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County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA
TUESDAY, OCTOBER 9, 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. 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 but not an item on today's open session agenda. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

3. MINUTES APPROVAL

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

4. PRESENTATION/TRAINING

- a) N/A

5. EXECUTIVE OFFICER'S REPORT

- a) Overview of Activities of CLERB Executive Officer and Staff for the Month of September

- b) Workload Report – Open Complaints/Investigations Report (*Attachment B*)
- c) Case Progress and Status Report (*Attachment C – to be distributed at meeting*)
- d) SDSD Policy Recommendation and Sustained Finding Response (*Attachment D*)
 - 17-038/Stucki (Attachment D)
 - 17-038/Stucki (Attachment E)
 - 17-068/Rivera (Attachment F)

6. BOARD CHAIR’S REPORT

7. NEW BUSINESS

- a) Appointment of a Nominating Committee
- b) San Diego Central Jail tour for CLERB Board Members

8. UNFINISHED BUSINESS

- a) Receipt of report from CLERB Rules and Regulations Subcommittee and Consideration and Adoption of revised CLERB Rules and Regulations (*Attachment G*)
- b) Report from the Executive Officer (EO) Selection Committee

9. BOARD MEMBER COMMENTS

10. SHERIFF/PROBATION LIAISON QUERY

11. CLOSED SESSION

- a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
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).

DEFINITION OF FINDINGS	
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 (5)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

17-113

1. Misconduct/Harassment – Deputy 1 engaged in “politically motivated harassment” by coordinating targeted and specific traffic enforcement in the area of Congressman Darrell Issa’s office during a peaceful protest on 10-17-17.

Recommended Finding: Summary Dismissal

Rationale: Four complainants alleged that, during a protest near Congressman Darrell Issa’s office, Deputy 1 engaged in “politically motivated harassment” by coordinating targeted and specific traffic enforcement in the area of the Congressman’s office. At the time of this incident, Deputy 1 was an active member of the Sheriff’s Department, but he retired on 03-29-18. Per CLERB Rules and Regulations 4.1, entitled, “Citizen Complaints: Authority,” CLERB lacks jurisdiction.

2. Misconduct/Harassment – Deputy 2 issued numerous traffic citations to protesters in the area of Congressman Darrell Issa’s office on 10-17-17.

Recommended Finding: Action Justified

Rationale: After a protest rally in Vista, on 10-17-17, numerous complainants filed complaints regarding Deputy 2 issuing traffic citations for “Missing front license plates, wheels not turned enough to the curb and even honking in solidarity with the demonstrators.” Copies of citations and communication records, provided by the SDSD, and information provided by Deputy 2 during the course of CLERB’s investigation were considered in arriving at the recommended finding. There was no evidence that showed citations were issued for violations of VC 22509 entitled “Parking on hills” as alleged by the complainants. A total of seven citations were issued. Five of those were for violation of VC 5200 entitled “Display of License Plate”, one was for violation of VC 22502 entitled “Curb Parking” and one was for violation of VC 27001 entitled “Use of Horns”. Deputy 2 issued citations based on violations he observed. There was no evidence showing that Deputy 2’s actions were politically motivated. Therefore the issuing of numerous citations by Deputy 2, was lawful, justified and proper.

17-133

1. Misconduct/Procedure – Deputy 1 failed to investigate or supervise the investigation of noise complaints made by the complainant against his tenant within the past year.

