

City of San Diego

**CITIZENS' REVIEW BOARD ON
POLICE PRACTICES**

Annual Report 2004

CITY OF SAN DIEGO

CITIZENS' REVIEW BOARD ON POLICE PRACTICES

ANNUAL REPORT

JANUARY - DECEMBER 2004

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Nancy L. Acker, Ph.D, 2 nd Vice-Chair		Gary. C. Robertson
Jan Allen		Nancee S. Schwartz
Dr. Joseph A. Averna		Dr. Abdussattar Shaikh
Dian Black		Rodgers T. Smith
N. Lee Bausch		Fred Sotelo
James M. Dort		Faith R. Triggs
Thomas Ferran		Crystal C. Trull
Robert M. Garber		Alex Urbano
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June C. Gottschalk		Dr. George F. Yee
Ryan P. Hurd		Vernon T. Yoshioka
Ray Killens		

Scott D. Fulkerson, Executive Director

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INTRODUCTION BY THE CHAIR

The City of San Diego Citizens' Review Board on Police Practices (CRB) has annually reached increasing levels of achievement in the area of civilian oversight of law enforcement. During the Board's formative years, meetings at times were intense and adversarial, between not only the SDPD and the CRB, but even amongst Board Members. Fortunately, for those who live, work, play and pass through San Diego, the CRB's proceedings have steadily improved to create a spirit of cooperation and professional respect for civilian oversight of law enforcement in the City of San Diego.

The CRB's experiences, coupled with the diversity that Members bring to the Board, have enabled the CRB to become more effective in its case review and presentation, thus more influential in police training, practices and procedures.

The San Diego Police Department provided the CRB with virtually unfettered access to the investigative processes of the Internal Affairs and Homicide Units, which empowered the CRB to thoroughly review complaints, officer involved shootings, and in-custody deaths. The professional relationships that have continued to develop between the SDPD and the CRB have ensured that the CRB functions far exceeded that of an advisory committee making recommendations. The CRB has become a credible and effective change agent in SDPD training, policy and procedure.

The appointed Board Members and Prospective Members have accepted an important assignment in civilian oversight of law enforcement. The long hours spent in the case review, presentation and deliberation, attendance at retreat and training sessions, and ridealongs in the field have assured that the CRB's case review process has been carried out with the utmost fairness. Prospective Members have endured the same time commitments while patiently awaiting appointment.

In addition to the periodic case review and twice-monthly CRB meetings, many Board members actively participated in Training, Outreach, Rules and Regulations, and Policy Committees, which have significantly improved the CRB's ability to function effectively. These Committees have aggressively pursued their individual tasks this year, and the time and effort devoted will prove valuable for many years.

City Staff support of CRB efforts has been exceptional in spite of budget reductions and fiscal constraints. Executive Director Scott Fulkerson, CRB Coordinator Elvia Sandoval, Deputy City Attorneys Julie Doi, Marcella Ordorica and Joseph Sanchez, all have been instrumental in the CRB's success. Their wise and sage advice on complex issues has ensured that the CRB functioned at an exceptionally high level.

The San Diego Police Department has continued to be a key element to the CRB's success. Their willingness to listen to the views, opinions and recommendations of the CRB is steadfast. Chief Lansdowne, Executive Assistant Chief Maheu, Lieutenants Kendrick, Swanger, Vasquez and Gollehon, and Detectives Tallman and Wagner, all have been collegial and professional in their interactions with the CRB.

In 2004, the CRB bid farewell to a number of volunteers, most notably three members representing nearly 30 years combined service to the CRB. Rodgers Smith, completed an initial two terms and returned, totaling more than 10 years with the CRB. Robert Platt and Dr. Abdussattar Shaikh both reluctantly stepped aside because of the eight-year term limitations. The commitment of these three volunteers, over the span of their terms, equates to roughly 2000 hours or nearly one standard work year - each - at virtually no cost to the City of San Diego. Their commitment and contributions to civilian oversight of the SDPD is representative of all Board Members and will have a long-lasting effect on the success of the CRB.

Commitment, cooperation, trust and respect are pillars of success for the Citizens' Review Board on Police Practices. The Board strengthened those pillars in 2004 and set sights for even greater achievements in the near term.

Patrick Hunter
Chair

CITIZENS' REVIEW BOARD ON POLICE PRACTICES ANNUAL REPORT (January 1, 2004 - December 31, 2004)

BACKGROUND AND PROCEDURES

The Citizens' Review Board on Police Practices (Board) was established in November 1988 as a result of the passage of Proposition G; the Board began its work July 1, 1989. The City Manager is charged with appointing 23 volunteer citizens to the Board for one (1) year terms beginning each July 1. The City Manager also appoints up to 23 citizens as non-voting "Prospective Board Members" who are trained for appointment to the Board as vacancies occur throughout the year. As part of its responsibilities to review and evaluate substantive (Category I) complaints brought by the public against officers of the City of San Diego Police Department, the Review Board publishes annual reports which present statistics on the number of complaints filed, the types of allegations, the findings of the Police Department's Internal Affairs Division investigations, and the Review Board's findings. The Board also makes a semi-annual report to the City Manager discussing its accomplishments, activities and concerns.

Category I allegations include force, arrest, discrimination, slurs, and criminal conduct. If alleged in conjunction with Category I complaints, the Board also reviews allegations in the areas of procedure, courtesy, conduct and service. These complaints are classified as Category II, and when filed alone, are evaluated solely by the Police Department and are not reviewed by the Board.

Citizens may file a complaint with the Review Board's staff, at designated community agencies or at City Community Service Centers as well as at any Police Department Substation or at Police Headquarters. All complaints, wherever they originate, are sent to the Internal Affairs Division of the Police Department.

When a Category I complaint is received by Internal Affairs, it is assigned to one of its Sergeants for investigation. (Category II complaints are investigated by supervisors in the police division where the subject officer works.) The investigation includes interviews with the complainant, the subject officer and witnesses, and an examination of the physical evidence, if any. Internal Affairs considers each allegation in the complaint separately.

