

City of San Diego

**CITIZENS' REVIEW BOARD ON
POLICE PRACTICES**

Annual Report 2006

CITY OF SAN DIEGO

CITIZENS' REVIEW BOARD ON POLICE PRACTICES

ANNUAL REPORT

JANUARY - DECEMBER 2006

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TABLE OF CONTENTS

Introduction by the Chair	1
Background & Procedures	3
Summary of Review Board Activities.....	5
• Training Committee	5
• Outreach Committee	7
• Policy Committee.....	9
• Rules and Regulations Committee	11
• Recruitment & Retention Committee.	11
Public Meeting Issues	13
National Association for Civilian Oversight of Law Enforcement	15
Policy Changes	15
Statistical Analysis.....	21
• Complaint Cases	21
• Discipline	21
• Officer-Involved Shooting Cases	22
Statistical Breakdown of Complaint Cases Reviewed in 2006	23-27

INTRODUCTION BY THE CHAIR

The purpose of the Citizens' Review Board on Police Practices (CRB) is to review and evaluate complaints brought by the public against the San Diego Police Department. It also reviews officer involved shootings, in-custody deaths and the administration of discipline resulting from sustained complaints. These matters are initially investigated by the Department. The CRB then reviews the Department's investigation for completeness, accuracy and fairness. When appropriate, the CRB makes policy and procedure recommendations to the Department resulting from these reviews.

There is a cooperative rather than an adversarial relationship between the Department and CRB. To everyone's credit, this process has developed over the years into a respectful, professional and productive model for civilian oversight. It is nationally recognized as an effective model for police review boards.

The CRB team leaders, as well as all Board Members, deserve special thanks for devoting many hours and unlimited energy to the task at hand. Everyone is a volunteer and they devote their skills and efforts to this endeavor because the Board is a significant contributor to the welfare of our community. The Members have a passion to serve and exemplify the qualities of leadership and public service that are essential to an organization with this mission. Our Board Members respect the work and consider it a pleasure and an honor to serve in this capacity.

The CRB continues to benefit from its relationship with the Internal Affairs Unit of the San Diego Police Department which has ensured complete access by Board Members to the information needed to accomplish the Board's mission. This Office has a depth of commitment which strengthens the Department's ability to police itself and respect the rights of the citizens it is sworn to protect and serve. Lieutenant Brian Blagg and past and present Internal Affairs staff has been accessible and responsive to questions and recognize that Board Members possess different strengths, skills and perspectives. When the CRB and Internal Affairs disagree on issues, it occurs with professionalism and courtesy, recognizing the merits that exist on both sides of the discussion.

None of these efforts could have been accomplished at such a highly satisfactory level without exceptional staff support. CRB Complaint Coordinator Elvia Sandoval and Deputy City Attorney's Jessica Falk-Michelli and Nooria Faizi have all been critical to the Board's success. Their support and advice on a variety of complex issues has been exceptional.

Much of the success of the Board and its national recognition is due to Executive Director Scott Fulkerson's long term management of the Board. He is *the* single person responsible for the Board's widely recognized achievements. He is retiring as of the end of August, 2007, and will be deeply missed by the City of San Diego, the San Diego Police Department, and especially by the each Board Member. We hope his astute and judicious help will guide the Board's transition into its next era.

In conclusion, this Board and the San Diego Police Department have developed and maintained a unique relationship over the years because of the selfless dedication of both parties. Each side as expressed by Chief William Lansdowne and the various CRB Chairs recognize the value of this Board. It is the hope of each Board Member that that recognition will continue in the coming years and the Board will remain an invaluable asset to the Citizens of San Diego and its Police Department.

James M. Dort
Chair

CITIZENS' REVIEW BOARD ON POLICE PRACTICES ANNUAL REPORT (January 1, 2006 - December 31, 2006)

BACKGROUND AND PROCEDURES

The Citizens' Review Board on Police Practices (Review Board or Board) was established in November 1988 as a result of the passage of Proposition G; the Board began its work July 1, 1989. The Mayor is charged with appointing 23 volunteer citizens to the Board for one (1) year terms beginning each July 1. The Mayor 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 (SDPD), 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 Unit investigations, and the Review Board's findings. The Board also makes a semi-annual report to the Mayor 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 Unit 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 of 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 produced insufficient information 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.
- ❖ 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 Mayor of the issue and the Board's position. The Board Chair also advises the Mayor 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 Deputy Chief Operating Officer of the Office of Ethics and Integrity.

