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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### MEETING AGENDA

**Tuesday, March 8, 2022, 5:30 p.m.**

Remote Meeting Zoom Platform

<https://zoom.us/j/97947871945?pwd=ODdZSDVYRUZaNUFGWUpNNm9Dc1R2UT09>

Telephone:

+1 669 900 6833

Webinar ID: 979 4787 1945

Passcode: 853791

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

#### DISABLED ACCESS TO MEETING

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

#### WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code Section 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 555 W Beech Street, Ste. 220, San Diego, CA.

#### 1. ROLL CALL

#### 2. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction but not an item on today's open session agenda. **Each speaker shall complete and submit an online "Request to Speak" form.** Each speaker will be limited to three minutes. This meeting will be held remotely via the Zoom Platform. Click the below link to access the meeting using the **Google Chrome web browser**: <https://zoom.us/j/97947871945?pwd=ODdZSDVYRUZaNUFGWUpNNm9Dc1R2UT09>. Contact CLERB at [clerb@sdcounty.ca.gov](mailto:clerb@sdcounty.ca.gov) or 619-238-6776 if you have questions.

#### 3. MINUTES APPROVAL (Attachment A)

#### 4. PRESENTATION/TRAINING

- a) San Diego County Department of General Services Role in San Diego County Detention Facility Camera Maintenance and Repair by CLERB Executive Officer Paul Parker

## 5. EXECUTIVE OFFICER'S REPORT

- a) Overview of Activities of CLERB Executive Officer and Staff
- b) Workload Report – Open Complaints/Investigations Report (Attachment B)
- c) Case Progress and Status Report (Attachment C)
- d) Executive Officer Correspondence to Full CLERB (Attachment D)
- e) Policy Recommendation Pending Responses
  - i. 20-113 / Alvarez (Death) – SDSD
    - It is recommended that the San Diego Sheriff's Department (SDSD) revise its Detention Policies and Procedures Section I. 64, entitled, "Safety Checks: Inmates, Housing, and Holding Areas," to mandate proof of life verification through visual checks every 60 minutes during the booking process.
    - It is recommended that the San Diego Central Jail (SDCJ) only utilize cells with operable cameras unless all cells with operable cameras are in use.
  - ii. 21-060 / Meadows – SDSD
    - It is recommended that the San Diego Sheriff's Department (SDSD) create a policy that mandates conducting all Detentions Investigative Unit (DIU) interviews in a private area, out of view from other inmates.
  - iii. CLERB Staff Response to Death Scenes – Probation
    - Allow a CLERB staff member with extensive death investigation experience to be present at the initial death scene and any related incident scene and, without compromising or obstructing the law enforcement investigation, receive a briefing, participate in a scene walk-thru, and have any questions about the circumstances surrounding the events leading up to, and including the death, answered.
- f) Policy Recommendation Response
  - i. 20-063 / Morton (Death) – SDSD (Attachment E)
    - It is recommended that the San Diego Sheriff Department update its Detention Services Bureau (DSB) P&P Section I.19 Security Video Systems, to mandate that sworn staff document and keep a record of video system checks.
  - ii. CLERB Staff Response to Death Scenes – SDSD (Attachment F)
    - Allow a CLERB staff member with extensive death investigation experience to be present at the initial death scene and any related incident scene and, without compromising or obstructing the law enforcement investigation, receive a briefing, participate in a scene walk-thru, and have any questions about the circumstances surrounding the events leading up to, and including the death, answered.
- g) Sustained Finding Pending Responses
  - i. 20-104 / Chon (Death) – SDSD
- h) Sustained Finding Response
  - i. 20-113 / Alvarez (Death) – SDSD (Attachment G)
  - ii. 21-087 / Grino-Watson – SDSD (Attachment H)

## 6. BOARD CHAIR'S REPORT

**7. NEW BUSINESS**

- a) SDSD Report Back: Address Concerns Identified in Center for Policing Equity Report (Attachment I)
- b) San Diegans for Justice Report: CLERB – Assessment of Strengths and Opportunities (Attachment J)
- c) CLERB Town Hall Considerations
- d) Finalize CLERB Town Hall: In-Custody Deaths

**8. UNFINISHED BUSINESS**

- a) Update: Authority for the Executive Officer to Work with County Staff to Pursue Legislation and/or to Add a Policy to the County Legislative Program in Support of Increased Transparency in Civilian Oversight of Peace Officers and Custodial Officers
- b) Update: Authority for the Executive Officer to Work with County Staff to Request that the County Board of Supervisors Expand CLERB’s Jurisdiction to Include Personnel Involved in Providing Medical Care in County Detention Facilities
- c) Update: Racial Disparity and Racial Profiling Subcommittee
- d) Update: In-Custody Death Data Review Subcommittee

**9. BOARD MEMBER COMMENTS**

**10. SHERIFF/PROBATION LIAISON QUERY**

**11. 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).

<b>DEFINITION OF FINDINGS</b>	
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.

