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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its October 11, 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](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 (7)**

**ALLEGATIONS, BOARD FINDINGS & RATIONALES**

**21-111/LOPEZ**

1. Use of Force Resulting in Great Bodily Injury – Deputy 1 deployed his Sheriff's canine on Jorge Anthony Lopez, which resulted in Lopez sustaining dog bites.

Board Finding: Action Justified

Rationale: On the night of 09-24-21, Jorge Anthony Lopez led deputies on a high-speed pursuit after he was witnessed to run a red light and failed to yield. The vehicle pursuit ended when Lopez crashed into a parked vehicle. Lopez attempted to evade deputies by exiting his vehicle and fleeing on foot, but a Sheriff's canine unit was deployed. The dog successfully apprehended Lopez and a use of force ensued. As a result, Lopez sustained dog bites. The force used was necessary and reasonable to apprehend and control a fleeing felon who had exhibited a wanton disregard for the safety of others, a sustained unwillingness to comply with law enforcement, and was believed to be under the influence of alcohol, controlled substances, and/or a combination of both. Despite deputies discontinuing the pursuit, giving Lopez the chance to flee, Lopez instead, showed a willingness and desire to combat law enforcement. Based on Lopez's threatening actions, his blatant assaultive behavior, coupled with the totality of the circumstances, it was unsafe for deputies to proceed and to physically apprehend Lopez without the canine assistance. Deploying the canine to apprehend and control Lopez was the safest and most effective force option of safely apprehending Lopez, while simultaneously minimizing the risk of serious injury or death to all parties involved and citizens in the immediate area. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel. Lopez was taken into custody and arrested for numerous charges. The deputies who

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responded to the scene acted within policy and procedure and law. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

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### **22-007/MARLER (DEATH)**

1. Death Investigation/In-Custody Medical– Doyle Nyles Marler died of natural causes at Tri-City Medical Center on 02-10-22, following his incarceration at Vista Detention Facility (VDF).

Board Finding: Action Justified

Rationale: The evidence supported that Marler was properly classified upon his entry into the SDSD jail system after his attempted murder and assault with a deadly weapon arrest on 05-02-20. During his medical intake screening and subsequent interactions with SDSD medical personnel, Marler had several health issues which he was seen for by SDSD Medical Staff as well as at Tri City Medical Center (TCMC). On 01-26-21, SDSD Medical Records indicated Marler was diagnosed esophageal cancer and liver metastasis by TCMC. Marler underwent chemotherapy but due to complications was no longer deemed to be a candidate. On 08-17-21 Marler complained of serious pain and was immediately taken to SDSD Medical and then transferred to TCMC for treatment. TCMC recommended hospice care, but as per SDSD records there was/is no contract in place for hospice; however, comfort care was provided on/around 10-25-21. Comfort care allows a better quality of life at the end of life by optimizing comfort and relieving symptoms. TCMC Medical Records indicated there was a discussion regarding compassionate release, however, if Marler was released from custody his insurance would have been terminated and his MediCAL application could take up to a month to be effective. This would have ultimately led to Marler being without covered medical care. On 02-10-22, Marler succumbed to his illness. The cause of death was metastatic adenocarcinoma of the esophagus, and the manner of death was natural. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

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### **22-038/FENTON**

1. Illegal Search & Seizure – Deputies 1 and/or 3 “forced” their way into Fenton’s home.

Board Finding: Action Justified

Rationale: Fenton alleged “... they first forced their way into my home, using their billet clubs to pry open my door that has a night chain on it...” SDSD Court Services Bureau (CSB) Field Training Manual, states “The defendant should be advised that failure to vacate the premises by the stated day will subject all occupants to forced eviction.” BWC footage did show deputies had a locksmith drill the locks on the first security door to Fenton’s residence. However, deputies first provided warning to Fenton that they would force entry if she did not open the doors. Fenton was offered numerous opportunities to comply with deputies’ directives. The second door was willingly opened by Fenton. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

2. Illegal Search & Seizure – Deputy 2 “forced” their way into Fenton’s home.

Board Finding: Summary Dismissal

Rationale: See rationale #1. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff's Department. Therefore, the Review Board lacks jurisdiction.

