

COMMISSION ON POLICE PRACTICES

**REGULAR MEETING AGENDA
Tuesday, August 23, 2022**

Regular Meeting Convenes (4 p.m. - 4:10 p.m.)

Remote Zoom Webinar Platform

<https://sandiego.zoomgov.com/j/1617933725>

or

Phone: 1 669 254 5252 or 833 568 8864 (Toll Free)

Webinar ID: 161 793 3725

Closed Session (4:10 p.m. - 5:30 p.m.)

(Not Open to the Public)

Regular Meeting Reconvenes (6 p.m. - 8 p.m.)

Remote Zoom Webinar Platform

<https://sandiego.zoomgov.com/j/1616374069>

or

Phone: 1 669 254 5252 or 833 568 8864 (Toll Free)

Webinar ID: 161 637 4069

COVID- 19 PUBLIC SERVICE ANNOUNCEMENT REGARDING MEETING ACCESS AND PUBLIC COMMENT:

Until further notice, Commission on Police Practices meetings will be conducted pursuant to the provisions of California Government Code Section 54953 (e), added by Assembly Bill 361, which suspends certain requirements of the Ralph M. Brown Act. During the current State of Emergency and in the interest of public health and safety, all Commission on Police Practices meetings will take place via teleconferencing. All Commissioners and members of Commission staff will participate in Commission on Police Practices meetings via teleconferencing. Additional log in information is at the end of this agenda.

- I. CALL TO ORDER/WELCOME (Chair Brandon Hilpert)
- II. ROLL CALL (Interim Executive Director Sharmaine Moseley)
- III. DISCUSSION/ACTION (Chair Brandon Hilpert)
 - A. Adoption of Resolution Authorizing and Ratifying the Continuance of Teleconference Public Meeting Pursuant to Government Code 54953

Motion: The Commission on Police Practices will adopt this Resolution authorizing and ratifying the use of teleconferencing for all meetings including meeting of ad hoc or standing committees, in accordance with Government Code Section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this Resolution, or such a time that the Commission adopts a subsequent Resolution in accordance with Government Code Section 54953 (e). The

Interim Executive Director is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

IV. PUBLIC COMMENT: Fill out and submit comment using [webform](#). Please see instructions at the end of this agenda.

V. CLOSED SESSION

A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Shooting Review Board Reports (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (0)
- V. Case Review Team Reports (3)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (0)

VI. OPEN SESSION

VII. REPORT OUT FROM CLOSED SESSION

VIII. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP)

IX. APPROVAL OF MEETING MINUTES

- A. CPP Regular Meeting Minutes of July 26, 2022
- B. CPP Regular Meeting Minutes of August 9, 2022
- C. CPP Regular Meeting Minutes of August 16, 2022

X. NON-AGENDA PUBLIC COMMENT: Fill out and submit comment using [webform](#). Please see instructions at the end of this agenda

XI. EDUCATIONAL/TRAINING

- A. **“Performance Audit of SDPD’s Use and Management of Body Cameras”**
Presenters: City Auditor Andy Hanau, Matt Helm, & Danielle Kist
(10-15 mins)

- XII. UNFINISHED BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
 - A. Feedback on the triaging of cases, streamlined case reports, and completion of case reports for officer notifications.

- XIII. NEW BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
 - A. CPP Memo Regarding CPP Policy Committee’s Recommendations on Items Previously submitted to SDPD for Consideration

- XIV. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)
 - A. Continuing Education Committee (Nancy Vaughn)
 - 1. List of Upcoming Educational Topics/Presentations
 - Restraining Orders
 - Interactions Between Kumeyaay People & Law Enforcement
 - Show of Force/Use of Force & Reporting Requirements
 - Determinations of Unfounded/Not Sustained Findings for Investigations of Discrimination Allegations

 - B. Outreach Committee (Robin Spruce)
 - 1. Past Events/Virtual Meetings/Roundtable Discussions
 - 2. Upcoming Events/Outreach Opportunities

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

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

 - E. Policy Committee (Chair Brandon Hilpert)
 - 1. Update/Next Policy Committee Meeting

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

 - G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update on CAB Meeting on August 15, 2022

 - 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

- XV. 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. Internal Affairs Office Hours/Schedule
 - 3. Upcoming Meeting with SDPD Chief Nisleit & IA

 - B. Updates
 - 1. Collaboration/Information Sharing with Statewide Oversight Groups
 - 2. Update & Next Steps Countywide MOU Between County Chiefs & Sheriff Association


- C. Other Items/Reminders
- XVI. EXECUTIVE DIRECTOR'S REPORT (Interim ED Sharmaine Moseley)
 - A. Caseload Update & Status of Case Reports
 - B. Planning for CPP Former Member Appreciation/Acknowledgements (Robin Recendez)
 - C. Update on NACOLE Annual Conference in Fort Worth, Texas (September 2022)
 - D. Other Items/Reminders
- XVII. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Chris McGrath)
 - A. Status of CPP Cabinet Meeting with SDPD Training Captain Regarding Use of Force & Show of Force Reporting
 - B. Status of CRB Recommendation in April 2017 Regarding Canine Use of Force Complaints
 - C. Updates (Staffing in IA, Training, etc.)
- XVIII. COMMISSIONER RIDE-ALONG REPORTS
- XIX. COMMISSIONER ANNOUNCEMENTS/COMMENTS
- XX. ADJOURNMENT

Materials Provided:

- CPP Resolution Authorizing & Ratifying the Continuance of Teleconferenced Public Meetings Pursuant to Government Code 54953
- Minutes from Regular Meeting on July 26, 2022 (DRAFT)
- Minutes from Regular Meeting on August 9, 2022 (DRAFT)
- Minutes from Regular Meeting on August 16, 2022 (DRAFT)
- City Auditor Report Highlights (Performance Audit of SDPD's Use and Management of Body Cameras)
- Updated Org Chart for Office of the Commission on Police Practices
- Revised Tentative Implementation Timeline, Version 11.1 (July 2022)
- CPP Memo to SDPD Regarding Recommendations Previously Submitted (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 at 4pm:

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://sandiego.zoomgov.com/j/1617933725>

Description: This portion of the Regular Meeting is open to the public for comments prior to the Commission going into Closed Session at 4:10pm.

Or One tap mobile:

+16692545252,,1617933725# US (San Jose)

+16692161590,,1617933725# US (San Jose)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 254 5252 or +1 669 216 1590 or +1 646 828 7666 or +1 551 285 1373 or 833 568 8864 (Toll Free)

Webinar ID: 161 793 3725

International numbers available: <https://sandiego.zoomgov.com/u/a2aw9GtqT>

Or an H.323/SIP room system:

H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East)

Webinar ID: 161 793 3725

SIP: 1617933725@sip.zoomgov.com

Joining the webinar as an attendee at 6pm:

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://sandiego.zoomgov.com/j/1616374069>

Description: This portion of the Commission's Regular Meeting is for Open Session.

