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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its May 28, 2024, meeting held in person. 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	
Action Justified	The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Sustained	The evidence supports the allegation and the act or conduct was not justified.
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 (7)

ALLEGATIONS, BOARD FINDINGS & RATIONALES

NOTICE: THE CITIZENS LAW ENFORCEMENT REVIEW BOARD (CLERB) MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY STAFF DO NOT LIMIT ACTIONS THAT THE CLERB MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE AGENDA AS DETERMINATIVE OF THE ACTION THE CLERB MAY TAKE ON A PARTICULAR MATTER.

DEATH INVESTIGATIONS (1)

22-087/GOOD (Inv. Wigfall)

1. Death Investigation/In-custody Accident – On 01-31-21 while incarcerated at San Diego Central Jail, Kenneth Good fell from his bunk and was transported to a hospital where he was treated for his injuries. Good experienced various health complications and succumbed to his injuries and illnesses on 07-21-22.

Board Finding: Action Justified

Rationale: San Diego Sheriff's Department (SDSD) records were reviewed and supported that Kenneth Good was properly classified upon his entry into the SDSD jail system after his 01-25-21 arrest. SDSD documentation showed that Good was transported to a hospital when he complained of pain and numbness in his arm, which was determined to be the result of a fall from his cell bunk. Good was hospitalized for over 18 months where he experienced several health issues and ultimately succumbed to his injuries/illness on

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07-21-22. SDSA documentation showed Good was compassionately released shortly before he died. Deputies from the Hospital Guard Unit (HGU) performed all necessary security checks as mandated per policy. The San Diego Medical Examiner's Office conducted an external autopsy and determined the cause of death was complications of multiple rib, left humerus and compression fractures with contributing factors of SARS-COV-2 (COVID-19) Infection; Type II Diabetes Mellitus, Wernicke Encephalopathy which is a life-threatening neurological illness caused by thiamine deficiency; as well as dementia, and the manner of death was accident. Good's jail and hospital medical records corroborated this information. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel. The evidence showed that the alleged act or conduct did occur but the deputies' actions were lawful, justified and proper.

USES OF FORCE RESULTING IN GREAT BODILY INJURY (0)

PRIORITY (1)

23-071/HUNTE (Inv. Wigfall)

***CASE DEFERRED**

ROUTINE (4)

23-076/NUANEZ (Inv. Wigfall)

1. Misconduct/Procedure – Unidentified staff misinformed Edward Nuanez of his release status.

Board Finding: Not Sustained

Rationale: Edward Nuanez reported he was arrested by a UCSD Campus Police Officer, due to an outstanding warrant. SDSA documentation showed he was booked into the San Diego Central Jail on 06-02-23. Nuanez stated he was informed by an unidentified jail staff member that he would be "booked and released expeditiously." Nuanez reported while in a holding cell, that an unidentified deputy told him he was no longer on "expedited release." SDSA documentation showed Nuanez was released on Bond on 06-04-23. SDSA Policy Section Q.77 Permissive Release of Pre-Arrestment Misdemeanor Incarcerated Persons, states its purpose is to "expedite the release of pre-arrestment misdemeanor incarcerated persons..." Furthermore, Detentions Processing Division staff are responsible to determine an Incarcerated Persons (IPs) release status. Nuanez did not provide any dates or identifying information for sworn or professional SDSA staff who allegedly provided him with this information. There was insufficient evidence to either prove or disprove the allegation.

2. Excessive Force - Unidentified deputies used force on an unknown incarcerated person.

Board Finding: Not Sustained

Rationale: Complainant Nuanez reported, "As I was being wheeled into the holding cell, I hear a commotion... it's the deputies yelling at each other making it sound like an altercation with an inmate. Then I'm wheeled past the holding cell, I see the deputies that dressed me out in blues beating the hell out of this white guy who already looked dead." SDSA documentation showed there were two medical emergencies, three use of force incidents and no in-custody deaths at SDCJ during the time of Nuanez's incarceration. The complainant failed to provide sufficient information to investigate this allegation further.

