

COMMISSION ON POLICE PRACTICES

Wednesday, July 3, 2024 4:30pm-7:30pm

REGULAR BUSINESS MEETING AGENDA

Balboa Park Santa Fe Room 2144 Pan American W. Road San Diego, CA 92101

Commissioners: Octavio Aguilar, John Armantrout, Bonnie Benitez, Alec Beyer, Dennis Brown, Cheryl Canson, Doug Case, Stephen Chatzky, Armando Flores, Christina Griffin-Jones, Dwayne Harvey, Brandon Hilpert, Clovis Honoré, James Justus, Daniel Mendoza, Darlanne Mulmat, , Lupe Lozano-Diaz, Ada Rodriguez, Yvania Rubio, and Gloria Tran.

Staff: Executive Director Paul Parker, Interim Executive Director Danell Scarborough, Chief Investigator Olga Golub, Executive Assistant Alina Conde, Administrative Assistant Jon'Nae McFarland, Community Engagement Coordinator Yasmeen Obeid

The Commission on Police Practices (Commission) meetings will be conducted pursuant to the provisions of California Government Code Section 54953 (a), as amended by Assembly Bill 2249.

The Commission business meetings will be in person and the meeting will be open for in-person testimony. Additionally, we are continuing to provide alternatives to in-person attendance for participating in our meetings. In lieu of in-person attendance, members of the public may also participate via telephone/Zoom.

The link to join the meeting by computer, tablet, or smartphone at 4:30pm is: https://sandiego.zoomgov.com/j/1618376088

Meeting ID: 161 837 6038

In-Person Public Comment on an Agenda Item: If you wish to address the Commission on an item on today's agenda, please complete and submit a speaker slip before the Commission hears the agenda item. You will be called at the time the item is heard. Each speaker must file a speaker slip with the Executive Director at the meeting at which the speaker wishes to speak indicating which item they wish to speak on. Speaker slips may not be turned in prior to the day of the meeting or after completion of in-person testimony. In-person public comment will conclude before virtual testimony begins. Each speaker who wishes to address the Commission must state who they are representing if they represent an organization or another person.

For discussion and information items each speaker may speak up to three (3) minutes, subject to the Chair's determination of the time available for meeting management purposes, in addition to any time ceded by other members of the public who are present at the meeting and have submitted a speaker slip ceding their time. These speaker slips should be submitted together at one time to the Executive Director. The Chair may also limit organized group presentations of five or more people to 15 minutes or less.

In-Person Public Comment on Matters Not on the Agenda: You may address the Commission on any matter not listed on today's agenda. Please complete and submit a speaker slip. However, California's open meeting laws do not permit the Commission to discuss or take any action on the matter at today's meeting. At its discretion, the Commission may add the item to a future meeting agenda or refer the matter to staff or committee. Public comments are limited to three minutes per speaker. At the discretion of the Chair, if a large number of people wish to speak on the same item, comments may be limited to a set period of time per item to appropriately manage the meeting and ensure the Commission has time to consider all the agenda items. A member of the public may only provide one comment per agenda item. In-person public comment on items not on the agenda will conclude before virtual testimony begins.

Virtual Platform Public Comment to a Particular Item or Matters Not on the Agenda: When the Chair introduces the item you would like to comment on (or indicates it is time for Non-Agenda Public Comment), raise your hand by either tapping the "Raise Your Hand" button on your computer, tablet, or Smartphone, or by dialing *9 on your phone. You will be taken in the order in which you raised your hand. You may only speak once on a particular item. When the Chair indicates it is your turn to speak, click the unmute prompt that will appear on your computer, tablet or Smartphone, or dial *6 on your phone. The virtual queue will close when the last virtual speaker finishes speaking or 5 minutes after in-person testimony ends, whichever happens first.

Written Comment through Webform: Comment on agenda items and non-agenda public comment may also be submitted using the <u>webform</u>. If using the webform, indicate the agenda item number you wish to submit a comment for. All webform comments are limited to 200 words. On the <u>webform</u>, members of the public should select Commission on Police Practices (even if the public comment is for a Commission on Police Practices Committee meeting).

