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BRETT KALINA

# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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[www.sdcountry.ca.gov/clerb](http://www.sdcountry.ca.gov/clerb)

### REGULAR MEETING AGENDA

**Thursday, June 5, 2025, 5:30 p.m.**

**County Administration Center**

**1600 Pacific Highway, Room 302, San Diego, 92101**

(Free parking is available in the underground parking garage, on the south side of Ash Street, in the public parking spaces.)

**-AND-**

Zoom Platform

<https://sdcounty-ca-gov.zoom.us/j/86519024945?pwd=fzIzLNGTeK4m3RlqQS8HEbrku43KJu.1>

Phone: +1 669 444 9171

Webinar ID: 865 1902 4945

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives, or any member of the public wishing to address the Board should submit a "Request to Speak" form prior to the commencement of the meeting.

### DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to CLERB at (619) 238-6776 at least 24 hours before the meeting.

### WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code Section 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 1600 Pacific Highway, Ste. 251, San Diego, CA 92101.

#### 1. ROLL CALL (1 minute)

#### 2. STATEMENT (just cause) and/or consideration of a request to participate remotely. (emergency circumstances) by a Board Member, if applicable. Voting item as necessary (0 minute)

#### 3. PUBLIC COMMENTS (45 minutes)

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction but not an item on today's open session agenda. Each speaker shall complete and submit a "Request to Speak" form. Each speaker will be limited to two minutes; however, the time allotted for in-person, virtual and written public comment may be adjusted by the Board Chair in their discretion. This meeting will also be held remotely via the Zoom Platform. Click the link in the agenda header above to access the meeting. Contact CLERB at [clerb@sdcounty.ca.gov](mailto:clerb@sdcounty.ca.gov) or 619-238-6776 if you have questions.

#### 4. MINUTES APPROVAL (2 minutes)

a) Draft Meeting Minutes for May 1, 2025

**5. PRESENTATION/TRAINING (15 minutes)**

- a) SDSO – Mental Health Intake

(Public Comment is 20 minutes for this item. Each speaker shall submit a Request to Speak form PRIOR to the start of the item)

**6. EXECUTIVE OFFICER’S REPORT (10 minutes)**

- a) Overview of Activities of Executive Officer and Staff
- b) Workload Report – Open Complaints/Investigations Report (Attachments B)
- c) Case Progress and Status Report (Attachments C)
- d) Executive Officer Correspondence to Full CLERB (Attachment D)
- e) Letter of Concern Regarding Body Worn Camera Violations (Attachment E)

**7. BOARD CHAIR’S REPORT (10 minutes)**

**8. NEW BUSINESS (10 minutes)**

- a) Letter of Support for Assembly Bill 847

(Public Comment is 10 minutes for this item. Each speaker shall submit a Request to Speak form PRIOR to the start of the item)

**9. UNFINISHED BUSINESS (10 minutes)**

- a) Nomination and Voting for Board Chair, Vice President & Secretary.
- b) Approve Recess for July 2025

**10. BOARD MEMBER COMMENTS (10 minutes)**

**11. BOARD MEMBER QUERY for SHERIFF/PROBATION LIAISON(S) (10 minutes)**

**12. CLOSED SESSION: TIME CERTAIN – 7:30 pm**

- 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).

**CASES FOR SUMMARY HEARING (11)**

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.

**23-075/CARLTON** (Death)

1. Death Investigation/Drug-Related – Incarcerated Person (IP) Timothy Aaron Carlton was found unresponsive inside of his cell while housed at San Diego Central Jail (SDCJ) on 07-20-23.

Board Finding: Pending

Staff Recommended Finding: Not Sustained

Rationale: This case was reviewed in accordance with CLERB Rules & Regulations 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. Timothy Aaron Carlton was a 53-year-old, white male. On 05-02-23 Carlton was arrested by the El Cajon Police Department and booked into San Diego Central Jail (SDCJ). Carlton was classified as a High/Level 5 Incarcerated Person (IP). On 07-20-23, Carlton moved housing units and was placed into House 5A at 5:09pm. At 5:24pm and 6:02pm deputies performed safety and security checks and looked inside Carlton's cell. At 6:58pm, a detentions deputy performed a safety and security check and noted Carlton was unresponsive. The deputy opened the cell door, performed a sternum rub but did not get a response and called for medical. SDCJ Central Command Center then activated 911. Additional deputies arrived, pulled Carlton out of his cell and performed chest compressions. Medical arrived shortly after, took over the scene and continued with lifesaving measures to include chest compressions, Narcan, and oxygen. Paramedics also arrived and continued lifesaving measures. Carlton was pronounced deceased on scene. Detectives tested the intercoms and found them to be working properly. Following this incident, a witness stated Carlton offered them something that looked "like heroin" and stated Carlton "did whatever the hell it was" and "laid down." A white substance found inside Carlton's cell tested positive for fentanyl. An autopsy was performed, and the cause of death was determined to be acute fentanyl intoxication with other contributing conditions. Per DSB P&P Section M.6, *Life Threatening Emergencies: Code Blue, any life-threatening medical emergency shall trigger a 911 request for a paramedic emergency response team. Sworn and health staff shall initiate emergency response and basic lifesaving measures until relieved by the paramedic emergency response team. In addition, health staff responding to a code blue shall manage the emergency response, monitor IPs status continuously and delegate as necessary.* According to SDSO DSB P&P Section I.64, *Safety Checks: Housing and Holding Areas of Incarcerated Persons, safety checks shall be conducted at least once within every 60-minute time period.* In compliance with SDSO DSB P&P Section R.1 Incarcerated Person Classification, a review of the detention documentation showed that Carlton was classified correctly and there was no evidence that he expressed concerns for his safety by moving to Module 5A. Carlton was classified properly; safety and security checks were performed and deputies responded to the medical emergency in accordance with policy. Although a preponderance of evidence showed Carlton obtained the fentanyl in San Diego Central Jail, it is unknown how the fentanyl entered the facility and was provided to Carlton. By a preponderance of the evidence, CLERB determines the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

