

COMMUNITY REVIEW BOARD ON POLICE PRACTICES

ONLINE MEETING AGENDA

Tuesday, August 25, 2020

MS Teams

A quorum of twelve (12) board members is needed to conduct business. If you cannot attend, please call the CRB Complaint Coordinator at (619) 236-6296.

CLOSED SESSION MEETING

3:00 p.m. – 5:30 p.m.

Board Members and Staff Only

- I. Call to Order
- II. Legal Opinion(s) Request & Attorney/Client Privileged Response(s) (0)
- III. San Diego Police Department Feedback on Case Specific Matters Only
- IV. Shooting Review Board Reports (0)
- V. Category II Case Audit Reports (1)
- VI. Discipline Reports (0)
- VII. Case Review Team Reports (5)
- VIII. Case-Specific Recommendations to the Mayor (0)
- IX. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)

Pursuant to California Government Code Section 54957 — To discuss community complaints brought against San Diego Police Department Officers under California Penal Code Section 832.7.

OPEN/PUBLIC SESSION MEETING

6p.m. – 8p.m.

Open to the Public

This meeting will be available live and online on YouTube. Click [here](#) to view this meeting at its scheduled time.

- I. CALL TO ORDER/WELCOME (Chair Brandon Hilpert)
- II. PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES (CRB)
- III. ROLL CALL (Chair Brandon Hilpert)
- IV. APPROVAL OF MINUTES:
 - A. CRB Special Meeting Minutes of July 22, 2020
 - B. CRB Open Meeting Minutes of July 28, 2020

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

- VI. UNFINISHED BUSINESS (DISCUSSION) (Chair Brandon Hilpert)
 - A. Update on CRB Closed Meetings (Dates and Times)
 - B. CRB Case Review in Internal Affairs
 - i. Feedback on Prioritization of Case Reviews, Work Flow, Staffing
 - ii. Redacted Case Reports
 - iii. Remote Case Access
 - C. CRB Memo Re: Seditious Language

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

- VIII. COMMITTEE REPORTS (DISCUSSION/ACTION)
 - A. Continuing Education Committee (Nancy Vaughn)
 - i. List of Upcoming Educational Topics

 - B. Outreach Committee (Brandon Hilpert)
 - i. Summary of Past Events
 - ii. Upcoming Events/Outreach Opportunities
 - iii. Selection of New Outreach Committee Chair

 - C. Rules Committee (Doug Case)
 - i. Update

 - D. CRB Handbook Committee (Doug Case)
 - i. Status of Resource Handbooks
 - ii. Next Steps – Meeting on August 27th at 9am

 - E. Policy Committee (Brandon Hilpert)
 - i. Status on Items being Considered Committee
 - ii. Next Policy Committee Meeting
 - iii. Selection of New Outreach Committee Chair

 - F. Recruitment & Training Committee (Kevin Herington)
 - i. Update on New Member Appointment – 8 Candidates
 - Background Checks
 - Phase Trainings
 - Appointments & Confirmations

 - G. Citizens Advisory Board on Police Community Relations (Brandon Hilpert)
 - Update

 - H. Transition Planning (Doug Case)
 - i. Committee Members
 - ii. Meeting on August 28th at Noon

- IX. CHAIR'S REPORT (Chair Brandon Hilpert) **5 min**
- A. Reminder-1st Quarter (July 1st - September 30) Volunteer Hours Report - All members please make sure that you log your hours in for reporting purposes
 - B. Updated Work Plan
 - C. Committee Assignments
 - D. Other Items/Reminders
- X. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley) **5 mins**
- A. Caseload Update & Status of Case Reports
 - B. Board Member Vacancies/Resignations
 - C. Transition from MS Teams to Zoom Platform
 - D. Other Items/Reminders
- XI. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Al Guaderrama) **3 mins**
- A. Updates
- XII. BOARD MEMBER RIDE-ALONG REPORTS (2 mins each)
- XIII. BOARD MEMBER ANNOUNCEMENTS/COMMENTS
- XIV. ADJOURNMENT

Materials Provided:

- Minutes from CRB Special Meeting on July 22, 2020 DRAFT
- Minutes from Open Session Meeting on July 28, 2020 DRAFT
- CRB Memo Re: Seditious Language
- City Attorney Response to CRB Request Re: Seditious Language
- Updated Work Plan

Comment on Agenda Items must be submitted using [webform](#), checking the appropriate comment type box, and indicating the agenda item number they wish to submit their comment for. Instructions for word limitations and deadlines are noted on the [webform](#). On the [webform](#), members of the public should select Community Review Board on Police Practices (even if the public comment is for a Community Review Board on Police Practices Committee meeting). Only comments submitted no later than 4:00 p.m. the day prior to the meeting using the public comment form will be eligible to be read into the record. If you submit more than one form per item, only one will be read into the record for that item. **Comments received after 4:00 p.m. the day prior and before 8:00 a.m. the day of the meeting** will be provided to the Board and posted online with the meeting materials. All comments are limited to 200 words. Comments received after 8:00 a.m. the day of the meeting but before the item is called will be submitted into the written record for the relevant item.

Non-Agenda Public Comment must be submitted using [webform](#) and checking the appropriate comment type box in order to be eligible to be read into the record. The City staff will read the first 30 comments received by 4:00 p.m. the day before the meeting. However, if there are less than 30 comments submitted by 4:00 p.m. the day before the hearing, the City will read comments submitted by 8:00 a.m. on the day of the meeting up to a total of 30 comments. The maximum number of comments to be read into the record on a single issue will be 16. Comments submitted by 8:00 a.m. the day of the meeting will be provided to the Board or Commission, made a part of the record, and posted with the meeting materials. All comments are limited to 200 words. Comments received after 8:00 a.m. the day of the meeting but before Non-agenda comment is called will be submitted into the written record for the meeting.

