

01/08/2013 (4)

AN ORDINANCE AMENDING SECTION 361,
SECTION 365 AND 366 OF ARTICLE XX AND RELATED REFERENCES,
SECTION 366 OF ARTICLE XXA, ARTICLE XXV, and SECTION 692 OF
THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO THE SHERIFF'S
DEPARTMENT and PUBLIC DEFENDER CONFLICT-FREE REPRESENTATION

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The references to Section 366 are changed to Section 364.6 within the following sections of Article XI:

SEC. 161.7. CERTIFICATION OF COPIES OF DOCUMENTS AND FEES.

SEC. 161.8. EXEMPTION FROM FEES.

SEC. 161.9. FEES FOR TECHNICAL LABORATORY SERVICES.

SEC. 161.11. FEE FOR EMBALMING.

Section 2. Section 361 of Article XX of the Administrative Code is amended to read as follows:

SEC. 361. MUNICIPAL COURTS.

The following fine enhancement and fees shall be paid to the Clerks of the respective Municipal Courts in San Diego County, or the collecting agency for offenses committed on or after January 1, 1984:

(1) A fine enhancement of \$10 for the cost of recording and maintaining a record of the defendant's prior convictions in any case in which a defendant is convicted of the Vehicle Code and that defendant has a record of a conviction for a prior violation of the Vehicle Code, pursuant to Government Code Section 74351;

(2) A fine enhancement of \$10 for the cost of notifying the Department of Motor Vehicles of attachment or restriction of a defendant's driver's license or vehicle registration pursuant to Section 40509 and 40509.5 of the Vehicle Code, pursuant to Government Code Section 74351;

(3) A fee of \$30 for administrative and clerical costs for accounts receivable which are not to be paid in installments, pursuant to Penal Code Section 1205.

Section 3. The following sections of Article XX of the Administrative Code are renumbered as follows:

SEC. ~~365~~364.5. DISTRICT ATTORNEY'S OFFICE.

SEC. ~~366~~364.6. DEPARTMENT OF THE MEDICAL EXAMINER.

Section 4. Section 366 of Article XXA of the Administrative Code is amended to read as follows:

SEC. 366. MANAGEMENT OF FACILITIES.

The internal controls of said facilities, with the exception of the Polinsky Center, shall be under the management and control of the Probation Department. The Polinsky Center shall be operated under the management and control of the Health and Human Services Agency. The remaining facilities shall be in the charge of a Probation superintendent or director who shall be selected and appointed by the Probation Officer. All chiefs, superintendents or supervisors shall be selected and appointed in accordance with the provisions of the County Charter, the Rules of the Civil Service Commission, and County ordinances.

Section 5. Article XXV of the Administrative Code is amended to read as follows:

SEC. 440. SALE OF UNCLAIMED PROPERTY IN POSSESSION OF THE SHERIFF.

After being held for at least four months, the Sheriff shall cause to be published once in a newspaper of general circulation published in the County at least five days before the time fixed therefore, notice that all unclaimed property in the Sheriff's possession, except deadly weapons and property excepted pursuant to Section 440.1, will, at the discretion of the Sheriff, be transferred to the Purchasing Agent for sale to the public; said notice shall contain a general description of the types of property, and shall state the date of the transfer for sale. The Purchasing Agent shall thereafter sell said property at public sale after notice by publication once in a newspaper of general circulation published in the County or posted on the County's web site stating the time and date of such sale, and all monies received from such sale shall be deposited in the General Fund of the County. If the Purchasing Agent, with the concurrence of the Sheriff, determines that any such property transferred for sale is needed for a public use, such property may be retained and need not be sold.

SEC. 440.1. EXCEPTED PROPERTY.

There shall be excepted from the provision of Section 440 bicycles and toys. After being held for at least three months, the Sheriff may turn over to the Probation Department of the County or any charitable or nonprofit organization any bicycles and toys, or both, coming into his possession where no owner thereof can be found.

SEC. 441. [RESERVED.]

SEC. 441.1. PROHIBITING DRUG OR LIQUOR USE.