### **23-145/ALTMARK** (Death)

1. Death Investigation/In-custody Medical – Incarcerated Person (IP) Donald Altmark was found non-responsive in the Hospital Guard Unit at Tri-City Medical Center on 11-12-23.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: This case was reviewed in accordance with CLERB Rules and Regulations, Section 4.3 Complaint Not Required: Jurisdiction with Respect to Specified Incidents. On 08-09-23, Donald Altmark was arrested and booked into Sheriff's custody. Altmark was classified as 4-High Protective Custody/Advanced Age. On 10-26-23, Altmark was transferred to Vista Detention Facility (VDF) to be housed in an elderly IP special unit. Jail surveillance video showed upon arrival at VDF sally port (secured garage entrance), Altmark stepped off the transportation bus, stood up for about 1-2 seconds, turned his body and fell to the floor. Deputies responded to his aid and Altmark was transported to a hospital. A review of reports and video surveillance showed no mobility issues prior to the fall. Altmark was admitted into the Hospital Guard Unit at Tri-City Medical Center for several weeks and received treatment for his injuries. According to deputy reports, on 11-12-23 at 6pm Altmark was noted to be "verbally responsive" and at 6:35pm a deputy stated Altmark "appeared to be asleep" and "saw his chest rise up and down." According to deputy reports and hospital records, at 7:15pm a deputy and hospital staff member found Altmark "not breathing" inside his hospital room. Life saving measures were performed by hospital staff, but they were unsuccessful. A nurse was

present and managed the emergency response. IP Altmark was pronounced deceased at 7:37pm. The cause of death was determined to be myocardial infarct due to hypertensive and atherosclerotic cardiovascular disease with other contributing factors. The manner of death was accident. Pursuant to DSB I.64.H, no "Code Blue" response is required of deputies in the Hospital Guard Unit. SDO DSB – Hospital Guard Unit Green Sheet, Section I.64.H Safety Checks in Unit states, *"Whenever safety checks are conducted in the Hospital Guard Unit, the following shall be adhered to: A. Deputies are responsible for conducting intermittent safety checks of all the rooms, occupied or not, in the unit which are under the control of the San Diego Sheriff's Department. Safety checks will be logged in the Jail Information Management System by the Control Deputy. B. Deputies shall accompany all non-sworn personnel who enter a room where an inmate is present."* Although the safety and security checks were not logged into Jail Information Management System, deputy and hospital records showed deputies completed their safety checks. Per SDO DSB P&P Section R.1 Incarcerated Person Classification, a review of the detention documentation showed that Altmark was classified as a 4-High, PC/Advanced Age. However, housing issues were not present because Altmark was never housed in VDF. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 failed to log safety and security checks in accordance with policy.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: A review of the safety checks for Altmark was completed. On 11-12-23, Deputy 2 was stationed at the Hospital Guard Unit (HGU) at Tri-City Medical Center. Deputy 2 stated in an interview with SDO detectives she was assigned as the control deputy the day of the incident and was responsible for *"making the logs."* HGU safety and security logs were not produced. SDO provided information regarding the documentation of safety and security checks dated 11-11-23 to 11-12-23, *"Deputies performed their safety and security checks along with medical staff, but the checks were not logged into the jail information management system."* SDO DSB Hospital Guard Unit Green Sheet, Section I.64.H Safety Checks in Unit, *"Whenever safety checks are conducted in the Hospital Guard Unit, the following shall be adhered to: Deputies are responsible for conducting intermittent safety checks of all the rooms, occupied or not, in the unit which are under the control of the San Diego Sheriff's Department. Safety checks will be logged in the Jail Information Management System by the Control Deputy. Deputies shall accompany all non-sworn personnel who enter a room where an inmate is present."* Although Deputy 2 separated from SDO on 07-22-24, by a preponderance of the evidence, CLERB determines the investigation determined there is sufficient evidence to prove the allegation.

3. Misconduct/Procedure – Deputy 1 failed to review security logs.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: See Rationale #2. According to SDO deployment log, Deputy 1 was assigned to the HGU on 11-12-23. SDO provided information regarding the documentation of safety and security checks, dated 11-11-23 to 11-12-23, *"Deputies performed their safety and security checks along with medical staff, but the checks were not logged into the jail information management system."* According to the Vista Detention Facility Post Orders for Hospital Guard Unit Sergeant, the Sergeant's duties include: *"Conduct daily supervisor rounds and JIMS Activity Log reviews."* By preponderance of the evidence, CLERB determines the investigation determined there is sufficient evidence to prove the allegation.

## **24-004/WOLF** (Death)

1. Death Investigation/Drug Related – Incarcerated Person (IP) Eric Alexander Wolf was found unresponsive in his cell at the San Diego Central Jail on 01-05-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Eric Alexander Wolf was incarcerated at the San Diego Central Jail since July 2023. Wolf was assigned to a jail cell with two other incarcerated persons (IP 1 and IP 2). IP 1 had been arrested less than

36 hours prior to Wolf's death. On the morning of 01-05-24, Wolf was found down and unresponsive in his jail cell. Deputies responded and initiated lifesaving measures, requested jail medical/health staff, and summoned emergency medical services. Paramedics responded to the scene and upon their arrival, they continued advanced cardiac life support measures. After vigorous attempts to revive Wolf failed, Wolf's death was pronounced on scene. An autopsy was performed on Wolf's body on 01-06-24 and the cause of Wolf's death was determined to be the toxic effects of fentanyl, and the manner of death was accidental. Wolf was classified as a security level four and was housed with inmates similarly classified pursuant to SDO DSB Policy and Procedures (P&P) Section R.1. Jail records noted that on 01-05-24, safety checks were performed at 5:39am, 6:00am, and 6:56am, with the last check performed at 7:53am. Pursuant to SDO DSB P&P Section I.64 "Safety Checks: Housing and Holding Areas of Incarcerated Persons," the safety checks were completed within a 60-minute window. Upon being discovered unresponsive, sworn personnel responded with speed and efficiency, and immediately initiated lifesaving measures pursuant to DSB SDO P&P, Sections M.5 "Medical Emergencies" and M.6 "Life Threatening Emergencies: Code Blue. By a preponderance of the evidence, CLERB determines the investigation proved the deputy's actions were lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 failed to recognize an anomaly during IP 1's body scan.

