
| <p>Recommendation #16: Create a “Decline to Investigate” classification to fairly, uniformly and expeditiously address clearly implausible or incredible complaints.</p> | | <p>Completed Memo 2013-003 revised DM C1706.5, C1709, C1712, and C1713. (R&D/IA) February 2013</p> |
| <p>Recommendation #17: Include in the Duty Manual a requirement that whenever custodial interrogations are recorded, officers must include their Miranda warnings and the suspect’s responses in the recordings.</p> | <p>The officer tape recorded the complainant’s statement but did not include the Miranda warning in the recording. Complainant claimed that the warning was not given to him by the officer. The officer insisted that the warning was given.</p> | <p>In Process Training Bulletin on DM L4513 emphasis on preamble. (R&D) Proof of implementation by 3/31/14</p> |
| <p>Recommendation #18: Require periodic training for officers assigned to the police lobby; review and improve the Gatekeeper system that tracks visitors waiting for service in the lobby.</p> | <p>The complainant waited for five hours to be processed for booking after the officers in the lobby lost track of him. The Gatekeeper computer system that tracks visitors allows multiple officers to access the database under one officer’s name so that inadvertent or intentional misuse of the system cannot be monitored</p> | <p>Completed System updated. Added deletion verification process. Main lobby personnel trained. (BTS/ML) August 2013</p> |

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 Jose 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 Council) 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.

CIT: see Crisis Intervention Training

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.

Crisis Intervention Training (CIT): a 40-hour training program that teaches officers how to better address situations involving persons who are experiencing a mental or emotional crisis, or who have a developmental disability, thus reducing the possibility of the officers using force to gain control of the situation

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)

IA: see Internal Affairs

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 Council (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 SJPDP that investigates allegations of officer misconduct

IPA: see Independent Police Auditor

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 results in a finding of Sustained for one or more allegations

TLC: see Independent Police Auditor Teen Leadership Council

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.

Appendix A

San José Municipal Code Chapter 8.04 and San José City Charter §8.09

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 JOSÉ 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

California Penal Code §832.5 and §832.7

§ 832.5. Citizen's complaints against personnel; investigation; retention and maintenance of records; removal of complaints; access to records

(a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.

(2) Each department or agency that employs custodial officers, as defined in section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of section 832.

(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 commencing with section 6250) of Division 7 of Title 1 of the Government Code) and section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) “Unfounded” means that the investigation clearly established that the allegation is not true.

(3) “Exonerated” means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

California Penal Code §832.7

§ 832.7. Confidentiality of peace officer records: Exceptions

(a) Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney’s office, or the Attorney General’s office.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer’s agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer’s employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer’s personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(e) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(f) Nothing in this section shall affect the discovery or disclosure of information contained in a peace or custodial officer’s personnel file pursuant to section 1043 of the Evidence Code.

Appendix C

IPA 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 D

IPA 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.

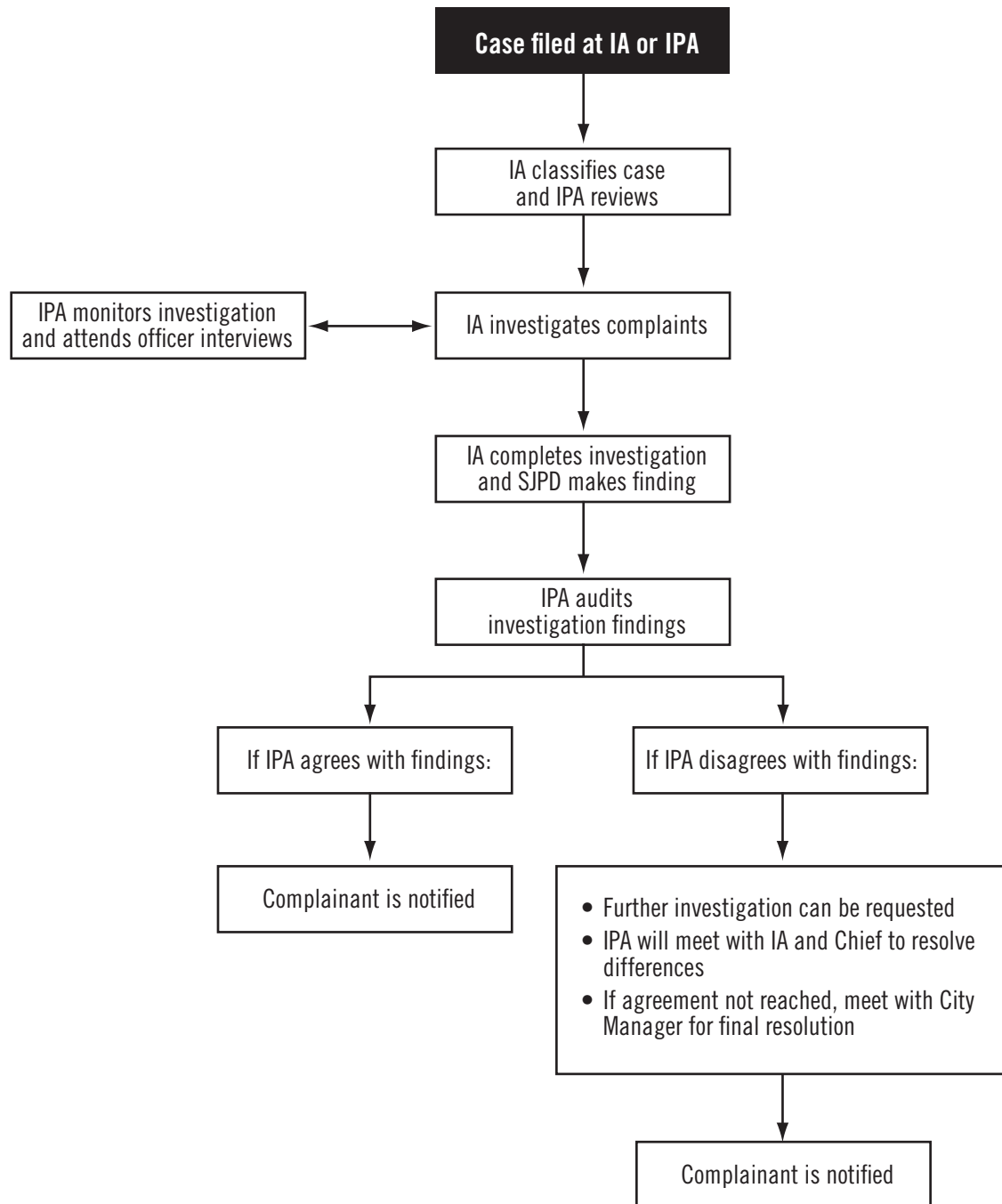
The acceptance of gifts or gratuities of any kind by the staff of the Office could be perceived or interpreted as an attempt by the donors to influence the actions of the staff. **Therefore, no gifts of any value may be accepted by members of the staff of the Office of the Independent Police Auditor 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 E: The Complaint Process Flow Chart



Appendix F:

