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# County of San Diego

## 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 December 10, 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 (9)****ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE****18-086**

1. Death Investigation/Traffic Pursuit –Deputy 1 was responding to a call for service when a motorcycle driven by Carter Yarborough collided with his vehicle on 06-24-18.

Board Finding: Action Justified

Rationale: Deputy 1 was on-duty conducting lawful patrol activities. He followed traffic rules when he acknowledged being dispatched to a call for service. When he attempted to make a legal U-turn to respond to his assigned call, Carter Yarborough collided with Deputy 1's patrol vehicle. Per the traffic collision investigation, Yarborough was traveling on his motorcycle, at 71 miles per hour in an area where the posted speed limit of 35 miles per hour. Due to the distance between his patrol vehicle and the motorcycle, in addition to the motorcycle speed, Deputy 1 did not have time to react, or have any maneuver options to prevent the collision. Although stunned from the collision, Deputy 1 managed to get out of his vehicle, notified dispatch of the accident, and rendered aid to the motorcyclist until assistance arrived. Per the SDSD investigative report, Yarborough caused the collision as he was driving twice the speed limit posted for the roadway. Yarborough died at the scene and the cause of death was multiple blunt force injuries and the manner was classified as accident. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Deputy 1. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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**18-113**

1. Death Investigation/Natural – Paul Etta Vincent was a hospitalized inmate who was receiving medical treatment when she died.

Board Finding: Action Justified

Rationale: The 52-year-old female inmate had been in custody at the Las Colinas Detention and Re-Entry Facility since January 2018 for charges that included murder, manslaughter and domestic violence. In April of 2018, Vincent was transported from Las Colinas to different hospitals for acute renal failure. Her condition continued to deteriorate and Vincent was admitted to a long-term care facility for acute care on 05-18-18. On 08-10-18, Vincent went into medical distress and despite lifesaving efforts by hospital medical staff, she was pronounced deceased. The cause of death was multi-organ (heart, respiratory, renal) failure, due to liver cirrhosis caused by alcohol abuse, with morbid obesity as a contributing factor. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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**18-124**

1. Death Investigation/In-Custody Suicide – Fredrick Burnett Jefferson hanged himself by the neck on 09-01-18, while in the custody of the Sheriff's Department at the George Baily Detention Facility (GBDF).

Board Finding: (Not Sustained) **Action Justified**

Rationale: Jefferson was housed at the GBDF after his arrest and conviction for assaulting a SDPD police officer. The evidence supported that Jefferson was properly classified upon his entry into the SDSD jail system after his 02-03-18 arrest. Moreover, he was properly placed in Administrative Segregation after his 08-31-18 disciplinary write-up for a rule violation. On 08-31-18, Jefferson was sentenced to seven years for the assault. Additionally, Jefferson was also awaiting extradition to Maryland where his DNA was matched with DNA obtained from a sexual assault case that occurred years earlier. Prior to the incident, there was no evidence that Jefferson expressed any concerns about his mental or physical wellbeing to his cellmate or any member of the SDSD, sworn or professional. According to Jefferson's jail medical records, earlier in his incarceration, Jefferson was placed into the jails Enhanced Observation Housing (EOH) unit due to his expressing suicidal ideations; Jefferson verbalized thoughts of hurting himself. Over the course of his stay in the EOH, Jefferson confessed that he was not homicidal or suicidal; however, he preferred the solitude of the EOH unit and would "continue to say I want to hurt myself until I feel safe in the housing." Jefferson was treated accordingly, including numerous psychiatric follow-up appointments; however, on two occasions it was noted that Jefferson declined his appointment or refused to participate in the appointment. In the numerous psychiatric appointments Jefferson did attend, it was noted that he denied feeling depressed, anxious or experiencing panic attacks. He denied feeling homicidal or suicidal and advised that he would notify a deputy if he experienced suicidal or homicidal ideations. Jefferson was last seen alive on the night of 08-31-18 at 12:54 a.m. by deputies. In the early morning hours of 09-01-18, deputies were conducting safety/security checks, when they found Jefferson down and unresponsive at 1:52 a.m., in his jail cell. Jefferson was partially suspended by a noose/ligature tied to the top bunk bed frame. Upon finding Jefferson hanging in his cell, sworn personnel expeditiously responded and immediately initiated life saving measures; deputies entered the cell, cut Jefferson down from his suspended position, initiated cardiopulmonary resuscitation, and alerted medical personnel for assistance. Jail nurses responded and continued advanced cardiac life support until paramedics arrived and continued. Despite aggressive life-saving measures, Jefferson succumbed to his injury and his death was pronounced. The cause of death was "hanging," and the manner of death was "suicide." Though the San Diego Sheriff's Department has enacted an Inmate Suicide Prevention Practices & Inmate Safety Program, there was insufficient evidence to identifying a "trigger," such as his sentencing and/or extradition, that would have recognized or identified Jefferson as being at risk for suicide. There was insufficient evidence to support that if Jefferson underwent further assessment for consideration of placement into an ISP housing, that his death would have been prevented.

