

Commission on Police Practices

Rules Committee Meeting Minutes

Tuesday, May 20, 2020
9:30 a.m.-12:30 p.m.
Zoom Online Teleconference

This recording of this meeting is available online on the City of San Diego YouTube page. Click [here](#) to view this meeting after its scheduled time.

Committee Members Present: 1ST Vice Committee Chair Doug Case, Chair Brandon Hilpert, Joe Craver, Diana Dent, Nancy Vaughn and Interim Executive Director Sharmaine Moseley

Committee Members Absent: Marty Workman

- I. Welcome/Call to Order: Committee Chair Doug Case called the meeting to order at 9:34 a.m.
- II. Roll Call: Committee Chair Doug Case conducted the roll call.
- III. Non-Agenda Public Comment: None
- IV. New Business (Discussion/Action) (Committee Chair Doug Case)
 1. Streamlining Procedure for Case Report Writing
Given the number of backlogged cases, we are going to have an increased caseload with the new Commission. We will be reviewing complaints with internal affairs and will also be reviewing internal investigations that don't arise from complaints. In the interim, it has been suggested that we come up with a process of streamlining case report writings to work more efficiently. Rather than having one-person work on everything, one person on each team can take the lead on each case and they listen to all of the interviews and watch all the body-worn-cameras. They can flag the ones that are significant for the rest of the team to look at. The extensive reports have that must be written up (on average up to 10 pages long) can be done in a more streamlined fashion.

Public Comment Attendee:

Matt Wahlstrom: "I also submitted a web form earlier. With streamlining it is very important that when, you know, it sounds like some of this is wanting to farm this out to individual members to take on certain cases and what and so forth and sort of like individuals as subcommittees almost on these. I do want to caution against that because there is a tendency, I know from serving on, you know, Community boards myself that then there is a difference given to that individual interpretation of the case. And tendency to then not look at it as a group and to just sort of defer that and I would want to make sure that you know, the caution against any kind of assigning things from a central area.

Make sure that everybody is able to pick and choose what cases are of interest to them and to also ensure that, you know, everyone is able to look at all of the information as encouraged. To look at all of the information and all of the other cases. To at least be briefed ahead of time so they are not relying on just one person's opinion. Thank you.”

1st Vice Chair Doug Case proposed to make the IA reports available in the meeting folder so that the entire IA report is available for any Commissioner to look at prior to the meeting. On a trial basis, ask teams to write reports that are more in line with our audit reports but could be longer depending on the complexity of the case. Suggest not to put all the policies into the report to further avoid redundancy but to include what is important to the case. The proposal would be to allow the team to be flexible in terms of report writing (template write it up similar to an audit) but with more detail as necessary. We will experiment with the template and get feedback from the other commissioners then the rules committee can have a much more simplified document for report case writing. Will be writing the next unwritten case in a streamlined format and can present it to the Commission.

2. Police Participation in Commission Closed Meetings

The Commissioners want the Police Department to hear the comments. They may agree with the findings but have concerns about how the situation was handled. They may have concerns about how the investigations were done. Many Commissioners believe it is important for the police to be present during the meetings to listen to those concerns. The Police Department also has agreed that they would like to be there to listen to those concerns. There was a divided opinion and strong opinion on both sides so this item was referred to the Commission's Rules Committee Meeting with the recommendation of whether the Commission should modify its policy that the Police Department representatives are not allowed to be present for the deliberations or for the vote. The question is: Should the Commission change that policy that it previously adopted so that SDPD not be present or should the Commission modify it in some way?

The Commission is a hybrid commission with the ability to conduct independent investigations of incidents. The investigations are completed by Internal Affairs and the Commission reviews each investigation and indicate whether they agree/disagree with the IA findings and make any necessary comments. The Commission works remotely in 3-member teams. All evidence (elements in the case file, BWC, interviews, investigators reports, police reports, etc.) is put into a Google drive for the teams to review. The team can ask questions (in writing, in-person, via zoom, and/or telephone meetings) to Internal Affairs. The team can suggest to Internal Affairs to change their findings and suggest that there be other allegations added. Internal Affairs cannot close their case until it has been reviewed by the Commission. After the team completes its job,

they write a report (including all details). A Closed Session will then be held, and the public will not be allowed to attend. During the Closed Session, the cases will be presented. Attendees will include: The Commissioners, Commission staff; current interim Executive Director, Assistant Executive Chief of the Police Department, the Captain of Internal Affairs, and one/two Lieutenants who supervise the investigators and that are familiar with each case. Presentation is done in parts; Presentation of the case (reading the overview of the case, highlight critical issues, indicate what Internal Affairs findings are, what the teams findings are, whether they agree/disagree, any comments and then open it up to unlimited questions), then the Commission dismiss the police representative(s). Under the new process, after the question & answer period, the representatives from the Police Department (in virtual meetings) are put into a waiting room as the Commission deliberates and then votes. Then the Commission brings the police representatives back into the meeting and proceed to move on to the next case.

