

## Community Review Board on Police Practices

### Rules Committee Meeting Notice

#### Agenda

**Tuesday, August 14, 2018**

**4 p.m.**

**Civic Center Plaza Building (CCP)  
1200 Third Avenue, 4<sup>th</sup> Floor - Large Conference Room  
San Diego, CA 92101**

- I. Welcome/Call to Order
- II. Approval of the Minutes from July 13, 2018 Meeting
- III. Public Comment
- IV. New Business:
  - (a) Review Updated Bylaws
  - (b) Finalize Operational Standing Rule on Case Review Procedures
  - (c) Amendment to the Administrative Standing Rule on Format and Presentation of CRB Case Review Reports
- V. Adjourn

#### **Materials Provided:**

- Draft 7.13.18 Rules Committee Meeting Minutes
- Draft Operational Standing Rule on Case Review Procedures 8.5.18
- Draft CRB Revised Bylaws July 2018
- Case Review Procedures – Chair Concerns
- NACOLE Code of Ethics 8.12.15
- Bylaw Amendment Proposal -O'Leary

Public Comment on an Action/Discussion Item: If you wish to address the Committee 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 Committee 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 Committee 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 Committee on any matter within the jurisdiction of the Committee 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 Committee will listen to your comments. However, California's open meeting laws do not permit the Committee to take any action on the matter at today's meeting. At its discretion, the Committee may refer the matter to staff, or to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Committee cannot hear specific complaints against named individual officers at open meetings.

Comments from individuals are limited to three (3) 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 Committee 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 Committee 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.

**Draft Revision 8/5/18**  
**Bylaws**  
**City of San Diego**  
**Community Review Board on Police Practices**

**Article I: Name and Authority**

**Section 1: Name**

The name of this Board is the City of San Diego Community Review Board on Police Practices, herein referred to as "the Board". The full name is as stated in Measure G, approved by the voters in November 2016. The Community Review Board on Police Practices is also known by the acronym "CRB".

**Section 2: Authority**

The Board operates in accordance with the following documents, listed in hierarchical order:

United States Constitution

California Constitution

California Statutes and Codes, including but not limited to the Government Code (Ralph M. Brown Act, Section 54950 et seq.; and Public Safety Officers Procedural Bill of Rights, Sections 3300-3311, Chapter 9.7, Division 4, Title 1), Penal Code (PC), Health and Safety Code, and Vehicle Code (VC)

San Diego City Charter, including Article V, Section 43(d) which states:

(d) **Community Review Board on Police Practices.** Notwithstanding any other provision of this Charter, the Mayor and City Council shall have the exclusive authority to create and establish a community review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The Mayor and City Council shall establish such rules and regulations as may be necessary for this board to carry out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace officers. Nothing in such rules and regulations shall interfere with the board's 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. The board shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all police officer-related shootings. The board shall submit semiannual reports to the Mayor and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.

citizen's complaint and/or the subject officers and must comply with the laws of the State of California concerning citizens' complaints against peace officers.

## **B. Policy Recommendation**

It is the objective of the Board to advocate for policies which promote fair and humane policing and also ensure the safety of both citizens and police officers. Subsequent to the review and evaluation process, the Board may recommend improvements in policy, procedures or training of police officers to the Mayor and/or Chief of Police.

Additionally, in consideration of issues other than complaints, the Board may address a substantive item, other than one arising in the course of reviewing a particular case, if it determines that (1) the substantive matter impacts the work of the Board; and (2) because of its training and experience, the Board has expertise on the matter at hand. The Board may discuss the issue and make a recommendation to the Mayor and/or Chief of Police.

## **C. Outreach and Education**

It is the objective of the Board to operate transparently, to keep the community informed about the activities of the Board, and to provide opportunities to receive public input on the Board's operations. It is the further objective of the Board to encourage persons with complaints about the actions of SDPD sworn personnel to file a complaint, to widely publicize the procedures for filing complaints and to make the process as simple as possible, and to enact mechanisms to ensure that persons filing complaints and witnesses will be able to do so without fear of retaliation or adverse consequences.

# **Article III: Membership**

## **Section 1: Selection and Appointment**

There are twenty-three (23) members, appointed by the Mayor of San Diego and confirmed by the City Council. Members are appointed to two-year terms, and appointments are staggered so that the terms of no more than 12 members expire in a year.

Members are limited to a maximum of eight (8) consecutive years on the Board, starting on the date of the initial Mayoral appointment. Former members who served for eight years become eligible again after a period of two years. Former members of the Board who did not complete eight years of service may be eligible to complete eight total years of service. Members whose terms of service have expired shall have the option to continue to serve until their successor is duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

Present or former San Diego Police Department officers and current City of San Diego employees are not eligible for membership on the Board.

Members of the Board shall serve without compensation, but shall be reimbursed for authorized, reasonable and necessary expenses incurred in the performance of their official duties as approved by the Mayor or the Mayor's designated representative.

Board.

#### 4. Training

Members are required to pursue and complete 48 hours of educational opportunities annually, including at least two police ride-alongs.

#### 5. Community Outreach

All members shall participate in at least one community outreach activity per quarter.

All members can speak about the role of the Board in public to provide education for the community. Only the Board Chair is the spokesperson for the Board on issues that require public comment.

#### 6. Ethical Conduct

To promote public trust, integrity, and transparency, members are expected to adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics. The NACOLE Code of Ethics includes Personal Integrity, Independent and Thorough Oversight, Transparency and Confidentiality, Respectful and Unbiased Treatment, Outreach and Relationship with Stakeholders, Agency Self-examination and Commitment to Policy Review, and Primary Obligation to the Community. The complete NACOLE Code of Ethics is attached as Exhibit A of these bylaws.

Any actual or perceived conflict of interest during case review shall be avoided. Conflict of interest exists when a member has an outside financial interest or a personal relationship with someone involved in the case, or has intimate knowledge of the facts of the case. Members shall avoid any situation where they have a conflict of interest by immediately notifying the Executive Director and their Team Leader requesting either to be excused from review of the case or to have the case reassigned to a different Case Review Team. Active involvement in other boards, committees or organizations could pose an actual or perceived conflict of interest with membership on the Board. Board Members shall disclose all potential conflicts to the Executive Director immediately.

### **Section 3: Removal**

#### **A. Voluntary Resignation**

Any Member of the Board can voluntarily resign by sending a letter or email of resignation to the Board Chair and the Executive Director. A member's written notice of resignation is required by the City Clerk and the Mayor's Office, and becomes a matter of public record unless confidentiality is requested by the resigning member. Once the letter has been received, the Mayor shall appoint and the City Council confirm a new member to fill the remainder of the term.

#### **B. Removal for Cause**

If a member is convicted of a felony or crime or moral turpitude, the member will automatically be suspended from participating in any capacity on the Board, pending a

office.

The Nominating Committee will present at least one nomination for each office. Prior to the vote for each office, additional nominations will be taken from the floor. Officers will be elected individually in order of precedence, starting with the Chair. Voting shall be by show of hands.

Officers must receive a majority vote of the Board. If no candidate receives a majority, then a runoff will be held between the candidates with the two highest numbers of votes.

