

REPORT TO CITY COUNCIL

BACKGROUND

In November 2020, in response to recommendations from the Citizens' Police Task Force, the City Council directed the Police Department to initiate changes to the police complaint intake process including submitting complaints to an Independent Intake Official (IIO).

For the past two years, Stephanie Atigh, Attorney at Law, has been serving as the Independent Intake Official.

INDEPENDENT INTAKE OFFICIAL

The Independent Intake Official provides the following services:

- Contracts with the city of Los Altos

- Accepts complaints from the public

- Shares complaints with the Police Department so that the administration can process the complaint

- Accepts and logs complaints that were initially sent to the Police Department

- Monitors the progress of complaints to ensure timely processing

- Holds names of complainants confidential from the Police Department if requested

- Generates an annual report to the city summarizing all police complaints received. The IIO Annual Report will not include personal identifying information about complainants or Department member.

The Independent Intake Official **does not provide** the following:

- The IIO does not work for the Los Altos Police Department.

- The IIO does not conduct investigations.

- The IIO has no authority to change the result of an investigation.

- The IIO will not release a complainant's name to the Police Department if the complainant wishes to remain anonymous.

INDEPENDENT INTAKE OFFICIAL'S ANNUAL REPORT FOR 2022

Personnel complaints are classified in 5 categories: Informal, formal, incomplete, decline to investigate, and exceptional clearance. This report summarizes complaints received in 2022.

A complaint can be classified as **incomplete** if the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

A complaint may be classified as **decline to investigate** when (1) the alleged incident could not have occurred based on the details the complainant provides that could best be described as hallucinatory in nature; (2) a reasonably objective person would assume the complainant's description of the circumstances is based upon information that is clearly made up or imaginary; (3) the complainant's description of the incident is based on what a reasonably objective person would describe as an implausible conspiracy theory; or (4) the complainant previously made the same complaint against a Department member and that complaint has previously been investigated and a disposition reached.

An **exceptional clearance complaint** is one in which the initial investigation of the complaint reveals that the misconduct alleged in the complaint did not occur, based on immediately available evidence and/or recorded media. Complaint investigators will complete formal written documentation of the incident using the Internal Affairs Investigation Report Format to explain why the case cleared exceptionally.

FORMAL COMPLAINTS

A formal complaint is a matter in which the complaining party requests further investigation or in which a Department supervisor determines that further action is warranted. Such complaints may be investigated by a Department supervisor of rank greater than the reported employee or referred to the Operations Commander depending on the seriousness and complexity of the investigation. If an investigation of a formal complaint discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator will respond appropriately to those additional allegations.

The disposition of a formal complaint is classified in one of the following:

Unfounded: when the investigation discloses that the alleged acts did not occur or did not involve Department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated: When the investigation discloses that the alleged act occurred but that the act was justified, lawful, and/or proper.

Not sustained: When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the officer.

Sustained: A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of a Department member were found to violate law or department policy (Penal Code § 832.8).

No Finding: When the complainant fails to provide information promised or necessary to complete the investigation, the complainant is no longer available to clarify details needed to make a finding in the case, or the complainant has advised that he or she is no longer willing to cooperate in the investigation.

Complaint Withdrawn: When the complainant affirmatively indicates the desire to withdraw his/her complaint.

A summary of four (4) formal complaints received in 2022 is provided in Table 1 attached to this report. In 2021 two (2) formal complaints were received.

INFORMAL COMPLAINTS

An informal complaint is a matter in which the complaining party is satisfied that appropriate action has been taken by a Department supervisor of rank greater than the reported employee. Informal complaints need not be documented on a personnel complaint form, and the responsible supervisor shall have the discretion to handle the complaint in any matter consistent with this policy.

An informal complaint is considered “resolved” when the complainant expresses satisfaction to the Department’s representative about the Department’s response to the complaint, and the complainant does not ask for further action by the Department. An informal complaint is considered “closed” when the concerns articulated in the complaint have been addressed by Department personnel, but the complainant is unable to be reached to discuss their level of satisfaction.

A summary of fourteen (14) informal complaints received in 2022 is provided in Table 2 attached to this report. The Department received 14 informal complaints in 2021.

COMPLAINTS WHERE IDENTITY OF COMPLAINANT IS KEPT CONFIDENTIAL BY INDEPENDENT INTAKE OFFICIAL

A complainant can request that his/her identity be maintained only by the Independent Intake Official and not shared with members of the Department. In 2022, the IIO did not receive any such complaints while in 2021, the IIO received two (2).

In 2022, the Independent Intake Official also received six complaints relating to activities of civilians, not Los Altos Police Department personnel. In each case, the complainant was notified that the Independent Intake Official could not assist with the complaint, and the complainant was directed to contact the appropriate city department, if any.