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SAN DIEGO COMMISSION ON POLICE PRACTICES RESOLUTION AUTHORIZING AND RATIFYING THE CONTINUANCE OF TELECONFERENCED PUBLIC MEETINGS PURSUANT TO GOVERNMENT CODE 54953

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") declared a Public Health Emergency of International Concern as a result of the COVID-19 virus. On January 31, 2020, the United States Secretary of Health and Human Services also declared a Public Health Emergency of the COVID-19 virus; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020, and recognized by the City of San Diego; and

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency ("State of Emergency") pursuant to section 8625 of the California Emergency Services Act, in response to the COVID-19 pandemic; and,

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the "Brown Act"), provided certain requirements were met and followed; and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and,

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 which provides that a legislative body subject to the Brown Act may use revised teleconference rules provided under section 53593(e) if the legislative body makes certain findings and those findings are reconsidered every thirty (30) days, as applicable; and,

WHEREAS, on September 20, 2021, Governor Newsom issued Executive Order N-15-21 that suspended AB 361 through September 30, 2021; and,

WHEREAS, the proclaimed State of Emergency remains in effect; and,

WHEREAS, the California Occupational Safety and Health Standards Board adopted California Code of Regulations, Title 8, Section 3205 which states, "particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased

ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination;” and

WHEREAS, on or about September 23, 2021, Dr. Wilma Wooten, the County of San Diego’s Public Health Officer issued a letter recommending the utilization of teleconferencing options for public meetings as an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 virus (the “Teleconferencing Recommendation”); and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, this legislative body deems it necessary to take action for purposes of utilizing the provisions of AB 361 related to teleconferencing;

WHEREAS, social distancing measures have been imposed and implemented by the State of California to mitigate the spread of COVID-19; and

WHEREAS, the San Diego Commission on Police Practices believes the spread of COVID-19 poses an imminent risk to the health and safety of in person meeting attendees; and

WHEREAS, the San Diego Commission on Police Practices is committed to open and transparent governance in compliance with the Brown Act; and

WHEREAS, the San Diego Commission on Police Practices is conducting virtual meetings by way of telephonic and/or internet-based services as to allow members of the public to fully participate in meetings and offer public comment.

NOW THEREFORE, BE IT RESOLVED, that the recitals set forth above are true and correct and fully incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices recognizes that a State of Emergency in the State of California continues to exist due to the COVID-19 pandemic.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices recognizes that social distancing measures remain recommended by state and local officials.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices finds that holding in-person meetings would present imminent risks to the health or safety of attendees due to the cause of the State of Emergency and that the cause of the State of Emergency directly impacts the ability of the governing board members to meet safely in person.

BE IT FURTHER RESOLVED, the San Diego Commission on Police Practices authorizes and ratifies the use of teleconferencing for all meetings, including meetings of its ad hoc or standing committees, in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this resolution, or such a time that the Commission adopts a subsequent resolution in accordance with

Government Code section 54953(e)(3). The Interim Executive Director is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

BE IT FURTHER RESOLVED, the Interim Executive Director is directed to take any other necessary or appropriate actions to implement the intent and purposes of this Resolution.

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately upon its adoption.

Adopted this _____ day of the month of _____ in 2022.

Motion made by: _____

Second made by: _____

Commissioners voting "yes" _____

Commissioners voting "no" _____

Commissioners abstaining _____

Commissioners not present _____

REGULAR MEETING MINUTES

**Tuesday, July 26, 2022
Via Zoom Webinar**

Click <https://youtu.be/rCxShR9TThs> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair	Diana Dent
Doug Case, 1 st Vice Chair	Steve Hsieh
Kevin Herington, 2 nd Vice Chair (left at 6:47pm)	Ernestine Smith
Patrick Anderson	Robin Spruce
Maxine Clark (arrived at 6:07pm)	Nancy Vaughn
Andrea Dauber-Griffin	

Commissioners Absent or Excused:

Chris Pink

Staff Present:

Sharmaine Moseley, Interim Executive Director
Duane Bennett, CPP Legal Counsel
Alina Conde, Executive Assistant
Robin Recendez, Administrative Aide

San Diego Police Department (SDPD) Staff Present:

Chris McGrath, Executive Assistant Chief
Dan Sayasane, Lieutenant
Tristan Schmottlach, Lieutenant

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- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 6:00pm.
 - II. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.
 - III. DISCUSSION/ACTION (Chair Brandon Hilpert)
 - A. Adoption of Resolution Authorizing and Ratifying the Continuance of Teleconference Public Meeting Pursuant to Government Code 54953

Motion: The Commission on Police Practices will adopt this Resolution authorizing and ratifying the use of teleconferencing for all meetings including meetings of its ad hoc or standing committees, in accordance with Government Code Section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this Resolution, or such a time that the Commission adopts a subsequent Resolution in accordance with Government Code Section 54953 (e). The Interim Executive Director is directed to return no later than thirty (30)

days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

Chair Brandon Hilpert moved for the Commission on Police Practices to adopt this Resolution. Commissioner Vaughn seconded the motion. The motion passed with a vote of 10-0-0. (Time 3:54)

Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Anderson, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Hsieh, Commissioner Smith, Commissioner Spruce, and Commissioner Vaughn

Nays: None

Abstained: None

Absent/Excused: Commissioner Clark (Entered at 6:07PM) and Commissioner Pink

IV. PUBLIC COMMENT:

Please note that all public comments are at the end of these meeting minutes.

1. Laila Aziz, Pillars of the Community (Time 4:22)
2. Abraham J., Southeast resident (Time 6:46)
3. Doug Case, CPP 1st Vice Chair (Time 8:03)
4. Kate Yavenditti, Women Occupy San Diego (Time 8:11)
5. Lachelle Coleman (Time 16:19)
6. Evie Kosower (Time 17:57)

V. CLOSED SESSION (CANCELLED)

VI. 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 San Diego Police Department and its personnel in a process that will be transparent and accountable to the community. The Commission also evaluates 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.

VII. APPROVAL OF MEETING MINUTES

- A. CPP Regular Meeting Minutes of June 28, 2022
- B. CPP Regular Meeting Minutes of July 5, 2022
- C. CPP Regular Meeting Minutes of July 19, 2022
- D. CPP Special Meeting Minutes of July 12, 2022

Motion: Commissioner Nancy Vaughn moved for the Commission to approve the CPP Regular Meeting Minutes of June 28, 2022, CPP Regular Meeting Minutes of July 5, 2022, CPP Regular Meeting Minutes of July 19, 2022 & CPP Special Meeting Minutes of July 12, 2022. Commissioner Kevin Herington seconded the motion. The motion passed with a vote of 11-0-0. (Time 21:38)

Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Anderson, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Hsieh, Commissioner Smith, Commissioner Spruce, and Commissioner Vaughn

Nays: None

Abstained: None

Absent/Excused: Commissioner Pink

VIII. NON-AGENDA PUBLIC COMMENT

Please note that non-agenda public comments are at the end of these meeting minutes.

1. Layla Aziz (Time 23:43)

IX. EDUCATIONAL/TRAINING TOPIC

A. “City of San Diego’s Hiring Practices & Rules”

Presenter: Liz Barat, City of San Diego HR Manager (Time 24:55)

City of San Diego HR Manager, Liz Barat presented information regarding the City of San Diego’s recruitment/hiring process, employment structure, differences between classified employee’s versus unclassified employee’s and the role of an Appointing Authority.

(Time 38:53) Public comment from Kate Yavenditti. Full comment noted at the end of this meeting agenda.

Chair Brandon Hilpert responded that he was not part of the process and from his understanding none of the initial candidates were scored, which is required by the City and is an area where the process was not followed correctly.

City of San Diego HR Manager, Liz Barat also responded that whoever is the Appointing Authority can halt or pause the process for whatever reason or stage of the process. It is not uncommon if there has been new, pertinent, or relevant information that might change or shape the direction of the recruitment. From Liz Barat’s understanding two positions were ok and acceptable by personnel and in this case made more sense, better fitted to have more positions rather than fewer was the understanding and reason why it was paused.

B. “Due Process Considerations in Hiring Practices”

Presenter: Duane E. Bennett, Esq., CPP Outside Counsel (Time 46:15)

CPP Outside Counsel Duane Bennett presented information regarding due process considerations in hiring, the requirements, a notice concept, fairness, objectivity, and fair opportunity.

