

## **Policy Committee Meeting**

**Tuesday, May 14, 2019**

**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 April 9, 2019 COMMITTEE MEETING MINUTES**
- V. NEW BUSINESS (Discussion/Action)**
  - a. Procedure & Guideline for SDPD Complaint Intake (Committee Chair Brandon Hilpert)**
  - b. Modify SDPD Procedure 1.10: Citizen Complaints, Officer-Involved Shootings, and In-Custody Deaths; Receipt, Investigation and Routing – Section VI A(10) (Committee Chair Brandon Hilpert)**
  - c. 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)**
  - d. SDPD Procedure 1.49 Retention of Digital Evidence – Issue is BWC video not retained until investigation is completed. (Committee Chair Brandon Hilpert)**
  - e. Development of Third-Party Mediation (Nancy Vaughn)**
  - f. Best Practices Research for Law Enforcement Investigations Involving Discrimination Allegations (Patrick Anderson)**

- g. Complaint Process Guide Card Issued to All Sworn Personnel (**Taura Gentry**)
- h. 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**)
- i. Recommend that the SDPD Non-Emergency Line be made into a toll-free number to aid in the effort of providing community members the ability to access public safety resources (**Taura Gentry**)

## VI. ADJOURNED

### Materials Provided:

- Minutes from Policy Committee Meeting on April 9, 2019 (Draft)
- Excerpt from SDPD Procedure 1.10
- Excerpt from SDPD Procedure 1.49

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.

## COMMUNITY REVIEW BOARD ON POLICE PRACTICES

### POLICY COMMITTEE MEETING MINUTES

Tuesday, April 9, 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 (arrived at 4:10pm)

Patrick Anderson

Doug Case

Maria Nieto-Senour

Pauline Theodore

Nancy Vaughn

#### **Committee Members Absent**

2<sup>nd</sup> Vice Chair Taura Gentry

Ramon Montano

#### **Staff Present:**

Sharmaine Moseley, Executive Director

Sonja Mack, Administrative Aide

Mark Bennett, Lieutenant, San Diego Police Department

Paul Phillips, Lieutenant, San Diego Police Department

- I. **Call to Order:** 1<sup>st</sup> Vice Chair Brandon called the meeting to order at 4:07 p.m.
- II. **Purpose of the Police 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:** None
- IV. **Approval of March 12, 2019 Committee Meeting Minutes:**  
Nancy Vaughn moved for the Committee to approve the meeting

minutes of March 12, 2019 with revisions. Revision needed for time of arrival of 2<sup>nd</sup> Vice Chair Taura Gentry and mark Ms. Gentry absent in the vote for Item IV. Pauline Theodore seconded the motion.

**The motion passed with a unanimous vote of 6-0-0: Hilpert (yes), Anderson (yes), Case (yes), Nieto-Senour (yes), Theodore (yes), Vaughn (yes), Craver (absent), Montano (absent), Gentry (absent)**

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

**a. Procedure & Guideline for SDPD Complaint Intake (Committee Chair Hilpert)**

Committee Chair Hilpert reported that the complaint intake process is being formalized. Therefore, this item is tabled.

**b. Development of Third-Party Medication (Nancy Vaughn)**

Committee Chair Hilpert reported that at the last meeting, Board member Vaughn printed out the research document, which is in an excel spreadsheet, for the Committee to see. Mr. Hilpert reported that he agreed to meet with Ms. Vaughn to go help with the spreadsheet. The meeting did not take place yet. Therefore, this item is tabled.

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

Board Member Anderson agreed to send Executive Director Moseley an updated status report by May 10<sup>th</sup>. Therefore, this item is tabled.

**d. Procedure and Statistics for Internal Affairs Tolling of Cases:**

Committee Chair Hilpert reported that he asked Internal Affairs (IA) to pull up some data and stats on how many cases were being tolled and what the average length of time in the toll is. There is a toll of 11 cases tolled

currently. Five (5) Office Involved Shootings (OIS), four (4) In Custody Death (ICD), and two (2) are in process of criminal proceeding. IA Captain Wes Morris explained why there were no stats maintained on cases being tolled. Tolling meant that a pause will be placed on a case for investigation under civil litigation/criminal litigation. Board Member Anderson suggested that the Committee revisit this item within two months to get a rough estimate on tolling cases. Captain Morris stated that he will provide the Committee with tolling stats at the CRB Executive Committee meeting in July.

