

The City of San Diego
Office of Ethics & Integrity
Citizens' Review Board
on Police Practices



Annual Report
2007

THE CITY OF SAN DIEGO

Office of Ethics and Integrity

CITIZENS' REVIEW BOARD ON POLICE PRACTICES

ANNUAL REPORT

JANUARY - DECEMBER 2007

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James M. Dort, Chair
Loren Vinson, 1st Vice-Chair
Sandra I. Arkin, 2nd Vice-Chair

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N. Lee Bausch
Harry J. Bonnell, M.D.
David L. Brown
Robin Carvajal
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June C. Gottschalk
Myra T. Harada

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Charles W. Kim, Jr.
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Manuel M. Rubio
Nancee S. Schwartz
Kathryn Vandenheuvel
Ken Wheatley
Caroleen L. Williams
William R. Yee
Patricia Zamora

Patrick A. Hunter, Executive Director

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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. When appropriate, the CRB makes policy and procedural recommendations to the Department resulting from this review. Initially, these matters are investigated by the Department. Both the CRB and the Department benefit from a cooperative rather than an adversarial relationship between them. To everyone's credit, this process has developed through the years into a respectful, professional, and productive era of cooperation. The CRB is nationally recognized as an effective model of police review boards.

The Board's members deserve special thanks for devoting many hours and unlimited energy to the task at hand. Each is a volunteer and they apply their skills to this endeavor because this Board is a significant contributor to the community's welfare. They have a passion to serve and exemplify the quality of leadership that is essential to an organization with this mission. Our members enjoy their 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 (IA) of the Department. The Board has complete access to information provided in relevant case files. IA has a depth of commitment which strengthens the Department's ability to police itself and protect the rights of citizens it is sworn to protect and serve. Lieutenant Brian Blagg and past and present IA staff have been accessible and responsive to questions and recognize that Board members possess different strengths and skills. When the Board and IA disagree on issues, it occurs with professionalism and courtesy, recognizing the merits that exist on both sides of the discussion.

There were major changes in CRB in 2007. The long time Executive Director of the CRB, Scott Fulkerson, retired from San Diego City government in 2007. He was the heart and soul of CRB and brought it from its infancy into fruition and national prominence. He is sorely missed by each member of the CRB. Patrick Hunter, the new Executive Director, brings both expertise and experience as he had been a CRB member as well as its Chair. Elvia Sandoval continues as CRB's Complaint Coordinator and, as always, is a great help to the Executive Director and to CRB members. Lieutenant Blagg continues in charge of the Department's leader of Internal Affairs and gives great aid to CRB's effectiveness. Detective Nick Borrelli is a constant help to CRB members who work on cases at the Department.

In conclusion, the CRB is a strong and viable San Diego City board which provides invaluable service to the city's citizens and Department in the Board's role as civilian oversight to the San Diego Police Department. The city's leaders, including Mayor Jerry Sanders and San Diego Police Chief William Lansdowne, have commented on the Board's effectiveness and value to the City.

James M. Dort
Chair

CITIZENS' REVIEW BOARD ON POLICE PRACTICES ANNUAL REPORT (January 1, 2007 - December 31, 2007)

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 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 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 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 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 Citizens' 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 Citizens' 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 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 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 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 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 2007 follow:

TRAINING COMMITTEE:

The Training Committee is a standing committee of the Board responsible for assuring that each Board Member receives appropriate training and experience so that members can fully and properly evaluate citizen complaints, officer involved shootings, and in custody deaths.

During 2007 the Training Committee provided many training opportunities to all Members and Prospective Members of the Board. The high level of training provided continues to be made possible through the combined efforts of the Training Committee, individual Board Members, the San Diego 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 open session meetings. The specific topics covered during these meetings are detailed elsewhere in this report under Public Meeting Issues.

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 offices in various parts of the city and in specialized units.
- **In-Service and Regional Academy classes.** All In-service 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 and Prospective Board Members participated in the “Inside the SDPD” training offered by the San Diego Police Foundation. Session included 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 open session meeting. This sharing of experience provides valuable discussion and cross-training for Members.

OUTREACH COMMITTEE:

The Outreach Committee is a standing committee of the Board responsible for educating the public and the police department regarding the functions of the CRB through printed materials, community meetings, the CRB website, and police department trainings.

The Outreach Committee continued to work with SDPD Media Relations, Internal Affairs Unit, Academy Instructors, and patrol personnel to develop appropriate scenarios for a “Mock Case Review”. The end product, an 8-10 minute video, will showcase the Board's process from the time of police contact with the citizen, through the complaint phase, the investigation phase, and to resolution of the findings.