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

COMMUNITY REVIEW BOARD ON POLICE PRACTICES

SPECIAL MEETING

**Wednesday, July 22, 2020
6 p.m. – 7:45 p.m.
MS Teams Online**

MINUTES

Click [https://youtu.be/- IM6KzCU8Q](https://youtu.be/-IM6KzCU8Q) to view this meeting on YouTube.

Members Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Poppy Fitch, 2nd Vice Chair
Patrick Anderson
Maxine Clark
Joe Craver
Gregory Daunoras
Diana Dent

Kevin Herington
Sheila Holtrop
Steve Hsieh
Mary O'Tousa
Ernestine Smith
Pauline Theodore
Nancy Vaughn
Marty Workman

Members Absent: None

Community Review Board on Police Practices (CRB) Staff Present:

Sharmaine Moseley, Executive Director

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- I. **CALL TO ORDER/WELCOME:** Chair Brandon Hilpert called special meeting to order at 6:00pm.
 - II. **PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES:** Chair Brandon Hilpert explained the purpose and responsibilities of the Community Review Board on Police Practices (CRB) to the public.
 - III. **ROLL CALL:** Executive Director Sharmaine Moseley conducted the roll call.
 - IV. **EDUCATIONAL TOPIC:** “Overview of City of San Diego Charter Amendment to Establish an Independent Commission on Police Practices”: Chair Brandon Hilpert introduced Presenter: Andrea St. Julian, Esq.

Overview: The Independent Commission will provide the ability and support needed to fully meet the expectations of the community with respect to oversight of the police.

1. The Commission will be independent from the San Diego Police Department and Mayor's office.
2. It will be fully empowered with more support and power.
3. Charter amendment – In November, once the ballot measure is passed, an ordinance will be enacted by the City Council which will govern the Commission.
4. Main Duty of Commission – To receive all complaints regarding Police officers and Police department. Independently review and evaluate all complaints, findings, conclusions by Police department and its disciplinary decisions. The Commission will have certain duties and powers for investigation, review, and auditor/monitor. It is a hybrid model.
5. Investigatory duty: The Commission will be required to do a full investigation for in-custody death (ICD) and officer-involved shooting (OIS) cases which amounts to 6-12 cases yearly. They will be able to subpoena witnesses and documents. The Commission will have discretion to investigate any complaints that are not required to investigate (i.e. Miscellaneous Complaints, and/or repeated complaints).
6. Auditor/monitor functions: The Commission is to review/evaluate the police, procedures, practices, and actions. They will make specific recommendations to the Police department, Mayor, and City Council on any policies, procedures, practices and actions of the Police.
7. Transition: The CRB will transition over to the new commission. They will remain commissioners until he/she resigns or a new member is appointed by the City Council. The Commission will nominate the Executive Director. The Executive Director serves at the will of the Commission. The Commission will nominate and the City Council will appoint the Executive Director.
8. Commissioner Service: Commissioners will be appointed by the City Council.
9. Commission Support: The Commission will have independent legal counsel and will be able to hire/supervise investigators of their choosing, and policy analysts.
10. Commission Cost: 1.1 million – 2.3 million annually. This is reasonable considering the 4 million average annually spent on lawsuit payments.
11. Ordinance: San Diegans for Justices seeks input from CRB members and the community.

V. **QUESTIONS & ANSWERS REGARDING CHARTER AMENDMENT TO ESTABLISH AN INDEPENDENT COMMISSION ON POLICE PRACTICES (20 mins)**

1. Member Marty Workman: Why is average pay out mentioned for police department lawsuits compared to the Commission's cost?

A: With the Commission's recommendations to the police, our hope is that lawsuit payouts will decrease.

2. Member Patrick Anderson: Did San Diegan Justice discuss the timings on when the Commission is to investigate the cases? Meaning will investigations be at the same rate or after Internal Affairs?

A: It would make sense to have an investigation coextensive with the Police. These decisions can be dealt with when making the Ordinance.

2a. Do you have ideas who will be taking complaints?"

A: My assumption is the new Commission (CPP) will be receiving the complaints. I understand that some complaints will be made to the Police. It should be required that a complaint made to the Police Department be forwarded to the CPP.

Member Anderson Comment: I urge we have staff to take in complaints with Executive Director Sharmaine Moseley.

A: There will be staff that will meet and support the Executive Director and Commission's needs.

3. Member Mary O'Tousa: What happened to the ordinance timeline?

A: We had 90-120 days to propose an ordinance. However, the City Council took out the timeline because they do not want to be under pressure. The only thing we can do is make our voices heard. The charter amendment is self-executing and will go into effect once it is passed. Not sure if there is a date.

4. Member Greg Daunoras: Because there will be more than 12 cases a year, what will happen to the rest of the cases that need to be reviewed?

A: With the number of cases you must review annually, it is those cases you have the duty to fully investigate. Those cases are ICD and OIS cases. You all have the right review/evaluate other cases/, and it is up to your discretion if you think there's a need of a full/partial investigation.

5. Second Vice Chair Poppy Fitch: Do you think auditor/monitor functions will address the complaints on discrimination?

A: Based on the PD records/info on racial profiling, there is no doubt there is Racial Profiling with SDPD, and cannot imagine that it requires

the Commission to address this problem with the help of the auditor/monitor function.

5a. May you talk about the movement of the Police department budget reallocating to helpful resources that pertain to issues such as mental illness/homelessness?

A: That auditor/monitor function will help you evaluate policies and practices and have the analysts help you figure out the best recommendations.

6. Member Kevin Herington: When it comes to recommendations, would it directly go through the Executive Director, Police Department, or City Council?

A: We can discuss the process when it comes down to making the ordinance. What are your thoughts on it?

Comment: We should be able place recommendations in the departments hands.

6a. Will we be able instruct staff to help advertise/recruit for the Commission via social media?

