

COUNTY OF LOS ANGELES CIVIL SERVICE COMMISSION

COMMISSIONERS:

EVELYN V. MARTINEZ

VANGE FELTON

CAROL FOX

LYNN ADKINS

Z. GREG KAHWAJIAN

2012 ANNUAL REPORT



Lawrence D. Crocker, Executive Director

I. INTRODUCTION

The Civil Service Commission (“Commission”) is the only County Charter mandated independent Commission, and serves as the quasi-judicial appellate body for classified employees who have been disciplined, *i.e.*, discharged, reduced, and/or suspended in excess of five days. In addition, the Commission has jurisdiction regarding allegations of discrimination in the imposition of discipline or the treatment of persons seeking employment in the classified service of the County. The Commission also hears appeals of employees, and persons seeking employment, of the scored portions of examinations. Additionally, the Commission serves as the administrative appeals body for a number of cities that directly contract with the County.

The Commission is comprised of five (5) Commissioners appointed by the Board of Supervisors. The current Commissioners are:

Evelyn Martinez	First District
Vange Felton	Second District
Carol Fox	Third District
Lynn Adkins	Fourth District
Z. Greg Kahwajian	Fifth District

The Commission’s day-to-day operations are overseen by the Executive Director, who manages a staff of seven (7) full-time employees and two (2) Student Workers:

Steve Cheng	Head, Civil Service Commission
Lupe Castellanos	Custodian of Records
Steve Erickson	Head Commission Specialist
Luz Delgado	Acting Head Commission Specialist
Harry Chang	Intermediate Commission Specialist
Juan Mendoza	Commission Specialist
Vacant	Commission Specialist
Sona Mkrtychyan	Student Worker
Blake Noble-Quinones	Student Worker

II. APPEALS PROCESS

The appeals process commences with the filing of a petition for hearing. In 2012, the CSC has received 409 Petitions for Hearing (288 disciplinary and 121 discretionary). The disciplinary matters include 132 discharges, 146 suspensions, and 10 reductions. The Commission granted hearings in 227 cases filed in Calendar Year 2012. By comparison, in 2011, the CSC has received 393 Petitions for Hearing (246 disciplinary and 147 discretionary). The disciplinary matters included 118 discharges, 117 suspensions, and 11 reductions. The Commission granted hearings in 163 cases filed in Calendar Year 2011.

When a matter is granted a hearing, the case is assigned to one of the Commission's Hearing Officers. The Hearing Officers serve as the "Trier of Fact" and preside over evidentiary hearings. Parties to hearings have the opportunity to present, subpoena, and cross-examine witnesses. In disciplinary matters, the Los Angeles County Civil Service Rules, as adopted by the Board of Supervisors, provide that the burden of proof is on the Department, and in all other cases the burden of proof is on the petitioner. Subsequent to the close of hearings, the Hearing Officers submit reports and recommendations for the Commission's consideration. Hearing Officers' reports must include findings of fact and conclusions of law. If the Commission adopts a Hearing Officer's recommendation, any party aggrieved by the proposed decision may file objections; if based upon objections the Commission adopts a new proposed decision, any party who has not previously filed objections may do so. After all parties have been provided an opportunity to submit objections and present them orally at the Commission's regular meeting, the Commission renders its final decision.

