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County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

555 W BEECH STREET, SUITE 220, SAN DIEGO, CA 92101-2938
TELEPHONE: (619) 238-6776 FAX: (619) 238-6775

www.sdcounty.ca.gov/clerb

REGULAR MEETING AGENDA
TUESDAY, November 12, 2019, 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 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. 220, San Diego, CA.

1. ROLL CALL

2. PUBLIC COMMENTS

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 (*Attachment A*)

4. PRESENTATION/TRAINING

- a) The Brown Act and Robert's Rules – Shiri Hoffman, Senior Deputy County Counsel

5. EXECUTIVE OFFICER'S REPORT

- a) Overview of Activities of CLERB Executive Officer and staff for the month of October
- b) Workload Report – Open Complaints/Investigations Report (*Attachment B*)
- c) Case Progress and Status Report (*Attachment C*)
- d) SDSD Policy Recommendations and Sustained Finding Response
 - i. 18-081/McNeil (Attachment D)

6. BOARD CHAIR’S REPORT

7. NEW BUSINESS

- a) N/A

8. UNFINISHED BUSINESS

- a) CLERB Rules and Regulations BOS adoption update
- b) Jail Inspection Subcommittee Update

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).
- b) Conference with Legal Counsel – Anticipated Litigation Update: Per Government Code 54956.9(d)(4), based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

DEFINITION OF FINDINGS	
Action Justified	The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Sustained	The evidence supports the allegation and the act or conduct was not justified.
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 (9)

18-097

1. Death Investigation/Natural – Michael Manuel Gomez was witnessed to collapse while in custody at the Vista Detention Facility. Medical and sworn personnel initiated cardiopulmonary resuscitative efforts and he was transported to Tri-City Medical Center where despite medical intervention, he failed to respond, and his death was pronounced. Mr. Gomez’s cause of death was listed as “Myocardial Infarction” [heart attack] and the manner of death was natural.

Recommended Finding: Action Justified

Rationale: Mr. Gomez was incarcerated at the Vista Detention Facility. The evidence supported that Mr. Gomez was properly classified upon his entry into the SDCSD jail system after his 06-28-18 arrest. During the intake medical screening, it was noted that Mr. Gomez was experiencing heroin/opioid withdrawal and a medication protocol was enacted. Additionally, and according to Mr. Gomez’s medical records, he had a significant cardiac history, including recent heart surgery, and was prescribed cardiac medications. According to inmate witness statements, jail recorded telephone calls, and jail medical records, during his incarceration, Mr. Gomez expressed his concerns about his cardiac well-being to his cellmates, his family, detention deputies, and detention medical staff. After numerous reviews of his out-of-custody medical records, and verification and approval of his out-of-custody prescription medications, Mr. Gomez was approved to continue his requested prescribed cardiac medications on 07-05-18. On the evening of 07-10-18, he was in the common area of his assigned jail module and was in the company of numerous other inmates when he was witnessed to collapse unresponsive. Detention deputies and jail medical staff were summoned. They responded to his aid and initiated cardiopulmonary resuscitative efforts. The responding deputies, as well as non-sworn medical staff, responded and acted according to the San Diego Sheriff’s Department Policies and Procedures. Additionally, paramedics were summoned to the scene. Upon paramedic’s arrival to the jail, advance cardiac life-support measures were continued, and Mr. Gomez was transported to Tri-City Medical Center. Upon his arrival to the hospital, advance cardiac life-support measures were continued; however, despite medical intervention, Mr. Gomez succumbed to his natural disease and his death was pronounced while at the hospital. The Medical Examiner’s Office was notified of the death and invoked jurisdiction; an autopsy was performed on Mr. Gomez’s body. Mr. Gomez’s cause of death was listed as “Myocardial Infarction” [heart attack] and the manner of death was natural. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff’s Department sworn personnel.

18-138

1. Misconduct/Intimidation – Probation Officer 1 told the complainant “any mistake you make” I will be recommending the maximum sentencing.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that when he met with Probation Officer (PO) 1 in April 2018, she told him, “any mistake you make I will be recommending the maximum sentence your charges carry.” The complainant alleged that at his next meeting with PO 1 she would remind him of this again. In his written statement the complainant stated it was his belief that when PO 1 found out he was sentenced to six months work furlough she made it a “personal vendetta of hers to retaliate against the complainant.” As per Probation Department Policies 1306.3 and 1306.5, Code of Ethics and Standards of Conduct, Employees must demonstrate the highest standards of ethics and conduct consistent with the requirements of the law, the County, and the Department. Accordingly, employees are expected to refrain from any behavior or from making any statements that would either violate, or appear to violate, the public trust vested in their positions. Publicly support the principles, goals and policies of the County and Department. Conduct themselves in a professional manner consistent with dedicated public service as well as the specific nature of individual job assignments. Employees unsure of the proper action to take in any situation should obtain clarification from immediate supervisors and administrators. Employees must exercise courtesy, tact, patience and discretion in performing their duties. Staff must control their tempers and must not engage in argumentative discussions, even in the face of extreme provocation. In the performance of their duties, employees shall not

use violent, profane or insolent language or gestures or make derogatory comments about or express any negative prejudicial comments towards others concerning race, religion, politics, national origin, gender, lifestyle or other personal characteristics. In her Court Report, Defendant's Re-Arrest Per PC 1203.2(a), dated 09-26-18, PO 1 included the mitigating and aggravating circumstances to recommend a fair sentence. As per Probation Department Field Services Policy Chapter 9 Mitigation / Aggravation Guide Rule 9.1.1 4.423 Circumstances in Mitigation: Specific facts, if present, may be used to determine whether or not that particular Rule is applicable to reduce the defendant's culpability and thus, argue to mitigate the prison term. In her report PO 1 provided that per rule 4.423(b)(3) the complainant voluntarily acknowledged wrongdoing at an early stage of the criminal process and per rule 4.423(b)(6) his prior performance on probation was satisfactory in cases MM219002 and MM217260. The sentencing options available to the Court for DUI causing injury, are 16 months, 2 years, or 3 years 8 months. PO 1's sentencing recommendations included that in consideration of the mitigating and aggravating factors, the middle term appears appropriate and will be suggested. During the course of this investigation PO 1 provided relevant information in response to CLERB questions that was considered in determining the recommended finding. In the absence of video or audio of the alleged incident and the lack of witnesses, there was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Discourtesy – PO 1 verbally abused the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant stated PO 1 verbally abused him. Attempts were made to contact the complainant to request additional information regarding further explanation of this complaint, the interaction, and what PO 1 said to him, however there were no responses from the complainant. As per Probation Department Policies 1306.3 and 1306.5, Code of Ethics and Standards of Conduct, Employees must demonstrate the highest standards of ethics and conduct consistent with the requirements of the law, the County, and the Department. Accordingly, employees are expected to refrain from any behavior or from making any statements that would either violate, or appear to violate, the public trust vested in their positions. Publicly support the principles, goals and policies of the County and Department. Conduct themselves in a professional manner consistent with dedicated public service as well as the specific nature of individual job assignments. Employees unsure of the proper action to take in any situation should obtain clarification from immediate supervisors and administrators. Employees must exercise courtesy, tact, patience and discretion in performing their duties. Staff must control their tempers and must not engage in argumentative discussions, even in the face of extreme provocation. In the performance of their duties, employees shall not use violent, profane or insolent language or gestures or make derogatory comments about or express any negative prejudicial comments towards others concerning race, religion, politics, national origin, gender, lifestyle or other personal characteristics. During the course of this investigation PO 1 provided relevant information in response to CLERB questions that was considered in determining the recommended finding. In the absence of video or audio of the alleged incident and lack of response, with further explanation from the complainant, there was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Harassment – PO 1 touched the complainant inappropriately and said things that made him feel uncomfortable.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that PO 1 touched him inappropriately and would say or do things that made him feel uncomfortable. The complainant did not state in his complaint to CLERB how PO 1 touched him inappropriately, other than touching his hand, and did not state what kind of things PO 1 would do or say to him. During the course of this investigation, this investigator made several attempts to contact the complainant, both in writing and phone calls to request further explanation. No response was received from the complainant. As per Probation Department Policy 1306.3 Code of Ethics and Standards of Conduct: Employees must demonstrate the highest standards of ethics and conduct consistent with the requirements of the law, the County, and the Department. Accordingly, employees are expected to refrain from any behavior or from making any statements that would either violate, or appear to violate, the public trust vested in their positions. Publicly support the principles, goals and policies of the County and Department. Conduct themselves in a professional manner consistent with dedicated public service as well as the specific nature of individual job assignments. Employees unsure of the proper action to take in any situation should obtain

clarification from immediate supervisors and administrators. During the course of this investigation PO 1 provided relevant information in response to CLERB questions that was considered in determining the recommended finding. In the absence of video or audio of the alleged incident and lack of response, with further explanation from the complainant, there was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Procedure – PO 1 “groped” the complainant’s genitals when she performed pat down searches.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that during pat downs conducted by PO 1 she “groped my genitals.” The complainant stated he had been patted down by other officer’s and he believed that the type of pat downs being conducted by PO 1 were just to “grope my genitals” rather than just pat him down. The complainant stated he felt embarrassed and humiliated and did not report this for fear of retaliation. As per the Probation Department Policy 16.16.2, Enforcement of Search Conditions in Probation Orders by the Probation Officer: Search Permitted When Imposed by Court. When a Court has imposed a search condition in a probation order, the Probation Officer may search the probationer or his/her property under the following conditions (search should be discussed in advance with his/her Supervisor whenever possible): 1) When the Probation Officer has determined that such action is needed to control and monitor the probationer in the community. 2) When the protection of the community or the victim is best served by a search. 3) When the Probation Officer has received information indicating that the probationer is in possession of contraband. 4) A body search (“pat-down”) of the probationer may be done on a random basis as a control and supervision measure or as a security measure. Pat-downs are not to be done in a manner or location which would needlessly cause shame or embarrassment to the probationer. As per Probation Department Policy 363.5 Search by Waivers; Officers generally may conduct a warrantless search of the person, property, and residence of an offender who has waived their Fourth Amendment rights. However, a waiver of Fourth Amendment rights as a condition of probation does not permit searches undertaken for harassment or searches for arbitrary or capricious reasons, or those motivated by personal animosity toward the offender. An excessive number of fruitless searches might indicate harassment. Additionally, the language of the waiver may limit the scope of the search, and any limitations are binding on the searching officer(s). Officers should make themselves aware of any such limitations prior to searching. It should be noted that a pat down and a full search, subsequent to an offender’s Fourth Amendment waiver, are two separate processes. As per the Probation Department Weapons and Training Unit; “A pat down is just a “pat” of the outer clothing in search of weapons/contraband. When searching a probationer, especially incident to arrest, a pat down will be conducted, mostly a crunch/feel method over the pockets. This is to ensure that officers don’t move their hand inside a pocket and accidentally prick or stick themselves. This can also be done around areas that are known to hide evidence/contraband before conducting a full search. The method slightly changes because we already know we have a 4th waiver or search incident to arrest, therefore we don’t have to stick to just the “pat” since we’ll be going into the pockets anyway. A full search, especially if it is for the purpose of an arrest, should be extremely thorough and systematic. All areas of the body will be searched with special attention given to the waistline, groin, inside of the neckline of the shirt, inside of the shoes, belt, belt buckles, etc. When officers search the groin area, they will use the blade of their hand to go all the way up the “A” frame from the front and behind the subject. They will also pat down the buttocks and pelvic bowl area of the groin area to ensure there is nothing there. Because the waistband and groin area are very common areas for weapons, contraband and/or other drugs to be hidden, it will be searched thoroughly. However, officers are told not to linger in these sensitive areas.” During the course of this investigation PO 1 provided relevant information in response to CLERB questions that was considered in determining the recommended finding. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure – Senior Probation Officer 2 witnessed Probation Officer 1 “grope” the complainant and failed to intervene.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that during a pat down search, PO 1 “groped my genitals” and that an unidentified officer, who was present, witnessed the incident and failed to intervene. Senior Probation Officer 2 was identified as the officer present during the incident with the complainant. In her contact report with the complainant, dated 10-18-18, PO 1 reported the complainant was brought into the interview area and was