Recommended Finding: Not Sustained

Rationale: The complainant resided next door to his neighbor whom he described as “a nuisance.” The neighbor is a tenant and he rented a home that was owned by Deputy 1, who was employed by the San Diego Sheriff’s Department (SDSD). Deputy 1 supervised and patrolled the jurisdiction of the city in which both the complainant and tenant resided in. There had been an ongoing dispute between the neighbors that had reportedly been going on for three and a half years. In response to the neighbor’s boisterous activities, the complainant had summoned Sheriff deputies to his home on numerous occasions to investigate noise complaints. The complainant alleged that his calls of service were not investigated because of the landlord/tenant relationship between Deputy 1 and the complainant’s neighbor. The complainant contended that Deputy 1 had refused to be involved in his complaints, as his involvement might be considered a conflict of interest; Deputy 1 would have been involving his personal affairs/business with his employment with the SDSD. Subsequently, the complainant alleged that neither Deputy 1 nor his subordinates would do anything about the noise complaints due to Deputy 1’s relationship with the tenant. SDSD P&P Section 2.33 entitled, “Employment Outside of Department,” states in part, “Employees may engage in off-duty employment subject to the following limitations: such employment shall not interfere with the employee’s employment with this Department. SDSD P&P Section 2.52 entitled, “Conflicts of Interest,” states, “No employee shall make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the employee knows, or has reason to know, that he or she has a financial interest.” During a seven-month time period, (the seven months prior to the complainant filing a complaint with CLERB), ten deputies and one sergeant were summoned to and responded to the complainant’s home on 15 separate occasions regarding calls of service for noise complaints. Of the 11 deputies that responded to the complainant’s calls of service, only Deputies 5 and 12

were directly supervised by Deputy 1. Deputy 1 submitted information to CLERB that was considered in reaching the finding. Though it was possible a conflict of interest existed, there was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Discourtesy – Deputy 2 “scolded” the complainant “in an aggressive manner” when he responded to a call for service on a noise complaint.

Recommended Finding: Unfounded

Rationale: The complainant stated that on the evening of 11-14-17, he called the SDSA Communication Center and summoned deputies to his residence referencing a noise complaint for loud music against his neighbors. The call of service was not a high priority call and was held until a deputy was available to respond. Deputy 2 and a second deputy were dispatched to the complainant’s residence. Upon their arrival, they advised that they heard no noise or music emitting from the complainant’s neighbor’s home. The deputies addressed the complainant who demanded a citation be issued. The deputies advised that they needed to witness the infraction, that the noise needed to be active in their presence, in order for them to lawfully issue a citation. During their interaction, the complainant alleged that Deputy 2 “scolded” him “in an aggressive manner.” According to SDSA P&P Section 2.22 entitled “Courtesy,” employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. The SDSA provided CLERB with Deputy 2’s Body Worn Camera (BWC) footage which recorded his interaction with the complainant on 11-14-17. In the video, the complainant appeared frustrated and irritated but was polite. Deputy 2 was direct and reiterated that he would need to witness the noise in order to take legal action. During his interaction with the complainant, Deputy 2 was not aggressive or reprimanding. At the end of their interaction, Deputy 2 departed the residence and turned off his BWC. Deputy 2 submitted information to CLERB that was considered in reaching the finding. The evidence showed that the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 2 failed to take a report regarding a noise complaint.

Recommended Finding: Action Justified

Rationale: On the night of 11-13-17, the complainant called the SDSA Communication Center and requested deputies respond to his residence for a call of service referencing disturbing the peace, noise complaint, loud music. Deputy 2 was dispatched to the complainant’s residence. Upon his arrival, Deputy 2 did not note any noise or any music. Deputy 2 addressed the complainant who demanded a citation be issued to his neighbors. Deputy 2 advised that he needed to witness the infraction, that the noise would need to be active in his presence, for him to lawfully issue a citation. The complainant declined to make a Citizen’s Arrest against his neighbor. As such, Deputy 2 was not required to document the call of service and no Crime/Incident Report was made. Deputy 2 submitted information to CLERB that was considered in reaching the finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – During a seven-month time period, Deputies 3-13 failed to act on the complainant’s calls of service for the noise complaints against his neighbor.

Recommended Finding: Action Justified

Rationale: The complainant advised that when the Sheriff’s deputies responded to his home, they “wouldn’t do anything, for it seemed [the incident] needed to have been witnessed.” During his interactions with the deputies, the complainant claimed to have been told, “it’s out of their hands and nothing they can do.” Additionally, accordingly to the complainant, the numerous deputies who responded to his calls for service had grown tired of responding to the calls and “won’t even question the neighbor and usually do nothing.” According to the SDSA Patrol P&P Policy 2, entitled, “Patrol Functions,” the Sheriff’s Department’s Law Enforcement Operations Bureau is responsible for providing all patrol and area investigative services within the Sheriff’s jurisdiction and utilizing information-led policing problem solving techniques in support of the mission, vision, values and goals of the Department. The patrol component of the Law Enforcement Operations Bureau includes the following duties: crime suppression/prevention and