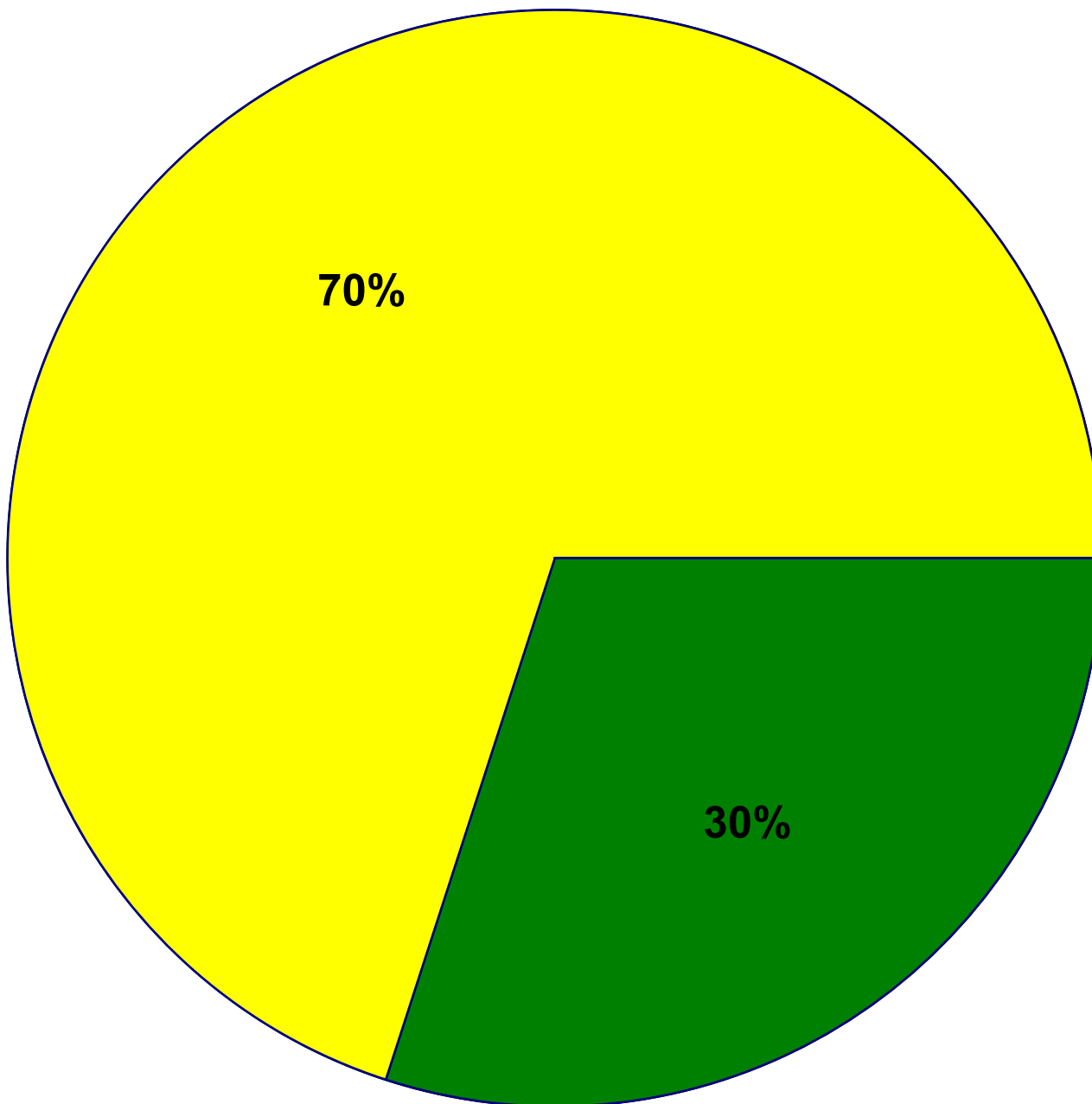
As of the end of the 4th Quarter of 2012, 404 matters were closed with 127 of those matters closed as a result of the completion of the evidentiary hearing process. Of the 127 cases, the Departments' actions were upheld in 100 cases (78%). The Departments' discipline was modified in 20 cases (16%), and not sustained in 7 matters (6%). The following pages contain statistical and graphical breakdowns of the petitions that were filed and the decisions rendered post-hearing by the Commission.

2012 Petitions for Hearing

Department	Disciplinary	Discretion	Total
Animal Control	2	1	3
Assessor	0	1	1
Auditor-Controller	1	0	1
Child Support Services	2	0	2
Children and Family Services	20	8	28
Community and Senior Services	1	0	1
District Attorney	2	7	9
Fire	12	15	27
Health Services	69	3	72
Human Resources	2	20	22
Internal Services	5	7	12
Mental Health	11	7	18
Parks and Recreation	11	0	11
Probation	33	14	47
Public Defender	0	2	2
Public Health	6	0	6
Public Library	2	0	2
Public Social Services	46	13	59
Public Works	15	8	23
Registrar-Recorder / County Clerk	8	0	8
Sheriff	40	15	55
Totals	288	121	409

