

**CITIZENS' REVIEW BOARD ON  
POLICE PRACTICES  
Annual Report 2001**

**CITY OF SAN DIEGO**

**CITIZENS' REVIEW BOARD ON POLICE PRACTICES**

**ANNUAL REPORT**

**JANUARY - DECEMBER 2001**

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Ray Killens - Second Vice Chair  
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Scott D. Fulkerson, Executive Director

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CITIZENS' REVIEW BOARD ON POLICE PRACTICES  
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## INTRODUCTION BY THE CHAIR

This report provides an overview of the history and operation of the city of San Diego Citizens' Review Board on Police Practices. While it provides a statistical representation of the deliberations of the board throughout 2001, it cannot depict the level of commitment and dedication required of the men and women who comprise it. Their willingness to spend long hours reviewing, presenting and deliberating cases, attending police academy classes and special training sessions and accompanying officers on patrol has assured fairness to all concerned in the review process. Additionally, the past year saw active participation of Board Members on Chief Bejarano's Use of Force Task Force as working group Members and, in the case of the Chair, as a Member of the Oversight Committee. Those of us involved in that effort remain committed to the goals of the Task Force and the expeditious implementation of the recommendations accepted by the department. On behalf of the citizens of San Diego, I extend my warmest appreciate to each of them.

Throughout the last year the board has sought ways to share its opinions and findings with the public, and despite setbacks in this regard, the board will continue its efforts to do so to the fullest extent the law will allow. In the meantime, we remain committed to conducting fair and impartial deliberations regarding complaints lodged against the San Diego Police Department and to enhancing a relationship with the department which has resulted in a better understanding of its challenges while underscoring the needs of the citizens it serves.

As we continue our work in 2001, we welcome back Dr. Abdussattar Shaikh and new Member Corey Uyeji as we say farewell to Delsa Dixon, Rosemary Duke, former Chair Fred Heske, Dan Hom, Lonnie Parker, Yen Tu and Linda Valdez. I thank each of you for your wise counsel and tireless contributions to our important work. I also thank Assistant Chief John Welter, Lieutenant Gary Gollehon and Sergeant Joe Bulkowski for their tireless efforts in providing Internal Affairs liaison for our case review and training and wish them our best in their new assignments. We look forward to working with Assistant Chief Adolfo Gonzales, Captain Larry Moratto, Lieutenants Walter Vasquez and Guy Swanger and Detective Tom O'Daniell.

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Introduction by the Chair

Sadly, 2001 saw the passing of one of our most distinguished Members, Stuart Glassman. During his board tenure, Stuart served as a Member of the Executive Committee, 2<sup>nd</sup> Vice Chair, and Chair of the Rules and Regulations Committee. Stuart's myriad contributions to the board, his beloved community of Rancho Bernardo and the City of San Diego were renowned. His generosity, wisdom and selflessness remain irreplaceable.

In closing, on behalf of the entire Board, I extend our sincerest gratitude to our Executive Director, Scott Fulkerson; CRB Coordinator, Elvia Sandoval; Deputy City Attorneys, Sharon Marshall and Michael Rivo and my Executive Team: 1<sup>st</sup> Vice Chair, Patrick Hunter and 2<sup>nd</sup> Vice Chair, Ray Killens, for their unwavering dedication to the important work we do.

Joseph R. DeNigro  
Chair

# **CITIZENS' REVIEW BOARD ON POLICE PRACTICES ANNUAL REPORT (January 1, 2001 - December 31, 2001)**

## **BACKGROUND AND PROCEDURES**

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

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

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

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

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

- **SUSTAINED** The investigation produced sufficient evidence to find that the officer(s) did commit the alleged act(s) of misconduct.
- **NOT SUSTAINED** The investigation failed to produce sufficient evidence to find that the officer(s) did or did not commit the alleged act(s) of misconduct.
- **EXONERATED** The investigation produced sufficient evidence to find that the alleged act(s) occurred but was/were justified, legal and/or properly within Department policy.

UNFOUNDED The investigation produced sufficient evidence to find that the officer(s) did not commit the alleged act(s) of misconduct.

OTHER FINDINGS The investigation evidenced violation(s) of Department policies/procedures not alleged in the complaint.

COMPLAINANT NON-COOPERATIVE (CNC) Internal Affairs attempted but could not make contact with the complainant in order to conduct a proper investigation; complainant is unwilling to cooperate with investigation; or complainant withdraws complaint.

