

Community Review Board on Police Practices

Rules Committee Meeting Notice

Agenda

Thursday, September 19, 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 July 26, 2019 Rules Committee Meeting
- III. Public Comment
- IV. New Business (**Discussion/Action Item**)
 - 1) Redacted Case Summary DRAFT
- V. Date of Next Meeting
- VI. Adjourn

Materials Provided:

- Draft 7.26.19 Rules Committee Meeting Minutes
- Draft Sample Redacted Case Summary

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, 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**

Present: Committee Chair Doug Case, Committee Members: Diana Dent, Ramon Montano, Nancy Vaughn, Marty Workman, CRB Executive Director Sharmaine Moseley, Internal Affairs Captain Wes Morris, CRB Outside Counsel Christina Cameron, POA President Jack Schaeffer, POA Attorney Brad Fields

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 9:35 a.m.
- II. Approval of the Minutes from May 13, 2019 – **Motion by Nancy Vaughn to approve the May 13, 2019 Rules Committee Meeting Minutes. The motion was seconded by Diana Dent. The motion passed with a vote of 5-0-0**

Yays: Committee Chair Doug Case, Diana Dent, Nancy Vaughn, Ramon Montano, and Marty Workman

Nays: None

Abstentions: None

Absent: Chair Joe Craver and Taura Gentry

- III. Public Comment: None
- IV. New Business (Discussion/Action Item)
 - 1) Potential Elements for Public Case Summaries
Committee Chair Case provided the Committee with the background on this item. The Committee want to include redacted case summaries in the Board's semi-annual reports and make available to the public. The Committee drafted and discussion several variations of a fictitious case report. This version is much longer than a normal case summary because all the possible elements were included such as disagreement, rationale

for the disagreement, comment, referral to the Mayor, and the decision from the Mayor.

Committee Chair Case opened it up for discussion. Nancy Vaughn stated that she was okay with the draft. Internal Affairs Captain Wes Morris stated that he has concerns because there is so much information in the draft. The biggest concern is how much information and detail exists in the draft that could be traced back to the officer or the complainant. He would have to look at each individual case to make sure that it is okay. Captain Morris highlighted the race of the individual as problematic. CRB Outside Counsel Christina Cameron agreed with Captain Morris' concern. She added that she was also concerned that the draft summary stated that the person graduated two years ago, and the incident happened in daylight hours. Consider saying the person previously graduated and materials that were used in reviewing the case.

The Chair, Executive Director, and CRB Outside Counsel will look at the summaries prior to the summaries going into the reports.

POA shares some of the concerns raised by Captain Morris. They are glad to see the sample drafts. The Committee want to include POA in these discussions to make sure everyone there are no issues down the line.

Committee Chair Doug Case and Nancy Vaughn agreed to draft a short version to bring to the Board for discussion. Based on Board feedback, the short version will be revised and sent back to the Committee.

2) Proposed Revision to CRB Administrative Standing Rule on CRB Case Report & Presentation: Titles for non-SDPD individuals

Committee Chair Case reported that the Board discussed this item in an Open Meeting. The Board want to include a gender-neutral title in its case reports in addition to referring to complainants and witnesses using professional titles that would include "doctor" and "reverend". This is important to the Board because the Board currently refer to officers using the "officer" title in case reports. recommended that Ms. Vaughn add to the section additional titles such as "Doctor" or "Reverend."

Committee Chair Case further reported that "Mx" is now used for gender-neutral titles for people who do not identify as male or female. He suggests that the Committee include "Mx" in the Administrative Standing Rule. After "Mrs. for women", include "and Mx for individuals who identify as non-binary."

Outside Counsel Cameron suggested that the Committee consider using "and where appropriate, gender-neutral title "Mx" can be used.

Nancy Vaughn moved for the Committee to accept the changes to this rule. Ramon Montano seconded the motion. The motion passed with a vote of 5-0-0.

Yays: Committee Chair Doug Case, Diana Dent, Nancy Vaughn, Ramon Montano, and Marty Workman

Nays: None

Abstentions: None

Absent: Chair Joe Craver and Taura Gentry

- V. **Date of Next Meeting:** The Committee agreed to wait until after the Board's Open Meeting in August to schedule its next meeting.
- VI. **Adjourn:** The meeting adjourned at 10:14 a.m.

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 and where appropriate gender-neutral term Mx. can be used. 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, Miss S. BROWN or Mx. JONES. Other titles, such as professional or military titles (e.g., Dr., Rev., Capt., etc.) are also appropriate.

c. Allegation Table...

DRAFT

SAN DIEGO

COMMUNITY REVIEW BOARD

SAMPLE 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 (including Officer A's body worn camera video, cell phone video, the police report written by Officer A, and audio recordings of of IA interviews with Officers A and B, the complainant and one civilian witness), 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.

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.