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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 November 28, 2023, meeting held in person. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at [www.sdcounty.ca.gov/clerb](http://www.sdcounty.ca.gov/clerb).

### CLOSED SESSION

#### a) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

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

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

### CASES FOR SUMMARY HEARING (12)

#### ALLEGATIONS, BOARD FINDINGS & RATIONALES

##### 22-012/TALAVERA

1. Discharge of a Firearm – Deputy David Lovejoy shot at Erik Jaracuarro Talavera on 02-16-22.

Board Finding: Not Sustained

Rationale: This case was reviewed in accordance with CLERB Rules & Regulations 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. Deputies Lovejoy and Young responded to a request for assistance from members of the San Diego County's Regional Auto Theft Task Force (RATT). RATT detectives had tracked a stolen "bait trailer" (a trailer equipped with a Global Positioning System) in the City of El Cajon, where they observed the stolen trailer being towed by Erik Jaracuarro Talavera. Deputy Lovejoy initiated a traffic stop and Deputy Young arrived shortly thereafter. With their department issued duty weapons drawn, the deputies instructed Talavera to get on the ground. Talavera refused to comply and told the deputies, "Just shoot me!" Talavera reached into his waistband and produced an unknown black metallic object. Deputy Lovejoy stated he was faced with what he reasonably believed to be an imminent threat of serious bodily injury or death. Deputy Lovejoy fired ten rounds at Talavera. Talavera was struck numerous times, fell to the ground, and dropped the black metallic object.

Deputy Lovejoy's body worn camera (BWC) view of the situation was obscured by his patrol vehicle. A review of Deputy Young's BWC footage revealed that Talavera's back was to the deputies and he appeared to be bending towards the ground with his left hand either in contact with the ground or just above it when Lovejoy started firing his first 10 rounds. While it is possible that Deputy Lovejoy perceived an imminent

threat of serious bodily injury or death not visualized on Deputy Young's BWC footage, a review of that video tends to indicate that Deputy Lovejoy's reactionary trigger pull and subsequent discharge of firearm occurred when Talavera's back was to the deputies and he was bending towards the ground. Deputy Lovejoy provided confidential information during CLERB's investigation that was considered in arriving at the finding. Deputy Lovejoy's recollection of events can also be accurate, taking into consideration his perception of those events while under stress. Regardless, a review of the BWC video alone paints the picture that Talavera was in the process of complying with deputy commands to get on the ground and his back was to them when Deputy Lovejoy started firing his initial 10 rounds. Taking into consideration the effects of stress on recollection and interpretation of events as viewed on Deputy Young's BWC, there was insufficient evidence to justify Deputy Lovejoy's firearm discharge of the initial 10 rounds.

2. Discharge of a Firearm – Deputy Lovejoy shot at Erik Jaracuarro Talavera on 02-16-22.

Board Finding: Action Justified

Rationale: For background, see Rationale #1. Moments after being shot by Deputies Lovejoy and/or Young, while lying on the ground with obvious gunshot wounds, Talavera made a furtive movement toward an unknown black metallic object he had dropped when shot and attempted to grab it. Deputies Lovejoy and Young instructed Talavera not to reach for the object, but he reached for it, grabbed it, and tucked it under his body, prompting Deputy Lovejoy to fire two additional rounds at Talavera. Deputy Lovejoy provided confidential information during CLERB's investigation that was considered in arriving at the finding. The use of deadly force was deemed justified under SDDS policy due to the perceived imminent risk of serious bodily injury or death. The evidence supported Deputy Lovejoy's discharge of the two additional rounds discussed in this rationale and shows that the alleged act or conduct did occur but was lawful, justified, and proper.

3. Discharge of a Firearm – Deputy Jonathan Young shot at Erik Jaracuarro Talavera on 02-16-22.

Board Finding: Action Justified

Rationale: This case was reviewed in accordance with CLERB Rules & Regulations 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. See Rationale #1. With their department issued duty weapons drawn, the deputies instructed Talavera to get on the ground. Talavera refused to comply and told the deputies, "Just shoot me!" Talavera reached into his waistband and produced an unknown black metallic object. Deputy Young was faced with what he reasonably perceived to be an imminent threat of serious bodily injury or death. Deputy Young fired five rounds at Talavera. Talavera was struck numerous times, fell to the ground, and dropped the black metallic object. Deputy Young provided confidential information during the course of CLERB's investigation that was considered in arriving at the finding. The use of deadly force was deemed justified under SDDS policy due to the perceived imminent risk of serious bodily injury or death. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

4. Improper Discharge of Firearm - Deputies Lovejoy or Young shot the complainant, an on-duty police officer.

Board Finding: Not Sustained

Rationale: On 03-06-23, the complainant contacted CLERB and submitted a signed complaint related to this incident. In his written complaint to CLERB, the complainant stated, "*I was also shot by a San Diego County Sheriff. I ask that you open an investigation into that shooting in conjunction with the ongoing investigation. They discharged their weapons multiple times, striking me in the leg. I sustained a serious injury to my leg which has required many doctor's appointments and months of physical therapy.*" The complainant alleged "reckless endangerment" when Deputies Lovejoy and Young fired their weapons. This investigation outlined a case of friendly fire where an undercover police officer was injured by a stray bullet during a deputy-involved shooting. The complainant got caught in the crossfire during the special operation. The complainant was positioned down-range of the shooting, approximately 44 feet from the suspect when Deputies Lovejoy and Young discharged their firearms. This investigation highlighted that the communication between the undercover detectives and the assisting uniformed deputies was disjointed and complicated, as they had to rely on cell phones and relayed messages through multiple channels. The complainant alleged procedural misconduct regarding the deputies' training and proficiency standards in the use of force. In summary, this

investigation indicated that “friendly fire” was responsible for the complainant's injuries, given the alleged lack of proper communication and concerns about their lack of situational awareness. Deputies Lovejoy and Young provided confidential information during CLERB’s investigation that was considered in arriving at the finding. Due to the injury the complainant sustained, he reported that he was not able to work for four months and has endured pain, discomfort, anxiety and fear since this incident. It's crucial to evaluate such incidents to minimize risks to innocent bystanders. The incidental, grave harm that the complainant sustained during the incident was unintentional and the actions executed by Deputies Lovejoy or Young were neither a violation of policy nor were they a crime. Nonetheless, deputies are liable for the severity of the incident and its outcome. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure - Deputies 1 and 2 failed to give verbal warnings prior to firing their weapons.

Board Finding: Unfounded

Rationale: In the complainant’s written statement to CLERB, he reported, “*The deputies [Deputies 1 and 2] gave no warning they would shoot.*” In his written complaint to CLERB, the complainant alleged that Deputies 1 and 2 did not give a verbal warning before they opened fire. Contrary to his written statement, in the complainant’s recorded audio statement with El Cajon Police Department investigators, the complainant informs his interviewer, “*The deputies immediately started a hot stop. They were head-on with the vehicle. They were giving him commands. I heard super loud commands. Sheriff’s Department... I don’t remember what they said, but to get on the ground, hands up, things like that.*” Additionally, and contradictory to his statement, in the complainant’s statement to the Deputy District Attorney, he complainant reported, “*Deputies yelled commands at the driver to get down on the ground and show his hands.*” In both Deputy 1’s and 2’s BWC recordings, both deputies were observed to give Talavera verbal commands prior to firing their duty weapons. SDDS P&P Section Addendum F mandate that when using deadly force, a deputy shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the deputy has objectively reasonable grounds to believe the person is aware of those facts. By announcing their presence, by being in uniform, and by showing their weaponry, both Deputies 1 and 2 acted within this policy. Deputies 1 and 2 provided confidential information during the course of CLERB’s investigation that was considered in arriving at the finding. The evidence showed Deputies 1 and 2 gave verbal warnings prior to firing their weapons and the allegation as stated did not occur.