## **B. Succession**

If the office of Chair becomes vacant, the First Vice Chair becomes Chair for the unexpired term. If the office of First Vice Chair becomes vacant, the Second Vice Chair becomes First Vice Chair for the unexpired term. If the office of Second Vice Chair becomes vacant, an election, with nominations taken from the floor, will be held at the next Open Meeting of the Board to fill the office for the unexpired term.

If the offices of Chair, First Vice Chair and Second Vice Chair all become vacant at the same time, the Mayor will appoint a Board Member to serve as Acting Chair for a period of two months, during which time elections will be held to fill the vacancies for the unexpired term. Such elections will take nominations from the floor and elect officers individually in order of precedence by show of hands. Notice of such elections shall be given one month ahead of the election date.

## **Section 3: Powers and Duties**

The officers of this organization shall fulfill the duties of office while always acting for the good of the entire Board.

### **A. Chair**

The Chair shall have the following powers and duties:

1. To serve as Chair for all meetings, Closed and Open, of the Board.
2. To serve as Chair for all meetings of the Executive Committee.
3. To serve as a member of the Cabinet.
4. To act as the spokesperson for the Board, to make official statements for the Board, or to delegate this responsibility to another Board Member.
5. To coordinate with the Executive Director on communication between the Board and the Mayor, the San Diego City Council and the Chief of Police.
6. To appoint Chairs and members for all Committees of the Board, except the Nominating Committee.
7. To be ex officio member and ensure effective functioning of all committees of the Board, except the Nominating Committee.
8. To facilitate communication between Case Review Team Leaders.
9. To serve on a temporary Case Review Team when case load requires formation of a temporary Team by the Executive Director.
10. To perform such other duties as may be conferred by vote of the Board.

every meeting in accordance with the Ralph M. Brown Act.

## **Section 2: Closed Meetings**

Closed Meetings are normally held twice each month, except only once in December. Closed Meetings are held pursuant to California Government Code Section 54957 to provide a confidential environment in which (1) to review citizens' complaints brought against SDPD Officers in accordance with California Penal Code Section 832.7 or (2) to discuss personnel or other information that is specifically exempt from public disclosure by law. Attendance is limited to Board Members, the Executive Director and assigned City Staff, the Chief of Police and/or the Chief's designee, designated SDPD Internal Affairs staff, designated City Attorney Office representatives or outside counsel, and trainees appointed by the Mayor (CRB Academy members) with responsibility for a case that is being presented to the Board. The Board, pursuant to Robert's Rules of Order, may vote to go into Executive Session and may exclude anyone other than voting board members.

## **Section 3: Open Meetings**

Open Meetings are normally held once each month, except in December, to transact business and to hear presentations. Open Meetings provide a forum in which to communicate with the public, to advise the community of the complaint process and the Board role in the review of complaints, and to hear public testimony on the police complaint review process.

## **Section 4: Special Meetings**

Special Meetings can be held as needed and may be either Closed or Open. A Special Meeting may be initiated by the Chair, by the Executive Director, or by a vote of Board members. Notice of a Special Meeting shall state the topic(s) to be discussed, and no other business may be considered during the Special Meeting.

## **Section 5: Voting and Quorum**

Only Board members can vote on issues before the Board and are counted to determine the presence of a quorum. Board members (except the Chair) are expected to vote on all issues and must state on the record the reason for any abstention. The Chair is not required to vote; however the Chair may vote whenever his or her vote will affect the result.

No formal action can be taken without a quorum. The requirement for a quorum shall be more than half of the maximum number of members on the Board. The maximum number of members is 23, so a quorum is 12.

The basis for decisions at all Board meetings is an expected attendance of 18 Board members. Consequently, regardless of the number of Board members present, the minimum number of votes required to approve or to disapprove a motion is as follows:

### **A. Motion Requires Majority Vote**

The motion is approved if the majority votes affirmative with at least ten votes affirmative. The motion is disapproved if the majority votes negative with at least ten votes negative. If neither is achieved, the pending motion fails to be approved or



## **Section 2: Standing Committees**

Notice of Standing Committee meeting time, place and agenda shall be provided to Committee members and the public at least 72 hours before the scheduled meeting time. Except for the Executive Committee, Standing Committees are limited to no more than seven (7) members.

### **A. Executive Committee**

The Executive Committee has continuing jurisdiction over the health and welfare of the Board. The Chair of this Committee is the Board Chair. Members of the Executive Committee are the elected officers of the Board and Standing Committee Chairs. Nonvoting members of the Executive Committee include the Executive Director, the assigned Deputy City Attorney or outside counsel and SDPD representatives. Regular meetings of the Executive Committee may be held monthly at the discretion of the Chair.

### **B. Policy Committee**

The Policy Committee shall evaluate recommendations from Board Members for improvements to SDPD policy, procedure, training or administration of discipline of police officers. The result of the evaluation shall be presented to the Board. The Policy Committee can recommend Board action to forward suggested improvements to the Chief of Police and the Mayor. The Policy Committee meets at the discretion of the Policy Committee Chair.

### **C. Continuing Education Committee**

The Continuing Education Committee arranges presentations on subjects of interest at the Open Meetings of the Board. The Continuing Education Committee also arranges additional training opportunities and field trips for the Board. The Continuing Education Committee meets at the discretion of the Continuing Education Committee Chair.

### **D. Community Outreach Committee**

The Community Outreach Committee supports the Board's outreach and education objectives at community events and informational meetings. The Outreach Committee meets at the discretion of the Outreach Committee Chair.

### **E. Rules Committee**

The Rules Committee shall evaluate recommendations from Board Members for amendments to these Bylaws, to Special Rules of Order, to Standing Rules and to other operational procedures. The Rules Committee is responsible to ensure that a proposed amendment does not violate or conflict with any existing provision in these Bylaws or any other rules that govern the Board. The result of the evaluation shall be presented to the Board. The Rules Committee meets at the discretion of the Rules Committee Chair.

### **F. Recruitment and Training Committee**

The Recruitment and Training Committee supports activities to recruit new members for the Board, to inform interested individuals about the Board, and to provide training to CRB Academy members. The Recruitment and Training Committee meets at the discretion of the Recruitment and Training Chair.



4. Maintenance of records and preparation of reports, including semiannual reports to the Mayor and City Council.
5. Management of all Board personnel throughout recruitment, training, team assignment and case review activities.
6. Arrange for the preparation of and dissemination all meeting notices for CRB board and committee meetings as required by the Ralph M. Brown Act.
7. Arrange for the preparation of and dissemination of the minutes of all CRB board and committee meetings.

The Executive Director also provides any additional support that is either not specifically assigned to Board Members, or not being provided by assigned Board Members as needed, or assigned by the Mayor.

Formal communication between SDPD and the Board will be coordinated through the Executive Director and the Mayor's Office. The Executive Director shall accurately communicate, in a timely fashion, information from the Mayor, City Council or SDPD to the full Board.

#### **D. Review and Evaluate Cases and General Review**

At any time, the Mayor may be requested to monitor, review and evaluate a case by a majority vote of the Board. The Mayor may also independently initiate such a review and evaluation and use such resources as necessary to conduct this review. The Mayor will ensure that all complaints are investigated in a timely and efficient manner. The Mayor may monitor the progress of particularly sensitive complaints and incidents. If a review is approved by the Mayor, it may include:

- Discussion with witnesses.

- Review of the Internal Affairs investigation.

