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**County of San Diego**  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD**

555 W BEECH STREET, SUITE 505, SAN DIEGO, CA 92101-2940  
TELEPHONE: (619) 238-6776 FAX: (619) 238-6775  
[www.sdcounty.ca.gov/clerb](http://www.sdcounty.ca.gov/clerb)

**REGULAR MEETING AGENDA**  
**TUESDAY, FEBRUARY 13, 2018, 5:30 P.M.**  
**San Diego County Administration Center**  
**1600 Pacific Highway, Room 302/303, San Diego, 92101**

(Free parking is available in the underground parking garage, on the south side of Ash Street, in the 3-hour public parking spaces.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form prior to the commencement of the meeting.

**DISABLED ACCESS TO MEETING**

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to CLERB at (619) 238-6776 at least 24 hours before the meeting.

**WRITINGS DISTRIBUTED TO THE BOARD**

Pursuant to Government Code Section 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 555 W Beech Street, Ste. 505, San Diego, CA.

**1. ROLL CALL**

**2. MINUTES APPROVAL**

- a) Minutes of the January 2018 Regular Meeting (*Attachment A*)

**3. PRESENTATION/TRAINING**

- a) 2017 San Diego Sheriff's Department Mental Health Initiatives presented by Dr. Alfred Joshua

**4. EXECUTIVE OFFICER'S REPORT**

- a) Overview of Activities
- b) Workload Report – Open Complaints/Investigations Report (*Attachment B*)
- c) Case Progress and Status Report (*Attachment C – to be distributed at meeting*)
- d) 16-036/Moyer – SDCS Policy Recommendation Response

**5. BOARD CHAIR'S REPORT**

**6. NEW BUSINESS**

- a) CLERB Board Member Policy and Procedure Manual Subcommittee Appointment

**7. UNFINISHED BUSINESS**

- a) N/A

**8. BOARD MEMBER COMMENTS**

**9. PUBLIC COMMENTS**

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to up to five minutes.

**10. SHERIFF/PROBATION LIAISON QUERY**

**11. CLOSED SESSION**

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

<b>DEFINITION OF FINDINGS</b>	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

**CASES FOR SUMMARY HEARING (17)**

**ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE**

**14-027**

- 1. Misconduct/Procedure – Deputies 1-7 failed to conduct proper Security Checks on Richard Lee Dawson.

Recommended Finding: Not Sustained

Rationale: Records and evidence indicated that Deputies 1-7 conducted Security Checks in Richard Lee Dawson’s module between the time he was last seen alive and the time he was found dead. When conducting Security Checks on the date of this incident, deputies were required to look in each cell and observe each inmate for any obvious signs of medical distress, trauma, or criminal activity. It was unknown if the amount of time spent by deputies looking into the cell and observing each inmate was sufficient to observe those obvious signs but it is possible that due to the position of Dawson’s body and the appearance and condition of the cell and demeanor and appearance of his cellmate, those signs were not obvious during the Security Checks. All seven deputies provided information during the course of CLERB’s investigation that supported the recommended finding. There was insufficient evidence to either prove or disprove this allegation.

- 2. Misconduct/Procedure – Deputy 8 failed to conduct proper Security Checks on Richard Lee Dawson.

Recommended Finding: Summary Dismissal

Rationale: At the time of this incident, Deputy 8 was an active member of the Sheriff’s Department, but he has since

resigned. Per CLERB Rules and Regulations 4.1, entitled, "Citizen Complaints: Authority," CLERB lacks jurisdiction.

3. Misconduct/Procedure – Deputies 2 and 4 failed to conduct a proper Soft Count on Richard Lee Dawson.

Recommended Finding: Sustained

Rationale: When conducting Soft Counts on the date of this incident, deputies were required to verify Dawson's well-being through "verbal or physical acknowledgement" from Dawson. During Soft Counts, one deputy conducts the Soft Count of the cells on the top tier and one deputy simultaneously conducts the Soft Count of the cells on the bottom tier. Two Soft Counts were conducted in Dawson's module between the time Dawson was last seen alive and the time he was found dead. The evidence indicates Deputies 1, 2, 4, and 7 conducted those Soft Counts in the module. Dawson's cell was on the bottom tier. Deputies 2 and 4 provided information during the course of CLERB's investigation that supported the recommended finding. The evidence supported the allegation, a violation of Sheriff's Department Detention Services Bureau Policy and Procedures Section I.43 "Inmate Count Procedures," and the act or conduct was not justified.