Board Finding: Pending

Staff Recommended Finding: Not Sustained

Rationale: Upon review of the evidence, it was alleged by an SDO deputy that a subsequent review of IP 1's body scans from his intake on 01-03-24 showed an anomaly indicative of narcotics. Wolf's cellmate, IP 1, was booked into the SDCJ shortly before Wolf's death and was housed with Wolf approximately twelve hours before his death. During IP 1's intake, IP 1 participated in numerous searches, including pat down, body scans, medical review, x-ray and strip search. Deputy 1 provided information during CLERB's investigation that was considered in arriving at the recommended finding. That information is privileged, per CLERB's agreement with the Deputy Sheriff's Association, and cannot be publicly disclosed. Since the risk for IP 1 to be a narcotics carrier was high, he was put through a secondary screening process which included a pelvic x-ray. On 01-04-24, while placed in the 5<sup>th</sup> Floor Recreational Area awaiting cell placement, IP 1 was seen walking around and interacting with other incarcerated persons. At approximately 3:56pm, IP 1 was seen meeting up with another incarcerated person near the toilet area, out of sight from the deputies. Both IP 1 and the unknown incarcerated person are seen leaning over the sink. Once IP 1 left the sink area, another unidentified incarcerated person walked over to the sink, leaned over and walked away quickly. Approximately one hour later IP 1 was placed in a cell with IP Wolf. On the morning of 01-05-24, another deputy who heard the call of "Code Blue" in Module 5A began investigating the occupants of Wolf's cell. The deputy reviewed the body scans of IP 1 and noted an anomaly in the scans. The deputy stated, *"It appeared that [redacted] defeated the security measures in place and smuggled his contraband up to the 5th Floor."* The deputy returned to Module 5A and was the deputy who conducted a strip search of IP 1 following Wolf's death. IP 1 eventually produced a plastic bag from his anal cavity which IP 1 admitted was fentanyl. The narcotics eventually tested positive for fentanyl. IP 1 also tested positive for fentanyl. Wolf's other cellmate, IP 2, tested negative for fentanyl. Although IP 1 admitted to bringing the fentanyl into the detention facility, he claimed he found it in a holding cell and also claimed he acquired it at the detention facility. According to SDO DSB Section I.50 titled "Body Scanner and X-Rays, *The introduction and presence of unauthorized weapons, drugs and other contraband presents serious threats to the security and proper management of the detention facilities.* III.A. states: *body scan imaging technology is used to produce an image revealing the presence of contraband concealed on or inside a person. Body scans shall be completed as part of the Intake Search of persons. In the event an anomaly appears within a subject's body, the deputy conducting the scan will inquire with the arrestee to identify the anomaly.* Not only was IP 1 cleared from two body scans, but he was also cleared by two separate medical stages, secondary processing and a pelvic x-ray. By a preponderance of the evidence, CLERB determined there was insufficient evidence to either prove or disprove the allegation.

#### **24-087/BEVERSON** (Routine)

1. Misconduct/Procedure – Deputy 1 failed to comply with a court order dated 08-21-23.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: Complainant Angiolina Beverson alleged Deputy 1 delayed the release of property seized during a homicide investigation despite having a court order to do so. On 08-21-23, the aggrieved, received a signed stipulation and court order for return of property. On 09-22-23, items were released, excluding a MacBook laptop. The aggrieved was unable to retrieve the laptop until 06-07-24, and only after the complainant voiced a grievance to a Vista Patrol Sergeant. Deputy 1 provided a confidential statement that was taken into consideration for evaluating the nine-month delay for release of the laptop. SDO Policy and Procedure Section 6.29 states, "The following procedures will be used to release property or evidence: Court Order; whenever a Court Order is presented for the release of evidence, the Property/Evidence Manager or designee will be consulted to verify validity of the order and to verify all parties involved in the case are aware of the order, e.g. the assigned detective, District Attorney assigned, etc. When all parties agree to the release of the evidence, a copy will be kept on file in the Property/Evidence Unit with such appropriate annotations. The detective assigned to the case will forward a signed Property Release Receipt (EVID-3). If the detective is unavailable, the Property/Evidence Manager or designee may sign the Property Release Receipt in lieu of the detective and the evidence will be released. By a preponderance of the evidence, CLERB determines the investigation determined there is sufficient evidence to prove the allegation or conduct was not justified.

#### **24-093/PFENNINGER** (Routine)

1. Illegal Search & Seizure – Deputies 2, 6, and 11 detained Richard Pfenninger on 03-11-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Pfenninger stated on 03-11-24, he was at Walmart when Deputies 2, 6, and 11 approached and detained him. He was handcuffed, removed from the store, and placed in a patrol vehicle. Deputies were informed about a report of criminal threats with the North County Superior Court as the target. Based on the information received that Pfenninger made threats to go to the courthouse with a firearm, had several firearms registered to him, possible anger toward the judge that he believed took away his daughter, and an elevated risk for violence due to his drugs and violent criminal history, SDO detectives requested and were granted a Gun Violence Restraining Order (GVRO) for Pfenninger from the court. Deputies on surveillance observed Pfenninger at Wal-Mart and uniformed Deputies 2, 6, and 11 were dispatched to the location and made contact with Pfenninger and detained him, pending further investigation. According to CA Penal Code §833.5, Detention for Firearms Offenses, *a peace officer must have specific and articulable facts cause them to suspect that some offense relating to firearms or deadly weapons has taken place, is occurring, or is about to occur and that the person they detained is involved in that offense.* By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