3. Misconduct/Procedure – Deputies 1 and/or 3 refused to allow Fenton to change her clothing.

Board Finding: Unfounded

Rationale: Fenton alleged deputies “refused to let me to get dressed, I had on only a night shirt, violated my body.” BWC footage showed the opposite to be true, as Fenton is observed being allowed to walk to her bedroom, out of sight, on her own and return in different clothing. The evidence shows that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Deputy 2 refused to allow Fenton to change her clothing.

Board Finding: Summary Dismissal

Rationale: See rationale #3. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have

jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff's Department. Therefore, the Review Board lacks jurisdiction.

5. Criminal Conduct – Deputies 1 and/or 3 escorted Fenton while pressing her breasts and/or pushing her buttocks.

Board Finding: Unfounded

Rationale: Fenton alleged “all three walked me to my bedroom two on each side pressing my breast. The one behind me pushing on my butt and back, walking me into my bedroom, English soldier march style.” BWC footage shows Fenton walk to her bedroom on her own. The evidence shows that the alleged act or conduct did not occur.

6. Criminal Conduct – Deputy 2 escorted Fenton while pressing her breasts and/or pushing her buttocks.

Board Finding: Summary Dismissal

Rationale: See rationale #5. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff's Department. Therefore, the Review Board lacks jurisdiction.

7. Criminal Conduct – Deputies 1 and/or 3 “violated” Fenton’s body and/or left semen on her robe.

Board Finding: Unfounded

Rationale: Fenton alleged her robe was “rolled up in bed with my scarf as a face, seaman on robe.” A review of the BWC footage show no sexual misconduct or criminal conduct occurred. The evidence shows that the alleged act or conduct did not occur.

8. Criminal Conduct – Deputy 2 “violated” Fenton’s body and/or left semen on her robe.

Board Finding: Summary Dismissal

Rationale: See rationale #7. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff's Department. Therefore, the Review Board lacks jurisdiction.

9. Misconduct/ Procedure – Deputies 1 and/or 3 “played” with Fenton’s personal belongings.

Board Finding: Unfounded

Rationale: Fenton alleged deputies “Played with my Buddah wood carving. Played in my Zen sand box.” “Removed my wood carved grape leaf room divider.” A review of BWC footage does not show any of deputies removing or playing with any of the above stated items. The evidence shows that the alleged act or conduct did not occur.

10. Misconduct/ Procedure – Deputy 2 “played” with Fenton’s personal belongings.

Board Finding: Summary Dismissal

Rationale: See rationale #9. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff's Department. Therefore, the Review Board lacks jurisdiction.

11. Misconduct/Intimidation - Deputies 1 and/or 3 “threatened” Fenton with arrest.

Board Finding: Action Justified

Rationale: Fenton alleged “I told the sheriff’s that I had Covid-19. They reacted momentarily then returned to holding, touching me, threatening me with arrest.” BWC footage showed deputies provided numerous advisements to Fenton that she may be subject to arrest or escorted out of the home if she continued to not comply with a Court ordered eviction, however the deputies statements were professional and appropriate given Fenton was actively delaying complying with the deputies’ directives. The evidence shows that the alleged act or conduct did occur but was lawful,

justified and proper.

12. Misconduct/Intimidation – Deputy 2 “threatened” Fenton with arrest.

Board Finding: Summary Dismissal

Rationale: See rationale #11. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff’s Department. Therefore, the Review Board lacks jurisdiction.

13. Misconduct//Intimidation – Deputy 3 put his hand on his gun and “got into” Fenton’s face.

Board Finding: Unfounded

Rationale: Fenton alleged “(Deputy 3) put his hands on his gun and got into my face saying, ‘I am (Deputy 3)’, then he got closer in and said, ‘we don’t shoot people.’” A review of the BWC footage showed that Deputy 3 did not approach Fenton in the manner she alleged. Fenton is overheard stating “The next thing I know, you’re going to be shooting me.” Deputy 3 is heard responding “Why would I shoot you? We don’t shoot people for no reason.” The evidence shows that the alleged act or conduct did not occur.

14. Misconduct//Discourtesy – Deputy 3 “yanked” then “threw” Fenton’s paperwork onto her patio.

Board Finding: Unfounded

Rationale: Fenton alleged “I handed him my title document... (Deputy 3) yanked the documents out of my hands and threw them out on the patio.” BWC camera footage showed Deputy 3 accept documents from Fenton and then set them on a table nearby to where he is standing. The manner in which he accepted the documents was courteous and respectful. The evidence shows that the alleged act or conduct did not occur.