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

**CASES FOR SUMMARY HEARING (5)**

## 21-004

1. Death Investigation/In-Custody Drug Related – Omar Moreno was found unresponsive in a holding cell at San Diego Central Jail (SDCJ) on 01-06-21.

### Recommended Finding: Sustained

Rationale: The evidence supported that Omar Moreno was classified as “book and release” (B&R) upon his entry into the SDCJ jail system on 01-06-21. Both of Moreno’s original charges of HSC§ 11364, Possession of Opium Pipe or Controlled Substance Paraphernalia and HSC§ 11550, Under the Influence of a Controlled Substance were not bookable under Emergency Booking Acceptance Criteria-COVID-19 Precaution effective 12-04-20 to 01-08-21. Moreno’s charge of HSC§ 11550 was changed to PEN§ 647(f) drunk in public in order to be accepted into custody. Once the transporting deputy realized this was not an appropriate charge, an attempt was made to release Moreno mid-booking process. The release was not allowable per booking staff. The evidence showed the operator of the body scanner never identified or inquired with Moreno about anomalies on his body scan. There was no evidence that Moreno expressed any concerns about his mental or physical well-being to any member of the SDCJ, sworn or professional. There was no indication in SDCJ medical records that Moreno was in mental distress or an altered mental state. Moreno completed a medical intake screening and was cleared as “fit for booking,” per medical staff. Safety checks were conducted within policy, including one incomplete check due to an unrelated incident that involved an inmate use of force on a deputy. The incomplete check was documented in accordance with policy. Response from the SDCJ is currently pending. Video surveillance showed Moreno walked around Dressout Holding Cell #1 at approximately 9:36PM. Moreno appeared to have a white mask on during this time. Moreno appeared to take his mask off and sat on the bench at 9:37PM. He then slouched down and appeared to put something in his mouth, (possibly the mask). At 9:38PM Moreno stood up and it appeared his hand goes to his mouth; his mask can no longer be seen on his face or hands. Moreno paced around and got up and down from the bench several times. Moreno appeared to grab something off the bench at 9:40PM, but due to poor video quality, there was no way to determine what the object was or if there was any object at all. At 9:41PM Moreno collapsed forward off the bench onto the floor in front of him and had seizure-like activity until approximately 9:42PM. One final body movement was observed at 9:44PM. None of the other inmates inside the cell assisted or called for assistance. Moreno was discovered unresponsive at 10:49PM during night hard count. Upon discovering Moreno unresponsive, sworn personnel expeditiously responded and immediately initiated life-saving measures. SDCJ deputies initiated and continued life-saving measures until relieved by SDCJ medical staff, and subsequently EMS paramedics. There was no indication that Moreno choked until examined by the Medical Examiner. The cause of death was choking due to airway obstruction by ingestion of cloth mask and food bolus, with acute methamphetamine intoxication as contributing and the manner of death was an accident. While there was no one point of failure that led to Moreno’s death, he should not have been taken into custody at the time of this incident per COVID-19 Booking Criteria. Additionally, there was no way to determine if the body scan operators’ action would have prevented Moreno’s death. Furthermore, there was no way to determine if the incomplete safety check would have also prevented Moreno’s death. It was previously recommended SDCJ revise its Detention Services Bureau Policy and Procedures (DSB P&P) “1.64 entitled Safety Checks: Inmates, Housing, and Holding Areas” to visually verify proof of life during the booking process on a prior case (Case #20-113 Alvarez); the SDCJ response is pending. The evidence supported the allegation and the act or conduct was not justified.

2. Misconduct/Procedure – Deputy 2 did not familiarize himself and/or comply with SDCJ Emergency Booking Acceptance Criteria effective 12-04-20.