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 Division 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 Division. 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 suggests 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. Over the past 14 years, the Board has referred three (3) cases to the District Attorney, Grand Jury and/or the Department of Justice. The Board has also requested two (2) independent reviews by the City Manager since its inception.

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

## **SUMMARY OF REVIEW BOARD ACTIVITIES**

During the past 14 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 its 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 2001 follow:

### **TRAINING COMMITTEE:**

The Training Committee continued its aggressive training programs during the 2001 Training Year for the Citizens' Review Board. Public board meetings offered an excellent opportunity to conduct productive and informative sessions for both Board and Prospective Members. Additional training opportunities were made possible through the cooperative efforts of the Training Committee, the San Diego Police Department and the Regional Public Safety Training Institute.



Riley Gordon assumed the Chair of the Training Committee effective July 2001. Patrick Hunter became 1<sup>st</sup> Vice Chair of the Board, but remained on as a Member of the Committee. Robert Platt, June Gottschalk and Arthur Hernandez actively participated in all Training Committee 2001 efforts.

In order to facilitate the Review Board's capacity to respond to and effectively evaluate complaints made by citizens against the San Diego Police Department and address its other responsibilities, several training events were conducted during the period of January 1 through December 31, 2001. Specific areas of training presented to the Board were designed to:

1. Prepare Prospective Board Members to carry out the task of case review and provide additional training in case review and presentation to current Members.
2. Provide current and Prospective Board Members a review and update on San Diego Police Department Practices and Procedures.
3. Provide information to the Board regarding policy recommendations to the Chief of Police and the City Manager.

Five training sessions and discussions were conducted during Review Board Open Meetings regarding San Diego police Department Policies and Procedures:

1. **Domestic Violence** - Assistant City Attorney Gael Strack and San Diego Police Department Sergeant Dan Plein made a detailed presentation regarding the philosophy, policy and procedures utilized by the City Attorney and the Police Department in dealing with domestic violence situations. The City is a national leader in combating domestic violence and its programs are used as models throughout the country. Their presentation clearly defined the tremendous complexity of the issue and detailed the innovative methods pioneered by the Police Department in dealing with this difficult social problem.
2. **Regional Law Enforcement Training Center** - Lieutenants Sarah Creighton and Robert Stinson gave an overview of the training classes, policies and procedures at the Regional Law Enforcement Academy. The Academy provides over 250,000 total training hours per year through academy and in-service classes. Part of the mission of the Academy is to provide on-going, life-time training for regional law enforcement officers. Lt. Creighton invited Board Members to attend any training classes or other activities at the Academy.
3. **Racial Profiling Update** - Sergeant Robert Lewis reviewed the on-going data collection process related to the issue of racial profiling. He discussed the difficulty of interpreting the data and indicated there are several questions that must be addressed regarding this program. Chief Bejarano has extended the data collection process indefinitely and Board Members expressed a desire to be kept informed.

4. **Mental Health Program** - Assistant Chief Bill Maheu and Psychiatric Emergency Response Team (PERT) Director William Miller provided an overview of the City's program on this subject. Director Miller presented a description and history of PERT and discussed its current status and future plans. Assistant Chief Maheu presented a detailed description of how the Police Department interacts with San Diego County mental Health and others to provide training and support for Department officers dealing with the mentally ill. He discussed the Department's commitment to dealing humanely with those with emotional disabilities and detailed the resources available. He also discussed with the Board problems encountered as officers seek resources to help them cope with the mentally ill. He identified deficiencies in the system and remedies that should be provided.
5. **SWAT/SRT** - Lieutenant Cesar Solis and Sergeant Ken Hubbs made a presentation regarding the Police Department's SWAT program. They discussed the history, tactics and weapons of the SWAT team. Sergeant Hubbs presented a video of SWAT team news coverage compiled from incidents over the past several years. He also discussed how SWAT is currently organized and utilizes resources within the Department.

**TRAINING RETREAT** - A Training Retreat attended by both Board and Prospective Members was held on October 2001 at the Bristol Hotel in downtown San Diego. The Retreat concentrated on revisions in Case Review, Report Writing, analysis and presentation. The presentation was made by a committee chaired by Loren Vinson that had been formed to review these procedures and make recommendations for change as needed. The Retreat gave Board Members an excellent opportunity to exchange ideas in order to improve the productivity and efficiency of the Board.