Though there have been some delays in production, the video should be available for community presentation in late 2008.

The Outreach Committee continued to explore additional opportunities to provide information to the public. The Board contacted and made presentations at a number of officials and organizations, including: American Civil Liberties Union, National Association for the Advancement of Colored People, The Chicano Federation Casa Familiar (a San Ysidro based community service agency), and the Urban League of San Diego County.

The Board's Executive Director and Outreach Committee members continued to be regular participants in presentations to San Diego Police Department patrol briefings/line-ups, Regional Academy class graduations, and promotion training sessions.

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 presentations to specific groups as requested. During 2007, public comment / presentations were made in all nine of the City of San Diego neighborhood divisions recognized by the San Diego Police Department.

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 Department, to suggest policy reviews and, if appropriate, policy changes to the Department, and to encourage dialogue and communication between the 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 provide long-term systemic procedural changes designed to help the 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 to the Department, its officers, and the citizens of San Diego.

Policy Committee actions in 2007 included the following:

(1) "Team findings shall be based solely on interviews and/or evidence presented in the case file. In those rare instances where Internal Affairs (IA) relies upon rap sheets, trial testimony, criminal history, or a conviction to determine a[n] [IA] finding, such will be indicated in the IA and in the team's report to the Board on that case."

This information was presented to the Board as an information item. This was offered to the Board in March 2007. The proposed language would be utilized included in future Board training sessions and in a future revision to the Guidelines for Preparation and Presentation of Case Reports.

(2) There was discussion about wording for a recusal statement where Board Members have some conflict or reason not to be involved in the Team's decision in a case. Later, a decision was made to adopt the following: "A CRB Member should make known to the Member's team any association which might be a conflict. The Team then should discuss and make known the possible conflict to the Board if the Team deems it significant."

The recusal statement will be presented to the Board for consideration. If approved by the Board, a recommendation for modification to the Bylaws will be presented.

The Policy Committee Members are Jim Dort, Chair, Sandra I. Arkin, Harry Bonnell, Dan Frazee, Nancee Schwartz, Kathryn Vandenheuvel, Loren Vinson, with alternates Joe DeNigro and Caroleen Williams. The CRB Bylaws restricts Committee membership to no more than seven full Members of the Board, as such two Alternate Members were appointed to keep membership at seven in the absence of one of the regularly assigned Committee Members.

RECRUITMENT AND RETENTION COMMITTEE:

Recruitment and Retention Committee - A standing committee which is responsible for identifying, recruiting, interviewing, and retaining members for the Citizens' Review Board.

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 Board works with the Mayor's office through the Office of Ethics and Integrity. 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 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 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.

Also 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 remain 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 Board and its processes but also at 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.

Since the training matrix was a new approach to educating Prospective Members, the Committee felt that it was important to survey Prospective Members as to the effectiveness of each of the components. An on-line survey was created for Prospective Members and their feedback was elicited. For the most part, they were very pleased with the amount and type of training and indicated that they preferred a more hands-on approach to the issues. The training components for future Prospective Members will be modified to make them more interactive.

In the Fall of 2007, candidates to the Board were again interviewed in informal session with the Executive Director and the Committee Chair. Nine candidates were then interviewed by a panel which consisted of the Executive Director, three Board members, and two former Board members. The names of the six finalists were forwarded to the Mayor for his approval. All were approved.

As a result of the new approach to training Prospective Members, the Board will be assured that, as Board Member replacements are needed, qualified people will be appointed to the Board. The process has worked so well that the Board will continue to utilize this approach to recruiting, training, and retaining new Prospective Members.

RULES AND REGULATIONS COMMITTEE:

Bylaws - Rules and Regulations Committee of the Citizens' Review Board on Police Practices is an ad hoc committee responsible for the development of the Bylaws to guide the operations of the Board.

The Bylaws underwent an extensive review and were wholly modified in 2005 with minor edits in 2006. No Bylaws issues required Board action in 2007.

