

# **San Antonio Police Department Policy, Practice and Training Review**

May 2008



## **EXECUTIVE SUMMARY**

Under the authority of the San Antonio City Council, the Police Executive Research Forum (PERF) conducted an independent assessment of the San Antonio Police Department regarding the use-of-force and the process by which citizens make complaints against officers and police practices. The review included careful examination of:

- Use-of-force incidents, policies, practices and training;
- The reporting and investigating processes for officer involved shootings; and
- The procedures for accepting and investigating citizen complaints.

The report contains sections on community perspectives of the department, the use-of-force by its members and the citizen complaint process. The next section evaluates specific use-of-force policies and is followed by a summary of use-of-force reporting data. The report then assesses the citizen complaint process, internal affairs and disciplinary procedures. The Chief's Advisory Action Board is reviewed in a separate section. The report continues to assess reports on internal investigations and then examines the department's Early Warning/Early Intervention System. Separate sections are devoted to the operations of special units with missions that subject them to frequent encounters with criminal suspects with an increased likelihood that force may be used. Units included are the Tactical Response Unit, the Narcotics Unit, the SWAT detail and the Repeat Offender Program. The report concludes with a section that reviews the training curricula and policy regarding use-of-force, search and seizure and career development.

The major approach used in this study is to compare specific San Antonio Police Department (SAPD) policies, practices and training related to use-of-force and the citizen complaint process to national practices and to make recommendations for improvements. PERF study team members collected SAPD policies and procedures, interviewed both departmental members and community residents and assessed how the department deals with use-of-force, officer involved shootings and citizen complaints. The PERF team not only brought substantial personal subject matter expertise to the project, but also compared SAPD policies and practices to:

- National best practices;
- Standards from the Commission on Accreditation for Law Enforcement Agencies (CALEA);
- Example model policies; and
- Research results generated by professional and academic organizations.

PERF staff also collected and appraised related SAPD training curricula to determine if those materials are consistent with current policy and whether modifications were needed.

Beginning in 2005, the San Antonio Police Department implemented a detailed and well constructed process to gather data on the use-of-force by officers. Over the three years, since the inception of this reporting system, the most notable change in use-of-force has been in the number of incidents; from 526 in 2006 to 631 in 2007. The ethnicity of subjects, the types of subject resistance, the types of force used by officers and subject injuries has remained proportionately similar.

The increase in use-of-force incidents in 2007 was most likely influenced partly by the proactive anti-crime tactics used by the Tactical Response Unit and their subsequent increased encounters with violent crime suspects more likely to resist. The department should continue to closely examine use-of-force reports and carefully assess any trends which emerge. Some police agencies have found that special anti-crime units may tend to escalate contacts more quickly because they work in groups and have immediate back-up, because they expect more resistance since they are looking for violence prone individuals, because they are composed of aggressive, high performing officers and because they often use military style uniforms, weapons and tactics. When such units are created they need to undergo careful training and orientation to avoid conduct that may be detrimental to positively engaging the community. In some instances, in-service training may be appropriate. If problems continue such units may need to be reformed.

Of the use-of-force reports submitted over the three years, 94% show that officers used relatively little force – verbal commands, defensive tactics, or intermediate weapons compared to 91% of the reports in which subjects used no weapon, fist/punch, feet/leg or hands/arm. Throughout the country police officers are taught to use the minimum force needed to obtain compliance by subjects and to avoid prolonged battles. This requires that the police seek to quell resistance by using force superior to that used by the subject whenever necessary. Overall, the actions of SAPD officers are in keeping with this requirement.

PERF conducted a review of the citizen complaint process, the operations of the Internal Affairs Unit and the disciplinary system. In these areas findings confirm that the department is generally in compliance with national standards, but that improvements can be made. Such improvements should enhance transparency and lead to an increase in the level of community trust in the department's ability to conduct objective investigations into allegations of misconduct against members of the department and to hold those found in violation accountable.

Overall, the San Antonio Police Department's use-of-force, officer involved shooting and citizen complaint policies and training are aligned with national practices and with the standards of the Commission on Accreditation for Law Enforcement Agencies (CALEA). Many of the department's directives were originally constructed to meet CALEA standards (the department was last accredited in March 2002) and subsequent revisions have taken those standards into account.

However, PERF found that there are numerous opportunities for improvement. Although some are minor and involve updating, others are more substantive. In some areas, the department has already begun needed changes. To continue building community trust and implementing operational enhancements, the San Antonio Police Department needs to maintain a sharp focus on continuous improvement. PERF recognizes that the City and Police Department's ability to incorporate some of the recommendations included in this report may be limited by the Texas Local Government Code Section 143.089(g) and the City's current collective bargaining agreement between the City and the San Antonio Police Officer's Association.

City residents at PERF's community meetings shared a wide range of perspectives on the SAPD. Participants want the department to communicate more effectively with the public. They want a more accessible, open and transparent citizen complaint and investigation process. They also want a police department that reflects the diversity of the city and understands the varying problems of the City's residents and neighborhoods.

PERF's assessment found that change is needed in ten areas. The highest priority changes are presented below. Others appear in the text of this report.

### **Use-of-Force Policies Involving Shooting at Moving Vehicles Should Be Clarified**

Police agencies across the country have dealt with this issue, too often because such incidents have had disastrous consequences. Progressive police departments have adopted policies aimed at decreasing the potential mayhem resulting from out of control vehicles because of wounded drivers and have focused on improving officers' tactical awareness to enhance both officer and public safety. The following policy elements have been adopted as best practices and should become part of the policies of the San Antonio Police Department.

- Firearms should not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle itself.
- When dealing with subjects in vehicles, officers should not put themselves in the path of the vehicle.
- Officers should employ all reasonable means available to move to an area of safety if the vehicle becomes a threat, including retreating from the threat if practical.
- Officers should not intentionally place themselves in harm's way by standing or moving in front of a vehicle, standing directly behind, or reaching inside an operating vehicle.

### **Use-of-Force Policies Regarding Conducted Energy Devices (Tasers™) Should Be More Restricted**

The U.S. Department of Justice Office of Community Oriented Policing Services funded PERF to conduct a comprehensive study of the use of Conducted Energy Devices. This work, published in November 2006 and titled "Conducted Energy Devices: Development of Standards for Consistency and Guidance," represents a national consensus for CED policy and training guidelines. As a result of comparing the standards set out in this document to current practice in San Antonio, SAPD CED policy revisions should include the following:

- Establishing parameters on the number of CED activations permitted;
- Placing restrictions on CED use against visibly frail people;
- Requiring medical evaluation for all those subjected to CED use;
- Providing guidance regarding the duration of CED activations;

- Placing restrictions on multiple officers activating a CED on a person simultaneously; and,
- Establishing a requirement that a supervisor should respond to the scene of each CED activation.

### **The Citizen Complaint Process Should Be More Accessible and Transparent**

Interviews with community members revealed a perception that the citizen complaint process is difficult and intimidating. PERF's review concluded that the SAPD can take a number of steps to revise the process so that it is more open, accessible and transparent. This can be done in a manner that balances police accountability and officers' rights. Recommendations for improvements in the complaint acceptance and investigation process include the following.

- The acceptance of citizen complaints should be viewed by the department as the equivalent of submitting a crime report rather than as tantamount to testifying in a court proceeding. Warnings about Aggravated Perjury and notarization requirements should be eliminated. Language should be substituted concerning the consequences of submitting a false sworn statement to still provide a deterrent against frivolous and malicious complaints. Upon acceptance of the initial statement, if there is concern as to its truthfulness, a subsequent clarifying statement should be taken which may be notarized. This will allow the prosecution of malicious falsehoods made against members of the department without discouraging legitimate complaints made in good faith.
- Complaint forms should be accepted by mail and through the Internet, as well as in-person. The complaint brochure should be revised to include the form, which should also be available online. Both sources should be accessible in multiple languages. Both sources should include the stated consequences of filing a false police report. The intent of this change is to create a more open process rather than to provide avenues for false or frivolous complaints. Such complaints should be reviewed by Internal Affairs staff with follow-up questions of the complainant at a scheduled interview.
- Whenever possible, statements from non-English complainants should be written in their spoken language for them to review and sign.
- When Internal Affairs conducts an initial interview and then transcribes the statement for review, including revision and signature by the complainant, the complainant should be given a copy of their signed statement.
- Internal Affairs investigators (and supervisors investigating minor complaints) should be open to accepting complaints and conducting interviews at locations convenient to complainants and witnesses rather than only in a police facility.

- Contrary to some residents’ understanding of the process, a complainant can be accompanied by counsel when filing a complaint. The department’s material on the complaint process should include this information.
- The Internal Affairs Unit should make a greater effort to contact non-cooperative complainants to ensure potentially sustainable violations are not being committed by members of the department.

While we recommend making these changes to build relationships with the community we also recognize the importance of accomplishing these revisions while still preserving officers’ due process rights.

### **The Department Should Create a Disciplinary Matrix**

PERF’s review of the disciplinary process revealed a need mostly for minor improvements but one major recommendation resulted.

- The department should create a disciplinary matrix. A matrix groups violations by severity and then offers a range of sanctions for each group. A matrix system maintains a range of sanctions, allowing management to take into account individual circumstances, but adds predictability and equity for officers having committed similar infractions. It also provides a statement by the department about how senior management views the severity of different types of misconduct.

### **The Composition and Appointment of Civilian Advisory Action Board Should Be Changed**

San Antonio’s Chief’s Advisory Action Board (CAAB), which reviews and makes recommendations on internal investigations, is composed of the Police Advisory Action Board (made up of sworn members of the department) and the Citizen Advisory Action Board (made up of community members). PERF’s comparison of the CAAB to similar review panels used elsewhere resulted in the recommendation to change how the Citizen Advisory Action Board is selected. The Board must be perceived as striking a fair balance between the rights of departmental employees accused of misbehavior and the interests of the community to have the police held responsible. Only when these two interests are fulfilled may the department truly be held accountable.

- The City Council should select the civilian members of the Board without the involvement of the Police Officers Association. Allowing a police labor group to effectively “veto” potential board members is unusual and is detrimental to community

trust in the process. PERF understands that change can only come about through a strong level of cooperation between the City, the Police Department, the San Antonio Police Officers' Association and the community in this regard.

### **The Department Should Capture and Make Public More Data on Internal Investigations**

PERF reviewed departmental data on internal investigations. Information is divided by whether the investigation was of a minor, or "line," complaint or whether it was of a major, or "formal," complaint. Minor complaints deal with such actions as rudeness or discourtesy and are usually investigated by police supervisors. Major complaints deal with such actions as use of unnecessary force or criminal behavior and are usually investigated by Internal Affairs. PERF recommends that the process by which the department tracks and reports line complaints be improved. Community trust depends not only on how the department deals with major complaints but also on how it deals with minor ones. PERF's recommendations are:

- The department should establish a working group among the Area Commanders and other section commanders, members of the Internal Affairs Unit and the department's Legal Advisor to create a formal and standardized case management system for recording, submitting, tracking and filing line complaints.
- The procedure should include required notification of outcomes to the complainant.
- Statistical information on the disposition of Line and Formal Complaints should be included in the Annual "Formal Cases and Line Complaints" Report by Internal Affairs and the report should be added to the SAPD's Internet Home-Page for review by the public.

### **The Department Should Convert the Early "Warning" System to an Early "Intervention" System**

The purpose of an Employee Early Warning/Intervention System is to identify and manage employee behavior that results in performance related problems. Such systems use non-disciplinary processes to help and support employees whose behavior suggests they could be at risk. By taking action before an employee gets into serious trouble, the system attempts to help the employee maximize his/her professionalism while maintaining the substantial investment the community has in each of its police officers. The system used by the SAPD is labeled as an "Early Warning System." PERF's recommendation is:

- The department should re-focus its efforts to an “Early Intervention System.” The change from an early *warning* to early *intervention* system signifies a philosophical difference in the department’s approach to providing assistance to employees to address problematic job-related behavior. This distinction changes the emphasis to intervening and “rescuing” employees rather than on acting to keep from disciplining them.

### **The Department Needs to Closely Monitor Special Unit Operations**

The Tactical Response Unit (TRU) comprises most of PERF’s major recommendations regarding special units. The TRU was formed in January 2007 and given the mission to reduce violent crime through saturation patrol and intensified contacts with criminal suspects. Although apparently successful in reducing targeted crimes, its tactics alienated some residents in the high crime neighborhoods that were the focus of TRU operations. TRU officers seemed to generate a disproportionate number of complaints. The department has already made some changes, but it needs to continue to monitor the tactics and performance of the TRU and of its other special units.

Some personnel have been changed and the TRU’s operational philosophy and practices have been altered. The department reviewed complaints against TRU members and provided officers with information on how to better manage their encounters with people in the neighborhoods. The geographic boundaries of TRU areas of operation were expanded so that their “omnipresence” did not create an aura of an occupying army in their assigned neighborhoods. The TRU has purposefully looked for opportunities to work with the community in other than enforcement functions. Such changes seemed to have enabled the unit to continue to successfully address crime problems but have decreased complaints.

Recommendations include:

- Each SAPD special unit should have a distinct purpose but the department should ensure they act in a coordinated approach. Care should be taken to avoid units trying to become wholly self-contained. For example, risky warrant service and entries should be an exclusive part of the SWAT Detail’s function. They have the training, experience and equipment to ensure that such events are carried with maximum safety. Allowing other units to take on this role jeopardizes both officer and public safety.

- The department should structure on-going communication among station commanders, special unit commanders, supervisors and residents in the neighborhoods and areas of concentrated operations. On-going communication and neighborhood involvement will make operations more productive and safer.
- Unless in plainclothes assignments, unit members should wear the standard SAPD uniform rather than military garb. Other than in special circumstances such as SWAT call outs, they are performing police duties rather than military operations. They should avoid taking on the trapping of an “occupying army.”

### **The Department Should Ensure that Newly Promoted Personnel are Promptly Trained**

The SAPD policies and training standards PERF reviewed met or exceeded several of the national benchmarks. In some cases, PERF made relatively minor recommendations for change that will enhance the strong training foundations that the department currently has in place. However, the department should address promotional training more systematically. PERF recommends that:

- The SAPD should ensure that all newly promoted personnel are provided with job-related training. Such training should be commensurate with their new duties. Ideally it should take place prior to beginning work in the new position but should occur within the first year following promotion.

### **The Department Should Remain Constantly Vigilant to Ensure It Complies with Search and Seizure Law**

The department has recognized the critical importance of ensuring that people’s Fourth Amendment rights against unreasonable search and seizure are protected. The 2008 In-Service Training schedule and Training Bulletin #07-06 (Searches and Seizures: October 26, 2007) attest to the department’s awareness of the need to observe this right while promoting officer safety, community safety and suspect safety. Still, PERF recommends:

- The department should be constantly vigilant about search and seizure since not only is the law continually evolving but so too are tactics used by criminal suspects. Constant training and supervisory support are necessary so officers can take full advantage of what the law permits, but stay mindful of both legal and community constraints. For example, although searches of “the cleft of the gluteus muscles” may be legal in certain circumstances, such searches must take into account community sensitivities.

## **Summary**

In many areas examined in this study the San Antonio Police Department is meeting its responsibilities effectively. At the same time, we believe there are areas where improvements should be made which will further strengthen community trust and accountability. PERF is confident that the San Antonio Police Department will incorporate many of these recommendations into its policies and practices. We understand some changes are already underway. The outcome of implementing PERF's recommendations will be a police department that garners greater community support, enhances officer safety and maintains a strong focus on preventing and controlling crime, violence and disorder while protecting the constitutional guarantees of all.

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## **THE SAN ANTONIO POLICE DEPARTMENT**

San Antonio is the seventh largest city in the United States. The San Antonio Police Department is a full service police agency that is comprised of 2,900 sworn and civilian employees and has been an accredited agency through the Commission on Accreditation for Law Enforcement Agencies (CALEA). The department is organized into two bureaus reporting to the Chief of Police, each under the direction of an Assistant Chief. The Operations Bureau is responsible for uniform patrol functions and is divided into the North and South Division, each under the authority of a Deputy Chief. The Operations Support Bureau is comprised of the Services and Support Division, Investigations Division and the Technical Support Division, each also under the command of a Deputy Chief.

The Office of the Chief of Police consists of the Chief and secretarial support, Media Services, Executive Officer, Legal Office, Training Academy and Resource Management. Resource Management consists of Program Development, Information Technology, Fiscal Services and Facilities Administration.

The Operations Support Bureau represents the largest number of employees in the department and is divided into two divisions, Patrol North and Patrol South. The Patrol North Division consists of the Northwest, North and East Substations while the Patrol South Division is made up of the West, South and Central Substations. The Night Commander also reports directly to the Operations Bureau Assistant Chief.

Each substation is commanded by a Captain and staffed with Patrol Officers, Detectives, Sergeants (first line supervisors) and Lieutenants (the shift managers). Each substation is responsible for covering a specified geographic area of the city. As the following chart shows, the substation areas vary substantially in officers assigned, population and square miles.

<b>Substation</b>	<b>Captain</b>	<b>Patrol Officers</b>	<b>Sergeant</b>	<b>Lieutenant</b>	<b>Square Miles</b>	<b>Population 2004</b>	<b>Detectives</b>
North	1	170	13	3	103.0271	249,026	11
Northwest	1	196	14	3	119.8000	322,777	15
East	1	127	13	3	51.9914	120,950	11
Central	1	176	14	3	81.9800	120,275	13
South	1	145	13	3	81.4484	148,652	11
West	1	207	14	3	21.3472	266,794	15

\* Developed by SAPD Strategic Analysis and Mapping Office Dec 2007

Each substation's composition includes uniformed patrol officers whose primary responsibility is call-for-service response, uniformed officers who staff the station's community-oriented program known as S.A.F.F.E. and plain clothes detectives assigned to investigate property crimes and robberies. Patrol officers as first responders account for most of the department's contact with San Antonio residents either when a resident is reporting a crime or when the resident has been identified as a suspect in a criminal offense.

The Operations Support Bureau provides support to the front line delivery of police services. It is organized into three divisions; Service and Support, Investigations and Tactical Support. Records, Operational Support and Property and Evidence Storage make up the Service and Support Division. The Investigations Division is made up of the Crime Investigations Section and Crime Scene Investigation. The Tactical Support Division is responsible for Traffic/Emergency Operation, Tactical Support and Crime Detection Sections.

