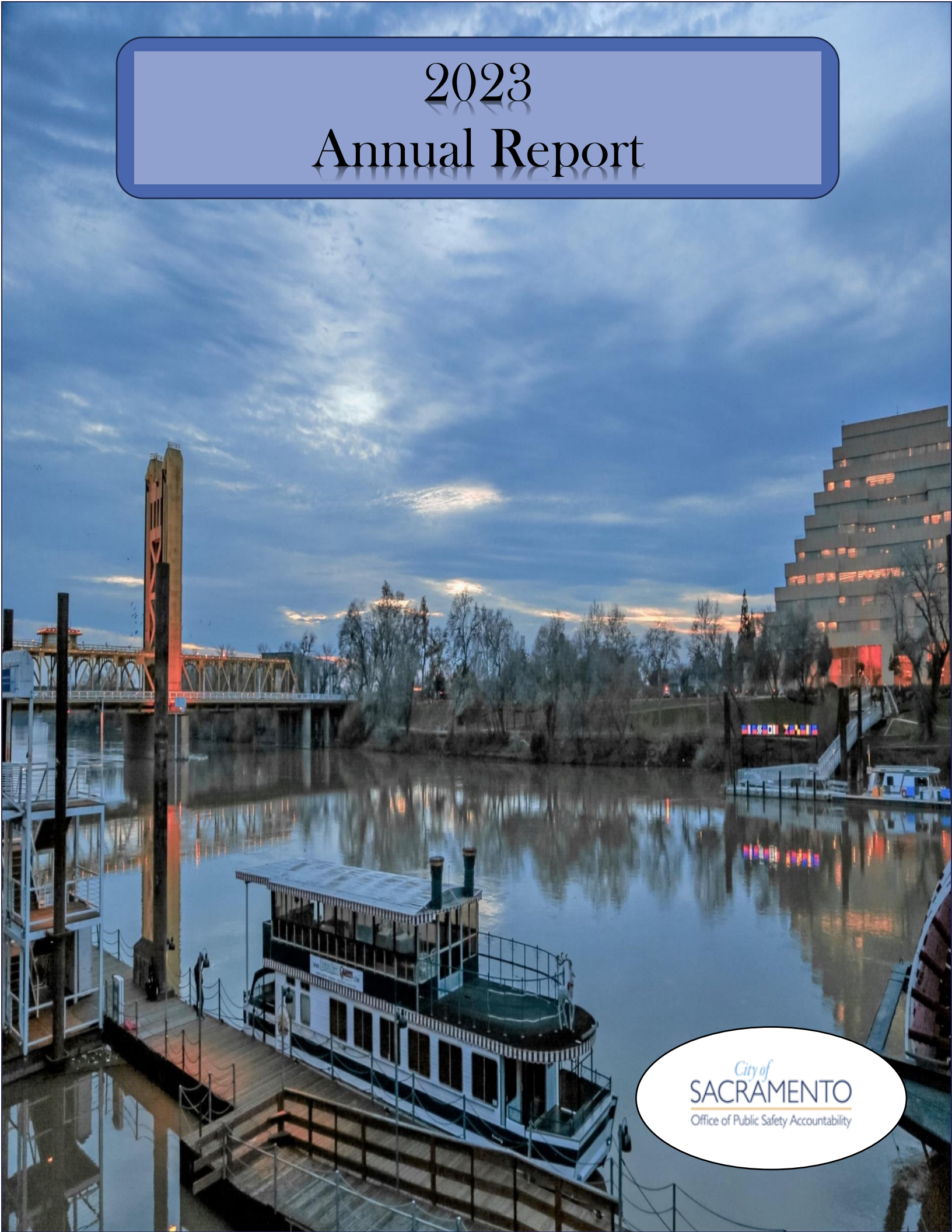


2023 Annual Report



City of
SACRAMENTO
Office of Public Safety Accountability



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Mayor and City Council

Please find attached, for your review and comment, the Office of Public Safety Accountability's annual report covering calendar year 2023.

Summary

The City of Sacramento's Office of Public Safety Accountability (OPSA) encompasses oversight practitioners responsible for the investigation, review, and audit of allegations of misconduct involving the Sacramento Police Department (SPD) and the Sacramento Fire Department (SFD) personnel. OPSA ensures that investigations have been completed fairly, thoroughly, and objectively.

The Office of Public Safety Accountability continues its efforts in the improvement of policing and better serving the interests of the public. The goals and objectives of the office involves creating meaningful opportunities for the community to influence decisions that impact them, incorporating innovative and progressive ideas to resolve issues, explaining challenges and limitations, and ensuring outcomes meet goals while remaining inclusive and accessible.

OPSA transitioned from remote work to a hybrid schedule in 2023 while remaining invested in strengthening community trust and supporting and promoting constitutional policing. OPSA continued fulfilling its core mission of providing independent and impartial public safety oversight for the Sacramento Police Department (SPD) and the Sacramento Fire Department (SFD) by executing the roles and responsibilities of the office ensuring timely communication with complainants and community stakeholders, as well as strengthening the process in the thorough review of completed investigations.

The annual report provides a comprehensive review of the Office of Public Safety Accountability performance in tracking and monitoring internal investigations, reviewing completed investigations, as well as statistical data for all misconduct allegations involving the City of Sacramento public safety personnel. In 2023, there were a total of 734 allegations regarding police misconduct and 124 allegations regarding fire misconduct reported directly to the Office of Public Safety Accountability, through SPD Internal Affairs Division, or SFD Professional Standards Unit. Additionally, the report outlines misconduct allegation findings regarding the completed police and fire as well as any reported discipline. The report also provides summaries of the five critical incidents that occurred in 2023, four officer-involved shootings and one death in custody.

Note: OPSA utilized the best available case data at the time of reporting to prepare this report. Case work is dynamic and has multiple moving parts.

About the Office of Public Safety Accountability

The Mission of the Office of Public Safety Accountability is to improve the relationship between the City's public safety departments and the community they protect and serve. We promote trust, excellence, transparency, and accountability through independent and impartial oversight of complaints related to public safety employee misconduct.

Background

In 1998, a Blue Ribbon Citizens' Committee appointed by the City Manager examined concerns regarding the Sacramento Police Department (SPD). The Committee recommended significant changes in the processing and investigation of community complaints of police misconduct. As a result, in 1999, the Mayor and City Council established the Office of Police Accountability.

The Committee additionally recommended giving the City Manager the authority to extend the Office's scope and review responsibilities. In 2004, the City Manager, with the approval of the Mayor and City Council, expanded the scope of responsibility of the Office to include the Sacramento Fire Department (SFD). The name was changed to the Office of Public Safety Accountability (OPSA).

OPSA's charter is to provide civilian oversight to the City's Police Department and Fire Department complaint process and become a liaison between the City and its diverse communities. The goals of OPSA are to promote trust, transparency, and accountability in the City's most critical public service departments.

OPSA provides fair and impartial civilian oversight of the Police and Fire Departments' complaint process. OPSA is charged with receiving complaints from the community, auditing departmental investigation results, and independently conducting investigations into allegations of police or fire employee misconduct. Additionally, OPSA issues recommendations concerning community relations outreach, public safety departments' policy and procedures, the training needs of their personnel, and individual case resolution, as needed.

In November 2016, Council approved an ordinance which provided greater community input and participation by sun-setting the Sacramento Community Police Commission and replacing it with the Sacramento Community Police Review Commission (SCPRC), with staff support provided by OPSA. The ordinance also expanded the role and authority of OPSA by increasing the office's budget to hire additional staff. Further, the reporting chain was changed so that the OPSA Director reports to the Mayor and City Council, rather than the City Manager. The provisions of the ordinance went into effect in 2017 and resulted in OPSA's growth from an office of one to an office of four. On July 1, 2020, the Sacramento City Council passed a motion authorizing the creation of an Inspector General (IG) position in the Office of Public Safety Accountability, further expanding the office. The IG position entails full independence and authority to investigate officer-involved shootings and use-of-force incidents that result in serious bodily injury or death. On September 12, 2023, the Sacramento City Council passed a motion authorizing additional staffing within the Office of the Public Safety Accountability. Six additional full-time employees (FTEs) were authorized to increase OPSA's productivity and efficiency.

To safeguard the public trust, OPSA works closely with community members and its leaders, maintains a close working relationship with Police and Fire Command staffs, the Sacramento Police Officers Association (SPOA) and the Sacramento Area Fire Fighters Local 522. OPSA functions with complete and necessary independence, which is key to success in providing fair, objective, and impartial oversight service to the City and its communities, all while maintaining a professional relationship with the Sacramento Police and Fire Departments.

Responsibilities

Under the direction, control and supervision of the City Council, the Director has the following authority and responsibility as related to the Sacramento Police Department and Fire Department:

- A. Audit all citizen complaint investigations of the police department and fire department, as the director deems necessary.
- B. Monitor all citizen complaint investigations conducted by the police department and fire department.
- C. Request the police department and fire department perform further investigation in those citizen complaint cases that require additional investigation as determined by the director.
- D. Receive all documents, reports, or any other item necessary to monitor or audit a complaint investigation.
- E. Assist the city council, or any duly appointed committee of the council, in performing its investigative functions under section 34 of the charter.
- F. As needed, request the city council, or any duly appointed committee of the council, to issue subpoenas as provided in section 34 of the charter. The city council may, by resolution, establish the procedures for the request, issuance, and service of those subpoenas.
- G. Perform such other inquiries and investigations as prescribed by council resolution.
- H. Accept and document complaints directly from citizens as an alternative procedure for citizen complaints concerning public safety personnel, using a complaint form distinct from that used by the police department or fire department. All such complaints shall be promptly forwarded to the respective public safety department for investigation.
- I. Provide complainants with timely updates on the status of investigations, excluding disclosure of any information that is confidential or legally protected.
- J. Explain how the complaint process works to all complainants.
- K. Monitor or independently investigate any other matter as directed by the city council pursuant to section 34 of the charter.
- L. Serve in a public information capacity, including providing public information, excluding disclosure of any information that is confidential or legally protected, on pending investigations as directed by the city council; and making presentations in community forums.
- M. Respond to critical incidents involving police or fire personnel and provide a report to city council regarding the details and concerns of those incidents.

Public Access to the City's Complaint Process

Members of the public can file a misconduct complaint against Sacramento Police or Fire Department employees through OPSA or directly to the Police or Fire Department. Complaints made to OPSA can be filed by email, postal mail, telephone, in person or online using the Public Safety Complaint Form on the website. OPSA maintains a comprehensive, independent database of complaints received from the community. OPSA also collects data points to identify potential systemic issues and provide early warning of complaint trends.

Office of Public Safety Accountability

Under the direction, control, and supervision of the City of Sacramento Mayor and City of Sacramento City Council, the Office of Public Safety Accountability tracks and monitors any internal investigation, reviews completed investigations, and advises the Sacramento Police Chief and the Sacramento Fire Chief of deficient investigations involving misconduct allegations against public safety personnel. OPSA receives all police and fire complaints, regardless of where the complaints are filed. After OPSA conducts a preliminary review of each alleged complaint, a determination is made as to whether the case will or will not be reviewed. OPSA documents the determination by sending a review form to the Sacramento Police Department Internal Affairs Division and Sacramento Fire Department Professional Standards Division indicating whether the case will be reviewed or not reviewed. For all cases selected for oversight review, OPSA receives access to all investigative materials utilized to render a finding prior to discipline being imposed.

During 2023, OPSA fully reviewed 100% of the complaints filed against the Sacramento Fire Department and 39% of the complaints filed against the Sacramento Police Department. Of the completed investigations reviewed by OPSA, 27 investigations for police and 20 investigations for fire required further review.

Review Finding Options

- Agree
- Discussed – Revised
- Discussed – Not Revised, Memo Sent
- Discussed – Further Investigation, Agree/Recommendation Accepted
- Discussed – Further Investigation, Disagree/Memo Sent

Table 1: SPD Further Review Results

Month	Recommendation/Disagreement	Outcome
January	Disposition Incorrect	Discussed – Further Investigation, Agree
January	Disposition Incorrect	Discussed – Further Investigation, Agree
January	Allegation Should Be Sustained	Discussed-Further Investigation, Agree/Recommendation Accepted
January	Disposition Incorrect	Discussed-Further Investigation, Agree
January	Disposition Incorrect	Discussed – Further Investigation, Agree
January	Allegation Should Be Sustained	Discussed-Further Investigation, Agree/Recommendation Accepted
March	Disposition Incorrect	Discussed – Further Investigation, Agree
March	Allegation Should Be Sustained	Discussed-Further Investigation, Agree/Recommendation Accepted
April	Disposition Incorrect	Discussed - Further Investigation, Agree
June	Disposition Incorrect	Discussed - Further Investigation, Agree

June	Additional allegation needed	Discussed - Further Investigation, Agree
June	Disposition Incorrect	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
July	Allegation Incorrect – separate allegation for each employee	Discussed - Further Investigation, Agree
August	Incomplete Investigative Information	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
August	Incomplete Investigative Information	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
September	SPD Policy Issue	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
September	Disposition Incorrect	Discussed - Further Investigation, Agree
September	Additional Allegation Needed	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
September	Disposition Incorrect	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
October	Allegation Correction	Discussed-Further Investigation, Agree
November	Disposition Incorrect	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
November	Additional Information Needed	Discussed-Further Investigation, Agree
December	Additional Allegation Needed	Discussed - Further Investigation, Disagree/Recommendation Accepted
December	Disposition Incorrect	Discussed - Further Investigation, Agree
December	Disposition Incorrect	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
December	Additional Allegation Needed	Discussed - Further Investigation, Disagree/Recommendation Accepted
December	Disposition Incorrect	Discussed-Further Investigation, Disagree/Recommendation Under Consideration/Recommendation Accepted

Table 2: SFD Further Review Results

Month	Recommendation/Disagreement	Outcome
February	Disposition Incorrect	Discussed-Further Investigation, Agree
February	Disposition Incorrect	Discussed – Further Investigation, Agree
March	Allegation Should Be Not Sustained	Discussed-Further Investigation, Agree/Recommendation Accepted
April	Disposition Incorrect	Discussed-Further Investigation, Disagree/Memo Sent/Recommendation Accepted
April	Incomplete investigative information	Discussed – Further Investigation, Agree
April	Additional allegation needed	Discussed-Further Investigation, Agree/Recommendation Accepted
May	Incomplete investigative information	Discussed – Further Investigation, Agree
May	Incomplete investigative information	Discussed-Further Investigation, Disagree/Recommendation Under Consideration
May	Incomplete investigative information	Discussed – Further Investigation, Agree
June	Incomplete investigative information	Discussed – Further Investigation, Agree
June	Incomplete investigative information	Discussed – Further Investigation, Agree
June	Incomplete investigative information	Discussed-Further Investigation, Disagree/Recommendation Under Consideration
June	Incomplete investigative information	Discussed-Further Investigation, Disagree/Recommendation Under Consideration
September	Disposition Incorrect	Discussed – Further Investigation, Agree
September	Incomplete Investigative Information	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
September	Additional Allegation Needed	Discussed - Further Investigation, Disagree/Recommendation Under Consideration
October	Incomplete Investigative Information	Discussed – Further Investigation, Agree
October	Incorrect Disposition/ Additional Investigative Information Needed	Discussed-Further Investigation, Disagree/Recommendation Under Consideration/Recommendation Accepted
November	Additional Investigative Information Needed	Discussed-Further Investigation. Recommendation Accepted
November	Additional Investigative Information Needed/ Missing Dispositions	Discussed-Further Investigation. Agree

2023 Police Case Review

OPSA documented 297 complaints of misconduct filed against the Sacramento Police Department with a total of 734 allegations. Of those complaints, 674 allegations were filed with SPD and 60 allegations were filed directly with OPSA. There were 286 complaint investigations completed during the year, closing a total of 792 allegations. Of those completed investigations, 181 complaints were originally filed in 2023, 101 were originally filed in 2022, and the remaining 4 complaints were from older 2020 and 2021 cases. A total of 85 allegations were Sustained and referred to Police Command Staff for disciplinary action.

2023 Fire Case Review

OPSA documented 45 complaints of misconduct filed against the Sacramento Fire Department with a total of 124 allegations. Of those complaints, 115 allegations were filed with SFD and 9 allegations were filed directly with OPSA. There were 47 complaints investigated and completed by the Sacramento Fire Department's Professional Standards Unit giving dispositions to 129 allegations. Of those completed investigations, 33 complaints were originally filed in 2023 and the remaining 14 complaints were from 2022 cases. A total of 23 allegations were Sustained and referred to Fire Command Staff for disciplinary action.

Table 3: SPD Cases Reviewed by OPSA

	Annual Totals
Reviewed	111
Not Reviewed	175

Chart 1: Cases Reviewed vs. Not Reviewed by OPSA

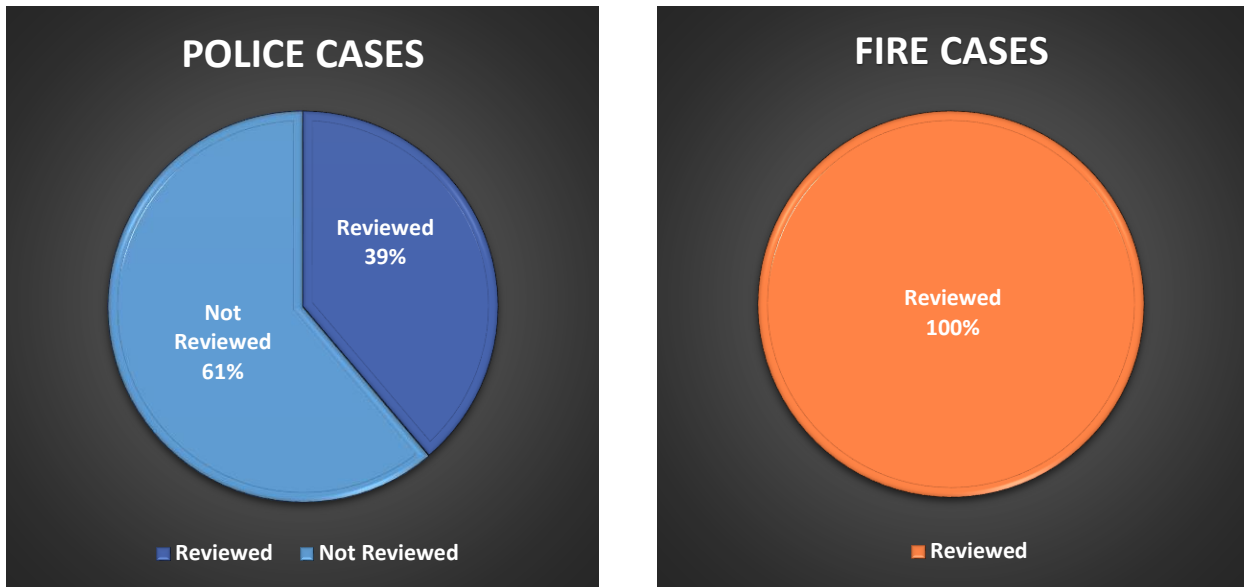
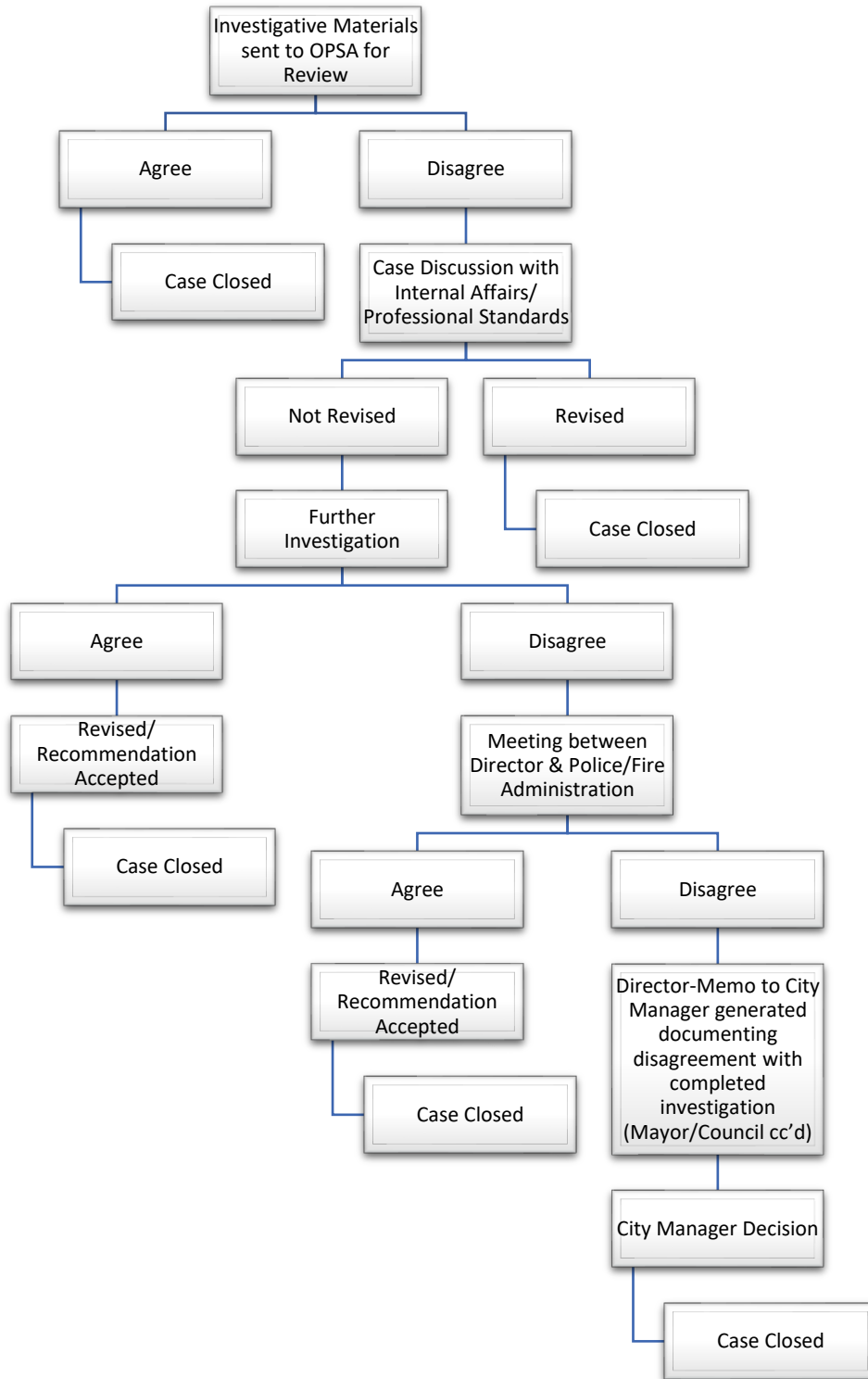


Chart 1 reflects OPSA conducted a full formal review of 39% of all complaints filed against SPD. After an initial screening by the Director, the remaining 61% of cases did not receive additional OPSA review. OPSA fully reviewed 100% of all complaints filed against SFD. Note that one case can include multiple allegations against multiple individuals.

