

COMMISSION ON POLICE PRACTICES

EXECUTIVE STANDING COMMITTEE AGENDA **Wednesday, April 30, 2025** **4:30pm**

Procopio Towers
525 B St.
17th Floor, Suite 1725
San Diego, CA 92101

The Commission on Police Practices (Commission) meetings will be conducted pursuant to the provisions of California Government Code Section 54953 (a), as amended by Assembly Bill 2249.

The Commission business meetings will be in person and the meeting will be open for in-person testimony. Additionally, we are continuing to provide alternatives to in-person attendance for participating in our meetings. In lieu of in-person attendance, members of the public may also participate via telephone/Zoom.

The link to join the meeting by computer, tablet, or smartphone at 4:30pm is:

<https://sandiego.zoomgov.com/j/1613117027>

Meeting ID: 161 311 7027

In-Person Public Comment on an Agenda Item: If you wish to address the CPP Standing Committee on an item on today's agenda, please complete and submit a speaker slip before the Committee hears the agenda item. You will be called at the time the item is heard. Each speaker must file a speaker slip with the CPP staff at the meeting at which the speaker wishes to speak indicating which item they wish to speak on. Speaker slips may not be turned in prior to the day of the meeting or after completion of in-person testimony. In-person public comment will conclude before virtual testimony begins. Each speaker who wishes to address the Commission must state who they are representing if they represent an organization or another person.

For discussion and information items each speaker may speak up to three (3) minutes, subject to the Committee Chair's determination of the time available for meeting management purposes, in addition to any time ceded by other members of the public who are present at the meeting and have submitted a speaker slip ceding their time. These speaker slips should be submitted together at one time to the designated CPP staff. The Committee Chair may also limit organized group

presentations of five or more people to 15 minutes or less.

In-Person Public Comment on Matters Not on the Agenda: You may address the Standing Committee on any matter not listed on today's agenda. Please complete and submit a speaker slip. However, California's open meeting laws do not permit the Standing Committee to discuss or take any action on the matter at today's meeting. At its discretion, the Standing Committee may add the item to a future meeting agenda or refer the matter to the CPP. Public comments are limited to three minutes per speaker. At the discretion of the Committee Chair, if a large number of people wish to speak on the same item, comments may be limited to a set period of time per item to appropriately manage the meeting and ensure the Standing Committee has time to consider all the agenda items. A member of the public may only provide one comment per agenda item. In-person public comment on items not on the agenda will conclude before virtual testimony begins.

Virtual Platform Public Comment to a Particular Item or Matters Not on the Agenda: When the Committee Chair introduces the item you would like to comment on (or indicates it is time for Non-Agenda Public Comment), raise your hand by either tapping the "Raise Your Hand" button on your computer, tablet, or Smartphone, or by dialing *9 on your phone. You will be taken in the order in which you raised your hand. You may only speak once on a particular item. When the Committee Chair indicates it is your turn to speak, click the unmute prompt that will appear on your computer, tablet or Smartphone, or dial *6 on your phone.

Written Comment through Webform: Comment on agenda items and non-agenda public comment may also be submitted using the [webform](#). If using the webform, indicate the agenda item number you wish to submit a comment for. All webform comments are limited to 200 words. On the [webform](#), members of the public should select Commission on Police Practices (even if the public comment is for a Commission on Police Practices Committee meeting).

The public may attend a meeting when scheduled by following the attendee meeting link provided above. To view a meeting archive video, click [here](#). Video footage of each Commission meeting is posted online [here](#) within 24-48 hours of the conclusion of the meeting.

Comments received no later than 11 am the day of the meeting will be distributed to the Commission on Police Practices. Comments received after the deadline described above but before the item is called will be submitted into the written record for the relevant item.

Written Materials: You may alternatively submit via U.S. Mail to Attn: Office of the Commission on Police Practices, 525 B Street, Suite 1725, San Diego, CA 92101. Materials submitted via U.S. Mail must be received the business day prior to the meeting to be distributed to the Standing Committee.

If you attach any documents to your comment, they will be distributed to the Standing Committee in accordance with the deadlines described above.

- I. CALL TO ORDER/WELCOME (Chair Doug Case)
- II. ROLL CALL (Executive Assistant Alina Conde)
- III. APPROVAL OF THE MINUTES OF THE March 26, 2025 EXECUTIVE COMMITTEE MEETING
- IV. NON-AGENDA PUBLIC COMMENT
- V. CHAIR REPORT (Chair Doug Case) (Informational Item)
- VI. INTERIM EXECUTIVE DIRECTOR REPORT (Bart Miesfeld)
- VII. UNFISHED BUSINESS
 - A. Content of Disposition Letters Sent to Complainants (Possible Action Item)
 - B. Semi-Annual Reports and Redacted Case Summaries (Possible Action Item)
 - C. Creating a Litigation Line Item in Future Budgets (Possible Action Item)
- VIII. NEW BUSINESS
 - A. Request for Support of AB 847 (Potential Action Item)
 - B. Follow-up on Jerry Threet's Audit Recommendations (Potential Action Item)
 - C. Commendations to SDPD (Action Item)
 - D. Case Review Process Evaluation (Discussion Item)
 - E. Conflict of Interest Policy – Recusals (Discussion Item)
 - F. FY26 Budget Update – Jaime Jacinto, Senior Management Analyst (Discussion Item)
 - G. Process for Election of 2025–26 Officers (Discussion Item)
 - H. Onboarding Status for New Commissioners (Discussion Item)
- IX. STANDING COMMITTEE REPORTS (Discussion Items)
 - A. Rules Committee – Commissioner Bonnie Benitez
 - B. Community Outreach Committee – Commissioner Alec Beyer
 - C. Training and Continuing Education Committee – Commissioner Darlanne Mulmat
 - D. Policy Committee – Commissioner Imani Robinson
 - E. Recruitment Committee – Commissioner Armando Flores
- X. AD HOC COMMITTEE REPORT (Discussion Items)
 - A. Operating Procedures – Chair Doug Case
 - B. Personnel – Commissioner Darlanne Mulmat
- XI. NEXT MEETING – WEDNESDAY, May 28, 2025

