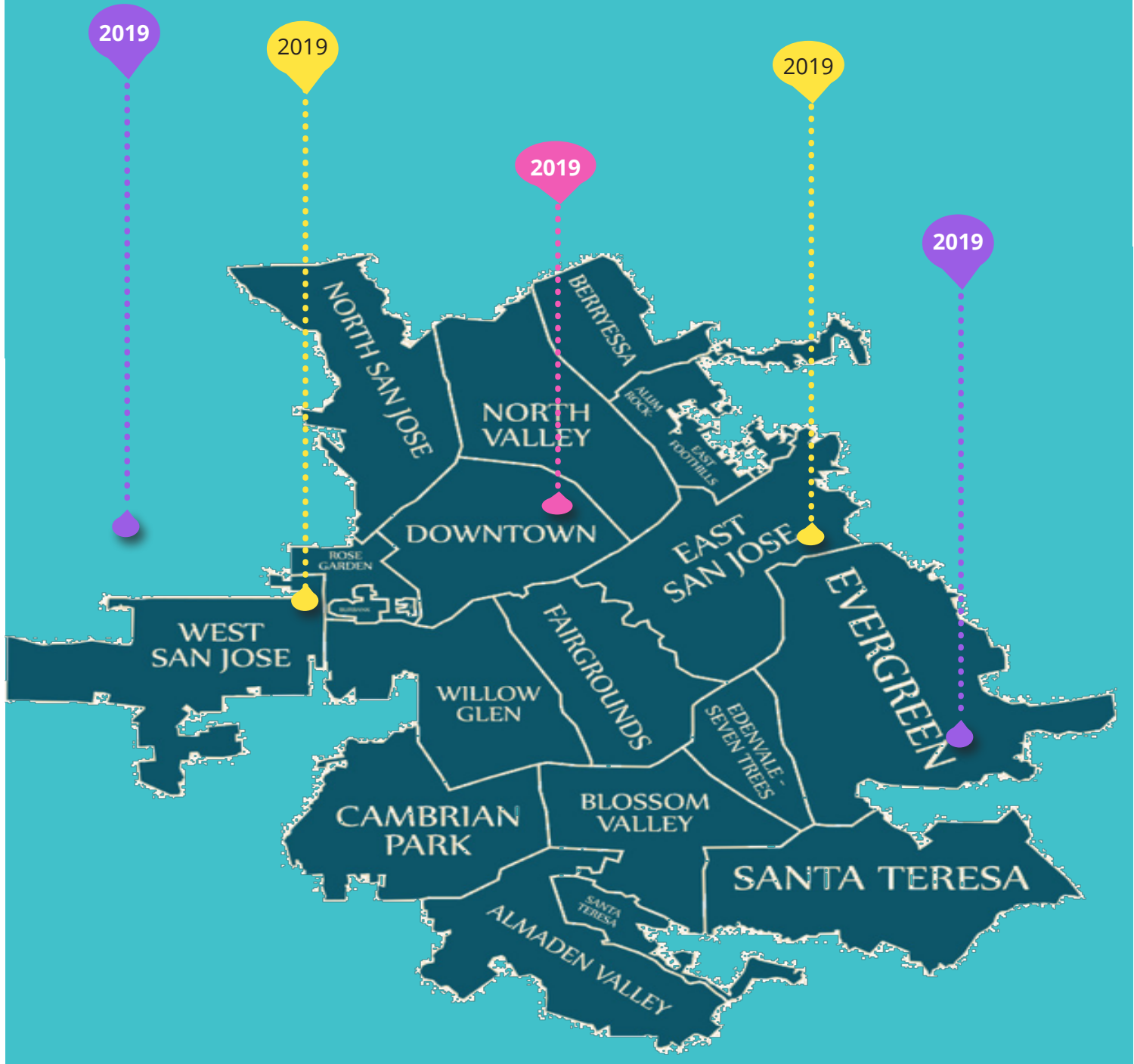


2019 IPA YEAR END REPORT

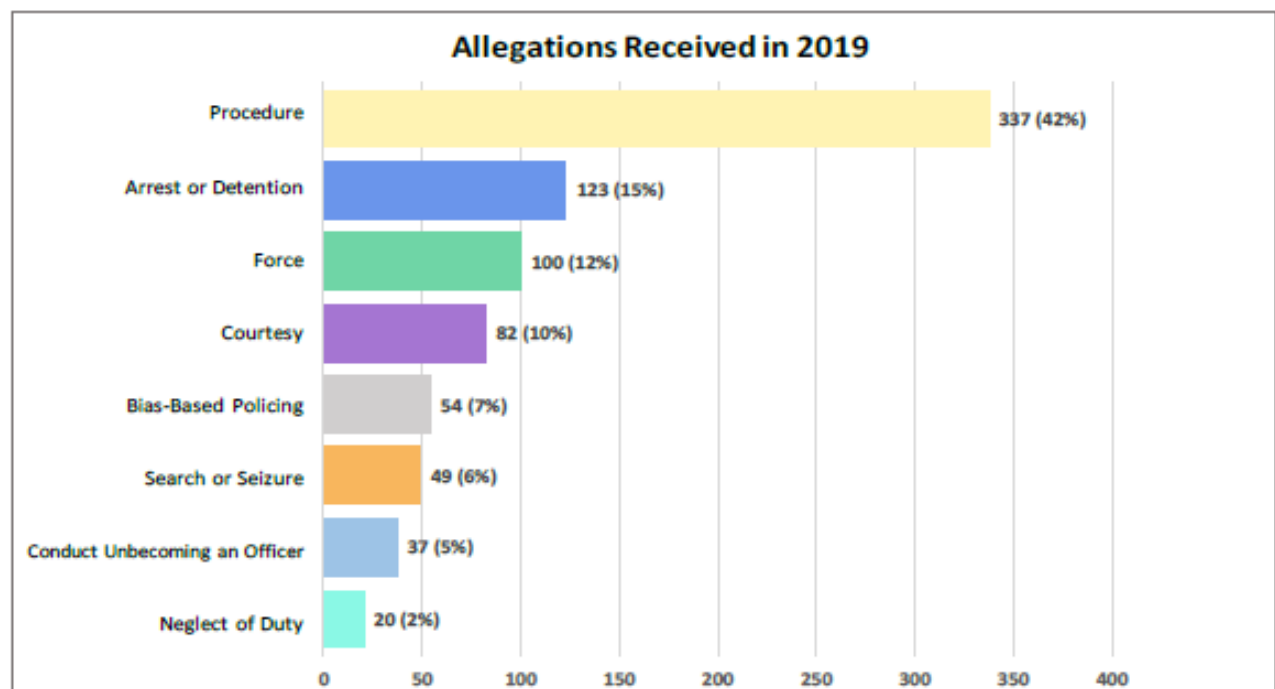


Office of the Independent Police Auditor
City of San José

The mission of the Office of the Independent Police Auditor is four-fold.



ALLEGATIONS and DEFINITIONS			
PROCEDURE — An officer did not follow appropriate policy, procedure, or guidelines.	ARREST or DETENTION — An arrest lacked probable cause or a detention lacked reasonable suspicion.	FORCE — The amount of force the officer used was not “objectively reasonable,” as defined by SJPd Duty Manual section L 2602.	COURTESY — The officer used profane or derogatory language, was not tactful, lost his/her temper, became impatient, or was otherwise discourteous.
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.	SEARCH or SEIZURE — A search or seizure violated the 4 th Amendment of the United States Constitution.	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.	NEGLECT of DUTY — An officer neglected his/her duties and failed to take action required by policies, procedures, or law.



INTERNAL AFFAIRS INVESTIGATIONS AND FINDINGS

The Police Department's Internal Affairs Unit investigates conduct complaints. The IPA does not have any investigatory powers. IA investigators review relevant documentation such as police reports, body-worn camera video, and dispatch records. IA may also conduct follow-up interviews with the complainants, witnesses, and officers to gather more information about the incident. IPA and the Assistant IPA are authorized to attend officer interviews.

