



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: March 15, 2022

COSD CLERK OF THE BOARD
2022 MAR 7 PM 12:00

TO: Board of Supervisors

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SUBJECT

ADDRESSING DEATHS IN SAN DIEGO COUNTY JAILS: RECEIVING THE CALIFORNIA STATE AUDITOR REPORT REGARDING THE SAN DIEGO SHERIFF'S DEPARTMENT, DIRECTING STATE LEGISLATIVE SUPPORT, AND DIRECTING THE CAO TO WORK WITH STAFF FOR REVISION OF THE POLICIES AND PROCEDURES OF THE CITIZENS' LAW ENFORCEMENT REVIEW BOARD (DISTRICTS: ALL)

OVERVIEW

Over the past 15 years, there have been more deaths in San Diego County jails than almost any other county in California, and in 2021, San Diego County had more in-custody deaths than it has in any other year in the past 15 years.

At the direction of the California State Joint Legislative Audit Committee, the Auditor of the State of California ("State Auditor") has conducted an audit of the San Diego County Sheriff's Department ("Sheriff's Department") to determine the reasons for the high number of in-custody deaths. The State Auditor has issued a report that raises concerns about systemic issues with the Sheriff's Department's policies and practices related to its provision of medical and mental health care and its performance of visual checks to ensure the safety and health of individuals in its custody. Additionally, the State Auditor also found that the Sheriff's Department's and the Citizens' Law Enforcement Review Board's ("CLERB") reviews of in-custody deaths have been insufficient.

Based on its findings, the State Auditor has made specific recommendations to address the risks to inmate safety. This Board Letter recommends that CLERB implement the State Auditor's suggested changes to its policies, procedures, and operations. The California Constitution and state law provide that county sheriffs are elected county officials with independent functions and duties. California Constitution, Article XI, Section 1(b); Cal. Gov. Code §§ 26600, et seq. The Sheriff has specific statutory authority through state law in the areas of policing and detention, including the operation of the jails. The County Board of Supervisors ("Board") has authority

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over the Sheriff's Department through the Board's budgetary powers. While the Board can add powers to CLERB to affect CLERB's policies and procedures, it cannot directly change the policies and procedures of the Sheriff's Department. However, the lack of such authority over the Sheriff's Department cannot impede the County's responsibility to take action and to provide for the care and protection of all its residents, including those who are in the custody of the Sheriff's Department. For that reason, this Board Letter directs the County to support state legislative action to ensure that the Sheriff's Department implements changes in accordance with the State Auditor's recommendations. This Board letter also directs the Chief Administrative Officer to work with CLERB to implement the State Auditor's recommendations and bring items back to the Board.

RECOMMENDATION(S)

CHAIR NATHAN FLETCHER and VICE-CHAIR NORA VARGAS

1. Direct the Chief Administrative Officer to receive the California State Auditor Report 2021-109, "San Diego County Sheriff's Department, It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody," February 2022.
2. Direct the Chief Administrative Officer to add a legislative proposal to the County's Legislative Program Sponsorship Proposals section, consistent with Board Policy M-1, that would seek a change in the law to address the reported deficiencies in the Sheriff's Department's policies and practices related to intake screenings, medical and mental health care, safety checks, responses to emergencies, and in-custody death investigations and oversight, in accordance with the recommendations of the California State Auditor set forth in the California State Auditor Report 2021-109, "San Diego County Sheriff's Department, It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody," February 2022.
3. Direct the Chief Administrative Officer to work with the Citizens' Law Enforcement Review Board to integrate and implement the California State Auditor's recommendations pertaining to the policies, procedures, and operations of the Citizens' Law Enforcement Review Board as set forth in the California State Auditor Report 2021-109, "San Diego County Sheriff's Department, It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody," February 2022, and report back to the Board on progress within 180 days, or for necessary action.

EQUITY IMPACT STATEMENT

Based on data provided by the Sheriff, the State Auditor found that in the most recent three years—2018 through 2020—the percentage of deaths of Black individuals in the Sheriff's Department's custody was disproportionately higher than their overall composition of the jail population. *See* Appendix A, California State Auditor Report 2021-109, "San Diego County Sheriff's Department, It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody," February 2022 ("Audit Report"), Attachment A, at 17. The State Auditor found that in 2006, 2008, and 2015, the percentage of deaths among Latinos in jail exceeded their jail population percentage.

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See Audit Report at 17. Although racial bias was not the focus of State Auditor's report, the State Auditor found deficiencies in the Sheriff's Department's policies and practices for ensuring the health and safety of individuals of all races and ages in its care.

