

# ANNUAL REPORT 2018



County of San Diego  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD**



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# 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 any death that occurs in the custody of, or in connection with, actions of Deputies and Probation Officers. The Review Board is made up of 11 citizens who are appointed by the Board of Supervisors.

## Mission Statement

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

## 2018 Board Members

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

## Staff

Julio Estrada, Executive Officer\*  
Lynn Setzler, Special Investigator  
Lenore Aldridge, Special Investigator  
Ellen Bohan, Special Investigator  
Tamicha Husband, Administrative Secretary III

*\*Paul Parker was Executive Officer from January – September 2018 and Aron Hershkowitz became Interim Executive Officer from September 2018 – January 2019. Julio Estrada was appointed as Executive Officer in January 2019.*

## Office Information

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## Resumes of Review Board Members Serving in 2018

### **Sandra I. Arkin, Chairperson**

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

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

### **Delores Chavez Harmes, Vice Chair**

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

### **Kim-Thoa Hoang, Secretary**

After 25 years of service in the public sector, Kim-Thoa Hoang joined the management team as Director of the Union of Pan Asian Communities (UPAC), Economic Development and Housing Counseling Division. She began her new position with UP AC after her retirement from the San Diego County District Attorney's Office in late December 2012.

A graduate from California Western School of Law, she started her law career as a deputy city attorney at the San Diego City Attorney's Office then became a research attorney with the San Diego Superior Court, before joining the San Diego County District Attorney's Office as a deputy district attorney in 1991. In 2003, she was selected to join the District Attorney's Management Team and served as division chief for over seven years, overseeing, respectively, the Appellate Division and the Restitution Enforcement & Victim Services Division.

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



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

In May 2012, she was honored by the San Diego County Bar Association with their Diversity Service Award. In October 2012, she was a feature speaker at *Leading the West: The 2012 Southern California Leadership Symposium and Career Exhibit* organized by the National Association of Asian American Professionals in San Diego. Her community involvement includes her prior five-year service as a board member of the Pan Asian Lawyers of San Diego; serving on the Registrar of Voter's Advisory Board and helping the ROV develop and implement the Language Assistance Program; serving on the San Diego Police Department Chiefs Community Advisory Board. She regularly serves as Mistress of Ceremonies for cultural and civic events in the Vietnamese community including the yearly Tet (New Year) festivals.

### **Gary Brown**

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

### **Jordan Gascon**

Mr. Gascon, a resident of Alpine, is the President and Founder of the Helping Our Public Spaces (HOPS) Foundation. He is also the Political Director of the Republican Party of San Diego County. He was previously a Field Director for the American for Prosperity Foundation in Westminster, Colorado, the Interim Director of Hispanic Initiatives/Regional Field Director of the Colorado Republican Committee, an Intern in the San Diego Mayor's Office, and an Intern at Panigram Resort, Ltd., in Jessore, Bangladesh. He has a Bachelor of Arts in International Security and Conflict Resolution (ISCOR) from San Diego State University and a Master of Arts in Diplomacy from Norwich (Vermont) University, where he graduated summa cum laude.

### **P. Darrel Harrison**

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

### **James B. Lasswell**

A resident of San Diego, Mr. Lasswell is the President and CEO of INDUS Technology, a Service-Disabled Veteran Owned Small Business that provides engineering, technical financial, and program management services for government and industry clients. He currently serves on the Board of Directors for the National Defense Industrial Association (NDIA) San Diego Chapter, and formerly serviced on the Board of Directors for the United Servicemen's Organization (USO) San Diego. He holds a Bachelor of Science Degree in



electrical engineering from the United States Naval Academy, a Master of Science, Engineering Acoustics from the U.S. Navy Postgraduate School, a Master of Science Systems Management from the University of Southern California, and a Master's in Business Administration from Virginia Polytechnic Institute.

**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.

**Robert Spriggs**

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

**Gary I. Wilson**

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

**Susan Youngflesh**

Ms. Youngflesh is the Associate General Counsel and Privacy Officer for the San Diego City Employees' Retirement System. As an attorney 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.



## Message from the Chair

2018 was another year of change for the Citizens' Law Enforcement Review Board (CLERB). The Board and Staff worked through the issues and made CLERB a stronger organization than ever. I'll go into the details later. Here is a recap:

- Consistent and organized procedures for case investigations were instituted
- Seven Policy recommendations were developed
- Two new Special Investigators were hired
- The Rules and Regulations subcommittee continued to update the Rules and Regulations for the first time since 2003
- The Grand Jury issued a report concerning CLERB and CLERB responded
- An Annual Performance Evaluation for the Executive Officer was created for the first time in many years
- An Annual Report for 2017 was created by the Staff and approved by the Board in June 2018
- An outline for Jail Inspections was created
- A new Sheriff's Department Liaison was appointed
- For the first time in CLERB's history, a Board Policy and Procedure Manual was created
- Our Executive Officer left CLERB and took a job in Los Angeles in September
- An Interim Executive Officer was appointed
- An Executive Officer Search Committee was formed, and a new Executive Officer was hired after a nationwide search
- A Nominating Committee was appointed, and 2018 officers were elected

### THE DETAILS:

- Paul Parker, the Executive Officer for much of 2018, developed a comprehensive set of procedures for tracking cases to ensure that no case exceeds the one-year time limit for investigating cases. Cases are now being investigated by date due. Mr. Parker instituted a new case triage system, began an internal Policy and Procedure Manual, and began a Special Investigator Training Program. He also provided the Board with information about CLERB's newly tightened Internal Processes which included a comparison of Complaint cases versus Death cases, the Intake Investigator's tasks, and the Investigation process.
- One of CLERB's responsibilities is to recommend Policy and Procedure changes to the Sheriff's and Probation Departments when issues arise in cases that CLERB investigates. Since 1999, 74 Policy recommendations have been made to the Sheriff's and Probation Departments. The Sheriff's and Probation Departments are appreciative of the thoughtfulness with which CLERB analyzes policies and procedures and makes recommendations, always with the purpose of improving service to the community.
- Because of the Sheriff's Department decision to use Body Worn Cameras by Sheriff's deputies, the amount of time CLERB Staff needs to review the footage and investigate the cases has increased. Additionally, because the Executive Officer investigated an equal number of cases to the two Special Investigators, community outreach and administrative needs were not being met. Therefore, the County determined that in order to ensure that cases were investigated in a timely fashion, funds were allocated for an additional Special Investigator. Former Special Investigator Mark Watkins left CLERB in early 2018 so CLERB needed to hire two Special Investigators. Aron



Hershkowitz and Lenore Aldridge were hired in March 2018 as Special Investigators to join Special Investigator Lynn Setzler.

- The Rules and Regulations were a continuing project and after many meetings, the draft was finally completed in late 2018. They were reviewed by County Counsel. Because of need for the Sheriff's Department and Probation Department's Labor Relations to review them as well, they could not be adopted in 2018 but the goal is to meet with the Labor Relations groups in early 2019 so the Rules and Regulations can be presented to the Board of Supervisors for final adoption. Many thanks to the committee chaired by Kim-Thoa Hoang along with members James Lasswell, Gary Brown, Sandra Arkin, Lynn Setzler, and Paul Parker.
- Because of the concerns of the San Diego County Grand Jury concerning the 22 death investigations that had to be Summarily Dismissed in late 2017 due to the one-year time limit being exceeded, CLERB was investigated with emphasis on how cases are handled and how CLERB is managed. Since Grand Jury deliberations are confidential, it is unknown who was interviewed to create their report which was issued in May 2018. CLERB then had 90 days to respond to the Grand Jury's Findings and Recommendations that were the direct responsibility of CLERB. (Some of the Findings and Recommendations were answered by the County's Chief Administrative Officer and the County's Public Safety Group). CLERB's responses were sent to the Grand Jury by August 28 as required.
- In March, a request for input concerning Executive Officer Paul Parker's Annual Performance Evaluation was sent to CLERB members, staff, and other stakeholders. The Board Chair met with Mr. Parker at the end of June to present him with the collated Annual Performance Evaluation and it was signed on June 30.
- The Annual Report for 2017 was created on time and was approved by the Board. Mr. Parker was commended for the thoroughness and diligence in finishing this project in a timely fashion.
- Disability Rights California reported on how people with disabilities are protected in the jails. They expressed their concern about some incidents in San Diego County jails and recommended that CLERB evaluate jail operations on a yearly basis. Since that responsibility is in the current Rules and Regulations and will be in the updated Rules and Regulations recommended for adoption by the Board of Supervisors, a committee was formed to develop a Jail Inspection Handbook. Chaired by Board Member Susan Youngflesh, the Committee consisted of Gary Brown, Jordan Gascon, Gary Wilson, Sandra Arkin, and Paul Parker. The Board adopted the Handbook in August.
- Sergeant Joel Stranger, who had been CLERB's Sheriff's liaison from July 2017 to July 2018, was promoted to Lieutenant in July 2018 and was reassigned. The Board is grateful to Sergeant Stranger for his dedication, expertise, and knowledge. Our new liaison will be Sergeant Aaron Meleen. Lieutenant David Gilmore also attends CLERB's open session meetings. The Probation Department is represented by Supervising Probation Officers Ross Lewis, Brian Barnum, and Irene Lilly. The liaisons attend the meetings to answer any questions the Board may have.
- Since the Board was lacking a Policy and Procedure Manual that explains how it operates, a committee consisting of Kim-Thoa Hoang, Jordan Gascon, and Sandra Arkin developed one. It was approved by the Board in August.
- Paul Parker, the Executive Officer who began to work for CLERB in June 2017, was recruited by the Los Angeles Medical Examiner-Coroner's Office to run its operation as the Chief Deputy Director. It was an offer that Mr. Parker could not refuse so he accepted the job and left CLERB in September 2018. The Board is extremely grateful to Mr. Parker for the tremendous job he did for CLERB in the year that he was with us.
- In order to keep CLERB running smoothly after Mr. Parker left and before a new Executive Officer could be hired, Special Investigator Aron Hershkowitz agreed to become the Interim Executive Officer. The Board is grateful to Mr. Hershkowitz for taking on these additional responsibilities.
- Delores-Chavez Harmes chaired the Executive Search Committee which consisted of Lourdes Silva, Jordan Gascon, and Sandra Arkin. Shontay Turner, Human Relations Manager from the



Public Safety Group, provided vital and much appreciated assistance to the Committee in terms of developing the job posting, organizing and rating the applications, and advising the Committee on the interview process. The Committee received dozens of applications, and, after a comprehensive review and interviews, hired Julio Estrada as the new Executive Officer. Mr. Estrada has worked for the County for 25 years, with 21 years spent in the Medical Examiner's office in addition to a stint at CLERB, bringing with him a wealth of experience, knowledge, and commitment. We welcome him and look forward to working with him.

- A Nominating Committee to select 2019 Board officers was formed. James Lasswell was appointed as Chair with Kim-Thoa Hoang, Delores Chavez-Harmes, and Sandra Arkin serving on the Committee. In December, the Board elected the following officers for 2019:
  - Chair: Kim-Thoa Hoang
  - Vice-Chair: Jordan Gascon
  - Secretary: Susan Youngflesh

Obviously, our all-volunteer Board was quite busy in 2018. We will continue to develop procedures for ensuring that we fulfill our Mission:

*"We 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 arising out of or in connection with actions of peace officers."*

CLERB members, all volunteers from the five Supervisorial districts, donate hundreds of hours reviewing cases, attending Board meetings, developing policy and procedure recommendations for the Sheriff's Department and the Probation Department, serving on committees, and attending trainings. They recognize that CLERB is a very significant contributor to the community's welfare to ensure that Complaints are taken seriously, and that death investigations are conducted appropriately.

CLERB remains a strong and viable organization that provides an invaluable service to the public and to the Sheriff's Department and Probation Department in its important role as their civilian oversight agency. Since CLERB was established in 1990, we have investigated over 2200 complaints, completed over 400 death investigations, and recommended many policy and procedure changes to both departments. We believe that our role is not as an advocate for the public or for law enforcement but rather for a process that is independent, thorough, timely, and impartial. We will continue to strive to fulfill that belief.

SANDRA I. ARKIN  
Chairperson, 2018



## Message from the Executive Officer

My first day as the CLERB Executive Officer was January 18, 2019. I bring to CLERB approximately 22 years of medicolegal death investigation experience, and over 20 years of total management experience. In addition, for almost two years, in the year 2008, I was a CLERB Special Investigator. During that time, I conducted 95 independent investigations.

I consider myself fortunate to be part of the CLERB staff team. I joined the organization during a time of numerous improvements in the investigative process. Cases are effectively closed within the one-year Public Safety Officers Procedural Bill of Rights (POBR) time limitation, as detailed in California Government Code Section 3304(d). It is my plan to continue with that effort and maintain internal accountability by establishing performance measures for an effective monitoring of progress.

One of my goals is to increase transparency by keeping the county residents informed of CLERB activities in a timely fashion. I also want to increase the number of outreach activities to those in the community who are not aware of the services that CLERB provides. In the few months that I have been the Executive Officer, CLERB has already completed five outreach activities in the county. I also believe that the trust in our department must be earned, in an effort to increase cooperation and trust in what we do, we have participated in several trainings in the Sheriff's Department Supervisors Academy as well as training to sworn and non-sworn personnel at the Probation Department.

An operational goal is to review and improve the Jail Inspection guidelines and complete a minimum of one facility inspection before the end of the year.

I would like to thank the Board members for their trust in me and offer a sincere thank you to former Board Chair Kim-Thoa Hoang for her patience and guidance and for helping me in my transition as the Executive Officer. I would also like to recognize the support provided to me by Lieutenants David Gilmore and Scott Amos, and Aaron Meleen of the Sheriff's Department Division of Inspectional Services. I also thank Supervising Probation Officers Ross Lewin, Brian Barnum and Irene Lilly, of the Probation Department for their assistance and dedication to civilian oversight of their respective Departments. I would also like to thank all personnel of the County's Public Safety Group Executive Office under the direction of Ron Lane; each of them provided me assistance, guidance, and support in their respective areas of expertise; I have been able to learn so much from them. 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. Finally, I would like to thank Lenore Aldridge, Ellen Bohan, Aron Hershkowitz, Tamicha Husband, and Lynn Setzler for their guidance and support.



# Data

## General Data Overview

### New Cases

The Review Board logged **155** complaints in 2018; a 2% increase from the **152** complaints received in 2017. Allegations totaled **670** in 2018; a 26% increase from the **531** allegations in 2017. Death cases decreased in 2018, with **24**<sup>1</sup> reported, a 14% decrease from the **28** in 2017.

