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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

Tuesday, December 17, 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 COMMENT (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 November 12, 2024

5. PRESENTATION/TRAINING (0 minutes)

6. EXECUTIVE OFFICER'S REPORT (10 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)
- e) State Audit Recommendations Summaries (Attachment E)
- f) The San Diegans for Justice Recommendations Summary (Attachment F)

7. BOARD CHAIR'S REPORT (5 minutes)

8. NEW BUSINESS (30 minutes)

- a) Proposed CLERB Rules and Regulations changes (Attachment G)
 - i. District 4 Board Letter Regarding modification to CLERB jurisdiction (Attachment H)

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

9. UNFINISHED BUSINESS (5 minutes)

- a) SDSO Policy Recommendation Response 22-053 (Attachment I)
- b) SDSO Policy Recommendation Response 22-031 (Attachment J)
- c) SDSO Policy Recommendation Response 23-026 (Attachment K)

10. BOARD MEMBER COMMENT (10 minutes)

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

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

- a) CONFERENCE WITH LEGAL COUNSEL, Government Code Section 54957
 - Civil Service Appeal, 22-027/Viesca
- b) 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 (18)

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.

22-088/SARABIA (Death)

1. Death Investigation/Natural - Abdiel Sebastian Sarabia Hernandez, while an inmate at George Bailey Detention Facility was found unresponsive in his cell on 07-22-22.

Recommended Finding: Action Justified

Rationale: According to San Diego Sheriff's Office (SDSO) records, on 05-24-21, Abdiel Sebastian Sarabia Hernandez (Sarabia) was arrested by Escondido Police Department and taken into SDSO custody for multiple charges. SDSO evidence showed that upon booking, Sarabia was deemed "fit for jail" was properly classified and housed in accordance with policy. SDSO documentation showed that on 07-22-22, an Incarcerated Person (IP) stated he saw Sarabia at approximately 8AM and Sarabia stated he was not feeling well and was going to lay down and rest. The IP stated he attempted to wake-up Sarabia later that morning when he noticed he was unresponsive and yelled "man down." Deputies and jail medical staff responded and performed lifesaving measures. Paramedics arrived and ultimately pronounced Sarabia deceased at 10:35AM. SDSO documentation showed that all safety and security checks were completed in a timely manner, but Sarabia was housed in dorm style housing, which did not include cameras. Jail surveillance video captured when deputies entered/exited the housing area and their walkthrough of the perimeter of the module. SDSO DSB P&P M.5 Medical Emergencies states "All facility staff shall be responsible for taking appropriate action in recognizing, reporting or responding to an incarcerated person's emergency medical needs. In any situation requiring medical response, emergency medical care shall be provided with efficiency and speed without compromising security. If the incarcerated person's condition is believed to be life threatening, sworn staff shall immediately notify on-duty health staff and provide basic life support (BLS) and/or first aid care." On 07-23-22, an autopsy was conducted. "Based on the autopsy findings and the circumstances of the death as currently understood, the decedent likely died of a sudden cardiac arrest due to his underlying heart disease with his obesity and thyroid disease contributing. There is no evidence of acute drug intoxication or traumatic injury contributing to his death. and identified the cause of death as hypertensive cardiovascular disease with morbid obesity, and hypothyroidism, listed as contributing conditions, and the manner of death was natural." Toxicology results did not detect any "drugs of abuse" or alcohol. The evidence showed staff responded appropriately and their actions were lawful, justified and proper.

2. Misconduct/Medical - Unidentified staff failed to provide proper medical care.

Recommended Finding: Summary Dismissal

Rationale: On 07-21-23, CLERB received a signed complaint from PHG Law Group on behalf of Sarabia's wife. Attorney Peña stated, "According to the attached documents, Mr. Sarabia was not given proper medical treatment for a serious medical condition. Mr. Sarabia as well as other inmates begged deputies for treatment, but their requests were ignored." 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 Office. Medical treatment and care are made by jail medical staff and as such CLERB lacks jurisdiction to investigate further.

3. Misconduct/Medical - Unidentified staff failed to follow "medical refusal process."

Recommended Finding: Summary Dismissal

Rationale: Attorney Peña alleged that the "medical refusal process" was not followed. According to Medical Services Division R.5 titled "Refusal Procedures", under subsection Refusal for Medications, states that a patient shall sign a refusal form with the specific medication(s) being refused, but if the patient refuses to sign the refusal form, the nurse (if available) and deputy shall sign the form. Ultimately nurses are responsible to document health education provided and patient understanding in all instances of refusal. 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 Office.

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

4. Misconduct/Procedure- Unidentified deputies “ignored” requests to treat Sarabia.

Recommended Finding: Not Sustained

Rationale: Attorney Peña stated, “Mr. Sarabia was not given proper medical treatment. Mr. Sarabia, as well as other inmates begged deputies for treatment, but their requests were ignored.” SDSO DSB P&P M.15 titled “Sick Call” provides a system of adequate response to health care requests. The policy states IPs have access to appropriate medical and mental health care services on a daily basis. SDSO documentation and jail medical records were reviewed and showed no sick call requests in the medical request box that pertained to Sarabia. Given the lack of information provided, there was insufficient evidence to prove or disprove the allegation.

5. Misconduct Procedure – Deputy 1 “failed to conduct adequate security/safety checks.”

Recommended Finding: Summary Dismissal

Rationale: Attorney Peña stated, “Due to level of rigor, it appears that adequate cell checks were not performed. SDSO documentation showed that on 07-22-22, Deputy 1 conducted the soft count at 7:15AM and a safety and security check at 9:51AM. The SDSO confirmed Deputy 1 is no longer employed with the SDSO. CLERB Rules & 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 Office. The Review Board lacks jurisdiction.