searched by her with SPO 2 as the cover officer. As per Probation Department Policy 1306.3 Code of Ethics and Standards of Conduct; Employees must demonstrate the highest standards of ethics and conduct consistent with the requirements of the law, the County, and the Department. Accordingly, employees are expected to refrain from any behavior or from making any statements that would either violate, or appear to violate, the public trust vested in their positions. Publicly support the principles, goals and policies of the County and Department. Conduct themselves in a professional manner consistent with dedicated public service as well as the specific nature of individual job assignments. Employees unsure of the proper action to take in any situation should obtain clarification from immediate supervisors and administrators. During the course of this investigation SPO 2 provided relevant information in response to CLERB questions that was considered in determining the recommended finding. The evidence shows that the alleged act or conduct did not occur.

6. Misconduct/Procedure – Probation Officer 3 failed to act when the complainant reported the harassment.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that on 10-11-18, he reported to the officer on duty, Probation Officer (PO) 3, the harassment he was subjected to by PO 1 and that PO 3 failed to act on his report. There were no records found in the requested documents from the Probation Department that indicated the complainant filed a report of harassment against PO 1 or any officer. The complainant further alleged that PO 3 told him that there was a shortage of PO's but that he would document what the complainant was telling him and suggested to the complainant that since he was transient that he move to another area where he would fall under the jurisdiction of another PO. Documents obtained from the Probation Department during the course of this investigation included the Department process of reported allegations of misconduct against officers filed by probationers; All formal complaints filed with the department are investigated either at the command level or at the administrative level depending on the nature of the complaint. The assigned investigator will speak with all involved/relevant parties and review all related records/evidence. A determination is then made as to the disposition of each allegation. Once the investigation is complete, the complainant is informed of the outcome of the investigation. It should be noted that they will not be informed of specific disciplinary actions that may have been taken as this is considered confidential personnel information. During the course of this investigation, PO 3 and a Supervising Probation Officer (SPO) provided relevant information in response to CLERB questions that was considered in determining the recommended finding. Absent any record or documentation of a report having been filed by the complainant, there was insufficient evidence to either prove or disprove the allegation.

7. Misconduct/Retaliation – PO 1 arranged for the complainant's vehicle to be "raided."

Recommended Finding: Action Justified

Rationale: The complainant alleged that PO 1 arranged to have his vehicle raided as retaliation for filing a complaint of harassment against her. As per Probation Department Policy 16.16.2 Enforcement of Search Conditions in Probation Orders by the Probation Officer: Search Permitted When Imposed by Court. When a Court has imposed a search condition in a probation order, the Probation Officer may search the probationer or his/her property under the following conditions (search should be discussed in advance with his/her Supervisor whenever possible): 1) When the Probation Officer has determined that such action is needed to control and monitor the probationer in the community. As per Probation Department Policy, 402.5 Addressing Probation Violations, when appropriate, administrative interventions should be employed in an effort to bring an offender back into compliance. The responses should be consistent, both across offenders and between officers, to increase effectiveness. In order to maximize that effectiveness, each violation must be addressed as close in time to its discovery as possible. An officer shall exercise a formal sanction only when the nature of the violation warrants that level of accountability or as part of an overall plan to impede an offender's continued non-compliance. In her Re-Arrest report dated, 10-18-18, PO 1 reported that the search for and of the complainant's vehicle occurred due to the following: the complainant had a history of reporting transient when he was staying at his residence, as evidenced by his arrest for domestic violence on 09-14-2018. Probationers, such as the complainant, falsely report as transient to avoid home visits and to avoid submitting to searches. His failing to report having a cell phone was also inconsistent with his history and was in conflict with his reporting having a cell phone in Court when applying for Work Furlough. Per Deputy 1's 10-18-18 Re-Arrest report, the complainant had his cell phone searched previously and PO 1

believed he was attempting to avoid having his phone searched. CLERB's investigation did not uncover any evidence that this was an act of retaliation, but of the complainant's violation of his probation. During the course of this investigation, PO 1 provided relevant information in response to CLERB questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

8. False Arrest – Probation Officer 1 arrested the complainant.

Recommended Finding: Action Justified

Rationale: The complainant stated that PO 1 arrested him on an "alleged probation violation." The complainant stated he reported PO 1 to another Probation Officer after he felt harassed by her. The complainant stated he knew that once he had reported her, PO 1 would "be out to get him." As per Probation Department Field Services Policy 16.14 Arrest Powers, on 10-18-18 PO 1 arrested the complainant. Policy 16.14 states, Penal Code Section 1203.2(a) gives Probation Officers authority to re-arrest probationers during the probation period (for probation violations) and bring them before the court. Re-Arrest Provisions: Re-Arrests of probationers shall conform to the provisions of PC 1203.2(a). Such arrests shall be conducted as safely as possible, following established security measures. The assistance and cooperation of other officers from the department or other agencies shall be enlisted as necessary. Re-Arrest Defined: A Separate Booking. An arrest made by a probation officer of a probationer for violation of probation is always a "re-arrest." A re-arrest requires the creation of a booking separate from any existing current booking. A re-arrest is not a "hold," nor should that term be used to refer to a re-arrest. A re-arrest ensures that a probationer will be held without bail until he/she is brought before the court for due process hearings and avoids the possibility of the matter being overlooked or delayed. As per the complainant's Re-Arrest Report, dated 10-18-18, on 10-18-18, he reported to his assigned Probation office following his release from custody, per condition 6(i) Report to the P.O. as directed within 72 hours of any release from custody. The complainant met with the Duty Officer, PO 3, and reported that he had no phone and was transient. He was directed to return on 10-18-18, and was informed he would be required to report weekly due to his transient status. On 10-18-18, the complainant reported to his assigned Probation Office at 2:10 p.m. for his 3:30 p.m. appointment. Upon his arrival, probation officers searched the parking structure and nearby parking lots for the complainant's vehicle. His truck was located approximately two blocks from the Courthouse. The truck was unlocked, keys in the ignition and a cell phone was located on the center console. The vehicle had an out of state license plate and was identified as belonging to the complainant via the Vehicle Identification Number (VIN). As per Probation Policy 16.16.2.1, Full Fourth Waiver Search, the vehicle was searched, photographed, and the cell phone was taken in order to be searched. After the cell phone was located, PO 1 contacted the complainant and provided him with a questionnaire to complete. PO 1 took the form and noted that no cell phone and no address was listed. PO 1 asked the complainant about his cell phone to which he replied he did not have one. When the complainant was brought into the interview area, he was searched and became agitated. He was informed his cell phone had been located and he stated it was broken and did not work. After he was informed the phone was being searched and he was placed under arrest for violating the conditions of his probation, he became visibly angry and began yelling at PO 1. PO 1 responded to CLERB's questioning with a signed statement and provided relevant information in response to CLERB questions that was used in determining the recommended finding. In her Report to Court dated, 09-26-18, PO 1 reported that the complainant was arrested for violations of the following terms of his probation: A) Failure to submit to Fourth waiver search. B) Failure to obey all laws and C) Failure to follow such course of conduct that the Probation Officer communicates by having contact with the victim in violation of a Criminal Protective Order. A cursory search of the complainant's cell phone revealed numerous and ongoing text messages with the victim since his release from custody on 10-09-18. The messages included the complainant requesting the victim sign a letter for his employer, stating she was responsible for the domestic violence incident on 09-14-18, discussions regarding the restraining order, his pending report to custody date, and the complainant asking her not to take her anxiety medication so she can get pregnant. Messages also included statements regarding the making of videos, with the victim stating she was too ill to make videos. PO 1 reported it was evident that the complainant had continued to dismiss the Court's orders by continuing to contact the victim. He also continued to fail to report accurate information to Probation in a clear effort to avoid supervision. He had again demonstrated an inability or unwillingness to comply with his probation conditions. During the course of CLERB's investigation, PO 1 provided relevant information in response to CLERB's questioning

that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

9. Misconduct/Discourtesy – PO 1 smiled and laughed when arresting the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that when PO 1 arrested him, she smiled and laughed. As per Probation Department Policy 1306.5, Code of Ethics and Standards of Conduct, Employees must exercise courtesy, tact, patience and discretion in performing their duties. Staff must control their tempers and must not engage in argumentative discussions, even in the face of extreme provocation. In the performance of their duties, employees shall not use violent, profane or insolent language or gestures or make derogatory comments about, or express any negative prejudicial comments towards others concerning race, religion, politics, national origin, gender, lifestyle or other personal characteristics. In her contact notes, dated 10-18-18, PO 1 notated, "When the complainant was brought into the interview area, he was searched by PO 1 with SPO 2 as a cover officer. The complainant became agitated during the search. He was informed his cell phone had been located and he stated it was broken and did not work. After he was informed the phone was being searched, and he was placed under arrest for violating the conditions of his probation, he became visibly angry and began yelling at PO 1. The complainant was placed in an interview room pending transport to SDSJ jail and continued to yell at PO 1 from the room. Due to his agitated state, PO 1 arranged for another officer PO 3, to assist another PO with the transport. PO 1 accompanied the other PO and PO 3, who had custody of the complainant, to the transport vehicle. As the complainant was being escorted, he stated his parents would hire an expensive attorney and "go after" PO 1 with "everything they got" for harassment." During the course of CLERB's investigation PO 1, another PO and PO 3 provided relevant information in response to CLERB questioning that was considered in determining the recommended finding. In the absence of video or audio of the alleged incident, there was insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Procedure – PO 1 reported only the complainant's mistakes in her report to court.

