

City of Austin

Office of the Police Monitor

2004 Annual Report

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EXECUTIVE SUMMARY

For the third consecutive year, the Office of the Police Monitor (OPM) saw an increase in the total number of complaints received. In 2003 the OPM reviewed a total of 421 complaints; in 2004 the number of complaints processed increased to 600. This growth came as a challenge to the OPM, especially since the Office was not fully staffed for almost eight months of the year. During the first quarter of 2004, then Assistant Police Monitor Al Jenkins left the OPM to serve as municipal judge for the City of Austin. The absence of an Assistant Police Monitor required that the Police Monitor serve in a dual capacity for approximately 8 months. Fortunately, in August of 2004 Susan Hutson joined the Office, and with her arrival plus the perseverance of the OPM staff, the Office was able to continue meeting their objectives on behalf of the citizens of Austin, which include:

- Assessing complaints about APD police officers from the public;
- Monitoring APD's entire process for investigating complaints;
- Attending all complainant and witness interviews;
- Reviewing the patterns and practices of APD officers;
- Making policy recommendations to the Chief of Police, City Manager, and City Council; and
- Helping the Citizen Review Panel (CRP) fulfill its oversight duties.

The OPM's annual report is one useful disclosure tool for the public that enables the OPM to provide transparency into the APD investigative process, review behavior patterns of APD officers, and build policy recommendations. The statistics herein are gathered both at the OPM as well as via IAD. Below are some of the key findings from 2004.

Number of complaints increase at the OPM; civilians are using the Chain of Command method at significant rates.

The OPM received more complaints in 2004 than in 2003. In 2004 the OPM received 600 complaints, compared to 421 received in 2003. However, due to a revised complaint structure implemented in late 2003, fewer complaints were handled as formal complaints. The number of Chain of Command (COC) inquiries in 2004 was 15 times greater than that of 2003. This large amount of COC inquiries indicates that people may be more comfortable using the COC process compared to the formal complaint process. Considering the average formal complaint takes approximately 6 months to process, it is not surprising a little over half of the complainants opted for the COC inquiry route. Another appealing aspect of the COC inquiry to many complainants is that they get to speak directly with an officer's supervisor. However, the other half of complaints prefer to make their complaints formally and have their grievance noted on the officer's IAD record.

Considering the large number of COC inquiries, revisions are needed to the current data collection methods. Subsequent reports will clearly require the analysis and reporting of COC statistics – including complainant demographics, subject officer demographics, and allegations – similar to those currently available for formal complaints.

Code of Conduct most common allegation both within and outside of the Department.

The 209 formal complaints consisted of 449 allegations. Fifty-five percent of these allegations were related to Code of Conduct issues, such as compliance with laws, ordinances, and governmental policies; individual responsibilities; responsibility to the community; responsibility to the department; and responsibility to co-workers. Considering the comportment of a police force will show how they value excellent community policing, it is the OPM's recommendation

that supervisors and fellow officers hold their colleagues to the highest standard of behavior and continue to report possible violations of policy to IAD. Further, supervisors should continue to use APD's Guidance Advisory Program to aid them in the management of their units.

The Downtown Area Command continues to have a high number of complaints.

The DTAC, NE, CW, SC, and NC Sectors experienced increases in the number of complaints from 2003 to 2004. The SE, SW, and NW Sectors experienced decreases in the number of complaints from 2003 to 2004. In reviewing allegations and complaints by Sector, DTAC stands out as having the second greatest number of complaints in 2003 and the greatest number of complaints in 2004. For both years, DTAC also incurred high numbers of the more disturbing allegations, such as excessive use of force. In 2004, the NE Sector also experienced a high number of code of conduct allegations. It may benefit the Department to more closely examine compliance with policy and procedure and perhaps explore de-escalation tactics for use in the DTAC Sector as well as the other Sectors that experienced increases in complaints from 2003 to 2004. In the past, the OPM has been able to consult with the Chain of Command of the NE Sector about concerns or issues and to participate in outreach events within the Sector. The OPM has also engaged in field trainings and dialogue with the Chain of Command of the DTAC Sector. The OPM will launch a youth outreach program that focuses on high school and college students in the hopes of educating and receiving feedback from individuals that are likely to frequent the DTAC Sector. Future collaborations between APD and the residents of high-complaint Sectors could prove fruitful.

Disagreement regarding case classification continues between IAD and the OPM.

There continues to be a notable difference in case classifications between IAD and the OPM. Cases are classified by IAD according to the severity of the allegations included in the case. For the second consecutive year, IAD and the OPM have disagreed in the classification, i.e., severity, of a case. This trend was initially reported in the OPM 2003 Annual Report, and it is again apparent in the current annual report. Several explanations for this have been examined, including the make-up of internal cases and the additional filter provided by COCs in external cases, but there is no clear answer for this discrepancy. Disagreement appears to be greatest for cases classified as C, with a 45 percent agreement rate for external C's and a 67 percent agreement rate for internal C's. Most C cases are considered by IAD to contain allegations that do not rise to the level of a policy violation but contain a training or performance issue. Therefore, cases classified as C normally are not assigned to an IAD detective for full investigation and do not result in any discipline for the officer(s) involved. An additional problem with C cases is that the OPM is not always notified of the steps the Chain of Command will take in ensuring the implementation of training designed to address the issues raised in the case. Examination of IAD case classifications and OPM opinion of those classifications will be further analyzed in subsequent reports. Also, the OPM hopes to collaborate with IAD to design a follow-up mechanism that clearly specifies the subsequent actions of the Chain of Command of the subject officer(s) involved in C cases.

IAD and Management not in perfect agreement on investigations.

When IAD recommends that allegations be sustained against officers, then a Disciplinary Review Board (DRB) meeting is held. At the DRB the Chief, or one of the Assistant Chiefs, makes the final decision about whether an allegation will be sustained and whether discipline will be issued. The Chief is generally in attendance at most DRBs which involve serious allegations, however, the rest of the time, the Assistant Chiefs will attend in his place. At the DRB, the Chief(s) can reject or accept IAD's recommendation on an allegation, i.e., IAD may recommend an allegation be exonerated and the Chief(s) may decide the allegation is

inconclusive or vice versa. In 2004, the Chief, or his representative, reversed IAD's sustained recommendation in 13 percent of the allegations reviewed. For most of these allegations, the Chief(s) felt there was insufficient information to sustain the allegation. In the case of seven allegations, the IAD recommendation of sustained was reversed to unfounded or exonerated, which basically clears the officer of any wrong doing in relation to that specific allegation. There are times when IAD recommends the officer be cleared of any wrong-doing and the case does not need to go to a DRB, but the Chain of Command/Chief feels the case needs to be reviewed further. In these instances the Chain of Command/Chief must formally extract this case and recommend that the investigation continue and the DRB take place. However, this did not occur in any cases monitored in 2004. One possible explanation for the distinct conclusions between IAD and the Chief(s) on some allegations is that the Chief(s) takes into consideration multiple perspectives, including the officer's Chain of Command, the community, and on more serious allegations, the Office of the Police Monitor and/or the Citizen Review Panel, while IAD detectives provide their recommendation based on their own investigations and the opinions of their Chain of Command.

Younger officers, Sergeants, Corporals, and Latino officers over-represented in complaints.

An analysis of the characteristics and demographics of officers referenced in 2004 complaints revealed that some newer or less experienced officers are more likely to incur complaints than others. While the number of years served by subject officers ranged from over 30 years to less than one month, the average number of years served was slightly less than 8 years, suggesting that less seasoned officers are more vulnerable to allegations and/or violations of policy.

While younger officers may be getting the majority of complaints, many officers in supervisory roles are also listed as subject officers. For instance, 22 percent of sergeants and 29 percent of corporals had allegations filed against them in 2004.

An analysis of the racial breakdown of officers referenced in 2004 complaints revealed that Hispanic/Latino officers are over-represented as subject officers. It is not clear if this over-representation is indicative of disparate reporting on behalf of the community and the Department or if it truly represents disparate actions on behalf of Hispanic/Latino officers. It is also possible that many of the younger, less seasoned officers also happen to be Hispanic. This line of analysis will be further explored in future reports.

The Chain of Command has invaluable input regarding its officers. By paying special attention to the characteristics and ranks described above as well as collaboration with the OPM, IAD, and Policy Review Board, the Chain of Command could see improved compliance among officers. Currently, the OPM conducts a presentation to each Citizen Police Academy class, describing the functions of the office and various statistics. Conducting similar presentations to new cadet classes as well as Amigos en Azul, the Hispanic/Latino officer organization, may prove helpful in educating incoming officers of their greater likelihood to receive complaints against them and invite discussion from Latino officers as to possible explanations for their apparent over-representation in complaints in 2004.

Most OPM complainants not disgruntled arrestees or minorities from East Austin.

Complainants in 2004 represented diverse demographic and geographic characteristics. As stated earlier, most complaints came from the DTAC and NE Sectors. Complainants in 2004 comprised of 33 percent Hispanic/Latino, 32 percent White, 32 percent Black, two percent Asian/Pacific Islander, and one percent American Indian. Further, OPM complainants were not disgruntled arrestees; only 39 percent of complainants were involved in an incident involving an

arrest. While some complainants did receive citations without arrest, many were neither arrested nor cited. Data collection methods will be implemented in order to provide hard numbers for these variables in future reports. The OPM will also continue its great outreach efforts to ensure that complainants of all walks of life know that they have a place to file their complaints.

The OPM will take the lessons and questions presented above and aim to continue to shed more light on the IAD administrative complaint process, meet the objectives set for the OPM by the citizens of Austin, and fulfill its mission statement.

OFFICE OF THE POLICE MONITOR MISSION AND OBJECTIVES

The OPM is the primary resource for accepting and filing the general public's complaints against officers of the Austin Police Department (APD). Through numerous outreach efforts, the OPM aims to educate both the community and law enforcement and promote the highest degree of mutual respect between them. The OPM seeks to enhance public support, trust, and confidence in the fairness and integrity of APD through the fostering of honest dialogue relating to issues and incidents that affect APD and the community.

Duties:

- Assess complaints about APD police officers from the public;
- Monitoring APD's entire process for investigating complaints;
- Attend all complainant and witness interviews;
- Review the patterns and practices of APD officers;
- Make policy recommendations to the Chief of Police, City Manager, and City Council;
and
- Help the Citizen Review Panel (CRP) fulfill its oversight duties.

To file a complaint with the OPM, a person can contact our office in person, by phone at (512) 974-9090, by fax at (512) 974-6306 or by e-mail at police.monitor@ci.austin.tx.us. Our office is located in the Twin Towers Building at 1106 Clayton Lane, Suite 100E. For more information, including a full copy of this report, please visit our Web site at www.austinpolicemonitor.com.

MEET AUSTIN'S NEW ASSISTANT POLICE MONITOR

The Office of the Police Monitor welcomed Susan Hutson as the assistant police monitor in August 2004. Ms. Hutson was admitted to the Texas Bar in 1992 after earning her law degree from Tulane University's School of Law in New Orleans. Ms. Hutson studied economics as an undergraduate at the University of Pennsylvania in Philadelphia and also worked at Penn's Law School. It was here that she discovered her desire to be a lawyer and enrolled at Tulane. Ms. Hutson started her career as a lawyer in private general practice in Houston, representing clients in state and federal courts. She left private practice to join the City of Corpus Christi in May of 2001.



Ms. Hutson served the City of Corpus Christi, first as an assistant city attorney where she prosecuted cases in the Municipal Court. She was promoted to chief prosecutor and also advised city directors on numerous employment matters, including disciplinary, constitutional, discrimination, and compensation issues. Her primary responsibilities were consulting with the Corpus Christi chief of police and other supervisors on misconduct investigations and representing the city during arbitrations and civil service hearings. Her experience in dealing with Internal Affairs and civil service law are an invaluable asset to the Austin police oversight system. Ms. Hutson has also taught college courses to both undergraduate and graduate students at the University of Incarnate Word

Ms. Hutson is a vital member of the team at OPM. As assistant police monitor, Ms. Hutson is responsible for assisting the police monitor in managing the office, reviewing and monitoring critical incidents and investigations, communicating with APD management as well as IAD, making policy recommendations to the City Council, the city manager, and the chief of police, and raising public awareness of the duties of the OPM. She is a resident of northeast Austin.

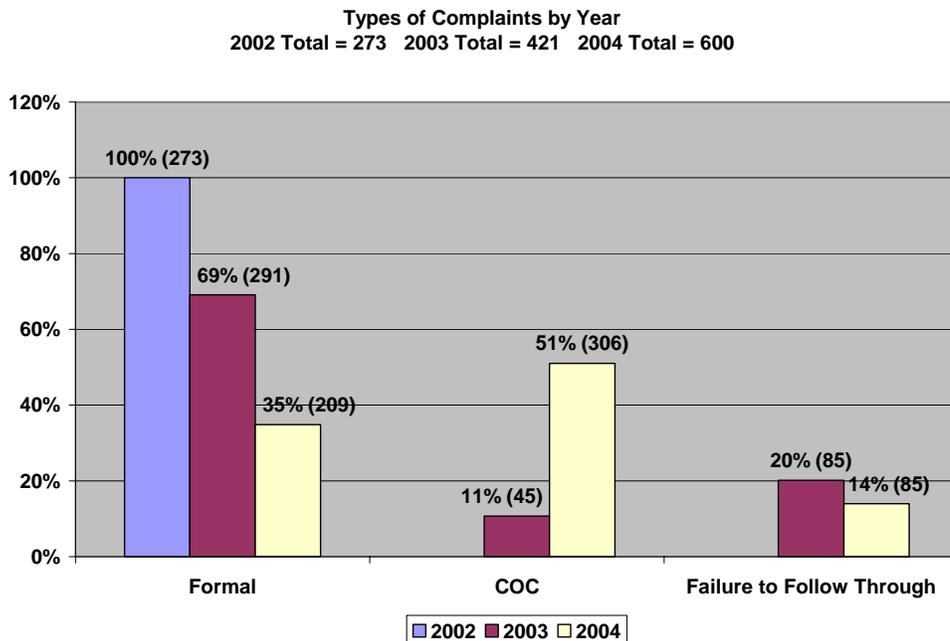
2004 GENERAL COMPLAINT INFORMATION

Findings:

- While the number of allegations remained basically unchanged from 2003, the number of actual complaints increased in 2004.
- The number of formal complaints filed with the OPM increased from 2003.
- There was a slight increase from 2003 in the number of Internal complaints processed by IAD as well as monitored by the OPM.
- Slightly more than half of the complaints processed by the OPM in 2004 were filed as chain of command inquiries.
- The Downtown Area Command continues to have a large number of complaints, but some sectors are experiencing a decrease in the number of complaints compared to 2003.