This evidence is collected to determine what facts support or refute the allegations in the complaint. The evidence is then analyzed in light of relevant SJPD Duty Manual policies and procedures.

Generally, the Police Department has one calendar year (365-days) from the date the complaint was filed to investigate and make findings.

In each complaint, the Police Department must make a *finding* of whether the alleged misconduct occurred. Findings are based on an objective analysis using the *preponderance of the evidence* standard. This standard determines the amount of evidence needed in order to make a determination. The preponderance standard is met if the evidence indicates that it is *more likely than not* that the officer committed a violation of the Duty Manual. There are eight possible findings for misconduct allegations.



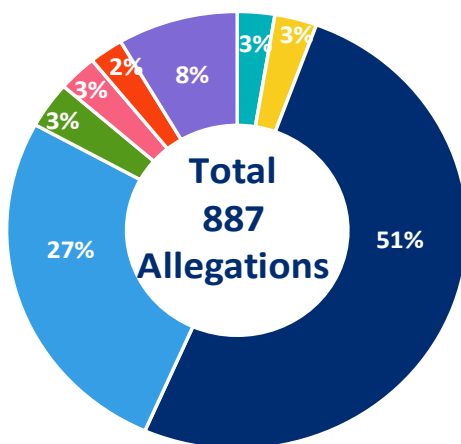
FINDINGS and DEFINITIONS

When a misconduct investigation is finished, IA makes a finding for each allegation.

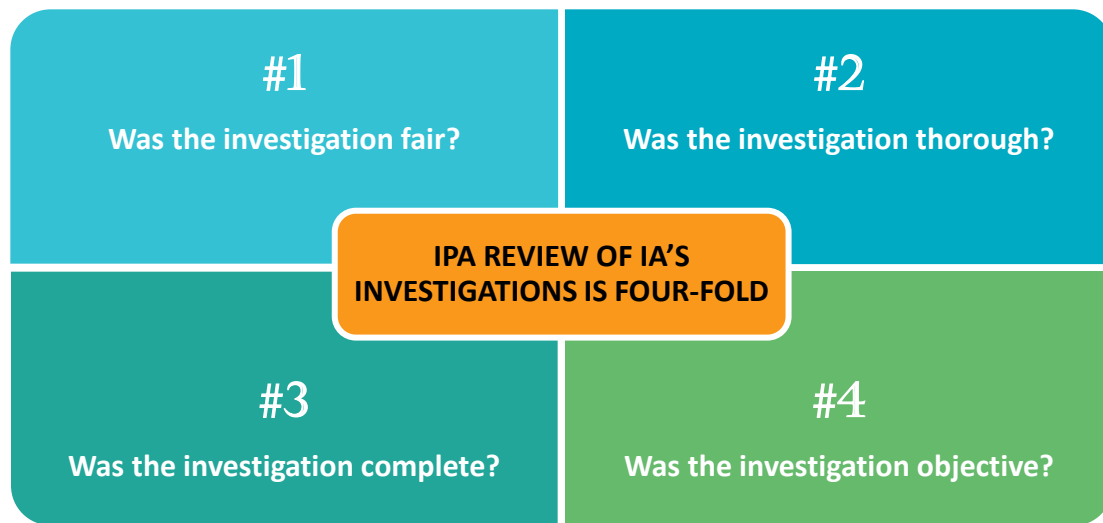
There are eight possible findings for misconduct allegations.