Recommended Finding: Unfounded

Rationale: The complainant alleged that PO 1 only reported his mistakes to court in her sentencing recommendations, excluding that since beginning on probation "he had been sober, completed many classes successfully and turned his life around." In her report to court, dated 09-26-18, PO 1 included the mitigating and aggravating circumstances to recommend a fair sentence. As per Probation Department Field Services Policy Chapter 9 Mitigation / Aggravation Guide Rule 9.1.1 4.423 Circumstances in Mitigation: Specific facts, if present, may be used to determine whether or not that particular Rule is applicable to reduce the defendant's culpability and thus, argue to mitigate the prison term. In her report, PO 1 provided that per rule 4.423(b)(3) the complainant voluntarily acknowledged wrongdoing at an early stage of the criminal process and per rule 4.423(b)(6) his prior performance on probation was satisfactory in cases MM219002 and MM217260. As per Rule 9.1.2 4.421 Circumstances in Aggravation: Specific facts may also be used to increase the defendant's culpability and thus, argue to increase the selected prison term. PO 1 provided that per rule 4.421(b)(2) the complainant's prior convictions as an adult are of increasing seriousness and per rule 4.408(a) the complainant benefitted greatly by the dismissal of several charges and allegations which would have greatly increased his potential prison exposure. PO 1 included the sentencing options available to the Court for DUI causing injury, are 16 months, 2 years, or 3 years 8 months. PO 1's sentencing recommendations included that in consideration of the mitigating and aggravating factors, the middle term appears appropriate and will be suggested. During the course of this investigation PO 1 provided relevant information in response to CLERB questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did not occur.

11. Misconduct/Procedure – The Probation Department failed to remove Probation Officer 1 from the complainant's case.

Recommended Finding: Action Justified

Rationale: The complainant alleged that the Probation Department failed to remove PO 1 after his report of her harassment. In review of the documents received from the Probation Department during the course of

this investigation, no record was discovered indicating that the complainant filed the alleged report of harassment. Documents obtained from The Probation Department during the course of CLERB's investigation included the Department process of reported allegations of misconduct against officers filed by probationers; All formal complaints filed with the department are investigated either at the command level or at the administrative level depending on the nature of the complaint. The assigned investigator will speak with all involved/relevant parties and review all related records/evidence. A determination is then made as to the disposition of each allegation. Once the investigation is complete, the complainant is informed of the outcome of the investigation. It should be noted that they will not be informed of specific disciplinary actions that may have been taken as this is considered confidential personnel information. During the course of this investigation PO 1 and a SPO provided relevant information in response to CLERB questions that were considered in determining the recommended finding. Absent any record or documentation of a report having been filed by the complainant with the Probation Department, the evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

12. Illegal Search and Seizure – Unidentified officers “raided” the complainant’s vehicle.

Recommended Finding: Action Justified

Rationale: The complainant stated, “officers raided my vehicle and that in all the time that he was on probation that had never happened.” The complainant stated he believed this to be another indication of PO 1’s harassment and retaliation against him. On 10-15-18, PO 1 received an email from an officer with the Work Furlough/RRC Oversight Unit. The email stated the officer had received a Court order regarding the complainant reporting to their program on 10-30-18. While working on the paperwork for the program, the officer noticed the probationer had reported to a Probation office on 10-11-18, and reported being transient with no phone and no employment. The program's initial intake summary which was completed at Court showed the complainant’s address, phone and employer. The officer contacted PO 1 as the information was inconsistent. As per Probation Department Policy 402.5 Addressing Probation Violations, when appropriate, administrative interventions should be employed in an effort to bring an offender back into compliance. The responses should be consistent, both across offenders and between officers, to increase effectiveness. In order to maximize that effectiveness, each violation must be addressed as close in time to its discovery as possible. An officer shall exercise a formal sanction only when the nature of the violation warrants that level of accountability or as part of an overall plan to impede an offender's continued non-compliance. On 10-18-18 when the complainant arrived for his scheduled check-in time, SPO 2, along with two other PO’s utilized two vehicles to search the parking areas at the Courthouse and the surrounding areas in search of the complainant’s vehicle. The complainant’s truck was located approximately two blocks from the Courthouse. The truck was unlocked with the keys in the ignition. A cell phone was located on the center console. The vehicle had an out of state license plate and was identified as belonging to the probationer via the Vehicle Identification Number. As per Probation Policy 16.16.2.1, Full Fourth Waiver Search, the vehicle was searched, photographed, and the cell phone was taken in order to be searched. The vehicle's keys and an Arizona driver's license in the probationer's name were also taken. The vehicle was secured and left where it was parked. In his written statement to CLERB, the complainant stated that when his friend went to pick up his truck, a neighbor approached the friend and told him he witnessed six unmarked police cars “raid” the complainant’s vehicle. During the course of this investigation attempts were made to contact the complainant in writing and by phone calls, to obtain contact information for the friend, for interview purposes. The complainant did not respond to any of CLERB’s correspondence. As per Probation Department Policy 363.4 Fourth Waiver Search, Warrantless Search and Force Entry, Searches of offenders may be conducted for reasons related to the rehabilitative and reformatory purposes of probation or other law enforcement purposes. Under the Fourth Amendment, a warrant is generally required in order for a search to be valid. However, there are several exceptions that permit a warrantless search. Prior to conducting a warrantless search, the P.O. should make every reasonable effort to verify that one of the following applies: A. The offender has waived his or her Fourth Amendment rights; B. The offender has voluntarily consented to a search; C. Another exception to the search warrant requirement (such as exigency) applies. During the course of CLERB’s investigation, another PO, PO 1 and SPO 2 provided relevant information in response to CLERB questioning that were considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper

1. Misconduct/Procedure – Unidentified personnel delayed and/or held the complainant’s legal mail.

Recommended Finding: Not Sustained

Rationale: The complainant contacted CLERB to report ongoing issues with inmate mail. He stated that he had a criminal trial and also a juvenile dependency matter in the Courts, but correspondence from his attorneys and other legal entities were either extensively delayed for three to four weeks, or never forthcoming. The complainant reported that he received certified legal mail 17 days after signature that was opened outside his presence. The complainant also submitted his complaint to Internal Affairs, (IA) who referred him back to the Inmate Grievance process and the Mail Rejection Appeal procedure. Per Detentions Policy P.3, Inmate Mail, “...Detention facilities shall provide for the reasonably prompt delivery of incoming materials and outgoing correspondence. All staff shall work for the reasonably prompt and correct delivery of all inmate mail.” “Furthermore, Inmates may correspond confidentially with the State and Federal courts. All incoming U.S. mail that comes within the purview of confidential/legal mail, shall be opened and inspected for contraband in the presence of the inmate. The mail shall then be given directly to the inmate.” It shall be the sender’s responsibility to clearly identify confidential/legal mail on the front of the envelope with the words “legal mail,” “confidential mail,” or similar descriptor.” The complainant grieved this issue and received the following responses from command staff: “I researched your complaint on the grievance and couldn’t find anything conclusive to substantiate your claim. I found your mail isn’t being delayed beyond what is normal for incoming mail for all recipients. In the absence of any further incidents or information, I consider this matter closed.” A subsequent response to the complainant stated, “I spoke with the Pro per deputy, as well as correctional counseling staff about your concerns. According to them, staff is well accustomed to receiving delivery of discovery in excess of the amounts you are expecting to receive. The 596 pages you claim need to be delivered will be accepted by Sheriff’s staff. Please contact the Office of Assigned Counsel, and feel free to provide a copy of this response to them, regarding this matter. If you need additional assistance, please contact the correctional counselor or Pro per deputy. This matter is considered resolved, as there are no facility procedures impeding the delivery of your discovery.” Mail is handled by non-sworn personnel through the US postal service and by sworn and non-sworn personnel in the detention facilities. There was insufficient information and/or evidence to prove or disprove the allegation.

2. Misconduct/Procedure – An unidentified deputy opened the complainant’s certified legal mail outside of his presence.

Recommended Finding: Not Sustained

Rationale: The complainant reported that he received certified legal mail 17 days after signature that was opened outside his presence. In accordance with Detentions Policy P.3, Inmate Mail, Subsections I.A.2, All incoming U.S. mail that comes within the purview of confidential/legal mail, including correspondence from Internal Affairs and the Office of the Sheriff, shall be opened and inspected for contraband in the presence of the inmate. The mail shall then be given directly to the inmate. The complainant did not identify the involved personnel and/or produce the correspondence; without further clarifying information there was insufficient information to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 1 “lost” the complainant’s property.

Recommended Finding: Action Justified

Rationale: The complainant stated that sometime in September-October 2018, the complainant gave Deputy 1 property receipts for special order books from the UK (United Kingdom), but Deputy 1 said he lost them. The complainant also said he submitted Inmate Grievances, but they were not logged into the system as required, so nothing was done. A search for the complainant’s property produced an Incoming Property Receipt dated 08-25-18, for a book from the United Kingdom, that was processed by a deputy. Hardbound books are a security threat as they could be used as a weapon and are prohibited per Detentions Policy P.3, Inmate Mail, Subsection II. A. 2. The property receipt is part of the complainant’s detention records and the book was placed in the complainant’s property. Deputy 1 also provided confidential information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however it

cannot be reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. The evidence showed that the conduct that occurred was lawful, justified and proper.

4. Misconduct/Procedure - Unidentified deputies failed to log the complainant's grievances into the Jail Information Management System (JIMS) and/or take action.

Recommended Finding: Action Justified

Rationale: The complainant said he submitted Inmate Grievances, but said they were not logged into JIMS as required, "so nothing was done." Per policy, Appeals of Discipline, Complaints against Staff, and Inmate Requests are not "grievances" and therefore are not logged into JIM's. Detentions Policy N.1 Grievance Procedure, allows for informal resolution of any issue before it becomes a written grievance. However, the deputy or other staff member who receives and signs for a grievance will be responsible for entering it into JIMS, making sure to link the inmate(s) to the grievance report. During the time period of this complaint, SDS D produced ten grievances filed by the complainant that were logged into JIMS and processed in accordance with policy. It was unknown if there were any other alleged "grievances" submitted by the complainant that were not required to be logged per policy. The evidence showed that the actions that occurred were lawful, justified and proper.

5. Misconduct/Retaliation – Unidentified deputies retaliated against the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant believed he was retaliated against because he was classified as a member of the Mexican Mafia. Sheriff's classification records indicated the complainant was housed in Administrative Segregation and was an unsentenced, federal inmate who had "two strikes" and was a documented gang member. The complainant alleged the above stated issues with his mail and property, but did not provide any evidence to connect them as retaliatory acts. Without further clarifying information there was insufficient information to either prove or disprove the allegation.

6. Misconduct/Procedure – Unidentified deputies failed to follow procedure for scanning the complainant's wristband for a commissary purchase order.

Recommended Finding: Not Sustained

Rationale: The complainant stated, "On 11/02/18 I was charged for Commissary I did not receive an estimated \$50.00 worth. I was given a bag that was not mine, which I gave back to the unit officers. I've requested a copy of the purchase scan. Which is a procedure per "jail" policy. Inmates wrist must be scanned upon delivery of purchased commissary. Which will show I never received my order. Commissary has avoided my request's and grievances. This is the standard negligence of this facility." Inmate Grievance #184002127 logged by a deputy on 11-21-18, Action Taken: "Please have the inmate return the order with the invoice attached to it. Have them make sure it is all there. Once we research it and it does turn out the inmate ordered it, we will return it back to them." There was no other available evidence associated with this order and insufficient information to either prove or disprove the allegation.

18-144

1. Discrimination/Other – Unidentified deputies discriminated against inmates by not allowing them to have coffee or "coffee products."

