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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its July 10, 2018 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcounty.ca.gov/clerb.

CLOSED SESSION

a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

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

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

CASES FOR SUMMARY HEARING (5)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

17-066

1. False Reporting – Deputy 1 inaccurately signed-off on a deputy's Arrest Report.

Board Finding: Unfounded

Rationale: The complainant alleged that Deputy 1 inaccurately signed-off on a deputy's Arrest Report. He questioned the truthfulness and accuracy of Deputy 1's review and approval of the report. According to the Incident/Arrest Report, a deputy had a conversation with the hotel security supervisor, impounded evidence, and dropped off a Citizen's Arrest Declaration. Deputy 1 reviewed and approved the report approximately 11 minutes after the report was submitted to him for review. It is the norm that a supervisor may review a submitted report once or multiple times before it is approved. Deputy 1 provided additional information and evidence during the course of CLERB's investigation that was considered when arriving at the recommended finding. The evidence indicates that no improper conduct occurred and that Deputy 1's review and approval of the deputy's Arrest Report was accurate; therefore, this allegation was unfounded.

17-115

1. Misconduct/Procedure – Deputy 1 placed the complainant in Administrative Segregation.

Board Finding: Action Justified

Rationale: The complainant reported that on 10-18-17, at approximately 3:00PM, an unidentified deputy informed him via intercom that he would be moved. When the complainant asked where and why, he was told "Pending housing." The complainant was moved to an Administrative Segregation (Ad Seg) module with no rule violation report provided or a "Lock up" order. The complainant said he was placed in Ad Seg since the 18th without being provided a reason as to why. An Incident Report by Deputy 1 notated the complainant's placement into Administrative Segregation for manipulating the Securus phone system with violations that dated back to 2013. The complainant admitted to manipulating the phone system, but would not tell detectives how it was done. In order to prevent the complainant from making free phone calls for criminal activities that were unmonitored, the complainant was placed into Administrative Segregation. The evidence showed that the complainant's placement into restrictive housing was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 suspended the complainant's telephone privileges

Board Finding: Action Justified

Rationale: The complainant reported that on 10-20-17, Deputy 2 informed him that his telephone privileges were suspended and classification would explain to him why. An Incident Report documented the complainant's admission to manipulation of the telephone system for criminal activity, but his refusal to tell detectives how it was done. In order to limit his ability to continue this criminal behavior without repercussions, it was recommended by the Detentions Investigative Unit (DIU) that the complainant's access to the telephones be permanently banned. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Unidentified deputies violated the complainant's legal right to counsel.

Board Finding: Action Justified

Rationale: The complaint reported that the suspension of his phone privileges affected his right to communicate with his lawyers and the court since he had "pending post conviction legal matters." Detentions Policy N.5, Access to Courts/Attorneys/Legal Advice, mandates that all inmates have the availability of unlimited collect telephone use for communication with their attorneys. However, P.2, Telephone Access, permits a Facility Commander to revoke an inmate's telephone access as necessary to preserve institutional safety and security, or prevent criminal activity. The complainant's abuse of the telephone system for criminal activity was a security risk to the facility. The complainant had the ability to conduct legal business through the mail system. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

18-020

1. Misconduct/Harassment – "Santee Sheriffs" had a "vendetta" against the complainant.

Board Finding: Unfounded

Rationale: The complainant stated the "Santee Sheriffs" had a "vendetta" against him. The complainant did not provide further details about this allegation. According to an arrest report, Deputy 1 stated that the complainant was a known transient in the Santee community. He had a violent history with law enforcement and he had been arrested and convicted numerous times for resisting an executive officer (Penal code 69). He would often fight with deputies whenever he felt he could gain the upper hand. It was especially known by the sheriff's deputies from the Santee substation to treat the complainant with caution because he was always attempting to "goad" deputies into a physical confrontation. Deputies 1, 2, 3 and three other deputies provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Evidence in this matter showed that the complainant was known to the deputies due to his violent history, his prior arrests and convictions. He was also known to fight and attempt to get deputies into a physical confrontation. Based on the complainant's reputation, there was no evidence to show that there was any kind of "vendetta" against him. Therefore the complaint was unfounded.

2. Illegal Search and Seizure – Deputies 1 and/or 3 "stole" the complainant's knife and lighter on 06-30-17.

Board Finding: Unfounded

Rationale: The complainant said on 06-30-17 he was having a cup of coffee when Deputies 1 and/or 3 "stole" his Swiss Army knife and lighter. Deputies 1 and 3 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Evidence showed that Deputy 3 and 1 did contact the complainant in Santee on 06-30-17. A records check confirmed the complainant had a valid fourth waiver and was

on probation. There was no evidence that any items were taken from the complainant and therefore the allegation was unfounded.