6. Misconduct/Procedure – Deputy 1 failed to continually activate his BWC.

Board Finding: Action Justified

Rationale: During this investigation and in review of Deputy 1’s BWC recordings, it was noted that the recording of his video was interrupted. Initially, while en route to the scene, Deputy 1 activated his BWC and recorded for approximately two minutes while he made his way to the scene; however, prior to his arrival on scene, his BWC stopped recording. In review of Deputy 1’s second BWC recording, it was not until he was positioned for the hot stop, that Deputy 1 turned his BWC back on. Deputy 1’s BWC second recording began after he had already arrived on scene, initiated the law enforcement contact, had exited his vehicle, as he was standing at the driver side door of his patrol vehicle already pointing his firearm downrange. At that point, the BWC’s view was obstructed by the patrol vehicle's door pillar and spotlight. According to SDDS P&P Section 6.131 titled “Body Worn Camera,” when responding to a call for service, a deputy shall activate their BWC in record mode prior to arriving on scene or upon arrival and prior to exiting their patrol vehicle. In situations where activation was not accomplished prior to arriving on scene, those reasons shall be articulated in writing via case related report, or in CAD. Deputies should also begin recording prior to initiating any law enforcement related contact. Deputies shall activate the BWC to record all law enforcement related contacts. Deputies shall keep their BWC powered on and in stand-by mode, anticipating law enforcement related contacts. If for confidential or personal reasons, deputies feel the need to power-off their BWC momentarily, they need to remember to power-on and reactivate their BWC after their reasoning for powering-off has concluded. The record mode of the camera should be activated prior to actual contact with a citizen (victim/witness/suspect), or as soon as safely possible, and continue recording until the contact is completed. Deputies shall begin recording prior to arriving to an incident if the call has the potential to involve immediate enforcement action upon arrival. Deputy 1 provided confidential information during CLERB’s

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

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## **22-053/ORNELAS (DEATH)**

1. Death Investigation/In Custody Drug Related – David Omar Ornelas, while an inmate at George Bailey Detention Facility, was found unresponsive in his cell on 04-27-22.

### Board Finding: Not Sustained

Rationale: The evidence supported that David Ornelas was properly classified upon his entry into the SDSA jail system after his arrest. The evidence showed the safety checks and counts conducted prior to Ornelas' discovery were conducted in accordance with policy. According to SDSA records, there was no keep separate orders noted between Ornelas and his cellmate. Furthermore, in interviews with Incarcerated Persons (IPs), IPs noted Ornelas and his cellmate had no known issues. SDSA records showed on 04-26-22, Ornelas was transported to Vista Court for court proceedings and returned to GBDF later that night. The evidence showed Ornelas was not body scanned after his court proceeding. In interviews with the Detentions Investigation Unit (DIU), IPs made statements that suggested Ornelas' could have possibly acquired drugs at court. In CLERB Case #21-038/Whitlock, CLERB recommended SDSA update I.50 Body Scanners and X-rays and require body scans to be completed to include inmates transferred between facilities. On 05-04-22, SDSA responded and stated, "DSB personnel do not feel at this time this recommendation can be accommodated. Various operational issues were identified. Chief among them, not all facilities have a body scanner installed for use." According to SDSA DSB P&P I.50 Body Scanners and X-Rays, "as a proactive measure to reduce contraband from entering the detention facilities, body scan use **should be considered** for the following: IPs who are returning to the facility from court." Furthermore, the updated policy dated 09-14-22 states, "Facility Administrative Staff shall keep documentation containing information on how much radiation an individual is being exposed to on the body scan machine being operated." According to Division of Inspectional Services, the Inmate History Summary does not include body scans. In an effort to save lives in custody and reduce drugs from entering jails, CLERB recommends SDSA **require** body scans for IPs transferred to and from court and/or canine dogs for IPs re-entering jails from court. Furthermore, CLERB recommends the logging of body scans and x-rays as a requirement in an IPs inmate history summary. The evidence showed on the morning of 04-27-22, Ornelas and his cellmate were found to be unresponsive in their cell. Upon being of Ornelas being man down, sworn personnel expeditiously responded and immediately initiated life-saving measures. The cause of death was toxic effects of fentanyl and fluorofentanyl, with hemorrhage in anterior neck and conjunctival petechiae, uncertain etiology and the manner of death was undetermined. Toxicology testing of blood specimens detected fentanyl and fluorofentanyl, and a metabolite of fentanyl and norfentanyl. Furthermore, Homicide detectives discovered Pruno (jail made wine) and a white powdery substance with a snorting device at the scene. Per SDSA P&P 4.23 titled Department Committees and Review Boards. The Critical Incident Review Board (CIRB) conducts a review of all in-custody deaths. According to the SDSA website, the releases "are synopses of reviewed incidents and any resultant actions or policy changes intended to improve our operations. In some instances, the information contained in these releases may be fragmentary or incomplete and are subject to update as information is verified or confirmed. The release of information related to a matter involving potential criminal prosecution or civil litigation may delay or limit the amount of information released until the conclusion of the case." The CIRB release for the death of Omar Ornelas stated, "The Medical Examiner's Office determined the cause of death to be the toxic effect of fentanyl and fluorofentanyl, and the manner of death to be undetermined". CLERB contacted SDSA and asked if they would be updating the website. Division of Inspectional Services responded and stated only the primary causes of death are listed in the summary. Although SDSA has implemented numerous measures to deter drugs from entering its detention facilities, there is no doubt that Ornelas while as an incarcerated person in the custody and under the care of the SDSA, either acquired or possessed and subsequently consumed fentanyl, which resulted in his death. According to the SDSA News Release, "Stopping Drug Smuggling in County Jails", dated 04-19-21, the SDSA is active in their attempts to intercept drugs into the facilities. Some efforts being made are the use of body scanners at all intake facilities and GBDF and inmate screening and flagging of potential smugglers. Also, the mail processing center has special equipment for drug detection, drug detection K-9's, and a "no

questions asked” drug drop box. SDSA also provides drug education and awareness in the facilities. Additionally, in accordance with DSB P&P 1.41, Inmate Cell Searches and DSB P&P L.2 Sanitation and Hygiene Inspections, cell searches and inspections were performed to provide a safe and secure environment free of contraband. SDSA documentation showed the last unscheduled cell search prior to the incident was performed 04-10-22. On 01-18-23, CLERB re-submitted a policy recommendation to search or scan all persons entering Detention Facilities. This policy recommendation is pending a response from the department. The investigation failed to definitively determine how the fentanyl contributing to Ornelas’ death entered the detention facility, there was insufficient evidence to either prove or disprove misconduct on the part of SDSA sworn personnel.

