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**EXECUTIVE OFFICER**  
PAUL R. PARKER III

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

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[www.sdcounty.ca.gov/clerb](http://www.sdcounty.ca.gov/clerb)

**REGULAR MEETING AGENDA**  
**Tuesday, October 12, 2021, 5:30 p.m.**  
**Remote Meeting via BlueJeans Platform**

<https://primetime.bluejeans.com/a2m/live-event/gqrxebaw>

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. SWEARING IN OF NEW CLERB MEMBERS**

**2. ROLL CALL**

**3. 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 shall complete and submit an online "[Request to Speak](#)" form. Each speaker will be limited to three minutes. This meeting will be held remotely via the BlueJeans Platform. Click the below link to access the meeting. You will need to download the BlueJeans application prior to participating in the meeting or you may copy and paste the link using the **Google Chrome web browser**: <https://primetime.bluejeans.com/a2m/live-event/gqrxebaw>. Please contact CLERB at [clerbcomplaints@sdcounty.ca.gov](mailto:clerbcomplaints@sdcounty.ca.gov) or 619-238-6776 if you have questions.

**4. MINUTES APPROVAL (Attachment A)**

**5. PRESENTATION/TRAINING**

- a) N/A

## **6. EXECUTIVE OFFICER'S REPORT**

- a) Overview of Activities of CLERB Executive Officer and Staff
- b) Workload Report – Open Complaints/Investigations Report (*Attachment B*)
- c) Case Progress and Status Report (*Attachment C*)
- d) Executive Officer Correspondence to Full CLERB (*Attachment D*)
- e) Policy Recommendation Pending Responses
  - i. 20-014 / Pace – SDS
  - ii. 20-047 / Cheatom – SDS
  - iii. 20-063 / Morton (Death) – SDS
  - iv. 20-097 / Huie – SDS
- f) Policy Recommendation Response
  - i. 19-018 / Thornton – Probation (*Attachment E*)
- g) Sustained Finding Pending Responses
  - i. 21-024 / Curtis
- h) Sustained Finding Response
  - i. None
- i) Letter of Concern Pending Responses
  - i. None
- j) Letter of Concern Response
  - i. None

## **7. BOARD CHAIR'S REPORT**

## **8. NEW BUSINESS**

- a) Authority for the Executive Officer to Work with County Staff to Pursue Legislation and/or to Add a Policy to the County Legislative Program in Support of Increased Transparency in Civilian Oversight of Peace Officers and Custodial Officers
- b) Authority for the Executive Officer to Work with County Staff to Request that the County Board of Supervisors Expand CLERB's Jurisdiction to Include Personnel Involved in Providing Medical Care in County Detention Facilities
- c) Review of and Request for Public Input on CLERB's Investigation of Racial Discrimination Allegations

- d) Policy Recommendation to San Diego Sheriff’s Department: CLERB Staff to Respond to Death Scenes (*Attachment F*)
- e) Policy Recommendation to San Diego Probation Department: CLERB Staff to Respond to Death Scenes (*Attachment G*)
- f) Policy Recommendation to San Diego Sheriff’s Department: Discontinue the Standard Procedure of “Sealing” In-Custody Death Cases (*Attachment H*)
- g) Authorization of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)

**9. UNFINISHED BUSINESS**

- a) Authorization for CLERB Executive Officer to Respond to Media Articles / Editorials
- b) Update: In-Custody Death Data Review Subcommittee

**10. BOARD MEMBER COMMENTS**

**11. SHERIFF/PROBATION LIAISON QUERY**

**12. 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>DEFINITION OF FINDINGS</b>	
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.

**NOTICE: THE CITIZENS LAW ENFORCEMENT REVIEW BOARD (CLERB) MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY STAFF DO NOT LIMIT ACTIONS THAT THE CLERB MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE AGENDA AS DETERMINATIVE OF THE ACTION THE CLERB MAY TAKE ON A PARTICULAR MATTER.**

**CASES FOR SUMMARY HEARING (7)**

**20-094**

- 1. Misconduct/Procedure – Deputies 1-3 did not arrest a subject after he assaulted the complainant.