Rationale: Jefferson was housed at the GBDF after his arrest and conviction for assaulting a SDPD police officer. The evidence supported that Jefferson was properly classified upon his entry into the SDSD jail system after his 02-03-18 arrest. Moreover, he was properly placed in administrative segregation after his 08-31-18 disciplinary write-up for a rule violation. On 08-31-18, Jefferson was sentenced to seven years for the assault. Additionally, Jefferson was also awaiting extradition out of state where his DNA was matched with DNA obtained from a sexual assault case, that occurred years earlier. There was no evidence that Jefferson expressed any concerns about his mental or physical wellbeing to his cellmate or any member of the SDSD, sworn or professional. According to Jefferson's jail medical records, earlier in his incarceration,

Jefferson was placed into the jails Enhanced Observation Housing (EOH) unit due to him expressing suicidal ideations; Jefferson verbalized thoughts of hurting himself. Over the course of his stay in the EOH, Jefferson confessed that he was not homicidal or suicidal; however, he preferred the solitude of the EOH unit and would “continue to say I want to hurt myself until I feel safe in the housing.” Jefferson was treated accordingly, including numerous psychiatric follow-up appointments; however, on two occasions it was noted that Jefferson declined his appointment or refused to participate in the appointment. In the numerous psychiatric appointments Jefferson did attend, it was noted that he denied feeling depressed, anxious or experiencing panic attacks. He denied feeling homicidal or suicidal and advised that he would notify a deputy if he experienced suicidal or homicidal ideations. Jefferson was last seen alive on the night of 08-31-18, at 12:54a.m. by deputies. In the early morning hours of 09-01-18, deputies were conducting safety/security checks, when they found Jefferson partially suspended by a noose/ligature tied to the top bunk bed frame, in his jail cell. Upon finding Jefferson hanging in his cell, sworn personnel responded and immediately initiated life-saving measures; deputies entered the cell, cut Jefferson down from his suspended position, initiated cardiopulmonary resuscitation, and alerted medical personnel for assistance. Jail nurses responded and initiated advanced cardiac life support until paramedics arrived and continued with advanced cardiac life support measures. Despite aggressive life-saving measures, Jefferson succumbed to his injury and his death was pronounced. The cause of death was “hanging” and the manner of death was “suicide.” Though the San Diego Sheriff’s Department had enacted an Inmate Suicide Prevention Practices & Inmate Safety Program, there was insufficient evidence to support that Sheriff’s staff could have identified a “trigger,” that would have recognized or identified Jefferson as being at risk for suicide. There was insufficient evidence to support that if Jefferson had received further assessment for consideration of placement into an ISP housing, that his death would have been prevented. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff’s Department sworn personnel. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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#### 18-133

1. Death Investigation/Natural – James Athos experienced a medical emergency while incarcerated and was transported to a hospital where he later died.

Board Finding: Action Justified

Rationale: On 10-03-18, James Athos was arrested for possession of a stolen vehicle and booked into the San Diego Central Jail. On 10-05-18, Athos was placed on opiate withdrawal protocol because he was nauseous and vomiting. On 10-07-18, at approximately 2:21am, Athos was taken to the clinic for stomach pain; he was medically evaluated and given Vistaril, per withdrawal protocol, and cleared to be returned to housing. Upon review of surveillance video, Athos was last seen alive in his cell at 12:26pm. At approximately 12:46pm, a deputy was conducting a safety check when he found Athos unresponsive and subsequently not breathing inside his single person cell. Deputies performed cardiopulmonary resuscitation (CPR), followed by medical staff, the Fire Department, and paramedics until Athos was stabilized for transport to a medical facility. Upon arrival at the hospital, Athos was given a poor prognosis and his condition continued to decline until his death was pronounced at 9:04pm, on 10-07-18. An autopsy was performed and determined there was a perforation in his small bowel, with intestinal fluid in the abdominal cavity causing inflammation to the abdominal organs and tissues lining the wall of the peritoneal cavity. Other natural disease included enlargement of the heart’s main pumping chamber and microscopic changes in the kidney, consistent with long term high blood pressure. The autopsy did not demonstrate any lethal injuries, or injuries that were contributory to death. The cause of death was a perforated duodenal ulcer, and the manner of death was natural. Toxicological testing detected methamphetamine, amphetamine and phenylephrine. When Athos complained of abdominal pain at the jail, his symptoms were characterized as withdrawal symptoms. The evidence supported that Athos was properly classified and provided with medical care. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff’s Department sworn personnel.

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#### 18-141

1. Illegal Search and Seizure - Deputy 1 strip searched the complainant.

Board Finding: Action Justified

Rationale: The complainant reported, Deputy 1 “ordered me to undress completely (strip/cavity search) for me having a newspaper.” Per SDSD (San Diego Sheriff’s Department), Detention Services Bureau (DSB) Policy and Procedure

(P&P) Section I.52, all inmate searches shall be conducted with the purpose of providing a safe and secure environment for inmates and staff in compliance with legal standards. In reviewing the jail surveillance video recordings, it was determined that the strip search was only a visual inspection and not a cavity search. A strip search is defined as any search that requires a person to remove their clothing to permit visual inspection of the underclothing, breasts, buttocks, genitalia, or body cavity. According to jail documents, on the day of the incident, the complainant removed a newspaper from the deputies' station without permission. Although the complainant stated that the strip search was "excessive for taking a newspaper," it was done to prevent any potential for contraband from an unsecure area. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The strip search was conducted according to SDSA policies. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure - Deputy 1 searched through the complainant's legal paperwork.

