

**MINUTES
CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING
July 13, 2021**

Attachment A

Roll Call

- The meeting was held via the BlueJeans Platform and came to order at 5:30 p.m. All Board members were present.

Public Comments

- Natalie Neshat thanked the Board for their continued work. She quoted the American Civil Liberties Union (ACLU) regarding the continued threat of COVID-19 in the County of San Diego Detention Facilities. She stated that the County of San Diego Sheriff's Department still had not announced their vaccination plan and asked CLERB to request the Sheriff Department's planned actions.
- Karen Reimus thanked the Board for their service. She stated her concern regarding the continued issues with use of excessive force and referenced a recent UT article. She asked CLERB to request a report from the Sheriff's Department regarding steps taken to decrease excessive force complaints. Ms. Reimus stated that it is important to empower CLERB.
- Robin Sales stated that she was pleased to see CLERB's action regarding the investigation of a specific CLERB Case. Ms. Sales stated that she hopes that CLERB's recommendations lead to policy changes. She also referenced the recent National Association for Civilian Oversight of Law Enforcement (NACOLE) report, noting their 13 best practices.
- Andi MacLeod thanked the Board for their concern and dedication. She stated that the Joint Legislative Audit Committee had committed to conduct a seven-month audit and that CLERB should stop its own audit and support the State Audit. She noted that the community relied on CLERB and expected the County of San Diego Sheriff's Department to demonstrate accountability.
- Mary Best thanked CLERB for their work on a recent CLERB case. She noted that many of CLERB's requests are unaddressed and noted that CLERB needed to have oversight over professional staff in addition to the sworn staff. Ms. Best stated that lives could be saved if individuals were referred to the proper services during their initial contact with the Sheriff's Department.
- Lori Saldana thanked the Board for their work during a very difficult time. Ms. Saldana acknowledge those that helped get the State audit approved. She also stated that CLERB should partner with the legislative audit staff instead of conducting an internal audit.
- Marsha Moss thanked the Board for their efforts and echoed what other speakers said. Ms. Moss expressed concerned about the money the County of San Diego spends on excessive force claims against the County of San Diego Sheriff's Department. She stated that these claims show a breakdown in the system. Ms. Moss asked that CLERB help change the police culture that has existed for years and continues to exist.
- Darwin Fishman referenced a UT article regarding an in-custody death. Dr. Fishman stated that he appreciated the statewide audit that Assembly Member Weber's office helped push through. He stated that he hoped it would draw more attention to the problem with in-custody death. Dr. Fishman stated that he understood how difficult the Board's work is and that there is pressure to validate what is being done and that there are good intentions by the Sheriff's Department staff. He stated that there is now a sense of urgency with the amount of young people dying in jail. Dr. Fishman stated that it is terrifying to the community, especially those with medical needs or from specific communities. He also stated that people do not lose their humanity because they are in jail. Dr. Fishman stated that adequate services could be provided for those individuals that are in jail.
- David Myers stated that CLERB is working under 30-year-old rules. Mr. Myers noted CLERB should look at expanding its duties to include District Attorney investigators, as well as include the Sheriff Department's medical and professional staff. In addition, he asked that CLERB work to expand its roles and responsibilities. He also asked that CLERB collect and publish demographic data. Mr. Myers thanked the Board for their work and stated that it is important work.

**Minutes
Approval**

- Vice Chair Eileen Delaney made a motion to approve the June 2021 meeting minutes. The motion was seconded by Pastor Robert Spriggs Jr. Michael Gray and Tim Ware abstained from the vote. The vote was unanimous; the motion carried.

Presentation/Training

- There was no presentation or training.