A: In the early start of the ordinance, it is the duty of the Commission to make everything as public as possible. Social media can be placed in the ordinance.

7. First Vice Chair Doug Case: May you explain the scope of the review process and your vision on how reviewing cases would be different from how we do it currently?

A: The ordinance can help to get all those complaints. The Commission will be able to make recommendations to Internal Affairs as well. The review process will hopefully be as thorough as you want it to be.

7a. The ordinance will take effect 30 days after election. Given the experiences of the implementation of Measure G, how will the Commission operate between the waiting times. Could City Council enable the CRB to operate as usual until the Commission takes affect during the waiting period. Adopt an ordinance perhaps?

A: It will be up to the City Council.

7b. What will be the role of the Citizens Advisory Board on Police Community Relations (CAB)?

A: If the City Council feels they need it, it will be up to them. It may not have a purpose anymore because the Commission will be taking care of CABs role with its audit/monitor function.

8. Member Marty Workman: Is POBAR buying into the fact that we will be able to make recommends for police discipline?

A: The new Commission recommendations are just recommendations. It will still be up to SDPD to evaluate and consider the

recommendation. It will be fair because it will be balance. You will have professional experts to help you make those recommendation.

9. Chair Brandon Hilpert: We should be exploring and having more talks with Internal Affairs about the Charter amendment because I think they believe once they make their investigation, they can make decisions on disciplines on their own and be done.

A: IA need to read the charter amendment.

9a. Our charter amend is not meshing well with their interpretation.

A: The charter amendment is clear on how the Commission will be operating.

10. Member Marty Workman: Will the Commission be having meetings similar to what CRB is currently doing (i.e open/closed) ?

A: It will be up to the City council.

11. Member Steve Hsieh: How will the new commission improve/increase accountability since recommendations are taken in discretion of Mayor/Chief of Police?

A: The Commission will be backed up and supported with thorough evaluation by professional investigation/policy analyst. It can be difficult talking to the Police to try and understand what is right and what is best unless you have support and guidance from a professional. Because you will have access to professionals, this will help influence your recommendations through expertise.

12. Member Patrick Anderson commented that what makes this proposal produce more accountability is in the investigatory powers. This will help the teams gain more knowledge/information in cases. Those were the limits we faced as board members due to unanswered questions.

13. First Vice Chair Doug Case: Can we make appeal recommendation to the civil service commission?

A: We will see how it plays out in ordinance. However, I do not see it being a problem.

14. Chair Hilpert: The Charter Amendment says we can subpoena all witness /police documents ?

A: The new Commission can subpoena anybody period. Once the Commission has the power to do it, SDPD will enter in an MOA with the Commission.

15. Member Nancy Vaughn commented that assuming this charter passes, the memoranda of agreement of complaints and records will

disappear. This is something that takes time to work out and it will be a hard/long transition.

A: Let's try to work together within the 6 months to make the process as smooth as possible by making proposals. This may be a good place to start planning a proposal and having transition committee. That way the transition goes smoothly and there is no wait.

- VI. PUBLIC COMMENT: No public comment received
- VII. NEXT STEPS FOR THE BOARD: Chair Brandon Hilpert stated that the creation of an Ad-Hoc subcommittee will be placed on the next open meeting agenda for discussion.
- VIII. CLOSING REMARKS & ADJOURNMENT: The meeting adjourned at 7:46 p.m.

DRAFT

OPEN SESSION MEETING MINUTES

Tuesday, July 28, 2020

6 p.m. – 8 p.m.

MS Teams Online

Click <https://www.youtube.com/watch?v=XpWj1fu-qug> to view this meeting on YouTube.

Members Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair
Poppy Fitch, 2nd Vice Chair
Patrick Anderson
Maxine Clark
Joe Craver
Gregory Daunoras
Diana Dent

Kevin Herington
Sheila Holtrop
Steve Hsieh
Mary O'Tousa
Ernestine Smith
Pauline Theodore
Nancy Vaughn
Marty Workman

Members Absent: None

Community Review Board on Police Practices (CRB) Staff Present:

Sharmaine Moseley, Executive Director

San Diego Police Department (SDPD) Staff Present:

Mike Holden, Internal Affairs Captain
Corissa Pich, Internal Affairs Lieutenant
Andrea Amado, Internal Affairs Detective

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- I. **CALL TO ORDER/WELCOME:** Chair Brandon Hilpert called the meeting to order at 6:01 p.m.
 - II. **PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES:** Chair Brandon Hilpert explained the purpose and responsibilities of the Community Review Board on Police Practices (CRB) to the public.
 - III. **ROLL CALL:** Executive Director Sharmaine Moseley conducted the roll call.
 - IV. **APPROVAL OF MINUTES:** CRB Open Meeting Minutes of June 30, 2020

The Board reviewed the minutes. Board member Patrick Anderson stated that on page 6 of the minutes under the Elections item, it should read the number of votes for “Poppy Fitch” instead of “Doug Case.” Board member Mary

O'Tousa moved for the Board to approve its June 30, 2020 meeting minutes with stated correction. Board member Joe Craver seconded the motion.

The motion passed with a vote of 14-0-2.

Yays: 1st Vice Chair Case; Members- Anderson, Clark, Craver, Daunoras, Dent, Herington, Holtrop, Hsieh, O'Tousa, Smith, Theodore, Workman, and Vaughn

Nays: None

Abstain: Chair Hilpert and 2nd Vice Chair Fitch

Members Absent: None

- V. **NON-AGENDA PUBLIC COMMENT:** Executive Director Sharmaine Moseley read non-agenda public comments received from: Duke M. Taylor

Full details of all non-agenda public comments (including the comments from the above listed individuals) submitted by the deadline are posted to the CRB's website.