4. Misconduct/Procedure – Deputies 1 and 7 failed to conduct proper Soft Counts on Richard Lee Dawson.

Recommended Finding: Unfounded

Rationale: When conducting Soft Counts on the date of this incident, deputies were required to verify Dawson's well-being through "verbal or physical acknowledgement" from Dawson. During Soft Counts, one deputy conducts the Soft Count of the cells on the top tier and one deputy simultaneously conducts the Soft Count of the cells on the bottom tier. Two Soft Counts were conducted in Dawson's module between the time Dawson was last seen alive and the time he was found dead. The evidence indicates Deputies 1, 2, 4, and 7 conducted those Soft Counts in the module. Dawson's cell was on the bottom tier. Deputy 7 provided information during the course of CLERB's investigation that supported the recommended finding. The evidence indicated that the alleged conduct did not occur.

5. Death Investigation/In-Custody Homicide – While in the custody of the San Diego Sheriff's Department at the San Diego Central Jail, Richard Dawson was assaulted by another inmate and died from his injuries.

Recommended Finding: Action Justified

Rationale: There was no indication that Dawson's classification or placement in the cell with his cellmate was inappropriate. There was no evidence that Dawson expressed concern about his classification or cell placement. As it pertained to the events leading up to the death, there was no evidence to support an allegation of misconduct or negligence on the part of Sheriff's Department sworn personnel.

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## 16-076

1. Death Investigation/Officer-Involved-Shooting – On August 11, 2016, Sergio Weick was the driver of a vehicle that failed to stop for San Diego Sheriff's Department (SDSD) personnel. At a dead-end, Weick fled from his vehicle on foot. Deputies 1 and 2 chased Weick on foot and encountered him on a walkway in the 100 block of Bronze Way, Vista. Weick, who was believed to be armed and dangerous, reached for his waistband and the deputies shot him multiple times. Weick was transported to Palomar Medical Center where he was pronounced brain dead approximately 30 hours later.

Recommended Finding: Action Justified

Rationale: The facts, evidence, and perceptions of each deputy justified the use of deadly force against Weick. Absent conflicting witness statements or videos of the shooting event, there was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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## **16-109**

1. Excessive Force – Deputies 1, 3, 4, 5 and/or 6 slammed the handcuffed complainant into a wall and the floor, and then stepped on his arm.

### **Recommended Finding: Action Justified**

**Rationale:** The handcuffed complainant alleged that he was mistreated when deputies slammed him into a wall and the floor, and then stepped on his arm. According to deputy reports, the complainant was double-cuffed to accommodate his request that he could not physically place both of his hands directly behind his back. When Deputy 5 attempted to remove the handcuffs, the complainant reportedly became agitated and tensed his arms. The complainant reportedly did not comply with deputies' commands and surveillance video confirmed that he turned his body away from a wall and thrashed about while on the floor, which resulted in the involved deputies' use of compliance techniques sanctioned by Sheriff's Policy & Procedures to include a takedown by Deputy 5 and hand control by the remainder. The evidence showed that the alleged act or conduct occurred and was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 placed the complainant into Administrative Segregation for seventeen days without medical treatment for his injuries.

### **Recommended Finding: Unfounded**

**Rationale:** The complainant reported he was placed into Administrative Segregation for seventeen days without medical attention for his injuries. Following the use of force, the complainant was immediately taken to the clinic for evaluation. Sheriff's medical records refuted the complainant's allegation and confirmed that between December 10 and 27, 2016, the complainant was seen/treated by medical staff on December 10, 13, 21, and 27, 2016. There was also documentation that the complainant refused to go to the clinic on December 24, 2016. A Hearing Report by Deputy 2 detailed the complainant's Inmate Rules & Regulations violations, as well as his threats toward staff. Based upon the impact to facility operations and the potentially large impact upon the safety of facility staff and inmates, ten days of disciplinary isolation was imposed. The complainant received medical attention following a use of force incident and also while he was housed in Administrative Segregation. The evidence showed that the alleged acts and conduct did not occur.

