County of San Diego

ANNUAL REPORT

2017

"SERVING THE COMMUNITY AND THE JUSTICE SYSTEM FOR 27 YEARS"

2017 CLERB ANNUAL REPORT

TABLE OF CONTENTS

About the Citizens' Law Enforcement Review Board 3
Mission Statement 3
2017 Board Members, Staff, Office Information 3
Résumés of Review Board Members Serving in 2017 4
Message from the Chair 8
Executive Officer's Summary 11
General Data Overview 16
Total Complaints Received by Year 2008-2017 (Graph 1) 17
Complaints Received by Quarter – 2016/2017 (Graph 2) 17
Complaints & Allegations Received by Unit or Facility – 2017 (Table 1) 18
Allegation Totals for Complaints Received – 2017 (Graph 3) 19
Total Complaints by Major Org/Bureau – 2016/2017 (Table 2) 20
Breakdown of Discrimination Allegations – 2016/2017 (Table 3) 20
Breakdown of Misconduct Allegations – 2016/2017 (Table 4) 20
Breakdown of Excessive Force Allegations – 2016/2017 (Table 5) 20
Complaint Percentages by Major Org/Bureau – 2016 (Graph 4) 21
Complaint Percentages by Major Org/Bureau – 2017 (Graph 5) 21
Allegations by Percentage – 2016 (Graph 6) 22
Allegations by Percentage – 2017 (Graph 7) 22
Complaints & Allegations Closed by Unit or Facility – 2017 (Table 6) 23
Allegation Percentages for Complaints Closed – 2017 (Graph 8) 24
Board Action by Date Closed, Case #, and Findings - 2017 (Table 7) 25
Procedurally Closed Cases by Date and Case # (Table 8) 28
Case Closure Type by Percentage – 2016 (Graph 9) 29
Case Closure Type by Percentage – 2017 (Graph 10) 29
Death Cases Opened in 2016 (Table 9) 30
Death Cases Closed in2016 (Table 10) 31
Death Cases Opened in2017 (Table 11) 31
Death Cases Closed in 2017 (Table 12) 32
Policy Recommendations – 2017 (Table 13) 35
CLERB Two-Year Operational Budget (Table 14) 36
Glossary of Terms & Definitions 37

APPENDICES

Appendix A: San Diego County Charter Section 606
Appendix B: San Diego Administrative Code, Article XVIII
Appendix C: Citizens' Law Enforcement Review Board Rules and Regulations

About the Citizens' Law Enforcement Review Board

San Diego County citizens voted to establish the Citizens' Law Enforcement Review Board in November 1990. The Review Board was established to receive and investigate complaints of misconduct concerning peace officers performing their duties while employed by the Sheriff's Department or the Probation Department. The Review Board is also authorized to investigate any death that occurs in the custody of, or in connection with, actions of Deputies and Probation Officers. The Review Board is made up of 11 citizens who are appointed by the Board of Supervisors.

Mission Statement

To increase public confidence in government and the accountability of law enforcement by conducting impartial and independent investigations of citizen complaints of misconduct concerning Sheriff's Deputies and Probation Officers employed by the County of San Diego.

2017 Board Members

Sandra I. Arkin, Chairperson
Delores Chavez-Harmes, Vice Chairperson
Kim-Thoa Hoang, Secretary
Gary Brown
Courtney Chase
Jordan Gascon
P. Darrel Harrison
James B. Lasswell
Clifford O. Myers III
Lourdes Silva
Robert Spriggs
Loren Vinson
Gary I. Wilson
Susan Youngflesh

Staff

Paul R. Parker III, Executive Officer
Lynn Setzler, Special Investigator
Mark A. Watkins, Special Investigator
Ana Marie Becker, Administrative Secretary III
Tamicha Husband, Administrative Secretary III

Office Information

555 W. Beech Street, Suite 505
San Diego, CA 92101-2940
Main Line: (619) 238-6776
Fax: (619) 238-6775
Email: clerbcomplaints@sdcounty.ca.gov
Internet: www.sdcounty.ca.gov/clerb

RÉSUMÉS OF REVIEW BOARD MEMBERS SERVING IN 2017

Sandra I. Arkin
Chairperson
Sandra Arkin is a retired strategic planning consultant and facilitator. She is one of the founders of the original Children's Museum of San Diego and was on the Board of Directors for seventeen years, five of them as President. Among the other organizations Sandra has been involved with, either as a Board member or as a committee member, are the San Diego Historical Society, LEAD San Diego, San Diego Mediation Center, San Diego Foundation, Citizens' Review Board on Police Practices, and the San Diego Unified School District.

Sandra has a degree in biology from the University of Buffalo and earned a professional certificate from UCSD Extension in Art and the Creative Process. She and her husband, University City residents, are the parents of two sons, two daughters-in-law, one grandson and one granddaughter. She is also a scale model miniature artist and enjoys travel, reading, and food - cooking it, reading about it, and eating it.

Delores Chavez Harmes
Vice Chair
Delores Chavez Harmes is owner of Chavez Financial Offices (CFO), a firm that offers accounting, tax and business management services for the private sector and other certified public accountants & law firms. CFO services include evaluation, design and operation dependability of client accounting systems and procedures as well as internal accounting controls. She is renowned for investigating misappropriations, fraud, and embezzlement. A committed entrepreneur, Ms. Chavez formed and developed Adelante Construction Corporation, a general engineering construction company. Ms. Chavez's experience also includes developing a migrant health care center in Yakima, WA, the Upper Valley Health Clinic and also established Women's Health Care Exclusively, which was one of the first of its kind in a medi-center approach to specialized health care provided for and by women. She served as President of Zonta International – La Jolla, an organization committed to advancing the status of women worldwide and was honored as "Young Career Woman of the Year" by the Business and Professional Women Foundation. She also served on the boards of the San Diego League of Women Voters, County Federation of Republican Women, Valley Center Chamber of Commerce, and General Federation of Women's Clubs. She is President of the Latino American Political Association of San Diego County and Latinos for Growth Opportunity and Prosperity. She also sits on the committee of U-T Latino Advisory Board and One San Diego. She is a member of the Hispanic 100.

Kim-Thoa Hoang
Secretary
After 25 years of law practice in the public sector, Kim-Thoa Hoang joined the management team of the Union of Pan Asian Communities (UPAC), overseeing the Economic Development and Housing Counseling Division for the last five years.

A graduate from California Western School of Law, she started her law career as a deputy city attorney at the San Diego City Attorney's Office then became a research attorney with the San Diego Superior Court, before joining the San Diego County District Attorney's Office where she served as a deputy district attorney for over 21 years. Her assignments at the D.A.'s Office included her serving as division chief for over seven years, overseeing, respectively, the Appellate Division and the Restitution Enforcement & Victim Services Division.

During her tenure at the District Attorney's Office, she was committed to student outreach programs to inspire youths to pursue higher education and learn about law careers and the justice system. She served as Chair of

the District Attorney's Diversity Pipeline Committee and coordinated numerous student outreach activities. She also co-chaired the San Diego County High School Mock Trial Competition program for 5 years.

In 2012, she was honored by the San Diego County Bar Association with the Diversity Service Award. Her community involvement includes previous service on the Board of the Pan Asian Lawyers of San Diego and continued service on the Registrar of Voter's Advisory Board, the San Diego Police Department Chiefs Community Advisory Board, as well as serving as MC for cultural and civic events in the Vietnamese community. She was appointed to the Citizens' Law Enforcement Board (CLERB) in December 2015.

Gary R. Brown
Mr. Brown has spent a majority of his career serving local governments as Community Development Director in Winston-Salem, North Carolina and Lakewood, Colorado; Assistant City Manager and City Manager in Tempe, Arizona, and most recently City Manager in Imperial Beach, California. He also worked for the federal Department of Housing and Urban Development and for a private company that cleaned-up environmentally contaminated properties and prepared them for development. He currently serves as ICMA Senior Advisor to City Managers in San Diego and Imperial Counties. He has a BA with honors in Political Science from the University of Florida and an MBA from Wake Forest University.

Courtney M. Chase
Mrs. Chase is the Director of Human Resources for the City of Chula Vista. In her 14-year career, she has also served in Human Resources and Labor Relations assignments with the Cities of Coronado and Encinitas, and the County of San Diego. She has participated in a variety of organizations related to her profession, including City/County Personnel Administrators Association of San Diego Past President, San Diego Labor Relations Association Board Member, and International Public Management Association (IPMA). Mrs. Chase has the following certifications: IPMA-HR Certified Professional, and Society for Human Resources Management (SHRM)-Senior Certified Professional. Mrs. Chase graduated from University of California San Diego with a Bachelor's of Science degree in Political Science, and holds a Master of Business Administration degree with an emphasis in Finance/Management from San Diego State University. Mrs. Chase lives in Encinitas with her family.

Jordan Gascon
Mr. Gascon, a resident of Alpine, is the President and Founder of the Helping Our Public Spaces (HOPS) Foundation. He is also the Executive Director of the Republican Party of San Diego County and is on the board of the Resource Conservation District of Greater San Diego County. He was previously a Field Director for the American for Prosperity Foundation in Westminster, Colorado and the Interim Director of Hispanic Initiatives. He has a Bachelor of Arts in International Security and Conflict Resolution (ISCOR) from San Diego State University and a Master of Arts in Diplomacy from Norwich (Vermont) University, where he graduated summa cum laude.

P. Darrel Harrison
Mr. Harrison, a resident of La Mesa, is Program Director and Tenured Professor for San Diego Community College District's ABA-approved Paralegal Program (at both Miramar and City Colleges). He previously was Director of Administration at the San Diego Paralegal Institute, and Assistant Registrar at National University School of Law. A Marine Corps veteran, his professional and community affiliations have included the San Diego Mediation Center, Neighborhood House, Christmas in April Board of Directors, American Federation of Teachers Grievance Officer, and San Diego Community College District Pre-Law Advisor. He has served on numerous local, statewide, and national task forces and committees representing the San Diego Community College District. Mr. Harrison is a graduate of LEAD San Diego. He has a Bachelor of Business Administration Degree, a Juris Doctor Degree from Western Sierra Law School, and a Master in Business Administration from National University.

James B. Lasswell
Following 20 years of service in the U.S. Navy, Mr. Lasswell began his second career as a Defense Contractor providing professional services to the Federal Government and other Defense Contractors. After ten years of contracting work in the Washington DC area, he returned to his childhood home of San Diego, eventually co-founding INDUS Technology, a Service-Disabled Veteran-Owned Small Business (SDVOSB) that provides engineering, technical, financial, and program management services for government and industry clients. INDUS has grown from a start-up to over 200 employees. He recently relinquished his role as President and CEO of INDUS when he sold the company to an employee and established an ESOP. He currently serves on the National Board of Directors for the National Defense Industrial Association (NDIA) and is the Chairman of the Board of the San Diego Chapter. He previously served on the Board of Directors for the United Servicemen's Organization (USO) San Diego. He holds a Bachelor of Science Degree in electrical engineering from the United States Naval Academy, a Master of Science, Engineering Acoustics from the U.S. Navy Postgraduate School, a Master of Science Systems Management from the University of Southern California, and a Master in Business Administration from Virginia Polytechnic Institute.

Clifford O. Myers III
Mr. Myers recently retired from government service as the Director of Military and Civilian Manpower and Community Planning and Liaison Officer for the Marine Corps Recruit Depot, San Diego, CA. Prior, he was the Commandant of Cadets for a college preparatory boy's school in south Texas, grades 8-12. He also served in the United States Marine Corps for 33 years as an infantry officer. His tours in the Marine Corps allowed his family to live all over the world. He is very active in the community with Rotary Club 33, North Bay Redevelopment Project Action Committee, President of the FBI Citizen's Academy Alumni Association, Board officer of the Camp Pendleton Armed Services YMCA, past Board member of the American Red Cross, San Diego and Imperial Counties and the San Diego Chamber of Commerce. He holds a Bachelor degree in History and Political Science from Chaminade College of Honolulu and a Master of Public Administration from National University. He resides in Vista with his wife.

Lourdes Nunez-Silva
Mrs. Silva is the Human Resources/Administrative Services Manager for the San Diego City Employees' Retirement System. She has been employed with the City of San Diego since 1984. Mrs. Silva has worked in the Human Resources field for the past 29 years of her career in managerial positions (i.e., Group HR Manager, Department HR Manager, Labor Relations Officer). Mrs. Silva is also actively involved in the community and her volunteer activities include: MANA de San Diego; United Way of San Diego (WLC); Project SAY SD; Latino City Employees Association and charitable work. She has participated in numerous diverse committees and has worked with boards related to her profession. Mrs. Silva graduated from San Diego State University with a Bachelor's of Science in Public Administration and currently resides in the City of Chula Vista with her family. Her hobbies include hiking, reading, traveling and crocheting.

Robert Spriggs
Pastor Spriggs, a resident of San Diego, is the Senior Pastor and Founder of the Temple of Praise and Deliverance Center. He is also a Campus Security Assistant at the San Diego Unified School District. Pastor Spriggs has a Bachelor of Arts in Human Development from San Diego Christian College.

Loren Vinson
Following his service as a Naval Officer during the Vietnam War, Mr. Vinson worked for more than 28 years as a Probation Officer at the state and federal levels. He worked with both juveniles and adults in the San Diego County Probation Office as a Deputy Probation Officer and Senior Probation Officer from 1969 to 1975. He then joined the U.S. Probation Office in San Diego and served in both the Supervision and Investigation Divisions as a Probation Officer, Supervisor, and Division Chief. He retired in 1998 as the Deputy Chief

Probation Officer in charge of the Investigation Division. After retirement, he taught a variety of Criminal Justice Administration courses as a part-time Adjunct Professor at three local colleges. Before being appointed to the Review Board, he completed eight years of service on the City of San Diego's Citizens' Review Board on Police Practices, where he chaired the training committee, authored an investigation manual, and was First Vice-Chair. Mr. Vinson holds a Master of Science degree in Criminal Justice Administration and a Bachelor of Arts degree in Political Science from San Diego State University.

Mr. Vinson lives with his wife in the Tierrasanta neighborhood of San Diego, where he currently serves as a member of the Tierrasanta Community Council.

Gary "GI" Wilson
Mr. Wilson, a resident of Carlsbad, is a retired United States Marine Corps combat veteran. He is a Commissioner on the North County Gang Commission and Adjunct Faculty Member at Palomar College. He is a Board Certified Protection Professional and a Board Certified Forensic Consultant. He has a Force Science Institute Certification in Force Science Analysis. He has a Bachelor of Arts in Psychology and Biology, a Master of Arts in Security Management, and a Master of Arts in Forensic Psychology.

Susan Youngflesh
Ms. Youngflesh is the Associate General Counsel and Privacy Officer for the San Diego City Employees' Retirement System. As an attorney for 15 years, she has worked as a Deputy District Attorney for the Washoe County District Attorney's Office, Staff Counsel at the Hartford, Judicial Law Clerk, and as an undergraduate criminal justice instructor. She holds a Bachelor of Science in Business Administration from the University of Nevada, Las Vegas and a Juris Doctorate from Santa Clara University.

MESSAGE FROM THE CHAIR
INTRODUCTION TO THE 2017 ANNUAL REPORT

2017 has been a year of challenge and change for the Citizens' Law Enforcement Review Board (CLERB). We navigated some serious issues and came through stronger than ever. I'll go into detail a bit later in this message but this is what we have been doing this year:

- Our former Executive Officer left at the end of 2016
- 2017 officers were elected
- An Interim Executive Officer was appointed
- An Executive Officer Search Committee was formed and a new Executive Officer was hired after a nationwide search
- Our long time Administrative Secretary III was promoted and left CLERB
- A new Administrative Secretary III was hired after a Countywide search
- Three Board members left the Board and four new Board members were appointed
- Presentations were made to the San Diego Diplomacy Council
- Our Sheriff's Department Liaison was transferred and another Sergeant was appointed
- We represented CLERB at the National Association of Civilian Oversight of Law Enforcement (NACOLE) conference in Spokane, Washington
- A Rules and Regulations subcommittee was appointed and the Rules and Regulations were updated for the first time since 2003
- A Nominating Committee was appointed and 2018 officers were elected

THE DETAILS:

- Executive Officer Patrick Hunter left CLERB at the end of 2016 to pursue other interests after seven years of dedicated service to CLERB.
- Because there was no December, 2016 Board meeting, the 2016 Nominating Committee presented the names of Board members who were interested in serving as 2017 officers at the January, 2017 meeting. The Board elected:
  Chair: Sandra I. Arkin
  Vice Chair: Delores Chavez-Harmes
  Secretary: Kim-Thoa Hoang
- Special Investigator Lynn Setzler was appointed Interim Executive Officer. She continued in that post until July, 2017 and was commended for her spectacular work:
  - Assuming all the responsibilities of EO while continuing to investigate cases
  - Educating the new Board Chair
  - Along with Special Investigator Mark Watkins, decreasing the number of open death investigations
  - Taking over the responsibilities of the Administrative Secretary when our Administrative Secretary was promoted
  - Completing the 2015 Annual Report
  - Starting the 2016 Annual Report
- An Executive Officer Search Committee was appointed. Its members included Courtney Chase, Delores Chavez-Harmes, Lourdes Silva, and Sandra Arkin. Working with the Public Safety Group, a job announcement was posted and 91 applications from around the country were received. The top tier applicants were interviewed and a final interview of the top four candidates resulted in the hiring of Paul R. Parker III. Mr. Parker has an impressive résumé and the breadth of experience necessary to make continuous improvements to CLERB. Since he took office in June, has worked tirelessly to provide the leadership CLERB needs, decrease the caseload, and implement many policies and procedures.

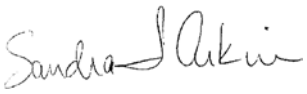
- Ana Becker, who served as the Administrative Secretary (Ad Sec) III to CLERB for seven years, was promoted to Ad Sec IV and moved to a different department. Ms. Becker was a skilled and dedicated staff member and the Board wished her luck in her new job.
- After receiving many applications and interviewing eight qualified candidates to replace Ms. Becker, Tamicha Husband was hired and, after she started work in August, began to implement some of the procedures that Mr. Parker felt needed to be updated.
- We said goodbye to three committed Board members and thanked them for their service. Courtney Chase provided valuable advice, experience, and insights to the Board and particularly to the Executive Search Committee. Clifford O. Myers III completed nearly five and one half years of service to CLERB and could be counted on to drill down to the heart of any discussion. Loren Vinson had termed out and provided leadership as the immediate past Board Chair. Because we began the year with one vacancy, a search was conducted for four new Board members. Joining the Board were Jordan Gascon, Robert Spriggs Jr., Gary Wilson, and Susan Youngflesh. Each has a wealth of experience that will be invaluable to CLERB. Since education is an important aspect for CLERB members, their orientation to CLERB included presentations about:
    - CLERB procedures
    - The County and its structure
    - The legal aspects of CLERB presented by our County Counsel Kristen Laychus and outside Counsel Jim Sandler and Jessica Kondrick
    - The Sheriff's Department
    - The Probation Department
- The San Diego Diplomacy Council hosts visitors from other countries through a U.S. State Department program. When the visitors work in the field of law enforcement, CLERB is asked to make a presentation to educate the visitors about civilian oversight in San Diego County. This year, representatives from ten African nations and from Turkey learned about CLERB.
- CLERB always has a representative from both the Sheriff's Department and from the Probation Department who attend our Open Session meetings in order to answer any questions that might arise. In 2017, we have been fortunate to have had Ross Lewin from the Probation Department and Lieutenant David Gilmore, Sergeant Dave Perkins, and Sergeant Joel Stranger provide their expertise to us with patience, humor, and a promise to always find the answer to our questions.
- Attending the NACOLE conference were Sandra Arkin, Kim-Thoa Hoang, Lourdes Silva, Paul Parker, and Lynn Setzler. Hearing about civilian oversight of law enforcement from large cities, small cities, and different countries increased our knowledge of and awareness of all the different aspects of civilian oversight.
- Reviewing and revising the Rules and Regulations, which had not been done since 2003, was the biggest task facing the Board in 2017 and this was done under the capable guidance of committee chair Kim-Thoa Hoang. Working with Ms. Hoang were James Lasswell, Gary Brown, Sandra Arkin, Lynn Setzler, and Paul Parker. After eight months of work, the Board provided feedback about the suggested changes and the Rules and Regulations were handed off to County Counsel for a legal review. It is my hope that the changes are adopted and approved by both CLERB and the Board of Supervisors in 2018.
- Finally, a Nominating Committee consisting of James Laswell, Gary Brown, and Jordan Gascon convened and presented their recommendations for 2018 officers. The officers for 2018 are:
  Chair: Sandra I. Arkin
  Vice-Chair: Delores Chavez-Harmes
  Secretary: Kim-Thoa Hoang

As you can see, the Board was quite busy in 2017, and 2018 will be another busy and fulfilling year as we continue to develop procedures for ensuring that we fulfill our Mission:

"To increase public confidence in government and the accountability of law enforcement by conducting impartial and independent investigations of citizen complaints of misconduct concerning Sheriff's Deputies and Probation Officers employed by the County of San Diego."