**Executive Officer's
Report**

- Overview of Activities of CLERB Executive Officer (EO) and Staff
 - Over the past six weeks, Mr. Parker and Supervising Special Investigator Lynn Setzler provided training to CLERB's two new Special Investigators, Jeffrey Gross and Claudia Wigfall; both are progressing very nicely and are welcome additions to staff.
 - On June 9, 2021, Mr. Parker presented an Overview of CLERB at the San Diego Sheriff's Department's (SDSD) Detentions Academy.
 - On June 16, 2021, Mr. Parker attended a prep session for the August 24, 2021, virtual NACOLE panel discussion pertaining to civilian oversight at the county level.
 - On June 29, 2021, Vice-Chair Eileen Delaney and CLERB Members Bonnie Kenk and GI Wilson, along with Mr. Parker and Ms. Setzler, met with SDSD personnel to discuss CLERB Detention Facility Inspections. An update will be provided under Item #8. b.
 - On July 1, 2021, Tamicha Husband met with County Communications in preparation for in-person meetings. An update will be provided under Item #8. a.
 - On July 16, 2021, Mr. Parker will meet with the San Jose Charter Commission's Policing and Municipal Law subcommittee in reference to San Jose's exploration of a Citizens' Law Enforcement Review Board.
 - On July 20, 2021, Mr. Parker will provide a CLERB Overview to the new San Diego County Grand Jury Members.
 - On August 4, 2021, Mr. Parker will provide a CLERB Overview to the Past Grand Jurors Association.
 - On August 4, 2021, Mr. Parker will present a CLERB Overview and 2020 Annual Report presentation to the Imperial Beach City Council.
 - Staffing Update:
 - The third candidate is in the background process and should be able to start within the next two weeks.
 - Interviews are in still process for CLERB member vacancies.
- Investigative Workload and Classification Report for June 2021
 - There were 10 new cases (as compared to 10 for June 2020).
 - At the end of June there were 74 active cases (four in "lodged" status and 70 open and active).
 - There were 23 open death cases.
 - CLERB had documents for 13 cases and was awaiting documents on the remaining 10.
 - There were three new death cases in June (one possible drug-related in-custody death, one deputy-involved shooting, and one possible drug-related death in patrol).
 - There were five open uses of force resulting in gross bodily injury without a complaint.
 - There was one open discharge of firearm without a complaint.
 - There was one use of force at protest or First Amendment protected events without a complaint.
- 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 seven cases scheduled to reach their one-year time limitation by July 31, 2021. Four of those cases are on tonight's agenda and the other three will be on August's agenda.
- Executive Officer Correspondence to Full CLERB
 - The following emails were sent to CLERB:
 - Two media article compilations, one containing 10 articles and one containing five articles.

- One pertaining to a Public Records Act (PRA) request from the People's Association of Justice Advocates inquiring about SDSD Use of Force and Deputy-Involved Shootings and another containing three media articles about the PRA response. This topic will be discussed under Item #7. b.
- One media article pertaining to the state's Joint Legislative Audit Committee (JLAC) vote to audit San Diego County jail deaths.
 - NOTE: On June 30, 2020, the Joint Legislative Audit Committee approved an audit of the San Diego County Sheriff's Office and CLERB relating to inmate deaths. The scope and objectives for this audit can be located on the State Auditor's Website at <http://auditor.ca.gov/pdfs/analyses/2021-109.pdf>.
 - Under state law, it is a crime for anyone to publicly discuss any substantive information relating to a pending audit. Therefore, Mr. Parker cannot share details about the work except that it is his understanding that we will soon receive a letter from the State Auditor's Office announcing the commencement of the audit, which will likely take 7 or 8 months once the work begins.
- Pending Responses for Policy Recommendations
 - 17-150 / Horsey – SDSD
 - 18-150 / Morris – SDSD
 - 19-018 / Thornton – Probation
 - 19-091 / Brooks – SDSD (received 07-13-21)
 - 20-014 / Pace – SDSD
 - 20-018 / Rueda – SDSD (not forwarded yet)
 - 20-047 / Cheatom -- SDSD
- Policy Recommendation Response
 - None
- Sustained Findings Pending Responses
 - None
- Sustained Findings Responses
 - 21-011 / Satallante – SDSD
- Letter of Concern Pending Response
 - 20-018 / Rueda – SDSD (not forwarded yet)
- Letter of Concern Response
 - None
- Mr. Ware asked if the focus of the new Grand Jury was known.
 - Mr. Parker stated that this was a new Grand Jury and that their focus was not known at this time.

Board Chair's Report

- Board Chair Susan Youngflesh thanked the CLERB Liaisons for their continued support of CLERB.
- Board Chair Youngflesh thanked staff for their hard work.
- Board Chair Youngflesh reminded and encouraged Board Members to review case evidence prior to the meetings.

New Business

- Election of CLERB Officers
 - Board Chair Youngflesh asked the nominating committee to provide their report. The committee members included Board Chair Youngflesh, Vice Chair Eileen Delaney and Board Member Gary Wilson.
 - The nominating committee submitted the following names: Chair Susan Youngflesh, Vice Chair Eileen Delaney, and Secretary Robert Spriggs. No additional nominations were submitted.
 - All nominees were voted in unanimously.
- Public Records Act Response Pertaining to SDSD Use of Force and Deputy-Involved Shooting Incidents
 - CLERB received a Public Record Act Request on April 19, 2021, from the People's Association of Justice Advocates. They requested general use of force incidents and deputy-involved shooting incidents by employees of the County of San Diego Sheriff's Department. CLERB's database extends back to 1990 and includes both current and former members of the Sheriff's Department. During the 90s many of the cases only

included evidence from complainants with no input from the Sheriff's Department; resulting in sustained findings.

