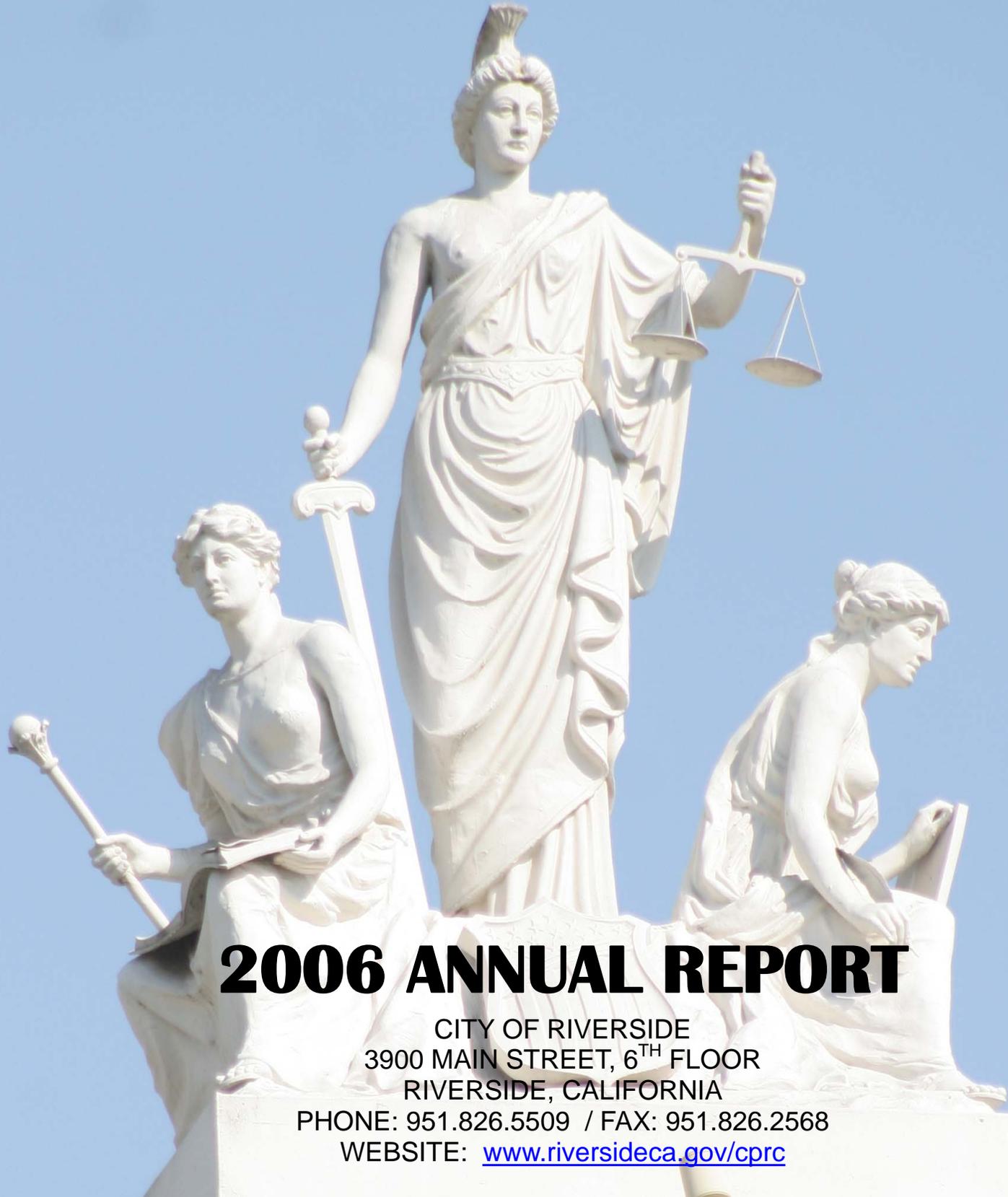


City of Riverside
**Community Police
Review Commission**



2006 ANNUAL REPORT

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**COMMUNITY POLICE
REVIEW COMMISSION**
City of Riverside, California

Commissioners

Brian Percy
Chair

Sheri Corral
Vice Chair

Jack Brewer
Linda Soubirous
Peter Hubbard
John Brandriff
Jim Ward
Arthur Santore
Chani Beeman

Staff

Kevin Rogan
CPRC Manager

Phoebe Sherron
Sr. Office Specialist

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THE ANNUAL REPORT



This is the sixth annual report of the City of Riverside Community Police Review Commission (CPRC).

City Ordinance #6516 Section 2.76.050 sub-section I mandates that the CPRC prepare and submit an annual report to the Mayor and City Council on Commission activities.

The CPRC continues to focus on its mission of promoting public confidence in the professionalism and accountability of the sworn staff of the Riverside Police Department.

For this year's report, we are continuing the emphasis on the trends and patterns the Commission has observed over the last few years. This format enables the reader to establish a sense of direction in terms of community/police relations and how the existence of the Commission has helped to enhance the community's understanding of the policing process.

If there are any questions, call the Commission staff at (951) 826-5509 or e-mail us at cprc@riversideca.gov. Also, many answers are available on our website at www.riversideca.gov/cprc.

About the Commission

The Community Police Review Commission is one of 13 boards and commissions that have been set up by the City Council to provide citizen input into the decision-making process of various city departments.

The Community Police Review Commission was

created with the passage of Ordinance No. 6516 in April 2000, which amended Title 2 of the Riverside Municipal Code by adding Chapter 2.76.

Mission

The mission of the Community Police Review Commission is to promote public confidence in the professionalism and accountability of the sworn staff of the Riverside Police Department (RPD). This is done by independently reviewing citizen complaint investigations, recommending changes in departmental policy, on-going public outreach and, when deemed appropriate by the Commission, conducting an independent investigation of citizen complaints.

Purpose

By ordinance, the purpose of the Community Police Review Commission is:

"...to promote effective, efficient, trustworthy, and just law enforcement in the City of Riverside, and to bring to the attention of the City its findings and recommendations in regard to law enforcement policies and practices. Further, it is the purpose of this Ordinance to ensure good relations between those who enforce the laws and the diverse populace whom they serve so that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public."

The Commission also serves the community by providing a forum whereby citizens can express their opinions regarding the Police Department, its operation, and personnel.

Chairman's Message

By Brian Percy



In April 2000, the City Council created by Ordinance the Community Police Review Commission. The Ordinance states the purpose of the Community Police Review Commission as follows:

“*The general purpose of this Ordinance is to promote effective, efficient, trustworthy and just law enforcement in the City of Riverside, and to bring to the attention of the City its findings and recommendations in regard to law enforcement policies and practices. Further, it is the purpose of this Ordinance to ensure good relations between those who enforce the laws and the diverse populace whom they serve so that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public. (Section 2.76.020)*”

I am proud of the work that this Commission has accomplished during 2006 towards fulfilling its stated purpose and the contributions that it has made to the benefit of both the public and the police department.

According to a report published in *American Journal of Police*, Citizen review of complaints against police officers has emerged as an important new aspect of policing (Walker and Kreisel, 1996). In the City of Riverside, we have completed our sixth year since introducing this concept. It has worked well and my impression is that the overwhelming majority of City residents are satisfied with the successes achieved thus far. However it

should also be stated that the functioning of the Commission is still in its infancy stage and therefore more work needs to be done towards refining the framework under which the Commission operates. We are committed to the continuous effort toward making the Commission a more effective partner in improving the quality of policing in the City of Riverside.

The dedication of appointed members toward achieving the objectives of the Commission is exemplary. Discussions among members regarding the business of the Commission are often fervent, impassioned, and spirited, reflecting the diverse points of view and high level of commitment that each member brings to the table. It truly has been a distinct honor to serve alongside such dedicated members and I look forward to doing so again in the next year.

Finally, I wish to end my message with an open invitation to all City residents to attend the public meetings at which the Commission conducts official business. Regular public meetings are held on the fourth Wednesday of each month with agendas published in advance of meetings. The importance of active citizen participation cannot be overstated, especially with respect to enhancing public safety and improving relations with those who enforce the laws in our communities.

I encourage City residents to not only attend monthly meetings of the CPRC, but to find other ways to become more actively involved in their communities.



Structure of the Commission

The Commission is made up of nine citizens of the City of Riverside who are appointed to four-year terms as commissioners by the City Council. There is at least one member from each ward in the City. The terms are staggered so that, except for one year, three commissioner terms expire each year. As with other Commissions, members do not receive compensation.

An Executive Director and Sr. Office Specialist are funded in the City Manager's Office to provide members of the Commission with full-time staff support.

The Commission is independent in that it makes its findings and issues policy recommendations independent of any outside influence. Other duties and responsibilities are guided by the Riverside Municipal

Code, Chapter 2.76, California Government Code 3300 et. Seq., and applicable Penal Code sections and case law and Peace Officer Standards Training (POST) guidelines and regulations.

The Community Police Review Commission's total budget appropriation approved by the City Council for FY 2006-2007 was \$317,784 .

Who does the Commission Represent?

The Commission is designed to be able to carry out the charge "to promote effective, efficient, trustworthy and just law enforcement in the City of Riverside." In other words, the Commission's primary function is to increase public trust towards the Riverside Police Department. It seeks to give the public the assurance that any allegations of misconduct lodged against a sworn officer will be fairly and thoroughly investigated. The Commission is not an adversarial body. It represents the community's perspective on the complaint investigation process -- hence its name, "Community Police Review Commission."

When the Commission receives the investigative report on a complaint, the Executive Director reviews it for thoroughness and writes an executive summary for the commissioners. The Commission then reviews the allegations in each case and makes a recommended finding to the City Manager. During this review process, the Commission also critiques the quality of the



investigation and the investigative process. This review and comments by the commissioners gives City and Police Department management the advantage of having a perspective that is not found in most communities.

In short, the Commission offers a community perspective of the Police Department that is available to the citizens of Riverside, the policy makers, City and Police Department managers, and line police personnel.

Commission Outreach

The Commission's outreach initiative consists of commissioners going into the community, telling the Commission's story, and informing the public of the independent complaint process. In 2006, commissioners and staff attended a total of 83 community and business related meetings. These include personal visits to groups and organizations such as:

- **Latino Network**
- **Jeffrey Owens Community Center Committee**
- **Riverside Police Officers' Association**
- **Downtown Chamber Board**
- **Rotary Club**
- **Casa Blanca Cinco de Mayo**
- **Safe House**
- **Law Enforcement Appreciation Ceremony**
- **Riverside Downtown Partnership**
- **Riverside Neighborhood Conference**
- **The Group**
- **Project Bridge**
- **Padres Unidos**
- **Leadership Riverside**

The Commission made 13 formal presentations to local grassroots groups. This outreach effort has been supplemented through the placement of sponsorship ads



in widely circulated publications and event programs for various groups within the city. An announcement of the Commission's regular meetings is published in the Press Enterprise every month.

CPRC brochures can be found in libraries and community

centers, as well as other public buildings throughout the city.

Finally, the Commission's website at (www.riversideca.gov/cprc) offers valuable information about the Commission.

Did You Know?



You can arrange for a CPRC commissioner to speak to your group or association by calling 951-826-5509

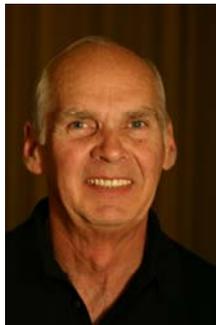
Members of the Commission

Jack Brewer is a 37-year resident of Riverside and retired after 32 years with the California Alcoholic Beverage Commission (ABC). He is a past President of the Riverside County Law Enforcement Administrators' Association, past-President of the California State Investigators' Association, and has served as an officer with a number of other law enforcement associations and is a life member of the California Peace Officers' Association. He was elected as the Community Police Review Commission's first vice-chairman and its second chairman. Prior to ABC, he served on several police departments and has been involved in law enforcement since 1955. **Term expires in March 2008.***



served as Interim Chair for the CPRC from November 2000 to March 2001. He has also served on the Casa Blanca Youth Accountability Board. Bob is a member of the Casa Blanca Community Action Group, the Park Advisory Committee, the Fiesta Committee at Villegas Park, the Villegas Park Dedication Committee, the Casa Blanca Safety & Beautification Committee, and is a member of the Neighborhood Leadership Academy. **Term expired in March 2007.**

Les Davidson is a 34-year resident of Riverside. After working as a police officer in the City of Redlands, he became a licensed private investigator in 1971 and worked directly with the legal community in private investigations. Recognizing the need for expertise in corporate security, he went on to found USAFACT, Inc. His company employs over 80 people, making it one of the largest background screening and drug testing companies in the country. He also owns Security One Alarm & Video Service. Les is a Certified Fraud Examiner and works as a private industry security consultant with numerous Fortune 500 companies. Les is on the board of Ronald McDonald House and he is also the founder of the California Autofest Car Show, which is held at the California Speedway. **Note: Chair for 2006. Resigned in April 2007.**



Brian Percy is a 28-year resident of Riverside and is a graduate of UC Riverside. He is a business and trial attorney with a law office in downtown Riverside. He is a Past President of the Riverside County Bar Association (RCBA) and acts as a temporary Judge and as a mediator for the Riverside County Superior Court. He also serves as an arbitrator for the RCBA Fee Arbitration program and as a Mediator for the Fourth District Court of Appeals Voluntary Appellate Settlement Program. He is a member of Leo A. Deegan Inn of Court and founding member of the Southern California Chapter of the Badge and Gavel Society. He is active in the Greater Riverside Chambers of Commerce (past President, Downtown Division) and Riverside Downtown Partnership (Incoming Chair). He served over 8 years as steering committee member for Project Bridge for the City of Riverside. Brian has over 20 years of law enforcement experience as a Police Officer with the Los Angeles Police Department, over 18 years working gangs in South Central. He currently serves as a motor officer at West Traffic Division. **NOTE: Current Chair. Term expires in March 2011.***



Bob Garcia is a 4th generation, 46-year resident of Riverside. He is a former member of the Human Relations Commission and its Law Enforcement Policy Advisory Committee. Bob



Jim Ward is a 47-year resident of Riverside. He worked for the State of California Department of Corrections for 22 years. While employed with the Department of Corrections, Jim promoted to several positions including

correctional officer, counselor, lieutenant, and captain. His duties and responsibilities were diverse and included personnel training officer, program administration and review of personnel training programs, staff supervision and training, conflict mediation and resolution, and designing, implementing, and assessment of departmental policies and procedures. To maintain a base of knowledge and practice, Jim attended Riverside Community College and Loma Linda University, successfully completing over 130 units in correctional science, social science, and behavioral sciences with an emphasis on deviant behavior. Since retiring in 1985, Jim has devoted his time to his family and church, community service, and personal property investment and management.

Term expires in March 2010.*



Sheri Corral is a 26-year resident of Riverside. She is married to Frank Corral and together they have 12 children; Frank has four, Sheri adopted seven and has one biological daughter.

Together they have 14 grandchildren. Sheri operated a licensed foster home / shelter for the Riverside County Department of Social Services for seven years. Then, in 1996, Sheri graduated from the San Bernardino Police Academy. Sheri has worked at Riverside Community College (RCC) her entire police career and is a Senior Police Officer, patrolling in a police unit and on bike. She is also the special events coordinator for the RCC District. Sheri teaches RAD (rape aggression defense) tactics to women and children and is also a SART (Sexual Assault Response Team) investigator. Sheri worked for the Loma Linda Medical Center for six years in the Anesthesia Department. In 1995, Sheri graduated from the first "The Volunteer for Diversity" class. She was awarded Latina Officer of the Year in 1999 and Latina Woman of the Year in 2003. She was chairperson for the Riverside Unified School District's Parent Steering Review Committee for three years and the Parent School Site Council chairperson at Mountain View Elementary School for three years. **NOTE: Current Vice-Chair. Term expires in March 2008.**

Bonavita Quinto-MacCallum is a 7-year resident of Riverside and is married to Tracy MacCallum, owner of Body Health Massage Therapy. In May of 2000, Bonavita graduated with a Ph.D. in Educational Administration from New



Mexico State University. Dr. Quinto-MacCallum has over 17 years combined teaching experience in public schools, community colleges, and universities in the U.S and Mexico. She held the position of Dean of Student Services for the Riverside Campus at Riverside Community College (RCC) for four years and worked at the Moreno Valley Campus teaching and developing a new program in Speech Language Pathology. Dr. Quinto-MacCallum served as President for the Greater Riverside Hispanic Chamber of Commerce for 2004. She was awarded a doctoral fellowship by the W. K. Kellogg Foundation in 1997 and was accepted into the Hispanic Border Leadership Institute Doctoral Fellowship Program at New Mexico State University in Las Cruces, New Mexico. She is also a graduate of Leadership Riverside 2003. **Term expired in March 2007.**



Rick Castro is a 13-year resident of Riverside. He currently serves as he pastor of Hispanic ministries at the Faith Community Church in the Arlanza area, Ward 6. He has coached baseball at Bryant Park seven of his 12 years in Riverside and he also is a member of the Arlanza / Solander Community Group. He is married to Maria

Castro, homemaker, and together they have two grown sons. **Resigned in April 2007.**

Frank Arreola is a 16-year resident of Riverside. He has been employed at Golden State Mortgage as a loan consultant since May 1997. He has been married and has two children. **Resigned November 2006.**



*2nd Term

New Members for 2007



Linda Soubirous has lived in the Riverside area for 29 years. She is married and has two daughters. She graduated from Riverside Community College with an A.S. in Registered Nursing and worked in that capacity at Loma Linda University Medical Center for 10 years in Surgical / Trauma

Intensive Care. She is also a graduate of California Baptist University with a B.A. in Political Science and is currently working toward her Master's in Public Administration. Linda has devoted a considerable amount of her time volunteering on many local, state, and national committees and boards. One organization that is particularly near to her is Concerns of Police Survivors, in which she served as the National President.