Review Process Chart



Office of Public Safety Accountability – Inspector General

Critical Incident Response

Under the direction of the Director of the Office of Public Safety Accountability (OPSA), the newly established Inspector General (IG) conducts concurrent independent investigations of officer-involved shootings, deaths while in police custody, and police use-of-force incidents resulting in serious bodily injury. Upon completion of the investigations, the IG will report the respective findings, conclusions, and recommendations to the City of Sacramento City Council, the Sacramento Community Review Police Commission (SCRPC), and the public.

The IG’s primary responsibility is serving in an on-call capacity responding to critical incidents involving the City of Sacramento public safety personnel. In this reporting period, the IG responded to four officer-involved shootings, one death in custody, and initiated independent investigations.

Table 4: SPD Officer-Involved Shooting & Death In Custody Incidents

INCIDENT	CALL FOR SERVICE	DATE	LOCATION	STATUS
Officer-involved Shooting (OIS)	Suspicious Vehicle	02/09/2023	Cantalier Street and Baseball Alley	Report Writing Phase
Officer-involved Shooting (OIS)	Armed Subject	05/20/2023	Q Street and 28 th Street	Evidence Gathering Phase
Death in Custody (ICD)	Suspicious Subject	06/27/2023	2500 Block of 51 st Avenue	Report Writing Phase
Officer-involved Shooting (OIS)	Armed Subject	08/15/2023	3800 Block of 24 th Street	Evidence Gathering Phase
Officer-involved Shooting (OIS)	Armed Subject	09/12/2023	300 Block of L Street	Evidence Gathering Phase

Critical Incidents

February 9th, 2023

Officer Involved Shooting – Cantalier Street and Baseball Alley

On February 8, 2023, a carjacking occurred in the 100 block of Stanford Avenue in north Sacramento. During this incident, the victim stated that a masked suspect forcibly stole their vehicle and fled the area. A crime report was taken following the carjacking.

On February 9, 2023, at approximately 9:42 a.m., a Sacramento Police Department patrol officer located the victim's carjacked vehicle parked near Cantalier Street & Baseball Alley. The officer approached the vehicle and located one suspect inside it. The officer gave the suspect many commands to comply with his orders, but the suspect remained non-compliant throughout the contact. As the suspect continued to ignore commands, the officer utilized a Conducted Energy Device (Taser) multiple times in an attempt to take him into custody, but it was ineffective.

Additional officers arrived on the scene to assist in detaining the suspect. As the struggle continued, the suspect began driving away with the initial contacting officer still in the vehicle's door frame. As the suspect fled, he struck another officer with his vehicle, resulting in injuries to that officer's leg. That officer was later transported to an area hospital, treated, and released.

The suspect then rammed a second patrol vehicle. Immediately after, the suspect reversed and, for a third time, struck a police vehicle. An officer-involved shooting then occurred; two officers discharged their duty firearms striking the suspect at least one time. The suspect fled the scene in the carjacked vehicle which was later located in the 500 Block of Las Palmas Avenue. The suspect arrived at an area hospital with non-life-threatening injuries and was subsequently taken into custody by responding officers.

The suspect was identified as 32-year-old Clayton Freeman. Freeman was booked into the Sacramento County Main Jail on related charges once he was medically cleared.

This incident was investigated by the Sacramento Police Department's Internal Affairs Division and Professional Standards Unit. Additionally, the Sacramento Police Department's Force Investigation Team investigated this incident. The investigation focused on policy, tactics, and training regarding the use of force.

This incident falls under the Sacramento City Council's policy on Police Use of Force and California law regarding the release of police records. The Sacramento Police Department released full video and audio files related to this incident to the public within 30 days of the incident. Detectives identified and retrieved videos associated with this incident. The Office of Public Safety Accountability and the Sacramento County District Attorney's Office provided oversight by monitoring the investigation.

The Sacramento Police Department encouraged any witnesses with information regarding this incident to contact the dispatch center at (916) 264-5471 or Sacramento Valley Crime Stoppers at (916) 443-HELP (4357). Callers can remain anonymous and may be eligible for a reward up to \$1,000. Anonymous tips can also be submitted using the free "P3 Tips" smartphone app.

May 20th, 2023

Officer-Involved Shooting - Q Street and 28th Street

On May 20, 2023, at approximately 12:15 p.m., Sacramento Police Department patrol officers responded to a business in the 1100 block of 24th Street regarding reports of an individual saying they had a gun. The complainant provided a detailed description of the individual. Officers responded to the location and checked the area.

About twenty minutes later, while officers were checking the area of the above-listed call, the Sacramento Police Department received a report of an individual waving around a gun near the intersection of 28th Street and N Street. A third additional caller stated an individual was pointing a gun at the customers of a business in the same area. Detailed descriptions of the armed individual were provided to dispatch, similar to those provided on the 24th Street call.

Sacramento Police Department patrol officers responded to the 28th Street and N Street area. A uniformed Sacramento Police Department K9 handler observed an individual near 28th Street and Q Street matching the description provided by the callers. The officer attempted to contact the individual, but the individual ran from the officer. As the individual was running from the officer, the officer issued numerous commands that were ignored. An additional uniformed K9 handler arrived in his patrol vehicle. The individual stopped running, turned toward the officers, and produced what appeared to be a silver handgun. The officers confronted the individual, who continued to ignore the officers' orders to comply and pointed the silver gun at the K9 handlers. An officer-involved shooting occurred shortly thereafter. Both K9 handlers discharged their weapons, and neither was injured.

Officers rendered emergency medical aid to the adult female. She was transported to an area hospital by the Sacramento Fire Department, where she was listed in stable condition. After receiving medical clearance, the female was booked into the Sacramento County Main Jail on related charges.

This incident was investigated by the Sacramento Police Department's Homicide Unit, Internal Affairs Division, and Professional Standards Unit. An investigation into the incident was also conducted by the Force Investigation Team. The investigation focused on policy, tactics, and training as it relates to the use of force. The Office of Public Safety Accountability and the Sacramento County District Attorney's Office provided oversight by monitoring the investigation.

This incident falls under the City Council's policy on Police Use of Force as well as SB 1421. As a result, the video and audio associated with this incident was released to the public within 30 days of the incident. Detectives identified and retrieved video associated with this incident.

The Sacramento Police Department encouraged any witnesses with information regarding this incident to contact the dispatch center at (916) 264-5471 or Sacramento Valley Crime Stoppers at (916) 443-HELP (4357). Callers can remain anonymous and may be eligible for a reward of up to \$1,000. Anonymous tips can also be submitted using the free "P3 Tips" smartphone app.

June 27th, 2023

Death in Custody Investigation - 2500 Block of 51st Avenue

On June 27, 2023, at approximately 4:27 a.m., Sacramento Police Department patrol officers responded to multiple calls of a person possibly prowling in the 2500 block of 51st Avenue. One caller indicated they heard an unknown individual enter their backyard. Officers arrived on the scene and contacted a male adult in the area of the calls. The officers initiated a preliminary investigation. During the investigation, the male began experiencing an apparent medical emergency. Officers rendered emergency medical aid, including CPR. The Sacramento Fire Department arrived on the scene and transported the male to an area hospital, where he was pronounced deceased.

Due to the male having a medical emergency while detained by the officers, the department initiated a death-in-custody investigation. Homicide Detectives responded to the scene and worked closely with Crime Scene Investigators to determine the incident's circumstances. The officers did not use force against the male, nor was he handcuffed at any point during the encounter. Detectives investigated the possibility that the male was involved in a vehicle collision before contact with the officers.

The Sacramento County Coroner's Office released the individual's identity after the next of kin was notified.

This incident is was investigated by the Sacramento Police Department's Homicide Unit, Internal Affairs Division, and Professional Standards Unit. The Office of Public Safety Accountability and the Sacramento County District Attorney's Office provided oversight by monitoring the investigation. This incident falls under the City Council policy on video release. As a result, the video and audio associated with this incident was released to the public within 30 days of the incident.

The Sacramento Police Department encouraged any witnesses with information regarding this incident to contact the dispatch center at (916) 264-5471 or Sacramento Valley Crime Stoppers at (916) 443-HELP (4357). Callers can remain anonymous and may be eligible for a reward of up to \$1,000. Anonymous tips can also be submitted using the free "P3 Tips" smartphone app.

August 15th, 2023

Officer-Involved Shooting – 3800 Block of 24th Street

On August 15, 2023, at approximately 5:08 p.m., Sacramento Police Department patrol officers responded to multiple callers reporting a person armed with a machete or large knife on a Sacramento Light Rail Train. The train had stopped near the 3800 block of 24th Street. When officers arrived, they removed one passenger from the train and tried to talk with the male, who was armed with a large knife. Officers attempted to deescalate the situation for several minutes. Less lethal munitions were used, however they were ineffective. While still armed with the knife, the suspect charged at officers and an officer involved shooting occurred.

Officers disarmed the suspect and rendered medical aid until relieved by Sacramento Fire Department personnel. Despite these efforts, the male was pronounced deceased on scene.

The Sacramento County Coroner's Office released the identity of the deceased after the next of kin was notified. This incident is was investigated by the Sacramento Police Department's Homicide Unit, Internal Affairs Division, and Professional Standards Unit. An investigation into the incident was also conducted by the Force Investigation Team. The investigation focused on policy, tactics, and training as it relates to the use of force. The Office of Public Safety Accountability and the Sacramento County District Attorney's Office provided oversight by monitoring the investigation.

This incident falls under the City Council's policy on Police Use of Force as well as SB 1421. As a result, the video and audio associated with this incident was released to the public within 30 days of the incident. Detectives identified and retrieved video associated with this incident.

The Sacramento Police Department encouraged any witnesses with information regarding this incident to contact the dispatch center at (916) 808-5471 or Sacramento Valley Crime Stoppers at (916) 443-HELP (4357). Callers can remain anonymous and may be eligible for a reward up to \$1,000. Anonymous tips can also be submitted using the free "P3 Tips" smartphone app.

September 12th, 2023

Officer-Involved Shooting - 300 Block of L Street

On September 12, 2023, at approximately 1:01 a.m., Sacramento Police Department patrol officers responded to a parking garage in the 300 block of L Street regarding a man armed with a gun and pointing it at multiple security guards. The complainant provided a detailed description of the individual. Upon arrival, officers located the individual, who had a firearm in his hand. Officers attempted to talk to the individual, however he did not follow orders to put the firearm down.

A perimeter was established, and our Crisis Negotiation Team, Uncrewed Aerial Systems Unit, and SWAT Team responded to the scene. De-escalation techniques were attempted for several hours. While on-scene, officers saw the individual fire the gun. Throughout this incident the individual repeatedly brandished a firearm. During this encounter, the individual pointed the firearm at officers, and an officer-involved shooting occurred. A SWAT officer discharged their duty weapon one time, striking the individual.

Officers rendered emergency medical aid until relieved by Sacramento Fire Department personnel. Despite these efforts, the male was pronounced deceased on scene.

Officers recovered a firearm at the scene. No officers were injured during the encounter.

The Sacramento County Coroner's Office released the identity of the deceased after the next of kin notified.

This incident was investigated by the Sacramento Police Department's Homicide Unit, Internal Affairs Division, and Professional Standards Unit. An investigation into the incident was also conducted by the Force Investigation Team. The investigation focuses on policy, tactics, and training as it relates to the use of force. The Office of Public Safety Accountability and the Sacramento County District Attorney's Office provided oversight by monitoring the investigation.

This incident falls under the City Council's policy on Police Use of Force as well as SB 1421. As a result, all pertinent video and audio associated with this incident was released to the public within 30 days of the incident. Detectives identified and retrieved video associated with this incident.

The Sacramento Police Department encouraged any witnesses with information regarding this incident to contact the dispatch center at (916) 808-5471 or Sacramento Valley Crime Stoppers at (916) 443-HELP (4357). Callers can remain anonymous and may be eligible for a reward up to \$1,000. Anonymous tips can also be submitted using the free "P3 Tips" smartphone app.

Inspector General Police Case Review

In addition to critical incident response and conducting independent investigations, the IG is responsible for the inspection, review, and research of all aspects of complaint investigations regarding allegations of misconduct by public safety personnel. The chart below depicts the total number of cases in which the IG reviewed during this reporting period.

Chart 2 - SPD Cases Reviewed by the Inspector General

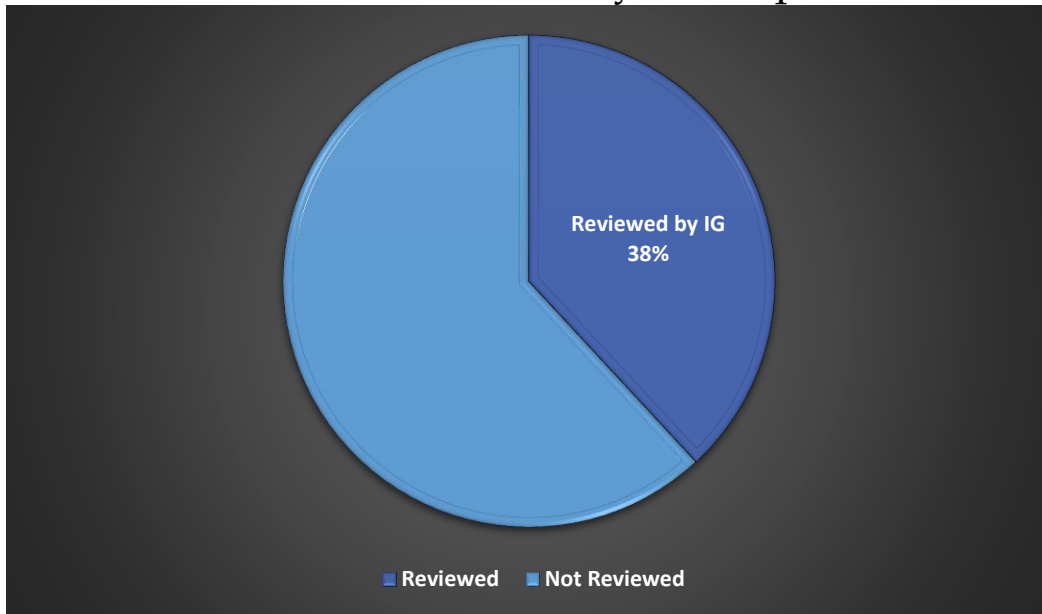


Chart 2 shows the percentage of 2023 police misconduct cases personally reviewed by the Inspector General (IG). The IG reviewed 109 of the 286 SPD complaint cases.

OPSA Audits/Inspections

Office of Public Safety Accountability (OPSA): External Audit Report An Audit of the Sacramento Police Department (SPD): Misconduct Complaint Cases – Improper Search and Seizure*

The Office of Public Safety Accountability (OPSA) conducted an audit on the Sacramento Police Department (SPD) complaint case investigations that encompassed the allegation of ‘Improper Search and Seizure’ after concerns emerged during the review of misconduct complaint cases in May of 2022. OPSA oversight practitioners discovered an initial pattern of Fourth Amendment violations of Sacramento community members, specifically Black and Latino community members, during police-citizen interactions. The initial evaluation illustrated search and seizure issues with what officers learn through training, how officers interpret the law, and officers’ application of the knowledge in the field. With such a limited amount of information, oversight practitioners could not make a conclusive determination of whether a systemic problem within the police department existed. Therefore, a determination was made that an external audit would be conducted to obtain a conclusive finding of whether there is a systemic problem or only isolated incidents that OPSA oversight practitioners discovered.

The audit evaluated complaint case investigations from June 1, 2020, through June of 2022. There was a total of 108 cases containing the allegation of Improper Search and Seizure during the specified period. OPSA conducted the audit to obtain a conclusive finding of whether there is a systemic problem or only isolated incidents from police case review. OPSA’s practice prohibits pre-judgement and requires detailed, thorough evaluations based on factual evidence in drawing relative conclusions.

OPSA’s goal is to ensure that effective training is accompanied by detailed policies and procedures that assist SPD in achieving constitutional policing. SPD must maintain engaged supervisors who model the practices and principles in accordance with law, organizational policy, and training standards. Supervision must recognize when officers are not in compliance and hold them accountable. OPSA found that the SPD manual covering search and seizure was outdated. The last revision to the manual was in 2007. During the OPSA Director’s 2021 Annual Report presentation, one of the recommendations identified is the development of a separate standalone policy for search and seizure in relation to subject stops, traffic stops, suspicious activity investigations, and detentions.

The audit concluded with numerous findings and recommendations. These issues discovered from the audit were not unique to SPD and include challenges that police organizations across the country grapple with daily. The negative connotation associated with the policing profession is a direct result of continued high-profile incidents of violence against unarmed Black males and females. The continued occurrence of unlawful stops, searches, and seizures could lead to disastrous results and more victimization of Sacramento residents. Federal courts in the United States have held that a pattern or practice may be found where incidents of violations are repeated and are not isolated instances. Courts interpreting the term “pattern or practice” in similar states have established that statistical evidence is

not required. Additionally, a court does not need a specific number of incidents to find a pattern or practice, instead each case must turn on its own facts. Clear, detailed policies aligned with effective training will assist in achieving constitutional policing practices as well as mitigating the identified Fourth Amendment issues.

OPSA should be SPD's accountability partner. OPSA's expectation is that SPD acknowledges the areas in need of improvement. Our expectation as oversight practitioners is that SPD acts in good faith. True collaboration requires effective communication, mutual respect, honest dialogue, and ownership of one's actions. SPD and OPSA working together will be crucial to ensuring the successful implementation and sustainability of the changes necessary. Organizational leadership plays a pivotal role in signaling change.

*See Appendix for OPSA's 2023 External Audit Report. The full external audit report, including the appendices, is located on the OPSA website: <https://www.cityofsacramento.gov/opsa/reports->

Audit Findings and Recommendations

Finding One:

SPD Does Not Have a Current, Stand-Alone Policy Regarding the Fourth Amendment and Includes Search and Seizure.

Recommendations:

- 1) SPD should update its search and seizure manual from 2007.
- 2) SPD should draft a clear and detailed stand-alone Fourth Amendment policy that includes such things as cell phone searches, probations searches, investigatory stops, and consent searches.

Finding Two:

Automatic Pat Downs of Citizens are in Direct Conflict with the 1968 United States Supreme Court Decision, *Terry v. Ohio*¹.

Recommendations:

- 3) SPD should require officers to articulate in their reports why they stopped a citizen and/or why they felt the need to pat down the person.
- 4) SPD should establish a clear detailed policy on pat downs, investigatory stops, and investigative detentions.
- 5) SPD should provide training to new recruits and police officers on investigatory stops, pat downs, reasonable suspicion, and Fourth Amendment fundamentals, in accordance with the newly issued policy.

¹ *Terry v. Ohio*, 392 U.S. 1 (1968)

Finding Three:

SPD Officers Improperly Searched or Seized Citizens Cell Phones in Direct Violation of State and Federal Laws.

Recommendation:

- 6) SPD should develop a clearly defined policy outlining procedures for the search and seizure of cell phones.

Finding Four:

Rights of Non-Probation Citizens were Violated During Probation Waiver Searches.

Recommendations:

- 7) SPD should develop a clear policy defining the rules and procedures for conducting probation searches.
- 8) SPD should implement continuous education and training for legal updates, probation search waivers, implicit bias, and community-oriented policing.
- 9) SPD should train officers to obtain search warrants whenever feasible and not rely so heavily on search waivers.

Finding Five:

Inconsistent Vehicle Tow Procedures.

Recommendation:

- 10) SPD should establish a clear policy outlining towing procedures as well as procedures for releasing personal property from their respective vehicles and releasing citizens from police custody when their vehicles are being towed.

Finding Six:

SPD Does Not Have a Policy Regarding Handcuffing Minor Children.

Recommendations:

- 11) SPD should develop policy specifying handcuffing procedures for minors.
- 12) SPD should receive continuous education and training on implicit bias.

Finding Seven:

Warrantless Entry into Citizens' Homes and Conducting Searches without Sufficient Legal Authority.

Recommendation:

- 13) SPD should develop a policy for conducting welfare checks that encompasses warrantless entry into citizen's homes.

Finding Eight:

SPD Does Not Have a Policy Regarding Officers Interacting with Citizens Holding a Concealed Carry Weapon (CCW) license.

Recommendation:

- 14) SPD should develop a policy for police interactions with citizens who have a CCW license and carrying their weapon at the time of the interaction.

Finding Nine:

Stops Based on Minor Traffic Infractions Such as Improper Window Tint with No Apparent Intention to Enforce the Vehicle Code or Ticket the Driver Amount to Pretextual Stops.

Recommendations:

- 15) SPD should eliminate the practice of pretextual stops or set clear restrictions on conducting pretextual stops.
- 16) SPD should develop a policy for traffic stops.

Finding Ten:

Internal Reviews by Supervisors do not Consistently identify Fourth Amendment Violations.

Recommendations:

- 17) SPD misconduct complaint cases investigated by the Internal Affairs Division as well as misconduct complaint cases investigated by supervising personnel within an employee's assigned division must be investigated impartially and thoroughly to ensure the most accurate findings.
- 18) SPD leadership team received supplemental search and seizure training on January 24, 2023, from the Sacramento Assistant District Attorney Office. Sacramento Assistant District Attorney advised that supplemental training would be developed specifically for officers. All SPD officers should be mandated to attend this supplemental training.
- 19) Police officers as well as SPD leadership should take cultural sensitivity training, fair and impartial policing training, implicit bias training, and constitutional policing training.

Sacramento Police Department

Complaint Process

When a member of the public makes a complaint against a public safety employee, there must be a policy violation as well as behavior that falls into at least one of the allegation definitions listed on page 26.

