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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

555 W BEECH STREET, SUITE 220, SAN DIEGO, CA 92101-2938  
TELEPHONE: (619) 238-6776 FAX: (619) 238-6775  
www.sdcounty.ca.gov/clerb

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its April 13, 2021, 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 (10)****ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE****19-126**

1. Death Investigation/In-Custody Suicide – Donald John Ralph committed suicide by asphyxiation in his cell at the San Diego Central Jail on 10-26-19.

Board Finding: Action Justified

Rationale: On 09-12-19, Donald John Ralph was transferred from Coalinga State Hospital (CSH), into the custody of the San Diego County Sheriff and housed at San Diego Central Jail (SDCJ). Ralph was transferred for court proceedings on a Petition for Continued Involuntary Treatment. The evidence showed that Ralph was properly classified upon his entry into the SDSD jail system. On 10-26-19, at approximately 3:27 a.m., during a routine safety check, detention deputies found Ralph unresponsive in his cell. Deputies initiated cardiopulmonary resuscitation (CPR). Detentions medical staff responded and continued cardiac life-support measures. Fire/Paramedics arrived on scene and took over advanced cardiac life support

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measures, however, despite medical intervention, Ralph failed to respond and his death was pronounced at 4:05 a.m. via radio by a UCSD Medical Center physician. SDSD DSB P&P Section I.64 titled, Safety Checks, requires deputies to look for obvious signs of medical distress, trauma or criminal activity with each inmate, every 60 minutes. Jail records confirmed that deputies were in compliance with policy. The cause of death was listed as asphyxia due to occlusion of airway by sock, and the manner of death was classified as suicide. 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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## **20-010**

1. Misconduct/Procedure – Deputies 1-3 failed to take action when alerted to threats of violence in the module.

### **Board Finding:** Unfounded

**Rationale:** The complainant stated, "I wrote a grievance to let staff know inmates were voicing their attitude against a rival crip gang neighborhood crip which I'm a part of, they were going to jump anyone who was not from west coast crip and they should be removed from the module." The complainant alleged that deputies failed to take action and as a result he was "jumped." SDSD P&P Section 2.23 titled, Request for Assistance, states, in part, when any person requests assistance or advice, or makes complaints or reports, 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. The complainant reported he was pulled out of the module by Deputy 1 and Deputy 2 to ask him what was going on. Deputies 1-3 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however, it is privileged per the Peace Officer Bill of Rights (POBR) and cannot be publicly disclosed. According to jail documents, Deputies 1 and 3 took action and addressed the complainant's concerns about potential violence in the module. In his JIMS Incident Report, Deputy 1 reported that he asked the complainant if he was being threatened, if he had concerns for his safety or concerns of being assaulted and whether he felt safe returning to the module. Deputy 1 also offered to move the complainant to another housing unit if he was concerned for his safety. The complainant denied any concerns for his safety and declined to be moved. There were no documented reports that indicated the complainant had been "jumped" and that deputies witnessed such an incident, however, the evidence did indicate that the complainant was involved in a fight, with one other inmate. The evidence showed that the complainant entered the other inmates cell and a fight ensued. As a result, the complainant and the other inmate received five days disciplinary separation. The evidence showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – Unidentified deputies failed to deliver mail to the complainant.

### **Board Finding:** ~~Action Justified~~ Unfounded

**Rationale:** The complainant stated, "since being in custody my mail is not being delivered it was sent back to my mother and when I Grievenced it I was told nothing was sent but my mother has the mail." On 1-14-20, a deputy responded in writing to the complainant. The deputy stated, "the Mail Processing Center (MPC) investigated the matter and told me that they have no record of rejecting any mail intended for you, nor do they have any mail currently being held for the 10-day appeal." There were no documented entries in the complainant's Jail Inmate Management System (JIMS) History Report indicating that he had received mail that had been rejected and/or returned to sender. A letter was sent to the complainant's mother, shortly after receiving his complaint, requesting documentation to support the complainant's allegation. A response was never received and available evidence failed to corroborate the allegation. SDSD DSB P&P Section P.3 titled, Inmate Mail, states, in part, in cases in which incoming mail is withheld, the Mail Processing Center (MPC) deputies will enter a "MREJ" event type into the receiving inmate's JIMS history. The entry will include the name and address of origin and the specific reason the article was not deliverable. Both the inmate and sender will receive a copy of a Contents Unacceptable Notice (J-320) form. The MPC deputy will identify the article, sender and disposition on the J-320 form. The sender will receive a "Notice of Appeal," which will explain the appeal process. There were no mail withheld

notices and no records of an appeal. The complainant failed to respond to correspondence sent to him requesting additional information. As the complainant had no mail to be delivered to him, the evidence showed the alleged conduct did **not** occur ~~and was lawful, justified and proper.~~

3. Misconduct/Retaliation – Unidentified deputies denied the complainant early release from custody.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “when I asked if I was eligible for an early kick which many inmates receive their last 90 day I was told I was not eligible. I had to write this because I feel this is retaliation against me because of a Lawsuit I have against the Sheriff Department.” Sworn staff do not play any part in the calculation of sentences nor the application of credits or release dates. Therefore, per CLERB Rules & Regulations 4.1, Complaints: Authority, Pursuant to the Ordinance, CLERB shall only 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 or the Probation Department. CLERB lacks jurisdiction and the allegation is summarily dismissed.

