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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its June 14, 2022, meeting held via the Zoom Platform. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcounty.ca.gov/clerb.

CLOSED SESSION

a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (10)**ALLEGATIONS, BOARD FINDINGS & RATIONALE****21-052/SMITH**

1. Misconduct/Intimidation – Deputy 1 made intimidating phone calls and sent harassing text messages to the complainant.

Board Finding: Unfounded

Rationale: In a letter from the complainant, he advised that he had "received a text message from [Protected Party] phone number and it read that MY best interest: was to walk away from [Protected Party] because she was in love with A WHITE COP emoji and that a restraining order was on file. Then there were calls from a private # always around 9:24pm which leads me to believe this officer is on duty at this time... One of the phone later revealed that Deputy 1 made the phone calls in which he threatened me, challenged me to fight him, and to meet him so he could arrest me. Deputy 1 was very animated, upset and seemed possessive of [Protected Party] calling and texting. Deputy 1 made the phone calls in which he threatened me, challenged me to fight him, and to meet him so he could arrest me." The complainant alleged that Deputy 1 threatened the complainant, challenged the complainant to fight, offered to meet the complainant for arrest, and sent racially charged text messages to him. Deputy 1 responded to a Sheriff Employee Response Forms (SERFs) with a signed statement and provided relevant and conflicting

information. No evidence, including Body Worn Camera recordings, written reports, or submitted statements, supported the allegation that Deputy 1 sent the complainant any text messages, either from his department issued cell phone, [Protected Party] cell phone, or any other cell phone. The evidence showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – Deputy 1 used his authoritative position to pursue criminal charges against the complainant.

Board Finding: Action Justified

Rationale: In the complainant's written statement, he wrote, "[Protected Party] and Deputy 1 interacted with me, but now they've pursued criminal charges, using the shield as a superior person." The complainant had a domestic violence temporary restraining order against him, filed by his ex-girlfriend [Protected Party], where he was the restrained party. According to departmental reports, Deputy 1 responded to the protected party's residence and investigated a report that the complainant had violated a domestic violence restraining order. The valid domestic violence restraining order prohibited the complainant from contacting the protected party, directly or indirectly, in any way. During his investigation, Deputy 1 interacted with the complainant, via phone call, to get a statement from the complainant. When Deputy 1 confirmed that the complainant had violated the domestic violence restraining order, that a crime had occurred, he communicated with him and attempted to arrest him. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

3. Misconduct/Procedure – Deputy 1 engaged in a relationship with the victim of a criminal case he investigated.

Board Finding: Unfounded

Rationale: In the complainant's written statement, he reported that while investigating the alleged violation of the domestic violence temporary restraining order against the complainant, Deputy 1 engaged in a romantic relationship with the protected party. The complainant stated that "*Deputy 1 engaged in a relationship with the victim of a criminal case he investigated.*" CLERB's investigation revealed that the complainant and the protected party were previously involved in a relationship. The protected party had a domestic violence temporary restraining order against the complainant, and when he violated it, it was Deputy 1 who was dispatched to the protected party's residence to investigate the crime. While investigating the incident, the complainant alleged that Deputy 1 engaged in a relationship with the protected party. Attempts were made to contact the protected party for interview; however, she was uncontactable. Deputy 1 responded to a SERF with a signed statement and provided the relevant and information that conflicted with what the complainant claimed. In review of Deputy 1's written report, his SERF responses, and his BWC recordings of his interactions with the protected party, the allegation that he engaged in a relationship with the protected party was found to be untrue. The evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure - Deputy 1 threatened to fight, issue an arrest warrant, and/or threatened to arrest the complainant.

Board Finding: Not Sustained

Rationale: In the complainant's written statement, he reported, "*Deputy 1 threatened to physically fight [him]. Deputy 1 threatened to issue an arrest warrant against [him]. On another occasion, Deputy 1 threatened the complainant by advising him that if he saw him in the City of Lakeside, he would arrest him.*" According to the complainant in a follow-up telephonic interview, he further explained that in an attempt to harass and intimidate him, Deputy 1, while on duty, called him and text messaged him. On another occasion, Deputy 1 threatened the complainant by advising him that if he saw him in the City of Lakeside, he would arrest him. According to Deputy 1's written report, at the conclusion of his investigation, after taking statements and reviewing the details of the restraining order, Deputy 1 believed that the complainant was in violation of a Domestic Violence Restraining Order, an arrestable offense. Deputy 1 responded to a SERF with a signed statement and provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, however, it is privileged

information and cannot be publicly disclosed. According to San Diego Sheriff's Department Policy and Procedure Section 6.55 titled, "Protective Orders," (in part) personnel will thoroughly investigate reports of violations of court issued protective orders concerning domestic violence or other civil or criminal disturbances. Emphasis will be placed on strict enforcement of these laws to ensure the victim's safety as well as compliance with the law. Violation of a restraining order is a misdemeanor, and an arrest shall be made when there is reasonable cause to believe the subject of the restraining order has violated the order. In the event the suspect has left the scene prior to the deputy's arrival, the deputy shall determine if a crime has been committed. If evidence of a crime exists, which in this case it did, then a crime report will be prepared. According to the California Penal Code Section 273.6(a) violation of this section is a misdemeanor crime, as it is a violation of a court-issued protective order. Besides statements from both parties, there was no other available evidence to support or refute the allegation that Deputy 1 threatened to physically fight the complainant or that Deputy 1 threatened to issue an arrest warrant for the complainant. There was insufficient evidence to either prove or disprove the allegation.