Question: Who makes the question of who decides when the tolling takes place?

Answer: The Internal Affairs Captain along with the Executive Assistant Chief.

e. Complaint Process Guide Card Issue to All Sworn Personnel

Committee Chair Hilpert reported that the idea for this item was to merge CRB and SDPD complaint form into one combined form and on the back of the form explain the process in Q&A format. This item is still being worked on.

**VI. Adjourned: 4:36 p.m.**



2. A Department member who suspects criminal conduct by another member normally makes the complaint through his/her chain-of-command. However, the Department member may contact a Lieutenant from the Internal Affairs Unit directly or call the Confidential Complaint Hotline at (619) 531-2672.
3. CCFs are not used for internal investigations. Depending on the nature of the allegation(s), internal investigations may be conducted by the subject member's command or by the Internal Affairs Unit.

## **VI. INVESTIGATION PROCEDURES**

### **A. Investigation of Complaints**

1. The Internal Affairs Unit is responsible for investigating Category I complaints, as well as reviewing all officer-involved shootings and in-custody deaths.
2. In most cases, when a Category I complaint is initiated, the Internal Affairs Unit will notify the subject member's commanding officer through a memorandum.
3. Investigations of Category II complaints will be the primary responsibility of the command involved. However, the Internal Affairs Unit may choose to conduct investigations of Category II complaints when personnel from more than one division are involved and/or the investigation would be too time-consuming for field supervisors. An Internal Affairs Unit Lieutenant should be contacted prior to forwarding such a complaint to the Internal Affairs Unit. Category II allegations, which accompany Category I complaints, will be investigated by the Internal Affairs Unit.
4. Once a Department member is identified as the subject of a complaint and a personnel investigation has begun, the supervisor assigned to the investigation and his/her commanding officer will follow the investigation through to a logical conclusion, even if the subject member or the supervisor is transferred to another command during the investigation.
5. A supervisor will promptly investigate complaints against Department members. Personnel working out-of-class assignments should not investigate complaints without the approval of his/her commanding officer.
6. Category II investigations conducted by a command shall be completed within 60 calendar days from the date the complaint was received by the Department.

7. If it is not possible to complete the investigation within 60 days, the investigating supervisor must contact an Internal Affairs Unit Lieutenant and notify him/her of the reason for the delay. Extensions may only be granted by an Internal Affairs Unit Lieutenant. A new due date will be assigned if the need for the extension is reasonable and justified. If more than one extension is sought, an Internal Affairs Unit Lieutenant must be notified of the reason for the delay and will grant a new extension only if appropriate. Commanding officers will be contacted by the Internal Affairs Unit and advised about late investigations.
8. Category I complaints shall be completed within 90 days. Only an Internal Affairs Unit Lieutenant may grant extensions.
9. All recognized investigative methods for determining the facts surrounding a complaint will be used. These methods may include, but are not limited to:
  - a. Canvassing by the investigator to find all witnesses;
  - b. Obtaining photos or videos, as appropriate, of the scene;
  - c. Obtaining photos of injuries, or lack thereof, when appropriate; and,
  - d. Recording other physical evidence.

10. Every attempt will be made to interview the complainant, witnesses, and all Department members involved in the incident. The complainant may be accompanied by a support person of his or her choice (excluding other parties or witnesses to the complaint) during interviews. All interviews conducted by the Internal Affairs Unit will be audio-recorded. All interviews conducted by command supervisors should be audio-recorded if possible. If the interview is not audio-recorded, the command supervisor shall document the reason in the report. The exceptions are:

- a. Civilian complainants and witnesses may decline to be recorded.
- b. Municipal Employees Association (MEA) members may decline to be recorded.

If interviewees do not wish to be audio-recorded, the handwritten notes of the interview must be included with the completed investigation. Prior to conducting a telephone interview, the Department supervisor must obtain consent from the person being interviewed to have the conversation audio-recorded. Basic interviewing practices will be utilized. These practices are

NEW

outlined in the Internal Affairs Unit Operations Manual.

