City of Austin

OFFICE OF THE POLICE

MONITOR

AUSTIN TEXAS

2012 Annual Report

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» The Office of the Police Monitor

Mission and Objectives

The Office of the Police Monitor (OPM) is the primary resource for accepting and filing complaints brought by the general public against officers of the Austin Police Department (APD). The OPM also monitors the investigation of complaints within APD (i.e., internal complaints by one officer concerning the conduct of another officer). Through its outreach efforts, the OPM will educate the community and law enforcement to promote the highest degree of mutual respect between police officers and the public. By engaging in honest dialogue over issues and incidents that impact the community and law enforcement, the OPM's goal is to enhance public confidence, trust, and support in the fairness and integrity of the APD.

The duties of the Office of the Police Monitor include:

- Assessing complaints involving APD officers;
- Monitoring the APD's entire process for investigating complaints;
- Attending all complainant and witness interviews;
- Reviewing the patterns and practices of APD officers;
- Making policy recommendations to the chief of police, city manager, and city council; and,
- Assisting the Citizen Review Panel (CRP) in fulfilling its oversight duties.

How the Process Works

OPM complaint specialists are tasked with addressing allegations of police misconduct or questionable activities raised by the public. Complaint specialists take complaints via telephone, e-mail, facsimile, and mail. The public may also visit the OPM at any time during the business day in order to speak with a complaint specialist in person or may visit after business hours through special appointment. The OPM is readily accessible to physically challenged, hearing impaired, and non-English speaking complainants.

When a complaint is received by the OPM, a complaint specialist conducts a preliminary interview with the complainant to gather the relevant facts and ascertain whether a possible violation of policy exists. Each complaint is unique in composition and level of severity. In situations where it appears clear that no policy violation will be found, the complaint specialist educates and informs the complainant about the particular APD policies and procedures, known as Lexipol,[1] applicable to the

[1] All APD policies and procedures are outlined in the APD Policy Manual known as "Lexipol." The guidelines, rules, and regulations are set forth by the Chief of Police and govern the day-to-day activities of the Austin Police Department.

complainant's situation. During a consultation with a complaint specialist, the complainant is made aware of the avenues available to her/him.

The avenues are:

1) **Formal complaints** – complaints investigated by the Internal Affairs Division (IAD) or by a chain of command;
2) **Supervisory inquiries** – complaints of a less-serious nature handled by the officer's chain of command;
3) **Contacts** – an individual calls with the intention of filing a complaint but the incident does not:
   - Meet the criteria outlined in the APD's General Orders, Policies, and Procedures;
   - The individual does not provide sufficient information for follow up;
   - The individual is not available for follow up;
   - The individual fails to follow through with the complaint process;
   - The incident involves a complaint against a law enforcement agency other than APD; or,
   - Is a matter best handled by the courts or other agency; and,
4) **Mediation** – an opportunity for the complainant to be in a neutral location with the officer and a mediator in order to discuss areas of concern or issues with how the officer treated the complainant.

When a person has an issue with an APD officer they would like addressed, they typically file a "Supervisory Inquiry" or opt to file a "Formal" complaint. Mediation is also an option, but the results of this will not appear in an officer's personnel file. Additionally, the officer will not be subject to discipline unless the officer fails to show up for the mediation session.

Supervisory Inquiries

Supervisory Inquiries are commonly used for less-severe policy violations, such as complaints about the department as a whole, the police system, broad allegations of discourtesy or rudeness, or a disagreement about police activities. The Supervisory Inquiry is suitable for those complainants who do not wish to go through the Formal complaint process and would like a faster result. Many people use this course of action because they want to make the department aware of an unpleasant interaction with an officer but do not wish to file a Formal complaint.

The complaint specialist gathers the information from the complainant and forwards this information to the IAD. IAD will then forward the complaint to the involved officer's chain of command. From this point, a supervisor (usually the immediate supervisor) conducts an inquiry to gather the facts, including the officer's version of the incident, to better ascertain the nature of the complaint. During this stage, if the

immediate supervisor or the IAD commander determines that a more serious infraction has occurred, a Formal investigation may be initiated by IAD or by the officer's chain of command. The supervisor may also address the issue with the officer through counseling or reprimands. In most cases, the complainant opts to be contacted by the officer's immediate supervisor to discuss the matter at greater length and to achieve a degree of closure on the issue. At any time during the Supervisory Inquiry process, the complainant may opt to file a Formal complaint.

Formal Complaints

There are two types of Formal complaints – Internal and External. The difference between internal and external cases is:

- **Internal** – complaints filed by an APD officer, typically a member of the officer's chain of command, regarding the conduct of another APD officer;
- **External** – complaints filed by a member of the public regarding the conduct of an APD officer.

Regardless of whether the complaint is Internal or External, the Formal complaint process is designed to register complaints, review the matter, and have an investigation conducted by IAD or by the chain of command.

The process begins when an external complainant indicates they want to use the Formal complaint process. After a brief explanation of the process, a statement is taken by the complaint specialist via dictation from the complainant onto an official affidavit form. The interview is tape recorded and the complainant is given an opportunity to review the statement and make any corrections that are necessary. Once the complainant is in agreement with the statement, the complainant then signs the statement and the statement is notarized to make the document official. The complaint specialist then submits the paperwork to IAD and a copy is provided to the complainant if one is requested.

The complaint specialist will notify the complainant through an OPM letter of the classification of the investigation as well as the name of the investigator assigned to the matter. The complaint specialist attends all complainant, witness, and involved officer interviews. IAD will prepare an investigative summary which the OPM reviews. The complaint specialist reviews the entire file upon its completion and forwards comments, concerns, or issues about the case to the Police Monitor. If the OPM does not agree with the outcome of the investigation or IAD's conclusions, the OPM may make recommendations to the Citizen Review Panel (CRP), the chief of police, and/ or IAD.

The complainant is given the investigative decision in writing. A complainant may then hold a meeting with the OPM—a Police Monitor's Conference (PMC)—to find out

the details of the investigation. The written documentation of the underlying investigation (i.e., statements, documentary evidence, etc.) is not given to the complainant due to civil service limitations on what can and cannot be provided. If the complainant is not satisfied with the investigation, the complainant may also choose to have the matter presented to the Citizen Review Panel (CRP). The CRP is a volunteer group of seven citizens that meet at least once a month. The CRP meets to hear cases in dispute as brought by either the complainant or the OPM or to discuss oversight issues. If a complainant chooses to utilize the CRP to hear their case, they are given ten (10) minutes during the public portion of the meeting to outline their issues with APD and/or the outcome of the investigation. The CRP may ask clarifying questions of the complainant during this time. Afterwards, the CRP will meet in a private executive session to deliberate on the actions, if any, necessary to address the case. The CRP may make recommendations on policy and training to the chief of police or choose to leave the case in its current status. If the case involves a critical incident, the CRP may make a recommendation as to whether the officer violated policy and discipline.

Mediation

Mediation is a third option available to a complainant. Mediation is designed to provide the complainant an opportunity to be in a neutral location with the officer and a mediator. The use of this process brings the officer and the complainant together with a neutral third-party in order to air and, hopefully, resolve their issues. If the mediation option is used, the complainant cannot opt for a Formal complaint once the mediation process has concluded regardless of the outcome. In addition, the nature of the complaint itself must reach the level of a class "B" investigation in order for the mediation process to be utilized. This option will not result in any discipline for the involved officer (or officers) and will not be placed in the officer's personnel record.

Lexipol Policy 902.6.5, Mediation, went into effect in April 2012. The policy clearly outlines the provision of mediation for resolving select external, Class B complaints—rudeness, profanity, belittling and inadequate police services. The policy revision sets forth timelines for utilization, identifies a mediation coordinator through the Office of the Police Monitor and names the Dispute Resolution Center as the third party mediation service provider.

The OPM and the IAD sergeants began training APD officers on the updated Mediation policy in September 2012. Upwards of sixty (60) face-to-face trainings were provided to officers throughout the APD. A training video and an information brochure were also posted on the APD Intranet and the OPM website.

Mediations take place at the Dispute Resolution Center (DRC) which is located inside the Chase Bank building at Capital Plaza. Mediation sessions are facilitated by volunteer mediators. The mediation sessions between the APD officers and

complainants do not yield any written agreements between the parties. The sessions are also not audio or video recorded. Information shared in the mediation session is confidential. Nothing in the course of the mediation session can be used at a later date or time in any court matter or civil proceedings.

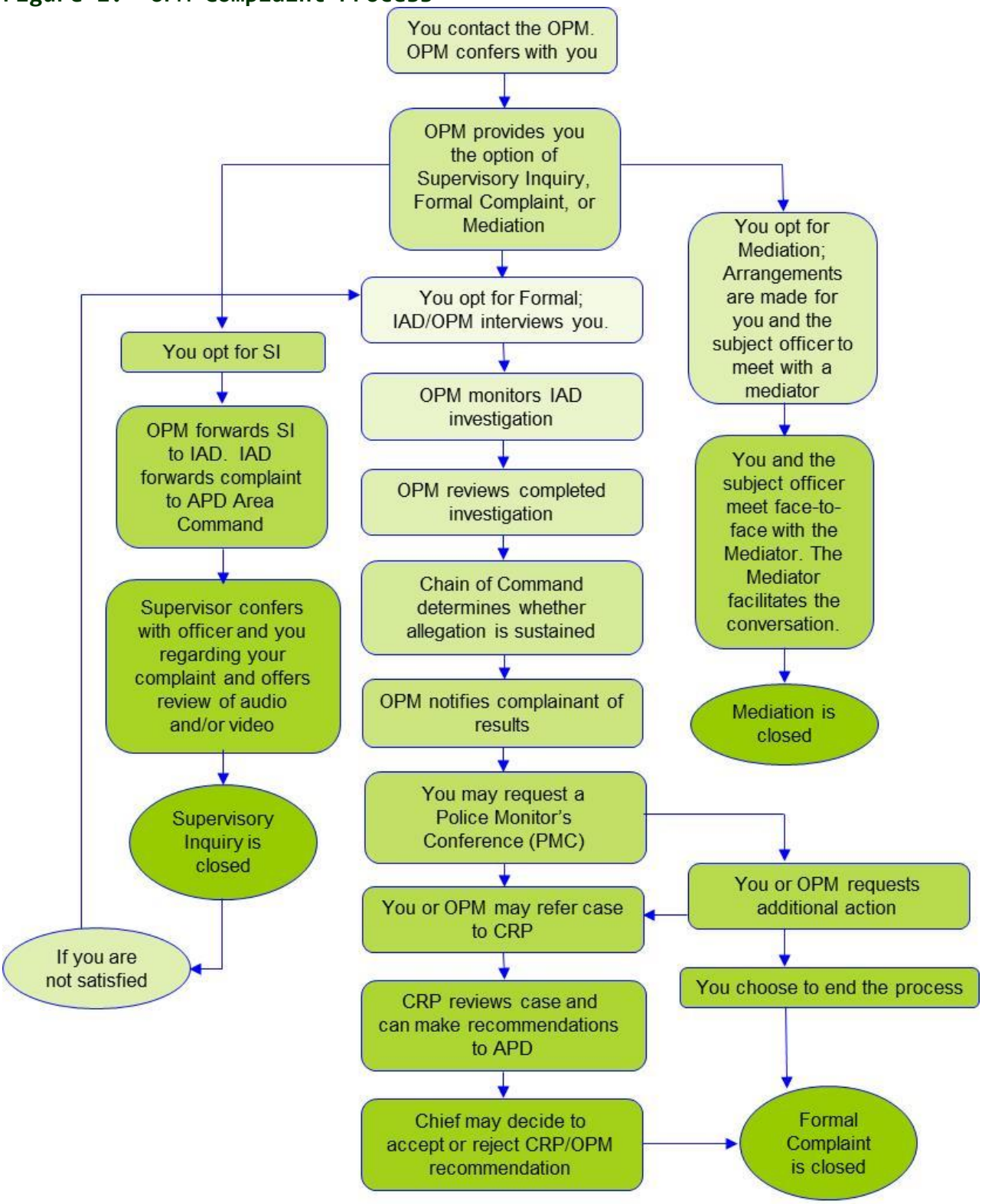
Unlike typical mediation, the parties are not required to make any offers in compromise and are not asked to work toward an equitable resolution of their differences. The APD Lexipol policy only requires that the parties participate in a respectful and productive conversation related to the complaint. Neither party is required to admit any wrong-doing or make any apologies for their actions. The parties may, however, after talking to one another and hearing the other's perspective, extend an apology. Complaints that are mediated cannot be returned to IAD for investigation.

With strong support from the Austin Police Association and the Austin Police Department, the Office of the Police Monitor hopes that the citizens of Austin and Austin police officers will avail themselves to mediation as a complaint resolution option.

To file a complaint with the OPM, an individual may contact the office in person, by telephone at (512) 974-9090, by facsimile at (512) 974-6306, by e-mail at police.monitor@austintexas.gov, or by mail. The office is located in the City of Austin Rutherford Complex at 1520 Rutherford Lane, Bldg. 1, Suite 2.200A, Austin, TX 78754. The mailing address is: PO Box 1088, Austin, TX 78767.

For more information, including a full copy of this report, please visit the OPM website at http://www.austintexas.gov/department/police-monitor.

Figure 1. OPM Complaint Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division

SI: Supervisory Inquiry **CRP:** Citizen Review Panel **DRB:** Disciplinary Review Board

Section 1: 2012 Serious Incident Review

While there were many complaints brought throughout 2012, below is a brief summary of the more serious cases. When determining the type and severity of discipline to be administered to an officer, the APD consults its Discipline Matrix. The Matrix is attached in Appendix B. The Matrix serves as a guideline when assessing discipline on sustained allegations. Different policy violations carry different discipline; discipline becomes more severe if an officer has violated a particular policy more than once.

The cases are presented in chronological order.

On February 3, 2012, Officer Shaun Donovan and several other officers responded to a call regarding a potentially suicidal subject. Upon arrival, officers heard gunfire coming from inside the suspect's apartment. The subject had called 911 advising he was prepared to exchange gunfire with officers and that he had no plans of surrendering. At one point, the subject exited the apartment and pointed, but did not fire, his weapon at the officers. Officer Donovan fired his duty weapon and struck the subject once in the hip. The subject retreated back into his apartment. The subject was subsequently taken into custody without incident by Travis County SWAT. The case was Administratively Closed.

On March 24, 2012, Hays County deputies were dispatched to a domestic disturbance call from a residence. Upon arrival, deputies determined that the male aggressor, an APD officer, had assaulted his wife, causing injuries to her, and had interfered with her phone call to 911. The officer was arrested for Assault Family Violence with Injury and Interference with an Emergency Phone Call. Additionally, during the internal investigation of the incident, it was determined that the officer was dishonest in his statements to IAD about what had actually occurred. The officer was Indefinitely Suspended from the APD.

On April 5, 2012, Officer Eric Copeland conducted a traffic stop. A few moments into the road-side detention, the suspect fled the scene in his vehicle and a pursuit ensued. The vehicle pursuit ended when the suspect began to flee on foot. Officer Copeland gave chase and deployed his Taser but it was ineffective. Officer Copeland and the suspect then engaged in a physical altercation. Officer Copeland reported that at one point during the struggle, the suspect attempted to gain access to Officer Copeland's weapon and choke Officer Copeland with his radio cord. Officer Copeland discharged his weapon, fatally striking the suspect. The case was administratively closed.

In August of 2012, during the course of an IAD investigation, investigators learned that an officer provided misleading statements on his employment application and background statement. The nature of the officer's military discharge would have precluded his employment with the APD. When confronted with the discrepancies, the officer was not forthcoming with investigators. The officer resigned while under investigation.

In August of 2012, an internal review of a Digital Mobile Audio Video (DMAV) prompted an internal investigation into the force used on a handcuffed subject. An arrested subject was handcuffed and sitting in the back of a patrol car undergoing an assessment by Emergency Medical Services. The subject was either unwilling or unable to comply with repeated requests to not lean toward the female paramedic. An APD sergeant on scene, using his foot, pushed the suspect. Based on the finding of facts and the sergeant's own account of the events, the sergeant's use of force was determined to not be objectively reasonable. The sergeant was given a sixty (60) day suspension and a demotion to Corporal.

On August 14, 2012, an off-duty APD officer, after consuming alcohol in a "gentleman's club," took property from an employee of the club. During an IAD investigation, the officer stated that his recall of the events was poor because of his alcohol consumption. The officer did not dispute the fact that he took the property, but he was unable to explain what his intention was for taking it. The officer resigned while under investigation.

On August 21, 2012, while on a call for service at a local Austin motel, an APD officer met a female patron of the motel and the two began a relationship. During the course of their relationship, the female requested that the officer perform records checks of certain vehicles and provide that information to her. The officer obliged and provided her with the vehicle information she requested, obtained through records checks from license plate information. In a separate human-trafficking investigation by local law enforcement, that same female was identified as having involvement with the trafficking investigation, including prostitution and other criminal wrongdoing. The investigation uncovered that the officer and the female were having a sexual relationship. An internal investigation was initiated and the officer subsequently resigned while under investigation.

On August 25, 2012, an off-duty APD officer had consumed alcoholic beverages at a downtown Austin hotel. The officer, while operating his City of Austin vehicle, then made the decision to drive to an acquaintance's house. While driving to the house, the

officer struck a guardrail, causing damage to the vehicle, and left the scene. The officer called his supervisor at the time, and Travis County Deputies were notified and responded to the house to which the officer had driven. The officer refused Standard Field Sobriety Tests and was transported to a local hospital where his blood was drawn. Extrapolative evidence determined that his blood-alcohol concentration was above the legal limit during the time of the crash. An internal investigation was conducted but the officer resigned while under investigation.

On September 25, 2012, Officer George Blanch and another officer riding with him responded to an officer's call for assistance at a local motel to apprehend a known suspect. Upon arrival at the motel, the suspect was attempting to flee through the only exit of the parking lot. Officer Blanch used his patrol vehicle to block the suspect's vehicle from exiting. The suspect stopped and proceeded to go in reverse. The officer riding with Officer Blanch exited the unit and proceeded on foot toward the suspect's vehicle. Officer Blanch followed the pursuing officer. The suspect then stopped his vehicle, placed the vehicle in drive, and proceeded forward toward Officer Blanch. Officer Blanch fired several shots at the suspect's vehicle, striking the suspect, and fatally wounding him. The matter is pending.

On October 20, 2012, Officer Krummel was working with other officers on 6th Street. During this time, 6th Street was closed off to traffic. An employee from a nearby establishment was going to her vehicle that was parked on 6th Street where she had parked it before the street closure. The woman entered her vehicle as persons in the area began yelling at her. According to the woman, the crowd around her vehicle grew in size and started to become more aggressive with many shaking and climbing onto the car. The woman started the car and began to drive away with some of the persons either falling off the car or evasively dodging it. Officer Krummel stated that he believed the driver was running over or attempting to run over people in the crowd. He discharged his weapon at the vehicle and the vehicle stopped. Neither the driver nor bystanders were struck by the rounds fired by Officer Krummel. The matter is pending.

On October 21, 2012, an off-duty APD officer approached the ticket window at a local movie theater and asked the clerk if the theater provided police discounts. The clerk asked the officer if he worked "here." During an internal investigation, the officer said he responded "Yes" and nodded, while pointing at his police identification. Neither the clerk nor the manager – who was present during the interaction – recognized the officer as being on the theater security contract, but he was provided discounted tickets based on his representation. It was later determined that the officer was not, in fact, on the

security contract for the theater. The officer was confronted about the issue and consequently paid full price for the tickets. A complaint was filed by the theater. During the internal investigation, it was determined that the officer was being dishonest about what took place at the ticket booth, which then inculpated him in other violations of departmental policy. The officer was Indefinitely Suspended from the APD.

Section 2: Executive Summary

The Office of the Police Monitor's (OPM) annual report is presented to the public as a means to provide transparency into the Austin Police Department's (APD) complaint investigative process. This report reviews behavior patterns of APD officers and makes policy recommendations. Below are some of the key findings from the 2012 reporting year.