CLERB members donate hundreds of hours to review cases, serve on committees, and attend trainings. They recognize that CLERB is a very significant contributor to the community's welfare to ensure that Complaints are taken seriously and death investigations are conducted appropriately.

CLERB remains a strong and viable organization that provides an invaluable service to the public and to the Sheriff's Department and Probation Department in its important role as their civilian oversight agency. In the 27 years that CLERB has existed, we have investigated hundreds of complaints, completed dozens of death investigations, and recommended over 80 total policies and procedure changes to both departments. We believe that our role is not as an advocate for the public or for law enforcement but rather for a process that is independent, thorough, timely, and impartial. We will continue to strive to fulfill that belief.



SANDRA I. ARKIN
Chairperson – 2017

EXECUTIVE OFFICER'S SUMMARY

As noted in Chairperson Arkin's message, CLERB Special Investigator Lynn Setzler served admirably as CLERB's Interim Executive Officer (EO) from January 2017 to June 22, 2017.

My first day as the CLERB EO was June 23, 2017. I bring to CLERB approximately 19 years of medicolegal death investigation experience, 10 years of law enforcement experience, and over 20 years of total management experience. In addition, for approximately one-and-a-half years in the early 2000's I was a CLERB Special Investigator. During that time, I conducted over 150 independent investigations and authored nine policy recommendations.

On my first day, I began assessing CLERB's internal practices and getting up to speed on the legalities that govern its operations. For the remainder of 2017, I conducted a Business Process Review (BPR) of CLERB's internal practices and instituted several changes to ensure consistent documentation of the cases reported to and investigated by staff. The results of the BPR are being incorporated into a new comprehensive Policies and Procedures Manual for CLERB staff.

To ensure consistency in CLERB case acceptance and subsequent investigation, a case number is now assigned when a complaint alleging misconduct by a sworn member of the San Diego Sheriff's Department (SDSD) or San Diego Probation Department is lodged. I believe this practice has resulted in a more accurate portrayal of CLERB's overall workload, to include the actual caseload and resources required to thoroughly investigate cases falling under our jurisdiction. On numerous previous occasions, the staff time involved in an initial review was unknown and jurisdictional decisions were not reviewed.

Another major change was the acceptance and full investigation of any death case that may have arisen out of or was connected to the actions of peace officers or custodial officers employed by the Sheriff's Department or the Probation Department. A natural death occurring in a County jail is not an automatic indicator that the death did not arise out of or was not connected to the actions of peace officers. No matter the manner of death of a County jail inmate, i.e., natural, accident, suicide, homicide, or undetermined, I believe that a full CLERB investigation should occur and is permitted by San Diego County Charter (County Charter) and San Diego County Code of Administrative Ordinances (Administrative Code).

An accurate portrayal of CLERB's actual caseload became clearer after the assessment and changes to internal processes. For example, from January 1 to June 22, 2017, CLERB logged 45 new cases. From my first day, June 23, to December 31, 2017, CLERB logged 107 new cases. To be clear, the increase in the number of new complaints did not necessarily indicate an increase in the number of actual complaints; it may simply have been the result of CLERB's newly implemented practice to ensure consistency in case number assignment and documentation.

In November 2017, CLERB summarily dismissed 22 death cases because they had exceeded the one-year Public Safety Officers Procedural Bill of Rights (POBR) time limitation, as detailed in California Government Code Section 3304(d). Due to the existence of tolling issues, the one-year POBR time limitation is not necessarily one year from the date of death or one year from the time CLERB was advised of the case. Every death case undergoes a criminal investigation, which tolls the POBR clock until CLERB receives the completed homicide file or applicable law enforcement death investigation reports. Some criminal investigations take longer than others, hence the reason some deaths that occurred before many of the summarily dismissed cases are still active CLERB cases. CLERB members and staff wanted nothing more than to actually investigate the cases, but legal constraints prevented CLERB from doing so. We have taken steps to ensure this never again happens to someone whose death is entrusted to CLERB to investigate.

Several internal triage and tracking practices were implemented to ensure that CLERB conducts timely investigations into complaints of misconduct and deaths. Death cases now take precedence over all other cases. When either excessive force or infliction of physical injury is alleged, a case is designated as high priority. The likelihood of physical evidence degradation or rapid unavailability of evidence also results in a case being assigned as high priority.

I also monitor and track CLERB's caseload on a daily basis, with a specific focus on newly defined case prioritization criteria and the timely completion of all investigations. On a weekly basis I send to the CLERB Special Investigators a list of all open cases broken down by case number, investigator, complainant/decedent, filed date, date of death, date homicide detail received, POBR "due date," and whether a case is scheduled on an upcoming agenda. In addition, CLERB staff now has a weekly Case Status Meeting in which the status of every high priority case, every case within three months of its one-year POBR time limitation, and every lodged case are discussed and re-assigned or re-prioritized, if appropriate.

The monthly Investigative Workload and Classification Report now categorizes active CLERB cases as either "lodged" (pending receipt of signed complaint) or "filed" (signed complaint received). Open death cases are now categorized as either "records received" (POBR due date established) or "pending records" (no POBR due date established). The "POBR due date" is the date by which the CLERB Investigative Report must be completed (approved by the EO). The "Open Death Investigations" table has a new column entitled, "CLERB Investigative Report Due (POBR). The date listed in that column is the one-year "POBR due date."

As CLERB Rules and Regulations Section 9.2(c) mandates that the EO shall periodically advise CLERB as to the progress and status of each complaint, new reports entitled "CLERB Reports by Case Number" and "CLERB Reports by Due Date" were created and are disseminated to CLERB Board Members and the public on a monthly basis, thus serving as a monthly progress and status update.

Historically, civilian oversight of law enforcement is reactive, created in response to a situation between law enforcement and the community, and centered upon the investigation of complaints or reviewing incidents that have already occurred. I envision CLERB being proactive in an attempt to foster and strengthen relationships between the Sheriff's Department and Probation Department and the communities they serve. We have the ability to assist the Departments to provide the highest level of service, to educate the community, and to bridge the gap between the two. The focus on systemic changes should be a primary function of a civilian oversight agency. I believe one of CLERB's most important functions is its ability to make recommendations about policies and procedures (P&P), as doing so emphasizes the partnership and creates a format in which structured dialogue can occur between the departments and the community. These P&P recommendations do not have to pertain to specific cases and can be general in nature. I set a goal of five P&P recommendations during the 2017 calendar year and the 2017/2018 fiscal year (July 1, 2017 to June 30, 2018). In 2017, CLERB made six P&P recommendations to the SDSD, all of which were implemented, and, as of this writing in early-2018, is on track to far surpass the fiscal year goal *(see Table 13 on page 35)*.

As CLERB's investigation of deaths arising out of, or in connection with, the actions of deputies and probation officers is a top priority for me, I have created Tables 9-12 on pages 28-32 of this report. In these tables are listed all death cases opened by CLERB in 2016 and 2017 and all death cases closed by CLERB in those two years. The cases are listed by case number and include the decedent's name, category of death, and cause of death (when known).
CLERB only closed six fully-investigated death cases in 2016 but closed 18 fully-investigated death cases in 2017. Unfortunately, 22 additional death cases closed in 2017 were summarily dismissed and not fully investigated, as discussed above.

A breakdown of the summarily dismissed cases (all of which occurred between 2011 and 2016) is as follows:

- The following 13 deaths occurred in SDSD detention facilities:
  - One inmate homicide (blunt force injuries), George Bailey Detention Facility (GBDF),
  - Eight inmate suicides (all hanging deaths); two at GBDF, three at San Diego Central Jail (SDCJ), and three at Vista Detention Facility (VDF), and
  - Four inmate natural deaths; two each in SDCJ and VDF.

- The following eight deaths occurred in SDSD law enforcement service areas:
  - Four barricaded subjects (all self-inflicted gunshot wound deaths); one each in Bonita, Encinitas, La Mesa, and unincorporated La Mesa,
  - One restraint-related death occurring in Fallbrook,
  - Two deputy-involved shootings; one each in Alpine and San Marcos, and
  - One self-inflicted gunshot wound death occurring in the presence of a deputy in Ramona.

- The following death occurred in Probation Department detention facilities:
  - One inmate suicides (hanging death) occurred at the Kearny Mesa Juvenile Detention Facility.

While I am the EO, I will provide an overview of death cases opened by year. CLERB opened 18 death cases in 2016 and 28 death cases in 2017. One reason for the increase in death cases between 2016 and 2017 is the previously discussed change to open and fully investigate any death that may have arisen out of or was connected to the actions of peace officers or custodial officers employed by the Sheriff's Department or the Probation Department, to include natural deaths.

A breakdown of the 18 death cases opened in 2016 is as follows:

- The following 14 deaths occurred in SDSD detention facilities:
  - One inmate homicide (strangulation) at SDCJ,
  - Five inmate suicides; one hanging death and one jumping death at GBDF; two hanging deaths at SDCJ, and one hanging death at VDF,
  - Five inmate natural deaths; four at SDCJ and one at VDF,
  - Two inmate illicit drug-related deaths; one at GBDF (heroin) and one at SDCJ (methamphetamine), and
  - One inmate undetermined manner of death at SDCJ involving a rib fracture of unknown etiology; there should be no inference that the fracture occurred in the facility or while in SDSD custody.

- The following four deaths occurred in SDSD law enforcement service areas:
  - One barricaded subject (self-inflicted sharp force injuries) in Imperial Beach, and
  - Three deputy-involved shootings; one each in Santee (08-05-16), Vista (08-11-16), and Poway (08-18-16). Of unknown significance is that the three fatal shootings in 2016 occurred within a two-week period in August.

A breakdown of the 28 death cases opened in 2017 is as follows:

- The following 16 deaths occurred in SDSD detention facilities:
  - One inmate homicide (unknown cause as of this writing) at GBDF,
  - One inmate suicide (hanging death) at the Facility 8 Detention Facility,
  - Eight inmate natural deaths; two at VDF, two at Las Colinas Detention Re-Entry Facility (LCDRF), and four at SDCJ,

- Two inmate illicit drug-related deaths; one at SDCJ (cocaine and methamphetamine) and one at VDF (methamphetamine),
- Two inmate illicit drug and prescription medication-related deaths; one at LCDRF (methamphetamine, morphine, and gabapentin) and one at SDCJ (methamphetamine, opiates, and benzodiazepines),
- One inmate accidental death (choking) at GBDF, and
- One inmate undetermined manner of death at SDCJ involving remote head trauma; there should be no inference that the fracture occurred in the facility or while in SDSD custody.

- The following 12 deaths occurred in SDSD law enforcement service areas:
  - Two barricaded subjects; both self-inflicted gunshot wound deaths during unrelated incidents in San Marcos,
  - One illicit drug/conductive energy device-related death in Lemon Grove,
  - One restraint-related death occurring in San Marcos, and
  - Eight deputy-involved shootings; one each in San Marcos (03-02-17), Lakeside (05-10-17), Del Mar (05-15-17), Campo (06-04-17), Vista (07-05-17), San Diego (08-04-17), Lemon Grove (08-24-17), and Oceanside (12-20-17).

After a comprehensive assessment of CLERB's internal processes and true caseload, I asked for and the Public Safety Group and Chief Administrative Officer authorized the addition of a third full-time investigator position, which went into effect in March 2018. This position was filled immediately and a vacancy that occurred in early 2018 was filled in less than two months, thanks to the assistance of Ron Lane, Billie Jean Tamayo, and Adam Landers of the County's Public Safety Group (PSG). The two new investigators will go through a structured training program, something that had apparently not previously existed in CLERB's recent history, and should be on their own after two months. I will continue assessing CLERB's workload and operations when CLERB's three full-time investigators are up-and-running and will request additional staffing along with a justification for the request if the need arises.

This is an important time for CLERB as the relationship between the San Diego Sheriff's, Probation Department and the community is critical. We will strive to do all we can to restore public trust and provide quality, timely, and transparent oversight services within legal parameters. I would like to thank Lieutenant David Gilmore and Sergeants David Perkins and Joel Stranger of the Sheriff's Department and Division Chief David Joralemon and Supervising Probation Officer Ross Lewin of the Probation Department for their assistance and dedication to civilian oversight of their respective Departments. I would also like to thank all personnel of the County's PSG Executive Office under the direction of Ron Lane; each of them provided me assistance, guidance, and support in their respective areas of expertise, and for that I am forever grateful. I would like to acknowledge Kristen Laychus, Shiri Hoffman, and David Smith of County Counsel and Jim Sandler and Jessica Kondrick of Sandler, Lasry, Laube, Byer & Valdez, LLP, for their critical, timely, and professional guidance. I appreciate all of the guidance and support provided by Alex Bell, PSG Public Information Officer. I would like to thank the CLERB Board Members for their support of me as I got up to speed and grasped the true nature of where we have been, assessed where we are, and began to formulate, with their assistance, where we should be going. In addition, I would like to thank the media for covering the critical services we provide, and for reporting not just the content of our monthly cases and public portions of our meetings, but for also identifying potential areas in which we fall short. Your coverage helps us to better ourselves, our agency, and the services we provide to our customers. Finally, I would like to thank Lenore Aldridge, Aron Hershkowitz, Tamicha Husband, and Lynn Setzler for their dedication and commitment to where we are going. I am honored to work with them, enjoy learning from them, and am excited about this journey because I am taking it with them.

It is true that 2017 was a difficult year for CLERB, perhaps one of its most difficult in recent memory. I am confident that we have made and will continue to make the necessary adjustments that will result in thorough

investigations, completed in a timely fashion, and the provision of relevant and timely feedback to the Departments. Our customers, consisting of complainants and peace officers alike, will benefit from the hard work of our staff and board members. I am also confident that will we eventually re-establish CLERB as a leader in the civilian oversight field and will do so by focusing on providing our services in an ethical and compassionate manner and within the confines of the law.

Finally, I believe that civilian oversight of law enforcement in San Diego County, when managed and directed appropriately, is a beneficial tool that ensures law enforcement practices and operations are maximized and the services provided to the community are fair, impartial, and professional while the safety of the peace officers providing said services and the community members receiving them is not compromised or otherwise put at unnecessary risk.

Paul R. Parker III
Executive Officer, 2017

GENERAL DATA OVERVIEW

NEW CASES

The Review Board logged **152** complaints in 2017; a 38% increase from the **110** complaints received in 2016. Allegations totaled **531** in 2017; a 40% increase from the **380** allegations in 2016. Death cases increased in 2017, with **28** reported, a 56% increase from the **18** in 2016.

Total complaints are broken into three segments by count and percentage: Sheriff's law enforcement, which includes Court Services and units that could not be identified; Sheriff's jails; and the Probation Department. In 2017, Sheriff's law enforcement had **69** complaints or 45% of the total (compared to **53** or 48% in 2016); Sheriff's jails had **60** complaints or 39% (compared to **49** or 45% in 2016); and the Probation Department had **10** complaints or 7% of total (compared to eight complaints, which was the same percentage, as in 2016).

San Diego Central Jail had the most complaints with **27** (up slightly from **25** in 2016). The Lemon Grove and Vista Patrol Stations had the highest number of patrol station complaints, each with **11**. The Probation Department received **10** complaints in 2016; a 25% increase from the **eight** complaints in 2015.

Staff referred **128** callers to other departments/agencies/entities and received miscellaneous information from an additional **71** callers.

CLOSED CASES

The Review Board met **11** times and closed **111** cases during the year, compared to meeting **nine** times closing **93** cases in 2016; a 19% increase in case closures. Of the **111** cases closed by Board Action, **18** cases were submitted to the Review Board 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 an 80% increase from the **10** cases Summarily Dismissed by the Review Board in 2016.

There were **24** cases submitted to the Board for One-Year Summary Dismissal, as they were not completed within statutory timelines. There were **five** One-Year Summary Dismissals in 2016.

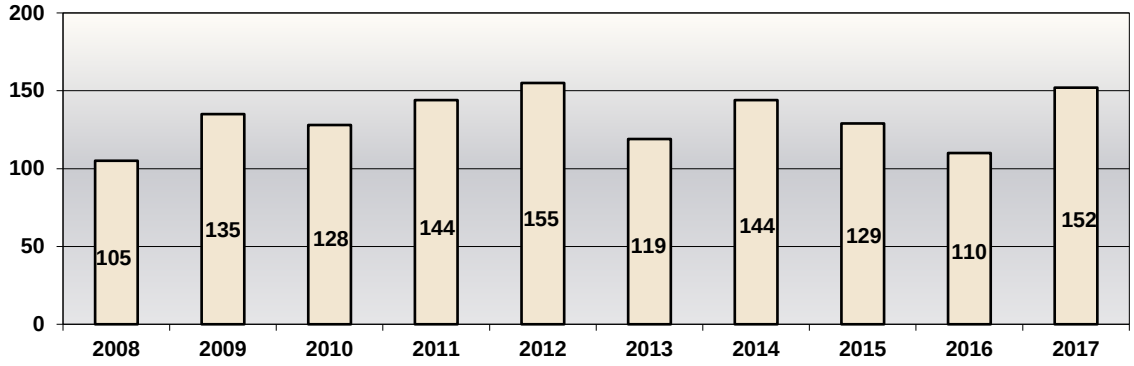
The remaining **69** closed cases were fully investigated and submitted to the Review Board, compared to **78** fully investigated cases submitted in 2016, a 12% decrease. Included in the number of fully investigated cases were **18** death cases, as opposed to **six** fully investigated and closed death cases in 2016, a 300% increase.

Of the **69** fully investigated cases, **two** cases, or 3%, included Sustained findings (one finding in each case), compared to **10** cases, or 13% of the total number of cases in 2016. The two Sustained allegations were misconduct/procedure (Case #16-027, a death) and excessive force (Case #16-074).