3. Medical/Misconduct - Medical staff made a statement about Nuanez's medical status.

Board Finding: Summary Dismissal

Rationale: Complainant Nuanez reported that while he was in the holding cell, he heard a nurse make a statement about his medical status that was untrue. Per CLERB Rules and Regulations, CLERB has no authority over medical staff who are non-sworn personnel. The Review Board lacks jurisdiction.

4. Misconduct/Discourtesy - Unidentified deputies made inappropriate comments.

Board Finding: Not Sustained

Rationale: Complainant Nuanez reported an unidentified deputy stated he would “knock him out” and accused him of being a “liar.” Nuanez identified a Sergeant “Stonewall” in his complaint, but there are no SDSD employees with that name. There was insufficient evidence to either prove or disprove the allegation.

23-088/HALL (Inv. Klew)

1. Misconduct/Procedure – The San Diego Probation Department (Probation) transferred the aggrieved to the East Mesa Juvenile Detention Facility (EMJDF).

Board Finding: Action Justified.

Rationale: The complainant, Ebony Hall, alleged Probation moved the aggrieved, a juvenile in the custody of Probation, from the Youth Transition Campus (YTC) to the East Mesa Juvenile Detention Facility (EMJDF). According to documents received from Probation, the aggrieved was placed in the Youthful Offender Unit (YOU). The Youthful Offender Unit is a program at YTC. Documents provided by Probation showed the aggrieved was involved in two separate incidents, which prompted an investigation involving the aggrieved. Due to the ongoing investigation, the aggrieved was transferred from YTC to EMJDF. Based on a review of the relevant Probation documents, the decision to remove the aggrieved from YTC to EMJDF appeared appropriate. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Probation staff housed the aggrieved in Intake at the East Mesa Juvenile Detention Facility (EMJDF) for an extended period.

Board Finding: Action Justified.

Rationale: It was further alleged that once the aggrieved was moved to EMJDF, she was kept in the intake area of the facility for an extended period. Probation documents confirmed the aggrieved spent extensive time housed in intake while at EMJDF. Documents provided by the Probation department indicated the aggrieved was housed in intake due to continued rule violations. Probation Institutional Services Policies (ISP) Section 5.1.6, Intake/Booking/Release (IBR) Unit, describes the intake area, or “IBR”, as “the Intake, Booking and Release unit of KMJDF/EMJDF. A youth’s stay begins and ends in IBR. After being arrested, youth are brought through the IBR area.” Given the amount of time the aggrieved spent in the intake area, concerns were raised about what procedures were in place regarding youth separated from a main housing unit. See Allegation #3. ISP Section 5.2.7 Security Classification, details how youth are identified as security risks, and stated, “Youth may be identified as a security risk when one or more of the following conditions are present... Assaultive: The youth has developed a propensity for assaultive behavior which may be physical or sexual in nature.” Security Designations were separated between Unit Confinement (UC) Status, Single Room Status (SRS) and Keep Separate (KS) Status. It should be noted, according to Probation, all youth currently at EMJDF are assigned single rooms. Although the amount of time the aggrieved was housed in IBR could give rise to a concern, no policy could be identified which would prevent the action. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Probation staff at EMJDF did not regularly provide the aggrieved a shower or meal.

Board Finding: Not Sustained.

Rationale: It was alleged there were various days where the aggrieved was not allowed an opportunity to shower or to engage in regular programming outside of her cell. The aggrieved also reported that meals were served inconsistently. This allegation raised concern over the health and wellbeing of a juvenile in custody. California Senate Bill (SB) 1143, approved on 09-27-16, placed restrictions on the use of room

