- ❖Citizen Complaint Process
- ❖Pilot Program on “Inquiry” Category
- ❖In-Custody Death Training Review Panel

Citizen Complaint Process

Administration's Due Diligence

- Independent review of IA Unit's Performance Measures Reviewed
- Independent review of Crime Report Form Evaluated and Modified
- Engagement of Subject Matter Experts
- Meeting Facilitator (Expert in Communications)
- Establishment of IA Unit Mission Statement & Guiding Principles
- Establishment of Goals & Objectives
- Balanced Approach (e.g., Public-At-Large, Individual Filing a Case, and Employees)
- Collaborative Framework

Mission Statement & Guiding Principles

Mission Statement

It shall be the policy of the Internal Affairs Unit to receive allegations from members of the public in a courteous and professional manner. Internal investigations shall be appropriately documented, promptly investigated, and conducted in a timely, legal and ethical manner, strictly adhering to procedural safeguards regarding employee rights. Internal Affairs employees shall demonstrate sincere responsiveness to concerns of members of the public, will inform members of the public that their allegations or concerns will be taken seriously, and shall meet legal and ethical requirements for taking and investigating complaints.

Guiding Principles

1. An Internal Affairs investigation starts with an alleged misconduct violation (i.e., violation of Department policy, procedure, rules, regulations or the law).

2. The IA Unit has determined that the case contains sufficient evidence to initiate an investigation which if proven to be true may result in disciplinary action.

Goals & Objectives

- Objectivity throughout the process
- User friendly
- Respect assignment of limited resources while ensuring that ALL cases get a level of investigation
- Removal of terms that can prejudice how a case is handled or perceived for individual filing a case and police officer.

Elements of a Citizen Complaint Process & Challenges

- **Absence of Definitions:** Allegation and Misconduct

- **IA Unit provides two primary functions:**

  (1) Investigation of personnel complaints as filed by members of the public, and

  (2) Risk management function that contributes to agency control/discipline and supervisory functions/techniques

IPA CURRENT AUTHORITY VS. IPA AUTHORITY IN NEW PROCESS
IPA authority has been preserved

CURRENT PROCESS	IMPROVED PROCESS
IPA can do intake	**Same**
IPA can Preclassify cases into three categories: Preclass, Inquiry, Citizen Contact	**Same.** IPA can Preclassify cases into two categories: Preclass and Non Misconduct Concern. We all agreed to delete the Citizen Contact category.
IPA refers cases to the IA Unit	**Same**
IPA has viewing access to ALL external cases in IA Pro Database	**Same.** IPA continues to have viewing access to ALL external cases (Complaints and Concerns) in IA Pro Database.
IPA can attend interviews with all witnesses	**Same**
IPA can receive complete investigation report for auditing on whether the investigation was fair, complete, thorough, objective	**Same**
IPA can request additional investigation of a case to the Chief	**Same**
IPA can request additional investigation of the case to the City Manager	**Same**
IPA can issue reports on audit results, including recommendations for improvements that lead to the decrease of actions causing the complaints	**Same**
IPA can review Inquiry category	**Same**, but important to highlight that Non Misconduct Concern do not fall within the authority of the IPA as the other two Complaint case classification categories, but information traditionally shared with the IPA will continue to remain as practiced *(As noted in CMO Report, Page 17, Footnote 9).*

Improved Citizen Complaint Process

Alleged Incident Involving SJPD Member

INTERNAL CASE

(Department Initiated Investigation)

Under the Charter, the IPA does not have the authority to review/audit internal cases unless a citizen files an external case (i.e., Conduct Complaint, Policy Complaint) regarding the same incident. In such a situation, the case would be reclassified as a Citizen-Initiated Case and the External Case process would be followed, and the IPA would have the authority to audit the case.

EXTERNAL CASE
(Citizen Initiated Case)

Under the Charter, the IPA has the authority to review investigation of Complaints.

- Conduct Complaint
- Policy Complaint
- Non-Misconduct Concern

Improved Citizen Complaint Process

- ✓ Clearer and simplified
- ✓ More objective
- ✓ Understandable/Straightforward
- ✓ Balances interests of individual filing a complaint and subject employee
- ✓ Aligns IPA authority to the City Charter
- ✓ Definitions, objective criteria, and case outcomes

Inquiry vs. Non-Misconduct Concern

Non-Misconduct Concern (NMC)
Definition: During the pre-classification status, a person alleges or raises an issue that does not rise to the level of violation of Department/City policy, procedure, rules, regulations or the law.
Objective Criteria: •Perception or question of Department member's conduct that is not an allegation regarding a violation of Department/City policy, procedure, rules, regulations or the law. •Not a misconduct allegation; or a conduct allegation does not rise to the level of misconduct. •Not a complaint.
Serve the IA Unit's secondary primary function and be tracked and monitored for supervisory functions/techniques, as well as for identifying training and/or policy/procedure changes.
Before a case can be closed out as a NMC, IA Unit will contact the officer's supervisor to confirm the issue of concern has been addressed.

