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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 November 10, 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](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 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 (6)****ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE****19-093**

1. Death Investigation/In-Custody Drug Related - Inmate Michael Hossfeld died while in the custody of the San Diego Sheriff's Department on 08-03-19.

Board Finding: Action Justified

Rationale: Michael Hossfeld was incarcerated at the San Diego Central Jail. He was arrested on 09-14-17, for robbery, possession of a firearm, and assault. He was transported and booked in the San Diego Central Jail, where he remained incarcerated for 691 days. On 07-20-19, he was found down and unresponsive in the module common area. Upon being discovered, Sheriff deputies and jail medical staff were summoned to the scene and initiated life-saving measures. Paramedics were summoned to the jail and took over life-saving efforts. Hossfeld was transported to UCSD Medical Center for care. Upon his arrival to the hospital, CPR was continued. Hossfeld was in a coma. Despite medical intervention, Hossfeld

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failed to respond positively. His health declined until his death on 08-03-19. The Sheriff's Homicide Unit responded to the hospital to investigate the death. Hossfeld was subsequently transported to the San Diego County Medical Examiner's Office and an autopsy was performed. The Medical Examiner concluded their autopsy report. They had determined the cause of death to be anoxic encephalopathy due to acute fentanyl toxicity and the manner of death to be accidental. According to a review of jail documents and jail surveillance video recordings, security checks were performed in a timely manner and in compliance with SDCS P&P. Follow-up investigations revealed illicit drugs were located in the jail. Illicit drugs were provided to Hossfeld by another inmate housed on the floor. Subsequent searches of the module were remarkable for illicit drugs and arrests were made. Through review of surveillance video and additional investigation, it was learned that when Hossfeld approached another jail cell, he was provided with illicit drugs that contained fentanyl. Approximately 20 minutes after Hossfeld was transported to the hospital, a second inmate from the same housing module, was found down and unresponsive in his cell due to a drug overdose. The evidence indicates that Hossfeld was properly classified upon his entry into the SDCS jail system after his 09-14-17 arrest. During his medical intake screening and subsequent interactions with SDCS medical personnel, to include psychiatric staff, Hossfeld never expressed a significant medical history. There was no evidence that Hossfeld expressed any concerns about his mental or physical well-being to his cellmate or any member of the SDCS, sworn or professional. Upon being discovered down and unresponsive on the dayroom floor, 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.

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## **19-098**

1. Misconduct/Procedure – Deputies 2 and 4 “ignored” the complainant.

### **Board Finding:** Not Sustained

**Rationale:** The complainant reported, on 10-09-18, at approximately 8:25pm he was returning from the showers and discovered his cell was locked. The complainant alleged that when he found his cell was locked and attempted to get the deputies attention, he was ignored. According to a Jail Inmate Management System (JIMS) Report, approximately fifteen minutes prior to the complainant finding his cell locked, he had been instructed several times to exit the shower and return to his cell. The complainant ignored the tower deputy's instructions and continued to shower. The complainant stated, “I stood in front of my door waving my towel to obtain a deputy's attention so I could have my cell unlocked, but I got no response. I went to all the African-American cells on the top tier, one by one and ask them to press their intercom call button and alert the tower deputy. They tower deputy - 2 did not respond. An inmate obtained deputy 4's attention through the pill call window. Deputy 4 looked up at me on the top tier, waved me off and went back to whatever he was doing on his phone.” SDCS DSB P&P Section I.2 titled, Intercom Systems, states in part, Intercoms are generally located in areas accessible by inmates (e.g., dayrooms, cells, classrooms, etc.). Each facility shall maintain an inmate intercom system for the purpose of providing a means of communication between sworn staff and inmates. Intercom systems should be primarily used as a means of relaying and or summoning emergency assistance. Intercoms shall not be routinely muted or silenced. Jail surveillance video was reviewed and showed the complainant as he stood outside the cells with three other inmates on the top tier. At one point, one of the inmates was observed to wave their arm over their head one time. That was the only action observed that indicated any attempt to get the tower deputy or any other deputy's attention. Deputies 2 and 4 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Absent witnesses and audio, there was insufficient evidence to either prove or disprove the allegation.