Civil Service Commission 2012 Case Data

Disciplinary Cases
288



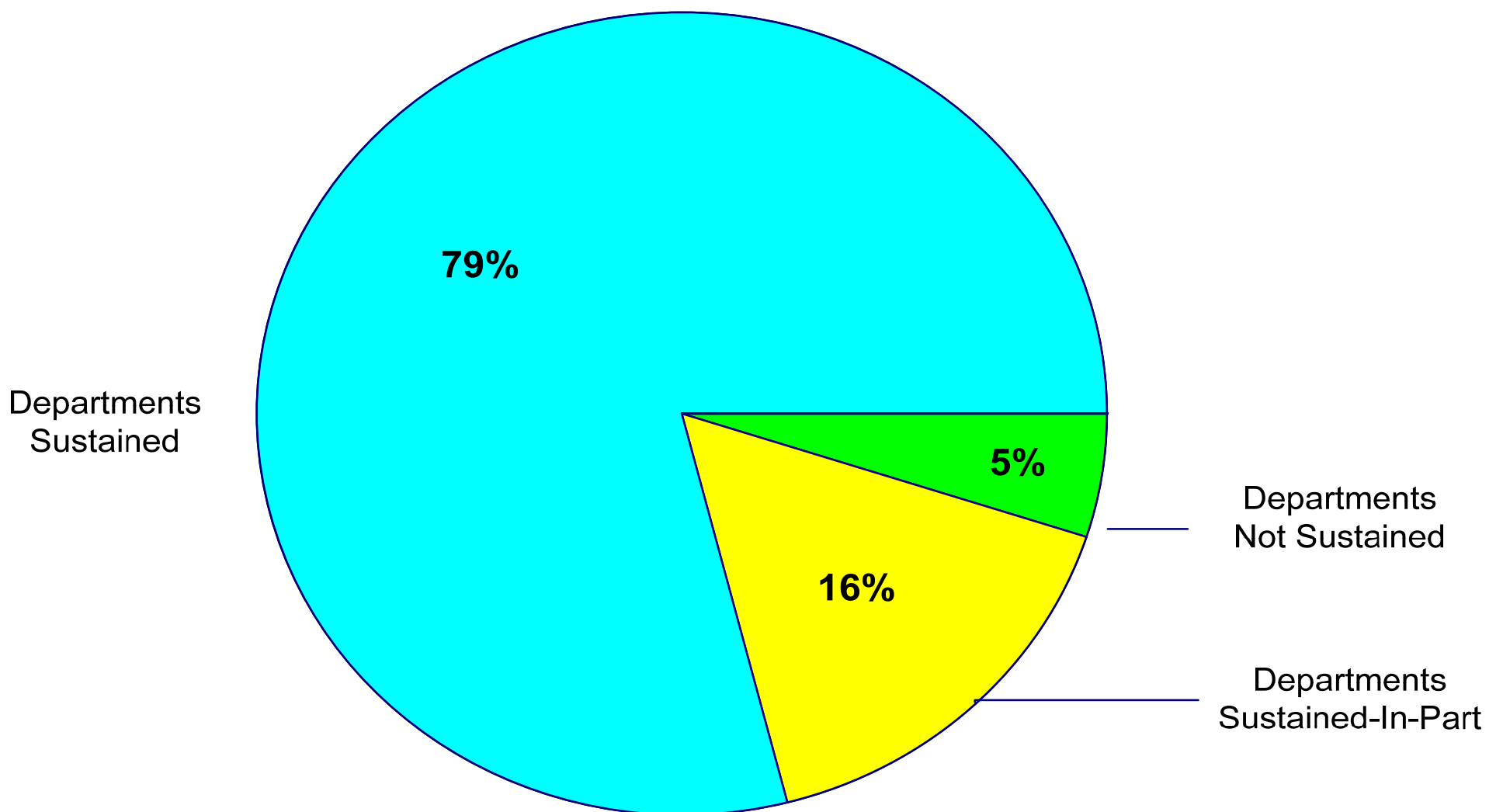
Discretionary Cases
121

POST-HEARING DECISIONS

Department	Department Sustained		Department Not Sustained		Department Sustained, in part	
	2011	2012	2011	2012	2011	2012
Agriculture Commission	1 (100%)	1 (100%)	0	0	0	0
Animal Control	3 (100%)	2 (100%)	0	0	0	0
Assessor	1 (100%)	0	0	0	0	0
Beaches & Harbors	0	1 (100%)	0	0	0	0
Child Support Services	1 (50%)	1 (50%)	1 (50%)	0	0	1 (50%)
Contract City	1 (100%)	2 (100%)	0	0	0	0
Children & Family Services	11 (79%)	9 (75%)	1 (8%)	2 (17%)	2 (13%)	1 (8%)
Consumer Affairs	0	1 (100%)	0	0	0	0
District Attorney	0	1 (100%)	0	0	0	0
Fire	2 (100%)	1 (20%)	0	1 (20%)	0	3 (60%)
Health Services	20 (80%)	17 (85%)	3 (12%)	0	2 (8%)	3 (15%)
Internal Services	4 (100%)	3 (100%)	0	0	0	0
Mental Health	5 (100%)	7 (88%)	0	0	0	1 (12%)
Parks and Recreation	1 (100%)	1 (100%)	0	0	0	0
Probation	14 (67%)	10 (48%)	1 (5%)	4 (19%)	6 (28%)	7 (33%)
Public Defender	0	1 (100%)	0	0	0	0
Public Health	4 (100%)	3 (100%)	0	0	0	0
Public Library	0	1 (100%)	0	0	0	0
Public Social Services	23 (96%)	10 (100%)	1 (4%)	0	0	0

Department	Department Sustained		Department Not Sustained		Department Sustained, in part	
	2011	2012	2011	2012	2011	2012
Public Works	1 (50%)	7 (88%)	0	0	1 (50%)	1 (12%)
Registrar-Recorder	0	1 (100%)	0	0	0	0
Sheriff	16 (76%)	20 (91%)	3 (14%)	0	2 (10%)	2 (9%)
Treasurer and Tax Collector	6 (100%)	0	0	0	0	1 (100%)
Totals	116* (83.4%)	100 (78%)	10 (7.2%)	7 (6%)	13 (9.4%)	20 (16%)

**CIVIL SERVICE COMMISSION
2012 POST-HEARING OUTCOMES**



*Total includes 2 cases from the Office of Public Safety, which no longer exists.

DISCIPLINE OVERTURNED OR MODIFIED BY THE COMMISSION

1. Case No. 10-405, Peace Officer (Dept. not sustained) – The Department discharged the employee from his position as Detention Services Officer, for misuse of force and failure to exercise sound judgment. The Commission adopted the findings of the Hearing Officer and held the Department did not meet its burden of proof.
2. Case No. 10-446, Peace Officer (Dept. not sustained) – The Department suspended the employee for 20 days from his position as Detention Services Officer, for making untruthful statements during an official investigation. The Commission adopted the findings of the Hearing Officer and held that the Department did not meet its burden of proof.
3. Case No. 10-407, Martha Brissette-Watson (Dept. not sustained) – The Department suspended the the employee for 30 days from her position as Assistant Regional Administrator, for assaulting a subordinate. The Commission adopted the findings of the Hearing Officer and held that the Department did not meet its burden of proof.