(Time 58:59) Public comment from Evie Kosower. Full comment noted at the end of this meeting agenda.

Mr. Bennett stated that the ordinance is a problem. When he accepted the position with CPP, he thought things would be further along. The Commission works extremely hard. As an outsider, he sees how hard everyone works. Interim Executive Director Sharmaine Moseley, Chair Brandon Hilpert, and 1st Vice Chair Doug Case all work way harder in their positions. There is nothing that can be done from the standpoint of moving the ordinance along any faster. The Commission unsuccessfully tried to be included in the meet and confer process. The only thing to do currently is to staff the commission as best we can and get people to get work done as much as we can. The Commissioners are over worked and have too many cases.

Chair Brandon Hilpert also added that Measure B doesn't specifically talk about hiring practices, but the Commission has tried to make sure they are involving the community as much as possible in as many roles as appropriate.

(Time 1:03:59) Public comment from Maresa Talbert, San Diegans for Justice. Full comment noted at the end of this meeting agenda.

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

A. Feedback on the triaging of cases, streamlined case reports, and completion of case reports for officer notifications. – no feedback or updates.

XI. NEW BUSINESS (DISCUSSION/ACTION) (1st Vice Chair Doug Case)

A. Commission Staffing Needs & Sequence of Executive Job Searches

Motion: 1st Vice Chair Doug Case moved for the Commission to accept the following sequence of executive job searches with flexibility in filling the positions: Option 1 -Community Engagement Coordinator, Supervising Investigator, Senior Management Analyst, Deputy Executive Director, Policy Analyst, Performance Auditor, Investigators (x3), Permanent Executive Director, and Mediation Coordinator. The motion passed with a vote of 7-3-0. (Time 1:26:21)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Hsieh, and Commissioner Smith

Nays: Commissioner Anderson, Commissioner Spruce, Commissioner Vaughn

Abstained: None

Absent/Excused: 2nd Vice Chair Herington (left at 6:47pm) and Commissioner Pink

B. Roles & Expectations for all Participants in the Commission's Hiring Process when Community Panelist are Involved.

Motion: 1st Vice Chair, Doug Case on behalf of the Transition Committee moved for the Commission to approve of list of roles and expectations for all participants in the Commission's hiring process when community

panelists are involved. The motion passed with a vote of 10-0-0. (Time 1:52:37)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Anderson, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Hsieh, Commissioner Smith, Commissioner Vaughn, and Commissioner Spruce

Nays: None

Abstained: None

Absent/Excused: Commissioner Herington (left at 6:47pm) and Commissioner Pink

XII. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)

- A. Continuing Education Committee (Nancy Vaughn)
 - 1. List of Upcoming Educational Topics/Presentations- No update
- B. Outreach Committee (Patrick Anderson)
 - 1. Past Events/Virtual Meetings/Roundtable Discussions -No update
 - 2. Upcoming Events/Outreach Opportunities – No updateCommissioner Patrick Anderson gave a statement regarding his resignation from the Commission on Police Practices Regular Meeting.
- C. Rules Committee (1st Vice Chair Doug Case)
No current updates.
- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 - 1. Update – This item is on hold.
- E. Policy Committee (Chair Brandon Hilpert)
Update/Next Policy Committee Meeting
Setting up a meeting with Policy Committee to find dates and times that work. Received several responses to recommendations from SDPD.
- F. Recruitment & Training Committee (Kevin Herington)
 - 1. Update – Currently on Hold
- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update Past & Upcoming Meetings- The last meeting was cancelled.
- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
 - 1. Budget Update – no updates.
 - 2. Staffing and Legal Counsel Update – Discussed in New Business.
 - 3. Draft Implementation Ordinance & Standard Operating Procedures Update – The Implementation Ordinance is currently in meet and confer. Working on draft.
 - 4. Office Space Update – waiting for DREAM to review contract on office space.

XIII. ELECTION OF CPP 2nd VICE CHAIR (Chair Brandon Hilpert)

Motion to nominate and approve Commissioner Kevin Herington for 2nd Vice Chair. Commissioner Smith seconded the motion. The motion passed with a vote of 9-0-1. (Time 2:02:17)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Hsieh, Commissioner Smith, Commissioner Spruce and Commissioner Vaughn

Nays: None

Abstained: Commissioner Anderson

Absent/Excused: Commissioner Herington (left at 6:47pm) and Commissioner Pink

XIV. 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. If there are any issues or if anyone needs help with trouble shooting, please reach out to Executive Assistant Alina Conde for assistance.
2. CPP Interim Bylaws – Article II, Section 5 (Independence) and Article III, Section 6 (Ethical Conduct & Code of Ethics) – The Commission adopted NACOLE's Code of Ethics for Commissioners to follow.
3. Internal Affairs Office Hours/Schedule – All Commissioners need to schedule office visits for case review in advance to make sure proper staffing in IA office.

B. Updates

1. Collaboration/Information Sharing with Statewide Oversight Groups – Quarterly meeting that is a state-wide organization with good feedback that resulted in the recommendation for SDPD to add audio to BWC. Next meeting will be held next month. Regional meeting is more Southern California and focused in Los Angeles. All Commissioners are all welcome to attend.
2. Update & Next Steps on CPP Special Joint Meeting with Citizens Advisory Board on Police/Community Relations (CAB) 4/21/22 – Trying to set up a meeting, but no further updates.

C. Other Items/Reminders – No other reminders/updates

XV. EXECUTIVE DIRECTOR'S REPORT (Interim ED Sharmaine Moseley)

- A. It was reported that as of today, the Commission started out with 119 total cases assigned to its Teams. Thirty-six of those cases are Category II cases. At the March meeting of the Commission, the Commission agreed to suspend the audit of Category II cases due to the backlog of cases. As a result, the Commission has 83 active cases assigned to its Teams. At least one Category I case and one discipline is ready to be heard by the Commission. This fiscal year that began on July 1, the Commission

reviewed, deliberated on and closed out a total of 11 cases all of which were Category I cases. The Commission also evaluated 7 disciplines and 1 shooting review board report and agreed to send a letter to the Chief and Mayor regarding the report.

The statistics for the Team assignments are as follows:

Team 1 has 17 active cases in their queue. Fourteen of those cases are Category I cases- four of which have one or more sustained findings. The Team also has 7 Category II cases which are on hold and 1 OIS case.

Team 2 is inactive.

Team 3 has 12 active cases in their queue. Of the 12 cases, 10 are Category I cases – four of which have sustained findings. The Team has 2 OIS cases and 2 Category II cases which are on hold. Team 3 also has 1 case ready for the Closed Session agenda.

Team 4 has 19 active cases in their queue all of which are Category I cases. Five of the Category I cases have one or more sustained findings. The Team has no OIS or ICD cases to review. The Team also has 14 Category II cases which are on hold.

Team 5 has 16 active cases in their queue. All 16 cases are Category I cases. Four of the Category I cases have one or more sustained findings. The Team also has 6 Category II cases which are on hold.

Team 6 has 21 active cases in their queue. Twenty of which are Category I cases and 1 case is an OIS related investigation. Of the 21 cases, one case has sustained findings. The Team also has 7 Category II cases which are on hold.

Team 7 is inactive.

- B. Planning for CPP Former Member Appreciation/Acknowledgements- Request of multiple dates is under review with Mayors Office. The date of the event will align with the open house of new office space. In the meantime, staff will order materials needed for event.
- C. Update on NACOLE Annual Conference in Fort Worth, Texas (September 2022) - This year's conference will be in-person and virtual. The in-person conference will take place from September 11-September 15 in Fort Worth, Texas and the virtual conference will take place all day on October 26, November 2, and November 9. A few Commissioners have already signed up to attend the in-person conference. Also, on August 16 NACOLE is holding a webinar on Policing Regulation and Oversight-Trends, Problems, and Solutions. NACOLE is a credential program so Commissioners can become certified partitioners of oversight. Must receive a minimum of 45 credited hours of NACOLE certified training and attend two NACOLE conferences within 3 consecutive years. There is also a requirement to read two items from NACOLE's approved reading list. CPP is building Library of police oversight materials. Also available in eBook's and available in CPP shared drive.

