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County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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www.sdcounty.ca.gov/clerb

REGULAR MEETING AGENDA

Tuesday, September 3, 2024, 5:30 p.m.

County Administration Center

1600 Pacific Highway, Room 302, San Diego, 92101

(Free parking is available in the underground parking garage, on the south side of Ash Street, in the public parking spaces.)

-AND-

Zoom Platform

<https://us06web.zoom.us/j/86564632749?pwd=7wyZbStGwRCYjhwaUWwWLXg4E1ps7q.1>

Phone: +1 669 444 9171

Webinar ID: 865 6463 2749

Passcode: 146959

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

DISABLED ACCESS TO MEETING

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

WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code Section 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 1600 Pacific Highway, Ste. 251, San Diego, CA 92101.

- 1. ROLL CALL (1 minute)**
- 2. STATEMENT (just cause) and/or consideration of a request to participate remotely. (emergency circumstances) by a Board Member, if applicable. Voting item as necessary (0 minute)**
- 3. PUBLIC COMMENTS (45 minutes)**

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction but not an item on today's open session agenda. Each speaker shall complete and submit a "[Request to Speak](#)" form. Each speaker will be limited to two minutes; however, the time allotted for in-person, virtual and written public comment may be adjusted by the Board Chair in their discretion. This meeting will also be held remotely via the Zoom Platform. Click the link in the agenda header above to access the meeting. Contact CLERB at clerb@sdcounty.ca.gov or 619-238-6776 if you have questions.

- 4. MINUTES APPROVAL (2 minutes)**

- a) Draft Meeting Minutes for August 13, 2024

5. PRESENTATION/TRAINING (15 minutes)

- a) American with Disabilities Act (ADA), by SDS

(Public Comment is 20 minutes for this item. Each speaker shall submit a request to speak form prior to the start of the item)

6. EXECUTIVE OFFICER'S REPORT (10 minutes)

- a) Overview of Activities of Chief Deputy and Staff
- b) Workload Report – Open Complaints/Investigations Report (Attachments B)
- c) Case Progress and Status Report (Attachments C)
- d) Executive Officer Correspondence to Full CLERB (Attachment D)
- e) Probation Department update regarding CLERB Policy Recommendation, 23-088/Hall (Attachment E)

7. BOARD CHAIR'S REPORT (5 minutes)

- a) New CLERB Executive Officer

8. NEW BUSINESS

9. UNFINISHED BUSINESS

10. BOARD MEMBER COMMENTS (10 minutes)

11. BOARD MEMBER QUERY for SHERIFF/PROBATION LIAISON(S) (10 minutes)

12. CLOSED SESSION: TIME CERTAIN – 7:30 pm

- 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).

CASES FOR SUMMARY HEARING (9)

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

DEATH INVESTIGATIONS (0)

USES OF FORCE RESULTING IN GREAT BODILY INJURY (2)

23-113/IBAN (Inv. Setzler)

1. Use of Force Resulting in Great Bodily Injury – Deputy Jason Balinger deployed a canine to apprehend Zachariah Iban on 08-19-23.

Recommended 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 National City Police Department (NCPD) contacted the San Diego Sheriff's Department for a canine assist and advised that Zachariah Iban was believed to be armed with a firearm and barricaded inside an apartment without the owner's consent. Iban reportedly walked away from NCPD officers during a hot stop, which stemmed from a call of him being intoxicated, acting aggressively, hitting cars and reportedly having a gun. Residents at the complex were ordered to shelter in place or evacuate from the building. Officers advised a police dog was present and would be sent inside and bite Iban if he did not surrender. After two hours of tactical officers giving Iban announcements, he exited the apartment building but failed to follow directives to get on the ground. Deputy Balinger deployed his canine who apprehended Iban without further incident. An NCPD officer arrested and booked Zachariah Iban for residential burglary, resisting arrest and a probation violation warrant. As a result of the force used, Iban was injured and received medical treatment. 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." Further, SDSD 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." Body Worn Camera footage verified that Iban was non-compliant with lawful directives. A review of this incident, and current SDSD P&P, showed that the use of force by Deputy Balinger was justified. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

23-164/APOLLO (Inv. Klew)

1. Use of Force Resulting in Great Bodily Injury – Deputies Marcus Ballesteros-Perez, Dominic Banaga, Maria Humes, and Jacob Wilder-Tramell used force on Thomas Apollo.

Recommended 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. On 11-11-23, SDSD deputies were dispatched to a report of an attempted robbery. The call indicated that an unknown male, later identified to be Thomas Apollo, attempted to steal an elderly woman's dogs while she was walking them, and caused the woman to fall to the ground and hit the back of her head. Deputies responded and conducted a canine track which led to Apollo's residence. During deputies attempts to take Apollo into custody, force was used, and Apollo sustained an injury. Documents received from SDSD included numerous deputies reports of the incident, body worn camera (BWC) footage, and photographs. The evidence showed during the incident, due to Apollo's attempt to evade deputies and the significant level of resistance offered, several deputies used force against Apollo, and a significant struggle ensued to gain Apollo's compliance. SDSD Policies and Procedures (P&P) Section 2.49, Use of Force, states, "Employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing." SDSD P&P Addendum Section F, Use of Force Guidelines, regarding the use of canines, states, "Law enforcement trained canines are a viable intermediate force option when employed under the direction of their handlers according to the department's Canine Unit Manual. 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; To search for narcotics; For crowd control; For the protection of deputies during prisoner movement; Article searches.” Addendum Section F, regarding striking techniques, states, “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. Unorthodox tactics such as head butting may be used to escape grappling holds when other personal body weapons are otherwise trapped by the attacker.” Addendum Section F, regarding the use of Conducted Energy Devices (CED), states, “The CED is an intermediate force option. The CED is an electronic control device that is extremely effective for temporary immobilization of subjects.” Additionally, “The CED may be used in “drive-stun” mode (placing the unit in direct contact with the suspect/inmate) if reasonable to protect the deputies or others from injury and to gain control of the suspect/inmate, however, caution should be used to avoid the subject gaining control of the CED. The CED should not be intentionally placed against the suspect/inmate’s face, neck, head, or groin.” For additional information regarding the “Cordcuff” restraint device, Addendum Section F states, “The Cordcuff /Ripp restraint is typically made of a length of nylon strap approximately one-half inch wide and forty inches in length. It has a loop on one end and a brass snap at the other. Safe application of the cord cuff restraint generally requires two deputies... The Cordcuff / Ripp restraint device may be used on violent subjects who, by kicking, pose a threat to themselves, others, or to equipment. Additionally, it may be used in lieu of leg chains to hobble subjects who present an escape risk.” Regarding entry into a residence to apprehend Apollo, the California Peace Officer Legal Sourcebook (CPOLS) provided additional information. Regarding search and seizure of premises and exigent circumstance, CPOLS stated, “to Prevent the Imminent Escape of Suspect: It is proper to enter a residence without a warrant in order to prevent the escape of a suspect, especially if he is armed and dangerous or has just committed a violent felony. To Make an Arrest: You may also enter a home without a warrant to arrest a suspect you have been following in "hot pursuit." A review of the relevant P&P, information from CPOLS, deputy reports, and BWC footage, showed the use of a SDS D canine to track and attempt to apprehend Apollo, who was wanted for an alleged Felony violation, and the subsequent use of force that occurred, was within current SDS D P&P and CPOLS guidelines. No issues were identified in this case. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

PRIORITY (1)

23-126/AZIZ (Inv. Setzler)

1. Misconduct/Procedure – Unidentified deputies “forced” Incarcerated Persons (IPs) to clean raw sewage without protective gear.