6. Misconduct Procedure – Deputy 2 “failed to conduct adequate security/safety checks” on 07-22-22.

Recommended Finding: Sustained

Rationale: Attorney Peña stated, “Due to level of rigor, it appears that adequate cell checks were not performed.” SDSO documentation showed that on 07-22-22, Deputy 2 conducted a safety and security check at 8:58AM for House 2, Module #201, upper tier where Sarabia was housed. According to SDSO documentation, there are 12 sets of 3 tier bunk beds in the upper tier, which housed 34 IPs at the time of the incident. SDSO DSB P&P I.64 Safety Checks, states sworn staff will conduct safety checks of Incarcerated Persons (IPs) through direct visualization. Safety checks of incarcerated persons consist of looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity. Safety checks shall be conducted at least once within every 60-minute time period. In addition, dormitory style housing requires sworn staff to enter the area to observe all beds/bunks and shall walk by each bunk in a manner that permits them to observe each incarcerated person. SDSO documentation showed that when deputies responded to the incident at 10:13AM, Sarabia was cold to the touch, had a bluish skin tone, and described him as “stiff.” SDSO documentation showed that paramedics made the following statement, “It appeared Sarabia was asleep on his stomach with his head resting on top of his right forearm. Sarabia may have died in his sleep which explains why when he was turned onto his back for lifesaving measures, his right arm remained positioned on his forehead, as rigor had already set in on his right arm.” As there were no cameras inside the dorm, CLERB was unable to confirm the events as documented by the deputy. Deputy 2 responded to a SERF and a provided confidential statement that was used to help determine the recommended finding. Jail surveillance video showed Deputy 2 walked through the upper tier of IP housing in approximately 28 seconds, including the area where Sarabia’s bunk was located without stopping. A preponderance of evidence showed Deputy 2 failed to observe Sarabia in a manner that complied with the policy of “looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity.” The evidence supports the allegation, and the act or conduct was not justified.

7. Misconduct Procedure – Deputy 3 “failed to conduct adequate security/safety checks.”

Recommended Finding: Sustained

Rationale: Attorney Peña stated, “Due to level of rigor, it appears that adequate cell checks were not performed. SDSO documentation showed that on 07-22-22, Deputy 3 conducted a safety and security check at 9:51AM for House 2, Module #201, upper tier where Sarabia was housed. According to SDSO

documentation, there are 12 sets of 3 tier bunk beds in the upper tier, which housed 34 IPs at the time of the incident. SDSO DSB P&P I.64 Safety Checks, states sworn staff will conduct safety checks of Incarcerated Persons (IPs) through direct visualization. Safety checks of incarcerated persons consist of looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity. Safety checks shall be conducted at least once within every 60-minute time period. In addition, dormitory style housing requires sworn staff to enter the area to observe all beds/bunks and shall walk by each bunk in a manner that permits them to observe each incarcerated person. SDSO documentation showed that when deputies responded to the incident at 10:13AM, Sarabia was cold to the touch, had a bluish skin tone, and described him as "stiff." SDSO documentation showed that paramedics made the following statement, "It appeared Sarabia was asleep on his stomach with his head resting on top of his right forearm. Sarabia may have died in his sleep which explains why when he was turned onto his back for lifesaving measures, his right arm remained positioned on his forehead, as rigor had already set in on his right arm." As there were no cameras inside the dorm, CLERB was unable to confirm the events as documented by the deputy. Deputy 3 responded to a SERF and provided a confidential statement that was used to help determine the recommended finding. Jail surveillance video showed Deputy 3 walked through the module in approximately 20 seconds, including the area where Sarabia's bunk was located without stopping. A preponderance of evidence showed Deputy 3 failed to observe Sarabia in a manner that complied with the policy of "looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity." The evidence supports the allegation, and the act or conduct was not justified.

22-104/SETTLES (Death)

1. Death Investigation/In-Custody Suicide – Matthew Settles died while in the custody of the San Diego Sheriff's Office (SDSO) at George Bailey Detention Facility (GBDF) on 08-16-22.

Recommended Finding: Not Sustained

Rationale: This case was reviewed pursuant to CLERB Rules & Regulations Section 4.3, Complaint Not Required: Jurisdiction with Respect to Specified Incidents. On 08-16-22, CLERB was notified of the death of Matthew Settles, an incarcerated person (IP) housed at George Bailey Detention Facility (GBDF). The San Diego Sheriff's Office (SDSO) posted a media release, dated 08-17-22, which stated in part, "On August 16, 2022, just after 7:00 p.m., deputies were conducting a security check and found a 54-year-old incarcerated man in medical distress. Deputies immediately performed medical aid and called 9-1-1. Paramedics arrived and provided additional lifesaving measures. Despite the efforts of deputies, jail medical staff and paramedics, the man did not survive. The man was alone in his cell. The Homicide Unit responded to investigate the incident. As a matter of practice, the Sheriff's Homicide Unit investigates all deaths of persons in custody at the time of their passing." CLERB received documents from SDSO related to the death of Settles. The evidence showed that on 06-03-22, Settles was arrested for violation of CA Penal Code (PC) Section 368 (c), Elder Abuse; Dependent Adult Abuse, and was subsequently booked into custody at San Diego Central Jail (SDCJ). Booking documents showed Settles initially completed a medical screening, and that medical staff placed Settles in the "Inmate Safety Program" (ISP) (See SDSO Medical Services Division (MSD) Manual Section MSD.S.10, Suicide Prevention & Patient Safety Program). The evidence showed that medical staff continued assessments of Settles, and, on 06-04-24, cleared Settles for placement in Enhanced Observation Housing (EHO) (See SDSO Detention Services Policies and Procedures (DSB P&P) Section J.4, Enhanced Observation Housing). On 06-05-22, Settles was cleared from EOH, after additional assessments by medical staff. On 06-06-22, Settles was assaulted by an incarcerated person and sustained significant injuries, which resulted in Settles being transported to a local hospital. On 06-28-22, Settles returned to SDCJ from the hospital and was admitted into a "Medical Observation Bed." (See SDSO MSD Manual Section MSD.M.13, Medical Observation Beds). Per a Segregated Housing Order dated 07-15-22, Settles was placed on "Administrative Segregation" (See DSB P&P Section R.1, Incarcerated Person Classification). The Order noted the decision was made due to Settles' "continual failure to adjust and conform to minimum standards" and "propensity for violence towards other inmates and/or staff." Records showed medical staff was included and aware of Settles' placement in "Ad-Seg." Records showed on 07-25-22, Settles was transferred from SDCJ to GBDF where Settles remained in Administrative Segregation until he was found unresponsive in his cell on 08-16-22. An autopsy was conducted and concluded Settles' cause of death was "asphyxia by hanging," and the manner of death was "suicide." Records showed detention staff housed Settles in accordance with Detention Services Policies and Procedures (DSB P&P). A review of the

safety checks conducted around the time Settles was found unresponsive was completed. (See Rationale #2 regarding the safety checks.) It is unknown if the extended period between safety checks was relevant as a factor in Settles' death. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Deputies 1 and 2 failed to conduct a safety check of Settles in accordance with policy.