The majority of the 170 public comments received for this item were opposed to making a change. They did not want the Police Department to be a part of the Closed Session Meetings. The comments will be included with the minutes of this meeting.

Written Public Comments:

*Deidre McLeod: "Residents of San Diego voted overwhelmingly for *independent* oversight of the police. It is the guiding principle of the CPP. The presence of police representatives during closed meetings gives them undue influence over the deliberative process - up to and including opportunities for intimidation during and after discussions - even if attempts are made to mitigate that influence. If certain commissioners feel they won't properly be able to explain the context of decisions made during closed sessions - either to the Police Department or to the San Diego community that clearly wants more transparency in this process - than those commissioners, respectfully, need to resign and make way for other community members with a more serious understanding of what independent oversight of the police truly means and what the residents of San Diego overwhelmingly want."*

Francine Maxwell: "Hi please vote NO on having police and representatives in closed session for our next CPP. You are interim and the newly trusted Commission should make this decision. Yes, they can change it but no need to waste time. You're the interim CPP but your culture is still intact CRB stop it."

Ashley Roberts: "The voters have spoken! Measure B passed with a clear initiative: The Commission on Police Practices must be community led, transparent, and most of all: INDEPENDENT of police officers and staff. Allowing PO's (and staff) to attend closed door meetings is the antithesis of what the voters and

citizens want and passed. The interim commission MUST vote NO and continue to abide by the precedent that the voters set!”

Patrick Dudley: “The interim Commission on Police Practices must vote NO on allowing police officers or their staff to attend closed session meetings. Measure B made it clear. The Commission on Police Practices needs to be independent, transparent, and community led. Allowing police officers or their staff to attend closed session meetings would eviscerate the independence and transparency of the Commission. The closed session meetings are critical to justice for all and for robust discussions. Do we allow police or police staff access or defendants or their colleagues into the jury deliberations room? Thank you.”

Steph Gaudreau: "We won't go backwards! The interim Commission on Police Practices must vote NO on allowing police officers or their staff to attend closed session meetings. Measure B made it clear. The Commission on Police Practices needs to be independent, transparent, and community led. Thank you."

Public Comment by Attendees:

Andrea St. Julian (Co-Chair of San Diegans for Justice): “The Commission's efforts to allow Police Officers into its closed sessions is the Community's worst fear realized. 75% of San Diego's voters decided that they were not satisfied of the functioning of the CRB and instead wanted a more robust Commission. Despite this clear mandate, the Commission has chosen to take a path that assaults the very core of Measure B and what the Commission is supposed to stand for; independence and transparency. The interim Commission created a governing document allowing it to invite individuals into the closed sessions as it saw fit. The community trusted the new Commission to use that discretion wisely. Instead, this new Commission seeks to portray the community's trust by using this loophole. Unfortunately, the Commission's decision works to erode the goodwill and trust that the community offered to the interim Commissioners who were members of the old CRB. I am fortunate to have worked with several commissioners who are seeking to fulfill the mandate of measure B. Today's efforts by the Commission as a whole however, shows that the Commission is seeking to do a little more and recreate the old CRB under the name of the Commission. The Commission needs to refuse to allow any officers or their staff into closed session. It also needs to get back on track by seeking to fulfill the purpose of Measure B rather than to thwart it. Thank you.”

Genevieve Jones-Wright: “We just heard a sample of the comments that were all in favor of disallowing SDPD's staff to attend closed session meetings and I think that

those comments were spot on. Especially, Mr. Dudley's comment about allowing for defendants and police officers to be in the jury deliberation room. I think what we have to realize is that when an overwhelming majority of San Diegans voted for Measure B, we voted for transparency, we voted for fairness and most importantly independence. It was independence from the City Attorney, the Mayor, and the Police Department itself. The closed sessions of this interim Commission of Police Practices must be closed to staff of the law enforcement agency they are charged with investigating. This is the only and proper recommendation that can come out of this body. If you truly care about transparency, fairness, and honoring the will of the people. A vote that allows for their presence is a vote in direct contravention of the will of the people and against the independence we community members fought so hard for. So, I really do hope that you all take the comments from the community members that overwhelmingly support not permitting staff from SDPD or SDPD Officers to attend closed sessions. It just would not make sense and it would be completely improper violating the spirit of Measure B itself. So, thank you very much for this opportunity."

