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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### REGULAR MEETING AGENDA

#### Tuesday, December 13, 2022, 5:30 p.m.

Remote Meeting Zoom Platform

<https://us06web.zoom.us/j/89148743527?pwd=bk9wN1VaZGZoS0hLVHpNSE0zdTkxdz09>

Phone: +1 669 990-6833

Webinar ID: 891 4874 3527

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. ROLL CALL

#### 2. 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](mailto:clerb@sdcounty.ca.gov) or 619-238-6776 if you have questions.

#### 3. MINUTES APPROVAL (Attachment A)

#### 4. PRESENTATION/TRAINING

- a) None

#### 5. 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 Recommendation Pending Responses (Sheriff – 17, Probation – 5)
  - i. 21-004 / Moreno (Death) – SDSD
    - It is recommended that the San Diego Sheriff’s Department (SDSD) identify who answers the “Arresting Officer Questions” on the Receiving Screening Questionnaire during the Booking process.
  - ii. 21-055 / Frost – SDSD
    - It is recommended that the SDSD 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.
  - iii. 21-060 / Meadows – SDSD
    - It is recommended that the SDSD create a policy that mandates conducting all Detentions Investigative Unit (DIU) interviews in a private area, out of view from other inmates.
  - iv. 21-083 / Park – SDSD
    - It is recommended that deputies be required to notate in the Jail Information Management System (JIMS) each meal distribution in each housing unit, in conformance with California Title 15 Minimum Standards for Local Detention Facilities. If an incarcerated person misses a regularly scheduled facility meal and they are provided with a substitute meal and beverage, it will be notated in JIMS.
    - It is recommended that the completion or incompleteness (and reason for incompleteness) of all California Title 15 Minimum Standards for Local Detention Facilities requirements shall be noted in JIMS (showers, mail, etc.).
  - v. 21-096 / Cernilia – SDSD
    - 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.
  - vi. 21-100 / Richardson – SDSD
    - 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.
  - vii. 22-011 / Rojas – SDSD

- It is recommended that the SDCS revise Detention Services Bureau (DSB) Policy and Procedure (P&P), Section 1.63 Facility Security – Housing Units to mandate that all high-level Incarcerated Persons will be housed in cells that have food flaps.
  - It is recommended that the SDCS revise DSB P&P, Section 1.63 Facility Security – Housing Units to mandate that only one cell door is open at a time while deputies conduct daily facility operations, e.g., meal/medication distribution, cell searches, etc., in the housing modules.
- viii. 22-058 / Blue – SDCS
- It is recommended that the SDCS create a Training Bulletin on the subject of handicap parking law enforcement, to include but not limited to temporary and permanent handicap placards and parking restrictions, for distribution to all patrol deputies.
- ix. Digital Scanning and Delivery of Non-Legal Mail to Incarcerated Persons – SDCS
- 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.
- x. Physical Search or Scanning of All Persons in Detention Facilities, to Include Staff – SDCS
- Physically search or body scan all persons entering a SDCS-operated detention facility, to include all SDCS 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.
- xi. Log Contraband Searches of Transportation Vehicles – SDCS
- Revise SDCS DSB P&P 1.57 to mandate the documentation of a transportation vehicle search before and after every transport.
  - Revise SDCS Green Sheet 1.57.T.1 to mandate that the driver open and clear each compartment of the transportation vehicle before, not just after, each transportation and/or movement of I/Ps and document the pre- and post-I/P transportation and movement.
- xii. Provision of Eviction Documentation in Threshold Languages – SDCS
- 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.
- xiii. White Supremacy and Extremist Groups in Law Enforcement – SDCS
- Amend SDCS Policy and Procedures (P&P) Section 2.9 “Associations,” 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 SDCS and creates doubt that all communities will be served equitably.
- xiv. Proactive Review of Employee Social Media – SDCS
- Add the following, or words to that effect, to the SDCS 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 SDCS and creates doubt that all communities will be served equitably.
- xv. Use of Technology to Monitor Health and Safety of Inmates – Probation
- 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.

xvi. White Supremacy and Extremist Groups in Law Enforcement – Probation

- 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.

xvii. Proactive Review of Employee Social Media – Probation

- 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.

xviii. Prohibition of Law Enforcement Gangs – Probation

- Comply with Penal Code §13670, “Law Enforcement Gangs” by implementing a policy prohibiting participation in a law enforcement gang.

f) Policy Recommendation Response

- i. None

g) Sustained Finding Pending Response

- i. 22-045 / Christianson – SDSD

h) Sustained Finding Response

- i. 21-100 / Richardson – SDSD (Attachment E)

**6. BOARD CHAIR’S REPORT**

**7. NEW BUSINESS**

- a) Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)