2. Excessive Force/Carotid Restraint – Deputies 1 and 3 utilized a “chokehold” (carotid restraint) on the complainant.

### **Board Finding:** Action Justified

Rationale: The complainant stated, “Shortly after an altercation between myself, 4, 3, and 1 took place. Deputy 3 and 1 used a chokehold on me. At some point I lost consciousness.” Jail records indicated the complainant was in violation of disobeying staff instructions and interfering with jail operations. The complainant was being issued a rule violation when he became combative with deputies. According to SDSL DSB P&P Section O.3 titled, Inmate Rules and Regulations, Inmates shall obey staff instructions. Inmates shall not engage in any activity that impairs or interferes with the operation of the facility. According to SDSL DSB P&P Section I.89 titled, Use of Force, Detention Services Bureau personnel, during the course of their official duties, may use physical force to the extent that is reasonable to maintain or restore order. Personnel shall use the Department approved techniques, equipment and tactics in controlling the inmate or situation. If the employee determines that the use of force is necessary, he/she shall use only that force which is reasonable and necessary for the situation. SDSL DSB P&P Section I.91 titled, Carotid Restraint, states in part, Deputies may use the carotid restraint when it is necessary and reasonable to use physical force to control an inmate who is actively resisting or assaultive. Deputies should use the triangulated neck brace technique to restrain movement of the inmate’s head, neck or cervical vertebra. Deputies should apply pressure to the side of the neck to compress the arteries and veins, stimulate the vagus nerve and begin the Valsalva maneuver. Deputies will not apply pressure to the throat area of the neck. This is to prevent pressure on the trachea and hyoid bone, as well as causing disruption of air flow. The carotid restraint should never be held for more than thirty (30) seconds. Information obtained from a Department Information Source, during the course of CLERB’s investigation, provided that the carotid restraint and a chokehold are not the same. A chokehold cuts off the suspect’s air supply, whereas, the carotid restraint temporarily cuts off blood flow to the brain by applying pressure on the carotid arteries, causing the individual to go unconscious for a short period. It is not meant to interfere with the individuals breathing. Furthermore, a headlock also referred to as a control hold, is intended to restrict the inmate’s movement to regain compliance and/or control of the situation. A headlock/control hold is not intended to interfere, in any way with the suspects breathing or blood flow. Deputy 3 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however, it is privileged per the POBR and cannot be publicly disclosed. Deputy 1 separated from the department on 03-03-20 and was no longer available for questioning, however, in his Use of Force Report, Deputy 1 stated, “I then proceeded to headlock the complainant with my left arm around the complainant’s neck to gain control. At no point did I apply pressure to his neck. I lay on top of the complainant’s upper back and used my body weight to maintain control; the maneuver proved successful as the complainant stopped fighting us.” A chokehold and a carotid restraint are sometimes referred to as the same thing by individuals who are not familiar with the differences. The complainant referred to the use of force as a “chokehold,” however, SDSL deputies are not trained to use the chokehold and it is against policy to do so. Surveillance video confirmed the complainant’s active resistance until application of a carotid restraint, which then rendered him motionless. At the time the incident occurred, the carotid restraint was a procedure that could be utilized as a use of force technique to gain control of the inmate, however, as of June 3, 2020, the policy, DSB P&P I.91 Use of Carotid Restraint, has been deleted from policy and is no longer used. As a result of the complainant’s combative behavior and the need for use of force, the complainant, as well as four deputies sustained injuries that required medical attention. The preponderance of evidence showed the use of force and the actions of the deputies were lawful, justified and proper.