Recommended Finding: Sustained

Rationale: A review of the safety checks conducted around the time Settles was found unresponsive was completed. Concerns around safety checks were noted by John Settles', brother of the decedent, in a complaint to submitted to CLERB. SDSA Detention Services Policies and Procedures (DSB P&P) Section I.64, Safety Checks: Housing and Holding Areas of Incarcerated Persons, stated, "Sworn staff will conduct safety checks of incarcerated persons, housing areas, holding areas and vacant cells through direct visual observation (i.e., direct personal view of the incarcerated person/area without the aid of audio/video equipment). Safety checks of incarcerated persons consist of looking at the incarcerated persons for any obvious signs of medical distress, trauma or criminal activity. Safety checks shall be conducted at least once within every 60-minute time period." Additionally, Title 15, Section 1027.5, Safety Checks, stated, "Safety checks will determine the safety and well-being of individuals and shall be conducted at least hourly through direct visual observation of all people held and housed in the facility. (b) There shall be no more than a 60-minute lapse between safety checks." According to the Area Activities Summary Report for the module which Settles was housed in, a safety check was conducted at 6:00 pm and 6:57 pm. This indicated the safety checks were started within 60-minutes. However, a review of the CCTV footage showed a deputy passed by Settles' cell at approximately 6:04 pm and 7:19 pm. The video evidence showed approximately 75 minutes passed between direct visual observations of Settles. A Sheriff Employee Response Form (SERF) was sent to both deputies tasked with completing safety checks in module Settles was housed in. Their confidential responses were considered when making a finding in this allegation. Given the information revealed in this case, a separate policy recommendation related to safety checks is submitted to the CLERB Board for review. The evidence supports the allegation and the act or conduct was not justified.

3. Misconduct/Procedure – SDSA detention staff transferred Settles to George Bailey Detention Facility.

Recommended Finding: Action Justified

Rationale: In addition to the information received from SDSA, CLERB received a signed complaint from John Settles, the brother of the decedent, who requested CLERB investigate "who decided to move a schizophrenic patient who needed PSU level monitoring from central to George Bailey which has no full time PSU..." SDSA DSB P&P Section M.25, Psychiatric Stabilization Units (PSU/WPSU), regarding admission to the PSU, stated, "The Psychiatric Stabilization Units are located at SDCJ (PSU) and LCDRF (WPSU)... Incarcerated persons shall be admitted to the PSU/WPSU at the order of either staff psychiatrists, San Diego County Psychiatric Hospital (SDCPH), Emergency Psychiatric Unit (EPU) psychiatrists, or by a court order." Records showed medical staff was included and aware of Settles' placement into "Ad-Seg." See Rationale #1. Records showed Settles was placed on "Administrative Segregation" prior to him being transferred to GBDF. Given Settles' classification, there was no misconduct associated with placing Settles at GBDF. CLERB's investigation found detention staff appropriately housed Settles based upon Detention Services Policies and Procedures (DSB P&P). The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Medical – SDSA medical staff failed to provide proper medical treatment.

Recommended Finding: Summary Dismissal

Rationale: The complainant also alleged that SDSA medical staff did not administer proper medication or treatment to Settles. CLERB does not have jurisdiction to make findings against non-sworn staff who are responsible for providing medical treatment to IPs. The Review Board lacks jurisdiction.

POLICY RECOMMENDATION:

1. It is recommended that SDSO take all necessary measures to change its current practice to conform with Title 15, and its own existing policy, by mandating that every incarcerated person be directly observed by sworn staff at intervals not to exceed 60 minutes (30 minutes for Medical Observation Beds and in Psychiatric Stabilization Units and 15 minutes for safety cells), as opposed to simply ensuring the safety checks start within the mandated time-period. Additionally, it is recommended SDSO modify its current practice of documenting safety checks by documenting the ending time of the safety check instead of the beginning.

23-129/SCHERFF (Routine)

1. Illegal Search & Seizure – Deputies 1-3 entered Scherff’s apartment on 02-09-23.

Recommended Finding: Action Justified

Rationale: Complainant Jaclyn Scherff stated that deputies entered her home without permission. Scherff reported that on 02-09-23, her partner, who has mental health issues, started a fire in her bedroom, so Scherff asked a witness to request law enforcement. The witness contacted law enforcement, reported the situation and stated that Scherff’s partner swung a broom at her and Scherff. Dispatch then classified the call as an “assault with a deadly weapon.” Per Body Worn Camera (BWC), deputies arrived on scene and were given verbal consent by Scherff to enter the home. According to the California Peace Officer Legal Sourcebook, Search and Seizure–Premises; an Officer may enter premises without a warrant, probable cause, or exigent circumstances if you have obtained valid consent. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Excessive Force – Deputy 1 entered Scherff’s apartment with his gun drawn on 02-09-23.

Recommended Finding: Summary Dismissal

Rationale: Complainant Jaclyn Scherff stated a deputy entered her home “with his gun drawn and proceeded to clear the apartment. “Scherff stated the deputy was “reckless in his actions” and “placed her dog’s safety in jeopardy.” Deputy 1 responded to an assault with a deadly weapon call. Per Body Worn Camera (BWC), Deputy 1 entered the home with his gun drawn, pointed to the floor and yelled “Sheriff’s Department” as he walked throughout the apartment. The deputy “cleared” the bedroom and bathroom. Deputy 1 put the gun away when he entered the bedroom where her partner was located. According to SDSO Law Enforcement Services Bureau Field Operations Manual, Policy 1. Use of Discretion: When deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, Sheriff’s Department policies and procedures, statutory law, information-led policing, and supervision in making the appropriate decision. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. False Reporting – Deputy 2 reported that Scherff’s partner assaulted Scherff and a witness on 02-09-23.

Recommended Finding: Action Justified

Rationale: Complainant Jaclyn Scherff reported Deputy 2 “falsified” witness statements in his report. Scherff stated in her complaint that her partner did not attempt to hit anyone with a broom and did not behave in an aggressive manner. Body Worn Camera (BWC) showed when Scherff and another witness reported that Scherff’s partner attempted to hit them with a broom. Deputy 2’s report was derived from witness statements. SDSO P&P 2.46 Truthfulness states that all written and verbal reports shall be truthful and complete. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

23-147/TAPIA (Routine/case deferred from 11-12-24)

1. Misconduct/Discourtesy – Deputy 1 was “rude” to Brenda Tapia.

Recommended Finding: Unfounded

Rationale: Brenda Tapia, the complainant, alleged Deputy 1 was “rude” to her while Deputy 1 was responding to a call for service. Documents and Body Worn Camera Footage (BWC) was received from the San Diego Sheriff’s Office (SDSO) related to this incident. The evidence showed that Deputy 1 was the initial responding deputy and that Deputy 2 subsequently responded. Deputies were dispatched to a group home to a report

of a client who allegedly battered a staff member. BWC footage showed the interaction between Deputy 1 and the complainant. During the approximately 30 second interaction, Deputy 1 was courteous to Brenda. SDSD P&P Section 2.22, Courtesy, stated, "Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties." The evidence shows that the alleged act or conduct did not occur.