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 Mayor, 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.

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 Mayor and Police Chief are so advised. Ultimately, however, the final disciplinary decision is within the authority of Police Department 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 2006 follow:

TRAINING COMMITTEE:

Extensive training for Members is the crucial component of informed case review. SDPD officers as well as the public have a right to insist that Board Members are as knowledgeable as possible in the law, policies and procedures which guide the work of

the Department and its officers. Only such well informed and trained Board Members are assigned to review and evaluate citizen complaints, officer involved shootings and deaths in custody. Because of the importance of training, the Training Committee each year designs and implements an aggressive training schedule.

During 2006, the Training Committee provided many training opportunities to all Members and Prospective Members of the Review Board. The high level of 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).

A regular schedule of training presentations was provided to Members and Prospective Members during the year at the Board's monthly Public Meetings. The specific topics covered during these meetings are detailed elsewhere in this report under Public Meeting Issues.

In addition to this monthly training schedule the Training Committee designed a half day training in basic police procedurals at the Regional Academy. This training gave Members and Prospective Members the opportunity to observe and participate in the types of training activities employed by the Academy to educate and train new officers. It also allowed Members and Prospective Members to engage in discussions with academy staff regarding the scope and rationale of training provided at the Academy.

In addition to the formal group training, individual Board Members and Prospective Members are required to take advantage of numerous individual training opportunities, including:

- **Ride-Alongs.** Board Members and Prospective Members participated in numerous 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 Members and Prospective Members participated in the “Inside the SDPD” training offered by the San Diego Police Foundation, including Use of Force, DUI Stops, Mock Vehicle Stops, Fire Arms Training Simulator, and a K-9 Demonstration.

Members and Prospective Members discuss and share their experiences with ride-alongs and other training activities in each Public Meeting. This sharing of experience provides valuable discussion and cross-training for the Members.

OUTREACH COMMITTEE:

While the Citizens' Review Board on Police Practices is charged with assuring that all complaints against San Diego Police Officers are investigated thoroughly, completely and fairly, the Review Board faces a number of challenges in sharing detailed information with the public and police personnel. Restrictions imposed by The Brown Act and the Peace Officers Bill of Rights often hinder the capacity of the Board to assure all involved parties how well the San Diego Police Department (SDPD) responds to public concern and that all complaints are given the full attention of both the SDPD and the Board.

That said, the Board's primary objective remains - in each and every case - to recommend and advocate policies which promote fair, humane policing; policies that insure the safety of both citizens and the police officers who serve them.

In 2006, the Outreach Committee continued the ongoing process of evaluating its specific responsibilities to the community and the SDPD. The year brought additional components of service: compliance with new legal mandates, and exploring and assessing local demographics and population trends in San Diego. Careful consideration was given in determining the most viable and comprehensive tools, venues and intermediaries that would provide education about the Board's process and assist those who need to access the Board's services. Priorities included: updating the Review Board website, a broader outreach to city officials and community organizations and a specific focus on the Latino and Spanish-speaking members of San Diego communities.

Members of the Outreach Committee are grateful to the Review Board's Executive Director and Complaint Coordinator for their leadership and assistance throughout 2006. And, as in past years, the Committee's accomplishments are due, in part, to the strength of San Diego's unique form of civilian oversight - a non-adversarial, cooperative, collaborative relationship with the San Diego Police Department. Full and unfettered access to Internal Affairs investigations is a vital component in fulfilling the mission and objectives of the Board. The open, transparent relationship that exists between Board Members, the Internal Affairs Unit, the Executive Assistant Police Chief, and the Chief of Police insures that all information in all investigations is available for review, discussion and evaluation.

Highlights for 2006

- In late 2005, the California Ninth Circuit Court of Appeals found California Penal Code 148.6 to be in violation of the First Amendment. The Review Board's brochures and the website were edited to replace directives regarding the "148.6 Admonishment" form - no longer required in order to file a complaint against a police officer in the state of California.

