

REGULAR MEETING MINUTES
Tuesday, August 23, 2022
Via Zoom Webinar

Click <https://www.youtube.com/watch?v=vC5crXVcepc> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Kevin Herington, 2nd Vice Chair
Maxine Clark (arrived at 4:10pm and left at 6:00pm)
Diana Dent

Steve Hsieh
Chris Pink (arrived at 5:07pm)
Ernestine Smith (left at 6:00pm)
Robin Spruce
Nancy Vaughn (arrived at 4:10pm)

Commissioners Absent or Excused:

Andrea Dauber-Griffin

Staff Present:

Sharmaine Moseley, Interim Executive Director
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 4:02pm.
 - 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 Robin Spruce seconded the motion. The motion passed with a vote of 7-0-0. (Time 3:28)

Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Dent, Commissioner Hsieh, Commissioner Smith, and Commissioner Spruce

Nays: None

Abstained: None

Absent/Excused: Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Pink, and Commissioner Vaughn

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 (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: Chair Brandon Hilpert called the meeting to order at 6:03pm.

- VII. REPORT OUT FROM CLOSED SESSION: CPP Outside Counsel, Duane Bennett stated that there was no reportable action.
- VIII. 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.
- 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
- Motion: Commissioner Nancy Vaughn moved for the Commission to approve the CPP Regular Meeting Minutes of July 26, 2022, CPP Regular Meeting Minutes of August 9, 2022, and CPP Regular Meeting Minutes of August 16, 2022. Commissioner Robin Spruce seconded the motion. The motion passed with a vote of 7-0-1. (Time 10:36)**
- Yays: 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Dent, Commissioner Hsieh, Commissioner Pink, Commissioner Spruce, and Commissioner Vaughn**
- Nays: None**
- Abstained: Chair Hilpert**
- Absent/Excused: Commissioner Clark, Commissioner Dauber-Griffin, and Commissioner Smith**
- X. NON-AGENDA PUBLIC COMMENT: Kate Yavenditti, Women Occupy San Diego National Lawyers Guild (*Time 11:46*) Ms. Yavenditti commented on her concerns about the City's meet and confer process for the implementation ordinance. She also commented on information she received regarding the status of the meet and confer and the timing of the release of the ordinance to the public.
- XI. EDUCATIONAL/TRAINING TOPIC
- A. **"Performance Audit of SDPD's Use and Management of Body Cameras"**
Presenters: City Auditor Andy Hanau, Matt Helm, & Danielle Kist
The City Auditors Office team presented its audit of the San Diego's Police Department's officer's usage and management of body worn cameras. The Team analyzed nearly 2 million records, watched 450 body camera videos, conducted more than a dozen interviews with SDPD, and benchmarked with

several other agencies. As a result of the audit, several recommendations were made to SDPD. (Time 14:20)

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. – No feedback or updates.

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.

Motion: Chair Brandon Hilpert moved for the Commission to approve its memo regarding the CPP Policy Committee's recommendations on items previously submitted to SDPD for consideration. Commissioner Nancy Vaughn seconded the motion. The motion passed with a vote of 6-0-1. (Time 1:21:40)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Dent, Commissioner Hsieh, Commissioner Spruce, and Commissioner Vaughn

Nays: None

Abstained: Commissioner Pink

Absent/Excused: 2nd Vice Chair Herington, Commissioner Clark, Commissioner Dauber-Griffin, and Commissioner Smith

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

Commissioner Nancy Vaughn encourages the Commission to reach out to her if they have any ideas for topics.

Chair Brandon Hilpert reported that he has reached out to the County and was informed that the Commission will be able to take a tour of the Medical Examiner's Office. Chair Hilpert also reached out to the Sheriff's Department and requested for the Commission to take a tour of the Central Jail Facilities (dates of availability to come).