Recommended Finding: Not Sustained

Rationale: Complainant Laila Aziz reported, “George Bailey 4/C and 4/B. Detainees are getting infections. They believe it's from having to clean up feces and urine when the toilets overflow which is twice a week. The waste is from all of the toilet. They are saying the guards force them to clean up the waste and they have no protective equipment including gloves. One guy has it on his arm and another on his legs. They have both been diagnosed with Staph infection. One of the diagnosis Is Methicillin-resistant Staphylococcus aureus.” According to SDS D records, at the time of the incident, SDS D reported there were no diagnosed cases of "Methicillin-resistant Staphylococcus aureus" in any of the seven jail facilities, and none of the 3 IPs identified in the complaint were found to have been diagnosed or treated for an infection. Access to IPs medical records are restricted unless they sign a waiver granting access. Additionally, a review of the maintenance logs at GBDF indicated there were no ongoing problems with plumbing or overflowing toilets in housing units 4B and 4C. According to SDS D, all maintenance requests were investigated and handled as soon as possible by the maintenance supervisor who inspects the facility with jail staff on a regular basis to ensure open communication and a timely response to needed repairs. The maintenance supervisor is a non-sworn position over which CLERB has no authority. Additionally, IPs are not expected to clean overflowing toilets as a standard practice. An incarcerated worker may occasionally clean a single cell after a toilet

overflows, at the direction of a deputy. The worker is provided with appropriate cleaning supplies, gloves and protective masks as warranted. Large-scale plumbing issues are handled by a maintenance crew. Deputies will provide cleaning supplies to all housing units on a regular basis for those IPs who opt to clean their own cells. Incarcerated persons who are assigned to the Department's Healthcare Services Assistant Training (HSAT) program for vocational credit and experience handle some of the deep cleaning within the seven facilities. The Sheriff's Department also contracts with an outside vendor to conduct weekly deep cleaning of intake and holding areas. Without further clarifying information or evidence, there was insufficient information to prove the allegation that deputies forced IPs to clean sewage with nonprotective gear leading to IPs contracting infections.

2. Misconduct/Procedure – The San Diego Sheriff's Department (SDSD) failed to protect IPs from “bird droppings.”

Recommended Finding: Summary Dismissal

Rationale: Complainant Laila Aziz reported, “There are also birds which fly throughout the jail and defecate on the detainees and their food. When they are at the phones speaking with loved ones most say they have been defecated on...” SDSD reported, “There are small birds that fly into some of the GBDF housing units from the exterior breezeways, then usually fly back outside. Any bird droppings would be cleaned during scheduled facility cleanings.” CLERB Rules & Regulations state “Misconduct,” is defined to mean and include any alleged improper or illegal acts, omissions, or decisions directly affecting the person or property of a specific person arising out of the performance of the peace officer's or custodial officer's official duties by reason of: (a) An alleged violation of any general, standing, or special orders or guidelines of the Sheriff's Department or the Probation Department; or, (b) An alleged violation of any state or federal law; or, (c) Any act otherwise evidencing improper or unbecoming conduct by a peace officer or custodial officer employed by the Sheriff's Department or the Probation Department. As such, this type of allegation does not fall within the San Diego County Charter nor the authority granted to CLERB by the San Diego County Board of Supervisors based on Section 606(f) of the San Diego County Charter, which states that the duties of CLERB shall be established by the Board of Supervisors. Section 340.9 of the San Diego County Administrative Code defines the authority of CLERB. Specifically, §340.9(a) provides that CLERB shall have authority to “[r]eceive, review and investigate citizen complaints filed against peace officers ” Section 340.9(c) goes on to state that CLERB shall have authority to “[p]repare reports ... on the results of any investigations conducted by the Review Board in respect to the activities of peace officers ”. CLERB does not have jurisdiction over the subject matter of the allegation.

3. Discrimination/Racial – The SDSD served racially insensitive food to IPs.

Recommended Finding: Summary Dismissal

Rationale: Complainant Laila Aziz reported, “The jails are serving dark waffles with what seems to be Black face. Many of the detainees feel this is racially motivated. All of the jails are serving these darkened waffles with big eyes and big lips. This is on chicken and waffle day.” SDSD reported, “The San Diego Sheriff's Department strives to provide quality meals to our incarcerated population. Our Food Services Division continually researches ways the department can provide a variety of meals that are nutritional and responsive to the populations' preferences. A few weeks before the complaint was submitted, the Food Services Division had an opportunity to purchase and serve a price-conscious meal option known as Eggo's ‘Eggoji Waffles.’ These waffles are chocolate flavored and have six emoji-style faces, similar to those seen on a smart phone display, on each side of the waffle. The waffles are brown in color due to the chocolate flavoring. According to the Eggo's marketing director the Eggoji waffles were meant to commemorate World Emoji Day, which fell on July 17. The department purchased the Eggoji chocolate flavor as a way to provide variety to an already popular ‘chicken and waffle’ menu item. There was no negative intent behind offering this menu item, and the Sheriff's Department apologizes for any perceived offense these items may have caused. Upon receipt of the complaint, the Eggoji Waffles were immediately removed as a menu item and were not served again after the complaint was submitted. Based on this complaint, we will no longer serve this type of waffle to the population or staff.” See Rationale #2. CLERB does not have jurisdiction over the subject matter of the allegation.

4. Misconduct/Medical – The SDSD put IPs health at risk through infectious disease exposure.

Recommended Finding: Summary Dismissal

Rationale: Complainant Laila Aziz reported, "The jail is preparing to accept a Man with monkey pox. The doctor has stated he should not be incarcerated and will be serving time for a non-violent crime. He pled to a year in jail before being diagnosed with Monkey pox. Detainees in medical and jail along with their families are expressing concern." SDSD reported, "The San Diego Sheriff's Department has had no confirmed cases of Mpox, formerly known as Monkeypox, in our facilities. At the time of intake, Sheriffs medical staff screen incarcerated persons for signs of illness, injury and obvious signs of infectious diseases. If an individual is suspected of having any type of infectious disease, including Mpox, they are housed in specialized housing pending appropriate testing and treatment. All medical precautions are taken, personal protective equipment is used and mandated reporting to County Public Health is completed. Similar protocol is followed if an individual is suspected of having an infectious disease once they are assigned to a housing module. In all instances of a confirmed infectious disease, medical staff conduct track and trace investigations per policy." See Rationale #2. CLERB does not have jurisdiction over the subject matter of the allegation.

