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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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MEETING AGENDA

Tuesday, February 8, 2022, 5:30 p.m.

Remote Meeting Zoom Platform

<https://zoom.us/j/95874367501?pwd=ZUo5L051YlcvekdwWldhUDJBUGt0dz09>

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 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 Zoom Platform. Click the below link to access the meeting using the **Google Chrome web browser**: <https://zoom.us/j/95874367501?pwd=ZUo5L051YlcvekdwWldhUDJBUGt0dz09>. Contact CLERB at clerb@sdcounty.ca.gov or 619-238-6776 if you have questions.

3. MINUTES APPROVAL (Attachments A, A1, and A2)

4. PRESENTATION/TRAINING

a) None

5. 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. 20-063 / Morton (Death) – SDSD
 - It is recommended that the San Diego Sheriff Department update its Detention Services Bureau (DSB) P&P Section I.19 Security Video Systems, to mandate that sworn staff document and keep a record of video system checks.
 - ii. 20-113 / Alvarez (Death) – SDSD
 - It is recommended that the San Diego Sheriff's Department (SDSD) revise its Detention Policies and Procedures Section I. 64, entitled, "Safety Checks: Inmates, Housing, and Holding Areas," to mandate proof of life verification through visual checks every 60 minutes during the booking process.
 - It is recommended that the San Diego Central Jail (SDCJ) only utilize cells with operable cameras unless all cells with operable cameras are in use.
 - iii. 21-060 / Meadows – SDSD
 - It is recommended that the San Diego Sheriff's Department (SDSD) create a policy that mandates conducting all Detentions Investigative Unit (DIU) interviews in a private area, out of view from other inmates.
 - iv. CLERB Staff Response to Death Scenes – SDSD
 - Allow a CLERB staff member with extensive death investigation experience to be present at the initial death scene and any related incident scene and, without compromising or obstructing the law enforcement investigation, receive a briefing, participate in a scene walk-thru, and have any questions about the circumstances surrounding the events leading up to, and including the death, answered.
 - v. CLERB Staff Response to Death Scenes – Probation
 - Allow a CLERB staff member with extensive death investigation experience to be present at the initial death scene and any related incident scene and, without compromising or obstructing the law enforcement investigation, receive a briefing, participate in a scene walk-thru, and have any questions about the circumstances surrounding the events leading up to, and including the death, answered.
- f) Policy Recommendation Response
 - i. None
- g) Request for Report Back from SDSD
 - i. Address Concerns Identified in Center for Policing Equity Report
- h) Sustained Finding Pending Responses
 - i. 20-104 / Chon (Death) – SDSD
 - ii. 20-113 / Alvarez (Death) – SDSD
 - iii. 21-087 / Grino-Watson – SDSD
- i) Sustained Finding Response
 - i. None

6. BOARD CHAIR'S REPORT

7. NEW BUSINESS

- a) Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)
- b) California State Auditor's Office Final Report 2021-109: San Diego County Sheriff's Department, to include Content Related to CLERB and CLERB's Response (Attachment E)

8. UNFINISHED BUSINESS

- a) Update: 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) Update: 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) Update: CLERB Town Hall Pertaining to San Diego Sheriff's Department Center for Policing Equity Report
- d) Update: Racial Disparity and Racial Profiling Subcommittee
- e) Update: In-Custody Death Data Review Subcommittee

9. BOARD MEMBER COMMENTS

10. SHERIFF/PROBATION LIAISON QUERY

11. CLOSED SESSION

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

DEFINITION OF FINDINGS	
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 (8)

20-104 (Only Allegation #2 will be considered; see notes below)

- 1. Death Investigation/In-Custody Medical – Inmate Anthony Chon collapsed in a Recreation Yard at the San Diego Central Jail on 10-16-20.

Board Finding: Not Sustained (Final Ruling by CLERB on January 11, 2022)

Rationale: On 02-27-20, Chon was arrested by the San Diego Police Department and charged with Arson, Possession of a Non-Narcotic substance, and Under the Influence of a Controlled Substance. Chon disclosed he had previously received treatment and was hospitalized for psychiatric disorders. SDSA subsequently classified and housed Chon in a specialized Jail Based Competency Treatment (JBCT) unit. On 10-16-20, during a welfare check at approximately 6:48am, Chon made a complaint of “shortness of breath.” Inmates in this module routinely suffer from anxiety from confinement and Chon was escorted to a Recreation (Rec) Yard for some fresh air because he reportedly “did not appear to be in distress and did not request medical attention.” After Rec Yard placement, Chon stumbled then fell face down to the ground at about 6:52am. Responding deputies assessed Chon who reportedly was breathing and had a pulse. Deputies remained with Chon and called for medical response. SDSA Medical Staff assessed Chon and then initiated life-saving measures when they discovered Chon without breath and pulse. The Fire Department assumed care until paramedics arrived and transported Chon to UCSD where resuscitation efforts were ceased and Chon was declared deceased at 7:54am. An autopsy was performed and determined the cause of death was a pulmonary embolism due to deep venous thrombosis of the left leg and an enlarged heart and liver were contributing factors to this natural death. Toxicology testing detected the presence of olanzapine (an antipsychotic drug used to treat schizophrenia) and a nasopharyngeal swab was negative for COVID-19. There was insufficient evidence to determine any different outcome had Chon been provided medical care upon his complaint of “shortness of breath (difficulty breathing).”

2. Misconduct/Procedure – Deputy 1 failed to recognize and/or respond to a medical emergency.

Recommended Finding: Sustained (Allegation was initially tolled under the Public Safety Officers Procedural Bill of Rights, as Deputy 1 was “incapacitated or otherwise unavailable” (GC §3304(d)(2)(E)), therefore CLERB could not consider it at the January 11, 2022, meeting.)

Rationale: According to SDSA records, during a Safety Check and Soft Count, Inmate Chon reportedly complained of “shortness of breath.” Deputy 1 told Inmate Chon that he would contact Medical. Deputy 1 informed Deputy 3 that Chon was complaining of “shortness of breath,” continued with his checks, and never contacted Medical because he thought Deputy 3 was going to take care of Chon. Inmate Chon subsequently collapsed and died from a pulmonary embolism of which shortness of breath is a warning sign. SDSA Policy 2.3 states that employees shall be responsible for their own acts, and they shall not shift to others the burden, or responsibility, for executing or failing to execute a lawful order or duty. Furthermore, Detentions Policy M.5 mandates that all facility staff shall be responsible for taking appropriate action in recognizing, reporting or responding to an inmate’s emergency medical needs, and that emergency medical care shall be provided with efficiency and speed, and if an inmate’s condition is believed to be life-threatening, sworn staff shall immediately notify on-duty health staff. Deputy 1 provided information during CLERB’s investigation that was considered in arriving at the recommended finding, however the information is confidential per the Peace Officer Bill of Rights. Deputy 1 then exercised his option to decline participation in an interview for clarifying information pursuant to a long-standing agreement between CLERB and the Deputy Sheriff’s Association. Based upon all known information, the evidence supported the allegation and the act or conduct was not justified.

