COUNCIL AGENDA: 06-21-06
ITEM: 1-4

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Barbara Attard

SUBJECT: **SUPPLEMENTAL IPA Response to The Administration's Response to Police Related Reports and Macias Documents**

DATE: June 18, 2007

Approved

Date 06/18/07

RECOMMENDATION

That the Council consider adoption of the recommendations in the IPA 2006 Year End Report for strengthening the complaint and oversight processes.

BACKGROUND

The City Council and the Rules and Open Government Committee authorized the SJPD to perform a study of internal affairs practices of other cities to identify best practices.
For the purposes of this survey, the Department was directed to contact other law enforcement agencies of comparable size to determine how other jurisdictions process citizen complaints, how complaints are defined and how that data is collected. "The final report to Council will be prepared by the Police Department in collaboration with the City Manager's office and the Office of the Independent Police Auditor." (emphasis added) The Department was also directed to determine how other jurisdictions define and track racial profiling.

Rather than proceeding as outlined in the at the August 8, 2006 Rules Committee Meeting, the City Manager hired Macias Consulting Group, a private consultant, to both write the report analyzing the study questionnaires and to re-calculate the IPA complaint statistics for inclusion in the City Manager's "Administration's Response to Various Police Related Reports" (Administration Response). Both the Macias Report and the Administration Response contain misstatements about civilian oversight and the role of the Independent Police Auditor, improper premises for analysis resulting in inaccurate data and reporting, and failure of the consultant to provide independent, objective analysis.

ANALYSIS

The City Manager, in the Administration's Response, has made recommendations to the City Council based upon information provided by the Macias Consulting Group (Macias); however, the presentation of pertinent information is not accurate or complete, baseline premises are improper, and the analysis itself is not independent. Macias makes representations that do not accurately characterize the citizen complaint process in San Jose. Macias misstates information

about the complaint process and complaint data in San Jose and has provided the City Manager recalculated charts and graphs based upon information that is not accurate, namely asserting that inquiries, as classified by the SJPD Internal Affairs division, are not complaints and should not be included in the number of total complaints filed. The Macias Report does not document any independent analysis of whether actual inquiries contained, or did not contain, allegations of misconduct. Macias does not document any independent analysis of how many inquires were documented and that a sergeant actually phoned a citizen and verified that matters of concern were resolved. In fact, the Macias Report fails to document any rigorous or independent analysis of the IPA contention that the majority of the complaints classified by SJPD do contain misconduct allegations and are being misclassified, based upon the **SJPD's own definition of complaints.** Based upon this uninformed analysis, Macias and the administration attempt to challenge the validity IPA report and recommendations.

In this memo the IPA will address several problems in the information provided by the Macias Consulting Group:

1) General inaccuracies and omissions of the Macias Final Report on the internal affairs study, dubbed "San Jose Internal Affairs Peer Review Study":
   - the failure of the Macias Consulting Group to include significant information from other agencies contained in the actual surveys and the Macias Summary of the survey data,
   - failure of the Macias Consulting Group to acknowledge the SJPD practice of classifying complaints that contain articulated issues of misconduct and dissatisfaction as "inquiries,"
2) the mischaracterization of the number and content of complaints about traffic citations classified as inquiries,
3) misrepresentation of the rate of agreement/disagreement between the IA and the IPA regarding complaint classifications, and
4) failure to interview/survey the San Jose Independent Police Auditor as part of the study, whereas all other oversight agencies for departments surveyed were interviewed.

This memo also responds to inaccurate assertions and conclusions made in the Administration's Response to Various Police Related Reports:

- The misrepresentation of the role of the Independent Police Auditor
- The reliance on incorrect statistics provided by the Macias Consulting Group
- The representation of Macias Consulting Group as "independent" although Macias was provided the IPA DRAFT 2006 Year End Report and the City Manager's Response to that report.

The skewed data, questionable statistical analysis, and improper conclusions drawn by Macias and echoed by the administration call into question the findings and recommendations made in both the Macias and the Administration's reports.

1. Inaccuracies and Omissions in the Macias Report

<u>Failure to include significant information from other agencies contained in the actual surveys and the Macias Summary of the survey data</u>

A review of the Final Macias Report (Report) and the Macias Summary (Summary) of the survey results on which the final report relies, reveals material information that was provided by the responding agencies that was not included in the Macias Report. It also appears that Macias failed to recognize the significance of the details when making their findings about the inquiry classification.