### Recommended Finding: Sustained

Rationale: As per the Emergency Booking Acceptance Criteria in place on 01-06-21, a charge of HSC§ 11550(a) and HSC§ 11364 were listed under charges “to be processed as “cite and release” in the field and ONLY accepted with 1) Watch Commander approval, or 2) Comes in with additional bookable field arrest charges or 3) An approved request for bail increase.” As per SDCJ P&P 2.1 entitled Rules of Conduct for Members of SDCJ, “All employees shall conform to Federal, State, and Local laws, as well as to the policies of this Department. It shall be the responsibility of all employees to familiarize themselves and comply with all such policies, orders, directives, rules and regulations of this Department.” Furthermore, SDCJ P&P 2.3

entitled Violation of Rules, "Employees shall not commit or omit any acts which constitute a violation of any of the rules, regulations, directives, orders or policies of this Department, whether stated in these Rules of Conduct or elsewhere." Additionally, SDS P&P 10.6 Continuing Professional Training-Sworn, states it is the responsibility of all employees to remain current, and each command will ensure line-up training includes policy and procedure changes. Deputy 2 provided confidential information during CLERB's investigation that was considered in arriving at the recommended finding. On 01-31-22, CLERB requested an interview with Deputy 2 which was declined on 02-03-22. Deputy 2 exercised his right to decline participation in an interview pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. The evidence supports the allegation and the act or conduct was not justified.

3. Misconduct/Procedure - Deputy 1 did not familiarize himself and/or comply with SDS Emergency Booking Acceptance Criteria effective 12-04-20.

Recommended Finding: Sustained

Rationale: As per the Emergency Booking Acceptance Criteria in place on 01-06-21, a charge of HSC§ 11550(a) and HSC§ 11364 were listed under charges "to be processed as "cite and release" in the field and ONLY accepted with 1) Watch Commander approval, or 2) Comes in with additional bookable field arrest charges or 3) An approved request for bail increase." As per SDS P&P 2.1 entitled Rules of Conduct for Members of SDS, "All employees shall conform to Federal, State, and Local laws, as well as to the policies of this Department. It shall be the responsibility of all employees to familiarize themselves and comply with all such policies, orders, directives, rules and regulations of this Department." Furthermore, SDS P&P 2.3 entitled Violation of Rules, "Employees shall not commit or omit any acts which constitute a violation of any of the rules, regulations, directives, orders or policies of this Department, whether stated in these Rules of Conduct or elsewhere." Additionally, SDS P&P 10.6 Continuing Professional Training-Sworn, states it is the responsibility of all employees to remain current, and each command will ensure line-up training includes policy and procedure changes. Deputy 1 provided confidential information during CLERB's investigation that was considered in arriving at the recommended finding. On 01-31-22, CLERB requested an interview with Deputy 1 which was declined on 02-06-22. Deputy 1 exercised his right to decline participation in an interview pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. The evidence supports the allegation and the act or conduct was not justified.

4. Misconduct/Procedure - Deputy 4 did not familiarize himself and/or comply with SDS Emergency Booking Acceptance Criteria effective 12-04-20.

Recommended Finding: Sustained

Rationale: As per the Emergency Booking Acceptance Criteria in place on 01-06-21, a charge of HSC§ 11550(a) and HSC§ 11364 were listed under charges "to be processed as "cite and release" in the field and ONLY accepted with 1) Watch Commander approval, or 2) Comes in with additional bookable field arrest charges or 3) An approved request for bail increase." As per SDS P&P 2.1 entitled Rules of Conduct for Members of SDS, "All employees shall conform to Federal, State, and Local laws, as well as to the policies of this Department. It shall be the responsibility of all employees to familiarize themselves and comply with all such policies, orders, directives, rules and regulations of this Department." Furthermore, SDS P&P 2.3 entitled Violation of Rules, "Employees shall not commit or omit any acts which constitute a violation of any of the rules, regulations, directives, orders or policies of this Department, whether stated in these Rules of Conduct or elsewhere." Additionally, SDS P&P 10.6 Continuing Professional Training-Sworn, states it is the responsibility of all employees to remain current, and each command will ensure line-up training includes policy and procedure changes. Deputy 4 provided confidential information during CLERB's investigation that was considered in arriving at the recommended finding. On 01-31-22, CLERB requested an interview with Deputy 4 which was declined on 02-16-22. Deputy 4 exercised his right to decline participation in an interview pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. The evidence supports the allegation and the act or conduct was not justified.