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## **16-110**

1. Misconduct/Procedure – Unidentified deputies improperly handled the complainant's legal and general mail on December 17, 24, and 26, 2016.

### **Recommended Finding: Not Sustained**

**Rationale:** The complainant reported that deputies opened his legal mail, made incomplete/blank copies, and delivered it 7-10 days after the post mark. He believed that legal mail was to be delivered unopened to inmates, who then opened it in front of a deputy so they can look at the contents, but not read anything. The complainant requested that the "illegal practice" of opening, scanning, and keeping originals be stopped immediately; the complainant correlated it to "stealing" his mail. According to Departmental records, a Standing Order was temporarily in place at the time of this incident for a Mail Scanning project. Standing Orders are implemented by facility captains and this one was in effect for a 60 day evaluation period that began on December 9, 2016. A review of the temporary policy determined that the actions taken by unidentified deputies pertaining to scanning were lawful, justified and proper. A sergeant informed the complainant that if there were blank/illegible scanned copies then the complainant was to immediately inform the deputy at the time of delivery so they could investigate or make more legible copies. The sergeant also informed the complainant that the practice for legal mail remained the same i.e legal mail is presented to and opened by an inmate at the time of delivery. The sergeant noted that when the complainant was informed of the new procedure he became irate and walked away. There was insufficient evidence to determine if the complainant received blank copies and/or delayed mail delivery.

2. Misconduct/Procedure – Unidentified deputies failed to accept the complainant's grievances regarding legal mail.

Recommended Finding: Unfounded

Rationale: The complainant reported that deputies would not accept his grievances regarding his legal mail. Sheriff's records generated Grievance Report #164002772 dated December 31, 2016, in which the complainant claimed that paperwork was missing from Legal Mail sent to him on December 17<sup>th</sup>. A Grievance Response by a sergeant detailed new mail procedures that were temporarily implemented. Sheriff's records also produced three handwritten Inmate Grievances by the complainant that were notated as being received by a deputy and were documented in JIMS with Grievance #164002772. A secondary request was responded to by a sergeant who reportedly provided the complainant with his requested information. The record also contained an Inmate Grievance dated December 28, 2016, on which the complainant had written, "Deputy refused to sign." In accordance with Detentions Policy N.1, Grievance Procedures, an unknown deputy had documented that the complainant's submission was not a grievance, but rather an "Inmate Request, which did not require a deputy's signature. It is unknown if additional grievances or requests were submitted by the complainant who did not respond to CLERB's request for further information. The evidence showed that deputies accepted and responded to the complainant's grievances and/or request(s) in accordance with policy, and the conduct alleged by the complainant did not occur.

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**17-008**

1. Misconduct/Procedure – Deputy 1 refused to escort the complainant to medical upon the complainant's request.

Recommended Finding: Action Justified

Rationale: The complainant reported he was having back pains, which is not an emergent medical issue. Deputy 1 provided information during the course of this investigation that supported the recommended finding. Per San Diego Sheriff Department Detention Services Policy and Procedures M.15, "Sick Call," the complainant should have completed a medical call slip. Deputy 1's actions were lawful, proper, and justified.

2. Misconduct/Procedure – Deputy 1 placed the complainant in a holding cell for several hours after requesting to be seen by medical.

Recommended Finding: Action Justified

Rationale: The complainant reported that he was placed into a holding cell for four hours. Deputy 1 provided information during the course of this investigation that supported the recommended finding. Placement of the complainant into the cell was justified and Deputy 1's actions pertaining to the placement were lawful, proper, and justified.

3. Excessive Force/Other – Deputy 1 elbowed the complainant in the face and head and kned him in the back.

Recommended Finding: Not Sustained

Rationale: The complainant acknowledged he purposely dropped to the floor in an attempt to be taken to medical. Based upon a review of SDSD Use of Force Guidelines; Deputy 1's Crime Report; four videos of the incident, each providing partially obscured views of the incident from different angles and distances; medical records; and information provided by Deputy 1 during the course of this investigation, there was insufficient evidence to either prove or disprove an allegation of excessive force.