The primary concern of the IPA is the SJPD's use of the "inquiry" category when a citizen's concern articulates misconduct or dissatisfaction with the San Jose police. The concern rests on the fact that there is minimal investigation of a complaint classified as an inquiry, and officer names are not tracked, regardless of the nature of the allegation or the seriousness of the facts alleged. Though the SJPD maintains that an inquiry is not a complaint, and the Macias Report recommends calling them "non-complaints," as presented below the reports of the majority of incidents SJPD IA classifies as inquiry are, in fact, complaints.

The SJPD Internal Affairs Guidelines define a misconduct complaint as, "*If, after the initial investigation, it is determined that the facts of the allegation are such that, should they be sustained, the allegations would amount to a violation of the law or the Department policies, procedures, rules or regulations*."[1]

The Macias Report indicates that other law enforcement agencies commonly accept "inquires." However, their report does not indicate how the other agencies use that category. Based on a review of the actual survey documents and the Macias Summary of the survey responses, the IPA found that the other law enforcement agencies that have a category similar to inquiries also place certain restrictions on when and how that category can be used, the type of investigation which the category entails, and whether officer's names are tracked. The failure of the report to include available details about how each agency uses the "inquiry" category leads to an inaccurate overview of the classification process.

For example: The Macias Report states: "*For example, San Diego Police Department (SDPD) captures any issue of concern that is immediately resolved to the satisfaction of the individual, which does not give rise to a complaint as 'Miscellaneous.'"* The Macias Summary of the survey responses reflects that San Diego uses this category when a complaint **does not fit** their description of a formal complaint. Formal complaints are defined as Category I (force, arrest, discrimination, criminal conduct and slurs) and Category II (procedure, courtesy, service and conduct). The summary also reveals that San Diego uses an "inquiry" category, which is similar to the SJPD's "complaint withdrawn" category. The SDPD "inquiry" category is **only used after a completed formal investigation**, where the complainant actively withdrew the complaint.

In reporting the procedures in Hawaii, the Macias Report indicates that *"Hawaii also has a 'Miscellaneous' category where no formal investigation is conducted."* This limited description fails to report that Hawaii uses this category only when there is **no substance** to the complaint.

The Macias Report indicates that *"the Sacramento Police Department does not consider 'Inquiries' to be complaints, and 'Inquiries' may be handled informally by the Department."*

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[1] The IA Guidelines also define other categories of complaints other than misconduct complaints (procedural, policy complaints and "command review").

The Macias Summary of this agency, however, also states that **officer's names are tracked** for purpose of the early warning system.

The Macias Report states *"For the remaining two agencies – San Francisco Police Department (SFPD)*[2] *and the Oakland Police Department – there is no 'Inquiry' or similar category."* The Report fails to state that Oakland has an "Informal Complaint Resolution (ICR) Category" and that the ICR is a method of addressing service complaints and allegations of Class II (minor) misconduct that do not indicate a pattern of misconduct. In the ICR cases a supervisor, commander, manager or investigator resolves the complaint by addressing and resolving the issues with the complainant and the officer, and that **officer names are listed** in IRC cases.

The Macias Report states that *"the Phoenix Police Department will not accept a complaint if there is no apparent violation of departmental policy or procedural violation…"* However, the Macias Report table 2.0 reflects that that Phoenix, like Oakland, has an "inquiry" category. Not reflected in the Macias Report is that the Summary reveals that in Phoenix, "cases of dissatisfaction with police service which **do not rise to the level of misconduct** are handled by a supervisor" which is similar to the "inquiry" category used by SJPD.

The Macias Report narrative and table 2.0 (on page 18) use labels and broad definitions which fail to illuminate the crux of the issue. The fact remains that most other agencies impose restrictions and limitations on what matters are put into the ambiguous "inquiry" category. It appears that some agencies include cases with only minor misconduct in this classification; other agencies require that an inquiry not allege any misconduct, and in Hawaii an inquiry is a used when a complaint lacks substance altogether. Thus, the "inquiry" categories of other law enforcement agencies are more defined and restrictive than the San Jose classification to which they are being compared. Please see **TABLE 1, Appendix 1** for additional documentation of this omitted information.