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## 20-014

1. ~~Illegal Search & Seizure~~ **Misconduct/Procedure** – Deputies 4, 5, and 7 removed the complainant from her cell.

Board Finding: ~~Action Justified~~ **Not Sustained**

Rationale: Deputies 4, 5, and 7 removed the complainant from her cell. In the complainant’s written letter, she reported, “*I was asleep my door popped open. Deputy 5 and two other female staff told me to get up. I am moving. It did not seem right. I just moved there from for me. Deputy 5 said because they needed my room. I’m afraid I’m going to 5A for no reason and [Deputy] 5 is touching her cuffs so I asked for a sergeant they have a plastic bag. Three of them in the middle of the night. I said I did not want to move without a sergeant. I was afraid. They came without incident or warning. Deputy 5 and the other two female deputies approached me on my bed. Deputy 5 grab my hand and I pull back asking please do not touch me can you get a sergeant. I was tackled by all three. How I was sitting on my bed when they went to take me down*” According to SDSD Officer Reports written by Deputies 4, 5 and 7, the three deputies went to the complainant's jail cell and told her she was moving to another housing unit. The complainant refused and said she was not moving. Deputy 5 addressed the complainant in an attempt to coax her into complying. When the complainant refused to comply with the deputies’ instructions and took a defensive stance, a use of force ensued. Ultimately, the complainant was restrained and was forcefully removed from the cell. Detention facilities operate 24-hours a day, and it is understood that inmates are moved throughout the facility for a multitude of reasons. Additionally, it is known that inmates are not always privy to know the reasons they are moved. It is also understood that, within reason, an inmate should do as instructed whenever a deputy gives a command. When an inmate fails to obey a deputy’s instruction, reasonable force may be used to get them to comply. **According to SDSD DSB P&P Section I.83, a cell extraction is “the use of physical force to extract an inmate from a cell or other area of the detention facility” and “will only be used when the inmate refuses to follow lawful orders, presents a danger to themselves, a danger to others, or causes property damage.”** The purpose of the policy is to establish procedures which requires the forceful extraction of inmates from cells, modules, or other sections within the facility. As the definition of a cell extraction in the policy statement is unclear as it pertains to the planning component, CLERB believes the removal of inmates from cells under circumstances similar to those detailed in this case is a systemic issue and/or a common practice. Deputies 4, 5, and 7 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding, however, due to confidentiality statues per the Peace Officer Bill of Rights (POBR), those responses cannot be publicly disclosed. As the policy as currently written is unclear, there was insufficient evidence to support a policy violation or sustained finding and CLERB believes that the attached policy recommendation will better address the issue. ~~Deputies 4, 5, and 7 provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding,~~

~~however, due to confidentiality statutes per the Peace Officer Bill of Rights (POBR), those responses cannot be publicly disclosed. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.~~

2. Misconduct/Intimidation – Deputies 4, 5, and 7 approached the complainant with handcuffs and “a plastic bag.”

Board Finding: Action Justified

Rationale: In the complainant’s written letter, she reported, *“I’m afraid I’m going to 5A for no reason and [Deputy] 5 is touching her cuffs so I asked for a sergeant they have a plastic bag. I said I did not want to move without a sergeant. I was afraid. They [Deputies 4, 5, and 7] came without incident or warning.”* Jail Surveillance video recordings, as well as deputy reports were reviewed. In the deputies’ reports, they advised that they went to the complainant’s jail cell to assist her in moving from the cell. The deputies were clad in a duty belt which was adorned with equipment, including handcuffs. One deputy carried a large trash bag for the complainant to place her personal items in to be transported. While in the complainant’s cell, and after the complainant refused to follow the deputies’ instructions, the decision was made to place the complainant in handcuffs. According to Deputy 5’s report, she instructed the complainant to stand up, turn away from her, and to place her hands behind her back. Deputy 5’s intent at that time was to handcuff the non-compliant inmate and to escort her out of her jail cell for routine inmate movement. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

