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County of San Diego
CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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www.sdcountry.ca.gov/clerb

REGULAR MEETING AGENDA
Wednesday, October 2, 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=7wyZbStGwRCYjhwaUWwWLXq4E1ps7q.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 September 3, 2024

5. PRESENTATION/TRAINING (15 minutes)

- a) Sheriff Kelly Martinez

(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 (5 minutes)

- a) Overview of Activities of Executive Officer 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)

7. BOARD CHAIR'S REPORT (5 minutes)

8. NEW BUSINESS (15 minutes)

- a) CLERB Board Discussion of July 15, 2024, Letter from San Diego Sheriff's Department (SDSD) Regarding CLERB Sustained Findings Against Department and Direction to Staff (Attachment E)

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

- b) Proposed Board Meeting Calendar 2025
- c) CLERB Goals for 2025

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 – 8:00 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 (12)

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 (1)

CASE NO. 22-111/DIX

1. Death Investigation/In-Custody Medical – Incarcerated Person Raymond Dix died while in the custody of the Sheriff's Department on 09-13-22.

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. Incarcerated Person (IP) Raymond Dix was a 56-year-old white male, housed in Protective Custody (PC) following his felony arrest on 09-06-22 by the San Diego Police Department for assault with a deadly weapon: not a firearm. Dix had a long history of medical problems and was screened during booking in compliance with DSB Policy M.9, which states all individuals presented by arresting agencies shall be medically screened prior to acceptance for booking at a Sheriff's detention facility and individuals who require urgent and immediate medical care shall not be accepted for booking. Dix was properly classified per DSB Policy R.1, which states an incarcerated person's initial classification is determined by their original booking charges, criminal history information, medical and psychiatric issues or additional special conditions, and information obtained from the incarcerated person interview. Sheriff's records showed that on 09-13-22, Dix exited the Dayroom around 10:00am and returned to his cell where his cellmate reported Dix laid down to take a nap. Security checks were recorded in compliance with policy during this time. After 1:00pm, the cellmate got up to use the restroom and noticed Dix lying with his eyes open and alerted deputies who responded with medical personnel. Sworn and medical staff administered life-saving measures to include chest compressions, Narcan and an AED (Automated External Defibrillator) device. Dix was transported to a hospital where he was pronounced deceased at 2:35pm. A search of Dix's cell was conducted with no indication of foul play or drug use. An autopsy was performed at the Medical Examiner's Office and determined the cause of death was cardiovascular disease, and the manner of death was natural. Toxicological screening for cannabinoids was presumptive positive with no confirmatory testing performed, and no other screened drugs of abuse or alcohols were detected. The Critical Incident Review Board (CIRB) conducts a review of all in-custody deaths and had no policy recommendations or action items for this event. Based on all known information, there was no evidence to support an allegation of procedural violation, misconduct, or negligence on the part of Sheriff's Department sworn personnel.

USES OF FORCE RESULTING IN GREAT BODILY INJURY (2)

CASE NO. 23-114/QUINTANAR

1. Use of Force Resulting in Great Bodily Injury – Deputies Fernando Bonifacio Jr., Kenneth Feistel Jr., Nam Hoang, Isaac Martinez, Cayleen McGraw, Preston Robbins, and Peter Vander Horn responded to a domestic dispute and arrested Reynaldo Quintanar with force resulting in injury on 08-13-23.

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. On 08-19-23, Reynaldo Quintanar was present during a domestic dispute between his adult daughter and her fiancé. When deputies arrived on scene, Quintanar's intoxicated daughter was uncooperative and refused to comply with deputies' commands. When Deputy Vander Horn attempted to detain Quintanar's daughter, she struck him in the face with an open hand. When Deputy Vander Horn used force against Quintanar's daughter, Reynaldo punched Deputy Vander Horn in the face with a closed fist. Due to Reynaldo's actions, he was arrested for resisting and battery of a peace officer. Reynaldo was medically treated and booked into a detention facility without further incident. SDSD Policy 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." A review of the documented information and video evidence of this incident showed the use of force by deputies

was justified. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

CASE NO. 23-155/MOHI

1. Use of Force Resulting in Great Bodily Injury – Deputies Zachary Dalton and Daniel Jaimes used force towards Khalil Mohi.

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. Deputies Dalton and Jaimes arrived at a residence in response to a family disturbance. The reporting party stated Mohi was possibly under the influence and made “vague threats” towards them. Deputies later discovered Mohi was in violation of a Restraining Order and commanded him to place his hands behind his back. As deputies attempted to handcuff him, Mohi resisted, pulled away and shoved Deputy Dalton. A struggle ensued with both deputies and Mohi on the ground. Deputies continued to command Mohi to get on his stomach, but he did not comply and reportedly assaulted deputies. Deputies used force in the form of hand/knee strikes and a flashlight to deliver strikes. Deputies ultimately handcuffed Mohi, sat him up as they waited for paramedics to arrive and transported him to a hospital where he was treated for his injuries. Body Worn Camera (BWC) was reviewed and showed Mohi’s resistance, but the use of force was not visible due to darkness. Addendum F, Use of force guidelines states deputies should choose the available force option, which is reasonable and necessary for the circumstances at the time. Subjects must not gain the advantage in a physical confrontation; therefore, deputies may need to use a force option that exceeds the subject’s force level. Due to Mohi’s assaultive behavior, deputies used hands-on control and hard intermediate weapons, deputy which included the use of a flashlight and the force used was in compliance with policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1 and 2 failed to provide Mohi a copy of his Restraining Order (RO).