D. Other Items/Reminders- None

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

- A. Status of SDPD Written Responses to CPP Recommendations Submitted on March 30, 2021 – SDPD Response Received, waiting for additional questions and clarification from CPP.
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. Status of SDPD Written Response to CPP Recommendations Submitted on August 12, 2021 Regarding Procedure for Approval of Use of Force Opinions – SDPD Response Received waiting for additional questions and clarification from CPP.
- C. Status of SDPD Written Responses to CPP Recommendations Submitted on May 10, 2022 – SDPD Response Received, waiting for additional questions and clarification from CPP.
1. BWC Buffering Enhancements
 2. Investigation of Complaints Involving SDPD Leadership
 3. Discipline Manual and Matrix Changes
 4. Formation of SDPD’s Disciplinary Tracking System
 5. Be on Lookout (BOLO) Flyers
 6. Transmittal of Commission’s OIS Reports to Shooting Review Board
- D. Status of CPP Cabinet Meeting with SDPD Training Captain Regarding Use of Force & Show of Force Reporting – No current updates.
- E. Status of CRB Recommendation in April 2017 Regarding Canine Use of Force Complaints. – No updates.
- F. Updates (Staffing in IA, Training, etc.) – SDPD is committed to hiring diverse candidates. Fulfilling requirements for 30 at 30 programs, which is 30% of workforce being females by year 2030. In the last 3 academies SDPD have been 70% and 80% in the last academy with diversity and 28% with female officers. Last fiscal year SDPD has lost 2,030 police officers which is 52% over 2020 numbers. The Mayor is instituting the incentive program and voted on by Council. SDPD is trying to identify how to retain employees.

Former Commissioner Sheila Holtrop questioned EA Chief Chris McGrath that he mentioned over 2,030 officers SDPD had lost, does this include retired and other officers going to different agencies?

EA Chief Chris McGrath responded that it does include retired and other officers to different agencies.

XVII. COMMISSIONER RIDE-ALONG REPORTS: No reports.

XVIII. COMMISSIONER ANNOUNCEMENTS/COMMENTS: No announcements or comments.

XIX. ADJOURNMENT: The meeting adjourned at 8:16pm.

Public Comment:

- 1. (Time 4:22) Public comment from, Pillars of the Community, Laila Aziz:** *“I did three complaints to Internal Affairs with the police department. All three had illegal search and seizure issues in them. Two of them were African American juvenile boys and concerns me. As of now, as we implement an ordinance, there is a lot of pain going on in the community. I’m going to request that we don’t leave the community out, any decision making that is going on and particularly those who are on the ground daily, adamantly fighting for the rights of all community members. Regardless of gender, race, or anything else, sexual preference and when the community is left out and mistakes are made, the lived experiences are forgotten. And I think that it’s very important, particularly with the Commission that has lost so many members, so I’m asking what the Commission is doing with the actual hiring practices. I was part of the hiring committee and was excited to be part of something like that with all to make a collective decision. It scares me that any of that would be changed. I’m also, afraid how we will look at budgeting staffing and some had implemented programs and so I know you have the expertise. So, look at the long-range goals of what it is that we want and are we going to bifurcate a Deputy Director and outreach person and lose possibly an Investigator. So, let’s look at those decisions, look at the strategy behind what we are all doing and the fairness and the voice of the community that overwhelmingly voted for Measure B. I want to thank you all for your time and dedication. I applaud you all and hope you listen to the community on this one because all of you are part of the community.”*
- 2. (Time 6:46) Public comment from Southeast resident, Abraham J.:** *“I have been pulled over and illegally searched by police because I’m a young black man. I’m an excellent student and have never been in trouble. The Police Commission needs to get up and running to stop the rates of discrimination that has happened to me multiple times. I’m working with Pillars of the Community and have filed a complaint with Internal Affairs and the Commission. We would like staff hired to put policies so there is oversight of the police. At the end of the day, the police work in this community and we live in it. So I strongly believe we need to make this happen and, on that note, I wanted to ask if there are any programs that are working towards bridging the gap between teenagers of color living in the southeast and the police department.”*
- 3. (Time 8:03) Public comment from 1st Vice Chair Doug Case:** *“My comment tonight is different. Two Saturdays ago, San Diego held its annual LGBTQ pride parade, one of the largest pride parades in the nation, with over 300,000 participants and spectators. This year, given the disturbing incidents that have been happening across the country authorities were on high alert. In June, police arrested over 30 armed members of the White National Sup Patriot*

Front, who were on their way to violently disrupt a pride event in Indiana. As we all know, a highland park in Chicago, a gunman killed and wounded dozens at a fourth of July parade. I don't know if any credible threats were made related to this year's San Diego Pride, but I do know that the police were well prepared for any possibility. As I arrived early along the parade route, when the crowds were starting to gather, I observed dozens of officers and multiple agencies across the county staging for their assignments. They included both uniform and plain clothed officers, and some were snippers on roof tops. It was a far greater law enforcement presence than in prior years. The general public will never know the extent of operation, especially since everything was peaceful. I want the department to know that their efforts did not go unnoticed and I know I speak for many by expressing gratitude for keeping us safe. This year there was a large law enforcement contingent in the parade, including several openly LGBTQ officers and they received loud ovations throughout the route. There were also a few protesters in the parade including one wearing a giant uniform pig costume with the sign that read "no cops in pride". As a long time, activist, I am aware of the troubled history or troubled relationship between the police and the LGBTQ Community. Afterall Stonewall was rebellion against police harassment and brutality. Times have changed and things have improved, although they are far from being perfect. I do understand the community should stand in solidarity with those protesting police abuses today, especially against the Bipoc community, nevertheless, I for one am glad that this year there were cops at pride."

4. **(Time 8:11) Public Comment from Women Occupy San Diego, Kate Yavenditti:** On behalf of Kate Yavenditti, Executive Assistant, Alina Conde, read the submitted commit aloud. Women Occupy San Diego is providing this statement to the interim CPP based on our concern about recent actions of the CPP that have resulted in a significant violation of community trust. These actions involve the vote at the hastily called special meeting held on July 12 at which a majority of the CPP voted to establish two positions: that of Deputy Executive Director and that of Community Engagement Coordinator. This vote resulted in the termination of the process to hire the Deputy Executive Director/Community Engagement Coordinator which had been on-going for months and was near completion. Here is the background: The interim Transition Committee of the CPP has been working for more than one year now on various interim issues, including that of staff for the CPP. The Committee spent hours and hours on discussing the position of the Community Engagement Coordinator and it was included in the City budget that was just approved. The job description was drafted, and a search firm was engaged. An entire process of recruitment, screening, interviews including a community panel, was adopted. All of this work was approved by the interim CPP and the process was started. Commissioner and Community Outreach Chair Patrick Anderson convened a community panel, consisting of representatives from 9 community organizations that are involved in social justice work. A national search was conducted, and 79

