

**MINUTES
CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING
August 10, 2021**

Attachment A

- Roll Call**
- The meeting was held via the BlueJeans Platform and came to order at 5:32 p.m. All Board members were present except Susan Youngflesh and Robert Spriggs Jr.
- Public Comments**
- Robin Sales stated her sadness regarding the loss of lives in custody, noting that CLERB's hands are tied regarding inmates' health and safety. Ms. Sales referenced a specific case and asked at what point the County Board of Supervisors would give CLERB the power needed to make binding policy changes. Ms. Sales thanked the board for their service.
 - Karen Reimus thanked the board for their service. Ms. Reimus referenced a media article noting statistics and quoting the article as stating "...CLERB has no authority to impose discipline or policy recommendations related to lapses in protocol." Ms. Reimus asked the Executive Officer and the Board to ask the Board of Supervisors to expand CLERB's power to include imposing discipline and revising policies for the County of San Diego Sheriff's Department.
 - Tom Packard made comments about a specific CLERB case. Mr. Packard noted that CLERB has no oversight ability over non-sworn Sheriff's Department staff. He stated that the public would like to see more than the standard responses from the Sheriff's Department. Mr. Packard stated that something should be shared with the public about how well the board thinks they are doing fulfilling CLERB's purposes and the Board's vision for increased accountability and excellent service by the Sheriff's Department. He also stated that he appreciated the policy recommendations that CLERB has issued and that he would like to see more of them in the future.
 - Natalie Neshat thanked the board for their work. Ms. Neshat echoed the recommendations about expanding CLERB's power, including the ability to impose discipline and binding policy changes for the Sheriff's Department. She stated concern about the basic needs of inmates, referencing a recent response from the Sheriff's Department to CLERB. Ms. Neshat noted that there is a need to balance inmate wellbeing. Ms. Neshat urged CLERB to ask the Sheriff's Department to conduct a thorough investigation regarding best practices for inmate sleep. Additionally, she suggested considering monitoring devices to assist with security checks, noting costs and funding impacts.
 - Marsha Moss thanked the board for their work. Ms. Moss stated that she is horrified about the continued in-custody deaths occurring in the County of San Diego detention facilities. She referenced an article from the Union Tribune. She stated that we could not wait until next year for the results of the "*jail mortality rate investigation*". Ms. Moss asked CLERB to do what they could to stop in-custody deaths. She stated that a review board without power is not acceptable in these times. Ms. Moss asked the Board to ask the County Board of Supervisors to additional power include oversight of medical personnel in the detention facilities.
 - Lori Saldana stated concerns regarding fentanyl overdoses in the detention facilities. She stated that the County of San Diego should follow what is being done in Los Angeles County, noting that the inmates in Los Angeles have direct access to naloxone. Ms. Saldana stated individuals are encouraged to take naloxone with them upon release. She also provided statistics regarding the number of fentanyl and other drug related deaths while in custody.
- Minutes Approval**
- Bonnie Kenk made a motion to approve the July 2021 meeting minutes. The motion was seconded by Gary Wilson. 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 two weeks, Mr. Parker and Supervising Special Investigator Lynn Setzler provided training to CLERB's new Special Investigator, Briana Chiesa, in

