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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

1600 PACIFIC HIGHWAY, SUITE 251, SAN DIEGO, CA 92101
TELEPHONE: (619) 238-6776 FAX: 1 (619) 894-8310
www.sdcounty.ca.gov/clerb

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its March 26, 2024, 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.

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 (21)**ALLEGATIONS, BOARD FINDINGS & RATIONALES****DEATH INVESTIGATIONS (3)****21-022/ROSAS** (Former EO Parker)

1. Death Investigation/Barricade – On 02-22-21, numerous San Diego Sheriff's Department (SDSD) deputies responded to an "Officer Needs Emergency Assistance" ("11-99") broadcast from the Escondido Police Department (EPD) after an EPD sergeant was shot by Anastasio Rosas, Jr. SDSD Special Enforcement Detail (SED) personnel also responded to assist EPD Special Weapons and Tactics (SWAT) in the subsequent search for Rosas, Jr., who was subsequently found dead inside of a vacant apartment from a self-inflicted gunshot wound of the head.

Board Finding: Action Justified

Rationale: On 02-22-21, Anastasio Rosas, Jr. got into an argument with the mother of his children while at their Escondido apartment. He retrieved an assault rifle, pushed her out of his way, and left the apartment. She immediately telephoned 9-1-1 and requested assistance from the EPD. Rosas, Jr. subsequently shot a responding EPD sergeant and fled the scene on foot. Numerous SDSD deputies responded to the "Officer Needs Emergency Assistance" ("11-99") broadcast and SDSD Special Enforcement Detail (SED) personnel also responded to assist EPD Special Weapons and Tactics (SWAT) in the subsequent search for Rosas, Jr. A few hours later, Rosas, Jr., was reported to be inside of a vacant Escondido apartment. EPD SWAT and SED deployed a robot inside of the apartment and found Rosas, Jr. slumped unresponsive

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inside an apartment closet with an apparent self-inflicted gunshot wound. SWAT and SED entered the apartment and confirmed death without resuscitative efforts. SDSD deputies and SED personnel responded to EPD's request for assistance. Deputies expeditiously responded to this incident and despite their timely, lawful, and proper actions, Rosas, Jr., took his own life. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

22-138/McCORMACK (Former EO Parker)

1. Death Investigation/Deputy Presence – On 08-30-22, while investigating a probable homicide, San Diego Sheriff's Department (SDSD) deputies were surveilling the area of the 3300 block of Lakeview Drive, Spring Valley, for the purpose of locating Brian McCormack, the father of the victim. McCormack drove into the area and deputies initiated a "hot stop" on the vehicle. After a few moments, a gunshot was heard coming from inside the vehicle. Deputies approached the vehicle and found McCormack sitting obviously dead in the driver's seat with a self-inflicted gunshot wound of the head.

Board Finding: Action Justified

Rationale: On 08-30-22, Brian McCormack, a suspect in a probable homicide investigation, shot himself in the head while inside of a vehicle in front of 3349 Lakeview Drive, Spring Valley, in the presence of San Diego Sheriff's Department (SDSD) deputies. After hearing the gunshot and upon approaching the vehicle on foot, deputies found McCormack sitting inside of the driver's seat with a self-inflicted gunshot wound to the head. Death was confirmed at the scene without resuscitative efforts. SDSD appropriately conducted a "hot stop" on a vehicle driven by McCormack. Despite all their efforts to convince McCormack to exit the vehicle with his hands up, within approximately two minutes, he shot himself, taking his own life. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

23-050/AGUIRRE (Former EO Parker)

1. Death Investigation/In-Custody Natural Death – On 03-29-23, while as an incarcerated person at the San Diego Central Jail (SDCJ), Maximillian Aguirre, who had longstanding medical issues, was transported to University of California-San Diego (UCSD) Medical Center for respiratory distress. He was eventually transferred to Tri-City Medical Center (TCMC) for continuation of care and subsequently pronounced dead on 05-16-23.

Board Finding: Action Justified

Rationale: On 12-16-21, Maximillian Aguirre was arrested by a Fugitive Task Force on numerous sex offense charges. He was medically cleared prior to booking at SDCJ. Between 12-20-21 and 03-29-23, Aguirre, who was chronically and severely ill, was transported to UCSD Medical Center for emergent medical treatment approximately 13 times. On 04-13-23, he was transferred from UCSD Medical Center to Tri-City Medical Center (TCMC) for continuation of care. Over the next month or so, his condition continued to deteriorate. On 05-13-23 family members decided that he should receive comfort care measures only and he was subsequently pronounced dead on 05-16-23. The cause of death was hypertensive arteriosclerotic cardiovascular disease with contributing causes of pneumonia and renal failure; the manner of death was natural. There were no indications of suspicious activity or neglect. All evidence indicated that Aguirre was properly medically screened, classified, and housed after his booking. All safety checks and counts were apparently completely timely and within policy. On numerous occasions, sworn personnel expeditiously responded and immediately initiated lifesaving measures. There was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel. Finally, per SDSD 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 SDSD 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 Aguirre stated:

“On December 16, 2021, Maximillian Aguirre was booked into Sheriff’s custody with several disclosed, preexisting medical conditions. He was hospitalized on multiple occasions while in custody and, on March 29, 2023, was transferred to the Sheriff’s Hospital Guard Unit at Tri-City Medical Center (TCMC). Based on his declining health and after discussions with his family, who were able to visit with him in the hospital, on May 13, 2023, doctors transitioned Aguirre to comfort care. On May 16, 2023, at 3:06 p.m., TCMC medical staff pronounced Maximillian Aguirre deceased. As is the protocol for all in-custody deaths, the San Diego Sheriff’s Homicide Unit investigated this incident and documented the scene.

The San Diego County Medical Examiner’s Office conducted an independent investigation and post-mortem. The cause of death was preliminarily determined to be “hypertensive atherosclerotic disease” and the preliminary manner was “natural.” The final Medical Examiner’s report is still pending completion. (ME Case #2023-01606)

The CIRB conducted a preliminary review of this incident on October 18, 2023, with no policy recommendations or action items identified at that time.”

USES OF FORCE RESULTING IN GREAT BODILY INJURY (4)

23-056/BURT (Inv. Wigfall)

1. Use of Force Resulting in Great Bodily Injury – Deputy Nicolai Ramos used force towards Jamel Burt.

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. SDCSD documentation showed that on 12-18-22 Deputy Ramos was on patrol when he attempted to pull over a vehicle and witnessed a glass object thrown from the passenger window. Another deputy arrived to assist Deputy Ramos with detainment of the driver and passenger. Body Worn Camera (BWC) confirmed deputies asked Jamel Burt for his personal information for investigative purposes, but he did not fully cooperate. Burt became agitated and yelled and cursed at deputies, so Deputy Ramos escorted him to a patrol vehicle. During escort, Burt reportedly flexed his upper body and did not comply when the deputy told him to stop. SDCSD documentation stated Deputy Ramos pushed Burt against the patrol vehicle and in response, Burt turned his body around causing the deputy to lose his grip, so he “took Burt down to the ground.” Deputy Ramos’ report stated that Burt landed on the ground facedown, and he advised Burt he was under arrest and searched his person. Medics were dispatched on scene, but Burt refused treatment. Deputies transported Burt to the hospital, where he was cited and released with a promise to appear in court. Deputy Ramos provided a confidential statement that was considered in arriving at the Board Finding. CLERB attempted to obtain a statement from Burt, who was unresponsive and therefore his medical records were unobtainable for review. SDCSD P&P states employees shall not use more force in any situation than is reasonably necessary under the circumstances. In addition, policy states when deputies deem it necessary to utilize any degree of physical force shall only be that which the Deputy Sheriff believes necessary and objectively reasonable to effect the arrest, prevent escape or overcome resistance. Given the totality of circumstances, the force utilized was reasonable and proper. The evidence showed that the alleged act or conduct did not occur but was lawful, justified and proper.

23-073/PEREZ (Inv. Chiesa)

1. Use of Force Resulting in Great Bodily Injury – Deputies Kyle Brangwynne, Gustavo Martinez, Jesse Mendoza, Cole Studebaker, Adrian Valenzuela, and James Zabel used force on Perez.

