

City of San Diego

**CITIZENS' REVIEW BOARD ON
POLICE PRACTICES**

Annual Report 2005

CITY OF SAN DIEGO

CITIZENS' REVIEW BOARD ON POLICE PRACTICES

ANNUAL REPORT

JANUARY - DECEMBER 2005

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James M. Dort, 2nd Vice-Chair

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Harry J. Bonnell, M.D.
Daniel H. Frazee
Robert M. Garber
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Bernard Johnson

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Faith R. Triggs
Crystal Trull
Alex Urbano
Kathryn Vandenheuvel
Loren Vinson
Dr. George F. Yee
William R. Yee
Vernon T. Yoshioka

Scott D. Fulkerson, Executive Director

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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	12
• Recruitment Committee.....	13
Public Meeting Issues	14
National Association for Civilian Oversight of Law Enforcement	16
Policy Changes	16
Statistical Analysis.....	22
Officer-Involved Shooting Cases	23
Statistical Breakdown of Complaint Cases Reviewed in 2005	24-28

INTRODUCTION BY THE CHAIR

The purpose of the Citizens' Review Board (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 procedure recommendations to the Department resulting from these reviews. These matters are investigated by the Department and benefit from a cooperative rather than an adversarial relationship between the parties. To everyone's credit, this process has developed over the years into a respectful, professional and productive era of cooperation.

The CRB team leaders, June Gottschalk, Loren Vinson, Ryan Hurd, Gary Robertson, Lee Bausch, Judith Krumholz and Jim Dort as well as all Board Members deserve special thanks for devoting so many hours and unlimited energy to the task at hand. Everyone is a volunteer and they apply their skills to this endeavor because this Board is a significant contributor to the welfare of our community. They have a passion to serve and exemplify the qualities of leadership that are essential to an organization with this mission. Our Board Members enjoy 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 information provided in relevant case files. This Office has a depth of commitment which strengthens the Department's ability to police itself and protect the rights of the citizens it is sworn to protect and serve. Lieutenant Carolyn Kendrick and past and present staff have been accessible and responsive to questions and recognize that Board Members possess different strengths, skills and perspectives. Even if the CRB and Internal Affairs disagree on some issues, we do so with professionalism and courtesy, recognizing the merits that exist on both sides of the discussion.

A word of thanks to our Training, Policy and Rules & Regulations Committees and their Chairs for the work they have accomplished in 2005. Special thanks go to our Outreach Committee and especially its Chair, Jan Allen, who has worked tirelessly to tell San Diego citizens about our work. This is a particularly difficult task because the CRB is constrained by law not to reveal its deliberations to the public where Constitutional rights of privacy are affected. Working within these constraints, this Committee has made a superb effort this year to inform citizens about our work and the rights that all citizens have regarding law enforcement.

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

Finally, I thank those Board members: Dr. Joe Aversa, Robert Garber, Patrick Hunter, Ray Killens, Gary Robertson, Gina Sequerra, Faith Triggs, Crystal Trull, Alex Urbano and Vernon Yoshioka who left the CRB during 2005. Their combined service amounted to more than 44 years and over 10,560 hours as their contribution to the City of San Diego. Their commitment is representative of all of our Board Members and the success of our efforts.

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 my hope 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.

Riley N. Gordon
Chair

CITIZENS' REVIEW BOARD ON POLICE PRACTICES ANNUAL REPORT (January 1, 2005 - December 31, 2005)

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 City Manager is charged with appointing 23 volunteer citizens to the Board for one (1) year terms beginning each July 1. The City Manager also appoints up to 23 citizens as non-voting "Prospective Board Members" who are trained for appointment to the Board as vacancies occur throughout the year. As part of its responsibilities to review and evaluate substantive (Category I) complaints brought by the public against officers of the City of San Diego Police Department (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 City Manager discussing its accomplishments, activities and concerns.