5. Misconduct/Procedure - Deputy 3 failed to identify and/or inquire with Inmate Moreno about an anomaly (or anomalies).

Recommended Finding: Sustained

Rationale: SDSD records showed on 01-06-21 Deputy 3 performed a Body Scan of Omar Moreno as required by DSB Policy I.50 Body Scanner and X- Rays. According to SDSD video surveillance footage, Moreno entered the Body Scan room at 2:00PM. The operator was seen continuously looking at paperwork while he conducted the scan. He then brightened the scan and simultaneously walked away from the machine. CLERB was unable to determine if the operator merely glanced at or ever saw the final image, but no subsequent action was taken. The results of the scan appeared to show some type of anomaly, which the Medical Examiner (ME) records suggested was a "possible baggy of illicit substance". The summary of the ME report stated, "Jail staff informed me that there appeared to be a foreign object in his abdomen on an x-ray that appears to be possible 'baggy' of illicit substance". Furthermore, the Opinion section of the Autopsy Report states, "Upon entering the jail, staff was informed that there appeared to be a foreign object in his abdomen on an x-ray that appeared to be a possible baggie of illicit substance". There was no formal documentation notating the anomaly until after Moreno's death. Furthermore, a SDSD Follow-up Investigative Report stated, "I asked [Deputy Medical Examiner] if the foreign object was a "baggie" and if it was in his body for over seven hours after the scan, was possible it may have dissolved in Moreno's body. [Deputy Medical Examiner] said it would depend on the material, but it was possible." I.50 entitled Body Scanner and X-rays, III. Body Scan Anomalies, states in part,

- A. In the event an anomaly appears within a subject's body, the deputy conducting the scan will inquire with the arrestee to identify the anomaly.
  - 1. If the anomaly is believed to be concealed contraband, the deputy will ask the arrestee to voluntarily turn over the item(s). The deputy will utilize a private area to obtain the contraband.
    - a. If the arrestee refuses to voluntarily turn over the concealed item(s), the watch commander will have the overall authority to accept or reject the arrestee in compliance with DSB P&P section M.9.
  - 2. Once the deputy has obtained the item(s), the arrestee will need to be re-scanned (secondary body scan) to verify all contraband was removed.
  - 3. Staff operating the body scanner will save the image in the "positive tab folder" with a descriptive label for future reference and/or comparison.
- B. If the anomaly is still present on a secondary body scan, and the arrestee is approved for acceptance into the facility, the arrestee shall be assessed for placement on contraband watch per DSB P&P section J.8. If deemed necessary, a search warrant will be obtained for the retrieval of the contraband.

Furthermore, there was no indication of possible contraband identified on Moreno's scan, as such he was never put on contraband watch. SDSD records indicated Deputy 3 completed Soter RS Operator Training on 05-06-20. According to the training, an anomaly is any abnormality, inconsistency, or a non-human shape. The training suggests any differences that are not consistent on both sides of the body would also be an anomaly. Moreno's scan was not symmetrical, and included non-human shapes (i.e. triangles and ovals). According to Soter RS Operator Training, these parts of the image should have been analyzed further using the different image analysis tools. Additionally, based on the results of the further analysis, Moreno should have been rescanned to see if the anomaly was still present after 30 minutes to determine if the anomaly was body waste or gas. The evidence suggested the image analysis tools were not fully used. SDSD confirmed there was only one image scan, and it was not flagged as a positive scan. Furthermore, a Soter RS Body Scanner Subject Matter Expert confirmed the image had enough anomalies to justify any operator to be alarmed. On 11-15-21, CLERB requested an interview with Deputy 3 which was declined on 11-26-21 pursuant to a long-standing agreement between CLERB and the Deputy Sheriff's Association. The evidence supported that the alleged act did occur and was not justified.

## **POLICY RECOMMENDATION:**

1. It is recommended that the San Diego Sheriff's Department (SDSD) identify who answers the "Arresting Officer Questions" on the Receiving Screening Questionnaire during the booking process.
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### **21-084**

1. Death Investigation/In-Custody Medical – Glenn William Davey died of natural causes while in the custody of the San Diego Sheriff's Department (SDSD) at the San Diego Central Jail (SDCJ).

