



FINANCE & GENERAL GOVERNMENT GROUP

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To: Supervisor Terra Lawson-Remer, Vice Chair
Supervisor Joel Anderson
Supervisor Monica Montgomery Steppe
Supervisor Jim Desmond

From: Brian Albright, Deputy Chief Administrative Officer 

IMPROVING PUBLIC SAFETY THROUGH EFFECTIVE CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

On December 10, 2024 (35) the San Diego County Board of Supervisors (Board) directed the Chief Administrative Officer to amend County of San Diego (County) laws governing the Citizens Law Enforcement Review Board (CLERB) to address past deficiencies. This direction included six recommendations that included: 1) drafting an amended ordinance providing CLERB jurisdiction to investigate in-custody deaths, 2) estimating the cost of staffing and resources needed of expanding CLERB's jurisdictions, 3) identify civilian oversight boards in other jurisdictions with this expanded jurisdiction along with analysis of different investigative models, 4) engage in the meet-and-confer process with labor organizations affected by the reforms in Recommendation 1, 5) have CLERB update its rules and regulations to reflect the changes in Recommendation 1, 6) report back to the Board with an initial draft of the amended ordinance reflecting the changes in Recommendation 1. This memo provides an update from CLERB addressing recommendations 2, 3 and 5. Additional updates will be provided by on Recommendations 1, 4, and 6 after completion of the meet-and-confer process with labor organizations.

Recommendation 5: CLERB update its rules and regulations to reflect changes recommended by the Board of Supervisors

On December 17, 2024 CLERB voted to amended its rules and regulations to reflect the changes requested in Recommendation 1 to provide CLERB the jurisdiction to investigate any peace officer, custodial officer, employee, or contractor including any contracted health care provider-working under the direction of the Sheriff or Probation in the event of the death of any individual while in custody or within six months of that individuals release from custody pursuant to "compassionate release". The amendment to the CLERB rules and regulations set the foundation for the analysis of other jurisdictions and subsequent estimated staffing costs, detailed below.

Recommendation 3: Analysis of other civilian law enforcement boards that allow investigations of medical providers

There has been significant research on the existence of other law enforcement civilian oversight bodies with medical jurisdiction. While there are substantial numbers of law enforcement oversight bodies across the county with similar investigative and subpoena powers, there are lower numbers of oversight bodies of health care providers in prison or jail settings, and most of those revolve around state-run prisons. Carceral care in the State of California is required to comply with the standards set by the California Code of Regulations (CCR) Title 15, but there are no local or county-wide law enforcement oversight bodies with health care directives.

The Sheriff has a Medical Services Division along with an Operations Manual with a purpose “to provide an overview of accessible health care services to inmates while in custody. The responsible health authority (RHA) is responsible for identifying any barriers to care.” Also of note was the recently signed Federal Prison Oversight Act (H.R.3019/S.1401) which will provide monitoring in all 122 Federal Bureau of Prisons (BOP) sites across the nation to include carceral health care. It is anticipated that the new federal law will eventually trickle down to the state and local level but there is currently no anticipated timeline for implementation. Currently there are no civilian oversight bodies over carceral health services in San Diego.

The new jurisdiction directed by the Board presents a first-of-its-kind oversight body in the United States. Over the last 10 years, San Diego-run detention facilities average about 16 in-custody deaths per year. These numbers do not reflect the number of deaths of individuals given compassionate release who pass away within six months of release or the number of new cases that could be re-opened, if the requirements of California Government Code section 3304(g) are met.

Although jurisdiction over health care is limited to in-custody deaths only, the new oversight will provide significant challenges which will require the proper resources to make it successful.