<u>Failure to acknowledge the SJPD practice of classifying complaints that contain articulated issues of misconduct and dissatisfaction as "inquiries"</u>

The SJPD Internal Affairs Guidelines define a misconduct complaint as, "*If, after the initial investigation, it is determined that the facts of the allegation are such that, should they be sustained, the allegations would amount to a violation of the law or the Department policies, procedures, rules or regulations*."[3]

In reporting the complaint process and the inquiry classification as used by the SJPD, Macias supports the SJPD position that an inquiry is not a complaint. Since its inception the IPA has raised issues with misclassifying and undercounting complaints and, in the last two years, has documented and challenged the use of the inquiry classification that allows complaints alleging

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[2] Although not documented in the surveys, the civilian-run San Francisco Office of Citizen Complaints, the investigating agency for all citizen complaints against SFPD, uses written member response forms for minor complaints.

[3] The IA Guidelines also define other categories of complaints other than misconduct complaints (procedural, policy complaints and "command review"). In the Duty Manual and on the SJPD website similar definitions of **complaint** are presented.

misconduct to be misclassified as inquiries. See **Appendix 2, "Early IPA Challenges to Classification Practices of SJPD Internal Affairs and SJPD Response."**

Many complaints from the community received by both IA and the IPA, that clearly articulate officer misconduct in their statement of the incident, have been classified as inquiries by IA.

The IPA objects to complaints from citizens being classified as inquiries by IA, thereby receiving only minimal investigation, not tracked in officers' records, and not available for discovery in criminal cases (*Pitchess* motions) or for risk management. The IPA has selected 12 complaints audited in 2006 that Internal Affairs classified as inquiries, each containing articulated allegations of misconduct and or citizen dissatisfaction. Little, if any, investigation was conducted, and the officer's names were not recorded. In some cases the notations indicated IA had asked a sergeant to call the complainant to address concerns, but there is no record of the result of the contact.

In one case the complainant was told that because his complaint of unnecessary force was more than 12 months old, no investigation would be conducted. No details were recorded about the incident, no information was offered as to why the reporting of the complaint had been delayed, and the officer's identity was not determined and/or recorded. The complaint was closed as an inquiry. In another case, where mediation would have been an excellent option, a complainant reported she was unnecessarily detained and treated rudely by SJPD because a merchant had mistakenly accused her of theft. The complainant wanted an apology from the officers or a supervisor. The case was classified as an inquiry and the summary indicates a sergeant was asked to contact the complainant. It was left to her to call IA back if she was not satisfied by the result, yet here is no record that the sergeant contact occurred.

In many cases, the IA summary noted that the information was conveyed to a supervisor who was asked to address the complainant's concerns. Most of those summaries contain no follow up information or confirmation that the follow up occurred. It is left to the citizen to call IA back if they are unhappy with the resolution. This is an unfair burden to place on a complainant who has taken the initial steps to file a complaint. In the last year many complainants have reported to the IPA problems they have encountered with the IA intake process. These issues were documented and forwarded to Chief Davis and the City Manager. The complainants elected not to pursue filing a formal complaint after their initial dissatisfaction with the process. A sample of the issues raised are:

- IA requirement that all complainants complete an in-person interview at the IA office during normal business hours, even after a formal IPA interview has been conducted.
- The IA description of the formal process makes it sound cumbersome.
- Implied disbelief of the complainant's version of the incident and/or verbal defense of the subject officer's actions during the intake interview.
- Telling complainants that nothing will happen with their complaints.
- Intake interviews are perceived as confrontational interrogations.
- Telling complainants that they cannot bring their attorney to the interview.

Provided in the textbox below are sample complaints that would fit into the above definition that have been classified by Internal Affairs (IA) as inquiries, yet contain misconduct allegations that

warrant investigation. It is cases such as these that have gone without tracking officer information and without full investigation:

CASE STORIES OF MISCLASSIFIED INQUIRIES

1. The complainant was referred to IPA by a council member. Police came to the house. They did not ask for consent to search or provide a warrant, grabbed, searched and arrested her husband – stating he was the man they were looking for. She stated she asked for, but was not provided the officers' names or badge numbers (required by the SJPD Duty Manual) and one officer told her "You cannot file a complaint on this case." IA determined that 5 minutes after the officers had entered the house they were advised that the man they wanted did not live there.

2. The complainant called IA from jail to report that SJPD officers used excessive force when he was arrested 14 months before. He stated he was punched, kicked, and dragged out of the shower. IA informed him, "per policy, his complaint would not be investigated as the incident occurred over a year ago." IA classified and closed the case as an inquiry.

3. A citizen called IA to report his wife received a traffic citation. The citizen was concerned because his wife told him the officer first asked her if she had any money before he issued her a citation. The IA officer explained the complaint process to the citizen and he said he would be satisfied if the officer's supervisor spoke to the officer about this issue. A sergeant contacted by the IA officer said he would speak to the officer about the citizen's concerns. Whether the incident involved a potential bribe was not addressed by the investigation.

