



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Edgardo Garcia

**SUBJECT: POLICE DEPARTMENT RESPONSE
TO 2018 IPA YEAR END REPORT**

DATE: August 8, 2019

Approved

D. D. S. L.

Date

8/8/19

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

To provide the City Council with the Police Department's written response to the Independent Police Auditor's (IPA) Annual Report and Policy Recommendations for calendar year 2018.

BACKGROUND

This is the first written response the Police Department has prepared in conjunction with the release and presentation of the IPA's Annual Report. Traditionally, the Chief of Police would provide the Department's response to the IPA's Report following the IPA's presentation to City Council. The Department and City Manager's Office determined a written response is a more efficient manner to present feedback to the Council regarding the Annual Report and Policy Recommendations.

ANALYSIS

On June 24, 2019, the IPA's office produced a draft copy of their Annual Report for review by the Police Department. The Chief's Office met and reviewed the report. The Department felt the overall Report was fair and represents the healthy dialogue between the Department and IPA's office.

There are however, several points in the Report that warrant further explanation to provide context. For example, the IPA report briefly touches on an increase in complainants filing multiple complaints in calendar year 2018 (Page 8-9). The Report indicates, "39% or 96 citizen-initiated complaints in 2018 were filed by people who filed multiple complaints." This is a considerable amount. The Report does not contain a comparison to prior calendar years nor does it describe or analyze this emerging trend. The Report only indicates that the IPA will continue to track the data.

In reviewing records for calendar year 2017, it appears that only one individual filed five or more complaints compared to 2018 where six individuals filed five or more complaints. In particular, one individual filed fourteen complaints in 2018, and to date this individual has filed a total of 26 complaints. The high number of complainants filing multiple complaints in 2018 warrants further explanation considering these complainants encompassed 39% of all complaints for 2018.

As another example where further explanation is needed, charts 2-C (page 12) and 3-D (page 32) describe the demographics of complainants and use ethnicities of San Jose population as a comparison. Studies indicate there are considerable limitations with using census data.¹ The Department suggests that additional benchmarks should be used, such as demographics of those who call for police services, ethnicities of those stopped or arrested and not just the population as a whole. This could easily be incorporated and included into the data sets for future Annual Reports.

Another data point to consider adding to the Annual Report relates to analyzing the number of complaints against officers in light of the number of calls for service. The Department received 312,529 calls for service in 2017, and 338,124 in 2018. 222 community members filed complaints in 2017 and 248 community members filed complaints in 2018. The low number of complaints compared to the large volume of calls is significant. In both 2017 and 2018, only .07% of calls for service resulted in a complaint. This is an important set of data that provides some perspective.

The Annual Report shows that the IPA, for the majority of complaints with a force allegation, agreed or agreed after further investigation with the Department's investigation. After auditing a complaint, the IPA will make one of the following determinations: Agreed at first review; Agreed after further investigation; Closed with Concerns; or Disagreed. The IPA is mandated to audit all complaints with a force allegation and did so with the 41 completed force investigations in 2018. It should be emphasized the IPA agreed or agreed after further investigation in all but three investigations with a force allegation. The IPA closed one case with concerns and only disagreed with two cases.

In reviewing the numbers, the number of officer involved shooting events is very low when compared to the number of calls for service. Officer involved shootings are among the most impactful events for those involved. They have social, criminal, civil, and emotional consequences. The Department was involved in five such events in 2018; three fewer events compared to 2017 and seven fewer events compared to 2012. All five of the officer involved shooting events in 2018 resulted from a call for service. Again, if we look objectively at the numbers, in 2018 an officer was involved in a shooting event in only 1 out of every 67,625 calls for service or .0015%.

¹ http://www.sjpd.org/records/utep-sjpd_traffic-pedestrian_stop_study_2017.pdf
http://www.sjpd.org/crimestats/san_jose_summary_force_report.pdf

To take it a step further, let's look at calls for service in which the initial call type was a disturbance involving weapons. These are among the most dangerous calls for officers to respond to. The Department received 2,394 such calls in 2017 and 2,294 in 2018. None of these calls for service resulted in an officer involved shooting in 2017 and only 1 resulted in an officer involved shooting in 2018.

