

OPEN SESSION MEETING MINUTES

**Tuesday, January 25, 2022
6 p.m. – 8 p.m.
Via Zoom Webinar**

Click <https://www.youtube.com/watch?v=gBgc9N6Cotg> to view this meeting on YouTube.

Commissioners Present:

Patrick Anderson (left at 7pm)
Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Maxine Clark
Andrea Dauber-Griffin
Diana Dent
Poppy Fitch
Sheila Holtrop
Steve Hsieh

Ernestine Smith (left at 7pm)
Robin Spruce
Nancy Vaughn

Commissioners Absent or Excused:

Kevin Herington
Chris Pink
Marty Workman

Staff Present:

Sharmaine Moseley, Interim Executive Director
Alina Conde, Executive Assistant
Robin Recendez, Administrative Aide

San Diego Police Department (SDPD) Staff Present:

IA Captain Dupree
SDPD Captain Jeff Jordon

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- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 6:01pm.
 - II. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP): Chair Brandon Hilpert explained that the purpose of the Commission on Police Practices (CPP) is to provide an independent investigation of officer-involved shootings, in-custody deaths, and an unbiased evaluation of all complaints against the police department and its personnel in a process that will be transparent and accountable to the community. The Commission will also evaluate the review of all SDPD policies, practices, trainings, and protocols and represent the

community in making recommendations for changes. The mission of the Commission is to hold law enforcement accountable to the community and to increase community trust in law enforcement, resulting in increased safety for both the community and law enforcement.

III. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.

IV. APPROVAL OF MEETING MINUTES

A. MINUTES FROM CPP OPEN MEETING ON NOVEMBER 23, 2021

The Commissioners reviewed the minutes. Commissioner Nancy Vaughn moved for the Commission to approve its November 23, 2021 Open meeting minutes. Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 10-0-2.

Yays, 1st Vice Chair Case, Clark, Dauber-Griffin, Dent, Fitch, Holtrop, Hsieh, Smith, Spruce, and Vaughn

Nays: None

Abstained: Chair Hilpert and Anderson

Absent/Excused: Herington, Pink, and Workman

V. NON-AGENDA PUBLIC COMMENT: No public comment received.

VI. EDUCATIONAL TOPIC: “Legislative Update: Impact of New Laws on SDPD’s Policies & Procedures” Presenter SDPD Captain Jeff Jordon (20 mins)

SB 16 – Police Records: Mandatory reporting or public disclosure of sustained complaints of excessive force, failure to intervene, unlawful searches and seizures, and discrimination. There is a backlog of complaints waiting to be reviewed. Commissioner Patrick Anderson requested clarification on record retention allegations that are not sustained, and which categories fall under the 5- or 15-year timeline. Captain Jordan explained that it is currently being interpreted as all-inclusive. Only sustained records would fall under the 15-year timeline and all other categories (not sustained, exonerated, and unfounded) would fall under the 5-year timeline.

SB 2 – Police Decertification: It expands the list of circumstances that would disqualify a person from employment. Requires officers to investigate all complaints of serious misconduct regardless of employment status which means the investigations will go all the way to the end regardless of status.

AB 26 – Use of Force: Requires officers to immediately report potential excessive force and prohibits retaliation against officers that report violations of law or regulation of another officer to a supervisor. De-escalation and proportional use of force. Chair Brandon Hilpert expanded on possibly recommending the department take a liberal look at the section regarding officers receiving training from other officers.

AB 48 – Use of Force: Restricts use of kinetic energy projectiles and chemical agents. Prohibits their use solely due to a violation of an imposed curfew, verbal threat, or noncompliance with a law enforcement directive. Shall only be used to disperse an assembly, protest, or demonstration by a properly trained officer to defend against threat to life or serious bodily injury to any individual.

AB 958 – Law Enforcement Gangs: Addressed issues of “gangs” among peace officers that might undermine the professional standards of policing among California’s law enforcement agencies.

SB 98 – Media Access: Establishes new laws relating to interactions between law enforcement and duly authorized representatives of news services at events where individuals are engaged in activities that are protected pursuant to the First Amendment to the US Constitution and the California Constitution. Commissioner Nancy Vaughn requested clarification on the definition of duly authorized. Captain Jordan explained that totality of the circumstances broadly construed that they are employed by the categories listed in news services, newspaper, radio, television, networks etc.

AB 490 – Positional Asphyxia: Additionally, prohibit a law enforcement agency from authorizing techniques or transport method that involve a substantial risk of positional asphyxia.

AB 481 – Military Equipment: Requires agencies to obtain approval of a military equipment use policy, by ordinance at City Council prior to taking certain actions relating to the funding, acquisition, or use of military equipment. Commissioner Patrick Anderson asked if the ordinance lists the specific equipment that will be used? Captain Jordan explained that the ordinance lists every piece of equipment and includes the description provided by the manufacturer to define it. This includes: all weapons and where they are located, military definition, number of rounds currently possessed within the department, how they are used, training standards, who is being trained, projected expenses with anticipated needs going forward.