2. Illegal Search & Seizure – Deputies 1 and 2 detained the aggrieved.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputies 1 and 2 "... held [the aggrieved] in their custody, unwarranted... for roughly 2 hours." Deputy reports and BWC footage showed that while deputies were conducting their investigation the aggrieved was detained in handcuffs and cited for violation of CA Penal Code Section 148(A)(1), Resist, Obstruct, Delay of Peace Officer or EMT. PC 148(A)(1), states, "Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment." A review of Deputy 1 and Deputy 2's reports of the incident, and all BWC footage of the incident, showed no misconduct related to detaining the aggrieved in handcuffs to successfully complete their investigation. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 2 handcuffed the aggrieved "very tight."

Recommended Finding: Unfounded

Rationale: The complainant alleged Deputy 2 handcuffed the aggrieved "very tight causing him to lose feeling in his [right] thumb." Regarding the allegation that the aggrieved was handcuffed too tightly, there is no evidence, other than the complainant's statement to CLERB, which would indicate this to be true. SDSD P&P Section 2.48, Treatment of Persons in Custody, stated, "Employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody. Employees shall handle such persons in accordance with law and established Departmental procedures." BWC footage showed the aggrieved being detained in handcuffs but did not show the aggrieved complained of discomfort while being handcuffed. Additionally, BWC footage showed the aggrieved did not complain of any injury when he was being released from handcuffs or when being interviewed by a sergeant. The preponderance of evidence showed the allegation related to the aggrieved being handcuffed too tightly is unfounded. The evidence shows that the alleged act or conduct did not occur.

4. Misconduct/Discourtesy – Deputy 2 was discourteous towards the aggrieved.

Recommended Finding: Unfounded

Rationale: The complainant alleged Deputy 2 became "belligerent" and "mocked" the aggrieved, after the aggrieved stated he was going to request BWC footage of the incident. SDSD P&P Section 2.4, Unbecoming Conduct, stated, "Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department, or that which tends to impair the operation and efficiency of this Department or employee." Additionally, Section 2.22, Courtesy, stated, "Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties." It should be noted, the P&P does not strictly prohibit profanity. Evidence showed that during the approximate 1 hour and 5 minutes Deputy 2 was at the call for service, his actions were appropriate, and no policy violations were noted. The evidence shows that the alleged act or conduct did not occur.

23-152/NEWTON (Routine/allegation #3 deferred from 11-12-24)

3. Misconduct/Procedure – Unidentified staff failed to respond to IP Newton’s grievances.

Recommended Finding: Summary Dismissal

Rationale: Complainant Newton stated he submitted grievances about his status as a “Greenbander” and addressed another grievance to the ADA Unit. Newton reported he complained to the ADA unit about deputy procedures and practices that he felt were unsafe. Grievance forms submitted by Newton were reviewed. Evidence showed that many of the grievances submitted by Newton were directed to medical and some were deemed inmate requests. Other grievances submitted were entered into JIMS and handled in accordance with DSB P&P. Evidence showed Newton also submitted two other grievances, one addressed to the ADA Unit & the other addressed to the Jail Population Management Unit (JMPU). Newton received a response, where an unidentified staff member wrote that the complaint was not a grievance, but it was an inmate request. The grievances had a response that stated it was forwarded to the respective department. The area where staff sign their name and ARJIS was blank. SDSA DSB P&P states that if a grievance is determined to be a request, the second page of the grievance would be provided to the IP as a “signed receipt.” Which implies the grievance should be signed, it also states that no JIMS entry is required. It was unknown who received this grievance, why they did not sign their name or produce their ARJIS on the grievance form. 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, “An alleged violation of any general, standing, or special orders or guidelines of the Sheriff’s Department... 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... CLERB shall have authority to “receive, review and investigate citizen complaints filed against peace officers ” Given the absence of a subject deputy, CLERB does not have jurisdiction over the subject matter of the allegation.

POLICY RECOMMENDATION

1. CLERB recommends SDSA modify DSB Policy N.1, Grievance Procedure, Section IX, Subsection B.2 to specify that no staff signature is required and the second page of the form serves as a signed receipt.

24-006/LEWIS (Summary Dismissal)

1. Misconduct/Discourtesy – Deputy 1 was “unprofessional and disrespectful” towards Incarcerated Person (IP) Michael Lewis and/or other unidentified IPs.

Recommended Finding: Summary Dismissal

Rationale: Complainant Michael Lewis stated that Deputy 1 was “unprofessional and disrespectful” towards him and/or other unidentified IPs. Lewis reported Deputy 1 threw a banana and a bread packet from the window and “almost” hit him. Lewis was contacted for clarification/further explanation but failed to provide any additional substantive information. Lewis’ sworn statement was subjective in nature and unsupported by any evidence. SDSA documentation was reviewed and did not reveal any incidents associated with Deputy 1. CLERB Rules & Regulations (R&R), Section 15 Summary Dismissal states a Summary Dismissal may be appropriate when lack of cooperation by the complainant such that CLERB is unable to continue its investigation. The Review Board lacks jurisdiction.

2. Discrimination/Racial – Deputy 1 attempted to use a racial slur.

Recommended Finding: Summary Dismissal

Rationale: Complainant Lewis stated that Deputy 1 “came close to using a racial slur” towards him. See Rationale #1.

24-014/MUNIZ (Routine)

1. Misconduct/Procedure – Unidentified probation officers confined the aggrieved to his cell.

Recommended Finding: Summary Dismissal

Rationale: Jerry Muniz stated, "Approximately 4 weeks ago the aggrieved started being confined to his cell for 23 hours daily with one hour for recreation time." Muniz expressed grave concern for the aggrieved's mental well-being and stated he noticed a significant change in his mental state. Probation Department Institutional Services Policy 7.1 Behavior Control and Discipline Philosophy states in part, "The type of discipline imposed shall be appropriately based on the degree and seriousness of the misbehavior with consideration given to the chronological age and maturity level of the youth. Discipline, particularly in the form of room/bunk confinement shall not extend in duration, to where it loses significance and meaning to the youth unless such discipline is required for the safety of officers and/or other youth." CLERB submitted a request for probation records to the department, however, those documents were not provided to CLERB due to a pending court order. CLERB was unable to conduct an independent investigation due to a lack of evidence and therefore unable to either prove or disprove this allegation. Following the conclusion of this investigation, Muniz reported the East Mesa Juvenile Detention Facility (EMJDF) staff met with family, addressed concerns and are now providing the aggrieved with resources and programming that are fostering a supportive, safe environment and setting him up for success. Muniz requested his complaint be withdrawn. Per CLERB Rules & Regulations Withdrawal of Complaints, a complaint may be withdrawn from further consideration at any time. CLERB lacks jurisdiction on the allegation.