Board Finding: Action Justified

Rationale: SDCJ records indicated Perez was transported to San Diego Central Jail (SDCJ) after his arrest. Perez stated, on 04-09-23, around 11:20PM a “deputy continuously picked up my head and slammed it on the concrete ground.” SDCJ records showed on 04-10-23 at approximately 1:31AM Perez was involved in a use of force after he ran from deputies and assaulted another incarcerated person. SDCJ P&P Addendum F -Use of Force Policy states, “shall be the policy of this Department that any Deputy Sheriff, in the performance of his/her official law enforcement duties, who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.” According to SDCJ records, Perez actively resisted deputies and thrashed his body once on the floor. According to Deputy Martinez’s report, “I used my open right palm to apply downward pressure to the left side of Perez’ head towards the floor. Simultaneously, I used my left open palm to apply downward pressure on the back side of Perez’ right shoulder while placing my left knee on his right forearm area to prevent him from rolling his body. Had I not used force, Perez could have turned his body to face us and possibly assault us. While on the floor, I instructed Perez to “stop turning” and to “stay on the ground”. Perez refused to comply while escalating his disruptive behavior by attempting to thrash his body and attempt to break free.” Deputy Brangwynne used downward pressure to Perez’s back to prevent him from getting up. Deputy Brangwynne then transitioned to wrist and arm control with his hands. Deputy Brangwynne achieved control of Perez’s left arm by grabbing his forearm and hand. Deputy Brangwynne applied downward pressure to Perez’s left arm and wrist with his left knee. Deputy Zabel took control of Perez’s legs by utilizing his knees and applied downward pressure to Perez’s calves. Deputy Martinez indicated he instructed Perez to stop lifting his head. Deputy Zabel issued warnings to Perez if he did not comply with commands he will be “tased”. Deputy Zabel deployed his Conducted Energy Device (CED) first on Perez’s upper left thigh, but it was ineffective in gaining compliance. Deputy Zabel then used his CED in drive stun mode against Perez’s back, Perez eventually complied. According to SDCJ P&P Addendum F Use of Force Policy, the CED is an approved immediate force option, and shall only be used as a means of subduing or gaining control when there is an immediate threat justifying an intermediate level of force. After successful CED deployment in which compliance was gained, Deputy Martinez released the downward pressure on Perez’s head. Perez was secured in a medical gurney and to prevent further incident was secured in a WRAP restraint device. According to SDCJ records Perez presented escalating erratic behavior and possible “excited delirium.” Please note Assembly Bill 360 passed 10-08-23 prohibits peace officers from using the term “excited delirium” to describe an individual in an incident report, the bill was passed after this incident occurred. Per SDCJ DSB P&P M.32 titled “Use of Medical Gurney”, states “Incarcerated Person (IP) shall, as soon as practical, be transitioned to an upright seated position or on their side in the recovery position. The policy also states, “prolonged retention or transporting of an IP on a gurney in the prone position is prohibited unless deemed clinically necessary by health staff.” The policy states, “Placing an IP in the prone position on a gurney may be done for only the minimal time necessary to effectively gain physical control and, if not yet completed, secure them in handcuffs/waist chains **or a maximum restraint device.**” (emphasis added) The policy states anytime an IP is placed on a gurney by sworn staff, one deputy shall be designated as the “safety deputy.” The safety deputy's sole responsibility is to continually monitor the health and safety of the IP for signs of distress (e.g., compromised breathing, changes in level of consciousness). SDCJ records indicated a Safety Officer was designated while Perez was secured to the medical gurney. Jail Video Surveillance showed Perez was placed in a prone position on the gurney for approximately 26 minutes and transported to 1st Floor Vehicle Sally Port for WRAP application. Deputies Studebaker, Zabel, Brangwynne, Martinez, Valenzuela, and Mendoza placed Perez in a WRAP restraint device. SDCJ P&P Addendum F Use of Force Policy states, a WRAP Restraint Device “may be used on violent subjects who, by kicking, pose a threat to themselves, others, or to equipment.” Perez was transported to UCSD Hospital where he was treated for a fractured nose. Jail video surveillance captured the incident. Perez can be seen attacking Machado, and the use of force by deputies can be seen, however close details were unable to be verified due to poor video quality and distance from camera. Per policy, deputies may only use a level of force they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Based on evidence, the use of force was appropriate response based on the actions of Perez and the use of force was documented in accordance with policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Excessive Force – A San Diego Police Officer released a canine on Eric Perez after he gave up.

Board Finding: Summary Dismissal

Rationale: Perez stated, on 04-09-23 “the first time the officers released the k9 on me when I had clearly given up and no longer a threat with my hands up in the air. Still one of officers yelled at the k9 officer multiple times to release the dog on me even though I was clearly no longer a threat to any one”. The evidence showed the arrest and Canine deployment was performed by San Diego Police Department. 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 in the Sheriff’s Department. CLERB has no jurisdiction to investigate allegations made against the San Diego Police Department. The review board lacks jurisdiction.

3. Misconduct/Intimidation – Deputy 2 “intimidated” Perez.

Board Finding: Summary Dismissal

Rationale: Perez stated, “Deputy 2 came to work in the institution from street patrol and said he was serving lunch he was for no reason out of nowhere stated he look at me..hey youre the one from the Bonita scene. Then he started to describe the scene to me. I advised him that I was aware they falsified state documents by switching Thomas Grahams name to John Wesley Dooley and that I felt he was there to intimidate me over their obvious misconduct [sic].” According to an email from Division of Inspectional Services, Deputy 2 separated from the department 12-06-23. 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 in the Sheriff’s Department. CLERB has no jurisdiction to investigate further. The review board lacks jurisdiction.

4. Misconduct/Procedure – Deputies 5, 6, or 7 “lost” Perez’s grievance form.

Board Finding: Unfounded

Rationale: Perez sated, “I would also like to report that the original grievance I filed on Officer 2 and signed by Deputy 6 was lost according to Sgt. 5. I believe it to be another deliberate attempt by Sheriff staff to hide officers 2 misconduct.” SDSD DSB P&P N.1 titled “Grievance Procedure” establishes uniform procedure by which an incarcerated person has the opportunity for a formal administrative review of issues impacting conditions of confinement which personally affect the incarcerated person. SDSD records produced one documented grievance on Perez’s record. The grievance stated Deputy 7 “refused to sign a grievance form that I wrote on officer 2 for intimidation. I think it’s a deliberate act by officer 7 to help cover officer 2 misconduct. For he had no right to deny me my due process..” The grievance was responded to on 07-12-23 and stated, “this matter will be investigated as a staff complaint per San Diego Sheriff’s Department Detention Policies and Procedures”. Per policy, complaints against staff are not grievances and will be handled as a complaint against staff. The immediate supervisor of the employee named in the complaint determines if a formal investigation is warranted, and if so, the supervisor will forward to Internal Affairs. The evidence showed that the alleged act or conduct did not occur.

5. Misconduct/Procedure – SDSD lost Perez’s legal mail.

Board Finding: Not Sustained

Rationale: Perez stated, “I have been requesting by discovery from my lawyer Sienna Vargas Martin, she said she mailed it on 3 separate occasions on May one time and 3 times in June as of 08-02-23. I still have not received it.” SDSD DSB P&P P.3 titled “Incarcerated Person Mail” establishes guidelines for the handling, screening, and prompt routing/delivery of mail. According to the policy, Incarcerated persons shall be allowed to receive and possess legal mail. The policy states, “upon receipt of incoming U.S. mail, Detentions Processing Division (DPD) staff will sort through the mail and remove any items identified as confidential or legal mail. DPD staff will verify the individual is in custody by utilizing the master card or booking summary screens and forward the confidential/legal mail as outlined in facility-specific green sheets. All other mail will be routed to the MPC for processing”. According to Division of Inspectional Services, there were no mail rejection notices in Perez’s history. CLERB contacted Attorney Vargas Martin and she confirmed discovery was mailed 05-01-23, 06-20-23, and 06-30-23. She also stated she believed Perez received the last discovery package sent on 06-30-23. Attorney Vargas Martin was unable to confirm

address sent, only that the packages were mailed to George Bailey Detention Facility. CLERB is unable to determine if the discovery packages were lost in transit through the mail carrier, and/or at the facility. There was insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Procedure – Internal Affairs has failed to respond to Perez since May of 2023.