2. Misconduct/Procedure – Unidentified SDSA staff failed to keep drugs out of jails.

Board Finding: Sustained

Rationale: Although SDSA has implemented and taken measures to deter drugs from entering their jails, Ornelas acquired of fentanyl and fluorofentanyl which consequently contributed to his death. Despite all interdiction efforts, there is no doubt that Ornelas, while as an incarcerated person in the custody and under the care of the SDSA, acquired and took fentanyl and fluorofentanyl, which contributed to his death. The investigation failed to confirm how the fentanyl and fluorofentanyl entered the detention facility, but it clearly did. The evidence indicated that either sworn SDSA personnel and/or non-sworn SDSA personnel failed to prevent illicit drugs from entering the detention facility and that act or conduct was not justified.

### **POLICY RECOMMENDATIONS:**

In an effort to save lives in custody and reduce drugs from entering jails, CLERB recommends that the SDSA:

1. Require body scans for incarcerated persons (IPs) transferred to and from court and/or canine dog sniffs for IPs re-entering jails from court.
2. Log body scans and x-rays as a requirement in an IPs inmate history summary report.

In an effort to improve transparency and provide complete and accurate information about the circumstances surrounding all in-custody deaths, CLERB recommends that the SDSA:

1. Post Critical Incident Review Board (CIRB) Reviews on the SDSA website within 10 days of the review.
2. Update CIRB Reviews on the SDSA website within five days of obtaining applicable information.
3. Include all contributing causes of death in the CIRB Review posted on the SDSA website.

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### **22-115/GUZMAN, JR.**

1. Criminal Conduct – Unidentified officers/agents groped Guzman Jr.

Board Finding: Summary Dismissal

Rationale: The complainant, Francisco Guzman Jr. contacted CLERB and reported the following: *“I was taken into custody on September 1 when I turned myself in at San Ysidro border crossing. It was around 1PM, and I had the officer who served me the first time, grab my male parts full on, not a proper frisk and sexual assault.”* According to Guzman Jr’s arrest records he was arrested by officers/agents employed with the United States Department of Homeland Security, Customs and Border Protection. The arresting officers/agents were not sworn members of the SDSA and are not under the jurisdiction of CLERB. CLERB cannot take any action in respect to complaint against non-sworn SDSA employees, per CLERB Rules and Regulations 4.1, Authority. This complaint was forwarded to the United States Department of Homeland Security, Customs and Border Protection for follow-up.

2. Misconduct/Medical – Unidentified medical staff denied Guzman Jr. prescription medications.

Board Finding: Summary Dismissal

Rationale: Guzman Jr. advised “*During booking process, I requested my medication and to show medical staff my prescription as I am recovering from hair transplant surgery. I was denied.*” According to Guzman Jr’s intake booking documents, upon is admission into the SDCJ, officers from the arresting agency escorted Guzman Jr into the jail’s intake medical screening where he was seen by jail medical staff. Guzman Jr’s jail medical records were reviewed. Additionally, the SDCJ Medical Services Division Policies and Procedures were reviewed. CLERB does not have authority over the Medical Services Division as Health Services staff members are not sworn staff. CLERB lacks authority as it cannot take any action in respect to complaints against non-sworn SDCJ employees, per CLERB Rules and Regulations 4.1, Authority.

3. Misconduct/Procedure – Unidentified deputies failed to provide Guzman Jr. with Inmate Grievances Forms and/or Medical Request forms.

Board Finding: Not Sustained

Rationale: During his incarceration, Guzman Jr. alleged that unidentified deputies failed to provide him with Inmate Grievances Forms and Inmate Medical Request Forms. Guzman Jr. stated, “*I continually asked deputies for medical request and grievance forms. There were none in the common area.*” Usually, Inmate Request Forms, Grievance Forms, and Inmate Medical Request Forms are stored in the jail housing unit’s common area where incarcerated persons can easily and freely access them. Occasionally, those forms will run out of stock and housing deputies may replenish them as needed. SDCJ DSB P&P Section N.3 titled “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 include who is responsible for refilling forms. In an email from CLERB’s liaison, it was advised that the facility stock clerk or storekeeper stocks the grievances for the deputies or staff to distribute. There was insufficient evidence to either prove or disprove the allegation that deputies failed to provide Guzman Jr. with Inmate Grievances Forms and/or Medical Request forms.

4. Misconduct/Procedure – Deputy 1 refused to accept or sign Guzman Jr.’s Inmate Grievances.

Board Finding: Unfounded

Rationale: Once Guzman Jr. was provided an Inmate Grievance Form, he advised that unidentified deputies either refused to accept and/or sign his forms. Guzman Jr. documented that “[A deputy] *gave me grievance forms, and I filled out two one about water I got signed and turned in and another. Several deputies won’t sign, really nice, but scared to sign. Friday evening around 11 PM to 1 AM. Superior officer came by and begin reading it and stole it without giving me the yellow signed copy.*” One of the Inmate Grievance forms that Guzman Jr. spoke about was found in his medical records file. The grievance was signed and dated by Deputy 1 and was noted as being an Inmate Request, versus a grievance, and so was forwarded to the Medical Services department. According to SDCJ Detention Services Bureau Manual of Policies and Procedures (DSB P&P) Section N.1 titled “Grievance Procedure,” incarcerated person(s) may submit written grievances directly to deputies or other employees at any time. Any deputy or other staff member who is presented with a written grievance will accept it. The deputy or other employee who initially receives a grievance will print their name, ARJIS number, date, and time on the form. A review of Guzman Jr.’s jail booking file did not reveal any other submitted Inmate Grievance Forms, any retained Inmate Request Forms, nor any JIMS Grievance Responses. The evidence revealed that Deputy 1 did process the complainant’s Inmate Grievance form according to SDCJ policy. The evidence showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – Unidentified deputies refused to accept or sign Guzman Jr.’s Inmate Grievances.

Board Finding: Not Sustained

Rationale: Once Guzman Jr. was provided an Inmate Grievance Form, he advised that unidentified deputies either refused to accept and/or sign his forms. Guzman Jr. documented that “[A deputy] *gave me grievance*

forms, and I filled out two one about water I got signed and turned in and another. Several deputies won't sign, really nice, but scared to sign. Friday evening around 11 PM to 1 AM. Superior officer came by and begin reading it and stole it without giving me the yellow signed copy." According to SDDS Detention Services Bureau Manual of Policies and Procedures (DSB P&P) Section N.1 titled "Grievance Procedure," incarcerated person(s) may submit written grievances directly to deputies or other employees at any time. Any deputy or other staff member who is presented with a written grievance will accept it. The deputy or other employee who initially receives a grievance will print their name, ARJIS number, date, and time on the form. A review of Guzman Jr.'s jail booking file did not reveal any other submitted Inmate Grievance Forms, any retained Inmate Request Forms, nor any JIMS Grievance Responses. CLERB was unable to confirm or refute if Inmate Grievance forms were submitted by the complainant and/or not processed accordingly. There was insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Procedure – Unidentified deputies failed to request a supervisor for Guzman Jr.

Board Finding: Not Sustained

Rationale: Guzman Jr. asked unidentified deputies if he could speak with a supervisor. The unidentified deputies did not oblige his request. In a telephonic interview, Guzman Jr. was contacted and was asked if he could specify whom he spoke to, what was the circumstance, and if he could provide a date and time of his interaction. Guzman Jr. was unable to recall any clarifying information. In the jail setting, when an incarcerated person has a non-urgent, non-life-threatening request, they are invited to complete and submit an Inmate Request form. When an incarcerated person request to speak with a certain individual or authority figure, the request is not immediate, it is handled according to policy and procedures. SDDS DSB P&P, Section N.3, establishes that any non-urgent requests, incarcerated persons are directed to submit their request in writing, via an Inmate Request form. That way, their requests are processed in an efficient and expeditious manner. Housing deputies may provide final disposition of various requests, elevating situations from escalating and provide a final disposition. Without additional information, there was insufficient information to either prove or disprove the allegation that unidentified deputies refused to allow Guzman Jr. to address a supervisor.