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

Citizens may file a complaint with the Review Board's staff at designated community agencies or at City Community Service Centers as well as at any Police Department Substation or at Police Headquarters. All complaints, wherever they originate, are sent to the Internal Affairs 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 with no comment.
- Agree with Internal Affairs findings with comment.
- Disagree with Internal Affairs findings with comment.
- Request additional information from Internal Affairs in order to make a decision.

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

investigation be conducted to resolve unanswered questions. Following the Board vote on each case, the Board Chair sends a letter to all complainants informing them of the Board's review and findings regarding the allegations.

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

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

When a complaint against an officer has been "Sustained," the Police Department imposes discipline. Internal Affairs reports the discipline to the Board and discusses any prior "Sustained" complaints of a similar nature against the officer. The Executive Director records each Sustained allegation to ensure that Internal Affairs is notified of all discipline imposed as a result of these allegations. In cases where the Board comments on the disciplinary process, the City Manager and Police Chief are so advised. Ultimately, however, the final disciplinary decision is within the authority of 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 2005 follow:

TRAINING COMMITTEE:

During 2005, 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").

Some of the most significant training provided to Board Members and Prospective Members came out of an important development in the San Diego Police Department in 2004. During that year, the San Diego Police Department introduced a specialized training program called "Crisis Response Team" (CRT) to train its officers to respond to high-risk crisis situations that in the past have sometimes resulted in police shootings. At the invitation of the police department, the two chairs of two Review Board Committees (Training and Outreach) attended this entire 80-hour program, and the Board Chair and the Executive Director also attended portions of the program. It was quickly determined that some of the topics presented in this training would be extremely helpful to Board Members. Therefore, arrangements were made to bring some of the CRT presenters to the Board to provide direct training to Board Members and Prospective Members. The first of these topics was presented in late 2004, and additional important training topics have been presented to the Board in 2005.

A variety of other important topics were also provided to Board Members and Prospective Members during 2005. The specific training topics covered during the year at public Board meetings is discussed elsewhere in this report under Public Meeting Issues:

Three special formal training programs were conducted in 2005, two from the trainers from the Regional Academy, and one by personnel from the Department's Traffic Division:

- **CRT Overview, Use of the Taser, and Scenario Training.** In January, Sgt. Danny Vega and Officer Larry Lieber, both of whom were instrumental in developing the CRT training for San Diego Police Officers, provided an overview of the training, introduced and demonstrated the new Taser, a "less-lethal weapon," and reviewed new tools and resources for defensive tactics and scenario training provided to Police Officers.
- **Defensive Tactics and Firearms Training.** Board Members and Prospective Members were given hands-on training at the Regional Academy in (1) some of the defensive tactics and tools officers are given that provide for using less-lethal force wherever possible; and (2) an opportunity to experience realistic scenarios that officers face in deciding when and how to use both less-lethal and deadly force weapons. The latter training utilizes a computer-controlled firearms training system.
- **DUI/Sobriety Testing.** In a visit to the Traffic Division, Board Members were given training on police handling of DUI cases and sobriety testing.

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

- **Ride-alongs.** Board Members and Prospective Members have participated in 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 Board Members participated in the "Inside the SDPD" training offered to the public by the San Diego Police Foundation, including the use of force; DUI stops; mock vehicle stops; Fire Arms Training Simulator, and a K-9 demonstration.

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

OUTREACH COMMITTEE:

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 and that questions about how the Department responds to public concern are given a full, adequate review. While the Board is limited in the amount of detailed information it can share, by statutes such as the Brown Act and the Peace Officers Procedural Bill of Rights, the Board's primary objective, in each and every case, is to recommend and advocate policies which promote fair, humane policing and that insure the safety of both citizens and police officers.

During the past year, the Outreach Committee continued the work begun in 2004 – to evaluate its specific responsibilities to the community and the Police Department. 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.

