

**MINUTES  
CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING  
August 14, 2018**

**Attachment A**

- Roll Call**
- The meeting was held at the County Administration Center and came to order at 5:30 p.m. All Board members were present except Robert Spriggs.
- Public Comments**
- N/A
- Minutes Approval**
- The July 2018 meeting minutes were approved by motion by Darrel Harrison and seconded by G. I. Wilson. Jordan Gascon abstained from the vote. The last sentence of the fifth dot point on page 10 was updated to read "...and prepare it **separately**..." instead of "...and prepare it **secretly**..."
- Presentation/Training**
- N/A
- Board Chair's Report**
- On July 10, 2018, the Board of Supervisors (BOS) re-appointed the following CLERB Board members to a new three-year term:
    - Lourdes N. Silva, Seat #1, for a term to expire June 30, 2021
    - Susan Youngflesh, Seat #6, for a term to expire June 30, 2021
    - Kim-Thoa Hoang, Seat #7, for a term to expire June 30, 2021
    - Gary I Wilson, Seat #10, for a term to expire June 30, 2021
  - Board members were reminded how to correspond by email to each other so that compliance with the Brown Act is maintained. Since all of the committees, at this time are ad hoc subcommittees and not standing committees, it would be best to limit the subcommittee's substantive email communications to the entire subcommittee outside of a meeting. Trying to find a date/time to meet is fine to do by email. If there is work being done on editing or revising documents, the wisest thing to do would be to send corrections to either the chair of the committee or to the Executive Officer, but not to the entire subcommittee. The concerns County Counsel has about emails are generally intended to prevent a situation where there is more than a quorum communicating by email, even if that communication is just a "reply all." Additionally, even if the emails involve less than a quorum, they could be construed as a serial communication, which is prohibited under the Brown Act.
  - In the July 10, 2018, Chair's report, the report-out on the meeting between Paul Parker and me after the June Board meeting concerning his Annual Performance Evaluation (APE). Mr. Parker was pleased that the Board was happy with his work and he signed the APE BY June 30, 2018.
  - Having said that, it is with deep regret that I have to announce that Mr. Parker will be leaving CLERB to take a job in that he was recruited for in Los Angeles as the Chief Deputy Director for the Los Angeles County Department of Medical Examiner-Coroner. In the nearly 14 months that Mr. Parker has been the CLERB Executive Officer, he has:
    - Conducted a Business Process Review on all CLERB internal processes;
    - Created a case triage system;
    - Cleared the case backlog;
    - Started an internal Policy and Procedure Manual;
    - Started a Special Investigator Training Program;
    - Implemented a new Investigative Report Format;
    - Completed a comprehensive 2017 Annual Report;
    - Presented 14 Policy Recommendations to the San Diego County Sheriff's Department;
    - Led CLERB through 22 one-year summarily dismissed death cases;
    - Led CLERB through discussions about the Grand Jury Report;
    - Coordinated the CLERB office remodel;
    - Trained a new Administrative Secretary;
    - Trained two new Special Investigators;
    - Began to restore CLERB's reputation within the San Diego County Government Structure and with Internal County customers; and
    - Provided advice and guidance to the Board.
  - Mr. Parker will be leaving CLERB for a job that he is extremely qualified for, just as he was for the EO job at CLERB, and he is leaving CLERB a much more organized, disciplined, and successful organization. On behalf of the Board, we thank Mr. Parker for his dedication, hard-

work, and wisdom in helping CLERB negotiate some bumps in the road. We wish Mr. Parker good luck in his new job.

## Executive Officer's Report

- Overview of Activities of CLERB Executive Officer and Staff for July 2018
  - San Diego Sheriff's Department (SDSD) Division of Inspectional Services CLERB liaison Aaron Meleen visited CLERB offices and met with all staff during his first week as the new liaison.
  - Lenore Aldridge, Aron Hershkowitz, Tamicha Husband, and Mr. Parker attended a one-day Bridges Out of Poverty training program sponsored by the Public Safety Group (PSG). The training was eye-opening, especially as it pertained to how to improve the level of service provided to our external customers. Mr. Parker will continue to review CLERB's complaint processes and all processes involving our external customers and implement changes to minimize any delays.
  - Ms. Aldridge attended a half-day Community Action Poverty Simulation training session sponsored by PSG.
  - Ms. Aldridge, Mr. Hershkowitz, Ms. Husband, Mr. Parker, and Lynn Setzler toured the Las Colinas Detention and Reentry Facility and the George Bailey Detention Facility. Ms. Aldridge, Mr. Hershkowitz, Ms. Husband, and Ms. Setzler toured the San Diego Central Jail. A tour of the Vista Detention Facility is scheduled for August 29. The purpose of the tours was to provide a general overview to staff about each facility. The tours were not related to CLERB's jail inspection function.
  - Mr. Parker presented an overview of CLERB to the 2018/2019 San Diego County Grand Jury.
  - Mr. Parker presented an overview of CLERB at the SDSD Supervisor's Academy.
  - Mr. Parker sat on the interview panel for the PSG Human Resource Manager opening.
  - Mr. Parker sat on the interview panel for the Probation Department's Internal Affairs Supervisor opening.
  - As Mr. Parker's last day at CLERB will be Thursday, September 6, he provided the status of the following items:
    - Rules and Regulations Revision
      - County Counsel Suggested Changes Incorporated
      - Forwarded to Chairperson Arkin on 08-10-18
    - Investigations Training Manual
      - Started
      - May Be Completed Prior to Mr. Parker's Last Day
    - Inspection of County Detention Facilities
      - Handbook Draft Completed
      - Awaiting Board Action
    - Grand Jury Response
      - Will Be Sent to Superior Court and Grand Jury on 08-15-18
    - Standing Order for Juvenile Records
      - Working with County Counsel
    - San Diego Medical Examiner's Office Reports
      - Working with County Counsel
- Investigative Workload Report for July 2018
  - There were 15 new cases (as compared to 18 for July 2017).
  - At the end of July there were 91 active cases (eight in "lodged" status and 83 open and active).
    - There were 38 open death cases.
      - CLERB had documents for 18 cases and was awaiting documents on the remaining 20.
      - There was one new death case in July (one in-custody possible natural).
- Case Progress and Status Reports
  - Mr. Parker discussed the two reports: "CLERB Reports by Due Date" and "CLERB Reports Due by Case Number."
    - There are 13 cases scheduled to reach their one-year time limitation by December 31, 2018; eight of those cases are on tonight's agenda. If CLERB accepts staff's

recommendations on those cases, five cases (no deaths) due in calendar year 2018 will remain.