The public may attend a meeting when scheduled by following the attendee meeting link provided above. To view a meeting archive video, click here. Video footage of each Commission meeting is posted online here within 24-48 hours of the conclusion of the meeting.

Comments received no later than 11am the day of the meeting will be distributed to the Commission on Police Practices. Comments received after the deadline described above but before the item is called will be submitted into the written record for the relevant item.

Written Materials: You may alternatively submit via U.S. Mail to Attn: Office of the

Commission on Police Practices, 525 B Street, Suite 1725, San Diego, CA 92101. Materials submitted via U.S. Mail must be received the business day prior to the meeting to be distributed to the Commission on Police Practices.

If you attach any documents to your comment, they will be distributed to the Commission or Committee in accordance with the deadlines described above.

- I. CALL TO ORDER/WELCOME (Chair Tran)
- II. CPP COMMISSION ROLL CALL (Executive Assistant Conde)
- III. PURPOSE OF THE COMMISSION ON POLICE PRACTICES

 The purpose of the Commission on Police Practices (CPP or Commission) is to provide independent community oversight of SDPD, directed at increasing community trust in SDPD & increasing safety for community and officers. The purpose of the Commission is also to perform independent investigations of officer-involved shootings, in-custody deaths and other significant incidents, and an unbiased evaluation of all complaints against members of SDPD and its personnel in a process that will be transparent and accountable to the community. Lastly, the Commission also evaluates the review of all SDPD policies, practices, trainings, and protocols and represents the community in making recommendations for changes.
- IV. APPROVAL OF MEETING MINUTES (Chair Tran)
 - A. CPP Regular Meeting Minutes of June 18, 2024
- V. NON-AGENDA PUBLIC COMMENT (Community Engagement Coordinator Yasmeen Obeid)
 - VI. WELCOME OF NEW EXECUTIVE DIRECTOR (1st Vice Chair Dennis Brown)
 - A. Public Comment
 - B. Comments (Executive Director Paul Parker)
 - C. Discussion
 - D. Thank you to Interim Executive Director Dr. Danell Scarborough (Chair Tran and Staff)
 - VII. SAN DIEGO POLICE PROTEST POLICY COMMUNITY INPUT (Chair Tran)
 - A. Public Comment
 - B. Policy Recommendations (Commissioner Hilpert)
 - C. Discussion
 - D. Action—vote on policy recommendations to send to SDPD
 - VIII. POLICE PURSUIT AD HOC COMMITTEE (Ad Hoc Committee Chair Case)
 - A. Ad Hoc Committee Update
 - **B.** Public Comment
 - C. Discussion
 - IX. PRETEXT STOP COMMUNITY HEARING (Chair Tran)
 - A. Reminder of date/time/place: Wednesday, August 7, 2024, at 5 pm,

Location: George L. Stevens Senior Center (operated by the 4th District Seniors Resources Center)

- B. Public Comment
- C. Discussion
- X. HISTORY OF MEASURE B (Andrea St. Julian)
 - A. Presentation
 - **B.** Public Comment
 - C. Discussion
- XI. CLOSED SESSION
 - A. Public comment
 - B. 1st Vice Chair Dennis Brown Lead CPP into Closed Session (Not Open to the Public)
 - C. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be announced and posted on the Commission's website at www.sandiego.gov/cpp.
 - I. San Diego Police Department Feedback on Case Specific Matters (0)
 - II. Shooting Review Board Reports (0)
 - III. Officer-Involved Shooting (0)
 - IV. Discipline Reports (6)
 - V. Case Review Team Reports (3)
 - VI. Case-Specific Recommendations to the Mayor/Chief (0)
 - VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
 - VIII. Legal Opinion(s) Request & Response (0)
- XII. REPORT FROM CLOSED SESSION (1st Vice Chair Dennis Brown)
- XIII. COMMISSIONER COMMENTS (Time Permitting)
- XIV. ADJOURNMENT

Materials Provided:

- DRAFT Minutes from Regular Meeting on June 18, 2024
- DRAFT Protest Policy Recommendations

Access for People with Disabilities: As required by the Americans with Disabilities Act (ADA), requests for agenda information to be made available in alternative formats, and any requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for alternatives to

observing meetings and offering public comment as noted above, may be made by contacting the Commission at (619) 236-6296 or commissionpolicepractices@sandiego.gov.

Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services, or interpreters, require different lead times, ranging from five business days to two weeks. Please keep this in mind and provide as much advance notice as possible to ensure availability. The city is committed to resolving accessibility requests swiftly to maximize accessibility.



Commission on Police Practices

COMMISSION ON POLICE PRACTICES REGULAR BUSINESS MEETING AND AD HOC PERSONNEL COMMITTEE JOINT MEETING MINUTES

Tuesday, June 18, 2024 4:30pm-7:30pm

Balboa Park Santa Fe Room 2144 Pan American W. Road San Diego, CA 92101

Click https://www.youtube.com/watch?v=w6mamYx0ehY to view this meeting on YouTube.

CPP Commissioners Present:

Chair Gloria Tran

1st Vice Chair Dennis Brown

2nd Vice Chair Doug Case
Octavio Aguilar (arrived at 4:54 pm)
Bonnie Benitez
Alec Beyer
Cheryl Canson (arrived at 4:54 pm)
Stephen Chatzky
Lupe Diaz (arrived at 4:35 pm)

Excused:

Yvania Rubio John Armantrout

Ad Hoc Personnel Committee Present

(commenced at 4:47 pm):

Committee Chair, 1st Vice Chair Dennis Brown Clovis Honoré James Justus Darlanne Mulmat

CPP Staff Present:

Danell Scarborough, Interim Executive Director Olga Golub, Chief Investigator Yasmeen Obeid, Community Engagement Coordinator Alina Conde, Executive Assistant Jon'Nae McFarland, Administrative Aide

Armando Flores (arrived at 4:34 pm)
Christina Griffin-Jones (arrived at 4:47 pm)
Dwayne Harvey (arrived at 4:47 pm)
Brandon Hilpert
Clovis Honoré (arrived at 4:47 pm)
James Justus
Daniel Mendoza
Darlanne Mulmat

Absent:

Ada Rodriguez

None

- I. CALL TO ORDER/WELCOME: Chair Gloria Tran called the meeting to order at 4:30pm.
- II. ROLL CALL: Executive Assistant Alina Conde conducted the roll call for the Commission and established quorum.
 - A. Executive Assistant Alina Conde conducted roll call for the Ad Hoc Personnel Committee, which did not have a quorum, and was not commenced until a quorum was established at 4:47pm.
- III. PURPOSE OF THE COMMISSION ON POLICE PRACTICES: The purpose of the Commission on Police Practices (CPP or Commission) is to provide independent community oversight of SDPD, directed at increasing community trust in SDPD & increasing safety for community and officers. The purpose of the Commission is also to perform independent investigations of officer-involved shootings, in-custody deaths and other significant incidents, and an unbiased evaluation of all complaints against members of SDPD and its personnel in a process that will be transparent and accountable to the community. Lastly, the Commission also evaluates the review of all SDPD policies, practices, trainings, and protocols and represents the community in making recommendations for changes.

IV. APPROVAL OF MEETING MINUTES

- A. CPP Regular Meeting Minutes of June 5, 2024
 - 1. **Motion**: Commissioner James Justus moved for approval of the CPP Regular Meeting Minutes of June 5, 2024. 1st Vice Chair Dennis Brown seconded the motion. The motion passed with a vote of 11-0-0.

