

OPEN SESSION MEETING MINUTES

Tuesday, February 22, 2022
6 p.m. – 8 p.m.
Via Zoom Webinar

Click <https://www.youtube.com/watch?v=M0A91a8Fh-Y> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Maxine Clark
Diana Dent
Sheila Holtrop
Steve Hsieh

Ernestine Smith
Robin Spruce
Nancy Vaughn
Marty Workman

Commissioners Absent or Excused:

Patrick Anderson
Andrea Dauber-Griffin
Poppy Fitch, 2nd Vice Chair
Kevin Herington
Chris Pink

Staff Present:

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

San Diego Police Department (SDPD) Staff Present:

SDPD Captain Daniel Grubbs
SDPD Captain Jeff Jordon
Lieutenant Benjerwin Manansala

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- I. **CALL TO ORDER/WELCOME:** Chair Brandon Hilpert called the meeting to order at 6:00pm.
 - 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 SPECIAL MEETING ON January 20, 2022 (Time 2:46)

The Commissioners reviewed the minutes. Commissioner Nancy Vaughn moved for the Commission to approve its January 20, 2022 Special Meeting minutes. Commissioner Robin Spruce seconded the motion.

The motion passed with a vote of 9-0-1.

Yays, 1st Vice Chair Case; Commissioners Clark, Dent, Holtrop, Hsieh, Smith, Spruce, Vaughn, and Workman

Nays: None

Abstained: Chair Hilpert

Absent/Excused: 2nd Vice Chair Fitch; Commissioners Anderson, Dauber-Griffin, Herington, and Pink

B. MINUTES FROM CPP OPEN MEETING ON January 25, 2022 (Time 4:20)

The Commissioners reviewed the minutes. Commissioner Nancy Vaughn moved for the Commission to approve its January 25, 2022 Open Meeting minutes. Commissioner Robin Spruce seconded the motion.

The motion passed with a vote of 8-0-2.

Yays, 1st Vice Chair Case; Commissioners Clark, Dent, Holtrop, Hsieh, Smith, Spruce, and Vaughn

Nays: None

Abstained: Chair Hilpert and Commissioner Workman

Absent/Excused: 2nd Vice Chair Fitch; Commissioners Anderson, Dauber-Griffin, Herington, and Pink

V. NON-AGENDA PUBLIC COMMENT:

Andrea St. Julian commented: "I strongly suggest that the Commission request that the City Council postpone the consideration of the proposed CPP ordinance. Until such time, as the newly retained Attorney for the Commission has had the opportunity to review the proposed ordinance and gives comment on it to the full City Council. While the Commission has given input into the new proposed Ordinance, it has done so without the full benefit of counsel and certainly not the benefit of the soon to be retained

counsel. In this regard, because the Commission’s funds for legal counsel was limited, the counsel was limited in the input it could give regarding the new Ordinance. The proposed Ordinance as it now stands contains and fails to appropriately focus on the needs of the City Commission. A thorough review and overhaul by a legal expert who represents the interest of the CPP must be conducted to address the myriad of issues. For this reason, I believe it is imperative that the full City Council be provided with input from the CPP’s retained counsel before moving forward. Because retained counsel has already been chosen it should take no more than a few weeks to conduct the review.”

Tasha Williamson commented: “I sent in several emails to several departments; the City, Count, U.S. Attorney’s Office, as well as the District Attorney’s Office and also made calls to the FBI in regard to allegations of abuse of power against the San Diego Police Chief. I continue to get the run-around after run-around and it seems as though no one has any process, that the public knows about to investigate the San Diego Police Chief when there are allegations of corruption. It is clear to me that we are still trying to figure out the process for CPP but to now be going through the runaround when there are allegations of abuse of power against the San Diego Police Chief and that no one from the Ethics Commission, San Diego PD IA, CPP, District Attorney, City Attorney, ethics Commission, and City Council can tell me what the process is. The FBI only investigates when there is a crime but when there is an abuse of power, or where there are allegations of abuse of power, who investigates this? And how does a Chief get to operate like the Teflon-don of the San Diego Police Department “mafia”. This is unacceptable, he needs to be investigated because his son did not have the same matrix, he did not have the same discipline as other officers and he should have been up for termination but he was promoted and they have a current matrix that says he should have been terminated and he was promoted. This is unacceptable from a Police Department that has lost already so much trust from the public to continue to allow this department to operate in this manner and now the Top Officer operate like this is unacceptable.”