4. The complainant called IA to report an incident she witnessed. She reported that she felt officers unnecessarily Tasered a mentally disturbed man during an arrest. She wished to remain anonymous. The complainant did not want to follow through because he was initially told he could not have his attorney present. The complaint was classified as an inquiry and no investigation was conducted

5. The complainant called the IPA. He reported that a car being driven in a school parking lot after school, with a boy riding on the hood, was stopped by an SJPD officer. When the driver did not follow the officer's order to get out of the car he drew his service weapon and pointed it at the driver of the vehicle, and ordered him out. The complainant told the IPA he felt the officer's actions were unnecessary and very unsafe given the presence of students in the area.

6. A Spanish speaking complainant called IA to report she and her son were racially profiled when they were stopped for a vehicle code violation. They also stated the officer was rude. IA recorded allegations of Racial Profiling and Rude Conduct. The complainant told the IPA that IA did not discuss complaint classification with them, and told them the officer had done nothing wrong.

7. A minor and his mother came to IA alleging that an officer used unnecessary force during his arrest at a local high school. The complainant alleged he was punched multiple times and received a black eye during the incident. The IA officer said he spoke with the complainant and

after "discussing the incident" she understood why the officer used force. After the officer "explained the complaint process" the complainant opted to proceed with an informal complaint. The complainant wanted the officer informed of her son's mental condition (bipolar).

8. The complainant called the IPA. He stated he had been stopped at least 4 times in the last 6 months – while riding his bicycle. The officer told him they often stop people on bicycles at night because they are often selling drugs or under the influence. The complainant was not cited or arrested. When he told the officers he was tired of being stopped all the time, one officer said "I don't care. It's not my problem." He said that when he asked if he could leave, an officer said, "You'll go when I tell you to go," and "if you don't just sit here, I'll give you a ticket." The complainant told the IPA he feels he is being harassed as a bicycle rider at night, tested each time for being under the influence of drugs, and never arrested. He stated he felt he was being stopped because he was "non-white."

9. The complainant called IA to discuss his contact with SJPD officers. None of the facts were recorded in the IA entry and no allegations were identified. The complaint was referred to a sergeant and the complaint was closed as an inquiry. During the audit process, when IPA contacted the complainant, the complainant's wife reported that the officer had verbally abused them and also "left bruises." The wife reported that the officer called them "white trash." She also said they did not file a formal complaint because they were told they could not bring an attorney with them to the IA interview. She stated that the complainant was placed back on probation as a result of this police contact.

10. The complainant called IA stating that an SJPD officer had intimidated her when she was confronted by an officer who told her he could have towed her vehicle. She stated she had left a message for the officer's supervisor and had not received a call back. IA recorded an allegation of Rude Conduct and closed the case as an inquiry. When the IPA audited the complaint the complainant told the IPA that the officer swore and yelled at her, refused to listen, and screamed at her spouse. She stated the IA officer tried to talk her out of a formal complaint.

11. The complainant called IA to report that he was dissatisfied with how an SJPD officer treated his wife and son while responding to a call involving the assault of his son. He told IA he had spoken to a supervisor that night but was not satisfied with the supervisor's response to his concerns. IA recorded no allegations. The case was classified as an inquiry with a note that a lieutenant would contact the citizen.

12. The complainant contacted the IPA. She alleged that an SJPD officer offered to assist her in serving a restraining order on her ex-boyfriend in exchange for her assisting the police locate him for another case. The officer failed to serve the papers as offered, failed to notify the complainant he did not serve the papers, allowing the documents to become stale which then required new court filings. According to the IA summary the complainant indicated she wanted to think things over before proceeding. The case was closed as in inquiry. The IPA filed a memo objecting to the inquiry classification and identifying clear violations of SJPD Duty Manual C1411which reads: "*When representing the Department, members will not serve civil process nor will they render assistance in civil court cases except when the City of San Jose is a party…*" The nature of the allegation supports a Department Initiated investigation in the absence of the complainant's interest in proceeding."

2. Mischaracterization of the Issue of Traffic Disputes Classified as Inquiries

The Macias assertion echoed in the Manager's report on page 13 that "the SJPD [is] the only law enforcement agency that accepted citizen concerns that were related to traffic stops" inaccurately reflects the facts of the complaints referenced. Page 15 of the Manager's report states "SJPD IA reviewed over 200 inquiry cases filed in 2006 and found that 13% of the cases (28 cases) were traffic related cases. Inclusion of traffic disputes that are resolved by traffic court further skews the IPA report results." This statement is either a misrepresentation or a misunderstanding of the actual complaint information on record.

