

**City of Austin**

**Office of the Police Monitor**

**2006 Annual Report**

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## EXECUTIVE SUMMARY

The Office of the Police Monitor (OPM) annual report is one useful disclosure tool for the public that enables the OPM to provide transparency into the Austin Police Department (APD) complaint investigative process, review behavior patterns of APD officers, and build policy recommendations. The statistics herein were gathered at the OPM as well as via the Internal Affairs Division (IAD) and the APD Human Resource Division. Below are some of the key findings from 2006.

### **For the first time in three years, the OPM saw a decrease in the number of contacts processed.**

The OPM saw a drop of 24 percent in the total number of contacts between 2005 and 2006. In 2005, the OPM received 1249 contacts, compared to 953 received in 2006. Much of this decrease can be attributed to fewer “Contacts,” versus actual complaints, being received at the OPM. In fact, the number of supervisory inquiries remained relatively stable, but significant decreases were seen in the number of formal complaints. In 2006, the OPM monitored 285 formal complaints compared to 339 in 2005. The decrease was seen to a greater extent in the number of internal complaints, which decreased by 23 percent between 2005 and 2006. The number of external complaints remained relatively stable.

#### **What is a contact?**

Contacts include all individuals contacting the OPM with the intention of filing a complaint. During a consultation with a complaint specialist, the complainant is made aware of the types of complaints available to her/him. Contacts are divided into three types:

1) **Supervisory inquiries** – informal complaints handled by the officer’s supervisor within 30 days of the inquiry; 2) **Formal complaints** – complaints investigated by IAD; and 3) **Contacts** – an individual calls with the intention of filing a complaint but the incident involves a complaint against a law enforcement agency other than APD; a matter best handled by the courts or other agency; does not meet the criteria outlined in APD’s General Orders, Policies, and Procedures; the individual does not provide sufficient information for follow up; the individual is not available for follow up; or the individual fails to follow through with the complaint process.

Of those individuals who contacted the OPM, 54 percent filed some type of complaint, i.e., supervisory inquiry or formal complaint. This is a larger proportion than that seen in 2005, despite the greater number of contacts recorded during that year. These findings suggest that the total number of complaints could have been larger had the OPM received more contacts.

The OPM does not solicit complaints. The majority of individuals who contact the Office do so of their own accord. Therefore, these findings suggest the OPM must strengthen its already extensive outreach efforts in order to inform more members of the public of our services. Further, IAD and the OPM must collaborate to make their services more accessible to the public. At times, individuals who are interested in filing a complaint do not have personal transportation, hold multiple jobs, juggle the responsibilities of school, work, and a family, are homeless, or have literacy problems that prevent them from reaching our location. Further, many individuals hold the same work hours as the OPM and IAD business hours. The availability only during these times presents a barrier to many complainants, if they are interested in filing formal complaints. The OPM and IAD must work collaboratively to meet the

needs of these individuals who oftentimes are unable to avail themselves of the formal complaint process. All of these efforts should help to maximize the offer of our services to all members of the public.

**Recommendations:**

- 1) Continue outreach efforts to foster awareness of OPM services and mission.
- 2) Improve accessibility to as many members of the public as possible.
- 3) Offer flexible business hours for those individuals with stricter work schedules.

**Number of allegations decreased by 19 percent between 2005 and 2006. Code of Conduct still the most common allegation presented by the public and from within the Department.**

**What is a Code of Conduct allegation?**

Code of Conduct allegations include:

- **Compliance** – knowing, understanding, complying with, and reporting violations of laws, ordinances, and governmental orders;
- **Individual Responsibilities** – dishonesty, 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.

Complaints are made up of allegations. A single complaint can contain one or more allegations involving one or more officers. The number of allegations investigated by IAD in 2006 dropped by 19 percent from the number investigated in 2005; this drop is greater than that seen in the overall drop in the number of complaints and Supervisory inquiries, which was 13.7 percent. One thing to keep in mind when considering this drop is the complaint process. As part of the complaint process, IAD selects a group of main allegations that it will include in its investigation of a complaint, regardless of the number of allegations presented by the complainant. The process allows IAD to determine the number of allegations that will be investigated. This is one factor that could contribute to a deviation in the number of allegations investigated per year. Another factor that could have contributed to the drop in the number of allegations seen in 2006 was a greater use of IAD's "Other Factors to be Considered by the Chain of Command" section of their investigative reports. In this section, IAD presents allegations that were not brought forth by the complainant, but were discovered during the investigation, as well as allegations that may have been brought forth by the complainant, but IAD did not deem major complaints and/or issues that in their opinion rose to the level of a policy violation. While these allegations were not completely tracked by the OPM or IAD, the OPM observed an increase in the use of the "Other Factors" section in 2006. The OPM recommends that, in order to adequately respond to an individual's complaint, IAD must be willing to investigate all allegations brought forth by a complainant in addition to any violations discovered during an investigation. In the absence of this practice, the OPM is unable to truly present the actual number of allegations brought against officers of APD. In turn, APD is unable to address all issues confronting its force.

Of all those allegations reviewed by IAD, 56 percent of all Supervisory inquiry and formal complaint allegations were related to Code of Conduct issues. Code of Conduct general orders do not merely provide a guideline as to what is expected behavior for APD officers; these general orders go beyond the scope of policing and many times cover issues of moral fortitude. Within the umbrella of Code of Conduct fall a few allegations that are of a particularly sensitive nature. These include: impartial attitude – the equitable treatment of all parties; compliance of laws, ordinances, and governmental orders; acts bringing discredit to the department; dishonesty; and sexual harassment. APD's goals and mission include maintaining a level of professionalism, engendering trust in the community, and improving the quality of life of Austin residents. APD must continue to stay true to its mission and hold officers accountable for actions that do not coincide with their goals.

**Recommendations:**

In order to adequately respond to an individual's complaint as well as be able to address all issues facing APD officers, the OPM recommends that IAD investigate all allegations brought forth by a complainant as well as any allegations discovered during the investigation.

Considering the comportment of a police force will show how they value excellent community policing and how they are abiding by their goals and objectives, it is the OPM's recommendation that supervisors and fellow officers continue to hold their colleagues to the highest standard of behavior and report possible code of conduct violations to IAD.

**The Downtown Area Command saw a drop in the number of allegations but continues to lead in the number of use of force allegations. Central East experienced an increase in complaints and allegations, with significant increases seen in use of force and bias-based profiling allegations.**

Central West (CW), Northwest (NW), Northeast (NE), and Central East (CE) experienced increases in the number of allegations between 2005 and 2006. North Central (NC), Southwest (SW), Downtown Area Command (DTAC), Southeast (SE), and South Central (SC) experienced decreases in the number of allegations during this same time period. In reviewing the types of allegations filed by area command, DTAC continues to have the greatest number of excessive use of force allegations. The 2005 OPM Annual Report highlighted the large number of complaints and allegations stemming from DTAC. This year, the OPM is pleased to recognize a drop in the number of allegations and only a slight increase in the number of complaints stemming from DTAC. However, DTAC must continue to address the issue of consistently incurring the greatest number of excessive use of force allegations. APD and supervisors in this area command must strive towards the use of de-escalation tactics that diffuse volatile situations characteristic of certain districts in this area.

Allegations of excessive use of force are not unique to DTAC. In 2006, CE experienced a large increase in the number of use of force allegations. CE also saw increases in the numbers of allegations involving bias-based profiling as well as a large number of Code of Conduct violations. The increase in the number of allegations in this area command presents supervisors with a great opportunity to assess the issues being faced by officers in this area command. One factor that may have contributed to the rise in complaints and allegations in this area was the crack down on day laborers soliciting employment at local businesses. While this community is known to silence their concerns regarding police, APD and the OPM battle against this challenge through their many outreach events in this area. These outreach activities may have

also contributed to a rise in the number of allegations seen in CE. Despite the reason for the increases, it may benefit CE supervisors to increase vigilance in this area in order to identify potential problem areas.

**Recommendation:**

The OPM continues to engage in field trainings and dialogue with the Chain of Command of DTAC regarding trainings received by officers in this sector. The OPM recognizes the unique nature of the entertainment districts. However, the OPM encourages APD to continue to use tactics of de-escalation in order to diffuse these volatile situations.

Greater outreach efforts in certain areas of the city, or with certain communities, can at times produce greater complaints in these same areas. Given the reluctance in reporting crime seen in many immigrant communities, it is the OPM's recommendation to continue these types of outreach, despite the potential for incurring an increased number of complaints and allegations. The OPM will consider analyzing the issues of use of force and bias-based profiling in order to see if any changes in approach or supervision have taken place in this area command.

**Disagreement regarding case classification and IAD allegation recommendations continues between IAD and the OPM.**

There continues to be a notable agreement gap between IAD and the OPM in relation to case classifications. Cases are classified by IAD according to the severity of the allegations included in the case. While agreement rates are quite high, ranging from 100 to 89 percent, for cases that receive the more severe allegation classifications, for the third consecutive year, IAD and the OPM have disagreed in the classification of those cases that receive the less severe allegation classifications. This trend was initially reported in the OPM 2004 Annual Report, and it is again apparent in the current annual report. Several explanations for this trend have been examined, including the make-up of internal cases and the additional filter provided by supervisory inquiries in external cases, but there is no clear answer for this discrepancy. Disagreement appears to be greatest for cases classified as C, with a 74 percent agreement rate for external C's. C cases are considered by IAD to contain training issues that need to be addressed by an officer's Chain of Command but do not rise to the level of a policy violation. Cases classified as C are not assigned to an IAD detective for full investigation and do not result in any discipline for the officer(s) involved. While the Chain of Command is tasked with documenting how each training issue was addressed, documentation is not consistent. The fact that these cases do not get fully investigated and that the Chain of Command does not consistently document the actions taken to address these issues may play a role in the lower OPM agreement rate associated with C cases.

Similarly, D cases received an OPM agreement rate of 76 percent for external cases and zero percent for internal cases; only one internal case received the classification of "D". Like C cases, D cases are not fully investigated because, based on preliminary evidence, IAD has determined that there is no misconduct on the part of the officer.

It is the OPM's recommendation that the Chain of Command communicate how issues raised in C and D cases are addressed. It is likely that upon seeing steps taken to address these issues, OPM agreement rates would increase due to a greater understanding of the Chain's disposition.

### **How does IAD classify a complaint?**

IAD uses the following criteria in classifying complaints:

- Administrative Inquiry – no allegation of misconduct can be found but the matter is considered of concern to the public and/or the Department. All critical incidents begin as Administrative Inquiries.
- A – allegations are of a serious nature;
- B – allegations are less serious violations of department policy, rules, and regulations;
- C – allegations do not rise to the level of a policy violation, but contain a training or performance issue; allegations are initiated after a prolonged period of time; allegations are made against an officer who cannot be identified; allegations are 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; or
- D – there is no allegation or misconduct by an officer.

Similar to case classifications, the OPM reviews each IAD allegation recommendation and determines whether it agrees or disagrees with the recommendation. In 2006, the OPM agreed with 78 percent of external case allegation recommendations. This rate compares to a 72 percent agreement rate in 2005. The OPM agreement rate for internal allegation recommendations in 2006 was 94 percent. While both internal and external allegation agreement rates saw slight increases from 2005, there continues to be a greater agreement rate for internal versus external cases.

### **What kind of recommendations can IAD make on allegations?**

IAD can choose from any of the following recommendations:

- Exonerated – The incident occurred but is 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 the allegation.
- Administratively Closed – No allegations were made or misconduct discovered and/or complaint closed by a supervisor.

The following breakdown outlines where some of the disagreement lies. Thirty-seven percent of external allegations were recommended to be “Administratively Closed,” whereas a smaller portion (11 percent) of internal case allegations received this same IAD recommendation. In contrast, the majority (78 percent) of internal cases, compared to 26 percent of external cases, were “Sustained.” Also, more external cases than internal cases were “Unfounded” (17 percent and 8 percent, respectively). These distinctions in IAD allegation recommendations were also observed in the two previous OPM Annual Reports, where the majority of external allegations were either “Administratively Closed” or “Unfounded” and the majority of internal allegations were “Sustained.”

Examination of IAD case classifications as well as IAD allegation recommendations and OPM opinions of these will be further analyzed in subsequent reports in the hopes of uncovering why internal and external cases appear to be treated differently by IAD.

**Recommendation:**

The OPM recommends that the Chains of Command communicate their dispositions to issues raised in C and D cases in order to more thoroughly inform OPM of how cases/allegations are ultimately addressed at the supervisory level.

The OPM also recommends that IAD facilitate the Chain of Commands' documentation process by providing a uniform document that allows the Chains of Command to note how they addressed cases/allegations.

**Rank of "Officer", Latino, and Black officers over-represented in complaints.**

In 2005, an analysis of the characteristics and demographics of officers referenced in complaints revealed that some newer or less experienced officers were more likely to incur complaints than others. While the number of years served by subject officers ranged from seven months to over 31 years, the average number of years served was slightly less than 11 years, and the most common number of years served by officers cited in complaints was 1.5 years. In 2006, the number of years served included a similar range of approximately seven months to 31 years and a similar mean of 10.1 years. However, the most common number of years served was 4.3 years. These findings suggest that officers with a little more experience, approximately four to ten years of service, incurred more complaints in 2006.

The rank of "Officer" makes up the majority of the APD force. So it would not be surprising to find that "Officers" are more often cited in complaints. However, while they made up 53 percent of APD in 2006, 74 percent of them were referenced in complaints, suggesting they are more susceptible to allegations and/or violations of policy. Similarly, men make up the majority of APD. While they made up 88 percent of the force, 92 percent of them were cited in complaints. The over representation of male officers and the rank of "Officer" in citizen complaints may be related to the fact that more male officers and officers with the rank of "Officer" make up the pool of "patrol" officers, who are normally the most common type of officer encountered by a citizen. This increased exposure rate to the public might make patrol officers more susceptible to citizen complaints. APD might benefit from encouraging patrol officers to partake in communication trainings to help them mediate public concerns.

An analysis of the racial breakdown of officers referenced in 2006 complaints revealed that Latino officers were over-represented as subject officers in citizen complaints, making up 20 percent of APD but 24 percent of subject officers. In 2005, the OPM found a similar relationship but it was not clear if this over-representation was indicative of disparate reporting on behalf of the community and the Department or if Latino officers were truly engaging in disparate actions when compared to their counterparts within APD. Since this over-representation was only found in citizen complaints, we can eliminate the possibility of the Department over-reporting allegations against Latino officers. However, further analyses were needed to decipher whether or not the over-representation of Latino officers in the subject officer pool is due to disparate reporting on behalf of the community or disparate actions on the part of these officers.

The same racial breakdown of officers cited in 2006 complaints found that Black officers were over-represented as subject officers in internal complaints, making up 10 percent of APD personnel but 12 percent of subject officers. As a reminder, internal complaints are complaints filed from within the Department, normally by a supervisor, but can also be initiated by a colleague. Similar to the pattern seen with Latino officers, further analyses were needed to



decipher whether this over-representation stemmed from disparate actions on the part of the officers or disparate reporting on the part of their peers and supervisors within the department.

In order to shed more light on the seemingly over-representation of minority officers, the OPM conducted a separate analysis on officers who incurred multiple complaints during 2006. Of the 414 officers referenced in complaints, 118 officers incurred multiple complaints during 2006. Repeat subject officers had between 2 and 5 distinct complaints filed against them during that same year. Repeat subject officers were more often male, "Officers" with an average of 8.4 years of service. Of the allegations filed against repeat subject officers, 60 percent involved Code of Conduct allegations. Of these, the largest portion involved allegations of Impartial Attitude.