FISCAL IMPACT

There is no fiscal impact associated with today's recommended actions though they may result in future fiscal impacts. Staff will return to the Board for consideration and approval of any such impacts.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

From 2006 through 2020, a total of 185 people died in San Diego County's jails—more than in nearly any other county across the State. In-custody deaths in San Diego County follow only Los Angeles County, which is a larger county and has a significantly higher incarcerated population. When deaths per average daily population are compared, the State Auditor found that San Diego County has the highest rate of jail deaths in the State. *See* Appendix A to Audit Report. The State Auditor found that the issue is not improving—in 2021, San Diego County had more in-custody deaths than any other year in the past 15 years. *See* Audit Report at 14.

In response to direction from the California Joint Legislative Audit Committee, the State Auditor conducted an audit of the Sheriff's Department to determine the reasons for in-custody deaths and to identify the steps the Sheriff's Department took to address these deaths. The State Auditor, an independent, nonpartisan agency, found systemic issues with the Sheriff's Department's policies and practices with how it cares for and protects individuals in its custody. The State Auditor found deficiencies related to the Sheriff's Department provision of medical and mental health care. *See* Audit Report at 19-21. The State Auditor also found issues with the Sheriff's Department's safety checks of inmates and lifesaving measures. *See* Audit Report at 25-27. Further, the State Auditor found that the Sheriff's Department's internal reviews of in-custody deaths have been insufficient, lack transparency, and have not consistently led to significant corrective action. *See* Audit Report at 34-37.

The State Auditor also made findings with respect to the Citizens' Law Enforcement Review Board ("CLERB"). CLERB is tasked with providing external oversight when an individual dies in a San Diego County jail. In 2020, the Board of Supervisors enacted changes to increase staffing and resources to CLERB and to expand its authority to investigate incidents. In addition to these changes, more must be done to empower CLERB to serve its mission. The State Auditor

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concluded that CLERB did not always independently interview witnesses, has not consistently prioritized cases involving deaths, and has not thoroughly investigated discrepancies in the course of its investigations of deaths. *See* Audit Report at 48-49. The State Auditor recommended changes to CLERB's policies and procedures to address these issues. The recommendations set forth in this Board Letter would direct the Chief Administrative Officer to work with CLERB to implement those changes and bring items back to the Board.

The Acting Sheriff has been responsive to the recommendations of the State Auditor and has already begun to make some of the requested changes, including entering into an agreement with CLERB to allow for CLERB presence in on-site death investigations. Despite these changes, legislative action is called for to address the deficiencies noted in the State Auditor's Report. The State Auditor noted that no single entity has sufficient oversight authority over the Sheriff's Department to require it to make meaningful changes. *See* Audit Report at 53. The Sheriff has specific statutory authority in the areas of policing and detention, including the operation of the jails, while the County Board of Supervisors has limited authority over the Sheriff's Department through the Board's budgetary authority and oversight through its establishment of CLERB. In light of the State Auditor's findings of deficiencies in the Sheriff's Department's policies and procedures, the County must advocate that the State Legislature take action to ensure that the Sheriff's Department implements changes in accordance with the State Auditor's recommendations.

The County's Legislative Policy establishes the parameters for legislative advocacy by the County of San Diego and provides direction to the Office of Strategy and Intergovernmental Affairs ("OSIA") and the County's Sacramento advocates. *See* County of San Diego Board of Supervisors Policy, M-2. At times when advance notification and authorization of the board is impracticable and where it is imperative that the County act quickly and proactively to ensure the Board's established priorities are conveyed to the appropriate state and federal entities, this policy provides direction on how OSIA and outside advocates may advocate for the County's interests. The current Legislative Program Priority Issues were adopted by the Board on December 7, 2021, and states "[t]he County of San Diego will actively engage in legislation in the following areas at the state and federal level to ensure such legislation benefits County operations and the clients, customers, and constituents we serve." *See* County of San Diego 2022 Legislative Program, <https://www.sandiegocounty.gov/content/dam/sdc/cao/osia/docs/legislativeprogramcombined.pdf>.

Approval of the recommendations set forth herein would authorize the County to assist with developing and supporting legislation to address the issues outlined in this Board Letter regarding Sheriff's Department's policies and practices. This action is consistent with the current Legislative Program Priority Issue supporting "legislation and/or efforts to reduce collateral consequences of criminal convictions upon individuals and families, especially in underserved communities and communities of color." *See* County of San Diego 2022 Legislative Program.


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Based on the foregoing, we urge your support for the actions before you.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The requested action supports the County's 2022-2027 Strategic Plan initiatives of Equity and Justice as it addresses the San Diego Sheriff's Department's constitutional responsibility to provide adequate medical care to individuals under its care.

Respectfully submitted,



NORA VARGAS
Supervisor, First District



NATHAN FLETCHER
Supervisor, Fourth District

ATTACHMENT(S)

Attachment A, California State Auditor Report 2021-109, "San Diego County Sheriff's Department, It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody," February 2022