

**COMMUNITY REVIEW BOARD ON POLICE PRACTICES**

**A G E N D A**

**Tuesday, March 27, 2018**

**Malcolm X Branch Library  
5148 Market Street  
San Diego, CA 92105**

A quorum of twelve (12) board members is needed to conduct business. If you cannot attend, please call the CRB Complaint Coordinator at (619) 236-6296.

**CLOSED SESSION 4:00 p.m. – 5:30 p.m.**

**Board Members and Staff Only**

- I. Call to Order
- II. Legal Opinion(s) Request & Attorney/Client Privileged Response(s) (0)
- III. San Diego Police Department Feedback on Case Specific Matters Only
- IV. Shooting Review Board Reports (1)
- V. Category II Case Audit Reports (0)
- VI. Discipline Reports (0)
- VII. Case Review Team Reports (4)
- VIII. Case-Specific Recommendations to the Mayor (0)
- IX. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)

Pursuant to California Government Code Section 54957 — To discuss community complaints brought against San Diego Police Department Officers under California Penal Code Section 832.7.

**OPEN/PUBLIC MEETING 6:00 p.m. – 8:00 p.m.**

**Open to the Public**

- I. CALL TO ORDER/WELCOME (Chair Doug Case)
- II. PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES
- III. APPROVAL OF MINUTES: CRB Open Meeting Minutes of February 27, 2018
- IV. NON-AGENDA PUBLIC COMMENT: (Speaker Slip Required)
- V. GUEST SPEAKER: Brian Pollard, Chair  
Citizens Advisory Board on Police/ Community Relations

GUEST SPEAKER: Chief of Police David Nisleit  
San Diego Police Department

- VI. UNFINISHED BUSINESS (DISCUSSION/ACTION): None
- VII. COMMITTEE REPORTS (DISCUSSION/ACTION)
- A. Continuing Education Committee (Pieter O'Leary)
- Upcoming Education Topics/Guest Speakers
- B. Outreach Committee (Taura Gentry)
- Monthly Calendar of Events/Outreach Opportunities
- C. Rules Committee (Brandon Hilpert)
- Case Review Turnaround Timelines Update
  - Audit of Category II Case
  - Case Summaries for Publication
- D. Policy Committee (DISCUSSION/ACTION) (Joe Craver)
- ACTION ITEM: Recommendation that SDPD require an officer writing a report in a use of force incident, not to view video prior to writing report & prior to being interviewed in in-custody death & officer-involved shooting cases. In addition, the officer should have the option of writing a supplemental report after viewing the BWC video.
  - ACTION ITEM: Recommendation for SDPD to adopt a de-escalation policy and use Baltimore's policy as a model
  - ACTION ITEM: Recommendation for SDPD to change unlawful detention & unlawful search and seizure complaints to Category I
  - SDPD Use of Carotid Restraint Update
  - Recording of IA Interviews
  - New SDPD Implementation - CAD System to Remind Officers to Turn on Body Worn Camera
- E. Recruitment & Retention Committee (Maria Nieto-Senour)
- VIII. CHAIR'S REPORT (Chair Doug Case)
- A. Work Plan FY19

- B. Status of Implementation of Measure G Ordinance
- C. Reporting of Hours
- D. Board Member Status Update
- IX. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)
  - A. Caseload Update & Status of Case Reports
  - B. Community Events/Forums/Meetings
  - C. Other Items/Reminders
- X. SAN DIEGO POLICE DEPARTMENT REPORT (Executive Assistant Chief Todd Jarvis)
  - A. IA Staff Changes
  - B. Other Items
- XI. BOARD MEMBER RIDE-ALONG REPORTS (2 mins each)
- XII. BOARD MEMBER ANNOUNCEMENTS/COMMENTS
- XIII. ADJOURNMENT

**Materials Provided:**

- Minutes from CRB Open Session Meeting on February 27, 2018
- Work Plan FY19
- Baltimore Use of Force Policy
- Excerpts from PERF Guiding Principles on the Use of Force

Public Comment on an Action/Discussion Item: If you wish to address the Board on an item on today's agenda, please complete a speaker form (on the table near the door) and give it to the Board's Executive Director before the Board hears the agenda item. You will be called to express your comment at the time the item is heard. Please note, however, that you are not required to register your name or provide other information to the Board in order to attend our public session or to speak.