- If CLERB accepts staff's recommendations on the seven death cases on tonight's agenda, only 11 workable death cases (all documents received) will remain (all of them due in 2019).
- If CLERB accepts staff's recommendations on all cases on tonight's agenda, there will only be 43 open and active cases with all evidence and materials received (97 total minus 12 lodged only minus 19 on agenda minus 21 deaths with no materials minus two tolled equals 43).
- SDDSD Sustained Finding Response
  - 17-112/Gilchrist
    - CLERB's findings that a deputy did not act in a professional manner will be shared with the deputy's Commanding Officer for appropriate administrative action, including a referral for an Internal Affairs investigation, if needed.

#### New Business

- Selection and Appointment of Executive Officer
  - The EO Selection & Appointment committee will consist of Mr. Gascon, Ms. Silva, Ms. Chavez-Harmes, and Ms. Arkin.
  - After tonight's meeting we will try to figure out how we are going to go forward.

#### Unfinished Business

- The San Diego County Grand Jury Report
  - The response will be submitted August 15, 2018.
  - Ms. Chavez-Harmes: Madame Chair I have some items I would like to discuss. The revised finding number three response is still not accurate and truthful and in my research I pulled up the minutes from May of 2016 forward. I believe copies were sent to each of the board members. I would like to call your attention to May 10, 2016. (read summary of minutes related to death cases timelines)
    - **5/10/16** – Executive Officer Patrick Hunter to research for Board members the following information with Lieutenant Jeffrey Duckworth at the Sheriff's Department.
      - **Request legal opinion for Death case timelines with regard to employee discipline.**
    - **6/14/16** – Unfinished Business: Executive Officer pending items: the 2014 & 2015 Annual Reports, Rules & Regulations updates, California Senate Bill 1286 Peace Officers: Records of Misconduct **and Review Board questions from the May 10, 2016, meeting, (Death cases timelines)**
    - **July & August 2016 Meetings were cancelled so that the Executive Officer could focus on pending items.**
    - **9/13/16** – Unfinished Business: Executive Officer pending items: the 2015 Annual Report, Rules & Regulations updates, **and Review Board questions from the May 10, 2016 meeting.**
    - Mr. Hunter: \*the 2014 Annual Report was completed and the 2015 Annual Report was commenced;
    - The Executive Officer has yet to solicit staff comment/recommendations for updated CLERB Rules & Regulations; \***Review Board's request for clarification by Sheriff's Department re: Death Cases/notification/Disciplinary action – Executive Officer has not yet sent a letter to the Sheriff's Department, but will do so and have a response for the October board meeting.** (My conversations with staff indicated staff was against soliciting this info from the department, they were trying to convince Mr. Hunter that this was info we needed to research for ourselves)
    - **10/11/16** – Unfinished Business:
      - Executive Officer pending items:
      - **Timeline for employee discipline associated with CLERB death investigations:**
      - **"Will continue to look into item internally. Will give a more definitive answer after the first of the year."**
    - Ms. Chavez-Harmes: Also at that time, there was an addendum that was presented to our agenda item and in that addendum the Executive Officer said, he read this verbatim at the meeting. (read October 2016 addendum) I would like to talk about the five one-year summary dismissal cases. These dismissals were completely avoidable and if I had followed the advice and recommendations of Ms. Setzler

and Mark Watkins. There is no issue with staffing. The responsibility rests solely with me. There is more in that first paragraph. I am just highlighting the key points here. Second paragraph, internally we have had a process in place for some time that was designed to get my cases out in the open early enough to prevent the one-year summary dismissals. **I chose not to follow the process;** in black and white. The fifth paragraph down I had at least a month or more to take action and did not do so. Second to the last paragraph I signed out two more one-year summary dismissals. I did not track those cases. **This is really important.** I signed out two more one-year summary dismissals that will come to you in December. These two complaint cases were originated in 2012 and 2013; this is 2016, because the named deputies in the complaint were also defendants in a civil suit making the same allegations, I held both in advance under tolling provisions described by Government Code 3304. Regrettably, I did not track those cases as they proceeded through the US District Court System and as a result, the allowed investigative time expired. Second to the last paragraph, my actions and/or inactions caused issues not only with the completion of the investigation, but also with the production and distribution of the agenda. I chose again not to follow the process. I hope that I am being perfectly clear, these delays were not the result of inadequate staffing, but of my own choosing. So for us to submit to the Grand Jury a response that says CLERB disagrees with the finding the Board and Investigative Unit shortages contributed to death cases not being investigated within the POBR time limitations, a responsibility CLERB did not meet, resulting in 22 cases being dismissed. That's the Grand Jury's Finding. Our revised response reads "The CLERB disagrees wholly with this finding. Shortages did not contribute to a case backlog, but the failure to properly prioritize death cases resulted in the subsequent dismissals. Additionally, the Board was presented with an erroneous interpretation of POBOR that lead to the belief that death cases were not covered by the one-year time limitation." That is not accurate. That is not truthful. That is a false statement. The real statement should be: The Executive Director intentionally and willfully chose not to follow the process and created an environment that allowed death cases to expire or something along those lines. For us who are all professionals with some sort of extended education to sit her and try to pass this off as though we misinterpreted or we didn't understand is wrong and an insult. We understood, we understood that we have an Executive Officer who had meetings with a Chair, a Vice Chair and a Secretary that was not reported back to the Board and failed to hold him accountable for the review, for getting the answers back, for the timeline required, so I am not going to accept the finding that there was a misinterpretation or anything other than the truth on that. Thank you Madame Chair.

- Ms. Arkin: Comments?
- Ms. Silva: I think in going back and reviewing that and reviewing those minutes, I think we were a little bit hesitant because we hadn't reviewed that and we really didn't know and at that point, I didn't want to make a statement that I was unsure of. In my opinion, I do agree and believe now that there was a neglect to follow the process. So I would just say we be careful with the wording that we use, but I do agree that we need correct it, to change the wording and be truthful. So I agree with Ms. Chavez-Harmes.
- Mr. Gascon: I also agree with that.
- Mr. Harrison: I agree.
- Jim Lasswell: I don't agree specifically with putting words in that talk about the attitude of the Executive Officer or his intent, only the actions that occurred. The answer is he "rogered-up" for the fact that he made bad decisions and didn't follow the process. I would not want to try and write something that tried to get in his brain and say why. So I would like to keep it very factual, very direct.
- Ms. Chavez-Harmes: I don't know Mr. Lasswell how much more factual we can be. In his own document he says, I choose not to follow the process.
- Ms. Arkin: But he doesn't say death cases, so I am a little concerned that the focus is...