IPA 2013 Community Outreach Activities

| Date | Name | Type | District | Location |
|-----------|--|---------------|----------|-----------------------------------|
| 1/5/2013 | CreaTV Awards Event | Meeting/Event | 3 | California Theater |
| 1/7/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 1/10/2013 | Year-Up Silicon Valley | Meeting/Event | 3 | IPA Office |
| 1/11/2013 | Parents Group via Somos Promotores | Presentation | 5 | San Antonio Elementary School |
| 1/12/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 1/13/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 3 | Center for Employment Training |
| 1/17/2013 | Lynhaven Neighborhood Assoc. | Presentation | 1 | International Christian Center |
| 1/26/2013 | Overfelt Saturday School | Presentation | 8 | Overfelt High School |
| 1/26/2013 | District 4 Recognition Event | Meeting/Event | 4 | Flames Eatery |
| 2/2/2013 | Crime & Gang Prevention Summit | Meeting/Event | 3 | Center for Training & Careers |
| 2/4/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 2/5/2013 | IPAAC Meeting | Meeting/Event | 3 | IPA Office |
| 2/7/2013 | State of the City | Meeting/Event | 3 | SJ Civic Auditorium |
| 2/8/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 2/11/2013 | Almaden Valley Community Association | Presentation | 10 | Almaden Community Center |
| 2/11/2013 | Counseling Psychology & Education Students | Presentation | n/a* | Santa Clara University |
| 2/15/2013 | African American Flag Raising | Meeting/Event | 3 | City Hall Plaza |
| 2/22/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 2/22/2013 | Beacon of Light Awards 2013 | Meeting/Event | 4 | Charcot Cafe, County Center |
| 3/4/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 3/7/2013 | Memorial for Santa Cruz Police Officers | Meeting/Event | 3 | HP Pavilion |
| 3/8/2013 | Westfield Senior Winter Walk | Meeting/Event | 10 | Westfield Oakridge |
| 3/12/2013 | Open House | Meeting/Event | 3 | Year Up Silicon Valley |
| 3/15/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 3/20/2013 | Record Clearance Project | Presentation | 3 | San Jose State University |
| 3/20/2013 | Community Leadership Council | Presentation | 3 | City Hall |
| 3/23/2013 | Corazon Project Unity Day | Meeting/Event | 3 | Most Holy Trinity Church |
| 3/23/2013 | Transgender Visibility Day | Presentation | 3 | Billy DeFrank Center |
| 3/27/2013 | Resource Fair for Juvenile Hall Families | Meeting/Event | 3 | Juvenile Hall Courtyard |
| 3/29/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 4/4/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 4/4/2013 | Community Meeting Re: VTA Bus Station | Meeting/Event | 3 | Lincoln Law School |
| 4/5/2013 | Year Up Silicon Valley Spear Series | Presentation | 3 | Year Up Silicon Valley |
| 4/5/2013 | Meeting re: Veterans' Resource | Meeting/Event | 3 | Downtown Veterans Center |
| 4/5/2013 | West Valley Senior Walk | Meeting/Event | 6 | Valley Fair Mall |
| 4/6/2013 | United Neighborhoods of SCC Mixer | Meeting/Event | 4 | Berryessa Community Center |
| 4/9/2013 | Ujima Group | Presentation | 7 | Andrew Hill High |
| 4/10/2013 | Latino Parents Group | Presentation | 2 | Oak Grove High School |
| 4/11/2013 | Ujima Group Freshmen/Sophomores | Presentation | 2 | Oak Grove High School |
| 4/11/2013 | Ujima Group Juniors/Seniors | Presentation | 2 | Oak Grove High School |
| 4/16/2013 | Silicon Valley Faces Luncheon | Meeting/Event | n/a* | Computer History Museum |
| 4/17/2013 | Psychology Interns | Presentation | 6 | Santa Clara Valley Medical Center |
| 4/18/2013 | Ace Charter Middle School (Group 1) | Presentation | 5 | Ace Charter Middle School |
| 4/18/2013 | Ace Charter Middle School (Group 2) | Presentation | 5 | Ace Charter Middle School |
| 4/18/2013 | Ace Charter Middle School (Group 3) | Presentation | 5 | Ace Charter Middle School |

| Date | Name | Type | District | Location/Notes |
|-----------|---|---------------|----------|---------------------------------|
| 4/19/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 4/20/2013 | Awards Luncheon Hats Of Distinction | Meeting/Event | n/a* | Marriott Waterfront Hotel |
| 4/22/2013 | Goodyear/Mastic Neighborhood Association | Presentation | 7 | Alma Senior Center |
| 4/23/2013 | Ujima Youth Group | Presentation | 4 | Independence High School |
| 4/23/2013 | Ujima Youth Group | Presentation | 8 | Silver Creek High School |
| 4/24/2013 | San Jose West Kiwanis Club | Presentation | 6 | Three Flames Restaurant |
| 4/26/2013 | La Raza Round Table | Meeting/Event | 7 | Center for Training & Careers |
| 4/29/2013 | Del Mar High School | Presentation | 6 | Del Mar High School |
| 5/6/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 5/8/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 8 | Boys & Girls Club |
| 5/9/2013 | IPAAC Meeting | Meeting/Event | 3 | IPA Office |
| 5/9/2013 | Sister to Sister Conference | Meeting/Event | 6 | San Jose Masonic Center |
| 5/13/2013 | Berryessa Citizens Advisory Council | Presentation | 6 | Berryessa Community Center |
| 5/14/2013 | Community Partners Round Table | Meeting/Event | 3 | Year Up Silicon Valley |
| 5/16/2013 | Human Rights Commission | Meeting/Event | 3 | City Hall |
| 5/17/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 5/18/2013 | 5th Annual Senior Health Fair & Walk | Meeting/Event | 8 | Eastridge Mall |
| 5/19/2013 | 79th Annual Legal Secretaries Conference | Presentation | 3 | San Jose Marriot |
| 5/23/2013 | SIREN's 15th Anniversary Event | Meeting/Event | 5 | Mexican Heritage Plaza |
| 5/30/2013 | SJPD Annual Police Memorial | Meeting/Event | 3 | SJPD Administrative Building |
| 5/31/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 6/3/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 6/5/2013 | Girl Scouts Got Choices Program | Presentation | n/a* | Bill Wilson Center, Santa Clara |
| 6/7/2013 | Girl Scouts Got Choices Program | Presentation | 3 | Juvenile Hall |
| 6/12/2013 | Mayor's Gang Prevention Task Force | Presentation | 5 | Mt. Pleasant High School |
| 6/15/2013 | Retreat - Teen Leadership Council | Meeting/Event | 3 | San Jose Airport Garden Hotel |
| 6/15/2013 | Juneteenth Celebration | Meeting/Event | 3 | Discovery Meadows |
| 6/19/2013 | Youth Empowerment Group | Presentation | 5 | MACSA |
| 6/21/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 6/27/2013 | Seniors Group/Health To You | Presentation | 9 | Good Samaritan Hospital |
| 7/1/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 7/2/2013 | Young Veterans Group | Presentation | 3 | IPA Office |
| 7/7/2013 | Tech Trek | Meeting/Event | n/a* | Stanford University |
| 7/11/2013 | IPAAC Meeting | Meeting/Event | 3 | IPA Office |
| 7/14/2013 | Tech Trek | Meeting/Event | n/a* | Stanford University |
| 7/16/2013 | Castellano Foundation Strategic Plan Presentation | Meeting/Event | 3 | MLK Library |
| 7/16/2013 | Bay Area Older Adults | Presentation | 5 | White Road |
| 7/17/2013 | 20th Anniversary Story Road Business Association | Meeting/Event | 5 | Tacos Al Carbon |
| 7/17/2013 | Sacred Heart Volunteers | Meeting/Event | 3 | IPA Office |
| 7/19/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 7/19/2013 | Green Cadre Program | Presentation | 7 | Youth Training Center |
| 7/26/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 7/27/2013 | Downtown Streets Team Benefit | Meeting/Event | 3 | San Jose Civic Center |
| 8/5/2013 | Assemblymember Nora Campos/TLC Meeting | Meeting/Event | n/a* | Capitol Building |
| 8/6/2013 | National Night Out | Meeting/Event | 6 | Farm Drive Center |
| 8/6/2013 | National Night Out | Meeting/Event | 10 | Cornerstone Church |
| 8/6/2013 | National Night Out | Meeting/Event | 5 | Mayfair Community Center |
| 8/6/2013 | National Night Out | Meeting/Event | 3 | 4th Street Apartments |
| 8/6/2013 | National Night Out | Meeting/Event | 9 | Little Branham |
| 8/6/2013 | National Night Out | Meeting/Event | 2 | Hayes Mansion |

