

Community Review Board on Police Practices

Rules Committee Meeting Notice

Agenda

Friday, July 26, 2019

9:30 a.m.

**Civic Center Plaza Building (CCP)
1200 Third Avenue, 9th Floor
Suite 924 - Large Conference Room
San Diego, CA 92101**

- I. Welcome/Call to Order
- II. Approval of the Minutes from the May 13, 2019 Rules Committee Meeting
- III. Public Comment
- IV. New Business (**Discussion/Action Item**)
 - 1) Potential Elements for Public Case Summaries
 - 2) Proposed Revision to CRB Administration Standing Rule on CRB Case Report & Presentation: Titles for non-SDPD individuals
- V. Date of Next Meeting
- VI. Adjourn

Materials Provided:

- Draft 5.13.19 Rules Committee Meeting Minutes
- Draft Sample Redacted Case Summary
- Draft Change to Admin Standing Rule: Format and Presentation, Section 1.b, Face Sheet

Public Comment on an Action/Discussion Item: If you wish to address the Committee 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 Committee 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 Committee 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 Committee on any matter within the jurisdiction of the Committee 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 Committee will listen to your comments. However, California's open meeting laws do not permit the Committee to take any action on the matter at today's meeting. At its discretion, the Committee may refer the matter to staff, or to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Committee 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 Committee 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 Committee 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

Rules Committee Meeting Minutes

Tuesday, May 13, 2019

9:30 a.m.

**Civic Center Plaza Building (CCP)
1200 Third Avenue, 9th Floor
Suite 924 - Large Conference Room
San Diego, CA 92101**

Present: Committee Chair Doug Case, Committee Members Diana Dent, Ramon Montano, Nancy Vaughn CRB Executive Director Sharmaine Moseley, Internal Affairs Captain Wes Morris, Lieutenant Paul Philips, CRB Outside Counsel Christina Cameron

Absent: Chair Joe Craver and 2nd Vice Chair Taura Gentry

- I. Welcome/Call to Order: Committee Chair Doug Case called the meeting to order at 9:30 a.m.
- II. Approval of the Minutes from April 16, 2019 - **Motion by Nancy Vaughn to approve the April 16, 2019 Rules Committee Meeting Minutes. The motion was seconded by Diana Dent. The motion passed with a vote of 3-0-1**

**Committee Chair Doug Case-Yes, Diana Dent-Yes, Nancy Vaughn-Yes.
Ramon Montano-Abstained because he did not attend that meeting.**

III. Public Comment: None

IV. New Business

- 1) Proposed Operational Standing Rule on Review of Shooting Review Board Reports (Doug Case) - Committee Chair Case reported that it will go on the agenda for the next Open Meeting on May 28, 2019. There was not enough time given to the Board to put it on last month's Open Meeting agenda because of the 10-day notice requirement. The Board will vote to approve the Shooting Review Board Standing Rule on May 28, 2019.
- 2) Potential Elements for Public Case Summaries (Nancy Vaughn) - Committee Chair Case provided the Committee with the background on this item. Based on feedback from the CRB's Outside Counsel, Nancy Vaughn agreed to draft a fictional case summary. From that case, Ms. Vaughn drafted 4 case summaries. Committee Chair Case had concerns with the summaries, so he drafted a separate summary that included more details of the incident, procedure numbers, the Board's rationale for

the vote, and excluded Team remarks which the Committee had agreed to do. He excluded the referral to the mayor.

The summary will become a part of the mid-year and annual report of the CRB. The summary will be drafted by the Team and given to IA for review.

Committee Chair Doug Case agreed to work with Nancy to come up with a comment to include and work on a newer summary that would be Version 6. Internal Affairs Captain Morris will invite a POA representative and legal counsel to the Committee's next meeting. The version 6 summary will be included with the meeting agenda. The Committee agreed to include the Board's actions and not the Team's discussions.

3) **Changes to Administration Standing Rule on CRB Case Report Format (Nancy Vaughn)**

- A. **Titles for non-SDPD individuals-** The Committee discussed the handout on Format and Presentation, Section 1.b. Face Sheet. Committee Chair Case recommended that Ms. Vaughn add to the section additional titles such as "Doctor" or "Reverend."

Committee Chair Case moved for the Committee to approve this addition. Nancy Vaughn seconded the motion. The motion passed with a vote of 4-0-0.