- Ms. Chavez-Harmes: ...the one-year summary dismissals.
- Ms. Arkin: Right, that is not only death cases, all cases are subject to that.
- Ms. Chavez-Harmes: But Madame Chair there were 22 cases that were dismissed as part of the summary dismissals so they are included in that.
- Ms. Arkin: Because it is not specific, I would be uncomfortable as Mr. Lasswell suggested at taking potshots and an aim at somebody who first of all is no longer here and second we don't know why things were done and if we can word it so that it meets the approval of the Board, but still is respectful and responsible; we can find some words that will make that happen.
- Mr. Lasswell: That is really my point entirely. If we can come up with a set of words that describes that facts, then I am okay with that. I just don't want to make dispersions into intent.
- Ms. Chavez-Harmes: I am just going by the facts presented and I am going by the timeline of that; and I agree with you. I don't want to get into why he let this stuff slide because to me there was a more nefarious reason than we all know about. I agree with you on that, I don't want to get into that, but the facts are that for seven months the action that was requested of him was willfully and intentionally denied.
- Mr. Brown: Could we just say that the at the end of what's written, "additionally, the Executive Officer chose to neglect the proper follow-up on cases?"
- Mr. Lasswell: I would amend that slightly by saying "neglected to follow-up on the cases".
- Mr. Brown: I was quoting the statement that was read to us.
- Ms. Chavez-Harmes: He states "I chose not to follow the process."
- Mr. Lasswell: That doesn't change the content at all though.
- Mr. Brown: I accept that amendment.
- Mr. Gascon: I would like to propose the response: The CLERB disagrees wholly with this finding. Shortages did not contribute to the case backlog, but the failure to properly prioritize death cases resulted in the subsequent dismissals. Additionally, the previous Executive Officer neglected his duties which led to the fact that death cases were not covered by the one-year time limitation.
- Ms. Chavez-Harmes: I would change neglected his duties to neglected to follow policy and procedure.
- Mr. Lasswell: Madame Chair could you please read that back?
- The suggestion from Mr. Brown is" the Executive Officer neglected to properly follow-up on cases." The suggestion from Mr. Gascon is "additionally, a previous Executive Officer neglected his duties that led to the fact that death cases were not covered by the one-year time limitation.
- Mr. Gascon: Mr. Lasswell suggested "...led to the fact that death cases exceeded the one-year time limitation."
- Mr. Wilson: Madame Chair, may I ask Madame Vice-Chair a question? When this happened, was it ever challenged or was there a request for an investigation?
- Ms. Chavez-Harmes: Yes.
- Mr. Wilson: Was that done?
- Ms. Chavez-Harmes: No, because we got to the Grand Jury. We sat here in disbelief. Mr. Harrison? Ms. Silva?
- Ms. Silva: Yeah, but I am not sure if there could have been something going on that we were not aware of.
- Ms. Chavez-Harmes: Well for our Board meeting when the information was presented to us we sat here in disbelief and it was at that time that I announced that I would like to contact staff and find out what the problem is because at the time we were thinking that it was a staff problem, that people just weren't getting the work done and I asked Mr. Lasswell to also call the staff, he chose not to. I talked to Kim-Thoa Hoang, I don't know what she did. And I talked to Mr. Harrison. We were all very just stunned. So I don't know what anyone else did and because of the Brown Act we want to go into a lot of outside discussion. So I just went and did my own phone calls and made my own notes and tried to find out as best as I

could what happened. By speaking to staff, by speaking to personnel, personnel meaning upper management.

- Mr. Brown: Just as a side, I thought at least one Board member, when you stated that you would go investigate it yourself, thought that was a terrible idea and stated so. I think a Board like ours dealing with lower level staff is just improper. Given that I move that we accept the language that Mr. Gascon stated.
- Ms. Arkin: Is there a second on that?
- Ms. Silva: Second.
- Ms. Arkin: The response would be: CLERB disagrees wholly with this finding. Shortages did not contribute to a backlog, but the failure to properly prioritize death cases resulted in the subsequent dismissals. Additionally, a previous Executive Officer neglected his duties that led to the fact that death cases exceeded the one-year time limitation.
- Ms. Chavez-Harmes: May I suggest to amend it, instead of the previous because we need to put it in that timeline. I would recommend amending the motion so that people don't read this and think it is Mr. Parker or whoever was prior to Mr. Hunter.
- Mr. Lasswell: In this matter of discussion since Mr. Brown brought the point up, I was at least one of the people that objected to individual members of the Board holding their own investigations. It was my belief that the Chair and Vice-Chair and another person together were already doing that and I didn't see it to be a good idea to have eleven different people calling up and asking, you know, doing their own investigation.
- Ms. Arkin: Who seconded that motion? Ms. Silva, are you in agreement that we should say the Executive Officer in 2016.
- Ms. Silva: Yeah, I think we need to be clear.
- Ms. Arkin: The sentence as amended reads "additionally the Executive Officer in 2016 neglected the duties that led to the fact that death cases exceeded the one-year time limitation."
- Mr. Brown: Could we say at the start "staff shortages" because when you read the finding you have no idea what type of shortages they are referring to.
- Ms. Silva: That's clear.
- Ms. Arkin: There is currently a motion on the floor to take out the last sentence and replace it with "additionally the Executive Officer in 2016 neglected his duties which led to the fact that death cases exceeded the one-year time limitation."
  - Motion made by Mr. Brown and seconded by Ms. Silva. The vote was unanimous and the motion carried.
- Ms. Arkin: Mr. Brown did you want to make a second motion about adding the word staff in front of shortages.
- Mr. Brown: Yes.
- Ms. Arkin: Is there a second to that?
- Ms. Silva: Second.
- Ms. Arkin: Any discussion?
- Mr. Gascon: I don't believe that it is necessary considering that finding three says Board and Investigative Unit shortages and this is a direct response to that.
- Mr. Brown: I have no idea what that means.
- Mr. Gascon: We didn't have a full Board. We didn't have adequate investigative staff.
- Mr. Lasswell: There were a couple of empty seats on the Board at that time, but personally that didn't have anything to do with this issue.
- Mr. Brown: If you just say investigative unit, I still did not know what that meant without the adjective "staff".
- Ms. Silva: I agree.
- Mr. Harrison: When you add staff shortages to the response, then you are assuming that's what it means. The response is adding to the finding. Madame Chair, what I am saying is that the response should mimic the finding using investigative shortages did not contribute.