In 2004 the OPM reviewed 600 complaints comprised of 760 allegations. (Please note, one complaint can have multiple allegations as well as reference multiple officers.) These figures represent an increase from 2003, when 421 complaints and 714 allegations were reviewed. Of the cases reviewed by the OPM in 2004, approximately 51 percent were filed as **chain of command (COC)** inquiries and 35 percent were pursued as **formal** complaints through APD's IA Division (IAD). Fourteen percent of initial complaints failed to become mature complaints because the allegations did not constitute a policy violation or the citizen did not follow through with the complaint process. For more details about the difference between Formal and COC complaints, please see Appendix I of this report. The numbers in parentheses in the following charts represent the numbers associated with each percentage.

Chart 1.



Chain of Command Inquiries

Over half of the complaints processed by the OPM in 2004 were filed as COC inquiries. COC inquiries are initially handled by the individual officer's supervisor and sometimes his entire chain of command. The process was developed jointly by IAD and the OPM in order to offer an option to civilians with minor complaints, especially those interested in speaking directly with an officer's supervisor.

When a civilian chooses to file a COC inquiry, the complaint is forwarded in writing to the IAD Commander who then sends the complaint to the subject officer's supervisor. The supervisor then reviews the case, collects the fundamental facts and calls the complainant to attempt resolution of the matter. Disciplinary action resulting from these cases usually involves reprimands, additional training, and/or counseling. At any time during or after the completion of the COC process, a citizen unsatisfied with the process or result of the inquiry can file a formal complaint.¹

COC inquiries can be filed at the OPM in person, over the phone or via e-mail. Because of the various methods of contacting the OPM available to complainants, the OPM often does not collect all the demographic data points normally available with formal complaints.

Gender information was collected for 297 of the 306 COC inquiries. Men and women filed COC inquiries in equal proportions. Of the 126 COC complainants that provided their race/ethnicity, 42 percent were Hispanic, 24 percent were Black, 22 percent were White, and 5 percent were Asian/Pacific islander. Race/ethnicity information was not collected for 7 percent of COC complaints. Age information was collected from few complainants and is not included in this report.

Formal Complaints

In 2004, 209 formal complaints were filed with the OPM. Formal complaints are divided into two distinct types:

External – complaints filed by a civilian against an APD officer, and

Internal – complaints filed by an APD officer, typically a member of the Chain of Command, against another APD officer.

Of the 209 formal complaints processed, 58 percent (122) were External complaints and 42 percent (87) were Internal cases. This finding does not necessarily mean that more complaints are filed by civilians rather than APD. The OPM does not review every Internal case as many are minor incidents, such as minor traffic violations, which are normally handled by the Chain of Command. However, the OPM monitors all cases investigated by IAD, including all **Critical Incidents**, which include cases of officer shootings and any other incident resulting in serious bodily injury or death of a person.¹¹ In 2004 the OPM monitored the investigation of four critical incidents.

¹ Very few COC inquiries normally progress to formal complaints. These data are being closely monitored for reporting in upcoming reports.

¹¹ Definition extracted from APD's General Orders, Policies, and Procedures, A109.01

Chart 2 below shows an increase from 2003 to 2004 in the number of Internal complaints monitored by the OPM. In 2003 the OPM monitored 80 out of 197 Internal complaints processed by IAD. In 2004, the OPM monitored 87 out of 218 Internal complaints. Chart 2 also shows a sharp decrease from 2003 in the number of External complaints filed.

Chart 2.

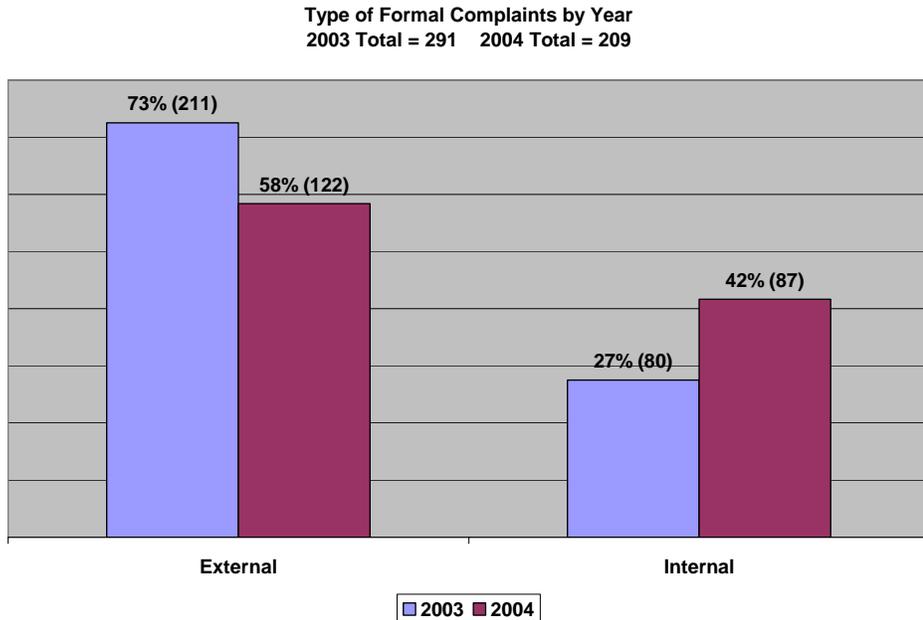


Chart 3 includes the number of External complaints and the area of Austin in which the incidents occurred. Locations were defined using APD's **Area Command Sectors** (Sectors).

Chart 3.

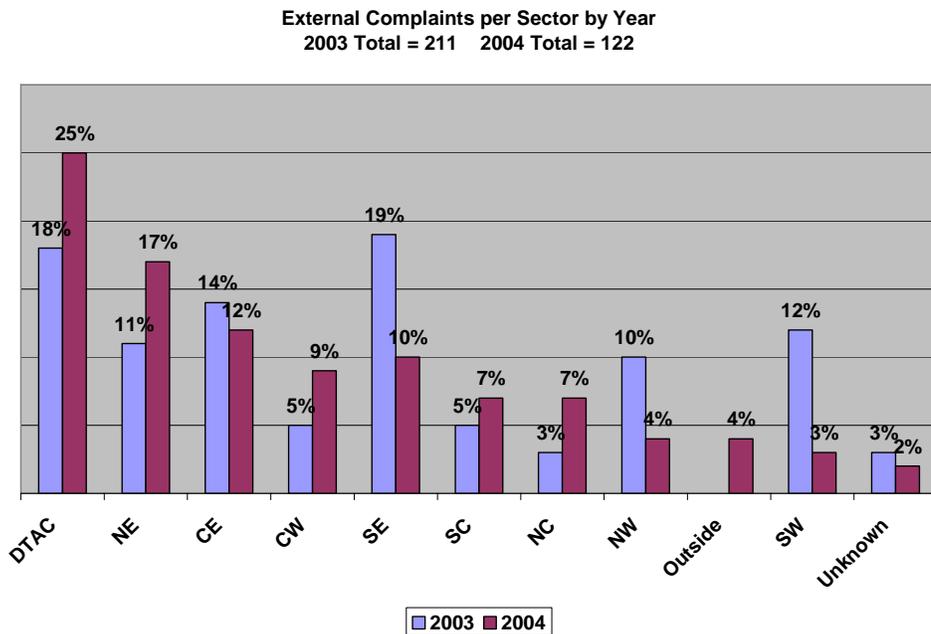


Chart 3 above reveals that some areas of the city had an increase in the percent of complaints in 2004 from 2003, while other areas saw a decrease in the percent of complaints filed against APD officers. The Downtown Area Command (DTAC) continues to have a large proportion of complaints. In fact, DTAC's portion of External complaints increased from 18 percent in 2003 to 25 percent in 2004. The NE, CW, SC, and NC sectors also experienced increases in the proportion of complaints from 2003 to 2004.ⁱⁱⁱ In contrast, some Sectors, specifically SE, SW, and NW, experienced a decrease in the proportion of complaints originating in these areas when compared to 2003.

ⁱⁱⁱ Part of the increases seen in Sectors NC and SC can be attributed to the fact these sectors were created in the latter part of 2003, and therefore, not many cases in 2003 were counted as occurring in these two sectors.

IAD CASE CLASSIFICATIONS

Findings:

- Internal complaints are more likely to receive the most serious case classification, and external complaints are more likely to receive less serious case classifications from IAD.
- Concurrence rates between the OPM and IAD remain high for the most serious internal and external cases, but there is a lower rate of agreement for B and C cases.

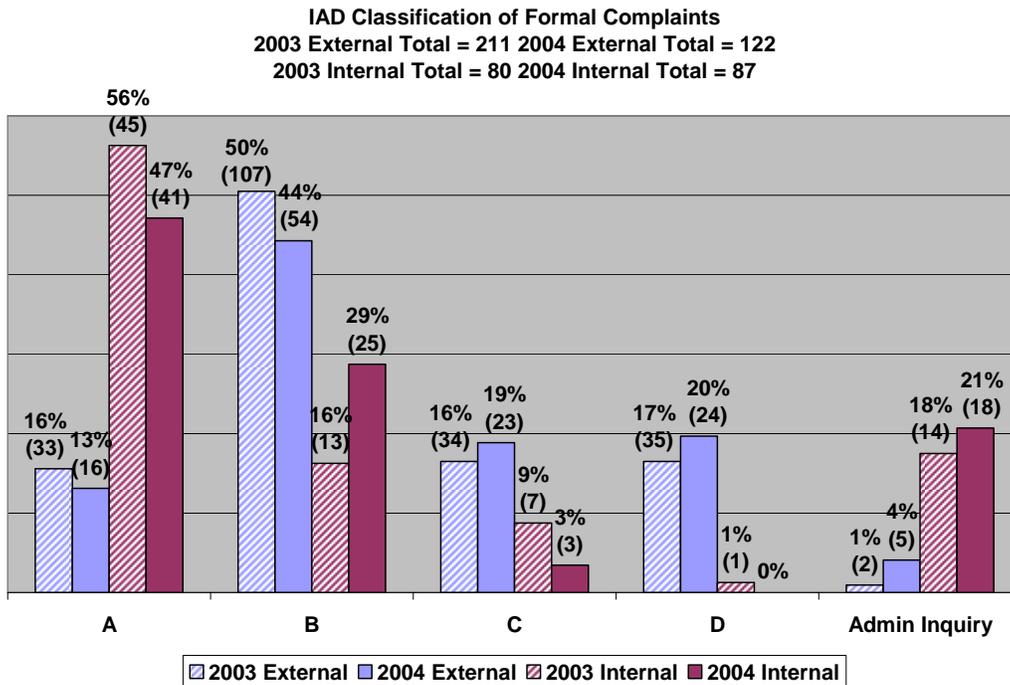
Once a formal external complaint is filed against an APD officer, before the investigation begins the complaint is evaluated and labeled according to the seriousness of the allegations. The labeling categories are:

- **A** – allegations of a serious nature;
- **B** – less serious allegations of violation of department policy, rules, and regulations;
- **C** – allegations that do not rise to the level of a policy violation, but contain a training or performance issue; allegations initiated after a reasonable period of time; allegations made against an officer who cannot be identified; allegations of a less serious nature and the complainant refuses to cooperate; and/or allegations involve an ongoing criminal investigation – IAD will investigate the administrative violations after the criminal investigation is completed;
- **D** – no allegation or misconduct by officer; or
- **Administrative Inquiry** – no allegation of misconduct but the matter is considered of concern to the public and/or the department.^{IV}

Chart 4 below reveals that in 2004 more internal cases than external cases were classified as “A” complaints (47 percent and 13 percent, respectively) and “Admin Inquiries” (21 percent and 4 percent, respectively). These charts also show more external cases than internal cases were classified as “B” (44 percent and 29 percent, respectively), “C” (19 percent and 3 percent, respectively), and “D” complaints (20 percent and 0 percent, respectively).

^{IV} Classifications further defined in APD’s General Orders, Policies, and Procedures, A109.04.

Chart 4.



There are three reasons why IAD classifies a higher percentage of internal cases as A's than external cases.

- 1) Internal cases include critical incidents, which by definition are always classified A due to the severity of the allegations.
- 2) Internal cases are filed by fellow officers who are familiar with APD's General Orders. External cases typically involve civilians who are unfamiliar with these orders filing complaints.
- 3) Supervisors generally don't file formal complaints about less serious incidents. Instead less serious issues are usually addressed by the Chain of Command directly with the officer through counseling or training.

Fewer low-severity cases plus more high-severity cases in the internal category explains some of the disparity in the classification of internal and external cases. This disparity can also be explained by examining the level of agreement regarding classification of complaints between IAD and the OPM.

Once IAD classifies a case, the OPM reviews the case and assigns an agreement value of **Agree** or **Disagree**. This measure helps identify the level of concurrence between IAD and the OPM on case classification. Table 1 depicts the OPM's assessment of IAD's classification of external and internal cases for 2003 and 2004.

Table 1.

OPM Assessment of IAD Case Classification by Year

IAD Classification	OPM Agreement Rates			
	External Cases		Internal Cases	
	2003	2004	2003	2004
A – serious allegations	75%	93%	86%	93%
B – less serious allegations	62%	80%	92%	95%
C – policy/training issues	71%	45%	100%	67%
D – no policy violation	80%	88%	100%	--
Admin Inquiry – no policy violation, but concerning to the public	100%	100%	71%	94%

-- There were zero "D" Internal cases in 2004. Numbers in red signify an agreement rate of less than 75%.

While concurrence rates remained high for both internal and external "A" cases and "Admin Inquiries," there was a significant drop in the agreement rate for "C" cases. Table 1 shows that OPM agreement levels dropped from 71 percent to 45 percent for external "C" cases and from 100 percent to 67 percent for internal "C" cases. In contrast, OPM agreement levels increased for external "B" cases from 62 percent to 80 percent and for internal "Admin Inquiry" cases from 71 percent to 94 percent.

