



# San Diego County Sheriff's Department

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Kelly A. Martinez  
Undersheriff

*Anthony C. Ray, Sheriff*

July 29, 2022

Eileen Delaney, Board Chairperson  
Citizens' Law Enforcement Review Board  
555 West Beech Street, Suite 505  
San Diego, CA 92101-3819

## **CLERB POLICY RECOMMENDATION: REDUCTION OF RACIALLY DISPARATE POLICING**

Dear Chairperson Delaney,

The Sheriff's Department welcomes and supports the Citizens' Law Enforcement Review Board's (CLERB) independent review of complaints alleging improper actions by members of this organization and in-custody deaths. We continuously strive to respond with professionalism and concern to the citizens we serve, and the CLERB process provides invaluable input.

On April 19, 2022, CLERB recommended the following policy changes related to the San Diego County Sheriff's Department (SDSD). Although centrally focused on reducing perceived racially disparate policing practices, these recommendations intersect with several Sheriff's Policy and Procedure sections, state and federal statute law, and state and federal case law. Due to the complex nature of addressing this recommendation, the response addresses each of CLERB's five recommendations individually.

1. Reduce discretionary stops or contacts, traffic or otherwise, pertaining to low-level offenses that do not compromise actual public safety. Many of these stops are pretextual in nature and oftentimes used to make an initial contact with the primary goal of locating weapons, drugs, warrants, suspended licenses, etc.
  - a. Eliminate stopping or contacting people solely for lower-level traffic offenses, such as:
    - i) Expired registration,
    - ii) Equipment violations, and
    - iii) No seatbelt in use.

The primary purpose of Sheriff's deputies enforcing traffic laws is to reduce collision-related injuries and fatalities. Studies have shown that increased traffic enforcement and citations reduce collisions and deaths. Residents of San Diego County expect deputies to enforce the law fairly and

equitably within our communities and areas of jurisdiction. Nine cities contract traffic and law enforcement services with the Sheriff's Department. The listed lower-level traffic offenses, i.e., expired registration, equipment violations, and the use of seatbelts, are public safety concerns and can lead to unsafe driving conditions and collisions. We know that wearing a seatbelt saves lives. "Most drivers and passengers killed in crashes are unrestrained. 53% of drivers and passengers killed in car crashes in 2009 were not wearing restraints (cdc.gov, 2010)." The CDC recommends increased enforcement of seatbelt laws to save lives. The seatbelt usage rate was 90.4% in 2021, with 51% of passenger vehicle occupants killed in 2020 being unrestrained (nhtsa.gov, 2022). By ignoring these violations, the Sheriff's Department would be remiss in meeting its public safety obligation.

Windshields, bumpers, lighting equipment, and seatbelts are addressed explicitly in the California Vehicle Code because they are safety equipment and can significantly affect a collision's severity. Contacts to address these violations do not preclude a deputy from exercising discretion by issuing a verbal warning instead of a citation. Some of these stops lead to identifying higher levels of criminal behavior, including driving under the influence, which poses a public safety risk.

- b. Eliminate contacting people solely for quality-of-life issues not jeopardizing public safety, such as loitering or jaywalking.

As with the equipment violations listed above, pedestrian violations of the California Vehicle Code (jaywalking, crossing against the signal, pedestrian in the roadway, etc.) present genuine public safety concerns, including the safety of the individual involved. In 2016, pedestrians accounted for 16% (5,987) of all collision-related fatalities. Of those pedestrian fatalities, 72% occurred in the roadway, not at an intersection or crosswalk. 76% of the decedents were in urban areas, and 70% of those killed in pedestrian collisions were male (nhtsa.gov, 2018). Failing to routinely address these violations only serves to normalize these behaviors, eventually increasing the number and severity of vehicle versus pedestrian collisions. These contacts provide opportunities for deputies to proactively educate the public rather than simply responding to injury and fatality collisions.

Deputies address quality-of-life issues in response to calls for service from members of the public. In many instances, these calls involve suspicious persons perceived by the caller as loitering or who may need assistance. Deputies would be negligent if they failed to investigate these concerns. It is impossible to understand the validity of the concern until a deputy contacts the individual. There are often innocent explanations for these behaviors, but deputies can only make that determination by engaging in these contacts.

In 2021, deputies engaged in approximately 24,437 traffic and subject stops. 44% resulted in a warning, 23% resulted in a citation, 12% were closed as information only, 10% resulted in a field interview, and about 9% resulted in some form of arrest (Sheriff's CAD/NetRMS, 2022).

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Drug-related charges – 1,903  
Weapon Law Violations – 187

All other Offenses – 1,097  
Driving under the Influence - 87

2. Add to Subsection B of Field Operation Manual Policy 1, "Use of Discretion," that discretionary decisions should be evaluated for whether they will result in racially disparate treatment or outcomes.