3. Misconduct/Intimidation – Deputy 1 told the complainant he would kill him.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “While in a chokehold Deputy 1 told me “shut-up before I kill you.” According to SDSL 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. Deputy 1 terminated employment with the SDSL on 03-03-20 and was unavailable for questioning. CLERB does not have authority to investigate per CLERB Rules and Regulations 4.1, entitled, “Citizen Complaints: Authority,” the Review Board shall have authority to receive, review, investigate and report on citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff’s Department or the Probation Department. As such, CLERB lacks jurisdiction.

4. Misconduct/Harassment – Deputies 1, 2, 3 and 4 “taunted” the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “After returning to George Bailey from hospital, Deputy’s 2, 3, 4 and 1 taunted me and my cellmate through the cell intercom.” According to SDSA 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. Deputies 2, 3 and 4 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however, it is privileged per the POBR and cannot be publicly disclosed. The complainant’s cellmate was released from custody, with no contact information and was unavailable for questioning. Absent a witness statement and no audio evidence to corroborate or refute this allegation, there was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Truthfulness – Deputy 4 lied under oath.

Board Finding: Unfounded

Rationale: The complainant stated, “On 04-03-2019, Deputy 4 gave sworn testimony under oath to the incident and his actions in a use of force on myself and my cellmate.” The complainant alleged that Deputy 4 was not truthful in his testimony about the filing of police reports and the actual events that occurred. On 05-24-2019 the Judge ruled after viewing the surveillance video of the incident and Deputy 4’s sworn testimony that the deputy was not being truthful about the filing of police reports and the actual events that occurred.” SDSA P&P Section 2.46 titled, Truthfulness, requires that all written and verbal reports will be truthful and complete. Deputy 4 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however, it is privileged per the POBR and cannot be publicly disclosed. Court records refuted the complainant’s allegation and no evidence was discovered to corroborate the allegation. The evidence showed that the alleged act or misconduct did not occur.

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**19-109**

1. Misconduct/Procedure – Deputy 1 told the complainant he was not allowed to see his kids.

Board Finding: Action Justified

Rationale: The complainant stated, “Deputy 1 contacted me and told me that I was not allowed to see my kids even though the judge told me I could.” According to his Follow-Up Investigative Report, Deputy 1 contacted the complainant on 08-27-19, and informed him that per the Criminal Protective Order (CPO), he was prohibited from trying to contact his ex-wife and kids. Although the complainant believed that he was allowed supervised visits with his kids, the CPO forbade it. The visitation orders issued on 04-05-19, allowed the complainant professional supervised visitation with his children, however, on 05-09-19 a Criminal Protective Order was put in place by the Court, as a result of the complainant’s violation of a Restraining Order. The Restraining Order included brief and peaceful contact with the protected persons, as required for court-ordered visitation of children, is allowed **unless a criminal protective order says otherwise. (emphasis added)**. The Criminal Protective Order stipulated that the defendant may have peaceful contact with the protected persons as an exception to the “no-contact” or “stay-away” provision, only for the safe exchange of children and court-ordered visitation as stated: Any Family, Juvenile, or Probate court order **issued after the date this order is signed. (emphasis added)**. As there was no order issued after the Criminal Protective Order (CPO) was signed, the complainant was prohibited from any contact with his ex-wife and kids. According to FAM§ 6224 titled, Restraining Order-Enforcement, Expiration, An order described in this division shall state on its face the date of expiration of the order and the following statements in substantially the following form: This order is effective when made. The law enforcement agency shall enforce it immediately on receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order. According to FAM§ 6383 titled, Service-Verbal Confirmation of Terms, If there is more than one order issued, and one of the orders issued is a no-contact order, the peace officer shall enforce the no-contact order. If there is

more than one civil order regarding the same parties the peace officer shall enforce the order that was issued last. Additionally, the court issued Restraining Order included Instructions for Law Enforcement, which stated, Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders. As such, Deputy 1's actions were lawful, justified and proper.