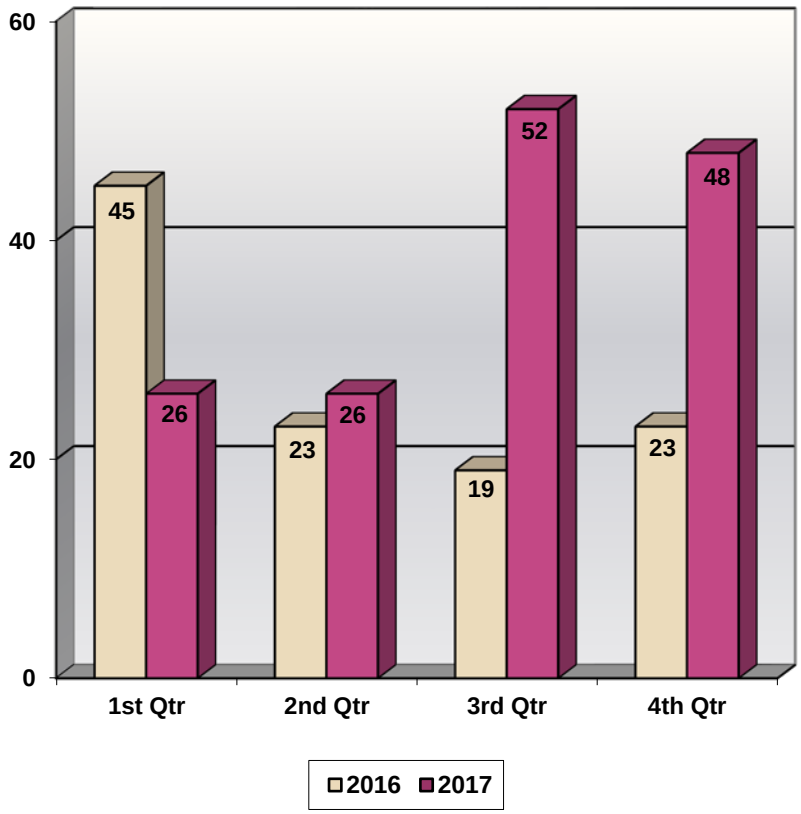
Another **47** cases were Procedurally Closed (PC) because a signed complaint was not returned by the complainant. This was a 68% increase from the **28** PC cases in 2016. Overall, PC cases accounted for 31% of the year's complaint total, an increase of 6% from 2016.

At year's end there were **98** open cases, a 7% decrease from the **105** open cases at the end of 2016.

TOTAL COMPLAINTS RECEIVED BY YEAR: 2008-2017 (Graph 1)



COMPLAINTS RECEIVED BY QUARTER – 2016/2017 (Graph 2)



COMPLAINTS & ALLEGATIONS RECEIVED BY UNIT OR FACILITY – 2017 (Table 1)

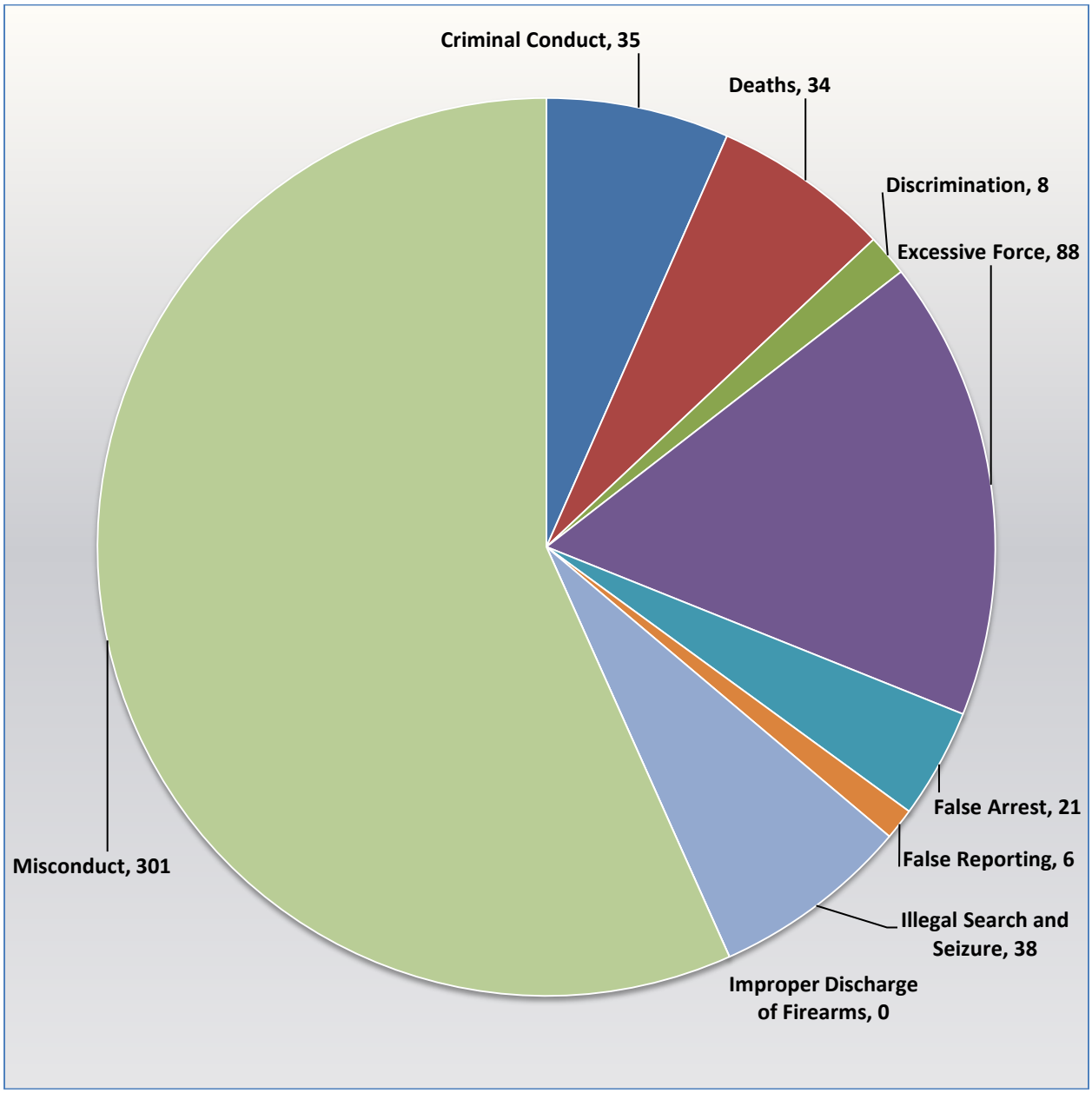
	Complaint Totals	CC	Deaths	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
LAW ENFORCEMENT											
4S Ranch Substation	1	-	-	-	5	-	-	2	-	24	31
Alpine Station	1	-	-	-	-	-	-	1	-	2	3
Borrego Springs Office	1	2	-	-	-	-	-	-	-	-	2
Campo/Tecate Substation	1	-	1	-	-	-	-	-	-	-	1
CID: Child Abuse	1	-	-	-	-	-	-	-	-	3	3
Fallbrook Substation	2	-	-	-	-	-	-	-	-	3	3
Fugitive Task Force – SDSD	1	-	1	-	-	-	-	-	-	-	1
Imperial Beach Station	4	3	-	-	3	1	-	-	-	13	20
Lakeside Substation	3	3	4	-	2	-	-	-	-	2	11
Lemon Grove Station	11	-	2	-	2	-	-	5	-	31	40
Law Enforcement Support	1	-	-	-	-	-	-	-	-	1	1
North Coastal Station	8	1	1	-	-	3	3	1	-	12	21
Poway Station	2	-	-	-	-	-	-	-	-	3	3
Ramona Substation	2	-	-	-	-	-	-	1	-	4	5
Rancho San Diego	2	-	-	-	-	-	1	-	-	11	12
Rural Law Enforcement	2	-	-	-	-	-	-	-	-	4	4
San Marcos Station	5	3	4	-	-	1	-	1	-	3	12
Santee Station	4	-	-	-	-	2	-	4	-	11	17
Spring Valley Storefront	2	-	-	-	2	-	-	-	-	2	4
Valley Center/Pauma Substation	4	8	-	-	-	1	1	-	-	18	28
Vista Station	11	-	2	2	7	4	-	3	-	14	32
TOTAL	69	20	15	2	21	12	5	18	-	161	254
DETENTIONS											
Facility 8 Detention Facility	1	-	-	-	-	-	-	-	-	6	6
George F. Bailey DF	15	-	3	3	14	-	-	-	-	30	50
Las Colinas DF	10	1	3	-	11	-	-	-	-	13	28
San Diego Central Jail	27	6	8	1	35	-	-	-	-	53	103
Vista Detention Facility	7	-	3	2	4	-	-	-	-	7	16
TOTAL	60	7	17	6	64	-	-	-	-	109	203
COURT SERVICES											
Court Services Bureau	3	7	2	-	1	5	-	11	-	-	26
TOTAL	3	7	2	-	1	5	-	11	-	-	26
OTHER											
Other Law Enforcement	4	-	-	-	-	1	-	1	-	4	6
Unknown	6	-	-	-	2	-	1	4	-	9	16
TOTAL	10	-	-	-	2	1	1	5	-	13	22
PROBATION											
Probation: Adult Services	10	1	-	-	-	3	-	4	-	18	26
TOTAL	10	1	-	-	-	3	-	4	-	18	26
TOTALS:	152	35	34	8	88	21	6	38	0	301	531

NOTES:

1) *CC= Criminal Conduct; DC= Discrimination; EF= Excessive Force; FA= False Arrest; FR= False Reports; ISS= Illegal Search & Seizure; IDF= Improper Discharge of Firearm.*

Allegation Totals exceed Complaint Totals because cases frequently include more than one sworn officer and/or numerous allegations.

ALLEGATION TOTALS FOR COMPLAINTS RECEIVED – 2017 (Graph 3)



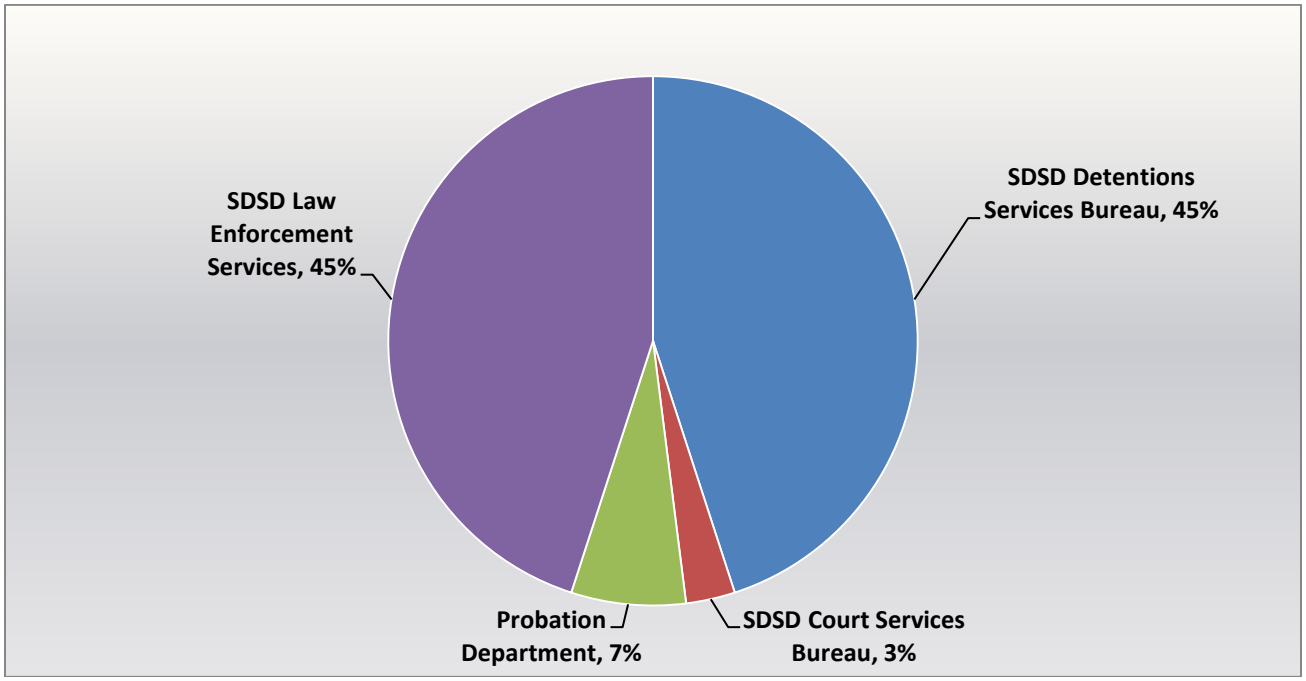
TOTAL COMPLAINTS BY MAJOR ORG/BUREAU (Table 2)		
Organization/Bureau	2016	2017
SDSD Court Services Bureau	3	3
SDSD Detention Facilities	49	60
SDSD Law Enforcement Services	50	69
Probation Department-All	8	10
Other Law Enforcement	0	4
Unknown	0	6
TOTAL	110	152

BREAKDOWN OF DISCRIMINATION ALLEGATIONS (Table 3)		
Description	2016	2017
National Origin	0	0
Other	5	0
Racial	6	5
Religious	0	1
Sexual/Gender	0	2
TOTAL	11	8

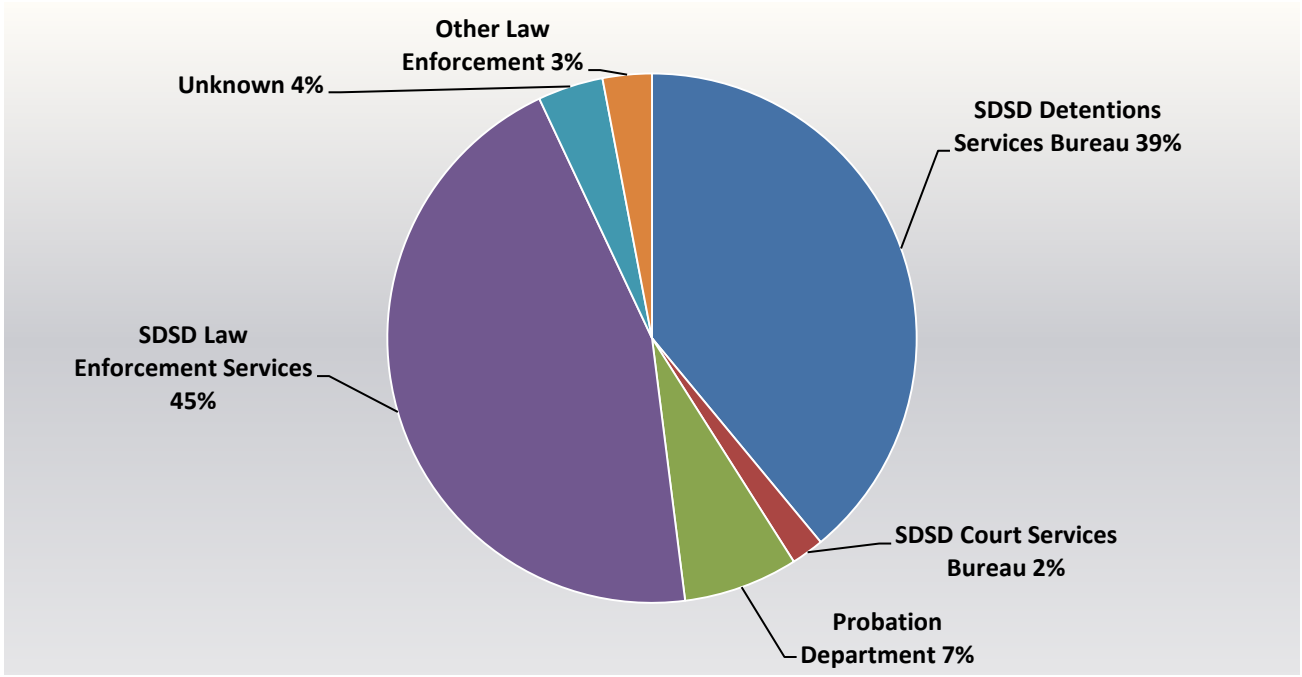
BREAKDOWN OF MISCONDUCT ALLEGATIONS (Table 4)		
Description	2016	2017
Discourtesy	25	41
Harassment	0	9
Intimidation	7	12
Medical (info only)	8	5
Procedure	171	220
Retaliation	4	5
Truthfulness	6	9
TOTAL	221	301

BREAKDOWN OF EXCESSIVE FORCE ALLEGATIONS (Table 5)		
Description	2016	2017
Baton/Impact Weapon	0	1
Carotid Restraint	3	1
Drawn Firearm	1	6
Fists	8	21
K-9 Bites	1	1
Kicks	0	7
Less Lethal Munitions	0	1
OC Spray	0	2
Other	42	26
Pepperball Launcher	0	0
Poss. Restraint (EF)	0	0
Taser	2	7
Tight Handcuffs	6	1
Unspecified	8	14
TOTAL	71	88

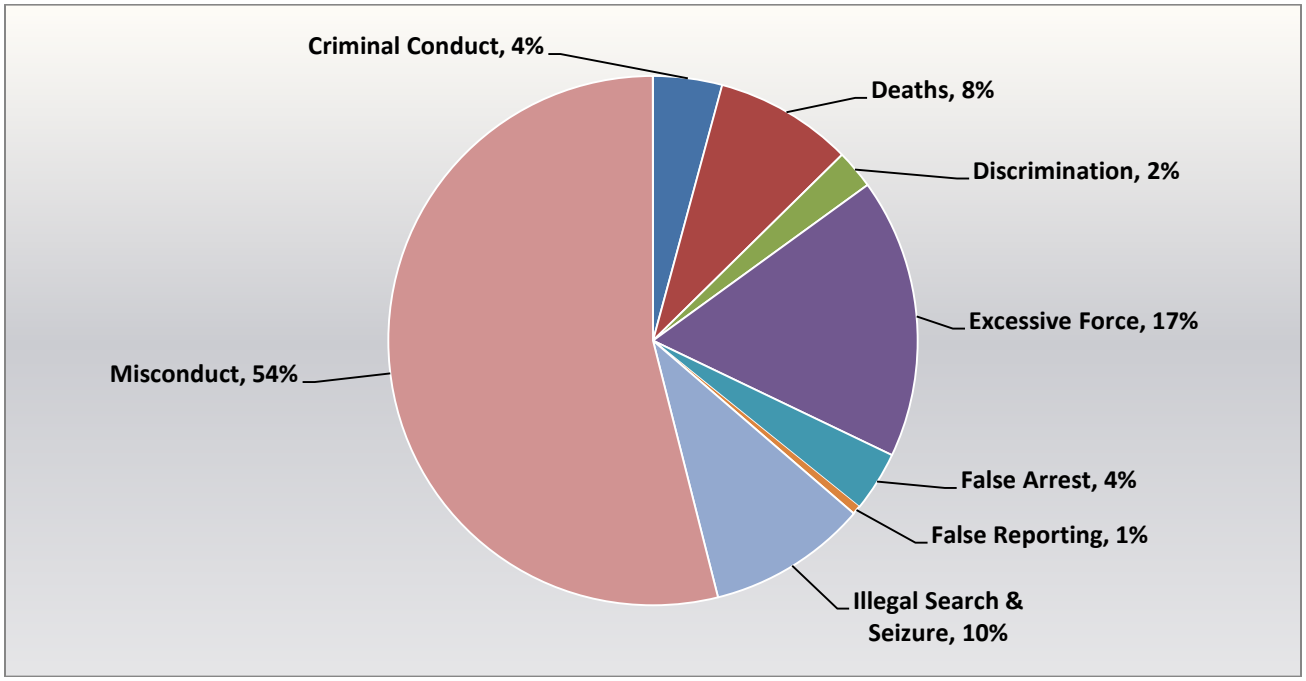
COMPLAINT PERCENTAGES BY MAJOR ORG/BUREAU – 2016 (Graph 4)



