

OPEN SESSION MEETING MINUTES

Tuesday, April 26, 2022
6 p.m. – 8 p.m.
Via Zoom Webinar

Click <https://www.youtube.com/watch?v=XZF19xMy5Bs> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Patrick Anderson
Maxine Clark
Andrea Dauber-Griffin
Diana Dent

Kevin Herington
Steve Hsieh
Ernestine Smith
Nancy Vaughn
Marty Workman

Commissioners Absent or Excused:

Poppy Fitch, 2nd Vice Chair
Chris Pink
Robin Spruce

Staff Present:

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

San Diego Police Department (SDPD) Staff Present:

EA Chief Chris McGrath
IA Captain Anthony Dupree
Lieutenant Tristan Schmottlach
Lieutenant Stephen Shebloski

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- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 6:05pm.
 - II. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP): Chair Brandon Hilpert explained that the purpose of the Commission on Police Practices (CPP) is to provide an independent investigation of officer-involved shootings, in-custody deaths, and an unbiased evaluation of all complaints against the police department and its personnel in a process that will be transparent and accountable to the community. The Commission will also evaluate the review of all SDPD policies, practices, trainings, and protocols and represent the community in making recommendations for changes. The mission of the

Commission is to hold law enforcement accountable to the community and to increase community trust in law enforcement, resulting in increased safety for both the community and law enforcement.

III. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.

IV. APPROVAL OF CPP OPEN SESSION MEETING MINUTES OF MARCH 22, 2022
The Commissioners reviewed the minutes. Commissioner Nancy Vaughn moved for the Commission to approve its March 22, 2022 Open Meeting minutes with the correction to change “motioned” to “move”. Commissioner Marty Workman seconded the motion. The motion passed with a vote of 8-0-2. (Time 3:49)

Yays: 1st Vice Chair Case, Commissioner Anderson, Commissioner Clark, Commissioner Herington, Commissioner Hsieh, Commissioner Smith, Commissioner Vaughn, and Commissioner Workman

Nays: None

Abstained: Chair Hilpert and Commissioner Dauber-Griffin

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Dent, Commissioner Pink, and Commissioner Spruce

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

VI. NEW CITY STAFF & CPP CONTRACTOR ANNOUNCEMENTS/INTRODUCTIONS
A. Chida Warren-Darby (Director, Office of Boards & Commissions)
(Time 14:07)
B. Duane E. Bennett, Esq. (CPP Outside Counsel)
(Time 8:01)

VII. UNFINISHED BUSINESS (DISCUSSION/ACTION (Chair Brandon Hilpert)
A. Commission Closed Meetings in May (Dates and Times) – Chair Brandon Hilpert will be working with Executive Assistant Alina Conde on sending out a doodle poll for each Tuesday of the month. The Commission has about a hundred cases waiting for review. The Commission has been meeting almost every week (if not bi-weekly). Will check in with the teams to see how many cases will be ready for the Commission to review.
B. Case Review
1. Status of CPP Case Review & Evaluation of Disciplines
Reminder to Teams that if they disagree with the discipline of an officer, they can meet with the Captain who issued that discipline to discuss the discipline.
2. Feedback on Remote Case Access (Google Drive)
Reminder that Commissioners can go down to Internal Affairs to review audio files or IA has agreed to burn them on a CD or flash drive. The Commissioners can sign out the flash drives, listen to them, and then return them to IA.

3. IA Office Hours/Schedule (Continuation of Saturday Hours) – Reminder that Internal Affairs has offered weekend hours for Commissioners who may need it. Commissioners should send an email and request the time if they need to go into Internal Affairs on the weekends.