- Discussion with appropriate SDPD investigative staff and CRB Case Review Team members reviewing the case.

- Review of tapes and transcripts of interviews with witnesses and police officers.

- Review of pertinent evidence, including body worn camera video.

- Review of any other available investigative reports by other agencies.

The completed review by the Mayor shall be presented by the Executive Director to the Board for review and comment.

The Mayor shall conduct general reviews as needed to evaluate the City's complaint, investigative and review process. This will include an analysis of trends and patterns in citizen complaints, investigations and discipline. The scope of this review shall include:

- Evaluation of the SDPD complaint procedures.

- Surveys and interviews of the complainants previously involved in the complaint process.

- Survey and interview of witnesses involved in the complaint process.

- Review of statistical reports related to the complaint process.

#### **Section 4: CRB Administrative Standing Rules**

Administrative Standing Rules define and clarify internal procedures for this organization. Administrative Standing Rules may be adopted, amended, or deleted by a majority vote of Board Members at a regularly scheduled Open Board meeting. Proposed amendments must be submitted by a Board member and reviewed by the Rules Committee. The proposed content and the Rules Committee evaluation must be submitted in writing to all Board Members at least ten days before the meeting where the vote will be taken.

**DRAFT**

# Community Review Board on Police Practices

## Operational Standing Rule

### Case Review Procedure

Note: This Operational Standing Rule is consistent with the Standard Operating Procedures (SOP) for the Community Review Board on Police Practices (CRB), approved by the Mayor and City Council. Any future amendments to this Operational Standing Rule must also be consistent with the SOP. In the event of a conflict, the SOP takes precedence. Future revisions to the SOP may necessitate a corresponding revision to this Operational Standing Rule

The responsibility of responding to community member complaints against the San Diego Police Department (SDPD) is shared between SDPD Internal Affairs (IA) Department and the San Diego Community Review Board for Police Practices (CRB). The collaborative relationship is important for a fair and objective process that gives serious consideration to community members and SDPD officers equally. The process is improved by both organizations working together, complementing 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.

Community member complaints are submitted either through the Community Review Board (CRB) office 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 search and seizure, unlawful detention and criminal conduct. Complaints containing only Category 2 allegations are investigated by the Subject Officer's division and are not, at this time, reviewed audited by CRB (See Operational Standing Rule on Auditing Category 2 Cases). 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 sergeant. 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:

- Community member 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 (community member 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 community member complaints, regardless of source or allegation type(s), are to be entered into the shared tracking system. Community member complaints are received from many sources including, but 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 community members 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 CCFs, 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 ensure 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, to report a suspected "typo", 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. In order to be presented to the full CRB, the report must be put on the shelf no later than the Tuesday prior to the Tuesday Closed CRB Meeting. The CRB Chair and Executive Director will review the team report for clarity, accuracy, objectiveness, completeness, and compliance with the Administrative Rule for Format and Presentation of CRB Case Review Reports and will ensure that all disagreements and findings with comments have been appropriately discussed with IA. 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 attended by only the responsible lieutenant and/or the IA investigator for any case scheduled to be presented to the Board. The IA Captain, IA Liaison Officer (Custodian of Records), and the Executive Assistant Chief also may attend. Other individuals who obtain prior approval from the Board Chair in consultation with the Executive Director may attend as permitted by law. This may include IA Sergeants who are attending for training purposes. Such Sergeants shall not sit at the table with the board. Nothing in the foregoing can prohibit the Board from entering into Executive Session in accordance with Robert's Rules.

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, advocate for any position whether or not it is in conflict with the Case Review Team report, or present new information. In the event that a team disagrees with IA's finding or adds a comment that is critical of the subject officer, IA will be given an opportunity to address the Board prior to the vote. 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 and 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. If the Executive Director and Board Chair disagree, the First Vice Chair shall decide the course of action.

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 is 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. [Clarify]

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, intake document or interview, or in follow up interviews or observed in BWC or surveillance video. The Team should verify that the summary description for each allegation (found in the IA report Allegations List) 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.

### 3. Details

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 reviewing 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., complainant and subject officer interviews), and (3) watch the most relevant video (e.g., subject officer BWC, surveillance or third party video). 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, ARGIS Narrative, or Field Interview), communication logs, officer journals, maps, photos, and other related items.

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 community members 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 on top of 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 absence or 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 community member 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/or IA Captain, 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/or IA Captain, 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/or IA Captain, 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.

#### 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 with a cover letter to draw attention to such disagreement 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. [Should legal counsel review this?]

~~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.~~

Regardless of the outcome of the Board vote, 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 by CRB 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 community member 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 an 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, BWC and surveillance video, 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. Following the homicide investigation, IA may undertake additional investigation and produce a report on any firearm used, the officer's authorization to use a personal firearm if that was the case, and the date of qualification with the firearm used. IA also may discover, investigate and report on violation of SDPD procedure as an "Other Finding".

Generally speaking, OIS and ICD cases are handled by Case Review Teams in the same manner as community member 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 community member 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 community member complaint, except "Complainant" will be replaced by a "Subject" or "Victim". Weapons Used may be shown for the Subject/Victim and Subject Officer(s). The Allegation Table will have a single allegation of Force and the IA Finding will be either "Within Policy" or "Not Within Policy". Finding for this Force allegation by the Case Review Team is Agree or Disagree. The Allegation Table also may have Procedure (Other Finding) allegations from the IA investigation. Finding by the Case Review Team for these allegations is the same as for a community member complaint, i.e., Agree, Agree with Comment, or Disagree with Comment. 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**

While CRB members can come to conclusions regarding the facts underlying a complaint, the credibility of witnesses, and whether subject officers acted within policy or procedure, individual CRB members, even if they are an attorney, should not do independent legal research, apply their own interpretations of the law, formulate legal conclusions, or attempt to give legal advice to the team or Board.

A team may, however, question whether Internal Affairs has correctly applied the appropriate law or has overlooked a law that should be applied and may request copies of applicable laws or policies. A team should express any legal concerns it has to Internal Affairs and give IA an opportunity to discuss the issue with the SDPD's legal advisors. If the team still has questions, it may, through the Executive Director in consultation with the Chair, request an opinion from the City Attorney's office or the outside legal counsel contracted by the CRB. If the request is denied, the matter may be brought before the Board for a vote on the request. The team must review the case and apply the law as defined by the City Attorney or outside legal counsel. If a CRC member still has a concern regarding the applicable law, the concern may be documented in the Team Concerns and Issues section of the team report and presented after the vote.

Even if a team believes that SDPD is not correctly applying a law, the subject officers' actions need to be reviewed in light of Department policy or procedure in effect at the time of the incident. An officer cannot be held to a standard that is not being followed by SDPD at the time of the complaint.

**SAN DIEGO**

**CITIZENS' REVIEW BOARD**

**ON POLICE PRACTICES**

**Administrative Standing Rule:**

**Format and Presentation of**  
**CRB Case Review Reports**

**Approved by Citizens' Review Board:**

**October 27, 2015**

## CRB Administrative Standing Rule for Format and Presentation of CRB Case Review Reports:

### **1. CRB Case Review Report Format**

A template for the CRB Case Review Report is found in Appendix A.