While white officers made up 69 percent of APD personnel, they only made up 64 percent of the repeat subject officer pool. In contrast, black and Latino officers were over-represented in the repeat subject officer pool, making up 13 and 24 percent, respectively. There are multiple factors that could be influencing this pattern in internal complaints, such as an officer truly engaging in multiple policy infractions or a hyper vigilant Chain of Command filing multiple complaints on a single officer. However, for external complaints, these findings suggest that repeat subject officers may be engaging in a pattern in behavior. It must be noted, however, that complaints against any officer must withstand the scrutiny of the investigative process. For future reports, the OPM will conduct further analyses on this issue.

The Chain of Command has invaluable input regarding its officers. By paying special attention to the characteristics and ranks described above as well as collaborating with the OPM, IAD, and the policy review team, the Chain of Command could see equitable and improved compliance among officers. Further, the Chain of Command should maximize its access to the Guidance Advisory Program, APD's early warning system, in order to identify officers at risk of accruing multiple complaints or displaying an undesired behavior pattern. The OPM will continue to examine demographic characteristics of officers and the complaints filed against them in the hopes of uncovering additional underlying factors. The OPM will also increase its use of GAP reports in order to assess Chain of Command resolutions to triggers of the early warning system.

**Recommendation:**

The Chains of Command are a great resource to the Department in that they have intimate knowledge of their officers' approach and disposition. The Chains of Command must attempt to address any issues early on in order to protect an officer from accruing multiple complaints in the future.

The OPM recommends the Chain of Command utilize its early warning system to identify officers who may be at risk of accruing multiple complaints during a short period of time. Further, the OPM hopes to engage the Chains of Command to gain insight into how cases from repeat subject officers are ultimately addressed.

The OPM will continue dialogue with groups, such as Amigos en Azul, Austin Police Women's Association, and the Texas Peace Officers Association, in the hopes of further understanding the challenges faced by minority officers internally as well as out in the community.

**Complainants seen at the OPM come from diverse demographic and geographic backgrounds.**

Of complainants who provided their race/ethnicity, 50 percent reported being white, another 24 percent reported being black, and 22 percent reported being Latino. The remaining 4 percent reported being Asian/Pacific Islander, American Indian, or of another race/ethnicity. The OPM saw relatively equal numbers of female and male complainants, with 54 percent being male and 46 percent being female. While DTAC, CE, and SW led in the number of complaints, complaints were filed in all APD sectors in 2006. Interestingly, the majority of supervisory inquiries, 53 percent, were filed by individuals in their forties and fifties, while the majority of formal complaints, 61 percent, were filed by individuals in their twenties and thirties. A similar distinction in preference was seen by gender, with males more often filing formal complaints and females opting for supervisory inquiries. In light of these findings, the OPM will continue its outreach efforts throughout the entire City, with special attention given to areas of high complaint volume such as DTAC, CE, and SW. Also, the OPM will target its outreach efforts and complaint modes based on the age and gender of individuals in order to provide the most convenient ways for individuals to file complaints.

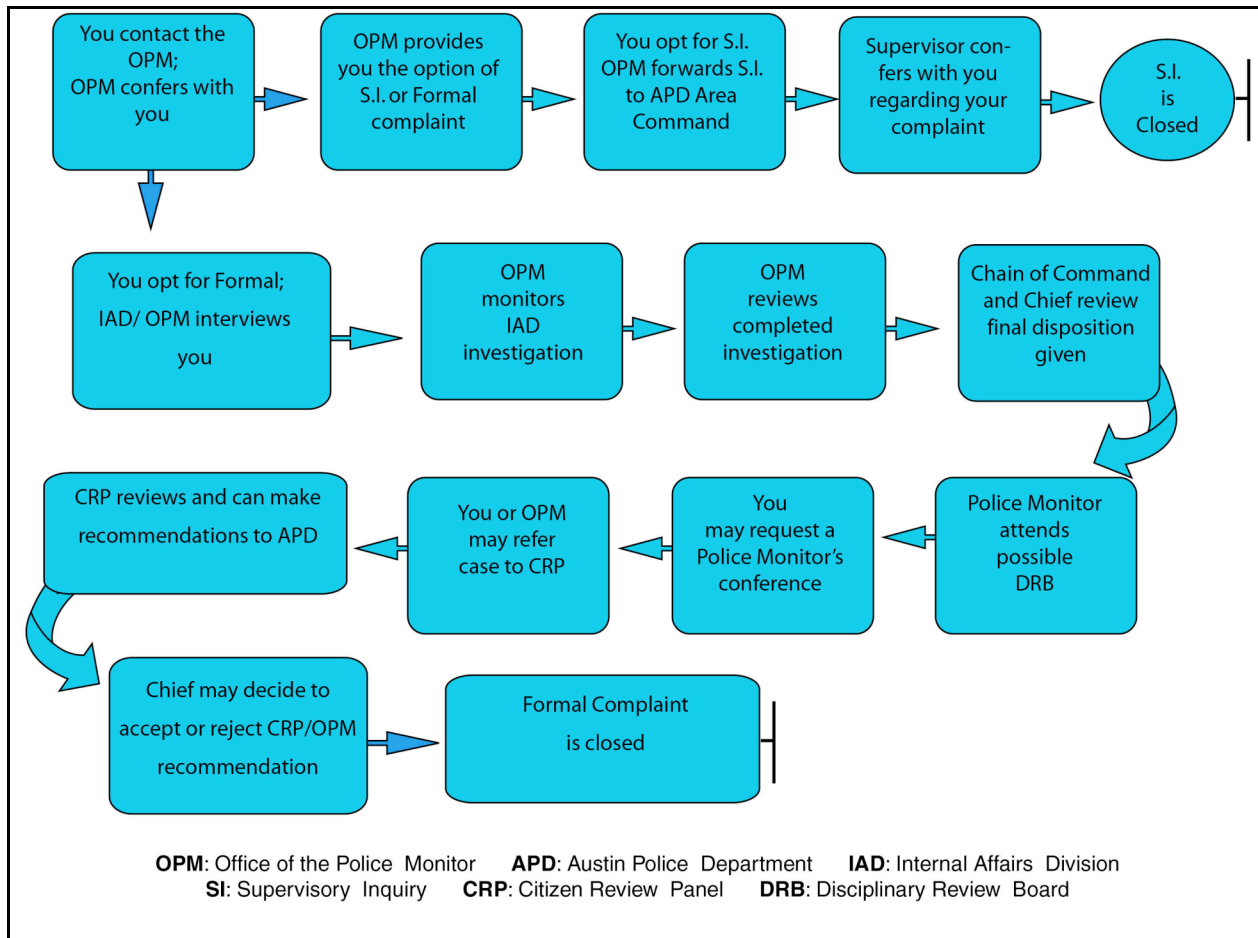
**Recommendation:**

The OPM will continue to outreach to all parts of the City but pay special attention to higher complaint volume areas.

The OPM will focus its outreach messages to the demographic characteristics of their complainants and continue to offer the most convenient methods to file a complaint.

The OPM will take all of the findings 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.

**Figure 1. OPM Complaint Process**



## OFFICE OF THE POLICE MONITOR MISSION AND OBJECTIVES

The Office of the Police Monitor (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 involving APD officers;
- Monitor 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, an individual 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](mailto:police.monitor@ci.austin.tx.us). Our office is located in the City of Austin Rutherford Complex at 1520 Rutherford Lane, Bldg. 1, Suite 2.200A. For more information, including a full copy of this report, please visit our Web site at [www.austinpolicemonitor.com](http://www.austinpolicemonitor.com).

## 2006 GENERAL COMPLAINT INFORMATION

### Findings:

- There was an overall drop of 24 percent in the total number of contacts between 2005 and 2006. While the number of supervisory inquiries remained relatively constant, there was a drop of 16 percent in the number of formal complaints in 2006.
- There was a decrease of 23 percent in the number of internal complaints filed, but the number of external complaints filed remained relatively constant with only a slight drop of 6 percent.
- 2006 saw a steep decline in the number of critical incidents, from seven incidents in 2005 to two incidents in 2006.
- The Downtown Area Command continues to have the largest number of complaints, with a small increase of 4 percent in 2006.
- The Southwest, South Central, Northwest, Southeast, and North Central sectors experienced decreases in the number of complaints from 2005 to 2006. The largest percent decrease, a decrease of 31 percent, was seen in the Southeast area command.
- The Northeast, Central East, Central West, and Downtown area commands experienced increases in the percent of complaints from 2005 to 2006. The largest percent increase was seen in the Northeast sector, with an increase of 29 percent.

In 2006 the OPM reviewed 953 contacts. This was a drop of approximately 24 percent from 2005, when 1249 contacts were processed. Contacts include all individuals who contact the OPM with the intention of filing a complaint. This includes all phone calls, emails, in-person visits, and APD referrals. Citizens most often contacted the OPM via telephone. In 2006, 72 percent of initial contacts phoned the OPM. An additional 9 percent visited the OPM in person, and another 9 percent were referred to the OPM by APD's Internal Affairs Division (IAD). The remaining 10 percent of contacts were initiated by fax, email, or correspondence to the OPM regarding their complaints.

Many contacts do not mature to complaints. Some reasons for this include: the individual is calling regarding a complaint against a law enforcement agency other than APD; the incident involves a matter best handled by the courts or other agency; the incident does not meet the criteria outlined in APD's General Orders, Policies, and Procedures; the individual does not provide sufficient information for follow up; the individual is not available for follow up, or the individual fails to follow through with the complaint process. Forty-six percent (437) of initial contacts failed to become complaints because of one or more of the reasons outlined above.

Of the remaining contacts reviewed by the OPM in 2006, 24 percent (231) were filed as **supervisory inquiries** and 30 percent (285) were pursued as **formal** complaints through IAD. Formal complaints and supervisory inquiries filed in 2006 decreased by approximately 16 and 11 percent, respectively. For more details about the difference between formal complaints, supervisory inquiries, and contacts, please see Appendix I of this report.

**Table 1. Type of Contacts by Year<sup>1</sup>**

| Type of Contact       | 2004      | 2005      | 2006      | Percent Change between 2005 and 2006 |
|-----------------------|-----------|-----------|-----------|--------------------------------------|
| Supervisory Inquiries | 51% (306) | 20% (259) | 24% (231) | -10.8%                               |
| Formal Complaints     | 35% (340) | 26% (339) | 30% (285) | -15.9%                               |
| Contact               | 14% (85)  | 54% (685) | 46% (437) | -36.2%                               |
| Total                 | 731       | 1249      | 953       | -23.7%                               |

The numbers in parentheses represent the raw numbers associated with each percentage.

## Supervisory Inquiries

Of the contacts to the OPM that developed into actual complaints, 45 percent were filed as supervisory inquiries. Supervisory inquiries are initially handled by the individual officer's supervisor and sometimes her/his entire chain of command. The process was developed jointly by APD and the OPM in an effort to provide civilians with minor complaints an option to speak directly with an officer's supervisor. This option is normally offered to complainants with less serious allegations.

When a civilian chooses to file a supervisory inquiry, the complaint is forwarded in writing to IAD who then sends the complaint to the subject officer's Chain of Command. The supervisor then reviews the case, collects the fundamental facts and calls the complainant to attempt resolution of the matter. Normally, no disciplinary action results from these cases. Rather, the officer is interviewed by his supervisor and may be orally counseled or reprimanded. At any time during

<sup>1</sup> The OPM 2005 Annual Report listed 600 total complaints. This figure only included those internal formal complaints directly monitored by the OPM. However, the 2005 figure listed in the OPM 2006 Annual Report includes all internal complaints, including those not monitored by the OPM, yielding a greater total complaint number in the present report when compared to the 2005 report.

or after the completion of the supervisory inquiry process, a citizen unsatisfied with the process or result of the inquiry can file a formal complaint.

The OPM assesses complainant satisfaction with the Chain of Command's resolution of the inquiry via a follow-up conversation with the complainant. During this time, the complainant is made aware that if she/he was not satisfied, she/he has the option to file a formal complaint. Follow-up was not possible with all supervisory inquiry complainants either because the complainant was not available for follow-up, IAD did not forward a response from the Chain of Command to the OPM, or the OPM lapsed in making contact with the complainant. Of the supervisory inquiries with follow up, 70 percent resulted in a successful resolution and 30 percent of these follow-ups yielded unsatisfactory outcomes. Of the unsatisfied complainants, 36 percent opted to escalate their inquiry to a formal complaint. It is likely that other unsatisfied complainants chose not to continue the formal process due to the lengthier and more involved complaint process.

### Formal Complaints

In 2006, 285 formal complaints were filed with the OPM. This compares with 339 formal complaints processed in 2005, a 16 percent drop from 2005 to 2006. 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 285 formal complaints processed in 2006, 45 percent (127) were external complaints and 55 percent (158) were internal. The number of external, formal cases remained relatively constant from 2005 to 2006, with a slight drop of 6 percent. However, in 2006 there was a decrease of 23 percent in the number of internal complaints filed, as can be seen in Table 2.

**Table 2. Type of Formal Complaint by Year<sup>II</sup>**

| Type of Formal Complaint | 2004      | 2005      | 2006      | Percent Change Between 2005 and 2006 |
|--------------------------|-----------|-----------|-----------|--------------------------------------|
| Internal                 | 64% (218) | 60% (204) | 55% (158) | -22.5%                               |
| External                 | 36% (122) | 40% (135) | 45% (127) | -5.9%                                |
| Total                    | 340       | 339       | 285       | -15.9%                               |

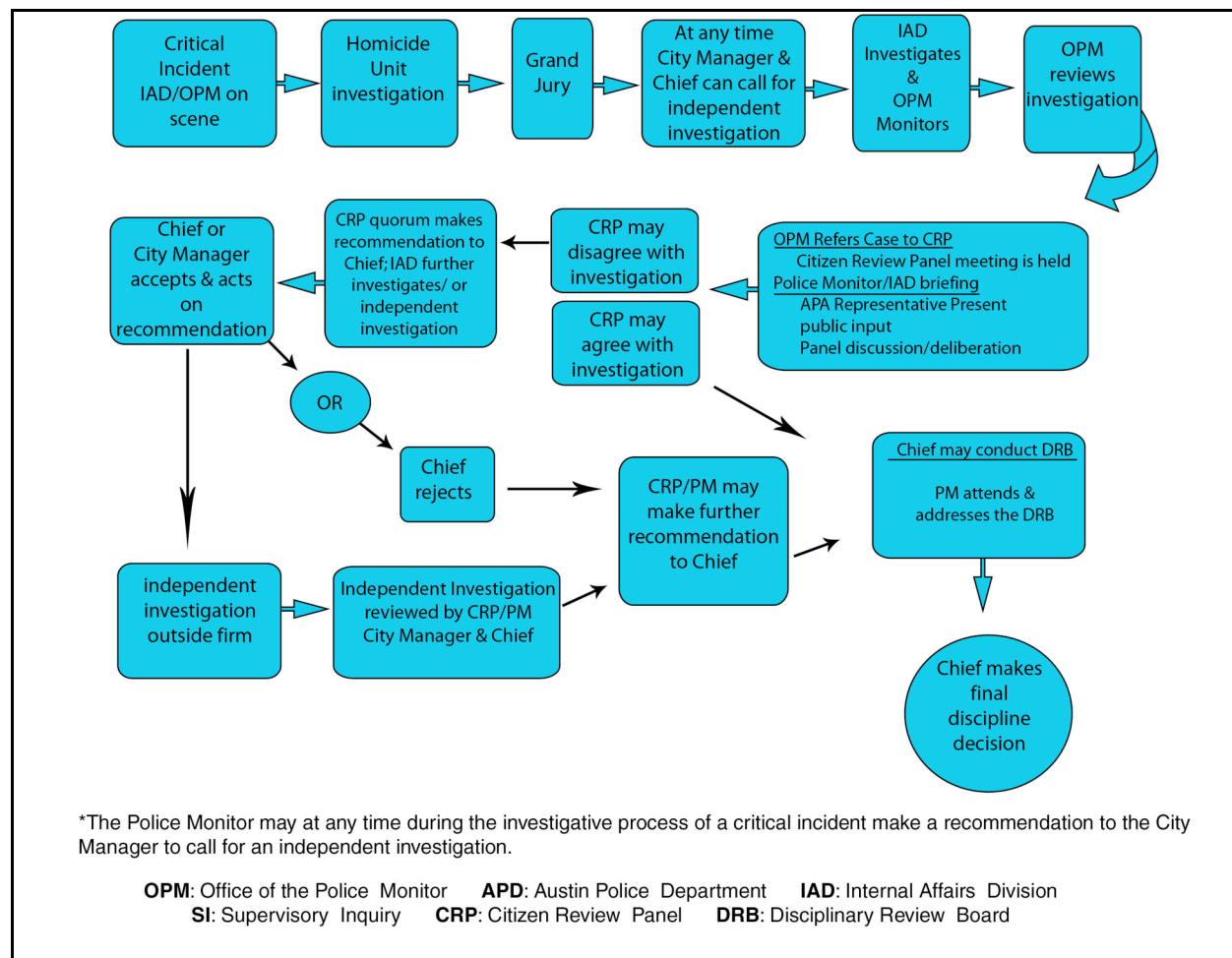
The OPM does not monitor a portion of internal cases as many are minor incidents, such as traffic violations and collisions, which are normally investigated by the Chain of Command. It is possible that the relatively large drop in internal complaints is a result of some of these cases not being forwarded to the OPM for monitoring. However, the OPM does monitor all cases directly investigated by IAD, including all **Critical Incidents**, which include cases of officer-involved shootings and any other incident resulting in serious bodily injury or death of a person.<sup>III</sup> In 2006, the OPM monitored the investigation of two critical incidents, less than half the count from 2005, which included seven critical incident investigations. Critical incidents

<sup>II</sup> In previous years, the OPM did not include all internal cases as many were minor incidents, such as minor traffic violations, which are normally handled by the Chain of Command. However, in order to provide more uniformity between the OPM and the IAD annual reports and figures, the OPM included all internal complaints in the 2006 report. So while only 87 out of 204 internal complaints were included in the OPM 2005 Annual Report, the current report includes all 204 internal cases.