POLICE DEPARTMENT RESPONSE TO 2018 IPA POLICY RECOMMENDATIONS

Recommendation # 1

The IPA recommends that the SJPD track and document when an officer points a firearm at a person as reportable force. This excludes unholstering or holding a firearm at the low-ready position.

Police Department Response

The Department agrees with tracking when an officer points a firearm at an individual. This does not include instances where the officer removes his firearm from the holster and carries it at the low ready nor when an officer has a firearm slung on his person. The Department does not agree with treating the pointing of a firearm at an individual as a reportable use of force.

Recommendation # 2

Create a more robust early warning system by incorporating current best practices and then implementing such system.

Police Department Response

The Department agrees with this recommendation and has allocated funds for the system. Soon, vendors will be sought through an approved request for proposal (RFP).

Recommendation # 3

Record all interviews and interrogations.

Police Department Response

The Department agrees with this recommendation. The Department will draft policy requiring all sworn personnel including Reserve Officers to digitally record interviews and interrogations of suspects, victims, and witnesses regardless of age.

Recommendation # 4

Provide in some written format, a public report / memo outlining what steps have been taken to implement each of UTEP recommendations.

- a. The SJPD should consider implementing the data collection recommendations found in Appendix B and contracting with an outside analysis team on an annual or semi-annual basis to analyze the data for aggregate patterns of racial / ethnic disparity.
- b. The SJPD should consider developing the capacity, either internally or through a contracted analysis team, to identify racially or ethnically disparate stop patterns by individual officers and to proactively address such patterns if they emerge through early intervention and training.
- c. The SJPD should evaluate and adopt evidence-based training for improving police-citizen interactions and reducing the influence of discriminatory factors, such as race and ethnicity, in contacts with citizens.
- d. The SJPD should develop and disseminate better and more relevant information about crime patterns and trends in the city, including citizen calls for service, and how those patterns intersect with race and ethnicity. These crime and race/ethnicity patterns may not be well-understood by some community stakeholders in San Jose, yet they are highly relevant to who the police stop and arrest for certain crimes in certain areas of the city. The SJPD should develop the capacity to produce analyses of race/ethnicity, crime, and calls for service data for distribution and discussion with community members.
- e. Assuming the SJPD continues to collect and analyze stop data, it should produce an annual or biannual report that outlines the findings from its yearly analyses and discusses its ongoing efforts (training, policy-approaches, accountability efforts) to reduce racial and ethnic disparities in its contacts with citizens.

Police Department Response

- a. The Department agrees with this recommendation and has engaged the University of Texas - San Antonio to conduct an audit and analysis of the 2109 data collected as part of the Racial and Identity Profiling Act of 2015 (AB 953). The Department is in the process of determining the appropriate frequency for future analyses of this type.
- b. The Department agrees with this recommendation. This type of data would be considered when developing a more robust early intervention system.
- c. The Department agrees with this recommendation. Consistent with the President's Task Force on 21st Century Policing, the Department provided Fair and Impartial Policing and Procedural Justice training to Department members. The Department will continue to seek out evidence-based training to improve Police-Community interactions.
- d. The Department currently provides crime data to the public through crimemapping.com and crimereports.com. The Department will continue to seek out best practices for release of additional information to the public consistent with this recommendation.
- e. The Department agrees with this recommendation in principal but will need to conduct further analysis before determining the content and regularity of such reports.

HONORABLE MAYOR AND CITY COUNCIL

August 8, 2019

Subject: Police Department's response to IPA's Annual Report for 2018

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Recommendation # 5

The San Jose Police Department's substation is currently used for police training; it is not used to deploy sworn officers. However, when the substation becomes fully activated, the IPA recommends that a video surveillance system be installed before any evidence is placed into the evidence room. The system should be installed and positioned to record perimeter doors and interior doors. Such security protects the evidence, the chain of custody, the officers, and the Department.

Police Department Response

The Department agrees with this recommendation. The substation is currently being used for police training and is not being used for intake or storage of evidence at this time. Once the Department transitions the substation to a facility where evidence is accepted and stored, video cameras will be installed to record appropriately.

PUBLIC OUTREACH/INTEREST

This response will be posted on the City's web site for the August 13, 2019 Council Agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and City Manager's office.

/s/

Edgardo Garcia
Chief of Police

For questions please contact Lt. Brian Matchett, Internal Affairs Unit Commander at (408) 277-4094.