Recommended Finding: Action Justified

Rationale: According to the complainant, she reported, “[Deputies 1-3] *call me a liar... Sheriff insist [the tenant’s boyfriend] did not assault me. They were not even there! He is 20 years younger than me. He assaulted an elderly woman!*” According to reports from the San Diego Sheriff’s Department (SDSD), Deputies 1-3 were summoned to a residence which the complainant owned. The complainant was the

landlord involved in a landlord/tenant civil dispute with one of her tenants. The complainant violated a served civil harassment restraining order by arriving at house where the protected party resided and failed to follow landlord tenant laws. In the complainant's written statement, when deputies arrived on scene, she informed the deputies that her tenant's boyfriend unlawfully assaulted her prior to their arrival on scene. In the deputies' BWC recordings, the complainant alleged that she was pushed or shoved by the tenant's boyfriend. The complainant advised that she felt the tenant's boyfriend committed a crime when he assaulted and/or battered her. Upon being made aware of the assault, deputies did not arrest or cite the tenant's boyfriend. The complainant alleged that the deputies did not comply with California law when they refused to arrest or cite the tenant's boyfriend. According to California Penal Code Section 837, a private person may arrest another for a public offense committed or attempted in their presence; A private person may make an arrest for any misdemeanor or infraction committed in the person's presence. However, a peace officer may not arrest a suspect for a misdemeanor that did not occur in their presence. In this case, the complainant did not place her tenant's boyfriend under Citizen's Arrest. In review of the numerous deputies' Body Worn Camera recordings, it was noted that none of the deputies called the complainant "a liar," nor did the deputies deny her claim that she was pushed. It was confirmed that none of the deputies on scene attempted to arrest or cite the tenant's boyfriend for the alleged misdemeanor. The charge of California Penal Code Section 242 P.C. – Battery was a misdemeanor charge that was not committed in the deputies' presence. According to California law, it would have been unlawful for a peace officer to arrest the tenant's boyfriend. If a peace officer did not witness the misdemeanor, he cannot base an arrest on what other people tell him happened. A private citizen, in this case the complainant, had the authority to make the lawful arrest. As such, for the arrest of the tenant's boyfriend to be valid/legal, the arrest would need to be a Citizen's Arrest on behalf of the complainant. According to SDSD P&P Section 2.51 entitled, "Arrest, Search and Seizure," employees shall not make any arrest, search and 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 did occur, and it was lawful, justified, and proper.

2. Misconduct/Procedure – Deputies 1, 3, and 4 made the complainant leave the residence.

Recommended Finding: Action Justified

Rationale: According to the complainant, she reported, "[Deputies 1, 3, and 4] *make me leave my house, won't allow me back in my house. The no negative order states this is a landlord tenant issue [is] to be settled in civil court. Tenant must follow rules and allow landlord to show unit and do not be negative. There is no stay away restriction, no text messaging restriction. Tenant and landlord must keep peace.*" According to the documents in the complainant's SDSD case file, the complainant did not reside at the residence when the court granted protective order was granted. She was the homeowner and landlord to the home she rented to her tenants. In a SDSD arrest report, Deputy 3 wrote, "I advised [the complainant] to leave the area." In this incident, the complainant's tenant went to court and successfully obtained a civil harassment restraining order against the complainant. Part of that order stated that the complainant had to abide by the various tenant landlord laws and give a 24-hour notice when she went to property. In addition, the complainant was ordered not to harass, intimidate, strike, stalk, or assault the tenant. The role of a deputies in this situation was to enforce the law in how it was documented on the restraining order. After the complainant was served and explained the court's processes, she was asked to leave the area. The complainant refused. In review of the numerous deputies' BWC recordings, it was noted that the deputies instructed the complainant to leave the residence after she was served with the restraining order. Additionally, the deputies instructed, per the court order, that she follow landlord/tenant rules before she returned to the residence; that the complainant give the tenants a 24-hour notice before she returned to the residence. The complainant was given every opportunity to leave the area and to abide by the court's orders. According to SDSD P&P Section 6.55 titled, "Protective Orders," personnel will thoroughly investigate reports of violations of court issued protective orders concerning domestic violence or other civil or criminal disturbances. Emphasis will be placed on strict enforcement of these laws to ensure the victim's safety as well as compliance with the law. Violation of a restraining order is a misdemeanor under 273.6 or 166 P.C. An arrest shall be made when there is reasonable cause to believe the subject of the restraining order has violated 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. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