The stated philosophy of the San Antonio Police Department appears in the General Manual Procedure and is dated April 17, 2006. This statement is important to the assessment performed by PERF because it should specify the values and beliefs that guide the activities and operations of the department. The statement is as follows:

### *Statement of Philosophy*

*As a law enforcement organization, the San Antonio Police Department is an essential component in the diverse fabric of the community it serves. In order to manifest this important responsibility, our guiding philosophy is to accomplish a contribution that is beneficial to the quality of life of each citizen. This commitment is satisfied through three fundamental roles:*

*At the municipal level, the department serves as a basic element of the governmental structure of the City of San Antonio, conveying a wide variety of public services to each and every citizen;*

*At the state level, the department enforces the Criminal Laws of the State of Texas in order to maintain an acceptable level of peace and order within the community; and*

*Finally, in a national sense, the department safeguards individual rights and freedoms in the course of preserving the Constitution of the United States of America.*

*The essence of the police mission is the effective provision of public assistance at every opportunity, through citizen confidence and involvement, organizational effectiveness and accountability, and individual dedication and commitment.*

*Achieving an appropriate degree of public confidence and involvement requires a spirit of close interaction with those we serve. To this end the department constantly strives to preserve and cultivate an open state of trust and communication with the community, clearly understanding that the success of our organization is directly predicated on the quality of this relationship.*

*Organizational effectiveness and accountability are achieved in the course of a three part process: developing an intimate understanding of the needs of the community; subscribing to a system of effective planning, stringent budgeting, communicating expectations, and coordinating functions; and finally, monitoring and evaluating activities in order to sustain the highest possible degree of adherence to the goals and objectives of the department.*

*The members of this department constitute its most valuable resource. Thus, the promotion of individual dedication and commitment is one of our highest priorities. This goal mandates an internal environment that develops and stimulates a high degree of individual initiative and productivity through personnel development, training, and education. This investment serves to foster good judgment and common sense, the two most important foundations for police work. The true difference in any organization is made by its members, those who subscribe to a spirit of collective dedication and commitment which is the final and most important ingredient in this entire formula.*

The focus of this study is on limited, but critical, aspects of the San Antonio Police Department. Areas to be covered include: the use-of-force and relevant policies, practices and training; the reporting and investigating process for officer involved shootings; and the citizen complaint and disciplinary process. According to the Statement of Philosophy, the department's actions and operations that are the subject of this study should therefore reflect the following philosophic components:

- “...the department safeguards individual rights and freedoms in the course of preserving the Constitution of the United States of America;”
- “...the department constantly strives to preserve and cultivate an open state of trust and communication with the community, clearly understanding that the success of our organization is directly predicated on the quality of this relationship;” and,
- That the department is “...monitoring and evaluating [its] activities in order to sustain the highest possible degree of adherence to the goals and objectives of the department.”

Adherence to the Constitution, openness, trust and communication with the community, and continual monitoring and evaluation of departmental actions and operations become the key overarching principles of this study.

## **THE COMMUNITY'S PERSPECTIVE**

As part of this study, two focus groups were conducted with members of the community in an effort to understand public perceptions of the San Antonio Police Department, the community's level of trust in the agency and the extent to which residents have confidence in the police department. One meeting was organized by city officials and the other was organized by community members themselves. PERF team members attended these meetings to discuss concerns and identify issues important to the public regarding policing in San Antonio, use-of-force and investigation of complaints against the department.

The first community focus group was held at the ICB Bank on Tuesday, January 15, 2008 from 5:30 p.m. to 7:30 p.m. Participants were selected by the City Manager's Office and included community leaders from an array of entities. Contributors represented educational institutions, the criminal justice system, businesses and faith-based organizations.

Members of this group praised the Chief and others on the executive staff for engaging in direct community communication. In their view, the administration is open to partnerships with the community and the Chief is responsive to the needs of the community. An example of this cited by group members is the Chief's willingness to make policy changes to reflect community concerns. They believe SAPD does a good job of keeping neighborhoods safe and achieving a sense of safety for the community.

Group participants were aware, however, of negative media coverage and criticisms of the police. They recognized that some in the community are concerned about racial discrimination and profiling occurring in high crime, poverty-stricken areas where many minority residents live. They accepted that some in the city may fear the police and perceive that some officers seem to show a lack of respect for different cultures.

These community representatives stated that, while they personally feel a level of trust with the SAPD they recognized some in the public do not trust the department because of witnessing or experiencing incidents including brutality, rudeness and discrimination. They felt the general perception of police in the community is negative – especially at the line level – while

perceptions are more positive of the leadership and command staff of the department. Participants were of the opinion that much of the general disapproval stems from negative media coverage combined with poor information flow from the police department to the community. They felt that little positive information is provided to the community about police programs resulting in a skewed community view of the police. Finally, participants said the Citizens Advisory Action Board is not representative of the community and does not include minority members.

The group offered suggestions on how the SAPD could improve community trust and confidence:

- The police department should replicate the focus group meetings in the form of open dialogue sessions between the police and those community members who feel the most fear or discrimination. In addition, the department should have an open dialogue between police and high risk youth population.
- Police officers should be encouraged to obtain higher degrees with the idea that a more educated police department will be more respectful of the community.
- Police officers should be encouraged to “walk and talk” more within the community.
- The police need more training and skill development in the area of communication, community relationship building and partnership building. Training should extend to cultural and diversity training that improves officers’ understanding and respect for other ethnicities and cultures.
- The department should ensure that any assessments of police processes being undertaken are not exclusively self-assessments (police-led) but include a level of independent review.
- The police department should be diverse and reflect the community it serves to enable the department to reach out to diverse communities more effectively. Participants felt that there could also be some open dialogue on the issue of diversity within the police department.

**Community Focus Group Attendees:**

Sister Gabriella Lohan	Community Organized for Public Safety
Father Walter De-Hedne	Community Organized for Public Safety
Dr. Adena Loston	President, Saint Phillips College
Honorable Rose Spector	Retired District Court Judge
Esther Bernal	Retired School Teacher / School Board Member
Nite Marshall	Retired SAPD Constable / Business Owner
Richard Perez	President, Chamber of Commerce / Former Council Member

The second Community Focus Group Meeting was held at the San Antonio Mount Zion First Baptist Church on Wednesday, January 16, 2008 from 5:00 p.m. to 6:00 p.m. Mario Solis, a former Councilmember, and James Myart, a civil rights attorney, both members of San Antonio Human and Civil Rights Coalition, were instrumental in organizing the attendance of approximately 50 city residents. They developed the agenda and facilitated the meeting. Members of the print, radio and video media also attended.

Participants represented various segments of San Antonio's communities including advocacy agencies, faith-based organizations, and individuals that reported being abused by members of the San Antonio Police Department. Organizations represented included:

- American Civil Liberties Union (ACLU)
- National Association for the Advancement of Colored People (NAACP)
- The International Poverty and Civil Rights Law Center, Inc. (IPCRLC)
- League of United Latino American Citizens (LULAC)
- Peace Initiative
- Esperanza Peace and Justice Center
- Stonewall Democrats
- Mount Zion First Baptist Church

During this session, meeting organizers arranged for selected participants – both individuals and organization representatives – to relay their concerns and observations about the San Antonio Police Department and to provide accounts of specific police interactions they had experienced. The individuals who spoke expressed heartfelt concerns about negative police behavior, recounting episodes of alleged excessive use-of-force and authority by San Antonio police officers. A list of concerns and issues were summarized in a document that was provided as a handout (See *Attachment A*).

In addition to those issues listed in the document, the following concerns were gleaned from the testimonials and personal stories delivered during this meeting:

### **Internal Affairs Policy and Process Issues**

- Police should face consequences for their actions and should have to abide by the law and face prosecution if they break the law.
- The San Antonio Police Officers Association has too much influence on the Internal Affairs Process, with contract guidelines dictating certain aspects of the investigations.
- There is a conflict of interest with certain members on the Citizens Action Advisory Board.
- The Citizens Action Advisory Board should be replaced with an independent citizens review board.
- The Internal Affairs process is threatening – both in policy and in officer presence/response. Non-police personnel should be taking complaints as officers can be intimidating.
- The prominence and placement of the perjury warning on the form used to file a complaint is intimidating and discourages complaints. This same standard should be applied to police officers.
- Some individuals felt they were discouraged by officers from giving a complaint when they physically went into SAPD's IA Office or other police facility to file a complaint.
- Some individuals claimed they were not allowed by IAD to bring either lawyers or family members with them to file their complaints.
- Complainants do not receive regular case updates. Information regarding the outcome of the case is sent out only upon case completion – which may be some months later.

### **Taser Use and Police Car Camera Issues**

- Tasers are often used by police officers too early in an interaction.
- Cameras in police cars should not be able to be disabled by the officer.
- Police car camera tapes and editing should be handled independently, not by the officer.

### **Enforcement Issues**

- Residents specifically complained about the Tactical Response Unit for being too aggressive and heavy handed with their stops, searches and arrests.

### **Arrest and Detention Issues**

Although the City's booking and holding facility is not a part of the San Antonio Police Department, it was still the source of complaints made by meeting attendees.

- There have been strip searches of females that occur in front of male officers and in front of cameras in the detention facility.
- Some prisoners have been held in the detention facility for hours with no contact. There has been unacceptable treatment of pregnant detainees.

The views and opinions expressed at these two meetings were important elements for the PERF team. The study team's review of the SAPD took these concerns into account in assessing the department and making recommendations.

## **USE-OF-FORCE POLICY EVALUATIONS**

This section reviews San Antonio Police Department written directives that pertain to weapons and use-of-force by departmental officers. Policies and issues reviewed include:

- Procedure #309 – Weapons;
- Procedure #501 – Use-of-Force;
- Procedure # 705 – Officer Involved Shooting;
- Conducted Energy Devices (Tasers); and
- Shooting at or from a Moving Vehicle.

The format used to assess these policies (and others later in this analysis) is composed of the following elements:

### Description of General Procedure

A brief description of the contents of the General Procedure examined.

### Strengths of the General Procedure

This section highlights strong points of the General Procedure.

### Opportunities for Improvement

This section identifies areas where there are opportunities for improvement. Recommendations are offered.

### Compliance with National Accreditation Standards

This section describes the aspects of the General Procedure that comply with CALEA standards. Specific standards are cited to facilitate a greater understanding of how the General Procedure compares to the standards.

## **SAPD General Manual Procedure #309 — Weapons**

Effective: January 1, 2007

### **Description of the Procedure**

This Procedure provides officers with guidelines necessary for the safe carrying and handling of approved firearms and intermediate weapons. The procedure also sets guidelines for the types of authorized weapons, ammunition, and holsters officers may carry, and provides for the approval or non-approval of all authorized weapons.

### **Strengths of the Procedure**

Procedure #309 Weapons is comprehensive and provides officers with a solid foundation especially concerning firearms carrying, qualification and registration rules.

### **Recommendations:**

1. Although the current procedure does provide substantial guidance on weapons, the procedure should include additional details on weapons and ammunition used by members of tactical teams and other specialized personnel. The current policy is limited in this regard. It should be amended to include an accurate listing of the departmental arsenal used by each specialized unit that has weapons other than those issued to patrol officers. This inventory of weapons is intended to be exclusively for the internal knowledge and accountability of the department and will serve to provide in a single source a list of all authorized weapons and equipment and the requirements for use. A secondary benefit will be to ensure that the procurement of new or replacement equipment is approved through the proper lines of authority.

### **Compliance with National Accreditation Standards**

CALEA describes its weapons standards in Section 1.3 Use-of-Force. SAPD General Manual Procedure #309, *Weapons*, is in compliance with the following weapons national accreditation standards:

#### **Commission on Accreditation for Law Enforcement Agencies (CALEA)**

- 1.3.9** A written directive requires that only weapons and ammunition authorized by the agency be used by agency personnel in law enforcement responsibilities. The directive shall apply both on and off duty, and must address:
- a. the types and specifications of all lethal and less-than-lethal weapons approved for use;
  - b. the types and specifications of ammunition approved for use;
  - c. the procedure for review, inspection, and approval of all weapons intended for use by each employee in the performance of duty, prior to carrying, by a qualified weapons instructor or armorer, and a process to remove unsafe weapons; and
  - d. the procedure for maintaining a record on each weapon approved by the agency for official use.

- 1.3.10** A written directive requires that only agency personnel demonstrating proficiency in the use of agency-authorized weapons be approved to carry such weapons.
- 1.3.11** At least annually, all agency personnel authorized to carry weapons are required to receive in-service training on the agency's use-of-deadly force policies and demonstrate proficiency with all approved lethal weapons that the employee is authorized to use. In-service training for less-than lethal weapons shall occur at least biennially. In addition:
- a. proficiency training must be monitored by a certified weapons instructor;
  - b. training and proficiency must be documented;
  - c. the agency must have procedures for remedial training for those employees who are unable to qualify with an authorized weapon prior to resuming official duties; and
  - d. if the agency authorizes use of neck restraints or similar weaponless control techniques with a potential for serious injury, it is included in the annual in-service use-of-force curriculum.
- 1.3.12** A written directive requires that all agency personnel authorized to carry lethal and less-than-lethal weapons be issued copies of and be instructed in the policies described in standards 1.3.1 through 1.3.5 before being authorized to carry a weapon. The issuance and instruction shall be documented.

## **SAPD General Manual Procedure #501 — Use-of-Force**

Effective: January 1, 2007

### **Description of the Procedure**

This Procedure provides officers with guidelines on the use of non-deadly and deadly force. This procedure also explains the process that officers shall follow for reporting use-of-force incidents.

### **Strengths of the Procedure**

Procedure #501 is in full compliance with national accreditation standards and meets a substantial number of the established benchmarks and best practices for use-of-force.

### **Recommendations:**

1. Procedure 501 discusses the use of deadly and “non-deadly” uses of force. Because “non-deadly” weapons may result in death, current benchmark language is deadly and “less lethal.” This policy should be altered to reflect this change.
2. The department should consider requiring that officers carry at least two intermediate weapons, one of which being OC Spray. They should be provided the widest range of possible tools on the use-of-force continuum. This provides multiple alternatives before escalating to deadly force.

### **Compliance with National Accreditation Standards**

SAPD General Manual Procedure #501, *Use-of-Force*, is consistent with the following use-of-force national accreditation standards:

#### **Commission on Accreditation for Law Enforcement Agencies (CALEA)**

- 1.3.1** A written directive states personnel will use only the force necessary to accomplish lawful objectives.
- 1.3.2** A written directive states that an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person in imminent danger of serious physical injury. Definitions of conditional terms, such as those for reasonable belief; serious physical injury, or similarly used terms that are used to qualify the directive shall be included.
- 1.3.3** A written directive governs the discharge of “warning” shots.
- 1.3.4** A written directive governs the use of authorized less-than-lethal weapons by agency personnel.
- 1.3.5** A written directive specifies procedures for ensuring the provision of appropriate medical aid after use of lethal or less-than-lethal weapons, or other use-of-force incidents as defined by the agency.

- 1.3.6** A written report is submitted whenever an employee:
- a. discharges a firearm, for other than training or recreational purposes;
  - b. takes an action that results in, or is alleged to have resulted in, injury or death of another person;
  - c. applies force through the use of lethal or less-than-lethal weapons; or
  - d. applies weaponless physical force at a level as defined by the agency.
- 1.3.7** The agency has a procedure for reviewing the report required by standard 1.3.6.
- 1.3.8** A written directive requires the removal from line duty assignment, pending administrative review, any employee whose actions or use-of-force results in a death or serious physical injury.
- 1.3.13** The agency conducts a documented annual analysis of those reports required by standard 1.3.6.

## **CONDUCTED ENERGY DEVICES**

Included in Procedure #501 Use-of-Force, under the Use of Non-Deadly Force, is the San Antonio Police Department's policy on Conducted Energy Devices (CEDs).

### **Description of the Procedure**

Procedure 501 establishes situations where CEDs should not be utilized by officers as well as criteria for medical response.

### **Strengths of the Procedure**

The U.S. Department of Justice Office of Community Policing Services funded PERF to conduct a comprehensive study of the use of Conducted Energy Devices. This work, published in November 2006 and titled "Conducted Energy Devices: Development of Standards for Consistency and Guidance" represents a national consensus for CED policy and training guidelines. This assessment of the San Antonio Police Department compares the department to the guidelines established in that publication.

Procedure 501 provides a solid guidance for SAPD officers on CED use and activation. SAPD policies meet established guidelines in the following areas.

1. The guidelines call for restrictions related to environmental/physical location issues such as using the device on people physically located in areas where—if activated by a CED—they could fall from a high place or receive significant injuries. SAPD's policy provides that **"CEDs will not be utilized in the following circumstances: ...(b) When the subject is in a position to fall and possibly sustain substantial injury or death."**
2. National guidelines state that police agencies should establish a prohibition against CED use to intimidate persons and to prevent punitive activations. This recommendation emphasizes the importance of using the device responsibly and establishing accountability for the operating officer. SAPD's policy states that **"CEDs will not be utilized in the following circumstances: ...(c) Punitively for purposes of coercion, or in an unjustified manner when a prisoner is handcuffed; (d) To escort or jab subjects..."**
3. The guidelines state that a department should establish parameters or restrictions on CED use when a suspect has come into contact with flammable liquids or is in a flammable atmosphere (including use following an application of alcohol-based O.C. Spray) to minimize danger to the suspect, the officer and the public. SAPD policy states that **"CEDs will not be utilized in the following circumstances: (a) When the officer knows a subject has come in contact with flammable liquids or is in a flammable atmosphere."**

## Recommendations:

In any police-citizen confrontation, minimizing injury and respecting individual rights are essential goals. When used properly, CEDs can help attain those goals. However, police leaders must carefully manage *how* the CED is used. Any police weapon must be used prudently and responsibly and not in a punitive, abusive, or retaliatory manner. The U.S. Department of Justice Office of Community Oriented Policing Services—PERF national CED policy and training guidelines for consideration serve to provide the profession with information that will help police leaders make more informed policy decisions about the devices. PERF recommends that the SAPD make the following changes in departmental CED policies.