<sup>III</sup> Definition extracted from APD's General Orders, Policies, and Procedures, A109.01

undergo a different investigative process. Please see Figure 2 below for more details on the investigative process for critical incidents.

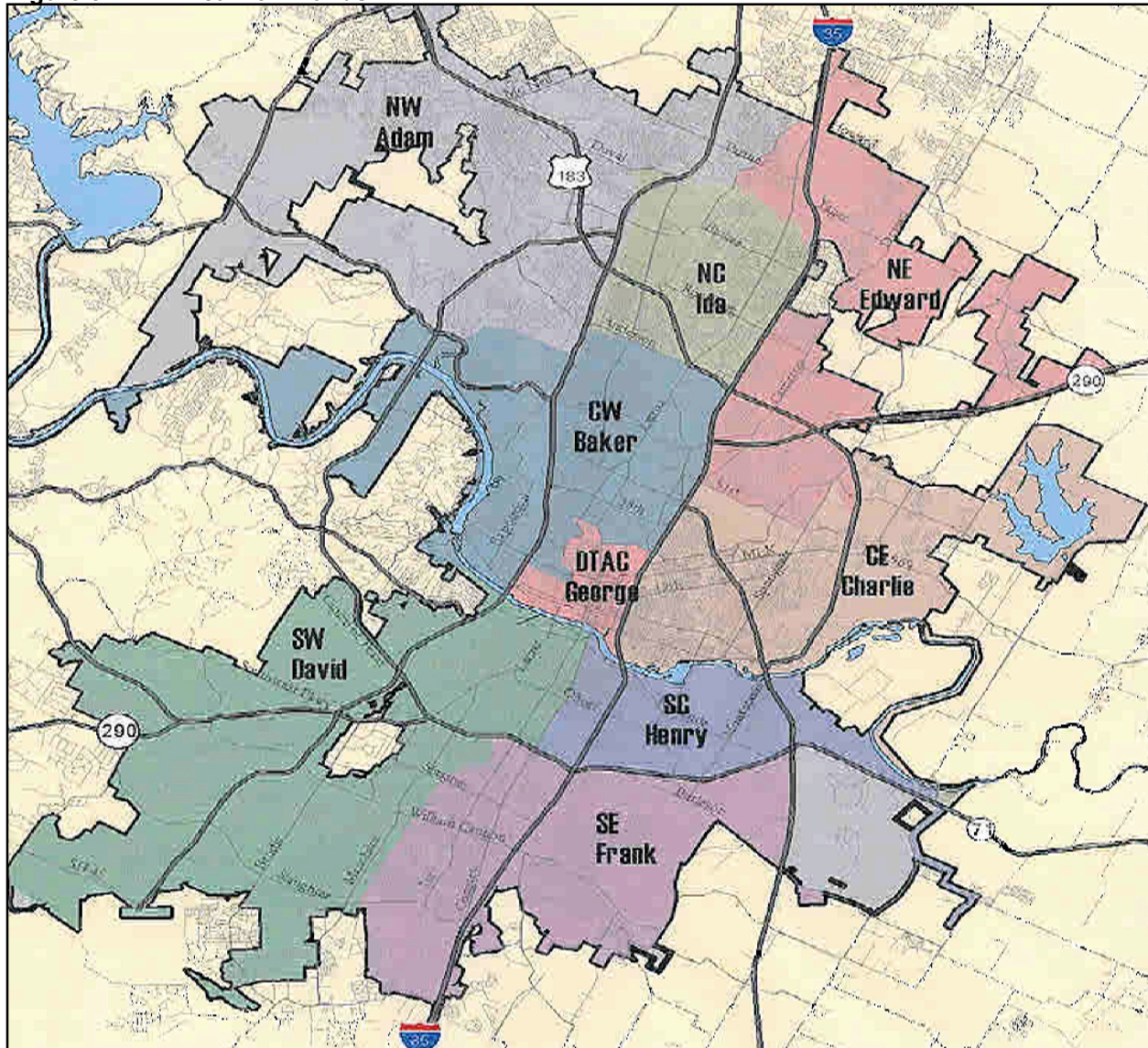
**Figure 2. Investigative Process for Critical Incidents**



The OPM also collects data on the location where a complaint incident took place. Incident locations are mapped against APD's **Area Commands**. See Figure 3 for a map of APD's area commands. This mapping is done in a more consistent fashion for external, rather than internal, complaints because the OPM focuses on these area commands but does not currently collect information on any specialized units, such as Street Response, Highway Enforcement, or Homeland Security, which are likely to be assigned to multiple area commands or citywide. Internal complaints usually capture this additional information, but the OPM is currently not set up to process complaints in this fashion. The OPM is working on the data collection of these additional units, and will provide a similar breakdown for internal complaints as seen in Table 3 below in subsequent reports. Table 3 includes the number of external complaints and the area of Austin in which the incidents occurred.



**Figure 3. APD Area Commands**



**Table 3. External Complaints per Area Command by Year**

| Area Command  | 2004     | 2005     | 2006     | Percent Change Between 2005 and 2006 |
|---------------|----------|----------|----------|--------------------------------------|
| Downtown      | 25% (30) | 19% (26) | 21% (27) | 3.8%                                 |
| Central East  | 12% (14) | 13% (18) | 17% (21) | 16.7%                                |
| North East    | 17% (20) | 10% (14) | 14% (18) | 28.6%                                |
| Central West  | 9% (11)  | 7% (10)  | 9% (12)  | 20.0%                                |
| South West    | 3% (4)   | 10% (13) | 8% (10)  | -23.1%                               |
| South Central | 7% (9)   | 9% (12)  | 8% (10)  | -16.7%                               |
| North West    | 4% (5)   | 8% (11)  | 8% (10)  | -9.1%                                |
| South East    | 10% (12) | 10% (13) | 7% (9)   | -30.8%                               |
| North Central | 7% (8)   | 7% (9)   | 6% (7)   | -22.2%                               |
| Outside       | 4% (5)   | 5% (6)   | 2% (2)   | -66.7%                               |
| Unknown       | 4% (2)   | 2% (3)   | 1% (1)   | -66.7%                               |
| Total         | 122      | 135      | 127      | -5.9%                                |

\*Red text signifies a drop from the previous year.



Table 3 above reveals that some areas of the city had an increase in the percent of complaints in 2006 from 2005, while other areas saw a decrease in the percent of complaints filed against APD officers. The Downtown Area Command (DTAC) continues to have the largest number of complaints. Also, DTAC's number of external complaints increased by 4 percent between 2005 and 2006. Other area commands that experienced increases in the number of complaints filed in 2006 include Northeast (NE), Central West (CW), and Central East (CE). The increase seen in the NE area command was particularly pronounced, increasing by 29 percent. The Southwest (SW), South Central (SC), Northwest (NW), Southeast (SE), and North Central (NC) area commands, as well as the outside areas, experienced a decrease in the number of complaints originating in these areas when compared to 2005. The decrease seen in the SE area command was particularly pronounced, dropping by 31 percent. The number of complaints in SW dropped by 20 percent.

## 2006 IAD CASE CLASSIFICATIONS

### Findings:

- External complaints are more likely to receive the least serious case classifications; 22 percent of internals were classified as "A," while only 13 percent of externals received the same classification.
- 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 C and D cases.

Once a formal complaint is filed against an APD officer, before the investigation begins the complaint is preliminarily evaluated and classified by IAD, according to the seriousness of the allegations. The classification categories are as follows:

- **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 prolonged 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 involving an ongoing criminal investigation – IAD will investigate the administrative violations after the criminal investigation is completed;
- **D** – no violation allegation or misconduct by an officer; or
- **Administrative Inquiry** – no allegation of misconduct can be found but the matter is considered of concern to the public and/or the department.<sup>IV</sup>

A review of the IAD classification of internal versus external cases yielded similar findings to those seen in previous OPM annual reports. Table 4 depicts that while there was an increase in the number of external cases classified by IAD as "A" cases between 2005 and 2006, there continues to be more internal than external cases classified as "A," 22 percent and 13 percent, respectively. Findings also revealed a slight drop of 9 percent in the number of external cases

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<sup>IV</sup> Classifications further defined in APD's General Orders, Policies, and Procedures, A109.04.

classified by IAD as “B” complaints in 2006, and a greater number of internal compared to external cases classified as “B” complaints, 74 percent and 43 percent, respectively. Table 4 also shows that more external than internal cases were classified as “C” (15 percent and zero percent, respectively) and “D” complaints (27 percent and 1 percent, respectively). Whether internal or external, few cases were classified as “Admin Inquiries,” with 3 percent of internal and 2 percent of externals receiving this classification in 2006.

**Table 4. IAD Classification of Formal Complaints by Year**

| IAD Case Classification | 2004      |          | 2005      |          | 2006      |          | Percent Change Between 2005 and 2006 |          |
|-------------------------|-----------|----------|-----------|----------|-----------|----------|--------------------------------------|----------|
|                         | Internal  | External | Internal  | External | Internal  | External | Internal                             | External |
| Admin Inquiry           | 8% (18)   | 4% (5)   | 5% (10)   | 1% (1)   | 3% (5)    | 2% (3)   | -50.0%                               | 200.0%   |
| A                       | 19% (41)  | 13% (16) | 16% (32)  | 10% (14) | 22% (35)  | 13% (17) | 9.4%                                 | 21.4%    |
| B                       | 72% (156) | 44% (54) | 77% (158) | 44% (59) | 74% (117) | 43% (54) | -25.9%                               | -8.5%    |
| C                       | 1% (3)    | 19% (23) | 1% (2)    | 14% (19) | --        | 15% (19) | -100%                                | 0.0%     |
| D                       | 0% (0)    | 20% (24) | 1% (2)    | 31% (42) | 1% (1)    | 27% (34) | -50.0%                               | -19.0%   |
| Total                   | 218       | 122      | 204       | 135      | 158       | 127      | -22.5%                               | -5.9%    |

The following are some reasons why IAD may classify a higher percentage of internal cases as “A” when compared to external cases.

- 1) Internal cases include critical incidents, which by definition are always classified as “A” due to the severity of the allegations.
- 2) Internal cases are filed by fellow officers who are familiar with APD’s General Orders. Whereas, external cases typically involve civilians, who are unfamiliar with these orders, filing complaints.
- 3) Supervisors generally do not 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.

Reasons 2 and 3 suggest that community members may be filing complaints that are less severe in nature or less applicable to APD General Orders. However, since there are two types of complaint processes – formals (more severe allegations) and supervisory inquiries (less severe allegations) – it would seem that filtering the less severe allegations into the supervisory inquiry category would yield a greater concurrence rate for those external cases processed as formals. But even with this filter in place, utilized in 45 percent of complaints in 2006, there continues to be a smaller portion of external cases classified as “A” and “B” when compared to the portion of internal cases classified in this same way.

This disparity can be further examined by looking at 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 classifications. Table 5 depicts the OPM’s agreement of IAD’s classification of external and internal cases for 2004 through 2006.

**Table 5. OPM Agreement of IAD Case Classification by Year**

| IAD Classification   | OPM Agreement Rates |      |      |                |      |      |
|--|---------------------|------|------|----------------|------|------|
|  | External Cases      |      |      | Internal Cases |      |      |
|  | 2004                | 2005 | 2006 | 2004           | 2005 | 2006 |
| <b>Admin Inquiry – no policy violation, but concerning to the public</b> | 100%                | 100% | 100% | 90%            | 94%  | 80%  |
| <b>A – serious allegations</b>   | 93%                 | 93%  | 94%  | 97%            | 93%  | 94%  |
| <b>B – less serious allegations</b>                                      | 80%                 | 90%  | 89%  | 97%            | 95%  | 99%  |
| <b>C – policy/training issues</b>  | 45%                 | 89%  | 74%  | 100%           | 67%  | --   |
| <b>D – no policy violation</b>   | 88%                 | 69%  | 76%  | 75%            | --   | 0%   |

-- signifies Zero cases. Numbers in red signify an agreement rate of less than 75%.

Concurrence rates for internal cases were quite high, with the exception of the one internal case classified as a “D”. OPM agreement levels for external “A” and “B” cases and “Admin Inquiries” were also relatively high. While agreement rates between the OPM and IAD increased for external “D” cases, from 69 percent to 76 percent, there continues to be a marked difference in agreement rates for cases with less severe classifications. In contrast, there was a drop in the agreement rate for “C” cases. Table 5 shows that OPM agreement levels dropped from 89 percent to 74 percent for external “C” cases. The OPM will continue to monitor this apparent discrepancy issue.

## 2006 TYPES OF ALLEGATIONS MADE

### Findings:

- The number of total allegations processed in 2006 was less than that processed in 2005. Most of this decrease can be attributed to a drop of 19 percent in internal case allegations.
- The majority of all complaints, i.e., supervisory inquiries, internals, and externals involved allegations of code of conduct violations.
- The second most common allegation for external cases involved equal numbers of use of force and duty weapons allegations and allegations of interviews, stops, and arrests; the second most common allegation for internal cases involved the operation of police vehicles.
- The greatest number of external case allegations came from the CE, DTAC, and NE area commands.
- The CW, NW, NE, and CE area commands experienced increases in the total number of allegations in 2006, with the largest increase, an increase of 56 percent, seen in the CW area command.
- The NC, SW, SE, DTAC, and SC area commands experienced a drop in the total number of allegations, with the largest decrease, a decrease of 61 percent, seen in the NC area command.

- The CE area command had the greatest number of code of conduct and bias-based profiling and incident documentation allegations; DTAC led in the number of excessive use of force allegations; SC had the greatest number of allegations involving interviews, stops, & arrests; and CW had the greatest number of allegations involving preliminary, follow-up, and collision investigations.