Every person who commits any of the following acts shall be guilty of a misdemeanor: who is found in any jail in the County of San Diego under the influence of intoxicating liquor or any drug or any substance defined as a poison in Schedule C of Section 4240 of the Business and Professions Code. "Poison," as used in this chapter, refers to a category of hazardous substances defined in Section 108125 of the Health and Safety Code. The Board of Supervisors may by regulation make the category more specific.

SEC. 441.2. COSTS OF INCARCERATION.

The provisions of Penal Code Section 1203.1c shall be applicable in the County of San Diego. The Board of Supervisors hereby determines the following charges for each detention facility, which are the actual average costs of incarceration for each day or part thereof, including incarceration pending disposition of the case:

Facility	Average Per Day Cost
George F. Bailey	\$55.04
Central	\$85.83
Descanso	\$61.07
East Mesa	\$50.00
Las Colinas	\$94.00
South Bay	\$60.92
Vista	\$64.76

The charges shall be annually reviewed by the Board of Supervisors.

The Director of Revenue and Recovery is designated as the County Officer responsible for collection of moneys ordered paid pursuant to Penal Code Section 1203.1c. All sums paid by defendants pursuant to this section shall be deposited in the General Fund of the County of San Diego.

SEC. 442. OPERATION OF PRESCRIPTION DRUG DROP BOXES.

In accordance with the purpose and provisions of Title 21 Code of Federal Regulations section 1301.24(a)(2), or any applicable successor provision of Federal law, the Sheriff is authorized to possess pharmaceutical controlled substances in the performance of his duties.

SEC. 443. [RESERVED.]

SEC. 444. RESERVE OFFICERS' REIMBURSEMENT FOR UNIFORMS, EQUIPMENT AND CLOTHING AND ACQUISITION OF UNIFORMS AND EQUIPMENT FOR VOLUNTEER PATROL MEMBERS.

The Sheriff is hereby authorized to reimburse a Reserve Deputy for uniform and equipment expenses up to \$450 per calendar year. In addition, whenever a Reserve Deputy or Sheriff's Explorer Scout is directed by the Sheriff to perform voluntary service during a law enforcement or rescue mission and while so serving suffers damage to articles of clothing or equipment necessarily worn or carried on said mission, he may be reimbursed for such loss under the limitations and procedure prescribed in Section 79.1 of this Code.

The Sheriff is hereby authorized to purchase the necessary uniforms and equipment for department volunteers. Volunteer patrol members perform a voluntary service to ensure the safety of the public and require uniforms and equipment to carry out their duties.

SEC. 444.1. [RESERVED.]

SEC. 444.2. [RESERVED.]

SEC. 445. LETTERS OF REFERENCE, FINGERPRINTING SERVICES, FEES.

Within the limitations of his personnel the Sheriff may prepare such documents as letters of reference for persons obtaining Mexican hunting licenses, visa letters, and copies of reports or records maintained in his office. The Sheriff may provide fingerprinting service for private individuals and dead persons. For such documents so prepared and for fingerprinting services the Sheriff shall collect such fees as may be prescribed by the Board of Supervisors.

SEC. 445.1. EXEMPTION FROM FEES.

No fees shall be charged by the Sheriff under Section 445 where exemption is provided by Chapter 2 of Division 7, Title 1 of the Government Code, and no fees shall be charged to any federal, state, county, municipality, district or other political subdivision, or any department thereof, any governmental agency or any public officer, ward or body acting in its official capacity except in excess of one copy.

SEC. 445.2. [RESERVED.]

SEC. 445.3. REPORT FEE WAIVER FOR VICTIMS AND FEE RECOVERY FROM CONVICTED PERSONS.

The fee for copies of crime reports and accident reports involving accidents caused by persons under the influence of drugs or alcohol shall be waived for persons requesting such reports who are identified in the reports as victims. The Sheriff may require persons seeking the waiver of such fees to reasonably identify themselves.

The Sheriff shall notify the District Attorney of cases where the fee has been waived for a victim and the report specifies the person or persons suspected of causing damage to the victim or the victim's property by violating the law. The notification from the Sheriff to the District Attorney shall contain the name of the victim and the names of the suspect or suspects specified in the report.