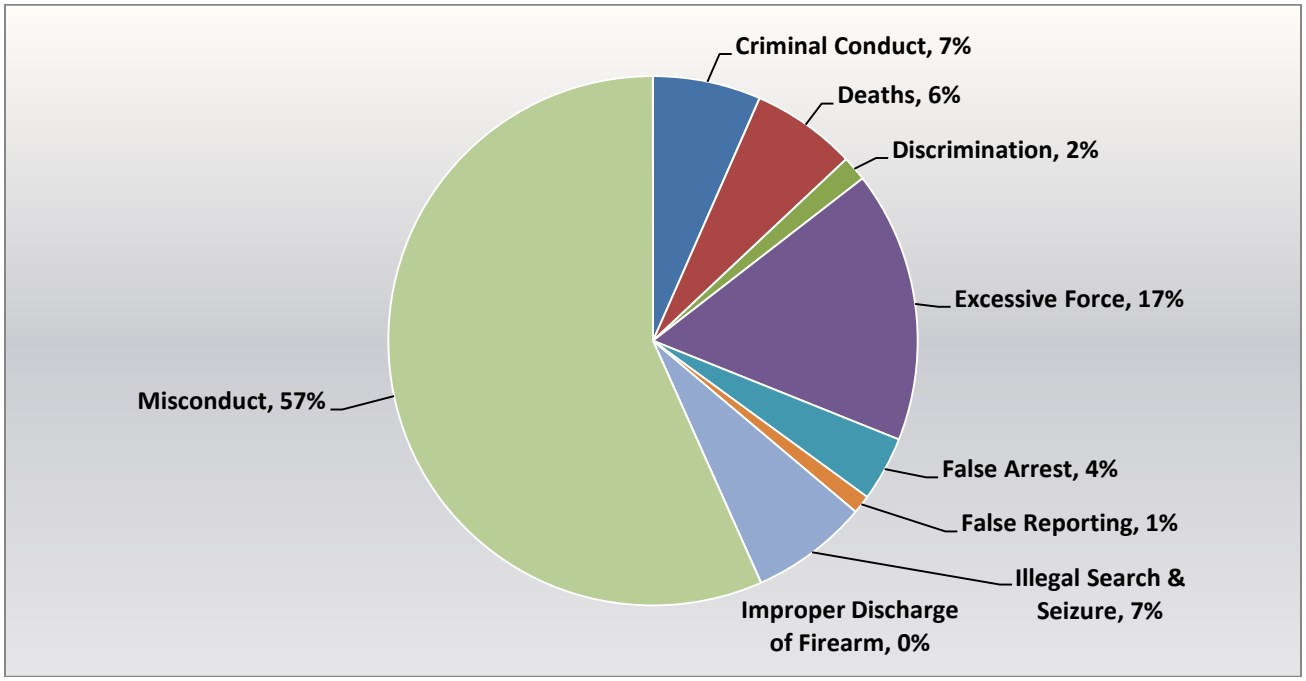
COMPLAINT PERCENTAGES BY MAJOR ORG/BUREAU – 2017 (Graph 5)



ALLEGATIONS BY PERCENTAGE – 2016 (Graph 6)



ALLEGATIONS BY PERCENTAGE – 2017 (Graph 7)



COMPLAINTS & ALLEGATIONS CLOSED BY UNIT OR FACILITY – 2017 (Table 6)

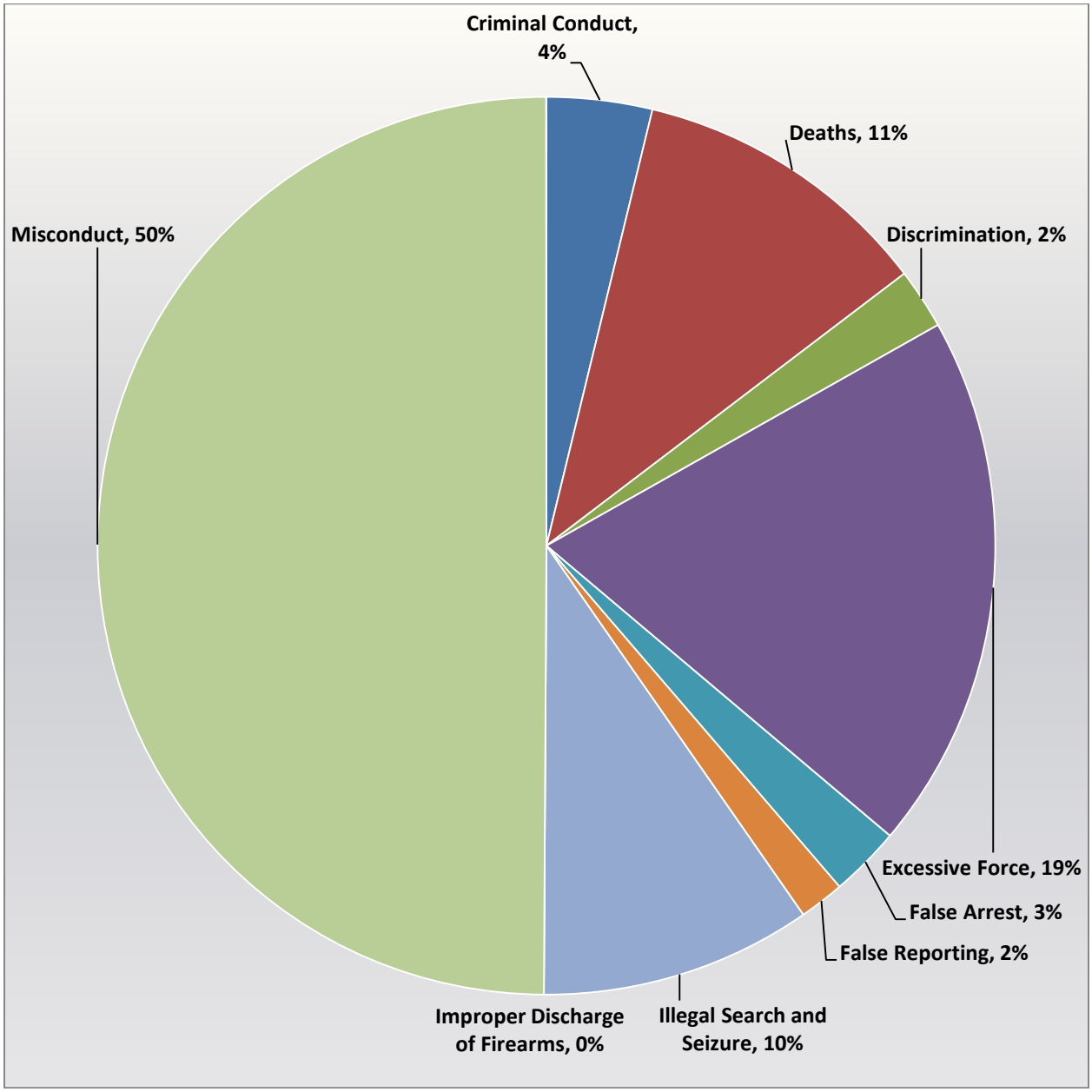
	Complaint Totals	CC	Deaths	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
LAW ENFORCEMENT											
Alpine Station	2	-	1	-	-	-	-	1	-	2	4
CID: Elder Abuse	1	1	-	-	-	-	-	-	-	1	2
Fallbrook Substation	4	1	1	1	-	1	1	5	-	5	15
Fugitive Task Force – SDSD	1	-	-	-	-	-	-	2	-	2	4
Imperial Beach Station	1	-	-	-	-	-	-	-	-	3	3
Lemon Grove Station	6	-	-	-	1	-	-	-	-	7	8
North Coastal Station	13	1	2	2	1	2	3	5	-	24	40
Poway Station	3	-	-	-	2	-	-	3	-	9	14
Ramona Substation	3	-	1	-	-	-	-	1	-	4	6
Rancho San Diego	4	-	-	-	2	-	1	10	-	13	26
Rural Law Enforcement	5	-	-	3	-	2	-	2	-	20	27
San Marcos Station	2	-	1	-	-	-	-	2	-	2	5
Santee Station	3	-	11	-	-	-	-	-	-	3	14
Special Enforcement Detail	3	-	3	-	-	-	-	-	-	-	3
Spring Valley Storefront	3	-	-	2	4	2	-	-	-	4	12
Valley Center/Pauma Substation	1	6	-	-	-	-	-	-	-	10	16
Vista Station	7	-	2	2	14	3	-	4	-	7	32
TOTAL	62	9	22	10	24	10	5	35	-	116	231
DETENTIONS											
East Mesa Detention Facility	1	-	-	-	4	-	-	-	-	-	4
George F. Bailey Detention Facility	21	1	5	1	18	-	-	1	-	45	71
Las Colinas Detention Facility	10	1	1	-	14	-	3	-	-	26	45
San Diego Central Jail	30	-	22	-	39	-	-	-	-	45	106
Vista Detention Facility	13	-	9	-	1	-	-	-	-	9	19
TOTAL	75	2	37	1	76	-	3	1	-	125	245
COURT SERVICES											
Court Services Bureau	3	9	-	-	2	2	-	-	-	-	13
TOTAL	3	9	-	-	2	2	-	-	-	-	13
OTHER											
Other Law Enforcement	4	-	-	-	-	1	-	1	-	4	6
Unknown	3	-	-	-	2	-	-	3	-	5	10
TOTAL	7	-	-	-	2	1	-	4	-	7	16
PROBATION											
Probation: Adult Services	10	1	-	1	3	1	1	14	-	26	47
Probation: Institutional Services	1	-	1	-	-	-	-	-	-	-	1
TOTAL	11	1	1	1	3	1	1	14	-	26	48
TOTALS:	158	21	60	12	107	14	9	54	0	276	553

NOTES:

2) *CC= Criminal Conduct; DC= Discrimination; EF= Excessive Force; FA= False Arrest; FR= False Reports; ISS= Illegal Search & Seizure; IDF= Improper Discharge of Firearm.*

3) *Allegation Totals exceed Complaint Totals because cases frequently include more than one sworn officer and/or numerous allegations.*

ALLEGATION PERCENTAGES FOR COMPLAINTS CLOSED – 2017 (Graph 8)



BOARD ACTION BY DATE CLOSED, CASE NUMBER, AND FINDINGS – 2017 (Table 7)

(Procedurally Closed Cases are listed separately in Table 8)

CASE #	FINDINGS						DATE CLOSED
	Action Justified	Not Sustained	Sustained	Unfounded	Summary Dismissal	One-Year Summary Dismissal *	
12-046						10	02-14-17
13-012						14	02-14-17
15-119	11	3					02-14-17
15-122	1						02-14-17
15-123	1			3			02-14-17
16-002	1				2		02-14-17
16-003					5		02-14-17
16-008	2	7		1			02-14-17
16-011	10	1					02-14-17
16-016	3	1					02-14-17
16-018	1	1		1	6		02-14-17
16-025	7	1					02-14-17
16-032					9		02-14-17
16-072		1		1			02-14-17
13-007		2					03-14-17
15-110	1						03-14-17
16-012	1						03-14-17
16-014	1						03-14-17
16-029	3	3					03-14-17
16-031	2						03-14-17
16-033					6		03-14-17
16-039					2		03-14-17
16-041	2						03-14-17
16-051	1						03-14-17
17-005					1		03-14-17
15-034	1						04-11-17
16-009		2					04-11-17
16-030	2			1			04-11-17
16-037				2	1		04-11-17
16-040		5					04-11-17
16-042	3	1					04-11-17
16-054	4						04-11-17
15-125	1						05-09-17
16-020					1		05-09-17
16-028	4						05-09-17
16-046	1	2					05-09-17
16-047	1	1			1		05-09-17
16-048	5	2					05-09-17
16-049		1			1		05-09-17
16-064	8						05-09-17
17-023					1		05-09-17

CASE #	FINDINGS						DATE CLOSED
	Action Justified	Not Sustained	Sustained	Unfounded	Summary Dismissal	One-Year Summary Dismissal *	
15-043	11						06-13-17
16-027		1	1	2			06-13-17
16-068					2		06-13-17
16-079	8						06-13-17
16-058	2				1		07-11-17
16-066	4	4					07-11-17
16-067	9			3			07-11-17
17-006	1	2					07-11-17
16-069	3	2					08-08-17
16-080	1	1					08-08-17
16-086					2		08-08-17
16-015	3	2		1			10-10-17
16-036	1	1					10-10-17
16-074		2	1	1			10-10-17
16-075	2			1			10-10-17
16-084	3						10-10-17
16-085		2					10-10-17
16-087	1	3					10-10-17
17-047					1		10-10-17
17-084					2		10-10-17
17-085					1		10-10-17
17-097					1		10-10-17
11-079						1	11-14-17
13-011						1	11-14-17
13-048						1	11-14-17
13-079						1	11-14-17
13-081						1	11-14-17
13-085						1	11-14-17
13-098						1	11-14-17
13-100						1	11-14-17
13-101						1	11-14-17
14-106	2						11-14-17
14-017						1	11-14-17
14-036						1	11-14-17
14-039						1	11-14-17
14-067						1	11-14-17
14-070						1	11-14-17
14-107						1	11-14-17
15-046						1	11-14-17
15-052						1	11-14-17
15-089						1	11-14-17
15-108						1	11-14-17
15-118						1	11-14-17
16-057						1	11-14-17
16-060						1	11-14-17

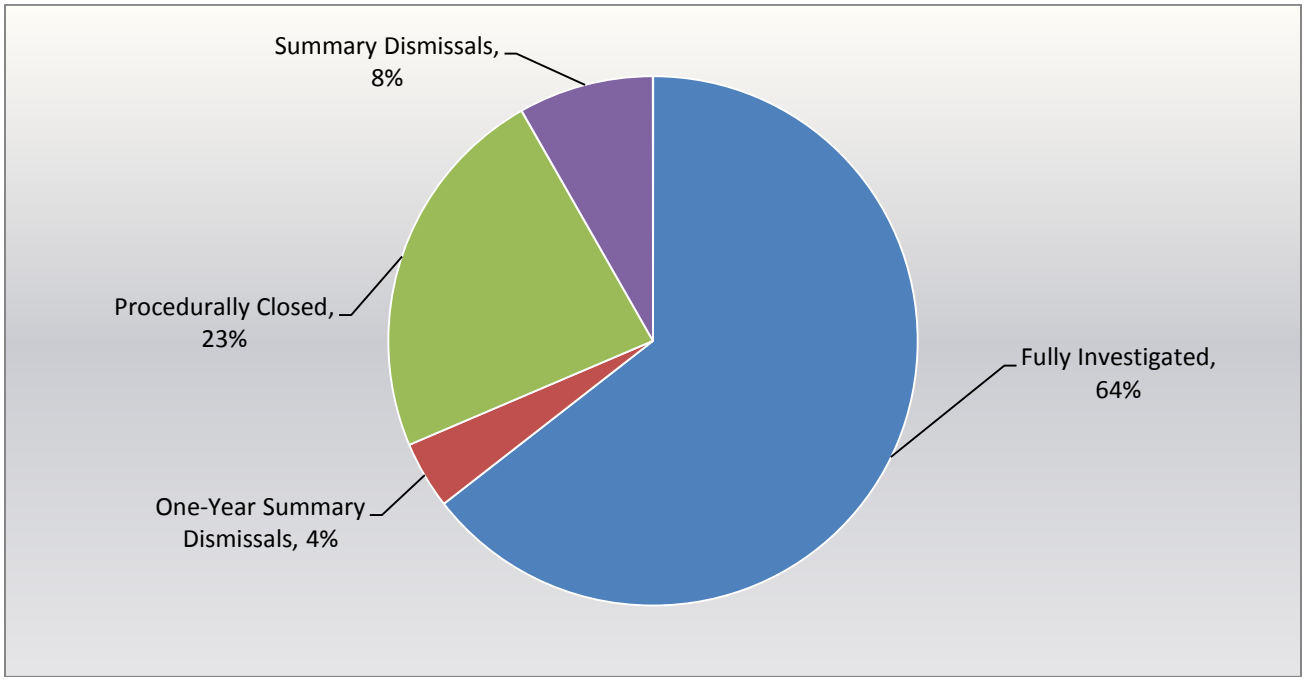
CASE #	FINDINGS						DATE CLOSED
	Action Justified	Not Sustained	Sustained	Unfounded	Summary Dismissal	One-Year Summary Dismissal *	
16-089	4	5					11-14-17
16-092	3	1					11-14-17
16-094	2			2			11-14-17
16-096	1	3					11-14-17
16-097		2			1		11-14-17
17-001	1			1			11-14-17
17-010	3	5					11-14-17
17-109					1		11-14-17
17-117					2		11-14-17
15-045	1						12-12-17
16-007	1						12-12-17
16-091		1		3			12-12-17
16-099	6	2					12-12-17
16-105	2						12-12-17
16-106		3		1	1		12-12-17
17-003	1						12-12-17
17-004	8						12-12-17
17-007	6	3		1			12-12-17
17-009					1		12-12-17
17-050	1						12-12-17
17-053					2		12-12-17
17-061	1						12-12-17
17-063	1						12-12-17
17-064	1						12-12-17
17-132					8		12-12-17
TOTALS	172	79	2	24	62	46	11 Meetings 111 Cases 385 Findings

* Court decisions applicable to the Review Board and Government Code Section 3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct that could result in discipline be completed within one year of discovery of the misconduct, unless statutory exceptions apply. A review of the complaint showed no statutory exceptions applied, and the Review Board approved Summary Dismissal.