3. Misconduct/Procedure – Deputy 3 failed to recognize and/or respond to a medical emergency.

Board Finding: Sustained (Final Ruling by CLERB on January 11, 2022)

Rationale: According to SDSA records, during a Safety Check and Soft Count, Inmate Chon reportedly complained of “shortness of breath.” Deputy 1 responded that he would contact Medical, but instead notified Deputy 3. Deputy 3 acknowledged that he was informed Chon was “having trouble breathing” and reported that inmates housed in this specific module suffer from anxiety and it is “common” (practice) for inmates to be placed in the Rec Yard for fresh air. Deputy 3 said Chon did not appear to be in any distress nor did he request medical attention. Chon was taken to the Rec Yard where he collapsed and died from a pulmonary embolism of which shortness of breath is a warning sign. Detentions Policy M.5 mandates that all facility staff shall be responsible for taking appropriate action in recognizing, reporting or responding to an inmate’s emergency medical needs, and that emergency medical care shall be provided with efficiency and speed, and if an inmate’s condition is believed to be life-threatening, sworn staff shall immediately notify on-duty health staff. Notably, Chon received medical treatment on each of the three days prior to his death. Deputy 3 provided information during CLERB’s investigation that was considered in arriving at the recommended

finding, however the information is confidential per the Peace Officer Bill of Rights. Deputy 3 then exercised his option to decline participation in an interview for clarifying information pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. Based upon all known information, the evidence supported the allegation and the act or conduct was not justified.

4. Misconduct/Procedure – Deputies 2 and 3 failed to provide emergency medical care to Inmate Anthony Chon

Board Finding: Unfounded (Final Ruling by CLERB on January 11, 2022)

Rationale: Per video evidence, Inmate Chon collapsed at approximately 6:52:50. Deputies 2 and 3 entered the Recreation Yard to assess Chon at approximately 6:54:27. Chon was rolled onto his back at approximately 6:56:44, and was then placed into a “recovery” position at approximately 6:57:22. SDSO Medical Staff arrived at approximately 7:00:12 and initiated CPR at about 7:02:08; approximately 10 minutes after Chon first collapsed. Deputies reported Chon was breathing and had a pulse and they monitored him while awaiting medical response. The Detentions policy in place at the time of this incident, M.6 Life Threatening Emergencies: Code Blue, mandated that sworn staff assess the victim's condition, call for help without leaving the victim, administer naloxone if opioid overdose was suspected, start CPR as needed, and provide the watch commander with a brief description of the incident. Video evidence confirmed deputies remained with the inmate, applied sternal rubs, rolled Chon onto his back, followed by placement into the recovery position until medical staff's arrival. Upon arrival of a nurse practitioner (NP), she recognized Chon from previous care and called out his name, but he did not respond. The NP asked what happened and deputies reported Chon complained of “shortness of breath” so they placed him on the Recreation Yard for fresh air.” When the NP assessed Chon's condition, she saw he was not breathing and was absent a pulse so she initiated CPR. Deputies provided information during CLERB's investigation that was also considered in arriving at the recommended finding. Deputies exercised their option to decline participation in an interview pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. The evidence showed that deputies were in compliance with policy and the alleged act or conduct did not occur.

20-108

1. Death Investigation/Natural – Kevin Lamar Mills was found unresponsive in his cell at the San Diego Central Jail (SDCJ) on 11-11-20.

Recommended Finding: Action Justified

Rationale: On 07-24-20, Kevin Lamar Mills was arrested by the San Diego Sheriff's Department (SDSD) and taken to Sharp Grossmont Hospital, where he was assessed for excited delirium. The next day he was medically cleared and booked into the San Diego Central Jail (SDCJ) with charges of assault with a deadly weapon and resisting arrest. During the booking process, Mills denied any medical issues or any recent alcohol or drug use. Records showed he had a 2017 diagnosis of schizoaffective disorder and unspecified psychosis. During his incarceration, Mills was seen several times by jail medical staff for his mental health needs, where he was prescribed antipsychotic medication but was not always compliant. Mills was initially classified as Level 4-High general population, but after he was assessed by a Qualified Medical Health Professional (QMHP) he was transferred to the 6th floor, which was considered the Outpatient Step Down Unit (OPSD). According to SDSO MSD P&P it is utilized for patients who require acute mental health services. On 11-02-20, the San Diego Superior Court conducted a Mental Competency Hearing and found that Mills was “mentally incompetent” and lacked the capacity to make decisions regarding his antipsychotic medication. According to SDSO documentation, on 11-11-20 Mills was housed in House 6, Module B, Cell #18 and did not have a cell mate. SDSO documentation, along with jail surveillance video, showed that deputies conducted their safety and security checks in accordance with policy. Jail surveillance video showed that deputies conducted the checks at approximately 10:35 pm, 11:29 pm, 12:11 am, 01:06 am and at 2:03 am where he was found unresponsive. At the 2:00 am security check, floor deputies reported Mills was lying on the floor and upon further investigation found Mills unresponsive. Deputies began life-saving measures and called for additional staff. Medical and sworn staff responded and assisted with resuscitative efforts. Mills was then transported by paramedics to UCSD Medical Center where he was pronounced

deceased. An autopsy determined the cause of death was hypertensive cardiovascular disease, and the manner of death was natural. Toxicology testing of blood specimens were taken and illicit drugs and/or alcohol were not detected. Upon review of all available evidence, Mills was classified and housed in accordance with policy, deputies took immediate and appropriate action in compliance with policy as they recognized and responded to Mills' medical emergency. Additionally, all required safety and security checks were completed as evidenced by SDSA documentation and jail surveillance video. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of SDSA sworn personnel.

21-008

1. Misconduct/Procedure - The SDSA failed to provide adequate housing for the disabled complainant.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "*Tortuous, daily conditions for an epileptic, severely disabled young adult male. Extreme temperature fluctuations, inability to sleep due to jail's operational schedule [meal- service time, loud noises, clanging/banging] & feces smeared within cell for days.] Disability accommodations promised but not provided. Sleep not allowed. Lights off 2-3 hours at the most, rarely without TV audio. Sound torture.*" According to jail records, the complainant was initially housed at the San Diego Central Jail (SDCJ). On 01-12-21, he was transferred to the George Baily Detention Facility (GBDF). According to the complainant's mother who advised that she spoke with an unidentified member of the jail, the complainant was transferred to GBDF as that was the only facility that had "the only medical clinic." According to the National Network of Information, Guidance, and Training on the American with Disabilities Act, the Department of Justice (DOJ) regulates Title II of the Americans with Disabilities Act (ADA), which covers state and local governments. These public entities are responsible for the operation or management of detention facilities. Inmates with disabilities must be housed in the most integrated setting appropriate to their needs. Accessible cells or housing units need to be available in all security classifications levels of a facility. GBDF is an older jail; however, the new minimum requirements requires that at least 3% of jail cells must be accessible for individuals with mobility disabilities, including those who use wheelchairs. If it is technically infeasible to locate a substitute cell within the same facility, the substitute cell may be provided at another jail within the county's jail system. According to SDSA Policy and Procedure (P&P) Section 2.48 titled, "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 SDSA Detention Services Bureau (DSB) Section M.39 titled "Disabled Inmates," the Department recognizes disabled inmates are entitled to the same rights, privileges, and services as other inmates of the same classification level per the Americans with Disabilities Act (ADA). An inmate is covered by the ADA when the inmate has a permanent, temporary, or intermittent condition that impacts a major life activity. Qualified inmates with disabilities shall not be excluded from benefits or subjected to discrimination in any detention facility's services or programs, based on a disability. Each inmate identified as having a disability must be reasonably accommodated through some means. All inmates who have been screened and determined to be disabled will be housed in a facility with the appropriate accommodations. Based on their disability, each inmate covered under the ADA must be reasonably accommodated through some means. Lastly, according to Policy M.39, those inmates requiring ADA accommodations will be assisted in receiving access to the accommodations by either the Medical Services Division (MSD) or Reentry Services Division (RSD) staff. According to the complainant's jail medical records, the complainant was medically assessed and was seen in medical almost daily during the first week of his incarceration. His medical history was reviewed, his medications were verified, and he was treated medically for his multiple ailments and housed accordingly, including, but not limited to being housed at the GBDF, versus the other county facilities where males are housed. In regard to the complaints of the jail's operations and the complainant's inability to sleep during the jail's operational schedule, in the environment of a confinement institution, jail staff must accomplish two major functions of jails: Intake and custody, and those activities relating to the intake and detention of those inmates at the detention facility. An inmate's daily life takes place according to a daily schedule and the functions of the jail. These daily functions include waking up for counts, court appearances, meal service, medical sick call, and mail distribution. In the

allegation that the SDSD failed to provide adequate housing for the disabled complainant, the evidence showed that the alleged act did not occur.

