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County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

Tuesday, February 14, 2023, 5:30 p.m.

Remote Meeting Zoom Platform

<https://us06web.zoom.us/j/86319045933?pwd=cGlyWlFZTkxXWGwxeitlYVJoUElldz09>

Phone: +1 669 990-6833

Webinar ID: 863 1904 5933

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. SWEAR IN NEW CLERB MEMBER

2. ROLL CALL

3. 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.

4. MINUTES APPROVAL (Attachments A1 and A2)

5. PRESENTATION/TRAINING

a) None

6. 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 Recommendations Pending Response, Listed by Department in Order of Date Sent to Department

Sheriff's Department (17)

- i. Digital Scanning and Delivery of Non-Legal Mail to Incarcerated Persons
Recommendation Sent to SDSD on 09-27-22
 - 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.
- ii. 21-096 / Cernilia
Recommendation Sent to SDSD on 10-02-22
 - It is recommended that the 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.
- iii. 21-100 / Richardson
Recommendation Sent to SDSD on 10-02-22
 - 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 SDSD 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.
- iv. Provision of Eviction Documentation in Threshold Languages
Recommendation Sent to SDSD on 10-23-22
 - Create and provide an additional notice when posting or serving a "Notice to Vacate" to include a summary of interpreter services offered by the County of San Diego. Further, the notice should include information on how to access a summary of eviction timelines and processes, translated in the eight languages the County of San Diego has identified as having a substantial number of limited English-speaking persons.
- v. Proactive Review of Employee Social Media
Recommendation Sent to SDSD on 11-17-22
 - Add the following, or words to that effect, to the SDSD Policy and Procedures (P&P) Section 7.14 "Social Media:"
 - Management will routinely review employees' publicly available social media posts and department-issued cellphones and computers to ensure there is no biased content or other activity that would tend to indicate discriminatory conduct, as such conduct undermines the credibility and legitimacy of SDSD and creates doubt that all communities will be served equitably.

- vi. 21-069 / Rodriguez (Death)
Recommendation Sent to SDSD on 12-16-22
 - It is recommended that the SDSD take all necessary measures to change its current practice to conform with statute and its own existing policy by mandating that every incarcerated person be directly observed by sworn staff at random intervals not to exceed 60 minutes (30 minutes for Medical Observation Beds and in Psychiatric Stabilization Units and 15 minutes for safety cells), as opposed to simply ensuring the safety checks start within the mandated time-period.

- vii. 21-114 / Eshbach
Recommendations Sent to SDSD on 12-16-22
 - It is recommended that the SDSD:
 - Revise Procedure Section I.A of Medical Services Division (MSD) P&P MSD.N.1, entitled, "Notification of Next of Kin/Legal Guardian" to read as follows (suggested revision bolded and underlined):
 - "When a patient has sustained a serious injury, is gravely ill, or has any condition where the potential of maintaining life is questionable, the supervising nurse or designee of medical services shall, while understanding the immediacy of notification and when reasonably possible, notify the detention facility's watch commander."
 - To conform with the verbiage utilized in P&P MSD.N.1 above, revise Procedure Section H of Detentions Services Bureau (DSB) P&P M.5, entitled, "Medical Emergencies," to read as follows (suggested revision bolded and underlined):
 - "When a person is admitted to a hospital for treatment of a serious injury, is gravely ill, or has any condition where the potential of maintaining life is questionable, the watch commander shall:"
 - Revise Subsection #3 of Procedure Section H of DSB P&P M.5, entitled, "Medical Emergencies," to read as follows (suggested revisions bolded and underlined):
 - Subsection 3: If desired by the person, notify the emergency contact person of the person's serious injury, grave illness, or the condition where the potential of maintaining life is questionable.
 - Add to the most appropriate location within DSB P&P M.5, entitled, "Medical Emergencies," the following verbiage, or words to its effect:
 - When an incarcerated person is admitted to a hospital for treatment of serious injury, grave illness, or condition where the potential of maintaining life is questionable, the watch commander shall notify, or attempt to notify, the next of kin, emergency contact, or legal guardian within 12 hours.
 - Add to the most appropriate location within DSB P&P M.5, entitled, "Medical Emergencies," the following verbiage, or words to its effect:
 - All attempts to and successful notifications of the next of kin, emergency contact, or legal guardian will be documented.

- viii. 21-117 / Tuck
Recommendation Sent to SDSD on 12-16-22
 - It is recommended that the SDSD implement a policy that provides guidelines for handcuffing. These guidelines should cover, at minimum, such topics as the proper placement of handcuffs; checking to ensure the handcuffs are not so tight as to cause injury, and mandatory engaging of the double-locking function when tactically safe. A comprehensive handcuffing policy should also provide guidelines covering the documentation of injuries and/or complaints of pain allegedly due to handcuffs and the provision of medical treatment to prisoners claiming said injuries.

