



San Diego County Probation Department

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Tamika Nelson, Chief Probation Officer

March 11, 2026

Citizens' Law Enforcement Review Board
Brett Kalina, Executive Officer
1600 Pacific Highway, Suite 251
San Diego, CA 92101

Assembly Bill 847 (AB 847)

Dear Brett,

The Probation Department appreciates CLERB's ongoing efforts to fulfill its oversight responsibilities and values our shared commitment to transparency, accountability, and lawful information-sharing. We also recognize that the changes brought by AB 847 raise new and complex questions for all involved. At the same time, there remain several areas where our legal interpretations differ. Our hope is to continue this dialogue and identify a collaborative path that allows both entities to meet their statutory obligations.

1. Applicability of AB 847 to the Probation Department

CLERB has asserted that it is entitled to the requested records under AB 847, which amended Government Code section 25303.7 and Penal Code section 832.7. Our review of the statutory language and legislative history leads us to a different conclusion. Nothing in AB 847 references Probation; rather, the bill repeatedly discusses sheriff oversight boards. Unlike the Sheriff's Department, Probation's internal affairs records often include confidential adult and juvenile probation information, as well as confidential complainant and victim information, none of which are addressed in AB 847. This omission reinforces our conclusion that the Legislature did not intend the statute to apply to Probation.

Because Penal Code section 832.7 continues to govern confidentiality for Probation's personnel files, the Department remains legally obligated to protect these records. Unauthorized disclosure creates civil and criminal exposure for both the Department and CLERB. (See *Towner v. County of Ventura*, 63 Cal.App.5th 761, 774 (2021).)

We understand CLERB may disagree. For that reason, and to obtain legal clarity, we respectfully request that CLERB use its subpoena power to issue a subpoena in compliance with Code of Civil Procedure section 1985 *et seq.* This process requires notice to the officer and provides an opportunity for the officer or Probation Department to challenge the subpoena through judicial review. We recognize that a standard

subpoena under the Code of Civil Procedure is not enough to compel peace officer personnel files—as the standard *Pitchess* motion requires a showing of “good cause.” This would allow all parties to determine if we need to seek judicial rulings.

2. Importance of the Subpoena and Notice Process

At this point, CLERB has not followed the subpoena and notice procedures required for accessing confidential personnel records. The importance of this process is highlighted by *G Dibb v. County of San Diego*, 8 Cal. 4th 1200, 1218 (1994). In *Dibb*, the California Supreme Court emphasized that CLERB’s subpoena authority is subject to judicial oversight to prevent potential misuse. The Court made clear that any subpoena seeking privileged information may be challenged through a motion to quash, ensuring court review before confidential records are disclosed.

Using this subpoena and notice process will ensure transparency, protect the rights of affected employees, and create clear judicial guidance for both CLERB and the Department moving forward.

3. Confidentiality Concerns

CLERB’s handling and dissemination of confidential information of probation clients, complainants, and officers raises concerns. These concerns have been repeatedly raised to CLERB. Penal Code section 832.7 strictly prohibits the release of summary information or derivative information from confidential records maintained under Penal Code section 832.5. Numerous authorities reaffirm that such information must remain confidential. (See *Davis v. City of San Diego*, 106 Cal.App.4th 893 (2003); *Copley Press v. Superior Court*, 39 Cal.4th 1272 (2006); *Berkeley Police Assn. v. City of Berkeley*, 167 Cal.App.4th 385 (2008); *ALADS v. Superior Court*, 8 Cal.5th 28 (2019); *Towner v. supra*, 63 Cal.App.5th 761 (2021); 71 Ops.Cal.Atty.Gen. 247 (1988); 82 Ops.Cal.Atty.Gen. 246 (1999).) Nevertheless, CLERB obtains confidential information and publishes that information in its public agenda and findings.

CLERB’s rules require that it comply with confidentiality laws, but there have been ongoing disagreements over what constitutes dissemination of confidential information. This has affected the privacy rights of numerous adult and juvenile probation clients, as well as probation officers.

Because both the Department and County have statutory duties to protect the confidentiality of youth and adult probationers and peace officers—we propose that our agencies jointly develop a confidentiality framework modeled on the Los Angeles County Sheriff Civilian Oversight Commission and the Berkeley Police Accountability Board. This protocol would reduce legal risk for both agencies and strengthen CLERB’s ability to receive and protect highly sensitive information.

4. Lack of Jurisdiction Over Former Employees

CLERB also asserts entitlement to records relating to former Officer [REDACTED]. Under CLERB’s own Rules and Regulations, jurisdiction does not extend to individuals no

longer employed as peace officers or custodial officers. Because CLERB appears to lack jurisdiction, a subpoena—if issued—would allow a court to determine whether there is a basis to compel disclosure of a confidential peace officer file when CLERB does not have jurisdiction over that officer.

5. Scope of CLERB's Request

Finally, CLERB's current request far exceeds the limited, case specific scope that we understand was discussed during meet and confer with the Probation Officer Association. A subpoena requesting the same would therefore be overbroad. Probation was not included in those discussions and has no written guidance on what agreement, if any, was reached. Turning over confidential records without such clarity risks violating state law, confidentiality obligations, and potential labor related commitments.

Conclusion

We acknowledge that many of these questions are issues of first impression, particularly because San Diego County is the only county in California with a civilian review board overseeing a Probation Department (yet another reason, we believe AB 847 did not contemplate Probation). Probation's personnel records implicate unique and complex confidentiality laws, including juvenile confidentiality (Welf. & Inst. Code § 827), which add additional layers of statutory requirements that the legislature did not contemplate and that we may not ignore.

For these reasons, we believe that the legally appropriate and cooperative next step is for CLERB to issue a subpoena in compliance with the Code of Civil Procedure. This will allow a court to resolve the legal questions, provide guidance to both agencies, and ensure the County as a whole proceeds in a lawful and transparent manner.

We remain committed to working collaboratively with CLERB and welcome continued dialogue on confidentiality procedures and long-term frameworks that will support effective oversight while protecting the privacy rights that state law requires us to uphold.

Sincerely,



KRISTINE LEFEBVRE
Division Chief