- VI. **UNFINISHED BUSINESS (DISCUSSION)** (Chair Brandon Hilpert)
- A. **Status of CRB Closed Meetings** –CRB held its first virtual Closed Meeting prior to tonight's Open Meeting and completed two cases. Due to the backlog in cases, Chair Hilpert suggested that the Board meet twice a week (Tues/Thurs) or just Tuesdays to catch up on the cases that are ready for Board deliberation. 2nd Vice Chair Fitch stated concern about officer's names being redacted from the cases and not knowing who the officers are. She also wants the Board to make sure that complainant's names are redacted as well if they will continue redacting officer names. Chair Hilpert is scheduled to meet with Captain Holden to discuss the redaction concern. Executive Director Moseley clarified that Board members will receive the officer's names prior to the Closed meeting. The Board's preference is to not have redacted case reports. A poll will be sent to the Board in order to schedule extra Closed Session Meetings.
- B. **CRB Case Review in Internal Affairs**
- i. **IA Hours & Procedures** –IA extended hours for CRB review during the weekends and weekdays. Reminder for the CRB members to call/email Detective Amado to reserve a room.
- ii. **Remote Case Access** –IA will be meeting with Riverside's independent auditor to see how they access cases. Riverside uses a system called Laserphish where Internal Affairs upload all their files into the system. SDPD's Internal Affairs staff and CRB leadership plan to schedule time with Riverside to view the system.
- VII. **NEW BUSINESS (DISCUSSION/ACTION)** (Chair Brandon Hilpert)
- A. **Amend CRB Bylaws Article IV (Officers), Section 2.B (Succession) and Section 2.A (Election)**

ACTION ITEM: Motion for the Board to amend CRB Bylaws Article IV (Officers), Section 2.B (Succession) and Section 2.A (Election) to replace “by show of hands” in those sections with “roll call vote.”

Member Joe Craver moved for the Board to amend CRB Bylaws Article IV (Officers), Section 2.B (Succession) and Section 2.A (Election) to replace “by show of hands” in those sections with “roll call vote.”

The motion passed with a vote of 15-0-1.

Yays: 1st Vice Chair Case, 2nd Vice Chair Fitch; Members- Anderson, Clark, Craver, Daunoras, Dent, Herington, Holtrop, Hsieh, O’Tousa, Smith, Theodore, Workman, and Vaughn

Nays: None

Abstain: Chair Hilpert

- B. Amendment to the Administrative Standing Rule on Redacted Case Summaries

ACTION ITEM: Motion for the Board to adopt the implementation language to amend its Administrative Standing Rule on Redacted Case Summaries to require CRB Teams to write redacted case summaries for officer-involved shooting, in-custody death, and Category II cases.

1st Vice Chair Doug Case moved for the Board to adopt the implementation language to amend its Administrative Standing Rule on Redacted Case Summaries to require CRB Teams to write redacted case summaries for officer-involved shooting, in-custody death, and Category II cases.

Member Joe Craver seconded the motion.

The motion passed with a vote of 15-0-1.

Yays: 1st Vice Chair Case, 2nd Vice Chair Fitch; Members- Anderson, Clark, Craver, Daunoras, Dent, Herington, Holtrop, Hsieh, O’Tousa, Smith, Theodore, Workman, and Vaughn

Nays: None

Abstain: Chair Hilpert

- C. Amendment to the Redacted Case Summary Elements

ACTION ITEM: Motion for the Board to adopt the revisions to the Redacted Case Summary Elements to require CRB Teams to avoid using gender neutral terms in its redacted case summaries. Chair Hilpert suggested a friendly amendment to change “neutral” to “specific”.

1st Vice Chair Doug Case moved for the Board to adopt the revisions with the friendly amendment to the Redacted Case Summary Elements to require CRB Teams to avoid using gender specific terms in its redacted case summaries.

A second motion is not required since the item came from the Rules Committee.

The motion passed with a vote of 15-0-1.

Yays: 1st Vice Chair Case, 2nd Vice Chair Fitch; Members- Anderson, Clark, Craver, Daunoras, Dent, Herington, Holtrop, Hsieh, O'Tousa, Smith, Theodore, Workman, and Vaughn

Nays: None

Abstain: Chair Hilpert

- D. Consideration of a CRB Position on the Proposed Charter Amendment to Establish an independent Commission on Police Practices – The Board discussed this item decided to not take a position on this item.

ACTION ITEM: Motion for the Board to consider taking a position on the proposed charter amendment to establish an independent Commission on Police Practices

Member Joe Craver moved for the Board to remain neutral on the proposed charter amendment to establish an independent Commission on Police Practices

Member Mary O'Tousa seconded the motion.

The motion passed with a vote of 11-4-1.

Yays: Members- Clark, Craver, Daunoras, Dent, Herington, Hsieh, O'Tousa, Smith, Theodore, Workman, and Vaughn

Nays: 1st Vice Chair Case, 2nd Vice Chair Fitch; Members – Anderson, Holtrop

Abstain: Chair Hilpert

- E. Creation of an Ad Hoc Committee for Transitioning to the Independent Commission on Police Practices to plan for the possibility that the proposed charter amendment measure is enacted

ACTION ITEM: Motion for the Board to create an Ad Hoc Committee for Transitioning to the Independent Commission on Police Practices

Member Mary O'Tousa moved for the Board to create an Ad Hoc Committee for Transitioning to the Independent Commission on Police Practices

Member Joe Craver seconded the motion.