#### **Recommended Finding:** Action Justified

**Rationale:** On 08-27-21, Glenn William Davey was arrested by El Cajon Police Department (ECPD) officers on an active felony warrant, Penal Code PC§ 3056 Parole Violation and booked into custody at SDCJ. During the booking process, Davey denied any medical issues. Davey was cleared by medical to continue through the booking process. Davey was housed, with two other inmates, in a quarantine module, for a seven-day mandatory quarantine, per COVID-19 Detention Facility guidelines. On 08-30-21, at approximately 5:32pm, 10-15 minutes after Davey's cellmates reported seeing Davey alive, deputies entered the module to conduct a safety check "soft count" when Davey was discovered unresponsive in his assigned cell. SDSD DSB P&P Section 1.43 titled, Inmate Count Procedure, states in part, "Soft Count, 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." Deputies began life-saving measures, activated 911 and requested jail medical staff. Jail medical staff and fire/paramedic responded and continued advanced life-saving measures. Davey was unable to be revived and his death was pronounced, via radio, by a UCSD Medical Center doctor at 6:01pm. Deputies involved in the incident and interviewed by homicide detectives, reported there were no issues and/or concerns with Davey and he never expressed need for medical assistance. Additionally, Davey's two cellmates were interviewed and reported Davey never asked for medical assistance and did not attempt to access the intercom. On 09-01-21, the San Diego County Medical Examiner's Office (SDCMEO) conducted an autopsy on Davey. Davey's toxicological test results detected no alcohol or common drugs of abuse and based on the autopsy findings and the circumstances surrounding the death, Davey's cause of death was listed as Hypertensive and Atherosclerotic Cardiovascular Disease, with obesity listed as contributing, and the manner of death was natural. Safety checks prior to Davey being found unresponsive were conducted per policy, and confirmed through video surveillance in conjunction with the Jail Inmate Management System (JIMS) Area Activity Log. The evidence supported that Davey was properly classified upon his entry into the SDSD jail system after his 08-27-21 arrest. There was no evidence that Davey expressed any concerns about his mental or physical well-being to his cellmates or any member of the SDSD, sworn or professional. According to all available evidence, Davey was classified and housed in accordance with policy. Deputies took immediate and appropriate action, in compliance with policy, when they discovered Davey unresponsive and responded to Davey's medical emergency without hesitation. Additionally, all required safety and security checks were completed as evidenced by SDSD documentation and jail surveillance video. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

2. Misconduct/Medical (I/O) – Jail medical staff failed to identify and address Davey's medical and/or mental health needs.

#### **Recommended Finding:** Summary Dismissal

**Rationale:** Potential misconduct discovered through the course of investigation involving the actions or inactions of medical personnel did not appear to contribute to Davey's death, however, this matter is referred to SDSD for follow-up. Medical staff are non-sworn personnel and therefore, CLERB lacks jurisdiction to investigate this allegation. CLERB Rules & Regulations: 4.1 titled, Complaints: Authority, CLERB shall have authority to receive, review, investigate, and report on Complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department. The Review Board lacks jurisdiction as the allegation did not involve any sworn personnel employed by the County Sheriff's Department or the Probation Department.

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## **21-089**

1. Misconduct/Discourtesy – Deputy 3 “demanded” identifying information from the complainant on/around 08-19-21.

**Recommended Finding:** Unfounded

**Rationale:** The complainant stated, “before leaving he demanded that I give him my CDL” and “my new address”. The California Police Officers Legal Sourcebook, Report Writing and Investigative Evidence section states, “always get the name, address and means of contacting all witnesses you interview”. Obtaining the name and address of the reporting party/witness is common practice for deputies when taking a crime report. As per SDSD P&P Section 2.22 entitled Courtesy, “Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation.” Deputy 3 provided information, via questionnaire and a subsequent interview, during CLERB’s investigation that were considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did not occur.

2. Misconduct/ Procedure – Deputy 3 “ran” the complainant using SDSD Databases.

**Recommended Finding:** Action Justified

**Rationale:** The complainant stated, “SDSD ran me as the RP of the thrift store incident”. SDSD indicated a query was conducted on the complainant using California Law Enforcement Telecommunications System (CLETS) on 08-11-21. As per SDSD P&P 7.6 use of CLETS-NCIC-ARJIS and Local information, “Only authorized Sheriff’s Department personnel shall access Law Enforcement computer information. Information derived from this source shall only be used within the course of official duties as designated by the Sheriff’s Department.” As the reporting party of a crime, the complainant was run in conjunction with official duties designated by the SDSD and an ongoing criminal investigation. Deputy 3 provided information, via questionnaire and a subsequent interview, during CLERB’s investigation that were considered in arriving at the recommended finding. The evidence showed the alleged act or conduct did occur but was lawful, justified, and proper.