24-020/HARVEY (Summary Dismissal)

1. Misconduct/Procedure – Unidentified staff assigned Incarcerated Person (IP) Robert Harvey to a 3-man cell.

Recommended Finding: Summary Dismissal

Rationale: Complainant Robert Harvey submitted a complaint and stated he obtained an injury when he climbed down from the top bunk of a 3-person bunk bed while housed at George Bailey Detention Facility. Please note, Jail facilities within the San Diego Sheriff's Office (SDSO) often utilize 3-person bunk beds, and all bunks are inhabited depending on the facility census needs. SDSO P&P states health recommendations such as "lower bunk" or "lower tier" shall be initiated and entered into the IPs health record. SDSO documentation was reviewed and did not show any policy violations on Harvey's housing. In addition, Harvey did not identify any subject deputies and there were no allegations of deputy misconduct in his complaint. Per CLERB Rules & Regulations (R&R), Section 4.1, CLERB shall have authority to investigate Complaints filed against peace/custodial officers employed by the San Diego Sheriff's Department. In addition, CLERB R&R, Section 15 Summary Dismissal states a Summary Dismissal may be appropriate when CLERB does not have jurisdiction over the subject matter of the complaint. CLERB lacks jurisdiction.

24-037/SCHERFF (Routine)

1. Illegal Search & Seizure – Deputies 1-3 entered Scherff's apartment on 02-09-23.

Recommended Finding: Action Justified

Rationale: Complainant Jaclyn Scherff stated that deputies entered her home without permission. Scherff reported that on 02-09-23, her partner, who has mental health issues, started a fire in her bedroom, so Scherff asked a witness to request law enforcement. The witness contacted law enforcement, reported the situation and stated that Scherff's partner swung a broom at her and Scherff. Dispatch then classified the call as an "assault with a deadly weapon." Per Body Worn Camera (BWC), deputies arrived on scene and were given verbal consent by Scherff to enter the home. According to the California Peace Officer Legal Sourcebook, Search and Seizure—Premises; an Officer may enter premises without a warrant, probable cause, or exigent circumstances if you have obtained valid consent. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

2. Excessive Force – Deputy 1 entered Scherff's apartment with his gun drawn on 02-09-23.

Recommended Finding: Summary Dismissal

Rationale: Complainant Jaclyn Scherff stated a deputy entered her home "with his gun drawn and proceeded to clear the apartment. "Scherff stated the deputy was "reckless in his actions" and "placed her dog's safety in jeopardy." Deputy 1 responded to an assault with a deadly weapon call. Per Body Worn Camera (BWC),

Deputy 1 entered the home with his gun drawn, pointed to the floor and yelled “Sheriff’s Department” as he walked throughout the apartment. The deputy “cleared” the bedroom and bathroom. Deputy 1 put the gun away when he entered the bedroom where her partner was located. According to SDSA Law Enforcement Services Bureau Field Operations Manual, Policy 1. Use of Discretion: When deputies are faced with a situation where discretion can be exercised, they must evaluate the circumstances, consider the available resources, and rely on their training, Sheriff’s Department policies and procedures, statutory law, information-led policing, and supervision in making the appropriate decision. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

3. False Reporting – Deputy 2 reported that Scherff’s partner assaulted Scherff and a witness on 02-09-23.

Recommended Finding: Action Justified

Rationale: Complainant Jaclyn Scherff reported Deputy 2 “falsified” witness statements in his report. Scherff stated in her complaint that her partner did not attempt to hit anyone with a broom and did not behave in an aggressive manner. Body Worn Camera (BWC) showed when Scherff and another witness reported that Scherff’s partner attempted to hit them with a broom. Deputy 2’s report was derived from witness statements. SDSA P&P 2.46 Truthfulness states that all written and verbal reports shall be truthful and complete. The evidence showed that the alleged act or conduct did occur but was lawful, justified and proper.

24-042/HONEYCUTT (Routine)

1. Misconduct/Procedure – Deputy 1 questioned Alan Honeycutt.

Recommended Finding: Action Justified

Rationale: Complainant Alan Honeycutt stated, “I entered Department 12 at approximately 3:35 p.m. on December 8, 2023. I noticed the deputy was waving at me... It appeared he was asking if I was a juror. I was wearing my juror badge in the center of my chest. I got up and walked over to him. He asks if I was in this court as a juror. I clearly replied ‘No’ and returned to my seat. Deputy walked over to me and asked, ‘why are you here,’ I said, I am here as a citizen observing the court process. Deputy then said, ‘you do not need to be rude.’” SDSA CSB P&P Section C Bailiff and Security Duties and Responsibilities states in part, “The primary function of the bailiff is to provide security and maintain order in the courtroom, thereby ensuring the protection of the court and facilitation of courtroom procedures.” According to a Court Services Department information source, “It would be normal for a deputy to talk to a juror from another courtroom that came into their courtroom. The deputy is an extension of the court and could restrict or ask a member of the public to leave during disruptions, security concerns or if someone is-not following court etiquette-or -rule.” Deputy 1 provided information during CLERB’s investigation that was considered in arriving at the recommended finding, however, it is privileged and cannot be publicly disclosed. The evidence showed that Deputy 1 questioned Honeycutt’s presence in an unauthorized courtroom and his actions were lawful, justified and proper.

2. Misconduct/Intimidation – Deputy 1 displayed “threatening” behavior toward Honeycutt.

Recommended Finding: Not Sustained

Rationale: Complainant Honeycutt stated, “I asked Deputy, ‘how I was being rude?’ Deputy maintained his silent threatening hover over me. I repeated the question, ‘May I ask how I was being rude?’ The Deputy continued to close the distance physically between me and himself by bending closer to me. Deputy continued his silent threatening behavior of what is often referred to as a menacing glare (Deputy had a threatening facial expression akin to a ‘war face’ in military lingo).” SDSA P&P Section 2.4 Unbecoming Conduct states in part, “Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department.” Additionally, SDSA P&P Section 2.22 Courtesy states, “Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation.” Court video surveillance video did not corroborate Honeycutt’s allegation that Deputy 1 hovered closer and closer. The video was absent audio with Deputy 1’s back to the camera for the majority of the interaction and therefore the evidence was insufficient to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 1 “ordered” Honeycutt to leave the courtroom.

