

BOARD MEMBERS

EILEEN DELANEY
Chair
MARYANNE PINTAR
Vice Chair
ROBERT SPRIGGS JR.
Secretary
DR. R. LEE BROWN
ANDREW HAYES
NADIA KEAN-AYUB
BONNIE KENK
ARIANA FEDERICO MONDRAGON
TIM WARE
GARY I. WILSON
VACANT – DISTRICT 3



EXECUTIVE OFFICER
PAUL R. PARKER III

County of San Diego
CITIZENS’ LAW ENFORCEMENT REVIEW BOARD

555 W BEECH STREET, SUITE 220, SAN DIEGO, CA 92101-2938
TELEPHONE: (619) 238-6776 FAX: (619) 238-6775

www.sdcounty.ca.gov/clerb

REGULAR MEETING AGENDA

Tuesday, October 11, 2022, 5:30 p.m.

Remote Meeting Zoom Platform

<https://us06web.zoom.us/j/83089242515?pwd=NXVUaDNzK2p2K1hxUjN0WEEd2N3Bvdz09>

Phone: +1 669 444 9171

Webinar ID: 830 8924 2515

Passcode: 956031

Pursuant to Government Code Section 54954.2 the Citizens’ Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives, or any member of the public wishing to address the Board should submit a "Request to Speak" form prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to CLERB at (619) 238-6776 at least 24 hours before the meeting.

WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code Section 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 555 W Beech Street, Ste. 220, San Diego, CA.

1. ROLL CALL

2. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board’s jurisdiction but not an item on today’s open session agenda. **Each speaker shall complete and submit an online “Request to Speak” form.** Each speaker will be limited to three minutes. This meeting will be held remotely via the Zoom Platform. Click the link in the agenda header above to access the meeting using the Google Chrome web browser. Contact CLERB at clerb@sdcounty.ca.gov or 619-238-6776 if you have questions.

3. MINUTES APPROVAL (Attachments A1 and A2)

4. PRESENTATION/TRAINING

- a) Justice Involved Care Coordination/Data Sharing Board Letter by Sayone Thihalolipavan, M.D., M.P.H.
- b) Transgender Incarcerated Persons Processes Overview by San Diego Sheriff’s Department Jail Population Management Unit Lieutenant Ofelia Rodriguez

- c) Overview of 2022 NACOLE Conference by Vice Chair MaryAnne Pintar and Executive Officer Paul Parker

5. EXECUTIVE OFFICER'S REPORT

- a) Overview of Activities of CLERB Executive Officer and Staff
- b) Workload Report – Open Complaints/Investigations Report (Attachment B)
- c) Case Progress and Status Report (Attachment C)
- d) Executive Officer Correspondence to Full CLERB (Attachment D)
- e) Policy Recommendation Pending Responses
- i. 21-004 / Moreno (Death) – SDSD
 - It is recommended that the San Diego Sheriff's Department (SDSD) identify who answers the "Arresting Officer Questions" on the Receiving Screening Questionnaire during the Booking process.
 - ii. 21-055 / Frost – SDSD
 - It is recommended that the SDSD revise Patrol Procedures Manual Policy 25 Prisoner Transportation (and any other associated policies), as it pertains to Subsection C, Deputy's Responsibilities at Detention Facility to mandate that an arrestee **shall** be taken to a facility that coincides with the arrestee's gender identity. As such, an arrestee who identifies as being female **shall** be taken to Las Colinas Detention Re-Entry Facility or Vista Detention Facility, and an arrestee who identifies as being male **shall** be taken to San Diego Central Jail, or Vista Detention Facility. If the arrestee identifies as non-binary, the arresting officer **shall** inquire as to whether the arrestee would prefer to be booked into a male or female facility and transport accordingly.
 - iii. 21-060 / Meadows – SDSD
 - It is recommended that the San Diego Sheriff's Department (SDSD) create a policy that mandates conducting all Detentions Investigative Unit (DIU) interviews in a private area, out of view from other inmates.
 - iv. 21-083 / Park – SDSD
 - It is recommended that deputies be required to notate in the Jail Information Management System (JIMS) each meal distribution in each housing unit, in conformance with California Title 15 Minimum Standards for Local Detention Facilities. If an incarcerated person misses a regularly scheduled facility meal and they are provided with a substitute meal and beverage, it will be notated in JIMS.
 - It is recommended that the completion or incompleteness (and reason for incompleteness) of all California Title 15 Minimum Standards for Local Detention Facilities requirements shall be noted in JIMS (showers, mail, etc.).
 - v. 21-096 / Cernilia – SDSD
 - It is recommended that the San Diego Sheriff's Department (SDSD) expand Policy and Procedures Section 6.131 entitled, "Body Worn Camera (BWC)" to incorporate the use of BWC to record all law enforcement-related contacts/interactions (i.e., telephonic calls for service, deputy call-backs, etc.), not just those contacts arising out of in-person scene responses or in-person deputy-initiated contacts.
 - vi. 21-100 / Richardson – SDSD
 - This is the third incident over the past two years in which CLERB received complaints alleging that deputies assigned to the Imperial Beach Substation either failed to respond to community members while being videorecorded or attempted to interfere with a community member's right to videorecord law enforcement activity. In CLERB Case #20-025, there was insufficient evidence to determine whether, during nighttime hours, a deputy shined a flashlight toward the complainant for the purpose of interfering with his recording of the deputy's activities. In CLERB #21-024, CLERB

sustained findings of a deputy refusing to acknowledge a complainant and provide identification upon request while being videorecorded. During that time, CLERB did not receive similar allegations about deputies assigned to any other station. As such, CLERB makes the following recommendation:

- The SDSA update the Legal Affairs Update entitled “The Public Can Record the Police” dated 11-14-14, and document its review with all deputies, specifically those assigned to the Imperial Beach Substation.

vii. 22-011 / Rojas – SDSA

- It is recommended that the San Diego Sheriff’s Department (SDSA) revise Detention Services Bureau (DSB) Policy and Procedure (P&P), Section I.63 Facility Security – Housing Units to mandate that all high-level Incarcerated Persons will be housed in cells that have food flaps.
- It is recommended that the SDSA revise DSB P&P, Section I.63 Facility Security – Housing Units to mandate that only one cell door is open at a time while deputies conduct daily facility operations, e.g., meal/medication distribution, cell searches, etc., in the housing modules.

viii. 22-058 / Blue – SDSA

- It is recommended that the SDSA create a Training Bulletin on the subject of handicap parking law enforcement, to include but not limited to temporary and permanent handicap placards and parking restrictions, for distribution to all patrol deputies.

ix. Digital Scanning and Delivery of Non-Legal Mail to Incarcerated Persons – SDSA

- Digitally scan all non-legal mail and ideally deliver to the incarcerated person addressed the mail via an electronic and non-physical method, e.g., kiosk, computer terminal, etc.

x. Physical Search or Scanning of All Persons in Detention Facilities, to Include Staff – SDSA

- Physically search or body scan all persons entering a SDSA-operated detention facility, to include all SDSA employees, County employees, contractors, and those persons conducting county-related business. “All persons” also includes social and professional visitors and incarcerated persons (I/Ps) upon booking and transferring between facilities or re-entering a facility after having departed it for court, medical treatment, etc.

xi. Use of Technology to Monitor Health and Safety of Inmates – Probation

- Research, and publicly report the results of its research efforts, i.e., associated costs, technology considered, reasons for not implementing, if applicable, etc., the use of technological devices to identify and subsequently aid inmates who may be in medical distress.
- Incorporate into policy the use of technological devices to identify and subsequently aid inmates who may be in medical distress.

f) Policy Recommendation Responses

i. CLERB Staff Response to Death Scenes – Probation (Attachment E)

- Allow a CLERB staff member with extensive death investigation experience to be present at the initial death scene and any related incident scene and, without compromising or obstructing the law enforcement investigation, receive a briefing, participate in a scene walk-thru, and have any questions about the circumstances surrounding the events leading up to, and including the death, answered.

g) Sustained Finding Pending Responses

i. 21-055 / Frost – SDSA

h) Sustained Finding Response

i. None

6. BOARD CHAIR’S REPORT

7. NEW BUSINESS

- a) Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)
- b) Policy Recommendation to the San Diego Sheriff's Department (SDSD): Log Contraband Searches of Transportation Vehicles (Attachment F)
- c) Policy Recommendation to the SDSD: Provision of Eviction Documentation in Threshold Languages (Attachment G)
- d) Adoption of CLERB Vision Statement (Attachment H)
- e) Adoption of CLERB Member Code of Conduct (Attachment I)

8. UNFINISHED BUSINESS

- a) Update: Authority for the Executive Officer to Work with County Staff to Pursue Legislation and/or to Add a Policy to the County Legislative Program in Support of Increased Transparency in Civilian Oversight of Peace Officers and Custodial Officers
- b) Update: Authority for the Executive Officer to Work with County Staff to Request that the County Board of Supervisors Expand CLERB's Jurisdiction to Include Personnel Involved in Providing Medical Care in County Detention Facilities

9. BOARD MEMBER COMMENTS

10. SHERIFF/PROBATION LIAISON QUERY

11. CLOSED SESSION

- a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

CASES FOR SUMMARY HEARING (8)

21-111/LOPEZ

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his Sheriff's canine on Jorge Anthony Lopez, which resulted in Lopez sustaining dog bites.

21-114/ESHBACH (DEATH)

1. Death Investigation/In-Custody Medical – Richard Frederick Eshbach was incarcerated at George Bailey Detention Facility (GBDF) until transported to Scripps Mercy Hospital where he tested positive for COVID-19; Eshbach died on 11-08-21.
2. Misconduct/Procedure – SDSD delayed notification of Eshbach's hospitalization to family.

3. Misconduct/Medical (I/O) – SDSD neglected Eshbach’s medical needs.
4. Misconduct/Procedure – SDSD provided “poor living conditions” at the facility.
5. Misconduct/Procedure – SDSD conducted “inadequate” safety checks.

