

List of questions to answer in researching review boards

City of San Diego: Commission on Police Practices [CPP]

(transitioning from Citizens' Review Board on Police Practices [CRB])

GENERAL NOTE: It was difficult to determine, sometimes, which protocols were still in practice from CRB.

ALSO: San Diego has had a separate board on police/community relations since 2016 (similar to Portland's PCCEP)

A: Types of conduct/complaints the new agency will investigate and determine outcomes

(bureau complaints vs community complaints)

- \* Officer involved shootings, deaths in custody and other significant incidents.
- \* Force resulting in bodily injury; dishonesty including perjury, false reports, concealing evidence; cases of substantial public interest; where data shows pattern of inappropriate policies/procedures.
- \* Can also look at sexual misconduct, physical assaults, domestic violence by police
- \* Community members can also file commendations.
- \* Department initiated can come from officer in SDPD or other agency.

A-a: Does the Board review every complaint that gets filed?

- \* Not if the person says they don't want the incident investigated.
- \* CPP audits "category II" cases. Can send for investigation
- \* \* QUESTION: Since audits are of closed cases how can they re-open them?

B: Complaint process: community member vs. internal bureau complaints

- \* Complainants can file with Police Department or CPP
- \* Can be made online, by phone, email, mail, in person, at a police station
- \* \*\* Can be made to officer's supervisor or Mayor.

B-a: Time limits to file complaints

B-b: Materials given to complainant

B-c: Who can make complaints

- \* Anyone who experiences or witnesses misconduct can file

C: Mediation options (community member and police officer) (NO DATA)

D: Case handling and investigative processes, including work flow description

- \* Provide an unbiased evaluation of complaints
- \* CPP follows federal and state constitutions and laws, City Charter, CPP rules/regulations/bylaws, Collective Bargaining Agreement, Roberts Rules and NACOLE ethics code.
- \* When civilian first calls, field supervisor clarifies policy to see if that satisfies the complainant
- \* \* If not sends for investigation. (^^May be a remnant of the old system but is in a 7/21 document)
- \* \* If yes, Supervisor notes interaction in a memo that goes to the officers, if named.
- \* \* Supervisor can also refer to another supervisor who may have more info about complaint.
- \* Case assigned to investigating supervisor (it seems as if this is in Internal Affairs).
- \* \* Internal investigation can be assigned to supervisor of officer.
- \* Formal (category I) or informal (category II) case handling:
- \* \* Formal: (improper arrest or search, criminal conduct, discrimination, force, slur)
- \* \*\* Interview complainant, officer, witnesses, gather evidence including photos, videos, injuries.
- \* \*\* Interviews with civilians are audio recorded or documented why they are not.
- \* \*\*\* Interviews with officers are all recorded.
- \* \*\* Civilians can have a support person with them who is not a witness.
- \* \*\*\* Civilians can be interviewed at home, work or a neutral location.
- \* \*\* Case reviewed by CPP.

- \* \* Informal: (Service, Courtesy, Procedure, Conduct, other)
- \* \*\* Supervisor conducts preliminary investigation, addresses concerns with officer, documents in memo.
- \* \* Supervisor can show Body Worn Camera footage to complainant to resolve informal complaint.
- \* \*\* Commanding officer can recommend more investigation.
- \* \*\* Internal Affairs also reviews informal investigation and can return for more work.
- \* Both I and II result in letter with outcomes sent to complainant and Police Dept. Internal Affairs.
- \* Officer involved shootings:
  - \* \* Homicide does criminal investigation, IA does administrative.
  - \* \*\* Officers in criminal investigation receive Miranda warning.
  - \* \*\* Officers in administrative investigation receive "Administrative Admonishment."
  - \* \*\*\* This is the Lybarger/Garrity warning.
  - \* \*\* IA receives criminal investigative information.
  - \* \* CPP does independent administrative review of completed investigation (Category I).
  - \* CRB was able to send investigation to grand jury, district attorney or other agency (not CPP?)
  - \* CPP has access to IA Mon- Fri 7:30 AM to 5 PM, extendable to 6:30 to 7:30 on some days, non holiday Saturday mornings.
  - \* Shootings review protocol says there is only one allegation: Force in or out of police.
  - \* \* May also have procedural findings.