3. Excessive Force – Deputies 1, 2, 3, 4, 5, 7, 8 and 9 used force to remove the complainant from her jail cell.

Board Finding: Action Justified

Rationale: In the complainant’s written letter, she reported, *“Deputy 5 and the other two female deputies approached me on my bed. Deputy 5 grab my hand and I pull back asking please do not touch me can you get a sergeant. I was tackled by all three. How I was sitting on my bed when they went to take me down my butt slid off the floor and we ended up on the door threshold. I was refusing. First deputy to arrive was Deputy 2. He grabbed my leg and twisted it hard. I turned over and allow them to cuff me. Soon as he turned south twisted my leg more then begin punching my ribs. They cuff me. By now I’m being hit repeatedly in my ribs and back. I asked why then face was pushed into cement ground. Major pressure on my head and face. My knees replaced on top of each other and stepped on. Someone said taze [conducted energy device deployment] her. It was deployed but I did not feel it. More punches. Now leg restraints. Ankles stepped up. Held in this position like I gave a fight or something. The cuffs were so tight. I was then picked up by my clothes and placed face down on a gurney. Now why it is so much force to be used on my head and why am I being punched. I was lifted by my clothes and pressed onto the floor. Cuffs were removed I was told to put my hands under me. When released. I did. But now they want it under my waist so my face is again being pushed in ground pressure on my back and my arm twisted. My arm can’t get under me due to whoever is on top of me and two deputies confused on which way they want to twist my arm. My other arm and legs were released and I was left on very dirty cement floor. The way I was beat was excessive because I did comply after initial twist of ankles.”* According to multiple SDSD Deputy Reports, Deputies 1, 2, 3, 4, 5, 7, 8 and 9 were identified as the deputies involved in the use of force in removing the complainant from her jail cell on 01-28-20. When the deputies approached the complainant, and the complainant took a defensive stance against the deputies and refused to follow their commands, the deputies choose force as an option. In review of the multiple deputies’ reports and the jail surveillance video recording, it was determined that the force used was necessary and objectively reasonable to effect the arrest and to overcome resistance. 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 2.49 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. According to SDSD P&P Section 6.48 titled, “Physical Force, it shall be the policy of this

Department whenever any Deputy Sheriff of this Department, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest or to overcome resistance. Deputies shall utilize appropriate control techniques or tactics which employ maximum effectiveness with minimum force to effectively terminate, or afford the Deputy control of the confrontation incident. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Excessive Force – Deputies 1, 2, 3, 4, 5, 6, 7, 8, and 9 injured the complainant.

Board Finding: Action Justified

Rationale: The complainant alleged that Deputies 1, 2, 3, 4, 5, 6, 7, 8 and 9 injured her. In the complainant's written letter, she reported, "*Today I am still bruised. Wrist and ankles. My lip bleeding. I was in so much pain. I now have a black left eye, bruised ribs, back and neck, a knot on my four head, (left side) bruised knees, ankle and wrist and very embarrassed.*" According to multiple SDDS Deputy Reports, Deputies 1, 2, 3, 4, 5, 6, 7, 8, and 9 were identified as the deputies involved in the use of force in removing the complainant from her jail cell on 01-28-20. When the deputies approached the complainant, and the complainant took a defensive stance against the deputies and refused to follow their commands, the deputies choose force as an option. In review of the multiple deputies' reports and the jail surveillance video recording, it was determined that the force used was necessary and objectively reasonable to effect the arrest and to overcome resistance. If the complainant sustained injuries during the lawful, justified, and proper use of force, then the injuries sustained are reasonable. According to SDDS 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 SDDS 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. According to SDDS P&P Section 6.48 titled, "Physical Force, it shall be the policy of this Department whenever any Deputy Sheriff of this Department, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest or to overcome resistance. Deputies shall utilize appropriate control techniques or tactics which employ maximum effectiveness with minimum force to effectively terminate, or afford the Deputy control of the confrontation incident. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

5. Excessive Force - Deputies 1, 2, 3, 4, 5, 7, 8, and 9 used "a rope and pulley" to move the complainant.

Board Finding: Action Justified

Rationale: In the complainant's written report, she alleged that Deputies 1, 2, 3, 4, 5, 7, 8, and 9 used "a rope and pulley" to move her. She reported, "*They strap me in like backwards Hannibal. And with a rope and pulley place me downstairs and strapped me then place me onto another gurney.*" Multiple SDDS Deputy Reports, along with the jail surveillance video recordings were reviewed. Deputies who had responded to and assisted in the use of force, collectively placed handcuffs and leg chains on the complainant, versus "a rope and pulley," during the use of force. After the complainant was restrained, she was placed on and secured to a gurney so she could be safely carried/escorted from the top tier, down to the bottom tier. The equipment used to restrain and transport/escort the complainant was in accordance with SDDS P&P. According to SDDS 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 SDDS P&P Section 6.48 titled, "Physical Force," it shall be the policy of this Department whenever any Deputy Sheriff of this Department, while in the performance of his/her official law enforcement duties, deems it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest or to overcome resistance. Deputies shall utilize appropriate control techniques or tactics which employ maximum

effectiveness with minimum force to effectively terminate or afford the Deputy control of the confrontation incident. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

6. Misconduct/Procedure – Deputies 1, 2, 3, 4, 5, 6, 7, 8, and 9 placed the complainant in disciplinary isolation.

Board Finding: Action Justified

Rationale: The complainant alleged that Deputies 1, 2, 3, 4, 5, 6, 7, 8, and 9 placed her in disciplinary isolation. In the complainant's written letter, she reported, *"I was placed on lockdown and wrote up. I spoke with sergeant the next night and taking off lockdown. I now have a write up..."* Multiple SDSO Deputy Reports, along with jail surveillance video recordings, were reviewed. Deputies 1, 2, 3, 4, 5, 7, 8, and 9 were identified as the deputies who escorted the complainant to her disciplinary isolation cell on 01-28-20. Deputy 6 wrote the complainant up for violation jail rules. According to the deputies, the complainant violated jail rules and regulations. For this reason, she was placed in a disciplinary isolation cell. In accordance with SDSO DSB P&P, Deputy 6 wrote a rule violation report to document the violations. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