Term expires in 2010.

Art Santore is a 36-year resident of Riverside, is a Ward 6 resident, and a graduate of Riverside Community College. His wife of 27 years, Elizabeth "Betsy" Santore, is a teacher for Riverside County Office of Education. Art was sole owner of Z-Best Plumbing in Riverside for a number of years, as well as a plumber for the University of California, Riverside. He has worked for the International Union of Operating Engineers, Local 501, as a business representative. Art and Betsy have raised four children to maturity: Nicholas, Nicole, Beverly, and Art. He has also assisted Boy Scouts in completing their Plumbing and Fly-Fishing merit badges, as well as showing children fly-tying at the Riverside County Youth Fishing Day at Lake Skinner. Art has also volunteered in other special education events throughout the years.

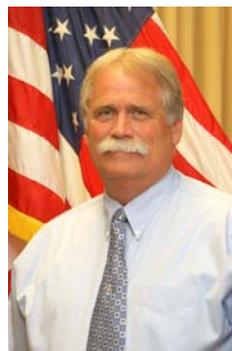


Steven R. Simpson, P.E., has been a resident of the Riverside for 40 years. In addition to being a Professional Engineer, he was a bronze star-winning unit commander from the Southeast

Asian Theater, previously served the City as a Planning Commissioner for 8 years, and served as a Reserve Deputy and professional consultant to the Riverside Sheriff's Department for 17 years. The industrial and commercial buildings Steve has designed in Riverside represent only a portion of his efforts as examples can be seen in Chicago, Atlanta, Dallas, Seattle, Portland, Oakland, Milwaukee, and Los Angeles. Now retired, Steve is devoting a good share of his time to working with the other CPRC members and the support staff to ensure that Riverside has an effective, functional, and accountable Police Force.

Resigned in August 2007.

Peter Hubbard has lived in Riverside for over 40 years. Peter has worked for American Medical Response (AMR) for over 25 years. He is very active in the community. He served eight (8) years on the Board of Public Utilities, is currently of on the Board of director for the Chamber of Commerce, serves on the Governmental Affairs Committee and Riverside County's Emergency Medical Care Committee, which is advisory to the County Board of Supervisors. Peter is married to wife, Lisa, and has three children. **Term expires in 2011.**



John Brandriff has lived in Riverside County for 26 years, residing in Riverside for 16 of those years. Active in both the City and the County, John is a former member of the Human Relations Commission and a current member of the County's Community Court Planning Committee. He is also the current coordinator for La Sierra Hills Neighborhood

Watch. John has been employed by UPS for 25 years. He enjoys camping and boating on the Colorado River with his family. **Term expires in 2008.**



Chani Beeman has an abiding connection to Riverside and is committed to creating a positive and inclusive community. Her passion about community involvement and civic responsibility is evident in her willingness to serve on various boards, commissions, and other

groups. She was appointed to the Community Police Review Commission in September 2007 and previously served on the City's Human Relations Commission (HRC), chairing HRC from January 2003 to March 2004 and again from August 2006 to March 2007. Chani is a board member of the Western Inland Empire Coalition Against Hate (WIECAH) and served five years as Chair of the Citizen's Advisory Committee to the Riverside Chief of Police. She is currently the Chairperson for the active neighborhood group Downtown Area Neighborhood Alliance (DANA). Her commitment to the community has, through the years, included involvement in several grass-roots community organizations. Chani is currently the District Director of Diversity, Equity and Compliance for Riverside Community College District. **Term expires in 2011.**

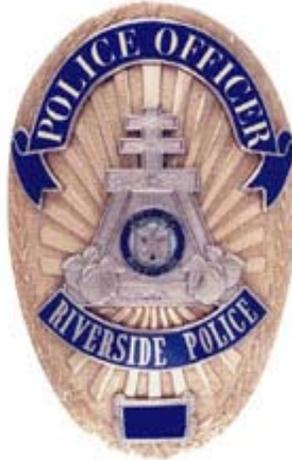


Police/Commission Relations

In 2005, the Riverside Police Department (RPD) and CPRC started a new program to help newly hired RPD officers gain a better understanding of the role and function of the Commission.

The program called for each newly graduated officer or lateral transfer from other police departments to spend one hour with the CPRC Executive Director to talk and learn more about the CPRC. Hence, the CPRC's office became a regular stop during the new employee's orientation period. In 2006, a total of 21 new employees went through this orientation.

In 2006, the RPD and CPRC continued practicing an open door communication policy that enables the Head of the Internal Affairs Division and the Executive Director of CPRC to discuss differences of opinions in a manner that encourages dialogue and cooperation. While not every dialogue results in a consensus



resolution, this practice has allowed the CPRC to resolve numerous cases that had been previously placed on hold due to lack of consensus between the two agencies. Such an approach also helps to establish trust between the agencies and ensures that both agencies are focused on improving public safety services for the community.

In 2006, the Riverside Police Department and CPRC jointly reviewed ways to improve RPD diversity training and discussed how to incorporate various local cultural elements and local neighborhood history into the diversity training.

Finally, regular dialogue between the Chief of Police and the Executive Director of CPRC has helped in maintaining an effective working relationship between both parties.

Police/Community Relations

Advising the Mayor and City Council on Police/Community Relations is one of the Commission's major functions. There are three primary ways that the Commission learns about issues that affect the state of Police / Community Relations in Riverside.

The Commission offers a public forum where citizens can voice support for or concerns about the Police Department. Time is allotted at the beginning of every public meeting for this

purpose.

Many times during Commission outreach efforts, people



will voice their opinion with regard to a particular police-related issue.

Most commissioners are involved in their neighborhoods or other community and business groups outside of the Commission. It is

through this community involvement that much is learned about the relations between the Police

Department and the community that they serve.

In addition to this Annual Report, the Commission makes an annual presentation to the City Council to update the City Council on

the activities of the Commission as well as to inform the City Council of matters that are of concern to the community. In addition, the Executive Director and the Chief of Police meet as needed to discuss specific community concerns.

Understanding the Complaint Process

The City of Riverside Community Police Review

Commission was modeled after the City of Long Beach Citizen Police Complaint Commission that has been in existence for more than ten years.

The Community Police Review Commission was designed primarily as a “monitoring” model that also has the ability to conduct independent investigations. Plainly stated, after a complaint is received, either through the Commission or the Riverside Police Department, it is investigated through the Police Department (either by a sergeant working in Internal Affairs or by a field sergeant). Depending on the case, the Commission may choose to conduct a parallel investigation to that of the Police Department.

After the complaint has been investigated and the Police Department has made its recommendations with regard to each allegation, the case is sent to the Commission. Each commissioner then reviews the case investigation and, as a group, the Commission makes its recommendations with regard to each allegation.

The complaint process is activated when someone files a complaint against a member of the Riverside Police Department (Figure 1). While the Department investigates all complaints, the Community Police Review Commission will only

- filed against sworn RPD personnel;
- filed within six months of the incident on which the complaint is based.

Typically, all a person has to do to file a complaint is to contact the Commission by phone, by letter, or in person, or they can file directly with the Riverside Police Department. Either way, the complaint is logged in by both the Internal Affairs Unit and the Commission and the tracking process begins.

The Internal Affairs Unit categorizes complaints as Category I (usually the most serious complaints) or Category II (generally discourtesy and improper procedure complaints), then assigns it to an investigator. The sergeants in the Internal Affairs Unit handle most Category I complaints and a few Category II.

The vast majority of complaints investigated by the Department are Category II and are investigated by supervisors in the Field Operations or Investigations Divisions.

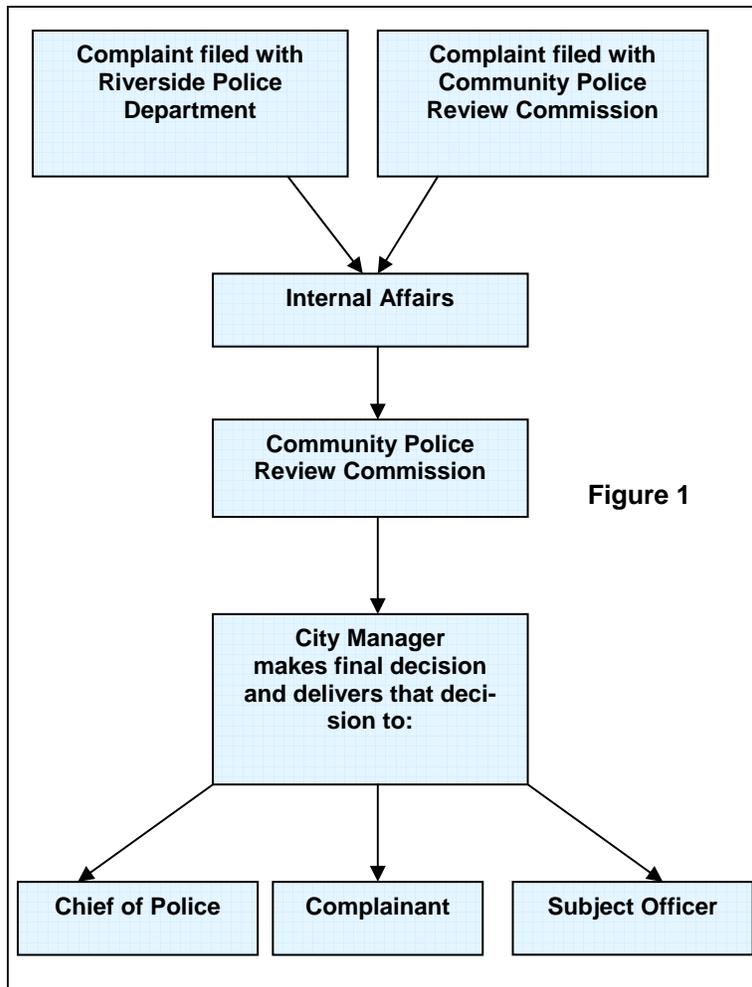


Figure 1

An important aspect of the process is that the commissioners are unaware of the findings made by the Police Department. The idea is for each body to look at the evidence contained in the investigative package independently and come to their own conclusion in the form of recommendations.

Following the Commission's decision, the Executive Director forwards both recommendations to the City Manager who, in turn, makes the final decision on each allegation. If the final decision is to "Sustain" an allegation against an officer, the case goes to the Police Chief for any possible disciplinary action.

The Police Chief has the sole responsibility for discipline.



Training Session: Use of Force - February 2006

Other than issuing a "Sustained" recommendation, the Commission has no role in the disciplinary process.

As part of their review process, the commissioners look at the

policies and procedures that govern the officers' actions in the cases in question. Sometimes this review leads to a policy recommendation to the Police Department.

Case Activity

Case Tracking

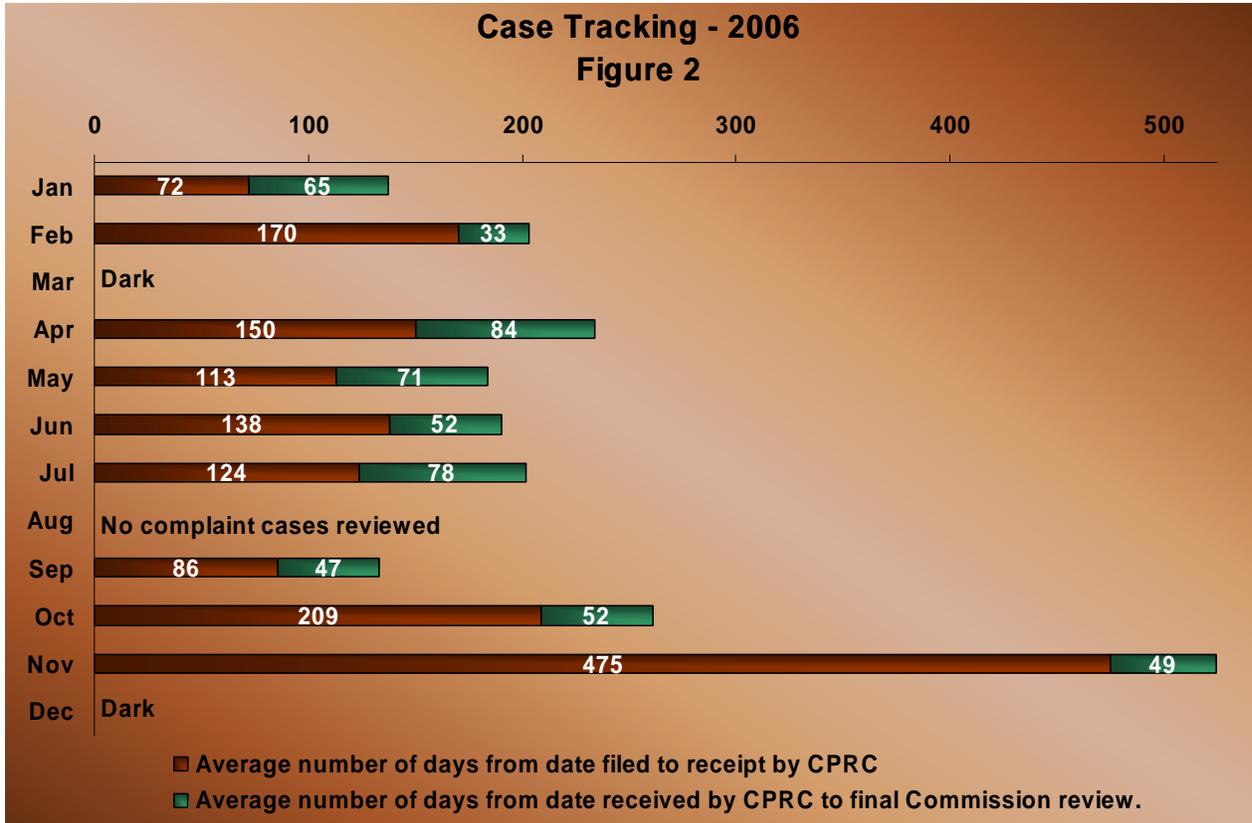
The Commission uses three relevant dates to track complaints:

- The date a complaint is entered into the CPRC tracking system. The Department's investigative process is monitored during this time period,
- The date the Commission receives the completed investigation from RPD, and
- The date the Commission completes its review of the case. This ensures a timely response to a community member's

complaint, which is beneficial to both the community member and officer.

Figure 2 shows the average time cases spent in each process on a per month basis in 2006. When the Commission became operational in January 2001, a case tracking mechanism was instituted for the first time. That mechanism produced a monthly report, starting in March 2001, called the "30/60/90 Day List."

According to Riverside Police Department Policy and Procedure 4.12 D 5 & 6 the goal of completing investigations for Category I cases is 60 calendar days, plus five calendar days for administrative processing and for Category II cases, 30 calendar days, plus five calendar days for processing.



Case Dispositions

The Commission reviewed 80 complaint cases containing 168 allegations in 2006. In addition, the Commission reviewed 2 officer-involved death cases.

The following charts and graphs depict the Commission's case activities in 2006. A case is considered "lodged" when a person notifies the Commission that they wish to file a complaint. The case is not considered "filed" until the completed complaint form is received in the Commission office.