The accomplishments of 2005 are due, in part, to the strength of San Diego's specific and unique form of civilian oversight: a non-adversarial, cooperative, collaborative relationship with the San Diego Police Department. The open, transparent relationship that exists between the Board, the Internal Affairs Unit and the Office of the Chief of

Police remains a vital component to the mission of the Board and insures that all information in all investigations is available for review and discussion.

- The Review Board continued to offer suggestions regarding the PD's website in order to promote a more user-friendly way to navigate and locate available services, including clear directions on how to make an officer comment or complaint.
- A full review of the Review Board's brochure was completed. Following the editing process, 3,000 brochures were printed through private donations, and a distribution plan was developed.
- The final editing phase of an FAQ (Frequently Asked Questions) for police personnel was concluded, and the document was made available at all presentations to patrol officers, sergeants and field lieutenants.
- Meetings between the Board, Spanish-speaking community relations officers and IA investigators produced a television collaboration that aired on a Tijuana cable station with a viewing audience reaching into Southern California. In addition, plans were made to translate the Board's brochure into Spanish with distribution targeted for 2006.
- The Executive Director and Outreach Committee Chair continued to be regular participants – in collaboration with SDPD's Internal Affairs Unit – during each two-week CRT training. Eleven presentations were made during 2005. 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.
- Given the positive feedback from CRT sessions, the Board implemented a curriculum for patrol officers and used Western Division as a 'test' for the concept of Review Board Line-Up Training. It was well received, and additional trainings were scheduled for 2006.
- The Board continued to field requests for presentations to community, civic and town hall meetings. The Outreach Chair and Executive Director began to network with community relations officers and made joint presentations to specific groups as requested. In addition, talking points were developed to be used for the 'public comment' portion of meeting agendas, and a Community Organization Attendance Form was initiated to better establish and track requests and speaking engagements. In 2005, presentations were made throughout the city including: Carmel Valley, Rancho Bernardo, Encanto, Pt. Loma, Ocean Beach, Downtown San Diego, Logan Heights and the South Bay.
- In an effort to evaluate and address more fully the expectations of San Diegans – what they wanted and needed from the Board and the complaint process - a Q

& A list was completed by Outreach Committee members. The ultimate goal of this list was to develop an FAQ that could be distributed at community meetings and would also be incorporated into the Review Board's web site in 2006.

- The Review Board 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 will be an 8-10 minute video that showcases the 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 Review Board's role within the community and the services the Board provides. The projected taping date would be Fall, 2006, with the goal of a finished product in early 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 systemic 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.

2005 ACCOMPLISHMENTS:

Complainant History / Record

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 be occasionally discussed at Board meetings and therefore will be addressed again in 2006 by this Committee.

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

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

At the November, 2005 open session, the Board recommended to the Department the following: "The Citizens' Review Board on Police Practices recommends that the San Diego Police Department develop a policy and associated procedures to require a test (breathalyzer, intoxilyzer, etc.) be conducted by officers when arresting subjects under PC 647f."

While initially supportive of the recommendation, the Department, after review by Police Legal Advisors, determined that resulting legal problems made the policy change impossible and therefore declined the recommendation. The two statutes under which public intoxication arrests are made do not specify a blood alcohol level which requires arrest. Therefore testing could open the door for legal challenges to both the policy and subsequent arrests.

The Board accepted the position of the Department.

Investigators Manual

The Policy Committee 2005 report stated that the Committee would begin to review and evaluate the ***San Jose Independent Police Auditor Professional Standards & Conduct Unit Investigative Procedures and Guidelines*** for potential adaptation by the San Diego Police Department.

That review took place and this issue was discussed in the August 15, 2005 Policy Committee's meeting. A subcommittee was formed for the purpose of making recommendations, and the subcommittee examined both the San Jose procedures and those of several other police department's as well. The subcommittee reported back with recommendations, and these were approved by the Committee. On September 27, 2006, the full Board concurred with the Policy Committee's recommendations and proposed policy revisions were submitted to the Department's Internal Affairs Unit for its consideration.