- addition to providing continuing training to Claudia Wigfall and Jeffrey Gross; all three are progressing nicely and are welcome additions to staff.
- CLERB's database was transferred from the Public Safety Group (PSG) server to the Finance and General Government (FGG) server, thus marking the final piece of CLERB's transition from PSG to FGG.
 - On July 16, 2021, Mr. Parker met 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 provided a CLERB Overview to the new San Diego County Grand Jury Members.
 - On August 4, 2021, Mr. Parker provided a CLERB Overview to the Past Grand Jurors Association.
 - Interviews are in still process for CLERB member vacancies.
 - Investigative Workload and Classification Report for July 2021
 - There were 10 new cases (as compared to three for July 2020).
 - At the end of July there were 74 active cases (three in "lodged" status and 71 open and active).
 - There were 24 open death cases.
 - CLERB had documents for 13 cases and was awaiting documents on the remaining 11.
 - There were two new death cases in July (both possible drug-related in-custody deaths).
 - There were eight 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 August 31, 2021. Three of those cases are on tonight's agenda (as we have pulled #20-063/Morton for additional follow-up investigation) and the other four will be on September's agenda.
 - Investigators are working through the backlog of routine cases scheduled to time out within the next few months.
 - The emphasis is on the prioritization and investigation of death investigations. In addition, priority will be given to cases in which excessive force is alleged, uses of force resulting in great bodily injury, uses of force at protests, and discharges of firearms.
 - Executive Officer Correspondence to Full CLERB
 - The following emails were sent to CLERB:
 - One media article compilation containing seven articles.
 - One pertaining to an editorial about CLERB's death investigation and detention facility inspection roles.
 - One pertaining to an editorial about San Diego activists' requests for an independent jail audit.
 - Pending Responses for Policy Recommendations
 - 19-018 / Thornton – Probation (will be on September's agenda)
 - 20-014 / Pace – SDDS
 - 20-047 / Cheatom – SDDS
 - Policy Recommendation Responses
 - 17-150 / Horsey – SDDS
 - 18-150 / Morris – SDDS
 - 19-091 / Brooks – SDDS

- Sustained Findings Pending Responses
 - None
- Sustained Findings Responses
 - None
- Letter of Concern Pending Response
 - None
- Letter of Concern Response
 - None

Board Chair's Report

- Vice Chair Eileen Delaney thanked the speakers, community attendees, and liaisons for their attendance.
- Vice Chair Delaney echoed Executive Officer Parker's comments regarding the importance of death cases, noting that all investigations are important. She stated that CLERB's findings may save a life in the future. She also stated that it is her hope that by the end of the year there would not be any open death cases with an established POBR date.
- Vice Chair Delaney thanked Executive Officer Parker, CLERB staff and the Board Members for their hard work and dedication.

New Business

- Outside Counsel Retirement
 - Executive Officer Parker provided a background overview for James Sandler, informing the Board Members, as well as the public that he has been CLERB's counsel since CLERB's inception. Mr. Sandler plans to close his practice and retire December 31, 2021; Jessica Kondrick accepted another position effective August 9, 2021.
 - County Counsel is working on the procurement process to obtain new outside counsel, with the goal of having them in place by the end of the year.
 - Vice Chair Delaney thanked Mr. Sandler on behalf of the board.
- Detention Facility Inspection Handbook Draft
 - The draft Detention Facility Inspection Handbook was distributed to the Board Members for review and adoption.
 - Executive Officer Parker provided background information about CLERB's ability to inspect the County of San Diego detention facilities and referenced the Disability Rights California report issued in 2018. <https://www.disabilityrightsca.org/public-reports/san-diego-jail-suicides-report>
 - Executive Officer Parker stated that conversations regarding these inspections had begun in 2018 through 2019 and had been put on hold due to the COVID-19 pandemic.
 - Executive Officer Parker stated that the detention facilities are inspected by many entities and that CLERB's inspections will be tailored to specific criteria relating to CLERB complaints covering the two years prior to the complaint. He also stated that the inspections would not be a re-investigation of CLERB cases.
 - Executive Officer Parker stated that the inspections would be coordinated with the Sheriff's Department and not be a surprise to the Department. Executive Officer Parker also noted that the inspections would be conducted by the Executive Officer and the Supervising Special Investigator.
 - Vice Chair Delaney thanked Mr. Wilson and Ms. Kenk for participating on this subcommittee.
 - Mr. Wilson asked to if additional items could be added to the list and confirmed that "unwritten policies" would be excluded.
 - Executive Officer Parker informed Mr. Wilson that he was correct about the "unwritten policies".
 - Mr. Wilson made a motion to accept the handbook as written. The motion was seconded by Ms. Kenk. The vote was unanimous; the motion carried.
- NACOLE Key Principles and Practices
 - Executive Officer Parker reviewed each principle as it relates to CLERB. He noted that these principles were a good place to start and see where CLERB stands as it wants to provide the best oversight possible.
 - Principle #1 – Independence