2. Misconduct/Procedure - Unidentified deputies failed to offer the complainant phone time.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "[No] Phone time after holding cell (10+ days) [after he was initially booked]. Upon release, [the complainant] was not allowed to make a phone call prior." According to jail operations, inmates are offered phones during their scheduled dayroom time, which is offered numerous times throughout the day, depending on the housing schedule and pending any operational needs. The SDSD JIMS Area Activities Summary Report is the general housing log for all inmates. The report contains all required log entries for a housing floor, including dayroom/phone times. A review of the SDSD JIMS Area Activities Summary Report revealed that the complainant was offered phone time daily. There were no notations indicating that the complainant refused phone time nor that he was denied phone time due to any unforeseen circumstances, in-operable phones, or jail operational issues. According to the complainant's SDSD Phone Detail Report, which logs an inmate's phone usage during their incarceration, the complainant made five phone calls during his incarceration. According to SDSD DSB P&P Section P.2 titled "Telephone Access," all inmates will be provided reasonable access to a telephone. Telephones shall not be turned off by any deputy as a punitive measure. Collect calls and debit calls will be available for use on telephones. Telephones will be located in areas accessible to inmates during dayroom or recreation time when they are allowed outside of their cells or dorm living units. According to jail documents, the complainant was moved from the intake area, to housing units, and to a secondary facility. There were no notations made that indicated that the complainant was restricted from phone use or that phones were not operational. The complainant's phone use log indicated that he used the phone on at least five occasions during his incarceration. The evidence showed that the alleged act did not occur.

3. Misconduct/Procedure - Unidentified deputies failed to provide clean clothes to the complainant.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "No clean clothes for 10+ days." According to normal jail operations, inmates are offered clothing exchange twice weekly, depending on the housing schedule. The SDSD JIMS Area Activities Summary Report is the general housing log for all inmates. The report contains all required log entries for a housing floor, including Clothing Exchange. A review of the SDSD JIMS Area Activities Summary Report revealed that the complainant was offered clothing exchange twice during his brief incarceration. There were no notations indicating that the complainant nor denied clothing exchange. In addition to the scheduled laundry exchange times, inmates who need to exchange their clothing or bedding during the unscheduled times, are free to submit a request, via an Inmate Request form. Inmate submitted Inmate Request forms are not retained in the inmate's booking files and are not available for review. According to SDSD Detention Services Bureau Policies and Procedures (DSB P&P) Section L.1 titled "Laundry Schedule," the policy was established to provide guidelines for laundry exchange and define what bedding and clothing is allowed to each inmate. According to the policy, inmate bedding, linen and clothing shall be exchanged according to established facility schedules. Each facility has its own laundry procedures and a facility green sheet for the exchange of laundry. Though the complainant reported not receiving clean clothing "for 10+ days," he was incarcerated for nine days. Laundry exchange is performed by Detention Service Laundry staff; however, deputies oversee laundry exchange and would be the entity to handle Inmate Request forms for laundry exchanges, outside of an inmate's scheduled laundry exchange service. The evidence indicated that the complainant was offered laundry exchange during his incarceration and there were no retained Inmate Request verifying that a request for laundry and was honored or denied. The evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure - Unidentified Professional staff failed to provide clean clothes to the complainant.

Recommended Finding: Summary Dismissal

Rationale: In the complainant's written statement he reported, "No clean clothes for 10+ days." Reference the abovementioned rationale. According to normal jail operations, inmates are offered clothing exchange twice weekly, depending on the housing schedule. According to SDSD Detention Services Bureau Policies

and Procedures (DSB P&P) Section L.1 titled "Laundry Schedule," the policy was established to provide guidelines for laundry exchange and define what bedding and clothing is allowed to each inmate. According to the policy, inmate bedding, linen and clothing shall be exchanged according to established facility schedules. Each facility has its own laundry procedures and a facility green sheet for the exchange of laundry. Laundry exchange is performed by Detention Services Laundry staff members. Detention Services Laundry staff members are professional staff members and are not sworn staff members. As such, CLERB does not have authority to investigate 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 lacks jurisdiction. The complainant was referred to the SDSD.

5. Misconduct/Medical - Unidentified Medical Services staff denied the complainant medical care.

Recommended Finding: Summary Dismissal

Rationale: In the complainant's written statement he reported, "*Refusal of medical requests on paper, refusal of emergency inhaler within 3 days, taken off withdrawal medication needed for prescriptions legally obtained but unavailable while incarcerated, refusal of cane medically ordered, overdose of medicine, 3.5 x prescribed dosage of Lamotrigine (Lamictal), and inconsistent medication for self and cellmates. Disability accommodations promised but not provided.*" According to the complainant's jail documents regarding his brief incarceration, he was treated and seen by medical staff members numerous times. Detention Medical Service staff are professional staff members and are not sworn staff members. As such, CLERB does not have authority to investigate 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 lacks jurisdiction. The complainant was referred to the SDSD.

6. Misconduct/Procedure - Unidentified deputies subjected the complainant to audio "torture."

Recommended Finding: Not Sustained

Rationale: In the complainant's written statement he reported, "*Sound torture: audio of football games blasting nearly 24/7 [incessantly throughout unit] and other loud, obnoxious TV programs dependent on shift/guard.*" According to normal jail operations, inmates are allowed television time throughout the day. In most housing units the housing deputies allow inmates to enjoy the privileges of viewing the television outside of allotted dayroom time; even though inmates are locked in their jail cells, housing deputies will leave the television on so inmates may continue to watch from their cell. It is a courtesy and majority vote. Depending on the facility and the housing unit the complainant was assigned to, dayroom times vary; however, television time rarely continues after night count. The extended television watching time is a favor offered to inmates. The Inmate Orientation Video is also played routinely, throughout the day, throughout the facility. According to SDSD P&P, the most current version of the Inmate Orientation Video supplied by the Reentry Services Division shall be played at least once per day at each of the Sheriff's detention facilities. Facility green sheets shall be created to specify the time(s) in which the video will be played. Deputies shall make a log entry in the control log documenting the date/time the video was shown. According to SDSD P&P Section T.12 titled "Video Programming," the purpose of the policy is to ensure that the Sheriff's staff manages all inmates' activities including television and video programming. To maximize the broadcasting television and video programming. To maximize the broadcasting capabilities of the existing resources and minimize the potential conflicts emanating from relinquishing control to inmates. Each Facility Commander or his/her designee will develop a plan to exercise the best control and utilization of the facility's existing television and video equipment. The utilization plan should reflect a combination of informational, educational and recreational videos representative to the needs of the inmate population. Without more specific information, CLERB was unable to determine if unidentified deputies subjected the complainant to audio "torture." There was insufficient evidence to either prove or disprove the allegation.

7. Misconduct/Procedure - Unidentified deputies refused to accept the complainant's jail medical request form.

Recommended Finding: Not Sustained

Rationale: In the complainant's written statement he reported, "*Refusal of medical requests on paper.*"

According to SDCS DSB P&P Section N.3 titled, "Inmate Request Forms," all inmate requests will be routed to the appropriate Detention Services Bureau personnel for timely review and response. Inmate request forms will be processed in an efficient and expeditious manner. The housing deputy may provide final disposition of various requests without further processing. Inmate request forms shall be routed out of the housing area for actions only when the housing deputy is unable, or is not authorized, to provide the final disposition. The complainant did not provide any additional information. Without any more specific information (naming a facility, identifying a housing unit, identifying a date, time, or staff member) CLERB was unable to confirm or refute the allegation that unidentified deputies refused to accept the complainant's jail medical request form. There was insufficient evidence to either prove or disprove the allegation.

