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PAUL R. PARKER III

County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

Tuesday, January 10, 2023, 5:30 p.m.

Remote Meeting Zoom Platform

<https://us06web.zoom.us/j/88473644358?pwd=aTlDeXpPUDE1eFJKNk5HY0JyZi9tZz09>

Phone: +1 669 990-6833

Webinar ID: 884 7364 4358

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 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 Recommendations Pending Response (Sheriff – 13, Probation – 5)
 - i. 21-055 / Frost – SDSO
Recommendation Sent to SDSO on 10-02-22
 - It is recommended that the SDSO 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.
 - ii. 21-069 / Rodriguez (Death) – SDSO
Recommendation Sent to SDSO on 12-16-22
 - It is recommended that the SDSO 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.
 - iii. 21-096 / Cernilia – SDSO
Recommendation Sent to SDSO on 10-02-22
 - It is recommended that the SDSO 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.
 - iv. 21-100 / Richardson – SDSO
Recommendation Sent to SDSO on 10-02-22
 - 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 SDSO 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.
 - v. 21-114 / Eshbach – SDSO
Recommendations Sent to SDSO on 12-16-22
 - It is recommended that the SDSO:
 - 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:
 - "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."

- 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:
 - “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:”
 - Revise Subsection #3 of Procedure Section H of DSB P&P M.5, entitled, “Medical Emergencies,” to read as follows:
 - 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.
 - 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.
 - 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.
- vi. 21-117 / Tuck – SDSD
Recommendation Sent to SDSD on 12-16-22
- 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.
- vii. Digital Scanning and Delivery of Non-Legal Mail to Incarcerated Persons – SDSD
Recommendation Sent to SDSD on 09-27-22
- 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.
- viii. Proactive Review of Employee Social Media – SDSD
Recommendation Sent to SDSD on 11-17-22
- Add the following, or words to that effect, to the SDSD 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 SDSD and creates doubt that all communities will be served equitably.
- ix. Provision of Eviction Documentation in Threshold Languages – SDSD
Recommendation Sent to SDSD on 10-23-22
- 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.
- x. Use of Technology to Monitor Health and Safety of Inmates – Probation
Recommendations Sent to Probation on 04-12-22
- 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.

- xi. White Supremacy and Extremist Groups in Law Enforcement – Probation
Recommendation Sent to Probation on 11-17-22
 - 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.
- xii. Proactive Review of Employee Social Media – Probation
Recommendation Sent to Probation on 11-17-22
 - 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.
- xiii. Prohibition of Law Enforcement Gangs – Probation
Recommendation Sent to Probation on 11-17-22
 - Comply with Penal Code §13670, “Law Enforcement Gangs” by implementing a policy prohibiting participation in a law enforcement gang.

f) Policy Recommendation Responses (Sheriff - 10)

- i. 21-004 / Moreno (Death) – SDS (Attachment E)
 - 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. 21-060 / Meadows – SDS (Attachment F)
 - It is recommended that the SDS create a policy that mandates conducting all Detentions Investigative Unit (DIU) interviews in a private area, out of view from other inmates.
- iii. 21-083 / Park – SDS (Attachment G)
 - 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.
 - 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.).
- iv. 22-011 / Rojas – SDS (Attachment H)
 - It is recommended that the SDS revise Detention Services Bureau (DSB) Policy and Procedure (P&P), Section I.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 SDS revise DSB P&P, Section I.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.
- v. Log Contraband Searches of Transportation Vehicles – SDS (Attachment I)
 - Revise SDS DSB P&P I.57 to mandate the documentation of a transportation vehicle search before and after every transport.
 - Revise SDS Green Sheet I.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.

- vi. Physical Search or Scanning of All Persons in Detention Facilities, to Include Staff – SDDS (Attachment J)
 - Physically search or body scan all persons entering a SDDS-operated detention facility, to include all SDDS 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.
- vii. White Supremacy and Extremist Groups in Law Enforcement – SDDS (Attachment K)
 - Amend SDDS 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 SDDS and creates doubt that all communities will be served equitably.
- g) Sustained Finding Pending Response
 - i. 21-069 / Rodriguez (Death) – SDDS
- h) Sustained Finding Response
 - i. 22-045 / Christianson – SDDS (Attachment L)

6. BOARD CHAIR’S REPORT

7. NEW BUSINESS

- a) Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)
- b) Schedule a Special Meeting Prior to 02-09-23 to:
 - i. Receive Public Input on Proposed Revisions to CLERB’s Rules and Regulations
 - ii. Continue Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)