7. Misconduct/Procedure – Unidentified deputies denied Guzman Jr. clothing exchange.

Board Finding: Unfounded

Rationale: During his incarceration Guzman Jr. reported that unidentified deputies denied him clothing exchange. He explained that he was, "*Denied proper clothing hygiene. Was only given one set of clothes. I was only given a blue shirt and a blue pair of pants and left there, freezing, I finally got some socks and a white undershirt around 9 AM.*" According to SDDS DSB P&P Section L.1 titled "Laundry Schedule," during the intake process, incarcerated persons are provided one shirt, one pants, one set of footwear, two underwear, two pairs of socks, and two white t-shirts. Garments shall be exchanged once a week. A log entry will be made to record each exchange. According to jail documents, laundry exchange was performed in accordance with policy on 09-01-22, 09-08-22, and 09-15-22. Guzman Jr. was offered clothing exchange on three occasions during his brief incarceration. There were no notations indicating that the complainant missed clothing exchange or that he was denied clothing exchange. The evidence indicated that the complainant was offered laundry exchange during his incarceration. The evidence showed that the alleged act or conduct did not occur.

8. Misconduct/Intimidation – Unidentified deputies "intimidated" Guzman Jr.

Board Finding: Not Sustained

Rationale: Guzman Jr. reported that unidentified deputies intimidated him. One example that the complainant provided in his written statement was, "*During my call "Shaggy" went man down. I was sent to my cell. Thomas Paul was man down by the door. Deputy told me to get on my cot then I was order down and pulled out of my pulled out by my arm with form firm grasp. Unnecessary but not a big deal. The deputy showed zero compassion and zero humanity you.*" Guzman Jr. did not provide any names or context for the allegation. In a recent telephonic interview with Guzman Jr., he advised that he was unable to specify the date of occurrence or provide a timeframe; he served his 15-day incarceration approximately one year ago

and was unsure of any details. The jail modules are equipped with jail surveillance and 24-hour recordings were available; however, without additional information and specific dates or timeframes, CLERB was unable to determine the associated departmental evidence and Guzman Jr. did not produce any evidence to support this allegation. A review of Guzman Jr.'s numerous jail documents did not reveal any additional information that a sworn staff member treated Guzman Jr. unjustly or acted in retaliation. Absent information provided by an independent witness to the incident or additional video or audio recordings of any interactions between sworn staff and Guzman Jr., there was insufficient evidence to prove or disprove the allegation that deputies intimidated Guzman Jr.

9. Misconduct/Procedure – Unidentified deputies denied Guzman Jr. “sanitary living conditions.”

Board Finding: Not Sustained

Rationale: Guzman Jr. reported “*Denied sanitary living. I was then transferred to San Diego Central jail. I was then moved around until the next day and assigned to cell 4-C-11. Upon arrival, I requested a different cell due to the smell and unclean condition. I was denied. The cell had lots of flies, crap on the floor, walls, ceiling with paper. By day two in that cell, I began to get sick with throat infection from breathing in ammonia from urine, smell, and feces. After being denied medical, cleaning supplies minus one rag and a few ounces of cleaner/water mix from hounding. I began having mental issues. I was then brought to holding cell one and argued saying I didn’t want to stay in the cell because I was literally dry heaving. The smell was so bad.*” A review of all jail documents did not reveal any submitted complaints by Guzman Jr. that expressed any concerns or complaints about the cleanliness of any of the jail cells he was assigned to. Incarcerated persons are encouraged to clean their assigned cells. Cleaning of the individual cells is the responsibility of the incarcerated person. Incarcerated persons are given cleaning supplies when they are out for dayroom time, and they need only as ask the floor/housing deputies for access to cleaning supplies. The purpose of SDDS DSB P&P Section L.2 titled “Sanitation and Hygiene Inspections” is to ensure the facility will be kept clean and sanitary. Each facility has scheduled weekly hygiene inspections which is conducted by designated staff members. There was insufficient evidence to either prove or disprove the allegation that unidentified deputies placed Guzman into an unsanitary jail cell.

10. Misconduct/Procedure – Unidentified deputies did not produce Guzman Jr. for court proceedings.

Board Finding: Action Justified

Rationale: In his written letter to CLERB, Guzman Jr. alleged that unidentified deputies did not allow him to participate in his court proceedings. Guzman Jr. stated, “*I was asking to be taken to court all morning and deny due process by not taking been taken, forcing me to be held over the weekend with no bond in this literal hell on earth.*” In review of Guzman Jr.’s court documents, Guzman Jr. was present in court on 09-07-22. Per medical records, later that day, on 09-07-22, Guzman Jr. was escorted to medical so that he could be monitored after his two cellmates experienced possible drug overdoses. Guzman Jr was placed in medical isolation for monitoring. As such, he missed his court appearance on 09-08-22. A Medical Court Report was submitted to the courts that noted that Guzman Jr. had a medical condition that prevented him from appearing in court, as he was in “respiratory isolation.” Court documents dated 09-08-22 illustrated that Guzman Jr. was “not produced” in court due to “medical.” The court found good cause to continue and requested a medical update. Guzman Jr.’s court documents indicated that he continued court on 09-12-22. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

11. Misconduct/Harassment – Unidentified deputies “stripped searched” Guzman Jr.

Board Finding: Action Justified

Rationale: When Guzman Jr. was searched he described the incident as, “*This was most embarrassing moment of my life and very demeaning. Super unethical to be strip searched in front of a crowd and I consider it sexual harassment. I was strip searched in a demeaning way in front of more staff than normal. I was ordered to strip search in front of several deputies and the medical examiner.*” In a telephonic interview with Guzman Jr., he explained that after both of his cellmates experienced a medical emergency (suspected drug overdoses), he was escorted out of the module and was stripped searched. Guzman Jr. explained that approximately six deputies were present for his strip search. He felt the number of deputies that were present



during his strip search was excessive. As per SDSD Detention Services Bureau (DSB) Policy & Procedures Section I.52 titled "Strip and Pat Down Searches of Incarcerated Persons," incarcerated persons may be strip searched any time there is reasonable suspicion to believe they may be concealing contraband or weapons. The SDSD has made an active and diligent attempt in upholding their commitment to reduce illegal drugs from entering the jails. As per recent Media News releases, there are several deterrents in place to prevent drugs from entering the jails, as well as methods to intercept and prevent drugs in the jail population. Additionally, it would be reasonable and usual practice for deputies to strip search incarcerated persons if illicit drugs were found or suspected in a module and/or after an overdose event. Because strip searches are a routine and occur frequently, CLERB was unable to discover any documentation confirming Guzman Jr. underwent a strip search on the date of the alleged event and/or the number of persons present for the search. Nonetheless, there was reasonable suspicion that there was a presence of unauthorized drugs within the module Guzman was housed in. When there is a search of the module, certain procedures are performed and followed, including a search of all incarcerated persons. If there are inarticulable issues that lead deputies to expand their search, it is within the scope of their duties to do so. Strip searches procedures are used to provide for a safe and secure environment within the detention facility. The evidence showed that the alleged act likely occurred, and it was lawful, justified, and proper.