Once the investigation is complete, the Internal Affairs disposition on each allegation will be classified in one of the following ways:

- **SUSTAINED** The Department member committed all or part of the alleged act of misconduct.
- **NOT SUSTAINED** The investigation failed to produce sufficient evidence to clearly prove or disprove the allegation.

- EXONERATED The alleged act occurred but was but was justified, legal and proper.
- UNFOUNDED The alleged act did not occur.
- OTHER FINDINGS The investigation revealed violation(s) of Department policies/procedures not alleged in the complaint.
- COMPLAINANT NON-COOPERATIVE (CNC) The complainant either cannot be located to be interviewed, refuses to be interviewed, or fails to provide sufficient pertinent details to address the allegation. Attempts must be made to locate the complainant. (Note: In some limited circumstances, even when the complainant is not cooperative and is not interviewed, Internal Affairs may determine that there is sufficient evidence to reach a disposition.)

After Internal Affairs renders its findings on the complaint, a three-member Review Board Team is called in to review the case. The entire Internal Affairs investigative file related to the complaint is made available to the Team Members. This includes originals of the complaint, video or audio tape recordings of interviews of witnesses and parties to the incident, and physical evidence that was considered. Internal Affairs interviews are taped with the permission of the complainant and witnesses to facilitate the Board's review. Team Members are required to conduct their work in the offices of the Internal Affairs Unit to preserve the required confidentiality. In fact, even the notes made by the Team are left with the file in the Internal Affairs office.

The Team then prepares recommendations to the entire Review Board to either agree or disagree with Internal Affairs' conclusions. At least two of the three Members of the Review Team must review the complaint file before a recommendation is made to the Board. Two or more Members of the Team must concur in their recommendation or the case will be referred to another Team for review and recommendation. The Team will recommend that the Board, on each complaint allegation:

- Agree with Internal Affairs findings with no comment.
- Agree with Internal Affairs findings with comment.
- Disagree with Internal Affairs findings with comment.
- Request additional information from Internal Affairs in order to make a decision.

In closed session, the Board will come to one of these conclusions. The Board may agree with Internal Affairs findings but comment that the incident could have been handled differently. As well, the Review Board may disagree with Internal Affairs and comment on their differing conclusion or, the Board may simply agree with Internal Affairs. It is important to note, however, that the Review Board is not authorized to conduct independent investigations, does not have direct access to the complainant, officers or witnesses, and bases its evaluations and decisions solely on the investigative work of the Internal Affairs Unit. The Board may, however, request that additional investigation be conducted to resolve unanswered questions. Following the Board vote

on each case, the Board Chair sends a letter to all complainants informing them of the Board's review and findings regarding the allegations.

In those cases where the Board disagrees with Internal Affairs' findings on a complaint, and cannot resolve its differences with Police Department management, the Board Chair advises the City Manager of the issue and the Board's position. The Board Chair also advises the Manager of any substantive comments that the Board has made on individual cases, and may suggest policy changes based on trends that have come to the Board's attention. The final resolution of the disagreement is then made by the City Manager.

With respect to the review of cases, all of the Review Board's work is confidential and must be conducted in closed session pursuant to California Government Code Section 53947 and California Penal Code Section 832.7. However, the Board does have the authority to report its findings and concerns as related to specific citizen allegations to the City Manager, the District Attorney, the Grand Jury, and any federal or state authority duly constituted to investigate police procedures and misconduct. Since its inception, the Board has referred three (3) cases to the District Attorney, Grand Jury and/or the Department of Justice. The Board has also requested two (2) independent reviews by the City Manager since its inception.

When a complaint against an officer has been "Sustained", the Police Department imposes discipline. Internal Affairs reports the discipline to the Board and discusses any prior "Sustained" complaints of a similar nature against the officer. The Executive Director records each Sustained allegation to ensure that Internal Affairs is notified of all discipline imposed as a result of these allegations. In cases where the Board comments on the disciplinary process, the City Manager and Police Chief are so advised. Ultimately, however, the final disciplinary decision is within the authority of management, not the Review Board.

SUMMARY OF REVIEW BOARD ACTIVITIES

Over the years, the Board has reviewed hundreds of citizen complaints in closed session as required by California law, and conducted its regular business in public meetings on the fourth Tuesday of each month. To conduct its regular business, the Board is organized into Committees, which report on issues that come under their jurisdiction as established by the City Charter. The Committees also propose activities or training to assist the Board in performing its responsibilities. Summary reports of these Committee activities for 2004 follow:

TRAINING COMMITTEE:

During 2004, the Training Committee provided extensive training opportunities to all Members and Prospective Members of the Citizens' Review Board. At open (public) Board meetings, training was provided covering a variety of significant issues.

Additionally, a "Training Retreat" was held for Board Members and Prospective Members to provide an opportunity to discuss and resolve procedural issues and help maintain the high level of enthusiasm and dedication of Board Members and Prospective Members. The training provided continues to be made possible through the combined efforts of the Training Committee, individual Board Members, the Police Department, and the Regional Public Safety Training Institute ("Regional Academy").

In early 2004, the Chief of Police briefed the Board on a new program to train officers to respond to high-risk crisis situations that in the past have often resulted in police shootings. When the program was subsequently implemented in August of 2004, the Department invited the Board's Executive Director, the Chair of the Board, the Chair of the Training Committee, and the Chair of the Outreach Committee to attend the initial sessions of this new training, called "Crisis Response Team" (CRT) training. It is anticipated that this training will eventually be provided to a large segment of the officers in the Department. The Chairs of the Training Committee and Outreach Committee were able to attend the entire 80 hours of this training and gained considerable insights to assist them in handling their individual responsibilities with the CRB. While the Department is willing to have Board Members observe this training individually, the CRB Training Committee determined that some of the more significant topics in this training could be brought to the Board, and several of these topics are now being incorporated into presentations to be made to the Board. The first of these, covering the effects of job related stress on the brain chemistry of police officers, was presented to the Board in October of 2004.