21-056/RICHARDSON & RUELAS

1. Use of Force at Protest without Complaint – Deputies 1 and 2 used force on Margarita Ruelas at an Imperial Beach Protest on 06-06-21.

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. During a protest rally at the Imperial Beach Pier Plaza, the victim reported a masked Ruelas punched his face and he requested that law enforcement place her under Citizen's Arrest. Per PC§ 837, a private person may arrest another for a public offense committed or attempted in their presence. Deputy 1 acted in compliance with San Diego Sheriff's Department (SDSD) Policy 6.110, Private Person Arrest, and obtained a Citizen's Arrest Declaration Form from the victim. Based upon the victim's statement and observable injuries, his identification of Ruelas, as well as his request for a Private Person arrest, Deputy 1 had "probable cause" to accept custody (receive) Ruelas for the victim. Deputies 1, 2, and another deputy contacted Ruelas who reported nothing happened and refused to provide a statement. Ruelas and other protestors began to yell at the deputies. Deputy 1 told Ruelas she was under arrest and grabbed her wrist for handcuffing. PC§ 835, states deputies may use reasonable force to effect an arrest, overcome resistance, or prevent escape. Ruelas immediately attempted to pull her wrist away from Deputy 1, while the other protestors grabbed Ruelas' arms to also pull her away. Other protestors rushed to their location and began fighting with deputies and a protester threatened to take away Deputy 1's firearm. While the melee continued, Deputies 1 and 2 handcuffed Ruelas and escorted her to a patrol vehicle while protestors blocked their pathway and surrounded them. Ruelas reportedly struck her head on the door frame when Deputy 2 attempted to place her inside the vehicle. Deputies reported the protestors largely outnumbered the few deputies on scene and displayed verbal non-compliance, passive resistance, active resistance, assaultive behavior, and aggravated active aggression. Deputy 1 used the minimum force necessary to gain control, overcome resistance, effect an arrest, and remove he and his prisoner from a highly dangerous and volatile situation. Due to the severity of the situation, the aggression the crowd showed, and the inherent dangers of a crowd mentality who showed extreme hostility toward all deputies present, the force utilized was not excessive and the actions that occurred were lawful, justified and proper.

2. False Arrest – Deputy 1 arrested Ruelas.

Board Finding: Action Justified

Rationale: Complainants Richardson and Ruelas reported Deputy 1 approached Ruelas and told her she was under arrest. They tried to explain that she was innocent and had camera footage to prove it, but the deputy refused to listen. Due to the volatile situation, deputies were unable to perform any investigatory duties. See Rationale #1.

3. Misconduct/Procedure - Deputy 1 "escalated" a volatile situation.

Board Finding: Unfounded

Rationale: Complainant Richardson stated when Deputy 1 grabbed Ruelas' arms, "it completely escalated the situation." SDSD's Use of Force Guidelines states, "De-escalation is defined 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 an 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, crisis intervention tactics and alternatives to force techniques shall be used when it is safe and feasible to do so. De-escalation does not require that a deputy risk their safety or the safety of the public." The protesters involved in this incident attempted to prevent Ruelas' legal arrest. Deputy 1 had a legal right to make an arrest and used a reasonable amount of force to effect the arrest, overcome resistance and prevent escape. See Rationale #1.

4. Excessive Force – Deputies 1 and 2 injured Ruelas.

Board Finding: Action Justified

Rationale: Complainant Richardson stated Deputy 1 placed Ruelas face down on cement and pressed his knee causing a very large bruise. Complainant Ruelas said she was handcuffed prone on the ground and deputies lifted her up by her arms causing injury to her shoulder(s). Ruelas did not produce supporting evidence of injury nor sign a medical waiver for CLERB to access any medical records associated with the purported injuries. Reportedly, Ruelas dropped her weight and pulled back while the protesters pulled Ruelas to the ground as they attempted to extract her from Deputy 1's grasp. Handcuffs are utilized for officer safety behind a subject's back; handcuffing Ruelas while prone on the ground was appropriate. Ruelas was photographed by SDSD and reportedly sustained swelling to her right wrist, swelling to the left side of her head (see Allegation #6), abrasions to her left and right arms, and bruising to the back of her left shoulder. Once at the Imperial Beach Station, Ruelas requested medical treatment for an injury to her head. Paramedics evaluated Ruelas who refused to go to a hospital and she was provided with an ice pack. Ruelas advised during her post-Miranda statement that her friends caused more injuries on her than the deputies. Medical staff rejected Ruelas at the detention facility due to her head injury and she was transported to a hospital for evaluation. Hospital medical staff determined Ruelas' injury was superficial, offered pain medication which Ruelas refused, and she was given another ice pack. Deputies 1 and another deputy also sustained abrasions during this incident and patrol vehicles were damaged by protesters. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

