ANNUAL REPORT 2020

County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

SERVING THE COMMUNITY AND JUSTICE SYSTEM FOR 30 YEARS

Contents

Introduction	
About the Citizens' Law Enforcement Review Board	3
Mission Statement	3
2020 Board Members, Staff, Office Information	3
Resumés of Review Board Members	4
Message from the Chair	6
Executive Officer's Summary	8
Data	
General Data Overview	13
Total Complaints Received by Year, 2011 – 2020 (Graph 1)	15
Complaints Received by Quarter, 2020 (Graph 2)	15
Complaints & Allegations Received by Unit or Facility, 2020 (Table 1)	16
Allegation Totals for Complaints Received, 2020 (Graph 3)	17
Total Complaints Received by Major Organization/Bureau, 2020 (Table 2)	18
Breakdown of Discrimination Allegations, 2020 (Table 3)	18
Breakdown of Misconduct Allegations, 2020 (Table 4)	18
Breakdown of Excessive Force Allegations, 2020 (Table 5)	18
Complaint Percentages by Major Organization/Bureau for Cases Received, 2020 (Graph 4)	19
Allegations by Percentage by Complaints Received, 2020 (Graph 5)	20
Complaints & Allegations Closed by Unit or Facility, 2020 (Table 6)	21
Allegation Percentages for Complaints Closed, 2020 (Graph 6)	22
Board Action by Date Closed, Case Number, and Findings, 2020 (Table 7)	23
Procedurally Closed Cases by Date and Case Number, 2020 (Table 8)	26
Case Closure Type by Percentage, 2020 (Graph 7)	27
Death Cases Opened in 2019 (Table 9)	28
Death Cases Closed in 2019 (Table 10)	29
Death Cases Opened in 2020 (Table 11)	31
Death Cases Closed in 2020 (Table 12)	32
Policy Recommendations, 2020 (Table 13)	34
CLERB Two-Year Adopted Operational Budget	37
Glossary of Terms & Definitions	38
Appendices	39

Introduction

About the Citizens' Law Enforcement Review Board

San Diego County citizens voted to establish the Citizens' Law Enforcement Review Board (CLERB) 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, without a complaint (1) any death arising out of, or in connection with, actions of deputies or probation officers, (2) incidents involving the discharge of a firearm by deputies or probation officers, (3) the use of force by deputies or probation officers resulting in great bodily injury, and (4) the use of force by deputies or probation officers at protests of other events protected by the First Amendment. 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.

Board Members

Susan Youngflesh, Chairperson
Eileen J. Delaney, Vice Chairperson
Robert Spriggs, Secretary
David Alberga
Edward Collins
Michael Gray
Bonnie Kenk
Lourdes Silva
Tim Ware
Gary I. Wilson

Staff

Paul R. Parker III, Executive Officer*
Lenore Aldridge, Special Investigator
Ellen Bohan, Special Investigator
Lynn Setzler, Special Investigator
Tamicha Husband, Administrative Secretary III
Eliza Hugee, Temporary Executive Assistant

**Julio Estrada was Executive Officer until October 8, 2020. Paul R. Parker III was appointed Executive Officer on November 6, 2020. There was no Interim Executive Officer during the four weeks between Executive Officers.*

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Resumés of Review Board Members

Susan Youngflesh, *Chairperson*
Ms. Youngflesh is the Associate General Counsel and Privacy Officer for the San Diego City Employees' Retirement System. As an attorney over the last fourteen 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.

Eileen J. Delaney, *Vice Chairperson*
Mrs. Delaney is President of DAC1 Companies. Along with a business background, she also has extensive knowledge in planning, development, and land use. She has served as an elected member of the Fallbrook Planning Group since 1999 and has chaired the Fallbrook Design Review Board since 2000. She was a member of the first San Diego County District Attorney's Citizens Academy in 2006, in partnership with the San Diego County Sheriff's Department. Mrs. Delaney has been appointed to numerous County Boards and Committees and has also served on the Board of Directors of many non-profit organizations. She has been the recipient of honors and awards including California State Senate Woman of the Year, Boys & Girls Club Champion of Youth, Chamber of Commerce Community Champion, Fallbrook Citizen of the Year and has had the distinct honor of being an Olympic Torch Bearer for the 2002 Olympics. Mrs. Delaney is dedicated to helping improve the lives of others and to make San Diego County a better and safer place to live and visit.

Robert Spriggs, *Secretary*
Pastor Spriggs, a resident of San Diego, founded and served as the Senior Pastor of the Temple of Praise and Deliverance Center. He currently serves as a Staff Pastor and Servant Leader over the Safety & Security Team at the Greater Life Church in Emerald Hills. He is also a Campus Security Assistant at the San Diego Unified School District. Pastor Spriggs has a Bachelor of Arts in Human Development and is finishing a master's degree in Organizational Leadership at San Diego Christian College.

David Alberga
Mr. Alberga has assisted in the launch of numerous start-up organizations and their growth into large companies. His background includes leading The Active Network from pre-revenue to $480M in annual sales, and a $1B exit for investors. Prior to Active, he served as the Chief Operating Officer of the CitySearch city guide business from just after startup to a successful IPO and investor exit. Mr. Alberga currently serves as a Board Director of GovX, Citadel Defense, and Batch. Dave has independently invested in several additional private companies including Peloton, Semantic AI, Rise Festival, Lennd, and Trust Performance. Earlier in his career, Mr. Alberga held a number of positions with Linear Technology, a leading analog semiconductor manufacturer, The Boston Consulting Group and Procter & Gamble. Mr. Alberga holds an M.B.A. and an M.A. from Stanford University, and a B.S. in General Engineering from the United States Military Academy at WestPoint.

Edward Collins
Mr. Collins is a retired airline vice president, responsible for 23 cities in the western United States, including 10 in California. He is a military veteran, having served as a group intelligence officer. He has a master's degree in international marketing & finance and was a member of the M.I.T. rocket research society. In addition to his volunteer service with CLERB, he is a traffic commissioner in San Marcos, former member of the planning commission, sheriff's senior volunteer patrol, and chairman of the Sales & Marketing

Executives. He volunteers with Interfaith Community Services and was the 2019 director of the Elks hoop shoot for youths. Mr. Collins was a founding member of the Texan's War on Drugs, guest speaker at the California governor's conference on tourism, and has lectured at Stanford's graduate school of business.

Michael Gray

Mike Gray is a North County resident and has lived in the San Diego area since 2006. Mike is the Executive Director of a local government-training center and is retired from the Los Angeles County Sheriff's Department (LASD). During his time at LASD, Mike worked a number of assignments gaining valuable experience in law enforcement. Mike has and is currently working with several California state programs specializing in criminal investigations and instructor development as well as special projects such as de-escalation. Mike has a BS in Business Management and an MA in Organizational Leadership. Mike trains regularly in leadership, mentoring and coaching, along with emotional intelligence, and runs teambuilding and leadership courses for government executives and their personnel.

Bonnie Kenk

Ms. Kenk, a native of Pennsylvania, has been a resident of San Diego since 1981. She served on the 2007-2008 San Diego County Grand Jury and spent over a decade volunteering with the state and local Grand Jury alumni organizations. She served a three-year term as the public member of the San Diego County Parole Board and a two-year term on the Community Review Board for Police Practices. Ms. Kenk works as a Tax Associate for Turbotax during the tax season. She, her husband Bill, their three dogs and six parrots reside in the Del Cerro area of the City of San Diego.

Lourdes Silva

Mrs. Silva is Department Human Resources Manager for the San Diego City Employee Retirement System. She has worked for the City of San Diego since 1984. Mrs. Silva is also actively involved in the community and volunteer activities, including: United Way of San Diego, SAY San Diego, Latino City Employees Association, and Mana of San Diego. She has participated in a variety of boards and committees in relation to her profession. Mrs. Silva graduated with from San Diego State University with a Bachelor of Science degree in Public Administration. Mrs. Silva resides in Chula Vista with her family.

Tim Ware

After a successful Collegiate Career and Rose Bowl Championship at the University of Southern California (USC), Mr. Ware played professionally for the San Diego Chargers, Los Angeles Raiders and a brief stint with the Kansas City Chiefs. Since retiring from the National Football League, Tim has diversified his skills by developing creative systems as a School District Administrator, Youth Prevention and Intervention Systems Designer, Co-founder and coordinator of the *Ballerz 4 Christ* youth organization and a Deputy Probation Officer. In his current role as Coordinator of School Safety & Security for the San Diego County Office of Education, Tim leads the challenge of building safe and orderly schools for all forty-two school districts in the county. Born and raised in Compton, California, Tim brings a unique perspective as a motivational speaker. Tim specializes in the topics of leadership, Coaching with Integrity, the Role of Men in the Home and in the Community and a variety of topics from a Christian and Secular prospective.

Gary I. Wilson

Mr. Wilson, a resident of Carlsbad, is a retired United States Marine Corps combat veteran, He is a Commissioner with the North County Gang Commission and Adjunct Administration of Justice Faculty Member at Palomar College. He is a Board-Certified Protection Professional (CPP), Certified Threat Manager (CTM), and a 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.

Message from the Chair

INTRODUCTION TO THE 2020 ANNUAL REPORT

2020 was an unprecedented year with many unique challenges and opportunities. In order to comply with County and State guidelines CLERB's offices closed to the public. CLERB's Board meetings are currently being held on a virtual platform. Despite the unprecedented challenges that this last year has posed - CLERB's staff, Board Members, and stakeholders have continued to perform CLERB's mission seamlessly. In fact, the transition to online activities has increased CLERB's visibility and efforts for community outreach by allowing the public to attend meetings virtually!

On July 1, 2020, to increase CLERB's autonomy, at the direction of the Board of Supervisors and upon the recommendation of Supervisor Nathan Fletcher, CLERB transitioned from the County of San Diego's Public Safety Group to the Finance and General Government Group (FG3). The FG3 have made exceptional efforts to accommodate and ease the transition into their group. CLERB greatly appreciates their efforts and is excited about what the future will hold with them.

Over the last year, CLERB amended CLERB's Rules and Regulations and also amended the procedure to recruit applicants for vacant Board Member seats. This amendment includes greater public outreach so that the public will be educated on CLERB's mission, history and Board Member responsibilities. Also, greater community outreach will be made for Board Member vacancies so that there is increased community representation and additional structure and requirements related to applicants for vacant seats.

On June 23, 2020, the San Diego County Board of Supervisors expanded CLERB's authority to include investigations of incidents involving the discharge of firearms; use of force resulting in great bodily injury by peace officers or custodial officers employed by the San Diego County Sheriff's Office or Probation Department; and to investigate the use of force by these departments at protests or other events protected by the First Amendment. Also, the Board of Supervisors approved three additional staff positions for CLERB, including a Supervising Investigator, additional staffing to support projected additional project workload oversight, and staffing to assist with detention facilities inspections and provide investigative support.

During 2020, CLERB bid farewell to Julio Estrada, CLERB's Executive Officer, who retired after 27 years of total service with the County of San Diego. On November 6th, CLERB welcomed the return of Paul Parker, Mr. Estrada's predecessor, as Executive Officer. CLERB is excited about working with Mr. Parker again. He has a breadth of knowledge and was able to hit the ground running. Mr. Parker has focused on furthering the Board's request to increase public visibility and increase efforts for community outreach.

Mr. Parker is working on furthering the efforts started by Mr. Estrada in 2019 to increase community knowledge of, and participation in, CLERB. Also, in response to the Board's overwhelming concern regarding the Sheriff Department's accountability of using and providing body worn camera and jail surveillance video footage when requested, Mr. Parker created a body worn camera and jail surveillance video tracking log so that there can be ongoing monitoring of compliance with requests.

Following the end of Board Member Darrell Harrison and Gary Brown's terms, CLERB welcomed three new Board Members - Bonnie Kenk, Javier Salaiz, and Edward Collins. Unfortunately, Javier Salaiz has since departed and his position remains vacant.

I have the honor of continuing to represent CLERB as the Board Chairperson. As Vice-Chair Darrell Harrison's term ended, Eileen Delaney graciously accepted the responsibility of being CLERB's current Vice-Chair. Pastor Robert Spriggs Jr. is continuing in his responsibilities as Board Secretary.

CLERB's inspections of jails, which includes collaboration with deputies in the Sheriff's Office, has been

temporarily suspended in order to comply with County and State mandates due to the COVID-19 pandemic. However, CLERB plans to continue their efforts to increase the safety of inmates and deputies through the inspections as soon as we may do so when permitted in a reasonable and safe manner.

What does the next year hold for CLERB?

CLERB's ability to meet in-person or for the public to visit CLERB's office or attend Board meetings in person is guided by the requirements of the County and State, and of course, CLERB takes an abundance of caution to protect the public and staff. CLERB is hopeful - as many are - that we will be able to return in person during the upcoming year. Regardless of whether this occurs, CLERB will continue to expand upon public outreach and tirelessly pursue CLERB's mission.

SUSAN YOUNGFLESH
Chairperson, 2020

Executive Officer's Summary

2020 was a difficult year, to say the least. It will not only be remembered for COVID-19 and the subsequent changes to much of our daily living and working practices, but as the year in which the relationship between law enforcement agencies and the communities they serve came under increasing scrutiny, more so than at any time in recent memory. The deaths of unarmed persons of color during interactions with law enforcement resulted in intensified conversations about race and policing.

