The City of SAN DIEGO

CITIZENS' REVIEW BOARD ON POLICE PRACTICES

A G E N D A

Tuesday, November 22, 2016

Cherokee Point Elementary School
3735 38th Street
San Diego, CA 92105

CLOSED SESSION 4:00 p.m. – 6:00 p.m.
Board Members and Staff Only

I. Call to Order
II. Shooting Review Board Reports (0)
III. Discipline Reports (0)
IV. Case Review Team Reports (3)
V. Case-specific Recommendations to the Mayor
VI. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency

Pursuant to California Government Code Section 54957 — To discuss citizens' complaints brought against San Diego Police Department Officers under California Penal Code Section 832.7.

OPEN/PUBLIC MEETING 6:30 p.m. – 8:00 p.m.
Open to the Public

I. CALL TO ORDER/WELCOME

II. PURPOSE OF THE CITIZENS' REVIEW BOARD ON POLICE PRACTICES

III. APPROVAL OF MINUTES: CRB Open Meeting Minutes of October 25, 2016

IV. NON-AGENDA PUBLIC COMMENT: (Speaker Slip Required)

V. GUEST SPEAKER: Jonathan Herrera
Director of Public Safety & Neighborhood Services
City of San Diego

Topic: Update from Mayor's Office

VI. COMMITTEE REPORTS (DISCUSSION/ACTION)
A. Continuing Education Committee (Charlene McAdory)

- Upcoming Education Topics/Guest Speakers

B. Outreach Committee (Taura Gentry)
C. Rules Committee (Brandon Hilpert)
D. Policy Committee (Joe Craver)
E. Recruitment & Retention Committee (Joe Craver)

VII. CHAIR'S REPORT (Doug Case)
A. CRB Work Plan
B. CRB Future Meetings/Retreat/Training
C. Holiday Party – December 6, 2016

VIII. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)
A. Caseload Update
B. Community Events/Forums/Meetings
C. Housekeeping Items (Shirts, Business Cards, and Poster Boards etc.)

IX. SAN DIEGO POLICE DEPARTMENT REPORT (Executive Assistant Chief Todd Jarvis)

X. CITY ATTORNEY REPORT (William Gersten)

XI. UNFINISHED BUSINESS (DISCUSSION/ACTION)
A. Operational Standing Rule: Case Review Procedure

XII. NEW BUSINESS (DISCUSSION/ACTION)
A. Policy Committee Recommended Motion Re: SDPD Canine Deployment Policy

The CRB recommends to the SDPD that complaints regarding the canine deployment be reviewed by IA as Use of Force (Category 1) after evaluation by the Canine Unit. If this recommendation is implemented, a special training on SDPD canine deployment policies should be provided to the CRB.

XIII. BOARD MEMBER ANNOUNCEMENTS/COMMENTS

XIV. ADJOURNMENT

Materials Provided:

- Minutes from CRB Open Session Meeting of October 25, 2016
- Draft Operational Standing Rule on Case Review Procedure
- Rules Committee Proposed Changes to Operational Standing Rule on Case Review Procedure

Public Comment on an Action/Discussion Item: If you wish to address the Board on an item on today's agenda, please complete a speaker form (on the table near the door) and give it to the Board's Executive Director before the Board hears the agenda item. You will be called to express your comment at the time the item is heard. Please note, however, that you are not required to register your name or provide other information to the Board in order to attend our public session or to speak.

Public Comment on Committee/Staff Reports: Public comment on reports by Board Committees or staff may be heard on items which are specifically noticed on the agenda.

Public Comment on Matters Not on the Agenda: If you wish to address the Board on any matter within the jurisdiction of the Board that is not listed on today's agenda, you may do so during the PUBLIC COMMENT period during the meeting. Please complete a speaker form (on the table near the door) and give it to the Board's Executive Director. The Board will listen to your comments. However, California's

open meeting laws do not permit the Board to take any action on the matter at today's meeting. At its discretion, the Board may refer the matter to staff, to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Board cannot hear specific complaints against named individual officers at open meetings.

Comments from individuals are limited to five (5) minutes per speaker, or less at the discretion of the Chair. At the discretion of the Chair, if a large number of people wish to speak on the same item, comment may be limited to a set period of time per item. If you would like to have an item considered for placement on a future Board agenda, please contact the Executive Director at (619) 236-6296. The Director will consult with the Board Chair who may place the item on a future Board agenda. If you or your organization would like to have the Board meet in your neighborhood or community, please call the Executive Director at (619) 236-6296.

This agenda will be made available in alternate formats upon request, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Requests for disability related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, should be forwarded to citizensreviewboard@sandiego.gov, or call (619) 236-6296.