Public Comment on Committee/Staff Reports: Public comment on reports by Board Committees or staff may be heard on items which are specifically noticed on the agenda.

Public Comment on Matters Not on the Agenda: If you wish to address the Board on any matter within the jurisdiction of the Board that is not listed on today's agenda, you may do so during the PUBLIC COMMENT period during the meeting. Please complete a speaker form (on the table near the door) and give it to the Board's Executive Director. The Board will listen to your comments. However, California's open meeting laws do not permit the Board to take any action on the matter at today's meeting. At its discretion, the Board may refer the matter to staff, to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Board cannot hear specific complaints against named individual officers at open meetings.

Comments from individuals are limited to three (3) minutes per speaker, or less at the discretion of the Chair. At the discretion of the Chair, if a large number of people wish to speak on the same item, comment may be limited to a set period of time per item. If you would like to have an item considered for placement on a future Board agenda, please contact the Executive Director at (619) 236-6296. The Director will consult with the Board Chair who may place the item on a future Board agenda. If you or your organization would like to have the Board meet in your neighborhood or community, please call the Executive Director at (619) 236-6296.

facilitate meeting participation, including requests for auxiliary aids, services or interpreters, should be forwarded to [communityreviewboard@sandiego.gov](mailto:communityreviewboard@sandiego.gov), or call (619) 236-6296.



COMMUNITY REVIEW BOARD ON POLICE PRACTICES

MINUTES

Tuesday, February 27, 2018  
Cherokee Point Elementary School  
3735 38<sup>th</sup> Street  
San Diego, CA 92105

**Members Present:**

Doug Case, Chair  
Joe Craver, 1<sup>st</sup> Vice Chair  
Brandon Hilpert, 2<sup>nd</sup> Vice-Chair  
Diana Dent  
Maria Nieto-Senour  
Taura Gentry  
Pieter O'Leary

Sheila Holtrop  
Ernestine Smith  
Richard Stanford  
Nancy Vaughn  
Pauline Theodore  
Martin Workman

**Members Absent:**

Mary O'Tousa  
Reinaldo Galindo

**Prospective Members Present:**

Gregory Daunoras  
Darwin Fishman

**Prospective Members Absent:**

Jonathan Colby (LOA)

**Staff Present:**

Sharmaine Moseley, Executive Director, CRB  
Todd Jarvis, Executive Assistant Chief, San Diego Police Department  
Wes Morris, Captain, San Diego Police Department  
Jason Weeden, Lieutenant, San Diego Police Department  
Ivan Garcia, Lieutenant, San Diego Police Department

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- I. **CALL TO ORDER/WELCOME:** Chair Doug Case called the meeting to order at 6:03pm
  - II. **PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES:**  
Chair Doug Case explained the purpose of the Community Review Board on Police Practices to those in attendance.

- III. **APPROVAL OF MINUTES:** Motion was made by Vice Chair Joe Craver to approve the CRB minutes of January 23, 2018. Motion passed unanimously.
- IV. **NON-AGENDA PUBLIC COMMENT:**  
A. Frank Maschkowski
- V. **RECOGNITION & APPRECIATION:** Board Member John Sieger was recognized for 1 year of Service on the CRB.
- VI. **TOPIC:** "SDPD Use of Force Policy & Officers Use of the Carotid Restraint"

**Guest Speakers: Sergeant Michael Belz, Officer Mike Rhoten, & Officer Ken Kries (SDPD In-Service Training Unit)**

Reported that officers are introduced to the Carotid Restraint (CR) during their 7<sup>th</sup> week of defensive tactics training and receive approximately 2-3 hours of instruction. On average, SDPD uses the CR 109 times annually. In 2017, the use of the CR comprised 1.0% of physical force.

