



THE CITY OF SAN DIEGO
M E M O R A N D U M

Date: August 29, 2022

To: David Nisleit, Chief, San Diego Police Department

From: Brandon Hilpert, Chair, Commission on Police Practices *FA*
via Sharmaine Moseley, Interim Executive Director *SM*

Subject: **Request for Reconsideration of CPP Recommendations to SDPD's Policies, Procedures and Discipline Matrix & Manual**

Previously, the Commission on Police Practices (Commission or CPP) made recommendations to update and/or revise the San Diego Police Department (SDPD) policies, procedures and the Discipline Matrix and Manual. We appreciate SDPD's responses and request for additional details. At the Commission's August 23, 2022 meeting, the Commission unanimously agreed to resubmit the following recommendations to SDPD for further consideration.

Body Worn Camera Recommendations:

The Commission and the Office of the City Auditor previously made recommendations to SDPD to increase compliance and usage of BWCs by SDPD officers (SDPD Procedure 1.49). The Commission understands that in researching its request to extend the features of the 2-minute buffering period to include audio, that there are limitations due to contract terms. However, the Commission still believes that including the audio in this buffer period would provide a benefit to the Department and the community. Additionally, SDPD has agreed to implement the City Auditor's recommendations requiring officers to record all dispatched calls and calls for service (rather than only enforcement encounters). SDPD's implementation of the City Auditor's seven BWC recommendations will go beyond the Commission's recommendation. The Commission supports the City Auditor's recommendations and encourages the implementation of these recommendations as soon as possible.

Body Worn Camera Auditing:

The Commission recommended that supervisory staff audit officer BWCs by viewing BWCs rather than just confirming X number of videos for X number of enforcement contacts. SDPD's response to this recommendation was that this recommendation could not be implemented due to the MOU between SDPOA, SDPD and the City which prohibits command staff from proactively viewing BWCs absent a complaint or justified reason to view BWC footage.

The Commission is requesting clarification as this response conflicts with the response given to the City Auditor, where SDPD agreed to implement recommendation #5 (“that supervisor reviews of the body camera videos include watching all videos categories as BWC Training/Accidental”).

Investigation of Complaints Involving SDPD Leadership:

In the Commission’s May 5, 2022 memo to SDPD, the Commission understood there was an informal process for complaints filed against SDPD leadership. As a result, the Commission recommended that the informal process be formalized in SDPD’s policies and procedures. SDPD’s response to this recommendation indicated that there is no informal process and all members of SDPD are subject to the same policies and procedures. If a conflict of interest exists, and the City Attorney agrees, then other city departments could be used to investigate/resolve the complaint.

The Commission still believes there should be a clear, written procedure (perhaps added to 1.10), that details the circumstances, how those complaints will be investigated, and by whom. Additionally, the Commission reiterates that any complaint against an SDPD Captain or above should be subject to this procedure.

Discipline Manual and Matrix Changes

The Commission thanks the Department for going beyond its recommendation of now requiring SDPD Command to complete discipline memos within 10 days (rather than the Commission’s request of 14 days) of discipline being issued.

- The Commission also recommended that the Discipline Manual be reviewed, and any errors or conflicting statements corrected. Although SDPD’s response indicated that all manuals are reviewed on an annual basis, the Commission understands that the Discipline Manual is being completely rewritten. The Commission encourages SDPD to consider incorporating the following revisions to the Discipline Manual: The Discipline Matrix lists a “catch-all” Minor Policy Violation category. The Commission would like to collaborate with the Department to help clarify this category of misconduct with a clear definition of what this misconduct is, as well as provide a non-exclusive list of examples. For example, “Minor Policy Violation can include, but is not limited to, XYZ.”
- The Discipline Matrix also lists a single excessive force category that does not include excessive force that causes injury. The Commission recommends adding at least one additional category for excessive force causing injury, with the discipline starting at a suspension (what would be the second instance for excessive force, non-injury).

The Commission would also encourage the Department to share the proposed draft Discipline Manual and Matrix with the Commission prior to Meet and Confer. Should the Commission have recommendations to the proposed draft, the recommendations could be considered before completing the Meet and Confer process.

Formation of Disciplinary Tracking

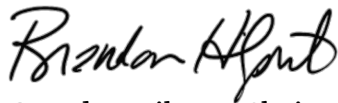
The Commission believes that the Department having a formal process in place for tracking a “sustained” finding all the way to disciplinary action is in the best interest of all parties. The Commission’s recommendation was not intended to be a “red flag” on any specific officer, but rather a way for the Department to ensure that disciplinary action is performed in a correct and timely manner. The Commission would be happy to discuss this further to satisfy the needs of all parties and resubmit this recommendation for consideration.

Procedures Agreed to but Not Yet Implemented

Some of the Commission’s previous recommendations (listed below) have been accepted by SDPD, but the policies or procedures have not yet been updated. The Commission understands that these updates are in process and kindly requests an update when the policies and procedures are updated.

- 1.06 – Chemical Agent Usage. The Department agreed to add that a verbal warning should be issued prior to using OC spray where possible.
- 6.01 – Seatbelts on Prisoners. The Department agreed to modify this procedure to add “Officers who do not secure a prisoner with a seatbelt shall articulate clearly and specifically their reasoning in their report.”

If you have any questions, please do not hesitate to contact me at BHilpert@sandiego.gov.



Brandon Hilpert, Chair
Commission on Police Practices

cc: Honorable Mayor Todd Gloria
Jay Goldstone, Chief Operating Officer
Paola Avila, Chief of Staff
Chris McGrath, Executive Assistant Chief
Anthony Dupree, Captain, Internal Affairs
Matt Yagyagan, Deputy Director of Policy, Mayor’s Office
Chida Warren-Darby, Director, Office of Boards & Commissions
Duane Bennett, Outside Counsel, Commission on Police Practices
Members of the Commission on Police Practices