During calendar year 2004, the following specific training was provided to Board Members and Prospective Members:

- **The Arrest Process.** On three separate occasions during the year, Sgt. Dawn Summers and Det. Malacha Tallman presented training to small groups of members on the arrest process, including handcuffing, pat-down procedures, and placement in a patrol unit; a tour of the sallyport and walk-through of arrest procedures at headquarters; a visit to the detainment cell area; and a tour of the communications area (911 operators/dispatch).
- **Use of Force.** Lieutenant Walt Vasquez presented a briefing on the Use of Force Matrix and provided examples of the behavior which might justify the various levels of use of force.
- **Complaint Allegation Categories.** Lieutenant Carolyn Kendrick discussed changes in the way the San Diego Police Department Internal Affairs Unit determines the appropriate complaint allegation categories for investigation of citizen complaints.
- **Citizen Oversight Models.** Sue Quinn, Board Member and past president of NACOLE (National Association for Civilian Oversight of Law Enforcement) shared her 20 years of experience in the civilian oversight arena. She discussed

the various models of citizen oversight, including the "Monitoring Internal Affairs Model," the "Independent Investigation Model," and "Auditor/Ombudsmen Model," pointing out the strengths and weaknesses of each model and offering suggestions for improvement of the process.

- **Evaluating Evidence and Assessing Credibility.** Judge Browder Willis presented a judge's perspective on evaluating evidence and assessing credibility of the parties in the complaint process (complainants, officers, and witnesses).
- **Police Chief Policy Briefing on CRT.** Police Chief William Lansdowne briefed Board Members on the current status of force issues, and a new program for the training of officers in dealing with mentally ill subjects and others who present high-risk of conflict with the police. The primary focus of this training, called "Crisis Response Team" (CRT), will be to enable officers to handle such incidents more effectively in order to reduce the number of deadly force incidents in the community.
- **The Brown Act.** Deputy City Attorney Joe Sanchez presented a review of the requirements of the Brown Act and the impact of the "strong mayor" form of city government.
- **Field Training Officer Program.** Sgt. Jerilove Crockett of the Regional Training Academy described the 16-week long, four-phase field training program that San Diego Police officers must undergo to complete the training process begun for new officers in the Regional Academy.
- **Beach Team/Neighborhood Prosecutor Program.** Sgt. John Clark and Officers Lloyd Cook and Regan Savalla discussed the Department's "Beach Team" and the Neighborhood Prosecutor Program that works in conjunction with the Beach Team.
- **Police "Buy/Bust" Operations.** Sgt. Bill Stetson explained the operational procedures for "buy/bust" narcotics operations that produce a significant number of cases reviewed by the Board.
- **The Effects of Brain Chemistry on Police Officers.** Sgt. Mark Foreman presented the findings of various studies regarding the effects of brain chemistry on individuals, with particular reference to the special circumstances of police work and the state of "hyper-vigilance" required for officers to perform their duties in the face of potential danger. This provided some insight for Board Members in attempting to understand why officers might sometimes react differently than someone who has not had these experiences.
- **Human Relations.** A video called "Peacing it Together," created by the San Diego City Human Relations Commission, was presented to the Board.

- **PSU Update.** Lieutenant Carolyn Kendrick presented an updated overview of the Professional Standards (PSU) unit (now Internal Affairs), including its goals and methodology.
- **CRB Training Retreat.** A "retreat" was held for all Board Members and Prospective Members to provide an opportunity to discuss and resolve a variety of issues to help enable the Board to continue functioning at a high level. Discussions included training priorities, outreach efforts directed towards both police and citizenry, the presentation of complaint allegations, and what the CRB and the police have a right to expect from each other.

In addition to the foregoing, individual Board Members and Prospective Members are encouraged to take advantage of numerous individual training opportunities, including:

- **Ride-alongs.** Board Members and Prospective Members have participated in ride-alongs with officers in various parts of the city and in specialized units.
- **In-service and Academy Classes.** All in-service training and Regional Academy classes were made available to Board Members and Prospective Members, and various members have observed a variety of training provided in these classes.
- **"Inside the SDPD" Overview.** Individual Board Members participated in the "Inside the SDPD" training offered to the public by the San Diego Police Foundation, including the use of force; DUI goggles; mock vehicle stops; FATS (shoot/no-shoot scenario training simulator), and a K-9 demonstration.

Individual Board Members and Prospective Members present at each open meeting of the Board are also invited to share their own experiences obtained through ride-alongs with officers or participation in training classes and outside training opportunities. This sharing of experiences at meetings provides valuable cross-training for CRB members.

OUTREACH COMMITTEE:

During 2004, the Outreach Committee began to take a more focused view of its tasks and definitions of service to the Citizens' Review Board (CRB). Two major objectives evolved from a series of brainstorming sessions that included the Outreach Committee, the Executive Committee, other Members of the Board, members of the Internal Affairs Unit (IA) of the San Diego Police Department (SDPD), CRB Executive Director and Complaints Coordinator.

1. It was decided that a thorough, detailed audit and assessment of current outreach tools and efforts was vital in order to develop a written

outreach/education plan that would also include a means to evaluate and make adjustments on a regular basis.

2. As an introduction to CRB training, Members are told that the CRB is not an advocate for the public or the police. The Board is an advocate for a fair and thorough process. That said, the CRB has responsibility and accountability to both the public and the SDPD. Up until 2004, the majority of outreach efforts had been directed toward the public. Feeling that officer 'outreach' was equally important, the Outreach Committee began to seek out ways to better educate patrol officers and other police personnel about the role of the CRB.