5. Excessive Force – Deputy 2 forced Ruelas into a patrol vehicle.

Board Finding: Action Justified

Rationale: Complainant Richardson stated, "Deputy 2 forced Ruelas' body into the backseat of the car and while doing so, slammed her head into the frame of the car. Ruelas was not being violent at the time nor was she resisting arrest. She walked with the sheriffs across the park to the car. (Deputy) 2 had no reason to put his hands on her head in order to put her into the backseat. Ruelas' hands were in cuffs at that time, and her safety was dependent on the arresting officers. I did not witness any reason as that would explain why (Deputy) 2 miscalculated his aim when he put Ruelas into the back seat. Ruelas told me that when her head hit the car door she felt like she nearly passed out from pain. She was taken to the hospital later that night because of this head trauma. A few days later, she saw a physician who diagnosed her with concussion." Complainant Ruelas said, "Deputy 2 got me to the car and after he opened the door, he immediately threw me inside and his force shoved my head into the car frame and then I hit my head again on the seat. (Deputy) 2 did not say anything to me during the entire arrest. He did not ask me to get into the car. He threw me into the car and I got hurt. Since I was thrown face down my feet were out of the car while I was sobbing from the pain in my head. (Deputy) 2 slammed my feet twice with the door before they were forced in." Deputy 2 documented his actions in an Officer's Report which stated, "When Deputy 1 and I got to his patrol vehicle, I opened the back-seat door. I immediately felt Ruelas pull away from me and resist getting into the vehicle. I could hear multiple people approaching from behind me, including Ruelas' boyfriend. Ruelas began to pull keys out of her back

pocket and lean back towards her boyfriend. To prevent further force, escape, or injury to Ruelas, her boyfriend, or deputies, I used force to guide and place Ruelas into the backseat of the vehicle. Ruelas was not complying with verbal direction to get into the car and continued physical resistance of me trying to guide her into the car. I let go of her left arm and pushed her partially into the doorway of the vehicle with both of my hands on her back and the back of her arms. I guided her into the seat portion of the car into a partially seated position. She continued resisting and would not place her legs into the. I then took hold of Ruelas' legs with both my hands and guided her legs into the vehicle all of the way. I then closed the door and began assessing the crowd behind me who were still yelling profanities and displaying verbal non-compliance and aggressive yelling towards other deputies. If I had not pushed Ruelas into the vehicle I believe her boyfriend would have attempted to pull her away from deputies. Given the totality of the situation, being heavily outnumbered, already experiencing resistance from Ruelas and others, I feel the amount of force I used was necessary to affect a lawful arrest, to prevent escape or evasion, and to prevent any further injury. Although their testimony conflicted, video evidence supported the hostility of the crowd surrounding the deputies. Deputy 2 had the legal right to utilize force to effect an arrest and his actions were legal, justified and proper.

6. Misconduct/Retaliation – Deputy 2 retaliated against Ruelas.

Board Finding: Unfounded

Rationale: Complainant Richardson stated Deputy 2 inflicted unnecessary injury via excessive force while involved in this false arrest. Complainant Richardson stated, "I also believe this may also be related to retaliation, because the crowd was already upset with the officers at that point." The complainant offered no evidence, other than a belief, to support this accusation. As outlined in Rationale #1, deputies had a legal right to effect an arrest. The injuries Ruelas incurred were due to her and the protesters non-compliance with law enforcement. The evidence showed the conduct that occurred was legal, justified and proper and the allegation as stated did not occur.

7. Misconduct/Procedure – Deputy 1 refused Ruelas' request for a supervisor.

Board Finding: Action Justified

Rationale: Complainant Ruelas said she asked for the deputy's name and he replied "(excerpted)". She then asked if there was a supervisor, commander, chief, she could speak to because she did not want to speak with him (Deputy 1) and he said no. Ruelas later said she was advised by a "cop" friend to always ask for a supervisor. The SDSD does not have a requirement that deputies must contact a superior officer upon request, however, a sergeant was on scene assisting deputies and aware of the situation. As there was no policy requirement for a supervisor to be called, and one did respond, the evidence confirmed the action that occurred was lawful, justified, and proper.

8. Misconduct/Procedure - Deputy 1 sped while driving Ruelas.

Board Finding: Action Justified

Rationale: Complainant Ruelas stated that (Deputy) 1 sped to Las Colinas. SDSD P&P 2.35, Operation of Vehicles, mandates that employees operate departmental vehicles in a careful and prudent manner, and they must obey all laws and departmental orders. VEH§ 22350, Basic Speed Law, states that no person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property. SDSD patrol vehicles are equipped with an Automatic Vehicle Locator (AVL) system that collects the location and speed of their vehicles. The AVL associated with this incident verified that Deputy 1 operated a patrol vehicle in excess of the speed limit. Deputy 1 also provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding, but cannot be publicly disclosed due to applicable law(s). The evidence showed that the alleged act or conduct did occur but was justified and proper.

9. False Reporting – Deputy 1 charged Ruelas with assaulting an officer.

Board Finding: Unfounded

Rationale: Complainant Richardson stated Ruelas went to jail where they placed false charges on her and said she assaulted an officer which was impossible as she was in cuffs the entire time. According to the Arrest Report, Ruelas was charged with PC 69-Obstruct/Resist Executive Officer with Minor Injury (F). "Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a fine or by imprisonment." Ruelas admittedly pulled away from Deputy 1 when he attempted to place her under arrest. The complainant and deputies were injured, and patrol vehicles damaged by protesters. The evidence showed the charge of resisting arrest was appropriate and the allegation as stated did not occur.

