COUNCIL PRESIDENT SHERRI S. LIGHTNER

CITY OF SAN DIEGO

October 18, 2016

Jeffrey B. Barton
Presiding Judge
San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Re: Grand Jury Report: ""Citizen Oversight Boards of Police Behavior"

Dear Judge Barton:

Pursuant to California Penal Code Section 933.05(a),(b) and (c), the City of San Diego provides the attached response from the Mayor and City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information or have any questions, please do not hesitate to contact Diana Jurado-Sainz, Director of Legislative Affairs, at 619-533-3920.

Sincerely,

Sherri Lightner
Council President
City of San Diego

Encl: 1) City Response to San Diego County Grand Jury Report Entitled, ""Citizen Oversight Boards of Police Behavior"
2) City Council Resolution R- 310708

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City Response to
San Diego County Grand Jury Report Entitled
"Citizen Oversight Boards of Police Behavior"

Pursuant to California Penal Code section 933(c), the City of San Diego provides the following responses to the findings and recommendations pertaining to the City of San Diego that are included in the above-referenced Grand Jury Report:

FINDINGS 02 THROUGH 04

Finding 02: *Using the City Attorney as legal counsel to CRB while also defending SDPD represents a potential conflict of interest.*

Response: The Mayor and City Council partially disagree with the Grand Jury's finding.

Pursuant to Charter section 40, the City Attorney's Office has been providing legal services to the Citizens' Review Board on Police Practices (CRB) since it was created in 1988. From that time to the present, no legal conflict of interest has arisen. To avoid the appearances of a conflict and to prevent any actual conflict of interest from arising, the City Attorney ensures that the attorneys who advise and represent the San Diego Police Department (SDPD) do not advise the CRB and further, are "walled off" from those attorneys who advise the CRB.

In the Fiscal Year 2017 Adopted Budget, the City Council approved the expenditure of $25,000 to be used for as-needed outside legal counsel for the CRB. If there were to be a conflict of interest, the avenue for procuring outside legal counsel exists.

Finding 03: *Modest compensation and reimbursement of expenses to board members could encourage greater community involvement and increase board diversity.*

Response: The Mayor and City Council agree with the Grand Jury's finding.

See response to Recommendation 16-28 regarding the City's plans for further analysis of this issue.

Finding 04: *Annual reports provide the public with timely information on CRB activities and increase transparency.*

Response: The Mayor and City Council agree with the Grand Jury's finding.

City Response to
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RECOMMENDATIONS 16-26 THROUGH 16-28

Recommendation 16-26: *Prepare and publish annual reports on Citizens' Review Board actions.*

Response: The recommendation has been implemented.

In April 2016, the CRB released its Annual Report for Fiscal Year 2015 to the Mayor and City Council. Reports are posted on the CRB website.

The Annual Report for Fiscal Year 2016 was released in September 2016.

Recommendation 16-27: *Provide the Citizens' Review Board with independent legal counsel.*

Response: The recommendation requires further analysis.

Providing legal advice to multiple departments and boards that are components of a public entity such as the City does not constitute a conflict of interest under either the City Charter or California Law. In lawsuits against the City arising from actions by SDPD officers, SDPD is represented by separate Deputy City Attorneys. The role of the Deputy City Attorney to the CRB is to advise the CRB as to its own procedures and the law governing its operations, including the San Diego City Charter, the Ralph M. Brown Act, and the Public Safety Officers Procedural Bill of Rights Act.

The City Attorney's Office has been providing legal services to the CRB since it was created in 1988 without the incidence of a conflict of interest. However, appropriate resources do exist in the event a conflict of interest arises. In Fiscal Year 2017, the City budgeted $25,000 for outside legal counsel for the CRB. Further analysis is required to consider a process by which the CRB may request that outside legal counsel be utilized in accordance with City Charter Section 40. The appropriate Council Committee will consider this issue within the next six months.

Recommendation 16-28: *Provide modest compensation for board member time and expenses.*

Response: The recommendation requires further analysis.