applications were received. The initial screening was done by the search firm based primarily on the credentials of the applicants and how they met the requirements of the job description. A group of 15 to 20 were selected and further screened by the Commissioners on the Transition Committee. Patrick scheduled the orientation for the community panel for Friday July 1. The night before that meeting, Patrick received an email from Sharmaine putting a "hold" on the process. It is not clear to us how she had the authority to do that, but Patrick informed the community panel the next day of that email. The community panel was very angry and felt disrespected. The Commissioners on the Transition Committee met with Sharmaine on July 8. Sharmaine explained her reasoning for pausing the search. Two Commissioners voted to agree with Sharmaine; two Commissioners voted to continue with the process. In light of the vote, the matter was forwarded to the full Commission for a special meeting which was scheduled for July 12. At the July 8 meeting, Patrick requested a meeting between Sharmaine and the community panel. Sharmaine initially suggested that it should happen later in the process, but eventually agreed to schedule a meeting for Monday July 11. At the July 11 meeting with the community panel, Sharmaine explained her reasoning for halting the process, but the community panel continued to feel that this was unacceptable. The special meeting of the interim CPP was scheduled with only 24 hours' notice to the public for Tuesday July 12. Because of the short time frame, very few community members were able to attend. Commissioner Doug Case presented the timeline set out above and Sharmaine set out her reasons for her request that the position be bifurcated into a full-time Deputy Executive Director who would be her assistant and a Community Engagement Coordinator. She claimed that the positions required two different, non-overlapping skill sets and that each needed to be full time. To be clear, this issue was never raised during the entire year that the Community Engagement position was discussed or through the recruitment process. It was only raised after the 7 finalists were chosen and, as Sharmaine said at the special meeting, she didn't feel that any applicants were qualified. She was also upset that she wasn't involved in the initial process but only as the final decision maker. Several Commissioners disagreed strongly. Patrick argued that the 7 finalists were impressive and qualified, and the process should continue to interview them, as no one from the interim Commission had yet spoken with any of the finalists. Community members, including members of the community panel, also spoke and argued that the process should continue to the next stage. A majority of interim CPP members voted 6 to 2 to establish two full time positions, as Sharmaine requested. The voice of the community was not heard, and we did not have adequate time to have input into this process. It was always agreed that it was essential for the community to be involved in the selection of the Community Engagement Coordinator. The name of the position was changed to Deputy Executive Director in order to allow a higher salary range. It was not intended that that position have substantial administrative duties; it was intended that

the person in that position would “step in” when the Executive Director was not available due to vacation or illness but not be involved in on-going administrative duties. Now that position will be set at a significantly reduced salary which further accentuates the community’s belief that the position is not valued. It also delays the process of hiring the Community Engagement Coordinator. Quite frankly, this last-minute move on the part of the interim Executive Director is seen by the community as a dismissal of community voices and reeks of hidden agendas. The whole purpose of the new CPP is to be truly independent, transparent, and accountable to the community. This action is a huge step backward in increasing community trust in the CPP. Our request is that the interim CPP reconsider its decision establishing two different full-time positions and return the position to its former status. In the alternative, we request that the CPP proceed quickly with hiring the full-time Community Engagement Coordinator with the input of the community as previously set out and defer hiring the Deputy Executive Director until the new Executive Director is hired.

5. **(Time 16:19) Public comment from Lachelle Coleman:** “I’m reaching out on behalf of the community that the Commission needs to be up and running. Last night, my son was detained and only the dark skin boys were handcuffed, the light skinned boys that looked white, was not. Also, the police told my juvenile son that they will bring in the dogs and if he moved the dogs will bite him and the police will shoot them. Our children are being traumatized and unfairly treated. And I’m working with my church, the Harvey Foundation and Pillars of the Community. We are along that this process is not held, and the community is able to help pick the staff. I want to ensure that we are at least educating the youth here. Last night they let us know that there were shootings in this area, because Covid I don’t let my teenager out, it so happens it was a birthday party they were attending. But just being able to be aware of what is happening in the community, so that these kids who are good kids, who just graduated, who are going to college, who are African American and minorities, they are being able to be educated so that they are safe.”
6. **(Time 17:57) Public comment from Evie Kosower:** “I’ve been trying to figure out why I’ve been feeling so badly about how this has been going and come up with this kind of thinking. The interim committee and the interim Executive Director are exactly that, they are interim. The interim Executive Director, Sharmaine Moseley, was appointed by the Mayor awhile back when she came. So, she is nowhere near the kind of Executive Director that this group expects to see happen, it would be somebody that the community has a lot to say about who that is going to be and the commissioners. The new commissioners, the interim people are interim, and we need to realize that. The transition committee is just that, they are enabling transition. And I believe the members were trying to incorporate what they felt were some best practices that would come up to be part of the new commission. I’m

concerned that the CRB people including the Director should not be making major decisions regarding how the commission should operate, especially overturning the transition process concerning community involvement and hiring that was put together and approved by the actual interim group to go ahead, done excellently, and was a lot of knowledge on how these things happen by someone on that transition committee and he was totally disregarded because the Interim Executive Director had a better idea. If Sharmaine Moseley needs help because she is over worked that's not what a new Deputy Director should be hired for. The City Council should be responsible for providing that assistance as they should be for providing members to help reviewing cases that the board so sorely needs and has asked for and have been ignored."

Non-Agenda Public Comment:

1. (Time 23:43) **Public comment from Laila Aziz:** "The people that made a comment were two different instances that were reported today. There is a base of hundreds of people who have been elected and looking at this that maybe one of things is we need to have more people contact the commission and let the commission know what has been going on and can hear their voices and can really hear on the ground or I even invite any Commissioner to come out with us on Tuesday's and Thursday's to some of the locations that are definitely racially profiled, even though there are no discrimination findings and see what is going on. I invite anyone who would like to join."

Educational/Training - Public Comment:

1. (Time 38:53) **Public comment from Kate Yavenditti:** "After listening to this presentation it seems that the process that the transition committee put together that was approved by the full CPP , Chair Brandon Hilpert and Liz Barat were involved with the transition committee meetings, follows along with what you were saying in fact that the Executive Director is the ultimate decision maker, that there is community input, that there was input from the commissioners, but that the final decision maker was the interim Executive Director. It is still not clear to me and not seeing anywhere in the process that says the interim Executive Director, Sharmaine Moseley, can jump in and stop the process because she doesn't like the last seven finalists. I can see as the final decision maker she can say she's not picking and not wanting any of them, I'm assuming. But it seems to me the disruption of the process was continued to be inappropriate that everything that the transition committee, and CPP itself put together was appropriate and should have been followed and completed."
2. (Time 58:59) **Public comment from Evie Kosower:** Ms. Kosower asked Liz Barat and Duane Bennett, "how does innovation fit into any of this? This particular group was supposed to be run by the community, which says on the voter packet. A heavy lead from the community, that's why it got 75% of the voting people."

Without an ordinance we can't write the way the group would like to see it. Making decisions in an ordinance number without an ordinance. The ordinance would take care of this and is being put off. How do you take into account that this particular commission is supposed to be put together by the top people and the people that they can gather to come in who are going to be very different than some of the people before to put together an organization they think works rather than similar or like whatever it is now. They can't have that opportunity if they're hamstrung and if the top people aren't chosen in a way the community feels comfortable with and people themselves with the community. I feel there is no way of letting this thing have its own person development because of the hamstringing that's happening with all of the rules and regulations to the hiring and through the particular interim group which are trying to hold things together. I understand that, and they are trying to keep going and have an oversight. The Council doesn't seem to care, they are letting them work with half the numbers and doing nothing about it. But it shouldn't be as suddenly put in commission people to fill in that stop. I'm really struggling to see if this can ever be what we envisioned it to be and what the community would like it to be. Until we can get an ordinance and let the ordinance decide these things. There is an ordinance already that decides how the commissioners are going to be brought in."

