



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

PALOMA AGUIRRE
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: September 9, 2025, and September 30, 2025

07

TO: Board of Supervisors

SUBJECT

ADOPT AN ORDINANCE AMENDING SECTIONS 340, 340.9, AND 340.15 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES AND JURISDICTION OF THE CITIZENS LAW ENFORCEMENT REVIEW BOARD (September 9, 2025– First Reading; September 30, 2025 - Second Reading unless ordinance is modified on second reading) (DISTRICTS: ALL)

OVERVIEW

On December 10, 2024 (35), the San Diego County Board of Supervisors (Board) directed the amendment of the County of San Diego (County) laws governing the Citizens Law Enforcement Review Board (CLERB) to expand CLERB's jurisdiction related to in-custody death investigations and increase its effectiveness as well as analyze staffing and resources needed if jurisdiction was expanded, identify other oversight boards with expanded jurisdictions, engage in the meet-and-confer process with the affected labor unions, and ultimately returning to the Board with a final proposed amended ordinance and final proposed rules and regulations as approved by CLERB.

On August 7, 2025, the CLERB approved changes to their Rules and Regulations. The changes adopted provides additional jurisdiction to investigate the death of any individual which arises out of or in connection with the actions of any peace officer, custodial officer, employee or contractor, including any Health Care Provider of the Sheriff's Office or Probation while the individual was in custody of the Sheriff or Probation. The additional jurisdiction also includes the authority to investigate the death of any individual that occurs within six months of that individuals release from custody pursuant to "compassionate release."

Today's item requests the Board to consider the introduction of an ordinance related to the expansion of CLERB's jurisdiction over in-custody death investigations to include Sheriff and Probation employees and contractors, such as Health Care Providers. If the Board acts as recommended, then on September 30, 2025, the Board is requested to adopt the ordinance (second reading) and take related actions. If the proposed ordinance is altered on September 30, 2025, then on that date, a subsequent meeting date will be selected for the ordinance's adoption.

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RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

On September 9, 2025:

1. Consider the recommendation to approve the introduction of the Ordinance (first reading):

AN ORDINANCE AMENDING SECTIONS 340, 340.9, AND 340.15 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES AND JURISDICTION OF THE CITIZENS LAW ENFORCEMENT REVIEW BOARD

If, on September 9, 2025, the Board takes action within recommendation #1 above, then on September 30, 2025:

1. Consider and adopt the Ordinance:

AN ORDINANCE AMENDING SECTIONS 340, 340.9, AND 340.15 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES AND JURISDICTION OF THE CITIZENS LAW ENFORCEMENT REVIEW BOARD

2. Pursuant to subparagraph (b) of section 340.7 of the San Diego Code of Administrative Ordinances, consider the approval of the August 7, 2025, amendments to the Citizens Law Enforcement Review Board's rules and regulations.
3. If the Board acts on Recommendations #1 and #2 above:
 - a. Consider the approval of the request to add 2.00 staff years to support the Citizens Law Enforcement Review Board and direct the Department of Human Resources to classify the positions at the appropriate level.
 - b. Transfer appropriations of \$417,260 from County Counsel, Services & Supplies, to Citizens Law Enforcement Review Board, Salaries & Benefits (\$217,260) and Services & Supplies (\$200,000) for the purpose of funding two full-time positions and consultant services based on General Purpose Revenue.

EQUITY IMPACT STATEMENT

The requested action supports the County's Strategic Initiatives, and its vision for a San Diego that is promoting Health, Community and Justice, by protecting San Diegans, especially those disproportionately at risk of law enforcement and detention facility health care providers interaction, which increase transparency and accessibility in civilian law enforcement oversight and fostering better relationships between law enforcement and the communities they serve.

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SUSTAINABILITY IMPACT STATEMENT

The proposed action supports the County of San Diego’s Sustainability Goal #2 of providing just and equitable access to County services, by using data-driven and analytical analysis of detention and medical services policies and procedures to not only protect the health and well-being of our incarcerated community, but to protect the economic sustainability of the County.

FISCAL IMPACT

If CLERB jurisdiction is amended, CLERB anticipates the need for two staff years along with contracted services totaling \$489,680 annually. Based on implementation in October 2025, an estimated \$417,260 in expenditures would result in Fiscal Year (FY) 2025-26. To fund these requests beginning in October 2025, \$417,260 in General Purpose Revenue is proposed to be reallocated from County Counsel in FY 2025-26. This reallocation will impact timing for projects, within County Counsel, particularly one-time projects such as information technology. For FY 2025-26 actions, there will be no net General Fund cost increase; there will be an increase in two staff years.

Depending on caseload, an additional two staff years may be required to fully implement the change in CLERB jurisdiction beginning in FY 2026-27, for a total of four additional staff years. With the two additional staff years along with contracted services, the total annual cost beginning in FY 2026-27 is estimated to be \$817,537 and would need to be considered in the development of the Operational Plan, pending availability of funding.