In the 2003 Annual Report, the OPM speculated that one reason why more external cases were classified as less severe than internal cases was the lack of community awareness of APD policies and procedures. However, since there are two types of complaint processes – Formals (more severe allegations) and COCs (less severe allegations) – it would seem that filtering the less severe allegations into the COC complaint category would yield a greater concurrence rate for those external cases processed as formals. But even with this filter, there is a notable discordance in IAD and OPM opinions pertaining to case classifications, especially class C cases. This issue warrants further examination.

2004 TYPES OF ALLEGATIONS MADE

Findings:

- The number of total allegations processed in 2004 was consistent with the number in 2003.
- Common external and internal complaints involved code of conduct violations.
- The number of allegations from formal cases in 2004 dropped. Two sectors, Northwest and Northeast commands, did appear to have a genuine increase in allegations.
- The greatest number of allegations of code of conduct violations and excessive use of force came from incidences originating in the Downtown Area Command and the Northeast command.
- The Northeast and South Central sectors had higher numbers of allegations pertaining to questionable interviews, stops, arrests, booking procedures, and fugitive warrants.
- The Downtown Area Command had the greatest number of allegations regarding faulty preliminary investigations, incident reporting, and follow-up investigations.
- The number of bias-based profiling allegations was small.

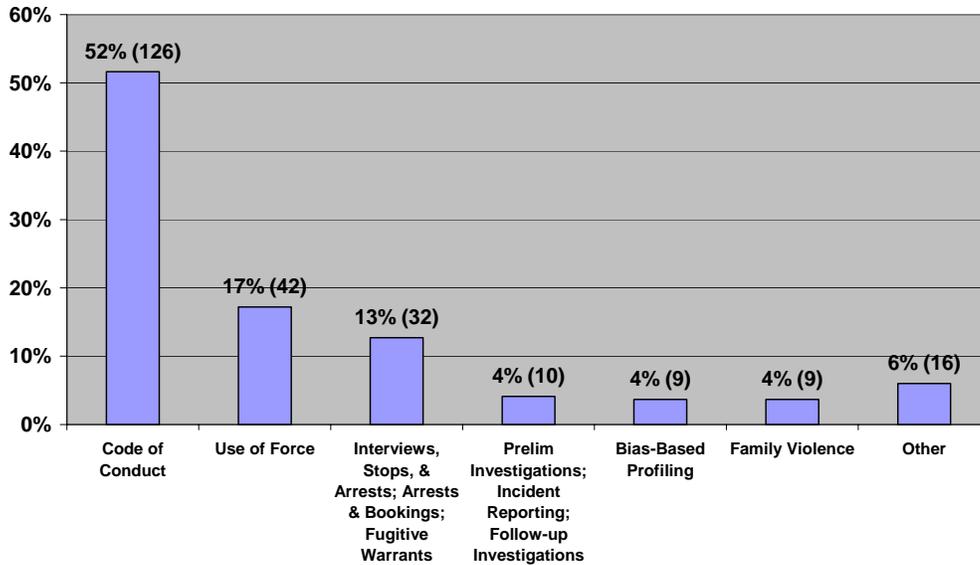
In 2004, 760 allegations were processed compared to 714 allegations processed in 2003. Of the 760 allegations, 33 percent (244) were allegations from external cases and 26 percent (205) were allegations from internal cases. The remaining 41 percent (311) of allegations were allegations included in COC inquiries.

Using APD's General Orders, Policies, and Procedures handbook, i.e., the General Orders, to analyze external complaints revealed that 52 percent (126) of the allegations involved code of conduct^V violations; 17 percent (42) of allegations pertained to questionable use of force; 13 percent (32) of allegations related to interviews, stops, and/or arrests, arrest and booking, and fugitive warrants; 4 percent (10) involved allegations of preliminary investigations, incident reporting, and follow-up interviews; another 4 percent (9) involved allegations of bias-based profiling; an additional 4 percent (9) were allegations of family violence; and the remaining 6 percent (16) involved issues of failure to follow proper procedure in matters regarding internal affairs, collision investigations, interpreter services, vehicle impounds and others.

^V The General Orders distinguishes between B116 Bias-Based Profiling and A201 Code of Conduct.03A (Impartial Attitude). In order to maintain the integrity of the data; Bias-Based Profiling and Impartial Attitude allegations are also separated here.

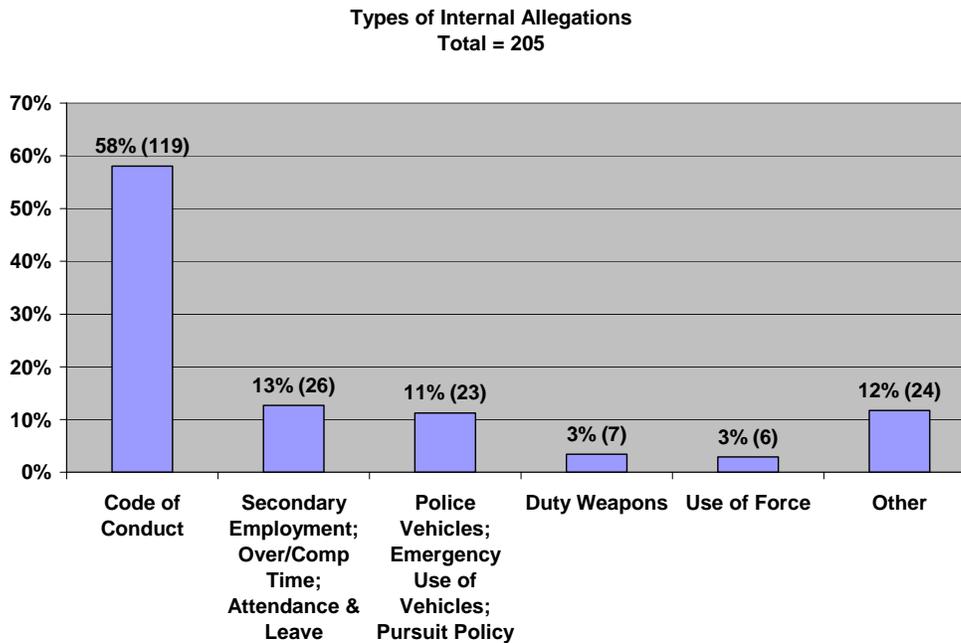
Chart 5.

Types of External Allegations
Total = 244



For internal cases, 58 percent (119) of the allegations involved code of conduct allegations; 13 percent (26) of allegations involved allegations of secondary employment, over/comp time, and attendance/leave; 11 percent (23) of allegations pertained to improper use of police vehicles, emergency use of police vehicles, and pursuit policies; 3 percent (7) were allegations regarding duty weapons; another 3 percent (6) were allegations of excessive use of force; and the remaining 12 percent (24) included allegations relating to workplace environment, computer use, handling of evidence, arrests and booking, canine procedures, and others.

Chart 6.



As described in Charts 5 and 6, the most common type of allegation for both external and internal complaints was Code of Conduct allegations. Code of Conduct policies include:

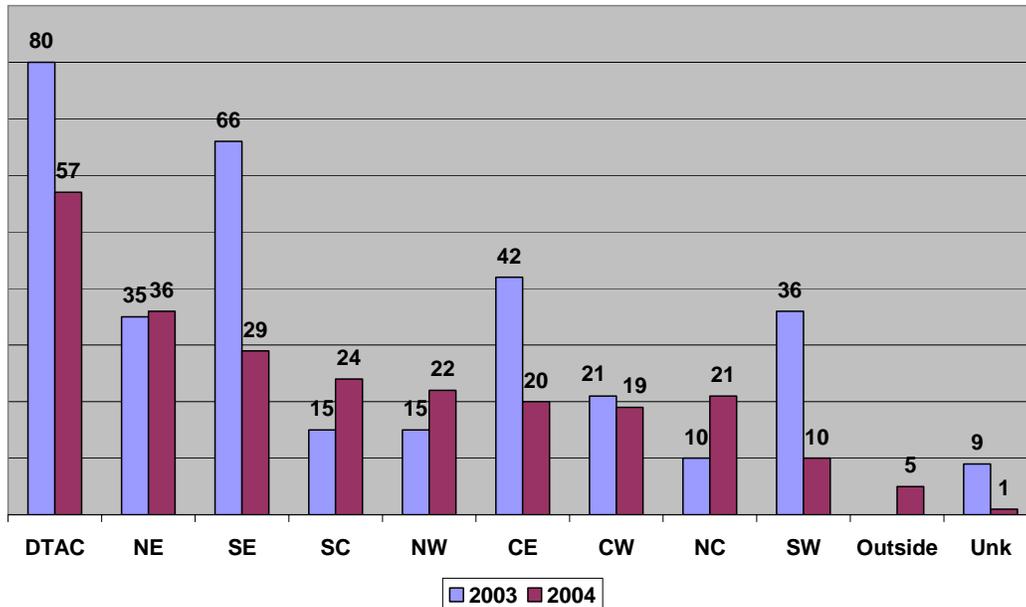
- **Compliance** – knowing, understanding, complying with, and reporting violations of laws, ordinances, and governmental orders;
- **Individual Responsibilities** – honesty, acts bringing discredit to the department, police action when off-duty, etc.;
- **Responsibility to the Community** – courtesy, impartial attitude, duty to identify, etc.;
- **Responsibility to the Department** – loyalty, accountability, duty to take action, etc.; and
- **Responsibility to Co-Workers** – relations with co-workers, sexual harassment, etc.

Of the 48 external and internal Use of Force allegations, 6 were specifically regarding the use of TASER[®]s.

These allegations were also analyzed by the Sector in which the incident took place. Since more complaints were processed in 2003 than in 2004, in most sectors the number of allegations per Sector in 2004 appears to have dropped, but certain Sectors did experience an increase in the number of allegations, specifically NC, SC, NW and NE. Please note charts 7 through 14 provided numbers rather than percentages due to the small incidence of some types of allegations.

Chart 7.

Number of Allegations per Sector by Year
2003 Total = 329 2004 Total = 244



Charts 8 through 14 show specific types of allegations by Sector. As can be seen in Charts 8 and 9, the greatest number of allegations of code of conduct violations and excessive use of force came from incidences originating in DTAC. The NE sector also experienced a high number of code of conduct allegations. Chart 10 shows that the NE and SC sectors had a greater number of allegations pertaining to questionable interviews, stops, arrests, booking procedures and fugitive warrants than other parts of the city.

As can be seen in Chart 11, DTAC had the greatest number of allegations regarding faulty preliminary investigations, incident reporting and follow-up investigations.

While the numbers are small, Chart 12 shows SE had the greatest numbers of bias-based profiling allegations.

Chart 13 shows the number of allegations regarding the manner in which officers handle family violence cases in the different sectors. These allegations are included because of their community impact and the amount of such cases handled by APD. While the number of allegations is small, the SW sector had the greatest number of family violence allegations in 2004.

Chart 8.

Number of Code of Conduct Allegations by Sector
Total = 126

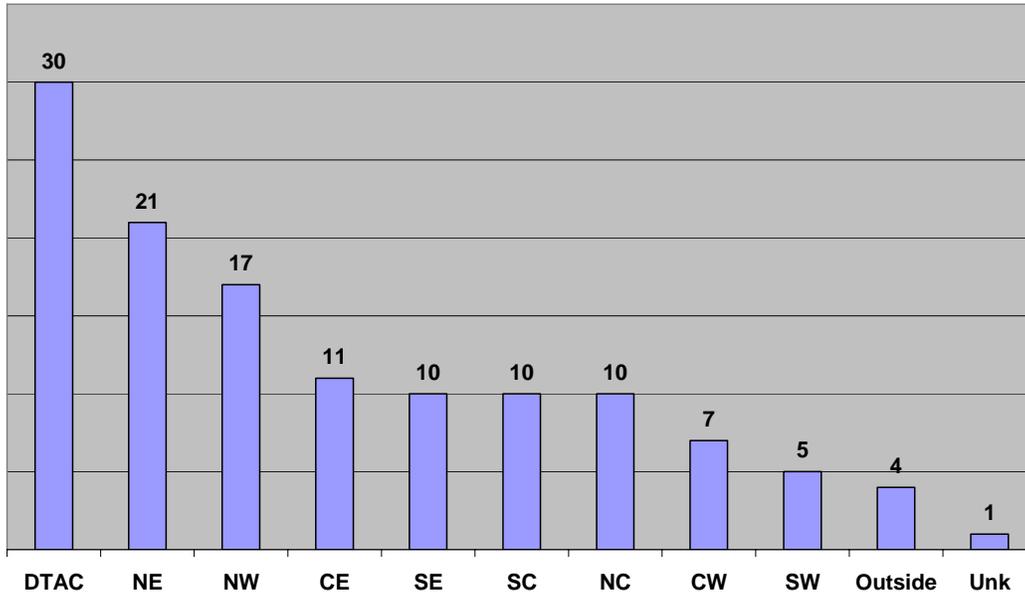


Chart 9.

Number of Use of Force Allegations by Sector
Total = 42

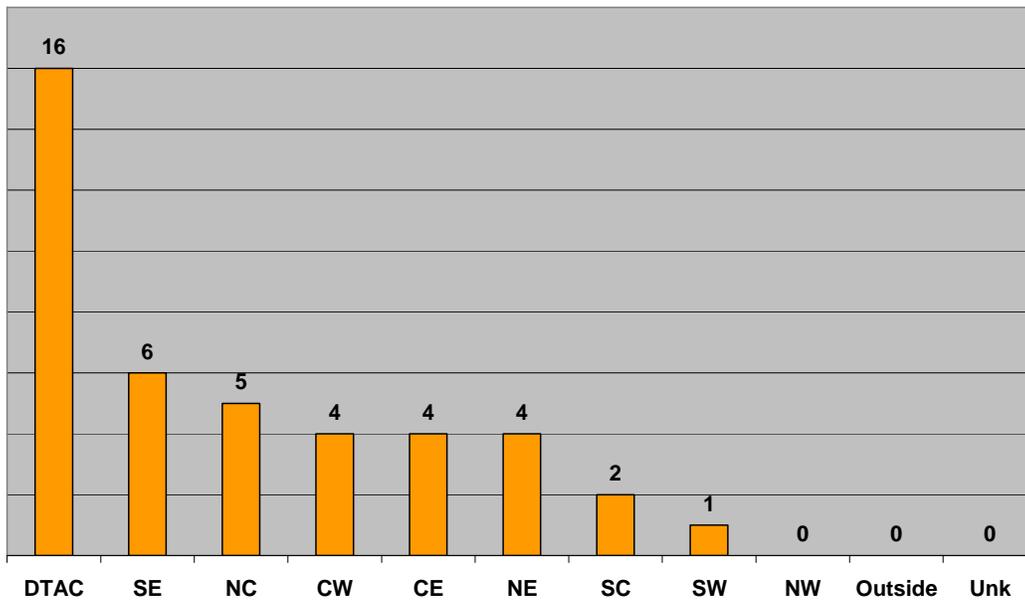


Chart 10.