XII. ADJOURNMENT

Materials Provided:

- March 26, 2025 Executive Committee Minutes
- Template of Disposition Letters to Complainants
- AB 847 Background Materials
- Findings of the Independent Review of Internal Affairs Reports

Access for People with Disabilities: As required by the Americans with Disabilities Act (ADA), requests for agenda information to be made available in alternative formats, and any requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for alternatives to observing meetings and offering public comment as noted above, may be made by contacting the Commission at (619) 236-6296 or commissiononpolicepractices@sandiego.gov.

Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services, or interpreters, require different lead times, ranging from five business days to two weeks. Please keep this in mind and provide as much advance notice as possible to ensure availability. The city is committed to resolving accessibility requests swiftly.

Commission on Police Practices

**COMMISSION ON POLICE PRACTICES
EXECUTIVE STANDING COMMITTEE MEETING
MINUTES**

**Wednesday, March 26, 2025
4:30pm-6:00pm**

**Procopio Towers
17th Floor, Suite 1725
San Diego, CA 92101**

Click <https://www.youtube.com/watch?v=WSxYn3w8Fdw> to view this meeting on YouTube.

CPP Committee Members Present:

Chair Doug Case

1st Vice Chair Ada Rodriguez

2nd Vice Chair Clovis Honoré

Bonnie Benitez

Alec Beyer

Darlanne Mulmat

Excused:

None

Absent:

None

CPP Staff Present:

Alina Conde, Executive Assistant

Bart Miesfeld, General Counsel

Ethan Waterman, Investigator

Ching-Yun Li, Investigator

Jon'Nae McFarland, Administrative Aide

- I. CALL TO ORDER/WELCOME: Chair Doug Case called the meeting to order at 4:32pm.
- II. ROLL CALL: Executive Assistant Alina Conde conducted the roll call for the Commission and established quorum.
- III. APPROVAL OF THE MINUTES OF THE FEBRUARY 26, 2025 EXECUTIVE COMMITTEE MEETING
MOTION: Commissioner Bonnie Benitez moved to accept the amended February 26th, 2025 Executive Standing Committee Meeting Minutes. Commissioner Darlanne Mulmat seconded the motion.
The vote passed 6-0-0.
Yeas: Chair Case, Rodriguez, Honoré, Benitez, Beyer, Mulmat
Nays: None
Abstentions: None
- IV. NON-AGENDA PUBLIC COMMENT - None
- V. CHAIR REPORT (*Timestamp 3:11*)
 - Chair Doug Case gave a report out on the Ad Hoc Pursuits Committee.
 - Commissioner Rocha Vazquez has resigned from the meeting.
 - Update on Commissioner who has missed more than five consecutive meetings without excused absence.
 - Council presidents' office update on process of filling vacancies.
 - Update on process of filling positions for Interim and permanent Executive Director.
- VI. STAFF REPORT (*Timestamp 11:03*)
 - General Counsel Bart Miesfeld reported out that he was contacted by a criminal defense attorney who was interested in a position with CPP.
- VII. CASE REVIEW PROCESS – PROTOCOL FOR INTERACTION BETWEEN INVESTIGATORS AND REVIEW GROUPS (*Timestamp 12:07*)
 1. No change to process but staff will accommodate meetings to discuss case review for investigators and commissioners.
- VIII. MEETING TIMES AND LOCATIONS (*Timestamp 33:05*)
 1. Administrative Aide Jon'Nae McFarland will create report with potential facilities, dates, and times for business meetings. This will be discussed and voted on at the next CPP regular business meeting.
- IX. ROLES OF EXECUTIVE DIRECTOR AND CPP CHAIR (*Timestamp 52:56*)
MOTION: Commissioner Bonnie Benitez moved to accept the proposed Roles of Executive Director and CPP Chair. 2nd Vice Chair Clovis Honoré seconded the motion. The vote passed 6-0-0.
Yeas: Chair Case, Rodriguez, Honoré, Benitez, Beyer, Mulmat
Nays: None
Abstentions: None