| Date | Name | Type | District | Location/Notes |
|-------------|--|---------------|-----------------|--------------------------------------|
| 8/6/2013 | National Night Out | Meeting/Event | 5 | Robert Saunders Elementary School |
| 8/8/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 8/12/2013 | Domestic Violence Workshop | Presentation | 6 | Billy DeFrank Center |
| 8/14/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 4 | East Side Union High School District |
| 8/14/2013 | Sons in Retirement Branch #39 | Presentation | 6 | Three Flames Restaurant |
| 8/16/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 8/25/2013 | Celebrate Cambrian Festival | Meeting/Event | 9 | Cambrian Community Center |
| 8/30/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 9/4/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 9/6/2013 | Public Safety Resource Fair | Meeting/Event | 4 | Sierramont Middle School |
| 9/11/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 8 | Boys and Girls Club |
| 9/23/2013 | Neighborhood Development Training Conference | Meeting/Event | 3 | San Jose State University |
| 9/26/2013 | Panel Regarding Local Race Relations | Presentation | 5 | Mexican Heritage Plaza Theater |
| 9/26/2013 | SJSU Journalism Class | Presentation | 3 | San Jose State University |
| 9/27/2013 | Teen Leadership Council | Meeting/Event | 3 | San Jose Police Dept. |
| 9/28/2013 | Vietnamese American Family Empowerment Program | Meeting/Event | 7 | Yerba Buena High School |
| 10/1/2013 | Adult E.S.L. Students | Presentation | 3 | Independence Adult Center |
| 10/2/2013 | Success Program Kickoff | Presentation | n/a* | West Valley College |
| 10/5/2013 | Day in the Park | Meeting/Event | 8 | Lake Cunningham Park |
| 10/7/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 10/7/2013 | Administration of Justice Students | Presentation | 8 | Evergreen College |
| 10/8/2013 | Adult E.S.L. Students | Presentation | 8 | Overfelt Adult Center |
| 10/8/2013 | Girl Scouts Got Choices Program | Presentation | 2 | Oak Grove High School |
| 10/9/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 10 | Victory Outreach |
| 10/9/2013 | Girl Scouts Got Choices | Presentation | 3 | Bill Wilson Center |
| 10/10/2013 | Girl Scouts Got Choices Program (Group 1) | Presentation | 6 | Willow Glen High School |
| 10/10/2013 | Girl Scouts Got Choices Program (Group 2) | Presentation | 6 | Willow Glen High School |
| 10/10/2013 | IPAAC Meeting | Meeting/Event | 3 | IPA Office |
| 10/12/2013 | California Bar Association Diversity Event | Meeting/Event | 3 | Marriot Hotel |
| 10/15/2013 | Adult E.S.L. Students | Presentation | 3 | Independence Adult Center |
| 10/16/2013 | Civil Grand Jury | Presentation | 3 | Superior Court |
| 10/17/2013 | Somos Mayfair Annual Celebration | Meeting/Event | 5 | Mexican Heritage Plaza |
| 10/17/2013 | Momentum's Shining Stars Event | Meeting/Event | n/a* | Marriott's Santa Clara |
| 10/18/2013 | San Jose Downtown Association | Meeting/Event | 3 | Germania Verein Ballroom |
| 10/19/2013 | College Day Event | Meeting/Event | 3 | San Jose State University |
| 10/21/2013 | Gang/Youth Violence Community Meeting | Meeting/Event | 8 | Overfelt High School |
| 10/25/2013 | La Raza Roundtable | Meeting/Event | 7 | Center for Training & Careers |
| 10/25/2013 | Meet & Greet | Meeting/Event | 7 | Tropicana Shopping Center |
| 10/26/2013 | Meet & Greet | Meeting/Event | 7 | Tropicana Shopping Center |
| 10/27/2013 | Meet & Greet | Meeting/Event | 7 | Tropicana Shopping Center |
| 10/30/2013 | Girl Scouts Got Choices Program | Presentation | 7 | Andrew Hill High School |
| 10/31/2013 | Girl Scouts Got Choices Program | Presentation | 7 | Sylvandale Middle School |
| 11/1/2013 | Green Cadre Program | Presentation | 7 | Work2Future |
| 11/1/2013 | Green Light Project Rally/Walk | Meeting/Event | 3 | City Hall to Bill Wilson Center |
| 11/2/2013 | Meet & Greet | Meeting/Event | 7 | Tropicana Shopping Center |
| 11/2/2013 | Meet & Greet | Meeting/Event | 5 | Veggielution Community Farm |
| 11/2/2013 | Meet & Greet | Meeting/Event | 5 | Emma Prusch Park |
| 11/4/2013 | Meet & Greet | Meeting/Event | 5 | Mi Pueblo Food Center |
| 11/4/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 11/6/2013 | Story & King Road Community | Presentation | 7 | Los Molcajetes Restaurant |

| Date | Name | Type | District | Location/Notes |
|-------------|---|---------------|-----------------|--|
| 11/7/2013 | MGPTF Town Hall Meeting | Meeting/Event | 2 | Southside Community Center |
| 11/7/2013 | Day-Rehab Program | Presentation | 3 | Grace Community Center |
| 11/12/2013 | Student Resource Fair | Meeting/Event | 8 | Leadership Public Schools |
| 11/13/2013 | Mayor's Gang Prevention Task Force | Meeting/Event | 8 | Boys & Girls Club |
| 11/14/2013 | Catholic Charities At-Risk Girls Group | Presentation | 6 | Del Mar High School |
| 11/14/2013 | Gang/Youth Violence Community Meeting | Meeting/Event | 3 | Roosevelt Community Center |
| 11/15/2013 | African Am. & African Ancestry Stakeholders Forum | Meeting/Event | 3 | African American Community Services Agency |
| 11/15/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |
| 11/20/2013 | Adult E.S.L. Students | Presentation | 3 | Independence Adult Center |
| 11/25/2013 | Late-Night Basketball | Presentation | 6 | Bascom Community Center |
| 12/5/2013 | Meet & Greet - At Risk Youth | Meeting/Event | 7 | Andrew Hill High School via Firehouse |
| 12/11/2013 | City/Schools Collaborative | Meeting/Event | 1 | Monroe Middle School |
| 12/16/2013 | Mexican Consulate Outreach | Meeting/Event | 4 | Mexican Consulate |
| 12/20/2013 | Teen Leadership Council | Meeting/Event | 3 | IPA Office |

Appendix G: IPA 2013 Interior Bus Signage

**Concerns about a San José Police Officer?
¿Problema con un oficial de policía de San José?
Bạn có vấn đề với cảnh sát San José?**



**Call 408.794.6226
Llame al 408.794.6226
Hãy gọi 408.794.6226**

Independent Police Auditor of San José
Auditor Independiente de la Policía de San José · Thanh Tra Cảnh Sát Độc Lập của Thành Phố San José

Appendix H

IPA Presentation Evaluation



OFFICE OF THE INDEPENDENT POLICE AUDITOR
City of San Jose

Presentation Evaluation

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 I:

IPA 2013 Media Contacts, Articles, and Interviews

| Date | Name | Notes | Contact |
|-----------|--------------------------------|--|------------------------------------|
| 01/03/13 | ProtectSanJose.com | 30 Officers Resign from San Jose Police Department in 60 days | Sgt. John Robb |
| 2/7/2013 | San Jose Mercury News | Almaden Shorts: Police auditor to discuss her role in the city | San Jose Neighborhoods |
| 2/8/2013 | San Jose Mercury News | Pizarro: Joan Baez to perform at Peninsula College Fund benefit in March | Sal Pizarro |
| 2/20/2013 | KBAY | re: Black History Month | Sam Van Zandt |
| 3/6/2013 | Real Change News | re: Oversight of Seattle Police | Aaron Burkhalter |
| 3/7/2013 | VT News Radio | re: IPA office functions | Phuong Kim Nguyen |
| 4/12/2013 | City of San Jose Employee News | Defining High Performance (re: IPA Senior Analyst Vivian Do) | Astra Freedman |
| 4/22/2013 | IPA News Release | Police Auditor Reports on Audits of SJPd Complaints in 2012 | Diane Doolan |
| 4/22/2013 | Bay City News | re: 2012 IPA Year End Report | Jeff Burbank |
| 4/22/2013 | KLIV Radio | re: 2012 IPA Year End Report | John Kelly |
| 4/22/2013 | NBC Bay Area | re: 2012 IPA Year End Report | Lisa Fernandez & Monte Francis |
| 4/23/2013 | Telemundo 48 | re: 2012 IPA Year End Report | Angel Ayllon |
| 4/23/2013 | CBS 5 News | re: 2012 IPA Year End Report | Edgar Teran |
| 4/23/2013 | NBC Bay Area | SJPD Auditor Disagrees With "Curb Sitting" Policy Change | Jeff Burbank |
| 4/23/2013 | San Jose Mercury News | San Jose police auditor report finds decline in complaints | Mark Emmons & Eric Kuhri |
| 4/23/2013 | KLIV Radio | Citizen complaints filed against San Jose police officers fell | Unknown |
| 4/25/2013 | NBC Bay Area | Acting San Jose Police Chief Reveals Vision for City | Damian Trujillo & Monte Francis |
| 4/25/2013 | KGO-TV | San Jose cops implementing new policing model | David Louie |
| 4/25/2013 | San Jose Mercury News | San Jose police announce new mission statement in troubled times | Robert Salanga |
| 4/26/2013 | KQED Radio | San Jose Police Auditor Says City Should Document Stops | Peter Jon Schuler |
| 4/27/2013 | San Jose Mercury News | Rollout of curb-sitting policy urged by police auditor, community groups | Robert Salanga |
| 4/29/2013 | Metro Silicon Valley | Independent Police Auditor Report Goes before City Council | Jennifer Wadsworth |
| 5/2/2013 | Daily News | "Make the Call" show for East Palo Alto | Bonnie Eslinger |
| 5/2/2013 | San Jose Mercury News | re: NAACP Executive Director Ben Jealous' comment | Robert Salanga |
| 5/3/2013 | Telemundo 48 | re: Cinco de Mayo, Increased SJPd Presence & Curfew Crack-down | Angel Ayllon |
| 5/3/2013 | InsideBayArea.com | Oakland police: Too quick to fire? | Thomas Peele |
| 5/5/2013 | San Jose Mercury News | NAACP chief angry over delay of "curb-sitting" policy | Internal Affairs |
| 5/7/2013 | KCBS Radio | Unsolved Homicides in East Palo Alto | Mike Colgan |
| 6/21/2013 | Metro Silicon Valley | New SJPd Policy on Limited Detentions | Jennifer Wadsworth |
| 7/1/2013 | Neighborhood Newsletter | re: IPA staff presence at National Night Out | Rich Sanders |
| 7/9/2013 | San Jose Mercury News | Racial Profiling Concerns: New SJPd stop policy | Robert Salanga |
| 7/10/2013 | Metro Silicon Valley | Kicked to the Curb | Jennifer Wadsworth |
| 8/1/2013 | Monthly Newsletter | San Jose Teen Leadership Council Members Visit with Campos | California Assembly District 18 |
| 9/3/2013 | Bay City News | New SJPd Policy on Limited Detentions | Jeff Burbank |
| 9/3/2013 | KGO TV | New SJPd Policy on Limited Detentions | Lyanne Melendez |
| 9/3/2013 | CBS Radio | New SJPd Policy on Limited Detentions | Matt Bigler |
| 9/3/2013 | NBC Bay Area | New SJPd Policy on Limited Detentions | Monte Francis |
| 9/3/2013 | KTVU TV | New SJPd Policy on Limited Detentions | Robert Handa |

| Date | Name | Notes | Contact |
|-------------|--------------------------|--|--|
| 9/3/2013 | KLIV Radio | New SJPD Policy on Limited Detentions | Unknown |
| 9/3/2013 | Telemundo 48 | New SJPD Policy on Limited Detentions | Unknown |
| 9/3/2013 | San Francisco Chronicle | New SJPD Policy on Limited Detentions | Vivian Ho |
| 9/4/2013 | San Jose Mercury News | Officers recording "curb sitting" data | Robert Salonga |
| 9/25/2013 | Metro Silicon Valley | "That's what he/she said" (regarding IPA signage in VTA buses) | San Jose Inside |
| 9/27/2013 | Metro Silicon Valley | Independent Police Auditor Places Outreach Signs on More than 100 Buses | Josh Koehn |
| 10/1/2013 | KLIV Radio | San Jose buses bear ads encouraging residents to call in concerns | Unknown |
| 10/6/2013 | San Jose Mercury News | Police auditor reaches out to VTA bus riders | Internal Affairs |
| 10/9/2013 | Laureate University | Video Interview for National Hispanic University Program | Terry Hudgins |
| 10/10/2013 | San Jose Mercury News | San Jose: "Curb sitting" data now recorded by patrol officers | Robert Salonga |
| 10/10/2013 | San Jose Mercury News | San Jose bus riders asked about "concerns" over police behavior | Unknown |
| 10/26/2013 | San Jose Mercury News | San Jose Police: Acting chief picked for post | John Woolfolk, Robert Salonga & Erik Kurhi |
| 10/27/2013 | San Jose Mercury News | San Jose Police Chief: Remove "interim" tag? | Robert Salonga |
| 10/31/2013 | San Jose Mercury News | Homeless turn overnight bus route into Hotel 22 | Mark Emmons |
| 11/9/2013 | Mercurynews.com eEdition | Readers respond to the homeless man and daughter on Santa Clara VTA bus | Mark Emmons |
| 11/11/2013 | San Jose Mercury News | "Hotel 22" Bus: Father, child find shelter -- for now | Mark Emmons |
| 11/15/2013 | El Observador | IPA engages the East Side community | Hilbert Morales |
| 11/20/2013 | SJPD Press Release | "Make the Call, San Jose!" | Sgt. Heather Randol |
| 11/27/2013 | San Jose Mercury News | Editorial: Failure to file felony charges sends wrong message | Judge LaDoris Cordell |
| 11/27/2013 | Metro Silicon Valley | "That's what he/she said" (re: alleged hate crimes at SJSU) | San Jose Inside |
| 12/5/2013 | The Spartan Daily, SJSU | President Qayoumi creates task force to review facts of 'alleged race-related incident | Jenny Bennet |
| 12/5/2013 | Metro Silicon Valley | SJSU Launches Independent Review of Hate Crime Allegations | Jennifer Wadsworth |
| 12/6/2013 | San Jose Mercury News | San Jose State University: Panel to look at racial incident | Katy Murphy & Tracey Kaplan |
| 12/9/2013 | San Jose Mercury News | Choice of Cordell a good sign for SJSU | Editorial |

Appendix J: Additional Statistical Information

Table 1: Ethnicity of Subject Officers in 2013

| Ethnicities | Subject Officers | % | SJPD Sworn Officers | % |
|---------------------------------|------------------|-------------|---------------------|-------------|
| Native American | 2 | 1% | 8 | 1% |
| Asian American/Pacific Islander | 26 | 9% | 123 | 12% |
| African American | 12 | 4% | 45 | 4% |
| Filipino American | 11 | 4% | 34 | 3% |
| Hispanic/Latino | 66 | 22% | 245 | 23% |
| Caucasian | 174 | 58% | 573 | 54% |
| Not Available | 7 | 2% | 34 | 3% |
| Total | 298 | 100% | 1,062 | 100% |

Table 2: Force Case Complainants by Ethnicity in 2013*

| Ethnicities From Complainant Intakes | Force | | Total | | % of San José Population** |
|--|--------------|-------------|--------------|-------------|----------------------------------|
| | Complainants | | Complainants | | |
| | Number | % | Number | % | |
| African American | 16 | 15% | 42 | 11% | 3% |
| Asian American/Pacific Islander | 2 | 2% | 9 | 2% | 15% |
| Caucasian | 18 | 17% | 85 | 22% | 29% |
| Filipino*** | 1 | 1% | 4 | 1% | 6% |
| Hispanic/Latino | 39 | 38% | 119 | 31% | 33% |
| Native American | 2 | 2% | 4 | 1% | 1% |
| Vietnamese*** | 0 | 0% | 14 | 4% | 11% |
| Other | 2 | 2% | 9 | 2% | 2% |
| Decline/Unknown | 24 | 23% | 102 | 26% | 0% |
| Complainant Responses | 104 | 100% | 388 | 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