4. Misconduct/Procedure – Unidentified deputies only allowed the complainant one shower in the seven days prior to his transfer to George Bailey Detention Facility.

Recommended Finding: Not Sustained

Rationale: Per SDSD DSB Policy L.11, "Personal Hygiene," upon assignment to a housing unit, an inmate will be allowed a shower and additional showers at least every 48 hours thereafter. Whether the complainant was permitted more than one shower in the seven days prior to his transfer to George Bailey Detention Facility was unable to be determined. There was insufficient evidence to either prove or disprove this allegation.

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## 17-011

1. Excessive Force – Deputies 1-4 “jumped” the complainant from behind, punched him in the ribcage, and struck him in the head.

Recommended Finding: Action Justified

Rationale: Based upon a review of SDSD Use of Force Guidelines, the deputies’ reports, video surveillance, and medical records, the deputies’ use of force was within guidelines and there was no evidence to support an allegation of misconduct or negligence on the part of Sheriff’s Department sworn personnel. The deputies’ actions were lawful, proper, and justified.

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## 17-012

1. Misconduct/Procedure – Poway deputies refused to take a missing persons’ report after the complainant’s wife left with their children on or about June 28, 2016.

Recommended Finding: Action Justified

Rationale: Per SDSD records, on June 26, 2016, Deputy 4 preserved the peace while the complainant’s wife collected her property and left the residence with her children. As the complainant’s wife and children were missing, there was no reason for deputies to take a missing persons’ report. The evidence shows the alleged act or conduct was lawful, justified, and proper.

2. Misconduct/Procedure – A Mendocino County Deputy Sheriff refused to take a report and screamed at the complainant, “She does not love you anymore, just get over it! Leave it alone! She doesn’t love you anymore!”

Recommended Finding: Summary Dismissal

Rationale: The deputy involved in this allegation works for the Mendocino County Sheriff’s Department and resides outside CLERB’s jurisdiction per CLERB Rules & Regulations 4.1, “Citizen Complaints: Authority.”

3. Misconduct/Procedure – Deputies 1, 3, 4, 6, 8 and/or 9 barred the complainant from his residence on September 18, 2016.

Recommended Finding: Action Justified

Rationale: Per SDSD records, on September 18, 2016 numerous deputies met the complainant at the gates to his residence. The complainant told deputies that on the previous Friday he had been served with a temporary restraining order (TRO) to stay away from his soon-to-be-ex-wife. The complainant told deputies that she was at the residence and he wanted to stop her from moving out because he did not know what she was going to take. He could not talk to her, however, because of the TRO. Deputies informed him that his concerns amounted to a civil matter. For unknown reasons, the TRO was showing unserved in the records system so deputies served the complainant with the TRO to ensure it was properly served and recorded. As deputies could not allow the complainant to violate the TRO, the evidence shows the alleged act or conduct was lawful, justified, and proper.

4. Criminal Conduct – Deputies served the complainant with an invalid TRO scheduled for September 19, 2016.

Recommended Finding: Not Sustained

Rationale: There is no indication that the TRO served as detailed in the rationale for allegation #3 was invalid. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure – Deputies allowed the complainant’s estranged wife to remove community property from his residence multiple times before, and on, September 18, 2016.

Recommended Finding: Action Justified

Rationale: Per SDSD records, on September 18, 2016 numerous deputies met the complainant at the gates to his residence. The complainant told deputies that on the previous Friday he had been served with a temporary restraining

order (TRO) to stay away from his soon-to-be-ex-wife. The complainant told deputies that she was at the residence and he wanted to stop her from moving out because he did not know what she was going to take. He could not talk to her, however, because of the TRO. As deputies informed him that his concerns amounted to a civil matter, the evidence shows the alleged act or conduct was lawful, justified, and proper.

6. Misconduct/Procedure – Deputies 1 and 4 and an unknown deputy did not to take a report after the complainant’s home was “thrashed, vandalized and defiled” on or about September 19, 2016.