VI. EDUCATIONAL TOPIC: “AB 481 Acquisition and Use of Military Equipment – Draft SDPD Procedure”

Presenter: SDPD Captain Daniel Grubbs (20 mins) Commander Officer of Operational Support (**Presentation time from 10:10 – 27:27**)

Links provided:

<https://www.sandiego.gov/police/news/mandated-disclosures/ab481>

<https://data.sandiego.gov/datasets/crb-cases/>

Questions by Commissioners:

Q. “What is UAS?” A. “This is Unmanned Aircraft System or drone.”

Q. “You mentioned there would be a process for members of the public to make complaints or express concerns about the use of the equipment. Can you talk a little bit about what that process would be?” A. “We are keeping in line with the IA’s current complaint process as outlined within our current policies and procedures. If anybody in the public were to have any specific complaints about military equipment specifically, they would file a complaint just like they would any other complaint (whether it’s Category I or Category II) with Internal Affairs and they would investigate that complaint

thoroughly. The CPP would be able to review that complaint once it's been investigated." Q. "I am Curious if you could expand a little more on the idea that the use of SWAT and potentially the use of this equipment is a de-escalation tactic?" A. "If we know people are being harmed. The Columbine for example, where officers got there, and they couldn't have stayed back because people were actively being hurt and killed inside the school. They had to take tactical action right away because if they didn't then lives were going to be lost. That's an example of where we got to a scene and we had to take action right away. A lot of times we can get set up and use negotiation skills and tactics to just diffuse a situation de-escalate and negotiate a safe surrender and that's always the goal."

Comments by Public:

Tasha Williamson commented: "I am super concerned because I have peaceful demonstrations and protests and I've been at other protests where I have seen police officers use these weapons on people who are unarmed. Who are not close to them and who are not harming anyone. We looked at the video in the Denzel Draughn case where these weapons were used after an officer actually was seen in the video being the aggressor. Denzel Draughn was found not guilty on all his charges because that officer initiated the escalation. It is really really harmful for community members who are fighting for more Police Oversight and more Police accountability because of the way the Police Department operates so loosely with. The weapons that they have are very harmful to community members when there are biases within the departments and how they use them. So we feel that there needs to be a lot more oversight, there needs to be a lot more questions happening to the Police Department and with how they will use them and where they will use them because they're not just using them for situations where SWAT comes out. I think that it is disrespectful of the two years of protesting that happened where they used military style weaponry and tools on community members."

Evie Kosower commented: "A few years ago, there was a community event at Jeremy Henwood Park and the police were out and I guess they were part of the community event and they roam around and get kind of in and amongst things. They stay close in their own little group and right where they were staying was this great big black tank. I'm told now that it isn't a military thing, but it was bought by a civilian group. I don't know what the difference would be but it's like it had a place for armament to go through holes and places like that. But anyway, the big dark tank looking machine and there was a guy near it and I said, "Wow, we had occasion to use this? And, what do you use?" It was a SWAT person I believe because he was wearing all black. Black T-shirt and black pants as they do. And he answered the question and he said, "Oh yeah, there are times we roam around the streets at night." I was amazed at that comment hearing from you guys that does not happen. I don't know why he would have told me that."

Captain Grubbs clarified the that this is incorrect. SDPD does not patrol in armored vehicles. It's only brought out for specific things but certainly not on everyday patrol.

Questions in the Chat:

Q. Do patrol officers use military quality equipment and or weapons?

A. There are limited circumstances where Patrol Officers have access to items that are listed defined as military equipment by the Bill. Most of the

equipment that is listed within the equipment report is used by the SWAT unit. Q. What are the types of equipment desired? A: "There are no current requests for any equipment that we don't already have in inventory. So, anything that we are looking to acquire in the future is just replenishment of broken or worn pieces of equipment. We don't have any new equipment or technology requests on the horizon at this point other than what's in current inventory to replace within manufacturer guidelines. Does the crime suppression unit train with this equipment? A. No. Q. Are some patrol officers also SWAT? A. Yes, we do have a component of our SWAT team called the Designated Primary Response Team. So, they are Patrol Officers and as a collateral duty they are SWAT Officers as well. They may have the equipment in their trunks, but there are only limited circumstances when they can deploy that equipment unless it's a SWAT related call or an exigent circumstance.

VII. UNFINISHED BUSINESS (DISCUSSION/ACTION (Chair Brandon Hilpert)

- A. Commission Closed Meetings in March (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. The Commission has about a hundred cases waiting for review.

Public Comment by Tasha Williamson: "I was just concerned because everyone's been talking about how you have a lot of cases. I just hope that we're not at an instance like we with CLERB where cases were not investigated or reviewed, and it went over the timeframe. Do you guys have any plans in place to ensure that you don't go over the timeframe for you to actually review the cases as well?"

Chair Hilpert elaborated on the prioritizing of cases that have sustained findings first and then cases that are getting close to that one-year mark. The Procedural Bill of Rights requires that any discipline for an officer with a sustained finding has to happen within one year. We have had a couple that have gone beyond that one-year mark. But that case was reviewed and did not have sustained findings. At the end of the month, we will have 13 commissioners left and we should have 23. So, it is significantly less than what a working Commission should have. It's starting to become a non-sustainable caseload for many people. Our concern is if we have additional people who will resign from the Commission that is going to make that much more work for the remaining commissioners. The Commission's Cabinet has sent a memo to the City Council and will be meeting with them to talk about CPP concerns and try to find a next step.