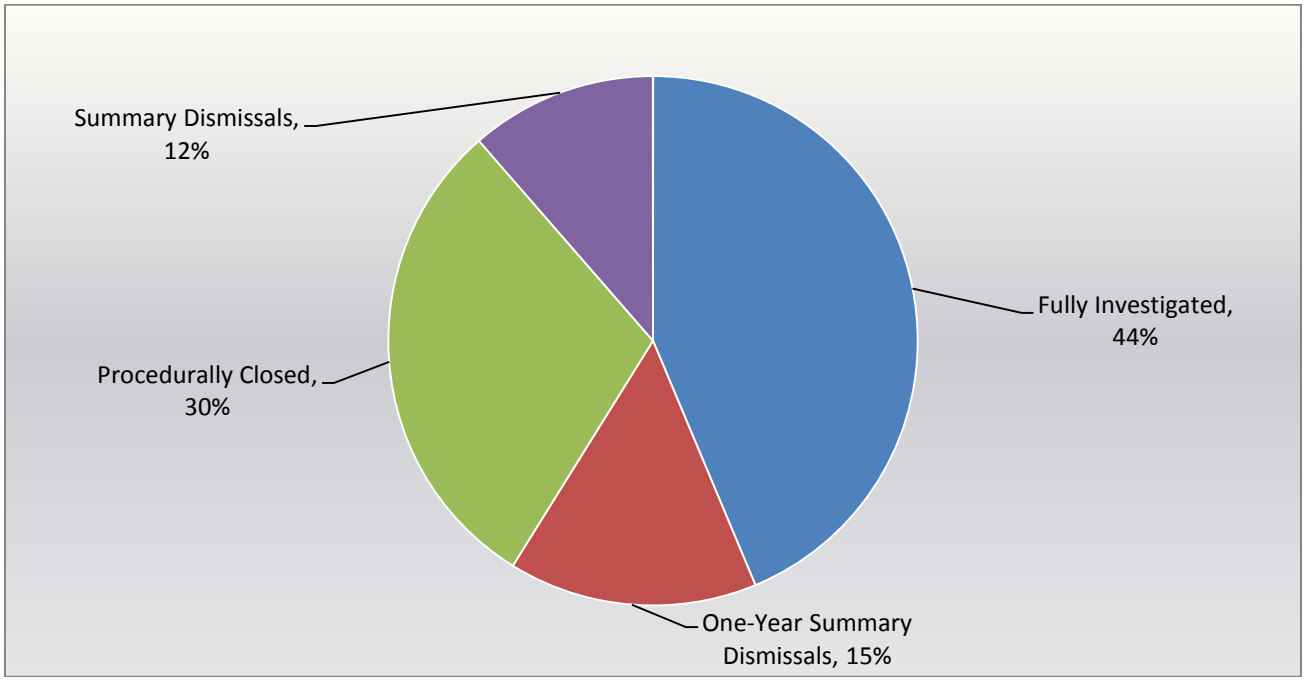
PROCEDURALLY CLOSED CASES BY DATE AND CASE NUMBER – 2017 (Table 8)

CASE #	DATE CLOSED
16-102	01-03-17
16-103	01-03-17
16-104	01-03-17
17-016	03-13-17
17-017	03-13-17
17-018	03-27-17
17-026	04-18-18
17-027	04-24-17
17-025	04-25-17
17-032	05-31-17
17-042	06-28-17
17-044	06-28-17
17-054	07-27-17
17-055	07-27-17
17-048	07-27-17
17-049	07-27-17
17-059	08-18-17
17-060	08-18-17
17-067	08-18-17
17-069	08-25-17
17-072	08-25-17
17-073	08-25-17
17-079	09-12-17
17-082	09-12-17
17-083	09-12-17
17-075	09-15-17
17-077	09-15-17
17-089	09-15-17
17-086	09-18-17
17-094	09-29-17
17-096	09-29-17
17-092	10-09-17
17-100	10-11-17
17-103	10-24-17
17-104	10-24-17
17-098	11-03-17
17-108	11-09-17
17-105	11-28-17
17-123	11-28-17
17-124	11-28-17
17-125	11-28-17
17-126	11-28-17
17-131	11-28-17
17-119	11-29-17
17-120	11-29-17
17-121	11-29-17
17-136	12-05-17
17-140	12-29-17
TOTAL	**47 Cases** **168 Allegations**

CASE CLOSURE TYPE BY PERCENTAGE – 2016 (Graph 9)



CASE CLOSURE TYPE BY PERCENTAGE – 2017 (Graph 10)



DEATH CASES OPENED IN 2016 (Table 9)

Case #	Decedent	Category	Facility/Area	Cause of Death
16-007	Gilbert Gearhart	In-custody natural	VDF	Acute myocardial infarct due to arteriosclerotic cardiovascular disease
16-009	Howard James	In-custody undetermined	SDCJ	Hemorrhagic shock due to hemothorax due to displaced rib fracture Contributing: Multilobar pneumonia; chronic obstructive pulmonary disease; hypertensive and atherosclerotic cardiovascular disease; anticoagulation therapy; type II diabetes mellitus Manner: Undetermined
16-012	Rojelio Torres	In-custody natural	SDCJ	Hypoxic encephalopathy due to cardiac arrest with resuscitation due to long QT syndrome Contributing: Hypertension
16-014	Ronald Wells	In-custody natural	SDCJ	Atherosclerotic cardiovascular disease
16-019	Aurelio Perez	Barricaded subject	Imperial Beach	Sharp force injuries
16-027	Richard Boulanger	In-custody suicide	SDCJ	Acute diffuse anoxic/ischemic encephalopathy due to resuscitated cardiac arrest due to ligature hanging
16-036	Brandon Moyer	In-custody illicit drug-related	GBDF	Acute heroin intoxication Contributing: Aspiration pneumonia
16-051	Adrian Sanchez	In-custody illicit drug-related	SDCJ	Acute methamphetamine intoxication Contributing: Idiopathic seizure disorder (epilepsy)
16-054	Pedro Arellano	In-custody suicide	SDCJ	Anoxic encephalopathy due to hanging
16-057	Ruben Nunez	In-custody natural	SDCJ	Diabetes insipidus (water intoxication)
16-060	Heron Moriarty	In-custody suicide	VDF	Asphyxia due to airway obstruction and neck compression
16-073	David Moya	Deputy-involved shooting	Santee	Penetrating gunshot wound of head
16-076	Sergio Weick	Deputy-involved shooting	Vista	Multiple gunshot wounds
16-078	Trenton Lohman	Deputy-involved shooting	Poway	Thoracic gunshot wounds
16-093	Nicholas Helton	In-custody suicide	GBDF	Blunt force trauma of head and torso (jump)
16-101	Sergio Almejo	In-custody suicide	GBDF	Hanging
16-107	Bill Asaro	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease Contributing: Hepatic fibrosis and steatosis
16-108	Lyle Woodward	In-custody homicide	SDCJ	Complications of resuscitated cardiac arrest due to ligature strangulation
TOTALS	**18**			

DEATH CASES CLOSED IN 2016 (Table 10)

Case #	Decedent	Category	Facility/Area	Cause of Death
14-005	Dennis Lane	In-custody natural	SDCJ	Acute gastrointestinal hemorrhage due to hepatitis C Contributing: Hypertensive cardiovascular disease
14-015	Ronnie Sandoval	In-custody illicit drug-related	SDCJ	Acute methamphetamine intoxication
14-041	Brandon Mason	In-custody suicide	SDCJ	Anoxic/ischemic brain injury due to resuscitated hanging
14-061	Christopher Carroll	In-custody suicide	SDCJ	Hanging
14-144	Vidal Webb	In-custody suicide	SDCJ	Blunt force trauma to head (jump)
15-002	Jason Stey	In-custody suicide	VDF	Hanging
TOTALS	6			

DEATH CASES OPENED IN 2017 (Table 11)

Case #	Decedent	Category	Facility/Area	Cause of Death
17-019	Isidro Bazan, Jr.	Deputy-involved shooting	San Marcos	Thoracoabdominal gunshot wound
17-028	Michael Andera	Barricaded subject	San Marcos	Intraoral gunshot wound
17-033	Jeroen Koornwinder	Deputy-involved shooting	Lakeside	Gunshot wound to the upper torso
17-035	Emmanuel Ibarra	Deputy-involved shooting	Del Mar (North Coastal)	Multiple gunshot wounds
17-036	Mark Adkins	Illicit drug/CED usage	Lemon Grove	Resuscitated cardiopulmonary arrest in the setting of acute methamphetamine and phencyclidine toxicity, and recent physical altercation/physical exertion with history of conductive energy device use
17-038	Bruce Stucki	In-custody natural	VDF	Complications of chronic alcoholism
17-043	Bruce Dawley	Deputy-involved shooting	Campo	Shotgun wound of the abdomen
17-058	Jonathan Coronel	Deputy-involved shooting	Vista	Multiple gunshot wounds
17-061	Moises Valdez	In-custody natural	SDCJ	Complications of acute intraparenchymal brain hemorrhage in the setting of thrombocytopenia Contributing: Clinical history of human immunodeficiency virus and hepatitis C infections
17-062	Stephen George	In-custody natural	VDF	Acute and chronic aspiration pneumonia Contributing: abdominal neuroendocrine tumor
17-063	Christopher Dunlop	In-custody natural	SDCJ	Complications of bowel obstruction with perforation due to abdominal adhesions with internal hernia due to remote rectal cancer
17-064	Mary Penn	In-custody natural	LCDRF	Complications of lower gastrointestinal bleed Contributing: hepatic cirrhosis
17-065	Alan Weaver	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease
17-076	James Lacy	Deputy-involved shooting	San Diego (Courts)	No ME Report
17-078	Ivan Prieto	In-custody illicit drug-	SDCJ	Acute cocaine and methamphetamine

Case #	Decedent	Category	Facility/Area	Cause of Death
		related		intoxication
17-080	Robert Wellington	In-custody undetermined	SDCJ	Seizure disorder due to congenital brain malformations; chronic alcoholism; remote blunt force head trauma; status post remote resection of meningioma Manner: Undetermined
17-088	Isaias Ochoa	Deputy-involved shooting	Lemon Grove (Rancho SD)	Gunshot and shotgun wounds
17-093	Kenneth Rice	In-custody illicit and prescription drug-related	SDCJ	Anoxic encephalopathy due to methamphetamine, opiates, and benzodiazepines intoxication
17-101	Keith Gill	In-custody homicide	GBDF	No ME Reports
17-102	Michael Macabinlar	In-custody illicit drug-related	VDF	Acute methamphetamine intoxication; dilated cardiomyopathy; hypertensive and atherosclerotic cardiovascular disease
17-110	Kristopher Birtcher	Restraint-related	San Marcos	Sudden cardiac arrest while restrained Contributing: Acute methamphetamine intoxication
17-111	Barbara Antos	In-custody natural	LCDRF	Upper gastrointestinal hemorrhage, due to probable peptic ulcer disease, due to chronic nonsteroidal anti-inflammatory use
17-116	Jimmie Sellars	Barricaded subject	San Marcos	Perforating intraoral gunshot wound of the head
17-127	James Kenyon	In-custody accident (choking)	GBDF	Asphyxia due to aspiration of food bolus
17-134	Shameka Phillips	In-custody illicit and prescription drug-related	LCDRF	Methamphetamine, morphine, and gabapentin toxicity
17-147	Chadwick Moore	In-custody suicide	F8DF	Hanging
17-148	Javier Gomez	Deputy-involved shooting	Oceanside (Vista)	No ME Reports
17-150	Joseph Horsey	In-custody natural	SDCJ	No ME Reports
TOTALS	**28**			

DEATH CASES CLOSED IN 2017 (Table 12)

Case #	Decedent	Category	Facility/Area	Cause of Death
11-079	Russell Hartsaw	In-custody homicide	GBDF	Multiple blunt force injuries One-Year Summary Dismissal
13-007	Robert Lubsen	In-custody suicide	VDF	Blunt force head injuries (jump)
13-011	Evan Kwik	Barricaded subject	Encinitas (North Coastal)	Shotgun wound of the head One-Year Summary Dismissal
13-048	Hugo Barragan	Restraint	Fallbrook	Sudden cardiac arrest with acute methamphetamine and quetiapine intoxication during law enforcement restraint One-Year Summary Dismissal
13-079	David Brown	Deputy-involved shooting	San Marcos	Multiple gunshot wounds One-Year Summary Dismissal
13-081	Aaron Stitt	In-custody suicide	VDF	Hanging One-Year Summary Dismissal
13-085	Lionel Silva	Barricaded subject	Unincorporated La Mesa (Lemon Grove)	Self-inflicted gunshot wound of head One-Year Summary Dismissal

Case #	Decedent	Category	Facility/Area	Cause of Death
13-098	Rosemary S.	In-custody suicide	Kearny Mesa Juvenile Detention Facility	Anoxic encephalopathy due to asphyxia due to hanging One-Year Summary Dismissal
13-100	Sebastian Zatarain	Barricaded subject	Bonita	Self-inflicted gunshot wound One-Year Summary Dismissal
13-101	Zdzislaw Bieruta	In-custody natural	VDF	Sudden cardiac death due to acute coronary syndrome due to multivessel coronary artery atherosclerosis due to atherosclerotic cardiovascular disease One-Year Summary Dismissal
14-006	Michael Napier	Deputy-involved shooting	Vista (G.E.T.)	Multiple gunshot wounds of torso
14-017	Kristopher Nesmith	In-custody suicide	VDF	Hanging One-Year Summary Dismissal
14-036	Dervin Bowman	In-custody suicide	SDCJ	Anoxic encephalopathy due to asphyxia due to hanging One-Year Summary Dismissal
14-039	Robert Deleon	Barricaded subject	La Mesa (S.E.D.)	Contact gunshot wound of the head One-Year Summary Dismissal
14-067	Martin Mora	In-custody natural	VDF	Complications of upper chronic gastrointestinal bleeding due to cirrhosis of the liver/hepatitis C Contributing: Cardiomyopathy, hypertension, chronic heroin abuse, and obesity One-Year Summary Dismissal
14-070	Hector Lleras	In-custody suicide	SDCJ	Asphyxia by hanging One-Year Summary Dismissal
14-107	Jerry Cochran	In-custody natural	SDCJ	Diabetic ketoacidosis due to diabetes mellitus Contributing: acute cellulitis One-Year Summary Dismissal
15-034	Gary Kendrick	Deputy-involved shooting	Encinitas (North Coastal)	Gunshot wound of left arm/chest
15-043	Lucky Phounsey	Restraint	Santee	Anoxic encephalopathy due to cardiopulmonary arrest with resuscitation following physical altercation and restraint due to stimulant drug-related psychotic state Contributing: Cardiac arteriolosclerosis
15-045	Ronnie Speratos	In-custody accident (fall)	GBDF	Progressive respiratory failure and sepsis due to bronchopneumonia due to complications of bacterial meningitis due to left otitis media (ear infection) and mastoiditis Contributing: Deep vein thrombosis with peripheral gangrene of digits and intracranial hemorrhage (subdural hematoma) secondary to fall
15-046	Scott Hillen	Deputy present (suicide)	Ramona	Penetrating gunshot wound of the head One-Year Summary Dismissal
15-052	Simon Hubble	Deputy-involved shooting	Alpine	Gunshot wounds of chest One-Year Summary Dismissal
15-089	Sergio Valenzuela	In-custody suicide	SDCJ	Complications of resuscitated hanging One-Year Summary Dismissal
15-108	Martin Dozal	In-custody suicide	GBDF	Acute diffuse anoxic/ischemic encephalopathy due to resuscitated

Case #	Decedent	Category	Facility/Area	Cause of Death
				cardiac arrest due to ligature strangulation One-Year Summary Dismissal
15-110	Jason Nishimoto	In-custody suicide	VDF	Hanging
15-118	Nicholas Medel	In-custody suicide	GBDF	Hanging One-Year Summary Dismissal
15-125	Christopher Cook	In-custody suicide	VDF	Complications of blunt force injuries of head and neck (jump)
16-007	Gilbert Gearhart	In-custody natural	VDF	Acute myocardial infarct due to arteriosclerotic cardiovascular disease
16-009	Howard James	In-custody undetermined	SDCJ	Hemorrhagic shock due to hemothorax due to displaced rib fracture Contributing: Multilobar pneumonia; chronic obstructive pulmonary disease; hypertensive and atherosclerotic cardiovascular disease; anticoagulation therapy; type II diabetes mellitus Manner: Undetermined
16-012	Rojelio Torres	In-custody natural	SDCJ	Hypoxic encephalopathy due to cardiac arrest with resuscitation due to long QT syndrome Contributing: Hypertension
16-014	Ronald Wells	In-custody natural	SDCJ	Atherosclerotic cardiovascular disease
16-027	Richard Boulanger	In-custody suicide	SDCJ	Acute diffuse anoxic/ischemic encephalopathy due to resuscitated cardiac arrest due to ligature hanging
16-036	Brandon Moyer	In-custody natural	GBDF	Acute heroin intoxication Contributing: Aspiration pneumonia
16-051	Adrian Sanchez	In-custody overdose	SDCJ	Acute methamphetamine intoxication Contributing: Idiopathic seizure disorder (epilepsy)
16-054	Pedro Arellano	In-custody suicide	SDCJ	Anoxic encephalopathy due to hanging
16-057	Ruben Nunez	In-custody natural	SDCJ	Diabetes insipidus (water intoxication) One-Year Summary Dismissal
16-060	Heron Moriarty	In-custody suicide	VDF	Asphyxia due to airway obstruction and neck compression One-Year Summary Dismissal
17-061	Moises Valdez	In-custody natural	SDCJ	Complications of acute intraparenchymal brain hemorrhage in the setting of thrombocytopenia Contributing: Clinical history of human immunodeficiency virus and hepatitis C infections
17-063	Christopher Dunlop	In-custody natural	SDCJ	Complications of bowel obstruction with perforation due to abdominal adhesions with internal hernia due to remote rectal cancer
17-064	Mary Penn	In-custody natural	LCDRF	Complications of lower gastrointestinal bleed Contributing: hepatic cirrhosis
TOTALS	**40**			**22 One-Year Summary Dismissals**

POLICY RECOMMENDATIONS– 2017 (Table 13)

#	CASE #	POLICY RECOMMENDATIONS	OUTCOME
1	15-119	It is recommended that the San Diego Sheriff's Department add language in Detentions policies and procedures stating that detentions staff personnel *shall* ensure compliance with any medical restriction(s) concerning inmates wearing Day Room Chains (DRC) and Lower Tier housing. Sworn staff shall notify Medical Personnel of the DRC requirement to ensure appropriate medical instructions are recorded.	Based upon the CLERB recommendation, DSB Policy J.9 was created and subsequently published on May 19, 2017. The new policy states that if DRC are recommended, an Inmate Status Report will be written in the Jail Inmate Management System (JIMS) documenting the need for DRC. All inmates requiring the DRC hazard will be reclassified to a Level 6-High Maximum, be dressed in green clothing, and wear a green wristband. All DRC inmates will be housed in a lower tier cell in Administrative Segregation. **Recommendation Implemented**
2	16-027	It is recommended that the San Diego Sheriff's Department ensure compliance with Sheriff's Policy I.1, Emergency Alarms Systems, which explicitly directs the Control Deputy to dispatch assistance when an inmate emergency alarm is activated. To address an unspecified element of this policy, it is recommended that an addendum to the existing policy be drafted that directs the Control Deputy to immediately check the inmate intercom monitor for visual alerts at the beginning of each shift, and to ensure that the audio alerts on the monitor have not been disabled.	Prior to receiving the CLERB PR, SDSD updated SDCJ Green Sheet I.61.C.3 to mandate the on-coming deputy log off the previous user and log on, to check the volume controls upon doing so, and ensure the volume is at a reasonable level. Based on CLERB's PR, DSB Policy I.2 was modified and published on September 27, 2017. **Recommendation Implemented**
3	16-027	It is further recommended that policy be drafted that strictly prohibits detentions staff from muting or otherwise disabling the audio component of the inmate intercom monitor, or lowering its volume to an inaudible level.	Prior to receiving the CLERB PR, SDSD updated SDCJ Green Sheet I.61.C.3 to mandate the on-coming deputy log off the previous user and log on, to check the volume controls upon doing so, and ensure the volume is at a reasonable level. Based on CLERB's PR, DSB Policy I.2 was modified and published on September 27, 2017. **Recommendation Implemented**

4	16-036	It is recommended that the San Diego Sheriff's Department modify Policy I.43, Inmate Count Procedure, as it specifically relates to the Soft Count definition, to include an expanded, specific and objective definition of "well-being" that would include objective criteria for the assessment of an inmate's condition. This modified definition would serve to eliminate random subjectivity in the analysis of an inmate's well-being, and standardize detentions staff's evaluation processes.	Based on CLERB's PR, SDSD updated DSB P&P I.43 to strengthen the policy statement to mandate that during all soft and hard counts, sworn staff will verify each inmate's well-being for any obvious signs of medical or physical distress, trauma, and criminal activity. In addition, sworn staff shall also ensure the environment is clear of any safety or security hazards. The P&P was modified and published on December 28, 2017. **Recommendation Implemented**
5	16-099	It is recommended that the San Diego Sheriff's Department (SDSD) revise its Patrol Manual, Policy 25, entitled, "Prisoner Transportation," by deleting from Section D.2 the phrase, "per Penal Code 3407."	Instead of deleting "per Penal Code 3407," SDSD changed the word "prisoner" to "inmate" in the three places where the Penal Code was incorrectly quoted, thus having the same effect. **Recommendation Implemented**
6	16-099	It is recommended that the SDSD amend the "Pregnant Patient's Rights" as documented in SDSD Medical Records, to conform with Penal Code 3407, specifically, "A pregnant inmate in labor, during delivery, or in recovery after delivery, shall not be restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public" rather than "You will be chained and handcuffed during labor and delivery."	SDSD updated the "Pregnant Patient's Rights" as documented in SDSD Medical Records, to conform with Penal Code 3407, as CLERB recommended. **Recommendation Implemented**

CLERB TWO-YEAR ADOPTED/APPROVED OPERATIONAL BUDGET (Table 14)

LINE ITEM CATEGORY	2016-2017	2017-2018
Salaries & Fringe Benefits	**$546,072**	**$552,106**
Services & Supplies	**$136,980**	**$165,345**
Total Expense	**$683,052**	**$717,451**
General Revenue	**$683,052**	**$717,451**
Employee positions	**4**	**4**

GLOSSARY OF TERMS & DEFINITIONS

Action Justified:
A finding that indicates CLERB's investigation showed the alleged act did occur, and was lawful, justified and proper.