ROUTINE (6)

23-119/KUYKENDALL (Inv. Aldridge)

1. Misconduct/Procedure – Unidentified deputies conducted a cell search on 09-28-23.

Recommended Finding: Action Justified

Rationale: Nierobi Rasheen Kuykendall stated in a complaint that on 09-28-23, unidentified deputies conducted a search of his module and jail cell. According to jail documents, a search was performed on 08-11-23 and during that search, jail-made weapons were found. Also, on 09-24-23, it was reported that there was the possibility that illicit drugs were in the module. As such, deputies conducted an unscheduled search of the module and jail cells. Scheduled and unscheduled searches are a critical part of maintaining security, order, and compliance within the detention facilities. The searches help prevent unauthorized items such as weapons, drugs, or contraband from entering or circulating within the facilities, ensuring the safety of both incarcerated persons (IPs) and staff. SDSD Detention Services Bureau Policies and Procedures (DSB P&P) Section I.41 titled "Cell Searches of Incarcerated Persons," ensures protection for incarcerated persons and staff by providing a safe and secure environment free of contraband, weapons, excessive personal property, contagious diseases and vermin and to protect incarcerated persons from unreasonable searches. Scheduled inspections are for cleanliness standards compliance and to evaluate adherence to rules and regulations. Unscheduled searches are for the purpose of preventing violence, preventing escape, or controlling contraband. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

2. Misconduct/Procedure – Unidentified deputies confiscated Kuykendall's personal property.

Recommended Finding: Not Sustained

Rationale: In his complaint Kuykendall reported, "*Family photos and commissary ordered washcloth was stolen from my cell. Two family photos was stolen and taken for no reason. Also, commissary approved washcloth also was stolen and refused to return all personal property, which is not contraband.*" In review of Kuykendall's jail documents, Kuykendall submitted a grievance regarding the missing items. An investigation was conducted; however, the items remained unfound. During the search of a cell, an incarcerated person's (IP's) property may be confiscated for any number of reasons. The items may be unauthorized or contain contraband; items that are prohibited within the jail. IP's are allowed to possess only certain approved items. Anything not on the approved list, even if not dangerous, can be confiscated. Confiscating such items helps the SDSD to ensure the safety, security, and orderly operation of the jail. The evidence supported compliance with applicable policies, however, there was insufficient evidence to either prove or disprove the allegation that unidentified deputies confiscated Kuykendall's personal property.

3. Misconduct/Retaliation – Unidentified deputies removed Kuykendall's bedding for requesting command staff.

Recommended Finding: Unfounded

Rationale: In his complaint, Kuykendall alleged that after the search of his jail cell, his blankets and linens were confiscated and were not re-issued to him “for over 4 to 5 hours.” Kuykendall alleged that this was done in retaliation; that deputies removed his bedding after he requested command staff. Searching and removing of jail issued bedding and linens during a search is routine and part of the comprehensive security measures executed during the search to maintain safety within the facility. Blankets and linens are common places where IPs hide contraband such as weapons, drugs, and other unauthorized items. Searching and replacing an IP’s jail issued blankets and towels after a search helps ensure no contraband items were missed. Kuykendall stated that he asked unidentified deputies if he could speak with a supervisor, but deputies did not oblige his request. SDS 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 [IP] Request form. The evidence showed a search was conducted and the alleged retaliatory act or conduct did not occur.

4. Misconduct/Discourtesy – Unidentified deputies disrespected Kuykendall and his property.

Recommended Finding: Not Sustained

Rationale: In his complaint Kuykendall advised, “I was forced to sit in my cell after all my personal property had been thrown all around the cell violating my personal belongings. This unlawful, unethical, corrupt, impractical, and improper procedure in conditions of confinement. Nothing was found in my cell that was not allowed, still I was treated with no common respect, nor was my personal allowed property.” A review of Kuykendall’s numerous jail documents, to include all grievances, did not reveal any information that a (sworn) staff member treated Kuykendall unjustly or acted in retaliation after the 09-24-23 search of his jail cell. According to SDS DSB P&P Section I.41, an unscheduled search will necessarily cause the incarcerated person’s property and bedding to be inspected thoroughly, which may result in some disarray. The deputies conducting the search should make every reasonable effort to assure that the property is not destroyed or misplaced. Absent information provided by an independent witness to the incident or additional video or audio recordings of any interactions between sworn staff and Kuykendall, there was insufficient evidence to prove or disprove the allegation that staff mistreated Kuykendall.

5. Misconduct/Procedure – Deputies 1-4 and/or other detention deputies failed to respond to Kuykendall’s grievances.

Recommended Finding: Summary Dismissal

Rationale: In his complaint, Kuykendall alleged that he submitted numerous IP Grievance Forms to sworn staff but alleged that no one responded to his grievances. In review of Kuykendall’s numerous grievances and the associated responses, Kuykendall had submitted 38 grievances during his incarceration. According to SDS 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 evidence indicated that all grievances were addressed by a deputy and/or a sergeant. Additionally, this allegation was previously investigated in CLERB case #23-079 and finalized by the Review Board on 04-23-24. As such, the Review Board lacks jurisdiction to investigate further.

6. Misconduct/Procedure – Unidentified deputies delayed delivery and “tampered” with Kuykendall’s mail.

Recommended Finding: Action Justified

Rationale: Kuykendall reported, “I believe my mail is also being tampered with... got your email [from CLERB] and the forms extra late.” In review of Kuykendall jail grievances, he reported that a catalog was sent to him; however, he did not receive it. In review of Kuykendall’s jail booking file, a notice noted that Kuykendall received a periodical that was returned to sender, because the publication contained “nudity/sexual activity.” The purpose of SDS 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, new softbound books, periodical subscriptions (i.e., magazines, newspapers, etc.), confidential/legal mail, and electronic email messages. Periodicals delivered to the facility by publishers or bookstores may be accepted. The subject matter of some periodicals shall establish whether they are allowed in the detention facility housing units. Incarcerated persons are prohibited from possessing or receiving materials that show

nudity of either gender or portray sexual activity. All items determined to be unacceptable will not be delivered to the incarcerated person. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

23-124/COLEMAN (Inv. Aldridge)

1. False Arrest – San Diego Police Department (SDPD) police officers arrested Michael Anthony Coleman.

Recommended Finding: Summary Dismissal

Rationale: In Coleman’s complaint letter to CLERB, he alleged that he was involved in an incident and was arrested by SDPD police officers. CLERB lacks jurisdiction against staff employed by the SDPD. 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further. This complaint was forward to the Commission on Police Practices, which is an independent community oversight body of the SDPD.

2. Misconduct/Procedure – SDPD police officers confiscated and lost Coleman’s personal property.

Recommended Finding: Summary Dismissal

Rationale: In Coleman’s complaint letter, he alleged that SDPD police officers confiscated and lost his property after his arrest. CLERB lacks jurisdiction against staff employed by the SDPD. 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further. This complaint was forward to the Commission on Police Practices for follow-up.

