

COMMISSION ON POLICE PRACTICES

ONLINE MEETING AGENDA

Tuesday, August 24, 2021
Zoom Webinar

A quorum of twelve (12) Commissioners is needed to conduct business. If you cannot attend, please email the Interim Executive Director.

CLOSED SESSION MEETING

4:00 p.m. – 5:30 p.m.

Commissioners 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 (1)
- 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 SESSION MEETING

6p.m. – 8p.m.

Open to the Public

This meeting is open to the public. Click [HERE](#) to join/participate in this meeting at its scheduled time. Please see the rules/procedures for submitting public comment at the bottom of the agenda.

This meeting will be posted on YouTube the day after the meeting adjourns and can be accessed by clicking [HERE](#).

- I. CALL TO ORDER/WELCOME (Chair Brandon Hilpert)
- II. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP)
- III. ROLL CALL (Interim Executive Director Sharmaine Moseley)

- IV. APPROVAL OF MEETING MINUTES
 - A. MINUTES FROM CPP OPEN MEETING ON JULY 27, 2021
- V. NON-AGENDA PUBLIC COMMENT: (Fill out and submit comment using [webform](#). Please see instructions at the end of this agenda)
- VI. EDUCATIONAL TOPIC: “Overview of SDPD’s Force Analysis Unit” (20 mins)
Guest Speaker – Sgt. Elias Estrada
- VII. UNFINISHED BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
 - A. Commission Closed Meetings (September Dates and Times)
 - B. Case Review
 - 1. Feedback on Prioritization of Case Reviews, Workflow, Staffing
 - 2. Status of Discipline Cases
 - 3. Feedback on Remote Case Access (Google Drive)
 - 4. Feedback on New Case Presentation Format
 - 5. Status of Case Summaries
 - 6. IA Office Hours/Schedule (Continuation of Saturday Hours)
- VIII. NEW BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
 - A. Approval of Draft Public Memo on CPP Recommendations Regarding SDPD’s Use of Force Opinions
 - B. Approval of proposed amendment to Article V. Section 5 of the CPP Interim Bylaws to replace the requirement of 12 members for a quorum with a **majority of filled seats** on the Commission, **with a minimum number of seven Commissioners needed to conduct business**
 - C. Discussion & Possible Action Regarding CPP Interim Executive Director Compensation and Benefits
 - 1. Approval of Salary Increase for Interim Executive Director
 - 2. Consider Recommending to City Council to Amend Exhibit G of the Salary Ordinance to revise eligible positions for Management Administrative Leave to include the CPP Executive Director
 - 3. Consider Recommending to City Council to amend Exhibit F of the Salary Ordinance to provide an automobile allowance to the CPP Executive Director
- IX. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)
 - A. Continuing Education Committee (Nancy Vaughn)
 - 1. List of Upcoming Educational Topics
 - Presentation on Blue Team and Documentation Used by SDPD
 - Presentation on Restraining Orders

- B. Outreach Committee (Patrick Anderson)
 - 1. Past Events/Virtual Meetings/Roundtable Discussions
 - 2. Upcoming Events/Outreach Opportunities
- C. Rules Committee (1st Vice Chair Doug Case)
 - 1. Discussion of Streamlined Team Reports
- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 - 1. Update – On Hold
- E. Policy Committee (Chair Brandon Hilpert)
 - 1. Status on Items being Considered by Committee
 - 2. Schedule Next Policy Committee Meeting
- F. Recruitment & Training Committee (Kevin Herington)
 - 1. Update
- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update Past & Upcoming Meetings
- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
 - 1. Budget Update
 - 2. Staffing & Legal Counsel Update
 - 3. Draft Implementation Ordinance & Standard Operating Procedures Update
 - 4. Office Space Update
- X. CHAIR’S REPORT (Chair Brandon Hilpert)
 - A. Reminders for Commissioners
 - 1. 1st Quarter (July 1st – September 30th) Volunteer Hours Report -All Commissioners log hours in for reporting purposes
 - 2. Requirement for Commissioner Committee Assignments
 - B. Update on Collaboration/Information Sharing with Statewide Oversight Groups
 - C. Status on Upcoming CPP Joint Meeting with Citizens Advisory Board on Police Community Relations (CAB) Regarding CPE Data Study
 - D. Other Items/Reminders
- XI. EXECUTIVE DIRECTOR’S REPORT (Sharmaine Moseley)
 - A. Caseload Update & Status of Case Reports
 - B. Other Items/Reminders
- XII. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Chris McGrath)
 - A. Status on CPP Recommendations to SDPD
 - 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.)