The IPA identified 27 cases classified as inquiries that were proximately related to a traffic stop or citation, and six other peripherally related complaints. Eleven of the 27 cases identified were intakes by the IPA; sixteen cases were initiated through IA. While each of the complaints contains a reference to a vehicle stop or vehicle code violation, none of the 27 complaints solely contested the validity of the citation. Each of the complaints contained additional information about the conduct of the SJPD officer, about which the complainant was dissatisfied. The allegations ranged from Improper Procedure (13 recorded allegations) and Rude Conduct (11 allegations) to Unlawful Arrest, Unlawful Search and Unnecessary Force.

The Macias Report suggests that the inquiry numbers are inflated because the SJPD, unlike other agencies, accepts complaints about the validity of a traffic citation that is properly resolved in traffic court. All traffic-related cases found in the database contained misconduct issues that will not be addressed by a traffic court and should be addressed through the complaint process.

<u>Tracking of Officer Names in Inquiry Cases</u>
The Macias Report states that since April 2007 the SJPD has adopted a procedure to track the names of officers reported in cases classified as inquiries. A review of the IA/IPA shared data base reveals that no officer names appear in the inquiry case records.

3. Misrepresentation of the rate of agreement/disagreement between the IA and the IPA regarding complaint classifications

In the recalculations and tables presented for the Administration's Response to Various Police Related Reports, the Macias consultants have erred in their calculation data. For purposes of recalculation, Macias removed the 233 cases classified as inquiries from the total number of cases received by the IPA, based upon the misconception that the inquiries were not complaints. In all of their recalculated charts Macias used the baseline of 211 cases to make its charts and comparisons.

By removing the inquiries from their data, Macias changed its baseline when reporting the rate of agreement between the IPA and IA in order to minimize the level of disagreement between the two agencies regarding the classification of cases. The Macias calculations, as referenced by the Manager's report, indicate that the IPA agreed with 95% of the classifications made by IA. This number is established based on the 18 cases with which the IPA disagreed with IA regarding classifications. When calculating this percentage, Macias included inquiries in the number of

cases closed (346 cases). Yet, Macias does not document the number of inquiries audited and the number of inquiries that the IPA reports as being misclassified (118 complaints). When properly included, the total number of cases with which the IPA disagreed with the classification is 137, 40% of the cases closed in 2006, not 5% as stated by Macias.

4. Misstatements that the Macias Report reflects independent study and analysis

The IPA is concerned that the Macias Report is projected as a independent document, free from possible influences from the Administration and SJPD. This projection does not accurately reflect the sources of information upon which Macias drafted its Report. As a primary example, Macias' analysis of the source data did not reflect that there was no survey or interview conducted with the IPA whereas all other oversight agencies for the various police departments were interviewed. When questioned about the failure to include an interview of the IPA, the administration assured the IPA that she would be contacted by a representative from Macias for IPA input. IPA information was not obtained. When questioned about this omission, the Macias representative stated that she did not conduct any interviews of any police department or agency, the interviews and documentation were provided by IA.

Furthermore, Macias was provided, and made assessments, based upon draft documents of the IPA's 2006 Year End Report and the Administration's response to it. In addition to the circulation of such confidential draft documents as being improper, it does not seem appropriate to base assessments and analysis on drafts, which by definition are not complete or final. The comparable data in the Macias report was for calendar year 2005 and the IPA 2005 final Year End Report would have contained the pertinent figures. Macias did not provide assessments or analysis of 2006 data; hence receipt of the 2006 draft report was not pertinent or relevant. The Executive Summary of the Macias Report delineates the items which the City Council requested the SJPD study; review and comment on the IPA's 2006 Year End report is absent from that list.