- X. ESTABLISHMENT OF A POLICY COMMITTEE (*Timestamp 1:29:05*)
MOTION: 2nd Vice Chair Clovis Honoré moved to establish a CPP Policy Standing Committee. Commissioner Darlanne Mulmat seconded the motion. The vote passed 6-0-0.
Yeas: Chair Case, Rodriguez, Honoré, Benitez, Beyer, Mulmat
Nays: None
Abstentions: None
- XI. COMMUNITY FORUMS/HEARINGS ON PRETEXT STOPS, SPECIAL OPERATIONS UNIT, FOURTH WAIVER SEARCHS, AND GANGS DATABASE – No Action Taken
- XII. ESTABLISHMENT OF A RECRUITMENT COMMITTEE (*Timestamp 1:29:05*)
MOTION: 2nd Vice Chair Clovis Honoré moved to establish a CPP Recruitment Standing Committee. Commissioner Darlanne Mulmat seconded the motion. The vote passed 6-0-0.
Yeas: Chair Case, Rodriguez, Honoré, Benitez, Beyer, Mulmat
Nays: None
Abstentions: None
- XIII. STANDING COMMITTEE REPORTS
- A. Rules Committee – Committee Chair Bonnie Benitez reported that the items the Committee reviewed so far was spoken about on item IX.
 - B. Community Outreach Committee – Committee Chair Alec Beyer reported that the next meeting will be scheduled on April 10th. They are putting together a budget to have outreach materials for presentations and CPP appearances. They will still be reviewing the CPP website more closely and how to get the public to attend more meetings (in person/virtual).
 - C. Training and Continuing Education Committee – Committee currently paused.
- XIV. AD HOC COMMITTEE REPORTS
- A. Pretext Stops – No committee updates.
 - B. Operating Procedures – Chair Doug Case reports that the Operating Procedures Committee met and finalized everything. Executive Assistant Alina Conde is assisting with fixing footnotes on the document. The 75 page document will be brought to the Commission at the meetings in April for approval.
 - C. Personnel (*Timestamp 1:35:49*)
MOTION: Commissioner Bonnie Benitez moved to approve the proposed Executive Director Hiring Process. The vote passed 6-0-0.
Yeas: Chair Case, Rodriguez, Honoré, Benitez, Beyer, Mulmat
Nays: None
Abstentions: None
- XV. ITEMS TO BE CONSIDERED ONLY IF TIME PERMITS
- A. Content of Disposition Letters Sent to Complainants – Tabled for next meeting.
 - B. Semi-Annual Reports and Redacted Case Summaries – Tabled for next meeting.
 - C. Creating a Litigation Line Item in Future Budgets – Tabled for next meeting.
- XVI. NEXT MEETING – Wednesday, April 30, 2025
- XVII. ADJOURNMENT: The meeting adjourned at 6:12pm.


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AB-847 Peace officers: confidentiality of records. (2025-2026)

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AMENDED IN ASSEMBLY APRIL 21, 2025

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 847

Introduced by Assembly Member Sharp-Collins

February 19, 2025

An act to [amend Section 25303.7 of the Government Code, and to](#) amend Section 832.7 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 847, as amended, Sharp-Collins. Peace officers: confidentiality of records.

Existing law, the California Public Records Act, authorizes the inspection and copying of any public record except where specifically prohibited by law. Existing law, with specified exemptions, makes confidential the personnel records of peace officers and custodial records and certain other records maintained by their employing agencies. Existing law provides that this exemption from disclosure does not apply to investigations of these officers or their employing agencies and relating proceedings conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would additionally grant access to the confidential personnel records of peace officers and custodial officers and records maintained by their employing agencies, as specified, to civilian law enforcement oversight boards or commissions during investigations or proceedings concerning the conduct of those officers. *The bill would require those oversight boards to maintain the confidentiality of those records, and would authorize them to conduct closed sessions, as specified, to review confidential records. The bill would additionally authorize a county inspector general to access those personnel records, as specified.*

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 25303.7 of the Government Code is amended to read:*

25303.7. (a) (1) A county may create a sheriff oversight board, either by action of the board of supervisors or through a vote of county residents, comprised of civilians to assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.

(2) The members of the sheriff oversight board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the board.

(3) Notwithstanding Sections 1043 and 1046 of the Evidence Code, the members of the oversight board shall have access to the personnel records of peace officers and custodial officers relating to the report, investigation, or findings of citizen complaints maintained by the sheriff pursuant to Section 832.5 of the Penal Code. The oversight board shall maintain the confidentiality of these records consistent with Section 832.7 of the Penal Code.

(b) (1) The chair of the sheriff oversight board shall issue a subpoena or subpoena duces tecum in accordance with Sections 1985 to 1985.4, inclusive, of the Code of Civil Procedure whenever the board deems it necessary or important to examine the following:

(A) Any person as a witness upon any subject matter within the jurisdiction of the board.

(B) Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.

(C) Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.

(2) A subpoena shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure.

(3) (A) If a witness fails to attend, or in the case of a subpoena duces tecum, if an item is not produced as set forth therein, the chair or the chair authorized deputy issuing the subpoena upon proof of service thereof may certify the facts to the superior court in the county of the board.

(B) The court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall be served on the person and the court shall have jurisdiction of the matter.

(C) The same proceedings shall be had, the same penalties imposed, and the person charged may purge themselves of the contempt in the same way as in a case of a person who has committed a contempt in the trial of a civil action before a superior court.

(4) A sheriff oversight board may conduct closed sessions, consistent with Section 54957 of the Government Code, to review confidential records obtained under this section or otherwise related to its oversight duties, if those sessions comply with applicable confidentiality laws, including, but not limited to, Section 832.7 of the Penal Code.

(c) (1) A county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.

(2) The inspector general shall have the independent authority to issue a subpoena or subpoena duces tecum subject to the procedure provided in subdivision (b).

(3) Notwithstanding Sections 1043 and 1046 of the Evidence Code, the inspector general shall have access to the personnel records of peace officers and custodial officers relating to the report, investigation, or findings of citizen complaints maintained by the sheriff pursuant to Section 832.5 of the Penal Code. The inspector general shall maintain the confidentiality of these records consistent with Section 832.7 of the Penal Code.

(d) The exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.

SECTION 4-SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery

pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, or the Commission on Peace Officer Standards and Training, or a civilian oversight board or commission for a law enforcement agency established pursuant to subdivision (a) of Section 25303.7 of the Government Code or other duly enacted municipal or county ordinance.