Total complaints are broken into three segments by count and percentage: Sheriff's law enforcement, which includes Court Services and units that could not be identified; Sheriff's jails; and the Probation Department. In 2018, Sheriff's law enforcement had **86** complaints or 56% of the total (compared to **69** or 45% in 2017); Sheriff's jails had **63** complaints or 41% (compared to **60**, or 39%, in 2017); and the Probation Department had **6** complaints or 4% of total (compared to **10** complaints or 7% in 2017).

San Diego Central Jail had the most complaints with **31** (a 15% increase from the **27** in 2017). The North Coastal and Vista Patrol Stations had the highest number of patrol station complaints, each with **7**.

Staff referred **76** callers to other departments/agencies/entities.

### Closed Cases

The Review Board met **12** times and closed **170** cases during the year, compared to meeting **11** times closing **111** cases in 2017; a 53% increase in case closures. Of the **170** cases closed by Board Action, **13** cases were submitted to the Review Board for Summary Dismissal following an abbreviated investigation of a signed complaint. These cases were dismissed for lack of jurisdiction or because further investigation was not possible without the complainant's cooperation. This was an 28% decrease from the **18** cases Summarily Dismissed by the Review Board in 2017.

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

Another **102** closed cases were fully investigated and submitted to the Review Board, compared to **69** fully investigated cases submitted in 2017, a 49% increase. Included in the number of fully investigated cases were **26** death cases, as opposed to **18** fully investigated and closed death cases in 2017, a 44% increase.

Of the **102** fully investigated cases, **six** cases, or 6%, included Sustained findings (one finding in each case), compared to **2** cases, or 3% of the total number of cases in 2017. Five of the six Sustained allegations were misconduct/procedure (Case #s: 14-027, a death; 17-144; 17-068; 17-030; 16-098) and one was misconduct/discourtesy (17-112).

The remaining **55** cases were Procedurally Closed (PC) because a signed complaint was not returned by the complainant. This was a 13% increase from the **47** PC cases in 2017. Overall, PC cases accounted for 32% of the year's complaint total, an increase of 1% from 2017.

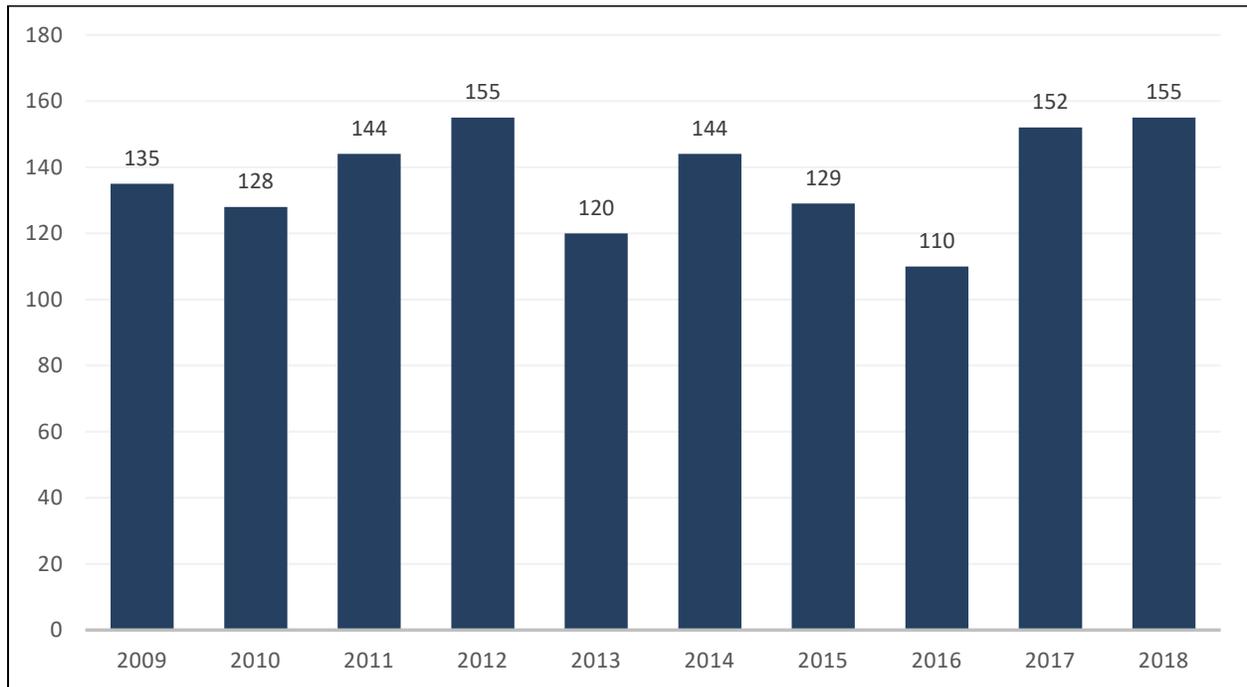
At year's end there were **85** open cases, a 13% decrease from the **98** open cases at the end of 2017.

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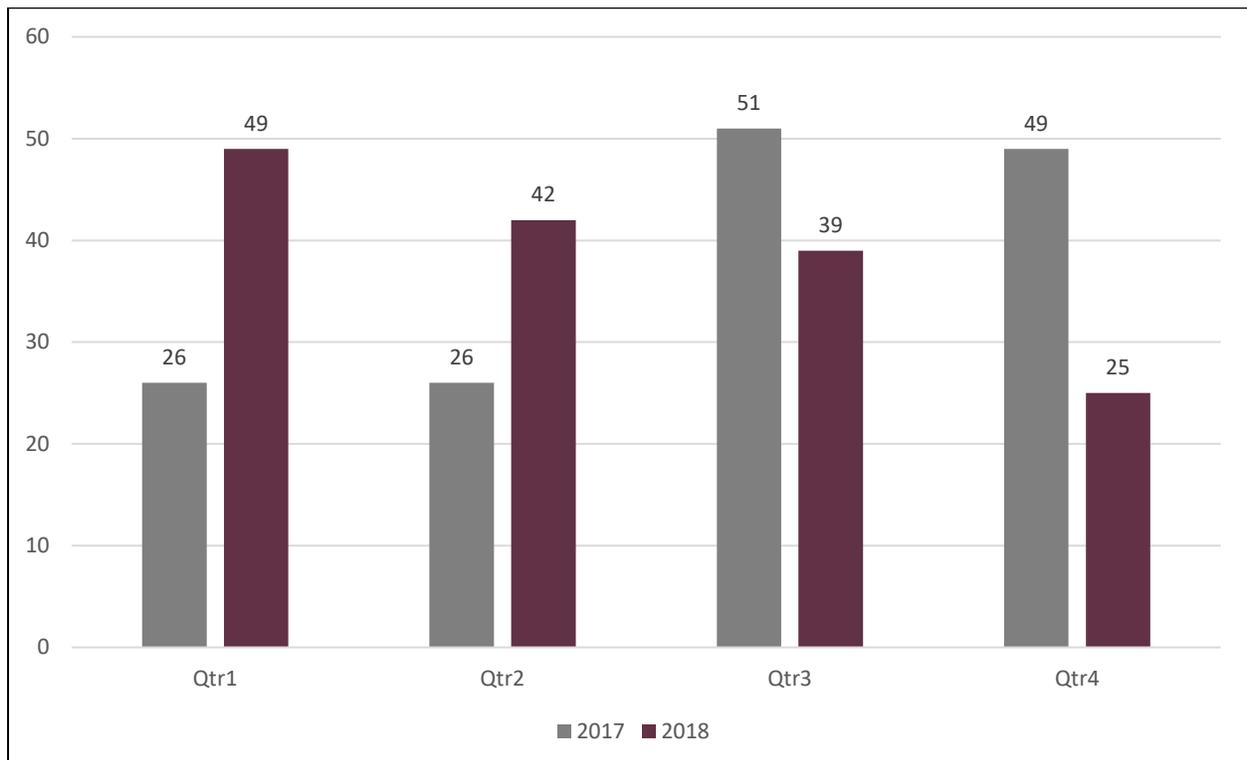
<sup>1</sup> Of the 24 death cases reported, 1 complaint was determined to be a duplicate, resulting in 23 individual death cases received in 2018. Case# 18-148, Fallbrook Substation, was opened in error and procedurally closed. This case was correctly opened under case # 18-118. The duplicate case is still counted as a received complaint/allegation for reporting purposes.



## Total Complaints Received by Year: 2009 – 2018 (Graph 1)



## Total Complaints Received by Quarter: 2017 & 2018 (Graph 2)





## Complaints & Allegations Received by Unit or Facility, 2018 (Table 1)

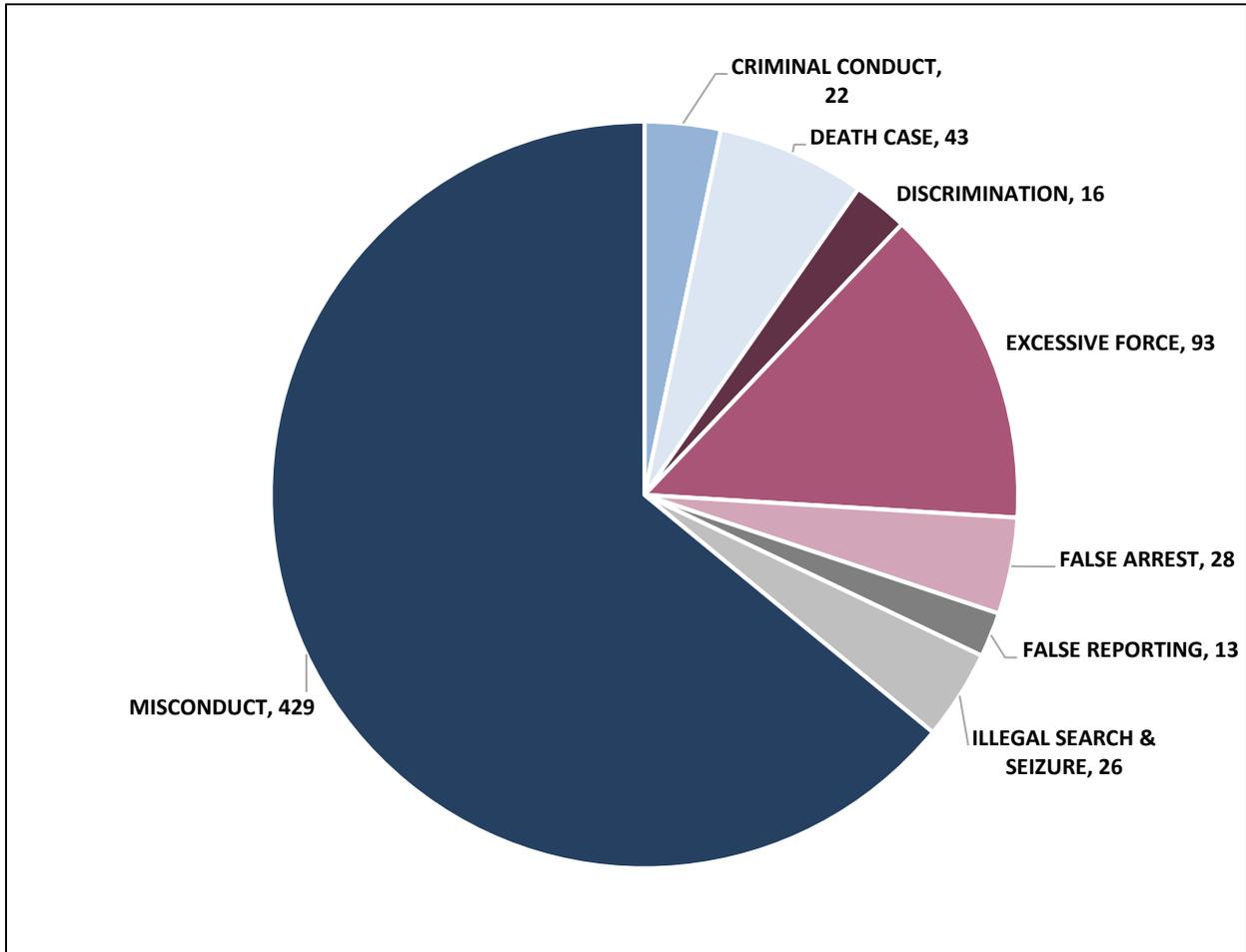
Unit/Facility	Complaint Totals	CC	Death*	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
<b>LAW ENFORCEMENT</b>											
4S RANCH SUBSTATION	-	-	-	-	-	-	-	-	-	-	-
ALPINE STATION	4	6	1	-	18	3	6	1	-	19	54
BORREGO SPRINGS	-	-	-	-	-	-	-	-	-	-	-
BOULEVARD/JACUMBA OFFICE	1	-	-	-	-	1	-	-	-	5	6
CAMPO/TECATE SUB	2	-	-	-	-	5	-	-	-	3	8
FALLBROOK SUB	4	-	9	-	-	-	-	-	-	5	14
IMPERIAL BEACH SUBSTN	3	-	-	1	14	2	-	5	-	16	38
JULIAN SUB	-	-	-	-	-	-	-	-	-	-	-
LAKESIDE SUB	1	-	-	-	-	-	-	-	-	3	3
LEMON GROVE SUBSTN	4	-	-	1	3	1	-	1	-	6	12
NORTH COASTAL SHERIFF'S STATION	7	-	1	1	-	1	-	1	-	9	13
PINE VALLEY SUB	1	-	-	-	-	-	-	-	-	5	5
POWAY STN	-	-	-	-	-	-	-	-	-	-	-
RAMONA SUB	3	-	-	-	-	-	1	-	-	13	14
RANCHITA/WARNER SPR SUB	-	-	-	-	-	-	-	-	-	-	-
RANCHO SAN DIEGO STATION	5	-	-	-	1	-	-	-	-	22	23
RURAL LAW ENFORCEMENT	3	-	-	-	1	-	-	2	-	16	19
SAN MARCOS STN	3	-	-	-	-	3	-	-	-	9	12
SANTEE STN	6	4	1	-	5	1	-	5	-	6	22
SPRING VALLEY STOREFRONT	2	-	-	-	1	-	-	-	-	2	3
VALLEY CTR/PAUMA SUB	3	-	14	-	-	1	-	-	-	-	15
VISTA STN	7	2	1	-	4	-	3	-	-	24	34
LAW ENFORCEMENT SUPPORT	-	-	-	-	-	-	-	-	-	-	-
INTERNAL AFFAIRS	4	-	-	-	-	-	-	-	-	4	4
<b>LAW ENFORCEMENT TOTAL</b>	<b>63</b>	<b>12</b>	<b>27</b>	<b>3</b>	<b>47</b>	<b>18</b>	<b>10</b>	<b>15</b>	<b>0</b>	<b>167</b>	<b>299</b>
<b>DETENTIONS</b>											
EAST MESA DF	1	-	-	-	-	-	-	-	-	5	5
FACILITY EIGHT DF	-	-	-	-	-	-	-	-	-	-	-
GEORGE BAILEY DF	11	-	1	2	15	-	-	-	-	40	58
LAS COLINAS DF	8	5	1	1	2	1	-	-	-	48	58
SD CENTRAL JAIL	31	-	10	6	16	-	-	1	-	85	118
SOUTH BAY DF	1	-	1	-	-	-	-	-	-	-	1
VISTA DF	11	-	3	1	4	-	-	-	-	33	41
<b>DETENTIONS TOTAL</b>	<b>63</b>	<b>5</b>	<b>16</b>	<b>10</b>	<b>37</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>211</b>	<b>281</b>
<b>COURT SERVICES</b>											
COURT SVCS	6	-	-	1	2	-	-	2	-	15	20
EL CAJON COURT	1	-	-	2	-	1	-	-	-	5	8
VISTA COURT	1	1	-	-	-	2	-	-	-	-	3
<b>COURT SERVICES TOTAL</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>20</b>	<b>31</b>
<b>OTHER</b>											
OTHER L.E.	4	3	-	-	-	2	-	3	-	7	15
UNKNOWN UNIT	11	1	-	-	6	2	-	5	-	13	27
<b>OTHER TOTAL</b>	<b>15</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>20</b>	<b>42</b>
<b>PROBATION</b>											
XPROB: ADULT SVCS.	5	-	-	-	-	2	3	-	-	10	15
XPROB: INST. SVCS.	1	-	-	-	1	-	-	-	-	1	2
XPROB: JUV. SVCS	-	-	-	-	-	-	-	-	-	-	-
<b>PROBATION TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>17</b>
<b>GRAND TOTAL</b>	<b>155</b>	<b>22</b>	<b>43</b>	<b>16</b>	<b>93</b>	<b>28</b>	<b>13</b>	<b>26</b>	<b>0</b>	<b>429</b>	<b>670</b>