4. Case No. 10-439, Kevin Muno (Dept. not sustained) – The Department suspended the employee from his position as a fire fighter, for his conduct towards Long Beach police officers who arrested the employee for attempted breaking and entering at the home of his ex-girlfriend. The Commission adopted the findings of the Hearing Officer who found that there was no evidence that the employee had engaged in any inappropriate conduct towards the police officers.
5. Case No. 10-535, Peace Officer (Dept. not sustained) – The Department suspended the employee for 20 days from her position as a Detention Services Officer, for making untruthful statements during an official investigation of another officer striking a minor. The Commission adopted the findings of the Hearing Officer and held that the Department did not prove the allegations against the employee.
6. Case No. 10-246, Peace Officer (Dept. not sustained) – The Department discharged the employee from his position as a Detention Services Officer, for striking a minor in the face. After reading the record in this proceeding, the Commission found that the Department failed to provide any convincing evidence that this employee was the “African-American DSO” involved in the incident. (Commissioners Adkins and Kahwajian dissented).
7. Case No. 10-381, Richard Hauser (Dept. not sustained) – The Department discharged the employee from his position as a Children’s Social Worker III, for his unsatisfactory work performance. The Commission adopted the recommendation of the Hearing Officer who found that the Department did not prove the allegations against the employee and that the discharge was, in part, a violation of C.S.R. 25, based upon the employee’s union activities. (Commissioner Felton was absent).
8. Case No. 10-266, Shannon Eberly (Discipline modified) – The Department discharged the employee from her position as a Children’s Social Worker III, for falsification of entries in the Department’s database regarding client visits. The Commission adopted the recommendation of the Hearing Officer, who found that the Department proved some of the allegations, and reduced the discharge to a 20 day suspension. (Commissioner Fox dissented).
9. Case No. 10-295, Stevie Johnson (Discipline modified) – The Department discharged the employee from his position as Public Works Maintenance Worker, for having an accident while driving and hitting a power line. The Commission adopted the recommendation of the Hearing Officer, who found that the Department proved some of the allegations, and reduced the discharge to a 30 day suspension.