(b) (1) Notwithstanding subdivision (a), Section 7923.600 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurs before January 1, 2022, shall not be subject to the time limitations in paragraph (11) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting

modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who engaged in the misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld

information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 7923.000 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the misconduct or use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (a) of Section 7922.530 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(13) Notwithstanding subdivision (a) or any other law, an agency that formerly employed a peace officer or custodial officer may, without receiving a request for disclosure, disclose to the public the termination for cause of that officer by that agency for any disclosable incident, including those described in subparagraphs (A) to (E), inclusive, of paragraph (1). Any such disclosure shall be at the discretion of the agency and shall not include any information otherwise prohibited from disclosure. This paragraph is declaratory of existing law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

California Law Enforcement Oversight Commissions and Boards Circular Letter

January 23, 2025

Hon. Jesse Arreguín
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Senate Public Safety Committee
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Hon. Nick Schultz
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Assembly Public Safety Committee
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Suite 5740
Sacramento, CA 95814

Re: Proposed Amendment to Penal Code § 832.7 to Allow Access by Law Enforcement Oversight Commissions to Information Essential to Effective Oversight

Dear Chairs Arreguín and Schultz:

As Commissioners and Executive Directors of Law Enforcement Oversight commissions and boards in California, we have been hobbled by the absence of an express provision in Penal Code § 832.7 that permits oversight bodies access to confidential documents from the overseen law enforcement agency on the same level as grand juries, prosecuting authorities, and the Commission of Peace Officer Standards and Training. The attached amendment rectifies this.

The proposed Amendment would permit California law enforcement oversight commissions to access to the personnel records of peace officers deemed confidential under California Penal Code (PC) 832.7 by amending PC 832.7 to read that its section prohibiting such “does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney’s office, the Attorney General’s office, the Commission on Peace Officer Standards and Training, or a civilian oversight board or commission for a California law enforcement organization established under Government Code Section 25303.7(a) or other duly enacted municipal or county ordinance.” (Emphasis on the proposed amended language.)

Nothing in the amendment eliminates the confidentiality of these records. Law enforcement oversight commissions and boards would need to maintain their confidentiality. But they would be allowed to access and review such records in the same way that the California Supreme Court allowed county civil service commissions to receive and review confidential records relating to peace officers in *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272. See also *Berkeley Police Association v. City of Berkeley*, 167 Cal.App.4th 385 (2008) (Police oversight commission can review police personnel files and disciplinary records in closed sessions.)

Background

Years after the enactment of California Penal Code § 832.7, the State legislature has granted counties across the state the authority to establish civilian oversight commissions to oversee

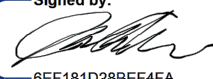
California Law Enforcement Oversight Commissions and Boards Circular Letter


sheriff's departments and authorized these commissions to issue subpoenas when deemed necessary to investigate a matter within their jurisdiction. Government Code § 25303.7 (A.B. 1185). In addition, many municipalities in California have created commissions to oversee police departments; many with subpoena power. While these powers are important, civilian oversight bodies emerging around the state are not able to perform meaningful oversight of law enforcement without access to otherwise protected, confidential information.

Many law enforcement oversight commissions have been created in California and nationally in the wake of the George Floyd murder. These commissions have been created in order to provide increased transparency into the policies and practices of the police and sheriff departments and to assure that the law enforcement leaders and officers are held accountable for misconduct. For example, with access to confidential personnel records, our commissions will be able to determine whether Department personnel are timely and appropriately investigated and, where warranted, disciplined when they violate use of force policies. Oversight Commissions will also be able to assess whether the overseen law enforcement agency is appropriately implementing policies, including, e.g., a policy prohibiting law enforcement gangs as required by state law. *See* Penal Code §13760.

The proposed change in existing state law is needed to allow law enforcement oversight commissions in California to effectively perform their oversight responsibilities in a manner that the public has come to expect.

The signatories on this letter urge you and the California legislature to enact the proposed amendment. If you have any questions or desire further information, please contact Robert C. Bonner at rbonner@judgebonner.com. Thank you.

Signed by:

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John Alden
Board Member, NACOLE


Robert C. Bonner
Chair
Civilian Oversight Commission
for the Los Angeles County Sheriff's
Department

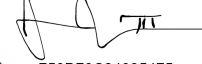
Attachment – Proposed Amendment to Penal Code § 832.7

cc: Hon. Tom Umberg, Chair, Senate Judiciary Committee (w/attachment)
Hon. Ash Kalra, Chair, Assembly Judiciary Committee (w/attachment)

California Law Enforcement Oversight Commissions and Boards

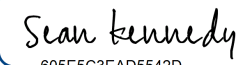
Circular Letter

Signed by:


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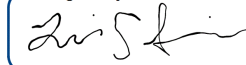
John C. "Chip" Moore
Chair
Police Accountability Board
Berkeley, California

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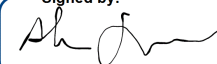
Sean Kennedy
Commissioner
Civilian Oversight Commission
for Los Angeles County Sheriff Department

Signed by:


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Luis Garcia
Vice Chair
Civilian Oversight Commission
for Los Angeles County Sheriff's Department

Signed by:


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Hans Johnson
Vice Chair
Civilian Oversight Commission
for Los Angeles County Sheriff's Department

Proposed Amendment to Penal Code section 832.7

Section 832.7 - Peace officer or custodial officer personnel records

(a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, ~~or~~ the Commission on Peace Officer Standards and Training, [or a civilian oversight board or commission for a California law enforcement organization established under Government Code Section 25303.7\(a\) or other duly enacted municipal or county ordinance.](#)

The City of
SAN DIEGO
Office of the Commission on Police Practices

Insert date

Name

Email or address

Re: Case # Number
Reviewed on insert date

Dear Mr./Ms.:

The Commission on Police Practices (CPP) is empowered by San Diego City Charter Section 41.2 to review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from investigations of police misconduct. This includes alleged misconduct resulting from citizens' complaints. The Commission currently reviews the San Diego Police Department's Internal Affairs (IA) Investigator's Report and all related materials including IA's finding(s) by IA.

The allegations in your complaint were given serious consideration. The Internal Affairs' investigation of your complaint was reviewed by our chief investigator, outside counsel and/or designated CPP Commissioners, who, after a thorough review of the investigation, prepared a written report. The investigation and conclusions were then presented to the entire Commission in Closed Session as afforded by law. In Closed Session, Commissioners have an opportunity to review and discuss the report before voting on Internal Affairs' findings. This process is undertaken with great care, thoroughness, and deliberation. The results of the Commission's decisions or actions are provided to the San Diego Police Department and the complainant, then the case is then closed.