Board Finding: Not Sustained

Rationale: Perez stated, “I have also left the Sheriff Internal Affairs (IA) Office multiple messages through they’re automated messaging system in May of 2023 and have not received no response from them.[sic]”. According to Division of Inspectional Services (DIS), Internal Affairs never received a complaint from Perez. DIS also noted IA checked their message log of their automated system and have no record of Perez leaving a message. According to the San Diego Sheriff’s Department website, an Internal Investigation complaint can be filed in person at any Sheriff’s facility, by telephone or mail to the Internal Affairs unit – (858)-974-2065 or San Diego County Sheriff’s Department - Internal Affairs Unit PO Box 939062 San Diego, CA 92193. CLERB confirmed the telephone number was functioning and staffed. Furthermore, previous case complaints showed IA complaints have been received and opened. There was insufficient evidence to prove or disprove the allegation.

23-074/GODFREY (SSI Setzler)

1. Use of Force Resulting in Great Bodily Injury – Deputies Julia Breer, Abdelkarim Farha, Abelardo Felix, Braulio Gallegos and Jarrod Vickers utilized force to gain compliance from Incarcerated Person (IP) Isaac Godfrey on 06-05-23.

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. The San Diego Sheriff’s Department (SDSD) reported this incident to CLERB on 07-18-23 and provided documentation and video relevant to the incident. Incarcerated Person Godfrey did not respond to CLERB’s request for information. SDSD Policies and Procedures (P&P) Section 2.49, Use of Force, stated, “employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing. Additionally, SDSD P&P Addendum Section F, Use of Force Guidelines, regarding striking techniques, stated, “Striking techniques are those techniques that a deputy employs using personal body weapons, i.e., fists, hands, arms, elbows, legs, head, feet and knees. Strikes are techniques in which injury may occur. There is no expectation for a deputy to receive the first strike before employing striking techniques; however, the deputy must articulate the necessity and reasonableness for striking first.” Additionally, Addendum Section F Guidelines stated, “Punching techniques may be necessary when a suspect/inmate is assaultive, or the subject exhibits signs of imminent physical attack. A fist strike to a subject’s face when reasonable and necessary is not prohibited; however, it is preferable to use an open hand (palm heel) technique to reduce the likelihood of injury to the deputy’s hand and subject’s face.” A review of jail surveillance video was conducted and IP Godfrey was seen turning away from a wall and stepping onto/outside a designated line area. He appeared to be noncompliant with the instructions given to all IPs in the Intake Corridor. Deputies initially placed hands on Godfrey and turned him back toward the wall. One they began to escort Godfrey to a holding cell, a use of force by deputies was observed, when IP Godfrey grabbed onto a door handle and failed to release. Once deputies took IP Godfrey to the ground, pertinent details were unable to be verified due to poor video quality, camera angles, and the multitude of other IP’s and SDSD personnel in the corridor. Per policy, deputies may only use a level of force they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Based on all available evidence, the use of force was an appropriate response based on Godfreys’s actions. Godfrey reportedly received medical evaluation and treatment, although this could not be verified without Godfrey’s cooperation for his protected health information. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

24-017/FILGER (Inv. Klew)

1. Use of Force Resulting in Great Bodily Injury – Deputy Joshua Price used a SDDS canine to assist in the apprehension of Chaise Filger, which resulted in Filger sustaining an injury.

Board Finding: Action Justified.

Rationale: This case was reviewed in accordance with CLERB Rules & Regulations 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. According to documents received from SDDS, on 12-16-23, deputies assigned to the San Marcos SDDS Substation attempted to initiate a traffic stop of a vehicle driven by Chaise Filger. The traffic stop was initiated after a deputy observed Filger crossing the dividing lines and nearly striking two nearby vehicles. Filger failed to yield to the deputy's emergency lights and sirens, and a "felony pursuit" ensued. During the pursuit, Filger stopped and exited his vehicle, however, he did not comply with the involved deputies' directives. Filger again fled in his vehicle, resulting in the pursuit to continue. Filger stopped his vehicle a second time, and again failed to comply with deputies' directives. Filger appeared to attempt to reenter his vehicle, and Deputy Price used a SDDS canine to apprehend Filger. As a result of the force used, Filger sustained an injury. Filger was treated for his injuries prior to being booked into custody at the Vista Detention Facility. SDDS Policies and Procedures (P&P), Section 2.49, Use of Force, stated, "Employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established departmental procedures, and report all use of force in writing." Further, SDDS P&P, Addendum Section F, Use of Force Guidelines, regarding the use of canines, stated in part, "Canines are typically used in search scenarios, for deputy protection and for apprehension of fleeing subjects wherein this degree of force is justifiable. Canines certified and approved for department use may be used under the following circumstances: For the protection of the handler, other law enforcement officers and citizens. To locate, apprehend or control a felony suspect when it would be unsafe for the deputies to proceed into the area. To locate, apprehend or control armed misdemeanor suspects." In addition to Deputy reports of this incident, Body Worn Camera (BWC) footage was available to assist in evaluation of this incident. BWC footage was reviewed and corroborated the statements made in deputy reports of this incident. A review of this incident, and current SDDS P&P, showed that the use of force by Deputy Price was justified. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

PRIORITY (3)

23-041/WILLIAMS (Inv. Aldridge)

1. Misconduct/Procedure: The San Diego Sheriff's Department (SDDS) did not release Williams as ordered by the court.

Board Finding: Unfounded

Rationale: In Williams' written complaint to CLERB, he alleged that The SDDS did not release him as ordered by the court. Williams explained, "*My court (attorney) PD has given me oral information on 06-06-22 that I would be released on probation. And I can go into a treatment program, plea bargain. I was not released. Sentencing date 07-06-22. My attorney said he has a bed for me at a treatment program. Again I was (not) released. I got released on 10-14-22.*" Williams' court documents from his 05-18-22 arrest, as well as numerous jail documents, were reviewed. According to Williams' court and jail documents, coupled with his credits, he had a projected release date of 10-14-22 and may have been released early to a program. There are various reasons why an incarcerated person may face challenges getting into a program, despite being releasable. It's essential to note that the availability and criteria for programs can vary among correctional facilities, and individual circumstances may influence an incarcerated person's ability to participate in specific programs. Programs have limited availability and not all eligible incarcerated persons can be accommodated due to capacity constraints. In some cases, incarcerated persons may not meet the specific eligibility criteria for certain programs. Another issue is an incarcerated person with a history of disciplinary problems or behavioral issues may be disqualified from certain programs. Lastly, some programs may have waiting lists, and incarcerated persons may need to wait for an available spot, delaying their participation. The evidence revealed that the SDDS did properly release Williams on 10-14-22 as ordered by the court.

2. Excessive Force – Unidentified deputies “jumped on” Williams on or around 07-06-22.

Board Finding: Not Sustained

Rationale: Williams alleged that on “07-06-22, I was jumped on by court deputies before going into court.” Court documents and jail documents confirmed that Williams’ attended court on 07-06-22; however, there was no documentation or evidence that Williams was involved in a use of force or in any incident. There were no court surveillance video recordings available to view. There was insufficient evidence to either prove or disprove the allegation that unidentified deputies “jumped on” Williams on or around 07-06-22.

3. Excessive Force – Unidentified deputies broke Williams’ ribs on/around 07-30-22.

Board Finding: Not Sustained

Rationale: In Williams’ written complaint, he stated, “On 07-30-22 deputies broke my ribs as I was in my cell.” In review of numerous jail surveillance video records, deputy reports, and jail documentation, there was no evidence that supported Williams’ claim that he was assaulted by deputies on or around 07-30-22. Records indicated that Williams was involved in a use of force on 10-30-22, when a tactical team was assembled when Williams refused to exit his cell for a scheduled, routine hygiene/sanitary inspection of his cell. Force was used to remove Williams from his cell. After the use of force, Williams was medically evaluated by a jail medical/health staff nurse. The nurse assessed Williams and determined he sustained no injuries and cleared him to return to his cell. Jail medical records were obtained. Those medical 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. There was insufficient evidence to either prove or disprove the allegation that unidentified deputies broke Williams’ ribs on/around 07-30-22.