7. Misconduct/Medical – Unidentified jail medical staff declined the complainant immediate medical treatment.

Board Finding: Summary Dismissal

Rationale: Unidentified staff declined the complainant immediate medical treatment. In the complainant's written letter, she reported, *"I asked for treatment I just got looked at by a doctor in unit on the 10th of February. It hurt for days to breathe and lay in my bunk."* Jail medical staff are non-sworn personnel and reside outside CLERB's jurisdiction per CLERB Rules & Regulations 4.1, Complaints: Authority. Pursuant to the Ordinance, CLERB shall only 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 or the Probation Department. As such, CLERB lacks jurisdiction and the allegation is summarily dismissed.

8. Misconduct/Procedure – Unidentified staff declined to provide the complainant pictures of her injuries.

Board Finding: Action Justified

Rationale: In the complainant's written letter, she reported, *"I wanted pictures."* According to SDSO Officer Reports, Deputy 1 took pictures of the complainant after the use of force and before she was escorted to her disciplinary isolation cell on 01-28-20. According to SDSO DSB P&P, photos were taken of the complainant following the use of force. Additionally, According to SDSO P&P, those photos, and other evidence collected by deputies, is considered property of the Department and may not be disclosed or released to other lay persons. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

9. Misconduct/Medical – Unidentified jail medical staff declined to give the complainant medications until 02-10-20.

Board Finding: Summary Dismissal

Rationale: The complainant reported that unidentified medical staff declined to give her medications until 02-10-2020. In the complainant's written letter, she reported, *"Also on the night of the 10th I just began receiving pain meds. It hurt for days to breathe and lay in my bunk."* Jail medical staff are non-sworn personnel and reside outside CLERB's jurisdiction per CLERB Rules & Regulations 4.1, Complaints: Authority. Pursuant to the Ordinance, CLERB shall only 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 or the Probation Department. As such, CLERB lacks jurisdiction and the allegation is summarily dismissed.

## **POLICY RECOMMENDATION**

1. CLERB recommends that the wording of the Policy Section in SDS DSB P&P I.83 clearly define a cell extraction as a “planned” event, as without the official planning component, two verbal warnings are not required, a safety deputy tasked solely with monitoring the health and safety of the inmate is not required, and the recording of the event is not required when attempting to “extract” an inmate from a cell or other area of the facility. Without planning, any subsequent use of force is simply a use of force without the extra precautions required for a “cell extraction.”
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## **20-015**

1. Misconduct/Harassment – Deputy 1 was on duty and/or in his authoritative capacity when he “harassed” members of the complainant’s family.

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

**Rationale:** According to the complainant’s written statement, Deputy 1 was off duty, but in his work attire when he harassed the complainant’s family. Deputy 1 was off duty, but in his department assigned work vehicle, when he harassed the complainant’s family. Deputy 1 was off duty and in plain clothes, and/or in his personal vehicle when he harassed the complainant’s family. Though Deputy 1 was off duty and or in his plain clothes in certain instances of the alleged harassment, the complainant’s family was aware that Deputy 1 was a Sheriff’s deputy and that he had his department issued service weapon with him when he harassed them. During the course of this investigation, Deputy 1 responded to a Sheriff’s Employee Response Form (SERF) and provided relevant and contradictory information in response to CLERB questioning. Deputy 1’s responses are privileged, per the Peace Officer Bill of Rights (POBR), and cannot be publicly disclosed. Deputy 1’s response was considered in arriving at the recommended finding. 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. SDS P&P Section 2.4 titled, “Unbecoming Conduct,” states that employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. This being said, according to CLERB’s Rules and Regulations 1.2, which details the purpose of the CLERB, complaints subject to review are those complaints that allege improper or illegal conduct of peace officers or custodial officers arising out of the performance of their duties or the exercise of peace officer authority; CLERB only has the authority to investigate those complaints that occur while a deputy is on duty, or when the subject officer acted in his authoritative capacity. CLERB has no authority to investigate those complaints that occurred while a deputy was off duty. Due to Deputy 1’s nontraditional work schedule, his varying hours, and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to prove or disprove the allegation that Deputy 1 was on duty, or that he was in his authoritative capacity when he allegedly harassed members of the complainant’s family.

2. Misconduct/Intimidation – Deputy 1 intimidated the complainant’s family while driving on 02-06-20.

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

**Rationale:** In the complainant’s written statement, she advised that Deputy 1 had intimidated her, her husband, her kids and her brother-in-law. When asked how Deputy 1 intimidated the complainant and her family, the complainant explained that on 02-06-20, the complainant observed Deputy 1 tailgate them, then observed Deputy 1 proceed to drive around their vehicle on the right shoulder. Deputy 1 mimicked as if he was going to ram his vehicle into their vehicle. According to the complainant, Deputy 1 swerved around the complainant’s vehicle and into their lane of traffic. Once in front of them, Deputy 1 began applying his brakes. The complainant described Deputy 1 as “very angry,” and advised that Deputy 1 “gave them dirty looks, stared at them, and was very aggressive.” Deputy 1 responded to a SERF and provided information that was considered in arriving at the recommended finding. Deputy 1’s responses are privileged, per the Peace Officer Bill of Rights (POBR), and cannot be publicly disclosed. Sheriff’s staff