- B. Outreach Committee (Robin Spruce)

1. Past Events/Virtual Meetings/Roundtable Discussions –No update
2. Upcoming Events/Outreach Opportunities

Commission Robin Spruce will be reaching out to some of the Community partners that former Commissioner Patrick Anderson was working with. Commissioner Spruce will check in to see what

topics they would like to see covered in the Community Forums. Commissioner Spruce also has some ideas around restorative justice and would like to bring some of those philosophies into CPP. Commissioner Spruce is planning to reach out to the District Attorney's Office to work with a specialist on these items. Interim Executive Director Sharmaine Moseley also recommended reaching out to see if there are any Community Events that the CPP Outreach Committee can participate in.

- C. Rules Committee (1st Vice Chair Doug Case)
 - 1. Update– This item is on hold.
- D. CPP Handbook Committee (1st Vice Chair Doug Case)
 - 1. Update – This item is on hold.
- E. Policy Committee (Chair Brandon Hilpert)
 - 1. Update/Next Policy Committee Meeting
Chair Brandon Hilpert mentioned that there were two Policy Recommendations that will be coming up brought up. Will work with the Policy Committee to get that scheduled out.
- F. Recruitment & Training Committee (2nd Vice Chair Kevin Herington)
 - 1. Update
The CPP is currently accepting and compiling a list of applicants who are interested in becoming a Commissioner. We will hold this information on file until we can move forward with getting that process started after the Implementation Ordinance is approved.
- G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)
 - 1. Update Past & Upcoming Meetings
Chair Brandon Hilpert watched the video of the most recent CAB Meeting. Executive Chief McGrath gave an overview of what is going on with the Police Department. Executive Chief McGrath spoke about the Staffing Levels of the Department, overall Response Times with 9-1-1 calls, Field Training Officers, Homicides and Shooting Events, and went over Miranda Rights. It was shown that the number one issue is the unhoused, and the number two issue is under-policing. There was also a presentation by a Special Agent of the FBI about hate crimes. The video of the meeting is available on the City's YouTube page.
- H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)
The next meeting will be on Friday (8/26) and then the Committee will not meet until mid-September.
 - 1. Budget Update – No current updates.
 - 2. Staffing and Legal Counsel Update – Currently in the recruitment process for a Community Engagement Coordinator and a Supervising Investigator. The next hire will be the Deputy Executive Director. Following will be the hiring of those who will report to the above three positions.
 - 3. Draft Implementation Ordinance & Standard Operating Procedures

Update – This week the Committee will view the first draft of the Investigation Guidelines but cannot finalize those until the Implementation Ordinance has been completed. The implementation timeline has been recently updated (version 11.1).

4. Office Space Update – New location being worked on at 525 B. Street

XV. 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. Internal Affairs Office Hours/Schedule – All Commissioners need to schedule office visits for case review in advance to make sure there is proper staffing in IA office.
3. Upcoming Meeting with SDPD Chief Nisleit & IA – This meeting was supposed to be held on 8/24. However, it was scheduled at the same time as the Academy Training for the Community Bus Tour where Chair Hilpert will be presenting at. This meeting will be rescheduled to early October.

B. Updates

1. Collaboration/Information Sharing with Statewide Oversight Groups – Quarterly meeting between state-wide organizations with good feedback that resulted in the recommendation for SDPD to add audio to BWC. The regional meeting is more Southern California and focused in Los Angeles. All Commissioners are all welcome to attend.
2. Update & Next Steps on Countywide MOU Between County Chiefs & Sheriff Association – No current updates.

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

XVI. EXECUTIVE DIRECTOR’S REPORT (Interim ED Sharmaine Moseley)

- A. Caseload Update and Status of Case Reports- It was reported as of today, the CPP started out with 119 total cases assigned to its Teams. Thirty-seven of those cases are Category II cases. The audits of these Category II cases have been suspended since March due to the backlog of cases. As a result, the Commission has 82 active cases assigned to its Teams. The CPP has at least 4 Category I cases ready to be heard by the Commission on August 30th and will not meet virtually from September 2-12. The Teams were reminded to check their discipline and SRB folders.