3. Misconduct/Procedure – Deputy 3 exposed the complainant’s “new” address.

**Recommended Finding:** Unfounded

**Rationale:** The complainant stated he was “ran” through the system and it “exposed his new address and whereabouts to the dirtbag detectives that are intent on ruining him and ultimately erasing him”. SDSD records showed a CLETS query was conducted on 08-11-21 as the reporting party of a break and enter. According to SDSD P&P 6.24 Law Enforcement Data base and Criminal Record Dissemination, “The Sheriff’s Records & ID Division shall disseminate criminal offender record information to any authorized person/agency upon the verification of a “right to know” and a “need to know.”” Additionally, SDSD P&P 2.37 entitled Dissemination of Information, states, “Employees shall treat the official business of this Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established Departmental procedures. Employees may remove or copy official records or reports from any law enforcement installation only in accordance with established Departmental procedures. Employees shall not divulge the identity of persons giving confidential information, except to their supervisors.” The evidence showed the complainant’s new address was not exposed due to the CLETS query. Furthermore, Deputy 3 provided information, via questionnaire and a subsequent interview, during CLERB’s investigation that were considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Deputy 3 failed to activate his Body Worn Camera (BWC).

**Recommended Finding:** Sustained



Rationale: Through the course of CLERB's investigation, it was discovered Deputy 3 did not activate his BWC while taking a statement from Chris Rau in regard to an investigation of a PC-459 Burglary. As per SDSD P&P 6.131 Body Worn Camera, "It is the intent of the Sheriff's Department to record all law enforcement related contacts, and other contacts deemed appropriate". Furthermore, SDSD P&P 6.131 defines law enforcement related contacts to include but are not limited to the following: traffic stops, field interviews, vehicle tows, issuing of citations, issuing of parking tickets, detentions, arrests, persons present at radio calls who are accused of crimes, serving court orders or civil papers, investigative interviews, deputy initiated consensual encounters and private person-initiated contacts of a confrontational nature. Furthermore, 6.131 states, "Deputies/CSO's shall record all victim, witness, and suspect interviews on their BWC's and use the recordings to assist them with report writing." Deputy 3 provided information during the course of CLERB's investigation, via written questionnaire and a subsequent interview, that was considered in arriving at the recommended finding. The evidence supports the allegation, and the act or conduct was not justified.

5. Misconduct/Procedure – Deputy 2 failed to take a vandalism report on/around 08-23-21.

Recommended Finding: Action Justified

Rationale: The complainant stated, "he briefly surveyed the damage to my car and was quick to determine the damage was caused by rock chips usually caused by cars that frequent the freeway. I explained to him that I had just washed my car the day prior, and there was no damage to the car, and that the car does not drive on the freeway much and if any at all." As per SDSD P&P Section 6.71 entitled "Crime Case Reports," states a Crime/Incident Report shall be completed for the following Uniform Crime Reporting: Part 2 Crimes: All other reported misdemeanor crimes. Based on the CAD notes and BWC footage, there was no clear damage and/or "vandalism" on the vehicle that substantiated for a report to be written. Additionally, statements were provided by two independent witnesses who expressed the damage was done by rock chips. The evidence showed the alleged act did occur, but was lawful, justified, and proper.

6. Misconduct/Procedure- Deputy 2 activated his Body Worn Camera (BWC).

Recommended Finding: Action Justified

Rationale: The complainant stated, "upon arriving he activated his body worn camera to record the reporting of vandalism." As per SDSD P&P 6.131 Body Worn Cameras, "When responding to a call for service, a deputy/CSO shall activate their BWC in record mode prior to arriving on scene or upon arrival and prior to exiting their patrol vehicle." The activation of Deputy 2's BWC was within policy and warranted under "law enforcement related contacts". The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

7. Misconduct/Discourtesy – Deputy 2 "insulted the complainant's integrity".

Recommended Finding: Unfounded

Rationale. The complainant stated, "With that, he insulted my integrity again, briefly looking over the damage and saying that the damaged look to be from rocks falling on my car and therefore he would not be writing a report about the vandalism at all." SDSD P&P Section 2.22 entitled Courtesy, states "Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation." BWC video footage showed Deputy 2 spoke to Rau respectfully and courteously throughout the entire interaction. The evidence showed that the alleged act or conduct did not occur.

8. Misconduct/Truthfulness – Deputy 1 denied the complainant's information was run through SDSD databases.

Recommended Finding: Action Justified

Rationale: The complainant stated, "clearly the SDCSO ran me as the RP of the thrift store incident (which Deputy 1 vehemently denies and refuses to investigate my claims UNTIL there is a report made about my car". As per SDSD P&P section 2.46 entitled, Truthfulness, "When asked by the Sheriff, the Sheriff's designee or any supervisor, employees will always answer questions, whether orally or in writing, truthfully and to the fullest extent of their knowledge." Deputy 1 provided confidential information during CLERB's investigation

that was considered in arriving at the recommended finding. The evidence showed that the alleged act did occur but was lawful, justified and proper.