- In 2012, 1,274 persons contacted the OPM or the APD's Internal Affairs Department (IAD) wishing to file a complaint against one or more members of the APD. This was a decrease of 11% (151 contacts/complaints) from 2011. Of these contacts, less than half of those who reached out to either the APD or the OPM (586 of the 1,274) actually resulted in some type of complaint being filed. (Page 21)
- There were 335 Formal complaints filed in 2012 – 76 External Formal complaints and 259 Internal Formal complaints. In aggregate, this was a total decrease of 3% (9 cases) from the number filed in 2011. There were 27 fewer External Formal complaints (↓ 26%) and 18 more Internal Formal complaints (↑ 7%). (Page 21)
- The total number of Supervisory Inquiries monitored by the OPM was down in 2012 to 251 complaints, a decrease of 33% (122) from 2011. (Page 21)
- Caucasians filed 41% of all External Formal complaints while Blacks/African Americans filed 28%, a 10% drop from last year. (Page 23)
- Caucasians make up the vast majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 13% less than their representation in the population. Blacks/African Americans make up 8% of the population but filed 28% of the External Formal complaints in 2012. This translates to a difference of 20% between their representation in the population versus the percentage of External Formal complaints filed. Hispanics/Latinos filed External Formal complaints at a rate 17% less than their representation in the Austin voting age population. (Page 25)
- While the gap between population representation and complaint rate diminished within the Caucasian and Black/African American groups in 2012, it increased significantly for Hispanics/Latinos (10% in 2011 vs. 17% in 2012). (Page 25)
- Caucasians experienced traffic stops at rate lower than their representation in the voting age population. Blacks/African Americans and Hispanics/Latinos were stopped at a rate above or slightly above their representation within the City of Austin's voting age population. (Page 26)
- Caucasians accounted for 52% of the stops and 32% of the searches. This is up slightly from 2011 when this group accounted for 30% of the searches. (Page 28)

- Blacks/African Americans accounted for 13% of the stops and 24% of the searches. This is down slightly from 2011 when this group accounted for 26% of all searches. (Page 28)
- Hispanics/Latinos accounted for 32% of the stops and 42% of the searches. This is virtually unchanged from 2011 when this group accounted for 43% of all searches. As in 2011, more searches of Hispanics/Latinos were conducted than of any other group. (Page 28)
- Hispanics/Latinos had a 1 in 10 chance of being searched in 2011 and a 1 in 9 chance in 2012. (Page 28)
- Blacks/African Americans had a 1 in 8 chance of being searched in 2011 and a 1 in 6 chance in 2012. (Page 28)
- Caucasians had a 1 in 28 chance in 2011 and a 1 in 19 chance in 2012. (Page 28)
- The likelihood of being searched went up for the three major ethnic groups in 2012 with the greatest increase in likelihood being amongst Caucasians. Despite the increase in likelihood of a Caucasian being searched, Blacks/African Americans still have the greatest likelihood of being searched, three times the rate of Caucasians. (Page 28)
- In August of 2012, a new policy was instituted wherein the APD began requiring an officer to have drivers sign a form before a consent search could be performed on their vehicles. In 2011, consent searches accounted for 694 of the 11,719 searches conducted, or 6% of all reported searches. In 2012, the consent number fell to 486 of the 12,653 searches, or 4% of reported searches. (Page 29)
- In taking a closer look at the 5,431 instances of a search occurring based on probable cause, the OPM is troubled by the fact that nothing was found in 3,560 of probable cause searches (66%). For Hispanics/Latinos, nothing was found 1,604 times, or in 70%, of the 2,304 probable cause searches. (Page 31)
- The likelihood for finding contraband, in all searches, within the three largest racial/ethnic groups is between 22% and 28%. The largest difference between groups is that of Hispanics/Latinos versus Blacks/African Americans with a 6% difference. As a probability, there is virtually no difference between the groups. (Page 32)
- Males file External Formal complaints at a rate higher than their representation within the City (74% of complaints; 53% of the population) while females file at a rate lower (26% of complaints; 47% of the population). (Page 35)
- External Formal complaints as a whole were down in 2012, from 103 to 76. The Downtown area command, which frequently has the most complaints, again had

the most in 2012 with 14. The area command with the next highest number was the Southwest with 11 External Formal complaints. (Page 38)

- In 2012, 51% of all External Formal complaints received a "D" classification. This is an increase from both 2010 and 2011. (Page 40)
- As in years past, Code of Conduct-type issues continue to be the most frequently reported allegation for both Supervisory Inquiries as well as External Formal complaints. This has been the case since the OPM began tracking complaints. (Page 44)
- In both 2010 and 2011, the OPM identified an issue of concern regarding Interviews, Stops, and Arrests, et al, allegations. These types of allegations are down dramatically in 2012 but are still the second highest reported allegation. (Page 44)
- The area commands with the highest number of external allegations (i.e., adding Supervisory Inquiry complaint allegations to External Formal complaint allegations) were the Southeast with 59, North Central with 57 and Southwest with 50. The Downtown area command was fourth with 44 allegations total. (Page 49)
- In 2012, there was only one (1) allegation in Supervisory Inquiries and 27 in External Formal complaints related to Use of Force (28 total allegations). Of the Use of Force allegations associated with External Formal complaints, seven of the nine area commands had at least one Use of Force allegation filed– one more area command than last year. (Page 52)
- Only 7% of allegations in External Formal complaints were Sustained in 2012. This is down from 20% in 2011. Many more cases were Administratively Closed, 66% in 2012 versus 28% in 2011. (Page 53)
- For 2012 complaints, the average length of time an officer had served on the force until the date of the incident with the public was 7.5 years for Supervisory Inquiries and 6.5 years for Formal complaints. For Formal complaints, this is almost two years earlier than in 2011 and almost three years earlier compared to 2010. Last year, the average length of service was 8.1 years for those with a formal complaint. While this is still within the range of what the OPM has reported in the past, when an officer typically experiences their first serious complaint has become lower over these past three years. (Page 56)
- The areas with the most activity and highest crime rate have a disproportionate number of inexperienced officers assigned. (Page 57)
- In contrast, the sectors with a lesser amount of activity and lower crime have a disproportionate number of the most experienced officers assigned to them. (Page 58)

- When looking at External Formal complaints, and then comparing allegation types to years of services, the OPM found in 2012, as in 2011, officers with 10 or more years of experience and those with less than 3 years of experience have the greatest percentage of allegations levied against them. (Page 59)
- In Supervisory Inquiries, the distribution of allegations is somewhat different than for External Formal complaints. Just as with External Formal complaints, officers with the least amount of experience have the highest number of allegations while those with the greatest amount of experience again have the second highest number of allegations. (Page 59)
- As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force. (Page 61)
- Caucasian officers are overrepresented compared to their presence on the APD in terms of single case subject officers. Black/African American subject officers are significantly below their representation on the force as a whole. Hispanic/Latino officers are overrepresented compared to their presence on the APD in terms of repeat case subject officers. (Page 65)
- For those officers with External complaints in 2012, meaning both External Formal complaints as well as Supervisory Inquiries, the OPM found that 68% of these officers have had at least one previous complaint from the public sometime between 2008 and 2011. (Page 68)
- When aggregating the complaints brought by members of the public against officers within the 2008-2012 timeframe, the OPM found that 79% of officers in this pool have had two or more complaints in the past 5 years. (Page 68)

Section 3: OPM Recommendations

- The OPM recommends that routine audits of traffic stops reports and video be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the racial profiling report should be supplemented. (Page 30)
- Consideration should be given to the filing of an internal complaint the second time an officer unintentionally fails to provide the data. If an officer has intentionally not provided or has purposefully or inaccurately recorded the data, consideration should be given to filing a class A internal complaint. (Page 30)
- Officers, in general, should be retrained on what constitutes probable cause and plain view. In addition, an analysis should be made to determine whether there are regions, areas, shifts, assignments, and/or officers who are contributing disproportionately to the low hit rate. If so, additional training and supervision should be required. (Page 31)
- Given the number of incidents in which the APD uses force, the number of allegations reported through IAD seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted. If deficiencies are discovered, training, policy development, and/or discipline should be considered. (Page 52)
- It is recommended that the APD review staffing assignments to allocate the most experienced officers and least experienced officers in at least a more balanced manner taking into consideration the level of activity and crime rate. (Page 58)

Section 4: End of Year Statistical Review

Complaints

Number & Types of Complaints

In 2012, 1,274 persons contacted the OPM or the APD's IAD wishing to file a complaint against one or more members of the APD. This was a decrease of 11% (151 contacts/complaints) from 2011. Of these contacts, less than half of those who reached out to either the APD or the OPM (586 of the 1,274) actually resulted in some type of complaint being filed.

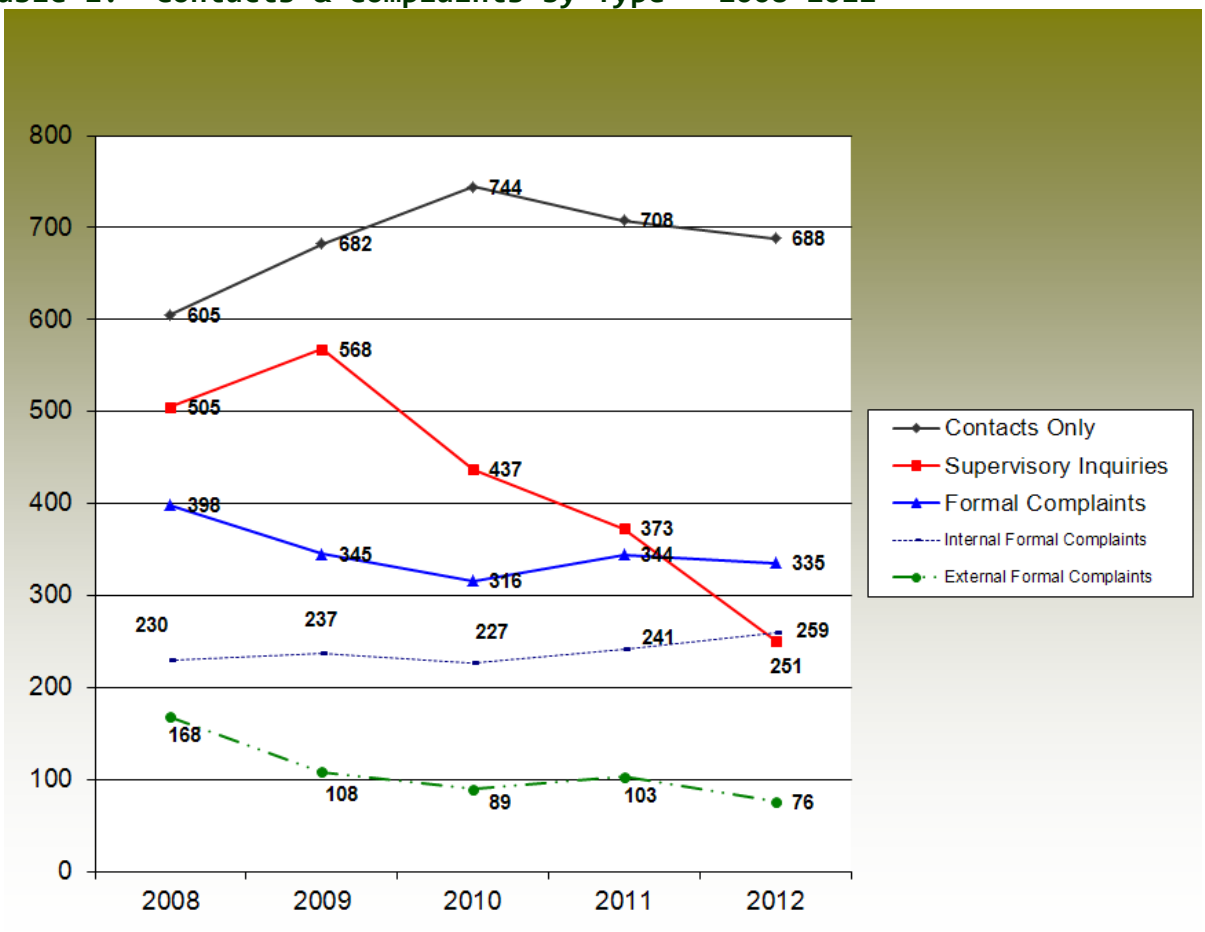
When a member of the public files a complaint with the OPM, they are made aware of the avenues available to them during a consultation with a complaint specialist. They have a choice regarding the type of complaint they would like to file and whether to file a complaint at all. Should they choose to proceed with their complaint, they have the option of filing a Supervisory Inquiry or filing a Formal complaint.

The graph below includes all individuals contacting the OPM or the APD regarding an issue with an officer of the APD including those from within the APD. In this figure, the term "contacts only" means that a person reached out to the OPM, reached out to the IAD or requested to speak to a supervisor while the officer and the complainant were still on the scene of the incident. For those that reached out to the OPM or IAD, a contact as defined here means that the person, for whatever reason, did not file a Supervisory Inquiry or a Formal complaint. For those people that requested a supervisor be sent to the scene of the incident, they remain a "contact" for the purposes of this report because they were either satisfied with the answers provided to them by the supervisor and/or chose not to come to the OPM to file a complaint.

There were 335 Formal complaints filed in 2012 – 76 External Formal complaints and 259 Internal Formal complaints. In aggregate, this was a total decrease of 3% (9 cases) from the number filed in 2011. There were 27 *fewer* External Formal complaints (↓ 26%) and 18 *more* Internal Formal complaints (↑ 7%).

The total number of Supervisory Inquiries monitored by the OPM was down in 2012 to 251 complaints, a decrease of 33% (122) from 2011. Supervisory Inquiries had increased steadily from 2006 through 2009 then decreased in 2010 and again in 2011. During this same time period, the number of External Formal complaints climbed from 2006 to 2008, dropped in 2009 and 2010, were up again in 2011 and now down in 2012.

Table 1: Contacts & Complaints by Type – 2008-2012



When a complainant files a Supervisory Inquiry, they have the option of speaking directly to an officer's supervisor about the issue. Supervisory Inquiries are usually initially handled by the individual officer's supervisor and sometimes by the entire chain of command. The process was developed jointly by the APD and the OPM in an effort to provide members of the public the option to speak directly with an officer's supervisor when the complaint is of a less serious nature.

While the OPM believes the option of speaking directly to an officer's supervisor is one of the factors leading complainants to choose this avenue, other factors may also come into play. One factor is time—Supervisory Inquiries normally take less than 30 days to complete while a Formal complaint may take as long as 180 days. The other is that, in general, the vast majority of complaints being brought do not involve accusations of serious misconduct.

The OPM assesses complainant satisfaction with the resolution of the Supervisory Inquiry via a follow-up conversation with the complainant. During this time, the complainant is made aware that if they are not satisfied with the outcome of the case, they have the option to file a Formal complaint. In 2012, only 3 complainants chose to advance to a Formal complaint after first going through the Supervisory Inquiry

process. This is a reflection of the first line supervisors doing a thorough job of listening and explaining.

Complaints & Complainant Demographics

Complaints may be filed at the OPM in person, or by telephone, e-mail, facsimile, or mail. Because of the various methods of contacting the OPM, thorough collection of all demographic data points can be challenging. Often complainants simply do not wish to share this information, particularly over the telephone. This challenge proves to be even more problematic with Supervisory Inquiries as can clearly be seen in the high percentage of missing or unknown data in this category. The OPM will continue to strive to improve data collection methods while respecting the wishes of the complainant to not provide the information.

Please note that the data presented in the table below are not made up of unique individuals as a person may file more than one complaint and/or more than one type of complaint if they were involved in more than one incident.

Table 2: Race/Ethnicity of Complainants - 2012

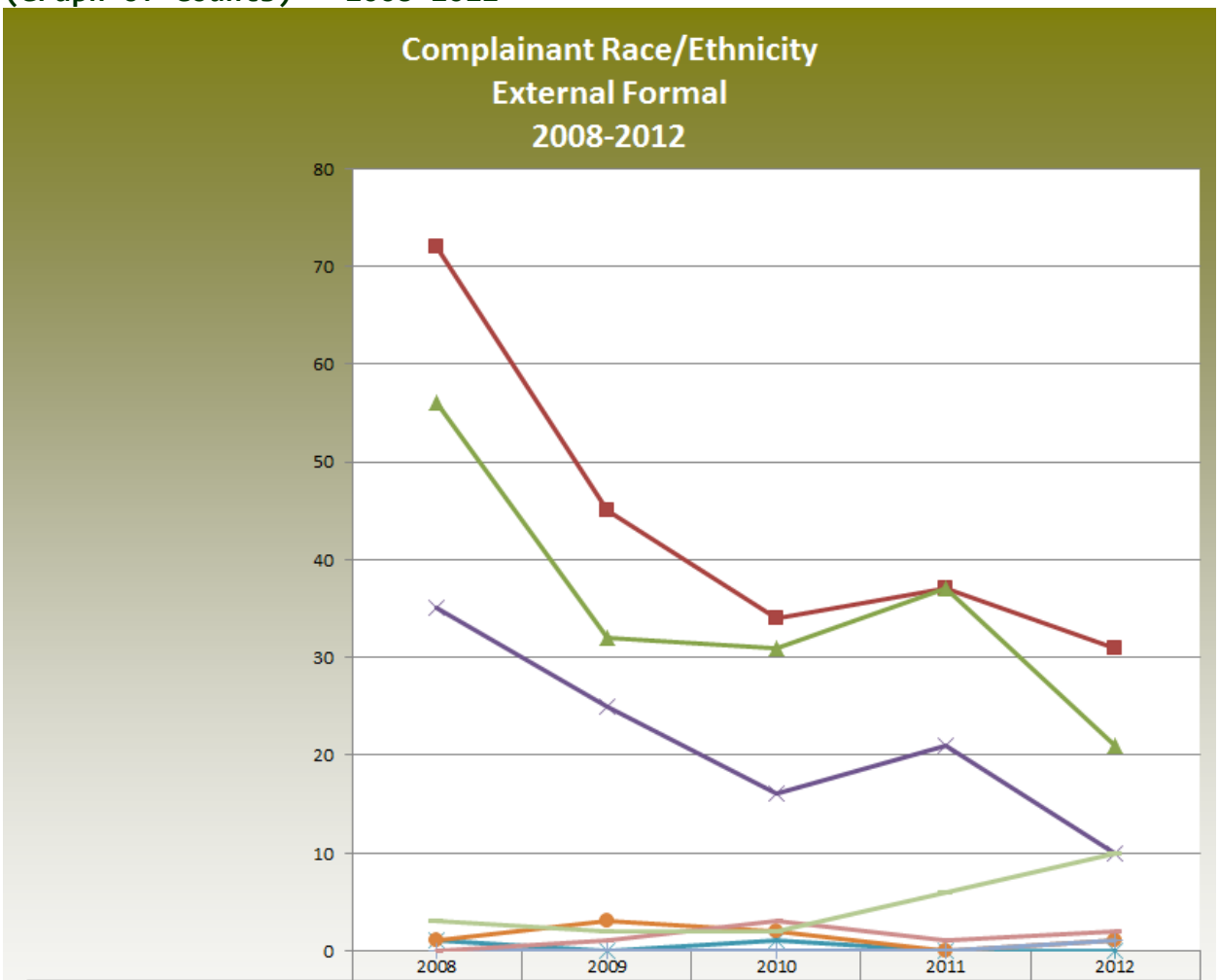
	Supervisory Inquiries		External Formals		Total	
Ethnicity/Race	#	%	#	%	#	%
Caucasian	89	35%	31	41%	120	37%
Black/African American	67	27%	21	28%	88	27%
Hispanic/Latino	57	23%	10	13%	67	20%
Am. Indian/Alaska Native	2	1%	0	0%	2	1%
Asian*	3	1%	1	1%	4	1%
Native Hawaiian/Pacific Islander*	0	0%	1	1%	1	0%
Other	4	2%	2	3%	6	2%
Unknown	29	12%	10	13%	39	12%
Total	**251**	100%	**76**	100%	**327**	100%

*May not total to 100% due to rounding.

When combining complaint types, the percentage of each group does not shift much from what has been seen in the past. However, when looking at just External Formal complaints, a different picture emerges.

After several years of complaints by Blacks/African Americans converging with those filed by Caucasians and culminating in 2011 by hitting parity, there is a large divergence in 2012.

Table 3: External Formal Complainant Race/Ethnicity (Graph of Counts) – 2008-2012



	2008	2009	2010	2011	2012
Caucasian	72	45	34	37	31
Black/African American	56	32	31	37	21
Hispanic/Latino	35	25	16	21	10
Am. Indian/Alaska Native	1	0	1	0	0
Asian*	1	3	2	0	1
Native Hawaiian/Pacific Islander*	0	0	0	0	1
Other	0	1	3	1	2
Unknown	3	2	2	6	10

In 2012, the percentage of complaints filed by Blacks/African Americans decreased by 10% while the percentage of those filed by Caucasians increased 3%. Hispanics/Latinos also had a decrease, 7% fewer than in 2011. This year, Caucasians filed 41% of all External Formal complaints while Blacks/African Americans filed 28%.

Table 4: External Formal Complainant Race/Ethnicity (Table of Counts & Percentages) – 2008-2012

	External Formal									
	2008		2009		2010		2011		2012	
Ethnicity/Race	#	%	#	%	#	%	#	%	#	%
Caucasian	72	43%	45	42%	34	38%	38	37%	31	41%
Black/African American	56	33%	32	30%	31	35%	38	37%	21	28%
Hispanic/Latino	35	21%	25	23%	16	18%	21	20%	10	13%
Am. Indian/Alaska Native	1	1%	0	0%	1	1%	0	0%	0	0%
Asian	1	1%	3	3%	2	2%	0	0%	1	1%
Native Hawaiian/Pacific Islander	--	--	--	--	0	0%	0	0%	1	1%
Other	0	0%	1	1%	3	3%	1	1%	2	3%
Unknown	3	2%	2	2%	2	2%	5	5%	10	13%
Total	**168**	100%	**108**	100%	**89**	100%	**103**	100%	**76**	100%

*May not total to 100% due to rounding.

In analyzing complaints, the OPM looks at how the percentages compare to the voting age population of Austin.[2] The focus is on the three largest groups of people as based on their population numbers. Caucasians make up the vast majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 13% less than their representation in the population. Blacks/African Americans make up 8% of the population but filed 28% of the External Formal complaints in 2012. This translates to a difference of 20% between their representation in the population versus the percentage of External Formal complaints filed. Hispanics/Latinos filed External Formal complaints at a rate 17% less than their representation in the Austin voting age population. This group has filed complaints at a rate lower than their representation in the population since the OPM began keeping track.

While the gap between population representation and complaint rate diminished within the Caucasian and Black/African American groups in 2012, it increased significantly for Hispanics/Latinos (10% in 2011 vs. 17% in 2012). The OPM remains concerned that this may be because of a fear by some members of the Hispanic/Latino community to contact the OPM due to language and/or immigration status concerns. The OPM will continue to focus specific outreach efforts on the Hispanic/Latino community.

In the past year, the OPM has begun to concentrate on outreach to the Asian community as it is one of the fastest growing population groups in Austin. Those classified as Asian constitute 6% if the voting age population and 1% of the complainants.

[2] The voting age population was chosen in order to more closely approximate the ages of members of the public most likely to have interaction with the APD as well as to better reflect the age range of complainants coming into the OPM. The voting age population is also viewed as a closer approximation of those operating motor vehicles (as opposed to the total population which includes children).

Table 5: 2012 External Formal Complainant Race/Ethnicity versus 2010 City of Austin Voting Age Population

Ethnicity/Race	External Formals		2010 City of Austin Voting Age Population		Gap: % Complaints vs. % Population
Caucasian	31	40.8%	329,500	53.4%	-12.7%
Black/African American	21	27.6%	46,219	7.5%	20.1%
Hispanic/Latino	10	13.2%	188,318	30.5%	-17.4%
Am. Indian/Alaska Native	0	0.0%	1,639	0.3%	-0.3%
Asian*	1	1.3%	39,604	6.4%	-5.1%
Native Hawaiian/Pacific Islander*	1	1.3%	1,639	0.3%	1.0%
Unknown/Other	12	15.8%	9,645	1.6%	14.2%
	76	100%	**616,564**	100%	

*May not total to 100% due to rounding.

In years past, as a percentage, Blacks/African Americans have filed more Formal complaints than they did Supervisory Inquiries. In 2012, for the first time, this is not the case. The OPM sees virtually no difference in the percentage of Blacks/African Americans filing Supervisory Inquiries versus External Formal complaints. Interestingly, Hispanics/Latinos filed more Supervisory Inquiries than Formal complaints. Given the less involved process in Supervisory Inquiries, it is possible this group simply feels more comfortable filing this type of complaint.

In the 2012 Racial Profiling report[3], the APD states that Caucasians were stopped 76,799 times, or 52% of all traffic stops, Blacks/African Americans were stopped 19,805 times, or 13% of all reported traffic stops, and Hispanics/Latinos were stopped 46,993 times, or 32% of all traffic stops. As can be seen in the table below, when comparing the number of stops to the voting age population for each group within the City of Austin, Caucasians were stopped at rate lower than their representation in the voting age population. Blacks/African Americans and Hispanics/Latinos were stopped at a rate above or slightly above their representation within the City of Austin's voting age population. Thus, the largest disparity between stops and the voting age population within any racial/ethnic group is again amongst the Black/African American group and at a 6% difference, this is a very slight increase over last year.