3. Illegal Search and Seizure – Deputies 1 and/or 3 detained and “harassed” the complainant on 06-30-17

Board Finding: Action Justified

Rationale: The complainant said on 06-30-17 he was having a cup of coffee when Deputies 1 and/or 3 detained, “harassed” and “stole” his Swiss Army knife and lighter. Deputies 1 and 3 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. Evidence showed that Deputy 1 and 3 did contact the complainant in Santee on 06-30-17. A records check confirmed the complainant had a valid fourth waiver and was on probation. Therefore the contact of the complainant, and subsequent search of his backpack, was lawful, justified and proper.

4. Excessive Force – Deputies 1 and 2 “pulled guns” and “piled on” the complainant on 07-07-17.

Board Finding: Action Justified

Rationale: The complainant stated that on 07-07-17 Deputies 1 and 2 pulled guns on him and five sheriff’s deputies “slammed” and “piled on” him. On 07-07-17 two 911 calls were received regarding a man, later identified as the complainant, described as an armed suspicious person per the dispatch logs. One 911 call stated the man was waving around a large knife. The other stated the man had a knife and was yelling. Deputy 1 was dispatched to the call. According to the arrest report Deputy 1 was informed of an “armed suspicious subject wielding a large kitchen knife walking along westbound Mission Gorge Road”. Deputies 1 and 2, along with two additional deputies, arrived on scene. Deputy 1 stated, in the arrest report, he was aware of the man’s prior violent history with law enforcement and since he was possibly armed with a knife he unholstered his department issued “Glock 22” and pointed it at the complainant. The complainant had something in his left hand, possibly a Walkman style device, but Deputy 1 was unable to determine what it was. The complainant did not respond to commands to get on the ground. Deputies 1 and 2, as well as three other deputies, provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The deputies had every reason to believe, based on the information given to them as they were dispatched to the call, that the complainant was wielding a knife and committed a public offense by threatening other persons. The deputies were also aware of the complainant’s violent history and unholstered their weapons in an attempt to effect the arrest. The complainant refused to follow commands. He was known to be violent towards law enforcement and he was wielding a knife at some point prior to the deputies’ arrival on scene. The weapons were unholstered to gain the complainant’s compliance. When he didn’t comply, deputies used force to secure him in handcuffs. There was no indication that five deputies “slammed” the complainant or “piled on” him. Therefore evidence showed the detention and arrest of the complainant was lawful, justified and proper.

5. Criminal Conduct/Perjury – Deputies 1 and 2 were “found at trial to lie and make not proven accusation”.

Board Finding: Summary Dismissal

Rationale: The complainant did not provide further details regarding this allegation. Deputies 1 and 2 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. Based on the lack of details provided by the complainant, information provided by Deputies 1 and 2, and no facts establishing a prima facie showing of misconduct, the allegation was summarily dismissed.

6. Criminal Conduct/Fraud – Deputy 2 “tried to do worker’s comp fraud.”

Board Finding: Summary Dismissal

Rationale: The complainant did not provide details regarding this allegation. A search of criminal and civil cases in San Diego County did not reveal any cases where Deputy 2 was charged with worker’s compensation fraud. Nothing was located during a “Google” search. Since there was no evidence provided by the complainant to support this allegation, and no facts establishing a prima facie showing of misconduct, the allegation was summarily dismissed.

18-070

1. Illegal Search and Seizure – Deputy 1 entered the complainant’s home without a search warrant and refused to leave.

Board Finding: Action Justified

Rationale: According to the complainant, Deputy 1 entered his home on 05-08-18 without permission or a search

warrant. Upon arrival the deputy stated he had probable cause to enter but refused to disclose what that cause was. After searching the home, and being asked to leave, the deputy stated he had probable cause and would not be leaving until he completed his investigation. Deputy 1 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Due to confidentiality CLERB was unable to obtain a copy of the incident/crime report. CLERB was also unable to obtain photos or body worn camera footage inside of the complainant's home due to confidentiality. Therefore the bulk of the evidence obtained in this matter came from Deputy 1's written response to CLERB's questions. Section 3.12 of the California Police Officers Sourcebook stated that "Courts go far in finding an exigency and permitting a warrantless entry to prevent possible child abuse offenses." Therefore based on the evidence, even without a warrant, Deputy 1's entry into the complainant's home was lawful, justified and proper.

18-082

1. Misconduct/Medical – The medical unit failed to provide the complainant with high blood pressure medication in a timely manner causing him to experience heart pain.

Board Finding: Summary Dismissal

Rationale: The complainant is currently in prison. While in custody at Chino State Prison he transferred to the San Diego Sheriff's Department due to a detainer on a San Diego County criminal case. He paroled with a 30 day supply of medication for high blood pressure. While he was in local custody at the San Diego County Jail and George Bailey Detention Facility he made allegations of medical misconduct because he was not provided the proper medication for a period of five days on two separate occasions. Since the complaint was against medical staff CLERB has no jurisdiction over which to investigate. Per CLERB Rules and Regulations 4.1, entitled, "Citizen Complaints: Authority," CLERB lacks jurisdiction. A copy of the complaint was provided to the Sheriff's Department for follow up.

End of Report

NOTICE

In accordance with Penal Code Section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court or judge of California or the United States.