An increased focus on the benefits and drawbacks of civilian oversight boards also entered the local and national dialogue. Nationwide, many new civilian oversight boards were either created or provided additional authority after the November 2020 elections. Locally, voters approved changes to the San Diego Community Review Board on Police Practices, making it a very similar model to CLERB in that it will be a more independent body and have subpoena authority. The San Diego County Board of Supervisors ("BOS"), upon a motion from Supervisor Nathan Fletcher, approved the following actions to increase independence and strengthen oversight of CLERB:

1. On July 1, 2020, CLERB functions and staff positions were reassigned from the County's Public Safety Group (PSG) to its Finance and General Government Group (FG3). This move immediately increased CLERB's independence from the San Diego County Sheriff's Department (SDSD) and Probation Department (Probation), both members of the PSG.
2. A revised CLERB member nomination and selection process that intends to be more transparent to the public and incorporates community input as part of the nomination and selection process was created. In December 2020, for the first time in many years, CLERB advertised via local media outlets a CLERB member vacancy.
3. As the Board may direct CLERB to undertake additional duties by ordinance, on December 17, 2020, section 340.9 of the Code of Administrative Ordinances and CLERB's Rules and Regulations were amended to reflect additions to CLERB's oversight role, including the authority to investigate the following without the need for a citizen complaint:
   a. incidents involving the discharge of a firearm by peace officers or custodial officers employed by SDSD or Probation;
   b. the use of force by peace officers or custodial officers employed by SDSD or Probation resulting in great bodily injury; and
   c. the use of force by peace officers or custodial officers employed by the SDSD or Probation at protests or other events protected by the First Amendment.
4. CLERB's staff's workload and responsibilities were evaluated, to include the projected annual workload with increased case investigation responsibilities as detailed in #3 above. A Supervising Senior Investigator position was created, and two new Special Investigator positions were added, effectively increasing CLERB's investigative workforce 50%. To keep pace with the staffing additions, CLERB's budget was increased approximately 50%.
5. CLERB's Executive Officer (EO) was directed to present CLERB's annual report to the Board within 60 days of CLERB's adoption of it.

As it pertains to the new categories of investigation without a signed complaint detailed above, SDSD and Probation are required to report categories 3a. and 3b. to the California Department of Justice once a month; there is no such reporting requirement for category 3c. As such, SDSD and Probation will also notify CLERB of the total number of instances pertaining to each new category, including 3c. once a month. At that time, a CLERB subpoena will be generated for each case and forwarded to the appropriate Department. If CLERB becomes aware of a new investigation falling into one of the three categories via media reports, CLERB staff will create a new case and forward the subpoena after the receipt of the monthly report in which the existence of the case is confirmed.

As detailed in the General Data Overview on pages 13 and 14 of this report, CLERB experienced a 23% decrease in the number of new complaints logged in 2020 as compared to 2019. Specifically, a marked decrease in reported cases occurred in the third and fourth quarters of calendar year 2020. The reason(s) for the decrease are unknown, but it seems logical that COVID-19 played a role with a decreased detention

facility population, even though inmates reportedly have had regular access to telephones, and in that there are fewer people being out in public. As SDSD and Probation compile their final statistics for 2020, these assumptions may be confirmed or refuted. While it is true that CLERB's office has been physically closed to the public since March 2020 and staff are working remotely, we do not believe the closure contributed to the decrease in caseload because only a minute number of CLERB's cases originate from complainants walking into the office. CLERB's complaints most often come from traditional and electronic mail.

CLERB received a few complaints about SDSD's handling of COVID-19 in the detention facilities. However, as CLERB has neither jurisdiction over the Sheriff, who sets the standards, nor medical staff, who provides the care, CLERB's staff is not able to investigate general COVID-19 complaints. The lack of jurisdiction over SDSD non-sworn staff, and specifically medical staff, has always been a concern to complainants and CLERB members, as critical allegations pertaining to medical care cannot be investigated by CLERB.

Eight policy recommendations were one of three Department Excellence Goals (DEGs) for CLERB's 2020/2021 fiscal year (July 1, 2020 to June 30, 2021). 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. In calendar year 2020, CLERB made 12 total policy recommendations involving seven total cases (six SDSD cases and one Probation case). Two recommendations to SDSD were implemented while the other 10 are still under review as of early January 2021 (see Table 13 on pages 34-36). With four recommendations already submitted to the Departments as of this writing, CLERB is also on track to attain its fiscal year goal.

Six outreach presentations about CLERB were another one of CLERB's 2020/2021 DEGs. It is my goal, once the three new investigative personnel are fully trained and functioning, to focus as much as possible on community outreach. CLERB is currently on track to meet its fiscal year goal but much more can be done to strengthen community outreach. During the last two presentations I gave prior to this writing, the attendees were appreciative of the overview and to learn about CLERB's functions and limitations, but they expressed concern about the lack of CLERB's outreach activities, especially in communities of color and to underrepresented demographics.

Upon my return as EO, CLERB delegated the role of CLERB spokesperson to me, after several years of the CLERB Chair serving in that capacity. The purpose of the change was to ensure consistent, yet timely, responses to media inquiries, which also resulted in the interactions serving as timely community outreach activities.

Our final CLERB 2020/2021 DEG is to ensure CLERB personnel complete 100% of complaint investigations within one year of receipt of a signed complaint and 100% of death investigations within one year of receipt of investigatory materials, unless delayed by exemptions by executive order or detailed in Government Code section 3304, part of the Public Safety Officers Procedural Bill of Rights. Meeting this basic DEG is essential to ensuring that all of our customers, including complainants, and sworn members of the SDSD and Probation receive a timely resolution of allegations. For years, due in part to staffing, CLERB struggled to meet this mandate, but with the addition of the three new investigative personnel, we are hopeful that the new staffing level results in the completion of cases within six months, at the latest, unless unforeseen circumstances arise. As it is unknown exactly how much additional work will result from the expanded investigative authority and community outreach, I will continue assessing CLERB's staff's workload and operations and will request additional staffing along with a justification for the request, if the need arises.

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 SDSD and Probation 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.

Due to CLERB's members concerns voiced during the November 2020 CLERB Meeting, a "Body Worn Camera (BWC) and Jail Surveillance Requested and Received Tracking Log" was created. Starting with cases CLERB opened in calendar year 2020, as of this writing:

- BWC has been requested in 22 cases and received in 18 cases:
  - In two cases, CLERB had no jurisdiction.
  - In two other cases, release of BWC was not possible due to confidentiality laws.
  - There were no reports of a failure to activate or failure to retain BWC.
- Jail surveillance video was requested in 17 cases and received in 14 cases.
  - In two cases, the video requested was from the George Bailey Detention Facility (GBDF). There is an issue with the video surveillance capabilities at GDBF. GBDF is slated for renovation upon completion of the Rock Mountain Detention Facility and the surveillance capabilities will be addressed at that time.
  - In one case, the area of alleged misconduct was not covered by surveillance cameras.

CLERB staff will maintain this log moving forward and I will report out on this topic every month. As of this writing, as it pertains to CLERB's cases, there is no apparent systemic issue or trend pertaining to failure to activate or retain BWC footage.

CLERB's investigation of deaths arising out of, or in connection with, the actions of deputies and probation officers has been a much analyzed and discussed topic over the past few years. There really is no more important issue facing detention facilities than the reduction of deaths occurring in them. That, in conjunction with my 20-plus years of medicolegal death investigation experience, make CLERB's investigation of deaths a top priority for me, just as I know that it is for the CLERB and community members. Tables 9-12 on pages 28-33 of this report list all death cases opened by CLERB in calendar year 2019 and 2020 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 closed 22 fully investigated death cases in 2019 and 23 fully investigated death cases in 2020. While I am the EO, I will provide an overview of death cases opened by year. CLERB opened 18 death cases in 2019 and 15 death cases in 2020.

A breakdown of the 18 death cases opened in 2019 is as follows:

- The following 16 deaths occurred in SDSD detention facilities:
  - Three inmate suicides: two asphyxia-related deaths at San Diego Central Jail (SDCJ), one via plastic bag over head and neck and the other due to airway occlusion by sock; and one choking death at GBDF. There were no hanging-related suicides in 2019.
  - Six inmate natural deaths: three at SDCJ, one at GBDF, one at Las Colinas Detention and Reentry Facility (LCDRF), and one at Vista Detention Facility (VDF),
  - Seven inmate drug-related deaths: five at SDCJ (four methamphetamine and one fentanyl), one at GBDF (heroin), and one at VDF (methamphetamine). Five of the seven deaths were related to methamphetamine.
- The following two deaths occurred in SDSD law enforcement service areas:
  - One barricaded subject (self-inflicted gunshot wound) in Poway, and
  - One deputy-involved shooting in Lemon Grove.

A breakdown of the 15 death cases opened in 2020 is as follows:

- The following 12 deaths occurred in SDSD detention facilities:
  - One inmate homicide (blunt force trauma to the head) at South Bay Detention Facility (SBDF),
  - Two inmate suicides: one hanging death each at SDCJ and VDF,
  - Three inmate natural deaths: two at SDCJ and one at VDF, and
  - Three inmate drug-related deaths: one at SDCJ (fentanyl, acetyl fentanyl, butyryl fentanyl, and heroin), one at GBDF (fentanyl), and one at VDF (fentanyl, alcohol, and citalopram).

All three of the known causes of death for the known detention facility deaths were related to fentanyl with no known methamphetamine-related deaths, as opposed to those occurring in 2019.
    - As of this writing in January 2021, the cause and manner of three deaths (one each at GBDF, SDCJ, and VDF) were unknown. These deaths will be detailed in the 2021 Annual Report.
- One out-of-custody natural death occurred after the decedent was released from VDF (details in the third paragraph below).
- One drug-related death (methamphetamine) occurred in SDSD law enforcement service areas (Vista).
- One deputy-involved shooting occurred in the SDSD Court Services Bureau.

Previously, when reporting a death to CLERB or responding to a CLERB inquiry of a death learned via media reports, the CLERB SDSD liaison would provide basic preliminary information about the death, to include not just the decedent's name, date of birth, and date of death, but also the location of death and a brief synopsis of its circumstances. SDSD would also issue a news release containing the same information shortly after the death and while the criminal investigation was in process. In mid-2020, SDSD changed how it reports deaths to CLERB and when it reports deaths to the public.

All state and local agencies with peace officer powers must report to the California Department of Justice (DOJ) "in-custody" deaths within 10 days of the date of death. This reporting is accomplished via submission of a DOJ Bureau of Criminal Information and Analysis (BCIA) form (BCIA Form 713). Upon reporting the death to the DOJ, SDSD forwards the BCIA Form 713 to CLERB. The receipt of the BCIA Form 713 serves as the official notification of the death to CLERB. While the BCIA Form 713 does not contain the specific place of death, SDSD provides that information to CLERB along with the form. Upon the Medical Examiner's determination of cause and manner of death, SDSD issues what is oftentimes the first official news release about the death. In that release, a brief synopsis of the circumstances leading up to the death is provided, along with the location and cause and manner of death.

It should be noted that SDSD and Probation are mandated to report and therefore investigate "in-custody" deaths, defined by the U.S. Department of Justice and adopted as the definition for California law enforcement agencies as "the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, state-run boot camp prison, boot camp prison that is contracted out by the state, any state or local contract facility, or other local or state correctional facility (including any juvenile facility)." CLERB, however, has jurisdiction to investigate "the death of any individual arising out of, or in connection with, the actions of peace officers or correctional officers." These two categories of death are not synonymous. Therefore, a death not recognized as an "in-custody" death by the Departments may be handled as a CLERB death investigation, depending on the circumstances. For example, CLERB case # 20-096 is an out-of-custody natural death that occurred after the decedent became ill at VDF, was transported to a hospital and subsequently released from custody. He never recovered, was never released from a hospital, and died almost two months after being found down at VDF and over a month after being released from custody. CLERB was advised of the death via a signed complaint and because it occurred out-of-custody, the SDSD was not aware of it. In cases such as these, CLERB invokes jurisdiction and handles the case as a death investigation, just as it does for any traditional "in-custody" death to determine whether the death arose out of or was in connection with the actions of peace officers or correctional officers.

At the December 2020 CLERB meeting, in response to an inquiry posed by a CLERB member, the SDSD CLERB liaison presented information in conflict with death case data compiled by local journalists. Later that evening, the liaison's presentation and data were refuted by one of the journalists. The CLERB will conduct an independent review of both sets of data and information in early 2021.

When CLERB sustains a finding against a peace officer employed by SDSD or Probation, the officer has the right to appeal the finding to the County's Civil Service Commission (CSC). In CLERB case #17-150, three deputies have exercised their appeal rights and, for the first time in many years, CLERB is preparing to defend its findings at the CSC during the first quarter of calendar year 2021.

2021 is shaping up to be a different type of year for CLERB. For the first time in its history, CLERB should have the staffing to complete cases in a timely fashion, conduct much-needed community outreach, and provide more comprehensive oversight services with its recent expansion of authority. We will also explore options for streamlining the exchange of SDSD material to CLERB, as the voluminous amount of BWC footage has made that difficult over the past year. We are also exploring the creation of an online complaint submission to expedite the submission of complaints and ensure those online complaints are digitally signed under penalty of perjury so that we can immediately initiate an investigation, all the while reducing the likelihood of having to procedurally close them without an investigation.

This is an important time for CLERB as the relationship between SDSD, Probation, 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 Scott Amos and Sergeant Aaron Meleen of SDSD and Division Chief Irene Lilly and Supervising Probation Officers Ross Lewin and Brian Barnum of Probation for their assistance and dedication to civilian oversight of their respective Departments. I would also like to thank all personnel of the County's FG3 Executive Office under the direction of Ebony Shelton; each of them provided me assistance, guidance, and support in their respective areas of expertise, and for that I am forever grateful. Thanks to FG3 CAO Staff Officer Giang Meyers for her expert review of this report in addition to her assistance with many of my presentations. I would like to acknowledge Shiri Hoffman 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 Tammy Glenn, Tracy Defore, and Gig Conaughton of the County Communications Office.

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. I could not be happier to return to my previous role as EO and thank former Interim EO Aron Hershkowitz and former EO Julio Estrada for continuing to advance the mission of CLERB from the executive level over the last two years. Finally, I would like to thank Lenore Aldridge, Ellen Bohan, Eliza Hugee, 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.

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. I am also confident we will 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.

PAUL R. PARKER III
Executive Officer, 2020

Data

General Data Overview

New Cases

The CLERB logged **116** complaints in 2020; a 23% decrease from the **150** complaints received in 2019. Allegations in new cases totaled **330** in 2020[1]; a 45% decrease from the **601** allegations in 2019. Death cases decreased in 2020, with **15** reported[2] a 17% decrease from the **18** in 2019.

Total complaints are broken into three bureaus by count and percentage: Sheriff's Law Enforcement, which includes Court Services and all non-Detentions units; Sheriff's Detentions; and the Probation Department. In 2020, Sheriff's Law Enforcement had **50** complaints or 43% of the total (compared to **60** or 40% in 2019); Sheriff's Detentions had **57** complaints or 49% (compared to **68**, or 45%, in 2019); and the Probation Department had **nine** complaints or 8% of total (compared to **15** complaints or 10% in 2019)[3].