The motion passed with a vote of 13-2-1

Yays: 1st Vice Chair Case, 2nd Vice Chair Fitch; Members- Anderson, Craver, Dent, Herington, Holtrop, Hsieh, O'Tousa, Smith, Theodore, Workman, and Vaughn

Nay: Members – Clark and Daunoras

Abstain: Chair Hilpert

VIII. COMMITTEE REPORTS (DISCUSSION/ACTION)

- A. Continuing Education Committee (Nancy Vaughn)
 - i. List of Upcoming Educational Topics – Committee Chair Nancy Vaughn reported she will be sharing the highlights of NACOLE's presentations in the CRB Open Meeting in September.
- B. Outreach Committee (Brandon Hilpert)
 - i. Summary of Past Events – N/A
 - ii. Upcoming Events/Outreach Opportunities – N/A
- C. Rules Committee (Doug Case)
 - i. Status on Items being Considered Committee – Committee Chair Doug Case reported the committee did not meet this month.
 - ii. Next Rules Committee Meeting – No items considered at this time.
- D. CRB Handbook Committee (Doug Case)
 - i. Committee Chair Doug Case reported he wants to place the CRB handbook on the CRB's website so new board members may have an electronic copy of it. He will schedule a meeting of the committee.
- E. Policy Committee (Brandon Hilpert)
 - i. Status on Items being Considered Committee – Chair Brandon Hilpert reported the committee and SDPD are working on a protest stand-alone policy. Once it is formalized, the committee will bring it to the board to be discussed.
- F. Recruitment & Training Committee (Kevin Herington)
 - i. Update on New Member Appointment Committee Chair Herington reported six people have been interviewed, and background checks are being processed. The next step is for the City Council to confirm the 2 newly appointed members and assign them to CRB Teams.
- G. Citizens Advisory Board on Police Community Relations (Chair Brandon Hilpert)
 - Update – CAB did not meet this month.

- IX. CHAIR'S REPORT (Chair Brandon Hilpert)
- A. Reminders -1st Quarter (July 1st-September 30th) Volunteer Hours Report - All members please make sure that hours are logged in for reporting purposes.
 - B. Other Items/Reminders - Reminder for members to be mindful of weird wall art, shirts, etc. when participating in these virtual meetings because the community can see it.

X. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)

- A. Caseload Update & Status of Case Reports
It was reported that as of today, 68 cases have been assigned to the Teams. Out of the 68 cases, 28 were completed by the Teams and 3 of the 28 cases were deliberated by the Board at our Closed Meeting earlier tonight. The CRB teams now have 25 cases ready for Board deliberation.

The Team summaries are as follows:

Team 1- 9 cases (2 completed and ready for the Board, 7 cases left for review and 6 cases were assigned during COVID)

Team 2 - 11 cases (7 completed and ready for the Board; 4 active cases are left for review-all of which were assigned during COVID)

Team 3 - 11 cases (3 completed and ready for the Board; out of the 6 active cases left for review, one Cat II was received prior to COVID, one Cat II was received during COVID and 4 regular cases received during COVID)

Team 4 - 9 cases (3 completed and ready for the Board. The 6 remaining cases were reassigned to Team 7 and Team 4 has been temporarily dissolved. The team members were moved to Team 7)

Team 5 - 10 cases (4 were assigned prior to COVID, and 6 were received during COVID). This Team has been dissolved and is currently inactive. 9 of the 10 cases will be reassigned to the other active Teams.

Team 6 - 10 cases (5 completed and ready for the Board, 2 of which were deliberated on by the Board at our earlier Closed Meeting). Team 6 has 5 cases left, all of which were assigned during COVID.

Team 7 - 14 cases (8 completed and ready for the Board one of which was heard by the Board earlier tonight. The 6 cases left for Team 7 were the cases that were reassigned from Team 4).

In conclusion, the Board had 68 total active cases, 3 were deliberated and closed by the Board earlier tonight. After tonight, the Teams have 25 completed cases ready for the Board and are working on 40 active cases.

- B. Board Member Vacancies/Resignations – Currently, the Board is down to 16 members and 7 vacancies. The Board has 2 members who were appointed by the Mayor several months ago. They have been trained by the CRB’s Recruitment Committee and leadership but are still waiting on confirmation by the City Council. Reappointments, appointments and confirmations will possibly take place in September.
- C. Other Items/Reminders – The registration for the virtual 2020 NACOLE Conference is now open. The cost is \$275 for 30 plus sessions and \$30 for each individual session. Members have to cover the cost of their registration. The sessions are an 1-1.5 hours long. If you miss a live session you can still watch it at a later time.

XI. SAN DIEGO POLICE DEPARTMENT REPORT (Captain Mike Holden) **5 mins**

- Updates – The IA operation manual has been updated per CRBs recommendation regarding subject officers having access to other officer’s videos prior to being interviewed. It is posted online and available to the CRB in IA.

XII. BOARD MEMBER RIDE-ALONG REPORTS – N/A

XIII. BOARD MEMBER ANNOUNCEMENTS/COMMENTS - None

XIV. ADJOURNMENT: The meeting adjourned at 8:08 p.m.



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: August 7, 2020

TO: Honorable Mayor Kevin L. Faulconer
David Nisleit, Chief, San Diego Police Department
Honorable City Attorney Mara Elliott, City of San Diego
Honorable Council President Georgette Gomez
Members of the City Council

FROM: Brandon Hilpert, Chair, Community Review Board on Police Practices
via Sharmaine Moseley, Executive Director, Community Review Board
on Police Practices *SM*

SUBJECT: Recommendation to Revise or Rescind Section 56.30 of the Municipal
Code (Seditious Language) and Discontinue SDPD Citations

This memo is to communicate that at its Open Meeting on May 28, 2019, the Community Review Board on Police Practices (CRB) voted unanimously (19-0-1) to submit a letter to the Mayor and City Attorney's Office requesting the City of San Diego to evaluate and consider updating (or rescind) Section 56.30 of the San Diego Municipal Code.

In the process of examining community generated complaints, the City's "seditious language" provision (Municipal Code Section 56.30)¹ has been brought to the attention of the CRB. This code was adopted in 1918, most likely to reflect community standards at the time. In short, this code states the use of seditious language (typically profanity) is a misdemeanor offense.