9. Misconduct/Procedure - Deputy 1 refused to investigate the complainant's claim(s).

Recommended Finding: Action Justified

Rationale: The complainant stated, "clearly the SDCSO ran me as the RP of the thrift store incident (which Deputy 1 vehemently denies and refuses to investigate my claims UNTIL there is a report made about my car". SDSD P&P Section 6.71 entitled "Crime Case Reports," states a Crime/Incident Report shall be completed for the following Uniform Crime Reporting: Part 2 Crimes: All other reported misdemeanor crimes. The initial evaluation by Deputy 2 via CAD notes stated "damage caused by driving. Very small dings in various locations" which did not warrant a report. Statements were provided by various witnesses throughout the course of the investigation and all witnesses indicated the damage was from "rock chips" and not vandalism. The evidence showed the act did occur, but was justified, lawful, and proper.

10. Criminal Conduct – Members of the Ventura County Sheriff's Department and/or District Attorney's Office committed criminal acts.

Recommended Finding: Summary Dismissal

Rationale: The complainant made various allegations about members of the Ventura County Sheriff's Department and the Ventura County District Attorney's Office. Per CLERB rules and regulations 4.1 Complaints: Authority. Pursuant to the Ordinance, CLERB shall have authority to receive, review, investigate, and report on Complaints filed against peace officers or custodial officers employed by the County of San Diego in the Sheriff's Department. CLERB has no jurisdiction over Ventura County Sheriff's Department and/or the Ventura County District Attorney's Office and, as such, was unable to investigate these claims. The Review Board lacks jurisdiction.

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## **21-128**

1. Misconduct/Procedure – "P. Liuchan" told the complainant he must leave the park.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that while he was at West Side Park in Escondido, a "deputy" approached him, told him to leave the premises and asked him to sit on the curb until the Escondido Police Department arrived on scene. San Diego Sheriff's Department (SDSD) did not have any record of the alleged incident, nor was there a deputy by the name "P. Liuchan" employed by SDSD. CLERB attempted to refer this complaint to the proper agency, but Escondido Police Department Internal Affairs was also unable to verify any association with the reported incident. CLERB was unable to identify the law enforcement agency involved in the alleged incident. Pursuant to CLERB Rules and Regulations, Section 4.1 Complaints: Authority, CLERB has authority to investigate complaints filed against peace/custodial officers employed by the San Diego Sheriff's Department, therefore CLERB lacks jurisdiction and is unable to continue the investigation.

2. False Arrest - Escondido Police Department arrested the complainant.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that the Escondido Police Department arrived at the park, arrested him and took him to the Escondido Jail. CLERB attempted to refer this complaint to the proper agency, but Escondido Police Department was unable to verify any association with the reported incident. CLERB was unable to identify the law enforcement agency involved in the alleged incident. Pursuant to CLERB Rules and Regulations, Section 4.1 Complaints: Authority, CLERB has authority to investigate complaints filed against peace/custodial officers employed by the San Diego Sheriff's Department, therefore CLERB lacks jurisdiction and is unable to continue the investigation.

## 22-003

1. Criminal Conduct - Deputy 1 posted (confidential) SDSA information to social media account(s).

Recommended Finding: Summary Dismissal.

Rationale: The complainant stated, "On 11-16-21, Deputy 1 posted to his personal Snapchat account security footage of him assaulting incarcerated individuals with captions that glorified the violence displayed in the videos. This was the second time he posted something of this nature. The first time was in April 2021. I have attached the November video to this letter for reference." The complainant also stated, "Both videos are no doubt violations of jail policy, as well as violations of state laws and regulations. Incarcerated individuals are entitled to privacy, and security footage may not generally be posted to social media for the general public." At the time of the complaint, Deputy 1 was an active employee of the San Diego Sheriff's Department. However, on 02-25-22, CLERB was notified, via email correspondence by the Division of Inspection Services that Deputy 1 resigned on 02-28-22. Pursuant to CLERB Rules and Regulations, Section 4.1 Complaints: Authority, stipulates that CLERB only has authority to investigate complaints filed against peace/custodial officers employed by the San Diego Sheriff's Department, therefore the Review Board lacks jurisdiction and is unable to continue the investigation. As per CLERB's Rules and Regulations Section 5.8 Termination, Resignation or Retirement of Subject Officer, "CLERB shall have the discretion to continue or terminate an investigation, if, after a Complaint is filed and before CLERB completes its investigation, the Subject Officer terminates employment with the Sheriff's Department or the Probation Department. The Sheriff or the Chief Probation Officer or the Subject Officer shall notify CLERB when the Subject Officer's employment is terminated." The Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 1 posted captions that "glorified" violence.