A CRB Case Review Report contains the following elements:

**Header Block**  
**Face Sheet**  
**Allegation Table**  
**Case Notes**  
**Incident Summary**  
**Discussion and Conclusions**  
**Allegation #1**  
**:**  
**Allegation #n**  
**Changes Table**  
**Signature Table**  
**Team Concerns and Issues**

Each element of the CRB Case Review Report is described in one of the following sections.

#### **a. Header Block**

The Header Block provides basic information about the case and a confidentiality statement in the following format:

#### **CITIZENS REVIEW BOARD**

**TEAM #**

**CASE #**

**Date of Incident:**

**Time of Incident:**

**Location of Incident:**

**Date of Complaint:**

**Date Assigned to CRB:**

**Date Review Complete:**

**Date CRB Presentation:**

**CONFIDENTIAL: FOR EXCLUSIVE USE OF CITIZENS REVIEW BOARD AND SDPD  
IN ACCORDANCE WITH RESTRICTIONS ON CONFIDENTIAL PERSONNEL RECORDS  
PURSUANT TO CALIFORNIA PENAL CODE SECTIONS 832.5, 832.7, and 832.8**

Time can be in 24-hour or standard wall clock time. The 24-hour time of "0900" is "9:00 AM" for the wall clock equivalent. The 24-hour "1530" is "3:30 PM" for the wall clock equivalent. Time should be shown in the same format throughout the CRB Case Review Report.

#### **b. Face Sheet**

The Face Sheet provides a list of the persons involved in the incident and in the case investigation. Throughout the report, last names are written in CAPITAL LETTERS for emphasis and ease of understanding. The list is organized in the following categories:

:

<b>COMPLAINANT(S):</b>	<b>Name and important information</b>
<b>SUBJECT OFFICER(S):</b>	<b>Name and important information</b>
<b>CIVILIAN WITNESS(ES):</b>	<b>Name and important information, including relationship to the case if any</b>
<b>WITNESS OFFICER(S):</b>	<b>Name and important information</b>
<b>OTHERS CONTACTED:</b>	<b>Name and (delete important) available information, including relationship to the case if any</b>

NOTE: For Officer Involved Shooting (OIS) or In-Custody Death (ICD) cases the category of "Complainant" is replaced by either "Subject" or "Victim" and the weapon(s) used by the officer(s) and any weapon used or possessed by a subject or victim will be listed directly below the personal information described above.

Important information should include race, gender, age, height and weight as of the date of the incident for all persons. Information on age of a person should be shown in years; date of birth may also be shown. Important information for officers should include years of service to SDPD and assignment as of the date of the incident. Information on an officer's experience with SDPD should be shown as years of service; date of hire may also be shown.

Persons who are mentioned in the body of the CRB Case Review Report should be listed. Persons who are not mentioned in the body of the CRB Case Review Report should not be listed. The relationship information for witnesses (e.g., Complainant's son, Neighbor, etc.) should be added if available.

#### **c. Allegation Table**

Starting on a new page, the Allegation Table summarizes information about the allegation(s) under the following headings:

<b>Allegation</b>	<b>Description</b>	<b>Subject Officer(s)</b>	<b>Witness(es)</b>	<b>IA Finding</b>	<b>Team Finding</b>

Below the header, there is a row of information for each allegation. The contents of this table are provided by IA except the Witness(es) and Team Finding columns which are filled in by the Team. A description of the contents of each column follows:

### 1. Allegation

Each allegation is numbered (1, 2, 3...) and the type of allegation is in capital letters, e.g., "1 - TYPE", where TYPE can be ARREST, FORCE, DISCRIMINATION, SLUR, CRIMINAL CONDUCT, COURTESY, PROCEDURE, SERVICE, or CONDUCT. An allegation that is added by IA should be annotated as "X - TYPE (Other Finding)". A list and description of allegation categories is contained in Appendix B and in San Diego Police Department Procedure 1.10 – Citizen Complaints (DP 1.10).

### 2. Description

The summary complaint description should reflect actions of the officer(s) alleged in the citizen's complaint.

### 3. Subject Officer(s)

This list should include the officer(s) implicated as responsible for the allegation.

### 4. Witness(es)

This list should include all civilians and officers who witnessed a relevant portion of the incident or who provided relevant important information to the investigation. Persons listed should be mentioned in the body of the CRB Case Review Report.

### 5. IA Finding

This column shows the IA finding for this allegation as Exonerated (E), Sustained (S), Not Sustained (NS) or Unfounded (U). A list and description of IA allegation findings is contained in Appendix B and in DP 1.10.

### 6. Team Finding

The Team finding for each allegation is shown as one of the following:

"A" Agree - The Team agrees with the IA finding

"A/C" Agree with Comment - The Team agrees with the IA finding but has comments which are found in the Discussion and Conclusions section for this allegation

"D/C" Disagree with Comment - The Team disagrees with the IA finding and rational for the disagreement and an alternative finding are found in the Discussion and Conclusions section for this allegation

When there is a disagreement between Team members, multiple Team findings should be shown. In this situation, each finding would show the number of Team members with that position, e.g. "A(2), A/C(1)".

The last row in the Allegation Table contains "Investigator Notes", if any.

### **d. Case Notes**

This section contains administrative Team, or Team Member, remarks specifically relating to this case. Case Notes should include the refusal of any complainant or witness to give an interview, extra effort on the part of the IA investigator to obtain evidence or interviews, information or evidence unavailable to the Team, names of IA investigator and responsible lieutenant, circumstances that delayed the investigation, or any other information the Team feels would assist the Board in understanding this case. Additionally, the following Resources

Table should be filled out to show all resources made available and reviewed by the Team to support evaluation of this case.

<u>Check = Reviewed</u>	<u>Resource Item</u>
	Complaint Form (CCF) signed by Complainant
	Medical Records of Complainant
	Video from Complainant
	Audio Recording from Complainant
	Photographs from Complainant
	Additional Materials provided by Complainant
	IA Investigation Report
	Police Officer Reports
	Police Officer Body Work Camera (BWC) video
	SDPD Sally Port video
	SD Sheriff Jail Intake video
	SD Sheriff Property Form
	SD Sheriff Medical Intake Questionnaire
	Interview Audio of Complainant
	Interview Audio of Witnesses
	Interview Audio of Witness Officers
	Interview Audio of Subject Officers
	Interview Audio of Others Contacted
	SDPD Policy & Procedures
	Other:
	Other:
	Other:
	Other:

#### **e. Incident Summary**

The Incident Summary provides a brief and concise overview of the incident as background for the discussion of all allegations (see section 1.f "Discussion and Conclusions" below). The information should address who, what, where and when. This section presents the chronology of events and identifies the participants in the incident. Significant time lapses and change in



location should be identified. Any statements that contribute to a general understanding of the case, whether made by the complainant(s) or witness(es) or officer(s), may be included.

The information in this section should be concisely presented and limited to facts and statements that contribute to understanding all allegations. Details relating to multiple allegations may be included in this section (or may alternatively be included with the first of the multiple allegations, see below), allowing subsequent subsections in Discussion and Conclusions to refer back to the Incident Summary instead of repeating these details. Details or statements that relate to only one allegation, or do not relate to any allegation, are usually omitted from the Incident Summary unless they are important to a comprehensive overview of the incident.