\* Of the 24 death cases reported, 1 complaint was determined to be a duplicate, resulting in 23 individual death cases received in 2018. Case# 18-148, Fallbrook Substation, was opened in error and procedurally closed. This case was correctly opened under case # 18-118. The duplicate case is still counted as a received complaint/allegation for reporting purposes.

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, 2018 (Graph 3)





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

Unit/Facility	2017	2018
SDSD Law Enforcement Services	69	63
SDSD Detention Facilities	60	63
SDSD Court Services Bureau	3	8
Probation Department	10	6
Other Law Enforcement	4	4
Unknown	6	11
<b>TOTAL</b>	<b>152</b>	<b>155</b>

## Breakdown of Discrimination Allegations (Table 3)

Description	2017	2018
National Origin	0	0
Other	0	7
Racial	5	5
Religious	1	0
Sexual/Gender	2	4
<b>TOTAL</b>	<b>8</b>	<b>16</b>

## Breakdown of Misconduct Allegations (Table 4)

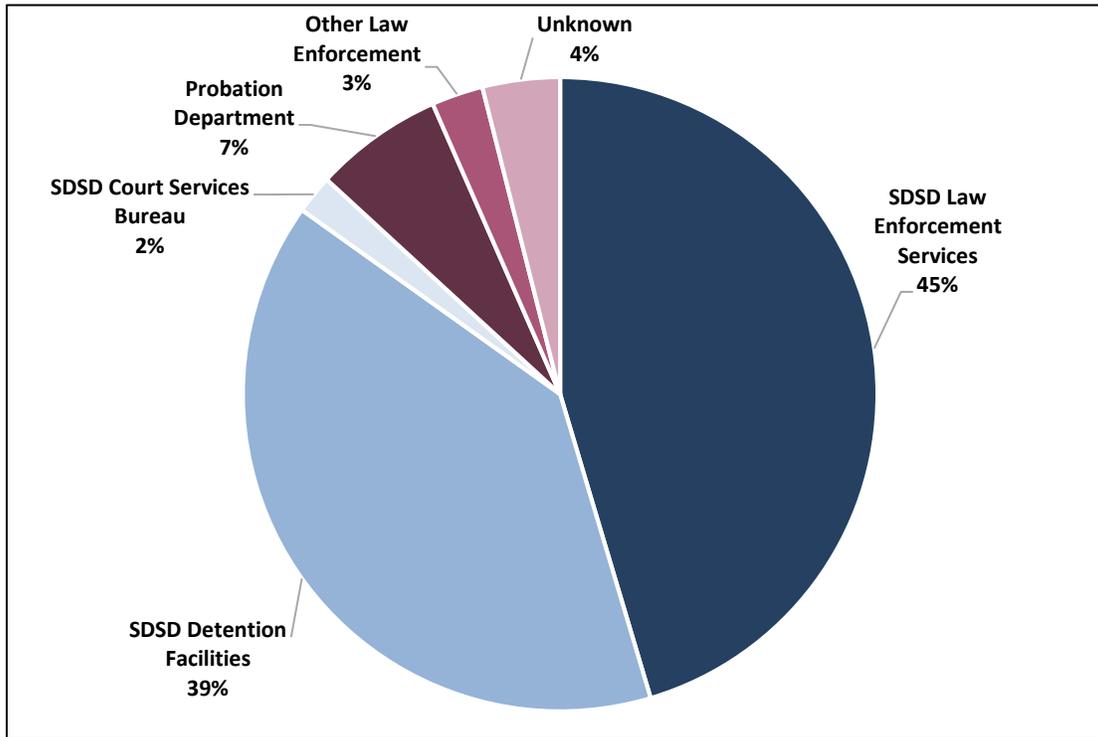
Description	2017	2018
Discourtesy	41	43
Harassment	9	20
Intimidation	12	24
Medical (info only)	5	14
Procedure	220	303
Retaliation	5	14
Truthfulness	9	11
<b>TOTAL</b>	<b>301</b>	<b>429</b>

## Breakdown of Excessive Force Allegations (Table 5)

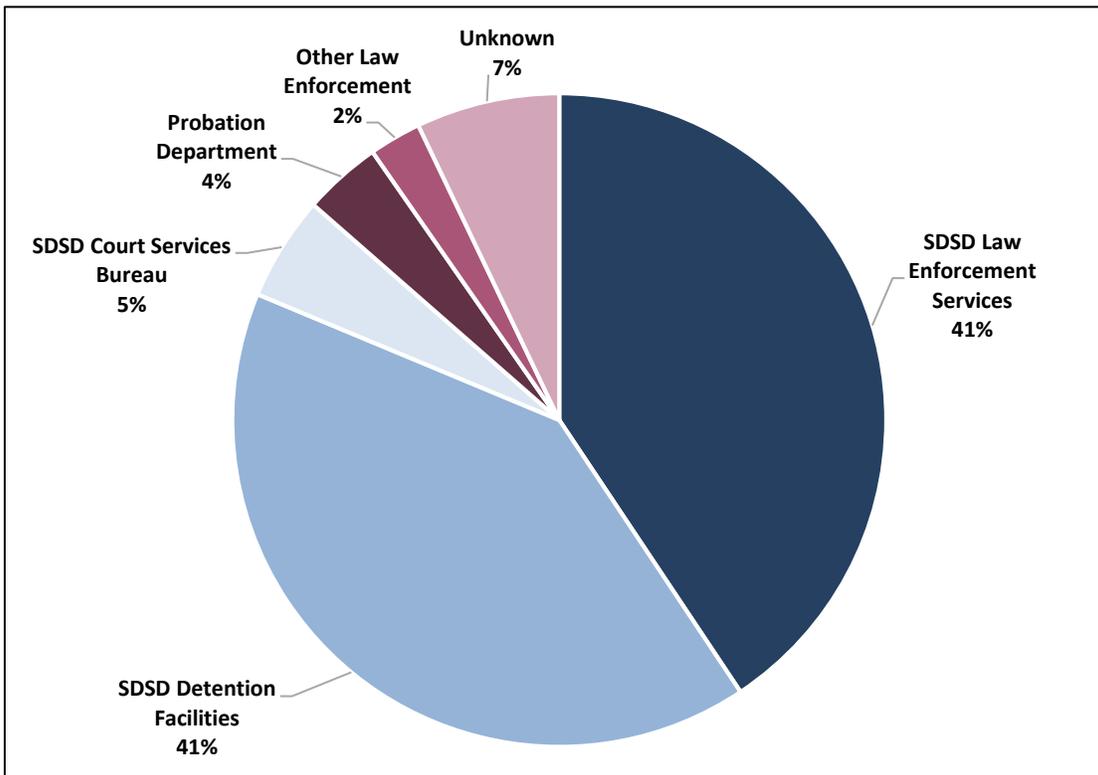
Description	2017	2018
Baton/Impact Weapon	1	0
Carotid Restraint	1	4
Drawn Firearm	6	6
Fists	21	8
K-9 Bites	1	0
Kicks	7	0
Less Lethal Munitions	1	0
OC Spray	2	0
Other	26	46
Pepperball Launcher	0	3
Poss. Restraint (EF)	0	3
Taser	7	6
Tight Handcuffs	1	3
Unspecified	14	14
<b>TOTAL</b>	<b>88</b>	<b>93</b>



### Complaint Percentages by Major Organization/Bureau, 2017 (Graph 4)

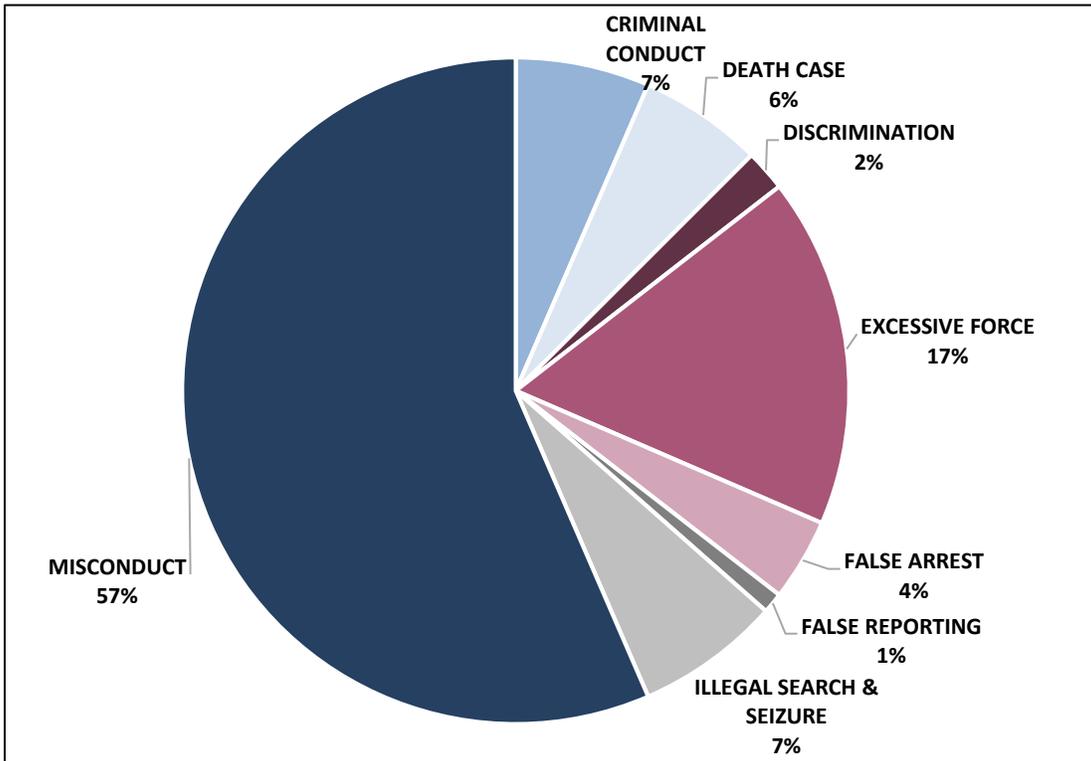


### Complaint Percentages by Major Organization/Bureau, 2018 (Graph 5)

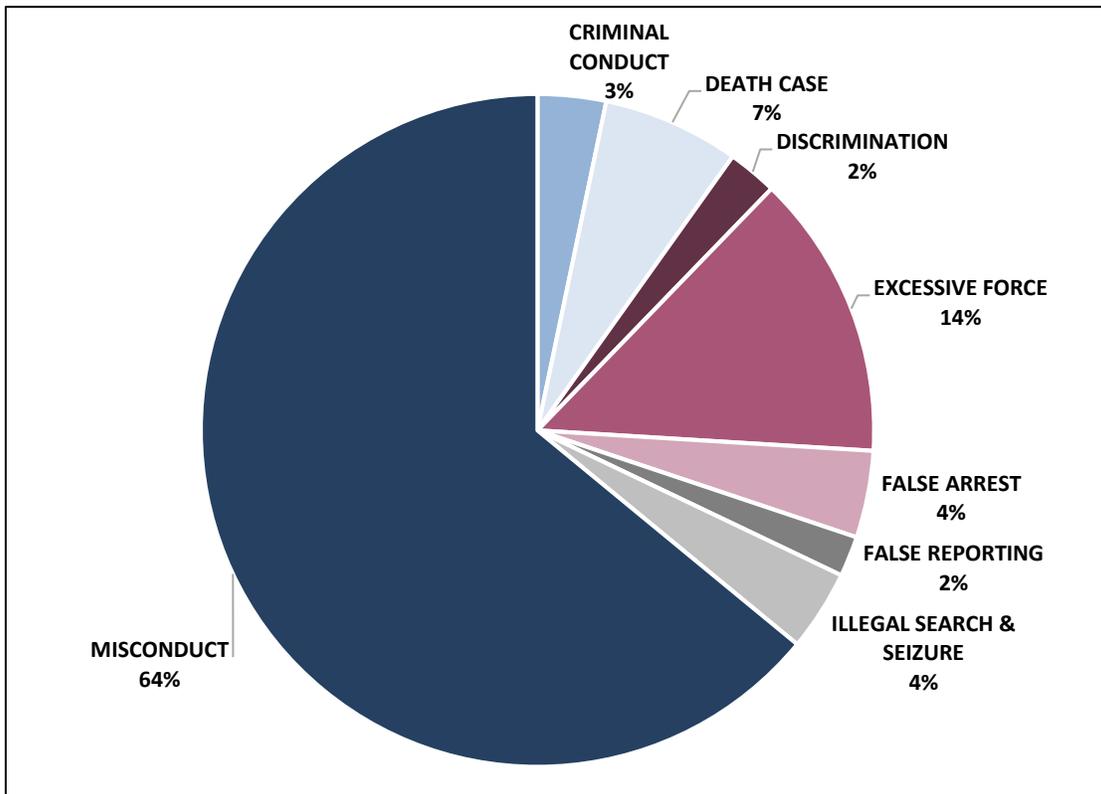




Allegations by Percentage, 2017 (Graph 6)