Board Finding: Action Justified

Rationale: The complainant reported that while returning to his cell from the Law Library, he took a newspaper from the deputies' station which prompted a search of his legal paperwork. Per DSB P&P Section I.52, all inmate searches shall be conducted with the purpose of providing a safe and secure environment for inmates and staff in compliance with legal standards. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. Although the complainant stated that the strip search was "excessive for taking a newspaper," it was done to prevent any potential for contraband from an unsecure area. The search was conducted according to policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure - Deputy 1 asked the complainant to stand.

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 asked me to stand up because he needed to search the wheelchair. I explained to Deputy 1 that I don't stand due to pain in my right leg from surgery." On the day of the incident, the complainant removed a newspaper from the deputies' station without permission. The strip search was captured on jail surveillance video and it showed the complainant standing for a total of eight seconds. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The complainant's medical records were reviewed, and it determined the complainant had a medical approved device i.e. wheelchair, however, the order stipulated that it was for intermittent use and the patient was to ambulate short distances. The search was conducted within policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure - Deputy 1 made an "assessment" of the complainant's medical condition.

Board Finding: Not Sustained

Rationale: The complainant reported, "Deputy 1 asked me to stand... he continuously expressed his own assessment, diagnosis, and his personal belief of my condition and needs should be." The incident was captured on jail surveillance video; however, the quality of the video was not optimal and there was no audible. During the search, there was no clear evidence that a conversation took place. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. Absent information provided by an independent witness or an audio recording of the interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 made his own assessment of the complainant's medical condition.

5. Misconduct/Procedure - Deputy 1 removed the complainant's wheelchair on 10-24-18.

Board Finding: Action Justified

Rationale: The complainant reported, "Deputy 1 stated that medical said that they only approved my wheelchair use to/from Law Library." The complainant's medical records were reviewed and revealed that a jail doctor had stipulated that the wheelchair was for intermittent use only, and for transport long distances, and that the complainant was to ambulate short distances. This directive was issued on 06-23-18 and it is reiterated in several entries contained in medical records, the last one, on 09-15-18, a month prior to the incident. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. A departmental source verified jail records which documented that the use of wheelchair was medically authorized on 06-01-18 and discontinued on 06-23-18. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct/Retaliation - Deputy 1 threatened to place the complainant in lockdown.

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 said 'If I wheel you to your cell, I will lock you down in your cell.'" On the day of the incident, the complainant removed a newspaper from the deputies' station without permission. His actions resulted in a strip search and a search of his accordion file folder. The incident also prompted the review of the complainant's medical records and it revealed that he was only allowed to use a wheelchair intermittently and for long distances only. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

7. Misconduct/Retaliation - Deputy 1 removed the complainant's walker.

Board Finding: Action Justified

Rationale: The complainant stated, "The next day Deputy 1 came and took away the walker... Deputy 1 said, 'Medical didn't approve the walker either.'" The complainant's medical records were reviewed. The records revealed that while in custody, the complainant developed a skin infection on his leg that worsened to the point of requiring surgical removal of infected tissue. The healing process took longer than expected and during that time, the complainant was allowed to use a wheelchair. Upon making progress with the healing of his infection, the jail physician prescribed the intermittent use of a wheelchair and he was repeatedly encouraged to walk. There was no written documentation in the medical records that authorized the complainant to use a walker. The complainant was allowed to use the walker while he was in the Medical Observation Unit (MOB) as part of his rehabilitation, but there was no documentation in medical records instructing him to be use it outside the MOB. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. On 10-25-18, the day after the incident, the complainant requested an evaluation for the use of a walker, which was denied on the basis of not having a medical need to use a wheelchair full time, or a walker. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

8. Misconduct/Procedure - Unidentified deputies denied the complainant access to the shower.

Board Finding: Not Sustained.

Rationale: The complainant stated in his complaint: "10/26-28/18 No Shower, No dayroom Access, etc." Title 15 Section 1266, Showering, states inmates shall be permitted to shower/bathe upon assignment to a housing unit and at least every other day or more often if possible. SDSL DSB Policy L.11 described the procedures to accomplish this mandate. Jail documents entitled, "Area Activity Reports," dated 10-01-18 to 11-30-18, were reviewed. The complainant stated that he was not permitted to shower but there were no notations indicating that the complainant was restricted from using a shower; as there were no jail operation issues or incidents that would have prevented the complainant from taking a shower. A review of Area Activity Logs as well as the JIMS Incident Reports, and the inmate history revealed no disciplinary or administrative segregation for the complainant not to be able to take showers. A Departmental Source noted that there was a medical emergency in the module on 10-24-18, and that delayed access to the dayroom/shower time, but this was prior to the dates alleged by the complainant. A Departmental Information Source stated that "dayroom time" is when inmates have access to showers and that it is up to the inmate use this time to take a shower. There was insufficient evidence to either prove or disprove the allegation.

