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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 April 9, 2019, 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](http://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 (7)****ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE****18-061**

1. Misconduct/Procedure - Unidentified deputies failed to return the complainant's knife.

Board Finding: Action Justified

Rationale: In the complainant's written letter, he advised, "I even gave them my one of a kind custom buck knife which I was told I could have it back, but I still haven't received it." He claims his knife was impounded by Sheriff's deputies and, at the time the knife was impounded, the complainant claimed that Sheriff deputies explained to him that the knife would be returned to him. According to a department information source with the Sheriff's Department Property and Evidence Unit, it was documented that the complainant had been in contact with the SDSD with regards to reacquiring his knife. On 09-13-18, the complainant called and left a message with the Property and Evidence Unit stating he wanted to get his knife back. An investigator with the division filled out a property release form for the complainant's knife. He called the complainant and left a message stating he could retrieve his property. As of 03-14-19, the complainant had yet to collect the knife. The knife remained in evidence at the main Property/Evidence Unit. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Truthfulness - Deputy 2 lied to the complainant when he promised to not make a "a big public display" when taking the complainant into custody.

Board Finding: Not Sustained

Rationale: In the complainant's written letter, he advised that he asked Deputy 2 not to make a public display of his arrest and that the sergeant promised not to. When the complainant walked out of his place of employment, he "found a full tactical takedown awaiting." The complainant was upset and felt Deputy 2 lied to him. According to SDSD P&P Section 2.46 entitled, "Truthfulness," when asked by the Sheriff, the Sheriff's designee or any supervisor, employees will always answer questions, whether orally or in writing, truthfully and to the fullest extent of their knowledge. All written and verbal reports shall be truthful and complete. Although the arrest was lawful, justified and proper, there was insufficient evidence to either prove or disprove the allegation that Deputy 2 lied to the complainant. Regardless, a deputy telling a mistruth to a person who is not "the Sheriff, the Sheriff's designee, or any supervisor" was not a violation of SDSD P&P or California law.

3. Misconduct/Discourtesy - Deputy 1 repeatedly told the complainant, "Shut up."

Board Finding: Not Sustained

Rationale: After his arrest, the complainant was transported to a psychiatric hospital. He was escorted by Deputy 1. In the complainant's written letter, he advised that he "was not happy" about the situation and "was venting" when Deputy 1 repeatedly told him to, "Shut up." The complainant refused to comply. At one point, the complainant stated that Deputy 1 got in his face, pointed his finger in his face, and told the complainant to "Shut the fuck up!" The complainant requested Deputy 1 turn on his Body Worn Camera (BWC) and talk to him in that manner. The complainant advised that Deputy 1 refused. Per Deputy 1's report, he informed the complainant that he was unable to turn on his BWC and record his interactions with the complainant because it would violate the complainant's Health Insurance Portability and Accountability Act of 1996 (HIPPA) rights. By recording his interaction with the complainant, Deputy 1's BWC recordings could have present a breach of the complainant's protected health information. Deputy 1 did not note any issues or verbal altercations with the complainant in his Arrest Report. Deputy 1 was equipped with a BWC; however, in accordance with San Diego Sheriff's Department Policy and Procedures (SDSD P&P), his camera was not in use while transporting the complainant, nor while at the hospital. According to SDSD P&P Section 6.131, deputies shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during PERT clinician interviews. Deputies shall be sensitive to patients' rights to privacy when in a hospital or medical facility setting and attempt to avoid recording persons other than the victim, witness or suspect. Deputies shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present or transporting an arrestee to a psychiatric facility. As such, there is no BWC recordings to corroborate or refute the complainant's allegations. A PERT clinician responded to an Employee Response Form (ERF) with a signed statement and provided relevant information in response to CLERB questioning. Deputy 1 responded to a Sheriff's Employee Response Form (SERF) with a signed statement and provided relevant information in response to CLERB questioning. There was insufficient evidence to either prove or disprove the allegation. The following SDSD P&P sections apply to the allegation. According to SDSD P&P Section 2.4, entitled, "Unbecoming Conduct," employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department, or that which tends to impair the operation and efficiency of this Department or employee. Additionally, SDSD P&P Section 2.48, entitled, "Treatment of Persons in Custody," states 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. There was insufficient evidence to either prove or disprove the allegation that Deputy 1 repeatedly told the complainant, "shut up."