3. Misconduct/Procedure – Deputies 1, 3, and 4 refused to show the complainant evidence.

Recommended Finding: Action Justified

Rationale: According to the complainant, she reported, *“They [Deputies 1, 3, and 4] tell me they have video of me being the aggressor. I asked to see it, they refused.* In review of the SDSD case file, the complainant’s tenant submitted numerous cell phone video and home surveillance recordings of the tenant violating the protective order. Coupled with the responding deputies BWC recordings, it was noted that the complainant was the aggressor, and the recordings illustrated the complainant violating the court granted protective order / restraining order against her tenant. Though the deputies were in possession of the evidence, they were not obligation to show the complainant the video recordings as they were considered evidence. According to SDSD P&P Section 2.37 titled “Dissemination of Information,” employees shall treat the official business of this Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established Departmental procedures. According to SDSD P&P Section 2.39 titled “Processing Property,” property which has been discovered, gathered or received in connection with Departmental responsibilities will be processed in accordance with established Departmental procedures. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

4. Discrimination (other) – Deputies 1, 3, and 4, as well as other unidentified deputies showed preference to the suspect.

Recommended Finding: Unfounded

Rationale: In the complainant’s written statement, she reported, *“[The tenant’s boyfriend] is at my house on a motorcycle with no license plates. They [Deputies 1, 3, and 4] also don’t care that he has no plates on his motorcycle. Franklin is a black belt jujitsu. He works at Gracie Barra. And the sheriff personnel know him because he teaches them self defense.* According to SDSD reports, numerous deputies were dispatched to the residence referencing a landlord/tenant dispute, with the tenant presenting deputies with a protective order against the complainant. Upon their arrival on scene, the complainant attempted to deflect the attention from her by pointing out that on another occasion, her tenant’s boyfriend’s motorcycle was without a valid California license plate. The complainant alleged that even though deputies were aware of the alleged vehicle infraction, they did not cite the tenant’s boyfriend. She further alleged that the deputies did not cite the tenant’s boyfriend because they were showing preference. In review of the numerous BWC recordings, it was noted that the tenant’s boyfriend, who was on scene, drove a pick-up truck to the scene, not a motorcycle. On the BWC recording, the complainant explained that she saw the motorcycle days or weeks prior to the incident. Deputy 1 explained that if law enforcement saw the parking violation, that they may have issued a parking ticket at most. In a letter addressed to the complaint from the SDSD Internal Affairs Division, the complainant was assured that the responding deputies did not take sides in the matter and that she was not a victim of any bias or malevolence. The role of the deputies in that situation was to enforce the law as it was documented on the restraining order. The deputies’ attention was not the alleged traffic infraction, but to keep the peace at the residence. It was evident in the deputies BWC recordings, that the complaint was treated with respect and professionalism throughout their interaction. At no time were the deputies observed to be discourteous or harassing towards to complainant in anyway. The deputies involved were following the conditions of the restraining order and attempted to keep the peace. The deputies did not display any personal bias towards the complaint, to her tenant, nor to her tenant’s boyfriend. It was evident that the complainant was treated fairly and respectfully. According to SDSD P&P Section 3.47 titled “Discrimination and Sexual Harassment,” discrimination and sexual harassment, whether verbal, physical, or environmental, is illegal, unacceptable and will not be tolerated within the San Diego County Sheriff’s Department. The evidence showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – An unidentified judge denied the complainant’s request for a protective order.

Recommended Finding: Summarily Dismissed

Rationale: In the complainant’s written statement, she reported, *“June 2, 2020 I try to get the same no negative contact against [my tenant]. Judge denied and states this is a civil tenant landlord issue should be settled in court. And there is already in order for tenant and landlord to be civil. I want to civil order so the*

*harassment from [her tenant] and the sheriff department will stop.*” The complainant’s denial of obtaining a protective order was against non-sworn court services staff. CLERB does not have authority to investigate this allegation per CLERB Rules and Regulations 4.1, entitled, “Citizen Complaints: Authority,” 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. As such, CLERB lacked jurisdiction.