9. Misconduct/Procedure - Unidentified deputies denied the complainant access to the dayroom

Board Finding: Not Sustained

Rationale: The complainant stated in his complaint: "10/26-28/2018 No Shower, No dayroom Access, etc. According to the Area Activity Reports, dated 10-01-18 to 11-30-18, as well as the JIMS Incident Reports, there were no incidents involving the complainant and there was no disciplinary action against him to prevent him from accessing the dayroom. A Departmental Information Source noted that there was a medical emergency in the module on 10-24-18, and that delayed access to the dayroom, but this was prior to the specific dates alleged by the complainant. There was insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Procedure – Unidentified deputies allowed a "trustee" (inmate worker) direct access to the Protective Custody inmates.

Board Finding: Action Justified

Rationale: The complainant stated, "On 11-01-18 a trustee was allowed direct access to PC (Protective Custody) inmates near elevators. Evidence showed that the complainant was classified as a Protective Custody inmate. DSB Policy R.1, Inmate Classification states, an inmate's initial classification is determined by their original booking

charges, criminal history information, medical and psychiatric issues or additional special conditions, and information obtained from the inmate interview. The inmate will be assigned to the most appropriate housing location based on their classification designation. The classification is only for housing and not for other activities in the jail, including transportation to court, clinic visits, dentist visits and other movement within the jail. In reviewing the jail surveillance video recordings of the complainant exiting the jail elevators, it was noted that an inmate worker was present near the elevator; however, there was also a deputy present. The deputy stood at the elevator and waited for the complainant to arrive at the floor. The deputy stood between the inmate worker and the complainant. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

11. Misconduct/Retaliation - Deputy 1 stated that he would not face repercussions if an Inmate Grievance was filed against him.

Board Finding: Unfounded

Rationale: The complainant stated, "Deputy 1 stated that 'Nothing will happen to him.'" SDSD Policy N.1, Grievance Procedure, states; If a grievance addresses the actions of a specific deputy or staff member, the deputy or staff member who receives and signs for the grievance will return the second page to the inmate, and then immediately give it to his or her supervisor for review. If it is to be handled as a complaint against staff, the supervisor who first received the grievance will contact the complainant to obtain a detailed statement about the allegation(s) and document it on the grievance form, omitting the name(s) of the subject employee. The corresponding box on the form will be checked and the grievance will be closed in JIMS. The supervisor will then give the grievance to his/her watch commander for review and determine the appropriate action. If no immediate action is required, the grievance will be forwarded to the supervisor of the employee named in the complaint to determine if a formal investigation is warranted. A review of jail documents revealed that the complainant had filed numerous grievances on other different issues, and each one of them were properly addressed by jail staff. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did not occur.

12. Misconduct/Retaliation - Deputy 1 delayed the delivery of legal mail.

Board Finding: Not Sustained

Rationale: The complainant reported, "Deputy 1 continues to delay Pro-Per inmates' legal mail to be passed out, until at the end of our daily 2-hour session. Timing is crucial for us to the motions and communications effectively/timely with the court, OAC, DA office, PD offices and all government offices/agencies." Per DSB Section P.3, Inmate Mail, detention facilities shall provide for the reasonably prompt delivery of incoming materials and outgoing correspondence. All staff shall work for the reasonably prompt and correct delivery of all inmate mail. The policy does not require documentation of arrival of mail. Green Sheet Number P.3.C.1 states: A dayshift DIA (Detentions Information Assistant) will place any mail deemed legal, confidential and post-release programming or service agency mail into a designated mail bin. The Pro-Per Deputy will place legal mail for Pro-Per inmates in the Pro-Per Counselor's office. The Pro-Per deputy will be responsible for logging the incoming legal mail in the Pro-Per inmate's file and inspecting the legal mail in the presence of the Pro-Per inmate prior to distribution. Legal mail, confidential mail and mail from post-release programming or service agencies for non-Pro-Per inmates will be placed in the appropriate housing floor bin after it is x-rayed. Housing Deputies will be responsible for opening and inspecting the legal or confidential mail in front of the inmate. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. As there was no documentation of when the mail is delivered, there was insufficient evidence to either prove or disprove the allegation.

13. Misconduct/Procedure - Deputy 1 refused to provide the complainant with a copy of his incoming /outgoing mail log.

Board Finding: Action Justified

Rationale: The complainant reported, "On or around 10-23-18, I requested a copy of my incoming/outgoing legal mail log... Deputy 1 was standing next to me, he read the title and responded "Mm Hm." Deputy 1 was written up regarding mail tampering/violations, which may have included my name. So, retaliation is suspected by his actions." Per Green Sheet Number P.3.C.1: The Pro-Per deputy will be responsible for logging the incoming legal mail in the Pro-Per inmate's file. The legal mail is placed in the Pro-Per counselor's office. A correctional counselor may review the mail received, and housing deputies will be responsible for opening the mail in front of the inmates. Deputy 1 provided relevant information in response to CLERB's questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

14. Misconduct/Procedure – Deputy 1 delayed medication dispensing.

Board Finding: Action Justified

Rationale: The complainant stated, “Deputy 1 continues to waken me up 6:30 – 7:30 a.m. and takes me to Law Library before I take my medication for diabetes – high blood pressure – cholesterol, against doctors and nurses orders. This has caused my medication to be given to me late or not given to me at all.” The complainant’s voluminous medical records were reviewed and documented instances in which the complainant refused to accept medications and treatment. A Departmental Source stated that If an inmate is not present during medication distribution, jail nurses will return to the housing unit and dispense the medication when the inmate returns to the unit. Deputy 1 provided relevant information in response to CLERB’s questioning that was considered in determining the recommended finding. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

