ARTICLE XVIII CITIZENS LAW ENFORCEMENT REVIEW BOARD*

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***Editor's note --** Article XVIII, Citizens Law Enforcement Review Board, sections 340--340.15, added by Ord. No. 7880 (N.S.), effective 5-2-91.

Cross reference(s) -- Definitions, § 20 et seq.; general rules, § 50 et seq.

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SEC. 340. PURPOSE AND INTENT.

It is the purpose and intent of the Board of Supervisors to establish a Citizens Law Enforcement Review Board of the County of San Diego to advise the Board of Supervisors, the Sheriff and the Chief Probation Officer on matters related to the handling of citizen complaints against peace officers and custodial officers employed by the County in the Sheriff's Office or the Probation Department that allege misconduct arising out of the performance of their duties. The Citizens Law Enforcement Review Board is also established to receive and investigate specified citizen complaints and investigate deaths arising out of or in connection with activities of peace officers and custodial officers employed by the County in the Sheriff's Office or the Probation Department, as specifically outlined below in Section 340.9. Additionally, when investigating the death of any individual which occurs while the individual was in custody of the Sheriff's Office or the Probation Department, or occurs within six months of that individual's release from custody pursuant to "compassionate release", the Review Board shall have the authority to investigate any peace officer, custodial officer, employee or contractor working under the direction of the Sheriff or Probation, including contracted health care providers ("Contract Staff"). Finally, the Citizens Law Enforcement Review Board is to make appropriate recommendations relating to matters within its jurisdiction, report its activities, and provide data in respect to the disposition of citizen complaints received by the Citizens Law Enforcement Review Board. It is the purpose and intent of the Board of Supervisors in constituting the Citizens Law Enforcement Review Board that the Review Board will be advisory only and shall not have any authority to manage or operate the Sheriff's Office or the Probation Department or direct the activities of any County officers, employees, or Contract Staff. The Review Board shall not decide policies or impose discipline against officers, employees or Contract Staff.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91; amended by Ord. No. 10956 (N.S.), effective 10-30-25)

SEC. 340.1. CITIZENS LAW ENFORCEMENT REVIEW BOARD.

The Board of Supervisors hereby establishes the Citizens Law Enforcement Review Board of the County of San Diego, hereinafter referred to as “Review Board.”

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.2. NUMBER OF MEMBERS.

The Review Board shall consist of eleven (11) members.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.3. NOMINATION AND APPOINTMENT.

(a) The Board of Supervisors shall appoint all eleven members to the Review Board, all of whom shall be residents and qualified electors of the County. Members shall be nominated by the Chief Administrative Officer. In making nominations the Chief Administrative Officer shall attempt to reflect in Review Board membership comprehensive representation of age, sex, socioeconomic status, racial and ethnic background and geographical distribution, including representation of both the unincorporated areas and the cities that contract with the County for law enforcement by the Sheriff's Department. The list of nominees submitted to the Board of Supervisors shall include a statement of the qualifications of each person nominated.

(b) Public notice and publicity shall be given of intention to appoint members to the Review Board. An application form shall be provided to members of the public.

(c) County employees and persons employed as peace officers and custodial officers shall not be eligible to be members of the Review Board.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

Cross reference(s) -- Chief administrative officer, § 120 et seq.; appointment and removal, § 52; sheriff, § 440 et seq.

SEC. 340.4. TERM OF OFFICE.

(a) Each member shall serve a term of three years; provided, however, that the terms of the initial members of the Review Board shall be determined as follows:

At the first meeting of the Review Board, the eleven members shall draw lots to determine which four members will serve a three year term, which four members will serve a two year term, and which three members will serve a one year term.

(b) A member shall serve on the Review Board until a successor has been appointed. A member shall be appointed for no more than two consecutive full terms. Appointment to fill a vacancy shall constitute appointment for one term. The term for all members shall begin on July 1 and end on June 30. The term of all persons who are the initial appointees to the Review Board shall be deemed to commence on July 1, 1991.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.5. REMOVAL.

Members of the Review Board serve at the pleasure of the Board of Supervisors and may be removed from the Review Board at any time by a majority vote of the Board of Supervisors.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.6. VACANCIES.

A vacancy shall occur on the happening of any of the following events before the expiration of the term:

(1) The death of the incumbent.

(2) The resignation of the incumbent.

(3) The ceasing of the incumbent to be a resident of the County of San Diego.

(4) Absence of the member from three consecutive regular meetings of the Review Board, or

(5) Failure to attend and satisfactorily complete the required training course within three months of the beginning of a member's term or of the member's appointment to fill a vacancy.