SAN DIEGO

CITIZENS' REVIEW BOARD

ON POLICE PRACTICES

Operational Standing Rule:

CRB Case Review Procedure

Adopted:

_____ _____

Kevin Faulconer **Date**
Mayor

Approved as to form:

_____ _____

Office of City Attorney **Date**

Approved by Citizens' Review Board: **TBD**

Date

Citizen's Review Board on Police Practices

Operational Standing Rule

Case Review Procedure

The responsibility of responding to citizen complaints against the San Diego Police Department (SDPD) is shared between SDPD Internal Affairs (IA) Department and the San Diego Citizens' Review Board for Police Practices (CRB). The collaborative relationship is important for a fair and objective process that gives serious consideration to citizens and SDPD officers equally. The process is improved by both organizations working together, complimenting each other. Neither organization could provide the same level of success without the other. While cooperation is key, independence of each organization is crucial and is supported by a basic division of effort. SDPD IA provides an independent investigation. CRB provides an independent review and evaluation of the SDPD IA investigation.

Citizen complaints are submitted either through Citizens' Review Board (CRB) or at multiple locations with SDPD. Each complaint is initially analyzed by SDPD Internal Affairs (IA) for the number, type and category of allegations contained within the complaint. The IA analysis is based on the list and description of allegation categories and types found in SDPD Procedure 1.10 titled "Citizen Complaints". All complaints containing one or more Category 1 allegation(s) are investigated by IA and reviewed by CRB. Category 1 encompasses allegations of arrest (false arrest), force (excessive force), discrimination, slur and criminal conduct. Complaints containing only Category 2 allegations are investigated by the Subject Officer's division and are not, at this time, reviewed by CRB. Category 2 encompasses courtesy, procedure (including search and seizure), conduct and service. Complaints containing both Category 1 allegation(s) and Category 2 allegation(s) are investigated by IA and reviewed by CRB.

1. Internal Affairs Case File

Each case handled by Internal Affairs (IA) is assigned to an investigating officer, typically a sergeant. Cases that are handled by an SDPD division are assigned to an investigating officer, typically a detective. The investigating officer is responsible for completing a thorough investigation and writing an investigative report that is fair to both the complainant(s) and subject officer(s). The investigator keeps a log of all activities and gathers all material used for the investigation. The results of the IA investigation are documented in the Investigator's Report. The Investigator's Report and related material are collected in the IA Folder that is provided for CRB review. The IA Folder and a second folder that is marked for the "Team" comprise the IA Case File.

A. The IA Folder

All material used for the IA investigation will be contained in the IA Folder. One document that should not be removed from the IA Folder is the **BLUE** copy of the Investigator's Report. This is an original and should remain in the IA Folder. Other material in the IA Folder can be removed and reviewed by the Case Review Team;

however this material should never be marked or modified in any way. Any material removed from the IA Folder must be returned to the IA Folder and not be placed in the Team Folder. If needed, a copy can be obtained and kept in the Team Folder for use and annotation.

Material that, if available, always should be used for the IA investigation and always should be contained within the IA Folder for examination by the Case Review Team includes the following:

- Citizen Complaint Form(s) (CCF)
- CRB Complaint Form, if different from SDPD CCF
- Police officer reports (Arrest/Juvenile Contact Report, Report Narrative, Field Investigation form, Daily Journal, Category 2 Follow-up Investigation report)
- Police officer Body Worn Camera (BWC) video
- Surveillance video from private sources
- Audio recording of complainant including phone messages, complaint intake and investigation interview(s)
- Audio recording of related phone calls to 911
- Audio recording of all witness interviews
- Audio recording of all subject officer interviews
- Audio recording of all witness officer interviews
- Investigator's list of questions for each interview

Material that may be used for the IA investigation and, if used, should be contained within the IA Folder for the use of the Case Review Team includes, but is not limited to, the following:

- Citizen Complaint letter or Email
- Additional material from the Complainant (audio or video recording, medical records, receipts (e.g., Uber), photographs)
- Criminal History ("Rap Sheet") of complainant
- Transcript of radio communications
- Audio recording of "Others Contacted" during the IA investigation
- Automatic Vehicle Locator (AVL) for SDPD vehicle
- Video from Sally Port
- Video from Jail parking lot or intake area
- Video from County Mental Health (CMH)
- SD Sheriff Property form
- SD Sheriff Medical Intake Questionnaire
- SDPD Property Impound Slip
- SDPD news releases regarding the case
- News media accounts (print or video) regarding the case
- Maps or aerial pictures of incident location
- Photographs of injuries sustained during the incident (citizen or officer)
- Photographs of officers, complainant or witnesses

The IA investigation is documented in a comprehensive report (**BLUE** copy referenced above). The Investigator's Report has the following elements:

- Table of Contents
- Witness List

Summary
Allegations (list)
Investigation (Chronological Notes)
Interview Summaries
    Complainant(s)
    Civilian Witness(es)
    Witness Officer(s)
    Subject Officer(s)
Conclusions (for each allegation)
List of Documents

B. The Team Folder

Copies (white) of the IA Investigator's Report are provided in the "Team" folder, one for each Case Review Team member. The Team Folder contains color coded sheets used by Case Review Team members to record time spent reviewing the case (green), to record questions for the IA investigator (pink), and to keep working notes (tan). The Team Folder also can include mark-up copies of material from the IA Folder. Any material generated by the Case Review Team, including working notes, must be kept in the Team Folder and not be placed in the IA Folder.