**Number of Interviews, Stops, & Arrests; Arrest & Booking; Fugitive Warrants
Allegations by Sector
Total = 32**

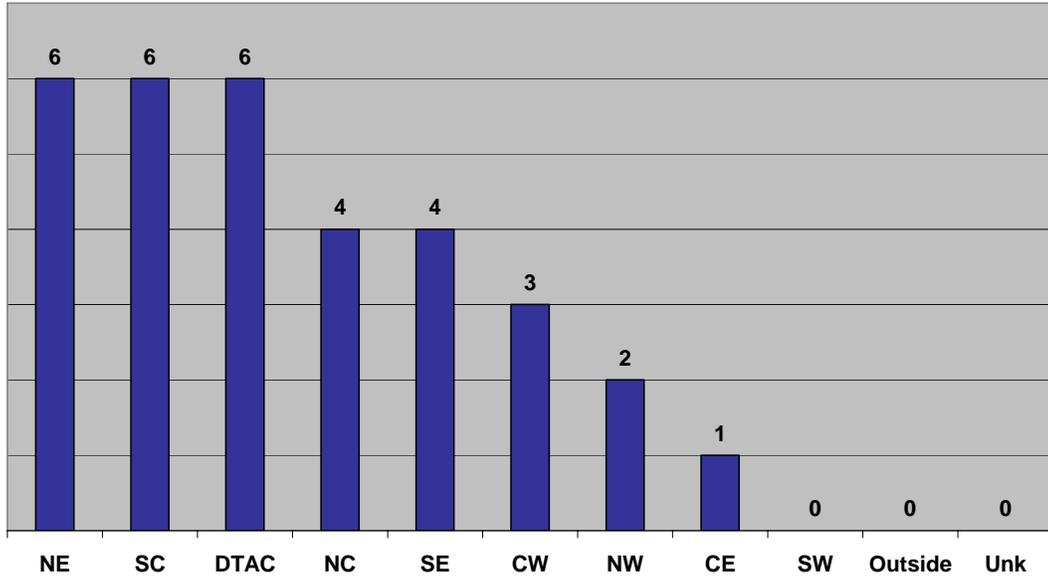


Chart 11.

**Number of Prelim Investigations; Incident Reporting; & Follow-up Investigations
Total = 10**

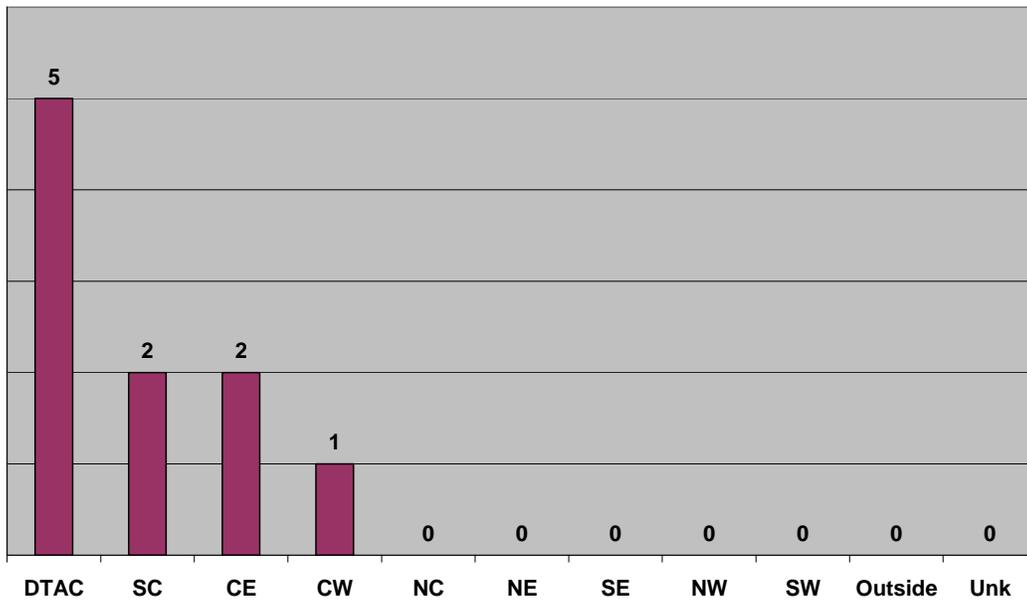


Chart 12.

Number of Bias-Based Profiling Allegations
Total = 9

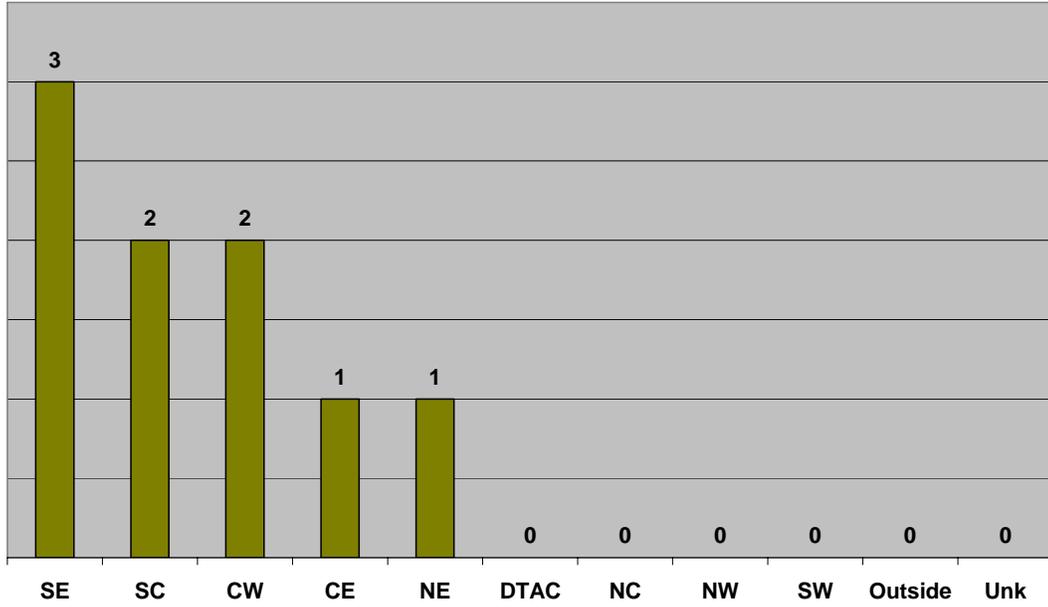


Chart 13.

Number of Family Violence Procedure Allegations by Sector
Total = 9

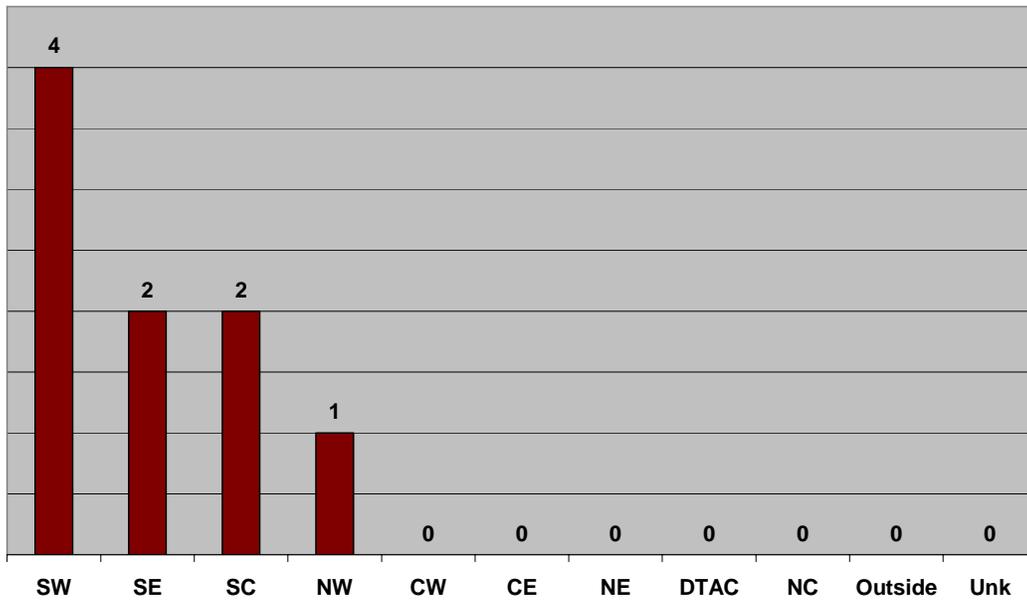
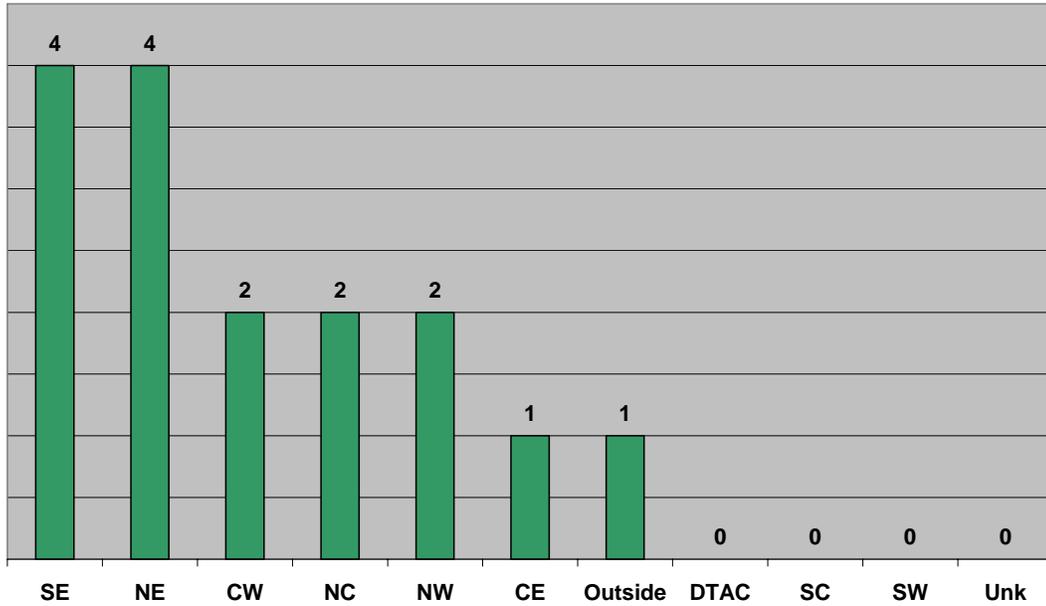


Chart 14 below depicts the number of “other” allegations combined due to their small number. This category includes issues involving failure to follow proper procedure in matters regarding internal affairs, collision investigations, interpreter services, vehicle impounds, and others.

Chart 14.

Number of Other Allegations by Sector
Total = 16



IAD ALLEGATION RECOMMENDATIONS AND APD DECISIONS

Findings:

- Almost three-fourths of allegations for the most serious external cases were found to be either Unfounded or Exonerated.
- The OPM and IAD's rate of agreement on external case allegation classifications increased from 2003 to an 86 percent agreement rate in 2004. The rate of agreement for internal allegation classifications increased from 2003 to a 97 percent agreement rate in 2004.
- The Chief of Police and the Assistant Chiefs of Police acted in accordance with IAD's recommendations on 87 percent of allegations. The OPM agreed with most of the Chiefs' decisions on external and internal allegations.
- The most common form of discipline for sustained external allegations was counseling or some kind of reprimand. For sustained internal allegations, the most common discipline was suspension of the officer. Twenty-seven percent of sustained internal allegations resulted in the indefinite suspension or termination of the officer.

For formal cases, IAD and each officer's Chain of Command independently make recommendations for each allegation investigated. Allegations are reviewed and classification recommendations are made using the following categories:

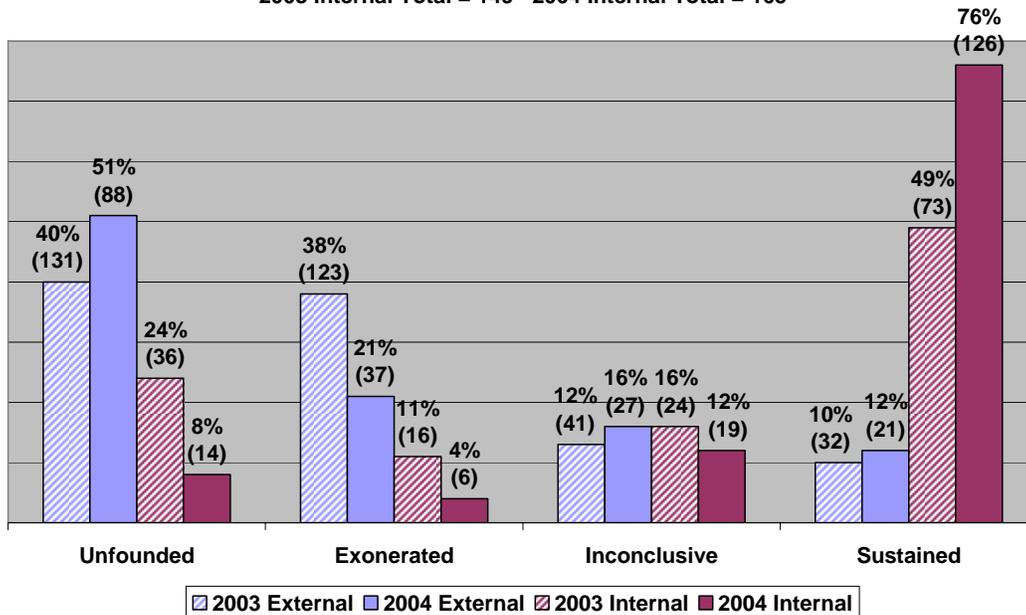
- **Exonerated** – The incident occurred but considered lawful and proper.
- **Sustained** – The allegation is supported or misconduct discovered during investigation.
- **Unfounded** – The allegation is considered false or not factual.
- **Inconclusive** – There is insufficient evidence to prove/disprove allegation.
- **Administratively Closed** – No allegations were made or misconduct discovered and/or complaint closed by supervisor.^{VI}

External A and B cases in 2004 included 173 allegations. Seventy-two percent (125) of these allegations were either "Unfounded" or "Exonerated", 16 percent (27) of allegations were found to be "Inconclusive" and 12 percent (21) of allegations were "Sustained."