15. Misconduct/Procedure – Deputy 1 placed the complainant in the Law Library with a “green bander” inmate.

Board Finding: Not Sustained

Rationale: The complainant stated, “Deputy 1 has separated me from the yellow bander inmates and placed me with all the green bander inmates in the Law Library.” The complainant did not specify a date or timeframe for this allegation. The complainant was a Protective Custody Inmate (PC) and had an identifying yellow wristband. Per DSB Policy R.1, Inmate Classification, a green band designates an inmate who is an escape risk or assaultive towards staff. Per DSB Policy N.7, titled, In Propria Persona, states, Pro Per inmates assigned to protective custody or administrative segregation housing will be provided access to the legal research area with only those limitations to ensure for the inmate’s safety and need to be isolated from other inmates. Inmates who for reasons of institutional safety and security, cannot attend the legal research area with other inmates, will be allowed to use the Administrative Segregation legal research area. A review of records revealed that on 06-11-18, the complainant filed a grievance stating that “mainline inmates were in the Law Library” with him. The inmate history report verified that the complainant was taken to an overflow research area. Deputy 1 left him in the room by himself and went to the law library to collect software for the use of the complainant and his earphones. The grievance was investigated by jail staff and in a grievance response, jail staff confirmed, by review of jail surveillance video, that two mainline inmates were in the overflow research area with the complainant. Per the grievance form filed by the complainant, and verified by jail documents, on 06-11-18, Deputy 1 escorted the complainant to an overflow legal research area, but it was a different deputy who allowed two mainline inmates in the research area to use the restroom. while the complainant was in the research room. Deputy 1 did not allow the mainline inmates with the complainant. The issue was investigated, and a jail report stated that the facility will make every effort to help prevent the incident from happening again. There was insufficient evidence to either prove or disprove the allegation against Deputy 1.

16. Misconduct/Procedure – An unidentified deputy placed mainline inmates in the law library with the complainant.

Board Finding: Sustained

Rationale: The complainant reported, “Deputy 1 has separated me from the yellow bander inmates and placed me with all the green bander inmates in the Law Library.” The complainant did not specify a date or timeframe for this allegation. The complainant filed a grievance related to this incident. In the grievance, he stated that Deputy 1 escorted him to a room in the 5<sup>th</sup> floor which contained a computer with law library access. While using the computer, an unidentified deputy entered the room with two mainline inmates. The matter was investigated by jail personnel and after reviewing jail surveillance video, it was determined that there were two mainline inmates in the room with the complainant. Policy DSB Policy N.7, titled, In Propria Persona, states, Pro per inmates assigned to protective custody need to be isolated from other inmates. Jail personnel responded to the complainant and stated that the facility will make every effort to help prevent the incident from happen again. The evidence supports the allegation and the act or conduct was not justified

17. Misconduct/Procedure – Deputy 1 “shortened” the complainant’s time in the Law Library.

Board Finding: Action Justified

Rationale: The complainant stated, “Deputy 1 continues to shorten my time in the Law Library from 2 hours down to 1½ or even as low as 45 minutes/day.” Per DSB P&P N.7, In Propria Persona Status (Pro Per Inmates) an inmate who is granted pro per status by court order in a criminal case shall receive the privileges described in this section, including: Monday through Thursday, pro per inmates will be afforded between forty-five minutes and two hours of legal research area time depending upon the number of pro per inmates. According to SDCJ Inmate History Report, the complainant was escorted to the Law Library 17 times in a 30-day period, and each of those times, he spent an average time of two hours in the Law Library. Section V, Legal Research Area, states, Pro Per inmates are allowed between forty-five minutes and two hours for legal research. The evidence showed that the complainant was provided

with his allotted time at the Law Library and in many instances, more than the maximum of two hours. Deputy 1 actions were not in violation of policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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#### **19-004**

1. Misconduct/Procedure – Deputy 4 ended the complainant’s dayroom time.

Board Finding: Action Justified

Rationale: The complaint reported, “[Deputy] 4 ‘abruptly’ ended my dayroom time and had officers dispatched/appear while refusing to contact rank officer. Also, I was not given a warning to get ready to end dayroom time. This happened on/around 12-27-18. There was no way to keep watch on the time either, in dayroom area.” The complainant offered no evidence to support her allegation, however an Incident Report and surveillance video captured the event. The complainant was housed in Administrative Segregation (Ad-Seg) due to her inability to conform to the minimum standards of mainline housing. Per Green Sheet J.3.L, Ad-Seg inmates are permitted one hour of dayroom time on a daily basis. There was no requirement to provide an end warning. Surveillance video confirmed that the complainant was in the dayroom on 12-27-18, from about 12:06pm until she was escorted out by Deputies 1-4 at approximately 1:15pm. The video corroborated information documented in an Incident Report in that the complainant violated Inmate Rules & Regulations, Section 100, with disrespect to staff, disobeyed instructions, and exhibited boisterous activity. The complainant was found not to be credible in her recall of this incident, and the evidence showed that the conduct that occurred was lawful, justified and proper.