advised that Sheriff's unmarked vehicles do not have Global Positioning Systems (GPS) recording. Deputy 1 was assigned to a specialized assignment and he had two unmarked Sheriff's vehicles assigned to him. Deputy 1's work assigned vehicles were not monitored by GPS; neither vehicle was equipped with GPS. As such, the Department was unable to account for the whereabouts of Deputy 1's county issued vehicles. According to SDSL 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. Due to Deputy 1's nontraditional work schedule, his varying hours, and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 attempted to intimidate members of the Montoya family while driving on 02-06-20.

3. Misconduct/Discourtesy - Deputy 1 used insolent language and gestures against the complainants.

Board Finding: Not Sustained

Rationale: In the complainant's written statement, both complainants advised that Deputy 1 used insolent language and gestures against them. The complainant's detailed that on 08-01-19, they were driving home when they drove past Deputy 1's home. As they passed Deputy 1, he extended his middle finger at them (flipped them off). The complainants also advised that on other occasions, when Deputy 1 drove past their residence, he would honk his vehicle's horn to get their attention, and flipped them off as he drove by. The complainants were unable to advise a time of day when the alleged incident occurred, and due to Deputy 1's nontraditional work schedule; his varying hours and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. It was suspected that the incident occurred while Deputy 1 was at his home, or as he left his home, then he may have been off duty at the time of the incident. If Deputy 1 was off duty at the time of the alleged incidents, then CLERB lacks jurisdiction to investigate this allegation. According to SDSL 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 1 responded to a SERF and provided relevant and conflicting information that was considered in arriving at the recommended finding. Deputy 1's responses are privileged, per the Peace Officer Bill of Rights (POBR), and cannot be publicly disclosed. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 was on duty when he allegedly used insolent language and gestures against the complainants.

4. Misconduct/Harassment - Deputy 1 cyber-harassed the complainants.

Board Finding: Not Sustained

Rationale: In the complainant's written statement, complainant #2 advised that Deputy 1 cyber-harassed the complainant's family by sending them and their family business harassing emails, via their work website email. Complainant #2 reported, "*We have been harassed by phone, email to our business.*" Complainant #2 reported that Deputy 1 sent the complainants an email to their business email/website. The complaint was sent anonymously, but within minutes of receiving the email, the complainants received a phone call from Deputy 1, via his cell phone. During the telephone conversation, Deputy 1 proceeded to harass and insult the complainant. The complainant advised that Deputy 1 used the same wording during the phone conversation that was used in the email. Deputy 1 was described as "very aggressive" and he cursed in the email. Deputy 1 reportedly called the complainant "renters and rude neighbors." The complainants supplied CLERB with printouts of their cell phone call log, which illustrated that calls were received; however, the call log did not detail the date and times of the calls. Due to Deputy 1's nontraditional work schedule; his varying hours, and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. If Deputy 1 was off duty at the time

of the alleged incidents, then CLERB lacks jurisdiction to investigate this allegation. Deputy 1 responded to a SERF and provided relevant information that was considered in arriving at the recommended finding. Deputy 1's responses are privileged, per the Peace Officer Bill of Rights (POBR), and cannot be publicly disclosed. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 was on duty when he allegedly cyber-harassed the complainants.

5. Misconduct/Intimidation – Deputy 1 attempted to intimidate the complainant's family while they were at their home.

Board Finding: Not Sustained

Rationale: In complainant #2's written statement, she reported an occasion when she was outside of her residence with her three minor children. The complainant and her children were in their front yard washing their vehicles when Deputy 1 drove by their residence. Deputy 1 was in a vehicle with another male, with Deputy 1 riding as a passenger. Complainant #2 reported that she heard Deputy 1 instruct the driver to stop the vehicle in front of their house. Deputy 1 pointed to the complainant's and said, "This is the house." The complainant's minor daughter supplied CLERB with a written statement recounting what she witnessed in regard to this allegation. She advised that she was frightened by the incident and that the incident was unprovoked. The complainants were unable to advise of the time of day when the alleged incident occurred. It was suspected that the incident occurred while Deputy 1 was at his home, or as he left his home. As such, Deputy 1 may not have been on duty at that time, and as such, CLERB lacked jurisdiction to investigate this allegation. Due to Deputy 1's nontraditional work schedule; his varying hours, and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. Deputy 1 responded to a SERF and provided relevant information that was considered in arriving at the recommended finding. Deputy 1's responses are privileged, per the POBR, and cannot be publicly disclosed. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 was on duty when he allegedly attempted to intimidate the complainant's family.