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

A. Participation of CPP Leadership & Legal Counsel in the Implementation Ordinance Meet & Confer Process

1st Vice Chair Doug Case moved for the Commission to send a letter to the Mayor expressing the rationale for the CPP Leadership and Outside Counsel to participate in the meet and confer process of implementation ordinance. Additionally, request for the Mayor to take action to ensure the Commission on Police Practices' participation. Commissioner Nancy Vaughn seconded the motion. The motion passed with a vote of 11-0-0. (Time 27:21)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

(Time 21:02) Public Comment from Evie Kosower: Ms. Kosower commented that she expressed concern that the MOU between the various parts of the County, including the Sheriff and the Police Department may have something to do with the meet and confer and that pieces of the MOU might impact the Commission. Chair Hilpert explained the Commission's next steps regarding the MOU.

(Time 24:14) Public Comment from Kate Yavenditti: Ms. Yavenditti commented on the meet and confer process and her belief that the Commission should have a representative participate in the process.

- B. On February 28, 2022, the City Council amended the working ordinance by “adding a subsection (6) to Section 26.1103(g) *Commission Composition and Member Qualifications* that reads: “or have been convicted of a violent crime against a government employee or official.

1st Vice Chair Doug Case moved for the Commission to go on record opposing the addition of this exclusion and the process in which it was done without public comment. Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 10-1-0. (Time 44:16)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Anderson, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner

Dent, Commissioner Hsieh, Commissioner Smith, Commissioner Vaughn, and Commissioner Workman

Nays: Commissioner Herington

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

(Time 35:02) Public Comment from Kate Yavenditti: Ms. Yavenditti expressed her opposition for the process and amendment approved by City Council.

(Time 37:26) Public Comment from Evie Kosower: Ms. Kosower commented and questioned the process and if the ordinance had to be voted on again. Interim Executive Director Sharmaine Moseley responded that once it come back form meet and confer; it will go back to Council for consideration.

IX. 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

B. Outreach Committee (Patrick Anderson)

1. Past Events/Virtual Meetings/Roundtable Discussions -No update
2. Upcoming Events/Outreach Opportunities
Commissioner Patrick Anderson stated that he will be participating in the hiring process of the Deputy Executive Director. He identified many community members who have participated in the previous roundtable discussions. This search will be announced soon.

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)

1. Items being Considered by Committee on 4/20/2022
 - A. Proposed BWC Buffering Enhancements
 - B. Investigation of Complaints Involving SDPD Leadership
 - C. Revisions to Discipline Manual & Matrix
 - D. Formal Review of SDPD's Disciplinary Tracking
 - E. Be On Look Out (BOLO) Flyers
 - F. OIS Reports
 - G. Development of Third-Party Mediation
 - H. Review Homeless Encampment
 - I. Discrimination/Non-Biased Policing

J. 4.17 Protest Policy

K. SDPD Procedure 1.43: Wellness/Psychological Review of Officers Involved in OIS Incidents Prior to Returning to Field Duty

L. SDPD Procedure 5.10: Officers Uniform Policy -Use of Political or Membership Affiliation under Uniform Policy

M. Firearm Show of Force as Reportable Use of Force

N. Use of Profane Language as De-escalation Tactic

2. Consideration of Items for Discussion/Action

A. Proposed BWC Buffering Enhancements

Chair Brandon Hilpert moved to recommend to SDPD that existing 2-minute BWC buffers be modified to include audio.

Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 11-0-0. (Time 58:56)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

B. Investigation of Complaints Involving SDPD Leadership

Chair Brandon Hilpert moved to recommend to SDPD that SDPD create a procedure that specifically addresses how complaints against SDPD leadership are investigated with the amendment of defining leadership as Captain and above. Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 11-0-0. (Time 1:01:27)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

C. Discipline Manual and Matrix Changes

Chair Brandon Hilpert moved to recommend to SDPD that SDPD update the Discipline Manual and Matrix to 1. Command shall complete discipline memo within 14 days after discipline has been issued 2. Update Discipline Manual to indicate when officers must be notified and when discipline must be issued 3. Add a description/definition of “Minor Policy Violation” 4. Add a new category of “Sustained Excessive Force (causing injury)” with a recommended first offense being suspension. Commissioner Nancy Vaughn seconded the motion. The motion passed with a vote of 11-0-0. (Time 1:14:10)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