2. Illegal Search & Seizure – Deputies 2, 6, 10 and 11 impounded Pfenninger's gun on 03-11-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Pfenninger stated deputies approached and detained him in Walmart, they asked him if he was armed. Pfenninger replied "Yes, in my pocket." Pfenninger explained that he had a Carry Concealed Weapon (CCW) permit to carry a gun." SDO detectives requested and were granted a Gun Violence Restraining Order (GVRO) for Pfenninger from the court. Despite having his CCW, the deputies confiscated and impounded his gun. According to CA Penal Code § 18122, a GVRO is a legal order designed to temporarily remove firearms from someone who is deemed to be a danger to themselves or others. According to the penal code, having a GVRO gave the deputies/detectives the authority to temporarily prohibit Pfenninger from possessing firearms/ammunition. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

3. Misconduct/Procedure – Deputies 8 and 9 denied Pfenninger's request for legal counsel.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Pfenninger alleged that detectives denied his right to legal counsel. Body Worn Camera (BWC) recordings showed Pfenninger repeatedly asking detectives to call his attorney. Deputies 8 and 9 repeatedly assured Pfenninger that he was only being detained, he was not under arrest, nor was he being interrogated. According to the CA Peace Officers Legal Sourcebook (CPOLS), *the Sixth Amendment right to counsel attaches "at or after the initiation of adversary judicial criminal proceedings--whether by way of formal charge, preliminary hearing, indictment, information or arraignment."* In California, adversary criminal proceedings are "initiated" - i.e., the Sixth Amendment right to counsel attaches either (1) at the time the defendant is indicted by a grand jury or (2) in the more typical situation, when a criminal complaint is filed. A suspect's arrest on a warrant does not trigger the right to counsel. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

4. Misconduct/Intimidation – Deputies 8 and 9 coerced Pfenninger.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: Complainant Pfenninger claimed he was pressured into signing a form under duress to allow Detectives 8 and 9 and the accompanying deputies to search for and seize firearms from his home. Pfenninger explained, *"I said I would sign them under protest because I didn't know what they were and I had no legal representation."* In review of BWC recordings it was noted that during Pfenninger's detention, detectives presented the GVRO documents to Pfenninger. Detective 8 informed Pfenninger that he was being detained because he was being served with a GVRO pertaining to an incident that occurred the day before. Detective 8 said, *"We are going to ask for your cooperation if you'll sign a consent to search."* Detective 8 also informed Pfenninger that if he did not sign the form, that deputies would obtain a warrant to search Pfenninger's residence and that deputies would be going to Pfenninger's house to seize all his firearms. Detective 8 explained the process of the GVRO; that Pfenninger would have a court date in two weeks and that he would address a judge. Detective 8 asked Pfenninger if he would comply with the GVRO. Pfenninger refused and requested to speak to his lawyer. Detective 8 informed Pfenninger that at that time, his request could not be facilitated. Detective 8 said, *"That's not on the table right now."* Detective 9 also explained that Pfenninger was being served with a gun violence restraining order. Detective 9 explained the reason for the GVRO and explained the protocol/process of what having a gun violence restraining order would entail; that deputies would be going to Pfenninger's residence to temporarily impound Pfenninger's firearms. Detective 8 asked 9 if he would consent to a search and if he was willing to sign a document allowing deputies to remove the firearms from his house. Pfenninger said, *"Well, at this point, I guess I have to, to get out of this situation."* Detective 9 responded, *"You don't have to do anything. It is your choice."* Pfenninger signed the document. According to SDSO 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 Office. Unbecoming conduct shall include that which tends to bring this Office into disrepute or reflects discredit upon the employee as a member of this Office, or that which tends to impair the operation and efficiency of this Office or employee.* By a preponderance of the evidence, CLERB determines the investigation disclosed sufficient evidence to prove the alleged act or conduct did not occur.

5. Illegal Search & Seizure – Deputies 8 and 9 impounded Pfenninger's guns.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Pfenninger said, *"One hour later took me to my house and said I had given permission to search and seize my weapons. Despite my objection, they took everything while I was still handcuffed...."* In BWC recordings Detectives 8 and 9 were witnessed to serve Pfenninger the GVRO and ensured that he complied with the order. CA Penal Code §18120 gives law enforcement the right to receive and/or seize firearms once a GVRO is signed into effect. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

6. Misconduct/Procedure – Deputies 1, 3, 5, and 7 denied Pfenninger medication.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: Complainant Pfenninger stated, *"I was in severe pain from my distress and RA [Rheumatoid arthritis] pain. I was pleading to go home for my meds. They kept saying sign those papers and will take you home for your meds. One hour later I was brought meds that were the wrong ones and the female officer said "better take something." At this point I was almost unable to walk into my house."* In BWC recordings, Pfenninger was observed to request his medications numerous times while he was detained at Walmart and after he was transported to his home. Once deputies transported Pfenninger to his residence, deputies retrieved his medications from his home and provided them to him. Detective 5 and Deputy 1 collected the numerous bottles of medications that Pfenninger had throughout his home. Deputy 1 also brought Pfenninger a bottle of Gatorade so that he could take his medications. Pfenninger took his medications without incident and was without further complaint. By a preponderance of the evidence, CLERB determines the investigation disclosed sufficient evidence to prove the alleged act or conduct did not occur.

7. Misconduct/Procedure – Deputies 2, 4, 7, 8, and 10 failed to comply with SDSO Body Worn Camera (BWC) policy.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: In review of Deputies 2, 4, 7, 8, and 10's BWC recordings, it was noted that the deputies muted the audio on their BWC recordings at some point during their response and interactions while on scene. Additionally, these deputies failed to document why their BWC was muted. Deputies provided information during CLERB's investigation that was considered in arriving at the recommended finding, however, this information is privileged and cannot be publicly disclosed. According to SDSO P&P Section 6.131, *BWC's are equipped with functionality to allow for the "muting" of the camera. This allows video recording without audio. Muting is generally discouraged; however, there are situations in which muting may be beneficial. The muting of the camera shall only be performed as directed by a supervisor or in accordance with the specific considerations of this policy. Audio may be muted for a specific articulable reason and only for the amount of time necessary to complete the privileged conversation. Once the privileged conversation has concluded, the camera shall be returned to full function. In all instances of muted audio, the deputy will document the reason for muting. Before muting the recorder, the deputy shall consider verbally explaining the reason for muting.* By preponderance of the evidence, CLERB determined the investigation determined there was evidence sufficient to prove the act or conduct was not justified.