- 10.** Case No. 09-1147, Vincent Fowler (Discipline modified) – The Department discharged the employee from his position as Custodian, for failing to disclose a prior criminal conviction. After vacating its earlier decision sustaining the Department, as commanded by the Superior Court, the Commission imposed a 15 day suspension. (Commissioner Martinez dissented).
- 11.** Case No. 10-414, Brian Keehmer (Discipline modified) – The Department suspended the employee for 15 days from his position as Ambulance Driver, for tardiness and failing to follow all legal requirements after a vehicle accident. The Commission adopted the recommendation of the Hearing Officer, who found that the Department proved some of the allegations, and reduced the 15 day suspension to five (5) days. (Commissioner Kahwajian dissented).
- 12.** Case No. 11-012, Peace Officer (Discipline modified) – The Department suspended the employee for 25 days from his position as Deputy Sheriff, for failing to follow procedures after kicking in the door of a private residence. The Commission adopted the recommendation of the Hearing Officer, who found that the Department did not prove the discipline was appropriate, and reduced the 25 day suspension to five (5) days.
- 13.** Case No. 11-095, Mario Benjamin (Discipline modified) – The Department suspended the employee for 20 days from his position as Intermediate Clerk, for discriminating against a co-worker based upon sexual orientation. The Commission did not adopt the recommendation of the Hearing Officer to reduce the 20 day suspension to five (5) days, but imposed a ten (10) day suspension finding that the Department did not prove all of the allegations.
- 14.** Case No. 09-1527, Peace Officer (Discipline modified) – The Department suspended the employee for 30 days from his position as a Detention Services Officer for misuse of force on a minor and failure to exercise sound judgment. The Commission adopted the findings of the Hearing Officer that the Department did not prove all of the allegations against the employee, but rejected the recommendation to sustain the Department and imposed a 10 day suspension instead (Commissioners Adkins and Kahwajian dissented).
- 15.** Case No. 10-445, Peace Officer (Discipline modified) – The Department suspended the employee for 10 days from her position as a Detention Services Officer, for failing to follow procedures resulting in the escape of a minor. The Commission adopted the findings of the Hearing Officer and held that the Department did not prove all the allegations against the employee, and reduced the discipline to a reprimand. The Department did not file objections to the proposed decision.
- 16.** Case No. 10-240, Peace Officer (Discipline modified) – This consolidated case involved the discharge of two Detention Services Officers for the use of unnecessary force on a minor. After one of the officers withdrew his appeal, the Commission adopted the findings of the Hearing Officer and held that the Department did not meet its burden of proof as to use of force but found the employee's actions during the investigation warranted a 30 day suspension (Commissioners Adkins and Kahwajian dissented).
- 17.** Case No. 10-451, Terence Pickens (Discipline modified) – The Department discharged the employee from his position as a Law Enforcement Technician for reckless driving while off duty and making false statements to officers regarding the incident. The Commission adopted the Hearing Officer's finding that the Department did not prove the employee was driving recklessly but did prove he was intoxicated in public. The Commission reduced the discharge to a 10 day suspension (Commissioner Adkins dissented).
- 18.** Case No. 10-510, Alicia Sutton (Discipline modified) – The Department discharged the employee from her position as a Child Support Officer II, for inappropriately accessing confidential information. The Commission adopted the

recommendation of the Hearing Officer, who found that the discipline was not appropriate given the employee's "outstanding work record."

