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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 January 19, 2021, special 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 (5)**ALLEGATIONS, BOARD FINDINGS & RATIONALE****19-100**

1. Death Investigation/In-Custody Overdose – Jose Alfego Sevilla died from an accidental drug overdose at the George Bailey Detention Facility (GBDF) on 08-26-19.

Board Finding: Action Justified

Rationale: Jose Alfego Sevilla was arrested by the San Diego Police Department on 05-30-19 for possession of narcotics paraphernalia; Sevilla remained incarcerated until his death. On 08-26-19, during a signs of life check, a deputy discovered Sevilla cold to the touch and with foam about his mouth. Life-saving and emergency medical procedures were initiated and Narcan was administered by medical staff in an attempt to reverse an opiate overdose. Despite the efforts, Sevilla was pronounced deceased at approximately 10:35am. An autopsy determined the cause of death was acute heroin intoxication and the manner of death was accidental; no trauma was noted to his body. Review of surveillance video last

showed Sevilla sitting in the dayroom at 4:00am for breakfast. After returning to his cell, security checks were conducted in compliance with DSB Policy 1.64, Safety Checks of Inmates in Housing Units and Holding Cells. Homicide detectives interviewed Sevilla's cellmates who denied knowledge that Sevilla used drugs or that there was contraband within the module. The investigation was unable to determine when/how Sevilla obtained the narcotics. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

19-110

1. Misconduct/Harassment – Deputy 6 “harassed, provoked, mentally tormented and lied” to the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “On or about 5-14-19 through 5-18-19 I was harassed, provoked, lied to and mentally tormented by Deputy 6.” 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. Deputy 6 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. The complainant did not identify any witnesses to corroborate his allegation. Absent any witness statements and audio evidence, there was insufficient evidence to either prove or disprove the allegation.

2. Criminal Conduct – Deputy 6 “robbed” the complainant.

Board Finding: Unfounded

Rationale: The complainant stated, “I was robbed for food & cosmetics by Deputy 6.” SDSD P&P Section 2.1 titled, Rules of Conduct for Members of the San Diego County Sheriff's Department, states in part, all employees shall conform to Federal, State, and Local laws, as well as to the policies of this Department. Deputy 6 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. The complainant provided no specifics as to what was taken or why. At the time of the alleged incident, the complainant was housed in the Enhanced Observation Unit (EOB). According to SDSD DSB P&P Section J.4 titled, Enhanced Observation Housing, an inmate placed in EOH shall have all of their clothing, wristband, and property removed. Such property shall be stored in a secure location until the inmate is cleared. For security purposes, deputies will remain with the inmate during the process to ensure all items listed above are removed. The evidence showed that the alleged act or conduct did not occur.

3. Misconduct/Procedure – Unidentified deputies “denied” the complainant church services.

Board Finding: Action Justified

Rationale: The complainant stated, “On 05-19-19, I was denied church services. Since I have been in jail I have been denied religious services.” The complainant provided that his classification was level 5. SDSD DSB P&P Section W.5 titled, Inmate Religious Services, states in part, religious services shall be available to all inmates, subject to classification or other security limiting factors. Each facility has a different security mission and some limiting physical characteristics which limit some inmates from attending services. SDSD DSB Detention Facility Green Sheet Procedure Section W.5.V titled, Inmate Religious Services, states in part, only inmates that have a classification level of 1-4 may sign up to attend services. Prior to the services, a deputy will verify the inmate's names are on the list and they are eligible to attend. Green banded, Ad-Seg, High Security Threat Group (HSTG) inmates and level 5-6 inmates shall be offered religious services by request. The chaplain will accommodate them at the cell door or in a professional visit room when available. Additionally, the complainant's filed grievances were reviewed for supporting documentation regarding the denial of religious services. The complainant had no filed grievances pertaining to this allegation and no written request for an individual meeting with the chaplain. According

to the complainant's level of classification and above noted policies, the evidence showed the alleged act or misconduct was lawful, justified and proper.