3. Misconduct/Procedure – A San Diego County court found Coleman to be in contempt of court.

Recommended Finding: Summary Dismissal

Rationale: Coleman reported that he was court-ordered to provide a drug screen urine sample to the courts. He claimed he was unable to do so, and the courts found him to be in contempt. Coleman alleged procedural misconduct against the San Diego County court. CLERB lacks jurisdiction. 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further.

4. Misconduct/Procedure - Sharp Mesa Vista Hospital failed to protect Coleman.

Recommended Finding: Summary Dismissal

Rationale: While out of SDCSD custody, Coleman was hospitalized at a psychiatric hospital. While he was there, he alleged that he was assaulted by another patient. In his letter to CLERB, Coleman explained, “*I went to... [a hospital for treatment]. While I was there, the hospital is responsible for my personal health and safety. I was assaulted by another patient who broke my nose. The hospital did nothing. No x-ray, even though I asked, my nose was clearly broken and crooked.*” Coleman alleged procedural misconduct against the hospital. 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further. This complaint was forward to Sharp Hospital for follow-up.

5. Misconduct/Procedure – SDPD officers failed to file charges against the suspect in Coleman’s assault case.

Recommended Finding: Summary Dismissal

Rationale: While at the hospital, and after the assault occurred, SDPD police officers were summoned to the scene to investigate the assault. In his letter to CLERB, Coleman report, “*The police came SDPD [to Sharp Mesa Vista Hospital]. Asked me if I wanted to press charges. Of course I did, so I did. No court date. No*

follow up. No letter in the mail nothing. I want to sue for negligence, and misconduct, and anything else I can.” Coleman alleged procedural misconduct against the responding SDPD police officers when they offered no follow-up to his filing charges against the suspect in his assault case. 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 and the San Diego County Probation Department. As such, CLERB Board lacks jurisdiction to investigate further. This complaint was forward to the Commission on Police Practices.

6. False Arrest – Escondido Police Department (EPD) police officers arrested Coleman.

Recommended Finding: Summary Dismissal

Rationale: In Coleman’s letter to CLERB, he explained that on 07-16-23, he was arrested by EPD police officers after he was involved in an incident. Coleman reported, *“SDPD [EPD] got a report about someone they said was flagging down traffic yelling at cars, which is all not true. So they came after me and detain me which was illegal and wrong, no crime had been reported, no description was given and I was stopped for walking. They came with three or four units... Now I’m going to prison. They charge me with under the influence which was wrong and illegal cause I was sober. My demeanor was shook because I thought they were crooked, perhaps cartel cops. It’s unfair and unjust. I deserve better. I’m not a criminal who deserves prison.”* 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further. This complaint was forward to the EPD for follow-up.

7. Misconduct/Discourtesy – EPD police officers were “rude and unprofessional” to Coleman.

Recommended Finding: Summary Dismissal

Rationale: In Coleman’s letter to CLERB, he advised that during his 07-16-23 arrest he described the arresting police officers as *“rude, unprofessional, and threatening. They scared the shit out of me. They were reaching for their guns and tasers. I asked them for three forms of ID to prove they were cops they declined... made me panic. I figured they were cartel and we’re kidnapping me or gonna kill me.”* 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 and the San Diego County Probation Department. As such, the CLERB Board lacks jurisdiction to investigate further. This complaint was forward to the EPD for follow-up.

8. Misconduct/Procedure – Unidentified deputies failed to protect Coleman after he informed them of his “safety concerns.”

Recommended Finding: Unfounded

Rationale: In his complaint, Coleman alleged procedural misconduct during his time in SDSJ custody. He claimed to have witnessed an inmate assault at SDCJ and provided a statement to deputies investigating the incident. Coleman expressed fear for his safety, stating he begged deputies for help without response. Jail records contradict Coleman’s claim, and showed Coleman was transferred to a safer unit on 07-27-23 and interviewed by a Classification deputy on 07-31-23 regarding his safety concerns. Despite attempts to transfer him due to safety issues, Coleman’s history of conflicts with other incarcerated person made it challenging to relocate him. Eventually, on 08-03-23, Coleman was moved to Protective Custody at his own request, citing safety concerns and his reluctance to engage in jail politics. The allegation that deputies failed to protect Coleman after he informed them of his “safety concerns” was found to be untrue.

9. Misconduct/Procedure – Deputies 2 and 3 placed Coleman in Administrative Separation.

Recommended Finding: Action Justified

Rationale: In Coleman’s letter to CLERB he contended, *“I was unjustly placed in administrative segregation, where I am only allowed out for an hour every other day, despite being innocent.”* During Coleman’s incarceration, he was placed into Administrative Separation (Ad-Sep) on two occasions. In one instance, Coleman was named as a witness to an assault and provided a statement to the investigating deputies. His

actions “created an immediate safety concern” for himself. Coleman requested to be separated for his safety, and his requested was granted. Due to his expressed safety concerns, on 07-31-23, Deputy 3 made the decision to place Coleman into Ad-Sep, pending further transfer to Protective Custody. In a second instance, on 10-02-23, after being identified as an aggressor/suspect for the second time in a sexual assault case, Deputy 2 made the decision to place Coleman in Ad-Sep and Protective Custody. According to jail documents, it was determined that Coleman would be in placed in administrative separation, due to his continual failure to adjust and conform to minimal jail standards. Coleman’s placement into Administrative Separation did occur and was lawful, justified and proper.

10. Misconduct/Discourteous – Deputy 1 was discourteous to Coleman.

Recommended Finding: Unfounded

Rationale: Coleman advised “*I was treated poorly by detectives, despite submitting DNA to prove my innocence. I got talk to by detectives, read my rights, and treated like shit.*” According to SDSD documents, on 09-20-23, Deputy 1 interviewed Coleman. The ten minute, 30 second audio recorded interview of Coleman by Deputy 1 was reviewed in its entirety. In the interview, Deputy 1 was thorough, respectful, and conducted a comprehensive discussion with Coleman. Deputy 1 was professional, was considerate of the subject matter and Coleman’s interactions. Deputy 1 ensured that all pertinent details and insights were effectively discussed and captured. Deputy 1 was never condescending, belittling, rude, nor unprofessional. Coleman was found not to be credible in his recall of this event and the allegation that Deputy 1 was discourteous to Coleman was found to be untrue.

11. Misconduct/Procedure – Unidentified deputies lost Coleman’s property.

Recommended Finding: Unfounded

Rationale: In his letter to CLERB, Coleman reported that unidentified detention deputies “*removed me from the cell without allowing me to retrieve my personal property, which included court paperwork, my Social Security number, and pictures of my eight-year-old daughter, Aria. I lost my property... So, the cops come pull me out of the cell and did not let me get my personal property, which they lost. Like again, not fair, unjust!*” Contrary to Coleman’s statement, coupled with numerous documented reports, Coleman was allowed to gather and pack his own modular property prior to his being moved to another facility. Coleman was responsible for collecting and packing his own property, and not a deputy. The allegation that deputies lost Coleman’s property was found to be untrue.