21-061/DOREY

1. Misconduct/Procedure – Deputy 1 prevented the complainant from obtaining medical services.

Board Finding: Unfounded

Rationale: The complainant stated, "Deputy 1-a man who cruelly and savagely bullies people with his unchecked outbursts of acute authority abuse disorder. He needlessly prevented me from obtaining desperately needed eye care from the jail's medical staff, furthering an ongoing pattern of medical malpractice". As per Medical Services Division (MSD) M.15 entitled "Sick Call" provides a system to give inmates access to appropriate medical and mental health services daily. Sick call requests are made by inmates placing their requests in a secure medical mailbox in each housing unit. Facility Health Staff are responsible for collecting the requests and scheduling the treatment requested. M.15 states a deputy is present to provide security when inmates are being evaluated and/or treated by facility health staff or contract providers. SDSD records showed Dorey has been seen for approximately 40 sick calls from 10-13-19 to 07-22-21. Furthermore, Detention Service Bureau (DSB) P&P I.51 entitled "Inmate Movement" states, "when outside of their housing units, inmates must go directly to a designated destination with or without escort". While sworn members are responsible for escorting or transporting inmates to and from medical facilities, they are not responsible for making sick calls. There was no evidence that indicated Dorey was prevented from obtaining any medical services. The evidence shows the alleged act or conduct did not occur.

2. Misconduct/Procedure – Deputy 1 confiscated the complainant's personal folder during a medical consultation.

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 then grabbed the folder from me and wouldn't allow me to consult the list of questions and issues I'd prepared to discuss". SDSD records indicated on 06-22-21 Dorey was seen by a SDSD Medical Nurse for eye pain. During his medical visit, he took out a folder, gave it to the nurse, and went through different complaints, grievances, and other dates of documentation he had. Deputy 1 explained to Dorey that the visit was not to discuss complaints, but rather discuss his medical issue. Dorey then told Deputy 1 to mind his own business. In SDSD Medical Records, the nurse stated the patient brought paperwork copies of medical requests and grievances. As per MSD M.15, "A deputy shall be present in the dispensary area to provide security when inmates are being evaluated and/or treated by facility health staff or contract providers." The jail surveillance video showed the nurse had a folder and gave it back to Deputy 1, and during the exchange Dorey tried to reach for the folder. Sick call visits are to give inmates access to appropriate medical and mental health services. SDSD DSB P&P N.1 outlines the uniform procedures by which an inmate can file a formal complaint. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

3. Misconduct/Procedure – Deputy 1 interrupted/obstructed the complainant's medical consultation.

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 cut me off repeatedly and kept interrupting my attempts to explain the problems to the nurse." SDSD records indicated Dorey was seen by a nurse at the clinic. During his medical visit, he took out a folder and went through different complaints, grievances, and other dates of documentation he had. Deputy 1 explained to Dorey that the visit was not to discuss complaints, but rather discuss his medical issue. Dorey then told Deputy 1 to mind his own business. During the medical visit, Dorey yelled at the nurse. The nurse told him he would have an outside eye appointment very soon but could not discuss the specifics due to security reasons. Due to Dorey continuing to yell, the nurse informed Dorey the appointment was over, and he could go back to his cell. In SDSD Medical Records, the nurse stated the patient brought with him paperwork copy of medical requests and grievances. The nurse wrote, "Pt was told that he has a pending appointment for optometry and did not accept that answer and continued to yell". The evidence showed the alleged act or conduct did occur but was lawful, justified, and proper.

4. Excessive Force - Deputy 1 used force on the complainant.

Board Finding: Action Justified

Rationale: The complainant stated, "Today I was assaulted, ripped from a chair, thrown to the ground and put in agonizingly painful pincher cuffs by the brutally sadistic and violently aggressive Deputy 1". According to SDSD records, Deputy 1 instructed Dorey to get out of the chair, but he refused. Dorey refused to walk and dropped his bodyweight to the floor. Dorey was lowered to the floor and detained by Deputy 1 and Deputy Whitaker. The complainant stated, "Deputy 1 could have easily, peacefully de-escalated tension during medical visit by being polite and reasonable, but instead he chose to be rude, disruptive, and brutally sadistic". According to SDSD Use of Force Policy 2.49, "Employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing." Video surveillance was reviewed and corroborated Deputy 1's report. The use of force was in accordance with policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified, and proper.

5. Misconduct/Procedure – Deputy 1 failed to follow de-escalation protocol.

Board Finding: Action Justified

Rationale: The complainant stated, "Deputy 1 could have easily, peacefully de-escalated tension during medical visit by being polite and reasonable, but instead he chose to be rude, disruptive, and brutally sadistic." Addendum F, Use of Force Guidelines, de-escalation is defined as actions taken in an attempt to stabilize an incident in order to try and reduce the immediacy of a threat. De-escalation techniques should only be used when it is safe and feasible to do so. The word "should" indicates that deputies were not mandated to use de-escalation techniques. Addendum F Use of Force Guidelines, De-escalation policy has since been updated on 12-31-21 to, "De-escalation techniques shall only be used when it is safe and feasible to do so." There was no violation of policy. The evidence shows the alleged act did occur but was lawful justified, and proper.