Because of the extensive modifications to the Bylaws in 2005 and subsequent experience with the Bylaws which demonstrated the effectiveness and usefulness of the document in guiding the work of the Board, the Executive Committee agreed to discontinue the Rules and Regulations Committee as a Standing Committee. Future Bylaws issues shall be addressed by an Ad Hoc Committee appointed by the Chair. These issues will be subject to approval by to the full 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. Captain Tony McElroy, Commanding Officer SDPD Southern Division presented a session on the **San Diego Police Department's Interface with Border Patrol**.
2. Lynn Sharp-Underwood, Executive Director, **Commission on Gang Prevention & Intervention** and Reverend Harry Cooper, Jr., Commission Chair, reported that the Commission, made up of 17 commissioners, was formed in 2005 because of a 2003 incident. Executive Director Sharp-Underwood noted that the Commission is working on their initial Strategic Plan, explained kids' behavior and personality changes when involved in gangs, provided a statistical breakdown of gang-related crimes, demographics of gang membership, police documentation of gang members, criteria for documentation of gang members, gang violence, opportunities to intervene, and what work the Commission has undertaken.
3. Jo Anne SawyerKnoll, Deputy Chief, **Office of Ethics and Integrity** reported on the planned September 2007, retirement of the Board Executive Director, Scott Fulkerson. Ms. SawyerKnoll also discussed the recruitment process to fill the position, soliciting Board participation in each step of the process.
4. Newly appointed Prospective Members discussed the various ride-along experiences they encountered on their first scheduled ride-along with San Diego Police Department patrol officers. Reports were heard from Northeastern Division, Southern Division, Northern Division, and Mid-City Division.
5. James Fix, Psy D., Executive Director, **Psychiatric Emergency Response Team (PERT)** reported that PERT consists of a law enforcement officer / deputy and a licensed Mental Health Clinician riding together in a patrol car. PERT is a private, non-profit organization started ten years ago. PERT provides crisis, emergency services to persons who have been reported to be experiencing problems related to a mental disorder. Law enforcement officers establish and maintain on-scene safety and the clinician conducts a mental health assessment. The team attempts to divert the individual from incarceration or hospitalization and may arrange for alternative services.
6. Dr. Lee Bowlus, M.D., **San Diego County Mental Health (CMH)** reported that CMH has an office with the San Diego Police Department. They evaluate and treat the individual, usually the mentally ill. CMH has 19 beds and 1,200 patients per month. Beds are restricted to those who do not have insurance; those with insurance are directed to other treatment facilities.
7. Sergeant Richard Schnell, San Diego Police Department **Homeless Outreach Team (HOT)** reported that the HOT goal is to identify chronically homeless individuals and place them into appropriate services addressing their specific needs. Ninety percent (90%) of the homeless in San Diego are male and 10%

are female. HOT works in conjunction with PERT to develop a plan to end cycles of homelessness.

8. Patrick Hunter, CRB Executive Director, and Lieutenant Brian Blagg reported on **2007 National Association for Civilian Oversight of Law Enforcement Conference** held in San Jose, California in September, 2007.

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

1. Policy Committee Chair Jim Dort announced that the Committee determined that: "Team findings shall be based solely on interviews and/or evidence presented in the case file. In those rare instances where Internal Affairs (IA) relies upon rap sheets, trial testimony, criminal history, or a conviction to determine a[n] [IA] finding, such will be indicted in the IA and in the team's report to the Board on that case."

This information was presented to the CRB as an information item. This was offered to the Board in March 2007. The proposed language would be utilized included in future Board training sessions and in a future revision to the Guidelines for Preparation and Presentation of Case Reports.

2. There was discussion about wording for a recusal statement where Board members have some conflict or reason not to be involved in the team's decision in a case. Later, a decision was made to adopt the following: "A CRB member should make known to the member's team any association which might be a conflict. The team then should discuss and make known the possible conflict to the Board if the team deems it significant."

The recusal statement will be presented to the Board for consideration. If approved by the Board a recommendation for modification to the Bylaws will be presented.

3. The Board nominated and elected Jim Dort as Chair, Loren Vinson as 1st Vice Chair and Sandra Arkin as 2nd Vice Chair.

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 2007 annual conference was held in San Jose, California during the last week of September. The Board was represented by the newly appointed Executive Director,

Patrick A. Hunter. In addition to Mr. Hunter, Lieutenant Brian Blagg, San Diego Police Department Internal Affairs Commander, attended the three-day conference in San Jose.