POLICY RECOMMENDATION:

1. It is recommended that the San Diego Sheriff Department (SDSD) revise Detentions Services Bureau (DSB) Policy and Procedure (P&P) M.5 Medical Emergencies and SDSD Medical Services Division Policy MSD.N.1 Notification of Next of Kin/Legal Guardian to mandate that when an incarcerated person is admitted to a hospital for treatment of a serious illness or injury, the watch commander notify next of kin, emergency contact, or legal guardian within 24 hours.

22-007/MARLER (DEATH)

1. Death Investigation/In-Custody Medical– Doyle Nyles Marler died of natural causes at Tri-City Medical Center on 02-10-22, following his incarceration at Vista Detention Facility (VDF).

22-038/FENTON

1. Illegal Search & Seizure – Deputies 1 and/or 3 “forced” their way into Fenton’s home.
2. Illegal Search & Seizure – Deputy 2 “forced” their way into Fenton’s home.
3. Misconduct/Procedure – Deputies 1 and/or 3 refused to allow Fenton to change her clothing.
4. Misconduct/Procedure – Deputy 2 refused to allow Fenton to change her clothing.
5. Criminal Conduct – Deputy Deputies 1 and/or 3 escorted Fenton while pressing her breasts and/or pushing her buttocks.
6. Criminal Conduct – Deputy 2 escorted Fenton while pressing her breasts and/or pushing her buttocks.
7. Criminal Conduct – Deputies 1 and/or 3 “violated” Fenton’s body and/or left semen on her robe.
8. Criminal Conduct – Deputy 2 “violated” Fenton’s body and/or left semen on her robe.
9. Misconduct/ Procedure – Deputies 1 and/or 3 “played” with Fenton’s personal belongings.
10. Misconduct/ Procedure – Deputy 2 “played” with Fenton’s personal belongings.
11. Misconduct/Intimidation - Deputies 1 and/or 3 “threatened” Fenton with arrest.
12. Misconduct/Intimidation – Deputy 2 “threatened” Fenton with arrest.
13. Misconduct//Intimidation – Deputy 3 put his hand on his gun and “got into” Fenton’s face.
14. Misconduct//Discourtesy – Deputy 3 “yanked” then “threw” Fenton’s paperwork onto her patio.
15. Excessive/ Force – Deputies 1 and/or 3 pushed on Fenton’s spine/vertebrae until she collapsed.

16. Excessive/ Force – Deputy 2 pushed on Fenton’s spine/vertebrae until she collapsed.
 17. Excessive Force – Deputy 3 dragged/yanked Fenton’s arm.
 18. Misconduct/ Discourtesy – Deputy 3 refused Fenton’s request for her medication, water, food, and/or money from her residence.
 19. Criminal Conduct – Deputies 1 and/or 3 modified and/or broke Fenton’s cameras.
 20. Criminal Conduct – Deputy 2 modified and/or broke Fenton’s cameras.
 21. Misconduct//Procedure – San Diego Sheriff Department Internal Affairs refused to provide the complainant with requested evidence.
-

22-045/CHRISTIANSON

1. Misconduct/Medical - Medical Staff did not treat the complainant’s wound.
 2. Excessive Force – Deputies 1, 5, and 6 “beat up” Christianson.
 3. Misconduct/Procedure – Deputy 1 placed Christianson in “lockdown” for a medical issue.
 4. Misconduct/Procedure – Unidentified Deputies failed to provide shower access while Christianson was in the “hole” (disciplinary separation).
 5. Misconduct/Procedure- Unidentified deputies failed to refill Inmate Requests Forms.
 6. Misconduct/Procedure – Deputies 2, 3 and 4 failed to take action on Christianson’s medical condition.
 7. Misconduct/Procedure – Deputy 3 “lost” Christianson’s property.
 8. Misconduct/Procedure –Unidentified Deputies “lost” Christianson’s property.
-

22-052/BURNS AND GRAHAM

1. Misconduct/Medical (IO) - Medical neglected to treat incarcerated person (I/P) Graham over the last three years.
 2. Misconduct/Procedure – Deputies 1 and 2 delayed obtaining medical aid for Graham’s injury.
 2. Misconduct/Medical (IO) - Medical refused to transport I/P Graham to a hospital due to staff shortages.
-

22-081/BLUE

1. Misconduct/Procedure – Deputy 1 told the complainant “police [deputies] are breaking the rules.”
2. Discrimination/Other – Deputy 1 told the complainant, “rich people rule the area” and do not want him parked there.

3. Misconduct/Procedure – Deputy 3 ticketed the complainant.
 4. Misconduct/Harassment – Deputy 1 told Deputy 3 to ticket the complainant.
 5. Misconduct/Procedure – Deputy 2 told the complainant, “disability laws don’t apply to you.”
 6. Misconduct/Procedure – SDDS “disregarded” the complainant’s disability rights.
-

22-085/MOCK

1. Use of Force Resulting in Great Bodily Injury – Deputies 1, 2, and 3 used force towards Mock while he was incarcerated at George Bailey Detention Facility.
-

End of Report