There are four possible findings which Internal Affairs utilizes in making a determination about complaints. They are:

1. **Sustained:** The Department member committed all or part of the alleged act of misconduct.
2. **Not Sustained:** The investigation produced insufficient information to clearly prove or disprove the allegation.
3. **Exonerated:** The alleged act occurred but was legal, justified, and proper and within policy, procedure, and law.
4. **Unfounded:** The alleged act did not occur.

The findings relating to your complaint are as follows:

1. You alleged officer insert allegation.
Internal Affairs' Finding: Insert finding
Commission's Decision: The Commission agreed/disagreed with the Internal Affairs' finding and recommends that this allegation be insert CPP findings if disagreed.

The Commission does not participate in determining discipline, nor Departmental action, in the event of a “Sustained” finding or disagreement with an Internal Affairs’ finding. However, the Commission is informed of the discipline which is administered. You may be assured that the Commission’s evaluations are given serious consideration by the San Diego Police Department, as well as the Mayor, in administering discipline to officers in cases where discipline is warranted. The Commission cannot disclose to the public any discipline administered as the result of a “Sustained” finding for select cases because of California Penal Code Sections 832.5 and 832.7, which require that personnel files of peace officers remain confidential.

The Commission holds open public meetings in person and via Zoom Webinar platform. Visit our homepage at www.sandiego.gov/cpp/ for our next meeting date and location. Although individual complaints cannot be discussed in public session, please feel free to share your comments concerning general procedures with us. Your case is now “closed.” If you have questions or wish to discuss these findings, please feel free to email commissiononpolicepractices@sandiego.gov or call the office at (619) 533-5304.

Sincerely,

Doug Case

Chair, Commission on Police Practices



FINDINGS: DEPARTMENT POLICIES, PROCEDURES, AND PRACTICES

Perhaps the most critical aspect of ensuring officers police the community in ways that conform to community expectations is including the community in creating policies to guide those efforts. For this reason, one of the first pillars of the Final Report of the President’s Task Force on 21st Century Policing (“President’s Report”) focuses on this process in discussing how a law enforcement agency can build and maintain trust and legitimacy with the public. The President’s Report states, “In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.” This is particularly important with regard to policies of significant focus and attention by the public. Several policy areas fall into this category.

Policies that guide the investigation of misconduct complaints are essential to ensure that such investigations reflect integrity and respect for the public. Policies on officer use of body-worn cameras help ensure that officers use these tools appropriately and that video is available for investigations of both crime and officer misconduct, helping build trust with the community. Policies on the use of force and biased policing typically are of great importance to the community. And this review has revealed that policies guiding officer courtesy are important in San Diego. In these areas, SDPD should employ a robust process for community members and leaders to provide input in shaping policies that guide local policing, with the CPP playing a role in that process.

This review has identified Department policies and practices that could benefit from review and discussion, and the auditor has made findings about the policies mentioned above. These findings are gathered here for ease of review. In general, the auditor has limited findings to issues that arose in connection with this review of SDPD investigations and has not conducted a broader review of Department policies and practices. The one exception is in the area of complaint investigation policies, as that process is foundational to an effective accountability system. Therefore, this review includes findings on the complaint investigation system that go beyond issues identified by specific investigations reviewed.

SDPD Complaint Investigations System

FINDING 1: The Department policy allowing civilian complaints to be designated as “informal” allows a complaint not to be fully investigated and no finding made. State law does not support this process, which could create police pressure on civilian complainants to avoid a full investigation. The clearest way to address this is to eliminate the “informal” complaint category from the Department’s complaint investigation process.

FINDING 2: The warnings and instructions to complainants about possible consequences of filing a false complaint on the Department’s complaint forms make the complaint process less than welcoming and suggest negative consequences could follow from filing a complaint. The Department could greatly lessen this deterrent effect by eliminating these warnings and instructions from the complaint forms.

FINDING 3: The Department's policy on intake of complaints is unclear as to whether supervisors on the scene of an incident should handle a citizen complaint or call another supervisor to handle the intake of the complaint. Clarifying this policy could eliminate confusion by complainants seen in some investigations.

FINDING 4: The Department's policy on civilian complaints allows SDPD to conduct a preliminary analysis of the allegations and evidence and determine that the complaint is "frivolous" and therefore need not be fully investigated. Such complaints result in no investigation report and no formal findings and are not referred to the CPP for review. This provision of SDPD's policy is not consistent with the requirements of state law. The Department could comply with state law by requiring all complaint allegations to be fully investigated as long as sufficient evidence exists.

FINDING 5: The Department does not provide complainants with official findings on complaints when it designates the complaint as "informal" or "miscellaneous," despite state law requiring a finding for every complaint allegation lodged. SDPD should provide complainants with a written notice of findings for any complaint filed.

FINDING 6: While the Department's policy requires complaint investigators to make repeated efforts to contact and interview complainants throughout the investigation, this is not always done in practice. The Department should consider whether its training is sufficient to ensure that an investigator makes every reasonable effort to interview every complainant. Doing so will help ensure that the investigator fully understands the nature of the complaint and the complainant's view of the available evidence and convey to the complainant that the agency takes all complaints of employee misconduct seriously.

FINDING 7: The Department's complaint investigators do not always obtain and preserve all evidence that may be material to an investigation. SDPD should promptly secure and analyze all evidence material for a complaint investigation, including interviews of all material witnesses to a complaint, as well as all records of any kind that could affect the outcome of the investigation.