Recommended Finding: Unfounded

Rationale: Complainant Mohi stated that he was not served with the RO, so he was not aware there was an order against him when he arrived at his mother’s house. Mohi stated he asked deputies for a copy of the RO, but they did not provide it to him. The RO confirmed Khalil was not present in court at the time the RO was granted but stated that the restrained party “can be served by mail.” The RO was valid from 06-18-21 to 06-18-24. Body Worn Camera (BWC) showed when Deputy 1 verified the conditions of the RO with dispatch. BWC showed deputies informed Mohi he was under arrest for violation of a restraining order, and Mohi responded that he had keys to the home. There was no evidence that Mohi asked deputies for a copy of the RO. CLERB reviewed the RO and verified that it was valid at the time of the incident. The evidence showed the alleged act or conduct did not occur.

3. Excessive Force – Deputies 1 and 2 used force towards Mohi.

Recommended Finding: Action Justified

Rationale: Complainant Mohi stated a deputy “slammed him on the floor” and handcuffed him. Mohi denied that he became assaultive towards deputies, but stated he pulled away from them. Mohi stated the deputies ruptured his eardrum and broke his left middle finger. Deputy 2 reported he delivered closed fist strikes to the side of Khalil’s face, but medical records were unavailable, and Mohi’s injuries could not be confirmed. See Rationale #1. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – Deputies 1 and 2 failed to provide Mohi with their name and/or badge number.

Recommended Finding: Unfounded

Rationale: Complainant Mohi stated he asked deputies for their name and badge number, but they did not provide him with it. SDS P&P, Section 2.20 states while on duty, all employees shall furnish their first and last name or ARJIS number to any person requesting his or her identity. Body Worn Camera (BWC) was

reviewed and showed when Deputy Halton arrived, he introduced himself and provided his name. Also, there was no evidence on BWC that showed Mohi asked either deputy for their name and badge number. The evidence shows that the alleged act or conduct did not occur.

PRIORITY (2)

23-122/PINTAR for ANONYMOUS

1. Discrimination/Racial – Probation Officer (PO) 1 made racial slurs to detainees on 09-24-23.

Recommended Finding: Summary Dismissal

Rationale: The complaint stated, “When 1 entered unit Golf sometime around 10am he was heard calling the detainees the “N” word, repeatedly.” The San Diego County Probation Department Institutional Services Policy, Section 2.4 Rules of Professional Conduct, states in part, “All staff shall conduct themselves in an ethical and professional manner consistent with dedicated public service. It is unacceptable and unprofessional for staff to use profanity, derogatory language, ethnic slurs or sexual epithets. By setting a professional example through exemplary conduct and skillful execution of duties, staff will maintain positive public relations and provide a stable and safe environment for the youth under our care.” A request for records was submitted to the Probation Department. CLERB received a response from the Probation Department via counsel, objecting to the request on several legal grounds. As a result, CLERB has not received any records for this matter. While CLERB counsel disputes the Probation Department’s objections, discussions with Probation Department counsel regarding several legal issues concerning the Probation Department’s disclosure of juvenile court records to CLERB are ongoing but not yet resolved. As such, apart from the anonymous complaint CLERB received, there was no other evidence to review for this case investigation and therefore CLERB was unable to either prove or disprove the alleged misconduct. The complaint was forwarded to the Probation Department’s Internal Affairs Unit and County of San Diego’s Office of Ethics and Compliance. The complaint was withdrawn on 09-23-24 and CLERB lacks jurisdiction.

2. Misconduct/Discourtesy – PO 1 used profanity while on-duty on 09-24-23.

Recommended Finding: Summary Dismissal

Rationale: The complaint stated, “PO 1 was heard using the word ‘mother fucker,’ repeatedly. See Rationale #1.

3. Misconduct/Procedure – PO 1 permitted detainees to watch nudity and drew attention to the subject matter.

Recommended Finding: Summary Dismissal

Rationale: The complaint stated, “PO 1 permitted detainees to watch a movie that contained nudity. He paused the movie while a woman was naked and shouted, see look at that!” See Rationale #1.

4. Misconduct/Procedure – PO 2 failed to report employee misconduct.

Recommended Finding: Summary Dismissal

Rationale: The complaint stated, “PO 2 divulged to several co-workers about racial slurs and other inappropriate behavior committed by PO 1. PO 2 wanted to report the concerns but ultimately decided not to because he did not want anything to come back to him.” Probation Policy 2.4 directs that all officers have a duty to inform other officers when any aspect of their job performance is in violation of the law and/or any IS policy and/or procedures, counter-productive to the team effort, injurious to unit/dorm security and/or the safety of other coworkers. Staff are to develop a professional relationship with youth by displaying responsible adult behavior.” The Probation Department notified CLERB that PO 2 retired from service prior to the completion of CLERB’s investigation. As such, CLERB does not have jurisdiction to make findings related to the actions of PO 2 per CLERB Rules and Regulations, Section 4.1 Complaints: Jurisdiction, CLERB only has jurisdiction of peace officers employed by the Sheriff’s Department or the Probation Department. The Review Board lacks jurisdiction.