Committee Chair Doug Case-Yes, Diana Dent-Yes, Ramon Montano-Yes, Nancy Vaughn-Yes

- B. **Comments Matrix-** The Committee discussed the handout on comments. Nancy Vaughn explained that members are having difficulty in knowing where to put comments in a case report. Item IV.5B addition of Writing the Case Review Report would outline how and where to include comments to a case report.

The Committee agreed to revise the chart as follows: whether a case was tolled-asterisk in case notes, BWC information-asterisk in case notes, comments regarding commendations of an officer-asterisk in case notes, policy suggestions-asterisk in issues & concerns. An asterisk should go under Allegation D&C in the 3rd row and remove the asterisk from under case notes. Add to Type 1 after section, "focused on the investigation in the current case. The Committee also agreed to delete "disagreement" in Type 2 and replace with "interaction." Add a Type 4 that states "Comments that have commendation of an officer."

Committee Chair Case moved for the Committee to approve revisions discussed to this item. Nancy Vaughn seconded the motion. The motion passed with a vote of 4-0-0.

Committee Chair Doug Case-Yes, Diana Dent-Yes, Ramon Montano-Yes, Nancy Vaughn-Yes

- C. Revision to Section 2, "Writing the CRB Case Review Report" - to include guidance for disagreements both with IA and within the Review Team -**The Committee tabled this item.**

4) Bylaws Revisions

A) Clarification for CRB Bylaws Article II (Nancy Vaughn)

Nancy Vaughn explained that when the Board drafted the objectives section of the CRB bylaws at the time, the Board did not see that there was a difference in importance. It made the outreach of the Board equally important to case review by the Board which is untrue. Ms. Vaughn proposed that she rewrite the section on objectives to show that there is a primary objective which comes from the City Charter. The secondary objectives are policy recommendations, the independence of the Board, and outreach.

Committee Chair Case suggested moving the section on the independence of the Board from section 2 and make a new section 3 because Board independence is how you operate and not what you do. He further suggested that instead of saying "It is the objective of the Board to maintain" it should read "The Board shall remain independent and defend an independent posture..." Add after SDPD, "and community pressure." Then renumber Outreach and Education to "2. Outreach and Education."

Nancy Vaughn moved for the Committee to approve revisions discussed to this item. Diana Dent seconded the motion. The motion passed with a vote of 4-0-0.

Committee Chair Doug Case-Yes, Diana Dent-Yes, Ramon Montano-Yes, Nancy Vaughn-Yes

B) Section III Section 3A -Voluntary Resignation - (Sharmaine Moseley)

Committee Chair Case explained that CRB bylaws state that "A member's written notice of resignation is required by the City Clerk and the Mayor's Office and becomes a matter of public record unless confidentiality is requested by the resigning member. The issue is if a member submits a resignation letter, by law it becomes public due

to the Public Records Act. The resignation letter cannot be kept confidential.

The Committee agreed to add a period after public record in the second sentence and delete "unless confidentiality is requested by the resigning member."

Committee Chair Case moved for the Committee to approve revisions discussed to this item. Nancy Vaughn seconded the motion. The motion passed with a vote of 4-0-0.

Committee Chair Doug Case-Yes, Diana Dent-Yes, Ramon Montano-Yes, Nancy Vaughn-Yes

- C) Article III Section 3B (Sharmaine Moseley) -Approved by the Committee on April 16, 2019

In the third paragraph, add "agenda' after next regular Board Open Meeting followed by a period. Delete the rest of the sentence because the Board can't discuss removal proceedings in a Closed Meeting. This item was approved by the Committee on April 16, 2019.

- V. Date of Next Meeting: The Committee agreed to tentatively schedule its next meeting on June 13th at 9:30am.
- VI. Adjourn: The meeting adjourned at 10:48 a.m.

IMAGINARY CASE # I-2019-0508 – INCIDENT DESCRIPTION

On January 23, 2019, Officer Smith and Officer Miller were on patrol in full police uniform driving a marked SDPD vehicle. Around 1230 hours (12:30 PM) in City Heights they drove past a bus stop and observed a black youth lounging nearby. Just past the bus stop area, Officer Smith activated the overhead lights and backed up to the bus stop. The officers contacted the youth, Sam Washington, to investigate why he was not in school at this time of the day. During the initial contact, Mr. Washington appeared nervous and made statements about being stopped by two white officers. He was answering the officers' questions in an off handed, discourteous manner and Officer Miller decided to detain him in handcuffs. When Officer Miller reached for his hands, Mr. Washington pulled away and began flailing his arms, bumping into each officer at some point. Both officers saw Mr. Washington's action as an assault. Together they gained control of Mr. Washington's arms and used physical force to put him in handcuffs. Officer Smith leaned Mr. Washington against the patrol car to perform a "pat down" search. Mr. Washington squirmed, impeding the search. Officer Miller activated his taser, fired it from a distance of less the three feet, hitting Mr. Washington in the buttocks. Mr. Washington fell to the ground, temporarily immobilized by a single cycle of the taser. Afterwards medics were called to the scene. Mr. Washington was transported to a local hospital for removal of the taser barbs. Following treatment, he was released without being charged or cited.