Complaints are made up of allegations. A single complaint may at times include multiple allegations. In 2006, 708 allegations were processed compared to 875 allegations processed in 2005. Of the 708 allegations, 35 percent (247) were allegations from supervisory inquiries, and 65 percent (461) were allegations from formal cases. In 2005, 29 percent (258) of allegations were attributed to supervisory inquiries and 71 percent (617) were attributed to formal cases. Of the 461 formal complaint allegations in 2006, approximately half (233) were external allegations and half (228) were internal allegations. This compares with 46 percent (283) of external and 54 percent (334) of internal allegations processed in 2005.

**Table 6. Number of Allegations by Type of Contact per Year**

| <b>Number of Allegations</b> | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>Percent Change Between 2005 and 2006</b> |
|------------------------------|-------------|-------------|-------------|---|
| Supervisory Inquiries        | 40% (311)   | 29% (258)   | 35% (247)   | -4.3%                                       |
| Formal Complaints            | 60% (449)   | 71% (617)   | 65% (461)   | -25.3%                                      |
| External                     | 54% (244)   | 46% (283)   | 51% (233)   | -17.7%                                      |
| Internal                     | 46% (205)   | 54% (334)   | 49% (228)   | -31.7%                                      |
| Total                        | 760         | 875         | 708         | -19.1%                                      |

### **Supervisory Inquiry Allegations**

Using APD's General Orders, Policies, and Procedures handbook to analyze supervisory inquiry allegations revealed that 78 percent (193) of the allegations involved code of conduct<sup>V</sup> violations; 4 percent (10) related to excessive use of force; another 4 percent (10) pertained to allegations of preliminary, follow-up, and collision investigations; an additional 4 percent (9) pertained to policy involving the use of police vehicles, emergency operation of police vehicles, and pursuits; 3 percent (8) involved allegations of interviews, stops, and arrests, arrest and booking procedures, and care and transport of prisoners; 2 percent (5) involved allegations of bias based profiling and incident reporting and documentation; and the remaining 5 percent (12) involved issues regarding interpreter services, property and evidence, impounding vehicles, family violence, and court appearances.

### **External Allegations**

A similar analysis of external case allegations found that 49 percent (114) of allegations involved code of conduct violations; 16 percent (37) related to excessive use of force and duty weapons; another 16 percent (38) involved allegations of interviews, stops, and arrests, arrest and booking procedures, and care and transport of prisoners; 5 percent (11) involved allegations of bias-based profiling and incident reporting and documentation; another 3 percent (7) pertained to allegations of preliminary, follow-up, and collision investigations; and the remaining 11 percent (26) involved issues regarding family violence, network and computer use, DWI enforcement, property and evidence, telephone and mail protocol, and mobile video recorder operation.

<sup>V</sup> 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.

## Internal Allegations

Internal case allegations analyses revealed that 39 percent (89) involved code of conduct allegations; 34 percent (76) involved allegations of improper use of police vehicles, emergency use of police vehicles, and pursuit policies; another 12 percent (28) were allegations of excessive use of force and duty weapons; 4 percent (10) were allegations pertaining to attendance and leave and secondary employment; and the remaining 11 percent (25) included allegations relating to workplace environment, arrests and booking, arrests, interviews and stops, bias-based profiling, internet/network use, radio and telecommunications, contact information notifications, and telephone and mail protocol, and others.

**Table 7. Type of Allegations by Type of Contact**

| Allegation  | 2004         |              | 2005         |              |              | 2006         |              |             |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------|
|   | External     | Internal     | SIs          | External     | Internal     | SIs          | External     | Internal    |
| Code of Conduct   | 52%<br>(126) | 58%<br>(119) | 61%<br>(157) | 55%<br>(156) | 38%<br>(128) | 78%<br>(193) | 49%<br>(114) | 39%<br>(89) |
| Use of Force and Duty Weapons   | 17% (42)     | 6% (13)      | 3% (9)       | 15%<br>(41)  | 7% (23)      | 4% (10)      | 16% (37)     | 12%<br>(28) |
| Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants / Care & Transport of Prisoners                     | 13% (32)     | 1% (3)       | 7%<br>(17)   | 12%<br>(33)  | 2% (7)       | 3% (8)       | 16% (38)     | 1% (2)      |
| Bias-Based Profiling / Incident Reporting & Documentation   | 5% (13)      | 1% (1)       | --           | 5% (15)      | 1% (4)       | 2% (5)       | 5% (11)      | 1% (2)      |
| Preliminary, Follow-up, & Collision Investigations  | 4% (9)       | 1% (2)       | 8%<br>(21)   | 3% (8)       | 1% (2)       | 4% (10)      | 3% (7)       | 1% (3)      |
| Police Vehicles / Emergency Use of Police Vehicles / Pursuit Policy   | 1% (2)       | 11%<br>(23)* | 9%<br>(23)   | 2% (6)       | 41%<br>(137) | 4% (9)       | --           | 34%<br>(76) |
| Secondary Employment / Attendance & Leave / Workplace Environment   | --           | 13%<br>(26)  | --           | --           | 2% (8)       | --           | 1% (2)       | 4% (10)     |
| Internet & Network Computer Use / Radio & Telecommunications / Contact Info Notifications / Telephone & Mail Protocol | --           | 2% (4)       | --           | --           | 4% (13)      | --           | 1% (3)       | 2% (4)      |
| Other   | 8% (20)      | 7% (14)      | 12%<br>(31)  | 8% (24)      | 4% (12)      | 5% (12)      | 9% (21)      | 6% (14)     |
| <b>Total</b>  | <b>244</b>   | <b>205</b>   | <b>258</b>   | <b>283</b>   | <b>334</b>   | <b>247</b>   | <b>233</b>   | <b>228</b>  |

-- Zero cases documented; \*Only those police vehicles, emergency use of police vehicles, and pursuit policy allegations from investigations monitored by the OPM are included in this figure.

As described in Table 7, the most common type of allegation for 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.

In response to community interest and concern, the OPM analyzed formal complaints involving the use of TASER®s. Of the 65 external and internal use of force and duty weapons allegations, 1 specifically involved the use of a TASER®. This figure represents a significant decrease from 2005, during which 27 percent (17) of use of force allegations included the use of TASER®s. However, large increases were also noted in other types of force, specifically soft hand control and firearms. The OPM will continue to monitor and analyze any patterns with respect to the use of TASER®s and other types of force in subsequent reports.

External allegations were also analyzed by the area command in which the incident took place. Overall, there was a drop of 18 percent in the number of external allegations between 2005 and 2006. This drop in allegations resulted in percent decreases seen in the following area commands: NC, SW, DTAC, SE, and SC. Despite the overall drop in allegations, 4 command areas experienced an increase in the number of allegations. These areas include CW, NW, NE, and CE.

**Table 8. Number of Allegations from External Cases per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change Between 2005 and 2006 |
|---------------|------|------|------|--------------------------------------|
| Central East  | 20   | 40   | 46   | 15.0%                                |
| Downtown      | 57   | 65   | 43   | -33.8%                               |
| North East    | 36   | 25   | 34   | 36.0%                                |
| Central West  | 19   | 16   | 25   | 56.3%                                |
| South Central | 24   | 29   | 23   | -20.7%                               |
| North West    | 22   | 12   | 17   | 41.7%                                |
| South East    | 29   | 22   | 16   | -27.3%                               |
| South West    | 10   | 23   | 14   | -39.1%                               |
| North Central | 21   | 28   | 11   | -60.7%                               |
| Outside       | 5    | 17   | 3    | -82.4%                               |
| Unknown       | 1    | 6    | 1    | -83.3%                               |
| Total         | 244  | 283  | 233  | -17.7%                               |

Tables 9 through 13 show specific types of external allegations, which are of particular interest to the OPM and the community, by APD area command. In 2005, DTAC led in the total number of allegations as well as in the number of code of conduct violations, excessive use of force, interviews, stops & arrests, and preliminary investigations allegations. However, in 2006, DTAC

experienced drops in the number of allegations in all of these areas and experienced an overall drop of 34 percent between 2005 and 2006. As mentioned above, increases in allegations were also seen in the CW, NW, NE, and CE area commands. CW saw significant increases in code of conduct and use of force allegations. NW saw large increases in interviews, stops, and arrests allegations. CE saw significant increases in use of force and bias-based profiling allegations. SE also saw increases in code of conduct allegations, and SC saw large increases in interviews, stops, and arrests allegations. The increases in NE appeared to be dispersed among the different allegation types.

**Table 9. Number of Code of Conduct Allegations per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change<br>Between 2005 and 2006 |
|---------------|------|------|------|---|
| Central East  | 11   | 25   | 25   | 0.0%                                    |
| Downtown      | 30   | 31   | 20   | -35.5%                                  |
| North East    | 21   | 13   | 15   | 15.4%                                   |
| South East    | 10   | 9    | 12   | 33.3%                                   |
| Central West  | 7    | 9    | 11   | 22.2%                                   |
| North West    | 17   | 11   | 10   | -9.1%                                   |
| South Central | 10   | 11   | 8    | -27.3%                                  |
| South West    | 5    | 19   | 7    | -63.2%                                  |
| Outside       | 4    | 10   | 3    | -70.0%                                  |
| North Central | 10   | 16   | 2    | -87.5%                                  |
| Unknown       | 1    | 2    | 1    | -50.0%                                  |
| Total         | 126  | 156  | 114  | -26.9%                                  |

**Table 10. Number of Use of Force and Duty Weapon Allegations per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change<br>Between 2005 and 2006 |
|---------------|------|------|------|---|
| Downtown      | 16   | 20   | 15   | -25.0%                                  |
| Central East  | 4    | 3    | 7    | 133.3%                                  |
| Central West  | 4    | 0    | 4    | 400.0%                                  |
| North Central | 5    | 5    | 3    | -40.0%                                  |
| South East    | 6    | 2    | 3    | 50.0%                                   |
| South Central | 2    | 0    | 2    | 200.0%                                  |
| South West    | 1    | 0    | 2    | 200.0%                                  |
| North East    | 4    | 5    | 1    | -80.0%                                  |
| Outside       | 0    | 3    | 0    | -100.0%                                 |
| Unknown       | 0    | 2    | 0    | -100.0%                                 |
| North West    | 0    | 1    | 0    | -100.0%                                 |
| Total         | 42   | 41   | 37   | -9.8%                                   |

**Table 11. Number of Interviews, Stops, & Arrests; Arrest & Bookings; Fugitive Warrants; and Care & Transport of Prisoners Allegations per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change<br>Between 2005 and 2006 |
|---------------|------|------|------|---|
| South Central | 6    | 1    | 8    | 700.0%                                  |
| Downtown      | 6    | 10   | 7    | -30.0%                                  |
| North East    | 6    | 5    | 7    | 40.0%                                   |
| Central West  | 3    | 3    | 5    | 66.7%                                   |
| Central East  | 1    | 3    | 4    | 33.3%                                   |
| North West    | 2    | 0    | 4    | 400.0%                                  |
| South West    | 0    | 1    | 2    | 100.0%                                  |
| North Central | 4    | 2    | 1    | -50.0%                                  |
| South East    | 4    | 1    | 0    | -100.0%                                 |
| Outside       | 0    | 3    | 0    | -100.0%                                 |
| Unknown       | 0    | 4    | 0    | -100.0%                                 |
| Total         | 32   | 33   | 38   | 15.2%                                   |

**Table 12. Number of Preliminary, Follow-Up, and Collision Investigations Allegations per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change<br>Between 2005 and 2006 |
|---------------|------|------|------|---|
| Central West  | 1    | 0    | 2    | 200.0%                                  |
| South East    | 0    | 2    | 1    | -50.0%                                  |
| North Central | 0    | 1    | 1    | 0.0%                                    |
| North East    | 0    | 1    | 2    | 100.0%                                  |
| Central East  | 2    | 0    | 1    | 100.0%                                  |
| Downtown      | 5    | 2    | 0    | -100.0%                                 |
| South Central | 2    | 1    | 0    | -100.0%                                 |
| South West    | 0    | 1    | 0    | -100.0%                                 |
| North West    | 0    | 0    | 0    | 0.0%                                    |
| Outside       | 0    | 0    | 0    | 0.0%                                    |
| Unknown       | 0    | 0    | 0    | 0.0%                                    |
| Total         | 10   | 8    | 7    | -12.5%                                  |

**Table 13. Number of Bias-Based Profiling and Incident Reporting & Documentation Allegations per Sector by Year**

| Area Command  | 2004 | 2005 | 2006 | Percent Change<br>Between 2005 and 2006 |
|---------------|------|------|------|---|
| Central East  | 1    | 3    | 5    | 66.7%                                   |
| South Central | 2    | 4    | 4    | 0.0%                                    |
| Central West  | 2    | 1    | 1    | 0.0%                                    |
| North East    | 1    | 0    | 1    | 100.0%                                  |
| South East    | 3    | 5    | 0    | -100.0%                                 |
| North Central | 0    | 2    | 0    | -100.0%                                 |
| North West    | 0    | 0    | 0    | 0.0%                                    |
| South West    | 0    | 0    | 0    | 0.0%                                    |
| Downtown      | 0    | 0    | 0    | 0.0%                                    |
| Outside       | 0    | 0    | 0    | 0.0%                                    |
| Unknown       | 0    | 0    | 0    | 0.0%                                    |
| Total         | 9    | 15   | 11   | -26.7                                   |



## IAD ALLEGATION RECOMMENDATIONS AND APD DECISIONS

### Findings:

- IAD recommended that over three-fourths of allegations for internal cases be sustained, compared to one-fourth of external allegations.
- OPM and IAD agreement rates increased slightly for both internal and external IAD allegation recommendations. The rate of agreement on external case allegation classifications slightly increased from a rate of 72 percent in 2005 to a rate of 78 percent in 2006. The rate of agreement for internal allegation classifications slightly increased from a rate of 92 percent in 2005 to a rate of 94 percent in 2006.
- The Chief of Police and the Chains of Command acted in accordance with IAD's recommendations on 90 percent of allegations. The OPM agreed with 90 percent and 93 percent of the Chains' and the Chiefs' decisions on external and internal allegations, respectively, that were recommended to be sustained by IAD.
- The most common form of discipline meted out to officers involved in a complaint that resulted in sustained allegations was a written reprimand. Four officers were dismissed from APD as a result of IAD investigations.

For formal cases, IAD makes recommendations to the officers' Chains of Command and the Chief of Police for each allegation investigated. Allegations are reviewed and disposition recommendations are made using the following categories:

- **Exonerated** – The incident occurred but is 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 a supervisor.<sup>VI</sup>

IAD made recommendations on 231 of the 233 external case allegations. Two of these allegations did not receive a recommendation from IAD because they were deferred to the Chain of Command as training issues. IAD recommended to "Administratively Close" 37 percent (85) of external allegations, "Sustain" 26 percent (59), "Unfounded" 17 percent (40), and "Exonerate" 14 percent (33) of external allegations. An additional 6 percent (14) of allegations were deemed "Inconclusive" by IAD.

Similar to case classifications, the OPM reviews each IAD allegation recommendation and determines whether it agrees or disagrees with the recommendation. In 2006, the OPM agreed with 78 percent of external case allegation recommendations. This rate compares to a 72 percent agreement rate in 2005. OPM-IAD agreement was particularly high in allegations recommended to be "Sustained" and "Administratively Closed." However, agreement was

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<sup>VI</sup> Definitions extracted from APD's General Orders, Policies, and Procedures, A109.08.

between 72 percent and 50 percent where allegations were recommended to be “Inconclusive,” “Unfounded,” and “Exonerated.”

