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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 October 13, 2020, meeting held via the BlueJeans Platform. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcounty.ca.gov/clerb.

CLOSED SESSION

a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

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

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was insufficient evidence 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 (12)**ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE****19-057**

1. Death Investigation/In-Custody Medical – Dennis Lee Curry died while in the custody of the San Diego County Sheriff's Department (SDSD) on 05-13-19.

Board Finding: Action Justified

Rationale: Dennis Lee Curry was incarcerated at the George Bailey Detention Facility after his 05-03-19 arrest. During his medical intake screening, Curry stated that he was a chronic heroin user and that he had used heroin an hour prior to his arrest. He also stated that he had withdrawal symptoms when he stopped using it. A review of Curry's jail medical records revealed that during his incarceration, he was medically followed, he was prescribed appropriate medications, including a regime for heroin withdrawal. During subsequent interactions with SDSD medical personnel, Curry never expressed any acute symptoms of heroin withdrawal. On 05-11-19, Curry complained of feeling dizzy, difficulty breathing and

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vomiting with blood. Per SDSD DSB P&P Section M.5, titled "Medical Emergencies," nursing personnel responded to his cell and he was evaluated. He was transported to a nearby hospital where he was diagnosed with anemia (low red blood cells), cirrhosis of the liver (scarring of the liver) and hepatic encephalopathy (loss of brain function when the liver does not remove toxins from the blood). Curry underwent an endoscopy that revealed several esophageal (muscular tube that connects the throat with the stomach), and ruptured varices (swollen or enlarged veins). Curry was treated surgically, but his condition declined. Despite medical treatment, he went into cardiac arrest and despite resuscitative efforts, he failed to respond. His death was pronounced on 05-13-19. The San Diego County Medical Examiner performed an autopsy which determined the cause of death as complications of Hepatic Cirrhosis and the manner of death was natural. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

19-063

1. Death Investigation/In-Custody Drug Related – Jeremy Scott Thomas died while in the custody of the San Diego County Sheriff's Department (SDSD) on 05-29-19.

Board Finding: Action Justified

Rationale: On 05-29-19, Jeremy Scott Thomas was found down and unresponsive in his cell. Deputies immediately initiated life-saving measures, requested jail medical staff, and summoned emergency medical services. Jail medical staff quickly responded and continued life-saving measures. When paramedics arrived on scene they took over advanced life-saving measures, administered several doses of epinephrine and transported Thomas, via ambulance, to UCSD Medical Center Emergency Department. Upon his arrival to the emergency department, advance cardiac life-support measures were continued, but when Thomas failed to respond, his death was pronounced. Thomas was subsequently transported to the San Diego County Medical Examiner's Office, and on 05-30-19, an autopsy was performed on Thomas' body. No trauma was noted to Thomas' body and his cause of death was determined to be Hypertensive Cardiomyopathy (cardiac disorder due to illicit drug abuse) with contributing Acute and Chronic Methamphetamine Toxicity. The manner of death was determined to be accidental. During his medical intake screening, Thomas denied any illicit drug use. According to jail medical records, Thomas was seen in medical, for heroin withdrawal symptoms, several hours prior to being found unresponsive. Review of jail medical records and Department of Veteran Affairs (VA) medical records revealed Thomas had a medical history significant for heroin and methamphetamine abuse. Thomas had recently been hospitalized for a heroin overdose and sepsis due to chronic injection of illicit drugs. According to a review of jail documents and jail surveillance video recordings, security checks were performed in a timely manner and in compliance with SDSD Policy and Procedures (P&P). The evidence indicated that Thomas was properly classified upon his entry into the SDSD jail system after his 05-27-19, arrest. Upon being found down and unresponsive in his cell, sworn personnel expeditiously responded and immediately initiated life-saving measures. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

19-085

1. Misconduct/Procedure – Deputy Probation Officer (PO) 1 failed to include pertinent information in her court report.

Board Finding: Action Justified

Rationale: The complainant stated, "Probation Officer 1 failed to include in her report to court the time I served on mental health probation in Chicago, two years." According to California Penal Code (PC) §1203(b) titled, Informal Probation to Court, All courts shall have power to suspend the imposition or execution of a sentence and grant a conditional sentence in misdemeanor and infraction cases without referring such cases to the probation officer. Unless otherwise ordered by the court, persons granted a conditional sentence in the community shall report only to the court and the probation officer shall not be

responsible in any way for supervising or accounting for such persons. Additionally, according to the San Diego Probation Department (SDPD) Adult Field Services Manual Chapter 3.3 titled, Conducting a Presentence Investigation, the paramount purpose of the investigation and resultant probation report is communication in writing to the Court and others of all pertinent material, both favorable and unfavorable to the defendant, to assist the Court in determining a proper disposition. This includes reviewing and verifying defendant criminal history records. PO 1 included in her report that the complainant had been afforded approximately nine grants of summary probation and five grants of formal probation, with the earliest grant of probation being in 1978. Review of records, provided by Probation to CLERB, obtained from the complainant's FBI and Criminal Identification and Information (CII) reports, indicated that there were two possibilities of potential mental health custody durations, 11-03-99 and 11-28-01. Both list the complainant as being in a Diagnostic Center. Both times the complainant was in the state of Illinois. There was no additional documentation purporting that the time the complainant served on probation was deemed, "mental health probation," in Chicago or any other place. The evidence showed that PO 1 conducted a complete and thorough investigation of the complainant's records prior to completing her court report. The evidence showed that PO 1's court report was conducted per policy, and as such, was lawful, justified and proper.