OPSA lists all complaint allegations made in this report. One misconduct complaint investigation can have several allegations listed and more than one officer accused. Once the complaint is received, the Internal Affairs Division (IAD) starts a preliminary investigation into the complaint. The complainant is interviewed to determine which policies the employee may have violated. Often the IAD investigator will review body worn camera footage to determine if the video can resolve the complaint in the preliminary stages. If there are no violations of policy seen, the IAD investigator will explain to the complainant why the officer's behavior does not violate policy and may offer to watch the body worn camera footage with the complainant.

The Internal Investigations Manual published effective August 1, 2019, requires that all complaints be investigated and documented on a Personnel Complaint Form (SPD 330). OPSA receives notification of all complaints received by SPD and continues to send complaints submitted to OPSA to IAD for investigation.

For completed complaint investigations, each allegation of misconduct receives a disposition and complaint dispositions are documented on a Personnel Complaint Disposition Form (SPD 332). Even frivolous complaints will be given a disposition of "Unfounded" and tracked by both IAD and OPSA. The disposition types and definitions can be found on page 29. When there is a violation of policy, disciplinary action is issued by the department's administration and those actions can be found in Chart 9 on page 32. OPSA has broad authority to review investigations upon completion, agree or disagree with the findings of the investigation, request the further investigation to be performed, as well as make recommendations regarding future investigations, policies, and practices.

Police Complaint Classifications and Allegations

Complaints are allegations of misconduct against any Department employee involving a violation of any law, rule, regulation, policy, or other improper job performance.

The following is a list of complaint classifications and their definitions (SPD Internal Investigations Manual updated 1/17/23). More than one classification can be attached to a complaint.

CONDUCT UNBECOMING AN EMPLOYEE –

Behavior that is malicious, criminal, brings discredit upon the department, or fails to follow ordinary and reasonable rules of good conduct while on or off duty.

DISCOURTESY – Rude or abusive actions directed towards another person.

DISCRIMINATION – Actions or misconduct due to the race, ethnicity, nationality, gender, age, religion, gender identity or expression, sexual orientation, or mental or physical disability of any person.

DISHONESTY – Knowingly giving false or misleading information.

FALSE ARREST – Removal of personal liberty without proper authority or legal justification.

FIREARM DISCHARGE – Anytime a firearm is discharged in violation of Department policy.

FORCE – Any unreasonable amount of force, ranging from any physical contact to use of any weapon.

HARASSMENT – Any unsolicited or unwarranted employee action or conduct that reasonably appears meant to annoy, threaten, intimidate, or alarm any person.

IMPROPER SEARCH AND SEIZURE – A detention, arrest, search, or seizure of an individual's person or property that is unlawful or in violation of Department policy.

IMPROPER TACTICS – Procedures utilized by an employee that are different from approved practices or procedures.

IN-CUSTODY DEATH – Administrative review of an in-custody death incident.

INSUBORDINATION – Failure or refusal to follow a lawful written or verbal order issued by a superior.

INTOXICATION – On-duty personnel under the influence of any intoxicant.

MISSING PROPERTY – Property that has been in the custody of an employee and becomes unaccounted for or missing. This also includes the misappropriation or theft of funds or property.

NEGLECT OF DUTY – The failure to perform a required duty.

OFFICER INVOLVED SHOOTING – Administrative review of an officer involved shooting incident.

PROFILING – The consideration or reliance on actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability when deciding to subject a person to law enforcement activities. However, an officer may consider or rely on characteristics listed in a specific suspect description.

SERVICE – The failure to adequately provide timely and required police action.

TRAFFIC – Improper or illegal driving by an employee.

WAGE GARNISHMENT – Failure to pay just debts

Chart 3: SPD & OPSA Allegation Comparison 2017-2023

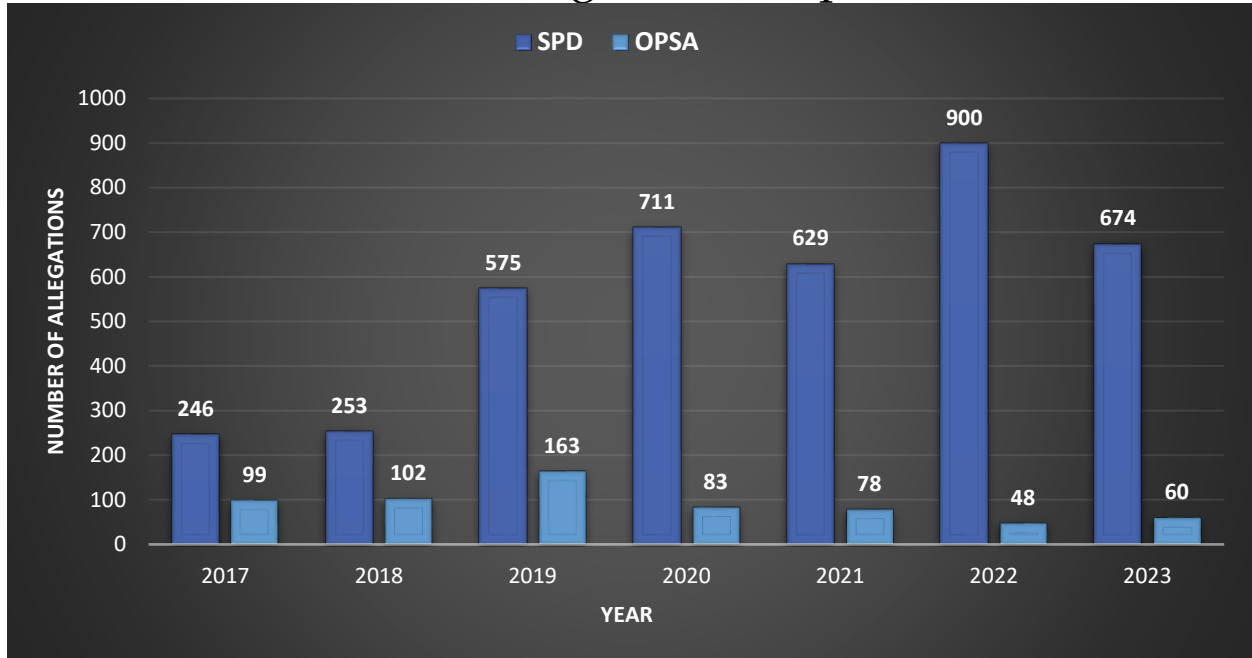


Chart 3 compares the total complaint allegations received by OPSA and SPD from 2017 through 2023. The significant increase from 2017 to 2019 correlates with complaint documentation changes that resulted from DOJ recommendations.

Chart 4: SPD Complaint Comparison 2020-2023

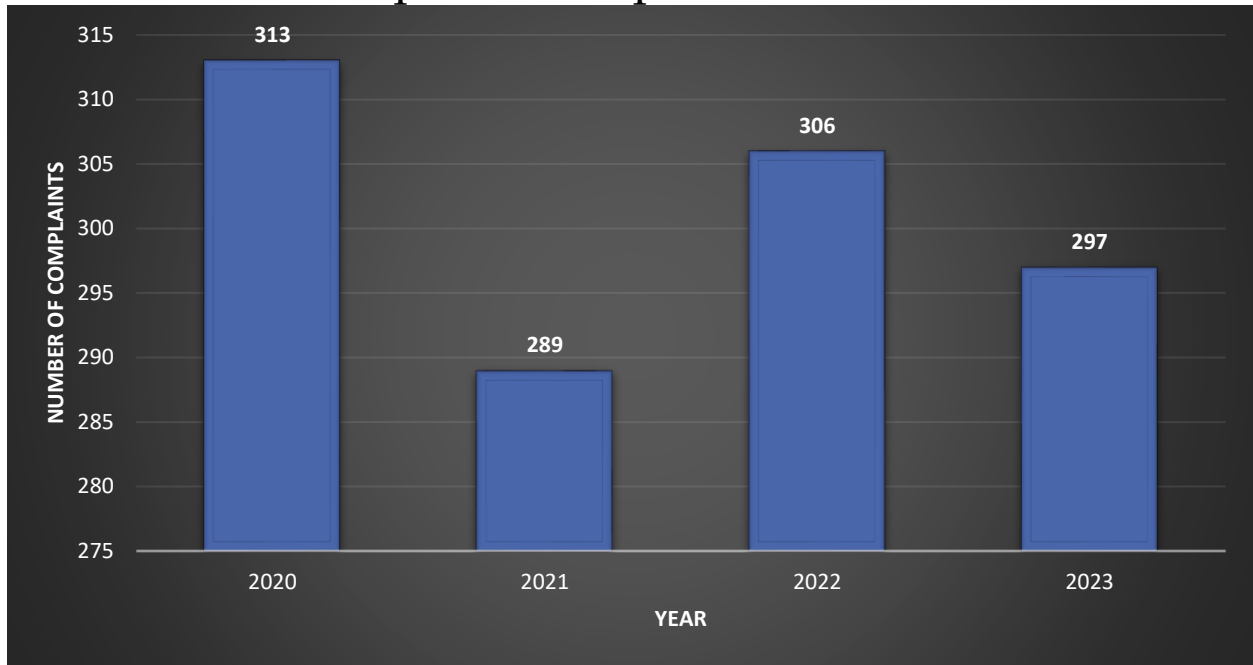


Chart 4 compares the total complaints concerning SPD from 2020 through 2023 – prior to 2020, complaint cases were tracked alternatively.

Chart 5: SPD Allegation Breakdown 2023

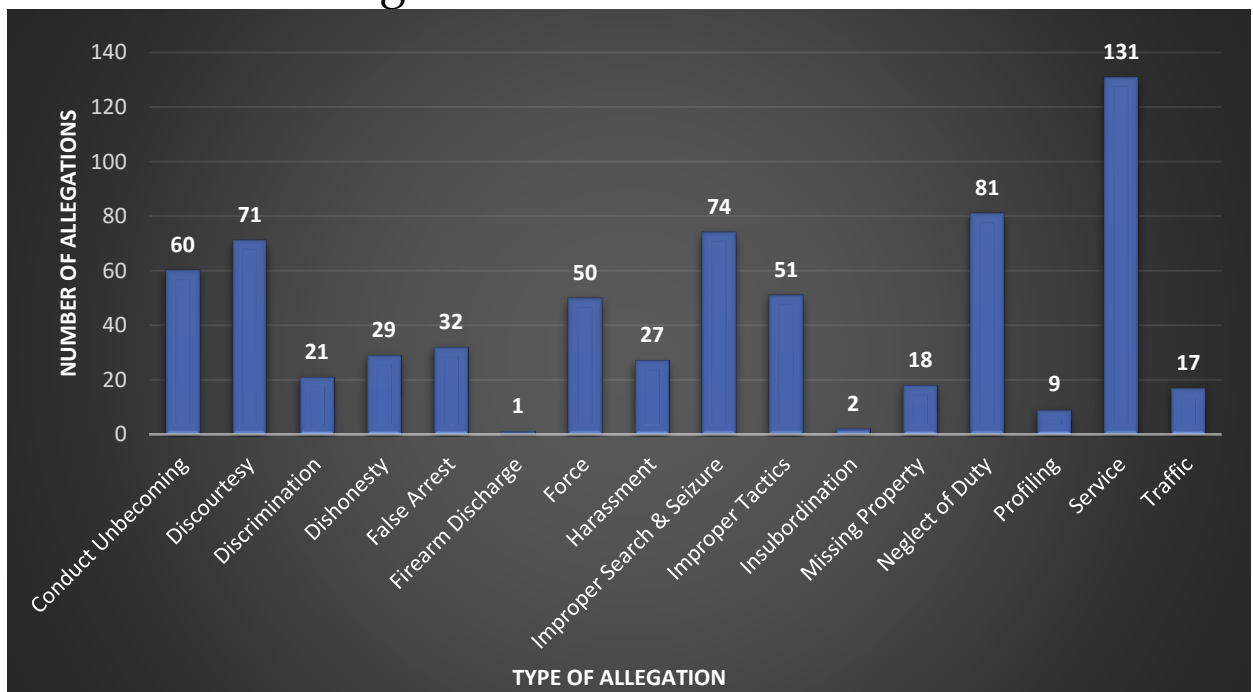


Chart 5 identifies the 674 misconduct allegations that were filed directly with SPD against police personnel during this reporting period.

Chart 6: OPSA Allegation Breakdown 2023

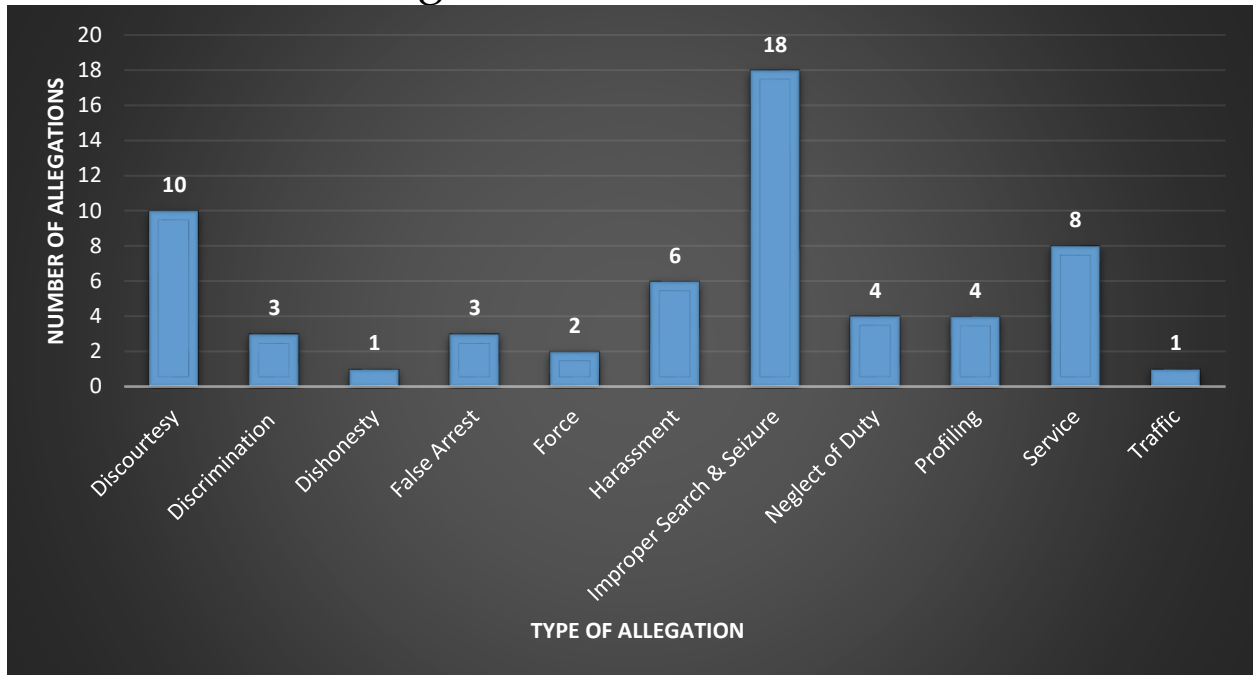


Chart 6 identifies the 60 misconduct allegations that were filed with OPSA against police personnel during this reporting period. These allegations were evaluated with OPSA receiving the preliminary complaint information and discussed or forwarded to SPD for investigation, as needed. Note: one investigation could include multiple allegations.

Dispositions

Each allegation of misconduct shall receive one of the following dispositions:

- SUSTAINED:** Sufficient evidence supports the allegation against the employee(s).
- NOT SUSTAINED:** Sufficient evidence does not exist to clearly prove or disprove the allegation.
- EXONERATED:** The investigation clearly established that the alleged act occurred and was justified.
- UNFOUNDED:** The investigation clearly established that the alleged act did not occur, or the identified employee was not involved. This also includes frivolous complaints, which are found to be totally and completely without merit, or those for the sole purpose of harassing an employee.

Chart 7: SPD Allegation Dispositions

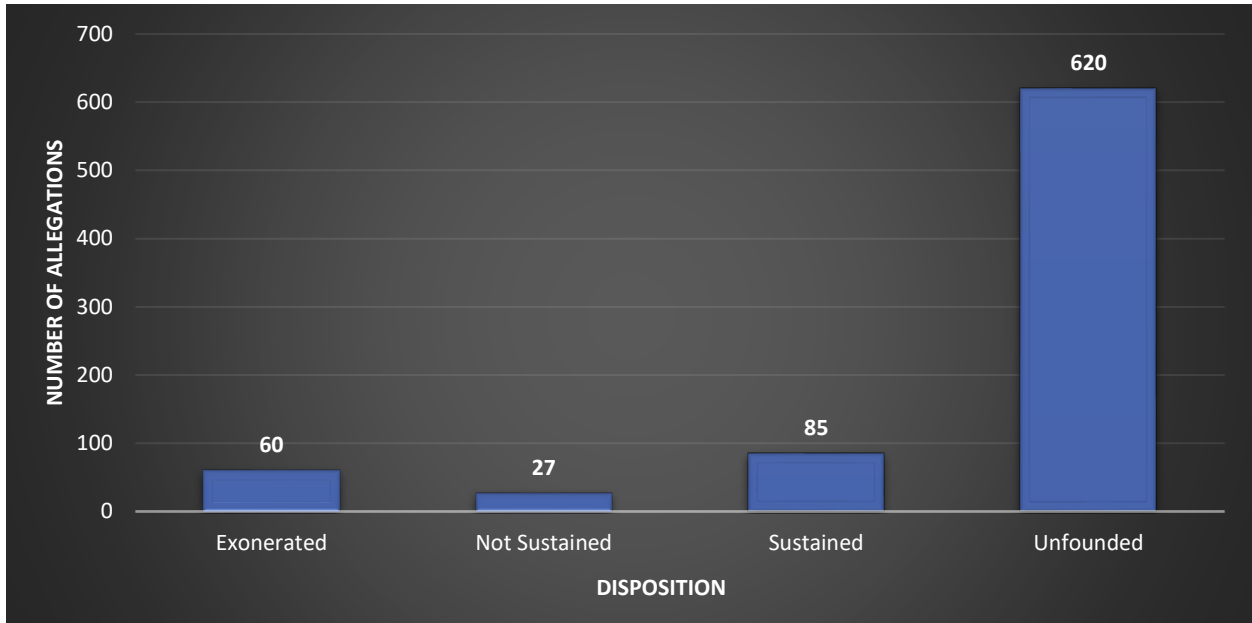


Chart 7 shows that of the 286 completed misconduct cases with a total of 792 allegations, 85 of the allegations were Sustained and referred to Police Command Staff for disciplinary action against employees.

Chart 8: SPD Dispositions by Allegation

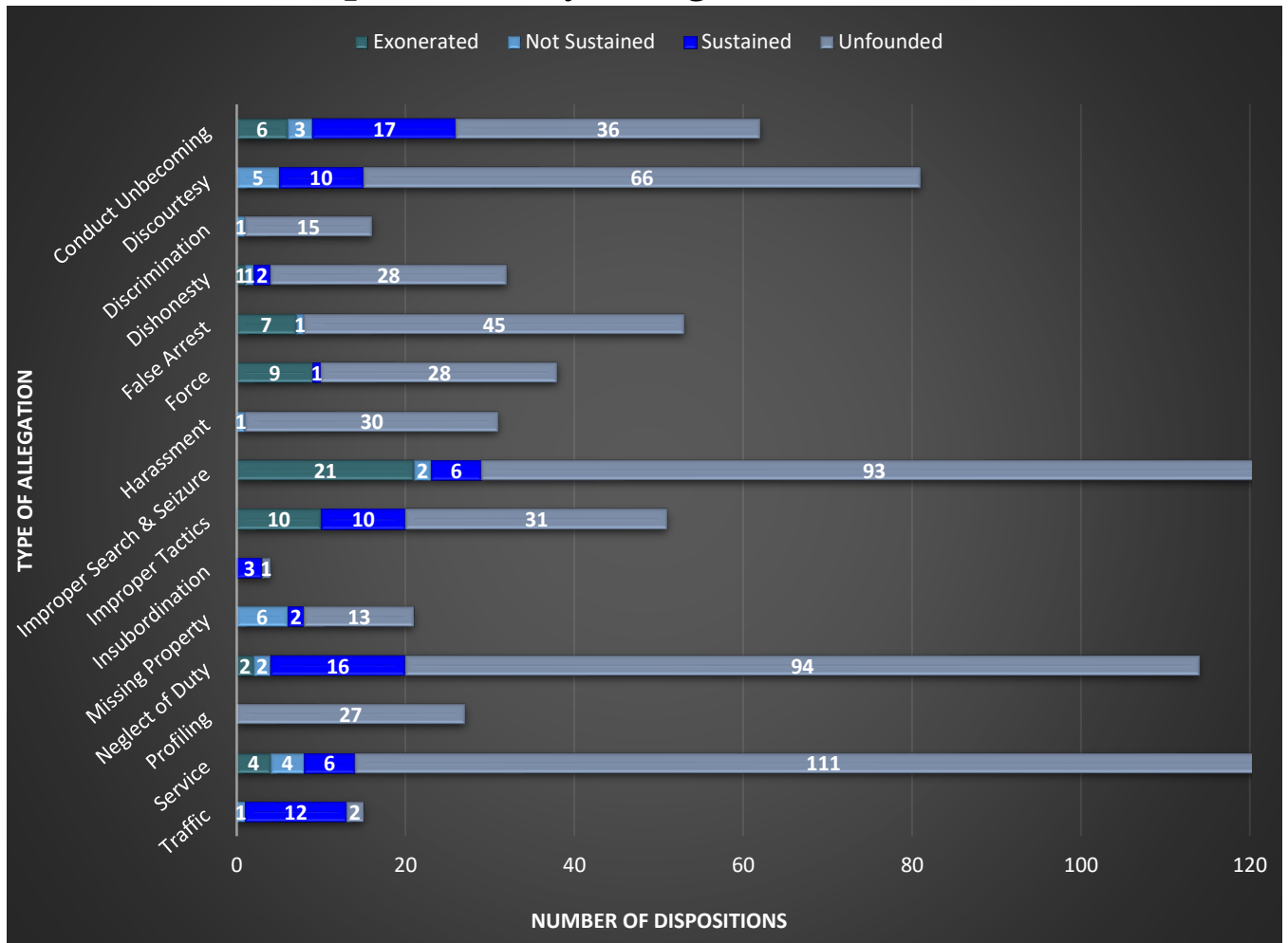


Chart 8 shows the dispositions of the 792 allegations closed out in 2023. Of those completed investigations, 181 complaints were originally filed in 2023, 101 were filed in 2022, and the remaining 4 complaints were from older 2020 and 2021 cases.