The Outreach Committee worked with the Internal Affairs Unit, the Executive Director of the CRB and the Complaints Coordinator to take the following actions that supported its objectives:

- Since there was no comprehensive history for inquiries and complaints against police officers, CRB's Complaint Coordinator agreed to record on a monthly basis: hits on the CRB web site, inquiries and requests from web site, inquiries/complaints via U.S. mail and walk-ins to the CRB office.
- The Internal Affairs Unit of the SDPD agreed to provide statistics on how and from where complaints against police officers arrive in their unit. The list was provided by method of complaint (letter, e-mail, walk-in, etc.) and by location (which of 9 commands or special events in which the incident prompting the complaint occurred).
- A telephone interview form was developed in order to better communicate with community-based organizations that had assisted the CRB in managing the complaint process. CRB Outreach Committee Members and Executive Committee Members contacted each organization to inquire about their current level of interest and what kind of training might be beneficial. These phone calls proved particularly important since city budgetary restrictions had impacted the viability of this outreach tool. While community organizations are not a large source of complaints, it was agreed that time and effort should be directed toward a few of the larger organizations and community service centers who have a vested interest in providing this service to their constituents.
- The CRB's Executive Director and Board Members continued to field requests for presentations to community, civic and town hall meetings on behalf of civilian oversight of the SDPD. It was decided, however, that for 2005, there should be a more structured way to seek out and manage speaking opportunities and formal presentations.
- The Outreach Committee spent one of its brainstorming sessions discussing what the citizens of San Diego wanted and needed to know about CRB and the complaint process. To that end, a list was developed with the ultimate goal being

a FAQ (frequently asked questions and answers) that would be incorporated into the CRB web site in 2005.

- While researching how to file a complaint against a police officer on the internet, several CRB Members tried the process on their own, attempting to get information from the CRB web site and through links to the SDPD web site. It was determined that the PD web site proved a bit confusing to navigate. With the assistance and support of the Internal Affairs Unit, changes were made to the PD web site, making it more “user-friendly” for citizens needing information about police officer commendations and complaints.
- Through the efforts of brainstorming sessions and interviews with patrol officers, detectives, Sergeants, Lieutenants and Captains, a FAQ (frequently asked questions) for police officers began its development stages to produce an official document for usage in 2005.
- With the support of IA and the PD’s video unit, a brief video overview of the CRB was produced and run on the internal PD web site – “Newswatch”.
- Through the cooperative efforts and support of SDPD’s Training Division and Internal Affairs Unit, the Chair of the Outreach Committee and CRB’s Executive Director became regular participants during each two-week Critical Response Team training (CRT) beginning in September, 2004. This allowed the role of the CRB to be better explained to up to 30 patrol officers and Sergeants in each session.

In addition to streamlining, focusing and expanding its outreach and education during 2004, the Outreach Committee made a commitment to continue to work toward locating resources that would allow the CRB to create a ‘mock case review’ that would be video-taped in an effort to illustrate more fully the service provided by the Citizens’ Review Board on Police Practices.

POLICY COMMITTEE:

The Policy Committee examines San Diego Police Department policy and procedural issues and makes recommendations to the full Board. The Committee’s recommendations are presented to facilitate the work of the Board, clarify the relationship between the Board and the San Diego Police Department, suggest policy reviews and, if appropriate, policy changes to the Department, and encourage dialogue and communication between the Police Department, the Board, and the public. The Committee’s work ensures that citizens have a fair and effective means of registering and resolving complaints against officers whom they believe have executed their duties improperly. Moreover, policy recommendations initiated by the Committee are meant to produce long term systemic and procedural changes designed to help the San Diego Police Department better fulfill its mission of community-oriented policing. This pro-

active involvement of the Board in helping to develop police policy has lasting benefits for the Police Department and the citizens of San Diego.

2004 ACCOMPLISHMENTS:

- **Complainant Letter**

The topic of the Complainant Response Letter continues to surface every couple years (94, 98, 01). Minor edits have been made that did not change substance of the letter. The Policy Committee addressed the Complainant Letter on two separate occasions in 2004, anticipating a revised letter approved by the Board in early 2005.

- **Complainant History / Record**

Board Members are sometimes uncomfortable discussing a complainant's prior police record or court results included during case presentations. The Committee and the Board determined that when the investigation reveals information about the complainant's past history or judicial results, Teams should be prepared to offer the information to the Board particularly if that information is case relevant and likely to influence Board Members' decisions in the voting process.

- **When Cases are Presented to City Manager**

Questions arose as to when Board can or should refer cases to the City Manager. The CRB bylaws has sufficient detail and direction to offer the Board opportunities to raise issues with the City Manager and the Chief of Police. Additionally, with the regular attendance of the Chief of Police or Executive Assistant Chief, issues informally directed toward the Department are quickly being acted upon. No policy changes were necessary.

- **Consensual Searches**

Some case discussion centered on what constituted consensual searches. The Committee reviewed Board Members Reference material (Red Book Section 3.5) which has information relative to consensual searches. The Training Committee arranged for a presentation to be conducted during open session Spring, 2004. SDPD Procedure 4.01 (Stop/Detention and Pat Down Procedures) were revised in January, 2004. Based on Board training and departmental changes to policy, the Board believes that consensual searches are being conducted appropriately. Sufficient information and detail have been provided to Board. No further action was necessary.

- **Drunk in Public (PC 647(f)) / Under the Influence of Controlled Substances (H&S 11550)**

The Committee reviewed sections of the Penal Code 647(f) and Health & Safety Code 11550. After much discussion, a motion was made and seconded to recommend that the San Diego Police Department develop a policy that would require the PAS test be conducted on those arrested under 647(f).

At the November, 2004 open session, the Board recommended to the Department the following: "The Citizens' Review Board on Police Practices recommends that the San Diego Police Department develop a policy and associated procedures to require a test (breathalyzer, intoxilyzer, etc.) be conducted by officers when arresting subjects under PC 647f." The Policy Committee will continue to follow this issue.

- **Prior Sustained Cases / Not Sustained Cases**

Discussion prompted during case reviews have caused Board Members to inquire as to whether or not officers had similar prior "Not Sustained" allegations.

