

Citizens Law Enforcement Review Board (CLERB) Workload Analysis

OVERVIEW

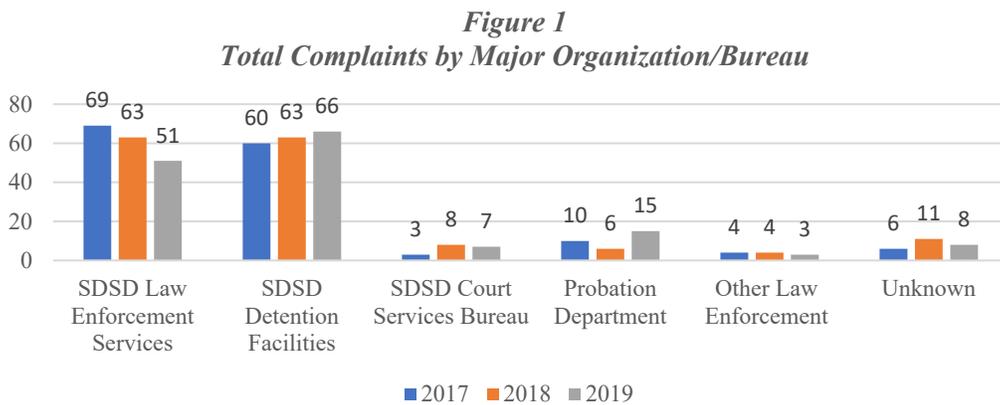
On June 23, 2020, the County of San Diego Board of Supervisors directing the Chief Administrative Officer to implement several recommendations that would expand the duties and authority of CLERB. This analysis will determine staffing needs, quantify anticipated workload volume, identify inefficiencies resolved by technology, and provide estimates of the resources required to ensure timely responses to citizen complaints.

The increase in investigations conducted as a result of the expanded areas of oversight will necessitate additional staff. The Chief Administrative Officer is recommending that the County add three CLERB positions and increase Services and Supplies (S&S) by \$45,000, resulting in CLERB’s overall budget increasing from \$1,052,309 to \$1,501,491, and issue a request for information on a new case management system and subsequently provide funding.

The critical task of determining findings at the conclusion of a citizen complaint involves careful review and analysis of the complaint facts. Investigative findings are based on the totality of the circumstances and the credibility of the evidence presented, including witness accounts. A great deal of time is spent researching policy and related laws, inspecting facilities, reviewing subpoenaed documents, drafting policy recommendations, and engaging in critical-review discussions and other related tasks. CLERB currently has limited use of information technology resources (e.g. online data management platforms, case management tools, dictation software).

BACKGROUND

To quantify the investigatory workload, complaint data was collected for 2017, 2018 and 2019 (Figure 1). In 2019, CLERB logged 150 complaints prompting reviews of the actions of peace officers or custodial officers employed by the County Sheriff’s Department and the Probation Department. This is a 3% decrease from the 155 complaints received in 2018. The CLERB 2019 Annual Report shows graphs and information relating to complaints and allegations submitted.



In 2019, the three investigative staff and the Executive Officer completed 150 investigations for an average of 38 investigations per staff person. Workload per person was evaluated by taking the 150 complaints and dividing by the three current investigators and Executive Officer, equating to an average of 38 cases per staff. Table 1.1 shows the workload overview for the past three years, and Table 1.2 explains the cases closed in further detail.

Table 1.1
Workload Overview

	2017	2018	2019
Investigators Filled Positions	2	2	4 ¹
Total Complaints Submitted	152	155	150
Cases Closed by Board Action²	111	170	148
Open Cases at Year End³	98	85	90

¹2019 number includes three investigators and one Executive Officer

²Cases Closed includes cases from previous years

³Open Cases is the total cases still open from all years

Table 1.2
Cases Closed

	2017	2018	2019
Summarily Dismissed¹	18	13	11
One Year Summary Dismissal	24	0	0
Fully Investigated Cases	69	102	79
Procedurally Closed²	47 ³	55	58
Cases Closed by Board Action	111	170	148

¹ dismissed for lack of jurisdiction or because further investigation was not possible without the complainant's cooperation