^{VI} Definitions extracted from APD's General Orders, Policies, and Procedures, A109.08.

Chart 15.

IAD Recommendations for Case Allegations
 2003 External Total = 328* 2004 External Total = 173
 2003 Internal Total = 149 2004 Internal Total = 165



*One of the 2003 external cases is not shown above because it was Administratively Closed. Currently, A and B cases are no longer Administratively Closed.

Similar to case classifications, the OPM reviews each IAD file and allegation recommendation and determines whether it agrees or disagrees with the recommendation. In 2004 the OPM agreed with 86 percent of external case allegation classifications. This rate compares to a 66 percent agreement rate in 2003.

Internal A and B cases in 2004 included 174 allegations. In contrast to external case allegations, 76 percent (126) of the investigated internal case allegations were “Sustained;” 12 percent (19) of the allegations were considered “Inconclusive;” 8 percent (14) were “Unfounded;” and 4 percent (6) were “Exonerated.” Nine of these allegations are not included in Chart 15 above due to the officer(s) retiring or resigning under investigation. The OPM agreement rate for internal allegation classifications in 2004 was 97 percent, an increase from the 2003 rate of 85 percent.

Chart 15 also shows a U-shaped curve that reveals more internal cases than external cases were sustained (76 percent and 12 percent, respectively) and more external cases than internal cases were unfounded (51 percent and 8 percent, respectively). As a reminder, unfounded is defined as false or not factual, and sustained is defined as misconduct was discovered. It is difficult to see why external cases would less often be sustained compared to internal cases. Other than the distinction that in internal cases the IAD detectives compare a supervisor’s word to an officer’s word and in external cases the IAD detectives compare a civilian’s word to an officer’s word, it is difficult to see in what other ways these cases differ, and therefore warrant distinct recommendations from IAD. This trend will be observed further.

Additionally, Chart 15 reveals an increase in the number of internal allegations that were classified as “Sustained” by IAD in 2004 compared with 2003. In 2003 IAD recommended sustaining 49 percent (73) of allegations in internal cases, compared to 76 percent (126) “sustained” recommendations made in 2004. A number of factors can be responsible for this

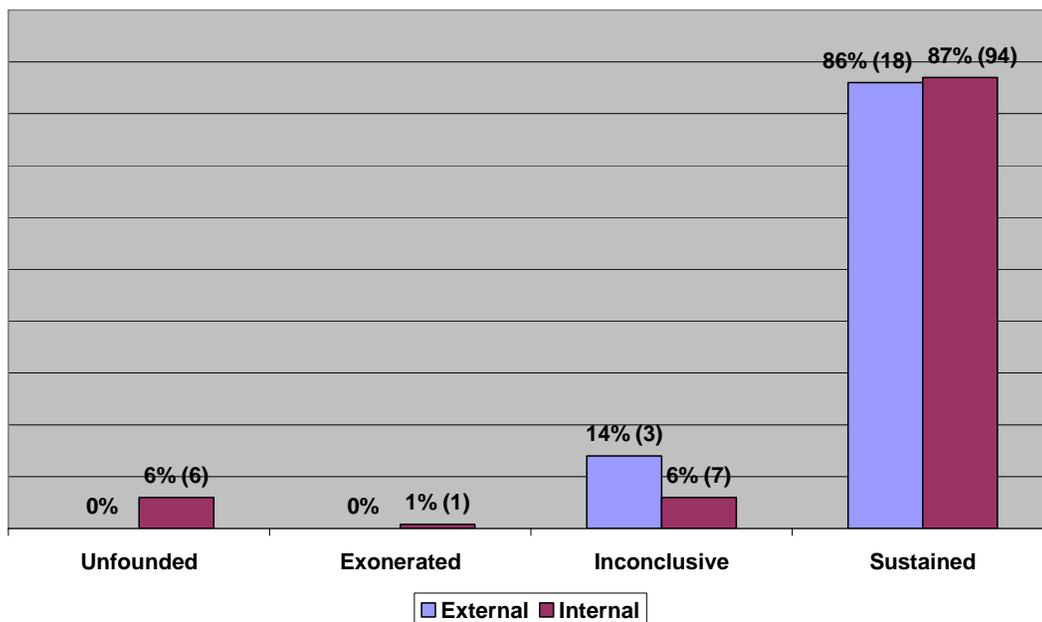
increase, including a greater number of the total number of internal cases in 2004, greater vigilance and reporting of violations by supervisors and fellow officers, as well as stricter standards by IAD detectives.

While IAD makes a recommendation for each allegation, the Chain of Command of the officer and ultimately the Chief make the final determination on any discipline and the resolution of the allegation.

As can be seen in Chart 15 above, IAD recommended that 147 allegations be sustained. Eighteen allegations are not included in Chart 16 below due to the officers retiring or resigning during the investigation. Chart 16 depicts the Chain of Command/Chief Knee's decisions on the remaining 129 allegations that IAD recommended be "Sustained." Some disagreement is revealed. Specifically, the Chain of Command/Chief disagreed with 17 allegations that IAD recommended be sustained. This ratio would yield an agreement rate between IAD and the Chain of Command/Chief of 87 percent. The OPM was in agreement with 94 percent of the Chief's decisions on external cases and agreed with 98 percent of the Chief's decisions on internal cases.

Chart 16.

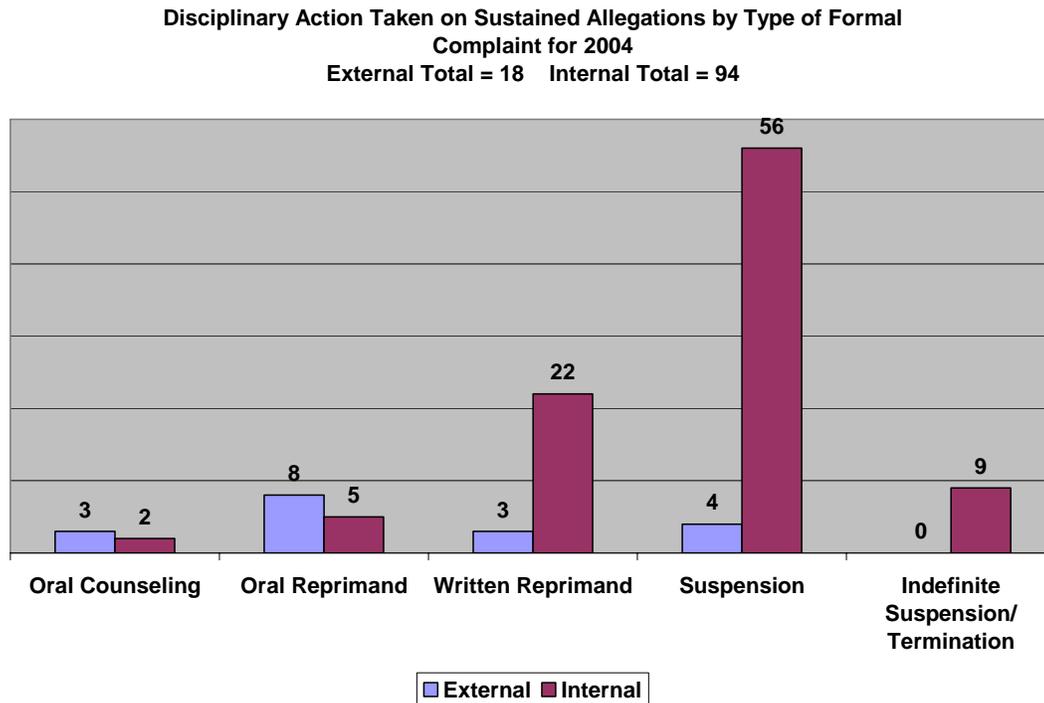
APD Chain of Command/Chief Decisions for Formal Sustained Allegations
External Total = 21 Internal Total = 108



The Chief is also ultimately responsible for deciding if any disciplinary action will be taken. Chart 17 shows the disciplinary action meted out to the subject officers who had "sustained" allegations in 2004. Discipline results are shown by allegation and not by individual officer. Since more internal than external allegations were sustained in 2004, more discipline resulted from internal cases. The most common discipline received by officers with external complaints was counseling or some type of reprimand. Only four external allegations resulted in a suspension for the officer(s).

For internal complaints, 56 allegations resulted in suspension of the officer, nine allegations resulted in the indefinite suspension or termination of the officer, and 29 allegations resulted in reprimands or counseling. Chart 19 does not include any case where officers retired or resigned while under investigation. Six subject officers took this course of action in 2004.

Chart 17.



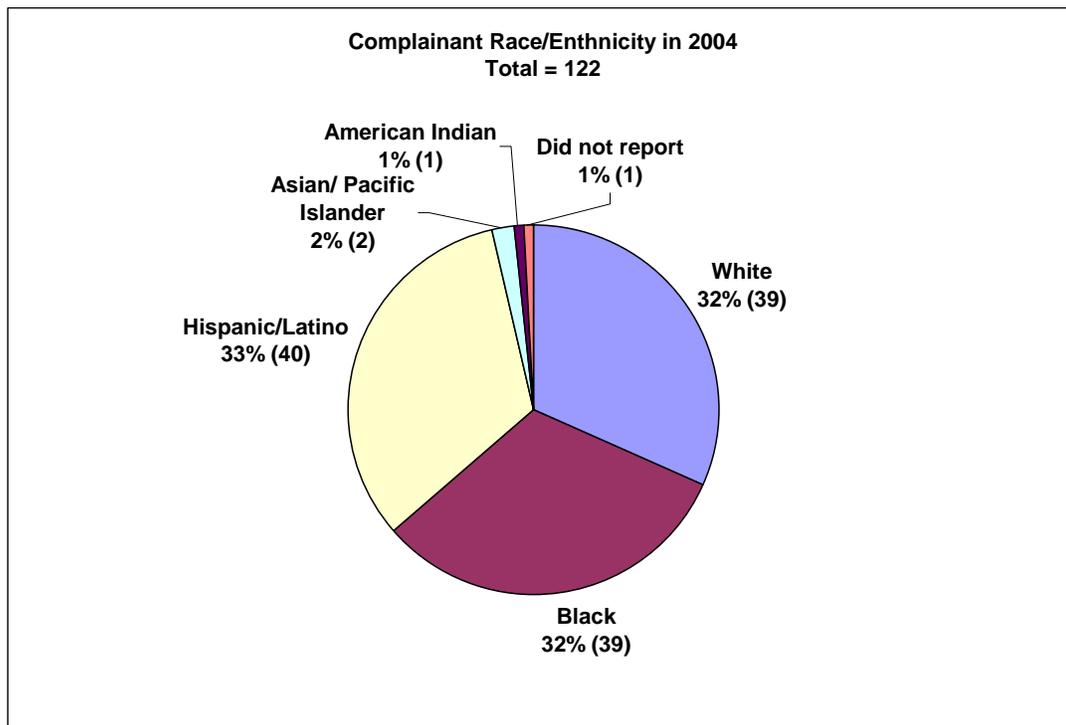
COMPLAINANT DEMOGRAPHICS

Findings:

- Complainants who have filed formal complaints with the OPM represent a wide cross-section of Austinites. They do not cluster around any particular racial or geographic group.
- More males than females filed external complaints in 2004.
- Of the 122 external complaints monitored at the OPM, only 39 percent (47) included incidences involving some type of arrest, indicating that the majority of complainants are not disgruntled arrestees.

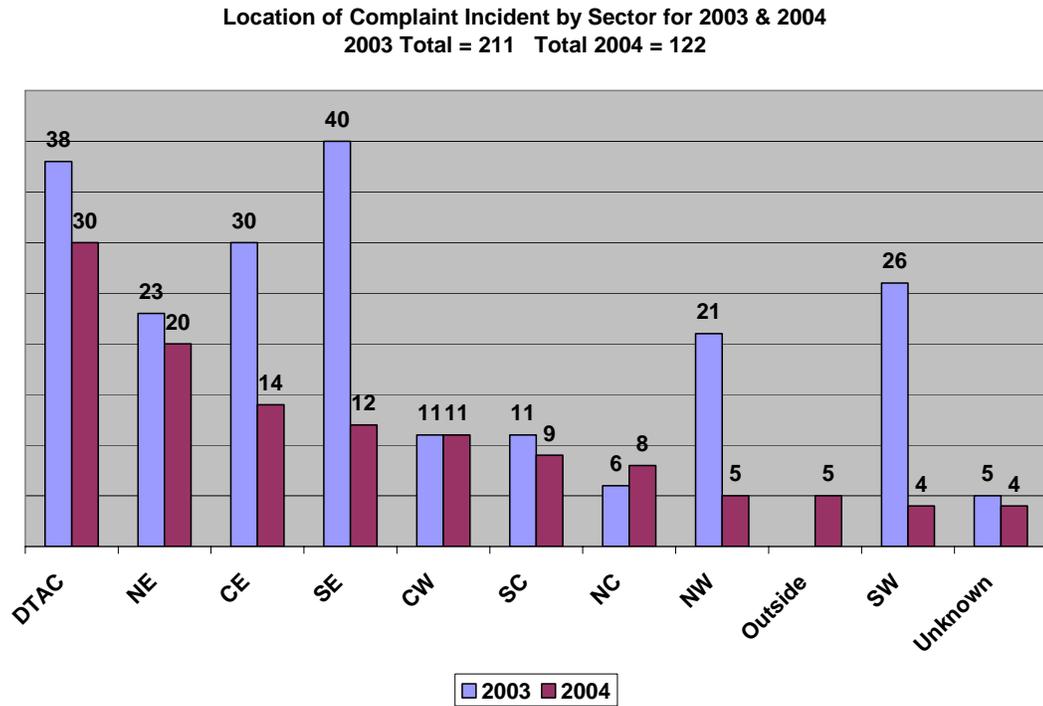
Contrary to some misconceptions, complainants at the OPM are not only minorities from East Austin. Complainants in 2004 represented diverse demographic and geographic characteristics. The average complainant seen at the OPM comes from any part of the City of Austin, is White, Hispanic or Black and is between the ages of 20 and 49. Chart 18 shows that the 122 complainants were comprised of 33 percent Hispanic/Latino, 32 percent White, and 32 percent Black complainants. Two percent of complainants were Asian/Pacific Islander and 1 percent was American Indian. Complainants self-identified their race or ethnicity except for one individual who did not. It is important to remember that the demographic percentages presented here cannot be directly compared to the demographic percentages of the city of Austin as a whole. To do so would assume that all residents of Austin have equal contact with APD. Due to APD engaging in special initiatives in different parts of the City, one cannot assume equal contact with APD for all Austinites.