*** For the purpose of this illustration, Filipino and Vietnamese are listed separately from Asian/Pacific Islanders.

Table 3: Allegations Subject Officers Received in 2013, By Years of Experience*

| Allegations Received | 0-1+ | | 2-4+ | | 5-6+ | | 7-10+ | | 11-15+ | | 16+ | |
|-------------------------------|-----------|-------------|-----------|-------------|-----------|-------------|------------|-------------|------------|-------------|------------|-------------|
| | # | % | # | % | # | % | # | % | # | % | # | % |
| Procedure | 17 | 22% | 10 | 20% | 0 | 0% | 36 | 30% | 54 | 34% | 80 | 34% |
| Courtesy | 11 | 14% | 9 | 18% | 13 | 24% | 13 | 11% | 28 | 17% | 40 | 17% |
| Force | 15 | 20% | 15 | 31% | 26 | 48% | 40 | 34% | 27 | 17% | 45 | 19% |
| Arrest or Detention | 7 | 9% | 6 | 12% | 6 | 11% | 11 | 9% | 17 | 11% | 22 | 9% |
| Search or Seizure | 13 | 17% | 4 | 8% | 0 | 0% | 13 | 11% | 15 | 9% | 21 | 9% |
| Bias Based Policing | 8 | 11% | 2 | 4% | 4 | 7% | 4 | 3% | 9 | 6% | 16 | 7% |
| Neglect of Duty | 0 | 0% | 0 | 0% | 1 | 2% | 0 | 0% | 0 | 0% | 4 | 2% |
| Conduct Unbecoming an Officer | 5 | 7% | 3 | 6% | 4 | 7% | 2 | 2% | 11 | 7% | 7 | 3% |
| Total Allegations | 76 | 100% | 49 | 100% | 54 | 100% | 119 | 100% | 161 | 100% | 235 | 100% |

* Data excluded Unknown officers.

Table 4: Number of Subject Officers Receiving Complaints in 2013, By Years of Experience

| Years of Experience | 0-1+ | 2-4+ | 5-6+ | 7-10+ | 11-15+ | 16+ | Total Number of Officers Receiving Complaints |
|--|-----------|-----------|-----------|-----------|-----------|------------|--|
| Number of Complaints | | | | | | | |
| 1 Complaint | 25 | 13 | 15 | 30 | 46 | 89 | 218 |
| 2 Complaints | 4 | 1 | 6 | 14 | 15 | 13 | 53 |
| 3 Complaints | 2 | 0 | 4 | 1 | 5 | 6 | 18 |
| 4 Complaints | 1 | 2 | 1 | 2 | 1 | 2 | 9 |
| Total Number of Officers Receiving Complaints | 32 | 16 | 26 | 47 | 67 | 110 | 298 |

Table 5: Force Complaint* Relative to Total Complaints — Ten-Year Overview

| Year | Force Complaints Received | Total Complaints Received | % of Total Complaints |
|------|------------------------------|------------------------------|--------------------------|
| 2004 | 62 | 335 | 19% |
| 2005 | 82 | 383 | 21% |
| 2006 | 97 | 444 | 22% |
| 2007 | 117 | 491 | 24% |
| 2008 | 117 | 569 | 21% |
| 2009 | 59 | 316 | 19% |
| 2010 | 60 | 281 | 21% |
| 2011 | 72 | 355 | 20% |
| 2012 | 60 | 329 | 18% |
| 2013 | 88 | 357 | 25% |

*Excluding complaints classified as "inquiry"

Appendix K: Selected Newspaper Article About The IPA Office

San Jose Mercury News » Tuesday, April 23, 2013

LOCAL NEWS

INTRODUCING
BAY AREA NEWS APPS
Download Bay Area News for your iPad and iPhone

Yosemite goes solar

MORE LOCAL NEWS » WWW.MERCURYNEWS.COM » WWW.SANMATEOCOUNTYTIMES.COM

III SECTION B

ANNUAL AUDIT

Complaints about police fall

Decrease of 7 percent comes despite sharp increase in crime, continuing loss of officers

By Mark Emmons and Eric Kurthi
Staff writers

SAN JOSE — Despite a difficult year when the San Jose Police Department endured a sharp rise in crime and a continuing exodus of police officers, including its chief, a new report reveals that in 2012 the force still received fewer formal complaints from the public.

The annual review of Independent Police Auditor LaDoris Cordell found that there was a 7 percent decrease in citizen complaints — numbering 329 — last year.

“That’s a very good thing,” said Cordell, a retired Superior Court judge, after the 182-page report was posted Monday on the city’s web-

site. “I’m getting the impression from people in the community that they understand the police are doing the best job they can under some very difficult circumstances. At the same time, there’s always room for improvement.”

The number of complaints that resulted in officer discipline after internal review was also down, from 10 percent of cases in 2011 to 3 percent last year, a 20-year low. The majority of those cases required officers to undergo training or counseling. None involved resignation or termination of an officer.

San Jose police spokesman Sgt. Jason Dwyer said the department took a proactive stance in the past year to cut down on the number of complaints.

“I don’t know if there was a huge catalyst or a specific event; it’s just an ongoing effort to im-

BY THE NUMBERS

- 10** Percent of cases in 2011 that resulted in officer discipline
- 3** Percent of cases in 2012 that resulted in officer discipline
- 45** Number of homicides in San Jose in 2012
- 30** Percent increase in property crimes from 2011 to 2012
- 930** Number of deployable officers at the start of 2013



NHAT MEYER/STAFF

Independent Police Auditor LaDoris Cordell is a retired Superior Court judge.

See **AUDIT**, Page 7

Audit

Continued from Page 1

prove customer service," he said. "I think we hit the mark this time."

Dwyer said the department held mandatory training sessions that emphasized the importance of initial contact between citizens and officers.

"When things go bad, they usually go downhill from the very first meeting," Dwyer said. "Either you start off on the right foot or you don't."

The auditor's report notes how Cordell's office did not agree with the findings by the department's Internal Affairs Unit in 16 percent of the 345 cases it reviewed in 2012 — either by stating "disagreed" or "closed with concerns." But even that number was a slight improvement from 19 percent in 2011.

Cordell also singled out the force's Internal Affairs Unit for praise, stating that it has become much better in completing investigations in a timely matter and has improved its level of cooperation with the auditor's office.

"I think on the whole this is still a very safe city, and that's remarkable when you consider just how low our numbers (of police officers) have dropped," Cordell said. "That says a lot about the officers, and I applaud them considering everything they face."

Shrunk force

Crime became the hot-button issue in San Jose last year as the city marked a 20-year high with 45 homicides. Last month, the police department released figures that indicated a nearly 30-percent increase in property crimes from 2011. The 28,463 property crimes were the most since 1995.

Also, San Jose's ranking among the country's safest large cities — based on an analysis of FBI data — had slipped to fifth. In the previous five years, the city ranked third or fourth. San Jose ranked tops in the country for a six-year stretch from 2001 to 2006.

"We can't tell the police to do anything. But by shining sunshine on these cases, we're making the system better for everyone and hopefully improving fairness."

— *LaDoris Cordell,*
independent
police auditor

things weigh heavily on officers."

But the report from council-appointed Cordell represents some encouraging signs. The auditor is intended to provide transparency and oversight of the police force by investigating complaints, examining investigations of the Internal Affairs Unit and recommending improvements to procedures and policies.

No rubber stamp

The 329 complaints either came to her office or directly to internal affairs. Cordell's staff also audited all the "force" cases and 80 percent of other conduct cases that were closed by internal affairs last year. The report, for the first time, included summaries of cases where her office disagreed with the department's final decision. The point, Cordell said, is to show the public that her office is not a rubber stamp.

"We can't tell the police to do anything," Cordell added. "But by shining sunshine on these cases, we're making the system better for everyone and hopefully improving fairness."