11. When conducting telephone and in-person interviews regarding complaint investigations, the complainant must be informed of, and consent to, a recorded interview.

NEW

12. If a complainant is reluctant or difficult to find, repeated attempts must be made to conduct a thorough interview of the complainant throughout the investigation. Obtaining voluntary, not compelled, participation in the investigative process from a complainant who is hesitant to be involved is the goal. Therefore, investigating supervisors shall consider and engage in all reasonable measures to contact and/or interview complainants. Such methods may include:

- a. An interview conducted by telephone.
- b. An interview conducted at the complainant's residence, place of employment, or at a neutral location;
- c. An interview arranged at a time convenient to the complainant;
- d. Notification to the complainant by certified letter (with return receipt) that an interview is requested; and/or,
- e. Utilization of the ARJIS Officer Notification System (ONS) to facilitate contact with the complainant.

NEW

Should these measures fail, the investigating supervisor shall proceed with the investigation without the complainant's statement. When practical, witness and officer interviews will be conducted. If it is possible to reach a factual conclusion, an appropriate disposition shall be rendered.

NEW

If an allegation is not clear and cannot be clarified, and there is insufficient information to conduct an investigation, it will be filed in Internal Affairs in the miscellaneous file for a period of five years.

13. Completed investigations will be forwarded to the Internal Affairs Unit. The findings will be classified as follows:
- a. Sustained - the Department member committed all or part of the alleged acts of misconduct;
  - b. Not Sustained - the investigation produced insufficient information to clearly prove or disprove the allegations;



**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** MARCH 8, 2018  
**NUMBER:** 1.49 - ADMINISTRATION  
**SUBJECT:** AXON BODY WORN CAMERAS  
**RELATED POLICY:** N/A  
**ORIGINATING DIVISION:** OPERATIONAL SUPPORT  
**NEW PROCEDURE:**   
**PROCEDURAL CHANGE:**  **MINOR CHANGES**  
**SUPERSEDES:** DP 1.49 - 12/21/2017

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**I. PURPOSE**

This Department procedure establishes guidelines for Department members using body worn cameras and procedures for preserving the digital media in Evidence.com.

**II. SCOPE**

This procedure applies to all members of the Department.

**III. BACKGROUND**

Law enforcement's use of in-car cameras and body worn cameras has proven effective in reducing violent confrontations and complaints against officers. Cameras provide additional documentation of police/public encounters and may be an important tool for collecting evidence and maintaining public trust. There is also a learning curve that comes with using body-worn cameras. Video cannot always show the full story nor does it capture an entire scene. The use of cameras does not reduce the requirement to provide thorough written documentation. Persons reviewing recordings must also be cautious before conclusions are reached about what the video shows.

The Body Worn Camera system operates on rechargeable battery power for up to twelve hours of continuous buffering and records up to ten hours of continuous video and audio media. The user can view recordings and add metadata from monitors, computers, and smart phones by downloading a specific software application.

- a. Unless writing their own report, cover officers shall notate in their journal, and the CAD incident report. Additionally, they will notify the case agent of an incident that BWC evidence exists and provide a short description of what the recording depicts.

Supervisor's reviewing and approving reports shall ensure officers properly document and record events.

## N. Impounding Procedures

After verifying the required metadata has been added to all recorded events, officers shall place the BWC into a slot on the EDS and ensure it is properly seated at the end of their shift. This will allow for the battery to recharge. The data will automatically be transferred from the BWC through the EDS to Evidence.com. The data is considered impounded at this point.

## O. Retention of Digital Evidence

All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law. Officers and detectives are required to ensure that the BWC evidence is properly categorized for the necessary retention period.

## P. Accessing Impounded Digital Evidence

1. All those given permission associated with Evidence.com may review digital evidence.
2. Using a Department computer, enter [Sdpd.evidence.com](http://Sdpd.evidence.com) in the browser.
3. Enter assigned user name and password. For help with problems, contact the Department Program Administrator in Operational Support Administration.
4. Digital Evidence can be viewed and/or copied from this location.