15. Excessive/ Force – Deputies 1 and/or 3 pushed on Fenton’s spine/vertebrae until she collapsed.

Board Finding: Unfounded

Rationale: Fenton alleged “all three sheriff’s hands on walked me to my front patio, two on one side and the one in the back of me pushed in on my spine with his thumb, every vertebrae until I collapsed.” SDSD P&P Section Addendum F, “Arm Guidance and Firm Grip,” states, “When verbalization proves ineffective, arm guidance or a firm grip may suffice to overcome resistance. Arm guidance or a firm grip that results in injury requires documentation.” Approximately one-hour into the eviction, BWC footage showed Deputy 2 use “arm guidance” to escort Fenton outside of the Residence. The use of force observed through BWC footage is minimal at most. Once outside BWC footage showed Fenton stopping and sitting on the floor. The force observed was appropriate given Fenton was refusing to vacate during a Court ordered eviction. BWC footage does not show any deputy pressing on Fenton’s spine. The evidence shows that the alleged act or conduct did not occur.

16. Excessive/ Force – Deputy 2 pushed on Fenton’s spine/vertebrae until she collapsed.

Board Finding: Summary Dismissal

Rationale: See rationale #15. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff’s Department. Therefore, the Review Board lacks jurisdiction.

17. Excessive Force – Deputy 3 dragged/yanked Fenton’s arm.

Board Finding: Unfounded

Rationale: Fenton alleged “(Deputy 3) tried dragging me up by my right arm, I looked him into his eyes and begged him not to hurt me. (Deputy 3) yanked me up by my right arm tearing my (flesh) from my body.” BWC footage showed deputies offered assistance to Fenton and help her stand. Further, BWC footage showed deputy 3 offer to call medical assistance for Fenton, however it appeared no injury occurred. The evidence shows that the alleged act or conduct did not occur.

18. Misconduct/ Discourtesy – Deputy 3 refused Fenton’s request for her medication, water, food, and/or money from her residence.

Board Finding: Unfounded

Rationale: Fenton alleged "I asked for my medication, water, food, and my money. (Deputy 3) refused." A review of the BWC footage showed Fenton was directed numerous times to collect her necessary belongings and was provided ample time to do so. The evidence shows that the alleged act or conduct did not occur.

19. Criminal Conduct – Deputies 1 and/or 3 modified and/or broke Fenton’s cameras.

Board Finding: Unfounded

Rationale: Fenton alleged deputies "removed wiring (from) all my (cameras) and broke anything that looked like a camera." A review of the BWC footage does show a camera near the window at the front door, however the evidence shows that the alleged act or conduct did not occur.

20. Criminal Conduct – Deputy 2 modified and/or broke Fenton’s cameras.

Board Finding: Summary Dismissal

Rationale: See rationale #19. As of March 2022, Deputy 2 is no longer employed with SDSD; CLERB does not have jurisdiction to investigate his involvement with this incident. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and responsibilities of CLERB, subsection 4.1 Complaints: Authority states CLERB shall have authority to receive, review, investigate, and report on Complaints filed against custodial officers employed by the County in the Sheriff’s Department. Therefore, the Review Board lacks jurisdiction.

21. Misconduct//Procedure – San Diego Sheriff Department Internal Affairs refused to provide the complainant with requested evidence.

Board Finding: Action Justified

Rationale: Fenton alleged "The sheriff’s internal affairs refused to provide me with any request made, copy of the camera footage and audio, copy of the reports, (badge) numbers of the sheriffs involved, copy of the order (claimed) by the (Sheriff), a copy of the warrant, the charges, (explanation) for the surprise attack and message for me to go downtown to the homeless shelter." SDSD Internal Affairs advised the only documents which would be provided are a copy of the complaint and correspondence including the outcome of the complaint. The other requested documents would not be provided. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

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## **22-045/CHRISTIANSON**

1. Misconduct/Medical - Medical Staff did not treat the complainant’s wound.

Board Finding: Summary Dismissal

Rationale: The complainants stated when Christianson (Jacob) was finally taken to medical, the nurse did not look or clean his leg. As per DSB P&P M.15, entitled "Sick Call", Inmates shall have access to appropriate medical and mental health services 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.