Those figures added fuel to the raging debate between the police officers union and Mayor Chuck Reed and his City Council allies over the role of pension reform in reducing the size of the department and whether it is driving officers away. The force had shrunk to about 930 deployable officers at the start of the year — before a police academy class of 44 graduated. In 2008, there were more than 1,400 sworn officers.

Following officers out the door was Chief Chris Moore, who retired earlier this year. Acting police Chief Larry Esquivel, a 27-year San Jose veteran, is heading the department while the city searches for a replacement.

"The last couple of years have been hard on cops and hard on residents," Dwyer said. "There's a heavier workload, uncertainty in pay and benefits and a lot of flux — these

The report notes that "contrary to our expectations," officers with greater experience received a larger percentage of negative "courtesy and procedure" allegations compared to officers with less than five years of experience.

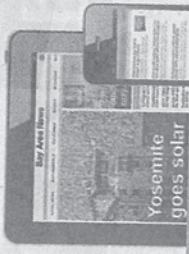
And while Cordell was complimentary of Esquivel, the report makes clear that she was unhappy with the acting chief overturning one of Moore's final decisions to document detentions.

Moore mandated that officers record information such as age, ethnicity and cause for pedestrian stops when no arrests were made. That was a result of Cordell advocating that minorities found the practice of "curb-sitting" to be demeaning. Esquivel quickly suspended Moore's change in procedure.

"It wasn't even out there for 15 minutes," Cordell said. "He thought it was written too broadly. But I don't agree with that."

Contact Mark Emmons at memmons@mercurynews.com and Eric Kurhi at ekurhi@mercurynews.com.

LOCAL NEWS



INTRODUCING
BAY AREA NEWS APPS
Download Bay Area News for your iPad and iPhone

MORE LOCAL NEWS » WWW.MERCURYNEWS.COM » WWW.SANMATEOCOUNTYTIMES.COM

102 SECTION B

SAN JOSE

'Curb sitting' rollout urged

Auditor wants police to begin documenting pedestrian stops

By Robert Salonga
rsalonga@mercurynews.com

SAN JOSE — Community activists have long accused San Jose police of disproportionately "curb sitting" minorities during routine stops and searches, but there has never been data to confirm or dismiss the charges.

Sometime in the next few months, after some internal wrangling, police say they will start collecting information that could shed light on the debate

over alleged racial profiling by city police.

Since the beginning of the year, the breakthrough policy has been batted back and forth within police ranks. In one of his final acts as police chief in mid-January, Chris Moore sought to tackle the question head-on, ordering officers to start documenting age, ethnicity and location in traffic and pedestrian stops.

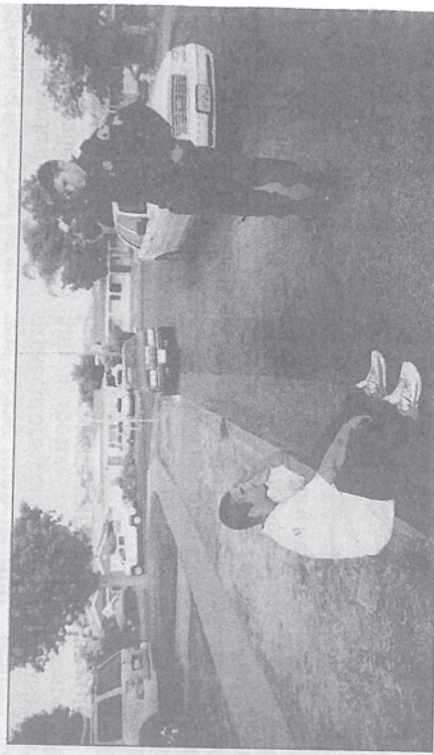
But soon after that, acting Chief Larry Esquivel suspended its implementation. The department said it needed to retool the plan, a move that came under fire this week when the annual report from the city's independent po-

lice auditor lamented Esquivel's decision.

LaDoris Cordell, the auditor and a retired judge, challenged the department's assertion that the original policy was overly broad and would be difficult to implement. Its adoption was a milestone in police-community relations, she said, and the suspension ran the risk of eroding trust from minority groups.

"I respect acting Chief Esquivel. He has immediately established a positive working relationship with our office," Cordell said. "While I disagree with his

See **POLICE**, Page 4



San Jose police Sgt. Jason Dwyer questions a man about a facial tattoo during an uninitiated stop in East San Jose in 2009.

GARY REYES/STAFF ARCHIVE

Police

Continued from Page 1

decision to suspend (the policy), I remain hopeful that he will re-enact it without delay.”

Sgt. Jason Dwyer, a police spokesman, said the delay was necessary to update police computer systems to capture the data so it can be queried, and to narrow its focus to the most-frequent instances. The department hopes to roll out the system over the next few months.

“If we have to experience a delay upfront to do that, it’s a small price to pay for something that will be very useful in the future,” Dwyer said.

Moore’s act would add a section to the department’s duty manual, which guides police conduct. The addition, L-5108, mandates officers record the “justification, manner, duration and scope of the detention and/or search” even in instances where no one is arrested, according to the memo. It also requires officers to record ages and races of those who are searched and detained without arrest.

“The primary purpose for documenting the detention and/or search is that it provides a record that

can be used if the detention and/or search are the subject of a complaint, concern or questions from a member of the public,” according to a memo Moore issued.

Moore issued it Jan. 14, five days before he retired. Ten days later, Esquivel suspended it “until further notice.”

Moore understood the technological dimension wasn’t yet in place, but he declared the policy “effective immediately” in his memo because he wanted his officers to get in the habit of taking down the information, according to city officials familiar with the drafting process. Moore declined to comment for this story.

Some in the rank-and-file initially balked at the breadth of the policy, which covered a wide array of detentions and searches. It was criticized as overreaching and encroaching on the judgment of an officer, being referred to as the “Don’t-do-anything memo” in some circles. Critics said it would discourage officers from making stops to avoid burdensome paperwork. Dwyer said the policy is being narrowed to find a workable solution.

“The original memo covers everything,” Dwyer

said. “As far as detentions go, this is something that occurs a lot. We don’t want to put officers in a position to de-police because it’s too cumbersome and time-consuming to do that.”

Dwyer said the revised policy will address three kinds of nonconsensual searches and detentions: when a person is handcuffed, ordered to sit in the back of a patrol car or ordered to sit on a street curb.

Curb sitting has had a particular resonance in San Jose after “communities of color” complained about being targeted, Cordell said.

“They perceived an officer’s order to curb sit as demeaning, humiliating and unnecessary,” Cordell said.

The police auditor’s evidence is anecdotal; she pushed for the new policy to remedy that.

Documenting events like curb sitting is new in law enforcement. Recording information about traffic stops has been widely practiced, but pedestrian stops were often considered informal acts by patrol officers looking to proactively keep the peace.

“It’s a newer field of data gathering. It’s a very unexamined area,” said Robert Weisberg, law professor and co-director of the Stanford Criminal Justice Cen-

ter.

Raj Jayadev, coordinator of Silicon Valley De-Bug, a media, social-advocacy and business collective based in San Jose, said the policy and its execution are being closely watched.

“It’s critically important for building trust between communities and police to have quantitative data and measurements for those interactions to move us beyond anecdotes and entrenched political positions,” Jayadev said. “The community has been waiting for something tangible to hang their hat on to say this approach of working collectively with police creates a better environment.”

Contact Robert Salonga at 408-920-5002. Follow him at [Twitter.com/robertsalonga](https://twitter.com/robertsalonga).

Kicked to the Curb

BY JENNIFER WADSWORTH



COP WATCH *Independent Police Auditor LaDoris Cordell has helped get San Jose police to start tracking its undocumented stops.*

SAN JOSE police will now have to document every time they stop someone, even if it doesn't result in an arrest. The policy comes in response to accusations of racial profiling from residents and community groups.

The San Jose Police Department's new plan to track "curb sitting," which some residents say unfairly targets minorities, will be the first of its kind in the nation, says Independent Police Auditor LaDoris Cordell.