**Table 14. IAD Recommendations and OPM Opinion per Type of Formal by Year**

| IAD Recommendation      | 2004     |           | 2005      |           | 2006     |           |
|-------------------------|----------|-----------|-----------|-----------|----------|-----------|
|                         | External | Internal  | External  | Internal  | External | Internal  |
| Sustained               | 8% (21)  | 60% (126) | 17% (48)  | 72% (238) | 26% (59) | 78% (178) |
| Administratively Closed | 31% (76) | 18% (37)  | 38% (105) | 10% (33)  | 37% (85) | 5% (11)   |
| Unfounded               | 35% (88) | 7% (14)   | 17% (46)  | 9% (30)   | 17% (40) | 8% (18)   |
| Inconclusive            | 11% (27) | 9% (19)   | 16% (44)  | 5% (17)   | 6% (14)  | 5% (10)   |
| Exonerated              | 15% (37) | 3% (6)    | 12% (32)  | 2% (7)    | 14% (33) | 4% (11)   |
| Total                   | 249      | 202       | 275       | 325       | 231      | 228       |
| OPM Agreement Rate      | 82%      | 94%       | 72%       | 92%       | 78%      | 94%       |

Numbers in red signify an agreement rate of less than 75%. Two external allegations were not given IAD recommendations because IAD deferred these to the Chains of Command.

Internal cases in 2006 included 228 allegations, and all allegations received recommendations from IAD. In contrast to external case allegations, 78 percent (178) of internal case allegations were “Sustained,” 5 percent (11) were “Administratively Closed,” 8 percent (18) were “Unfounded,” 5 percent (10) were considered “Inconclusive,” and 4 percent (11) were “Exonerated.” The OPM agreement rate for internal allegation recommendations in 2006 was 94 percent, a slight increase from the 2005 rate of 92 percent.

Table 14 reveals that 37 percent of external allegations were recommended to be “Administratively Closed,” whereas only 5 percent of internal case allegations received this same recommendation. In contrast, the majority (78 percent) of internal cases, compared to 26 percent of external cases, were “Sustained.” Also, more external cases than internal cases were “Unfounded” (17 percent and 8 percent, respectively). These distinctions in IAD recommendations were also observed in the two previous OPM annual reports, where the majority of external allegations were either “Administratively Closed” or “Unfounded” and the majority of internal allegations were “Sustained.” However, it is noteworthy that there was a slight increase of 2 percent in the total number of external cases sustained in 2006 compared to 2005.

## APD Decisions

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

As can be seen in Table 14 above, IAD recommended that 237 (178 internal plus 59 external) allegations be “Sustained.” Two allegations are not included in Table 15 below due to the officers retiring or resigning during their investigations. Table 15 depicts the decisions made by the Chain of Command and the Chief of Police on the remaining 235 allegations that IAD recommended be “Sustained.” When the Chains’ and Chiefs’ dispositions of these allegations were compared with IAD’s recommendations, some disagreement between the Chain of Command/Chief of Police and IAD was revealed. Specifically, the Chain of Command/Chief of Police did not ascribe to IAD’s recommendation on 24 allegations that IAD recommended be “Sustained.” This ratio yielded an agreement rate between IAD and the Chain of Command/Chief of 90 percent.

The OPM was in agreement with the Chains of Command and the Chief on 90 percent of the external case decisions and 93 percent of the internal case decisions. This OPM agreement rate with the Chains of Command and the Chief was calculated by evaluating only those allegations recommended by IAD to be sustained. Therefore, the agreement between the OPM and the Chains of Command and the Chief appears to be greater than that with IAD. However, when APD decisions on all allegations are evaluated, the agreement rate between the OPM and the Chain of Command/Chief of Police drops to 75 percent for external allegations and 89 percent for internal allegations. Therefore, in 2006, as in 2005, it was found that the OPM had a greater agreement rate with IAD than with the final disposition of the Chain of Command and the Chief of Police on both internal and external cases.

**Table 15. APD Decisions on Allegations Recommended to be Sustained by IAD and OPM Opinion per Type of Formal Complaint by Year**

| APD Decision            | 2004     |          | 2005     |           | 2006     |           |
|-------------------------|----------|----------|----------|-----------|----------|-----------|
|                         | External | Internal | External | Internal  | External | Internal  |
| Sustained               | 86% (18) | 87% (94) | 77% (37) | 89% (212) | 86% (51) | 91% (160) |
| Exonerated              | --       | 1% (1)   | 6% (3)   | 1% (3)    | 3% (2)   | 1% (2)    |
| Inconclusive            | 14% (3)  | 6% (7)   | 10% (5)  | 3% (8)    | 6% (3)   | 2% (4)    |
| Unfounded               | --       | 6% (6)   | --       | <1% (1)   | 3% (2)   | 2% (4)    |
| Administratively Closed | --       | --       | 4% (2)   | <1% (1)   | 2% (1)   | 3% (5)    |
| Added/Changed at DRB    | --       | --       | 2% (1)   | <1% (1)   | --       | 1% (1)    |
| Total                   | 21       | 108      | 48       | 226       | 59       | 178       |
| OPM Agreement Rate      | 94%      | 88%      | 77%      | 95%       | 90%      | 93%       |

-- Zero allegations were given this category by APD.

The Chief of Police is ultimately responsible for deciding if any disciplinary action will be taken against an officer involved in a complaint. Table 16 shows the disciplinary action meted out to the officers who had "sustained" allegations in 2006. Discipline results are shown by distinct case for each subject officer and not by allegation. Two hundred fifty-four officers were involved in formal complaints. Of these, 163 received some type of discipline as a result of IAD's investigation of the complaint filed against them and the Chains' and Chiefs' disposition. The most common discipline received by officers was a written reprimand. Thirty-nine officers received suspensions, ranging from 1 day to 60 days. A total of 4 officers were dismissed from APD.

**Table 16. Disciplinary Action Taken by APD per Type of Formal Complaint**

| Disciplinary Action Taken           | 2005     |          | 2006     |          |
|-------------------------------------|----------|----------|----------|----------|
|                                     | External | Internal | External | Internal |
| Oral Reprimand / Counseling         | 6        | 73       | 13       | 40       |
| Written Reprimand                   | 8        | 44       | 8        | 59       |
| Days Suspension                     | 6        | 46       | 10       | 29       |
| Indefinite Suspension / Termination | 2        | 4        | 2        | 2        |
| Total                               | 22       | 167      | 33       | 130      |

## COMPLAINANT DEMOGRAPHICS

### Findings:

- Complainants who filed complaints with the OPM represent a wide cross-section of Austinites. They do not cluster around any particular racial or geographic group.

- The Downtown and SW area commands had the greatest number of supervisory inquiries, and DTAC had the greatest number of external formal complaints in 2006.
- More males than females filed formal complaints in 2006.
- Individuals in their forties and fifties more often filed supervisory inquiries, while complainants in their twenties and thirties filed formal complaints.

OPM Annual Reports have consistently found that complainants are of diverse demographic and geographic characteristics. This finding was replicated in the OPM 2006 Annual Report.

Complainants have the right to file as many complaints as they would like, provided they involve unique incidents. Also, complainants can begin the complaint process by filing a supervisory inquiry, but if they are dissatisfied with the end result, they have the option to proceed to a formal complaint. Further, complainants from within APD are not counted as citizen complainants. Since some complainants file multiple complaints and/or begin with a supervisory inquiry and progress into the formal complaint process, or are APD employees, the findings below will show fewer complainants than the total number of complaints processed by the OPM in 2006. You will notice that while a total of 516 supervisory inquiries and formal complaints were filed in 2006, only those non-APD complainants with unique external formal complaints and unique supervisory inquiries were included in the figures below, a total of 312 distinct complainants.

In reviewing the complainant demographics below it is important to consider that complaints can be filed at the OPM in person, over the phone, or via e-mail, fax or letter. Because of the various methods of contacting the OPM available to complainants, at times the OPM finds thorough data collection of all demographic data points somewhat challenging. This challenge is particularly problematic with supervisory inquiries, as can be noted in the high percentages of missing or unknown data in some of the subsequent tables. The OPM continues to improve data collection methods and aims to have more complete data for supervisory inquiries in future reports.

Table 17 shows that the 312 complainants were comprised of 44 percent (139) white, 22 percent (68) black, and 20 percent (61) Latino complainants. Two percent (7) of complainants reported "Other" for their race category, 1 percent (2) were American Indian and less than 1 percent (1) were of Asian race. Race/ethnicity was unknown for 11 percent (34) of complainants.

**Table 17. Complainant Race / Ethnicity by Type of Complaint**

| <b>Race / Ethnicity</b> | <b>Supervisory Inquiries</b> | <b>External Formal Complaints</b> | <b>Total Citizen Complaints</b> |
|-------------------------|------------------------------|-----------------------------------|---------------------------------|
| White                   | 47% (101)                    | 39% (38)                          | 44% (139)                       |
| Black                   | 18% (39)                     | 30% (29)                          | 22% (68)                        |
| Latino                  | 17% (37)                     | 24% (24)                          | 20% (61)                        |
| American Indian         | --                           | 2% (2)                            | 1% (2)                          |
| Asian/Pacific Islander  | 1% (1)                       | --                                | <1% (1)                         |
| Other                   | 2% (4)                       | 3% (3)                            | 2% (7)                          |
| Unknown                 | 15% (32)                     | 2% (2)                            | 11% (34)                        |
| <b>Total</b>            | <b>214</b>                   | <b>98</b>                         | <b>312</b>                      |

-- Zero complainants reported this race/ethnicity category.

While complainants may not necessarily live in the area command where their complaint originates, the area command where the incident took place is a good proxy of the geographic distribution of complainants. Of the different APD area commands in Austin, DTAC had the largest proportion of complaints in 2006. The CE area command had the second largest number of complaints in 2006, followed by SW. DTAC complaints had the largest number of supervisory inquiries and formal complaints, whereas a greater proportion of CE and SW complaints were filed as supervisory inquiries. The NW area command had the least number of complaints in 2006.

**Table 18. Sector by Type of Citizen Complaint**

| Sector        | Supervisory Inquiries | External Formal Complaints | Total Citizen Complaints |
|---------------|-----------------------|----------------------------|--------------------------|
| Downtown      | 15% (32)              | 19% (18)                   | 16% (50)                 |
| Central East  | 14% (30)              | 16% (15)                   | 14% (45)                 |
| South West    | 15% (32)              | 9% (9)                     | 13% (41)                 |
| North East    | 11% (24)              | 12% (12)                   | 12% (36)                 |
| South Central | 10% (21)              | 8% (8)                     | 9% (29)                  |
| Central West  | 8% (16)               | 9% (9)                     | 8% (25)                  |
| South East    | 9% (19)               | 8% (8)                     | 9% (27)                  |
| North Central | 8% (18)               | 6% (6)                     | 8% (24)                  |
| North West    | 4% (9)                | 10% (10)                   | 6% (19)                  |
| Unknown       | 4% (8)                | 1% (1)                     | 3% (9)                   |
| Outside       | 2% (5)                | 2% (2)                     | 2% (7)                   |
| Total         | 214                   | 98                         | 312                      |

While age was one of the demographic variables least recorded by the OPM, the majority of complainants were in their twenties, thirties, or forties. Of those complainants filing formal complaints, 35 percent were in their twenties and 22 percent were in their thirties. Seventeen percent of complainants filing supervisory inquiries were in their forties.

**Table 19. Complainant Age by Type of Citizen Complaint**

| Complainant Age | Supervisory Inquiries | External Formal Complaints | Total Citizen Complaints |
|-----------------|-----------------------|----------------------------|--------------------------|
| Teens           | 1% (2)                | 4% (4)                     | 2% (6)                   |
| Twenties        | 14% (29)              | 35% (34)                   | 20% (63)                 |
| Thirties        | 11% (25)              | 22% (21)                   | 15% (46)                 |
| Forties         | 17% (36)              | 13% (13)                   | 16% (49)                 |
| Fifty and over  | 12% (26)              | 18% (18)                   | 14% (44)                 |
| Not recorded    | 45% (96)              | 8% (8)                     | 33% (104)                |
| Total           | 214                   | 98                         | 312                      |

More males, 54 percent, than females, 46 percent, filed complaints in 2006. Men were more likely than women to file formal complaints in comparison to supervisory inquiries, where men and women filed complaints at more similar rates.

**Table 20. Complainant Gender by Type of Citizen Complaint**

| Complainant Gender | Supervisory Inquiries | External Formal Complaints | Total Citizen Complaints |
|--------------------|-----------------------|----------------------------|--------------------------|
| Male               | 48% (102)             | 58% (57)                   | 54% (168)                |
| Female             | 52% (111)             | 42% (41)                   | 46% (143)                |
| Total              | 214                   | 98                         | 312                      |

The majority of complainants, 96 percent, spoke English, another 4 percent spoke Spanish, and 1 person spoke French.

## **SUBJECT OFFICER DEMOGRAPHICS**

### **Findings:**

- Findings suggest an increase from 2005 in years of service for officers who were subjects of investigations.
- The rank of “Officer” was over-represented in complaints filed by citizens as well as by fellow officers.
- Male officers were over-represented in complaints filed by citizens as well as internal complaints.
- Latino officers were over-represented in complaints filed by citizens, whereas black officers were over-represented in complaints filed by other officers.

The 516 formal complaints and supervisory inquiries processed by the OPM referenced 414 unique APD officers, meaning that 414 out of 1370 sworn officers and 96 cadets, or 28 percent of all APD-sworn personnel and cadets, were the subject of one type of complaint or another. Please note, officers that were referenced in multiple complaints were only counted once. Of the 414 officers referenced in complaints, 160 officers were mentioned as subject officers in supervisory inquiries. As with complainant demographics, officer demographics were not always available for officers referenced in supervisory inquiries.

Subject officers’ years of service varied from seven months to approximately 31 years. The average tenure served by officers referenced in complaints was 10.1 years. The midpoint for the age range of subject officers was almost eight years of service. In 2006, the most common number of years served by subject officers was 4.3 years, suggesting that officers with approximately four to ten years of experience are more vulnerable to allegations and/or violations of policy. In past OPM annual reports, it has been found that less seasoned officers, with one to two years of experience, garner more complaints than their more experienced counterparts. The current finding represents a departure from this convention.

**Table 21. Years of Service of Subject Officers for 2006**

|                           | <b>Years of Service</b> |
|---------------------------|-------------------------|
| <b>Average tenure</b>     | 10.1                    |
| <b>Longest tenure</b>     | 31.0                    |
| <b>Shortest tenure</b>    | 0.6                     |
| <b>Tenure midpoint</b>    | 7.8                     |
| <b>Most common tenure</b> | 4.3                     |

As can be seen in Table 22, of the officers referenced in complaints, 74 percent were ranked as “officers.” This rank category includes officers, probationary officers, as well as senior police officers. Considering “officers” made up 53 percent of the APD sworn personnel in 2006, it is expected that they would incur the majority of complaints. “Officers” were followed by

“detectives” in the number of complaints filed against them, with 12 percent of complaints referencing detectives, who made up 20 percent of the work force in 2006.

**Table 22. Subject Officer Rank by Type of Complaint**

| Rank            | Supervisory<br>Inquiries | Formal Complaints | Percent of All APD<br>Sworn Personnel |
|-----------------|--------------------------|-------------------|---------------------------------------|
| Cadet           | --                       | <1% (1)           | 7% (96)                               |
| Officer         | 80% (128)                | 68% (177)         | 53% (777)                             |
| Corporal        | 4% (6)                   | 4% (11)           | 5% (72)                               |
| Detective       | 8% (13)                  | 14% (35)          | 20% (288)                             |
| Sergeant        | 8% (12)                  | 7% (19)           | 10% (153)                             |
| Lieutenant      | <1% (1)                  | 3% (7)            | 4% (58)                               |
| Commander       | --                       | 1% (2)            | 1% (18)                               |
| Assistant Chief | --                       | <1% (1)           | <1% (3)                               |
| Chief           | --                       | <1% (1)           | <1% (1)                               |
| Total           | 160                      | 254               | 1466                                  |

-- Zero subject officers with this ranking.