**8. UNFINISHED BUSINESS**

- a) 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

**9. BOARD MEMBER COMMENTS**

**10. SHERIFF/PROBATION LIAISON QUERY**

**11. 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 (14)**

#### **21-069/RODRIGUEZ (DEATH)**

1. Death Investigation/In-Custody Drug-Related – On 07-20-21, Saxon Rodriguez, an incarcerated person at San Diego Central Jail, was found unresponsive by deputies during a “hard count.” Despite aggressive resuscitative efforts, he was pronounced dead while at the jail. His cause of death was due to fentanyl and methamphetamine toxicity, and the manner of death was accident.
2. Misconduct/Procedure – Unidentified staff failed in preventing illicit drugs from entering the jail.
3. Misconduct/Procedure – Unidentified deputies failed to conduct timely security/safety checks.
4. Misconduct/Procedure – Unidentified deputies failed to recognize that the aggrieved was in medical distress.
5. Misconduct/Medical – Unidentified staff failed to place the aggrieved on a heroin/opioid withdrawal medication protocol.
6. Misconduct/Procedure – Deputies 1 and 2 failed to initiate cardiopulmonary resuscitative efforts in a timely manner.

#### **POLICY RECOMMENDATION:**

According to California Code of Regulations Title 15, Section 1027.5, entitled, “Safety Checks” (emphasis bolded):

Safety checks **shall be conducted at least hourly through direct visual observation of all inmates.** There **shall be no more than a 60-minute lapse between safety checks.** There shall be a written plan that includes the documentation of routine safety checks.

According to the Policy Section of Detention Services Bureau (DSB) P&P I.64, entitled, “Safety Checks: Housing and Holding Areas of Incarcerated Persons” (emphasis bolded):

**Sworn staff will conduct safety checks** of incarcerated persons, housing areas, holding areas and vacant cells **through direct visual observation** (i.e., direct personal view of the incarcerated person/area without the aid of audio/video equipment). **Safety checks of incarcerated persons consist of looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity. Safety checks shall be conducted at least once within every 60-minute time period.** Safety checks of Medical Observation Beds (MOB) and in Psychiatric Stabilization Units (WPSU/PSU) shall be conducted at least once within every 30-minute time period. The intervals of the safety checks, within the 60 or 30 minute time period, shall vary and must be logged in the Jail Information Management System (JIMS). In addition to observing the safety and welfare of incarcerated persons, sworn staff shall also be attentive to security and maintenance issues as well as environmental factors (e.g., temperature, odors, cleanliness) while conducting safety checks.

Title 15 and SDSD’s policies mandate the direct visual observation of incarcerated persons with no more than a 60-minute lapse between the direct visual observations. SDSD’s current practice, however, is to start safety checks within the 60-minute time-period but not necessarily to directly visualize each incarcerated person within that time-period, thus resulting in innumerable instances where incarcerated persons are not directly visually observed within statutorily mandated time-periods. SDSD considers the resulting safety checks to be completed within statute and policy. For example, if a safety check of a module is started within 55 minutes of the last safety check start time, SDSD considers the safety checks occurring during that check as within statute and policy,

even if the actual time between direct visualization of an incarcerated person is just a few minutes over 60 minutes or many minutes over 60 minutes. When it comes to the safety of incarcerated persons and the prevention of deaths or negative physical or mental health outcomes, every minute counts.

As such, CLERB recommends that SDDS:

1. 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.

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## **21-114/ESHBACH (DEATH)**

1. Death Investigation/In-Custody Medical – Richard Frederick Eshbach was incarcerated at George Bailey Detention Facility (GBDF) until transported to Scripps Mercy Hospital where he tested positive for COVID-19; Eshbach died on 11-08-21.
2. Misconduct/Procedure – SDDS delayed notification of Eshbach’s hospitalization to family.
3. Misconduct/Medical (I/O) – SDDS neglected Eshbach’s medical needs.
4. Misconduct/Procedure – SDDS provided “poor living conditions” at the facility.
5. Misconduct/Procedure – SDDS conducted “inadequate” safety checks.

## **POLICY RECOMMENDATIONS:**

1. 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.”

2. 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.”

3. 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.**

4. 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.**

5. 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.**

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**21-117/TUCK**

1. False Arrest – Deputy 1 arrested Roy Eugene Tuck.
2. Misconduct/Procedure – Deputies 1 and 2 placed handcuffs on Roy's wrist that resulted in Roy sustaining injury.
3. Misconduct/Procedure – Deputy 1 and 2 denied the complainant medical attention.
4. Misconduct/Medical – Jail nursing staff failed to provide medical care to the complainant.
5. Misconduct/Procedure – Unidentified Internal Affairs Division deputies failed to respond to the complainant's complaint.