[3] http://www.austintexas.gov/sites/default/files/files/Police/2012%20racial%20profiling%20report%20021113.pdf

Table 6: 2012 Traffic Stops by Race/Ethnicity versus 2010 City of Austin Voting Age Population

APD Category	2012 Traffic Stops		2010 City of Austin Voting Age Population		Difference: Population vs. Stops	Percent of Population Stopped	Likelihood of Being Stopped
Caucasian	76,799	51.5%	329,500	53.6%	-2.0%	23.3%	1 out of 4
Black/African American	19,805	13.3%	46,219	7.5%	5.8%	42.9%	1 out of 2
Hispanic/Latino	46,993	31.5%	188,318	30.6%	0.9%	25.0%	1 out of 4
Asian	3,969	2.7%	39,604	6.4%	-3.8%	10.0%	1 out of 10
Am. Indian/Alaska Native	113	0.1%	1,639	0.3%	-0.2%	6.9%	1 out of 15
Middle Eastern	1,321	0.9%	**	**	**	**	**
Unknown/Other	**	**	9,645	1.6%	**	**	**
	149,000	100%	614,925	100%			

*May not total to 100% due to rounding.

There have been attempts by others to explain the overrepresentation of Blacks/African Americans by suggesting that Blacks/African Americans residing in surrounding communities come into Austin to work and/or for entertainment. While the OPM finds little reason to suggest that Blacks/African Americans would commute into Austin at a higher rate than any other racial/ethnic group, the OPM also compared the percentage of stops to the voting age population within Travis County as well as the Austin Metropolitan Statistical Area (MSA) voting age population. The Austin MSA covers the counties of Travis, Williamson, Hays, Bastrop and Caldwell and includes the communities of Austin, Round Rock, Cedar Park, San Marcos, Georgetown, Pflugerville, Kyle, Leander, Bastrop, Brushy Creek, Buda, Dripping Springs, Elgin, Hutto, Jollyville, Lakeway, Lockhart, Luling, Shady Hollow, Taylor, Wells Branch, and Windemere. There is virtually no difference in the percentage of stops data between the City of Austin and Travis County voting age population, and only a slight difference when looking at the MSA data. The data show that Blacks/African Americans are still stopped in a greater percentage than their representation in each population.

Table 7: 2012 Traffic Stops by Race/Ethnicity versus 2010 Travis County and Austin MSA Voting Age Population

APD Category	2012 Traffic Stops		2010 Travis County Voting Age Population		Difference: Population vs. Stops	2010 Austin MSA Voting Age Population		Difference: Population vs. Stops
Caucasian	76,799	51.5%	429,849	55.2%	-3.6%	756,128	59.0%	-7.5%
Black/African American	19,805	13.3%	60,875	7.8%	5.5%	87,873	6.9%	6.4%
Hispanic/Latino	46,993	31.5%	228,123	29.3%	2.3%	352,400	27.5%	4.0%
Asian	3,969	2.7%	46,461	6.0%	-3.3%	62,996	4.9%	-2.3%
Am. Indian/Alaska Native	113	0.1%	2,117	0.3%	-0.2%	3,861	0.3%	-0.2%
Middle Eastern	1,321	0.9%	**	**	**	**	**	**
Unknown/Other	**	**	11,804	1.5%	**	18,271	1.4%	**
	149,000	100%	779,229	100%		1,281,529	100%	

*May not total to 100% due to rounding.

There were 12,653 searches included in the 2012 Racial Profiling Report. This is up by 8% from 2011 when there were 11,719 reported searches. This is despite the APD having made 30,000 fewer traffic stops in 2012. The increased number of searches correlates with the increase in the number of arrests; in particular, driving while intoxicated.

Caucasians accounted for 52% of the stops and 32% of the searches. This is up slightly from 2011 when this group accounted for 30% of the searches.

Blacks/African Americans accounted for 13% of the stops and 24% of the searches. This is down slightly from 2011 when this group accounted for 26% of all searches.

Hispanics/Latinos accounted for 32% of the stops and 42% of the searches. This is virtually unchanged from 2011 when this group accounted for 43% of all searches. As in 2011, more searches of Hispanics/Latinos were conducted than of any other group.

Despite being searched the greatest number of times, Hispanics/Latinos had a 1 in 9 chance of being searched after being stopped in 2012 while Blacks/African Americans had a 1 in 6 chance. The probability of Caucasians being searched once stopped was 1 in 19.

Table 8: 2012 Traffic Stops and Searches by Race/Ethnicity

APD Category	2012 Traffic Stops		2012 Searches		Likelihood of Being Searched if Stopped	
Caucasian	76,799	51.5%	4,092	32.3%	5.3%	1 out of 19
Black/African American	19,805	13.3%	3,088	24.4%	15.6%	1 out of 6
Hispanic/Latino	46,993	31.5%	5,313	42.0%	11.3%	1 out of 9
Asian	3,969	2.7%	114	0.9%	2.9%	1 out of 35
Am. Indian/Alaska Native	113	0.1%	9	0.1%	8.0%	1 out of 13
Middle Eastern	1,321	0.9%	37	0.3%	2.8%	**
Unknown/Other	**	**	**	**	**	**
	149,000	100%	12,653	100%		

*May not total to 100% due to rounding.

In 2011, Blacks/African Americans had a 1 in 8 chance of being searched and a 1 in 6 chance in 2012. Hispanics/Latinos had a 1 in 10 chance of being searched in 2011 and a 1 in 9 chance in 2012. Caucasians had a 1 in 28 chance in 2011 and a 1 in 19 chance in 2012. In short, the likelihood of being searched went up for all racial/ethnic groups over last year. Despite the across-the-board increases, Blacks/African Americans still have the greatest likelihood of being searched.

Table 9: 2011 Traffic Stops and Searches by Race/Ethnicity

APD Category	2011 Traffic Stops		2011 Searches		Likelihood of Being Searched if Stopped	
Caucasian	98,428	54.72%	3,505	29.91%	3.56%	1 out of 28
Black/African American	22,917	12.74%	3,037	25.92%	13.25%	1 out of 8
Hispanic/Latino	52,453	29.16%	5,050	43.09%	9.63%	1 out of 10
Asian	4,740	2.64%	97	0.83%	2.05%	1 out of 49
Am. Indian/Alaska Native	83	0.05%	3	0.03%	3.61%	1 out of 28
Middle Eastern	1,261	0.70%	27	0.23%	2.14%	**
Unknown/Other	**	**	**	**	**	**
	179,882	100%	11,719	100%		

*May not total to 100% due to rounding.

In August of 2012, a new policy was instituted wherein the APD began requiring officers to have drivers sign a form before a consent search could be performed on their vehicles. This policy came into effect after the OPM's 2011 Annual Report pointed out that more drivers of color were being searched than their Caucasian counterparts despite there being virtually no difference in contraband found. The OPM believes most people do not understand that they do not have to consent to a search and/or that they have the right to revoke the consent. While this policy was only in place for four months in 2012, the number of consent searches dropped in 2012 from 2011. In 2011, consent searches accounted for 694 of the 11,719 searches conducted, or 6% of all reported searches. In 2012, the consent number fell to 486 of the 12,653 searches, or 4% of reported searches.

Table 10: 2012 Consent vs. Non-Consent Searches by Race/Ethnicity

APD Category	Consent Search		Non-Consent Search								No Info Provided		Total All Seaches	
			Arrest		Plain View		Probable Cause		Tow					
Caucasian	146	30.0%	2,062	35.8%	35	30.4%	1,533	28.2%	69	38.5%	247	36.3%	4,092	32.3%
Black/African American	146	30.0%	1,190	20.7%	37	32.2%	1,522	28.0%	40	22.3%	153	22.5%	3,088	24.4%
Hispanic/Latino	190	39.1%	2,437	42.3%	43	37.4%	2,304	42.4%	65	36.3%	274	40.2%	5,313	42.0%
Asian	3	0.6%	60	1.0%	0	0.0%	45	0.8%	2	1.1%	4	0.6%	114	0.9%
Am. Indian/Alaska Native	0	0.0%	2	0.0%	0	0.0%	7	0.1%	0	0.0%	0	0.0%	9	0.1%
Middle Eastern	1	0.2%	10	0.2%	0	0.0%	20	0.4%	3	1.7%	3	0.4%	37	0.3%
Unknown/Other	**	**	**	**	**	**	**	**	**	**	**	**	**	**
Total by Search Type	486	100%	5,761	100%	115	100%	5,431	100%	179	100%	681	100%	12,653	100%
Percent of All Searches	3.8%		45.5%		0.9%		42.9%		1.4%		5.4%			

*May not total to 100% due to rounding.

As stated, the number of searches went up in 2012 and the number of consent searches went down; therefore, the number of non-consent searches increased. Non-consent searches include searches made incident to arrest, those based on probable cause, those based on some sort of contraband reported to be in plain view, and towing situations when a vehicle's contents need to be inventoried before it is impounded.

In the 2012 Racial Profiling report, the APD reported 5,761 searches subject to arrests, 115 searches where some form of contraband was reported to be in plain view, 5,431 searches pursuant to probable cause and 179 searches where a vehicle was towed. These instances total 11,486, or 91% of all searches. In 2011, the percent of non-consent searches was 68%, while in 2012 the percentage was 91%. The vast majority of the difference is attributable to the reduction of searches where it was unknown if the search was performed with or without consent.

The OPM views the reduction of the percentage of searches for which the APD has not properly recorded the basis for the search as positive. The OPM suggests that it is still not acceptable to have no documentation for 5% of the searches. As officers are required by APD policy 306 to document the reason for the search, each failure constitutes a policy violation. However, not a single formal complaint was filed in 2012 for violation of this policy. While is some circumstances it may be being addressed at the shift counseling level, that data is not being provided.

Recommendation

> The OPM recommends that routine audits of traffic stops reports be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the report should be supplemented.
>
> Consideration should be given to the filing of an internal complaint the second time an officer unintentionally fails to provide the data. If an officer has intentionally not provided or has purposefully or inaccurately recorded the data, consideration should be given to filing a class A internal complaint.

For the first time, the OPM had the data available to take a closer look at searches based on race/ethnicity and "hit" rates in time to include in the Annual Report. A "hit" rate is the rate at which the police find contraband or other evidence of criminal activity when they conduct a search. Searches incident to arrest and towing are considered low discretion searches. In other words, by policy, the officer must search. Searches based on consent, probable cause, and plain view are high discretion searches. Overall, Blacks/African Americans account for 24% of the searches while representing 13% of those stopped, and 8% of the voting age population of Austin. Therefore, when comparing the percentage of time Blacks/African Americans are searched (24%) to the percentage of consent searches conducted on this group (30%), searches based on plain view of contraband (32%), and searches based on probable cause (28%), it is clear Blacks/African Americans are being searched at a greater rate for these high discretion searches. Blacks/African Americans are subjected, at a lower rate, to low discretion searches such as subject to arrest (21%) and towing of the vehicle (22%).

The exact opposite is true for Caucasians. Caucasians account for 32% of the searches while representing 52% of those stopped, and 54% of the voting age population of Austin. By using the percentage of time Caucasians are searched (32%), it becomes clear that this group is subject, at a higher rate, to searches incident to arrest (36%) and towing of the vehicle (39%) (i.e., low discretion searches). Caucasians are subject, at a lower rate, to consent searches (30%), searches based on plain view of contraband (30%), and searches based on probable cause (28%), all high discretion searches.

Conversely, Hispanics/Latinos are more in line with both high discretion and low discretion searches. Hispanics/Latinos account for 42% of the searches while representing 32% of those stopped, and 31% of the voting age population of Austin. Therefore, when comparing the percentage of time Hispanics/Latinos are searched (42%) to the percentage of consent searches conducted within this group (39%), searches based on plain view of contraband (37%), and searches based on probable cause (42%), it can be seen that this group is subjected to high discretion searches at a percentage in line or slightly lower than the percent of time this group is being searched. This is also true for low discretion searches such as incident to arrest (42%) and towing of the vehicle (36%).

In analyzing the 5,431 instances of searches based on probable cause, the OPM is troubled by the fact that, despite the officer claiming to have probable cause to search, no contraband or evidence of a crime was found in 66% of these searches. Equally troubling is the fact that in the 115 instances where an officer based a search on having reported seeing evidence or contraband in plain view, no contraband or evidence of a crime was found in 54% of the searches. The percentages for nothing being found in a probable cause or plain view search were even higher for Hispanics (70% and 67%, respectively).

While the search of a motor vehicle is normally exempted from the search warrant requirement, police do need a basis for the search. The most common reasons cited are consent, incident to arrest, probable cause, plain view, and subject to towing. Many factors contribute to the existence of probable cause, but the basic premise is that probable cause requires facts or evidence that would lead a reasonable person to believe the vehicle contains contraband or evidence. There is disagreement as to what is an acceptable hit rate for contraband. While it not expected that officers will be right 100% of the time, most literature suggests that "probable" means more likely than not contraband or evidence will be found.

Recommendation

Officers, in general, should be retrained on what constitutes probable cause and plain view. In addition, an analysis should be made to determine whether there are regions, areas, shifts, assignments, and/or officers who are contributing

disproportionately to the low hit rate. If so, additional training and supervision should be required.

Table 11: 2012 What Found in Probable Cause and Plain View Searches by Race/Ethnicity

APD Category	Probable Cause			Plain View		
	Search	Nothing Found		Search	Nothing Found	
	#	#	%	#	#	%
Caucasian	1,533	956	62.4%	35	17	48.6%
Black/African American	1,522	948	62.3%	37	16	43.2%
Hispanic/Latino	2,304	1,604	69.6%	43	29	67.4%
Asian	45	34	75.6%	0	0	0.0%
Am. Indian/Alaska Native	7	4	57.1%	0	0	0.0%
Middle Eastern	20	14	70.0%	0	0	0.0%
Total	**5,431**	**3,560**	**65.5%**	**115**	**62**	**53.9%**

*May not total to 100% due to rounding.

There is a slight difference among groups as to whether contraband is found as a result of a search. APD calls the finding of some form of contraband a "hit." Looking at APD's 2012 Racial Profiling Report, it can be seen that the likelihood for a hit in all three groups is between 22% and 28%. The largest difference between groups is that of Hispanics/Latinos versus Blacks/African Americans with a 6% difference. As a probability, there is virtually no difference between the groups.

Table 12: 2012 Searches and "Hits" by Race/Ethnicity

APD Category	2012 Searches		2012 "Hits"		Likelihood of a "Hit"	
Caucasian	4,092	32.3%	998	32.2%	24.4%	1 out of 4
Black/African American	3,088	24.4%	875	28.3%	28.3%	1 out of 4
Hispanic/Latino	5,313	42.0%	1,192	38.5%	22.4%	1 out of 4
Asian	114	0.9%	**	**	**	**
Am. Indian/Alaska Native	9	0.1%	**	**	**	**
Middle Eastern	37	0.3%	**	**	**	**
Unknown/Other	**	**	31	1%	**	**
	12,653	100%	3,096	100%		

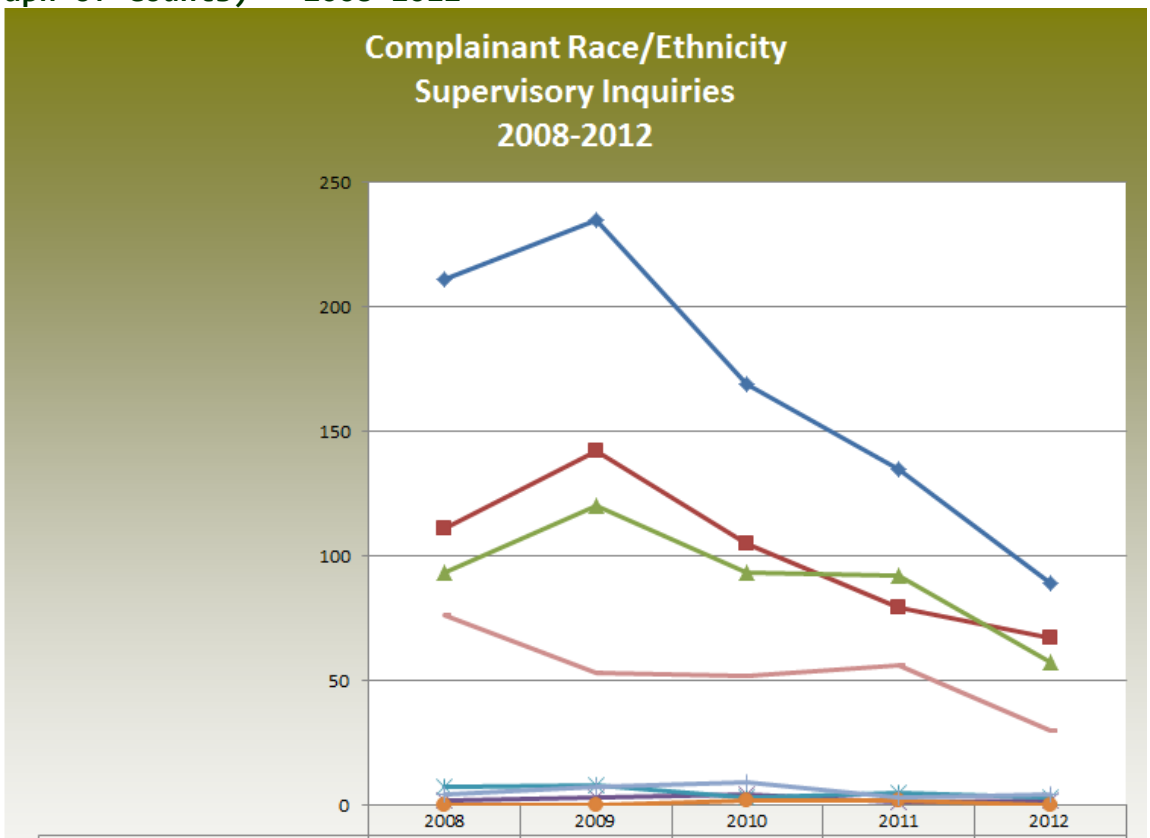
*May not total to 100% due to rounding.

As a proportion of all searches, the hit rate for Caucasians corresponds almost directly—this group makes up 32% of all searches and account for 32% of the contraband. The percentages do not line up as neatly with the other two large groups. Blacks/African Americans account for 24% of the searches and 28% of the hits. Hispanics/Latinos account for 42% of the searches but 39% of the hits.

The OPM recognizes the results presented here are not without flaw. Given that the data needed for a more comprehensive analysis (i.e., the APD's Geographic Racial Profiling Report Supplement) was not published in 2012, the OPM is not able to conduct further analysis. If these data were available, the OPM would have an indication of where stops and searches occurred as well as the population of those areas. Without the benefit of knowing the location of the stop combined with the demographic/geographic information of the person being stopped, the OPM cannot provide further analysis.

In terms of quantity, Supervisory Inquiries continued to decline in 2012. As a percentage of complaints filed, there was a sharp increase with Blacks/African Americans in 2012 (up 9% over 2011). There were also increases in percent of complaints filed among Caucasians and Hispanics although these were much smaller (4% and 2%, respectively).

Table 13: Supervisory Inquiries Complainant Race/Ethnicity (Graph of Counts) – 2008-2012



	2008	2009	2010	2011	2012
Caucasian	211	235	169	135	89
Black/African American	111	142	105	79	67
Hispanic/Latino	93	120	93	92	57
Am. Indian/Alaska Native	2	3	4	1	2
Asian*	7	8	3	5	3
Native Hawaiian/Pacific Islander*	0	0	2	2	0
Other	4	7	9	3	4
Unknown	76	53	52	56	30

Table 14: Supervisory Inquiries Complainant Race/Ethnicity (Table of Counts & Percentages) – 2008-2012

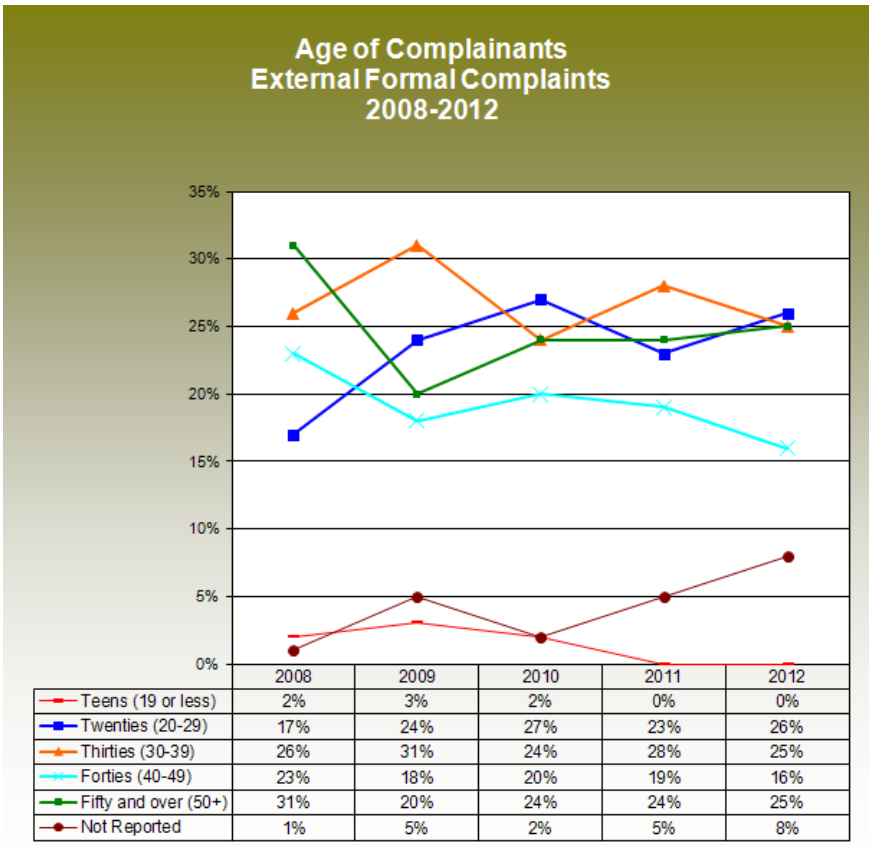
	Supervisory Inquiries									
	2008		2009		2010		2011		2012	
Ethnicity/Race	#	%	#	%	#	%	#	%	#	%
Caucasian	211	42%	235	41%	169	39%	135	36%	89	35%
Black/African American	111	22%	142	25%	105	24%	79	21%	67	27%
Hispanic/Latino	93	18%	120	21%	93	21%	92	25%	57	23%
Am. Indian/Alaska Native	2	0%	3	1%	4	1%	1	0%	2	1%
Asian	7	1%	8	1%	3	1%	5	1%	3	1%
Native Hawaiian/Pacific Islander	--	--	--	--	2	0%	2	1%	0	0%
Other	4	1%	7	1%	9	2%	3	1%	4	2%
Unknown	77	15%	53	9%	52	12%	56	15%	29	12%
Total	**505**	100%	**568**	100%	**437**	100%	**373**	100%	**251**	100%

*May not total to 100% due to rounding.