B. Case Review

1. Status of Discipline Cases

Chair Hilpert reported that he sent out an email to the Teams that have disciplines to review. He asked the other teams to review the disciplines in the next week so it can go on the next meeting agenda.

2. Feedback on Remote Case Access (Google Drive)

Commissioners can go down to Internal Affairs to review audio files or IA has agreed to burn them on a CD or flash drive. The

Commissioners can sign out the flash drives, listen to them, and then return them to IA.

3. IA Office Hours/Schedule (Continuation of Saturday Hours) – Reminder that Internal Affairs has offered weekend hours for Commissioners 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:** Commission Preparation for City Council February 28th Meeting Re: Draft Implementation Ordinance (**Time 55:05**)

ACTION: 1st Vice Chair Doug Case moved for the Commission to approve for the Commission’s Cabinet to Draft a Group Presentation (include 3 requested changes to the ordinance and the collective bargaining item) for Public Comment at City Council Meeting on February 28th. Chair Brandon Hilpert seconded the motion. The motion passed with a vote of 10-0-0.

Yays: Chair Hilpert, 1st Vice Chair Case; Commissioners Clark, Dent, Holtrop, Hsieh, Smith, Spruce, Vaughn, and Workman

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch; Commissioners Anderson, Dauber-Griffin, Herington, and Pink

Chair Brandon Hilpert will call all Commissioners after the meeting to coordinate the speakers needed for the presentation for public comment.

- B. **DISCUSSION:** Potential Process for the Selection of Interim Commissioners to the Commission on Police Practices (**Time 1:22:00**)

ACTION: Approval of Potential Process for the Selection of Interim Commissioners to the Commission on Police Practices

ACTION: Chair Brandon Hilpert moved for approval of Potential Process for the Selection of Interim Commissioners to the Commission on Police Practices. Commissioner Marty Workman seconded the motion. The motion passed with a vote of 10-0-0.

Yays: Chair Hilpert, 1st Vice Chair Case; Commissioners Clark, Dent, Holtrop, Hsieh, Smith, Spruce, Vaughn, and Workman

Nays: None

Abstained: None

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. Interim Executive Director Sharmaine Moseley requested more information regarding restraining order presentation. More updates to come.

- B. Outreach Committee (Patrick Anderson)
 - 1. Past Events/Virtual Meetings/Roundtable Discussions
 - 2. Upcoming Events/Outreach Opportunities
No current updates.

- C. Rules Committee (1st Vice Chair Doug Case)
 - 1. Update on Streamlined Team Reports -No current updates for this item.

- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 - 1. Update – This item is on hold.

- E. Policy Committee (Chair Brandon Hilpert)
 - 1. Items being Considered by Committee
 - a. Wellness/Psychological review for officers involved in OIS-
 - 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.
Chair Hilpert explained that there are plans to look at the Discipline Matrix to possibly add a new category. The Committee is planning to make a recommendation. If an Officer were to appeal their discipline, the Commission wants to know what the initial discipline was and then upon appeal what the final discipline will be.
 - d. Proposed BWC Buffering Enhancements – Buffering guidelines are changing so that audio is on during the two-minute buffering time. Need to recommend a change in associated discipline with body cam violations. Chair Brandon Hilpert spoke with the BART oversight group and they will send over the current policy and the discipline matrix to review for further recommendation.

- 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
It was reported that CAB has not had a meeting recently but will have one this upcoming Monday. Chair Brandon Hilpert will attend or watch and report back. More updates to come.
- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
1. Budget Update – Chair Brandon Hilpert, Interim Executive Director Sharmaine Moseley, and 1st Vice Chair Doug Case did a presentation to the Executive Budget Committee. 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) Requested money for outside counsel so it would be extended for another year 4) Requested \$100,000 for executive search expenditures (for recruitment, transportation expenses for out of town applicants etc.)
 2. Staffing & Legal Counsel Update – The Commission’s next three hires will be the Deputy Executive Director, the Policy Analyst, and the Performance Auditor. There are hopes to use an Executive Search Firm for those three upcoming searches.
 3. Draft Implementation Ordinance & Standard Operating Procedures Update – The Draft Implementation Ordinance and Standard Operating Procedures were discussed earlier in this meeting. There is a fourth item the Commission will need support from the City Council on. That is the Commission’s amendment to its Standard Operating Procedures regarding the review of officer-involved shootings. This would be a change that would allow the Commission to go back to its current procedure for all cases and indicate whether the Commission thinks that the officer-involved shooting is within policy or not.
 4. Office Space Update – The Commission’s office space will be located on the 9th floor at the Civic Plaza Blvd building. The Commission is currently in the planning stages of scheduling the remodeling of the office space.