For fiscal year 2023 (July 1, 2022–June 30, 2023), the Commission reviewed, deliberated on and closed out a total of 18 cases, all of which were Category I cases. The 18 cases had a total of 113 allegations and 7 other findings. The Commission also evaluated 7 disciplines and 1

shooting review board report and sent a letter to the Chief and Mayor regarding the report.

The statistics for the Team assignments are as follows. There are no in custody death cases assigned to the Teams.

Team 1 has 15 active cases in their queue. Fourteen of those cases are Category I cases. Four of the cases have one or more sustained findings. The Team has 1 OIS case and 7 Category II cases which are on hold.

Team 2 is inactive.

Team 3 has 11 active cases in their queue. Of the 11 cases, 9 are Category I cases. Two of the Category 1 cases have sustained findings. The Team has 2 OIS cases, 1 of which was released by the SDPD under SB1421. The Team also has 2 Category II cases on hold. Team 3 has 1 case ready for the Closed session agenda.

Team 4 has 19 active cases in their queue. Of the 19 cases, 1 is an OIS case and the other 18 cases are Category I cases. Five of the Category I cases have one or more sustained findings. The Team also has 15 Category II cases which are on hold.

Team 5 has 16 active cases in their queue. All of the 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 and no OIS cases in their folder.

Team 6 has 21 active cases in their queue all of which are Category I cases. Two of the 21 cases have one or more sustained findings. The Team also has 7 Category II cases which are on hold and no OIS cases.

Team 7 is inactive.

- B. Planning for CPP Former Member Appreciation/Acknowledgements- Chair Brandon Hilpert reported that once the CPP moves into the new space, the idea is to have an awards recognition and an Open House event in the new office suite. Administrative Assistant Robin Recendez reported out that Mayor Gloria is very interesting in attending this recognition event. All that is missing in moving forward is finalizing a date. Interim Executive Director Sharmaine Moseley will be reaching out to DREAM for further update requests.
- C. NACOLE Annual Conference in Fort Worth, Texas (September 2022) – The Commission is getting ready to attend the NACOLE conference in a few weeks. There will also be a virtual conference on October 26th, November 2nd, and November 9th.

- D. Other Items/Reminders – Executive Assistant Alina Conde reported out to the Commission regarding Commissioners logging in their hours into the Better Impact System. She encouraged commissioners to reach out to her if they are having trouble logging into the system (via web use or app). She further reported that she is working on getting the Subscribe/Unsubscribe feature to be fully functioning on the CPP Website for Community members to request CPP Updates, Meeting Agendas, and Video/Meeting links. The administrative team is currently working on a day-to-day Operations Manual for the Department as this will be a working document.
- 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 – With the Department’s ongoing efforts to be transparent and building Community Trust, on April 16th, 2021 the Department released an order regarding Department Policy 1.04. All sworn personnel will receive training regarding show of force incidents and use of force. In addition, they were to be trained more on Blue Team and the ability to be able to put those incidents into that program. At the advice of legal counsel, rather than sending out a document that would be further changed and edited, it was decided to include all the changes in AV-26 and implement them in Department Policy 1.04. Department Policy 4.17 was posted but was later redacted due to some grammatical errors and errors in content. Once revised, the policies will be re-posted.
 - B. Status of CRB Recommendation in April 2017 Regarding Canine Use of Force Complaints. – Chair Brandon Hilpert or Interim Executive Director will resend this recommendation to EA Chief McGrath to review. As an overview, anytime there is a bite from a Canine, the Supervisor will review the bite for Policy Violations and will review the Operations Manual and will look at any training issues that have come up. If the Sergeant, finds a violation and can be construed as excessive force, the Sergeant will take that report and investigations and give it to Internal Affairs for further investigation. It will be reviewed as any other Category I complaint.
 - C. Updates (Staffing in IA, Training, etc.) – No current updates.
 - XVIII. COMMISSIONER RIDE-ALONG REPORTS: No current reports.
 - XIX. COMMISSIONER ANNOUNCEMENTS/COMMENTS: No announcements or comments.
 - XX. ADJOURNMENT: The meeting adjourned at 7:37pm.