

**BOARD MEMBERS**

EILEEN DELANEY  
Chair  
MARYANNE PINTAR  
Vice Chair  
BONNIE KENK  
Secretary  
ANDREW HAYES  
DR. R. LEE BROWN  
NADIA KEAN-AYUB  
ARIANA FEDERICO MONDRAGON  
ROBERT SPRIGGS, JR.  
TIM WARE  
GARY I. WILSON  
VACANT – DISTRICT 3



**EXECUTIVE OFFICER**  
PAUL R. PARKER III

# 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](http://www.sdcounty.ca.gov/clerb)

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its August 15, 2023, 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](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	
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 (9)

### ALLEGATIONS, BOARD FINDINGS & RATIONALES

#### 22-027/VIESCA

1. Use of Force Resulting in Great Bodily Injury – Deputies Michael Lee and Brittany Palmer used force towards Eric Viesca while serving a Court Order on 02-01-22.

Board Finding: Action Justified

Rationale: This case was reviewed in accordance with CLERB Rules & Regulations 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. According to SDSD documentation, on 02-01-22, Deputies Lee and Palmer responded to Eric Viesca's residence to serve a Domestic Violence (DV) Temporary Restraining Order (TRO)/Order for Removal. As stated in the Court Services Bureau (CSB) Training Manual, the purpose of a TRO is to prohibit a defendant from specific activity and must be served personally. According to SDSD documentation, deputies arrived at the residence, knocked and announced themselves as the San Diego Sheriff's Department, verified Viesca's identity and entered the apartment. Deputy Lee explained the terms of the TRO/Move out Order and told Viesca that he must comply, or he would be arrested. Viesca questioned their authority, told the deputies to leave the house and even called 911 to report that the deputies were in his home. Deputies allowed Viesca ample time to retrieve his personal items. Viesca was instructed that once he exited the apartment, he could not re-enter. Once Viesca exited the apartment, he made his way back into the apartment, against deputy commands. Deputy Palmer pushed open the door while Viesca attempted to close it. Deputy Lee then arrived, entered the apartment, and attempted to arrest Viesca for violating the court order. Viesca resisted arrest, so Deputy Lee dropped him to the floor where they wrestled. Viesca remained non-compliant to deputy commands and became

-continued on next page-

assaultive as he attempted to grab Deputy Palmer's body worn camera, thrashed his body on the floor and kicked his legs. Deputy Lee placed his knee on Viesca's upper body to prevent him from getting up and finally handcuffed Viesca. Viesca complained of pain, so paramedics were contacted, medically assessed Viesca and transported him to the hospital for treatment. Viesca was medically cleared and booked into San Diego Central Jail with charges of resisting an officer and violation of a domestic violence order. Given the totality of circumstances, the force that Deputies Lee and Palmer used to apprehend Viesca was reasonable and within SDSD policy. Addendum F, Use of Force Guidelines stated that the preservation of order and the observance of law are best achieved through voluntary compliance rather than force or compulsion. In this incident, deputies provided Viesca with many opportunities to comply voluntarily with the terms of the Court order. Furthermore, Use of Force Guidelines states that deputies may only use a level of force they reasonable believe is proportional to the reasonable perceived level of actual threatened resistance. Viesca's behavior escalated as he first defied deputies' commands, violated his court order, resisted arrest and became combative towards deputies. The force used was necessary to apprehend Viesca. There was no evidence of any violation of policy during this use of force. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1 and 2 forced entry into Viesca's residence.