- In an effort to evaluate and address more fully the expectations of San Diegans – what they wanted and needed from the Review Board and the complaint process - a listing of “most frequently asked questions” (FAQ) was completed by Outreach Committee Members. This FAQ was distributed at community meetings and other venues during Review Board presentations. It was also incorporated into the Board’s website.
- In collaboration with Latino and Spanish-speaking SDPD community relations officers and the Internal Affairs Unit, the Review Board’s informational brochure was translated into Spanish. The printing was underwritten through private funding. Outreach Committee Members targeted specific community organizations for distribution and recommended placement on the Board’s website. Additional assessment would be completed for broader community distribution in 2007.
- To insure that the Board’s website is comprehensive and user-friendly, a number of recommendations were made to improve the content: addition of the citizen FAQ, clarification of the complaint process, adding both versions of the Board’s brochure and, upon legal review and updates, include both English and Spanish versions of citizen “Rights and Responsibilities”.
- With an updated version of the English-language brochure and the new Spanish-language version, the Outreach Committee developed a formal plan for distribution. Venues included: SDPD Headquarters and PD storefronts, Community Service Centers, San Diego city libraries, City Council district offices and community organizations throughout the city, as requested. It was determined that additional research should be done to include other community organizations having an interest in the work of the Board. Committee Members also began a series of meetings with Council Districts to ascertain the most productive manner to reach their constituents.
- The Review Board’s Executive Director and Outreach Committee Chair continued to be regular participants – in collaboration with SDPD’s Internal Affairs Unit - during each two-week Critical Response Team training (CRT). Presentations were made in February and June, with additional trainings to be scheduled for 2007. These opportunities provided excellent venues – with up to 30 police officers and sergeants in each session – to educate patrol personnel about the role of civilian oversight. Presentations were also made at “New Hire Trainings” in January, April, July and October. Patrol officer “Line-Up” presentations were done at Northern and Mid-City Divisions in February and June, respectively.
- Each year, the Board fields requests for presentations to community, civic and town hall meetings. The Outreach Chair and Board’s Executive Director continued to network with community relations officers and SDPD Division Commanding Officers, making joint presentations to specific groups as

- As the Outreach Committee explored additional opportunities to provide information to the public, the Review Board was invited to participate in the SDPD Chief's Advisory Board Meetings. Presentations were made to the Lesbian, Gay, Bisexual, Transgender Board in October, the Arab-American Board in November and the Jewish Board in December. Additional participation was planned for 2007 Board meetings. These meetings were also used for recruiting interested community members to Board membership.
- In late 2005, the Outreach Chair and Board's Executive Director began a series of meetings with SDPD Media Relations, the Internal Affairs Unit, Academy Instructors and patrol personnel to develop appropriate scenarios for a "Mock Case Review". The end product would be an 8-10 minute video that showcases the Review Board's process from the time of police contact with the citizen, through the complaint phase, through the investigation and to the resolution of the findings. The Board's strong belief is that since details of case review are confidential, a mock case review is the best way to educate both citizens and police officers about the Board's role within the community and the services the Board provides. The 'police contact' scenario has been developed and Media Relations has agreed to provide the resources for filming and editing the final product at no cost to the Board. Though there have been delays while the SDPD has undergone many staffing issues, taping is scheduled for early to mid-2007, and the video should be available for community presentations in late 2007.

POLICY COMMITTEE:

The Policy Committee of the Citizens' Review Board on Police Practices 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. The purpose of those recommendations is to clarify the relationship between the Board and the San Diego Police Department, to suggest policy reviews and, if appropriate, policy changes to the Department, and to 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 who they believe have executed their duties improperly. Moreover, policy recommendations initiated by the Committee are meant to produce long-term 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, its officers and the citizens of San Diego.

2006 ACCOMPLISHMENTS:

Consideration of prior convictions, etc.

This issue was addressed in the 2005 Policy Committee report, where it was stated:

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.

The issue continues to arise in complaints discussed at Board meetings. Therefore it was addressed again in 2006 by this Committee. The Committee reached a new determination of the policy as follows:

Team findings shall be based solely on interviews and/or evidence presented in the case file. In those rare instances where IA relies upon rap sheets, trial testimony, criminal history, or a conviction to determine a finding, such will be indicated in the Team's report.