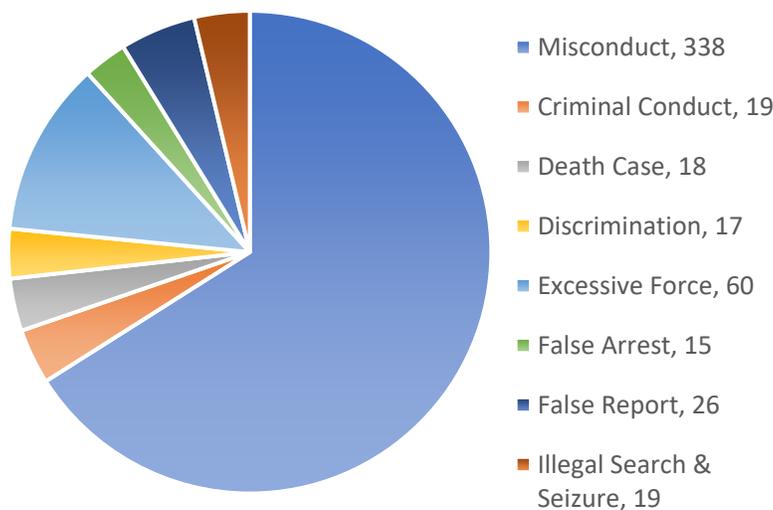
² signed complaint was not returned by the complainant

³ For 2017, Procedurally Closed cases were already counted as part of Fully Investigated Cases.

The County Charter and Administrative Code specify CLERB's duties and authority, which include the investigation of complaints of the use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal search or seizure, false arrest, false reporting, and criminal conduct or misconduct. The Executive Officer assigns complaints (case assignment) to an investigator after a review of CLERB's current caseload, severity or urgency of a case, and statutory time limitations. It is important to note some citizen complaints may

have multiple allegations because multiple employees may be involved in one complaint and/or each complaint may contain multiple allegations. Each allegation within a case must be investigated and a summary review conducted. For the 150 complaints received in 2019, there were a total of 512 allegations. This is a 24% decrease from the 670 allegations reported in 2018. Figure 2 shows the breakdown of the allegations by category. Eighteen death cases were reported in 2019, a 21% decrease from the 24 in 2018.

Figure 2
Allegation Totals for Complaints Received, 2019



CLERB Staff received complaints regarding three sectors: (1) Sheriff's Law Enforcement Services,; (2) Sheriff's Detention Facilities; and (3) Probation Department. In 2019, Sheriff's Law Enforcement Services had 69 complaints (46%) compared to the 86 complaints (56%) in 2018. The Sheriff's Detention Facilities experienced 66 complaints (44%) in 2019, which is an increase compared to the 64 complaints (41%) from 2018. The Probation Department had an increase of 15 complaints (10%) in 2019 compared to the six

complaints (4%) received in 2018.

With respect to workload increases, in 2019, the Board of Supervisors approved a revision to the San Diego County Code of Administrative Ordinance (sections 340 through 340.5) to authorize CLERB to conduct jail inspections. Detention Facility inspections have yet to begin due to COVID-19, and investigators are currently in the process of training for this additional duty. At full implementation, CLERB staff anticipates conducting seven inspections per year and presenting the findings to CLERB quarterly. Inspections will take a full day and an anticipated three to four weeks to draft the report.

CLERB met 12 times and closed 148 cases during 2019, compared to meeting 12 times in 2018 and closing 170 cases: a 15% decrease in case closures.

Of the 148 cases closed by CLERB, 11 cases were submitted for Summary Dismissal following an abbreviated investigation of a signed complaint. These cases were dismissed for lack of jurisdiction or because further investigation was not possible without the complainant's cooperation. This was a 15% decrease from the 13 cases Summarily Dismissed by the Review Board in 2018.

In 2019, there were no cases submitted to CLERB for One-Year Summary Dismissal, as all cases were completed within statutory timelines.

ESTIMATED CHANGES TO WORKLOAD

On June 23, 2020 (28), the Board of Supervisors recommended that CLERB's authority be expanded to include:

- a. Authority to investigate any incidents involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department
- b. Authority to investigate the use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department resulting in great bodily injury
- c. Authority to investigate the use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department at protests or other events protected by the First Amendment

While CLERB already has authority to investigate these instances with a complaint, the expansion in authority would allow CLERB to review these cases without a complaint. To estimate the changes in workload for the expansion in authority for a and b, statistics submitted to the Department of Justice (DOJ) were used. Currently, there is not enough information involving use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department at protests or other events protected by the First Amendment.