23-135/MILLER for DOE

1. Misconduct/Procedure – East Mesa Juvenile Detention Facility (EMJDF) detainees experienced a medical emergency on 09-28-23.

Recommended Finding: Not Sustained

Rationale: The complaint stated, “Complaint of drugs entering detention center. CAL Fire responded to 4 juvenile possible overdoses at East Mesa Juvenile Detention Center. Were these actual overdose cases and if so how will you prevent future access to drugs in custody?” On 09-29-23, two news articles were published, reporting “possible overdoses” at East Mesa Juvenile Detention Facility. 10News article titled, “Cal Fire Responds to ‘Possible Overdoses’ at East Mesa Juvenile Detention Facility,” stated in part, “Questions remain after four juveniles at a San Diego County detention center were taken to the hospital for what is being referred to as “possible overdoses. A spokesperson for Cal Fire told ABC 10News they responded to four separate calls Thursday morning at the East Mesa Juvenile Detention Facility. According to Cal Fire, the first call was at 9:56 a.m., and the last was at 11:45 a.m.” A San Diego Union Tribune article titled, “Four Youths at East Mesa Juvenile Detention Facility Treated After Cal Fire Responds to ‘Possible Overdoses,’” stated in part, “Four youth at the East Mesa Juvenile Detention Facility were taken to hospitals earlier this week for what the fire agency that responded said were calls regarding ‘possible overdoses.’ The incidents were reported in four separate calls to Cal Fire over less than two hours. The first call came in shortly before 10 a.m. Thursday, and the last call came several minutes before noon, a Cal Fire spokesperson said Friday. All four were returned to the facility the same day, and their parents were notified.” The San Diego County Probation Department Institutional Services Policy, Section 13.2 Medical Emergencies, states in part, “In the event of a severe injury, accident or illness, where on-site medical staff requested assistance from outside medical personnel, the Watch Commander or their designee shall contact the youth’s parents and inform them of the situation.” On 10-23-23, a request for records was submitted to the Probation Department. On 11-08-23, Probation responded with the following, “The complaint’s allegations are insufficient to support CLERB’s authority to review and investigate as set forth in Article XVIII of the County’s Administrative Code. Without waiving its right to assert this lack of authority at a later date, Probation voluntarily provides the following information. There were separate incidents involving four different youths on 09-28-23, which were deemed medical emergencies by facility staff. None of these incidents involved legal or illegal drugs or other controlled substances. The four youths were transported to local hospitals for evaluation and treatment. They all returned to the facility the same day after being medically cleared. Family members of the involved youths were notified in accordance with Department policy.” Article XVIII Citizens Law Enforcement Review Board states, “It is the purpose and intent of the Board of Supervisors to establish a Citizens Law Enforcement Review Board of the County of San Diego to advise the Board of Supervisors, the Sheriff and the Chief Probation Officer on matters related to the handling of citizen complaints which charge peace officers and custodial officers employed by the County in the Sheriff’s Department or the Probation Department with misconduct arising out of the performance of their duties... The Review Board shall have the authority to receive, review and investigate citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff’s Department or the Probation Department which allege: (A) use of excessive force; (B) discrimination or sexual harassment in respect to members of the public; (C) the improper discharge of firearms; (D) illegal search or seizure; (E) false arrest; (F) false reporting; (G) criminal conduct; or (H) misconduct. The Review Board shall have jurisdiction in respect to all citizen complaints arising out of incidents occurring on or after November 7, 1990; provided, however, that the Review Board 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... All action complaints shall be in writing and the truth thereof shall be attested under penalty of perjury. “Citizen complaints” shall include complaints received from any person whatsoever without regard to age, citizenship, residence, criminal record, incarceration, or any other characteristic of the complainant. “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 citizen by reason of: (1) An alleged violation of any general, standing or special orders or guidelines of the Sheriff’s Department or the Probation Department; or (2) An alleged violation of any state or federal law; or (3) 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.” The Probation Department refuted the allegation but produced no evidence to support their finding. CLERB was unable to conduct an independent investigation and there was insufficient information to either prove or disprove the alleged misconduct.

ROUTINE (4)

CASE NO. 23-131/NIEBLAS

1. Misconduct/Medical – Medical staff “refused” to provide Renee Nieblas with procedural information.

Recommended Finding: Summary Dismissal

Rationale: Complainant Renee Nieblas stated her daughter gave birth while she was housed at LCDRF. Nieblas reported she contacted jail medical staff and requested “standard operating procedures” for breastfeeding women but alleged that jail medical staff refused to provide her with that information. CLERB Rules and Regulations states in Section 4.1 Complaints: Authority that CLERB shall have the authority to investigate complaints filed against peace/custodial officers employed by the County in the Sheriff’s or the Probation Department. CLERB does not have authority over jail medical staff and the Review Board lacks jurisdiction.

2. Misconduct/Medical – Medical staff failed to abide by their operations manual for Post Partum Care.

Recommended Finding: Summary Dismissal

Rationale: Complainant Nieblas stated her daughter did not receive the appropriate cleaning and storage supplies for her breast pump, the family was given breast milk from other IPs (Incarcerated Persons), and the facility ran out of breast milk collection bags. In addition, medical staff would not allow cleaning supplies to be brought into the facility. See Rationale #1.