Age of Complainants

People in their 40s had the lowest percentage of complaints in 2012. There was virtually no difference in the percentage of complaints among people in their 20s, 30s, or 50 and over.

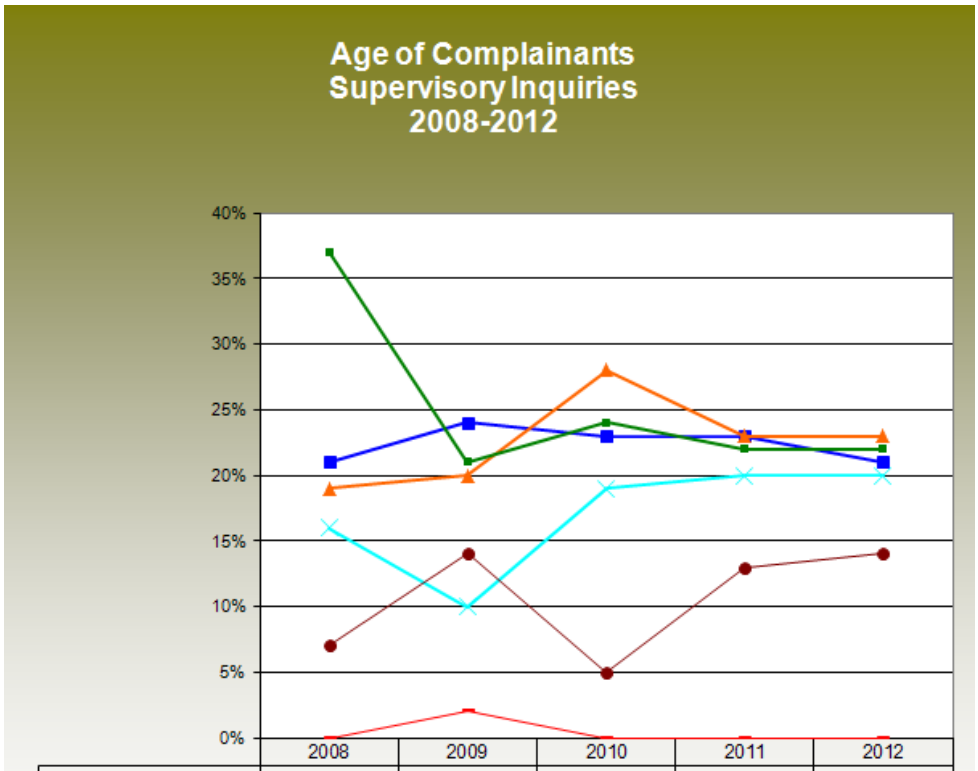
Table 15: Age of Complainants filing External Formal Complaints – 2008-2012



*May not total to 100% due to rounding.

The age of persons filing Supervisory Inquiry complaints has remained relatively consistent over the past five years with just a few exceptions. In 2008, there was an exceptionally large percentage of people over 50 who filed a Supervisory Inquiry complaint. In 2010, there were smaller spikes in the 30-39 and 40-49 year old groups. In 2012, as in 2011, the percentage of Supervisory Inquiry complaints is fairly evenly distributed among those 20 and over.

Table 16: Age of Complainants filing Supervisory Inquiries – 2008-2012



	2008	2009	2010	2011	2012
Teens (19 or less)	0%	2%	0%	0%	0%
Twenties (20-29)	21%	24%	23%	23%	21%
Thirties (30-39)	19%	20%	28%	23%	23%
Forties (40-49)	16%	10%	19%	20%	20%
Fifty and over (50+)	37%	21%	24%	22%	22%
Not Reported	7%	14%	5%	13%	14%

*May not total to 100% due to rounding.

Gender of Complainants

The gender composition of Austin in 2012 was estimated at approximately 53% male and 47% female. When looking at complainant gender (below), it can be seen that, overall, people file complaints at a rate that is fairly consistent with their representation in the population. However, there are notable disparities between the type of complaint and the population percentages. Males file External Formal complaints at a rate higher than their representation within the City (74% of complaints; 53% of the population)

while females file at a rate lower (26% of complaints; 47% of the population)[4]. The difference is also pronounced within Supervisory Inquiries where men file 44% of complaints (versus being 53% of the population) and women file 54% of complaints (versus being 47% of the population). The Supervisory Inquiry percentages are down for men in 2012 (44% in 2012 versus 51% in 2011) and up for women (54% in 2011 versus 49% in 2011). The opposite is true for External Formal complaints. External Formal complaints are up for men in 2012 (74% in 2012 versus 59% in 2011) and down for women (26% in 2012 versus 39% in 2011).

Table 17: Gender of Complainants - 2012

Complainant Gender	Supervisory Inquiries		External Formals		Total	
	#	%	#	%	#	%
Male	111	44%	56	74%	167	51%
Female	135	54%	20	26%	155	47%
Unknown	5	2%	0	0%	5	2%
Total	**251**	100%	**76**	100%	**327**	100%

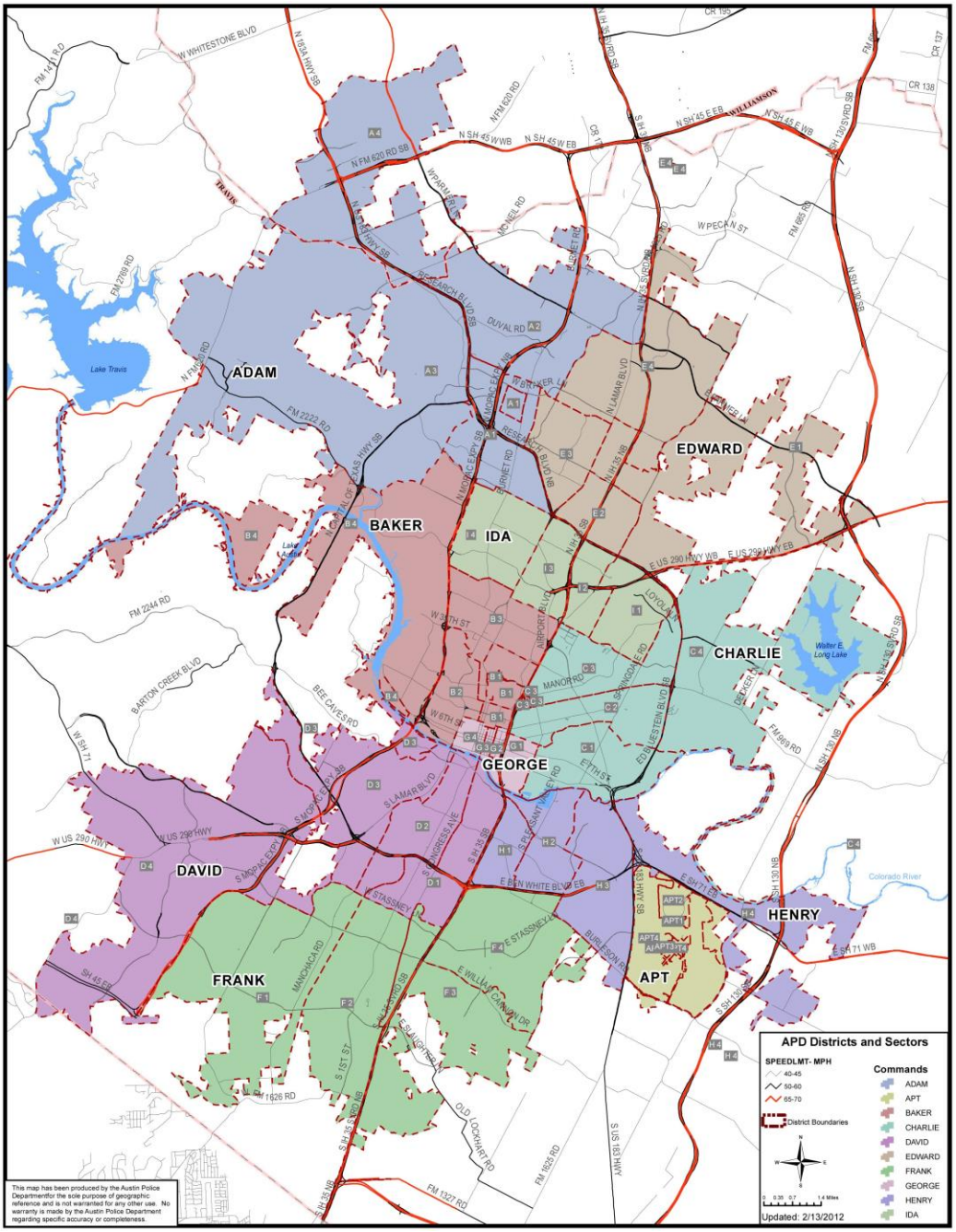
*May not total to 100% due to rounding.

[4] The gender of the remaining 2% is unknown.

Complaints by Area Command

The City of Austin had nine (9) area commands in 2012. Below find a map of the geographic areas.

Figure 2: APD Area Commands



Adam = **Northwest** (NW); Baker = **Central West** (CW); Charlie = **Central East** (CE);
David = **Southwest** (SW); Edward = **Northeast** (NE); Frank = **Southeast** (SE);
George = **Downtown** (DTAC); Henry (includes APT) = **South Central** (SC); Ida = **North Central** (NC)

The area commands listed here are where the incident occurred, regardless of the officer's actual assigned area.

Table 18: External Formal Complaints by Area Command – 2008-2012

EXTERNAL FORMAL	2008		2009		2010		2011		2012		Change 2011 vs. 2012	
Area Command	#	%	#	%	#	%	#	%	#	%	#	%
Downtown (DTAC)	30	18%	21	19%	17	19%	16	16%	14	18%	-2	-13%
Southwest (SW)	13	8%	11	10%	10	11%	6	6%	11	14%	5	83%
Southeast (SE)	20	12%	8	7%	8	9%	9	9%	10	13%	1	11%
North Central (NC)	18	11%	6	6%	10	11%	10	10%	8	11%	-2	-20%
South Central (SC)	22	13%	12	11%	10	11%	10	10%	6	8%	-4	-40%
Central West (CW)	4	2%	9	8%	4	4%	7	7%	5	7%	-2	-29%
Northeast (NE)	18	11%	8	7%	5	6%	10	10%	5	7%	-5	-50%
Northwest (NW)	6	4%	10	9%	8	9%	14	14%	5	7%	-9	-64%
Central East (CE)	29	17%	19	18%	12	13%	18	17%	2	3%	-16	-89%
Out of City	5	3%	4	4%	3	3%	1	1%	9	12%	8	800%
Unknown	3	2%	0	0%	2	2%	2	2%	1	1%	-1	-50%
Total	**168**	100%	**108**	100%	**89**	100%	**103**	100%	**76**	100%	-27	-26%

*May not total to 100% due to rounding.

External Formal complaints as a whole were down in 2012, from 103 to 76. The Downtown area command, which frequently has the most complaints, again had the most in 2012 with 14. The area command with the next highest number was the Southwest with 11 External Formal complaints.

After ranking third in External Formal complaints last year (for the first time ever), the Northwest area command has returned to its former status–i.e., near the bottom with a total of 5 complaints.

As can be seen in the table below, when adding Supervisory Inquiry complaints to External Formal complaints, the top three area commands in terms of total complaints shifts when compared to reporting External Formal complaints only. The Southwest area command has the highest number of external-type complaints at 49. It is followed closely by the Central East area command with 45 total and the Southeast area command with 43 total. While not having a large number of External Formal complaints (2), the Central East area command did experience a large number of Supervisory Inquiry complaints (43) in 2012.

Table 19: Number of External Complaints by Area Command - 2008-2012

Total External Complaints	2008		2009		2010		2011		2012	
Area Command	#	%	#	%	#	%	#	%	#	%
Southwest (SW)	85	13%	65	10%	65	12%	58	12%	49	15%
Central East (CE)	85	13%	88	13%	66	13%	43	9%	45	14%
Southeast (SE)	71	11%	65	10%	47	9%	79	17%	43	13%
Downtown (DTAC)	71	11%	94	14%	69	13%	63	13%	36	11%
North Central (NC)	56	8%	51	8%	56	11%	49	10%	35	11%
Northeast (NE)	80	12%	79	12%	57	11%	50	11%	29	9%
Northwest (NW)	56	8%	49	7%	45	9%	31	7%	29	9%
Central West (CW)	54	8%	82	12%	46	9%	42	9%	24	7%
South Central (SC)	65	10%	57	8%	54	10%	40	8%	23	7%
Out of City	16	2%	9	1%	5	1%	8	2%	11	3%
Unknown	33	5%	37	5%	16	3%	13	3%	3	1%
Total	**672**	100%	**676**	100%	**526**	100%	**476**	100%	**327**	100%

*May not total to 100% due to rounding.

In cases where an area command is "Unknown," it may be that a specific officer could not be identified, the complaint could have been more generic in nature rather than relating to a specific officer, there were patterns of behavior that occurred in varying locations, and/or the location where the complaint occurred could not be specifically identified.

Classification of Complaints

When a Formal complaint is filed, it is sent to IAD with a recommendation for classification. The classification is intended to reflect the severity of the charges, if true. When classifying complaints, IAD uses the following criteria:

- **Administrative Inquiry –** an inquiry into a critical incident, ordered by the Chief or their designee, that could destroy public confidence in, and respect for, the APD or which is prejudicial to the good order of the APD;
- **A –** allegations of a serious nature, that include, but are not limited to: criminal conduct, objectively unreasonable force resulting in an injury requiring emergency treatment at a medical facility;
- **B –** allegations of a less serious nature, that include, but are not limited to: less serious violations of APD policy, rules or regulations, objectively unreasonable force with injury or with minor injuries not requiring emergency treatment at a medical facility, negligent damage or loss of property, negligent crashes;

- **C –** allegations that do not fit into a Class A or B category and do not rise to the level of a policy violation, or those that would be best handled through other APD processes (such as training or a performance improvement plan); or,
- **D –** the allegation is not a policy violation, a preliminary investigation using audio or video recordings show the allegation is not true, or the complaint is about the probable cause for arrest or citation.

Please remember that only Formal complaints will receive one of the classifications listed above. Supervisory Inquiries are not subject to the same classifications as they typically contain less serious allegations.[5]

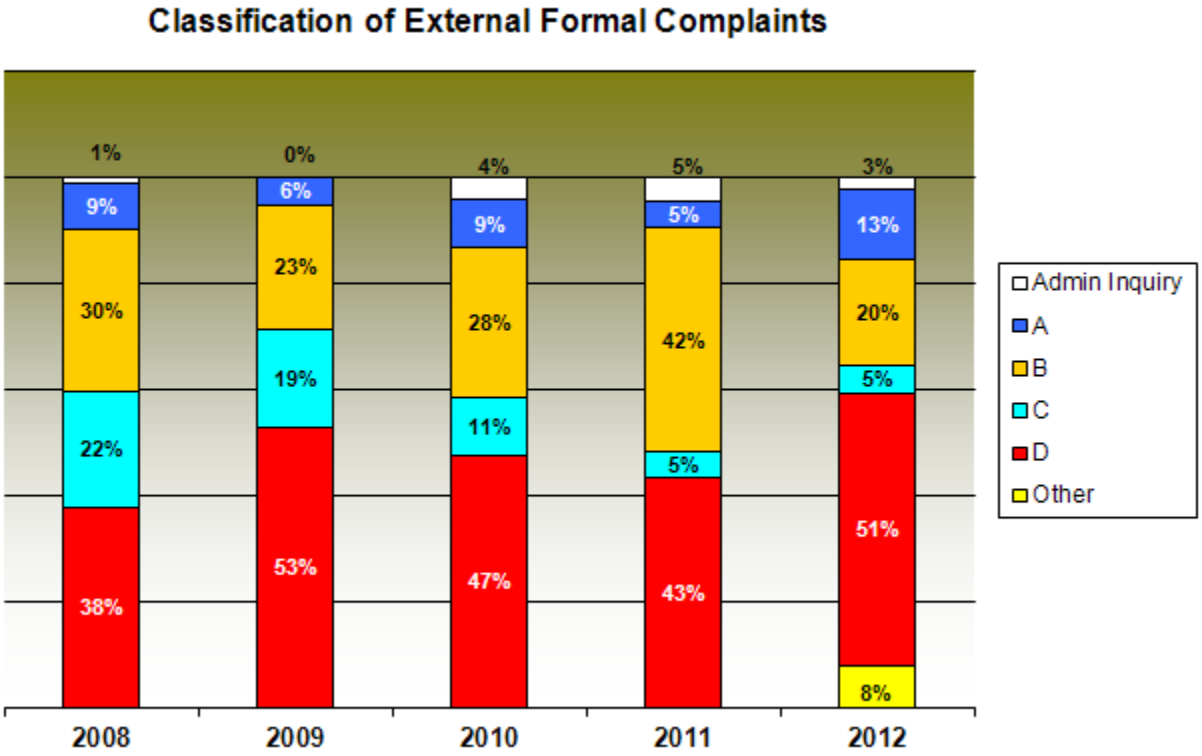
Since the OPM began its mission of oversight, there has been a notable difference in case classifications between external and internal cases. Cases are classified by IAD according to the severity of the allegations included in the complaint. At this point, it is generally accepted that the discrepancy in case classifications between internal and external complaints has much to do with the cases themselves.

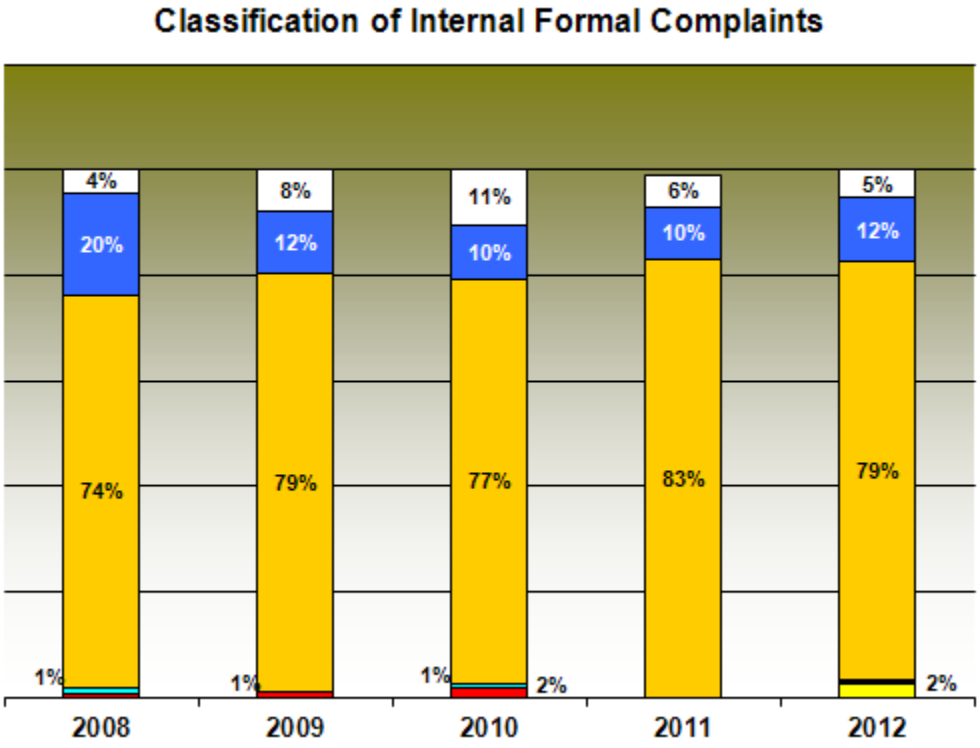
When an internal case is filed, it typically involves a supervisor bringing forth an allegation concerning the conduct of an officer. In these circumstances, the officers bringing the case will have extensive knowledge of policy. The assignment of a classification, therefore, is fairly apparent. As such, Internal Formal complaint classifications have remained relatively static over the years. External Formal complaints have seen more flux.

In 2012, 51% of all External Formal complaints received a "D" classification. This is an increase from both 2010 and 2011 and a step backward in the opinion of the OPM. The OPM's concern with "D" classifications stems from the fact that per APD policy, a "D" is defined as a complaint that carries an allegation that is: a) not a policy violation, b) a preliminary review of the allegation shows it is not true (e.g., video or audio recording shows allegation is false), or c) the complaint is about the probable cause for an arrest or citation.

[5] Should more serious allegations be uncovered during a Supervisory Inquiry, the case may be elevated to a Formal complaint and would then be classified.

Table 20: Classification of Complaints – 2012





*May not total to 100% due to rounding.

The OPM's position is that caution should be taken when classifying a complaint as a "D." A "D" classification almost predicts the result of the investigation or precludes actually conducting an investigation. As written, classifying something as a "D" seems to infer from the beginning that IAD has determined the allegation has no merit. Complainants whose complaints are classified as a "D" often state they do not feel their complaint was taken seriously.

To be fair, it should be noted that there are cases for which the OPM recommends a "D" classification or agrees with IAD's case classifications. Beginning in mid 2011, the OPM's procedure was changed to require the OPM to advise IAD as to the classification the OPM believed the complaint should be given when the complaint was submitted. This change allowed the OPM and IAD to discuss differences of opinion early in the process. With most cases, there is very little dispute regarding the severity and, therefore, there is no disagreement between the OPM and IAD on how a case is classified. Historically, most of the disagreement in case classifications has stemmed from those cases that were ultimately classified by IAD as lower level cases, e.g., "D" classifications.

Allegations

Number & Types of Allegations

The Austin Police Department previously used a set of rules known as the General Orders, Policies, and Procedures. In August of 2011, a new Austin Police Department Policy Manual was adopted (commonly referred to as "Lexipol"[6]). The General Orders, and now Lexipol, contain all the policies by which members of the APD must abide. When a complaint is made, the IAD assigns an allegation(s) based on the alleged policy violations it can see after reviewing the description of events. In 2012, the data show 12 more allegations were levied in Formal complaints compared to 2011. While there were fewer External Formal complaints filed in 2012, this was not true for Internal Formal complaints. There were 18 more Internal Formal complaints filed in 2012 than in 2011; so not a one-to-one relationship between the number of complaints and the number of allegations.

