

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.

- (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.