When a vacancy occurs the Board of Supervisors and, where appropriate, the member shall be notified of the vacancy by the Chairperson. Vacancies shall be filled in the same manner as the position was originally filled. Vacancies shall be filled within forty-five days and, subject to the provisions of this article, shall be filled for the balance of the unexpired term.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.7. ORGANIZATION.

(a) *Officers.* The Review Board shall select annually from its membership a Chairperson, a Vice-Chairperson and a Secretary.

(b) *Rules.* The Review Board shall prepare and adopt necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors. A current copy of the rules and regulations shall be filed with the Clerk of the Board of Supervisors.

(c) *Quorum.* A majority of members currently appointed to the Review Board shall constitute a quorum. The number of votes required to take action on a motion is a majority of the quorum.

(d) *Minutes.* The Review Board shall keep written minutes of its meetings, a copy of which shall be filed with the Clerk of the Board of Supervisors.

(e) *Meetings.* The Review Board shall establish a regular meeting schedule and shall give public notice of the time and place of meetings. All meetings shall be held in accordance with the requirements of the Ralph M. Brown Act (Government Code, section 54950 et seq.).

(Added by Ord. No. 7880 (N.S.), effective 5-2-91; amended by Ord. No. 11023 (N.S.), effective 10-15-26)

SEC. 340.8. COMPENSATION.

Members of the Review Board shall serve without compensation, except they shall be reimbursed for expenses incurred in performing their duties in accordance with provisions of the County Administrative Code regulating reimbursement to County officers and employees.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.9. DUTIES AND RESPONSIBILITIES.

The Review Board shall have the authority to:

(a) Receive, review and investigate citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Office or the Probation Department which allege: (A) use of excessive force; (B) discrimination or sexual harassment in respect to members of the public; (C) the improper discharge of firearms; (D) illegal search or seizure; (E) false arrest; (F) false reporting; (G) criminal conduct; (H) misconduct; or (I) deaths of any individual which occurs while the individual was in custody or within six months of compassionate release. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990. All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury.

(1) "Citizen complaints" shall include complaints received from any person whatsoever without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant.

(2) "Misconduct" is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific citizen by reason of:

(A) An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Office or the Probation Department; or

(B) An alleged violation of any state or federal law; or

(C) Any act otherwise evidencing improper or unbecoming conduct by a peace officer, employee, or custodial officer, employed by the Sheriff's Office or the Probation Department, including Contract Staff; or

(D) For purposes of health care providers, a deviation from standard of care, error, or omission related to any health service provided.

(3) In the event of any investigation pursuant to subdivision (a)(I) above, related to the death of an individual which occurs while the individual was in the custody of the Sheriff Office or Probation Department, or occurs within six months of that individual's release pursuant to "compassionate release" (See Cal. Gov't Code §§ 26605.5, 26605.6), the Review Board shall have the jurisdiction to investigate any peace officer, custodial officer, employee or contractor, including any contracted health care provider, working under the direction of the Sheriff or Probation.

(A) As part of any investigation of a health care provider, the Review Board shall consider whether the health care provider's function in the detention facility was adequately staffed at the time the incident under investigation took place.

(4) The Review Board shall have no authority pursuant to this subdivision to take action in regard to incidents for which no citizen complaint has been filed with the Review Board.

(b) Investigate the following incidents regardless of whether a citizen complaint regarding such incident has been filed:

(1) The Review Board must investigate all in-custody deaths, including those classified as "natural," and shall prioritize investigations involving death over all other investigations. In the event of the death of any individual which occurs while the individual was in the custody of the Sheriff's Office or Probation Department or occurs within six months of that individual's release from custody pursuant to "compassionate release" (see Cal. Gov't Code 26605.5, 26605.6), the Review Board shall have the jurisdiction to investigate any peace officer, custodial officer, employee, or contractor working under the direction of the Sheriff or Probation, including any contracted health care provider. The Review Board shall have jurisdiction in respect to all deaths of individuals coming within the provisions of this subdivision occurring on or after November 7, 1990.

(A) As part of any investigation of a health care provider, the Review Board shall consider whether the health care provider's function in the detention facility was adequately staffed at the time the incident under investigation took place.

(2) Incidents involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff's Office or the Probation Department.

(3) The use of force by peace officers or custodial officers employed by the County Sheriff's Office or the Probation Department resulting in great bodily injury.

(4) The use of force by peace officers or custodial officers employed by the County Sheriff's Office or the Probation Department at protests or other events protected by the First Amendment.

(c) Prepare reports, including at least the Sheriff or the Probation Officer as recipients, on the results of any investigations conducted by the Review Board in respect to the activities of peace officers, custodial officers, employees, or contractors working under the direction of Sheriff or Probation, including recommendations relating to the imposition of discipline, including the facts relied on in making such recommendations, and recommendations relating to any trends in regard to employees involved in citizen complaints. The Review Board is not established to determine criminal guilt or innocence.