Chart 9: SPD Discipline from Completed Investigations

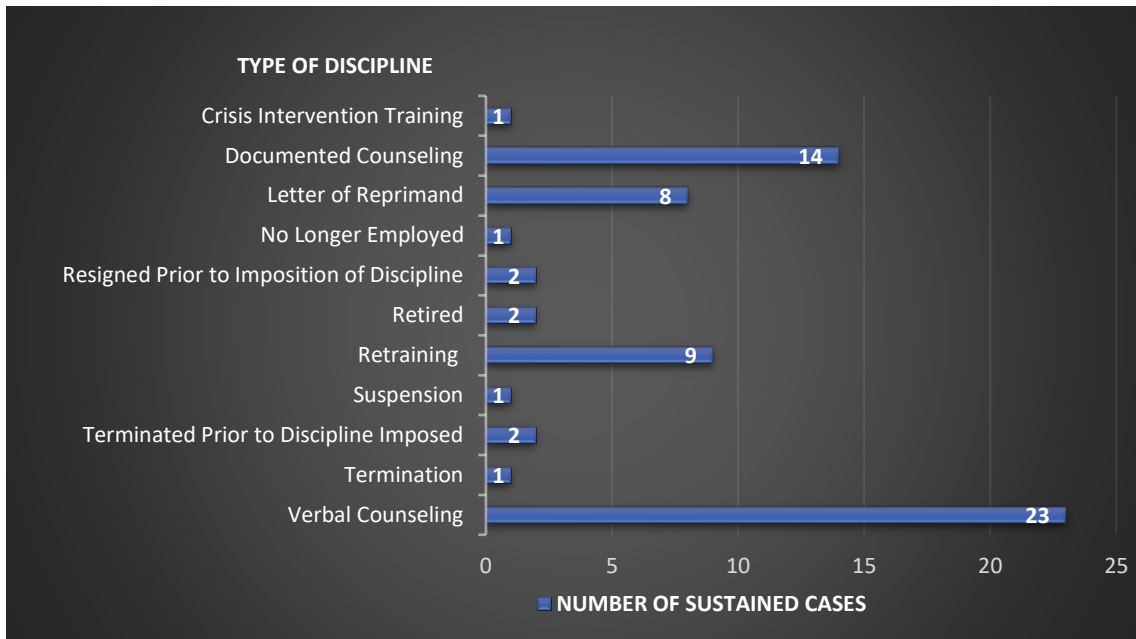


Chart 9 reflects the discipline imposed from misconduct investigations completed in 2023 according to data provided by Internal Affairs. Note: One case can result in multiple disciplinary actions against multiple employees.

Sacramento Fire Department

Fire Complaint Allegations

COMPLAINT — Any complaint pertaining to SFD policies, rules, procedures, or employee conduct. Misconduct complaints include, but are not limited to, allegations of:

CRIMINAL OFFENSE

As statutorily defined.

CITY EQUIPMENT

Any misuse of City equipment.

CONDUCT UNBECOMING

Behavior that is malicious or criminal or a failure to follow ordinary and reasonable rules of good conduct and behavior. This includes any misconduct bringing discredit upon the SFD.

DISCOURTESY

Rude or abusive actions directed toward another person.

DISCRIMINATION

Allegations that the employee's actions or misconduct was due to race, sex, religion, physical disability, ethnicity, or sexual orientation of an individual.

DISHONESTY

Theft, misappropriation of funds, property of the City or others, or giving false, or misleading information.

HARASSMENT

Any action or conduct including, but not limited to, the making of threats of violence, physical intimidation, verbal abuse, derogatory comments, sexual demands, or an act of retaliation because of the sex, race, ancestry, physical handicap, medical condition, marital status, age, sexual preference, or any other protected characteristic of a citizen or employee.

EXCESSIVE FORCE

Includes attempted or actual intimidation as well as physical use of force.

IMPROPER TACTICS

Improper or unapproved procedures and techniques used by an employee, such as giving inappropriate advice or taking in appropriate action.

INSUBORDINATION

Failure or refusal to follow a lawful written or verbal order of a superior.

INTOXICATION

The use of intoxicants by on-duty personnel.

MISSING PROPERTY

Property missing, which has, at one time, been in the custody or control of a member of the SFD.

NEGLECT OF DUTY

The failure to perform a required duty.

SERVICE

The failure to provide adequate, timely and required action.

TRAFFIC

Improper or illegal driving by an employee.

WAGE GARNISHMENT

Failure to pay just debts.

Chart 10: SFD Complaint Comparison 2017-2023

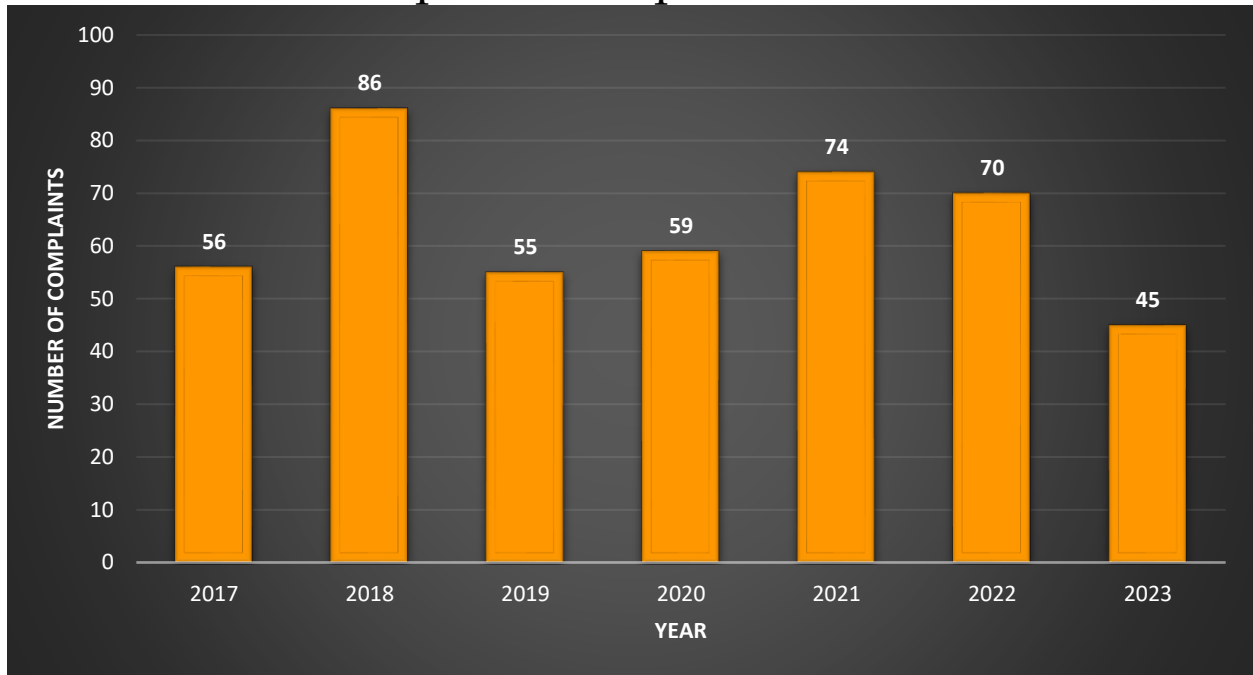


Chart 10 compares the total complaints concerning SFD from 2017 through 2023.

Chart 11: SFD Allegation Comparison 2016-2023

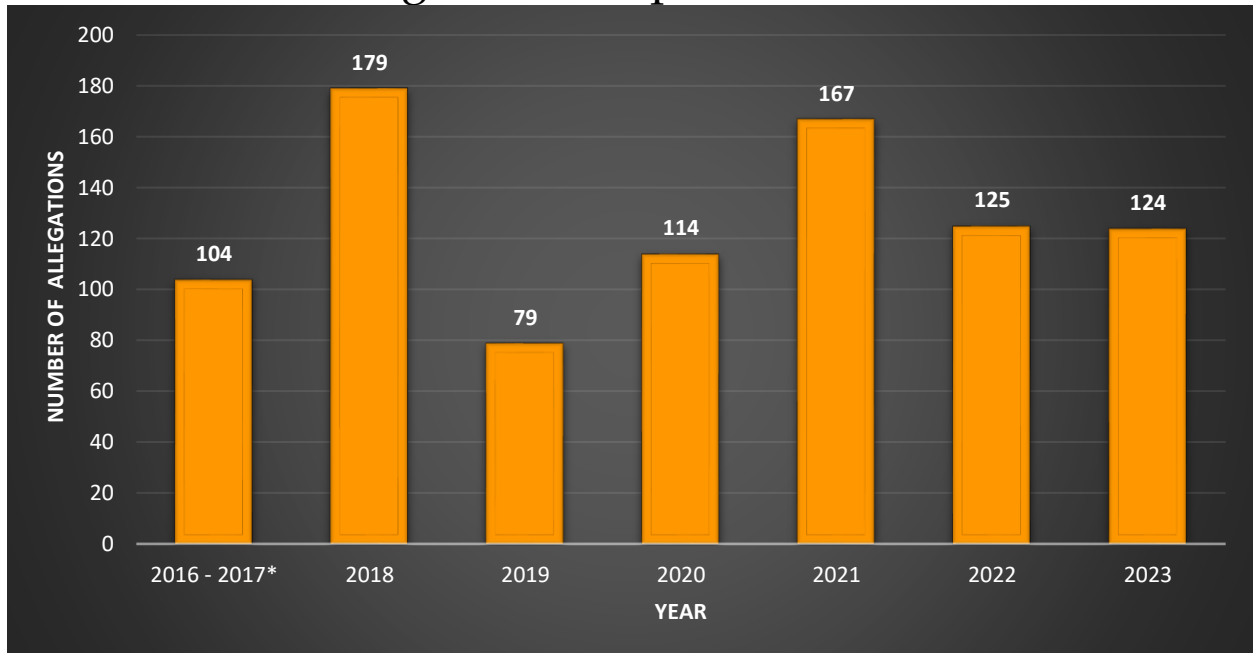


Chart 11 compares the total complaint allegations received by SFD from 2016 through 2023. *This data includes 2016 and the first 6 months of 2017. Note: one investigation could include multiple allegations.

Chart 12: SFD Allegation Breakdown 2023

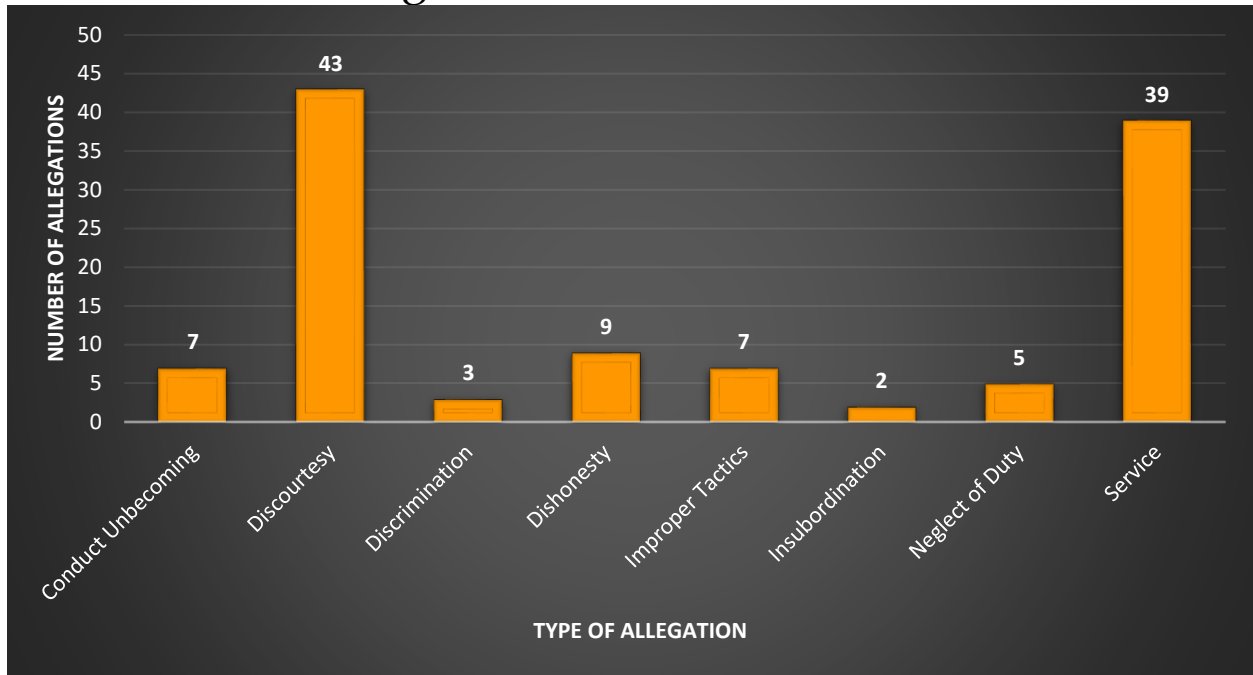


Chart 12 identifies the breakdown of the 115 misconduct allegations filed against SFD employees during the period of this report. Note: There may be multiple allegations per investigation.

Chart 13: OPSA Allegation Breakdown 2023

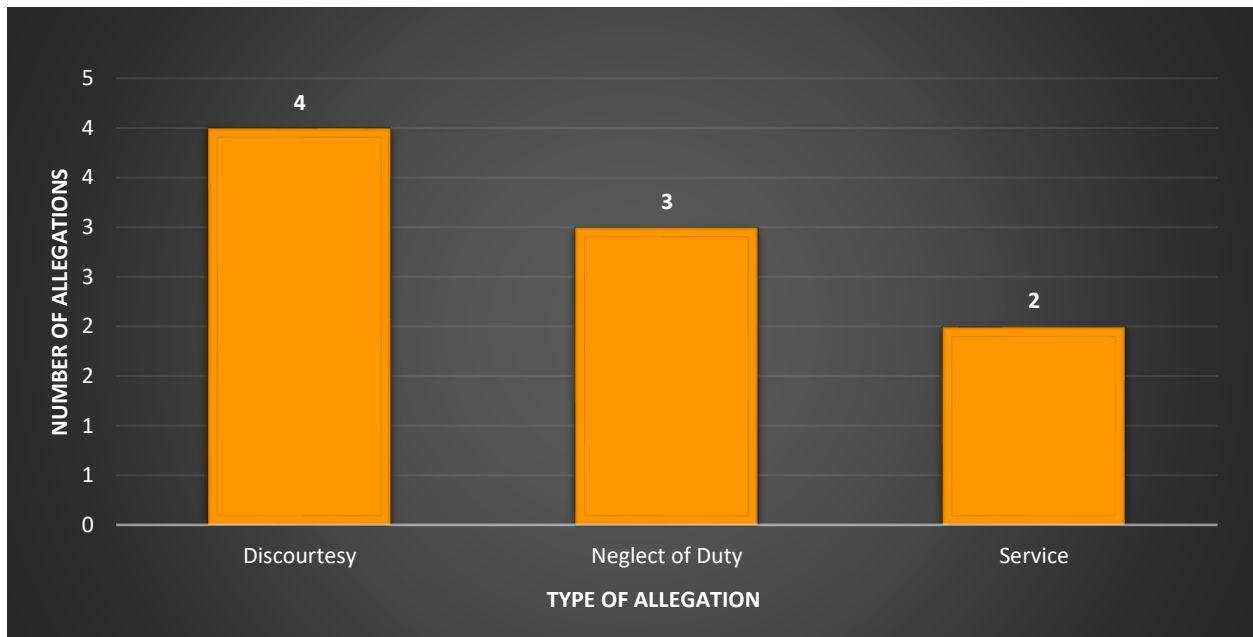


Chart 13 identifies the 9 misconduct allegations that were filed with OPSA against fire personnel during this reporting period. These allegations were evaluated with OPSA receiving the preliminary complaint information and discussed or forwarded to SFD for investigation, as needed. Note: one investigation could include multiple allegations

Chart 14: SFD Allegation Dispositions

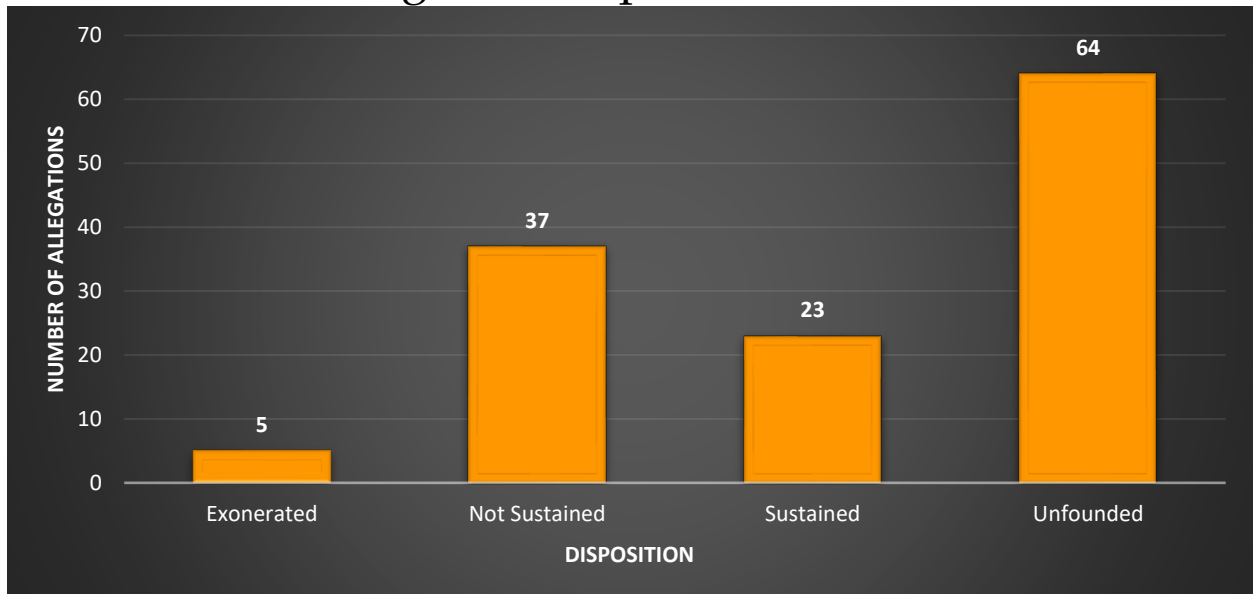


Chart 14 shows that of the 47 completed 2023 misconduct cases with a total of 129 allegations, 23 of the allegations were Sustained and referred to Fire Command Staff for disciplinary action against employees.

Chart 15: SFD Dispositions by Allegation

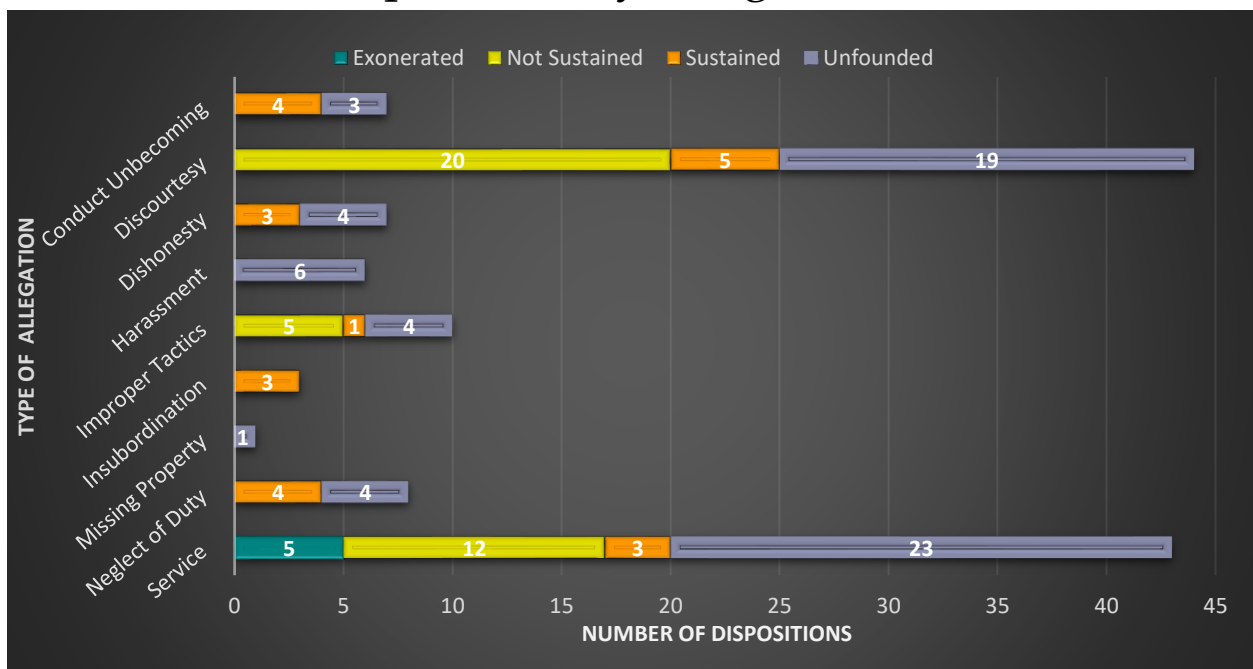


Chart 15 shows that allegations of Discourtesy and Service were the most common complaint type made against Fire personnel in 2023.