23-127/BORGEN (Inv. Aldridge)

1. Misconduct/Procedure – The San Diego Sheriff’s Department (SDSD) failed to maintain its jails.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen criticized the San Diego Sheriff’s Department (SDSD) for failing to maintain its jails. He highlighted several issues, including severely rusted, mildewed, and corroded toilets that were unsanitary, particularly in the intake holding cells on the first floor and the release tank holding cells on the second floor. Borgen questioned why the jail floors were not regularly maintained and raised concerns about the lack of OSHA testing for lead poisoning, which could have long-term psychological effects if inmates are exposed for extended periods. He also noted that at the George Bailey Detention Facility (GBDF), the vents were set to freezing temperatures, blowing air on high blast continuously. Additionally, Borgen reported mold, potential lead exposure, and insufficient privacy in shower areas, where inmates were exposed to others while showering, violating their privacy. This allegation, along with allegation 2-16 did not involve the conduct of a peace officer(s) employed by the SDSD and/or the San Diego County Probation Department over which CLERB has authority. Borgen’s complaints of jail facility structures and their defects, jail processes, IP access to legal materials and library services, his complaints of jail food/meals, unsanitary conditions, IP’s lack of programs and jail services, his allegations of the lack clean drinking water, the transporting of IP, overcrowding, allegations of HIPAA violations, jail housing bulletin boards, phone privacy, IP clothing, commissary, jail provided medical care, and the SDSD’s decision on its handling and the distribution of IP mail, did not specify deputy misconduct. As such, these type of allegations do not fall within the San Diego County Charter nor the authority granted to CLERB by the San Diego County

Board of Supervisors based on Section 606(f) of the San Diego County Charter, which states that the duties of CLERB shall be established by the Board of Supervisors. Section 340.9 of the San Diego County Administrative Code defines the authority of CLERB. Specifically, § 340.9(a) provides that CLERB shall have authority to “[r]eceive, review and investigate citizen complaints filed against peace officers” Section 340.9(c) goes on to state that CLERB shall have authority to “[p]repare reports ... on the results of any investigations conducted by the Review Board in respect to the activities of peace officers”. The Review Board lacks jurisdiction.

2. Misconduct/Procedure – The SDSJ jail system processes are substandard.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen raised several concerns about the processes of the SDSJ jail system. Borgen reported that quarantine cells were not properly cleaned before new occupants arrived, leading to unsanitary conditions that increased the risk of contracting COVID-19. Borgen also alleged that incarcerated persons were sometimes left in the booking process for days or longer, pending between medical screening and classification while housed on the jail’s second floor. Borgen criticized the insufficient quarantine periods for incarcerated persons entering the jail system, suggesting this might be a factor in the spread of illnesses among incarcerated persons. Additionally, Borgen argued that pre-trial detainees were subjected to “cruel and unusual treatment” by being housed with convicted incarcerated persons, which he viewed as a misclassification driven by the convenience of SDSJ processing of incarcerated persons. See Rationale #1. The Review Board lacks jurisdiction.

3. Misconduct/Procedure – The SDSJ jail system failed to provide access to programs for incarcerated persons per Title 15.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen alleged that the SDSJ jail facilities lacked proper access to legal materials, law library resources, and rehabilitation programs. He noted that there were no direct library services in the men’s jail facilities, depriving incarcerated persons of their right to religious, educational, and recreational reading materials, as required by Title 15 minimum standards for local jail facilities. Borgen emphasized that pretrial incarcerated persons, who would otherwise have access to daily computer use and rehabilitative services, are denied these opportunities. He claimed that the lack of access to legal research resources hinders an incarcerated person’s ability to fully exercise their constitutional right to prepare their legal cases, causing significant delays. Additionally, Borgen, identifying as Black African and Asian, reported being deprived of sufficient religious reading materials that reflect his cultural and religious background, as available materials are predominantly Eurocentric. See Rationale #1. The Review Board lacks jurisdiction.

4. Misconduct/Procedure – The SDSJ provided inadequate meals to incarcerated persons.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen alleged that the food provided to incarcerated individuals was of poor quality and often unsanitary. He noted that the meals were primarily composed of soy-based products. Additionally, Borgen described a practice where jail officials instruct inmate workers to place food trays on the ground in front of cells, where dirt and debris from inside the cells accumulate. He expressed concern that these trays are sometimes partially open, exposing the food to contamination from the filthy surfaces. Borgen criticized this practice as “*unsanitary, unethical, unprofessional, and an act of cruelty,*” emphasizing that food should never be placed on the ground, as it is inhumane. See Rationale #1. The Review Board lacks jurisdiction.

5. Misconduct/Procedure – The SDSJ failed to maintain sanitary conditions within its jail facilities.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen alleged that unsanitary conditions within the SDSJ jail facilities led to his contracting COVID-19. He attributed his illness to poor hygiene, inadequate cleaning, cross-contamination, and unsanitary living conditions, including tainted cells, mold, and potential lead poisoning. Borgen described various issues, such as unsanitary showers, transportation buses, court holding cells, and

quarantine cells that were not properly cleaned. He also mentioned black mold in water pipes, black worms emerging from drains, and insufficient cleaning supplies. Borgen noted that inmates were rarely allowed to clean their cells and that contaminated bedding and clothing were often recycled without proper sanitation. He submitted grievances about these toxic and unsanitary conditions. See Rationale #1. The Review Board lacks jurisdiction.

6. Misconduct/Procedure – The SDSA failed to provide incarcerated persons with programs and jail services.

Recommended Finding: Summary Dismissal

Rationale: Borgen alleged that the SDSA failed to provide incarcerated individuals with adequate programs and services, particularly lacking "high-power rehabilitation programs." In his complaint to CLERB, he emphasized the absence of educational and recreational reading materials, as well as the lack of library services and access to computers for pretrial inmates. He noted that this hindered his ability to prepare legal cases, causing delays due to the unavailability of legal resources and rehabilitative programs. Borgen also indicated that he had formally submitted an Inmate Request Form to jail counselors to address these concerns. See Rationale #1. The Review Board lacks jurisdiction.

7. Misconduct/Procedural – The SDSA failed to provide clean drinking water to incarcerated persons.

Recommended Finding: Summary Dismissal

Rationale: Borgen alleged that during his incarceration, incarcerated persons had limited access to clean water. He claimed that incarcerated individuals were given polluted water for drinking and showering, with hazardous waste contaminating the water as it was used for washing incarcerated person's clothing and bedding. In his complaint to CLERB, Borgen described how incarcerated persons had to drink from fountain heads connected to toilets that were corroded and covered in mildew. In contrast, jail officials and non-sworn staff had access to abundant fresh drinking water. At the George Bailey Detention Facility (GBDF), Borgen identified that one of the housing units had little to no hot water in the sinks and showers. Incarcerated persons were forced to drink tap water from deteriorated pipes that were not properly maintained or filtered. Borgen questioned why incarcerated persons were not allowed to purchase bottled water from the commissary or have bottled water provided, especially for those with specific dietary needs. See Rationale #1. The Review Board lacks jurisdiction.