6. Misconduct/Medical (IO) – Medical staff failed to respond to the complainant's requests for service for 11 months.

Board Finding: Summary Dismissal

Rationale: The complainant stated, "I've been trying to see an eye doctor for the last 11 months, but despite regular, routine, ongoing assurances that I'm "scheduled" this month over the past 11 months." Detentions Policies M.1 Access to Care, means that, in a timely manner, a patient is seen by a qualified health care professional, is rendered a clinical judgment, and receives care that is ordered, and M.15 Sick Call, specifies that this occurs on a daily basis. CLERB lacks jurisdiction to investigate the complaint, per CLERB Rules and Regulations 4.1 titled, Citizen Complaints: Authority, which states, 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. CLERB has no jurisdiction over medical personnel. The review board lacks jurisdiction.

7. Misconduct/Procedure – “Jail Staff” subjected the complainant to “medical malpractice, reckless endangerment, and gross criminal negligence.”

Board Finding: Not Sustained

Rationale: The complainant stated, “The jail staff knowingly subjected me to medical malpractice, reckless endangerment, and gross criminal negligence by deliberately contravening the eye care instructions of their contact lens solution provider, as labelled on the bottles form which they dispense contact lens solution to me”. CLERB lacks jurisdiction to investigate the complaint, per CLERB Rules and Regulations 4.1 titled, Citizen Complaints: Authority, which states, 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. Without further clarifying information from the complainant there was insufficient evidence to either prove or disprove this allegation was against sworn personnel. The evidence was insufficient to either prove or disprove the allegation.

8. Misconduct/Medical (IO) – SDCJ medical staff failed to follow sanitary protocol.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “The medical staff here dispensed solution into temporary little personal unsanitary cups with no sterile seal, hence my repeated concerns and warnings. Nurses often touch the insides of the cups with dirty, unhygienic, contaminated gloves, spreading germs and bacteria into the lens solution we put in our eyes”. CLERB lacks jurisdiction to investigate the complaint, per CLERB Rules and Regulations 4.1 titled, Citizen Complaints: Authority, which states, 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. CLERB has no authority over medical staff. The review board lacks jurisdiction.

9. Misconduct/Medical (IO) – A nurse failed to treat the complainant’s injured eye.

Board Finding: Summary Dismissal

Rationale: The complainant stated, “The nurse never offered any help of any kind. She told me to go back to waiting as I’ve done in futility for the past 11 months”. Detentions Policies M.1 Access to Care, means that, in a timely manner, a patient is seen by a qualified health care professional, is rendered a clinical judgment, and receives care that is ordered, and M.15 Sick Call, specifies that this occurs on a daily basis. CLERB lacks jurisdiction to investigate the complaint, per CLERB Rules and Regulations 4.1 titled, Citizen Complaints: Authority, which states, 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. CLERB has no jurisdiction over medical personnel to include nursing staff. The review board lacks jurisdiction.

21-097/PATTON

1. False Arrest – The San Diego Police Department arrested the complainant.

Board Finding: Summary Dismissal

Rationale: Anthony Patton alleged “false arrest” and “illegal detention”. The complainant’s booking records verified Patton was arrested by the San Diego Police Department (SDPD) on 02-24-21 for Indecent Exposure and an outstanding felony warrant. The complainant was referred to the SDPD as CLERB only has authority to investigate the actions of sworn members of the San Diego Sheriff’s Department (SDSD) per CLERB R&R 4.1, Authority, and lacks jurisdiction in this matter.

2. Illegal Search and Seizure – A “Booking Supervisor” refused to release the complainant.

Board Finding: Summary Dismissal

Rationale: Anthony Patton alleged, “The SDCJ Booking Supervisor refused to release me: 08-25-21 as

court ordered.” SDDS Detentions Policy Q.82, Possible Over-Detention, provides detentions personnel a procedure for responding to inmate claims that they are over detained on an arrest or booking. SDDS records showed, “Inmate Patton has a history of claiming he is being illegally held and demanding his immediate release. He has multiple grievances towards case workers, arresting officers, the director, and the District Attorney.” Court records indicated Patton pled guilty to his charges on 08-24-21 and was sentenced to two years with concurrent terms. He was remanded to the CA Department of Corrections & Rehabilitation (CDCR) in September of 2021 and will first be eligible for parole in July of 2022. Booking personnel are non-sworn staff over whom CLERB has no authority and the Review Board lacks jurisdiction.

3. Misconduct/Procedure – Deputy “Halligan” permitted unsanitary food service.

Board Finding: Not Sustained

Rationale: Anthony Patton alleged, “Deputy Halligan who against the Title 15 on 09-15-21 allowed his food server to serve my illegal detention food to me without the Title 15, Section 3052(f) policy required sanitation cap or net. Halligan’s displayed badge # is 7034.” Title 15 requires food handlers to wear nets/caps entirely covering their hair and/or facial hair and conform to and comply with the CA Retail Food Code. The information as presented by the complainant could not be verified concerning the deputy’s name and/or ARJIS number; deployment records were also reviewed and failed to identify like or similar names. A review of Patton’s grievances while incarcerated at the San Diego Central jail (SDCJ) showed similar allegation(s) on different dates that were investigated by command staff and determined to be Unfounded. Without further identifying information there was insufficient information to investigate this allegation.