2. Excessive Force – Deputies displayed OC spray and/or brandished a taser.

Board Finding: Action Justified

Rationale: The complainant reported, “[Deputies] 1 and 2 were involved. 3 brandished the taser. 1 or 2 took out spray. This is a classic example of excessive methods and misconduct.” The complainant offered no evidence to support her allegation, however surveillance video corroborated a display of Oleoresin Capsicum (OC) due to the complainant’s non-compliance with the deputies’ directives. DSB Policy and Procedure 1.85, Use Of Defensive Devices, states in part that “personnel may display a [defensive] device to the inmate prior to using it.” As deputies repeatedly pointed toward a door, the complainant stopped, stood her ground, displayed boisterous behavior, and reportedly refused to comply with their directive to return to her cell. A deputy pulled out a canister from her left belt area and shook it up and down vigorously in her right hand until the complainant subsequently exited the area escorted by deputies. Evidence of a taser was not visibly apparent. The evidence showed that the conduct that occurred was lawful, justified and proper.

3. Misconduct/Discourtesy - Deputy 4 mistreated inmates in Module 5A.

Board Finding: Unfounded

Rationale: The complainant reported, “[Deputy] 4 continues to work in 5A being rude, disorderly, and threatening toward me and others. She picks fights as it appears.” The complainant offered no corroborating evidence to support her “beliefs” and also failed to specify a timeframe or any action(s) in order to investigate the allegation. CLERB has not received any other complaints regarding Deputy 4. The complainant was housed in Ad-Seg (Administrative Segregation) as she was unable to conform to the standards of mainline housing and because she showed a propensity for violence toward inmates/staff. Based upon all available documentation, she continually challenged authority and refused to comply with basic standards set forth for the safety and security of the institution. The complainant was found not to be credible. The evidence showed that the alleged act or conduct did not occur.

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#### **19-005**

1. Misconduct/Discourtesy - Deputy 1 “verbally abused” and/or made derogatory comments to the complainant during a requested escort.

Board Finding: Action Justified

Rationale: The complainant reported, “On July 29, 2018, I called the Sheriff’s non-emergency line to ask for an officer to escort me onto my ex-husbands property to pick-up my things. I had the divorce decree with me showed the officer and explained that since my ex-husband had domestic violence issues I just wanted an escort onto the property. My cousin who is also a licensed social worker was with me for support. The officer explained that he could stay about

an hour. As I started collecting my things my ex-husband came into the garage and started his usual story telling to the officer as I was packing up my things. Both my cousin and son were also present. My ex-husband is known for trying to plant seeds of doubt about me to anyone that will listen, in an attempt to deflect his violent abusive habitual lying personality disorder. He told Deputy 1 I was known for a variety of different mental illnesses. Deputy 1 became agitated clearly believing my ex-husbands story and began verbally abusing me and making derogatory comments and false accusations.' 'My ex-husband seems to suffers from a personality disorder, sociopath abuser. He is a pro at planting 'seeds of doubt' in unsuspecting people, simply to hide his abusive, horedous criminal behavior. Dangerous how often it works and the pleasure he derives when officers like Deputy 1 believe him, and join in with the abusive behavior. My ex-husband was able to control the situation and thus, prevented me from getting my personal things. I was, as always, following all the rules. Deputy 1 was hostel and rude towards me from the begining & seemed to enjoy the abuse and rude remarks my ex-husband was making to me. I am not mentally ill. I am traumatized by the abuse." Sheriff's Policy & Procedure 2.22, Courtesy mandates that employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Employees shall not use insolent language or gestures in the performance of his or her duties. Witness statements supported that there was no violation of this policy. Deputy 1 also provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however it cannot be publicly disclosed due to confidentiality statutes per the Peace Officer Bill of Rights. Furthermore, a review of Body Worn Camera (BWC) showed no violation of policy. The comments attributed to Deputy 1 were subjective in nature. While they may have been perceived as damaging by the complainant, they did not violate policy. The evidence showed that the comments made by Deputy 1 were not unlawful, unjustified or improper.

2. Misconduct/Truthfulness – Deputy 1 made “false accusations” about the complainant.

Board Finding: Action Justified

Rationale: The complainant reported, “Sheriff 1 stated that he remembered arresting me several times for domestic violence and responding to my previous address numerous times within the last year to break up domestic violence arguments. I am a 59 year old woman and have never been arrested, nor had I lived at my previous address for the last 3 years. Sheriff 1’s false statements that he ‘remembered arresting me’ and ‘coming to my previous address numerous time in the last year to break up domestic violence arguments’ are lies. Sheriff 1 made the situation turn dangerous. His conduct was inappropriate, unprofessional, and abusive.” Sheriff’s records confirmed the complainant was a Domestic Violence victim and that she had never been arrested in San Diego County. However, there were thirteen calls for service in 2018 to the complainant’s former address. A review of Body Worn Camera (BWC) confirmed that Deputy 1 said he had responded to the address for DV reports, and showed no violation of Sheriff’s Policy & Procedure 2.22, Courtesy. The evidence showed that the comments made by Deputy 1 were not unlawful, unjustified or improper.

3. Misconduct/Procedure – Deputy 1 told the complainant to leave the premises prior to her gathering her personal possessions.