19-086

1. Misconduct/Medical – Unidentified deputies failed to assist the complainant with obtaining prescription eyeglasses.

Board Finding: Summary Dismissal

Rationale: The complainant alleged that unidentified Sheriff deputies failed to assist him in obtaining prescription eyeglasses. On 07-16-19, the complainant contacted CLERB and reported issues he was having with obtaining prescription eyeglasses. A complaint packet with information concerning CLERB's jurisdiction was sent the complainant, and on 08-23-19, the complainant returned a signed complaint. The complainant provided attached documents to his signed complaint that pertained to his medical issues. These documents included a petition he filed with court, in which he named a San Diego Central Jail Nurse and two doctors he was seeking to sue for failing to provide him with prescription eyeglasses and failure to address other medical issues. A review of the complainant's statement signed under penalty of perjury revealed no apparent deputy misconduct. However, a request for documents was submitted to the Sheriff's Department for any associated grievances. Documents received from the Sheriff were reviewed and there were no associated grievances. There was no prima facie showing of misconduct against sworn personnel. CLERB Rules & Regulations 4.1 Complaints: Authority and 4.2 Misconduct, mandates that this complaint be Summarily Dismissed.

19-096

1. Misconduct/Procedure – Deputy 2 asked the complainant if he was "hearing voices."

Board Finding: Action Justified

Rationale: The complainant stated, "On January 18th, 2019, several Deputies arrived at my house. When the Sheriff's Deputies arrived they took me to the right side of the residence by the patio entrance and I was immediately asked by Deputy 2 if I was 'hearing voices?' I responded with 'no'. Deputy 2 went into what I believe to be a predetermined pattern of questioning with the intention of falsely labeling me a person with serious mental health issues." According to SDSD Patrol Procedures Manual Policy 1 titled, Use of Discretion, when deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training. According to SDSD P&P Section 6.31 titled, Community Oriented Policing and Problem Solving, COPPS is a commitment to a way of doing business that includes every employee, in every facet of our operation. Further, it is recognized that no law enforcement agency, by itself, can resolve all crime, social disorder, and other quality of life issues in its jurisdiction. COPPS involves the identification of various resources,

and the development of partnerships within the community. All personnel trained in the concept of COPPS shall apply the strategies and processes of this philosophy where applicable. Per the BWC footage, the complainant exhibited paranoid behavior and the BWC footage confirmed that Deputy 2 conducted a mental health evaluation that resulted in no further action taken as the complainant was not a danger to self or others and the complainant declined to talk with a mental health professional after it was offered. According to SDDS Patrol Procedures Manual Policy 23 titled, Psychiatric Emergency Response Team (PERT), Deputies shall refer candidates for PERT follow-up who do not need immediate involuntary psychiatric evaluation/treatment. Deputies may refer a subject to the PERT Team, who did not meet the criteria for a 72 hour evaluation, but who the Deputies feel would benefit from an appropriate referral. Deputy 2 made a referral to PERT. Deputy 2 was justified in his actions based on his training and per department policy. The evidence showed that the alleged act or conduct did occur and was lawful justified and proper.

2. Misconduct/Procedure – Deputies 1 and 2 ignored an “obvious” domestic violence incident.

Board Finding: Action Justified

Rationale: The complainant stated, “Deputy 2 ignored an obvious domestic violence incident. I reported being physically abused (domestic violence) by my wife and it was ignored by Deputy 2 and another Deputy (female) that I cannot identify.” According to SDDS Patrol Procedures Manual Policy 33 titled, Domestic Violence, upon arrival at the scene, Deputies shall evaluate the situation and take appropriate action to stabilize the situation and protect the safety of all parties involved at the domestic violence scene, including that of the Deputy. The Deputy has the discretion and authority to arrest a suspect for an assault or battery not committed in the Deputy’s presence. The Deputy is not required to inform the victim of his or her right to make a citizen’s arrest in cases of misdemeanor domestic violence. Upon arrival to the scene, Deputies 1 and 2 assessed the situation and acted per policy. Per the BWC footage, deputies found no injuries to either party and found no evidence that either party had displayed assaultive behavior toward one another. Deputies provided California Domestic Violence (DV) law information to both parties and they agreed to separate for the night. Per the BWC footage, there was no evidence of procedural misconduct. The deputies actions were lawful, justified and proper.

3. Misconduct/Procedure – Deputies 1 and 2 “refused” to provide identification.

Board Finding: Action Justified

Rationale: The complainant stated, “Deputy 2 and another Deputy (female) that I cannot identify, they refused to provide me with business cards.” According to SDDS P&P Section 2.20 titled, Identification, 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. Per the BWC footage, the complainant asked Deputy 2’s name and it was twice provided. Per the BWC evidence, Deputy 1’s name was never requested by the complainant and there was no evidence that the complainant requested business cards, from either deputy, which per policy, were not required to be provided. Deputies 1 and 2 were in compliance with policy and their actions were lawful, justified and proper.

19-099

1. Misconduct/Procedure – Deputy 1 failed to write a report.

Board Finding: Action Justified

Rationale: The complainant alleged Deputy 1 failed to take a report of her complaint against her neighbor for, “internet hacking, banging on ceiling, disturbing the peace all hours of day & night.” On 08-19-19, the complainant went to the Sheriff’s Substation to file a noise disturbance complaint against her neighbor and said rather than write up a report, Deputy 1 told her to call the SDDS when the noise is occurring so deputies could make contact. The complainant stated she did not want the Sheriff to come to her residence