- 19.** Case No. 11-049, Erika Nwude (Discipline modified) – The Department discharged the employee from her position as a Supervising Nurse I for failing her core competency tests. The Commission reduced the discharge to a 30 day suspension without back pay until the employee passes her test.
- 20.** Case No. 11-111, Andrew Nicassio (Discipline modified) – In this consolidated case involving the nine (9) days' suspensions of two fire employees for failing to follow department rules, the Commission adopted the findings of the Hearing Officer and held that the Department did not meet its burden of proof as to this employee but sustained the suspension of the second employee. The Department did not file objections to the proposed decision to not sustain the suspension.
- 21.** Case No. 09-1484, Peace Officer (Discipline modified) – The Department discharged the employee from his position as Senior Detention Services Officer for, among other things, misuse of force against a minor. The Commission adopted the findings and recommendation of the Hearing Officer who found that the Department failed to prove that the discipline was appropriate.
- 22.** Case No. 11-366, Phong Lam (Discipline modified) – The Department suspended the employee for 15 days from his position as Senior Deputy Public Conservator/Administrator, for poor work performance. The Commission adopted the findings and recommendation of the Hearing Officer to reduce the suspension to 10 days. The Hearing Officer found that the employee's work history with no prior discipline, coupled with the fact that the Department dropped an allegation after the *Skelly* meeting without changing the level of discipline, warranted a reduction in the length of the suspension. The Department did not file objections to the proposed decision.
- 23.** Case No. 11-384, Andy Provencio (Discipline modified) – The Department suspended the employee for 20 days from his position as a Departmental Personnel Assistant for engaging in inappropriate conduct of a sexual nature towards a co-worker. The Commission adopted the findings and recommendation of the Hearing Officer to reduce the suspension to 10 days. The Hearing Officer found that the Department did not prove all of the allegations against the employee. The Department did not file objections to the proposed decision.
- 24.** Case No. 10-220, Peace Officer (Discipline modified) – The Department discharged the employee from his position as a Senior Detention Services Officer for, among other things, misuse of force. After reading the record in this proceeding, the Commission reduced the discipline to a 30 day suspension. The Commission found that 3 witnesses provided differing testimony and that one witness changed his written statement regarding the incident. (Commissioners Adkins and Kahwajian dissented.)
- 25.** Case No. 11-029, Peace Officer (Discipline modified) – The Department discharged the employee from his position as a Detention Services Officer for conduct unbecoming a peace officer and interfering with an investigation. The Commission adopted the findings and recommendation of the Hearing Officer who found that the Department did not prove all the allegations to be true and did not bear its burden of proving that discharge was appropriate.
- 26.** Case No. 11-068, Peace Officer (Discipline modified) – The Department suspended the employee for 20 days from his position as a Probation Director for: negligent supervision; misuse of County resources; unprofessional conduct; and, failure to exercise sound judgment. The Commission adopted the findings and recommendation of the Hearing Officer to reduce the suspension to a reprimand. The Hearing Officer found that the Department failed to prove all of the allegations as charged. (Commissioners Martinez and Kahwajian dissented.)

27. Case No. 11-150, Juan Reynoso (Discipline modified) – The Department reduced the employee in rank from Fire Captain to Firefighter Specialist for poor judgment and conduct. The Commission adopted the findings and recommendation of the Hearing Officer to modify the reduction to a 30-day suspension. The Hearing Officer found that the decision maker relied upon a letter of reprimand, which should not have been in the employee’s record and that raised the level of the progressive discipline in this case. The Department did not file objections to the proposed decision.

III. OBSERVATIONS AND RECOMMENDATIONS

Over the course of the past year, the Commission received a number of complaints regarding the difficulty advocates are having serving subpoenas on County employees to appear at hearing. In March 2011, the Commission’s then-President, Lynn Adkins, and the Executive Director appeared before the Board of Supervisors to highlight steps taken by the Commission to expedite the hearing process, and also asked the Board to assist the Commission in expediting the hearing process by requiring, among other things, that Department Heads require employees to appear at CSC hearings as witnesses when subpoenaed. The Board asked the County’s Chief Executive Officer, William T Fujioka, to issue a directive to all Department Heads regarding compliance with subpoenas. On March 11, 2011, Mr. Fujioka issued a memorandum to All Department Heads, reminding the executives that **“the subpoena or order to appear are considered a primary work assignment and attendance is not optional.”** [Emphasis in the original].

Given the clarity of the Board’s and the CEO’s directives, there should not be any issue with service of a subpoena for the attendance of a County employee at a Civil Service Commission hearing. Departments are encouraged to designate a division or person to help coordinate the service of subpoenas. If a Department has a concern regarding a specific subpoena, there is a procedural mechanism to fight the subpoena, i.e., the motion to quash.

The Commission and its staff have fully cooperated with the County’s Pilot Mediation Program and granted 10 continuances to facilitate this process. The County’s Pilot Mediation Program has had minimal impact/benefit on the Commission’s caseload.