Table 21: Number of Allegations by Complaint Type – 2008-2012

	2008		2009		2010		2011		2012		Change 2011 vs. 2012	
Number of Allegations	#	%	#	%	#	%	#	%	#	%	#	%
Supervisory Inquiries	494	44%	354	39%	376	44%	403	43%	215	28%	-188	-47%
Formal Complaints	630	56%	548	61%	479	56%	530	57%	542	72%	12	2%
External	326	52%	222	41%	170	35%	218	41%	187	35%	-31	-14%
Internal	304	48%	326	59%	309	65%	312	59%	355	65%	43	14%
Total	**1,124**	100%	**902**	100%	**855**	100%	**933**	100%	**757**	100%	-176	-19%

*May not total to 100% due to rounding.

It should be noted that a single complaint may include multiple allegations. These multiple allegations can apply to a single officer or multiple officers. It is also possible that a single allegation may be brought against a single officer or multiple officers. No matter the configuration, since each allegation is counted, the total number of allegations will always equal or exceed the total number of complaints.

In general, the policies in the old General Orders and the new Lexipol are largely the same. There are differences, however, in both the arrangement of the policies as well as their titles. For example, in the General Orders, there is a policy known as "Use of Force." In Lexipol, this is called "Response to Resistance." In the General Orders, Code of Conduct policies are primarily contained within one section. In Lexipol, these policies now span 3 chapters. Because the OPM reports some data going back five years, it will continue to transition by using both the old and new policy numbers and/or combining data into categories. Moving forward, the OPM will eventually be able to switch all reporting categories to match Lexipol.

[6] Lexipol was implemented by the APD in August of 2011. The most recent version of the manual available as of this writing can be found at: http://www.austintexas.gov//sites/default/files/files/Police_Monitor/policy-manual-release-20111129.pdf

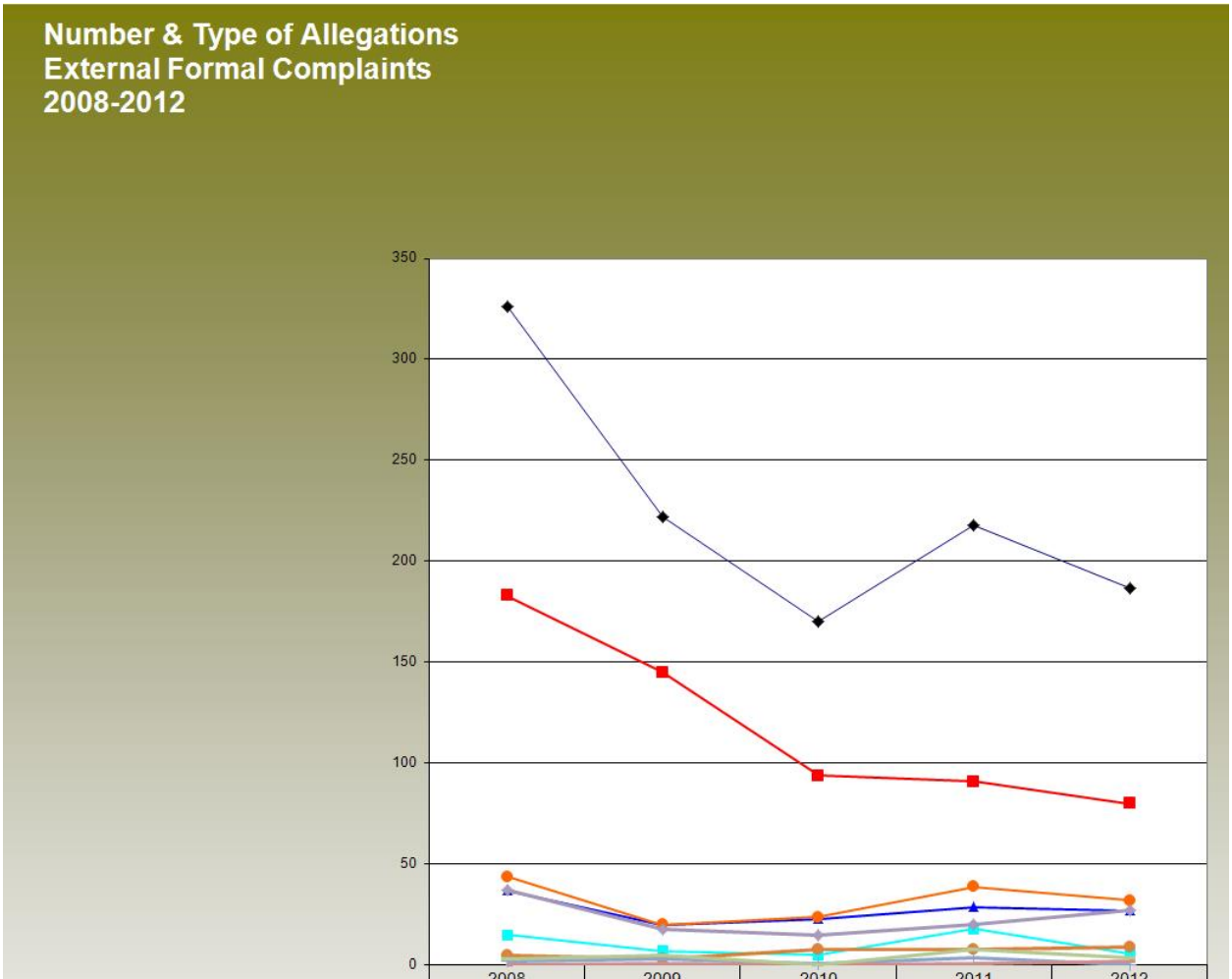
As in years past, Code of Conduct-type issues continue to be the most frequently reported allegation for both Supervisory Inquiries as well as External Formal complaints. This has been the case since the OPM began tracking complaints.

Code of Conduct allegations include, but are not limited to, the following:

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

In both 2010 and 2011, the OPM identified an issue of concern regarding Interviews, Stops, and Arrests, et al, allegations. These types of allegations are down dramatically in 2012 but are still the second highest reported allegation.

Table 22: External Formal Allegations by Number and Type – 2008-2012



	2008	2009	2010	2011	2012
Total Allegations	326	222	170	218	187
Code of Conduct	183	145	94	91	80
Use of Force/ Duty Weapons/ Firearm Discharges	37	20	23	29	27
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	44	20	24	39	32
Bias-Based Profiling/ Incident Reporting & Documentation	15	7	5	18	6
Preliminary, Follow-Up & Collision Investigations	5	3	8	8	9
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	2	3	1	4	0
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	0	1	0	1	2
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	3	5	0	8	4
Other	37	18	15	20	27

Given that the vast majority of allegations involve Code of Conduct issues and because the Code of Conduct policies are so numerous, the OPM requested that the IAD provide more detail regarding these types of allegations. Where available, the Code of Conduct allegations break down as follows:

Table 23: Code of Conduct Allegations by Subcategory and Complaint Type – 2012

Code of Conduct Allegations by Subcategory	Supervisory Inquiries		External Formal	
	#	%	#	%
Compliance Required	0	0%	2	3%
Responsibility to the Community	163	98%	40	51%
Bias-Based Profiling	0	0%	12	15%
General Conduct	4	2%	24	31%
Total	**167**	100%	**78**	100%

*May not total to 100% due to rounding.

Even at the sub-categorical level, however, there is still one allegation listed more often than any other – "Responsibility to the Community." The Responsibility to the Community subcategory includes policy regarding:

- Impartial Attitude;
- Courtesy;
- Duty to Identify;
- Neutrality in Civil Actions;
- Negotiations on Behalf of Suspect; and
- Customer Service and Community Relations.

"Courtesy" or rudeness is the most frequent complaint made against officers. More troubling, however, is the allegation of "Impartial Attitude." The Impartial Attitude policy states that (APD) employees are "expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual preference, or social or ethnic background."

Lexipol captures the behavior previously covered under "Impartial Attitude" and labels it "Bias-Based Profiling." As a result, there may be some confusion regarding this allegation and one in the General Orders that is also called "Bias-Based Profiling."

Often in the past, when an allegation regarding bias-based profiling (i.e., prejudicial behavior) was filed, it was filed using the incorrect General Order entitled "Bias-Based Profiling." The problem with that particular General Order had to do with how this type of act was documented and not the fact that some sort of prejudicial behavior may have occurred. It is fairly easy to see, given the name of this General Order, how it was listed erroneously so often. It should be noted that listing an incorrect General Order did not have an impact on how the investigation proceeded as each case contains a description of events that would have made it clear as to the specific complaint. In other words, this was simply an administrative error.

Table 24: Number and Type of Allegations by Complaint Type - 2012

Allegation/Allegation Category	2012 SI #	2012 SI %	2012 External Formal #	2012 External Formal %	2012 Internal Formal #	2012 Internal Formal %
Code of Conduct	167	78%	80	43%	72	20%
Use of Force/ Duty Weapons/ Firearm Discharges	1	0%	27	14%	19	5%
Interviews, Stops, Arrests*/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	5	2%	32	17%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	6	3%	6	3%	2	1%
Preliminary, Follow-Up & Collision Investigations	16	7%	9	5%	2	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	6	3%	0	0%	174	49%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	1	0%	2	1%	31	9%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	2	1%	4	2%	4	1%
Other	11	5%	27	14%	51	14%
Total	**215**	100%	**187**	100%	**355**	100%

*** Includes Searches**

*May not total to 100% due to rounding.

Allegations & Complainant Demographics

In looking at the composition of those bringing these allegations in 2012, the OPM found that in External Formal complaints, Caucasians were responsible for one third of all allegations (61 of the 187 allegations, or 33%). Blacks/African Americans account for 74 of the 187 (40%) and Hispanics/Latinos account for 18 of the 187 (10%).

Table 25: External Formal Allegations by Complainant Race/Ethnicity - 2012

EXTERNAL FORMALS	Caucasian		Black/ African American		Hispanic/ Latino		Am Indian/ Alaska Native		Asian		Native Hawaiian/ Pacfic Islander		Other		Unknown	
Allegation Category	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	20	33%	31	42%	14	78%	0	0%	2	0%	2	0%	2	33%	9	39%
Use of Force/ Duty Weapons/ Firearm Discharges	9	15%	8	11%	1	6%	0	0%	0	0%	0	0%	2	33%	7	30%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	11	18%	13	18%	3	17%	0	0%	0	0%	0	0%	0	0%	5	22%
Bias-Based Profiling/ Incident Reporting & Documentation	2	3%	4	5%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	6	10%	3	4%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%	2	9%
Other	11	18%	13	18%	0	0%	0	0%	1	0%	0	0%	2	33%	0	0%
Total	**61**	100%	**74**	100%	**18**	100%	**0**	0%	**3**	0%	**2**	0%	**6**	100%	**23**	100%

*May not total to 100% due to rounding.

Of these, Code of Conduct are once again the most cited reason for the complaint. That said, Code of Conduct issues make up one-third of the allegations cited by Caucasians in External Formal complaints, are 42% of the allegations cited by Blacks/African Americans but are cited 78% of the time among Hispanics/Latinos.

Interviews, Stops and Arrests are the next most frequent allegation cited by these three groups – down dramatically from both 2010 and 2011. In 2011, there were 135 Interviews, Stops and Arrests allegations levied in Supervisory Inquiry complaints and 39 in External Formal complaints. In 2012, this fell to 5 in Supervisory Inquiry complaints and 32 in External Formal complaints.

Table 26: Supervisory Inquiry Allegation Categories by Complainant Race/Ethnicity - 2012

SUPERVISORY INQUIRIES	Caucasian		Black/ African American		Hispanic/ Latino		Am Indian/ Alaska Native		Asian		Native Hawaiian/ Pacfic Islander		Other		Unknown	
Allegation Category	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	58	78%	48	83%	45	78%	1	100%	1	50%	0	0%	1	100%	13	62%
Use of Force/ Duty Weapons/ Firearm Discharges	0	0%	1	2%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	1	1%	0	0%	2	3%	0	0%	0	0%	0	0%	0	0%	2	10%
Bias-Based Profiling/ Incident Reporting & Documentation	3	4%	1	2%	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	4	5%	4	7%	4	7%	0	0%	0	0%	0	0%	0	0%	4	19%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	3	4%	1	2%	1	2%	0	0%	0	0%	0	0%	0	0%	1	5%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Radio & Telecommunications/	1	1%	1	2%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Other	3	4%	2	3%	4	7%	0	0%	1	50%	0	0%	0	0%	1	5%
Total	**74**	100%	**58**	100%	**58**	100%	**1**	100%	**2**	100%	**0**	0%	**1**	100%	**21**	100%

*May not total to 100% due to rounding.

The vast majority of all Supervisory Inquiry complaints filed by Caucasians, Blacks/African Americans, and Hispanics/Latinos are also Code of Conduct related (78%, 83% and 78%, respectively). This is up over 30% from last year. Interviews, Stops and Arrests allegations are down from last year when this type of allegation had reached an all-time high. In 2011, Interviews, Stops and Arrests allegations were the most cited Supervisory Inquiry complaint allegation among Blacks/African Americans. In 2012, there were none reported by this group.

Allegations by Area Command

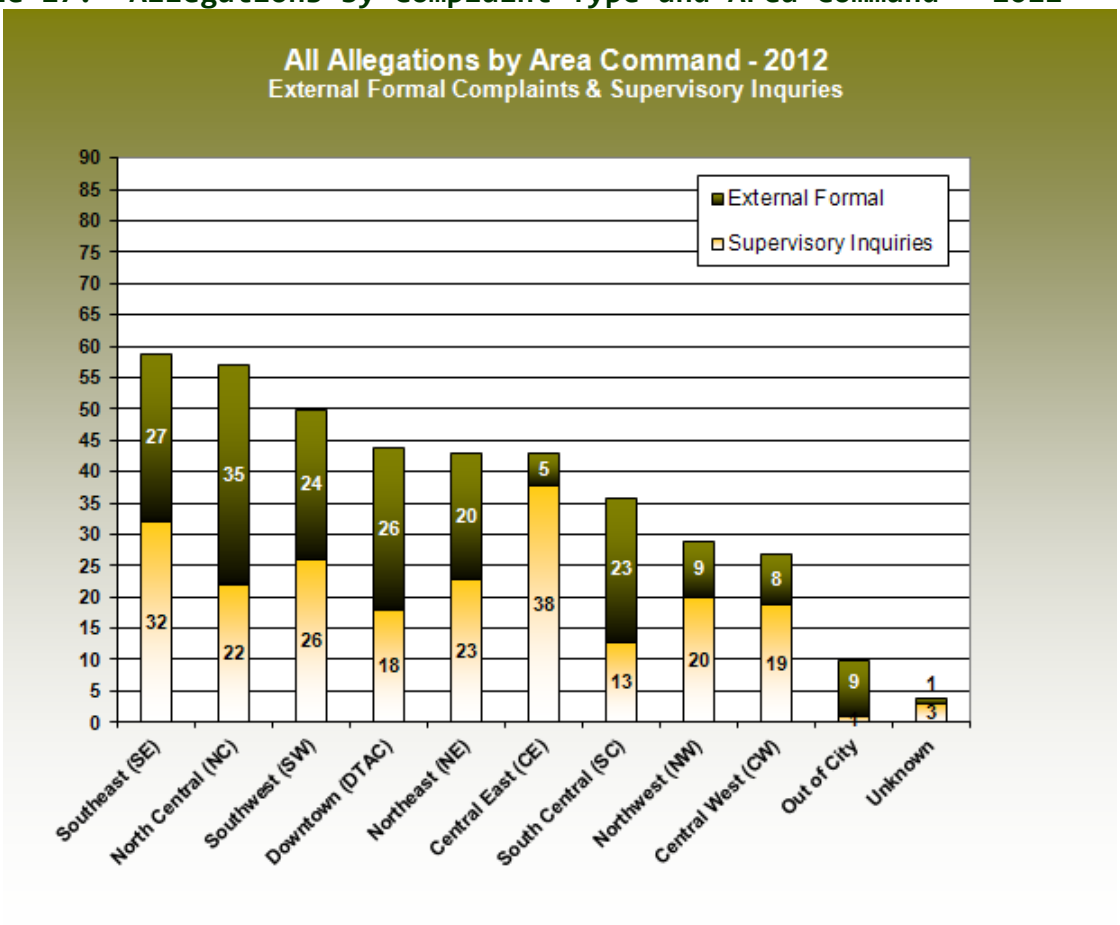
Fewer complaints means fewer allegations. In 2012, all nine area commands saw a decrease in external allegations. Only Out of City complaints saw an increase and this by two allegations.

When combining the allegations for both Supervisory Inquiries and External Formal complaints, the area command with the highest number of allegations was the Southeast with 59. This was followed by North Central with 57 and Southwest with 50. The Downtown area command was fourth with 44 allegations total. The Downtown area command, also known as DTAC, has seen a decrease in External Formal allegations for the past five years.

The Southeast area command experienced a notable shift in 2012 Supervisory Inquiry allegations. Last year, it had 71 Supervisory Inquiry allegations reported while this year that number fell to 32, a decrease of 39 allegations, or 45%. Even with this drop, it still has the second highest number of Supervisory Inquiry allegations amongst the nine

area commands. Last year, with 71 allegations, it had the highest number by far. In 2012, only the Central East area command had more Supervisory Inquiry allegations with 38. The Central East area command had only 5 External Formal complaint allegations, however, compared to Southeast's 27. This was an increase of External Formal allegations in the Southeast area command by 20 over last year.

Table 27: Allegations by Complaint Type and Area Command - 2012



Southeast, Central East, North Central and Downtown had the greatest number of Code of Conduct allegations in 2012. Northwest and Central West had the fewest; around half as many as Southeast.

Table 28: Code of Conduct Allegations by Complaint Type and Area Command - 2012

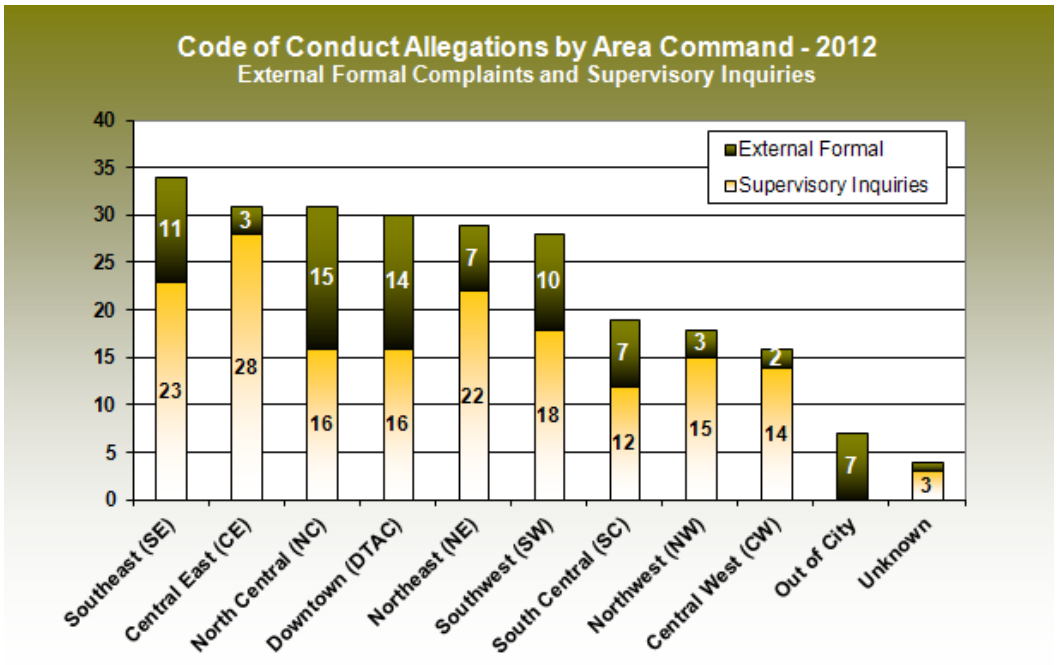
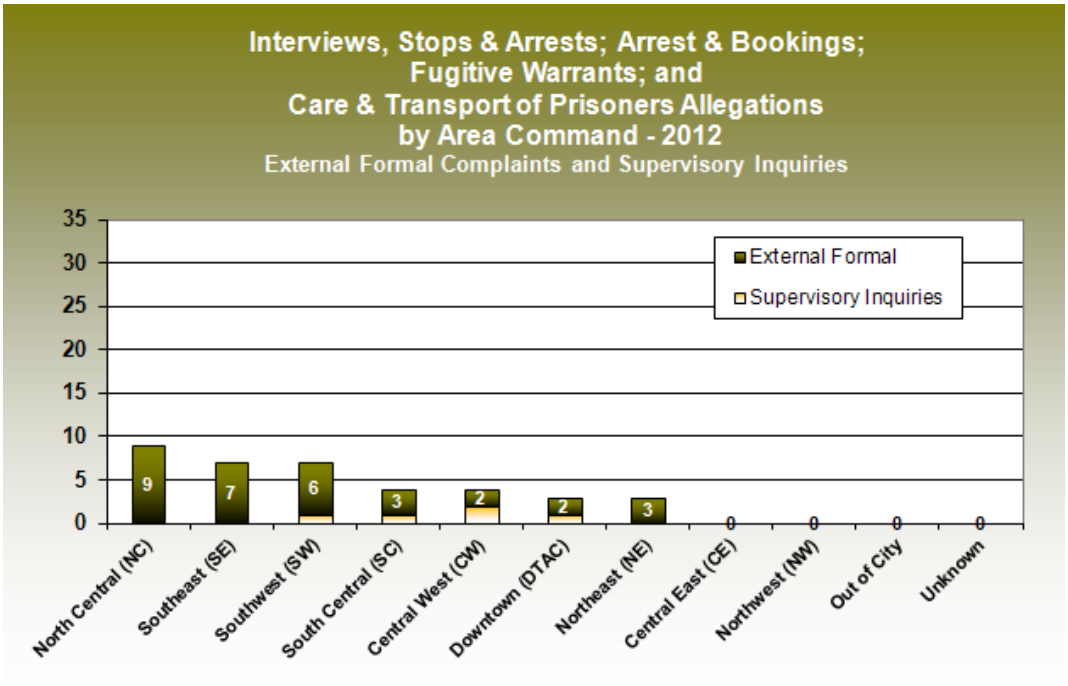


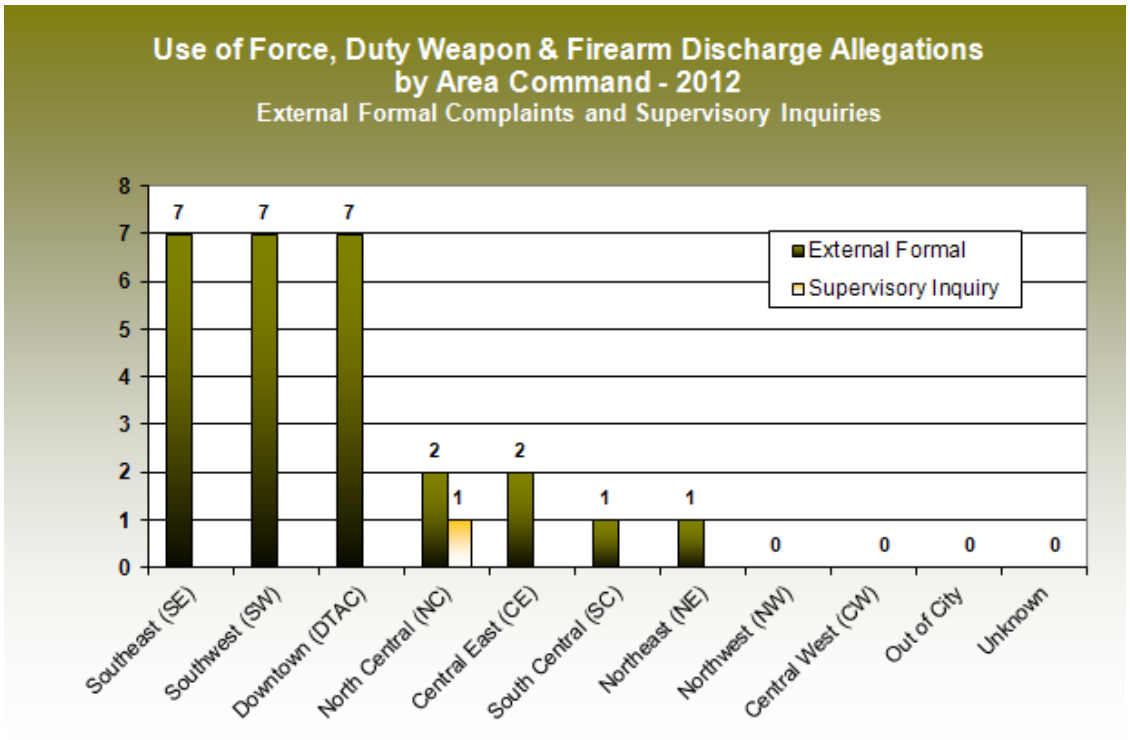
Table 29: Interviews, Stops & Arrests, et al by Complaint Type and Area Command - 2012



Looking at Interviews, Stops and Arrests allegations for both External Formal complaints and Supervisory Inquiries, the OPM has found that the North Central area command had the greatest number of allegations, just 9, followed closely by the Southeast area command with 7. This type of allegation is down dramatically from last year across all area commands.