3. Misconduct/Medical – Medical staff failed to respond to a grievance.

Recommended Finding: Summary Dismissal

Rationale: Complainant Nieblas alleged that jail medical staff did not respond to 2 of her daughter’s grievances nor an appeal and that grievances were “getting lost, thrown away or ignored.” See Rationale #1.

4. Misconduct/Procedure – Unidentified deputies mishandled breast milk.

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas stated unidentified deputies did not take her daughter’s breast milk to medical in adequate time. SDS DSB P&P LCDRF Green Sheets Section M.38.L dated 03-09-23 stated, “When an incarcerated person uses the breast pump in a housing module, the housing deputy is responsible for transporting the expressed milk to medical no later than 30 minutes after the incarcerated person has finished pumping.” An updated Green Sheet dated 09-25-23 stated when an IP uses the breast pump in a housing module, the housing deputy shall notify health staff who will be responsible for collecting and storing the expressed milk to medical no later than 30 minutes after the incarcerated person has finished pumping. Nieblas also reported she spoke to a lieutenant regarding this issue and said that refrigerators were placed inside of the housing units to store the milk until it is transported to medical. The complainant provided insufficient information and there was a lack of evidence to prove or disprove the allegation.

5. Misconduct/Procedure – Unidentified deputies failed to escort an IP to Medical.

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas reported that “most deputies” would not escort her daughter to medical to clean her breast pump due to staffing issues, but that she should be escorted to medical each time she needed to pump and that the pump should be stored in medical. SDS DSB P&P Green Sheets Section, M.38.L LCDRF for Pregnant IPs dated 09-25-23 stated if sworn staff are unable to escort incarcerated persons to the lactation room due to severe staff shortages, facility lockdowns, or other incident impacting the movement of incarcerated persons, the lactating incarcerated person may utilize the breast pump in their housing module. Furthermore, Incarcerated persons in restricted housing as defined above will be given the

opportunity to clean their breast pump equipment in their cell (no brush will be provided) or have the option to replace the breast pump equipment with new equipment. The Green Sheet in effect prior to 09-25-23, failed to specify procedures for staff shortages or cleaning a breast pump inside a cell. The complainant provided insufficient information and there was a lack of evidence to prove or disprove the allegation.

6. Misconduct/Discourtesy – Unidentified deputies were “discourteous” to an IP.

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas reported that unidentified deputies “got an attitude” and were bothered when her daughter asked for breast milk storage bags and said, “if she pumped more milk, she would not need so many bags.” Nieblas stated deputies were “disgusted” when they handled the breast milk, and some refused to touch it. SDSA P&P Section 2.22 Courtesy states employees shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. The complainant provided insufficient information and there was a lack of evidence to prove or disprove the allegation.

7. Misconduct/Procedure – Deputy 1 failed to provide proper instructions for the Inmate Worker Program (IWP).

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas stated her daughter was removed from the IWP because she was identified as a “security risk” for failure to check-in but that Deputy 1 never instructed the IP to do so. Deputy 1’s Incident Report stated the IP went to Medical, and after Medical advised the IP was enroute back to the deputy’s location, the deputy was unable to locate the IP. Deputy 1 stated the IP was advised to check-in with the deputy whenever she left or returned to her assigned location. SDSA documentation stated the IP was given a verbal warning and other behavioral issues were noted. SDSA P&P Section S.1 Supervision and Assignment of Incarcerated Workers states, Deputies and other detention facility staff members using incarcerated workers have the functional responsibility of supervising and directing the work and conduct of the incarcerated workers during their shift.” Absent an audio recording, there was insufficient evidence to prove or disprove the allegation.

8. Misconduct/Procedure – Deputy 3 reclassified an IP.

Recommended Finding: Action Justified

Rationale: Complainant Nieblas stated her daughter went from a Level 3 to a Level 4 IP and was then assaulted because she was housed with “murderers and repeat offenders.” SDSA documentation showed Nieblas’ daughter was initially classified as a Level 4, but on 08-10-23, her classification was lowered to a Level 3. Subsequently, due to behavior problems and an inability to follow directions, the IP was reclassified to a Level 4 and moved to a dorm with more restrictive movement. The IP was also deemed a security risk and was not to move within the facility without an escort. Deputy reports documented Nieblas’ daughter was involved in a physical altercation in the dayroom with another IP regarding the telephone. SDSA documentation showed Nieblas’ daughter did not sustain any injuries, refused medical treatment, and did not desire charges against her assailant. The IP’s reclassifications were in accordance with policy. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

9. Misconduct/Procedure –Deputy 3 removed an IP from the Incarcerated Worker Program (IWP).

Recommended Finding: Action Justified

Rationale: Complainant Nieblas stated her daughter was removed from the Incarcerated Worker Program (IWP) because she was a “security risk”. See Rationale #8. Deputy 3 stated that due to the IPs reclassification from Level 3 to Level 4, she no longer qualified as an IP Worker. Level 4 is considered High Custody Level due to a current assaultive charge, prior assaultive history, or deemed an institutional behavior problem. The Jail Population Management Unit Training Manual states that “The custody level of an inmate may preclude them from certain activities, programs, or inmate worker status.” Evidence showed the alleged act or conduct did occur but was lawful, justified and proper.