2. Misconduct/Intimidation – Deputy 1 “threatened” to arrest the complainant.

Board Finding: Unfounded

Rationale: The complainant stated, “Deputy 1 emailed me back on 9-12-19 to tell me that he read all of my court documents that he still felt that I was not allowed to see my kids and threatened to arrest me if I would see my kids. I would like someone to reach out to his superiors or at least to him and have him look at the legal documentation again and have him recall and stop his threats that he made against me in which he stated that he would arrest me if I were to contact the mother of my kids in order to see my kids.” Deputy 1 did not threaten the complainant with arrest, he did, however, reiterate to him several times that any attempts he made to contact his ex-wife would be a violation of the Protective Order. According to FAM§ 6224 titled, Restraining Order-Enforcement, Expiration, An order described in this division shall state on its face the date of expiration of the order and the following statements in substantially the following form: This order is effective when made. The law enforcement agency shall enforce it immediately on receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order. If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it. Review of Deputy 1's communication with the complainant, e-mail and telephone conversations, did not corroborate the complainant's allegation. The evidence showed that Deputy 1 was respectful to the complainant, acted per policy, and enforced the law as mandated. The evidence showed that the alleged act or misconduct did not occur.

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## **19-133**

1. Criminal Conduct – Unidentified deputies choked the complainant for reporting sexual abuse on 12-03-13.

Board Finding: Summary Dismissal

Rationale: The complainant reported, “On 12/3/2013 I was taken to the booking area at George Bailey Detention while nude. I was slammed on the ground and choked for attempting to report sexual harassment by deputies @ the clothing exchange (Title 15CCR.Art.4S1029(a)(3) Policy on the use of force (10) zero tolerance in the prevention of sexual abuse and sexual harassment, (e)(1)(21) My classification was changed because of policies adopted by County of San Diego, William D. Gore and State of California on Title 15 CCR SS 1044 Incident Reports \$1058 Use of Restraints Devices and S1050 Classification Plan. I is now in Greens because of the use of force use of restraint devices and the classification plans adopted by County of San Diego and William D. Gore on 12/3/2013 after I was choked while in handcuffs and nude at G.B.D.F. These policies caused injury and now denies me the right to be free of cruel and unusual punishment by use of overly tight handcuffs and the right to participate in religious services @ George Bailey Detention (according to California Constitution Art.1SS1 7(a), 4 and Title 15 CCR. Art. 6S10 72 Religious Observances US Const 8th, 14th) I seeks a full review of the 12/3/2013 attack on me and feel I was abused by deputies on that and other dates by the policies adopted by County of San Diego, William D. Gore, City of San Diego and State of California on Use of Force. This is true and correct under penalty of perjury.” This alleged 2013 incident, for which the complainant proffered no evidence, was untimely and previously brought forth by the complainant in CLERB complaints #16-032 and #18-151. Per CLERB Rules & Regulations 4.1.2, Jurisdiction, CLERB shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated. The complainant's time incarcerated was calculated, but did not meet the exemption rule. The Review Board lacks jurisdiction or the complaint clearly lacks merit.

2. Misconduct/Procedure – Unidentified staff failed to provided medical services to the injured complainant on/around 10-22-18.

Board Finding: Summary Dismissal

Rationale: The complainant reported, “On 10/22/2018 or around that time I was taken to the County mental Health. I refused all service’s and no medical help was provided for my broken hand, face and other injuries.” Per CLERB Rules & Regulation 4.1, Authority. CLERB only has authority to investigate the actions of Sheriff’s deputies. Medical personnel are non-sworn personnel and medical decisions reside outside CLERB’s purview. The Review Board lacks jurisdiction.