- Mr. Lasswell: Madame Chair one of the things I have learned is that when they ask a specific question, you deal with that specific question you don't elaborate and my recommendation would be that we respond and say the Board and Investigative Unit shortages did not contribute. That was the finding.
- Ms. Arkin: Would you like to amend your motion or would you like to withdraw it?
- Mr. Brown: I bow to the wisdom of Mr. Lasswell.
- Ms. Arkin: The full response would be: CLERB disagrees wholly with this finding. Board and Investigative Unit shortages did not contribute to the case backlog, etc. The last sentence has already been adopted.
  - Motion made by Mr. Brown and seconded by Ms. Silva. The vote was unanimous and the motion carried.
- Ms. Arkin: Anything else on any of the other findings or recommendations.
- Ms. Silva: I just have a quick change on 18.26, just to clarify a little bit. In the last sentence "...which was intended to bring to four the...", I would like to amend it to "...which was intended to increase the total number of CLERB Investigators to four..." Just for clarity.
- Ms. Arkin: The recommendation is that the last sentence read "...which was intended to increase the total number of CLERB Special Investigators to four. Is there any discussion on that one?
  - Motion made by Ms. Silva and seconded by Mr. Lasswell. The vote was unanimous and the motion carried.
- Ms. Arkin: County Counsel had some suggestions about finding seven.
- County Counsel: Conflict of Interest is something that we take very seriously and we have our safeguards in place. I would like to offer a suggestion to strengthen the language that you had come up with last month. I will read the response that I drafted to this finding. **CLERB disagrees partially with this finding. An ethical wall exists within the Office of County Counsel to safeguard against conflicts of interests. In instances where a conflict would arise from the Office of County Counsels representation of CLERB in a particular matter, CLERB engages independent outside counsel.**
- Mr. Gascon: Madame Chair I make a motion to accept that statement.
- Mr. Lasswell: I second that.
- Ms. Arkin: Any other discussion.
  - Motion made by Mr. Gascon and seconded by Mr. Lasswell. The vote was unanimous and the motion carried.
- Ms. Arkin: Are there any other comments on the findings or recommendations?
- Motion to accept the findings and recommendations.
  - Motion made by Mr. Lasswell and seconded by Mr. Wilson. The vote was unanimous and the motion carried.
- Ms. Arkin: Thank you Mr. Parker for assisting the Board with this and thank you County Counsel for your comments and thank you Board for working hard to get that straight.
- <https://www.sandiegocounty.gov/content/dam/sdc/clerb/docs/agendas/0818-Attachment%20E.pdf>
- CLERB Board Member Policies and Procedures Manual
  - <https://www.sandiegocounty.gov/content/dam/sdc/clerb/docs/agendas/0818-Attachment%20F.pdf>
  - The following changes were made:
    - 3.a CLERB's Fiscal Year is July 1 to June 30
    - 5.a tenth dot point County Administrative Codes pertinent to CLERB
    - 6.b.v Upon selection and approval of the Executive Officer, the Board will reconvene in open session to announce it; subject to a background check being completed.
    - Motion to accept the CLERB Board Member Policies and Procedures Guidelines.
    - Motion made by Mr. Gascon and seconded by Mr. Harrison. The vote was unanimous and the motion carried.
  - Ms. Arkin: Thank you all very much.
- Jail Inspection Subcommittee Update

- Draft Jail Inspection Handbook distributed
- <https://www.sandiegocounty.gov/content/dam/sdc/clerb/docs/agendas/0818-Attachment%20G.pdf>
- Ms. Arkin: Ms. Youngflesh was the chair of this subcommittee.
- Ms. Youngflesh: Mr. Gascon, Mr. Wilson, Mr. Brown, Ms. Arkin, Mr. Parker and I met to discuss the purpose of this committee and our goals, including the process and questions. As a result Mr. Parker developed this Draft Jail Inspections Handbook. Additionally we discussed timelines. My understanding is that the staffing right now and the amount of time required to complete the inspection...it would be hard to do with the staffing we have currently. Especially in light of the fact that Mr. Parker is leaving and the Board needing to search for a new Executive Officer. We also discussed the fact that the ad hoc committee is no longer needed as we have accomplished our purpose putting this together and discussing the process that this should move forward with.
- Ms. Arkin: Thank you Ms. Youngflesh and the committee. This is a blueprint for how to do the Jail Inspections and I agree with you that because we are going to be short-staffed, we should hold off on starting them until we are at full staff again.
- Mr. Parker: Just to be clear about the staffing you folks are mentioning. Even if I were still here, the staffing is difficult at this point. We don't have the staffing to do that. Even with an Executive Officer and three Special Investigators, I think it needs to be noted, there would need to be a fourth Special Investigator to properly conduct these inspections.
- Mr. Lasswell: I must have misread it. This was an outstanding document. I interpreted this to mean that staff accompanied by some amount of Board support would be doing this inspection. Was I incorrect?
- Ms. Arkin: As far as I know you are not incorrect. I think that is written in the document.
- Mr. Parker: You are correct.
- Mr. Lasswell: Okay, so the way you are addressing it was like it was all about staff and I thought we had an obligation to provide.
- Mr. Parker: Another Executive Officer will probably make some changes. One of those changes being, I believe as the Executive Officer that the staff are here to do the work, we are the ones that do the investigations, we are the ones that compile the statistics, we are the ones that do the inspections, and we give you the final product to look at. You can be there with us and you can do the inspections with us, but for consistency the staff need to document and complete the reports.
- Mr. Lasswell: I don't have a problem at all with that, but I will tell you my ability to read these reports and understand the various complaints and/or resolutions was greatly enhanced by my visits to these various facilities. To fail to cause the Board members to go to these facilities is a big mistake.
- Ms. Arkin: It is on page six in preparing for the inspections, in the fourth paragraph: "it is a good idea to have two CLERB inspectors present for each inspection. CLERB inspectors could be two staff members, two Board members, or one of each." During the committee meeting there were discussions about doing a trial run at one of the facilities so that we may see how it goes and how much of an impact it would have on staff time. I don't think that it would be possible even if having an additional person hired to do jail inspections. We will figure out what to do with this with having a new Executive Officer and how to move forward.
- Mr. Wilson: I think that it is important to have an "official investigator." The Sheriff staff are used to seeing the investigators. It is important to have the "guy" that they are used to seeing and that they know is an investigator.
- Ms. Arkin: By "guy" you mean the men and women who work in the staff?
- Mr. Lasswell: As I mentioned, it is a prototype thing. We need to start small with a holding cell complex or some of those kinds of facilities just to run through the basics and fine tune it.
- Ms. Youngflesh: We did address that and we looked at whether we should do a prototype or not. Under Mr. Parker's guidance, we felt that it was imperative that we got a complete overview to see what we are encountering and the timeframe it would take to complete each investigation. Again, I apologize if there was any miscommunication it wasn't just that with Mr. Parker being gone, he did state that even with him here he would be taking the brunt of that work and he would be doing the majority of the investigations because we are short-staffed despite thankfully getting more people here. Definitely with him going we are