8. Misconduct/Procedure - Unidentified deputies refused to answer calls made by the complainant during a medical emergency.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "*Refusal of emergency notifications from cellmates trying to alert guards of my seizures, muscle spasms, and loss of circulation; tower ignored calls for help for extended time periods and refused to send me to medical despite nurse instructions.*" According to an SDCS Incident Report, dated 01-12-21, SDCJ deputies were made aware of a medical emergency in a Transfer Holding Cell. Deputies were made aware of the incident, via an intercom call made from the cell by an unknown inmate. Two deputies, along with medical staff, responded to the cell and treated the complainant who was found down with seizure like activity. Approximately an hour later, the complainant experienced another medical emergency. An unknown inmate activated the holding cell intercom call button and summoned deputies to the cell. Deputies, along with medical staff, acknowledged to the call and responded to the holding cell where the complainant was held. According to SDCS DSB P&P Section M.5 titled, "Medical Emergency," all facility staff shall be responsible for taking appropriate action in recognizing, reporting or responding to an inmate's emergency medical needs. According to SDCS DSB P&P Section I.2 titled "Intercom Systems," Intercoms are generally located in areas accessible by inmates (e.g., dayrooms, cells, classrooms, etc.). Each facility shall maintain an inmate intercom system for the purpose of providing a means of communication between sworn staff and inmates. Intercom systems should be primarily used as a means of relaying and or summoning emergency assistance. Intercoms shall not be routinely muted or silenced. In the event an intercom is silenced or muted, sworn staff must make an entry in the Area Activity. In the event of an emergency or incident, an inmate is to depress the intercom call button which activates an alarm on the receiving end (e.g., Housing Control, Central Control, etc.). The alarm will alert sworn staff of a possible emergency or incident that necessitates their attention. Sworn staff will answer all intercom calls in an expeditious manner and follow-up on the nature of the call. No other incidents were noted in the complainant's jail booking file, and the complainant did not provide any follow-up information identifying any other medical emergency or incident he experienced. Without any more specific information (naming a facility, identifying a housing unit, identifying a date, time, or staff member) CLERB was unable to confirm or refute the allegation that unidentified deputies refused to answer a distress call on behalf of the complainant. The evidence showed that the alleged act or conduct did not occur.

9. Misconduct/Procedure - Unidentified deputies denied the complainant correspondence.

Recommended Finding: Not Sustained

Rationale: In the complainant's written statement he reported, "*Denial of emails from caregiver/family.*" According to SDCS P&P DSB Section P.3 titled, "Inmate Mail," inmates shall be allowed to receive and possess U.S. mail, incoming letters, confidential/legal mail and mail from official government agencies. Inmates may also receive electronic email messages, periodicals, and new books. There shall be no limit on the amount of mail an inmate may send, and no limit on the amount of mail that an inmate may receive... There is no limitation placed on the volume of mail an inmate may send or receive. Any of the following will cause incoming U.S. mail to be rejected: mail marked with paint, crayon, glitter, labels, cloth, string, watermarks, stains, lipstick, cosmetics, perfume, or stickers, mail depicting nudity, obscenities, suggestive images, or other offensive materials, mail depicting weapons, gang references, criminal activity, codes, or markings, mail depicting or containing writings, images or references that may incite violence, riot, racism, or threaten the security of any SDCS detention facility. All items determined to be unacceptable will not be delivered to the inmate but will be retained pending the conclusion of the internal appeal process. In cases

in which incoming mail is withheld, the deputies will enter a notation in the inmate's file. According to the complainant's jail booking file, he did not have any holds on his mail and no notations were made indicating that his mail was withheld. As the complainant was unable to identify any particular deputy, date, or the facility where the alleged act occurred, CLERB was unable to confirm or refute the allegation that unidentified deputies denied him mail/email correspondence. There was insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Procedure - The SDSD "disregarded" COVID-19 protocols.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "*Overt disregard for COVID-19 quarantine and infection-prevention protocols. Newly booked inmate placed into the cell at least 6 days after other cellmates were "quarantined." Requested gloves for use cleaning cell-denied. Requested clean masks-denied. Guards [deputies] did not cover nose with masks. Guards [deputies] did not sanitize between cells, inmate contact, food delivery, or opening of hatches and main doors. Gloves worn only by some guards during food service and not sanitized between cells. Because there is no oversight, officials clearly take advantage of COVID-19-necessitated distance of inmates to perpetuate inhumane conditions.*" According to the SDSD 2020 Annual Report, with the onset of the COVID-19 pandemic, many of the Department's policies were changed to minimize jail populations and best allow for an appropriate public health response within the jail facilities. These changes included the Zero Bail Mandate by the Judicial Council of California, the Sheriff's Emergency Booking Acceptance Criteria, the use of accelerated credits, and stipulated releases. This resulted in an average daily decreased inmate population. According to the Department's News Releases and statements made by the Sheriff throughout the pandemic, the Detention Services Bureau returned to a more restrictive environment. The Department explained that this was done to protect the health of inmates and staff. As the Covid-19 Pandemic continued to impact the county jails, the Department implemented isolation cells, testing for Covid-19, education and counseling, quarantining and housing, disinfecting common areas (including seating/tables, phones, showers) were cleaned/disinfected frequently. Those who tested positive were isolated for a minimum of 14 days and monitored by medical staff. The Department too measures to reduce the overall population through a combination of releases and modified booking criteria. They conducted temperature checks for all inmates entering the facilities, daily temperature checks of all inmates in custody, education and awareness for the inmates, identification and isolation of those with symptoms, masks for inmates and staff, as well as emphasis on hand washing and good hygiene. The SDSD JIMS Area Activities Summary Report is general housing log for all inmates. The report contained all required log entries for a housing floor; recreation yard times, dayroom/phone times, when razors are distributed, when safety/security checks are performed, and inmate incidents, among other events. A review of the SDSD JIMS Area Activities Summary Report, for the George Baily Detention Facility (GBDF) revealed that the housing unit was cleansed and disinfected numerous times throughout the day while the complainant was incarcerated. The evidence showed that the alleged act did not occur.

11. Misconduct/Procedure - Unidentified Food Services staff failed to provide "adequate" meals.

Recommended Finding: Summary Dismissal

Rationale: In the complainant's written statement he reported, "*Food unfit for human consumption and repetitive day in, day out.*" The persons responsible for determining the content and presentation of all meals is the Sheriff's Food Service Manager (per C.C.R. Title 15). According to the SDSD DSB P&P Section K.15 entitled, "Serving Times and Distribution of Meals," the Food Service Division (FSD) staff will serve meals three times in any 24-hour period with a maximum of 14 hours between the evening meal and the breakfast meal. At least one of these meals shall include hot food. FSD staff will provide three nutritionally adequate meals to all inmates of the facilities at the times designated. A review of the complainant's statement, signed under penalty of perjury, revealed no apparent deputy misconduct. However, a request for records was made to the Sheriff's Department for any associated grievances. At the conclusion of the investigation, there was no prima facie showing of misconduct against sworn personnel. Detention Food Service staff are professional staff members and are not sworn staff members. As such, CLERB does not have authority to investigate 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 lacks jurisdiction. The complainant was referred to the SDSD. The Review Board lacks jurisdiction.