3. Misconduct/Procedure – Deputy 6 placed the complainant into a cell with no running water.

Board Finding: Action Justified

Rationale: The complainant reported, “I was placed in a cell with no water.” According to an Incident Report dated 10-14-18, the complainant displayed signs of discomfort while walking and sitting down, and refused to be strip searched. A subsequent x-ray showed an abdominal abnormality consistent with contraband entered into the body through the anus. Medical staff cleared the complainant for contraband watch and the complainant was placed into a “dry cell” - that which has a portable toilet, but no running water to prevent the disposal of contraband. Detentions Policy J.8, Contraband Watch, states that the inmate will be isolated and un-restrained until the contraband can be retrieved through natural means, voluntarily surrendered, or staff are reasonably assured the inmate is contraband free, and is done to ensure that contraband is not circulated into the inmate population, and to provide safeguard for the health and safety of the inmate suspected of having the concealed contraband. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

4. Misconduct/Procedure – Deputies 1, 3, 4, and/or 5 removed the complainant’s clothing.

Board Finding: Action Justified

Rationale: The complainant reported, “I was half nude, then police grabbed my buttocks. I said “No, No, Not in my ass!” The doctor walked in with a big needle and gave me a shot to the buttocks. I woke up nude @ the Central Jail downtown San Diego, what happened? I was in great pain because of all reinjuries caused by County of San Diego deputies.” According to an Incident Report dated 10-22-18, County Mental Health (CMH) advised they had administered medication and the complainant needed to be placed into a safety cell for his protection. After detentions medical staff also cleared the complainant for safety cell placement in accordance with Detention Policies J.1 and J.5, Deputies 1, 3, 4, and 5 escorted the complainant to a safety cell, where they removed his handcuffs and clothing, then exited the cell without incident. The evidence showed that clothing removal for safety cell placement was lawful, justified, and proper.

5. Excessive Force – Unidentified deputies slammed the complainant’s face into a wall.

Board Finding: Not Sustained

Rationale: The complainant reported, “On 6/4/2019 my face was slammed into the wall when he return from the hospital. My clothing was cut for no reason. @ Central Jail after booking while handcuffed.)” On 06-04-19, the complainant was arrested by the San Diego Police Department for Vandalism and Assault with a Deadly Weapon. He was booked into jail on 06-05-19 at 4:24am. Detentions Policy I.89, Use of Force allows for the use of physical force to the extent that is reasonable and necessary to maintain or restore order. All deputies (or other employees) involved in the Use of Force incident must clearly articulate in written form in NetRMS all facts surrounding the incident. A request for all information on the purported date resulted in negative results. The complainant has mental health issues and it was unknown if the event actually occurred or if the required documentation was not completed. There was insufficient information to either prove or disprove the allegation.

6. Illegal Search & Seizure – Unidentified deputies, under the supervision of Deputy 2, ordered inmates to remove their clothing and conducted a “cavity search” on 07-21-19.

Board Finding: Action Justified

Rationale: The complainant reported, “On 7/21/2019 I and other inmates were made to take off all clothing @ George Bailey Detention and place them on the outside ground into bird fesses, rat fesses and human toe nails. I and other inmates were present @ the cavity searches of other inmates. I did not have a sheet between me and the other inmate @ the end. I feels this a violation of the California Constitutional Rights of all inmates involved rights under Art.1SS1 the right to obtain safety by personal hygiene and 7(a) equal protection under the law of California (Ca. Penal Code 4030) My skin was injured because of the policies adapted by Deputy 2 and deputies on that day.” A body cavity search is an examination of the stomach or rectal cavity of a person, and the vagina of a female. No physical body cavity search or seizure can be conducted without a search warrant. Contract medical personnel performs the physical body search and if necessary, deputies may assist in restraining an inmate. Under no circumstances do sworn personnel conduct such a search. However, a search that requires a person to remove or arrange some or all of their clothing to permit visual inspection of the underclothing, breasts, buttocks, genitalia, or body cavity is a strip search. DSB Policy I.52, Inmate Searches, permits group strip searches of inmates, but only if the individual privacy of each inmate is provided for. Meaning, the inmates participating in the strip search do not have direct observation of each other and they cannot be observed by staff and/or inmates not participating in the strip search. This includes conducting group strip searches in module living areas during searches, while processing court returns or any other time that requires an inmate to rearrange their clothing to permit the inspection of the underclothing, breast, buttocks, genitalia or body cavity in a group setting. A sergeant responded to a grievance from the complainant and stated, “The housing unit underwent an unscheduled search. The staff ensured everyone’s privacy during the time they were conducting strip searches. Staff provided privacy curtains in between inmates who were being strip searched. The facility was on restricted movement, which prevented non-involved people to enter the area. The other inmates in the recreation yard were instructed to face away in the other direction and were guarded by deputies.” Surveillance video confirmed the presence of partitions to provide privacy/separation. Deputies did not perform a cavity search, but rather a strip search in accordance with policies, that was lawful, justified, and proper.