In addition to the review materials, the Team Folder contains a partially filled out CRB Case Review Report on a USB flash drive ("thumb drive") prepared by IA staff. The format of this report is found in the CRB Administrative Standing Rule on Preparation and Presentation of CRB Case Review Reports. Data that is transferred from the Investigator's Report will be found in the Header Block, Face Sheet and Allegation Table. The Header Block also will contain the date the case was assigned to the Case Review Team. In the Discussion and Conclusion section, a header for each allegation will be customized with the initial description of the allegation copied from the Description column of the Allegation Table. Names of the Case Review Team members will be inserted into the Signature Table.

2. CRB Case Review Process

A. SDPD Participation

Since CRB reviews SDPD IA investigations and the review material is of a confidential nature, SDPD necessarily takes a leadership role in the complaint investigation and assumes responsibility to support the CRB review process. Coordination between SDPD and CRB is required throughout the process starting with complaint intake, through preparation of the Case File, discussion during CRB review (including any Team requests for additional allegations or additional investigation as well as any disagreement), and, finally, preparation for presentation at a Closed Meeting of the full Board.

1. Complaint Intake

All citizen complaints, regardless of source or allegation type(s), are to be entered into the shared tracking system. Citizen complaints are received from many sources including, but are not limited to, complaints initiated directly with SDPD or with CRB, complaints initiated with a patrol officer or at a division station, complaints received by

the Chief's Office whether initiated by phone, Email or postal mail by letter from San Diego citizens or visitors to the city. The same Complaint Control Form (CCF) will be used regardless of the method used to submit the complaint and will identify the receiving location. Complaints filed contemporaneously in different locations or using different methods can result in multiple CCF's, all of which should be retained in the IA Case File.

2. Case Review Logistics

Space within the IA office will be made available for CRB case review activities. At least two rooms will be set aside with space for several persons to sit at a table. A computer desk will be provided for the CRB-supplied computer that is not connected to any network. Office supplies, extra green/pink/tan forms, a copy machine and secure shred collection bin will be available for CRB members. IA provides a file cabinet with a drawer for the case files assigned to each CRB Case Review Team.

The CRB rooms will be available during normal IA working hours:

Monday through Friday from 7:30 AM to 5 PM

Outside these normal hours, CRB rooms will be available with 72 hour prior request from CRB when IA staff is available to support Board Member presence in the IA office. Extended hours include:

(1) Monday through Friday from 6:30 AM,

(2) Tuesday, Wednesday or Thursday evening from 5 to 7 PM, and

(3) Non-holiday weekend Saturday morning from 8 AM to noon.

The main IA office phone will be available during normal working hours to receive CRB room reservations. It is anticipated that CRB Teams will call the IA office in advance to reserve a room for normal working hours and to make the required 72 hour advance request to reserve a room for extended hours. IA staff will maintain a schedule for the CRB rooms.

IA staff will make every effort to comply with a CRB request for extended hours. Cell phone numbers will be used to communicate when entry to the building is restricted and, more importantly, when plans change for IA staff.

Reference documents that are maintained by IA staff for CRB use include:

- current and previous release SDPD Policies and Procedures on multiple CDs located in a folder with sign-out list in the "CRB Information" file cabinet drawer
- "California Peace Officer's Legal Sourcebook" in the "CRB Information" file cabinet drawer
- current and previous year California Penal Code in the "CRB Information" file cabinet drawer
- current and previous year California Vehicle Code in the "CRB Information" file cabinet drawer
- SDPD Directives (Department Orders, Legal Updates, Training Bulletins, released update Policy & Procedure) in a notebook of the shelf adjacent to the CRB file cabinet (see SDPD Procedure 1.01, "Department Directives")

3. IA Staff Support

IA investigations are expected to be comprehensive and fair to both police officers and the complainants. The focus of the IA investigation should be to discover and provide a thorough understanding of the facts of the incident. Prior to each interview, a list of questions should be formulated to insure all needed information is obtained from the interview subject. Interviews should be conducted without "leading" questions and without intimidation of a complainant or civilian witness. In order to provide CRB with all of the information available to the IA investigator, audio recording should capture the entire conversation between the investigator and the interview subject and officers should be asked to list any information reviewed since the incident in preparation for the interview (e.g., SDPD reports or BWC video).

Completed IA investigations are submitted for CRB review and assigned to CRB Case Review Teams in rotation. IA staff will prepare a CRB Case Review Report template and will notify the Case Review Team and CRB Executive Director when a new case file has been put in a Team's drawer.

During the review by the Team, IA staff will respond to questions from the Team either in writing (submitted on a pink sheet) or in person. In general, questions from the Team will be answered by the investigator or responsible lieutenant for simple clarification or to report a suspected "typo" or to request additional investigation or to discuss change to a finding or any other concern. Other IA staff may also be willing to provide consultation on issues that are not specific to the case under review, e.g., generic interpretation of SDPD policy or procedure. Note that IA staff will be contacted by the front desk or the "call" bell.