Yays: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Benitez, Beyer, Chatzky, Hilpert, Justus, Mendoza, Mulmat, and Rodriguez

Nays: 0

Abstained: 0

Absent/Excused/Arrived Late: Aguilar, Armantrout, Canson, Diaz, Flores, Griffin-Jones, Harvey, Honoré, Rubio

- V. NON-AGENDA PUBLIC COMMENT: None
- VI. CABINET ELECTIONS
 - A. Public Comment None
 - B. Nominations
 - 1. Chair
 - a) Discussion
 - b) Action:

Motion: Commissioner Stephen Chatzky moved to approve Gloria Tran as Chair of the Commission. Commissioner James Justus seconded the motion. The motion passed with a vote of 13-0-0.

Yays: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Benitez, Beyer, Chatzky, Diaz, Flores, Hilpert, Justus, Mendoza, Mulmat, and Rodriguez

Nays: 0

Abstained: 0

Excused/Late: Aguilar, Armantrout, Canson, Griffin-Jones, Harvey, Honoré, and Rubio

C. Nominations

- 1. 1st Vice Chair
 - a) Discussion
 - b) Action:

Motion: Commissioner James Justus moved to approve Dennis Brown as 1st Vice Chair of the Commission. Commissioner Christina Griffin-Jones seconded the motion. The motion passed with a vote of 16-0-0. Yavs: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Benitez,

Beyer, Chatzky, Diaz, Flores, Harvey, Hilpert, Honoré, Griffin-Jones, Justus, Mendoza, Mulmat, and Rodriguez

Nays: 0

Abstained: 0

Excused/Late: Aguilar, Armantrout, Canson, and Rubio

D. Nominations

- 1. 2nd Vice Chair
 - a) Discussion
 - b) Action:

Motion: Commissioner Dwayne Harvey moved to approve Doug Case as 2nd Vice Chair of the Commission. Commissioner Darlanne Mulmat seconded the motion. The motion passed with a vote of 17-0-0.

Yays: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Aguilar, Benitez, Beyer, Canson, Chatzky, Diaz, Flores, Harvey, Hilpert, Honoré, Justus, Mendoza, Mulmat, and Rodriguez

Nays: 0 Abstained: 0

Excused/Late: Armantrout, Griffin-Jones, and Rubio

VII. AD HOC OPERATING PROCEDURES (Ad Hoc Committee Chair Case)

A. Presentation:

- 1. SDPD Reporting and Compliance Procedures (*Timestamp 26:35*) Ad Hoc Committee Chair Doug Case presented the item.
- **B.** Public Comment None
- C. Discussion
- D. **Motion**: Commissioner Clovis Honoré moved to accept the SDPD Reporting and Compliance Procedures. Commissioner Bonnie Benitez seconded the motion. The motion passed with a vote of 18–0–0.

Yays: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Aguilar, Benitez, Beyer, Canson, Chatzky, Diaz, Flores, Griffin-Jones, Harvey, Hilpert, Honoré, Justus, Mendoza, Mulmat, and Rodriguez

Nays: 0 Abstained: 0

Excused: Armantrout and Rubio

VIII. POLICE PURSUIT AD HOC COMMITTEE

- A. Ad Hoc Committee Update (*Timestamp 34:32*) Ad Hoc Committee Chair Doug Case gave an update on the progress of the committee's action plan. In Person Public Comment: Mr. Darwin (*Timestamp 33:22*) Took back his public comment due to time limit.
- B. Discussion

IX. PRETEXT STOP COMMUNITY HEARING

- A. Announce finalized date/time/place: Wednesday, August 7, 2024, at 5pm, Location: George Stevens Community Center
- B. Virtual Public Comment: Yusef Miller (*Timestamp 38:22*) Spoke to the Commission regarding Pretext Stops.
- C. Discussion

X. SAN DIEGO POLICE PROTEST POLICY

- A. Policy Recommendations (*Timestamp 44:31*) Commissioner Brandon Hilpert noted recommendations made by the former Community Review Board, as well as the CPP and the public.
- B. In Person Public Comment: Kate Yavenditti (*Timestamp 45:52*) Spoke on the item of Police Protest Policy.

