

## **Policy Committee Meeting**

**Tuesday, February 11, 2020**

**4:00 p.m. – 5:00 p.m.**

**Mission Valley Branch Library**

**2123 Fenton Parkway**

**San Diego, CA 92108**

### **AGENDA**

- I. CALL TO ORDER/WELCOME (Committee Chair Brandon Hilpert)**
- II. PURPOSE OF THE POLICY COMMITTEE:** A standing committee which evaluates recommendations for the Board members for improvements to SDPD policy, procedure, training, or administration of discipline of SDPD police officers.
- III. NON-AGENDA PUBLIC COMMENT**
- IV. APPROVAL OF DECEMBER 10, 2019 COMMITTEE MEETING MINUTES**
- V. UNFINISHED BUSINESS (Discussion/Action)**
  - a. Procedure & Guideline for SDPD Complaint Intake of Informal/Formal Complaints **(Committee Chair Brandon Hilpert)**
  - b. Modify SDPD Procedure 1.49: Axon Body Worn Cameras –Section Q 7(N) – Issue is some complainants are not allowed to bring person of choice for support when viewing his/her BWC video. **(Committee Chair Brandon Hilpert)**
  - c. Development of Third-Party Mediation **(Nancy Vaughn)**
  - d. Best Practices Research for Law Enforcement Investigations Involving Discrimination Allegations **(Patrick Anderson)**
  - e. Complaint Process Guide Card Issued to All Sworn Personnel **(Taura Gentry)**
  - f. Prohibit Officers from Viewing Body Worn Camera Video of Others

At its April 24, 2018 open meeting, the CRB made a recommendation to SDPD that SDPD establish a policy that would prohibit officers from

viewing surveillance videos or body worn camera videos of other officers prior to being interviewed by Internal Affairs.

**Action Item Status:** SDPD has not reached a decision on this recommendation.

- g. Require a defined SDPD Policy and Procedure and possibly a guide card to provide hearing impaired individuals and SDPD officers for officers to use in the field.
- h. Revise SDPD Procedure 1.49 1.b to require that officers do not turn off his/her body worn cameras until all officers exit an individual's residence.

## VI. NEW BUSINESS (Discussion/Action)

## VII. ADJOURNED

### Materials Provided:

- Minutes from Policy Committee Meeting on December 10, 2019 (Draft)
- SDPD Procedure 1.37 – Communicating with Deaf or Hard of Hearing Individuals
- SDPD Procedure 1.49 I (1.b) – Axon Body Worn Cameras

Public Comment on an Action/Discussion Item: If you wish to address the Board on an item on today's agenda, please complete a speaker form (on the table near the door) and give it to the Board's Executive Director before the Board hears the agenda item. You will be called to express your comment at the time the item is heard. Please note, however, that you are not required to register your name or provide other information to the Board in order to attend our public session or to speak.

Public Comment on Committee/Staff Reports: Public comment on reports by Board Committees or staff may be heard on items which are specifically noticed on the agenda.

Public Comment on Matters Not on the Agenda: If you wish to address the Board on any matter within the jurisdiction of the Board that is not listed on today's agenda, you may do so during the PUBLIC COMMENT period during the meeting. Please complete a speaker form (on the table near the door) and give it to the Board's Executive Director. The Board will listen to your comments. However, California's open meeting laws do not permit the Board to take any action on the matter at today's meeting. At its discretion, the Board may refer the matter to staff, to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Board cannot hear specific complaints against named individual officers at open meetings.

Comments from individuals are limited to three (3) minutes per speaker, or less at the discretion of the Chair. At the discretion of the Chair, if a large number of people wish to speak on the same item, comment may be limited to a set period of time per item. If you would like to have an item considered for placement on a future Board agenda, please contact the Executive Director at (619) 236-6296. The Director will consult with the Board Chair who may place the item on a future Board agenda. If you or your organization would like to have the Board meet in your neighborhood or community, please call the Executive Director at (619) 236-6296.

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requests for auxiliary aids, services or interpreters, should be forwarded to [communityreviewboard@sandiego.gov](mailto:communityreviewboard@sandiego.gov), or call (619) 236-6296.