Board Finding: Action Justified

Rationale: The complainant reported, “Sheriff 1 continued to verbally harass and abuse me making rude remarks and comments ‘such as hurry up I don’t here any boxes being taped up.’ You better hurry and grab your things, and don’t take anything else.’ He did not even give me time to find my things I was simply standing in garage trying to find my things from our 38 year marriage; with my cousin and 32 year old son helping me.’ ‘In the end, I took a couple of boxes my ex-husband had packed up, my deceased mothers O2 machine and a tote bag, my ex-husband handed me that contained nothing but dirty items from under someone’s bathroom sink. The boxes I was given to take, and that Sheriff 1 stated ‘I better take, because he did not have all day to wait around’.” Just prior to Deputy 1 providing escort to the complainant, he received and was holding for a call of a suspicious person in the area. Computer Aided Dispatch (CAD) records and BWC verified that Deputy 1 was with the complainant for just under an hour. The complainant acknowledged that she hired personal security to accompany her for the remainder of her things the following week. The complainant filled her vehicle with belongings and her son agreed to transport the remaining boxes to a storage unit. Although the complainant told the deputy to leave, he was unable due to the verbal exchange between the complainant and her ex-husband. BWC showed no violation of Sheriff’s Policy & Procedure 2.22, Courtesy; which was also corroborated by witness testimony. The evidence showed that the conduct that occurred was lawful, justified and proper.

4. Misconduct/Discourtesy – Deputy 1 told the complainant, “I do not trust you to behave.”

Board Finding: Action Justified

Rationale: The complainant reported, "He (Deputy 1) also stated 'that I had to leave because he did not want to be called back to the house to break up a domestic argument, and that 'he did not trust me to behave.' He had no reason to make that statement, it was a supposition and rude. Sheriff 1 needs Domestic Violence training, and should have an adverse actions taken against him for his unprofessional and abuse of power behavior. I am also going to speak to the domestic violence services at the San Diego County District Attorneys Office, as criminal charges should be filed against [Deputy] 1. When officers that are suppose to be unbiased and protective, abuse women, the trauma it causes is criminal. It has taken me months to get over Sheriff 1's abusive emotional assault on me, just to write this complaint. All of the Sheriffs need serious domestic violence training It has been my experience with the Sheriffs at that station, that it is run as nothing but a 'good old boys Club' as they defend each others abusive and unprofessional behavior. I will be asking the District Attorney's Domestic Violence group to file charges against Sheriff 1, his encouragement of my ex-husbands violent behavior could get me killed in the future, because my ex-husband knows that by 'planting seeds of doubt' in these 'good old boy officers' they won't believe nor protect me. Until, something like a 'punch in the face' or being thrown out of a moving car onto the road, or worse happens. These officers downplay my ex-husbands abusive behavior. Sheriff 1 acted like I deserved whatever I got. I have never been spoken to in such a belittling manner by law enforcement in my life." Although the complainant told the deputy to leave, he said he would not in order to avoid returning later. BWC showed no violation of Sheriff's Policy & Procedure 2.22, Courtesy; which was also corroborated by witness testimony. The evidence showed that the conduct that occurred was lawful, justified and proper.

5. Misconduct/Procedure – Deputy 1 refused to provide the complainant with his badge number.

Board Finding: Not Sustained

Rationale: The complainant reported, "Sheriff 1 refused to give his badge number unless by court order or my lawyer requests it for court. I do not believe that is policy. I work for a state agency and I must always identify myself when asked." Sheriff's Policy 2.20, Identification, states that sworn employees shall carry their identification cards on their persons at all times, except when impractical or dangerous to their safety or to an investigation. While on duty, all employees shall furnish their first and last name and ARJIS number to any person requesting that information, except when the withholding of such information is necessary for the performance of police duties. Deputy 1 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however it cannot be publicly disclosed due to confidentiality statutes per the Peace Officer Bill of Rights. Body Worn Camera video was reviewed, however, it did not capture the alleged incident. Witness statements conflicted and absent an audio recording there was insufficient evidence prove or disprove the allegation.

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## 19-006

1. Misconduct/Procedure – Supervising Probation Officer (SPO) 1 would not transfer the complainant's probation.

Board Finding: Action Justified

Rationale: The complainant alleged that SPO 1 would not agree to transfer his probation to an out of county or out of state agency. In his letter to the Chief of Probation, the complainant stated, "I am running into a problem with SPO 1 refusing a 'simple jurisdictional transfer' to Los Angeles County, Whittier to be more exact." The complainant went on to state, SPO 1 "will not even consider a transfer until I have complied with her stipulations/conditions (that she has imposed on me)." As per Chapter 3: Transfer of Supervision rules governing transfer of supervision under the compact of the Interstate Commission for Adult Offender Supervision RULE 3.101 Mandatory transfer of supervision of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender **is in substantial compliance with the terms of supervision in the sending state; (emphasis added)**. According to her contact report, dated 12-19-18, SPO 1 met with the complainant for his probation orientation appointment and informed the complainant since this was his first report to probation, he would need to establish compliance with the terms and conditions of his probation before any jurisdictional transfer or interstate compact would be granted. As per SDCPD Policy 358 Interstate Compact Section 358.1 Purpose and Scope, specifically states, The Interstate Compact Commission has the authority to enforce its rules on states, making it essential that San Diego Probation comply with the rules. SPO 1, SPO 2, and other officers provided the complainant with referrals and resources for homeless assistance, employment assistance and required counseling/rehab programs, in support of helping the complainant to gain compliance with the terms and conditions of his probation. In his complaint to CLERB and in his letter to the Probation Chief, the complainant expressed his dissatisfaction with the process, and he believed that he should have been granted an IC transfer to Las Vegas as soon as he was released from custody. As per San Diego Probation's Field Services Manual, Section 26.1.2 Interstate Compact Procedure Basic Requirements, a probationer is not allowed to leave the sending state until reporting instructions or formal acceptance is granted by the receiving state. Acceptance, rejection, or termination of supervision of a probationer will be made only with the involvement and concurrence of the California Interstate