Recommended Finding: Action Justified

Rationale: Per SDSD records, Deputies 1 and 4 met with the complainant at his residence. There was no record of a third deputy responding to that call for service. The complainant was upset that his soon-to-be-ex-wife had removed furniture from the residence. It did not appear that a crime was committed, as alleged by the complainant. As this was a civil matter, deputies documented their actions and rationale in the Computer Aided Dispatch records. The evidence shows that the alleged act or conduct was lawful, justified, and proper.

7. Misconduct/Procedure – Deputies 1, 4, and an unknown deputy purposefully shined flashlights in the complainant’s face on or about September 19, 2016.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputies 1 and 4 met with the complainant at his residence. There was no record of a third deputy responding to that call for service. Deputies 1 and 4 provided information during the course of the CLERB investigation that supported the recommended finding. As it was dark, it is possible that the deputies’ flashlights inadvertently shined upon the complainant’s face, but there is no evidence that the deputies purposefully shined their flashlights in the complainant’s face during this nighttime contact. The credibility of the deputies far outweighed that of the complainant. The evidence shows the alleged act or conduct did not occur.

8. Excessive Force/Drawn Firearm - Deputies 1, 4, and an unknown deputy pointed their weapons directly at the complainant on or about September 19, 2016.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputies 1 and 4 met with the complainant at his residence. There was no record of a third deputy responding to that call for service. Deputies 1 and 4 provided information during the course of the CLERB investigation that supported the recommended finding. The credibility of the deputies far outweighed that of the complainant. The evidence shows the alleged act or conduct did not occur.

9. Illegal Search & Seizure – Deputies 4 and 7 “barged” into the complainant’s home, interrogated the complainant’s houseguest for 20 minutes, demanded identification, and searched the residence without consent on October 19, 2016.

Recommended Finding: Action Justified

Rationale: Per SDSD records, Deputies 4 and 7 responded to the complainant’s residence in response to an alarm activation. Deputies 4 and 7 provided information during the course of the CLERB investigation that supported the recommended finding. The credibility of the deputies far outweighed that of the complainant. The evidence shows that the alleged act or conduct was lawful, justified, and proper.

10. Excessive Force/Drawn Firearm – Deputies 4 and 7 drew their weapons on the complainant’s houseguest on October 19, 2016.

Recommended Finding: Action Justified

Rationale: See Rationale for Allegation #9.

11. Misconduct/Truthfulness – Deputy 4 reported to the complainant that they were notified/dispatched by Protection One Alarm Co. on October 19, 2016, when the complainant allegedly had no active alarm system.

Recommended Finding: Action Justified

Rationale: Per SDSD records, Deputies 4 and 7 responded to the complainant’s residence in response to an alarm activation. Deputy 4 provided information during the course of the CLERB investigation that supported the

recommended finding. The credibility of the deputies far outweighed that of the complainant. The evidence shows that the alleged act or conduct was lawful, justified, and proper.

12. Misconduct/Procedure – Deputy 4 disclosed that the complainant’s home was in foreclosure on November 5, 2016.

Recommended Finding: Not Sustained

Rationale: Per SDSD records, Deputy 4 responded to the complainant’s residence on a report of trespassing. Deputy 4 provided information during the course of the CLERB investigation that supported the recommended finding. There is no dispute that foreclosure was discussed but the evidence tends to indicate it was not in the context as alleged by the complainant. There was insufficient evidence to either prove or disprove the allegation.

13. Misconduct/Procedure – Deputy 4 “sabotaged” efforts to investigate an intruder by neglecting to identify the complainant’s estranged brother as the suspect on November 5, 2016.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputy 4 responded to the complainant’s residence on a report of trespassing. While at the scene, the complainant told Deputy 4 that he wanted to report a burglary. The complainant showed Deputy 4 security surveillance video of a male subject inside of the residence. The complainant told Deputy 4 he did not recognize the subject. There is no evidence that Deputy 4 “sabotaged” an investigation by neglecting to identify the intruder as the complainant’s brother because he did not know the intruder was the complainant’s brother. The evidence shows the alleged act or conduct did not occur.