21-099/RICHARDSON

1. Misconduct/Procedure – Deputy 1 failed to investigate to a crime.

Board Finding: Unfounded

Rationale: According to the complainant, Deputy 1 failed to investigate an assault on a homeless woman named “Maria”. The complainant stated, “On September 6th around 5pm a well-known and well-loved community member in Imperial Beach named Maria called the police because she had been assaulted”. The CAD record showed there was a subject stop in which “Transient Maria Vega advised she was pushed. Stopped to contact her but she left the area.” This was not a call for service, it was an event created by a deputy due to Maria waving the deputies down. Deputy 1 stated Maria waved them down and told them she was pushed. When they pulled over to investigate, Maria walked away. As per SDDS P&P 2.23 entitled, “Request for Assistance”, When any person requests assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Department procedures. Furthermore, SDDS P&P 2.30 entitled “Failure to Meet Standards” states employees shall properly perform their duties and assume the responsibilities of their positions. SDDS pulled over to take all pertinent information from Maria, but she left the scene. Furthermore, Deputy 1 investigated the statement and obtained information from two employees regarding the incident in which they were told were told Maria was not pushed. In BWC footage, Deputy 1 stated he was familiar with Maria who was known to have mental health issues. The evidence showed that the alleged act or conduct did not occur.

2. Discrimination/Racial – Deputy 1 discriminated against a “houseless” Mexican woman.

Board Finding: Unfounded

Rationale: According to the complainant, Deputy 1 discriminated against a “houseless” Mexican woman. As per SDDS P&P 2.53 entitled “Discrimination”, Employees shall not express any prejudice or harassment concerning race, national origin, ancestry, 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 and actions which result in a person being treated unequally. BWC footage showed no evidence that Deputy 1 treated Maria differently due to her lifestyle and/or race. Furthermore, there was no evidence of any verbal derogatory comments. The evidence showed that the alleged act or conduct did not occur.

21-104/TUAZON

1. Death Investigation/In-Custody Medical – Teresita Manialung Tuazon, while an inmate at the Las Colinas Detention and Reentry Facility, was found unresponsive in her cell on 09-28-21. Tuazon was transported to Grossmont Hospital where she subsequently died soon after arrival.

Board Finding: Action Justified

Rationale: The evidence supported that Tuazon was properly classified upon her entry into the SDSJ jail system on 09-04-21, after her violation of a criminal protective order. Safety checks and counts were conducted in accordance with policy. The last safety check prior to the incident was conducted in conjunction with soft count. As per DSB P&P 1.43 entitled “Inmate Count Procedure”, a soft count is a count of the number of inmates in a facility or housing unit which verifies each inmate’s well-being through verbal or physical acknowledgment from the inmate. According to SDSJ evidence, during soft count Tuazon communicated that she was not feeling well but was coherent and able to communicate. This information was passed on to the next shift deputies. During shift change, a Mental Health Clinician (MHC) was in the process of speaking with all inmates (cell by cell) in the module. Tuazon was called through the intercom to see if she wanted to see the MHC, but no response was received. Deputies then went to Tuazon’s cell door to see if she wanted to see the MHC. Upon entering the cell and discovering Tuazon unresponsive, deputies immediately responded, called 911, and initiated basic lifesaving measures until relieved by medical and the emergency staff. Tuazon was transported to a hospital where she subsequently died soon after arrival. The cause of death was complications of diabetes mellitus, with hypertensive and atherosclerotic cardiovascular diseases and cirrhosis of the liver as contributing and the manner of death was natural. It should be noted Tuazon refused medications days prior to the incident. According to all available evidence, deputies took immediate action when they recognized and responded to Tuazon’s medical emergency. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff’s Department sworn personnel.

21-115/CARO

1. Use of Force Resulting in Great Bodily Injury – Deputies 1-5 used force to apprehend Caro.

Board Finding: Action Justified

Rationale: On 10-06-21 deputies were dispatched to a residence in San Marcos to extradite Hector Caro who had felony warrants. A family member contacted Sheriff’s dispatch and asked them to remove Caro from the home due to his drug use. SDSJ documentation confirmed Caro had outstanding felony warrants, was a documented gang member, deemed armed and dangerous, known to abuse drugs, and had a history of violent tendencies. Deputies were given consent by the family to enter the home and ultimately used force to subdue Caro. SDSJ documentation and Body Worn Camera (BWC) evidence showed that several patrol vehicles arrived at the home along with Sheriff’s (helicopter) Aerial Support to Regional Enforcement Agencies (A.S.T.R.E.A). ASTREA provided several warnings over the public address (PA) system that said, “Hector Caro this is the Sheriff’s Department, exit the residence with nothing in your hands, contact the deputies or we are going to send in a dog, and he will find you and bite you.” Deputies 1-5 made entry into the home and ultimately kicked down a bedroom door and deployed a canine, who found Caro on top of the bed, under a blanket. Deputies attempted to apprehend Caro while he was on the bed and commanded him to “stop resisting” and “give up his hands”, but they were unsuccessful. Deputies were concerned Caro had a concealed weapon and reportedly “thrashed” his body making it difficult for deputies to subdue him. The canine latched onto Caro for approximately 1 minute 28 seconds until Deputy 1 handcuffed him. Deputy 3 explained that utilization of the canine was the safest option to

prevent the potential of a fatal conflict. Use of Force Guidelines states canines certified and approved for department use may be used to locate, apprehend, or control a felony suspect when it would be unsafe for the deputies to proceed into the area. The use of a canine was appropriate for this situation. Addendum F, Use of Force Guidelines states, “Deputies shall not lose their right to self-defense by the use of objectively reasonable force to effect an arrest, prevent escape, or overcome resistance. Deputies shall utilize appropriate control techniques or tactics which employ maximum effectiveness with minimum force to effectively terminate or afford the deputy control of the incident. Given the suspect’s history and status, deputies used a reasonable and necessary amount of force in accordance with policy. Deputies also provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur, but it was lawful, justified and proper.