Based on feedback from former and current members, volunteering as a CRB member is a rewarding experience. CRB members are dedicated to the mission and vision of the Board and work to make a difference in their communities. The CRB has formed a Community Outreach Committee and Board members spend a significant amount of time in the community soliciting diverse applicants. The Executive Director makes regular presentations to organizations that represent diverse populations and has attended over 100 community meetings in the last year. Outreach and education have been demonstrated to be effective tools to increase diversity on the board, and those efforts will continue.

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The work of volunteer boards is greatly valued by the City and serves as a significant method of civic engagement. However, compensation for board service runs counter to current City practice for volunteer boards. If CRB members were to receive compensation, it would be an outlier for boards in the City. The City does provide free parking in the Evan Jones Parkade to CRB members, on request, for meetings that take place at City Hall. Members of other City boards also have this benefit available. Also, SDPD provides CRB members free parking for meetings at SDPD headquarters.

It is possible that modest compensation or reimbursement of expenses could increase community members' willingness to serve on the CRB. Further analysis of this issue is required as it would represent a departure from current City practice for volunteer boards and may also necessitate a City Charter amendment with respect to providing compensation. The appropriate Council Committee will consider this issue within the next six months.

(R-2017-170)

RESOLUTION NUMBER R- 310708

DATE OF FINAL PASSAGE OCT 17 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE CITY OF SAN DIEGO'S RESPONSE TO THE 2015-2016 SAN DIEGO COUNTY GRAND JURY REPORT TITLED "CITIZEN OVERSIGHT BOARDS OF POLICE BEHAVIOR."

WHEREAS, on May 25, 2016, the 2015-2016 San Diego County Grand Jury (Grand Jury) filed a *final* report titled "Citizen Oversight Boards of Police Behavior" (Report) that requested a response from the City Council (Council) and Mayor, as well as a response from the San Diego County Board of Supervisors and Mayors and City Councils of all cities within the County of San Diego; and

WHEREAS, the Report discusses a number of issues related to local jurisdictions' review of citizen complaints against law enforcement officers; and

WHEREAS, the Report includes three findings and three recommendations directed to the Council and Mayor, with other findings and recommendations directed to the County of San Diego and the cities of El Cajon, La Mesa, Escondido, Oceanside, Carlsbad, Chula Vista and Coronado, which are not addressed in the City's proposed response; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the Report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, the comments required from the Council and Mayor are due to the Presiding Judge of the Superior Court on October 28, 2016, as the City requested and received an extension of time to respond, due to the Council's legislative recess in August; and

WHEREAS, the Grand Jury requested that the Council and Mayor each respond to the recommendations numbered 16-26 through 16-28 in the Report; and

WHEREAS, after working collaboratively with the Mayor's Office on a joint Council/Mayor response, the Office of the Independent Budget Analyst proposed a City response to the Report as set forth in IBA Report No. 16-32, dated September 28, 2016, for consideration by the Public Safety & Livable Neighborhoods Committee; and

WHEREAS, on September 28, 2016, the Public Safety & Livable Neighborhoods Committee voted to approve the proposed response with various changes, and to forward the changed version to the full Council for approval; and

WHEREAS, in accordance with the direction of the Public Safety & Livable Neighborhoods Committee, the Office of the Independent Budget Analyst revised the proposed City response to incorporate the changes, and issued a revised IBA Report No. 16-32 REV. to that effect, dated October 3, 2016; and

WHEREAS, under San Diego Charter section 280(a)(1), this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the 2015-2016 San Diego County Grand Jury Report titled "Citizen Oversight Boards of Police Behavior," as set forth in IBA Report No. 16-32 REV., dated October 3, 2016.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than October 28, 2016.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
William J. Gersten
Deputy City Attorney

WJG:ccm
October 4, 2016
Or.Dept: IBA
Doc. No.: 1366306

Passed by the Council of The City of San Diego on OCT 17 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	☒	☐	☐	☐
Lorie Zapf	☒	☐	☐	☐
Todd Gloria	☒	☐	☐	☐
Myrtle Cole	☒	☐	☐	☐
Mark Kersey	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☐	☐	☒	☐
David Alvarez	☒	☐	☐	☐
Marti Emerald	☒	☐	☐	☐

Date of final passage OCT 17 2016.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310708