because she did not want her neighbor to know she was filing a complaint. She stated, "I don't want upstairs resident hearing what I tell the Sheriff as since I complained to manager, my neighbor increased the stomping on the floor all day and night." California Penal Code Section §415 titled, Disturbing the Peace, states, in part, disturbing the peace, is defined as unreasonable noise that is willful and malicious and that annoys or disturbs another person. According to SDDS Policy and Procedure Section 6.71 titled, Crime Case Reports, A Crime/Incident Report shall be completed for the following Uniform Crime Reporting part-one, part-two crimes, and listed incidents: Part 1 Crimes: Homicide, Rape, Robbery, Assault, Felony and Misdemeanor, Burglary, Larceny/Theft, Felony and Misdemeanor Auto Theft, Arson. Part 2 Crimes: All other reported felony crimes, All other reported misdemeanor crimes. Incidents (non-crimes): Domestic Violence Incidents, Lost/Found Property, Death Investigations (Includes industrial accidents if death occurs), Suicides, Attempted Suicides, Deputy caused property damage (Damage done by a deputy during the course of his/her duties i.e.: forced entry for medical emergencies, check the welfare calls, search warrant service, etc.) Arrests: When the only crime victim is the State of California, e.g., narcotics arrests, etc., and an arrest has been made, a Crime/Incident Report Form will not be required on felony and misdemeanor arrests. Only the Arrest Report or Juvenile Contact Report is needed. Courtesy Reports: When a deputy writes a Courtesy Report for another agency(ies) or Sheriff's station, he/she will tell the reporting party that the report will be forwarded to the agency or Sheriff's station of jurisdiction. The deputy will attempt to notify the correct agency by telephone and FAX or e-mail the report to the appropriate jurisdiction if possible. The original report will be forwarded through the U.S. mail to the agency of jurisdiction. Messenger mail may be utilized to route reports between Sheriff's stations. Deputy's Reports: An Officer's Report may be completed to report a miscellaneous incident or provide supplemental information when appropriate. The reported event(s) did not rise to any of the listed crimes, therefore, a report was not required. Deputy 1 was justified in his actions when he advised the complainant to contact the SDDS when the disturbance was happening so they could make contact. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 told the complainant to “pursue a citizen’s arrest.”

Board Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 told her to “pursue a citizen’s arrest.” According to information provided by the complainant, when she wanted to file a report against her neighbor for disturbing her peace, she was given information on how to conduct a citizen’s arrest. According to California Penal Code Section §837 titled, Arrests by Private Persons, a private person may arrest another when the perpetrator commits a misdemeanor in a citizen’s presence or commits a felony and a citizen has reasonable cause to believe the perpetrator committed it. The complainant said she informed Deputy 1 that she did not want to pursue a citizen’s arrest, however, she also said she did not want the Sheriff to come to her residence because she did not want her neighbor to know she was filing a report against him. SDDS Policy and Procedure Section 6.110 titled, Private Person Arrest, states in part, when a private person notifies a Deputy Sheriff of his/her desire to make a lawful arrest, for a misdemeanor not committed in a deputy’s presence, he/she shall advise the private person that they may make a physical arrest. All persons involved in a private person arrest shall be advised that the deputies are not making the arrest, but are merely receiving the arrested person. After receiving an arrested person, deputies will determine the arrestee’s eligibility for cite and release if appropriate. A Department Information Source responded to CLERB questions and provided that Deputy 1 followed policy when he advised the complainant about citizen’s arrest. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

19-106

1. Misconduct/Procedure – Deputies 1-4 did not allow the complainant his full hour of dayroom time.

Board Finding: Action Justified

Rationale: On 09-05-19, the complainant was out for his one hour of dayroom time when his allotted time was disrupted for reasons unspecified to him. According to the San Diego Sheriff’s Department, the

complainant was in a jail on 09-05-19. A review of the jail staffing logs revealed that the aforementioned deputies were assigned to the housing unit that the complainant was housed in. A review of jail documents dated 09-05-19, revealed that dayroom time was offered to all inmates in the morning. At 1:01pm, all inmates were offered a “modified dayroom.” Additionally, all inmates were offered dayroom time in the evening. Lastly, and more importantly, the report noted at that 10:29am, the facility was placed on “Lockdown,” as there was a staff shortage. According to the jail’s log dated 09-05-19, the facility was in “modified-restricted movement because of staffing.” Throughout the day, the facility was down as numerous deputies were out of the facility for various reasons. According to SDSD DSB P&P Section T.11 titled “Exercise and Recreation,” inmates shall have an opportunity to utilize an area designed for recreation and the minimum Title 15 standards for exercise and recreation are provided to all inmates. There may be circumstances that preclude the inmates from utilizing the recreation yard during the scheduled time (e.g., inclement weather, maintenance issues, facility emergency, etc.). Additionally, and according to SDSD DSB P&P Section I.63 titled, “Facility Security- Housing Units,” the watch commander can utilize security lockdown for up to 72 hours to manage the activities in the module. Security lockdown is a management prerogative to lock down a unit when conditions are such that the safety of inmates and/or staff is at risk. The objective is to restore the safety of the inmates and staff. The evidence showed that the alleged act did occur but was lawful, justified and proper.