Plenary Session opened as an introductory briefing on **National and International Developments in Civilian Oversight of Law Enforcement**. Additional conference sessions included:

- **The Ongoing Development and Survival of Boards and Commissions**, facilitated by Jim Johnson, NACOLE Founder and Former Board Member, Cincinnati, OH. Panelists included Sam Walker, Professor Emeritus, University of Nebraska and Michael Weinbeck, Chair, Civilian Police Review Authority, Minneapolis, MN.
- **Shifting the Balance: Copley Press and the Challenge to Transparency**, facilitated by Stephen J. Connolly, Attorney, Office of Independent Review, Los Angeles. Panelists included Michael Gennaco, Chief Attorney, Office of Independent Review, Los Angeles, CA, Ronald Yank, Labor Attorney, Carroll Burdick & McDonough, Sacramento, CA and Joyce Hicks, Director, Citizens' Police Review Board, Oakland, CA. Presentation and discussion centered on how need for balance between officer privacy and public awareness created tensions that affect civilian oversight.
- **Investigative Journalism: Civilian Oversight Through the Media**, facilitated by Barbara Attard, Independent Police Auditor San Jose, and NACOLE Past President. Panelists included Karen Dorn Steele, Spokesman Review, Spokane, WA; David Simpson, The Atlanta-Journal Constitution, Atlanta, GA; and Frederick Tulsy, San Jose Mercury News, San Jose, CA.
- **On the Outside Looking In: Inter-Ethnic Approaches to Building Community Voice for Law Enforcement Oversight**, facilitated by Raj Jaydev, Silicon Valley De-Bug, San Jose. Panels included members of PUEBLO, Oakland, CA; Asian Law Alliance, San Jose, CA; Berkley Copwatch, Berkley, CA and two community activists. Role of community groups in oversight and ensuring police accountability.
- **Police Performance Auditing** provided some basic knowledge of how civilian oversight can create persuasive and professional reports and make defensible recommendations to improve police department policies and procedures.
- **Use of Force Investigations**, facilitated by Jayson Wechtler, OCC San Francisco. Presented by Andre Birotte, Inspector General, LAPD, Los Angeles; Jim Chanin, Founder and Former commissioner, Police Review Commission, Berkley, CA and Django Sibleyk Special Investigator II, LAPD, Los Angeles, CA.

- **Creating Awareness of Police-Transgender Issues**, facilitated by Jayson Wechter, Investigator, OCC San Francisco. Panelists: Sergeant Brett Parson, former Commanding Officer of the Gay & Lesbian Liaison Unit, Metropolitan Police Department, Washington DC; Lucienne Sanchez-Resnik, Former Commissioner, Berkeley Police Review Commission, Berkeley, CA; Theresa Sparks, Commissioner, San Francisco Police Commission, San Francisco, CA; and Sergeant Stephan Thorne, San Francisco Police Department, San Francisco, CA.
- **How to Conduct Police Misconduct Hearings and Appeals**, facilitated by Liana Perez, Independent Police Auditor, Tucson, AZ. Panelists Philip Eure, Executive Director, Office of Police Complaints, Washington, DC; Leslie Stevens, Director, Independent Police Review Division, Portland, OR; and Michael Weinback, Chair, Civilian Police Review Authority, Minneapolis, MN. Session emphasized providing practical guidance to oversight professionals and board members, regarding of whether the agency conducts its own hearings or hears appeals of complaints investigated by police department internal affairs units.

POLICY CHANGES

Since the inception of the 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 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 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 Citizens' Review Board itself.
- A "False Complaint" disposition was initiated by the Police Department. The 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.
- Board 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 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 Board 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 Board 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 Board, the SDPD has made changes to its policy for escorting detainees to restrooms.

STATISTICAL ANALYSIS

Complaint Cases

Between January 1 and December 31, 2007, the Board evaluated and issued findings on a total of 46 separate complaint cases including 59 Category I allegations and 51 Category II allegations. This compared to 61 separate complaint cases considered during the same period last year, which included 85 Category I allegations and 88 Category II allegations.

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

Analysis of the Board's records for the year reveals a reduction of 25% in the number of Category I Complaints from the previous year.

Discipline

Discipline was administered by the San Diego Police Department as a result of twenty-one (21) "Sustained" findings in twelve (12) Category I and Category II complaints reviewed and evaluated by the Board between January 1 and December 31, 2007, resulting in:

- Two (2) Verbal Warnings
- Four (4) Verbal Counseling
- One (1) Note of Counseling
- One (1) Written Warning
- Two (2) Written Reprimands
- Three (3) Recommendations for Training

Officer-Involved Shootings

Proposition "G" provided that the City Manager (Mayor) shall establish rules and regulations for the 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 Board felt it was appropriate to review all shooting cases whether or not complaints were filed. On recommendation of the 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.