#### **f. Discussion and Conclusions**

This section constitutes the main body of the CRB Case Review Report and is organized by allegation. The subsection for each allegation is identified by a header line that includes the number (1, 2, ..), and the type of the allegation (e.g., ARREST) as follows:

##### **ALLEGATION # X: TYPE**

The discussion for each allegation includes the following allegation-specific elements:

- brief summary of the allegation taken verbatim from the Description field in the Allegation Table along with details added by the Team for clarification;
- facts of the situation that are unique to this allegation;
- opinions and observations by the complainant related to this allegation;
- opinions and observations by the subject and witness officer(s) related to this allegation; statements provided by multiple officers with essentially the same information can be combined;
- opinions and observations by witnesses related to this allegation; statements provided by multiple witnesses with essentially the same information can be combined;
- cites from SDPD policies and procedures, and governmental codes that have bearing on the finding for this allegation should be identified as quotes; cites can be drawn from state law found in the California Penal Code ("PC"), or California Vehicle Code ("VC"), or other state codes, or from the San Diego Municipal Code ("MC"). Case law that is cited in the IA report can be included.

The order of these discussion elements is flexible. However it is important to include any relevant information that is essential for understanding the finding for this allegation.

Statements by complainant, witnesses or officers that apply to multiple allegations can be contained in the first such allegation and referenced, rather than repeated, in subsequent allegations.

The conclusion for each allegation will have the following elements:

- statement of, and IA's justification for, the IA finding;
- position on the finding taken by the Team, or by the majority (identify individual Team members), including the Team comment on an agreement (A/C) or the rationale for any disagreement with IA including the Team's alternative finding;

- if applicable, alternative position of the minority (identify Team member) including the individual comment on an agreement (A/C) or the rationale for a disagreement including an alternative finding.

When the Team agrees with the finding for an allegation, a simple conclusion could state "Based on the forgoing analysis, IA determined this allegation to be (IA finding) and Team X agrees." The conclusion will be expanded when there is a comment associated with agreement or a disagreement. Comments shall be limited only to substantive issues directly related to the Citizen's Complaint and/or the Subject Officer(s) and must comply with the laws of the State of California concerning citizens' complaints against peace officers.

#### **g. Changes Table**

NOTE: The Changes Table is not used for Officer Involved Shooting (OIS) cases or Death in Custody (ICD) cases.

The Changes Table was originally approved by the Board in "CRB Administrative Standing Rule on Case Changes Table", dated May 27, 2014, which is hereby superseded:

Changes made to the IA report prior to the case being heard by the full Citizens' Review Board shall be recorded as part of the case and reported to the public in the CRB Quarterly Reports.

For data gathering and reporting purposes, these categories will be used:

- Allegations – allegations added, deleted, or wording changed
- Findings – findings changed
- Interviews – additional questions asked of previously interviewed officers, complainants, witnesses and experts or new interviews conducted
- Evidence – additional evidence requested, sought, obtained
- Policies – additional policies applied to analysis of the incident

The team will note these changes in this table:

#### **CHANGES MADE DURING CASE REVIEW**

<b>Number (how many)</b>	<b>Category</b>	<b>Description of the Change</b>
	Allegations	
	Findings	
<b>Yes/No</b>	<b>Category</b>	<b>Optional Description</b>
	Interviews	
	Evidence	
	Policies	

### h. Signature Table

Team Members enter their signature and the date after the case has been presented and the Board has voted on the Team findings.

<b>CRB Team x Endorsement</b>	Signature	Signature	Signature
	Date	Date	Date
	Name (Team Leader)	Name (Team Member 2)	Name (Team Member 3)

### i. Team Concerns and Issues

Starting on a new page, this section contains Team or Team Member comments, presented after the Board vote, on subjects that do not directly affect the review for this case but are related to the incident in some meaningful way. Comments can recommend training enhancements or changes to SDPD policy or procedure. The Team could submit a corresponding recommendation for Policy Committee review or request the subject be put on the agenda for discussion at a future Open Meeting.

## 2. Writing the CRB Case Review Report

Using the format described above, a CRB Case Review Report will be prepared for presentation to the Board. The CRB Case Review Report should address (1) who was involved, (2) what happened, and (3) when events unfolded in chronological order. This report documents CRB review and evaluation of citizens' complaints against SDPD. This document needs to be thorough, but also focused, concise and to the point.

All Case Review Team members are responsible for the contents of their CRB Case Review Report. The Case Review Report can be drafted by one Case Review Team member or by multiple Team members working together. When one member of the Team drafts the report it should be read and critiqued by all Team members prior to being presented to the Board. The report author is responsible for ensuring the CRB Case Review Report reflects the understanding, attitude and position of the Team. At least two Team members must agree on the conclusion, or finding, for each allegation before the Team can present the case to the Board. Disagreements among Team members, or between the Team and IA, will be reflected in the CRB Case Review Report (see sections 1.c, 1.f and 1.i above).

When writing the CRB Case Review Report, it is important to avoid including information that could be prejudicial and is not crucial to understanding the case, such as any of the following:

- ZIP Code of any address
- Location of an interview that is within a correctional facility
- Prior criminal record of any complainant or witness
- Results of blood alcohol level test or other toxicology reports not known by officers during the incident
- Medical conditions or prior treatment not known by officers during the incident
- Outcome of the incident such as charges filed or conviction

- Claim for damages or civil lawsuit filed related to this incident

The style of the Discussion and Conclusions section for each allegation is determined by the Case Review Team. The order of the discussion elements listed above in section 1.f is flexible. However, it is important to include any relevant information that is essential for understanding the finding for this allegation. In the interest of keeping the Case Review Report efficient and concise, only statements that are relevant to the allegation should be included. Statements that are not relevant to the allegation should be omitted. In order to avoid repetition, statements by multiple witnesses and/or by multiple officers that are essentially the same should be combined in a single statement and attributed to all who shared the observation. Statements by complainant, witnesses or officers that apply to multiple allegations can be contained in the first such allegation and referenced, rather than repeated, in subsequent allegations.

Direct quotes from any source (SDPD Policy and Procedure, government codes like CA Penal Code, individual complainant or witness or officer, or taken directly from the IA report) should be formatted to highlight the use of the external source. Short quotes of one or two sentences can be enclosed in quotation marks. Longer quotes should be in a separate paragraph that is indented and can be given a different font or font style or size. Quotations should be limited to that which is applicable to the specific allegation and unnecessary verbiage should be edited out. Lengthy quotations of entire passages from any external source should be avoided. Note that quotation from any complainant, witness or officer should be transcribed from the audio of their interview.

### 3. Presentation to the Board

When the completed CRB Case Review Report is on the schedule for presentation to the Board in Closed Session, the responsible Case Review Team should introduce the case by stating the case number and the names of the Team members who reviewed the case. The introduction can also include the dates of the incident and the complaint, the number of allegations, types of allegations and any Case Notes the team has included in the report. If the case has been before the Board previously, a brief summary of the prior proceedings should be given.