2. Misconduct/Medical – Deputies 1-4 refused to summon psychiatric staff at the complainant’s request.

Board Finding: Action Justified

Rationale: According to the complainant’s written statement, housing deputies refused to summon psychiatric staff at his request. The complainant stated, “...[I] went into mental distress and requested an unidentified floor/housing deputy to summon psychiatric staff. The floor/housing deputy refused to summon psychiatric staff and invited the complainant to fill out a Sick Call Request form.” According to the SDSD, the complainant was in a jail on 09-05-19. A review of the jail staffing logs revealed that the aforementioned deputies were assigned to the housing unit that the complainant was housed in. The complainant was housed in the Administrative Segregation housing unit. According to jail medical staff, the complainant was mentally stable enough to be housed in the housing unit, versus the psychiatric stabilization units (PSU). According to SDSD DSB P&P Section M.25 titled “Psychiatric Stabilization Units (PSU/WPSU),” for referrals for psychiatric evaluation, any person who has pertinent information regarding the behavior of any inmate may make inmate referrals to the medical staff. Jail Surveillance video recordings were reviewed. The recording revealed that the complainant was socializing, exercising, and took a shower prior to being instructed to return to his jail cell. After being instructed to return to his cell, the complainant was observed walking through the dayroom, up the flight of stairs, and walked into his cell. He did not appear to be in physical or mental distress. He walked freely, without assistance, and was not observed to be agitated. Being that the complainant was not experiencing a psychiatric emergency, it would be reasonable for the housing deputies to not summon medical or psychiatric staff at the complainant’s request. According to the complainant, he was offered to complete a Sick Call Request form to be seen at another time. According to SDSD P&P Section 2.23 titled, “Request for Assistance,” when any person requests assistance or advice, all pertinent information will be obtained in an official and courteous manner, and will be properly and judiciously acted upon consistent with established Department procedures. According to SDSD DSB P&P Section M.15 titled “Sick Call,” inmates shall have access to appropriate medical and mental health services on a daily basis. The second stage medical screening intake nurse shall explain the sick call procedures to every newly arrested inmate. Sick call request forms are available to all inmates. Sick call requests are deposited by the inmate into the secure medical mailbox provided in the housing unit. Medical staff is responsible for collecting the sick call requests from the housing units each night after head count. Inmates with a serious medical complaint shall be referred to the medical staff at any time. The evidence showed that the alleged act did occur but was lawful, justified and proper.

3. Misconduct/Intimidation – Deputy 4 “mocked” the complainant.

Board Finding: Not Sustained

Rationale: According to the complainant’s written statement, he alleged that Deputy 4, “approached my neighbor cell and told him that I was fussing and crying like a bitch and being a Tic Tack. After he was

aware that I had PTSD. Upon asking for his assistance he shook his shoulders.” Surveillance video was requested, but was subsequently unavailable due to error. Notably, surveillance video does not have audio capability to capture this alleged verbal exchange. During the course of this investigation, Deputy 4 was served with a Sheriff’s Employee Response Form (SERF) and provided relevant information that was considered in arriving at the recommended finding. According to SDSD P&P Section 2.4 titled, “Unbecoming Conduct,” employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. According to SDSD P&P Section 2.22 titled, “Courtesy,” employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. 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. According to SDSD P&P Section 2.48 titled, “Treatment of Persons in Custody,” employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures. Absent information provided by an independent witness to the incident or additional video or audio recordings of the interaction, there was insufficient evidence to prove or disprove the allegation.

4. Misconduct/Discourtesy – Deputy 4 was “rude, aggressive,” and cursed at the complainant.

Board Finding: Not Sustained

Rationale: According to the complainant’s written statement, he reported, *“On 09-10-19, a detentions nurse was distributing medications in 4E. When the complainant was administered his medication, he complimented the nurse by telling her that she was beautiful. I said thank you you’re so nice, and your beautiful, she said thank you. Then the deputy was walking through the crossover door and heard what I said. And went 0 to 100. Deputy 4 “rudely and aggressively” instructed the complainant not to address the nurse in that manner. The complainant advised that the deputy cursed at him. The complainant went on to explain that the deputy “verbally abuse me to try and intimidate me. He said who the fuck said that! He then wakes [waved] his hands aggressively with a mean look on his face and says “What the fuck is wrong with you. Don’t ever say that shit. Are you stupid?” He then slaps my door hard and says “No fuck that you ain’t getting shit! you don’t got no fucking right! And walks away. This all this all took place when the nurse came to my cell door to give me my medication.”* Surveillance video was requested, but was subsequently unavailable due to error. Notably, surveillance video does not have audio capability to capture this alleged verbal exchange. A reviewed of jail documents, dated 09-10-19, did not document when medication distribution occurred in the housing units. In an email correspondence with CLERB’s liaison advised that according to the jail lieutenant, medication distribution is no longer logged by deputies in jail computerized documents, as it is the duty of the medical division to track medication distribution. According to the complainant’s medication distribution report, the complainant was scheduled to be administered his various prescribed medications periodically during his incarceration. The medication report indicated the name of the jail nursing staff member who distributed the medication on a given day; however, the report did not reveal that the complainant was given medication on 09-10-19. According to SDSD P&P Section 2.4 titled, “Unbecoming Conduct,” employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. According to SDSD P&P Section 2.22 titled, “Courtesy,” employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. 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. According to SDSD P&P Section 2.48 titled, “Treatment of Persons in Custody,” employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures. According to SDSD P&P Section 2.30 titled, “Failure to Meet Standards,” employees shall properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department.

Absent information provided by an independent witness to the incident or additional video or audio recordings of the interaction, there was insufficient evidence to prove or disprove the allegation.

19-122

1. Excessive Force – Deputies 1-8 “severely beat” the aggrieved while handcuffed.

Board Finding: Action Justified

Rationale: The complainant stated, “On Oct. 27, 2019 my son was beaten severely by 3 peace officers @ a Det. Ctr in San Diego while in hand-cuffs. He was slammed into the floor – and beaten. -had a cast on his Rt. Hand at the time. He stated ”they slammed my head into the floor at least 20 times. one name only is known Deputy 6 and two other jail guards. Did use excessive force against my son. He sustained severe concussions from severe blows to his head – neck, and face. The beating lasted approx. 20 minutes – then he (illegible) a sock was placed over his head.” Detentions Policy I.89, Use of Force, states that during the course of their official duties, Detention Services Bureau personnel, may use physical force to the extent that is necessary and objectively reasonable to overcome resistance, and maintain or restore order. Personnel shall use the department approved techniques, equipment, and tactics in controlling the inmate or incident. According to the involved deputies reports, the aggrieved was boisterous, disrespectful, and non-compliant during a pat-down search by Deputy 3. The aggrieved was handcuffed and placed into a medical exam room where he continued to be “very agitated” and turned aggressively toward deputies, who guided him to the floor where he twisted his body and “violently kicked” his legs. Deputies utilized body weight, leg chains, and a spit sock to gain control. The aggrieved was transported to medical where he reportedly refused treatment and nursing staff were unable to assess his vitals due to his noncompliance. The inmates medical, psychological, and JIMS (Jail Information Management System) history was reviewed, but did not reveal any history of psychological or medical issues; nor was he prescribed any medication. Deputy 1 evaluated the aggrieved for being under the influence of a stimulant because of his erratic behavior and dilated pupils. Deputies transported the aggrieved to a disciplinary isolation cell where he was pinned to the floor with an “inert” shield to remove the handcuffs, leg chains and spit sock. The aggrieved continued to disobey commands and grabbed at Deputy 4, who delivered one closed fist strike to the inmates face. Control holds were then utilized to reapply a set of handcuffs. Due to the aggrieved’s behavior and the possibility he was “under the influence,” the WRAP Restraint Device was authorized for application. Once the WRAP was applied, the aggrieved was transported by gurney to medical for evaluation and where a doctor prescribed a sedative. Medical then cleared the inmate for transport to a different facility for sober cell placement. The department approved techniques and devices utilized to regain control of the aggrieved were lawful, justified, and proper.