- VII. UNFINISHED BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
- A. Commission Closed Meetings in February (Dates and Times) – Chair Brandon Hilpert will be working with Executive Assistant Alina Conde on sending out a doodle poll for each Tuesday of the month.
 - B. Case Review
 - 1. Status of Discipline Cases
We will be working with Internal Affairs to go over any discipline cases for the teams to review.
 - 2. Feedback on Remote Case Access (Google Drive)
We are looking to try and get a CPP version of IaPro. IaPro is the software used by Internal Affairs. The goal is to allow these programs to talk to each other between IA and CPP. There is also a tool on there for complainants to know what the status of their

complaint is.

3. IA Office Hours/Schedule (Continuation of Saturday Hours) – Reminder that Internal Affairs has offered weekend hours for those who may need it. Commissioners should send an email and request the time if they need to go into Internal Affairs on the weekends.

VIII. NEW BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)

- A. **DISCUSSION:** Draft memo to the City Council Regarding the Urgent Need to Appoint Commissioners to the Commission on Police Practices

ACTION: Commissioner Nancy Vaughn moved for the Commission to approve the proposed draft memo with amendments to the City Council regarding the urgent need to appoint Commissioners to the Commission on Police Practices. Commissioner Poppy Fitch seconded the motion. The motion passed with a vote of 9-0-1.

Yays: 1st Vice Chair Case, Clark, Dauber-Griffin, Dent, Fitch, Holtrop, Hsieh, Spruce, and Vaughn

Nays: None

Abstained: Chair Hilpert

Absent/Excused: Anderson, Herington, Pink, Smith, and Workman

IX. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)

- A. Continuing Education Committee (Nancy Vaughn)
 1. List of Upcoming Educational Topics/Presentations
 - Restraining Orders
Commissioner Nancy Vaughn would like to have somebody from the Kumeyaay Nation speak to the Commission about their experiences with the police when they are off the reservation. If the Commission has any topics, they want to learn more about please reach out to Commissioner Vaughn. Interim Executive Director Sharmaine Moseley requested more information regarding restraining order presentation.
- B. Outreach Committee (Patrick Anderson)
 1. Past Events/Virtual Meetings/Roundtable Discussions
 2. Upcoming Events/Outreach Opportunities
Commissioner Patrick Anderson commented on the hard work between partnerships from San Diegans for Justice, Women Occupy, Mid-City CAN and it's youth counsel, the various Communities, the Commission and all who participated in helping the progress of the draft ordinance and memo.
- C. Rules Committee (1st Vice Chair Doug Case)
 1. Update on Streamlined Team Reports
No current updates.
- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 1. Update – On Hold

- E. Policy Committee (Chair Brandon Hilpert)
 - 1. Items being Considered by Committee
 - a. Wellness/Psychological review for officers involved in OIS- We have a meeting with the Chief of Police and Executive team tomorrow (1/26) at 2:00pm. Chair Hilpert had a list of several questions that he forwarded to the police department and they will have answers during the meeting tomorrow.
 - b. Use of profane language as de-escalation tactic
Discuss the appropriateness on using profane language. The Committee tabled this item.
 - c. Use of political or membership affiliation under uniform policy
Waiting for this item to complete going through the process prior to discussing. The Committee tabled this item.

- F. Recruitment & Training Committee (Kevin Herington)
 - 1. Update – On Hold

- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update Past & Upcoming Meetings
Chair Brandon Hilpert has no major updates. Trying to work with CAB to come up with solutions. However, they have been dealing with quorum issues. More updates to come.

- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
 - 1. Budget Update – We submitted four budget items to be changed for the next fiscal year which begins July 1st. 1. To include \$200,000 for as needed contract investigators. 2. Re-organization of the staffing to have a full-time financial person (current model has half time for complaints and the other half with finance issues). 3. We asked for money so our outside counsel would extend for another year. 4. We requested \$100,000 for executive search expenditures (for recruitment, transportation expenses for out of town applicants etc.) We will be making the presentation to the Executive Budget Committee in February 10th.
 - 2. Staffing & Legal Counsel Update – Working on the contract for Outside Counsel. The individuals on the search committee is Chair Brandon Hilpert, 1st Vice Chair Doug Case, and an attorney from the Human Relations Commission, Kristin Rizzo. The process is nearing completion.
 - 3. Draft Implementation Ordinance & Standard Operating Procedures Update
Last Thursday evening we had a special meeting to discuss the recommendation to PS&LN regarding the Implementation Ordinance in the corrected second draft. This addressed some of the issues we discussed during our meeting. There was a lot of community input and the desire of District 4 to try to resolve those issues prior to the PS&LN meeting.
 - 4. Office Space Update
The CPP will be located on the 9th floor at the Civic Plaza Blvd

building. We are currently in the plans of scheduling remodeling of the office. More updates to come.