Board Finding: Sustained

Rationale: According to SDSD documentation, deputies had a valid civil court order to serve and remove Viesca from his residence. Deputies 1 and 2 went to Viesca's address, knocked, and announced, "Sheriff's Department." Viesca answered the door and verified his identity. Deputy 1 said they had "paperwork", placed his hand on the door, his foot inside the doorway and told Viesca to open the door. As Deputy 1 attempted to enter the apartment, Viesca verbally expressed and physically signaled for him to stop. Both deputies stated they had the right to enter, went inside, then explained their purpose for being there. Given that Viesca did not consent, this is considered a "forcible" entry. SDSD Court Services Bureau (CSB) P&P states, "It should be noted that "forcible" in this context means any non-consensual entry whether it is simply opening the door, use of a key or actual physical force. As stated in the Court Services Bureau (CSB) Training Manual, the purpose of a TRO is to prohibit the defendant from specific activity, and it must be served personally. CSB P&P states that the Sheriff's shall serve all processes and notices in the manner prescribed by law. According to CSB Section D.3, Orders for Forthwith Removal, if at the time of service of the Order for Removal, the respondent and/or restrained person refuses to comply to allow the deputies to enter, a forcible entry may be made if: (A) Probable cause exists to believe the subject of the Order for Removal is inside and (B) The requirements of "knock and notice" per Penal Code section 844, have been complied with. Furthermore, the California Peace Officer Legal Sourcebook (CPOLS), states Forcible Entry of Premises/"knock and notice" is as follows: Penal Code §844 Breaking into House to Arrest, requires you to convey to the occupant who you are and what your purpose is. Specifically, before you enter you must: knock, identify yourself as a police officer, explain your purpose, demand entry, and then wait a reasonable period before entering. A civil order can only be legally enforced if a subject is informed of the purpose for service. The simple statement made of "paperwork" by the deputy, did not "explain the purpose" of the contact as required by policy. Furthermore, deputies demanded access within seconds; there was no reasonable period allotted prior to entry. The evidence confirmed deputies did not comply with the requirements of knock and notice as required by policy, and there were no exigent circumstances that applied. Deputies 1 and 2 provided confidential statements to CLERB, which were considered in arriving at the finding. Confidential legal opinions by CLERB Outside Counsel were provided and considered in arriving at the finding.

---

## USES OF FORCE RESULTING IN GREAT BODILY INJURY (0)

---

### PRIORITY (1)

23-071/HUNTE [REDACTED]

1. Misconduct/Procedure – Deputy 3 ordered Jerimiah Hunte to “get on the ground.”

Board Finding: Unfounded

Rationale: Complainant Hunte reported that on 01-22-23, a “citizen pulled a knife and went after him.” Hunte reported he flagged down Deputy 3, who responded and yelled at Hunte, “Get on the ground!” Hunte reported he did not get on the ground out of fear for his safety as an “African American male.” BWC showed that Deputy 3 arrived on scene with two subjects engaged in a verbal altercation and said, “Both of you sit down, so we could figure out what’s going on.” Deputy 3 attempted to de-escalate the situation as he spoke in a calm manner and approached the scene to assess what happened. Body Worn Camera (BWC) evidence showed Hunte spoke in a loud manner, seemed agitated and did not allow the deputy the opportunity to investigate the incident. Deputy 3 attempted to speak with Hunte who continued to speak over him and walked to and from the scene several times. Deputy 3 then called in an “active disturbance.” The evidence showed the alleged act or conduct did not occur.

2. Misconduct/Procedure – Deputies 1 and 2 ordered Hunte to “get on the ground.”

Board Finding: Action Justified **Not Sustained**

Rationale: Complainant Hunte reported deputies yelled at him to, “Get on the ground!” See Rationale #1. SDSD documentation showed that Deputies 1 and 2 responded to Deputy 3’s call for assistance and upon arrival, Hunte seemed agitated and was uncooperative. BWC evidence showed Deputies 1 and 2 ordered Hunte to “get on the ground” as they attempted to detain him. Per the California Peace Officer Legal Sourcebook, (CPOLS) Search and Seizure, when Hunte waived down Deputy 3 that was a “consensual encounter” as the contact between the two was voluntary. Once Deputy 3 called in an “active disturbance” deputies responded with “the purpose to resolve whether suspicious behavior is innocent or relates to crime,” which led to a detention. CPOLS also states that a detention is an exertion of authority that is something less than a full-blow arrest but more substantial than a simple “contact.” Therefore, it was reasonable to command a suspect to “get on the ground,” especially if a deputy is not aware of the circumstances, the suspect is agitated, and they need to investigate the situation. Deputies 1 and 2 responded to Sheriff Employee Response Forms (SERF) and provided confidential statements that were used in the determination of these findings. ~~The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.~~ **There was insufficient evidence to either prove or disprove the allegation.**