6. Misconduct/Intimidation – Deputies 1, 2, and 3 threatened to arrest the complainant.

Recommended Finding: Action Justified

Rationale: In the complainant’s written statement, she reported, *“I am so afraid of going to my property because several sheriffs officers have threaten to arrest me if I step foot on my own home.”* According to a SDSD Arrest/Juvenile Contact Report, on 05-30-20, the complainant was arrested and booked into jail after she violated a served civil harassment restraining order. The complainant did lawfully commit contempt of court by willful disobedience of a lawfully issued order by a court, to commit civil harassment. In this incident, it was a landlord/tenant dispute. The complainant was in the process of evicting her tenant and wanted to show the property to other prospective tenants. The complainant was instructed to follow all the landlord/tenant rules and procedures for eviction. If she violated the order, she would be arrested. The court documents noted, “...the court has granted the temporary orders. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1000, or both.” Additionally, the court documents read, “Personal contact orders, granted as follows, you must not do the following things to the person and to the other protected person listed in his court order, harassed, intimidate, molest, attack, strike, stalk, threaten, assault, hit, abuse, destroy personal property of, or disturb the peace of a person.” Deputies read the court documents verbatim and informed the complainant that she would be arrested if she violated the court orders. The evidence showed that deputies did threaten to arrest the complainant, and it was lawful, justified and proper.

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## 20-101

1. Misconduct/Procedure – Probation Officer 1 “misguided” the aggrieved.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “My son is under the supervision of Probation Officer (PO) 1. My son has suffered from mental health issues since the age of Six. I feel he’s being misguided by Officer 1’s inexperience of understanding his mental illness.” At the time of the alleged misconduct, PO 1 was an active employee with Probation, however, he is no longer employed with Probation. As per CLERB’s Rules and Regulations Section 5.8 Termination, Resignation or Retirement of Subject Officer, “The Review Board shall have the discretion to continue or terminate an investigation, if, after a complaint is filed and before the Review Board completes its investigation, the subject officer terminates employment with the Sheriff’s Department or the Probation Department. The Sheriff or the Chief Probation Officer or the subject officer shall notify the Review Board when the subject officer’s employment is terminated.” CLERB was notified, via phone communication, by the Probation Department, that PO 1 separated from the Probation Department in July 2021.

2. Misconduct/Procedure – Probation Officer 1 “neglected” the aggrieved’s well-being.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, “I have seen my son placed into multiple sober living homes without proper mental health assistance which end in violence or rejection from the group home. The home was a good program for Andrew to be involved in and got kicked out because the system failed him.” See rationale #1.

3. Misconduct/Procedure – Probation Officer 1 “neglected” to refill the aggrieved’s court ordered medications.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated, "His most recent issue happened on September 15, 2020. My son was kicked out of the home because the Catalyst Program/ Officer 1 neglected to refill his 'court ordered' medication." See rationale #1.

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**20-102**

1. Death Investigation/Drug Related - On 10-07-20, Adam Terrance Rogers was found unresponsive in his cell at the Vista Detention Facility (VDF). Deputies, medical staff, and paramedics proceeded with life-saving procedures until he was pronounced deceased.

Recommended Finding: Action Justified

Rationale: On 07-26-20, Adam Rogers was arrested by the Oceanside Police Department on several violent felony charges and booked into the Vista Detention Facility. During the booking process, Rogers was screened by jail medical staff and treated for heroin/opiate withdrawal. Family members subsequently confirmed Rogers had an extensive drug history. During mail distribution on 10-07-20, Rogers' cellmate alerted a deputy who observed Rogers with a blue tint to his skin tone and called out "man down". Medical staff and another deputy were already on the floor and immediately responded to assist. They began compressions and administered two doses of Narcan. Additional medical staff responded and continued with life-saving measures and administered another dose of Narcan until paramedics arrived. Paramedics worked on Rogers for approximately 30 minutes; Rogers was pronounced deceased after a total of approximately 45 minutes of resuscitative efforts. An autopsy confirmed the accidental cause of death was acute fentanyl, alcohol, and citalopram intoxication. A search of Rogers cell was conducted, where deputies found evidence of fentanyl. There was no associated medical documentation that citalopram was administered to Rogers while he was detained at VDF, and the origin of the alcohol and citalopram were unable to be identified. Deputies took immediate and appropriate action as they recognized and responded to Rogers' emergency medical needs. All security checks were completed in compliance with policy as evidenced by SDSD documentation and jail surveillance video. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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**20-103**