This was accepted by the Board at its March 7, 2006, meeting.

Consideration of conflicts of interest

This issue involves the possibility of a Review Board Member knowing or having more than a casual acquaintance with a police officer, complainant, or witness in a complaint which the Board is reviewing. The Committee adopted the following language to guide Members when such occurs:

A CRB Member should make known to the Member's team any association which might present a conflict. The team should then discuss and make known the possible conflict to the Board at the time of its report if the team deems it significant.

Miscellaneous

In 2005, the Committee discussed PERT (Psychiatric Emergency Response Teams) deployment procedures, and asked Internal Affairs for information regarding PERT and officers' requests for PERT deployment. Internal Affairs reported their review and the Committee determined in 2005 that current procedures are adequate and no further action on this item was deemed necessary.

A new issue involving PERT concerns whether an SDPD officer must follow a PERT member's determination that a person in custody is to be transported to a

particular care agency and, further, what role the possibility of that person's involvement with a crime plays in that decision. This will be discussed in 2007.

RULES AND REGULATIONS COMMITTEE:

The Rules and Regulations Committee of the Citizens' Review Board on Police Practices is responsible for the development of the Bylaws to guide the operations of the Board. The Bylaws were last modified in 2005 and have continued to effectively facilitate the work of the Board during 2006.

Because of the extensive modifications of the Bylaws accomplished by the Rules and Regulations Committee in 2005, there was only one issue brought before the Committee in 2006. The Committee recommended that the Board amend the Bylaws to clarify the attendance requirements by Members at Board meetings and Case Review meetings of the various Review Teams. The Committee's recommendation was adopted by the full Board at a Public Meeting.

Because of the extensive modifications to the Bylaws in 2005 and the subsequent year long experience with the Bylaws which demonstrated the effectiveness and usefulness of the document in guiding the work of the Board, it was decided by the Executive Committee to discontinue the Rules and Regulations Committee as a permanent Committee. In the future, when issues relating to Bylaws are raised, an Ad Hoc Committee will be appointed by the Chair to study the issues and make recommendations to the full Board.

RECRUITMENT AND RETENTION COMMITTEE:

Vacancies on the Board are filled from what is called the Prospective Members List. Individuals appointed to the Board must be fully trained and prepared to fulfill their duties. The Prospective Members List was formed in 1996 in order to assure that a diverse group of applicants was always available for the City Manager (and now the Mayor) to choose from in making appointments.

In 2005, it was anticipated that most of the people on the Prospective Members List would be appointed to the Board to fill a number of expected vacancies. Because of this, the number of Prospective Members available for future appointments would be reduced to a very low number. In the past, recruitment had been accomplished entirely by the City Manager's Office. With the support of the Mayor, a Recruitment and Retention Committee was formed to assist his office in identifying, recruiting, and appointing new Prospective Members. Since there is no longer a City Manager, the Review Board works directly with the Mayor's office. The Mayor has decided to retain the Recruitment and Retention Committee as the best means of identifying Prospective Members.

The Board works diligently to identify the most diverse group of candidates possible. The Board strives for diversity in its broadest sense to include education, employment, geographic location in the city, age, gender, race, ethnicity, and sexual orientation. In the past, notices were placed in the media and interested individuals were asked to contact the Review Board. This method was highly successful and most of the past and current Members were selected in this manner.

In 2006, a new approach was tried. In addition to recommendations from current and past Board Members, the Chief of Police's Advisory Committees, and high-ranking members of the San Diego Police Department, LEAD San Diego has been instrumental in providing the Recruitment and Retention Committee with the names of highly qualified candidates. LEAD San Diego is a not-for-profit organization focused on developing community leaders who can be a catalyst for creating a better future for San Diego. LEAD provides local emerging leaders with an overview of the region and the issues that impact it, access to San Diego's leadership, and a network of people and organizations that help make our region a better place to live and work. Participants of LEAD are concerned about San Diego, have the desire to take a leadership role in creating positive change for the region, and are looking for opportunities to build on their existing leadership skills.