- CLERB relies upon the Departments for information and must increase its independent actions for complaints and death investigations.
 - CLERB must conduct its own scene investigations for all cases, whenever possible. Death scene responses with the Departments immediately after the death occurs would be ideal.
- Principle #2 – Clearly defined and adequate jurisdiction
 - CLERB’s jurisdiction is clearly defined.
 - CLERB’s jurisdiction, however, is not adequate as CLERB has no jurisdiction over personnel providing medical care to inmates or professional, non-sworn staff.
- Principle #3 – Unfettered access to records and facilities
 - Other than what is confidential under applicable law, CLERB has access to records.
 - Detention facility inspections must be scheduled but CLERB will have access to the facility at the time of inspection.
 - CLERB can visit facilities as part of an on-going investigation.
 - Sworn personnel are mandated to answer CLERB’s questions in writing but are not compelled to participate in interviews when requested by CLERB.
- Principle #4 – Access to law enforcement executives and Internal Affairs staff
 - CLERB has access to executives from the Departments.
 - CLERB has access to Internal Affairs staff via written questions about general issues, but not about specific cases.
 - CLERB does not have access to Internal Affairs records or the discipline history of peace officers.
- Principle #5 – Full cooperation
 - CLERB does not have full cooperation, as interviews of sworn staff are not mandated.
- Principle #6 – Sustained stakeholder support
 - The Board of Supervisors, Sheriff’s and Probation Departments, the public, the media, and the County are all at different stages of support but for the first time in recent memory, there appears to be support from all six. Sustained will be the key and only time will tell.
- Principle #7 – Adequate funding and operational resources
 - We do not know just yet.
 - CLERB received additional staff and funding during the 20-21 fiscal year. Those investigators are still in training and the adequateness of those resources has yet to be determined.
- Principle #8 – Public reporting and transparency
 - CLERB was created to bring transparency and independence to the civilian complaint process. Unfortunately, case law and statutes have drastically limited that transparency.
 - CLERB does the best we can under current case law and statutes.
 - We are unable to discuss case investigations in open session.
 - We are unable to release our investigative reports.
 - We are unable to release the names of subject officers.
 - The laws must be changed to allow for true transparency.
- Principle #9 – Policy patterns in practice analysis
 - Must be able to identify and correct systemic issues
 - CLERB identifies issues via policy recommendations but has no authority to implement the recommendations.
 - Departments are good about reviewing the recommendations and communicating the reasons for implementation or rejection in public format.
- Principles #10 – Community outreach and #11 – Community involvement
 - CLERB’s community outreach efforts and the involvement of the community are much better this past year.
 - Need to continue building on the solicitation of community input and involvement.