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. Scheduling CPP Former Member Appreciation/Acknowledgements
Next month the Commission will have Appreciation Acknowledgement

of all past members of the CPP, CRB, and Commission. The Commission is hoping to do this in person to acknowledge the people that have put in numerous hours and years of service to us. They will all be invited to the next Open Session Meeting.

- C. Update on Meetings with City Councilmembers
The Commission Cabinet will be meeting with all the City Council Members to talk about the needs of the Commission and solicit feedback. The meetings will be completed this week.
- D. Update on Collaboration/Information Sharing with Statewide Oversight Groups
It was reported that Chair Hilpert is trying to share best practices and identify areas for change. If any Commissioner would like to attend, please reach out to Chair Brandon Hilpert.
- E. 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.
- F. Other Items/Reminders – N/A

XI. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)

- A. Scheduling of Team Leaders Meeting with the Commission's Cabinet –
It was reported that due to the increasing number of active cases assigned to the Teams, a Team leader meeting with the Commission's Cabinet is scheduled for tomorrow morning. This meeting is to check in and see how case review is going for the Teams as well as how the Commissioners are doing.
- B. Caseload Update & Status of Case Reports –It was reported that as of today, 97 active cases were assigned to the Commission's Teams. There will be 8 more cases that might be released to the Teams soon.

In this fiscal year, that began on July 1st, the Commission reviewed, deliberated on and closed out 74 Category I cases, 5 OIS cases, 1 ICD case, audited 12 Cat II cases, and evaluated 41 disciplines which does not include the disciplines from the cases heard earlier tonight. The Commission also evaluated 1 shooting review board report.

The statistics for the Team assignments are as follows:

Team 1- has 16 cases in their queue (12 are Category I cases- two of which have sustained findings, and 4 Category II cases). The Team has no OIS or ICD cases.

Team 2 – has 5 cases in their queue – All 5 cases are Category 1 cases, 2 of which have sustained findings. The Team has no OIS or ICD cases.

Team 3 – has 10 cases in their queue– Of the 10 assigned cases, 8 are Category I cases and 2 are Category II case. One of the 8 Category I cases have sustained findings. The Team has no OIS or ICD cases.

Team 4 –has 28 cases in their queue – Of the 28 cases, 18 are Category I cases, 7 are Category II cases and 2 of the Category I cases have sustained findings. Team 4 has 1 SRB report to evaluate, 1 OIS case, no ICD cases to review. Team 4 has an OIS that was already released to the public. Will upload the CPP report as soon as it closed out by the Commission.

Team 5 –Team 5 has 13 cases in their queue. Of the 13 cases, 8 are Category I cases, 3 are Category II and 2 are OIS cases. The Team has no ICD cases to review. Team 5 has 1 SRB report and disciplines to evaluate. Team 5 has an OIS that was already released to the public. The CPP case report will be uploaded as soon as it closed out by the Commission.

Team 6 – has 25 cases in their queue. Of the 25 cases, 20 cases are Category I cases, 5 of which have sustained findings. Five of the 25 cases are Category II cases. The Team has no ICD or OIS cases. Team 6 has disciplines to evaluate.

Team 7 – Team 7 is inactive.

- C. Update on Release of CPP FY2021 Statistics to Open Data Portal – The Commission’s FY2021 statistics has been released to the city’s Open Data Portal. The data can be accessed through the home page of the Commission’s website.
- D. Updates to the Commission’s Website – Thanks to feedback from the community, the Commission’s website is being updated. These updates were started pre-Covid and then Measure B passed which resulted in a lot of changes to the website.
- E. Other Items/Reminders – None

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.) – EA Chief Chris McGrath thanked Captain Grubbs and Lieutenant Manansala for the presentation given earlier. Thanks to the Commissioners and CRB Members for their service provided over the years. Crime has gone up and homicide ratings have also gone up for 2022. They have come up with a violence reduction plan which will also include sending a majority of resources that are available to those areas where a lot of that crime is occurring. A big shoutout and

appreciation to those who are involved in putting the cases together and getting people in custody for those crimes. Thanks to Captain Anthony Dupree and Steve Lieutenant Stephen Shebloski and Lieutenant Dan Sayasane for their leadership in Internal Affairs.

- XIII. COMMISSIONER RIDE-ALONG REPORTS: The Commissioners can start doing ride-a-long's again. If any commissioners would like to do any, please reach out to Detective Amado to schedule them.
- XIV. COMMISSIONER ANNOUNCEMENTS/COMMENTS: No announcements or comments.
- XV. ADJOURNMENT: The meeting adjourned at 7:56pm.