

*1997 - 1998*  
*Combined Annual Report*

*Citizen Police Complaint Commission*  
*City of Long Beach*

*Prepared for*  
*The Mayor and City Council*

June 1, 1999

Honorable Mayor and City Council:

I am pleased to transmit this report from the Citizen Police Complaint Commission (CPCC) for your information. The report provides a statistical analysis of complaints reviewed by the Commission during 1997 and 1998.

There has been a remarkable decline (nearly 70%) in complaints against police officers in the City of Long Beach over the past five years from 381 in 1994 to 119 in 1998. This change clearly reflects the diligent efforts of the police department to improve the public demeanor of police officers. It also provides testimony that a competent citizen review board such as the CPCC can help restore and maintain public trust in our police department.

I would like to acknowledge the tremendous commitment of the CPCC staff. The citizens of Long Beach are fortunate to have such dedicated and effective public servants performing the difficult task of investigating police officers accused of misconduct. Helga Kennedy, Executive Director, Investigators Anitra Dempsey, Ron Waugh, Ivory Webb, and Secretary Jessie Oliva have all worked tirelessly in support of the CPCC's goals. Special appreciation is also extended to Gerald Miller, Assistant City Manager who serves as consultant to the CPCC.

I would also like to thank and commend my fellow Commissioners who have brought their tremendous concern and competence to our complaint review process. And, finally, I want to thank the people of Long Beach for placing their trust in the members of this Commission.

Sincerely,

Alan Tolkoff, Chair  
Citizen Police Complaint Commission

# **Citizen Police Complaint Commission City of Long Beach**

## **Commissioners**

Alan Tolkoff, Chair  
Eleanor Aguilar, Vice Chair  
John Atkinson  
Daniel A. Baker  
Bryant Ben  
Grant Boyer  
Gray J. Cooper  
Joanne DeVere  
Naomi C. Ferns  
Robert Lee King  
Gerhard Kohn  
Mike Kowal  
Norma Mower  
Michael D. Orlito  
Michael Pearce  
Terry Rouch  
Daniel G. Torres

## **Staff**

Helga Kennedy, Executive Director  
Herb Levi, Executive Director (retired)  
Anitra Dempsey, Investigator  
Ronald C. Waugh, Investigator  
Ivory J. Webb, Investigator  
Jessie Oliva, Executive Secretary  
Jan Pittman, City Clerk's Office

## **Consultants To Commission**

Gerald R. Miller, Assistant City Manager  
Joseph T. Rouzan, former Deputy City Manager

Citizen Police Complaint Commission  
333 West Ocean Boulevard, 13<sup>th</sup> Floor  
Long Beach, California 90802  
Office: (562) 570-6891  
Fax: (562) 570-6583  
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# **CITIZEN POLICE COMPLAINT COMMISSION**

## **ROLE OF THE CITIZEN POLICE COMPLAINT COMMISSION**

The Citizen Police Complaint Commission was approved by the voters of the City of Long Beach and created by City Charter Amendment, adding Sections 1150 - 1155, on April 10, 1990. The Charter Amendment authorized the Commission to receive and investigate complaints of police misconduct with emphasis on allegations of excessive force, false arrest, and racial and/or sexual overtones.

The Commission's role is that of fact-finding and making recommendations to the City Manager. The Commission is neither an advocate for the complainant(s) nor for police officer(s). The Citizen Police Complaint Commission is empowered to conduct hearings and, through the City Attorney's office, may subpoena witnesses and records when necessary to facilitate the fact-finding process.

The Citizen Police Complaint Commission plays a vital role in representing the citizens of Long Beach. Individuals who prefer not to complain directly to the police department have the option to file their complaint with the Commission, which is a completely civilian organization. The police department also forwards copies of all complaints it receives to the Commission for review and consideration for investigation.

The investigative process is aimed at attaining all the facts concerning the allegations. Although Commission Investigators may conduct investigations independent from the police department, such investigations are only directed by the Commission when the police department has not conducted a comprehensive investigation as viewed by the Commissioners. This has not been an issue; full cooperation from the department has always been experienced.

The Commission staff accepts the police department investigation as a basis for their independent review and evaluation; however, independent interviews of citizens as well as site visits are routinely conducted by Commission staff. Whenever staff discovers additional facts or data, such information is forwarded to the police department for their investigation.

The Citizen Police Complaint Commission serves the community by providing an impartial viewpoint of the alleged incident and applying the "reasonable person's" standard in addressing the complaint. The Commission makes findings of fact and submits those findings to the City Manager for consideration in conjunction with the police department's report.

The Commission's findings and recommendations to the City Manager may provide the police department with valuable insight regarding how the community perceives the department and how training and public relations can be enhanced; however, the Commission does not recommend discipline or penalty.

## **GOALS AND OBJECTIVES**

Since its inception, the long-range goal of the Citizen Police Complaint Commission has been the restoration of the trust of the citizens in their law enforcement agency. Additionally, improvement in the demeanor of police officers in their actions toward citizens has been a short-range goal. The Commission believes that if it can assure that police officers use appropriate actions in their contact with the citizens of Long Beach, the citizens will more readily support the police. If citizens support the police, they will become involved in the law enforcement effort, and hence, generate a reduction in crime within the city. Cities with low crime rates attract quality businesses and citizens.

The City Auditor's report of the Long Beach Police Department, April 1997, indicates that the long-range objective is being achieved. In 1993, only 42% of the survey respondents believed that the Long Beach Police Department had a positive image in the community. However, that figure increased to 63% in 1997. This change indicates that the community, in general, has a more positive image of the police department at the present time than it did in the past, when the Commission began its efforts.

Hopefully, the fairness doctrine by which the Commission operates is bringing the police employee and the complainant to more positive conclusions about department actions. Additionally, as it ensures that police conduct is appropriate, and the need for complaints will be diminished. This will be a positive direction for the entire city in its quest for increased tourism and quality of life.

The goals and objectives for the future are to maintain an atmosphere in police community relations that will assure the citizen that he/she is being treated fairly, from traffic stops to felonious arrests. They will give the citizen the belief that he/she can trust the police in all their actions. This will improve the cooperation between police and citizen and reduce the allegations about poor treatment by the police employee.

## **REPORTS**

The Commission, through its staff, has reported regularly to the City Manager regarding trends in policing that may increase the number of complaints from citizens regarding police misconduct. These, in turn, are forwarded to the Chief of Police. Such actions are important to assist in police officer review and in the need for additional training. The Early Warning System of the Long Beach Police Department is a tool that identifies this need in those officers who change habits or stray from department policy. The regularity with which the Citizen Police Complaint Commission meets adds to the perception of its availability to receive, investigate, deliberate and make findings regarding a citizen's complaint of police misconduct.

## **RELATIONSHIP WITH STAFF**

The Commission enjoys an excellent relationship with Commission staff and the City Manager's Office. The staff is a dedicated, well-organized team committed to supporting the Commissioners in every aspect of their responsibilities. They provide insight and background to assist the Commissioners in reaching a fair and impartial recommendation. The staff does not make recommendations of findings to the Commission.