CRB Accomplishments prior to 2004 which related to this issue included:

- The Board, believing that officers' complaint histories should, in some cases, be reviewed, asked to have prior, similar, "Not Sustained" findings made available to Review Teams after they have reviewed the current case.
 - At the request of the Board, information regarding prior discipline of an officer is provided to the Review Team when the current complaint contains "Sustained" findings. Additionally, if the current complaint contained "Not Sustained" findings, the Board asked to be able to see prior similar "Not Sustained" cases and, if deemed, necessary, have the prior case(s) reopened.
 - The Department agreed to provide information regarding prior officer involvement in shootings and in-custody deaths to Review Teams at the conclusion of their case evaluation in the same manner as that information is provided about prior "Not Sustained" complaints.
- **Shooting Investigation Protocol – differences in Homicide Report and PSU Report**

Discussion occurred concerning the information provided to the CRB Teams for officer-involved shootings. The Homicide Report is the basis for the investigation of the shooting, and Professional Standards Unit investigation and review is used to determine whether the officer-involved shooting was or was not within policy. The Committee also recommended that officer-involved shooting protocols and procedures be included in the CRB manual and integrated into the new member

orientation.

- **Investigators Manual**

The Policy Committee began to review and evaluate the ***San Jose Independent Police Auditor Professional Standards & Conduct Unit Investigative Procedures and Guidelines*** for potential adaptation by the San Diego Police Department.

RULES AND REGULATIONS COMMITTEE:

The Rules and Regulations Committee of the Citizens' Review Board on Police Practices is responsible for the development of the By-Laws to guide the operations of the Board. The By-Laws were last modified in 1999 and have continued to effectively facilitate the work of the Board during 2004.

There was one proposal made this year to change the By-Laws. The proposal was to add a phrase specifying that the Board Review Team shall review the results of Internal Affairs investigation at the Police Department, in accordance with current Guidelines for Preparation and Presentation of Case Reports. This proposal was adopted unanimously by the Board. However, a finalized Revised Edition of the By-laws has not yet been completed because the Committee has some further suggestions for the Board's consideration. These revisions are expected to be completed early next year.

The Committee membership has changed this year with the addition of three new members and the loss of one member. The current members are Dr. Nancy Acker, Chair; Dian Black, Robert Garber, Faith Triggs and Dr. George Yee. Attorney Nancee Schwartz left the Committee because she took a leave of absence from the Board.

PUBLIC MEETING ISSUES

In order to knowledgeably perform their duties, CRB Members are required to possess a thorough understanding of the law, policies, procedures and tactics under which the San Diego Police Department operates. The Training Committee conducted an ambitious training program during 2004 to help Members update and enhance their knowledge of these operational requirements. During the year the Board benefited from twelve (12) major training presentations conducted in conjunction with its public meetings.

1. Sergeant Jerilove Crockett briefed the Board on the SDPD's Field Training Program. She discussed the training of the Training Officers as well as the 16 week long, four phase field training that officers must pass after their 25 weeks in the Regional Law Enforcement Academy.

2. Sergeant Bill Stetson made a presentation to the Members regarding the SDPD's Operational Procedures for "Buy/Bust" Drug Enforcement Operations.
3. Lt. Walt Vasquez discussed the background, organization and operation of the Internal Affairs Unit. He presented detailed information regarding staffing, qualifications, training and rotation of personnel. He discussed the investigation process and the policies and procedures by which investigations are conducted.
4. Sergeant John Clark and Officer Lloyd Cook briefed the Board on the challenges faced by the Beach Team in policing San Diego's over-crowded beaches during the summer months. They discussed the problems of law enforcement and controlling disorder as well as protecting public safety in their area of responsibility.
5. Deputy City Attorney Regan Savalla briefed the Members on the operation of the City's Neighborhood Prosecutor Program.
6. Chief of Police William Lansdowne briefed the Board on his plans to implement a new training program to better deal with police response to situations involving the mentally ill and other potentially violent incidents.
7. Superior Court Judge Browder Willis discussed with the Board his criteria for determining the credibility of witnesses who appear in his court room. He told the Members that their job is made even more difficult by the fact that they have only written and recorded transcripts of interviews and do not have the opportunity to observe first hand. Judge Willis provided the instructions given to juries regarding this subject in the State of California.
8. Lt. Walt Vasquez discussed the SDPD's Use of Force Policy and Force Matrix with the Members.
9. Lt. Carolyn Kendrick briefed the Board on changes in the Departments Internal Affairs Unit.
10. Sue Quinn, Past President of the National Association of Civilian Oversight of Law Enforcement (NACOLE), discussed the various models (Monitoring, Independent Investigations and Auditor/Ombudsman) of civilian oversight of law enforcement employed across the United States. She discussed the strengths and weaknesses of each model. She also discussed NACOLE's recommendations for training for members of oversight bodies.
11. Sergeant Mark Foreman discussed the work that he and others have done for the SDPD regarding the long-term effects of stress on police officers. The research has shown that individuals subjected to daily stressful situations actually experience physical changes to the brain. Sgt. Foreman's work

concentrates on strategies which may be employed by officers to lessen or reverse these physiological changes.

12. Deputy City Attorney Joseph Sanchez discussed with the Board California's Open Meeting (Brown) Act which governs the manner in which the Board conducts its public meetings.

The Board took the following actions during the reporting period:

- Received monthly training reports from Members detailing the date and time and type of training experience they had participated in.
- Accepted a memo from the Training Committee which outlined the Committee's schedule of training opportunities for the year.
- Received update reports from the SDPD regarding revisions to its Discipline Manual and revisions to its policies for impounding money and other property from arrestees.
- Formally requested that the City Manager support necessary funding for the SDPD's Psychiatric Emergency Response Teams and other mental health initiatives.
- Congratulated Assistant Chief of Police John Welter on his appointment as Chief of Police in Anaheim.
- Received from the Training Committee formal guidelines for reviewing and reporting on officer involved shooting cases.
- Elected Patrick Hunter, Riley Gordon and Nancy Acker as Chair, First Vice-Chair and Second Vice-Chair respectively.
- Amended its By-laws to accept the "Guidelines for Preparation and Presentation of Case Reports" as binding policy.
- Voted to participate in a special training day at the Regional Law Enforcement Training Academy.
- Accepted the Training Committee recommendation to hold a half-day Training retreat.