On February 1, 2019, Mr. Washington filed a complaint with SDPD Internal Affairs alleging

- (1) Discrimination based on his race and
- (2) Excessive Force related to the use of the taser.

SAN DIEGO
COMMUNITY REVIEW BOARD
IMAGINARY CASE # I-2019-0508 SUMMARY

In accordance with CA PC 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court or judge in California or the United States.

The incident was in first quarter of 2019, during daylight hours. A black youth ("Complainant") was stopped by two SDPD Mid City officers ("Officer A" and "Officer B") for possible violation of CA Penal Code related to truancy. The Complainant stated that he had graduated high school two years ago and the officers had no right to detain him. He resisted officers' attempt to handcuff him and force (Taser) was used in order to detain him. He was transported to a hospital to receive medical care. He was subsequently released without being charged.

The Complainant alleged Discrimination stating that he was stopped and subjected to an interrogation by both officers because of his race. The Complainant alleged excessive Force, stating that he was tased for no reason.

For the allegation of Discrimination, IA asserted that there was no evidence that race was a factor in the contact and determined the alleged violation of SDPD Policy 9.31 to be UNFOUNDED. For the allegation of force (Taser), both officers stated the Complainant had been assaultive and continued to resist control. IA asserted the force used was within SDPD Procedure # 1.07 and determined the finding to be EXONERATED. In addition, IA added a SUSTAINED Other Finding that Officer B failed to activate his Body Worn Camera during an enforcement contact, as required by SDPD Procedure # 1.49

A CRB Case Review Team spent 52 hours to review the IA case file, and their report was reviewed by the full Board on May 14, 2019.

With respect to the allegation of Discrimination, the Board voted 11 to 8 to agree with the IA finding of UNFOUNDED, and added a Comment that the Board was concerned that truancy checks seem to only occur in low income neighborhoods. With respect to the allegation of excessive Force, the Board voted 10 to 9 to disagree with the IA finding of EXONERATED. The Board determined that in its opinion, based on Body Worn Camera video of Officer A and a cell phone video recorded by a bystander, the Complainant was not assaultive that there was no reason to believe he possessed a deadly weapon; therefore, the use of a Taser was prohibited. The Board believes this allegation should therefore be SUSTAINED. The Board also voted 19 to 0 to agree with the IA finding of SUSTAINED for an Other Finding, failure to turn on BWC (Officer B).

The Board voted 15 to 4 to refer the case to the Mayor for adjudication on the Force finding. After reviewing the case, the Mayor determined that the allegation of Force should be NOT SUSTAINED since the BWC and cell phone videos were inconclusive in determining whether the Complainant was assaultive. IA changed their finding accordingly.

Change to Admin Standing Rule: Format and Presentation, Section 1.b, Face Sheet:

...date of hire may also be shown.

Persons who are mentioned in the body of the CRB Case Review Report should be listed. Persons who are not mentioned in the body of the CRB Case Review Report should not be listed. The relationship information for witnesses (e.g., Complainant's son, Neighbor, etc.) should be added if available.

Reference to every person should use a title followed by the person's last name in all CAPITAL LETTERS. In the case of multiple persons with the same last name, an initial can be inserted before the last name, or the first names can be used if appropriate. Titles for SDPD officers should reflect that officer's rank on the date of the incident (not the rank at the time of this investigation). Titles for non-SDPD persons should be appropriate for status and gender; use Mr. for men and Miss, Ms or Mrs. for women. Examples of SDPD officer names would be "Officer SMITH" or Sgt. MILLER; examples of non-SDPD names would be "Mr. BROWN, Ms GRANDE, Mrs. P. BROWN or Miss S. BROWN. Other titles, such as professional or military titles (e.g., Dr., Rev., Capt., etc.) are also appropriate.

c. Allegation Table...

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