Patrick Byrne: "Unlike the previous two speakers who I'm unfamiliar with their, you know, professional work in criminal justice. I'm just a member of the public. One of the reasons you guys might not have as many people calling in is, like everything else in San Diego it is massively aggressively hostile. As somebody who's moved here from elsewhere, it is striking how hard it is to get any kind of public comment. I knew exactly what I was looking for in googling Commission on Police Practices etc. etc. and turned up nothing. So anyway, here I am, and I just want to echo what everyone else is saying, it was a 75% vote in favor of this Commission as Constituted to do anything other than what the voters overwhelmingly voted for is an anti-democratic version of democracy. If you find yourself in the position of being appointed to this Commission and feeling that it should be done differently than how the voters chose it to be done, you need to resign and you're welcome to collect signatures for a new petition and see how well people want what you want. We elected people to oversee the Police not to be chums with them, not to be partners, not to have them in the room while you make your deliberations. You are to oversee them, you are to be their superiors, you are to have an adversarial relationship with them and to protect the public from them. You are the watchers who watch the watchmen. And again, I apologize my comments aren't as polished as those who come before me but you are independent so be independent so act like it if this job is not what thought you were signing up for there's been a pandemic and millions of people are out of work so I'm sure there's somebody who shares the right mindset to do this job who has the free time. Thank you very much."

Marissa Talbert: "I am one of the co-chairs along with Andrea St. Julian of San Diegans for Justice and as everyone who spoke before me has mentioned, this is completely against the will of the voters. Closed meetings are not open to the public. So, why would they be open to the entity that's being investigated? It is completely unacceptable. It is against the will of the voters we voted for independence. independence the key to success of Measure B and independence is the key to the Commission of Police Practices. Please do not allow the Police Department to be in the meetings with you all and the Commission making decisions. That is not what we are here for. We need to remain independent. Thank you so much."

Yasmine Abed: "I'm the Youth Organizer with Mid City and I am here today to just reiterate what the community has been saying that we are absolutely against the Police Officers being in closed sessions. As well any staff being in closed sessions from the Police Department because if community is not able to be in those close sessions then no one else should be allowed into those closed sessions in general. So, we are absolutely against that and that stands against everything Measure B came to fix and to make better and really passing this and approving this is a huge slap in the face for everyone. For the 75% who voted yes on Measure B. So, I'm here to ask you all to please not go ahead with this because it's really important that we follow community lead. We say yes, to what community is asking. Our job is to make sure that we're representing the community so that's what I'm here to ask today. Thank you all so much for this time and I look forward to seeing all of you to voting no to allowing Police Officers and the IA into those closed sessions. For now, and in the future, I would hope that those closed sessions are also in general discussed because community should be allowed into everything and this should be public in general. Just a side note for future things, yes and we do you have folks that didn't have the link that will be joining so I would ask that you all allow them the opportunity to speak. I just got the link right now and I'm sharing it with them. Thank you so much."

Donna Kaiser: "I'm fully opposed to having SDPD present during these presentations. They already had a chance to present their case. The other side isn't given a chance to rescind, as well. The police don't need yet another chance to put their thumb on the scale. This is the fox guarding the hen house. What in the world are you thinking by even proposing this be possible?"

Commissioner Nancy Vaughn explained that the police are not presenting their cases during closed sessions. The police are not there advocating nor are they advocates for their position. The only time they get a chance to say something is if there is a real disagreement with an IA finding. They can explain their position to the rest of the Commission. The Commission should

still have access to the police department to answer questions as the Commission deliberates.

Chair Brandon Hilpert proposed keeping the process as it is now. Internal Affairs would not be in the meeting during comments or deliberations and voting. If there's an issue that we see from a case, we formalize it by writing a memo and sending it to the Chief of Police and Internal Affairs.

Commissioner Joe Craver explained that it is important that the members of SDPD be in the meeting to answer questions on policy, if needed. They are not there to intimidate as they are in the waiting room during deliberations and votes. He is in favor of having the police in on deliberations but not in on the votes. Commissioner Diana Dent also explained that the police are only to be there to simply clarify policies and procedures and how they are implemented.

Commissioner Joe Craver moved to allow SDPD to be present for the Commission's deliberations but not the vote. The motion was seconded by member Nancy Vaughn. The motion failed to carry with a vote of 1-4-0.

Yays: Chair Joe Craver

Nays: Committee Chair Doug Case, Chair Brandon Hilpert, Diana Dent, Nancy Vaughn

Abstentions: None

Absent: Marty Workman

The Commission will allow SDPD to be present for the presentation and questions portion of the Closed Meeting. SDPD will leave the room for deliberations and vote portion of the Closed meeting.

V. Adjourn: The meeting adjourned at 10:57 a.m.