It is possible that this, too, is resultant of the change in search policy. In cases where the need to search a vehicle is not immediately apparent, in August of 2012, a new policy was instituted wherein the APD began giving drivers a form to sign before a search could be performed on their vehicles. The idea behind the policy was to help drivers understand that barring probable cause, they are not required to allow the APD to search their vehicle.

Table 30: Use of Force, et al by Complaint Type and Area Command – 2012



In 2012, there was only one (1) Use of Force (Response to Resistance) allegation in Supervisory Inquiries and 27 in External Formal complaints. Of the Use of Force allegations associated with External Formal complaints, seven of the nine area commands had at least one Use of Force allegation filed– one more area command than last year.

In both 2010 and 2011, the OPM raised a concern regarding the relatively low number of Use of Force complaints because of the data cited by the APD in its Response to

Resistance reports. According to the 2010 Response to Resistance report, there were 2,165 use of force reports filed involving 1,519 subjects. In 2011, there were 3,030 use of force reports involving 1,863 subjects. The 2012 Response to Resistance report was not available as of this writing. The OPM, however, has no reason to believe that the amount of activity occurring in 2012 regarding Use of Force will differ greatly from that of 2011.

Recommendation

Given the number of incidents in which the APD uses force, the number of external allegations seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted by the OPM and the APD. If deficiencies are discovered, training, policy development, and/or discipline should be considered.

APD Decisions

Once an investigation is finished, the chain of command makes a recommendation on the outcome of the case. In other words, they issue a finding. These findings fall into one of the following categories:

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

Table 31: Formal Complaint APD Investigative Decisions – 2010-2012

	External						Internal					
	2010		2011		2012		2010		2011		2012	
APD Decisions	#	%	#	%	#	%	#	%	#	%	#	%
Sustained	19	11%	43	20%	12	7%	228	79%	256	83%	250	74%
Inconclusive	14	8%	6	3%	0	0%	5	2%	2	1%	4	1%
Exonerated	17	10%	33	15%	7	4%	9	3%	7	2%	24	7%
Administratively Closed	78	46%	62	28%	121	66%	42	15%	28	9%	32	9%
Unfounded	42	25%	74	34%	42	23%	4	1%	14	5%	30	9%
Total	**170**	100%	**218**	100%	**182**	100%	**288**	100%	**307**	100%	**340**	100%

NOTE: Total numbers listed here may be lower than the number of allegations due to resignations/retirements

*May not total to 100% due to rounding.

Only 7% of allegations in External Formal complaints were Sustained in 2012. This is down from 20% in 2011. Many more cases were Administratively Closed, 66% in 2012 versus 28% in 2011.

As a percentage, there were fewer Internal Formal allegations Sustained in 2012 as well, 74% versus 83%. These were offset by slight rises in allegations where an officer was Exonerated or the allegation was deemed to be Unfounded.

As a matter of routine, all cases classified as a "D" are "Administratively Closed." In addition to the "D" cases, many others are also "Administratively Closed." The OPM continues to advocate that "Administratively Closed" be used sparingly. It is the opinion of the OPM that making a finding (e.g., "Sustained" or "Exonerated") regarding the conduct of an officer adds credence to the process. There are likely several factors within the APD that are driving the decision to Administratively Close an allegation as opposed to rendering a more definitive decision. The OPM believes these include, among others, issues related to the APD's policies and the relationship between allegation decisions and the APD's early intervention system.

Disciplinary Action

After an investigation is completed and if allegations against an officer are sustained, the chain of command will then administer discipline. Discipline ranges from oral counseling and/or a reprimand to being Indefinitely Suspended (i.e., terminated). When looking at the table below, it is important to remember that disciplinary action is related to each unique allegation and not to the number of cases or the number of individual officers. So, for example, 22 officers were not terminated in 2011; there were, however, 22 allegations from which Indefinite Suspensions stemmed. The APD provides guidelines for the type and severity of discipline that may be administered. These guidelines are called the "Discipline Matrix." A copy of the matrix is attached in Appendix B.

Table 32: External Formal Complaint Disciplinary Action – 2008-2012

EXTERNAL	2008		2009		2010		2011		2012		2011 vs. 2012
Disciplinary Action Taken	#	%	#	%	#	%	#	%	#	%	% Change
Oral Reprimand / Counseling	13	41%	8	31%	11	46%	5	12%	3	18%	-40%
Written Reprimand	11	34%	8	31%	6	25%	10	23%	4	24%	-60%
Days Suspension	8	25%	3	12%	7	29%	6	14%	5	29%	-17%
Indefinite Suspension / Termination*	0	0%	7	27%	0	0%	22	51%	5	29%	-77%
Demotion	0	0%	0	0%	0	0%	0	0%	0	0%	0%
Total	**32**	100%	**26**	100%	**24**	100%	**43**	100%	**17**	100%	**-60%**

*Includes Resignations or Retirements occurring while the officer was under investigation
*May not total to 100% due to rounding.

In 2012, the total number of External Formal complaints was down. Again, because the total number of External Formal complaints is down, the number of allegations is also down.

There were only 17 allegations in External Formal complaints sustained in 2012 and that resulted in some sort of discipline. Although not nearly as many as last year, five

allegations resulted in the resignation of two officers. Five allegations resulted in three officers receiving a suspension. Three officers received a written reprimand regarding four allegations and three officers received an oral reprimand.

The table below comprises the disciplinary action taken on each allegation filed in Internal complaints in 2012.

Table 33: Internal Formal Complaint Disciplinary Action – 2008-2012

INTERNAL	2008		2009		2010		2011		2012		2011 vs. 2012
Disciplinary Action Taken	#	%	#	%	#	%	#	%	#	%	% Change
Oral Reprimand / Counseling	81	35%	84	36%	79	31%	86	32%	99	36%	15%
Written Reprimand	92	40%	75	32%	77	31%	92	34%	92	34%	0%
Days Suspension	44	19%	47	20%	51	20%	69	25%	48	18%	-30%
Indefinite Suspension / Termination*	13	6%	25	11%	44	18%	25	9%	32	12%	28%
Demotion	0	0%	3	1%	0	0%	0	0%	1	<1%	100%
Total	**230**	100%	**234**	100%	**251**	100%	**272**	100%	**272**	100%	**0%**

*Includes Resignations or Retirements occurring while the officer was under investigation
*May not total to 100% due to rounding.

Despite there being more Internal complaints than last year, the aggregate amount of discipline administered was identical. There were more oral reprimands and/or counseling than last year, as well as more allegations resulting in resignations or retirements while under investigation and Indefinite Suspensions. Seven officers resigned as the result of an Internal complaint, three retired and another two were Indefinitely Suspended (12 net terminations). Thirty-two officers received suspensions relative to the 48 allegations listed in the table above and one officer was demoted. Eighty-four officers received a written reprimand and ninety-seven received an oral reprimand and/or counseling.

Subject Officer Demographics

Presented in this section is some background information on the officers that were the subjects of complaints in 2012. This information is provided for external complaints only—that is, complaints filed by members of the public.

Please note that it is possible for a single officer to be involved in more than one complaint and in more than one type of complaint. Therefore, the data presented in the tables below may count the same officer more than once if that officer was the subject of more than one complaint.

Years of Service

Over half of the officers within the APD have 10 or more years of service.

Table 34: Years of Service – All APD - 2012

Years of Service	All APD Sworn Personnel	
	#	%
0-3	266	16%
4-6	258	16%
7-9	175	11%
10+	937	57%
Total	**1,636**	100%

*May not total to 100% due to rounding.

For those with complaints in 2012, the average length of time the officer had served on the force until the date of the incident with the public was 7.5 years for Supervisory Inquiries and 6.5 years for Formal complaints. For Supervisory Inquiry complaints, this is interesting as officers with 7-9 years of experience make up the smallest percentage of the APD, 11%.

For External Formal complaints, this is almost two years earlier than in 2011 and almost three compared to 2010. Last year, the average length of service was 8.1 years for those with a formal complaint. While this is still within the range of what the OPM has reported in the past, when an officer typically experiences their first serious complaint has become lower over these past three years. The years of experience are lower for Supervisory Inquiries as well but are not as pronounced.

The most common length of time officers have been on the force before receiving their first complaint in 2012 was less than a year for Supervisory Inquiries and almost 11 years for External Formal complaints. This is much higher than last year. Last year, the most common tenure for an External Formal complaint was under a year.

Table 35: Subject Officer Years of Service - 2012

Years of Service	2012	
	Supervisory Inquiries	External Formals
Average tenure	7.5	6.5
Longest tenure	29.2	28.0
Shortest tenure	<1	<1
Tenure midpoint	5.2	4.5
Most common tenure	<1	10.8

It is not surprising to see relatively inexperienced officers making up the majority of these types of complaints. The OPM is troubled, however, by the tenure of the officers involved in the more serious complaints. This information, along with that in Table 34, begs the following question: just how many of these officers were involved in previous

year's complaints? A little later in this document, the OPM will discuss how many of these officers are, in fact, prior-year(s) complaint officers.

While the OPM has limited access to shift data, the OPM has tried to replicate, to the best of its ability, patrol assignments by years of experience in the following table.

Table 36: 2012 Patrol Assignments

	Years of Service				
Patrol Area	0-3	4-6	7-9	10+	Total
Northwest	24	6	8	17	55
Central West	18	10	9	11	48
Central East	31	12	7	6	56
Southwest	19	14	5	16	54
Northeast	26	10	7	8	51
Southeast	22	16	6	7	51
DTAC	14	30	7	7	58
South Central	25	9	8	4	46
North Central	29	13	3	9	54
Total	**208**	**120**	**60**	**85**	**473**
Percent of Total	44%	25%	13%	18%	100%
Percent of All APD (1,636 Sworn Personnel)	13%	7%	4%	5%	29%

*Table excludes District Reps and Metro

Officers with 0-3 years of experience make up 13% of the force. However, they make up 44% of the patrol force. The patrol force accounts for 76% of the assignments for officers of this experience level. This is not unusual given that officers must have several years of experience before they are considered for specialized units or can test for promotion. However, in addition to patrol having the most inexperienced officers, almost all other areas of the City have a disproportionate number of the 0-3 years of experience officers assigned. DTAC is the exception where officers with 4-6 years of experience make up the majority of the patrol force. The area with the highest crime rate in 2012, South Central, was not an exception, however. On the date these data were drawn, South Central had the fewest number of officers on patrol as well as the highest ratio of inexperienced to experienced officers on patrol.

Table 37: 2012 Area Commands Patrolled by Least Experienced Officers

Area Command	Years of Service 0-3 %	Years of Service 10+ %
Central East	55%	11%
South Central	54%	9%
North Central	54%	17%
Northeast	51%	16%
Northwest	44%	31%
Southeast	43%	14%

In contrast, the sectors with a lesser amount of activity and lower crime have a disproportionate number of the most experienced officers assigned to them.

Table 38: 2012 Area Commands Patrolled by Most Experienced Officers

Area Command	Years of Service 0-3 %	Years of Service 10+ %
Northwest	44%	31%
Southwest	35%	30%
Central West	38%	23%

It should be noted that level of experience does not always correspondence to frequency of complaints. The Southwest area command had the highest number of external complaints in 2012 (49) and South Central had the lowest (23).

Recommendation

> In future reports, the OPM will make a more in-depth analysis regarding the type of complaints sustained and the discipline administered by experience level of officers. In the meantime, it is recommended that the APD review the staffing assignments to allocate the most experienced officers and least experienced officers in at least a more balanced manner taking into consideration the level of activity and crime rate.

For repeat versus single case subject officers in 2012, the range of experience for those named in complaints varies widely from less than one year to 29 years of service. As mentioned earlier, the OPM is troubled by the most common tenure for repeat subject officers as well as the tenure midpoint for this group.

Table 39: Repeat versus Single Case Subject Officer Years of Service - 2012

Years of Service	Repeat Subject Officers	Single Case Subject Officers
Average tenure	6.3	8.0
Longest tenure	28.2	29.2
Shortest tenure	<1	<1
Tenure midpoint	4.1	6.8
Most common tenure	10.8	<1

When looking at External Formal complaints, and then comparing allegation types to years of services, the OPM found that officers with 10 or more years of experience and those with less than 3 years of experience have the greatest number of allegations levied against them. For the more senior officers, the allegation type levied most often is Code of Conduct related. This is somewhat in line with national statistics. Nationally, most research points to officer burnout as the primary reason officers receive more complaints involving Code of Conduct after their tenth year of service.

It is no surprise that officers with 3 or less years of experience have the most number of allegations levied against them. Code of Conduct allegations are levied most often; the second highest number of allegations involves Interviews, Stops and Arrests.

Table 40: External Formal Allegation Categories by Subject Officer Years of Service - 2012

EXTERNAL FORMAL Allegation Categories	Years of Service									
	0-3		4-6		7-9		10+		Total	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	30	36%	16	50%	9	47%	25	47%	80	43%
Use of Force/ Duty Weapons/ Firearm Discharges	11	13%	4	13%	4	21%	8	15%	27	14%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	15	18%	6	19%	2	11%	9	17%	32	17%
Bias-Based Profiling/ Incident Reporting & Documentation	4	5%	0	0%	0	0%	2	4%	6	3%
Preliminary, Follow-Up & Collision Investigations	7	8%	0	0%	0	0%	2	4%	9	5%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	1	3%	0	0%	1	2%	2	1%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	2	2%	0	0%	0	0%	2	4%	4	2%
Other	14	17%	5	16%	4	21%	4	8%	27	14%
Total by Years of Service	**83**	100%	**32**	100%	**19**	100%	**53**	100%	**187**	100%
Percent of Total for All Years of Service	44%		17%		10%		28%		100%	

*May not total to 100% due to rounding.

In Supervisory Inquiries, the distribution of allegations is somewhat different than for External Formal complaints. Just as with External Formal complaints, officers with the

least amount of experience have the highest number of allegations while those with the greatest amount of experience again have the second highest number of allegations. The OPM believes this is due to the lack of experience for the one group and burnout for the other. The OPM has limited access to officer shift information. Thus, the OPM does not know if any of this could be attributed to where an officer is assigned, or for how long the officer was assigned to an area (both duration and number of hours in a day). Nationally, research has shown that placing less experienced officers into areas where more police intervention is required is not the best course. Research has also shown that over the longer haul, burnout occurs more frequently with officers who have been assigned to the same area for extended periods of time.

Table 41: Supervisory Inquiry Allegation Categories by Subject Officer Years of Service - 2012

SUPERVISORY INQUIRIES	Years of Service									
	0-3		4-6		7-9		10+		Total	
Allegation Categories	#	%	#	%	#	%	#	%	#	%
Code of Conduct	67	76%	23	79%	24	80%	53	78%	167	78%
Use of Force/ Duty Weapons/ Firearm Discharges	1	1%	0	0%	0	0%	0	0%	1	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	4	5%	0	0%	1	3%	0	0%	5	2%
Bias-Based Profiling/ Incident Reporting & Documentation	5	6%	0	0%	0	0%	1	1%	6	3%
Preliminary, Follow-Up & Collision Investigations	4	5%	2	7%	4	13%	6	9%	16	7%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	1%	1	3%	0	0%	4	6%	6	3%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	1	1%	1	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	2	3%	2	1%
Other	6	7%	3	10%	1	3%	1	1%	11	5%
Total by Years of Service	**88**	100%	**29**	100%	**30**	100%	**68**	100%	**215**	100%
Percent of Total for All Years of Service	41%		13%		14%		32%		100%	

*May not total to 100% due to rounding.

Unlike last year, the 4-6 years of service group had no allegations in the Interviews, Stops and Arrests category. In 2011, Interviews, Stops and Arrests allegations were the most frequently cited for this group.

Gender of Officers

The vast majority of officers in the APD are men.

Table 42: Gender – All APD - 2012

	All APD Sworn Personnel	
Gender	#	%
Female	174	11%
Male	1,462	89%
Total	**1,636**	100%

As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force and, of course, is reflected in the number of allegations lodged against the officer.

Table 43: Gender of Subject Officers by Allegation – 2012

Gender of Officer	Supervisory Inquiries		External Formals		Total		APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Female	12	6%	10	5%	22	5%	174	11%
Male	203	94%	177	95%	380	95%	1,462	89%
Total	**215**	100%	**187**	100%	**402**	100%	**1,636**	100%

*Caution should be used when reading this table. This table is a report by gender only. It should NOT be used as a count of unique officers as an officer may be involved in more than one complaint. Also, it is possible that a Supervisory Inquiry may have no named officer.

*May not total to 100% due to rounding.

The majority of allegations filed in both External Formal and Supervisory Inquiry complaints against both female and male officers involve Code of Conduct issues.

Table 44: External Formal Allegations by Subject Officer Gender - 2012

EXTERNAL FORMAL Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	6	60%	74	42%
Use of Force/ Duty Weapons/ Firearm Discharges	1	10%	25	14%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	0	0%	14	8%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	6	3%
Preliminary, Follow-Up & Collision Investigations	0	0%	4	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	1	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	3	2%
Other	3	30%	50	28%
Total	**10**	100%	**177**	100%

*May not total to 100% due to rounding.

Table 45: Supervisory Inquiry Allegation Categories by Subject Officer Gender - 2012

SUPERVISORY INQUIRIES Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	8	73%	158	78%
Use of Force/ Duty Weapons/ Firearm Discharges	1	9%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	0	0%	5	2%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	6	3%
Preliminary, Follow-Up & Collision Investigations	2	18%	14	7%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	1	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	6	3%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	2	1%
Other	0	0%	11	5%
Total	**11**	100%	**203**	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

As a percentage, more complaints are lodged against male officers compared to their representation within the APD. This is particularly true for repeat subject officers.

Table 46: Repeat versus Single Case Subject Officer Gender - 2012

Gender of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Female	1	2%	19	9%	20	8%	174	11%
Male	49	98%	190	91%	239	92%	1,462	89%
Total	**50**		**209**		**259**		**1,636**	**100%**

Missing Frequency = 3

*May not total to 100% due to rounding.

Race/Ethnicity of Officers

Most officers are Caucasian, 69%, with another 21% being Hispanic/Latino, and 9% being Black/African American.

Table 47: Race/Ethnicity – All APD - 2012

Officer Race/Ethnicity	All APD Sworn Personnel	
	#	%
Caucasian	1,127	69%
Black/African American	146	9%
Hispanic/Latino	339	21%
Asian/Pacific Islander	23	1%
American Indian	1	<1%
Total	**1,636**	100%

*May not total to 100% due to rounding.

Caucasian officers are slightly overrepresented in total allegations compared to their population within the APD. Black/African American officers are underrepresented.

Table 48: Subject Officer Race/Ethnicity by Complaint Type - 2012

Race/Ethnicity of Officer	Supervisory Inquiries		External Formals		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	152	73%	135	73%	287	73%	1,127	69%
Black/African American	14	7%	4	2%	18	5%	146	9%
Hispanic/Latino	38	18%	42	23%	80	20%	339	21%
Asian/Pacific Islander	4	2%	5	3%	9	2%	23	1%
American Indian	0	0%	0	0%	0	0%	1	<1%
Total	**208**	100%	**186**	100%	**394**	100%	**1,636**	**100%**

Missing Frequency = 8

*May not total to 100% due to rounding.

Table 49: External Formal Allegations by Subject Officer Race/Ethnicity - 2012

EXTERNAL FORMAL Allegation Categories	Race/Ethnicity of Officers							
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander	
	#	%	#	%	#	%	#	%
Code of Conduct	53	39%	1	25%	24	57%	2	40%
Use of Force/ Duty Weapons/ Firearm Discharges	17	13%	0	0%	7	17%	2	40%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	12	9%	0	0%	1	2%	1	20%
Bias-Based Profiling/ Incident Reporting & Documentation	5	4%	0	0%	1	2%	0	0%
Preliminary, Follow-Up & Collision Investigations	4	3%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	1	2%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	2	1%	1	25%	0	0%	0	0%
Other	43	32%	2	50%	8	19%	0	0%
Total	**136**	100%	**4**	100%	**42**	100%	**5**	100%

*May not total to 100% due to rounding.