8. UNFINISHED BUSINESS

- a) Update: Completed Investigation of CLERB Case #20-050/Bils (Death), Voted by CLERB to Continue Investigation Pursuant to CLERB Rules and Regulations Section 5.8
- b) Update: Authority for the Executive Officer to Work with County Staff to Pursue Legislation and/or to Add a Policy to the County Legislative Program in Support of Increased Transparency in Civilian Oversight of Peace Officers and Custodial Officers
- c) 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 (13)

20-050/BILS

1. Death Investigation/Officer-Involved-Shooting – On 05-01-20, Deputy 1, at the time employed as a deputy sheriff by the San Diego Sheriff's Department (SDSD), used deadly force against Nicholas Peter Bils after Bils escaped from the rear seat of a California State Park Officer's vehicle and started to run, unarmed, from the scene. Bils' cause of death was multiple gunshot wounds.
 2. Excessive Force – On 05-01-20, Deputy 1 used deadly force against Nicholas Peter Bils.
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22-004/BUCKELEW

1. False Reporting – Deputy 2 ordered Deputy 5 to write a "false" rules violation report against Buckelew.
 2. Misconduct/Procedure – The San Diego Sheriff's Department (SDSD) confined Buckelew in inhumane jail conditions.
 3. Misconduct/Procedure – Deputy 3 placed Buckelew in Administrative Segregation/Disciplinary Isolation.
 4. Excessive Force – Deputies 3 and 4 "assaulted" Buckelew.
 5. False Report – Deputy 1 wrote a false report to Buckelew.
 6. Misconduct/Retaliation – Unidentified deputies retaliated against Buckelew for filing complaints/grievances.
 7. Misconduct/Retaliation – Unidentified deputies retaliated against Buckelew.
 8. Misconduct/Procedure – The SDSD's response to COVID-19 situation in the jails "injured and sometimes killed people."
 9. Misconduct/Medical – Jail medical/health staff failed to provide medical care to Buckelew.
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22-051/AYALA

1. Use of Force Resulting in Great Bodily Injury – Deputies 1-3 used force towards Juvenal Ayala while he was being booked at the San Diego Central Jail on 03-30-22.
 2. Excessive Force – Deputies 1-3 used force towards Juvenal Ayala while he was being booked at San Diego Central Jail.
 3. Misconduct/Procedure – Deputy 1 placed handcuffs on Ayala.
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22-071/MASUDA

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his canine unit to effect an arrest which

resulted in Mariko Byung Masuda sustaining dog bites.

22-075/FARMER

1. Misconduct/Discourtesy – Deputy 1 used profanity towards incarcerated persons on 06-22-22.
 2. Excessive Force – Deputy 1 struck Farmer in the head on 06-22-22.
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22-117/REAVES

1. Misconduct/Procedure – Deputy 1, Deputy 4 and/or an unidentified deputy shined their flashlights in Jauna Reaves' eyes on 06-05-22.
 2. Excessive Force – Deputy 3 “shocked” Reaves with a “Taser” on 09-08-22.
 3. Excessive Force – Deputy 2 “shocked” Reaves with an “Electronic Immobilization Shield” on 09-08-22.
 4. Misconduct/Medical – SDSD medical staff administered forced medication to Reaves on 09-08-22.
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22-119/TINOCO

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his canine on Tinoco.
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22-120/DODSON

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 used force on Dodson at the George Bailey Detention Facility on 08-12-22.
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22-132/PATTON

1. Misconduct/Procedure – Deputy 1 “altered” his nameplate.
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22-142/DONNELLY

1. False Arrest – San Diego Police Department (SDPD) officers arrested Laoise Donnelly.
 2. Excessive Force – SDPD handcuffed Donnelly.
 3. Misconduct/Procedure – SDPD transported Donnelly to County Mental Health.
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22-154/PATTON

1. Misconduct/Procedure – San Diego Sheriff's Department (SDSD) food services staff “refused” to supervise food service workers.
2. Misconduct/Procedure – SDSD food service workers “refused” to wear “cap or net” in violation of Title 15, Health & Safety Standards.

22-157/MARTINEZ

1. Discrimination/Other – San Diego Police Department (SDPD) officers discriminated against Jennifer Martinez.
 2. Misconduct/Procedure – SDPD officers failed to take a report.
 3. Discrimination/Other – The SDPD labeled Martinez a “chronic caller.”
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22-161/PATTON

1. Misconduct/Procedure – Deputy 2 wore their nameplate “mid-torso.”
 2. Misconduct/Procedure – Deputy 1’s nameplate was “unidentifiable” from their “application” name.
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End of Report