Although this may be a legacy code, it is being actively enforced by San Diego Police Department (SDPD) officers. Since 2013, SDPD has issued 83 citations under this code. However, it should be noted that SDPD officers are issuing citations, typically as infractions, therefore bypassing the judicial system.

In a recent *Voice of San Diego* article, it was noted: "Hilary Nemchik, a spokeswoman for the San Diego City Attorney's office, which prosecutes misdemeanors, said her office hadn't been aware police were enforcing a section of the municipal code prohibiting seditious language. She called it 'antiquated' and said deputy city attorneys would not prosecute anyone for it."

¹ <https://docs.sandiego.gov/municode/MuniCodeChapter05/Ch05Art06Division00.pdf>

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Honorable Mayor Kevin L. Faulconer
David Nisleit, Chief, San Diego Police Department
Honorable City Attorney Mara Elliott, City of San Diego
Honorable Council President Georgette Gomez
Members of the City Council
August 7, 2020

Multiple court cases across the country strongly indicate that this ordinance is most likely illegal and unenforceable due to First Amendment rights. For example, *Cohen v California*² in 1971 and *Reno v. ACLU*³ in 1997, where the U.S. Supreme Court decided that such aspects of seditious language are constitutionally protected speech.

In addition to our request to update (or rescind) Section 56.30 of the San Diego Municipal Code, we respectfully recommend that SDPD cease issuing citations under this section of the Municipal Code for individuals using profanity.

The CRB thanks you for your attention to this matter. If you have any questions please do not hesitate to contact me at 619-548-8002.

Sincerely yours,



Brandon Hilpert, Chair
Community Review Board on Police Practices

cc: Kris Michell, Chief Operating Officer
Aimee Faucett, Chief of Staff, Office of the Mayor
Andrea Tevlin, Independent Budget Analyst
Francis Barraza, Deputy Chief of Staff for Community Engagement, Office of the Mayor
Jessica Lawrence, Director of Policy & Council Affairs, Office of the Mayor
Al Guaderrama, Executive Assistant Chief, San Diego Police Department
Mike Holden, Captain of Internal Affairs, San Diego Police Department
Joel Day, Director, Office of Board and Commissions
Members of the CRB

² <https://supreme.justia.com/cases/federal/us/403/15/>

³ <https://supreme.justia.com/cases/federal/us/521/844/>

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 10, 2020

TO: Brandon Hilpert, Chair, Community Review Board on Police Practices
Sharmaine Moseley, Executive Director, Community Review Board on
Police Practices

FROM: City Attorney Mara W. Elliott

SUBJECT: Ordinance to Remove Section 56.30 of the Municipal Code (Seditious
Language)

Dear Chair Hilpert and Executive Director Moseley,

Thank you for contacting my Office regarding the CRB's concerns about section 56.30 of the San Diego Municipal Code (Prohibited -- Seditious Language). As noted in your memorandum, our Office does not prosecute under this antiquated Code section.

Following news accounts that the San Diego Police Department continues to use section 56.30, our Office initiated the process to repeal that section from the Municipal Code. To that end, we intend to present an ordinance to the Public Safety and Livable Neighborhoods Committee when it returns from Legislative Recess.

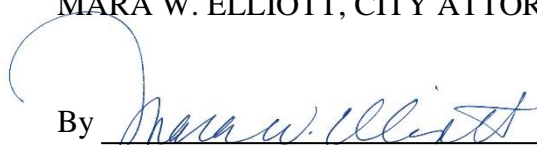
Every San Diegan and every American has a constitutional right to free speech to criticize government. These rights have never been more important than they are today.

We welcome your continued engagement as we move through the process of removing this outdated Code section.

Sincerely,

MARA W. ELLIOTT, CITY ATTORNEY

By


Mara W. Elliott
City Attorney

Chair Brandon Hilpert and Executive Director Sharmaine Moseley

August 10, 2020

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MS-2020-21

Doc. No.: 2445472

cc: Honorable Mayor Kevin L. Faulconer
David Nisleit, Chief, San Diego Police Department
Honorable Council President Georgette Gómez
Honorable Members of the City Council

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

General CRB Work/Executive Director/Chair/Executive Cabinet

Task/Issue	Process	Completion Goal
Weekly meeting in person or telephone with the Chair and the Executive Director		Ongoing
Quarterly meetings with SDPD (IA Captain and Executive Assistant Chief) and Director of Boards and Commissions		Ongoing
Annual meeting with the Chair, Executive Director and the Chief		
Annual meeting with the Chair, Executive Director and President of the POA		
Reinstitute annual luncheon with Chair, Executive Director, Past Chairs, Past Executive Directors, SDPD Chief and Executive Assistant Chief		May 2019
Quarterly meeting with Chair, Executive Director and Director of Boards & Commissions and as needed <i>This is in addition to the bi-weekly meetings with the Director of Office of Boards & Commissions and the Executive Director.</i>		Ongoing
Quarterly meetings with Chairs of the CRB, Citizens Advisory Board on Police/Community Relations, and Commission on Gang Prevention and Intervention		Ongoing
Annual election of officers	Nominating Committee to be elected at the April 2019 meeting	June 2019 Open Meeting
<u>Annual election of officers</u>	<u>Nominating Committee to be elected at the April 2020 meeting</u>	<u>June 2020 Open Meeting</u>
Annual re-appointment of board members	<u>Process to be defined in Municipal Code amendment to implement Measure G Appointments and re-appointments submitted to Mayor/City Council</u>	<u>TBD September 2020</u>
Recognition awards for departing members	Executive Director to request Admin Asst. to prepare the awards	TBD
Swearing-in of FY 2019 Board Members	✓	Completed
Swearing-in of FY 2020 Board Members		TBD
NACOLE Conference (September 30 – October 4, 2018, St. Petersburg)	Sharmaine, Doug, and IA Captain attended ✓	Completed
NACOLE Conference (September 22- September 26, Detroit Michigan)	Sharmaine, Taura and Nancy attended. ✓	Completed
<u>NACOLE Virtual Conference (July 20-September 22)</u>	<u>Various CRB Members attending.</u>	<u>Pending</u>
Update the Work Plan monthly	To be done after each Executive Committee meeting	Ongoing