Lodged versus Filed Complaints:
A complaint is "lodged" and given a case number when a person contacts CLERB to complain about an incident but has not sworn to the truth of the statement. The complaint is "filed" when the complainant submits a signed statement attesting or swearing to the truth of the complaint.

Not Sustained (Insufficient Evidence):
A finding that indicates CLERB's investigation produced insufficient evidence to either prove or disprove the allegation.

Preponderance of the Evidence:
Evidence that has more convincing force than that opposed to it. This is the standard of proof used in CLERB's investigations.

Procedurally Closed:
A lodged case closed by the Executive Officer when it is not returned with a signature under penalty of perjury.

Summary Dismissal:
(a) CLERB had no jurisdiction over the complaint or an allegation; or
(b) CLERB had no jurisdiction because the complaint was not timely filed; or
(c) The complaint was so clearly without merit that no reasonable person could sustain a finding based on the facts.

Sustained:
A finding that indicates CLERB's investigation supported the allegation and the act or conduct was not justified.

Tolling:
The pausing or delaying of the running or period of time set forth by a statute of limitations.

Unfounded:
A finding that indicates CLERB's investigation showed the alleged act or conduct did not occur.

APPENDIX A:

CHARTER OF THE COUNTY OF SAN DIEGO

Section 606: Citizens Law Enforcement Review Board.

(a) The Board of Supervisors, by ordinance, shall establish a Citizens Law Enforcement Review Board consisting of not less than nine (9) nor more than fifteen (15) members nominated by the Chief Administrative Officer and appointed by the Board of Supervisors. Members of the Citizens Law Enforcement Review Board shall serve without compensation for terms not to exceed three years as established by ordinance, and members shall be appointed for not more than two consecutive full terms. County employees and persons employed as peace officers or custodial officers shall not be eligible to be members of the Citizens Law Enforcement Review Board.

(b) Members of the Citizens Law Enforcement Review Board shall serve at the pleasure of the Board of Supervisors, and they may be removed at any time by a majority vote of the Board of Supervisors.

(c) Vacancies on the Citizens Law Enforcement Review Board shall be filled for the balance of the unexpired term in the same manner as the position was originally filled.

(d) The Citizens Law Enforcement Review Board shall have the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and to administer oaths.

(e) The Citizens Law Enforcement Review Board may appoint in accordance with its established procedures such personnel as may be authorized by the Board of Supervisors. Notwithstanding any other provision of this Charter, any authorized executive director and investigators of the Citizens Law Enforcement Review Board shall be in the classified or the unclassified service as determined, by ordinance, by the Board of Supervisors.

(f) The Board of Supervisors, by ordinance, shall establish the duties of the Citizens Law Enforcement Review Board and its duties may include the following:

(1) Receive, review and investigate citizens complaints which charge peace officers or custodial officers employed by the Sheriff's Department or the Probation Department with (A) use of excessive force, (B) discrimination or sexual harassment in respect to members of the public, (C) the improper discharge of firearms, (D) illegal search or seizure, (E) false arrest, (f) false reporting, (G) criminal conduct or (H) misconduct. All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury. "Misconduct" is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific citizen by reason of:

1. An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or

2. An alleged violation of any state or federal law; or

3. Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

(2) Review and investigate the death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the Sheriff's Department or the Probation Department, regardless of whether a citizen complaint regarding such death has been filed with the Citizens Law Enforcement Review Board.

(3) Prepare reports, including at least the Sheriff or the Probation Officer as recipients, on the results of any investigations conducted by the Citizens Law Enforcement Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to the imposition of discipline and recommendations relating to any trends in regard to employees involved in citizen complaints.

(4) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Probation Officer summarizing the activities and recommendations of the Citizens Law Enforcement Review Board, including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(5) Notify in writing any citizens having filed a complaint with the Citizens Law Enforcement Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints.

(6) Review and make recommendations on policies and procedures of the Sheriff and the Probation Officer.

(7) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.

(8) Perform such other duties as the Board of Supervisors, by ordinance, may assign to the Citizens Law Enforcement Review Board.

(9) Established rules and procedures for receipt of complaints from detention facility inmates.

(g) In the event that a County Department of Corrections is established, the Citizens Law Enforcement Review Board shall have the same powers and duties in respect to that Department, its Director, and its peace officer and custodial officer employees, as the Citizens Law Enforcement Review Board has in respect to the Sheriff, the Probation Officer and their departments and employees.

(Added, Effective 12-26-90)

APPENDIX B:
SAN DIEGO COUNTY ADMINISTRATIVE CODE
ARTICLE XVIII - CITIZENS LAW ENFORCEMENT REVIEW BOARD

SEC. 340. PURPOSE AND INTENT.
It is the purpose and intent of the Board of Supervisors to establish a Citizens Law Enforcement Review Board of the County of San Diego to advise the Board of Supervisors, the Sheriff and the Chief Probation Officer on matters related to the handling of citizen complaints which charge peace officers and custodial officers employed by the County in the Sheriff's Department or the Probation Department with misconduct arising out of the performance of their duties. The Citizens Law Enforcement Review Board is also established to receive and investigate specified citizen complaints and investigate deaths arising out of or in connection with activities of peace officers and custodial officers employed by the County in the Sheriff's Department or the Probation Department. In addition, the Citizens Law Enforcement Review Board is to make appropriate recommendations relating to matters within its jurisdiction, report its activities, and provide data in respect to the disposition of citizen complaints received by the Citizens Law Enforcement Review Board. It is the purpose and intent of the Board of Supervisors in constituting the Citizens Law Enforcement Review Board that the Review Board will be advisory only and shall not have any authority to manage or operate the Sheriff's Department or the Probation Department or direct the activities of any County officers or employees in the Sheriff's Department or the Probation Department. The Review Board shall not decide policies or impose discipline against officers or employees of the County in the Sheriff's Department or the Probation Department.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.1. CITIZENS LAW ENFORCEMENT REVIEW BOARD.
The Board of Supervisors hereby establishes the Citizens Law Enforcement Review Board of the County of San Diego, hereinafter referred to as "Review Board."
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.2. NUMBER OF MEMBERS.
The Review Board shall consist of eleven (11) members.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.3. NOMINATION AND APPOINTMENT.
(a) The Board of Supervisors shall appoint all eleven members to the Review Board, all of whom shall be residents and qualified electors of the County. Members shall be nominated by the Chief Administrative Officer. In making nominations the Chief Administrative Officer shall attempt to reflect in Review Board membership comprehensive representation of age, sex, socioeconomic status, racial and ethnic background and geographical distribution, including representation of both the unincorporated areas and the cities that contract with the County for law enforcement by the Sheriff's Department. The list of nominees submitted to the Board of Supervisors shall include a statement of the qualifications of each person nominated.
(b) Public notice and publicity shall be given of intention to appoint members to the Review Board. An application form shall be provided to members of the public.
(c) County employees and persons employed as peace officers and custodial officers shall not be eligible to be members of the Review Board.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.4. TERM OF OFFICE.
(a) Each member shall serve a term of three years; provided, however, that the terms of the initial members of the Review Board shall be determined as follows:

At the first meeting of the Review Board, the eleven members shall draw lots to determine which four members will serve a three year term, which four members will serve a two year term, and which three members will serve a one year term.
(b) A member shall serve on the Review Board until a successor has been appointed. A member shall be appointed for no more than two consecutive full terms. Appointment to fill a vacancy shall constitute appointment for one term. The term for all members shall begin on July 1 and end on June 30. The term of all persons who are the initial appointees to the Review Board shall be deemed to commence on July 1, 1991.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.5. REMOVAL.
Members of the Review Board serve at the pleasure of the Board of Supervisors and may be removed from the Review Board at any time by a majority vote of the Board of Supervisors.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.6. VACANCIES.
A vacancy shall occur on the happening of any of the following events before the expiration of the term:
(1) The death of the incumbent.
(2) The resignation of the incumbent.
(3) The ceasing of the incumbent to be a resident of the County of San Diego.
(4) Absence of the member from three consecutive regular meetings of the Review Board, or
(5) Failure to attend and satisfactorily complete the required training course within three months of the beginning of a member's term or of the member's appointment to fill a vacancy.

When a vacancy occurs the Board of Supervisors and, where appropriate, the member shall be notified of the vacancy by the Chairperson. Vacancies shall be filled in the same manner as the position was originally filled. Vacancies shall be filled within forty-five days and, subject to the provisions of this article, shall be filled for the balance of the unexpired term.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.7. ORGANIZATION.
(a) *Officers.* The Review Board shall select annually from its membership a Chairperson, a Vice-Chairperson and a Secretary.

(b) *Rules.* The Review Board shall prepare and adopt necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors. A current copy of the rules and regulations shall be filed with the Clerk of the Board of Supervisors.

(c) *Quorum.* A majority of members currently appointed to the Review Board shall constitute a quorum. A majority of members currently appointed to the Review Board shall be required to carry any motion or proposal.

(d) *Minutes.* The Review Board shall keep written minutes of its meetings, a copy of which shall be filed with the Clerk of the Board of Supervisors.

(e) *Meetings.* The Review Board shall establish a regular meeting schedule and shall give public notice of the time and place of meetings. All meetings shall be held in accordance with the requirements of the Ralph M. Brown Act (Government Code, section 54950 et seq.).
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.8. COMPENSATION.
Members of the Review Board shall serve without compensation, except they shall be reimbursed for expenses incurred in performing their duties in accordance with provisions of the County Administrative Code regulating reimbursement to County officers and employees.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.9. DUTIES AND RESPONSIBILITIES.
The Review Board shall have the authority to:
(a) Receive, review and investigate citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department which allege: (A) use of excessive force; (B) discrimination or sexual harassment in respect to members of the public; (C) the improper discharge of firearms; (D) illegal search or seizure; (E) false arrest; (F) false reporting; (G) criminal conduct; or (H) misconduct. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or physical or mental incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury. "Citizen complaints" shall include complaints received from any person whatsoever without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant. "Misconduct" is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific citizen by reason of:

1. An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or

2. An alleged violation of any state or federal law; or

3. Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

The Review Board shall have no authority pursuant to this subdivision to take action in regard to incidents for which no citizen complaint has been filed with the Review Board.

(b) Review and investigate the death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department, regardless of whether a citizen complaint regarding such death has been filed with the Review Board. The Review Board shall have jurisdiction in respect to all deaths of individuals coming within the provisions of this subdivision occurring on or after November 7, 1990; provided, however, that the Review Board may not commence review or investigation of any death of an individual coming within the provisions of this subdivision more than one year after the date of the death, unless the review and investigation is commenced in response to a complaint filed within the time limits set forth in subdivision (a) of this section.

(c) Prepare reports, including at least the Sheriff or the Probation Officer as recipients, on the results of any investigations conducted by the Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to the imposition of discipline, including the facts relied on in making such recommendations, and recommendations relating to any trends in regard to employees involved in citizen complaints. The Review Board is not established to determine criminal guilt or innocence.

(d) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Probation Officer summarizing the activities and recommendations of the Review Board including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(e) Notify in writing any citizen having filed a complaint with the Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints. Such notifications shall be in writing and shall contain the following statement: "In accordance with Penal Code section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of California or the United States."

(f) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.
(g) Review and make recommendations on policies and procedures of the Sheriff's Department and the Probation Departments to the Board of Supervisors, the Sheriff, and the Chief Probation Officers.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91; amended by Ord. No. 7914 (N.S.), effective 6-27-91; amended by Ord. No. 9737 (N.S.), effective 10-27-05; amended by Ord. No. 9782 (N.S.), effective 7-20-06)

SEC. 340.10. REVIEW BOARD INVESTIGATIONS.
Citizen complaints received by the Review Board shall be transmitted forthwith to the Sheriff or the Probation Officer.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.11. SUBPOENAS.
The Review Board shall, pursuant to the Charter of the County of San Diego, section 606(d), have the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and to administer oaths.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.12. STAFF ASSISTANCE.
The Review Board shall appoint such personnel as may be authorized by the Board of Supervisors.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.13. TRAINING REQUIREMENTS.
All members shall attend and satisfactorily complete a training course within three months of the beginning of the member's term or of the member's appointment to fill a vacancy. The training requirements shall be established by the Chief Administrative Officer. Failure to attend and satisfactorily complete the training course within the prescribed time shall result in the member's removal from the Review Board and shall automatically create a vacancy on the Review Board.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.14. RECORDS.
Any personnel records, citizen complaints against County personnel in the Sheriff's Department or the Probation Department, and information obtained from these records, which are in the possession of the Review Board or its staff, shall be confidential and shall not be disclosed to any member of the public, except in accordance with applicable law. Copies of records and complaints of the Review Board shall be made available to the Sheriff or the Probation Officer upon completion of the investigation of the Review Board unless prohibited by applicable law.
(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.15. COOPERATION AND COORDINATION.

In the discharge of its duties, the Review Board shall receive complete and prompt cooperation from all officers and employees of the County. The Review Board and other public officers, including the Sheriff, the District Attorney, and the Grand Jury, shall coordinate their activities so that the other public officers and the Review Board can fully and properly perform their respective duties.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

APPENDIX C:
CITIZENS' LAW ENFORCEMENT REVIEW BOARD
RULES AND REGULATIONS
Adopted by the CLERB on March 9, 1992
Last Revision June 27, 2017

SECTION 1: PURPOSE.

The purpose of these rules and regulations is to facilitate the operation of the Review Board, including the review of citizen complaints filed against peace officers or custodial officers employed by the County of San Diego in the Sheriff's Department or the Probation Department, as authorized by San Diego County Ordinance #7880, as amended (Article XVIII, Section 340-340.15 of the Administrative Code of the county of San Diego). Complaints subject to review are those which allege improper or illegal conduct of peace officers or custodial officers arising out of the performance of their duties or the exercise of peace officer authority, within the jurisdiction of the Review Board, as more fully described in Section 4 below.

In order that this purpose can be achieved, the Citizens Law Enforcement Review Board, hereafter referred to as the Review Board, shall receive, review, investigate and report on citizen complaints in accordance with these rules and regulations. These rules are to provide for the fair, impartial, independent and prompt investigation of citizen complaints in a manner which a) protects both the public and the Departments, Sheriff and Probation, which are involved in such complaints, and b) enhances the relationship and mutual respect between the Departments and the public they serve.

The Review Board shall publicize the review process in a manner which encourages and gives the public confidence that they can come forward when they have a legitimate complaint regarding the conduct of peace officers or custodial officers designated above. The Review Board shall also make every effort to ensure public awareness of the seriousness of the process, and that fabricated complaints will neither be tolerated nor reviewed. The statutory and constitutional rights of all parties shall be safeguarded during the review process.

SECTION 2: DEFINITIONS.

Wherever used in these rules, unless plainly evident from the context that a different meaning is intended, the following terms mean:

2.1 "Subject Officer" The peace officer or custodial officer employed by the County of San Diego in the Sheriff's Department or the Probation Department against whom has been filed a Citizen complaint alleging improper or illegal conduct as set forth in sections 4.1 and 4.2 or about whom an investigation is undertaken without the filing of a complaint as set forth in section 4.6.

2.2 "Aggrieved Person" Any person who appears from a complaint to have suffered injury, harm, humiliation, indignity, or any other damage as a result of actions by a peace officer or custodial officer in the performance of his or her official duties or the exercise of peace officer authority.

2.3 "Citizen Complaint" A complaint received from any person without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant alleging an improper act or misconduct, as further defined in sections 4.1 and 4.2 below, of a peace officer or custodial officer in the

performance of his or her official duties or the exercise of peace officer authority.

2.4 "Chair" The Chairperson of the Citizens Law Enforcement Review Board, or the Vice Chairperson if the Chairperson is not able to preside.

2.5 "Complainant" Any individual who files a complaint regarding the conduct of a peace officer or custodial officer in the employ of the Sheriff's Department or the Probation Department arising in the performance of his or her official duties or the exercise of peace officer authority and who files a complaint with the Review Board.

2.6 "County" County of San Diego, California

2.7 "Ordinance" County Ordinance #7880, as amended, Article XVIII (commencing with Section 340) of the Administrative Code of the County of San Diego adopted by the Board of Supervisors of the County of San Diego, California, which became effective on May 2, 1991.

2.8 "Review Board" The eleven (11) members of the Citizens Law Enforcement Review Board nominated and appointed in accordance with the provisions of the Ordinance.

2.9 "Hearing Panel" A three (3) member subcommittee of the Review Board selected to conduct an investigative .hearing of a citizen complaint, and make appropriate findings and recommendations to the Review Board based on the hearing.

2.10 "Presiding Member" The member of a three person Hearing Panel appointed by the Chair to preside at an investigative hearing.

SECTION 3: ORGANIZATION AND MEETINGS.

3.1 Composition of the Review Board. The Review Board shall consist of eleven (11) members nominated by the Chief Administrative Officer and appointed by the Board of Supervisors. Each Review Board member shall be a qualified elector of San Diego County and shall possess a reputation for integrity and responsibility and have demonstrated an active interest in public affairs and service.

3.2 Term of Membership. Each member shall serve a term of three (3) years. A member shall serve on the Review Board until a successor has been appointed. A member shall be appointed for no more than two (2) Consecutive full terms. Appointment to fill a vacancy shall constitute appointment for one term. The term for all members shall begin on July 1 and end on June 30. The terms for all persons who are the initial appointees to the Review Board shall be deemed to commence on July 1, 1991.

Members of the Review Board serve at the pleasure of the Board of Supervisors and may be removed from the Review Board at any time by a majority vote of the Board of Supervisors.

3.3 Vacancies on the Review Board. A vacancy shall occur on the Review Board on the happening of any of the following events before the expiration of the member's term:

(a) Death of the incumbent,

(b) Resignation of the incumbent,

(c) Ceasing of the incumbent to be a resident of the County of San Diego,

(d) Absence of the member from three consecutive regular meetings of the Review Board, or,

(e) Failure to attend and satisfactorily complete the required training course within three months of the beginning of a member's term or of the member's appointment to fill a vacancy.

When a vacancy occurs the Board of Supervisors and, where appropriate, the member shall be notified of the vacancy by the Chair. Vacancies shall be filled within forty five (45) days for the balance of the unexpired term, and in the same manner as the position was originally filled.

3.4 Compensation. Members of the Review Board shall serve without compensation, except that they shall be reimbursed for necessary expenses incurred in performing their duties in accordance with provisions of the County Administrative Code.

3.5 Officers of the Review Board. The members of the Review Board shall elect annually from its membership a Chair, a Vice Chair and a Secretary. The term of office shall be for one year or until the successor has been elected. The duties of the Officers shall be as follows:

A. Chair: The Chair shall preside over all meetings of the Review Board and shall have the right to vote on all questions. The Chair shall ensure that the laws of the County pertaining to the activities of the Review Board and the rulings of the Review Board are faithfully executed. The Chair shall act as the spokesperson in all matters pertaining to the Review Board.

