

BOARD MEMBERS

MARYANNE PINTAR
Chair
JIM MENDELSON
Vice Chair
ADELE FASANO
Secretary
NORMAN BISSON
DR. R. LEE BROWN
DON DUMAS
ARIANA FEDERICO MONDRAGON
DANIEL MOODY
DR. THEODORE THOMAS
TIM WARE
BRADFORD WOODS



EXECUTIVE OFFICER
BRETT KALINA

County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

1600 PACIFIC HIGHWAY, SUITE 077, SAN DIEGO, CA 92101
TELEPHONE: (619) 238-6776
www.sdcounty.ca.gov/clerb

March 23, 2026

Tamika Nelson, Chief Probation Officer
Attn: Kristen Lefebvre, Division Chief
PO Box 23597
San Diego, CA 92129
Sent via email

Division Chief Lefebvre -

First, CLERB staff and I are always open to having dialogue and have greatly appreciated the open communication we have had with our liaison, Ana Diaz Pena. However, this dialogue should occur prior to sending letters suggesting subpoenas and litigation will solve your many issues addressed below.

1. In 1990, voters in San Diego County enacted a ballot measure to amend the County Charter requiring the County Board of Supervisors to establish the "Citizens Law Enforcement Review Board" ("CLERB") to independently investigate complaints against officers employed by the Sheriff's Office and Probation Department. Government Code 25303.7, which was cited by your office, does not apply to CLERB. In fact, your County Counsel participated in the re-write of CLERB's Ordinance and Rules and Regulations just a few months ago and should be aware of CLERB's beginnings. Section 340.9, subsection (b) of the County's County Code of Administrative Ordinances ("CAO") charges CLERB with investigating "[t]he use of force by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department resulting in great bodily injury." Once a use of force causing great bodily injury is reported, neither the County Charter, Administrative Code, nor CLERB's regulations cabin the topics CLERB can investigate, which may range from individual conduct by officers to systemic issues at the Department potentially leading to injury. Penal Code Section 832.7 was amended to include "a grand jury, a district attorney's office, the Attorney General's office, or the Commission on Peace Officer Standards and Training, or a civilian oversight board or commission for a law enforcement agency established pursuant to subdivision (a) of Section 25303.7 of the Government Code or other duly enacted municipal or county ordinance." As such, under Penal Code Section 832.7, CLERB shall have the same access to the personnel records of peace officers and custodial officers as afforded to entities such as the Grand Jury and the District Attorney's office.
2. CLERB will not be serving a subpoena as it is known this is not a requirement of Section 832.7, nor is it a requirement for a district attorney and others. The only mention of a subpoena in Section 832.7 is in regards to a Sheriff's Commission for a Law Enforcement Agency established pursuant to Section 25303.7, which doesn't apply to CLERB. Section 6 of CLERB's updated Rules and Regulations provides:

In the discharge of its duties, CLERB shall receive complete and prompt cooperation from all officers and employees of the County and employed or contracted Health Care Providers under the direction of the Sheriff's Office or Probation Department. CLERB and other public officers, including the Sheriff, the District Attorney, and the Grand Jury, shall

"SERVING THE COMMUNITY AND THE JUSTICE SYSTEM"

coordinate their activities so that the other public officers and CLERB can fully and properly perform their respective duties. **Such cooperation shall include responding to written questions during the investigation, appearing at and answering questions during interviews, appearing at and answering questions during hearings, assisting with access to physical evidence, and cooperation with any other relevant investigation procedures.**

Similarly, CAO section 340.15 states:

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

Dibb v. County of San Diego, 8 Cal. 4th 1200 is not to the contrary, and probation continues to misread that case. *Dibb* dealt almost entirely with whether or not CLERB **had** subpoena power. The Court briefly addressed plaintiff's concern about possible misuse of the subpoena power as follows:

Nevertheless, we do not doubt the legitimacy of plaintiff's concern about possible misuse of the power to issue subpoenas. In this context, however, the potential for abuse does not appear to be any greater than that which exists when various other nonjudicial county entities exercise their established powers to issue subpoenas [citations] or when the civilian police review boards of charter cities exercise their power to issue subpoenas [citations]. In those situations, as in the present, the concern about potential misuse of the subpoena power may be addressed through close scrutiny by the court in motions to quash, or in contempt actions to enforce, subpoenas. [citations]. The mere potential for abusive issuance of subpoenas does not compel a conclusion that the power to issue subpoenas is beyond the scope of power conferrable on county officers under article XI, section 4(e) of the Constitution.

Nothing in that case suggests that CLERB must issue a subpoena to access personnel records. Rather, section 14.6 of CLERB's Regulations states "CLERB, through its staff and agents, **may utilize whatever formal or informal methods for the discovery of evidence as are authorized** and available under federal, state, or local law." Issuing a subpoena merely so Probation has the opportunity to quash is a significant waste of resources.

3. CLERB is not requesting the personnel files of adult or juvenile probationers. Section 832.7 is very straightforward with what information can be disclosed and what must remain confidential. In fact, Section 832.7 states:

(b)(1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code): (A) A record relating to the report, investigation, or findings of any of the following: (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer. **(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.**

CLERB has gone to great lengths to accommodate redaction requests in the past, despite no legal obligation to do so. Probation's County Counsel arguments regarding juvenile records are not well founded. Probation can point to a single incident where the mother of a juvenile arguably revealed

protected information, and CLERB responded promptly to the concern. As to peace officers, there is a marked difference between publication of information from confidential records (which CLERB does not disclose) and publishing the results of CLERB's own investigations. CLERB is steadfast in maintaining the confidentiality of all parties, including the peace officers. If anyone believes CLERB has violated the confidentiality of any Peace Officer, the Peace Officer, not the Probation Department, is entitled to the protections afforded by the Peace Officer Bill of Rights.

4. Again, the Probation Department misreads CLERB's own Rules and Regulations. CLERB Regs section 5.7 states:

CLERB shall have the **discretion to continue or terminate** an investigation, if, after a Complaint is filed and before CLERB completes its investigation, the Subject of Investigation terminates employment with the Sheriff's Office or the Probation Department. The Sheriff or the Chief Probation Officer or the Subject of Investigation shall notify CLERB when the Subject of Investigation's employment is terminated."

Additionally, Section 15 states: "After reviewing the Investigative Report and records, CLERB **may** summarily dismiss a Case, ("Summary Dismissal") upon recommendation of the Executive Officer, its own motion, or that of the Subject of Investigation. Parties to the Complaint shall be notified of a proposed Summary Dismissal, and may appear to argue for or against Summary Dismissal." It is unfortunate that County Counsel and the Probation Department continue to attempt to decide when CLERB has jurisdiction. There is nothing in the Charter or the Rules and Regulations to make this argument.

5. Pursuant to Penal Code Sections 832.7 & 832.8, along with California Assembly Bill 847, CLERB is entitled to the statutorily enumerated portions of the personnel file, including:
 - a. Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.
 - b. Medical history.
 - c. Election of employee benefits.
 - d. Employee advancement, appraisal, or discipline.
 - e. Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.
 - f. Training records

CLERB has not requested anything "far exceeding the limit". CLERB specifically tailored the requests to the cases being investigated. A reminder that Meet and Confer was done in an open and honest discussion about the new state laws. There was no disagreement about jurisdiction, nor confidentiality, nor process, nor scope. However, even if we disagreed, that argument would be between the POA and the County's labor negotiations as to impact. CLERB is entitled to the records, by state law and county ordinance, without subpoena.

Best regards -



Brett Kalina
Executive Officer

County of San Diego, Citizens' Law Enforcement Review Board (CLERB)
1600 Pacific Highway, Ste. 077, San Diego, CA 92101
Cell: (619) 301-9212