3. Discrimination/Racial – Deputies 1 - 2 treated two suspects differently **based on race.**

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

Rationale: Complainant Hunte reported he was a victim who flagged down a deputy for assistance but was “profiled and targeted” based on his race. Hunte stated, “As an African American, I felt they were just trying to get me on the ground and treated me like I did something wrong.” Hunte denied that deputies made any statements that implied racial bias, nor were any statements captured on BWC of that nature. SDSO P&P 2.55 Non-Bias Based Policing states that members of the San Diego County Sheriff’s Department are prohibited from inappropriately or unlawfully considering race and ethnicity in deciding whether enforcement intervention will occur. Policy also states that all investigative detentions and arrests by employees will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution. Although deputies did not use force on the other suspect, he was detained and arrested by deputies as well. Given the other subject was cooperative with deputies, harsh commands and/or force was not needed. Therefore, it was reasonable that deputies confronted and handled each suspect differently. Deputies 1 and 2 responded to a SERF and provided confidential statements that were used in the determination of these findings. ~~The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.~~ **There was insufficient evidence to either prove or disprove the allegation.**

4. Discrimination/Racial – Deputy 3 treated two suspects differently **based on race.**

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

Rationale: Complainant Hunte reported he was a victim who flagged down a deputy for assistance but was “profiled and targeted” based on his race. Hunte stated, “As an African American, I felt they were just trying to get me on the ground and treated me like I did something wrong.” Hunte denied that deputies made any statements that implied racial bias, nor were any statements captured on BWC of that nature. SDSO P&P 2.55 Non-Bias Based Policing states that members of the San Diego County Sheriff’s Department are prohibited from inappropriately or unlawfully considering race and ethnicity in deciding whether enforcement intervention will occur. Policy also states that all investigative detentions and arrests by employees will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution. Although deputies did not use force on the other suspect, he was detained and arrested by deputies as well. Given the other subject was cooperative with deputies, harsh commands and/or force was not needed. Therefore, it was reasonable that deputies confronted and handled each suspect differently. Deputies 1 and 2 responded to a SERF and provided confidential statements that were used in the determination of these findings. ~~The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.~~ **There was insufficient evidence to either prove or disprove the allegation.**

5. Excessive Force – Deputies 1 and 2 tased Hunte.

Board Finding: ~~Not Sustained~~ **Sustained**

Rationale: Complainant Hunte reported that deputies tased him as he was “getting on the ground.” Sheriff’s Policy 2.49, Use of Force, states employees shall not use more force in any situation than is reasonably necessary under the circumstances. Addendum F, Use of Force Guidelines, states 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 incident. Deputies attempted several times to gain Hunte’s voluntary compliance but were unsuccessful. Deputies explained they wanted to determine what occurred and warned Hunte if he did not comply, force would be used. Hunte continued to speak over deputies and did not comply. Deputy reports stated Hunte displayed a “bladed/fighting” stance (assaultive behavior) and took a step toward Deputy 1 right before deputies deployed their Conducted Energy Devices (CED). This was somewhat confirmed by BWC which showed a shirtless Hunte saying,

"this is not right." Hunte had his arms at his side, "puffed" up his chest, raised his chin up and slowly turning toward Deputy 1 and said, "yeah do what you do bitch, go ahead" as he was tased. Deputies interpreted Hunte's "bladed stance" as assaultive behavior, but Hunte described his "stance" as "standing up for myself as he took a deep breath, stood tall and prepared to get on the ground." Deputies 1 and 2 responded to a SERF and provided confidential statements that were used in the determination of these findings. ~~There was insufficient evidence to either prove or disprove the allegation.~~ **The evidence supports the allegation and the act or conduct was not justified.**

6. False Arrest – Deputy 2 arrested Hunte.

Board Finding: Not Sustained

Rationale: Complainant Hunte reported deputies arrested him. Hunte stated he was booked into Vista Detention Facility, (VDF) released on bail after several hours, and his charges were dropped when he went to Court. Per SDSD documentation, Deputy 2 responded to an active disturbance, which gave him the authority to detain Hunte to gather further information. Hunte's behavior escalated which led to a use of force and then an arrest for Penal Code 69, Resisting Executive Officer. CPOLS describes this code as "Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law..." As documented in Rationale #4, deputies described Hunte as assaultive, but there was insufficient evidence to prove or disprove the allegation.