Allegations by Percentage, 2018 (Graph 7)





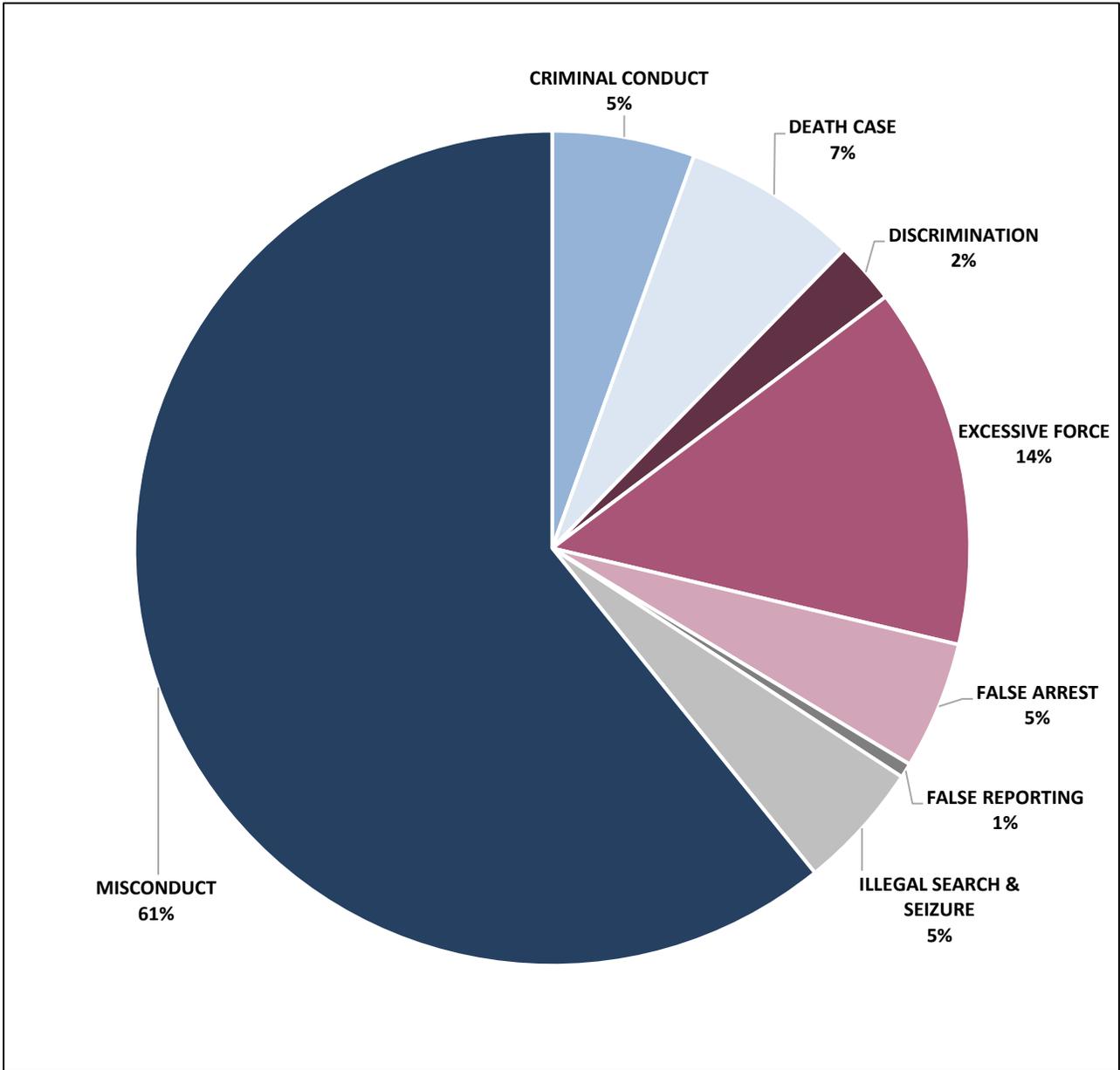
## Complaints & Allegations Closed by Unit or Facility, 2018 (Table 6)

Unit/Facility	Complaint Totals	CC	Death	DC	EF	FA	FR	ISS	IDF	Misconduct	Allegation Totals
<b>LAW ENFORCEMENT</b>											
4S RANCH SUBSTATION	1	-	-	-	5	-	-	2	-	24	31
ALPINE STATION	1	-	-	-	-	1	-	-	-	5	6
BORREGO SPRINGS	1	2	-	-	-	-	-	-	-	-	2
BOULEVARD/JACUMBA OFFICE	1	-	-	-	-	1	-	-	-	5	6
CAMPO/TECATE SUB	2	-	-	-	-	5	-	-	-	3	8
ENCINITAS STN	1	-	-	-	-	-	-	-	-	1	1
FALLBROOK SUB	2	-	-	-	-	-	-	-	-	4	4
IMPERIAL BEACH SUBSTN	5	3	1	1	5	3	-	1	-	36	50
LAKESIDE SUB	3	9	-	1	2	-	-	-	-	4	16
LEMON GROVE SUBSTN	6	-	2	4	2	1	-	5	-	27	41
NORTH COASTAL SHERIFF'S STATION	6	-	-	1	-	2	-	1	-	10	14
POWAY STN	2	-	4	-	-	-	-	-	-	2	6
RAMONA SUB	1	-	-	-	-	-	-	-	-	1	1
RANCHO SAN DIEGO STATION	4	-	-	-	-	-	-	-	-	21	21
RURAL LAW ENFORCEMENT	4	-	-	-	-	-	-	1	-	12	13
SAN MARCOS STN	6	-	3	-	-	4	-	1	-	9	17
SANTEE STN	7	4	3	-	5	3	-	11	-	12	38
SPRING VALLEY STOREFRONT	2	-	-	-	1	-	-	-	-	2	3
VALLEY CTR/PAUMA SUB	4	1	14	-	-	1	-	-	-	1	17
VISTA STN	10	-	3	-	6	1	2	-	-	17	29
CID:CHILD ABUSE	1	-	-	-	-	-	-	-	-	3	3
FUGITIVE TASK FORCE	1	-	1	-	-	-	-	-	-	-	1
INTERNAL AFFAIRS	1	-	-	-	-	-	-	-	-	1	1
LAW ENFORCEMENT SUPPORT	1	-	-	-	-	-	-	-	-	1	1
<b>LAW ENFORCEMENT TOTAL</b>	<b>73</b>	<b>19</b>	<b>31</b>	<b>7</b>	<b>26</b>	<b>22</b>	<b>2</b>	<b>22</b>	<b>0</b>	<b>201</b>	<b>330</b>
<b>DETENTIONS</b>											
EAST MESA DF	1	-	-	-	-	-	-	-	-	5	5
FACILITY EIGHT DF	2	-	1	-	-	-	-	-	-	6	7
GEORGE BAILEY DF	13	-	2	3	21	-	-	-	-	35	61
LAS COLINAS DF	5	-	1	1	3	1	-	-	-	4	10
SD CENTRAL JAIL	37	6	8	6	40	-	-	-	-	98	158
VISTA DF	8	-	2	-	4	-	-	-	-	23	29
<b>DETENTIONS TOTAL</b>	<b>66</b>	<b>6</b>	<b>14</b>	<b>10</b>	<b>68</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>171</b>	<b>270</b>
<b>COURT SERVICES</b>											
COURT SVCS	6	10	2	-	3	1	-	6	-	13	35
VISTA COURT	1	1	-	-	-	2	-	-	-	-	3
<b>COURT SERVICES TOTAL</b>	<b>7</b>	<b>11</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>13</b>	<b>38</b>
<b>OTHER</b>											
OTHER L.E.	4	3	-	-	-	2	-	3	-	7	15
UNKNOWN UNIT	9	-	-	-	1	2	1	4	-	19	27
(blank)	2	-	-	-	-	-	-	-	-	3	3
<b>OTHER TOTAL</b>	<b>15</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>29</b>	<b>45</b>
<b>PROBATION</b>											
XPROB: ADULT SVCS.	8	-	-	-	-	5	1	-	-	15	21
XPROB: INST. SVCS.	1	-	-	-	1	-	-	-	-	1	2
<b>PROBATION TOTAL</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>23</b>
<b>GRAND TOTAL</b>	<b>170</b>	<b>39</b>	<b>47</b>	<b>17</b>	<b>99</b>	<b>35</b>	<b>4</b>	<b>35</b>	<b>0</b>	<b>430</b>	<b>706</b>

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, 2018 (Graph 8)





## Board Action by Date Closed, Case Number, and Findings, 2018 (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	
2016-019	13				3		01-09-18
2016-098		2	1				01-09-18
2017-002				1			01-09-18
2017-039	2						01-09-18
2014-027	1	7	2	2	1		02-13-18
2016-076	2						02-13-18
2016-109	6			1			02-13-18
2016-110		1		1			02-13-18
2017-008	2	2					02-13-18
2017-011	4						02-13-18
2017-012	15	2		13	1		02-13-18
2017-028	1						02-13-18
2017-040	2						02-13-18
2017-081		1					02-13-18
2017-099					2		02-13-18
2017-114	1			1			02-13-18
2017-131		1					02-13-18
2017-144		2	1				02-13-18
2018-001					2		02-13-18
2018-006					1		02-13-18
2017-013	1	5		2			03-13-18
2017-021	1			1			03-13-18
2017-022				12			03-13-18
2017-024	1			2			03-13-18
2017-030			2				03-13-18
2017-031		1			1		03-13-18
2017-034	1	2		1	1		03-13-18
2018-023					1		03-13-18
2016-073	3						04-10-18
2016-101	1						04-10-18
2017-045	1			1			04-10-18
2017-046				1			04-10-18
2017-130	2						04-10-18
2018-019	3			1			04-10-18
2018-027		3					04-10-18
2018-036					8		04-10-18
2016-093	1						05-08-18
2017-029	1	5		2			05-08-18

*Board Action by Date Closed, Case Number, and Findings, cont'd*

CASE #	FINDINGS						DATE CLOSED
	ACTION JUSTIFIED	NOT SUSTAINED	SUSTAINED	UNFOUNDED	SUMMARY DISMISSAL	ONE-YEAR SUMMARY DISMISSAL	
2018-062					5		05-08-18
2016-078	3				1		06-25-18
2017-014	2						06-25-18
2017-015	4			3			06-25-18
2017-020	2						06-25-18
2017-037	6	1		4			06-25-18
2017-041	4	1			1		06-25-18
2017-051	4			1			06-25-18
2017-052	2	4		2			06-25-18
2017-056	10						06-25-18
2017-057	1	1		8			06-25-18
2017-070	8	4		1			06-25-18
2017-074	1				1		06-25-18
2017-091		3					06-25-18
2017-107	5	4		1			06-25-18
2017-112	1	7	1	1			06-25-18
2017-118					3		06-25-18
2017-122	5			4			06-25-18
2017-128	1	1					06-25-18
2017-136	1	2			1		06-25-18
2017-143	3						06-25-18
2017-147	1						06-25-18
2017-151	1	2		1			06-25-18
2018-009	7	1		1	1		06-25-18
2018-018	1			6	1		06-25-18
2018-030	3			3	3		06-25-18
2018-045	1			1			06-25-18
2018-051	1						06-25-18
2018-072	1						06-25-18
2018-073					1		06-25-18
2017-115	3						07-10-18
2018-020	4			1	3		07-10-18
2018-070	1						07-10-18
2018-082					1		07-10-18
2017-038		3					08-14-18
2017-068	3		1		2		08-14-18
2017-071	5	9		4	4		08-14-18
2017-078	1						08-14-18
2017-080	1						08-14-18
2017-087		2			1		08-14-18



*Board Action by Date Closed, Case Number, and Findings, cont'd*

CASE #	FINDINGS						DATE CLOSED
	ACTION JUSTIFIED	NOT SUSTAINED	SUSTAINED	UNFOUNDED	SUMMARY DISMISSAL	ONE-YEAR SUMMARY DISMISSAL	
2017-090	2			1			08-14-18
2017-093	1						08-14-18
2017-106	5			6	10		08-14-18
2017-116	1						08-14-18
2018-021	1	3		1			08-14-18
2018-028				1			08-14-18
2018-037	1				6		08-14-18
2018-041	7						08-14-18
2018-042	7						08-14-18
2018-054				1			08-14-18
2018-059					1		08-14-18
2018-074	3			3	1		08-14-18
2018-096					3		08-14-18
2015-112	1						09-11-18
2016-107	1						09-11-18
2017-095				10	1		09-11-18
2018-066	1	1			1		09-11-18
2017-113	1				1		10-09-18
2017-133	12	1		1			10-09-18
2017-135	6	2					10-09-18
2018-031	1						10-09-18
2018-095		1		2			10-09-18
2017-019	2						11-13-18
2017-065	1						11-13-18
2017-141		2					11-13-18
2018-013				1	3		11-13-18
2018-110	1	1					11-13-18
2018-134					1		11-13-18
2017-036	2						12-11-18
2017-076	1				1		12-11-18
2018-003	7			2			12-11-18
2018-011	1	2					12-11-18
2018-014	3	4		5	2		12-11-18
2018-015	11	1		1			12-11-18
2018-136					8		12-11-18
<b>TOTALS</b>	<b>244</b>	<b>97</b>	<b>8</b>	<b>119</b>	<b>89</b>	<b>0</b>	<b>12 Meetings 115 Cases 557 Findings</b>