14. Misconduct/Procedure – Deputy 5 failed to properly collect evidence from a crime scene on November 5, 2016.

Recommended Finding: Unfounded

Rationale: The complainant reported that during the trespassing/burglary call referenced in allegations #12 and #13, Deputy 5’s lifting of latent prints from the scene was a “sloppy performance.” Per SDSD records, one fingerprint card was impounded as evidence. There is no indication that the complainant was experienced in lifting latent prints from a crime scene and, as such, his opinion about the competency of the person performing that function should be weighted accordingly. There was no evidence to indicate that the alleged conduct occurred.

15. Misconduct/Procedure – Deputies 2 and 4 discouraged the complainant from filing charges against a family member and sabotaged the investigation.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputy 4 responded to the complainant’s residence on a report of trespassing and Deputy 2 followed-up on the burglary report stemming from that call. Deputy 2’s follow-up report was comprehensive and contained no indication that either he or Deputy 4 discouraged the complainant from filing charges against a family member or otherwise sabotaging the investigation. The credibility of the deputy far outweighed that of the complainant. The evidence shows that the act or conduct did not occur.

16. Misconduct/Procedure – Deputy 2 harbored bias against the complainant that influenced his investigation.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputy 4 responded to the complainant’s residence on a report of trespassing and Deputy 2 followed-up on the burglary report stemming from that call. Deputy 2’s follow-up report was comprehensive and contained no indication that he, in any way, harbored bias against the complainant. The credibility of the deputy far outweighed that of the complainant. The evidence shows that the act or conduct did not occur.

17. Misconduct/Procedure – Deputy 2 failed to take action when the complainant received threatening text messages from October to November 2016.

Recommended Finding: Unfounded

Rationale: Per SDSD records, Deputy 2 documented information about text messages received by the complainant. The credibility of the deputy far outweighed that of the complainant. There is no evidence to indicate that the alleged conduct occurred.

18. Misconduct/Procedure - 4S Ranch deputies abused their authority over the complainant because of their alliance with his estranged wife.

Recommended Finding: Unfounded

Rationale: While there is no doubt that the complainant's perception of the service provided to him by SDDS personnel is unfavorable, the complainant provided no evidence to support this allegation and there is no evidence to support an allegation that deputies abused their authority over the complainant because of an "alliance with his estranged wife," or for any reason. There was also no evidence that deputies violated policies or laws.

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### **17-028**

1. Death Investigation/Barricade – On April 2, 2017, the San Diego Sheriff's Department (SDSD) Fugitive Task Force Officers and U.S. Marshals Service personnel attempted to contact Michael Andera at his wife's San Marcos residence, as he had an outstanding arrest warrant for attempted murder. The house was surrounded by SDDS personnel, but Andera never came to the door and a single gunshot was heard from inside of the residence. A few hours later, SDDS Special Enforcement Detail (SED) personnel found Andera lying obviously dead on a downstairs bathroom floor with a self-inflicted gunshot wound of the head.

Recommended Finding: Action Justified

Rationale: There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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### **17-030**

1. Misconduct/Procedure – Deputy 1 revealed the complainant's identity as the reporting party in a child welfare check.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 disclosed her identity as the reporting party in a child welfare check at her grandchildren's home. The complainant contacted Children's Welfare Services in San Diego County from Arizona requesting that law enforcement conduct a welfare check on her grandchildren. The children's father had been hospitalized and when the babysitter arrived at the family home, she had to gain access through a window because the mother was asleep. Prior to conducting the welfare check, Deputy 1, who is a friend of the father from their time in the academy together, contacted the father and according to information provided to the complainant by the father, informed him that a grandparent in Arizona was the reporting party. The father was contacted during this investigation and confirmed that Deputy 1 made this statement, but cautioned that he was on heavy medication at the time of both conversations with Deputy 1 and the complainant, and may have been unclear about what was actually stated during these conversations. Deputy 1 provided information during the course of CLERB's investigation that conflicted with information reported by the complainant. This information was considered in arriving at the recommended finding. The information provided by the father during this investigation was significant but possibly compromised due to the side effects (dizziness, drowsiness) of the medication he was on while talking to the complainant and Deputy 1. This complicates the information he provided, leaving insufficient evidence to either prove or disprove the allegation.