at a shortfall in many ways than this. With that being said, even with a new Executive Officer that may or may not be willing, but hopefully would be willing to take on what Mr. Parker was doing, we still would be really short of what we need.

- Mr. Lasswell: That is a very good point. Perhaps when we have a new Executive Officer we should look to petition for the inquires. When you look at the number of jail facilities and the fact that that's part of our mission. An additional person on staff to kind of ramrod that function again with the support of the Board, I think would be a useful thing. Great job!
- Ms. Hoang: I would like to first congratulate and thank the committee for doing an outstanding job just like Mr. Lasswell said. I would like to add that it is important to have designated staff in charge of inspections for consistency and for expertise involving issues that have to do with detention facilities. I think that it is important also to request the collaboration of both the Sheriff's and Probation Departments in coming up with a protocol whenever these inspections are made. I don't believe that the Sheriff and the Probation Chief had been involved or aware of how this procedure/protocol or handbook was prepared. I think it's quite important that they be involved in coming up with the procedures and protocol so they know in advance what will be done. It will be a better collaboration.
- Ms. Youngflesh: In response to that, we did discuss that as well and my understanding is that Mr. Parker was to reach out to the Public Safety Group to seek their input along with possibly other agencies outside of the County that have similar procedures to look for a best practice in this case.
- Motion made to adopt the Jail Inspection Handbook. Motion made by Mr. Wilson and seconded by Mr. Gascon. The vote was unanimous and the motion carried.
- Thank you Ms. Youngflesh and the committee for getting this done. Thank you Mr. Parker for the work that you did on it.

#### **Board Comments**

- Ms. Silva: Congratulations to Mr. Parker on his new position. I am extremely amazed at how much he accomplished in such a short amount of time. You got us through some difficult times and we've learned a lot. I would also like to say thank you to County Counsel. You have been very patient and understanding and it has been great working with you. I would love to see you keep coming back.
- Ms. Chavez-Harmes: Are we going to appoint an Interim Executive Officer?
- Ms. Arkin: Yes, during closed session.
- Mr. Gascon: I really appreciated that Mr. Brown sent an article to Mr. Parker to disseminate to all of us. I thought it was very informative.
- County Counsel: Shiri Hoffman has been assigned as the County Counsel representative for CLERB.

#### **Sheriff/Probation Liaison Query**

- Mr. Gascon: Could we get your comments on the Jail Inspection Handbook? Do racial gangs and tensions still exist in our jail systems? If so, what are you doing to mitigate those?
- Lieutenant Gilmore: Unfortunately, just as you see out in society here, there are different cliques/gangs that are a part of society that we have been collectively trying to address. There have been some successes and some failures. You have similar constraints within the custody system. Some things we can figure out and address and some things are complex and have a lot of momentum and are a piece of society that rolls into the system of corrections. I think it would be inadequate if I said we fixed them because that is just not true. There are a lot of things that are going to take a lot of work and a lot of people. In all honesty, it's not all done by the people with badges. We've expanded quite a bit because the State has changed our population. In our local facilities we've expanded our resources in non-deputy positions with counselors and looking at the answers to recidivism issues. We hope that all of this contributes to not just sorting out gang related issues, but crime related issues. For example, if you can teach someone to read or if you can teach someone a task or a skill that can be productive for them not only would you contribute to their future, but you will contribute to who they are inside. I think there is a lot there that I can't pretend to have fixed. I am just a piece of that puzzle. The answer is yes, they are still there. I think the handbook is great because it is going to take a lot of work to make this effective. This is one of the first steps. I appreciate the fact that you have looked at it and that you have pieces here that you are really interested in. This is going to be a growing thing for us as well as you. Will we support you during these inspections? Absolutely. Even if I had to sit in the parking lot to ensure that your access is good and that things are happening for you, I am willing to do it because I think this is important. I eluded over a year

ago to Body Worn Camera Footage being demanding on staff time. This will also be demanding on staff time too. It is just one more piece of the puzzle and I am looking forward to it.