(d) Prepare an annual report to the Board of Supervisors, the Chief Administrative Officer, the Sheriff and the Chief Probation Officer summarizing the activities and recommendations of the Review Board including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period and present the annual report to the Board of Supervisors within 60 days of its adoption by the Review Board.

(e) Notify in writing any citizen having filed a complaint with the Review Board of the disposition of his or her complaint. The Chief Administrative Officer shall also receive appropriate notification of the disposition of citizen complaints. Such notifications shall be in writing and shall contain the following statement: "In accordance with Penal Code section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding

brought before an arbitrator, court, or judge of California or the United States."

(f) Establish, review, and modify necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.

(g) Review and make recommendations on policies and procedures of the Sheriff's Office and the Probation Departments to the Board of Supervisors, the Sheriff, and the Chief Probation Officers.

(h) In the absence of authority or jurisdiction by another agency, CLERB may annually inspect County adult detention facilities and annually file a report of such visitations together with pertinent recommendations with the Board of Supervisors.

(i) Prioritize investigations of incidents involving death over all other investigations. The Review Board shall promulgate its own regulation on the prioritization of other types of investigations.

(j) Implement and comply with reporting requirements as an accountability mechanism to ensure that the Review Board completes all investigations within one year of when it discovers any act, omission or other allegation of misconduct consistent with state law, see Cal. Gov't Code § 3304, (the Peace Officer's Bill of Rights, or "POBR.") Consistent with the one-year investigatory time limit set by California Government Code 3304(d) it shall be the policy of the Review Board to complete all investigations within one year of the date on which the Review Board discovers the alleged act, omission or other misconduct. If the Review Board fails to complete an investigation within one year or anticipates that it will fail to complete the investigation within one year, the Executive Officer of the Review Board shall report to the Board of Supervisors within thirty days after the one-year limit has run on: (i) whether the one-year time limit prescribed by California Government Code 3304(d) governing investigations of sworn officers applies; (ii) if the one-year limit applies, whether any tolling provision listed under California Government Code 3304(d)(2) applies; and, (iii) if no tolling provision listed under California Government Code 3304(d)(2) applies, a succinct explanation of any reasons why the investigation could not be completed within one year. Under no circumstance will the Review Board dismiss an investigation or complaint involving a death due to inability to complete the investigation within the time limit prescribed by POBR. The Review Board shall have jurisdiction to reopen a case if the requirements of California Government Code section 3304(g) are met, if applicable.

(k) Reopen a closed case, in narrow circumstances, if the requirements of section 3304(g) of the California Government Code are satisfied.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91; amended by Ord. No. 7914 (N.S.), effective 6-27-91; amended by Ord. No. 9737 (N.S.), effective 10-27-05; amended by Ord. No. 9782 (N.S.), effective 7-20-06; amended by Ord. No. 10585 (N.S.), effective 2-7-19; amended by Ord. No. 10690 (N.S.), effective 12-17-20; amended by Ord. No. 10956 (N.S.), effective 10-30-25; amended by Ord. No. 11023 (N.S.), effective 10-15-26)

Cross reference(s) -- Powers and duties of officers, boards, and commissions, §51.

SEC. 340.10. REVIEW BOARD INVESTIGATIONS.

Citizen complaints received by the Review Board shall be transmitted forthwith to the Sheriff or the Probation Officer.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.11. SUBPOENAS.

The Review Board shall, pursuant to the Charter of the County of San Diego, section 606(d), have the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and to administer oaths.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.12. STAFF ASSISTANCE.

The Review Board shall appoint such personnel as may be authorized by the Board of Supervisors.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.13. TRAINING REQUIREMENTS.

All members shall attend and satisfactorily complete a training course within three months of the beginning of the member’s term or of the member‘s appointment to fill a vacancy. The training requirements shall be established by the Chief Administrative Officer. Failure to attend and satisfactorily complete the training course within the prescribed time shall result in the member’s removal from the Review Board and shall automatically create a vacancy on the Review Board.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.14. RECORDS.

Any personnel records, citizen complaints against County personnel in the Sheriff's Department or the Probation Department, and information obtained from these records, which are in the possession of the Review Board or its staff, shall be confidential and shall not be disclosed to any member of the public, except in accordance with applicable law. Copies of records and complaints of the Review Board shall be made available to the Sheriff or the Probation Officer upon completion of the investigation of the Review Board unless prohibited by applicable law.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91)

SEC. 340.15. COOPERATION AND COORDINATION.

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.

(Added by Ord. No. 7880 (N.S.), effective 5-2-91; amended by Ord. No. 10956 (N.S.), effective 10-30-25)