7. Misconduct/Procedure – Deputy 1 failed to provide identifying information upon request.

Board Finding: Not Sustained

Rationale: SDSD P&P 2.20 Identification states, "While on duty, all employees shall furnish their first and last name and/or ARJIS number to any person requesting his or her identity, except when the withholding of such information is necessary for the performance of police duties." As heard on BWC, Hunte asked deputies to "identify themselves", but deputies did not provide their name and/or ARJIS number. Hunte asked Deputy 3, "What is your name" and "identify your fucking self man." Deputy 3 just paused in response. BWC confirmed Deputy 1 attempted to respond, but Hunte spoke over him. Deputies 1 and 3 also responded to a SERF and provided confidential statements that were used in the determination of these findings. ~~It was unknown if the "withholding of their information was necessary for the performance of police duties," therefore there was insufficient evidence to either prove or disprove the allegation.~~ **There was insufficient evidence to either prove or disprove the allegation.**

8. Misconduct/Procedure – Deputy 2 failed to provide identifying information upon request.

Board Finding: Unfounded

Rationale: SDSD P&P 2.20 Identification states, "While on duty, all employees shall furnish their first and last name and/or ARJIS number to any person requesting his or her identity, except when the withholding of such information is necessary for the performance of police duties." As heard on BWC, Hunte asked deputies to "identify themselves." Deputy 2 was initially unresponsive with the requested information but subsequently provided Hunte with his name and ARJIS number. Deputy 2 also responded to a SERF and provided a confidential statement that was used in the determination of these findings. The evidence showed the alleged act or conduct did not occur.

9. Misconduct/Procedure – Deputy 3 failed to provide identifying information upon request.

Board Finding: ~~Not Sustained~~ **Sustained**

Rationale: SDSD P&P 2.20 Identification states, "While on duty, all employees shall furnish their first and last name and/or ARJIS number to any person requesting his or her identity, except when the withholding of such information is necessary for the performance of police duties." As heard on BWC, Hunte asked