6. Misconduct/Intimidation – Deputy 1 used his vehicle to intimidate the complainant and her family.

Board Finding: Not Sustained

Rationale: In complainant #2's written statement, she reported that on occasion, she encountered Deputy 1 as they entered or exited the one-way street to their residences. On these occasions, upon approaching Deputy 1's vehicle, complainant #2 witnessed Deputy 1 "*grab his wheel of the car and speed up his car and acting as if he was going to hit my car head on.*" On other occasions, complainant #2 reported that she was with her minor children when Deputy 1 did these acts and frightened the children, as the children thought Deputy 1 was going to hit the complainant's vehicle. Without the complainants providing a specific date and time of the alleged incident, CLERB was unable to determine if Deputy 1 was on-duty at the time. Being that the alleged incident occurred near or in front of Deputy 1's residence, it was suspected that the incident occurred while Deputy 1 was off duty. According to SDSL 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 SDSL 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. Due to Deputy 1's nontraditional work schedule; his varying hours, and his occasional on-call status, CLERB was unable to determine if the alleged incident occurred while Deputy 1 was on duty. Deputy 1 responded to a SERF and provided relevant information that was considered in arriving at the recommended finding. Deputy 1's responses are privileged, per the Peace Officer Bill of Rights (POBR), and cannot be publicly disclosed. Absent additional information, or information provided by an independent witness to the incident or video or audio recordings of the

interaction, there was insufficient evidence to either prove or disprove the allegation that Deputy 1 was on duty when he allegedly used his vehicle to intimidate the complainant and her family.

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## **20-016**

1. False Arrest – Deputies 1 and 2 arrested the aggrieved for driving under the influence.

Board Finding: Summary Dismissal

Rationale: The complainant reported, “[The aggrieved] *was pulled from a restaurant and arrested on 12-06-16 for a fourth DUI [Driving Under the Influence] even though he was not observed driving by the officers.*” As the date of the incident occurred on 12-06-16, the one-year period for filing the complaint has expired. Per CLERB’s Rules and Regulations 4.1.2, CLERB lacked jurisdiction to investigate this complaint. As such, and per CLERB Rules and Regulations Section 15(b), it is requested that this allegation be summarily dismissed.

2. Excessive Force – Deputies 1 and 2 used force when they arrested the aggrieved.

Board Finding: Summary Dismissal

Rationale: The complainant reported that her son, the aggrieved, was involved in a use of force. The complainant reported that during the use of force, the aggrieved was kicked in the torso and his liver was injured. In the complainant’s written statement, she advised, “*He was beaten and kicked severely by the officers [deputies] numerous times on the way to and in front of the jail. Since the injury, the aggrieved had experienced loose bowels. His liver was almost completely torn in half after the excessive force used by the officers [deputies]. [The complainant] has never had any problems with his kidneys until after being beaten and kicked during his arrest in 2016.*” As the date of the incident occurred on 12-06-16, the one-year period for filing the complaint has expired. Per CLERB’s Rules and Regulations 4.1.2, CLERB lacked jurisdiction to investigate this complaint. As such, and per CLERB Rules and Regulations Section 15(b), it is requested that this allegation be summarily dismissed.

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## **20-017**

1. Misconduct/Procedure – Unidentified deputies denied the complainant social visits with the aggrieved.

Board Finding: Not Sustained

Rationale: The complainant reported she was unable to visit her daughter since she was incarcerated on 10-07-19, because she was considered “dangerous.” The complainant was unable to provide clarification for when and who allegedly provided this information; however, telephone calls to detentions facilities are answered by administrative clerks, who are non-sworn personnel over whom CLERB has no jurisdiction. According to the SDSD Division of Inspectional Services, (DIS) the aggrieved did not have anyone listed on her “do not admit” list. Pursuant to Title 15 section 1062, inmates shall be allowed access to social visitors. The aggrieved’s classification records confirmed she was housed in general population with no restrictions. A visitation log confirmed the aggrieved met with other family members on 01-28-19 and 05-18-19. According to Detentions Policy P.9, Social Visiting, visitors at a detention facility must provide valid photo identification to a Detention information assistant (DIA) who enters all required visitor information into the Jail Information Management System (JIMS). Video visitation can also be reserved by calling a toll-free number. All visitors must have valid photo identification for the security of the institution and for the protection of the public. There was insufficient evidence to either prove or disprove this allegation.

2. Misconduct/Procedure – Unidentified deputies did not approve a medical visitation pass.

Board Finding: Action Justified

Rationale: The complainant reported she was informed that the aggrieved had been transferred to a hospital and was told to go to Las Colinas Detention and Reentry Facility (LCDRF) to obtain a visitor’s

pass. Once there, the complainant was asked for her identification and someone helped her fill out a form. Within a few moments she was informed that a sergeant denied the pass. Medical records confirmed the aggrieved was hospitalized from 01-31-20 through 02-08-20. According to Detentions Policy P.9, Section XI, states that special visits at hospitals are only allowed for inmates who are considered in grave condition, and must be approved by a watch commander and the security sergeant. The SDSA Division of Inspectional Services (DIS) reported that documentation at the LCDRF is only kept for approved passes and that the aggrieved's condition would not meet the criteria for an approved visit, unless life-threatening. The evidence showed that the conduct that occurred was lawful, justified and proper.