FINDING 8: The Department's complaint investigators do not always use neutral, open-ended questioning of witnesses, nor fully explore the witness' knowledge and perceptions of the incident being investigated. SDPD should conduct all investigative interviews using neutral, open-ended questioning of interview subjects, designed to elicit all relevant information known to the interviewee. The investigator should encourage the witness to remember and provide all of the information they may be aware of.

FINDING 9: The Department's complaint investigators seldom conduct explicit credibility analyses of witness statements, including when there are internal discrepancies within those statements and with other conflicting evidence. SDPD should use investigative interviews to clarify discrepancies within a witness's statements and between the witness's statement and other evidence collected by the investigator. Where there are such conflicts, the investigator should conduct a credibility analysis to help resolve those inconsistencies objectively.

FINDING 10: The Department's complaint investigators sometimes do not fully explore the allegations of a complainant who exhibits mental health issues. Where a complainant exhibits potential mental health issues, the investigator should endeavor to broadly interpret the allegations of their complaint so that potentially valid issues are not missed due to the misperceptions of the complainant.

FINDING 11: The Department's complaint investigation system in practice allows Department officials to investigate an incident in which they may have a personal, familial, or professional interest. SDPD should ensure that its policies, practices, and training specific to complaint investigations prohibit any officer or Department official from acting in an investigative or decision-making role for any complaint investigation that may implicate their personal, familial, or professional interests.

FINDING 12: SDPD should consider outsourcing complaint investigations to a trained and experienced civilian investigator in circumstances of Department conflicts of interest, in order to provide neutrality, eliminate actual and perceived conflicts of interest, and to provide the public greater confidence that such investigations are objectively conducted.

FINDING 13: The Department typically misses its internal deadlines for completing complaint investigations set out in policy. SDPD should develop a realistic work plan to meet the Department's written internal deadlines to complete an investigation and periodically conduct a systemic audit of investigations for deviations from those deadlines.

FINDING 14: The Department's complaint investigators sometimes do not fully identify and review all issues relevant to the incident. SDPD should periodically conduct a systemic audit of its complaint investigations to ensure that all relevant issues are identified and investigated to the greatest possible extent.

FINDING 15: The Department's complaint investigation system allows investigators to close an investigation with a memo and no findings where the investigator concluded there was insufficient evidence to identify a subject officer. The Department should consider auditing complaints that have been closed out with a memo and not fully investigated due to insufficient evidence identifying a subject officer to assess whether the initial investigation to identify the officer was sufficient and whether the investigation was appropriately closed.

FINDING 16: The CPP should consider auditing SDPD investigations periodically to help ensure that all relevant issues are identified and investigated to a reasonable extent.

FINDING 17: The CPP should consider a focused audit of SDPD investigations to determine the circumstances under which allegations may be excluded from full investigation and analysis by the Department and whether this was appropriate.

Use of Force

FINDING 18: The Department's complaint investigators usually do not explicitly analyze force according to state and federal legal requirements that force be objectively reasonable and the minimal amount necessary to achieve a lawful objective. Although SDPD Policy 1.04 requires that force used by an officer be "reasonably necessary," that criterion is not explicitly employed by investigators in evaluating complaints of excessive force. Nor do investigators measure the reasonableness of force against the multiple criteria of federal case law governing force. The Department's use of force policy, procedures, and training should emphasize that any force used must be objectively reasonable and the minimal amount necessary to accomplish a lawful policing objective. (See SDPD Policy 1.04; California Penal Code Section 835a; *Graham v. Connor* (1989) 490 US 386).

FINDING 19: The Department's Use of Force policy requires that an officer use only that force that is reasonably necessary under the circumstances, but fails to define "necessary." SDPD should consider clarifying its Use of Force (UOF) policy and procedure to include a definition of "necessary" as it applies to force. One option would be to define it as meaning that a lower level of force (or no force) likely would not have achieved the lawful objective in question.

FINDING 20: The investigations reviewed suggest that there are racial disparities in force used against suspects by Department officers. SDPD's UOF policy should provide that, overall, force used by the Department should comply with principles of fair and unbiased policing, so that there is no disparate rate of force used against any demographic category of persons under similar circumstances.

FINDING 21: The Department's complaint investigators tend to evaluate force by examining the overall circumstances of the incident, rather than conducting a particularized assessment of the changing factual circumstances as the incident unfolds. The UOF policy should provide that officers and force investigators must continually re-assess the situation to evaluate the necessity of force or continued need for force as circumstances change.

FINDING 22: The investigations reviewed suggest that Department officers approach incidents with a "command and control" orientation that may not adequately consider a suspect's emotional or cognitive ability to understand and comply with commands during a very stressful incident. Special consideration should be given in both UOF policy and training for vulnerable populations, including those for whom there is evidence or suspicion of mental/emotional/behavioral health challenges, those under the influence of drugs or alcohol, pregnant women, the elderly, those who are cognitively divergent, and the young. Where feasible, this should include efforts at de-escalation for these populations.

FINDING 23: The investigations reviewed suggest that Department officers often rely first on verbal and physical escalation to gain compliance with their orders. Officer training under the UOF policy should emphasize increased reliance on good communication skills to minimize escalation of emotional reactivity and the need for use of force.

FINDING 24: The investigations reviewed suggest that Department officers sometimes make no attempt to use de-escalation techniques before moving to force options to gain compliance with orders. Likewise, complaint investigators usually do not evaluate an officer's failure to attempt de-escalation in assessing a complaint of excessive force. The Department's UOF policy, procedure, and training should require that evaluation of use of force incidents include whether the officer exhausted other reasonable alternatives before resorting to the force used and whether de-escalation techniques were reasonable and employed.