2. Excessive Force – Deputies 1, 5, and 6 "beat up" Christianson.

Board Finding: Unfounded

Rationale: The complainants stated Christianson (Jacob) was beaten up when he refused to leave medical. Christianson (Lisa) stated deputies took my son to the hole and he was beaten up when the deputies tried to restrain Jacob for no good reason". Jacob stated, "I refused to leave clinic, so the Sheriffs beat me up (punching me in my face, ribs and kneeling me in the ribs) after that they took me to the 4<sup>th</sup> floor and placed me on lockdown." SDSD records showed on Christianson’s (Jacob) medical visit on 04-01-22, Christianson began arguing with the nurse and made threats due to not receiving medical treatment he saw fit. Christianson refused to leave medical, and a use of force ensued in order to gain compliance. Per SDSD P&P Addendum F, Use of Force Policy, 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. A review of surveillance video captured the incident and corroborated all incident and deputy reports, however there was no audio recording to confirm the verbally relayed information. The use of force incident was documented in accordance with policy. While the deputies used force to gain compliance from Christianson, they did not "beat him up". The evidence shows that the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 1 placed Christianson in “lockdown” for a medical issue.

Board Finding: Unfounded

Rationale: The complainant stated, “the deputies took my son to the hole, and he was beaten up when the deputies tried to restrain Jacob for no good reason”. Furthermore, Jacob wrote “they are placing me on lockdown again for having another medical issue!” SDCS records showed at a medical visit on 04-01-22, Christianson began arguing with the nurse and made threats due to not receiving medical treatment he saw fit. Following the incident, Christianson was written up by Deputy 1 for the following violations: (1) inmates shall obey staff instructions, (2) inmates shall not threaten, assault, or attempt to intimidate any other inmate or any member of the jail staff, (3) inmates shall not take part in aggressive or boisterous activity, and (4) inmates shall not engage in any activity that impairs or interferes with the operation of the facility. The hearing report indicated Christianson (Jacob) was found guilty on all (4) violations and a sergeant recommended “the inmate receive five days disciplinary isolation”. As per SDCS DSB P&P O.1 entitled “Disciplinary action”, the purpose of disciplinary action is to provide a method for bringing an inmate’s behavior into compliance with established inmate rules and regulations while establishing a fair and impartial process of review. As per policy, placement into a disciplinary separation cell shall not exceed 10 days for each hearing. According to SDCS records, it was recommended Christianson receive five days of disciplinary isolation at his disciplinary hearing. Christianson was placed in lockdown for his behavior during medical visit, not for having a medical issue. The evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Unidentified Deputies failed to provide shower access while Christianson was in the “hole” (disciplinary separation).

Board Finding: Sustained

Rationale: The complainants stated Christianson (Jacob) was not allowed a shower for 5 days. Per SDCS DSB P&P L.11 entitled “Personal Hygiene”, Upon assignment to a housing unit an inmate will be allowed a shower and additional showers at least every 48 hours thereafter. As per Title 15, 1266. “Showering. There shall be written policies and procedures developed by the facility administrator for inmate showering/bathing. Inmates shall be permitted to shower/bathe upon assignment to a housing unit and at least every other day or more often if possible.” As per SDCJ Post Orders, the Housing Deputy is responsible for ensuring all inmates are given the opportunity to shower at least every 48 hours. If the inmate refuses, it must be logged in JIMS and the Floor Sergeant must be notified. CLERB reviewed video surveillance outside of Christianson’s cell for a 48-hour period from 04-02-22 to 04-03-22 and Christianson remained in his cell. Furthermore, Christianson’s Inmate History Summary Report had no logged shower refusals noted. Video surveillance did show Christianson took a shower on 04-06-22. In an effort to improve transparency and Title 15 law compliance, in CLERB case #21-083/Park CLERB recommended the completion or incompleteness (and reason for incompleteness) of all California Title 15 Minimum Standards for Local Detention Facilities requirements shall be noted in JIMS (showers, mail, etc.). This policy recommendation is pending a response from the SDCS. The evidence supports the allegation, and the act or conduct was not justified.