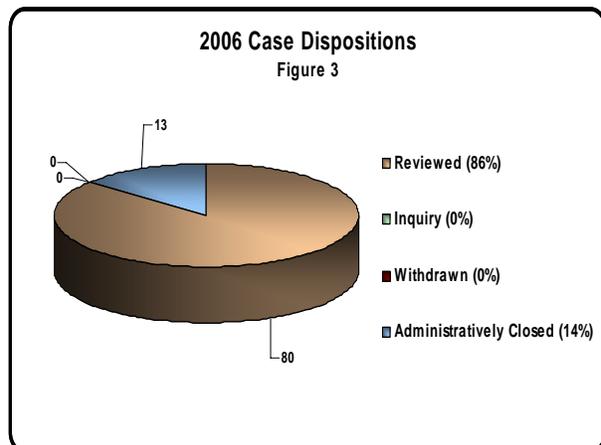
Figure 3 shows the cases that were disposed of by the Commission in 2006 and the manner in which they were disposed.

"Inquiries" refers to cases that were ultimately determined to be questions of policy rather than accusations of misconduct against an officer.

"Administratively Closed" refers to cases that were lodged, but not filed nor reviewed by the Commission.

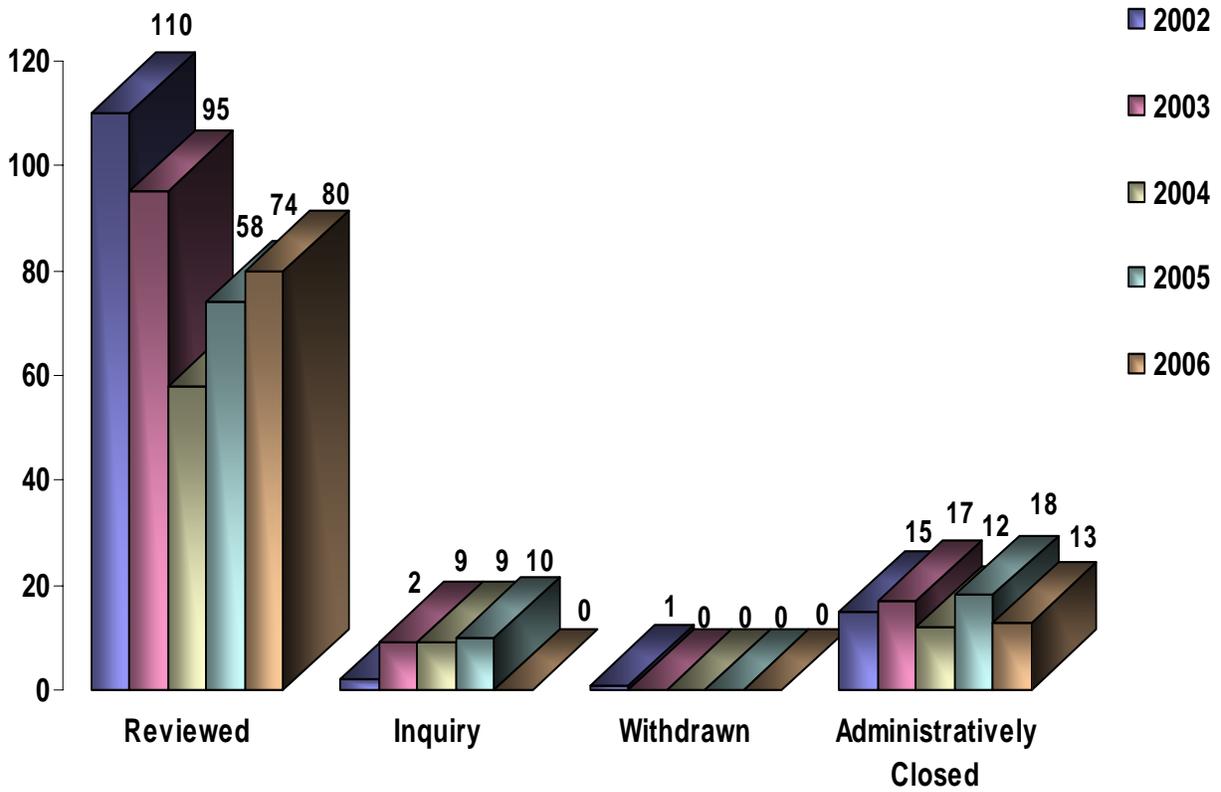
Figure 4 shows case disposition comparisons with previous years. For example, compared to 2005, there was an increase in the number of cases reviewed in 2006 compared to the previous year, and there was a decrease in the number of cases that were administratively closed.

Figure 5 shows the cases lodged directly with the Commission in 2006. Of 20 cases that were lodged directly with the Commission, half were filed.



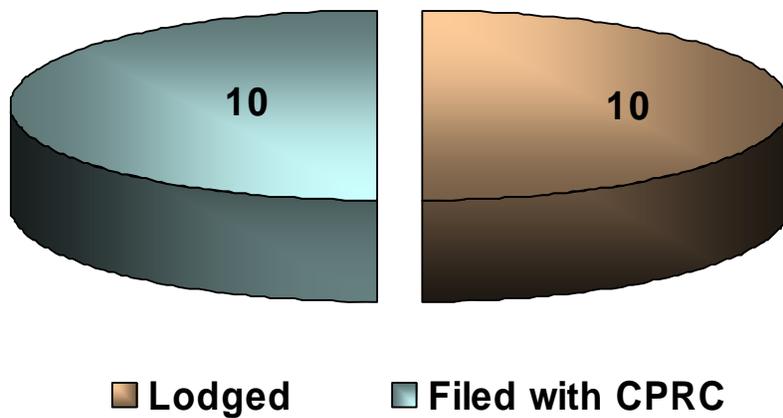
Case Disposition Comparisons: 2002 - 2006

Figure 4



Cases Lodged vs. Cases Lodged and Filed – 2006

Figure 5



**Community Police Review Commission
Citizen Complaints by Neighborhood**

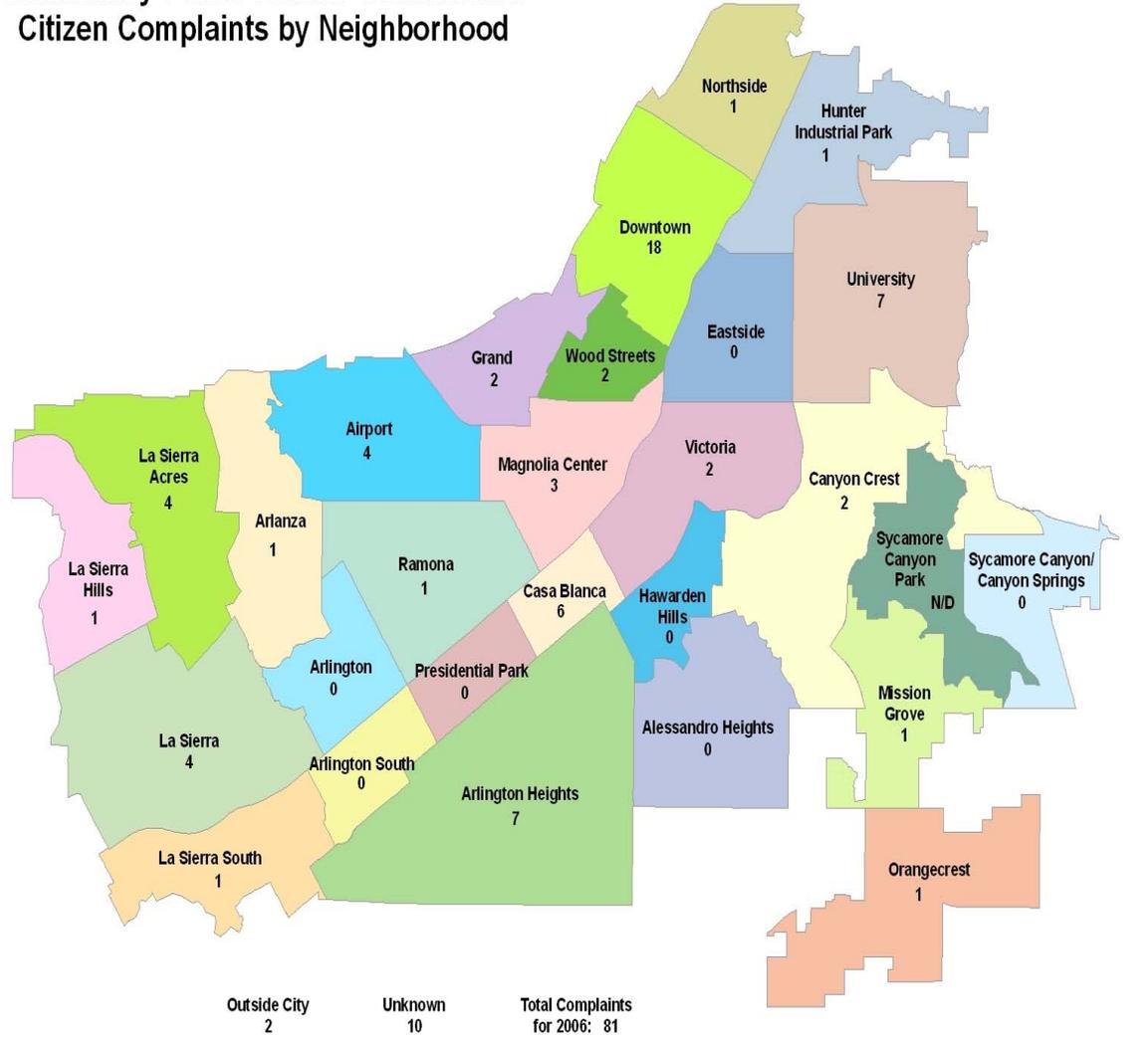


Figure 6

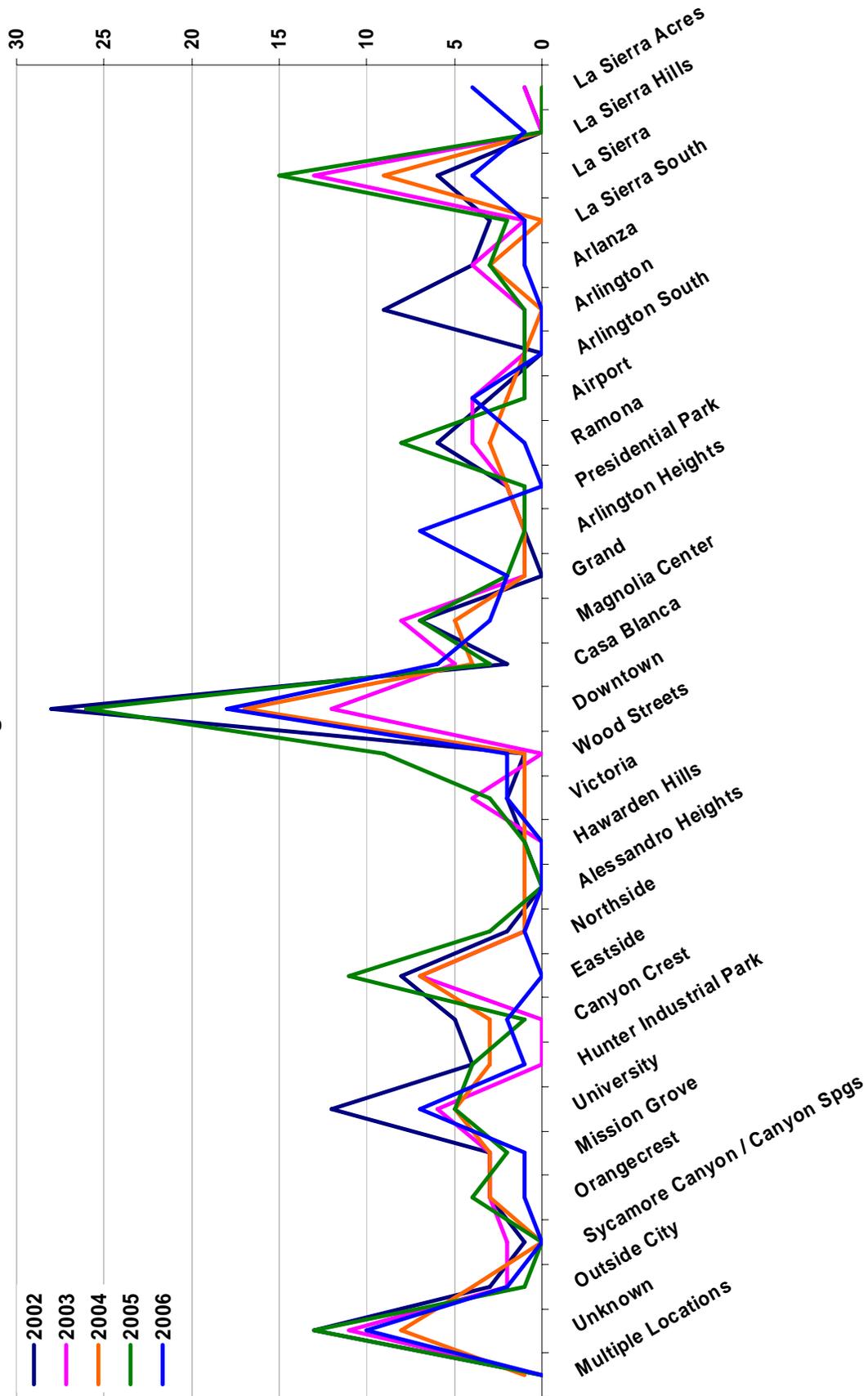
Caseload Data by Neighborhood

Figure 6 above shows the number of 2006 complaint cases, by neighborhood, where an incident occurred on which a complaint was based.

Figure 7 (next page) compares complaint cases filed by neighborhood from 2002 through 2006.

Caseload Comparisons by Neighborhood: 2002 - 2006

Figure 7



Allegations and Findings

FIGURE 8

2006 ALLEGATIONS	COMMISSION FINDINGS							TOTALS
	Unfounded	Exonerated	Not Sustained	Sustained	Inquiry	Misconduct Noted	No Finding	
Excessive Use of Force	2	1	9	0	0	0	0	12
False Arrest	0	0	0	0	0	0	0	0
Discrimination/Harassment	2	0	10	0	0	0	0	12
Criminal Conduct	1	0	5	0	0	0	0	6
Subtotal Category 1	5	1	24	0	0	0	0	30
Poor Service	3	2	0	0	0	0	0	5
Discourtesy	16	3	18	6	0	0	4	47
Improper Procedure	30	19	22	8	2	0	0	81
Conduct Unbecoming an Officer	0	0	2	1	0	0	0	3
Infractions, Traffic Violations, and Riverside Municipal Code Violations	0	0	0	0	0	0	0	0
Other	2	0	0	0	0	0	0	2
Subtotal Category 2	51	24	42	15	2	0	4	138
Misconduct Noted	0	0	0	0	0	7	0	7
TOTALS	56	25	66	15	2	7	4	175

Figure 8 shows the allegations and Commission findings for cases reviewed in 2006. Figure 9 shows comparison data for 2001 through 2006. These figures do not include the results of Officer-Involved Death investigations (discussed in a separate section of this report). In 2006, allegation types were modified to reflect Category 1 and Category 2 type complaints as noted in RPD's Policies and Procedures Manual.

Also, if during the course of an investigation it is determined that the department member violated a section of the Department Policies, Rules or Regulations not originally noted in complaint, a finding of Misconduct Noted is made. There were seven such instances in 2006.

ALLEGATION	CALENDAR YEAR					
	2001	2002	2003	2004	2005	2006
Excessive Use of Force	19	11	13	11	20	12
Discrimination/Harassment	8	9	10	4	1	12
Illegal Discharge of Firearms	0	0	0	0	0	NA
Illegal Search and Seizure	8	3	6	4	7	NA
False Arrest	6	3	2	0	0	0
False Reporting	2	1	2	0	9	NA
Criminal Conduct	5	4	2	3	12	6
Subtotal Category 1	48	31	35	22	49	30
Misconduct	169	248	152	106	137	NA
Poor Service	NA	NA	NA	NA	NA	5
Discourtesy	NA	NA	NA	NA	NA	47
Improper Procedure	NA	NA	NA	NA	NA	81
Conduct Unbecoming an Officer	0	0	0	0	5	3
Infractions, Traffic Violations, and Riverside Municipal Code Violations	0	0	0	0	0	0
Other	0	0	0	0	0	2
Subtotal Category 2	169	248	152	106	142	138
Misconduct Noted	0	0	0	0	5	7
Total	217	279	187	128	196	175

Definitions for the Findings

Unfounded = The alleged act did not occur.

Exonerated = The alleged act occurred but was justified, legal, and proper.

Not Sustained = The investigation produced insufficient information to prove or disprove the allegation.

Sustained = The Department member committed all or part of the alleged acts of misconduct or poor service.