Recommended Finding: Not Sustained

Rationale: The complainant alleged that unidentified deputies discriminated against inmates by not allowing them coffee or coffee products. The complainant stated that she was told, the inmates were not allowed coffee because of their "bi-polar disorder." According to SDS D P&P's section 2.53 Discrimination, employees shall not express any prejudice or harassment concerning mental disability or medical condition. According to the complainant, it was not only her son, the aggrieved, but the entire module that was being denied coffee and coffee products. On 11-23-18, several individuals were involved in a physical altercation. In addition,

when the inmates were ordered to lock down after the altercation many refused to do so which delayed the responding deputies, and interfered with the overall jail operation. As per SDS DSB P&P's Section O.1, Disciplinary Action, any discipline initiated against an inmate shall be impartially imposed without regard to race, sex, gender, or religious beliefs. The discipline shall be progressive and commensurate with the seriousness of the violation while being compared with the behavioral history of the inmate while in custody. Minor disciplinary sanctions may be imposed, which may include loss of commissary. SDS documents requested and received during this investigation did not indicate that any informal or formal discipline was implemented, and no records were received that a discipline hearing took place or that there were any appeals or grievances filed by the aggrieved and/or the inmates regarding receiving coffee or coffee products. Departmental Source provided information that inmates do not receive coffee or coffee products. They have to purchase such items from the commissary if they want it. According to SDS DSB P&P's section T.9, inmates who have sufficient funds will be allowed to purchase commissary items unless they have had their commissary privilege suspended for disciplinary reasons. At the time of the incident the aggrieved's account balance was in the negative. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Unidentified deputies withheld the aggrieved's mail.

Recommended Finding: Not Sustained

Rationale: The complainant stated that she sent her son, the aggrieved, mail that he never received and alleged that unidentified deputies were withholding his mail. The complainant provided additional information on 10-23-19, that she sent the mail around the time of her complaint, in the month of November. According to the Jail Inmate Management System (JIMS) Inmate History Summary Report, dated 11-01-18 to 11-30-18, there were no entries indicating the aggrieved had mail sent to him that was either received or denied during the complaint time period. As per SDS DSB P&P's Section P.3 entitled, "Inmate Mail," detention facilities shall provide for the reasonably prompt delivery of incoming materials and outgoing correspondence. All staff shall work for the reasonably prompt and correct delivery of all inmate mail. Unless the inmate is absent from the floor, the housing unit deputy shall see that all mail is delivered to the inmate prior to the end of his/her shift. All acceptable incoming and outgoing mail and packages shall be sent or delivered as soon as possible and shall not be held more than 24 hours, excluding weekends and holidays. There was insufficient evidence to either prove or prove the allegation.

3. Misconduct/Procedure – Unidentified deputies bullied and were unfair to the inmates.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that unidentified deputies bullied and were unfair to the inmates. As per SDS P&P's Section 2.48 Treatment of Persons in Custody, Employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures. Documents received during the course of this investigation from the SDS did not include any grievances that were filed by the aggrieved or any other inmate in the module that indicated bullying or unfair treatment by deputies. There was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Procedure – Deputy 1 would not talk with the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant stated that she called one of the SDS jails and requested to speak with someone about why inmates were not receiving coffee or coffee products. The complainant requested to talk with the Watch Commander so she could ask why inmates were not receiving coffee or coffee products. She alleged that Deputy 1, the Watch Commander on duty at the time, would not talk with her. Additionally, the complainant stated, the Detentions Processing Technician (DPT), placed the complainant on hold two separate times to obtain the information the complainant was seeking. The DPT was given the information from the watch commander and when the DPT returned to the phone she provided the information to the complainant and informed her that the watch commander was unable to come to the phone. The complainant's purpose of her call to SDS jail, as stated in her complaint was to speak to "someone" about inmates in her son's module not receiving coffee or coffee products. As per SDS DSB Policy A.3 Table of Organization, each facility captain, lieutenant and unit manager/administrator is responsible for the efficient

and effective daily operation of their assigned facilities/unit. Procedures for the efficient and effective daily operation of the facilities/unit shall be established, and periodically reviewed and modified to meet individual needs and legal mandates. The information the complainant was seeking was provided by Deputy 1 via the DPT. The information the complainant was seeking was provided by Deputy 1 via the DPT. There is no policy that directed the watch commander to get on the phone with the complainant and disseminate the same information. The watch commander was not obligated to talk with the complainant, and as communicated to the complainant via the DPT the Watch Commander was unable to come to the phone. Phone call logs were unavailable as they are not maintained/retained by SDSO. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure – A Detentions Processing Technician refused to identify herself to the complainant.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated when she called one of the SDSO jails on 11-23-18, the “clerk” she talked with refused to give her name and badge number. After being placed on hold the unidentified clerk returned to the phone and provide her name and badge number. The “clerk” was identified as a Detentions Processing Technician (DPT), non-sworn staff. As per SDSO P&P’s section 2.20 Identification, while on duty, all employees shall furnish their first and last name and ARJIS number to any person requesting that information, except when the withholding of such information is necessary for the performance of police duties. The allegation against a Detention Processing Technician, does not describe any deputy misconduct. As Detention Processing Technicians are not sworn staff, CLERB lacks jurisdiction as it cannot take any action in respect to complaints against non-sworn SDSO employees, per CLERB Rules & Regulations 4.1 and 4.4.

18-149

1. Misconduct/Procedure – Deputy 1 “provoked” the aggrieved.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that on 12-10-18, when the aggrieved arrived at the SDSO jail, after being transferred from another SDSO jail, Deputy 1 “provoked” the aggrieved. In a phone conversation between the complainant and CLERB on 12-19-18, the complainant stated that she had called the SDSO jail and requested to speak with the Watch Commander. The complainant talked with Deputy 1, who per the Deployment Log was the Security Sergeant on-duty at the time of the alleged incident. After the complainant’s conversation with Deputy 1, she alleged Deputy 1 “was the one who had provoked” the aggrieved. SDSO Incident Report indicated that the aggrieved refused to be housed until Deputy 1 gained compliance. Deputy 1 provided confidential information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however it cannot be reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. During the course of CLERB’s investigation, further information was sought from the aggrieved who did not respond. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Deputy 1 divulged information pertaining to the aggrieved.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 divulged information about the aggrieved’s charges that was detrimental to the aggrieved. On 12-19-18 the complainant spoke with Deputy 1 to discuss the aggrieved. Following that conversation, the complainant alleged that Deputy 1 was the individual in question. The complainant provided this information to CLERB in a phone call on 12-19-18. As per SDSO P&P’s section 2.37 Dissemination of Information, Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established Departmental procedures. Employees may remove or copy official records or reports from any law enforcement installation only in accordance with established Departmental procedures. Employees shall not divulge the identity of persons giving confidential information, except to their supervisors. Deputy 1 provided confidential information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however it cannot be

reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. During the course of CLERB's investigation, further information was sought from the aggrieved who did not respond. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Medical – The aggrieved suffered a “psychotic breakdown” after not receiving her required medication.

Recommended Finding: Summary Dismissal

Rationale: The complainant alleged that unidentified deputies and/or professional staff failed to give the aggrieved her prescription medications which led to the aggrieved having a “psychotic breakdown.” As per SDS DSB P&P Section J.3 Segregation Definition and Use, medical staff will review the inmate's health record to determine whether existing medical, dental, or mental health needs contraindicate the placement or require accommodation. Medical staff will document the review in the inmate's health record. Medical staff will monitor the inmate's health. The medical staff's monitoring of a segregated inmate will be based on the degree of isolation. Documentation of segregation rounds will be made on individual logs, cell cards, or in the inmate's health record. According to SDS DSB P&P section M.18 entitled, “Medication Pass Security,” deputies will provide security and control during medication distribution in Sheriff's detention facilities. Deputies and nurses will collaborate to ensure inmates receive medications in an organized and supervised manner. Deputies will assist nurses during medication distribution by providing supervision. According to SDS DSB P&P Section M.19. entitled, “Emergency Medication Administration,” deputies will not distribute or administer medication to inmates except in emergency situations; in the event of medical staff shortages or other emergency situations. According to SDS documents that were received and reviewed, there were no emergent situations where deputies administered medications to the aggrieved. Several attempts were made to obtain a medical release from the aggrieved, however the aggrieved did not authorize release of her medical records to CLERB. Medical staff and their decisions reside outside of CLERB's purview as they are non-sworn personnel over which CLERB has no authority per CLERB Rules & Regulation 4.1 Citizen Complaints: The Review Board lacks jurisdiction.

4. Misconduct/Procedure – Unidentified deputies placed the complainant in “lockdown.”

Recommended Finding: Action Justified

Rationale: The complainant alleged that unidentified deputies placed the aggrieved in “lockdown” after she suffered a “psychotic breakdown.” According to SDS Incident Reports received and reviewed during CLERB's investigation, the aggrieved was moved several times during her incarceration between the Medical Observation (MOB), Enhanced Observation Housing (EOH), Administrative Segregation (Ad-Seg), Safety Cell Placement (SCP), and Mainline Housing. The documentation indicated the majority of the aggrieved's incarceration was spent in housing that required separation from mainline housing due to her inability to adjust and conform to the minimum standards expected of those in mainline housing and ongoing psychiatric issues. As per SDS DSB P&P's section J.3 Segregation Definition and Use, Segregation is a general term used to encompass the following types of separate housing for inmates who cannot remain in the general inmate population: administrative segregation, protective custody, acute mental health (psychiatric stabilization unit), and disciplinary separation. Administrative Segregation shall consist of separate and secure housing, but shall not involve any other deprivation of privileges other than is necessary to obtain the objective of protecting the inmates, staff, or public. The aggrieved had numerous rule violations which resulted in disciplinary separation. In addition, the aggrieved exhibited behaviors indicating the intention of wanting to harm herself which required she be placed in separate housing for safety and observation. As per SDS DSB P&P's Section J.1 Safety Cells, inmates who have been assessed for Inmate Safety Program housing and approved by the watch commander for placement, may be temporarily placed in a safety cell when necessary to prevent the inmate from imminently inflicting physical harm on themselves or others, or destroying property. During the course of CLERB's investigation, the aggrieved was sent a complaint packet to provide additional information as to the alleged incident, however the aggrieved did not offer any reply. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

1. Death Investigation/Accidental – On 12-23-18, while in the custody of the Sheriff's Department, Warren Morris became unresponsive during his arrest. Morris was transported from the scene to the hospital where, despite aggressive resuscitative efforts, his death was pronounced.