The Vista Detention Facility had the most complaints with **20** (compared to **eight** in 2019, a 150% increase). The Santee Patrol Station had the highest number of patrol station complaints at **seven** (compared to just **one** in 2019)[4].

Staff determined the CLERB had no jurisdiction and referred **70** callers to other departments/agencies/entities.

Closed Cases

The CLERB met **11** times and closed **139** cases during the year, compared to closing **148** cases in 2019, a 6% decrease in case closures. Allegations in closed cases totaled **595** in 2020; a 2% decrease from the **610** in 2019. Of the **139** cases closed by Board Action, **six** cases were submitted to the CLERB for Summary Dismissal. These cases were dismissed for lack of jurisdiction or because further investigation was not possible without the complainant's cooperation. This was an 45% decrease from the **11** cases Summarily Dismissed by the CLERB in 2019.

Another **85** closed cases were fully investigated and submitted to the CLERB, compared to **79** fully investigated cases submitted in 2019, an 8% increase. Included in the number of fully investigated cases were **23** death cases, as opposed to **22** fully investigated and closed death cases in 2019, a 5% increase.

Of the **85** fully investigated cases, **six** cases, or 7%, included sustained findings, compared to **seven** cases, or 9% of the total number of cases in 2019. The total number of sustained findings rose from seven in 2019 to 12 in 2020, or a 71% increase. Sustained findings were rendered for procedural misconduct allegations in cases #17-150 (a death case), #19-076, #19-083, and #19-091. One sustained finding was rendered for an intimidation allegation in case #19-021 and one sustained finding was rendered for a false arrest allegation in case #19-076. Two sustained findings were rendered in one death case (#19-037).

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[1] As the new cases are thoroughly investigated, these totals tend to rise, as the true nature of the complainants' allegations are better understood or identified.

[2] Technically, 16 deaths cases were reported, however, one case (#20-013) was opened in error, as it was a duplicate and correctly reported and opened under case #19-101. Therefore, case #20-013 was summarily dismissed and, for accuracy purposes, not tallied as a 2020 new death case.

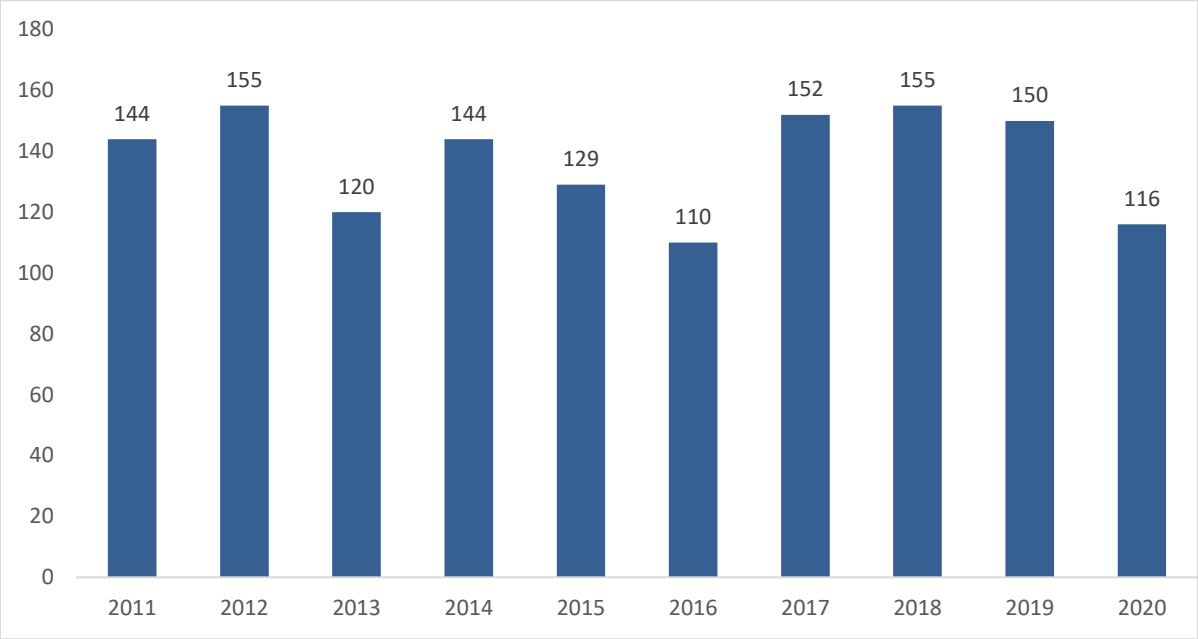
[3] In 2019, seven complaints (or 5% of the total complaints received) pertained to other law enforcement agencies or unknown bureaus/Departments.

[4] As of December 31, 2020, 12 complaints had been made against unknown units. As these cases are investigated, the majority of units will be identified and reflected in the 2021 Annual Report.

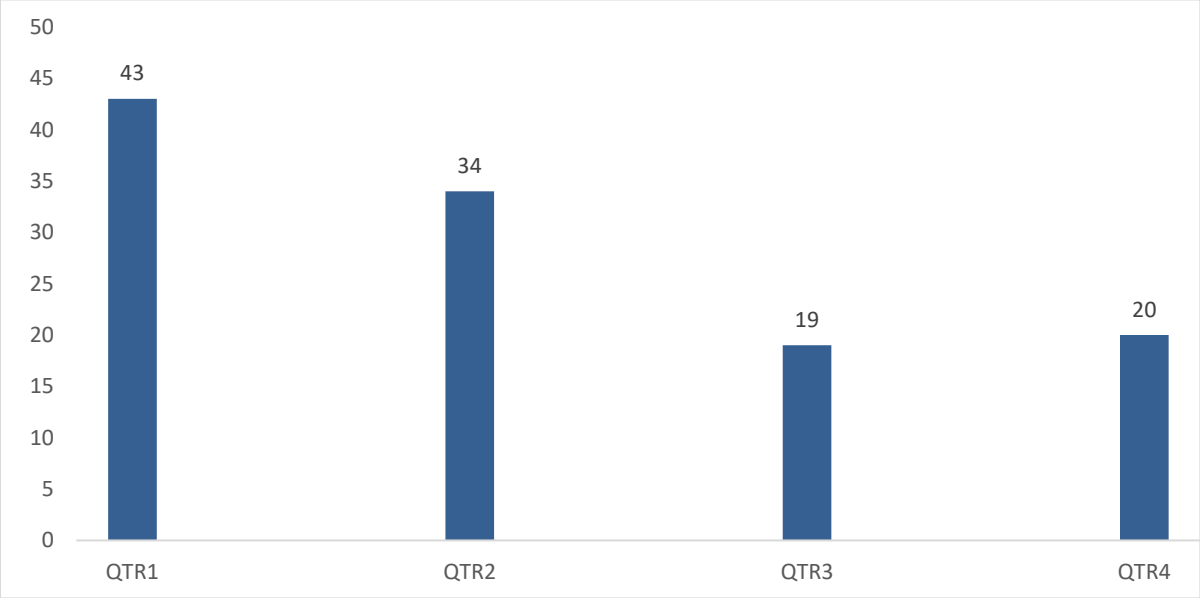
The remaining **48** cases were Procedurally Closed (PC) because a signed complaint was not returned by the complainant. This was 17% decrease compared to the **58** PC cases closed in 2019. Overall, PC cases accounted for 35% of the year's case closure total and 38% of the new complaints in 2020. At year end there were **69** open cases, a 23% decrease from the **90** open cases at the end of 2019.

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

Total Complaints Received by Year, 2011 – 2020 (Graph 1)



Total Complaints Received by Quarter, 2020 (Graph 2)



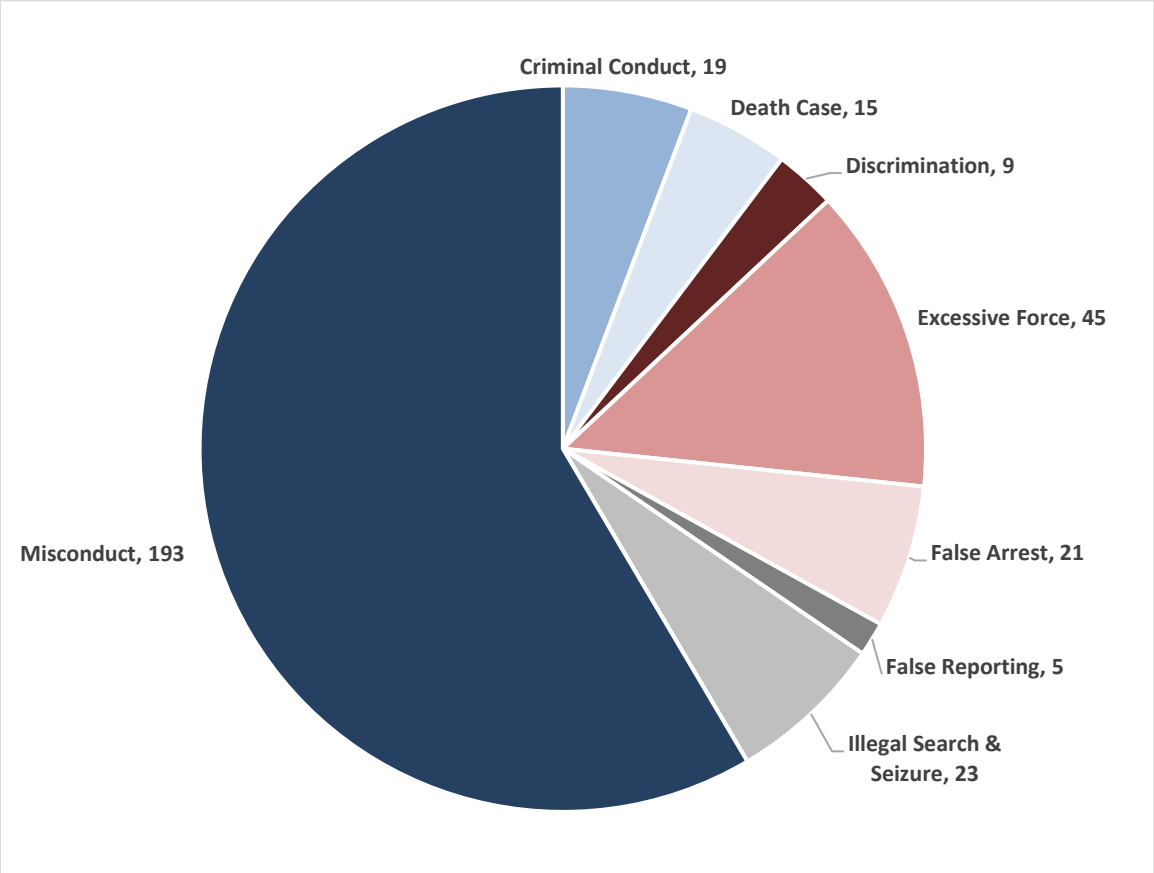
Complaints & Allegations Received by Unit or Facility, 2020 (Table 1)

Unit/Facility	Complaint Totals	CC	Death	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
LAW ENFORCEMENT											
4S RANCH SUBSTATION	-	-	-	-	-	-	-	-	-	-	-
ALPINE STATION	-	-	-	-	-	-	-	-	-	-	-
BORDER CRIME SUPPRESSION TEAM	1	-	-	-	-	-	-	5	-	11	16
BORREGO SPRINGS	1	-	-	-	-	-	-	-	-	1	1
BOULEVARD/JACUMBA OFFICE	-	-	-	-	-	-	-	-	-	-	-
CAMPO/TECATE SUB	2	-	-	-	-	-	-	1	-	4	5
FALLBROOK SUB	2	-	-	-	1	6	-	3	-	2	12
IMPERIAL BEACH SUBSTN	1	-	-	-	-	-	-	-	-	2	2
JULIAN SUB	-	-	-	-	-	-	-	-	-	-	-
LAKESIDE SUB	1	-	-	-	2	-	-	1	-	2	5
LEMON GROVE SUBSTN	3	-	-	3	1	1	-	2	-	8	15
NORTH COASTAL SHERIFF'S STATION	5	11	-	1	1	2	-	1	-	8	24
PINE VALLEY SUB	-	-	-	-	-	-	-	-	-	-	-
POWAY STN	1	-	-	-	-	-	-	-	-	2	2
RAMONA SUB	-	-	-	-	-	-	-	-	-	-	-
RANCHITA/WARNER SPR SUB	1	-	-	-	-	1	-	1	-	1	3
RANCHO SAN DIEGO STATION	2	-	-	-	8	-	-	-	-	10	18
RURAL LAW ENFORCEMENT	1	1	-	-	-	-	-	-	-	3	4
SAN MARCOS STN	1	-	-	-	2	1	-	-	-	-	3
SANTEE STN	7	-	-	2	3	1	1	1	-	8	16
SPRING VALLEY STOREFRONT	-	-	-	-	-	-	-	-	-	-	-
UNKNOWN UNIT	12	1	-	-	-	3	1	5	-	10	20
VALLEY CTR/PAUMA SUB	-	-	-	-	-	-	-	-	-	-	-
VISTA STN	6	1	1	-	1	1	2	-	-	5	11
LAW ENFORCEMENT TOTAL	47	14	1	6	19	16	4	20	-	77	157
DETENTIONS											
EAST MESA DF	-	-	-	-	-	-	-	-	-	-	-
FACILITY EIGHT DF	-	-	-	-	-	-	-	-	-	-	-
GEORGE BAILEY DF	16	-	2	1	10	-	-	1	-	39	53
LAS COLINAS DF	5	1	-	1	4	-	-	-	-	2	8
SD CENTRAL JAIL	13	-	5	-	5	-	-	1	-	20	31
SOUTH BAY DF	3	-	1	-	-	-	-	-	-	2	3
UNKNOWN UNIT	-	-	-	-	-	-	-	-	-	-	-
VISTA DF	20	-	5	1	7	2	-	-	-	34	49
DETENTIONS TOTAL	57	1	13	3	26	2	-	2	-	97	144
COURT SERVICES											
COURT SVCS	3	-	1	-	-	-	-	-	-	2	3
SAN DIEGO COURT	-	-	-	-	-	-	-	-	-	-	-
EL CAJON COURT	-	-	-	-	-	-	-	-	-	-	-
VISTA COURT	-	-	-	-	-	-	-	-	-	-	-
COURT SERVICES TOTAL	3	-	1	-	-	-	-	-	-	2	3
OTHER											
OTHER L.E.	-	-	-	-	-	-	-	-	-	-	-
OTHER TOTAL	-	-	-	-	-	-	-	-	-	-	-
PROBATION											
XPROB: ADULT SVCS.	9	4	-	-	-	3	1	1	-	17	26
XPROB: INST. SVCS.	-	-	-	-	-	-	-	-	-	-	-
XPROB: JUV. SVCS	-	-	-	-	-	-	-	-	-	-	-
PROBATION TOTAL	9	4	-	-	-	3	1	1	-	17	26
GRAND TOTAL	116	19	15	9	45	21	5	23	0	193	330