"No police department in the United States is doing this," she says of the policy that will roll out in phases, starting this month and continuing through the end of the year. "But often police will stop someone and it ends up as nothing. If there are arrests, police make a report. But if someone's stopped and let go, there's no report. That's what we're going to change."

Acting Police Chief Larry Esquivel will not comment publicly on the policy until later, maybe August, says department spokesman Sgt. Jason Dwyer.

Cordell has long urged the department to document curb-sitting incidents to note the reason someone was stopped, their ethnicity, name, age and other data, to determine whether certain groups are targeted.

"There's a perception that people are singled out," says Cordell, a retired judge. "But we don't have the data to find out what's going on out there. Because anecdotally, I hear, especially from people of color, that they're treated a certain way."

Former Police Chief Chris Moore attempted to end the curb-sitting policy back in January, shortly before he retired. But Esquivel suspended it upon taking over the department. SJPD says it needed to iron out kinks in the program, such as making sure the software was in place to take those reports. The question now is: what will those reports show?

"We want to find out what they make people do, why they stop them," Cordell explains. "There's got to be a reason. They have to write why. If they say, 'Because I felt threatened,' they have to explain."

There was some pushback from the rank and file, Cordell says. Some officers told Esquivel the extra work would be cumbersome, while others called Cordell's advisory back in January the "don't get out of your car memo." If local officers, already frustrated by understaffing and higher workloads, felt they had to gather all the data, there was an attitude that they might as well avoid contacting people if they thought it could elevate into a detention.

"Some people said, 'Well, we might as well not get out of the car,'" Cordell says. "But in my mind, this is police work. This is something they should be

►10



sanjoseinside <8

doing anyway. I'm trying to show them that this also protects them."

If someone complains that an officer treated them unfairly, possibly months after an incident, the police could defend their actions by citing the report filed, Cordell says. Otherwise, with no proof, an officer could end up with a "non-sustained" finding in their personnel records, an indicator that there's no way to tell who's right.

"It's significant to communities of color that feel like they're being targeted," she says. "We don't know if it's true or not, but it's a perception. So, doing this is a way of building better relationship and trust. We will

document the things that we do."

Meanwhile, citizen-filed detention allegations have been declining. Maybe part of it is because a smaller staff after years of layoffs has led to a decline in the overall number of pedestrian and traffic stops, Esquivel's memo notes, from 436,855 in 2008 to 309,168 in 2012. Of the 3,625 citizen complaints filed in 2012, only two included comments about curbsitting, the memo continues.

As San Jose prepares to implement the new approach, others have taken notice. A sociologist called to testify in a lawsuit against New York City's controversial stop-and-frisk tactics has

reached out to Cordell, asking to talk about the curbsitting data-tracking.

Cordell says she believes other departments around the country will watch San Jose as it starts data-tracking curbsitting. A lot of agencies have avoided it because their officers see it as a burden, she says.

"I think that's probably an attitude that's in a lot of departments around the country," Cordell adds.

It won't matter soon enough, though, if the department opts to outfit officers with surveillance cameras, as Cordell has advised.

"Then you won't have to even take notes," she says. "It's all on camera."

Internal Affairs

An irreverent inside view of the week
www.mercurynews.com/internal-affairs



OFFICE OF THE INDEPENDENT POLICE

Signs on VTA buses encourage people to call if they have trouble with police.

Police auditor reaches out to VTA bus riders

If you've ridden a VTA bus on the East Side of San Jose over the past couple of weeks, you may be asked a provocative question when you look up at the overhead lights.

"Concerns about a San Jose Police Officer?"

The Office of the Independent Police Auditor commissioned the production of a series of placards to be inserted in bus interiors as part of an ongoing outreach effort to neighborhoods that tend to experience high levels of crime

and, correspondingly, police attention.

"We hope people understand if they do have concerns, that we're here," said **LaDoris Cordell**, the police auditor and



Cordell

a retired judge.

The signs, which in addition to English were translated into Spanish and Vietnamese, feature a multiracial photo array of pensive faces with the question overlaid,

accompanied by the independent police auditor's phone number.

The campaign was based on the pragmatic decision that the bus system is heavily traveled in the targeted areas. The buses involved travel primarily along the East Side through downtown. It was also pragmatic as a way to multiply the reach of an office with six staffers, two of whom are dedicated to outreach.

It's a key goal for the office: Since Cordell was appointed in 2010, she has aimed to improve the public visibility of the office, whose mission largely overlaps with the police department's internal affairs division in fielding complaints against officers.

But Cordell says it hasn't always been clear that her office is detached from the police, freeing citizens from the conundrum of complaining about police to the police.

Her office consulted with police, including acting Chief **Larry Esquivel**, on writing the language for the signs.

The introduction of the signs coincides with a new wave of rookie officers hitting the streets and a gang-suppression effort targeting many of the neighborhoods served by the buses.

"This was a good time to reach the population," Cordell said.

'MAKE THE CALL, SAN JOSE!'

Local TV to tell stories of unsolved murders

Independent police auditor collaborates with SJPD

By Robert Salonga and Mark Emmons
Staff writers

SAN JOSE — Someone knows something. The city isn't big enough for their attackers to completely disappear.

That's the case with two unsolved killings this year, both involving young fathers working to turn their lives around. But no one has come forward with even a scrap of information that might help solve the crimes and bring closure to the families of 17-year-old Anthony Santa Cruz and 20-year-old Justin Watkins.

Both murders are highlighted in the

inaugural episode of an upcoming series to be shown on local television, "Make the Call, San Jose!" The goal is to generate new leads on cases that have grown cold by showing the emotional wreckage left in the wake of murder.

"Hopefully people will watch this show and come forward and justice will be served," said Hardy Watkins, Justin's uncle, at a news conference Friday outside the San Jose Police Department headquarters.

Standing next to him, Elsa Lopez fought back tears as she talked about her son, Santa Cruz, and how she's striving to keep his case in the public eye.

See CALL, Page 4

MAKE THE CALL

"Make the Call, San Jose!" premieres at 7 p.m. Nov. 29 on local access Channel 30. Anyone with information about an unsolved homicide featured in the program can leave a tip with Silicon Valley Crime Stoppers at 408-947-STOP (7867) or with svcrimestoppers.org.



Watkins
Killed May 26 on Hayes Avenue in front of several witnesses.



Santa Cruz
Killed Feb. 13 near San Jose High. He was the father of a young son.

Call

Continued from Page 1

"This is hard for me, but I have to do it," Lopez said. "I'm a mother."

"Make the Call" is the brainchild of LaDoris Cordell, a retired judge who serves as San Jose's independent police auditor. She hosted a similar program in East Palo Alto and approached San Jose Acting Chief Larry Esquivel to bring the idea to the city. He approved \$1,000 of department funds toward producing the show with the collaboration of community-based CreaTV.

"We generally have a high solve rate," Esquivel said. "But these are examples of cases where we just don't have the leads for further investigation. We need the help of the community to get us moving in a certain direction and help us apprehend these people."

The frustration in the Santa Cruz case is that there were at least 30 witnesses to his stabbing, but they couldn't identify the two attackers. It occurred on Feb. 13 near San Jose High School right after classes had let out.

Meanwhile, Watkins was shot in the line of sight of several people on the night

of May 26 along Hayes Avenue off Monterey Road.

"No one should get away with murder," Cordell said. "Until someone speaks up, people are going to get away with murder."

Six shows are being produced to bring attention to 12 cases where the investigative trails have cooled. They will be broadcast on the local-access Channel 30 as well the IPA and SJPD websites.

"My hope is that whoever knows something, if they can see my pain, they just call so I can have justice for my son," said Lopez, who has gained prominence as a victims rights advocates.

Cordell believes that the raw emotion expressed by Lopez and Hardy Watkins will make people understand the continuing anguish of loved ones and compel them to tell the police what they know — even anonymously.

In the program, both relive the experience of finding out about the murders.