1. Misconduct/Intimidation – Deputy 1 "jumped out," and "waved both arms."

Recommended Finding: Action Justified

Rationale: The complainant stated, "On Friday, August 7, 2020, I was at the west-bound corner of Mission Gorge Road. There was a truck to my left blocking my view of the lane. I slowly moved up until I could see a clear crosswalk and no cross-traffic and turned right. Immediately an officer jumped out waving both arms. I was so startled I literally stopped the vehicle in the lane and put my window down." The incident was captured on Body Worn Camera (BWC) and included audio. BWC evidence showed Deputy 1 stood on the sidewalk, just north of the intersection. After he observed the complainant run the red light, Deputy 1 stepped out and his right arm was observed, waiving to get the complainant's attention. California Vehicle Code VC§ 21453 titled, Circular Red or Red Arrow, states in part, "A driver facing a circular red signal alone shall stop and remain standing at the limit line before entering the crosswalk or before entering the intersection." Deputy 1 directed the complainant to pull over in front of his patrol vehicle. The evidence showed the alleged act did occur and Deputy 1's actions were lawful, justified and proper.

2. Misconduct/Discourtesy – Deputy 1 treated the complainant with "extreme anger."

Recommended Finding: Unfounded

Rationale: The complainant stated, "I was shaken up by the encounter from the very beginning due to his volume, tone and obvious anger. He immediately started yelling his name, his position with SDCSD and

informed me that I had 'failed to stop at the light.' This is in quotes as I was so shaken I remember only the implication, not the exact wording. His anger was off the charts. As a registered gun owner, all I could think of the whole time was that this guy was an angry powder keg and was carrying. During my 46-year driving history I have been pulled over for legitimate reasons and been a passenger when others were pulled over for legitimate reasons every single time the officer has been courteous, firm, but pleasant. At no time, EVER, have I heard an officer speak to myself or others as Deputy 1 spoke to me. So my concern about his mental stability is significant. I have never, ever left a traffic stop before feeling violated. But I did this time. I am NOT dealing with the alleged traffic infraction, but the Demeanor and Behavior of the Officer." SDSL P&P Section 2.22 titled, Courtesy, states, "Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Employees shall not use insolent language or gestures in the performance of his or her duties." Additionally, SDSL P&P Section 2.4 titled, Unbecoming Conduct, states, "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." Deputy 1's Body Worn Camera (BWC) captured the entirety of the event, including audio. The BWC evidence did not corroborate the complainant's allegations. In the BWC footage, including audio, Deputy 1's demeanor and behavior were observed to be courteous, respectful, professional and matter of fact. The evidence did not show Deputy 1 display any of the behavior alleged by the complainant. The BWC evidence refuted the complainant's allegations, and she was found not to be credible in her recall of the events. The evidence showed that the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 1 did not ask the complainant why she was pulled over.

Recommended Finding: Action Justified

Rationale: The complainant stated, "It is the first time in my life (62-y/o white female, licensed since age 16) that I have ever had an officer NOT ask me if I understood why I was pulled over. He informed me that I had 'failed to stop at the light'. This is in quotes as I was so shaken I remember only the implication, not the exact wording." According to a Sheriff Department Information Source, there is no requirement that the deputy ask someone if they knew why they were pulled over and it is actually better for the citizen if a deputy does not ask, as their admitting the reason for the stop can be used in court against them. Deputy 1 did, however, explain his reason for the stop as evidenced on the BWC, he stated, "Hi I'm Deputy 1 with the Sheriff's department. The reason I'm stopping you is for going around that corner on a red light without stopping. So, would you share with me please your license, registration and proof of insurance?" The evidence showed that the alleged act did occur and was lawful, justified and proper.

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## 20-106

1. Excessive Force - Deputy 1 kicked the complainant.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement, he reported, "*I was kicked in the back by a deputy at SDCJ on the seventh floor. And now 'm experiencing back pain. I do not know why he kicked me in the back, and I do not know his name, but he was a black deputy about 5'7" or 5'8" tall. The incident begin by the elevator on the seventh floor. He kicked me in the back when he got me in the cell.*" According to the SDSL Incident Report written by Deputy 1, he reported, "*...we returned to the holding cell and escorted him [the complainant] to seventh floor D model cell number five. I spoke with [the complainant] inside the cell and insured him that we did not want to kill him and that we have not been following or conspiring against him. I told [the complainant] he would be safe inside the cell when we closed the door. We removed the handcuffs from [the complainant] and exited the cell without incident. I had no further the contact with [the complainant].*" In review of the jail surveillance video recordings, Deputy 1 and two other deputies were viewed escorting the handcuffed complainant to his jail cell. Upon arriving at his jail cell, all four individuals entered the cell and