2. Misconduct/Procedure – Deputies 1-8 failed to provide medical care to the aggrieved following a use of force.

Board Finding: Not Sustained

Rationale: The complainant stated, “...he was thrown into a vehicle and transferred to another jail in San Diego – given 0 medical care.” Detentions Policy I.89, Use of Force states that whenever physical force used by a deputy results in a complaint of injury or an injury of a subject, seek immediate medical evaluation and/or treatment, and notify a supervisor. According to deputies reports, following a use of force, the aggrieved was restrained on a medical gurney for transport to the medical dispensary for evaluation. Once there, he was uncooperative and taken to a cell where he refused to follow commands and was subsequently placed into a WRAP device for sobering cell placement. After application of the WRAP, the aggrieved was taken once again to the infirmary for evaluation and was administered a sedative, and cleared for transport to another facility. Upon arrival there, the inmate was placed into a sobering cell. Detentions Policy J.2, Sobering Cells are used for the holding of inmates who are a threat to their own safety or the safety of others and require a protective environment due to their state of intoxication. It also mandates that a nursing assessment must be obtained, as soon as possible, or no later than 30 minutes after the initial placement. After the placement time, medical staff will check the inmate a minimum of every 4 hours. If the inmate remains in the sobering cell up to 12 hours from the time

of the initial placement, then medical shall conduct an immediate assessment. For a placement greater than 24 hours, the watch commander will ensure a medical assessment is obtained by a medical physician or psychiatric doctor, who will be physically present, to determine if the inmate should remain in the sobering cell. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient's consent or knowledge. The aggrieved failed to sign and return a medical release form authorizing CLERB access to his medical records. The complainant also made attempts to have the aggrieved cooperate, but was refused. The complainant reported she was an authorized power of attorney for the aggrieved and would return the necessary form. The aggrieved and/or complainant failed to return the required documentation and pertinent evidence was inaccessible. There was insufficient evidence to prove or disprove the allegation.

19-144

1. Illegal Search & Seizure – San Diego Metropolitan Transit Officers (MTS) detained the complainant.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “On or about the 1st day of December 2019, I was at the Transit Center. Shortly thereafter Transit District Officers accused me of not having a transit pass and proceeded to detain and eventually restrained me when I could not produce it. Transit Officers called San Diego Sheriff Deputies to detained, restrained, and arrested complainant.” According to the Incident Reports by employees of the San Diego Metropolitan Transit Systems, on 12-01-19, a shirtless complainant was contacted for fare evasion. During questioning, the suspect exhibited paranoia and appeared to be under the influence of drugs. The following CLERB Rules & Regulations apply to this allegation: 4.1, Complaints: Authority states that pursuant to County Ordinance, CLERB shall have authority to receive, review, investigate, and report on complaints filed against peace officers or custodial officers employed by the County in the Sheriff’s Department. And Section 15, Summary Dismissal, the Review Board lacks jurisdiction. CLERB has no authority to investigate the actions of the MTS Officers.

2. False Arrest – Deputy 3 arrested the complainant.

Board Finding: Action Justified

Rationale: The complainant stated, “On or about the 1st day of December 2019, I was at the Transit Center. Shortly thereafter Transit District Officers accused me of not having a transit pass and proceeded to detain and eventually restrained me when I could not produce it. Transit Officers called San Diego Sheriff Deputies to detained, restrained, and arrested complainant.” On 12-01-19, the complainant was contacted for fare evasion and during questioning, he exhibited paranoia and appeared to be under the influence of drugs. Deputies were dispatched to a call for code cover to assist Metropolitan Transit System (MTS) Enforcement Officers that were fighting with a “mentally dangerous” subject. Upon deputies arrival, the suspect exhibited symptoms of being under the influence and attempted to flee from their authority. Per PC§ 835a., Peace Officer Use of Force to Arrest, any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. The complainant was subdued and placed under arrest for a Parole Violation and Resisting a Peace Officer with Violence. The BWC evidence showed that the conduct that occurred was lawful, justified, and proper.