SUSTAINED — 23 allegations The investigation proved that the alleged misconduct occurred.	NOT SUSTAINED — 26 allegations The investigation did not have sufficient evidence to prove or disprove the alleged misconduct.	EXONERATED — 447 allegations The investigation proved that the alleged acts occurred; however, those acts were justified, lawful and proper.	UNFOUNDED — 232 allegations The investigation proved that the alleged misconduct did not occur, or that the subject officer was not involved in the alleged misconduct.
NO FINDING — 30 allegations The complainant did not disclose necessary information needed for the investigation, or the complainant is no longer available to clarify important facts, or the subject officer is no longer employed by the Department.	COMPLAINT WITHDRAWN— 24 allegations The complainant affirmatively indicates the desire to withdraw his/her complaint.	COMPLAINT SUPERVISOR REVIEW — 21 allegations The allegation involves a minor transgression that the Department feels is best handling by referring that the matter to the subject officer's supervisor and chain of command.	OTHER — 74 allegations Complaints filed outside the one-year time limitation as directed by the Office of the Chief of Police or cases not involving SJPd members

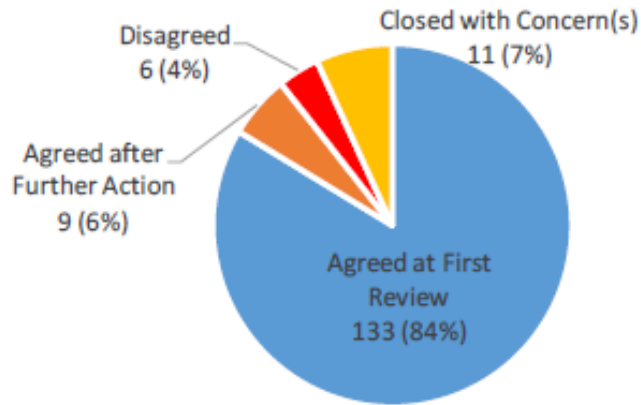
Dispositions of Allegations Closed in 2019



447	Exonerated
232	Unfounded
74	Other
30	No Finding
26	Not Sustained
24	Complaint Withdrawn
23	Sustained
21	Complaint/Supervisor Review



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?
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 Body-Worn Camera video Police reports/citations TASER activation logs Use of force response reports
Presence/absence of interviews conducted by Internal Affairs	<ul style="list-style-type: none"> Witnesses — what efforts were taken to identify and contact witnesses? Witness officers — what efforts were taken to identify and interview officers who witnessed the incident? Subject officers — what efforts were taken to identify and interview subject officers?
Presence/absence of logical objective application of policy to the facts	<ul style="list-style-type: none"> What is the policy/Duty Manual section that governs the conduct in question? Is this authority applicable to the case or is other authority more pertinent? Does the analysis apply all the factors set forth in the authority to the facts?
Presence/absence of objective weighing of evidence	<ul style="list-style-type: none"> What weight was given to officer testimony? Why? What weight was given to civilian testimony? Why? Does the analysis use a preponderance standard? Does the analysis logically address discrepancies?



The IPA agreed that the IA investigation was fair, thorough and complete in 90% of the cases closed. This percentage has remained approximately the same over the last three years.

IPA Audit Determinations in Closed Complaints — Five Year Overview (2015-2019)

Audit Determination in Investigated Cases	2015		2016		2017		2018		2019	
	Audits	%	Audits	%	Audits	%	Audits	%	Audits	%
Agreed at First Review	202	69%	219	79%	196	83%	124	71%	133	84%
Agreed after Further Action	39	13%	26	9%	18	8%	35	20%	9	6%
Disagreed	27	9%	5	2%	10	4%	6	3%	6	4%
Closed with Concern(s)	24	8%	27	10%	12	5%	10	6%	11	7%
Total Complaints Audited	292	100%	277	100%	236	100%	175	100%	159	100%

2019 RECOMMENDATIONS

1

Evaluate The Field Training Program

2

Provide Direction When Officers Must Obtain Translation Of Written Material From Certified Personnel Or Contracted Translation Services

3

Provide Clear Direction About Reporting To Adult Protective Services

4

When IA Opens An Investigation Into Criminal Conduct, A Corresponding Administrative Complaint Should Also Be Opened

5

Intentional Acts Of Force Utilizing Police Vehicles Should Be Investigated As Force Allegations

6

Provide Guidance About Individuals Riding Bicycles On Sidewalks

2018 RECOMMENDATIONS

1

The IPA recommends that the Department track and document when an officer points a firearm at a person as reportable force.