- Ms. Arkin: Does the Sheriff's Department support this process?
- Lieutenant Gilmore: Well it is a part of your Charter and I think that's something that we need to acknowledge. So far, I think we have shown a lot of support for a broad range of things and this would be one more thing to figure out how to do.
- Ms. Arkin: Thank you. We appreciate that word of encouragement that it will be implemented in a way that works for everybody.
- Mr. Harrison: I am just curious about the policy for using body cameras and more specifically, when do they choose or not choose to turn it on. If you have multiple officers on the scene are there multiple cameras on? Is it just the person that makes the initial stop? Can you give me some understanding of how that works?
- Lieutenant Gilmore: Yes, I need you to understand that from two perspectives. One, I have never worn a body camera. I have been a part of looking a policy and seeing how we are doing business. My understanding is that every deputy is responsible for their body camera. Sometimes, depending on the nature of the call, they remember to turn it on in the car before they hit their overhead and start the process. There is a little delay in the audio catching up with what happens. Sometimes it may not be timed right, but each deputy is responsible for their camera. If there are multiple deputies on the scene and there is law enforcement activity, there should be multiple videos.
- Mr. Brown: How long is the footage from the Body Worn Cameras kept?
- Lieutenant Gilmore: I do not know off the top of my head. I believe there is a two-year retention. This is all regulated by the amount of data that we are controlling and then the Public Records Act.
- Mr. Brown: The reason I am asking is because sometimes on a death case and with tolling and everything, it might be a year or two before it would come to us.
- Lieutenant Gilmore: It depends on how those cases project. There are requests put out in the beginning to retain records. County Counsel will inform us that they are going to ask us to secure certain records.
- Mr. Brown: I read an editorial this morning about bail bonds. Do we have a pretty high percentage of people who are in jail who have not been convicted of anything?
- Lieutenant Gilmore: Yes, sir. We hold people in jail prior to conviction and then if they have local terms we hold them locally, also in jail. There is a good mix of people who have not yet been convicted of crimes who are in jail.
- Mr. Brown: Any idea how long the average may be that they stay in jail?
- Lieutenant Gilmore: I don't know sir.
- Ms. Chavez-Harmes: This question is directed to Probation. When a parolee is out on parole, why would the probation officer have the medical records of the parolee?
- Mr. Lewin: To clarify your question, when we are supervising an offender on probation, why would their medical records be in a probation officer's possession? If we are talking about a juvenile in custody, we contract with California Forensic Medical Group (CFMG) and they handle all of the medical. They have medical files just like any doctor would. Those would be in our facilities. If you are referring to someone who is out of custody and under supervision, I don't know that a case work officer would be handling any medical records unless it was something that they requested for verification if an offender produced a dirty drug test claiming that they were under some kind of medical supervision and taking some kind of medication that would result in a positive drug test.
- Ms. Chavez-Harmes: So generally there would not be a normal circumstance where a probation officer would have possession of somebody's personal items/personal records, financial, medical or otherwise.
- Mr. Lewin: If it is something that they requested, financial, pay check stubs or asking for verification of employment. There could be situations where they would ask for that kind of thing.
- Ms. Chavez-Harmes: If you were to have possession of medical records or of a financial record what is the disposition of that within the probation department?
- Mr. Lewin: It would be in the probation file and it would be documented that the probation officer requested "X document" from "Mr. Jones". The case notes would state that it was requested and either delivered or not delivered. It could be something that just needs to be viewed and sent back with the probationer; that would be a different situation. To answer your question

regarding something that is retained for some time, it may be that it has to be sent to court for some reason or attached to a report.

- Ms. Silva: This is for the Sheriff. Is the whole body camera thing fully implemented to all patrol now?
- Lieutenant Gilmore: I believe it is fully implemented with patrol.
- Ms. Silva: Do you keep any stats like if you have the same officer is not turning on that camera?
- Lieutenant Gilmore: We conduct 100% of the use of force reviews in my office and if there is something that I have seen, I contact the Captain, and the issue is addressed. This is not a game and a majority of deputies appreciate having the camera on. I pull up the cameras on a regular basis just to look. I am regularly grateful to see the amount of professionalism that is going on.

The Board entered closed session at 6:57 p.m.

**Closed Session**

- a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE  
**Discussion & Consideration of Complaints & Reports:** Pursuant to Government code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice to government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).
- b) PUBLIC EMPLOYEE APPOINTMENT  
 Notice pursuant to Government Code section 54957(b)  
 Title: Interim Executive Officer, CLERB

<b>CASE NO.</b>	<b>LAST NAME</b>	<b>CASE NAME</b>	<b>LAST NAME</b>
17-038	Stucki	17-068	Rivera
17-071	Smith	17-078	Prieto
17-080	Kemplin	17-087	Strong
17-090	Madariaga	17-093	Rice
17-106	Daniels	17-116	Sellars
18-021	Hamilton	18-028	Greer
18-037	Nelson	18-041	Gomez-Gutierrez
18-042	Lemus-Garcia	18-054	Shallenberger
18-059	Nelson	18-074	Ruiz
18-096	Nava		

The Board entered open session at 7:58 p.m.

Lynn Setzler was named the Interim Executive Officer for CLERB effective September 7, 2018.

The meeting was adjourned at 8 p.m.

*Minutes prepared by Tamicha Husband, Administrative Secretary*



PAUL R. PARKER III  
Executive Officer



KIM-THOA HOANG  
Secretary to the Board

**MINUTES**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING**  
**May 10, 2016**

- Roll Call**
  - The Board meeting was held at the County Administration Center and came to order at 5:52 p.m. All Board members were present except James Laswell, Clifford Myers, Lourdes Silva and Loren Vinson.
- Minutes Approval**
  - The April 2016 meeting minutes were approved by motion with one addition by Delores Chavez-Harmes.
- Training**
  - Sheriff's Department Disciplinary Procedures: Lieutenant Jeffrey Duckworth
  - Executive Officer, Patrick Hunter to research for Board members the following information with Lieutenant Jeffrey Duckworth the Sheriff's Department.
    - Can departmental responses that inform CLERB that appropriate action was taken, include the date the discipline was imposed. Also, when CLERB notifies the Department of a transgression that they were previously unaware of, and the Department responds that it was forwarded for appropriate action, what reassurance is there that disciplinary action was subsequently taken.
    - Request legal opinion for Death case timelines with regard to employee discipline.
    - If an employee does not cooperate with the agreed upon CLERB process, what, if any, disciplinary action(s) will be taken by the department.
- Executive Officer (EO)**
  - Patrick Hunter summarized the Investigative Workload & Classification Report: As of April 30, 2016, there were **121** open investigations; **4** new complaints were received, and **10** cases were closed.
- New Business**
  - N/A
- Unfinished Business**
  - Deferred - Proposal to Amend CLERB Rules and Regulations Section 16(c) to change the finding from "Action Justified" to "Exonerated."
  - Executive Officer pending items: the 2014 & 2015 Annual Reports, Rules & Regulations updates, and California Senate Bill 1286 Peace Officers: Records of Misconduct.
- Board Member Comments**
  - Courtney Chase – What is the process for investigation of death cases. Patrick Hunter responded.
- Public Comments**
  - Greg Tobias: Case 15-039
- Sheriff/Probation Inquiries**
  - Gary Brown – Inquired is there a rule on how quickly someone should be told when they are stopped, why they are stopped in a traffic situation.  
Response: Sergeant Dave Perkins, CLERB processor.
- Closed Session**
  - a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

- 15-035 / Hamilton (Sustained x 2- Deputy 1)

<u>CASE NO</u>	<u>LAST NAME</u>	<u>CASE NO.</u>	<u>LAST NAME</u>
15-036	Mosby	15-075	Foster
15-038	Carroll	15-086	Gutierrez
15-039	Tobias	15-087	Salisbury
15-060	Ward	16-013	Oliver
15-073	Williams	16-023	Spicer

The meeting was adjourned at 7:00 p.m.

