

IOLERO

Annual Report 2023-2024



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EXECUTIVE SUMMARY

Our primary mission here at IOLERO over the last two years has been to implement Measure P, the ballot measure you, Sonoma County, passed in 2020. We see that measure as the roadmap for doing our work at IOLERO. We've made a lot of progress and look forward to finishing the work you've asked us to complete.

This last year, IOLERO made a great deal of progress in implementing Measure P. For the first time, we launched multiple independent investigations. We audited more cases than ever before. And we made strong improvements in our systems, adding a subpoena process, an interview room, a database, and more rigorous standards and training for our work. We're excited about the progress we've made, and the progress we're looking forward to making next year in implementing your vision for oversight in Sonoma County. We hope you are, too.

This report includes an update on our budget and staffing. We were at full staffing this last year. This included one-part time and two full-time auditors, more auditing and investigating staff than ever before. This allowed us to start independent investigations for the first time, and still audit more cases than ever before. But as you will see in our budgeting and staffing chapter, we still found that the number of cases we received for auditing dramatically increased, leaving us with a backlog again. Thanks to the funding guarantee in Measure P, and the support of the Board of Supervisors and County Executive, we're greenlit to hire a Chief Deputy Auditor this coming year to help with that backlog.

As for outreach, we continued to engage the community in both English and Spanish via our website (available in both languages), radio, and translation services at meetings. We also appeared at public events, talked to other government bodies about our work, and local civil groups. We're very excited



EXECUTIVE SUMMARY

about the enthusiastic response we have received for our virtual question-and-answer style Town Hall webinars on the annual report, and the way immigration status is treated at our jail. We look forward to doing more of these in the future.

In our Auditing chapter, you will see that this year we used the Completeness Checklist to assess the work of the Internal Affairs Division (IAD). And we reached agreement on a Timeliness Checklist we're implementing now. We also improved our own internal procedures, including starting to adapt the same policies and procedures as are used by other law enforcement auditors, like the Inspector General over the F.B.I. These tools helped us identify a wide variety of issues, both positive and negative, at the Sheriff's Office. In particular, you'll see in this report much more depth about policy issues in the Sonoma County jail (MADF) than in prior reports. Other issues include the completeness rate (unfortunately) not improving this year, jail staffing becoming a significant challenge which the Sheriff's Office addressed proactively and effectively, and the use of police canines, among others.

As in prior reports, you'll see our audits summarized in this report. This year we again organized those cases by subject matter. We only had one case that state law allows us to publish in its entirety, which you'll find on our website. We continue to ensure the highest level of transparency allowed by law, while at the same time ensuring we're preserving the privacy rights of crime victims, complainants, Whistleblowers, and Sonoma County employees.

More remains for us to do. In the next year, we look forward to continuing the progress described above. In particular, we look forward to finishing some of our independent investigations so you can see our work in more detail. And we look forward to finishing some of the Community Advisory Council's policy recommendations to the Sheriff's Office.



John Alden
IOLERO Director

MESSAGE FROM THE CAC CHAIR AND VICE-CHAIR



The Community Advisory Council (CAC) again saw a number of changes in its membership during the fiscal year July 2023 to June 2024 although our leadership – Chairperson Lorena Barrera and Vice Chairperson Nancy Pemberton – remain the same as last fiscal year. Our current membership is: Robin Jurs and Nathan Solomon, District One; David (Casey) Jones, District Two; Lorena Barrera and Trevor Ward, District Three; Esther Lemus and George Valenzuela, District Four; Imelda Martinez De Montano and Nancy Pemberton, District Five; and Darnell Bowen, At Large. Esther Lemus from District Four was replaced by John Azevedo at the start of fiscal year 2024 - 2025. (See Appendix A.)

For the second year in a row, the CAC held a special, day-long, strategic planning meeting to plan its work for 2024. Board of Supervisors Chairperson David Rabbitt and Sonoma County Sheriff Eddie Engram both addressed the CAC members and the public. With input from the public participants, the CAC established priorities for the coming twelve to eighteen months. The workplan was officially adopted in April 2024. (See Appendix B.) As part of that plan, the CAC decided to prioritize completing work initiated from the 2023 workplan.

