



San Diego County Sheriff's Department

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Kelly A. Martinez, Sheriff

July 15, 2024

MaryAnne Pintar, Board Chair
Citizens' Law Enforcement Review Board
1600 Pacific Highway, Suite 251
San Diego, CA 92101

CLERB CASE NUMBERS: 21-130, 22-026, 22-037, 22-056, 22-093, 22-113, 23-013, 23-042, AND 23-053

Dear Chairwoman Pintar,

The San Diego Sheriff's Office (SDSO) appreciates the role of the Citizens' Law Enforcement Review Board (CLERB) and the independent review of complaints alleging improper actions by members of this organization. As an organization, we continuously strive to provide the highest quality public safety service to everyone in San Diego County. To achieve this mission, we look to oversight entities, such as CLERB, for their invaluable input on how we can provide better accountability and service delivery to those we serve.

SDSO recently received the following CLERB investigations related to CLERB case numbers: **21-130, 22-026, 22-037, 22-056, 22-093, 22-113, 23-013, 23-042, and 23-053**. After reviewing CLERB's Investigator's reports and advisory recommendation letter for these cases, the Sheriff's Office understands the concerns expressed by CLERB members; however, we disagree with some of the findings.

Since taking office in 2023, Sheriff Kelly Martinez has made it her priority to enhance the level of care and safety within each of the County's detention facilities. This includes improving health and drug screening at intake; offering enhanced medical and mental health care services; providing wellness checks for the most vulnerable individuals; expansion of the Medication Assisted Treatment (MAT) Program; issuing body-worn cameras to deputies in detention facilities; expanded access of Naloxone directly to incarcerated persons, among other improvements and projects that are currently underway.

The Sheriff believes that the sustained findings of misconduct against the *entire* Sheriff's Office, as the Subject Officer(s), do not fall within the San Diego County Charter nor the authority granted to CLERB by the San Diego County Board of Supervisors.

This belief is based on Section 606(f) of the San Diego County Charter, which states that the duties of CLERB shall be established by the Board of Supervisors. Section 340.9 of the San Diego County Administrative Code defines the authority of CLERB. Specifically, § 340.9(a)

provides that CLERB shall have authority to "[r]eceive, review and investigate citizen complaints filed against peace officers...." Section 340.9(c) goes on to state that CLERB shall have authority to "[p]repare reports...on the results of any investigations conducted by the Review Board in respect to the activities of peace officers...."

CLERB's findings are not directed at identifiable individual peace officers (*deputy sheriffs*). The form letter used by CLERB for its reports contains a location for "SUBJECT OFFICER(S)." Also, the complaint form signed by complainants, containing an area for "ACCUSED NAME, BADGE # & ASSIGNMENT," is specific to individual deputies or peace officers.

Placing "The SDSA," "SDSA," "Unknown SDSA Staff," "Unidentified SDSA Staff," etc. in the Subject Officer(s) line encompasses not only sworn staff but hundreds of other job classifications of which CLERB has no authority to investigate. I would ask that if CLERB feels an individual peace officer(s) has committed a policy or law violation, that they be identified as the "SUBJECT OFFICER(S)" so that the Sheriff's Office can appropriately respond to any sustained findings against them.

Peace officers (deputy sheriffs) accused of misconduct by CLERB are entitled to hearings with the San Diego County Civil Service Commission, and ultimately, the Superior Court to appeal their sustained findings. When the entire entity of the Sheriff's Office is listed as the Subject Officer(s), there is no mechanism in place to appeal such findings with due process as prescribed by law. Without an ability for the Sheriff's Office to appeal the findings of CLERB there is no assurance that a thorough and accurate investigation was conducted or that Subject Officer(s) can counter with facts not considered.

CLERB findings against the Sheriff's Office for alleged misconduct in these cited cases fail to cite an actual policy violation and misinterprets existing policy. In cases **22-026, 22-056, 22-093, 22-113, 23-013, 23-042, and 23-053**, involving in-custody overdose deaths, CLERB sustained a finding of "SDSA failed to keep illicit drugs out of the jail system," and "Unidentified SDSA staff failed to keep drugs out of jails". This does not articulate a Sheriff's policy nor a California law violation specific to these findings.

The action of failing to keep drugs out of the jails could constitute a failure to meet standards, conduct unbecoming, or an actual law violation of Penal Code § 4573 - Bringing Drugs into Jail. The Sheriff's Office actively investigates and holds offenders accountable for these actions, and the Sheriff welcomes CLERB findings that identify individuals accountable for specific acts of wrongdoing so appropriate action can be taken.

In cases **21-130** and **22-037**, CLERB stated that "SDSA" failed to provide a safe environment for an incarcerated person. I cite the above reasons in these findings as being inappropriate against the entire Sheriff's Office.

The Sheriff and SDSA share CLERB's commitment to improving detention facility conditions in San Diego County. A significant piece of this mission is keeping drugs out of the facilities, and we are seeing great success with our Contraband and Narcotics Interdiction Team, which will now include the expanded screening of individuals entering our facilities, including Sheriff's

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staff (sworn and professional), contractors, volunteers, and other classifications. The Sheriff stands committed to ensuring SDSA maintains a safe environment in our detention facilities, and if any member of our team is identified as breaking the law or violating policies that compromise facility safety, please be confident in knowing that we will hold those individuals accountable. The Sheriff truly believes in this moral obligation and duty and wants our detention facilities to reflect our societal values of fairness, equity, and compassion.

Thank you, CLERB, for your continued commitment and dedication to the residents of San Diego County. Please know we are striving to achieve the same vital goals.

Sincerely,

KELLY A. MARTINEZ, SHERIFF



**David Perkins, Lieutenant
Office of the Sheriff
Division of Inspectional Services**