During the review by the Team, transcription of interview audio or BWC audio will be available on request. The need for transcription will be established by agreement between the Team, CRB Executive Director, IA investigator and responsible lieutenant. Translation into English from Spanish also will be available on request.

For the purpose of preparing to present the case to the full Board, teams will submit completed Case Review Report to IA by placing the entire Case File (all folders and notebooks) on the "CRB Shelf" located next to the CRB file cabinets, with a time stamp attached. IA staff will make copies of the team report for distribution at the Closed Meeting when the case is scheduled for presentation. IA staff also will support CRB staff in preparing any additional related material needed for the presentation at the Closed Meeting, such as maps, photos or video.

CRB Closed Meetings should be supported by only the responsible lieutenant and/or the IA investigator for any case scheduled to be presented to the Board. The IA Captain and IA Liaison Officer also may attend as well as any other individuals who obtain prior approval from the Board Chair in consultation with the Executive Director. During case presentation and subsequent deliberation, supporting IA staff may be recognized by the Chair to provide information in response to specific questions from the Board that cannot be answered by the Case Review Team. IA staff should not participate in Board deliberations, or advocate for any position whether or not it is in conflict with the Case Review Team report, or present new information. IA staff also may report to the Board in Closed Meetings on any previously requested research that is not related to a specific case but is inherently confidential.

SDPD officers, including, but not limited to, IA Sergeants, Lieutenants and Captain, as well as the Executive Chief and Chief of Police, are invited to attend CRB Open Meetings. During Open Meetings, SDPD will be on the agenda and is expected to report to the Board on new Department Directives, changes to IA staff, SDPD events such as Inside SDPD or Academy graduation, and any other topic that SDPD wants to share with the Board and the public.

The final CRB Case Review Report will be retained in the IA Case File. When a case is recommended special follow up processing (see Section 3 below), IA staff will implement the appropriate action with applicable documentation and delivery of the CRB report to the appropriate SDPD personnel.

B. Case Review Team Activities

When a new case is assigned, the Case Review Team will be notified of the expected review schedule and dates by which the case review should be completed and the report presented to the Board in order to meet the 60-day target.

1. Primary Concerns

Before starting to review a case, or early in the review process, Case Review Team members should consider whether or not they have a conflict of interest with the case. Examples of conflict of interest could be any circumstance or relationship including, but are not limited to, personal relationship or a financial interest with an individual involved in the case (officer or civilian), prior knowledge of the facts or events of the case, or anything else that prevents the fair and impartial review and evaluation of the case. If a Case Review Team member believes there is a conflict of interest in the case assigned to the Team, this Team member must make that concern known to fellow Team members. The Team Leader should notify the CRB Executive Director of a potentially significant issue. If the conflict is deemed significant by the Executive Director in consultation with the Board Chair, the affected Team member must be excused from review of this case or the case may be reassigned to a different Case Review Team.

Information contained within the IA Case File that is taken from officer's personnel files is protected from public disclosure by the California Public Safety Officers Procedural Bill of Rights (POBR) and is considered "confidential". CRB Members shall not reveal any confidential information to anyone outside of the case review process. Details found in IA Case Files are not to be shared with friends, with family members, with officers encountered during ride-alongs or other police activities, with City or District Attorney staff, or with anyone who in not officially associated with the case. For the same reasons, all case materials must remain in IA. Case Review Teams are urged to ensure that all material in a Case File is returned to the Team drawer. To prevent any material from one Case File being mistakenly put into another Case File, only one Case File at a time should be taken into a CRB room.

CRB rooms at IA are reserved for Case Review Team activity by phone calls to the IA office line: (619) 531-2801 during normal working hours. Advance reservation is recommended for normal working hours; "walk-in" case review is possible, but there is no guarantee that a room will be available. Advance reservation is required 72 hours ahead for extended hours. CRB Members should make every effort to keep to the scheduled time and should notify IA if they are going to be late or need to cancel a reservation. Such notification is especially important when a change is necessary for extended hours. To facilitate communication with IA staff after hours, cell phone

numbers should be exchanged as soon as a reservation for extended hours has been confirmed.

Note that during case review at IA, contact with IA staff is arranged at the front desk or by ringing the "call" bell on the front counter.

2. Complete, Fair, Objective Review

The initial review of a case should focus on the documents provided by the Internal Affairs (IA) investigator and the information known to the subject officer(s) at the time of the incident. This information will be contained in the IA Folder. Review of this information is performed by the assigned Case Review Team independently, without interference or advocacy by IA staff. While consultation with members of other Case Review Teams is acceptable, consultation outside the CRB membership should be restricted to issues that cannot be resolved without IA staff support.

Each Case Review Team member will be provided with a copy of the IA Investigator's Report in the Team Folder. It is important for every Team member to read the IA report and listen to each recorded interview, noting any difference or omission in the IA synopsis for that interview. It is also important for every Team member to watch any video recordings from Body Worn Cameras (BWCs) or from Sally Port (at Headquarters or jail) or from witness phones or from surveillance cameras or other sources.