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### **17-040**

1. Misconduct/Procedure – Deputy 1 cited the complainant for blocking traffic.

Recommended Finding: Action Justified

Rationale: The complainant admitted, both in his written complaint and hand-drawn diagram depicting the circumstances giving rise to this complaint, that his vehicle entered the intersection of Pomerado Road and Meadowbrook Lane and, due to a school crossing guard stopping the line of traffic into which he turned, there was

insufficient space for his vehicle to completely clear the intersection without obstructing traffic on southbound Pomerado Road, in violation of California Vehicle Code Section 22526(b). The evidence showed that the complainant committed the traffic violation for which he was issued a citation and Deputy 1's conduct was lawful, proper, and justified.

2. Misconduct/Discourtesy – Deputy 1 yelled at the complainant's daughter during a traffic stop.

Recommended Finding: Action Justified

Rationale: The complainant admitted that his daughter attempted to exit the vehicle during the traffic stop and Deputy 1 provided information during the course of this investigation that supported the recommended finding. It is reasonable for a deputy to use discretion based upon the circumstances and ensure that occupants of a vehicle remain inside of the vehicle during a traffic stop, both for the safety of the occupants and for the safety of the deputy. As such, Deputy 1's conduct was lawful, proper, and justified.

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### 17-081

1. Misconduct/Truthfulness – Deputy 1 was untruthful during the course of an investigation into CLERB Case #16-069.

Recommended Finding: Not Sustained

Rationale: The complainant and her friend reported that the complainant touched Deputy 1's shirt sleeve one time during an interaction with the deputy, which occurred in the aftermath of an emotionally-charged situation that resulted in the deaths of two people. Deputy 1 also provided information about the interaction. There is no doubt that the complainant touched the deputy during the interaction; the number of times and the manner in which she touched the deputy are in dispute. As it is not unusual for participants in the same encounter, especially one occurring during a period of high emotion, to honestly recall details differently, absent information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to either prove or disprove the allegation.

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### 17-099

1. Criminal Conduct – Deputy 1 coordinated the false imprisonment of the complainant's incapacitated adult daughter.

Recommended Finding: Summary Dismissal

Rationale: The allegations signed under penalty of perjury do not establish a prima facie showing of misconduct arising out of the performance of Deputy 1's duties or the exercise of Deputy 1's peace officer authority. CLERB staff's attempts to contact the complainant to clarify and obtain additional information about the allegations were unsuccessful. Complaints not alleging facts establishing a prima facie showing of misconduct can be referred to CLERB for Summary Dismissal pursuant to CLERB Rules & Regulations Section 9.2 (a) 5.

2. Criminal Conduct – Deputy 1 financially profited from the false imprisonment of the complainant's incapacitated adult daughter.

Recommended Finding: Summary Dismissal

Rationale: See Rationale for Allegation #1.

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### 17-114

1. Illegal Search & Seizure – Deputy 1 detained the complainant “because he was a 290 registrant.”

Recommended Finding: Unfounded

Rationale: The complainant alleged that Deputy 1 detained him because of his status as a 290 registrant. The complainant had been contacted and cited by a Code Compliance Inspector (CCI) with the Metropolitan Transit

System (MTS) for smoking a cigarette on MTS property. Deputy 1 was assigned to a MTS Joint Agency Task Force headed by the San Diego Police Department and provided assistance during this contact by running a criminal history and warrants check on the complainant. He also reported securing the complainant in handcuffs because he was reportedly being aggressive toward the CCI. Case Law 2.8, Search and Seizure, allows for subjects to be detained if there is "reasonable suspicion" that: (1) criminal activity may be afoot and (2) the person you are about to detain is connected with that possible criminal activity. The complainant and Deputy 1 confirmed that he had already been detained by a CCI prior to Deputy 1's arrival. This evidence showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – Deputy 1 photographed the complainant without his permission.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 photographed him without his permission. Deputy 1 documented taking the complainant's photograph in his Field Interview Report and reported that the complainant was uncooperative during this process. Generally speaking, photographing a subject during a field interrogation or traffic stop is permitted, as long as it does not unreasonably prolong the field interrogation or traffic stop. In addition, photographing a person's face does not constitute an illegal search. There is no SDSD P&P, California statute, or case law that prohibits the photographing of subjects during a legal detention. It should be noted that this situation was not a consensual encounter in which the complainant had the choice to comply but, in fact, a legal detention as the complainant was detained and cited for smoking a cigarette on MTS property. Based upon all of these factors, Deputy 1's actions were justified.