D-a: Timeline for investigation to be completed

- \* Informal complaints to be resolved in 30 days.
- \* \* If complainant wants formal investigation, must be completed in 60 days total for Category II.
- \* \* for Category I, deadline is 90 days total (from time complaint was received).
- \* Internal Affairs Lieutenant can extend these deadlines if reasonable and justified.

D-b: Hearing process

(this should really be its own category but I already got to "Z" on the list)

- \* Three member CPP panel reviews evidence, asks if thorough, fair and impartial.
- \* May agree with Internal Affairs findings or not.
- \* Disagreement leads to conference with IA investigator and supervisor.
- \* Panel evaluation goes to full board (commission)
- \* If CPP disagrees with IA, can send for more investigation or send to Mayor to make decision.
- \* If there are no sustained findings, officer gets notice and can ask for supporting documents.
- \* \* If there are sustained findings, officer gets notice and supporting documents.

E: Subpoena power and access to police records

- \* Can subpoena witnesses and documents

E-a: Does the board have access to all the records it needs?

E-b: Can the board compel officer testimony, if so how is it accomplished?

- Power to compel testimony is in the City Charter (41.2 on CPP)

F: Potential findings in misconduct cases

- \* Sustained (violation)
- \* Not Sustained (insufficient evidence)
- \* Unfounded (act did not occur)
- \* Exonerated (action was justified, legal and proper)
- \* Other- investigation revealed violations of other policies.

F-a: Standard of review to determine findings

G: Discipline process – due process and just cause requirements

- \* If sustained, commanding officer disciplines and notifies CPP.
- \* \* CPP can say if they think it is consistent with Discipline matrix and appropriate.
- \* Can recommend discipline in cases where CPP investigates or when complaints have been made.

H: Appeal process – will police and community members be allowed to appeal their cases?

- \* If the officer is dissatisfied they can rebut the finding within 30 days.
- \* \* Not accepted if rebuttal comes from supervisor or is filed late.
- \* An appeals process is in the collective bargaining agreement (article 41).
- \* \* Officers appeal to the Civil Service Commission.

H-a: Standard of review to examine/determine findings in appeal phase

I: Will city council continue to be part of the process?

- \* Mayor can make decision on case where CPP disagrees with Internal Affairs' finding.
- \* Mayor shall conduct reviews of process: trends in complaints, investigations and discipline
- \* \* Evaluate complaint procedures, survey complainants and witnesses, review statistics, interview personnel.

J: Will all or part of the oversight board be involved in appeals and other case-related decisions?

- \* Three member CPP panel reviews evidence in cases.

K: Process for making policy and training recommendations from both community board and agency staff

- \* Review policies, training and protocols to recommend changes to Police, Mayor, City Council.
- \* \* Policy Committee evaluates suggestions by members, presents to CPP before sending forward.
- \* If a case turns up policy issues, CPP can recommend changes to Chief.
- \* CPP holds community discussions on policy issues.
- \* Case Review Team leader uses form to inform Chair of policy issues.

L: Chief and police commissioner's obligation to respond and follow oversight board's decisions and recommendations (NO DATA)

M: Board membership:

M-0: In what way are community members involved in the oversight system?

- \* Volunteer CPP Board reviews formal investigations and audits informal ones.
- \* Primary role is to review complaints, secondary are policy recommendation, outreach
- \* Guiding principle is independence.

M-1: How many

- \* Up to 23 commissioners; in 2022 there are only 15 seated (see M-8)

M-2: Qualifications

M-3: Recruitment, replacement [removal-- see M-10]

M-4: Appointment process

- \* City Council appoints CPP members.

- \* \*Mayor appointed CRB members (referenced in Internal Affairs protocol)
- \* Members take and oath and sign affirmation upon appointment and reappointment.

#### M-5: Representation/Diversity

- From Charter (Sec 42): "The appointing authority in selecting appointees to commissions, boards, committees or panels shall take into consideration sex, race and geographical area so the membership of such commissions, boards, committees or panels shall reflect the entire community."