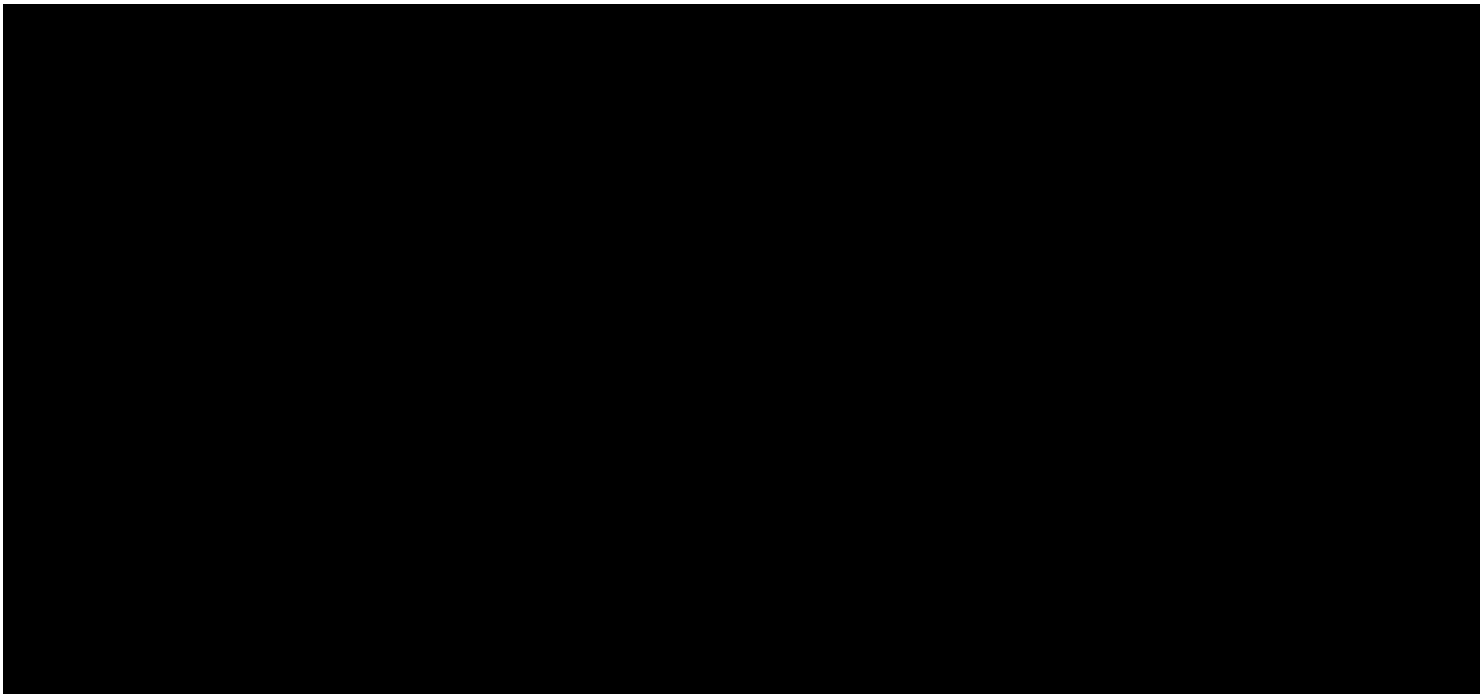
deputies to “identify themselves”, but deputies did not provide their name and/or ARJIS number. Hunte asked Deputy 3, “What is your name” and “identify your fucking self man.” Deputy 3 just paused in response. BWC confirmed Deputy 1 attempted to respond, but Hunte spoke over him. Deputies 1 and 3 also responded to a SERF and provided confidential statements that were used in the determination of these findings. ~~It was unknown if the “withholding of their information was necessary for the performance of police duties,” therefore there was insufficient evidence to either prove or disprove the allegation.~~ **The evidence supports the allegation and the act or conduct was not justified.**

10. Misconduct/Procedure - Deputy 1 failed to utilize de-escalation techniques.

Board Finding: ~~Not Sustained~~ **Sustained**

Rationale: Addendum F, Use of Force Guidelines describes de-escalation as “actions taken in an attempt to stabilize an incident in order to try and reduce the immediacy of a threat by obtaining more time, tactical options or resources to resolve the incident. The goal of de-escalation is to gain voluntary compliance of subjects, when feasible, and or to potentially reduce or eliminate the need to use force on a subject. De-escalation does not require that a deputy risk their safety or the safety of the public.” Upon Deputy 1’s arrival on scene, he exited his patrol vehicle with taser in hand and immediately ordered Hunte to the ground or he would be tased. Deputy 1 approached Hunte in an “authoritative manner” as opposed to a “calm demeanor” and repeatedly ordered Hunte to the ground under threat of taser. According to Deputy 1’s Officer Report, he utilized de-escalation techniques when he attempted to explain the situation and have Hunte sit on the ground. 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. Deputy 1 responded to a SERF and provided a confidential statement that was used in the determination of these findings. ~~There was insufficient evidence to either prove or disprove the allegation.~~ **The evidence supports the allegation and the act or conduct was not justified.**