10. Misconduct/Procedure – Unidentified staff “retaliated” against an IP.

Recommended Finding: Unfounded

Rationale: Complainant Nieblas alleged her daughter was removed from the IWP as a form of “retaliation” due to the grievances that were filed. Renee reported, “I am not a conspiracy theorist, but I really think this was a retaliation for the grievances that she (daughter) has filed and the fact that I am on their ass to do the right thing.” The complainant offered no evidence to support her conjecture and SDSO documentation verified the reason for removal. See Rationales #8 & #9. The evidence showed that the alleged act or conduct did not occur.

11. Misconduct/Procedure – Unidentified deputies placed an IP on “Restrictive Movement.”

Recommended Finding: Action Justified

Rationale: Complainant Nieblas stated that “sometimes” her daughter was not allowed out of her cell for a period of 3 days and she did not have access to a phone or a shower. The complainant also reported that sometimes there is only one deputy covering the unit, causing the restrictive movement. SDSO documentation verified that on several occasions the specified housing unit was on disciplinary lockdown and/or modified dayroom due to IP rule violations to include contraband, unkempt areas, excess commissary items, tension in the modules, disobeying staff instructions. The complainant offered insufficient information and no evidence to support her allegation. The evidence showed the conduct that occurred was lawful, justified and proper.

12. Misconduct/Procedure – Deputy 2 denied an IP access to therapy.

Recommended Finding: Unfounded

Rationale: Complainant Nieblas stated, “they will not provide her (daughter) with any type of therapy.” The complainant also reported that she asked Deputy 2 if she could have a Telehealth therapist contact her daughter through a professional call and Deputy 2 “denied the request.” The complainant said the only therapy her daughter received was “a person coming to her door and speaking to her in front of her cell mate.” Detentions Services Bureau P&P Section P.15, Professional Contact Visits states private physicians authorized by the IP shall be permitted entry by court order. In addition, Section M.11 Private Physicians states that an IP may, at their own expense, receive medical care or treatment from a privately owned and operated facility of their choice (located in San Diego County). The Medical Services Division (MSD) further defines medical care and treatment as medical, psychiatric, or dental. All such requests for private medical care and treatment are subject to the approval of the command staff and the availability of resources needed to safely effect such requests. Deputy 2 provided a confidential statement that was taken into consideration for the recommended finding. Jail medical records verified the IP received medical care throughout her incarceration. The evidence showed that the alleged act or conduct did not occur.

13. Misconduct/Medical – Jail medical staff violated an IPs “HIPPA rights.”

Recommended Finding: Summary Dismissal

Rationale: Complainant Nieblas stated her daughters HIPPA (Health Insurance Portability and Accountability Act) rights were violated when “medical personnel” spoke to her daughter in front of her cell mate and a deputy. Medical Services Division (MSD) policy S.4 states a deputy shall accompany or be within sight and sound of the nurse while sick calls are conducted. MSD Operations Manual also states that the Sheriff will comply with privacy regulations promulgated under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). CLERB Rules and Regulations states in Section 4.1 Complaints: Authority that CLERB shall have the authority to investigate complaints filed against peace/custodial officers employed by the County in the Sheriff’s or the Probation Department. CLERB does not have authority over jail medical staff and the Review Board lacks jurisdiction.

14. Misconduct/Procedure – Unidentified deputies failed to produce an IP for video visits.

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas stated the Sheriff’s Department only offers video visits during dayroom, causing IPs to choose between taking a shower or visitation. Nieblas also reported she called staff to produce her daughter for video visits on the days IPs were not allowed dayroom time and she lost half of the visit

because they were late. According to SDSO's website "Video visits are subject to change or cancellation without prior notice." A Departmental Informational Source stated the Detentions Processing Division oversees all video visits which are scheduled through the vendor website SmartComm. Housing Deputies are responsible to print a daily video visitation list, advise IPs if they have a scheduled visit, and provide a log-on reminder 10 minutes prior to the visit. However, video visits may be cancelled when there are facility lockdowns, connectivity issues, or if an IP was not advised of the visit or are late to the terminal. If this occurs, the housing deputy will make a JIMS entry log under IP history. A Video Call Log displayed over 100 calls between Nieblas and her daughter, with no documentation notated in JIMS pertaining to this allegation. The complainant provided insufficient information and there was a lack of evidence to prove or disprove the allegation.

15. Misconduct/Procedure – Unidentified staff failed to deliver IP mail.

Recommended Finding: Action Justified

Rationale: Complainant Nieblas stated her daughter did not receive several letters that she sent and "the Sheriff's Department makes up reasons to refuse mail." Nieblas was informed the mail had watermarks and that SDSO will only accept books from certain publishers. DSB P&P Section P.3 Incarcerated Person Mail states that mail will be rejected if it contains any paint, watermarks, perfume, etc., and/or if the mail depicts nudity, offensive material, weapons, gang references, or any images that may incite violence, racism, etc. SDSO Contents Unacceptable Notice forms dated 08-20-23, 09-19-23 & 10-03-23 were reviewed and listed items that were "returned to sender" due to watermark stains, nudity, sexual activity and books not sent directly from the publisher. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

16. Misconduct/Procedure – Unidentified staff failed to process IP correspondence.

Recommended Finding: Not Sustained

Rationale: Complainant Nieblas reported she did not receive letters that her daughter allegedly mailed while incarcerated. See Rationale #15. According to the SDSO website, "All mail entering and leaving a jail facility is opened, inspected and searched for contraband. The writing is also scanned for safety and security reasons. Legal mail between an individual and his or her attorney is checked for contraband, but not read." There was insufficient evidence to either prove or disprove the allegation.