8. Misconduct/Procedure – The SDSA failed to transport incarcerated persons in a safe and sanitary manner.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen complained that the SDSA transportation buses transported incarcerated individuals in an unsafe and unsanitary manner. He explained that during transport, incarcerated persons were handcuffed together, even when some had "open wounds, skin infections, and contagious diseases." This practice, according to Borgen, contributed to the spread of lice, viruses, and bacteria among the incarcerated person population. Borgen suggested that this unsanitary method of transport might be used as a form of retaliation against pre-trial detainees before they had the chance of due process. See Rationale #1. The Review Board lacks jurisdiction.

9. Misconduct/Procedure – The SDSA failed to provide Borgen with privacy.

Recommended Finding: Summary Dismissal

Rationale: Borgen alleged that the SDSA jails were overcrowded and that the use of three-person/three-tier bunk beds was illegal. He reported that incarcerated person were forced to sleep on filthy floors or rusted benches, particularly in the intake area, where overcrowding led to incarcerated person sleeping on cold, dirty concrete floors. Borgen further claimed that jails are no longer allowed to use three-person/three-tier bunkbeds. Borgen argued that overcrowding deprived incarcerated person of adequate space and privacy. He also noted that, as a "pro per" inmate (representing himself in legal matters without a lawyer), he struggled to protect his confidential legal work due to the lack of personal space. Borgen claimed that the overcrowded conditions denied him the ability to safeguard his legal documents and that he was unfairly denied the right to have his own cell to protect his work. See Rationale #1. The Review Board lacks jurisdiction.

10. Misconduct/Procedure – The SDSD violated the Health Insurance Portability and Accountability Act (HIPAA).

Recommended Finding: Summary Dismissal

Rationale: Borgen alleged that the SDSD's practice of requiring a deputy to be present during an incarcerated person's medical appointments violates HIPAA. He argued that the SDSD's practice breaches doctor-patient confidentiality and infringes on incarcerated person's privacy rights. Borgen described the presence of deputies during medical consultations as humiliating, particularly when discussing personal medical or mental health issues. He claimed that this practice unethically extends the authority of sheriffs into areas outside their jurisdiction and breaches incarcerated person's right to confidentiality by allowing deputies to "hover over and interrupt" medical staff during appointments. See Rationale #1. The Review Board lacks jurisdiction.

11. Misconduct/Procedure – The SDSD failed to process incarcerated person's mail in a timely manner.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen criticized the SDSD's mail processes, describing them as "*erogenous, unprofessional, and unethical.*" He expressed frustration over significant delays in the handling of incarcerated person's mail, including emails, money deposits, and legal documents. Borgen explained that the current mail system, which routes through the Las Colinas women's jail, results in long delays, often taking 5-10 business days for general mail and up to 21 days for legal mail. He suggested implementing methods to improve efficiency. Borgen implied that the slow mail process might be an attempt to cut costs, questioning whether the SDSD was mismanaging its funding, which should be allocated to ensure timely mail delivery. Borgen's allegation raised concerns about incarcerated person's rights to timely communication, especially for legal matters. See Rationale #1. The Review Board lacks jurisdiction.

12. Misconduct/Procedure – The SDSD failed to supply incarcerated persons with clean clothes.

Recommended Finding: Summary Dismissal

Rationale: In his complaint to CLERB, Borgen complained about the poor condition of the jail-issued clothing provided to incarcerated individuals. He described the clothing as filthy and comparable to what a "*dusty homeless person*" might wear, citing examples of underwear that was yellowed or stained with crust and semen, as well as dirty socks and t-shirts. Borgen expressed concern that incarcerated persons often appeared disheveled, especially during interactions with medical staff, attorneys, court appearances, or visits with family and friends. He alleged that incarcerated persons in intake could go a week or longer without being given fresh clothes and that clean clothing was not regularly provided, particularly for pre-arraigned persons, who were often issued dirty, week-old attire. Borgen stressed the need for daily clean clothes, especially for incarcerated persons with medical conditions. See Rationale #1. The Review Board lacks jurisdiction.

13. Misconduct/Procedure – The SDSD failed to offer drinking water through their commissary.

Recommended Finding: Summary Dismissal

Rationale: Borgen reported that the SDSD Commissary did not offer incarcerated persons the opportunity to purchase water. Borgen questioned, "*Why is it that inmates cannot at least be afforded with the opportunity to buy and purchase their own bottled water from commissary and maybe have bottled water provided to at least inmates with certain diets?*" Borgen alleged that the SDSD failed to offer basic choices for clean and safe drinking water for purchase through the department's commissary. See Rationale #1. The Review Board lacks jurisdiction.

14. Misconduct/Medical – SDSD jail medical/health staff provided inadequate medical care to Borgen.

Recommended Finding: Summary Dismissal

Rationale: During his incarceration, Borgen made allegations of inadequate jail medical care. In his letter to CLERB, Borgen reported, "*I have made numerous complaints to mental health services throughout my incarceration. With being housed at SDCJ, GBDF, and RMDF, to a number of mental health, clinicians and psychiatrist, most of which I am unfamiliar with.*" Medical staff are non-sworn personnel over whom CLERB

has no jurisdiction per CLERB Rules & Regulations 4.1, Complaints: Authority. The Review Board lacks jurisdiction.

15. Misconduct/Procedure – Unidentified deputies housed Borgen with other cellmates.

Recommended Finding: Action Justified

Rationale: In his complaint to CLERB, Borgen complained that he was housed with other cellmates. Borgen explained that on 02-15-22, while housed at SDCJ, an unidentified deputy “*try to force me into a hazardous toxic environment and/or situation. Jail officials try to make me cell up with two other crusty ass inmates. I am pro per and have the right to protect my work product.*” A review of Borgen’s jail documents confirm that he was a pro per IP; however, Borgen’s status of being pro per did not allow him separate housing within the jail. Pro per incarcerated persons, those representing themselves in legal matters, are not necessarily housed separately from the general IP population. Housing decisions within SDSD jails are typically based on factors such as security level, behavior, and classification, rather than an incarcerated person’s legal status. However, pro per incarcerated persons may receive certain privileges or accommodations, such as access to legal materials or the ability to meet legal deadlines, but this does not usually extend to separate housing. The evidence showed that the alleged act did occur, and it was lawful, justified, and proper.

16. Misconduct/Procedure – Unidentified deputies placed Borgen in a “multipurpose room.”

Recommended Finding: Action Justified

Rationale: Borgen alleged that during his incarceration he was forced to sleep in what he described as a “multipurpose room” and was provided poor sleeping materials. Borgen explained, “*Upon being transferred back to SDCJ and after refusing to be in a cell with two other people, I was placed in the multipurpose room, located on the fifth floor, where I had to spend approximately two days and two nights sleeping on the ground before I was able to speak with classification. I was forced by sheriffs, for approximately 2½ days, to sleep on the multipurpose room floor with a half torn mat, and a couple of rip blankets, which at the time I was in a medical boot for my right leg. I had to mentally and physically suffer a great deal.*” A review of Borgen’s jail documents revealed that on 02-16-22, deputies placed Borgen in the recreation yard after he refused housing. Initially, Borgen claimed to have (undocumented) enemies. Then Borgen refused housing, stating he needed a cell with no cellmates, as he wanted to be housed alone. Deputies made multiple attempts to house Borgen during their shift, but Borgen refused. Because Borgen refused to be housed, deputies made the decision to place Borgen in the lower multipurpose room so as to provide him shelter and in order to free up the recreation yard for others to use. Because of the lapse of time from when this incident occurred and the time of this investigation, 02-16-22 to 08-01-24, there were no jail surveillance video recordings available to view. Additional records also revealed that on 02-26-22, Borgen was placed in medical isolation for medical reasons. The evidence showed that the alleged act or conduct did occur, and it was lawful, justified, and proper.