Recommended Finding: Not Sustained

Rationale: The evidence indicated that Deputy 1 properly and lawfully contacted Morris. Deputy 1 initiated a consensual encounter with Morris as he laid on the sidewalk behind a business. When Morris advised that he was not feeling well, Deputy 1 offered to call for medical assistance, but Morris declined. During his interaction with Morris, Deputy 1 noticed an open bottle of alcohol next to Morris, he was in possession of an open alcohol beverage in public, a violation of California's Business and Professions Code 25620. After speaking with Morris, Deputy 1 determined that Morris was drunk in public and placed Morris under arrest. During his subsequent interaction with Deputy 1, and upon being advised that he was going to be arrested, Morris requested medical aid and expressed concern about his cardiac health problems. According to Deputy 1's explanation to Homicide Detectives, Deputy 1 stated on previous contacts with individuals, after learning they were being placed under arrest, they requested medical attention. Deputy 1 explained that requesting to go to the hospital was a method that arrestees would use to avoid going to jail. After Deputy 1 explained to Morris he was not going to jail, it was Deputy 1's opinion that Morris seemed to be at ease. As such, Deputy 1 did not summon paramedics. Over the course of their interaction, Morris' breathing became increasingly labored and delayed. Eventually, Morris became cyanotic (turned bluish/purplish, indicating that he was not getting enough blood and oxygen) and unresponsive. Deputy 1 summoned paramedics and Deputy 2 to the scene. Once on scene, Deputy 2 immediately initiated CPR and administered Naloxone to Morris. Once paramedics arrived on scene, they took over life-saving efforts and transported Morris to the hospital. Upon his arrival to the Sharp Grossmont Hospital's Emergency Department, physicians and medical staff continued to perform advanced cardiac life support measures, but when Morris failed to respond, his death was pronounced. The Medical Examiner's Office was notified of the death and invoked jurisdiction. Morris' autopsy was performed, and his cause of death listed as Atherosclerotic and Hypertensive Cardiovascular disease, with a contributing factor of methamphetamine intoxication; Pulmonary Emphysema, and the manner of death was an Accident. Deputy 1 summoned medical aid; however, he failed to initiate CPR or other life-saving measures. Approximately five and a half minutes lapsed from the time Deputy 1 recognized that Morris was experiencing respiratory distress until Deputy 2 initiated life-saving measures. There was insufficient evidence to determine whether the failure to expeditiously initiate CPR would have prevented Morris' death.

2. Misconduct/Procedure - Deputy 1 failed to summon medical aid at Morris' request.

Recommended Finding: Not Sustained

Rationale: During the course of the investigation, it was noted that Deputy 1 failed to summon medical aid when Morris requested it. According to Deputy 1's BWC recording, the recording of his debriefing interview with Sheriff's Homicide detectives, and his written statement, Deputy 1 acknowledged that Morris was experiencing chest pain after undergoing a recent cardiac procedure. In the video recording, Deputy 1 said, "So, I understand you are having stent pain? So, you need me to call an ambulance?" Morris declined the need for an ambulance. Deputy 1 advised, "I'm just making sure man. Your health is my utmost concern, okay." Minutes later, Morris said, "I'm outta breath, man." Deputy 1 repeated, "You're out of breath? Okay." When Morris learned he was going to be arrested, he told Deputy 1 he needed medical attention and advised that he would need an ambulance. Per Deputy 1's BWC recording he asked, "So you don't need an ambulance, right?" Morris responded, "Well yeah if I'm going to be arrested." Deputy 1 did not summon an ambulance; however, he and Deputy 2 explained that they were not going to take him to jail but were going to cite and release him. According to Deputy 1's explanation to Homicide Detectives in the Homicide debriefing interview after the incident, Deputy 1 stated that on previous contacts with individuals, after learning they were being placed under arrest, they requested medical attention. Based on his experience, Deputy 1 suspected it was a method that arrestees would use to go to a hospital instead of going to jail. When Deputy 1 explained to Morris that he was not going to jail, it was his opinion that Morris seemed to be at ease and Morris did not further request to go to a hospital. According to SDSD P&P Section 2.23 entitled, "Request for Assistance," when any person requests assistance, the request will be properly and judiciously

acted upon consistent with established Department procedures. The SDSA does not have an established guideline/policy that dictates that a deputy must call medical aid at an arrestee's request. As such, and according to SDSA Patrol Procedures Manual, Policy 1 entitled, "Use of Discretion," it is understood that a deputy may exercise their discretion. According to SDSA Patrol Procedures Manual, Policy 1, 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, Sheriff's Department policies and procedures, statutory law, information-led policing, and supervision in making the appropriate decision. According to SDSA P&P Section 2.30 entitled, "Failure to Meet Standards," employees shall properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department. Failure to meet standards may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee's position; the failure to take appropriate action on the occasion of a condition deserving police attention. The SDSA Policy and Procedures, which patrol deputies are held to, does not provide guidelines for a patrol deputy's response to medical emergencies. CLERB recognized that Deputy 1 had a responsibility to take appropriate action in recognizing and responding to Morris' emergency medical needs, especially when Morris expressed concern after Deputy 1 initially contacted him. During the course of this investigation, Deputy 1 responded to a Sheriff's Employee Response Form (SERF) and provided relevant and conflicting information in response to CLERB questioning. Deputy 1 did not violate SDSA P&P or California law when he failed to summon medical aid when Morris requested it. For these reasons, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 failed to summon medical aid in a timely manner.

3. Misconduct/Procedure - Deputy 1 failed to provide emergency medical care to Morris.

Recommended Finding: Sustained

Rationale: Deputy 1 failed to provide emergency medical care to Morris. In reviewing Deputy 1's BWC recording, Deputy 1 found Morris unresponsive, cyanotic, and with delayed, labored agonal respirations inside his patrol vehicle. Morris was observed slumped over in a contoured position. Morris was observed to irregularly gasp for air, had a bluish/purple discoloration (cyanotic) to his face and neck, and remained unresponsive. Additionally, drool emitted from Morris' mouth and he grunted. Deputy 1 patted Morris' back, rubbed his chest, and called his name in an attempt to get a response from him; however, Morris remained unresponsive. Due to the obvious delayed and labored breathing, Deputy 1 retrieved his protective airway mask (PAM) from his vehicle; however, Deputy 1 did not use the mask or initiate rescue breathing or chest compressions on Morris. Per the BWC recording, Deputy 1 advised Sheriff's Communication Center dispatch, via his radio, that Morris had labored, delayed breathing. In his BWC recording, Deputy 1 was witnessed to call Deputy 2, via his cell phone, versus over the radio. Deputy 1 opened the rear passenger door and stood at the vehicle looking at Morris while he addressed Deputy 2 on the phone. Deputy 1 was seen in the BWC recording opening and closing the vehicle back door twice. While he addressed Deputy 2 on the phone, Deputy 1 said, "I think I'm going to have to start CPR. Yeah, I think he's not breathing." Subsequently, Deputy 1 updated Sheriff's Communication Center dispatch, via his radio, that Morris had stopped breathing, and that he was initiating CPR. However, he did not do so. In his interview with Sheriff's Homicide Detectives, Deputy 1 informed his interviewer that he requested the fire department and paramedics, and when they would arrive on scene, "they would give the mouth-to-mouth." Deputy 1 removed the seatbelt from Morris and attempted to remove him from the vehicle; however, Morris' feet became stuck under the vehicle's seat. Morris was partially removed from the vehicle and Deputy 1 laid him prone, halfway out of the vehicle on the ground. In his debriefing interview with Homicide detectives, Deputy 1 explained that he thought Morris was possibly overdosing on illicit drugs. As such, Deputy 1 retrieved his Naloxone kit from his patrol vehicle; however, he did not use his Naloxone kit on Morris. In his interview with Homicide detectives, Deputy 1 informed his interviewer that he failed to administer the Naloxone because he had never used one, did not know how to administer it, and could not recall how to use it. He was going to use the Naloxone, but advised that his partner, Deputy 2, arrived on scene, she took his Naloxone and administered to Morris and it was she who initiated chest compressions. According to SDSA P&P Section 2.30 entitled, "Failure to Meet Standards," employees shall properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department. Failure to

meet standards may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee's position; or the failure to take appropriate action on the occasion of a condition deserving police attention. According to SDSL P&P Section 2.48 entitled, "Treatment of Persons in Custody," employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures. According to Deputy 1's BWC recording, Morris was unresponsive and cyanotic/discolored, with delayed, labored agonal respirations. Deputy 1 summoned paramedics to his location. The action of requesting paramedics to his location was a clear indication that at that moment Deputy 1 knew Morris was in respiratory distress. Four minutes and 30 seconds after Deputy 1 called for paramedics, Deputy 2 arrived on scene and assessed Morris. Thirty seconds after arriving on scene, Deputy 2 initiated CPR with chest compressions. Deputy 1 removed the handcuffs from off Morris' wrist, but did not assist with CPR or life-saving attempts. With his PAM mask in his hand, Deputy 1 did not initiate rescue breaths while Deputy 2 performed chest compressions. With his Naloxone in hand, Deputy 1 did not administer the Naloxone to Morris. Deputy 1 handed the Naloxone kit to Deputy 2 to use. Though the SDSL no longer requires deputies to administer rescue breaths during CPR attempts, the department still issues PAM mask to deputies for use in CPR events. As a first responder, Deputy 1 had a legal and moral obligation to render medical aid to Morris. Approximately five minutes lapsed from the time Deputy 1 requested dispatch summon paramedics to his location, until Deputy 2 initiated CPR with chest compressions. According to SDSL Policies and Procedures, "deputies should administer emergency first aid as fast as they can." Deputy 1 provided no immediate medical aid. Deputies employed with the SDSL are trained in advance first aid and are expected to render aid. How quickly a deputy renders aid is not dictated by State law or the SDSL policies and procedures. Nonetheless, deputies receive training as first responders, because that is what they are, and that is what they do. In Deputy 1's debriefing interview with Sheriff's Homicide, he attributed his delay in initiating CPR due to the difficulty he had in removing Morris from his patrol vehicle. Deputy 1's attributed his failure to administer the Naloxone because he claimed that he had never used Narcan (Naloxone) and that he did not know how to administer the Naloxone. According to Deputy 1's training records, he completed the Basic POST Academy, hosted by The San Diego Regional Public Safety Training institute. Each deputy that completed a Basic POST Academy had received 21 hours of First Aid/CPR Training which instructed deputies how to handle scenarios when a person is unconscious and experiencing respiratory failure as a result of alcohol intoxication, drug overdose, and suspected cardiac/natural event. Deputies who went through the Law Enforcement Academy received training on Narcan/Naloxone. Deputies received 21 hours of First Aid/CPR Training and Naloxone training is a small portion of the 21 hours, approximately 15-20 minutes of practical application. Once graduated from the academy, deputies receive follow-up or ongoing training on Narcan/Naloxone. Deputies receive an 8-hour First Aid/CPR refresher course every two years and Naloxone is a portion of the training. During the course of this investigation, Deputy 1 responded to a SERF and provided relevant and conflicting information in response to CLERB questioning. The evidence, review of Body Worn Cameras, audio recordings, written reports, and confidential statements, indicated that Deputy 1 failed to appropriately respond to Morris' medical emergency, and he failed to initiate life-saving measures. For these reasons, the evidence supports the allegation and the act or conduct was not justified.