 Virtual Public Comment: Yusef Miller (*Timestamp 47:17*) Spoke to the Commission

regarding Police Protest Policy.

C. **Motion**: Commissioner Christina Griffin-Jones moved to place this item on the next agenda with the goal to get more community input. Commissioner Bonnie Benitez seconded the motion. The motion passed with a vote of 15-3-0.

Yays: Chair Tran, 1st Vice Chair Brown, 2nd Vice Chair Case, Aguilar, Benitez, Beyer, Canson, Chatzky, Diaz, Flores, Griffin-Jones, Harvey, Honoré, Justus, Mendoza, Mulmat, and Rodriguez

Nays: Chair Tran, 2nd Vice Chair Case, Commissioner Hilpert.

Abstained: 0

Excused: Armantrout and Rubio

- D. Discussion
- E. Action Vote on Policy Recommendations to send to SDPD Tabled

XI. COMMISSION TIME REPORTING

- A. Presentation (*Timestamp 1:05:03*) Executive Assistant Alina Conde and Interim Executive Director Danell Scarborough presented on the Better Impact System for recording hours served on the Commission.
- B. Public Comment None
- C. Discussion

XII. CLOSED SESSION (NOT OPEN TO THE PUBLIC)

- A. Public Comment None
- B. 1st Vice Chair Dennis Brown Led CPP into Closed Session
- C. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
 Discussion & Consideration of Complaints & Reports

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5–832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session meeting if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Officer Involved Shooting (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (1)
- V. Case Review Reports (3)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (o)
- XIII. REPORT OUT FROM CLOSED SESSION (6:55pm): 1st Vice Chair Dennis Brown reported that there was no reportable action.

(*Timestamp 1:15:50*) Interim Executive Director Danell Scarborough updated the CPP on the Recruitment and Hiring process of the permanent Executive Director. Chair Gloria Tran also informed the Commission of the upcoming Awards and Recognition Ceremony that will be held for former members and commissioners of the CRB and CPP as of 2019. This will be held on June 26th.

XIV. COMMISSIONER COMMENTS:

- Commission James Justus (*Timestamp 1:25:41*) spoke regarding meetings with the Internal Affairs and SDPD Captain.
- Commissioner Armando Flores (*Timestamp 1:21:57*) shared thanks for the language accommodations made on the CPP website.
- Commissioner Clovis Honoré (*Timestamp 1:28:10*) spoke regarding complaint numbers of the San Diego Police Department with balanced statistics.
- XV. ADJOURNMENT: The meeting adjourned at 7:11 pm.



THE CITY OF SAN DIEGO

MEMORANDUM

Date: July XX, 2024

To: Scott Wahl, Chief, San Diego Police Department

From: Gloria Tran, Chair, Commission on Police Practices

via Danell Scarborough, Interim Executive Director

Subject: Recommendations to SDPD's First Amendment Activity Facilitation and

Management Procedures (4.17)

Beginning in June 2020, the Commission on Police Practices (Commission or CPP) began working collaboratively with the San Diego Police Department (SDPD) to create a standalone procedure to give officers and the community more clarity as to how SDPD responds to protest related activities.

The Commission began research of nationwide best practices, held several community meetings to gather feedback and shared our learnings with SDPD. In February 2021, SDPD released 4.17. The following month, CPP requested 19 revisions or clarifications and the department responded in May 2021, a revised procedure was released August 2022. In May 2024, CPP invited former Chief Nisleit and Executive Assistant Chief Connelly to attend and present the protest procedures.

We also received a copy of the memo from ACLU/MOGO requesting changes to the procedure as well as SDPD's response.

In the Department's May 2021 response to CPP recommendations, a common theme was that the recommendations were already addressed in other procedures, there is not yet agreed upon best practices or POST does not offer guidance. Multiple procedures already reference or reiterate other procedureal requirements. We believe in the activity of a protest event, clear and unambigious procedures is vital, without having to cross-reference other procedures.