Inquiry = During the process of the investigation, it was determined that the member of the public was only requesting clarification of a policy or procedure.

No Finding = There is no policy regarding the specific allegation made.

Misconduct Noted = The Department member violated a section of the Department Policies, Rules or Regulations not originally noted in the complaint.

Findings Comparisons

CPRC Findings Comparisons: 2002 - 2006

Figure 10

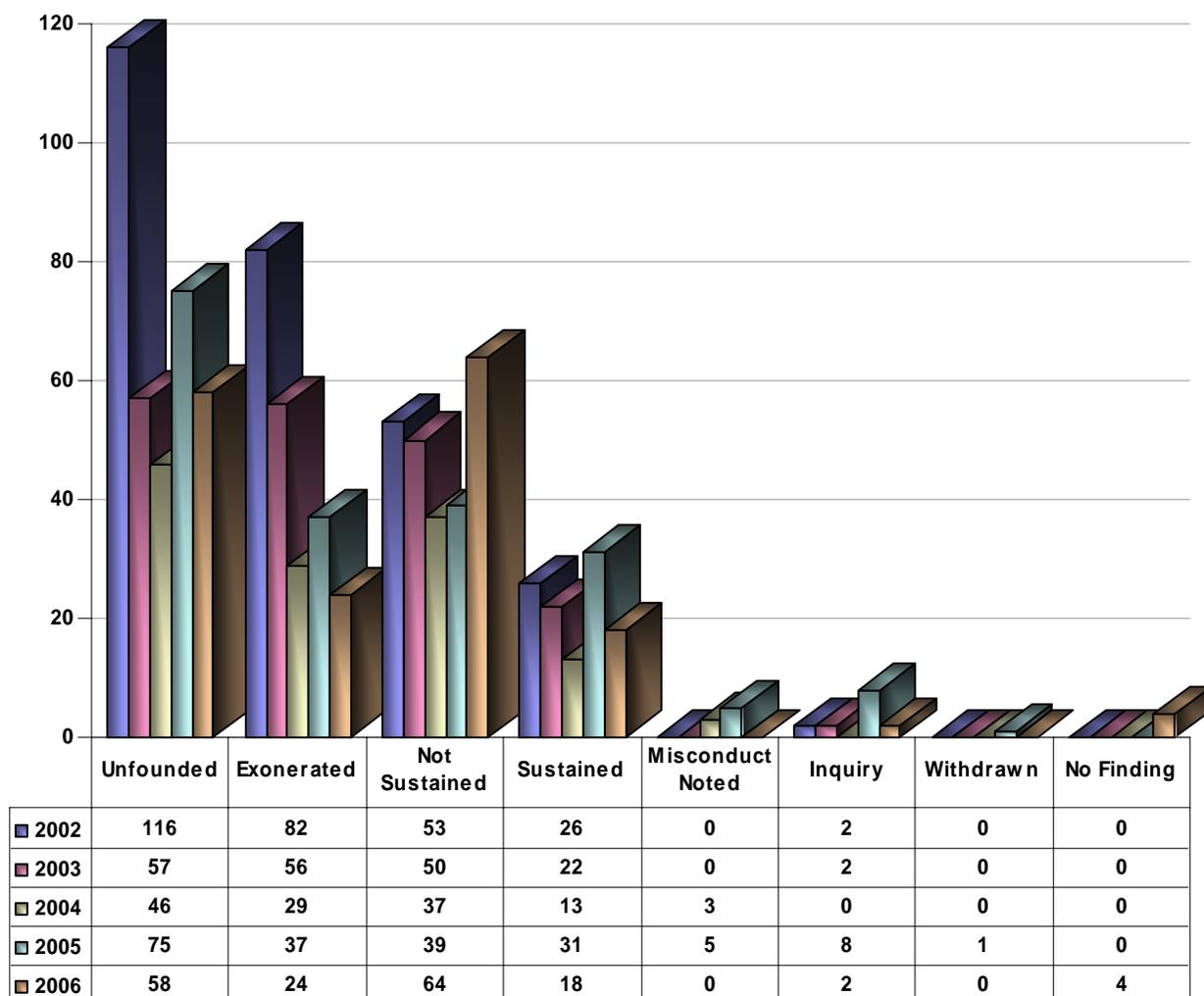


Figure 10 compares the Commission’s findings for cases reviewed in 2002 through 2006. These figures do not include the results of Officer-Involved Death investigations, which are discussed in a separate section of this report.

If, during the course of an investigation it is determined that the department member violated a section of the Department Policies, Rules, or Regulations not originally noted in the complaint, a finding of Misconduct Noted is made. There were seven such instances in 2006.

**Comparisons of CPRC Findings with those of the
Riverside Police Department (RPD) and the City Manager’s Office (CMO)**

The following tables below provide data comparing the findings of the CPRC, RPD, and the City Manager’s Office (CMO). Each of the three entities independently comes to a finding on allegations (as described in the section entitled “Understanding the Complaint Process;” see pg. 10).

Table 1 presents the data in terms of “definitions of findings’ (see pg. 17).

Table 2 presents the data based on the definitions, but grouped more generally as whether an officer’s actions were within, or outside of, policy.

Table 1

2006 Findings	RPD	CPRC	CMO
Unfounded	133	56	108
Exonerated	13	25	15
Not Sustained	12	66	26
Sustained	9	15	8
Inquiry	3	2	4
Made no Finding	0	4	7
Misconduct Noted	5	7	7
Total Findings:	175	175	175

Table 2

2006 Findings	RPD		CPRC		CMO	
	Count	%	Count	%	Count	%
(a) officer's actions were within policy or no policy violation was substantiated. (Unfounded, Exonerated, Not Sustained, Inquiry / No Finding)	161	92%	153	87%	160	91%
(b) officer's actions were out of policy (Sustained, Misconduct Noted)	14	8%	22	13%	15	9%
Total Findings:	175	100%	175	100%	175	100%

**Comparisons of CPRC Findings with those of the
Riverside Police Department (RPD) and the City Manager's Office (CMO) - Cont.**

Tables 3 and 5 compare how frequently the RPD and CPRC agreed or disagreed in finding a policy violation.

Table 3

RPD & CPRC 2006 Findings Comparison	Count	%
Agencies agreed that either: (a) officer's actions were within policy or no policy violation was substantiated.	153	
(b) officer's actions were out of policy	14	
Sub-total Agreed	167	95%
Agencies disagreed whether or not a policy violation occurred	8	
Sub-total Disagreed	8	5%
Total Findings:	175	100%

Table 5

RPD & CPRC 2006 Findings Comparison	Count	%
Agencies agreed that the investigation of allegation revealed that the officer's actions were either (a) within policy or could not be substantiated; or, (b) was out of policy.	167	95%
Agencies disagreed whether or not the officer's actions were within or out of policy	8	5%
Total Findings:	175	100%

Tables 4 and 6 compare how frequently the CMO and CPRC agreed or disagreed in finding a policy violation.

Table 4

CPRC & CMO 2006 Findings Comparison	Count	%
Agencies agreed that either: (a) officer's actions were within policy or no policy violation was substantiated. (b) officer's actions were out of policy	153 15	
Sub-total Agreed	168	96%
Agencies disagreed whether or not a policy violation occurred	7	
Sub-total Disagreed	7	4%
Total Findings:	175	100%

Table 6

CPRC & CMO 2006 Findings Comparison	Count	%
Agencies agreed that the investigation of allegation revealed that the officer's actions were either (a) within policy or could not be substantiated; or, (b) was out of policy.	168	96%
Agencies disagreed whether or not the officer's actions were within or out of policy	7	4%
Total Findings:	175	100%

Review of Officer-Involved Deaths

Chapter 2.76, Section 2.76.050 Powers, Duties and Functions states: Powers, duties and functions of the Community Police Review Commission are as follows:

- D. To review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer, regardless of whether a complaint regarding such death has been filed.

Pursuant to this subsection, the Commission investigated, reviewed, and made findings regarding two officer-involved death (OID) cases that had occurred in the previous year. The

Commission conclusions based on its own investigation and review of details presented by RPD investigation were as follows:

05-091: In the officer-involved death of Terry Rabb, the officers' actions were found to be within policy.

05-113: In the officer-involved death of Todd Argow, the officer's actions were found to be within policy.

Three officer-involved deaths occurred in 2006. Those cases are currently under investigation and will be reported on in the next annual report.

Did You Know...

...you have several options on how to file a complaint? These include:

- ***By phone at (951) 826-5509***
- ***Through the mail or in person at the CPRC Office, 3900 Main Street, 6th Floor, Riverside, CA. 92522***
- ***Downtown Police Station at 4102 Orange Street or any police station in the City***
- ***By e-mail at cprc@riversideca.gov***

You can even file online at www.riversideca.gov/cprc/complaint_form.htm



Demographic and Other Data for 2006

The following demographic data is based on the number of cases reviewed during 2006.

- Fifteen percent (15%) of complaints were made by Hispanics.
- Twenty two percent (22%) of complaints were made by African-Americans.
- Forty percent (40%) of complaints were made by Caucasians.
- Four percent (4%) of complaints were filed by Asians.
- Four percent (4%) of complaints were filed by 'Other' ethnicities.
- Fifteen percent (15%) of complaints were filed by complainants of unknown ethnicity.

NOTE: Ethnicity categories are based on self-identification of the complainant as well as Police Officer identification.



There were 390 sworn personnel positions in the Riverside Police Department in 2006. The Commission reviewed a total of 80 complaint cases containing 168 allegations. There were multiple allegations against 14 officers. This represents approximately 4% of the total police force. Of these, seven had at least one sustained allegation.

There were two officers with five or more allegations reviewed in 2006 with at least one allegation being sustained.

Did You Know...

...most complaints can be avoided through the use of common courtesy?



Trends and Patterns

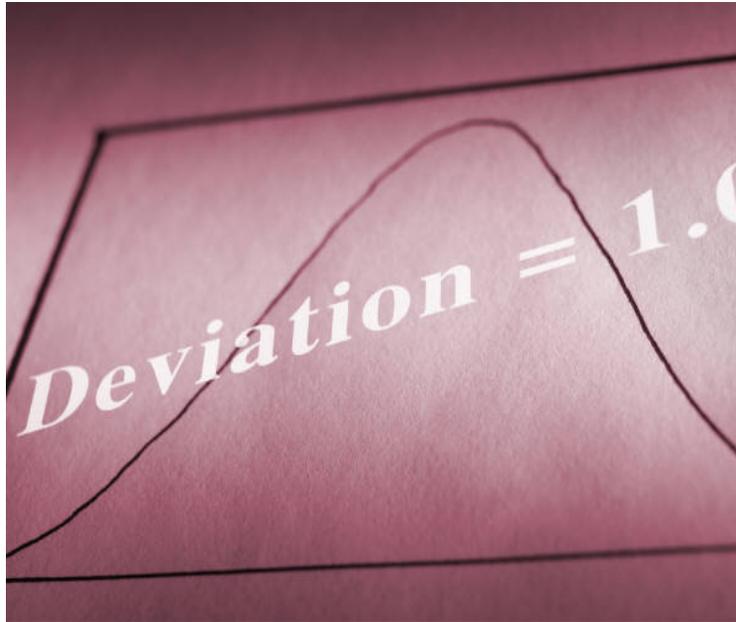
The Riverside Police Department has literally hundreds of citizen contacts each day. Some are very brief, while others are more involved. On occasion, these contacts generate citizen complaints.

In the course of reviewing these citizen complaints, the Commission will invariably notice certain trends or patterns of officer behavior. Some of the patterns observed are positive and are therefore welcomed and encouraged, while others raise concerns and therefore result in communication between the Commission and the Police Department to raise awareness of the issues and to address them immediately. The Commission believes that if the Department, as a whole, quickly addresses the less positive areas, community relations will be greatly enhanced.

The rate of allegations sustained by the Commission decreased from 16% of all findings (31 of 196) in 2005 to 9% (15 of 175) of all findings in 2006. Although the caseload increased in 2006, the total number of allegations decreased. Cases may and often do involve multiple allegations. The increase and subsequent drop in the rate of sustained allegations from 2005 to 2006 is attributed to one or two cases in 2005 that had multiple sustained allegations.

Policy requires officers to deploy their digital recorders in officer-initiated contacts. However, the Commission notes that full compliance has not been achieved. The Commission notes that the Department is monitoring complaint and taking action when the policy is violated.

Some officers utilize their digital recorders in contacts with citizens even when not required by policy. The Commission believes the recorder is the officer's strongest defense against false allegations and continues to urge officers to use them for all citizen contacts.



The Commission notes that complaint investigations conducted by Internal Affairs tend to be of a higher quality than those of the field sergeants. However, the Commission is concerned about the continued use of leading questions being asked and failure to interview all witnesses.

Some specific areas the Commission believes need to be strengthened in investigations include:

Interviewing all witnesses as required by policy; Asking questions that elicit facts and opinions, and not desired responses. For example, ask an officer, "Why did you do that?" rather than "You did that for officer safety reasons, right?"

The Commission has seen during complaint investigations the witnesses credibility questioned. However, when necessary, the officer's credibility is rarely questioned.

The Department's Internal Affairs Unit conducts an administrative review of the internal investigation in officer-involved death cases, whereas the Commission believes a plain reading of departmental policies and procedures call for an independent administrative investigation.

Areas Improved Since 2005



Dr. Pedro R. Payne, CPRC Executive Director (foreground) and Captain Pete Esquivel,



Below: Commissioners Bob Garcia (left) and Frank Arreola.

In the past, sergeants were assigned as investigators even when they were a subject of the complaint or when the officer complained against acted in accordance with directions given by the sergeant. While this practice still occurs on occasion, the Commission was pleased to note that RPD did show significant improvement during 2006. The Commission encourages RPD to take those steps necessary to ensure the complete elimination of complaint investigations by supervisors involved in the complained-of incidents.

The Commission saw fewer complaints of Category 1 type allegations such as "Excessive Use of Force" than in 2005. This is a very sensitive area and is seen as a significant



improvement.

The Commission has observed a reduction in complaints dealing with searches or pat downs of civilians by officers of the opposite sex. This is also seen as a significant improvement.

The Commission recognizes that there are instances where officer safety dictates that a search or pat down be conducted by the officer on the scene regardless of gender.

Did You Know...

...you can read the results of cases reviewed by the CPRC online at www.riversideca.gov/cprc by clicking on the "FINDINGS" link?



Policy Recommendations

The following recommendation was made to the Police Department in 2006. The reason for the recommendation and action taken are also noted.

Background:

Under current RPD policy, the owner of property being held by the Department for safekeeping is notified once, in writing. If the property is not claimed within 60 days, it is then disposed of in the manner prescribed by law. The Commission believes that, in the event the property owner is institutionalized, it would be helpful to make a second attempt to contact a family member of the owner of the unclaimed property via certified mail, giving an additional 30 days to retrieve the property prior to its disposal.

Recommendation(s):

The Commission believes Section 5.3.E.2.d.2 should be revised to say that "The Property Unit will mail a **certified** letter to the owner immediately upon receipt.

If, after 60 days, the property is unclaimed, a second attempt will be made to contact a family member of the owner, via certified letter, with return receipt requested. If, after 30 days, the property is unclaimed, the property will be disposed of in the manner prescribed by law."

Police Department Response:

With respect to the first recommendation to send a letter via certified mail, the



Police Department agreed that this can be accomplished with minimal cost.

However, the Department believes that sending out a second letter to a family member is problematic because in most cases, the Department does not have the names and addresses of family members of suspects.

APPENDIX

City of Riverside Ordinance No. 6516 **Section A**

Charter Amendment – Section 810 **Section B**

**CPRC By-Laws and
Policies & Procedures** **Section C**

RPD Policy & Procedure 4.12 **Section D**

**RPD Conduct & Performance Manual
Section 10
Administrative Investigation** **Section E**

Section A

1 the Commission and be responsible for maintaining all records and minutes.

2 **Section 2.76.040 Membership and Terms of Community Police Review**

3 **Commission.**

4 The Community Police Review Commission shall consist of nine (9) members appointed
5 by the Mayor and City Council. Members shall be removed from the Commission by five (5)
6 affirmative votes of the Mayor and City Council for incompetence, malfeasance, misfeasance,
7 nonfeasance or neglect of duty.

8 The term of each member of the Commission shall be for four years; provided, however,
9 the initial appointments of the first nine members after the effective date of this Chapter, shall be
10 determined by a drawing at the Commissions's first meeting to decide which members shall serve
11 two, three and four year terms; three shall serve two year terms, three shall serve three year terms
12 and three shall serve four year terms. The members first appointed to serve two year terms shall
13 serve until March 1, 2002; the members first appointed to serve three year terms shall serve until
14 March 1, 2003, and the members first appointed to serve four year terms shall serve until March 1,
15 2004. No person shall serve more than two full terms. Serving more than one (1) year of an
16 unexpired term shall be counted as service of one full term.