3. Excessive Force – Deputies 1-5 utilized force and injured the complainant while he was restrained.

Board Finding: Action Justified

Rationale: The complainant stated, “San Diego Sheriff Deputies used excessive force to detained complainant and hit, kick, stomp, beat, slam, dragged complainant while restrained breaking bones in his wrist, hands, arms, legs, feet, and permanent scaring to complainant’s face, neck, head, shoulders, back, requiring crutches – wheelchair.” Body Worn Camera (BWC) refuted the complainant’s version of events and he was found not to be credible in his recall of these events. As evidenced on multiple occasions

throughout this incident, the complainant admittedly injured his foot prior to law enforcement contact. Sheriff's policies permit the utilization of reasonable and necessary physical force to effect an arrest and overcome resistance. The complainant displayed several signs/symptoms of being under the influence of a controlled substance, evidenced by profuse sweat, extreme hyperactivity, and an inability to sit still; he talked continuously and made delusional, paranoid statements. During escort to a patrol vehicle, the complainant attempted to break free from MTS officer's holds and grabbed onto a railing. The complainant wailed/screamed and disobeyed all commands. Whenever a peace officer detains someone to investigate reasonable suspicion or issue a citation, a suspect has an obligation to stop, and "no right to resist" a lawful detention. While actively resisting, MTS Officers took the complainant to the ground where he kicked at officers/deputies until placed in maximum restraint. The complainant violated Penal Code section 148 by obstructing or delaying officers in the performance of their duties and they were permitted by law to use physical force to make him stop. The complainant was transported to a patrol station for medical evaluation by the Fire Department. While en route, the complainant continued to kick and partially dislodged the cord cuff restraints. Medics were unable to evaluate the complainant due to his active resistance. The complainant was then taken to a detention facility and secured to a gurney where he continued to thrash about violently despite body weight, control holds, and pain compliance techniques that had no effect. The complainant also attempted to bite staff and Deputy 1 applied a spit sock over his head. After the complainant was medically rejected from jail for his elevated blood pressure, deputies applied a WRAP device to limit his mobility during transport to a hospital, where he was subsequently found to have abrasions and a bone fracture in his right foot. The complainant reported he jumped off a building and had been running around on it for a couple of days. The evidence supported the deputies necessary and reasonable uses of force, which were lawful, justified, and proper.

4. Criminal Conduct – Deputies 1-5 violated the complainant's civil rights.

Board Finding: Unfounded

Rationale: The complainant stated, "The video footage will provide through preponderance of evidence that the excessive use of force was done while I was restrained and detained and that there was no substantial justification based on any law enforcement objective or reasoning for the barbaric, unusual and cruel use of force and torturous acts so horrible that the Union-Tribune is launching its own investigation to prevent another cover-up. Please employ the services of the Federal Bureau of Investigation to ascertain how many civil rights violations were committed by Transit Officers and San Diego County Sheriff's Department deputy Sheriffs." CLERB has no authority over the actions of the MTS officers initially involved in this event. Due to the complainant's active resistance, Control Compliance techniques were utilized, however, pressure and pain applications had no effect on the complainant due to his drug induced agitated state. Because the complainant was kicking at deputies he was placed into maximum restraint to effect an arrest and subsequently a WRAP device to immobilize the suspect. BWC refuted the complainant's assertions and discredited his recall of these events. The force needed and utilized was not excessive. The evidence showed that the complainant's civil rights were not violated and the alleged conduct did not occur.

20-082

1. Misconduct/Procedure – Unidentified deputies, under the supervision of Deputy 1, denied the complainant inmate privileges on 08-03-20 and 08-05-20.

Board Finding: Unfounded

Rationale: The complainant stated, "At the beginning of the year Deputy 1 was assigned as AD-Seg/Seg Sgt. I have brought to the Sgt. attention repeatedly the violations of Title 15 and P&P for 6A. The Sgt's negligence in the supervision of our conditions is criminal. The Sgt. encourages and promotes abuse under the sgt. I have done all that I am capable to bring attention to the hostile environment created under the Sgt. only to be met with false reports and false investigations. As a Sgt. in command; the deliberate abuse and encouragement of negligent behavior by the deputies under the Sgt. needs to be stopped. The deputies will do a better and legal job if the Sgt. is removed from the overseeing of us. The deputies

can only perform to the standards set by the poor behavior encourage and expected by Deputy 1 I have sent overwhelming reports / grievances etc. to prove the abuse by the Sgt. All of the abuse I have endured under the Sgt. is in the reports. My final hunger strike I requested for a schedule of activity in accordance with Title 15 and P&P for 6A. Deputy 1 said it was going to be implemented. I stopped my protest. The schedule to be implemented deny me dayroom/phone etc. for Two days and it took away more privileges and it was more abusive that when I had no schedule. There are 12-15 Ad/Seg permanents who are being victimize by the Sgt. The attitude of the Sgt. is to do things as they been done. It is illegal and it does not follow Title 15 or P&P. Just because the abuse has been done for years does it stop being illegal and abuse. The Sgt. needs to be removed and made a example off to the rest of the chain of command who are teaching the new deputies the "OLDWAY" We need your help!!!" The complainant failed to identify any witnesses to these events nor did CLERB receive complaints from the unspecified "12-15 victimized inmates." Title 15 Guidelines and Detention polices to include: L.7-Razors, L.11-Personal Hygiene, P.2-Telephone Access, and T.11-Exercise/Recreation, outline specific protocol for all inmates with regard to the specified services and there was no violation of policies. The complainant grieved about these issues which were logged in accordance with N.1 Grievance Procedures. Deployment Logs verified that on 08-03-20, Deputy 1 was the "South Sergeant" and the "Ad-Seg Sergeant" on 08-05-20. A review of the Jail Information Management System (JIMS) records refuted the complainant's loss of any privileges on the dates in question; however, it was notated that he refused recreation time. An Area Activities Report also documented the sanitization of the module, and distribution of: meals, mail/e-mail, books, module property, razors, newspapers, recreation time, and dayroom time to include phone usage. Furthermore, a Securus Phone Log verified that the complainant made three telephone calls while in the dayroom; two calls on 08-03-20 lasted initially 33 seconds, and the other for five minutes and 14 seconds, followed by another call on 08-05-20 for twenty-eight minutes. The complainant offered no evidence to support his assertion(s) and was found not to be credible in his recall of these events. The evidence showed Deputy 1 and staff acted in accordance with policies and the alleged act or conduct did not occur.