Recommendation 2: Estimate the cost, staffing, and contract needs of expanding CLERB’s jurisdiction

In-depth research was done to determine the stability of the current CLERB staffing model while undertaking the new jurisdiction over health care providers. The following oversight bodies were reviewed in making these recommendations: Anaheim; Berkeley – Police* & University of California Berkeley Campus; Claremont; Davis – Police & University of California Davis; Fresno; Inglewood; Los Angeles Police Department; Los Angeles County; National City; Novato; Oakland*; Palo Alto; Richmond*; Sacramento; Santa Cruz; San Diego; San Diego County; San Francisco*; San Francisco Bart; San Jose; Sausalito; Tulare. (* investigation-modeled oversight)

In comparing oversight agencies, it is important to look at two different factors. First, the oversight agency’s budget compared to the law enforcement department it oversees. Secondly, the number of investigators in comparison to the number of law enforcement sworn officers in that department. CLERB’s oversight budget is .13% of the budget of the Sheriff and Probation. The combined budgets of Sheriff and Probation over the past two years have been approximately \$1.5 billion. CLERB’s budget over the same time frame is approximately \$2 million. The number of sworn personnel to CLERB

investigator is approximately 500/1. This is based on over 3,000 sworn officers between Sheriff (2,372) and Probation (677). CLERB currently has six approved full time Special Investigators positions.

In 2021, the Department of Police Accountability (DPA) in San Francisco, had a budget which was 1.37% that of the SFPD. Additionally, DPA had a sworn/investigator ratio of 103/1. The Office of Professional Accountability in Seattle, WA had a budget ration of 1.09 and the Berkeley Police Review Commission in Berkeley, California, had 1.08. The oversight bodies mentioned utilized the same “investigative model” for oversight. The investigative model (compared to audit or review models) is more independent and requires substantially more time and resources. The following are additional sworn to investigator ratios on the West Coast: Richmond, California = 89/1; Portland, Oregon = 135/1; Community Police Review Agency in Oakland, California = 156/1.

In San Francisco, the investigation-modeled Office of Citizen Complaints (OCC, now the DPA), established in 1996, is required to employ one investigator for every 150 sworn officers employed by the San Francisco Police Department. A similar requirement was established in Oakland, following the passage of charter reforms strengthening Oakland’s civilian oversight system in 2016, whereby the investigation-focused CPRA must hire one investigator for every 100 sworn officers in the Oakland Police Department.

For background, there are three different types of oversight models: review-focused, investigation-focused, and auditor-focused. Investigation-focused models are currently the second most common form of civilian oversight in the United States. Agencies that fit within the investigative model employ professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the overseen department’s internal affairs unit or replace critical functions of a standard internal affairs unit altogether. According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), these types of agencies can vary greatly both in terms of authority and organizational structure but tend to be the most cost-and resource-intensive forms of oversight given their staffing needs. It is also important to note that of the approximately 200 oversight bodies across the country, the individual models can vary significantly depending on authority granted.

One of the keys to effective oversight is adequate funding and operational resources. Allocating sufficient resources to civilian oversight is a crucial determinant to effectiveness. Providing adequate funding can signal a commitment to reform that may lead to greater cooperation by law enforcement executives and unions. Similarly, civilian oversight agencies must have the resources to retain experienced professional staff, provide staff and volunteer board or commission members with adequate training on a regular basis, perform community outreach, and disseminate public reports and other outreach materials to be effective. (NACOLE, Thirteen Principles for Effective Oversight)

Based on the expanded scope implemented through Recommendations 1 and 5, CLERB anticipates the need for the following personnel resources:

Fiscal Year (FY) 2024-2025 or Upon Board Approval:

Position	ETE	Median Salary	Benefits	Total Expenditures
Communications Specialist	1	80,400	56,280	136,680
Data and Research Analyst	1	90,000	63,000	153,000
Health Care Provider SME - Contract				200,000

Total	2			489,680
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The \$489,680 in new Full Time Equivalent (FTE) and contracted costs proposed is not included in FY 2024-26 Adopted Operational Plan. To fund these requests, \$489,680 in General Purpose Revenue would be repurposed from other Finance and General Government Group departments.