- X. CHAIR'S REPORT (Chair Brandon Hilpert)
- A. Reminders for Commissioners
1. 3rd Quarter (January 1st – March 31st) Volunteer Hours Report – All Commissioners need to log in their hours for reporting purposes. If there are any issues or if anyone needs help with trouble shooting, please reach out to Executive Assistant Alina Conde for assistance.
 2. Requirement for Commissioner Committee Assignments
All Commissioners need to be on at least one Committee. They need to select what Committee they want to be on.
- B. Resignation of Commissioner Joe Craver, Commissioner Ernestine Neely, and upcoming resignation of Commissioner Sheila Holtrop. The Commission has several vacancies.
- C. Update on Collaboration/Information Sharing with Statewide Oversight Groups
There is another meeting coming up on February 10th around noon. We are trying to share best practices and identify areas we can make some changes. If any Commissioner would like to attend, please reach out to Chair Brandon Hilpert. Still working on doing a joint meeting with CAB regarding CPE data.
- D. Update on Upcoming CPP Joint Meeting with Citizens Advisory Board on Police Community Relations (CAB) Regarding CPE Data Study
CPP Leadership had conversations with the Police Department and the Chief on plans to host a joint meeting to present their data and come up with some solutions.
- E. Other Items/Reminders – N/A
- XI. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)
- A. Caseload Update & Status of Case Reports – It was reported that 86 active cases were assigned to the Commission's Teams.

In this fiscal year, that began on July 1st, the Commission reviewed, deliberated on and closed out 62 Category I cases, 4 OIS cases, 1 ICD case, audited 10 Cat II cases, and evaluated 13 disciplines and 1 shooting review board report.

The statistics for the Team assignments are as follows:

Team 1- has 16 cases in their queue (13 are Category I cases- two of which have sustained findings, and 3 Category II cases). The Team has no OIS or ICD cases.

Team 2 – has 6 cases in their queue – Of the 6 cases, 5 are Category 1 cases, 1 is a Category II case and 3 of the cases have sustained findings. The Team has no OIS or ICD cases.

Team 3 – has 8 cases in their queue- Of the 8 assigned cases, 7 are Category I cases and 1 is a Category 1 case. One of the 6 cases have sustained findings. The Team has no OIS or ICD cases.

Team 4 –has 25 cases in their queue - Of the 25 cases, 16 are Category I cases, 7 are Category II cases and 4 cases have sustained findings. Team 4 has 1 SRB report to evaluate, 2 OIS cases- 1 of which has a sustained finding and no ICD cases to review.

Team 5 –Team 5 has 9 cases in their queue. Of the 9 cases, 5 are Category I cases, 2 are Category II and 2 are OIS cases. The Team has no ICD cases to review. Team 5 has 1 SRB report and 1 discipline to evaluate. Team 5 has 1 case that does not have a sustained finding that is approaching the 1-year deadline.

Team 6 – has 22 cases in their queue. Of the 21 cases, 17 cases are Category Is, 6 cases have sustained findings, 5 of the 21 cases are Category II cases. The Team has no ICD or OIS cases. Team 6 has 2 disciplines to evaluate.

Team 7 – Team 7 is inactive.

- B. NACOLE In-Person Conference Recap – Last month, Chair Hilpert, 1st Vice Chair Case and Interim Executive Director Sharmaine Moseley attended the NACOLE conference in Tucson, Arizona. There were COVID protocols in place to protect attendees. They attended sessions on Understanding the Impact of Trauma, Creating & Sustaining Effective Civilian Oversight of LE, Partnering LE with Mental Health Social Workers, Case Studies, and more. The takeaway from this year’s conference was the importance of community involvement in effective oversight. Most of the discussions involved community engagement in some aspect.
- C. Update on Release of CPP FY2021 Statistics to Open Data Portal – Interim Executive Director Sharmaine Moseley is still working with the Performance and Analytics Department to make sure that the correct data is released for FY2021. We are hoping to post the data in the city’s Open Data Portal soon.
- D. Release of CPP Standardized Annual Report – The OBC requires all the Boards and Commissions fill out and file with the City Clerk’s Office, the Standardized Annual Report. Earlier this month, Interim Executive Director Sharmaine Moseley completed the report and forwarded it to the City Clerk’s office.
- E. Other Items/Reminders –The Commission held interviews for Outside Counsel, ad hoc meetings, special meetings, budget meetings and more and continue to be extremely active.

XII. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Chris McGrath)

- A. Status on CPP Recommendations to SDPD – No current updates
 1. Protest Policy
 2. BWC Usage in Secure Facilities
 3. Warnings Prior to OC Usage
 4. Time Limits in Maximum Restraints
 5. Seatbelt Usage during Transportation

- 6. Observation of Detainees in Sally Port
- B. Updates (Staffing in IA, Training, etc.) - No current updates

XIII. COMMISSIONER RIDE-ALONG REPORTS: No reports given.

XIV. COMMISSIONER ANNOUNCEMENTS/COMMENTS: No announcements/comments

XV. ADJOURNMENT: The meeting adjourned at 7:58pm.