Next Steps

- During February 2008, the Working Group will meet to complete the outstanding referrals which will be followed by training sessions for staff prior to implementation.
- Once the newly developed Citizen Complaint Process has been fully implemented, the Administration will issue a one-year report on the performance of the Process. During this time, the Administration will track changes made to the Process and report on them.
- Conduct outreach, via surveys, to collect feedback from stakeholders on improved Process.
- Develop Procedures for any Past/Informal Practices that the Administration would like to continue.

Council Referral #7: Direct the City Manager and Independent Police Auditor to work together to develop information packets for individuals contacting the IPA or Internal Affairs Unit (IA).
Council Referral #9: Direct the IPA and IA to develop a packet of intake materials to be given to complainants at both agencies that would include complaint definitions, an explanation of the process, and necessary forms.
Council Referral #10: Direct the City Manager to work with the IPA and IA to develop a standardized script that explains the inquiry process, which IPA and IA staff will read at the time of intake.
Council Referral #21: Direct the City Manager to collaborate with the IPA on a report outlining the status of all the recommendations adopted at the Special Council meeting. This report is to be brought forward in conjunction with the IPA's Mid-Year Report.

Pilot Program on “Inquiry” Category

“Inquiry” Definition

Any contact with a citizen in reference to any issue of concern that is immediately resolved to the satisfaction of the citizen which does not give rise to a complaint. Any concern that is not immediately resolved to their satisfaction can become a complaint.

Pilot Program Methodology

- Administrative or manual collection of police officer names in the Inquiry category.
- Data not entered in the IA Pro Database.
- Names collected from April – December 2007 (9 months).
- Approach designed in communication with the SJ POA.

Preliminary Results

- 2007 Year End data are still being compiled, this presents the **preliminary** information available at this time.
- 1,357 police officers responded to 330,000 calls for service.
- We tracked 94 Inquiry Cases during the 9-month pilot period where officer names were reported. 94 represents a low number when compared to total calls for service during this period (.028%).
- 98 officers were listed in 94 Inquiry cases:
  - 37 (38%) officers did not have previous complaints filed against them
  - 28 (28.5%) officers had prior complaints filed against them that are older than a year, which based on the Finding, could have been handled through either a performance appraisal and/or Early Warning System
  - 33 (33.5%) officers had complaints filed against them in 2007, which still may be under investigation based on the investigation schedule and, therefore, the Finding of the case is not available.

Additional Evaluation Needed

To understand concerns that may arise related to 33 police officers, Administration needs to evaluate:

- Nature of existing complaint filed in 2007, including review of allegations
- Review of whether any previous complaints have been filed prior to 2007
- Case disposition/Finding of 2007 complaint, if available, or previous complaints (e.g., Unfounded, Exonerated, Not Sustained, or Sustained, etc.);
- Determination of conclusions that can be drawn based on correlating Inquiries against Complaints.

Courtesy and Procedure

330,000 Calls for Service during Pilot Period

Inquiry Type	Number of Allegations
Courtesy Type	41
Procedural Type	50
Miscellaneous	19
TOTAL	110

Practices Resulting from Pilot Program

- Inclusion of weekly reporting procedure by the IA Unit to the Chief of Police, Assistant Chief, and Bureau Chiefs.
- Consideration of need for providing additional training.
- Consideration of issuing department-wide bulletins reminding the workforce of issues to recognize when interacting with the public (e.g., perception, courtesy, etc.)
- Reinforcement of risk management agency controls and supervisory practices/techniques that ensure that the above concerns are addressed.

In-Custody Death Training Review Panel

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Goals and Objective

- Create an In-Custody Death (ICD) Training Review Panel mirrored after the Officer-Involved Shooting (OIS) Training Review Panel process.
- Outline the process and procedures to convene the Panels
- Define the role of the IPA, per Council suggestion
- Base framework on best practices, City policies, Santa Clara County Officer-Involved Incident Guidelines and State/Federal law
- Standardize reporting requirements to City Manager and Council

Note: Administration worked with the City Attorney's Office, District Attorney's Office, Office of Employee Relations, and San Jose Police Officers' Association to complete the In-Custody Death Training Review Panel process.

In-Custody Death Definition

Purpose of the ICD Training Review Panel:

"…officer-involved in-custody death is the death of a person while in the custody of a sworn member of the San Jose Police Department (SJPD). In-custody, for the purpose of these guidelines, means the arrest or detention of the person by a sworn member of the SJPD. This definition does not include calls for medical emergencies or traffic accidents. Custody ends when a person is released from the custody of the San Jose Police Department."

ICD & OIS Procedure Highlights

- Standard Reporting Requirements.
- Defines the Panel's purpose and participant's roles.
- Clear Process and Procedures to Convene Panels.
- The Chief of Police, at his discretion and on an on a case-by-case basis, may refer for review by the ICD Training Review Panel any case where the person dies after the person was released from the custody of the Police Department and reportable force was used by a police officer on the person prior to the person's release from the Department's custody.