Note that the "Investigation" section of the IA Investigator's Report details the IA investigation timeline. This section may contain information that is not found elsewhere in the IA report, such as notes from phone call interviews with witnesses or subject matter experts.

As part of the review, Team members need to evaluate the adequacy and thoroughness of the IA investigation. In order to do so, Team members should confirm that IA has exhausted all reasonable efforts to obtain relevant evidence including witness statements, documents, physical evidence and videos All witnesses should have been interviewed, including anyone who called a report into SDPD dispatch if that person can be located. All available video, including surveillance video from the scene of the incident, should have been acquired for the IA investigation.

The Team should pay careful attention to the allegations to ensure that every specific complaint has been correctly represented. Specific complaints may be conveyed in the initial CCF or in follow up interviews. The Team should verify that the summary description for each allegation (found in the IA report Allegations List and the CRB Case Review Report Allegation Table) reflects both the complaint and the associated performance of the officer(s).

3. Details

Case Review Teams should make every effort to meet together for an initial assessment of a newly assigned case. Subsequent review can be as a Team or individually. The requirement is that each Team member reads the IA Investigator's Report, listens to at least the most important interview audio recordings, and watches all video collected by the IA investigator. In addition, at least one Team member must listen to all audio recordings and examine all additional information in the IA Folder. Team member comments, concerns and questions are shared with other Team members via notes left in the Team Folder or in person.

The focus of Team review of the IA investigation should be on uniformity within the information collected in video, in police reports, and in interviews. Not all interviews will attest to identical facts or actions; however, there should be substantial consistency with video. Any contradiction between video and interviews or police reports should receive careful scrutiny and may warrant further IA investigation. The Team should not hesitate to ask for additional material or interviews when supplementary information is needed.

The focus of Team review of the IA Investigator's Report should be on accuracy and fairness to citizens and officers. The IA Investigator's Report should include cites that are relevant, should analyze the facts fairly, should not misrepresent or ignore any participant, should present a conclusion that follows logically from the facts found in the material contained in the IA Folder. The Team should not hesitate to question any inconsistency, inaccuracy or illogical statements found in the IA Investigator's Report.

The Team Case Review Report can be written collaboratively by the Team or by one Team member using the template provided by IA staff consistent with the approved CRB Case Review Report Format. The final version of the report should be reviewed by the entire Team, preferably together so changes to the document are made by consensus. This final review affords the Team an opportunity to prepare for presenting the case to the Board by (1) anticipating questions and deciding on appropriate responses, (2) duplicating pictures, maps or diagrams to distribute along with the Case Review Report, and (3) arranging to show video that the Team believes would help the Board gain essential understanding of the case.

When the Team has finalized their report and feels ready to take the case to the Board, the entire Case File should be time stamped and put on the "CRB Shelf" in the book case next to the CRB file cabinet. Presentation to the Board is fully described in Administrative Standing Rule on Format and Presentation of CRB Case Review Reports.

Between this submission and final Board vote to close a case, the Case File will be available to both the Case Review Team and IA staff. The Case Review Team will have access to the Case File for further review and changes can be made to the Case Review Report based on (1) reconsideration by the Team or (2) evolved agreements with IA or (3) direction from a vote by the Board or (4) direction from a Mayoral review.

The Case Review Team has a responsibility to support, explain and defend their review of a case throughout the presentation to, and subsequent deliberation by, the Board. Team support of the case can provide additional information which is determined by the Team to be appropriate to enhance Board Member understanding of their review and report conclusions. Additional information can include material and video not presented during the initial reading of the Case Review Report.

4. Team Consensus

Team members should strive to agree on these important points:

- Completeness of the IA investigation
- Finding for each allegation including supporting logic
- Comments to be written as Case Notes or Team Concerns

Disagreement between Team members should be discussed in detail with a goal of unity. However, if two Team members agree then the case report can reflect their

majority opinion along with the minority opinion of the dissenting Team member in the conclusion for the disputed allegation.

An additional Board Member, or additional Board Members, can be assigned to assist with case review if requested by the Case Review Team or believed to be needed by the Board Chair or Executive Director. A replacement for an excused (for conflict of interest) or absent (for Leave of Absence) Team member can be assigned. The Team may request the additional assistance from any Board Member who has experience and expertise that could benefit the review of a particular case.

5. Agreeing to Disagree with IA

The investigation into a citizen complaint is the sole responsibility of IA. The Case Review Team must rely on the IA investigator to provide any information that is not found in the IA Case File but is determined by the Team to be needed. No attempt to interview anyone involved in the case, no action to obtain relevant material such as video, no independent investigative exploration should be undertaken by any member of the Case Review Team. If a Case Review Team is aware of publicly available information that is relevant to a case, the Team may request that the information be added to the IA Case File to be analyzed by IA.