response to routine law enforcement calls for service. Additionally, the applicable content of SDDS P&P Section 2.23 entitled, "Request for Assistance," states that when any person requests assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Department procedures. According to documents obtained from the SDDS, during a seven-month time period, (the seven months prior to the complainant filing a complaint with CLERB), Deputies 3-13 responded to the complainant's calls of service on the following dates: 05-01-17, 06-12-17, 06-13-17, 07-15-17, 08-14-17, 09-16-17, 09-23-17, 10-27-17, 11-13-17, 11-14-17, and on 11-20-17. All the calls of service resulted in the complainant declining to make a Citizen's Arrest against his neighbor. As such, the deputies were not required to document the call of service, they were not required to act on complainant's behalf, and no Crime/Incident Reports were made. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

17-135

1. Excessive Force – Deputy 1 forcefully "slammed" the complainant against a glass window.

Recommended Finding: Action Justified

Rationale: According to the complainant, he was in the holding area of the jail, waiting to be fingerprinted, when Deputy 1 instructed him to go up to a window. The complainant complied and as he walked up to the window, Deputy 1 unnecessarily "grabbed" him and "slammed" him against a glass window. The complainant alleged that the force used was excessive and was unwarranted. In a jail surveillance video, the complainant was observed sitting on a bench in the fingerprint area. Deputy 1 was observed to summon the complainant to the booking window. The complainant did not immediately respond or comply and took approximately 10 seconds to obey Deputy 1's instruction. Eventually, the complainant was observed to stand up and walk towards Deputy 1 and the booking window. While the complainant walked toward the booking window, Deputy 1 was observed to grasp the complainant's left arm. In doing so, the complainant responded by raising his right arm upward, in what appeared to be an attempt to free his arm from Deputy 1's grasp. According to Deputy 1's written report, when the complainant raised his arm, Deputy 1 interpreted his actions as the complainant attempting to break free from his grasp. Deputy 1 suspected that the complainant was going to be uncooperative with the booking process, so he responded by pushing the complainant into the booking window. Deputy 1 pushed the complainant in an attempt to protect himself and to gain control of the complainant. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Excessive Force – Deputy 1 used excess force when he "slammed" the complainant to the floor.

Recommended Finding: Not Sustained

Rationale: According to the complainant, after the initial push into the booking window, Deputy 1 "slammed" him on the floor and the use of force continued and escalated. The complainant subsequently sustained a lip injury and bruises. The complainant alleged that the force used was excessive and was unwarranted. According to Deputy 1's written statement, Deputy 1 stated that he felt the complainant push away from the booking window, which validated his continued and escalated use of force on the complainant. Five CLERB employees viewed the jail surveillance videos of the use of force. Though in the video it did not appear that the complainant actively resisted Deputy 1, one was unable to detect subtle movement or tensing-up in the videos. This case was discussed with CLERB employees and there was no unanimous determination that the continued use of force was or was not necessary and appropriate. When deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, the SDDS policies and procedures, statutory law, and supervision in making the appropriate decision. In addition, within each situation, the appropriate decision should be the least restrictive that still accomplishes the mission, complies with policy and procedures, and does not compromise the deputies' safety. Evidence in this matter was insufficient to determine whether the force used was excessive and therefore the allegation was not sustained.

3. Excessive Force – Deputy 1 and other deputies used excess force when they placed their boots and knees on the complainant’s neck and legs.