3. **(Time 1:03:59) Public comment from San Diegans for Justice, Maresa Talbert:**
"We are concerned with the splitting of the Deputy ED role because we know that currently CPP is at half-staff, know that other roles that still need to be hired, roles are specific to Measure B that CPP still need to hire, the Investigators and administrative staff and we don't know if CPP is budgeted to fulfill two Deputy ED roles."

COMMISSION ON POLICE PRACTICES

REGULAR MEETING MINUTES

Tuesday, August 9, 2022

Via Zoom Webinar

Click <https://youtu.be/byGG3fM2n90> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Kevin Herington, 2nd Vice Chair
Maxine Clark (joined at 5:15pm)
Andrea Dauber-Griffin
Diana Dent
Steve Hsieh (joined at 5:15pm)
Chris Pink (joined at 5:15pm)

Ernestine Smith
Robin Spruce
Nancy Vaughn

Staff Present:

Sharmaine Moseley, Interim Executive Director
Robin Recendez, Administrative Aide

San Diego Police Department (SDPD) Staff Present:

Internal Affairs Captain Anthony Dupree
Lieutenant Tristan Schmottlach

-
- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 5:12pm.
 - II. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.
 - III. 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.
 - IV. PUBLIC COMMENT: No public comment received.

V. CLOSED SESSION

A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session meeting if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Shooting Review Board Reports (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (0)
- V. Case Review Team Reports (6)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (0)

VI. REPORT OUT FROM CLOSED SESSION (7:18p.m.) – It was reported that the Commission met in Closed Session and one case resulted in a referral to the CPP Policy Committee. The item will be referenced in the next CPP Policy Committee Meeting.

VII. NON-AGENDA PUBLIC COMMENT: No non-agenda public comment received.

VIII. ADJOURNMENT: The meeting adjourned at 7:19pm.

COMMISSION ON POLICE PRACTICES

REGULAR MEETING MINUTES

Tuesday, August 16, 2022

Via Zoom Webinar

Click <https://youtu.be/pq4-LRN5oDo> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Kevin Herington, 2nd Vice Chair
Maxine Clark
Andrea Dauber-Griffin (joined at 5:57pm)

Diana Dent
Chris Pink
Ernestine Smith
Nancy Vaughn

Absent/Excused:

Steve Hsieh
Robin Spruce

Staff Present:

Sharmaine Moseley, Interim Executive Director
Robin Recendez, Administrative Aide

San Diego Police Department (SDPD) Staff Present:

Internal Affairs Captain Anthony Dupree
Lieutenant Tristan Schmottlach

-
- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 5:05pm.
 - II. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.
 - III. 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.

IV. PUBLIC COMMENT: No public comment received.

V. CLOSED SESSION

A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session meeting if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Shooting Review Board Reports (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (0)
- V. Case Review Team Reports (5)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (0)

VI. REPORT OUT FROM CLOSED SESSION (7:18p.m.) – There was no reportable action.

VII. NON-AGENDA PUBLIC COMMENT: No non-agenda public comment received.

VIII. ADJOURNMENT: The meeting adjourned at 7:19pm.

Performance Audit of SDPD's Use and Management of Body Cameras

Why OCA Did This Study

SDPD officers can face dangerous situations while on duty, and public interactions with officers can result in the injury or even death of a member of the public or an officer. As a result, body cameras are used to improve officer and public safety, providing additional documentation of police encounters with the public and functioning as important evidence collection and accountability tools. We conducted a performance audit with two objectives:

- (1) Determine if SDPD's policies and procedures regarding body worn camera usage, management, and video release are in line with best practices and local, state, and federal regulations.
- (2) Determine if internal controls are in place to ensure policies and procedures are followed and body worn camera footage is properly collected, maintained, monitored, and released by appropriate personnel.



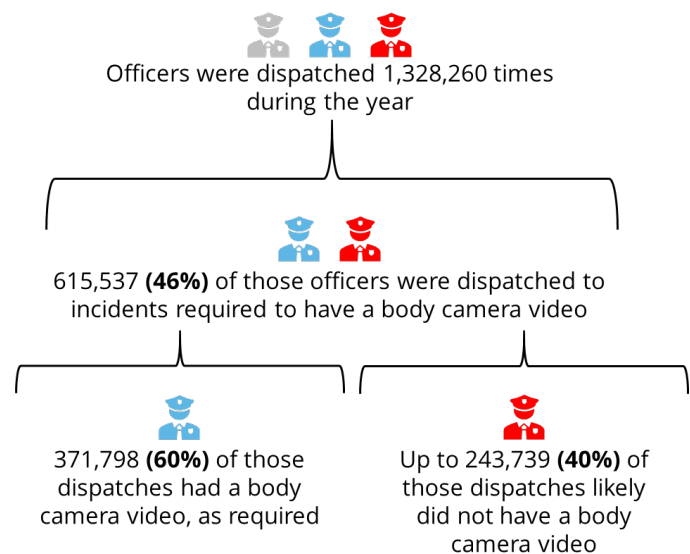
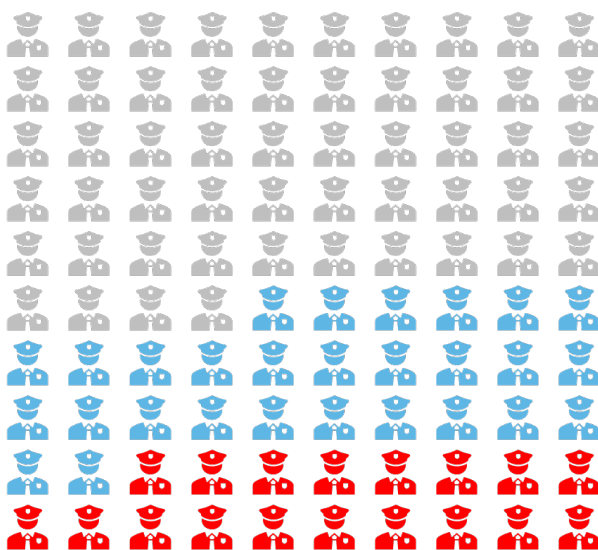
Source: OCA photograph taken at SDPD facility.

What OCA Found

Finding 1: Officers likely did not record many enforcement encounters, as required.

- SDPD procedure requires officers to record incidents that have "the potential to involve an enforcement contact."
- 15 to 40 percent of officers dispatched to potential enforcement encounters from October 2020 through September 2021 did not record a video as required.

- For example, 29 percent of officers dispatched to incidents that ended in arrest did not have record of a body camera video.
- 42 percent of officers dispatched to calls relating to an assault with a deadly weapon did not have a record of a video.
- 41 percent of officers dispatched to calls of battery did not have a record of a video.








Source: OCA generated based on dispatch data and body camera video data provided by SDPD.

Finding 1 (continued):

- 4 percent of enforcement encounters likely had no body camera video recorded by any officer dispatched.
- Many other major cities simply require officers to begin recording while on the way to all calls for service, making it easier for officers to comply and ensure videos are captured when required.

Finding 2: In many cases, officers did not appear to record the entire incident, as required.

- Officers did not begin recording on the way to an incident, as required, in 30 percent of the body camera videos we reviewed.
- Officers stopped recording before the incident appeared to conclude in 38 percent of the videos we reviewed.
- SDPD procedure does not clarify when officers can stop recording.

-  91% of videos reviewed included the full 2 minutes of buffering
-  30% of videos reviewed started recording after the officer was already on scene
-  38% of videos reviewed stopped recording before the incident appeared to conclude
-  Only 4% of videos reviewed were categorized incorrectly
-  0% of videos reviewed had officers who appeared to intentionally cover the camera or angled away from the scene

Source: OCA generated based on our review of body camera videos and video data provided by SDPD.

Finding 3: Officers generally categorized videos correctly.