When using discretion, deputies should weigh a myriad of factors, foremost among them being public safety, deputy safety, and the safety of the person they intend to contact. A person's demeanor and actions throughout the contact provide a more reliable basis for aiding a deputy's determination to exercise enforcement discretion. For a deputy to consider race or ethnicity when deciding to contact or not contact, enforce or not enforce, would arguably require the deputy to engage in racially disparate policing. This standard not only violates the public trust, Sheriff's policy, and several laws but would amount to civil rights violations.

3. Provide justification for a stop or contact on Body Worn Camera (BWC).

It is common practice when contacting members of the public for deputies to explain the reason for a pedestrian or vehicle contact. These explanations can deescalate an encounter and frequently put the individual at ease. When activated, the BWC begins recording video but has a built-in 30-second audio recording delay. Sometimes, a deputy has already explained the reason for the contact before the start of the audio recording. When a citation is issued, it is standard practice for deputies to explain the violation(s) to the driver and provide them with a copy of the citation. If the deputy gives the person a warning, the reason for the contact and any specific violation is generally included in the computer-aided dispatch (CAD) disposition and/or during the conversation with the person.

4. Proactively review BWC footage for the sole purpose of analyzing deputy interactions with people of color in comparison to interactions with white people.

The current San Diego Sheriff's Department (SDSD) BWC Policy and Procedure (P&P 6.131) states:

**"DISCOVERY OF MISCONDUCT**

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If misconduct is discovered during any review of digital evidence, the conduct in question shall be brought to a supervisor. Nothing in this procedure prohibits addressing policy violations. To enhance oversight and assess the level of policy compliance, supervisors will regularly spot check staff BWC videos."

Supervisors spot-check BWC videos for compliance and oversight. If a supervisor discovers policy violations, the supervisor takes appropriate action at that time. For this reason, we feel the current BWC policy is sufficient to address any disparities or policy violations.

5. Because there exists a lack of evidence indicating that implicit bias training is effective and sustainable, institute pre-employment screening for existing implicit and explicit bias.

The Sheriff's Department strives to offer employment to citizens who have passed an extensive background investigation, including several stages. Each candidate completes a comprehensive background packet, and trained background investigators conduct thorough investigations before any offer of employment.

Every candidate (professional and sworn) is required to participate in a Computer Voice Stress Analysis (CVSA) as a requirement of the background investigation process. During the CVSA, the potential employee is asked to complete a lengthy questionnaire, which asks a variety of questions. Each candidate is asked questions about discrimination or sexual harassment within the questionnaire. Additionally, the potential employee answers questions about personal prejudices they may have and if they feel those prejudices would influence their judgment. A certified CVSA examiner administrates all interviews. The Sheriff's Department utilizes the CVSA as a truth verification tool to verify a lack of demonstrated bias. Additionally, every sworn employee undergoes a psychological evaluation that seeks to discover implicit bias, among other disqualifiers.

Based on the recommendation, Sheriff's Personnel modified the following question in the CVSA questionnaire:

- Have you ever discriminated against a person based on their sexual, religious beliefs, ethnicity, race, age, or gender identity?

Based on the recommendation, the Sheriff's Department added the following questions to the Lateral section of the questionnaire:

- Have you ever received a complaint related to discrimination based on a person's sexual orientation, religious beliefs, ethnicity, race, age, or gender identity?
- If you did receive a complaint, was there an internal investigation started and/or completed based on a complaint of discrimination or harassment?

The San Diego Regional Police Academy curriculum introduces recruits to cultural diversity and implicit bias during a 4-hour training block. Training and exposure continue throughout a deputy's career with bulletins, regular emails, and flyers through the Sheriff's Department Community Inclusion Director and other County resources.

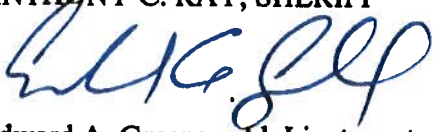
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**CLERB Policy Recommendation**  
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In closing, we value the time and effort of the Citizens' Law Enforcement Review Board. I would like to thank you for your dedicated service to the Citizens of San Diego County and for this policy recommendation. We continuously strive for improvement in all aspects of our department to allow us to serve to the best of our abilities. It is our goal to provide the highest quality public safety services to everyone in San Diego County.

Sincerely,

**ANTHONY C. RAY, SHERIFF**

A handwritten signature in blue ink, appearing to read 'EAG', is written over the typed name of the Lieutenant.

Edward A. Greenawald, Lieutenant  
Office of the Sheriff  
Division of Inspectional Services  
ACR:EAG:kb