Presentation and subsequent discussion was originally approved in "CRB Administrative Standing Rule for CRB Review of Team Case Review Reports", dated June 24, 2014, which is hereby superseded:

1. Team Case Review Reports are reviewed in a closed session of the Board in two phases. The first phase is the **Presentation** of the Case Review Report. The second phase is a **Discussion** of the Team's motion.
2. During the **Presentation** phase, the team will read the summary and findings verbatim from their report so that the Board can easily follow the information flow and no important facts are omitted. However, occasional explanatory oral remarks may be added by the presenter as deemed appropriate. Commonly referenced municipal ordinances, state codes (Penal Code, Vehicle Code, etc.) and SDPD policies and procedure included in the report do not need to be verbally recited in their entirety.
3. If there is a dissenting opinion by a team member, the team member shall be given an opportunity to read or explain the dissent during the **Presentation** phase.
4. After the report is read, Board members may pose questions to the team that are germane to the Case Review Report. There is no limit on the number of questions

Board members may ask during the **Presentation** phase. If the team is unable to fully answer a question, the team may query SDPD, City Attorney's Office or CRB staff in attendance for further clarification.

5. After the **Presentation** phase is complete, a team member will make a motion in order to begin the **Discussion** phase. The Team motion should have the following form: "Team X moves that the CRB adopt the findings presented on each of the allegations in Case # YYYY-XXX." No second is required per Robert's Rules because this motion is made by a Committee (Team).
6. The **Discussion** phase shall then proceed according to Roberts Rules of Order, Newly Revised. This means that each Board member may only speak twice to each motion and may not speak a second time until all members wishing to speak have had an opportunity to do so. All comments must be germane to the pending motion on the floor. A motion may be amended, and a member can move to divide the main motion, so that the findings on the allegations can be voted upon individually. If a motion is divided, a board member may speak twice during the discussion of each part of the divided motion.
7. In the event there is disagreement with Internal Affairs findings, a representative of the SDPD shall be given an opportunity to address the Board prior to the vote.
8. Comments not germane to the case findings are allowed only after the Board votes on the case findings. Comments that must be deferred until after the vote on the case findings include recommendations for policy changes, observations on patterns of police conduct, etc. (see section 1.i, "Team Concerns and Issues", above.)

If, at any time during the **Presentation** Phase or the **Discussion** Phase, the Team becomes aware of a deficiency in their report, the case can be withdrawn from Board consideration. If there is a previous motion to approve, that motion can be withdrawn.

If the Board finds the Team report is incomplete, a motion can be made to return the case to the Team for reconsideration.

Otherwise, if the Board votes to agree with all Team findings and the Team agrees with all IA findings, the Team motion will be passed. Without any further action by the Board, the case will be considered closed.

If the Board votes to disagree with IA or has other concerns, additional action may be taken, including a motion stating what the Board believes IA's finding should be.

CRB Administrative Standing Rule for  
Format and Presentation of CRB Case Review Reports

**APPENDIX A**

**REPORT TEMPLATE**

## **CITIZENS REVIEW BOARD**

**TEAM # \_\_\_\_\_**

**CASE # \_\_\_\_\_**

**Date of Incident:** Month(Jan-Dec) Day(1-31), Year(XXXX)

**Time of Incident:** HH:MM AM/PM or XXXX(0000-2359)

**Location of Incident:** Street Address

**Date of Complaint:** Month(Jan-Dec) Day(1-31), Year(XXXX)

**Date Assigned to CRB:** Month(Jan-Dec) Day(1-31), Year(XXXX)

**Date Review Complete:** Month(Jan-Dec) Day(1-31), Year(XXXX)

**Date CRB Presentation:** Month(Jan-Dec) Day(1-31), Year(XXXX)

**CONFIDENTIAL: FOR EXCLUSIVE USE OF CITIZENS REVIEW BOARD AND SDPD  
IN ACCORDANCE WITH RESTRICTIONS ON CONFIDENTIAL PERSONNEL RECORDS  
PURSUANT TO CALIFORNIA PENAL CODE SECTIONS 832.5, 832.7, and 832.8**

**COMPLAINANT(S):**

**Name1**

**Race, Sex, Age, Height, Weight, etc.**

**Name2**

**Race, Sex, Age, Height, Weight, etc.**

**SUBJECT OFFICER(S):**

**Name1, Rank, PD Assignment**

**Years of Service to SDPD**

**Race, Sex, Age, Height, Weight, etc.**

**Name2, Rank, PD Assignment**

**Years of Service to SDPD**

**Race, Sex, Age, Height, Weight, etc.**

**CIVILIAN WITNESS(ES):**

**Name1 (relationship to the case if any)**

**Race, Sex, Age, Height, Weight, etc.**

**Name2 (relationship to the case if any)**

**Race, Sex, Age, Height, Weight, etc.**

**WITNESS OFFICER(S):**

**Name1, Rank, PD Assignment**

**Years of Service to SDPD**

**Race, Sex, Age, Height, Weight, etc.**

**Name2, Rank, PD Assignment**

**Years of Service to SDPD**

**Race, Sex, Age, Height, Weight, etc.**

**OTHERS CONTACTED:**

**Name1 (Rank, PD Assignment, if applicable)  
(Years of Service to SDPD, if applicable)  
Race, Sex, Age, Height, Weight, etc.**

**Name2 (Rank, PD Assignment, if applicable)  
(Years of Service to SDPD, if applicable)  
Race, Sex, Age, Height, Weight, etc.**



Allegation	Description	Subject Officer(s)	Witness(es)	IA Finding	Team Finding
1 - TYPE					
2 - TYPE					
...					
X - TYPE					
<b>Investigator's Notes:</b>					

**CASE NOTES:**

(Team observations and remarks related to this case and the Resources Table)

<b><u>Check = Reviewed</u></b>	<b><u>Resource Item</u></b>
	Complaint Form (CCF) signed by Complainant
	Medical Records of Complainant
	Video from Complainant
	Audio Recording from Complainant
	Photographs from Complainant
	Additional Materials provided by Complainant
	IA Investigation Report
	Police Officer Reports
	Police Officer Body Work Camera (BWC) video
	SDPD Sally Port video
	SD Sheriff Jail Intake video
	SD Sheriff Property Form
	SD Sheriff Medical Intake Questionnaire
	Interview Audio of Complainant
	Interview Audio of Witnesses
	Interview Audio of Witness Officers
	Interview Audio of Subject Officers
	Interview Audio of Others Contacted
	SDPD Policy & Procedures

	Other:
	Other:
	Other:
	Other:

**INCIDENT SUMMARY:**

(Incident chronology and overview)

**DISCUSSION AND CONCLUSIONS:****ALLEGATION # 1 – TYPE**

(Complainant statement, officer statements, witness statements, policy and procedure cites, analysis and finding for this allegation; alternative analysis and finding by Team or minority position.)

**ALLEGATION # 2 – TYPE**

(Complainant statement, officer statements, witness statements, policy and procedure cites, analysis and finding for this allegation; alternative analysis and finding by Team or minority position.)

.....

**ALLEGATION # X – TYPE**

(Complainant statement, officer statements, witness statements, policy and procedure cites, analysis and finding for this allegation; alternative analysis and finding by Team or minority position.)

**CHANGES MADE DURING CASE REVIEW**

<b>Number</b> (how many)	<b>Category</b>	<b>Description of the Change</b>
	Allegations	
	Findings	
<b>Yes/No</b>	<b>Category</b>	<b>Optional Description</b>
	Interviews	
	Evidence	
	Policies	

<b>CRB Team x Endorsement</b>	Signature	Signature	Signature
	Date	Date	Date
	Name (Team Leader)	Name (Team Member 2)	Name (Team Member 3)

**TEAM CONCERNS AND ISSUES:**

(Performance, training or policy issues not limited to this case; presented after the vote.)