12. Misconduct/Procedure - Unidentified staff punished the complainant by administering small food portions.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "*Smaller meals given as punishment.*" Inmate meals are prepared by the professional staff of the Food Services Division. Once meal services have been delivered to a jail housing unit, Inmate Workers distribute the meals to the inmates. Every meal is identical to the next and is distributed indiscriminately to the inmates. Housing deputies oversee the meal distribution. According to SDSD DSB P&P Section K.27 titled "Disciplinary Separation Diet," the purpose of the policy is to meet legal, medical and department guidelines in the use of the disciplinary separation diet. According to the policy, food shall never be withheld from an inmate as a disciplinary measure. The disciplinary separation diet shall only be utilized for major violations of institutional rules or law violations. According to the complainant's jail booking file, he was not issued the disciplinary separation diet during his incarceration. The evidence showed that the alleged act or conduct did not occur.

13. Misconduct/Discourtesy - Unidentified deputies verbally abused "inmates."

Recommended Finding: Not Sustained

Rationale: In the complainant's written statement he reported, "*Guards [Deputies] had demeaning nicknames for inmates. "Seizure boy" "Sicko" "Psycho. When guards saw someone asleep they banged on cell with flashlight, slammed doors, yelled "Let me see you move" multiple times. Guards [deputies] purposely antagonized psych patients on upper floor, mocking and teasing.*" According to SDSD P&P Section 2.4 titled, "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 titled "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. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties. According to SDSD P&P Section 2.48 titled, "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. The complainant did not provide any additional follow-up information. Without any more specific information (naming a facility, identifying a housing unit, identifying a date, time, or staff member) CLERB was unable to confirm or refute the allegation that unidentified deputies verbally abused him. There was insufficient evidence to either prove or disprove the allegation.

14. Misconduct/Procedure - The SDSD released the complainant from their custody.

Recommended Finding: Action Justified

Rationale: In the complainant's written statement he reported, "*Upon release, Collin was literally dumped onto the street in downtown San Diego. Note that his diagnoses include traumatic brain injury, epilepsy, asthma, fibromyalgia, low immunoglobins, multi-axial instability, myopathy, neuropathy, chronic pain, anxiety and depression.*" An inmate should be discharged from custody upon serving their complete sentence. Staff in the Records Department review the date calculations of the inmate's sentence and check for any holds or detainers placed on inmates by other law enforcement agencies. After addressing the Detention Processing Technician, inmates are asked if they need a bus/trolley token so that they could access the county public transportation system for free. If they are taking medications while in custody, jail medical staff discharges the inmate with medications. If an inmate is considered severely disable, mentally unstable (they are not a danger to themselves or others), they need to be supervised, or other conditions, jail staff would make arrangements to have them transported to a hospital or County Mental Health. If an inmate is considered fit to be released from jail without supervision, then they are released from custody. According to SDSD P&P Section U.2 titled "Release to the Community," the Sheriff may authorize an inmate's release to prepare for their return to the community. According to the complainant's jail booking file, on 01-13-21, SDSD Court

Services Bureau—Fugitive Extraction Unit informed jail staff that law enforcement authorities from Nevada declined to extract the complainant for his out-of-state warrant. The charges against him were dropped, and the complainant was released from the Sheriff's custody that day. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

15. Misconduct/Procedure - An unidentified Detention Processing Technician failed to return the complainant his money upon his release.

Recommended Finding: Summary Dismissal

Rationale: In the complainant's written statement he reported, "*Clerk refused to return cash I came with; debit card provided did not work for transportation (bus or tram) or ATMs. \$7 is missing from initial \$100.*" In review of the complainant's SDSD Account Activity Report, the complainant had \$100.00 when he arrived at the jail. The complainant was released from custody on the evening of 01-13-21 and was issued \$100.00 on a debit card. During the complainant's brief incarceration, no money was withdrawn from his account. Detention Processing Technicians process inmate's funds upon the inmate's intake and release procedures. Detention Processing Technician are professional staff members and are not sworn staff members. As such, CLERB does not have authority to investigate 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 lacks jurisdiction. This allegation/complainant was referred to the SDSD.

16. Misconduct/Truthfulness - The SDSD lied to the public.

Recommended Finding: Unfounded

Rationale: In the complainant's written statement he reported, "*The Sheriff's office has repeatedly made public statements that are blatantly untrue regarding staffing, email delivery to inmates and methodology regarding healthcare, sanitation and varietal quality of meals.*" The complainant's allegation was vague. Without a more conclusive, definitive accusation, CLERB was unable to fact-check specific statements alleged to be made by the SDSD. Allegedly, the Department made public statements regarding staffing, inmate email, inmate healthcare, jail sanitation, and/or the quality of inmate's meals. In review of the SDSD public website, and in regard to inmate emails, the Department noted its Mail Processing Center (MPC) program and its use of the inmate email system. Persons wishing to contact an inmate are able to access the Department's email system and send an inmate an email. Once received, a housing deputy would print and review the email before it was delivered to the addressee. There were no Inmate Grievances or other documentation in the complainant's booking file to indicate that he had a complaint about mail service during his incarceration. In review of the SDSD 2020 Annual Report, the Department addressed its staffing. In the report, the Department advised that it maximize recruitment opportunities, especially for the "hard to recruit" medical staff positions and explore alternatives to increase our ability to fill medical and mental health care positions. The Department stated it was committed to delivering the quality of care needed to support system capacity and prioritized filling positions. The Department adjusted its response to the pandemic and attempted to minimize the risk to all of the Department's employees while maintaining sufficient staffing levels. The annual report addressed staff accountability, acquiring additional staffing, staff training, and its diversity, virtually matching the demographics of the communities it serves. The Department reported, "we attract and retain highly competent and diverse employees." In regard to inmate health care, according to the SDSD Annual Report, the jail medical staff has the authority to make decisions about inmate health and safety. The Department implemented video conferencing capabilities for inmates in efforts to enable inmates and jail staff the ability to be seen virtually by health care providers. It allowed the department to maintain the level of service delivery required for the number of inmates booked into custody with either mental health or medical conditions. A thorough review of the SDSD's website, annual reports, training bulletins, and public announcements did not reveal any public statements made on the quality or variety of inmate meals. According to SDSD P&P Section 2.46 titled, "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. The evidence showed that the alleged act or conduct did not occur.

17. False Arrest - Unidentified peace officers arrested the complainant and sent him to jail.

Recommended Finding: Summary Dismissal

Rationale: In the complainant's written statement he reported, "*He was initially detained on an affidavit for arrest issued by Nevada. Despite a clean record with no priors or current conviction, [the complainant] was then sent to maximum-security prison. Not incidentally, [the complainant's] charges were dismissed. San Diego jail is using psychological warfare to torture people who have not even been convicted of a crime. Sheriff Bill Gore of San Diego County disregards the U.S. standard: "innocent until proven guilty."* In review of the complainant's jail booking file, it was noted that he was arrested by U.S. Customs and Border Protection. He was arrested for an out-of-state warrant issued from the State of Nevada. Upon being arrested, the complainant was booked into county jail, not a "maximum security prison." According to his classification documents, he was classified as a level 3; low-medium level inmate. U.S. Customs and Border Protection agents are not sworn staff members of the SDSD. As such, CLERB does not have authority to investigate 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 lacks jurisdiction.