went out of view of the jail surveillance camera. All four individuals – three deputies and the complainant – remained in the jail cell for one minute and 19 seconds. After that time, the three deputies exited the cell and were back in view of the jail surveillance camera. The jail cell door was secured as they left with the complainant remaining inside of the cell. Based on the angle of the surveillance camera, one was unable to view inside the jail cell. During the course of this investigation, Deputy 1, a witness deputy, and Deputy 2 responded to Sheriff's Employee Response Forms (SERFs) with signed statements and provided relevant information in response to CLERB questioning. A witness deputy, who was also present during the incident, was not questioned, as he is no longer employed by the SDSD. According to SDSD DSB P&P Section 1.89 titled "Use of Force," if the employee determines that the use of force is necessary, he/she shall use only that force which is necessary and objectively reasonable for the situation. Force shall never be used as a form of punishment or discipline. On every occasion when physical force has been applied to overcome a subject's resistance, deputies must verbally inform their supervisor as soon as practical. Whenever physical force used by a deputy results in a complaint of injury or an injury of a subject, seek immediate medical evaluation and/or treatment, and notify a supervisor. All involved in the Use of Force incident must clearly articulate in written all facts surrounding the incident. The evidence showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – Deputy 2 did not respond to the complainant's Inmate Grievance form.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement, he reported, "*I cannot read and write good but here is my grievance no one got back to me can you help me.*" According to jail records, the complainant submitted an Inmate Grievance to document the incident. The incident occurred on 08-29-20. The grievance was handwritten on a SDSD Inmate Grievance form, J-22, and was dated 09-22-20. According to a SDSD Grievance Report Deputy 2 received the grievance on 09-25-20. He responded to the grievance on 09-29-20. Deputy 2 documented that upon receiving the grievance report, he conducted an investigation into the complainant's claim. Deputy 2 had a sergeant interviewed the complainant, while he interviewed the involved deputies, reviewed their written report, and reviewed jail surveillance video recordings of the incident. Deputy 2 found no evidence to support the complainant's claim that he was kicked in the back. During the course of this investigation, Deputy 2 responded to SERF with a signed statement and provided relevant information in response to CLERB questions. According to SDSD DSB P&P Section N.1 titled "Grievance Procedure," after investigating the nature of the grievance, a written response to the inmate will be entered in the "narrative" area of the grievance in JIMS. Two copies of the response shall be printed out. The action officer will deliver the response to the inmate. The inmate will sign and date one copy of the response. The signed copy will serve as an acknowledgement that a written response was delivered to the inmate. The signed copy of the response along with the original J-22 form shall be filed in the inmate's custody record. There may be instances that will prevent the action officer from delivering a grievance response to an inmate (i.e. the action officer is assigned to another division, facility, etc.). In those situations, the action officer may request assistance or designate someone to deliver the response to the inmate. In this incident, the complainant was transferred and housed at another jail. After Deputy 2 completed the investigation, he was unable to personally deliver the response and he did not request assistance or designate someone to deliver the response to the inmate. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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**20-114**

1. Death Investigation/In-Custody Drug Related – Antonio Miguel Gonzaba died while in the custody of the San Diego County Sheriff's Department (SDSD) on 11-24-20.

Recommended Finding: Action Justified

Rationale: On 10-04-19, San Diego Police Department (SDPD) officers arrested Antonio Miguel Gonzaba for multiple related sex crimes, robbery, burglary, and other violent offenses. On 11-18-20, Gonzaba pled guilty to the most serious crime and was facing an approximate 35-year prison sentence. On 11-24-20, Vista Detention Facility (VDF) deputies were conducting a safety check when they discovered Gonzaba

unresponsive in his cell. Sheriff deputies along with jail medical staff, responded, began life-saving measures and 911 was activated. Two doses of Naloxone were administered, with negative results. When paramedics arrived on scene, they initiated advanced cardiac life support (ACLS). Despite aggressive attempts at resuscitation, Gonzaba could not be revived, and his death was pronounced, via radio, by a doctor with Tri-City Hospital. Prior to Gonzaba being discovered unresponsive, jail surveillance video captured inmates passing items to Gonzaba under his cell door. Detectives conducted interviews with the inmates involved, all of whom denied any passing of illicit substances. Following the incident, a strip search was conducted with the involved inmates, and one was found to be in possession of methamphetamine. That inmate was charged, however, refused to talk to detectives. According to a review of jail documents and jail surveillance video recordings, security checks were performed in a timely manner and in compliance with San Diego Sheriff's Department Policies and Procedures (SDSD P&P). An autopsy was performed on Gonzaba's body, by a San Diego County Medical Examiner. No trauma or foul play was noted and Gonzaba's cause of death was determined to be fentanyl, bupropion, gabapentin, and trazodone toxicity with hypertrophic cardiomyopathy listed as a contributing condition. The manner of death was listed as accident. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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## **21-001**