When requested by the Case Review Team any material that is not found in the IA Folder, including any material that was publicly available to IA but was not used for the IA investigation, can be provided by IA. The need for material that was not used in the IA investigation will be first established by agreement between the Team and the IA investigator. Team requests that cannot be resolved with the IA investigator should be brought to the attention of the responsible IA lieutenant and, if needed, CRB Executive Director and/or Board Chair. This is the only process for obtaining additional material or further investigation.

When the Case Review Team finds a potentially important error, omission or oversight in the IA report, the issue should be brought to the attention of the IA investigator for discussion and possible correction. The Team Leader should be involved in any discussion that centers on this type of serious issue. Any serious issues that cannot be resolved with the IA investigator should be brought to the attention of the responsible IA lieutenant and, if needed, CRB Executive Director and/or Board Chair.

When the Case Review Team seeks supplementary information, including but not limited to additional allegations or interviews, a request should be made for that information from the IA investigator. The Team Leader should be involved in any discussion that centers on this type of serious issue. Any issues that cannot be resolved with the IA investigator should be brought to the attention of the responsible IA lieutenant and, if needed, CRB Executive Director and/or Board Chair.

The Team should consider the authority cited to support the IA finding on each allegation and decide if the finding is appropriate. Cites can be taken from SDPD Policies and Procedures, from San Diego City Municipal Code, from California State Penal Code, Vehicle Code, Welfare & Institutions Code, or from the California Peace Officers Legal Sourcebook or case law. The Team can review the source documents to check context and verify these cites apply to the allegation. The Team can also identify additional applicable cites. Any cites that do not apply, or additional cites that do apply, should be brought to the attention of the IA investigator for discussion and possible modification of the IA report.

The Team should examine the determinations by IA to verify that findings follow logically from the analysis presented in the IA report. If the Team believes the finding for any allegation is not correct, their position should be brought to the attention of the IA investigator for discussion and possible modification. The Team Leader should be involved in any discussion that centers on this type of serious issue. Any issues that cannot be resolved with the IA investigator should be brought to the attention of the responsible IA lieutenant and, if needed, CRB Executive Director and/or Board Chair.

The Team should engage IA staff in conference to resolve any issue described above or any other serious issue that arises during case review. A follow up conference, or multiple follow up conferences, may be required if an issue cannot be resolved to the satisfaction of the Team. Additional participants at follow up conferences can include the CRB Executive Director and/or Board Chair as well as the IA Captain and/or Executive Chief. This interaction should be pursued until the issue is either resolved or concluded in agreed upon unresolvable disagreement. Any agreed upon change will be incorporated into the Case Review Report and noted in the Changes Table at the end of the report. Any disagreement will be documented in the Case Review Report either in "Case Notes" (e.g., requested additional allegation) or in the "Discussion and Conclusion" section for the subject allegation (e.g., disagreement with an IA finding).

3. Outcomes of CRB Case Review

Presentation of the Case Review Team report – either initial or subsequent to Team reconsideration -- is followed by discussion and Board vote on the case to complete Board review and evaluation. Possible outcomes are described in the following five Actions. Following final Board Action, the Board can consider optional additional processes (see ">" below) for the completed case.

ACTION #1
At any time during the discussion and voting on a case, prior to taking final action on the case, if information comes up that a team thinks should be discussed with IA or for any other cause:

> Team voluntarily removes the case for reconsideration
> The Board refers the case back to the Team for reconsideration

ACTION #2
The Team agrees with all IA findings and the Board agrees with the Team:

> Case is Closed, or
> Case is forwarded for review to the Mayor with a cover letter; after the Mayor reports back to the Board, the Case is Closed automatically.

ACTION #3
The Team disagrees with at least one IA finding, however the Board agrees with IA:

> If the Team accepts the Board position, the Team revises their report to reflect Board position and without further Board action the Case is Closed, or
> If the Team does not accept the Board position, the Board Chair writes a supplemental statement to reflect Board position (attached to Team report) and the Case is Closed, and/or

> Case is forwarded for review to the Mayor with a cover letter; after the Mayor reports back to the Board the Case is available for possible revision (see above) or the Case is Closed automatically.

ACTION #4
The Board disagrees with at least one IA finding:

> If the Board is in disagreement with the Team, the Case is referred back to the Team for reconsideration in consultation with IA with no additional guidance from the Board, or
> If the Board is in disagreement with the Team, the Case is referred back to the Team for reconsideration in consultation with IA with additional guidance from the Board, e.g. recommended finding, or
> Case is Closed by vote of the Board and is recorded as a disagreement, or
> Case is forwarded to the Chief of Police for information with a cover letter and, optionally, the Case is Closed by vote of the Board, and/or
> Case is referred to the Mayor for review and adjudication, i.e. the Mayor is asked to resolve the disagreement(s); after the Mayor reports back to the Board, the Mayor's report is attached to the CRB Case Review Report and the Case is Closed automatically.