Recommended Finding: Action Justified

Rationale: The complainant stated that during the use of force, approximately six to seven deputies responded to the incident to assist Deputy 1 with his use of force. According to the complainant, the deputies “ran over and proceeded to put their boots and knees on my [his] neck and legs.” According to Deputies 1’s and 2’s written reports, during the use of force while the complainant was down on the floor, Deputy 1 used his right knee to knee strike the right side of the complainant’s stomach. Deputy 1 also used his closed right fist to punch the complainant on the right side of his mouth. Deputy 1 used his right hand to apply downward pressure on the complainant’s head. He also used his right knee to apply downward pressure on the complainant’s head to prevent him from moving. Deputy 2 grasped the complainant’s legs, crossed them, and applied downward pressure to prevent the complainant from kicking. Another deputy assisted Deputy 1 by placing ankle chains on the complainant’s ankles. The deputy then supported the complainant’s left arm and left shoulder when the complainant was lifted up and placed on the gurney. A fourth deputy placed a gurney under the complainant’s body as his body was lifted up. Though numerous deputies responded to the incident and witnessed the use of force, the use of force was only executed by three deputies. The evidence shows that the force used was not excessive but was lawful, justified and proper.

4. Excessive Force – Deputy 1 used excessive force when he “punched” the complainant in the face.

Recommended Finding: Not Sustained

Rationale: The complainant stated that during the use of force, Deputy 1 punched him in the face, which caused him to sustain an injury to his lip. In a jail surveillance video, Deputy 1 was observed to punch the complainant in the face with a closed fist while he struggled with the complainant on the floor. According to Deputy 1’s written report, the complainant was in close proximity to him and his fists were clenched. Deputy 1 believed that the complainant was going to attempt to strike him. To prevent from being hit by the complainant, Deputy 1 used a closed right fist to hit the complainant on the right side of his mouth. When Deputy 1 punched the complainant, the complainant rolled to a prone position. Deputy 1 quoted the complainant as saying, “I’m going to kill you nigga.” According to SDSA Use of Force Addendum F, punching techniques may be necessary when a suspect/inmate is assaultive, or the subject exhibits signs of imminent physical attack. A fist strike to a subject’s face when reasonable and necessary is not prohibited; however, it is preferable to use an open hand (palm heel) technique to reduce the likelihood of injury to the deputy’s hand. In the jail surveillance video, it was unclear if the complainant continued to resist Deputy 1 after the initial push and there for it was unclear if the punch to the face was necessary. Though it did not appear that the complainant actively resisted Deputy 1, it was impossible to detect subtle movement or tensing-up in the video. Additionally, the complainant’s back was to the camera and CLERB employees were unable to view the complainant’s hands or his actions. This case was discussed with the five CLERB employees and there was no unanimous determination that the punch to the face was or was not necessary and appropriate. When deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, the SDSA policies and procedures, statutory law, and supervision in making the appropriate decision. In addition, within each situation, the appropriate decision should be the least restrictive that still accomplishes the mission, complies with policy and procedures, and does not compromise the deputies’ safety. Evidence in this matter was insufficient to determine whether the force used was excessive and therefore the allegation was not sustained.

5. Excessive Force – Deputy 1 tied “a bag” over the complainant’s head.

Recommended Finding: Action Justified

Rationale: During the use of force, Deputy 1 punched the complainant in the face, which caused the complainant to sustain an injury to his lip which bled. Deputy 1 placed a spit sock over the complainant’s head as a preventative step to prevent the complainant from possibly spitting blood or other bodily fluids on deputies and to prevent them from possibly acquiring a transmitted disease. A spit sock is made of a soft

mesh material and the opening was affixed with an elastic band. Though the complainant stated that the spit sock was “tight around his neck,” the band is composed flexible elastic. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct Procedure – Deputies left the complainant in a room for several hours.

Recommended Finding: Action Justified

Rationale: The complainant stated that deputies placed him “on a hospital stretcher, while being hogtied, and left him in a room by himself for hours.” According to jail surveillance video, after the use of force, the complainant was handcuffed and ankle-cuffed, not “hogtied.” According to Deputy 1’s written report, he noticed that the complainant’s eyes were “bloodshot and glassed over.” Deputy 1 suspected that the complainant was going to be uncooperative with the booking process and suspected that the complainant was possibly under the influence. Per a second deputy’s written report, he described the complainant’s eyes as “glassed-over,” and advised that the complainant was talking incoherently. The deputy suspected the complainant was under the influence of a controlled substance and, as such, he should be placed into a Sobering Cell to be further monitored for his safety. The complainant was placed prone on a gurney and was transported to a Sobering Cell. Once in the Sobering Cell, his handcuffs, ankle-cuffs, and spit sock were removed. According to SDSD DSB P&P Section J.2 entitled, “Sobering Cells: “Sobering cells shall only be used for the holding of inmates who are a threat to their own safety or the safety of others and require a protective environment due to their state of intoxication (e.g., under the influence of drugs, alcohol, etc.). Sobering cells shall never be used for disciplinary purposes. An Inmate Observation Log shall be maintained adjacent to the sobering cell. All checks, observations, assessments and reviews conducted by sworn and medical staff, will be documented on the Inmate Observation Log.” The complainant was monitored by sworn staff and medical staff. He remained in the Sobering Cell for approximately 6½ hours until medical staff deemed him no longer threat to himself or others and no longer require a protective environment due to his state of intoxication. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