Chart 16: SFD Discipline from Completed Investigations

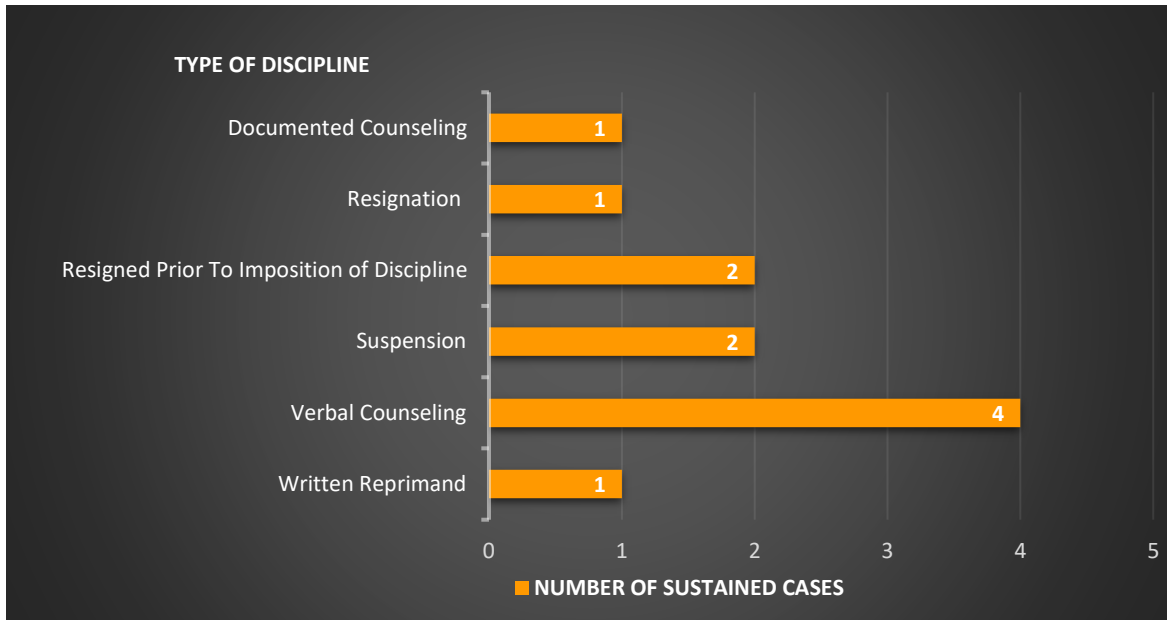


Chart 16 reflects the discipline imposed on 2023 misconduct investigations according to data provided by SFD PSU. Note that discipline imposed can be imposed upon multiple employees involved in a single incident.

Outside Jurisdiction

There were 37 complaints or inquiries reported to OPSA that were not attributed to misconduct allegations against Sacramento Police Department or Fire Department personnel. OPSA staff attempts to connect constituents with the proper agency or information to help resolve their issues regardless of it falling outside of the office's scope of authority and responsibility.

Outreach & Events

The Office of Public Safety Accountability continues to focus on reaching out to our community to inform them about the work of the office. OPSA ensures that community concerns are being heard and considered by the City's Public Safety Departments. By providing information to the community regarding the complaint process and by making public safety policies and implementation of those policies more transparent, more trust can be built. Despite limitations for in person events due to COVID 19 restrictions, OPSA engaged with the community at the following events:

- You And The Law Podcast: Black Women Leaders in Law enforcement - March 9, 2023
- African American Employee Leadership Council (AAELC), Presentation: OPSA Audit Findings - July 6, 2023
- J.U.I.C.E. Sacramento, Presentation: OPSA Audit Findings - August 2, 2023
- Sacramento Community Police Review Commission (SCPRC), Presentation: OPSA Complaint Reporting Overview - September 11, 2023
- Sacramento Community Police Review Commission Presentation – October 9, 2023
- San Joaquin Delta College Paralegal Studies Program - November 9, 2023
- Sacramento Observer's 60th Anniversary Gala Celebration – November 10, 2023
- Sacramento Public Defender Racial Justice Meeting – November 16, 2023

Annual Recommendations

Office of Public Safety Accountability (OPSA)

- OPSA must increase staffing in order to review 100% of misconduct allegations filed against Sacramento Police Department personnel.*
- OPSA must increase awareness and community engagement throughout the City of Sacramento.*

Sacramento Police Department (SPD)

General Recommendations

- Sacramento Police Department internal investigations conducted by the Internal Affairs Division as well as internal investigations conducted by supervising personnel within an employee's assigned division must be investigated impartially and thoroughly to ensure the most accurate findings.*
- The Sacramento Police Department must diligently work to ensure internal investigations are investigated in a timely manner, work to minimize delays, and decrease lengthy case backlogs.*
- The Sacramento Police Department Internal Affairs Division must ensure that the Office of Public Safety Accountability receives all completed case investigations for review prior to closing the case and prior to any involved officer(s) receiving notification of case findings.*

Policy Recommendations

- The Sacramento Police Department should implement all recommendations outlined in the OPSA 2023 audit report, An Audit of the Sacramento Police Department (SPD): Misconduct Complaint Cases – Improper Search and Seizure.

Sacramento Fire Department (SFD)

General Recommendations

- The Sacramento Fire Department Professional Standards Unit must conduct internal investigations impartially and thoroughly to ensure the most accurate findings.*

Policy Recommendations

- Sacramento Fire Department Professional Standards Division should update its operations manual from 2007. *

*Repeat recommendations that have not been acted upon by the departments.

Frequently Asked Questions

WHAT IS THE OFFICE OF PUBLIC SAFETY ACCOUNTABILITY?

The Office of Public Safety Accountability (OPSA) is a Mayor and City Council established office whose main responsibilities are: (1) taking in complaints from members of the public against Sacramento Police (SPD) or Fire Department (SFD) employees,

(2) makes sure that SPD and SFD investigates those complaints thoroughly and fairly, and (3) recommends improvements to SPD and SFD policies and procedures.

WHY DOES OPSA MATTER?

OPSA helps keep SPD and SFD accountable to the communities they serve by auditing the investigations into claims of police or fire employee(s) misconduct to ensure that those investigations are fair and thorough. The work of OPSA has resulted in improved department policies and increased transparency.

IS OPSA PART OF THE POLICE DEPARTMENT? WHY SHOULD I TRUST OPSA?

No. OPSA is not part of the police department. The OPSA Director answers to the Mayor and City Council. The Chief of Police answers to the City Manager. The City Manager answers to the Mayor and City Council.

You should trust OPSA because the office is independent. OPSA is free to agree or disagree with the decisions of SPD.

WHAT CAN I DO IF I THINK A PUBLIC SAFETY EMPLOYEE DID SOMETHING WRONG?

One of the things you can do is file a Misconduct Complaint with OPSA.

WHAT IS A MISCONDUCT COMPLAINT?

A Misconduct Complaint is a statement from you explaining why you think a City of Sacramento public safety employee broke one (or more) of the rules that the employee is required to follow and requesting that the employee's conduct be investigated by the department. The SPD General Orders are the Police Department's policies governing every aspect of their day-to-day operations and actions. The SFD Manual of Operations contains all policies and procedures that fire personnel are required to follow.

WHAT IF I DON'T KNOW WHICH RULE THE EMPLOYEE MAY HAVE VIOLATED?

There are many rules SPD and SFD personnel are required to follow, and you do not need to know them. If you have a question about whether a certain kind of behavior by a public safety employee is against the rules, you can contact OPSA to ask.

DO I HAVE TO KNOW THE EMPLOYEE'S NAME OR BADGE NUMBER?

No, you do not. While it is useful information, if you do not have that information, you can still file your complaint.

CAN I FILE A COMPLAINT WITH OPSA AGAINST A PUBLIC SAFETY EMPLOYEE WHO IS NOT WITH THE SACRAMENTO POLICE OR FIRE DEPARTMENT?

No. OPSA can only process your complaint if it is about an SPD or SFD employee. Complaints about public safety employees employed by other law enforcement agencies cannot be filed with OPSA. However, OPSA will do its best to guide you to the proper authority.

WHO CAN FILE A MISCONDUCT COMPLAINT WITH OPSA?

Any member of the public can file a Misconduct Complaint about SPD or SFD personnel. You can file a Misconduct Complaint about something that happened to you or about something that happened to somebody else. You can live in Sacramento or outside the city. You can be a U.S. citizen, or you can be an immigrant – with or without papers. OPSA staff are fluent in English but can access a translation service to assist in taking your complaint if necessary.

You can also file a complaint if you are a defendant in a criminal case; but if the case is related to the complaint you want to tell us about, we recommend that you talk to your lawyer first.

HOW DO I FILE A COMPLAINT OR COMMENDATION?

You can file a complaint or commendation by email, regular mail, telephone, on our website, or in person.

Please provide as much information as possible regarding the incident, including:

1. Your contact information: Name, Address, Phone Number(s).
2. Incident information: Date, Time, Location.
3. Employee(s) involved: Name and Badge Number, if possible.
4. Unit involved: Fire Company, Fire Station, and/or Fire Vehicle, if possible.
5. Description of the incident: Please provide as much detail as possible.
6. Witness information: Name, Address, Phone Number(s) of any witnesses to the incident.

WILL I HAVE MORE PROBLEMS WITH POLICE OR FIRE IF I FILE A MISCONDUCT COMPLAINT?

No. SPD and SFD have strict rules that prohibit personnel from retaliating against complainants.

WHAT HAPPENS AFTER I FILE A MISCONDUCT COMPLAINT?

When a complaint is received by OPSA, it is reviewed by the Director or staff and then forwarded to Internal Affairs Division (IAD) of SPD or to the Professional Standards Unit (PSU) of SFD for a preliminary investigation. IAD or PSU reviews and categorizes the complaint. Sometimes a complaint can be resolved after speaking to the complainant. In other instances, a formal investigation is conducted. IAD has one year to complete that investigation.

OPSA reviews completed formal investigations for the final disposition as recommended by the Police or Fire Chief.

IAD or PSU notifies the complainant(s) of the case disposition(s). Throughout this process OPSA is available to the complainant to provide information and answer questions excluding disclosure of any confidential or legally protected information.

WHAT IF I DON'T HAVE A MISCONDUCT COMPLAINT AGAINST AN INDIVIDUAL EMPLOYEE, BUT I DON'T LIKE A PATTERN I SEE WITH THE POLICE OR FIRE DEPARTMENT?

You can file a policy complaint. Policy complaints are not requests for individual personnel to be investigated and disciplined. Instead, they are requests that SPD or SFD change its policies or procedures or adopt new ones. You can file a policy complaint with OPSA.

I HAVE BEEN CHARGED WITH A CRIME. WILL FILING A COMPLAINT AFFECT THE CRIMINAL CASE AGAINST ME?

No. The complaint you file with us is separate from your criminal case. OPSA cannot advise or represent you on any legal matter.

Meet the Office of Public Safety Accountability



OPSA DIRECTOR
DR. LATESHA WATSON

Dr. Watson joined the OPSA team in 2020. She is an accomplished police executive and leadership expert bringing more than 27 years of experience in the policing profession to the office. As a Deputy Chief of Police in Arlington Police Department, she became the youngest chief in tenure and age to obtain the rank in 2014. She also became the 1st female African American Chief of Police in the entire State of Nevada and in the City of Henderson, Nevada. She holds a Ph.D. in International Psychology with a concentration in systems and organizations, a Ph.D. in Management and Organizational Leadership, a Master's degree in Criminology, and a Bachelor's degree in Criminal Justice.



EXECUTIVE ASSISTANT
ALAYNA MAGDALENO

Mrs. Magdaleno is the most tenured OPSA team member in the office. She joined the team in 2018 bringing management experience from the banking industry to the office. She holds an Associate degree in General Studies.



OPSA SPECIALIST

MICHELE VALEROS

Mrs. Valeros joined the OPSA team in 2022. She has an extensive amount of experience in the law profession as a paralegal in the U.S. Attorney’s Office and the U.S. Small Business Administration. In addition, she has experience conducting investigations with the San Joaquin County District Attorney’s Office – Bureau of Investigations. She is also a professor instructing college courses for paralegal studies, criminal litigation and procedure, social justice, and ethics. She holds a Master’s degree in forensic science with a concentration in investigation, a Bachelor’s degree in Pre-Law studies, and an Associate degree in Behavioral Science.



OPSA INSPECTOR GENERAL

DWIGHT WHITE

Mr. White joined the OPSA team in 2021. He brings a wealth of knowledge conducting significant criminal investigations as a Certified Illinois Lead Homicide Investigator for the City of Chicago – Civilian Office of Police Accountability (COPA). He also has financial crimes investigative experience. He obtained his law degree in 2014 from the University of Illinois Chicago – School of Law, formerly The John Marshall Law School.

The Office of Public Safety Accountability is a Mayor and City Council established office designed to improve the relationship between the City’s public safety departments and the community they protect and serve. We promote trust, excellence, transparency, and accountability through independent and impartial oversight of complaints related to public safety employee misconduct.

OPSA’s main responsibilities are to:

- (1) receive complaints and commendations from members of the public regarding City of Sacramento Police (SPD) or Fire Department (SFD) employees;
- (2) review SPD and SFD complaint investigations for thoroughness and fairness, and
- (3) make recommendations for improvements to SPD and SFD policies and procedures.

The Director has broad oversight authority to evaluate the overall quality of SPD and SFD personnel performance and the authority to encourage systemic change.

OPSA is available to conduct presentations to a wide spectrum of community groups, schools, neighborhood meetings, civic organizations, State and National professional agencies and associations to make sure OPSA is known throughout the Sacramento community as a resource and provide information on how the Office can be utilized.

If you are interested in scheduling a brief presentation, please contact us.



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APPENDIX

City of
SACRAMENTO

Office of Public Safety Accountability

Office of Public Safety Accountability (OPSA):

External Audit Report



**An Audit of the Sacramento Police Department (SPD):
Misconduct Complaint Cases – Improper Search and Seizure**

April 19, 2023

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Introduction

The mission of the Office of Public Safety Accountability (OPSA) is to enhance relationships between the City of Sacramento’s public safety employees and the community they protect and serve. Under the direction, control, and supervision of the City of Sacramento Mayor and City Council, OPSA has broad oversight authority of the Sacramento Police Department (SPD) and the Sacramento Fire Department (SFD). Established in 1999 by the City of Sacramento Mayor and City Council, OPSA is charged with independently accepting, tracking, monitoring, and reviewing misconduct complaint investigations. OPSA also tracks and monitors critical incident investigations involving public safety personnel. The role of OPSA oversight practitioners was expanded in 2020 by the City of Sacramento Mayor and City Council establishing an Inspector General (IG) position within OPSA to independently investigate officer involved shootings and use-of-force incidents.

The current climate of policing in the United States (U.S.) demand the institutionalization of police reform efforts combating systemic racism, excessive uses of force, unreasonable stops and searches, and the lack of police accountability. Independent oversight of police organizations is a necessary ingredient of police reform.

OPSA adds an independent layer of oversight review to SPD and SFD misconduct complaint cases and critical incident investigations. OPSA’s primary responsibility is to ensure that the investigation of misconduct complaint cases and critical incident investigations are conducted timely, thoroughly, and fairly. OPSA’s broad oversight authority includes evaluating the overall quality of performance of public safety employees as well as encouraging systematic change to improve it.

Background

The frequency of high-profile police killings of minorities across the country in recent years has led to unprecedented levels of public scrutiny regarding police operations and the need to hold officers accountable. With racial justice at the forefront, the number of police oversight agencies has expanded around the country. Currently, there are more than 160 police oversight agencies in the U.S., distinctly different from a total of seven oversight agencies in existence in 1975. Recognizing the need for a higher level of accountability to the public and responding directly to demands to “defund” the police, the Sacramento City Council directed its OPSA Director to deploy the newly created Inspector General, and its staff, to provide review and oversight of all police practices on its behalf.

Oversight agencies throughout the U.S. have experienced challenges fulfilling their mission and meeting set objectives due to the police, police unions, and other interest groups who have worked to successfully block oversight practitioners from performing their job duties and responsibilities. Oversight practitioners are undermined consistently by law enforcement. Police personnel as well as police unions contend that oversight practitioners are ill-equipped to judge police officers because they lack the expertise and experience of trained law enforcement professionals. OPSA oversight practitioners dispel this notion by encompassing law enforcement professionals with extensive knowledge, expertise, and experience in the profession, but resistance remains.

External Audit: SPD Misconduct Complaint Cases – Improper Search and Seizure

Under the direction, control and supervision of the City Council, the Director of the Office of Public Safety Accountability shall have the following authority and responsibility as related to the Sacramento Police Department and Sacramento Fire Department:

- A. Audit all citizen complaint investigations of the police department and fire department, as the director deems necessary;
- B. Monitor all citizen complaint investigations conducted by the police department and fire department;
- C. Request the police department and fire department perform further investigation in those citizen complaint cases that require additional investigation as determined by the director;
- D. Receive all documents, reports, or any other item necessary to monitor or audit a complaint investigation;
- E. Assist the city council, or any duly appointed committee of the council, in performing its investigative functions under section 34 of the charter;¹
- F. As needed, request the city council, or any duly appointed committee of the council, to issue subpoenas as provided in section 34 of the charter. The city council may, by resolution, establish the procedures for the request, issuance, and service of those subpoenas;
- G. Perform such other inquiries and investigations as prescribed by council resolution;
- H. Accept and document complaints directly from citizens as an alternative procedure for citizen complaints concerning public safety personnel, using a complaint form distinct from that used by the police department or fire department. All such complaints shall be promptly forwarded to the respective public safety department for investigation;
- I. Provide complainants with timely updates on the status of investigations, excluding disclosure of any information that is confidential or legally protected;
- J. Explain how the complaint process works to all complainants;
- K. Monitor or independently investigate any other matter as directed by the city council pursuant to section 34 of the charter;
- L. Serve in a public information capacity, including providing public information, excluding disclosure of any information that is confidential or legally protected, on pending investigations as directed by the city council; and making presentations in community forums; and
- M. Respond to critical incidents involving police or fire personnel and provide a report to city council regarding the details and concerns of those incidents.²

¹ Pursuant to Sacramento City Charter Section 34

² OPSA general responsibilities outlined in City Council Report #2016-01504, November 29, 2016

In May of 2022, concerns emerged during the review of misconduct complaint cases.³ OPSA oversight practitioners discovered an initial pattern of Fourth Amendment violations of Sacramento community members, specifically Black and Latino community members, during police-citizen interactions. From the evaluation of the initial pattern, apparent issues with improper search and seizure demonstrate a lack of understanding of what officers learn from training on the law and the actual application of that training in the field. With such a limited amount of information, oversight practitioners could not make a conclusive determination of whether a systemic problem within the police department existed. Therefore, a determination was made that an external audit would be conducted to obtain a conclusive finding of whether there is a systemic problem or only isolated incidents were discovered. The external audit consisted of all misconduct complaint cases encompassing the allegation of improper search and seizure over the course of a two-year period, from June of 2020 to June of 2022.

Objective

The objective of this audit was to determine whether there is a systemic problem in the Sacramento Police Department (SPD) regarding officers engaging in pattern or practice of unreasonable stops, searches, and seizures that violate the Fourth Amendment rights of Sacramento community members, specifically Black and Latino community members, during police-citizen interactions. If the audit deemed any conduct to be unlawful policing, an evaluation of organizational practices contributing to the unlawful conduct would be performed.

Scope

This audit included a review of 109 misconduct complaint cases only for the period June 1, 2020, through June 30, 2022. Case information beyond this period was reviewed as deemed necessary to fulfill the objectives of the audit.

Methodology

To achieve the audit objective, OPSA performed the following:

- Reviewed 109 misconduct complaint case files with the allegation of improper search and seizure (e.g., officer, complainant, witness statements, investigative summaries, offense/incident reports, interview transcripts, dispatch call sheet logs, police radio transmission audio, observation reports, emails);
- Reviewed body worn camera (BWC) footage and dash cam footage relevant to completed misconduct complaint cases;
- Reviewed SPD General Orders, Reference Materials (RMs), Training and Education materials, City of Sacramento City Ordinances, and City of Sacramento City Code;
- Reviewed California Penal Code, U.S. Constitution, U.S. Supreme Court legal decisions, and applicable laws;
- Researched national best practices and reviewed numerous major city police organizations' policies and procedures; and

³ A misconduct complaint case is the investigation of an internal or external complaint filed citing allegation(s) of misconduct against any department employee involving a violation of any law, rule, regulation, policy, or other improper job performance.

- Reviewed relevant materials from the National Policing Institute (NPI), the Police Executive Research Forum (PERF), International Association Chiefs of Police (IACP), U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office), and Department of Justice (DOJ)'s Civil Rights Division – Special Litigation Section.

In accordance with the Sacramento City Code, Chapter 2.22 Office of Public Safety Accountability duties and responsibilities, OPSA oversight practitioners performed this external audit of the Sacramento Police Department's misconduct complaint cases that encompass the allegation of 'Improper Search and Seizure'. This audit evaluated misconduct complaint cases from June 1, 2020, through June of 2022. In addition, OPSA began reviewing all incoming cases encompassing an allegation of misconduct for improper search and seizure as of August of 2022.

Fourth Amendment Rules

- The Fourth Amendment of the United States Constitution prohibits the government from performing unreasonable searches and seizures on citizens.

"The right of the people to be secure in their persons, houses, papers, and effects, **against unreasonable searches and seizures**, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized" ⁴
- This means the arrests, searches, and detentions of citizens cannot be **unreasonable**.
- An arrest of a person is reasonable if it is supported by an arrest warrant or by **probable cause**.⁵
- In California, probable cause exists when the facts known to the arresting officer at the time of arrest, would lead an **objectively reasonable officer** to believe that the person arrested has committed the crime in which they are being arrested for.⁶
- A detention or investigatory stop is reasonable if the officer has "**reasonable suspicion**" some criminal activity is occurring, and the person being detained is/was/or about to be involved in that criminal activity in some capacity.⁷
- Police officers are permitted to perform warrantless pat down searches on people they detain, if they reasonably believe that the person being patted down is **presently armed and dangerous**.⁸
- During traffic stops, police officers have the power as a matter of course to order drivers and passengers out of their vehicles.⁹ However, a mere traffic violation does not grant officers the right to perform pat-down searches.¹⁰ Even during a traffic stop officers still must **reasonably believe** that the person they are patting down is armed or dangerous.¹¹
- Although certain amounts of cannabis are legal to possess and consume in California, it is still illegal to drive or operate a vehicle under the influence of cannabis or with open containers of cannabis in the vehicle. If a police officer smells or observes cannabis cigarettes or loose cannabis in a car, they have the power to pat down all the occupants in the vehicle and search the entire vehicle to ensure the statutory requirements of the law are being upheld.¹²

⁴ U.S. Constitution, Amend. 4

⁵ *Kaupp v. Texas*, 538 US 626 (2003)

⁶ *People v. Souza*, 9 Cal.4th 224 885 (1994)

⁷ *Terry v. Ohio* 392 US 1 (1968)

⁸ *Terry v. Ohio* 392 US 1 (1968)

⁹ *Pennsylvania v. Mimms*, 434 U.S. 106 (1977), *Maryland v. Wilson*, 519 U.S. 408, (1997)

¹⁰ *People v. Superior Court (Simon)* 7Cal.3d 186, 206 (1972), *People v. Superior Court (Kiefer)* 3 Cal.3d 807, 830 (1970) *People v. Lawler* 9 Cal.3d 156, 161(1973)

¹¹ *Arizona v. Johnson*, 555 U.S. 323 (2009)

¹² *People v Fews*, 27 Cal.App.5th 553 (2018)

Audit Overview

OPSA performed an external audit of SPD completed misconduct complaint cases that encompassed allegations of improper search and seizure from June 1, 2020, through June 30, 2022. The case list for the audit included one duplicate case as well as three cases that were not able to be reviewed due to the lack of pertinent information missing from the case file. Although complaints were filed in these three cases, SPD was unable to obtain the necessary information to conduct a full investigation of the allegations. As a result, SPD closed two of these complaints with a disposition of unfounded and the other complaint was closed with a disposition of not sustained.