- There have already been changes to CLERB's Rules and Regulations based upon community input and CLERB continues to look at other changes suggested by the community.
 - CLERB has enjoyed much public comment over the past several months, which could serve as the basis for upcoming activities and areas for improvement, if acted upon.
 - Principle #12 – Confidentiality, anonymity, and protection from retaliation
 - We maintain confidentiality pursuant to statute
 - Rules and Regulations do not permit anonymous complaints, but CLERB protects confidential information to the best of our ability.
 - Claims of retaliation are automatically referred to the Departments.
 - Principle #13 – Procedural justice and legitimacy
 - Are CLERB complainants satisfied with the quality of communication and the process?
 - Mr. Parker believed they were not and has instituted measures to regularly communicate with complainants.
 - Is there an “us vs. them” mentality?
 - Major focus is on respect, trust, unbiased motives, genuine interest in concerns of complainants and law enforcement, and clear communication of the processes and decisions made pursuant to CLERB's duties.
 - Vice Chair Delaney stated that this was an important guide to practice.
 - Michael Gray about for clarification about NACOLE.
 - Executive Officer Parker provided an overview of NACOLE, noting staff and Board Members are sent to the Annual NACOLE Conference each year. Executive Officer Parker stated that he would be presenting during the virtual portion of this conference on August 24, 2021.
 - Mr. Wilson stated that he wanted to commend Executive Officer Parker and Supervising Special Investigator Setzler for their relationship with the Sheriff's Department. He also stated that he liked the Key Principles and Practices as a standard.
 - Tim Ware echoed Mr. Wilson's statement regarding the Key Principles and Practices, noting that there were other things that CLERB could add. Mr. Ware stated that he felt CLERB had strong cooperation rather than full cooperation from the Sheriff's Department. He also stated that the more transparency CLERB had the better off CLERB was going to be.
 - Permission for CLERB Executive Officer to Rebut Media Articles/Editorials
 - Michael Gray made a motion to table this item until the September 2021 CLERB meeting. The motion was seconded by Gary Wilson. The vote was unanimous; the motion carried.

Unfinished Business

- Detention Facility Inspection Subcommittee Update Presented by Executive Officer Paul Parker
 - The draft Detention Facility Inspection Handbook was adopted by the Board Members during a previous agenda item in tonight's meeting.
- In-Custody Death Review Subcommittee Update Presented by Michael Gray
 - Mr. Gray thanked Vice Chair Delaney and Mr. Wilson for their participation on this subcommittee.
 - The subcommittee members with a representative from the County of San Diego reviewing and rating proposals, which are still in the selection process. The subcommittee had some questions and is waiting for responses. The committee will reconvene once the responses are received.
 - An update will be provided at the September 2021 CLERB meeting.
 - Vice Chair Delaney noted that Bonnie Kenk was an initial participant for this subcommittee.

Board Comments

- Ms. Kenk mentioned that she felt it was important for Board Members to attend the NACOLE conference. She noted that the conference would be held virtually, as well as in person in December 2021.

**Sheriff/Probation
Liaison Query**

- Mr. Gray asked if mental health responses have become a bigger focus for the Sheriff's Department, specifically as it relates to maintaining and expanding personnel.
 - Sergeant Kristin Brayman said that PERT teams are in the field and that the Sheriff's Department was exploring sending mental health staff out on their own, but she would need to get back to him with specific details.
- Tim Ware asked if PERT was available to the County of San Diego or if it was specific the Sheriff's Department.
 - Sergeant Brayman stated that PERT was used by the County of San Diego.
- Mr. Ware asked if there was a way to maximize and improve nurse involvement during wellness checks.
 - Sergeant Brayman stated that at this time it is not feasible for nursing staff to be present at every check.
- Mr. Wilson asked what type of staff compose the PERT teams.
 - Sergeant Brayman stated that PERT staff are clinicians contracted through the County of San Diego.
- Bonnie Kenk asked why nursing staff would not be available in the Enhanced Observation Housing (EOH) unit.
 - Sergeant Brayman stated that medical staff would definitely be around in EOH.
- Ms. Kenk stated that PERT training is available and mentioned the possibility of the Executive Officer setting up a training.
 - Sergeant Brayman stated that the PERT deputies attend a PERT training.

The Board entered closed session at 6:52 p.m.

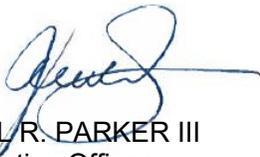
Closed Session

- 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).

CASE NO.	LAST NAME	CASE NO.	LAST NAME
20-074	Frier	20-081	Jorgensen
20-075	Birkhead		

The meeting was adjourned at 7:03 p.m.

Minutes prepared by Tamicha Husband, Administrative Secretary



PAUL R. PARKER III
Executive Officer



ROBERT SPRIGGS, JR.
Secretary to the Board