**RIDEALONGS** - The Training Committee continues to provide a comprehensive listing of ridealong opportunities to Board Members. These opportunities are compiled by Robert Platt and Detective Tom Odaniell of Internal Affairs. It provides Board Members an opportunity to accompany officers on their daily assignments and continues to be a valuable program for both the Board and the Department. The open session meetings provide an opportunity for Board Members to report on ridealongs and emphasize the importance of engaging in them on a quarterly basis.

**MEMBERS' TRAINING REPORTS** - A revised Activity Report was provided to Board Members in an effort to simplify the quarterly reporting process and gain pertinent information regarding Member activities. Patrick Hunter was instrumental in revising this form to improve the gathering of information. An analysis of the data demonstrates the Board's commitment to this program and the cooperation of the San Diego Police Department continues to provide.

**REGIONAL PUBLIC SAFETY TRAINING INSTITUTE** - Through the San Diego Police Department, the Institute continues to offer Board Members training opportunities at the facility. The Training Committee encourages Board participation in on-going and special programs that are being developed for the Board. These activities enable

Board Members to better understand the vigorous training regimen of the Academy and how officers are prepared to deal with situations on the streets of San Diego.

**COMMUNITY OUTREACH AND PUBLIC RELATIONS COMMITTEE:**

It is the task of the Community Outreach and Public Relations Committee to communicate with and explain the work of the Board to our fellow citizens. Board Officers and Members and Staff conducted more than twenty public presentations during 2001 to inform the public of Board work and activities.

The Board operates on what can be characterized as a true *civilian* oversight model in that the work of reviewing and analyzing Internal Affairs investigations of Citizen Complaints is accomplished by civilian appointees not city employees. The 23 volunteer citizens review and evaluate all serious complaints against police officers, as well as all Police-involved shootings and deaths in custody, to insure that a complete, fair and accurate investigation is conducted. The process is labor intensive and requires a serious time commitment from the Members.

- Members attend two hour confidential, case review meetings twice each month and an open/public meeting once a month.
- The majority of a Members volunteer time is spent at the Internal Affairs Unit at Police Headquarters reviewing complaint investigations as a Member of a three person Review Team.
- Each Member participates on one or more of the four standing Committees of the Board.
- A wide variety of training is provided at public meetings, special classes at the Regional Law Enforcement Academy and special training seminars and Board Retreats. In addition, Members are encouraged to attend classes in the regular schedule at the Academy as well as in-service training provided by the SDPD.
- Members are encouraged to attend the annual meetings of the National Association for Civilian Oversight of Law Enforcement.
- Members are required to complete one ride-along each quarter with an SDPD Officer.
- Members work an average of 20-25 per month on Board related tasks and responsibilities.

Thus the citizens of San Diego have a large, well trained group of fellow citizens who spend literally thousands of hours each year to help insure that the City is policed in a fair, effective and humane manner.

California State Law allows the Citizens' Review Board to publish yearly statistical reports of its work, but prohibits the discussion or publication of individual cases and findings. At the conclusion of one high profile case in the year 2000, which had previously been released to the public in its entirety, the City Manager chose to release a summary report of the Board's findings. The City Manager also determined that he would release summary reports of the Board's findings in all subsequent Police-involved shooting cases. This decision was opposed by the Police Officer's Association and challenged in the Superior Court of San Diego.

Superior Court of San Diego action during 2001 has prohibited the City Manager from releasing further Summary Reports, citing Penal Code 832.5, relating to the confidentiality of the means in which the Board determined its findings. The City of San Diego (City Attorney) has appealed the Superior Court decision because there is strong sentiment that the release of summary information honors the public's right to information relative to Police-involved shooting cases while safeguarding the confidentiality rights of the police officers involved.

### **POLICY COMMITTEE:**

It is the responsibility of the Policy Committee to study policy and procedural issues and make recommendations to the full Board. The purpose of the Committee's recommendations is to facilitate the work of the Board, clarify the relationship between the Board and the San Diego Police Department, suggest policy reviews and, if appropriate, policy changes to the Department and encourage dialogue and communication between the Police Department, the Board and the public. The Committee's work helps to insure that our citizens have a fair and effective means of registering and resolving complaints against officers whom they believe have executed their duties improperly. Moreover, policy recommendations initiated by the Committee are meant to produce long term systemic and procedural changes designed to help the San Diego Police Department better fulfill its mission of community oriented policing. This pro-active involvement of the Board in helping to develop police policy has lasting benefits for the Police Department and the citizens of San Diego.