4. Misconduct/Procedure – Unidentified deputies “denied” the complainant phone time to call his attorney.

Board Finding: Unfounded

Rationale: The complainant stated, “On 05-20-19, I was denied phone access to call my Attorney.” SDS DSB P&P Section P.2 titled, Telephone Access, states in part, all inmates will be provided reasonable access to a telephone beyond those telephone calls required by section 851.5 PC. Sworn staff members shall not turn off telephones as a punitive measure when inmates delay their response to programs, services, medication distribution, etc. Nothing in this section is intended to limit the authority of the facility commander to revoke an inmate's telephone access as necessary to preserve institutional safety and security, or prevent criminal activity. When such action is taken, the facility commander shall implement a plan that allows an inmate to contact by telephone his/her attorney and the courts. Additionally, SDS DSB P&P Section N.5 titled, Access to Courts/ Attorneys/ Legal Advice, states in part, personnel shall ensure inmates have access to courts and legal counsel including confidential correspondence with courts and any member of the State Bar, and confidential consultation with attorneys. All inmates have the availability of unlimited collect telephone use for communication with their attorneys. According to the Area Activity Summary Report, on 05-20-19, the inmates were out for dayroom/phone time twice and phone records received confirmed that the complainant made four phone calls from the dayroom phone on 05-20-19. The evidence refuted the complainant's allegation. The evidence showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – Unidentified deputies “locked” the complainant in a cell with no running water.

Board Finding: Unfounded

Rationale: The complainant stated, “I personally was locked down in a cell, (after inquiring about being denied church services) for five (5) days, (three (3) of those days without running water to the faucet.” Documents received during the course of CLERB's investigation from the SDS DSB did not include any grievances or maintenance request filed by the complainant that addressed this allegation. Jail records confirmed that the complainant was housed in general population and there were no records confirming a “lock down.” The evidence refuted the complainant's allegation that he was locked in a cell for five days, three with no running water to the faucet. The evidence showed that the alleged act or conduct did not occur.

6. Misconduct/Discourtesy – Deputy 3 was discourteous to the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “Deputy 3 was aggressive, rude, taunting, provoking, abusive and unprofessional.” According to SDS 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. Deputy 3 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Absent audio evidence of the verbal exchanges between the complainant and Deputy 3, there was insufficient evidence to either prove or disprove the allegation.

7. Excessive Force – Deputy 3 chained and handcuffed the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “[Deputy] 3 chained & Handcuffed me with deliberate excessive force.” According to SDS P&P Section 2.49 titled, Use of Force, employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance

with law and established Departmental procedures, and report all use of force in writing. Deputy 3 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Documents obtained from the SDSD during the course of CLERB's investigation did not include any use of force reports. Absent video of the alleged "deliberate force," there was insufficient evidence to either prove or disprove the allegation.

8. Misconduct/Procedure – Deputies 3 and 4 “denied” the complainant food and water.

Board Finding: Action Justified

Rationale: The complainant stated, “[Deputies] 3 and 4 refused to provide food and water for 17-19 hours. At the time of the alleged incident, 05-24-19, the complainant had been transported to the hospital after evaluation in the medical unit and it was determined he needed to be evaluated at the hospital. According to medical records, the doctors were running diagnostic tests and ordered that the complainant have no food or water pending results. Deputies 3 and 4 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. There was no evidence of procedural misconduct and the actions of the deputies were lawful, justified and proper.