1. The department should establish guidance on repeated CED activations.
  - The SAPD does not specifically establish parameters on the number of CED activations permitted. Parameters should be established—such as requiring a single activation with a pause to assess whether any additional activations are necessary.
2. The department should provide guidelines and training that establish parameters on use against high-risk groups: e.g. pregnant women, handcuffed prisoners, children, elderly/frail, persons under influence of drugs, etc.
  - Current SAPD policy requires that: **“CEDs will not be utilized in the following circumstances:... (c) Punitively for purposes of coercion, or in an unjustified manner when a prisoner is handcuffed; (f) When the subject is visibly pregnant, unless deadly force is the only other option...”** and **“CEDs should not be utilized in the following circumstances:... (c) When the subject is at extremes of age (youth or aged) or physically disabled...”** Although the SAPD does limit the use of CED’s against pregnant women, youth, the elderly and handcuffed subjects the directive does not specifically provide guidance on use against visibly frail persons of any age or on persons known to be under the influence of drugs. Both recruit and in-service training should include discussion about CED usage in such situations.
  - Further, it is recommended that all persons—not just those in at-risk categories—be subjected to a medical evaluation following a CED activation.
3. The department should establish parameters or restrictions on using a CED on a subject operating a motorized or self-propelled vehicle.
  - Current policy says, **“CEDs should not be utilized in the following circumstances: (a) When the subject is driving a motor vehicle;”**
  - Although the SAPD does establish parameters on subjects operating a motor vehicle, restrictions should prohibit activating a CED on a person operating a self-propelled vehicle (e.g. bicycle) in order prevent secondary injuries (such as a fall onto pavement). The policy should be so revised.

4. The department should establish guidance regarding the duration of CED activations.
  - The SAPD does not specifically establish parameters or restrictions on the duration of CED activations. Such parameters or prohibitions should be established and included in policies and training programs.
5. The department should establish prohibition on multiple officers activating a CED on a person simultaneously.
  - The SAPD does not specifically establish parameters or restrictions on the number of officers activating a CED on a person simultaneously. The SAPD should add a provision to the policy to restrict the number of officers that can simultaneously activate a CED on a person, thus limiting the risk of multiple electrical charges being applied simultaneously to a person.
6. The department should require supervisors to respond to the scene following the activation of a CED.
  - The SAPD currently does not require that a supervisor respond to the scene of an incident where a CED was activated. A supervisor should respond to the scene of such an incident and conduct at least a brief preliminary assessment of CED use in order to establish oversight and strengthen accountability.
7. The department should establish a stand-alone policy for CED use.
  - The SAPD should create and maintain a separate policy for CEDs. This is consistent with national practices. By emphasizing the importance of this device in a separate written directive the department can provide clear and unambiguous acceptable operation for CED devices.

All of these revisions should be integrated into In-Service and Recruit training.

## SHOOTING AT OR FROM A MOVING VEHICLE

The San Antonio Police Department deals with shooting at, or from, a moving vehicle in two different procedures.

Procedure 501: Use-of-Force includes the following language:

.09 Use of Deadly Force

E. Firearms are not discharged under the following circumstances:

1. As a warning shot;
2. When it appears likely that a non-participant may be injured; or
3. At or from a moving vehicle, except as the ultimate measure of self-defense or defense of another.

Procedure 609: Emergency Vehicle Operation includes somewhat different language:

.05 Restrictions

C. Use of Firearms

1. Officers will not shoot at or from a moving vehicle, except:
  - a. As a last resort to protect the officer or another from an immediate threat of serious bodily injury or death; or
  - b. When an occupant of a fleeing vehicle is using deadly force against the officer or another person.

### **Recommendation:**

The department should provide expanded guidance for its officers regarding shooting at moving vehicles. A policy used by many departments that is a benchmark includes the following elements which should be incorporated into SAPD policies:

- **“When dealing with subjects in vehicles officers should not place themselves in the path of the vehicle.”**
  - This directive is consistent with national practices by placing the responsibility to avoid being in the path of a moving vehicle on the involved officer.
- **“Officers shall employ all reasonable means available to move to an area of safety if the vehicle becomes a threat, including retreating from the threat if practical.”**
  - This directive is consistent with national practices by encouraging officers to move out of the path of an ongoing vehicle rather than first resorting to deadly force.
- **“Officers will not intentionally place themselves in harm’s way by standing or moving in front of a vehicle, standing directly behind, or reaching inside an operating vehicle.”**

- This directive is consistent with national practices by encouraging officers to avoid placing themselves in a dangerous tactical situation during a confrontation where a vehicle is involved.
- **“Firearms shall not be discharged at a moving vehicle unless: a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle itself.”**
  - This directive is consistent with national practices by emphasizing that a vehicle threat in and of itself is not inherently a deadly force situation.

To ensure consistency when future revisions are undertaken, direction on shooting at or from a moving vehicle should appear only in one Procedure, 501 Use-of-Force. Procedure 609 Emergency Vehicle Operation should cross-reference 501, but should not repeat the language.

## **SAPD General Manual Procedure #705 — Officer Involved Shooting**

Effective: April 29, 2005

### **Description of the General Procedure**

General Procedure #705 defines the investigative procedures arising out of a use-of-force incident involving the discharge of a firearm. The policy governs the investigative responsibilities for all shootings occurring within the jurisdiction of the SAPD regardless of the agency affiliation of the shooting officer.

### **Strengths of the General Procedure**

General Procedure 705 is in full compliance with accreditation standards and meets a substantial number of the benchmarks acquired through the national and international best practices survey. As of September 6, 2007, the policy was updated to require the Shooting Team respond to investigate all incidents where an officer has intentionally discharged a weapon, except for training, less lethal weapons and destruction of an animal. A memorandum from the Crimes Investigations Section Commander to the Chief of Police titled, "Officer Involved Shoot (OIS) Team/Custodial Death Policy Review" details the recommendation for policy as well as formalizing the Officer Involved Shooting Team Review/Critique Committee.

Members of the Officer Involved Shooting Team facilitate instruction to recruits during their academy training on General Manual Procedure 705 "Officer Involved Shooting," and familiarize them with what to expect should they become involved in a shooting incident. Topics covered include: the history of the OIS Team; incidents requiring the team's response, what happens to the officer at both the scene and department; officer and witness statements; and, submitting an investigative package to the District Attorney's Office for consideration. Also covered in the session is a list of required and discretionary persons that the involved officer may talk with after being involved in a shooting: co-workers, sergeant, lieutenant, Shooting Team, SAPOA attorney, department psychologist, clergy, chaplain and Family Assistance Officer.

### **Compliance with Use-of-Force Policy Benchmarks**

In its two-year use-of-force study entitled *Creating a Culture of Integrity: A Force Accountability Model*, the Police Executive Research Forum developed a comprehensive listing of benchmarks for policies related to police use-of-force. The research and resulting benchmarks arise from both national and international authorities.

An analysis of the San Antonio Police Department General Order #705 reveals it is consistent with the following benchmarks:

- The department has a policy that clearly delineates who is to be notified under what circumstances after an officer shooting incident occurs;
- Field supervisor notification;

- Department policies define the role of the on-scene commander;
- The department's policies provide clear direction on what is required of supervisors at the scene of critical incidents;

**Recommendations:**

1. The policy change adopted by the SAPD of having the Shooting Team respond to all incidents in which a weapon is intentionally discharged, regardless of whether the intended target is hit, with the exception of training, less lethal weapons and destruction of an animal, is sound and progressive. The circumstances that cause an officer to discharge a weapon are independent of whether or not the intended target is struck. It is therefore desirable and prudent for the department to investigate all incidents in order to assure adherence to policy, identify training opportunities and maintain the confidence and trust of the community. The following department procedures should be updated to reflect the new response directive:

- Homicide Unit Special Operating Procedure 208
- SAPD General Manual Procedure 705

Furthermore, the department should review the workload of the Shooting Team since the inception of the new policy in September 2007. The impact of this change in practice must be established to determine if staffing levels are commensurate with the additional responsibilities of the team in order to maintain the quality of OIS investigations.

2. General Procedure 705 should include the immediate response of a command level officer to the scene of all Officer Involved Shootings.
3. General Procedure 705 should be modified to direct a member of the Internal Affairs Unit respond to the scene of all Officer Involved Shootings to identify potential policy and procedure violations and assure the Shooting Team's investigation is objective and free from interference. However, clear firewall protections must be in place to ensure the criminal investigation is not compromised by any action taken as part of an administrative investigation.
4. A section should be added to the procedure that requires the immediate reporting of a discharge of a firearm, whether on or off-duty, to a supervisor.
5. In most cases, officers discharge their firearm in response to a criminal act brought against them or another. The criminal act itself is separate from the officer's use of firearm. Three key outcomes are desired from the investigation of an Officer Involved Shooting incident: 1) investigation and disposition of criminal offenses leading to and included in the incident; 2) an administrative investigation to determine if the actions of members of the department are within departmental policy; and 3) training and tactical opportunities. The department is moving to conduct a comprehensive investigation into all three of these components.

As described above, the shooting team is responsible for examining Officer Involved Shooting incidents for possible criminal violations, and Internal Affairs studies the episode for potential policy violation. In order to identify potential departmental tactical and training opportunities, the Training Section has initiated a voluntary review of OIS incidents through informal interviews with involved personnel. This preliminary assessment of facts to identify training and tactical issues is a valuable tool for the involved officer(s), the department and the Chief.

PERF concurs with the recommendation that this examination of facts should be formalized for those volunteering to participate. In order for this process to remain effective, it must be a review that is separated from any administrative or criminal investigation. The committee should be represented by several disciplines including: uniform supervisors and officers, Training Academy, Legal Advisor, SWAT, and EAP. The community should also be represented on this committee for transparency and to enhance public accountability and trust. The community may be represented by a member of the department's Training Oversight Committee, a group of highly trained professionals that have knowledge of police operations, yet remain objective in their views.

A new General Procedure should be drafted identifying the specific committee information including: title and composition; responsibilities and scope of services; frequency in which they meet; and any reporting requirements.

6. The curriculum should be modified to include the department's new response criteria for the OIS Team. Training should also be provided to newly promoted sergeants and lieutenants, reviewing General Manual Procedure 705 and outlining their specific responsibilities at the scene and following an officer involved shooting.

### **Compliance with National Accreditation Standards**

SAPD General Procedure # 705, *Officer Involved Shooting*, is consistent with the following national accreditation standards:

#### **Commission on Accreditation for Law Enforcement Agencies (CALEA)**

- 1.3.6: A written report is submitted whenever an employee:
  - a. discharges a firearm, for other than training or recreational purposes;
  - b. takes an action that results in, or is alleged to have resulted in, injury or death of another person;
  - c. applies force through the use of lethal or less-than-lethal weapons; or
  - d. applies weaponless physical force at a level as defined by the agency.
- 1.3.8: A written directive requires the removal from line duty assignment, pending administrative review, any employee whose actions or use-of-force results in a death or serious physical injury.

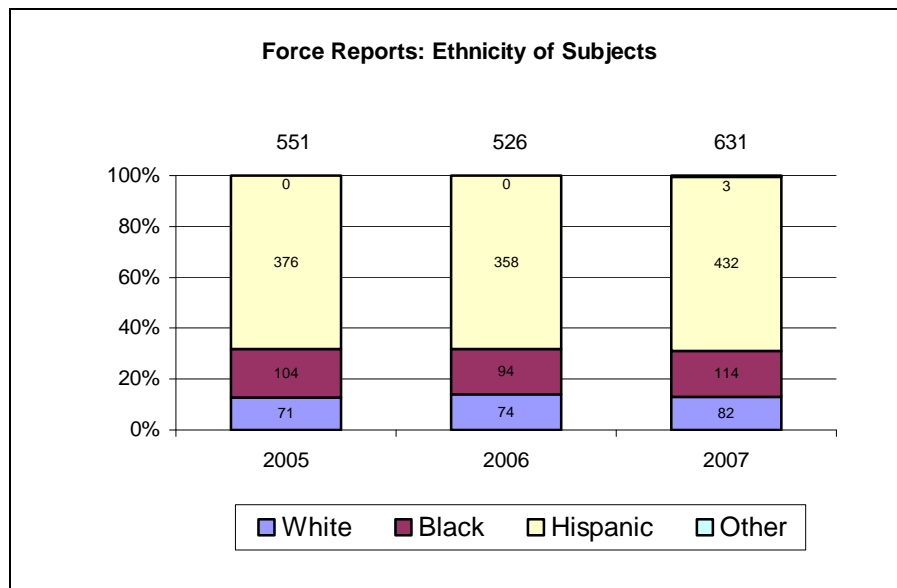
## USE-OF-FORCE REPORTING DATA

The San Antonio Police Department changed how it records use-of-force incidents in 2005. Under the new system, officers are required to fill out a use-of-force report in every incident in which force is used. Each officer using force, even in the same incident, is required to fill out a separate report; an example of the department following progressive policing practices. Officers have a wide range on options that are classified by the department as “Use-of-Force.” The options range from verbal commands to firearms. Defensive tactics such as the use of hands/arms, fist/punch and feet/legs are included, as are batons, OC spray, conducted energy devices, and pepper ball and bean bag projectiles.

This new form (SAPD Form 62-UOF) is extremely complete and allows for a statistical review of use-of-force incidents. The report captures information in five main areas:

1. Incident and Officer Involved
2. Suspect
3. Officer
4. Oleoresin Capsicum (O.C.) or Conducted Energy Device (CED) Use
5. Supervisory Approval

Three full years of information is now available. Assessment of the data shows the following.



The number of subjects involved in reported use-of-force incidents totaled 551 in 2005, 526 in 2006 and 631 in 2007. This increase in 2007 may be due to the SAPD’s intensified patrol and

proactive tactics in high crime neighborhoods. The Tactical Response Unit, the primary tool for these stepped efforts, filed more 2007 use-of-force reports than any other single unit. The unit's search for suspects in violent crimes may have led to more encounters with those more likely to resist police intervention.

A review of the ethnicity of subjects cited in use-of-force reports shows that Hispanics accounted for 68.2 % of the incidents in 2005, 68.1% in 2006 and 68.4% in 2007. Blacks were the subjects in 18.9% of the reported incidents in 2005, 17.9% in 2006 and 18.1% in 2007. Whites were listed as a suspect in 12.9% of the cases in 2005, 14% in 2006 and 13% in 2007.

Because each officer involved in a use-of-force incident is required to file a report, the number of reports filed will be higher than the number of persons involved. The table below shows for the three years the number of subjects, the number of reports filed and the average number of reports (officers) per incident.

<b>Use-of-Force Subjects and Reports 2005 - 2007</b>			
<b>Year</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Subjects Involved</b>	551	526	631
<b>Reports Filed</b>	703	644	789
<b>Reports/Officers per Incident</b>	1.28	1.22	1.25

Although there were fluctuations in both the number of subjects involved and in the number of reports filed, the number of officers per incident remained about the same.

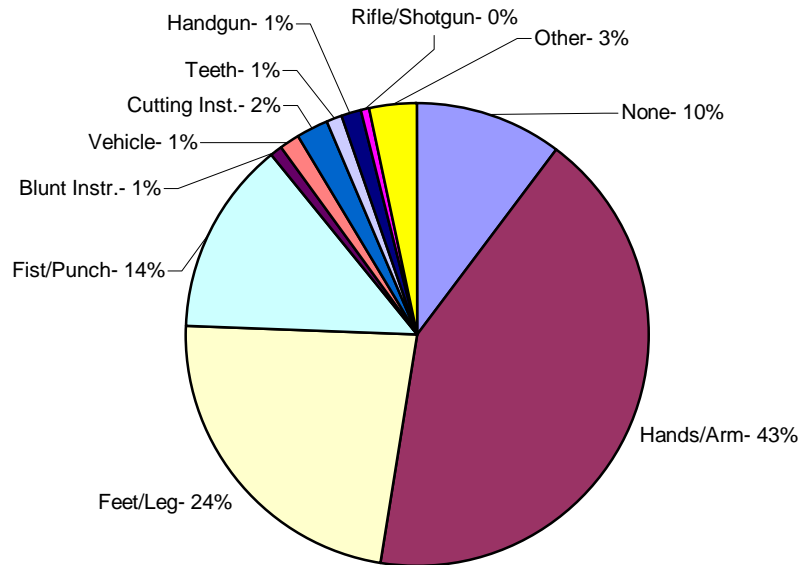
The next table shows the extent to which use-of-force subjects were perceived to be impaired.

<b>Force Reports: Percent of Observed Impairment for Subjects by Year</b>					
<b>Observed Impairment</b>					
<b>Year</b>	<b>Alcohol</b>	<b>Toxic Vapors</b>	<b>Narcotics</b>	<b>Mental Illness</b>	<b>Other</b>
<b>2005</b>	59% (285)	0% (1)	30% (144)	10% (48)	1% (7)
<b>2006</b>	57% (233)	1% (5)	42% (118)	12% (47)	1% (4)
<b>2007</b>	54% (302)	1% (6)	30% (170)	11% (64)	3% (17)

For those cases in which members of the department used force against a suspect, the most common impairment observed was the presence of alcohol, followed by narcotics and then mental illness. Only a few subjects were perceived as being impaired due to toxic vapors such as glue or paint fumes. Yearly totals that exceed 100% result from multiple impairments observed in a single incident. People with impaired judgment may be more likely to resist the directions of a police officer and may need to be compelled to obey.

The next chart shows for the three year period the types of weapons used by subjects against whom use-of-force was recorded.

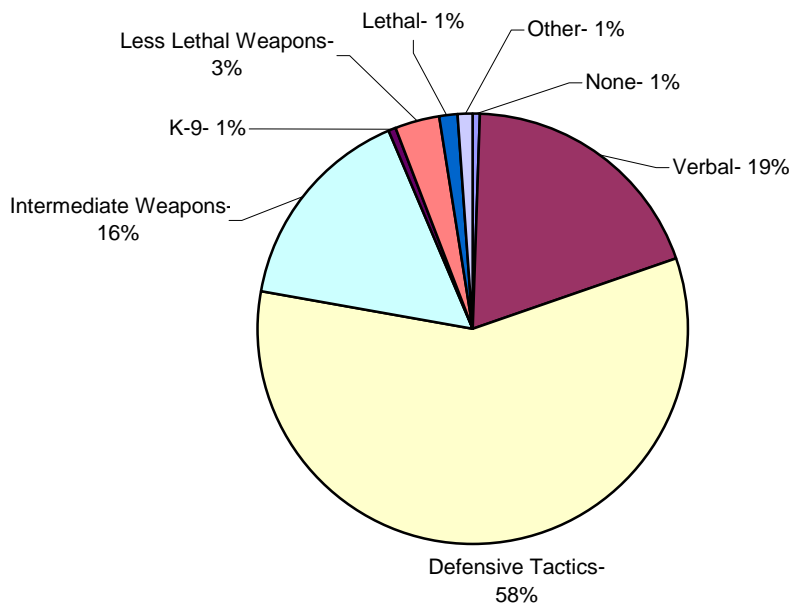
### Force Reports: Type of Weapon Used by Subjects 2005-2007



- From 2005 to 2007, the types of weapons used by subjects against officers have remained proportionately relatively stable. Hands and arms are most commonly used followed by feet and legs and then fist. These three areas account for 81% of all encounters with combative subjects. No weapons were present in approximately 10% of the incidents. The “None” category is composed of subject behaviors which indicate resistance to officers’ direction and may include verbal refusals to comply. A firearm was used against an officer in 1% of the cases; 17 incidents in 2005, 12 incidents in 2006 and 28 incidents in 2007.