8. Misconduct/Procedure – Deputy 1 failed to activate BWC.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: In review of Deputy 1's BWC recording, as well as other deputies' BWC recordings, Deputy 1 was on scene and interacted with Pfenninger but did not activate BWC. Deputy provided information during CLERB's investigation that was considered in arriving at the recommended finding, however, this information is privileged and cannot be publicly disclosed. According to SDSO P&P Section 6.131, *the San Diego County Sheriff's Office authorizes the use of Body Worn Camera (BWC) technology, with the goal of providing an additional layer of documentation for events, actions, conditions and statements made during critical incidents and to improve reports, collection of evidence and testimony in court... It is the intent of the Sheriff's Office to record all law enforcement related contacts, and other contacts deemed appropriate. Deputies should also begin recording prior to initiating any law enforcement related contact. Deputies shall activate the BWC to record all law enforcement related contacts... While away from Office facilities, deputies shall keep their BWC powered on and in stand-by mode, anticipating law enforcement related contacts... The record mode of the camera should be activated prior to actual contact with a citizen (victim/witness/suspect), or as soon as safely possible, and continue recording until the contact is completed... Law enforcement related contacts include but are not limited to the following: traffic stops, field interviews, vehicle tows, issuing of citations, issuing of parking tickets, detentions, arrests, persons present at radio calls who are accused of crimes, serving court orders or civil papers, investigative interviews, deputy initiated consensual encounters and private person-initiated contacts of a confrontational nature.* By preponderance of the evidence, CLERB



determined the investigation determined there was evidence sufficient to prove the act or conduct was not justified.

#### **24-094/SHEARER** (Routine)

1. Misconduct/Procedure – Deputies 2 and 3 terminated Jason Shearer from Incarcerated Person programs.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Shearer alleged on 06-03-24, he was unjustly removed from his IP worker position and the Healthcare Assistance Training (H-SAT) program by Deputy 2 based on false allegations of extortion, hiring a hit on another IP, and filing false paperwork. In Incarcerated Persons Status Report (ISR), The complaints were regarding Shearer's in-class conduct and treatment towards the other H-SAT participants. The decision to remove Shearer was made by the supervising deputy and program deputies. According to SDSO DSB P&P Section S.3 titled, "Incarcerated Worker and Discipline," *an incarcerated worker will not be removed from incarcerated worker status (rolled-up) without the watch commander or incarcerated worker deputy (IWD) having reviewed the incident report. When an incarcerated worker commits any violation of Incarcerated Person Rules and Regulations, the deputy detecting, or observing the violation shall write an Incident report, detailing the circumstances surrounding the violation. A progressive rate of discipline is recommended. Any incarcerated worker "rolled-up" shall be immediately removed from the work site. Incident reports shall be written on ALL DISCIPLINE affecting incarcerated workers.* By a preponderance of the evidence, CLERB determined the investigation proved the alleged actions were lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1, 2 and 3 treated Shearer differently than other IPs.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: Complainant Shearer alleged that deputies' actions against him were *discriminatory and retaliatory*. Shearer alleged that although Deputy 1 found him innocent and reinstated him as an IP worker, he was not allowed to return to his previous housing unit nor the H-SAT program. Shearer believed this reinstatement came with punitive stipulations that were not applied to others. Additionally, Shearer alleged that other IPs who made false accusations against him or participated in the slander against him were not removed from their worker positions or from the H-SAT program. Shearer claimed that only one accuser was terminated, and he was later rehired, while other IPs faced no consequences. Shearer alleged that although he was eventually allowed back into the H-SAT Program, he was not allowed to participate in the graduation or certification ceremony, effectively denying him the full benefit of the program. However, on 06-04-24, pursuant to an Incarcerated Persons Status Report (ISR), Shearer was removed and terminated from the IP worker position due to accusations of extortions of another inmate in H-SAT and being disruptive during class. Also, while working on the third floor, Shearer allegedly made rude comments to another IP in the H-SAT program about their body type. Following a review conducted by Deputy 1 on 06-07-24, Shearer was cleared of the initial allegations and was reinstated as an IP worker. Although Shearer alleged discrimination, he did not document how he was discriminated against. According to SDSO P&P, Section 2.53, *Employees shall not express any prejudice or harassment concerning race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, gender, age, political beliefs, sexual orientation, sexual or gender identity, lifestyle or similar personal characteristics. Examples of discriminatory acts which will not be tolerated include the use of verbal derogatory comments, slurs, or jokes, derogatory pictures, cartoons or posters, social media postings, and actions which result in a person being treated unequally.* By a preponderance of the evidence, CLERB determined the investigation proved the alleged actions were lawful, justified and proper.

3. Misconduct/Procedure – Deputies 1, 2, and 3 failed to conduct an investigation.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: In Shearer's complaint, Shearer alleged that his side of the story was not heard during the initial investigation and that deputies failed to check on his well-being or offer him a meaningful opportunity to