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

**Table 23. Subject Officer Gender by Type of Complaint**

| Gender | Supervisory<br>Inquiries | Formal Complaints | Percent of All APD<br>Sworn Personnel |
|--------|--------------------------|-------------------|---------------------------------------|
| Female | 10% (16)                 | 6% (16)           | 12% (169)                             |
| Male   | 90% (144)                | 94% (238)         | 88% (1297)                            |
| Total  | 160                      | 254               | 1466                                  |

Table 24 depicts the race/ethnicity of officers referenced in complaints in 2006. Similar to the make-up of APD, most subject officers, 65 percent, were white. Table 24 also reveals that Latino officers were slightly over-represented in the subject officer category for formal complaints, making up 20 percent of APD in 2006, but 25 percent of the subject officer pool.

**Table 24. Subject Officer Race/Ethnicity by Type of Complaint**

| Race/Ethnicity         | Supervisory<br>Inquiries | Formal Complaints | Percent of All APD<br>Sworn Personnel |
|------------------------|--------------------------|-------------------|---------------------------------------|
| White                  | 70% (112)                | 63% (160)         | 69% (1010)                            |
| Black                  | 10% (16)                 | 11% (29)          | 10% (149)                             |
| Latino                 | 19% (30)                 | 25% (63)          | 20% (287)                             |
| Asian/Pacific Islander | 1% (2)                   | 1% (2)            | 1% (17)                               |
| American Indian        | --                       | --                | <1% (3)                               |
| Total                  | 160                      | 254               | 1466                                  |

-- Zero subject officers reported this race/ethnicity category.

As in the current report, in the OPM 2005 Annual Report it was found that certain officers of some ranks and ethnic and racial groups seemed to be over-represented in the subject officer pool. Questions were raised about the factors producing these seeming over-representations. Questions weighed included were the over-represented groups engaging in disparate behaviors or was there disparate reporting of behaviors engaged in by these groups on the part of the complainants, APD and civilian. In 2005 the OPM examined the possibility of a relationship between the racial or ethnic background and rank of an officer and the type of complaint filed against the officer, i.e., internal versus external complaint. Specifically, the OPM examined the

number of complaints filed against the above-mentioned groups by citizens versus by fellow APD officers. The number of supervisory inquiries was combined with the number of external formal complaints for each rank, racial/ethnic group, and gender group. Internal formal complaints were evaluated separately. In 2006, the OPM conducted this same analysis. Tables 25 through 27 below show the results of this analysis.

**Table 25. Subject Officer Rank by Citizen and Internal Complaints**

| Rank            | Citizen Complaints | Internal Complaints | Percent of All APD Sworn Personnel |
|-----------------|--------------------|---------------------|------------------------------------|
| Cadet           | --                 | <1% (1)             | 7% (96)                            |
| Officer         | 74% (199)          | 73% (106)           | 53% (777)                          |
| Corporal        | 5% (13)            | 3% (4)              | 5% (72)                            |
| Detective       | 10% (28)           | 14% (20)            | 20% (288)                          |
| Sergeant        | 7% (20)            | 8% (11)             | 10% (153)                          |
| Lieutenant      | 2% (6)             | 1% (2)              | 4% (58)                            |
| Commander       | 1% (1)             | <1% (1)             | 1% (18)                            |
| Assistant Chief | 1% (1)             | --                  | <1% (3)                            |
| Chief           | --                 | <1% (1)             | <1% (1)                            |
| Total           | 268                | 146                 | 1466                               |

-- Zero subject officers were in this rank category. Numbers in red signify an overrepresentation of this rank category in the subject officer pool in relation to its proportion of the entire APD personnel.

In separating the complaints into citizen complaints and internal complaints, it was found that the rank of "officer" incurred the majority of both citizen and internal complaints. While the rank of "officer" made up 58 percent of APD personnel in 2006, 74 and 73 percent of officers with the rank of "officer" were cited in citizen and internal complaints, respectively. Another finding revealed through this analysis was the under-representation of detectives in complaints filed by both citizens and fellow APD officers. While detectives incurred the second largest number of complaints, they still incurred less complaints than one would expect when considering their proportion of APD personnel, making up 20 percent of APD personnel, but 11 and 14 percent of citizen and internal complaints, respectively.

A similar analysis for the gender category showed that female officers were under-represented and male officers were over-represented in complaints initiated by citizens as well as fellow APD personnel. This finding is depicted in Table 26 below.

**Table 26. Subject Officer Gender by Citizen and Internal Complaints**

| Gender | Citizen Complaints | Internal Complaints | Percent of All APD Sworn Personnel |
|--------|--------------------|---------------------|------------------------------------|
| Female | 9% (25)            | 5% (7)              | 11% (169)                          |
| Male   | 91% (243)          | 95% (139)           | 89% (1297)                         |
| Total  | 268                | 146                 | 1466                               |

Numbers in red signify an overrepresentation of this gender category in the subject officer pool in relation to its proportion of the entire APD personnel.

Table 27 bolsters the above finding of the seeming over-representation of Latino officers in formal complaints. Findings suggest that Latino officers were over-represented in complaints filed by citizens but not in complaints filed internally. Also, while Table 24 above did not show any substantial over-representation of Black officers in complaints, Table 27 below reveals that Black officers are slightly over-represented in internal complaints but not citizen complaints.



**Table 27. Subject Officer Race/Ethnicity by Citizen and Internal Complaints**

| Race/Ethnicity         | Citizen Complaints | Internal Complaints | Percent of All APD Sworn Personnel |
|------------------------|--------------------|---------------------|------------------------------------|
| White                  | 65% (174)          | 67% (98)            | 69% (1010)                         |
| Black                  | 10% (27)           | 12% (18)            | 10% (149)                          |
| Latino                 | 24% (64)           | 20% (29)            | 20% (287)                          |
| Asian/Pacific Islander | 1% (3)             | 1% (1)              | 1% (17)                            |
| American Indian        | --                 | --                  | <1% (3)                            |
| Total                  | 268                | 146                 | 1466                               |

-- Zero subject officers reported this race/ethnicity category. Numbers in red signify an overrepresentation of this race category in the subject officer pool in relation to its proportion of the entire APD personnel.

Similar findings were seen in the 2005 OPM Annual Report. These findings suggest that there may be a relationship between an officer's demographic characteristics and the type of complaint filed against her/him. The OPM will continue to examine this relationship in order to more fully understand the dynamics of the variables involved. These findings bring several questions to mind that require further investigation. For instance, the over representation of male officers and the rank of "Officer" in citizen complaints may be related to the fact that more male officers and officers of the rank of "Officer" make up the pool of "patrol" officers, who are normally the most likely to directly interact with a community member. This increased exposure to the public might make patrol officers more susceptible to citizen complaints. Further, this type of analysis will help to indicate any potential biases within APD and the community regarding an officer's demographic characteristics.

Of the 414 officers referenced in complaints, 118 officers incurred multiple complaints during 2006. Repeat subject officers had a range of two to five distinct complaints during 2006. Tables 28 to 31 display findings comparing the demographics of repeat subject officers with all subject officers and the Department as a whole.

**Table 28. Rank of Repeat Subject Officers, All Subject Officers, and All APD Sworn Personnel**

| Rank            | Repeat Subject Officers | All Subject Officers | All APD Sworn Personnel |
|-----------------|-------------------------|----------------------|-------------------------|
| Cadet           | --                      | <1% (1)              | 7% (96)                 |
| Officer         | 84% (100)               | 74% (305)            | 53% (777)               |
| Corporal        | 3% (4)                  | 4% (17)              | 5% (72)                 |
| Detective       | 7% (8)                  | 12% (48)             | 20% (288)               |
| Sergeant        | 3% (4)                  | 7% (31)              | 10% (153)               |
| Lieutenant      | 1% (1)                  | 2% (8)               | 4% (58)                 |
| Commander       | 1% (1)                  | <1% (2)              | 1% (18)                 |
| Assistant Chief | --                      | <1% (1)              | <1% (3)                 |
| Chief           | 1% (1)                  | <1% (1)              | <1% (1)                 |
| Total           | 118                     | 414                  | 1466                    |

-- Zero subject officers were in this rank category.

**Table 29. Gender of Repeat Subject Officers, All Subject Officers, and All APD Sworn Personnel**

| Gender | Repeat Subject Officers | All Subject Officers | All APD Sworn Personnel |
|--------|-------------------------|----------------------|-------------------------|
| Female | 6% (7)                  | 8% (7)               | 11% (169)               |
| Male   | 94% (111)               | 92% (382)            | 89% (1297)              |
| Total  | 118                     | 414                  | 1466                    |

**Table 30. Race/Ethnicity of Repeat Subject Officers, All Subject Officers, and All APD Sworn Personnel**

| Race/Ethnicity         | Repeat Subject Officers | All Subject Officers | All APD Sworn Personnel |
|------------------------|-------------------------|----------------------|-------------------------|
| White                  | 64% (75)                | 66% (272)            | 69% (1010)              |
| Black                  | 13% (15)                | 11% (45)             | 10% (149)               |
| Latino                 | 24% (28)                | 22% (93)             | 20% (287)               |
| Asian/Pacific Islander | --                      | 1% (4)               | 1% (17)                 |
| American Indian        | --                      | --                   | <1% (3)                 |
| Total                  | 118                     | 414                  | 1466                    |

-- Zero officers reported this race/ethnicity category.

As can be seen in table 30, black and Latino officers were also over-represented in the repeat subject officer pool compared to their numbers in the Department as a whole. These findings suggest that minority officers are not only incurring a greater proportion of complaints as a group but individual members are also incurring multiple complaints.

**Table 31. Years of Service of Subject Officers for 2006**

|                    | Repeat Subject Officers | All Subject Officers |
|--------------------|-------------------------|----------------------|
| Average tenure     | 8.4                     | 10.1                 |
| Longest tenure     | 29.9                    | 31.0                 |
| Shortest tenure    | 0.6                     | 0.6                  |
| Tenure midpoint    | 5.8                     | 7.8                  |
| Most common tenure | 3.3                     | 4.3                  |

Repeat subject officers were generally white males with the rank of "officer" and an average of eight years of service. Sixty percent (165) of allegations against repeat subject officers involved Code of Conduct allegations. An additional 13 percent (35) of allegations involved the operation of police vehicles and 10 (28) percent involved the allegations of use of force and duty weapons. Of the Code of Conduct allegations filed against repeat subject officers, 38 percent (63) involved impartial attitude; 10 percent (17) dealt with courtesy; 7 percent (11) dealt with compliance; 6 percent (10) pertained to requirements of duty; and (8) dealt with prohibited acts; 5 percent (8) involved responsibility to know and understand all laws; 2 percent (4) dealt with issues of honesty; and the remaining 7 percent (12) pertained to duty to identify, acts bringing discredit to the Department, insubordination, release of information, relations with co-workers, obedience to orders, and action off duty.

Overall, the repeat subject officer analysis suggests that great strides can be made by focusing on providing remedial training to officers at risk of incurring multiple complaints, such as white male "officers" on the force for approximately eight years as well as minority officers. This analysis also demonstrated that the biggest issue facing officers who incurred multiple complaints in 2006 is the perception of unfair or biased treatment. While APD currently employs the use of an early warning system called the Guidance Advisory Program (GAP), the Department must strive to continue to offer subject officers, especially repeat subject officers, interpersonal training that will improve upon their mediation skills and help to accurately portray an impartial, equitable stance towards all members of the public.

## 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 2006, 13 percent (17 of 127) of the complainants who filed a formal complaint attended a PMC. This figure is approximately equal to that of 2005 when 13 percent (17 of 135) of complainants attended a PMC.

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 two-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 nine police area commands, Internal Affairs training, and communications with key people in the community and oversight interests.

CRP members in 2006 included:

Veronica Delgado,  
Joseph Hawkins,  
Ketan Kharod,  
J. D. Martinez, Chair,  
Thomas Martinez,  
Dick Neavel, and  
Leslie Varghese.

The CRP meets once a month to review complaints and listen to complainants' concerns about the resolution or processing of their cases. The CRP reviewed 43 cases in 2006, including cases from 2005 and 2006. While the CRP does not have the ability to render decisions or enforce discipline, it can make recommendations to the City Manager and the Chief of Police.

## **CONCLUSION**

The OPM processed fewer contacts in 2006 than in 2005. The decrease was mostly experienced in the number of internal formal complaints and contacts that did not evolve into complaints. Supervisory inquiries remained relatively constant from 2005. Steps can be taken to increase the number of contacts received by the OPM. The OPM does not solicit complaints. The majority of individuals who contact the Office do so of their own accord. Therefore, a decrease in contacts suggests that the OPM must strengthen its already extensive outreach efforts in order to inform more members of the public of our services. Further, IAD and the OPM must collaborate to make their services more accessible to the public. At times, individuals who are interested in filing a complaint do not have personal transportation, hold multiple jobs, juggle the responsibilities of school, work, and a family, are homeless, or have literacy problems that prevent them from reaching our location. Further, many individuals hold the same work hours as the OPM and IAD business hours. The availability only during these times presents a barrier to many complainants interested in filing formal complaints. The OPM and IAD must work collaboratively to meet the needs of these individuals who oftentimes are unable to avail

themselves of the formal complaint process. All of these efforts should help to maximize the offer of our services to all members of the public.

There continues to be a notable difference in IAD case classifications and OPM opinion of these classifications, especially in the number of external cases compared to internal cases classified as C and D. A trend of case classification discrepancies was initially reported in the OPM 2004 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 supervisory inquiries in external cases, but there is no clear answer for this discrepancy. However, the current report offers some evidence for diminishing discrepancies. In 2006, more external cases were classified as A, reserved for the most serious allegations, when compared to the number of external cases that received this classification in 2005. This has both positive as well as negative implications. Either IAD has begun to classify external and internal cases in a more equitable fashion, or more officers are being accused of committing more serious allegations against members of the public. Regardless, discrepancies are still clear when the number of external cases classified as C and D is compared to the number of internal cases that receive these classifications.

This discrepancy between the treatment of external and internal cases was also seen in IAD allegation recommendations, where over three-fourths of internal allegations were sustained, while only 26 percent of external allegations received this recommendation. This discrepancy continues to be highlighted in the lower agreement rate between the OPM and IAD in regard to external versus internal cases. Examination of IAD case classifications and recommendations and OPM opinion of these will continue to be analyzed in subsequent reports.

While IAD and the OPM may not always agree on how a case should be classified or how an allegation should be handled, allegations from within and outside of the Department are in high agreement. Both the Department and the public most commonly allege violations of code of conduct. Code of conduct allegations are concerning since the comportment of a police force is likely to show how its officers value the laws of the land, the Department, community policing, as well as their fellow officers. Any steps taken to lower the number of code of conduct allegations, both internally and externally, would greatly benefit the Department.

Since 2003, the Downtown area command has led in the greatest number of complaints. The year 2006 was no exception, and in fact, the number of complaints in this area command saw a slight increase of 4 percent from 2005 to 2006. While DTAC had the greatest number of complaints, Central East had the greatest number of allegations in 2006. In the past, normally one sector has had the greatest number of complaints/allegations and led in the number of allegations in a variety of allegation types. This was not the case in 2006. Central East had the greatest number of allegations involving code of conduct and bias-based profiling and incident reporting and documentation allegations. DTAC continued to have the greatest number of use of force and duty weapons allegations. South Central had the greatest number of allegations involving interviews, stops, and arrests; arrests and bookings; and care and transport of prisoners. These findings suggest that complaints are not limited to one particular sector but faced by most sectors throughout the Department.