4. Misconduct/Discourtesy – A PERT (Psychiatric Evaluation Response Team) clinician told the complainant to "shut up."

Board Finding: Summary Dismissal

Rationale: In the complainant's written letter, he advised that when he was en route to a psychiatric hospital, a PERT clinician accompanied Deputy 1. During the ride, the complainant stated, "She also told me rudely to shut up!" A PERT clinician responded to an ERF with a signed statement and provided relevant information in response to CLERB questioning. Deputy 1 responded to a SERF with a signed statement and provided relevant information in response to CLERB questioning. CLERB lacks jurisdiction over non-sworn staff. The allegation against a PERT clinician does not describe any deputy misconduct. The Review Board lacks jurisdiction as it cannot take any action in respect to complaints against non-sworn SDSD employees, per CLERB Rules & Regulations 4.1 and 4.4.

5. Excessive Force - Deputy 1 tightly placed handcuffs on the complainant, "yanked" him up, and "slammed" him against the wall.

Board Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 tightly placed handcuffs on him and “had been telling him since we were in the car that my cuffs were too tight.” The complainant claimed he was in pain due to the placement and tightness of the handcuffs. In response to his complaining, the complainant alleged that Deputy 1 “yanked” him up, “slammed” him against the wall, placed his elbow in between his “shoulder blades,” and tightened the cuffs. After Deputy 1 re-adjusted the complainant’s handcuffs, he forced his finger into between the handcuff and the complainant’s wrist and “spouted off what the county allows for prisoners cuffs.” The complainant claimed that as of “04-25-18, I have no feeling in my right hand. I have numbness up my arm to my elbow. I can’t even squeeze a ketchup bottle and can’t open my Gatorade bottle. I have temporary or permanent damage caused by the tightening of my cuffs when I was begging for them to be loosened. My hand is numb from my cuffs being too tight then tightened more because the deputy was pissed! I actually have scars from the cuffs!” No Use of Force Report Supplemental was included in Deputy 1 Arrest Report and Deputy 1 did not note any issues or express a need to use physical force against the complainant in his Arrest Report. Deputy 1 was equipped with a BWC; however, as stated above and in accordance with SDSO P&P, his camera was not in use while he was at the psychiatric hospital with the complainant. As such, there is no BWC recordings to corroborate or refute the complainant’s allegations. Deputy 1 responded to a SERF with a signed statement and provided relevant information in response to CLERB questioning. A PERT clinician responded to an ERF with a signed statement and provided relevant information in response to CLERB questioning. Though there was insufficient evidence to either prove or disprove the complainant’s allegation, the following SDSO P&P sections apply. According to SDSO P&P Section 2.49 entitled Use of Force, employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing. According to SDSO P&P Addendum F Section Use of Force Guidelines, it shall be the policy of this Department whenever any Deputy Sheriff, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force, the force used shall only be that which is necessary and objectively reasonable to effect the arrest, prevent escape or overcome resistance. Deputies shall utilize appropriate control techniques or tactics which employ maximum effectiveness with minimum force to effectively terminate or afford the deputy control of the incident. Deputies who use force to overcome resistance or to control or apprehend a subject must verbally inform their supervisor as soon as practical, but in no event later than the end of shift. Whenever any physical force used by a deputy results in a complaint of injury or an injury that necessitates medical treatment of a subject, a supervisor will be notified immediately. All deputies using force must clearly articulate the force used in writing. All uses of force will be documented in the narrative of an arrest report, crime report, inmate status report, or deputy’s report by the primary reporting deputy. When a subject is cooperative, verbalization may be a viable control technique. Verbalization techniques include advising, persuading and warning. A deputy with a physical position of advantage and a mature, professional attitude and appearance, may use verbalization techniques to prevent escalation of a situation. Commands should be given in clear and concise terms. When verbalization proves ineffective, arm guidance or a firm grip may suffice to overcome resistance. Arm guidance or a firm grip that results in injury requires documentation. A subject who exhibits symptoms of drug-induced psychosis or excited delirium should be immediately evaluated by a physician at an approved hospital. According to SDSO P&P glossary, ‘Arm Guidance’ is the light touching of a person’s arm or elbow used to direct them to a new location. Arm guidance with no resistance from the subject being guided would not be considered a use of force and consequently not reportable. There was insufficient evidence to either prove or disprove the allegation that Deputy 1 tightly placed handcuffs on the complainant, “yanked” him up, and “slammed” him against the wall.