XIII. COMMISSIONER RIDE-ALONG REPORTS

XIV. COMMISSIONER ANNOUNCEMENTS/COMMENTS


XV. ADJOURNMENT

Materials Provided:

- Minutes from Open Session Meeting on July 27, 2021 (DRAFT)
- Proposed Amendment to Article V. Section 5 of CPP Interim Bylaws
- CPP Recommendations Regarding Approval of Use of Force Opinions (DRAFT)

In lieu of in-person attendance, members of the public may participate and provide comment via virtual attendance or using the webform, as follows:

Virtual Testimony:

Members of the public may provide comment on the comment period for Non-agenda Public Comment or Agenda Public Comment during the meeting, following the  [Public Comment Instructions](#).

Written Comment through Webform:

In lieu of in-person attendance, members of the public may submit their comments using the [webform](#). If using the webform, indicate the agenda item number you wish to submit a comment for. Instructions for word limitations and deadlines are noted on the [webform](#). 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 below. To view a meeting archive video, click [here](#).

Only comments submitted no later than 4pm the day prior to the meeting using the public comment webform will be eligible to be read into the record. If you submit more than one comment on webform per item, only one comment will be read into the record for that item. **Comments received after 4pm the day prior and before 8am the day of the meeting** will be provided to the Commission or Committee and posted online with the meeting materials. All comments are limited to 200 words. Comments received after 8am the day of the meeting, but before the item is called, will be submitted into the written record for the relevant item.

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

Joining the webinar as an attendee:

Please **click the link below** to join the webinar from a PC, Mac, iPad, iPhone or Android device:

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OPEN SESSION MEETING MINUTES

**Tuesday, July 27, 2021
6 p.m. – 8 p.m.
Via Zoom Webinar**

Click [HERE](#) to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Poppy Fitch, 2nd Vice Chair
Patrick Anderson
Maxine Clark
Michael Chan (left at 7:18)
Joe Craver
Andrea Dauber-Griffin
Diana Dent

Kevin Herington
Sheila Holtrop
Ernestine Neely
Christopher Pink
Ernestine Smith (Arrived at 6:12)
Robin Spruce
Nancy Vaughn
Marty Workman (left at 7:29)

Commissioners Absent or Excused:

Steve Hsieh

Staff Present:

Sharmaine Moseley, Interim Executive Director
Alina Conde, Executive Assistant

San Diego Police Department (SDPD) Staff Present:

IA Chief Chris McGrath

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- I. CALL TO ORDER/WELCOME at 6:05pm. (Chair Brandon Hilpert)
 - II. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP)
 - III. ROLL CALL (Interim Executive Director Sharmaine Moseley)
 - IV. APPROVAL OF MEETING MINUTES
 - A. MINUTES FROM CPP OPEN MEETING ON JUNE 22, 2021
The Commissioners reviewed the minutes. Commissioner Joe Craver moved for the Commission to approve its June 22, 2021 Open Meeting minutes with amendment. Commissioner Andrea Dauber-Griffin seconded the motion.

The motion passed with a vote of 10-0-5.

Yays: Chair Hilpert, 1st Vice Chair Case, Clark, Craver, Dent, Dauber-Griffin, Herington, Spruce, Vaughn, and Workman

Nays: None

Abstained: Anderson, Chan, Fitch, Neely, Pink

Absent/Excused: Holtrop, Hsieh, and Smith

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

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

A. Commission Closed Meetings (August Dates and Times) – The next meeting is scheduled for Tuesday 8/3 at 4:00pm – 6:00pm. Ten Commissioners are needed for a quorum. Chair Hilpert will send out a doodle poll for the meetings regarding the rest of the month.

B. Case Review

1. Feedback on Prioritization of Case Reviews, Workflow, Staffing
Focusing on cases that have sustained findings first to send to Internal Affairs so they can move forward with discipline.

2. Status of Discipline Cases

Over the next couple of weeks, Internal Affairs is trying to package discipline cases together for the Teams to evaluate at one time. Interim Executive Director, Sharmaine Moseley reminded the Commission that shooting review board reports should be coming up as well.

3. Feedback on Remote Case Access (Google Drive)

IT Help Desk is available for assisting with remote access.

4. Feedback on New Case Presentation Format

Commissioner Joe Craver expressed his liking of the streamlining of the case reports as it is effective and efficient.