17 **Section 2.76.050 Powers, Duties and Functions**

18 The powers, duties and functions of the Community Police Review Commission are as
19 follows:

- 20 A. To advise the Mayor and City Council on all police/community relations issues.
21 B. To conduct public outreach to educate the community on the purpose of the
22 Commission.
23 C. To receive, and in its discretion, review and investigate, through the Executive
24 Director, complaints filed within six (6) months of the date of the alleged police
25 employee misconduct, in writing with the Commission or any other City office,
26 which allege persons employed by the Riverside Police Department in a sworn
27 capacity with, but not limited to (a) use of excessive force, (b) discrimination or

1 sexual harassment in respect to members of the public, (c) the improper discharge
2 of firearms, (d) illegal search or seizure, (e) false arrest, (f) false reporting, (g)
3 criminal conduct, (h) misconduct. "Misconduct" is defined to mean and include
4 any alleged improper or illegal acts, omissions or decisions directly affecting the
5 person or property of a specific community member by reason of:

- 6 1. Alleged violation of any general, standing or special orders or guidelines of
7 the Riverside Police Department, or
- 8 2. An alleged violation of any state or federal law that occur in the course and
9 scope of employment, or
- 10 3. Any act otherwise evidencing improper or unbecoming conduct by a sworn
11 police officer employed by the Riverside Police Department.

12 D. To review and investigate the death of any individual arising out of or in
13 connection with actions of a sworn police officer, regardless of whether a
14 complaint regarding such death has been filed.

15 E. To conduct a hearing on filed complaints or Commission initiated investigations
16 when such hearing, in the discretion of the Commission, will facilitate the fact
17 finding process.

18 F. To the extent permissible by law, exercise the power of subpoena to require the
19 attendance of witnesses, including persons employed by the City of Riverside, and
20 the production of books and papers pertinent to the investigation and to administer
21 oaths to such witnesses and to take testimony. Subpoenas shall only be issued by
22 the Commission upon the affirmative vote of six (6) Commission members.

23 G. To make findings concerning allegations contained in the filed complaint to the
24 City Manager and Police Chief.

25 H. To review and advise the Police Department in matters pertaining to police
26 policies and practices.

27 //

1 I. To prepare and submit an annual report to the Mayor and City Council on
2 Commission activities.

3 **Section 2.76.060 Confidentiality**

4 All personnel records, investigative reports, documents generated within the City of
5 Riverside Police Department, information relating to closed session deliberations of the
6 Commission, and any other privileged matters, shall be kept confidential to the extent permitted by
7 law.

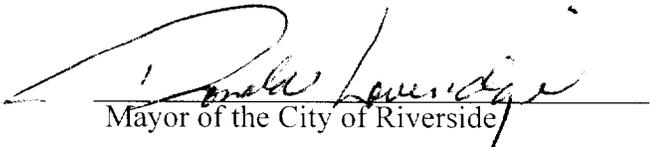
8 The hearing process shall be open to the public to the extent legally permissible and
9 insofar as it does not conflict with state or federal law.

10 **Section 2.76.070 Severability**

11 If any provision of this Ordinance or its application is held invalid by a court of
12 competent jurisdiction, such invalidity shall not affect other provisions, sections, or application of
13 the Ordinance which can be given effect without the invalid provisions or applications, and to this
14 end any phrase, section, sentence, or word is declared severable.

15 Section 2: The City Clerk shall certify to the adoption of this ordinance and cause
16 publication once in a newspaper of general circulation in accordance with Section 414 of the
17 Charter of the City of Riverside. This ordinance shall become effective on the 30th day after the
18 date of its adoption.

19 ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk
20 this 11th day of April, 2000.

21
22 
23 Mayor of the City of Riverside

24 Attest:

25
26 
27 City Clerk of the City of Riverside

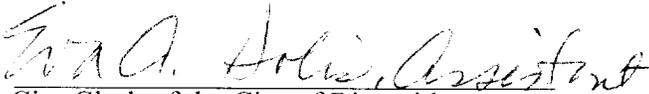
1 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 4th
3 day of March, 2000, and that thereafter the said ordinance was duly and regularly adopted at a
4 meeting of the City Council on the 11th day of April, 2000, by the following vote, to wit:

5 Ayes: Councilmembers Beaty, Moore, Defenbaugh, Kane, Adkison,
6 Thompson and Pearson.

7 Noes: None.

8 Absent: None.

9 IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the
10 City of Riverside, California, this 11th day of April, 2000.

11 
12 Eva A. Dolin, Assistant
13 City Clerk of the City of Riverside

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27 [ORD/00049001.SY]

Section B

RIVERSIDE CITY CHARTER

Sec. 807. Human resources board--Composition.

There shall be a human resources board, which shall have the power and duty to:

(a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations.

(b) Act in an advisory capacity to the City Council on matters concerning personnel administration. (Effective 12/27/1995)

Sec. 808. Board of library trustees.

There shall be a board of library trustees, which shall have the power and duty to:

(a) Have charge of the administration of City libraries and make and enforce such bylaws, rules and regulations as may be necessary therefor.

(b) Designate its own secretary.

(c) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.

(d) Purchase and acquire books, journals, maps, publications and other supplies peculiar to the needs of the library, subject, however, to the limitations of the budget for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this Charter provided.

(e) Approve or disapprove the appointment, suspension or removal of the librarian, who shall be the department head.

(f) Accept money, personal property or real estate donated to the City for library purposes, subject to the approval of the City Council.

(g) Contract with schools, County or other governmental agencies to render or receive library services or facilities, subject to the approval of the City Council. (Effective 12/27/1995)

Sec. 809. Park and recreation commission.

There shall be a park and recreation commission which shall have the power and duty to:

(a) Act in an advisory capacity to the City Council in all matters pertaining to parks, recreation, parkways and street trees.

(b) Consider the annual budget for parks, recreation, parkways and street tree purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.

(c) Assist in the planning of parks and recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(d) Establish policies for the acquisition, development and improvement of parks and playgrounds and for the planting, care and removal of trees and shrubs in all parks, playgrounds and streets, subject to the rights and powers of the City Council. (Effective 12/27/1995)

Sec. 810. Community police review commission.

There shall be a community police review commission which shall have the power and duty to:

(a) Advise the Mayor and City Council on all police/community relations issues.

RIVERSIDE CITY CHARTER

(b) Conduct public outreach to educate the community on the purpose of the commission.

(c) Receive, and in its discretion, review and investigate citizen complaints against officers of the Riverside Police Department filed within six months of the date of the alleged misconduct in writing with the commission or any other City office as established by ordinance of the City Council.

(d) Review and investigate the death of any individual arising out of or in connection with actions of a police officer, regardless of whether a complaint regarding such death has been filed.

(e) Conduct a hearing on filed complaints or commissions-initiated investigations when such hearing, in the discretion of the commission, will facilitate the fact finding process.

(f) Exercise the power of subpoena to require the attendance of witnesses, including persons employed by the City of Riverside, and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses and to take testimony to the extent permissible by law. Subpoenas shall only be issued by the commission upon the affirmative vote of six commission members.

(g) Make findings concerning allegations contained in the filed complaint to the City Manager and Police Chief.

(h) Review and advise the Riverside Police Department in matters pertaining to police policies and practices.

(i) Prepare and submit an annual report to the Mayor and City Council on commission activities.

ARTICLE IX. PERSONNEL MERIT SYSTEM.

Sec. 900. Generally.

The City Council shall by ordinance establish a personnel merit system for the selection, employment, compensation/classification, promotion, discipline and separation of those appointive officers and employees who shall be included in the system. (Effective 12/27/1995)

ARTICLE X. RETIREMENT.

Sec. 1000. Authority to continue under State system.

Plenary authority and power are hereby vested in the City, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees' Retirement System, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the Public Employees' Retirement System. The City Council may terminate any contract with the board of administration of the Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City, voting on such proposition at an election at which such proposal is presented.)

ARTICLE XI. FISCAL ADMINISTRATION.

Sec. 1100. Fiscal year.

The fiscal year of the City government shall be established by ordinance.

Section C

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

**BY-LAWS
Amended July 26, 2006**

**ARTICLE I
DEFINITION**

- Section 1. As used in these by-laws, unless a different meaning clearly appears from the context:
- A. "Commission" shall mean the City of Riverside Community Police Review Commission (CPRC).
 - B. "Commissioners" shall mean the members of the Commission.
 - C. "Executive Director" shall mean the staff liaison person who is appointed by the City Manager to direct the Commission's staff support team.
 - D. "Independent Investigator" shall mean the person(s) retained by the Executive Director to receive, administer, and/or investigate, at the direction of the Commission, allegations of police misconduct.
 - E. "City" shall mean the City of Riverside.

**ARTICLE II
MEMBERS**

- Section 1. The Commission shall be comprised of nine (9) members appointed by the Mayor and the City Council, in accordance with City Ordinance No. 6516, as codified in Chapter 2.76 of the Riverside Municipal Code.
- Section 2. Appointments to fill unexpired terms on the Commission shall be filled in the same manner as original appointments.
- Section 3. Each member must be a qualified elector of the City at the time of appointment and throughout his/her service on the Commission.
- Section 4. Members who fail to maintain qualified elector status must resign from the Commission or be removed in accordance with City Charter Section 802.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

ARTICLE III

TERMS OF OFFICE

- Section 1. The term of office shall be four (4) years. No member shall serve more than two (2) full consecutive terms. Serving less than one (1) year of an unexpired term shall not be counted as service of one term. Commissioners shall be subject to all applicable local, state, and federal laws and codes of ethics adopted by the City Council.
- Section 2. In the event that a replacement member has not been appointed when the term of office of an incumbent member expires, the incumbent member may continue to serve until a replacement is appointed.
- Section 3. Members may be removed from the Commission by an affirmative vote of five (5) members of the City Council, with the Mayor entitled to a vote, for the following causes:
- A. Absence from three consecutive regular meetings, unless by permission of the Commission expressed in the official minutes.
 - B. Incompetence, malfeasance, misfeasance, nonfeasance, neglect of duty, or conviction of a crime involving moral turpitude.
 - C. Refusal to resign from the Commission when no longer a qualified elector of the City.
 - D. Failure to comply with the confidentiality requirements described in Section 2.76.060.

ARTICLE IV

COMPENSATION

- Section 1. Members shall serve without compensation for their services on the Commission but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

ARTICLE V

OFFICERS

- Section 1. The Commission shall have at least two officers, Chair and Vice-Chair, and such other officers, as it deems necessary.
- Section 2. The Chair shall preside over all meetings of the Commission and shall have the same rights as other members, except the Chair shall not make or second a motion. The Chair shall have the right to vote on all matters. The Chair shall sign all documents on behalf of the Commission after

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

such documents have been approved by the Commission, and shall perform such other duties and delegated responsibilities as may be imposed upon the Chair by the Commission. The Chair shall also speak to the media on behalf of the Commission on official actions of the Commission.

- Section 3. In the absence of the Chair, the Vice-Chair shall assume all the duties and power of the Chair. In the absence of the Chair, all actions taken by the Vice-Chair shall have the same force and effect as if taken by the Chair.
- Section 4. The election of officers shall be conducted annually at the first meeting in March.
- Section 5. All officers shall be elected by the members for a term of one year. A member may serve no more than two successive years in the same office. This article may be suspended by a majority vote of the Commission to allow any existing officer(s) to serve a term that is greater than two years based upon extenuating circumstances. The length of this term extension will be determined by the commissioners on the day the vote is taken.
- Section 6. Election of officers shall be conducted in a manner prescribed by the Commission.
- Section 7. In the event of the resignation or removal of the Chair during the year, the Vice-Chair shall become the Chair and a new election shall be held for Vice-Chair. In the event of the resignation or removal of any other officer, a new election shall be held to fill the vacant office.
- Section 8. If the Chair and Vice-Chair are both absent at any meeting of the Commission, the Commission shall elect a Chair Pro Tem who shall perform all duties of the Chair.

ARTICLE VI AUTHORITY, POWERS, DUTIES

- Section 1. In accordance with Chapter 2.76 of the Riverside Municipal Code, the Commission shall have the power to:
- A. Advise the Mayor and City Council on all police/community- relations issues.
 - B. Conduct public outreach to educate the community on the purpose of the Commission.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

- C. Receive complaints of alleged police misconduct filed within six months of the date of the alleged misconduct against a sworn member of the Riverside Police Department, regarding use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal search or seizure, false arrest, false reporting, criminal conduct or misconduct.
- D. Review and investigate complaints of alleged police misconduct.
- E. Conduct hearings into allegations of police misconduct upon the affirmative vote of five (5) Commission members.
- F. To the extent permissible by law, subpoena and require the attendance of witnesses, the production of books, documents, papers, audio, video and any other electronic media pertinent to the investigation, upon the affirmative vote of six (6) Commission members.
- G. To review and advise the Police Department in matters pertaining to police policies and practices, including making formal recommendation for amendment to the Police Department's Policy and Procedures Manual and on Police Department proposed amendments to the Policy and Procedures Manual.
- H. Administer oaths to witnesses and to take testimony, which will be recorded verbatim.
- I. Submit written findings concerning allegations contained in the filed complaint to the City Manager and the Police Chief.
- J. Review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer, regardless of whether a complaint regarding such death has been filed.
- K. Review and advise the Police Department in matters pertaining to police policies and practices.
- L. Recommend to the City Manager the provision of such staff as is necessary to carry out the Commission's duties.
- M. Advise the City Manager regarding the performance of said staff.
- N. Submit to the Mayor and City Council an annual written report of its activities during the past year.

Section 2. These by-laws do not, and are not intended to, exceed the powers given to the Commission by the City Charter, City ordinances, or resolutions.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

ARTICLE VII MEETINGS

- Section 1. Regular meetings of the Commission shall be held on the fourth Wednesday of each month at 5:30 p.m. in the Art Pick Council Chambers, 3900 Main Street, unless otherwise agreed upon in advance by the Commission.
- Section 2. Special meetings of the Commission may be convened at the call of the Chair, or of the Vice-Chair in the absence of the Chair. Upon petition of five (5) members of the Commission, the Chair shall be required to call a meeting of the Commission within one week. Members will be given at least 24 hours notice before any special meeting. The notice and agenda for any special meeting will be distributed in accordance with Brown Act, §54950 et seq. of the California Government Code.
- Section 3. All meetings of the Commission and its standing committees shall be open to the public and, whenever possible shall be held in a City-owned facility. Notice shall be given to the public prior to convening of any meeting in accordance with the Brown Act, §54950 et seq. of the California Government Code.
- Section 4. Notwithstanding Section 3 above, the Commission will schedule closed session meetings on the second Wednesday of each month for the sole purpose of considering cases and making related findings. The only exceptions to this are when training is to be scheduled and annual officer elections. The notice and agenda for such meetings shall be distributed in the same manner as the notice and agenda for all other Commission meetings. Case Review meetings will not be open to the public; however, public comments may be heard prior to going into closed session. The public will be allowed to attend training sessions. The Commission may, at its discretion, agendize training sessions and / or annual officer elections on the second Wednesday of the month.
- Section 5. A majority of all members of the Commission shall constitute a quorum for the transaction of business. A motion shall carry upon the affirmative vote of the majority of the members present at any meeting except as otherwise noted in the Commission's Policies and Procedures or By-Laws.
- Section 6. A quorum being present, the order of business at the meetings of the Commission may include the following:
- A. Roll Call and Report of Commissioner Absences
 - B. Minutes of Previous Meeting
 - C. Executive Director's Report

CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

- D. Commissioner Comments
- E. Committee Reports
- F. Public Comment
- G. Unfinished Business
- H. New Business
- I. Next Meeting
- J. Recess to personnel or closed session if required
- K. Adjournment

The Executive Director or any Commissioner shall have the right to place an item on the agenda of a future meeting.