There is quite a bit of movement between Code of Conduct and Use of Force percentages between External Formal complaints and Supervisory Inquiries. Use of Force makes sense since these allegations tend to be of a more serious nature and, therefore, would be more likely to be filed as a Formal complaint.

Table 50: Supervisory Inquiry Allegation Categories by Subject Officer Race/Ethnicity - 2012

SUPERVISORY INQUIRIES Allegation Categories	Race/Ethnicity of Officers							
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander	
	#	%	#	%	#	%	#	%
Code of Conduct	117	77%	11	79%	30	79%	4	100%
Use of Force/ Duty Weapons/ Firearm Discharges	0	0%	0	0%	1	3%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	2	1%	0	0%	0	0%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	5	3%	0	0%	1	3%	0	0%
Preliminary, Follow-Up & Collision Investigations	9	6%	1	7%	2	5%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	1	1%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	5	3%	1	7%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%
Other	13	9%	1	7%	4	11%	0	0%
Total	**152**	100%	**14**	100%	**38**	100%	**4**	100%

Missing Frequency = 7

*May not total to 100% due to rounding.

Caucasian officers are overrepresented compared to their presence on the APD in terms of single case subject officers. Black/African American subject officers are significantly below their representation on the force as a whole. Hispanic/Latino officers are overrepresented compared to their presence on the APD in terms of repeat case subject officers.

Table 51: Repeat versus Single Case Subject Officer Race/Ethnicity - 2012

Race/Ethnicity of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	30	68%	160	73%	190	73%	1,127	69%
Black/African American	1	2%	13	6%	14	5%	146	9%
Hispanic/Latino	12	27%	41	19%	53	20%	339	21%
Asian/Pacific Islander	1	2%	4	2%	5	2%	23	1%
American Indian	0	0%	0	0%	0	0%	1	<1%
Total	**44**	100%	**218**	100%	**262**	100%	**1,636**	**100%**

*May not total to 100% due to rounding.

Age of Officers

The majority of the APD is between 30 and 49 years old.

Table 52: Age of Officers – All APD - 2012

Age of Officer	All APD Sworn Personnel	
	#	%
21-29	157	10%
30-39	641	39%
40-49	642	39%
50+	196	12%
Unknown	0	0%
Total	**1,636**	100%

*May not total to 100% due to rounding.

The average age of repeat subject officers was 35 years old and 37 years old for single case subject officers. The lowest age for a repeat subject officer was 23. The highest age for a repeat subject officer was 59 and 54 for a single subject officer.

Table 53: Age of Repeat versus Single Case Subject Officers - 2012

Age of Officers	Repeat Subject Officers	Single Case Subject Officers
Average age	35	37
Greatest age	54	59
Lowest age	23	24
Age midpoint	35	36
Most common age	--	30

Ages between 36 and 39 come up year after year as those with the most complaints. In 2012, the most common age of single case officers was 30 years old. There was no common age among the repeat subject officers, although they range in age from 23-54 with the average, as well as the midpoint, being 35. What these data show is that the subject officers in 2012 were younger across the board. To put this in some context, in 2012, 39% of the APD's officers were in their thirties; 39% were in their forties; 10% were in their twenties; and 12% were in their fifties or older.

Table 54: Subject Officer Age by Number of Allegations and Complaint Type - 2012

	Supervisory Inquiries		External Formals		Total		All APD Sworn Personnel	
Age of Officer	#	%	#	%	#	%	#	%
21-29	40	19%	44	24%	84	21%	157	10%
30-39	102	49%	92	49%	194	49%	641	39%
40-49	51	24%	47	25%	98	25%	642	39%
50+	15	7%	3	2%	18	5%	196	12%
Unknown	2	1%	1	1%	3	1%	0	0%
Total	**210**	100%	**187**	100%	**397**	100%	**1,636**	100%

Missing Frequency = 5

*May not total to 100% due to rounding.

Still, as a group, the 30-39 year old officers have the most allegations lodged against them. This is not new from previous years.

Table 55: External Formal Allegations by Subject Officer Age - 2012

EXTERNAL FORMAL Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	19	43%	38	41%	20	43%	2	67%
Use of Force/ Duty Weapons/ Firearm Discharges	7	16%	12	13%	7	15%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	4	9%	5	5%	5	11%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	1	2%	3	3%	1	2%	1	33%
Preliminary, Follow-Up & Collision Investigations	1	2%	1	1%	2	4%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	1	2%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	2	2%	1	2%	0	0%
Other	11	25%	31	34%	11	23%	0	0%
Total	**44**	100%	**92**	100%	**47**	100%	**3**	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

Within Supervisory Inquiries, all age groups have Code of Conduct allegations cited most often.

Table 56: Supervisory Inquiry Allegation Categories by Subject Officer Age - 2012

SUPERVISORY INQUIRIES Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	28	70%	84	82%	38	75%	12	80%
Use of Force/ Duty Weapons/ Firearm Discharges	1	3%	0	0%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	1	3%	0	0%	1	2%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	4	10%	2	2%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	1	3%	5	5%	5	10%	1	7%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	1	7%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	3%	0	0%	4	8%	1	7%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%
Other	4	10%	11	11%	3	6%	0	0%
Total	**40**	100%	**102**	100%	**51**	100%	**15**	100%

Missing Frequency = 7

*May not total to 100% due to rounding.

Track Records

For those officers with External complaints in 2012, meaning both External Formal complaints as well as Supervisory Inquiries, the OPM found that 68% of these officers have had at least one previous complaint from the public sometime between 2008 and 2011.

Please note that when a complaint comes into the OPM, it is assigned a unique ID number. When counting the number of complaints for the year, the OPM counts up these unique ID numbers and uses that number as the total number of complaints for the year. For this section, the OPM looked at "officer complaints" (i.e., counting the number of complaints attributable to any one officer). This group had 752 "officer complaints" from 2008-2012. Given that more than one officer can be named in a complaint, the number of "officer complaints" will always exceed the total number of complaints, as counted by the unique ID number, for a given year.

When aggregating the complaints brought by members of the public against officers within the 2008-2012 timeframe, the OPM found that 79% of officers in this pool have had two or more complaints in the past 5 years. There were seven officers who had ten or more complaints (i.e., External Formal complaints and Supervisory Inquiry complaints). Again, only officers that received an External complaint in 2012 were included in this analysis.

The officers involved in 2012 external complaints, had 287 "officer complaints" between them. Again, more than one officer can be involved in the same complaint so the number of "officer complaints" will always exceed the number of complaints as counted by case number for the year. In 2011, the 68% of officers named in 2012 complaints who also had complaints in 2011, had 124 complaints between them in 2011.

In 2012, the APD purchased new software that will aid in early identification of officers whose behavior might lead to policy violations and/or complaints. The OPM will continue to work with the APD to bring this software online in 2013.

Section 5: Citizen Review Panel

In 2012, thirteen (13) cases went before the Citizen Review Panel. Five of these 13 cases were Internal Complaints involving Critical Incidents, the other eight (8) were complaints brought by members of the public. Of the 8 External complaints that went to the CRP, six (6) of these first had a meeting with the Police Monitor, called a Police Monitor's Conference (PMC).

Type of Recommendation	Recommending Party	Recommendation	APD Response
Specific	CRP	Recommends that the involved officer receive additional training and a 3 day suspension.	None.
Specific	CRP	Recommends that the involved officer be indefinitely suspended.	The officer was indefinitely suspended but the CRP received no response from the APD.
Specific & Global	CRP	Recommends that the Chief review the IAD investigative summary and take appropriate corrective action to address and remedy deficiencies in the investigation (as outlined by the CRP). Recommends that the APD review and draft clear policy and guidance regarding use of cell phones during a detention of an innocent bystander.	None.

Appendix A: Austin Police Department's Discipline Matrix

Below find the discipline matrix currently employed by the APD.

A109d – Discipline Matrix

This Matrix is designed as a guide to be used in conjunction with the APD Discipline Process policy and Internal Investigative Process policy. This matrix is not an all-encompassing document but should provide some guidance for the vast majority of investigations involving discipline. As a general rule, those violations below that are listed as "IS (indefinite suspension) and "Fact Specific" or those that may include discipline greater than a 15-day suspension will be investigated by IA.

Discipline Matrix			
Violation General Category/Sub Category (APD General Orders)	**1st Occurrence**	**2nd Occurrence**	**3rd Occurrence**
CODE OF CONDUCT A201			
A. Dishonesty – False Official Statements B. Criminal Violation while on duty or related to job duties C. Other Criminal Violations D. Reporting Responsibilities (Also See B206 Incident Reporting and Documentation)	IS IS Fact Specific Oral Reprimand to 1-3 days	Increased one level	Increased one level
E. Individual Responsibilities			
• Associating with those of ill repute	Fact Specific		
• Improper use of City resources not involving personal gain	Written Reprimand to 1-3 days	Increased one level	Increased one level
• Improper use of City resources involving personal gain.	4-15 days	IS	
F. Responsibility to the Community			
• Duty to identify • Courtesy (Rudeness Complaints)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
• Impartial Attitude	Fact Specific		
G. Responsibility to the Department			
• Requirements of duty • Time and attention to duty • Unprofessional or abusive behavior--co-workers	Oral Reprimand to 1-3 days	Increased one level	Increased one level
• Neglect of Duty -Misleading Statements	Fact Specific		
• Neglect of Duty	Fact Specific		
• Insubordination	4-15 days	IS	
• Duty to take action	Fact Specific		
• Dereliction of Duty	4-15 days to Demotion	Demotion to IS	
• Unauthorized Release of Information	4-15 days	IS	

A109d – Discipline Matrix (con't'd)

RADIO AND TELECOMMUNICATIONS B201				
A.	Inappropriate Electronic Messages*1	Written Reprimand	1-3 days	4-15 days
INTERNET/NETWORKED COMPUTER USE A312				
A.	Internet/Computer Violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
RESPONSE TO RESISTANCE B101a				
A.	Objectively Unreasonable Use of Deadly Force	IS		
B.	Objectively Unreasonable Use of Force	Fact Specific		
C.	Negligent Discharge involving serious bodily injury or death	Fact Specific		
D.	Accidental Discharge not involving serious bodily injury or death	1-3 days	4-15 days	4-15 days up to IS
DUTY WEAPONS B101b				
A.	Violations of duty weapons policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
OTHER				
A.	Negligent/Reckless Conduct Resulting in SBI or Death	IS		
B.	Violation of tactics, other than above "A".	Fact Specific		
BIASED BASED PROFILING B205				
A.	Biased based profiling	Fact Specific		
B.	Failure to document contacts	Written Reprimand to 1-3 days	Increased one level	Increased one level
DRUG AND ALCOHOL FREE WORKPLACE A408a				
A.	Failure of random drug test or test resulting from Reasonable Suspicion	IS		
THE WORKPLACE ENVIRONMENT A201c				
A.	Quid Pro Quo Sexual Harassment	IS		
INTERNAL AFFAIRS A109a				
A.	Refusing to cooperate with Internal Affairs	IS		
SECONDARY EMPLOYMENT A307				
A.	Secondary employment violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
MOBILE VIDEO RECORDER OPERATION A306b				
A.	Mobile video recording violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
B.	Intentional Mobile video recording violations	4-15 days	IS	
C.	Intentional MVR violation in a critical incident	IS		
COURT APPEARANCES A304				
A.	Missed court appearance	Oral Reprimand to 1-3 days	Increased one level	Increased one level

A109d – Discipline Matrix (con't'd)

FOLLOW-UP INVESTIGATIONS B203a				
PRELIMINARY FIELD INVESTIGATIONS B202a				
A.	Failure to properly investigate	Oral Reprimand to 1-3 days	Increased one level	Increased one level
PROPERTY AND EVIDENCE B208				
A.	Improper handling of evidence (not related to criminal conduct)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
B.	Improper destruction of evidence	Written Reprimand to 4-15 days	Increased one level	Increased one level
ATTENDENCE AND LEAVE A401a				
A.	Abuse of sick leave	Oral Reprimand to 1-3 days	Increased one level	Increased one level
EMERGENCY OPERATION OF POLICE VEHICLES B102				
POLICE VEHICLES A306a				
PURSUIT POLICY B103a				
A.	Violations of pursuit policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
B.	Pursuit policy, Aggravated	1-15 days	4-15 days	4-15 days to IS
C.	Operation of Police Vehicles (non-collision)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
D.	At-Fault collision (Not involving serious bodily injury or death) *2	Oral Reprimand to 1-3 days	Increased one level	Increased one level

Notes:
*1 If inappropriate Electronic Messages bring discredit to the Department, increase one level.
*2 A written reprimand will normally be administered for violations under this heading as a first occurrence. Supervisors will take into account the employees previous driving history, the severity of the collision and other contributing factors involve in the negligent collision. (See Discipline Process sections #5 and #8)

Appendix B: Community Outreach Conducted in 2012

Office of the Police Monitor

OUTREACH EFFORTS
January – December 2012

Jan. 16	Martin Luther King Jr. Festival, Huston Tillotson University
Jan. 11	Presentation by the Police Monitor to the South Optimist Club
Jan. 17	Presentation to Community School Alliance, Webb Middle School
Jan. 18	Community Fair, Ojeda Middle School, Del Valle ISD
Jan. 25	City of Austin Career Fair, Palmer Auditorium
Jan. 31	KOOP Outcast radio interview of Police Monitor
Feb. 11	Human Rights Campaign Gala, Four Seasons Hotel
Feb. 13	Presentation by the Police Monitor at the Town Hall Meeting regarding the Byron Carter shooting, Carver Branch Library
Feb. 25	Health and Safety Resource Fair, Mendez Middle School
March 1	Presentation to Dove Springs Community School Alliance, Mendez Middle School
March 3	Women's Resource Fair, Schmidt-Jones Family Life Center
March 30	Participation by Police Monitor, Racial Stigma Discussion, Carver Branch Library
April 3	Presentation by Assistant Police Monitor to Citizen's Police Academy
April 16	Spanish-language presentation to Promesas, Ortega Elementary School
April 23	Presentation by Police Monitor at Corrections Accreditation Managers' Association Conference, Omni Hotel
April 26	APD Auto Theft Fair, Austin Community College Pinnacle Campus
April 28	APD Safety Fair, Reagan High School
May 2	Presentation by Police Monitor at Eliminating Crime and Violence Forum, University of Texas
May 3	Cinco de Mayo resource fair, South Rural Community Center
May 18	Presentation by Police Monitor at Elected Women Officials' Luncheon
May 19	Community Awareness Fair, Walnut Creek Elementary School
May 19	Civil Rights Freedom Fest, Givens Park
May 27	Presentation by Police Monitor at First Unitarian Church
May 31	Safety Fair, Palmer Events Center
June 19	Juneteenth Parade, Rosewood Park
June 21	Presentation by Police Monitor, Leadership Texas, City Hall

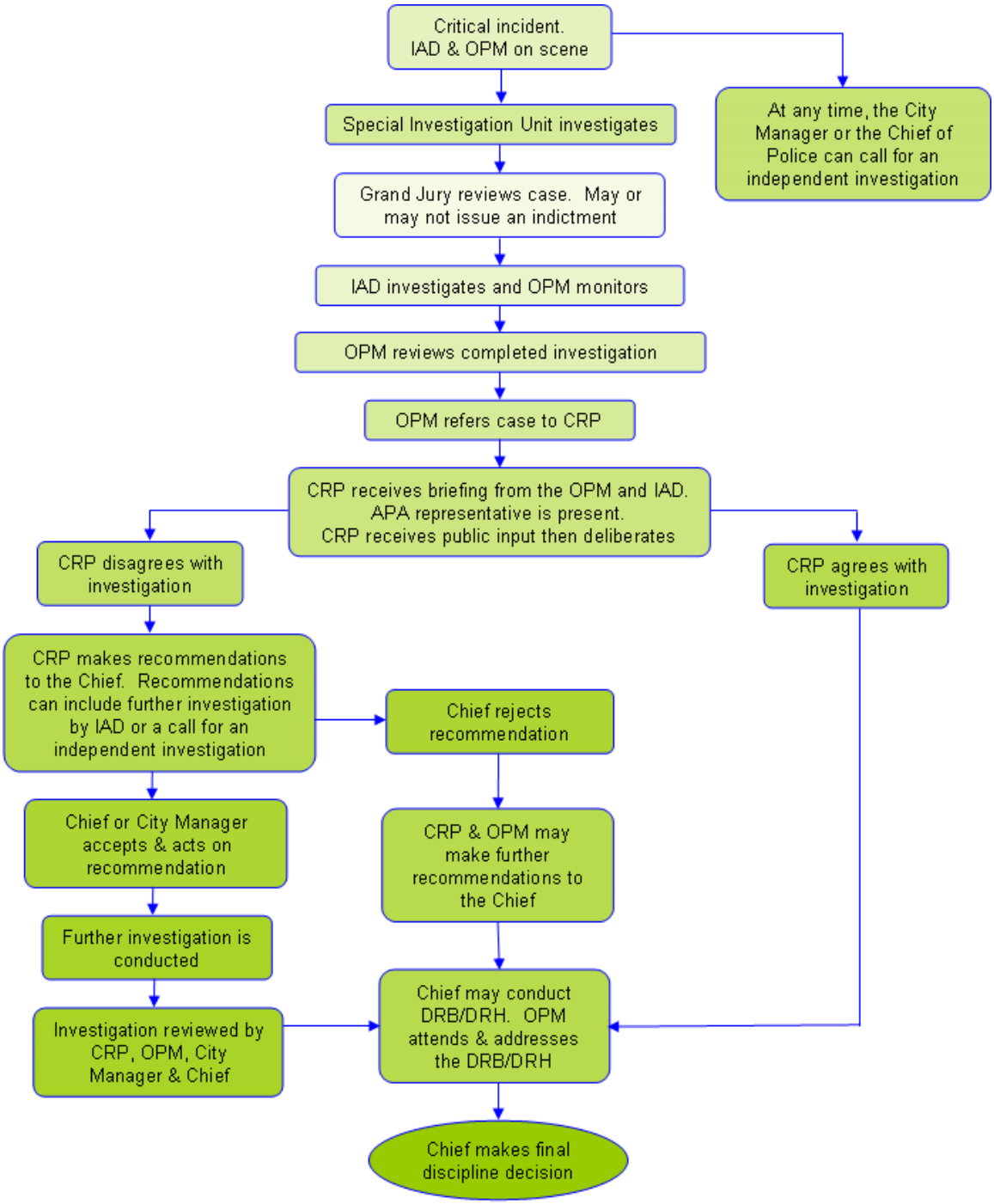
July 9	Presentation by Police Monitor, Girls' Leadership Institute, Austin Community College
July 14	Peaceful Streets: Police Accountability Summit, Mexitas Restaurant
August 2	Presentation by Police Monitor, "The Executive Response to Critical Incidents," National Association of Law Enforcement Executives
August 14	Presentation to principals, academic directors and counselors, Fulmore Middle School
August 18	AISD "Back to School Bash," Convention Center
Sept. 22	Pride Fest, Fiesta Gardens
Oct. 2	National Night Out, The Domain
Oct 6	Building Bridges Town Hall Meeting, Simpson United Methodist Church
Oct. 20	Strength and Unity Summit, ACC Eastview Campus
Oct. 28	Presentation by Police Monitor and Assistant Police Monitor, CityWorks Academy, Municipal Court
Nov. 17	Homeless Resource Fair, Pan American Recreation Center
Dec. 7	Career Fair, Pearce Middle School
Dec. 8	Presentation to Angel Tree participating families, Mt. Zion Baptist Church
Dec. 14	Career Fair, Martin Middle School

In addition to the standard-type outreach efforts, the OPM also created a program for use in area schools. "Behind Bars: Doing Time on the Outside" is an eight-week program developed for school students who have family members incarcerated. The program is conducted in schools in the Austin Independent School District, including Fulmore, Garcia, Kealing, Webb and the Southwest Key Day Enrichment GED Program (a charter school that receives students who have been removed from their neighborhood schools).

Each week of the program, a different topic is presented for discussion. The general idea is to promote understanding of the judicial system as well as to provide a forum for discussions regarding differing perspectives. For example, a film testimonial of a former inmate, whose drug abuse and heroin addiction landed him in jail, was produced and used as part of the "Behind Bars" program. Police officers who have family members incarcerated lead several of the sessions.

To measure the effectiveness and success of the program, student participants are given a survey before and after they complete the "Behind Bars" program.

Appendix C: Critical Incident Monitoring Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division
APA: Austin Police Association **SI:** Supervisory Inquiry **CRP:** Citizen Review Panel
DRB: Disciplinary Review Board **DRH**: Disciplinary Review Hearing

Appendix D: Meet and Confer Contract, Article 16

Ratified October 1, 2008

ARTICLE 16

CITIZEN OVERSIGHT OF
THE AUSTIN POLICE DEPARTMENT

Section 1. Citizen Oversight

a) Citizen Oversight means the process which incorporates citizen input into the administrative review of conduct of APD officers and the review of the Austin Police Department's policies and procedures. The City of Austin may provide for Citizen Oversight of the Austin Police Department. Citizen Oversight may include an Office of the Police Monitor and a Citizen Review Panel. The City agrees that there will be no parallel process created in addition to the one contemplated by these provisions.

b) The purpose of Citizen Oversight is:

1. To assure timely, fair, impartial, and objective administrative review of complaints against police officers, while protecting the individual rights of officers and citizens;

2. To provide an independent and objective review of the policies and procedures of the Austin Police Department; and

3. To provide a primary, but not exclusive, location for accepting administrative complaints of officer misconduct.

c) Except as otherwise provided by this Agreement, the Chief of Police retains all management rights and authority over the process of administrative investigation of alleged misconduct by APD officers that could result in disciplinary action.

d) Except as specifically permitted in this Article the Citizen Oversight process, regardless of its name or structure, shall not be used or permitted to gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint of misconduct by an officer. There shall be no legal or administrative requirement, including but not limited to subpoena power or an order from the City Manager or the Department, that an officer appear before or present

evidence to any individual, panel, committee, group, or forum of any type involved in Citizen Oversight. This provision has no application to any Independent Investigation authorized by the Chief of Police or the City Manager, regardless of whether the Independent Investigation was recommended by a Panel or Police Monitor, or to any hearing of an appeal of disciplinary action pursuant to this Agreement and/or Chapter 143 of the Texas Local Government Code. Police officers remain subject to orders or subpoenas to appear and provide testimony or evidence in such investigations or hearings.