Our ad hoc committee addressing the Racial Identity Profiling Act (RIPA) is investigating the extent to which the Sheriff's Office is able to accurately collect and report data to the California Department of Justice and to recommend improvements in data collection and transmission, where appropriate. More importantly, the ad hoc Committee analyzes the data and is working to make recommendations to mitigate the effects of racial profiling, if the data reflects that such profiling occurs.

The ad hoc committee on recruitment, hiring and retention was pleased to learn from the Sheriff that the Department's efforts at filling staffing vacancies worked and the Department is nearing full staffing after many years of unsustainable vacancies. The ad hoc committee has turned its attention to two areas: the degree to which the Department's personnel reflect the demographic diversity of the County (see Appendix C.) and the degree to which recruitment efforts focus on a militarized policing system rather than a community policing system.

In light of a number of recent incidents involving the use of canines during a stop, we decided to review our previous recommendations to changes in the Sheriff's Office's canine use of force policy and to determine whether we needed to modify

those recommendations. The ad hoc committee has been working on this topic and hopes to complete its work by the end of 2024.

In late 2023, we created an ad hoc committee to address issues related to the Sheriff's role in the civil process of evictions. The committee is working on recommendations to the Sheriff to improve its referrals to resources for evictees and to train deputies on how they should address issues of criminal trespass by landlords.

An important part of CAC's work is to engage the community in its work, and to improve the public's understanding of the work of the Sheriff's Office. To that end, we have an ad hoc community engagement committee that works to improve the CAC's outreach and engagement. During its monthly meetings, this ad hoc hosted several presentations about the work of the Sheriff's Office on the following topics: de-escalation policies, eviction practices, the new mental health/mobile crisis team, jail conditions, and the Truth Act and the Sheriff's participation in immigration enforcement efforts. We hope to expand those efforts with webinars, speaking engagements, and public surveys.

Additionally, the ad hoc committees have been working on a more focused and transparent approach in the work they conduct by working side by side with a contracted consultant named Rania Adwan. Rania has been facilitating meetings with each of the ad hoc committees. At these meetings she has been navigating different perspectives and negotiating challenging conversations to build consensus within each

group. She has also created templates unique to each group so that meetings are productive and more importantly, to align the different perspectives from the committee members so that the ad hoc committees have agreed-upon goals. Rania has been a big asset to all of the ad hocs and with her assistance, each ad hoc committee will be able to provide well thought-out recommendations and work-outputs in a timely manner.

Finally, when the Board of Supervisors announced its plan to have the IOLERO Executive Director report to the County Executive instead of directly to the Board, the CAC raised concerns about the impact of such a change on IOLERO's independence and the public perception of IOLERO's authority. The CAC members were disappointed that the concerns, shared by many members of the public, did not sway the Board's decision.

The CAC is delighted with the current staff of IOLERO and wish to express our thanks to them, particularly Executive Director John Alden and Community Engagement Manager Lizett Camacho. They play critical roles in seeing that our work is done, and done well. The entire staff is to be commended for its efforts to implement the goals of Measure P: civilian oversight of, transparency by, and community engagement with the Sheriff's Office.

Lorena Barrera

Chair

Nancy Pemberton

Vice-Chair

I. BRIEF HISTORY OF SONOMA COUNTY'S IOLERO AND MEASURE P

We have discussed the legislative history of IOLERO and Measure P in prior Annual Reports. That history is summarized briefly here.

In 2016, the Board of Supervisors enacted an ordinance establishing IOLERO with limited authority to audit SCSO's administrative investigations. In the fall of 2020, the Board of Supervisors placed Measure P on the ballot to expand IOLERO's powers and duties and to set IOLERO's budget at no less than 1% of the Sheriff's Office budget. In November 2020, County voters approved Measure P with nearly 65% of the vote.

Labor organizations representing law enforcement personnel challenged parts of Measure P before the Public Employment Relations Board (PERB). Through negotiations, the labor organizations and Sonoma County reached agreements implementing Measure P. These agreements, as well as the Operating Agreement between IOLERO and SCSO can be found at <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/independent-office-of-law-enforcement-review-and-outreach/who-we-are/measure-p-information>.

Measure P increased IOLERO's ability to conduct law enforcement oversight by (among other things) providing IOLERO with subpoena power, direct access to the Sheriff's records (including Body-Worn Camera (BWC) videos), authority to post BWC videos to IOLERO's website, and authority to make disciplinary recommendations.