18. Misconduct/Procedure - Unidentified deputies failed to return the complainant's property.

Recommended Finding: Not Sustained

Rationale: In the complainant's written statement he reported, "*[the complainant's] property from SD Central Jail (County) was taken by the guards [deputies] at time of transfer and never returned. Property contained written log of human-rights violations and medical malpractice.*" In review of the complainant's jail booking file, the complainant was transferred from the San Diego Central Jail to the George Bailey Detention Facility, on 01-12-21. A jail system computer notation documented that the complainant's property was transferred. The notation does not specify if the transferred property was the complainant's modular property and/or his intake property. Upon his release from custody on 01-13-21, another notation was documented indicating that his property and his funds were released. When an inmate is transferred from one jail to the next, the inmate packs their own modular property. The modular property is placed in a property bag, is labeled with the inmate's name and booking number, and is usually transported in the same vehicle the inmate is transported in. Upon arrival to the destination, the inmate's property is searched for contraband and given to the inmate for them to carry to their new housing unit. In review of the inmate's jail booking file and jail records, there were no Inmate Grievances, Inmate Status Reports, or other documentation indicating that the complainant submitted a grievance regarding missing property. 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. Employees shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold any property found or obtained in connection with the performance of their duties, except in accordance with Department procedures. There was insufficient evidence to either prove or disprove the allegation.

21-027

1. Misconduct/Procedure - Deputy 1 failed to conduct a "thorough" investigation.

Recommended Finding: Summary Dismissal

Rationale: The complainant, the wife of the aggrieved person, stated in summary that a detective did not conduct a thorough investigation, he declined witness statement(s), and/or he falsely arrested the aggrieved person. CLERB received the signed complaint on 03-22-21 and requested records from the San Diego Sheriff's Department (SDSD) on 04-06-21. On 04-07-21, SDSD reported they were unable to provide any records for the aggrieved person due to his pending criminal case. According to SDSD Who's in Jail, the aggrieved person was scheduled for further proceedings on 01-25-22. Peace Officer Bill of Rights, subsection Gov. Code§ 3304 subsection (d)(2)(G) states that if an investigation involves a matter in criminal

litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution. The aggrieved person's criminal litigation most assuredly will encompass the acts comprising the allegations, i.e., the arrest, investigation, and witness statements. As repeated attempts to contact the aggrieved person and provide him opportunities to sign a complaint in this matter were unsuccessful, the tolling exemption listed above does not apply. As the complainant is not subject of an exempted criminal litigation in this matter, no tolling exemptions apply. In accordance with CLERB Rules & Regulations, Section 15: Summary Dismissal, subsection (c); CLERB may summarily dismiss a case when there is a lack of cooperation by an aggrieved such that CLERB is unable to continue its investigation, and a failure by the aggrieved to respond to repeated inquiries when such response is necessary to the ongoing investigation.

2. Misconduct/Procedure - Deputy 1 "declined" (or refused to accept) witness statements.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. False Arrest - Deputy 1 arrested the aggrieved.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

21-031

1. Criminal Conduct – Deputy 4 and/or his family members physically abused the complainant.

Recommended Finding: Summary Dismissal

Rationale: The complainant reported, "I have no history of violence or trouble. My ex-husband has been abusive toward me (unreported), my ex-mother-in-law physically assaulted me (she now lives at the residence), and my ex-uncle-in-law (ex-husband's uncle) terrorized me in my own home until I removed myself and my two young sons for our safety and to stop the daily threats." CLERB has no jurisdiction over non-sworn members of the SDSD, nor off-duty conduct by sworn members of the department. The complainant by her own admission stated that she did not file a report concerning alleged physical abuse by Deputy 4. Also, the complainant failed to provide any factual evidence such as dates, times of when the abuse occurred. Additionally, she failed to provide CLERB with any supporting evidence such as photographs, medical records and/or witness statements in efforts to prove/support her allegation of abuse. The Review Board lacks jurisdiction, and this matter is referred to SDSD for follow-up.

2. Misconduct/Intimidation – Deputies 1 and 3 responded to a "preserve the peace call" during a child custody exchange.

Recommended Finding: Action Justified

Rationale: The complainant stated, "I have divorced a rural deputy. When I requested a Preserve The Peace during custody exchange yesterday, the ENTIRE logged-on law enforcement staff of the sub-station came. With no previous history of trouble, why would it be necessary to have (2) deputies AND the Supervisor present for a custody exchange?? The ENTIRE logged-on law enforcement personnel of the Julian sub-station/82 beat??" The San Diego Sheriff's Department (SDSD) Field Operations Manual outlines patrol functions to include response to routine law enforcement calls for service. According to SDSD records, on 03-18-21 there were three officers assigned to the rural substation to include two deputies and a sergeant. Computer Aided Dispatch (CAD) records confirmed Deputies 1 and 3 were dispatched for a child custody exchange and Deputy 2 was on scene as well. Body Worn Camera (BWC) was reviewed and confirmed Deputy 2 remained in his vehicle throughout this incident. Deputy 2 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. The evidence showed the conduct that occurred was lawful, justified and proper.

3. Misconduct/Procedure – Deputies 1 and/or 3 refused to serve court documents to Deputy 4.

Recommended Finding: Action Justified

Rationale: The complainant stated, “I requested that the deputies serve him some court paperwork also Deputy 3, didn’t “feel comfortable” (though her divorce paperwork when her last name (omitted) was served by my ex-husband; then, Deputy 1, told me that they wouldn’t serve him as a policy, Yet I was served divorce paperwork by the previous Sergeant during a Preserve The Peace...” According to the SDSD Court Services Bureau (CSB) website, CSB’s Civil Division, is the unit responsible for processing various types of civil process such as temporary restraining orders and helps serve certain civil processes and enforce court orders. Deputy 2 also provided confidential information pertaining to this event that was considered in arriving at the recommended finding. CAD records and BWC were reviewed, which documented an explanation for not serving court papers to Deputy 4. The evidence showed that the conduct that occurred was lawful, justified and proper.

4. Misconduct/Intimidation – Deputy 4 “intimidated” Ramona residents.

Recommended Finding: Unfounded

Rationale: The complainant stated, “My ex-husband is using intimidation to keep residents of his beat from speaking against him, serving him court documents, or in any way getting on his bad side. There are very few witnesses to the behaviors in and around that home, both when I was present and when I was not, but no one will speak of what they have witnessed...for fear of retaliation. THIS is what they see happens when I come to pick up our son; imagine their fear of retaliation if they were to speak up AND continue to reside on his beat, in his cul-de-sac, and under his control! I would appreciate if SOMEONE could show the residents of the cul-de-sac, the town, and the beat that their safety and the services provided by resident rural deputies will still be provided; and this type of intimidation tactic is unacceptable.” Deputies assigned to rural areas work and live in their communities. The complainant failed to provide CLERB with any names, documents, dates and/or other evidence to support her claim of intimidation. SDSD deputies are mandated to conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Unbecoming conduct includes that which tends to bring the Department into disrepute or reflects discredit upon the employee as a member of the Department, or that which tends to impair the operation and efficiency of the Department or employee. Deputy 4’s supervisor provided information during the course of CLERB’s investigation that was also considered in arriving at the recommended finding. There was no evidence to support that the alleged conduct occurred.

21-034

1. Misconduct/Procedure - Deputy 1 terminated the complainant’s dayroom time on/around 03-21-21.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 terminated Felipe Moreno’s dayroom time after he was in his cell for almost 23 hours. The complainants submitted their signed statements on 03-29-21 and 04-09-21. CLERB has one year to complete an investigation. Prior to the Peace Officer Bill of Rights (POBR) due date of 03-29-22, CLERB was notified that the subject officer was no longer an employee of the San Diego Sheriff’s department as of 01-06-22. Pursuant to CLERB Rules and Regulations, Section 4.1 Complaints: Authority, stipulates that CLERB only has authority to investigate complaints filed against peace/custodial officers employed by the San Diego Sheriff’s Department, therefore the Review Board lacks jurisdiction and is unable to continue the investigation.

2. Misconduct/Retaliation - Deputy 1 threatened/punished the complainant for assaulting sworn staff.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 made the following statement to Felipe Moreno, “You assaulted one of my colleagues in VDF (Vista Detention Facility), oh you are done. You will not be getting any dayroom time you’re finished.” See Rationale #1.