SDPD's Use of Force Policy allows for the CR to be used at Active Resistance or higher encounters. This is believed to be the correct level for the CR for the following reasons:

- i. Physical strength is used most often to control a resistive subject meaning officers are in close proximity to the subject, therefore reducing the effectiveness of other force options such as the Baton, OC, and Taser.
- ii. A properly applied CR can render someone unconscious in as little as 6.8 seconds, thus limiting the duration and amount of force being used. This is safer for both the subject and officers.
- iii. It only takes 11 pounds of pressure to compress the carotid artery and begin to render someone unconscious, meaning the smallest of officers can use this technique to stop a larger individual. It also reduces the chance that a smaller officer will resort to a higher level of force including deadly force to overcome the subject's resistance.
- iv. Subjects under the influence of a controlled substance generally have a higher pain threshold and appear stronger, thus less affected by the officer's personal body weapons, baton strikes, or OC spray. Without the CR as part of their force options, officers are limited to force options such as the Taser or deadly force.

- v. Subjects who are under the influence of a controlled substance and/or mentally impaired are generally more at risk for Arrest Related Deaths, resulting in part to the prolonged struggle with officers during an arrests. A properly applied CR can end such a struggle in as little as 6.8 seconds, therefore allowing for quicker medical treatment and reduce the chance of Arrest Related Deaths.

According to SDPD Police and Procedures 1.04, whenever it is possible, the CR is a two officer technique. The second officer responsibilities include: monitoring the correct application and time of the CR (no more than a 30 second application) and monitoring the subject's level of consciousness. The CR shall not be used on the same person more than two times in a 24 hour period, the subject's breathing and pulse should be monitored, it should be determined if the subject is functionally conscious and aware. If there are any adverse effects, the officer(s) will call for medics and render appropriate first aid. Officer(s) will constantly monitor the subject for 2 hours or until medically cleared.

During the CR Demo, the officers presented the proper CR application with principles including: stabilizing the subject's head (maintaining 3 points of contact including: both sides of the neck and the back of the head) and avoiding the bar arm choke.

Addressing concerns of unexpected arrest related deaths possibly resulting from CR, SDPD cites the Western Journal of Emergency Medicine, stating that "it is possible that arrest related death results from a cascade of pre-disposing factors." Similarly, they cite the Canadian Police Research Center's "National Study on Neck Restraints," which states "there is no medical reason to routinely expect grievous bodily harm or death following the correct applications of the vascular neck restraint in the general population by professional police officers with standardized training and technique."

Public Comment:

Anita (Last Name N/A)  
Gail Gennings  
Alara Chilton  
Brittany McCline  
Michael Brackney

Yusef (Last Name N/A)  
Patricia Murphy  
Andrea Rogers  
Desiree Smith  
Martin Eder

## VII. UNFINISHED BUSINESS (DISCUSSION/ACTION):

### A. Status of Implementation of Measure G Ordinance

- i. City of San Diego Deputy Chief Operating Officer David Graham gave a history of Measure G, resulting changes, and reported on the draft ordinance outline that would implement Measure G.

Public Comment: Kate Yavenditti

- ii. 1<sup>st</sup> Vice Chair Joe Craver made a motion to support the draft ordinance with the inclusion of the auditing of Category II cases. 2<sup>nd</sup> Vice Chair Brandon Hilpert seconded the motion. The motion was approved unanimously.

B. Timeline – The item will go to the Rules Committee on March 7<sup>th</sup>

#### VIII. COMMITTEE REPORTS (DISCUSSION/ACTION)

A. Continuing Education Committee (Pieter O'Leary)

- i. CRB Member background checks are cleared for the scheduled tour of the Central Jail on March 1<sup>st</sup>.
- ii. SDPD Menu classes' have started and some board members have attended.
- iii. Provided the Board with a proposed Educational Opportunities Schedule.