Chart 18.



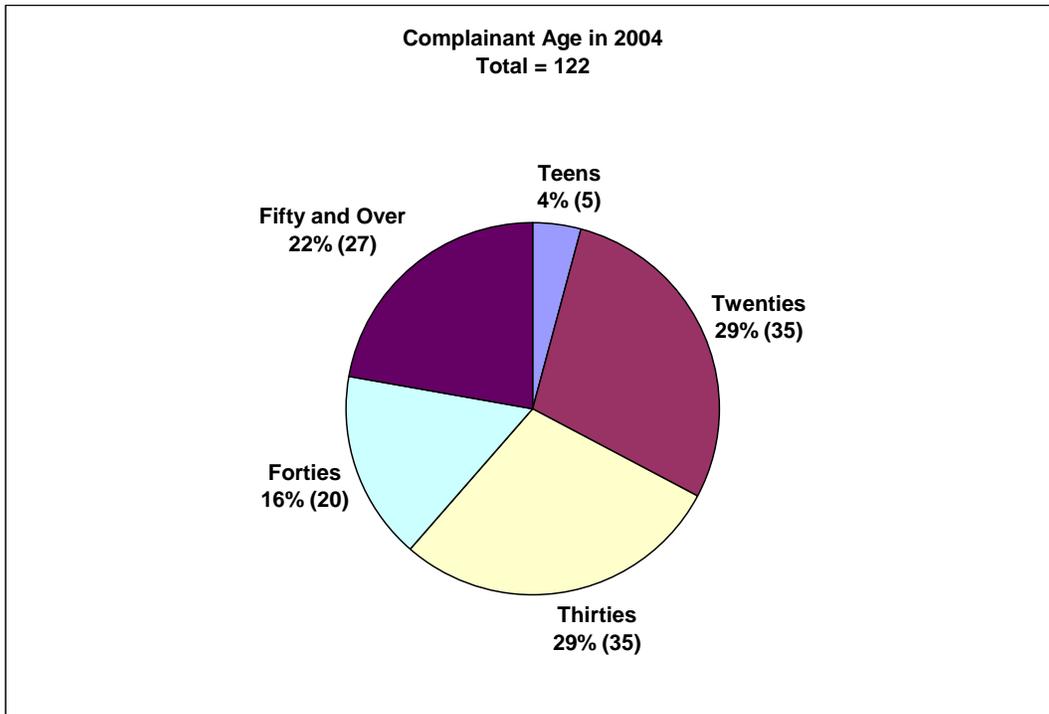
Of the different APD Sectors in Austin, DTAC had the largest proportion of complaints in 2004. The NE sector had the second largest number of complaints in 2004. CE, CW and SE sectors had similar numbers of complaints. SW had the least number of complaints in 2004.

Chart 19.



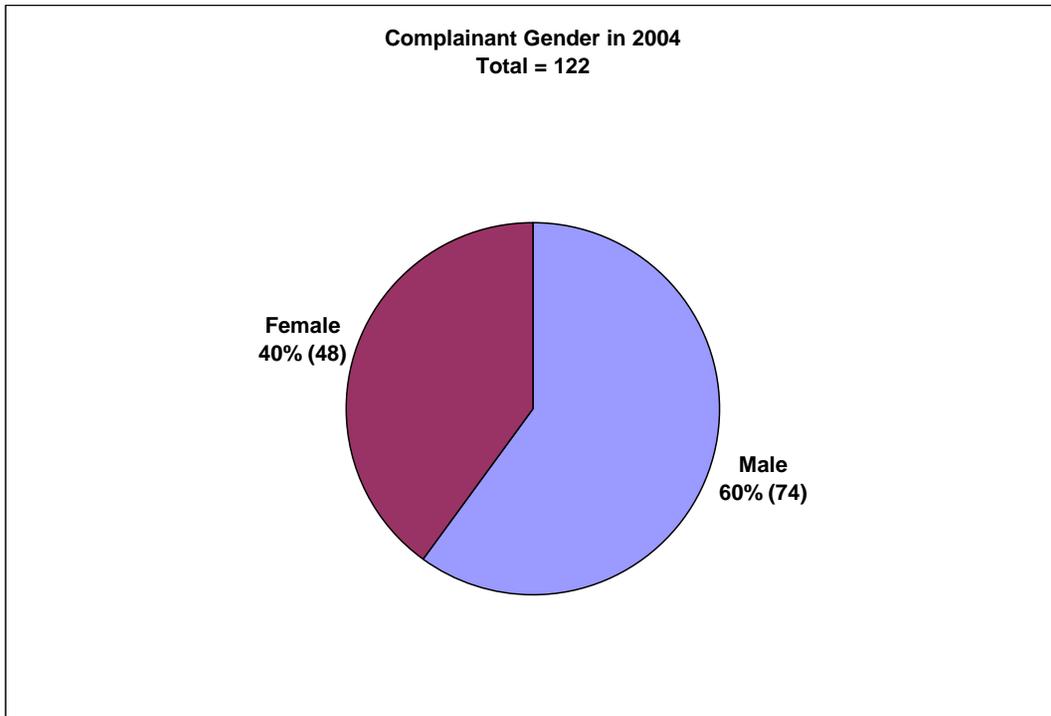
Of the complainants that reported their age, 74 percent reported being between the ages of 20 and 49 years of age. About 4 percent of complainants reported being in their teens, and 22 percent reported being 50 years of age or older.

Chart 20.



More males (60 percent) than females (40 percent) filed external complaints in 2004. Men were more likely than women to file formal complaints in comparison to COC inquiries, where men and women filed complaints at equal rates. See the **Chain of Command Inquiries** section of this report for more details on the gender breakout in COC inquiries. This gender difference in type of complaint filed is probably caused by multiple factors, including men having more contact with police than women, women more often having childcare responsibilities that limit their time to file complaints, as well as other reasons.

Chart 21.



Of the 122 external complaints processed at the OPM, only 39 percent (47) included incidents involving some type of arrest, indicating that the majority of complainants are not disgruntled arrestees. While some complainants may have received a citation without arrest, many complainants have neither been cited nor arrested. These statistics may help to dismantle misconceptions about the motivations of people that file complaints with the OPM. For future reports, the OPM will collect data on whether or not complainants received citations.

REFERENCED OFFICERS DEMOGRAPHICS

Findings:

- Less seasoned officers appear to be more vulnerable to allegations of policy violations.
- The number of sergeants and corporals referenced in complaints is high enough to warrant a legitimate concern given the relatively low number of these ranks on the force.
- Hispanic officers are slightly over-represented in complaints given their numbers on the force.

The 600 complaints processed by the OPM referenced 493 APD officers, meaning that 37 percent of all APD-sworn officers were referenced in one type of complaint or another. Of these, 82 officers were mentioned as subject officers in COC inquiries. This does not mean that 82 officers were responsible for all 306 COC inquiries but instead indicates how often officers go unidentified in COC inquiries. In most cases officers are not identified because the complainant has insufficient information because no name or employee number was taken and no citation was received, or the incident involved an officer in a moving vehicle, complicating the complainant's description.

In order to provide more complete and accurate data, the following statistics will focus on the remaining 396 officers referenced in external and internal complaints only.

Subject officers' years of service varied from more than 30 years to less than one month. The average tenure served by officers referenced in formal complaints was a little less than eight years. Half of the officers referenced in formal complaints had served almost six years. In 2004 the most common number of years served by subject officers was three years, suggesting that newer officers are more vulnerable to allegations and/or violations of policy.

Table 2.

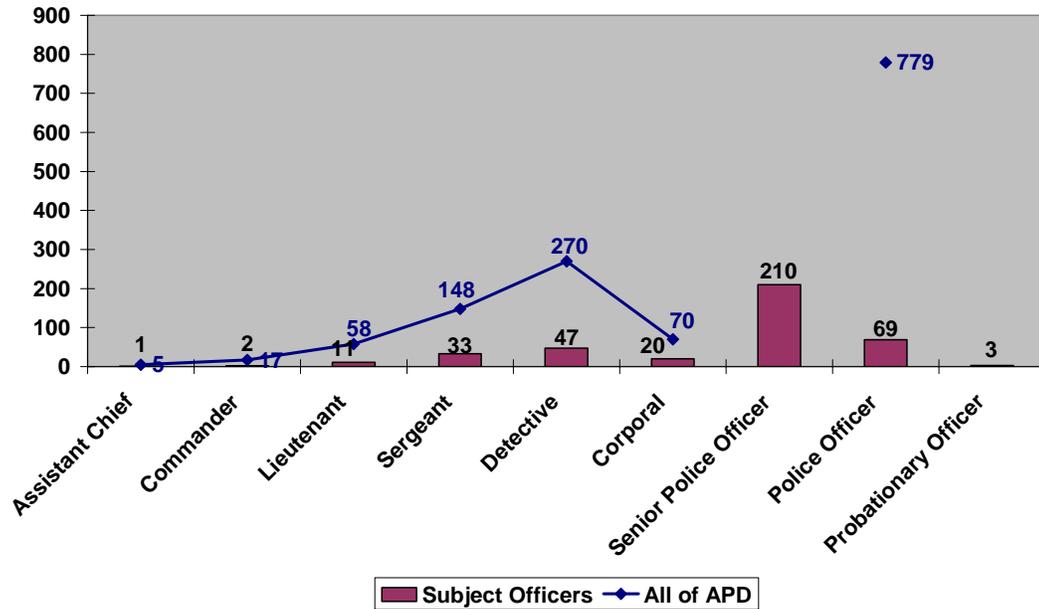
Years of Service of Subject Officers for 2004

	Years of Service
Average tenure	7.94
Longest tenure	30.2
Shortest tenure	0.07
Tenure midpoint	6.09
Most common tenure	3.00

These findings suggest that more complaints are being filed against less seasoned officers.

Chart 22.

Subject Officer Rank for 2004 Formal Complaints by APD Rank Totals
 Subject Officer Total = 396 APD Total = 1347



As can be seen in Chart 22, of the officers referenced in formal complaints, 210 were ranked as senior police officers, 69 were police officers,^{vii} and 47 were detectives. Thirty-three sergeants and 20 corporals were referenced, noteworthy due to the relatively small number of sergeants and corporals in the Force.

In line with the gender make-up of APD, most subject officers, 92 percent, were male. This finding is outlined in Chart 23.

^{vii} APD Human Resources does not break down the Police Officer category in the same way the IAD Tracking System does. Therefore, Chart 26 above appears to be missing APD total numbers for the Senior Police Officer and Probationary Officer categories in the APD statistics.

Chart 23.

Subject Officer Gender by APD Gender
 Subject Officer Total = 396 APD Total = 1347

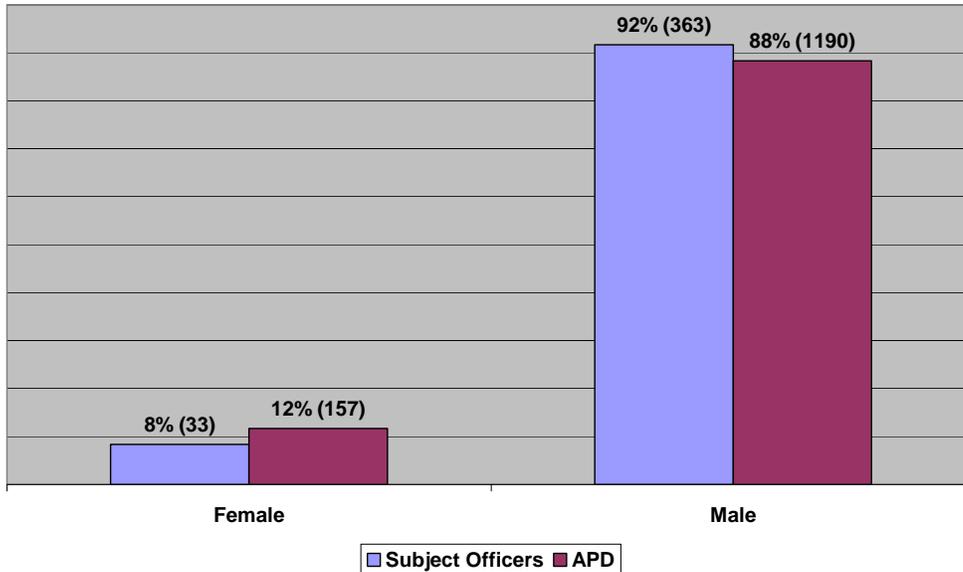
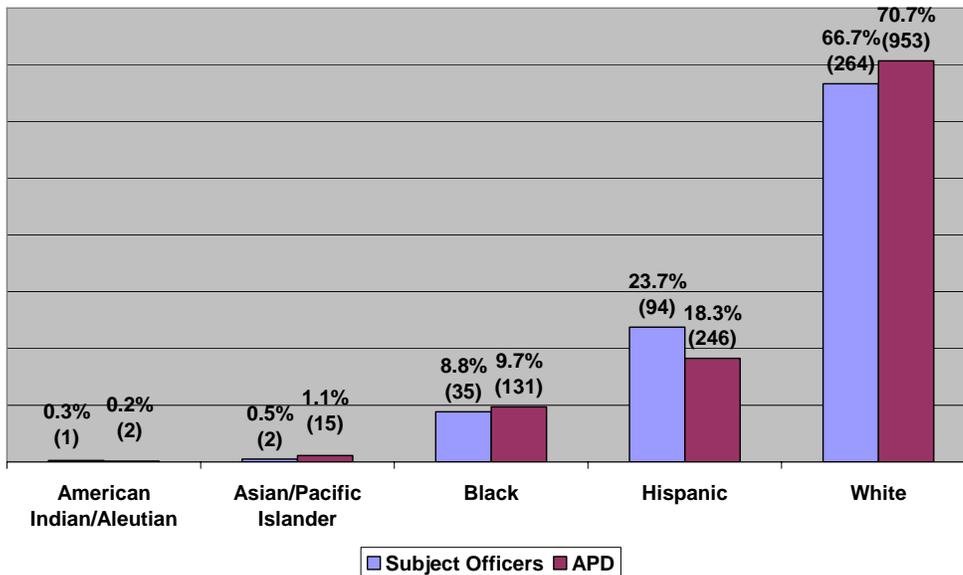


Chart 24 depicts the race/ethnicity of officers referenced in complaints in 2004. Similar to the make-up of APD, most subject officers, 67 percent, were White. Chart 24 also reveals that Hispanic officers are over-represented in the subject officer category, making up 18 percent of APD but 24 percent of subject officers.