explain his version of events. Evidence revealed that upon eventual reentry into the H-SAT Program, Shearer's participated in the final classes; however, he was not permitted to receive formal certification. The inability to complete all aspects of the course was a result of timing and logistical constraints following his reinstatement. According to Deputy 2, Shearer was given an opportunity to complete the H-Sat program and continue to go to class. Shearer refused the offer when he was rehired. Shearer was also offered to join the next cohort as he still had time to serve in county jail. Shearer refused that offer. According to SDSO DSB P&P Section S.1 titled "Supervision and Assignment of Incarcerated Workers," *it shall be the responsibility of the incarcerated worker deputy (IWD) to perform the majority of the supervision and assignment of incarcerated workers and the general responsibility of each deputy to functionally supervise incarcerated workers. The IWD determines incarcerated worker supervision and assignments. All incarcerated workers will be informed of the department's zero tolerance policy on sexual abuse and harassment and sign the Incarcerated Worker Contract form as acknowledgment of the information. When personality issues or poor work standards develop with incarcerated workers, the IWD will change assignments or take remedial action as soon as possible. Except in an emergency, the IWD will accomplish any duty transfer or "roll up" of an incarcerated worker. Deputies requesting an incarcerated worker be "rolled up" should refer the incident report to the IWD for handling. Any questions or concerns arising out of an incarcerated worker's status will be referred to the IWD.* By a preponderance of the evidence, CLERB determined the investigation showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Deputies 1, 2, and 3 failed to respond to IP Shearer's grievances.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: Complainant Shearer alleged that the multiple grievances he filed on 06-22-24 were not responded to. In review of the grievances that Shearer submitted, it was confirmed that the three grievances were received and addressed. Deputies 1, 2, and 3's acknowledgment of the grievances were documented, and verbal engagements on the issues took place. According to SDSO DSB Section N.1 titled "Grievance Procedures," *the incarcerated person grievance procedure is designed to address incarcerated person complaints related to any aspect of condition of confinement that directly and personally affects the incarcerated person grievant. Grievances determined to be a Request: A.) Grievances received may not meet the criteria for grievances as described in section I of this policy. B.) If a grievance is determined to be a request: 1.) Check the two corresponding boxes, "This is not a grievance," and, "This is a request" on the J-22 form. 2.) Give the second page of the J-22 form to the incarcerated person as a signed receipt. 3.) Provide a Request (J-21) form to the incarcerated person and advise the incarcerated person to submit the request on the appropriate form. 4.) No entry in JIMS is required. 5.) File the original copy of the J-22 form in the incarcerated person's custody record. 6.) Resolve the incarcerated person's request according to DSB P&P section N.3.* By a preponderance of the evidence, CLERB determined the investigation showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – Deputy 4 failed to respond to IP Shearer's Internal Affairs's complaint.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: Complainant Shearer alleged that he submitted a nine-page complaint to the SDSO Internal Affairs Division and, as of the time of his CLERB complaint, he had received no communication or acknowledgment of receipt or follow-up from them. SDSO confirmed that Shearer had submitted a complaint to the Internal Affairs Division. The complaint was received, noted, responded to, and signed by Deputy 4. Internal Affairs Division inquiries are subject to an internal review process that CLERB is not privy to. The SDSO advised that Shearer's complaint was closed with a correspondence letter that was sent to Shearer. SDSO P&P Section 3.2 titled "Complaints Against Sheriff's Employees," *the Internal Affairs Unit is the central controlling point for logging, assigning, investigating, and filing complaints. All formal complaints shall be forwarded immediately to Internal Affairs. Complaints Not Subject to Investigation: Matters that have more appropriate methods of resolution (i.e., traffic court, employee grievance procedure, inmate grievance procedure, civil action, etc.), and Complaints that are not timely (generally 30 days for minor complaints).* By a preponderance of the evidence, CLERB determined the investigation showed that the alleged act or conduct did not occur.

## **24-097/KEELER** (Routine)

1. Misconduct/Procedure – Deputy 1 failed to take a crime report on 06-24-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: On 06-24-24, Gerald Keeler went to Fallbrook Sheriff's substation to report perceived criminal activity perpetrated against him. Keeler explained to Deputy 1 that his ex-wife, opened two credit cards in his name, without his consent. Gerald requested a police report be completed to provide to the credit card companies and press chargers. Deputy 1 asked for any evidence to support Gerald's allegations. Gerald provided an envelope with handwritten notes. Deputy 1 explained the envelope lacked evidentiary value and they could not complete a crime report. Deputy 1's supervisor, Deputy 2, also addressed Keeler and explained that he understood the need for documentation to provide to the credit card companies. However, with the lack of evidence to support his allegation against the ex-wife, a miscellaneous report would be completed to document his statements and Deputy 1 would provide Keeler with a report number to provide to the credit card companies. SDSO P&P Section 6.71, Deputy's Reports state, *"An Officer's Report may be completed to report a miscellaneous incident or provide supplemental information when appropriate."* By a preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

2. Discrimination/Racial – Deputies 1 and 2 discriminated against Gerald Keeler.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: Complainant Keeler alleged, *"Officer's actions were to cover up the identity theft committed against a Black victim by the suspect, who is Hispanic."* Keeler further alleged that Deputy 1 and Deputy 2 knew his ex-wife and were covering up for her. A review of the evidence was conducted including, but not limited to, Body Worn Camera footage, SDSO reports, and confidential statements. The investigation did not find any evidence suggesting that Gerald Keeler's race played a role in how the deputies handled the interaction with him. Body-worn camera revealed deputies explaining to Keeler that they cannot take a crime report due to lack of evidence, but they still document his statements in a report. SDSO P&P Section 2.53 Discrimination states, *"Employees shall not express any prejudice or harassment concerning race... Examples of discriminatory acts which will not be tolerated include the use of verbal derogatory comments, slurs, or jokes, derogatory pictures, cartoons or posters, social media postings, and actions which result in a person being treated unequally."* By a preponderance of the evidence, CLERB determines the investigation disclosed sufficient evidence to prove the allegation did not occur.

## **24-107/VAN TINE** (Death)

1. Misconduct/Procedure – Deputy 2 housed IP Eric Van Tine with a "violent" cellmate (IP 1).

Board Finding: Pending

Recommended Finding: Action Justified

Rationale: Carole Van Tine reported, *"We request that you investigate the jail staff who housed Eric with someone who had a propensity for such violence."* Deputy 2 classified both IP 1 and IP Van Tine upon their arrival into the jail system. Van Tine was arrested for assault with a deadly weapon, threatening with intent to terrorize, and exhibiting a deadly weapon (not a firearm). On 12-03-23, Van Tine was classified as a security level 4-High. IP 1 was arrested for assault with a deadly weapon (not firearm), great bodily injury, vandalism of \$400 or more, and assault with force with likely great bodily injury. IP 1 was classified as a security level 4-High. According to SDSO DSB P&P Section R.1 titled 'Incarcerated Person Classification,' *The Jail Population Management Unit (JPMU) will conduct classification assessments, assign individuals a classification, and assign housing for all incarcerated persons. An incarcerated person's initial classification is determined by their original booking charges, criminal history information, medical and psychiatric issues or additional special conditions, and information obtained from the incarcerated person interview. The incarcerated person will be assigned to the most appropriate housing location based on their classification*