## **INTERACTION WITH POLICE DEPARTMENT**

The Commission has met several times with Chief Robert M. Luman and representatives of Internal Affairs. The Commissioners have had lengthy discussions with the Chief on specific complaints and questions of tactics and patterns of misconduct where officers were within their authority, but in the Commissioners' view may have exercised poor judgment. Chief Luman has accepted the good faith suggestions and concerns raised by the Commissioners, and has provided feedback to the Commissioners on how the department has addressed their concerns.

The Commissioners applaud the Chief for affording them the opportunity to make suggestions, which may impinge on policy, and for accepting that information in good faith. The Commissioners are fully aware that they do not have the authority to formulate policy. However, the Commissioners would be remiss if they did not inform the Chief of observations they have made which might assist the Chief in improving the performance of the department and which will enhance the philosophy and concept of community policing.

## **RELATIONSHIP WITH THE LONG BEACH POLICE OFFICERS ASSOCIATION**

The Commission and staff have developed and maintain a cooperative relationship with the Police Officers Association. The current and past presidents have all attended meetings and addressed the Commission; the dialogue has been very positive and the Commission makes every effort to uphold this open and positive relationship.

## **INVESTIGATIVE PROCESS**

In 1991, the Commission formed four subcommittees to screen all complaints. This process became extremely cumbersome and caused serious delays in relation to notifying the police department that an investigation was required. It also impacted greatly the turnaround time to receive that complaint for Commission review and findings.

Although the Commission formally implemented its operational system in 1991, it was 1992 before a consistent method of collecting and analyzing data was consummated. In 1994, the Commission refined its policy to exclude complaints that were invalid on their face and/or were complaints of police service, which were not violations of police department policy.

The Commission delegated the authority to screen initial complaints to the Executive Director to expedite the process and spend less time on frivolous and intentionally misleading complaints of misconduct. The need to redefine the policy was based on a number of complaints which had no basis of fact to suggest a complaint.

Commission staff has computerized the process to accurately reflect data submitted for analysis. That comparable data is the base for analysis from year to year, and is consistent.

### **MEETINGS**

The Commission met ten times in public session in 1997 and nine times in public session in 1998. These meetings were held on the second Thursday of each month at 6:30 p.m. in the City Council Chambers. The public is invited to participate in these sessions. After all general business is completed, the Commission enters into closed session to discuss the specific details of the allegations and to determine appropriate findings for each. These meetings are, of necessity, confidential, and the public cannot attend or participate.

There were no special meetings during 1997 or 1998. The Commission was able to conduct its business as a single functioning unit. It has reached a point of maturity where the subdivisions, such as Boards of Inquiry, are no longer necessary.

### **BUDGETED EXPENDITURES**

	Budgeted 1997	Actual 1997	Budgeted 1998	Actual 1998
Personnel	\$244,672	\$217,639	\$258,471	\$196,593
Non-Personnel	\$21,900	\$7,573	\$14,100	\$13,221
Inter-Departmental	\$26,800	\$19,436	\$31,547	\$20,053
<b>Total</b>	<b>\$293,372</b>	<b>\$244,648</b>	<b>\$304,118</b>	<b>\$229,867</b>

**Commissioner Attendance Record for 1997  
Citizen Police Complaint Commission**

Meetings: 2<sup>nd</sup> Thursday of every month, beginning at 6:30 P.M.  
Council Chambers, 333 West Ocean Blvd., Long Beach, CA

<b>Commissioner</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
Aguilar, Eleanor									NM	P	P	P
Atkinson, John	P	P	P	P	P	P	NM	P	NM	P	P	P
Baker, Dan	P	P	P	P	P	P	NM	P	NM	P	P	P
Ben, Bryant	P	P	P	Ex	P	P	NM					
Boyer, Grant							NM	P	NM	P	P	P
Devere, Joanne										P	P	P
Ferns, Naomi	P	P	P	P	P	P	NM	P	NM	P	P	P
Kohn, Gerhard	Ex	Ex	Ex	Ex	Ex	Ex	NM					
Kowal, Mike	P	P	P	P	P	A	NM	P	NM	P	P	P
Orlito, Michael	P	P	P	P	P	P	NM	P	NM	P	P	P
Pearce, Michael	P	P	P	Ex	Ex	P	NM					
Rouch, Terry	P	Ex	P	P	P	P	NM	P	NM	P	P	P
Tolkoff, Alan	P	P	P	P	P	A	NM	P	NM	P	Ex	P
Torres, Dan	P	P	P	P	P	P	NM	P	NM	P	P	P

**Commissioner Attendance Record for 1998  
Citizen Police Complaint Commission**

Meetings: 2<sup>nd</sup> Thursday of every month, beginning at 6:30 P.M.  
Council Chambers, 333 West Ocean Blvd., Long Beach, CA

<b>Commissioner</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
Aguilar, Eleanor	Ex	P	P	P	NM	P	P	P	NM	P	P	NM
Atkinson, John	P	P	Ex	P	NM	P						
Baker, Daniel	P	Ex	P	P	NM	P	P	P	NM	P	Ex	NM
Boyer, Grant	P	P	P	Ex	NM	P	Ex	P	NM	Ex	P	NM
Cooper, Gary							Ex	P	NM	P	P	NM
Devere, Joanne	P	Ex	P	P	NM	P	P	P	NM	P	Ex	NM
Ferns, Naomi	P	P	P	Ex	NM	P	P	P	NM	P	P	NM
King, Robert							P	P	NM	P	P	NM
Kowal, Mike	P	Ex	P	Ex	NM	P	Ex	P	NM	P	P	NM
Mower, Norma							P	P	NM	Ex	P	NM
Orlito, Michael	P	P	Ex	P	NM	P	P	Ex	NM	Ex	P	NM
Rouch, Terry	P	P	P	P	NM	A						
Tolkoff, Alan	P	P	P	Ex	NM	P	P	P	NM	P	P	NM
Torres, Dan	P	P	Ex	A	NM							

P = Present    A = Absent    Ex = Excused Absence    NM = No Meeting     Not Commissioners



## HEARINGS AND INVESTIGATIONS

To date, the Commission has not held a formal hearing. The process of police action review makes this unnecessary at this time; however, hearings may be held if an incident having significant public impact occurs. The effectiveness of the hearing process in obtaining facts will remain unknown until such an incident occurs. The police action review process has been cost-effective in obtaining the facts regarding the allegations brought before the Commission.