The Board's recommendation concerned revision of SDPD Procedure 1.10, which deals with citizen complaints, officer-involved shootings, in-custody deaths, and reception/investigation/routing procedures.

The subcommittee worked with the SDPD on the proposed changes and they were adopted by the SDPD with one exception. The exception was a recommendation that a one year "statute of limitations" be incorporated, limiting

the time during which a complaint would be received and investigated. The SDPD rejected that change because they did not want to limit a citizen's right to file a complaint. The Board accepted the Department's position on the issue.

Cameras in all Vehicles

In May, 2005, the Policy Committee submitted a recommendation, following discussion within the Committee, that the Department consider placing cameras in all police vehicles. There was a further discussion in the Committee's September meeting.

The Department is placing digital cameras in vehicles as its budget permits. In addition, the Department has promulgated an updated Order (#OR 05 06) in September, 2005, concerning use, preservation, copying, and other details concerning cameras and photographs.

Informing Motorist of Reason for Enforcement Action

Following discussion by the Policy Committee in May and August, 2005, the Committee with the Board's approval recommended the Department consider a change in SDPD Procedure 4.01, Art. IV.B.4.c. The recommendation was to ensure that motorists or others be timely advised of the reason for their detention. Language that had read "At some point" was recommended to be changed to "As soon as possible," or "As soon as practical."

The SDPD is currently reviewing a change but is recommending that the change be "At some point *during the initial contact...*" The next SDPD review of this policy will be in November, 2006. The Policy Committee agrees that the "during the initial contact" language, if adopted, will be sufficient to answer the Committee's concern.

Notification & Delivery of School Administration Letters

Following discussion by the Policy Committee in May and August, 2005, and with the Board's approval, the Committee recommended that the Department consider a review of its procedure and policies concerning the delivery of School Administration Stay Away Orders, and following the review, implement training in the appropriate methods of delivery. The SDPD brought to the attention of the Juvenile Service Teams (JST) the problem involved, and the Committee believes this will answer the Committee's concern.

Shooting Policy

The SDPD's Firearm Procedure has been under review by the SDPD for some period of time. Revisions of the SDPD Procedure 1.05 were made in accordance with recommendations made by SDPD's Use of Force Committee. These revisions were published by the SDPD in December, 2005.

The Committee will continue to review as necessary the changes made and those yet to be adopted by the SDPD.

Arrest Warrant Procedure and Identification

Following discussion by the Policy Committee in May and August, 2005, and with the Board's approval, the Committee recommended that the Department consider additional language in the Department's procedure "DP 4.06 – LEGAL 01/26/04." The recommended additional language involved assuring the accuracy of information concerning identification of the person who is the subject of a warrant, to preclude the possibility of arresting the wrong person.

The Department is currently considering and working with the Policy Committee regarding the CRB's recommendations.

Miscellaneous

The Policy Committee discussed the possible addition of more cameras in the Sally Port at Police Headquarters in order to provide documentation for complaints resulting from arrest and detention. However, a review of complaints shows there are very few complaints arising from incidents in the sally port and no further action is warranted.

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 the current procedures to be adequate and no further action on this item was deemed necessary.

In 2005, the Committee discussed with Internal Affairs the Department's policy concerning taking detainees to a restroom. Changes to the policy were implemented by the Department to assure that detainees be allowed to use restroom facilities in a timely manner.

The Committee discussed the timeliness of investigations by Internal Affairs and determined that current guidelines are sufficient and are being complied with. No changes were recommended by the Committee or Board.

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 1999 and have continued to effectively facilitate the work of the Board during 2005.