There may be future fiscal impacts based on additional need for administrative support for the Probation Department and the Sheriff’s Office. Staff will monitor the need for additional resources based on today’s actions. The Chief Administrative Officer will continue to collaborate with the Sheriff’s Office and Probation Department through the Five-Year Financial Forecast process to determine exact financial impact and availability of funding, and will return to the Board with determined fiscal impacts and related recommendations for consideration and approval by the Board.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

On December 10, 2024 (35) the San Diego County Board of Supervisors (Board) directed the Chief Administrative Officer to amend County of San Diego (County) laws governing the Citizens Law Enforcement Review Board (CLERB) to address past deficiencies. As part of this action, the Board directed staff to draft an amended ordinance expanding CLERB’s jurisdiction to include in-custody death investigations, assess the staffing and resource needs associated with this expansion

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in CLERB, the Sheriff’s Office, and Probation Department, and analyze civilian oversight models from other jurisdictions. Staff was further directed to engage in the meet-and-confer process with affected labor organizations, support CLERB in updating its rules and regulations, and return with final ordinances and updated regulations.

Today’s action is to consider the introduction of the ordinance requested in Recommendation 1. The ordinance will expand the Citizens Law Enforcement Review Board’s (CLERB) jurisdiction to investigate any employee or contractor under the direction of the Sheriff’s Office or Probation Department, including contracted health care providers, when investigating an in-custody death, or when the death occurs within six months of that individual’s release from custody pursuant to “compassionate release.” It will also require CLERB to report to the Board of Supervisors when it fails to complete a misconduct investigation within one year of when it discovers the allegation or one year after tolling provisions, or pausing the one-year investigatory period due to certain allowable circumstances, have ended, prioritize death investigations, and investigate in-custody deaths classified as “natural.” The ordinance authorizes CLERB to reopen a case if the requirements of California Government Code section 3304(g) are met, if applicable.

CLERB has conducted significant research on civilian oversight bodies throughout California and the United States. While there are substantial numbers of civilian law enforcement oversight bodies across the country with similar investigative and subpoena powers, there are no known civilian oversight bodies with jurisdiction over health care providers in prison or jail settings in conjunction with jurisdiction over custodial or peace officers that are subject to the Brown Act. The vast majority of those revolve around state-run prisons. Carceral care in the State of California is required to comply with the standards set by the California Code of Regulations (CCR) Title 15. However, there are no local or county-wide civilian law enforcement oversight bodies with health care directives that are subject to the Brown Act.

Currently there are three different types of civilian oversight models: review focused, investigation focused, and auditor focused. Investigation-focused models are currently the second most common form of civilian oversight in the United States. CLERB’s model is investigation focused. Agencies that fit within the investigative model employ professionally trained investigative staff to conduct investigations into allegations of misconduct independently of the overseen department’s internal affairs unit or replace critical functions of a standard internal affairs unit altogether. According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), these types of agencies can vary greatly both in terms of authority and organizational structure but tend to be the most cost and resource-intensive forms of oversight given their staffing needs.

CLERB IMPACTS

If the proposed ordinance is adopted, CLERB will need additional resources. CLERB has completed an analysis of the resources and identified the need for two full time employees (FTE) and funds to obtain contracted subject matter health care experts. Pending caseload impacts, two additional FTEs for Special Investigators may be required beginning in FY2026-27.

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Analysis of Resource Needs

With new jurisdiction and new standards of care policies to review for health care providers, there will be an essential need to research and provide guidance for policy modifications. Health care services provided in the detention facilities from mental health providers, nurses, doctors, clinicians, and specialists will require review of many different standards of care. Currently CLERB investigators already research over a dozen policy and procedure manuals for the Sheriff's Office and Probation Department. The number of policies will significantly increase with the added jurisdiction over medical providers and their policies. In addition to policy, community engagement is a key initiative and a vital aspect of informing the community of CLERB's jurisdiction. Community and stakeholder support and transparency are keys to effective oversight. Reporting publicly provides transparency and accountability to the community and typically includes complaint analysis and other observations about the law enforcement organization and its practices. Reporting also increases public confidence in the oversight agency, as much of the work related to complaint investigations may be confidential and protected from public disclosure. Unless they are incarcerated and learn of CLERB while in a detention facility, communities alienated by geography, low-income populations, and Black Indigenous and People of Color (BIPOC), LGBTQIA+, people with disabilities, youth, older adults, immigrants, or refugees have not been privy to CLERB's existence and its critical functions.

Over the past five years, CLERB's case intake has increased by 85%. CLERB recently hired its fifth special investigator, which is only a 20% increase in special investigators over that same period. In fact, both the Supervisory Special Investigator and the Executive Officer have taken select investigations over the past years to lessen the load. Considering the new complexities in investigators working with health care experts and understanding when to look for deviations in health care standards of review, the load on investigators in death cases will grow.