The Recruitment and Retention Committee continued to utilize LEAD San Diego and in the summer of 2006, the LEAD staff provided the Recruitment and Retention Committee with the names of potential candidates. In addition, presentations about the Board were made to several of the Chief's Advisory Committees. Captains in commands which were not well represented on the Review Board were contacted for suggestions. Current and past Board Members were again asked to provide the names of people who might be interested in serving on the Board.

Candidates submitted a résumé and letter of interest. Each candidate had an informal interview with the Executive Director and one of the two Recruitment and Retention Committee Chairs. These interviews were conducted in order to get to know the candidates on an informal basis but also to stress the time commitment involved when serving on the Board. Candidates were then interviewed by a Committee consisting of the Executive Director, two Board Members, and two members of the public not affiliated with the Board. The names of the twelve finalists were forwarded to the Mayor for his approval. All were approved.

In the summer of 2006, the Recruitment and Retention Committee determined that just identifying, interviewing, and selecting candidates was not enough to ensure that they would stay active and motivated during the long training process needed before they became Board Members. Therefore, the Board changed the Committee's name to the Recruitment and Retention Committee and developed a training matrix. This matrix consisted of seven components aimed at providing the Prospective Members with a comprehensive look at not only the Review Board but also the San Diego Police Department. Prospective Members were required to complete all components of the training before they were assigned to Teams as training members.

As a result of the new approach to training Prospective Members, the Review Board will be assured that, as Board Member replacements are needed, qualified people will be appointed to the Board.

PUBLIC MEETING ISSUES

In order to knowledgeably perform their duties, Board 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 2006 to help Members update and enhance their knowledge of these operational requirements. During the year the Board benefited from eight (8) major training presentations conducted in conjunction with its public meetings.

1. Lt. Boyd Long updated the Members on the current revision of the Department's Discipline Manual. The last revision of the manual had been in 1987. Prior to this revision the manual dealt with only discipline. The new manual is broader in scope and has three major parts: Positive Discipline, Misconduct Discipline and Performance. The manual is specifically designed for the benefit of first-line supervisors.
2. Lt. Bill Nelson and Sgt. Roger Howes conducted an informational presentation and demonstration on the Canine Unit. The SDPD Canine Unit is the largest in the country with 48 units. Dogs are trained in either detection or patrol and are taught to "find and hold". Each dog costs \$8,500 and the dogs are purchased from sources in Europe. New dogs go through a 120 hour, 8 week academy as well as 4 to 8 hours of training per week once they are on the job. The Canine Unit receives 1,800 calls per month. In most cases suspects surrender before the dog needs to be deployed.
3. Barbra Filner and Robin Lewison of the National Conflict Resolution Center presented an overview of the mediation process and a detailed description of the mediation services their organization provides in citizen/police complaint mediation. Members benefited from a lengthy discussion and question and answer period.
4. Training Committee Chair Loren Vinson and Executive Director Scott Fulkerson discussed the importance of following the Guidelines for Case Review and Reporting. Mr. Vinson used the Case Review Power Point Presentation to review the process which has been utilized for the past several years.
5. Mayor Jerry Sanders introduced Jo Anne SawyerKnoll, his Deputy Chief Operating Officer for Ethics and Integrity. He indicated that Ms. SawyerKnoll will be acting on his behalf on all administrative matters regarding his office and the Board. The Mayor spoke to the Members for several minutes acknowledging

and thanking them for their time and commitment on behalf of the City. He took questions on both Review Board and general City Issues.

6. Sgt Bill Schnell and Officer Wes Magnum briefed the Members on the work of the Homeless Outreach Team (HOT). HOT deals primarily with the chronic homeless population of the City. Much of this population is suffering from mental illness and or drug addiction. Hot is a collaborative effort funded by the City and the County with the mission of providing long-term solutions for the homeless.
7. Brad Simmons from the Neil Good Homeless Center briefed the Members on the day program provided by his agency. The Neil Good Center is an intake and processing center which helps its client's access services from various appropriate agencies. On site the program also provides showers, mail service and internet access as well as job counseling, outreach and case management. They serve 61,000 clients per year.
8. Chief of Police William Lansdowne briefed the Members on his eight community advisory groups. Each group is made up of leaders from the subject community and meets with the Chief quarterly. In response to questions the Chief also discussed changes to Internal Affairs procedures which will promote faster investigations, management issues caused by staffing shortages, his plans for dealing with staff shortfalls, comp time changes, homeless enforcement and his policy on off-duty officers taking solitary enforcement actions.