5. Status of Case Summaries

The Commission leadership is trying to figure out how to utilize CPP's Outside Counsel with the current available budget. Chair Hilpert will send to the Commission's Outside Counsel Chris Cameron a sample of the case summary for review and will then send the summaries to Internal Affairs for review. Then CPP will have an approved case summary to use as an example.

6. IA Office Hours/Schedule (Continuation of Saturday Hours) – Commissioners were asked to send an email with requested time if they need to go to Internal Affairs on weekends (send all requests by Thursday). Chair Brandon Hilpert will create a doodle poll for Commissioners who need to be in Internal Affairs on a Saturday.

C. Approval of FY21-FY22 Work Plan (Draft)

The Commissioners reviewed the FY21-FY22 Work Plan. Commissioner Joe Craver moved for the Commission to approve. Commissioner Kevin Herington seconded the motion.

The motion passed with a vote of 16-0-1.

Yays: 1st Vice Chair Case, Anderson, Clark, Chan, Craver, Dent, Dauber-Griffin, Fitch, Herington, Holtrop, Neely, Pink, Smith, Spruce, Vaughn, and Workman.

Nays: None

Abstained: Chair Hilpert

Absent/Excused: Hsieh

Interim Executive Director, Sharmaine Moseley will now proceed to create a tactical plan as required by the City Clerk's Office for the Office of Boards and Commissions.

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

- A. Future Planning of CPP Business Meetings in person/virtual – Chair Brandon Hilpert proposed to have a hybrid version of meetings (some in person/some via zoom). Commission members expressed health concerns to start in person meetings again and feel it is more efficient and effective to continue via zoom for now. 1st Vice Chair Doug Case reminded the Commission that we will need to be mindful of legal requirements as per the Governors Executive Order that relaxed the Brown Act which will expire September 15th. The City will keep the Commission informed of any legal requirements.**
- B. Approval of Draft Memo of Concern Regarding Officers Failing to Activate Body Worn Cameras**
This item and memo were placed on the agenda in error. The Policy Committee drafted a memo about SDPD's Use of Force Opinions that will be discussed in a special meeting at a later date.
- C. Approval of Allocation of Funding for CPP Attendees at Annual NACOLE Conference (August-October)**
The CPP budget will cover expenses for Commissioners to attend the virtual conference from August- October. If attending more than 20 meetings, then it will be beneficial to buy the whole package. Also, the CPP budgeted attendee fees to take a total of 6 (which includes 4 Commissioners) to go to the NACOLE in-person conference in Tucson, Arizona in December. Chair Brandon Hilpert will send out an update email with the details for the virtual and in-person conferences.
- D. Approval of Proposed Amendment to Article V. Section 5 of the CPP Interim Bylaws to delete the minimum vote requirement for motions. Motions will require a simple majority or a simple two-thirds for motions requiring a 2/3 vote.**
The Proposed Amendment to delete the minimum vote requirement for motions. Rules Committee Chair made a motion that will require a simple majority or a simple two-thirds for motions requiring a 2/3 vote motioned for approval from the Rules Committee.

The motion passed with a vote of 15-1-1.

Yays: 1st Vice Chair Case, Anderson, Chan, Clark, Craver, Dent, Fitch, Dauber-Griffin, Herington, Holtrop, Neely, Pink, Smith, Spruce, and Workman.

Nays: Vaughn

Abstained: Chair Hilpert

Absent: Hsieh

- E. Discussion & Possible Action Regarding CPP Interim Executive Director Compensation
Nancy Vaughn moved for the Commission to recommends that the salary for the Interim Executive Director be set at \$180,000 plus benefits. 1st Vice Chair Doug Case seconded the motion.

The motion passed with a vote of 16-0-1.

Yays: 1st Vice Chair Case, Anderson, Chan, Clark, Craver, Dauber-Griffin, Dent, Fitch, Herington, Holtrop, Neely, Pink, Smith, Spruce, Vaughn, and Workman.

Nays: None

Abstained: Chair Hilpert

Absent: Hsieh

VIII. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)

A. Continuing Education Committee (Nancy Vaughn)

1. List of Upcoming Educational Topics
 - Presentation on Blue Team and Documentation Used by SDPD
 - Presentation on Restraining Orders

Commissioner Nancy Vaughn highly encouraged the Commission to sign up for the NACOLE virtual part of the conference this year (starting in August). The sessions are very interesting an educational.