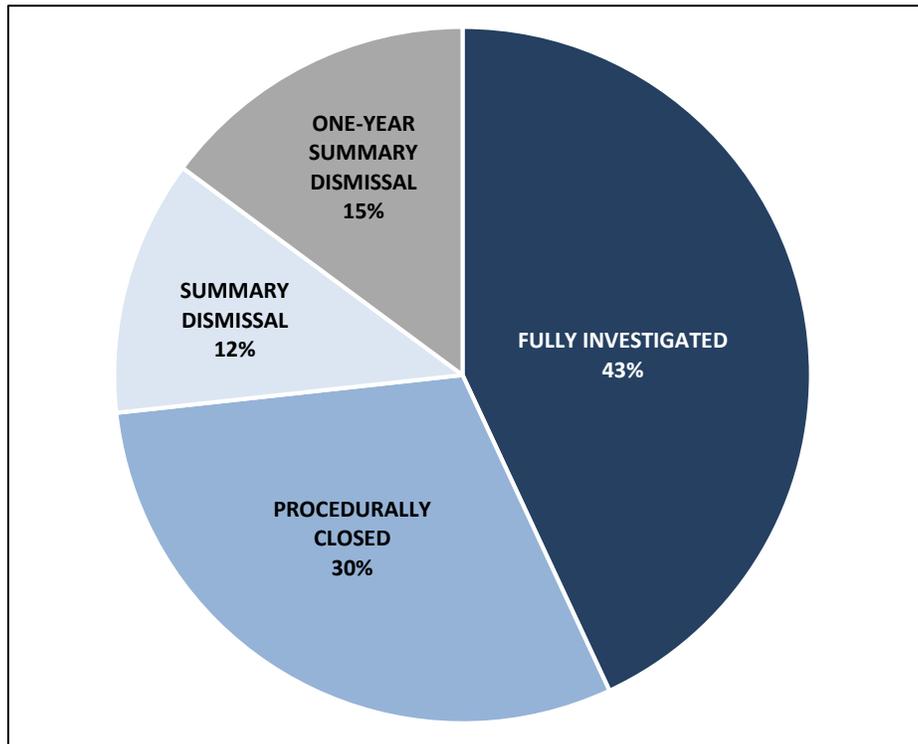


## Procedurally Closed Cases by Date and Case Number, 2018 (Table 8)

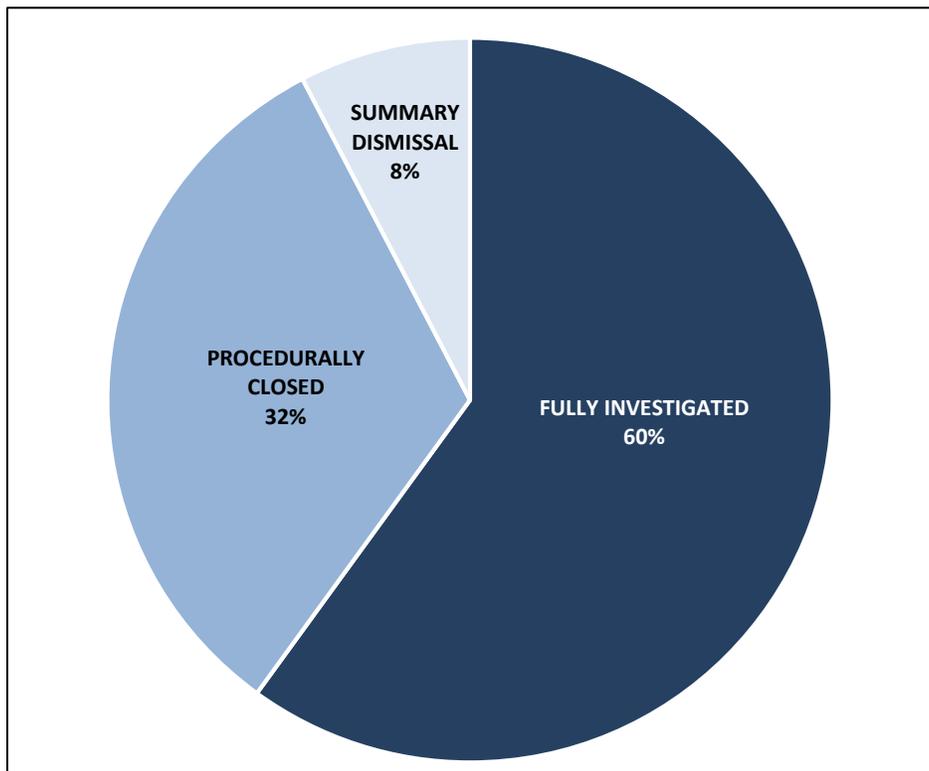
CASE #	DATE CLOSED
2017-138	01-05-18
2017-139	01-05-18
2017-142	01-08-18
2017-145	01-10-18
2017-146	01-10-18
2018-008	01-28-18
2017-152	01-31-18
2018-002	01-31-18
2018-004	02-06-18
2018-005	02-06-18
2018-007	02-06-18
2018-010	02-22-18
2018-016	02-22-18
2018-017	02-28-18
2018-022	03-05-18
2018-025	03-07-18
2018-032	03-21-18
2018-035	03-26-18
2018-038	04-02-18
2018-040	04-23-18
2018-047	04-23-18
2018-049	04-23-18
2018-050	05-02-18
2018-044	05-07-18
2018-053	05-24-18
2018-055	05-24-18
2018-057	05-24-18
2018-060	05-24-18
2018-056	05-30-18
2018-067	05-31-18
2018-071	06-06-18
2018-063	06-07-18
2018-068	06-08-18
2018-075	06-20-18
2018-083	07-10-18
2018-091	07-17-18
2018-089	07-19-18
2018-087	07-30-18
2018-093	07-30-18
2018-090	08-09-18
2018-107	08-15-18
2018-102	08-22-18
2018-100	08-24-18
2018-108	08-28-18
2018-103	09-11-18
2018-116	09-11-18
2018-109	09-18-18
2018-111	09-18-18
2018-126	10-09-18
2018-127	10-09-18
2018-104	10-10-18
2018-121	10-10-18
2018-132	10-29-18
2018-135	11-20-18
2018-147	12-27-18
<b>TOTALS</b>	<b>55 Cases 150 Allegations</b>



**Case Closure Type by Percentage, 2017 (Graph 9)**



**Case Closure Type by Percentage, 2018 (Graph 10)**





## Death Cases Opened in 2017 (Table 9)

Case #	Decedent	Category	Facility/Area	Cause of Death
17-019	Bazan, Jr., Isidro	Deputy-involved shooting	San Marcos	Thoracoabdominal gunshot wound
17-028	Andera, Michael	Barricaded subject	San Marcos	Intraoral gunshot wound
17-033	Koornwinder, Jeroen	Deputy-involved shooting	Lakeside	Gunshot wound to the upper torso
17-035	Ibarra, Emmanuel	Deputy-involved shooting	Del Mar (North Coastal)	Multiple gunshot wounds
17-036	Adkins, Mark	Illicit drug/CED usage	Lemon Grove	Resuscitated cardiopulmonary arrest in the setting of acute methamphetamine and phencyclidine toxicity, and recent physical altercation/physical exertion with history of conductive energy device use
17-038	Stucki, Bruce	In-custody natural	VDF	Complications of chronic alcoholism
17-043	Dawley, Bruce	Deputy-involved shooting	Campo	Shotgun wound of the abdomen
17-058	Coronel, Jonathan	Deputy-involved shooting	Vista	Multiple gunshot wounds
17-061	Valdez, Moises	In-custody natural	SDCJ	Complications of acute intraparenchymal brain hemorrhage in the setting of thrombocytopenia. Contributing: Clinical history of human immunodeficiency virus and hepatitis C infections
17-062	George, Stephen	In-custody natural	VDF	Acute and chronic aspiration pneumonia. Contributing: abdominal neuroendocrine tumor
17-063	Dunlop, Christopher	In-custody natural	SDCJ	Complications of bowel obstruction with perforation due to abdominal adhesions with internal hernia due to remote rectal cancer
17-064	Penn, Mary	In-custody natural	LCDRF	Complications of lower gastrointestinal bleed. Contributing: hepatic cirrhosis
17-065	Weaver, Alan	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease
17-076	Lacy, James	Deputy-involved shooting	San Diego (Courts)	No ME Report
17-078	Prieto, Ivan	In-custody illicit drug-related	SDCJ	Acute cocaine and methamphetamine intoxication
17-080	Wellington, Robert	In-custody undetermined	SDCJ	Seizure disorder due to congenital brain malformations; chronic alcoholism; remote blunt force head trauma; status post remote resection of meningioma. Manner: Undetermined
17-088	Ochoa, Isaias	Deputy-involved shooting	Lemon Grove (Rancho SD)	Gunshot and shotgun wounds
17-093	Rice, Kenneth	In-custody illicit and prescription drug-related	SDCJ	Anoxic encephalopathy due to methamphetamine, opiates, and benzodiazepines intoxication
17-101	Gill, Keith	In-custody homicide	GBDF	No ME Reports
17-102	Macabinlar, Michael	In-custody illicit drug-related	VDF	Acute methamphetamine intoxication; dilated cardiomyopathy; hypertensive and atherosclerotic cardiovascular disease
17-110	Birtcher, Kristopher	Restraint-related	San Marcos	Sudden cardiac arrest while restrained. Contributing: Acute methamphetamine intoxication
17-111	Antos, Barbara	In-custody natural	LCDRF	Upper gastrointestinal hemorrhage, due to probable peptic ulcer disease, due to chronic nonsteroidal anti-inflammatory use
17-116	Sellers, Jimmie	Barricaded subject	San Marcos	Perforating intraoral gunshot wound of the head
17-127	Kenyon, James	In-custody accident (choking)	GBDF	Asphyxia due to aspiration of food bolus
17-134	Phillips, Shameka	In-custody illicit and prescription drug-related	LCDRF	Methamphetamine, morphine, and gabapentin toxicity
17-147	Moore, Chadwick	In-custody suicide	F8DF	Hanging
17-148	Gomez, Javier	Deputy-involved shooting	Oceanside (Vista)	No ME Reports
17-050	Horse, Joseph	In-custody natural	SDCJ	No ME Reports



## Death Cases Closed in 2017 (Table 10)

Case #	Decedent	Category	Facility/Area	Cause of Death
11-079	Hartsaw, Russell	In-custody homicide	GBDF	Multiple blunt force injuries <a href="#">One-Year Summary Dismissal</a>
13-007	Lubsen, Robert	In-custody suicide	VDF	Blunt force head injuries (jump)
13-011	Kwik, Evan	Barricaded subject	Encinitas (North Coastal)	Shotgun wound of the head <a href="#">One-Year Summary Dismissal</a>
13-048	Barragan, Hugo	Restraint	Fallbrook	Sudden cardiac arrest with acute methamphetamine and quetiapine intoxication during law enforcement restraint <a href="#">One-Year Summary Dismissal</a>
13-079	Brown, David	Deputy-involved shooting	San Marcos	Multiple gunshot wounds <a href="#">One-Year Summary Dismissal</a>
13-081	Stitt, Aaron	In-custody suicide	VDF	Hanging <a href="#">One-Year Summary Dismissal</a>
13-085	Silva, Lionel	Barricaded subject	Unincorporated La Mesa (Lemon Grove)	Self-inflicted gunshot wound of head <a href="#">One-Year Summary Dismissal</a>
13-098	S., Rosemary	In-custody suicide	Kearny Mesa Juvenile Detention Facility	Anoxic encephalopathy due to asphyxia due to hanging <a href="#">One-Year Summary Dismissal</a>
13-100	Zatarain, Sebastian	Barricaded subject	Bonita	Self-inflicted gunshot wound <a href="#">One-Year Summary Dismissal</a>
13-101	Bieruta, Zdzislaw	In-custody natural	VDF	Sudden cardiac death due to acute coronary syndrome due to multivessel coronary artery atherosclerosis due to atherosclerotic cardiovascular disease <a href="#">One-Year Summary Dismissal</a>
14-006	Napier, Michael	Deputy-involved shooting	Vista (G.E.T.)	Multiple gunshot wounds of torso
14-017	Nesmith, Kristopher	In-custody suicide	VDF	Hanging <a href="#">One-Year Summary Dismissal</a>
14-036	Bowman, Dervin	In-custody suicide	SDCJ	Anoxic encephalopathy due to asphyxia due to hanging <a href="#">One-Year Summary Dismissal</a>
14-039	Deleon, Robert	Barricaded subject	La Mesa (S.E.D.)	Contact gunshot wound of the head <a href="#">One-Year Summary Dismissal</a>
14-067	Mora, Martin	In-custody natural	VDF	Complications of upper chronic gastrointestinal bleeding due to cirrhosis of the liver/hepatitis C. Contributing: Cardiomyopathy, hypertension, chronic heroin abuse, and obesity <a href="#">One-Year Summary Dismissal</a>
14-070	Lleras, Hector	In-custody suicide	SDCJ	Asphyxia by hanging <a href="#">One-Year Summary Dismissal</a>
14-107	Cochran, Jerry	In-custody natural	SDCJ	Diabetic ketoacidosis due to diabetes mellitus <a href="#">One-Year Summary Dismissal</a>
14-107	Cochran, Jerry	In-custody natural	SDCJ	Contributing: acute cellulitis <a href="#">One-Year Summary Dismissal</a>
15-034	Kendrick, Gary	Deputy-involved shooting	Encinitas (North Coastal)	Gunshot wound of left arm/chest
15-043	Phounsey, Lucky	Restraint	Santee	Anoxic encephalopathy due to cardiopulmonary arrest with resuscitation following physical altercation and restraint due to stimulant drug-related psychotic state. Contributing: Cardiac arteriosclerosis
15-045	Speratos, Ronnie	In-custody accident (fall)	GBDF	Progressive respiratory failure and sepsis due to bronchopneumonia due to complications of bacterial meningitis due to left otitis media (ear infection) and mastoiditis. Contributing: Deep vein thrombosis with peripheral gangrene of digits and intracranial hemorrhage (subdural hematoma) secondary to fall