## **COMMUNITY REVIEW BOARD ON POLICE PRACTICES**

### **POLICY COMMITTEE MEETING MINUTES**

**Tuesday, December 10, 2019**

**4:00–5:00 PM**

**Mission Valley Branch Library  
2123 Fenton Parkway, San Diego, CA 92108**

#### **Committee Members Present**

Committee Chair Brandon Hilpert  
Chair Joe Craver  
Taura Gentry (arrival 4:12 p.m.)  
Pauline Theodore  
Douglas Case (arrival 4:10 p.m.)  
Maria Nieto–Senour  
Nancy Vaughn

#### **Committee Members Absent**

Poppy Fitch  
Patrick Anderson  
Ramon Montano

#### **Staff Present**

Sharmaine Moseley, Executive Director, CRB on Police Practices  
Sonja Mack, Administrative Aide II

#### **SDPD Staff Present**

Wes Morris, Captain, San Diego Police Department  
Charles Lara, Lieutenant, San Diego Police Department

- I. Call to Order:** Policy Committee Chair Brandon Hilpert called the meeting to order at 4:09 p.m.
- II. Purpose of the Policy Committee:** Committee Chair Hilpert waived the reading of the purpose of the Policy Committee.
- III. Non-Agenda Public Comment:** None
- IV. Approval of October 8, 2019 Committee Meeting Minutes**  
Community Review Board on Police Practices (CRB) Chair Joe Craver moved for the Policy Committee to approve the meeting minutes of

October 8, 2019. CRB Policy Committee Member Pauline Theodore seconded the motion.

**The motion passed with a unanimous vote of 5-0-0.**

**Yays: Hilpert, Vaughn, Craver, Nieto-Senour, and Theodore**

**Nays: None**

**Abstention(s): None**

**Absent: Patrick Anderson, Doug Case, Taura Gentry, Poppy Fitch, and Ramon Montano**

**V. Unfinished Business (Discussion/Action)**

**a. Procedure & Guideline for SDPD Complaint Intake of Informal/Formal Complaints (Committee Chair Brandon Hilpert)**

Committee Chair Hilpert reported that Internal Affairs was going to provide an update regarding formal and informal complaints. Internal Affairs Captain Wes Morris stated that the update for SDPD's Policy and Procedures for the complaint intake process is still in process as it is also a part of SDPD Procedure 1.10, which encompasses the complete intake process. The procedure will need to go before the Municipal Employee Association (MEA), as well as the Police Officer's Association (POA). Captain Morris anticipates more progress in January 2020.

This item was tabled.

**b. Modify SDPD Procedure 1.49: Axon Body Worn Cameras (BWC) – Section Q 7(N) (Committee Chair Brandon Hilpert)**

CRB 2<sup>nd</sup> Vice Chair Taura Gentry reported that she discussed this concern with the member of the public who submitted the recommendation. She stated she explained to the community member that what the CRB Policy Committee suggests is to recommend that the language in the policy be modified to state that the viewing of BWC video by the complainant's support person will be at the discretion of the investigator. A support person will not automatically be able to view the BWC video with the complainant. CRB Policy Committee Chair requested that CRB 2<sup>nd</sup> Vice Chair Gentry draft language for the policy recommendation to be added to SDPD Procedure 1.49 and reviewed by the Policy Committee. 2<sup>nd</sup> Vice Chair Gentry agreed to draft the language for the policy recommendation.

This item was tabled.

**c. Development of Third-Party Mediation (Nancy Vaughn)**

Policy Committee member Nancy Vaughn recommended that the Committee table this item until she receives additional information. Captain Morris reminded the Committee that at a previous CRB Policy meeting this item was tabled until after the election. Committee Chair Brandon Hilpert agreed to keep this as an action item until after the election to ensure that the CRB Policy Committee will have a better idea of what recommendations to make.

This item was tabled.

**d. Best Practices Research for Law Enforcement Investigations Involving Discrimination Allegations (Patrick Anderson)**

Committee Chair Hilpert reported that this item was assigned to Committee member Patrick Anderson. Member Anderson was not present to discuss his research on the topic.

This item was tabled.

**e. Complaint Process Guide Card Issued to All Sworn Personnel (Taura Gentry)**

The development of the Complaint Process Guide Card was discussed. 2<sup>nd</sup> Vice Chair Taura Gentry provided a sample design of the Complaint Process Guide Card to the Committee. 2<sup>nd</sup> Vice Chair Gentry, stated that the card would not be a requirement to provide the card to complainants however, the card will be made available to SDPD officers to have on hand to use if needed. CRB Policy Chair Hilpert suggested to add the complaint web address to the card. 2<sup>nd</sup> Vice Chair Gentry agreed to update the card with the web address and heading and provide a draft to the Committee.

This item was tabled.