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Presentations to City Council's Public Safety and Livable Neighborhoods (PS&LN) Committee	April and November of each year	Ongoing
Chair to Meet Individually twice a year with members of the PS&LN Committee		TBD
Strategic Planning CRB Retreat	January 2019 ✓	Completed
Plan two social events per year (holiday party and another event)	Dec 4, 2018 Holiday Party ✓ Boat Outing CRB 30 th Anniversary Celebration ✓	Completed Spring 2019 November 2019
Conduct training for new graduates from the Police Academy	Presentations to New Officers	Ongoing
Develop a more defined intake process, including CRB role in receiving complaints, compiling statistics and tracking ALL complaints	Executive Director given access to IA complaint database ✓ Developing one complaint form ✓ Creating Open Data Portal ✓	April 2019 September 2019 September 2019
CRB 30 th Anniversary Event	Event held November 14 th ✓	Completed
Organize annual relationship building session with CRB and IA staff to help each group to fully understand each other's roles and responsibilities		
Debriefing with Chair, Executive Director and IA Captain after each closed meeting		Ongoing
Annual meetings with Chair and Executive Director individually with each team to share and receive feedback		Ongoing
Quarterly Team Leader Meetings	Discuss issues, concerns, upcoming training, etc.	Ongoing
Monthly Executive Committee meetings	One week before Open Meeting	Ongoing
Community Leadership Summit	Participate in City-wide Boards/Commissions leadership summit.	September 2019

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Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Rules Committee

Issue to be Explored	Process	Completion Goal
Study possibility of remote review of team case reports by CRB members prior to the Closed Meeting	Team reports would be sent to the Executive Director upon completion. Will require discussion with technology services to determine a secure way to review reports and may involve the need to purchase special laptops and/or software licenses.	June 2020
Publication of redacted minutes of closed meetings with case detail similar to that published by CLERB.	Procedure to be voted on at October 22, 2019 open meeting. Implementation to begin January 2020.	January 2020
Formalize Category 2 Audit Process	Operational Standing Rule approved by the board May 15, 2019. Team leaders trained and implementation begun. (Doug to work on a template for reports – October 2019)	Completed
Update bylaws to be consistent with Measure G and complete the Standing Rule on Case review, consistent with the Standard Operating Procedures	Approved by the board 9/25/2018	Completed
Consider option of referring disagreements to the Chief of Police prior to referral to the Mayor	Would need to be added to the Operational Standing Rules for Case Review	January 2020
Review member discipline process in the bylaws	Included in revised bylaws, approved by the board 9/25/2018	Completed
Develop procedures for reviewing Shooting Review Board reports	Completed and approved by the board June 6, 2019	Completed
Complete Operational Standing Rule on Case Review Procedures	Completed and approved by the board 9/25/2018	Completed
Discussion on Comments by Teams	Matrix added to Administrative Standing Rule on Format and Presentation of CRB Case Review Board Reports. Approved by the board August 27, 2019	Completed
Creation of Tactical Plan	Completed and approved by the board April 23, 2019	Completed
Creation of Social Media Policy	Assigned to 1 st Vice Chair Brandon Hilpert	January 2020

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Policy Committee

Issue to be Explored	Process	Completion Goal
Recommendation on formal vs. informal complaints	Policy committee to review and if approved, submit to full board for consideration.	May 2019
Work with SDPD on recommendation to provide complainants with a card/note/document detailing the complaint process and the next steps they can expect.	SDPD and CRB have created a single complaint form in both English and Spanish and is currently being used in the field.	Completed September 2019
Procedure & Guideline for SDPD Complaint Intake		
Development of Third-Party Mediation for Certain Complaints	Nancy is utilizing learnings from NACOLE and will present to Board best practices for mediation opportunities	<u>February 2020</u> <u>On Hold pending Measure B vote</u>
Review SDPD Use of Force Policy & PERF Guiding Principles on Use of Force in Relation to Persons with Mental Health Issues		Completed 10/18
Best Practices Research for LE Investigations Involving Discrimination Allegations	Patrick is conducting research from agencies nationwide and will present to the Board for review and recommendations.	March 2020
Ensure that CRB receive a written reply within 60 days from SDPD regarding all policy recommendations		Ongoing
De-escalation Policy -SDPD Chief agreed to create a policy on de-escalation	<u>Completed, SDPD implemented. ✓</u>	<u>Completed</u> May 2019
Procedure & Statistics for Internal Affairs Tolling of Cases	Received a detailed description of tolled cases from IA in May-July 2019. Cases are tolled for various reasons including pending legal cases. CRB is working to clarify and note in case reports the circumstances and reasons for any case being delayed/tolled.	Completed Summer 2019
Complaint Process Guide Card Issued to All Sworn Personnel	Taura has a card proposed and will be presenting to Policy for a formal recommendation to be made to the full Board.	January 2020
<u>SDPD Protest Policy</u>	<u>Recommendation for SDPD to create an official protest policy. Policy Committee to forward to full board for vote.</u>	<u>September 2020</u>
Use of Force and Juveniles		
Encourage Gang Suppression Team to be involved with Community Events		

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Community Outreach Committee

What	Intention of Outreach	When	Who	Completion Goal
Community Town Hall and SDPD Captain's Advisory Board Meetings, other SDPD events and community events	Attend City Council District Town Halls and SDPD CAB Meetings to inform attendees about CRB. Clarify CRB Purpose, Complaint process, and seek Board membership applicants. Recruit Board volunteers to identify opportunities within each city district/division.	Varies	Community Outreach Committee Members or Board members	Partially completed May 2019: volunteers for reach out completed, not all results back.