- The first request asked how many Sheriff's Department staff had two or more sustained findings of use of force on their record. CLERB's database identified one deputy with two or more sustained findings regarding use of force.
- The second request asked how many Sheriff's Department staff had two or more unfounded findings of use of force on their record. CLERB identified nine deputies with two or more unfounded use of force findings on their record.
- Additionally, 200 deputies with two or more allegations of excessive use of force were identified with a finding of anything other than sustained.
- Of the nine deputies identified in the second request two of them were involved in deputy-involved shootings resulting in a death. Of the 200 deputies identified above 21 of those deputies were involved in a deputy-involved shooting resulting in a death.
- Mr. Ware asked for clarification regarding the second request.
 - Mr. Parker clarified that there were nine deputies with two or more cases of unfounded use of force and of those nine deputies two of them were involved in a deputy-involved shooting resulting in a death. Mr. Parker noted that CLERB's database is able to generate the information that CLERB would like to provide to the public to include demographics.
- Update on Cause and Manner of Death for CLERB Case #20-096
 - Mr. Parker read the following statement into the record. "Based upon CLERB's investigation into this case, the Medical Examiner's Office has amended the cause and manner of death. Mr. Armendo was found unresponsive while at the Vista Detention Facility. He was transported to a hospital and eventually released from custody while he was in the hospital, and subsequently died while in the hospital and never returning to his baseline condition. The Department did not carry this death as in custody because he was no longer in custody." CLERB investigated based on its jurisdiction pertaining to death. During the course of the investigation, we discovered that there was blood that could have and should have been tested during the postmortem examination. With that information, the Medical Examiner reopened the case and tested the blood and amended the cause of death to fentanyl toxicity presumably from fentanyl consumed while in custody. COVID-19 is listed as a contributory cause. It is unknown where or when he was infected.

Unfinished Business

- In-person CLERB Meetings Update Presented by Executive Officer Paul Parker
 - Due to technical issues and a conflict with room scheduling, in-person meetings will not begin in August 2021, as originally planned. Ms. Husband is currently working through these issues.
 - In-person meetings will resume in October 2021 and will be held at the County Administration Center.
 - Mr. Ware asked if CLERB would return to virtual meetings if new technical issues arose. County Counsel stated that due to the Brown Act, it would not be possible, and that the virtual component would be used for community participation.
- Detention Facility Inspection Subcommittee Update Presented by Vice-Chair Eileen Delaney
 - The committee met with Sheriff's Department staff to review logistics.
 - The committee is in the final stages of the draft Detention Facility Inspection Handbook.
- In-Custody Death Review Subcommittee Update Presented by Michael Gray
 - There was a three-week slow down as the committee needed to replace one of its members.
 - The committee is in the process of reviewing the submitted proposals.
 - The committee is planning a meeting in late July or early August and will move forward with a decision after that meeting.

Board Comments

- There were no Board Member comments.

**Sheriff/Probation
Liaison Query**

- Executive Officer Parker read the question received from Mr. Wilson and the response that was received from the Sheriff's Department.
- CLERB does not have jurisdiction over medical. Some medical staff are county employees, and some medical staff are hired on a contract. What happens when a deputy resigns to avoid any disciplinary action? Are they able to join another Law Enforcement Agency?
 - If a deputy resigns and applies to another Law Enforcement Agency, that agency will determine if they are to hire that former deputy based upon their hiring guidelines.
- Mr. Wilson stated that the response made the point that he was trying to make and asked what the Sheriff's Department was doing to protect inmates. Sergeant Kristin Brayman stated that she would need to defer the answer and provide it at a later time.
- Mr. Ware asked if the Sheriff's Department had a "department approved punch" and if so, when is it authorized to use? Sergeant Brayman stated that deputies are allowed to use both open and closed fist; it depends on the situation. She also stated that deputies attend trainings on using these techniques.

The Board entered closed session at 6:30 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) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subdivision (c) of Government Code Section 54956.9)
 - **Appeal to the County's Civil Service Commission re: CLERB Case #17-150/Horsey**

CASE NO.	LAST NAME	CASE NO.	LAST NAME
20-012	Wilson	20-056	Youngblood
20-040	Hernandez	20-073	Mckissack
20-041	Dawes	20-076	Rosier
20-054	Smith	20-093	Patton

The meeting was adjourned at 7:20 p.m.

Minutes prepared by Tamicha Husband, Administrative Secretary



PAUL R. PARKER III
Executive Officer



ROBERT SPRIGGS, JR.
Secretary to the Board