A total of 109 misconduct complaint cases met the audit criteria for the two-year period and were reviewed for the audit. As depicted in Chart 1 below, 86 of the 109 completed misconduct complaint cases received a disposition of UNFOUNDED from SPD. SPD defines the disposition of unfounded as the investigation clearly established that the alleged act did not occur, or the identified employee was not involved. This also included frivolous complaints, which are found to be totally and completely without merit, or those for the sole purpose of harassing an employee. Sustained, Not Sustained, and Exonerated are the other three dispositions in which allegations of misconduct can receive. SPD defines the disposition of sustained as when sufficient evidence supports the allegation against the employee(s). SPD defines the disposition of not sustained as when sufficient evidence does not exist to clearly prove or disprove the allegation. SPD defines the disposition of exonerated as the investigation clearly established that the alleged act occurred and was justified.¹³

Chart 1: SPD Case Dispositions

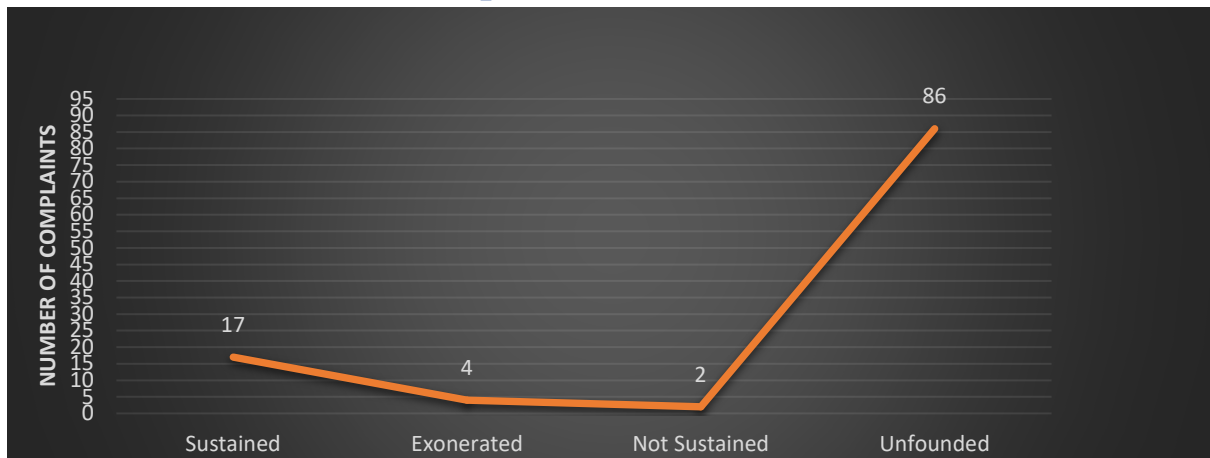


Chart 1 shows that 17 of the 109 misconduct complaint cases reviewed for this audit were SUSTAINED by SPD and referred to Police Command Staff for disciplinary action against employees.

Dispositions

Each allegation of misconduct shall receive one of the following dispositions:

¹³ Sacramento Police Department Internal Affairs Investigations Manual 220.01 Disposition of Complaints

SUSTAINED:	Sufficient evidence supports the allegation against the employee(s).
NOT SUSTAINED:	Sufficient evidence does not exist to clearly prove or disprove the allegation.
EXONERATED:	The investigation clearly established that the alleged act occurred and was justified.
UNFOUNDED:	The investigation clearly established that the alleged act did not occur, or the identified employee was not involved. This also includes frivolous complaints, which are found to be totally and completely without merit, or those for the sole purpose of harassing an employee.

Case Disposition Comparison

During initial review of completed misconduct complaint cases, there have been instances when SPD changed their initial disposition of unfounded to sustained after detailed discussions with OPSA. OPSA has also experienced instances in which SPD agreed with OPSA that the disposition should be changed to sustained but the disposition was unable to be changed due to issues with the timing of the case completion.

SPD and OPSA disagreed on the disposition of several completed misconduct complaint cases in this audit regarding Fourth Amendment Violations. The differences between OPSA and SPD completed misconduct complaint case dispositions are illustrated below in Chart 2. OPSA determined that 35% of the 109 completed misconduct complaint cases contained Fourth Amendment violations. SPD determined that only 16% of the 109 completed misconduct complaint cases contained Fourth Amendment violations. Pursuant to this audit, OPSA also discovered additional Fourth Amendment violations that were not discovered during the initial review of the completed misconduct complaint cases.

The largest proportion of completed misconduct complaint cases with sustainable Fourth Amendment violations arose from improper searches and seizures related to cell phones, unlawful detention during traffic stops, unlawful pat downs, and unlawful warrantless residential searches. These cases consisted of multiple Fourth Amendment violations. In each case, the evaluation of whether the officer's conduct violated the Fourth Amendment was based on published Fourth Amendment decisions by the United States Supreme Court that existed at the time of the incident. Other applicable California state court decisions, California State law, and the SPD Search and Seizure Manual was also utilized in the evaluation of each completed misconduct complaint case.

Chart 2: OPSA vs. SPD Fourth Amendment Violations

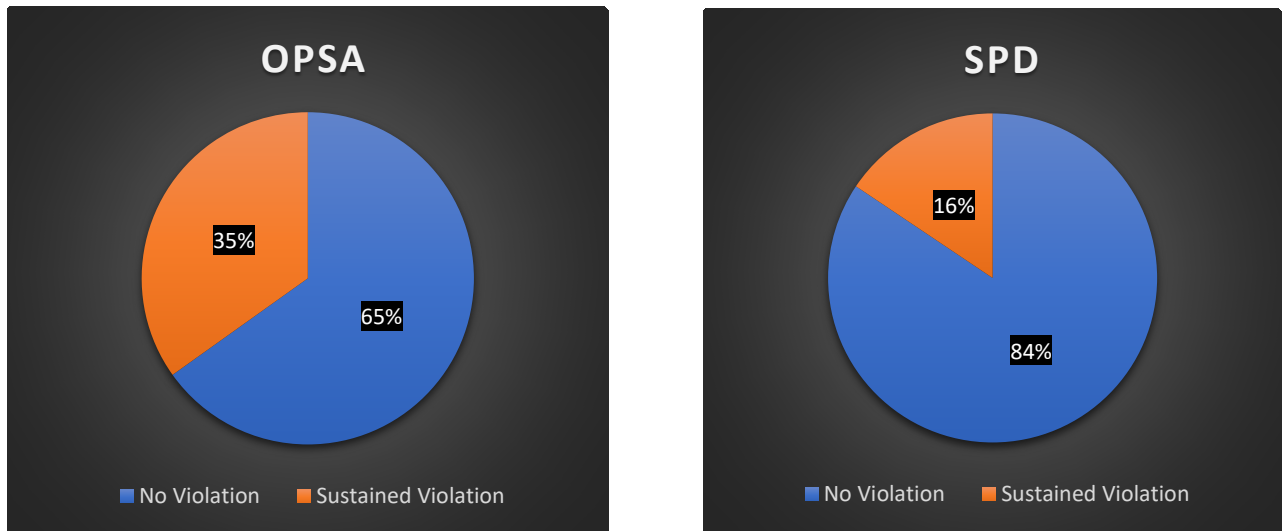


Chart 2 compares OPSA and SPD findings regarding Fourth Amendment violations for the completed misconduct complaint cases reviewed for this audit. OPSA determined that 38 of the total completed misconduct complaint cases reviewed contained Fourth Amendment violations. Contrastingly, SPD determined that 17 of the total completed misconduct complaint cases reviewed contained Fourth Amendment violations.

In Charts 3,4, and 5 below, challenges were experienced categorizing the information due to more than one Fourth Amendment violation being discovered in multiple misconduct complaint cases.

Chart 3: SPD Sustained Cases

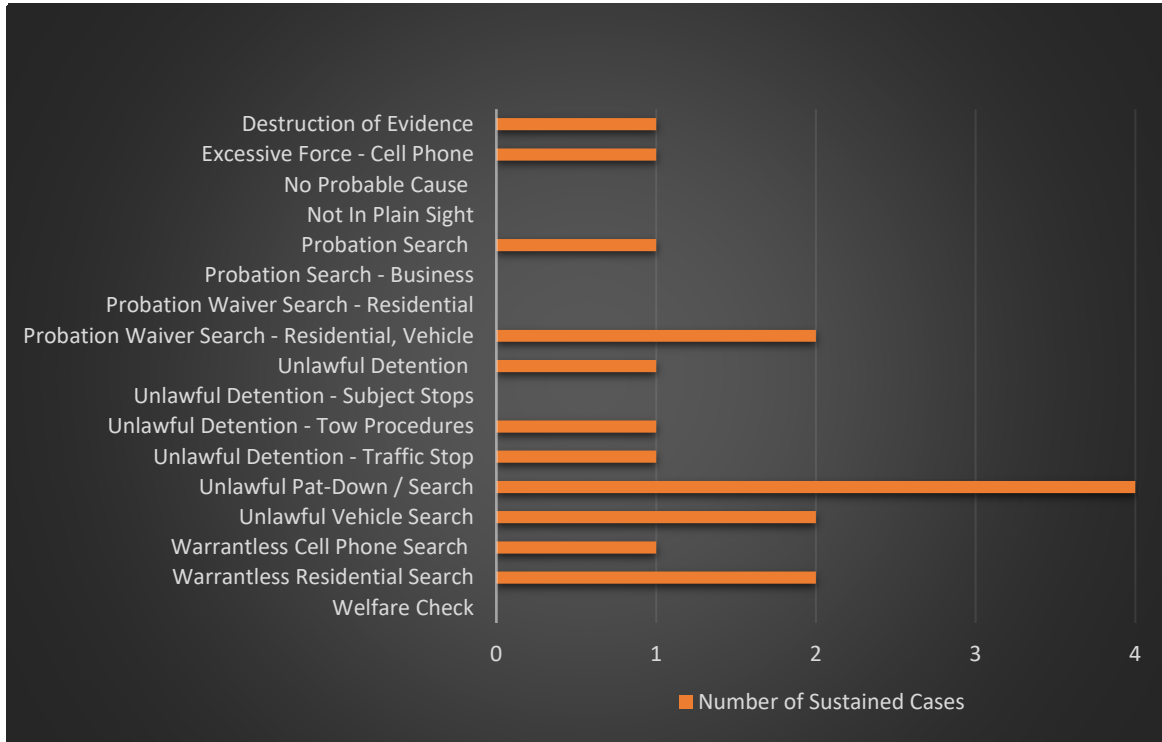


Chart 3 illustrates the breakdown of the types of Fourth Amendment violations in the 17 completed misconduct complaint cases.

Chart 4: OPSA Sustained Cases

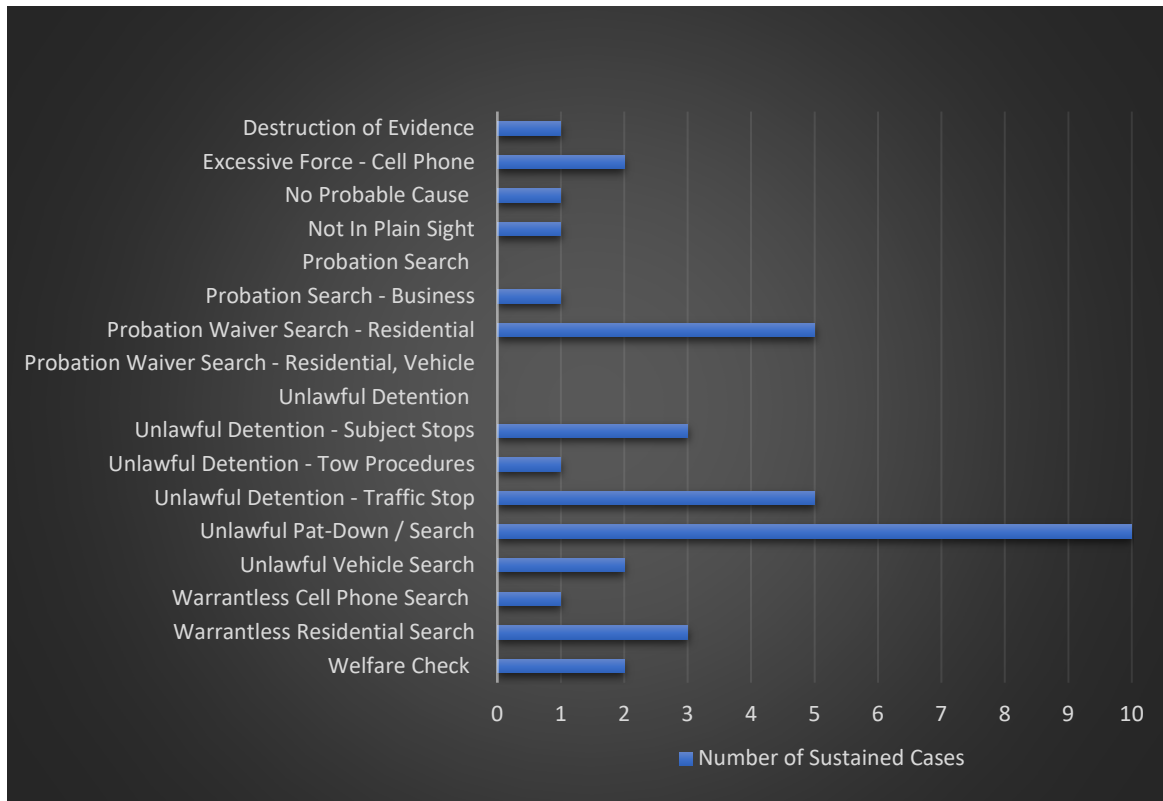


Chart 4 illustrates the breakdown of the types of Fourth Amendment violations in the 38 completed misconduct complaint cases.

Chart 5: SPD vs. OPSA Sustained Cases

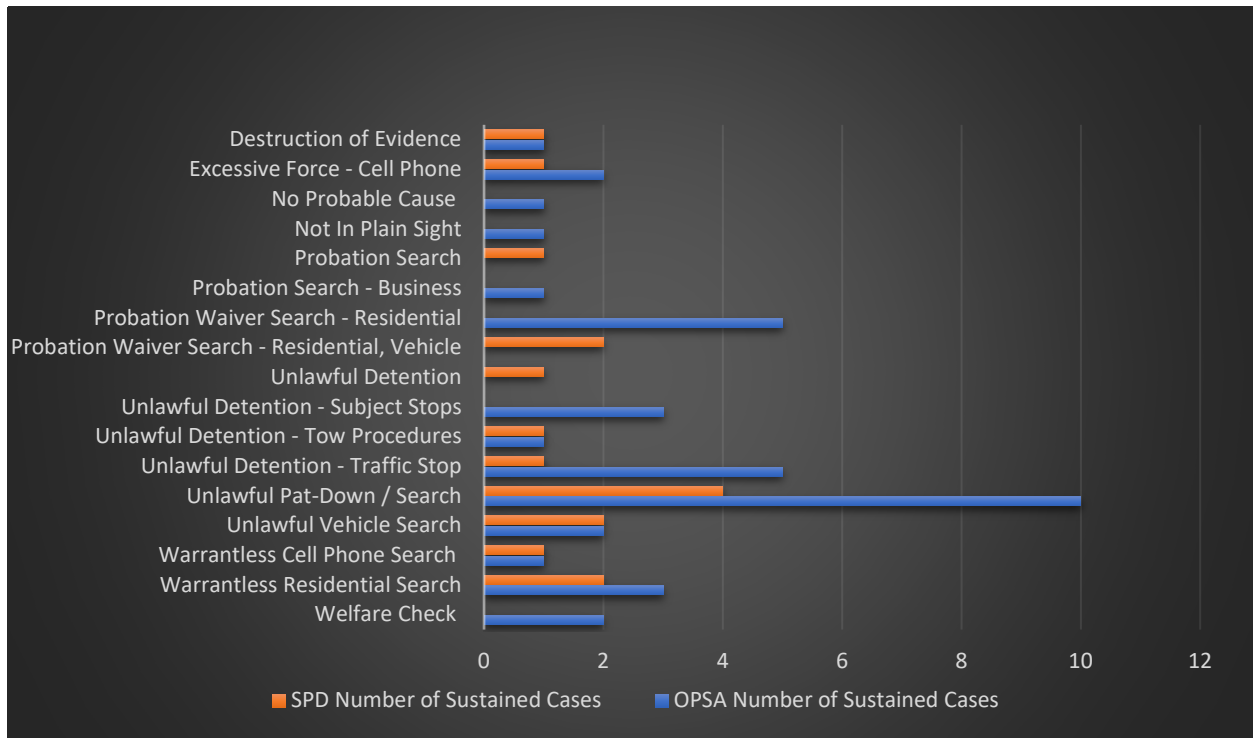


Chart 5 depicts the differences between SPD and OPSA’s breakdown of the types of Fourth Amendment violations for completed misconduct complaint cases.

Audit Findings

Finding 1: SPD Does Not Have a Current, Stand-Alone Policy Regarding the Fourth Amendment and Includes Search and Seizure.

The Fourth Amendment is implicated in just about every interaction between police officers and citizens. In addition, a violation of the Fourth Amendment was alleged in 109 misconduct complaint cases in two years. Therefore, SPD should have a search and seizure policy that clearly lays out the responsibility of the responding officers and the fundamental legal standards of detaining and searching a citizen.

SPD has a search and seizure manual. However, this manual is from 2007, and only generically describes search and seizure issues. It is unclear how SPD distinguishes a manual from a policy. This is significant because the United States Supreme Court, federal district court, and California state courts have issued several significant decisions pertaining to the Fourth Amendment since 2007.¹⁴ SPD should either update this 16-year-old manual or create a completely new, stand-alone policy that describes the specific instances of search and seizure issues that officers face daily. It would be beneficial for SPD to create a policy that addresses cell phone searches for arrestees and bystanders, the manner and scope of probation searches, the technical aspect of investigatory stops, and consent searches versus show of force.

Recommendations

- **SPD should update its search and seizure manual from 2007.**
- **SPD should draft a clear and detailed stand-alone Fourth Amendment policy that includes such things as cell phone searches, probations searches, investigatory stops, and consent searches.**
- **A sample policy from the San Francisco Police Department and Baltimore Police Department can be found in Appendix A.**

¹⁴ The below cases were decided after 2007 and have significant Fourth Amendment implications:

Arizona v. Gant, 556 U.S. 332 (2009)

Arizona v. Johnson, 555 U.S. 323 (2009)

Glik v. Cunniffe, 655 F.3d 78 (1st Cir. 2011)

United States v. Jones 565 U.S. 400 (2012)

Riley v. California, 573 U.S. 373 (2014)

Rodriguez v. United States, 575 U.S. 348 (2015)

Carpenter v. United States, 585 U.S. ____, [138 S. Ct. 2206] (2018)

People v. Fews, 27 Cal.App.5th 553 (2018)

U.S. v. Landeros. 913 F.3d 862 (9th Cir. 2019)

Caniglia v. Strom, 593 U.S. ____, [141 S. Ct. 1596] (2021)

Finding 2: Automatic Pat Downs of Citizens are in Direct Conflict with the 1968 United States Supreme Court Decision, *Terry v. Ohio*¹⁵.

Unlawful pat down searches occurred in a substantial number of the sustained cases reviewed. For officers to conduct a pat down or stop and frisk of a citizen, the Fourth Amendment requires the officer to be able to articulate that the citizen is armed or dangerous.

From the review of body worn camera footage associated with the misconduct complaint cases, there were instances in which police officers assigned to the Gang Enforcement Team stated, "I pat everyone down" or demonstrated a pattern of conducting pat downs as an automatic police practice when officers encounter a citizen. In addition, the police reports associated with these searches rarely articulated what was dangerous about the citizen that necessitated a pat down. Since there is nothing in their reports to indicate that the officers do not perceive the citizen to be armed or dangerous, these automatic pat downs can be viewed as being per se unlawful according to the established law of *Terry v. Ohio*.

Example One

SPD Gang Enforcement officers pulled over a citizen for going 47-mph in a 40-mph zone. In viewing the body worn camera footage, the citizen was not an apparent threat to the officers. The citizen was apologetic for speeding, non-aggressive, calm, and respectful in his interaction with police officers. Although the driver was compliant, the officer decided to order the citizen out of the vehicle, conduct a pat down search of his body, and ordered him to sit on the hood of their car. There was no report and no articulation of what made the officer believe the driver was currently armed and dangerous.

In 1977, the United States Supreme Court ruled in a decision entitled *Pennsylvania v. Mimms*¹⁶ that officers have the ability to order citizens out of their vehicle based on officer safety reasons as a matter of course. However, this power does not automatically extend to conducting pat down searches on citizens once they have been ordered out of their vehicles. Even during a routine traffic stop, officers must still be able to articulate the reasons why they suspect that the person being patted down is armed or dangerous. Otherwise, pat down searches based solely on routine traffic violations without required justification violate the Fourth Amendment.

Recommendations

- **SPD should require officers to articulate in their reports why they stopped a citizen and/or why they felt the need to pat down the person.**
- **SPD should establish a clear detailed policy on pat downs, investigatory stops, and investigative detentions. A sample policy from the San Francisco Police Department can be found in Appendix B.**
- **SPD should provide training to new recruits and police officers on investigatory stops, pat downs, reasonable suspicion, and Fourth Amendment fundamentals, in accordance with the newly issued policy.**

¹⁵ *Terry v. Ohio*, 392 U.S. 1 (1968)

¹⁶ *Pennsylvania v. Mimms*, 434 U.S. 106 (1977)

Finding 3: SPD Officers Improperly Searched or Seized Citizens Cell Phones in Direct Violation of State and Federal Laws.