CRB Administrative Standing Rule for  
Format and Presentation of CRB Case Review Reports

**APPENDIX B**

**COMPLAINT ALLEGATION  
CATEGORIES AND FINDINGS**

## APPENDIX B

### COMPLAINT ALLEGATION CATEGORIES AND FINDINGS

A citizen complaint is analyzed and assigned an allegation type by Internal Affairs (IA) (see San Diego Police Department Procedure 1.10 - Citizen Complaints, Officer-Involved Shootings, and In-Custody Deaths; Receipt, Investigation, and Routing) (DP 1.10). If a complaint is comprised of multiple grievances, then multiple allegation types are assigned. There are nine allegation types, divided into two categories, Category One and Category Two, as follows:

#### CATEGORY ONE

ARREST  
CRIMINAL CONDUCT  
DISCRIMINATION  
FORCE  
SLUR

#### CATEGORY TWO

SERVICE  
COURTESY  
PROCEDURE  
CONDUCT

DP 1.10 defines Category One complaints as "all citizen complaints or allegations lodged against Department members, including volunteers, which involve one or more of the following:

1. Arrest – an allegation that a member knew, or should have known, that there was insufficient probable cause for an arrest. Included are bad faith Fourth Amendment searches.
2. Criminal conduct – an allegation of Federal, State, County, or Municipal law violation(s).
3. Discrimination – an allegation of unequal treatment due to a subject's gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.
4. Force – an allegation that more force was used than reasonably necessary. Threats of force are not included.
5. Slur – an allegation of a derogatory term that a reasonable person would recognize as an inherent insult or degradation of another, based upon the subject's gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.

Category One allegations involve the most serious accusations and Category Two allegations involve less serious accusations. All complaints that include Category One allegations are reviewed by the Citizens' Review Board on Police Practices (CRB). Category Two allegations are reviewed by CRB when bundled with at least one Category One allegation. Complaints with only Category Two allegations are not reviewed by the CRB.

The IA investigation results in a "finding" for each allegation. According to DP 1.10, IA findings will be classified as follows:

- SUSTAINED: the Department member committed all or part of the alleged acts of misconduct;
- NOT SUSTAINED: the investigation produced insufficient information to clearly prove or disprove the allegations;
- EXONERATED: the alleged act occurred but was justified, legal and proper, or was within policy;
- UNFOUNDED: the alleged act did not occur.

Note: some allegation types allow only three of these findings (see below).

The descriptions that follow show the available findings and associated meaning for each allegation type. As with any aspect of the review process, if the team has concerns about a specific allegation (missing from the IA investigation, not the proper type, inaccurate definition, etc.) or any finding, the team should discuss these concerns with Internal Affairs to attempt to resolve or clarify the issue.

## **CATEGORY ONE ALLEGATIONS**

### **I. ARREST**

- A. Was there an arrest?
  - 1. If there was no arrest, the allegation is UNFOUNDED.
- B. If an arrest did occur, was there probable cause for the arrest?
  - 1. If there was probable cause, the arrest was justified, legal<sup>1</sup> and proper or within policy, and the allegation is EXONERATED.
  - 2. If there was no probable cause and the officer knew or should have known there was no probable cause, or if there was a bad faith Fourth Amendment search, the allegation is SUSTAINED.
  - 3. If there is insufficient evidence to prove or disprove a lack of probable cause or a bad faith Fourth Amendment search, the allegation is NOT SUSTAINED.

### **II. CRIMINAL CONDUCT<sup>2</sup>**

- A. Did the officer violate a federal, state, county, or municipal law or ordinance?
  - 1. If the officer did violate such a law or ordinance, the allegation is SUSTAINED.
  - 2. If the officer did not violate a law or ordinance, the allegation is UNFOUNDED.

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<sup>1</sup> The CRB team should not attempt to form legal conclusions regarding the actions of police officers. Legal questions may be posed to the Deputy City Attorney assigned to advise the Board through the Executive Director. The team should focus on whether the arrest was justified and proper or within policy, by (1) assessing the credibility of the complainants, officers and witnesses, and (2) assessing the relevance of the information to be presented to the Board regarding the arrest. Protracted debate over technical legal issues would unduly hamper the ability of CRB to function effectively and efficiently. See Memorandum of Law ML-2010-18 dated September 21, 2010 in the Red Binder.

<sup>2</sup> Criminal conduct investigations against officers arising from citizen complaints are reviewed by CRB. Those arising from internal police investigations are not.

3. If there is insufficient evidence to prove or disprove that the officer violated a law or ordinance, the allegation is NOT SUSTAINED.

### III. DISCRIMINATION<sup>3</sup>

A. Did the officer treat the subject in an unequal manner due to the person's gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics?

1. If the officer did not treat the person in an unequal manner, the allegation is UNFOUNDED.
2. If the officer did treat the person in an unequal manner, the allegation is SUSTAINED.
3. If there is insufficient evidence to prove or disprove that the officer treated the person in an unequal manner, the allegation is NOT SUSTAINED.

### V. FORCE

A. Was force, as defined in San Diego Police Department Procedure 1.04 – Use of Force, used?

1. If such force was not used, the allegation is UNFOUNDED.
2. If there is insufficient evidence to prove or disprove that such force was used, the allegation is NOT SUSTAINED.

B. If such force was used, was more force used than was reasonably necessary, in light of the particular circumstances faced by the officer?

1. If the force used was reasonably necessary, the allegation is EXONERATED.
2. If the force used was not reasonably necessary, the allegation is SUSTAINED.
3. If there is insufficient evidence to prove or disprove that the force used was reasonably necessary, the allegation is NOT SUSTAINED.

### VI. SLUR<sup>4</sup>

A. Did the officer use a derogatory term that a reasonable person would recognize as an inherent insult or degradation of another, based upon the subject's gender (including gender identity and gender expression), race, color, national origin, ancestry, religion, physical or mental disability, medical condition (including cancer, HIV, and AIDS), age, political beliefs or affiliation, marital status, sexual orientation, lifestyle, or similar personal characteristics.

1. If the officer did not use a derogatory term, the allegation is UNFOUNDED.
2. If the officer did use a derogatory term, the allegation is SUSTAINED.
3. If there is insufficient evidence to prove or disprove that the officer used a derogatory term, the allegation is NOT SUSTAINED.

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<sup>3</sup> DISCRIMINATION and SLUR are very similar allegations. The difference between them is that an allegation of SLUR involves an utterance only, whereas DISCRIMINATION must involve an act.

<sup>4</sup> Same as Note 3.



## **CATEGORY TWO COMPLAINTS**

### **I. SERVICE**

- A. Did the officer provide the type of service required by law and/or by the policies and procedures of the Police Department?
1. If the service provided was in accordance with the law and/or the policies and procedures of the Police Department, the allegation is EXONERATED.
  2. If the service provided was not in accordance with the law and/or the policies and procedures of the Police Department, the allegation is SUSTAINED.
  3. If there is insufficient evidence to prove or disprove that the service provided was in accordance with the law and/or the policies and procedures of the Police Department, the allegation is NOT SUSTAINED.
  4. If the alleged act did not occur, the allegation is UNFOUNDED.