3. Misconduct/Procedure – An unidentified sergeant refused to provide their name to the complainant.

Board Finding: Not Sustained

Rationale: The complainant reported she went to LCDRF to get a visitor's pass for the hospital. Once there, the pass was denied by an unknown sergeant who refused to speak with her and/or tell the complainant their name. Sheriff's Policy 2.20, entitled, "Identification," requires that all employees furnish their first and last name and ARJIS number to any person requesting that information while on duty, except when the withholding of such information is necessary for the performance of police duties. The complainant was asked for clarification as to date and/or personnel involved and reported the person she spoke to was not in uniform. Without further identifying information, there was insufficient information to investigate the allegation further.

4. Misconduct/Procedure – Unidentified deputies denied the aggrieved access to medical services.

Board Finding: Not Sustained

Rationale: The complainant reported her daughter developed a serious medical condition while incarcerated and deputies did not help her see a doctor. The aggrieved reported, "If I would have gotten medical treatment from the beginning I wouldn't of gotten that which could of killed me & I wouldn't have had to stayed at the hospital for a week." Detentions Policies M.1 - Access to Care, and M.15 - Sick Call, establishes the guidelines for reasonably prompt access to medical services for any inmate complaining of illness or injury, with sick call procedures explained by health staff to every inmate at the time of booking. The aggrieved reported that she filled out a medical request and a deputy called/sent her to medical. This information was corroborated by an Incident Report, in which a deputy took the aggrieved to medical where she was evaluated by a nurse who determined she needed specialized care and the inmate was transported to a hospital, where she remained for a week. Medical decisions are determined by Health Staff who are non-sworn personnel over whom CLERB has no authority. Medical records confirmed the aggrieved received ongoing medical care and that a sick call refusal slip was signed by the aggrieved on 01-29-20. Without further clarifying information for instances where care was allegedly not provided, there was insufficient information to prove or disprove this allegation.

5. Discrimination/Racial – Unidentified deputies treated the complainant/aggrieved "differently" due to their race.

Board Finding: Not Sustained

Rationale: The complainant reported discrimination in that deputies treated her daughter "differently" for being Hispanic. Sheriff's Policy 2.53, Discrimination, prohibits employees from expressing any prejudice or harassment concerning race. The complainant was asked for clarification, and stated that she called the detention facility in excess of 20 times, but was never provided any information about her daughter. Telephone calls placed to detention facilities are answered by administrative clerks, who are non-sworn personnel over whom maintains no jurisdiction. There was insufficient evidence to either prove or disprove this allegation.

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**20-025**

1. Misconduct/Procedure – Deputy 1 "interfered" with the complainant's right to videotape.

Board Finding: Not Sustained

Rationale: On 10-19-19, San Diego County Sheriff deputies responded to a dispatch call. The complainant was present at the scene, as a bystander, and videotaped the incident. The complainant alleged Deputy 1 “used his flashlight to interfere” with his right to video. Additionally, the complainant stated, “I would like all the deputies to be retrained on citizen’s right to film without interference, intimidation, or threat of arrest.” In the Sheriff body worn camera (BWC) videos, the complainant was observed as he moved around the scene and videoed. The complainant’s video, provided as evidence, was 46 minutes and 44 seconds in duration. The interactions between Deputy 1 and the complainant took place in the last four to five minutes of the complainant’s video. Prior to the interactions between the complainant and Deputy 1, there was no evidence that any deputies “interfered” in the complainant’s right to video and none were observed to “intimidate” or “threaten” the complainant with arrest. There was evidence that showed Deputy 1 shined his flashlight at the complainant, however, the evidence was inconclusive as to whether Deputy 1 did so intentionally to interfere with the complainant’s videotaping. Deputy 1, along with two other deputies, 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 was insufficient to either prove or disprove the allegation.

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

Board Finding: Unfounded

Rationale: The complainant stated, “When I approached the deputy to inquire about the interference of my right to film, Deputy threatened me with interfering in the investigation.” Deputy 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 video evidence refuted the complainant’s allegation that Deputy 1 “threatened” him. Video evidence captured the complainant as he approached Deputy 1 and questioned him. At that moment, Deputy 1 attempted to proceed with his duty, however, the complainant was very close to him. Deputy 1 stopped, addressed the complainant and informed him of his right to film and requested he do so from a distance because he was interfering. Deputy 1 asked the complainant to step back. California Penal Code (PEN§) 148(a) makes it a crime to obstruct or delay a peace officer from performing any duty imposed upon the officer by law. Deputy 1 was direct; however, he was not observed to “threaten” the complainant. SDSD P&P Section 2.22 titled, Courtesy, states in part, employees shall be courteous to the public. 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. The evidence showed the alleged conduct did not occur.