- Just 4 percent of the videos we reviewed were categorized incorrectly.
- 98 percent of videos were kept as long as required and not deleted too soon.
- SDPD procedure keeps videos categorized as accidentally recorded for just one week but should keep them for a minimum of 60 days and should have supervisors review them to ensure they are accurately categorized as accidental.

Finding 4: SDPD does not have a detailed, public-facing policy on when it releases body camera video, creating confusion amongst stakeholders such as the City Council and the public.

- For the officer involved shootings in our scope, SDPD released the critical incident videos within 10 days and the videos included the most pertinent body camera video footage.
- We did not find any additional video footage in the underlying body camera video footage that would have substantially changed the impact or conclusions of the critical incident videos we reviewed.
- We did find that the underlying body camera footage in some situations held additional context that was not included in the critical incident video, such as the events that led up to the officer involved shooting or additional angles of the incident.
- For the California law that requires SDPD release body camera videos for officer involved shootings and uses of force that result in great bodily injury or death, we found SDPD releases the videos it determines are the most relevant.

What OCA Recommends

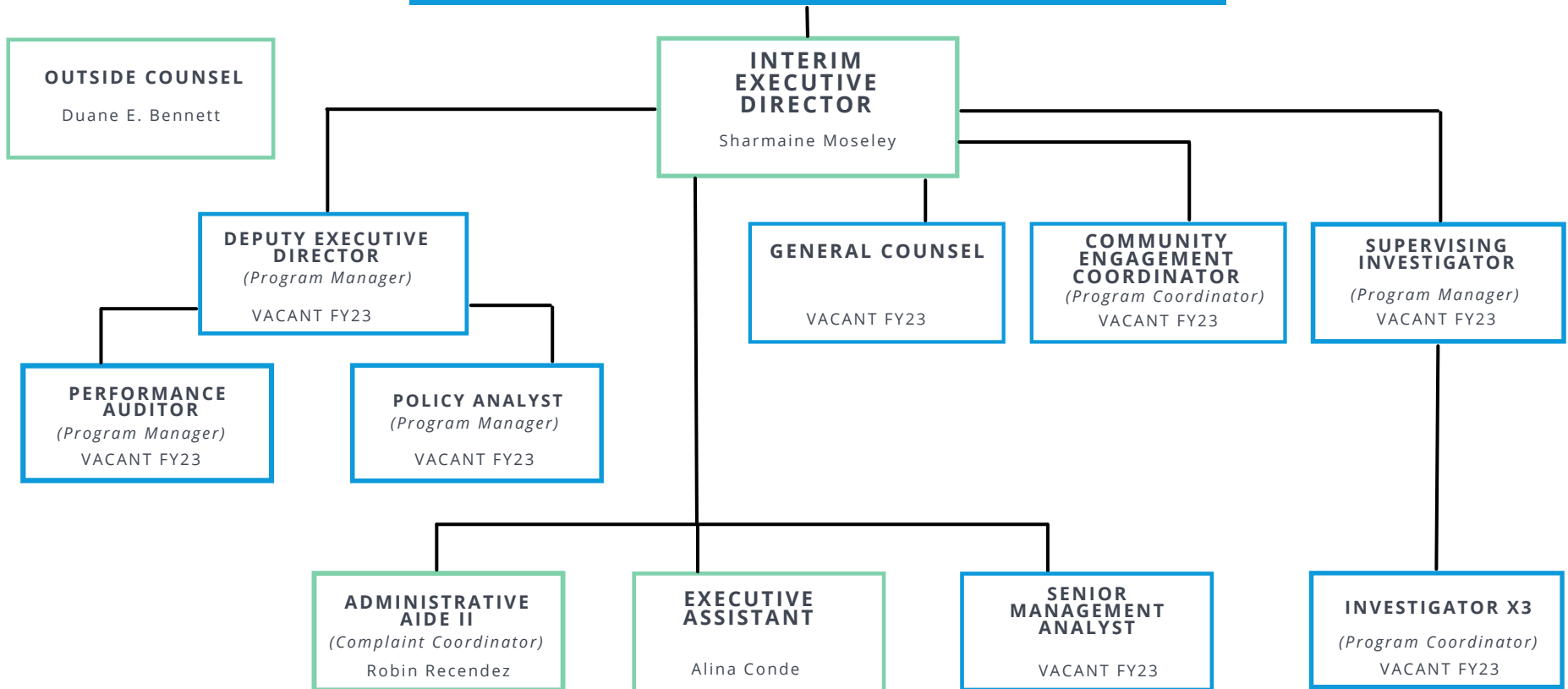
We made seven recommendations and SDPD agreed to all seven. Key recommendations include:

- Requiring officers to record all dispatched calls and calls for service, rather than just enforcement encounters.
- Clarifying in procedure when officers can stop recording because an incident has finished.
- Requiring existing supervisor reviews of body camera videos to ensure officers recorded a video for all dispatched calls and ensure officers turned the camera on and off in line with procedure.
- Requiring SDPD to keep accidentally recorded videos for 60 days and requiring supervisors to review them to ensure the videos are accidental recordings.
- Detailing in policy what body camera videos SDPD releases and when, including critical incident videos, and making the policy public to reduce stakeholder confusion.

For more information, contact Andy Hanau, City Auditor at (619) 533-3165 or CityAuditor@sandiego.gov

▶ The Commission on Police Practices provides independent investigation of officer-involved shootings, in-custody deaths, and other significant incidents, and an unbiased evaluation of all allegations of misconduct against the San Diego Police Department and its personnel.

Commission on Police Practices



*Green coded- Positions are currently filled

*Blue coded- Positions approved in FY22, will be filled in FY23

*Commission will request funding for Mediation Coordinator (Program Coordinator) in FY24

DRAFT City of San Diego Commission on Police Practices Timeline (Tentative)
July 2022– Version 11.1

Disclaimer: This timeline is for Commission planning purposes only. The timing of certain items (e.g., docketing of City Council actions, meet and confer process, etc.) are beyond the control of the Commission. Additionally, the length of time required for some processes (e.g., hiring and contracting) may take longer than originally anticipated.

November 3, 2020	General Election
November 2020 – June 2021	Community Input on the Implementation Commission Ordinance via Community Roundtables
November 2020 & December 2020	Meetings with All Continuing and Newly Elected Mayor and City Councilmembers
December 3, 2020	Election Results Certified
December 10, 2020	Mayor and City Councilmembers Installed
December 18, 2020	Secretary of State Chapters Measure B, Activating the New Commission
February 10, 2021	Presentation to City Council Public Safety and Livable Neighborhoods Committee (PS&LN)
March 10, 2021	PS&LN Considers Creation of Office of the Commission on Police Practices, Appointment of Interim Executive Director and Adoption of Interim Standard Operating Procedures
March and April 2021	Discussions with Department of Finance on CPP Budget Needs
April 20, 2021	Mayor Releases Budget for Fiscal Year 22 (July 1, 2021 – June 30, 2022)
April 26, 2021	City Council Approves Creation of Office of the Commission on Police Practices, Appointment of Interim Executive Director and Adoption of Interim Standard Operating Procedures
May 11, 2021	Budget Review Hearing on FY22 Budget
May 2021	Hiring of Executive Assistant
June 6, 2021	Civil Service Commission Approves Exempt Managerial Positions
June 14, 2021	City Council Adopts Budget for FY22
June 24, 2021	PS&LN Reviews First Draft Implementation Ordinance
July 2021 – October 2022	Obtain and Equip Commission Office Space
September – December 2021	Interim Outside Counsel Contract Bidding and Selection (Original RFP rebid)
December 2021	Hiring of Administrative Aide/Complaints and Finance Coordinator (Offer Extended)
December 2021 – September 2022	Develop proposed Standard Operating Procedures for Investigations (SOPs)
January 27, 2022	PS&LN Reviews Second Draft of the Implementation