Contracted health care specialists would provide the level of expertise to assist CLERB as carceral standards of care are different from general medical standards of care. Significantly, it should be noted that there may be limitations on who can be used as a carceral health care specialist given any experts who have already provided testimony in County civil or criminal litigation would be barred by the County from working with CLERB. It is expected that the average cost for review will be \$8,000.

Depending on caseload, an additional two staff years may be required to fully implement the change in CLERB jurisdiction beginning in FY 2026-27, for a total of four additional staff years. With the two additional staff years along with contracted services the total annual cost beginning in FY 2026-27 is estimated to be \$817,537 and would need to be considered in the Operational Plan development, pending availability of funding.

POTENTIAL SHERIFF'S OFFICE AND PROBATION IMPACTS

Depending on the number of investigations that result from the changing policy, additional Sheriff's Office and Probation staff may be needed to effectively collaborate with CLERB on

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investigations. The Sheriff's Office and Probation may also need to request support from their contracted healthcare providers to obtain any records or information pertinent to an investigation, and the support needed may be outside the scope of existing services. Potential additional costs associated with healthcare services contracts are undetermined at this time.

Concerns expressed by the San Diego County Sheriff's Office

On March 11, 2025, Sheriff Kelly Martinez issued a memorandum to the Board of Supervisors articulating anticipated impacts and the Sheriff's Office's concern with the expanded jurisdiction of CLERB's authority. In addition, on August 5, 2025, the Board of Supervisors received an additional letter from Sheriff Kelly Martinez reemphasizing her concerns related to the proposed expansion in CLERB oversight on contracted staff. The Sheriff further added a notion of exploring an independent third-party administrator auditing structure. Both letters can be found in Attachment F of this item.

County staff will monitor this closely, and work on a case-by-case basis with both CLERB, the Probation Department and Sheriff's Office. County staff will also return to the Board with any additional policy recommendations should concerns be identified over the course of implementation.

CLERB RULES AND REGULATIONS

CLERB provided proposed amended Rules and Regulations along with a proposed amended Ordinance to affected County labor unions, Deputy Sheriff's Association, Supervising Probation Officers Association, Probation Officers Association, and SEIU Local 221 (SEIU) and SEIU requested to meet and confer. The CLERB Executive Officer and Department of Human Resources, Labor Relations met with members of SEIU on three separate occasions: April 1, April 21, and May 7. SEIU members and leadership requested two minor changes to the Rules and Regulations including changing "Health Care Providers" to "Custodial Health Care Providers" in 9.2.f and documenting the intent of CLERB to follow Peace Officer Bill of Rights regarding deadlines and tolling provisions, or pausing the one-year investigatory period due to certain allowable circumstances, in 9.6.c, as applicable by law.

On August 7, 2025, CLERB voted to amend its rules and regulations to reflect the changes requested by the Board of Supervisors on December 10, 2024, and the meet and confer process. The two minor changes to the Rules and Regulations did not require an amended Ordinance.

Today's item requests the Board consider the introduction of an ordinance related to the expansion of the CLERB's jurisdiction over in-custody death investigations. If the Board takes the action recommended, then on September 30, 2025, the Board is requested to adopt the ordinance (second reading). If the proposed ordinance is altered on September 30, 2025, then on that date, a subsequent meeting date will be selected for the ordinance's adoption. Upon adoption, the Board may also consider the approval of CLERB's proposed amended rules and regulations, additional staff years to implement the Ordinance, and transfer of appropriations.

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County staff will be monitoring the outcomes of the future investigations done by CLERB pursuant to this ordinance for resulting policy and procedure recommendations that will benefit the health of incarcerated persons.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The recommended actions align with the Strategic Initiatives of Community, Equity and Justice in the County of San Diego’s 2025-2030 Strategic Plan with its focus on opportunities for health, safety, and quality of life by improving and ensuring an effective law enforcement oversight board.

Respectfully submitted,



EBONY N. SHELTON
Chief Administrative Officer

ATTACHMENT(S)

Attachment A: AN ORDINANCE AMENDING SECTIONS 340, 340.9, AND 340.15 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES AND JURISDICTION OF THE CITIZENS LAW ENFORCEMENT REVIEW BOARD (Clean Copy)

Attachment B: AN ORDINANCE AMENDING SECTIONS 340, 340.9, AND 340.15 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES AND JURISDICTION OF THE CITIZENS LAW ENFORCEMENT REVIEW BOARD (Informational Copy)

Attachment C: SUMMARY OF ORDINANCE

Attachment D: CITIZENS’ LAW ENFORCEMENT REVIEW BOARD RULES AND REGULATIONS (Clean Copy)

Attachment E: CITIZENS’ LAW ENFORCEMENT REVIEW BOARD RULES AND REGULATIONS (Informational Copy)

Attachment F: Letters from San Diego Sheriff’s Office