The Committee, therefore, took on the job of revising and reorganizing the format of the Bylaws in order to make the material more accessible to Board members. The material

was organized in ten Articles with appropriate Sections under each Article. A Table of Contents was included. The Committee members met several times over the first 6 months of the year as a Committee to evaluate the changes being made. Work continued on the reorganization over the summer and finally culminated in the production of a more usable document by September 27th of 2005. It was adopted with the signature of the City Manager, P. Lamont Ewell on Oct. 5, 2005.

In addition to the overall revision of Bylaws, there were three proposed changes brought to the Board by the Bylaws Committee. The first proposal was that applicants must undergo and successfully complete a background check prior to appointments to the Board. The second recommendation related to the ethical behavior expected of a Board member and the consequences of violating the causes set forth as unethical. The third proposal was to expect members to participate in approved ride-along activities for a minimum of 6 hours per year, with 10 hours, highly recommended per quarter. These three proposals were unanimously adopted by the Board on July 26, 2005.

The hardworking members of this Committee were Dr. Nancy Acker, Chair; Dian Black, Robert Garber, Sandra Kennedy, and Dr. George Yee. Legal Advisor Jessica Falk-Michelli and Executive Director Scott Fulkerson worked closely with the Committee as well.

RECRUITMENT 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 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 City Manager, a Recruitment Committee was formed to assist his office in identifying, recruiting and appointing new prospective members.

The Review 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 2005, a new approach was tried. In addition to recommendations from current and past Board members, a meeting with LEAD San Diego produced a list of potential Prospective Members. LEAD San Diego is a non-profit organization focused on developing community leaders who can provide 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.

Two current members of the Board are the result of that initial outreach to LEAD. In the summer of 2005, a broadcast e-mail was sent to all LEAD graduates. As a result of that effort, six of the current Prospective Members are either LEAD graduates or were recommended by a LEAD graduate.

Candidates submitted a resume and letter of interest. Application materials were first reviewed by a Committee consisting of the Executive Director, two Board members and two members of the public not affiliated with the Board. This Committee made recommendations to a second Committee, again made up of the Executive Director, two Board members and two members of the public, which conducted interviews and made recommendations to the City Manager. The City Manager appointed all of those recommended by the two Committees.

The recruitment process conducted by this new Committee proved to be efficient and valuable. Because of this success the Committee has been made a permanent standing Committee of the Board. All future recruitment will be conducted by the Committee working closely with the Office of the City Manager.

PUBLIC MEETING ISSUES

In order to knowledgeably perform their duties, CRB Members are required to possess a thorough understanding of the law, policies, procedures and tactics under which the San Diego Police Department operates. The Training Committee conducted an ambitious training program during 2005 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. Deputy City Attorney Gene Gordon discussed the legal responsibilities of police officers in the performance of their duties. He presented to the Board the training class he conducts for officers undergoing Critical Response Team (CRT) training. He provided the Members with his instructional outline for future reference.
2. Lieutenant Carolyn Kendrick gave a Power-Point presentation about the San Diego Police Department's Early Identification and Intervention System (EISS)

which is under development. The EISS will be a non-punitive resource system which will assist supervisory personnel in guiding employees to perform at their highest level in order to better serve the employee, the organization and the community. The purpose of EISS is to identify employees who display symptoms of job stress, training deficiencies or personal problems which affect their job performance in a negative manner; and to identify employees who demonstrate patterns of inappropriate behavior which lead to misconduct; and to identify and reduce costly Department trends/practices.

3. Ashley Walker, Executive Director of the City's Human Relations Commission made a presentation about the community's perception of Police Oversight in San Diego and about the San Diego Police Department.
4. Lieutenant Carolyn Kendrick presented a report to the Board regarding the current organization and scope of the work of the recently reorganized Internal Affairs Unit.
5. Detective Steve Behrendt presented an overview of the Pitchess Motion process to the Members.
6. Captain Howard Kendall discussed the role of the SDPD's Shooting Review Board in officer-involved shootings. The Shooting Review Board is the last entity to review officer-involved shootings and focuses on issues of training, equipment and the appropriateness of the shooting.
7. Deputy City Attorney Jessica Falk-Michelli made a presentation to the Board regarding Consensual Encounters, Stops and Detentions, and the laws of Arrest.
8. Sergeant Ernesto Servin made a Power-Point presentation entitled Your Rights and Responsibilities and the San Diego Police Department. Sgt. Servin's presentation is designed to help the public understand their legal rights and responsibilities when they are contacted by a police officer.