During the calendar years 1997 & 1998, the staff investigated, through the review process, 302 complaints with a total of 762 allegations of police misconduct. These allegations were forwarded to the Commission for its deliberations and findings and were distributed throughout 19 categories. They are defined in the tables on pages 8 and 9, and on the attached graphs. The categories and number of allegations for each are as follows:

<b>FINDINGS</b>	<b>1997</b>	<b>1998</b>
UNFOUNDED	23.2%	25.9%
EXONERATED	0.9%	0.3%
INCONCLUSIVE	56.3%	55.6%
SUSTAINED	5.1%	5.1%
RECEIVE & FILE	14.5%	13.1%

	<b>1997</b>	<b>1998</b>	<b>% of Change</b>
<b>TOTAL COMPLAINTS RECEIVED</b>	183	119	-35.0%
<b>TOTAL ALLEGATIONS RECEIVED</b>	449	313	-30.3%
<b>MAJOR CATEGORIES AS DEFINED BY CHARTER</b>			
Use of Force	167	112	-32.9%
Improper Arrest / Detention	34	6	-82.3%
Improper Racial Remark	9	4	-55.6%
Improper Sexual Remark	2	3	+33.3%

The overall major category complaint reduction of 35.0% is laudable. Of the total 762 allegations for 1997 & 1998, 36.6%, or 279, were for Use of Force. The Commission feels this is an area of concern and should be addressed by the police department. The Commissioners also take note that while African Americans represent the majority of complainants, 44.7%, they only represent approximately 14.9% of the Long Beach population.

Sustained allegations remained the same for both years. Only four allegations of Improper Use of Force were sustained. The majority of findings fell in the Unfounded (24.3%) and Inconclusive (51.6%) categories.

The following data shows the trends of complaints from 1992 through 1998. This is further illustrated in the attached graphs.

- ❖ In 1992, the Commission in its first full year of operation received 278 complaints.
- ❖ In 1993, the number of complaints dropped to 241, a 13.4% decrease from 1992.
- ❖ In 1994, due to a change in policy where the CPCC not only investigated all complaints they received directly but also all complaints received by the police department, the number of complaints received rose dramatically to 381, for a 63% increase from 1993.
- ❖ In 1995 complaints received leveled at the 241 mark once again, a 37% decrease from 1994.
- ❖ In 1996, the number of complaints investigated was 216, a 10.4% decrease from 1995.
- ❖ In 1997, the number of complaints investigated was 183, a 15.3% decrease from 1996.
- ❖ In 1998, the number of complaints investigated was 119, a 35% decrease from 1997.

The vast majority of the findings are inconclusive because the incident involves a one vs. one relationship (police employee vs. complainant) and facts that are available cannot prove or disprove the allegation. Per City Charter requirements, the details of the findings can only be revealed to the City Manager who makes the final disposition.

A review of the officers accused during 1997 and 1998 indicates the following: 4 officers received between 8 and 11 separate allegations, 24 officers received between 5 and 8 separate allegations, 88 officers received between 3 and 5 separate allegations, and 184 officers received between 1 and 2 allegations.

The Early Warning System of the Long Beach Police Department tracks those officers who receive a large number of complaints of alleged misconduct to determine if the officer is off track. If so, personal attention is provided to put the officer back on track. Occasionally, personal issues in the officer's life instigate the difficulty that the officer experiences. When these are encountered, the Long Beach Police Department offers programs such as the Employee Assistance Program and The Peer Counseling Program to assist the officer in resolving the problem. When the difficulty is overcome, the officer returns to the quality of performance that is expected of him/her. The

Commission indirectly assists in this effort.

**TOTAL ALLEGATIONS INVESTIGATED IN 1997 – 449**

<b>Categories</b>	<b>*NOA</b>	<b>Percentage of Total</b>
Discourtesy	28	6.2%
Dishonesty	3	0.7%
Fail to Investigate	4	0.9%
Failure to Book Evidence	2	0.4%
Failure to Care for Property	27	6.0%
Failure to Take Action	21	4.7%
Failure to Take Report	12	2.7%
Harassment	64	14.3%
Improper Arrests	24	5.3%
Improper Detention	10	2.2%
Improper Entry	8	1.8%
Improper Racial Remark	9	2.0%
Improper Search / Personal	7	1.6%
Improper Search / Residential	5	1.1%
Improper Search / Vehicle	3	0.7%
Improper Sexual Remark	2	0.4%
Improper Use of Force	167	37.2%
Misappropriation of Property	11	2.4%
Profanity	42	9.4%

\*NOA = Number of allegations filed

**TOTAL ALLEGATIONS INVESTIGATED IN 1998 – 313**

<b>Categories</b>	<b>*NOA</b>	<b>Percentage of Total</b>
Discourtesy	26	8.3%
Dishonesty	10	3.2%
Fail to Investigate	8	2.6%
Failure to Book Evidence	3	1.0%
Failure to Care for Property	11	3.5%
Failure to Take Action	12	3.8%
Failure to Take Report	4	1.3%
Harassment	37	11.8%
Improper Arrests	4	1.3%
Improper Detention	2	0.6%
Improper Entry	6	1.9%
Improper Racial Remark	4	1.3%
Improper Search / Personal	11	3.5%
Improper Search / Residential	2	0.6%
Improper Search / Vehicle	2	0.6%
Improper Sexual Remark	3	1.0%
Improper Use of Force	112	35.8%
Misappropriation of Property	17	5.4%
Profanity	39	12.5%

\*NOA = Number of allegations filed

## **FINDINGS AS DEFINED BY THE COMMISSION**

### **UNFOUNDED**

When the allegation clearly has no basis or foundation in fact and there is no information or evidence that supports the allegation, and/or the complainant has been found to be untruthful based on factual information.

### **EXONERATED**

When the act complained of did occur, but in the judgment of the Commissioners, the actions taken were justified, lawful, and proper.

### **INCONCLUSIVE**

When the allegations cannot be verified by evidence, information or independent witnesses and the officers deny the allegation(s), and there are no independent or unbiased witnesses to support the complainant's allegation(s).

### **SUSTAINED**

When the act or failure to act is established and is rendered misconduct, and that act or failure to act is supported by evidence, information or unbiased independent witnesses.

### **RECEIVE & FILE**

When information is received which does not, on its face, establish misconduct or failure to act has occurred, that information is received and filed for possible reopening of the case if further information or evidence is submitted. If additional information is received within a year, an investigation may be opened.

## **OBSERVATIONS AND RECOMMENDATIONS**

The appropriate and timely acceptance and recording of citizen complaints against law enforcement officers is such a significant issue that the State legislators have promulgated State law to address and ensure that agencies establish and maintain a process which is available to all citizens.

This process must be credible and have the confidence of the citizenry. The Long Beach Police Department has such a process. Once a complaint is filed with the police department or the Citizen Police Complaint Commission, the police department and the Citizen Police Complaint Commission independently investigate the complaint.