**f. Require that SDPD officers provide and/or call for medical assistance in all situations where a person shows signs that they might be in medical distress (Committee Chair Brandon Hilpert)**

2<sup>nd</sup> Vice Chair Taura Gentry stated that she spoke with SDPD Chief of Police David Nisleit. Based on their conversation, there is already a policy regarding SDPD officers canceling medical

assistance. CRB Policy Chair Brandon Hilpert recommended to the Policy Committee to close this item without action because there is a current policy already in place regarding this topic.

Chair Joe Craver moved to close out item (V.f) without action, because SDPD has a policy. Committee member Nancy Vaughn seconded the motion.

**The motion passed with a unanimous vote of 7-0-0.**

**Yays: Case, Craver, Gentry, Hilpert, Nieto-Senour, Theodore, and Vaughn**

**Nays: None**

**Absentention(s): None**

**Absent: Patrick Anderson, Poppy Fitch and Ramon Montano**

**g. Prohibit Officers from Viewing Body Worn Camera Videos of Others**

**At its April 24, 2018 open meeting, the CRB made a recommendation to SDPD that SDPD establish a policy that would prohibit officers from viewing surveillance videos or body worn camera videos of other SDPD officers prior to being interviewed by Internal Affairs.**

Captain Wes Morris of SDPD Internal Affairs stated that this topic was addressed verbally however, it was not formally closed out with a memo or a letter. Captain Morris stated he will speak with SDPD Chief of Police Nisleit in regard to drafting a formal letter. Captain Morris explained that there is not a specific policy about this, however, there is a practice in place which the Homicide Unit and Internal Affairs follows when conducting their investigations. Captain Morris stated that if any officer watches the BWC video of another officer, an approval is required from a supervisor over that investigating entity. There must be a reason for it. Generally, it is prohibited.

Policy Committee member Nancy Vaughn inquired how to prevent SDPD officers from gaining access to view another officer's BWC out in the field. Captain Morris stated that SDPD officers should not have access to view another officer's BWC outside of an SDPD supervisor who is overseeing the incident, which implies there is an investigation taking place.

Policy Committee Member Nancy Vaughn stated this should be included in an SDPD policy.

Captain Morris stated that currently it is being practiced without a policy in place.

Policy Committee Chair Brandon stated that the Policy Committee had a recommendation in place a couple of years ago when Shelley Zimmerman was Chief of Police. The recommendation suggested that prior to watching their BWC video, an officer shall write their reports based on their recollection at the time, to prevent them from creating a narrative that justified what happened. If the officer were to watch the BWC video afterward, they could file a supplemental/addendum report after if they were to see additional information to add.

Policy Committee Chair Hilpert reported that the recommendation was not accepted by SDPD as a policy revision.

Captain Morris stated that there is a letter in place that outlines SDPD Chief Nisleit's rationale with regard to the previous recommendation. He will do more research and discuss the topic with Chief Nisleit and report back to the CRB Policy Committee in January.

This item was tabled

**VI. New Business (Discussion/Action)**

- a. Required a defined SDPD and Procedure and possibly a guide card to provide hearing impaired individuals and SDPD officers for officers to use in the field.**

Captain Wes Morris stated that SDPD policy 1.37 is in place which discusses the details of interviewing the hearing impaired. The entire SDPD policy defining procedures regarding interacting with hearing impaired individuals can be located on the SDPD website.

This item was tabled for the Committee to look at the SDPD policy.

**VII. Adjourned: 4:42 p.m.**



**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** APRIL 09, 2019

**NUMBER:** 1.37 - ADMINISTRATION

**SUBJECT:** COMMUNICATING WITH DEAF OR  
HARD-OF-HEARING INDIVIDUALS

**RELATED POLICY:** N/A

**ORIGINATING DIVISION:** CHIEF'S OFFICE

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**  NO CHANGES

**SUPERSEDES:** DP 1.37 – 10/02/2015

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**I. PURPOSE**

This Department procedure establishes guidelines for communicating with deaf or hard-of-hearing individuals.

**II. SCOPE**

This procedure applies to all members of the Department.

**III. BACKGROUND**

- A. The Americans with Disabilities Act (ADA) is a federal civil rights law. It gives federal civil rights protections (similar to those provided to individuals based on race, color, sex, national origin, age, and religion) to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in state and local government services, public accommodations, employment, transportation, and telecommunications.
- B. Title II of the ADA prohibits discrimination against people with disabilities in state and local government services, programs, and employment. Law enforcement agencies are considered local government entities. The ADA

mandate affects many traditional police service responsibilities, for example: receiving citizen complaints; interrogating witnesses; arresting, booking, and holding suspects; operating telephone (911) centers; providing emergency medical services; and, enforcing laws.

