

SAN DIEGO COMMUNITY REVIEW BOARD ON POLICE PRACTICES

INTERIM STANDARD OPERATING PROCEDURES

Effective Date:

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Adopted:

San Diego City Council

Deleted: July 20, 2018

Approved as to form:

Office of City Attorney

Date

Deleted: Kevin Faulconer
Mayor

Date

Commission on Police Practices

Deleted: Community Review Board

Interim Standard Operating Procedures

The responsibility of responding to complaints against the San Diego Police Department (SDPD) is shared between SDPD, primarily the Internal Affairs (IA) Department, and the San Diego CPP Commission on Police Practices (CPP). The collaborative relationship between the two is important for a fair and objective process that gives serious consideration to citizens and SDPD officers equally. The process is improved by both organizations working together. While cooperation is key, independence of each organization is crucial and is supported by a basic division of effort. SDPD provides independent investigations of complaints. CPP provides an independent review and evaluation of the SDPD investigations.

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Complaints are submitted either through CPP or at multiple locations with SDPD. Each complaint is initially analyzed by SDPD Internal Affairs (IA) for the number, type and category of allegations contained within the complaint. The CPP must receive, register, review and evaluate all complaints, except that the CPP must not review or evaluate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

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1. Complaint Categorization

Currently, all complaints containing one or more Category 1 allegation(s) are investigated by IA and reviewed by CPP. Category 1 encompasses allegations of arrest (false arrest), force (excessive force), discrimination, slur and criminal conduct. Complaints containing only Category 2 allegations are investigated by the Subject Officer's division. Category 2 encompasses courtesy, procedure (including search and seizure), conduct and service. Complaints containing both Category 1 allegation(s) and Category 2 allegation(s) are investigated by IA and reviewed by CPP. The CPP may audit Category 2 complaints not associated with a Category 1 complaint pursuant to the process specified by the CPP's Standing Rule on Category 2 Audits.

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2. SDPD Participation

Since CPP reviews SDPD investigations and the review material is of a confidential nature, SDPD investigates complaints and assumes responsibility to support the CPP review process. Coordination between SDPD and CPP is required throughout the process starting with complaint intake, through preparation of the case file, discussion during CPP review (including any Team requests for additional allegations or additional investigation as well as any disagreement), and, finally, preparation for presentation at a Closed Meeting of the full Board. All complaints, regardless of whether they are originated through the CPP complaint process or an alternative process, are investigated by SDPD.

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3. SDPD Complaint Investigations

Each complaint regarding an officer, whether generated through the CPP or an alternate

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process is investigated by SDPD. Each complaint handled by Internal Affairs (IA) is assigned to an investigating officer. Complaints that are handled by an SDPD division are assigned to an investigating officer. The investigating officer is responsible for completing a thorough investigation and writing an investigative report that is fair to both the complainant(s) and subject officer(s). Results of IA investigations are documented in the Investigator's Report. The Investigator's Report and related material are collected and provided for CPP review. A complaint may contain more than one allegations. At the conclusion of the investigation IA makes one of the following findings for each allegation, if there are multiple allegations:

- I. Sustained – the Department member committed all or part of the alleged acts of misconduct;
- II. Not Sustained – the investigation produced insufficient information to clearly prove or disprove the allegations;
- III. Exonerated – the alleged act occurred was justified, legal and proper, or was within policy
- IV. Unfounded – the alleged act did not occur.

The Investigator's Report and all related material including the finding(s) are forwarded to the CPP for their review.

4. CPP Case Review

The CPP reviews the Investigator's Report and all related material including the finding(s) by IA and conducts its review. Cases are assigned to teams by the CPP. The Case Review Team (Team) reviews the Investigator's Report and all related materials and develops a Case Review Team report (Report). That Report includes a review of the finding(s) by IA with the Team making one of the following conclusions:

- I. Agree – The finding(s) by IA is correct;
- II. Agree with Comment – The finding(s) by IA is correct and additional information from the case review should be noted; or
- III. Disagree with Comment – The finding(s) by IA is incorrect.