Issue to be Explored	Process	Completion Goal
Consider if CRB should host quarterly Community Informational Meetings	Review with Outreach Committee	January 2020 On Hold pending COVID-19
Utilize press releases, CRB web-site and social media for recruitment, awareness of CRB and process for complaints	Ask for an Outreach Committee member to work with Communications Department	Ongoing
Have CRB members give talks at police line-ups	Draft script. Review and secure buy-in from Department leadership. Set schedule.	FY 2020 On Hold pending COVID-19
Develop a plan for outreach to youth	Recruit volunteer from Board Outreach Committee to develop plan	July 2019; (Completed June 2019)
Develop a comprehensive list of events or activities where CRB is currently and/or should be represented	Community Outreach Committee to meet and develop. Upcoming events are available on the website. Monthly reports of the Outreach Chair will include a list of opportunities available in the upcoming month.	Completed (current); work with Committee to determine if additional opportunities are warranted.
Require that each CRB member attend at least 2 community outreach events per year	Establish a protocol for shirts and materials. Need to record participation via MyVolunteerPage (add a subcategory)	Request made for commitments August 2019
Assign Community Outreach Committee members to participate in community meetings and events based on availability and interest	Discussion item for Committee	Completed.
Purchase CRB banner for use at events	Chair agreed to pay for banner	
Participation in Walk & Knocks		

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Recruitment & Training Committee

Issue to be Explored	Process	Completion Goal
Training Component #1: Overview of CRB& Internal Affairs and Ride-Along Procedures. Discuss role of city attorney.	Held at CRB Conference Room	Completed for current members
Training Component #2: Tour of SDPD Headquarters, Communications and Information on BWC, Meeting with the Chief	Held at SDPD HQ	Completed for current members
Training Component #3: SDPD Procedures to include laws of arrest, use of force, FATS simulator, facial recognition and BWC.	Held at Regional Training Center	Completed for current members
Training Component #4: Case Review, Report Preparation & Internal Affairs Procedures	Held in CRB Conference Room	Completed for current members
Training Component #5: Presentation by Community Organizations	(Include bus tour)	Completed for current members
Training Component #6: Parliamentary Procedures, CRB Bylaws, etc.	Held in CRB Conference Room	Completed for current members
Recruit New Members – including representation from each City Council district	Work with Outreach team and Executive Director to create a more comprehensive recruiting plan, including referrals from City Council offices.	Ongoing
Conduct Interviews with prospective members (revise interview questions), Explore possibility of having community representatives and/or City Council PS&LN consultant as non-voting members of the panel. Add 2 letters of reference to the application.	Ongoing	Ongoing
In addition to SDPD criminal background check, include research by CRB on candidate's roles in their community.		Ongoing
Implementation Process for the CRB Training Academy		May 2019
Develop a system of merit review and evaluation of CRB members		Ongoing
Coordinate with LEAD San Diego training to let participants know about the CRB	Include Boards	Ongoing
Develop talking points to be used in recruiting new members (benefits of being a member, etc.)		Ongoing

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

Continuing Education Committee

Issue to be Explored	Process	Completion Goal
Plan a one-day conference of police oversight agencies in Southern California	Coordinate with NACOLE	06/30/2019
Plan a one-day training for the CRB similar to training for new IA investigators	(Invite CLERB and National City Review Board)	06/30/2019
Develop training modules to include overview of key SDPD policies & procedures, cultural competency training, and trauma-informed care		Ongoing

Monthly Training Presentations	When	Who
Diversity, Sensitivity, and Bias Training Presented to Law Enforcement Agencies	August 27, 2019	Anti-Defamation League -Matthew Wagner
Training on how to review canine bite cases		
Know Your Rights Community vs. Know Your Rights SDPD	July 23, 2019	Daniel Orth and Lt. Ernesto Servin
SDPD Southeastern Division Juvenile Services Team	June 25, 2019	Sgt. Harold Oliver and his Team
Communications Dispatch Training		
SDPD Mid-City Division Community Relations Officers	May 28, 2019	Danny Medina, Terry Hoskins, Jenny Hall
Training on Case Review and Presentation Procedures	Ongoing	
BWC Training		
Visit Museum of Tolerance	April 2019	Nancy Vaughn
Training on Effective Investigations	April 2019	Sharmaine Moseley (shortened version of NACOLE presentation)
SDPD Wellness Unit and Resources	April 23, 2019	Sgt. Edwin Garrette
Presentation on Police Perjury (Cancelled)	March 26, 2019	Chuck Sevilla
Neighborhood Policing Unit	February 26, 2019	Captain Scott Wahl
SDPD WRAP Max Restraint Demonstration and Discussion	January 2019	Captain Alberto Leos & Training Team
SDPD Ride-Along Protocol	November 2018	Detective Andrea Amado
Chief's Response to the CRB Recommendations Regarding Carotid Restraint & De-escalation Policy	October 2018	Chief David Nisleit
SDPD Policy and Procedures Training	September 2018	Taura Gentry (newly designed course for CRB Members Only)
Outside Counsel Refresher on The Brown Act	September 2018	Christina Cameron
Update from Mayor's Office	July 2018	Dr. Joel Day- Dir, Office of Boards & Commissions

Community Review Board on Police Practices Work Plan FY 2019 – FY 2020

CRB Handbook Committee

Issue to be Explored	Process	Completion Goal
Reduce the size of the CRB Red Binder	Review table of contents and contents- Decide what can go online, what remains in the binder, updates, etc. Will be ready for the October 30, 2019 CRB Academy Training. Will also be made available on CRB tablets	Completed
Make CRB Training Resources Available Online	Put the contents of the CRB Handbook plus additional digital resources (legal opinions, etc.) available on the CRB's Website	June 2020

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