17. Misconduct/Procedure – Unidentified staff did not provide in-person visits for IPs.

Recommended Finding: Action Justified

Rationale: Complainant Nieblas stated that the Sheriff's Department does not allow women to have visits with their family and children in accordance with Title 15. The complainant stated, "they do not allow any high classified person to have in-person visits." Title 15, Section 1062 Visiting states, "The visiting policies developed pursuant to this section shall include provision for visitation by minor children of the incarcerated person." DSB P&P, Section P.9 Social Visiting states that social and video visits are a privilege, and as such may be suspended as part of a disciplinary action. The policy also clarified that social contact visits are only available at LCDRF. DSB Green Sheet Section P.9.L Social Visiting, states High level IPs do not qualify for social contact visits. A social contact visit is when the IP and the visitor are not physically separated, as opposed to a non-contact visit when there is a barrier and a microphone/telephone is used to communicate. SDSO documentation verified Nieblas's daughter received several social visits but did not qualify for contact visits. See Rationale #8. The evidence showed the conduct that occurred was lawful, justified and proper.

CASE NO. 23-148/VALENZUELA

1. Illegal Search & Seizure – Deputy 2 arrested James Valenzuela.

Recommended Finding: Action Justified

Rationale: Complainant James Valenzuela stated that on 10-17-23, he was "falsely arrested" for attempted homicide. SDSO documentation reported Deputy 2 approached Valenzuela at a fast-food establishment and ordered him to get on his stomach and place his hands behind his back. Valenzuela complied and the deputy

told him he had “probable cause” to arrest him for attempted murder. SDSD P&P Section 2.51 Arrest, Search and Seizure states, “Employees shall not make any arrest, search or seizure, nor conduct any investigation or official Department business, in a manner which they know or ought to know is not in accordance with law and established Department policies and procedures.” California Peace Officer Legal Sourcebook, "An arrest is valid only if supported by probable cause." Probable cause is defined as more than mere suspicion, but less than prima facie proof and less than a preponderance of the evidence. Deputies had a statement from the victim who identified Valenzuela as the person who shot him. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Discrimination/Racial – Deputies 1 and 2 “profiled” Valenzuela.

Recommended Finding: Unfounded

Rationale: Complainant James Valenzuela stated, “I was off parole, I was profiled.” Valenzuela explained he was profiled due to his race and his criminal background, and he did not commit the crime he was arrested for. SDSD P&P Section 2.53 Discrimination, states “Employees shall not express any prejudice or harassment concerning race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, gender, age, political beliefs, sexual orientation, sexual or gender identity, lifestyle or similar personal characteristics.” There was no evidence that showed any type of discrimination on behalf of the deputies. The victim identified Valenzuela as the person who shot him and confirmed his identity through an old booking photo. The evidence supported that the alleged act or conduct did not occur.

3. Misconduct/Procedure - Deputies 1 and 3 failed to turn on Body Worn Camera when Valenzuela was interviewed.

Recommended Finding: Unfounded

Rationale: Complainant James Valenzuela stated he was not being recorded with Body Worn Camera (BWC) until 5–10 minutes into his interview. SDSD P&P Section 6.131 Body Worn Camera states, “When recording interviews, employees shall ensure they record any admonishments prior to the start of an interview.” SDSD documentation showed Valenzuela was arrested and placed into a temporary holding cell and Deputies 1 and 3 interviewed Valenzuela following his arrest. BWC was reviewed and confirmed BWC recorded the entire interview. Evidence showed Deputy 1 provided Valenzuela with his Miranda rights prior to the interview. The evidence shows that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Unidentified staff failed to provide Valenzuela with bail.

Recommended Finding: Summary Dismissal

Rationale: Complainant James Valenzuela stated, “I was not given bail.” The San Diego Sheriff’s Office is not responsible for assigning bail to Incarcerated Persons (IPs). Detentions Processing Technicians have access to determine if someone is eligible for bail, once an IPs charges are entered into the system. If an IP is not initially eligible for bail, a Superior Court Judge will determine whether an IP should be allowed bail at their arraignment. The Review Board lacks jurisdiction.

5. Misconduct/Procedure – Deputy 1 did not investigate Valenzuela’s evidence.

Recommended Finding: Not Sustained

Rationale: Complainant James Valenzuela reported the “deputies stated they would investigate his phone GPS records to verify he was not at the scene where the incident occurred. SDSO documentation reported deputies collected Valenzuela’s cell phone as evidence upon arrest. According to the Law Enforcement Services Bureau, Field Operations Manual Policy 49. Cell Phone Pings states, Penal Code 1546 and its subsections, also known as the CalECPA (California Electronic Communications Privacy Act), provides a uniform warrant rule for accessing electronic and digital information including cell phone location information or “ping.” Furthermore, the SDSD Detectives Procedural Manual states an area investigator plays a critical role in gathering, interpreting, facilitating and acting on crime related information or intelligence within their affected jurisdictions. Valenzuela reported the attempted murder charges were dropped, and it was unknown

what investigative techniques were utilized for his investigation. There was insufficient evidence to either prove or disprove the allegation.