**POLICY RECOMMENDATION**

1. 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.
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**22-006/ISAAC (DEATH)**

1. Death Investigation/Suicide (Deputy Present) – On 01-21-22, San Diego Sheriff's Department (SDSD) deputies were dispatched to the shooting of a male in Santee in which the suspect, Daniel Isaac, drove a vehicle from the scene. Deputies conducted a traffic stop on the vehicle and subsequently found Isaac inside of it with a self-inflicted gunshot wound of the head. Deputies forced entry to the vehicle, removed Isaac from it, and initiated cardiopulmonary resuscitation. Medics responded and, despite continued aggressive resuscitative efforts, Isaac was pronounced dead at the scene. The cause of death was gunshot wound of the head and the manner of death was suicide.
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**22-015/LOPEZ**

1. Excessive Force – Deputies 1 and 2 purposefully struck the complainant with the door of a patrol vehicle.
2. Excessive Force – Deputies 1-3 used force to subdue Lopez.
3. Misconduct/Procedure - Deputy 3 refused to administer a breathalyzer on Lopez.
4. False Arrest - Deputy 2 arrested the complainant.
5. Misconduct/Medical – Hospital medical staff failed to give the complainant "proper care."

6. Misconduct/Discourtesy - Deputy 3 interrupted the complainant when he addressed the hospital medical staff.
  7. False Arrest – Deputy 2 arrested the complainant.
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### **22-030/TU**

1. Use of Force Resulting in Great Bodily Injury – On 02-27-22, Deputies 1-3 used force to subdue and handcuff Incarcerated Person, Tu Ngoc Tu.
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### **22-046/RODRIGUEZ**

1. Misconduct/Procedure – Unidentified San Diego Sheriff's Department (SDSD) deputies assigned "tank captains" on 01-27-29.
  2. Misconduct/Procedure – Deputy 1 moved Rodriguez from his housing assignment on 01-29-22.
  3. Excessive Force – Deputy 1 placed Rodriguez into a "arm lock" on 01-29-22.
  4. Misconduct/Intimidation – Deputy 1 threatened to use force on Rodriguez on 01-29-22.
  5. Misconduct/Procedure– Unidentified staff "refused" to medically treat Rodriguez's injuries following a use of force.
  6. Misconduct/Procedure – Unidentified staff denied Rodriguez's access to the "law library."
  7. Misconduct/Procedure – Unidentified staff "delayed" Rodriguez's mail.
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### **22-055/TURNER**

1. Misconduct/Procedure – The San Diego Police Department arrested Turner on 02-16-22 and placed him in "overly tight" handcuffs.
  2. Misconduct/Procedure – Unidentified staff placed Turner in a room with no water or restroom on 02-16-22.
  3. Misconduct/Procedure – Unidentified staff placed "leg chains" on Turner's injured legs on 02-17-22 and 03-01-22.
  4. Misconduct/Procedure – Unidentified staff placed Turner into a cell with two other incarcerated persons.
  5. Misconduct/Medical – Medical staff improperly removed Turner's cast stitches.
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### **22-068/FROM**

1. False Arrest – The City of Escondido Police Department falsely arrested From on 05-19-22.
2. Misconduct/Procedure – Unidentified staff did not assist From in using phones while at Vista Detention Facility (VDF).
3. Misconduct/Procedure – Parole did not provide documentation to From about his charges.



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**22-072/MANRIQUEZ**

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his Sheriff's canine on Alejandro Manriquez, which resulted in Manriquez sustaining dog bites.

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**22-073/QUINN**

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 used force on Joseph Quinn resulting in injury.

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**22-079/RODRIGUEZ**

1. Misconduct/Procedure – An unidentified San Diego Sheriff's Department (SDSD) deputy moved Rodriguez from his current housing assignment.
2. Misconduct/Procedure – Deputy 1 placed Rodriguez in "Enhanced Observation Housing."
3. Misconduct/Procedure – Unidentified sergeants and lieutenants refused to sign Rodriguez's grievances.

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**22-114/SCOTT**

1. Misconduct/Procedure – Sheriff deputies reported that Scott was a "snitch."
2. Misconduct/Procedure – Sheriff deputies told State prison officers to "torture" Scott.
3. Criminal Conduct – State prison officers "raped" Scott.

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**22-144/AGUILERA**

1. Misconduct/Medical (I/O) – Unidentified jail medical staff "neglected" Aguilera's medical needs.
2. Misconduct/Medical (I/O) – Unidentified jail psychiatric staff "neglected" Aguilera's mental health needs.

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***End of Report***