There was a significant decrease in the number of allegations investigated by IAD in 2006 when compared to 2005. The complaint process may play a role in this drop. As part of the complaint process, IAD selects a group of main allegations that it will include in its investigation of a complaint, regardless of the number of allegations presented by the complainant. The process allows IAD to determine the number of allegations that will be investigated. This is one factor

that could contribute to a deviation in the number of allegations investigated per year. Another factor that could have contributed to the drop in the number of allegations seen in 2006 was a greater use of IAD's "Other Factors to be Considered by the Chain of Command" section of their investigative reports. In this section, IAD presents allegations that were not brought forth by the complainant, but were discovered during the investigation, as well as allegations brought forth by the complainant but that IAD does not deem major complaints and/or issues that in their opinion do not rise to the level of a policy violation. While these allegations were not completely tracked by the OPM or IAD, the OPM observed an increase in the use of the "Other Factors" section in 2006. The OPM recommends that, in order to adequately address an individual's complaint, IAD must be willing to investigate all allegations brought forth by a complainant in addition to any violations discovered during an investigation. In the absence of this practice, the OPM is unable to truly present the actual number of allegations brought against officers of APD. In turn, APD is unable to address all issues confronting its force.

The OPM readily recognizes that the Downtown area command faces unique challenges in policing the downtown Austin corridor which includes the Austin downtown entertainment district. They oftentimes deal with large crowds. They sometimes encounter individuals who may have engaged in drinking alcoholic beverages. While these situations are certainly challenging, they also present APD with the opportunity to explore the use of de-escalation tactics, especially when the use of force seems imminent, that aim to take control of a potentially volatile situation and turn it into either an effective arrest of a suspect or protection of a citizen in need. The OPM is glad to report that the number of allegations stemming from DTAC decreased by 34 percent in 2006, including a drop of 25 percent in use of force and duty weapons allegations. Taking nothing away from these great strides, DTAC must continue to work collaboratively with the community in order to maintain these improvements, especially in light of the fact that DTAC continues to lead in the number of total complaints.

In 2006, CE experienced a large increase in the number of use of force allegations. CE also saw increases in the numbers of allegations involving bias-based profiling as well as a large number of Code of Conduct violations. The increase in the number of allegations in this area command presents supervisors with a great opportunity to assess the issues being faced by officers in this area command. One factor that may have contributed to the rise in complaints and allegations in this area was the crack down on day laborers soliciting employment at local businesses. While this community is known to silence their concerns regarding police, APD and the OPM battle against this challenge through their many outreach events in this area. These outreach activities may have also contributed to a rise in the number of allegations seen in CE. Despite the reason for the increases, it may benefit the CE supervisors to increase vigilance in this area in order to identify potential problem areas.

The SW and SC area commands experienced a substantial decrease in both allegations and complaints in 2006. Of those complaints coming from the SW and SC area commands, more were filed as supervisory inquiries than formal complaints. The OPM is pleased to recognize the administration in both of these area commands for making great strides in successfully mediating public concerns against its officers.

In 2005, an analysis of the characteristics and demographics of officers referenced in complaints revealed that some newer or less experienced officers were more likely to incur complaints than more seasoned officers. However, in 2006, the median and average years of services of officers referenced in complaints rose to eight and ten years, respectively. These findings suggest that complaints can no longer be attributed to an officer's lack of experience. Supervisors paying special attention and giving guidance to officers of all levels of experience

could yield improved compliance to APD policy and procedures as well as a decrease in complaints.

As seen in 2005, in 2006 the OPM also found evidence suggesting that officers assigned to patrol duties may be more susceptible to external complaints, likely due to their greater exposure to the public. Findings also suggest that Latino officers are over-represented as subject officers in external complaints in relation to their proportion in APD and black officers are over-represented as subject officers in internal complaints in relation to their proportion in APD. The Chain of Command has invaluable input regarding its officers. By paying special attention to the characteristics described in this report as well as collaboration with the OPM, IAD, and the policy review team, the Chain of Command could see equitable and improved compliance among officers. Currently, the OPM conducts a presentation to each new cadet class in an effort to educate future officers of current trends seen in public behavior as well as trends seen in the areas where they will soon be assigned. Armed with this information and their new training, cadets could effect the change they would like to see in the relationship between APD and the public. The OPM believes the increase in years of service of officers referenced in complaints may in part be due to this type of collaboration with APD cadet classes and will continue similar efforts throughout the Department.

In 2006, the OPM conducted a separate analysis on officers who incurred multiple complaints in the span of one year. These findings revealed that repeat subject officers were more often white males with the rank of "officer" and approximately eight years of service. Latino and black officers were also over-represented in the repeat subject officer pool when compared to their proportion of the APD sworn personnel. Further, this analysis demonstrated that the biggest issue facing officers who incurred multiple complaints in 2006 is the perception of unfair or biased treatment, as indicated by a great number of impartial attitude complaints.

The Chains of Command should maximize their access to the Guidance Advisory Program, APD's early warning system, in order to identify officers at risk of accruing multiple complaints or displaying an undesired behavior pattern.

The OPM recognizes that the apparent over-representation of Latino officers in external complaints and black officers in internal complaints presents a complicated issue. Shortly after publishing the 2005 Annual Report, the OPM engaged in dialogues with Amigos en Azul, the Austin Police Women's Association, and the Texas Peace Officers Association and shared these concerning findings. The OPM will continue these dialogues in the hopes of better understanding the challenges faced by minority officers within and outside of the Department. The OPM will also continue to examine other aspects of this issue. Future analyses of complaints and allegations will also involve looking at complainant race/ethnicity, type of allegation, duty/assignment, disciplinary action taken, as well as other variables. The OPM will also increase its use of GAP reports in order to assess Chain of Command resolutions to triggers of the early warning system.

The OPM aims to use the findings highlighted 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.

## **RECOMMENDATIONS**

Part of the OPM's oversight responsibility includes drafting and issuing recommendations upon completing the review of IAD investigative files and in response to any observed patterns within

the Department. 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. Further, the OPM can also suggest that a particular officer receive certain training/re-training and/or counseling.

The reader may recall that the OPM had varying degrees of agreement with IAD case and allegation classifications as well as the final dispositions rendered by the Chain of Command and the Chief of Police. Table 28 below details the different recommendations made by the OPM and the CRP to IAD/APD, along with APD's response, during 2006. In those areas where a blank is present rather than a response, both APD and the OPM attempted to locate APD's response, but no response was found to those OPM recommendations. Of the 21 recommendations made to IAD/APD, 57 percent (12) received a response from APD.

**Table 28. OPM and CRP 2006 Recommendations and APD Response**

| <b>Type of Recommendation</b> | <b>Recommending Party</b> | <b>Recommendation</b>  | <b>APD Response</b>  |
|-------------------------------|---------------------------|--|--|
| Global Recommendation         | Citizen Review Panel      | Observed a common theme of escalating confrontations between officers and the public on Sixth Street; Recommended videotaping events as APD's crowd management team does.  | APD is not opposed to a videotaping system for Sixth Street. APD will continue to explore this option, as it has done in the past. |
| Case Recommendation           | Citizen Review Panel      | Recommended investigation of an incident of use of force in the Sixth Street area captured by Fox 7 News; If no investigation will take place, recommended APD Chief justify how the force used in this incident was reasonable and appropriate. | Decision to not investigate will continue to stand but will monitor use of force tactics for their appropriateness.                |
| Case Recommendation           | Police Monitor            | Recommended further investigation of allegation of required in-car recording of pedestrian stop conducted by subject officer.  |  |

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| Monitor Officer/<br>Training<br>Recommendation     | Citizen Review<br>Panel | Requested clarification on criteria used in issuing "Be on the Lookout" (BOLO) notifications; Recommended interpersonal training for subject officer and close monitoring of his conduct  | Clarification on BOLO criteria was provided; Subject officer has voluntarily taken steps to ensure his career is on a positive track; GAP was triggered by subject officer and will continue to be monitored by the system.   |
| Monitor Officer/<br>Training<br>Recommendation     | Citizen Review<br>Panel | Recommended anger management training and psychological counseling for subject officer; Recommended to continue to closely monitor officer's conduct; Requested information on whether or not officer triggered GAP and continues to be monitored by this system  | Immediate supervisor conducted extensive counseling with subject officer; GAP was triggered and will continue to be used to monitor key indicators.   |
| Case<br>Recommendation                             | Citizen Review<br>Panel | Recommended an independent investigation into the handling of evidence in a homicide investigation and recording of an interview in the involved case.  |   |
| IAD Proper<br>Procedure/Training<br>Recommendation | Police Monitor          | Recommended counseling and follow up training on proper Use of Force; Expressed concern about subject officer being a Field Training Officer; Requested being notified when IAD would be meeting with a complainant, even when the complainant is being represented by an APD staff member for the purposes of an internal investigation. | No investigation of a different officer's conduct will be conducted. (Could not find where this officer was referenced in the original OPM memo.)   |
| Global/Training<br>Recommendation                  | Citizen Review<br>Panel | Recommended officers involved in sexual harassment cases receive the highest number of days of suspension allowable without agreement under civil service law; Recommended more heterosexism and sexism training for all officers, in addition to cadets.   | The Disciplinary Review Board will arrive at the best possible decision for all concerned; the discipline meted out in this case was appropriate; the Community Immersion Program includes the Lesbian and Gay communities; It is the hope that this cadet training will eventually disperse throughout the rest of the department; Department-wide sexual harassment training was conducted in 2004. |



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| Global Recommendation                    | Police Monitor       | Requested to view Training Division reports and briefings relating to critical incidents   |   |
| Training Recommendation                  | Citizen Review Panel | Recommended mental health training for officers  |   |
| Global Recommendation                    | Citizen Review Panel | Requested to review the Critical Incident Team's assessment of this case, esp. as relates to communication between officers  |   |
| Case Recommendation                      | Citizen Review Panel | Recommended to have the weapon used by subject officer reviewed to assess its safety.  |   |
| Global Recommendation                    | Citizen Review Panel | Recommend that APD take an even stronger position on minors being left with intoxicated adults; Recommended a person be taken into custody if they are intoxicated and caring for a child.   | Ample guidance and expectations currently exist in the department's general orders; <i>On 7/7/2006 a training bulletin regarding public intoxication arrests was sent to all in the department.</i>   |
| Global Recommendation                    | Citizen Review Panel | Requested presentation with information on the Hostage Negotiation and Crisis Intervention Units.  |   |
| Training Recommendation                  | Citizen Review Panel | Recommended use of force training and a discussion of possible consequences for engaging in unnecessary use of force; take a strong stance against retaliation against the public and/or fellow officers   |   |
| Global/Training Recommendation           | Citizen Review Panel | Recommended sustaining allegations of use of force against subject officer; Recommended APD review its Use of Force policies and rules relating to documentation of such use of force; Recommended re-training for officers who have multiple use of force complaints file against them. | The use of force allegation was properly classified as exonerated; Have formed a committee to review APD's use of force policy; No changes in policy are anticipated at this time; The type of training that best meets the needs of an officer are identified and implemented. |
| Monitor Officer/ Training Recommendation | Police Monitor       | Recommended to have subject officer record all of his traffic stops with a digital recorder; Recommend additional training and counseling to address officer's stress and anger; Requested feedback as to whether or not subject officer triggered GAP.                                  | Inquiries concerning a specific officer's status in GAP would appear to be outside the scope of the citizen oversight process and will therefore not be provided; Subject officer's Chain of Command will continue to monitor his behavior.                                     |

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| Monitor Officer/<br>Training/Transfer<br>Recommendation | Citizen Review<br>Panel | <p>Would like to hear directly from subject officer's supervisors at next CRP meeting; would like to review officer's use of force reports from the last few years; requested information on what remedial actions were taken by his SUPERVISORY; Recommended subject officer have a psychological evaluation conducted by someone outside of APD; Recommended subject officer carry a recording device; Recommended subject officer be removed from DTAC.</p> |  |
| Global/Case/Training<br>Recommendation                  | Citizen Review<br>Panel | <p>Recommend to sustain allegations of Use of Force against subject officer; Recommends APD revisit its Use of Force and documentation of force policies; Recommends re-training for officers with multiple allegations of force.</p>  | <p>The allegation was properly classified and will remain exonerated; past allegations of use of force in unrelated events will not be considered; APD has formed a committee to review their Use of Force policy (<i>no mention of documentation of force</i>); no changes in policy are anticipated at this time; GAP addresses issues of multiple, similar allegations against an officer and the supervisor decides on proper training on an individual basis.</p> |
| Monitor Officers  | Police Monitor          | <p>Recommended looking into officer's wife's allegations that her husband and his corporal are engaged in an inappropriate relationship.</p>   | <p>Lieutenant addressed both parties to remind them of departmental policy dealing with relationships with subordinates and asked if there was any reason either one of them should be transferred. They both stated there was no reason or need for a transfer.</p>   |

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| Case Recommendation | Police Monitor | Requested the case be reclassified so a full investigation could take place and additional allegations, and specified relevant general orders pertaining to these allegations, against subject officer be investigated. | Provided that subject officer's actions did not rise to a violation of any of the general orders specified. There appears to be insufficient cause to reclassify this case and no further investigation is required. |
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## DEPARTMENTAL DECISIONS ON SIGNIFICANT CASES IN 2006

The following list of case descriptions and resulting disciplines can provide insight and transparency into the IAD investigative process, the APD decision-making process, and the overall oversight process.

- Internal Affairs conducted an investigation of an officer and his involvement in multiple illegal gambling operations. Multiple covert gaming and slot machine operations located in concealed areas within businesses were discovered throughout Austin. This officers' involvement included the placing and servicing of cash dispensing machines inside these locations as a part of his secondary employment. Internal Affairs sustained several allegations against this officer including allegations of acts bringing discredit to the department. The officers' Chain of Command upheld IAD's recommendation, and he was ultimately placed on a 15-day suspension.
- In November of 2006, the Travis County District Attorney's office contacted the APD Integrity Crimes Unit to notify them that they had recently reviewed an in-car video that showed an officer using a significant amount of force on a subject who had been charged with assault on a peace officer. The incident that was captured on this officers' video was a response call to check on a person who appeared to be unconscious at a bus stop. A Travis County grand jury no billed this officer, and IAD did not recommend sustaining the allegation of excessive force. The Chief of Police disagreed with the IAD recommendation and indefinitely suspended this officer. In addition, the officers' Chain of Command were given one-day suspensions for approving the use of force report without having reviewed the in-car video. This officer appealed the outcome of his case and through arbitration was reinstated in December of 2007.
- The OPM referred to IAD a complaint from a citizen who alleged that an officer approached her and a friend while they sat in a parked vehicle at night. The complainant stated that the officer became harassing in his line of questioning regarding narcotics and at one point asked her to bare her breasts to prove that she was telling the truth and had no narcotics in her possession. Allegations of bias-based profiling, failing to activate his in-car video to capture the incident, and honesty were sustained against this officer. The officer received a 20-day suspension.
- In June of 2006, an officer stopped a citizen after allegedly witnessing this person engaged in a criminal act. The officer arrested the individual who initially had felony charges filed against them as a result of this arrest. The IAD investigation revealed that based on the officers' in-car video, he fabricated events and details in his report that

directly related to his initial probable cause to make the stop, evidence obtained and penal code violations. The officer was indefinitely suspended from the Department.

- On Thanksgiving Day in 2006, an officer stopped a vehicle traveling southbound on Mopac for speeding (approximately five mph over the speed limit) and not having a visible license plate. The officer, after approaching the vehicle, asked the driver for his license. The driver responded to the officer with concerns about why he was being stopped. The officer then demanded that the driver comply with his request and raised his voice in doing so. The driver, who was accompanied by his family, then questioned the officer's manner in speaking to him. The officer at this point ordered the driver out of the vehicle while simultaneously unholstering his TASER® and placing it at his side. Once the driver exited the vehicle, the officer, in attempting to slam the driver's car door shut, caught the shoulder of the driver with the car door, causing the driver to raise his hands. The officer then ordered the driver to the back of the vehicle. Within seconds from this point, the officer deployed his TASER® causing the driver to immediately fall to the ground. The entire incident took place in less than two minutes. The driver was then placed under arrest. The driver never filed a complaint in this incident; a complaint was generated internally. IAD recommended in their investigation that the allegation of Impartial Attitude be sustained and the officer be exonerated on the allegation of violating the Use of Force policy. The exoneration recommendation was not followed by the Acting Chief of Police, and the officer was placed on a three-day suspension.