confinement of minors or wards who are confined in a juvenile facility. Additionally, Welfare and Institutions Code (WIC) Section 208, added in response to SB 1143, stated in part, “Minor’ means a person who is any of the following: (A) A person under 18 years of age. (B) A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility... ‘Room confinement’ means the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. Room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations... (c) A minor or ward may be held up to four hours in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff shall do one or more of the following: (1) Return the minor or ward to general population. (2) Consult with mental health or medical staff. (3) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population. (d) If room confinement must be extended beyond four hours, staff shall do the following: (1) Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement. (2) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population. (3) Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter.” Title 15 sets minimum standards for juvenile facilities. Regarding access to a shower, Title 15, Section, 1486, Personal Hygiene, stated, “Youth shall be permitted to shower/bathe upon assignment to a housing unit and on a daily basis thereafter and given an opportunity to brush their teeth after each meal. Regarding the serving of food, Title 15, Section 1460, Frequency of Serving, stated “Meals shall be served at least three times in any 24-hour period. At least one of these meals shall include hot food. Food shall be offered to youth at the time of initial intake, shall be served to youth if more than 14 hours pass between meals, and shall be served to youth on medical diets as prescribed by the attending physician. A snack shall be provided to all youth between 2 to 4 hours after the dinner meal is served.” Additionally, Title 15 Section 1371, Programs, Recreation, and Exercise, stated “Juvenile facilities shall provide the opportunity for programs, recreation, and exercise a minimum of three hours a day during the week and five hours a day each Saturday, Sunday or other non-school days, of which one hour shall be an outdoor activity, weather permitting. A youth's participation in programs, recreation, and exercise may be suspended only upon a written finding by the administrator/manager or designee that a youth represents a threat to the safety and security of the facility.” Probation advised it is not specifically required to document if a youth refuses a shower, meal, or daily programming activity, however, this information would typically be recorded on a housing unit's “Daily Programming Sheet.” In this case, the Daily Programming Sheets, for the time the aggrieved was housed in intake, were unavailable. The below policy recommendation is made in response to this allegation. There was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Discourtesy – Unidentified Probation staff were discourteous to the aggrieved.

Board Finding: Summary Dismissal.

Rationale: Included in the complaint to CLERB was an allegation that an unidentified PO was “rude” to the aggrieved. Attempts were made to gather additional information regarding this incident, however we were unsuccessful. At this juncture CLERB was unable to identify what misconduct occurred, or who was alleged to have engaged in the misconduct. CLERB Rules and Regulations, Section 4.1, Complaints: Authority, provided that “...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...” Additionally, Section 15, Summary Dismissal, stated, “Summary Dismissal may be appropriate in the following circumstances... Lack of cooperation by the Complainant such that CLERB is unable to continue its investigation, such as a failure by the Complainant to respond to repeated inquiries when such response is necessary to the ongoing investigation.” The Review Board lacks jurisdiction.

POLICY RECOMMENDATION:

1. It is recommended the San Diego County Probation Department (Probation) implement a policy which would require that staff document when a juvenile housed in the custody of Probation refuses a shower, meal, or any other regular program, recreation or exercise, regardless of their housing assignment.

23-096/MAMAYEK (Inv. Aldridge)

1. Misconduct/Procedure – Deputy 1 identified Melissa Mamayek as the “primary aggressor” in a crime report.

Board Finding: Action Justified

Rationale: In her written complaint to CLERB, Mamayek reported that she was assaulted by a roommate “who tried to illegally evict” her. Mamayek summoned Sheriff deputies to the residence for assistance after “the man I was living with assaulted me.” During their investigation, Mamayek was identified as the suspect/aggressor in the case. Mamayek questioned, “How I could be considered the primary aggressor. I never got a straight answer. The police clearly don’t believe my statements and are biased.” According to the San Diego Sheriff’s Department (SDSD) crime report, Mamayek assaulted her roommate who sustained injury. The roommate’s injury was observed in Deputy 1’s body worn camera and documented in his report. Determining the suspect and victim in a dispute can be complex and often depends on the specific circumstances of each case. Both parties can be considered victims in different scenarios. In Mamayek’s case and based on the statements and the injury the roommate sustained, Deputy 1 deemed the roommate as the victim and Mamayek as the suspect. According to SDSD P&P Section 2.23 titled “Request for Assistance,” when any person requests assistance, 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. According to SDSD Law Enforcement Services Bureau Field Operations Manual, Policy 1 titled “Use of Discretion,” when deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, Sheriff’s Department policies and procedures, statutory law, information-led policing, and supervision in making the appropriate decision. In his written report, Deputy 1 articulated why Mamayek was identified as the suspect in the case. The evidence showed that the alleged act did occur, and it was lawful, justified, and proper.