12. Criminal Conduct – Unidentified deputies "stole" from Guzman Jr.

Board Finding: Unfounded

Rationale: Guzman Jr. alleged that unidentified deputies "stole" documents and food from him. Guzman Jr. explained, he "*Had paperwork evidence, stolen by staff. Upon returning to my pod that afternoon, my food was gone, as well as my court documents from the public defenders office. A day or two before my release September 13 I was transferred to South Bay a proper facility, and all of my records of events evidence was never sent with me, including accurate date, times, names and better descriptions, envelope, full of files, one with loss transplants, and also my intellectual property of the music I had written. It is extremely criminal and disgraceful what's going on there and you guys should please clean house literally and that includes lots of staff.*" According to jail documents, it was noted that Guzman Jr. was moved from one facility to another on 09-14-22. According to the Incident Report, Guzman Jr. was to "be transferred to VDF with his module property." Prior to his transfer to the VDF, Guzman Jr. was released from custody. When an incarcerated person is moved from one housing unit to another, or from one facility to another, usual practice is to allow the incarcerated person to pack their own items. The incarcerated person is provided a paper bag(s), where they place their person and module property. The bag is closed and the incarcerated person's name and booking number is noted on the outside of the paper bag and is transported with the incarcerated person. As per SDSD DSB P&P Section Q.63 titled "Lost Incarcerated Person Money or Property", states "whenever an incarcerated person claims to be missing personal property (including money or other valuables) or module property (such as commissary or hygiene products), the watch commander shall be notified. If the claim regarding personal property is not immediately resolved, a crime report shall be completed. The grievance process should be followed for claims of missing module property (to include commissary and hygiene products)." A review of jail documents did not reveal any documentation or notations that Guzman Jr. grieved any lost or misplaced property to staff; however, only one day had lapsed from the date of incident until he was released from custody. During a telephonic interview with Guzman Jr., he was unable to provide any additional information. In review of Guzman Jr.'s jail booking file, there were no Claims for Lost or Damaged Personal Property (RM-122) forms noted. The evidence showed that the alleged act or conduct did not occur.

13. Misconduct/Procedure – Unidentified deputies did not allow Guzman Jr. to shower.

Board Finding: Unfounded

Rationale: Guzman Jr. alleged that unidentified deputies did not allow him to shower. He stated that he "*went [the] first day without being able to shower or brush. I was left in the cell 23 hours a day and only let out enough to take a shower three times the first week, due to restricted movement.*" During usual jail operations, incarcerated persons are allowed to shower during their dayroom time. During "dayroom time," incarcerated persons are allowed to watch television, socialize, use the phones, and/or take a shower. According to jail

documents, Guzman Jr. was afforded numerous opportunities to shower during his incarceration. The evidence showed that the alleged act did not occur.

14. Misconduct/Medical – Jail medical staff failed to follow procedures.

Board Finding: Summary Dismissal

Rationale: Guzman Jr. alleged that jail medical staff failed to follow proper procedures stating that “*loose medical procedures were inmates aren’t monitor taking meds and blatant dealing and use in front of other staff not a good environment for people who should be recovering.*” According to SDSA Medical Services Division P&P, medication distribution is handled by jail medical staff. The allegations against the Medical/Health Services staff are summarily dismissed, as CLERB does not have any jurisdiction against the Medical Services Division. Health Services staff members are not sworn staff. CLERB lacks jurisdiction as it cannot take any action in respect to complaint against non-sworn SDSA employees, per CLERB Rules and Regulations 4.1., Authority.

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## **22-126/WRIGHT**

1. Misconduct/Procedure – Probation Officer 1 (PO 1) disclosed Wright’s medical and personal information.

Board Finding: Not Sustained

Rationale: The complainant, Willaim Wright, alleged that (PO 1) disclosed Wright’s personal health information. Beginning in January 2022, CLERB began communicating with County Counsel and the Probation Department regarding accessing adult probation records. In March 2022, it was determined a court order would be required to have access to confidential and non-confidential adult probation records. Unfortunately, after a significant amount of time, a court order remains unsigned. As such, documents are unable to be received from the Probation Department related to this case, or any other case related to adult probation records. At this time, the evidence needed is unavailable for review. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Unidentified San Diego County Probation Department (Probation) staff “prohibited” Wright from getting a job.

Board Finding: Not Sustained

Rationale: Wright alleged that he is not allowed to get a job while on Probation. See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Unidentified Probation staff did not advise Wright of who his assigned probation officer was.

Board Finding: Not Sustained

Rationale: Wright alleged, “No one ever told me (PO 1) was my probation officer...” See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Retaliation – PO 1 “cancelled” Wright’s medical appointment.

Board Finding: Not Sustained

Rationale: Wright alleged, “(PO 1) also had one of my doctor appointments cancelled because I hadn’t met with her...” See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

5. False Arrest – PO 1 “arrested” Wright when he was not on Probation.

Board Finding: Not Sustained

Rationale: Wright alleged he was arrested by PO 1 in January 2022, but was not on Probation until April 2022. See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

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## **22-128/RAMIREZ**

1. False Reporting – Probation Officer 1 (PO 1) reported a positive test result for Ramirez.

**Board Finding:** Not Sustained

**Rationale:** The complainant, Corey Ramirez, alleged that at a 10-13-22 Probation meeting PO 1 told Ramirez his last urine analysis test was positive for “codeine.” Ramirez denied taking “codeine.” Probation P&P Section 404, Offender Drug Testing, set forth drug testing guidelines and practices. Subsection 404.6.1, Violation of Testing Conditions, stated, “The following are all considered positive drug/alcohol tests and shall be addressed by the probation officer and documented in the Probation Case Management System (PCMS): a positive test result confirmed by the lab, failure to produce a sample, failure to appear for testing, tampering with the specimen, using an apparatus/device to defeat the testing process, or submitting a diluted specimen.” Beginning in January 2022, CLERB began communicating with County Counsel and the Probation Department regarding accessing adult probation records. In March 2022, it was determined a court order would be required to have access to confidential and non-confidential adult probation records. Unfortunately, after a significant amount of time, a court order remains unsigned. As such, documents are unable to be received from the Probation Department related to this case, or any other case related to adult probation records. At this time, the evidence needed is unavailable for review. There was insufficient evidence to either prove or disprove the allegation.

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## **22-141/HOLIDAY**

1. Illegal Search & Seizure – Probation Officer 1 (PO 1) and/or other unidentified POs searched Gerard Holiday’s home.

**Board Finding:** Not Sustained

**Rationale:** The complaint, Desiree Holiday, alleged PO 1 and other unidentified probation officers arrived at Gerard Holiday’s (the aggrieved) residence and conducted an “illegal search and seizure” of an area that did not belong to the aggrieved. Beginning in January 2022, CLERB began communicating with County Counsel and the Probation Department regarding accessing adult probation records. In March 2022, it was determined a court order would be required to have access to confidential and non-confidential adult probation records. Unfortunately, after a significant amount of time, a court order remains unsigned. As such, documents are unable to be received from the Probation Department related to this case, or any other case related to adult probation records. At this time, the evidence needed is unavailable for review. There was insufficient evidence to either prove or disprove the allegation.