4. Misconduct/Procedure – Deputy 2 failed to activate her Body Worn Camera.

Recommended Finding: Action Justified

Rationale: In viewing Deputies 1's and 2' BWC recording, it was noted that when Deputy 2 returned to the scene to assist Deputy 1, she failed to activate her BWC. In Deputy 2' debriefing interview with Homicide detectives, she stated that she upon her second arrival to the scene, forgot to re-activate her BWC and that she "was just in a hurry to try and get him [Morris] to breath." In viewing Deputy 1's BWC recordings, Deputy 2 was witnessed to arrive on scene. After parking her vehicle close to where Deputy 1 and Morris were, she got out of her patrol vehicle, quickly walked over to Deputy 1, and immediately initiated CPR. She did not activate her BWC as she was in an urgent situation and immediately attempted life-saving measures upon her arrival on scene. According to SDSL P&P Section 6.131 entitled, "Body Worn Camera," the San Diego County Sheriff's Department authorizes the use of Body Worn Camera (BWC) technology, with the goal of providing an additional layer of documentation for events, actions, conditions and statements made during critical incidents and to improve reports, collection of evidence and testimony in court. Deputies are responsible for knowing and complying with this procedure as well as the Body Worn Camera Operation

Manual. It is the intent of the Sheriff's Department to record all law enforcement related contacts, and other contacts deemed appropriate. Deputies shall activate the BWC to record all law enforcement related contacts. The record mode of the camera should be activated prior to actual contact with a citizen (victim/witness/suspect), or as soon as safely possible, and continue recording until the contact is completed. Deputies should begin recording prior to arriving to an incident if the call has the potential to involve immediate enforcement action upon arrival. Patient Privacy: Deputies shall not record patients during medical or psychological evaluations or during treatment, except when necessary by law or to preserve evidence. Deputies shall be sensitive to patients' rights to privacy. The evidence showed that the allegation that Deputy Cross failed to activate her BWC did occur but was lawful, justified and proper.

POLICY RECOMMENDATION:

1. It is recommended that SDSD develop a policy and/or a guideline in the Patrol Procedures Manual, that dictates a deputy's responsibility in a medical emergency.
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18-151

1. Excessive Force – Deputies 1-3 picked the complainant up, slammed him on his forehead, and re-broke his injured wrist.

Recommended Finding: Not Sustained

Rationale: The complainant reported, "(They tried to kill me Appeal in Courts) I was coming from downtown just leaving the hospital and Bank of America my hand was wrapped because I was injured and I was stoped by the Trolley police and he or her asked me for my pass I couldn't find it so the trolley officer asked me to get off. I got off at Lemon grove and I showed the trolley officer that some one had taken \$900,000.00 USD out of my Bank of America account. The officer called the San Diego County sheriff and they came out because I couldn't sign the ticket with my right hand because of injury and I showed them the Bank Statement also, (so I tried to sign the ticket the best I could) so they took put hand-cuffs on my already injured hand and put leg chains on also walked me to the side of the trolley and picked me up and slamed me on my four head and rebroke my hand and wrisk and other new injury's with no medical help at all from the Medics (excessive force)." The complainant had a pre-existing injury to his right hand and was wearing a cast at the time of this incident. He was cited for fare evasion and arrested for refusing to sign a citation as required by VC§ 40302 Mandatory Appearance. Based on review of Body Worn Camera, (BWC) the complainant refused to sign the citation with his injured hand even after deputies informed him to just make a mark; but he felt that would be a "forgery." Sheriff's Policy 2.49, Use of Force, states that employees shall not use more force in any situation than is reasonably necessary under the circumstances. Excessive Force is that in excess of what a peace officer reasonably believes is necessary or exceeds the minimum amount necessary to diffuse an incident. Deputies documented the active resistance they said they encountered from the complainant, however, it was evident that the complainant reacted in pain to the actions taken against his already injured hand. The varying camera angles were unable to capture many of the documented actions, or the alleged resistance. Trolley surveillance was destroyed prior to the filing of the complaint, and trolley personnel were also unavailable for comment. Force was utilized to effect an arrest, however there was insufficient evidence to either prove or disprove that the force utilized was reasonable or excessive. Other policy violations not brought forth by the complainant, but discovered through the course of investigation, were referred to the Sheriff's Department for follow-up.

18-152

1. Misconduct/Procedure – Deputy 3 threatened the complainant with arrest.

Recommended Finding: Action Justified

Rationale: The complainant stated, "I addressed to Deputy 3 the areas of false information in the police report. Deputy 3 refused to acknowledge any part of my declarations of false information in the police report

and any of the past crimes that I have evidence of. Also, during the meeting, Deputy 3 made it clear to me that if I did not stop pursuing the injustice against my family, that he could arrest me on charges of stalking.” Sheriff’s Policy 6.55, Protective Orders, mandates that when a deputy verifies that a restraining order exists, the deputy shall: Inform the suspect of the terms of the order. Admonish the suspect of the order, that he/she is now on notice and violation of the order will result in his/her arrest. If the suspect continues to violate the order after being advised of the terms, an arrest shall be made. Deputy 3 also provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however it cannot be reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. The evidence showed the conduct that occurred was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 3 served the complainant with a restraining order on 10-23-18.

Recommended Finding: Action Justified

Rationale: The complainant stated, “he (Deputy 3) further presented me with only part CH-110 of a restraining order packet for restraining order and claims to have properly served me with due diligence even though it was only four days before the court hearing where the requirement is no less than five days before the scheduled date of the hearing along with failing to provide CH-109 and other court documents addressed in CH-109.” An audio recording of an interview between the complainant and detectives was reviewed and provided evidence that the complainant was properly noticed and served with a court order on 10-23-18, for a hearing date of 10-26-18. He was informed that the five day referenced requirement did not apply to peace officers. According to the California Peace Officers Legal Sourcebook (CPOOLS), Section 15.15, Civil Disputes, if you determine that such an order has been issued but not served, you must inform the respondent of the terms of the order and then enforce it. In this regard, simply telling the respondent about the terms of the order will constitute "service" of the order and will also be sufficient notice for purposes of section CCP§ 527.6. Harassment TRO. A Departmental Information Source confirmed that the five day requirement is for Process Servers, and was not applicable in this situation. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 3 failed to complete a “Declaration of Diligence” for a court case held on 10-26-18.

Recommended Finding: Action Justified

Rationale: The complainant stated, “At the court hearing on 26 October 2018, it was presented that Deputy 3 properly served the complainant under due diligence with proof of this service being Deputy 3 personally texted and informed that he properly served the complainant under due diligence. This can be verified with the Honorable Judge at the Courthouse. Deputy 3 has still failed to submit his Declaration of Diligence to court case as he claims that he is not required to fill out nor submit this Declaration of Diligence to the court. This presents a very serious degree of contempt of court and obstruction of justice with the plausibility of collusion in conspiracy to commit crime or fraud in a court of law.” Deputy 3 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however it cannot be reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. According to a Departmental Information Source, “with regards to service for TROs, when a deputy does service, they call Sheriff’s Records and log the service via telephone, on a non-recorded line. Sheriff’s Records then enters the service information in the computer. ‘Declaration of Due Diligence,’ is a document for the court detailing every attempt the server made to serve the papers in person and by substituted service.” Furthermore, deputies do not personally file a due diligence record with the court, and the Sheriff’s Department does not guarantee service. Deputies will document attempts on the provided trip ticket as well make notes in the County Suite system documenting times of attempted service, which will later be provided to the petitioner or court after a completed or incomplete service has been documented by the civil office. Other than a few documents, such as a Summons and Complaint/Unlawful Detainer, most of the services conducted do not require a due diligence record.” The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 3 sided with the alleged victim and disregarded false information in a court case.

Recommended Finding: Not Sustained

Rationale: The complainant stated, "On 10 October 2018, false information was provided in a police report. The complainant addressed this with a District Attorney Investigator and Deputy 3 who both chose to disregard all false claims made in the report that the complainant addressed. The District Attorney Investigator and Deputy 3 both chose to downplay this incident and sided against the complainant. Refer to document titled "Errors with Police Report." CLERB does not have jurisdiction over personnel in the District Attorney's office (see Rationale #5). Deputy 3 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however it cannot be reported publicly due to confidentiality statutes per the Peace Officer Bill of Rights. Absent an audio recording, there was insufficient evidence to either prove or disprove this allegation.

5. Misconduct/Procedure – A District Attorney Investigator sided with the alleged victim and disregarded false information in a court case.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, "On 10 October 2018, false information was provided in a police report. The complainant addressed this with a District Attorney Investigator and Deputy 3 who both chose to disregard all false claims made in the report that the complainant addressed. The District Attorney Investigator and Deputy 3 both chose to downplay this incident and sided against the complainant. Refer to document titled "Errors with Police Report. The following CLERB Rules & Regulations apply: 4.1 Citizen Complaints: Authority: Pursuant to Ordinance #7880, as amended, (Article XVIII, Section 340 340.9 of the San Diego County Administrative Code), the Review Board shall have authority to receive, review, investigate and report on citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department. CLERB has no authority over members of the District Attorney's Office. The Review Board lacks jurisdiction.

6. Misconduct/Procedure – Deputy 4 attempted to "stonewall, block, divert" the complainant's efforts to expose corruption in the Sheriff's department and the CA State Department of Park and Recreation in June and July of 2018.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, "I have communicated with Sheriff Gore's office about the misconduct of his department and it appears that the Sheriff and/or his office is quite complacent about the allegations of police misconduct. In June and July of 2018, the Sheriff assigned Deputy 4 to intervene in my quest for justice. Deputy 4 had access to information of crime and corruption in the San Diego County Sheriff's Department as well with evidence of misconduct spilling over from the California State Department of Parks and Recreation. Deputy 4 provided me the phone number to call him directly that is continually busy whenever I call. I view this as an attempt to stonewall, block, or divert my efforts to bring light to this corruption dwelling in the San Diego County Sheriff's Department and the California State Department of Parks and Recreation. To this day, the complainants have not been able to acquire the actual account of how a minor went missing on 08 October 2018. With evidence and statements by many, it is clear that a minor was removed improperly from her High School. It is clear that this is more than a simple violation of school policy and procedure. It is clear that information and evidence was intentionally withheld from local law enforcement during a missing child investigation as well as the willful presentation of false statement by school officials. It is clear that the actions before, during, and after the initial abduction by the perpetrators show the intent and criminal nature of the crimes. The disturbing part of this is that the San Diego County Sheriff's Department, along with other government entities, participated in this child abduction and subsequent detaining of the minor child from the biological mother. This is far more than just crimes against the complainant's family." The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

7. Misconduct/Procedure – On 09-08-16, the “Officer-in-Charge” ordered the complainant and his wife to leave a school district school board meeting under threat of arrest.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “On 08 September 2016, the complainants disrupted a school district school board meeting informing them of the child abduction and requesting a proper investigation along with other the disclosure of other school documents that are guaranteed by the California Parent's Right's Act of 2002. This disturbance was further complicated with the San Diego County Sheriff's Department sending several deputies to the scene. The Officer-in-Charge ordered the complainants to leave the premises under the threat of arrest.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

8. Misconduct/Procedure – On 09-08-16, the “Officer-in-Charge” reported his name as “Deputy” and ordered other deputies present not to speak to the complainant and his wife.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “The complainant requested the name of the Officer-in-Charge and he responded, ‘Deputy,’ you further ordered of the other deputies not to speak with the complainants. Not one of the deputies responded to the complainant trying to report the child abduction that occurred at a high school on 08 October 2012.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