The Chair shall sign all documents on behalf of the Review Board after the same have been approved by the Review Board and shall perform such other duties and delegated responsibilities as may be imposed upon him or her by the Review Board. The Chair shall appoint all subcommittees, and, ex-officio, be a member of all subcommittees.

B. Vice-Chair: In the absence of the Chair, the Vice-Chair shall perform all the duties of the Chair with the same force and effect as if performed by the Chair.

C. Chair Pro Tem: If both Chairs are absent at any meeting of the Review Board and have not selected a Chair Pro Tem, the Review Board shall select a Chair Pro Tem who shall perform all the duties of the Chair.

D. Secretary: The Secretary shall keep a true and correct record of all proceedings of the Review Board. The Secretary shall have custody of all reports, books, papers, and records of the Board.

E. Secretary Pro Tem: In the absence of the Secretary, the Review Board may appoint a Secretary Pro Tem.

3.6 Orientation and Training. The Chief Administrative Officer is responsible for the establishment of an orientation and training program for the members of the Review Board. Each member of the Review Board shall attend and satisfactorily complete a training course within three months of the beginning of the member's term, or of the member's appointment to fill a vacancy. Failure to attend and satisfactorily

complete the course within the prescribed time shall result in the member's removal from the Review Board and automatically create a vacancy.

The orientation and training program includes familiarization with the following:

(a) County Government structure and the Review Board;

(b) County Charter, Brown Act and State Law pertaining to the Review Board;

(c) State Law relating to Peace Officers' rights and privacy;

(d) Operations of the Sheriff's Department and the Probation Department;

(e) Disciplinary process for Deputy Sheriffs and Probation Officers;

(f) Sheriff and Probation Departments' training programs;

(g) Community perspective on Law Enforcement;

(h) Constitutional and civil rights law relating to police misconduct and citizen's rights.

(i) Memoranda of Agreement between the County of San Diego and the Deputy Sheriff's Association or San Diego Probation Officers' Association.

3.7 Transaction of Business. The Review Board shall establish a regular meeting schedule and shall give public notice of the time and place of the meetings. The official address of the Review Board is:

Citizens' Law Enforcement Review Board
1168 Union Street, Suite 400
San Diego, CA 92101-3819

All regular and special meetings of the Review Board shall be held at the County Administrative Center, or at any other public place as designated by the Chair.

The meetings and business of the Review Board will be conducted in accordance with the following:

(a) The agenda for each meeting will normally be provided to all members in time to be received at least one week prior to the regularly scheduled meeting. Items for the agenda for any regular meeting of the Review Board may be included on the agenda only with the approval of the Chair; provided, however, Review Board members may file an item for the agenda for a regular meeting directly with the Executive Officer.

(b) The agenda for each meeting will be posted, distributed, and otherwise made public in accordance with the requirements of State and County law applicable to advisory boards.

(c) All meetings shall be held in accordance with the requirements of the Ralph M. Brown Act, Section 54950 et seq., of the California Government Code.

(d) A majority of members currently appointed to the Review Board shall constitute a quorum.

(e) The affirmative vote of the majority of the members currently appointed to the Review Board shall be required to carry a motion or proposal.

(f) The Review Board's legal counsel will normally be present for all meetings of the Review Board.

(g) In all procedures not provided for by these Rules, or the enabling Ordinance #7880, as amended, the Review Board shall be governed by Robert's Rules of Order, Newly Revised.

(h) The Review Board shall keep written minutes of all meetings and a copy shall be filed with the Clerk of the Board of Supervisors.

(i) Subcommittees may be established by the Review Board as appropriate, however, no more than five (5) members of the Review Board (including the Chair as an ex-officio member) shall serve on any one subcommittee.

(j) Members and the Chair of each subcommittee shall be designated by the Chair of the Review Board.

(k) As noted in Section 3.3 above, a member's absence from three (3) consecutive regular meetings of the Review Board shall result in the member's automatic removal from the Review Board.

(l) Normally, the order of business for the Review Board meetings shall be as follows:

1. Roll Call.
2. Approval of Minutes.
3. Special order of business; announcements; communications.
4. Public comment.
5. Executive Officer's report.
6. General policy items.
7. Subcommittee reports.
8. Unfinished business.
9. New business.
10. Discussion and consideration of complaints and reports.
11. Recess to closed session, if appropriate.
12. Adjourn.

3.8 Special Meetings of the Review Board. Special meetings may be held at the call of the Chair, or the vice-Chair in the absence of the Chair. Upon petition of six (6) members of the Review Board, the Chair shall call a meeting of the Review Board within one (1) week. Review Board members will be given at least twenty-four (24) hours notice prior to any special meeting. The notice and agenda for any special meeting will be distributed in accordance with Section 54956 of the Government Code. No business other than that specified in the special meeting agenda shall be considered.

3.9 Review Board Staff. The Review Board shall appoint personnel in support of the Review Board as may be authorized by the Board of Supervisors. The Board of Supervisors has also authorized the hiring of outside, independent legal counsel for the Review Board.

The Executive Officer shall recommend to the Review Board the filling of any staff position for approval by the

Review Board. The Review Board delegates its authority to the Executive Officer to manage and discipline all staff positions. Once appointed, all unclassified personnel will serve at the pleasure of the Executive Officer. Once appointed, all classified personnel may be disciplined by the Executive Officer, subject to the County of San Diego's Civil Service Rules. The Executive Officer shall promulgate internal office procedures and prepare necessary standardized forms for the conduct of the investigations and the receipt of citizen complaints. The daily operations of the Review Board, including the conduct of investigations, shall be managed by the Executive Officer who shall oversee the regular functioning of the staff assigned to help carry out the duties of the Review Board.

The Review Board shall conduct an annual performance evaluation of the Executive Officer.

SECTION 4: AUTHORITY, JURISDICTION, DUTIES AND RESPONSIBILITIES OF REVIEW BOARD.

4.1 Citizen Complaints: Authority. Pursuant to Ordinance #7880, as amended, (Article XVIII, Section 340-340.9 of the San Diego County Administrative Code), the Review Board shall have authority to receive, review, investigate and report on citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department, which allege:

(a) Use of excessive force;

(b) Discrimination or sexual harassment in respect to members of the public;

(c) The improper discharge of firearms;

(d) Illegal search or seizure;

(e) False arrest;

(f) False reporting:

(g) Criminal conduct; and/or

(h) Misconduct.

4.2 "Misconduct" Defined. "Misconduct", as referred to in section 4.1 (h) above, is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific citizen arising out of the performance of the Peace officer's or custodial officer's official duties or the exercise of Peace officer authority by reason of:

(a) An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or,

(b) An alleged violation of any county ordinance or state or federal law; or,

(c) Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

4.3 Citizen Complaints: Pre-requisite. The Review Board shall have no authority with respect to alleged improper activities and misconduct, as set forth in sections 4.1 and 4.2 above, to take action in regard to incidents for which no citizen complaint has been filed with the Review Board.

4.4 Citizen Complaints: Jurisdiction. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired.

The complainant shall bear the burden of demonstrating that he/she was incarcerated or physically or mentally incapacitated from filing a complaint within one year from the incident giving rise to the complaint by submitting a written statement to the Review Board. Prior to determining whether it has jurisdiction over the complaint, the Review Board will notify the subject officer, provide him/her with a copy of the complaint and the complainant's statement, and give him/her the opportunity to submit a statement limited solely to the issue of whether there was such an incarceration or physical or mental incapacity. This matter shall be scheduled for consideration by the Review Board at its regular meeting and the agenda materials distributed prior to the meeting shall include the written statements submitted by the complainant and subject officer.

The written statement submitted to the Review Board pursuant to this section shall be attested to under penalty of perjury as provided by Section 5.5 of these rules.

4.5 Citizen Complaints: Notification of Disposition. The Review Board shall have authority to notify in writing any citizen having filed a complaint with the Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints. Such notifications shall be in writing and shall contain the following statement: "In accordance with Penal Code section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court or judge of California or the United States."

4.6 Citizen Complaint Not Required: Jurisdiction with Respect to Actions involving Death. The Review Board shall have authority to review and investigate the death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the County in the Sheriff' s Department or the Probation Department, arising out of the performance of his or her official duties or the exercise of peace officer authority, regardless of whether a citizen complaint regarding such death has been filed with the Review Board. The Review Board shall have jurisdiction in respect to all deaths of individuals coming within the provisions of this subsection occurring on or after November 7, 1990; provided however, that the Review Board may not commence review or investigation of any death of an individual coming within the provisions of this subsection more than one year after the date of the death, unless the review and investigation is commenced in response to a complaint filed within the time limits set forth in section 4.4.

4.7 Other Duties and Responsibilities. The Review Board shall have authority to:

(a) Prepare reports, including at least the Sheriff or the Chief Probation Officer as recipients, on the results of any investigations conducted by the Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to any trends in regard to employees involved in citizen complaints. The Review Board is not established to determine criminal guilt or innocence.

(b) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Chief Probation Officer summarizing the activities and recommendations of the

Review Board including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(c) Review and make recommendations on policies and procedures of the Sheriff and the Chief Probation Officer to the Board of Supervisors, the Sheriff and the Chief Probation Officer.

(d) Annually inspect county adult detention facilities and annually file a report of such visitations together with pertinent recommendations with the Board of Supervisors, the Presiding Judge of the Superior Court, the Sheriff, the Board of Corrections and the Attorney General. Inspections shall be concerned with the conditions of inmate employment, detention, care, custody, training and treatment on the basis of, but not limited to, the minimum standards established by the Board of Corrections.

(e) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.

SECTION 5: PROCEDURES REGARDING COMPLAINTS.

5.1 Policy. The following shall provide a framework for the receipt, screening, processing, and disposition of citizen complaints regarding alleged illegal or improper conduct (set forth in Sections 4.1 and 4.2) by employees of the County of San Diego in the Sheriff' s Department and the Probation Department:

(a) It is the policy of the Review Board to encourage citizens who have complaints concerning the conduct of peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department to bring the same to the attention of the Review Board. The Review Board will attempt to assist and accommodate complainants regarding the complaint filing process.

(b) The investigation of complaints shall be conducted in a fair, impartial, objective and ethical manner.

(c) Complaints will be considered, investigated (where appropriate), and disposed of in accordance with the procedures set forth herein.

(d) As promptly as possible, citizen complaints received by the Review Board shall be transmitted by the Executive Officer to the Sheriff or the Chief Probation Officer.

(e) The Review Board will make every effort to ensure that no adverse consequences will result to any person or witness as a result of having brought a complaint or having provided information in any investigation of a complaint.

(f) The Review Board will make every effort to consider and to respond to citizens' complaints against peace officers or custodial officers, and, where investigation is necessary, will conduct an impartial and fair investigation into any such complaints in accordance with the procedures set forth herein.

(g) The right of any complainant to bring a complaint shall be absolute and unconditional. The reluctance or refusal of the complainant to prepare a complaint form shall not impair his or her right to lodge a complaint. No complaint shall be investigated, however, until a complaint

signed by or on behalf of the person aggrieved has been received by the Review Board or a member of its staff.

(h) The investigation of a complaint will be conducted in a manner designed to avoid unnecessary inconvenience or embarrassment to the complainant, the aggrieved person, the witnesses, the subject officer, and any agency or instrumentality of the County.

(i) To the extent possible consistent with its duties and responsibilities, the Review Board shall coordinate its activities with other public officers, such as the Sheriff, the District Attorney, the Grand Jury, the U. S. Attorney, and the Public Defenders Office, so that the other public officers and the Review Board can fully and properly perform their respective duties.

5.2 Lodging and Filing of Complaints. Complaints may be lodged in writing, in person, by telephone or by any other means of Communication. A complaint may be lodged with the Review Board on behalf of oneself or on behalf of another person by any interested person or group. A complaint shall be considered received by the Review Board at the time it is lodged.

No complaint will be deemed to have been filed with the Review Board unless and until it has been reduced to writing, and signed by the complainant or his/her representative, in accordance with the following procedures:

(a) If the complaint is lodged in person, the Review Board employee shall furnish the complainant with a blank complaint form. The complainant shall be asked to fill out the form and to sign the form in the space provided. A copy of the completed form shall be given to the complainant to serve as a record of the filing of the complaint.

(b) If the complaint is lodged by mail, the complaint form shall be completed by the Review Board staff on the basis of the information contained within the correspondence. The Review Board staff shall mail a copy of the completed complaint to the complainant as a record of the lodging of the complaint, together with a request that the complainant review the complaint form for accuracy, and if accurate, sign the same and return it to the Review Board office.

(c) If the complaint is lodged by telephone, the Review Board staff shall fill out an original complaint form and prepare one duplicate copy of the complaint form as a record of the lodging of the complaint. The Review Board employee taking the complaint shall give his or her name to the complainant. The Executive Officer shall furnish the complainant with a copy of the completed form, together with a request for verification of the accuracy and a signature.

(d) In those cases where the complainant is incarcerated in a detention facility in the County of San Diego, the complaint will be handled as outlined in (b) or (c) above.

5.3 Who May File Complaint. Citizen complaints shall include complaints received from any person what so ever without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant.

5.4 Time Limitations for Filing Complaints. All complaints shall be received within one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or physical or mental incapacity shall not be counted in determining

whether the one year period for filing the complaint has expired, subject to the provisions of Section 4.4 of these Rules and Regulation, pursuant to the provisions of Section 4.4 of these rules.

5.5 Complaint Form. The Review Board shall cause all complaints received by it to be reduced to writing on the complaint form. Unless the Review Board has received another writing setting forth the substance of the complaint and signed by the complainant, the completed form shall be furnished to the complainant advising that the complaint will not be deemed to have been filed with the Review Board until and unless it is reduced to writing. The truthfulness of a written complaint shall be attested to under penalty of perjury in the following manner, or by words of similar effect: "I hereby certify that, to the best of my knowledge, and under penalty of perjury, the statements made herein are true".

5.6 Recording of Complaints. The Review Board shall cause a central register of all complaints filed with it to be maintained in its office. The central register shall record actions taken on each complaint. The central register shall contain the following:

(a) Name of the Complainant, the Aggrieved Party, and the Subject Officer,

(b) Number of complaint,

(c) Date complaint was filed,

(d) A brief description of the subject matter of the complaint,

(e) Date the complaint was transmitted to the Sheriff's Department or the Probation Department,

(f) Results of the Review Board's consideration and/or investigation, if any,

(g) Date and content of the final disposition of the complaint.

5.7 Withdrawal of Complaints. A complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complained of conduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.

5.8 Termination, Resignation or Retirement of Subject Officer. The Review Board shall have the discretion to continue or terminate an investigation, if, after a complaint is filed and before the Review Board completes its investigation, the subject officer terminates employment with the Sheriff's Department or the Probation Department. The Sheriff or the Chief Probation Officer or the subject officer shall notify the Review Board when the subject officer's employment is terminated.

SECTION 6: COOPERATION AND COORDINATION.

In the discharge of its duties, the Review Board shall receive complete and prompt cooperation from all officers and employees of the County. The Review Board and other public officers, including the Sheriff, the District Attorney, and the Grand Jury, shall coordinate their activities so that the other public officers and the Review Board can fully and properly perform their respective duties.

Such cooperation shall include appearing at and answering questions during interviews, appearing at and answering questions during hearings, assisting with access to physical evidence, and cooperation with any other relevant investigation procedures.

The Review Board shall attempt to avoid contacting any subject officer at his or her home. The Review Board shall attempt to get the subject officer's work schedule prior to scheduling an interview or investigative hearing. The Review Board shall attempt to avoid scheduling interviews or investigative hearings on an officer's regular days off, scheduled vacation or authorized leave of absence.

SECTION 7: SUBPOENAS, OATHS.

The Review Board shall, pursuant to the Charter of the County of San Diego, section 606(d), have the power to subpoena and require the attendance of witnesses and the production of documents and papers pertinent to its investigations; and shall have the power to administer oaths.

SECTION 8: CONFIDENTIALITY OF RECORDS.

Any personnel records, citizen complaints against County personnel in the Sheriff' s Department or the Probation Department, and information obtained from these records, which are in the possession of the Review Board or its staff, shall be confidential and shall not be disclosed to any member of the public, except in accordance with applicable law. Copies of records and complaints of the Review Board shall be made available to the Sheriff or the Probation Officer upon completion of the investigation of the Review Board unless prohibited by applicable law.

SECTION 9: INVESTIGATION OF COMPLAINTS.

9.1 Transmittal of Complaints. Citizen complaints filed with the Review Board shall be transmitted forthwith to the Sheriff or the Chief Probation Officer.

9.2 Screening of Complaints.

(a) Complaints shall be referred to the Executive Officer for investigation. Each complaint will be initially screened by staff and classified as follows:

1. "Category I" Complaint against a peace officer or custodial officer employed by the County in the Sheriff's Department or the Probation Department which requires an immediate and thorough investigation.

2. "Category II" Complaint which does not warrant an immediate and full investigation, and/or is appropriate for deferral.

3. "Category III" Miscellaneous. Essentially a request for information -- complainant needs satisfied after explanation of County Sheriff's Department or Probation Department operations.

4. "Category IV" Complaint not within the jurisdiction of the Review Board. Such complaints will be referred to the Review Board for Summary Dismissal.

5. "Category V" Complaints not alleging facts establishing a prima facie showing of misconduct. Such complaints may be referred to the Review Board for Summary Dismissal.

(b) The classification of each complaint, as set forth in section 9.2(A) (1)-(5), must be reviewed and approved by the Review Board before significant further action is taken by staff with respect to such complaint.

(c) The Executive Officer shall periodically advise the Review Board as to the progress and status of each complaint.

(d) The Executive Officer may periodically advise the complainant and the subject officer(s) as to the status of a complaint.

9.3 Scope of Investigation. The investigation of a citizen's complaint may include, but need not be limited to, the following:

(a) Interviews with the Complainant, the aggrieved party, each Subject Officer, and witnesses or other persons likely to have information concerning the complaint; examination of the scene of the incident; viewing and analyzing physical evidence, if any, associated with the alleged incident; review, analysis and preservation of other physical evidence, if any. Such investigations must be conducted in a manner that will not obstruct the criminal investigations conducted by the Sheriff, District Attorney, or other law enforcement agencies. In the event that the Subject Officer is compelled to cooperate in an investigation, the Subject Officer shall be provided the "Lybarger warning" when required under the appropriate circumstances.

(b) It shall be the responsibility of the investigator to record each step in the investigation and the result thereof in an investigation report which shall be made a part of the complaint file.

(c) The Review Board investigators shall attempt to secure written statements under oath from all participants in and witnesses to the alleged incident. Where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall prepare a verbatim transcript or written summary of the oral statement, if any, provided by such participant or witness. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making such statement with a copy of the statement.

(d) Interviews and statements may be tape-recorded by the investigator. Such recordings shall be kept and preserved until the case is finally disposed of by the Review Board and its findings reviewed by the Board of Supervisors or other appropriate agency or official, or for such longer period as may be required by law.

(e) The general policy of the Review Board will normally be to defer its investigation of a complaint for the period of time during which formal criminal proceedings relating to the subject matter of the complaint are pending against the subject officer. The Review Board reserves the right to commence immediate investigations, or to defer investigations, in all other cases depending upon Review Board priorities and available resources.