---



**23-118**

1. Excessive Force – Probation Officers (POs) 2 and 4 used force against the aggrieved at the Youth Transition Campus.

Board Finding: ~~Not Sustained~~ **Sustained**

Rationale: The complainant, [REDACTED] alleged excessive force was used against the aggrieved while he was housed at the Youth Transition Campus (YTC). [REDACTED] alleged that POs grabbed the aggrieved by his head and “smashed it down on the cement floor” and spread the aggrieved’s legs “apart as far as possible.” [REDACTED] alleged the aggrieved sustained an injury as a result of the force used by POs in this incident. Documents received from the San Diego Probation Department (Probation), confirmed the aggrieved was in the custody of Probation at the East Mesa Juvenile Detention Facility (EMJDF) and that a use of force incident occurred. CCTV footage of the incident was provided, as well as involved PO reports. To gain further information about the actions of POs 1, 2 and 4, during the incident, Probation Employee Response Forms (PERFs) were sent to each PO. The confidential responses received in each of the PERFs were considered in the evaluation of this incident. Policies relevant to this use of force incident as follows: Probation Department Institutional Services Policy Manual (ISP) Section 514, Use of force, Subsection 514.3, Use of Force, stated, “Officers may use force as reasonably appears necessary in the performance of their duties, but excessive force shall not be used. Officers must use only that amount of force that appears reasonably necessary under the circumstances in order to gain control of the youth; protect and ensure the safety of youths, staff, and others; prevent serious property damage; prevent escape; obtain compliance with facility rules and staff orders; or ensure the institution’s security and good order, or for other lawful purposes. The Department provides tools, weapons, and training on techniques to use when responding to resistance and violent encounters. While various degrees of force exist, each officer is expected to use only that degree of force that is reasonable under the circumstances to successfully accomplish the legitimate and lawful purpose in accordance with this policy... Prior to resorting to the use of force, officers should, when practicable, attempt verbal persuasion, orders, or other tactics to avoid or mitigate the need for forceful action... Medical checks will be performed by a qualified health care professional on all youths who have been subjected to force as soon as practicable regardless of apparent injury. If no qualified health care professional is available, the youth shall be transported to the designated health care facility.” ISP Section 7.3.4.13, the Cover Command stated, “When youth hear the command, ‘COVER,’ they must immediately go to a kneeling position with their hands clasped behind their head, so their arms cover the side of the head and the face area... Officers use the ‘COVER’ command whenever there is a problem or emergency.” Considering ISP Subsection 514.3, Use of Force, as well as the involved POs incident reports, PERF responses, and CCTV footage, it is unclear whether or not the

level of force used was appropriate. It should be noted, at this time, CLERB staff is unable to complete in-person interviews of POs subject to a CLERB investigation. In this case, testimony regarding the intricacies of what the involved POs observed, felt, and acted upon, would be critical in making a determination. This information is critical given use for force incidents should be evaluated without the benefit of hindsight, but rather by considering the totality of circumstances known at the time. At this time, the evidence that is available is insufficient to either justify or sustain against the actions taken by POs 1, 2 and 4. ~~There was insufficient evidence to either prove or disprove the allegation.~~ **The evidence supports the allegation and the act or conduct was not justified.**

**2. Excessive Force – Probation Officer 1 used force against the aggrieved at the Youth Transition Campus.**

**Board Finding:** ~~Not Sustained~~ Summary Dismissal

**Rationale:** CLERB Rules and Regulation Section 4.1, Complaints: Authority, states, “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...” The Probation Department has advised that PO 1 has separated from the Probation Department prior to the completion of this investigation. As such, the Review Board lacks jurisdiction.

**3. Misconduct/Discourtesy – An unidentified PO used profanity towards the aggrieved.**

**Board Finding:** Not Sustained

**Rationale:** [REDACTED] alleged that prior to the use of force incident an unidentified PO stated to the aggrieved, “I will do whatever the fuck I want to.” It should be noted, CCTV footage of this incident does not include an audio recording. PERFs were sent to the POs present at the time of the use of force incident, and their confidential responses were considered for this allegation. At this juncture, there was insufficient evidence to either prove or disprove the allegation.

**4. Misconduct/Intimidation – An unidentified PO stated “does it hurt yet” to the aggrieved, during the use of force incident.**

**Board Finding:** Not Sustained

**Rationale:** [REDACTED] alleged that during the use of force incident, and unidentified PO “taunted” the aggrieved, stating, “does it hurt yet.” See allegation #2. There was insufficient evidence to either prove or disprove the allegation.