Recommended Finding: Action Justified

Rationale: Complainant Honeycutt stated, “Deputy ordered me, under color of shield/authority to ‘leave this court.’” Title 18 U.S.C§ 242 Deprivation of Rights Under Color of Law: A federal law that prohibits the intentional deprivation of rights protected by the Constitution or U.S. law. This law applies when someone acts under the authority of a government entity, such as a police officer, prison guard, or judge, to violate a person’s rights. Deputy 1 provided information during CLERB’s investigation that was considered in arriving at the recommended finding, however, it is privileged and cannot be publicly disclosed. According to a SDSO Department Information Source, “It would be normal for a deputy to talk to a juror from another courtroom and most would be asked to leave. This would be due to the chance that a juror could hear or see something in another court hearing that could misinform or even increase knowledge in the case they are assigned as a juror. If a similar case is heard during a break, it could taint the main case.” In a telephone interview with Honeycutt he reported that he did not obtain the judge’s permission to observe in other courtrooms while on his break. The evidence showed the alleged act did occur and was lawful, justified and proper.

4. Misconduct/Intimidation – Deputy 1 “blocked” Honeycutt’s exit.

Recommended Finding: Unfounded

Rationale: Complainant Honeycutt stated, “Deputy positioned himself on my left in front of my exit isle in a blocking position. I did not question why I was ordered out of the court. I replied, okay, but please back up so I may stand up. The Deputy stepped back approximately three inches. I had to move sideways left to right between the fixed chair and Deputy.” CA PC§ 647 (c) Unlawful Obstruction of Free Movement: Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place or on or in any place open to the public is guilty of a misdemeanor. Video evidence refuted Honeycutt’s allegation and showed he stood up and exited the courtroom with no obstruction by Deputy 1. The evidence showed the alleged act did not occur.

5. Misconduct/Procedure – Deputy 1 “violated” Honeycutt’s constitutional rights.

Recommended Finding: Unfounded

Rationale: Complainant Honeycutt stated, “Deputy 1 violated my presumed First Amendment right of public access to judicial proceedings in criminal cases as consistently recognized by the U.S Supreme Court and the Ninth Circuit Court of Appeals.” See Rationale #3.

24-045/THOMPSON (Priority)

1. Misconduct/Discourtesy – Deputy 1 “slapped” the complainant’s work ID and key fob out of his hands.

Recommended Finding: Unfounded

Rationale: Complainant Richard Thompson alleged Deputy 1 “slapped” the complainant’s work ID and key fob out of his hands. BWC showed the complainant was holding an ID badge and keys, and that Deputy 1 removed them from the complainant’s hands, but did not hit or slap the items, to effectively handcuff the complainant. SDSO P&P Section 2.22, Courtesy, states, “Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties.” The evidence shows that the alleged act or conduct did not occur.

2. Excessive Force – Deputy 1 used excessive force against the complainant.

Recommended Finding: Unfounded

Rationale: Complainant Richard Thompson alleged Deputy 1 roughly handcuffed and proceeded to “choke” him. BWC showed that Deputy 1’s action of pushing the complainant away was within policy and not considered excessive force. Additionally, the evidence showed Deputy 1 did not “choke” the complainant.

SDSO 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." The evidence shows that the alleged act or conduct did not occur.

3. Misconduct/Procedure – Deputy 1 did not provide his identification to the complainant.

Recommended Finding: Unfounded

Rationale: Complainant Richard Thompson alleged Deputy 1 would not provide his name and badge number. BWC footage confirmed Deputy 1 provided both his name and ARJIS number to the complainant. SDSO P&P Section 2.20, Identification, states, "Sworn employees shall carry their identification cards on their persons at all times, except when impractical or dangerous to their safety or to an investigation. While on duty, all employees shall furnish their first and last name or ARJIS number to any person requesting his or her identity, except when the withholding of such information is necessary for the performance of police duties." The evidence shows that the alleged act or conduct did not occur.

24-052/SMITH & BORJA (Priority)

1. Excessive Force – Deputies 1, 2 and 3 used force against Alex Smith.

Recommended Finding: Action Justified

Rationale: Donna Borja and Alex Smith submitted complaints regarding Smith that alleged, "the deputies threw Alex Smith out of his wheelchair and when he was unable to get up off the floor deputies used additional force, pulling Smith's injured leg, stepping on or kicking his stomach which caused bruising." In Smith's statement he alleged deputies "slammed" him and forced his leg in directions it cannot go. Smith also alleged he felt deputies "kneeing" and "elbowing" him. SDSO P&P Section 2.49, Use of Force, stated, "Employees shall not use more force in any situation than is reasonably necessary under the circumstances. Employees shall use force in accordance with law and established Departmental procedures, and report all use of force in writing." Additionally, Addendum Section F, states, "Hands-on control is used as a means of overcoming resistive or assaultive behavior. Soft hand control may be used to control subjects whose behavior does not demand more severe tactics. Hard hands control, powerful hand or leg strikes, etc., are techniques used to control more assaultive suspects." Addendum Section F defines excessive force as "a level of force that violates California state law or the United States Constitution. Excessive force is evident when the type, degree or duration of force employed were not objectively reasonable." SDSO provided numerous deputy reports, incident reports, body worn camera (BWC) footage, and custody documents related to the alleged incident. SDSO Detention Services Bureau Policies and Procedures (DSB P&P), Section O.1, Disciplinary Action, and Section O.3, Rules and Regulations of Incarcerated Person, set forth rules and procedures governing an incarcerated person behavior while housed in a detention facility, and was also considered in making a finding. A review of all the evidence does not corroborate the statements made by Borja or Smith that deputies used excessive force. Additionally, the BWC footage reviewed showed Smith was not "slammed," "kneed," or "elbowed," and that the force used was not in violation of policy. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

24-057/JACQUETT & HARMON (Priority)

1. Criminal Conduct – "Deputy [redacted]" "grabbed" Jacquett's "buttocks" and "groped his private area."

Recommended Finding: Unfounded

Rationale: CLERB received a signed complaint from Krista Harmon, who alleged an incarcerated person, Tyrice Jacquett, reported to Harmon "that while [Jacquett] was asleep in his cell a deputy walked into his cell and grabbed his buttocks and groped his private area." SDSO provided evidence which included Jacquett's custody documents, a report of an investigation opened by SDSO related to the allegation and CCTV footage. The evidence contradicted Jacquett's statements and showed that the alleged act or conduct did not occur.