D. Formal Review of SDPD’s Disciplinary Tracking

Chair Brandon Hilpert moved to recommend to SDPD that SDPD create and share with CPP for review, a tracking system of pending discipline for department follow up to ensure “Sustained” findings result in appropriate and timely disciplinary action. Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 11-0-0. (Time 1:17:00)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

- E. Be On Look Out (BOLO) Flyers
Commissioner Ernestine Smith moved to recommend to SDPD that BOLOs be required to have an issue date. Commissioner Diana Dent seconded the motion. The motion passed with a vote of 11-0-0. (Time 1:19:46)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

- F. OIS Reports
Chair Brandon Hilpert moved for the Commission to forward OIS reviews/reports to SDPD and SDPD to include said reviews/reports in package of information provided to the Shooting Review Board for consideration. Commissioner Patrick Anderson seconded the motion. The motion passed with a vote of 11-0-0. (Time 1:25:07)

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

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Fitch, Commissioner Pink, and Commissioner Spruce

- F. Recruitment & Training Committee (Kevin Herington)
1. Update – On Hold
- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
1. Update Past & Upcoming Meetings
The CPP and CAB recently held a joint meeting regarding the county wide MOU for Officer Involved Shootings. CAB met on the 14th to go over PD updates. There weren't too many changes.
- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
1. Budget Update – The CPP Leadership will be going in front of the

City Council's Budget Review Committee on May 10 for FY23. Interim Executive Director Sharmaine Moseley and Chair Brandon Hilpert will be presenting. The highlights will be: 1. requesting \$200,000 as a contingency for contract investigator 2. \$100,000 for Executive Searches for the positions that are top level positions that will be recruited in FY23, 3. Reduction of non-personnel expenditure 4. Reclassification of positions. The goal is to have a full-time complaints coordinator and full-time budget analyst person. Lastly, wanted to ensure money is included for the outside counsel contract for next year.

2. Staffing and Legal Counsel Update – The CPP is hoping that the City will get all paperwork signed off so we can utilize our legal counsel services. The City has given approval to use the City's Executive Search Firm named CPS HR Consulting in Chicago where they specialize in doing searches for government agencies. They will be helping the Commission in filling the position for Deputy Executive Director who would be second in charge and would be primarily responsible for community engagement.
3. Draft Implementation Ordinance & Standard Operating Procedures Update – More updates to come.
4. Office Space Update – Interim Executive Director Sharmaine Moseley, Chair Brandon Hilpert, 1st Vice Chair Doug Case, Executive Assistant Alina Conde, and Administrative Aide Robin Recendez met with DREAM's Karen Johnson to go over new space options. There were two potential spots that looked promising. Parking may be included (still checking on this) and there will be an option for a large conference room (up to 60 individuals).

X. CHAIR'S REPORT (Chair Brandon Hilpert)

- A. Reminders for Commissioners
 1. 4th Quarter (April 1st – June 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.
- B. Update on Collaboration/Information Sharing with Statewide Oversight Groups -Sharing best practices and identifying areas for change.
- C. Update & Next Steps on CPP Special Joint Meeting with Citizens Advisory Board on Police/Community Relations (CAB) 4/21/22 (Countywide MOU Between County Chiefs & Sheriff Association) CPP held a joint meeting with the Citizens Advisory Board as well as some members of SDPD's leadership to answer some questions. The Sherriff's department was unable to attend due to scheduling conflicts.
- D. Update on Upcoming CPP Joint Meeting with Citizens Advisory Board on Police Community Relations (CAB) Regarding CPE Data Study CPP Leadership had conversations with the Police Department and the Chief on plans to host a joint meeting to present their data and come up with some solutions.
- E. Other Items/Reminders – N/A

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

- A. Caseload Update and Status of Case Reports- It was reported that as of today, the Commission started out with 94 active cases assigned to its Teams and closed out 2 cases in tonight's Closed Session meeting. Twenty-eight of the 94 cases are Category II cases. At last month's meeting, the Commission agreed to hold off on auditing Category II cases due to the backlog of cases.