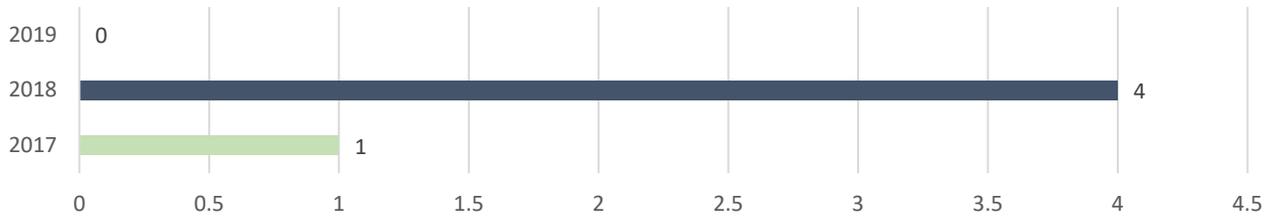
The DOJ Criminal Justice Statistics Center (CJSC) collects information on use of force incidents that result in serious bodily injury or death or involved the discharge of a firearm. Additionally, the San Diego County Sheriff's Department consistently reviews all use of force incidents for the benefit of the public and employees. In late 2015, the California legislature passed Assembly Bill (AB) 71, adding Government Code (GC) section 12525.2. Effective January 1, 2016, all law enforcement agencies (LEAs) were required to begin collecting data on use of force incidents for submittal to the DOJ beginning January 1, 2017.

The use of force (URSUS) incidents that result in serious bodily injury or death or involved the discharge of a firearm are reported annually from LEAs and other entities throughout the state that employ peace officers. The URSUS data is narrowly defined and does not represent the totality of use of force incidents that occur in California. LEAs are only required to report use of force incidents that result in serious bodily injury or death of either the civilian or the officer and all incidents where there is a discharge of a firearm. As such, caution must be used when using the data for comparisons or in calculating rates.

a. Incidents Involving Discharge of Firearms (in Use of Force Incidents)

Reviewing incidents involving the discharge of a firearm without a formal complaint may become an expanded scope of investigatory duty for CLERB. Figure 3 shows the incidents reported from 2017 to 2019. Reported firearm discharge to the DOJ does not include unintentional/negligent discharge or the shooting of aggressive or injured animals. Unintentional/negligent discharge are situations where a deputy improperly handled their firearm, failed to properly unload before cleaning, or possibly trips while performing lawful activities such as searching a burglarized or unsecured business, and unintentionally pulls the trigger. These occurrences are infrequent with one to two incidents tracked per year. Other examples could occur on training ranges during firearms qualifications, Academy, or In-Service classes.

**Figure 3
Sheriff Incidents Involving Officers Discharging a Firearm, 2017-2019**



Based on these statistics, it is estimated that CLERB may have one additional case per year of an incident involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff’s Department or the Probation Department.

b. Use of Force Resulting in Great Bodily Injury

The definition of great bodily injury varies across jurisdictions and agencies. Currently, the Sheriff’s Department follows the DOJ use of force report definition, which states, ‘serious bodily injury’ means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.”

Thirty-nine people sustained serious injury or death in Sheriff’s Department use of force incidents in 2019, including 36 civilians and three officers (Table 2). In these incidents, one civilian died through use of force in 2019.