7. Misconduct/Procedure – Unidentified deputies failed to conduct laundry exchange on 07-21-19.

Board Finding: Unfounded

Rationale: The complainant stated, “No clothing exchange was done on that day and inmates were made to walk around with unsafe clothing on for days.” Detentions policy L.1, and Green Sheet L.1.G, Laundry Exchange, dictates that each facility develop laundry procedures and a facility green sheet for the exchange of laundry to ensure inmates are given an opportunity to exchange bedding and clothing on a regular basis. Furthermore, a JIMS "laundry exchange" log entry will be made to record each exchange. The type of exchange (e.g. “Blues,” “Whites”) will be noted in the "description" field of JIMS. In the event an item is missing from the laundry exchange, the deputy of the affected area shall document which item was not exchanged in the note section of the log. Review of the evidence confirmed that this event was recorded in compliance with policy. As notated in JIMS, (Jail Information Management System) a laundry exchange of white clothes and towels was conducted in Housing Units A-C beginning at 9:24pm and was completed at 11:10pm at GBDF on 07-21-19. It was unknown if the complainant was prohibited from or failed to participate in the process. The evidence showed that deputies performed laundry exchange in accordance with policies and the alleged conduct did not occur.

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**19-145**

1. Misconduct/Procedure – Deputy 1 had the aggrieved moved to a disciplinary housing unit.

Board Finding: Action Justified

**Rationale:** The complainant, with information supplied by the aggrieved, stated that “the aggrieved was ‘unjustly and punitively’ moved to a disciplinary housing unit by Deputy 1.” The aggrieved failed to sign her statement under penalty of perjury, but reported that Deputy 1 moved her to a disciplinary dorm despite her having “no write-up’s, no verbal warnings, no disciplinary issues whatsoever.” According to Sheriff’s records, the aggrieved was involved in twenty-four (24) different Incident Reports from 05-09-19 through 11-29-19 regarding inmate rules and regulations violations for which she received low level discipline. Specifically, a report dated 11-29-19, documented the aggrieved’s actions where she showed authority over other inmates, manipulated others with “legal advice,” and created tension in the dorm with false accusations against staff; the aggrieved was subsequently moved “due to her level of sophistication and intimidation.” The aggrieved reported, “every bit of what Deputy 1 wrote is a lie,” however, she failed to produce any evidence to support her accusations, other than opinion. Court records documented the aggrieved’s criminal charges to include practicing law without a license. The complainant grieved this matter to a sergeant who reported the following: “The San Diego Sheriff’s Department Detentions Policy and Procedure section R.I: Classification, outlines that inmates will be housed with other inmates with the same custody level. Furthermore, if a staff member has information regarding an inmate’s classification/sophistication that staff member will complete an ISR (Inmate Status Report) documenting these items. On 11-30-19, and 08-22-19, Staff members wrote ISR’s documenting your behavior and showing your higher sophistication level. Based on your sophistication level and ISR’s documenting your behavior, you were subsequently moved to more appropriate housing per the classification unit. This matter will be considered resolved.” The aggrieved reported that the deputy, sergeant, and facility captain gave this incident the “I’ve got your back cop jargon stamp of approval.” Detentions Policy J.3, allows for the use of Disciplinary Separation when other less stringent methods have failed to correct behavior or when the violation is of such a nature that other methods would be ineffective or inappropriate. The aggrieved was not isolated but moved to a “non-walk dorm,” where inmates are directly supervised while walking to the chow hall or classes. Based upon the known evidence, the aggrieved was found not to be credible in her recall of these events. The aggrieved’s reclassification and housing movement was due to her documented behavior, and was lawful, justified, and proper.