The Board, after discussion in public meetings, took the following actions during the reporting period:

1. Authorized the Chair and the Executive Director to participate in an interview with Chief Lansdowne and Police Officers Association President Bill Nemecek for the Police Practices Review of the Police Assessment Resource Center.
2. Received a communication from the Mayor's Office indicating that the Mayor will continue the operating policies and procedures for the Board as developed under the former Strong Manager form of city government.
3. Accepted an invitation from the Police Foundation for Members to attend free of charge the programs and trainings of the foundation.
4. Approved By-laws changes regarding meeting attendance recommended by the Rules and Regulations Committee.
5. Authorized the distribution of the Board's brochure in Spanish.
6. Elected Jim Dort as Chair, Loren Vinson as 1st Vice Chair and Sandra Arkin as 2nd Vice Chair.

7. Accepted a report on the San Diego Police Foundation from Executive Director Wenda Alvarez.

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

The Board maintains a membership in the National Association for 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 Members and staff.

The annual conference was held in Boise, Idaho during the last week of September. The Board was represented by the Executive Director who was invited to participate as a presenter. Mr. Fulkerson presented as part of a panel of three Boards representing Washington D.C., Los Angeles and San Diego. Each city employs a somewhat different operating model. The panel provided the opportunity for attendees to learn about different forms of civilian oversight and compare the strengths and weaknesses of each model.

POLICY CHANGES

Since the inception of the Review Board, numerous 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 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 I 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 extended the Board's authority to include review of all fatalities that occur during police contact.
- 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 Capsicum (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 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 are now 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 extended the hours available to Members for case review. Members may now accomplish their work at the Internal Affairs 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.
- 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.
- Changes to the Internal Affairs procedures manual regarding citizen complaints, officer involved shootings, in-custody deaths, and reception/investigation/routing procedures were adopted by the SDPD at the request of the Board.
- The SDPD is placing digital cameras in all patrol units (as budget allows) and has promulgated an updated order (OR # 05 06) concerning use, preservation, copying and other details regarding cameras and photographs.
- The SDPD has accepted a recommendation from the CRB to ensure that motorists and others are informed in a timely manner of the reason for their detention.
- The SDPD accepted a recommendation from the CRB to review its policy for delivering "stay away orders" from school administration officials by members of its Juvenile Service Teams.

- At the request of the CRB the SDPD has made changes to its policy for escorting detainees to restrooms.

STATISTICAL ANALYSIS

Complaint Cases

Between January 1 and December 31, 2006, the Review Board evaluated and issued findings on a total of 61 separate complaint cases including 85 Category I allegations and 88 Category II allegations. This compared to 76 separate complaint cases considered during the same period last year, which included 111 Category I allegations and 90 Category II allegations.

In addition to these allegations and findings, there were three (3) cases of Complainant Non-Cooperative (CNC) for Category I complaints and zero (0) CNC cases for Category II complaints compared to four (4) and one (1) respectively for the same period last year.

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

- A reduction of 20% in the number of Category I Complaints from the previous year.

Discipline

The following discipline was administered by the San Diego Police Department as a result of twenty-six (26) "Sustained" findings in eighteen (18) Category I and Category II complaints reviewed and evaluated by the Review Board between January 1 and December 31, 2006:

- One (1) Verbal Warning
- Eleven (11) Verbal Counseling
- No (0) Notes of Counseling
- Two (2) Written Warnings
- Three (3) Written Reprimands
- One (1) Resignation (Officer resigned prior to discipline)
- No (0) Suspensions, Demotions, or Terminations

Officer-Involved Shootings

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, 2006 there were a total of seven (7) officer-involved shooting cases investigated by Internal Affairs and evaluated by the Review Board with the following results:

OFFICER-INVOLVED SHOOTING STATISTICS

7 - SHOOTINGS

Internal Affairs Findings	Within Policy	Not Within Policy	Total
Shootings	6	1	7

Review Board Findings	Within Policy	Not Within Policy	Total
Shootings			
Agree	6	1	7
Agree w/Comment	0	0	0
Disagree w/Comment	0	0	0
Total	6	1	7