CC = Criminal Conduct; DC = Discrimination; EF = Excessive Force; FA = False Arrest; FR = False Report; 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, 2020 (Graph 3)



Total Complaints Received by Major Organization/Bureau (Table 2)

Unit/Facility	2020
Sheriff Law Enforcement Services	47
Sheriff Detention Facilities	57
Sheriff Court Services Bureau	3
Probation Department	9
Other Law Enforcement	0
Unknown	0
TOTAL	116

Breakdown of Discrimination Allegations (Table 3)

Description	2020
National Origin	0
Other	1
Racial	6
Religious	0
Sexual/Gender	2
TOTAL	9

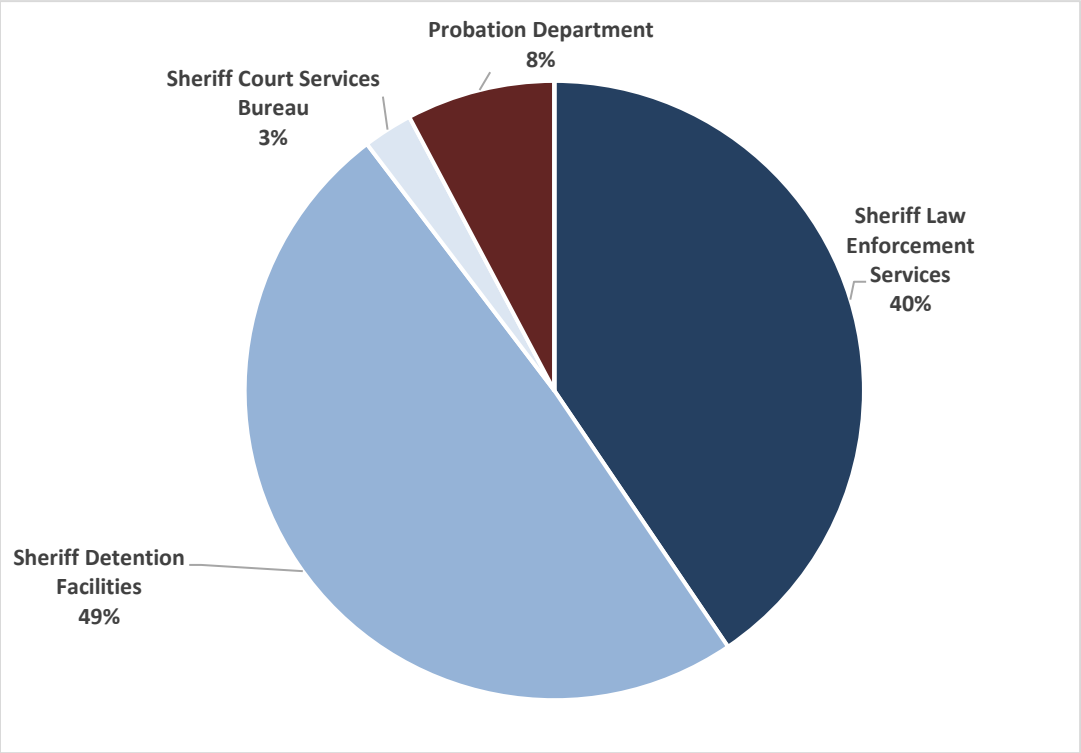
Breakdown of Misconduct Allegations (Table 4)

Unit/Facility	2020
Discourtesy	14
Harassment	8
Intimidation	10
Medical (Info only)	5
Procedure	142
Retaliation	9
Truthfulness	5
TOTAL	193

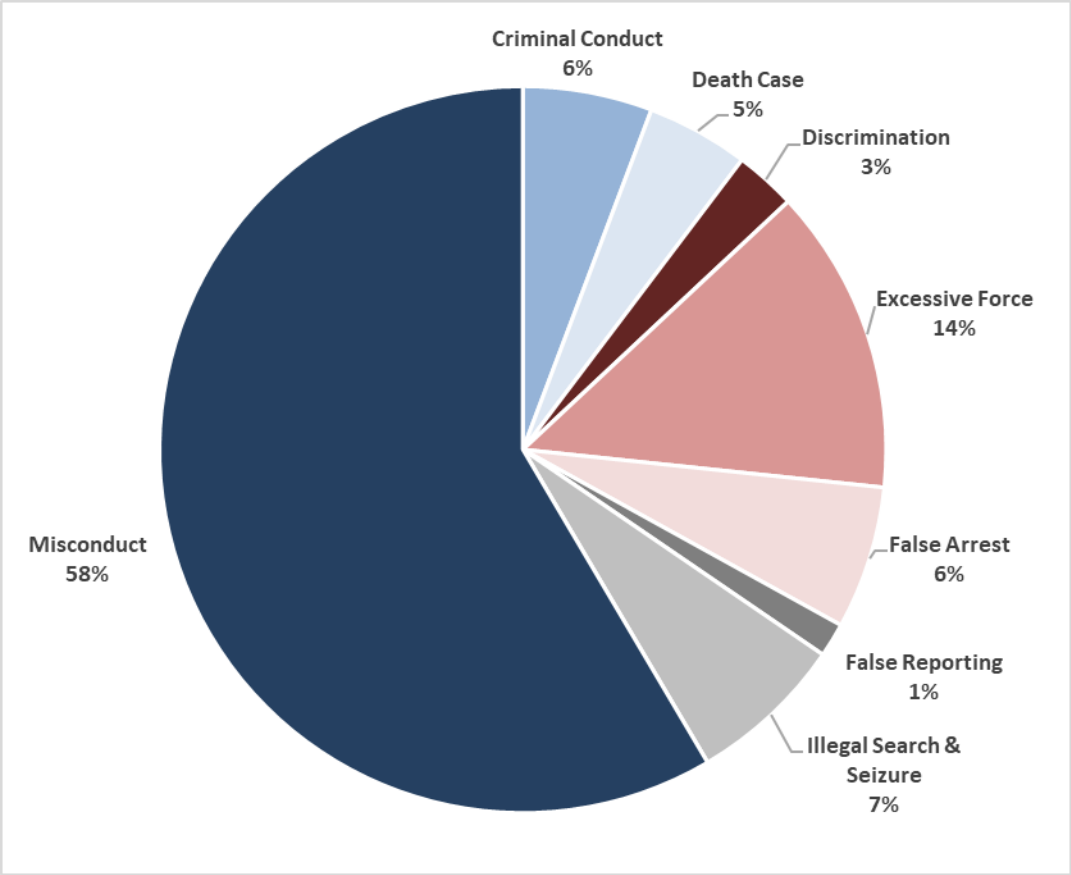
Breakdown of Excessive Force Allegations (Table 5)

Unit/Facility	2020
Baton/Impact Weapon	0
Carotid Restraint	1
Drawn Firearm	0
Fists	2
K-9 Bites	1
Kicks	5
Less Lethal Munitions	2
OC Spray	2
Other	14
Pepperball Launcher	1
Poss. Restraint	0
Taser	2
Tight Handcuffs	2
Unspecified	13
TOTAL	45

Complaint Percentages by Major Organization/Bureau for Cases Received, 2020 (Graph 4)



Allegations Percentages for Complaints Received, 2020 (Graph 5)



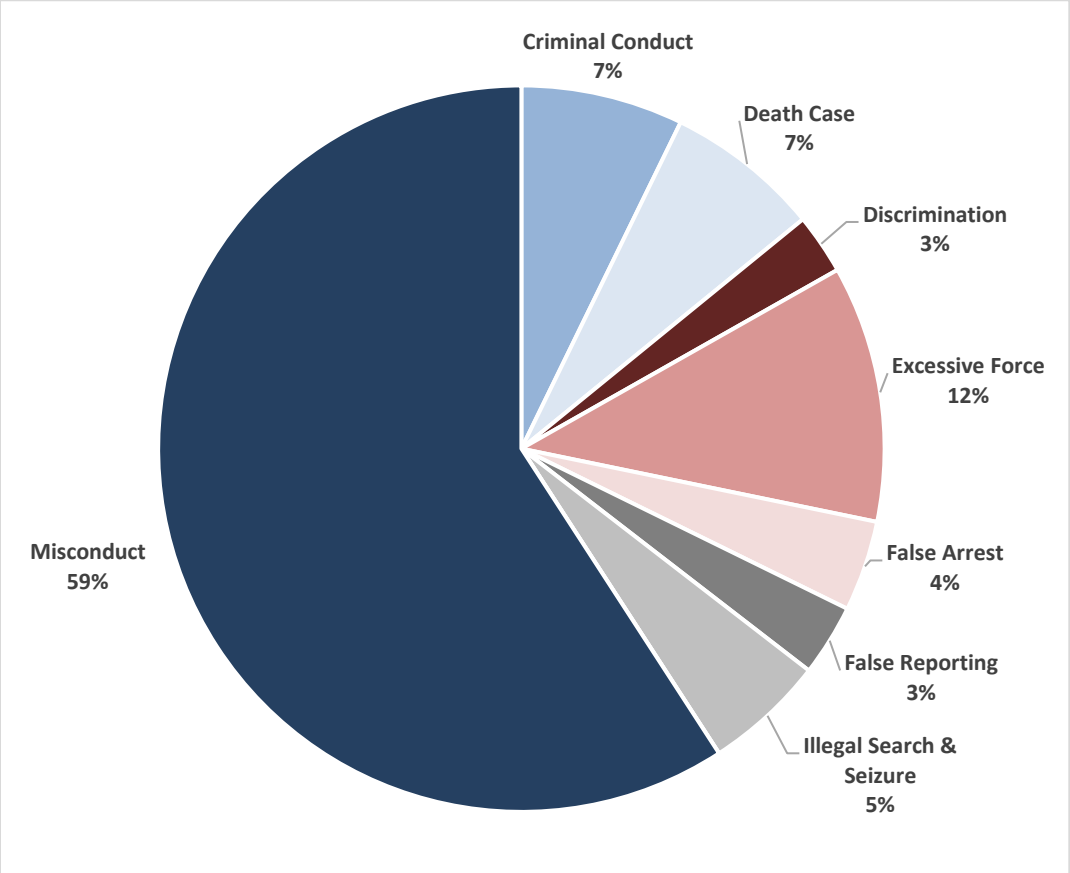
Complaints & Allegations Closed by Unit or Facility, 2020 (Table 6)

Unit/Facility	Complaint Totals	CC	Death	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
LAW ENFORCEMENT											
4S RANCH SUBSTATION	-	-	-	-	-	-	-	-	-	-	-
ALPINE STATION	1	-	3	-	-	-	-	-	-	-	3
BORDER CRIME SUPPRESSION TEAM	1	-	-	-	-	-	-	5	-	11	16
BORREGO SPRINGS	1	-	-	-	-	-	-	-	-	3	3
BOULEVARD/JACUMBA OFFICE	-	-	-	-	-	-	-	-	-	-	-
CAMPO/TECATE SUB	2	-	-	-	-	-	-	1	-	4	5
CID: CHILD ABUSE	1	-	-	-	-	-	2	-	-	3	5
CID: HOMICIDE	2	-	-	-	-	-	1	-	-	8	9
COMMUNICATIONS	1	-	-	-	-	-	-	-	-	1	1
FALLBROOK SUB	4	-	8	-	1	6	-	3	-	4	22
IMPERIAL BEACH SUBSTN	-	-	-	-	-	-	-	-	-	-	-
INTERNAL AFFAIRS	1	5	-	-	-	1	-	2	-	-	8
JULIAN SUB	-	-	-	-	-	-	-	-	-	-	-
LAKESIDE SUB	2	-	-	-	2	-	-	1	-	4	7
LAW ENFORCEMENT SUPPORT COMM	2	-	-	-	-	1	-	1	-	10	12
LEMON GROVE SUBSTN	8	6	3	1	21	5	-	-	-	19	55
NORTH COASTAL SHERIFF'S STATION	7	11	-	2	1	4	-	4	-	18	40
OFFICE OF THE SHERIFF	1	-	-	-	-	-	-	-	-	1	1
PINE VALLEY SUB	-	-	-	-	-	-	-	-	-	-	-
POWAY STN	4	1	1	-	-	-	-	-	-	9	11
RAMONA SUB	1	-	-	1	-	-	-	-	-	4	5
RANCHITA/WARNER SPR SUB	1	-	-	-	-	1	-	1	-	1	3
RANCHO SAN DIEGO STATION	-	-	-	-	-	-	-	-	-	-	-
RURAL LAW ENFORCEMENT	1	1	-	-	-	-	-	-	-	3	4
SAN MARCOS STN	-	-	-	-	-	-	-	-	-	-	-
SANTEE STN	4	-	-	1	2	1	1	-	-	2	7
SPRING VALLEY STOREFRONT	-	-	-	-	-	-	-	-	-	-	-
VALLEY CTR/PAUMA SUB	-	-	-	-	-	-	-	-	-	-	-
VISTA STN	5	1	1	-	2	1	1	-	-	4	10
LAW ENFORCEMENT TOTAL	50	25	16	5	29	20	5	18	0	109	227
DETENTIONS											
EAST MESA DF	-	-	-	-	-	-	-	-	-	-	-
FACILITY EIGHT DF	-	-	-	-	-	-	-	-	-	-	-
GEORGE BAILEY DF	24	2	1	4	21	-	2	1	-	98	129
LAS COLINAS DF	7	9	1	1	8	-	7	-	-	42	68
SD CENTRAL JAIL	22	1	20	-	5	-	3	2	-	42	73
SOUTH BAY DF	2	-	-	-	-	-	-	-	-	2	2
VISTA DF	8	1	3	-	-	-	-	-	-	13	17
DETENTIONS TOTAL	63	13	25	5	34	0	12	3	0	197	289
COURT SERVICES											
COURT SVCS	3	-	-	3	1	-	-	4	-	10	18
SAN DIEGO COURT	1	-	-	1	-	-	-	2	-	6	9
EL CAJON COURT	-	-	-	-	-	-	-	-	-	-	-
VISTA COURT	1	-	-	2	1	-	-	-	-	-	3
COURT SERVICES TOTAL	5	0	0	6	2	0	0	6	0	16	30
OTHER											
OTHER L.E.	1	-	-	-	1	-	-	-	-	-	1
UNKNOWN UNIT	11	1	-	-	2	3	1	5	-	10	22
OTHER TOTAL	12	1	0	0	3	3	1	5	0	10	23
PROBATION											
XPROB: ADULT SVCS.	9	4	-	-	-	1	1	-	-	20	26
XPROB: INST. SVCS.	-	-	-	-	-	-	-	-	-	-	-
XPROB: JUV. SVCS	-	-	-	-	-	-	-	-	-	-	-
PROBATION TOTAL	9	4	0	0	0	1	1	0	0	20	26
GRAND TOTAL	139	43	41	16	68	24	19	32	0	352	595