The following chart summarizes the types of force used by officers.

### Force Reports: Type of Force Used by Officers 2005-2007



The type of force used by officers between 2005 and 2007 was fairly stable across the three years. The most frequent tactics used by members of the SAPD were defense tactics (hands/arms, fist/punch and feet/legs) and they were used in nearly 60% of incidents. Verbal commands were used in about one-fifth of the cases reported. Intermediate weapons (batons and OC spray) have been utilized an average of 16% of the time in the last three years. Less lethal instruments (pepper ball and bean bags) were used in one percent of the instances in 2005 and 2006 and rose to seven percent in 2007 with the deployment of CEDs. For all three years, less lethal force was used in 3% of use-of-force cases. Lethal force was used by members of the department in 26 incidents in 2005, 11 in 2006 and 20 in 2007. Lethal force comprises 1% of all force cases between 2005 and 2007.

The following table shows, by year, the types of injuries sustained by subjects.

<b>Force Reports: Type of Injury to Subjects for 2005-2007</b>				
<b>Type of Injury to Subject</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>Total Injury Type</b>
<b>No Injury Observed</b>	25%	28%	20%	535
<b>Injury Prior to Contact</b>	7%	4%	7%	139
<b>Injury Not Related to UOF</b>	8%	4%	6%	139
<b>Laceration</b>	14%	14%	15%	319
<b>Sprain</b>	1%	1%	1%	24
<b>Bruise/Abrasion</b>	34%	40%	37%	806
<b>Puncture</b>	1%	0%	4%	42
<b>Broken Bone</b>	1%	2%	1%	23
<b>Bite</b>	1%	1%	1%	23
<b>Gunshot</b>	1%	1%	1%	21
<b>Internal Injury</b>	0%	0%	1%	11
<b>Death</b>	1%	0%	1%	20
<b>Other</b>	6%	5%	5%	120
<b>Total Injuries</b>	<b>718</b>	<b>625</b>	<b>879</b>	<b>2222</b>

When force was used on persons by officers from 2005 to 2007, no injuries were observed in approximately one-fourth of the incidents. When an injury did occur, bruises and abrasions were the most common occurring in 34% to 40% of the altercations. Laceration was the second most common injury accounting for at least 14% of the incidents. The increase in “punctures” in 2007 is most likely due to the more frequent use of CEDs. Gunshot wounds occurred in 1% of the incident in each of the three years. Deaths occurred in nine incidents in 2005, three in 2006 and eight in 2007.

### Summary

Over the three years, the most notable change in use-of-force has been in the number of incidents from 2006 to 2007. The ethnicity of subjects, the types of subject resistance, the force used by officers and subject injuries has remained proportionately similar.

The increase in use-of-force incidents in 2007, partly influenced by the proactive anti-crime tactics used by the TRU and their subsequent increased encounters with violent crime suspects more likely to resist, should continue to be examined closely by the department. Some police agencies have found that special anti-crime units may tend to more quickly escalate contacts

because they work in groups and have immediate back-up, they expect more resistance since they are looking for violence prone individuals, they are composed of aggressive, high performing officers and because they often use military-style uniforms, weapons and tactics. When such units are created they need to undergo careful training and orientation to avoid conduct that may be detrimental to positively engaging the community. In some instances, in-service training may be appropriate. If problems continue such units may need to be reformed.

Of the reports submitted over the three years, 94% show that officers used relatively little force – verbal commands, defensive tactics, or intermediate weapons, compared to 91% of the reports in which subjects used no weapon, fist/punch, feet/leg or hands/arm. Throughout the country police officers are taught to use the minimum force needed to obtain compliance by subjects and to avoid prolonged battles. This requires that the police seek to quell resistance by using force superior to that used by the subject whenever necessary. Overall, the actions of SAPD officers are in keeping with this requirement.

## **THE CITIZEN COMPLAINT PROCESS, INTERNAL AFFAIRS AND DISCIPLINARY PROCEDURES**

Those wishing to file complaints against members of the San Antonio Police Department may submit either a formal (major) complaint or line (minor) complaint. A brochure describing the Internal Affairs Unit and the complaint filing process, in both English and Spanish, is available at both police and non-police facilities and will be mailed to a community member upon request. The brochure has the following information about filing a complaint:

*A minor complaint can be reported to any police supervisor at any police facility or by calling 227-7201 or 207-7273, and requesting to speak to a police supervisor. For major complaints, immediately bring your complaint to the attention of the Department's Internal Affairs Unit.*

The brochure lists the steps taken when a formal/serious complaint is filed with the Internal Affairs Unit. The brochure is silent on the distinction between a major and a minor complaint.

The police department's Home Page has prominent links ("Filing Complaints" appears twice) that direct a user to information in both English and Spanish about complaints. The appropriate web page offers the following information about the difference between a major and a minor complaint:

### **MAJOR (FORMAL) COMPLAINTS**

*To file a Formal Complaint against a SAN ANTONIO POLICE OFFICER for a major incident, please contact the SAPD Internal Affairs Office, (210)207-7365. To learn more about how to file the complaint and the process followed please go to the **INTERNAL AFFAIRS** web page.*

### **MINOR COMPLAINTS**

*Minor Complaints against SAPD officers, such as for rudeness, or for citizen dissatisfaction with SAPD service, are handled by Line Supervisors (sergeants) at each Substation. To file a Minor Complaint, please contact the appropriate Substation listed below. Click on the Substation's name to go to its web page, which lists names and phone numbers for the Captain, Lieutenants, and Sergeants, plus a map showing the location of the Substation.*

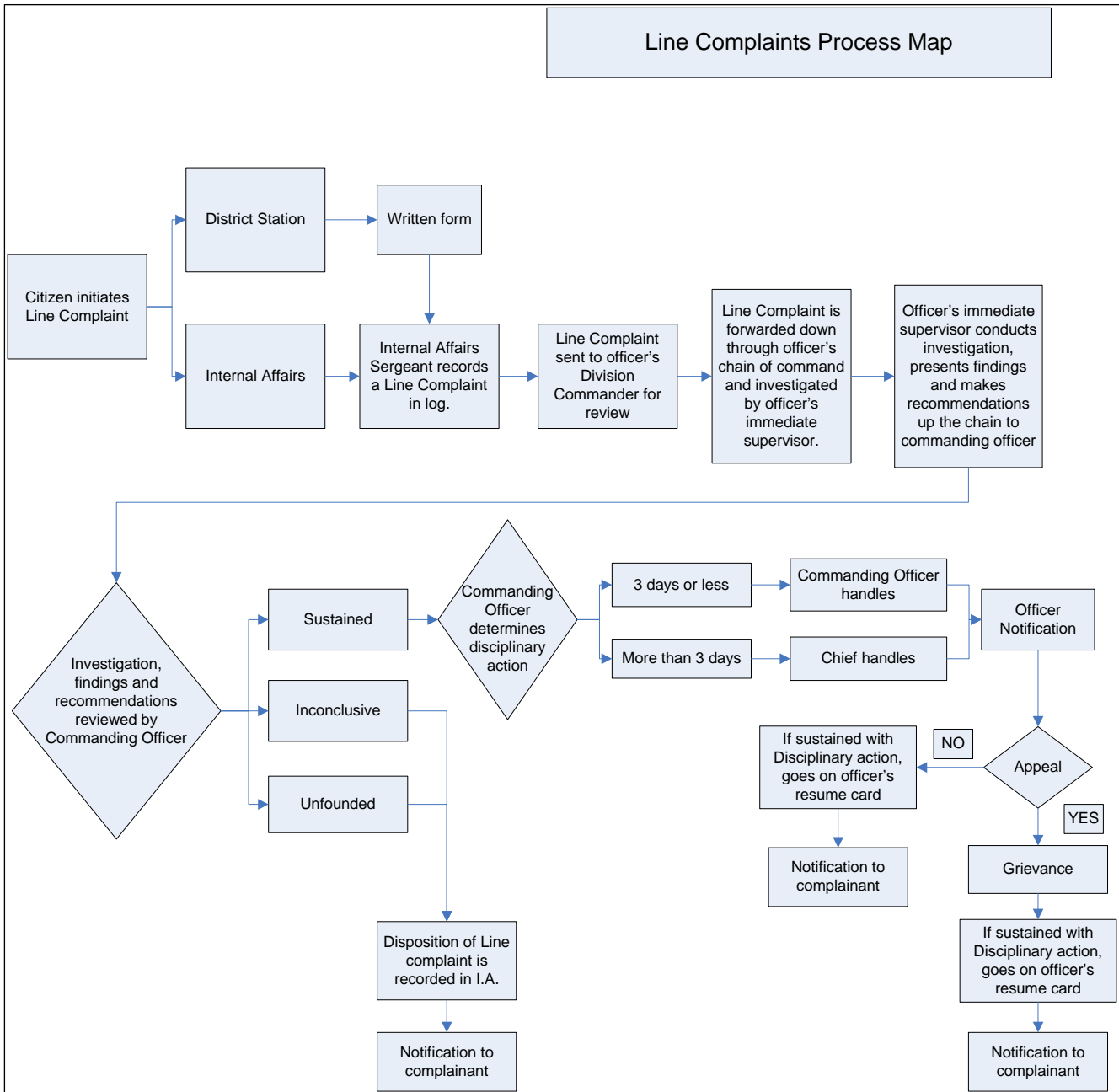
A user can then go directly to the Internal Affairs Unit page to learn more about the Formal Complaint process with a link that describes the process in Spanish. There is no further information provided regarding Minor Complaints. Although the department indicates that a complainant may contact the department by telephone or e-mail, in practice, filing a complaint requires a personal appearance, either at a police station or at the Internal Affairs office. The Internal Affairs Unit is located in a suite within a non-police, commercial building with appropriate signage. A fee is required to park at the building although the person is given a voucher that permits on-site reimbursement.

### Line (Minor) Complaints

Complaints about employee behavior such as rudeness or discourtesy, or that involve dissatisfaction with service are treated as minor or line complaints. Such complaints are usually filed with the employee's immediate supervisor but may be taken by any supervisor. The complaint is referred to the employee's immediate supervisor for investigation, finding and recommended action. The completed investigation progresses through the chain of command to the employee's commander who has authority to make a recommendation of disciplinary action of up to three days suspension. During the investigation of a line complaint, should a more serious allegation arise, the case is referred to the Internal Affairs Unit where it is assigned to an internal affairs sergeant/investigator who assumes investigative responsibility for the case.

The final investigation and disposition of the line complaint is forwarded to the Internal Affairs Unit which is responsible for administrative notifications as required, maintaining case files and statistical record keeping. A notation of a sustained "line" complaint is logged into the employee's resume card in IA for future reference and Early Warning System referral in accordance with SAPD policy and Texas law. While Internal Affairs is tasked with maintaining records on all line complaints, staff indicated they are not confident all line complaints are forwarded from the substations. They advised only **sustained line** complaints are recorded on an employee's resume card.

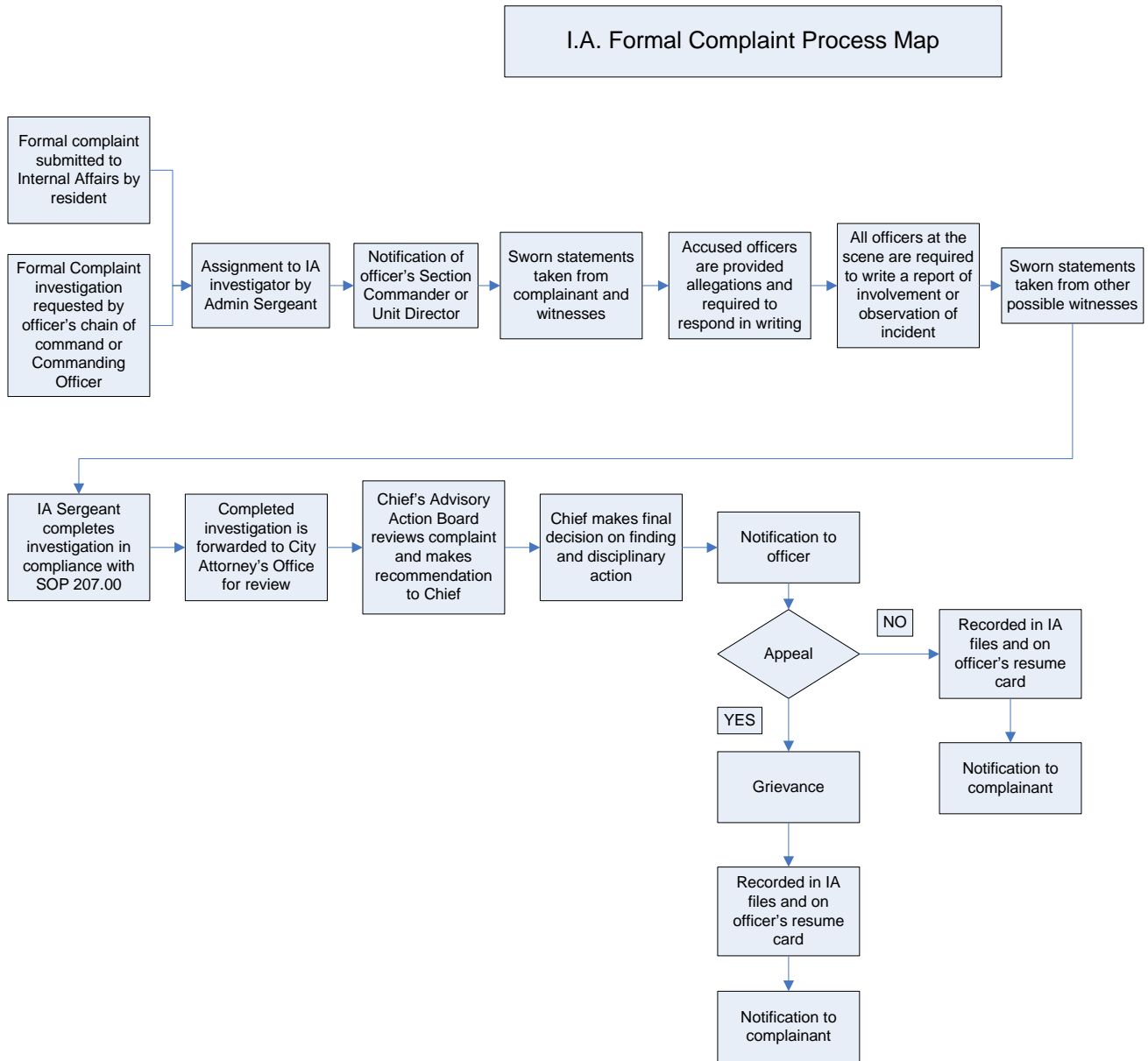
The line complaint investigation procedure is depicted in the following process map.



**Formal/Major Complaints**

Major or formal complaints are those allegations of a serious nature such as a potential criminal offense, a flagrant violation of policy, or behavior that is a serious breach of community trust. Major complaints receive more in-depth investigation than line complaints due to their severity and expected complexity. All formal complaints are handled by the Internal Affairs Unit in the

process outlined in the Internal Affairs Standard Operating Procedure 206.00. The following process map depicts the procedures used in the formal complaint process.



The Internal Affairs Unit is responsible for the investigation of formal complaints. The unit is managed by a sworn Director, holding the rank of lieutenant, and is staffed by three civilian

employees and 12 sergeants. Three sergeants have administrative assignments and the others investigate allegations of misconduct against members of the department. The duties of one of the administrative sergeants includes case management of Internal Affairs investigations, review and assignment of incoming complaints, oversight of open record requests, coordination of meeting of the Chief’s Advisory Action Board (reviewed later in this report) and supervision of the civilian members of the unit. The second administrative sergeant is responsible for the department’s Early Warning System and is the lead for Internal Affairs data processing. The third administrative sergeant assists the other two with their duties and fills in for them in their absence.

The functions and operations of the Internal Affairs Unit are codified in the *Internal Affairs Unit Standard Operation Procedures*. This directive is divided into two sections, one covering Administrative Procedures and the other Operations Procedures. All procedures were last updated September 1, 2005. PERF staff reviewed each procedure. Changes are recommended in the following sections.

Administrative Procedures

<b>101.0 Organization Chart</b>
<b>Recommendation:</b>
<ol style="list-style-type: none"> <li>The organization chart is outdated. It depicts a Professional Standards Section Commander (Captain) that is no longer a position within the IA structure. The position should be eliminated from the table of organization and the table revised accordingly. The amended version should also reflect the three Administrative Sergeant positions currently in place rather than two as shown in the organization chart.</li> </ol>
<b>102.00 Position Description – Professional Standards Section Commander – Captain</b>
<b>Recommendation:</b>
<ol style="list-style-type: none"> <li>This position should be eliminated from the procedure book as it no longer is a position within the current organizational structure of the unit.</li> </ol>
<b>103.00 Position Description – Internal Affairs Unit Director – Lieutenant</b>
<b>Recommendation:</b>
<ol style="list-style-type: none"> <li>The responsibilities of the IA Unit Director should be updated to incorporate the additional duties outlined in the Section Commander’s position (Captain) as outlined in 102.00. Functions no longer performed or now the responsibility of administrative sergeants should be deleted from the description. The Internal Affairs Unit Director should report directly to the Chief of Police. Qualifications should be changed from,</li> </ol>

“hold the rank of Captain” to “hold the rank of Lieutenant.”

**105.00 Position Description – Employees Early Warning System Coordinator – Sergeant**

**Recommendation:**

1. Change the title to Employees Early Intervention System Coordinator.

**106.00 Position Description – Administrative Sergeant**

**Recommendation:**

1. Update responsibilities to include those previously performed by the Unit Director that have been delegated to the Administrative Sergeant with the elimination of the Professional Standards Section Commander position.

**107.00 Position Description – Internal Affairs Statistician – Detective Investigator**

**Recommendation:**

1. Remove language to reflect the current structure of the Internal Affairs Unit and incorporate the IA statistical duties in the job description of an administrative sergeant.

**110.00 File Management**

**Recommendations:**

1. Add section on the Early Intervention System files identifying the contents of the file and the length of time which the file is maintained.

**112.00 Standard Operations Procedure Manual Issuance/Revision**

**Recommendations:**

1. Procedure 112.00 calls for the review of the Internal Affairs Units written directives at least once a year. A thorough evaluation of all procedures is specified with revisions as appropriate. A review of the manual indicates this is not being complied with. The new Unit Director should make this a priority to assure the manual reflects the current structure and operation of the unit.