Compact Administrator in Sacramento. All formal written, electronic, and oral communication regarding a probationer will be made through the Compact Administrator. It can sometimes take three to six months to get formal acceptance. Once the complainant established compliance, he was granted his IC request, which was granted just shy of the three-month mark from when the application process was started. The evidence indicated that SPO 1 acted per policy and procedures. The evidence shows that the alleged act or conduct did occur and was lawful, justified and proper.

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#### **19-014**

1. Misconduct/Procedure – Probation Officer (PO) 1 used false information and/or neglected to refer the complainant for parole and/or services.

**Board Finding:** Unfounded

**Rationale:** The complainant reported, “Probation denied me release and probation. [PO] 1 also chose to use false information, and possibly misused info: as well as neglecting to refer me for parole, mandatory supervision, programs, healthcare services, and community integration options and services.” The complainant offered no evidence to support her allegation and was found not to be credible in her recall of these events. PO 1 provided information during the course of CLERB’s investigation that conflicted with information reported by the complainant. PO 1’s report reflected information gathered from the complainant’s Record of Arrests and Prosecutions (RAP) sheet and local records in accordance with Chapter 4.2 Content of the Pre-Sentence Report, section 4.2.11 Criminal History. Prior to the complainant being sentenced, she was incarcerated and had access to medical and mental health services at the detention facility. Once sentenced by the Court, she was placed in the local prison system and not eligible for parole/services, however, PO 1 properly referred the complainant to the available resources at the facility. Probation records refuted the complainant’s assertions and the evidence showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – PO 1 was “rude, unconcerned, and blameful.”

**Board Finding:** Unfounded

**Rationale:** The complainant reported, “Officer 1 was rude, unconcerned, and blameful. She refused to hear me out and failed to evaluate my criminal history in accordance with state and constitutional precedence.” The complainant offered no evidence to support her allegation and was found not to be credible in her recall of these events. PO 1 provided information during the course of CLERB’s investigation that conflicted with information reported by the complainant. Probation records refuted the complainant’s assertions and the evidence showed that the alleged act or conduct did not occur.

3. Misconduct/Procedure – PO 1 failed to “timely interview” the complainant.

**Board Finding:** Unfounded

**Rationale:** The complainant reported, “[PO] 1 failed to timely interview me as I was on probation eligible from date of arrest.” The complainant offered no evidence to support her allegation and was found not to be credible in her recall of these events. PO 1 provided information during the course of CLERB’s investigation that conflicted with information reported by the complainant. The Investigations Intake Officer was referred this case for the Probation Report on 10-17-18. PO 1 was assigned the case on 10-22-18 and interviewed the complainant on 10-25-18, three days later; within the timelines as noted in Chapter Three, the Pre-Sentence Investigation, section 3.3.5 Conducting a Pre-Sentence Interview, section 3.3.5, Set Up Interview with Defendant paragraph for In custody Interviews. Furthermore, defendants are not eligible for probation from the date of their arrest; they are granted probation upon sentencing by the Court and the Court granting them probation in lieu of prison at which time their date of probation begins. Probation records refuted the complainant’s assertions and the evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure – PO 1 failed to consider the complainant’s mental health and medical needs.

**Board Finding:** Unfounded

**Rationale:** The complainant stated, “My mental health and medical problems were not properly considered. Also, my lack of knowledge and local-in-county residence was an issue. Just because I don’t live in San Diego County, CA does not affect my ability to successfully complete probation. Out-of-County applicants should have fair and reasonable chance to get supervised release also...” The complainant offered no evidence to support her allegation and was found not to be credible in her recall of these events. PO 1 provided information during the course of CLERB’s investigation that conflicted with information reported by the complainant. PO 1 contacted and considered psychological information supplied by the complainant, as well as her defense counsel. She further took into

consideration information obtained from the Collaborative Courts liaison at the facility where the complainant was incarcerated in regards to medical services she was being afforded. Probation records refuted the complainant's assertions and the evidence showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – PO 1 used the “wrong release date” for the complainant.

Board Finding: Unfounded

Rationale: The complainant stated, “I have concerns that [PO] 1 put the wrong release date and misused info, etc.” The complainant offered no evidence to support her allegation and was found not to be credible in her recall of these events. PO 1 provided information during the course of CLERB’s investigation that conflicted with information reported by the complainant. On 11-09-18, the Court denied the complainant probation and committed her to the custody of the San Diego County Sheriff (PC1170(h)/2057) for the Middle Term of two years. As the local prison is under the direction of the Sheriff, they compute the inmates estimated release dates, not the Probation Department. Probation records refuted the complainant’s assertions and the evidence showed that the alleged act or conduct did not occur.

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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.