## **COMMUNITY OUTREACH**

By reaching out to new and established organizations, the OPM continued seeking opportunities to be involved and share its message of police oversight with others.

Two new educational initiatives aimed at reducing the number of minority students from dropping out of school caught the attention of the Police Monitor in 2006. The Texas Education Agency reports that nearly half of all blacks and Latinos do not graduate from high school with their class. The faces behind these staggering numbers are ones staff members know firsthand, have read about, or encountered while fulfilling their duties with the City of Austin. In addition to their oversight duties, the OPM responded by helping organizers coordinate the start of the African American Men and Boys Conference and the Hispanic Chamber of Commerce Education Committee program at Johnston High School.

The African American Men and Boys Conference, which also attracts Latinos and Anglos, are mostly held on campuses within the Austin Independent School District. For one Saturday morning each month, community members and area professionals mentor these youths in their particular area of expertise. As an example, the OPM leads a break-out session regarding law enforcement issues and police-community interactions. Complaint Specialist Flynn Lee, who has facilitated a break-out session at each of the monthly gatherings, says the conference gives participants an opportunity to speak freely about physical abuse, use of illicit drugs, casual sex, and academic and family pressures. For Lee, not only is it an opportunity to give back to the community, but also a time to talk to students about respect for oneself, the community at large and those that enforce the law.

Support for the Men and Boys Conference also came from the Acting Police Monitor. With the help of the Community Liaison, she developed opportunities for females attending the newly-organized African American Women and Girls Conference to receive similar services as the males.

The OPM also stepped in when the Greater Austin Hispanic Chamber of Commerce launched the Johnston High School Advisor Program. The program matches 50 freshmen with adult mentors through the student's graduation. As a member of the Education Committee, the Community Liaison recruited other advisors, solicited financial support, helped draft the Bill and Melinda Gates Foundation educational proposal to be administered by the Austin Independent School District, identified speakers and activities for the monthly student parent and advisor gatherings, and served as a mentor.

The OPM's desire to keep students engaged in high school stems from published reports indicating there is a significant correlation between dropping out of school that may result in unemployment, poverty and diminished opportunities. This research also shows that the children of dropouts are more likely to eventually dropout themselves.

Aside from participating in these educational initiatives, the OPM took its message of oversight to the downtown area when citizen complaints from Sixth Street registered significantly. The Downtown Austin Alliance (DAA), an organization well-known for its advocacy of a clean, livable and thriving downtown, met with us and invited us to attend its monthly Security and Maintenance Committee meetings. The introductory meeting resulted in learning about a serious incident Fox News captured on video while following an officer on his beat. Since then, the OPM continues to strengthen its ties with the DAA.

Also in 2006, newly-elected Travis County Sheriff Greg Hamilton and some of his senior officers came to learn how the City's police oversight office functions, as did Attorney General Juan Martin Granados and staff from the Mexican State of Queretaro. Both were hosted to luncheons that included the function of oversight and a brief history on the evolution of the Office. The latter's visit was coordinated by the Protection Division of the Consulate General of Mexico in Austin.

The OPM visited food distribution sites in the Northeast, Central East, Montopolis, and South Austin areas as a volunteer opportunity as well as an opportunity to present word of its services.

While the OPM continued to be visible at safety fairs, made oral presentations, provided voluntary service, and manned information tables, the list above caps activities that made 2006 unique from previous years.

See Appendix II for a detailed listing of the groups and individuals with whom we worked during 2006.

*This piece was written by Hermelinda Zamarripa, community liaison for the OPM. She joined the OPM in June of 2002.*

## **APPENDIX I: COMPLAINT PROCESS**

OPM complaint specialists are tasked with addressing and resolving citizen issues concerning APD activity. Complaint specialists 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 complaint specialist 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 complaint specialist 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 complaint specialist educates and informs the complainant about the particular APD General Orders, Policies and Procedures<sup>VII</sup> 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 complaint specialist explains the two courses of action available to the complainant: filing a formal complaint or filing a supervisory inquiry.

### **Supervisory Inquiries**

Supervisory 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 supervisory 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 complaint specialist 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 supervisory 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 complaint specialist 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.

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<sup>VII</sup> 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 complaint specialist 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 complaint specialist 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 complaint specialist 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 complaint specialist 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 complaint specialist and complainant receive their copies of the final notarized statement, concluding the intake interview.

If the complaint is accepted for investigation by IAD, the complaint specialist 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 complaint specialist 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 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's 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.

*This piece was written by complaint specialist with the OPM Louis Gonzales III. He has been with the OPM since its inception in 2002.*

## **APPENDIX II: OUTREACH EFFORTS IN 2006**

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| Jan. 10 | APD North Central Commander's Forum, Barrington Elementary  |
| Jan. 13 | Asian American Cultural Center meeting  |
| Jan. 16 | Martin Luther King Jr. March and Festival, Huston Tillotson College                                   |
| Jan. 23 | Community Forum, Kealing Middle School  |
| Jan. 25 | Immigrant Services Network, Carver Library  |
| Jan. 25 | Martin Middle School presentation to parents  |
| Jan. 26 | Johnston High School Campus Advisory Council  |
| Jan. 28 | Lunar New Year, Asian American Cultural Center  |
| Feb. 2  | Men with A Purpose, YMCA at Ed Bluestein  |
| Feb. 6  | Workers Defense Project meeting with Emily Timm   |
| Feb. 9  | Reagan High School truancy meeting with administrators and APD Northeast Commander                    |
| Feb. 9  | Urban League annual banquet, Hyatt Hotel  |
| Feb. 10 | Martin Middle School meeting with parents   |
| Feb. 10 | Greater Austin Hispanic Chamber of Commerce annual banquet, Hilton Hotel                              |
| Feb. 15 | Capitol City African American Chamber tribute to African American Elected Officials, Doubletree Hotel |
| Feb. 16 | Austin Area Human Services Association meeting, Meals on Wheels                                       |
| Feb. 23 | LULAC meeting, Vinny's Restaurant   |
| Feb. 25 | 7 <sup>th</sup> Annual African American Community Heritage Festival, Huston-Tillotson College         |
| Feb. 28 | Hispanic Chamber of Commerce luncheon on APD Use of Force, APD Training Academy                       |
| Mar. 3  | Manos de Cristo benefit, Westlake Hills Presbyterian Church   |
| Mar. 8  | Career Fair, St. Edward's University  |
| Mar. 10 | Meeting with AISD Dropout Prevention Specialists, Baker Building                                      |
| Mar. 15 | Mexican Consulate outreach  |
| Mar. 16 | Greater Austin Hispanic Chamber of Commerce Education Committee                                       |
| Mar. 16 | Casa Marianella meeting with Jennifer Long  |



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| Mar. 22 | HABLA, Juan in a Million  |
| Mar. 23 | Medal of Valor presentation to retired Captain Louie White, City Hall   |
| Mar. 25 | Saehli Spring Family Festival, Brentwood Elementary                     |
| Mar. 28 | Immigrant Coalition, AFL-CIO  |
| Mar. 29 | Southwest Optimist Club presentation, La Reyna Restaurant               |
| Mar. 30 | APD Northeast Command Community Banquet, Cornerstone Church             |
| Apr. 1  | Cesar Chavez March, Pan American Recreation Center                      |
| Apr. 11 | APD North Central Commander's Forum, Barrington Elementary              |
| Apr. 14 | Health Fair, Rosewood Zaragoza Neighborhood Center                      |
| Apr. 19 | Austin Revitalization Authority opening of Ms. B's Restaurant           |
| Apr. 23 | Gus Garcia Middle School groundbreaking, Johnny Morrison Road           |
| Apr. 23 | PODER's Quinceañera, Conley-Guerrero Senior Activity Center             |
| Apr. 25 | Johnston High School government class presentation in a.m.              |
| Apr. 25 | Week without Violence, Lanier High School                               |
| Apr. 25 | Johnston High School government class presentation in p.m.              |
| Apr. 27 | Multi-Cultural Chamber of Commerce luncheon, Embassy Suites Hotel       |
| Apr. 28 | APD Retirement, Promotion and Awards Ceremony, Grant AME Worship Center |
| May 1   | Prayer service for immigrants, Manos de Cristo                          |
| May 1   | Immigrant march outreach, Pan American Recreation Center                |
| May 2   | Dobie Middle School presentation to parents                             |
| May 2   | Hispanic Scholarship Consortium banquet, Hyatt Hotel                    |
| May 4   | La Fuente Learning Center fundraiser, Cristo Rey Catholic Church        |
| May 5   | Saltillo Sister Cities event with Mexican delegation                    |
| May 9   | APD Computer Safety Forum, Town Lake Center                             |
| May 16  | APD Southeast Commander's Forum, South Substation                       |
| May 23  | APD Chief Stan Knee Farewell Reception, Cornerstone Church              |
| May 25  | ACLU TV interview with Interim Police Monitor, Café Caffeine            |
| Jun. 3  | African American Men and Boys Conference, Conley Guerrero Center        |

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| Jun. 5     | Police Chief Cathy Ellison reception, 19 <sup>th</sup> Street Baptist Church  |
| Jun. 5     | APD Central East Commander's Forum, East Substation   |
| Jun. 14-15 | APD Faith Community Conference, Palmer Auditorium   |
| Jun. 17    | People's Forum, ACC Eastview Campus   |
| Jun. 19    | Juneteenth Event, ACC Eastview Campus   |
| Jun. 20    | Presentation to APD Cadets, Training Academy  |
| Jun. 28    | Austin Neighborhood Council meeting, Office of the Police Monitor   |
| Jun. 28    | Social Justice Summer School presentation, Lanier High School   |
| Jul. 11    | APD North Central Commander's Forum, Barrington Elementary School   |
| Jul. 14    | North Austin Civic Association, 2007 Kramer Lane  |
| Jul. 19    | Cid Galindo meeting, 411 Brazos   |
| Jul. 20    | Mexican Consulate outreach  |
| Jul. 22    | African American Men and Boys Conference, Reagan High School  |
| Jul. 26    | Austin Neighborhood Council panel presentation, Town Lake Center  |
| Jul. 27    | PODER's Susana Almanza meeting, Juan in a Million   |
| Aug. 1     | National Night Out, Montopolis Recreation Center  |
| Aug. 2     | Asia American Cultural Center meeting, 11713 Jollyville Road  |
| Aug. 2     | Hispanic Chamber of Commerce reception, Hilton Hotel  |
| Aug. 8     | APD School Supply Giveaway, Galewood Drive  |
| Aug. 10    | Austin Area Human Services Association, United Way  |
| Aug. 14    | Downtown Austin Alliance meeting, 211 E. 7 <sup>th</sup> St.  |
| Aug. 15    | APD Southeast Commander's Forum, South Substation   |
| Aug. 16    | Mexican Consulate outreach  |
| Aug. 19    | African American Men and Boys Conference presentation, Akins High School  |
| Aug. 23    | Hispanic Chamber of Commerce luncheon, Radisson Hotel   |
| Aug. 27    | AISD 125 <sup>th</sup> Anniversary Gala, Hilton Hotel   |
| Aug. 29    | Casa Marianella meeting, 211 W. Live Oak  |
| Aug. 30    | Meeting with Mexican State of Queretaro Attorney General Juan Martin Granados and staff, Office of the Police Monitor |

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| Aug. 31  | Time Warner reception, UT Club  |
| Sept. 5  | Amigos En Azul meeting, Office of the Police Monitor                                |
| Sept. 12 | APD Central West Commander's Forum, Northwest Baptist Church                        |
| Sept. 14 | Mexican Consulate's Dieciseis reception, Four Seasons Hotel                         |
| Sept. 15 | Sen. Gonzalo Barrientos' Annual Dieciseis Celebration, Capitol Rotunda              |
| Sept. 16 | Harvest Moon Festival, Asian American Cultural Center                               |
| Sept. 18 | APD Southeast Lieutenant's Community Meeting, Beautiful Savior Church               |
| Sept. 20 | Catholic Charities Open House, 1817 E. Sixth St.                                    |
| Sept. 23 | African American Men and Boys Conference, LBJ High School                           |
| Sept. 24 | Hispanic Chamber of Commerce Education Advisor Program, Johnston High School        |
| Sept. 26 | Mexican Consulate outreach, 9 <sup>th</sup> and Brazos Streets                      |
| Sept. 27 | Downtown Austin Alliance Security & Maintenance Committee, 211 E. Seventh St.       |
| Sept. 27 | English as a Second Language presentation, Manos de Cristo                          |
| Sept. 28 | Hispanic Chamber of Commerce Community Services Award, Omni Hotel                   |
| Oct. 4   | East First Neighborhood Center food distribution, 211 Comal St.                     |
| Oct. 5   | Blackland Neighborhood Center food distribution, 2005 Salina                        |
| Oct. 6   | The Travis County Sheriff and staff were hosted by the Office of the Police Monitor |
| Oct. 10  | Mexican Consulate outreach, 9 <sup>th</sup> and Brazos Streets                      |
| Oct. 10  | APD North Central Commander's Forum, Grace of the Good Shepherd Church              |
| Oct. 13  | Dobie Middle School presentation to students in dropout prevention class            |
| Oct. 13  | University of Texas Distinguished Alumni Awards banquet, Four Season Hotel          |
| Oct. 16  | San Juan Diego High School Career Day luncheon, San Jose Catholic Church Center     |
| Oct. 16  | APD Southeast Lieutenant's meeting, Beautiful Savior Church                         |
| Oct. 17  | South Austin Neighborhood Center food distribution, 2508 Durwood St.                |
| Oct. 20  | Martin Middle School presentation to parents  |

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| Oct. 20 | Texas Peace Officers Association meeting at Office of the Police Monitor                     |
| Oct. 23 | Proyecto Monarca presentation, 1934 Rutland, Suite 100                                       |
| Oct. 24 | St. John Community Center food distribution, 7500 Blessing Ave.                              |
| Oct. 27 | Langford Elementary School presentation to parents   |
| Oct. 28 | African American Men and Boys Conference, Pearce Middle School                               |
| Oct. 30 | LULAC Council 650 Scholarship fundraiser, Tree House Grill                                   |
| Oct. 31 | Forma en el Aire Spanish-language interview, KOOP radio                                      |
| Nov. 2  | Mexican Consulate outreach, 9 <sup>th</sup> and Brazos Streets                               |
| Nov. 7  | Eastside Story presentation to parents, Kealing Middle School                                |
| Nov. 9  | Zavala Elementary School Career Day presentation   |
| Nov. 11 | Windsor Park Neighborhood Association presentation, Memorial United Methodist Church         |
| Nov. 16 | Saltillo Sister Cities, Nuevo Leon Restaurant  |
| Nov. 18 | African American Men and Boys Conference, McCallum High School                               |
| Nov. 18 | Men With A Purpose Thanksgiving food basket deliveries to needy families                     |
| Nov. 20 | St. Edward's University student Christa Castillo staff meeting, Office of the Police Monitor |
| Nov. 30 | LULAC meeting, Vinny's Restaurant  |
| Dec. 1  | World AIDS Day Remembrance and Prayer Breakfast, Wright House Wellness Center                |
| Dec. 2  | NAACP Annual Banquet   |
| Dec. 5  | Adelante Solutions Open House, 2121 E. Sixth St.   |
| Dec. 16 | African American Men and Boys Conference, Dobie Middle School                                |