9. Misconduct/Procedure – Unidentified deputies ignored calls of “man down.”

Board Finding: Not Sustained

Rationale: The complainant stated, “On 6-15-19 deputies ignored calls of ‘man down’ for approximately 45 minutes. My two (2) cellmates attempted to call deputies for a ‘man down’ via the cell call box or “the Box.” SDSD 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. The jail surveillance video obtained for the time period of the alleged incident was reviewed. Five deputies were observed as they entered the module and went to the complainant's cell. One of the deputies was observed to exit the module and return with a wheelchair. The complainant was placed in the wheelchair and wheeled out of the module. The complainant did not provide any witnesses to the incident. With no corroborating witness statements and no written documentation of an alert to the control deputy, it was unable to be determined if the complainant's cellmates used the call box and if so, what the time frame was for the deputies response. There was insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Intimidation – Deputies 1 and 5 “yelled, cursed at and threatened” the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “I was verbally assaulted by Deputies 1 and 5, who yelled at me, cursed at me and threatened me.” 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. SDSD P&P Section 2.22 titled, Courtesy, states in part, deputies 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. Deputies 1 and 5 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Absent any witness statements and audio recordings of the interaction, there was insufficient evidence to prove or disprove the allegation.

11. Excessive Force – Deputies 1 and 5 applied handcuffs “extremely tight,” then “pushed, pulled and shoved” the complainant.

Board Finding: Unfounded

Rationale: The complainant stated, "Deputies 1 and 5 handcuffed me extremely tight pushed, pulled & shoved me." According to Section 1.89 titled, Use of Force, 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 effect an arrest, prevent escape, overcome resistance, and maintain or restore order. On every occasion when physical force has been applied to overcome a subject's resistance, deputies (or other employees involved) must verbally inform their supervisor as soon as practical. 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. Upon review of jail documents received during the course of CLERB's investigation, there were no Use of Force Reports. Deputies 1 and 5 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Command staff responded to the complainant and stated, "I reviewed all available video of the incident and after reviewing all available footage of the incident, I observed no instances of the deputies "being rough" or "shoving you down." I see no evidence that the deputies used any force on you at all." The video surveillance refuted the complainant's allegation that he was pushed, pulled and shoved. The complainant did not seek medical attention and there was no documented evidence of injury. The evidence showed that the alleged act or conduct did not occur.

12. Misconduct/Retaliation – Deputy 1 took the complainant to "the hole."

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 retaliated against me for filing a complaint by harassing me, handcuffing me, spinning me, jerking me violently, threatening me and taking me to 'the hole.' I was there for approximately 78 hours." According to SDSO 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 an Incident Report by Deputy 1, the complainant was taken to disciplinary isolation pending a rule violation hearing for disrespect to staff, boisterous activity and interfering with jail operations. Deputy 1 also provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed.

The evidence showed that the conduct that occurred was lawful, justified and proper.

13. Misconduct/Procedure – Deputies 8 and 9 "violated" the complainant's due process.

Board Finding: Unfounded

Rationale: The complainant alleged that after being taken to "the hole," his due process was violated. He stated, "Deputies 8 & 9 violated due process." The complainant filed a grievance alleging that he did not receive a hearing within 72 hours. SDSO DSB P&P Section O.1 titled, Disciplinary Action, states in part, all inmates charged in any disciplinary action shall be afforded the due process provisions of the California Code of Regulations, Title 15, Article 7. That is, inmates can appeal their discipline, which will cause their discipline to be reviewed by a disciplinary appeal officer. No hearing on a pending charge may be held later than 72 hours after the inmate has been presented a copy of the charges in writing and notified of their right to a hearing by the DHO. According to the Hearing Report, the hearing was held prior to the 72 hour time limit. Additionally, the complainant's Inmate History Report corroborates that the hearing was held within the 72 hour time frame. The evidence refuted the allegation and showed that the alleged act or conduct did not occur.

14. Misconduct/Retaliation – Deputy 7 mistreated the complainant for filing complaints/grievances.

Board Finding: Not Sustained.

Rationale: The complainant stated, "Deputy 7 cursed at me, verbally assaulted me, threatened me and degraded me for filing complaints and grievances." Deputy 7 documented in an incident report his contacts

with the complainant and attempts to address his complaints and grievances. According to his report, Deputy 7 talked at length with the complainant and made several attempts to address the complainant's grievances, however, the complainant continued to grieve the same issues repeatedly. SDSD P&P Section N.1 titled, Grievance Procedure, states in part, each facility shall attempt to resolve inmate grievances in compliance with CCR Title 15, Section 1073 and the Prison Rape Elimination Act of 2003, Section 115-52. 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. Deputy 7 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Absent audio evidence of the interactions between the complainant and Deputy 7, there was insufficient evidence to either prove or disprove the allegations.