Notes: CC = Criminal Conduct; DC = Discrimination; EF = Excessive Force; FA = False Arrest; FR = False Report; 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 Percentages for Complaints Closed, 2020 (Graph 6)



Board Action by Date Closed, Case Number, & Findings, 2020 (Table 7)

Note: 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 *	
18-117	1						01-14-20
18-146	4	3		1	2		01-14-20
19-003	6	2		3			01-14-20
19-022	2			3	1		01-14-20
19-023	6	1			1		01-14-20
19-039	15	4		11	3		01-14-20
19-124					1		01-14-20
19-147	3			1			01-14-20
18-052	7						02-11-20
18-077	1						02-11-20
18-131	1						02-11-20
19-038		2		1			02-11-20
19-114	1				5		02-11-20
19-119					2		02-11-20
19-132					1		02-11-20
19-018		3					03-10-20
19-024	1						03-10-20
19-043	5						03-10-20
19-049	1	4			1		03-10-20
19-051	8				1		03-10-20
19-127					1		03-10-20
20-013					1		03-10-20
17-148	1			2			05-12-20
18-058	1						05-12-20
18-118	8						05-12-20
19-020	4						05-12-20
19-021	11	16	1		2		05-12-20
19-028	1						05-12-20
19-046	23	4					05-12-20
19-053	2	1		1			05-12-20
19-055	1	3		1			05-12-20
19-058					1		05-12-20
19-062	6	4		3			05-12-20
19-067					8		05-12-20
20-007	11	5					05-12-20
20-011					1		05-12-20
20-027					3		05-12-20
20-030					1		05-12-20
20-033					2		05-12-20

CASE #	FINDINGS						DATE CLOSED
	Action Justified	Not Sustained	Sustained	Unfounded	Summary Dismissal	One-Year Summary Dismissal *	
17-101	1						06-09-20
17-150	1	3	3				06-09-20
18-137	3						06-09-20
19-001	8	1		1			06-09-20
19-056	3	1					06-09-20
19-061	1						06-09-20
19-089					1		06-09-20
17-134	1						07-14-20
19-037	2		2				07-14-20
19-074	4	1					07-14-20
19-076	1	4	2				07-14-20
19-091	2		1				07-14-20
19-116	1						07-14-20
11-105					26		08-11-20
19-045	1						08-11-20
19-064	1	2					08-11-20
19-065		1			1		08-11-20
19-083	3	1	3		2		08-11-20
19-107	9	1		2	4		08-11-20
19-108					1		08-11-20
20-060	3			1			08-11-20
20-062					1		08-11-20
19-070	5						09-08-20
19-078	1						09-08-20
19-079		3					09-08-20
19-095	3			3			09-08-20
19-103	4			1			09-08-20
20-077					1		09-08-20
19-057	1						10-13-20
19-063	1						10-13-20
19-085	1						10-13-20
19-086					1		10-13-20
19-096	5						10-13-20
19-099	2						10-13-20
19-106	8	2					10-13-20
19-122	8	8					10-13-20
19-144	6			5	1		10-13-20
20-082				1			10-13-20
20-086				3			10-13-20
20-091					12		10-13-20
19-093	1						11-10-20
19-098	2	6		1	1		11-10-20

CASE #	FINDINGS						DATE CLOSED
	Action Justified	Not Sustained	Sustained	Unfounded	Summary Dismissal	One-Year Summary Dismissal *	
19-109	1			1			11-10-20
19-133	6	1		1	2		11-10-20
19-145	2						11-10-20
20-006		2			1		11-10-20
19-002	3						12-08-20
19-101	1						12-08-20
19-112	3	3					12-08-20
19-113	6	4					12-08-20
19-117	1			9			12-08-20
19-142	10						12-08-20
TOTALS	**257**	**96**	**12**	**56**	**93**	**0**	**11 Meetings 91 Cases 514 Findings**

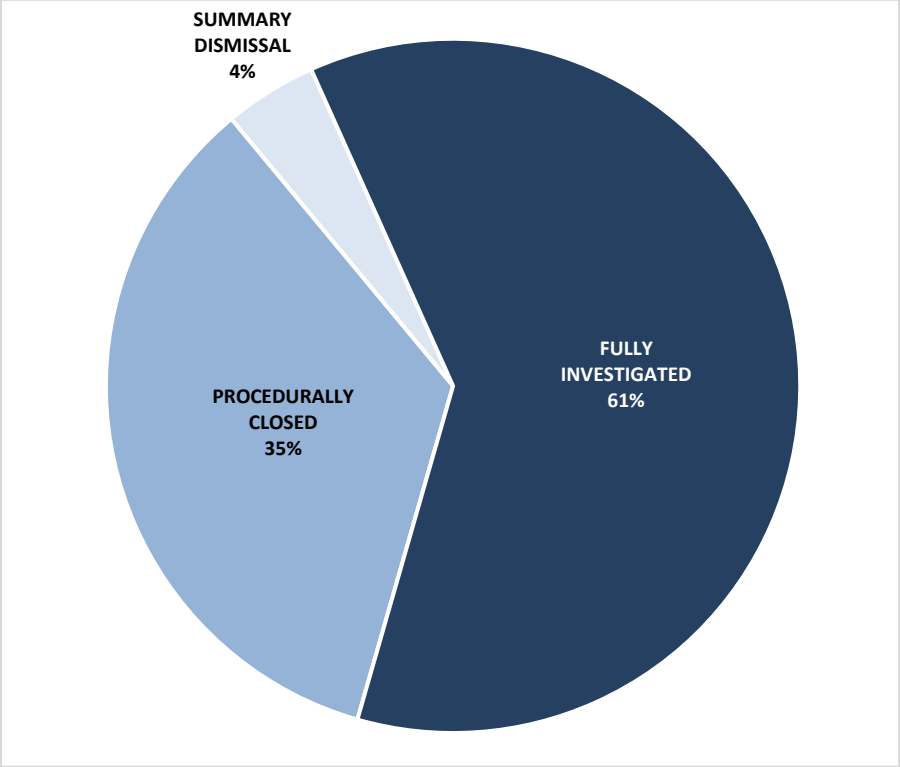
* Court decisions applicable to the Review Board and Government Code Section 3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct that could result in discipline be completed within one year of discovery of the misconduct, unless statutory exceptions 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, 2020 (Table 8)

CASE #	DATE CLOSED
19-146	01-09-20
19-148	01-29-20
20-002	01-29-20
20-003	01-29-20
19-149	01-31-20
19-150	01-31-20
20-001	01-31-20
20-008	02-28-20
20-009	02-28-20
20-019	03-05-20
20-005	03-10-20
20-020	03-31-20
20-021	03-31-20
20-022	03-31-20
20-028	03-31-20
20-029	03-31-20
20-037	03-31-20
20-024	04-02-20
20-039	04-16-20
20-044	04-24-20
20-031	04-30-20
20-042	04-30-20
20-058	06-09-20
20-059	06-09-20
20-048	06-10-20
20-049	06-10-20

CASE #	DATE CLOSED
20-061	06-12-20
20-055	06-22-20
20-067	06-22-20
20-051	06-30-20
20-052	06-30-20
20-064	06-30-20
20-068	07-14-20
20-069	07-14-20
20-078	08-24-20
20-079	08-31-20
20-084	09-21-20
20-085	09-21-20
20-083	09-30-20
20-095	10-20-20
20-088	10-28-20
20-090	10-28-20
20-098	10-29-20
20-099	10-29-20
20-100	11-30-20
20-109	12-18-20
20-110	12-18-20
20-111	12-18-20
TOTALS	48 Cases 96 Allegations

Case Closure Type by Percentage, 2020 (Graph 7)



Death Cases Opened in 2019 (Table 9)

Case #	Decedent	Category	Facility/Area	Cause of Death
19-002	Gonzalez, Adolfo	Deputy-involved shooting	Lemon Grove Substation	Gunshot wounds
19-015	Castiglione, Joseph	In-custody drug-related	Vista Detention Facility	Acute methamphetamine intoxication
19-020	Wilson, Michael	In-custody medical	San Diego Central Jail	Sudden cardiac death due to acute congestive heart failure and hypertrophic cardiomyopathy
19-024	Kerr, Paul	Barricade	Poway Station	Perforating intraoral gunshot wound
19-028	King, Derek	In-custody medical	Vista Detention Facility	Metastatic colon cancer
19-037	Ortiz, Ivan	In-custody suicide	San Diego Central Jail	Anoxic-ischemic encephalopathy due to resuscitated cardiorespiratory arrest due to asphyxia due to plastic bag secured over head and neck
19-045	White, Victor	In-custody medical	San Diego Central Jail	Spontaneous intracerebral hemorrhage (stroke) due to hypertensive cardiovascular disease
19-057	Curry, Dennis	In-custody medical	George Bailey Detention Facility	Complications of hepatic cirrhosis
19-063	Thomas, Jeremy	In-custody drug-related	San Diego Central Jail	Hypertensive cardiomyopathy; Acute and chronic methamphetamine toxicity
19-078	Bush, Michael	In-custody drug-related	San Diego Central Jail	Acute methamphetamine intoxication Contributing: Ischemic cardiomyopathy
19-093	Hossfeld, Michael	In-custody drug-related	San Diego Central Jail	Anoxic encephalopathy due to fentanyl toxicity
19-100	Sevilla, Jose	In-custody drug-related	George Bailey Detention Facility	Acute heroin intoxication
19-101	Lopez, Julio	In-custody suicide	Vista Detention Facility	Choking
19-104	Pickett, Daniel	In-custody drug-related	San Diego Central Jail	Toxic effects of methamphetamine
19-116	July, Franklin	In-custody drug-related	San Diego Central Jail	Hypertensive and atherosclerotic cardiovascular disease Contributing: Diabetes, obesity, toxic effects of methamphetamine
19-126	Ralph, Donald	In-custody suicide	San Diego Central Jail	Asphyxia due to occlusion of airway by sock
19-128	Serna, Elisa	In-custody medical	Las Colinas Detention and Reentry Facility	Complications of chronic polysubstance abuse Contributing: Early intrauterine pregnancy
19-143	Godfrey, Matthew	In-custody medical	San Diego Central Jail	Hypertensive and atherosclerotic cardiovascular disease
Total Cases: 18				

Death Cases Closed in 2019 (Table 10)

Case #	Decedent	Category	Facility/Area	Cause of Death
16-108	Woodward, Lyle	Inmate homicide	San Diego Central Jail	Ligature strangulation
17-033	Koornwinder, Jeroen	Deputy-involved shooting	Lakeside Substation	Multiple gunshot wounds
17-035	Ibarra, Emmanuel	Deputy-involved shooting	North Coastal Sheriff's Station	Multiple gunshot wounds
17-043	Dawley, Bruce	Deputy-involved shooting	Campo-Tecate Substation	Shotgun wound of abdomen
17-058	Coronel, Jonathon	Deputy-involved shooting	Vista Station	Multiple gunshot wounds
17-088	Bautista, Raziel	Deputy-involved shooting	Lemon Grove Substation	Gunshot and shotgun wounds
17-102	Macabinlar, Michael	In-custody drug-related	Vista Detention Facility	Acute methamphetamine intoxication
17-110	Birtcher, Kristopher	Restraint-related	San Marcos Station	Sudden cardiac arrest while restrained due to acute methamphetamine intoxication
17-127	Kenyon, James	In-custody accident	George Bailey Detention Facility	Asphyxia due to aspiration of food bolus
18-034	Leal, Oscar	In-custody drug-related	Vista Detention Facility	Acute methamphetamine toxicity
18-043	Maas, Stephen	In-custody medical	Vista Detention Facility	Arteriosclerotic cardiovascular disease
18-076	Nelson, Jon	In-custody suicide	San Diego Central Jail	Hanging
18-048	Sullivan, Michael	In-custody suicide	South Bay Detention Facility	Hanging
18-081	McNeil, Earl	In-custody drug-related	San Diego Central Jail	Hypoxic-ischemic encephalopathy due to resuscitated cardiorespiratory arrest due to methamphetamine toxicity, agitation, and respiratory compromise
18-084	Washam, Alan	In-custody medical	San Diego Central Jail	Acute peritonitis due to perforated duodenal ulcer due to hypertensive cardiovascular disease
18-086	Yarborough, Carter	Traffic/pursuit	North Coastal Sheriff's Station	Multiple blunt force injuries
18-097	Gomez, Michael	In-custody medical	Vista Detention Facility	Myocardial infarction
18-113	Vincent, Paul	In-custody medical	Las Colinas Detention and Re-Entry Facility	Multi-organ failure due to heart, respiratory, and renal failure due to liver cirrhosis due to alcohol abuse Contributing: Morbid obesity
18-124	Jefferson, Frederick	In-custody suicide	George Bailey Detention Facility	Hanging

Case #	Decedent	Category	Facility/Area	Cause of Death
18-133	Athos, James	In-custody medical	San Diego Central Jail	Perforated duodenal ulcer
18-150	Morris, Warren	In-custody drug-related	Santee Station	Methamphetamine intoxication
19-015	Castiglione, Joseph	In-custody drug-related	Vista Detention Facility	Acute methamphetamine intoxication
Total Cases: 22				