Upon conclusion of the case review, the Team presents the Report including the conclusion to the full Board in Closed session. The Board hears the case and takes action regarding the final disposition of the case. The results of the Board action are provided to the complainant and the case is closed.

In the case the Board considers every possible finding and is unsuccessful in reaching the required majority vote to indicate a position on one or more findings the Board may close the case by vote of the Board as a failure to achieve consensus.

The City Charter Article V, Section 41.2 states that CPP "is authorized to refer a any matter

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before the Commission to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. Other governmental agencies could include the Department of Justice or Federal Bureau of Investigation.

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In all cases where there is disagreement with an IA finding, disagreements are recorded and highlighted in semiannual reports to the Mayor and City Council.

The City Charter Article V, Section 41.2 gives the Commission the discretion to independently investigate complaints that meet specified criteria. These Interim Standard Operating Procedures shall not restrict the CPP from conducting such investigations once procedures for conducting investigations have been adopted.

5. Shooting Review and In-Custody Death Cases

The City Charter, Article V, Section 41.2 states that the "Commission must independently investigate all deaths occurring while the person is in the custody of the Police Department, all deaths resulting from interaction with an officer of the Police Department and all City police officer related shootings. The Commission has this duty whether or not a complaint has been made against a police officer. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer's federal and state law rights. While the Commission is developing procedures to conduct such investigations, it may continue to review the investigations of the Police Department as specified below. These Interim Standard Operating Procedures shall not restrict the CPP from subsequently conducting an independent investigation as required.

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Space within the IA office will be made available for CRB case review activities. Office supplies, CRB forms, a copy machine and secure shred collection bin will be available for CRB members.

An Officer Involved Shooting (OIS) case is initiated automatically by an incident in which as SDPD officer fires a gun at a person. An In-Custody Death (ICD) case is initiated automatically by the death of a subject in the custody of SDPD.

There is extensive investigation into an OIS or an ICD by the SDPD Homicide Unit and by the District Attorney. Upon the conclusion upon conclusion of those investigations IA prepares a report that is reviewed by CPP. Generally speaking the OIS and ICD cases are handled by Teams in the same manner as complaints within the CPP jurisdiction.

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6. Review of SDPD Discipline by CPP

When disciplinary action is taken against an officer as a result of a sustained finding of misconduct, the Chief of Police or designee will notify the Board. The original Case Review Team will be assigned to review the discipline. If any member of the original Case Review Team is no longer serving on the Board, the Board Chair will assign a replacement with priority given to members who attended the original case presentation.

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The Team will evaluate the disciplinary action and decide by majority vote whether to agree or disagree on the following:

- I. Agree or Disagree that the reported discipline is consistent with the SDPD Discipline Matrix; and
- II. Agree or Disagree that the discipline imposed was appropriate.

Upon conclusion of the Team’s review, the Board hears the case and may take action regarding the final disposition of the review.

The City Charter Section V, Section 41.2 gives the CPP the discretion to make recommendations on individual officers related to sustained findings of violations of Police Department policies and procedures. These Interim Operating Procedures shall not restrict the CPP from making such recommendations once procedures for making discipline recommendations have been adopted.

7. Mayoral Review and Evaluation of Cases Referred by CPP

The Mayor or designee may be requested to review and evaluate a case or discipline by a majority vote of the Board. The completed review shall be presented by the Executive Director to the Board.

8. Policy Recommendation

It is the objective of the Commission to advocate for policies which promote fair and humane policing and also ensure the safety of both citizens and police officers. The Commission may by majority vote make specific recommendations to the Police Department, the Mayor, and the City Council on any policies, procedures, practices or actions of the Police Department.

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Additionally, in consideration of issues other than complaints, the Board may address a substantive item, other than one arising in the course of reviewing a particular case, if it determines that (1) the substantive matter impacts the work of the Board; and (2) because of its training and experience, the Board has expertise on the matter at hand. The Board may discuss the issue and make a recommendation, by majority vote to the Mayor and/or Chief of Police.¶