15. Misconduct/Discourtesy – Unidentified deputy “threw” the complainant’s breakfast on the floor.

Board Finding: Not Sustained

Rationale: The complainant stated, “On 07-28-19, a Deputy threw my breakfast on the floor.” Jail surveillance video of the incident was requested, but was unavailable due to the system being down. The complainant filed a grievance, however had no identifying information of who the deputy was. Additionally, the incident was identified not to be a grievable issue, but a complaint against staff. The response provided, although not a grievable incident, the complainant indicated he was satisfied that his complaint was addressed. Absent video and identifying information of the deputy, there was insufficient evidence to either prove or disprove the allegation.

16. Misconduct/Intimidation – Deputy 2 “harassed, bullied, cussed at and assaulted” the complainant.

Board Finding: Not Sustained

Rationale: The complainant stated, “On 10-18-19, I was harassed, bullied, cussed and assaulted by Deputy 2.” According to an Incident Report, dated 10-18-19, the complainant was witnessed to remove his shirt and clench his fist as he cornered another inmate. SDSD DSB P&P Section O.3 titled, Inmate Rules and Regulations, states in part, inmates shall not threaten, assault, or attempt to intimidate any other inmate. Deputy 2 escorted the complainant to a holding cell without incident. SDSD P&P Section 2.48 titled, Treatment of Persons in Custody, states in part, employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Deputy 2 provided information during the course of CLERB's investigation that was considered in arriving at the Board Finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. Absent audio of the incident, there was insufficient evidence to either prove or disprove the allegation.

17. Misconduct/Procedure – Deputies do not wear legible name or identification badges.

Board Finding: Unfounded

Rationale: The complainant alleged that deputies and staff do not wear legible name or I.D. badges. Additionally, the complainant filed a grievance on 08-17-19, and stated, “Deputies that work at G.B.D.F. and deputies that work intake and medical do not wear name tags that clearly display their names. Due to being on Brass name tags with very small print which hinders their identity and their identity could not be immediately determined. Also hinders my ability to file complaints or document contacts.” The complainant further explained that deputies either said their name too fast, or he was unable to remember it or write it down. Although the grievance was determined not to be a grievable issue, a response was provided stating that there was no policy violation and that name tags are given by the department and are standardized. Name tags are required and are worn. According to SDSD 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.” An incident report by Deputy 7 addressed this issue with the complainant and determined that font size/dimensions are

standardized and outlined in uniform regulations. The evidence showed that the alleged act or conduct did not occur.

18. Misconduct/Procedure – Unidentified deputies did not give the complainant his mail.

Board Finding: Action Justified

Rationale: According to the complainant's mother, in her written complaint to CLERB she alleged that deputies failed to give the complainant his mail. She stated, "The complainant has still not received his mail from me. I ordered these Books from Amazon.com – and when I received them I left them in the package sent from amazon & forward it to the complainant." SDS DSB P&P Section P.3 titled, Inmate Mail, states in part, Inmates shall be allowed to receive and possess U.S. mail, incoming letters, confidential/legal mail and mail from official government agencies. Inmates may also receive electronic email messages, periodicals, magazines, and new books. Magazines, periodicals, and new soft covered books delivered to the facility by publishers or bookstores via the U.S. Postal Service may be accepted. When a book is rejected, Mail Processing Center (MPC) deputies will make an entry in the Jail Inmate Management System (JIMS) inmate history. The following areas will be addressed in the comments section of the inmate history log entry: The title of the rejected items. The sender's name and address. Tracking/parcel number(s). Why the item was rejected. Name of the watch commander/designee that approved the rejection. When an item is rejected both the sender and inmate will receive notification of the opportunity to appeal. The notification will be given in the form of a copy of the completed J-320 form, within five (5) business days. Entry was made into JIMS and Contents Unacceptable Notice forms were completed and provided to the complainant and his mother, stating, "Not directly from publisher or bookstore." The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