4. Misconduct/Procedure – Unidentified deputies refused to take Williams to medical for treatment.

Board Finding: Unfounded

Rationale: According to Williams’ written complaint, after a use of force, “They [deputies] refuse me medical attention.” As per deputy reports and jail medical records, Williams was involved in two uses of force during his incarceration. As noted above, on 11-30-22, and on 04-02-23. On 04-02-23, Williams reportedly caused a disturbance within his module, and deputies decided to remove him to deescalate the tension with other incarcerated persons within the module. Deputies attempted to remove Williams from his cell but Williams refused to comply with deputies’ instructions, so force was used to remove him from his cell. Per deputies’ reports, after the use of force, Williams was medically evaluated by jail medical/health staff. Jail medical records were obtained. Those medical records were reviewed; however, that information cannot be disclosed due to the HIPPA, which protects the individual’s sensitive health information. Jail surveillance video recordings were reviewed and confirmed that after the use of force, Williams was assessed by jail medical/health staff while on the recreation yard. Additionally, there were no Inmate Grievance forms written by Williams during both of his incarceration that supported his allegation. The evidence shows that the alleged act or conduct did not occur.

5. Criminal Conduct – Jail Medical staff did not comply with a court order to provide medical treatment to Williams.

Board Finding: Summary Dismissal

Rationale: In his written complaint, Williams stated, “On 06-06-22 court ordered me [to be seen] by medical to give my diabetes shot and anything else that I need. On 06-06-22 medical refused to self by medical refusing to do so I lost plus close to 100 pounds in one month Medical just started my shots in March!” Jail medical records were obtained and were reviewed; however, that information cannot be disclosed due to the HIPPA, which protects the individual’s sensitive health information. Additionally, CLERB does not have any jurisdiction against Health Services staff members who are not sworn staff. 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. Medical

treatment and care are made by jail medical staff and as such CLERB lacks jurisdiction to investigate further.

6. Excessive Force – Deputies 2, 3, 4, and 6 “beat up” Williams on or around 04-02-23.

Board Finding: Not Sustained

Rationale: According to Williams, in his written complaint, he alleged “*Again I was beaten up by deputies staff [while] in Ad-Seg [Administrative Segregation] on 04-02-23 in my cell. I was beating [sic] for no reason.*” In a handwritten Inmate Grievance Form, Williams reported that he was “attacked by deputies” while in his jail cell. According to SDSD Officer Reports, Williams made assaultive statements towards other incarcerated persons. Williams had threatened to throw fecal matter at the other IPs, expressed sexual innuendos towards their family members, and threatened to assault the other incarcerated persons when given the opportunity. Williams’ continued threats caused tension within the module. To minimize the tension within the module, Deputy 6 approached Williams and attempted to address him. The decision was made to move Williams to another cell; however, Williams refused to comply. When Deputies 2, 3, 4, and 6 entered Williams’ jail cell, Williams rushed the door, swinging his closed fist at deputies. As such, a use of force ensued. The use of force occurred inside of Williams’ jail cell and out of view of the jail surveillance camera. As such, the use of force actions executed by deputies was not reviewed; however, the involved deputies articulated their actions in their reports. According to the deputies’ reports, performing the force and techniques on Williams allowed deputies to successfully gain control of Williams. The force used against Williams was necessary and effective in their ability to gain control of Williams. According to the deputies, had they not used force, Williams could have possibly injured himself or the other deputies involved. CLERB found that the decision to use force to get Williams to comply was justified; however, there was insufficient evidence to either prove or disprove the allegation that deputies used excessive force on Williams.

7. Misconduct/Procedure – Deputies 1 and/or 5 gave Williams ten days disciplinary separation.

Board Finding: Action Justified

Rationale: According to Williams’ written complainant, he reported that he was “*...put on 10 days disciplinary from 04-05-23 and I go to court on 04-24-23.*” According to jail records, Deputy 5 was identified as the deputy who recommended ten days of discipline for Williams’ violation of jail rules. According to jail documents, in regard to the aforementioned use of force, Williams was given a rule violation report for his disrespect to staff, for threatening and assaulting staff, and for his boisterous activity. Because of his boisterous, disruptive, and aggressive behavior, Williams was not allowed to participate in his disciplinary hearing with Deputy 5, who served as the Disciplinary Hearing Officer. The hearing was conducted in absentia. During his investigation into the offenses, Deputy 5 noted that Williams had an extensive history of disrespect to jail staff that dated from 2010, coupled with his recently obscene and violent statements to staff. For these reasons, coupled with deputy statements, Deputy 5 found Williams guilty of the rule violations and recommended Williams receive 10 days of disciplinary separation. The discipline was approved by Deputy 1. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

8. Misconduct/Procedure – A Public Defender Attorney was “ineffective” in representing Williams.

Board Finding: Summary Dismissal

Rationale: According to Williams’ written complaint, he described his public defender as “ineffective” in representing him. According to Williams’ court documents, Deputy Public Defender (redacted) was assigned as Williams’ court appointed attorney. Williams stated, “My attorney proved to be ineffective. He seen what was happening. I was arrested on a new case threatening crime with intent to terrorize. On this new case, my attorney, (redacted) took over on this new case he was proved to be ineffective. So I went pro per. The next day I went to court. On that day 04-03-23 (redacted) no longer my attorney on this case.” Deputy Public Defenders are not sworn employees of the SDSD. Pursuant to CLERB Rules and Regulations, Section 4.1.2 Complaints: Authority, stipulates that CLERB only has authority to investigate

complaints filed against peace/custodial officers employed by the San Diego Sheriff's Department. Williams was referred to the State Bar of California.

23-091/DELLERMAN (Inv. Bohan)

1. False Arrest – Deputies 1 and 5 arrested Rachel Dellerman on 12-31-21.

Board Finding: Summary Dismissal

Rationale: According to the complainant, Rachel Dellerman, "On 12-31-21 she was at a donut shop in Spring Valley when an incident occurred and Sheriff deputies arrived. Records indicated Dellerman assaulted an elderly victim, dragged her out of and attempted to steal her car. Several witnesses were present and provided statements, however, Dellerman denied any wrongdoing and alleged false arrest. Dellerman was arrested and booked into custody at Las Colinas Detention and Reentry Facility (LCDRF). Dellerman was released from custody on 03-23-22. According to CLERB Rules & Regulations Section 4.1.2, Complaints Jurisdiction, CLERB shall have jurisdiction in respect to all Complaints arising out of incidents occurring on or after November 7, 1990. Notwithstanding the foregoing, CLERB shall not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint, except that if the person filing the complaint was incarcerated or physically or mentally incapacitated from filing a complaint following the incident giving rise to the complaint, the time duration of such incarceration or incapacity shall not be counted in determining whether the one year period for filing the complaint has expired. Dellerman would have had to file her complaint by 03-24-23, however, she did not file until 08-10-23. Per CLERB R&R Section 15: Summary Dismissal, Summary Dismissal may be appropriate in the following circumstances: CLERB does not have jurisdiction as the complaint was not timely filed and the Review Board lacks jurisdiction.

2. False Arrest – Deputy 2 arrested Dellerman on 11-22-22.

Board Finding: Action Justified

Rationale: According to Dellerman, on 11-22-22, she was falsely arrested for setting a fire. In a follow-up call with Dellerman she stated, "I was homeless, I was cooking hotdogs in the dirt. When the fire department showed up I put water on the fire." SDSO records contained several calls to SDSO 911 dispatch, reporting a female setting fire to items and throwing the items near a grassy hill. When SDSO deputies responded to the scene they were advised by the Fire Department that they observed Dellerman attempting to put out the fire when they arrived on scene. Dellerman was taken into custody and Deputy 2 transported her to Las Colinas Detention and Reentry Facility (LCDRF) where she was booked into custody, charged with California Penal Code (PC) 452, A person is guilty of unlawfully causing a fire when they recklessly set fire to or burn or cause to be burned, any structure, forest land or property. The evidence showed the alleged act did occur and was lawful, justified and proper.