2. Misconduct/Procedure – "Deputy [redacted]" restricted Jacquett's visitation for 30 days.

Recommended Finding: Unfounded

Rationale: In addition to allegation #1, CLERB received a signed complaint from Tyrice Jacquett. Allegations #2-6 are related to Jacquett's complaint. Jacquett alleged his "visits were taken away by Deputy '[redacted]' for '30' days." A request for Jacquett to provide additional information was sent, but no response was received. Jacquett did not provide any time frame that this alleged misconduct occurred, or any other context as to why this action would be misconduct. SDSO Detention Services Bureau, Manual of Policies and Procedure (DSB P&P), Section P. 9, Social Visiting, stated, "Social visits and video visitations are a privilege, and as such, may be suspended as part of a disciplinary action. At the discretion of the watch commander, visitors may have their visit privileges suspended for any violation of the visit rules. Violations may result in an up to a 60-day suspension of privileges. All suspensions shall be noted in the JIMS." A review of Jacquett's custody records and incident reports show a visitation restriction was not put in place. Rather, the records showed Jacquett completed numerous "social visits" while incarcerated. The evidence showed the alleged act or conduct did not occur.

3. Misconduct/Procedure – Unidentified deputies did not interview Jacquett related to a reported incident.

Recommended Finding: Unfounded

Rationale: Jacquett alleged, "PREA was supposed to come see me but never did." See Rationale #1. The evidence received from SDSO showed a case was opened based on a grievance submitted by Jacquett, and the matter was subsequently investigated. The evidence showed Jacquett was interviewed during the investigation. The evidence shows that the alleged act or conduct did not occur.

4. Misconduct/Medical – Unidentified medical staff stopped Jacquett's medication

Recommended Finding: Summary Dismissal

Rationale: Jacquett alleged, "they took me off... my meds for about a week... the nurse specilally [sic] told me 'that there was no history of my [redacted] because it had been removed.' All because of my lower lower [sic] crono [sic]." This allegation is related to medical staff and the Review Board lacks jurisdiction.

5. Misconduct/Procedure – Unidentified deputies did not deliver Jacquett's mail "daily".

Recommended Finding: Action Justified

Rationale: Jacquett alleged, "the emails are supposed to come to the jailhouse daily an [sic] that is stated on the jail website but we only get mail once a week sometimes once every two weeks I will get a stack of mail date within those weeks instead of getting it the day of." DSB P&P, Section P.3, Incarcerated Person Mail, 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." The policy also establishes the importance of screening mail for contraband prior to distribution to incarcerated persons. Additionally, the policy stated, "all incoming non-legal mail will be routed to the Mail Processing Center (MPC) warehouse located at the Las Colinas Detention and Reentry Facility. Deputies assigned to the MPC and Sheriff's Transportation Detail (STD) will work collaboratively with detention facilities' staff to provide the reasonably prompt delivery of incoming materials. Facility deputies will process and send out directly all outgoing correspondence." Electronic mail is classified as non-legal mail and would also be required to be screened by MPC deputies for contraband, pursuant to the policy. The policy does not require mail to be delivered on the same day it is received. A review of Jacquett's custody records showed numerous entries that Jacquett's mail was rejected due to it containing inappropriate content. Subsection "III. Rejection/Appeal Process" of DSB P&P Section P.3 speaks to the process of rejecting incarcerated person's mail. Based on the evidence reviewed, no misconduct was identified related to the action of rejecting Jacquett's mail.

6. Misconduct/Procedure – Unidentified deputies did not respond to Jacquett's "emergency button."

Recommended Finding: Not Sustained

Rationale: Jacquett alleged, "we he [sic] emergency button in our cells for emergency but they never get answered." SDSO does not maintain a record of individual intercom requests. DSB P&P Section I.2, Intercom Systems, stated, "Intercoms are generally located in areas accessible by incarcerated persons (e.g.,

dayrooms, cells, classrooms, etc.). Each facility shall maintain an intercom system to be utilized by incarcerated persons for the purpose of providing a means of communication between sworn staff and incarcerated persons. Intercom systems should be primarily used as a means of relaying and or summoning emergency assistance. Intercoms shall not be routinely muted or silenced.” Additionally, the policy stated, “In the event an intercom is silenced or muted, sworn staff must make an entry in the Area Activity log, utilizing the "ALARMS" drop-down in the Jail Information Management System (JIMS). At a minimum, the description field must include the cell number or the incarcerated person's name and booking number.” A review of Jacquett’s “History Report” showed no entries that his intercom was muted. Additionally, Jacquett did not provide any dates of the alleged misconduct. There was insufficient evidence to either prove or disprove the allegation.

24-063/MARTIN (Routine)

1. Misconduct/Procedure – Unidentified deputies housed Martin with high level incarcerated persons (I/P's).

Recommended Finding: Action Justified

Rationale: Martin stated, “I wrote classification to inform them I am in custody for a non-violent crime and I shouldn't be with high power inmates. My last violent crime was committed in 2016.” Per the SDSO DSB P&P Section R.1 IP Classification, The Jail Population Management Unit (JPMU) will conduct classification assessments, assign individuals a classification, and assign housing for all incarcerated persons. 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. The incarcerated person will be assigned to the most appropriate housing location based on their classification designation. Martin's jail classification records showed his classification level a 5-Maximum for prior charges. According to SDSO DSB P&P Section R.3 Incarcerated Person Classification Code-Descriptor Definitions, An incarcerated person's classification designation defines their recommended custody level. Incarcerated persons with custody levels 4 High and 5-Maximum can be housed together. Review of records showed that Martin was appropriately classified and housed accordingly. There was no evidence to support a violation of policy and the alleged act or conduct did occur and was lawful, justified and proper.

2. Misconduct/Procedure – Unidentified deputies rejected Rodney Martin's mail and/or books.

Recommended Finding: Action Justified

Rationale: Rodney Martin stated, “They're rejecting all my mail and pictures. They say there all promoting prostitution, racism, or manipulation but the books I tried to have sent in were urban novels and self-help books. They've sent back pictures stating they were nude.” According to SDSO DSB P&P Section P.3 Incarcerated Person Mail, Incarcerated persons shall be allowed to receive and possess U.S. mail, incoming letters, confidential/legal mail, and mail from official government agencies. They may also receive electronic email messages, periodicals, and new books. The following items are not usually allowed inside the facility due to their construction or subject matter: Any material that advocates the use of violence, Any material that advocates criminal activity, violation of any criminal law or violation of facility rules and regulations. Incarcerated persons are prohibited from possessing or receiving materials that show nudity of either gender or portray sexual activity. When a book is rejected, MPC deputies will make an entry in the incarcerated person's JIMS history using the drop-down "MREJ." A review of Martin's jail records documented Martin had three books and two letters rejected due to the subject matter content not acceptable per DSB P&P Section P.3 Incarcerated Person Mail. The evidence showed the alleged act or conduct did occur and was lawful, justified and proper.