Similar agreement was reached between the San Diego Police Department and the Citizens' Review Board with regard to In-custody Death cases.

Between January 1 and December 31, 2007 there were a total of six (6) officer-involved shooting cases investigated by Internal Affairs and evaluated by the Board.

OFFICER-INVOLVED SHOOTING DATA

6 – OFFICER-INVOLVED SHOOTING CASES

Internal Affairs Findings	<i>Within Policy</i>	<i>Not Within Policy</i>	<i>Total</i>
Shootings	6	0	6

Review Board Findings	<i>Within Policy</i>	<i>Not Within Policy</i>	<i>Total</i>
<i>Shootings</i>			
Agree	5	0	5
Agree w/Comment	1	0	1
Disagree w/Comment	0	0	0
Total	6	0	6

Between January 1 and December 31, 2007 there were a total of two (2) in-custody death cases investigated by Internal Affairs and evaluated by the Board.

IN-CUSTODY DEATH CASE DATA

2 - IN-CUSTODY DEATH CASES

Allegation	IA Finding	<i>Board Findings</i>			<i>Total</i>
		<i>Agree</i>	<i>Agree with Comment</i>	<i>Disagree with Comment</i>	
In-Custody Deaths	Within Policy	2	0	0	2
	Not Within Policy	0	0	0	0
Total		2	0	0	2

STATISTICAL BREAKDOWN OF COMPLAINT CASES

46 - TOTAL COMPLAINT CASES REVIEWED**

59 - CATEGORY I ALLEGATIONS

Allegation	IA Findings	Board Findings			Total
		Agree	Agree with Comment	Disagree with Comment	
Force	Sustained	2	0	0	2
	Not Sustained	5	0	0	5
	Exonerated	23	0	0	23
	Unfounded	6	0	0	6
	CNC	0	0	0	0
	Total	36	0	0	36
Arrest	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	13	0	0	13
	Unfounded	0	0	0	0
	CNC	0	0	0	0
	Total	13	0	0	13
Discrimination	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	8	0	0	8
	CNC	0	0	0	0
	Total	8	0	0	8
Slur	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
Criminal Conduct	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	2	0	0	2
	CNC	0	0	0	0
	Total	2	0	0	2
Category I Allegations - Total		59	0	0	59

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

STATISTICAL BREAKDOWN OF COMPLAINT CASES

46 - TOTAL COMPLAINT CASES REVIEWED**

51 - CATEGORY II ALLEGATIONS

Allegation	IA Findings	Board Findings			Total
		Agree	Agree with Comment	Disagree with Comment	
Procedure	Sustained	2	0	0	2
	Not Sustained	3	0	0	3
	Exonerated	8	0	0	8
	Unfounded	7	0	0	7
	CNC	0	0	0	0
	Total	20	0	0	20
Courtesy	Sustained	1	0	0	1
	Not Sustained	5	0	0	5
	Exonerated	1	0	0	1
	Unfounded	5	0	0	5
	CNC	1	0	0	1
	Total	13	0	0	13
Conduct	Sustained	2	0	0	2
	Not Sustained	0	0	0	0
	Exonerated	4	0	0	4
	Unfounded	8	0	0	8
	CNC	0	0	0	0
	Total	14	0	0	14
Service	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	1	0	0	1
	Unfounded	3	0	0	3
	CNC	0	0	0	0
	Total	4	0	0	4
Category II Allegations - Total		51	0	0	51

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

Board Findings Procedural Notation:

The statistical breakdown of complaint cases indicates no recorded disagreements with the recommended findings of Internal Affairs. However, 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 ALLEGATIONS

Allegation	<i>Not</i>					Total
	<i>Sustained</i>	<i>Sustained</i>	<i>Exonerated</i>	<i>Unfounded</i>	<i>CNC</i>	
Force	2	5	23	6	0	36
Arrest	0	0	13	0	0	13
Discrimination	0	0	0	8	0	8
Slur	0	0	0	0	0	0
Criminal Conduct	0	0	0	2	0	2
Total	2	5	36	16	0	59

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 ALLEGATIONS

Disposition	<i>Sustained</i>	<i>Not</i>			<i>CNC</i>	<i>Total</i>
		<i>Sustained</i>	<i>Exonerated</i>	<i>Unfounded</i>		
Agree	2	5	36	16	0	59
Agree w/Comment	0	0	0	0	0	0
Disagree w/Comment	0	0	0	0	0	0
<i>Total</i>	2	5	36	16	0	59

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.