Santa Cruz, a San Jose High football player and father of a young son, had walked away from a verbal exchange with two males outside a corner store. But he was stabbed in the heart and managed to make it to his grandmother's house where he collapsed in his aunt's arms. Lopez has

vivid memories of catching a glimpse of her dead son's legs on a couch but not being allowed in the house by police investigators.

"When I think of that day, I say: 'Anthony, why did you have to go to the store?'" Lopez said.

Across town, Justin Watkins, father of a 1-year-old daughter and three days shy of his 21st birthday, was walking home from a shift at the GameStop at Oakridge Mall. He was struck by a bullet on Hayes Avenue.

The next morning, Hardy Watkins thought his nephew was sleeping in his bedroom when a police officer arrived.

"When I pushed his door open and he wasn't there, my heart just broke," he said.

Hardy Watkins said he warned his nephew, who had relocated from Ohio, about staying away from certain areas — including where he was killed. He has since learned that at the time, kids were on the street with a clear view of what happened.

United in grief, both Lopez and Hardy Watkins say they just want people to come forward with what they know.

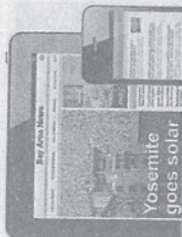
"I don't want retaliation," Lopez said. "I want this done the right way. I don't want another mother crying."

San Jose Mercury News » Sunday, October 27, 2013

LOCAL NEWS

MORE LOCAL NEWS » WWW.MERCURYNEWS.COM » WWW.SANMATEOCOUNTYTIMES.COM

Peninsula, West Valley, San Mateo County



INTRODUCING
BAY AREA NEWS APPS
Download Bay Area News for your iPad and iPhone

Yosemite goes solar

102 SECTION B

SAN JOSE POLICE CHIEF

Remove 'interim' tag?

Leaders weigh in on city manager's recommendation

By Robert Salonga
rsalonga@mercurynews.com

SAN JOSE — San Jose City Manager Debra Figone's hushed announcement Friday that she'll recommend acting Police Chief Larry Esquivel for the permanent job has been embraced by community and civil-rights leaders, who lauded his stewardship in the face

of thinning ranks. "He's been doing a great job under the circumstances," said Walter Wilson, a board member of the African-American Community Service Agency. "The fact is he's been holding the thing together during a difficult time."

Indeed, Esquivel, 51, has been credited with creatively using limited resources — just over 1,000 officers to protect a city of nearly 1 million people, down from 1,400

See **ESQUIVEL**, Page 12



DAI SUGANO/STAFF

ON LARRY ESQUIVEL:

"The fact is he's been holding the thing together during a difficult time."

— Walter Wilson, a board member of the African-American Community Service Agency

"He's lived here all his life. He knows what it's like out here." — Pastor Sonny Lara

cops five years ago — to combat spiking crime rates. Most notable was last summer's crackdown that cooled boiling gang tensions.

Those efforts didn't go unnoticed in neighborhoods in the southern and eastern parts of the city that have been historically plagued by gang violence.

"They've got these guys on the run now. They're not hanging where they used to be," said Pastor Sonny Lara, a prominent anti-gang activist in San Jose.

Part of the reason, Lara said, is that Esquivel stands to be San Jose's first home-grown chief in recent memory. A graduate of Yerba Buena High School in the East Side Union High School District, he was raised by a single mother near 24th Street and Virginia Avenue — long a hot spot for gang activity.

"He's lived here all his life," Lara said. "He knows what it's like out here."

Esquivel, who has had the "interim" tag since Chris Moore retired in January, could not be reached for comment Saturday.

As would be expected with any big-city chief, the 28-year department veteran has found himself in political cross hairs, most notably with his handling of a breakthrough policy compelling patrol officers to record the ethnicity or race of people who were detained but not arrested during street stops. Previously, the stops were not routinely documented — something that was criticized by community and civil-rights advocates, who argued that members of disadvantaged minority groups were disproportionately ordered to sit on street curbs while being interrogated and searched by police.

One of Moore's last acts in office was to put his signature on the new policy, but Esquivel suspended it shortly afterward, citing the logistical demands of updating computer systems and retraining the rank and file — many of whom complained that it was cumbersome and as initially drafted stood to discourage proactive patrols.

The decision elicited concerns from community groups and Independent Police Auditor LaDoris Cordell, a former judge who

spearheaded the policy. It even earned a harsh rebuke from former local NAACP branch President Benjamin Todd Jealous at an April function in San Jose — which appeared to blind-side Esquivel.

Cordell later said Jealous' criticism was unfair and eventually came around to Esquivel's thinking in terms of how to roll out the policy with maximum buy-in from his officers. Cordell's comments were echoed by Raj Jayadev, coordinator of the civil-rights collective Silicon Valley De-Bug. He had similar initial concerns but was heartened to see the chief follow through with the policy, which is now being enforced.

"My take-away from that is that he will listen and — more importantly — respond to community concerns to inform his decisions," Jayadev said. "From a civil-rights perspective, it is that type of leadership we need in San Jose to build back public trust in law enforcement."

The primary troubles that have hounded Esquivel's 10 months in charge were inherited — namely a bitter pay and benefits battle between the police union and City Hall that many blame for driving out officers, who since 2011 have either retired or resigned at a clip of nearly 100 a year. Adding to the pain was the revelation last week that

nearly half of the recent graduating police academy class are exploring jobs elsewhere in search of better compensation.

His pending appointment as permanent chief has also raised questions about how robust the search for Moore's replacement really was.

Cordell, who sat on the citizens advisory board that interviewed prospective candidates, said members may have suffered "fatigue" from an initial January search that proved fruitless. Like his colleagues, Wilson said he backs Esquivel but acknowledges that could be problematic in future searches.

"We need to be able to reach out and find the best and brightest," Wilson said.

But Lara, the anti-gang activist, is less enchanted by the idea hiring a chief from outside who has to learn the city. He touted Esquivel's experience with the Police Department and as a product of one of San Jose's grittier communities.

To Lara and the people he serves, they take notice when he does neighborhood walks in full dress blues, when he routinely makes personal visits to the families of homicide victims in the city.

"He's not the magic bullet. No one is," Lara said. "But he can hit it running. He's already running."

Appendix L: 2013 IPAAC Members

| Name | Employer | Occupation |
|------------------------|--|--|
| Astacio, Mauricio | Barracuda Networks | Sales & Marketing |
| Bailey, Robert | Pratt & Whitney Space Propulsions (Ret.) | Naval Officer/Rocket Scientist |
| Barousse, Joshua | Dave Cortese for Mayor 2014 | Field Director |
| Bui, Mydzung | Santa Clara Unified School District | Educationally Related Mental Health Services Coordinator |
| Callender, Norma | Self-employed | Semi-retired Independent Paralegal |
| Colar, Linda Young | The Colar Team, Coldwell Banker Realty | Realtor |
| Fadem, B.J. | Law Offices of B.J. Fadem & Assoc., APC | Attorney |
| Hammond, Che | Netflix, Inc. | Software Engineer |
| Martinez, Telina | Dependency Advocacy Center | Mentor Parent Program Manager |
| McKee-Stovall, Delorme | Santa Clara County Office of Human Relations | Human Relations Manager |
| Morales, Hilbert | Publisher | El Observador |
| Ramirez, Yesenia | Business Services Coordinator | Evergreen Valley College |
| Saban, Panteha | Santa Clara County Public Defender's Office | Attorney |
| Shelton, Merylee | San Jose City College | Professor |
| Taliva'a, Alofa | Volunteer | Community Activist |
| 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 Clinical and Regulatory Affairs |



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 José 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-Daley, former Independent Police Auditor, designed this logo.

This report was reproduced at taxpayers' expense.

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

*Office of the Independent Police Auditor
75 East Santa Clara Street, Suite P-93
San José, California 95113*



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

75 East Santa Clara Street, Suite P-93
San José, California 95113

Tel: 408.794.6226

TTY: 408.294.9337

Fax: 408.977.1053

www.sanjoseca.gov/ipa

Email: Ind_Pol_Aud@sanjoseca.gov