### **II. COURTESY**

San Diego Police Department Policy 9.20 (DP 9.20) – COURTESY states:

Members shall be courteous to all persons. Members shall be tactful in the performance of their duties, shall control their tempers, exercise the utmost patience and discretion, and shall not engage in argumentative discussion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Members shall not use insolent language or gestures in the performance of his or her duties. Members shall not make derogatory comments about or express any prejudice concerning race, religion, politics, national origin, gender (to include gender identity and gender expression), sexual orientation, or similar personal characteristics.

- A. Did the officer conduct himself/herself in a courteous manner, as described in DP 9.20?
1. If so, the allegation is UNFOUNDED.
  2. If not, the allegation is SUSTAINED.
  3. If there is insufficient evidence to prove or disprove that the officer conducted himself/herself courteously, the allegation is NOT SUSTAINED.

### **III. CONDUCT**

San Diego Police Department Policy 9.06 – Unbecoming Conduct (DP 9.06) states:

Officers shall conduct themselves, both on and off duty, in such a manner as to reflect favorably on the Department. Officers shall not conduct themselves in any manner that could bring the Department into disrepute or reflects discredit upon the officer as a member of the Department, or impairs the operation and efficiency of the Department or officer. Members shall not engage in any conduct that is unbecoming an employee of the Department, nor which impairs the operation of the Department.

- A. Did the officer conduct himself/herself in an unbecoming manner, as described in DP 9.06?
1. If so, the allegation is SUSTAINED.
  2. If not, the allegation is UNFOUNDED.
  3. If there is insufficient evidence to prove or disprove that the officer conducted himself/herself as described above, the allegation is NOT SUSTAINED.

**IV. PROCEDURE**

- A. Did the officer follow the policies and procedures of the Police Department?
1. If so, the allegation is EXONERATED.
  2. If not, the allegation is SUSTAINED.
  3. If there is insufficient evidence to prove or disprove that the officer followed the policies and procedures of the Department, the allegation is NOT SUSTAINED.
  4. If the alleged act did not occur, the allegation is UNFOUNDED.

CRB Operational Standing Rule  
Case Review Procedures.

Pg. 1 **1. Internal Affairs Case File:** "Cases that are handled by an SDPD division are assigned to an investigating officer, typically a detective."  
Just as information, usually they are assigned to a supervisor (Sgt.) as opposed to a detective.

Pg. 5 **3. IA Staff Support:** (Underlined section at the bottom of the page.) The final case, after Executive Review, should be placed by Thursday afternoon. The cut-off for Tuesday meetings is the preceding Thursday at 1700 hours. Just a clarification.

\* Pg. 6 "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...."  
We understand the intent of this section and agree with the concept of not being involved in the active deliberations between the Teams and full Board, but if there is a pending disagreement, IA ought to be able to defend its position. In those cases where the Review Team and IA cannot come to an agreement, it would be reasonable to have the Board hear both side of the issue before making their final determination.

This is actually outlined in the 2015 "**Administrative Standing Rule: Preparation and Presentation of CRB Case Review Reports**" page 10 Section 3 **Presentation to the Board** (#7). "In the event there is disagreement with Internal Affairs findings, a representative of the SDPD shall be given an opportunity to address the Board prior to the vote."

Pg. 7 **2. Complete, Fair, Objective Review:** "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."  
I'd just like a clarification on what this means. It implies the Team can consult with entities outside the CRB/IA/City Attorney regarding the case. This could possibly violate confidentiality, so just a question or maybe an example of when this might occur.

\* Pg. 12 (2<sup>nd</sup> paragraph) If the final vote is "Not Sustained", the Case Review Team can request IA disclose all other "Not Sustained" findings from previous complaints against the same subject officer and report back any Departmental action taken based on that review.  
I will have our Legal look into this, but this may be a POBAR violation.



# **National Association for Civilian Oversight of Law Enforcement**

## **Code of Ethics**

### **PREAMBLE**

*Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and the ethical and professional standards described herein.*

*The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.*

### **PERSONAL INTEGRITY**

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when a significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

### **INDEPENDENT AND THOROUGH OVERSIGHT**

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

### **TRANSPARENCY AND CONFIDENTIALITY**

Conduct oversight activities openly and transparently, providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

### **RESPECTFUL AND UNBIASED TREATMENT**

Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

## **OUTREACH AND RELATIONSHIPS WITH STAKEHOLDERS**

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialogue with your stakeholders. Educate and learn from the community.

## **AGENCY SELF-EXAMINATION AND COMMITMENT TO POLICY REVIEW**

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

## **PROFESSIONAL EXCELLENCE**

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

## **PRIMARY OBLIGATION TO THE COMMUNITY**

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

The following oversight agencies have adopted the NACOLE Code of Ethics:

- Citizen Oversight Board, City & County of Denver, CO
- Citizens' Law Enforcement Review Board, San Diego County, CA
- Citizens' Review Board on Police Practices, San Diego, CA
- Civilian Review Board, Eugene, OR
- Independent Review Panel, Miami, FL
- Milwaukee Fire and Police Commission, Milwaukee, WI
- Office of Citizen Complaints, San Francisco, CA
- Office of Community Complaints, Kansas City, MO
- Office of Police Complaints, Washington, D.C.
- Office of Professional Accountability, Seattle, WA
- Office of the Community Ombudsman, Boise, ID
- Office of the Independent Monitor, City & County of Denver, CO
- Office of the Independent Police Auditor, Bay Area Rapid Transit District, San Francisco, CA
- Office of the Independent Police Auditor, San Jose, CA
- Office of the Police Auditor, Eugene, OR
- Office of the Police Ombudsman, Spokane, WA
- Richmond Police Commission, Richmond, CA



## Article III: Membership

### Section 3: Removal

#### **B. Removal for Cause**

. . . The Executive Director may request that the Mayor remove any Board member only with the written advice and consent of the CRB Cabinet. Removal for cause can include, but is not limited to, (1) misuse of position as a Board member, (2) misuse of police-issued documents, (3) violation of state laws of confidentiality, (4) misconduct that impedes the member's ability to serve as an effective and impartial Board member, (5) unexcused absences from at least two consecutive Board meetings or by failure to complete case review as assigned by the Executive Director, (6) violation of NACOLE Code of Ethics, or (7) a conflict of interest. However, where removal for cause is based on an alleged violation of law or an alleged conflict of interest, the Executive Director shall, in addition to obtaining the written advice and consent of the CRB Cabinet, consult with the City Attorney prior to requesting removal. Upon recommendation of the Mayor to remove a member, a hearing by the City Council shall occur within sixty (60) days of receipt of the recommendation. Written notice of the hearing shall be sent to the Board member via certified mail and provide, among other things, the date, time, and place of the hearing as well as the basis for the removal recommendation.

## Article: IV Officers

### Section 3: Powers and Duties

#### **D. Cabinet**

The Cabinet is responsible for providing written advice and consent to the Executive Director on issues of importance, including, but not limited to:

1. Membership of Case Review Teams.
2. Assignment of Case Review Team Leaders.
3. Investigation into allegations of impropriety against any Board member.
4. Removal of a Board member under Article III, Sec. 3(B) or non-reappointment of a Board member under Article III, Sec. 3(C).