

Meeting Date: 11/17/2020 (28)

ORDINANCE NO. 10690 (N.S.)

AN ORDINANCE AMENDING SECTION 340.9 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES PERTAINING TO THE DUTIES OF THE CITIZENS' LAW ENFORCEMENT REVIEW BOARD

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Section 340.9 is hereby amended to read in its entirety as follows:

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 Department 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; or (H) misconduct. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or physical or mental incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury. "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. "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:

- (1) An alleged violation of any general, standing or special orders or guidelines of the Sheriff's Department or the Probation Department; or
- (2) An alleged violation of any state or federal law; or
- (3) Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department.

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.

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- (b) Investigate the following incidents regardless of whether a citizen complaint regarding such incident has been filed:
- (1) The death of any individual arising out of or in connection with actions of peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department. 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; provided, however, that the Review Board may not commence review or investigation of any death of an individual coming within the provisions of this subdivision more than one year after the date of the death, unless the review and investigation is commenced in response to a complaint filed within the time limits set forth in subdivision (a) of this section.
 - (2) Incidents involving the discharge of a firearm by peace officers or custodial officers employed by the County Sheriff's Department or the Probation Department.
 - (3) The 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.
 - (4) The use of force by peace officers or custodial officers employed by the County Sheriff's Department 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 or custodial officers, 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 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."

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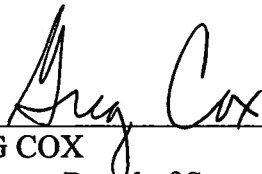
- (f) Establish necessary rules and regulations for the conduct of its business, subject to approval of the Board of Supervisors.
- (g) Review and make recommendations on policies and procedures of the Sheriff's Department and the Probation Departments to the Board of Supervisors, the Sheriff, and the Chief Probation Officers.
- (h) Annually inspect County adult detention facilities and annually file a report of such visitations together with pertinent recommendations with the Board of Supervisors.

Section 2. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY: Shiri Hoffman Senior Deputy

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 17th day of November 2020.



GREG COX
Chairman, Board of Supervisors
County of San Diego, State of California

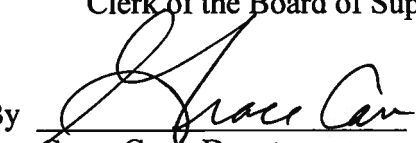
The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 17th day of November 2020.

ANDREW POTTER
Clerk of the Board of Supervisors

By



Grace Caro, Deputy



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