At the Commission's July 3, 2024 meeting, the following recommendations were passed by a vote of X-X-X.

1. Define "peaceful demonstrator" and "legal observer"

Please add defininations of "peaceful demonstrator" and "legal observer" to section IV. Proposed options:

Peaceful demonstrator - Individuals attending a First Amendment protected activity, who are not suspected of committing a serious or violent crime or do not pose an

immediate threat of harm to officers or others.

Legal observers – Individuals who are trained volunteers with lega., civil rights or similar organizations whose purpose is to observe and record happenings at events such as demonstrations or rallies, who will be clearly identified as legal observers and are not simply participants in protest events.

2. Adding "legal observers" to XII. Public Information and the Media

The Commission believes that peaceful legal observers should not be specifically targeted. We believe the easiest way to achive this would be to add legal observers to this section of the procedure, specifically XII. B. which states "the media shall never be targeted for dispersal or encorcement action because of their media status."

3. Dispersal orders

In VII. C.2. and 7, clarify the legal standard (which states that officers are not required to use any specific words) vs. SDPD's procedure (which states officers shall use specific dispersal orders).

Current procedure references both, which creates confusion. SDPD indicated that 4.17 is more restrictive than California law. We recommend making tis requirement explicitly clear.

4. Dispersal technique

We share the ACLU/MOGO's recommendation, that the procedure should make clear that force shall not be used indisciiminately, rather targeted only against specific individuals whos conduct justifies such force.

5. Enhance definition and section of "unlawful assembly"

Current case law narrows the statute to assemblies "which are violent or which pose a clear and present danger of imminent violence."

6. Planning for protest events

- We recommend deleting V. A. 7. E. (has the Department previously worked with the organizers, have previous events been lawful). Each protest event needs to be reviewed from a fresh lens, regardless of past events.
- Composition of event attendees (V. A. 7. i.) should be elaborated upon as the current explanation could cause bias-based perceptions and/or discrimatory policing.

7. OC Spray usage at protests

The CPP wanted to make sure a UC Davis incident (where 11 peaceful sitting protestors were pepper sprayed) does not happen in San Diego. We recommend specifically reitering in the procedure that use of OC is prohibited during passive resistance (per 1.06).

We recommend using verbiage similar to Philidelphia's procedures which expressly "prohibit(s) the use of Chemical Weapons and Kinetic Energy Munitions by any member of th Department on any individual engaging in peaceful First Amendment Activities."

8. Officer ID Numbers on Flexcuffs

Previously we had recommended that officers write their ID numbers on flexcuffs when they detain someone. This recommendation was previously rejected, however at our May 2024 meeting, former Chief Nisleit indicated he would reconsider this recommendation. (Officers may write ID numbers on flexcuffs ahead of time when deployed to a protest activity.)

Page 2 Scott Wahl, Chief, San Diego Police Department July XX, 2024

9. Officer Identification Requirements

The Commission continues to believe that officers should be required to provide their name and badge/ID numbers upon request by members of the public. We recommend that the ability for officers to only provide an ID number be discontinued. We were told that there is concern of officers being "doxxed," however officers already have the ability have much of their personal information redacted from public records such as the DMV.

10. Speciality Munitions

The current (IX. D. 4. And X.) should be enhanced to describe when these munitions may be used, how they will be used and the order of escalation they may be used in.

If you have any questions, please do not hesitate to contact me at TranG@sandiego.gov.

Gloria Tran, Chair Commission on Police Practices

cc: Honorable Mayor Todd Gloria
Eric Dargan, Chief Operating Officer
Paola Avila, Chief of Staff
Paul Connelly, Executive Assistant Chief
Jeffrey Peterson, Captain, Internal Affairs
Matt Yagyagan, Deputy Director of Policy, Mayor's Office
Chida Warren-Darby, Director, Office of Boards and Commissions
Duane Bennett, Outside Counsel, Commission on Police Practices
Members of the Commission on Police Practices