NOTE: Though the complainant did not make an allegation of misconduct/procedure in the timeliness of the security checks that were performed on him while he was placed in the Sobering Cell, during the course of CLERB’s investigation, two discrepancies were noted. According to the Sobering Cell Inmate Observation Log, the security checks were performed in accordance with DSB P&P, except on one occasion, which did not have an explanation. A security check was conducted on 10-27-17, at 1:00am. The next security check was performed on 10-27-17, at 1:44am. There was a 44-minute time lapse between the security checks. According to a SDSD DSB P&P regarding Sobering Cells, “Sworn staff shall observe any inmate in a Sobering Cell **at least every 20 to 30 minutes.**”

Additionally, according to the Sobering Cell Inmate Observation Log, the complainant was retained in the Sobering Cell from 12:58am until he was cleared by medical staff at 7:22am; 6 hours and 36 minutes. According to DSB P&P, “The need for continued retention must be documented by sworn staff in a JIMS incident report, utilizing the SOU (sobering cell update) incident code, **every 6 hours** until the inmate is cleared from the sobering cell.” The complainant was retained in the Sobering Cell over the six-hour time limit without an updated incident report documenting the reasoning for his continued retention. The discrepancies were forwarded to the SDSD for review.

18-031

1. Death Investigation/In-Custody Natural – On 02-16-18, while in the custody of the Sheriff’s Department at the San Diego Central Jail, Jess Swanguen began to vomit, and shortly thereafter, became unresponsive and went into cardiac arrest. Advanced cardiac life support was initiated but to no avail and death was pronounced via radio by a physician at a local hospital. The cause of death was listed as hypertensive and atherosclerotic cardiovascular disease, with chronic obstructive pulmonary disease and chronic degenerative spine disease with neurogenic bladder and acute on chronic cystitis listed as contributing conditions, and the manner of death was classified as natural.

Recommended Finding: Action Justified

Rationale: Jess Swanguen was booked into custody on 01-28-18 for a parole violation. The evidence supported that Swanguen was properly classified and housed in the Medical Observation Unit (MOB) due to multiple medical conditions. On 02-16-18, Swanguen defecated on himself and was placed into a shower for clean-up. Swanguen reportedly did not express any complaints. While medical staff and a deputy assisted in cleaning the inmate, he was awake, breathing and alert. Swanguen suddenly vomited and collapsed; he was unresponsive and stopped breathing. CPR was initiated and life saving measures administered for over 45 minutes, until death was called via telephone by a medical doctor. An autopsy later determined Swanguen died a natural death. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