23-134/LEWIS (Inv. Setzler)

1. False Arrest - Deputy 1 placed Thomas J. Lewis on a “5150 hold” on 04-20-23.

Recommended Finding: Action Justified

Rationale: Complainant Thomas Lewis stated, “On April 20, 2023 about 1:30 PM Thomas J. Lewis Fourteen amendment is violated by Ramona sheriff’s officers. With a lawful restraint 5150 hold. Which guarantees the Rights to be free from Government Restraints and the Right not to be confined Unnecessarily” Violation by unqualified officers with 5150 hold. Thomas J. Lewis didn’t meet the criteria for writing requires probable cause. Defined in People V. Triplett (1983) as a necessary part of probable cause. Thomas J. Lewis and the VA San Diego Healthcare, La Jolla. Believe 5150 Hold was unjust and improper. A ‘Chronic conflict’ Thomas J. Lewis placed on 5150 hold Did not fit the Causes and/or definition law of what 5150 hold legally is. April 20,2023 Violations of Thomas J. Lewis, States: ONE, Fourteen Amendments Right. Which guarantees the Rights to be free from Government Restraints and the Right not to be confined unnecessarily. Violation by qualified officers with 5150. Thomas J. Lewis did not meet the criteria for writing requires probable cause. Defined in People V. Triplett (1983). as a necessary part of probable cause. TWO, First Amendment Right. freedom of speech, or freedom of expression, applies to ideas of all kinds, Including those that may be deeply

offensive. THREE, Second Amendment Right. The prohibitive to Firearms with a Lawful 5150 Hold 4-20-23.” According to SDSD records, deputies received a radio call of a male screaming, threatening pilots and writing messages with chalk on the road in close to the Ramona airport. Lewis reported to deputies the planes were targeting his home, preventing his wife from providing childcare. Lewis believed the planes were weaponized and intentionally targeted his home because they are a minority family. A Psychiatric Emergency Response Team (PERT) Clinician conducted an evaluation of Lewis, and after conferring with Field Operations Supervisors, it was determined Lewis was a danger to others due to a long history of sending verbally aggressive emails and letters to the staff at the Ramona Airport, and the owners of planes being stored there. Lewis was detained pursuant to 5150 W&I, Treatment and Assessment up to 72 hours. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

2. False Reporting – Unidentified deputies presented false documentation to the VA (Veterans Administration) medical personnel.

Recommended Finding: Unfounded

Rationale: Complainant Lewis stated, “The Ramona sheriffs/Pert committed fraud. Completed federal forms and presented false fraudulent documentation to the VA medical personnel as truth. ‘We live next to Ramona Airport’. ‘We follow Ramona airport employees to their homes.’ Ramona sheriff’s department/co-conspirators remain fixated that no threat had ever occurred to Thomas J Lewis and minority family. After confirmed criminal threats, Ramona Sheriff’s department continued wrongfully to state it was only an FAA issue. Reality, FAA is the authority on rules regulations and best practices on aviation rules. Ramona sheriffs dept. law enforcement enforces rules regulations when escalated to a crime. Requiring a report. Example. Road rage harming innocent citizen. You do not call the DMV you immediately call law-enforcement. DMV is the authority, and law-enforcement enforces the law. It is a crime to lie or make false statements. Verbally or in writing falsifying government documentation.” Complainant Lewis did not authorize CLERB to access his VA medical records or provide evidence to support this allegation. An Application for assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment for the VA La Jolla Hospital was completed on 04-20-23 by a PERT Clinician at 3:38pm. A preponderance of evidence showed the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 3 handcuffed and detained Lewis for hours.

Recommended Finding: Action Justified

Rationale: Complainant Lewis stated, “4-20 2023, Thomas J Lewis was immediately handcuffed behind his back, possessions removed from him and left in the hot sun for hours. A baseless biased and unnecessary interrogation harming Thomas J Lewis. Denied water upon request. Put in a hot car until nearly passing out. Having to get deputies attention standing in the shade. When police door was opened, Thomas J Lewis fell to the outside ‘proclaiming why are you doing this to me’ Thomas J Lewis was then dumped at the VA hospital by deputies/criminal thugs/domestic terrorist. Interrogated on a continued false narrative promoting hate and violence. Protecting the themselves/wrongdoers. Fully aware the truth day one provided on a silver platter. ‘Investigate ourselves’. Statement made by Robert Samuels...” According to the California Peace Officers Legal Sourcebook, there is no set time limit for an investigative detention. SDSD records showed Lewis was contacted in Ramona at approximately 2:08pm and handcuffed during investigation of this incident. Body Worn Camera (BWC) confirmed Lewis was handcuffed and standing in the shade while wearing a sun hat. Lewis continually spoke to deputies and PERT in no apparent distress for approximately 80 minutes. An application for 72 hour detention for evaluation and treatment at VA La Jolla Hospital was recorded at 3:38pm. The evidence showed that the conduct that occurred was lawful, justified and proper.

4. Discrimination/Racial - Deputy 2 failed to conduct an investigation for a minority family.

Recommended Finding: Action Justified

Rationale: Complainant Lewis stated, “For the past eight years: [redacted] along with other San Diego sheriff’s department/pigs have received each and everyone of our minority families. Please for assistance, emails/complaints/victim statements now whistleblower documentation. Refusing to protect our life and property placing us in the position to “investigate our self” while under constant threat. Already aware of the who what when why and how. Having access to a investigation from us, given to them on a silver platter. No

response to our investigation, no investigation themselves, no report, no accountability, no enforcement, positively absolutely no transparency towards the victims they were continuing to threaten. Denying our minority families truth and the actual facts. Pictures of planes, the weaponization of planes after April 20, 2023 with pinpoint accuracy violating all aviation rules regulations and safe practices placing us in a landscape of violence and fear. Further documentation of a hate crime. A documented Killzone denying our ability to live in peace are use our property for is intended purpose as we did for the first 15 years of living and working predominantly outside on the property. Not having a single incident from the Ramona airport. San Diego sheriff's department: Day one refusing to work within the scope of their job duties and requirements. To protect all life and property. Not just friends and family. San Diego sheriff's department: Immediately, day one working outside the scope of their job duties and requirements promoting FAA rules regulations best practices that simply did not exist. With one intent to remove our family from the community to hate violence and discrimination." Deputy 2 is assigned to the SDSD "Threat Assessment Group" and has monitored the complainant's emails sent to SDSD, the Board of Supervisors, CLERB, and many other entities. The complainant was referred to the Federal Aviation Administration for concerns regarding the Ramona airport. The evidence shows the conduct that occurred was lawful, justified and proper.