**116.00 Tenure in the Internal Affairs Unit**

**Recommendations:**

1. Current policy states those assigned to the Internal Affairs Unit may remain in their position, “as long as their performance is satisfactory, and they are making a contribution to the objectives of the Unit.” This policy should remain in effect for the clerical, civilian members of the unit. However, due to the difficulties of this challenging assignment, sworn personnel should serve in this assignment for a maximum of five years.

The rotation to and from this position is in the best interest of the organization and those assigned to the unit. Cynicism and job “burnout” may occur if a sergeant remains in this position for too long. Valuable knowledge and experience gained from work in Internal Affairs may be transferred throughout the department when sergeants leave the unit and take on other assignments. By rotating more sergeants through Internal Affairs, more supervisors will develop an acute understanding of the importance for internal discipline and of the application of the department’s behavioral standards. The understanding that

discipline is **all** supervisors' responsibility and not just those assigned to IA will be enhanced. Finally, replacing sergeants in IA on a regular basis will ensure the unit maintains a current understanding of the challenges and circumstances facing members of the department in their contacts with the community.

The rotation policy should include provisions for staggered terms of assignment so that not all positions are rotated out at the same time.

The integrity of the department and public trust require that the Internal Affairs Unit is staffed by high caliber personnel. The department should set in place incentives such as assignment pay, a path to advancement and consideration for future assignments to ensure that it can attract a pool of high quality applicants. The department should also strive to maintain a diverse work group of investigators which are representative of the needs of San Antonio's communities. Bi-lingual officers are of special importance.

### **118.00 Goals and Objectives**

#### **Recommendation:**

1. The goals and objectives of the Internal Affairs Unit should be updated on an annual basis by the Unit Director to ensure they meet the changing needs of the department. Additional items such as the percentage of investigations completed on time; participation in community meetings; percentage of interviews conducted outside the IA office; and updating the Internal Affairs Standard Operating Procedures should be measured to demonstrate the service capacity of the unit.

The following procedures should be updated to reflect the current structure in the Internal Affairs Unit: 104.00; 105.00; 106.00; 108.00; 109.00; 110.00; 112.00, 114.00; 116.00. Language referencing the Professional Standards Commander should be removed.

### Operations Procedures

### **202.00 Walk-in Complaints Procedure and Phone Duty Assignment**

#### **Recommendation:**

1. The Administrative Sergeant should be responsible for the phone duty schedule rather than the Unit Director.

### **205.00 Line Complaints**

A Line Complaint is defined as a minor policy infraction or poor/improper attitude towards citizens and/or co-workers that is alleged against an officer. Although the Internal Affairs Unit does not have investigative responsibility for line complaints, they are the repository for logging and maintaining all complaints. The following line complaint process as included in Procedure 205.00 is outlined below:

Process for Filing a Line Complaint

1. A “Line Complaint” is completed by the IA Sergeant and forwarded to the officer’s division commander, with a cover sheet, “Supervisory Recommendation” attached to the complaint.
2. The Line Complaint is categorized as a Line A., B or C complaint based upon the potential of disciplinary action.
3. Line A and B complaints are forwarded through the chain of command to be investigated by the officer’s immediate supervisor.
4. The supervisor presents the findings of their investigation along with a recommendation of action to their immediate supervisor which is forwarded up the chain of command.
5. All reports and attachments are returned to the Internal Affairs Unit.
6. The IA sergeant notifies the complainant of the disposition of the case.

**Recommendations:**

1. The language in 205.00 should be changed to include all members of the department and not exclusively sworn employees. “Officers” should be replaced with “employees” so that the same process is adhered to for any member of the department in which misconduct has been alleged.
2. This procedure is silent to “Line C” complaints. It should be modified to account for the process used for A, B and C Line Complaints.
3. All Line complaints, not just those sustained, should be listed on employees’ resume card and included in the Early Intervention System. This practice may assist supervisory and management personnel identify potential performance issues in employees.

PERF interviewed members of the community individually, as well as in groups, regarding the SAPD’s process for taking and investigating complaints against members of the department. Concerns were expressed that the department has in place substantial barriers to the receipt and investigation of complaints against officers. Issues that surfaced included:

- A person must appear in person at a police facility to file a complaint with a police supervisor or Internal Affairs investigator.
- The complainant must appear alone.
- The first thing on the complaint form is the “aggravated perjury” warning.
- The complainant’s statement, after transcription, is written only in English.
- The complaint must be notarized.
- Complainants can not take a copy of their statement with them when they leave.
- Any subsequent interviews require the complainant and supporting witnesses to go to a police facility.

Two of these concerns – that the complainant must appear alone and that subsequent interviews require appearance at a police facility are untrue. Internal Affairs Procedure 206.02 B (Legal Representation) specifically allows complainants to have “a legal representative during the time they are providing a sworn statement.” The legal representative is an observer only and not allowed to interrupt the interview. It is up to the IA sergeant conducting the interview to make the determination if the attorney is interfering in the interview at which time the interview may be terminated.

As part of this study, members of the PERF study team reviewed a sample of completed internal affairs investigations. Although there is no written directive that prevents investigators from conducting interviews outside police facilities, investigator logs indicate that few interviews occur outside IA offices. Case logs refer to complainants and witnesses failing to show up for scheduled interviews but reveal little effort to go to them to get needed follow-up information.

The other concerns expressed above are accurate reflections of current policy. Taken together they are perceived by some community members as being intimidating and as acting as a deterrent to making complaints. PERF study team members are well aware that the police department, its officers and the community are best served when complaints alleging misconduct are honest and made in good faith. Conversely, community trust and respect for the police are fostered by a process that is open and transparent which balances the interests of the complainant and the rights of the officer. To support this balance PERF makes the following recommendations.

### **Recommendations:**

1. Procedure 206.02 A (Sworn Statements) requires that sworn statements taken from complainants and witnesses prominently display a warning about the law that governs Aggravated Perjury. Statements are required to be notarized. The standards required to accept a complaint equates to testimony provided in a criminal trial. The department should remove language concerning Aggravated Perjury. Instead it should treat the consequences of providing maliciously false statements in an internal affairs investigation as submitting a false police report. Persons making a complaint against an officer must

not file false reports but also should not feel intimidated from making a citizen complaint. This change will more appropriately balance citizen and police interests, making the process less daunting, but still providing a deterrent against false reporting. As part of this revision the department should no longer routinely require the notarization of statements on the initial interview of complainants and witnesses.

2. Complaint forms should be accepted by mail and through the Internet. The complaint brochure should be revised to include the form and the form should be available on-line in multiple languages. Both sources should include the stated consequences of filing a false police report. The intent of this change is to create a more open process not to provide avenues for false or frivolous complaints. Such complaints should be reviewed by IA staff with follow-up questions of the complainant at a scheduled interview.
3. Whenever possible, statements from non-English speaking complainants should be written in their spoken language for them to review and sign. The complainant's statement may then be translated into English for investigative purposes by IA sergeants.
4. When Internal Affairs conducts an initial interview and then transcribes the statement for review, revision and signature by the complainant, the complainant should be given a copy of their signed statement.
5. Section 207.14 B. (3) should be amended to: "Civilian witnesses should be encouraged to come to the Internal Affairs Office for their interview. However, if they request, they may be interviewed at another location." Internal Affairs investigators (and supervisors investigating minor complaints) should be open to accepting complaints and conducting interview at locations convenient to complainants and witnesses. Still, some circumstances may dictate a need to have interviews in the IA office.
6. As is the policy with officer interviews under 207.14 A. (1) and (2), the department should change the policy so that a complainant interview, when the complainant is accompanied, will be terminated only in those cases where counsel's persistent

interference prohibits the attainment of a statement. This will put the complainant on the same footing as an officer in this regard.

7. Section 207.02 Preliminary Investigations Guidelines provides all complainants must be contacted within 24 hours of the time the case is assigned except when the investigator is on vacation. Such a requirement is not realistic based upon the caseload of the IA Unit. Section 207.02 should be changed to require that complainants be contacted within 3 working days of the case being assigned to an investigator. In the instance of an investigator being away from the office for a length of time that will not provide the opportunity for compliance with this directive, the case should be reassigned or another investigator should be responsible for the initial contact with the complainant.
8. Prior internal investigations have included “charge stacking” in listing the charges when an allegation of misconduct is made on an employee. Lesser and included offenses should not routinely be included in the list of allegations unless they are related to the substance of the allegation. The Chief and executive staff should provide clear direction to the IA Unit as to how to charge members of the department consistently in allegations of misconduct.
9. The IA sergeant/investigator assigned to an investigation has the most information on the totality of the investigation, has personally discovered the facts of the case and has interviewed all the parties. This investigator has had the opportunity to judge the truthfulness of each person interviewed. Therefore the investigative sergeant’s report should include a finding for each allegation against an employee which may be reviewed. The following are the findings used in comparable departments: unfounded, inconclusive, sustained, exonerated, or policy failure. Those in the chain of command reviewing the case may concur or disagree with the finding. Disagreements should require substantial written justification and may be resubmitted to the Internal Affairs Unit for further investigation or action.

10. The Aggravated Perjury statement should be removed from the Statement Information Sheet described in Section 209.00.
11. Language in Procedure 210.00 Notifying Complainant/Witness should be changed from “sworn affidavit” to “statement” and Section 210.01 should be changed to be consistent with section 207: Complainants “shall be contacted within three working days of the case being assigned to an investigator.”
12. Certain provisions of 215.00 Internal Affairs Complaint Waiver should be changed. It is in the interest of the department to investigate allegations of misconduct regardless of the level of cooperation of the complainant. A complainant choosing to not cooperate in an investigation is required to sign the Internal Affairs Complaint Waiver Form. Language in the procedure should be changed to reflect the following:
  - 215.01 C. A copy of the Complaint Waiver shall be given to all complainants self-selecting out of the complaint process.
  - 215.01 D. The Administrative Sergeant shall review the facts of the allegation of misconduct against an officer in those cases in which the complainant is no longer willing to cooperate in the investigation. The sergeant will make a determination as to the ability to complete an investigation without such cooperation as well as the seriousness of the complaint and make a recommendation to the Director if the investigation should be pursued. The Director will then determine if an investigation will continue.
13. The description of the “Process for Filing a Formal Complaint” found in Section 206.00, in the brochures and in the IA webpage should be changed to read as follows:

*Process for Filing a Formal Complaint*

1. *Internal Affairs Unit supervisors will take statements from the complainant and any witnesses to the incident. These statements are treated as police reports and are subject to Statutes pertaining to Filing a False Police Report. Reports may be accepted in person at Internal Affairs or a location convenient to the complainant, by mail on the departmental form or via the Internet.*
2. *The officer involved, and any other officer at the scene of the incident, is required to submit a written report in response to the complaint.*

3. *When appropriate, medical records are examined, physical evidence is gathered, and photographs may be taken.*
4. *The complainant, witnesses, and the officer involved, may be required to take a polygraph examination.*
5. *Once the investigation is completed, the case is forwarded to the Chief's Advisory Action Board.*
6. *The Chief's Advisory Action Board, which includes four civilian members, reviews the case and presents its findings to the Chief of Police.*
7. *Complainants are notified of the date and time of the Advisory Action Board meeting and are permitted to address the Board. They may be accompanied by another person but that person is not allowed to address the Board.*
8. *The Chief of Police decides if discipline will be administered to the officer.*
9. *An Officer can appeal disciplinary action to the Civil Service Commission or to an Arbitrator. The Commission or an Arbitrator may alter or sustain the Chief's decision.*
10. *If the Commission or Arbitrator sustains the Chief's decision, the officer has a right of appeal to a State District Court.*
11. *Upon final disposition of the case, a written response from the Chief's Office will be sent to the citizen and the officer involved.*

14. Article 27, Section 19, E of the Collective Bargaining Agreement between the City of San Antonio and The San Antonio Police Officers' Association (October 1, 2006 through September 30, 2009) provides that a suspension of three days or less not appealed is automatically reduced to a written reprimand two years from the date the suspension was served, if no further sustained complaints for the same rule occurs. This benefits an employee that has violated policy and received a suspension but may not be in the best interest of the community. The suspension should remain on the employee's record for a minimum of three years to provide ample time to assure similar behavior does not occur in which progressive discipline may be appropriate. The City should collectively bargain with the SAPOA on this provision.

15. The Internal Affairs Unit should make a greater effort to contact non-cooperative complainants to ensure potentially sustainable violations are not being committed by members of the department.

16. The Internal Affairs Director should continue to carefully review all completed cases to be sure all cases have been thoroughly and objectively investigated.

17. The following procedures should be updated to reflect the current structure in the Internal Affairs Unit: 203.00; 206.00; 216.00; 218.00. Language referencing the Professional Standards Commander should be removed.

### **Compliance with National Accreditation Standards**

SAPD Standard Operating Procedures for the Internal Affairs Unit is consistent with the following national accreditation standards, Chapters 52.1 Organizational Integrity and 52.2 Complaint Procedures:

- 52.1.1 A written directive requires all complaints against the agency or its employees be investigated, to include anonymous complaints.
- 52.1.2 A written directive required the agency to maintain a record of all complaints against the agency or employees and to protect the confidentiality of these records by maintaining them in a secure area.
- 52.1.3 A written directive specifies that the position responsible for the internal affairs function has the authority to report directly to the agency's chief executive officer.
- 52.1.4 The agency makes available information to the public on procedures to be followed in registering complaints against the agency or its employees.
- 52.1.5 The agency compiles annual statistical summaries, based upon the records of internal affairs investigations, which are made available to the public and agency employees.
- 52.1.6 A written directive specifies:
- a. the type of complaints to be investigated by line supervisors; and
  - b. the type of complaints that require investigation by the internal affairs function.
- 52.1.7 A written directive specifies the procedures for notifying the agency's chief executive officer of complaints against the agency or its employees.
- 52.1.8 A written directive specifies a time limit for completing an internal affairs investigation, with provisions for extensions.
- 52.1.9 The agency keeps the complainant informed concerning the status of the complaint to include, at a minimum:
- a. verification of receipt that the complaint has been received for processing;
  - b. periodic status reports; and
  - c. notification of the results of the investigation upon conclusion.
- 52.1.10 When employees are notified that they have become the subject of an internal affairs investigation, the agency issues the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.
- 52.1.11 A written directive specifies the conditions, if any, during an internal affairs investigation, when"

- a. medical or laboratory examinations are administered;
- b. photographs are taken of employees;
- c. an employee may be directed to participate in a line-up;
- d. an employee may be required to submit to financial disclosure statements; and
- e. instructions for the detection of deception are used.

52.1.12 A written directive specifies the circumstances in which an employee may be relieved from duty.

52.1.13 A written directive requires a “conclusion of facts” for each investigation into allegation of misconduct.

## **SAPD General Manual Procedure #303 — Disciplinary Procedures**

Effective: November 1, 2001

This policy establishes a process for the non-criminal investigation and discipline of sworn members for alleged or suspected violations of department rules, regulations, policies, or procedures which may regulate the conduct of sworn members. Procedure #303 is in compliance with most of the national accreditation standards for disciplinary procedures. Those areas that are in full compliance are explicit and thorough. PERF's analysis of Procedure 303 resulted in the following recommendations for improvement.

### **Recommendations:**

1. The procedure should include appeal initiation procedures, time frames, method of recording and the scope of the appeal process. This inclusion will bring all aspects of the process into a single document providing a single source of all disciplinary related information.
2. If employee conduct results in dismissal, the procedure should require the following information be provided to the employee: a written statement citing the reason for dismissal; the effective date of dismissal; and, a statement of the status of fringe and retirement benefits after dismissal. Implementing such action will provide for the coordinated dismissal of an employee and ensure all information related to personnel and benefits are provided to the separating employee in a timely manner and in a single occurrence.
3. The procedure should not differentiate between line complainants that wish to be contacted by a supervisor and those that do not. The member of the department taking the complaint is required to determine if the behavior is substantive. Any complaint suggesting a "potentially substantive problem" should automatically cause contact by a supervisor for follow-up to be initiated, unless the complainant **specifically requests not to be contacted**.

4. The procedure instructs non-IAU supervisors to refer complainants to the Internal Affairs Unit to initiate formal complaints. Such a practice may dissuade further contact. Supervisors should take the initial information from the complainant and forward it to Internal Affairs for a member of the unit to make contact with the complainant.
5. The department should create a disciplinary matrix and include it in Procedure #303. A matrix groups violations by severity and then offers a range of sanctions for each group. For example, “A” violations might be the most serious and range from 10 days without pay to dismissal. “B” violations are less severe and might range from 4 days without pay up to 10 days without pay. “C” violations are generally minor in nature and sanctions may range from “documented counseling” to three days without pay. A progressive disciplinary system can be achieved by treating the third “C” violation up to two years from the first “C” violation as a “B” violation. A second “B” violation in a four year period could be treated as an “A” violation. A matrix system maintains a range of sanctions, allowing management to take into account individual circumstances, but adds predictability and equity for officers having committed similar infractions. It also provides a statement by the department about how senior management views the severity of different types of misconduct.

### **Compliance with National Accreditation Standards**

SAPD General Manual Procedure #303, *Disciplinary Procedures*, is consistent with the following disciplinary procedures national accreditation standards:

#### **Commission on Accreditation for Law Enforcement Agencies (CALEA)**

- 26.1.1** A written directive specifies a code of conduct and appearance guidelines, which are readily available to all agency personnel.
- 26.1.4** A written directive establishes a disciplinary system, to include:
  - a. procedures and criteria for using training as a function of discipline;
  - b. procedures and criteria for using counseling as a function of discipline; and
  - c. procedures and criteria for taking punitive actions in the interest of discipline
- 26.1.5** A written directive specifies the role of supervisors and the authority attendant to each level of supervision and command relative to disciplinary actions.

**26.1.8** A written directive specifies procedures for maintenance of records of disciplinary actions.

SAPD General Manual Procedure #912, *Awards Program* and #918, *Harassment/Discrimination in the Workplace*, are consistent with the following disciplinary procedures national accreditation standards:

**26.1.2** A written directive establishes procedures and criteria for recognizing and rewarding employees for good performance.

**26.1.3** A written directive prohibits sexual and other forms of unlawful harassment in the work place and provides a means by which harassment can be reported, including a means by which it can be reported if the offending party is in the complainant's chain of command.

