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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

1600 PACIFIC HIGHWAY, STE. 251, SAN DIEGO, CA 92101
TELEPHONE: (619) 238-6776
FAX: 1 (619) 894-8310
www.sdcounty.ca.gov/clerb

Date:

November 12, 2024

**SUB: LETTER OF CONCERN, SAN DIEGO SHERIFF'S OFFICE COOPERATION
IN CUSTODY DEATH DATA STUDY**

Dear Sheriff Martinez:

I am writing on behalf of the Citizens' Law Enforcement Review Board (CLERB) to raise concerns regarding delays in data sharing by the San Diego Sheriff's Office as part of the CLERB's In-Custody Death Data Study. This study, led by CLERB's contractor The Mountain-Wisper-Light (TMWL), is crucial for identifying contributing factors in in-custody deaths and improving safety measures within Sheriff's Office operations.

Background

In April 2022, Analytica Consulting completed the San Diego In-Custody Death Study, which found San Diego County jails have the highest number of unexplained deaths and highest number of overdose/accidental deaths of any California county. It also noted a high risk of suicide among inmates. The study concluded public oversight of in-custody death lacks key information, and identified fifteen areas for future study, including the impacts of mental illness, staffing levels, charging decisions, race, gender, age, and homelessness.

In May 2022, CLERB began a comprehensive study on in-custody deaths, focusing on the areas recommended by Analytica. CLERB hired TMWL to conduct this study, after approval by the County Department of Purchasing and Contracting. The study's goal is to provide the Sheriff's Office with data driven recommendations it can use to reduce in-custody deaths, consistent with CLERB's responsibility to "review and make recommendations on policies and procedures of the Sheriff's Department..." (SDAC § 340.09(g).)

After TMWL was hired, CLERB immediately reached out the Sheriff's Office to coordinate gathering the information needed to complete the study. CLERB has received prompt cooperation from other County departments, such as the Health and Human Services Agency, which provided advice to add Article 14 to the existing contract to allow the HHSA to provide the requested information directly to TMWL as a County contractor. However, at an October 2023 meeting between TMWL, CLERB, and Sheriff's Office staff, the Sheriff's Office stated despite possessing the necessary data, it would only provide information to CLERB through a California Public Records Act (CPRA) request.

What has followed has been a protracted and frustrating attempt to acquire the needed data from the Sheriff's Office, which to date has largely been unsuccessful. Despite numerous CPRA requests submitted by TMWL, the data has not been fully provided, with multiple requests denied or delayed. Many of the reasons documents were denied are spurious, or reflect the Sheriff's Office asserting CPRA exemptions it could choose to waive. In March 2024, TMWL formally requested cooperation from your office, emphasizing the significance of the study in preventing in-custody deaths, but received no response. And in May 2024, CLERB's Chief Deputy Nawras Hakak reiterated the need for Sheriff's Office cooperation during a quarterly meeting that include

yourself and command staff, including the Director of Sheriff's Legal Affairs. Following continued delays, CLERB engaged specialized CPRA counsel, who in August 2024 submitted a detailed analysis of the your office's PRA responses and rejections.

Request for Immediate Cooperation

TMWL and CLERB remain unable to access the complete data sets necessary for the study. This ongoing delay has had significant consequences, including:

- The need for multiple contract amendments and extensions, resulting in time-consuming coordination with Purchasing and Contracting and forcing CLERB to delete certain research goals to stay on budget.
- Additional expenses for CPRA counsel, totally more than \$14,000 to date, in addition to the contract costs of \$118,500.
- The inability to flag key contributing factors to in-custody deaths and to assess the impact of recent Sheriff's Office practices aimed at reducing such incidents.

Given these concerns, CLERB respectfully urges the Sheriff's Office immediately cooperate with TMWL in providing the requested data. CLERB is willing to amend the contract to ensure that all protected data is handled with confidentiality and used exclusively for this study.

We emphasize that under section 340.15 of the County Administrative Code, Sheriff Office's staff are to provide "complete and prompt cooperation" to CLERB in the discharge of its duties. CLERB has instead experienced delays and obstruction, and been relegated to soliciting public records when cooperation from the Sheriff's Office would allow it expeditiously complete its study. CLERB is not an outside agency. In performing its oversight functions, CLERB is exercising the delegated power of the Board of Supervisors to "supervise the official conduct of all county officers..." (*Dibb v. County of San Diego* (1994) 8 Cal.4th 1200, 1209.)

We appreciate your prompt attention to this matter and look forward to your timely response. Should further clarification or discussion be needed, CLERB and TMWL are available to collaborate.

Sincerely,

Mary Anne Pintar-Chair

cc: Brett Kalina, CLERB Executive Officer
Ellen Gross, CLERB Counsel
San Diego County Board of Supervisors