#### **IV. DEFINITIONS**

- A. Qualified Interpreter - for Department purposes, a qualified sign language interpreter is someone who is either retained by the Deaf Community Services (DCS) of San Diego or the Network Interpreting Service (NIS). These are the only two agencies currently contracted by our Department to supply qualified interpreters for translations in sign language.
- B. Certified Bilingual in American Sign Language Interpreter - someone who has passed the National Association of the Deaf (NAD) and/or Registry of Interpreters for the Deaf (RID) tests. Certification as bilingual in American Sign Language alone does not fulfill the Department requirements for being considered a qualified or certified interpreter unless the interpreter is also retained by either DCS or NIS.
- C. Certified Bilingual in American Sign Language by the City of San Diego - individuals who have varying levels of proficiency in sign language. The Americans Disabilities Act does not recognize these individuals as qualified or certified interpreters.

#### **V. PROCEDURES**

- A. It is the policy of the San Diego Police Department that it will furnish appropriate auxiliary aids and services whenever necessary to ensure effective communication with individuals who are deaf or hard-of-hearing. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.
- B. Auxiliary aids and services include qualified interpreters, written materials, note pads, and other effective methods of making aurally delivered materials available to individuals who are deaf or hard-of hearing.
- C. The ADA requires that the expressed choice of the individual with the disability, who is in the best position to know their needs, should be given primary consideration in determining which communication aid to provide. "Primary Consideration" means that the San Diego Police Department must honor the choice, unless it can show that another effective means of communication is available.

- D. Except under emergency circumstances, Department members should not rely on family members, who are frequently emotionally involved, to provide sign language interpreting.
- E. Personnel strictly certified as bilingual in American Sign Language do not meet the Department requirements of a qualified interpreter and shall not be used to Mirandize or interview arrestees. Certified bilingual Department members should only be used in emergencies and for basic information translations.
- F. When needing sign language translations for arrestee interviews, officers are to use interpreters contracted through DCS or NIS. Department members must meet the following requirements when communicating with a deaf or hard-of-hearing individual under the following circumstances:
  - 1. Interviews prior to arresting an individual who is deaf or hard-of-hearing
    - a. If written communication is ineffective and a Department-certified ASL officer is available to translate, whether the translation is for a victim or suspect, they shall be utilized and a report shall be written. If those efforts fail, then a qualified interpreter from DCS or NIS must be notified and utilized. The DCS and NIS interpreter will translate for the investigating officer, who will complete a detailed report.
  - 2. Arrests without a Subsequent Interview
    - a. As in circumstances when an individual who is not deaf or hard-of-hearing is arrested on probable cause without an interview, an arrestee in the same situation who is deaf or hard-of-hearing does not need to be provided with a qualified interpreter as long as no interview is required.
    - b. A qualified interpreter may still be required if an officer, using a note pad or another means of communication, is unable to convey to the arrestee the nature of the criminal charges.
  - 3. Interviewing an Arrestee Who is Deaf or Hard-of-hearing
    - a. If an officer arrests an individual who uses sign language as their primary form of communication and the officer intends to interview the arrestee, the officer must first secure the services of a qualified sign language interpreter (through DCS or NIS) to communicate accurately the Miranda warnings and translate any subsequent interview.

- b. Officers should be aware that California Evidence Code Section 754 mandates qualified interpreters for the deaf in civil and criminal cases. In particular, Section 754(k) states that no statement, written or oral, made by a deaf person may be used against that person unless the question and subsequent answer was accurately interpreted.
4. Issuance of Citations
- a. A qualified interpreter is not required for deaf or hard-of-hearing individuals who receive a citation and where there is no need for questioning.
  - b. Officers will attempt to convey infraction violations to the deaf or hard-of-hearing via a notepad or other form of communication. If this is not possible, the officer should use their discretion whether to call a qualified interpreter to the scene or to refrain from issuing the citation
5. Interviewing a Victim or Critical Witness Who is Deaf or Hard-of-hearing
- a. If an officer is able to communicate effectively by writing questions on a note pad and having the victim or witness who is deaf or hard-of-hearing write their responses, then the officer may proceed with the interview using a note pad. However, if an investigating officer is unable to communicate effectively with a victim or critical witness by using a note pad or some other means of communication other than a qualified interpreter, then a qualified interpreter must be provided.
  - b. All written questions and responses between officers and individuals who are deaf or hard-of-hearing must be treated as evidence and handled accordingly. A copy of the written questions and responses should be forwarded with the police report, and the originals should be impounded as evidence.
  - c. In order to facilitate investigative follow up, officers need to document all forms of contact for the deaf or hard-of-hearing individual. This includes direct phone numbers for video relay services, e-mail addresses, instant messenger screen names, etc.
6. Investigative Follow-Up
- a. If a case has been submitted to an investigative unit, and a detective needs to re-interview a deaf or hard-of-hearing victim, witness or suspect, the detective should schedule an appointment

using a qualified interpreter from DCS or NIS if written or typed communication would be ineffective. The purpose of follow-up interviews is to elicit detailed and specific information. Therefore, detectives should refrain from using certified bilingual Department members since their use is designated for emergencies and for basic information gathering only.