- ix. Search or Scan All Persons Entering Detention Facilities
Recommendation Re-Submitted to SDSD on 01-18-23
 - Physically search or body scan all persons entering a SDSD-operated detention facility, to include all SDSD 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.

- x. Publicly Release Reviews Conducted by the Critical Incident Review Board (CIRB)
Recommendations Sent to SDSD on 02-03-23
 - Upon completion of the Critical Incident Review Board (CIRB) proceedings of an in-custody death,

- publicly release the CIRB Final Report.
- If unwilling to release the CIRB Final Report, consider establishing a separate public process for internally reviewing deaths and making necessary changes, as recommended in California State Auditor (CSA) Report 2021-109 entitled, “San Diego Sheriff’s Department.”
- Clarify the role of CIRB, specifically reconciling what is listed on the SDSA website with SDSA P&P Section 4.23. Is CIRB’s purpose to assess “civil exposure” and avoidance of “potential liability...in the future,” is it to make the facilities safer for all, or is it both?
- Codify any implemented changes into SDSA P&P Section 4.23.

Probation Department (4)

- xi. Use of Technology to Monitor Health and Safety of Inmates
Recommendations Sent to Probation on 04-12-22
 - 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.
- xii. White Supremacy and Extremist Groups in Law Enforcement
Recommendation Sent to Probation on 11-17-22
 - Amend Probation Policy and Procedures (P&P) Section 903.6.4, “Relationships,” or create a new, stand-alone P&P that captures the following, or words to that effect:
 - Employees shall not participate and/or associate, whether in-person, electronically, or via social media, with groups or individuals who espouse beliefs which discriminate against an entire class of people, typically for their immutable characteristics. Such participation or association undermines the credibility and legitimacy of the Probation Department and creates doubt that all communities will be served equitably.
- xiii. Prohibition of Law Enforcement Gangs
Recommendation Sent to Probation on 11-17-22
 - Comply with Penal Code §13670, “Law Enforcement Gangs” by implementing a policy prohibiting participation in a law enforcement gang.

f) Policy Recommendation Responses

Sheriff’s Department (1)

- i. 21-055 / Frost (Attachment E)
Recommendation Sent to SDSA on 10-02-22
 - It is recommended that the SDSA 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.

Probation Department (1)

- ii. Proactive Review of Employee Social Media (Attachment F)
Recommendation Sent to Probation on 11-17-22
 - Add the following, or words to that effect, to the Probation Policy and Procedures (P&P) Section 930, “Employee Speech and Expression:”
 - Management will routinely review employees’ publicly available social media posts and department-issued cellphones and computers to ensure there is no biased content or other activity that would tend to indicate discriminatory conduct, as such conduct undermines the credibility and legitimacy of the Probation Department and creates doubt that all communities will be served equitably.

- g) Sustained Finding Pending Response

Sheriff's Department (2)

- i. 20-050 / Bils (Death)
- ii. 21-069 / Rodriguez (Death)

- h) Sustained Finding Response

- i. None

7. BOARD CHAIR'S REPORT

8. NEW BUSINESS

- a) Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)
- b) Adoption of New CLERB Logo (Attachment G)
- c) One-Year Update to Recommendations in California State Auditor Report 2021-109 (Attachment H)
- d) Receive Public Input on Updated Proposed Revisions to CLERB's Rules and Regulations (Attachment I)

9. 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 All Sheriff's Department Personnel and Personnel Involved in Providing Medical Care in County Detention Facilities

10. BOARD MEMBER COMMENTS

11. SHERIFF/PROBATION LIAISON QUERY

12. CLOSED SESSION – TIME CERTAIN: 7:30 P.M.

- 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 (6)

21-102/ROJAS

- 1. Discharge of Firearm – Deputy 1 discharged his firearm and injured Omar Rojas on 09-28-21.
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22-032/HAVINS

1. False Arrest – The San Diego County Probation Department imposed a “probation hold.”
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22-039/LOZANO

1. Excessive Force – Unidentified deputies assaulted Edward Lozano.
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22-101/HURST

1. Misconduct/Medical – Patrick Hurst was accepted for booking into San Diego Central Jail while unable to walk.
 2. Misconduct/Procedure – Unidentified deputies misclassified Hurst.
 3. Misconduct/Procedure – SDSO detained Hurst after his charges were dismissed.
 4. Misconduct/Procedure – Deputy 1 locked Hurst down after he slipped and fell on 07-26-22.
 5. False Reporting – An unidentified deputy reported Hurst refused medication.
 6. Medical/Misconduct – Nurse reported Hurst refused medication.
 7. Misconduct/Medical – Medical staff failed to properly treat Hurst.
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22-158/MEYER

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his Sheriff’s canine on Peter Meyer, which resulted in Meyer sustaining dog bites.
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22-162/PATTON

1. Misconduct/Procedure – A law library counselor “refused” to accept or process mail.
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End of Report