In this fiscal year, that began on July 1, 2021, the Commission reviewed, deliberated on and closed out 92 Category I cases, 7 OIS cases, and 1 ICD case. The Commission audited 17 Cat II cases and evaluated 103 disciplines. The Commission also evaluated 2 Shooting Review Board Reports.

The statistics for the Team assignments are as follows:

The Teams have no in-custody cases assigned for review. Teams were reminded to check their folders for any disciplines and/or Shooting Review Board Reports.

- Team 1 has 17 cases in their queue (10 are Category I cases- one of which have one or more sustained findings, and 1 OIS case). The Team also has 6 Category II cases which are on hold.
 - Team 2 is inactive.
 - Team 3 has 6 cases in their queue. Of the 6 assigned cases, 5 are Category I cases and 1 is a Category II case. One of the Category I cases have one or more sustained findings. The Team has no OIS or ICD cases.
 - Team 4 has 28 cases in their queue. Of the 28 cases, 19 are Category I cases, 10 are Category II cases and 2 of the Category I cases have sustained findings. Team 4 has 1 SRB report to evaluate and no OIS or ICD cases to review.
 - Team 5 has 16 cases in their queue. Of the 16 cases, one was closed out at the Commission's closed meeting earlier tonight. One case is ready for the next agenda. The Team 5 has 14 active cases. Nine are Category I cases, 5 are Category II that are on hold. The Team has no ICD cases to review. Team 5 has 1 SRB report and disciplines to evaluate. One of the Category I cases has one or more sustained findings.
 - Team 6 has 26 cases in their queue. Of the 26 cases, 21 cases are Category I cases, 4 of which have sustained findings. Five of the 26 cases are Category II cases. The Team has no ICD or OIS cases.
 - Team 7 is inactive.
- B. Commission Vacancies/Resignations -With the resignation of Commissioner Sheila Holtrop last month and Commissioner Marty Workman at the end of this week, the Commission will be down to 13 Commissioners with one Commissioner who has been on leave for several months. The Commission has 12 active Commissioners. This will make it difficult to have quorum for meetings as well as leading the Teams in case review. Commissioners Holtrop and Workman were both Team leads for the CRB and then for the Interim Commission. Both grew as Commissioners as they led their Teams in making sure that reviews were being done fairly and thoroughly. The CPP is planning on holding an

appreciation/acknowledgement ceremony for members who resigned just prior to the passage of Measure B and Commissioners who resigned over the last two years. Administrative Aide Robin Recendez is currently working on the planning of this event. The Commission would like to thank Commissioner Workman for his time and dedication to oversight and for being there when needed and for taking on those cases with a fast turnaround time.

- C. Planning for CPP Former Member Appreciation/Acknowledgements- This item was already reported on.
- D. Other Items/Reminders – N/A

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

A. Status on CPP Recommendations to SDPD

1. Protest Policy
2. BWC Usage in Secure Facilities
3. Warnings Prior to OC Usage
4. Time Limits in Maximum Restraints
5. Seatbelt Usage during Transportation
6. Observation of Detainees in Sally Port

The recommendations have been written up and will be finalized. There was a request when sending these recommendations, to put as much information as possible to avoid tracking down information.

- B. Updates (Staffing in IA, Training, etc.) - Lieutenant Stephen Shebloski will be moving over to the Homicide Unit. Taking over will be Lieutenant Tristan Schmottlach.

XIII. COMMISSIONER RIDE-ALONG REPORTS: It was reported that Commissioners can start doing ride-a-long's again.

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

XV. ADJOURNMENT: The meeting adjourned at 8:08pm.