18-095

1. Misconduct/Procedure – Deputy 1 did not properly take a domestic violence report.

Recommended Finding: Unfounded

Rationale: The complainant stated Deputy 1 “did not seem like she was taking the complainant’s situation seriously. She didn’t write anything down nor did she have any papers, a computer or notepad with her.” According to the SDSD Patrol Procedures Manual Policy 33 entitled, “Domestic Violence” it states “In all cases where domestic violence is involved or suspected, the incident will be documented on a Crime/Incident Report utilizing NetRMS.” In this matter a crime/incident report was prepared by Deputy 1 on 06-19-18. The SDSD Patrol Procedure’s Manual also states the following, “When completing the crime report, Deputies will enter the appropriate offense code in the "Offenses" section of the NetRMS case and check "Yes" in the Domestic Violence tab.” Upon report of the above mentioned report the appropriate offense code was entered (273.5 (A) PC – Spousal/Cohabitant Abuse with Minor Injury (F)) and “Yes” was checked in the domestic violence tab. Finally Section 33 states “Regardless of whether the suspect is present or not, the crime report and arrest report will be immediately forwarded to the Deputy's station area detective sergeant for assignment to an area investigator.” After the report was completed by Deputy 1, she advised a sergeant of her interactions with the complainant. An investigator was assigned to follow up and he conducted an interview with the complainant on 06-27-18 and prepared a report. After preparing the report it was forwarded to the District Attorney’s Office for review. The SDSD P&P section 6.97 entitled “DV Incidents” states the following: “No employee of this Department when speaking with a victim of domestic violence will discuss the victim's desire to "press charges," "drop charges," or prosecute. Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.” Based on Deputy 1’s SERF response and the BWC footage it was clear the complainant reported the DV based on what she was being told to do in order to “create a paper trail” and because she was trying to get divorced and was “hitting a wall”. When asked by Deputy 1 if the complainant was filing the domestic violence report to help propel the court process of her divorce she said, “That is what I’m being told.” Deputy 1 did say to the complainant, “Why would you want to be married to someone who’s abusive?” After this comment the complainant uttered profanities and left the substation. Though that question did appear to be judgmental, and based on the deputy’s personal beliefs, it was not a violation of policy or procedure. There was no evidence to support the complainant’s allegation and no violation of any policy or procedure on the part of the deputy. Therefore the complaint was unfounded.

2. Misconduct/Discourtesy – Deputy 1 was rude to the complainant when she attempted to file a domestic violence report.

Recommended Finding: Unfounded

Rationale: The complainant stated while she attempted to file a domestic violence report, after waiting 20-30 minutes, Deputy 1 was rude right away and during the entire time of their interaction. The SDSD P&P Section 2.22 entitled, “Courtesy,” states “Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation.” Deputy 1 provided information during the course of

CLERB's investigation that was considered in arriving at the recommended finding. Based on the reports provided by the SDDS and the review of the body worn camera (BWC) footage there was no evidence to indicate Deputy 1 was in violation of the above policy or was rude to the complainant. Deputy 1 as revealed by the body worn camera footage was firm but not rude. She stated in a report that she suspected the complainant was motivated by other factors in reporting the alleged crimes. Those factors included helping the complainant propel her forward in her divorce. Yet Deputy 1 remained calm and was courteous to the complainant. She did not raise her voice or use any offensive language. There was no evidence that showed Deputy 1 violated any policy or was rude to the complainant and the allegation was unfounded.

3. Misconduct/Procedure – Deputy 2 and/or another Deputy revealed the complainant's intentions to file a domestic violence report to her husband who was the alleged perpetrator of the abuse.

Recommended Finding: Not Sustained

Rationale: The complainant stated the dispatcher announced her name several times on the radio which allowed many people in the department to know she was there to file a domestic violence report against her husband. Her husband's brother-in-law, Deputy 2, allegedly worked at the Lakeside Substation as a deputy. After she reported the incident at the Lakeside Substation the complainant's husband, the alleged abuser, knew about everything she had done including the filing of the domestic violence report. Deputies 1 and 2 as well as third deputy provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. According to the daily deployment log, Deputy 2 was not working at the Lakeside Substation on the day the complainant filed her report. A Computer Aided Dispatch (CAD) Background Event Chronology report was provided by the SDDS. The report contained the complainant's information and noted, at 1:38pm, that she would be in the Lakeside Substation lobby. A review of the radio traffic during that period did not reveal the complainant's name or information. Without further evidence it was not possible to determine whether the complainant's information was broadcast or dispatched over the radio. There was no evidence to show that any deputy revealed information about the complainant's filing of a domestic violence report to her husband's brother in law or to the alleged victim. While it did appear coincidental that the complainant's husband allegedly became aware of the complainant's filing of a domestic violence report, about an hour after she went to the substation, evidence showed that the complainant was mistaken about Deputy 2 working at the Lakeside substation. Without further evidence it was not possible to prove or disprove the allegation that Deputy 2 or another deputy revealed the complainant's intention to file a domestic violence report.

End of Report