2. Misconduct/Procedure – The SDSD “denied” Mamayek a police report.

Board Finding: Action Justified

Rationale: In her written complaint to CLERB, Mamayek reported, “When I called to police to get a copy of the police report, I was denied, because the police listen to me as a primary aggressor. Deputy [1] told me that that wasn’t true, and that I should’ve access to these files, which I never got.” According to a SDSD report, Mamayek was upset that she was not able to obtain a copy of the report due to being listed as the suspect in the case. According to a SDSD Departmental Information Source, records are released by the California Privacy Rights Act of 2020 (CPRA) or by subpoena, both having restrictions. Requests for reports may be submitted via email, fax, by mail, and in person at the Ridgehaven Office. If the victim of a crime is requesting a copy of the reports, then that request is granted. However, if it is the suspect/arrestee of a case, then their request may be denied. The evidence showed that the alleged act did occur, and it was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1’s report was incomplete.

Board Finding: Unfounded

Rationale: According to Mamayek’s written complaint, she stated, “I asked that the police reports contain my initial call when I was being illegally forced out, and that my call after the assault that showed I was continue to be harassed. I was told no. I asked how is it possible, that I called the police several times prior to the assault I called them first after the attack, and then called again as a harassment continued. I was told that a secondary police report would be filed to reflect these additional circumstances for my case. That report was never filed. I was told multiple times that my statements and additional complaints would be added to my case, and they were not, charges were never filed on my behalf... During this time advocates at the district attorneys office said they couldn’t help me because of how the police report was written, and that I needed to speak to the police to have them correct add to the report to reflect my statement and all the events leading up to the crime and after. The police are refusing to do so.” According to SDSD documents’ Mamayek initiated the call of service to her residence regarding a verbal disturbance and

assault. In review of Deputy 1's written crime report, his report did not reflect who initiated the call of service, nor did the report advise how many phone calls were received from either involved party as those details were not pertinent to the case. Non-pertinent details are typically omitted from reports to maintain clarity, focus, and conciseness. Including extraneous information can confuse readers and dilute the main message or purpose of the report. By excluding irrelevant details, Deputy 1's report was more effective in conveying key points and articulating his decision-making processes during the incident. According to SDSD P&P Section 2.30 titled "Failure to Meet Standards," employees shall properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department. According to SDSD P&P Section 2.41 titled "Departmental Reports," employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included.

4. Misconduct/Procedure – The SDSD closed Mamayek's case.

Board Finding: Action Justified

Rationale: In Mamayek's letter to CLERB, she reported "*Later, when I called back to check in this badge number [Deputy 1] said that my case was closed because the man dropped charges. I said, why was it closed when I never dropped the charges. He said he would reopen, but never did. But it should have been never been closed in the first place.*" According to Deputy 1's report, since the roommate was determined to be the victim in the case, the roommate had a choice on whether or not he desired prosecution. Initially, on 03-13-23, the roommate desired prosecution; however, on 03-19-23, the roommate informed Deputy 1 that he had changed his mind and no longer desired prosecution as Mamayek voluntarily moved out of his residence. The case was assigned a detective for case follow-up. On 05-03-23, in a SDSD Follow-Up report, Deputy 1 recommended that the case be closed by "No Prosecution."

5. Misconduct/Procedure – Deputy 1 failed to complete a Victim's Compensation Form.

Board Finding: Action Justified

Rationale: In Mamayek's letter to CLERB, she reported "*During this time I filed for the victim compensation board to be reimbursed for my hotel expenses. [Deputy 1] said he would fill out the form required and never did. Three months later, I called to speak with his supervisor I was told that I'm just trying to get money from the state... The sergeant told me that they do not fill out forms for the victim compensation board, which isn't true and I was told the paperwork for victims compensation board would be completed then they were not as I was then told they don't do such forms.*" In Deputy 1's SDSD Follow-Up Report, he documented that he spoke with Mamayek again, via phone call. During the telephone conversation, Mamayek informed Deputy 1 that she was seeking state funding due to being displaced from the residence and that she needed a report in order to receive the funding from programs for victims of crime. Deputy 1 provided information during 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 showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

23-118, [REDACTED] (Inv. Klew)

***CASE DEFERRED**

SUMMARY DISMISSAL (1)

24-030/ALBERTINI (Inv. Bohan)

1. Misconduct/Procedure – San Diego Sheriff Department (SDSD) deputies "refused" to investigate Catherine Albertini's report of theft.