Chart 24.

Subject Officer Race/Ethnicity by APD Race/Ethnicity
 Subject Officer Total = 396 APD Total = 1347



CONCLUSION

The OPM received more complaints in 2004 than in 2003. However, due to a revised complaint structure implemented in late 2003, significantly fewer complaints were handled as formal complaints. The number of COC inquiries in 2004 was 15 times greater than that of 2003. This large amount of COC inquiries indicates that revisions are needed to the current data collection methods. Subsequent reports will clearly require the analysis and reporting of COC statistics – including complainant demographics, subject officer demographics, and allegations – similar to those currently available for formal complaints.

There continues to be a notable difference in case classifications between IAD and the OPM, especially the number of external cases compared to internal cases classified as C and D. This trend was initially reported in the OPM 2003 annual report, and it is again apparent in the current annual report. Several explanations for this have been examined, including the make-up of internal cases and the additional filter provided by COCs in external cases, but there is no clear answer for this discrepancy. Examination of IAD case classifications and OPM opinion of those classifications will be further analyzed in subsequent reports.

There also continues to be a discrepancy between the type of allegations reported by the community and those from within the Department. This difference in concerns over officer conduct seems to be a complementary one, which allows for a more balanced vigilance of officer misconduct than a system with only internal complaints.

In reviewing allegations and complaints by Sector, DTAC stands out as having the second greatest number of complaints in 2003 and the greatest number of complaints in 2004. For both years, DTAC also incurred high numbers of the more disturbing allegations, such as excessive use of force. It is possible that part of the reason DTAC is more often referenced in complaints is that many individuals in this area are out to have a fun time that may or may not include drinking alcoholic beverages. For this reason, it is important for APD to explore de-escalation tactics that aim to take control of an otherwise chaotic situation and turn it into either an effective arrest of a suspect or protection of a civilian in need.

It may also benefit the Department to more closely examine compliance with policy and procedure by officers in high complaint Sectors. After all, not all downtown patrons are belligerent and intoxicated. Plus, while higher intoxication rates may help explain some of the high numbers of complaints originating in DTAC, it is not clear what is leading to the increase in complaints in the NE Sector. This increase may in fact be somewhat more alarming than the DTAC increase because this area is not known as a party area where people are commonly intoxicated in public. In the past, the OPM has engaged in field trainings in and dialogue with residents of the DTAC Sector. The OPM will launch a youth outreach program that focuses on high school and college students in the hopes of educating and receiving feedback from individuals that are likely to frequent the DTAC Sector. Future collaborations between APD and the residents of high-complaint Sectors, such as NE, could prove fruitful in shedding light to factors contributing to increasing complaints.

One area of the complaint and investigative process where IAD and the OPM appear to be more in step relates to IAD allegation recommendations and Chain of Command/Chief decisions. Agreement rates for both internal and external cases increased from 2003 to 2004.

An analysis of the characteristics and demographics of officers referenced in 2004 complaints revealed that some newer or less experienced officers are more likely to incur complaints than

more seasoned officers. These findings suggest that supervisors paying special attention to these officers could yield improved compliance. The Chain of Command has invaluable input regarding its officers. By paying special attention to the characteristics and ranks described in this report as well as collaboration with the OPM, IAD, and Policy Review Board, the Chain of Command could see improved compliance among officers. Currently, the OPM conducts a presentation to each Citizen Police Academy class, describing the functions of the office and various statistics. Conducting similar presentations to new cadet classes as well as Amigos en Azul, the Hispanic/Latino officer organization, may prove helpful in educating incoming officers of their greater likelihood to receive complaints against them and invite discussion from Latino officers as to possible explanations for their apparent over-representation in complaints in 2004.

The OPM will use the lessons and questions raised by this report to shed more light on the IAD administrative complaint process, meet the objectives set for the OPM by the citizens of Austin and fulfill our mission statement.

DEPARTMENTAL DECISIONS ON SIGNIFICANT CASES IN 2004

The following list of case descriptions and resulting disciplines can provide insight and transparency into the oversight and IAD investigative process.

- ◆ A senior officer was the subject of an investigation involving policy violations related to Dereliction of Duty and Pursuit Procedures. The officer resigned under investigation.
- ◆ A detective was indefinitely suspended for sustained violations of departmental policies regarding Attendance, Honesty, Insubordination, and Responsibility to Report Secondary Employment, Computer Use, and Requirements of Duty.
- ◆ An officer resigned under investigation of allegations pertaining to Responsibility to Comply with all Laws to wit: Official Oppression. The allegations were based on several incidences where the officer coerced females to expose themselves during traffic stops.
- ◆ A sergeant involved in a road rage incident was suspended for three days for failing to comply with all laws and rules regarding police action when off duty.
- ◆ A detective received a written reprimand for TASER[®] policy violations regarding the use of his TASER[®] on a handcuffed suspect.
- ◆ An officer was suspended for 15 days following a sustained allegation of Responsibility to Comply with all Laws to wit: Assault w/ Injury and Care of City property resulting from a domestic violence incident.
- ◆ A senior officer resigned under investigation of allegations of Responsibility to Comply with all Laws, Acts Bringing Discredit to the Department, and Honesty after misleading the department about his background and training and profiting from workshops while representing the Austin Police Department.
- ◆ Officer Scott Glasgow was suspended for 90 days after allegations of Responsibility to Comply with all Laws to wit: Statement and Purpose and Personnel Duties, Authority, and Responsibility – were sustained for his conduct in the fatal shooting of motorist Jesse Lee Owens. Officer Glasgow was exonerated on the allegation of Use of Force – Deadly Force.

RECOMMENDATIONS

Part of the OPM's oversight responsibility includes drafting and issuing recommendations upon completing the review of IAD investigative files. The most common types of recommendations made to IAD/APD include case-specific recommendations, such as case reclassification, allegation reclassification, further investigation of a case, or request for IAD to follow proper administrative complaint procedures. Other recommendations are developed by reviewing particular cases, but focus more on change to current policies and procedures or addition of a new policy or procedure. Beyond these, the OPM can also suggest that a particular officer receive certain training/re-training or be monitored through APD's early warning systems.

The reader may recall the OPM had varying degrees of agreement with IAD case and allegation classifications as well as the final classifications determined by the Chain of Command and the Chief. Table 3 below details the different recommendations made to IAD/APD during 2004.

Table 3.

External Cases	Recommending Party	Recommendation
03-002	Police Monitor	Request to review allegations; review officer's actions
03-112	Police Monitor/ CRP	Reconsider case classification; sustain allegation of impartial attitude
03-128	Police Monitor	Assess quality of investigation; investigate further
03-249	Police Monitor	Assess quality of investigation; investigate further
03-280	CRP	Revise Policy & Procedures
03-303	Police Monitor	Request to review video/audio recordings
03-324	Acting Police Monitor	Explain APD Policy during traffic stops; Offer officer counseling in good police work, polite conversation, and invasion of privacy.
03-329	Police Monitor	Assess appropriateness of officer actions; disagree with IA recommendation
03-330	Police Monitor	Discuss policy & procedure on vehicle stop for failure to signal
03-361	Police Monitor	Request to change allegation to Inconclusive; Officer counseling
03-370	Police Monitor	Discuss Officer's motive for turning on in-car video; concerns about IAD recommendation on allegation.
03-371	Police Monitor	Change allegation recommendation to Sustained
03-390	Police Monitor	Recommend to change allegation
03-398	Police Monitor	Review history of officer's behavior during traffic stops; observe officer's traffic stops
04-001	Police Monitor	Assess quality of investigation;
04-016	Police Monitor	Recommend that officer receive follow-up with supervisor
04-054	Police Monitor	Officer training on supplemental reports
04-060	Police Monitor	Assess quality of investigation;

04-068	Police Monitor	Review officer's actions
04-094	Police Monitor/ CRP	Officer training on felony warrants Area Command reassignment;
04-128	Police Monitor	Monitor officer via voice recorder Require officer to use audio; assess quality of investigation
04-153	Police Monitor	Sustain policies & procedure allegation
04-159	Police Monitor	Officer training in customer service
04-160	Police Monitor	Officer training and/or counseling
04-176	Police Monitor/ CRP	Review policies & procedures; DWI training
04-191	Police Monitor/ CRP	Assess integrity of investigation
04-197	Police Monitor	Assess policy regarding warrant service; BOLO
04-291	Police Monitor/ CRP	Addition to Guidance Advisory Program
04-451	Police Monitor	TASER [®] Training; review case classification
Internal Cases	Recommending Party	Recommendation
03-078	Police Monitor	Sustain policies & procedure allegation
04-023	Police Monitor	Consider officer behavior; assignment criteria
04-054	Police Monitor	Reassess use of force; reporting methods
04-171	Police Monitor	Assess quality of investigation; consider officer discipline
04-175	Police Monitor	Request to change allegation from Unfounded
04-192	Police Monitor	Assess quality of investigation; use of force
04-229	Police Monitor/ CRP	Review policies & procedures; DWI training; consider officer discipline
04-372	Police Monitor	Performance & evaluation
Global Recommendations	Recommending Party	Recommendation
Recommendation 1	Police Monitor	Conduct face-to-face apologies to complainants to be included in the disciplinary process for appropriate cases
Recommendation 2	Police Monitor	Evaluate existing training & counseling systems for personal conduct issues, e.g., alcohol abuse, chemical dependency, anger management, oppression, pornography, and sexual harassment, for cadets and officers; improve and innovate as appropriate
Recommendation 3	Police Monitor	Conduct face-to-face interviews with subject officers, rather than statements, in Class B investigations*
Recommendation 4	Police Monitor	Offer supplemental training for IA detectives regarding interview skills, e.g., avoid leading questions, when inappropriate

COMPLAINANT FOLLOW-UP OPTIONS

After the OPM reviews IAD's investigative file and/or the Chain of Command's/Chief's decision, the complainant is notified of the results of the investigation. If the citizen is not satisfied with the decision or simply wishes to have more information regarding her case, she has two options. One is to request a **Police Monitor's Conference (PMC)**. The other is to appear before the **Citizen Review Panel (CRP)**.

A PMC is a meeting with the complaint specialist who handled the case as well as the police monitor or the assistant police monitor where details from the IAD file can be shared with the complainant. In 2004, 13 percent of the complainants who filed a formal complaint attended a PMC. This figure represents a slight increase from 9 percent in 2003.

After the PMC, a complainant who continues to have concerns about the case can request to present the case to the CRP. The CRP consists of seven volunteer members and residents of the Austin community. Each member is appointed by the City Manager with input from the City Council and the community at large. Each member serves a 2-year term with no member serving more than two full consecutive terms. Before sitting on the panel, CRP members receive extensive training, including the APD Citizens Police Academy, ride-alongs in police vehicles in each of the seven police sectors, Internal Affairs training, and communications with key people in the community and oversight interests.

CRP members in 2004 included:

Juan Alcala
Roy Butler, Chair
Celia Israel
Dr. Sterling Lands II
Muyng Lemond
J. D. Martinez
Carla Nickerson

The CRP meets once a month to review complaints and listen to complainants' concerns about the resolution or processing of their cases. Once complainants address the Panel and the complaints are reviewed, the CRP is capable of making recommendations to the City Manager, the chief of police and the City Council.

The CRP reviewed 19 cases in 2004, including cases from 2002, 2003, and 2004. Through the end of the calendar year, the CRP had heard from six complainants who filed complaints in 2004. While the CRP does not have the ability to render decisions or enforce discipline, it can make recommendations. For instance, in the matter of Officer Glasgow's disciplinary action, those familiar with the administrative process believe that except for the CRP's recommendation of termination, Glasgow would have received significantly less than a 90-day suspension; the longest suspension short of termination.

COMMUNITY OUTREACH

To more broadly communicate its mission and the benefits of police oversight, the OPM in 2004 focused its outreach efforts on attending meetings where community members already gathered, rather than scheduling our own meetings for civilians to attend. As a result, we participated in more than 100 community events and made more than 30 presentations to diverse groups throughout Austin. Activities were concentrated in Northeast, Downtown, Southeast and Central East Austin, and presentations were conducted in both English and Spanish.

Our revised focus also led to the creation of monthly outreach efforts for constituents at the Mexican Consulate and the NAACP who were unlikely to report allegations of misconduct due to lack of awareness of our services or lack of trust in the system.

The OPM sought input from Spanish speakers at English as a Second Language classes held at Manos de Cristo, Dobie Middle School, Langford and Dawson elementary schools and Santa Julia Catholic Church. We also interacted with the Chestnut, Hyde Park, and the Pecan Springs-Springdale Hills Neighborhood Associations, and the Blackland Community Development Corporation. We received feedback and answered questions from Men With A Purpose, a civic-minded group of African-American men; senior citizens at the Alamo Recreation Center; members of the Austin Area Interreligious Ministries; the Austin 2010 Executive Committee; the 2003-04 Leadership Austin Class; the Breakfast Club, an informal group of businessmen; and Indian, Japanese, and Korean groups at the Asian American Cultural Center.