ACTION #5
The Board considers every possible finding and is unsuccessful in reaching the required majority vote to indicate a position on one or more findings:

> Case is Closed by vote of the Board and is recorded as a failure to achieve consensus, or
> Case is referred to the Mayor for review and adjudication, i.e. the Mayor is asked to resolve the disagreement(s); after the Mayor reports back to the Board, the Mayor's report is attached to the CRB Case Review Report and the Case is Closed automatically.

Note that CRB Bylaws Article VII, Section D (Review and Evaluate Cases and General Review) authorizes CRB to request the Mayor to review any case. When the Mayor is asked to resolve a disagreement between IA and CRB (Action #4) and the Mayor agrees with CRB, IA will revise the affected findings in the Investigator's Report.

Following a final vote on a case with a "not sustained" finding, the Case Review Team may request that IA disclose all similar "not sustained" findings from previous complaints against the same subject officer(s). The Board may then request that IA review the complaint history of the officer(s) and report back any departmental action taken based on the review.

Following a final vote on a case with sustained finding(s), the Board can act to recommend the case for special follow up processing due to a particularly serious or dangerous violation of policy or procedure attributable to (1) the actions of the officer(s) involved or (2) the track record of the officer(s) or (3) other circumstances surrounding the case or the officer(s) involved. A recommendation action by the Board will be recorded in the transmittal document sent to the Commanding Officer(s) responsible for imposing discipline when these forms are prepared by IA. In this way, the concerns of the Board will be considered as part of the disciplinary process.

Regardless of the outcome, a copy of the CRB Case Review Report (1) will be sent to the responsible Commanding Officer(s) when there is a sustained finding or a comment and (2) will be sent to the Chief of Police when there is a disagreement even if no further action is taken by the Board.

Over and above the actions available to the Board and delineated above, the City Charter Article V, Section 43(d) states that CRB has the "authority to independently refer a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency" and further stipulates that no rules for the Board can interfere with this authority. Other governmental agencies could include the Department of Justice or Federal Bureau of Investigation. This authority should be utilized whenever the Board reasonably believes that a case deserves greater attention than the Board has been able to provide by the normal, standard actions previously described.

In all cases where there is disagreement with an IA finding, disagreements are recorded and highlighted in semiannual reports to the Mayor and City Council.

4. Shooting Review and In-Custody Death Cases

An Officer Involved Shooting (OIS) case is initiated automatically by an incident in which as SDPD officer fires a gun at a person. An In-Custody Death (ICD) case is initiated automatically by the death of a subject in the custody of SDPD.

There is extensive investigation into an OIS or an ICD by the SDPD Homicide Unit and by the District Attorney. The long and involved investigation produces many documents and reports. All of the related documentation is collected in a large notebook or equivalent alternate format such as numerous file folders and CDs. Documents provided include various reports from officers on the scene, officers called to the scene, interviews with participating law enforcement officers and witnesses at the time of the incident, the complete autopsy report, photographs, maps, and the District Attorney's letter regarding criminal responsibility. Additional documents may also be provided. The IA report is based on this investigation and additional information about any firearm used. IA documents the firearm, the officer's authorization to use a personal firearm if that was the case, and the date of qualification with the firearm used.

Generally speaking, OIS and ICD cases are handled by Case Review Teams in the same manner as citizen complaints. However, shooting cases, particularly those involving injury or death, receive special attention from all levels of SDPD, from the District Attorney's Office and from the general public and the media. When reviewing an OIS or ICD, Teams should disregard any bias gleaned from media reports or other public sources and concentrate on the information in the Case File. In the same way as for citizen complaints, the Case Review Team examines the information provided to gain understanding of the incident and writes a report for presentation to the Board at a Closed Meeting.

In the CRB report, the Header and Face Sheet information will be the same as for a citizen complaint, however the "Complainant" will be replaced by a "Subject" or "Victim". The Allegation Table will have a single allegation of Force and the IA Finding will be either "Within Policy" or "Not Within Policy". Finding by the Case Review Team is the

same as for a citizen complaint. Information about the officer's firearm, authorization to carry a personal firearm and qualification should be included in the CRB report.

5. Policy Committee Referrals

There are times when specific policy or procedural issues arise in the review of a case which do not directly relate to the allegations of that case. These matters are appropriately referred to the Policy Committee for review. Referral to the Policy Committee is not part of the recommendation to the Board regarding the complaint allegations; instead referral to the Policy Committee is a separate procedure that allows the Case Review Team to advise the Board about the referral.

When the Case Review Team report is prepared, referral to the Policy Committee should be documented in the final section, "Team Concerns and Issues", with an explanation of the issue. Following the final vote on the case, the Team will read this description, offer any additional comments on the issue and respond to questions from Board Members.

Following discussion of the issue, the Team Leader is responsible for completing a Policy Committee Referral Form which is forwarded to the Chair of the Policy Committee with copies to the Board Chair, the CRB Executive Director and the CRB Administrative Assistant.