6. Misconduct/Intimidation - Deputy 1 said, “If you so much as move, I will fucking destroy you.”

Board Finding: Action Justified

Rationale: In the complainant’s written letter, he advised that after Deputy 1 re-adjusted the complainant’s handcuffs, Deputy 1 said, “If you so much as move, I will fucking destroy you.” The complainant described Deputy 1 words and actions as “unbecoming.” Deputy 1 did not note any issues or verbal altercations with the complainant in his Arrest Report. Though Deputy 1 was equipped with a BWC, as stated above and in accordance with SDSO P&P, his camera was not in use during this interaction. As such, there is no BWC recordings to corroborate or refute the complainant’s allegations. Deputy 1 responded to a SERF with a signed statement and provided relevant information in response to CLERB questioning. A PERT clinician responded to an ERF with a signed statement and provided relevant information in response to CLERB questioning. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

7. Misconduct/Procedure - Deputy 1 refused to turn his BWC on when addressing with the complainant while at a psychiatric hospital.

Board Finding: Action Justified

Rationale: In the complainant’s written letter, he stated that he told Deputy 1 “to turn on his camera and talk to me

that way.” Deputy 1 refused. Per Deputy 1’s report, he informed the complainant that he was unable to turn on his BWC and record his interactions with the complainant because it would violate the complainant’s Health Insurance Portability and Accountability Act of 1996 (HIPPA) rights. By recording his interaction with the complainant, Deputy 1’s BWC recordings could have present a breach of the complainant’s protected health information. According to SDSO P&P Section 6.131, deputies shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. Deputies shall be sensitive to patients’ rights to privacy when in a hospital or medical facility setting and attempt to avoid recording persons other than the victim, witness or suspect. Deputies shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present or transporting an arrestee to a psychiatric facility. The evidence showed that Deputy 1’s refusal to turn his BWC on when addressing with the complainant while at a psychiatric hospital did occur but was lawful, justified and proper.

8. Misconduct/Procedure - Deputy 1 disclosed the complainant’s medical history to a passerby.

Board Finding: Not Sustained

Rationale: In the complainant’s written letter, he advised that he recalled Deputy 1 “telling someone who asked why I was all pissed off and his response was, “He is a drug addict. It’s a meth induced psychosis!”” There was no BWC recordings to corroborate or refute the complainant’s allegation. A PERT clinician, who accompanied Deputy 1 and the complainant to the psychiatric hospital, responded to an ERF with a signed statement and provided relevant information in response to CLERB questioning. Deputy 1 responded to a SERF with a signed statement and provided relevant information in response to CLERB questioning. There was insufficient evidence to either prove or disprove the allegation that Deputy 1 disclosed the complainant’s medical history to a passerby.

9. Misconduct/Procedure - Unidentified deputies failed to return the complainant’s firearms.

Board Finding: Action Justified

Rationale: In the complainant’s written letter, he claimed during his arrest, Sheriff’s deputies impounded his shotgun and .22 caliber pistol. According to a department information source with the Sheriff’s Department Property and Evidence Unit, after his arrest, a firearms check was completed on the complainant. The complainant was found to be prohibited from possessing guns. The complainant was notified, via certified letter. In the letter, the complainant was advised that he was prohibited from possessing guns and was informed that he was given 180 days to sell or transfer the firearms. Additionally, he was informed that he could authorize the sale or transfer of his guns by a licensed gun dealer. The allegation that unidentified deputies failed to return the complainant’s firearms did occur but was lawful, justified and proper.