CASE NO. 23-158/AZIZ & COWAN

1. Misconduct/Procedure – Deputy 1 failed to separate two Incarcerated Persons.

Recommended Finding: Action Justified

Rationale: Complainant Richard Cowan reported during transport he was chained to another IP who utilized a cane. IP Cowan reported he told Transportation Deputy 1, “that man should be by himself due to his cane and movement minimization.” Cowan reported that he did not agree with being chained with an individual with “minimized mobility.” Cowan stated when they stepped off the truck, the IP with the cane “slipped and fell” and “took him down with him.” Cowan reported he landed on his left side and injured his ankle, knee, hip, back, neck and elbow. SDSL DSB P&P Section I.57 Transportation of Incarcerated Persons states IPs should be transported in leg and waist chains with cuffs double locked, unless medically contraindicated. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1 and 2 shackled IPs together with waist chains.

Recommended Finding: Action Justified

Rationale: Complainant Laila Aziz reported that Deputies 1 and 2 shackled a “disabled person with physical limitations” to IP Cowan, which she considered to be negligent and a violation of SDSL DSB P&P, Section I.57 Transportation of Incarcerated Persons. Policy states that after deputies accept custody of the incarcerated persons from a facility, the transporting deputy assumes the responsibility for the safety, welfare and security of the individuals under their supervision. That same policy also states that the use of restraining devices on a disabled prisoner will be at the discretion of the transporting deputy and that IPs should be transported in leg and waist chains with cuffs double locked, unless medically contraindicated. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure - Deputies 1 and 2 “did not follow ADA laws.”

Recommended Finding: Unfounded

Rationale: Complainant Aziz reported that transportation deputies did not follow ADA laws when they shackled IP Cowan with another “disabled” IP. According to ADA.gov, the Americans with Disabilities Act (ADA) protects people with disabilities from discrimination. SDSL DSB P&P Section M.21 Medical Wristbands states that IPs will be issued a red wristband when the health of the IP could be adversely affected if they are exposed to simple physical stress, such as climbing stairs, prolonged standing, etc. Video surveillance was reviewed and showed the IP with the cane wore a White wristband, signifying he was an “Inmate Worker” with no limitations. The IP was released from local custody prior to providing CLERB with a statement or access to his medical records to verify any type of disability. Medical records are confidential and can only be accessed by authorized release. The evidence showed that the alleged act or conduct did not occur.

CASE NO. 24-019/DEL RIO

1. Misconduct/Procedure – Deputy 1 found Philip Del Rio at fault in a Traffic Collision Report.

Recommended Finding: Action Justified

Rationale: The complainant, Philip Del Rio, alleged he was involved in an accident in which he was hit by a vehicle while riding his electric scooter. Del Rio alleged Deputy 1 wrote a report of the incident and found Del Rio at fault. Based on the statements Del Rio made in his complaint to CLERB, it was not clear what misconduct, if any, was being alleged to have been committed by Deputy 1. Based on the statements Del Rio made in his complaint, it seemed that Del Rio disagreed with Deputy 1’s evaluation of the accident and subsequent report. Per CLERB Rules and Regulations Section 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 or the Probation

Department that allege: (a) Use of excessive force; (b) Discrimination or sexual harassment in respect to members of the public; (c) The improper discharge of firearms; (d) Illegal search or seizure; (e) False arrest; (f) False reporting; (g) Criminal conduct; and/or (h) Misconduct.” Documents received from SDSA included body worn camera (BWC) footage from numerous deputies, including Deputy 1, who was assigned to the traffic unit. Deputy 1 conducted a traffic collision investigation, and his report included an extensive explanation of the accident scene, applicable laws, and determined Del Rio’s actions to be the primary collision factor. A review of Deputy 1’s report, BWC footage, and applicable P&P, showed no misconduct occurred. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 cited Del Rio’s adult daughter for “speeding.”

Recommended Finding: Action Justified

Rationale: Del Rio also alleged, “7 days later [after the traffic collision] Deputy 1 gives my daughter a speeding ticket... That speeding ticket should have been dismissed because Deputy 1 made 2 mistakes on that ticket. 1–he wrote the wrong date + 2–he wrote the wrong violation.” Documents received from SDSA showed that Deputy 1 cited Sandra Del Rio for three Vehicle Code Violations during a traffic stop occurring on 02-23-23. The Notice to Appear Citation as well as Deputy 1’s BWC footage related to the traffic stop were reviewed. The Notice Appear Citation showed a citation was issued for violation of various Vehicle Code (VC) Sections. The date on the citation matched the date of Deputy 1’s BWC footage. A review of Deputy 1’s BWC and citation revealed no misconduct. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 spoke to Del Rio from his patrol vehicle while Del Rio was riding his scooter.