The following issues were addressed by the Policy Committee and presented to the Board for resolution in 2001:

#### **Board Policy regarding Letter to Complainants:**

It was determined that the current letter is sufficient to express the Board's decisions on reviewed complaints.

#### **Board Policy regarding Allegation Descriptions:**

It was determined that Internal Affairs should describe the allegations of complainants exactly as the complainant described them in the filed complaint. Teams are to ensure this has been done during the review process. All review teams are further reminded

that case investigations are not completed until the teams are satisfied with the conduct of the investigation. Problems should be brought to the attention of Internal Affairs as soon as possible should the teams disagree with any portion of the investigative process.

Police Policy Recommendation:

The Board recommended that the Police Department develop and implement a policy for the collection, holding and transfer of property of persons detained in the field to preclude claims by detainees that property taken as part of a field search were stolen or otherwise misplaced.

**RULES AND REGULATIONS COMMITTEE:**

The Rules and Regulations Committee of the Citizens' Review Board is responsible for the development and modification of By-laws to guide the operations of the Board. Last modified in 1999, the By-laws continued to effectively facilitate the work of the Board during 2001 and no changes were proposed or made.

The Rules and Regulations Committee had a major change in membership during the year. Nancy Acker, Ph.D. was appointed as the Chair of the Committee upon the sudden death in August of Stuart Glassman who had been the very capable Chair of this Committee for four years. Al De La Cruz retired from the Board and three new Members were appointed; Attorneys Norberto Cisneros and Nancee Schwartz and retired Community College President Dr. George Yee.

**PUBLIC MEETING ISSUES**

During the year, the Board benefitted from seven (7) major training presentations conducted in conjunction with its public meetings.

1. Lt. Cesar Solis and Sgt. Ken Hubbs presented a briefing on the mission, history, tactics and weapons of the San Diego Police Department's SWAT Team and Special Response Team.
2. Assistant Chief Bill Maheu and Bill Miller, PERT Director provided an overview of the mission, history and training of the SDPD's Psychiatric Emergency Response Team. Current status, future plans and the process of coordinating with San Diego County Mental Health Dept. were discussed in detail.
3. Patrick Hunter, Lt. Gary Gollehon and Scott Fulkerson discussed the Annual Meetings of the National Association for Civilian Oversight of Law Enforcement.

4. At a special Training Retreat Session, Loren Vinson introduced the new standards for Case Review, Report Writing and Report Presentation. The Standards were created by an Ad Hoc Committee and adopted by the Board in order to provide written guidelines for the conduct of the Board's responsibilities.
5. Sgt. Rob Lewis briefed the Members on the SDPD's ongoing data collection process relating to the question of Racial Profiling. He discussed the difficulty encountered in analyzing the complex data that is resulting.
6. Lt. Sarah Creighton and Lt. Bob Stinson provided the Members an overview of the work and the curriculum of the Regional Law Enforcement Training Center.
7. Assistant City Attorney Gael Strack and Sgt Dan Plein made a detailed presentation regarding the philosophy, policy and procedures employed by the City Attorney's Office and the San Diego Police Department regarding Domestic Violence.

The Board took the following actions during this reporting period:

- Entered into an agreement with the Regional Law Enforcement Training Center to allow Members to audit regularly scheduled classes at the Academy as well as Regional Officer Training (in-service) classes.
- Accepted an invitation from the San Diego Police Department to train recruits in the Regional Academy in the history and process of the Board.
- After review and discussion by the Policy Committee voted to recommend no changes to the Department's Domestic Violence Policy.
- In accordance with by-laws, instituted two temporary review teams in order to help clear a back-log of cases.
- Discussed a proposal to ask for information regarding the disposition of court cases related to citizen complaints. The Board decided that unless the Internal Affairs Finding is somehow related to or based on the court's decision this information should not be reviewed.
- Recommended that the Department obtain better quality recording equipment to be used in witness interviews.
- Requested that the Executive Director obtain computers for Members to use at Internal Affairs in order to expedite and enhance the quality of CRB reports.