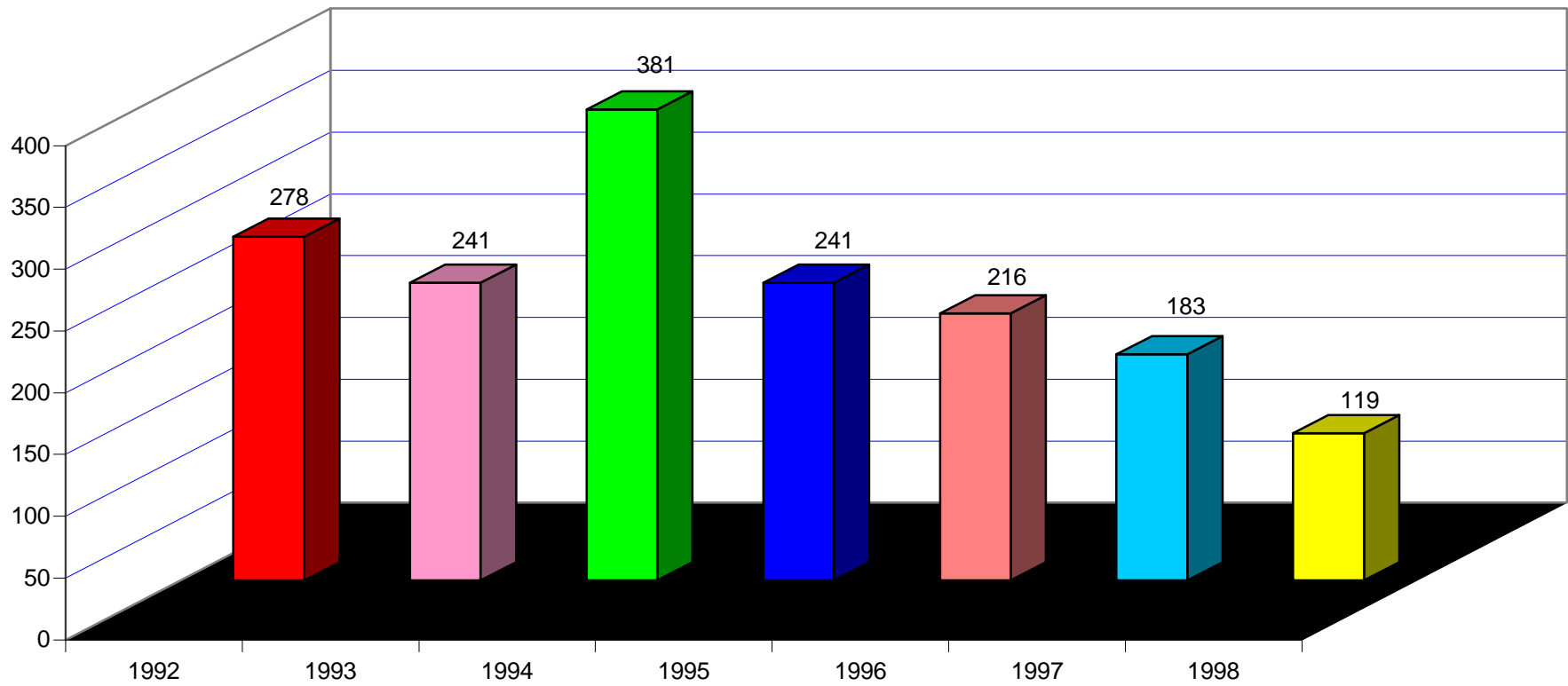
Complaints assigned to Internal Affairs investigators are generally more comprehensive and detailed than those assigned to field supervisors or non-specialists in personnel investigations. Because of limited resources, only very sensitive or serious complaints of misconduct are assigned to Internal Affairs investigators. The investigations completed by non-Internal Affairs personnel are not always comprehensive and often need additional information or need reinvestigation.

Commission staff has received complaints from some citizens complaining that the system is skewed against them. Some complainants state that some complaint intake officers discourage a filing and are argumentative with the complainant. This type of activity certainly taints the process. When citizens have identified these officers to the CPCC staff, the police department is immediately notified. However, it appears that the majority of these types of complaints arise because of a 1996 California State Law 148.6 PC. This law mandates that officers "shall" inform complainants that it is a crime to file a false complaint against a peace officer and that they may be subject to arrest and/or civil action for filing a false report.

Another observation that has caused some concern to Commissioners is the lack of follow-up by some investigators in pursuing all aspects of the investigation. In some instances, there is no indication that the investigator attempted to identify unknown officers or witnesses involved in the case. Sometimes, witnesses and officers are not interviewed, and all too often the officers are not requested to specifically respond to the allegation or accusations of the complainant. An acknowledgement or a direct denial of the allegation(s) is often not recorded. To correct this situation, the Internal Affairs Division has been providing on-going training to its investigators and supervisors. As a result, the Commission has seen an improvement in the quality of investigations.

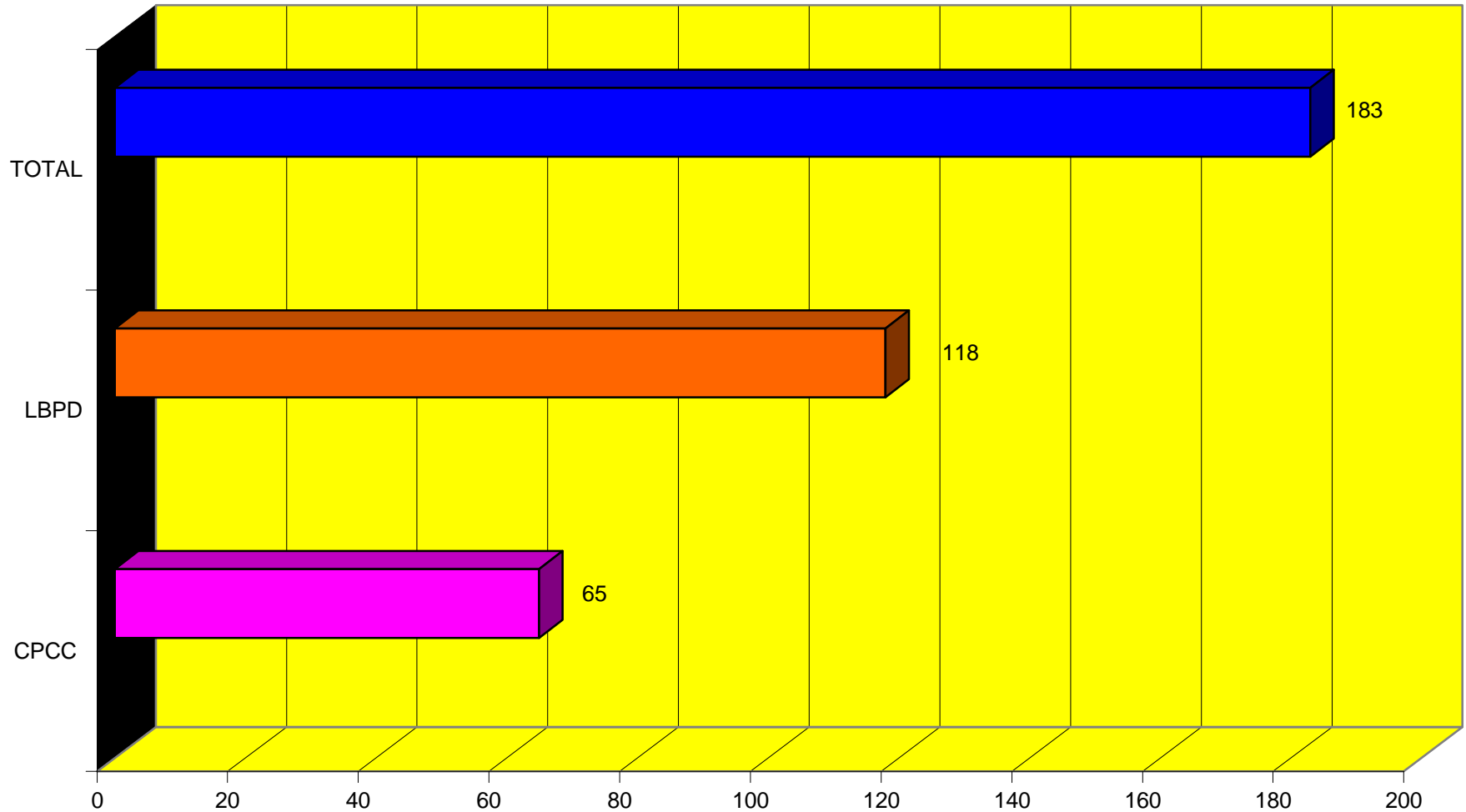
The Commissioners find their challenges and responsibilities very rewarding and are pleased to be of service to the elected officials, the administration, and, most importantly, to the residents and visitors of Long Beach.