*Minutes prepared by Ana Becker, Administrative Secretary III*



PATRICK A. HUNTER,  
Executive Officer



GARY BROWN,  
Secretary of the Board



**MINUTES**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING**  
**September 13, 2016**

- Roll Call**
  - The Board meeting was held at the County Administration Center and came to order at 5:31 p.m. All Board members were present except Darrel Harrison.
- Minutes Approval**
  - The June 2016 meeting minutes were approved by motion as amended.
- Training**
  - N/A
- Executive Officer (EO)**
  - Patrick Hunter summarized the Investigative Workload & Classification Report for June, July and August: As of June 30, 2016, there were **114** open investigations; **10** new complaints were received, and **14** cases were closed. At the end of July, there were **110** open investigations; **2** new complaints were received, and **6** cases were closed. At the end of August, there were **119** open investigations; **10** new complaints were received, and **1** case was closed.
- New Business**
  - Distribution of 2014 Annual Report – Board members requested that all future Annual Reports be sent to them for review prior to public posting.
- Unfinished Business**
  - Executive Officer pending items: the 2015 Annual Report, Rules & Regulations updates, and Review Board questions from the May 10, 2016 meeting.
    - Patrick Hunter: \*The 2014 AR was completed and the 2015 AR has commenced; \*EO has yet to solicit Staff comment/recommendations for updated CLERB Rules & Regulations; \*Review Board's request for clarification by Sheriff's Department re: Death Cases/Notification/Disciplinary action- EO has not yet sent a letter to the Sheriff's Department, but will do so and have a response for the October board meeting.
- Board Member Comments**
  - Courtney Chase – Inquired on timing of board packages with high case volumes, and is it possible to change to an electronic delivery method. Patrick Hunter responded.
  - James Laswell, Gary Brown, Lourdes Silva, Kim-Thoa Hoang and Patrick Hunter - Toured the Community Transition Center.
  - Kim-Thoa Hoang and James Lasswell, with Special Investigator Mark Watkins – Attended Use of Force Liability Training for Public Agencies conducted by the Regional Training Center, San Diego.
  - Loren Vinson commented on a training opportunity he and Patrick Hunter attended with the City's Review Board concerning officer's use of force.
- Public Comments**
  - N/A
- Sheriff/Probation Inquiries**
  - Gary Brown – Inquiry regarding deputies training for defusing potentially violent situations.  
Response: Sergeant Dave Perkins, CLERB processor.
- Closed Session**
  - a) **Discussion & Consideration of Complaints & Reports**: Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

<u>CASE #</u>	<u>LAST NAME</u>	<u>CASE#.</u>	<u>LAST NAME</u>	<u>CASE#.</u>	<u>LAST NAME</u>
14-061	Carroll	15-070	Cates	15-093	Boxx
15-002	Stey	15-072	Robbins	15-095	Chism
15-051	Andrade	15-076	Brown	15-109	Carter
15-053	McElrath	15-081	Gachett	15-111	James
15-057	Canela	15-082	Eckstine	15-127	Davis
15-061	Williams	15-083	Crockett	16-045	Pass
15-066	Myers	15-084	Wilford	16-055	Winkler
15-067	Sobel	15-091	Duda		

The meeting was adjourned at 6:57 p.m.

*Minutes prepared by Ana Becker, Administrative Secretary III*



PATRICK A. HUNTER,  
Executive Officer



GARY BROWN,  
Secretary of the Board

**MINUTES**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING**  
**October 11, 2016**

**Attachment A**

- Roll Call**                   ▪ The Board meeting was held at the County Administration Center and came to order at 5:30 p.m. All Board members were present except Gary Brown and Delores Chavez-Harmes.
- Minutes Approval**       ▪ The September 2016 meeting minutes were approved by motion.
- Training**                   ▪ N/A
- Executive Officer (EO)**   ▪ Patrick Hunter summarized the Investigative Workload & Classification Report: As of September 30, 2016, there were 100 open investigations; 7 new complaints were received, and 27 cases were closed.
- CLERB has been approved to provide meals at Board Meetings, and will begin at the November 8, 2016 Board meeting.
- New Business**             ▪ N/A
- Unfinished Business**    ▪ Executive Officer pending items:
- 2015 Annual Report: Planning on bringing a draft to the January 2017 board meeting.
  - Rules and Regulations: The current labor agreement between the County and Deputy Sheriff's Association runs through June 2018. Staff, County Counsel and the Review Board will work together in advance of the negotiations. A draft will be brought forward after the first of the year.
  - Timeline for employee discipline associated with CLERB death investigations cases: Will continue to look into item internally. Will give a more definitive answer after the first of the year.
  - Department responses to Sustained findings: Complaints and investigations of complaints are specifically called out in Penal Codes 832.5, 832.7, and 832.8 and are very specific when describing what is considered to be personnel record information, and therefore confidential. The Department is under no obligation to provide CLERB with any more information than already provided.
  - Employee failure to cooperate with CLERB investigation: In cases where employees have not cooperated with our investigations, we notified the department of the failure. We have only one instance of this happening, and the department referred the matter to Internal Affairs for investigation. Should the department agree with CLERB's assessment that the employee did not cooperate, the employee would be subject to discipline, just as in your Sustained Findings. Unless otherwise directed, this item requires no further action.
- Board Member Comments**    ▪ Lourdes Silva and Executive Officer, Patrick Hunter –NACOLE Debrief.
- Courtney Chase – Would like status on question that was asked at the September meeting regarding the 1 year timeline on complaint cases. Executive Officer, Patrick Hunter responded.
- Public Comments**            ▪ N/A
- Sheriff/Probation Inquiries**    ▪ Darrel Harrison – Inquiry regarding deputies training for contacts involving dogs.  
Response: Sergeant Dave Perkins, CLERB processor.
- Sandi Arkin and Loren Vinson – Inquired regarding Sheriff Employee discipline. Would like more discussion.  
Response: Sergeant Dave Perkins, CLERB processor.
- Closed Session**           a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen

(unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

<u>CASE NO</u>	<u>LAST NAME</u>
15-054	Gage
15-088	James
15-090	DeLaRosa
15-097	Serrato

<u>CASE NO</u>	<u>LAST NAME</u>
15-100	Luckett
15-114	Banks
16-026	James

The meeting was adjourned at 6:04 p.m.