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**18-065**

1. Misconduct/Procedure - Deputy 3 demanded seizure of property without a warrant.

Recommended Finding: Unfounded

Rationale: In the complainant’s written statement, she alleged that Deputy 3 “demanded seizure” of her property without a warrant. The complainant stated, “Without conducting an investigation, reports, or a warrant, the SDSO was demanding property on behalf of another law enforcement agency. Deputy 3 demanded that I return certain boxes based on his determination that the contents thereof belonged to a law enforcement agency. Deputy 3 contacted my attorney and stated that I was uncooperative with the return of the property. Property that he alone deemed to be the property of another law enforcement agency based on statements made by my spouse, without a warrant, and in violation of my 4th Amendment rights. On 04-25-18, Deputy 3 went to the complainant’s home and addressed her regarding the missing package. In Deputy 3’s Body Worn Camera (BWC) recording, entitled, “X81146449-2018-04-25-01-31-28 (1086849026).mp4,” Deputy 3 was viewed addressing the complainant at her home. Deputy 3 was respectfully and addressed deferentially and dutifully. He advised that he was there on behalf of her husband, and inquired about the whereabouts of the package. The complainant advised that she was unsure if she had received the package or not. Deputy 3 presented a delivery receipt noting that the package was delivered on 04-03-18 and advised that it was left on the complainant’s front door step. Deputy 3 asked the complainant for the package multiple times. At no point in the recording was Deputy 3 observed to “demand” the property from the complainant. When he asked the complainant for the property, she declined, and he departed her residence. The allegation that Deputy 3 demand seizure of property, was without a warrant, and violated the complainant’s fourth amendment right was unfounded.

2. Misconduct/Procedure – Deputies 1-3 refused to take a police report on the complainant's behalf.

Recommended Finding: Action Justified

Rationale: In the complainant's written statement, she alleged that Deputies 1-3 refused to take a police report on her behalf. The complainant stated, "The Sheriff's refused to take a criminal report for vandalism when I requested it. Deputy 1 said he would not file a criminal report because my husband had not broken the law. He said he would file an incident report." The complainant advised that she was not pleased with Deputy 1's response, so contacted Deputy 1's supervisor, Deputy 2. After speaking with Deputy 2, the complainant advised that "Deputy 2 agreed with Deputy 1 and would not file a report." According to records obtained from the SDDS, the complainant contacted the Sheriff's Department and requested a deputy respond to her home for a report of vandalism. Deputy 1 responded to her home and upon his arrival, he turned on his BWC. In Deputy 1's BWC recording, entitled, "X81221906-2018-04-12-00-01-38 (1086849025).mp4," he arrived at the complainant's home and after a brief introduction, the complainant informed Deputy 1 of her situation. Deputy 1 offered to write an incident report for the complainant, but he would not write a crime report. He explained that the complainant's situation was a civil matter, involving community property, and it was not a criminal issue. Deputy 1 offered to document the complainant's discrepancies, which the complainant agreed to. Generally, a crime report indicates a report of a criminal offense, and an incident report indicates a non-criminal situation; something which require documentation, but not be considered a crime. According to California Penal Code Section 594(a), every person who maliciously defaces, damages, or destroys any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism. Per the complainant's statement, her husband "left random junk and furniture dumped around the property, covered a pile of wood with dirt, left a broken fence and gate, a marble counter top and support placed to block access through a doggie door, and had replaced a propane tank with a smaller one." In Deputy 1's Crime/Incident Report, when questioned regarding the alleged destruction of property, the complainant's husband advised the fence and the gate have been down since long before September 2018 and were just dilapidated from age. The junk near the driveway came out of his workshop next to the driveway, but that had also been out there prior to September 2018 as was most of the other junk about the property. The complainant's husband said he does not do any yard work whatsoever, so the yard is unkempt. Upon moving out of the residence, the complainant's husband didn't clean much up outside, although he did vacuum and clean the floors on the inside as well as put some furniture back in it. The dirt and wood pile came mixed just like it was when the person he purchased it from dropped it off at the property. The complainant's husband said the larger propane tank should still be there at the property. The complainant's husband advised that he re-positioned the countertop and support bar to block the doggie door to prevent the complainant from sneaking into the house. Lastly, the complainant's husband admitted to taking community property (furniture) from the home when he left. Deputy 2 additionally contacted the Sheriff's Domestic Violence Coordinator. The Domestic Violence Coordinator deputy concurred with the assessment of this situation being a civil matter, not a criminal case. The complainant's lawyer cited *People v. Kahanic* (1987) 196 Cal.App.3d 461. In *People v. Kahanic* (1987) 196 Cal.App.3d 461, 241 Cal.Rptr. 722 (Kahanic), the courts held that the vandalism statute applied to community property on the rationale that the "essence of the crime is in the physical acts against the ownership interest of another, even though that ownership is less than exclusive; "it would appear the courts held a partner could be guilty of vandalism in his partnership [community] property. In the complainant's case, her husband did not maliciously deface, damage, or destroy any real or personal property that was not his own. As such, the allegations do not meet the criteria of a crime. ~~The allegation that Deputies 1-3 refused to take a "police report" [crime report] on the complainant's behalf was justified.~~ The allegation that Deputies 1-3 refused to take a "police report" [crime report] on the complainant's behalf did occur but was lawful, justified and proper.