2. False Arrest – PO 1 arrested the aggrieved.

**Board Finding:** Not Sustained

**Rationale:** The complainant alleged that due to the “illegal search and seizure,” the aggrieved was arrested. See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

3. Discrimination/Racial – PO 1 stated, “I don’t believe in Black Lives Matter,” or words to that effect.

**Board Finding:** Not Sustained

**Rationale:** The complainant alleged that PO 1 has discriminated against the aggrieved, and that PO 1 has stated to the aggrieved, “I don’t believe in Black Lives Matter.” See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Retaliation – PO 1’s treatment of the aggrieved is “retaliatory” due to complaints submitted him.

Board Finding: Not Sustained

Rationale: The complainant alleged this incident, as well as prior treatment of the aggrieved, is “retaliatory” due to complaints being submitted against PO 1. See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

5. Criminal Conduct – PO 1 “stole” an item from the aggrieved.

Board Finding: Not Sustained

Rationale: The complainant alleged that, during the aforementioned search of the home, PO 1 “stole” an item in the home. See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Procedure – PO 1 did not follow the Judge’s sentencing recommendations.

Board Finding: Not Sustained

Rationale: The complainant alleged PO 1 did not follow the Judge’s sentencing recommendations and that the aggrieved spent “more time in custody.” See allegation #1. There was insufficient evidence to either prove or disprove the allegation.

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### **23-014/RAMIREZ**

1. Misconduct/Procedure – Deputies 1 and 2 strip searched Miguel Angel Ramirez.

Board Finding: Action Justified

Rationale: During a telephonic interview with CLERB, Ramirez reported that on 01-04-23, he was subjected to a “cavity” strip search. Ramirez reported that on 01-04-23 a strip search was performed on him while incarcerated at the San Diego Central Jail (SDCJ). In an Inmate Grievance form, Ramirez reported that he “*was single out by staff and separated for a cavity search and multiple x-rays*” were performed on him. Ramirez claimed that his “*civil rights were violated.*” Ramirez identified Deputy 2 and further detailed that he was “*fearful when he was ordered to strip search.*” According to jail documents, when Ramirez arrived at the jail, he refused to follow instructions during the visual cavity search process. For this reason, Deputy 1 escorted Ramirez to the x-ray room where a pelvic x-ray was taken of Ramirez to ensure he was not concealing any contraband. Ramirez’s x-ray revealed negative results for any foreign body items. As such, Ramirez was cleared to continue the booking process. Jail surveillance video recording was reviewed and coincided with Deputy 1’s recount of events. Additionally, the next day, on 01-04-23, Ramirez, along with all inmates housed in the same module, were to be strip searched again when it was suspected that the module possibly had illicit drugs. Ramirez submitted two Inmate Grievance forms regarding being strip searched a second time. Deputy 3 responded to Ramirez’s grievances. In the grievance response, Deputy 3 explained that a scheduled search was conducted because “there was reasonable suspicion that there was a presence of unauthorized drugs, and or contraband” within the module. When there is a search of the module, certain procedures are performed and followed, including a search of all inmates. If there are unaccountable issues that lead deputies to expand their search, it is within the scope of their duties to do so. Both strip searches and body scan procedures were used to provide for a safe and secure environment. After review of jail surveillance video recording and speaking with the search deputies, Deputy 3 was able to refute the allegations that Ramirez presented in his Inmate Grievance. The evidence showed that the alleged act did occur, and it was lawful, justified, and proper.

2. Misconduct/Procedure – Unidentified deputies exposed Ramirez to “excessive [amounts of] radiation.”

Board Finding: Unfounded

Rationale: Ramirez alleged that he was exposed to “excessive [amounts of] radiation” when he was repeatedly scanned for contraband. After the imaging scan, Ramirez alleged that a Detentions Investigative Unit detective transported him to an outside facility/hospital, where additional computed scans of medical imaging technique were used to obtain detailed internal images of the body. The imaging test were

performed and that he was again “*exposed to too much radiation and jeopardized his health.*” In an Inmate Grievance form and in support of his allegation, Ramirez reported that he was denied his “*right to be free from cruel and usual punishment.*” Exposure to radiation is a risk associated with imaging test; however, due to the short scan times of milliseconds to a few seconds, the doses of radiation in imaging test are far below what would cause harm. The imaging test scan vary in their exposure to radiation and may slightly increase the risk of cancer if multiple scans are performed. According to The American Cancer Society website, radiation exposure depends on the type of test done, the area of the body exposed, the person's body size, age, and sex, and other factors. Radiation experts believe that if imaging tests do increase the risk of cancer, the increase in risk is likely to be very minute. The evidence showed that the alleged act or conduct did not occur.

3. Criminal Conduct – Hospital staff “sexually assaulted” Ramirez.

Board Finding: Summary Dismissal

Rationale: In Ramirez’s statement to CLERB, he reported that he was sexually assaulted while he was at the hospital, during his “*anal cavity search.*” Ramirez reported that he was transported to a hospital and was sexually assaulted during “*an anal cavity search.*” In a handwritten document that was submitted to jail staff, Ramirez detailed that a detective with the SDSD detentions investigative unit escorted him to a hospital where he “*was violated even further by medical [staff] who decided to insert their hand/fingers inside my anal/rectum without my permission or a warrant.*” Medical records were obtained from the hospital that Ramirez was transported to. Those records were reviewed; however, that information cannot be disclosed due to the Health Insurance Portability and Accountability Act (HIPPA) which protects the individual’s sensitive health information. The allegations against the hospital medical staff are summarily dismissed, as CLERB does not have any jurisdiction against outside entities. Hospital medical staff members are not sworn staff employed by the SDSD. The CLERB Review Board lacks jurisdiction as it cannot take any action in respect to complaint against non-sworn SDSD employees, per CLERB Rules and Regulations 4.1.2.

4. Misconduct/Procedure - Deputy 3 did not respond to Ramirez’s Inmate Grievance forms.

Board Finding: Unfounded

Rationale: Ramirez stated that during his incarceration, he submitted Inmate Grievance forms to sworn staff, but alleged that no one responded to his grievances. According to jail documents, Ramirez submitted two handwritten Inmate Grievances during his incarceration, dated 01-08-23 and 01-11-23. Both grievances were addressed by Deputy 3 who also informed Ramirez of the findings of his investigation of the allegations presented in the grievances. The evidence showed that the alleged act or conduct did not occur.

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## **23-024/M.HUNTER**

1. Misconduct/Procedure – Escondido Police Department Officers did not transport Hunter with his medical devices.

Board Finding: Summary Dismissal

Rationale: The complainant, Mark Hunter reported that five weeks after he had shoulder replacement surgery, he was arrested by “Marshalls.” Hunter stated he asked the officers “numerous times” for his (arm) sling and walker, but never received them. San Diego Sheriff’s Department (SDSD) documentation showed Hunter was arrested by the Escondido Police Department and later booked into the Vista Detention Facility (VDF). Pursuant to CLERB Rules & Regulations, Section 4.1: 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 over Escondido Police Officers actions.

2. Misconduct/Procedure – Vista Detention Center deputies handcuffed Hunter’s hands behind his back.

Board Finding: Not Sustained

Rationale: Complainant Hunter reported that during the first few days at the Vista Detention Center, deputies handcuffed him behind his back, despite his shoulder injury. Hunter reported he informed deputies he just had surgery (which was later confirmed through medical records) and told them to handcuff him with his hands in front. SDSL DSB P&P has been established to ensure that the movement of incarcerated persons (IPs) is uniform and secure. SDSL provided CLERB with the following statement, "We do not specifically address handcuffing injured persons in policy. However, in training we do address certain issues including handcuffing/restraining persons with physical limitations or injuries. For example, we discuss using waist chains to handcuff someone in an arm cast. Another option would be one handcuff attached to a belt or a cord cuff worn as a belt for an individual in an arm cast." There were no deputies identified nor dates provided for this alleged incident. Due to the lack of identifying information provided by the complainant CLERB was unable to determine if there were any policy violations. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Medical – Unidentified medical staff denied Hunter's request for "aspirin."