6. Legal Questions Arising During Case Review

Memorandum "Referencing Legal Sources in Team Member Reports", from Deputy City Attorney Karen Li to CRB Executive Director Danell Scarborough, dated 8 Oct. 2013:

Page 2:
While CRB (Board) members can come to conclusions regarding the facts underlying a complaint, the credibility of witnesses, and whether subject officers acted within policy or procedure, members cannot make interpretations of the law or formulate legal conclusions...

Conclusion, Page 3:
While there is nothing specifically prohibiting the use of legal citations in CRB member's reports, there is also no authority either granting or requiring CRB members to undertake legal analysis or reach legal conclusions regarding the police officers' actions. Instead, members are to impartially, fairly and thoroughly review and evaluate citizens' complaints of the officers by determining the facts, credibility of the witnesses, and whether the officers acted within Department policy and procedure. This review and evaluation process is effectively and efficiently accomplished by applying applicable SDPD policies, training bulletins, or even statutes, without engaging in legal analysis or making legal conclusions.

Rules Committee Report:

Proposed Changes to Operational Standing Rule:

CRB Case Review Procedure

1 – Applies to entire document

In accordance with voter approved Measure G, all references to "Citizens' Review Board" will be changed to "Community Review Board" and "citizen" will be replaced with "community member".

2 – Page 5, modifications to the first two sentences of the last paragraph:

CRB Closed Meetings should be ~~supported~~ attended by only the responsible lieutenant and/or the IA investigator for any case scheduled to be presented to the Board. The IA Captain, ~~and~~ IA Liaison Officer (Custodian of Records), and the Executive Assistant Chief also may attend ~~as well as any other~~. Other individuals who obtain prior approval from the Board Chair in consultation with the Executive Director as permitted by law, may attend.

3 – Page 7, modifications to paragraphs 2, 3, 4, and 5 in section 2, Complete, Fair, Objective Review:

~~Each Case Review Team member will be provided with a copy of the IA Investigator's Report in the Team Folder. It is important for every Team member to read the IA report and listen to each recorded interview, noting any difference or omission in the IA synopsis for that interview. It is also important for every Team member to watch any video recordings from BWC's or from Sally Port (at Headquarters or jail) or from witness phones or from surveillance cameras or other sources.~~

The Team should pay careful attention to the allegations listed in the IA Investigator's Report to ensure that every specific complaint has been correctly represented. Specific complaints may be conveyed in the initial CCF or in follow up interviews or observed in BWC video. The Team should verify that the summary description for each allegation ~~(~~found in the IA report Allegations List ~~and the CRB Case Review Report Allegation Table)~~ reflects both the complaint and the associated performance of the officer(s). E.g., "Mr. Jones alleged Officer Smith used force that caused injury".

Note that the "Investigation" section of the IA Investigator's Report details the IA investigation timeline. This section may contain information that is not found elsewhere in the IA report, such as notes from phone call interviews with witnesses or subject matter experts that were not audio recorded.

As part of the review, Team members need to evaluate the adequacy and thoroughness of the IA investigation. In order to do so, Team members should confirm that IA has exhausted all reasonable efforts to obtain relevant evidence including witness statements, documents, physical evidence and videos. All witnesses should have been interviewed, including anyone who called a report into SDPD dispatch if that person can be located. All available video, including surveillance video from the scene of the incident, should have been acquired for the IA investigation.

4 – Page 7, modifications to the first paragraph in section 3, Details:

~~Case Review Teams should make every effort to meet together for an initial assessment of a newly assigned case. Subsequent review can be as a Team or individually. The requirement is that each Team member reads the IA Investigator's Report, listen to at least the most important interview audio recordings, and watches all video collected by the IA investigator. In addition, at least one Team member must listen to all audio recordings and examine all additional information in the IA Folder. Team member comments, concerns and questions are shared with other Team members via notes left in the Team Folder of in person.~~

Each Case Review Team member is provided with a copy of the IA Investigator's Report in the Team Folder. Case Review Teams should make every effort to meet together for an initial assessment of a newly assigned case. Subsequent in depth review can be as a team or individually. When meeting as a team, comments, concerns and questions can be discussed in person. When working separately, comments, concerns and questions should be shared with other Team members using tan note paper titled "CRB Notes".

All Case Review Team members must (1) read the IA Investigator's Report, (2) listen to the most important audio recordings (e.g., all complainant and subject officer interviews), and (3) watch the most relevant video (e.g., subject officer BWC). When listening to complainant and witness interviews, it is important to note any difference or omission in the IA synopsis of that interview. At least one Team member must listen to all audio recordings, watch all video recordings, and examine all additional information collected by the IA Investigator in the IA Folder. Video recordings can be from BWC, Sally Port, jail parking or intake, witness phones, surveillance cameras, SDPD vehicle tracking (AVL), or other sources. Additional information in the IA Folder can include officer reports (e.g., Arrest, ARJIS Narrative, or Field Interview), communication logs, officer journals, maps, photos, and other related items.

5 – Page 11, modification to last sentence of last paragraph:

In this way, the concerns of the Board will be considered ~~as part of the disciplinary process~~.