*designation*. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

2. Misconduct/Procedure - Deputies 1 and 3 conducted checks of IP Van Tine's cell.

Board Finding: Pending

Recommended Finding: Action Justified

Rationale: Carole Van Tine reported, "We asked that you investigate if deputies properly monitor the cell by direct visual check and video feed." On 12-03-23, safety/security checks were logged by deputies at 12:51am, 1:49am, 2:47am, 3:45am, 4:44am, 5:18am, 6:00am, 6:57am, 7:16am, 8:13am, 9:09am, 10:07am, 11:07am, 12:02pm, 1:00pm, 1:57pm, and 2:14pm. According to SDSO DSB P&P Section I.64, titled "Safety Checks: Housing and Holding Areas of Incarcerated Persons," *safety checks shall be conducted at least once within every 60-minute time period*. It should be noted there are no video feeds inside the cell. By a preponderance of the evidence, CLERB determined the investigation proved the alleged actions were lawful, justified and proper.

3. Death Investigation/IP Homicide - Incarcerated Person (IP) Eric William Van Tine was assaulted while incarcerated at the San Diego Central Jail on 12-03-23.

Board Finding: Pending

Recommended Finding: Action Justified

Rationale: Incarcerated Person Eric William Van Tine was a 41-year-old white male who was incarcerated at the San Diego Central Jail (SDCJ). Van Tine was housed with two other incarcerated persons. On the afternoon of 12-03-23, a deputy was performing a safety/security check when he found Van Tine down and unresponsive in his jail cell, bleeding from a head wound. Jail medical staff were summoned and provided medical aid until paramedics transported Van Tine to a hospital. He was given a grim prognosis, and his health declined until his death on 11-08-24. Pursuant to interviews of Van Tine's cellmates, Van Tine had been involved in a physical altercation with IP 1 and was assaulted, including slamming Van Tine's head into the concrete floor. An autopsy was performed, and Van Tine's cause of death was blunt force injuries of the head, and the manner of death was homicide. Upon being found down and unresponsive in his cell, sworn personnel responded and immediately initiated life-saving measures until a medical emergency response team arrived. Per SDSO DSB P&P Section M.5 titled "Medical Emergencies," *all facility staff shall be responsible for taking appropriate action in recognizing, reporting or responding to an incarcerated person's emergency medical needs. In any situation requiring medical response, emergency medical care shall be provided with efficiency and speed without compromising security. If the incarcerated person's condition is believed to be life threatening, sworn staff shall immediately notify on-duty health staff and provide basic life support (BLS) and/or first aid care*. According to SDSO DSB P&P Section M.6 titled "Life Threatening Emergencies: Code Blue," *any life-threatening medical emergency shall trigger a 911 request for a paramedic emergency response team. Sworn and health staff shall initiate emergency response and basic lifesaving measures until relieved by the paramedic emergency response team. In addition, health staff responding to a code blue shall manage the emergency response, monitor IPs status continuously and delegate as necessary*." A review of deputies' actions pertaining to housing, security checks and medical emergency responses was conducted. By a preponderance of the evidence, CLERB determines the investigation proved the deputies actions were lawful, justified and proper.

#### **24-117/DIBOS** (Routine)

1. False Arrest – Deputy 2 arrested Bill Dibos on 06-18-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: CLERB received a signed complaint from Bill Dibos who alleged he was falsely arrested by SDSO Deputies on 06-18-24. Documents received from SDSO showed deputies responded to a call for service at the parking lot of a Goodwill in the city of Santee on 06-18-24. During the contact with Dibos, Deputies determined Dibos had violated California Penal Code (PC) Section 211, Robbery, and was subsequently arrested and booked into custody at the San Diego Central Jail (SDCJ). SDSO P&P Section 2.51, Arrest,

Search and Seizure, stated, *"Employees shall not make any arrest, search or seizure, nor conduct any investigation or official Office business, in a manner which they know or ought to know is not in accordance with law and established Office policies and procedures."* Based upon a review of body worn camera (BWC) footage and reports of the arrest, Deputy 2's actions were within SDSO P&P. By a preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 did not respond to Dibos' request

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: The complainant alleged, *"... the cuffs were digging into my left wrist, so I asked them to adjust them. The Sheriff put his finger in the cuff at the top of my wrist, but not the side of the cuff where it was digging in. He said he'd get to that in a minute."* SDSO P&P Section 2.48, Treatment of Persons in Custody, stated, *"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 Office procedures."* BWC footage showed deputies were prompt in their response when Dibos complained of discomfort caused by the handcuffs. Body Worn Camera (BWC) showed handcuffs were checked for tightness and appropriate application. By a preponderance of evidence, CLERB determined the investigation proved the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 3 drove at an unsafe speed.

Board Finding: Pending

Staff Recommended Finding: Sustained

Rationale: The complainant alleged Deputy 3 *"was driving over 80 mph, and tailgated each person in front of him... When we passed the safety radar sign near Lemon Grove, it read 83 mph."* SDSO P&P Section 2.1, Rules of Conduct for Members of the San Diego County Sheriff's Office, stated, *"All employees shall conform to Federal, State, and Local laws, as well as to the policies of this Office. It shall be the responsibility of all employees to familiarize themselves and comply with all such policies, orders, directives, rules and regulations of this Office."* SDSO P&P Section 5.1, Non-Emergency and Emergency Vehicle Operation, stated, *"Non-Emergency Vehicle Operation. When proceeding to a call, other than Code 3, deputies shall obey all traffic laws and not use sirens or flashing lights (rear amber light, flashing parking/tail lights, high beam headlights)."* The evidence received showed Deputy 3 regularly drove at speeds over the posted legal speed limit while transporting Dibos to SDCJ. By a preponderance of the evidence, CLERB determines the investigation determined there is evidence sufficient to prove the allegation.