- Section 7. A Commission meeting may be cancelled by the Chair, due to a lack of a quorum or lack of sufficient agenda voting items.
- Section 8. Minutes of each Commission meeting shall be kept on file in the Commission's offices, and copies sent to the Mayor, City Councilmembers and City Manager.
- Section 9. The Commission may promulgate such rules, regulations, policies, and procedures for its conduct, as it deems necessary. Meetings shall be conducted informally.
- Section 10. All adopted rules, regulations, policies, and procedures shall be promptly filed with the City Clerk, and shall bear the signature of the Chair and the date they were adopted.
- Section 11. The annual meeting shall be the March meeting.
- Section 12. Special Commissioner training meetings shall be conducted at sites to be determined. Appropriate notices shall be posted in accordance with the Brown Act.
- Section 13. It is recommended that Commissioners attend at least one training day every other year, as needed, and one ride-along and sit-along in their first year of appointment, if possible.
- Section 14. New Commissioners shall be required to attend an orientation meeting upon their appointment.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

ARTICLE VIII

INVESTIGATIONS AND HEARINGS

- Section 1. Investigations and hearings shall be conducted in accordance with the Policies and Procedures for processing complaints against police officers adopted by the Commission.
- Section 2. The hearing process shall be open to the public to the extent permitted by law and insofar as it does not conflict with state or federal law, as set forth in Section 2.76.060.
- Section 3. Investigations and hearings shall be conducted to determine facts and to make recommendations to the City Manager and Police Chief.
- Section 4. Hearings shall be scheduled as needed.

ARTICLE IX

CONFIDENTIALITY

- Section 1. All personnel records, investigative reports, documents generated within the Riverside Police Department, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential to the extent permitted by law.

ARTICLE X

COMMITTEES

- Section 1. The Chair may appoint standing committees, which shall consist of an appointed Chairperson and at least two other Commissioners.
- Section 2. The Chair may appoint ad hoc committees as needed. Each shall consist of an appointed Chairperson and at least two other Commissioners. Ad hoc committees serve a limited or single purpose, are not perpetual, and are dissolved once their specific task is completed.
- Section 3. The elected Chair shall be an ex-officio member of all committees.

ARTICLE XI

REPORT TO THE CITY

- Section 1. The Commission shall present an annual written report of its activities for the past year to the Mayor and City Council. It may also make appropriate recommendations. The report shall include the following:

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

- A. The name of the Commission
- B. The Commission's goals, objectives, and functions
- C. Reference, by category, to all reports and recommendations presented to the City Manager
- D. The number of meetings held
- E. The number of hearings conducted
- F. Attendance records of all members
- G. The amount of money expended in support of the Commission, if known
- H. A list of City personnel who regularly assist the Commission

Section 2. The report should be submitted by March 31st of each year.

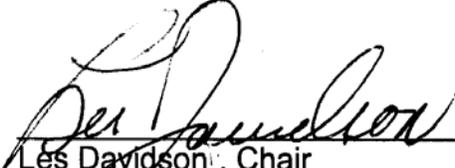
**ARTICLE XII
AMENDMENT OF BY-LAWS**

Section 1. These By-Laws may be amended at any regular meeting of the Commission by majority vote of the Commission, provided that notice of such amendment shall have been given at the previous regular meeting.

CHRONOLOGY OF AMENDMENTS AND ADOPTIONS

Original Adoption: July 30, 2001
Amended: September 24, 2001
Amended: February 26, 2003
Amended January 26, 2005
Amended July 27, 2005
Amended July 26, 2006

Respectfully Submitted,



Les Davidson, Chair
Community Police Review Commission

July 26, 2006

Date

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

**POLICIES AND PROCEDURES
Adopted July 30, 2001**

I. PURPOSE

To establish guidelines for the receipt and processing of allegations of sworn police employee misconduct in compliance with Chapter 2.76 of the Riverside Municipal Code.

II. SCOPE

These guidelines are applicable in addressing allegations of misconduct by sworn employees of the Riverside Police Department. Complaints must have been filed on or after January 1, 2001, in writing, and within six (6) months of the date of the incident that gave rise to the complaint.

III. AMENDMENT

These Policies and Procedures may be amended by a majority vote of the Commission at a regularly scheduled Commission meeting where the item appears on the published agenda for discussion and/or action.

IV. POLICY STATEMENT

The Community Police Review Commission shall receive, review and investigate allegations of misconduct by sworn Police Department employees regarding use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal search or seizure, false arrest, false reporting, criminal conduct or misconduct. When necessary, the Commission will conduct hearings and subpoena witnesses and records to facilitate the fact-finding process. The Commission shall make recommendations to the City Manager and Police Chief and develop appropriate procedures to implement this policy.

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The Community, sworn police employees, and staff are urged to give their support, to the extent permitted by law, to ensure the effective implementation of this Policy and these Procedures.

V. DEFINITIONS

The following definitions shall apply to this policy:

- A. Commission:
Community Police Review Commission (CPRC)

- B. Complaint:
Allegation(s) of misconduct against a sworn employee of the Riverside Police Department.

- C. Complainant:
The person filing the complaint.

- D. Discrimination:
An act or omission made on the basis of race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex or sexual orientation.

- E. Sexual Harassment:
Engaging in any act of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

- F. Employee of the Riverside Police Department:
Any employee of the Riverside Police Department who is a sworn peace officer.

- G. Executive Director:
The staff liaison person who is appointed by the City Manager to direct the Commission's staff support team.

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- H. Excessive Force:
Unreasonable force used by a sworn employee of the Riverside Police Department against a person or persons.
- I. False Arrest:
Arrest made without probable cause that a crime has been committed and that the person in question has committed that crime.
- J. Independent Investigator:
The person(s) retained by the Executive Director to receive, administer, and/or investigate, at the direction of the Commission, allegations of police misconduct.
- K. Misconduct:
An allegation against a sworn employee of the Riverside Police Department, which if true, may constitute a violation of a law, rule or regulation.
- L. Probable Cause:
A condition where facts and circumstances known to the officer warrant a reasonable person to believe that the arrested person has committed a crime.
- M. Subject officer:
A sworn employee of the Riverside Police Department against whom a complaint is filed.
- N. Witness:
Any person who has information relevant to the complaint.

CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION

VI. COMMISSION ORGANIZATION

A. Commission:

The Commission is an ordinance-mandated body of nine citizens, which receives, reviews and investigates allegations of misconduct filed against sworn employees of the Riverside Police Department and other functions as defined in City Ordinance No. 6516, as codified in Chapter 2.76 of the Riverside Municipal Code.

B. Resignation – Replacement:

1. In the event of the resignation or removal of a Commission member(s) during the year, the replacement Commissioner shall serve the remaining term of said Commissioner.
2. In the event of the resignation or removal of the Chair during the year, the Vice-Chair shall become the Chair and a new election shall be held for Vice-Chair.

VII. RECEIVING AND PROCESSING COMPLAINTS

A. Where to File:

Complaints of sworn police employee misconduct may be filed with the CPRC Office, the Riverside Police Department, or any other agency so designated by the CPRC.

B. How to File:

Only complaints of sworn police employee misconduct made in writing will be subject to review by the Commission. The CPRC Executive Director, if appropriate, will complete a complaint control form in order to initiate an investigation.

C. Time Element:

Only complaints filed on or after January 1, 2001 and within six months of the date of the alleged sworn police employee misconduct will be investigated by the Commission.

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COMMUNITY POLICE REVIEW COMMISSION

D. Receiving and Forwarding:

Complaints of misconduct, received by the CPRC, the RPD or any other agency so designated by the CPRC, and which have been investigated, shall be forwarded by the Executive Director to the Commission for review and disposition as soon as practical.

E. Complaint File:

The Commission shall maintain a confidential central register of all complaints filed with the CPRC.

VIII. INVESTIGATION

A. Investigation:

Investigation by the Commission will be conducted by the Executive Director or the Executive Director's designee. Assistance may be sought from the Internal Affairs Unit as appropriate in the judgment of the Executive Director or the Executive Director's designee.

B. Review:

After the initial investigation and review by the Riverside Police Department the investigative file along with the investigative report will be forwarded to the Executive Director for review. If the Executive Director determines that the investigation is incomplete, the case will be sent back to the Police Chief with a written explanation. If the investigation is determined to be complete the Executive Director will write a summary of the case and place the case on the next available agenda.

C. Commissioner Notification:

Each commissioner will be sent a copy of the synopsis prepared by the Executive Director. This synopsis is **Confidential** and will be provided to the commissioners no later than ten (10) days before the next scheduled meeting. It is the commissioner's obligation to come into the CPRC office

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and read the case file prior to the meeting when deliberations will take place.

D. Deliberation:

Each case will be placed on the agenda of the earliest possible regularly scheduled monthly meeting. The case deliberations will occur in closed session. The Commission may decide to send the case back to the Police Department for further investigation, may have a contract investigator hired by the CPRC conduct a further investigation, may submit a recommended finding to the City Manager and Police Chief or delay a decision for a future meeting.

E. CPRC Investigations:

1. All investigations conducted by the CPRC will be done through the Executive Director.
2. The Executive Director may interview the Complainant, Subject officer(s), and Witness(es), and should collect all relevant information, including all documentation available relative to the investigation.
3. The investigation shall be conducted in a fair, ethical and objective manner. The Executive Director is an agent of the Commission and personal opinions shall not be contained in the report.
4. The Executive Director, or designee, may take a statement from the Complainant, the accused, witnesses, or any other person.

F. Preservation of Records/Evidence:

All files, documents, and related materials shall be kept and preserved for a period of five (5) years after the complaint was filed with the CPRC, the RPD, or any other agency so designated by the CPRC.

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G. Investigation Timetable and Report:

To the greatest extent possible, the investigative report whether done by the Riverside Police Department or the CPRC should be completed within 60 calendar days after the filing of the complaint.

The investigative report should include the initial complaint and police report, if applicable, and the Executive Director's summaries of the complaint, statements of witness(es), and evidence. The Executive Director shall have available all materials relevant to the case for review by the Commission.

H. Commission Review, Findings & Recommendations:

The complaint, with the stated allegations of police misconduct and the investigative data, shall be submitted to the Commission for its review. The Commission, in Closed Session, deliberates and determines an appropriate finding for each allegation. Its findings are forwarded to the City Manager for final disposition. The Commission may direct the staff to reopen the investigation for additional information or evidence. The Executive Director shall be present to respond to questions from members of the Commission.

With five affirmative votes, the Commission may elect to hold a hearing. The full Commission will conduct this hearing. The Commission may request or subpoena the complaining parties, witnesses, and involved sworn Police Department employees to appear before it to answer questions or provide information.

The Commission findings shall be referred to the City Manager for final disposition. The Complainant and Subject officer shall be notified of the final disposition by the City Manager.

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IX. HEARINGS

A. Conducting the Hearing:

The hearing shall be open to the extent permissible by law. The Commission shall follow an informal hearing procedure in conducting its investigation of individual complaints. Citizen or Police Department employee witnesses shall be questioned by the Commission or staff only. There shall be no cross-examination by sworn Police Department employees, citizen witnesses, the Complainant, or their respective counsel.

All records relating to the investigation pertinent to the complaint shall be made available to the Commission to the extent permissible by applicable federal, state and local law and applicable contractual agreements.

B. Subpoenas:

Subpoenas shall be issued by the Commission upon the affirmative vote of six (6) Commissioners and shall be served by the Executive Director or designee.

C. Recommendations / Findings:

The Commission shall make its findings, which may include, but not be limited to, the following:

1. Unfounded:

The alleged act did not occur.

2. Exonerated:

The alleged act occurred but was justified, legal and proper.

3. Not Sustained:

The investigation produced insufficient information to prove or disprove the allegation.

CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

4. Sustained:
The Department member committed all or part of the alleged acts of misconduct or poor service.

5. Misconduct Noted:
The Department member violated a section of the Department Policies, Rules or regulations not originally alleged in the complaint.

6. Inquiry:
If, during the investigation, it is determined that a citizen is merely requesting clarification of a policy or procedure, that complaint, with the concurrence of the investigating supervisor's commanding officer, may be considered an Inquiry.

NOTE: If, in the course of Commission deliberations, the Commission finds that consideration should be addressed to policy, training, supervision, or other issues, the Commission may refer such suggestions to the Police Chief and City Manager.

X. DISTRIBUTION OF RECOMMENDATIONS / FINDINGS

The Commission shall send its findings to the City Manager and the Police Chief.

XI. CONFIDENTIALITY

- A. Commissioner Limitation:
All matters shall be kept confidential as required by law.

- B. Penalty for Violation:
Failure to comply with this regulation shall be grounds for removing a Commissioner from the Commission.

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

CHRONOLOGY OF AMENDMENTS AND ADOPTIONS

Original Adoption: July 30, 2001

Respectfully Submitted,



Bill Howe, Chairperson
Community Police Review Commission

Section D

4.12 **PERSONNEL COMPLAINT POLICY:**

A. **PURPOSE:**

To establish a sound procedure to investigate complaints of poor service or misconduct against members of the Department. The investigation must be thorough and impartial in order to protect the rights of the employee and maintain the Department's high level of integrity and efficiency.

B. **DEFINITIONS:**

1. **Complaint:** Any allegation of poor service or misconduct made by a member of the public or employee against a member of the Department is a complaint. Complaints of misconduct must allege a violation of Federal, State or local law, or Riverside Police Department policy or procedure.

Complaints lodged by members of the public will be classified as EXTERNAL COMPLAINTS. Complaints lodged by employees will be classified as INTERNAL INVESTIGATIONS/COMPLAINTS.

2. **CATEGORY 1 Complaints:** All complaints which involve:

- Excessive Force
- False Arrest
- Discrimination/Harassment
- Criminal Conduct

3. **CATEGORY 2 Complaints:** All complaints which involve:

- Poor Service
- Discourtesy
- Improper Procedure
- Conduct Unbecoming (CUBO)
- Infractions, Traffic Violations, and Riverside Municipal Code Violations
- Other

4. **Findings:** Each allegation in a complaint shall have one of the following findings:

- **Unfounded:** The alleged act did not occur.
- **Exonerated:** The alleged act occurred but was justified, legal and proper.
- **Not Sustained:** The investigation produced insufficient information to prove or disprove the allegation.
- **Sustained:** The Department member committed all or part of the alleged acts of misconduct or poor service.
- **Misconduct Noted:** The Department member violated a section of the

Department policies, rules or regulations not originally alleged in the complaint.

5. **Inquiry:** If, during the investigation, it is determined that a member of the public is merely requesting clarification of a policy or procedure, that complaint, with the approval of the investigating supervisor's commanding officer and concurrence of the Personnel Services/Internal Affairs Commander or Internal Affairs Lieutenant, may be considered an **Inquiry**. The inquiry box on the Complaint Control Form shall only be checked by the Personnel Services/Internal Affairs Commander or Internal Affairs Lieutenant, and will be accompanied by his/her signature.

C. COMPLAINT RECEPTION AND ROUTING:

1. The commander, or designee, of each Department facility open to the public shall ensure that Personnel Conduct Reporting Procedure Brochures and Complaint Control Forms are available to the public in that facility.
2. Every employee has a duty to refer members of the public to open police facilities so that they can obtain Personnel Conduct Reporting Procedure brochures and Complaint Control Forms upon request. Employees on-duty in those facilities shall assist members of the public in obtaining those documents upon request.
3. External complaints may be filed with any supervisory member of the department or directly with the Community Police Review Commission.
4. Non-supervisory employees shall immediately refer complainants to an on-duty supervisor. Whenever possible, civilian supervisors shall refer complaints against sworn personnel to an on-duty sworn supervisor. Supervisors shall accept complaints in writing, in person, by telephone, or from anonymous persons. The purpose for this is to encourage members of the public or employees to bring forward legitimate grievances regarding poor police service or misconduct by Department members. Members of the public and members of the Department shall not be dissuaded in any manner from making a complaint.
5. Supervisors shall immediately record complaints sufficiently serious to warrant investigation on a Complaint Control Form (Appendix A) and obtain a case number.
6. Only one subject employee and the allegations against that employee shall be listed on each Complaint Control Form. The same case number shall be used on multiple Complaint Control Forms arising out of the same incident. In cases where there are multiple Complaint Control Forms arising from the same incident, redundant information need not be repeated on each of them.
7. The supervisor accepting an external complaint shall give the blue copy of the Complaint Control Form to the complainant, if present, and immediately fax a copy of the Complaint Control Form to the Office of Internal Affairs. The supervisor shall forward all remaining copies of the Complaint Control Form to Internal Affairs by the next business day.

NOTE: In the case of an internal investigation the supervisor shall forward all copies of the Complaint Control Form to Internal Affairs.