In an effort to hear various community members' perceived experiences with APD, the OPM conducted a survey from December 2003 to May 2004. The OPM made presentations and handed out questionnaires to more than 60 churches, schools, neighborhood associations, business alliances, civic groups, and cultural organizations. The results confirmed two major findings based on our 2002 and 2003 experiences – 1) civilians want to know the officers that patrol their neighborhood and 2) most complaints center on rudeness or lack of respect.

In conjunction with the OPM survey, APD began working with the Police Executive Research Forum (PERF), a Washington, D.C. non-profit group that assists law enforcement agencies through research, technical assistance, and management audits. APD and PERF conducted a thorough review of the training APD provides to its personnel; enhanced their operational and administrative procedures; and developed greater community engagement, problem-solving, and partnership-building between the public and APD. APD's work with PERF was part of its response to the December 2003 report by a grand jury that challenged city leaders, government, the OPM, and APD to significantly improve community-APD relations, particularly with communities of color. The OPM collaborated with APD in these efforts. Our support included encouraging individuals to attend small group meetings – which were not attended by police – to discuss their observations with PERF and share the hundreds of responses to the OPM survey.

PERF's final report contained more than 50 recommendations. None of the recommendations were particularly surprising; however, they did confirm vital concepts, including the value of a strong relationship between APD and the OPM and that police officers must be better informed about the benefits that the OPM can provide to them and the community. A copy of this report

can be obtained through APD. There is also a link to an electronic version on the OPM's web site.^{VIII}

Another important OPM objective for 2004 was the training of facilitators or "facilitrainers" at the Los Angeles Simon Wiesenthal Center's Museum of Tolerance. Police Monitor Ashton Cumberbatch and community liaison Hermelinda Zamarripa joined pastors, officers, and community leaders in a 3-day law enforcement training session that focused on strengthening ethical decision-making and reducing racial profiling. Their program, entitled "Perspectives on Profiling," compels attendees to make critical choices and see the consequences that result from their decisions. It questions, solicits feedback, and provides examples on such topics as preventing the escalation of racially charged stops and determining when race may be appropriately used as a factor in criminal profiling.

As part of the effort to bridge communication gaps between police and the community, APD and the OPM began the joint production of a newsletter that informs the public about efforts to address the community's concerns and bring transparency to the Department. The newsletter, also located on APD's web site, became part of Chief Stan Knee's 2004 Community Relations Action Plan.

At the 4th Annual Communities Connecting for a Better Tomorrow meeting, IAD Commander Julie O'Brien, IAD Detective Felicia Williams, and Police Monitor Ashton Cumberbatch explained the administrative investigation and monitoring processes to civilians and the 2004 APD cadet class.

Commanders in each of the 11 APD sectors host monthly or quarterly forums designed to give the public an opportunity to interact with the officers in their neighborhoods and to ask questions about policing issues. The Commanders' Forums also allow APD to hear community concerns. The OPM attended eight forums in 2004.

The OPM was also involved in the community and charitable works in 2004. At the National Night Out, the OPM staffed a booth and donated backpacks filled with school supplies. In the North Central Area Command, the OPM distributed school supplies to students living on Galewood Drive and assisted with neighborhood clean-ups.

See Appendix II for a listing of the groups and individuals with whom we worked during 2004.

^{VIII} www.austinpolicemonitor.com

APPENDIX I: COMPLAINT PROCESS

By Louis Gonzales, OPM Complaint Specialist

OPM's complaint specialists (CS) are tasked with addressing and resolving issues concerning APD activity from the citizens of Austin as well as visitors from outside of the metropolitan area. CSs take phone calls and e-mails about allegations of police misconduct or questionable activities. Persons can also walk into the OPM to speak with a CS or set an appointment for a complaint consultation. The OPM is readily accessible to physically challenged, hearing impaired, and non-English speaking complainants.

When a complaint is received by the OPM, a CS conducts a preliminary interview with the complainant to gather the relevant facts and ascertain whether or not a violation of policy exists. Each complaint is unique in composition and level of severity. In situations where no policy violation is found, the CS educates and informs the complainant about the particular APD General Orders, Policies and Procedures^{IX} applicable to the complainant's situation. If a possible policy violation is found or if no violation is found but a complainant insists upon registering a complaint, the CS explains the two courses of action available to the complainant: filing a formal complaint or filing a Chain of Command (COC) inquiry.

COC Inquiries

COC inquiries are commonly used for less severe policy violations, such as complaints about the department as a whole, the police system, broad allegations of discourtesy or rudeness or a disagreement about police activities. The COC inquiry is suitable for those complainants who do not wish to go through the formal process and want a faster result. Many people utilize this course of action because they want to make the department aware of an unpleasant issue.

The CS gathers the information from the complainant and writes a "complaint e-mail" that is forwarded to the commander of Internal Affairs who reviews it and forwards the complaint to the officer's supervisor. From this point, a supervisor (usually the immediate supervisor) conducts an inquiry to hear the officer's side of the incident to better ascertain whether or not policy has been violated. During this stage, if the immediate supervisor or the IAD Commander determines that policy has been violated, a formal investigation can be initiated by IAD or the officer's chain of command. The supervisor can also address the issue through counseling or reprimands. In most cases the complainant can also opt to be contacted by the officer's immediate supervisor to discuss the matter at greater length and to achieve a degree of closure on the issue. At any time during the COC inquiry process, the complainant may opt to file a formal complaint.

Formal Complaints

The formal complaint process is designed to register complaints, review the matter and possibly investigate it. All complainants can go through this process, but IAD determines which complaints are fully investigated depending on the nature of the complaint and its severity.

The process begins when a CS escorts a complainant to APD's IAD. Once at IAD, the complainant fills out preliminary paperwork detailing the factual account of the incident, including time, place, location, persons involved and other relevant information.

^{IX} The General Orders, Policies, and Procedures are the guidelines, rules, and regulations set forth by the Chief of Police that govern the day to day activities of the Austin Police Department.

After completion of the forms, the CS and complainant meet with an IAD intake detective who takes their statement. The intake detective is tasked with typing the complainant's allegations into a sworn affidavit. This serves as the complainant's statement. The intake detective takes dictation only and does not conduct any kind of inquiry or preliminary investigation. The detective cannot refute the complainant's account of an incident. The detective can ask the complainant to clarify information, such as time, date, and participants or witnesses in a specific and concise manner.

The CS is present at all portions of the interview to ensure that both parties are treated with respect and dignity and that the words dictated to the intake detective are accurately represented on the final affidavit form. The interview is also audio-taped and preserved. After the statement portion is completed the complainant can get a printed copy of the statement and make any additions or deletions to the text that they feel are necessary. The CS verifies that the complainant had ample time to review and correct their statement. Once the statement is finalized the detective will print a final copy for the complainant to sign. The CS is also present to verify that the complainant has understood and accepted the final copy of their statement and that they have been fully informed of the perjury clause. The statement is also notarized. The CS and complainant receive their copies of the final notarized statement, concluding the intake interview.

If the complaint is accepted for investigation by IAD, the CS attends all complainant and witness interviews. Only the police monitor or assistant police monitor may attend the interview of the officer under investigation. Whether or not a formal complaint is accepted for investigation, IAD prepares a file detailing the investigation or the reasons that it will not be investigated. The CS reviews the entire file and forwards comments, concerns, or issues about the case to the police monitor or assistant police monitor. If the OPM does not agree with the investigation or IAD's conclusions, the OPM may make recommendations to the Citizen Review Panel (CRP), the chief of police or IAD.

The complainant is given the investigation results in writing. A complainant may then sit down with the police monitor or assistant police monitor to find out the details of the investigation during a Police Monitor Conference. If the complainant is not satisfied with the investigation, they may also seek assistance from the CRP. The CRP may make recommendations on their behalf to the chief of police regarding the case.

Louis Gonzales III is a complaint specialist with the OPM. He has been with the OPM since its inception in 2002. Mr. Gonzales previously served the state as a parole officer for the Texas Department of Criminal Justice and investigator of claims filed by crime victims at the Office of the Attorney General of Texas. He earned a bachelor's and master's degrees in criminal justice from Southwest Texas State University. Mr. Gonzales is also an active member of his community; he volunteers at St. John's Catholic Church, and provides other services to the community.

APPENDIX II: OUTREACH CONTACTS FOR 2004

January

Cristo Rey Catholic Church, Presentation

People's Forum, Austin Community College Eastview Campus, Presentation

Heritage Council's 2004 MLK Youth Legacy Awards Program

Austin Heritage Council's 3rd Annual Unity Breakfast, Huston-Tillotson College Student Union, Speaker

Austin Heritage Council's Dr. Martin Luther King, Jr. Day March

Mexican Consulate

Leadership Austin, Speaker

Booker T. Washington Housing Association, Presentation

LULAC, Presentation

February

Manos de Cristo, 1200 Willow, Bilingual Presentation to English As A Second Language classes

Men With A Purpose, Presentation

Austin Area Urban League's 26th Annual Equal Opportunity Banquet

Maplewood Elementary School Speaker, Black History Month Celebration

Manos de Cristo, Spanish Presentation to English As A Second Language classes

St. Julia Catholic Church, Spanish Presentation to Parents of First Communion Children

Blackland Community Development Corp. and Neighborhood Association, Board Presentation

Mexican Consulate

Leadership Austin's History Project Exhibit, Austin History Center, 9th & Guadalupe Streets

Wooten Elementary School Safety Fair

Chestnut Neighborhood Association, Board Presentation

Rosewood/Zaragoza Neighborhood Center, Presentation

Immigrant Services Network, LaFuente Learning Center

APD's Northeast Commander's Forum

March

Hyde Park Neighborhood Association, Presentation

Odom Elementary School, Presentation

Texas NAACP & Texas LULAC "End Racial Profiling" Town Meeting, Huston-Tillotson College

Austin 2010 Executive Committee, Presentation

Citizenship Class and Indian Group, Asian American Cultural Center

Japanese Group, Asian American Cultural Center

Korean Group, Asian American Cultural Center

Austin Area Interreligious Ministries, Presentation

North Austin Civic Association

Austin Learning Academy, Spanish Presentation to English As A Second Language classes

April

Questors Class, University Baptist Church, Presentation

Breakfast Club, Presentation

Austin Interfaith Safety Action Committee, Presentation

Austin Police Department Forensics Center and Central East Substation Ribbon Cutting Ceremony

KAZI Radio Interview with Rev. Garrett

Pecan Springs Springdale Hills Neighborhood Association, Presentation

Ridgetop Elementary, Spanish Presentation to Parents

Dobie Middle School, 1200 E. Rundberg Lane, Spanish Presentation to English As A Second Language classes

Langford Elementary, 2206 Blue Meadow, Spanish Presentation to English As A Second Language classes

Exitos, Spanish Language Presentation to Parents, Lanier High School, 1201 Payton Gin Road West

Austin Learning Academy, Dawson Elementary School, Spanish Presentation

Greater Austin Hispanic Chamber of Commerce Education Foundation "Honoring Hispanic Leaders in Education, St. Edward's University

Week Without Violence, Lanier High School, Presentations

Austin Partners In Education Annual Awards Banquet Honoring Teachers and Partners

Austin Learning Academy, Blackshear Elementary School, 1712 E. 11th St., Spanish Presentation to Parents

Ridgetop Elementary School, Spanish Presentation to Parents

American Civil Liberties Union Central Texas Chapter, Board Meeting

Johnston High School Noche de Padres, Spanish Presentation to Parents

Fullmore Middle School, Presentation to Parents

Aguila Awards Gala of Central Texas

May

Latina Dropout Prevention Panel, Lanier High School, Panel

A.P.D. Central East Commander's Forum

Morning Star Rising, Fulmore Middle School

True Light Day Care & Missionary Baptist Church

Volunteer Appreciation Breakfast, Zavala Elementary School

Grand Opening of the Work Source Career Center and Conference Center

June

Hispanic Action Group, Facilitated discussion between community and APD, Iglesia Bautista

Greater East Austin Youth Association Juneteenth Celebration

NOKOA's Juneteenth Salute to Texas Human Rights Pioneers, Huston Tillotson College

4th Annual Communities Connecting For A Better Tomorrow, Presentation: *"Unlocking the Mystery of Internal Affairs and the Police Monitor's Office"*

APD's Retirement, Promotion and Service Awards Ceremony, Praise Tabernacle Church

July

Outward Bound Government Class, Huston-Tillotson College

Hispanic Women's Network of Texas' Community Outreach, Pan American Recreation Center

APD Northeast Commander's Forum

North Austin Civic Association

APD South Central Safety Fair

August

National Night Out, Brownie Drive

APD North Central Area Command and Shoreline Christian Center's school supply distribution

APD Central West Area Commander's Forum

APD Southeast Area Commander's Forum

APD Alpine Circle outreach

Immigrant Services Network

September

Youth and Adults Connecting, St. David's Root Cause Project for Lanier High School students

Dr. Marcus Nelson, director of AISD Blueprint High Schools

Leo Anchondo, Director of Office of Immigrant Concerns, Catholic Charities of Central Texas

Holy Cross Catholic Church Social Justice Ministry meeting, Presentation

Ismael Martinez, Univision news producer

Barbara Budde, Catholic Charities of Central Texas

October

Willie Wells Memorial Marker Dedication, Texas State Cemetery

Austin Area Urban League Open House and Farewell to Herman Lessard, 1033 La Posada

Nelson Linder, President NAACP

Baptist Ministers Union

Austin Area Urban League 2004 Annual Business Meeting

Volunteer and Donor Appreciation Celebration, Volunteer Services Council of Austin State Hospital, Child and Adolescent Psychiatric Unit

Rev. Frank Garrett, Akwasi Evans and Tommy Wyatt

NAACP Monthly Meeting

Downtown Commander's Forum

November

University of Texas Parents Association of Students in Government banquet, Frank Erwin Center

APD Central East Command Safety Fair

Zavala Elementary School Career Day

Brooke Elementary School Career Day

Office of the Police Monitor Open House

December

NAACP Annual Banquet

African-American Staff Advocating for Progress, University of Texas Campus Club

Coats for Kids distribution

University of Texas Leadership Council

Senior Police Officer and Central West District Representative Ricardo Vargas