Board Finding: Summary Dismissal

Rationale: Hunter reported he was in severe pain and explained, "...every meaty part of my shoulder between the bones (leaked out) for over three and a half months – now its all bones." Hunter stated he asked a nurse for aspirin, but he was denied. Pursuant to CLERB Rules & Regulations, Section 4.1: 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.

4. Misconduct/Procedure – Unidentified deputies denied Hunter's request for "aspirin."

Board Finding: Action Justified

Rationale: Hunter reported he was in severe pain and explained, "...every meaty part of my shoulder between the bones (leaked out) for over three and a half months – now it's all bones." Hunter stated he asked deputies for aspirin, but he was denied. SDSL Policy states any incarcerated person in the custody of the San Diego Sheriff shall have quality and timely access to care for their medical needs, which includes sick call request forms, which are available to all IPs on a daily basis. These forms are placed in a secure medical mailbox and collected by medical staff. Sworn staff are informed of the sick call list for each housing unit prior to the appointment and provide security when incarcerated persons are evaluated. Although sworn staff have the duty to respond to medical/life threatening emergencies as described in policy, they are not responsible for the provision of pain medication to IPs. Jail medical records and other evidence were also reviewed. While it is true there is insufficient evidence to prove or disprove this allegation, it is common practice for deputies not to provide medication upon request and not mandated that they do so in non-emergency situations. Even if CLERB's investigation determined that deputies did not provide aspirin to Hunter, it would not be a policy violation. Therefore, it would have been lawful, justified, and proper.

5. Misconduct/Procedure – An unidentified deputy "threw" a mattress at Hunter.

Board Finding: Not Sustained

Rationale: Complainant Hunter alleged when a deputy took him into quarantine, he threw a mattress towards his "destroyed shoulder." Hunter reported it was a "hard throw." SDSL P&P states that employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Policy also states they (employees) shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Hunter did not provide identifying information and given the lapse of time there was no jail surveillance video available for review. There was insufficient evidence to prove or disprove the allegation.

6. Misconduct/Procedure – Deputy 1 changed Hunter's housing assignment.

Board Finding: Action Justified

Rationale: Complainant Hunter reported deputies moved him to a new housing area after he “begged” them to leave him in quarantine due to his medical issues. SDDS documentation showed that on 07-14-21, Hunter met with Deputy 1 who determined he would be placed in Protective Custody (PC). SDDS documentation showed on 07-20-22, Hunter was moved to Module E, which according to the Detentions Housing Assignment was PC. SDDS DSB P&P states that an IP’s classification is determined by their original booking charges, criminal history information, and/or medical issues. Policy also states that the IP will be assigned to the most appropriate housing location based on their classification designation. Moving incarcerated persons to their assigned housing is standard jail operations and sworn staff cannot (always) accommodate incarcerated person’s housing requests. In this incident, SDDS documentation showed that Hunter was properly classified and housed in accordance with policy. The evidence showed that the alleged act or conduct did occur but was lawful justified and proper.

7. Misconduct/Procedure – Unidentified deputies denied Hunter’s request to use a toilet.

Board Finding: Not Sustained

Rationale: Complainant Hunter reported that as deputies escorted him from quarantine to Module E, he defecated on himself three times. Hunter stated that deputies denied him access to use the restroom and he felt degraded. The details of this incident are unknown, but when an IP is moved to a new housing assignment there are protocols in place that deputies follow to ensure the safety and security of the facility. Hunter did not provide any identifying information and jail surveillance video was unavailable given the lapse of time since the alleged incident. There was insufficient evidence to either prove or disprove the allegation.

8. Misconduct/Medical – Jail medical staff denied Hunter’s request for a walker.

Board Finding: Summary Dismissal

Rationale: Complainant Hunter reported that he was hardly able to walk because he did not have a walker. Hunter stated he asked for a walker, but his request fell on “deaf ears.” Hunter stated he received a walker about eight months after he first requested it and after he fell several times. Pursuant to CLERB Rules & Regulations, Section 4.1: 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.

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## **23-049/DURAN**

1. False Arrest – Deputy 1 arrested Daniel Duran on 10-07-22.

Board Finding: Action Justified

Rationale: According to the complainant, Daniel Duran, “On 10-07-22, Daniel went to the Top of the Line Cuts Salon at 750 Sycamore Ave. in Vista, to pick up his mother. The salon is owned by Daniel’s sister and niece. When Daniel went to the salon, they locked the front doors so he could not enter. Daniel went around the back and gained access to the inside of the salon. An incident occurred and Sheriff deputies arrived. The deputies detained Daniel and placed him in the back of the patrol car. The deputies took statements from witnesses and took photos. The deputies informed Daniel that he was being arrested for felony elder abuse and commercial burglary. Daniel was booked into custody at Vista Detention Facility, where he remained until his release on 03-03-23. Daniel denied any wrongdoing and alleged false arrest.” SDDS P&P 2.51 titled, “Arrest, Search and Seizure”, states “employees shall not make any arrest, search or seizure, nor conduct any investigation or official Department business, in a manner which they know or ought to know is not in accordance with law and established Department policies and procedures.” The arresting deputy, Deputy 1, indicated Duran admitted he kicked the backdoor and pushed his mother. BWC corroborated deputy reports. According to deputy reports and witness statements, Duran’s niece tried to protect Duran’s mother from Duran, and Duran threw an aluminum tray table at her head. Duran’s mother suffered from a possible fractured left arm and cut on her left arm and was transported to a hospital. Duran’s niece suffered a large bump on her forehead, scratch to her left cheek, and scratch to left eyebrow area. Duran’s niece was medically treated at the scene by paramedics. The damage to the backdoor was

estimated to cost about \$1000. SDDS records produced photographic evidence that corroborated witness statements and deputy reports. The evidence also showed Duran was in violation of a protective order, in which his father was the protected party. According to witness statements, Daniel Duran saw his father and knew he was in the salon before he entered the building. Both Daniel and his father were at the salon when deputies arrived. SDDS records indicated Duran was arrested for elder abuse, court order violation, assault with a deadly weapon not firearm, and commercial burglary. SDDS records produced witness statements, a court protective order, BWC, and salon video surveillance. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

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## **23-102/GAITHER**

1. Misconduct/Procedure – GBDF staff “refused” the aggrieved’s prescription eyeglasses.

Board Finding: Summary Dismissal

Rationale: Ashlee Gaither stated, “I have attempted on three different occasions to provide (Redacted)/Aggrieved with his prescription glasses. He is legally blind. He has an exceptionally strong rx [prescription] for his glasses and without them he cannot read anything.” The alleged misconduct involved Detentions Information Assistants and jail medical staff, over whom CLERB has no jurisdiction. CLERB Rules & Regulations, Section 4: Authority, Jurisdiction, Duties and Responsibilities of CLERB, 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 in the Sheriff’s Department or the Probation Department. This complaint is submitted for summary dismissal per CLERB R&R Section 15: Summary Dismissal, Summary Dismissal may be appropriate in the following circumstances: CLERB does not have jurisdiction over the subject matter of the complaint.