3. Excessive Force –Deputies 2, 3 and 4 used force to subdue Dellerman.

Board Finding: Action Justified

Rationale: Body worn camera (BWC) videos and deputy reports reviewed during this investigation showed that Deputies 2, 3 and 4 used force to subdue Dellerman. While taking Dellerman into custody she resisted and then spit in Deputy 3's face. Deputies were observed in BWC footage taking Dellerman to the ground. Once on the ground a spit sock was placed over Dellerman's head to prevent her from spitting again. Dellerman complied with deputy commands and she was escorted to Deputy 2's patrol vehicle without incident. The force used was in accordance with law and established Departmental procedures, as directed in SDSO Policy 2.49 Use of Force, Employees shall not use more force in any situation than is reasonably necessary under the circumstances. The evidence showed the force used by Deputies 2, 3 and 4 was lawful, justified and proper.

23-108/N. HUNTER (Inv. Chiesa)

1. Criminal Conduct - Deputy 5 touched Hunter's buttock.

Board Finding: Unfounded

Rationale: Hunter stated, "on 08-19-23 at approximately 10AM I was awakened by a hand touching my upper buttock saying "get up". I turned around on my bunk and looked up as deputy who was later identified by the name of 5 stood over me in my cell." SDSD P&P 3.47 titled "Discrimination and Sexual Harassment" prohibits discrimination and sexual harassment. The policy states, "Discrimination and sexual harassment, whether verbal, physical, or environmental, is illegal, unacceptable and will not be tolerated within the San Diego County Sheriff's Department." Since the incident occurred inside the cell, CLERB was unable to obtain video evidence of the incident. Furthermore, based on the credibility of Hunter's other statements in his complaint, he was deemed not to be credible in his recollection of events and as such there was no evidence that this incident occurred. The evidence showed the alleged act or conduct did not occur.

2. Excessive Force - Deputies 1, 4, 5, and 6 used force on Hunter.

Board Finding: Action Justified

Rationale: Hunter stated, "After entering the room, Sgt Legger stood in front of me and told me to lay on the ground. Confused, without being able to respond I was quickly picked up and slammed on the ground face first with pain shooting to my head face, neck, back, and knees while still handcuffed behind my back. I was quickly pinned down by deputies from head to toe, my neck, face smashed to the ground very hard being held in a strangulation position." BWC footage showed Hunter was instructed to go down to his knees and he responded "I'm not doing that bro." Deputy reports indicated Deputies 5 and 1 applied forward and downward pressure to force Hunter to the floor. Hunter resisted pressure by standing straight up and preventing deputies from taking him down. Deputy 1 indicated Hunter tensed his body and widened his stance. Deputy 6 grabbed Hunter's legs from under him, and Deputy 4 controlled his head and placed him in the prone position on the floor. Deputies 5 and 1 removed Hunter's shirt with scissors and deputies removed his pants. Hunter was visually strip searched on the floor by deputies. BWC footage corroborated what was recounted in deputy reports. Hunter was deemed not to be credible with his statement that he was unable to respond, as BWC footage showed he responded, "I'm not doing that bro" and refused to listen to deputy commands. SDSD P&P Addendum F use of Force Guidelines states, "It shall be the policy of this Department that any Deputy Sheriff, in the performance of his/her official law enforcement duties, who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance." The evidence showed Hunter resisted deputies and disobeyed commands. The policy also defines de-escalation as actions taken in an attempt to stabilize an incident in order to try and reduce the immediacy of a threat by obtaining more time, tactical options or resources to resolve an incident. The policy states the goal of de-escalation is to gain voluntary compliance of subjects to reduce or eliminate the need to use force on a subject. The evidence showed deputies attempted de-escalation on various occasions, but Hunter still refused to comply. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Illegal Search and Seizure - Deputies 1, 4, 5, and 6 strip searched Hunter.

Board Finding: Action Justified

Rationale: Hunter stated, "All of my clothes were immediately ripped off." Per SDSD Detention Services Bureau (DSB) P&P I.52 entitled "Strip and Pat down searches of incarcerated persons", states IPs may be strip searched during unscheduled housing unit searches. The evidence showed Hunter's housing module was selected for an unscheduled search. SDSD DSB P&P I.52 has a specific section relating to non-cooperative IPs. The policy states prior to strip searching non-cooperative individuals, deputies shall notify a supervisor and receive approval, and the supervisor will have forced strip search digitally recorded on a handheld device. The digital recording shall capture the supervisor explaining to the individual that they are being recorded and requesting them to voluntarily cooperate with the strip search procedures. The supervisor will also explain on the recording force will be used to gain compliance. Furthermore, a use of force report will be completed. Deputy 3's Body Worn Camera (BWC) captured the incident. The BWC footage showed Hunter was given a warning if he did not cooperate force will be used. The video showed Hunter still did not comply. The search was conducted in accordance with policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – Deputies 3, 2, 7 assisted and/or stood by in use of force and strip search.

Board Finding: Action Justified

Rationale: Hunter identified Deputy 3, Deputy 2, and Deputy 7 under accused personnel on his complaint and noted they were present during the strip search. SDS DSB P&P 1.52 titled “Strip and Pat Down Searches of Incarcerated Persons” has a specific section relating to non-cooperative IPs. The policy states prior to strip searching non-cooperative individuals, deputies shall notify a supervisor and receive approval, and the supervisor will have forced strip search digitally recorded on a handheld device. The evidence showed Deputy 2 delivered the warning if Hunter did not comply then force will be used. The evidence showed Deputy 3 was recording the strip search on his BWC camera. Deputy 7 instructed Hunter to lie on his stomach during the strip search. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

5. Criminal Conduct - SDSD deputies “molested” Hunter.

Board Finding: Unfounded

Rationale: Hunter stated, “I began to scream because I couldn’t breathe, horrified while deputies molested me and rolled me over to observe my penis and touching that as well.” SDS P&P 3.47 titled “Discrimination and Sexual Harassment” prohibits discrimination and sexual harassment. The policy states, “Discrimination and sexual harassment, whether verbal, physical, or environmental, is illegal, unacceptable and will not be tolerated within the San Diego County Sheriff’s Department.” BWC footage showed deputies performed a visual strip search in accordance with policy. Hunter was deemed not to be credible in his recollection of events and as such there was no evidence that this incident occurred. The evidence showed the alleged act or conduct did not occur.

6. Excessive Force – Deputy 5 choked Hunter.

Board Finding: Unfounded

Rationale: Hunter stated, “Deputies then put pants on me, and I felt a hand go over the front of my neck choking me as I was placed in wheelchair.” BWC footage showed Deputy 5 attempted to get Hunter to sit up by holding him up by his shoulder since Hunter was hyperventilating and appeared to have problems breathing. BWC showed while deputies attempted to adjust Hunter in the wheelchair he yelled “you’re choking me”. The deputies explained in the video they were trying to help Hunter breathe, since he was hunched over in the wheelchair and struggling to get air. The deputies eventually stopped holding Hunter up since he was resisting them. Once deputies removed their hands, Hunter slouched forward and was breathing heavily and experiencing what appeared to be a panic attack. The video evidence showed deputies were trying to help Hunter. SDS Jail Medical staff stood by and attempted to evaluate Hunter but due to excessive yelling and hyperventilation, Hunter did not participate. Hunter breathed excessively and yelled that he could not breathe, and that his neck and jaw were broke. Jail medical also stated, “you can’t breathe because of your position.” The evidence showed that the alleged act or conduct did not occur.

7. Misconduct/Medical - Unidentified Nurse failed to provide medical care.

Board Finding: Summary Dismissal

Rationale: Hunter stated, “Nurse did nothing and falsely reported I refused medical attention.” While CLERB has no jurisdiction to evaluate medical personnel, the evidence showed jail medical attempted to evaluate Hunter but due to excessive yelling and hyperventilation, Hunter did not participate. 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. CLERB has no jurisdiction over medical personnel and therefore lacks jurisdiction to investigate the decisions made by medical personnel further. The Review Board lacks jurisdiction.

8. False Reporting – Unidentified Nurse reported Hunter refused medical.

Board Finding: Summary Dismissal

Rationale: Hunter stated, "Nurse did nothing and falsely reported I refused medical attention." See Rationale 7.