19. Misconduct/Medical – Unidentified medical staff failed to provide medical and mental health services.

Board Finding: Summary Dismissal

Rationale: The complainant stated, "I am being denied the medical and mental health care I require." A review of Sheriff's medical records revealed a multitude of medical requests submitted by the complainant. Medical records verified the complainant's many visits to medical and medical staffs care provided to the complainant. The evidence refuted the complainant's allegation, however, medical staff/decisions reside outside CLERB's jurisdiction as they are non-sworn personnel. Per CLERB Rules & Regulation 4.1, CLERB shall only have authority to investigate complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department. Medical personnel are non-sworn personnel and medical decisions reside outside CLERB's purview. The Review Board lacks jurisdiction.

19-125

1. Discrimination/Other – Probation Officer 1 "discriminated" against the complainant.

Board Finding: Unfounded

Rationale: The complainant stated, "PO 1 put me in a Rehabilitation Program, but I was kicked out and then 1 made me go back. This was medical/mental health discrimination." According to their website, the Rehabilitation Program is a residential drug and alcohol treatment program that provides behavior modifications for men and women in a therapeutic community setting. According to the terms of the complainant's probation, one of the conditions was that the complainant complete a residential treatment program and aftercare if directed by the probation officer. Additionally, he was to submit to any chemical test of blood, breath or urine to determine blood alcohol content and authorize release of results to the probation officer or the court whenever requested by the probation officer, law enforcement officer or the court ordered treatment program. The complainant was referred a number of times to rehabilitative programs for positive test results. Officer 1 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. The evidence received and reviewed did not corroborate the complainant's allegation of discrimination. The evidence provided that the complainant never did enter any of the recommended programs. The evidence showed that Officer 1 acted per Probation Department Policy Section 16 titled, Supervision Duties, which states in part, Adult Field Services is committed to utilizing Evidenced Based Practices (EBP) in assessing, assigning, and supervising probationers. Officers shall use a balanced approach to address a probationer's risks and needs and assist victims through offender accountability and rehabilitation. The evidence showed that the alleged act or conduct did not occur.

2. False Arrest – Probation Officer 1 had the complainant arrested.

Board Finding: Action Justified

Rationale: The complainant stated, "I had a clearance from the court and the PAL warrant was false." According to the California Department of Corrections and Rehabilitation (CDCR), a Parolee at Large (PAL) warrant is issued to bring non-compliant parolees back under supervision who have absconded. The complainant was arrested, however, he was arrested under a Bench Warrant that Officer 1 had petitioned the court for due to the complainant's failure to report for supervision and continued non-compliance with the conditions of his probation. San Diego County Probation Department (SDCPD) P&P Section 23 titled, Warrants, states in part, If a probationer's failure to report and maintain contact is the basis for the revocation and the Probation Officer believes the probationer would not appear for a noticed hearing, the report and request for a Bench Warrant should be submitted ex-parte using forms in Probation Case Management System (PCMS) (A679G). Any other violations of probation should also be documented in this report, such as failing to attend counseling, positive urinalysis tests, victim contact, new law violations, etc. Additionally, Penal Code (PC)§ 1203.2 titled, Violation of Probation Terms, states in part, If any probation officer, parole officer, or peace officer has probable cause to believe that the supervised person is violating any term or condition of his or her supervision, the officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the supervised person and bring him or her before the court or the court may, in its discretion, issue a warrant for his or her rearrest. The Bench Warrant for the complainant's arrest was issued by the court and the warrant was legal. Officer 1 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. The arrest of the complainant was lawful, justified and proper.