*Death Cases Closed in 2017, cont'd*

Case #	Decedent	Category	Facility/Area	Cause of Death
15-046	Hillen, Scott	Deputy present (suicide)	Ramona	Penetrating gunshot wound of the head <a href="#">One-Year Summary Dismissal</a>
15-052	Hubble, Simon	Deputy-involved	Alpine	Gunshot wounds of chest <a href="#">One-Year Summary Dismissal</a>
15-089	Valenzuela, Sergio	In-custody suicide	SDCJ	Complications of resuscitated hanging <a href="#">One-Year Summary Dismissal</a>
15-108	Dozal, Martin	In-custody suicide	GBDF	Acute diffuse anoxic/ischemic encephalopathy due to resuscitated cardiac arrest due to ligature strangulation <a href="#">One-Year Summary Dismissal</a>
15-110	Nishimoto, Jason	In-custody suicide	VDF	Hanging
15-118	Medel, Nicholas	In-custody suicide	GBDF	Hanging <a href="#">One-Year Summary Dismissal</a>
15-125	Cook, Christopher	In-custody suicide	VDF	Complications of blunt force injuries of head and neck (jump)
16-007	Gearhart, Gilbert	In-custody natural	VDF	Acute myocardial infarct due to arteriosclerotic cardiovascular disease
16-009	James, Howard	In-custody undetermined	SDCJ	Hemorrhagic shock due to hemothorax due to displaced rib fracture Contributing: Multilobar pneumonia; chronic obstructive pulmonary disease; hypertensive and atherosclerotic cardiovascular disease; anticoagulation therapy; type II diabetes mellitus. Manner: Undetermined
16-012	Torres, Rojelio	In-custody natural	SDCJ	Hypoxic encephalopathy due to cardiac arrest with resuscitation due to long QT syndrome. Contributing: Hypertension
16-014	Wells, Ronald	In-custody natural	SDCJ	Atherosclerotic cardiovascular disease
16-027	Boulanger, Richard	In-custody suicide	SDCJ	Acute diffuse anoxic/ischemic encephalopathy due to resuscitated cardiac arrest due to ligature hanging
16-036	Moyer, Brandon	In-custody natural	GBDF	Acute heroin intoxication. Contributing: Aspiration pneumonia
16-051	Sanchez, Adrian	In-custody overdose	SDCJ	Acute methamphetamine intoxication Contributing: Idiopathic seizure disorder (epilepsy)
16-054	Arellano, Pedro	In-custody suicide	SDCJ	Anoxic encephalopathy due to hanging
16-057	Nunez, Ruben	In-custody natural	SDCJ	Diabetes insipidus (water intoxication) <a href="#">One-Year Summary Dismissal</a>
16-060	Moriarty, Heron	In-custody suicide	VDF	Asphyxia due to airway obstruction and neck compression <a href="#">One-Year Summary Dismissal</a>
17-061	Valdez, Moises	In-custody natural	SDCJ	Complications of acute intraparenchymal brain hemorrhage in the setting of thrombocytopenia Contributing: Clinical history of human immunodeficiency virus and hepatitis C infections
17-063	Dunlop, Christopher	In-custody natural	SDCJ	Complications of bowel obstruction with perforation due to abdominal adhesions with internal hernia due to remote rectal cancer
17-064	Penn, Mary	In-custody natural	LCDRF	Complications of lower gastrointestinal bleed. Contributing: hepatic cirrhosis
<b>TOTALS</b>	<b>40</b>			<b>22 One-Year Summary Dismissals</b>



## Death Cases Opened in 2018 (Table 11)

Case #	Decedent	Category	Facility/Area	Cause of Death
18-031	Swanguen, Jess W	In-custody natural	SDCJ	Hypertensive and atherosclerotic a cardiovascular disease
18-034	Leal, Oscar	In-custody illicit drug-related	VDF	Acute Methamphetamine toxicity
18-041	Gomez-Gutierrez, Gabriel	Traffic/pursuit	Valley Center/Pauma	Multiple blunt force injuries
18-042	Lemus-Garcia, Mario Alberto	Traffic/pursuit	Valley Center/Pauma	Cranio-cervical blunt force injuries
18-043	Maas, Steven	In-custody natural	VDF	Atherosclerotic cardiovascular disease
18-048	Sullivan, Michael Patrick	In-custody suicide	SBDF	Hanging
18-051	South, David Michael	Barricade	Vista	Penetrating contact gunshot wound of head
18-052	Silva, Paul	Restraint	SDCJ	Complications of anoxic/ischemic encephalopathy due to resuscitated cardiopulmonary arrest during law enforcement restraint
18-058	Gallegos, George Young	In-custody natural	SDCJ	Acute pneumonia
18-076	Nelson, Jon Erik	In-custody suicide	SDCJ	Anoxic encephalopathy
18-077	Sugar, Michael	Inmate homicide	SDCJ	Blunt force head injury
18-081	Mcneil, Earl Lamont	In-custody illicit drug-related	SDCJ	Hypoxic/ischemic encephalopathy
18-084	Washam, Alan	In-custody natural	SDCJ	Acute peritonitis
18-086	Yarborough, Carter Wayne	Traffic/pursuit	North Coastal	Multiple blunt force injuries
18-097	Gomez, Michael Manuel	In-custody natural	VDF	Myocardial infarction
18-113	Vincent, Paul Etta	In-custody natural	LCDF	Multi-organ failure
18-117	Martinez, Isaal Tirona	In-custody natural	SDCJ	End-stage renal disease and renal failure
18-118	Napoles-Rosales, Marco Antonio	Restraint related	Fallbrook	Sudden cardiopulmonary arrest associated with methamphetamine intoxication and physical exertion during law enforcement restraint
18-124	Jefferson, Frederick Burnett	In-custody suicide	GBDF	Hanging
18-131	Gomez-Crus, Manuel de Jesus	In-custody suicide	SDCJ	Food asphyxia
18-133	Athos, James	In-custody natural	SDCJ	Perforated duodenal ulcer
18-137	Ayala, Daniel	Deputy-involved shooting	Alpine	Multiple gunshot wounds
18-148	Napoles, Marco	N/A	Fallbrook	This case was created in error and procedurally closed. Case already exists under Case# 2018-118
18-150	Morris, Warren J	In-custody illicit drug-related	Santee	Atherosclerotic and hypertensive cardiovascular disease. Contributing, Methamphetamine intoxication
<b>TOTALS</b>	<b>24</b>			



## Death Cases Closed in 2018 (Table 12)

Case#	Report Name	Category	Facility/Area	Cause of Death
14-027	Dawson, Richard Lee	In-custody suicide	SDCJ	Strangulation
15-112	Fernandez, Francis Xavier	Inmate homicide	SDCJ	Blunt force head trauma
16-019	Perez, Aurelio	Barricade	Imperial Beach	Sharp force injuries
16-073	Moya, David	Deputy-involved shooting	Santee	Penetrating gunshot wound of the head
16-076	Weick, Sergio Daniel	Deputy-involved shooting	Vista	Multiple gunshot wounds
16-078	Lohman, Trenton Joseph	Deputy-involved shooting	Poway	Thoracic gunshot wounds
16-093	Helton, Nicholas	In-custody suicide	GBDF	Blunt force trauma of head and torso
16-101	Almejo, Sergio	In-custody suicide	GBDF	Hanging
16-107	Asaro, Bill	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease
17-019	Bazan Jr., Isidro	Deputy-involved shooting	San Marcos	Thoracoabdominal gunshot wound
17-028	Andera, Michael	Barricade	Fugitive Task Force	Intraoral gunshot wound
17-036	Adkins, Mark	Conductive Electricity Device	Lemon Grove	Resuscitated cardiopulmonary arrest in the setting of acute methamphetamine and phencyclidine toxicity, and recent physical altercation / physical exertion with history of conductive energy device use
17-038	Stucki, Bruce	In-custody natural	VDF	Complications of chronic alcoholism
17-062	George, Stephen Michael	In-custody natural	VDF	Acute and chronic aspiration pneumonia
17-065	Weaver, Alan	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease
17-076	Lacy, James	Deputy-involved shooting	San Diego (Courts)	Gunshot wound of the chest
17-078	Prieto, Ivan	In-custody illicit drug related	SDCJ	Acute cocaine and methamphetamine intoxication
17-080	Kemplin, Wellington Robert	In-custody Undetermined	SDCJ	Seizure disorder
17-093	Rice, Kenneth	In-custody illicit drug-related	SDCJ	Anoxic encephalopathy due to methamphetamine, opiates and benzodiazepines intoxication
17-111	Antos, Barbara	In-custody natural	LCDF	Upper gastrointestinal hemorrhage
17-116	Sellars, Jimmie	Barricade	San Marcos	Perforating intraoral gunshot wound of head
17-147	Moore, Chadwick	In-custody suicide	F8DF	Hanging
18-031	Swanguen, Jess	In-custody natural	SDCJ	Hypertensive and atherosclerotic cardiovascular disease
18-041	Gomez-Gutierrez, Gabriel	Traffic/Pursuit	Valley Center/Pauma	Multiple blunt force injuries
18-042	Lemus-Garcia, Mario Alberto	Traffic/Pursuit	Valley Center/Pauma	Craniocervical blunt force injuries
18-051	South, David Michael	Barricade	Vista	Penetrating contact gunshot wound of head
<b>TOTALS</b>	<b>26</b>			



# Policy Recommendations

POLICY RECOMMENDATIONS - 2018			
#	Case #	Policy Recommendations	Outcome
1	16-019	It is recommended that the San Diego Sheriff's Department (SDSD) revise its Patrol Procedures Manual, Policy 23, entitled, "Psychiatric Emergency Response Team (PERT)," to mandate a request for PERT Team whenever there is a belief that a person is a danger to himself, a danger to other, or gravely incapacitated.	SDSD responded that deputies do consider requesting a PERT team as a resource when dealing with mentally disturbed individuals in the field. As there are situations involving mentally disturbed individuals that would be unsafe to bring a civilian into, the recommendation is not appropriate.  <b>Recommendation Not Implemented</b>
2	16-019	It is recommended that the SDSD revise its Patrol Procedures Manual, Policy 23, entitled, "Psychiatric Emergency Response Team (PERT)," to mandate a request for PERT-trained deputy assistance when a PERT Team is unavailable whenever there is a belief that a person is a danger to himself, a danger to others, or gravely incapacitated.	SDSD responded that the department believes that based on the mandatory PERT training for all patrol deputies, ongoing in-service training efforts, and collaboration with the PERT agency, this recommendation is not necessary at this time.  <b>Recommendation Not Implemented</b>
3	16-019	It is recommended that the SDSD revise its Policies and Procedures Section 9.3 entitled, "Crisis Negotiations," to mandate the consideration of Crisis Negotiations Team assistance any time an individual threatens physical harm to himself or others and to document said consideration and final decision in the Crime/Incident Report or the Computer Aided Dispatch entry, if no report is created.	SDSD responded that experience has shown that deputies do "consider," and often call, the Crisis Negotiations Team in applicable situations. Making the requested changes would mandate a currently permissive action. The Department does not believe it is necessary to make the requested changes.  <b>Recommendation Not Implemented</b>
4	N/A	As CLERB believes civil disturbances at protest/demonstration events have become an increasing risk to public safety and first responders, CLERB is recommending that the San Diego County Sheriff's Department create policy and procedures that pertain to the issuance of "Temporary Area Restrictions" (TARs) as detailed in Chapter 15, Division 2 of the San Diego County Code of Regulatory Ordinances.	SDSD responded that the use of TARs was incorporated into operations and the Emergency Operations Manual was updated to include a reference to the County of San Diego TAR as a section for enforcement.  <b>Recommendation Implemented</b>
5	N/A	As CLERB believes civil disturbances at protest/demonstration events have become an increasing risk to public safety and first responders, CLERB is recommending that the San Diego County Sheriff's Department create policy and procedures that provide guidance for the physical separation of opposing groups at protest/ demonstration events without violating the First Amendment rights of attendees.	SDSD responded that the department committed that guidance is given during each individual event on the appropriateness of separating opposing groups.  <b>Recommendation Implemented</b>

*Policy Recommendations, cont'd*

#	Case #	Policy Recommendations	Outcome
6	N/A	As CLERB believes civil disturbances at protest/demonstration events have become an increasing risk to public safety and first responders, CLERB is recommending that the San Diego County Sheriff's Department create policy and procedures that detail expectations about the timeliness of response to and extent of law enforcement action taken during physical altercations occurring at protest/demonstration events.	SDSD responded that the timeliness of a response to and extent of law enforcement response to physical altercations is discussed in Mobile Field Force (MFF) training and additional MFF directions have been developed.  <b>Recommendation Implemented</b>
7	17-114	It is recommended that the San Diego Sheriff's Department create policy and procedures related to Field Interviews that provide guidance about the circumstances under which Field Interviews are permitted, the type of information collected during Field Interviews, whether or not that information includes photographs, the method(s) in which Field Interview information is collected, and the procedure(s) by which the Field Interview information is catalogued and subsequently retained.	SDSD responded that the department indicated that its existing training on the collection of data, records management and case law supports its existing policy and procedure regarding contacts in the field, and therefore additional Field Interview specific policy is not necessary.  <b>Recommendation Not Implemented</b>
8	16-093	It is recommended that the San Diego Sheriff's Department (SDSD) revise its Detention Services Bureau Policy and Procedures entitled, "Inmate Wristbands and Clothing," to provide, via the identifying wristband, a visual indicator that the inmate had a prior suicide attempt.	The Department indicated that using a visual indicator of an inmate's prior suicide attempt is both a violation of the inmate's privacy and counter therapeutic to recovery. In addition, its use is contrary to the standards of patient confidentiality and best practices of suicide prevention.  <b>Recommendation Not Implemented</b>
9	17-020	It is recommended that the SDSD revise its P&P Section 6.2, entitled, "Juvenile Procedures," to mandate that a minor's parent or legal guardian be notified of the location and/or status of a missing or runaway juvenile when the location and/or status becomes known by any member of the SDSD, unless doing so would compromise a criminal investigation into the actions of the parent or legal guardian or jeopardize the welfare of the juvenile.	SDSD responded that the department is in the process of developing specific changes to this policy.  <b>Recommendation Accepted and In Process of Implementation</b>
10	17-147	It is recommended that the San Diego Sheriff's Department (SDSD) revise its Detention Services Bureau Policy and Procedures (DSB P&P) entitled, "Inmate Suicide Prevention Practices & Inmate Safety Program," to establish a process for Court Services Bureau personnel to relay to Medical Services Division personnel life, death, and other sentencing information that, under the known circumstances, may be considered "severe."	SDSD responded that the Medical Services Division is working with the Court Services Bureau and the Public Defender's office to create notification steps and offer training regarding inmates that are sentenced to life, death, or other "severe" sentences.  <b>Recommendation Accepted and In Process of Implementation</b>