## **CHIEF’S ADVISORY ACTION BOARD (CAAB)**

The San Antonio Police Department’s Chief’s Advisory Action Board (CAAB) combines the Citizen Advisory Action Board (composed of community members) and the Police Advisory Action Board (composed of sworn departmental members). The CAAB reviews completed internal investigations and other matters as directed by the Chief of Police. Based on their discussions and reviews, they make recommendations to the Chief. The stated purpose of the CAAB is to act in an “advisory” capacity to the Chief of Police to handle disciplinary problems in an equitable manner to:

- Pursue the correction of behavior of an individual sworn member of the department acting outside departmental standards or objectives;
- To serve as a deterrent for any other member who may be engaged in or contemplating similar misconduct; and,
- To ensure uniformity of compliance to departmental mandates.

The two boards that comprise the CAAB, the Citizen Advisory Action Board and the Police Advisory Action Board, are tasked to work together to achieve the above objectives. Members of the Chief’s Advisory Action Board are selected through a process as outlined in the Collective Bargaining Agreement between the City of San Antonio and The San Antonio Police Officers’ Association (October 1, 2006 through September 30, 2009), Article 28, Section 3. The agreement specifies that seven members of the department serve on the Police Advisory Action Board. Voting members include: a Deputy Chief/Commander, a Captain, a Lieutenant, a Sergeant, a Detective Investigator and two Patrol Officers. Members are appointed by the Chief and serve a 180 day term.

The City, Police Department and San Antonio Police Officers Association (SAPOA) have made changes to the make up and selection process for the community members of the Board. This has been done in an effort by all to have a more transparent process while maintaining the legislative rights afforded to San Antonio officers by the state of Texas. These changes have been made through the collective bargaining agreement and are reflected in the current contract. Under the provisions of this agreement, the citizen’s board has increased from two to four members, from a rotating pool of eight. The City Council submits no less than 16 names for service (down from 22 previously) to the Association. The Association then selects at least eight

persons they find acceptable. The Council then empanels up to eight members of the community to serve on the Board on a rotational basis with four members sitting on each particular board. Citizen members of the Board serve at the pleasure of the Council for not more than a two year period.

As outlined in General Procedure 303.10, the Citizen Advisory Action Board is not involved in reviewing all internal investigations. They hear the following types of cases:

- Those involving the use-of-force, bodily injury, and unlawful search and seizure; and
- Any case in which the officer who is the subject of a complaint or a complainant requests citizen member participation, if it is reasonably possible based on the workload and availability of the citizen members.

Cases not meeting these criteria may be heard by the Police Advisory Action Board without citizen members' participation.

The format for CAAB meetings is described in General Procedure 303.11. After the Chairman reminds participants about the privacy required to protect both the complainant and the officers, an Internal Affairs Unit representative, usually the case investigator, presents the cases. Members of the Board may then ask questions of the person briefing the case. The officer and the complainant are allowed the opportunity to speak before the Board. However, absence at a hearing is not to be considered in final deliberations nor have a bearing on the outcome.

An accused employee may not have an attorney present or any representative other than his/her supervisor. The supervisor may provide input if requested by the Board. The complainant is not allowed to be accompanied by anyone. The Chairman, on recommendation from any Board member, may decide to ask questions of a complainant or an officer. Response from either is voluntary.

After reviewing all documentation and hearing all testimony, the Board discusses the facts of the case until members are ready to vote. The Board may request supplementary investigation and have the case returned to Internal Affairs for further review. On determination of "ready to vote," the Chairman calls for a finding in the case. The initial vote is directed towards determining one of three findings as defined in General Procedure 303.12:

- Unfounded - the facts of the case show, by a preponderance of the evidence, that the alleged complaint has not been established and that a finding of misconduct does not exist;
- Inconclusive - the facts of the case indicate a possibility of impropriety or misconduct, but are insufficient to establish a bona-fide complaint; or,
- Sustained - the facts of the case indicate that a bona-fide complaint has been established.

The votes of the police board members are recorded separately from citizen board members. A finding can only be determined if majorities of both police and citizen members agree. If the majorities agree on a “sustained” finding, more discussion occurs and another vote takes place regarding the disciplinary penalty or other outcome. If the Board is unable to achieve a majority decision on either vote, that fact is reflected on the record and submitted to the Chief of Police. The Chairman records the results and the recommendation of each board separately and submits the necessary reports to the Chief of Police for final action. The recommendations of each board are advisory in nature and not binding on the Chief of Police. The Chief of Police reserves the right to exercise administrative discretion in the event of exceptional circumstances falling outside the limit, purpose, or scope of this process.

While the concept of the CAAB has merit, the department has been unable to maintain a strong cadre of community members to participate as Board members. Consequently, although the process permits four citizen members to participate in deliberations, only the same two dedicated members of the community have been attending Board sessions. Both internal and external interviewees identified the lack of community participation as a weakness. Unless community participation in the CAAB process is strengthened, the concept’s effectiveness and viability becomes questionable.

**Recommendations:**

1. The purpose of the CAAB should include a fourth principle that promotes making the disciplinary process of the SAPD transparent and also stresses the importance of incorporating the involvement and interests of the community.
2. The City should re-open the collective bargaining process with the SAPOA to discuss elimination of the SAPOA’s ability to select or “strike” those members of the community

nominated to the Citizen Advisory Action Board by the City Council. This practice is damaging some members of the community's confidence and trust in the department's ability to "police" itself.

3. The Chief of Police should have the authority to name one additional community member to the Citizen Advisory Action Board. This person should meet the same eligibility requirements for service on the Fire and Police Civil Service Commission. This board member should serve at the pleasure of the Chief of Police for a term of two years. The purpose of this member is to provide an additional, independent opinion. The member should receive 24 hours of training, including a ride along, and orientation by the Internal Affairs Unit prior to serving on the Board.
4. An aggressive recruitment campaign should be conducted by the City to attract a cadre of potential candidates to fill the Citizens' position on the Board. The business and professional communities may be solicited to have their employees perform this important community service during their normal work hours. Participation from civic organizations may be sought.
5. Citizens participating on the CAAB should be representative of the diversity of San Antonio's communities.
6. Previously, PERF recommended the Internal Affairs Unit assume the responsibility for determining findings for their investigations. With this new policy in place, CAAB review should be limited, usually, only to those cases with sustained findings. However, the Chief should retain the authority to refer any case to the Board, even ones that may have an initial finding of not sustained, if he feels Board review would be in the best interest of the community and department.
7. The Citizen Advisory Action Board should review all sustained cases heard by the Chief's Advisory Action Board and not only those specifically identified in SAPD General Procedure 303.10.

8. Currently, a complainant or witness providing testimony before the Board is not allowed to have someone else present. They should be afforded the same opportunity as an officer to have a non-legal representative present. The person's role should be to provide support to the complainant or witness and not to be an active participant.

## INTERNAL INVESTIGATIONS REPORTING

The Internal Affairs Unit is responsible for maintaining records of all complaints against members of the department. They rely on section commanders to distribute copies of line complaints and final disposition for their statistical record keeping. Based upon interviews with personnel from IAU and each of the substations as well as the observations of members of the PERF Team, there is not a uniform manner or system by which line complaints are maintained at the substation level. Establishing a single system would ensure all complaints are handled in a timely manner, complainants are advised of the disposition of their complaint and all Line Complaints are forwarded to the IAU for accurate record keeping.

<b>Line Complaints: 1997 - 2006</b>		
<b>Year</b>	<b>Cases</b>	<b>Officers</b>
1997	246	257
1998	279	293
1999	301	325
2000	246	263
2001	263	281
2002	234	255
2003	275	293
2004	233	246
2005	239	249
2006	120	126
2007	134	157

The most recorded line complaints, as well as the highest number of officers accused of misconduct, were filed in 1999. The number of line complaint cases in 2006 and 2007 are the lowest the department has experienced in the last 10 years. Although the number of line complaints and involved officers increased from 2006 to 2007, the percent change (11.6% of incidents and 24.6% of involved officers) is not as significant as seen in formal complaints.

<b>Formal Complaints: 1997 - 2006</b>		
<b>Year</b>	<b>Cases</b>	<b>Officers</b>
1997	204	236
1998	233	321
1999	221	283
2000	299	354
2001	311	401

2002	289	388
2003	341	446
2004	360	480
2005	317	388
2006	209	255
2007	283	370

Over the last ten years, the largest number of formal complaints and officers accused of misconduct was in 2003. In 2006, the number of formal complaint cases numbered 209 and the number of officers associated with those cases numbered 255. These numbers are the lowest the department has experienced since 1997, when the number of formal complaint cases totaled 204 and the number of officers associated with the complaints numbered 236. In 2007, the number of complaints and associated officers increased by 35.4% and 45.1%, respectively, over 2006. Still, 2007 was lower than any year dating back to 1999 (other than 2006).

The Internal Affairs Unit is responsible for completing an Annual Report entitled “Formal Cases and Line Complaints.” The purpose of the report is, first, to report the number and types of complaints investigated by Internal Affairs. Secondly, the report provides information for the department to review and initiate appropriate action to modify officer behavior and prevent similar future complaints.

This is a comprehensive report of not only Line and Formal Complaints but racial profiling complaints, use-of-force incidents and actions of the Chief’s Advisory Action Board. It provides the total number of Formal and Line Complaints including a breakdown by divisions and sections of the department. It reports on the ethnicity of both the complainant and involved officer. Individual policies and procedures alleged to have been violated are listed. A detailed description of each substation and shifts are provided for the Patrol Division. While the report contains pertinent details about complaints, it is silent on the disposition of investigations. **It would be beneficial for both the public and department to include this information in the report.**

As indicated in its name, the Chief’s Advisory Action Board is “advisory” only to the Chief of Police. As the Department’s appointing and disciplinary authority, the Chief may agree with the disciplinary recommendation of the Board or disagree and either increase or decrease discipline.

Using information provided by the IAU, the final disciplinary outcomes of sustained misconduct by members of the department over the past three years were reviewed. This data is displayed in the following chart.

<b>Sustained Formal Complaint's Final Disciplinary Disposition</b>						
<b>Disciplinary Outcomes</b>	<b>2005</b>		<b>2006</b>		<b>2007</b>	
	<b>Number of cases</b>	<b>Percent</b>	<b>Number of cases</b>	<b>Percent</b>	<b>Number of cases</b>	<b>Percent</b>
Chief lessened CAAB's recommendation	50	69%	23	47%	20	53%
Chief and CAAB's recommendation same	22	31%	25	51%	15	40%
Chief increased recommendation	1	1%	1	2%	1	3%
Chief ruling pending	0	0%	0	0%	2	5%
<b>Total</b>	<b>72</b>	<b>100%*</b>	<b>49</b>	<b>100%</b>	<b>38</b>	<b>100%*</b>

\*Percent totals may not add to 100 due to rounding.

In a majority of cases, Chiefs have lessened or maintained the level of discipline recommended by the CAAB. In only one case in each of the three years was greater discipline imposed than suggested by the CAAB. An analysis of the cases under the current administration indicates that the level of discipline imposed by the Chief seems to have resulted in no recurring violations.

**Recommendations:**

1. The department should establish a working group among the Area Commanders and other section commanders, members of the Internal Affairs Unit and the department's Legal Advisor to expand the current database to create a formal and standardized case management system for recording, submitting, tracking and filing Line Complaints. The procedure should include required notification of outcomes to the complainant.
2. Information on the disposition of Line and Formal Complaints should be included in the Annual "Formal Cases and Line Complaints" Report by Internal Affairs.

3. The Department's Web-page currently includes information readily available to the public including A Racial Profiling Study, Use-of-Force Report and Crime Statistics. A similar link to the Internal Affairs' Annual Report should be added to the Home-Page for review by the public.

## **EMPLOYEE EARLY WARNING SYSTEM / EARLY INTERVENTION SYSTEM**

General Procedure #306 describes a structured system that seeks to identify and manage SAPD employee behavior that results in performance-related problems. The system uses non-disciplinary processes to help and support employees whose behavior suggests they could be at risk. By taking action before an employee gets into serious trouble, the system attempts to help the employee maximize his/her professionalism while maintaining the substantial investment the community has in each of its police officers.

The San Antonio Police Department has recognized the men and women of the department are its greatest asset. The Department acknowledges a responsibility to both its members and the community to identify and assist those showing symptoms of job stress or personal issues that may be beginning to impair their performance.

The Employee Early Warning System (EWS) outlined in General Procedure 306 is designed to assist all employees in correcting behavior with the goal of avoiding disciplinary action. The procedure provides the definition of terms incorporated into the order, as well as specific procedural guidelines for the system. It outlines:

- The three ways in which an employee may be referred to the system;
- The selection and duties of the Sworn and Civilian Early Warning System Boards (including non-voting positions such as the Staff Psychologist and other specialists);
- The selection and duties of the Sworn and Civilian Preliminary Review Panels; and,
- The process to be used to design a Plan of Action designed to assist an employee.

The Department has also assigned a sergeant within the Internal Affairs Unit full-time responsibility to administer and oversee the EWS.

### **Recommendations:**

The U.S. Department of Justice COPS Office and the Police Executive Research Forum collaborated on a recent (February 2006) definitive study of early intervention systems. The findings were published in *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors* and contains recommendations and findings that

resulted from expert consensus derived from interviews, site visits and panel meetings. The content of this document was the primary source of best practices used to assess the SAPD Early Warning System (General Manual Procedure 306). Findings and recommendations of these comparisons are as follows.

1. The EWS Coordinator estimated that it typically requires seven days to gather the variety of information from diverse sources in order to create a complete EWS case file. The department is in the process of acquiring specialized software designed to automate much of this data collection process with the objective of substantially reducing case preparation time. Critical thinking will have to go into deciding what information needs to be collected, its sources and procedures for periodic updating of the system.
2. It is important that the department and employees use terms such as “intervention” and “performance problems” rather than “warning” and “problem officers.” This will serve to convey the message that the system is meant to help officers rather than punish them. It also communicates to the public the department’s commitment to intercede when necessary to assure the professional delivery of services.
3. Section 306.04 C. (a-f) identifies behavior that is tracked and may “trigger” an employee’s referral to the EIS. Additional performance “indicators” should be incorporated into the Early Intervention System. The most progressive police systems include:
  - EEO complaints;
  - Civil Suits;
  - Tort Claims;
  - On-Duty traffic accidents; and,
  - Vehicle Pursuits.
4. Other “associated” factors should also be identified and tracked by the EIS. Many EIS systems will contain elements including:
  - Citizen initiated compliments and commendations;
  - Department commendations and awards;
  - Arrests by officers;

- Citations by officers;
  - Motor vehicle stops;
  - Pedestrian stops;
  - Training history;
  - Voluntary overtime worked;
  - Discretionary time off;
  - Sick time usage not protected by federal, state or local law, noting sick leave in conjunction with normal days off;
  - Charges of resisting, obstructing or delaying a police officer in the performance of their duties; and,
  - Charges of assault against a police officer.
5. The change from an early *warning* to early *intervention* system signifies a philosophical difference in the department's approach to provide assistance to employees in addressing job-related behavior. This seemingly subtle, yet distinct, change is one that proposes to intervene and rescue employees rather than keep from disciplining them. With this principle in mind, the department should change the make-up of the Early Intervention Board (described in Section 306.05 A.) to a membership that has the best knowledge of the employee's performance and options to provide the greatest assistance for the subject of the Board. Since the make-up of the Board is dependant on the employee being considered, the membership should be parallel for both sworn and civilian employees. Sections 306.09 – 306.11 should be eliminated from the procedure. Language in Sections 306.05 – 08 should be modified to apply to all members of the department regardless if they are civilian or sworn.
6. The Early Intervention Board should consist of the following members:
1. The subject's Captain or equivalent;
  2. The Training Lieutenant;
  3. The subject's immediate supervisor;
  4. The EIS Coordinator;
  5. The department's staff psychologist; and,
  6. A non-voting specialist, to be added to the Board at the discretion of the employee's captain/director.
7. The employee's Captain should serve as Chairperson for the Board.
8. All members of the Board should sign an affidavit of confidentiality.

9. All members should be present to conduct a hearing.
10. The EIS Coordinator should serve as the Board Secretary responsible for recording and documenting any recommendation and Plan of Action as applicable and agreed upon by the Board.
11. All members of the Board except the specialist should be voting members.

**Note: No changes are recommended to Section 306.06Z: Preliminary Review Panels.**

12. Section 306.08 Sworn Employee Post Board Hearing Actions Board Hearing should be altered to require that the EIS Coordinator inform the employee's captain (or equivalent) and supervisor of additional incidents that occur while an employee is completing a Plan of Action.
13. Interviewees reported that following the implementation of a Plan of Action, the employee's immediate supervisors were not consistently submitting timely weekly reports containing their observations on employees' progress. These reports, described in Sections 306.08 A. & 306.11 A. are to be submitted to the system coordinator and Board Chair, are an essential part of the process. Accountability is imperative for the system to achieve its intended purpose of positively and proactively changing behavior. Under the new configuration of the EIS Board, the supervisor's weekly update should be forwarded to the employee's captain and the EIS Coordinator. Since the supervisor and employee work for the same captain, this structure should also add a level of accountability for post-hearing actions. The department should implement an automated tracking system for these reports.

## **TACTICAL RESPONSE UNIT (TRU)**

The San Antonio Police Department has implemented several programs designed to specifically combat violence and gang crimes that have been an on-going concern for San Antonio residents. Efforts were focused on placing more officers into locations identified as high crime areas to assist the Patrol Division in addressing the large volume of calls for service from these locations. These programs have also been designed to provide sufficient uniformed personnel so that officers may proactively perform enforcement tasks. The department has initiated such programs and units as the Special Operations Unit (SOU), Courts Patrol, Park and Walk, Street Crimes Arrest Team (SCAT) and the Gang Unit. These efforts have met with varying levels of success.

SAPD initiated an Anti-Crime Unit in 2006 on a limited basis that demonstrated the potential of a group of officers to address violent crime occurring in San Antonio. Using the operational knowledge of and experience gained by the Anti-Crime Unit, the ACU was reformed into the Tactical Response Unit (TRU) which began operations in January of 2007. The new unit was commanded by a captain with the assistance of a lieutenant, seven sergeants and was comprised of approximately 60 patrol officers, 20 anti-gang officers, and 10 plain clothes detectives. Its mission was to respond to and investigate violent crimes, execute search warrants, recover firearms and, when appropriate, make arrests. The TRU differed from other violent crime units because its personnel included detectives. The detectives interview all those arrested by TRU members to develop leads on other crimes and gather valuable street intelligence.

The captain selected to command the unit was given authority to select those members of the department he felt had the traits and characteristics to work such an assignment. The size of the unit was set at approximately 80 members. The characteristics he sought for the Unit's lieutenant were: "come early, stay late and work hard," special operations experience, personal credibility, the ability to confidently lead by example, someone who was physically fit and an officer with administrative experience. The desired characteristics for sergeants included special operations experience, former assignments in the narcotic and gang units, current or prior SWAT membership and a supervisory approach that would "be in the field and lead from the front."

