

**CITY SAN DIEGO
COMMUNITY REVIEW BOARD
ON POLICE PRACTICES**

**ADMINISTRATIVE STANDING RULE:
Format and Presentation of CRB Case Review
Reports**

Effective Date: September 25, 2018

Approved By: Community Review Board on Police
Practices on September 25, 2018

Amended On: August 27, 2019

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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:

COMMUNITY REVIEW BOARD

TEAM #

CASE #

Date of Incident:

Time of Incident:

Location of Incident:

Date of Complaint:

Investigator:

Date Assigned to CRB:

Date Review Complete:

Date CRB Presentation:

**CONFIDENTIAL: FOR EXCLUSIVE USE OF COMMUNITY 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:

:

| | |
|------------------------------|--|
| COMPLAINANT(S): | Name and important information |
| SUBJECT OFFICER(S): | Name and important information |
| CIVILIAN WITNESS(ES): | Name and important information, including relationship to the case if any |
| WITNESS OFFICER(S): | Name and important information |
| OTHERS CONTACTED: | Name and available information, including relationship to the case if any |

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.

Reference to every person should use a title followed by the person's last name in all CAPITAL LETTERS. In the case of multiple persons with the same last name, an initial can be inserted before the last name, or the first names can be used if appropriate. Titles for SDPD officers should reflect that officer's rank on the date of the incident (not the rank at the time of this investigation). Titles for non-SDPD persons should be appropriate for status and gender; use Mr. for men and Miss, Ms or Mrs. for women and where appropriate gender-neutral term Mx. can be used. Examples of SDPD officer names would be "Officer SMITH" or Sgt. MILLER; examples of non-SDPD names would be "Mr. BROWN, Ms GRANDE, Mrs. P. BROWN, Miss S. BROWN or Mx. JONES. Other titles, such as professional or military titles (e.g., Dr., Rev., Capt., etc.) are also appropriate.

c. Allegation Table

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

| Allegation | Description | Subject Officer(s) | Witness(es) | IA Finding | Team Finding |
|-------------------|--------------------|---------------------------|--------------------|-------------------|---------------------|
| | | | | | |

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 rationale 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, 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 Documents |
| | 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 Worn Camera (BWC) video |
| | SDPD HR Profile Sheet(s) |
| | 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: |

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

| Requested (how many) | Category | Description of the Change |
|---------------------------------|-----------------|----------------------------------|
| | Allegations | |
| | Findings | |
| | | |
| Yes/No | Category | Optional Description |
| | 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.

| | | | |
|---------------------------------------|--------------------|----------------------|----------------------|
| CRB Team x Endorsement | 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:

- 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.

The CRB Case Review Report format provides space for comments in three locations: (1) the “Case Notes” section (see 1.d above), (2) within the “Discussion and Conclusion” section for a specific allegation (see 1.f above), and (3) the “Team Concerns and Issues” section at the end of the report (see 1.i above).

Comments from the Case Review Team are encouraged and fall into three identifiable (if not always distinct) types:

- Type 1 Comments that are focused on the investigation and review process of the current case rather than the details of the incident or allegations; these comments should appear in the “Case Notes” section.
- Type 2 Comments that apply to specific allegations in the current case and may reflect disagreement on a specific allegation between Case Review Team members or between the Team and IA or may take note of the actions of officers with regard to the situation related to the allegation; these comments should appear in the “Discussion and Conclusions” section for the specific allegation.
- Type 3 Comments that may or may not apply to the current case and have implications for future law enforcement operations or the review of future incidents; these comments should appear in the “Team Concerns and Issues” section at the end of the report. These comments are presented after the Board has voted on the current case.

The location for a specific comment within the Case Review Report can be established by analyzing the content to determine the type as defined above. Comments that do not appear to fit in any one type may be compound and require division into multiple targeted comments. The Team is responsible for developing logical, targeted comments. The following table shows some sample comments and the resulting proper placement within the Case Review Report.

| <u>Comment</u> | <u>Location</u> | | |
|--|-------------------|---------------------------|------------------------------|
| | <u>Case Notes</u> | <u>Allegation D&C</u> | <u>Issues & Concerns</u> |
| <u>The complainant or a witness refused to be interviewed or could not be located.</u> | * | | |
| <u>Documents reviewed by the IA Investigator were not included in the case file provided to the Team</u> | * | | |
| <u>Information about the timing of the investigation in relation to the incident (such as tolling, etc.)</u> | * | | |
| <u>Information about evidence (BWC, videos, etc.) that was or was not available</u> | * | | |
| <u>Commendation of a subject or witness officer for how they handled an incident (e.g., de-escalation). [* Placement depends on whether it is in relation to a particular allegation.]</u> | * | * | |
| <u>Comments by a Team member explaining why the member disagrees with the finding of the majority of the team</u> | | * | |
| <u>The Team agrees with the IA finding but has an additional observation (such a concern about a tactic used by an officer)</u> | | * | |
| <u>The rationale for why the Team disagrees with the IA finding</u> | | * | |
| <u>The Team has a recommendation for a change to SDPD Policies and Procedures related to the incident.</u> | | | * |
| <u>The Team has a recommendation for SDPD training related to the incident</u> | | | * |
| <u>The Team has noted a re-occurring pattern that it believes should be addressed by SDPD</u> | | | * |
| <u>The Team has suggestions for handling the investigation of similar cases in the future</u> | | | * |

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.

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

APPENDIX A

REPORT TEMPLATE

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COMMUNITY REVIEW BOARD ON POLICE PRACTICES

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)

Investigator:

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 COMMUNITY 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 | | | | | |
| Investigator's Notes: | | | | | |

CASE NOTES:

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

| <u>Check = Reviewed</u> | <u>Resource Item</u> |
|--------------------------------|--|
| | Complaint Documents |
| | 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 Worn Camera (BWC) video |
| | SDPD HR Profile Sheet(s) |
| | 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: |
|--|--------|

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

| Number Requested | Category | Description of the Change |
|-------------------------|-----------------|----------------------------------|
| | Allegations | |
| | Findings | |
| Yes/No | Category | Optional Description |
| | Interviews | |
| | Evidence | |
| | Policies | |

| | | | |
|---------------------------------------|--------------------|----------------------|----------------------|
| CRB Team x Endorsement | 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**

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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:

| <u>CATEGORY ONE</u> | <u>CATEGORY TWO</u> |
|----------------------------|----------------------------|
| ARREST | SERVICE |
| CRIMINAL CONDUCT | COURTESY |
| DISCRIMINATION | PROCEDURE |
| FORCE | CONDUCT |
| SLUR | |

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 Community 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, legal¹ and proper or within policy, and the allegation is EXONERATED.

¹ 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.

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 CONDUCT²

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

III. DISCRIMINATION³

- 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.

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

³ 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.

- 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. SLUR⁴

- 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.

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.

⁴ Same as Note 3.

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.