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

The Board maintains a membership in the National Association for the Civilian Oversight of Law Enforcement (NACOLE). The organization provides information and

support for member agencies. The annual conference of the organization provides opportunities for learning and networking for our Board Members and staff.

Budget restraints made it impossible for the Board to participate in the annual meeting of NACOLE held in Chicago. The Board did however benefit from information sharing and presentations by Sue Quinn, a former president of the organization.

POLICY CHANGES

Since the inception of the Review Board, a number of positive changes have been implemented by the Police Department as a result of input and recommendations by the Board. Since 1990, these changes have included:

- Chief Bob Burgreen modified Department procedures to empower the Board to review and comment on all police-involved shootings.
- As a result of the Board's first annual report, an office was opened at the City Administration Building for the reception of citizen complaints. The office was publicized to promote community awareness that complaints could be filed in a location away from the Police Department. In addition, the Board has trained 23 community-based agencies to receive citizen complaints in order to make the complaint process as simple and accessible as possible to the public.
- In the same report, questions were raised about the use of flashlights as impact weapons and the possibility of purchasing smaller, less cumbersome flashlights. The Department re-examined the lights and responded with refresher training, but the lights were determined to be appropriate.
- The Board, believing that officers' complaint histories should, in some cases, be reviewed, asked to have prior, similar, "Not Sustained" findings made available to Review Teams after they review the current case.
- At the request of the Board, information regarding prior discipline of an officer is provided to the Review Team when the current complaint contains "Sustained" findings.
- Additionally, if the current complaint contained "Not Sustained" findings, the Board asked to be able to see prior similar "Not Sustained" cases and, if deemed necessary, have the prior case(s) reopened.
- At the Board's request, a system for "flagging" cases which it feels to be particularly serious was implemented in order to assure appropriate action on the part of the Department.

- The Board requested more thorough documentation by Internal Affairs Investigators of their efforts to contact citizens in “Complainant Non-Cooperative” cases. The investigators are instructed to ensure that every possible means is used to try to locate the complainant with appropriate documentation placed in the file to support that effort, including use of certified mail and visits to residences.
- At the request of the Board, Internal Affairs investigators now receive additional training on interviewing subject personnel.
- At the request of the Board, Internal Affairs investigators attend a Board meeting in order to familiarize themselves with the Board and the review process.
- At the recommendation of the Board, the Chief of Police rescinded the policy of allowing off-duty officers to work as security guards. This was later compromised by a Police Officers Association lawsuit - now off-duty work is permitted under limited conditions.
- At the recommendation of the Board, the Department issued new guidelines for the handling of evidence seized from citizens.
- Numerous informal, in-office procedures have been established to provide Review Team Members with access to investigators for questions pertinent to their review of cases.
- The Board recommended direct, but not leading, questions be asked during interviews with officers. The resulting changes created higher quality and more complete interrogations where the “hard questions” were always asked.
- The ongoing, high level of concurrence between the Board and Internal Affairs findings is an affirmation of the quality and integrity of the self-examination process. It has increased the public confidence in the complaint reception and investigation process.
- As a result of the case review process, Department procedures and policies are constantly being monitored and evaluated. Changes in Pursuit, Prisoner Restraint, Officer Off-duty/On-duty Responsibility, Money Handling and Use of Force policies are just a few of the policies which have been positively impacted as a result of Board input.
- Findings and requests by the Board have a direct influence upon formal and informal training provided to police officers.
- The Review Board’s ride-along program has increased awareness at the field level of the Board. These interactions provide both Board Members and officers with the opportunity to learn more about each other’s tasks and responsibilities.

- The Review Board requested that Complainant Non-Cooperative cases be investigated as thoroughly as possible even if the original complainant refused to be interviewed. This has been implemented and conclusions are being reached in many cases.
- Annual Report Statistics are now compiled by the Board rather than by the Complaint Enhancement Detective who formerly kept such records.
- The Police Shooting Review Board did not have any civilian membership. As a result of a recommendation by the Citizens' Review Board on Police Practices, a community volunteer was selected to sit on the Shooting Board to hear shooting cases. The practice is no longer followed, however, as police shooting cases are now evaluated by the Review Board itself
- A "False Complaint" disposition was initiated by the Police Department. The Review Board had concerns that this finding would have a "chilling effect" on the reporting of complaints by citizens. Internal Affairs consulted with the Police Officers' Association and the disposition was eliminated.
- The Board recommended that Statistical Reports maintained and/or generated regarding complaints and dispositions be made public. The Department cleared the legal hurdles and implemented the request.
- Public Forum meetings were recommended by the Board. The first were held at police facilities, then moved to neutral sites to encourage public attendance and input.
- At the request of the Board, "Misconduct Noted" and "Discrepancy Noted" findings have been clarified and definitions are included in Department Policies.

Misconduct Noted. The investigation evidenced Category 1 violation(s) of Department Policies/Procedures not alleged in the complaint.

Discrepancy Noted. The investigation evidenced Category II violation(s) of Department Policies/Procedures not alleged in the complaint.

- At the recommendation of the Board, complainants are now allowed to have an uninvolved support person present during Internal Affairs interviews.
- Citizens' Review Board on Police Practices' background and review procedures have been included in the Department Policies.
- At the recommendation of the Board, new procedures have been established for searching wallets and purses that require a witness.