FINDING 25: The Department's complaint investigators tend to evaluate force used by reference solely to standards of "reasonableness" and without reference to the concept of "necessity." Likewise, investigations seldom analyze force according to the individual factors laid out in federal case law. SDPD should consider training its complaint investigators that every UOF investigation must refer to its UOF policy, which forbids any force beyond what is "reasonably necessary" to the situation. In addition, each analysis of UOF should separately analyze each instance of force and employ the factors laid out in the seminal Supreme Court case of *Graham v. Connor* to guide such an analysis.

FINDING 26: The investigations reviewed suggest that when officers use force beyond that which is reasonably necessary under the circumstances, other officers do not intervene to attempt to halt such uses of force, as required by policy and law. The Department may wish to consider undertaking Active Bystander training to shift the culture of the organization toward embracing such interventions by team members.

FINDING 27: The CPP should consider regularly auditing Department UOF investigations to ensure that the above relevant standards are appropriately employed in those investigations.

Bias-Free Policing

FINDING 28: The investigations reviewed suggest that Department officials believe that the Department's policy prohibiting discrimination in policing applies only to express, intentional discrimination and not to practices reflecting implicit or systemic biases. The Department should consider clarifying its policy by including illustrations of the limited circumstances in which demographic characteristics of individuals may be considered in policing decisions, such as discretionary stops.

FINDING 29: The investigations reviewed suggest that Department officials may rely on remote associations between a person and a racial or ethnic street gang to justify detention and other enforcement actions that require reasonable suspicion of criminal activity to be constitutional. SDPD should carefully delineate when association with or membership in a racial or ethnic street gang is a justified consideration for the use of racial or ethnic characteristics in an enforcement action.

FINDING 30: The Department should consider providing specific examples in its policy where bias in policing may arise, such as decisions to search a person or a vehicle, and explain that such practices are not allowed. The Department may wish to incorporate such criteria around bias in scenario-based training and incorporate them in its evaluations for promotional opportunities.

FINDING 31: The Department’s policy on bias in policing should include a mandate that officers intervene when they see an example of biased policing and report any observed violation of the policy.

FINDING 32: The investigations reviewed suggest that complainants may allege only discourtesy in situations where bias may influence the level of respect displayed by an officer toward a suspect. Where facts alleged in a complaint suggest potential bias may be involved in an incident, the complaint investigation should separately analyze possible biased enforcement, whether or not the complainant alleges it.

FINDING 33: The investigations reviewed suggest that Department officials believe that the policy prohibiting bias in policing applies only to express, intentional discrimination and not to practices reflecting implicit or systemic biases. SDPD should emphasize in its training for officers and complaint investigators that discrimination allegations do not depend solely on direct evidence of explicit discriminatory animus to be well founded, but can be shown through indirect evidence of enforcement actions influenced by implicit bias.

FINDING 34: The Department should consider committing the agency to an anti-racist operational philosophy that seeks to counter the influences of racism in society, generally, on officers’ actions. Such an approach would go beyond simply prohibiting intentionally biased behavior and strive to eliminate disparate racial/ethnic impacts of SDPD’s policing strategies, policies, practices, and training. It might also involve offering support to other government programs that seek to address the social and economic causes of crime in under-resourced neighborhoods.

FINDING 35: The Department should consider incorporating racial disparity data in early warning systems that indicate issues that suggest the need for additional training or closer evaluation of officer conduct.

Proactive Policing Stops

FINDING 36: The investigations reviewed suggest that Department officials believe that generalized facts, such as presence in a “high-crime area,” rather than specific facts particular to a suspect may support reasonable suspicion to detain a person. Through its policies, procedures, and training, the Department should ensure that officers understand the requirements for constitutional policing with regard to reasonable suspicion to detain a person.

FINDING 37: The investigations reviewed suggest that Department officials believe that generalized facts, such as recent shootings in a high crime area, rather than specific facts particular to a suspect, may support reasonable suspicion to pat down a suspect or vehicle. Through its policies, procedures, and training, the Department should ensure that officers understand the requirements for constitutional policing with regard to reasonable suspicion to pat down a person or their car.

FINDING 38: The investigations reviewed suggest that some officers believe that a person’s loose association with members of a criminal street gang may create a reasonable suspicion of

criminal activity by that person or of the person being armed and dangerous. The Department should carefully consider when and if a person's association with criminal street gang members can contribute to such reasonable suspicions. The Department should also clearly define what the terms "associate" and "member" mean in this context and what evidence is sufficient to justify using those terms.

FINDING 39: The investigations reviewed suggest that the Department's continued use of a vigorous, proactive policing approach focused on minor offenses in neighborhoods populated primarily by racial or ethnic minorities negatively impacts relationships with those communities. The Department should carefully consider whether an aggressive enforcement approach for alleged minor criminal infractions is consistent with its commitment to community-oriented, unbiased policing.

FINDING 40: The Department should consider clarifying that any proactive, focused enforcement strategy for minor violations must be implemented without discriminating on the basis of the demographic characteristics of those targeted by the enforcement.

FINDING 41: The investigations reviewed suggest that Department officers sometimes use their discretion to tow vehicles without allowing the driver to have a friend or family member take custody of it. The Department should carefully consider whether it should allow officers the discretion to tow vehicles without first offering a driver the opportunity to have another licensed driver take custody of their vehicle.

Policing of First Amendment Demonstrations

FINDING 42: The investigations reviewed suggest the Department's policing of protest activity does not always prioritize the protection of First Amendment rights of demonstrators. In addition, while the Department's current policy acknowledges that one goal of police involvement in First Amendment activity is to facilitate the safe exercise of First Amendment rights, the policy places that goal behind others that emphasize preserving the peace, preventing criminal activity, and controlling traffic. SDPD should ensure that its policies, procedures, practices, and training addressing First Amendment protests include a clear commitment to prioritize the protection of the First Amendment Rights of demonstrators to freely assemble and express themselves in public spaces.