*Minutes prepared by Ana Becker, Administrative Secretary III*



PATRICK A. HUNTER,  
Executive Officer



GARY BROWN,  
Secretary of the Board

**MINUTES**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING**  
**November 8, 2016**

**Attachment A**

- Roll Call**                   ▪ The Board meeting was held at the County Administration Center and came to order at 5:30 p.m. All Board members were present except Courtney Chase and Clifford O. Myers.
- Minutes Approval**       ▪ The October 2016 meeting minutes were approved by motion.
- Training**                   ▪ Inmate Programs at Detention Facilities: Christine Brown-Taylor and Sergeant Greg Rose.
- Executive Officer (EO)**   ▪ Patrick Hunter summarized the Investigative Workload & Classification Report: As of October 31, 2016, there were **99** open investigations; **6** new complaints were received, and **8** cases were closed.
- New Business**           ▪ Nomination Committee for the 2017 CLERB Executive Board: Any interested Board members should contact Lourdes Silva and Darrel Harrison.
- Unfinished Business**   ▪ Executive Officer pending items:
- Department responses to Sustained findings: Subcommittee of Executive Officer, Patrick Hunter, Kim-Thoa Hoang and James Lasswell to meet with Sheriff's Department.
- Board Member Comments**   ▪ Gary Brown –Recommends the Play “King Hedley” playing at the Old Town Theatre.
- Public Comments**       ▪ N/A
- Sheriff/Probation Inquiries**   ▪ N/A
- Closed Session**       a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).
- b) Performance of Executive Officer

<u>CASE NO</u>	<u>LAST NAME</u>	<u>CASE NO</u>	<u>LAST NAME</u>
15-107	Johnson	16-010	Laroashum-Roberts
15-116	Rodgers	16-017	McFalls
15-117	Huber	16-081	Hogg
15-120	Berumen		

The meeting was adjourned at 7:35 p.m.

*Minutes prepared by Ana Becker, Administrative Secretary III*



PATRICK A. HUNTER,  
Executive Officer



GARY BROWN,  
Secretary of the Board

**MINUTES**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING**  
**January 10, 2017**

**Attachment A**

- Roll Call**                   ▪ The Board meeting was held at the County Administration Center and came to order at 5:30 p.m. All Board members were present except Gary Brown.
- Minutes Approval**       ▪ Deferred
- Training**                   ▪ N/A
- Executive Officer (EO)**   ▪ N/A
- Board Member Comments**
- a) Board Member Delores Chavez-Harmes Comments:
- i. CLERB Rules and Regulations regarding Duties of Board Chair and Board Officers
  - ii. CLERB Rules and Regulations regarding Subcommittees
  - iii. Executive Officer Performance Review Process
  - iv. Review of One-Year Summary Dismissals
  - v. Status Update on Board Member Vacancy
- New Business**
- a) 2017 CLERB Executive Board Election
- i. Report of Nomination Subcommittee for the 2017 CLERB Executive Board
  - ii. Elect 2017 CLERB Executive Board
    - Nominations for the 2017 CLERB Executive Board were solicited for election at the January 10, 2017 meeting. The Nominating Committee of Lourdes Silva, Delores Chavez-Harmes and Darrel Harrison put forward the following slate of officers. The Review Board approved the slate, and officers will assume their positions at the next monthly meeting.
      - Sandra Arkin – Chairperson
      - Delores Chavez-Harmes – Vice Chairperson
      - Kim –Thoa Hoang – Secretary
- b) Create Subcommittee for Appointment of Executive Officer
- Subcommittee of Sandra Arkin, Courtney Chase, Lourdes Silva and Delores Harmes-Chavez, in conjunction with County Human Resources, to review, screen, and identify qualified candidates for advancement through a preliminary interview process that will conclude with finalists interviewing with the Review Board for final selection.
- c) Authorize Performance of CLERB Program Review
- Unfinished Business**    ▪ N/A
- Public Comments**       ▪ N/A
- Sheriff/Probation Inquiries**   ▪ N/A
- Closed Session**
- a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Paragraph (1) of subdivision (d) of Section 54956.9)  
#15-051 / Andrade
- b) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Paragraph (1) of subdivision (d) of Section 54956.9)  
#15-053 / McElrath

c) PUBLIC EMPLOYEE APPOINTMENT:  
(Government Code section 54957)  
Title: Interim Executive Officer

The meeting was adjourned at 8:02 p.m.

*Minutes prepared by Ana Becker, Administrative Secretary III*



Lynn Setzler,  
Interim Executive Officer



GARY BROWN,  
Secretary of the Board

First, I would like to talk about the five One-Year Summary Dismissal cases that I presented to you in September and October. These dismissals were completely avoidable had I followed the advice and recommendations of Lynn and Mark, two experienced investigators. There is no issue with staffing; the responsibility rests solely with me.

Internally, we have had a process in place for some time that was designed to get my cases out in the open early enough to prevent the One-Year Summary Dismissals. I chose not to follow the process.

Some time ago, Lynn, Mark and I discussed what happens if I disagree with staff recommendations. I stated back then, and still hold today, that if Lynn and Mark jointly offer rational arguments, and I cannot successfully counter those arguments, then I will support their recommendation or findings.

Conversely, if Lynn and Mark offered valid arguments after reviewing my cases, and I could not successfully provide policy, procedure, or law, to support my findings, I agreed to take their advice and recommendations to complete more investigation and modify the investigative report. I chose not to follow the process.

In each of the five cases that were presented as One-Year Summary Dismissals, Lynn and Mark gave me plenty of time to take action which would have enabled those cases to be submitted as complete investigations. In fact, I had at least a month or more to take action and did not do so. My failure to heed their sage advice was the only reason that the cases were presented as One-Year Summary Dismissals.

I signed out two more One-Year Summary Dismissals that will come to you in December. These two complaint cases were originated in 2012 and 2013. Because the named deputies in the complaints were also defendants in a civil suit making the same allegations, I held both in abeyance under the tolling provisions prescribed by Government Code 3304. Regrettably, I did not track those cases as they proceeded through the U.S. District Court system and as a result, the allowed investigative time expired.

My actions and or inactions caused issues not only with the completion of the investigation, but also with the production and distribution of the agenda. My delays impacted the ability to finalize the agenda in order to allow sufficient time necessary to copy and distribute your packages, and thus, impacted the hearing notifications to complainants and subject officers.

I was not so wrapped up in other duties or cases that would have prevented additional investigation in a timely manner, and offering you a complete and thorough investigation. I chose not to follow the process.

I hope that I am being perfectly clear – these delays were not the result of inadequate staffing, but of my own choosing.