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

1. Received a report from Executive Assistant Chief of Police Bill Maheu on hiring of new officers, equipment purchases, federal grants and the three-year Budget Plan of the SDPD.
2. Accepted changes to their Bylaws recommended by the Rules and Regulations Committee.
3. Expressed appreciation to the staff of the Internal Affairs Unit for maintaining an open, cooperative working relationship with the Board and its Members.

4. Accepted the slate of officer nominations for the coming year from the Nominating Committee.
5. Elected Riley Gordon as Chairperson, Dr. Nancy Acker as 1st Vice-Chair and Jim Dort as 2nd Vice-Chair.
6. Expressed appreciation to Patrick Hunter for his two years of outstanding service as Chairperson.
7. Accepted three (3) additional changes to their Bylaws recommended by the Rules and Regulations Committee.
8. Accepted from the Policy Committee and forwarded to the SDPD two policy recommendations regarding the Internal Affairs Investigator's Manual and explaining the reason for enforcement actions to the public.

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

The Board maintains a membership in the National Association for the Civilian Oversight of Law Enforcement (NACOLE). The organization provides information and support for member agencies. The annual conference of the organization provides opportunities for learning and networking for our Board Members and staff.

Budget restraints made it impossible for the Board to participate in the annual meeting of NACOLE held in Miami Beach.

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

Between January 1 and December 31, 2005, the Review Board evaluated and issued findings on a total of 76 separate complaint cases including 111 Category I allegations and 90 Category II allegations. This compared to 94 separate complaint cases considered during the same period last year, which included 135 Category I allegations and 69 Category II allegations.

In addition to these allegations and findings, there were four (4) cases of Complainant Non-Cooperative (CNC) for Category I complaints and one (1) CNC case for Category II complaints compared to one (1) and two (2) respectively for the same period last year.

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

- A reduction of 8% in the number of Category I Complaints from the previous year.

The following disciplinary actions were taken against officers as a result of “Sustained” complaints evaluated by the Review Board between January 1 and December 31, 2005:

- Two (2) Verbal Warnings
- Two (2) Verbal Counselings
- Four (4) Written Warnings
- Two (2) Written Reprimands
- One (1) Resignation

These totals are not complete as Internal Affairs has not completed all disciplinary actions against officers for the 2005 calendar year.

OFFICER-INVOLVED SHOOTING CASES

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

Between January 1 and December 31, 2005 there were a total of six (6) officer-involved shooting cases investigated by Internal Affairs and evaluated by the Review Board with the following results:

OFFICER-INVOLVED SHOOTING STATISTICS

6 - SHOOTING ALLEGATIONS

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 w/No Comment	6	0	6
Agree w/Comment	0	0	0
Disagree w/Comment	0	0	0
Total	6	0	6