2. Misconduct/Retaliation – Deputy 1 “targeted” the aggrieved because of a complaint.

**Board Finding:** Action Justified

**Rationale:** The complainant and aggrieved reported that “the aggrieved was moved after she made a verbal complaint to a lieutenant against Deputy 1 regarding the deputy’s behavior/treatment of the aggrieved’s cellmate. She believes she was punished without justification and was targeted by the deputy because of the deputy’s behavior being reported to her lieutenant.” The complaint alleged by the aggrieved was written as an opinion without supporting evidence. As documented in rationale #1, the aggrieved grieved this issue and based upon her criminal sophistication she was reclassified and moved to more appropriate housing, which was lawful, justified and proper.

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## **20-006**

1. Illegal Search & Seizure – Unidentified deputies confiscated personal items of the complainant’s during a module search on 12-04-19.

**Board Finding:** Not Sustained

**Rationale:** The complainant stated, “On 12-4-19 at GBDF in Module 2B a search was done by a great number of San Diego County Custodial Sheriff staff members, Between 8:30 pm to 12 midnight. Upon me being allowed back to module 2B-104 I checked my belongings/property and accessed I was missing a new ladies deodorant (\$3.29) and a new mug with lid (\$4.39) I had just obtained these two items on 12-03-19 from jail commissary.” A Commissary Ticket issued to the complainant confirmed that the inmate purchased a mug and deodorant on 12-03-19. Detentions policy I.41, Inmate Cell Searches, states that all conducted searches should be documented in JIMS and should include areas searched, along with the employees who conducted the search; however, this is not a mandatory requirement. Q.63, Lost Inmate Property, states that whenever an inmate claims to be missing module property (such as commissary or

hygiene products), the watch commander shall be notified, a crime report completed, and the grievance process followed. A request for any/all associated documentation pertaining to a search and/or the complainant's missing property was met with negative results, and review of surveillance video was also inconclusive. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Unidentified deputies did not respond to the complainant's grievances dated 12-06-19 and 12-17-19.

Board Finding: Not Sustained

Rationale: The complainant stated, "I filed Grievances on 12-06-19 and 12-17-19 these two grievances went unanswered. I filed the third Grievance on 12-26-19 I was called to the Module Gate and offered Inmate Hy-gene welfare packs." Detention policy N.1, Inmate Grievances, states that informal resolution of an issue before it becomes a written grievance is both desirable and recommended. Furthermore, written grievances can often be resolved without the intervention of a supervisor, and every effort should be made by a deputy or staff member who receives a grievance to handle it at his or her level. A request for Inmate Grievances pertaining to these events was met with negative results. It was unknown if the event did not occur, if documentation was not completed, or if the issue was handled/resolved. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Counseling staff did not provide an Internal Affairs (IA) form to the complainant.

Board Finding: Summary Dismissal

Rationale: The complainant stated, "I have not been able to file a complaint with Internal Affairs because I cannot get a IA form or the mailing address each request I put into Counseling for IA forms or address A counselor Shelly has denied me that information or forms with responses of: 1.) on 12-23-19 as previously stated counseling does not provide internal affairs forms. Please contact your attorney, friend or family member to assist you. 2.) on 12-26-19 you must fill out a grievance and go through that process first." Sheriff's Policy 3.2, Complaints Against Sheriff's Employees, states that complaints not subject to Investigation are matters that have more appropriate methods of resolution (i.e., inmate grievance procedure). Furthermore, counselors are non-sworn staff members or whom CLERB has no jurisdiction per CLERB Rules & Regulations 4.1 Complaints: Authority. Pursuant to the 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. The Review Board lacks jurisdiction over the facility counselors, who are non-sworn personnel.

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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.