2. Excessive Force – Deputy 3 deployed his canine partner, who bit Caro.

Board Finding: Action Justified

Rationale: See Rationale #1. Through the course of investigation, it was discovered that the canine was latched onto Caro for one minute and twenty-eight seconds. While the canine was latched onto Caro, deputies attempted to apprehend him and gave him several commands to “stop resisting” and “give up his hands.” Deputy reports stated that Caro “thrashed” his body and BWC showed Caro’s legs flailing in the air. The canine was latched onto Caro until deputies secured and handcuffed the suspect. Deputy 3 explained that utilization of the canine was the safest option to prevent the potential of a fatal conflict. Use of Force Guidelines states canines certified and approved for department use may be used to locate, apprehend or control a felony suspect when it would be unsafe for the deputies to proceed into the area. The use of a canine was appropriate for this situation. Given the totality of circumstances, the use of force administered by Deputy 3’s canine partner, was in accordance with SDS D P&P Section 2.49, Use of Force states, “Employees shall not use more force in any situation than is reasonably necessary under the circumstances.” Deputy 3 also provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur, but was lawful, justified and proper.

3. Excessive Force – Deputy 5 kicked Caro while he was on the floor.

Board Finding: Action Justified

Rationale: See Rationale #1. Deputy 5 stated in his officer report, “To prevent Caro from gaining a position of advantage, he delivered two knee strikes to his right shoulder area.” SDS D documentation stated Caro “thrashed” his body while he was on the ground and BWC showed that deputies struggled to apprehend Caro. Given the totality of circumstances, the use of force administered by Deputy 5 was in accordance with SDS D P&P Section 2.49, Use of Force states, “Employees shall not use more force in any situation than is reasonably necessary under the circumstances.” Deputy 5 also provided information during the course of CLERB’s investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur, but it was lawful, justified and proper.

21-116/SMITH

1. Death Investigation/In-Custody Medical – Earl Benjamin Smith was incarcerated at the Vista Detention Facility until transported to Tri-City Medical Center where he tested positive for COVID-19; Smith died on 11-23-21.

Board Finding: Action Justified

Rationale: Earl Benjamin Smith was a 63-year-old white male who was arrested by the San Diego Police Department on 04-02-21 for an outstanding warrant and booked into San Diego Central Jail. According to San Diego Sheriff’s Department (SDSD) documentation, Smith refused the COVID-19 vaccine. Smith was classified and placed into Protective Custody (PC) for safety reasons due to his advanced age and limited physical abilities. Smith was later transferred to the Vista Detention Facility where he was housed in

designated area for inmates who were medically at risk if exposed to COVID-19. Smith demonstrated mental health concerns and received an initial psychiatric evaluation, but the clinician ruled out psychosis. San Diego Superior Court dockets showed that Smith was scheduled for a mental competency examination, but he refused to attend his court hearings. SDSO documentation showed Smith was assessed frequently for COVID-19 symptoms. Smith was assessed daily from 10-30-21 to 11-06-21; on 11-06-21 he complained of body aches and had a low oxygen saturation level. Smith was placed on oxygen and transported to Tri-City Hospital via paramedics. Tri-City medical records stated that upon arrival, Smith presented with weakness, mild cough, fever and subsequently tested positive for COVID-19. Smith developed and was treated for COVID pneumonia. While hospitalized, Smith was diagnosed with Brief Psychotic Disorder. Hospital documentation showed that on 11-20-21, Smith was transferred to the Intensive Care Unit (ICU) as his condition worsened; Smith requested to be placed on do-not-intubate/do-not-resuscitate (DNI/DNR) status. As Smith's condition deteriorated, he was placed on "comfort care" due to his DNI/DNR status. According to hospital documentation, Smith was ultimately pronounced deceased on 11-23-21. The San Diego Medical Examiner's Office conducted an external examination and determined the cause of death was Complications of COVID-19 and the manner of death was natural. A review of all known evidence showed that there was no violation of policy & procedure on behalf of SDSO sworn staff. Smith was classified and housed properly in accordance with policy. SDSO documentation showed Smith was assessed frequently by Medical for COVID-19 symptoms and was immediately transferred to the hospital when symptoms were present. Smith tested negative for COVID-19 in August of 2021 and although it was apparent that he contracted COVID-19 while he was under the care of SDSO there is no evidence that any policies or procedures were violated. On 03-13-20, COVID-19 was declared a national emergency. The SDSO established several training bulletins as soon as April of 2020 that mandated the wearing of masks and Personal Protective Equipment (PPE), expedited intake and release procedures, daily cleaning recommendations, temperature checks, COVID-19 designated housing modules and offered the COVID-19 vaccine. Unfortunately, there were numerous COVID-19 related deaths in all of San Diego County and although the SDSO implemented safety protocols, the spread of this virus was and remains inevitable.