## Q. Reviewing Impounded Digital Evidence

1. Officers may review their own digital evidence. Digital evidence can provide a cue to an officer's priming memory to recall more facts and greater detail of an incident.
2. Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.

3. Detectives and personnel assigned to investigative assignments (e.g., NRC Desk) are responsible for forwarding BWC video evidence to either the District Attorney or City Attorney's Evidence.com accounts. Digital evidence will be submitted at the same time the case file is submitted for prosecutorial review.
4. BWCs have a field of vision of either 75 degrees for the Flex or 130 degrees for the Axon. While human beings have a field of vision of 180 degrees, the human brain has a field of attention of 50-60 degrees. Under stress, this field can narrow down to a ½ degree. Stress also induces auditory exclusion and prevents the brain from analyzing and remembering all the stimuli that it takes in through the senses.

Officers make decisions based on the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence since BWCs only capture audio and video.

Officers should review digital evidence prior to completing reports to assist in priming their recollection. Officers shall write their reports to what they remember and notate any discrepancies from what the recording shows. Officers shall not write their reports based solely on what they viewed from the BWC recording.

5. Officers shall review digital evidence prior to providing testimony at hearings, trial, or depositions.
6. It is NOT the intent of the Department to review digital evidence for the purpose of general performance review, for normal preparation of performance reports, or to discover policy violations.
7. Digital evidence may be viewed for administrative purposes limited to the following:
  - a. Any incident in which a member of the Department is injured or killed during the performance of their duties.
  - b. Any incident involving the use of force by a member of the Department, including canines, which results in injury or death.
  - c. Any in-custody death.
  - d. Any police pursuit.



# SDPD Procedure 1:49 Axon Body Worn Cameras

- e. When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless of whether an individual is struck.
  - f. When any member of the Department not involved in training intentionally or unintentionally discharges an ERIW at a person regardless of whether an individual is struck.
  - g. When any member of the Department not involved in training intentionally or unintentionally discharges a Conductive Energy Weapon at a person, including the application of a drive stun.
  - h. Officer involved traffic collisions.
  - i. Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).
  - j. In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
  - k. When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
  - l. For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.
  - m. For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators shall be documented as part of the chronological summary of any investigation undertaken by the Department.
  - n. Supervisors should review BWC recordings to assist citizen's complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to his or her complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn.
8. In situations where there is a need to review digital evidence not covered by this procedure, a captain or higher must approve the request. Each situation will be evaluated on a case by case basis.

# CRB POLICY COMMITTEE REFERRAL

Date <u>04/23/19</u>	Team # <u>A</u>
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**Describe the policy or procedure that you would like to refer to the Policy Committee for review:**

#1 Policy for retention of BNC when bc modified (time frame disregarded) when a complaint is filed.

#2 Recommend that the 3000 Non-Emergency line be made into a toll free number to aid in the effort of providing homeless and less fortunate community members the ability to access police/fire/medics = Public Safety Resources.

#3 ~~Also~~ Recommend that allegations of discrimination are found to sustained or Not sustained rather than Unfounded

AGREED,  
*[Signature]*

*[Handwritten initials]*

<b>Disposition:</b>	Item 1 - SPD Policy already exists Item 3 - Policy committee is already researching Best Practices for law enforcement investigating discrimination allegations.
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# CRB POLICY COMMITTEE REFERRAL

Date 4-23-19

Team # Tasha Williamson

**Describe the policy or procedure that you would like to refer to the Policy Committee for review:**

I am asking that CRB request (demand) that SDPD Internal Affairs and ~~at~~ ~~the~~ the entire department (SDPD) be compliant with their own procedures.

Procedure 1.10 VI. A. 10.

Procedures 1.49 Q. 7. N.

And that the CRB review the procedure before 3-8-19 changes.

Disposition:

# CRB POLICY COMMITTEE REFERRAL

Date

4-23-19

Team #

Tasha Williamson

**Describe the policy or procedure that you would like to refer to the Policy Committee for review:**

I ask that CRB request (demand) that SDPD department ensure all their officers immediately stop denying people medical assistance and that SDPD write clear concise language in their procedures to prevent further deaths and injuries.

**Disposition:**