B. Outreach Committee (Patrick Anderson)

1. Past Events/Virtual Meetings/Roundtable Discussions
2. Upcoming Events/Outreach Opportunities

The next event will be with the BAR Association. Commissioner Patrick Anderson explained that there will be scheduling of more roundtables to discuss when we can expect to see a draft of the implementation ordinance and what community involvement will be.

C. Rules Committee (1st Vice Chair Doug Case)

1. Discussion of Streamlined Team Reports

The Rules Committee met on July 15th to discuss business item one which was the rules bylaw change that the Commission just acted on in this meeting. The second item of business was to discuss the streamlining of case reports that involved a number of revisions.

- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 - 1. Update – On Hold

- E. Policy Committee (Chair Brandon Hilpert)
 - 1. Status on Items being Considered by Committee
 - 2. Schedule Next Policy Committee Meeting
The only current item is regarding BWC usage. SDPD will provide an update on past recommendations and next steps.

- F. Recruitment & Training Committee (Kevin Herington)
 - 1. Update
Currently have 18 Commissioners and will be having 2 possible resignations.

- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update – June 19, 2021 Meeting (Cancelled)

- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
 - 1. Budget Update – City Council approved final budget and it was signed by the Mayor.
 - 2. Staffing & Legal Counsel Update – The Commission hired an Executive Assistant and is in the process of hiring for the Administrative Aide II position. Assistant Executive Director will be helping with community engagement once hired. Currently in the process of seeing if the Commission can use an executive search firm and are waiting on department of finance.
Legal Counsel- Initial plan was to continue current legal counsel until we hired a permanent staff attorney or general counsel. At the last Commission meeting, discussed continuing the contract but cannot continue beyond the amount of \$25,000. The Commission went over on the amount from FY2021 so approval by Council is needed. Working on a new RFP for outside legal counsel for \$180,000 (technically \$155,000 and allocate \$25,000 to Chris Cameron for current legal counsel).
 - 3. Draft Implementation Ordinance & Standard Operating Procedures Update
The Commission reviewed the City Council’s first draft of the Implementation Ordinance and sent a memo listing its concerns to the members of the Public & Livable Neighborhoods Committee (PS&LN). The Commission leadership will hold meetings with members of the PS&LN Committee to discuss the Commission’s concerns.
 - 4. Office Space Update
The Commission is looking at office space at 750 B St. This suite will be shared with the City of Tourism. Good location and the offices are furnished and ready to go.

IX. CHAIR’S REPORT (Chair Brandon Hilpert)

- A. Reminders for Commissioners
 - 1. 1st Quarter (July 1st – September 30th) Volunteer Hours Report –
All Commissioners need to log in their hours for reporting purposes.
 - 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.

3. Submittal of Statement of Interest Form 700 by July 15th
- B. Update on Quarterly Meeting with SDPD Chief & IA Staff on July 8th
CPP leadership met with the Chief, discussed restarting ride-a-longs. Also discussed policy meetings and IA limited participation during closed meetings.
 - C. Collaboration/Information Sharing with Statewide Oversight Groups
Planning to hold virtual meetings with top 15 cities to share information and best practices sometime next month.

CPP Joint Meeting with Citizens Advisory Board on Police Community Relations (CAB) Regarding CPE Data Study (Tentative August 2021)
Setting up a joint meeting to go over and share CPE report and data possibly next month.

- D. Other Items/Reminders

X. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)

A. Caseload Update & Status of Case Reports

It was reported that prior to tonight's CPP closed meeting, 77 cases were assigned to the teams. Out of the 77 active cases, the Commission deliberated on and closed out 5 Category I cases during its closed meeting. However, Internal Affairs has sent over 2 cases which leaves the Commission with 74 active cases. The 2 new cases will be assigned to the teams tomorrow. In the last fiscal year, which ended on June 30th, the Commission reviewed, deliberated on, and closed out 124 cases (114 Category I cases, 9 officer-involved shooting cases, and 1 in custody death case). The Commission also audited 37 Category II cases. In this fiscal year, which started on July 1st, the Commission reviewed, deliberated on, and closed out 13 Category I cases and audited 2 Category II cases.

The statistics for the Team assignments are as follows:

Team 1 – 16 cases assigned to the Team. Of the 16 cases, 13 are Category I cases, 3 cases have sustained findings, and 2 cases are Category II cases. One case was on tonight's closed meeting agenda. Also, the team has 1 officer-involved shooting case.