2. Discrimination/Other – GBDF staff failed to provide the aggrieved with the ability to sign legal or medical documents.

Board Finding: Summary Dismissal

Rationale: Gaither stated, “(Redacted)/Aggrieved cannot sign any legal or medical documents which means he is having other inmates read his sick call slips and fill them out for him so he doesn’t have know if he’s getting the proper care. He also is unable to read or sign any documents at court pertaining to his case.” See Rationale #1.

3. Misconduct/Procedure – GBDF staff failed to abide with a court order for the aggrieved’s medical care.

Board Finding: Summary Dismissal

Rationale: Gaither stated, “It was ordered in court on August 17<sup>th</sup> that he be seen by the facility medical for his vision and be issued a new set of glasses. He is also court ordered to be seen for his recently discovered cancer. Neither have happened at this time.” See Rationale #1.

4. Misconduct/Medical(I/O) – GBDF medical staff failed to address the aggrieved’s medical issues.

Board Finding: Summary Dismissal

Rationale: Gaither stated, “It was ordered in court on August 17<sup>th</sup> that he be seen by the facility medical for his vision and be issued a new set of glasses. He is also court ordered to be seen for his recently discovered cancer. Neither have happened at this time.” See Rationale #1.

5. Misconduct/Procedure – GBDF staff failed to contact the Watch Commander or Visit Deputy concerning the aggrieved’s prescription eyeglasses.

Board Finding: Summary Dismissal

Rationale: Gaither stated, “At the facility today my friend who does have valid identification that was stolen yesterday has a picture of her current driver's license and the physical copy of the expired driver's license



also proof of insurance and vehicle registration was denied to have them [prescription glasses] given to him because of the ID situation. She asked to speak to the watch commander or visit deputy and was told to go online.” See Rationales #1 & #6.

6. Misconduct/Procedure – GBDF staff instructed the public to “go online” to report an issue but complaints against clerical or medical (civilian) staff are not accepted online.

Board Finding: Summary Dismissal

Rationale: Gaither stated, “Online clearly says that complaints on civilians whether it be clerical or medical staff is not accepted online, however the jail refuses to allow us to speak to anybody other than the person at the window that continues to refuse him his glasses.” See Rationale #1.

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### **23-137/JOHNSON**

1. False Arrest – A Carlsbad Police Officer arrested Sedric Johnson on 10-19-23.

Board Finding: Summary Dismissal

Rationale: Sedric Johnson stated, “An arrest that occurred on the date of 10-19-23, by the Carlsbad Police Dept. whereas since I truly felt that these supposite civilians, in association with the actions of multiple separate stated appointed government bodies/agencies whom, in abuse of the colors of State law pursuant to a violation of the conspiracy laws of Title 42 U.S.A. 1985 and section 1986 had decided to aide and abet in the commission of having me arrested.” On 11-07-23, Johnson submitted a signed Withdrawal of Complaint. Per CLERB Rules and Regulations Section 5.7 Withdrawal of Complaints, 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. Furthermore, per CLERB Rules and Regulations 4.1, 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. Carlsbad Police Officers resides outside CLERB’s authority and the Review Board lacks jurisdiction.

2. False Reporting – Deputy 1 “fabricated” information on Johnson’s grievance.

Board Finding: Summary Dismissal

Rationale: Johnson stated, “Deputy 1 fabricated information on a grievance based off a false arrest report.” See Rationale #1 pertaining to Withdrawal of Complaint.

3. Misconduct/Procedure – Detention deputies “held” Johnson in custody after charges were dropped.

Board Finding: Summary Dismissal

Rationale: Johnson stated, “The charges leading to my 10-19-23 arrest were dropped, however, Sheriff continued to hold me in custody.” See Rationale #1 pertaining to Withdrawal of Complaint.

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### **23-143/MCNULTY**

1. Misconduct/Procedure – The San Diego Sheriff Department (SDSD) “failed” to provide any police response to crimes against Matthew McNulty.

Board Finding: Summary Dismissal

Rationale: McNulty stated, “If law enforcement fails to rescue the victim, the deception narratives of the labor trafficking function as psy-ops that facilitate and cause school massacre sex trafficking operations, targeted murder sprees, home intrusion murder-robbery sprees, and major crime armed robbery sprees. The traffickers perpetrated Scheduled Task #24, the armed robbery and brand dilution smear campaign, at UCSB when they perpetrated the 2014 Isla Vista Massacre. They planned to use the massacre to incite

violence and facilitate color-of-law crimes, especially stealing and redistributing and ruining my intellectual property and then perpetrating protection vandalism upon my professional career. The San Diego Sheriff Department knows that is happening, and they have failed to perform any police response whatsoever.” McNulty failed to identify any subject deputy(s) and there was no prima facie showing of misconduct. Additionally, per CLERB Rules & Regulations, Section 15: Summary Dismissal, Summary Dismissal may be appropriate in the following circumstances: The Complaint is so clearly without merit that no reasonable person could sustain a finding based on the facts.

2. Criminal Conduct – SDSD employees are “publicly participating” in “criminal activity.”

Board Finding: Summary Dismissal

Rationale: McNulty stated, “Their employees are personally participating in that criminal activity. Uniformed employees of SDSD are very publicly perpetrating Combat Psy-ops to get away with color-of-law School Massacre Sex Trafficking, targeted murder-sprees, home intrusion murder-robbery spreeds, and major crime armed robbery spreeds.” See Rationale #1.

3. Misconduct/Procedure – SDSD Internal Affairs has “failed” to “perform any disciplinary response” to McNulty’s filed reports of criminal conduct.

Board Finding: Summary Dismissal

Rationale: McNulty stated, “These culprits are literally reading talking points from their field manuals while following their instructions step by step. And they are using the standard Royalist Conquest Field Manuals that were produced by the British Royal Family after they lost the War of 1812, manuals produced specifically for the conquest of the United States of America and Internal Affairs has failed to perform any disciplinary response to that dereliction.” See Rationale #1.

4. Misconduct/Procedure – The SDSD “refuses” to issue a written “statement of apology.”

Board Finding: Summary Dismissal

Rationale: McNulty stated, “They could just make a written statement apologizing that they failed to prevent Scheduled Task #24, and that written statement would largely neutralize the psy-op and that would actually prevent more massacres and murder and robbery spreeds. SDSD refuses to do that.” See rationale #1.

5. Misconduct/Procedure – The SDSD attempted to cause “copycat” crimes by covering criminal activity.

Board Finding: Summary Dismissal

Rationale: McNulty stated, “SDSD employees are spending their time very publicly trying to maximize the effectiveness of the psy-op so that they can get away with skullfucking more school children and murdering more families. They are also repeatedly attempting to cause copycat crimes by very publicly administratively covering all of this criminal activity.” See Rationale #1.

6. Misconduct/Procedure – The SDSD “failed” to rescue McNulty from “labor trafficking.”

Board Finding: Summary Dismissal

Rationale: McNulty stated, “I am a victim of kidnapping labor trafficking. SDSD knows that this criminal conspiracy is organized by Enemy Militaries, and still they have failed to perform any police response whatsoever. George Washington says that if there is a generic religious persecution or censorship psy-op like this one, the preliminary police response is to immediately rescue the victim of labor trafficking. That is what George Washington says should be done about this. SDSD has refused to do that.” See Rationale #1.

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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.