Board Finding: Summary Dismissal

Rationale: Albertini stated, “I have filed complaints after we discovered utility theft and wiretaps in 2018.” The dates of the incidents giving rise to the complaint occurred between 2007 and 2022. CLERB Rules & Regulations, Section 4.1.2 Complaints: Jurisdiction, CLERB shall have jurisdiction in respect to all complaints arising out of incidents occurring on or after November 7, 1990. Notwithstanding the foregoing, CLERB shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. Albertini believed an exemption to the above rule applied in her situation; however, she was unable to produce any documentation/evidence that supported her belief. Per CLERB R&R Section 15: Summary Dismissal may be appropriate in the following circumstances: CLERB does not have jurisdiction as the complaint was not timely filed.

2. Misconduct/Procedure – The Sheriff “published” Albertini’s home for auction.

Board Finding: Summary Dismissal

Rationale: Albertini stated, “The Sheriff has published our home for auction based on a void judgement. The County and it’s armed thugs are desperate to remove us from our home to spoil evidence.” Albertini’s complaint included allegations against numerous individuals, including the Sheriff, who is an elected official, that are not within CLERB’s jurisdiction to investigate. According to CLERB’s Rules & Regulations, 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. Per CLERB R&R Section 15: Summary Dismissal may be appropriate in the following circumstances: CLERB does not have jurisdiction over the subject matter of the complaint.

3. Criminal Conduct – Unidentified Sheriff employees were involved in “drug trafficking.”

Board Finding: Summary Dismissal

Rationale: Albertini stated, “I can prove the Sheriff involvement in drug trafficking.” See Rationales #1 and #2.

4. False Arrest – Sheriff deputies arrested Albertini on 04-04-22.

Board Finding: Summary Dismissal

Rationale: Albertini stated, “I was arrested on 04-04-22 after filming drug trafficking.” See Rationale #1.

5. Excessive Force – Unidentified deputies utilized force to arrest Albertini on 04-04-22.

Board Finding: Summary Dismissal

Rationale: Albertini stated, “I was arrested and injured permanently on 04-04-22.” See Rationale #1

6. Misconduct/Discourtesy – Unidentified deputies told Albertini to “shut-up.”

Board Finding: Summary Dismissal

Rationale: Albertini stated, “On 04-04-22, I was arrested for filming drug trafficking and told to shut-up on the way to jail.” See Rationale #1.

7. Misconduct/Truthfulness – Deputy 1 “manufactured” evidence.

Board Finding: Summary Dismissal

Rationale: Albertini stated, “I have video evidence of Deputy 1 manufacturing evidence.” See Rationale #1.

8. Misconduct/Retaliation – Deputy 1 “shut-down” Albertini’s Facebook account.

Board Finding: Summary Dismissal

Rationale: Albertini stated, "I have video evidence of Deputy 1 shutting down my Facebook account which documented crimes." See Rationale #1.

9. False Reporting – Sheriff deputies filed "false reports."

Board Finding: Summary Dismissal

Rationale: Albertini stated, "Every Sheriff's report, dozens are all false. I have not seen them all, they refuse to release records." See Rationale #1.

10. Criminal Conduct – The Sheriff "deprived" Albertini of her Constitutional rights and assets.

Board Finding: Summary Dismissal

Rationale: Albertini stated, The Sheriff has schemed and conspired to deprive us of our Constitutional rights and assets. In 2007 we had net worths of \$5 million dollars now only our home equity of 1.5 million but the condo is wasted and unmarketable." See Rationales #1 and #2.

11. Misconduct/Harassment – The Sheriff "blocked" Albertini's emails.

Board Finding: Summary Dismissal

Rationale: Albertini stated, "The Sheriff even blocks some of my emails. We desperately need a protective order and fear for our lives." See Rationales #1 and #2.

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.