20-086

1. Misconduct/Procedure – Deputy 1 "left exculpatory evidence out of a collision report."

Board Finding: Unfounded

Rationale: The complainant reported, "On 09/19/2019, San Diego County Deputy 1 prepared a collision report. This report caused me to be sued by another party. The report claimed my insured vehicle, driven by my wife struck a pedestrian and caused alleged injuries to another party. This report did not contain any photographs, nor were there any witness statements within this report. There was copious amounts of exculpatory evidence left out of this report. Deputy 1 did not obtain any statements from any persons at the report location, he did not book any video evidence that he allegedly watched..." Sheriff's Policy 2.41, Departmental Reports, states that reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included. Furthermore, 2.40, Abuse of Process/withholding Evidence states that employees shall not withhold evidence or information, or make false accusations of a criminal or traffic charge. An Evidence Report verified that (27) photos and (3) videos were booked into evidence in accordance with established departmental procedures as mandated by Sheriff's Policy 2.39, Processing Property. Also, the Narrative/Supplemental section of the Collision Report documented the involved parties statements; identified as P-1 and P-2; there were no other known parties to this incident. A Computer Aided Dispatch (CAD) audio-recording recorded the 911 call from an employee who assisted the victim after she was brought into the medical office building. The elderly victim sustained a broken hip and abrasion(s). Deputy 1 also provided information during the course of CLERB's investigation that conflicted with information reported by the complainant. Deputy statements cannot be publicly disclosed due to confidentiality laws per the Peace Officer Bill of Rights. The evidence showed that Deputy 1's actions were in compliance with Sheriff's protocol and the California Highway Patrol Collision Investigation Manual; the alleged conduct did not occur.

2. False Reporting – Deputy 1 "fabricated" damage in a collision report.

Board Finding: Unfounded

Rationale: The complainant reported, "Deputy 1 worst of all; fabricated damage on my vehicle on page 5 of report stating: 'At the time I located V-1, I noticed damage to the right rear portion bumper and liftgate.' There was no damage to the rear of my vehicle at the time of this report as written by Deputy 1. This statement is false. Fabrication of damage to sway Insurance agents decision has occurred. My insurance company placed fault on my wife solely on the written report prepared by Deputy 1. The end result is costing me a much higher insurance rate and stress of pending lawsuits against my family. The fabrication of evidence (alleged witnessed damage by Deputy 1) Is not excusable and questions the Integrity of the San Diego Sheriff's Department and Deputy 1." Deputy 1 provided information during the course of CLERB's investigation that conflicted with information reported by the complainant. Deputy statements cannot be publicly disclosed due to confidentiality laws per the Peace Officer Bill of Rights. VC§ 20008, Duty to Report Accidents, requires a law enforcement agency to write a report for accidents resulting in injuries. On 09-19-19, Deputy 1 was dispatched to a report for medical aid for an elderly patient with hip and leg pain as the result of vehicle versus pedestrian in the parking lot. The collision report stated, "At the time I located V-1, I noticed damage to the right rear portion bumper and liftgate." Deputy 1 photographed the damage and placed the photographs into evidence. The photographs verified damage on the suspect vehicle, at the approximate point of contact with the victim, as evidenced on the surveillance video. The allegation that Deputy 1 fabricated evidence and wrote a false report did not occur based upon all available evidence.

3. Criminal Conduct – Deputy 1 "illegally" prepared a collision report.

Board Finding: Unfounded

Rationale: The complainant stated, "Traffic collisions prepared by a sworn officer of the law is illegal and can be recorded by the county under the Brady v Maryland ruling from the U.S. Supreme Court ruled that suppression by the officer must provide evidence that would prove innocence." Brady lists are used to disclose police officer misconduct to defendants in criminal trials. The lists get their name from a landmark 1963 U.S. Supreme Court case, Brady v. Maryland, in which the Court ruled that a prosecuting agency must share with a defense attorney all exculpatory evidence - that is, evidence that might help exonerate a defendant, including all information about officer misconduct. Deputy 1 provided information during the course of CLERB's investigation that conflicted with information reported by the complainant. Deputy statements cannot be publicly disclosed due to confidentiality laws per the Peace Officer Bill of Rights. VC§ 20008, Duty to Report Accidents, requires a law enforcement agency to write a report for accidents resulting in injuries. Deputy 1 has specialized training in the subject matter. The Collision Report was written in accordance with Sheriff's polices and standards set by the California Highway Patrol Collision Investigation Manual. The evidence showed that the collision report prepared by Deputy 1 was lawful, justified, and proper and there were no illegal actions.

20-091

1. Criminal Conduct – Unidentified Sheriff's employees stole from the complainant.

Board Finding: Summary Dismissal

Rationale: According to the complainant's written statement, he explained, "*I am filing a complaint with you because on 9/7 and 9/8 employees of the San Diego Sheriff Department perpetrated life sentence and death-penalty offenses in collusion with their Internal Affairs staff. Below is the background and descriptions of the events. I attended UC Santa Barbara between 2011 and 2014. I was pursuing HONEST WORK as an academic and a literary artist, my childhood dream. Sheriff Department employees were involved in stealing all of my academic projects, hiring students to ruin my personal life, and perpetrating the 2014 Isla Vista Massacre, an armed robbery, poisoning-the-well smear campaign, and an old fashioned, British religious persecution psychological warfare attack. After graduation, I moved back home to Encinitas, and Sheriff Department employees and their co-conspirator implemented the rest of their smart-person labor trafficking conspiracy and British religious persecution psy-op, a very treasonous*