ROUTINE (6)

23-069/M. HUNTER (Inv. Bohan)

1. Misconduct/Procedure – Unidentified deputies failed to "receive and deliver" Mark Hunter's legal mail.

Board Finding: Not Sustained

Rationale: Hunter stated, "I have been corresponding with numerous legal entities throughout the State of California. Congressman Darrell Issa, State Bar of California, CLERB, Congressman Mike Levin, California Supreme Court, County Board of Supervisors Claims Division and the State of California Commission on Judicial Performance. Out of all this correspondence I never received reply's from any even though I specified that in my correspondence." Hunter filed one grievance in which he stated, "On or around 08-12-22, all my legal mail stopped coming to me and also all going out. Someone took it upon themselves to commit this Federal Crime." Hunter's grievance was routed to a VDF sergeant who provided the following response, "I spoke with mail deputies who assured me you have no legal mail holds." Detention Policy P.17, Monitoring Telephone Calls/Visits/Mail, establishes guidelines for mail holds. Mail Processing Center (MPC) deputies will be responsible for incoming mail hold processing. Housing unit deputies will be responsible for outgoing mail hold processing. Both will use a similar process as described below. Incarcerated persons with an active mail hold can be identified by running the Incident Query Report (select incident type "MH-Mail Hold") on the JIMS Web. Review of Hunter's JIMS records did not show any mail holds. Although Hunter has received some legal mail responses, it was unknown if legal mail was sent or received that did not reach Hunter or the intended party as SDSD does not log incoming and outgoing regular or legal mail. The evidence was insufficient to either prove or disprove the allegation.

2. Misconduct/Procedure – Unidentified deputies "opened" Hunter's "legal" mail.

Board Finding: Action Justified

Rationale: Hunter stated, "I did receive reply's from State Bar and Supreme Court which I said had been opened." According to DSB Policy P.3, Incarcerated Persons Mail, Mail sent directly from federal, state, or local government offices will also be accepted (e.g., Social Security, Veteran's Affairs, Child Support Services, Unemployment, Welfare, Health and Human Services, Office of the Patient Advocate, Probation, Registrar of Voters, etc.). The letters will be inspected for authenticity before delivery. The evidence showed the alleged act did occur and was lawful, justified and proper.

POLICY RECOMMENDATION:

1. It is recommended that the San Diego Sheriff's Department (SDSD) update and align P.3 Incarcerated Person (IP) Mail Policy, B.5 Money Orders and Checks, and facility-specific Green Sheets, with respect to IP legal mail, to be all inclusive for the receipt, processing and distribution of IP legal mail.

23-082/DAWBBER (Inv. Aldridge)

1. Misconduct/Medical – Jail medical/health staff provided subpar medical care to Dawber.

Board Finding: Summary Dismissal

Rationale: Complainant Dawber stated, "*This place has a high demand for medical attention and lack of medical staff to meet that demand. My own personal experience while symptomatic for bronchitis, and possible cancer was told to put in a sick call where I wait a month or more to be seen by a nurse, assuming I'm still with symptoms. Then be placed or scheduled another month or longer to be seen by a doctor. I have acute bronchitis and had an inhaler to be used as needed on the outs. They refused to take my claims of having hurting chess while breaking breathing seriously at all. By the time I see a nurse I'm not*

symptomatic enough to be taken seriously I guess.” Medical records were obtained from the jail and 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 quality of medical care received is subjective as individuals may have different standards, preferences, and experiences that shape their perception of the care they receive. Factors such as communication with healthcare providers, wait times, outcomes, and personal beliefs can all influence how someone evaluates the quality of their medical care. According to SDSD Detention Services Bureau (DSB) Manual of Policies and Procedures (P&P) Section M.15 titled “Sick Call,” incarcerated persons shall have access to appropriate medical and mental health services on a daily basis. Sick call procedures are explained by health staff to each newly arrested incarcerated person at the time of receiving screening. CLERB does not have any jurisdiction against Health Services staff members who are non-sworn staff. 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. Medical treatment and care are made by jail medical staff and as such CLERB lacks jurisdiction.

2. Misconduct/Discourtesy – Unidentified deputies were “unprofessional” toward Dawber.

Board Finding: Not Sustained

Rationale: According to Dawber, over the course of his incarceration, he described jail staff as “unprofessional.” Dawber advised that while he was in custody, he relied on the detention deputies and jail medical/health staff for his safety and care. Dawber reported, *“That’s not to be mentioned how the unprofessional attitude of superiority washed over from the deputies.... because of my housing location sex offender dorm. The deputies carry an attitude that applies the most disrespectful for another human. They can possibly have. They the staff are the most lazy and disrespectful, unprofessional personnel I’ve ever experienced.”* Dawber did not name a specific incident, deputy, staff member, or a date/time of incident for reference. According to SDSD DSB P&P Section 2.4 titled “Unbecoming Conduct,” employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department, or that which tends to impair the operation and efficiency of this Department or employee. According to SDSD DSB P&P Section 2.22 titled “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. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties. And lastly, according to SDSD DSB P&P Section 2.48 titled “Treatment of Persons in Custody,” employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures. There was insufficient evidence to either prove or disprove the allegation that unidentified deputies were unprofessional with Dawber.

3. Misconduct/Procedure – Unidentified deputies failed to deliver Dawber’s mail.

Board Finding: Not Sustained

Rationale: Dawber had complaints that he had not received his incoming jail mail. Dawber stated, *“I have been waiting on my mail. My wife sent me on 07-11 [07-11-23]. It’s now the 25th [07-25-23].”* In normal jail operations, mail is distributed to incarcerated persons on a nightly basis. The purpose of SDSD DSB P&P Section P.3 titled “Incarcerated Person Mail,” is to establish guidelines for the uniform handling, screening and prompt routing/delivery of United States (U.S.) mail, incoming letters, and electronic email messages. Incarcerated persons shall be allowed to receive and possess U.S. mail, incoming letters, confidential/legal mail, and mail from official government agencies. They may also receive electronic email messages, periodicals, and new books. There shall be no limit on the amount of mail an incarcerated person may send, and no limit on the amount of mail that they may receive, except to the extent that possession of such materials may constitute a fire hazard or pose an unacceptable security risk by providing the means to hide contraband. The mail is received from the US postal services at the Las Colinas Detention and Reentry Facility Mail Processing Center. Deputies assigned to the Mail Processing Center (MPC) work

collaboratively with detention facilities' staff to provide the reasonably prompt delivery of incoming materials. All staff shall work for the reasonably prompt and correct delivery of all inmate mail. Unless the inmate is absent from the floor, the housing unit deputy shall see that all mail is delivered to the inmate prior to the end of his/her shift. All acceptable incoming mail and packages shall be delivered as soon as possible and shall not be held more than 24 hours, excluding weekends and holidays. A review of Dawber's jail booking file did not reveal any mail holds or note any undeliverable mail. There was insufficient evidence to either prove or disprove the allegation that unidentified deputies failed to deliver Dawber's jail mail.

23-083/HAMILTON (SSI Setzler)

1. Misconduct/Medical – Jail medical staff failed to address Tyler Hamilton's medical needs.

Board Finding: Summary Dismissal

Rationale: Complainant Hamilton reported he has many health issues and requested "weight enhancer" supplements from medical who replied there was no need. Hamilton reported he was 6' 1" and weighed 125 lbs. at 40 years of age. At the time of Hamilton's arrest on 03-02-22, his booking records documented his weight at 165 lbs. DSB Policy M.1, Access to Care establishes guidelines for reasonably prompt access to medical services for any incarcerated person complaining of illness or injury. And any incarcerated person in the custody of the San Diego Sheriff shall have quality and timely access to care for their medical, dental and mental health needs. Medical staff and their decisions reside outside of CLERB's jurisdiction as they are non-sworn personnel. Per CLERB Rules & Regulations 4.1, Complaints: Authority, the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Unidentified deputies placed mainline incarcerated persons (I/P) with protective custody (PC) I/Ps.

Board Finding: Not Sustained

Rationale: Complainant Hamilton was classified as PC and stated he and 3 elderly men were placed "in the yard" for 7 hours when 5 mainliners also came on the yard and assaulted Hamilton and the other unknown PC IPs. Detentions Policy R.1, IP Classification states the purpose of the incarcerated population Classification System is to screen, assess and house incarcerated persons in a manner that will protect the safety of the community, staff, and other IPs. And J.3, Separation: Definition and Use dated 09-27-22 and in place at the time of the incident, states PC IPs is when there is a verified threat against their life, whether stated or implied, or when an incarcerated person's circumstances render them a target for physical violence. Forty Incident reports were reviewed pertaining to Hamilton with negative results regarding an assault. The complainant was released from custody and failed to maintain contact with CLERB or provide any evidence related to this event. Without further clarifying information from Hamilton, his allegation was unable to be investigated further.