- Approved the creation of an Ad Hoc Committee comprised of Members Loren Vinson, Jim Dort, Alex Urbano and Al De La Cruz to prepare formal guidelines for case review, report writing and report presentation in order to standardize the work of Members.
- Extended the bi-monthly case review meetings by an extra hour in order to remain current with the caseload.
- Accepted a report from the Chair and Executive Director on a meeting hosted by the Board to discuss civilian oversight of law enforcement with a delegation of 14 community policing officers from Kosovo.
- Received a report from the Chair on his testimony before the City Council's Committee on Public Safety and Neighborhood Services.
- Received a report from the Chair and Executive Director on a meeting hosted by the Board to discuss civilian oversight of law enforcement with a delegation of Mayors from the Serbian Republic.
- Created an Ad Hoc Committee, chaired by 1<sup>st</sup> Vice Chair Patrick Hunter, to study the state of public mental health services in San Diego County and their impact on the work of the San Diego Police Department.
- Declined to become a founding Member of the San Diego Police Museum because of the possible appearance of a conflict of interest.
- Adopted a Board policy for directing comments to the Chief of Police in cases where there is no disagreement between the Board and Internal Affairs in findings. Previously, comments were only directed to the Chief of Police in cases where the Board and Internal Affairs disagreed in their findings.

The Board also requested and received responses from the Chief of Police regarding Department policy:

1. The Board requested a report on the Department's policy for stopping and photographing juveniles. Lt. Gary Gollehon provided a briefing on the policy and procedures.
2. The Board received the annual Multiple Complaints and Shooting report from Lt. Gary Gollehon.

## **LAW ENFORCEMENT**

The Board maintains memberships in both the International Association for Civilian Oversight of Law Enforcement (IACOLE) and The National Association for the Civilian Oversight of Law Enforcement (NACOLE). These organizations provide information and support for member agencies in this country and around the world. The annual conferences of these organizations provide opportunities for learning and networking to our Board Members and Staff.

The Annual Conference of NACOLE was held in October in Denver. The conference provided an opportunity for Members of the Board as well as representatives from the City Attorney's Office, Internal Affairs and the Police Officers Association to meet and network with Civilian Oversight volunteers and professionals from around the United States. The events of 9/11 were a major topic of discussion during informal meetings among delegates in relation to the role of civilian oversight as our cities struggle with issues of security, effective policing and individual rights.

## **POLICY CHANGES**

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

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



Additionally, if the current complaint contained "Not Sustained" findings, the Board asked to be able to see prior similar "Not Sustained" cases and, if deemed necessary, have the prior case(s) reopened.

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

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

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

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

- At the recommendation of the Board, complainants are now allowed to have an uninvolved support person present during Internal Affairs interviews.

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

- Internal Affairs now includes the following statement in its letter of findings to complainants: "Additionally, your complaint has been reviewed by the Citizens' Review Board on Police Practices."
- In a 1998 review of the Use of Force Policy, the Department, at the recommendation of the Board modified the use of Oleoresin 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 has established a policy for releasing all Citizens' Review Board Police-Involved Shooting Reviews to the public. This policy is being challenged by the Police Officers Association and is currently being considered 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.

## **STATISTICAL ANALYSIS**

Between January 1 and December 31, 2001, the Review Board evaluated and issued findings on a total of 133 separate complaints including 290 Category I allegations and 313 Category II allegations. This compared to 147 complaints considered during the same period last year which included 274 Category I allegations and 289 Category II allegations. Thus, the number of citizen complaints of police misconduct was slightly lower during the reporting period.

In addition to these allegations and findings, there were zero (0) cases of Complainants Non-Cooperative (CNC) for Category I complaints and zero (0) CNC cases for Category II complaints compared to three (3) and three (3) respectively for the same period last year. The number of complainants abandoning their complaints dropped to zero in both Category I and Category II complaints. These numbers reflect the increased aggressiveness by Internal Affairs in investigating complaints to conclusion with or without the complainant's cooperation.

To the extent that comments on individual cases indicated trends, the Board expressed the following:

- The Board urges Officer restraint in the use of force.
- Professional judgement and honesty must be expected from all officers in all situations.

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, 2001:

- |  |   |
|--|---|
| <input type="checkbox"/> Zero (0) suspensions          | <input type="checkbox"/> Seventeen (17) verbal warnings |
| <input type="checkbox"/> Seven (7) reprimands          | <input type="checkbox"/> One (1) termination            |
| <input type="checkbox"/> Five (5) written warnings     | <input type="checkbox"/> Zero (0) resignations          |
| <input type="checkbox"/> Three (3) notes of counseling |   |

Important Notice: These totals are not complete as Internal Affairs has not completed all disciplinary actions against officers for the 2001 calendar year.