Recommended Finding: Action Justified

Rationale: Del Rio alleged he was riding his electric scooter in a bike lane when Deputy 1 pulled alongside him in his patrol vehicle. Del Rio alleged Deputy 1 began speaking to Del Rio from his patrol vehicle while continuing to move at approximately “15 mph.” Del Rio alleged Deputy 1 advised him to give way to bicycles and that Del Rio needed to stop at every stop sign. Del Rio stated this was “extremely dangerous.” There were no reports or BWC footage received related to this encounter. This was not indicative of any misconduct. A review of SDSA P&P did not reveal any applicable policy related to Deputy 1 advising Del Rio of applicable traffic laws. Additionally, the current SDSA Traffic Manual was reviewed and no misconduct could be identified related to Deputy 1’s actions. The evidence showed the conduct that occurred was lawful, justified and proper.

SUMMARY DISMISSAL (3)

CASE NO. 23-171/STRUNK

1. Misconduct/Medical – SDSA medical staff did not fulfil Incarcerated Person Strunk’s medical requests.

Recommended Finding: Summary Dismissal

Rationale: CLERB Rules and 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...” On 01-10-24, CLERB received a signed complaint from Gregory Strunk. Strunk alleged, that since he was booked into custody at George Bailey Detention Facility (GBDF) in March of 2023, he has been denied a medical request. The allegations included in Strunk’s complaint are related to SDSA medical staff and CLERB does not have jurisdiction. SDSA Detention Services Bureau Manual of Policies and Procedures (DSB P&P), Section L.3, Mattresses for Incarcerated Persons, stated, “One mattress per incarcerated person will remain in the cell, or housing unit, at all times. Each facility may establish exceptions for security or health reasons.” GBDF Green Sheet, Section L.3.G, Incarcerated Person Mattresses, stated, “In-custody individuals may be issued an extra mattress with medical staff’s authorization.” SDSA DSB P&P Section

M.39, Incarcerated Persons with Disabilities, stated, "All incarcerated persons shall be screened by a Registered Nurse (RN) during the intake process to identify disabilities and reasonable accommodations... If an incarcerated person is identified to have a disability that requires an accommodation, the RN will update the person's health record and collaborate with sworn staff to ensure the person is appropriately accommodated through the booking process." Additionally, the policy stated, "Incarcerated persons can submit requests for new reasonable accommodations via the Healthcare Request form and process." The Review Board lacks jurisdiction.

CASE NO. 24-059/KUYKENDALL

1. Misconduct/Procedure – Unidentified deputies conducted a cell search.

Recommended Finding: Summary Dismissal

Rationale: Nierobi Kuykendall stated, "During cell searches this is the 3rd or 4th time I've been targeted by these unlawful searches." Kuykendall was released from custody and his current whereabouts are unknown. Kuykendall provided no out of custody contact information and stated he was "homeless." CLERB has been unable to contact Kuykendall and he failed to apprise CLERB of his whereabouts. Furthermore, Kuykendall failed to identify any sworn personnel in his complaint and failed to establish a prima facie showing of misconduct. Per CLERB Rules & Regulations, Section 15: Summary Dismissal, Summary Dismissal may be appropriate in the following circumstances: Lack of cooperation by the complainant such that CLERB is unable to continue its investigation, such as a failure by the complainant to respond to repeated inquiries when such response is necessary to the ongoing investigation.

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

Recommended Finding: Summary Dismissal

Rationale: Kuykendall stated, "unlawful searches where allowed commissary items, papers with important phones, drawing pads, envelopes also family photos which have been taken destroyed during searches and never been replaced." See Rationale #1.

3. Misconduct/Procedure – Unidentified deputies failed to respond to Kuykendall's grievances.

Recommended Finding: Summary Dismissal

Rationale: Kuykendall stated, "Internal Affairs grievance forms, the address to Citizens' Review Board have been denied or I'm delayed access to file complaint or grievance signed but not answered in 7 days all intentionally in an attempt to deprive this appellant of a fair and unbiased disposition..." See Rationale #1.

4. Misconduct/Retaliation – Unidentified deputies withheld and/or tampered with Kuykendall's mail.

Recommended Finding: Summary Dismissal

Rationale: Kuykendall stated, "I've been writing my family and my outgoing mail is being tampered with their receiving regular mail in 30 days plus. My approved publications that usually take a week to a week and a ½ tops I'm receiving in 30 to 38 days so yes my mail is being tampered with. They are holding my incoming magazines or books as a form of retaliation." See Rationale #1.

CASE NO. 24-118/LAVOY

1. Misconduct/Procedure – Unidentified personnel painted an unmarked crosswalk at the intersection of Avenida De Acacias and La Granada in Rancho Santa Fe that Kolette Lavoy and other unknown motorists drove through causing cosmetic vehicle damage.

Recommended Finding: Summary Dismissal

Rationale: Complainant Kolette Lavoy submitted a complaint regarding an unmarked and freshly painted crosswalk that she drove through that caused her vehicle cosmetic damage. CLERB Rules and Regulations (R&R) 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." CLERB R&R also states in Section 15 that a Summary Dismissal may be appropriate when CLERB does not have jurisdiction over the subject matter of the complaint. Lavoy confirmed her complaint did not involve subject officers employed by the County of San Diego. The Review Board lacks jurisdiction.

End of Report