**5. Misconduct/Procedure – The Probation Department placed the aggrieved in “isolation” and he was “shackled for a week.”**

**Board Finding:** Action Justified

**Rationale:** [REDACTED] alleged that after the use of force incident the aggrieved was transferred from YTC to the East Mesa Juvenile Detention Facility (EMJDF), where he remained in “isolation and shackled for a week.” Probation records showed the aggrieved was placed on Administrative Separation (A.S.) from 08-12-23 through 08-17-23. ISP Section 7.7.4, Administrative Separation (A.S.), provides guidelines for youth placed on A.S. The policy stated, “A youth should be placed on Administrative Separation only when their actions have presented a security risk...” Additionally, the policy stated, “All AS youth shall be placed in waist chains and leg shackles every time they exit their room.” Based on a review of the policy, and documents related to the allegation, no misconduct could be identified with classifying the aggrieved as A.S. and subsequently placing him in waist and leg chains when out of his room. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct/Procedure – The Probation Department did not provide information, regarding the use of force incident to the mother of the aggrieved.

Board Finding: Action Justified

Rationale: [REDACTED] alleged she was informed the aggrieved was involved in a use of force incident, but that when she requested further information, or to speak with the aggrieved, the request was denied. ISP Section 514.6.2 Required Notifications, stated, "In addition to the notification of medical and mental health staff, the Division Chief or designee should ensure the parent or legal guardian of the youth is informed of any use of force, including the use of chemical agents." Probation documents showed that on 08-12-23, a Watch Commander called and spoke with [REDACTED] and advised her the aggrieved was involved in a use of force incident and would be transferred to EMJDF. A follow up phone was made the same day which advised the aggrieved was transferred to EMJDF. Based on a review of the policy and documents provided by Probation, it appeared the notification requirement was met, and whether or not additional information was provided was not identified as misconduct. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

7. Misconduct/Medical – Unidentified Probation staff did not provide medical care to the aggrieved in a timely manner.

Board Finding: Summary Dismissal

Rationale: [REDACTED] alleged the aggrieved sustained an injury as a result of the force used. [REDACTED] believes medical treatment was not provided to the aggrieved in a timely manner. As described in ISP Section 514.6.2, Required Notifications, medical and mental health staff should be notified after a use of force incident. Confidential medical records for the aggrieved were reviewed and considered when making a finding in this allegation. Based on a review of the documents, it appeared the requirements of custodial staff, as stated in ISP Section 514.6.2, were met. CLERB Rules and Regulations, Section 4, Authority, Jurisdiction, Duties and Responsibilities of CLERB, provides 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..." Currently, CLERB does not have the authority to investigate allegations involving medical staff at the Sheriff's Department or Probation Department. The Review Board lacks jurisdiction.

8. False Reporting – PO 3 wrote an "untrue" report about the use of force incident, which resulted in a "probation violation."

Board Finding: Unfounded

Rationale: [REDACTED] alleged that PO 3 wrote an untrue report of the use of force incident which ultimately resulted in the aggrieved returning to Court where it was determined the aggrieved violated his probation terms. The report referenced by [REDACTED] was provided by Probation and was reviewed and considered when making a finding in this allegation. The report contained a synopsis of the use of force incident and appeared to be based on PO 4's Incident Report. It should be noted, PO 3 was not present during the use of force incident. It should also be noted, records received showed determination that the aggrieved had violated his probation terms was made by a Judge after hearing testimony of the POs involved. A review of PO 3's report did not reveal any misconduct. The evidence shows that the alleged act or conduct did not occur.

9. Misconduct/Procedure – PO 3 did not meet with the aggrieved for "55 days."

Board Finding: Action Justified

Rationale: [REDACTED] alleged that PO 3 was assigned to the aggrieved's case on 07-20-23 but did not meet with the aggrieved for a period of 55 days. Records showed the aggrieved was in a custodial setting at that time. Additional information was requested from Probation regarding this allegation. Probation advised that while a youth is in a custodial setting, there is not a specific policy which would require the assigned PO to meet with the youth. This is because while the youth is in custody, they are assigned a PO at the detentions facility who conduct regular face to face meetings with the youth. Documents provided by Probation showed the aggrieved had weekly face to face meetings with an assigned PO at EMJDF. A review of the associated documents showed PO 3 meeting or not meeting with the aggrieved, given the circumstance, is not misconduct. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]