5. Misconduct/Procedure- Unidentified deputies failed to refill Inmate Requests Forms.

Board Finding: Summary Dismissal

Rationale: Christianson (Lisa) stated, “There were no Inmate Request forms so Jacob kept telling the deputies he needed medical attention for his penis”. SDCS DSB P&P N.3 entitled, “Inmate Request Forms” established a procedure for the expeditious resolution of inmate requests. As per the SDCJ Post Orders, Housing Deputy duties include “Ensure all inmate requests and grievances are answered quickly and/or directed to the proper person for response to that request.” However, the post orders do not dictate sworn personnel as responsible for refilling forms. SDCS CLERB Liaison stated the facility stock clerk or storekeeper stocks the grievances for the deputies or staff to distribute. CLERB has no jurisdiction over facility stock clerks or storekeepers. Furthermore, SDCS records showed no evidence that Christianson (Jacob) requested an Inmate Request Form and/or made any verbal complaints of no forms to sworn personnel. The review board lacks jurisdiction.

6. Misconduct/Procedure – Deputies 2, 3 and 4 failed to take action on Christianson’s medical condition.

Board Finding: Unfounded

Rationale: The complainants stated Christianson (Jacob) repeatedly told deputies he had an erection that would not go away, and he was unable to pee. Christianson (Jacob) alleged the deputies ignored him and did not take action. 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. SDCS records showed on 04-09-22, Christianson (Jacob) notified the Housing Deputy of an allergic reaction. The Housing Deputy notified SDCJ Medical Staff of Christianson’s complaint. Christianson (Jacob)

threatened to throw fecal matter and urine at anyone who opened the cell door. Medical Staff informed the deputy to bring Christianson to medical, but they were informed they were unable to bring him due to security issues. Christianson's behavior prevented him from being safely and securely brought to medical. Per M.5 entitled "Medical Emergencies", proper safety and security measures shall be taken prior to entry into a housing unit or holding area by the health staff and/or responding deputies (i.e., locking down inmates, sufficient number of sworn staff standing by, etc.). Sworn personnel notified Medical Staff of Christianson's condition and they made the determination to schedule Christianson for a medical visit the following day. CLERB has no jurisdiction over medical staff and medical decisions. Deputy 3 escorted Christianson to his medical visit and to transport to hospital. Deputies 2, 3, and 4 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Deputy statements are confidential and cannot be publicly disclosed. The evidence showed that the alleged act or conduct did not occur.

7. Misconduct/Procedure – Deputy 3 "lost" Christianson's property.

Board Finding: Not Sustained

Rationale: The complainant stated, "They also took all his belongings, all his property, his attorney correspondences, everything, his commissary, bagged it up and then all of a sudden no one can find his property. I called Central Jail on Saturday and the Clerk said the Sergeant and 5 other deputies were looking everywhere for Jacob's property to date and it has not been found." SDS DSB P&P Q.63 entitled "Lost Inmate Money or Property" standardizes the procedure for processing lost/missing inmate property claims. The grievance process is used for claims of lost/missing property or commissary items. Furthermore, if a claim cannot be resolved the incarcerated person fills out a Claim for Lost or Damaged Personal Property (RM-122) form. There were no documented grievances submitted for Christianson's lost module property. SDS D records produced one Claim (RM-122) for Lost or Damaged Personal Property which was received by the department 04-22-22. On the claim, Christianson (Jacob) stated, "I went to the Hospital and had to get surgery on my penis. When I came back to the jail all my commissary and property was missing. I do not have no cellmates, so the county and its employees are at fault for all my items going missing". Per SDS DSB P&P I.45 entitled "Inmate Hospitalization and Guards", when an incarcerated person is admitted to a hospital from a facility, the respective housing deputy secures the inmate's module property in their housing area. Furthermore, I.45 states the watch commander or designee well ensure this is done. SDS D records indicated Christianson's property was not secured. Christianson (Jacob) claimed a loss of \$250 and listed module property (commissary and hygiene products) in his RM-122 Form. SDS D records showed the investigation into Christianson's lost property was investigated, marked closed, and partially paid on 08-03-22. The closed claim stated "based on the information obtained during the investigation, there is evidence the Sheriff's Department mishandled or lost his property. As a result this claim is being partially paid." SDS D records indicated Christianson was partially paid \$20 since it was impossible to determine which items were lost, stolen, bartered, or consumed. Also, the investigation stated commissary items are meant to be used weekly in small quantities and not stockpiled. Deputy 3 provided information during the course of CLERB's investigation that was considered in arriving at the recommended finding. Deputy statements are confidential and cannot be publicly disclosed. There was insufficient evidence to either prove or disprove the allegation.