B. Outreach Committee (Taura Gentry)

- i. Committee Chair Taura Gentry reported on the activities, trainings and meetings that members of the Board participated in as follows:

PICO California HEAT Symposium February 2-3

BAPAC General Meeting

Effective Interactions Training for the Wellness Unit

Coffee with a Cop (Board member Martin Workman)

IA Refresher Update Training

SD Black History Month Committee Update

Policing and Prosecuting Our Community at Cal Western Law School



CRB Presentation to New Officers

CAST Problem Solving Community Meeting with Mid-City Division

Citizens Advisory Board on Police/Community Practices

Building Trust Partnership Handbook and Website Release

YMCA SD: Youth Empowerment Event

- ii. Chair Doug Case reminded CRB members they must attend a minimum of 2 outreach events per year.

C. Rules Committee

(Brandon Hilpert)

- i. Proposed date for next Rules Committee Meeting is Tuesday, March 6<sup>th</sup> at 9:30am

D. Policy Committee

(Joe Craver)

- i. Report tabled until next month
- ii. Encouraged members to attend upcoming Policy Committee Meeting regarding SDPD Use of the Carotid Restraint

E. Recruitment & Retention Committee

(Maria Nieto-Senour)

Committee Chair Maria Nieto-Senour reported that she would like to set up a meeting of the Committee. A doodle poll would be sent out to Committee members regarding scheduling the meeting.

**IX. CHAIR'S REPORT**

(Chair Doug Case)

A. Work Plan FY19

- i. Chair Doug Case reported that the Work Plan has been emailed to the Board. Board members were asked to go through and add to the Work Plan as appropriate. A meeting of the Executive Committee will be scheduled to go over the work plan.

B. CRB Legal Request & Opinion Memo

- i. The Legal Opinion Memos were rewritten so the Board could discuss in its Open Meeting.

X. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)

A. Caseload Update & Status of Case Reports

- i. Today the Board started off with 18 active cases. Earlier tonight, 4 of those cases were placed on our Closed Session Meeting agenda for review. At that meeting, 1 of those 4 cases were reviewed and closed out. As a result, the Teams now have a total of 17 active cases. The CRB has a total of 23 cases closed out for FY18. The breakdown of active cases are as follows:

Team 1 – 6 cases

Team 4 – 5 cases

Team 2 – 3 cases

Team 7- 0 cases

Team 3 – 3 cases

B. Community Events/Forums/Meetings – This report was given during the Outreach Committee Report.

C. Better Management Impact Software Feedback – The Board provided feedback regarding issues with logging into the system.

D. City Administrative Rule on EEO Policy

- i. Reiterated the importance of this policy that was previously emailed to the Board. Members were asked to refrain from contacting anyone who files an EEO complaint. Reminded that the Executive Director is a mandatory reporter.

E. CRB Bylaw & City Rule on Communications with Media

- i. Reminder that per the CRB Bylaws, the Chair or the Chair's designee is the spokesperson for the Board. If anyone speaks to the media, they must specifically state that they are not speaking on behalf of the CRB, but as a private citizen.

F. Deadline for Shelving Cases – This item was tabled to be discussed at the next Rules Committee Meeting.

G. Other Items/Reminders

- i. Refrain from cell phone usage during meetings unless under emergency circumstances

ii. Importance of self-care due to the sensitive nature of the cases the Board reviews

iii. Scheduling of 1:1 meetings with the Executive Director

**XI. SAN DIEGO POLICE DEPARTMENT REPORT (Captain Wes Morris)**

**A. Status of CRB Recommendation to BWC Policy**

- i. Discussed with the Chief, the CRB's recommendation on word change from "should" to "must" in regards to activating BWC. The Department changed the policy to "shall" in September 2017.
- ii. In December, the BWC policy was also changed to expand the buffering time from 30 seconds to 2 minutes.

**B. Status of CRB Recommendation on Canine Cases**

- i. Training for the Board can be arranged.

**C. Status of CRB Recommendation on Viewing of BWC Video**

- i. SDPD does not have a specific policy outlining the viewing of BWC Video other than your own. However, the new chief may address this in the future.