Recommended Finding: Summary Dismissal.

Rationale: The complainant stated, "On November 16, 2021, Deputy 1 posted to his personal Snapchat account security footage of him assaulting incarcerated individuals with captions that glorified the violence displayed in the videos." **See Rationale 1.**

3. Excessive Force - Deputy 1 displayed aggressive behavior toward inmates.

Recommended Finding: Summary Dismissal.

Rationale: The complainant stated, "Deputy 1's postings are aggressive displays of violence that should not be tolerated by any peace officer. They reflect troublingly aggressive behavior and a tendency to use excessive force toward incarcerated individuals." **See Rationale 1.**

4. Misconduct/Procedure - Deputy 1 used "poor judgement and disrespected humanity".

Recommended Finding: Summary Dismissal.

Rationale: The complainant stated, "At the very least, these videos reflect an officer's poor judgment and disrespect for humanity." **See Rationale 1.**

5. Misconduct/Procedure - Unidentified deputies consented/approved of Deputy 1's actions and/or failed to prevent his misconduct.

Recommended Finding: Summary Dismissal.

Rationale: The complainant stated, the video postings "raises serious questions about whether Deputy 1's superiors consented or approved of his actions, and why they failed to prevent his misconduct." **See Rationale 1.**

6. Misconduct/Procedure – Deputy 1 posted confidential personnel information to his snapchat account on 01-26-22.

Recommended Finding: Summary Dismissal.

Rationale: On 02-02-22, the complainant submitted supplemental information and additional allegations to CLERB. The complainant submitted “(1) a text message thread between Deputy 1 and a co-worker discussing this personnel complaint; and (2) email correspondence between Deputy 1 and a Sergeant regarding this personnel complaint. Both of these communications were posted by Deputy 1 to his personal Snapchat account on January 26, 2022.” **See Rationale 1.**

7. Misconduct/Procedure – Deputy 1 demonstrated lack of judgement and professionalism.

Recommended Finding: Summary Dismissal.

Rationale: On 02-02-22, the complainant submitted supplemental information and additional allegations to CLERB. The complainant submitted “(1) a text message thread between Deputy 1 and a co-worker discussing this personnel complaint; and (2) email correspondence between Deputy 1 and a Sergeant regarding this personnel complaint. Both of these communications were posted by Deputy 1 to his personal Snapchat account on January 26, 2022.” The complainant stated, “These posts demonstrate a startling lack of sound judgment and professionalism.” **See Rationale 1.**

8. Misconduct/Procedure - Deputy 2 (commented on) “discussed a personnel matter.”

Recommended Finding: Summary Dismissal.

Rationale: On 02-02-22 the complainant submitted supplemental information and additional allegations to CLERB. The complainant submitted “(1) a text message thread between Deputy 1 and a co-worker discussing this personnel complaint; and (2) email correspondence between Deputy 1 and a Sergeant regarding this personnel complaint. Both of these communications were posted by Deputy 1 to his personal Snapchat account on 01-26-22.” The complainant stated, “Importantly, they may also implicate others in the San Diego County Sheriff’s Department, as well as a systemic failure to train, discipline, and supervise correctional officers. We ask that you fully investigate this new information, including the Department leadership and anyone associated with these problematic postings.” At the time of the complaint, Deputy 2 was an active employee of the San Diego Sheriff’s Department. However, on 02-25-22, CLERB was notified, via email correspondence by the Division of Inspection Services that Deputy 2 retired 02-24-22. Pursuant to CLERB Rules and Regulations, Section 4.1 Complaints: Authority, stipulates that CLERB only has authority to investigate complaints filed against peace/custodial officers employed by the San Diego Sheriff’s Department, therefore the Review Board lacks jurisdiction and is unable to continue the investigation. As per CLERB’s Rules and Regulations Section 5.8 Termination, Resignation or Retirement of Subject Officer, “CLERB shall have the discretion to continue or terminate an investigation, if, after a Complaint is filed and before CLERB completes its investigation, the Subject Officer terminates employment with the Sheriff’s Department or the Probation Department. The Sheriff or the Chief Probation Officer or the Subject Officer shall notify CLERB when the Subject Officer’s employment is terminated.” The Review Board lacks jurisdiction.

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***End of Report***