STATISTICAL BREAKDOWN OF COMPLAINT CASES

61 - TOTAL COMPLAINT CASES REVIEWED**

85 - CATEGORY I ALLEGATIONS

Allegation	IA Findings	Board Findings			Total
		Agree	Agree with Comment	Disagree with Comment	
Force	Sustained	0	0	0	0
	Not Sustained	6	0	0	6
	Exonerated	40	1	0	41
	Unfounded	4	0	0	4
	CNC	1	0	0	1
	Total	51	1	0	52
Arrest	Sustained	1	0	0	1
	Not Sustained	1	0	0	1
	Exonerated	19	0	0	19
	Unfounded	0	0	0	0
	CNC	0	0	0	0
	Total	21	0	0	21
Discrimination	Sustained	0	0	0	0
	Not Sustained	1	0	0	1
	Exonerated	0	0	0	0
	Unfounded	9	0	0	9
	CNC	0	0	0	0
	Total	10	0	0	10
Slur	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	0	0	0	0
	CNC	2	0	0	2
	Total	2	0	0	2
Criminal Conduct	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	0	0	0	0
	CNC	0	0	0	0
	Total	0	0	0	0
Category I Allegations - Total		84	1	0	85

**** Includes Shootings, Category I, II, In-Custody Deaths and Other Findings**

STATISTICAL BREAKDOWN OF COMPLAINT CASES

61 - TOTAL COMPLAINT CASES REVIEWED**

88 - CATEGORY II ALLEGATIONS

Allegation	IA Findings	Board Findings			Total
		Agree	Agree with Comment	Disagree with Comment	
Procedure	Sustained	19	0	0	19
	Not Sustained	4	0	0	4
	Exonerated	14	0	0	14
	Unfounded	8	0	0	8
	CNC	0	0	0	0
	Total	45	0	0	45
Courtesy	Sustained	1	0	0	1
	Not Sustained	2	0	0	2
	Exonerated	3	0	0	3
	Unfounded	9	0	0	9
	CNC	0	0	0	0
	Total	15	0	0	15
Conduct	Sustained	5	0	0	5
	Not Sustained	10	0	0	10
	Exonerated	2	0	0	2
	Unfounded	10	0	0	10
	CNC	0	0	0	0
	Total	27	0	0	27
Service	Sustained	0	0	0	0
	Not Sustained	1	0	0	1
	Exonerated	0	0	0	0
	Unfounded	0	0	0	0
	CNC	0	0	0	0
	Total	1	0	0	1
Category II Allegations - Total		88	0	0	88

**** Includes Shootings, Category I, II, In-Custody Deaths and Other Findings**

STATISTICAL BREAKDOWN OF COMPLAINT CASES

1 - IN-CUSTODY DEATH ALLEGATIONS

		<i>Board Findings</i>			
<i>Allegation</i>	<i>IA Finding</i>	<i>Agree</i>	<i>Agree with Comment</i>	<i>Disagree with Comment</i>	<i>Total</i>
In-Custody Deaths	Within Policy	0	0	0	0
	Not Within Policy	1	0	0	1
<i>Total</i>		1	0	0	1

Procedural Notation:

The statistical breakdown of complaint cases indicates no recorded disagreements with the findings of Internal Affairs. More than 6 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 6 findings could likely have resulted in formal disagreements.

INTERNAL AFFAIRS DISPOSITION ON CATEGORY I COMPLAINTS

Allegation	Not		Exonerated	Unfounded	CNC	Total
	Sustained	Sustained				
Force	0	6	41	4	1	52
Arrest	1	1	19	0	0	21
Discrimination	0	1	0	9	0	10
Slur	0	0	0	0	2	2
Criminal Conduct	0	0	0	0	0	0
Total	1	8	60	13	3	85

Definitions:

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

Not Sustained: The investigation produced insufficient information 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	Not		Exonerated	Unfounded	CNC	Total
	Sustained	Sustained				
Agree	1	8	59	13	3	84
Agree/Comment	0	0	1	0	0	1
Disagree/Comment	0	0	0	0	0	0
Total	1	8	60	13	3	85

Definitions:

Agree: 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.