*Policy Recommendations, cont'd*

#	Case #	Policy Recommendations	Outcome
11	17-147	It is also recommended that the SDSA communicate to pertinent external entities its desire to conduct suicide prevention evaluations on inmates who may be in need of them and facilitate processes to ensure those entities can communicate concerns as expeditiously and easily as possible.	<p>The Suicide Prevention and Focused Response Team is working on education and advertisement of suicide prevention to include external stakeholders, i.e., family, friends, and inmate peers. A Mental Health Advocacy Hotline has been created.</p> <p><b>Recommendation Implemented</b></p>
12	N/A	It is recommended that the SDSA review Policy and Procedure 6.111, High Risk Entries, and clarify the ambiguity pertaining to the completion of a High-Risk Entry Checklist (Checklist) prior to serving an arrest warrant when there is no plan to enter a structure to do so. The Policy statement indicates that "the High-Risk Entry Checklist shall be completed to determine the threat level before any entry is made pursuant to an arrest warrant, search warrant, or 4 <sup>th</sup> waiver search." The first sentence of the Procedure section mandates that "prior to serving a search warrant, arrest warrant, or conducting a 4 <sup>th</sup> waiver search, the deputy responsible for the case will complete the Checklist." To clarify the conflict with the Policy statement, CLERB proposes changing the Procedure sentence to the following: "Before any entry is made pursuant to serving a search warrant, arrest warrant, or conducting a 4 <sup>th</sup> waiver search, the Deputy responsible for the case will complete the High Risk Entry Checklist."	<p>The SDSA believes that the policy, as written, already serves its goals.</p> <p><b>Recommendation Not Implemented</b></p>
13	17-038	In an attempt to ensure deputies working in the detention facilities have the appropriate equipment readily accessible to provide emergency medical care to inmates as expeditiously as possible, it is recommended that the San Diego Sheriff's Department (SDSD) revise its Detention Services Bureau Policy and Procedures (DSB P&P) to require deputies in the detention facilities to have disposable protective gloves and a protective airway mask on their persons when interacting with inmates.	<p>The SDSA stated deputies already are required to carry the PAM/BPM on their duty belt while on duty.</p> <p>The SDSA stated protective gloves are already available at many locations within the jail facility. They believed that was an isolated incident.</p> <p><b>Recommendation Not Implemented</b></p>



# Budget

## CLERB Two-Year Adopted/Approved Operational Budget (Table 14)

Line Item Category	Fiscal Year	
	2017-18	2018-19
Salaries & Fringe Benefits	\$552,106	\$721,793
Services & Supplies	165,345	\$195,267
Total Expense	\$717,451	\$917,060
General Revenue	\$717,451	\$917,060
Employee Positions	4	5



# Glossary of Terms & Definitions

**Action Justified:**

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

**Lodged versus Filed Complaints:**

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

**Not Sustained (Insufficient Evidence):**

A finding that indicates CLERB's investigation produced insufficient evidence to either prove or disprove the allegation.

**Preponderance of the Evidence:**

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

**Procedurally Closed:**

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

**Summary Dismissal:**

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

**Sustained:**

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

**Tolling:**

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

**Unfounded:**

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



# | Appendices

**APPENDIX A: SAN DIEGO COUNTY CHARTER SECTION 606**

**APPENDIX B: SAN DIEGO ADMINISTRATIVE 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) Review and investigate the death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department, regardless of whether a citizen complaint regarding such death has been filed with the Review Board. The Review Board shall have jurisdiction in respect to all deaths of individuals coming within the provisions of this subdivision occurring on or after November 7, 1990; provided, however, that the Review Board may not commence review or investigation of any death of an individual coming within the provisions of this subdivision more than one year after the date of the death, unless the review and investigation is commenced in response to a complaint filed within the time limits set forth in subdivision (a) of this section.
- (c) Prepare reports, including at least the Sheriff or the Probation Officer as recipients, on the results of any investigations conducted by the Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to the imposition of discipline, including the facts relied on in making such recommendations, and recommendations relating to any trends in regard to employees involved in citizen complaints. The Review Board is not established to determine criminal guilt or innocence.
- (d) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Probation Officer summarizing the activities and recommendations of the Review Board including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.
- (e) Notify in writing any citizen having filed a complaint with the Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints. Such notifications shall be in writing and shall contain the following statement: "In accordance with Penal Code section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of California or the United States."
- (f) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.
- (g) Review and make recommendations on policies and procedures of the Sheriff's Department and the Probation Departments to the Board of Supervisors, the Sheriff, and the Chief Probation Officers.
- (h) Annually inspect County adult detention facilities and annually file a report of such visitations together with pertinent recommendations with the Board of Supervisors.

(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)

**SEC. 340.10. REVIEW BOARD INVESTIGATIONS.**

Citizen complaints received by the Review Board shall be transmitted forthwith to the Sheriff or the Probation Officer.

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

**SEC. 340.11. SUBPOENAS.**

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

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

**SEC. 340.12. STAFF ASSISTANCE.**

The Review Board shall appoint such personnel as may be authorized by the Board of Supervisors.

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

**SEC. 340.13. TRAINING REQUIREMENTS.**

All members shall attend and satisfactorily complete a training course within three months of the beginning of the member's term or of the member's appointment to fill a vacancy. The training requirements shall be established by the Chief Administrative Officer. Failure to attend and satisfactorily complete the training course within the prescribed time shall result in the member's removal from the Review Board and shall automatically create a vacancy on the Review Board.

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

**SEC. 340.14. RECORDS.**

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

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

**SEC. 340.15. COOPERATION AND COORDINATION.**

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

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



## APPENDIX C

### CITIZENS' LAW ENFORCEMENT REVIEW BOARD RULES AND REGULATIONS

Adopted by the CLERB on March 9, 1992

Last Revision June 27, 2017

#### SECTION 1: PURPOSE.

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

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

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

#### SECTION 2: DEFINITIONS.

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

- |     |                     |   |
|-----|---------------------|---|
| 2.1 | "Subject Officer"   | The peace officer or custodial officer employed by the County of San Diego in the Sheriff's Department or the Probation Department against whom has been filed a Citizen complaint alleging improper or illegal conduct as set forth in sections 4.1 and 4.2 or about whom an investigation is undertaken without the filing of a complaint as set forth in section 4.6.                          |
| 2.2 | "Aggrieved Person"  | Any person who appears from a complaint to have suffered injury, harm, humiliation, indignity, or any other damage as a result of actions by a peace officer or custodial officer in the performance of his or her official duties or the exercise of peace officer authority.  |
| 2.3 | "Citizen Complaint" | A complaint received from any person without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant alleging an improper act or misconduct, as further defined in sections 4.1 and 4.2 below, of a peace officer or custodial officer in the performance of his or her official duties or the exercise of peace officer authority. |
| 2.4 | "Chair"             | The Chairperson of the Citizens Law Enforcement Review Board, or the Vice Chairperson if the Chairperson is not able to preside.  |



- 2.5 "Complainant" Any individual who files a complaint regarding the conduct of a peace officer or custodial officer in the employ of the Sheriff's Department or the Probation Department arising in the performance of his or her official duties or the exercise of peace officer authority and who files a complaint with the Review Board.
- 2.6 "County" County of San Diego, California
- 2.7 "Ordinance" County Ordinance #7880, as amended, Article XVIII (commencing with Section 340) of the Administrative Code of the County of San Diego adopted by the Board of Supervisors of the County of San Diego, California, which became effective on May 2, 1991.
- 2.8 "Review Board" The eleven (11) members of the Citizens Law Enforcement Review Board nominated and appointed in accordance with the provisions of the Ordinance.
- 2.9 "Hearing Panel" A three (3) member subcommittee of the Review Board selected to conduct an investigative hearing of a citizen complaint, and make appropriate findings and recommendations to the Review Board based on the hearing.
- 2.10 "Presiding Member" The member of a three-person Hearing Panel appointed by the Chair to preside at an investigative hearing.

### SECTION 3: ORGANIZATION AND MEETINGS.

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

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

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

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

- (a) Death of the incumbent,
- (b) Resignation of the incumbent,
- (c) Ceasing of the incumbent to be a resident of the County of San Diego,
- (d) Absence of the member from three consecutive regular meetings of the Review Board, or,
- (e) Failure to attend and satisfactorily complete the required training course within three months of the beginning of a member's term or of the member's appointment to fill a vacancy.

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

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

3.5 Officers of the Review Board. The members of the Review Board shall elect annually from its



membership a Chair, a Vice Chair and a Secretary. The term of office shall be for one year or until the successor has been elected. The duties of the Officers shall be as follows:

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

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

- B. Vice-Chair: In the absence of the Chair, the Vice-Chair shall perform all the duties of the Chair with the same force and effect as if performed by the Chair.
- C. Chair Pro Tem: If both Chairs are absent at any meeting of the Review Board and have not selected a Chair Pro Tem, the Review Board shall select a Chair Pro Tem who shall perform all the duties of the Chair.
- D. Secretary: The Secretary shall keep a true and correct record of all proceedings of the Review Board. The Secretary shall have custody of all reports, books, papers, and records of the Board.
- E. Secretary Pro Tem: In the absence of the Secretary, the Review Board may appoint a Secretary Pro Tem.

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

The orientation and training program includes familiarization with the following:

- (a) County Government structure and the Review Board;
- (b) County Charter, Brown Act and State Law pertaining to the Review Board;
- (c) State Law relating to Peace Officers' rights and privacy;
- (d) Operations of the Sheriff's Department and the Probation Department;
- (e) Disciplinary process for Deputy Sheriffs and Probation Officers;
- (f) Sheriff and Probation Departments' training programs;
- (g) Community perspective on Law Enforcement;
- (h) Constitutional and civil rights law relating to police misconduct and citizen's rights.
- (i) Memoranda of Agreement between the County of San Diego and the Deputy Sheriff's Association or San Diego Probation Officers' Association.

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

Citizens' Law Enforcement Review Board, 555 West Beech, Suite 505, San Diego, CA 92101-2940

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



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

- (a) The agenda for each meeting will normally be provided to all members in time to be received at least one week prior to the regularly scheduled meeting. Items for the agenda for any regular meeting of the Review Board may be included on the agenda only with the approval of the Chair; provided, however, Review Board members may file an item for the agenda for a regular meeting directly with the Executive Officer.
- (b) The agenda for each meeting will be posted, distributed, and otherwise made public in accordance with the requirements of State and County law applicable to advisory boards.
- (c) All meetings shall be held in accordance with the requirements of the Ralph M. Brown Act, Section 54950 et seq., of the California Government Code.
- (d) A majority of members currently appointed to the Review Board shall constitute a quorum.
- (e) The affirmative vote of the majority of the members currently appointed to the Review Board shall be required to carry a motion or proposal.
- (f) The Review Board's legal counsel will normally be present for all meetings of the Review Board.
- (g) In all procedures not provided for by these Rules, or the enabling Ordinance #7880, as amended, the Review Board shall be governed by Robert's Rules of Order, Newly Revised.
- (h) The Review Board shall keep written minutes of all meetings and a copy shall be filed with the Clerk of the Board of Supervisors.
- (i) Subcommittees may be established by the Review Board as appropriate, however, no more than five (5) members of the Review Board (including the Chair as an ex-officio member) shall serve on any one subcommittee.
- (j) Members and the Chair of each subcommittee shall be designated by the Chair of the Review Board.
- (k) As noted in Section 3.3 above, a member's absence from three (3) consecutive regular meetings of the Review Board shall result in the member's automatic removal from the Review Board.
- (l) Normally, the order of business for the Review Board meetings shall be as follows:
  1. Roll Call.
  2. Approval of Minutes.
  3. Special order of business; announcements; communications.
  4. Public comment.
  5. Executive Officer's report.
  6. General policy items.
  7. Subcommittee reports.
  8. Unfinished business.
  9. New business.
  10. Discussion and consideration of complaints and reports.
  11. Recess to closed session, if appropriate.
  12. Adjourn.

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

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

The Executive Officer shall recommend to the Review Board the filling of any staff position for approval by the review Board. The Review Board delegates its authority to the Executive Officer to manage and discipline all staff positions. Once appointed, all unclassified personnel will serve at the pleasure of the



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

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

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

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

- (a) Use of excessive force;
- (b) Discrimination or sexual harassment in respect to members of the public;
- (c) The improper discharge of firearms;
- (d) Illegal search or seizure;
- (e) False arrest;
- (f) False reporting;
- (g) Criminal conduct; and/or
- (h) Misconduct.

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

- (a) An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or,
- (b) An alleged violation of any county ordinance or state or federal law; or,
- (c) Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

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

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

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



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

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

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

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

- (a) Prepare reports, including at least the Sheriff or the Chief Probation Officer as recipients, on the results of any investigations conducted by the Review Board in respect to the activities of peace officers or custodial officers, including recommendations relating to any trends in regard to employees involved in citizen complaints. The Review Board is not established to determine criminal guilt or innocence.
- (b) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Chief Probation Officer summarizing the activities and recommendations of the Review Board including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.
- (c) Review and make recommendations on policies and procedures of the Sheriff and the Chief Probation Officer to the Board of Supervisors, the Sheriff and the Chief Probation Officer.
- (d) Annually inspect county adult detention facilities and annually file a report of such visitations together with pertinent recommendations with the Board of Supervisors, the Presiding Judge of the Superior Court, the Sheriff, the Board of Corrections and the Attorney General. Inspections shall be concerned with the conditions of inmate employment, detention, care, custody, training and treatment on the basis of, but not limited to, the minimum standards established by the Board of Corrections.
- (e) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.

## **SECTION 5: PROCEDURES REGARDING COMPLAINTS.**

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

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



- (b) The investigation of complaints shall be conducted in a fair, impartial, objective and ethical manner.
- (c) Complaints will be considered, investigated (where appropriate), and disposed of in accordance with the procedures set forth herein.
- (d) As promptly as possible, citizen complaints received by the Review Board shall be transmitted by the Executive Officer to the Sheriff or the Chief Probation Officer.
- (e) The Review Board will make every effort to ensure that no adverse consequences will result to any person or witness as a result of having brought a complaint or having provided information in any investigation of a complaint.
- (f) The Review Board will make every effort to consider and to respond to citizens' complaints against peace officers or custodial officers, and, where investigation is necessary, will conduct an impartial and fair investigation into any such complaints in accordance with the procedures set forth herein.
- (g) The right of any complainant to bring a complaint shall be absolute and unconditional. The reluctance or refusal of the complainant to prepare a complaint form shall not impair his or her right to lodge a complaint. No complaint shall be investigated, however, until a complaint signed by or on behalf of the person aggrieved has been received by the Review Board or a member of its staff.
- (h) The investigation of a complaint will be conducted in a manner designed to avoid unnecessary inconvenience or embarrassment to the complainant, the aggrieved person, the witnesses, the subject officer, and any agency or instrumentality of the County.
- (i) To the extent possible consistent with its duties and responsibilities, the Review Board shall coordinate its activities with other public officers, such as the Sheriff, the District Attorney, the Grand Jury, the U. S. Attorney, and the Public Defenders Office, so that the other public officers and the Review Board can fully and properly perform their respective duties.