# COMPLAINTS FILED 1992 - 1998

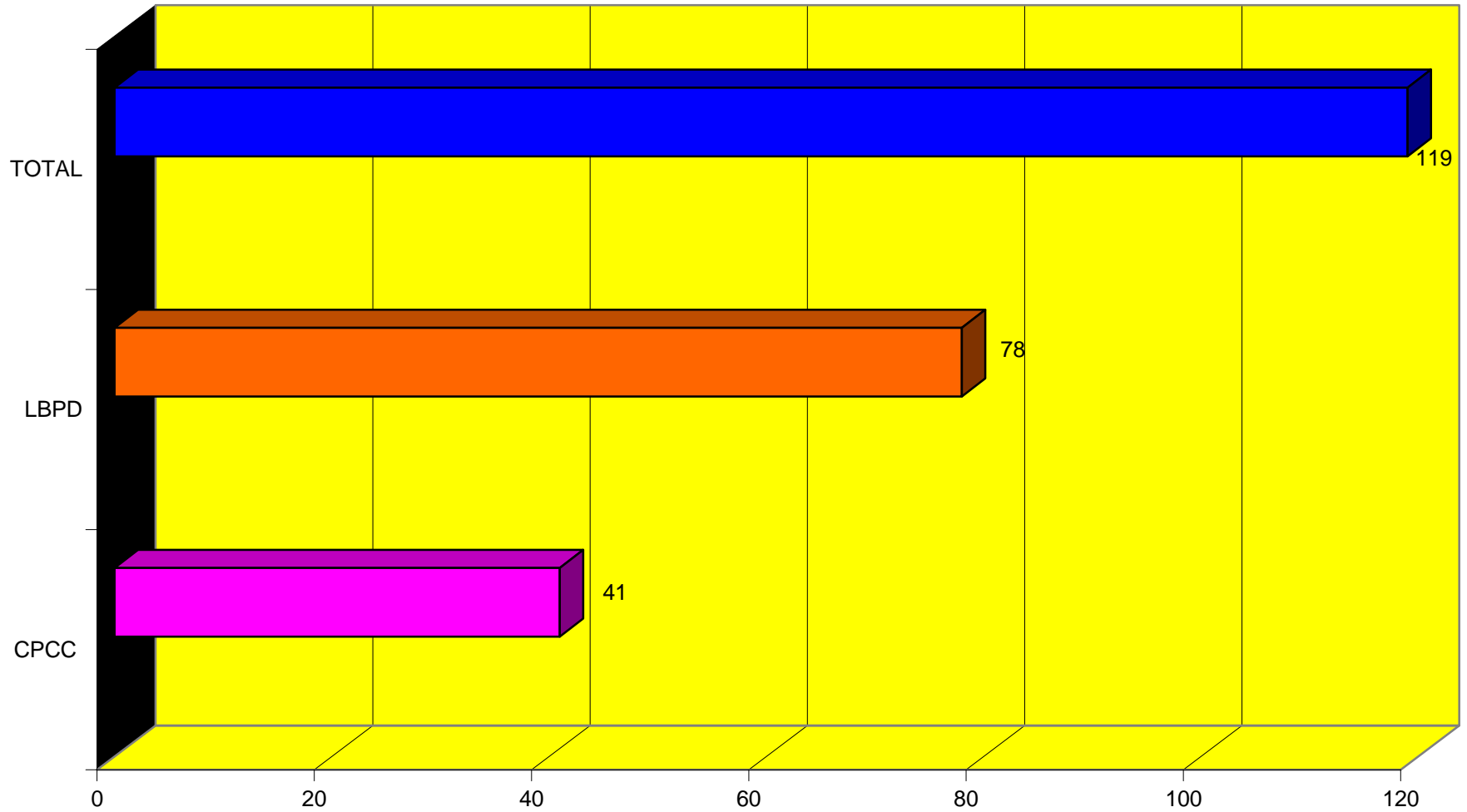




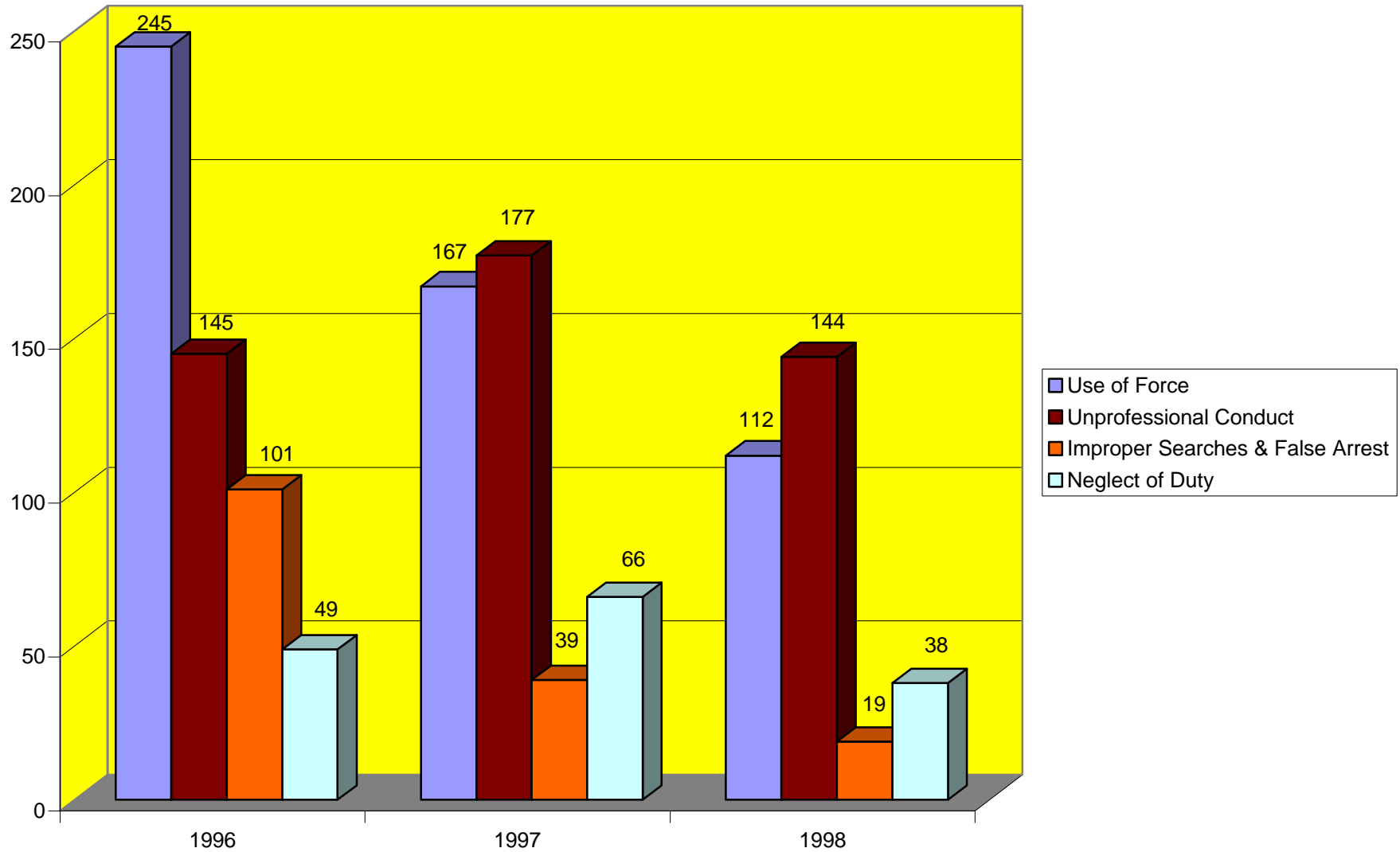
# COMPLAINTS FILED 1997



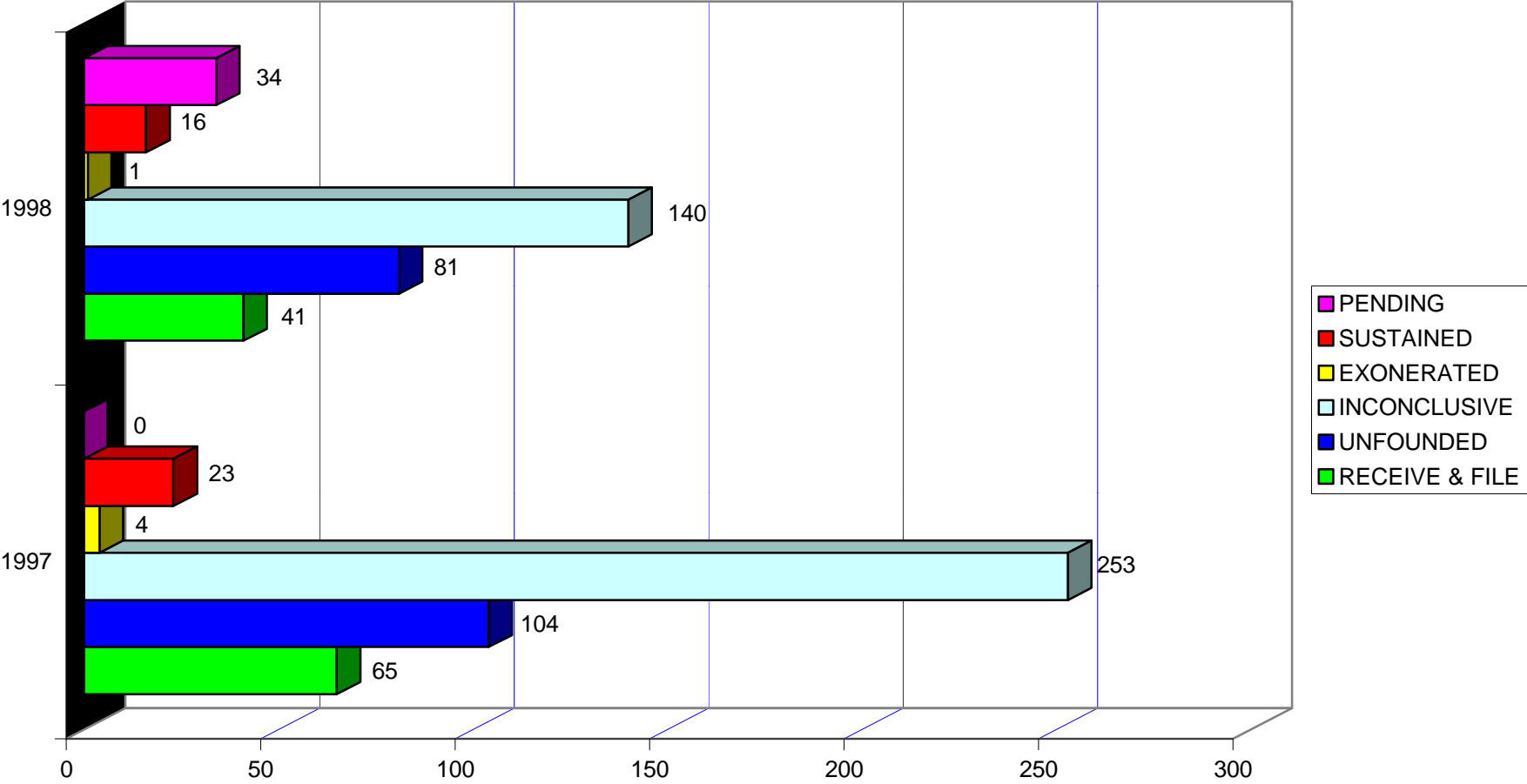
