

SAN DIEGO COMMISSION

ON POLICE PRACTICES

INTERIM STANDARD OPERATING PROCEDURES

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Office of City Attorney

Date

Commission on Police Practices

Interim Standard Operating Procedures

The Commission on Police Practices (Commission) has several functions, including conducting independent investigations, beyond those of its predecessor, the Community Review Board on Police Practices (CRB). The purpose of these Interim Standard Operating Procedures is to allow the case review and policy recommendation functions of the Commission to continue uninterrupted while new Standard Operating Procedures are being developed and adopted.

The responsibility of responding to complaints against the San Diego Police Department (SDPD) is shared between SDPD, primarily the Internal Affairs (IA) Department, and the Commission. The collaborative relationship between the two is important for a fair and objective process that gives serious consideration to community members and SDPD officers equally. The process is improved by both organizations working together. While cooperation is key, independence of each organization is crucial.

1. Complaint Process

Complaints are submitted either through the Commission or at multiple locations with SDPD. The Commission must receive, register, review and evaluate all complaints. Complaints submitted via the SDPD shall be transmitted to the Commission in a timely manner.

SDPD Role

Coordination between SDPD and the Commission is required throughout the process, starting with complaint intake, through preparation of the case file, discussion during Commission review (including any Team requests for additional allegations or additional investigation as well as any disagreement), and, finally, preparation for presentation at a Closed Meeting of the full Commission.

SDPD Complaint Investigations

Each complaint regarding an officer, whether generated through the Commission or an alternate process, is investigated by SDPD. Complaints involving any allegations of unlawful arrest or detention, excessive force, discrimination, slur, search and seizure violations, or criminal conduct are investigated by Internal Affairs (IA). Less serious complaints that involve only allegations of courtesy, procedure, conduct and service are investigated by the subject officer's SDPD Division. The investigating officer is responsible for completing a thorough investigation and writing an investigative report that is fair to both the complainant(s) and subject officer(s). Results of investigations are documented in the Investigator's Report. A complaint may contain more than one allegation. At the conclusion of the investigation IA makes one of the following findings for each allegation:

- I. Sustained – the Department member committed all or part of the alleged acts of misconduct;
- II. Not Sustained – the investigation produced insufficient information to

clearly prove or disprove the allegations;

- III. Exonerated – the alleged act occurred was justified, legal and proper, or was within policy; or
- IV. Unfounded – the alleged act did not occur.

The Investigator's Report, including the finding(s), and all related material in the SDPD investigation file are forwarded to the Commission, via the Executive Director, for their review. The Executive Director shall implement procedures to ensure compliance with all legal confidentiality requirements.

2. Commission Case Review

The Commission currently reviews the IA Investigator's Report and all related material including the finding(s) by IA and conducts its review. (In the future, if a case is referred for an independent investigation, the Commission will also review the Commission Investigator's Report.)

For less serious cases (allegations of courtesy, procedure, service or conduct), the Commission may elect to conduct an audit in lieu of a detailed review, utilizing the audit procedures adopted by the former CRB.

Cases are assigned to teams by the Commission. The Case Review Team (Team) reviews the Investigator's Report and all related materials and develops a Case Review Team report (Report). That Report includes a review of the finding(s) by IA with the Team making one of the following conclusions:

- I. Agree – The finding(s) by IA is correct;
- II. Agree with Comment – The finding(s) by IA is correct and additional information from the case review should be noted (comments may include, but are not limited to, the appropriateness of the tactics employed by the subject officer);
- III. Disagree with Comment – The finding(s) by IA is incorrect; or
- IV. Refer for Commission Investigation – If the complaint meets one or more of the criteria stipulated in Charter section 41.2 for a discretionary investigation, the Commission may elect to keep its case open until an independent investigation can be conducted.

Upon conclusion of the case review, the Team presents the Report, including the conclusion, to the full Commission in Closed session. The Commission hears the case and takes action regarding the final disposition of the case. The results of the Commission action are provided to the complainant and the case is then closed.

A summary of each case, with personally identifiable information redacted as required by law, shall be included in the Commission's semiannual report to the Mayor and City Council. Within one month after a summary is completed and approved by Commission's legal counsel, it will be posted on the Commission website.

In the event that the Commission considers every possible finding and is unsuccessful in reaching the required majority vote to indicate a position on one or more findings, the Commission may close the case by vote of the Commission as a failure to achieve consensus.

Charter section 41.2 states that the Commission “is authorized to refer any matter before the Commission to the grand jury, district attorney, or any other governmental agency that is authorized by law to investigate the activities of a law enforcement agency.” Other governmental agencies could include the Department of Justice or Federal Bureau of Investigation.

In all cases where there is disagreement with an IA finding, disagreements are recorded and highlighted in semiannual reports to the Mayor and City Council.

Charter section 41.2 gives the Commission the discretion to independently investigate complaints that meet specified criteria. These Interim Standard Operating Procedures are not intended to restrict the Commission from conducting such investigations once procedures for conducting investigations have been adopted.

3. Shooting Review and In-Custody Death Cases

Charter section 41.2 states that the “Commission must independently investigate all deaths occurring while a person is in the custody of the Police Department; all deaths resulting from interaction with an officer of the Police Department; and all City police officer-related shootings. The Commission has this duty whether or not a complaint has been made against a police officer or the Police Department. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer’s federal and state law rights.” While the Commission is developing procedures to conduct such investigations, it may continue to review the investigations of the Police Department as specified below; however an independent investigation by the Commission, as required by the City Charter, shall be subsequently conducted.

An Officer Involved Shooting (OIS) case is initiated automatically by an incident in which as SDPD officer fires a gun at a person. An In-Custody Death (ICD) case is initiated automatically by the death of a subject in the custody of SDPD.

There is extensive investigation into an OIS or an ICD by the SDPD Homicide Unit and by the District Attorney. Upon the conclusion of those investigations IA prepares a report that is reviewed by the Commission. Generally speaking the OIS and ICD cases are handled by Teams in the same manner as complaints within the Commission jurisdiction.

For OIS and ICD incidents that occur after the effective date establishing the Commission, no determination of whether or not an officer-related shooting or in-custody death was within policy shall be made by the Commission until an independent investigation by the Commission has been concluded.

4. Review of SDPD Discipline by the Commission

When disciplinary action is taken against an officer by the Chief of Police as a result of a sustained finding of misconduct, the Chief of Police or designee will notify the Commission. The

original Case Review Team will be assigned to review the discipline. If any member of the original Case Review Team is no longer serving on the Commission, the Commission Chair will assign a replacement with priority given to members who attended the original case presentation.

The Team will evaluate the disciplinary action and decide by majority vote whether to agree or disagree on the following:

- I. Agree or Disagree that the reported discipline is consistent with the SDPD Discipline Matrix; and
- II. Agree or Disagree that the discipline imposed was appropriate.

Charter section 41.2 gives the Commission the discretion to make recommendations to the Police Department regarding the discipline of individual officers in specific situations. These Interim Operating Procedures are not intended to restrict the Commission from making such recommendations once procedures for making discipline recommendations have been adopted.

5. Commission Referral to Chief of Police or Mayor

The Commission, by majority vote, may request that the Chief of Police or the Mayor review and evaluate a case or discipline.

Policy Recommendations

It is the objective of the Commission to advocate for policies which promote fair and humane policing and also ensure the safety of both community members and police officers. The Commission may, by majority vote, make specific recommendations to the Police Department, the Mayor, and the City Council on any policies, procedures, practices or actions of the Police Department.