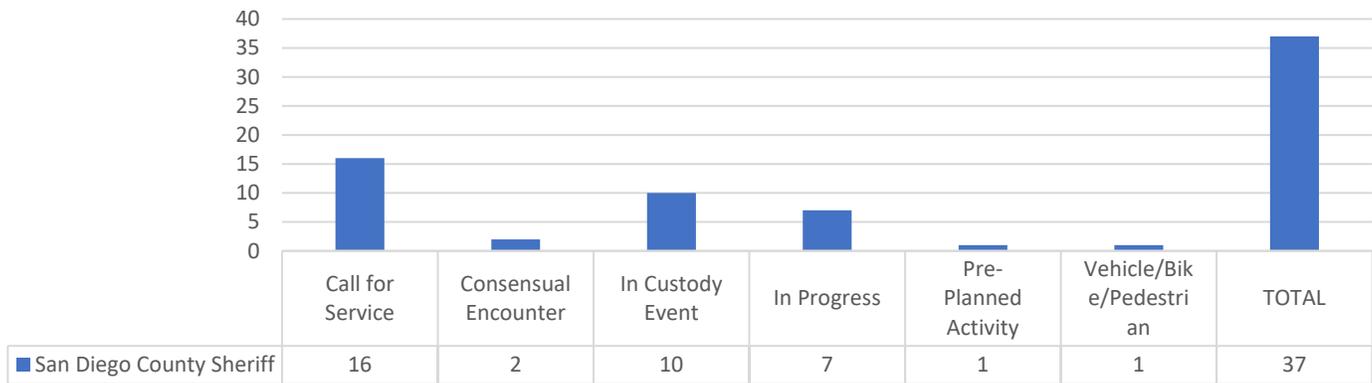
**Table 2
Serious Injuries and Deaths Sustained in Sheriff Use of Force Incidents, 2019**

Injury Level	Incidents	Civilians injured	Officers injured	Total Injured
Death	1	1	-	1
Serious Injury	36	35	3	38
Total	37	36	3	39

Use of Force Incidents by Contact Reason

The California Department of Justice reports there were 37 reportable use of force with great bodily injury incidents within the Sheriff’s Department in 2019. Ten or 27% of the Sheriff incidents occurred in custody. Other than a small facility in Chula Vista, the Sheriff’s Department operates all jails in the County of San Diego. Sixteen or 34% of the Sheriff incidents were calls for service requesting a deputy response from a member of the public. Figure 4 excludes *use of force* data related to protests or other protected events.

Figure 4
San Diego County Reportable Use of Force Incidents by Contact Reason, 2019



Based on these statistics, it is an estimated extra 36 cases to CLERB’s workload in a year, as CLERB already investigates all use of force deaths.

c. Use of Force at Protests or Other Events Protected by the First Amendment

There are currently no statistics related to use of force at protest or other events protected by the First Amendment, except for when formal injury complaints are filed. The Sheriff’s Department communicated difficulties that may arise when officers are managing large crowds, employing crowd control tools and techniques, and tracking and reporting impact to citizens. It is unknown how the number of protests or other protected events would impact CLERB investigative staff workloads utilizing the current, available data.

RECOMMENDATION

The analysis shows:

1. Expanded authority will result in an increase in workload based on the use of force DOJ data.
2. The current budget for services and supplies should be augmented for additional external legal support, related to the expanded workload.
3. To meet future case processing demands and conduct quarterly jail inspections, increasing the number of budgeted FTEs by two special investigators and one senior investigator will help mitigate potential risks. The senior investigator would allow the Executive Officer more time to handle the projected increase of outreach activities and potential increase interaction with the public.
4. Exploring the idea of a new case management system will help investigators to develop information on the investigative time requirements for each case type and related data management.

Table 3
Projected Annual Workload & Recommended Support

	2020
Projected Annual Complaints	152
Additional Cases Estimated	37
Projected Number of Jail Inspections	7
Projected Total Workload ¹	196
Projected Number of Investigators	5
Projected Cases Per Investigator	39

¹ Projected Total Workload = Projected Annual Complaints + Additional Cases Estimated + Projected Number of Jail Inspections

The data in this report and shown in Table 3 demonstrate that each investigator is projected to manage an estimated 37 cases throughout the year. This does not take into consideration the start of jail inspections. The projected workload calculations are based on the average number of cases during the last three years and forecasted projected workload based on data reported by the California DOJ.

Recommendations:

- Add an additional three positions: one senior investigator with a supervisory role; one to support the additional projected workload oversight; and one full-time position to conduct detention facilities inspections and to provide investigative support to the team as needed.
- Increase the services and supplies budget for legal support and issue a request for information for a new case management system to be subsequently funded.

These recommendations assume that CLERB's authority is expanded following the required meet and confer process and the Board of Supervisors' adoption of an amendment to the Administrative Code.