23-139/AMAN (Inv. Wigfall)

1. Misconduct/Procedure – Deputy 2 handcuffed Incarcerated Person (IP) Wali Aman.

Recommended Finding: Not Sustained

Rationale: Complainant Aman stated that on 07-15-23, Deputy 2 spoke with him while he was assigned as an Incarcerated Person (IP) Worker in the kitchen. Aman stated he walked towards the deputy, and he instructed him to turn around and proceeded to handcuff him. SDSD documentation showed that Aman caused tension in the IP worker program and would challenge others to engage in physical confrontations. Deputy 2 reported he escorted Aman to his new housing assignment, but there was no evidence noted that the deputy handcuffed him. SDSD P&P, Section I.51 states all incarcerated persons being moved will keep their hands in their pockets or waistbands, unless they are in Administrative Separation (Ad-Sep) and/or Greenbanders. Also, deputies may handcuff an IP for safety reasons, if he/she is being assaultive or poses a danger to himself or others. Deputy 2 provided a confidential statement that was considered for the recommended finding. Given the lack of jail surveillance video, there was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Intimidation – Deputy 2 told IP Aman he would take him to a "place where he would get an "ass-kicking."

Recommended Finding: Not Sustained

Rationale: Complainant Aman reported that Deputy 2 escorted him out of the module and allegedly told him, he would take him to a place where he would get an "ass-kicking." Aman reported the deputy continued to tell him he was going to get "jumped and beat down." SDSD documentation showed that Aman reported "everyone" in his module challenged him to a fight and attempted to "jump him." SDSD documentation showed that Aman was escorted by Deputy 2 out of his housing assignment because he reported that other IPs wanted to assault him. Deputy 2 provided a confidential statement that was considered for the recommended finding. Jail surveillance video was reviewed but lacked audio capabilities. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 2 placed IP Aman in "solitary confinement."

Recommended Finding: Action Justified

Rationale: Complainant Aman stated Deputy 2 placed him in "solitary confinement" for a few hours. SDSD documentation showed Deputy 2 placed Aman in a holding cell on 07-15-23 while he was in the dayroom and questioned him about the IP worker program. SDSD documentation also showed that on 08-28-23 medical staff notified deputies that he was needed to be housed in medical isolation, from which he was released on 09-05-23. It is unclear which incident Aman referred to in his complaint. There were no concerns of any policy violations. Evidence showed the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Courtesy – Deputy 2 told IP Aman he needed to take “psychiatric medication.”

Recommended Finding: Not Sustained

Rationale: Complainant Aman reported that Deputy 2 asked him if he took any psychotropic medication, but Aman responded no and allegedly the deputy said, “You need to.” Aman also stated the deputy asked if Aman was on drugs, but Aman denied and replied he was “fine and mentally sound.” Deputy 2 provided a confidential statement that was considered for the recommended finding. Surveillance video was reviewed of Deputy 2 escort of Aman into a new housing, but it lacked audio capabilities. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure – Deputy 2 placed IP Aman in a housing module where he was assaulted.

Recommended Finding: Action Justified

Rationale: Complainant Aman stated Deputy 2 placed him in a module where he was assaulted by IPs. Aman reported once he was placed in the dorm he was “swarmed by numerous IPs who assaulted him until he was unconscious. He also reported the IPs had weapons. Aman stated the deputy put his life in danger and “broke his oath as a peace officer.” Evidence showed that Aman was moved to a new housing module because he disclosed IPs wanted to assault him in his current dorm. SDSD documentation also showed a classification deputy cleared Aman to be housed where he was subsequently assaulted. Surveillance video was unavailable of the assault, but the incident was investigated by sworn staff. There were no indications that Aman was at risk at his new housing assignment, so there were no policy violations found. Deputy 2 provided a confidential statement that was considered for the recommended finding. The evidence showed the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 1 provided information about Aman to another IP.

Recommended Finding: Not Sustained

Rationale: Complainant Aman stated that before he was assaulted, he heard Deputy 1 disclose his charges to one of the IPs who assaulted him. Please note that criminal charges are public record, and it is common for friends/family members to disclose information to IPs. Deputy 1 provided a confidential statement that was considered for the recommended finding. There was insufficient evidence to either prove or disprove the allegation.

23-167/JOHNSON (Inv. Klew)

1. Excessive Force – Deputy 1 “yanked” Johnson by his right shoulder.

Recommended Finding: Unfounded

Rationale: Johnson alleged that on 11-21-23 he was escorted by SDSD deputies to an “interview room” to meet with an attorney prior to a Court appearance. Johnson stated Deputy 1 entered the room in a “hostile manner” and yanked me by my right shoulder out of a chair...” Johnson stated that he submitted a grievance regarding this incident. SDSD 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.” A grievance report indicated that “video of the holding area” was reviewed and the involved deputy was interviewed. The report indicated the claim was determined to be unfounded based on the video and the interview with Deputy 1. It should also be noted, a review of Johnson’s “Inmate History Report,” and available incident reports, do not indicate any use of force incident occurred on 11-21-23. There was a report related to an incident occurring on 11-21-23, however, it was regarding an incarcerated person rules violation, not a use of force incident. SDSD Detention Services Bureau Policies and Procedures (DSB P&P) Section O.3, Rules and Regulations of Incarcerated Persons, “set[s] forth rules governing inmate behavior in an effort to provide a safe and healthy environment for visitors, staff and incarcerated population within the Sheriff’s detention facilities.” A review of the testimony provided by Johnson in his complaint to CLERB, as well as SDSD documents, showed a use of force incident did not occur on 11-21-23. The evidence shows that the alleged act or conduct did not occur.

2. Misconduct/Intimidation – Unidentified deputies “flinched” and “pushed” at Johnson.

Recommended Finding: Unfounded.

Rationale: Johnson also alleged an “assault and battery” occurred on 11-22-23. Johnson alleged this incident occurred while being transported to Court. In his complaint to CLERB, Johnson alleged, “... Female Deputy, [redacted]... whom was assigned to supervise and watch and escort us court bodies that morning of (11/22/23) whom basically flinched at me as I was walking into that [building].” Johnson continued, “... whoms [sic] actions caused a spontaneous [sic] chain reaction. Leading up to multiple deputies having to escort me in a show of unnecessary use of force to the holding cell...” Johnson alleged an unidentified deputy pushed him from behind “injuring my right shoulder and right wrist.” Custody records confirmed that on 11-22-23 Johnson was transported from VDF to a Court appearance at the San Diego Central Court. However, as with the alleged 11-21-23 incident, there is no indication on the “Inmate History Report” that any use of force incident occurred on 11-22-23. Additionally, there are no Incident Reports, or any notes on the Inmate History Report, that any incident, of any type, occurred when Johnson was transported to Court, was at Court, or when transported back to VDF after Court. Additionally, Deputy “[redacted]” was unable to be identified or associated with this alleged incident. There was no credible evidence identified which indicated this allegation was true. The evidence shows that the alleged act or conduct did not occur.

SUMMARY DISMISSAL (0)

End of Report