



San Diego County Sheriff's Department

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Anthony C. Ray, Sheriff

Kelly A. Martinez
Undersheriff

December 19, 2022

Eileen Delaney, Board Chairperson
Citizens' Law Enforcement Review Board
555 West Beech Street, Suite 505
San Diego, CA 92101-3819

CLERB POLICY RECOMMENDATION: WHITE SUPREMACY AND/OR EXTREMIST GROUPS IN LAW ENFORCEMENT.

Dear Chairperson Delaney,

The Sheriff's Department welcomes and supports the Citizens' Law Enforcement Review Board's (CLERB) independent review of complaints alleging improper actions by members of this organization and in-custody deaths. We continuously strive to respond with professionalism and concern to the citizens we serve, and the CLERB process provides invaluable input.

On November 17, 2022, CLERB recommended the following policy change related to San Diego County Sheriff's Department's (SDSD) Policy and Procedure.

1. CLERB recommends the SDSD amend 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 SDSD and creates doubt that all communities will be served equitably.

Thank you for your recommendation concerning SDSD P&P Section 2.9 – Associations. In the Background section of P&P Section 2.9, it states in part:

Employees shall not associate on either a personal or business basis or have dealings with persons whom they know, or should know, or have reason to believe are, or have been racketeers, sexual offenders, drug dealers, illegal drug users, illegal gamblers, persons whom the employee suspects,

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or should suspect, are involved in felonious activities, convicted felons, persons held in county custody, felons serving or who have served time in custody, or persons under criminal investigation or indictment, except as necessary to the performance of official duties or were unavoidable because of other personal relationships.

The following sections of P&P also address immoral/unbecoming conduct and disreputable associations:

P&P Section 2.4 Unbecoming Conduct:

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department or that which tends to impair the operation and efficiency of this Department or employee.

P&P Section 2.5 Immoral Conduct:

Employees shall maintain a level of moral conduct in their personal and business affairs, keeping with the highest standard of the law enforcement profession. Employees shall not participate in any incident involving moral turpitude which tends to impair their ability to perform their duties or causes this Department to be brought into disrepute.

P&P Section 2.53 Discrimination

Employees shall not express any prejudice or harassment concerning race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, gender, age, political beliefs, sexual orientation, sexual or gender identity, lifestyle, or similar personal characteristics. Examples of discriminatory acts that will not be tolerated include verbal derogatory comments, slurs, jokes, derogatory pictures, cartoons or posters, and actions resulting in a person being treated unequally.

P&P Section 2.58 Law Enforcement Gangs

Employees are prohibited from any participation in a law enforcement gang. Any participation in a gang is grounds for termination. A "law enforcement gang" is a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances

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where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

SDSD holds deputies to the highest standards in morals and character, specifically addressed in policy sections 2.4 – Unbecoming Conduct and 2.5 – Immoral Conduct. These policies cover the core of what being a member of a "hate group" would involve.

There are issues with changing Policy Section 2.9 – Associations to address an employee's association with hate or racist groups as recommended by CLERB. As written, 2.9 addresses issues of fact regarding the criminal conduct of others, making it very clear to employees with whom they can and cannot associate.

While State and Federal hate crime statutes are clearly defined, there is currently no widely accepted definition of a "hate group." Membership or association with such groups lacks an even more accepted definition.

However, what is consistent within these "groups" or "beliefs" is hatred for others based on their dislike of a person's gender, disability, nationality, race/ethnicity, religion, sexual orientation, or a person's association with these groups. An individual does not have to be a group member to hold these hateful ideologies. If a member of SDSD were to espouse hateful or racist beliefs, they would violate SDSD's current policy sections and our Mission, Vision, Core Values, and Guiding Principles. Any involvement, relationship, association, or support of a group that shares hatred ideology would help prove the violations as they are currently written.

Adding terminology to Policy Section 2.9 would also require defining what constitutes a hateful or racist group, proving our employee was aware of another person's ideology, and what constitutes association with these groups. The policy violation would then hinge on whether the Department could establish an association with the said group within a set of fallible definitions rather than focusing on an individual's beliefs and whether they were incongruent with the Department's policies, Core Values, Guiding Principles, etc. Whether an employee is a group member is inconsequential if the employee has malevolent and hateful beliefs.

We believe that by utilizing current policies in these situations, hate and bigotry can be addressed and rooted out. SDSD does not tolerate hatred within its ranks and will stand against hatred and racism.

Another factor in considering this policy recommendation was the passage of Assembly Bill 655, the California Law Enforcement Accountability Reform Act, which was signed into law by Governor Newsom on September 30, 2022, and becomes effective on January 1, 2023, as California Penal Code Section 13680. This law requires public agencies employing peace officers to investigate current and prospective peace officers' engagement in hate groups, participation in hate

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group activities, or public expressions of hate, as specified. It provides that specific findings of those investigations would constitute grounds for denial or termination of employment as a peace officer. The passage of this law both predates and exceeds the requirements of CLERB's policy recommendation, rendering the recommendation moot.

In closing, we appreciate the time and effort of the Citizens' Law Enforcement Review Board. We believe the existing P&P sections and PC 13680 are sufficient for the Sheriff's Department to address participation in any extremist group effectively. Thank you for your service to the Citizens of San Diego County and the policy recommendations. Our goal is to provide the "Highest quality public safety services" to everyone in San Diego County.

Sincerely,

ANTHONY C. RAY, SHERIFF



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