20-032

1. Excessive Force – Deputies 1 and 2 struck the complainant in the face.

Board Finding: Action Justified

Rationale: The complainant stated that on 10-29-19, he was a victim of "excessive force" by deputies at the George Bailey Detention Facility. Around 8:30pm, he said he was taken out of the shower and hit twice in the face by deputies, for which he "suffered head injuries." According to the associated Incident Reports, corroborated by surveillance video, at approximately 10pm, the complainant's cell door was unlocked for medication distribution, but he instead went to shower. Deputies entered the module and ordered the complainant to "cuff up." The complainant reportedly took a fighting stance and threatened Deputy 2. There were no audio-recordings to confirm the verbal exchange. A use of force ensued where deputies used closed fist strikes to the complainant's head and ribs, to gain compliance. Detentions Policy I.89, Use of Force, allows the use of physical force to the extent that is necessary and objectively reasonable to overcome resistance, and maintain or restore order. The complainant was found to be in violation of several Inmate Rules & Regulations, which prohibits inmates from threatening/assaulting staff, boisterous activity, and interfering with jail operations. Addendum F, Use of Force Guidelines states that punching techniques may be necessary when a suspect/inmate is assaultive, or the subject exhibits signs of imminent physical attack. A fist strike to a subject's face when reasonable and necessary is not prohibited. The complainant was evaluated by medical staff following this use of force where it was notated that he suffered a small laceration to his lower lip. Aside from the cut lip, and contradictory to the complainant's

testimony of “head injuries,” there was “no external signs of trauma noted at time of assessment.” Furthermore, the complainant refused medical treatment at the time of the incident and did not request any follow-up visits following the event. The evidence showed that due to the complainant’s resistance, the force utilized by deputies was not excessive, but lawful, justified and proper.

20-034

1. Misconduct/Procedure – An unidentified booking clerk refused to provide a name and/or “lied” to the complainant.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “I was being released from the central jail and the booking clerk told me to go back to the holding cell with the rest of the inmates waiting to be released. It was around 11:30 p.m. and two deputies came into the holding cell and told me to follow them out, they took me back to the booking clerk who refused to give her name. The booking clerk lied and told me I was going to have to stay in jail until April if I did not sign a court document that I felt undermined my due process and sent the two deputies to try and intimidate me into signing it. I told both deputies to go ahead and take me back because I was not going to sign it.” Detentions Processing Technicians were identified through Sheriff’s records, however, they are non-sworn personnel over whom CLERB has no authority. CLERB Rules & Regulations 4.1 Complaints: Authority, only permits investigation into the actions of sworn personnel; the Review Board lacks jurisdiction.

2. Misconduct/Intimidation – An unidentified deputy “threatened” the complainant.

Board Finding: Not Sustained

Rationale: The complainant said that a deputy made “terroristic threats” to him. The deputy, said that he was there to make him (the complainant) leave, but if wanted, “he could lock me in a hole where I would never see the light of day.” The complainant provided the deputy’s badge number for identification. The penal code requires peace officers to wear a badge, nameplate, or other device which bears clearly on its face the identification number or name of the officer. However, the Sheriff’s Department assigns and tracks personnel by an ARJIS (Automated Regional Justice Information System) number and not badge numbers; badge and ARJIS numbers are not synonymous. Surveillance video was reviewed, however it did not have the benefit of any audio recording(s), and was inconclusive. There was insufficient evidence to identify the involved personnel and/or prove or disprove the allegation.

3. Misconduct/Procedure – Unidentified deputies refused to contact a Watch Commander upon the complainant’s request.

Board Finding: Not Sustained

Rationale: The complainant said he requested to speak with a Watch Commander (superior officer) upon his release from jail, but was denied by a deputy for which he provided a badge number for identification. The investigation was unable to determine conclusively the unidentified personnel. The Sheriff’s Department assigns and tracks personnel by an ARJIS (Automated Regional Justice Information System) number and not badge numbers; badge and ARJIS numbers are not synonymous. Surveillance video was reviewed, however it did not have the benefit of any audio recording(s) pertaining to this event and was inconclusive. There was insufficient evidence to either prove or disprove the allegation.

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.