9.4 Investigation Report. At the conclusion of the (pre-hearing) investigation, the investigator shall complete an appropriate written report setting forth the names of the complainant, the aggrieved party, and the subject

officer; and summarizing what investigation was conducted and what information was disclosed by the investigation. The report shall also contain a procedural recommendation by the Executive Officer to the Review Board as to what further action should be taken by the Review Board, such as whether an investigative hearing before a three-member Hearing Panel is appropriate, or before the full Review Board, or whether the case is appropriate for Summary Dismissal, or any other appropriate action or disposition.

The Investigative Report shall be submitted to the Chair of the Review Board who may attach his or her own recommendation and submit the entire report to the Review Board, either orally or in writing, or both.

9.5 Review Board Options After Receipt of Investigative Report. After receipt of the Investigative Report, the Review Board shall take whatever further action it deems appropriate for disposition of the allegations of the Complaint, including the following options:

(a) Conduct an investigative hearing or hearings, pursuant to Sections 10-16; or

(b) Review and determine the Complaint based on the Investigative Report and the evidence in the investigative file, but without an investigative hearing, pursuant to Section 9.6; or

(c) Summarily dismiss the Complaint, in whole or in part, pursuant to Section 15; or

(d) Refer the Complaint back to staff for further investigations; or

(e) Defer further action on the Complaint; or

(f) Any other appropriate action or disposition, consistent with the Ordinance.

9.6 Disposition By Review Board without a Hearing. If the Review Board decides to review and determine a Complaint based on the Investigative Report and investigative file evidence, but without an investigative hearing, the Review Board shall apply the standard of proof set forth in Section 14.9 and shall follow the Final Report process set forth in Sections 16.5-16.8. If the Executive Officer recommends that the Review Board make a determination on a Complaint without an investigative hearing, the subject officer and representative shall have an opportunity to: (a) review the Investigative Report and; (b) submit additional evidence prior to the determination of the Complaint by the Review Board.

9.7 File Accessibility. Every member of the Review Board shall have full access to all complaints and files maintained by the Review Board or its staff.

9.8 Notification to Parties. Upon completion of the Investigative Report, the Chair shall provide the Complainant, aggrieved party, and each Subject Officer the following:

(a) Written notice that the Complaint will be considered by the Review Board; and an explanation of the process to be utilized by the Review Board.

(b) Any recommendations dealing solely with summary disposition or procedural matters.

(c) A copy of the Investigative Report and the summary supplied to the Review Board. A notification that all additional statements, records, reports, exhibits, and other items contained in the file will be available on request; except for any evidence that cannot be so made available because its disclosure is prohibited by law.

(d) Written notice that the parties may consult an attorney if desired, and that an attorney or other representative may represent him/her at any hearing, but that an attorney or other representative is not mandatory.

(e) A summary or copy of these rules and regulations, and any other similar informational items appropriate to the individual case.

SECTION 10: DETERMINING WHEN A HEARING IS NECESSARY.

10.1 Requests for Investigative Hearing. The Complainant, Subject Officer, Executive Officer, or a member of the Review Board may request an investigative hearing (as set forth in Sections 12-14) for some or all of the allegations of a complaint.

10.2 When is a Hearing Necessary. An investigative hearing will be conducted, in accordance with the procedures for such hearings set forth in Sections 11-15, when the Review Board determines that such a hearing may facilitate the fact-finding process.

An investigative hearing may be deemed to facilitate the fact-finding process when:

(a) There has been an undue lapse of time since the occurrence of the incident which is the subject of the Complaint; or

(b) There are additional witnesses, evidence, or information that contradicts or supplements, or is not disclosed by the Investigative Report; or

(c) There is reason to question the conclusion of the Investigative Report; or

(d) A hearing would advance public confidence in the Complaint process; or

(e) An appearance in person by the parties would facilitate the fact finding process.

10.3 Scope of the Investigative Hearing. The scope of an Investigative Hearing may vary. It may consist of a single, narrowly drawn issue; of multiple issues; or of the entire complaint. The scope should be determined by the Review Board when authorizing a hearing; and all interested parties to the complaint shall be informed of any limitation in scope when notified of the hearing.

SECTION 11: NO CONTEST RESPONSE.

A Subject Officer may enter a written response of "no contest" at any time before a hearing. A response of "no contest" indicates that the Subject Officer accepts the allegations of the Complaint as substantially true in fact and interpretation. The Subject Officer shall be bound by the terms of the no contest response in any further consideration of the Complaint by the Review Board.

SECTION 12: INVESTIGATIVE HEARING PANELS.

12.1 Composition of Hearing Panel. A Hearing Panel of the Review Board shall normally consist of three (3) members of the Review Board, selected pursuant to Section 12.2 below, with one member designated as the Presiding Member. In cases involving the death of a person, and in such other cases as the Review Board shall decide, the Review Board will sit as a Board of the Whole with a minimum of six (6) Board members present.

12.2 Selection of Three-Person Hearing Panels.

(a) Selection of three-person Hearing Panels under this section shall be made by rotation among the Review Board members, as appointed by the Chair using any basis (including lottery) that balances the workload among Board members. A Review Board member may request that he or she be temporarily excused to equalize caseload, avoid conflicts of interest, or for other good cause. In the event a Review Board member is so excused, another Board member shall be reassigned by the Chair.

(b) If a Hearing Panel is unable to meet to convene a hearing on a scheduled date due to the unavailability for any reason of one or more of its members, or if a Panel agrees to reschedule a hearing due to the unavailability for any reason of the complainant(s) or subject officer(s) or legal counsel for either, the case or cases assigned to such panel may be re-assigned to another Hearing Panel. However once a hearing of a case has been convened by a Hearing Panel, the same Panel shall consider the case to final disposition.

12.3 Challenges of Board Members.

(a) Challenge for Conflict of Interest or Bias. A Board member sitting on a Hearing Panel shall consider all complaints in a fair and impartial manner. A Board Member who has a personal bias or prejudice, or the appearance thereof, in the outcome of a complaint shall not sit on the Hearing Panel hearing that complaint. Personal interest in the outcome of a complaint does not include holding or manifesting any political or social attitude or belief, where such belief or attitude does not preclude objective consideration of a case on its merits. Examples of personal bias include, but are not limited to:

1. Familial relationship or close friendship with parties material to the inquiry;

2. Witnessing events material to the inquiry from a non-neutral perspective;

3. Being a party to the inquiry;

4. Having a financial interest in the outcome of the inquiry;

5. Holding a bias against a particular party that is sufficient to impair the Board member's impartiality.

(b) Procedure for Challenges. Within five (5) calendar days after the date on which the Review Board furnishes notice of a Hearing, including the names of the Board Members constituting that Panel, either party to the complaint may file a written challenge for cause to any Board Member hearing the complaint. Challenges for conflict of interest or bias must substantiate the challenge in terms of the standard set forth in Section 12.3 (a) above.

When a challenge for cause is filed, the Chairperson shall contact the challenged Board Member as soon as possible, and if the Member agrees that the challenge is for good cause, or otherwise agrees, the Chairperson shall ask another Board Member to serve. If the challenged Board Member does not agree that the challenge is for good cause, the Chairperson shall poll the other members of the Panel, and if both agree that the challenge is for good cause the Chairperson shall so notify the challenged Board member and ask another to serve. If a challenge to a Board member is rejected and the member serves, the written challenge and

the Board member written response shall be incorporated in the investigative packet as part of the record of the Complaint.

(c) Replacement of Challenged Board Member. Any Board member removed, or who removes him/her self, from the Hearing Panel due to a challenge for cause shall be replaced by the Chair with another Board member.

12.4 Public Comments. Board members shall avoid public comment on pending complaints, investigations, and hearings.

SECTION 13: INVESTIGATIVE HEARING PROCEDURES.

13.1 Schedule of Investigative Hearings. Investigative hearings may be scheduled by the Chair for any regular or special meeting of the Review Board; or, as to hearings before a Hearing Panel, by the Presiding Member for any other appropriate time.

13.2 Notice Requirements. Ten (10) days notice of an investigative hearing shall be given to the Complainant, each Subject Officer, and any other person whose attendance the Review Board deems appropriate. The notice shall state the date, time and place of the investigative hearing, and the names of the Hearing Panel.

13.3 Hearings Open to Public. All hearings shall be open to the public, to the extent permitted by law.

13.4 Authority to Compel Appearance. The authority of the Review Board' s subpoena may be used to compel the appearance of witnesses, including Subject Officers, and/or the production of documents. Subpoenas may be requested through the Chair of the Review Board.

13.5 Conduct of the Investigative Hearing. Hearings should be informal, and should be conducted in the following manner unless the Chair or Presiding Member orders otherwise:

(a) The Presiding Member will conduct the investigative hearing subject to being overruled by a majority of the Hearing Panel. Members of the Board shall be primarily responsible for obtaining testimony. One Board member may be assigned by the Chair or Presiding Member to do the initial questioning of witnesses when a complaint is called for investigative hearing. Additional questions may be asked by any Board member, or by a party or party's representative, or by assigned staff members.

(b) At the discretion of the Review Board, opening statement(s) may be made on behalf of the Complainant and the Subject Officer(s) involved.

(c) The investigative hearing will generally then proceed as follows: The Complaint will be presented, and witnesses, if any will be introduced. The Board may assign a staff member or counsel to assist in the presentation of a complaint where such assistance appears necessary to facilitate a fair and orderly hearing of the complaint. The Subject Officer may then respond to the Complaint, and introduce witnesses, if any. Each person testifying, and each party to the Complaint, may be questioned by the Board and by the parties or their attorneys. In the event that the Subject Officer is compelled to cooperate in an investigative hearing, the Subject Officer shall be provided the "Lybarger warning" when required under the appropriate circumstances. After the Board has taken all relevant evidence, each party may, in the discretion of the Presiding Member, be given an opportunity to make a closing statement.

(d) At the conclusion of any witness' testimony, either the complainant or the officer involved may request that the Hearing Panel cover any additional areas of inquiry they feel need to be covered. The Presiding Member shall determine whether any further questions will be asked.

(e) Unless otherwise ordered by the Chair or Presiding Member, the entire investigative hearing on a given complaint should be conducted on one occasion. However, if the Hearing Panel determines that additional evidence is necessary to reach its findings, it will continue the investigative hearing to a future date unless the parties agree to allow the Hearing Panel to receive such material in writing without reconvening.

13.6 Deliberation. After obtaining evidence, the Hearing Panel will deliberate in closed session. The Hearing Panel shall not consider any information not received as part of the investigative hearing. The Hearing Panel may reconvene in the presence of all parties to ask further questions, and each party shall have the opportunity to respond to any such questions.

SECTION 14: EVIDENCE.

14.1 What Evidence May be Considered. The investigative hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence.

Evidence shall be taken in accordance with the following provisions:

(a) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against the party. If the Subject Officer does not testify in his/her own behalf he/she may be called and examined as if under cross-examination.

(b) Oral evidence shall be taken only under oath or affirmation.

(c) Upon the request of either party or a Board member, witnesses may be excluded from the hearing until they are called to testify.

(d) Irrelevant and unduly repetitious evidence shall be excluded.

(e) The rules of privilege shall be effective to the extent that they are otherwise required by constitution or statute to be recognized at hearings before the Review Board.

14.2 Representatives. The Complainant, aggrieved party, Subject Officer, and any witness shall have the right to have a representative of his or her choice present at all times during his/her own fact-finding interviews or investigative hearings conducted by or on behalf of the Review Board. The representative shall not be a witness or a person subject to the same investigation.

14.3 Interpreters. The Chair shall have discretionary authority to provisionally qualify and utilize interpreters. Each party in need of an interpreter shall give notice to the Chair within seven (7) days of receipt of the notice of hearing so that appropriate arrangements can be made.

14.4 Authority to Compel Appearance. The authority of a Review Board subpoena may be used to compel the production of documents and/or the appearance of witnesses, including the Subject Officer.

14.5 Failure to Appear. When either the Complainant or the Subject Officer fails to appear, the Board Panel may receive statements from those persons present and relying on the evidence received, continue with the investigative hearing.

14.6 Confidentiality of Review Board Records. The Review Board shall not disclose to the general public any reports, statements, files, records, documents, tapes or other items whose confidentiality is protected by law. This confidentiality may be waived in accordance with applicable law, statute, ordinance, or legal proceedings. Moreover, evidence contained in a Review Board's investigative file may be disclosed to the Complainant and the Subject Officer, but only to the extent and in the manner authorized by these Rules and Regulations.

14.7 Discovery.

(a) By the Review Board. The Review Board, through its staff and agents, may utilize whatever formal or informal methods for the discovery of evidence as are authorized and available under federal, state, or local law.

(b) By the Parties. Prior to a hearing, the Complainant and each Subject Officer may have access to or receive copies of evidence contained in the Review Board's investigative file for the complaint, except for any evidence that cannot be so made available because its disclosure is prohibited by law. Parties seeking such discovery must give at least forty eight (48) hours advance notice to the Review Board, either in writing or by telephone.

14.8 Record of Investigative Hearing. All hearings shall be tape- recorded by the Review Board. At the option of the Chair, a stenographic record may be kept, and, if kept, shall be available upon payment of the cost of duplicating or transcribing the same, to a Complainant or Subject Officer requesting a transcript. Any record of the investigative hearing shall become part of the case file.

14.9 Standard of Proof. No finding with respect to an allegation of a complaint shall be sustained unless it is proven by a preponderance of the evidence presented at the hearing(s) or otherwise contained in the investigative record. "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it.

SECTION 15: SUMMARY DISMISSAL.

After reviewing the Investigative Report and records, the Review Board may summarily dismiss a Complaint by majority vote, upon recommendation of the Executive Officer, its own motion, or that of the Subject Officer. Parties to the Complaint shall be notified of a proposed summary dismissal, and may appear to argue for or against summary disposition. Summary dismissal will be appropriate in the following circumstances:

(a) The Review Board does not have jurisdiction over the subject matter of the Complaint.

(b) The Review Board does not have jurisdiction because the Complaint was not timely filed.

(c) The Complaint is so clearly without merit that no reasonable person could sustain a finding based on the facts.

SECTION 16: REVIEW BOARD FINDINGS AND RECOMMENDATIONS.

16.1 Finding and Report by Three-Member Hearing Panel. At the conclusion of an investigative hearing before a Hearing Panel, the Panel members shall deliberate in closed session and, by majority vote, adopt a recommended finding with respect to the Complaint. The Panel shall then prepare a written report summarizing the evidence, the recommended finding, the reasons for the recommended finding, any dissenting opinion, and any other information that may be useful to the full Review Board in its consideration of the case. The Panel shall take into account any rule, regulation, or policy of the subject officer's employing department brought to its attention by the subject officer or representative that the Panel determines to be pertinent to the complaint being investigated

16.2 Submission to full Review Board. The written Panel report referred to in Section 16.1 shall be forwarded to all members of the Review Board, and the matter placed on the next scheduled regular or special meeting of the Review Board.

A copy of the written Panel report referred to in section 16.1, above, shall be forwarded to each Complainant and Subject Officer, together with a notice of the time and place of the Review Board meeting at which the complaint will be considered. All Complainants and Subject Officers shall be notified that the Review Board may accept written objections to the panel report within ten (10) days of the date of the report.

16.3 Consideration by full Review Board. The Review Board shall consider the report of the Hearing Panel and any other information that may be brought to its attention at the meeting. Thereafter, the Review Board may:

(a) Vote to conclude the matter without further investigation, review, or hearings;

(b) Request further information or review by staff, by the Hearing Panel, or through other appropriate means

(c) Vote to conduct further proceedings on the matter before the entire Review Board;

(d) Take such other or additional action as it deems necessary and appropriate, such as the making of recommendations regarding policy or rule changes, referral to appropriate governmental agencies, or other appropriate action.

(e) Accept the Panel report as the Final Report of the Review Board.

16.4 Investigative Hearings before entire Review Board. In cases that are initially heard before the entire Review Board, the interim steps required when a case is heard before a three-member Hearing Panel are inapplicable.

16.5 Final Report by Review Board. At the conclusion of a matter before the entire Review Board, the Board shall deliberate and, by majority vote, shall adopt and prepare a final report with respect to the complaint or matter under consideration. This report shall include findings as to the facts relating to any complaint, as well as an overall conclusion as to any complaint as specified in Section 16.6 below. Dissenting members may set forth reasons for their dissent in writing and any such dissent(s) shall be included in the final report.

16.6 Conclusions in Final Report. The Final Report of the Review Board shall contain an overall finding as to each allegation of the complaint in the following manner:

(a) If the investigation shows the alleged act did not occur, the finding shall be "Unfounded".

(b) If the investigation fails to support the allegations but the allegations cannot be shown as false, the finding shall be "Not Sustained".

(c) If the investigation shows the alleged act did occur but was lawful, justified and proper, the finding shall be "Action Justified".

(d) If the investigation supports the allegations and the action is not justified, the finding shall be "Sustained".

A finding of "Sustained" should include an explanation of the finding of improper conduct; recommendations relating to the imposition of discipline, including the facts relied on in making such recommendations, and recommendations relating to any trends in regard to employees involved in citizen complaints; and/or recommendations for remedial changes in policies or practices where appropriate.

16.7 Consideration of Subject Officer's Disciplinary History. Only after a finding of "sustained" with respect to an allegation of improper or illegal conduct by a Subject Officer, should the Review Board consider the Subject Officer's disciplinary history in determining the appropriate recommendation for discipline. The details of the Subject Officer's disciplinary history will be held confidential by the Review Board and will not be made a part of the Final Report.

16.8 Transmittal of Final Report. The final report adopted by the Review Board shall be immediately forwarded to the Board of Supervisors, the Sheriff or Chief Probation Officer, the Complainant, and each Subject Officer.

16.9 Reconsideration of Final Report. Upon request by the complainant, subject officer or their representatives, the Final Report may be re-opened for reconsideration by the Review Board provided that: (a) previously unknown relevant evidence is discovered which was not available to the Review Board before it issued its Final Report, and; (b) there is a reasonable likelihood the new evidence will alter the findings and recommendations contained in the Final Report. A Final Report may also be re-opened for reconsideration by the Review Board at the request of the Board of Supervisors or upon initiative of the Review Board when such reconsideration is in the public interest.

Every party to the proceeding or their representative(s) shall be notified of any request or proposal for reconsideration and shall be given the opportunity to respond to the Review Board before the request or proposal is acted upon.

SECTION 17: PROCEDURES WHEN NO CITIZEN COMPLAINT REQUIRED.

In cases involving death arising out of or in connection with activities of peace officers or custodial officers employed by the County, and in such other matters where the Review Board is authorized to act pursuant to Ordinance #7880, as amended (Article XVIII, Sections 340.9(c)-(h) of the San Diego County Administrative Code), the Review Board has authority to review and investigate regardless of whether a citizen complaint has been filed. In such cases:

(a) The Review Board will undertake such review and investigation when a Board member requests the action and a majority of the Review Board then votes to initiate the review and investigation.

(b) The review and investigation, including the investigative hearing procedures for such cases, shall otherwise proceed in the same manner, pursuant to these rules as regulations, and in cases initiated by a citizen complaint.

SECTION 18: DELEGATION OF FUNCTIONS TO EXECUTIVE OFFICER.

The Review Board may, in its discretion, from time to time delegate to the Executive Officer certain of the procedural and administrative functions or duties assigned to the Review Board by these Rules and Regulations. The Review Board shall not, however, delegate to the Executive Officer any functions, duties or responsibilities which are required by the Ordinance to be performed by the Review Board.

SECTION 19: AMENDMENTS TO RULES AND REGULATIONS.

These Rules and Regulations are subject to approval by the Board of Supervisors of the County of San Diego, as required by the Ordinance. Once approved, these Rules and Regulations may only be amended by a majority vote of the Review Board, and any such amendments are subject to approval by the Board of Supervisors.