1. Discrimination/Racial – Courthouse Staff yelled at the complainant to get out of the building due to her race.

Recommended Finding: Summary Dismissal

Rationale: The complainant reported, "...two Caucasian Anglo women at the Domestic Violence Clinic, located in the courthouse, were violent and rude and yelled at the complainant with lots of 'hate, races (racist) and discrimination' to get out of the building." She said she asked to speak to an attorney to assist her with her restraining order, but they did not help her. She also reported that, "discrimination took place against my person", and called security. The two women were identified as members of the San Diego Volunteer Lawyer Program over whom CLERB has no authority per CLERB Rules & Regulations 4.1 Complaints: Authority. The Review Board lacks jurisdiction.

2. Misconduct/Discourtesy – Deputy 1 yelled and cursed at the complainant.

Recommended Finding: Unfounded

Rationale: The complainant stated that Deputy 1 yelled at her in Spanish, "Get out of the building motherfucker." She said she told the deputy to speak English, so that everybody could hear his bad words but he yelled again in Spanish, "get out of the building mother fucker". Sheriff's Policy generally prohibits profane language. On 12-21-20, the complainant was at the San Diego Central Courthouse (SDCC) for legal services and/or to file a restraining order. Staff members at the Domestic Violence Clinic reportedly pressed a panic button in response to the complainant's aggressive behaviors. Deputy 1 responded and escorted the complainant out of the building for causing a disturbance. Witnesses were interviewed and refuted hearing the deputy use any type of profanity toward the complainant and reported that the deputy was "calm, professional and doing his job." Deputy 1 also provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Deputy statements are protected by the Peace Officer Bill of Rights and cannot be publicly disclosed. The complainant was found not to be credible in her recall of these events and the evidence showed that the alleged act or conduct did not occur.

3. Excessive Force - Deputy 1 grabbed the complainant's arm.

Recommended Finding: Unfounded

Rationale: The complainant stated that as Deputy 1 was walking with her to the elevator, he grabbed her arm and threatened to send her to jail because she must leave the building. She told him not to touch her, he was hurting her arm, and she would bring charges against him. The available surveillance video and witness statements refuted any physical contact between the complainant and the deputy. Deputies 1 and 2 also provided information during the course of CLERB's investigation that was considered in arriving at

the recommended finding. Deputy statements are protected by the Peace Officer Bill of Rights and cannot be publicly disclosed. The complainant was found not to be credible in her recall of these events and the evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Intimidation - Deputy 1 threatened the complainant.

Recommended Finding: Action Justified

Rationale: The complainant stated that as Deputy 1 walked with her to the elevator, he threatened to send her to jail because she must leave the building. According to Court Services Bureau Policy & Procedure, A.2 Legal Authority for Court Services Bureau Operations, court deputies are to maintain the safety and security of the building and its occupants. Per the documentation, the complainant caused a disturbance and was escorted from the building. The evidence showed the conduct that occurred was lawful, justified and proper.

5. Misconduct/Discourtesy – Deputy 2 laughed at the complainant.

Recommended Finding: Summary Dismissal

Rationale: The complainant reported that Deputy 2 laughed at her because Deputy 1 used inappropriate language. CLERB Rules and Regulations 4.1, Complaints: Authority, stipulates that CLERB only has authority to investigate, complaints filed against peace officers employed by the County in the Sheriff's Department. Deputy 2 resigned from SDSO on 01-13-21, and therefore the Review Board lacks jurisdiction.

6. Misconduct/Discourtesy – Deputy 3 laughed at the complainant.

Recommended Finding: Unfounded

Rationale: The complainant reported that Deputy 3 laughed at her because Deputy 1 used inappropriate language. Witness statements refuted the use of any inappropriate language and/or conduct. Deputy 3 also provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Deputy statements are protected by the Peace Officer Bill of Rights and cannot be publicly disclosed. The complainant was found not to be credible in her recall of these events and the evidence showed that the alleged act or conduct did not occur.

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***End of Report***