#### M-6: Length of terms – renewable or not

- Two year terms, staggered so 12 or fewer leave at a time.
- Limited to eight years total in a row; can wait two years and reapply.
- Can serve until next person is appointed

#### M-7: Training requirements

- \* 48 hours per year including two ridealongs.

#### M-8: Quorum requirements

- \* Quorum is a majority of seated members, minimum of 7

#### M-9: Paid or unpaid

- \* Reimbursed for authorized, reasonable and necessary expenses.

#### M-9a: If paid, how?

#### M-10: Removal

- \* Can be removed for:
  - \* \* 2 consecutive unexcused absences (must contact Chair or ED by noon on day of meeting)
  - \* \* Missing 1/3 of meetings in a fiscal year
  - \* \* Reviewing fewer than 80% of cases assigned in a year.
  - \* \* Failing to be active in at least one committee
  - \* \* Failing to attend at least one outreach event per quarter
  - \* \* Misuse of position
  - \* \* Misuse of police documents
  - \* \* Violation of confidentiality
  - \* \* Misconduct/ criminal conviction that affects ability to serve
  - \* \* Unethical conduct. From NACOLE: Personal integrity, independent/thorough oversight, transparency, confidentiality, respectful/unbiased treatment, outreach, self-examination, commitment to policy review, primary obligation to community.
  - \* \*\* Also actual or perceived conflict of interest including financial or relationship, or hearing a case where member has intimate knowledge.
  - \* \*\*\* Can alert Chair/ ED / Team leader and request to be removed from a case.
- \* Excused absences can be for unforeseen event, health reasons, out of town, conflict of interest.
- \* Members can resign by sending a letter / email to Chair and ED.
- \* Cabinet (see M-13) investigates
- \* Subject member meets with Cabinet and ED who decide whether to proceed.
- \* \*\* Cabinet puts removal on open meeting agenda.
- \* \*\* 2/3 vote needed to recommend to Council for removal; subject of investigation cannot vote.
- \* \*\* Subject can present a defense.

- \* \*\* Council has 60 days to hold hearing.

M-11: How does the board break down its time?

- \* In 2021 volunteers put in 2976 hours.
- \* \* 701 in training, 158 in conferences, 17 in outreach, 1268 in case review, 1159 at meetings, 305 other duties.
- \* Committees are standing or ad hoc.
- \* \* Chairs remain for one year on standing committees, until mission completed for ad hoc.
- \* \* Hold quarterly or more frequent meetings, give public notice, report at open CPP meetings, create summary for reports, standing chairs serve on Executive Committee.
- \* \* Committees have no more than 7 members.
- \* \* Standing Committees:
  - \* \*\* Executive (functioning of CPP),
  - \* \*\* Policy (see "K"),
  - \* \*\* Education (sets up presentations for CPP open meetings).
  - \* \*\* Community Outreach (community events- see "S" and CPP meetings)
  - \* \*\* Rules (looks at Bylaws, operating provisions)
  - \* \*\* Recruitment and training

M-12: Rules for vacancies [relates to M-3, M-8 and M-10]

M-13: What officers are there for the board?

- \* The "Cabinet":
  - \* \* Chair - spokesperson (see "S") but can delegate, runs meetings, is on Executive Committee, coordinates with ED on communications with City, appoints committee members/chairs, is ex officio member of committees, coordinates communication among Case Review Team leaders, can join Case Review Team if needed.
  - \* \* Vice Chair- acts as Chair in Chair's absence, on Executive Committee, trains new members and Case Review Team Leaders, can serve on Case Review Team.
  - \* \* Second Vice Chair - Chair in absence of Chair/First VC, on Executive Committee, serves on Case Review Teams, is Parliamentarian.
  - \* \*\* Parliamentarian consults on procedure, Chair makes ruling.
  - \* Terms run until new people are elected.
  - \* If Chair vacates seat, Vice Chair moves up; if Vice Chair vacates, Second Vice Chair moves up.
  - \* If Second Vice Chair vacates, filled at next meeting.
  - \* If all three vacate, acting officers can be appointed for two months until a vote is taken.
  - \* Cabinet assigns members to Case Review Teams with ED
  - \* \* Investigates member misconduct (see M-10)
  - \* \* Supervises and consults with Executive Director.
  - \* The "Executive Committee" is made up of the cabinet and chairs of Committees.