STATISTICAL BREAKDOWN OF COMPLAINT CASES

76 - TOTAL COMPLAINT CASES REVIEWED**

111 - CATEGORY I ALLEGATIONS

		<i>Board Findings</i>			
Allegation	Internal Affairs Findings			Total	
		<i>Agree</i>	<i>Agree with Comment</i>		<i>Disagree with Comment</i>
Force	Sustained	0	0	0	
	Not Sustained	9	0	9	
	Exonerated	35	2	37	
	Unfounded	20	0	20	
	CNC	3	0	3	
Total		67	2	0	69
Arrest	Sustained	0	0	0	
	Not Sustained	0	0	0	
	Exonerated	25	0	0	
	Unfounded	0	0	0	
	CNC	0	0	0	
Total		25	0	0	25
Discrimination	Sustained	0	0	0	
	Not Sustained	1	0	0	
	Exonerated	0	0	0	
	Unfounded	9	0	0	
	CNC	0	0	0	
Total		10	0	0	10
Slur	Sustained	0	0	0	
	Not Sustained	0	0	0	
	Exonerated	0	0	0	
	Unfounded	1	0	0	
	CNC	1	0	0	
Total		2	0	0	2
Criminal Conduct	Sustained	0	0	0	
	Not Sustained	1	0	0	
	Exonerated	0	0	0	
	Unfounded	4	0	0	
	CNC	0	0	0	
Total		5	0	0	5
Category I Allegations - Total		109	2	0	111

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

STATISTICAL BREAKDOWN OF COMPLAINT CASES

76 - TOTAL COMPLAINT CASES REVIEWED**

90 - CATEGORY II ALLEGATIONS

Allegation	Internal Affairs Findings	Board Findings			Total
		Agree	Agree with Comment	Disagree with Comment	
Procedure	Sustained	6	0	0	6
	Not Sustained	4	0	0	4
	Exonerated	20	0	0	20
	Unfounded	16	0	0	16
	CNC	0	0	0	0
	Total	46	0	0	46
Courtesy	Sustained	2	0	0	2
	Not Sustained	8	0	0	8
	Exonerated	0	0	0	0
	Unfounded	14	0	0	14
	CNC	1	0	0	1
	Total	25	0	0	25
Conduct	Sustained	3	0	0	3
	Not Sustained	5	0	0	5
	Exonerated	2	0	0	2
	Unfounded	8	0	0	8
	CNC	0	0	0	0
	Total	18	0	0	18
Service	Sustained	0	0	0	0
	Not Sustained	0	0	0	0
	Exonerated	1	0	0	1
	Unfounded	0	0	0	0
	CNC	0	0	0	0
	Total	1	0	0	1
Category II Allegations - Total		90	0	0	90

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

STATISTICAL BREAKDOWN OF COMPLAINT CASES

0 - IN-CUSTODY DEATH ALLEGATIONS

4 - OTHER FINDING ALLEGATIONS

		<i>Board Findings</i>			<i>Total</i>
		<i>Agree</i>	<i>Agree with Comment</i>	<i>Disagree with Comment</i>	
Allegation	Internal Affairs Findings				
In-Custody Deaths	Within Policy	0	0	0	0
	Not Within Policy	0	0	0	0
	Total	0	0	0	0
Other Findings	Sustained	4	0	0	4
	Not Sustained	0	0	0	0
	Exonerated	0	0	0	0
	Unfounded	0	0	0	0
	CNC	0	0	0	0
Total		4	0	0	4

Definitions:

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

Procedural Notation:

The statistical breakdown of complaint cases indicates no recorded disagreements with the findings of Internal Affairs. More than 20 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 20 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	9	37	20	3	69
Arrest	0	0	25	0	0	25
Discrimination	0	1	0	9	0	10
Slur	0	0	0	1	1	2
Criminal Conduct	0	1	0	4	0	5
Total	0	11	62	34	4	111

Definitions:

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

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

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

Unfounded: The alleged act did not occur.

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

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

CITIZENS' REVIEW BOARD DISPOSITION ON CATEGORY I COMPLAINTS

Disposition	<i>Sustained</i>	<i>Not</i>			<i>CNC</i>	<i>Total</i>
		<i>Sustained</i>	<i>Exonerated</i>	<i>Unfounded</i>		
Agree w/ No Comment	0	11	60	34	4	109
Agree w/Comment	0	0	2	0	0	2
Disagree w/Comment	0	0	0	0	0	0
Total	0	11	62	34	4	111

Definitions:

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

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

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