## VI. REQUESTS FOR SIGN LANGUAGE INTERPRETERS

- A. Deaf Community Services (DCS) of San Diego is the designated sign language interpreter service provider for the San Diego Police Department. DCS can be reached at (619) 398-2488, Monday through Friday, 0830-1700 hours. Sign language interpreters are also available through Network Interpreting Service (NIS) at 1-800-284-1043. NIS is open from 0700-1600 hours, Monday through Friday. Interpreters needed after business hours can be accessed through NIS only.
- B. DCS can make appointments to provide interpreters for interviews with suspects, witnesses, or victims. Communications personnel can provide the listed phone numbers to field officers. However, it is incumbent upon the officer in the field to call DCS to personally request an interpreter, as the interpreting service will need specific information that Communications personnel may not be able to provide. If unsure how to work with an interpreter, Department members should ask the interpreter to explain the process. One important technique is to speak directly to the deaf person and not to the interpreter.
- C. Communications Division maintains a list of Department members who are certified bilingual in American Sign Language by the City of San Diego and can be utilized when temporary emergency assistance is needed. However, these members do not fulfill the "qualified or formally certified interpreter" requirement if requested by a deaf or hard-of-hearing person. DCS or NIS interpreters must be used in those circumstances.
- D. The Deaf and Disabled Telecommunications Program funds toll-free numbers for contacting members of the deaf and hard-of-hearing community. These numbers enable people who use voice telephones to communicate with those who use Text Telephones (TTY's), and vice versa. To use the California Relay System, choose one of listed numbers. The operator will "convey" the conversation between the parties. The conversations are confidential and free of charge to both parties.

California Relay System                      1(800)735-2922

Sprint    1(888)877-5379

- E. Video Relay Service (VRS) is the newest technology for communicating with the Deaf or hard-of-hearing over the phone. Individuals who use VRS will generally have a personal assigned phone number which will connect the caller with a video interpreter who will use a webcam to communicate with the client. In most cases, messages can be left for later delivery if the client does not answer. VRS is federally funded and is free for Department members to initiate or receive these types of calls.

## VII. EMERGENCY EVACUATIONS

- A. During emergency situations that necessitate evacuations, considerations must be made when dealing with deaf or hard-of-hearing individuals. The deaf or hard-of-hearing may not receive evacuation notices from Reverse 911 or Alert San Diego, they may not hear announcements made over PA, and they may not hear officers knocking at the door or windows.
- B. During evacuations officers should remember to use doorbells as they may be connected to lighting alerts inside homes. Officers should use short words or phrases, and use universal hand gestures to communicate where the deaf or hard-of-hearing person needs to go.
- C. If an officer encounters a person who is deaf and blind, officers should use the prescribed method to communicate an emergency exists: Move to the person's backside and draw a large "X" across the person's back. This is a regionally taught symbol for "emergency." Then use an appropriate method to guide and evacuate the deaf/blind individual. To later communicate with a deaf/blind person, draw capital letters individually in the palm of the person's left hand. Wipe the palm between each word to indicate the start of a new word.

# Axon Body WORN CAMERA Procedure

## H. Privacy Concerns and Advisements

1. Private Citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. When officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.
3. Officers and supervisors involved in the investigation of a complaint against a member of the police department must inform complainants and complaint witnesses they are being recorded.

## I. Mandated Recordings

### 1. Enforcement Related Contacts

- a. All officers who are issued a BWC shall keep their BWC on Buffering Mode/Stand-by Mode while on duty, except during instances listed in this procedure under Prohibited Recordings. Keeping the BWC on Buffering/Stand-by Mode allows officers to capture pre-event recordings when the Event Mode is activated.
- b. Officers shall use the Event Mode to record enforcement related contacts. The Event Mode shall be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded or the contact transitions from an enforcement contact into intelligence gathering.
- c. Officers shall begin recording in the event mode while driving to a call that has the potential to involve an enforcement contact.
- d. Officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.
- e. Enforcement related contacts include the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.