In cases where the suspect or suspects are subsequently convicted of a violation of law, the District Attorney may take all reasonable measures to have the convicted person or persons required to reimburse the County of San Diego for the revenue not collected from the victim by the County because of the fee waiver. Where a convicted person is required to reimburse the County for all or part of the waived fees, whether the requirement is imposed as a condition of probation, by court order, or in some other manner, the Chief Probation Officer and the Auditor and Controller may take all reasonable steps necessary to effect payment.

SEC. 446. GRAFFITI DIVERSION PROGRAM.

The Sheriff, in lieu of requesting the filing of a petition to declare a minor to be a ward of the juvenile court pursuant to Welfare and Institutions Code section 602, may allow minors charged with a violation of Penal Code section 594 in the unincorporated areas of the County of San Diego to perform such community service as the Sheriff deems appropriate. Reasonable effort shall be made by the Sheriff to assign the minor to community service which includes graffiti removal or restoration of vandalized property. The community service shall be performed under the supervision of the Sheriff, the Chief Probation Officer, or a community service provider, including other governmental entities, approved by the Sheriff. The Sheriff where appropriate, may condition a minor's participation in the community service program on performance of at least 30 hours of community service, and on the attendance during all of the required hours of required community service of at least one parent or guardian having physical custody of the minor. In addition, the Sheriff may condition a minor's participation in the community service program on any or all of the following:

(a) Restitution to the graffiti victim in an amount equal to the economic loss suffered by the victim as the result of the violation of Penal Code section 594, such restitution to be paid by the minor or the minor's parents or guardians;

(b) Payment to the County of San Diego to reimburse the cost of any reward, not to exceed five hundred dollars (\$500), paid out by the County for information leading to the arrest of the minor, such reward restitution to be paid by the minor or the minor's parents or guardians; and

(c) Payment to the County to reimburse the County for the cost of workers' compensation insurance coverage for the minor during the minor's community service, such insurance cost to be paid by the minor or the minor's parent or guardians.

The Sheriff may waive the payment of the reimbursement or any part thereof specified in subsection (a) through (c) above for good cause, including, but not limited to, the inability of the minor or the minor's parents or guardians to pay the reimbursement.

SEC. 447. SEARCHES AND RESCUES; EXPENSES.

(a) The Sheriff of the County has search and rescue responsibility when any person is lost, missing, stranded, or in danger of losing his or her life in any Contract City or unincorporated area of the county, including any wilderness and rural environment.

(b) The Sheriff may transfer all or part of the search and rescue responsibility to another agency or jurisdiction through a written agreement.

(c) Any expense incurred by the Sheriff in performance of search and rescue responsibilities shall be a proper county charge.

(d) As used in this section, "search and rescue" means rescuing, and searching for and rescuing, any person who is lost missing, stranded, or in danger of losing his or her life in incidents including, but not limited to swift-water, flood and underwater rescue, mine and cave rescue, technical rope rescue, and missing or downed aircraft.

Section 6. Section 692 of Article XXXVII of the Administrative Code is amended to read as follows:

SEC. 692. ORGANIZATION OF THE DEPARTMENT TO PROVIDE CONFLICT-FREE REPRESENTATION.

(A) When the County provides defense counsel legal representation to multiple indigent criminal defendants with divergent interests involved in a single case, the law requires that each criminal defendant has a right to conflict-free, separate and independent legal representation. Consistent with applicable law, the Department shall be organized into separate offices to include the following offices within the Department: primary public defender, alternate public defender, multiple conflicts, assigned counsel, and other such administrative offices as may be necessary to the operation of the Department. Internal screening procedures, commonly referred to as "ethical walls," shall be implemented that meet prevailing legal standards for preserving each defendant's right to conflict-free, separate and independent counsel.

(B) The offices shall operate with sufficient separation that is required by applicable law, coinciding only for matters of administrative convenience and only at the top administrative level, and for any other matters or levels as permitted by law. The Public

Defender shall regularly review the internal screening procedures to ensure conformity with prevailing law.

Section 7. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 8th day of January, 2013.



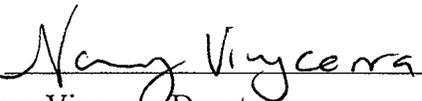
GREG COX
Chairman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 8th day January, 2013.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By 
Nancy Vizcaino, Deputy

Ordinance No. 10242 (N.S.)

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