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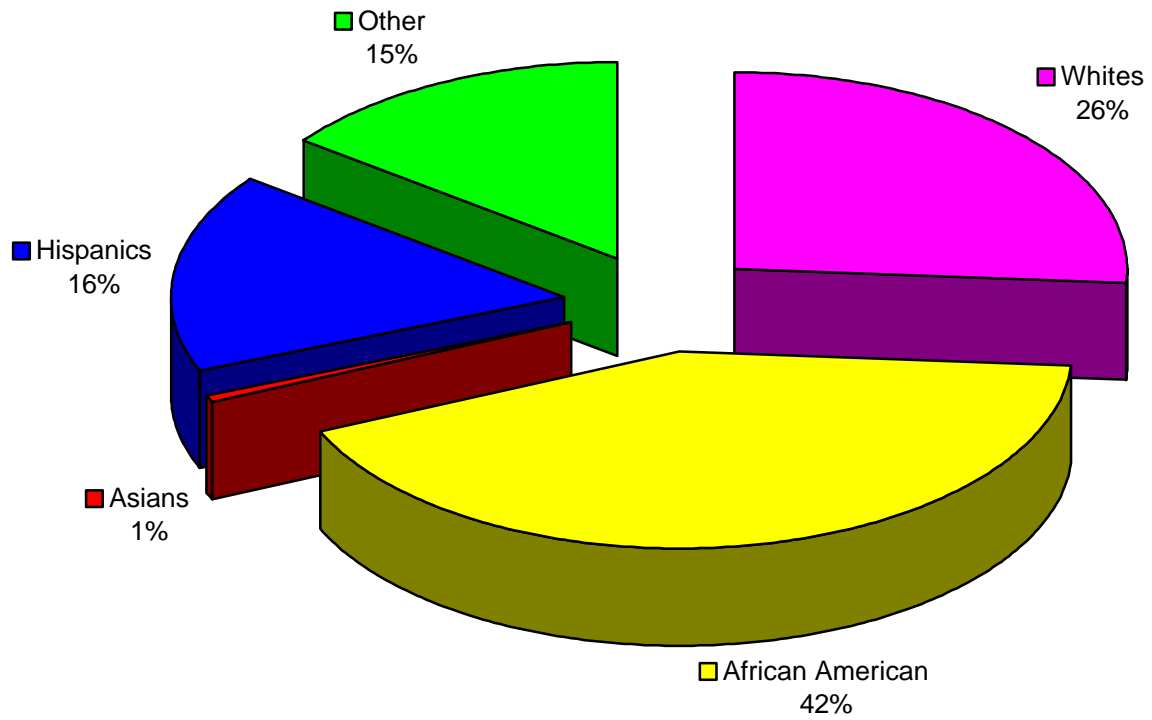
# CITIZEN POLICE COMPLAINT COMMISSION ALLEGATIONS OF MISCONDUCT 1996 - 1998