3. Misconduct/Harassment - Deputy 1 "taunted and provoked" the complainant.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 ended Felipe Moreno's day room and continues to taunt and provoke him in a bias manner. See Rationale #1.

4. Misconduct/Procedure - Deputy 1 limited the complainant's dayroom time.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 does not provide Felipe Moreno with more than 30 minutes for day room time. See Rationale #1.

5. False Reporting - Deputy 1 documented in the Jail Information Management System (JIMS) that the complainant declined dayroom. See Rationale #1.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 made false reports stating that Felipe Moreno declined dayroom and/or that he was already provided dayroom. See Rationale #1.

6. Misconduct/Procedure - Deputy 1 denied the complainant's dayroom time on/around 03-29-21.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 approached Felipe Moreno's cell door, looked him in the eyes and said, "Cell 1 and 2 denied dayroom", but he did not ask Felipe Moreno if he wanted to come out. See Rationale #1.

7. Misconduct/Procedure - Deputy 1 searched the complainant's cell and confiscated personal property.

Recommended Finding: Summary Dismissal

Rationale: Melissa Moreno stated that Deputy 1 entered Felipe Moreno's cell and performed a search without reason or motive. Melissa Moreno reported that Deputy 1 confiscated family pictures from Felipe Moreno's cell wall and sad that the deputy stated, "Why should I even give these back to you?" See Rationale #1.

21-035

1. Misconduct/Procedure – Unidentified deputies withheld the complainant's mail.

Recommended Finding: Not Sustained

Rationale: The complainant stated, "I am not receiving my mail." The complainant did not produce evidence to corroborate the alleged misconduct and failed to provide specific details as to date, time, place, or persons associated with this allegation. According to the complainant's Jail Inmate Management System (JIMS) Inmate History Summary Report, there were no entries that documented the complainant had mail sent to him that was received, withheld and/or denied. SDS DSB P&P's Section P.3 titled, Inmate Mail, states in part, "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." The complainant believed he was not getting his personal mail, based on "my mother and my lady told me they sent me letters and packages but I never received them." Absent additional information/documentation, there was insufficient evidence to either prove or disprove the allegation.

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

Recommended Finding: Not Sustained

Rationale: The complainant stated, "I am not receiving my legal mail." The complainant did not produce evidence

to corroborate the alleged misconduct and also failed to provide specific details as to date, time, place, or persons associated with this allegation. Jail records did not produce any documented entries of legal mail received, withheld and/or denied. SDS DSB P&P's Section P.3 titled, Inmate Mail, states in part, "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 identified "CLERB mail" as the only legal mail he was referencing, he stated, "I believe this, based on what CLERB told me, that my completed paperwork was not received." The complainant was unable to identify any sworn personnel associated with this allegation. The evidence was insufficient to either prove or disprove the allegation.

3. Misconduct/Procedure – Unidentified deputies denied the complainant access to medical services.

Recommended Finding: Not Sustained

Rationale: The complainant stated, "I have been denied medical access the entire time that I have been in jail. Including when I was first booked into SDCJ, through the entire time I've been at GBDF. I've been denied much needed medical attention." SDS DSB Policies M.1- Access to Care and M.15- Sick Call, establishes the guidelines for reasonably prompt access to medical services for any inmate complaining of illness or injury, with sick call procedures explained by health staff to every inmate at the time of booking. Jail records documented eight sick call requests filed by the complainant. According to the records, each of the requests were responded to by medical staff. The complainant did not identify any sworn personnel associated with this allegation. The evidence was insufficient to either prove or disprove this allegation.

4. Misconduct/Medical (I/O) – Unidentified staff denied the complainant access to medical services.

Recommended Finding: Summary Dismissal

Rationale: CLERB lacks jurisdiction, per CLERB Rules and Regulations 4.1 titled, Citizen Complaints: Authority, which states, CLERB shall have authority to receive, review, investigate, and report on Complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department. Medical decisions are determined by Health Staff who are non-sworn personnel over whom CLERB has no authority.

5. Misconduct/Procedure – Deputy 1 failed to respond to the complainant's grievances.

Recommended Finding: Unfounded

Rationale: The complainant stated, "I am not receiving any responses to filed grievances." SDS DSB P&P Section N.1 titled, Grievance Procedure, states in part, "The deputy or other employee who initially receives a grievance will sign his or her name and ARJIS number on the J-22 form along with the date and time. The second page of the J-22 form will immediately be given to the inmate as a signed receipt for the grievance." Records documented one filed grievance, dated 03-20-21. The complainant did not identify any deputies, however, during the course of CLERB's investigation, the deputy that responded to the grievance was identified. Deputy 1 addressed the grievance and provided a response to the complainant on the same day. During a phone conversation with the complainant on 01-03-22, he informed me that he filed six grievances, however, he no longer had any receipts to provide for evidence to corroborate the alleged misconduct. The available evidence refuted the complainant's allegation and showed the alleged act or misconduct did not occur.

6. Misconduct/Procedure – Unidentified deputies denied the complainant access to legal services.

Recommended Finding: Unfounded

Rationale: The complainant stated, "I've been denied the right to seek legal advice, I've been denied the right to speak with my attorney (legal representative)." SDS DSB P&P Section N.5 titled, Access to Courts/ Attorneys/ Legal Advice, states in part, "Personnel shall ensure inmates have access to courts and legal counsel including confidential correspondence with courts and any member of the State Bar, and confidential consultation with attorneys." According to the complainant's booking records, he was incarcerated from 02-09-21 through 04-20-21. During that time, the complainant had access to the law library on three occasions.

Additionally, records documented the complainant was in court on the following days, 02-19-21, 02-23-21, 03-09-21 and 03-11-21. The complainant was unable to provide identification of any sworn personnel associated with this allegation. He was vague in his responses and stated that all deputies denied him phone access to call his attorney. He stated, "they denied me any phone access for over a week." According to the complainant's jail phone records, he made 130 phone calls during his 70 days in custody. Records documented the complainant made phone calls nearly every day, with no more than two consecutive days without a phone call. Ten of his 130 calls were legal calls. The evidence refuted the complainant's allegation and he was found not to be credible in his recall of the events.

7. Misconduct/Procedure – Unidentified deputies violated COVID-19 protocol.

Recommended Finding: Not Sustained

Rationale: The complainant stated, "I fear for my life while in this covid-19 pandemic, and the Staff at SDCJ & GBDF have no regard for my safety and wellbeing. The Sheriff deputies do not quarantine, and they constantly cross-contaminate from dorm to dorm, cell to cell, and inmate to inmate. The intentional lack of care, and lack of regard for my life, and the lives of other inmates is a shame on our County's Law Enforcement, and a shame on San Diego County in general." On 02-11-20, the World Health Organization (WHO) identified COVID-19 as the disease responsible for causing the 2019 novel coronavirus outbreak. On 03-12-20, the San Diego County Public Health Officer issued orders followed by Governor Gavin Newsom issuing directives on 03-13-20 to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; there have been numerous amendments to the original orders. On 03-20-20, SDSO deployed their Continuity of Operations Plan (COOP) in response to the threat of the novel coronavirus (COVID-19) pandemic. Precautions taken included daily temperature checks; daily and deep-cleaning protocol; inmate isolation; and COVID-19 Identification and Tracking. SDSO also instituted mandatory cloth face coverings for staff, visitors, and inmates in accordance with the Centers for Disease Control (CDC) guidelines on/around 04-04-20. According to a Training Bulletin issued 04-13-20, cleaning/sanitizing carts were to be utilized as often as possible between dayroom times, after each meal, and during lockdown hours for "high touch and common areas," with higher standards required for all known infected areas. The complainant did not provide any evidence to corroborate his allegations of deputy misconduct. During our phone call on 01-03-22, the complainant was unable to provide identification of any sworn personnel associated with this allegation. He stated, "they all violated protocol and were disrespectful of COVID-19 precautions." Absent sworn personnel identification and evidence to corroborate the allegation, there was insufficient evidence to prove or disprove the allegation.