**XII. BOARD MEMBER RIDE-ALONG REPORTS: None**

**XIII. BOARD MEMBER ANNOUNCEMENTS/COMMENTS: None**

**XIV. ADJOURNMENT: 8:11 pm**

**Next Meeting  
Tuesday, March 27, 2018  
Malcolm X Library  
5148 Market Street  
San Diego CA 92114**

## **Excerpts from the Baltimore Police Department Use of Force Policy, July 2016**

Members shall de-escalate as soon as possible and appropriate. Members may be justified in using force at one moment, but not justified in using force several seconds later due to the changing dynamics of a situation.

1. Members shall continually assess the situation and changing circumstances, and modulate their use of force appropriately.
2. When possible, members should "slow down" the situation and re-assess how they can achieve the most peaceful outcome.
3. Recognizing that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues can cause individuals to behave erratically, members must try to de-escalate situations and minimize or avoid using force altogether, when possible, to prevent injuries to the subject, the public and the member.

Members shall use de-escalation techniques whenever possible and appropriate, before resorting to force and to reduce the need for force. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as slowing down the pace of an incident, waiting out subjects, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.

1. When reasonable under the totality of circumstances, members should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.
2. Members should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance in order to de-escalate a situation or consider or deploy a greater variety of force options, including lesser force or no force at all.
3. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.
4. Members shall not use tactics designed to intentionally escalate the level of force.

## Excerpts from PERF Guiding Principles on the Use of Force, 2016

Adopt de-escalation as formal agency policy.

Agencies should prohibit the use of deadly force, and carefully consider the use of many less-lethal options, against individuals who pose a danger only to themselves and not to other members of the public or to officers. Officers should be prepared to exercise considerable discretion to wait as long as necessary so that the situation can be resolved peacefully.

Officers should be trained to use a Critical Decision-Making Model.

**Mental Illness:** Implement a comprehensive agency training program on dealing with people with mental health issues. Officers must be trained in how to recognize people with mental health issues and deal with them in a safe and humane manner. Many agencies already provide some form of crisis intervention training as a key element of de-escalation, but crisis intervention policies and training must be merged with a new focus on tactics that officers can use to de-escalate situations. At a minimum, agencies should seek to:

- Provide all officers with awareness and recognition of mental health and substance abuse issues, as well as basic techniques for communicating with people with these problems.
- Provide in-depth training (for example, the 40-hour Crisis Intervention Team or "CIT" training) to a subset of officers and field supervisors (preferably those who have indicated an interest in this area), with the goal of having CIT-trained personnel on duty and available to respond at all times. This training should focus heavily on communication and de-escalation strategies.
- Some agencies may choose to provide in-depth CIT training to all of their personnel.
- Crisis Intervention Teams, made up of police officers and mental health workers, can often be the most effective option. These teams are called to respond to incidents involving mental illness or similar issues, and thus the teams develop expertise, as well as familiarity with individuals who generate multiple calls for service over time. In some cases, Crisis Intervention Teams also work to solve underlying problems by helping persons with mental illness to obtain treatment.
- For all of their mental health training, agencies should coordinate with local mental health professionals on content and delivery.

Provide a prompt supervisory response to critical incidents to reduce the likelihood of unnecessary force.

Supervisors should immediately respond to any scene:

- Where a weapon (including firearm, edged weapon, rocks, or other improvised weapon) is reported,
- Where persons experiencing mental health crises are reported, or
- Where a dispatcher or other member of the department believes there is potential for significant use of force. Some departments have trained their dispatchers to go on the radio and specifically ask the patrol supervisor if he or she is en route to specific high-risk calls, such as a person with mental illness threatening his family. Once on the scene and if circumstances permit, supervisors should attempt to "huddle" with officers before responding to develop a plan of action that focuses on de-escalation where possible. In the case of persons with mental illness, supervisors who are not specially trained should consult and coordinate with officers on the scene who are specially trained.