The Supreme Court established in *Riley v. California*¹⁷ that warrantless searches of an arrestee's cell phone are unconstitutional. Searching the cell phone of a probationer without specific language in the probation waiver agreement allowing officers to search is also a Fourth Amendment violation.¹⁸

Example Two

In one case, police officers towed a citizen's vehicle for his failure to consent to a cell phone search.

Federal courts have held that individuals have a right to record police officers in the performance of their public duties if the police activity is in public and the individual has the right to be there.¹⁹ SPD officers searched a citizen's cell phone without a warrant and threatened a detainee with jail time for failing to allow the officers to search their cell phone. There were multiple cases reviewed in which SPD officers forcibly seized cell phones from bystanders who were recording officers in public.

Example Three

In one case, an elderly woman was outside recording several officers while they arrested her son. Her demeanor was calm, and she was on the sidewalk away from the officers who were on the street. Without speaking to her or obtaining her consent, one officer grabbed her while another officer twisted her arm until she lost control of her phone. The officers then seized the cell phone.

Recommendation

- **SPD should develop a clearly defined policy outlining procedures for the search and seizure of cell phones. A sample policy from the San Francisco Police Department and Baltimore Police Department can be found in Appendix E.**

¹⁷ *Riley v. California*, 573 U.S. 373 (2014)

¹⁸ *United States v. Lara*, 815 F. 3d 605 (9th Cir. 2016)

¹⁹ The below cases recognized the First Amendment right to record the police and/or other public officials by the U.S. Courts of Appeals.

Gilk v. Cunniffe, 655 F. 3d 78, 85 (1st Cir. 2011)

ACLU v. Alvarez, 679 F. 3d 583, 595 (7th Cir. 2012)

Fordyce v. City of Seattle, 55 F. 3d 436, 438 (9th Cir. 1995)

Smith v. City of Cumming, 212 F. 3d 1332-1333 (11th Cir. 2000)

Finding 4: Rights of Non-Probation Citizens were Violated During Probation Waiver Searches.

The Fourth Amendment protects citizens against unreasonable searches and seizures. However, when citizens are granted probation, they generally agree to waive their Fourth Amendment right. When a citizen is on probation and signs this waiver, they consent to warrantless searches by law enforcement officers of their homes and vehicles.

Although probationers sign over their Fourth Amendment rights, citizens who are not on probation still have a constitutional right against unreasonable searches and seizures. In some cases, police officers are allowed to conduct warrantless searches on citizens who are not on probation. For example, if a citizen is in a vehicle with a probationer or seen hanging out with the probationer. However, issues generally surface in the context of the home due to officers searching an entire house and bedrooms that are not controlled or occupied by the probationer rather than limiting the search to the probationer's bedroom and common areas. There were multiple cases where officers conducted a probation search of every room in a house or apartment, even those rooms that the probationer did not occupy or control.

Example Four

In one case, officers conducted a probation search on a car belonging to a citizen that was not on probation. The probationer was not in the vehicle and was not seen driving the vehicle.

Example Five

In one case, officers searched and detained everyone at a local business establishment. The officers detained the employees and customers for over an hour and further detained them even after it was clear that the customers and employees were not a part of any wrongdoing.

There were cases involving warrantless searches being conducted despite the fact that substantial opportunity and time existed to request a search warrant. Instead, the officers relied solely on a citizen's probation waiver to conduct the search. The SPD manual does speak to conducting probation searches. However, the manual excludes any reference to the limitations that apply when conducting probation searches.

Recommendations

- **SPD should develop a clear policy defining the rules and procedures for conducting probation searches. See Appendix A.**
- **SPD should implement continuous education and training for legal updates, probation search waivers, implicit bias, and community-oriented policing.**
- **SPD should train officers to obtain search warrants whenever feasible and not rely so heavily on search waivers.**

Finding 5: Inconsistent Vehicle Tow Procedures.

This issue is significant enough to warrant a finding in this audit due to concerns with the unlawful detainment of citizens when police officers are towing citizens' vehicles. There have been cases when citizens are allowed to obtain their personal property from their vehicles and leave the scene. In other cases, citizens were prohibited from obtaining their personal property from their vehicle and were not permitted to leave until after the tow truck left the scene with the vehicle. Whether the detainment is in violation of policy appears to be dependent upon which supervisor reviews the case.

Recommendation

- **SPD should establish a clear policy outlining towing procedures as well as procedures for releasing personal property from their respective vehicles and releasing citizens from police custody when their vehicles are being towed.**

Finding 6: SPD Does Not Have a Policy Regarding Handcuffing Minor Children.

Although this issue appeared in just one case, it is significant enough to warrant a finding in this audit. SPD should have a policy regarding the handcuffing of minor children.

Example Six

The incident involves a ten-year-old African American female child who was scared and crying in her pajamas after being handcuffed and reprimanded by an SPD officer. The female child turned off the lights inside her home and failed to open the door fast enough for the officer. The female child was clearly not a threat to officers but was still handcuffed immediately upon opening the door of her home. Although the child in this case was not handcuffed for a long period of time, this incident was obviously traumatic to the child and will certainly shape her view of police officers in the future. A policy outlining procedures in dealing with minor children would be beneficial to officers and lead to less traumatized children in the future.

Recommendations

- **SPD should develop policy specifying handcuffing procedures for minors.²⁰ A sample policy from the San Jose Police Department Baltimore Police Department can be found in Appendix F.**
- **SPD should receive continuous education and training on implicit bias.**

²⁰ This recommendation is not referencing juveniles arrested for criminal offenses.

Finding 7: Warrantless Entry into Citizens’ Homes and Conducting Searches without Sufficient Legal Authority.

In many circumstances, police officers need to gain entry into people’s homes. However, “the physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.”²¹ As a result, “warrantless home entry is unreasonable unless it falls within a recognized exception to the warrant requirement, like exigent circumstances, which includes the need to render emergency aid.”²² Despite the importance of this subject, SPD does not have a policy for warrantless entry into homes.

Police officers are routinely requested to respond to the homes of citizens to check on their general well-being. For instance, citizens may ask officers to check on the welfare of a family member who they haven’t heard from in an unusually long time, just in case they are in need of medical assistance but are incapacitated. For decades, welfare checks were viewed as an exception to the warrant requirement. Welfare checks were covered under the so-called ‘Community Care Taking Doctrine’ in the State of California until 2019 when the California Supreme Court abolished it in the decision of *People v. Oviedo*.²³ In that case, the court ruled that police officers cannot make warrantless entries and searches into a person’s home under the theory of community care taking or under the mere possibility of exigent circumstances. The court held that officers must perceive actual exigent circumstances before making a warrantless entry.

The audit found that despite the 2019 decision, SPD officers still make warrantless entry into citizens’ homes. In some cases, SPD officers were observed breaking down doors or physically pushing citizens aside to conduct these welfare checks. These welfare checks are performed without documentation as to the actual perceived emergency situation. Additionally, SPD officers continue to perform welfare checks without any policies or procedures to protect officers or citizens. Numerous complaints have been filed by citizens alleging that officers damaged their property or were overzealous in conducting these welfare checks.

In other complaint cases, SPD officers forced entry into citizens’ homes to search for felony suspects. Police officers searching for criminal suspects is a vital function of policing, but police officers are prohibited from forcibly entering citizens’ homes in search of suspects without a warrant or exigent circumstances.

Recommendation

- **SPD should develop a policy for conducting welfare checks that encompasses warrantless entry into citizen’s homes. A sample policy from the Baltimore Police Department can be found in Appendix B.**

²¹ *People v. Oviedo*, 7 Cal. 5th 1034, 1041(2019)

²² *People v. Oviedo*, 7 Cal. 5th 1034, 1038(2019)

²³ *People v. Oviedo*, 7 Cal. 5th 1034 (2019)

Finding 8: SPD Does Not Have a Policy Regarding Officers Interacting with Citizens Holding a Concealed Carry Weapon (CCW) license.

Although this issue appeared in just one case, it was significant enough to warrant a finding in this audit. SPD should have a policy and train officers on properly dealing with citizens who hold a CCW. As more citizens obtain a CCW, police interactions with CCW holders will become more prevalent. To ensure the safety of police officers and citizens holding CCWs, SPD must establish clear guidelines and tactically sound training protocols to mitigate unnecessary uses of force.

Example Seven

During a routine traffic stop for a tinted windows violation, the driver notified the officer that he had a CCW license and that he was carrying his weapon on his side. The officer immediately took out her weapon, held the driver at gunpoint in the low ready position, and called for backup. Several officers responded to the scene and tactically ordered the driver out of his vehicle. The officers took his firearm, handcuffed him, and sat him on the ground. Throughout the interaction the driver was calm and cooperative. Several officers remained on scene while the driver's information was checked and CCW permit verified. The officers released the driver once they were finished with the records check. Although this is not a blatant Fourth Amendment violation, a clearly defined policy and effective tactics training for these interactions would be beneficial to the department.

Recommendation

- **SPD should develop a policy for police interactions with citizens who have a CCW license and carrying their weapon at the time of the interaction.**

Finding 9: Stops Based on Minor Traffic Infractions Such as Improper Window Tint with No Apparent Intention to Enforce the Vehicle Code or Ticket the Driver Amount to Pretextual Stops.

More than half of the complaints received during the review period regarding improper search and seizure stemmed from traffic stops²⁴. In many instances, the Fourth Amendment is violated when these "window tint" traffic stops get needlessly prolonged. In a 2015 decision, *Rodriguez v. US*²⁵, the Supreme Court ruled that when a traffic violation is the purpose of a stop, the stop "may last no longer than is necessary to effectuate th[at] purpose". The traffic stop can become unlawful if it is unnecessarily prolonged for an unrelated matter that has nothing to do with the purpose of the stop, even if an officer's initial traffic stop of the citizen was lawful.

Although pretext stops are not a technical violation of the Fourth Amendment, they are extremely subjective in their enforcement. If performed without restrictions, pretext stops can deteriorate relationships within the community between citizens and the police. During this review period, every complaint regarding the conduct of traffic stops for illegal window tint was filed by a Black or Latino driver²⁶.

In most cases, the officers did not investigate or question the driver about the window tint. The window tint appears to be a pretext to initiate an unrelated investigation that had nothing to do with the window tint. These interactions are intense and can become needlessly adversarial. Officers question drivers stopped for window tint violations about their criminal history, specifically asking if the individual has ever been in jail, arrested, or whether they are on probation or parole even though the citizens were only being stopped for minor traffic violations. Although asking criminal background questions during a routine traffic stop is not by themselves unconstitutional, they serve no real purpose, and are irrelevant to whether the driver violated a vehicle code or traffic law. Furthermore, this criminal background information is readily available to officers when they run the citizen's driver's license information. These types of exchanges can lead to the perception that the officers are dishonest and attempting to harass the drivers for improper reasons.

Example Eight

A driver was pulled over for illegal window tint and was observed to be in his employment uniform. The driver was ordered out of his vehicle, placed in handcuffs, patted down and detained for 15 minutes. During this traffic stop, the officer conducted an investigation on a completely unrelated criminal matter. The officer suspected the driver was involved in an unrelated criminal offense in the same area, but the officer had no physical description of the suspect. The officer did not have any information or evidence that would lead a reasonable officer to believe that the driver was involved in the criminal activity.

The officer made the driver call his supervisor for an alibi. Even though the supervisor confirmed the driver's whereabouts, the officer continued to detain the driver. The officer did not release the driver until he consented to have his vehicle searched. The search did not yield any contraband and the driver was not cited for any violations.

²⁴ See Chart 14 page 33

²⁵ *Rodriguez v. United States*, 575 U.S. 348 (2015)

²⁶ See Table 1 page 25

Example Nine

A Latino female was pulled over by SPD patrol officers for an improper window tint violation. The officer asked for her driver's license and the driver told the officer that her license was in her purse located in the back seat of her car. Without the driver's consent, the officer reached into the backseat, pulled out her purse, and then handed it to her through the driver's side window. The officer then quickly snatched the purse from the driver. The driver, still holding on to her purse, struggled to retrieve her purse from the officer. After a short struggle over the purse, the officer ultimately arrested the driver for resisting arrest. The officer then searched her purse and her car and found nothing. The woman had never been arrested before and did not have a criminal record. The officer had no legal authority to reach into the driver's car or search the driver's purse.

Recommendations

- **SPD should eliminate the practice of pretextual stops or set clear restrictions on conducting pretextual stops. San Francisco Police Department has a policy curtailing the use of pretextual stops. See Appendix C.**
- **SPD should develop a policy for traffic stops. A sample policy from the Tampa Bay Police Department can be found in Appendix D.**

Traffic Stop Breakdown

Chart 6: Type of Traffic Violations

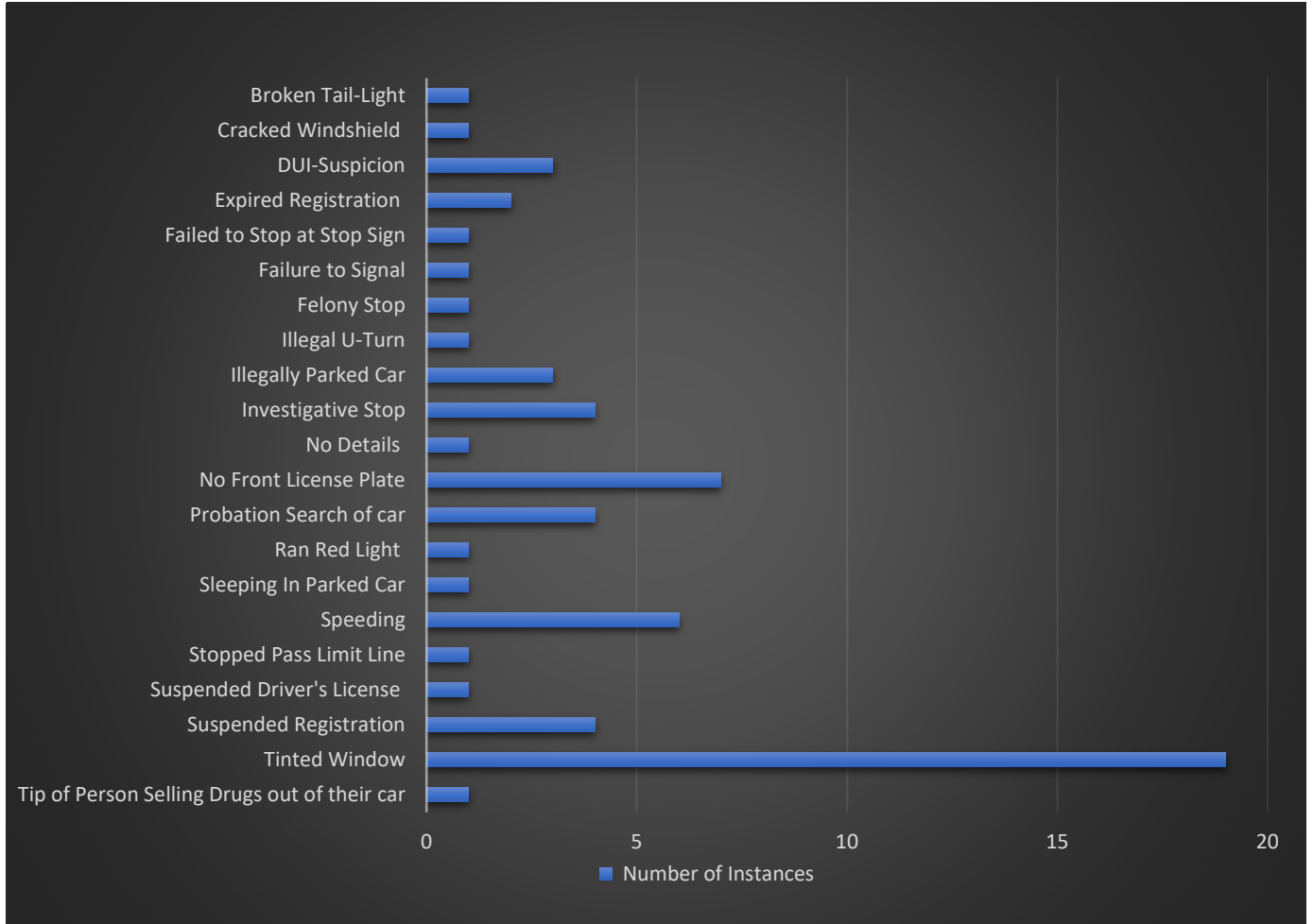


Chart 6 shows the breakdown of traffic stops by listing the violations warranting the traffic stop. A total of 19 traffic stops were conducted due to a window tint violation.

Traffic Violation Breakdown: Improper Window Tint Violation

94.74% of the traffic stops conducted by SPD officers for improper window tint encompassed the driver’s vehicle being searched. From the vehicle searches conducted, two firearms were located. Two arrests were made for Unlawful Possession of a Firearm. 26.32% of the traffic stops discovered drugs during the searches. The drugs were usually minimal amounts of cannabis, and the driver received a citation.

SPD officers reported the smell of cannabis on the driver or reported that loose cannabis was observed in the vehicle during these traffic stops. Because it is illegal to smoke cannabis and drive or have open containers of cannabis in the State of California, officers performed searches of the entire vehicle and pat down searches of vehicle occupants to determine if they were in possession of an illegal amount of cannabis. These types of searches are legal in California.

The audit revealed that this practice of making traffic stops based on improper window tint violations disproportionately affect Black and Latino drivers more than any other racial demographic. The table below illustrates that only Black and Latino males and females filed complaints pertaining to traffic stops for improper window tint violations.

Table 1: Breakdown of Improper Window Tint Violations

Traffic Violation	Search	Guns	Drugs	Arrest	Citation	Race	Sex	Age	Beat
Improper Window Tint	no	no	no	no	no	Black	M	43	2B
Improper Window Tint	yes	no	no	no	no	Black	M	48	1B
Improper Window Tint	yes	no	no	no	no	Black	M	24	2A
Improper Window Tint	yes	no	no	no	tow	Latino	M	24	2A
Improper Window Tint	yes	no	no	no	no	Latino	M	29	2A
Improper Window Tint	yes	yes	yes	yes	tow	Latino	M	53	2C
Improper Window Tint	yes	no	no	no	no	Black	M	41	2A
Improper Window Tint	yes	no	yes	no	tow	Black	M	34	Arden
Improper Window Tint	yes	no	no	no	no	Black	M	43	2C
Improper Window Tint	yes	no	no	no	no	Black	M	20	2A
Improper Window Tint	yes	no	no	no	no	Black	M	29	2A
Improper Window Tint	yes	no	no	yes	no	Latino	F	30	1C
Improper Window Tint	yes	no	yes	no	yes	Black	F	28	1B
Improper Window Tint	yes	yes	no	yes	tow	Black	M	21	2C
Improper Window Tint	yes	no	yes	no	no	Black	M	31	2C
Improper Window Tint	yes	no	no	no	no	Black	M	20	2B
Improper Window Tint	yes	no	yes	no	yes	Black	M	20	5B
Improper Window Tint	yes	no	no	no	no	Black	M	53	6A
Improper Window Tint	yes	no	no	no	yes	Black	M	20	2B

Finding 10: Internal Reviews by Supervisors do not Consistently Identify Fourth Amendment Violations.

The audit revealed multiple examples of allegations of improper search and seizure that progressed through several levels of SPD supervision without recognition of Fourth amendment violations.

Example Ten

A citizen was alleged to have been in possession of a handgun. However, the officer can be heard on the body worn camera footage saying, "It was somebody in white, I can't tell you who it was though - probably this guy [points to a guy in a white shirt sitting near him]". The officer then arrested this individual for being in possession of a handgun without knowing whether he had the firearm or not. A misconduct complaint was filed alleging the arrest was made without probable cause in violation of the Fourth Amendment. This complaint was reviewed by the area captain, and it was deemed unfounded. The OPSA Director and the IG met with the reviewing captain who admitted to not fully reviewing the entire case. The arrested citizen sued the city, and the matter was settled out of court. It is OPSA's opinion that this matter might have been avoided had the officer been better trained on fundamental Fourth Amendment laws and had the SPD supervisors fully reviewed the unlawful arrest during the initial review of the citizen's complaint.

Example Eleven

Gang Enforcement Team officers detained and conducted a search of a citizen without apparent reasonable suspicion of criminal wrongdoing other than the fact that he was wearing a satchel. The reviewing lieutenant believed the interaction was consensual and submitted another case to the IG for review between the same officers and the same citizen that occurred two weeks prior. The second case was more egregious. Three Gang Enforcement Team officers tactically surrounded the citizen as soon as he parked his car in a parking lot. The officers observed no vehicle code or any other violations before detaining him. After a short exchange where the officers questioned him about the clothes he was wearing, the citizen asked, "Can I go finish out my day?" The officer responded in the negative. Since the officer denied his request to leave the interaction, this was a detention or seizure that the Fourth Amendment requires the officers to have a reasonable suspicion of criminal activity. However, when the citizen filed a complaint alleging the Fourth Amendment violation, it was reviewed internally by a captain and deputy chief who found there was no wrongdoing by officers because it deemed a consensual encounter outside of the reach of the Fourth Amendment, not a detention. The case progressed through every rank up to the Chief of Police before it was finally sent back for further review. In both interactions, the police officers clearly did not have reasonable suspicion of criminal activity to justify the detention of the citizen. Routine training on investigatory stops, shows of force, and consensual encounters would have likely prevented this citizen from having his Fourth Amendment rights violated.

Example Twelve

SPD officers arrived at a local barbershop due to suspicion that one of the barbers who worked in the shop was in violation of his probation terms. The officers stopped the suspected barber outside of the business. Then ten SPD officers ascended into the barbershop to conduct a probation search, stopped the normal business, and detained all the customers and employees. The officers then searched everyone in the shop, searched the entire shop, and refused to allow anyone to enter or leave the establishment. This detention lasted over an hour without any reasonable suspicion that the customers and employees were involved in any criminal activity. This matter went through multiple review channels, including the Chief of Police each finding that the customers and employees consented to the encounter. No one in SPD management identified any issues with the search or detention of these citizens even though there was a United States Supreme Court decision that clearly prohibited these types of detentions and searches against citizens. Moreover, no one in SPD leadership had any issues with how the employees, or customers were treated throughout the interaction when the discourtesy behaviors were pointed out by OPSA oversight practitioners.