APPENDIX 1

TABLE 1: IPA Table including material findings as reported in the MACIAS SUMMARY

Macias Report Table 2.0		**Summary of surveys from the Macias Report, including information material to the analysis**	
City	**Macias' designation of "similar categories"**	**Macias' description of Inquiry category (From Macias summaries and SJPD IA questionnaires)**	**Retention of officers names** (from Macias table 7.0)
San Jose	"Inquiry"	**Any contact** with a citizen in reference to any issue of concern that is immediately resolved to the satisfaction of the citizen, which does not give rise to a complaint. Any concern that is not immediately resolved to the satisfaction of the citizen can become a complaint. OR The complainant alleges he/she was issued a traffic citation and he/she did not commit the infraction alleged. The complainant should be referred to Traffic Court as the proper venue to address the complainant's concerns.	Officers names **are not retained**.
Denver	Issues resolved at the field level or at IAB intake are not considered to be complaints	All calls of dissatisfaction are classified as complaints.[4]	Officers names **are retained**.
Honolulu	"Miscellaneous"	The "miscellaneous" category is generated when there is **no substance** to the complaint	No, not documented or filed as complaints.
Oakland	OPD has "Informal Complaint Resolution (ICR) Category CCRB does not have any such category	ICR is a method of addressing **service complaints** (inadequate policy, procedure, practice, service level or legal standard/statute required of the Dept. that would not result in discipline) and allegations of Class II misconduct that do not indicate a pattern of misconduct. Class II offense include **all minor**	Officers names **are retained.**

[4] Denver Police policy does allow for supervisors to resolve "complaints" in the field following certain criteria. Denver Police Department Operations Manual section 503.01(4)(b) outlines this process. It states that the Supervisor or command officer receiving the complaint shall make an initial determination whether the complaint describes possible misconduct. If the supervisor "concludes that the complaint should be handled as a service complaint or describes possible misconduct, the complaint shall be documented" and forwarded to Internal Affairs. DPD 503.01(4)(b)(1). If, under DPD 503.01(b)(2), the supervisor "concludes that the complaint does not state a violation of a law, policy, procedure, rule or regulation, the supervisor may resolve the issues by explanation" and no further investigation will take place; if the complainant is satisfied, then no case number is assigned and the complaint is not tracked. The Operations Manual seems to indicate that complaints that describe possible misconduct cannot be resolved at field level. This information was not listed in the Macias summary and these Operations Manual sections were not reflected in the summary.

		misconduct offenses.	
Phoenix	"Inquiry"	A complaint is a violation of law or policy that, if sustained, would result in disciplinary action. Cases of dissatisfaction with police service **which do not rise to the level of misconduct** are handled by supervisor similar to SJPD's "inquiry" category.	Officers names **are retained.**
Sacramento	"Inquiry"	Inquiries are complaints where the complainant agrees to have his concerns addressed informally. These are concerns where the complainant is either satisfied that the employee's actions were within policy/procedure; complaints where the complainant retracts their complaint; or concerns where the complainant wants the employee's supervisor notified of the employee's conduct.	Officers names **are retained.**
San Diego	"Miscellaneous"	If a citizen is unhappy with police service, **and** their complaint **does not fit the description of a formal complaint**, it is often referred to in the "miscellaneous" category. Formal complaints are Category I (force, arrest, discrimination, criminal conduct and slurs) and Category II (procedure, courtesy, service and conduct).	**Yes** but filed by complainant not the officer.
San Francisco	None		N/A – OCC does not have an "inquiry" or similar category
Seattle	"Supervisory Referral Category"	Some expressions of dissatisfaction are resolved by having the officer's supervisor contact the citizen who is dissatisfied.	Officers names **are retained.**

APPENDIX 2

Early IPA Challenges to Classification Practices of SJPD Internal Affairs and SJPD Response

1993 IPA First Quarterly Report
In its first quarterly report, the IPA recommended a change to the procedural classification and stated that the classification should not be used to classify any complaint where the facts provided by the complaining citizen alleged misconduct. The report further stated "additionally when an Internal Affairs Officer faces a situation in which it is difficult to determine whether to make a complaint, a formal misconduct complaint or a procedural complaint, the officer should choose the most careful and thorough path, make the complaint formal, and have it appropriately investigated as a misconduct complaint."

SJPD Response
In its 1993 response to the auditor first quarterly report, the chief of police indicated that changes would be made in response to the proposed recommendations. The response mentions use of the "informal process" used to address citizen concerns involving "minor transgressions." The SJPD outlined its use of the formal process as follows:

> *Should a citizen request a formal investigation, the Intake Officer must determine if the complaint contains allegations of misconduct or is a complaint specific to procedure. Should the facts of the citizen's statement contain allegations of misconduct, the complaint is investigated as a Misconduct Complaint. Should the complaint pertain only to procedure, the case would be closed as a procedure complaint. In certain instances, despite the wishes of the citizen to handle the complaint informally, the Internal Affairs Commander will assign the case to be investigated as a misconduct complaint. This is usually due to the gravity of the complaint or because of the track record of the involved officer.*