Death Cases Opened in 2020 (Table 11)

Case #	Decedent	Category	Facility/Area	Cause of Death
20-012	Wilson, Blake	In-custody drug-related	San Diego Central Jail	Acute fentanyl, acetyl fentanyl, butyryl fentanyl, and heroin intoxication
20-050	Bils, Nicholas	Deputy-involved shooting	Court Services Bureau	Awaiting records
20-063	Morton, Joseph	In-custody suicide	Vista Detention Facility	Hanging
20-071	Fonseca, Spiros	In-custody suicide	San Diego Central Jail	Asphyxia due to hanging
20-072	Jimenez, Joseph	Drug-related	Vista Patrol Station	Anoxic-ischemic encephalopathy due to resuscitated cardiopulmonary arrest due to acute methamphetamine intoxication
20-092	Flores, Javier	In-custody homicide	South Bay Detention Facility	Blunt force trauma to the head
20-096	Armendo, Mark	Out-of-custody medical	Vista Detention Facility	Complications of seizure disorder, undetermined etiology Contributing: Pulmonary thromboemboli, pneumonia, Methicillin-resistant staphylococcus aureus (MRSA)
20-102	Rogers, Adam	In-custody drug-related	Vista Detention Facility	Acute fentanyl, alcohol, and citalopram intoxication
20-104	Chon, Anthony	In-custody medical	San Diego Central Jail	Bilateral pulmonary embolism due to deep vein thrombosis of the leg Contributing: Cardiomegaly and congestive hepatomegaly
20-105	Brogan, Nathan	In-custody medical	Vista Detention Facility	Acute myocardial infarction
20-107	Hasenin, Omar	In-custody drug-related	George Bailey Detention Facility	Toxic effects of fentanyl Contributing: Atherosclerotic cardiovascular disease
20-108	Mills, Kevin	In-custody medical	San Diego Central	Hypertensive cardiovascular disease
20-112	Loredo, Edel	In-custody undetermined	George Bailey Detention Facility	Awaiting records
20-113	Alvarez, Lazaro	In-custody undetermined	San Diego Central Jail	Awaiting records
20-114	Gonzaba, Antonio	In-custody undetermined	Vista Detention Facility	Awaiting records
Total Cases: 15				

Death Cases Closed in 2020 (Table 12)

Case #	Decedent	Category	Facility/Area	Cause of Death
17-101	Gill, Keith	Inmate homicide	San Diego Central Jail	Complications following blunt force injuries of the head with diffuse traumatic brain injury
17-134	Phillips, Shameka	In-custody drug-related	Las Colinas Detention and Reentry Facility	Methamphetamine, morphine, and gabapentin toxicity
17-148	Gomez, Javier	Deputy-involved shooting	Vista Patrol Station	Gunshot wounds of head and torso
17-150	Horsey, Joseph	In-custody medical	San Diego Central Jail	Arteriosclerotic cardiovascular disease Contributing: Clinical history of seizure disorder
18-052	Silva, Paul	In-custody restraint-related	San Diego Central Jail	Complications of anoxic/ischemic encephalopathy due to resuscitated cardiopulmonary arrest during law enforcement restraint due to bizarre behavior associated with schizophrenia and diabetes mellitus with hypoglycemina Contributing: Hypertensive and atherosclerotic cardiovascular disease; obesity
18-058	Gallegos, George	In-custody medical	San Diego Central Jail	Acute pneumonia Contributing: Hypertensive cardiovascular disease; hypernatremic dehydration
18-077	Sugar, Michael	Inmate homicide	San Diego Central Jail	Blunt force head injury
18-117	Martinez, Isaac	In-custody medical	San Diego Central Jail	End-stage renal disease and renal failure due to chronic glomerulonephritis Contributing: Hypertensive cardiovascular disease
18-118	Rosales, Marco	Restraint-related	Fallbrook Station	Sudden cardiopulmonary arrest associated with methamphetamine intoxication and physical exertion during law enforcement restraint Manner: Undetermined
18-131	Cruz, Manuel	In-custody suicide	San Diego Central Jail	Food asphyxia
18-137	Ayala, Daniel	Deputy-involved shooting	Alpine Station	Multiple gunshot wounds
19-002	Gonzalez, Adolfo	Deputy-involved shooting	Lemon Grove Station	Gunshot wounds
19-020	Wilson, Michael	In-custody medical	San Diego Central Jail	Sudden cardiac death due to acute congestive heart failure and hypertrophic cardiomyopathy

Case #	Decedent	Category	Facility/Area	Cause of Death
19-024	Kerr, Paul	Barricade	Poway Station	Perforating intraoral gunshot wound
19-028	King, Derek	In-custody medical	San Diego Central Jail	Metastatic colon cancer
19-037	Ortiz, Ivan	In-custody suicide	San Diego Central Jail	Anoxic-ischemic encephalopathy due to resuscitated cardiorespiratory arrest due to asphyxia due to plastic bag secured over head and neck
19-045	White, Victor	In-custody medical	San Diego Central Jail	Spontaneous intracerebral hemorrhage (stroke) due to hypertensive cardiovascular disease
19-057	Curry, Dennis	In-custody medical	George Bailey Detention Facility	Complications of hepatic cirrhosis
19-063	Thomas, Jeremy	In-custody drug-related	San Diego Central Jail	Hypertensive cardiomyopathy; Acute and chronic methamphetamine toxicity
19-078	Bush, Michael	In-custody drug-related	San Diego Central Jail	Acute methamphetamine intoxication Contributing: Ischemic cardiomyopathy
19-093	Hossfeld, Michael	In-custody drug-related	San Diego Central Jail	Anoxic encephalopathy due to fentanyl toxicity
19-101	Lopez, Julio	In-custody suicide	Vista Detention Facility	Choking
19-116	July, Franklin	In-custody drug-related	San Diego Central Jail	Hypertensive and atherosclerotic cardiovascular disease Contributing: Diabetes, obesity, toxic effects of methamphetamine
Total Cases: 23				

Policy Recommendations (Table 13)

POLICY RECOMMENDATIONS - 2020			
#	Case #	Policy Recommendations	Outcome
1	2019-018	1. It is recommended that the Probation Department implement a set schedule for home inspections of facilities contracted to house probationers, to include a check list to address the facilities housing requirements that will ensure the facility adheres to the terms of the contract.	**Recommendation submitted to Probation and, of this writing, is under review.**
2	2017-150	1. It is recommended that the Sheriff's Department review and update the Psychiatric Security Unit ("PSU") hard count and safety check policies, and either edit 1.43 and 1.64, or create new policies specifically for the PSU to ensure each PSU inmate is alive and well, and accounted for, understanding that medical signs of distress may not be "obvious" late at night, especially in the PSU when inmates may be heavily sedated, and side effects of drugs may be less than obvious. Specifically evaluate whether inmate breathing can be evaluated through a window; whether entry into each cell is required; whether verbal or physical acknowledgment is required to detect signs of medical distress which may be muted, when inmates are sedated (which may be more common in the PSU, than in the general inmate population). CLERB recommends defining "obvious signs of medical distress, including but not limited to, difficulty breathing, lack of respirations, presence of vomit, seizure-like movements, trauma or injury, bluish discoloration, etc." in the PSU. 2. It is recommended that the Sheriff's Department review and update the night-time hard count and safety check policies in both the PSU and general inmate populations, balancing the safety of each inmate with his right to sleep between the hours of 10pm and 4am. Specifically CLERB recommends that between the hours of 10pm and 4am, sheriffs stop outside each large window in the PSU during a safety check, and a hard count, long enough to observe breathing patterns and the rise and fall of inmates' chest,	**Recommendations submitted to SDSD and, as of this writing, are under review.**

		spending 2- 5 seconds illuminating each inmate by flashlight, observing a stable breathing pattern. Blankets must be removed from inmates' faces. During hours of 10pm- 4 am, amount of time can be verified by flashlight scanning face and chest area of each inmate. Clarify what hours a sheriff must "verif[y] each inmate's well-being through verbal or physical acknowledgement from the inmate." Evaluate whether any signs of "obvious" medical distress are visible underneath a standard-issue blanket, especially when placed over the face of the inmate. 3. CLERB recommends that Sheriffs evaluate the Sheriff's standard issue thick blankets in the PSU and either change the material, or make a new policy mandating that inmates uncover their faces at night (or be prepared to be woken up to ensure each inmate is still breathing.) 4. CLERB recommends that Sheriffs consult the nurses in the PSU to develop effective safety check procedures in the PSU. CLERB recommends that nurses accompany sheriffs on each round to ensure inmate safety, and /or provide education and training to sheriffs regarding common inmate medications, sedation, and side effects--- including possible breathing side effects, seizures, and other issues---- that inmates may be more likely to experience in the PSU.	
3	2019-021	1. CLERB recommends that the SDSD also include retaliation and sexual harassment in Policy #2.53 entitled, "Discrimination." 2. Additionally, CLERB recognizes that the wording in the policy recognizes "gender and sexual orientation;" however, the policy fails to include "sex identity." It is recommended that the policy be changed to reflect all discrimination types.	**Recommendations submitted to SDSD and, as of this writing, are under review.**
4	2019-037	1. CLERB respectfully requests that the following stricken language from previous versions of this policy be reinstated into DSB Policy J.5, Inmate Suicide Prevention Practices & Inmate Safety Program, for subsection(s) I. A. 3 to specifically to include "medical, family, etc."	**Recommendation implemented.**

		I. RISK FACTORS FOR ISP HOUSING ASSESSMENT A. The following are identified high suicide risk factors that when identified, require further assessment by the facility gatekeeper for consideration of placement into an ISP housing. 3. The inmate states he/she is suicidal and/or made suicidal statements to sworn staff, medical, family, etc.	
5	2019-076	1. It is recommended that all employee business cards include assigned ARJIS number to comply with Sheriff's Policy 2.20, Identification, in that all employees shall furnish their first and last name and ARJIS number to any person requesting that information. 2. It is recommended that Sheriff's Policy 3.40, Sheriff's Department Business Cards be modified to require/include an ARJIS number to be in compliance/uniform with Sheriff's Policy 2.20, Identification.	**Recommendations submitted to SDSD and, as of this writing, are under review.**
6	2019-091	1. It is recommended that the SDSD revises its SDSD P&P Section 6.131 - Body Worn Camera, as well as in its SDSD Patrol Procedures Manual, that deputies be required to activate their BWC, as well as the audio, for all dispatch calls involving contact with citizens and interviews, searches, traffic stops, and more, absent of discussing personal, tactical, and/or sensitive information.	**Recommendation submitted to SDSD and, as of this writing, is under review.**
7	2019-116	1. It is recommended that the SDSD includes 'medical emergencies' and 'death' as a reason to make an "Inmate Incident" notation in the Jail Information Management System, Area Activity Summary Report.	**Recommendation implemented.**

Budget

CLERB Two-Year Adopted Operational Plan Budget

The County of San Diego Adopted Operational Plan is the Board of Supervisors' two-year financial plan that allocates resources to specific programs and services that support the County's long-term goals; it includes the adopted budget for the first year and a tentative budget that is approved in principle for the second year.

Line Item Category	FY 2019-20	FY 2020-21
Total Expenses	**$986,564**	**$1,501,491**
Salaries & Benefits	$787,843	$1,237,779
Services & Supplies	$198,721	$263,712
General Revenue	**$986,564**	**$1,501,491**
Employee Positions	**5**	**8**

Source: https://www.sandiegocounty.gov/content/dam/sdc/auditor/pdf/adoptedplan_20-22_fgg.pdf

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.

Note: A **One-Year Summary Dismissal** occurs when a case is summarily dismissed as it was not completed within the year stated by CLERB's Rules & Regulations, Section 15.d: *Case investigation is not completed within one year, not including applicable tolling exemptions; Staff shall submit the case to CLERB for Summary Dismissal.*

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.

Appendices

APPENDIX A: SAN DIEGO COUNTY CHARTER SECTION 606

APPENDIX B: SAN DIEGO ADMINISTATIVE CODE, ARTICLE XVII

APPENDIX C: CITIZENS; LAW ENFORCEMENT REVIEW BOARD RULES AND REGULATIONS

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) Investigate the following incidents regardless of whether a citizen complaint regarding such incident has been filed:

(1) 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. 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.
(2) Incidents involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department.
(3) The use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department resulting in great bodily injury.
(4) The use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department at protests or other events protected by the First Amendment.

(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 and present the annual report to the Board of Supervisors within 60 days of its adoption by the Review Board.

(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; amended by Ord. No. 10585 (N.S.), effective 2-7-19; amended by Ord. No. 10690 (N.S.), effective 12-17-20)

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 December 17, 2020

SECTION 1: MISSION AND PURPOSE

1.1 Mission. CLERB's mission is to increase public confidence in and accountability of peace officers employed by the Sheriff's Department or the Probation Department by conducting independent, thorough, timely, and impartial reviews of Complaints of misconduct and deaths and other specified incidents arising out of or in connection with actions of peace officers.

1.2 Purpose. The purpose of these Rules and Regulations is to facilitate the operation of the Citizens' Law Enforcement Review Board (hereinafter referred to as CLERB), including the review of 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 San Diego County Code of Administrative Ordinances). Complaints subject to review are those that 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 CLERB, as more fully described in Section 4 below.

CLERB shall receive, review, investigate and report on Complaints in accordance with these Rules and Regulations. These rules are to provide for the independent, thorough, timely, and impartial investigation of Complaints and deaths of individuals arising out of or in connection with actions of peace officers and custodial officers employed by the Sheriff's Department or the Probation Department and other specified incidents in a manner that a) protects both the public and the Departments, Sheriff and Probation, that are involved in such Complaints, and b) enhances the relationship and mutual respect between the Departments and the public they serve.

CLERB shall publicize the review process to the extent permitted by law in a manner that 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. CLERB 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 and Regulations, unless plainly evident from the context that a different meaning is intended, the following terms mean:

2.1 "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 official duties or the exercise of peace officer authority.

2.2 "Case" A Complaint or investigation of an incident not requiring a Complaint.

2.3 "Chair" The Chairperson of CLERB or the Vice Chairperson if the Chairperson is not able to preside.

2.4 "CLERB" The 11 member Citizens' Law Enforcement Review Board nominated and appointed in accordance with the provisions of the Ordinance.