FY 2026-2027

Position	FTE	Median Salary	Benefits	Total Expenditures
Special Investigator	2	96,429	67,500	327,857
Total	2			327,857

Additional Special Investigators may be needed in future years to manage additional caseload. CLERB will continue to monitor caseload and submit future FTE requests to be considered in the Operational Plan and budget development cycle. Upon the acceptance of the requested positions, CLERB would need additional office space. CLERB currently has space for the Executive Officer, Supervisory Special Investigator, Chief Deputy, and Administrative Assistant along with two hoteling Special Investigator desks for six investigators.

a) Contracted case-by-case health care expert review and report

Availability and cost of contracted health care experts can vary based on several different factors, including the volume of records to review and specific area of expertise. A unique factor to CLERB will be the standards of care reviewed. Carceral standards of care are different from general medical standards of care and experts may not be as readily accessible. CLERB may also be limited in who can be used as health care experts. Any experts who have already provided testimony in county civil or criminal litigation would be barred by the County from working with CLERB.

b) One communications specialist

Community outreach is a vital aspect of informing the public about what CLERB can and cannot do for them. CLERB currently lacks the ability to be at all the various community events while the focus has been on the investigations. Community/stakeholder support and transparency are keys to effective oversight. Reporting publicly provides transparency and accountability to the community and typically includes complaint analysis and other observations about the law enforcement organization and its practices. Reporting also increases public confidence in the oversight agency, as much of the work related to complaint investigations may be confidential and protected from public disclosure.

CLERB has never had funding to specifically staff a community outreach specialist. Unless they are incarcerated and learn of CLERB while in a detention facility, communities alienated by geography, low-income populations, and Black Indigenous and People of Color (BIPOC), LGBTQIA+, people with disabilities, youth, older adults, immigrants, or refugees have not been privy to CLERB's existence and its critical functions. A position focusing on community outreach has the potential to create greater awareness of services provided by CLERB to the public and how to access them.

c) One policy/data/research analyst

With new jurisdiction and new standards of care policies to review for health care providers, a policy analyst who can research policies and provide guidance for policy modifications is essential. Especially since the breadth of health care services provided in the detention facilities from mental health providers, nurses, doctors, and specialists will require review of many different standards of care.

In addition to policy, this role would be responsible for providing managers and executives with general administrative support in a wide variety of areas such as financial management, budget preparation, purchasing, contract administration and monitoring, cost-benefit analysis, personnel, general administration, and special projects requiring quantitative and analytical skills.

d) Two Special Investigators

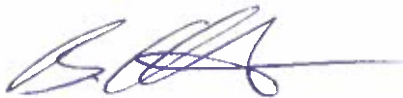
Over the past five years, CLERB's case intake has increased by 85%, from 116 in 2020 to nearly 200 in 2024. This increase in cases has required the Supervisory Special Investigator and the Executive Officer to take select investigations over the past years to manage workload.

Considering the new complexities in investigators working with health care experts and understanding when to look for deviations in health care standards of review, the load on investigators in death cases will grow exponentially. Additionally, it is unknown how many investigations will be re-opened as a part of the change in CLERB's jurisdiction that allows to reopen a closed case, in narrow circumstances, if the requirements of California Government Code section 3304(g) are met. While those narrow circumstances were already provided in CLERB's Rules & Regulations, it is unknown how many in-custody death reviews will be asked to be re-opened and for how long the re-opening will be allowed. As a reminder, San Diego County has had approximately 80 in-custody deaths over the past five years.

It is expected that it will take approximately one year for the new jurisdiction to take effect and result in additional need for Special Investigators. Therefore, CLERB would need to increase the number of Special Investigators within one year of enactment.

Should you have any questions regarding the information provided, please contact Brett Kalina, Executive Officer, CLERB, at Brett.Kalina@sdcounty.ca.gov.

Respectfully,



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Cc: Ebony N. Shelton, Chief Administrative Officer
Caroline Smith, Assistant Chief Administrative Officer
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