crime. For years, they have been following me around and triggering my dissociative disorder and assaulting me while I call for help. When I dial 911, the responding officer is a culprit. When I contact Internal Affairs, they pretend like nothing is happening. Sheriff Department employees and their coconspirators are torturing me all day long, while they taunt me about trademark dilution damages exceeding a trillion dollars and intellectual property theft exceeding that amount, and they are mocking me because I am a victim of human trafficking. The Sheriffs are taunting me about their casual involvement in serious criminal activity while on the clock. They also are making statements which sound like they are confused, have misunderstandings, maybe are smoking methamphetamine on the clock, and are committing these serious crimes under the color of law by mistake, but then they go back to taunting me because I am a victim of human trafficking. In recent months, Sheriff Department employees and their co-conspirators have been assaulting me while I practice yoga in a park at Moonlight Beach. Yoga is my religious devotional practice, and it is treatment for my dissociative disorder and rheumatoid arthritis. These criminals have been triggering my dissociative disorder and both physically and sexually assaulting me, while I am attempting to perform my religious devotional practice, self-treatment, and exercise. While they do this, they are triggering my dissociative disorder to obstruct my attempts to treat it, and they are making disrespectful remarks or in other ways distracting me. They are also hiring adults and minors to harass me or do disrespectful things during these times. On Monday 9/7, the day after my thirty-first birthday, the Sheriffs were particularly aggressive in their assaults during my attempt to practice yoga. They were there personally, wearing their uniforms, and talking about their casual involvement in criminal activity while employed by the Sheriff Department. Their assaults and taunting were so aggressive that, after they followed me into a public bathroom and assaulted me there, I photographed the nearby Sheriff vehicle and the Sheriffs inside it. The following morning, Tuesday 9/8, I went to a center to get food, and inside the office staff said that Sheriff Department employees had instructed them to give me my mail. They then gave me my mail, which included a letter from the Sheriff Department. Sheriff Department employees then started triggering my dissociative disorder while I was opening the letter and reading it. The letter was from their Internal Affairs Office, requesting additional details about the sexual assaults during my yoga practice (I think it was the first response letter that I have received since an online complaint around 4/24 and several subsequent online complaints and numerous phone calls.). The Sheriffs were TAUNTING ME while I read it. They then continued assaulting me again and again and taunting me while I got food and then left the CRC. They followed me down the street, and triggered my dissociative disorder and sexually assaulted me while taunting me about their brazen gang activity while in uniform. While taunting me, they explicitly stated that they were committing hate crimes and targeting me because of my disabilities and religion. They also mocked me because my first creative writing attempts had typical beginner mistakes, and then they stated that they were torturing me as an act of terrorism directed at the artist/academic community and then attempted to rationalize that terrorist attack by babbling frivolous and absurdly false accusation and they used inflammatory language. They expressed confusion and misunderstanding and made statements meaning that they were torturing me all day long in public under the color of law BY MISTAKE. That means that on 9/7 and 9/8 Sheriff Department employees perpetrated a human trafficking conspiracy, a Loyalist Psy-Op, and serial life-sentence hate crimes, in collusion with their Internal Affairs Office. That happened after months of Internal Affairs refusing to stop the criminal activity of their employees or even comment on it. AND the Sheriffs timed that stunt of theirs to occur on the weekday closest to my birthday, 9/6. I have filed multiple complaints with you about this ongoing criminal activity. However, the compulsive criminal activity of the San Diego Sheriff Department has continued day after day, year after year, through the present moment. Sheriff Department employees are here now in a church parking lot, while I am typing up this complaint, and they have been triggering my dissociative disorder, assaulting me, and spraying something in my mouth—while refusing to identify themselves by name or job title. Please stop them, or refer me to somebody who will.” The complainant’s written statement appeared to be random, irrational, and disorganized statements. The complainant had three other CLERB investigations in 2016, 2017, and 2019. The complainant was diagnosed with a mental disorder and experiences paranoid delusions. According to CLERB case #16-022, the complainant’s psychiatric medical history was remarkable for acute psychosis, anxiety disorder, schizophrenia, and schizoaffective disorder for which he was not on a medication regimen. He had a history for increased paranoia and delusional ideations. A request for records from the SDSD revealed that no records were available, other than his 5150 Hold from 11/2017. The complainant did not have any arrest in San Diego County or any documented interactions with any San Diego Sheriff’s Department deputy. There were no

records in the SDDS computerized jail documents. The complainant did not have a criminal history, any parking citations, field interviews, or traffic citations. A records check for any SDDS Communication Center reports at the complainant's home address also did not reveal any records. The complainant lacked credibility and his complaint was so clearly without merit that no reasonable person could sustain a finding based on the allegation. There was no prima facie showing of misconduct.

2. Criminal Conduct – Unidentified Sheriff's employees sabotaged the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

3. Criminal Conduct – Unidentified Sheriff's employees "perpetrating the 2014 Isla Vista Massacre."

Board Finding: Summary Dismissal

Rationale: See Rationale #1

4. Criminal Conduct – Unidentified Sheriff's employees committed "an armed robbery."

Board Finding: Summary Dismissal

Rationale: See Rationale #1

5. Criminal Conduct – Unidentified Sheriff's employees participated in "an psychological warfare attack."

Board Finding: Summary Dismissal

Rationale: See Rationale #1

6. Misconduct/Procedure - Unidentified Sheriff's employees "followed, taunted and mocked" the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

7. Criminal Conduct – Unidentified Sheriff's deputies assaulted and tortured the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

8. Criminal Conduct – Unidentified Sheriff's deputies "smoked methamphetamine."

Board Finding: Summary Dismissal

Rationale: See Rationale #1

9. Criminal Conduct – Unidentified Sheriff's deputies "tortured" and sexually assaulted the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

10. Misconduct/Harassment - Unidentified Sheriff's deputies made "disrespectful remarks" to the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

11. Excessive Force – Unidentified Sheriff's deputies "assaulted" the complainant in a bathroom on 09-07-20.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

12. Misconduct/Procedure – Deputy 1 refused to intervene and assist the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

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.