2.5 "Complainant" Any person 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 official duties or the exercise of peace officer or custodial officer authority and who files a Complaint with CLERB.

2.6 "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 Section 4.1 of a peace officer or custodial officer in the performance of official duties or the exercise of peace officer authority.

2.7 "County" County of San Diego, California

2.8 "Criminal Conduct" Conduct punishable under any applicable criminal law.

2.9 "Filed" The status of a Complaint signed under penalty of perjury.

2.10 "Investigative Hearing Panel" A three (3) member subcommittee of CLERB selected to conduct an Investigative Hearing of a Complaint, and make appropriate findings and recommendations to CLERB based on the hearing.

2.11 "Lodged" The status of a Complaint not signed under penalty of perjury.

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

2.13 "PreponderanceEvidence that has more convincing force than that opposed to it. of the Evidence"

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

2.15 "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 a Complaint has been filed alleging improper or illegal conduct as set forth in Section 4.1 or about whom an investigation is undertaken without the filing of a Complaint as set forth in Section 4.3.

SECTION 3: ORGANIZATION AND MEETINGS

3.1 Composition of CLERB. CLERB shall consist of 11 members nominated by the Chief Administrative Officer and appointed by the Board of Supervisors. Each CLERB 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 years. A member shall serve on CLERB 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 terms for all persons who are the initial appointees to CLERB shall be deemed to commence on July 1, 1991.

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

3.3 Vacancies on CLERB. A vacancy on CLERB shall occur as a result 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 CLERB, or,

(e) Failure to attend and satisfactorily complete the required training course as defined in Section 3.6 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 CLERB member shall be notified of the vacancy by the Chair. Vacancies shall be filled within 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 CLERB shall serve without compensation, except that they shall be reimbursed for expenses incurred in performing their duties in accordance with provisions of the County Code of Administrative Ordinances regulating reimbursement to County officers and employees.

3.5 Officers of CLERB. The members of CLERB shall elect annually from its membership the following officers: a Chair, a Vice Chair, and a Secretary. The term of office shall be for one year or until the successor has been elected. No member shall hold more than one office at a time, and no member shall be eligible to serve more than two consecutive terms in the same office. The duties of the Officers shall be as follows:

(a) Chair: The Chair shall preside over all meetings of CLERB 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 CLERB and the rulings of CLERB are faithfully executed. The Chair or his or her designee shall act as the spokesperson in all matters pertaining to CLERB including dealings with the media.

The Chair shall sign all documents on behalf of CLERB, with the exception of Meeting Minutes, after the same have been approved by CLERB and shall perform such other duties and delegated responsibilities as may be imposed upon him or her by CLERB. The Chair shall designate all members of subcommittees and be an ex-officio voting 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 CLERB and have not selected a Chair Pro Tem, CLERB shall select a Chair Pro Tem who shall perform all the duties of the Chair.

(d) Secretary: The Secretary or designee shall keep a true and correct record of all proceedings of CLERB. The Secretary or designee shall have custody of all reports, books, papers, and records of CLERB. The Secretary or designee keeps the roll, certifies the presence of a quorum, and maintains a list of all active members.

(e) Secretary Pro Tem: In the absence of the Secretary, CLERB 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 CLERB. Each member of CLERB 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 CLERB and automatically create a vacancy.

The orientation and training program includes familiarization with the following:

(a) County Government structure and CLERB operations;

(b) County Charter, County Code of Administrative Ordinances, Brown Act, and State Law pertaining to procedural conduct of CLERB;

(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 community rights; and

(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. CLERB shall establish a regular meeting schedule and shall give public notice of the time and place of the meetings. The address of CLERB shall be posted on CLERB's official website:

https://www.sandiegocounty.gov/clerb.html

All regular and special meetings of CLERB shall be held at the County Administration Center, Room 302/303, 1600 Pacific Highway, San Diego, or at any other public place as designated by the Chair.

The meetings and business of CLERB 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 CLERB may be included on the agenda only with the approval of the Chair; provided, however, CLERB 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 the Ralph M. Brown Act, Section 54950 et seq., of the California Government Code.

(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 CLERB shall constitute a quorum.

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

(f) CLERB's legal counsel will normally be present for all meetings of CLERB.

(g) In all procedures not provided for by these Rules and Regulations, or the Ordinance, CLERB shall be governed by Robert's Rules of Order, Newly Revised.

(h) CLERB 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 CLERB as appropriate; however, no subcommittee shall consist of a quorum of CLERB.

(j) Members and the chairperson of each subcommittee shall be designated by the Chair of CLERB.

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

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

1. Roll Call.
2. Approval of Minutes.
3. Public Comments.
4. Presentation/Training.
5. Executive Officer's Report.
6. Chair's Report.
7. New Business.
8. Unfinished Business.
9. Board Member Comments
10. Sheriff/Probation Liaison Query.
11. Recess to closed session, if appropriate.
12. Adjourn.

3.8 Special Meetings of CLERB. Special meetings may be held at the call of the Chair, or the Vice-Chair in the absence of the Chair. In addition, upon petition of a quorum of CLERB, the Chair shall call a special meeting of CLERB. CLERB members will be given at least a twenty-four hour 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 CLERB Staff. CLERB shall appoint personnel in support of CLERB as may be authorized by the Board of Supervisors. The Board of Supervisors has also authorized the hiring of outside, independent legal counsel for CLERB.

The Executive Officer shall recommend for approval by CLERB a specific candidate to fill a staff position. CLERB 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 Complaints. The daily operations of CLERB, 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 CLERB.

CLERB shall conduct an annual performance evaluation of the Executive Officer.

SECTION 4: AUTHORITY, JURISDICTION, DUTIES AND RESPONSIBILITIES OF CLERB

4.1 Complaints: Authority. Pursuant to the Ordinance, CLERB shall have authority to receive, review, investigate, and report on Complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department that 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.

4.1.1 Complaints: Prerequisite. Except as provided in Section 4.3 below, CLERB shall have no authority with respect to improper activities as set forth in Section 4.1 above to take action in regard to incidents for which no Complaint has been filed with CLERB.

4.1.2 Complaints: Jurisdiction. CLERB shall have jurisdiction in respect to all Complaints arising out of incidents occurring on or after November 7, 1990. Notwithstanding the foregoing, CLERB 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 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 prevented from timely filing a Complaint by reason of incarceration or physical or mental incapacity. Mental incapacity shall be proven by qualified medical opinion, and not based on the Complainant's unskilled observations or general averments. Physician's declarations should contain a comprehensive diagnosis of the Complainant's condition during the filing period and, additionally, should focus on whether the incapacity prevented the Complainant from filing a Complaint.

The statement submitted to CLERB pursuant to this section shall be in writing and attested to under penalty of perjury as provided by Section 5.5 of these rules.

4.1.3 Complaints: Notification of Disposition. CLERB shall notify in writing any person having filed a Complaint with CLERB of the disposition of the Complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of 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."

4.2 "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 person arising out of the performance of the peace officer's or custodial officer's official duties 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 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 Complaint Not Required: Jurisdiction with Respect to Specified Incidents. CLERB shall have authority to review, investigate, and report on the following categories of incidents, regardless of whether a Complaint has been filed:

(a) 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 official duties. CLERB shall have jurisdiction in respect to all deaths of individuals coming within the provisions of this subsection occurring on or after November 7, 1990. Notwithstanding the foregoing, CLERB may not commence review or investigation of any death of an individual coming within the provisions of this Section 4.3(a) 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 herein.

(b) Incidents involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department.

(c) The use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department resulting in great bodily injury.

(d) The use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department at protests or other events protected by the First Amendment.

4.4 Other Duties and Responsibilities. CLERB 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 CLERB in respect to the activities of peace officers or custodial officers, including recommendations relating to any trends in regard to employees involved in Complaints. CLERB 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 CLERB including the tracking and identification of trends in respect to all Complaints received and investigated during the reporting period and present the annual report to the Board of Supervisors within 60 days of its adoption by CLERB.

(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.

(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, review, investigation,

reporting on, and disposition of Complaints regarding alleged activity set forth in Section 4.1 by peace officers or custodial officers of the County of San Diego in the Sheriff' s Department and the Probation Department:

(a) It is the policy of CLERB to encourage persons 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 CLERB. CLERB will attempt to assist and accommodate Complainants regarding the Complaint filing process.

(b) The investigation of Complaints shall be conducted in an ethical, independent, thorough, timely, fair, and impartial manner.

(c) Complaints will be screened, reviewed, and investigated (where appropriate), and disposed of in accordance with the procedures set forth in these Rules and Regulations.

(d) As promptly as possible, Complaints received by CLERB shall be transmitted by the Executive Officer to the Sheriff or the Chief Probation Officer.

(e) CLERB will make every effort to consider and to respond to Complaints against peace officers or custodial officers and investigate when necessary.

(f) 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 the right to lodge a Complaint. Notwithstanding the foregoing, no Complaint shall be investigated, however, until a written Complaint has been received by CLERB or a member of its staff, which Complaint has been signed and the truth of the Complaint attested to, under penalty of perjury, by the Complainant.

(g) 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.

(h) To the extent possible consistent with its duties and responsibilities, CLERB 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 Defender, so that the other public officers and CLERB 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 CLERB by a person on behalf of himself or herself or on behalf of an Aggrieved Person by any interested person or group. A Complaint shall be considered received by CLERB at the time it is lodged. However, no Complaint will be deemed to have been filed with CLERB unless and until (i) the Complaint has been reduced to writing on CLERB's complaint form with the truth of the Complaint attested to under penalty of perjury and (ii) all other forms required by this Section have been completed and signed by the Complainant in accordance with the following procedures:

(a) Required forms consist of the following, which may be modified from time to time by the Executive Officer:

1. CLERB's Complaint form
2. Request for Investigation of Complaint & Agreement Not to Subpoena Citizens' Law Enforcement Review Board Personnel or Records, and
3. Authorization to Use or Disclose Protected Health Information, if applicable.

(b) If the Complaint is lodged in person, CLERB 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.

(c) If the Complaint is lodged by mail, the Complaint form shall be completed by CLERB staff on the basis of the information contained within the correspondence. CLERB 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 CLERB office.

(d) If the Complaint is lodged by telephone, CLERB 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 CLERB employee taking the Complaint shall give his or her name to the Complainant. The CLERB staff shall furnish the Complainant with a copy of the completed form, together with a request for verification of the accuracy and a signature.

(e) 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 (c) or (d) above.

5.3 Who May File Complaint. Complaints shall include Complaints received from any person 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 4.1.2 of these Rules and Regulations.

5.5 Complaint Form. CLERB shall cause all Complaints received by it to be reduced to writing. Unless CLERB has received another writing setting forth the substance of the Complaint signed by the Complainant, CLERB shall furnish the Complaint form to the Complainant advising that the Complaint will not be deemed to have been filed with CLERB until and unless it is reduced to writing. In order for a Complaint to be deemed filed, the Complainant shall attest to the truthfulness of a written Complaint under penalty of perjury in the following manner, or by words of similar effect: "I hereby certify under penalty of perjury under the laws of the State of California that to the best of my knowledge, the statements made herein are true."

5.6 Recording of Complaints. CLERB 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. Disclosure of information from the central register shall be in compliance with applicable law. The central register shall contain the following:

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

(b) CLERB-assigned Complaint Number,

(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) Date the Investigative Report was completed, if applicable,

(g) Results of CLERB's consideration and/or investigation, if any,

(h) 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 Complaint of conduct, unless the Executive Officer or a CLERB member recommends that the investigation continue and CLERB, in its discretion, concurs.

5.8 Termination, Resignation, or Retirement of Subject Officer. CLERB shall have the discretion to continue or terminate an investigation, if, after a Complaint is filed and before CLERB 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 CLERB when the Subject Officer's employment is terminated.

SECTION 6: COOPERATION AND COORDINATION

In the discharge of its duties, CLERB shall receive complete and prompt cooperation from all officers and employees of the County. CLERB 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 CLERB can fully and properly perform their respective duties.

Such cooperation shall include responding to written questions during the investigation, 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.

CLERB shall attempt to avoid contacting any Subject Officer at home. CLERB shall attempt to get the Subject Officer's work schedule prior to scheduling an interview or investigative hearing. CLERB shall attempt to avoid scheduling interviews or investigative hearings on a Subject Officer's regular days off, scheduled vacation or authorized leave of absence. Representatives assigned by the Sheriff's and Probation Department as liaisons to CLERB will coordinate the requested interviews.

SECTION 7: SUBPOENAS AND OATHS

CLERB shall, pursuant to the Charter of the County of San Diego, Section 606, subd. (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. A subpoena issued under this Section 7 shall be issued and signed by the Executive Officer or his or her designee.

SECTION 8: CONFIDENTIALITY OF RECORDS

Any personnel records, Complaints against peace officers or custodial officers in the Sheriff's Department or the Probation Department, and information obtained from these records, that are in the possession of CLERB or its staff, shall be confidential and shall not be disclosed to any member of the public, including the Complainant, except in accordance with applicable law.

Copies of records and Complaints of CLERB shall be made available to the Sheriff or the Probation Officer upon completion of the investigation of CLERB unless prohibited by applicable law.

The disclosure of information, including, but not limited to, the identification of the Subject Officer, in CLERB's meeting agenda, public documents, and other public reports shall be in compliance with applicable law.

SECTION 9: INVESTIGATION OF CASES

9.1 Screening of Complaints.

(a) Filed Complaints shall be referred to the Executive Officer for investigation. Each Complaint will be initially screened by staff for jurisdiction and priority.

(b) The Executive Officer may periodically advise CLERB as to the progress and status of each Complaint.

(c) CLERB staff may periodically advise the Complainant and the Subject Officer(s) as to the status of a Complaint.

9.2 Scope of Investigation. The investigation of a Complaint may include, but need not be limited to, the following:

(a) Interviews with the Complainant, the Aggrieved Person, each Subject Officer, and witnesses or other persons likely to have information concerning the Complaint;
(b) Sheriff's Department and Probation Department employee response forms;
(c) Examination of the scene of the incident;
(d) Viewing and analyzing physical evidence associated with the alleged incident;
(e) Review, analysis, and preservation of other physical evidence including videos and photographs.

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, departmental personnel shall provide the Subject Officer with the "Lybarger warning" when required under the appropriate circumstances.