Section 2. The Office of the Police Monitor ("OPM")

a) The Police Monitor will have unfettered access to the Internal Affairs investigation process, except as provided herein. The Police Monitor may inquire of the Commander of the Internal Affairs Division or the Chief of Police, or the Chief's designee, as to the status of any pending IAD investigation.

b) The OPM shall not gather evidence, contact or interview witnesses (except the complainant as provided herein), or otherwise independently investigate a complaint. The OPM shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that a police officer appear or present evidence to the Police Monitor. The OPM may obtain the following information in connection with the filing of a complaint of officer misconduct:

1. The complainant's personal information;

2. The nature of the complaint;

3. Witness information;

4. The incident location, date, and time; and

5. The APD officer(s) involved.

c) The OPM shall digitally audio record the taking of the information provided in subsection (b). The OPM will promptly forward the completed complaint and audio recording to IAD. A complaint by a complainant who is not a police officer shall not be accepted unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. A complainant may be subsequently interviewed by the IAD investigator for purposes of clarification or to obtain additional information relevant to the investigation.

d) Personnel from the OPM shall assist an individual in understanding the complaint process and the requirements for filing a complaint but shall not solicit or insist upon the filing of a complaint by any individual.

e) A representative from the OPM may attend an interview of the officer who is the subject of the investigation or administrative inquiry, as well as all witness interviews. The OPM representative may not directly question the subject of the interview. At the conclusion of any interview, the OPM representative may take the IAD investigator aside and request that the investigator ask additional questions. Whether such information is sought in any witness interview is within the discretion of the IAD investigator.

f) Neither the Police Monitor nor the Internal Affairs Representative(s) may remain in the Dismissal Review Hearing (or any other administrative hearing conducted for the purpose of determining whether the Department shall take disciplinary action against an officer for alleged misconduct) while the chain of command discusses the final classification and/or appropriate discipline, if any, to be imposed. The final classification of an allegation of misconduct is within the sole discretion of the Chief of Police, subject to the officer's right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this agreement.

g) On a quarterly basis, the Police Monitor, the Chief of Police, the Commander of the Internal Affairs Division, and the Association President shall meet to discuss issues related to the citizen oversight process, and shall endeavor to answer questions, and provide relevant information.

Section 3. Citizen Review Panel ("Panel")

a) Function

(1) The Panel shall serve to make recommendations to the Chief of Police as provided in this Article, and in addition to review individual cases of officer conduct as authorized in this Article. Panel members shall perform their duties in a fair and objective manner.

(2) The Panel shall provide a public report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation. In addition, the Panel shall provide a public report setting forth the Panel's conclusions and recommendations after its review of any Independent Investigation.

b) Qualifications

To be eligible for appointment to the Panel, applicants must not have a felony criminal conviction, received deferred adjudication for a felony, or be under felony indictment. Prior to appointment, Panel members must submit to a criminal background investigation to determine their eligibility to serve on the Panel. A felony conviction, felony indictment, or felony deferred

adjudication, after appointment, shall result in the immediate removal of the member from the Panel by the City Manager.

c) Training

To serve on the Panel, each member must complete the training prescribed herein prior to commencing their service on the Panel. The required training shall include:

(1) Attend a three to four (3-4) day training by APD tailored specifically for Panel members including, at a minimum, the following:

a. Special Investigations Unit;
b. Officer Involved Shootings;
c. Response to resistance;
d. The Police Training Academy;
e. Crisis Intervention Team;
f. Firearms, including FATS training;
g. Bomb and SWAT;
h. Ride-outs on at least two shifts in different parts of the City; and
i. A presentation by the Association.

(2) Attend six (6) hours of training provided by the Internal Affairs Division.

The training requirements of Section c) shall apply only to Panel members who are appointed to the Panel after the effective date of this Agreement.

d) Resign to Run

Any person involved in the citizen oversight process as a Panel member, who files for public elective office shall immediately resign from their position in the citizen oversight process, and failing such resignation shall be immediately removed by the City Manager.

e) Panel Review Process

(1) Not later than thirty (30) calendar days after the mailing of the notice of the outcome of the investigation to the complainant, the complainant may request that the Police Monitor refer the complaint to the Panel.

(2) Without a complainant's request, only the following cases may be referred to the Panel:

a. A "Critical Incident" as defined this Article;

b. The appearance of a pattern of serious misconduct by the officer involved;

c. The appearance of a pattern of department-wide misconduct;

d. The appearance of serious official misconduct by one or more members of the Department;

e. The appearance of bias based misconduct; or

f. The appearance of issue(s) to be addressed by policy, procedure, or training recommendations.

f) Nature of Proceedings

(1) The review of any case by the Panel shall not be conducted as a hearing or trial. Except for the receipt of public input/communications as provided by this Section or an Independent Investigation authorized by this Article, the Panel shall not gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint. The Panel shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that a police officer appear or present evidence to the Panel. The Panel shall immediately forward any information or evidence of which it becomes aware to the Chief of Police through the Police Monitor.

(2) A quorum shall be established prior to beginning the review of any case by the Panel.

(3) Not less than five (5) business days prior to a Panel meeting, the OPM shall provide the Internal Affairs Division and the individual designated by the president of the Association as the Panel liaison, with a copy of the Panel meeting agenda. The Panel shall not take action upon or receive public input/communications concerning any case or issue not listed as an agenda item. The Internal Affairs Division shall promptly notify any officer who is the subject of a complaint listed as an agenda item as to the scheduled Panel meeting. Notice of special meetings shall be handled in a similar manner, unless circumstances require a shorter notice, in which case the notice shall be issued as soon as the special meeting is scheduled.

(3) By virtue of its purely advisory role, the Panel is not a governmental body and is not subject to the Open Meetings Act. Those portions of the meeting during which public input/communication is accepted shall be open to the public and recorded by video and audio cassette tape.

g) Private Session

(1) Prior to receiving any communication from the complainant or any other public input/communications, the Panel may meet in private session to be briefed concerning the facts of the particular case to be reviewed. Either the Police Monitor or the IAD representative shall present to the Panel the information obtained from the IAD investigation. Members of the Panel may be provided with READ ONLY electronic access to all or part of the IAD files during these presentations.

(2) An APD officer designated by the president of the Association and one individual from the Internal Affairs Division shall be present during the Panel private session case briefing, including the portion of the private session described in subsection "e" below, subject to the following provisions:

a. The Association's representative will not participate in the briefing and is present only as an observer, with the following exceptions:

   (i) The Association representative may request that the Police Monitor allow the representative to present information relevant to a case before the Panel.

   (ii) A Panel member may request that the Association representative present information relevant to a case before the Panel.

   (iii) Any information provided by the Association representative shall be presented in a neutral manner.

b. The Association representative may not be involved in the case as a witness, investigator, relative, or officer in the chain of command.

c. Information in the possession of the Association representative as a result of participation in such briefing shall not be disclosed or revealed other than as necessary as a part of official Association business in monitoring and enforcing this agreement, or in the normal course of dispute resolution processes under this agreement.

(3) Panel members shall have full access to all administrative investigative and disciplinary files necessary to perform their functions under this agreement. Panel members may

ask questions and obtain specific facts, details and information from the Police Monitor, IAD, or the Chief's office. As part of such access, the Police Monitor may permit individual Panel members to review an IAD case file for up to five (5) hours, at the Police Monitor's office and in the presence of a member of the Monitor's staff. This review opportunity may occur before the Panel's private session and/or after the Panel's public session regarding such case. The prohibitions and restrictions in Section 8 of this Article apply to any confidential information viewed by Panel members during this review opportunity. Panel members shall not copy or remove any portion of the file. The Police Monitor shall be responsible for security of the file.

(4) During any private Panel briefing, the presenter should exercise discretion and omit information from the briefing that the Police Monitor deems to be irrelevant to the citizen's complaint, as well as information of a highly personal nature that would constitute an unwarranted invasion of an individual's personal privacy interests.

(5) Upon completion of the Panel case briefing, the complainant shall be allowed to address the Panel. The police officer who is the subject of the complaint may, but is not required to attend and listen to the address by the complainant. If the complainant is anxious or intimidated by the presence of the officer, the Panel shall videotape the complainant's address to the Panel, and allow the officer to view and respond to the taped statement outside the complainant's presence. Other than the complainant and the responding police officer, only those persons authorized to attend the Panel case briefing may be present during this portion of the Panel meeting.

h) Public Session and Comments

(1) After any address by the complainant and/or responding police officer, the Panel shall meet in public session to receive any additional public input/communications concerning the case under review. During the public session, the Police Monitor shall take precautions to prevent discussion of the facts of the particular case and to prevent the public session from being used as a forum to gather evidence, interview witnesses, or otherwise independently investigate a complaint. Any individual who indicates that he has new or additional evidence concerning the particular case shall be referred to the Chief of Police or his designee. The rules that apply to citizen communications with the City Council shall apply to the public session of the Panel meetings.

(2) The Police Monitor, in consultation with the Panel, shall set the time limits for such proceedings.

i) Deliberations

After receiving public input, if any, the Panel shall discuss the particular case under review in private session. The Police Monitor and/or the Assistant Police Monitor may be present during such discussion. No other individual may be present unless, the panel requests further information.

j) Action and Recommendations

(1) At the conclusion of the review process set forth above, the Panel, upon a majority vote of its total members, may make the following recommendations to Chief of Police:

a. Further investigation by the Department is warranted;

b. Department policies warrant review and/or change;

c. An "Independent Investigation" is warranted; or

d. A written, non-binding recommendation on discipline.

A recommendation on discipline is limited to cases involving a "critical incident" as defined in this Article. The Panel shall not take action or make recommendations not authorized by this Article.

(2) After the Citizen Oversight process has been completed for a "critical incident," as that phrase is defined herein, the individuals involved in the Citizen Oversight process may make non-binding disciplinary recommendations to the Chief of Police. The final decision as to appropriate discipline is within the sole discretion of the Chief of Police, subject to the officer's right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this agreement. The objectives of the process being served by a written recommendation as to discipline, neither the OPM employees nor individual members of the Panel shall publicly express agreement or disagreement with the final disciplinary decision of the Chief, other than as set forth in the written recommendation. Any such recommendation shall not be publicly disclosed prior to the Chief's final decision. After the Chief of Police has made his final decision, any such citizen or internal monitor recommendations shall be subject to public disclosure to the extent permitted by law. Violation of this provision shall be subject to the dispute resolution process set forth in Section 7 of this Article, but a Panel member shall not be subject to permanent removal from the Panel except upon a second violation of this standard.

(3) For purposes of this Section, the term "Critical Incident" shall mean:

a. An alleged use of force or other action by an Austin Police Officer that directly results in serious bodily injury or death (The definition of "serious bodily injury" found in the Texas Penal Code, Section 1.07(a)(46) will apply.);

b. A death in custody; or

c. An officer involved shooting.

(4) Members must attend the meeting and hear the merits of the case in order to vote. The Panel's recommendations shall be reduced to writing. The Panel's written recommendations shall explain the Panel's issues(s) or concern(s).

(5) The Police Monitor shall consult with the Panel in formulating any recommendations to the Chief of Police. All recommendations to the Chief of Police by the Panel shall be made available to the public to the extent permitted by law and this Agreement.

Section 4. Independent Investigation

a) In this Article, "Independent Investigation" means an administrative investigation or inquiry of alleged or potential misconduct by an officer, authorized by the Chief of Police or City Manager and conducted by a person(s) who is not:

(1) An employee of the City of Austin;

(2) An employee of the Office of the Police Monitor; or

(3) A volunteer member of the Panel.

b) An "Independent Investigation" does not include attorney-client work product or privileged material related to the defense of claims or suits against the City of Austin.

c) The Chief of Police and the City Manager retain all management rights to authorize an Independent Investigation concerning police conduct.

Section 5. Public Report of Independent Investigation

a) The provisions of Section 143.089(g) of the Texas Local Government Code are expressly modified to the extent necessary to permit public release of a final report prepared by an investigator who conducts an Independent Investigation authorized by the Chief of Police or City Manager concerning police conduct.

b) The public release of information authorized by this Section shall not contain or reveal evidentiary facts, or other substantive investigative information from the file, except to the extent that such information is at the time of such release no longer protected from public disclosure by law, or is already public as a matter of fact by lawful or authorized means or by the officer's own release. For example, the names of officers in an investigation may not be released, but could be released if those officers have elected to enter the public debate and discuss their involvement, or

if the public has been informed of identities by lawful or authorized means in the course of grand jury or other legal proceedings. The public statements authorized in this agreement are subject to review by the City of Austin Law Department to insure compliance with this Agreement and to determine whether the release of such information may be prohibited by any other law.

c) This Section shall apply to any Independent Investigation whether completed prior to or after the effective date of this Agreement and applies to every position and rank within the Austin Police Department.

d) Section 143.089(g) of the Texas Local Government Code is modified and superseded to the extent necessary to permit the public release of the following information only:

1. A report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation.

2. A report setting forth the Panel's conclusions and recommendations after its review of any Independent Investigation.

3. A report setting forth any policy recommendations made by the Panel.

4. A final report from an Independent Investigator, whether or not recommended by the Panel. This Section shall also apply to any Independent Investigation completed prior to ratification of this agreement.

Section 6. Public Communication

a) Except as permitted by this Agreement, employees of the OPM and members of the Panel shall not publicly comment on the specifics of pending complaints and investigations prior to a panel decision. All public comments and communications by the OPM shall be factual and demonstrate impartiality to individual police officers, the Austin Police Department, the Austin Police Association, employees of the City of Austin, residents of the City of Austin, and community groups.

b) Should a person participating on a Panel make public statements which, to a reasonable observer, would be perceived to express or demonstrate a position, bias, or prejudgment on the merits of a particular case that is under investigation or subject to review, prior to the completion of the citizen panel process for that case, such person will not be allowed to participate in the review, deliberation, or drafting of recommendations concerning that case. This provision does not prohibit the Panel or an individual Panel member from making generic, non-case related public statements about the Austin Police Department, or from providing information about the process, which does not appear to prejudge the merits, or demonstrate a bias on the case. In the

event of a violation of this standard, the Panel member shall be subject to permanent removal from the panel as set forth below.

c) No public comment or communication (including but not limited to oral or written statements, reports, newsletters, or other materials made, released, published or distributed) by the OPM or Panel members will make reference to or identify an officer by name, unless such release is then permitted by law, or the officer's name has become public as a matter of fact by lawful or authorized means, or by the officer's own release. Public comments or communications by the OPM and the Panel shall conform to state and federal law and this Agreement regarding confidentiality, and shall not contain information that is confidential or privileged under this Agreement or state, federal or common law.

d) All OPM written publications shall be provided to the APD and the APA simultaneously with distribution to the public.

Section 7. Dispute Resolution

a) Complaints concerning the conduct of OPM employees shall be filed with the Police Monitor, or if the complaint concerns the personal conduct of the Police Monitor, shall be filed with the City Manager. If not resolved at the first level, a fact finder shall be appointed to review relevant materials and take evidence to reach written findings of fact, which shall be expedited for final resolution within two weeks after appointment. The fact finder shall be appointed by striking an AAA list, if the parties do not otherwise agree on a fact finder. Upon conclusion of the fact finding, and after review and evaluation of the fact finder's report, the Police Monitor (or City Manager if the complaint concerns the personal conduct of the Police Monitor) shall make a decision. The final decision shall be made by the City Manager.

b) Complaints concerning the conduct of Panel members shall be filed with the City Manager. If a signed complaint is filed alleging specific comments by a Panel member that violate the standards in subparagraph 6 (b) above, the Panel's consideration shall be postponed or the particular Panel member shall not participate, until the matter is finally resolved. A complaint may not be based on statements or conduct previously raised and found insufficient for disqualification. Only one of such Panel members may be temporarily disqualified under this provision on a particular case. The City Manager shall promptly determine the complaint. The Association may appeal from the decision of the City Manager through the expedited arbitration process in this agreement. If two (2) consecutive complaints are found insufficient on a particular Panel member, subsequent complaints on that Panel member shall not result in temporary removal, but upon final determination that there has been a violation, such member shall be subject to permanent removal. Nothing shall prevent the Chief from taking disciplinary action within the statutory time frame, under the provisions of Chapter 143, as modified by this agreement.

Section 8. Access to Section 143.089(g) Files

a) Information concerning the administrative review of complaints against officers, including but not limited to Internal Affairs Division files and all contents thereof, are intended solely for the Department's use pursuant to Section 143.089(g) of the Texas Local Government Code (the 143.089(g) file.). All records of the Police Monitor's Office that relate to individual case investigations and the APD 143.089(g) file, although same are not APD files or records, shall have the same statutory character in the hands of the Police Monitor, and shall not be disclosed by any person, unless otherwise authorized by law. Public access to such information is strictly governed by this agreement and Texas law. To the extent necessary to perform their duties, individuals involved in the Citizen Oversight process are granted a right of access to the information contained within the 143.089(g) files of police officers.

b) Individuals involved in the Citizen Oversight process shall not be provided with information contained within a personnel file, including the 143.089(g) file of a police officer, that is made confidential by a law other than Chapter 143 of the Texas Local Government Code, such as records concerning juveniles, sexual assault victims, and individuals who have tested positive for HIV. All persons who have access to IAD files or investigative information by virtue of this agreement shall not be provided with access to any records of criminal investigations by the APD unless those materials are a part of the IAD administrative investigation file.

c) All individuals who have access by virtue of this agreement to IAD files or investigative information, including the information contained within the 143.089(g) files of police officers, shall be bound to the same extent as the Austin Police Department and the City of Austin to comply with the confidentiality provisions of this Agreement, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act. All such individuals shall further be bound to the same extent as the Austin Police Department and the City of Austin to respect the rights of individual police officers under the Texas Constitution and the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, including not revealing information contained in a compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).

d) A breach of the confidentiality provisions of this Agreement and/or Chapter 143 of the Texas Local Government Code by any individual involved in Citizen Oversight:

1. Shall be a basis for removal from office;

2. May subject the individual to criminal prosecution for offenses including, but not limited to Abuse of Official Capacity, Official Oppression, Misuse of Official Information, or the Texas Public Information Act; and/or

3. May subject the individual to civil liability under applicable State and Federal law.

e) The confidentiality provisions of this agreement, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act, are continuous in nature. All individuals involved in Citizen Oversight are subject to these confidentiality provisions even after their association with the Oversight process has terminated.

f) Following any review of an alleged violation of the confidentiality provisions of this Agreement, the City Manager's office will provide information about the outcome of that review to any officer(s) directly affected by the alleged violation.

Section 9. Use of Evidence from the Citizen Oversight Process in Disciplinary Appeals

Opinions or recommendations from individuals involved in Citizen Oversight in a particular case may not be used by a party in connection with an appeal of any disciplinary action under the provisions of Chapter 143 of the Texas Local Government Code and this Agreement. No party to an arbitration or Civil Service proceeding may use or subpoena any member of the Citizen Review Panel or the Police Monitor (unless the Police Monitor took the complaint in the relevant case) as a witness at an arbitration or Civil Service proceeding including, but not limited to live or deposition testimony which concerns their duties or responsibilities in the oversight process or their opinions or recommendations in a particular case. This provision shall not prevent any testimony for evidentiary predicate.

Section 10. Partial Invalidation and Severance

In the event that a Court Order, Judgment, Texas Attorney General Opinion, or arbitration decision, which is final and non-appealable, or which is otherwise allowed to take effect, which order, judgment, opinion, or decision holds that the right of access to the information contained within the 143.089(g) files of police officers granted by this Article or the public dissemination of information pursuant to this Article, results in "public information" status under the Texas Public Information Act of the information contained within the 143.089(g) files of a police officer, the provision or provisions resulting in such a change in the status of the 143.089(g) file shall be invalidated and severed from the balance of this Agreement.

Section 11. Remedies

a) Benefit of the Bargain

The CITY expressly retains its right and ability to proceed with the determination of whether or not police misconduct occurred and the authority of the Chief to impose disciplinary action. The ASSOCIATION recognizes the fact that such reservations are essential to this Agreement. No dispute concerning the operation and function of the Police Monitor's Office or the Panel shall impair or delay the process of the Chief's investigation and determination of whether or not police misconduct occurred and the degree of discipline, if any, to impose. This includes internal dispute resolution procedures in this Agreement, any grievance process or arbitration, and any litigation over such issues. In other words, any such dispute resolution processes may proceed, as set forth in this contract or by law, but the disciplinary process may likewise and

simultaneously proceed to its conclusion without delay. The statutory time period for the Chief of Police to take disciplinary action against an officer shall be tolled to the extent of any period in which a court order, injunction, or TRO, obtained by the officer involved or the Association on behalf of the officer, halts the Department's investigative or disciplinary process. In no event will the actual time exceed 180 calendar days. The parties agree that the processes in this Agreement, together with the remedies set forth and the procedural protections and rights extended to officers in this Agreement are adequate remedies at law for all disputes arising under this Article.

b) Expedited Arbitration

The parties have agreed to expedited arbitration for all unresolved grievances related to the application or interpretation of this Article in order to achieve immediate resolution and to avoid the need for court intervention in equity. Such arbitrations shall be conducted pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association ("AAA"), as amended and effective December 1, 2002. To be appointed, the arbitrator must be available to hear the arbitration within thirty (30) calendar days of selection and a decision shall be made within one (1) week of the hearing. The parties agree to create a list of pre-approved arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list, the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues and testimony by written submission or phone conference, but may also require live testimony where appropriate.

Section 12. Preemption

It is expressly understood and agreed that all provisions of this Article shall preempt any statute, Executive Order, local ordinance, City policy or rule, which is in conflict with this Agreement and the procedures developed hereunder, including for example and not by way of limitation, any contrary provisions of Chapters 141, 142, and 143 of the Texas Local Government Code, including but not limited to Section 143.089(g).

OFFICE OF THE POLICE MONITOR

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The Police Monitor's Office is the main location for accepting complaints filed by members of the public against police officers. To file a complaint with the Office of the Police Monitor, the public can contact our office by telephone, facsimile, mail, email, or in person. The Police Monitor or a member of the Police's Monitor's office will conduct an initial interview with the complainant and will explain the oversight and investigative processes. The Internal Affairs Division of the Austin Police Department or the subject officer's chain of command will conduct an investigation. The Office of the Police Monitor will participate in the APD investigation. The Office of Police Monitor will make policy recommendations to APD. Upon conclusion of the investigation, the complainant will be notified in writing of the outcome.