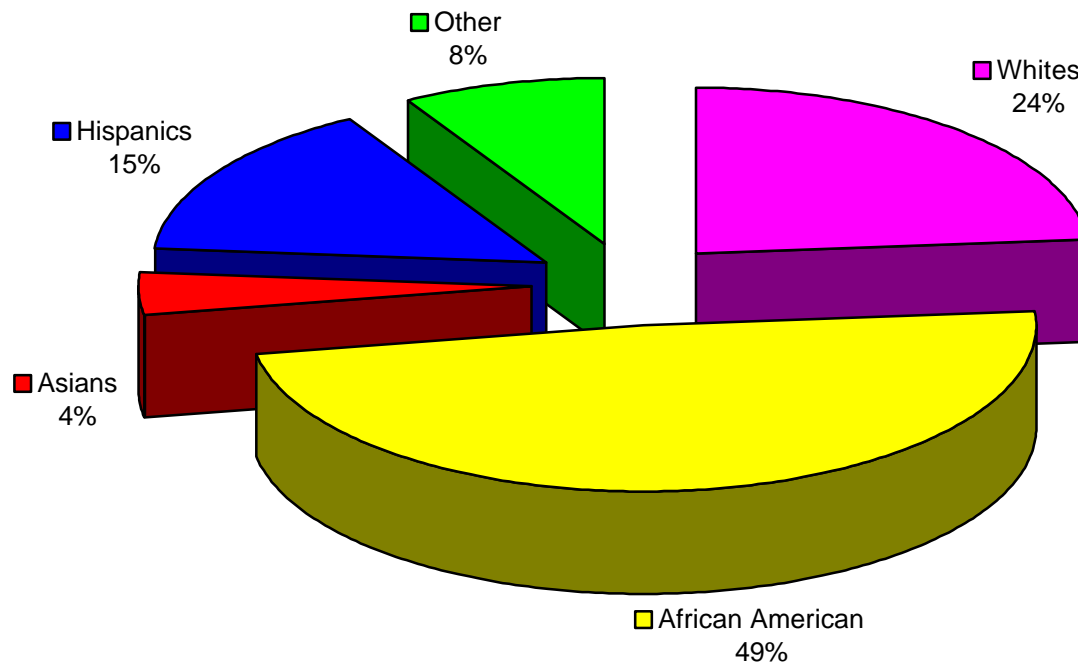
# CITIZEN POLICE COMPLAINT COMMISSION DISPOSITIONS FOR ALLEGATIONS 1997 & 1998



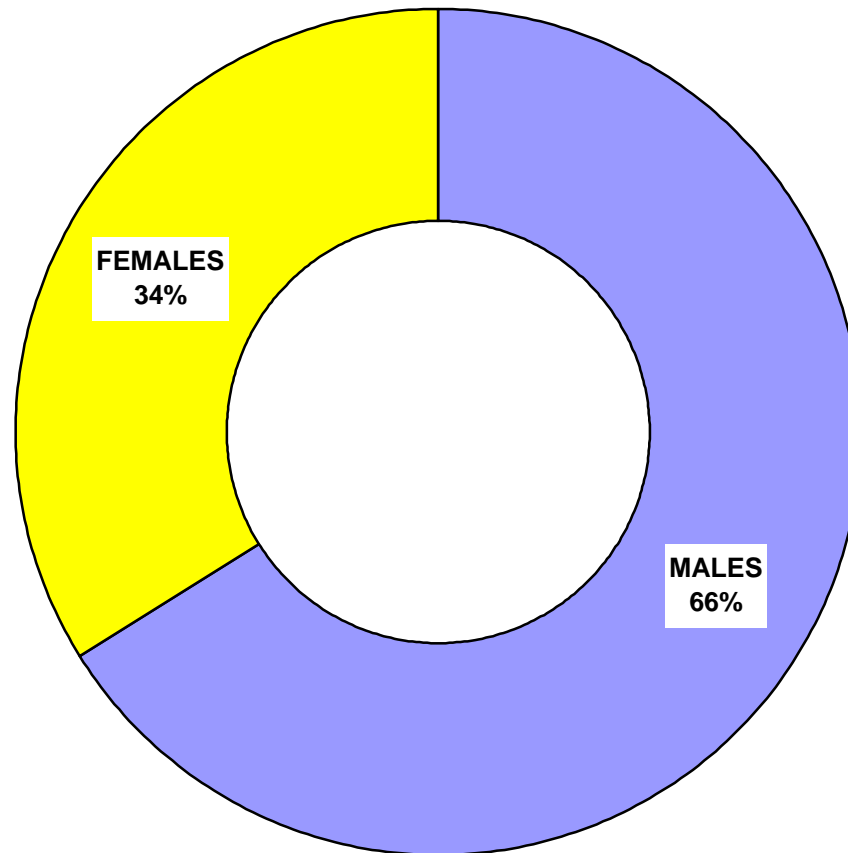
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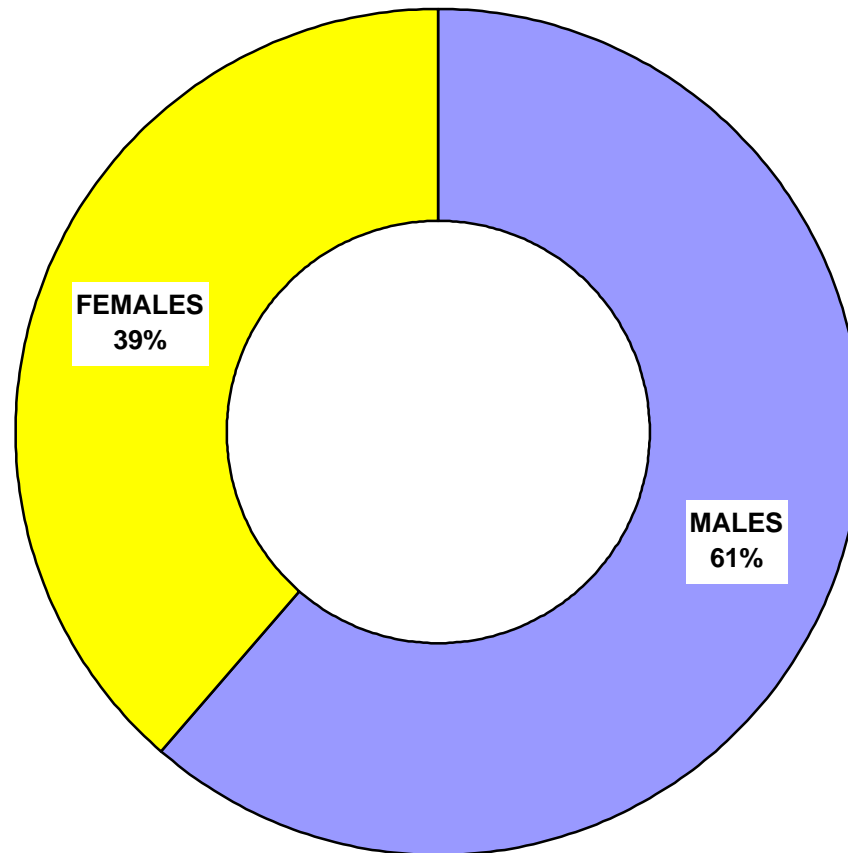