3. Misconduct/Intimidation – Deputy 2 threatened to charge the complainant with a grand theft.

Recommended Finding: Action Justified

Rationale: In the complainant's written statement, she stated, "Deputy 2 called me to say the Sheriff department received my letter. He told me two times that he would get a hold of the victim, another law enforcement agency and then, depending on what they say, would charge me with a grand theft." Per Deputy 3's crime report, the complainant's husband and the complainant resided together at their residence. The complainant's husband had a business repairing radar and related equipment for law enforcement agencies. The complainant's husband and the complainant were going through a divorce and recently the complainant's husband moved out of their residence; however, some of the mail and packages for his business were still delivered to the residence after he moved out. The complainant remained at the residence. Per a delivery receipt, on 04-03-18, a large box containing five units of equipment which belonged to the other agency were delivered to the complainant's residence. The package was for the complainant's husband's business. The complainant's husband contacted the Sheriff's Communication Center to report the theft of the package. The complainant's husband produced documentation that the package containing the equipment had been delivered to the home address. Deputy 3 contacted the complainant to see if she would relinquish the package so that her husband could return the equipment to the other agency. Deputy 3 asked the complainant if she would give the package to him so it could be returned to the other agency. The complainant was described as "less than cooperative" and Deputy 3 was unsuccessful attaining the equipment from her. Deputy 3 explained to the complainant that unless the property was returned, he would have no choice but to generate a crime

report for grand theft as the other agency desired prosecution. The value of the five missing units of equipment was \$13,435.35. The complainant was identified as the suspect in the case and the Sheriff's department had enough information to support an arrest, charge the complainant, and turning the case over to the court for prosecution. On 03-26-19, in a telephonic interview with the complainant's husband, he advised that on approximately 05-02-18, the complainant's attorney contacted him and advised that the complainant had turned over the package of equipment to her. The attorney invited the complainant's husband to retrieve to package from her office, which he did. The complainant's husband contacted Deputy 3 and informed him that the missing property had been returned to him. In a Follow-Up Report to his initial Crime Report, Deputy 3 documented that the missing equipment had been returned. On 5-15-18, Deputy 3 contacted the other agency and was told they no longer desire prosecution as their property has been recovered. ~~The allegation that Deputy 2 threatened to charge the complainant with grand theft was justified.~~ The allegation that Deputy 2 threatened to charge the complainant with grand theft did occur but was lawful, justified and proper.

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## 19-007

1. Misconduct/Procedure – The Sheriff's Department refused to provide law enforcement services to the complainants.

### Board Finding: Action Justified

Rationale: The complainants reported that, "Known predators continue stalking criminal behavior directed at our family. Deliberately placing us in a Killzone documented. Criteria identifying predators behavior. You have the deliberate loss of control of plane aimed directly at us by known predators repeatedly. Clearly Weaponized plane. Same individuals detouring conducting unnecessary dangerous behavior clearly directed towards us to create an atmosphere of fear, Predators perform four or five red flag events communicating their threats sending clear message to victims. Aggressive, exaggerated, threatening, detouring, unnecessary activity you don't even see at the airport. Motive they want us removed from their community and if it takes hate violence and discrimination so be it. This klan is insidious and still intact. Our documentation shows it's time, overdue for outside agencies and institutions to intervene. Our evidence clearly shows local authorities are unwilling and unqualified at every level to investigate crimes of hate and do not have the capacity to learn. Authorities have encouraged and participated in the hate against our family to this day. Knowingly and willingly violating our civil rights to protect their racist klan. You picked the wrong family to target with your hate violence and discrimination. Instead of authority's silencing voices who speak out against hate they should amplify victims voice. Remember this all started with a lie from a white racist authority, document. Who has known the Identity and been in contact with racist predators from day one, providing detailed information to re-victimized victims. documented. The only amplification has been the uncovering of authorities racism bigotry hostility and hate towards our family, documented. Neutralize dismantle and permanently squeeze out of existence the white racist bigoted hostile hate klan you allowed to form and exist and threaten our family to this day. Operating freely out of the Ramona airport. Known predators return to airport after committing crimes with no authorities intervening. Voice platform and expansion. Authorities/predators need to be question Under Oath. This is the only pathway to ending violence against victims. Lewis family blameless victims." The information/actions giving rise to this complaint revolve around air traffic near the complainant's residence. The complainant's were properly referred to the Federal Aviation Administration (FAA) who enforce the Airport Compliance Program, with airport owners and operators agreeing to preserve and operate their facilities in a safe and efficient manner and comply with certain conditions and assurances. Deputy 4 responded to the complainants call for service on June 19, 2018 and refused to take a "stalking report" made by the complainants. Deputy 4's Body Worn Camera (BWC) captured the contact in which he stated that his observation of distant aircraft were not flying in any hazardous way and disputed that a crime had occurred in his presence. Sheriff's Policy 6.71, Crime Case Reports did not require that a report be taken for this event. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