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

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

- (a) If the complaint is lodged in person, the Review Board employee shall furnish the complainant with a blank complaint form. The complainant shall be asked to fill out the form and to sign the form in the space provided. A copy of the completed form shall be given to the complainant to serve as a record of the filing of the complaint.
- (b) If the complaint is lodged by mail, the complaint form shall be completed by the Review Board staff on the basis of the information contained within the correspondence. The Review Board staff shall mail a copy of the completed complaint to the complainant as a record of the lodging of the complaint, together with a request that the complainant review the complaint form for accuracy, and if accurate, sign the same and return it to the Review Board office.
- (c) If the complaint is lodged by telephone, the Review Board staff shall fill out an original complaint form and prepare one duplicate copy of the complaint form as a record of the lodging of the complaint. The Review Board employee taking the complaint shall give his or her name to the complainant. The Executive Officer shall furnish the complainant with a copy of the completed form, together with a request for verification of the accuracy and a signature.
- (d) In those cases where the complainant is incarcerated in a detention facility in the County of San Diego, the complaint will be handled as outlined in (b) or (c) above.

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



5.4 Time Limitations for Filing Complaints. All complaints shall be received within one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or physical or mental incapacity shall not be counted in determining whether the one year period for filing the complaint has expired, subject to the provisions of Section 4.4 of these Rules and Regulation, pursuant to the provisions of Section 4.4 of these rules.

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

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

- (a) Name of the Complainant, the Aggrieved Party, and the Subject Officer,
- (b) Number of complaint,
- (c) Date complaint was filed,
- (d) A brief description of the subject matter of the complaint,
- (e) Date the complaint was transmitted to the Sheriff's Department or the Probation Department,
- (f) Results of the Review Board's consideration and/or investigation, if any,
- (g) Date and content of the final disposition of the complaint.

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

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

## **SECTION 6: COOPERATION AND COORDINATION.**

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

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

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

## **SECTION 7: SUBPOENAS, OATHS.**



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

### **SECTION 8: CONFIDENTIALITY OF RECORDS.**

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

### **SECTION 9: INVESTIGATION OF COMPLAINTS.**

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

9.2 Screening of Complaints.

- (a) Complaints shall be referred to the Executive Officer for investigation. Each complaint will be initially screened by staff and classified as follows:
  - 1. "Category I" Complaint against a peace officer or custodial officer employed by the County in the Sheriff's Department or the Probation Department which requires an immediate and thorough investigation.
  - 2. "Category II" Complaint which does not warrant an immediate and full investigation, and/or is appropriate for deferral.
  - 3. "Category III" Miscellaneous. Essentially a request for information -- complainant needs satisfied after explanation of County Sheriff's Department or Probation Department operations.
  - 4. "Category IV" Complaint not within the jurisdiction of the Review Board. Such complaints will be referred to the Review Board for Summary Dismissal.
  - 5. "Category V" Complaints not alleging facts establishing a prima facie showing of misconduct. Such complaints may be referred to the Review Board for Summary Dismissal.

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

- (a) Interviews with the Complainant, the aggrieved party, each Subject Officer, and witnesses or other persons likely to have information concerning the complaint; examination of the scene of the incident; viewing and analyzing physical evidence, if any, associated with the alleged incident; review, analysis and preservation of other physical evidence, if any. Such investigations must be conducted in a manner that will not obstruct the criminal investigations conducted by the Sheriff, District Attorney, or other law enforcement agencies. In the event that the Subject Officer is compelled to cooperate in an investigation, the Subject Officer shall be provided the "Lybarger warning" when required under the appropriate circumstances.
- (b) It shall be the responsibility of the investigator to record each step in the investigation and the result thereof in an investigation report which shall be made a part of the complaint file.
- (c) The Review Board investigators shall attempt to secure written statements under oath from all participants in and witnesses to the alleged incident. Where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall prepare a verbatim transcript or written summary of the oral statement, if any, provided by such participant or witness. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making such statement with a copy of the statement.



- (d) Interviews and statements may be tape-recorded by the investigator. Such recordings shall be kept and preserved until the case is finally disposed of by the Review Board and its findings reviewed by the Board of Supervisors or other appropriate agency or official, or for such longer period as may be required by law.
- (e) The general policy of the Review Board will normally be to defer its investigation of a complaint for the period of time during which formal criminal proceedings relating to the subject matter of the complaint are pending against the subject officer. The Review Board reserves the right to commence immediate investigations, or to defer investigations, in all other cases depending upon Review Board priorities and available resources.

**9.4 Investigation Report.** At the conclusion of the (pre-hearing) investigation, the investigator shall complete an appropriate written report setting forth the names of the complainant, the aggrieved party, and the subject officer; and summarizing what investigation was conducted and what information was disclosed by the investigation. The report shall also contain a procedural recommendation by the Executive Officer to the Review Board as to what further action should be taken by the Review Board, such as whether an investigative hearing before a three-member Hearing Panel is appropriate, or before the full Review Board, or whether the case is appropriate for Summary Dismissal, or any other appropriate action or disposition. The Investigative Report shall be submitted to the Chair of the Review Board who may attach his or her own recommendation and submit the entire report to the Review Board, either orally or in writing, or both.

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

- (a) Conduct an investigative hearing or hearings, pursuant to Sections 10-16; or
- (b) Review and determine the Complaint based on the Investigative Report and the evidence in the investigative file, but without an investigative hearing, pursuant to Section 9.6; or
- (c) Summarily dismiss the Complaint, in whole or in part, pursuant to Section 15; or
- (d) Refer the Complaint back to staff for further investigations; or
- (e) Defer further action on the Complaint; or
- (f) Any other appropriate action or disposition, consistent with the Ordinance.

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

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

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

- (a) Written notice that the Complaint will be considered by the Review Board; and an explanation of the process to be utilized by the Review Board.
- (b) Any recommendations dealing solely with summary disposition or procedural matters.
- (c) A copy of the Investigative Report and the summary supplied to the Review Board. A notification that all additional statements, records, reports, exhibits, and other items contained in the file will be available on request; except for any evidence that cannot be so made available because its disclosure is prohibited by law.
- (d) Written notice that the parties may consult an attorney if desired, and that an attorney or other representative may represent him/her at any hearing, but that an attorney or other representative is not mandatory.



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

#### **SECTION 10: DETERMINING WHEN A HEARING IS NECESSARY.**

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

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

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

- (a) There has been an undue lapse of time since the occurrence of the incident which is the subject of the Complaint; or
- (b) There are additional witnesses, evidence, or information that contradicts or supplements, or is not disclosed by the Investigative Report; or
- (c) There is reason to question the conclusion of the Investigative Report; or
- (d) A hearing would advance public confidence in the Complaint process; or
- (e) An appearance in person by the parties would facilitate the fact finding process.

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

#### **SECTION 11: NO CONTEST RESPONSE.**

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

#### **SECTION 12: INVESTIGATIVE HEARING PANELS.**

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

12.2 Selection of Three-Person Hearing Panels

- (a) Selection of three-person Hearing Panels under this section shall be made by rotation among the Review Board members, as appointed by the Chair using any basis (including lottery) that balances the workload among Board members. A Review Board member may request that he or she be temporarily excused to equalize caseload, avoid conflicts of interest, or for other good cause. In the event a Review Board member is so excused, another Board member shall be reassigned by the Chair.
- (b) If a Hearing Panel is unable to meet to convene a hearing on a scheduled date due to the unavailability for any reason of one or more of its members, or if a Panel agrees to reschedule a hearing due to the unavailability for any reason of the complainant(s) or subject officer(s) or legal counsel for either, the case or cases assigned to such panel may be re-assigned to another Hearing Panel. However once a hearing of a case has been convened by a Hearing Panel, the same Panel shall consider the case to final disposition.



### 12.3 Challenges of Board Members.

- (a) **Challenge for Conflict of Interest or Bias.** A Board member sitting on a Hearing Panel shall consider all complaints in a fair and impartial manner. A Board Member who has a personal bias or prejudice, or the appearance thereof, in the outcome of a complaint shall not sit on the Hearing Panel hearing that complaint. Personal interest in the outcome of a complaint does not include holding or manifesting any political or social attitude or belief, where such belief or attitude does not preclude objective consideration of a case on its merits. Examples of personal bias include, but are not limited to:
1. Familial relationship or close friendship with parties material to the inquiry;
  2. Witnessing events material to the inquiry from a non-neutral perspective;
  3. Being a party to the inquiry;
  4. Having a financial interest in the outcome of the inquiry;
  5. Holding a bias against a particular party that is sufficient to impair the Board member's impartiality.
- (b) **Procedure for Challenges.** Within five (5) calendar days after the date on which the Review Board furnishes notice of a Hearing, including the names of the Board Members constituting that Panel, either party to the complaint may file a written challenge for cause to any Board Member hearing the complaint. Challenges for conflict of interest or bias must substantiate the challenge in terms of the standard set forth in Section 12.3 (a) above.

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

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

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

## **SECTION 13: INVESTIGATIVE HEARING PROCEDURES.**

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

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

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

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

13.5 Conduct of the Investigative Hearing. Hearings should be informal, and should be conducted in the



following manner unless the Chair or Presiding Member orders otherwise:

- (a) The Presiding Member will conduct the investigative hearing subject to being overruled by a majority of the Hearing Panel. Members of the Board shall be primarily responsible for obtaining testimony. One Board member may be assigned by the Chair or Presiding Member to do the initial questioning of witnesses when a complaint is called for investigative hearing. Additional questions may be asked by any Board member, or by a party or party's representative, or by assigned staff members.
- (b) At the discretion of the Review Board, opening statement(s) may be made on behalf of the Complainant and the Subject Officer(s) involved.
- (c) The investigative hearing will generally then proceed as follows: The Complaint will be presented, and witnesses, if any will be introduced. The Board may assign a staff member or counsel to assist in the presentation of a complaint where such assistance appears necessary to facilitate a fair and orderly hearing of the complaint. The Subject Officer may then respond to the Complaint, and introduce witnesses, if any. Each person testifying, and each party to the Complaint, may be questioned by the Board and by the parties or their attorneys. In the event that the Subject Officer is compelled to cooperate in an investigative hearing, the Subject Officer shall be provided the "Lybarger warning" when required under the appropriate circumstances. After the Board has taken all relevant evidence, each party may, in the discretion of the Presiding Member, be given an opportunity to make a closing statement.
- (d) At the conclusion of any witness' testimony, either the complainant or the officer involved may request that the Hearing Panel cover any additional areas of inquiry they feel need to be covered. The Presiding Member shall determine whether any further questions will be asked.
- (e) Unless otherwise ordered by the Chair or Presiding Member, the entire investigative hearing on a given complaint should be conducted on one occasion. However, if the Hearing Panel determines that additional evidence is necessary to reach its findings, it will continue the investigative hearing to a future date unless the parties agree to allow the Hearing Panel to receive such material in writing without reconvening.

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

## **SECTION 14: EVIDENCE.**

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

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

Evidence shall be taken in accordance with the following provisions:

- (a) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against the party. If the Subject Officer does not testify in his/her own behalf he/she may be called and examined as if under cross-examination.
- (b) Oral evidence shall be taken only under oath or affirmation.
- (c) Upon the request of either party or a Board member, witnesses may be excluded from the hearing until they are called to testify.
- (d) Irrelevant and unduly repetitious evidence shall be excluded.



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

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

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

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

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

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

14.7 Discovery.

- (a) By the Review Board. The Review Board, through its staff and agents, may utilize whatever formal or informal methods for the discovery of evidence as are authorized and available under federal, state, or local law.
- (b) By the Parties. Prior to a hearing, the Complainant and each Subject Officer may have access to or receive copies of evidence contained in the Review Board's investigative file for the complaint, except for any evidence that cannot be so made available because its disclosure is prohibited by law. Parties seeking such discovery must give at least forty eight (48) hours advance notice to the Review Board, either in writing or by telephone.

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

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

## SECTION 15: SUMMARY DISMISSAL.

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

- (a) The Review Board does not have jurisdiction over the subject matter of the Complaint.
- (b) The Review Board does not have jurisdiction because the Complaint was not timely filed.



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

## **SECTION 16: REVIEW BOARD FINDINGS AND RECOMMENDATIONS.**

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

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

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

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

- (a) Vote to conclude the matter without further investigation, review, or hearings;
- (b) Request further information or review by staff, by the Hearing Panel, or through other appropriate means
- (c) Vote to conduct further proceedings on the matter before the entire Review Board;
- (d) Take such other or additional action as it deems necessary and appropriate, such as the making of recommendations regarding policy or rule changes, referral to appropriate governmental agencies, or other appropriate action.
- (e) Accept the Panel report as the Final Report of the Review Board.

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

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

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

- (a) If the investigation shows the alleged act did not occur, the finding shall be "Unfounded".
- (b) If the investigation fails to support the allegations but the allegations cannot be shown as false, the finding shall be "Not Sustained".
- (c) If the investigation shows the alleged act did occur but was lawful, justified and proper, the finding shall be "Action Justified".



- (d) If the investigation supports the allegations and the action is not justified, the finding shall be "Sustained".  
A finding of "Sustained" should include an explanation of the finding of improper conduct; recommendations relating to the imposition of discipline, including the facts relied on in making such recommendations, and recommendations relating to any trends in regard to employees involved in citizen complaints; and/or recommendations for remedial changes in policies or practices where appropriate.

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

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

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

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

#### **SECTION 17: PROCEDURES WHEN NO CITIZEN COMPLAINT REQUIRED.**

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

- (a) The Review Board will undertake such review and investigation when a Board member requests the action and a majority of the Review Board then votes to initiate the review and investigation.
- (b) The review and investigation, including the investigative hearing procedures for such cases, shall otherwise proceed in the same manner, pursuant to these rules as regulations, and in cases initiated by a citizen complaint.

#### **SECTION 18: DELEGATION OF FUNCTIONS TO EXECUTIVE OFFICER.**

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

#### **SECTION 19: AMENDMENTS TO RULES AND REGULATIONS.**



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