8. Case numbers are generated by the Computer Aided Dispatch (CAD) system and shall be obtained by the supervisor taking the complaint by contacting the Communications Bureau. Case numbers are deciphered as follows:

- PC Indicates External Personnel Complaint

- PA Indicates Internal Complaint / Investigation
- 01 Year (First two numerical digits, i.e., "01")
- 123 Julian Date (Third, fourth, & fifth numerical digits, i.e., "123")
- 001 Report File Number (Last three numerical digits, i.e., "001")

9. Each calendar day, the Communications Bureau shall produce a computer printed log of all complaint case numbers and forward it immediately to Internal Affairs. For external complaints, the Communications Bureau complaint log shall contain only the case number, complainant's name, address and telephone number, and the name of the supervisor obtaining the case number. For internal complaints, the Communications Bureau complaint log shall contain only the case number and the name of the supervisor obtaining that case number.
10. Internal Affairs shall log all complaints by the assigned number and complainant's name and track them. For all external complaints, Internal Affairs shall forward copies of the Communications Bureau Complaint Logs and Complaint Control Forms to the Executive Director of the Community Police Review Commission.
11. Internal Affairs shall determine whether an external complaint is to be investigated as a complaint or inquiry, and will be responsible for assignment of Category 1 complaints for investigation. Category 2 complaints will generally be handled at the division level, but may be handled by Internal Affairs.
12. Internal Affairs shall retain the original copy of the Complaint Control Form for tracking purposes. Two copies of the Complaint Control Form will be forwarded to the captain of the command assigned to investigate the complaint. One copy shall be a work copy to be used by the investigating supervisor. The second copy is to be given to the subject employee, except in cases of internal complaints or when such notification would compromise the investigation.
13. Applicable to external complaints against sworn personnel, and effective 01/01/96 section 148.6 was added to the Penal Code, to read:

148.6. (a) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the report to be false, is guilty of a misdemeanor.

(b) Any law enforcement agency accepting an allegation of misconduct **against a peace officer** shall require the complainant to read and sign the following information advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER

KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Complainant

14. Section 148.6 PC does not apply to complaints made against civilian members of the Department.
15. A member of the public who makes a complaint in person against an officer shall be required to read and sign the advisory statement. If the complainant refuses to sign, the supervisor shall indicate "refused" in the signature block and initial the statement. The supervisor shall still accept the complaint. The complainant will be given his/her blue copy of the complaint. The white copy of the complaint and the advisory statement routing procedure will remain the same.
16. If an external complaint is taken by telephone, the complainant shall be advised that they will receive a copy of the complaint and advisory statement for signature in the mail. The routing procedure will remain the same. The Office of Internal Affairs will mail the statement to the complainant for signature. A stamped self-addressed envelope will be enclosed for the complainant to return the signed advisory statement to Internal Affairs.
17. Upon receipt of the Complaint Control Form, Internal Affairs will notify the external complainant, in writing, that the complaint has been received and that an investigation has been initiated. The blue copy of the Complaint Control Form will also be mailed to the complainant, if it has not already been provided to them by the accepting supervisor.
18. Completed complaint investigations shall be forwarded through the chain of command to Internal Affairs.

D. COMPLAINT INVESTIGATION:

1. The supervisor accepting the complaint shall be responsible for accurately and fully completing the Complaint Control Form. The supervisor shall obtain preliminary statements from the complainant and any immediately available witnesses. When practicable to do so, all interviews will be tape recorded. If an interview is not tape recorded, the supervisor must provide a written explanation. Additionally, the supervisor shall collect and preserve any physical evidence that is readily available or may be time or weather sensitive.
2. The supervisor accepting the complaint must clearly, accurately and completely document each allegation made by the complainant on the Complaint Control Form. It is essential that the specifics (date, time, location) of the allegation(s) are obtained and included on the Complaint Control Form. If additional space is required, supervisors shall use a continuation page(s).
3. Internal Affairs shall be responsible for overseeing all external and internal complaint investigations and ensuring that they are completed in a thorough and timely manner. The Personnel Services/Internal Affairs Commander and Internal Affairs Lieutenant shall have the authority to assign investigations to other divisions or to assign Internal Affairs personnel to conduct investigations.

4. The supervisor first becoming aware of allegations of criminal conduct by a Department member shall initiate appropriate police action to ensure the safety of the Department member and the public and shall immediately notify his/her Watch Commander. The Watch Commander will then make the appropriate notifications.
5. The Department has established a goal of completing Category 2 complaint investigations within thirty (30) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Personnel Services/Internal Affairs Commander.
6. The Department has established a goal of completing Category 1 complaint investigations within sixty (60) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Personnel Services/Internal Affairs Commander.
7. All recognized investigative methods for determining the facts surrounding a complaint will be used. Tape recorded interviews will be conducted with the complainant, employee(s), and all witnesses when practicable. If an interview is not tape recorded, the supervisor must provide a written explanation. To avoid having to interview the Department member against whom the complaint is lodged more than once, it is recommended the employee be the last person interviewed.
8. Investigating supervisors shall separately set forth and address each issue raised in the complaint and specify the applicable policy sections.
9. Investigating supervisors shall thoroughly investigate, evaluate, and specifically address in their investigation report the rationale and actual reason for any stop or search related to the complaint.
10. When applicable, investigating supervisors shall make credibility determinations on the complainant(s), each witness, and subject employees and expressly set forth the rationale for those determinations in their investigative report. If such credibility determinations are not applicable, the investigating supervisor shall explain why in his/her investigative report.
11. The subject employee's personnel history, including their existing record of complaints, shall be considered in making a determination of their credibility. A copy of the employee's Internal Affairs complaint history summary shall be included as an attachment to the investigative report.

E. COMPLAINT INVESTIGATION FINDINGS, REVIEW AND APPROVAL:

1. Investigating supervisors shall not make findings in their investigative report as to the complaint allegations.
2. Lieutenants/managers charged with reviewing investigations conducted by sergeants/supervisors shall make findings and explain their rationale as to each of the complaint allegations. The specific policies applicable to each of the complaint allegations must be listed and addressed. They will submit those findings and rationale on a "Memorandum of Findings" which will accompany all completed complaint investigations.

3. In cases of sustained allegations, the affected Division Commander shall cause to be prepared a separate "Letter of Transmittal" stating each of the allegations, the applicable policies, findings, and administrative insight.
4. Completed complaint investigations will be routed through the chain of command to Internal Affairs. Each level of management shall review the completed investigation for objectivity, thoroughness, timeliness, and compliance with Department policies and procedures.
5. Each command officer responsible for reviewing the investigation shall provide a written statement of concurrence or disagreement with the conclusions and findings of the investigation. If there is a disagreement, a full written explanation of the reason(s) for the disagreement shall be provided.
6. Command Personnel charged with reviewing investigations conducted by sergeants/supervisors who directly supervise the employees that are the subject of a complaint shall review the investigation to ensure that a fair, unbiased, and thorough investigation was conducted.
7. Internal Affairs shall obtain final approval of the complaint investigation from the Chief of Police or designee.
8. Investigating supervisors and reviewing managers shall only discuss or disclose investigative information with superior officers or members currently assigned to Internal Affairs.
9. Once the completed investigation is approved, in external complaint cases where the subject employee(s) is a sworn officer, Internal Affairs will forward the investigative report to the Executive Director of the Community Police Review Commission for their review as per Chapter 2.76 of the Riverside Municipal Code.
10. Upon receipt of a finding from the City Manager's Office in cases where the subject employee(s) is a sworn officer, the subject employee's commanding officer, or designee, shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as a basis for disciplinary action against that member.
11. The City Manager will be responsible for notifying the external complainant, in writing by certified mail, within thirty (30) days of the disposition of the complaint. Additionally, Internal Affairs will notify, in writing, the Department member against whom the complaint was lodged and the member's commanding officer of the disposition of the complaint upon receipt of the finding from the City Manager.
12. In cases of internal investigations or external complaints where the subject employee(s) is a civilian, the completed investigative report will be forwarded through the chain of command to the Chief's Office via Internal Affairs and the Personnel Services/Internal Affairs Commander.

The subject civilian employee's commanding officer, or designee, shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as a basis for disciplinary action against that member.
13. If a Department member disagrees with the disposition or finding(s) of the investigation,

he/she may submit a written rebuttal within thirty (30) days to the Personnel Services Commander. The Department member's written rebuttal will be filed with the completed investigation.

F. COMPLAINT INVESTIGATION FILES:

Internal Affairs will be responsible for maintaining a comprehensive file of all complaints and inquiries received by the Department for a period of five (5) years.

G. PITCHESS MOTION:

A Pitchess Motion is a motion for discovery of peace officer personnel records where the defense counsel is attempting to establish a custom, habit or practice of excessive force, untruthfulness or false arrest against an arresting officer. Pitchess Motions generally are filed in cases where the defendant is charged with violating Penal Code sections 148, 241, 243, 245, or similar statutes.

1. Internal Affairs will handle all Pitchess Motions.
2. Upon the filing of a Pitchess Motion, Internal Affairs will promptly notify, in writing, the Department member whose records are being sought for discovery. Internal Affairs will also notify the involved officer(s) what information, if any, was ordered released. The Department member(s) whose file was the subject of a Pitchess Motion will be given the opportunity to review the information which was released, prior to testifying.
3. If the affidavit filed by the defense attorney is found by the judge to fulfill certain legal requirements, the judge will review the records requested which include complaint investigations "in camera" (judge's chambers).
4. In those cases where the judge feels that one or more of the complaints are relevant to the case in question, the judge may order the release of the names, addresses and telephone numbers of the complainants and any witnesses identified in those investigations, as well as the disposition of the complaint.

H. COMPLAINT PROCEDURE COMPLIANCE AUDIT:

Internal Affairs will be responsible for conducting random testing at least three times a year to ensure compliance with the Personnel Complaint Policy.

1. The Internal Affairs Lieutenant may solicit the cooperation of any person to act on behalf of the Department posing as a member of the public requesting to file a personnel complaint or requesting information on the complaint procedure. The details of the fictitious complaint shall be sufficiently serious to cause a supervisor to complete the Complaint Control Form.
2. Upon receipt of the completed Complaint Control Form, Internal Affairs will immediately make the necessary changes to the Complaint Control Log to reflect the complaint as an audit.
3. The Internal Affairs Lieutenant will review the audit complaint for completeness, accuracy, and compliance with the complaint policy and procedure. A report summarizing the results of the audit will be prepared and forwarded to the Chief of Police.
4. Failure of any supervisor to follow the complaint procedure shall be referred to that supervisor's Division Commander for appropriate action. This section shall also apply during any testing or audit exercise.

**RIVERSIDE POLICE DEPARTMENT
COMPLAINT CONTROL FORM**

Complaint File Number: _____
Police Report/Cite Number: _____

Location of Incident: _____ Date: _____ Time: _____

Received By: _____ Date/Time: _____ Routed to: _____

Subject Employee: _____ ID# _____

Complainant: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Witness: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Witness: _____ Date of Birth: _____ Sex: _____ Race: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Business Phone: _____

Business Address: _____

Complaint: _____

Signature of Complainant (Optional): _____

POLICE DEPARTMENT USE ONLY	
Nature of Complaint:	<input type="checkbox"/> External <input type="checkbox"/> Internal <input type="checkbox"/> Inquiry : _____ <i>Internal Affairs</i>
Complaint Received:	<input type="checkbox"/> In Person <input type="checkbox"/> Telephone <input type="checkbox"/> Letter <input type="checkbox"/> Other
Complaint Result of:	<input type="checkbox"/> Radio Call <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Arrest <input type="checkbox"/> Investigation <input type="checkbox"/> Other
Copy of Complaint Received by Complainant?	<input type="checkbox"/> Yes <input type="checkbox"/> No If "No," explain: _____
Category I:	Category II:
_____	_____
_____	_____
Specify the allegation	Specify the allegation

Copy of Complaint Received by Employee: _____

Complainant Notified of Results by: _____ Date: _____ Method: _____

Employee Notified of Results by: _____ Date: _____ Method: _____

Section E

ADMINISTRATIVE INVESTIGATION

This guide was prepared by the Office of Internal Affairs to assist supervisors investigating complaints of misconduct. However, there are differences in each complaint, investigation and employee which prohibits a strict protocol. Therefore, this guide serves only as a source of direction.

In all cases, however, the investigating supervisor must be unbiased and objective. Having an open mind, a desire to seek only the truth, the ability to ask the “tough” questions and the perseverance to answer all of the questions are some attributes you must possess to successfully investigate an incident. An incomplete investigation is not only a disservice to the community and the Department, but it can disassociate the employee who will no longer have any trust or faith in the system.

Your opinion of the lack of seriousness of the investigation will often be completely opposite to the employee’s concern. Some employees will dwell upon a complaint to the point that it will affect performance. The Department has set goals for the timeliness of completing the investigation. It is incumbent upon you to meet those time demands without sacrificing or compromising your investigation.

Many supervisors are unfamiliar with the administrative system and they can jeopardize the Department’s ability to resolve an investigation through a careless approach. If you have any questions about any administrative issue that is not addressed in this text, contact the Office of Internal Affairs.

Remember, the burden of proof in an administrative investigation is a **preponderance** of the evidence and not beyond a reasonable doubt as in a criminal case.

PREPARATION

The first step in any complaint investigation is to evaluate the complaint. There are several issues to consider:

- Determine the issues to be addressed.
- Motive of the complainant.
- What evidence exists?
- What is the time required to complete the investigation?

ORGANIZING THE INVESTIGATION

Once you have an initial understanding of the complaint, it is time to organize your investigation. By outlining some brief steps, you will have an investigative path to follow. Some of the steps are:

- Review the complaint. Contact the accepting supervisor if the complaint is not clear.
- What are the specific allegations? Is there criminal conduct?
- Verify the existence of the policy or rule in question.
- Review the associated police investigation and related documents such as the communications printout.
- Identify any discrepancies in the complaint and the reports.
- Analyze the evidence, lack of evidence or seek evidence that was not secured.
- Who should be questioned and in what priority?
- What questions should be asked?
- Who are the witnesses, where are they and are they available? Do they have any motive?
- Visit the scene. All too often witness statements are taken without the investigator having any knowledge of obstructions or surroundings. Was weather or lighting a factor? Consider photographs of the scene if none were taken.
- Prepare a photo line-up if the identity of the employee is unknown.

PREPARING FOR THE INTERVIEWS

The most important and often the most under prepared part of the investigation is the interview.

It is also the most time consuming. Never schedule yourself to have to end an interview. You should be mentally prepared to remain in the interview at least twice as long as you think it will take.

Before you interview anyone involved in the complaint, you must be thoroughly prepared. That means that you have a thorough understanding of the complaint, have an above average knowledge of administrative procedures, specifically the Peace Officer's Bill of Rights, and have reviewed the questions that you have outlined. By outlining the questions that pertain to the complaint, you will not be as likely to forget an issue if the involved employee turns the interview in a completely unforeseen direction.

Know the history of the complainant, the witnesses, involved employees and the accused employee. While this does not diminish their credibility, it can assist you in determining motive and provide a direction and method to be used during the interview.

Remember that the interview can be stressful for an employee or a witness and having to reschedule subsequent interviews because you overlooked an issue or were unprepared is unprofessional.

Generally, the proper sequence for interviewing is:

- Complainant.
- Civilian witnesses.
- Other agency employees.
- Other involved agency employees.
- The accused employee.

WITNESSES AND COMPLAINANTS

Every reasonable effort should be made to ensure that all witnesses to the incident and allegation are located and interviewed. It is also equally important to rule out persons who may come forward later and purport themselves to be witnesses.

Some sources for witnesses are:

- The complainant. If arrested, the associates.
- Police reports, communications records, audiotapes, and digital recordings.
- Canvassing the area. Include any associated but unrelated areas in the canvass. Examine booking logs, hospital rosters or duty rosters for personnel who may have been in the area but who have not come forward.

- Security videotapes.

Document all your successful or unsuccessful attempts to locate and contact any witnesses.

Research all the witnesses. Not only is this helpful in planning an approach, but it can give you an indication for any possible motives.

At the very least, you should examine:

- Criminal and driving records. Since the investigation is administrative, it excludes any CII inquiry.
- Relationship to the complainant or other witnesses.
- Relationship to the employee.
- Medical or psychological history if appropriate.

Obtain photographs of witnesses and the complainant if the investigation is complex and involved and identification is essential. Drivers' license photos are the best source, however, booking photos can be used with due caution not to prejudice the viewer.

CONDUCTING THE INTERVIEWS

As stated, the interview is the most essential part of the administrative investigation. Results from the interview are indicative of the skill, professionalism and preparation of the investigator. It can also be a reflection of the investigator's biased, slanted and opinionated orientation.

There are two keys to remember - civilian witnesses are unaware of the skills and techniques of a trained investigator and knowledgeable agency employees can be compelled to give complete and truthful statements.

The interview is too important to "wing it" without a plan. First, you must determine the objectives of the interview. Obviously, it is to get the facts of the allegation. Second, you must standardize your questions to address the following factors:

- The specific details of each allegation.
- Identify each person involved and their specific role or degree of participation.