3. Misconduct/Discourtesy – Deputy 2 locked down IPs on 05-04-24.

Recommended Finding: Unfounded

Rationale: Martin stated, “On 05-04-24, Deputy 2 told inmates we were locked down because they were watching a boxing match.” According to SDSO P&P Section 2.27 Neglect of Duty, Employees shall not read, play games, watch television or movies or otherwise engage in entertainment while on duty, except as may

be required in the performance of duty. They shall not engage in any activities or personal business, which would cause them to neglect or be inattentive to duty. Review of jail records for the module where Martin was housed showed IP's had access to the dayroom and the rec yard on the day in question. The evidence refuted Martin's allegation and showed that the alleged act or conduct did not occur.

4. Misconduct/Discourtesy – Deputy 1 used inappropriate language.

Recommended Finding: Not Sustained

Rationale: Martin stated, "On 05-09-24, officer 1 working house 4 used inappropriate language while talking to me and my cell mate." In his complaint, Martin did not state what was said, just that Deputy 1 used "inappropriate" language. Martin did not respond to request for follow-up about his complaint. According to SDSO P&P Section 2.22 Courtesy, Employees shall be courteous to the public and fellow employees. They shall be tactful in the performance of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Coarse, profane, or violent language is generally prohibited. Employees shall not use insolent language or gestures in the performance of his or her duties. Additionally, SDSO P&P Section 2.48 Treatment of Persons in Custody states in part, "Employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody." Due to there being no documented evidence, including body worn camera or audio, of the interaction between Deputy 1 and Martin, the evidence was insufficient to either prove or disprove the allegation.

24-070/THOMAS (Routine)

1. Misconduct/Procedure – Deputy 1 ran a criminal history check on Edward Thomas.

Recommended Finding: Action Justified

Rationale: Edward Thomas stated, "On 05-06-24, I arrived at GBDF and checked in for my social visit with no incident. While waiting, Deputy 1 said he remembered me from a prior incarceration and that I was not allowed at GBDF." The SDSO DSB P&P Section P.9 Social Visiting, states in part, "Personnel may run the visitor's name through the wants/warrant system. Every person, who having been previously convicted of a felony and confined in any state prison in this state, must receive consent from the facility commander, their designee, or the on-duty watch commander prior to visiting per California Penal Code 4571." Furthermore, per the SDSO Post Orders for Visit Deputy, The Visit Deputy will be responsible for vetting all members of the public visiting the facility. The Visit Deputy will utilize SDLAW, IMOBILE, or the Sheriff's Communication Center, to perform a wants and warrants, and criminal history check of all persons visiting the facility. Deputy 1 provided confidential information during CLERB's investigation that was considered in arriving at the recommended finding. Deputy 1 conducted a criminal history check on Thomas and his actions were lawful, justified and proper.

2. Illegal Search & Seizure – Deputy 1 searched Edward Thomas' person and vehicle.

Recommended Finding: Action Justified

Rationale: Edward Thomas stated, "I understand vehicles are subject to search on jail grounds but I don't believe Deputy 1 had any right to search me." According to SDSO P&P Section 2.51 Arrest, Search and Seizure, 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. Furthermore, there are signs posted at the entrance of the GBDF and in the lobby that state, "All persons, property and vehicles are subject to search." Deputy 1 provided confidential information during CLERB's investigation that was considered in arriving at the recommended finding. The evidence showed the alleged act did occur and was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 cancelled Thomas' jail visit.

Recommended Finding: Action Justified

Rationale: Thomas stated, "Deputy 1 said I was not allowed at GBDF and cancelled my visit." According to California PC§ 4571 Unauthorized Communications with Prisons and Prisoners, "Every person who, having

been previously convicted of a felony and confined in any State prison in this State, without the consent of the warden or other officer in charge of any jail or any county road camp in this State, comes upon the grounds of any such institution, or lands belonging or adjacent thereto, is guilty of a felony.” The SDSO website provides a request form to obtain the facility commander’s permission for visits at SDSO detention facilities. See Rationale #1. Deputy 1 provided confidential information during CLERB’s investigation that was considered in arriving at the recommended finding. The evidence showed that the alleged act or conduct did occur and was lawful, justified and proper.

24-077/NGUYEN (GBI)

1. Use of Force Resulting in Great Bodily Injury – Deputy Velarde used force against Hai Thanh Nguyen on 03-19-24.

Recommended Finding: Action Justified

Rationale: On 05-21-24, CLERB was notified of a San Diego Sheriff’s Office (SDSO) use of force incident which resulted in an injury. Records related to the incident showed, on 03-19-24, deputies were dispatched to a report of individual, identified as Hai Thanh Nguyen, screaming and hitting objects in front of his residence. During the contact with Nguyen, he brandished a sword at responding deputies and refused to cooperate with the deputies’ directives. During the incident, Deputy Velarde discharged a less lethal bean bag shotgun at Nguyen. CLERB received numerous reports and body worn camera (BWC) footage from SDSO related to the incident. SDSO P&P Section 11.20, Less Lethal Munitions/ Projectiles, stated, “Less Lethal Impact Munitions are projectiles used as intermediate force options against subjects exhibiting assaultive or life-threatening behavior. They are less likely to result in serious bodily injury or death and can be a resource to de-escalate a potentially deadly situation.” BWC footage confirmed the deputies statement of facts of Nguyen exhibiting assaultive or life-threatening behavior. The evidence shows that the alleged act or conduct did occur but was lawful, justified and proper.

24-114/LORTA (Summary Dismissal)

1. Misconduct/Procedure – Probation Officer 1 “insisted” Hector Lorta discuss his personal life.

Recommended Finding: Summary Dismissal

Rationale: Complainant Hector Lorta stated, “Probation Officer 1 kept insisting I open up to him about my personal life. I blatantly said I have a counselor & medication, that I did not need counseling. Each visit was the same.” Lorta’s complaint was received via U.S. mail; however, it did not include the required “Court Authorization Form, Agreeing to Disclosure of Personal and Non-Confidential Portions of Probation Reports, Files, or Records.” CLERB is unable to access Probation records without consent. All attempts to contact Lorta were unsuccessful. CLERB Rules and Regulations (R&R) Section 15: 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. CLERB lacks jurisdiction.

24-170/ANDERSON (Summary Dismissal)

1. Discrimination/Racial – A judge “profiled” Matthew J. Anderson and displayed bias on 11-07-24.

Recommended Finding: Summary Dismissal

Rationale: On 11-08-24, CLERB received a complaint signed under penalty of perjury alleging discrimination by a judge at the San Diego Superior court. Per CLERB Rules & Regulations 4.1, Complaints: Authority. Pursuant to the Ordinance, CLERB shall have authority to receive, review, investigate, and report on Complaints filed against peace officers or custodial officers employed by the County in the Sheriff’s Department or the Probation Department... The complainant was referred to the Commission on Judicial Performance. CLERB lacks jurisdiction.