9. Misconduct/Procedure – On 10-08-12, unidentified deputies ignored the complainant's report(s) of a child abduction that occurred at a high school.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “Not one of the deputies responded to the complainant trying to report the child abduction that occurred at a high school on 08 October 2012. Refer to: letter from the Superintendent titled "Notification of Disruptive Behavior during September 08, 2016 Board Meeting." The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

10. Misconduct/Procedure – In 2014, Deputy 2 refused to accept evidence and/or write a report regarding a child abduction and/or child abuse/neglect.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “From 2014, Deputy 2 displayed serious misconduct. Deputy 2 was acting SRO (school resource officer) for a high school. At this time Deputy 2 was associated with the criminal case against the complainant's wife. Deputy 2 was given information and evidence that provided a high degree of confidence that a ‘runaway’ was actually a case of child abduction. Deputy 2 refused to accept any evidence and even stated that he did not have to make a report and no one could force him to make a report. This was

confirmed by the shift supervisor at that time.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

11. Criminal Conduct – On/around 07-23-14, local and state law enforcement agencies acted in collusion to wrongfully arrest, imprison, and convict the complainant’s wife.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “On 23 July 2014, there was a false police report, and a restraining order filed under false pretenses against the complainant’s wife. The disturbing factor in this is that the local and state law enforcement agencies appear to be in collusion with the false police report and the restraining order request based on fraudulent information. This resulted in a wrongful arrest, wrongful imprisonment, and wrongful conviction of the complainant’s wife. Refer to enclosed Police Report and Restraining Order. Pay close attention to the description of discrepancies and the comparison of the Restraining Order with the Police Report.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

12. Misconduct/Procedure – In 2014, Deputy 1 refused to accept evidence regarding a child abduction.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “Deputy 1 was assigned as the initial reporter for a minor being reported as a runaway. Deputy 1 has refused to accept any evidence that shows the minor being abducted. There is so much evidence that reveals the criminal intent. This revolves around parental alienation and parental kidnapping. Under California law this is child stealing which is a crime against the parent even if the minor child is a willing participant. This crime is considered continuous in nature until the minor child is returned. Consider California Penal Codes 278, 278.5.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

13. Criminal Conduct – The Sheriff’s Department “ignored the law in their police misconduct” of the complainant’s family and contributed to the delinquency of a minor, obstructed justice and/or were involved in a conspiracy to commit crime/fraud.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “There have been numerous accounts of the San Diego County Sheriff’s Department ignoring the law in their police misconduct towards the complainant’s family. Many of the times the San Diego County Sheriff’s Department was dispatched to the complainant’s residence and was giving ample information and evidence revealing the abduction of a minor. California has a special task force for child abductions. The San Diego County District Attorney’s Office Child Abduction Task Force claims that since there is no police report then there is no crime. At the very least, this may be construed as obstruction of justice, contributing to the delinquency of a minor, conspiracy to commit crime or fraud, and more.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

14. Misconduct/Procedure – The Sheriff was “complacent” about the complainant’s allegations of police misconduct.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “I have communicated with Sheriff Gore's office about the misconduct of his department and it appears that the Sheriff and/or his office is quite complacent about the allegations of police misconduct. The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

15. Misconduct/Procedure - The Sheriff’s Department, along with other government entities, “participated in a child abduction and subsequent detainment of a minor child from the biological mother.”

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “To this day, the complainant’s have not been able to acquire the actual account of how a minor went missing on 08 October 2018. With evidence and statements by many, it is clear that the minor was removed improperly from a high school. It is clear that this is more than a simple violation of school policy and procedure. It is clear that information and evidence was intentionally withheld from local law enforcement during a missing child investigation as well as the willful presentation of false statement by school officials. It is clear that the actions before, during, and after the initial abduction by the perpetrators show the intent and criminal nature of the crimes. The disturbing part of this is that the San Diego County Sheriff’s Department, along with other government entities, participated in this child abduction and subsequent detaining of the minor child from the biological mother. This is far more than just crimes against the complainant’s family. This constitutes crimes against society as a whole.” The incident(s) giving rise to the complaint for the following allegation(s) are untimely per CLERB Rules & Regulations, 4.4 Citizen Complaints/Jurisdiction: ...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 period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The Review Board lacks jurisdiction.

19-011

1. Misconduct/Procedure - Community Service Officers (CSOs) did not allow the complainant to enter the courthouse.

Recommended Finding: Summary Dismissal

Rationale: According to the complainant, Community Service Officers (CSOs) did not allow him to enter the courthouse. In his written statement, the complainant reported, “I was prevented from entering the courthouse several times because apparently I raised my voice at the deputies and had a bad attitude when I stood by the front doors. According to Deputy 4’s Arrest Report, as well as Deputy 3’s Officer Report, the complainant attempted to enter the Hall of Justice (HOJ) when he was found to be in possession of Oleoresin Capsicum spray, also known as OC or pepper spray. The CSO found pepper spray in the complainant’s belongings and informed him to take the pepper spray outside the building since it is considered contraband in the

courthouse. Despite this, the complainant was adamant about entering the building with it. The complainant became argumentative and caused a disturbance in the courthouse lobby. Deputies assigned to the HOJ lobby then escorted the complainant out of the building and informed him he was no longer permitted to enter the courthouse. Minutes later, the complainant attempted to enter the main lobby of the San Diego Central Courthouse (SDCC) at the weapons screening area. The complainant attempted to enter the weapon screening area, near the metal detectors, when a CSO informed him that he was not permitted to enter. Again, the complainant argued with CSOs and caused a disturbance. At that time, deputies escorted the complainant out of the building. CSO employed with the SDSO are non-sworn personnel, who CLERB does not have jurisdiction to investigate. The Review Board lacks jurisdiction per CLERB Rules and Regulations 4.1, Authority.

2. Misconduct/Procedure - Deputies 2, 3, 4, and 6 did not allow the complainant to enter the courthouse.

Recommended Finding: Action Justified

Rationale: According to the complainant, Deputies 2, 3, 4, and 6 did not allow him to enter the courthouse. In his written statement, the complainant reported, "I was prevented from entering the courthouse several times because apparently I raised my voice at the deputies and had a bad attitude when I stood by the front doors." Contrary to the complainant's written statement, and as witnessed in the courthouse surveillance video recordings, the complainant was initially not allowed to enter the courthouses because he was in possession of pepper spray. According to the complainant's Arrest Report, coupled with the involved deputies Officer Reports, the complainant was found to be in possession of Oleoresin Capsicum spray, also known as OC or pepper spray. Possession of pepper spray is not permitted in courthouses. After the complainant was informed that pepper spray was not permitted into the courthouses, he became argumentative and caused a disturbance. The complainant argued, "This is a public building and I have the right to enter it." The complainant was informed that by not submitting to weapons screening or the lawful orders of a Sheriff's Deputy, he was in violation of California Penal Code Section 166 - Contempt of a Court Order and, as such was not be allowed entrance to the courthouse. Additionally, the complainant used his cell phone to film the incident within the courthouse, which was also a violation of a Court Order. Due to his failure to comply with the deputies' instructions and his boisterous, argumentative behavior, coupled with the totality of the circumstances, the deputies did not let the complainant enter the building. According to SDSO CSB P&P Section F.6 entitled, "Weapons Screening," the purpose of the policy was to establish Court Services Bureau (CSB) policy for the screening of persons entering a court facility and for disposition of property found or seized at weapons screening stations. CSB is required by order of the Superior Court to provide weapons screening at the designated public entrances to all court facilities. The legal authority for the screening and the standing general court order of the San Diego Superior Court Presiding Department, which states in part, "All persons entering court facilities are subject to screening." By order of the Superior Court, all persons and their property are to be screened for weapons and/or contraband prior to entering a court facility. Persons found to be in possession of items that are not allowed in court facilities, but are not otherwise illegal to possess, shall be directed to remove the items from the building or voluntarily dispose of the items in secure receptacles if available. All persons shall be searched. The search shall consist of a screening process for each individual and all hand-carried items. The primary purpose of the security screening is to detect potential weapons. Listed below are items most likely to be brought through weapons screening that should be confiscated or be removed from the court facility: Pepper spray/Mace. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. Excessive Force - Deputies 1, 4, 5, 6, and 7 used force when they arrested the complainant.

Recommended Finding: Action Justified

Rationale: According to the complainant, Deputies 1, 4, 5, 6, and 7 used excessive force when they arrested him. In the complainant's written statement, he reported, "Several deputies started approaching me because I had waved at them to ask for a supervisor and their badge numbers. Instead they attacked me and threw me to the ground, beat me all around my body. They slammed my head to the ground." According to the complainant's Arrest Report, coupled with the involved deputies Officer Reports, shortly after being escorted out of the courthouse, the complainant re-entered the courthouse from another entrance. Upon entering the courthouse, the complainant was observed to continue his failure to comply with the deputies' instructions and his boisterous, argumentative behavior. When the complainant failed to comply with Deputy 4's lawful

order to cease and desist, Deputy 4 attempted to place him under arrest. The complainant attempted to flee. Deputy 4 took the complainant down to the ground using an “arm bar takedown” maneuver. Deputies 1, 5, 6, and 7 assisted Deputy 4 in restraining and gaining control of the complainant. Deputies 1, 4, 5, and 6 used force on the complainant to prevent him from entering the courthouse with the pepper spray. The complainant was taken into custody and was subsequently booked into jail. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper. According to SDSD P&P Section 2.49 entitled, “Use of Force,” employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing. According to SDSD CSB P&P Section F.26 entitled, “Use of Force Reports” the policies purpose is to establish guidelines and reporting procedures for use of force incidents within the Court Services Bureau (CSB). CSB deputies and other personnel shall comply with all reporting requirements explained in Addendum F, Department Policy and Procedures Section 6.48, and CSB Policies and Procedures specific requirements listed herein. Subsequent to any use of force on a non-inmate, the CSB deputy shall immediately notify their CSB sergeant and prepare the appropriate use of force report using the approved forms, the Supplemental Use of Force Report (SO 120), per Addendum F, and any other applicable reports. According to SDSD P&P Addendum F, the enforcement of law and performance of law enforcement duties may require the use of physical force and physical restraint. Both law and department policy authorize the use of force. Deputies are protected under criminal and civil law when using force in a legally appropriate and proper manner. It is incumbent on the department and all sworn personnel to ensure force and restraint are used in a manner that not only provides for the greater public safety, but in such a way as to engender public trust and confidence as well. Physical force is that force applied to overcome resistance and/or achieve compliance. Reasonable force refers to affecting an arrest using only that force reasonable for restraint of the subject and to get the subject to submit to custody. It shall be the policy of this Department whenever any Deputy Sheriff, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force, the force used shall only be that which is necessary and objectively reasonable to effect the arrest, prevent escape or overcome resistance. Deputies shall not lose their right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance (per 835(a) P.C.). Deputies shall utilize appropriate control techniques or tactics which employ maximum effectiveness with minimum force to effectively terminate or afford the deputy control of the incident. The use of force and subsequent reporting must be in accordance with the procedures set forth in these guidelines. All deputies using force must clearly articulate the force used in writing. All uses of force will be documented in the narrative of an arrest report, crime report, inmate status report, or deputy’s report by the primary reporting deputy. In all cases where force is used, photographs will be taken of the suspect regardless of injuries. All photographs taken shall be attached and submitted into evidence. Courthouse surveillance video recording, audio recordings, and all associated written reports were reviewed and correlated the deputies’ actions and their justifications for the use of force. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Illegal Search and Seizure – Deputy 4 impounded the complainant’s cellular phone.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 4 illegally impounded his cellular phone. In the complainant’s written statement, he reported, “They took my phone away.” According to the complainant’s Arrest Report, coupled with the involved deputies Officer Reports, the complainant was observed using his cell phone to video record the deputies escorting him out of the courthouse. Multiple deputies advised the complainant that using his cell phone to record while in a courthouse was a violation of a court order. Shortly after being escorted out of the courthouse, the complainant re-entered the courthouse entrance yelling, “You can’t tell me what to do!” and “You are harassing me! I’m going to record this!” The complainant was again advised that he was not allowed to film/record inside of the courthouse and that him doing so was again in violation of California Penal Code Section 166. The complainant was subsequently arrested, and after his arrest, Deputy 4 confiscated the complainant’s cell phone, along with his pepper spray and impounded the items as evidence. According to SDSD P&P Section 2.40 entitled, “Abuse of Process/Withholding Evidence,” employees shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold evidence or information, or make false accusations of a criminal or traffic charge. According to SDSD P&P Section 2.51, entitled, “Arrest, Search and Seizure,” employees shall not make any arrest, search or seizure, nor conduct any investigation or official Department business, in a manner which they know or