3. Misconduct/Procedure – Unidentified deputies questioned IPs request for Internal Affairs (IA) forms.

Board Finding: Not Sustained

Rationale: Complainant Hamilton reported the San Diego jail "cops" are not doing their jobs and become upset when something happens or when the IPs mention IA. Sheriff's Policy & Procedure 3.2, Complaints against Sheriff's Employees states any employee receiving a verbal complaint must decide whether to handle it informally; i.e., verbally, or document the complaint in writing. Employees may attempt to resolve the complaint but shall never attempt to dissuade any citizen from lodging a complaint. Division of Inspectional Services personnel reported Hamilton submitted one complaint to IA dated 06-18-22, however this information is privileged and unavailable for review. The complainant was released from custody and failed to maintain contact with CLERB or provide evidence related to this allegation. Without further clarifying information from Hamilton, his allegation was unable to be investigated further.

4. Misconduct/Procedure – Unidentified deputies failed to respond to "emergency" call buttons.

Board Finding: Not Sustained

Rationale: Complainant Hamilton reported there have been many deaths at George Bailey “due to other inmates” having fentanyl and heroin and “they” don’t respond to the emergency call button. Hamilton also referenced a hanging at San Diego Central Jail in 2022 and said no one responded to his call button and when an investigation was done it was determined his speaker and over half the others in the module were inoperable. Intercom issues were previously reported to CLERB with policy recommendations implemented by SDSD in 2017 to conduct intercom checks at the beginning of each shift and ensure intercoms were in working order without disablement. DSB Policy I.2, Intercom Systems requires that each detention facility maintain an intercom system to be utilized by incarcerated persons for the purpose of providing a means of communication between sworn staff and incarcerated persons. Intercom systems should be primarily used as a means of relaying and or summoning emergency assistance. Intercoms shall not be routinely muted or silenced. Furthermore, In the event of an emergency or incident, an incarcerated person is to depress the intercom call button which activates an alarm on the receiving end (e.g., Housing Control, Central Control, etc.). The alarm will alert sworn staff of a possible emergency or incident that necessitates their attention. Sworn staff will answer all intercom calls in an expeditious manner and follow-up on the nature of the call. The complainant was released from custody and failed to maintain contact with CLERB or provide evidence related to these events. Without further clarifying information from Hamilton, his allegation was unable to be investigated further.

23-136/COLEMAN (Inv. Klew)

1. Misconduct/Procedure – Probation Department Staff directed Coleman to complete a “urine test.”

Board Finding: Action Justified.

Rationale: The complainant, Michael Coleman, alleged the Probation Department directed him to complete a “urine test,” despite his placement in a “sober living home.” A review of Probation records confirmed drug testing was a requirement for Coleman’s terms of Probation and there was no violation related to the PO’s request. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

2. False Reporting – Probation Officer (PO) 1 alleged Coleman “absconded.”

Board Finding: Action Justified.

Rationale: Coleman alleged the Probation Department stated that Coleman “absconded.” A review of Coleman’s complaint, his terms of probation, and documents provided by the Probation Department, confirmed Coleman was non-compliant with the terms of his probation when he failed to report to his PO within a mandated timeframe. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Sharp Mesa Vista Hospital staff failed to act after Coleman was assaulted.

Board Finding: Summary Dismissal

Rationale: Coleman alleged that while he was at “Sharp Mesa Vista Hospital,” he was assaulted by another patient, and that hospital staff “did nothing.” CLERB Rules & Regulations, Section 4.1, Complaints: Authority, stated, “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.” As such, CLERB does not have jurisdiction over medical staff. The Review Board lacks jurisdiction.

23-141/McKEE (Inv. Chiesa)

1. Misconduct/Procedure – Deputy 1 did not identify Jennifer McKee as a “victim” in his report.

Board Finding: Action Justified

Rationale: Complainant McKee stated, “on 10-10-23 it came to my attention that I was not listed as a victim in the police report and could not get a copy of the report.” SDSD records showed on 10-01-23, McKee contacted San Diego County Sheriff’s Department (SDSD) due to two parties not allowing her to drive away in her vehicle while she was attempting to serve a restraining order. SDSD P&P 6.71 titled “Crime Case

Reports,” states crime and incident reports require a crime/incident report form, so all pertinent information may be captured. SDSA records showed the original crime/incident report generated by Deputy 1 listed [REDACTED] as the primary victim. The evidence showed Deputy 1 observed [REDACTED] being hit by a manilla envelope when he arrived at the scene. SDSA records showed Deputy 1 collected statements of everyone involved, and all party’s interpretation protected their best interest. Deputy 1 made the determination that it was mutual combat. Deputy 1 advised McKee the incident would be documented as a no prosecution battery since none of the parties wished to press charges at the time. Furthermore, Deputy 1 stated in his report, “I determined that the incident could have been avoided and was mutual aggression by all parties. No one desired prosecution so I provided the parties with the case number and released them from the scene.” Deputy 1 advised McKee if she were to change her mind about prosecution, she can do so by contacting the SDSA. This information was verified by Body Worn Camera (BWC) footage and Deputy 1’s report. SDSA records showed McKee later contacted SDSA and was later added as a victim in a follow-up report. (See *allegation 3*) Based on Deputy 1’s observations, it was appropriate to list [REDACTED] as the primary victim in the original case report. The evidence showed the alleged act or conduct did occur but was lawful, justified, and proper.

2. False Reporting – Deputy 1 failed to document McKee’s statement in his report.

Board Finding: Unfounded

Rationale: Complainant McKee stated, “for this deputy to dismiss [REDACTED]’s actions against me, not documenting my statement, and not listing as me as a victim tells [REDACTED] and [REDACTED] that it is okay to behave this way, and it is not.” SDSA records showed Deputy 1 collected statements of everyone involved, and all party’s interpretation protected their best interest. Deputy 1 made the determination that it was mutual combat. SDSA records showed Deputy 1’s report documented McKee’s witness statement. While the statement did not specifically state “[REDACTED]” hit McKee with paperwork, the statement indicated “Jennifer got hit in the face with the paperwork” and she was chased by [REDACTED] and her family. Overall, the statement listed in the report matched what was relayed to deputies in essence. The statement was corroborated by Body Worn Camera (BWC) footage. SDSA P&P 2.41 titled “Departmental Reports”, states, “Reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included.” The evidence showed that the alleged act or conduct did not occur.

3. False Reporting – SDSA failed to submit McKee’s case to the District Attorney.

Board Finding: Unfounded

Rationale: Complainant McKee made several statements in her complaint that insinuated the case was never submitted to the District Attorney’s office. SDSA records showed on the date of the incident all parties did not desire prosecution. The case was documented as a no prosecution battery. Deputy 1 advised McKee if she changed her mind about desiring prosecution, she could contact the SDSA. SDSA records showed McKee contacted the SDSA and desired prosecution. McKee’s additional statement was taken, additional evidence was collected, and a follow-up report was generated which listed McKee as victim #2. The case was submitted to the District Attorney for review. CLERB has no jurisdiction over the District Attorney. (See *allegation 5*) The evidence showed the alleged act or conduct did not occur.

4. Misconduct/Discourtesy – Deputy 1 questioned McKee’s actions and called her a “liar”.

Board Finding: Unfounded

Rationale: Complainant McKee stated, “a male cop comes, second-guessing my actions, calling me a liar as to why I was up there instead of having the sheriffs do it.” BWC showed Deputy 1 approached McKee and [REDACTED] and asked why they did not have SDSA deputies serve the restraining order. McKee stated she tried, and they wouldn’t. Deputy 1 stated, “I don’t believe you.” Deputy 1 went over another option of calling in a “preserve the peace” if she was unable to get the deputies to serve the order. The evidence showed Deputy 1 never called McKee a liar and was informative with other options to serve the restraining order. SDSA P&P 2.22, titled “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. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties.” The evidence showed the alleged act or conduct did not occur.