	Ordinance
March 1, 2022	City Council Considers the Implementation Ordinance. They and refers for Meet and Confer.
March 2022	Development of FY23 Budget Proposal
May 2022	Budget Review Hearing for FY23 Budget
June 2022	City Council Approves FY23 Budget
March – September 2022	Meet and Confer on the Implementation Ordinance.
September – December 2022	Recruitment of Permanent Commissioners
August – October 2022	Recruitment for Community Engagement Coordinator and Supervising Investigator
June 2022	City Council Approves FY23 Budget
August – November 2022	Hiring process for Community Engagement Coordinator, Supervising Investigator, Senior Financial Analyst and Deputy Executive Director
November 2022	Staff Moves into New Office Space
October – November 2022	City Council adopts Implementation Ordinance (2 readings required)
October 2022 – February 2023	Investigation SOPs Reviewed by PS&LN, City Council and Undergo Meet and Confer
October 2022 – February 2023	Recruitment, hiring and training of 3 Staff Investigators and Selection of Pool of Contract Investigators (Contingency Basis)
November 2022 – February 2023	Hiring of Policy Analyst and Performance Auditor
December 2022	Adopt Memorandum of Understanding with SDPD (Including Complaint Processing and Sharing, Sharing of Records, etc.)
December 2022	Implementation Ordinance Takes Effect
December 2022 – February 2023	Selection Process for Permanent Commissioners (Including Independently Conducted Background Checks)
February – March 2023	Training of Permanent Commissioners
March 2023	Independent Investigations Commence
March 2023	City Council Appoints Permanent Commissioners
March – August 2023	National Search and Selection of New Executive Director
April – June 2023	Development and Approval of FY 24 Budget
September 2023	City Council Appoints Permanent Executive Director
September 2023 – February 2024	Mediation Program Procedures Established, MOU with Meet and Confer, Contract for Mediators
October 2023 – February 2024	Hiring of Commission General Counsel

December 2023 -
March 2024

Hiring of Mediation Coordinator, Mediation Program
Commences

DRAFT



THE CITY OF SAN DIEGO

M E M O R A N D U M

Date: August XX, 2022

To: David Nisleit, Chief, San Diego Police Department

From: Brandon Hilpert, Chair, Commission on Police Practices
via Sharmaine Moseley, Interim Executive Director

Subject: **Request for Reconsideration of CPP Recommendations to SDPD's Policies, Procedures and Discipline Matrix & Manual**

Previously, the Commission on Police Practices (Commission or CPP) made recommendations to update and/or revise the San Diego Police Department (SDPD) policies, procedures and the Discipline Matrix and Manual. We appreciate SDPD's responses and request for additional details and resubmit the following recommendations for further consideration.

Body Worn Camera Recommendations:

Both the Commission and the Office of the City Auditor have made recommendations to SDPD Procedure 1.4.9 to increase compliance and usage of BWCs by SDPD officers. The Commission understands that in researching our request to extend the features of the 2-minute buffering period to include audio, that there are limitations due to contract terms. However, the Commission still believes that including the audio in this buffer period would provide a service to the Department and the community. Additionally, SDPD has agreed to implement the City Auditor's recommendations requiring officers to record all dispatched calls and calls for service (rather than only enforcement encounters). SDPD's implementation of the City Auditor's seven BWC recommendations will go beyond the Commission's recommendation. The Commission supports the City Auditor's recommendations and encourage its implementation as soon as possible.

Body Worn Camera Auditing:

The Commission recommended that supervisory staff audit officer BWCs by viewing BWCs rather than just confirming X number of videos for X number of enforcement contacts. SDPD's response to this recommendation was that this recommendation could not be implemented due to the MOU between SDPOA, SDPD and the City which prohibits command staff from proactively viewing BWCs absent a complaint or justified reason to view BWC footage.

The Commission is requesting clarification as this response conflicts with the response given to the City Auditor, where SDPD agreed to implement recommendation #5 (“that supervisor reviews of the body camera videos include watching all videos categories as BWC Training/Accidental”).

Investigation of Complaints Involving SDPD Leadership:

In the Commission’s May 5, 2022 memo to SDPD, the Commission understood there was an informal process for complaints filed against SDPD leadership. As a result, the Commission recommended that the informal process be formalized in SDPD’s policies and procedures. SDPD’s reply indicated there is no informal process and that all members of SDPD are subject to the same policies and procedures. If a conflict of interest exists, and the City Attorney agrees, other city departments could be used to investigate/resolve the complaint.

The Commission still believes there should be a clear, written procedure (perhaps added to 1.10), that details the circumstances and details of how those complaints will be investigated and by whom. Additionally, the Commission reiterates that we believe any complaint against an SDPD Captain or above should be subject to this procedure.

Discipline Manual and Matrix Changes

The Commission thanks the Department for going beyond its recommendation of now requiring SDPD Command to complete discipline memos within 10 days (rather than the Commission’s request of 14 days) of discipline being issued.

The Commission also recommended that the Discipline Manual be reviewed, and any errors or conflicting statements corrected. Although SDPD’s response indicated that all manuals are reviewed on an annual basis, the Commission understands that the Discipline Manual is being completely rewritten. The Commission encourages SDPD to consider incorporating the following revisions to the Discipline Manual: The Discipline Matrix lists a “catch-all” Minor Policy Violation category. The Commission would like to collaborate with the Department to help clarify this category of misconduct with a clear definition of what this misconduct is, as well as provide a non-exclusive list of examples. For example, “Minor Policy Violation can include, but is not limited to, XYZ.”

- The Discipline Matrix also lists a single excessive force category that does not include excessive force that causes injury. The Commission recommends adding at least one additional category for excessive force causing injury, with the discipline starting at a suspension (what would be the second instance for excessive force, non-injury).

The Commission would also encourage the Department to share the proposed draft Discipline Manual and Matrix with the Commission prior to Meet and Confer. Should the Commission have recommendations to the proposed draft, the recommendations could be considered before completing the Meet and Confer process.

Formation of Disciplinary Tracking

The Commission believes that the Department having a formal process in place for tracking a sustained finding all the way to disciplinary action is in the best interest of all parties. The Commission’s recommendation was not intended to be a “red flag” on any specific officers,

but rather a way for the Department to ensure that disciplinary action is performed in a correct and timely manner. The Commission would be happy to discuss this further to satisfy the needs of all parties and resubmit this recommendation for consideration.

Procedures Agreed to but Not Yet Implemented

Some of the Commission's previous recommendations (listed below) have been accepted by SDPD, but the policies or procedures have not yet been updated. The Commission understands that these updates are in process and kindly requests an update when the policies and procedures are updated.

- 1.06 – Chemical Agent Usage. The Department agreed to add that a verbal warning should be issued prior to using OC spray where possible.
- 6.01 – Seatbelts on Prisoners. The Department agreed to modify this procedure to add "Officers who do not secure a prisoner with a seatbelt shall articulate clearly and specifically their reasoning in their report."

If you have any questions, please do not hesitate to contact me at BHilpert@sandiego.gov.

Brandon Hilpert, Chair
Commission on Police Practices

cc: Honorable Mayor Todd Gloria
Jay Goldstone, Chief Operating Officer
Paola Avila, Chief of Staff
Chris McGrath, Executive Assistant Chief
Anthony Dupree, Captain, Internal Affairs
Matt Yagyagan, Deputy Director of Policy, Mayor's Office
Duane Bennett, Outside Counsel, Commission on Police Practices
Members of the Commission on Police Practices