FINDING 43: The investigations reviewed suggest the Department's policing of protest activity does not adequately emphasize de-escalation prior to resorting to lawful force. The Department's policies, procedures, practices, and training on policing First Amendment demonstrations should emphasize de-escalation as a core approach to effective crowd management.

FINDING 44: The Department's policies, procedures, practices, and training addressing First Amendment protests should include a general limitation on force to circumstances where it is necessary to avoid harm to officers or others or significant destruction of property.

FINDING 45: The Department's policies, procedures, practices, and training addressing First Amendment protests should include limits on the amount and type of force that officers may use

to prevent the destruction of property. One option would be to include a general limit on force to those options unlikely to cause serious bodily injury or worse. The current policy includes very fine-grained guidance on multiple force options that, without more general guidance, may prove too complex for effective application under the stress of a rapidly unfolding event.

FINDING 46: The investigations reviewed suggest the Department's policing of protest activity may too readily resort to mass arrests of protesters without discrimination as to whether protesters are involved in criminal activities. The Department's policies, procedures, practices, and training addressing First Amendment protests should include a prohibition on mass arrests, limiting arrests to individuals for which individualized probable cause exists to justify an arrest.

FINDING 47: The investigations reviewed suggest the Department's policing of protest activity has too readily moved to dispersal of a crowd alleged to be unlawfully assembling. The Department's First Amendment Protest Policy should include limits on crowd dispersal to circumstances that immediately threaten public safety, or where widespread violence or significant property destruction is occurring or reasonably appears imminent.

FINDING 48: The investigations reviewed suggest the Department's policing of protest activity has not included an effective method of ordering the dispersal of an unlawfully assembled crowd. However, it does appear that the Department's current First Amendment Protest Policy includes adequate requirements that dispersal orders be delivered in such a manner that they are audible to an entire crowd and are repeated before efforts to enforce the dispersal order. The policy also requires that the audible announcement include realistic avenues for the crowd to disperse.

Body-Worn Cameras

FINDING 49: The investigations reviewed strongly suggest that officers need to have a clearer understanding of when BWCs should be activated and remain activated, and thus BWCs sometimes miss parts of incidents about which complaints are made. The Department should require officers to activate their BWC at the moment it is clear that they will interact with a member of the public in any official capacity.

FINDING 50: Once BWC are activated, the Department should require officers to maintain their BWC in an active state until the officer's participation in the incident has ceased and the suspect is no longer in the presence of the officer.

FINDING 51: The investigations reviewed strongly suggest that the use of a buffer in BWC recording where no audio is captured results in the loss of crucial evidentiary information that may be crucial in resolving investigative issues. The Department should consider setting all cameras so that they capture audio during the pre-event buffer period.

FINDING 52: The Department's BWC policy should include a notice that the failure to activate a BWC where required, and without a reasonable explanation for such failure, is considered serious misconduct and will result in discipline.

Courtesy

FINDING 53: The investigations reviewed strongly suggest that Department officers and complaint investigators erroneously consider the illustrative examples of the Courtesy Policy to be the only actions proscribed by that policy. The Department should clarify that the examples offered in its Courtesy policy are exemplary only and that investigators should examine allegations of discourtesy against the full definition of discourtesy, however it may be exhibited by officers. The Department also should consider offering a full definition of “discourtesy” in its policy.

FINDING 54: The Department’s policies, practice, and training should ensure that Department officials understand that the examples offered in its Courtesy policy are illustrative only and that officers are expected and required to avoid discourteous statements and behaviors, regardless of whether they meet the specific criteria of the policy’s examples.

Miscellaneous Findings

FINDING 55: The investigations reviewed suggest that some officers respond to community members recording incidents with a range of unnecessary negative actions, such as making disrespectful comments, aggressively insisting that they move far away, and taking away their cell phones. The Department should consider additional guidance and training to its officers and complaint investigators that the recording of incidents by community members is legal and constitutional and that officers should make no negative comments nor make negative assumptions about the motivations of community members engaged in such behavior. Nor should officers take a phone from a community member absent some indication that it will likely be used as a weapon.

FINDING 56: The investigations reviewed suggest that some officers may not fully understand a trauma-informed approach to conducting sexual assault investigations. The Department should ensure that its sexual assault investigators are fully trained in and understand best practices in approaching such investigations in a trauma-informed manner.

FINDING 57: The investigations reviewed suggest that officers and complaint investigators do not fully appreciate how their behavior on social media may bring into question their integrity and professionalism and that of the Department. The Department should consider adopting a clear policy on employees’ use of social media or other public statements or behavior, both on and off duty, and clarify that behavior that negatively impacts the Department’s mission, function, or capabilities constitutes conduct unbecoming and is a serious instance of misconduct. The Department should also clarify that this includes an employee’s speech.

FINDING 58: The Department should consider giving detailed guidance to officers concerning their use of profiles on dating or sex apps or websites and how Department policies, procedures, or guidelines may affect such use.

FINDING 59: The investigations reviewed strongly suggest that the Department’s current policies, practices, and training are inadequate to avoid injury to all suspects during cuffing. The

Department should consider amending its policies, procedures, and training on cuffing detainees and arrestees so that due consideration is given to body factors that may affect the comfort and experience of the person cuffed. For example, cuffs may seem relatively pain-free when a suspect's arms are pulled back for the cuffing process, but a suspect's large body size or tight shoulder muscles may cause the cuffs to cut into their wrists once the officer releases the tension pulling back their arms.

FINDING 60: The Department should consider the benefits of a “trauma-informed policing” approach, both for its officers and the community members they encounter during incidents. Training to understand and accommodate the effects of trauma on both officers’ and community members’ emotional and cognitive abilities has great potential to increase positive outcomes and avoid further trauma.