2. Misconduct/Procedure – The Sheriff's Department threatened the complainants with arrest for calling 911.

### Board Finding: Action Justified

Rationale: The complainants reported, "Our sources at Homeland security advised us, the Ramona sheriffs department would be your last line of defense. When threatened at your home under the jurisdiction of the Ramona sheriffs department to call 911 and ask for a police report. And the individuals that turned airplanes into weapons against us fly in and out of the Ramona airport located in Ramona California under the jurisdiction of the Ramona sheriffs department." The complainant's reported that they called the Sheriff's Department SDSD 15-20 times in the past year and were told, "If you call again we're going to arrest you." The complainant countered, "It's not an arrestable offense, only citeable." PC§ 653y. Non-Emergency 911 Telephone Calls, states that a person who knowingly allows the use or who uses the 911 emergency system for any reason other than because of an emergency is guilty of an infraction. The Sheriff's Department recorded 43 calls for service from the complainants between

January 2018 and January 2019. BWC footage by Deputies 1 and 2 captured a contact on September 24, 2018 in which the complainants were verbally instructed and provided a written warning for misuse of the emergency system. SDSO properly referred the complainants to the FAA for their flight path issues. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. False Arrest - Deputy 3 issued the complainants a citation.

Board Finding: Action Justified

Rationale: The complainants reported they were given a citation. On September 24, 2018, the complainants were verbally instructed and provided a written warning regarding misuse of the 911 emergency system. On December 22, 2018, Deputy 3 issued Citation #0999062, for PC§ 653y, Non-Emergency 911 Telephone Calls. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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### **19-008**

1. Misconduct/Procedure – Deputy 1 failed to collect money from a slot machine at the time of the complainant's arrest.

Board Finding: Summary Dismissal

Rationale: The complainant reported that deputies did not collect money from a slot machine at the time of his arrest. Casino security contacted the Sheriff's department regarding a patron with an outstanding warrant. Deputy 1 and another deputy responded to the call and arrested the complainant for outstanding felony warrant CPR180239. According to Casino security, the objective is to allow law enforcement to perform their duties with as little disruption to their patrons as possible. Deputy 1 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. It was unknown if the complainant had money in the slot machine as alleged, and the complainant was referred to the casino claims department for the investigation of any monies owed to him that may have been left at the establishment.

2. Misconduct/Procedure – Deputy 1 failed to document and/or process the complainant's money at booking.

Board Finding: Action Justified

Rationale: The complainant said that he had \$31 in his possession at the time of his arrest that was never applied to his account. Detentions Policy Q.7, Inmate Processing, mandates that "all cash be immediately credited into the inmate's funds account once deposited into the cash kiosk. If the kiosk becomes inoperable, cash will be placed in a separate money bag and heat sealed onto the property bag. It will then be verified by the DPT in the AO/transporting officer's presence and deposited into the inmate's funds account." The complainant's booking slip notated that the cash kiosk was out of order and Deputy 1 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Per BWC camera documentation, the complainant's possessions were placed into his backpack, which was subsequently placed into property storage at the detention facility. The complainant never responded to CLERB's request to access his property for verification of his claim. Based upon review of video evidence, deputies placed the complainant's wallet into his backpack and handled the complainant's property in accordance with policy; their actions were lawful, justified and proper.