Recommendations

- **SPD misconduct complaint cases investigated by the Internal Affairs Division as well as misconduct complaint cases investigated by supervising personnel within an employee's assigned division must be investigated impartially and thoroughly to ensure the most accurate findings.**
- **SPD leadership team received supplemental search and seizure training on January 24, 2023, from the Sacramento Assistant District Attorney Office. Sacramento Assistant District Attorney advised that supplemental training would be developed specifically for officers. All SPD officers should be mandated to attend this supplemental training.**
- **Police officers as well as SPD leadership should take cultural sensitivity training, fair and impartial policing training, implicit bias training, and constitutional policing training. A sample policy pertaining to these trainings from the Baltimore Police Department can be found in Appendix D.**

Statistical Findings: Complainant Demographics

Chart 7: Complainant Age

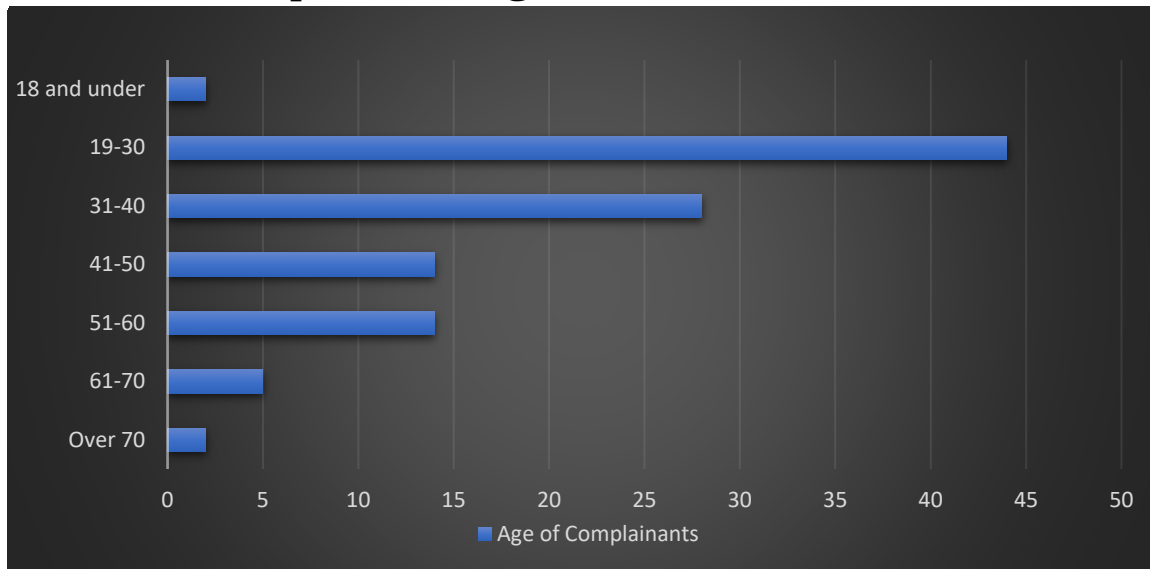


Chart 7 shows the age breakdown of the complainants who filed the completed misconduct complaints included in this audit.

Chart 8: Complainant Gender

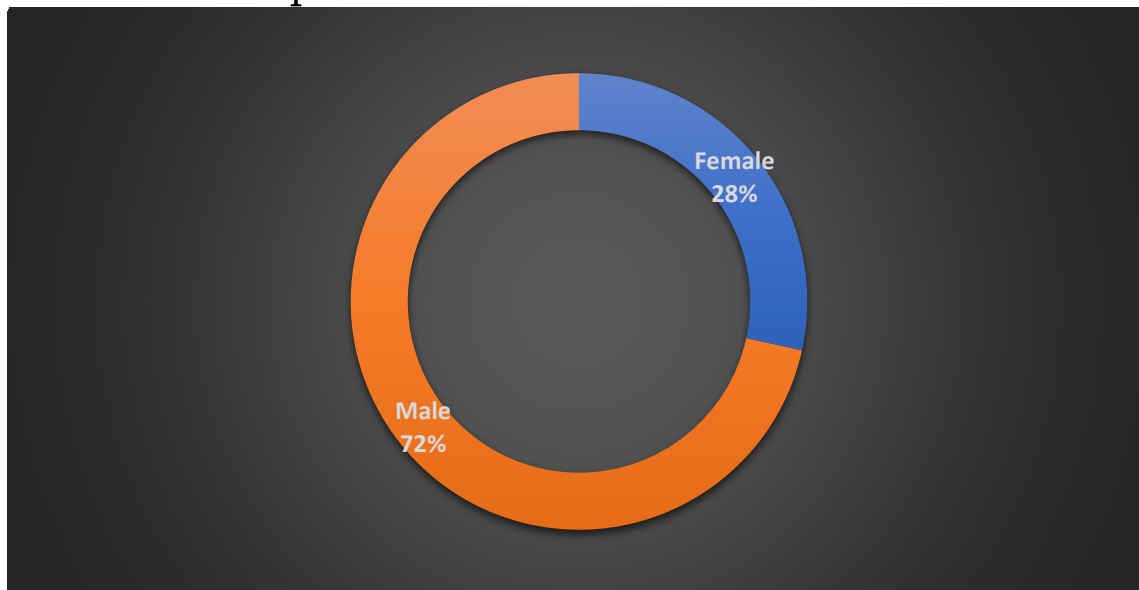


Chart 8 shows the gender breakdown of the complainants who filed the completed misconduct complaints included in this audit.

Chart 9: Complainant Race

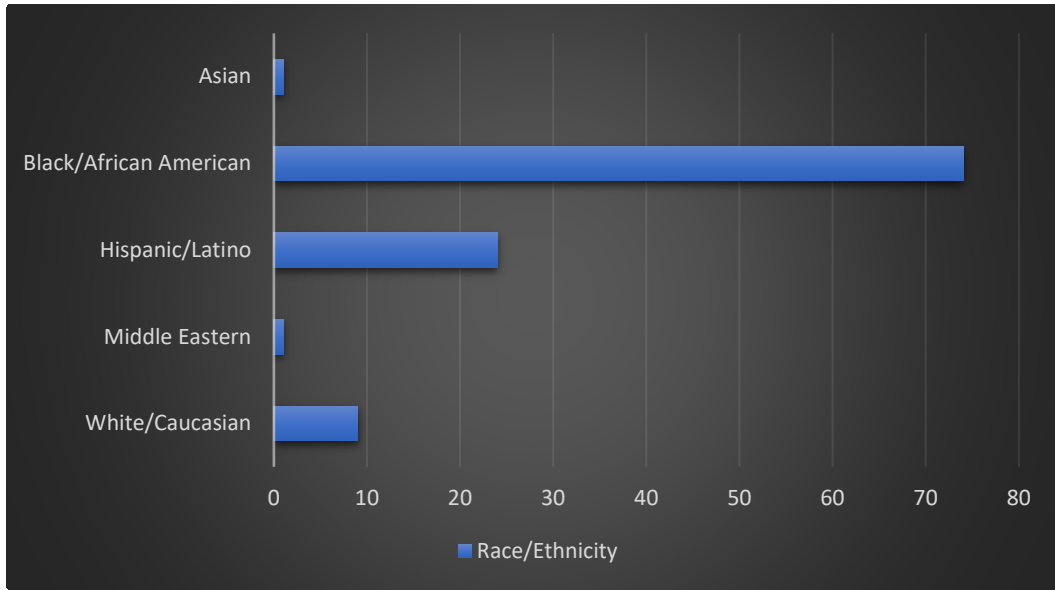


Chart 9 shows the racial breakdown of the complainants who filed the completed misconduct complaints included in this audit.

Complaint Location

Chart 10: Complaints by Council District

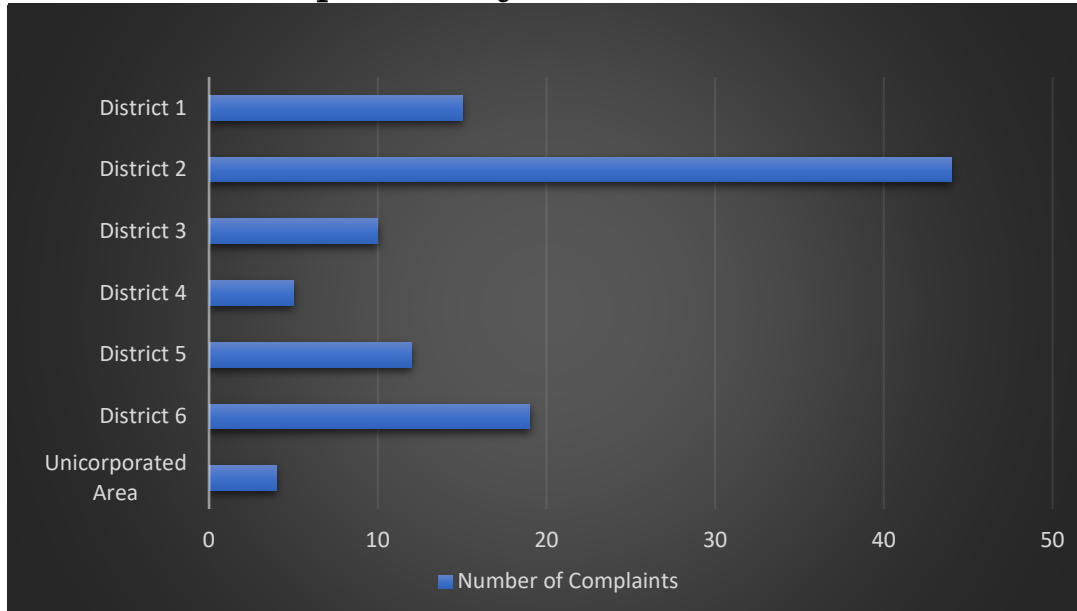


Chart 10 shows the breakdown of the completed misconduct complaints included in this audit by the City of Sacramento council district. There were not any completed misconduct complaints filed in District 7 and District 8.

Chart 11: Complaints by SPD Command Area

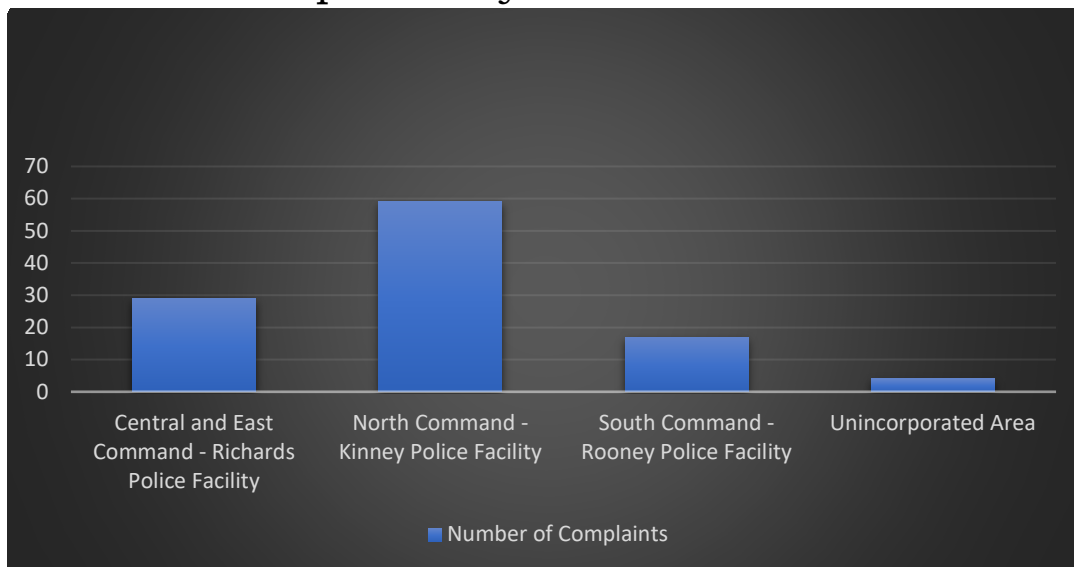


Chart 11 shows the breakdown of the completed misconduct complaints included in this audit by the Sacramento Police Department police command area.

From the corresponding police beats listed in Chart 12 below, the most traffic stops for improper window tint violations occurred in Council District 2. Specifically, these traffic stops occurred in the Raley Industrial Park neighborhood, Del Paso Heights neighborhood, Hagginwood neighborhood, and the Cal Expo/Arden neighborhood.

Chart 12: Complaints by SPD Police Beat Locations

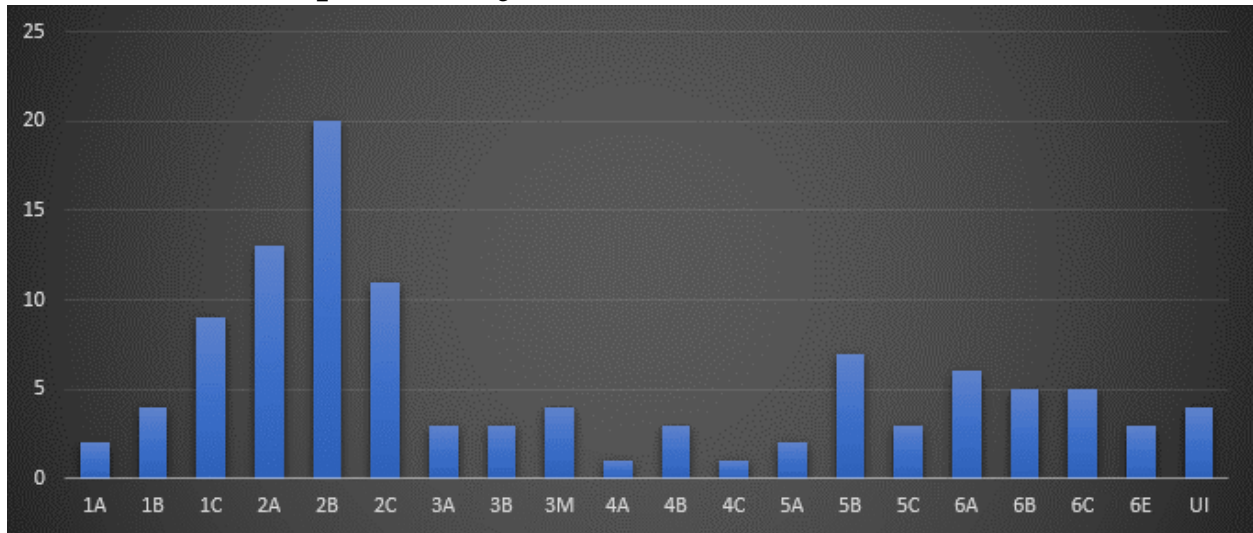


Chart 12 shows the breakdown of the completed misconduct complaints included in this audit by the Sacramento Police Department police beat locations.

Chart 13: Complaints by Officer Assignment

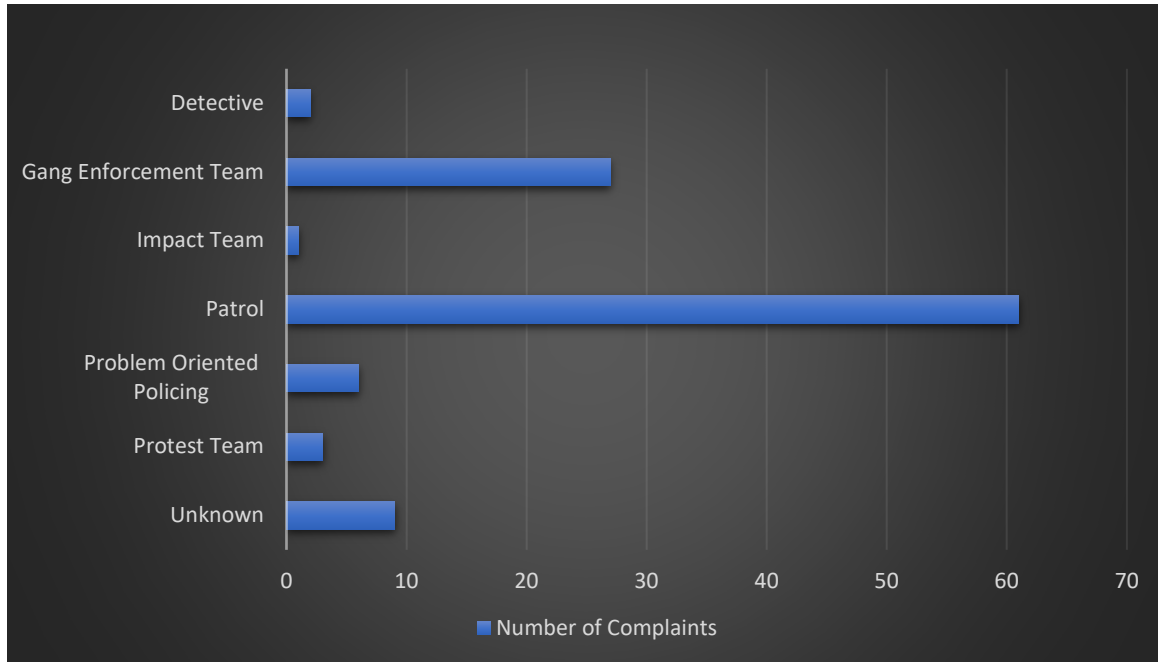


Chart 13 shows the breakdown of the completed misconduct complaints included in this audit by the Sacramento Police Department officer’s assignment.

Type of Police – Citizen Interactions

Chart 14: Type of Police-Citizen Interaction

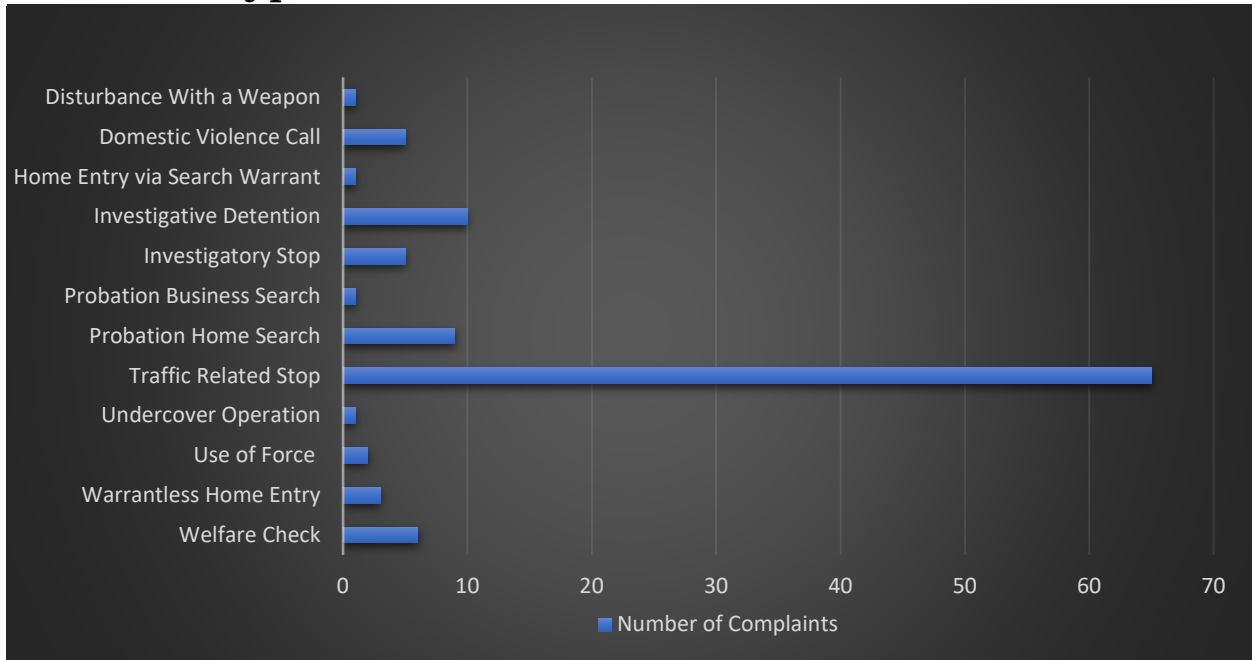


Chart 14 shows the breakdown of the completed misconduct complaints included in this audit by the type of interaction. A total of 65 complaint cases resulted from traffic stops conducted by SPD.

Conclusion

Constitutional policing is the mere foundation for ethical and lawful police practices that work to eliminate bias and seek to protect the civil rights of citizens. Constitutional policing practices adhere to the U.S. Constitution, court decisions, laws, and regulations. Proactively addressing unconstitutional law enforcement practices leads to more effective organizations making the necessary changes to build trust by strengthening relationships with their respective communities.

Police organizations engaging in unconstitutional policing can become potential subjects for investigation by the Civil Rights Division of the U.S. Department of Justice (DOJ). The Civil Rights Division – Special Litigation Section conducts pattern-or-practice investigations to foster constitutional and effective policing. Patterns-or-practice investigations focus on systemic misconduct such as uses of excessive force, repeated stops, searches, or arrests that are unreasonable, and discrimination based on race, ethnicity, national origin, religion, disability, or sex.

Many of the findings and recommendations outlined in this audit report are not unique to SPD and include challenges that police organizations across the country grapple with daily. The negative connotation associated with the policing profession is a direct result of continued high-profile incidents of violence against unarmed Black males and females. The continued occurrence of unlawful stops, searches, and seizures could lead to disastrous results and more victimization of Sacramento residents. Federal courts in the United States have held that a pattern or practice may be found where incidents of violations are repeated and are not isolated instances. Courts interpreting the term “pattern or practice” in similar states have established that statistical evidence is not required. Additionally, a court does not need a specific number of incidents to find a pattern or practice, instead each case must turn on its own facts. Clear, detailed policies aligned with effective training will assist in achieving constitutional policing practices as well as mitigating the identified Fourth Amendment issues.

While OPSA is encouraged by SPD’s eagerness to receive these audit findings and recommendations, OPSA’s expectation is that SPD acknowledges the areas in need of improvement. Our expectation as oversight practitioners is that SPD acts in good faith. True collaboration requires effective communication, mutual respect, honest dialogue, and ownership of one’s actions. SPD and OPSA working together will be crucial to ensuring the successful implementation and sustainability of the changes necessary. Organizational leadership plays a pivotal role in signaling change. Engaged supervisors who model the practices and principles in accordance with organizational policy and training standards. SPD supervision must recognize when officers are not in compliance and hold them accountable.