9.3 Documenting Investigative Activities. It shall be the responsibility of the investigator to document each step in the investigation and the result thereof in an investigation report.

9.4 Written Statements. CLERB investigators shall attempt to secure written statements signed under penalty of perjury 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 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.

9.5 Recording of Interviews. Interviews and statements may be tape-recorded by the CLERB investigator. Such recordings shall be kept and preserved until the case is completed by CLERB and its findings distributed to any appropriate agency or official as may be required by law.

9.6 Deferment of Investigation. CLERB may toll its investigation of a Complaint pursuant to applicable tolling exemptions under the Peace Officers' Procedural Bill of Rights (POBR). CLERB reserves the right to commence immediate investigations, or to defer investigations, in all other cases depending upon CLERB priorities and available resources.

9.7 Investigative Report. At the conclusion of the investigation and prior to placement on a CLERB agenda, the CLERB investigator shall complete an Investigative Report that sets forth the names of the Complainant, the Aggrieved Person, the Subject Officer, in compliance with applicable law, and a summary of the investigation.

9.8 CLERB Options After Receipt of Investigative Report. After receipt of the Investigative Report, CLERB shall take action it deems appropriate for disposition of the allegations of the Complaint, including the following options:

(a) 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 9.9; or

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

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

(d) Defer further action on the Complaint; or

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

(f) Conduct an Investigative Hearing or Hearings, pursuant to Sections 10-14.

9.9 Disposition by CLERB without an Investigative Hearing. If CLERB decides to review and determine a Complaint based on the Investigative Report and investigative file evidence, but without an Investigative Hearing, CLERB shall apply the standard of proof set forth in Section 14.8 and shall follow the Final Report process set forth in Sections 16.1-16.4. If the Executive Officer recommends that CLERB make a determination on a Complaint without an Investigative Hearing, the Subject Officer and representative and Complainants shall have an opportunity to: (a) review the Investigative Report in compliance with applicable law and; (b) submit additional evidence prior to the determination of the Complaint by CLERB.

9.10 File Accessibility. Every member of CLERB shall have full access to all Complaints and files maintained by CLERB or its staff.

9.11 Notification to Parties. Upon completion of the Investigative Report, CLERB staff shall provide the Complainant, Aggrieved Person, and each Subject Officer the following:

(a) Written notice that the Complaint will be considered by CLERB including an explanation of the process.

(b) The content of the Investigative Report to the extent permitted by applicable law. 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.

(c) 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.

(d) A copy of or a link to these Rules and Regulations.

SECTION 10: DETERMINING WHEN AN INVESTIGATIVE HEARING IS NECESSARY

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

10.2 When an Investigative Hearing is Necessary. An Investigative Hearing will be conducted, in accordance with the procedures for such hearings set forth in Sections 11-15, when CLERB 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 that 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) An Investigative 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 CLERB when authorizing an Investigative Hearing, and all interested parties to the Complaint shall be informed of any limitation in scope when notified of the Investigative Hearing.

SECTION 11: NO CONTEST RESPONSE

A Subject Officer may enter a written response of "no contest" at any time prior to an Investigative 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 CLERB.

SECTION 12: INVESTIGATIVE HEARING

12.1 Composition of Investigative Hearing. Except as otherwise provided in this Section 12.1, an Investigative Hearing will be performed by an Investigative Hearing Panel of CLERB, which shall consist of three members of CLERB, 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 CLERB shall decide, CLERB will sit as a Board of the Whole with a minimum of six Board members present.

12.2 Selection of Three-Person Investigative Hearing Panels.

(a) Selection of three-person Investigative Hearing Panels under this section shall be made by rotation among CLERB members, as appointed by the Chair, using any basis (including lottery) that balances the workload among CLERB members. A CLERB 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 CLERB member is so excused, another CLERB member shall be reassigned by the Chair.

(b) If an Investigative Hearing Panel is unable to meet to convene an Investigative Hearing on a scheduled date due to the unavailability for any reason of one or more of its members, or if an Investigative Hearing Panel agrees to reschedule an Investigative 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 Investigative Hearing Panel may be re-assigned to another Investigative Hearing Panel. However once an Investigative Hearing of a case has been convened by an Investigative Hearing Panel, the same Investigative Hearing Panel shall consider the case to final disposition.

12.3 Challenges of CLERB Members.

(a) Challenge for Conflict of Interest or Bias. A CLERB member sitting on an Investigative Hearing Panel shall consider all Complaints in a fair and impartial manner. A CLERB member who has a personal bias or prejudice, or the appearance thereof, in the outcome of a Complaint shall not sit on the Investigative 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; and/or

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

(b) Procedure for Challenges. Within five calendar days after the date on which CLERB furnishes notice of an Investigative Hearing, including the names of the CLERB members constituting that Investigative Hearing Panel, any party to the Complaint may file a written challenge for cause to any CLERB 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 Chair shall contact the challenged CLERB member as soon as possible, and if the CLERB member agrees that the challenge is for good cause, or otherwise agrees, the Chair shall ask another CLERB member to serve. If the challenged CLERB member does not agree that the challenge is for good cause, the Chair may poll the other two members of the Investigative Hearing Panel, and if both agree that the challenge is for good cause, the Chair shall so notify the challenged CLERB member and ask another to serve. If a challenge to a CLERB member is rejected and the member serves, the written challenge and the CLERB member written response shall be incorporated in the investigative case file as part of the record of the Complaint.

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

12.4 Public Comments. CLERB members shall avoid public comment on the substance of particular pending complaints and investigations and shall preserve the confidentiality of closed session meetings in accordance with applicable law.

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 CLERB; or, as to Investigative Hearings before an Investigative Hearing Panel, by the Presiding Member for any other appropriate time.

13.2 Notice Requirements. Ten days' notice of an Investigative Hearing shall be given to the Complainant, each Subject Officer, and any other person whose attendance CLERB deems appropriate. The notice shall state the date, time, and place of the Investigative Hearing, and the names of the Investigative Hearing Panel members.

13.3 Hearings, Open or Closed to the Public. The nature of Investigative Hearings, open or closed, will be in compliance with legal standards existing at the time of the Investigative Hearing, unless the Subject Officer requests an open Investigative Hearing.

13.4 Authority to Compel Appearance. The authority of CLERB'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 CLERB.

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

(a) The Presiding Member or Chair, as applicable, will conduct the Investigative Hearing subject to being overruled by a majority of the Investigative Hearing Panel or CLERB, as applicable. Members of the Investigative Hearing Panel or CLERB, as applicable, shall be primarily responsible for obtaining testimony. One Investigative Hearing Panel member or CLERB member may be assigned by the Presiding Member or the Chair to perform the initial questioning of witnesses during an Investigative Hearing convened for a Case. Additional questions may be asked by any Investigative Hearing Panel member or CLERB member, or by a Subject Officer or his or her representative, or by an assigned CLERB staff member.

(b) At the discretion of CLERB or the Investigative Hearing Panel, 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 pursuant to the provisions detailed in Section 14.1. In the event that the Subject Officer is compelled to cooperate in an Investigative Hearing, departmental personnel shall provide the Subject Officer with the "Lybarger warning" when required under the appropriate circumstances. After the Investigative Hearing Panel has taken all relevant evidence, each party may, at the discretion of the Presiding Member or the Chair, be given an opportunity to make a closing statement.

(d) At the conclusion of any witness testimony, either the Complainant or the Subject Officer may request that CLERB or the Investigative Hearing Panel cover any additional areas of inquiry they feel need to be covered. The Chair or 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 CLERB or the Investigative 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 CLERB or the Investigative Hearing Panel to receive such material in writing without reconvening.

13.6 Deliberation. After obtaining evidence, CLERB or the Investigative Hearing Panel will deliberate in closed session. CLERB or the Investigative Hearing Panel shall not consider any information not received as part of the Investigative Hearing. CLERB or the Investigative 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.

13.7 Finding and Report by Three-Member Investigative Hearing Panel. At the conclusion of an Investigative Hearing before an Investigative Hearing Panel, the Panel members shall, by majority vote, adopt a recommended Finding with respect to the Complaint. The Investigative Hearing Panel shall not consider evidence or information obtained outside of the Investigative Hearing. The Investigative Hearing 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 CLERB in its consideration of the case. The Investigative Hearing 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 Investigative Hearing Panel determines to be pertinent to the Complaint being investigated.

13.8 Submission to Full CLERB. The written Investigative Hearing Panel report referred to in Section 13.7 shall be forwarded to all members of CLERB, and the matter calendared as soon as possible at a scheduled regular or special CLERB meeting.

A copy of the written Investigative Hearing Panel report referred to in Section 13.7, above, shall be forwarded to the extent permitted by applicable law to each Complainant and Subject Officer, together with a notice of the time and place of the CLERB meeting at which the Complaint will be considered. All Complainants and Subject Officers shall be notified that CLERB may accept written objections to the Investigative Hearing Panel report within 10 days of the date of the report.

13.9 Consideration by CLERB. CLERB shall consider the report of the Investigative Hearing Panel and any other information that may be brought to its attention at the meeting. Thereafter, CLERB may:

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

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

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

(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 agencies, or other appropriate action;

(e) Accept the Investigative Hearing Panel report as the Final Report of CLERB.

13.10 Investigative Hearings before entire CLERB. In cases that are initially heard before the entire CLERB, the interim steps required when a case is heard before a three-member Investigative Hearing Panel are not applicable.

13.11 Record of Investigative Hearing. All Investigative Hearings shall be recorded by CLERB. At the option of the Investigative Hearing Panel Presiding Member, 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, to the extent permitted by applicable law. Any record of the Investigative Hearing shall become part of the CLERB file.

SECTION 14: EVIDENCE FOR INVESTIGATIVE HEARINGS

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 that 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 and the Investigative Hearing Panel shall have the following rights:
1. to call and examine witnesses;
2. to introduce exhibits;
3. to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination;
4. to impeach any witness regardless of which party first called the witness to testify; and
5. 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, a CLERB member, or the Investigative Hearing Panel, witnesses may be excluded from the Investigative Hearing until they are called to testify.

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

(e) The rules governing privileged communications shall be effective to the extent that they are otherwise required by constitution or statute to be recognized at hearings before CLERB or the Investigative Hearing Panel.

14.2 Representatives. Each party and any witness shall have the right to have a representative of his or her choice present at all times during his or her own fact-finding interviews or Investigative Hearings conducted by or on behalf of CLERB. 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 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 CLERB 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 Investigative Hearing Panel may receive statements from those persons present and relying on the evidence received, continue with the Investigative Hearing.

14.6 Confidentiality of CLERB Records. CLERB 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 CLERB'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 and by then existing law.

14.7 Discovery.

(a) By CLERB. CLERB, 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 an Investigative Hearing, each Subject Officer may have access to or receive copies of evidence contained in CLERB's investigative file for the Complaint, except for any evidence that cannot be made available because its disclosure is prohibited by law. Parties seeking such discovery must give at least 48 hours advance notice to CLERB, either in writing or by telephone.

14.8 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 Investigative Hearing(s) or otherwise contained in the investigative record.

SECTION 15: SUMMARY DISMISSAL

After reviewing the Investigative Report and records, CLERB may summarily dismiss a Case, ("Summary Dismissal") 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 Dismissal. Summary Dismissal may be appropriate in the following circumstances:

(a) CLERB does not have jurisdiction over the subject matter of the Complaint.

(b) CLERB does not have jurisdiction because the Complaint was not timely filed.

(c) Lack of cooperation by the Complainant such that CLERB is unable to continue its investigation, such as a failure by the Complainant to respond to repeated inquiries when such response is necessary to the ongoing investigation.

(d) The Subject Officer is no longer employed by the Sheriff or Probation Departments.

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

(f) Case investigation is not completed within one year, not including applicable tolling exemptions; Staff shall submit the Case to CLERB for Summary Dismissal.

SECTION 16: CLERB FINDINGS AND RECOMMENDATIONS

16.1 Final Report by CLERB. At the conclusion of a matter before the entire CLERB, CLERB shall deliberate and adopt a final report ("Final Report") with respect to the Case or matter under consideration. This report shall include Findings as to the facts relating to any Case, as well as an overall conclusion as to any Case as specified in Section 16.2 below.

Dissenting CLERB members may set forth reasons for their dissent in writing and provide the written dissent to the Executive Officer within five days of adoption of the Final Report, and any such dissent(s) shall be included in the Final Report.

16.2 Conclusions in Final Report. The Final Report of CLERB shall contain an overall finding ("Finding") as to each allegation of the Case in the following manner:

(a) If the investigation clearly established that the allegation is not true, the Finding shall be "Unfounded."

(b) If the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation, 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 disclosed evidence sufficient to prove the allegation by a Preponderance of the Evidence, the Finding shall be "Sustained."

(e) If CLERB lacks jurisdiction or the allegation clearly lacks merit, the Finding shall be "Summary Dismissal."

A Finding of "Sustained" should include an explanation of the finding of improper conduct and may include recommendations relating to:

(a) the imposition of discipline, including the facts relied on in making such recommendations;
(b) any trends in regard to employees involved in Complaints.

16.3 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 CLERB 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 CLERB and will not be made a part of the Final Report.

16.4 Transmittal of Final Report. The Final Report adopted by CLERB shall be forwarded to the Board of Supervisors, the Sheriff or Chief Probation Officer, the Complainant, and each Subject Officer, to the extent permitted by applicable law.

16.5 Reconsideration of Final Report. Upon request by the Complainant, Subject Officer, or his or her representatives, the Final Report may be re-opened for reconsideration by CLERB provided that:

(a) previously unknown relevant evidence is discovered that was not available to CLERB 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 CLERB at the request of the Board of Supervisors or upon initiative of CLERB 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 CLERB before the request or proposal is acted upon.

SECTION 17: PROCEDURES WHEN NO COMPLAINT IS REQUIRED

In cases not requiring a Complaint as set forth in Section 4.3 above, the review, investigation, including the Investigative Hearing procedures for such cases, and adoption of a Final Report shall otherwise proceed in the same manner, pursuant to these Rules and Regulations, as in cases initiated by a Complaint.

SECTION 18: DELEGATION OF FUNCTIONS TO EXECUTIVE OFFICER

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

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 CLERB, and any such amendments are subject to approval by the Board of Supervisors. These Rules and Regulations will be subject to review by CLERB at least every four years from the last revision date.