- Resolve any inconsistencies, discrepancies or conflicts with statements and physical evidence.
- Uncover underlying motives or reasons for filing the complaint, not being truthful, or backing away from full cooperation with the investigation.

By preparing a list of standard questions to ask each person, you can avoid the issue of not being fair and objective.

Normally interviews can be conducted by one person. This is particularly true if the interview is taped. However, there are some instances when a second investigator should be involved:

- As a monitor for a criminal interview.
- Politically sensitive or potentially explosive interviews.
- In matters involving sexual improprieties, minor children or domestic violence.

Remember, if more than one investigator is present during an interview, one must be the lead with the roles clearly defined prior to entering the room.

Schedule the witness interviews at a time and place similar with the allegation. If the violation is occurring at the same time as the complaint, an immediate unscheduled interview would be necessary. However, most can be scheduled in advance and should be conducted in person.

Record all interviews, including those conducted by telephone or videotape. Avoid any unexplained breaks, identify all persons present, identify normal breaks and avoid off recording conversations.

Each subject employee is entitled to a representative during the interview. The role of the representative is to be an observer and an advocate. Representatives or attorneys should not be allowed to answer the “tough” questions for the employee. To limit their active involvement your questions should avoid the following:

- Questions that are compounded or confusing.
- Questions which may constitute an unwarranted intrusion into the employee’s right of privacy such as medical records or tax returns.
- Questions which do not pertain directly, or sometimes even indirectly, to the allegations which are the subject of the interrogation.

- Questions that intrude into privileged areas such as conversations the employee may have had with his/her spouse, counselor, clergyman, attorney, therapist or the employee's representative.
- Questions which would tend to mislead the employee by misrepresenting prior facts or circumstances, or statements of other persons or prior statements by the employee.
- Questions which are argumentative.
- Questions which call for guesswork, surmise or conjecture on the part of the employee.

INTERVIEW FORMAT

All administrative interviews shall use the following introductory format:

- Date, time and location of the interview.
- Note that the interview is being recorded.
- Who is conducting the interview and his/ her current assignment.
- Persons present during the interview.
- Purpose of the interview.
- Nature of the investigation.
- That the employee is ordered to answer questions truthfully, honestly and completely.

INTERVIEW TECHNIQUES

General

- Identify any physiological or psychological limitations on the witnesses' ability to perceive events or give a reasonable statement.
- At the beginning of the interview, allow witnesses to explain the entire incident in their own words without interruption. You can revisit specific areas in conjunction with your preplanned questions.

- It's very difficult to describe or capture physical actions on a tape. If witnesses are describing an area or location, they should use a sheet of paper. If they are describing a physical hold, position of other witnesses or actions of any involved participant, consider videotaping the interview.
- You must ask the right question to get the right answer. They must be specific and direct. Do not ask general questions for specific allegations.
- Interviews are not always congenial as the person may be extremely emotional. They may be uncomfortable being with a member of the agency against whom they are making a complaint. If there is conflict, consider rescheduling the interview, recap the statement as a method for a break or break to allow the person to regain their composure.
- Make note of body language, pauses, looking from side to side or other indicators.
- At the conclusion, ask the interviewee if they have any additional information or questions that were not covered.

Some Common Pitfalls

- Leading questions.
- Failure to verify answers.
- Refreshing a witness' memory.
- Badgering the interviewee.
- Failure to record every witness.
- Calling a person a liar.
- Engaging in a confrontation with the witness or employee.
- Helping a witness to speedup an interview.
- Failure to reenact the alleged misconduct with each witness at the scene.

THE INTERVIEW

Complainant

Interviewing the complainant is not any different from interviewing any other person involved in the investigation. Read the complainant's statement to him and ensure that it is accurate and complete. Conduct your interview using the questions you have developed as a road map.

Before concluding the interview, request the following if they are warranted and have not already been obtained:

- Photographs of the alleged injury whether or not any is visible.
- Medical release.
- Additional witnesses.
- Reason for any significant time delay in making any complaint.
- Availability for follow-up.

Agency employees who are not accused.

When employees who are not being accused of misconduct are being interviewed, the ground rules and procedures are the same as any witness. Agency employees, however, should be allowed to review their own reports prepared in conjunction with the incident giving rise to the allegation. These employees do not have the same rights as accused employees in regard to disclosure of investigative materials. They should be reminded of their obligation to fully and truthfully respond to questioning and that their failure to do so could be deemed insubordination and result in administrative discipline.

If the employee being interviewed makes a self-incriminating statement regarding a criminal offense or a statement, which may lead to disciplinary action, the interview should be terminated. The employee should be advised why the interview is being stopped and advised of possible further actions. At this time, the investigator should follow the guidelines for an accused employee.

At the conclusion, the investigator must inform the employee that the interview is confidential and admonish the employee not to discuss the interview with anyone except a representative or attorney if appropriate.

If the employee is believed to have given a false or a deliberately misleading statement during the interview to obstruct the administrative investigation, a new internal investigation should be

initiated. This can normally be eliminated or minimized through skillful interview techniques and challenging obviously evasive and avoidance methods. You must confront employees with obvious discrepancies or contradictions.

Accused Employee

This interview is the most critical. It should be the last interview of the investigation and should be designed to answer or respond to all of the allegations. It is important that you limit the necessity to conduct any follow-up interviews with the accused employee which is often interpreted as intimidating or harassing.

By this time in the investigation you should be familiar with the accused employee's personnel file, reputation, assignment history, training or qualification records if appropriate and prior discipline. You must be familiar with the employee's contractual, statutory and constitutional rights. There is no excuse for testifying later at arbitration that you did not know what *LYBARGER* means.

You should notify the employee of your intention to interview him/her, the allegation and a time and place for the interview. If the employee requests representation, the interview should be scheduled to accommodate that request. However, serious allegations may require that the employee be interviewed as soon as practical and not as a matter of mutual convenience.

INVESTIGATION BIFURCATION - CRIMINAL OR ADMINISTRATIVE

If the complaint is both an allegation that the Department rules were violated and an allegation of criminal conduct, the investigation must be bifurcated. The underlying facts in each case must be evaluated to determine the procedure to follow and for purposes of making a decision on the use of an administrative investigation or criminal investigation or both.

Cases involving allegations of criminal misconduct will first be investigated by the Investigations Division or the appropriate outside law enforcement agency. Internal Affairs will monitor these investigations and obtain copies of all criminal reports.

Criminal investigations will always have priority over administrative investigations. Once the criminal investigation is completed, it will be incorporated into the administrative investigation.

The goal of the criminal investigation is the prosecution of appropriate cases on behalf of the People. The goal of the administrative investigation is to determine whether a department rule has been violated and whether the employee committed the violation.

ADMINISTRATION AND CRIMINAL INVESTIGATION ELEMENTS:

<u>Administrative</u>	<u>Criminal</u>
No right to silence	Right to silence
IA investigation	Criminal investigation
Confidential pursuant to PC 832.7	May not be confidential
Department disciplines	DA may prosecute
Right to criminal report	No right to administrative investigation or report

LYBARGER AND MIRANDA

Most of the investigations that you will conduct will not require a *MIRANDA* admonishment. Those Category 1 investigations, excessive force, false arrest, discrimination/harassment, and criminal conduct, are normally conducted by Internal Affairs in conjunction with a detective from General Investigations. However, if you are assigned an investigation that may be construed as a potential criminal allegation, you should proceed cautiously when it comes to admonishing an accused employee of his/her rights. However, police employees are very familiar with these admonishments and they will probably demand both *MIRANDA* and *LYBARGER*. Therefore, prior to conducting any interview with an accused employee, the investigator must be sure of the direction of the investigation.

If the decision has been made by the Chief's Office or the Office of Internal Affairs to investigate the allegation as administrative, the investigator will admonish the employee of both *MIRANDA* and *LYBARGER* rights from the Admonition of Rights form. This should be done on tape and the employee asked to sign the form and verbally acknowledge his/her rights. The form will become part of the permanent package.

If the employee refuses to cooperate during the interview after being advised of the *LYBARGER* admonishment, he/she should be reminded of their obligation to fully and truthfully respond to questioning and that their failure to do so could be deemed insubordination and result in administrative discipline. If the employee continues to refuse to cooperate, you should request that the employee's commanding officer admonish him/her.

Remember, if the employee is compelled to give a statement, the criminal investigator shall not be present during the interview nor can he/she become aware of any information obtained during the interview.

If you are assigned to investigate only a criminal allegation, you should proceed as you would with any other criminal investigation dependent upon the response to *MIRANDA*.

If you are assigned to investigate only a violation of Department policy or procedure, you may *LYBARGER* the employee if he/she declines to respond during the interview.

The admonition of rights and the appropriate time to do so cause the most confusion for supervisors and investigators. That is why it is important to have preplanned your interview. You can be sure that if the employee is accompanied by an attorney or representative, they will demand both *MIRANDA* and *LYBARGER*. However, you should not automatically shield the employee by *LYBARGER* if he/she waives *MIRANDA* or declines to respond. If you have any doubt, you should seek advice from a superior or the Office of Internal Affairs.

PROCEDURAL BILL OF RIGHTS REVIEW

When does it apply?

- Applies to a public safety officer who is under investigation and subjected to interrogation by his/her supervisor, or any other employee of the public safety department.
- Does not apply to any interrogation of an officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with a supervisor or any other employee of the public safety department, nor shall this apply to any investigation concerned solely and directly with alleged criminal activities.

Interrogation shall be conducted under the following conditions if it could lead to punitive action:

- Punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.
- Interrogation shall be conducted at a reasonable hour, preferably at a time when the officer is on duty, or during the normal waking hours for the officer, unless the seriousness of the investigation requires otherwise.
- If the interrogation does occur during off duty time, the officer shall be compensated and the officer shall not be released from employment for any work missed.

- The officer under investigation shall be informed prior to such interrogation of the name, rank and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation.
- All questions directed to the officer shall be asked by and through no more than two interrogators at one time.
- The officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
- The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated.
- The officer under interrogation shall be allowed to attend to his/her own personal physical necessities.
- The officer under investigation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action.
- No officer shall be lent or temporarily reassigned to a location or duty assignment if a sworn member of his/her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
- No promise or reward will be made as an inducement to answering any questions.
- The employer shall not cause the officer under interrogation to be subjected to visits by the press or news media without his/her express consent nor shall his/her home address or photograph be given to the press or news media without his/her express consent.
- The complete interrogation of an officer may be recorded. If a tape recording is made of the interrogation, the officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The officer being interrogated shall have the right to bring his/her own recording device and record any and all aspects of the interrogation.

- The officer shall be entitled to any transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed confidential. No notes or reports which are deemed confidential may be entered into the officer's personnel file.
- If prior to or during the interrogation of an officer it is deemed that he/she may be charged with a criminal offense, he/she shall be immediately informed of his/her constitutional rights.

When can the officer have a representative?

- Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action against an officer.
- The officer, at his/her request, shall have the right to be represented by a representative of his/her choice who may be present at all times during such interrogation.

Representative

- Shall not be a person subject to the same investigation.
- Shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

Please do not hesitate to contact the Office of Internal Affairs for guidance at any time during your investigation. Most, if not all of your questions, have already been asked and answered during prior investigations. If the information is not available, we will contact the City Attorney's office for direction. Never move forward if you are not sure what you are doing. Remember, it is your responsibility to know, and with all the resources available day or night, there is no excuse for not doing it right. The citizen expects it, the Department demands it and the employee respects it.

INVESTIGATIVE REPORT FORMAT

A Riverside Police Department Complaint Control Form shall be completed and a personnel complaint (PC) or internal investigation (PA) file number obtained from Communications. A copy of the Complaint Control Form is attached.

The investigation shall use the Internal Affairs investigation format. Copies of the Internal Affairs investigation format and Riverside Police Department Employee Admonishment of

Rights forms can be found at the end of this chapter. The Employee Admonishment of Rights forms include the Riverside Police Department Grant of Immunity (Lybarger) admonishment.

Investigating supervisors shall separately set forth and address each issue raised in the complaint.

Investigating supervisors shall thoroughly investigate, evaluate, and specifically address in their investigation report the rationale and actual reason for any stop or search related to the complaint. Note in the investigation narrative the existence or lack of any digital recording(s) made by the officer(s) involved in the incident by setting apart the names and ID numbers of the officers that made recordings, the number of recordings by each officer, and the incident number.

When applicable, investigating supervisors shall make credibility determinations on the complainant(s), each witness, and subject employees and expressly set forth the rationale for those determinations in their investigative report. If such credibility determinations are not applicable, the investigating supervisor shall state that in his/her investigative report.

The subject employee's personnel history, including their existing record of complaints, shall be considered in making a determination of their credibility. A copy of the employee's Internal Affairs complaint history summary shall be included as an attachment to the investigative report.

COMPLAINT INVESTIGATION FINDINGS:

Investigating supervisors shall not make findings in their investigative report as to the complaint allegations.

Lieutenants or managers charged with reviewing investigations conducted by sergeants or civilian supervisors shall make findings and explain their rationale as to each of the complaint allegations. They will submit those findings and rationale on a "Memorandum of Findings" which will accompany all completed complaint investigations.

In cases of sustained allegations, the Memorandum of Findings shall include administrative insight listing the employee's past discipline and other relevant performance factors. Any mention of past discipline should include the file number, the Department policy or procedure that was violated and the type of discipline imposed. All supporting documentation of past discipline should be attached.

COMPLAINT INVESTIGATION REVIEW AND APPROVAL:

The Department demands, and the community and employees deserve investigations that are fair, unbiased and thorough. The preparing supervisor and each reviewing manager shall ensure that these objectives are met.

Upon completion of the investigation, the investigating supervisor will complete applicable information on a Personnel Investigation Mandatory Routing form and forward the investigation to their immediate superior for review and approval.

During the first level review, the lieutenant/manager will review the investigative report for objectivity, thoroughness, timeliness, and compliance with Department policies and guidelines. The investigation must reflect the supervisor's use of proper investigative procedures and diligent efforts to locate witnesses and obtain statements. Additionally, the report must address all applicable topics, as described in the Investigative Report Format section of this chapter. Particular attention will be given to ensure that each issue raised in the complaint is addressed separately, that the rationale for any stop or search related to the complaint is explained, and that the rationale for any credibility determination is reasonably supported. Reports not meeting these minimum standards shall be returned for further investigation.

Upon completion of this review, the lieutenant/manager will determine an appropriate finding for each allegation listed, prepare a Memo of Finding stating the justification for such finding(s), complete applicable information on the Personnel Investigation Mandatory Routing form, and forward the investigation to the division captain/manager.

At the second level of review, the division captain/manager will review the report and Memo of Finding. The division captain/manager may return the report for further investigation or, upon concurrence, complete applicable information on the Personnel Investigation Mandatory Routing form and forward the investigation to Internal Affairs.

During the third level of review, Internal Affairs will review the investigation report and Memo of Finding. Internal Affairs may return the report for further investigation or, upon concurrence, complete applicable information on the Personnel Investigation Mandatory Routing form and forward the investigation to the Office of the Chief of Police.

At the final level of review, the Office of the Chief will review the report and all related documents. The Office of the Chief may return the report for further investigation or, upon concurrence, initiate appropriate action(s) to conclude the investigative process.

COMPLAINT PROCEDURE EVALUATION AND COMPLIANCE AUDITS

Internal Affairs shall annually prepare a report to the Chief of Police evaluating the complaint investigation process. The annual report shall include, but not be limited to, assessment of the following:

- Manner in which the Department receives complaints;
- Quality of complaint investigations;
- Adherence to established timelines;
- Effectiveness/efficiency of the overall process;
- Recommendations for improvement.

The Office of Internal Affairs shall engage in random testing of the complaint procedure at least three times per year.

Evaluation of compliance shall be conducted through audits or some equivalent.

The Internal Affairs Lieutenant/Sergeant may conduct audits in a manner that evaluates any dimension of the personnel complaint procedure.

Upon completion of a compliance audit, personnel conducting the audit shall prepare a written report summarizing the audit and shall submit it to the Internal Affairs Lieutenant.

Within fifteen days of the audit, the Internal Affairs Lieutenant shall submit a written report to the Chief of Police. The report shall summarize the audit and contain an evaluation of compliance.

Upon completion of the audit review by the Chief of Police, involved personnel shall be notified of the audit findings by the Internal Affairs Lieutenant or the Division Commander.

Failure of any personnel to follow the complaint procedure shall be referred to that employee's Division Commander for appropriate action.

All compliance audits will be tracked and retained in the Office of Internal Affairs.