21-040

1. Misconduct/Procedure – Deputy 3 did not investigate crimes alleged by the complainant.

Recommended Finding: Action Justified

Rationale: The complainant, lone Daniels, stated, "I begged for an investigation of forged docusign and lien money stolen". SDSO P&P 6.71 entitled Crime Case Reports, states, a crime case report shall be written for homicide, rape, robbery, assault (felony and misdemeanor), burglary, larceny/theft (felony and misdemeanor), auto theft, arson and all other reported misdemeanor and felony crimes. SDSO records included an email from Daniels to Deputy 3 which included a court order that appointed the Clerk of the Superior Court, or the Clerk's Designee, as an Elisor to sign/and or initial on behalf of lone Daniels. Divorce Laws in California are governed by California Family Code, and if there are any issues involving money disputes it would be handled in Family or Civil Court. The evidence showed that no crime(s) had occurred and therefore no crime investigations were completed. Deputy 3 provided confidential information during the course of CLERB's investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1 and 4 did not request PERT (Psychiatric Emergency Response Team).

Recommended Finding: Unfounded

Rationale: The complainant, stated, “I ran to sheriffs voluntarily for help immediately and asked for PERT-in distress”. A Computer Aided Dispatch (CAD) record showed PERT was requested and PERT Deputy 1 was present during the incident. According to SDSO P&P 6.32 entitled Mentally Ill Persons, “Upon determining an individual requires an evaluation for a 72-hour hold pursuant to 5150 of the Welfare and Institutions Code, the required documentation will be completed, and the individual will be transported to the appropriate mental health facility”. Per CAD records, SDSO deputies determined Daniels was “5150” and she was subsequently transported to Palomar Hospital for evaluation. A PERT clinician was requested but due to Daniels’s escalating erratic behavior, she was immediately transported to Palomar Hospital. The evidence showed that the alleged act or conduct did not occur.

3. False Arrest – Deputies 1 and 4 detained the complainant for a 5150 hold.

Recommended Finding: Action Justified

Rationale: The complainant stated, “Vista PERT handcuffed me without notice and aggressively”. BWC footage showed Deputy 1 communicated to Daniels that she was being taken to the hospital due to making statements about wanting to hurt someone else. Prior to placing handcuffs on Daniels, Deputy 1 told Daniels, “Just go ahead and put your hands behind your back for me”. Deputies 1 and 4 made several statements to Daniels about getting her help and taking her to the hospital. BWC showed both deputies remained calm while Daniels became more agitated. According to SDSO P&P 6.32 entitled Mentally Ill Persons, “Upon determining an individual requires an evaluation for a 72-hour hold pursuant to 5150 of the Welfare and Institutions Code, the required documentation will be completed, and the individual will be transported to the appropriate mental health facility.” Per CAD records, SDSO Deputies determined Daniels was “5150” and she was subsequently transported to Palomar Hospital for evaluation. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 2 was unmasked at the Vista Patrol Station.

Recommended Finding: Action Justified

Rationale: The complainant stated, “they did not have COVID masks on nor supply me one”. According to SDSO Training Bulletin released on 01-26-21, “People in California must wear face coverings when they are outside their home, unless one of the exemptions below applies.” The bulletin listed several exemptions based on specific settings, medical conditions, and other factors. One specific setting listed was “persons who are working in an office or a room alone”. BWC footage shows all deputies wearing COVID Masks apart from Deputy 2. Deputy 2 provided confidential information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

5. Misconduct/Procedure –Deputy 4 was unmasked during transport in a patrol vehicle.

Recommended Finding: Unfounded

Rationale: The complainant stated, “drove me to Palomar Hospital no covid-mask or provide one for me in the vehicle on the way”. According to SDSO Training Bulletin released on 01-26-21, “People in California must wear face coverings when they are outside their home, unless one of the exemptions below applies.” The bulletin listed several exemptions based on specific settings, medical conditions, and other factors. BWC footage showed Deputy 4 had a face mask on during his interactions with Daniels. The evidence showed that the alleged act or conduct did not occur.

6. Misconduct/Procedure – Deputy 4 did not provide a mask for the complainant during transport in a patrol vehicle.

Recommended Finding: Action Justified

Rationale: The complainant stated, “drove me to Palomar Hospital no covid-mask or provide one for me in the vehicle on the way”. BWC footage showed Daniels’s neck gaiter fell from her face when she was detained due to her erratic behavior. According to SDSO Training Bulletin released on 01-26-21, “People in California must wear face coverings when they are outside their home, unless one of the exemptions below applies.” The bulletin listed several exemptions based on specific settings, medical conditions, and other factors.

SDSD Field Operations Manual, Policy 1, Use of Discretion states, “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.” Deputy 4 did not attempt to mask Daniels’ once her gaiter fell. Upon arrival at Palomar Hospital, Deputy 4 asked, “Would you like me fix your mask before we go in, would you like me to do that?” Daniels continued to act erratic, yelled and did not indicate that she wanted a mask. Deputy 4 asked a second time if she would like a mask before they entered the hospital and Daniels did not answer the question. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

7. Excessive Force – Deputies 1 and 4 placed handcuffs on the complainant that were too tight.

Recommended Finding: Not Sustained

Rationale: The complainant stated, “cuffs were very tight and left arm and wrists bruised”. According to SDSD P&P 2.49 Use of Force, “Employees shall not use more force in any situation that is reasonably necessary under the circumstances”. Additionally, SDSD P&P 6.48 Physical Force states, “It shall be the policy of this Department whenever any Deputy Sheriff of this Department, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest, prevent escape or overcome resistance”. BWC showed the handcuffs were not tight around Daniels’ wrists, and she resisted the constraints. Throughout the transport to the hospital, Daniels complained repeatedly that her hands and wrists hurt but acted erratic. Transporting Deputy 4 spoke calmly to Daniels and answered her questions and communicated in a clear and calm manner throughout the transport. Daniels did not provide any further evidence that showed bruising and/or medical evaluation of injuries. There was insufficient evidence to either prove or disprove the allegation.

8. Excessive Force – Deputies 1 and 4 injured the complainant’s shoulder during patrol vehicle entry/exit.

Recommended Finding: Unfounded

Rationale: The complainant stated, “left arm hurt, near shoulder- it was pulled to get me in the car.” SDSD P&P 2.49 Use of Force, “Employees shall not use more force in any situation that is reasonably necessary under the circumstances”. Additionally, SDSD P&P 6.48 Physical Force states, “It shall be the policy of this Department whenever any Deputy Sheriff of this Department, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest, prevent escape or overcome resistance”. BWC footage showed Deputies 1 and 4 placed Daniels in the back of the patrol vehicle. Both deputies placed Daniels in the car slowly and without force. Upon arriving at Palomar Hospital, Deputy 4 opened the door and Daniels stepped out of the vehicle on her own, without assistance. Deputy 4 guided Daniels while she walked towards the building. The evidence showed that the alleged act or conduct did not occur.

9. Misconduct/Procedure – Deputy 4 did not allow the complainant a telephone call.

Recommended Finding: Unfounded

Rationale: The complainant stated, “would not allow me to make a call to my son, who had no way to get to the vehicle I left at the Sheriffs in Vista”. Deputy 4’s BWC showed once they arrived at Palomar Hospital, Deputy 4 asked if Daniels would like to call her son or have him call her son. Daniels responded and said “I don’t want you talking to me anymore. You left me in handcuffs, even though you know it’s wrong.” The evidence showed that the alleged act or conduct did not occur.

End of Report