M-14 (NEW!): Voting process

- \* Roll call vote (not show of hands)
- \* Must give a reason if abstaining.
- \* Chair can break ties.

N: Transparency and public access: guidelines around open meetings and public participation within limits of personnel regulations

- \* Law restricts revealing discipline.
- \* Open meetings held once a month

- \* 72 hour notification required.
- \* In 2021 they held 28 closed and 11 open sessions.

N-a: What happens at meetings (other than hearing cases)?

- \* Open meetings:
  - \* \* Transact business, hear presentations, communications with public, hear testimony but not individual cases, training provided, ED report, Police Dept. report, Committee reports, Chair report, City Attorney report, old business, new business,
- \* Closed meetings:
  - \* \* Held twice a month
  - \* \* Confidential to review case investigations, discuss information exempt from disclosure.
  - \* \* Includes presentations by shootings review board, discussions of discipline.
- \* Special meetings:
  - \* Chair, cabinet, Commission can call to discuss only the matter listed on the agenda.
  - \* No names are used in case summaries- officer A, passenger A
  - \* \* Case number, date (by quarter of year?), time of day, number of officers, division, chronology, outcome, allegations, complainant, IA findings.
  - \* \* hours spent by Case Review Team, hearings held, changes by IA, disposition, date of meeting, vote tallies, whether case was forwarded to Mayor.

O: Agency director – qualifications, hiring process, authority, performance reviews

- \* Executive Director appointed by City Council.
- \* Serves at will of and under direction of Commission.
- \* Responsible for day-to-day operations, responding to inquiries from the public and receiving complaints, liaison to City, maintaining records, preparing reports, hiring staff, sending meeting notices, attending meetings, prepare and disseminate minutes.
- \* Commission conducts annual performance review.

O-a: What other staff does the board have? [also see Q: Independent Legal Counsel]

- 6 full time employees other than ED.

P: Office location – How/where does it exist to be? Free-standing? Where is the bureaucratic structure?

- \* CPP is at 1200 3<sup>rd</sup> Ave, IA is at 1401 Broadway, Mayor at 202 C Street.

Q: Independent legal counsel

- \* Yes, they had a contract for \$180,000 a year per annual report.
- \* Guidelines say CPP "shall" retain Counsel as employee or on contract.
- \* ED hires in consultation with the Cabinet.

R: Reporting requirements – quarterly and annual reports, required contents, consultation with oversight board, presentation to city council and the public

- \* Semi annual reports to Mayor and City Council about CPP's duties and powers.
- \* Case summary report, readacted (by Team within two weeks)
- \* Reports on CPP Committees.

R-a: What is included in the public reports other than required contents?

- \* (not clear what is required)
- \* Statistics on how board voted on discipline

S: Public and police bureau member education on the new system

- \* CPP is to keep the community informed on activities and receive input

- \* \* includes how to file a complaint without fear of retaliation.
- \* Members can speak about their roles but Chair is spokesperson for CPP.

T: Independent expert review of shootings and deaths in custody (NO DATA)

U: Inspector General or Police Auditor with full access to Bureau records, trainings, and staff  
(NO DATA)

V: What is the board's budget?

- \$1,327,134

W: How are internal rules made for the Board?

- \* CPP has an internal Rules Committee (see M-11)
- \* Bylaws can be amended by 2/3 vote at open meeting.
- \* Rules of Order is list of parliamentary procedures, vote by majority.
- \* Operational and Standing Rules : interfacing with City departments, vote by majority.
- \* Administrative Rules: Internal processes, vote by majority.
- \* \* Commission members can submit proposals 10 days in advance to modify these documents.
- \* NOTE: Though Roberts Rules says a motion has to be on the floor for a discussion to take place, that does not apply to this body.

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X: What are barriers that you are facing?

Y: If you could add other powers and authorities to your board, what would you like to add?

Z: Is there anybody else we should talk to?