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**20-035**

1. False Arrest – PO 1 arrested the aggrieved.

Board Finding: Action Justified

Rationale: In the complainant’s written statement, she alleged that probation officers falsely arrested the aggrieved. The complainant reported, “*On 05-19-19, immediately after [court] he [the aggrieved] was arrested for a parole violation as he exited the courthouse.*” According to probation documents, the aggrieved was previously granted formal probation after his 08-15-17 arrest. In 2018, the aggrieved petitioned the Court to transfer his probation term and his case to the Los Angeles County Probation Department (LACPD). On 01-05-18, at the aggrieved’s Jurisdictional Transfer hearing to the LACPD, his request to have his case transferred was denied after a letter was returned from the post office. When LACPD was unable to locate the aggrieved at his reported address, the San Diego County Probation Department issued a warrant for his arrest. The warrant was requested by a probation officer and was issued on 04-11-18, and the aggrieved was arrested by PO 1 on 05-15-19. He was transported and incarcerated at the San Diego Central Jail (SDCJ). The aggrieved appeared in court on 05-28-19. At that time, the aggrieved’s probation was revoked and reinstated, and he was remanded to jail. While on formal probation, the aggrieved violated the following conditions of his probation: Report any change of address

or employment to the PO and Revenue & Recovery within 72 hours. A probation officer recommended that the aggrieved's probation be formally revoked and that a bench warrant be issued. All actions by the probation officers were in accordance with San Diego County Probation Department Policy and Procedures Manual Sections 359 and 402, in effect at the time of the incident. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

2. False Arrest – PO 2 arrested the aggrieved.

Board Finding: Action Justified

Rationale: The complainant reported, "On 08-07-19, he [the aggrieved] went to a probation appointment and afterward was arrested after getting into a vehicle and backing up in a parking lot on private property. He saw the judge about a week later and was told [he was arrested] because of his driving that day, he had to finish his jail term." According to the complainant's SDSA Booking Intake Form and his court documents, the aggrieved was initially arrested on 08-15-17, for numerous DUI charges within a ten-year span. He was released from custody, was given probation, and agreed to a number of terms; terms which were not to be violated, or he would be remanded to custody. Since his release from custody, and while on formal probation for a period of five years, the aggrieved operated a motor vehicle, which was a violation of the terms of his probation. According to the aggrieved's arrest documents, he was arrested for violating the following terms of his probation: Condition 6(a): Obey all laws and Condition 8(i): Do not drive a motor vehicle unless licensed and insured as required by the State of California. This was in violation of the terms of his probation, and as such, PO 2 rearrested the aggrieved on 08-07-19. According to the aggrieved's court documents, as a result of the aforementioned probation violations, the courts ruled that the aggrieved's probation was denied, his fourth amendment waiver was deleted, and he was committed to the Sheriff's custody for three years. All actions by PO 2 were in accordance with San Diego County Probation Department Policy and Procedures Manual Section 402, in effect at the time of the incident. The evidence showed that the alleged act did occur but was lawful, justified, and proper.

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**21-006**

1. Death Investigation/Barricade – Jeffery Bullock was discovered with a self-inflicted gunshot wound during service for a search warrant performed by the SDSA Special Enforcement Detail (SED) on 01-17-21.

Board Finding: Action Justified

Rationale: On 01-17-21, deputies were dispatched to a call of a male pointing a rifle at an ASTREA (Aerial Support to Regional Enforcement Agencies) helicopter. The male subject was known to law enforcement as a previously restrained person to a protected party, an ASTREA pilot. ASTREA observed the suspect Jeffery Bullock pointing various objects believed to be a gun, garden hose, golf club, and camera directed at the helicopter. Bullock then approached deputies who had set up a perimeter outside his residence and demanded an explanation. Bullock was detained and refused to respond to deputies' questions. To avoid a prolonged detention, Bullock was cited and released for delaying/obstructing a peace officer. After additional evidence was gathered, a search warrant was obtained for Bullock's home. As Bullock was a registered firearm owner and eyewitnesses saw Bullock armed with an unknown type of rifle, it was decided Sheriff's SED would serve the warrant. The occupants were ordered from the house, around 7:22pm., but only Bullock's wife complied. Bullock turned around and went into the home and a faint gunshot was heard shortly thereafter. SED tried to re-establish contact with Bullock and the Sheriff's Crisis Negotiation Team (CNT) personnel tried to call Bullock on his cell phone several times but never spoke with him. SED deployed a "Light-Sound Diversionary Device" (LSDD / Flash Bang) in an effort to get Bullock to respond. After the LSDD was deployed, Bullock remained inside and void of contact. A remote-controlled reconnaissance robot was inserted into Bullock's home, which located Bullock's body lying face down in a bedroom with a gun and blood on the carpet next to him. SED deputies made entry into the home where the tactical medic pronounced Bullock dead at 8:40pm. No one else was inside the home. An autopsy determined the cause of death to be a perforating gunshot wound of head and the manner of death was suicide. Toxicology testing detected the presence of cannabinoids in his blood. There was no evidence of foul play. Deputies were in compliance with Departmental policies for 6.38-Special

Enforcement Detail (S.E.D.), 6.111-High Risk Entries, and 9.3-Crisis Negotiations. 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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**21-029**

1. Misconduct/Procedure – Unidentified “street sweepers” repeatedly ticketed the complainant’s vehicle, but not others.

Board Finding: Summary Dismissal

Rationale: On March 17, 2021, CLERB received a signed complaint regarding the ticketing of the complainant’s vehicle while parked within San Diego city limits. The individuals associated with this complaint are San Diego City employees over 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 or the Probation Department... Summary Dismissal per Section 15(a), CLERB does not have jurisdiction over the subject matter of the complaint.

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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.