21-120/ALAMOS

1. Death Investigation/In-Custody Natural – Inmate Gumercindo Aldava Alamos died while in the custody of the Sheriff's Department.

Board Finding: Action Justified

Rationale: Inmate Gumercindo Aldava Alamos was booked into custody of the San Diego Sheriff's Department on 10-13-21, for three counts of Lewd and Lascivious Acts on a Child Under the age of 14. According to SDSO medical records, Alamos had a significant medical history and was prescribed numerous medications. He had been seen and treated in the jail's medical unit for his various ailments during his incarceration. Alamos was subsequently housed at the Vista Detention Facility. He had no cellmates. On the afternoon of 12-01-21, deputies entered the module to conduct a safety/security check. While doing so, one of the deputies found Alamos down and unresponsive in his jail cell. As viewed in the jail's surveillance video recordings, the deputies immediately entered Alamos' jail cell and begin performing life-saving measures. Jail medical staff arrived on scene and applied the Automated Emergency Defibrillator (AED) on Alamos' body. Naloxone and Epinephrine were administered in an attempt to resuscitate Alamos. The Vista Fire Department arrived at the jail. Once on scene, paramedics and fire officers took over life-saving measures. Life-saving measures were futile, and Alamos was pronounced dead by a physician from Tri City Medical Center, via radio. In review of jail documents and Alamos' booking file, the evidence supported that Alamos was properly classified upon his entry into the SDSO jail system after his 10-13-21 arrest. Alamos was housed in the jail's Protective Custody (PC) unit. According to jail documents, Alamos' body was transported to the San Diego Medical Examiner's Office (SDMEO) and an autopsy examination was performed. According to the SDMEO's autopsy report, the cause of death was atherosclerotic and hypertensive cardiovascular disease, with non-small cell lung cancer, COVID-19 infection, and diabetes mellitus noted as contributing factors. The manner of death was natural. In conclusion, in review of all evidence, deputies performed their safety/security checks in accordance with

in SDSA policy and procedure and Alamos received medical care during his entire incarceration. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

22-013/RODRIGUEZ

1. Misconduct/Procedure – Deputies 2-6 failed to assist the complainant in recovering “stolen” property.

Board Finding: Summary Dismissal

Rationale: The complainant stated that the San Diego Sheriff's Department (SDSD) refused to recover her “stolen real personal property.” The complainant reported that in 2019, her boyfriend/domestic partner was involved in a fatal accident. The complainant stated the couple owned a dog, but the decedent's parents took custody of the dog as their own. The complainant contacted the SDSD to help her retrieve and obtain custody of the dog. Pursuant to CLERB Rules and Regulations, Section 4: Authority and Jurisdiction; CLERB shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint. The alleged incident occurred in 2019 and the complaint was untimely; CLERB lacks jurisdiction.

2. Misconduct/Procedure – Deputies 2-6 failed to acknowledge the complainant's domestic partnership.

Board Finding: Summary Dismissal

Rationale: The complainant stated that deputies refused to acknowledge her rights as a “domestic partnership survivor.” See Rationale #1

3. Misconduct/Procedure – Deputies 2-6 “refused her (Rodriguez’) rights.”

Board Finding: Summary Dismissal

Rationale: The complainant stated that deputies refused her rights and allowed her late boyfriend/domestic partner's parents to claim her “real personal property.” See Rationale #1

4. Misconduct/Procedure – Deputy 1 informed the complainant that the incident she reported was a civil matter.

Board Finding: Action Justified

Rationale: The complainant submitted an inquiry to the Sheriff's Webmaster account where she asked for help to recover her dog from her deceased boyfriend's/domestic partner's parents. The complainant stated deputies refused to help her in the past with this incident. Deputy 1 responded, SDSD could not intervene in civil matters without a court order. Deputy 1 went on to recommend the complainant go to court and obtain a judgement, and then SDSD could enforce the court order. Pursuant to SDSA P&P Section 3.2 Complaints against Sheriff's Employees states that complaints not subject to investigation include, “Matters that have more appropriate methods of resolution, such as civil action, etc.” In addition, this matter in question falls under Assembly Bill No. 2274, Division of community property: pet animals, which authorizes a court to assign sole or joint ownership of a community property pet animal. Deputy 1 responded to the complainant and explained that the SDSD did not have jurisdiction to retrieve the dog on her behalf. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

5. Discrimination/Racial – SDSA treated the complainant differently because of her race.

Board Finding: Unfounded

Rationale: The complainant received a response from Deputy 1 that her matter was civil, and she responded, “I never heard of a widow that had to share ownership, or is it because I'm Hispanic and my in-laws are not?” SDSA P&P 2.53 Discrimination states, “Employees shall not express any prejudice or harassment concerning race, color, national origin, ancestry, etc.” Examples provided of discriminatory

acts include the use of verbal derogatory comments, slurs, jokes, derogatory pictures, cartoons or posters and actions which result in a person being treated unequally. The evidence showed no discriminatory statements and/or apparent differential treatment for this incident. Additionally, the complainant denied that Deputy 1 used racial slurs and/or made comments about her race. The complainant stated she was treated differently but did not provide any evidence. The evidence showed that the alleged act or conduct did not occur.

End of Report

NOTICE

In accordance with Penal Code Section 832.7, this notification shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court or judge of California or the United States.