8. Misconduct/Procedure –Unidentified Deputies "lost" Christianson's property.

Board Finding: Sustained

Rationale: The complainant stated, "They also took all his belongings, all his property, his attorney correspondences, everything, his commissary, bagged it up and then all of a sudden no one can find his property. I called Central Jail on Saturday and the Clerk said the Sergeant and 5 other deputies were looking everywhere for Jacob's property to date and it has not been found." SDS DSB P&P Q.63 entitled "Lost Inmate Money or Property" standardizes the procedure for processing lost/missing inmate property claims. The grievance process is used for claims of lost/missing property or commissary items. Furthermore, if a claim cannot be resolved the incarcerated person fills out a Claim for Lost or Damaged Personal Property (RM-122) form. There were no documented grievances submitted for Christianson's lost module property. SDS D records produced one Claim (RM-122) for Lost or Damaged Personal Property which was received by the department 04-22-22. On the claim, Christianson (Jacob) stated, "I went to the Hospital and had to get surgery on my penis. When I came back to the jail all my commissary and property was missing. I do not have no cellmates, so the county and its employees are at fault for all my items going missing". Per SDS DSB P&P I.45 entitled "Inmate Hospitalization and Guards". When an incarcerated person is admitted to a hospital from a facility, the respective housing deputy secures the inmate's module property in their housing area. Furthermore, I.45 states the watch commander or designee well ensure this is done. SDS D records indicated Christianson's property was not secured. Christianson (Jacob) claimed a loss of \$250 and listed module property (commissary and hygiene products) in his RM-122 Form. SDS D records showed the investigation into Christianson's lost property was investigated, marked closed, and partially paid on 08-03-22. The closed claim stated "based on the information obtained during the investigation, there is evidence the Sheriff's Department mishandled or lost his property. As a result, this claim is being partially paid". SDS D records indicated Christianson was partially paid \$20 since it was impossible to determine which items were lost, stolen, bartered, or consumed. Also, the investigation stated commissary items are meant to be used weekly in small quantities

and not stockpiled. The evidence supports the allegation, and the act or conduct was not justified.

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## **22-052/BURNS AND GRAHAM**

1. Misconduct/Medical (IO) - Medical neglected to treat incarcerated person (I/P) Graham over the last three years.

Board Finding: Summary Dismissal

Rationale: Gina Burns, mother of Bernard Graham, filed a complaint while Graham was incarcerated at George Bailey Detention Facility. Ms. Burns reported that Graham had an ongoing medical condition and did not receive immediate medical attention. Medical records showed that Graham was seen at Tri-City Hospital for treatment and was prescribed medication through jail medical. In accordance with CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and Responsibilities of CLERB, CLERB shall have authority to investigate Complaints filed against peace/custodial officers employed by the County in the Sheriff's/Probation Department. Furthermore, CLERB Rules & Regulations, Section 15: Summary Dismissal; indicates CLERB may summarily dismiss a case when CLERB does not have jurisdiction over the subject matter of the Complaint. In this matter, CLERB does not have jurisdiction over jail medical service providers, therefore CLERB lacks jurisdiction.

2. Misconduct/Procedure – Deputies 1 and 2 delayed obtaining medical aid for Graham's injury.

Board Finding: Unfounded

Rationale: Bernard Graham filed a complaint and stated that on 04-18-22, while incarcerated at George Bailey Detention Facility, he had an accident, where he reportedly fell while he was cleaning his cell and dislocated his shoulder. He stated it took deputies "forever" to escort him to see medical. Evidence showed that deputies responded to Graham's request to see medical in a timely manner. SDSO documentation showed that he was taken to medical by Deputy 1 the same day he was injured, and Deputy 2 followed up with medical in response to Graham's complaint of shoulder pain. Given that deputies are not medical professionals, they have the duty to respond to incarcerated persons medical needs. In this situation, deputies responded when they contacted medical. SDSO DSB P&P Section M.13 Health Staff states that detention facility qualified health providers (QHP) (e.g., physicians, nurse practitioners) are primarily responsible for the medical treatment, planning, and referral to any necessary outside medical service when deemed necessary. In accordance with SDSO DSB P&P, Section M.1 Access to Care any incarcerated person in the custody of the San Diego Sheriff shall have quality and timely access to care for their medical needs. Access to care is defined as incarcerated persons being seen by a qualified healthcare provider, rendered a clinical judgement, and receive care that is ordered in a timely manner. According to SDSO Medical records, Graham was seen by jail medical staff the same day he was injured, was prescribed medication and seen by qualified medical professionals. In response to the allegations of misconduct that deputies delayed medical treatment, the evidence showed that the alleged act or conduct did not occur.