# PERCENT OF COMPLAINTS FILED BY RACE 1998



# COMPLAINTS BY GENDER 1997

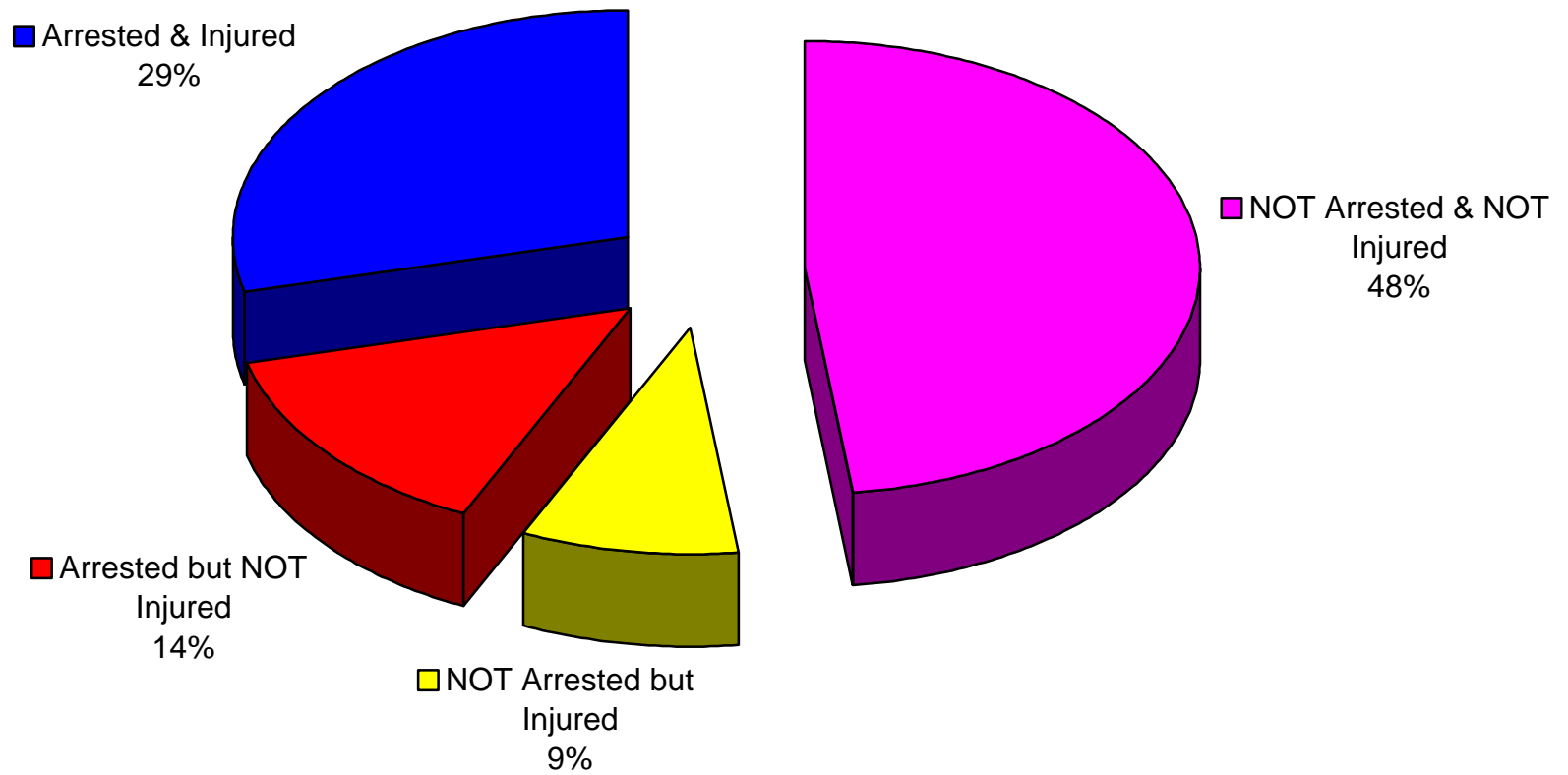


# COMPLAINTS BY GENDER 1998





# COMPLAINTS RECEIVED SUMMARY ARRESTED / INJURED REPORT 1997



# COMPLAINTS RECEIVED SUMMARY ARRESTED / INJURED REPORT 1998