2

The IPA recommends that the Department create a more robust early warning system.

3

The IPA recommends that officers digitally record interviews or interrogations of all interviews.

4

The IPA recommends that the Department provide a public report outlining what steps have been taken to implement each of the six UTEP recommendations. (Please refer to the appendix for the list)

5

The IPA recommends that a video surveillance system be installed at the substation before any evidence is placed into the evidence room.

INTERACTIVE SURVEY ON OUR WEBSITE

The IPA website includes opportunities for the public to learn more about the IPA office and provide feedback through a 10-question community survey.



COMPLETE OUR SURVEY NOW!

Let your voice be heard!

A short survey to tell us
how you feel about
police/community relations
in San Jose and your
neighborhood.

<https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor/my90-community-conversations>

Independent Police Auditor Advisory Council

The Independent Police Auditor Advisory Council (IPAAC) was established in 1999. The group has two functions: (1) promote community awareness of the services offered by the IPA office, and (2) advise 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. In 2019, our IPAAC had several committee members complete their commitment and cycled off the council.

2019 IPA Advisory Council Members

Name	Employer/Affiliation	Occupation
Mydzung Bui	Santa Clara Unified School District	Educational-Related Mental Health Services Coordinator
B.J. Fadem	Law Offices of B.J. Fadem & Associates, APC	Attorney
Vianni Garcia	Fresh Lifelines for Youth	Law Program Manager
Walter Hudson	Retired	Community Advocate
Derrick Sanderlin	MACLA	Sound Technician
Jessica Burt-Smith	Santa Clara County Public Defender's Office	Attorney
Otis Watson	New York Life Insurance	Agent
Megan Whelehan	Law Foundation of Silicon Valley	Attorney

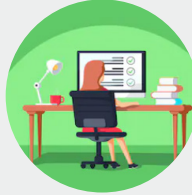


Meet IPA Staff



Shivaun Nurre - IPA

Shivaun joined the IPA office in 2006. She was appointed to the IPA position in December 2018. Prior to joining the IPA office, Shivaun worked for ten years as a Deputy County Counsel for Santa Clara County. In the IPA position, she oversees a range of procedural and substantive functions from budget and case management to developing policy recommendations and City Council reports. She is responsible for leading her capable office staff in completing its mandated duties.



Erin O'Neill - Assistant IPA

Erin is the Assistant IPA. In this role, she audits IA investigations and researches policies and law enforcement best practices. She also assists staff in the day-to-day office work. As the Assistant IPA, Erin attends officer interviews as needed, and attends officer-involved shooting review panels. Lastly, Erin assists with outreach as directed by the community outreach coordinator.



Eva Roa - Analyst I

The Analyst conducts intakes of civilians who wish to file complaints regarding SJPd Sworn Officer conduct. The Analyst conducts reviews of internal investigations to determine if the investigations have been thorough, complete, objective, and fair. This work enables the IPA to provide an effective and timely review of community concerns and critical or use of force incidents and investigations.



Jessica Flores - Office Specialist II

Ms. Flores joined the IPA office in June of 2006, attended West Valley College and uses that training as the front lobby receptionist. She enters case information on databases, creates and maintains case files, and helps where ever needed.



Telina Barrientos - Senior Analyst and Community Engagement Coordinator

Telina works in partnership with the IPA and Assistant IPA to audit misconduct complaints. In addition to her legal analysis work, Telina also leads efforts to expand awareness and increase community input that informs the IPA work and recommendations. Telina's engagement seeks to, build trusting relationships with the community, and provide inclusive and meaningful ways for all people to influence decisions that impact them.



Vivian Do - Senior Analyst

Vivian's primary responsibilities include managing the IPA website and database, finance and budget, statistical data analysis, desktop publishing, and providing computer and technical support for the IPA office.