3. Misconduct/Medical (IO) - Medical refused to transport I/P Graham to a hospital due to staff shortages.

Board Finding: Summary Dismissal

Rationale: Gina Burns and Bernard Graham alleged that Graham was denied proper medical attention by not being transported to the hospital after his accident on 04-18-22. SDSO documentation showed he was provided with treatment by jail medical staff. SDSO DSB Section M.5 Medical Emergencies states that staff shall be responsible for taking appropriate action in responding to an incarcerated persons emergency medical needs and emergency medical care shall be provided with efficiency. Given that Graham was not referred and/or transported to the hospital one can assume that his condition did not rise to the level of a medical emergency. In accordance with CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and Responsibilities of CLERB, CLERB shall have authority to investigate Complaints filed against peace/custodial officers employed by the County in the Sheriff's/Probation Department. Furthermore, CLERB Rules & Regulations, Section 15: Summary Dismissal; indicates CLERB may summarily dismiss a case when CLERB does not have jurisdiction over the subject matter of the Complaint. In this matter, CLERB does not have jurisdiction over jail medical service providers, therefore CLERB lacks jurisdiction.

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## **22-081/BLUE**

1. Misconduct/Procedure – Deputy 1 told the complainant "police [deputies] are breaking the rules."

Board Finding: Summary Dismissal

Rationale: On 07-18-22, Brandon Blue submitted a signed complaint to CLERB. On 09-28-22, in a telephone



conversation with the CLERB assigned investigator Blue expressed his desire to withdraw his complaint. CLERB received a signed withdrawal form from Blue on 09-28-22. As per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.”

2. Discrimination/Other – Deputy 1 told the complainant, “rich people rule the area” and do not want him parked there.

Board Finding: Summary Dismissal  
Rationale: See *Rationale 1*.

3. Misconduct/Procedure – Deputy 3 ticketed the complainant.

Board Finding: Summary Dismissal  
Rationale: See *Rationale 1*.

4. Misconduct/Harassment – Deputy 1 told Deputy 3 to ticket the complainant.

Board Finding: Summary Dismissal  
Rationale: See *Rationale 1*.

5. Misconduct/Procedure – Deputy 2 told the complainant, “disability laws don’t apply to you.”

Board Finding: Summary Dismissal  
Rationale: See *Rationale 1*.

6. Misconduct/Procedure – SDSD “disregarded” the complainant’s disability rights.

Board Finding: Summary Dismissal  
Rationale: See *Rationale 1*.

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## **22-085/MOCK**

1. Use of Force Resulting in Great Bodily Injury – Deputies 1, 2, and 3 used force towards Mock while he was incarcerated at George Bailey Detention Facility.

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. San Diego Sheriff’s Department (SDSD) documentation showed that on 06-25-22, Mock was incarcerated at the George Bailey Detention Facility when he charged Deputy 1 and slammed him against the Rec Yard door which resulted in a use of force. Mock punched Deputy 1 in the back of the head. Deputy 1, 2, and 3 delivered strikes to Mock’s face and torso, but he continued to thrash his body. Mock did not comply with verbal commands, resisted deputies, and showed assaultive behavior towards them. In accordance with Addendum F – Use of Force Guidelines, Deputies utilized appropriate control techniques or tactics which employed maximum effectiveness with minimum force to effectively terminate or afford the deputy control of the incident. Furthermore, SDSD P&P 6.48 Physical Force and 2.49 Use of Force state employees shall not use more force in any situation than is objectively or reasonably necessary under the circumstances. A collaboration of all deputies’ efforts was effective in gaining compliance from Mock. Mock sustained a fractured nose, bruising, and arm pain. He was transported to Sharp Chula Vista for treatment. Jail surveillance video was reviewed and corroborated the associated documentation. Given the totality of circumstances, the use of force was reasonable in accordance with policy. CLERB received a signed complaint from Mock on 09-22-22 in which he admitted to striking Deputy 1. Mock also stated he knew the deputies were trying to help him. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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***End of Report***

**NOTICE**

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