- At the recommendation of the Board, conclusion letters sent to complainants now include more detail about the specific allegations and definitions of conclusions.
- At the recommendation of the Board, CRB pamphlets are now sent to complainants with the initial information letter from Internal Affairs.
- At the request of the Board, Internal Affairs personnel insure that Department Procedures and the Penal Code are available at all Board meetings.
- At the request of the Board, the entire homicide investigation is brought to the Board meeting at which a fatal shooting case is reviewed.
- At the recommendation of the Board, Chief Jerry Sanders has extended the Boards authority to include review of all fatalities that occur during police contact.
- In November of 1997, based on discussion and negotiation of issues and concerns raised by the Board, the Police Department instituted several policy changes.
 - Slurs have been changed from Category II to Category I complaints.
 - A box for complainants to check if they require an interpreter has been added to the Citizen's Complaint Form.
 - A computer tracking system has been established by Internal Affairs to automatically report out any officer with three or more Category I complaints in a twelve-month period. The Department's review and evaluation of the officer, including resulting action by the Department, will be reported to the Board annually for its comment and recommendations.
 - A computer tracking system has been established by internal Affairs to automatically report out any officer involved in two or more shootings in a twelve-month period. The Department's review and evaluation of the officer, including resulting action by the Department, will be reported to the Board annually for its comment and recommendations.
 - A summary report of all Category II Complaints and actions taken by the Department to address the issues raised by these complaints will be made annually to the Board.
- Internal Affairs now includes the following statement in its letter of findings to complainants: "Additionally, your complaint has been reviewed by the Citizens' Review Board on Police Practices."
- In a 1998 review of the Use of Force Policy, the Department, at the recommendation of the Board modified the use of Oleoresin Capsicuni (OC)

spray as follows: OC shall not be used on a person who is completely restrained in a safety control chair at any police facility.

- Disagreements between Internal Affairs findings and Review Team evaluations may now be discussed between Internal Affairs command and investigators and Review Team Members. In some cases, findings may be modified in order to resolve the disagreements.
- Internal Affairs changed their procedures regarding letters of findings sent to complainants. Final letters are no longer sent to complainants until the Review Board has completed its review.
- The Department agreed to provide information regarding prior officer involvement in shootings and in-custody deaths to Review Teams at the conclusion of their case evaluation in the same manner as that information is provided about prior “Not Sustained” complaints.
- The City Manager has established a policy for releasing all Citizens’ Review Board Police-Involved Shooting Reviews to the public. This policy was challenged by the Police Officers Association and was subsequently struck down by the Court of Appeal of California.
- The Case Reporting Form has been modified to include a space for indicating changes to Internal Affairs Findings based on input and discussion with Review Teams.
- At the urging of the Board, the Police Department has made changes to Department Procedure 1.14 (Accidents) in order to conform to City of San Diego Policy.
- In order to facilitate the Board’s responsibility to “Review and comment on the administration of discipline” the Police Department will now inform Review Team Leaders about discipline imposed and relevant background information prior to Board Meetings. Review Team Leaders will re-review the case, report the discipline and recommend agreement or disagreement with comment to the full Board.
- At the urging of the Board, tapes of all homicide investigation interviews in officer-involved shooting cases will be provided to review team members at their request.
- The Internal Affairs Liaison of the Board will now make monthly, rather than yearly, reports to the Board on the Department’s Early Warning system.

- In order to accommodate the schedules of the Members, Internal Affairs has agreed to staff its offices on one Saturday each month for Case Review and Evaluation.
- At the request of the Board, the San Diego Police Department has extended the hours available to Members for case review. Members may now accomplish their work at the Professional Standards Unit before and after regular business hours as well as one Saturday per month.
- The San Diego Police Department's Policies and Procedures are now made available to the Board in a regularly updated CD ROM format.
- Tapes of all Homicide interviews in Officer-Involved Shooting cases are now made available to Review Teams.
- The Chief of Police and/or the Executive Assistant Chief of Police now attends all Board Meetings.
- Office space for the Citizens' Review Board has been set aside in the Internal Affairs Unit. Copies of CRB and SDPD policies and procedures, government codes and other reference materials, as well as CRB computers available in the office improve the efficiency and timeliness of case review.
- The SDPD introduced a new training program designed to decrease the use of lethal force in contacts with the mentally ill as well as in other high risk situations. The concept and tactics of the Critical Incident Training program satisfy a number of recommendations made by the Board over a period of several years.
- Changes to the SDPD web site to make it more user friendly for the public were made by the Department at the Board's request.

STATISTICAL ANALYSIS

Between January 1 and December 31, 2004, the Review Board evaluated and issued findings on a total of 94 separate complaint cases including 135 Category I allegations and 69 Category II allegations. This compared to 109 separate complaint cases considered during the same period last year, which included 137 Category I allegations and 123 Category II allegations.

In addition to these allegations and findings, there was one (1) case of Complainant Non-Cooperative (CNC) for Category I complaints and two (2) CNC cases for Category II complaints compared to six (6) and five (5) respectively for the same period last year.

Analysis of the Board's records for the year reveals the following trend:

- A reduction of 8.6% in the number of Category I Complaints from the previous year.

The following disciplinary actions were taken against officers as a result of "Sustained" complaints evaluated by the Review Board between January 1 and December 31, 2004:

- Six (6) Verbal Warnings
- One (1) Note of Counseling
- Three (3) Written Warnings

POLICE-INVOLVED SHOOTING CASES

Proposition "G" provided that the City Manager shall establish rules and regulations for the Review Board as may be necessary to review and evaluate citizens' complaints against members of the San Diego Police Department. Given the significant public impact of police shootings, the Review Board felt it was appropriate to review all shooting cases whether or not complaints were filed. On recommendation of the Review Board, the City Manager and Chief of Police agreed to establish a procedure for reviewing shooting incidents involving death or injury, whether or not a complaint had been filed. Such review occurs after all internal and external investigations have been completed and reviewed by the Police Department and the District Attorney.