5. Misconduct/Procedure – The District Attorney’s Office failed to prosecute violator(s) of McKee’s Restraining Order.

Board Finding: Summary Dismissal

Rationale: Complainant McKee stated, “I am not okay with the District Attorney not doing anything about the several restraining order violations I have made on reports...” 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 in the Sheriff’s Department. CLERB has no jurisdiction to investigate allegations made against the District Attorney’s office. The review board lacks jurisdiction.

24-034/PEREZ (Inv. Chiesa)

1. False Reporting – Deputies 1, 2 3, and 4 “falsified” documents.

Board Finding: Unfounded

Rationale: Complainant Eric Perez wrote to CLERB and stated he wanted to make a formal complaint against the San Diego County Sheriff’s Department for “falsifying state documents and false reporting by changing the name of the man that died that day on 04-09-23 from (redacted).” SDSL P&P 2.46 titled “Truthfulness” states “all written and verbal reports shall be truthful and complete.” SDSL records showed on 04-09-23 Eric Perez was arrested by San Diego Police Department (SDPD) for attempted murder, evading a police officer, participation in a criminal street gang, felony possession of firearm, prohibited possession, and carjacking. SDPD records indicated Perez’s original attempted murder charges related to a victim named (redacted), who survived the shooting. SDSL records indicated Perez was later tied to a murder that took place in Bonita. While SDPD performed the arrest, SDSL wrote the crime report as the crime originated in Bonita. Perez identified Deputies 1-4 on his complaint. SDSL Division of Inspectional Services confirmed these deputies were either involved in the investigation of the crime and/or present at the scene. Deputy 2 was the assigned case detective for the homicide investigation. Deputy 2 provided confidential information during CLERB’s investigation that was considered in arriving at the Board Finding. Deputy statements provided during administrative investigations are deemed confidential by law and cannot be publicly disclosed. SDSL records produced no record of the decedents’ name changing, furthermore Division of Inspectional Services confirmed they were unaware of any associated name changes regarding the decedent. The evidence showed that the alleged act or conduct did not occur.

SUMMARY DISMISSAL (5)

23-085/DIXON (Inv. Chiesa)

1. False Arrest – San Diego Police Department (SDPD) officers arrested Rodney Dixon.

Board Finding: Summary Dismissal

Rationale: On 08-28-23, Rodney Dixon submitted a signed complaint to CLERB. On 02-21-24, in a telephone conversation with the CLERB intake investigator, Dixon expressed his desire to withdraw the complaint. Per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.” Furthermore, this allegation was against San Diego Police Department. 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 in the Sheriff's Department. CLERB has no jurisdiction to investigate allegations made against the San Diego Police Department.

2. Excessive Force – Unidentified deputies used force on Dixon.

Board Finding: Summary Dismissal

Rationale: On 08-28-23, Rodney Dixon submitted a signed complaint to CLERB. On 02-21-24, in a telephone conversation with the CLERB intake investigator, Dixon expressed his desire to withdraw the complaint. Per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.”

3. Misconduct/Procedure – Unidentified deputies failed to provide Dixon a phone call at the San Diego Central Jail.

Board Finding: Summary Dismissal

Rationale: On 08-28-23, Rodney Dixon submitted a signed complaint to CLERB. On 02-21-24, in a telephone conversation with the CLERB intake investigator, Dixon expressed his desire to withdraw the complaint. Per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.”

4. Misconduct/Procedure – Unidentified deputies failed to release Dixon and sent him to prison.

Board Finding: Summary Dismissal

Rationale: On 08-28-23, Rodney Dixon submitted a signed complaint to CLERB. On 02-21-24, in a telephone conversation with the CLERB intake investigator, Dixon expressed his desire to withdraw the complaint. Per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.”

5. Misconduct/Procedure – Unidentified deputies “coerced” Dixon into signing papers.

Board Finding: Summary Dismissal

Rationale: On 08-28-23, Rodney Dixon submitted a signed complaint to CLERB. On 02-21-24, in a telephone conversation with the CLERB intake investigator, Dixon expressed his desire to withdraw the complaint. Per CLERB Rules & Regulations 5.7 Withdrawal of Complaints states “a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.”

23-100/MEALS (Inv. Klew)

1. Misconduct/Medical – Unidentified SDSA medical staff failed to provide the aggrieved with medical care.

Board Finding: Summary Dismissal

Rationale: On 08-25-23, CLERB received a signed complaint from Mary Catlin-Meals. The complainant alleged the aggrieved did not receive appropriate medical care while in custody at detention facilities operated by the San Diego Sheriff's Department. CLERB Rules and Regulations Section 4: Authority, Jurisdiction, Duties and Responsibilities of CLERB, Subsection 4.1, Complaints: Authority, states "Pursuant to the Ordinance, CLERB shall have authority to receive, review, investigate, and report on complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department..." As the allegation was related to medical treatment, CLERB does not currently have jurisdiction to investigate. CLERB Rules and Regulations Section 15, Summary Dismissal, states, "Summary Dismissal may be appropriate in the following circumstances... CLERB does not have jurisdiction over the subject matter of the Complaint." The Review Board lacks jurisdiction.

23-109/OJEDA (Inv. Klew)

1. Misconduct/Procedure – Deputy Probation Officer (PO) 1 gave Ojeda "legal advice."

Board Finding: Summary Dismissal

Rationale: On 09-13-23, CLERB received a signed complaint from Mario Ojeda, which included allegations of misconduct against PO 1. Due to a pending Court Order, documents related to this case were not received from the Probation Department until 01-05-24. Included in the complaint, Ojeda raised three allegations, that PO 1 gave him legal advice, declined Ojeda's request to attend an event, and reviewed a Motion to the Court submitted by Ojeda. On 02-22-24, I spoke with Ojeda to gain further clarification regarding what misconduct occurred. Ultimately, what Ojeda alleged was not determined to be misconduct, and no procedural violations could be identified. CLERB Rules and Regulation Section 4.1, Complaints: Authority, states, "Pursuant to the Ordinance, CLERB shall have authority to receive, review, investigate, and report on complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department or the Probation Department that allege... misconduct." Additionally, Section 15: Summary Dismissal, states, "After reviewing the Investigative Report and records, CLERB may summarily dismiss a Case, ("Summary Dismissal") upon recommendation of the Executive Officer, its own motion, or that of the Subject Officer. Parties to the complaint shall be notified of a proposed Summary Dismissal and may appear to argue for or against Summary Dismissal. Summary Dismissal may be appropriate in the following circumstances... CLERB does not have jurisdiction over the subject matter of the complaint." As a prima facie showing of misconduct was not established, CLERB lacks jurisdiction over this matter.

2. Misconduct/Procedure – PO 1 declined Ojeda's request to attend an event.

Board Finding: Summary Dismissal

Rationale: See Rationale #1. CLERB lacks jurisdiction over this matter.

3. Misconduct/Procedure – PO 1 reviewed Ojeda's Motion to the Court.

Board Finding: Summary Dismissal

Rationale: See Rationale #1. CLERB lacks jurisdiction over this matter.

24-031/ACOSTA (Inv. Bohan)

1. Misconduct/Procedure – The United States Government "continuously prosecuted" Jaime Acosta.

Board Finding: Summary Dismissal

Rationale: Acosta stated, "This address has been my physical residence since 1996. I believe I have the right to defend my position at this location since I have been continuously prosecuted by the United States Government." Acosta did not identify any misconduct or subject officer on the part of San Diego County Sheriff or Probation sworn personnel. Per 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. The

actions of “The United States Government” do not fall under CLERB jurisdiction. Therefore, this case 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.

24-040/WALKER (Inv. Bohan)

1. False Arrest – An Oceanside Police Department (OPD) Officer arrested Ezekiel Walker on 02-04-24.

Board Finding: Summary Dismissal

Rationale: Walker stated, “I was falsely arrested and charged for a crime i didn’t commit. I had previously been arrested for what was supposed to be a vandalism charge, but unfortunately the arresting officer charged me for something completely different.” 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. The actions of Oceanside PD officers do not fall under CLERB jurisdiction. Therefore, this case 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. Misconduct/Harassment – OPD officers verbally “harassed” Walker.

Board Finding: Summary Dismissal

Rationale: Walker stated, “Because of this charge it resulted on me being assaulted twice after my discharge from vista jail, even other police officers within this department verbally harass me when they drive by me.” See Rationale #1.

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.