ought to know is not in accordance with law and established Department policies and procedures. According to SDSD P&P Section 6.122 entitled, "Electronic Evidence Seizure and Handling," all seized electronic devices, such as cellular phones, shall be processed in accordance with prescribed laws and established procedures. Electronic devices discovered at crime scenes, such as cellular phones, may contain related evidence to the crime being investigated. According to SDSD CSB P&P Section F.27 entitled, "Courtroom Crime Scenes," the purpose of the policy is to establish standardized procedures for handling crime scenes in courtrooms staffed by the Court Services Bureau (CSB). CSB personnel will take all necessary steps to preserve evidence from crimes occurring in a courtroom [courthouse]. The evidence showed that the complainant's cell phone was impounded subsequent to his arrest. The cell phone was considered evidence, and as such, it was impounded properly and lawfully. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

5. Misconduct/Procedure - Deputies 1, 4, 5, 6, and 7 failed to read the complainant his Miranda Warning (Rights).

Recommended Finding: Action Justified

Rationale: According to the complainant, Deputies 1, 4, 5, 6, and 7 failed to read him his Miranda Warning (Rights). In the complainant's written statement, he reported, "They [the deputies involved in the use of force and arrest] failed to read me my Miranda Rights. They did not read them until hours later and they had a detective read them to me." In 1966, the U.S. Supreme Court decided the case of *Miranda v. Arizona*, declaring that whenever a person is taken into police custody, before being questioned, he or she must be told of the Fifth Amendment right not to make any self-incriminating statements. There are two prerequisites that must be met before a deputy must issue a Miranda warning to a suspect: The suspect is in custody and the suspect is under interrogation. In the complainant's case, after his use of force and arrest, he was not yet under interrogation. According to Deputy 4's Arrest Report, he did not question the complainant and no spontaneous statement was noted in Deputy 4's Arrest Report. Therefore, a Miranda Warning was not needed at that time. After his arrest, and before he was questioned about the incident, a CSB detective admonished the complainant of his Miranda Rights, thus fulfilling the two prerequisites that must be met. According to Deputy 4's Arrest Report, a CSB detective was notified of the incident and responded to the holding room where the complainant was being held. Prior to questioning the complainant, the CSB detective admonished the complainant of his Miranda Rights. After being made aware of his Miranda Rights, the CSB detective questioned the complainant and recorded their interview. The CSB detective audio recording of the complainant's interview was reviewed, and it was confirmed that he read the complainant his Miranda Warning (Rights) before he was interrogated. According to SDSD CSB P&P Section F.31 entitled, "CSB Investigations Involving Inmates," the purpose of the policy is to establish a standard Court Services Bureau (CSB) procedure for handling investigations involving inmates. CSB detectives will have primary responsibility for handling investigations (including follow-up investigations), involving inmates while they are in the custody of CSB personnel. The CSB Investigations Unit will handle the following investigations: All crimes against persons (including court employees). The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct/Intimidation – Deputy 8 attempted to get the complainant to unlock his phone.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 8 intimidated him when he attempted to get him to unlock his phone. In the complainant's written statement, he reported, "They [deputies] took me outside by the curb to force me to unlock my phone... They said if I refused, they were going to have the FBI destroy my phone." According to the complainant's Arrest Report, Deputy 8 asked the complainant for the 6-digit passcode to his iPhone in order to have access to the evidence it contained. The complainant gave two 6-digit codes, both of which failed to unlock the phone. To prevent the iPhone from being "locked" by multiple incorrect passcode entries, the complainant was informed by Deputy 8 that his phone would have to be impounded as evidence and damage may result from the process of extracting the evidence from his phone. The complainant still refused to provide Deputy 8 with the correct iPhone passcode. According to SDSD P&P Section 6.122 entitled, "Electronic Evidence Seizure and Handling," all seized electronic devices, including cellular phones, shall be processed in accordance with prescribed laws and established procedures. Electronic devices discovered at crime scenes, such as cellular phones, may contain related evidence to the

crime being investigated. Proper collection and preservation of electronic evidence from these devices can be crucial to the successful prosecution of crimes. Using the following procedures will help to ensure proper collection and preservation of electronic evidence. General principles: If you reasonably believe that the computer is involved in the crime you are investigating, take immediate steps to preserve the evidence. Personal cellular phones may store data directly to internal memory or may contain removable media. The Regional Computer Forensics Laboratory (RCFL) has a cell phone kiosk for the viewing/analysis of cell phones. This kiosk was set up for the assigned detective to view the data on the cell phone as expeditiously as possible. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

7. False Reporting – Deputies 1-6 documented the incident, and the subsequent use of force, in their written reports.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputies 1-6 falsely documented the incident, and the subsequent use of force, in their written reports; he alleged that the deputies lied in their written report. The complainant stated, "They also made false reports about the incident." According to an Order by The Superior Court General Order of the Presiding Department, it was ordered that there should be no photographing, filming, recording or broadcasting by the media, attorneys, or members of the general public within any of the Superior Court of California, County of San Diego courthouse facilities, including but not limited to courtrooms, entrances and exits, the lobby areas, hallways, stairs, elevators and escalators, and business offices. Videotaping, photography or electronic recording devices must be turned off while they are transported within any courthouse facility. According to another Superior Court General Order of the Presiding Department, no one, except authorized court and court security personnel, may use any camera-enabled or video-enabled device, including but not limited to, cameras, camcorders, cell phones, PDAs, tablets, iPads, iPods and watches, to take pictures or videos in any courthouse facilities or courtrooms, or to take pictures or videos of any court files or exhibits, absent written authorization from a judicial officer or the Executive Officer of the Court. Any Court staff, security personnel or peace officer who discovers that a person is violating this order is directed to advise such individual orally of this order, and take steps to provide the person with a copy of this order as soon as practical. Further, if the person persists in violating this order despite being informed of it, or has violated the order in a manner that appears to have a significant adverse impact upon Court security or the fair and orderly resolution of court business, security personnel or a peace officer shall remove the individual(s) from the Business Office, courtroom or other Court area, as appropriate. The deputies recount of events, as articulated the complainant's Arrest Report, as well as the involved deputies Officer Reports, illustrated what was observed the in the courthouse surveillance video recordings. Upon viewing the courthouse surveillance video recordings, coupled with the deputies written report, it was found that the deputies clearly and justly reported the chronological sequence of events in their written reports. The deputies' report corroborated with the surveillance video recordings that was obtained from numerous angles. According to SDSD P&P Section 2.46 entitled, "Truthfulness," when asked by the Sheriff, the Sheriff's designee or any supervisor, employees will always answer questions, whether orally or in writing, truthfully and to the fullest extent of their knowledge. All written and verbal reports shall be truthful and complete. According to SDSD P&P Section 2.41 entitled, "Departmental Reports," employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

8. False Arrest - Deputy 4 arrested the complainant.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 4 falsely arrested him. According to the complainant's written statement, he reported, "They booked me into jail." According to Deputy 4's Arrest Report, the complainant was lawfully ordered to not return to the courthouse for being not-compliant with the weapons screening process and his overall noncompliance with the deputies' commands; he was ordered to cease and desist the premises. When the complainant refused to comply with the deputy's commands, Deputy 4 instructed

the complainant to turn around and place his hands behind his back. The complainant refused, and a subsequent use of force ensued. After the complainant was taken into custody, Deputy 4 picked up the complainant's belongings and noted his pepper spray canister attached to his keys. The complainant was subsequently arrested and booked into San Diego Central Jail for violation of two court orders, and resisting/delaying/obstruct a peace officer. According to SDSD P&P Section 2.51 entitled, "Arrest, Search and Seizure," employees shall not make any arrest, search or seizure, nor conduct any investigation or official Department business, in a manner which they know or ought to know is not in accordance with law and established Department policies and procedures. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

9. Misconduct/Retaliation – Deputies 1, 4, 5, 6, and 7 were intimidating and engaged in the use of force in retaliation for previous complaints against the department.

Recommended Finding: Unfounded

Rationale: The complainant alleged that Deputies 1, 4, 5, 6, and 7 were intimidating and engaged in the use of force as retaliation for his previous complaints against the department. According to the complainant's written statement, he reported, "I also believe this was done in retaliation because of a previous complainant lodged against their agency in the past." According to another deputies SDSD Crime Incident Report (a previous incident involving the complainant) on 07-03-18, a Commissioner received a message on his personal cellular device from the complainant. The Commissioner played the message in which the complainant stated, "I would not doubt you are a Jew. You are racist; you don't stand for Latinos you are against Latinos." In the message, the complainant announced his name and stated, the Commissioner shouldn't be practicing law and his case in Small Claims Court was a mistrial due to the Commissioner slandering him. The deputy stated, he had issues with the complainant back in November of 2017. The complainant had filed a complaint on another deputy and had also left several messages on the Courtroom Clerk's voicemail in which he made possible threats towards a judge. According to SDSD P&P Section 2.4 entitled, "Unbecoming Conduct," employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department, or that which tends to impair the operation and efficiency of this Department or employee. According to SDSD 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 evidence indicated that the incident involving the complainant on 01-18-19, was not related to the incident the complainant was involved in on 07-03-18, nor 11-2017. The deputies, nor the circumstances of his 01-18-19 arrest, were associated with the incident or the deputies involved in the incidents that occurred on 07-03-18, or 11-2017. The evidence shows that the alleged act or conduct did not occur.

End of Report