4. Misconduct/Procedure – Deputy 2 charged Dibos with burglary charges.

Board Finding: Pending

Staff Recommended Finding: Unfounded

Rationale: The complainant alleged he was booked into jail on *"burglary charges."* ... The complainant added clarification that his charge was later changed, in Court, to *"grand theft."* SDSO P&P Section 2.51, Arrest, Search and Seizure, stated, *"Employees shall not make any arrest, search or seizure, nor conduct any investigation or official Office business, in a manner which they know or ought to know is not in accordance with law and established Office policies and procedures."* Per the arrest report and booking documents, Dibos was charged with violation of PC 211, Robbery, and subsequently booked into custody. Per a Superior Court document, Dibos appeared in Court on 06-21-24 and the charged noted was PC 487(A), Grand Theft. By a preponderance of evidence, CLERB determined the investigation proved the alleged act or conduct did not occur.

5. Misconduct/Procedure – Unidentified personnel denied records to Dibos.

Board Finding: Pending

Staff Recommended Finding: Summary Dismissal

Rationale: Per the complaint to CLERB, Dibos alleged he was denied a request for a copy of the arrest report. Dibos provided testimony that professional staff at the SDSO Santee Substation denied Dibos' request for a

copy of his arrest report. CLERB Rules and Regulations, Section 4.1, Complaints: Authority, stated, *"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..."* Per CLERB rules and regulations, CLERB lacks jurisdiction to investigate actions of non-sworn staff. CLERB determines the investigation showed that CLERB lacks jurisdiction on the allegation.

#### **24-129/DIBOS** (Routine)

1. Misconduct/Procedure – Unidentified deputies did not provide emails to Incarcerated Person (IP) Dibos.

Board Finding: Pending

Staff Recommended Finding: Not Sustained

Rationale: On 10-01-24, CLERB received a signed complaint from Bill Dibos, who alleged he did not receive emails that were sent to him while incarcerated. The alleged misconduct occurred while Dibos was incarcerated at San Diego Central Jail (SDCJ) between 06-18-24 and 06-21-24. San Diego Sheriff's Office (SDSO) Detention Services Bureau (DSB) P&P Section P.3, Incarcerated Person Mail, stated, *"Incarcerated persons shall be allowed to receive and possess U.S. mail, incoming letters, confidential/legal mail, and mail from official government agencies (as defined below). They may also receive electronic email messages, periodicals, and new books. There shall be no limit on the amount of mail an incarcerated person may send, and no limit on the amount of mail that they may receive, except to the extent that possession of such materials may constitute a fire hazard or pose an unacceptable security risk by providing the means to hide contraband. All incoming non-legal mail will be routed to the Mail Processing Center (MPC) warehouse located at the Las Colinas Detention and Reentry Facility. Deputies assigned to the MPC and Sheriff's Transportation Detail (STD) will work collaboratively with detention facilities' staff to provide the reasonably prompt delivery of incoming materials. Facility deputies will process and send out directly all outgoing correspondence... Electronic email messages received via the incarcerated persons email system are not considered confidential/legal mail... All mail rejections will be logged as 'MREJ' in the receiving incarcerated person's Jail Information Management System (JIMS) history, and appeal process procedures will be completed by the Detention Investigation Unit (DIU) upon the conclusion of the investigation."* CLERB received transcripts of emails sent to Dibos, via the SDSO automated confirmation emails that are sent when messaging an incarcerated person. Per SDSO records, no mail rejections were noted in Dibos' custody records. By a preponderance of the evidence, CLERB determines the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

#### **24-132/BENZONI** (GBI)

1. Use of Force Resulting in Great Bodily Injury – Deputies Guido Cozzarelli, Carlos Heard, Erick Resendiz, Samuel Robison and Pierre Tedtaotao used force towards Justin Benzoni on 08-23-24.

Board Finding: Pending

Staff Recommended Finding: Action Justified

Rationale: On 08-23-24 dispatch received a call that an unknown male (later identified as Justin Benzoni) was involved in a battery at a strip mall in Vista, where he reportedly attacked a security guard. Another call was made to dispatch where they reported an unknown male (Benzoni) was located on the side of a local fitness center where he was bleeding from his mouth. This call was dispatched as a welfare check. Deputy Resendiz responded to the welfare check and was informed by dispatch that the subject was likely the same person involved in the battery. Deputy Resendiz approached Benzoni, as he lay on the ground, and asked him if he was okay. The deputy informed Benzoni he was being detained and handcuffed his left wrist. Benzoni resisted the deputy, pulled away and loosened the deputy's grip. Deputy Resendiz and Benzoni were in a struggle and Benzoni continued to be non-compliant with the deputy's commands and lunged his hand toward the deputy. The deputy delivered two hand strikes towards Benzoni's face and called for backup. Additional deputies arrived and Deputy Heard helped detain Benzoni. Once Benzoni was detained, deputies attempted to have him sit on the curb, but Benzoni fell back, kicked deputies, continued to resist deputies' commands and jerked his body around. Deputy Resendiz delivered one hand strike to Benzoni's mid-section. Deputies Cozzarelli, Resendiz, Robison and Tedtaotao held Benzoni down to the ground as they applied

pressure to the side of his face, thighs, calves and ankles. Deputies placed a WRAP restraint device on Benzoni. Deputies stated Benzoni “needed to be placed in a higher level of restraint (the WRAP) when he continued to be non-compliant with deputies’ commands and physically resisted our efforts to control him.” Paramedics arrived on scene, assessed Benzoni and transported him to the hospital to be treated for his injuries. According to SDSO P&P Section 11.1 Use of Force Guidelines Policy, deputies are expected to exercise sound judgment and use critical decision making when using force. Deputies may only use a level of force they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Due to Benzoni’s assaultive behavior towards deputies, the level of force used was justified per policy. By preponderance of the evidence, CLERB determines the investigation proved the alleged actions were lawful, justified and proper.

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***End of Report***