The Line level members of the unit were selected for their high motivation and productivity within their previous assignments, regardless of seniority. Officers chosen for the TRU were required to have demonstrated three critical abilities: the capacity to generate self-initiated activity, the capability to work in a close team atmosphere, and the ability to maintain a focus on an objective for as long as necessary to accomplish it.

Approximately 350 officers submitted applications for the 80 TRU positions. Candidate interviews were conducted by the sergeants selected to the detail who in turn made recommendations for selecting officers. TRU managers were looking for a mixture of veteran and young officers to make up the unit. Prior to their deployment in the field, all selected members of the TRU trained together as a team to achieve a sense of camaraderie as well as review operational directives and discuss departmental procedures and practices. Since the inception of the unit, regularly scheduled supervisor meetings are held between the Unit Director and sergeants to identify and discuss relevant issues and directives.

The initial operating philosophy of the TRU was to achieve a highly visible police presence in selected high crime areas. The purpose of saturating neighborhoods with five to six times the normal number of officers was to “deter street crime and reinstate a fear free environment” for the public. The deployment plan of the Tactical Response Unit included remaining in a specific area for a predetermined amount of time, usually two weeks, to suppress violent crime by making arrests of offenders and by deterrence through presence.

Prior to deploying to an area, Station Commanders, with the assistance of the Crime Analyst, determine target areas using data to identify specific problem locations and individuals for the TRU focus. The schedule of areas for TRU deployment is advertised to the community on the department’s web-site.

Following the presence of the TRU in an area, the substation’s Community-Oriented Officers, known as S.A.F.F.E. officers, are to initiate a maintenance program to ensure violent crime remains low. This process appears to be effective in theory; but according to the S.A.F.F.E.

officers interviewed, their focus is on quality of life issues and they do not feel they have the resources or expertise to adequately address violent crime.

The Tactical Response Unit has produced impressive statistics. During the first 320 days of operation, the Unit:

- Made 7,436 arrests (39% of which were felonies);
- Cleared 12,252 warrants;
- Recovered 645 guns;
- Seized 931.6 pounds of marijuana, 26,827 grams of cocaine, 3,598 grams of heroin, and 2,633 grams of methamphetamines;
- Confiscated \$1,064,163 cash; and,
- Initiated 48,279 contacts.

In addition, most cases submitted to the District Attorney's office for prosecution by TRU were deemed to have strong prosecutorial merit. Substation commanders interviewed said the Tactical Response Unit has done a very good job of addressing violent crime and gang-related violence for the area commands that suffer from those problems.

In an attempt to measure the impact of the TRU, the department's crime analyst used a time series study of crime in TRU assigned areas. Crime figures two weeks before the TRU were assigned to a geographic area were compared against the two weeks following the unit's departure. While the categories of offenses differs depending on the characteristics of the area worked by TRU, in general, areas have less crime after TRU operations, at least for a short time period. As an example, the TRU worked the East Patrol Area October 20 through November 2, 2007. Using the methodology described above, crime decreased for: all types of assaults, personal robberies and habitation and vehicle burglaries. Business robberies and vehicle thefts increased. A similar assessment for crime in the Central Patrol Area after TRU operations, for the period of October 6 through October 19, 2007, showed a significant reduction in robbery and all property crimes although assaults increased slightly.

The analyst also plots the information area patrol officers provide to the TRU along with TRU activity of the unit so area patrol officers can see the usefulness of the information they provide.

“Crime Hot Spots” and arrests by category (guns, narcotics, and warrants) are also mapped to document the impact of the TRU on violent and property crime.

Although TRU operations have reduced crime, the actions of the unit have generated some controversy both inside and outside the department. Members of the department at various ranks expressed disagreement with the manner in which personnel were selected to the TRU. Supervisory and command personnel felt many of their best officers and equipment were taken from them without their input resulting in a negative impact on their operation. Substation commanders have praised the Tactical Response Unit’s efforts, but at the same time feel they would have better results if the Tactical Response Unit could address problems simultaneously in several substation areas.

Many of the patrol officers interviewed appreciate the assistance the Tactical Response Unit has provided with regard to combating violent crime, especially given their perceptions of having little proactive time themselves because of the high volume of calls for service response. Yet they described the current relationship between the Tactical Response Unit officers and patrol as strained. Detectives not assigned to the TRU had their case load increased as there were fewer investigators to distribute work among. The distinct uniform patches worn by the TRU serve to further separate the unit from other field officers. The seemingly readily available overtime for TRU personnel was cited as an issue, since others were not afforded similar monetary overtime opportunities.

Conversely, members of the TRU feel they are working hard and making significant contributions to the department. They take pride in their uniform. They feel they are sometimes unappreciated for the dangerous and difficult work they perform. The issues and feelings regarding the TRU expressed by members of the SAPD are not unique. Such concerns frequently occur when a police agency implements a specialized and high profile team of officers who do not routinely respond to calls for service.

The TRU’s saturation deployment strategy, while effective at first, became counter-productive over the extended period of time the unit spent in the same small geographic area. Daily

statistics were kept on the activity of the TRU and distributed to SAPD executive staff, which inadvertently led to an emphasis of quantity of activity rather than quality. The team of high producing and competitive officers looked to maintain their daily level of self-initiated activity. Once they had arrested large numbers of criminal suspects, there were few prime targets left in the neighborhood. Then, anyone in the area became subject to enforcement activity. These encounters, though legal, served to alienate some members of the community and were not contributing to the goal of reinstating “a fear free environment.”

The enforcement actions of the TRU brought a disproportionate number of allegations of misconduct against members of the unit. Incidents in which members of the TRU conducted field searches for narcotics generated a small but vocal concern by community residents. They formed a coalition to focus attention and to hold the department accountable for its actions. They are seeking to ensure that the use-of-force and search and seizure practices meet due process standards. The highest levels of the City and Police Department leadership have met with this group to discuss their concerns.

Based on those concerns and the level of complaints received, the department reviewed the TRU’s operations. The review resulted in some personnel and tactical changes. Although the TRU still focuses efforts on a small, high-crime neighborhood, officers work in a broader geographical area to counter possible displacement of criminal activity.

Other modifications include setting more explicit expectations regarding officer conduct during field contacts. TRU officers distribute informational fliers to community contacts outlining why they are operating in the neighborhood and how residents can assist the police effort. TRU personnel are engaging in activities other than just enforcement. Officers now participate in positive community activities including working with area schools and attending a New Years Eve Celebration (in which no arrests were made). The use of overtime has been reduced.

The Unit’s new commander has consulted with the Director of Internal Affairs and conducted an analysis of complaints against TRU officers. This information has been helpful in identifying the behavior of officers leading to citizen complaints. The sharing of this information with unit

members has helped to show them how they can alter their behavior and still maintain their anti-crime mission. These changes, along with the new command, have been credited with decreasing complaints without lessening TRU's ability to decrease targeted crimes.

The Tactical Response Unit appears to be quite popular with many San Antonio residents. In response to an article about the Unit in a local newspaper, members of the community offered comments strongly supportive of the SAPD and TRU. While this support is an indication of the strong relationship between the department and community at large, officers must guard against misinterpreting community support for tacit approval to participate in unprofessional law enforcement behavior.

**Recommendations:**

To maintain the TRU's ability to reduce crime while enhancing the effectiveness of the unit by developing more community support in high crime neighborhoods, the department should undertake the following:

1. The commander of the TRU should continue working in collaboration with the IAU Director to quickly identify patterns of behavior that result in complaints and take timely and appropriate action.
2. TRU supervisors and managers should be accountable for the activity of their team in fulfilling the mission of the TRU in compliance with the policies, procedures and practices of the SAPD.
3. Members of the TRU should continue to work with the community in non-enforcement activities to maintain a balanced approach to their duties.
4. TIPS information gathered by the Area Commanders and their staff should be standardized to maximize the activities of the TRU. This may be accomplished by the crime analyst working together with members of the TRU and area stations to develop criteria and create a form to be completed prior to the Unit's assignment in their area.

The form should define the problem through rigorous analysis, specify the tactics likely to be successful and describe the measures to be used to determine success.

5. Efforts should be made to improve the relations between Patrol and the Tactical Response Unit. Tactical Response Unit officers should not only attend roll call briefings on a regular basis but share current field intelligence information.
6. Officers paired together as partners in the TRU should be changed at regular intervals. Such a policy will prevent co-workers from becoming overly comfortable with one another which, in some organizations, has led to an acceptance of policy violations. In addition, it will provide an opportunity for members of the unit to expand their skill base and learn from a variety of officers rather than a single partner.
7. Efforts should be made to integrate more patrol officers into the Tactical Response Unit by temporarily assigning patrol officers to TRU duties. This would give patrol a better sense of what the Tactical Response Unit does as well improve working relationships. Officers returning to regular patrol duties would have an expanded skill base.
8. The managers and supervisors must distinguish between mandatory and discretionary overtime in fulfilling their departmental fiscal responsibilities and managing the expenses incurred by the Unit.
9. Detectives assigned to the Tactical Response Unit should work weekends to improve the Unit's efficiency in debriefing arrestees and in seeking and serving search warrants.
10. The department should maintain a diverse group of officers in the TRU.
11. Conducted energy devices (TASERS) should be mandatory equipment for all TRU officers.
12. Uniformed members of the TRU should wear the standard SAPD field uniform, including patches.

13. The department should structure on-going communication among station commanders, the TRU commander and supervisors and residents in the neighborhoods in which the TRU operates. This will dispel rumors and offer officers insight into community concerns and fears, which should be considered when formulating operational plans.

## **NARCOTICS UNIT**

The San Antonio Police Department's Narcotics Unit was reviewed for specialized training related to use-of-force policies and practices. The centralized Unit is housed in a secure, offsite facility. According to the commander, the unit focuses primarily on "street" and mid-level dealers. Detectives work in an undercover capacity to perform "buy-bust" operations and use paid informants to gain enough information to obtain search and arrest warrants.

The unit is managed by a lieutenant and supervised by four sergeants. Seven detectives are assigned to the day shift and eleven are on nights. One detective is permanently assigned to the local office of the Drug Enforcement Agency. Due to staffing levels on the day shift, there are times when not enough detectives are available to perform surveillances because of unscheduled absences and compliance with court subpoenas. Vacancies are filled through an application and interview process. The candidate's investigative skills and work history, including IA record, are taken into consideration when selecting personnel.

Once assigned to the Unit, detectives must complete a 30-day training period which includes a check-list of competencies similar to a patrol officer's field training program. They also receive "on the job training." New members of the Narcotics Unit train with the SWAT team on tactics and building entries and the two units train together twice a year.

Legislative updates and changes to procedures are provided to all members of the department once a year and are maintained on the intranet for review and reference. Personnel also attend in-service training where such items are addressed. Training Bulletins are distributed through e-mail and discussed in roll calls by supervisors to keep unit personnel aware of legislative updates and other information necessary to perform their duties. (A specific example given was when the department changed its use-of-force policy; the new policy was reviewed and discussed in roll call.) Change in laws directly related to narcotics enforcement are immediately forwarded to the Unit for review and the Training Academy is responsible for providing the timely dissemination of case law updates.

The Narcotics Unit performs search warrant services in the normal course of their duties. There is a procedure for verifying information before it is included in a search warrant and an effective check list is used to assist detectives. They also check the location with the Deconfliction Unit to be sure there is not another active investigation at the location. Prior to serving the warrant, a supervisor completes an operational plan and briefs all those participating in the service, including uniform officers. A familiarization of the location and subject of the warrant is integrated into the briefing. Debriefings are conducted on an “as needed” basis, most often when something needs correction.

Consent searches are performed with the presence of a sergeant and uniformed officers and with the written consent from the resident. High risk or dynamic entries are not conducted by the Narcotics Unit; they gain the assistance of the SWAT team for such situations. Members of the Narcotic’s Unit are issued some safety equipment including vests, goggles, tactical holsters and entry tools. Detectives may carry a personal or second weapon provided it is approved in accordance with department policy and members of the unit qualify with the weapon. Detectives have the discretion to carry an intermediate weapon such as an Asp Baton or O.C. spray.

**Recommendations:**

1. The members of the Narcotic Unit should debrief all tactical incidents including those incidents in which an operational plan is developed and briefings are conducted.
2. The Narcotics Unit should continue using the resources of the SWAT team to safely perform dynamic entries of locations with specific information that make entry a high risk. Examples include: a history of weapons at the location or used by the subject(s) of the investigation, formal and informal intelligence and physical evidence.
3. Uniformed personnel should be present with the Narcotics Unit on those incidents that do not rise to the level of SWAT team involvement but where there is a strong potential of forcible entry necessary to gain access and/or the use of entry tools.

4. Supervisors should have knowledge of those detectives in the unit that carry a personal and/or second weapon for officer safety purposes and to ensure detectives are in compliance with departmental directives.

## **SPECIAL WEAPONS AND TACTICS DETAIL (SWAT)**

The Special Weapons and Tactics (SWAT) Detail is one of four elements within the Special Operations Unit of the Tactical Support Division, which falls under the authority of the Operations Support Bureau. In addition to SWAT, the Special Operations Unit (SOU) houses the Bomb Squad, Crisis Negotiators and the K-9 Detail; all highly trained and equipped uniformed officers. The SOU is managed by a Captain who serves as the SWAT Commander, with the assistance of a Lieutenant.

In addition to the commanding officers, there are 25 officers supervised by three sergeants in the SWAT Detail. When not deployed to a critical incident, members of the SWAT team supplement area patrol officers by backing them up on calls for service involving violent incidents and seeking to apprehend wanted persons.

In order to be considered for the SWAT Detail, officers must have a minimum of four years experience as a police officer; pass the physical agility test which includes a mile and a half run, 300 meter sprint, push-ups and sit-ups; and achieve range qualification requirements. Once a candidate passes all minimal requirements, s/he is eligible for consideration. The selection of new members is made by the SWAT Commander with input from the detail's lieutenant and supervisors.

Members of the SWAT Detail train as a unit one day a week, every Wednesday. Training consists of weapons familiarization and qualification along with practical scenario exercises. The SAPD SWAT is also a training resource to other teams, and provides instruction for other law enforcement agencies. They offer an annual SWAT class at the San Antonio Academy for police and corrections personnel. Topics of the class include: History, Legal Issues, Team Structure and Selection, Equipment, Negotiations, Fitness, Sniper Operations, Command Post Operations, Chemical Agents, Less Lethal Munitions, Raid Planning, Distraction Devices, Movements/Entries, Perimeter Deployment and Firearms.

The SWAT commander has recently agreed to have SWAT members train other SAPD units on entries. These units, frequently with some former SWAT members, often request SWAT

assistance for high-risk search and arrest warrants. By increasing their knowledge about entry tactics, the department expects to increase officer and suspect safety when these units seek to serve search and arrest warrants that do not rise to the level that requires SWAT.

SAPD General Manual Procedure 802 defines the actions and responsibilities for the department's response to Unusual Occurrences and Critical Incidents. In section 802.04 B, the types of situations in which SWAT is deployed are outlined. In general, SWAT will be deployed for:

- “a high risk situation that immediately poses a continuing threat of death or serious bodily injury to any person by another and includes, but is not limited to, the following types of incidents:
  1. Barricaded individual;
  2. Bomb incident;
  3. High risk suicide situation;
  4. Hostage incident;
  5. Sniper incident; and
  6. Terrorist action.”

SWAT may also be deployed to assist other departmental units in tactical and potential high-risk situations in which their expertise and equipment will maximize the safety of members of the department and community. These practices are in alignment with national best practices.

Operational planning is conducted on all callouts as well as scheduled requests for the SWAT Detail by other units within the department. It is the responsibility of the SWAT Commander to see a plan of action is devised for resolving a critical incident. In the case of assisting another detail, an operational plan is put together by a member of SWAT, including a briefing for all the involved parties prior to deployment. An after action debriefing is conducted on each SWAT deployment. Issues identified during that process are addressed at a future SWAT training day. The practice of debriefing all incidents is sound and represents a best practice in the field.

## **Recommendations:**

1. Training in team entries for details that frequently conduct searches and arrest warrants is an effective strategy to improve the skill level of employees and enhance officer safety. However, this should not develop into a false sense of security and replace the use of the SWAT Detail in appropriate incidents. There should be a directive outlining the circumstances and types of “routine” incidents in which SWAT should be deployed versus using the resources of the initiating detail. This practice should be closely monitored by unit commanders.
2. The weapons allocated to the SWAT Detail include four models of precision rifles, three types of semi-automatic rifles, and three select fire weapons. In addition, the unit has two less lethal launchers. This array of weapons requires constant training. As new weapons are added, adequate familiarization and training of each new firearm should be provided to ensure members of the detail are efficient in both use and nomenclature.
3. The responsibilities of the initial responders to a critical incident are described in 802.05A. This section instructs the initial responding officer to, “Attempt to establish communication with the suspect, hostages and/or witnesses to help assess the situation.” The language in this subsection should be modified to read: “Attempt to establish communication with witnesses to help assess the situation. Direct communication with the suspect or hostage with anyone other than a member of the Crisis Negotiators Detail is discouraged and should only be made when initiated by the suspect or hostage.”

While it is advisable for the initial responding officers to obtain the identity of all the involved parties and the means to communicate with them, it is preferred that only trained negotiators have direct contact with the active members of the incident.

## **REPEAT OFFENDER PROGRAM (ROP)**

The Repeat Offender Program (ROP) was started in the mid 1980's through a grant using both undercover detectives and uniformed personnel. The philosophy of ROP is to reduce crime and violence by arresting career criminal that are responsible for committing a disproportionate amount of crime in the community – people, rather than locations, are the focus. Potential targets are identified by gathering information from a variety of sources including informants, field intelligence, personal observations, and information provided by the public. An active file is maintained on all informants working with members of the ROP. Unit detectives debrief arrestees to obtain further information on active criminals.

When originated, the unit was commanded by a captain, who was assisted by a lieutenant. Five sergeants supervised a group of 22 detectives and 20 uniformed officers. Over time staffing has fluctuated depending on departmental priorities. Current staffing is: one lieutenant, three sergeants, and 30 detectives and officers. The detail works from an off-site and secure facility also used by the Narcotics and Vice Units.

ROP has three shifts that rotate every month. Day watch personnel work a 5/8 schedule Monday – Friday and there are two swing shifts (3:00 p.m. to 1:00 a.m. and 4:00 p.m. to 2:00 a.m.) each working a 4/10 schedule.