#### **POLICY RECOMMENDATION:**

1. It is recommended that the San Diego Sheriff's Department create policy and procedures related to Field Interviews that provide guidance about the circumstances under which Field Interviews are permitted, the type of information collected during Field Interviews, whether or not that information includes photographs, the method(s) in which Field Interview information is collected, and the procedure(s) by which the Field Interview information is catalogued and subsequently retained.

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#### **17-131**

1. Misconduct/Procedure – Unidentified Encinitas deputies followed the complainant around paying/intimidating businesses to not hire him and people to not help him while he starves on the street.

Recommended Finding: Not Sustained

Rationale: The complainant reported that unidentified deputies followed him and impaired his livelihood and life. Sheriff's documentation included law enforcement contacts with the complainant on January 18, March 28, June 18 and November 2, 2017 that did not indicate any misconduct and instead suggested their concern for the complainant's well-being. There was insufficient evidence provided by the complainant to adequately evaluate this allegation for any further contacts, other than those recorded. Please note other allegations alleged by the complainant that involved other law enforcement agencies, occurred over one year ago, or were previously investigated by CLERB in case 16-022, cannot be investigated.

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#### **17-144**

1. Misconduct/Discourtesy – Deputy 2 threatened the complainant saying, "I could pop your cell door and beat the shit out of you."

Recommended Finding: Not Sustained

Rationale: The complainant reported that on October 17, 2017 at approximately 9:00 p.m. Deputy 2 threatened him stating, "I could pop your cell door and beat the shit out of you." Deputy 2 provided information during the course of the investigation that conflicted with the complainant. A surveillance video did not corroborate the complainant's time

sequence and there was no audio available to support or refute the allegation. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Deputy 1 took the complainant’s grievance, but he never received a response.

Recommended Finding: Sustained

Rationale: The complainant stated that he wrote a grievance and submitted it to Deputy 1, but over a month had transpired and he never received an answer within the seven day timeframe noted on the back of the form. Detentions Policy & Procedure N.1, Grievance Procedures stipulated that the deputy who received and signed for the grievance is responsible for entering it into the JIM’s system. Deputy 1 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The evidence supported the allegation and the act or conduct was not justified.

3. Misconduct/Procedure – Unidentified deputies “routinely” lose and/or do not sign inmate grievances; there is a lack of checks and balances for the process.

Recommended Finding: Not Sustained

Rationale: The complainant stated that his experience within the San Diego County Jail was that grievances were routinely lost/unanswered and that some deputies refused to sign them when they were submitted. He also believed that the grievance process had no checks and balances. The complainant failed to provide any other examples or evidence of this allegation other than his own experience, which is addressed in allegation #2. Without further identifying information and/or evidence, CLERB is unable to investigate this allegation.

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### **18-001**

1. False Reporting - PO 1 wrote a “biased and fraudulent” report to the Courts about the aggrieved that should be reviewed for accuracy and honesty.

Recommended Finding: Summary Dismissal

Rationale: On January 18, 2018, CLERB received a written request from the complainant to withdraw his signed complaint in accordance with CLERB rules: 5.7 Withdrawal of Complaints.

2. Misconduct/Procedure – PO 1’s “practices” concerning the aggrieved should be reviewed for accuracy and honesty.

Recommended Finding: Summary Dismissal

Rationale: On January 18, 2018, CLERB received a written request from the complainant to withdraw his signed complaint in accordance with CLERB rules: 5.7 Withdrawal of Complaints.

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### **18-006**

1. False Arrest – An El Cajon Police Officer placed the complainant on a 5150 hold.

Recommended Finding: Summary Dismissal

Rationale: On January 12, 2018, CLERB received a signed complaint from the complainant concerning his hospitalization on a WIC § 5150, In-custody 72-hour treatment and evaluation for mentally disordered person. A review of his complaint determined the officer involved in his incident works for the El Cajon Police Department and resides outside CLERB’s jurisdiction per CLERB Rules & Regulations 4.1 Citizen Complaints: Authority.

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*End of Report*