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### **19-009**

1. Misconduct/Procedure – Deputy 1 removed a gold bracelet from the complainant's wrist during booking that was not placed into his property.

Board Finding: Not Sustained

Rationale: The complainant reported that he was taken into custody by Deputy 1 while wearing a 10-karat gold bracelet. During the booking process, after the complainant was photographed he informed Deputy 2 that he had a bracelet on his left wrist, which deputies removed and said they would place into his property, but it was never returned to him. The complainant's Booking Intake/Personal Property Inventory record did not record a gold bracelet. Deputies 1 and 2 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Surveillance video was reviewed, but was inconclusive. The complainant also submitted a complaint to the Sheriff's Internal Affairs Division who could not corroborate the allegation and properly referred him to County Claims. There was insufficient evidence to either prove or disprove this allegation.

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## **19-030**

1. Excessive Force – Deputy 1 “smashed” the aggrieved’s head against the wall.

### Board Finding: Summary Dismissal

Rationale: According to the complainant, on 01-29-18, Deputy 1 arrested his son, the aggrieved. While in Deputy 1’s custody, Deputy 1 “smashed the aggrieved’s head against the wall making him dizzy and light headed.” The aggrieved was transported to Juvenile Hall. While there, the complainant visited the aggrieved and noted “injuries to his forehead and a black eye.” The complainant alleged that Deputy 1 used excessive force against the aggrieved. On 03-13-19, the complainant advised, via a telephone interview, the date incident giving rise to the incident occurred over a year prior. The complainant was advised of the tolling exemptions and said that he had not been incarcerated or physically or mentally incapacitated. Additionally, the complainant advised that due to newly learned information, he no longer wished to pursue the complaint; however, he did not wish to sign a Withdrawal form. The Review Board lacks jurisdiction because the Review Board cannot take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint. 4.4 Citizen Complaints: The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. The complainant shall bear the burden of demonstrating that he/she was incarcerated or physically or mentally incapacitated from filing a complaint within one year from the incident giving rise to the complaint by submitting a written statement to the Review Board. 5.7 Withdrawal of Complaints; A complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complained of conduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.

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## **19-036**

1. False Arrest - Deputies 1 and 2 arrested the complainant for a robbery on March 16, 2018.

### Board Finding: Summary Dismissal

Rationale: The incident giving rise to this complaint occurred on March 16, 2018. The complainant was advised verbally and in writing on July 27, 2018, again on March 15, 2019, and finally on March 18, 2019 of the one-year time requirement. The complainant did not submit a signed statement until March 19, 2019. The timeline was tolled due to incarceration; however, the complaint was untimely filed. CLERB does not have authority to investigate per CLERB Rules & Regulations:

4.4 Citizen Complaints: Jurisdiction. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the period of incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired.

5.2 Lodging and Filing of Complaints. Complaints may be lodged in writing, in person, by telephone or by any other means of Communication. A complaint may be lodged with the Review Board on behalf of oneself or on behalf of another person by any interested person or group. A complaint shall be considered received by the Review Board at the time it is lodged.

No complaint will be deemed to have been filed with the Review Board unless and until it has been reduced to writing, and signed by the complainant or his/her representative.

5.4 Time Limitations for Filing Complaints. All complaints shall be received within one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or physical or mental incapacity shall not be counted in determining whether the one year period for filing the complaint has expired, subject to the provisions of Section 4.4 of these Rules and Regulation, pursuant to the provisions of Section 4.4 of these rules.

5.5 Complaint Form. The Review Board shall cause all complaints received by it to be reduced to writing on the complaint form. Unless the Review Board has received another writing setting forth the substance of the complaint and signed by the complainant, the completed form shall be furnished to the complainant advising that the complaint will not be deemed to have been filed with the Review Board until and unless it is reduced to writing. The truthfulness

of a written complaint shall be attested to under penalty of perjury in the following manner, or by words of similar effect: "I hereby certify that, to the best of my knowledge, and under penalty of perjury, the statements made herein are true".

2. Illegal Search & Seizure – Deputies 1 and/or 2 searched the complainant on the casino floor in front of other patrons.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 2 arrested the complainant only after an alleged victim threatened to report him to command staff.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 2 texted while driving the complainant in a patrol vehicle.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 2 escorted the barefooted complainant through “urine splattered” floors and exposed her to communicable diseases at a detention facility.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

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***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.