## **POLICE-INVOLVED SHOOTING CASES**

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

completed and reviewed by the Police Department and the District Attorney.

Between January 1 and December 31, 2001 there was a total of twelve (12) police-involved shooting cases investigated by Internal Affairs and evaluated by the Review Board with the following results:

### **POLICE-INVOLVED SHOOTING STATISTICS**

<b>INTERNAL AFFAIRS FINDINGS</b>	<b>WITHIN POLICY</b>	<b>NOT WITHIN POLICY</b>	<b>TOTAL</b>
Internal Affairs Findings	11	1	12

<b>REVIEW BOARD FINDINGS</b>	<b>WITHIN POLICY</b>	<b>NOT WITHIN POLICY</b>	<b>TOTAL</b>
Agree with No Comment	9	1	10
Agree with Comment	2	0	2
Disagree with Comment	0	0	0
<b>TOTALS</b>	<b>11</b>	<b>1</b>	<b>12</b>

**STATISTICAL BREAKDOWN OF COMPLAINT CASES REVIEWED IN 2001**

**133 TOTAL COMPLAINT CASES REVIEWED  
290 CATEGORY I ALLEGATIONS**

<u>CATEGORY I ALLEG'S</u>	<u>I.A. Findings</u>	<u>Board Findings</u>	<u>I.A. Findings</u>	<u>Board Findings</u>
<b>161 FORCE</b>	4 Sustained	3 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment	76 Exonerated	74 Agree/No Comment 2 Agree/Comment 0 Disagree/Comment
	9 Not Sustained	8 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment	72 Unfounded	72 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>47 ARREST</b>	4 Sustained	4 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	34 Exonerated	34 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	1 Not Sustained	1 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	8 Unfounded	8 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>24 DISCRIMINATION</b>	0 Sustained	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	0 Exonerated	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	0 Not Sustained	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	24 Unfounded	24 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>6 SLUR</b>	0 Sustained	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	0 Exonerated	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	1 Not Sustained	0 Agree/No Comment 0 Agree/Comment 1 Disagree/Comment	5 Unfounded	5 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>52 CRIMINAL CONDUCT</b>	2 Sustained	1 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment	2 Exonerated	2 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	8 Not Sustained	7 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment	40 Unfounded	39 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment

**STATISTICAL BREAKDOWN OF COMPLAINT CASES REVIEWED IN 2001**

**313 CATEGORY II ALLEGATIONS**

<b><u>CATEGORY II ALLEG'S</u></b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>
<b>184 PROCEDURE</b>	14 Sustained	10 Agree/No Comment 4 Agree/Comment 0 Disagree/Comment	76 Exonerated	75 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment
	13 Not Sustained	13 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	78 Unfounded	76 Agree/No Comment 2 Agree/Comment 0 Disagree/Comment
<b>74 COURTESY</b>	5 Sustained	5 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	7 Exonerated	7 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	26 Not Sustained	25 Agree/No Comment 1 Agree/Comment 0 Disagree/Comment	36 Unfounded	36 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>48 CONDUCT</b>	3 Sustained	1 Agree/No Comment 2 Agree/Comment 0 Disagree/Comment	9 Exonerated	9 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	5 Not Sustained	5 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	31 Unfounded	31 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
<b>7 SERVICE</b>	0 Sustained	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	4 Exonerated	4 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment
	1 Not Sustained	1 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	2 Unfounded	2 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment



**STATISTICAL BREAKDOWN OF COMPLAINT CASES REVIEWED IN 2001**

**1 IN-CUSTODY DEATH**  
**0 POLICE INCIDENTS INVOLVING DEATH**  
**22 OTHER FINDINGS**

<b>DEATHS</b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>
<b>1 IN-CUSTODY DEATH</b>	1 Within Policy	1 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	0 Not Within Policy	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment

<b>DEATHS</b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>	<b><u>I.A. Findings</u></b>	<b><u>Board Findings</u></b>
<b>0 POLICE INCIDENTS INVOLVING DEATH</b>	0 Within Policy	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment	0 Not Within Policy	0 Agree/No Comment 0 Agree/Comment 0 Disagree/Comment

<b><u>OTHER FINDING</u></b> The investigation evidenced violation(s) of Department policies/procedures not alleged in the complaint. <b>22</b>
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