Team 2 – 9 cases assigned to the Team. Of the 9 cases, 2 are Category II cases, 2 were on tonight's closed meeting agenda, and the Team has no officer-involved shooting cases or in-custody death cases.

Team 3– 7 cases assigned to the Team. Of the 7 cases, 2 have sustained findings, 2 were on tonight's closed meeting agenda, and 1 is an in-custody death case. The team has no officer-involved shooting cases and no Category II cases.

Team 4 – 17 cases assigned to the Team. Of the 17 cases, 13 are Category I cases and 3 of which have sustained findings, and 4 are Category II cases. The Team has 1 shooting review board report to evaluate, and no officer-involved shooting cases.

Team 5 – 7 cases assigned to the Team. Of the 7 cases, 4 are Category I cases, 1 is a Category II case, and 2 are officer-involved shooting cases. The Team has no in-custody death cases, 1 shooting review board to evaluate and 1 discipline to evaluate.

Team 6 – 17 cases assigned to the Team. Of the 17 cases, 14 are Category I cases (6 of which has sustained findings), and 4 are Category II cases, The Team has no officer-involved shooting cases, no in-custody death cases and 1 discipline to evaluate.

Team 7 – 3 cases assigned to the Team. Of the 3 cases, 2 cases have sustained findings, and 1 case is a Category II.

B. Other Items/Reminders - None

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

A. Status on CPP Recommendations to SDPD

1. Protest Policy - Currently working on memorandum response.
2. BWC Usage in Secure Facilities - Having the camera on isn't ideal and will eat up budget quickly in Sally Port with detainees.
3. Warnings Prior to OC Usage - Verbal warning will change and encourage the officers to provide details to detainees about the OC before using it.
4. Time Limits in Maximum Restraints - Time limit cannot be estimated on when someone is in a wrap. Generally, they have to go to the hospital and be cleared before booking them. Due to their excitement, hostility, or delirium they need to stay in restraint for safety of those working with them. They are monitored and in a safe place. Chief and EA Chief has decided they cannot put a time limit.
5. Seatbelt Usage during Transportation - Unsure if it needs to be modified or just brought to SDPD's attention that they need to pull over do this once everything is calm.
6. Observation of Detainees in Sally Port - Want to talk to in-service training and Internal Affairs to make sure those who are in custody are observed to support the recommendation.

B. Updates (Staffing in IA, Training, etc.)

Roll Call lineup- Captains have now instructed Lieutenants to have required line up. There will be specific training on BWC and have put up a training bulletin with reminders of responsibilities. In the process of going through Success Factors with video for SDPD and are requiring the training and signature of understanding for each officer. AOT generally every 2 years but directly after will be a BWC training.

XII. COMMISSIONER RIDE-ALONG REPORTS: All Commission is highly encouraged to schedule ride-along and/or sit-along (both emergency and non-emergency).

XIII. COMMISSIONER ANNOUNCEMENTS/COMMENTS: None

XIV. ADJOURNMENT at 7:59pm.

Proposed Amendment to Interim CPP Bylaws
Approved by the Rules Committee, August 13, 2021

Article V – Meetings

Section 5 – Voting and Quorum

(Third paragraph)

No formal action can be taken without a quorum. The requirement for a quorum shall be ~~more than half of the maximum number of members~~ a majority of filled seats on the Commission, with a minimum number of seven Commissioners needed to conduct business. ~~The maximum number of members is 23, so a quorum is 12.~~



THE CITY OF SAN DIEGO
MEMORANDUM

Date: August XX, 2021
To: ??
From: Brandon Hilpert, Chair, Commission on Police Practices
via Sharmaine Moseley, Interim Executive Director
Subject: **Procedure Recommendation: Approval of Use of Force Opinions**

As the City of San Diego's police oversight Commission, we take seriously our responsibility to make policy and procedures recommendations.

It is the Commission's understanding that there is no independent review or approval by supervisory staff of Use of Force Opinions before they are sent out on behalf of the Department. We see this as giving an in-service training officer far too much power and authority to dictate what is within or outside of policy and procedure.

The Commission, therefore, recommends that:

- Training Command Staff (lieutenant or captain) shall review, approve and sign all Use of Force opinions
- The police department's City Attorney shall review all Use of Force opinions to ensure the opinion is legally valid, within existing procedure and appropriate given the circumstances
- Use of Force opinions shall include only facts available, not include potential scenarios that do not/did not exist nor narratives of what "could" happen

Brandon Hilpert, Chair
Commission on Police Practices