Between January 1 and December 31, 2004 there was a total of nine (9) police-involved shooting cases investigated by Internal Affairs and evaluated by the Review Board with the following results:

POLICE-INVOLVED SHOOTING STATISTICS

Internal Affairs Findings	<i>Within Policy</i>	<i>Not Within Policy</i>	<i>Total</i>
Shootings	9	0	9

Review Board Findings	<i>Within Policy</i>	<i>Not Within Policy</i>	<i>Total</i>
<i>Shootings</i>			
Agree w/No Comment	9	0	9
Agree w/Comment	0	0	0
Disagree w/Comment	0	0	0
Total	9	0	9

STATISTICAL BREAKDOWN OF COMPLAINT CASES

**94 TOTAL COMPLAINT CASES REVIEWED
135 CATEGORY I ALLEGATIONS**

Allegation	Internal Affairs Findings	Board Finding			Total
		Agree	Agree with Comment	Disagree with Comment	
Force	Sustained	2	0	0	2
	Not Sustained	7	0	0	7
	Exonerated	38	0	0	38
	Unfounded	24	0	0	24
	CNC	1	0	0	1
	Total	72	0	0	72
Arrest	Sustained	0	0	0	0
	Not Sustained	3	0	0	3
	Exonerated	21	0	0	21
	Unfounded	7	0	0	7
	CNC	0	0	0	0
	Total	31	0	0	31
Discrimination	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	13	0	0	13
	CNC	0	0	0	0
	Total	13	0	0	13
Slur	Sustained	0	0	0	0
	Not Sustained	2	0	0	2
	Exonerated	0	0	0	0
	Unfounded	2	0	0	2
	CNC	0	0	0	0
	Total	4	0	0	4
Criminal Conduct	Sustained	0	0	0	0
	Not Sustained	3	0	0	3
	Exonerated	0	0	0	0
	Unfounded	12	0	0	12
	CNC	0	0	0	0
	Total	15	0	0	15
Category I Allegations - Total		135	0	0	135

STATISTICAL BREAKDOWN OF COMPLAINT CASES

**94 TOTAL COMPLAINT CASES REVIEWED
69 CATEGORY II ALLEGATIONS**

Allegation	Internal Affairs Findings	Board Finding			Total
		Agree	Agree with Comment	Disagree with Comment	
Procedure	Sustained	0	0	0	0
	Not Sustained	2	0	0	2
	Exonerated	20	0	0	20
	Unfounded	15	0	0	15
	CNC	1	0	0	1
	Total	38	0	0	38
Courtesy	Sustained	0	0	0	0
	Not Sustained	5	0	0	5
	Exonerated	1	0	0	1
	Unfounded	13	0	0	13
	CNC	1	0	0	1
	Total	20	0	0	20
Conduct	Sustained	0	0	0	0
	Not Sustained	3	0	0	3
	Exonerated	0	0	0	0
	Unfounded	3	0	0	3
	CNC	0	0	0	0
	Total	6	0	0	6
Service	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	2	0	0	2
	Unfounded	2	1	0	3
	CNC	0	0	0	0
	Total	4	1	0	5
Category II Allegations - Total		68	1	0	69

STATISTICAL BREAKDOWN OF COMPLAINT CASES

**1 IN-CUSTODY DEATH
9 OTHER FINDINGS**

Allegation	Internal Affairs Findings	Board Finding			Total
		Agree	Agree with Comment	Disagree with Comment	
In-Custody Deaths	Within Policy	1	0	0	1
	Not Within Policy	0	0	0	0
Total		1	0	0	1
Other Findings	Sustained	8	0	0	8
	Not Sustained	0	0	0	0
	Exonerated	1	0	0	1
	Unfounded	0	0	0	0
	CNC	0	0	0	0
Total		9	0	0	9

Definitions:

Other Finding: The investigation evidenced violation(s) of Department policies/ procedures not alleged in the complaint.

Procedural Notation:

The statistical breakdown of complaint cases indicates no recorded disagreements with the findings of Internal Affairs. More than 10 findings for allegations were changed prior to presentation to the full board based on discussions initiated by CRB Teams during their case review. The discussions between the CRB Team, investigators and Internal Affairs staff were successful in changing these findings thus resolving disagreements prior to Board consideration. Had these discussions not been conducted more than 10 findings could likely have resulted in formal disagreements.

INTERNAL AFFAIRS DISPOSITIONS ON CATEGORY I COMPLAINTS

I.A. Allegations	<i>Sustained</i>	<i>Not</i>			<i>CNC</i>	<i>Total</i>
		<i>Sustained</i>	<i>Exonerated</i>	<i>Unfounded</i>		
Force	2	7	38	24	1	72
Arrest	0	3	21	7	0	31
Discrimination	0	0	0	13	0	13
Slur	0	2	0	2	0	4
Criminal Conduct	0	3	0	12	0	15
Total	2	15	59	58	1	135

Definitions:

Sustained: The Department member committed all or part of the alleged act of misconduct.

Not Sustained: The investigation failed to produce sufficient evidence to clearly prove or disprove the allegation.

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

Unfounded: The alleged act did not occur.

Other Finding: The investigation revealed violation(s) of Department policies/procedures not alleged in the complaint.

CNC: The complainant either cannot be located to be interviewed, refuses to be interviewed, or fails to provide sufficient pertinent details to address the allegation. Attempts must be made to locate the complainant. (Note: In some limited circumstances, even when the complainant is not cooperative and is not interviewed, Internal Affairs may determine that there is sufficient evidence to reach a disposition.)

CITIZENS' REVIEW BOARD DISPOSITION ON CATEGORY I COMPLAINTS

Disposition	<i>Sustained</i>	<i>Not</i>			<i>CNC</i>	<i>Total</i>
		<i>Sustained</i>	<i>Exonerated</i>	<i>Unfounded</i>		
Agree w/ No Comment	2	15	59	58	1	135
Agree w/Comment	0	0	0	0	0	0
Disagree w/Comment	0	0	0	0	0	0
Total	2	15	59	58	1	135

Definitions:

Agree/No Comment: The Board agreed with the Internal Affairs findings with no comment.

Agree/Comment: The Board agreed with the Internal Affairs findings with comment.

Disagree/Comment: The Board disagreed with the Internal Affairs findings with comment.