<b>ROP Unit Activity - 2007</b>	
<b>Arrests</b>	
Felony	728
Misdemeanor	417
<b>Warrants Cleared</b>	
Felony	409
Misdemeanor	182
Municipal Court	386
<b>Search Warrants</b>	
Narcotics	128
Property	37
<b>Narcotics Seized - Grams</b>	
Cocaine	11,899.40
Heroin	478.80
Marijuana	229,182.35
Methamphetamine	849.55
Miscellaneous	203.10

<b>Narcotics Seized - Value</b>	
Cocaine	\$1,070,948.00
Heroin	\$43,119.00
Marijuana	\$790,678.00
Methamphetamine	\$76,460.00
Miscellaneous	\$472.00
<b>Recovered Property</b>	
Guns	103
Property (Value)	\$395,440.00
Vehicles	27

Based upon the nature of the work performed by ROP, members frequently serve search warrants and arrest warrants. Prior to initiating the service of such warrants, an operational “game plan” is developed which includes all pertinent information available on the subject and location involved. This information is provided to all members participating in the field action in the form of a briefing. The commander of the unit advised vests are mandated when serving an arrest or search warrant and the SWAT team is deployed when circumstances dictate.

For those occasions that do not rise to the level of participation of the SWAT team, members of the Repeat Offender Program have battering rams at their disposal to make forced entries. They have requested, but had not been issued, shields at the time of the PERF site visit. They are trying to increase their proficiency in entries that do not rise to the level of SWAT involvement and the unit commander was in the process of scheduling training to enhance their dynamic entry skills.

**Recommendations:**

1. The members of the Repeat Offender Program should continue to develop an operational game plan for the service of arrest and search warrants. After the service is completed, a tactical debriefing should routinely be conducted on all incidents.
2. The ROP should continue using the resources of the SWAT team to safely perform dynamic entries of locations with specific information that make entry a high risk. Examples include: a history of weapons at the location or used by the subject(s) of the investigation, formal and informal intelligence information and physical evidence. Any

entry in which the use of a battering ram and/or ballistic shields is contemplated should be performed by SWAT personnel.

3. Members of the ROP should regularly train as a team on entries that do not rise to the level of SWAT. Training should include the use of all equipment issued that may be used to affect an arrest or execute a search warrant.
4. Training should be completed by all members of the ROP on the use and application of additional equipment issued to the unit prior to it being deployed in the field.

## REVIEW OF USE-OF-FORCE AND SEARCH AND SEIZURE TRAINING CURRICULUM

As part of the study, PERF staff reviewed training curricula submitted by the department which covered current training on use-of-force and search and seizure. This was in the form of the lesson plans that are used to provide such training. Based on this review the following findings and recommendations are offered.

<p><b>“7. Arrest – Search –Seizure (24 hours):” “Unit Goal: 7.1. The student will understand the legal authorities as they pertain to the role of the peace officer and the rights of citizens regarding arrest.” Updated 09-01</b></p>
<p>and</p>
<p><b>“Arrest, Search and Seizure: Lesson Objective:” “Upon completion of this 52 hour course, each student will be able to identify the rules and laws as they apply to Arrest, Search and Seizure, including reasonable suspicion and probable cause. Each student will also be able to identify the items listed in the TCLEOSE Object 7, Unit Goals. Training will be conducted in classroom and scenario settings throughout the Academy grounds. Each student will be required to make a minimum score of 80% to be considered competent in these areas.” Date Prepared: October 31, 2004</b></p>
<p>The more recent document (2004) is a 41 page listing of TCLEOSE instructional points and the appropriate legal citations presented in a two column format. The first column is headed “KEY TOPIC POINTS.” The second column is headed “ELABORATION OF KEY POINTS.” The key point column lists by number TCLEOSE objectives and various key words. The elaboration column usually offers corresponding legal passages. It offers little interpretation or case examples. The earlier document includes a copy of the Miranda decision and a one page description of a scenario for applying “frisking” law. The earlier document does list each learning objective rather than just the objective number.</p>
<p><b>Recommendations:</b></p>
<p>While the current lesson plans provides a lengthy summary of legal authorities, it should be substantially rewritten.</p>
<p>1. The format should follow that used in the “2008 Patrol In-Service Firearms Training” format. Of all the lesson plans reviewed, this has the most complete and comprehensive description of all the elements that should be in a lesson plan.</p>
<p>2. Each learning objective should be specifically stated and elaboration should be more than just recitation of the law. It should include discussion points, examples and scenarios to help cadets understand how to apply the law to varied situations.</p>
<p>3. All pages should be numbered.</p>
<p>4. Consideration should be given to integrating the parts of this module throughout the course of instruction rather than as a single, large block. The laws of arrests could be provided as part of the instruction about arrest</p>

techniques. Laws and cases pertaining to vehicle searches could be given in conjunction with vehicle stop and approaches.

**“Training Bulletin #07-16: Searches and Seizures.” Dated 10/16/07**

and

**“In-Service 2008: Lesson Plan: Arrest, Search and Seizure/Legal Updates.”  
Undated**

The 12 page Training Bulletin is a comprehensive essay on search and seizure. It deals with current issues and provides examples and good discussions of the key legal topics. However, its length and breadth may make it somewhat difficult to absorb in a single reading.

The Arrest, Search and Seizure 2008 In-Service Lesson Plan is composed of only “KEY TOPIC POINTS” and very brief “ELABORATION OF KEY POINTS.”

**Recommendations:**

1. The In-Service Lesson Plan should be in the more extensive format used in the “2008 Patrol In-Service Firearms Training” lesson plan and should include learning objectives and substantially greater elaboration of key points.
2. Consideration should be given to developing the Training Bulletin as a lesson plan. Breaking it down in a detailed outline may increase its readability. The concepts it presents are critical to effective police work, especially in the San Antonio context and merit specific discussion. It should be a mandatory part of In-Service Training.
3. Each training bulletin should have numbered pages.

**“2008 Patrol In-Service: Firearms Training.” Dated 12/27/07**

This is an excellent lesson plan and should be the format used for all of the SAPD’s recruit and in-service lesson plans. It is thorough and well developed.

**Recommendations:**

1. The lesson plan sets out learning objectives which include a requirement that students show mastery through “a minimum proficiency of 70% on the final in-service written evaluation.” The concepts covered, in the classroom environment, are too critical for acceptance of 70% proficiency. Such topics as “identify the definition for Deadly Force,” “identify when the use of deadly force is authorized,” identify the intent for discharging a firearm,” “identify the circumstances when a firearm is not discharged” and “list the four cardinal rules of firearms safety” should require a 100% mastery.
2. The lesson plan says the applicability is for “Patrol In-Service Firearms Training.” The module should be required for all departmental sworn personnel.

**“Force Options (Concepts) San Antonio Police Department Training Academy Instructor Lesson Plan.” Date Revised 9/27/04**

This lesson plan is presented in a two column format composed of “KEY POINTS” and “THINGS TO SAY ABOUT KEY POINTS.” Key Points include TCLEOSE learning objectives which are accompanied by well developed elaboration points. Included at the end of the plan are brief descriptions of Application and Evaluation. No passing scores are described.

**Recommendations:**

1. Some of the references used in this module are old and should be updated. For example, a number of points are illustrated from data no more recent than 1995 (referring to circumstances of officer high risk). The references to “Verbal Judo,” a sound training concept, refer to a 1984 work.
2. The format used should be the same as used in “2008 Patrol In-Service Firearms Training” lesson plan.
3. The department should reconsider the graphic used to illustrate the use-of-force continuum. The circle, or wheel, graphic shows “Officer Presence” next to “Deadly Force.” The graphic used here should match that used in the department’s Use-of-Force directive.
4. Required proficiency scores should be included.
5. The lesson plan should substitute “less lethal” for “less-than-lethal.”
6. A correction is needed at the end of page 14 carrying over to the start of page 15. The last numbered topic on page 14 is “17.3.4.” Page 15 begins with “18.2.4 (cont.)” There is either missing material or a typo.
7. Material on page 19 related to the objective “identify typical procedures that are followed after an officer involved shooting” is presented only in broad general terms. It should be revised to describe the specific process used by the SAPD.

**“Emergency Vehicle Response Course: Cadet Driving.” Date Revised 8/16/04**

and

**“Skid Control” Date 12-14-07**

The Emergency Vehicle Lesson Plan includes a time allocation chart as well as some two column formatting with “Key Point” and “Things to Say About Key Points.” Many of the “Things to Say” are merely repeats of the same lists of TCLEOSE mandates from the first column. A number of tests/quizzes and qualification runs are referenced with 80% passing scores listed. The total time allocation is shown as 76 hours with six hours devoted to Defensive Driving, 18 hours to Fundamentals of Driving and 48 hour to Driving Application.

The Skid Control Lesson plan does not indicate the target audience, i.e., is it cadets or in-service or both? No passing scores are provided.

**Recommendations:**

1. The Emergency Vehicle Response lesson plan should include the number of hours each cadet will actually be driving. The lesson plan should deal with the following issues: cadet behind-the-wheel time in the 48 hours allocated to the

Driving Application and the formal instruction taking place when cadets are not driving.
2. Both lesson plans should have page numbers.
3. The department should consider whether the Skid Control plan should include material for front wheel drive vehicles.
4. Both plans should follow the format as used in “2008 Patrol In-Service Firearms Training” lesson plan.

**“General Manual Instruction: Lesson Plan” (for Cadets). Dated 10/1/04**

This lesson plan, designed to be presented over 24 hours, is generally in the two column format “KEY TOPIC POINTS” and “ELABORATION OF KEY POINTS.” It provides a general overview and introduction to the department’s written directive system. No passing score on the final exam is listed. The Elaboration column is composed mainly of listings of the sub-parts of the procedures. The two most extensive presentations by the amount of material in the outline are Disciplinary Procedures and Public Media Information.

**Recommendations:**

1. The Elaboration sections should include examples and scenarios in which the directives are applied. A mere recitation of the directives can be dry and hard to retain. There is no indication in the lesson plan that examples or scenarios are to be used.
2. The section on Early Warning Procedure (306) should be revised to reflect recommendations of this study to replace it with an Early Intervention System. The primary stress and focus of the presentation should be the positive aspects of the system rather than on the perceived negative aspects. The instructor’s approach and attitude will be critical to this presentation.
3. The portions of the manual that refer to vehicle accidents should be revised to replace the word “accident” with crash or collision. This will bring the department in line with the language used by the National Highway Traffic Safety Administration.

**Summary Recommendations:**

1. The training curricula reviewed vary in format and quality. While they appear to be generally comprehensive, in some instances, as described above, the “Elaboration” section of the lesson plans needs to be improved. They should be consistent in format, all should have page numbers and all should provide criteria for passing tests on the content. Each should be gender neutral and use “s/he” or “hers/his.”
2. Each lesson plan should provide examples and scenarios so that trainees can understand how the concepts operate in practice. Straight lecture is an inferior

teaching approach compared to an active learning approach that seeks to integrate lecture material with practice.

3. The lesson plans should be instructor independent so they provide adequate guidance for a new instructor. They also should be prepared as a handout to each trainee so that the trainees have a reference document for the topic.
4. A useful addition to the ideal lesson plan format, best exemplified by the format used in the “2008 Patrol In-Service Firearms Training” lesson plan would be a section that describes the qualifications required for the instructor of the lesson.

The Chief of Police recently established an external training review committee. This group is composed both of lay San Antonio residents and outside subject matter experts, chosen for their knowledge and diversity. They have been tasked with the review and comment of various aspects of SAPD training. The size of the group may be up to 15 members, each of whom gets several days of training and orientation to the department’s training efforts. Recent topics reviewed include how the department can best train its officers to deal with concerns expressed by the City’s gay and lesbian community and use-of-force. Their efforts regarding use-of-force included a review of five cases coupled with case law and discussion of critical aspects of the sample cases. This innovative review group should be retained. It represents a police “best practice.”

## **SAPD General Manual Procedure #325 — Training and Career Development**

Effective: May 28, 2001

Procedure #325 establishes a Training and Career Development Advisory Committee, which operates within the police department to ensure compliance with T.C.L.E.O.S.E. standards of training and education. The Committee also serves to enhance the career development of members at all levels in the department, through continuing training as well as providing all members with the opportunity for individual growth within the department.

The San Antonio Police Department is in compliance with most state and national accreditation standards for training. Those areas that are in full compliance are explicit and thorough.

### **Recommendations:**

1. A written directive establishing agency policy concerning remedial training should be developed. The directive should include the circumstances and criteria used to determine the need for remedial instruction, the timetables under which remedial training is provided, and the consequences of participation or nonparticipation by the affected personnel. The directive should recognize the uses of remedial instruction in other than recruit training and should comment on the relationship between the inspections and training functions.
2. The agency should provide job-related training to all newly promoted personnel. Such training should be commensurate with their new duties and should take place either prior to promotion or within the first year following promotion.
3. The department should create a written directive requiring all newly appointed civilian personnel to receive information regarding: the agency's role, purpose, goals, policies, and procedures; working conditions and regulations; and responsibilities and rights of employees. Civilians should receive initial and on-going training commensurate with their responsibilities. Such training should stress not only the skills necessary to perform technical aspects of their jobs but also the importance of the link they provide between citizen and agency, which often shapes a citizen's opinion of the agency.

### **Compliance with State and National Accreditation Standards**

SAPD General Manual Procedure #325, *Training and Career Development*, is consistent with the following state and national training accreditation standards:

#### *Texas Commission on Law Enforcement Officer Standards and Education*

According to a T.C.L.E.O.S.E. Training Academy Report dated April 23, 2007, the San Antonio Police Academy was in compliance with all applicable Commission Rules at that time and no deficiencies were noted.

#### *Commission on Accreditation for Law Enforcement Agencies (CALEA)*

- 33.1.1** A written directive establishes a training committee in the agency and includes provisions for the following:
- a. composition of the committee;
  - b. the process for selecting and replacing committee members;
  - c. the relationship of the training function to the committee;
  - d. authority and responsibilities of the committee; and
  - e. designation of the person or position to whom the committee reports.
- 33.1.2** A written directive governs attendance requirements for employees assigned to authorized agency training programs.
- 33.1.4** The agency requires lesson plans for all training courses conducted by the agency, to include:
- a. a statement of performance and job-related objectives;
  - b. the content of the training and specification of the appropriate instructional techniques;
  - c. a process for approval of lesson plans; and
  - d. identification of any tests used in the training process.
- 33.1.6** A written directive requires the agency to update records of employees following their participation in training programs.
- 33.1.7** The agency maintains records of each training class it conducts, to include, at a minimum:
- a. course content (lesson plans);
  - b. names of agency attendees; and
  - c. performance of individual attendees as measured by tests, if administered.
- 33.2.1** If the agency operates a training academy, a written directive requires provisions for the administration and operation of the academy, to include:
- a. a statement of the academy's goals and responsibilities;
  - b. organization and staffing;
  - c. administrative procedures; and

d. operating procedures.

**33.2.2** If the agency operates an academy facility, the facility includes, at a minimum:

- a. classroom space consistent with the curriculum being taught;
- b. office space for instructors, administrators, and secretaries;
- c. physical training capability; and
- d. a library.

**33.4.1** The agency requires all sworn officers to complete a recruit training program prior to assignment in any capacity in which the officer is allowed to carry a weapon or is in a position to make an arrest, except as part of a formal field training program required in standard 33.4.3

**33.4.2** A written directive requires the agency's recruit training program to include:

- a. a curriculum based on tasks of the most frequent assignment associated duties of officers who complete recruit training; and
- b. use of evaluation techniques designed to measure competency in the required skills, knowledge, and abilities.

**33.4.3** A written directive establishes a field training program for all newly sworn officers with a curriculum based on tasks of the most frequent assignments with provisions for the following:

- a. field training of at least four weeks for trainees, during and/or after the required classroom training;
- b. a selection process for field training officers;
- c. supervision of field training officers;
- d. liaison with the academy staff, if applicable;
- e. training and in-service training of field training officers;
- f. rotation of recruit field assignments;
- g. guidelines for the evaluation of recruits by field training officers; and
- h. reporting responsibilities of field training officers.

**33.5.1** A written directive requires all sworn personnel to complete an annual retraining program, including legal updates.

**33.5.3** Familiarization with the accreditation process is provided to agency employees as follows:

- a. to all newly hired agency personnel within a reasonable period after their employment begins;
- b. to all agency personnel during the self-assessment phase associated with achieving initial accreditation and each reaccreditation; and
- c. to all agency personnel just prior to an on-site assessment associated with initial accreditation and each reaccreditation.

**33.6.1** A written directive identifies the functions for which specialized training is required, and includes the following:

- a. development and/or enhancement of the skills, knowledge, and abilities particular to the specialization;
- b. management, administration, supervision, personnel policies, and support services of the function or component; and

c. supervised on-the-job training.

**33.6.2** If the agency has a tactical team, the agency requires that all personnel assigned to the team engage in training and readiness exercises.

## **San Antonio Human and Civil Rights Coalition What We Want**

We want to see an end to SAPOA influence in Internal Affairs. SAPOA contract guidelines that allow the association to control or influence an investigation must be removed from the contract between the City and SAPOA.

We want to see an end to PAC monies being used to influence Council members. The city should disallow PAC contributions from the association to any council member.

We want to see an aggressive approach in dealing with officers that break the law. We want to see the Police Chief and the City take all cases where officers have broken the law to the DA with a recommendation for prosecution.

We want to see a review of use of force policies and a more straight forward attitude about zero tolerance of abuse, and zero tolerance of strip searches on public streets. We want to see those individuals that have a conflict of interest while sitting on the CAAB (Citizen Action Advisory Board) removed. This includes Dan Martinez who is a member of the Eastside Crime Coalition which is a direct conflict of interest. Mr. Martinez cannot be expected to be fair as his relationship with the police is too close to render his decisions unbiased.

The CAAB should be disbanded and we need an independent citizen review board that is made up of individuals that are not approved or vetoed by the SAPOA. We want people who have been abused to be able to write their own complaints and to have a lawyer or relatives present at the time of filing a complaint. We want to see non-police personnel in charge of doing the complaint intakes, perhaps a private company being contracted out to take the complaint.

We want to see strict guidelines on the use of Tasers, and that memory chips be attached to all Taser weapons so that an accurate record exists as to how many times a person has been Tasered and for how long. We want cameras on **all** police vehicles that can record an officers actions while conducting a stop or an arrest.

We want to see a public forum conducted and sponsored by the City that allows people to come forward and tell their stories without fear of intimidation.

**These are a few of the concerns that must be addressed immediately, but by no means a complete list of the changes needed to address the dangerous levels of police abuse that has taken place in our city.**