Measure P also authorized IOLERO to independently investigate deaths resulting from actions of an officer, independently investigate deaths of persons in custody, and independently receive and investigate whistleblower complaints. Acting under this authority, IOLERO has several independent investigations ongoing at this time. We discuss these in more detail later in this Report.



II. IOLERO'S BUDGET AND STAFFING

A. New Staff approved for FY 2024-2025

During the budget process in the spring and summer of 2024, IOLERO requested, and the Board of Supervisors approved, the addition of two new positions to our existing team. First, the Board approved making an existing but short-term part-time Law Enforcement Auditor position into a permanent, but still part-time position. We have found this part-time solution has allowed us the flexibility to match time and expenses to the caseload, which sometimes fluctuates. We're grateful we can now make this flexible approach an ongoing part of IOLERO's structure. Second, the Board approved the addition of a new position, Chief Deputy Law Enforcement Auditor, to allow us to hire an experienced auditor who can also supervise the other three auditors. In addition to adding expertise to the team, we expect adding a mid-level manager will help improve the consistency of our work, training, and quality control.

We anticipate both positions will be filled in fiscal year 2024-2025.

B. Continuing Auditor Training

This year, we had two full-time auditors and one part-time auditor, the highest level of auditor staffing IOLERO has ever had. All of our auditors are attorneys, with specialized training in the core constitutional laws regarding policing. We focused heavily on training the auditors further this year, attending trainings designed for law enforcement personnel investigating the conduct of fellow law enforcement officers; trainings designed for attorneys advising, working with, suing or defending law enforcement officers; and trainings for civilians overseeing law enforcement. We also had our own internal trainings.



Some of the courses our auditors attended included:

- Americans for Effective Law Enforcement (AELE) Jail and Prison Litigation
- California Peace Officer Standards and Training (POST) Internal Affairs Training
- Daigle Law Group (DLG) Advanced Internal Affairs Training
- National Association for the Civilian Oversight of Law Enforcement (NACOLE) Annual Conference

(And various NACOLE webinars)

- Association of Inspectors General (AIG) Annual Conference and Training Conference
- Los Angeles Police Department (LAPD) Basic Law Enforcement Auditor Training

In this regard, our auditors have received more training in the oversight of law enforcement than most law enforcement officers receive in a career.

We're informed by SCSO that the California Peace Officer Standards and Training (POST) Internal Affairs Training we attended is the lead training used by SCSO to train Sergeants in how to investigate disciplinary cases. Certainly, this training is important – it's supported by the State of California, is offered locally, and is generally required by POST. That said, three of our four attorneys at IOLERO have attended this training at different times, and all found it less useful than the other trainings noted above. For example, some of these POST IAD trainings include a short lecture on why agencies who currently do not have civilian oversight may want to avoid the creation of oversight. More than one POST IAD class offered scenarios for the students to assess in small teams, which is laudable, but in some POST IAD classes none of the scenarios presented to the class included any sustainable violations. In other words, the projects given to the class to work on suggested that the task of an IAD investigator is merely to assess why allegations of misconduct should *not* be sustained. This creates a bias in the instruction that is contrary to the objective analysis that IAD investigators should be conducting.

The POST IAD trainings also focus on the basics of investigations – the fundamentals that all law enforcement personnel should know before they conduct an administrative investigation. This



is important, but it is limited. Other trainings teach more advanced investigation skills that are necessary for specific types of investigations, and that can increase the quality of all investigations. For example, the Daigle training focuses on complex investigations like shootings or sexual misconduct, which present different challenges than other investigations; and the AELE training teaches about the substance of jail investigations, not just investigation procedure.

We have also generally found that the AELE and Daigle programs noted above provide more effective and substantive IAD investigative training. The Daigle training in particular is offered to a wide variety of law enforcement agencies across the country, virtually and at a reasonable cost, and uses a tone that we find is approachable to law enforcement while remaining neutral and emphasizing completeness in the investigative process and reporting. While SCSO may be required by POST to have its Sergeants attend POST IAD training, we recommend that SCSO also send its Sergeants (and if possible its IA investigators) to at least one other IAD training in order to ensure thorough, unbiased training.

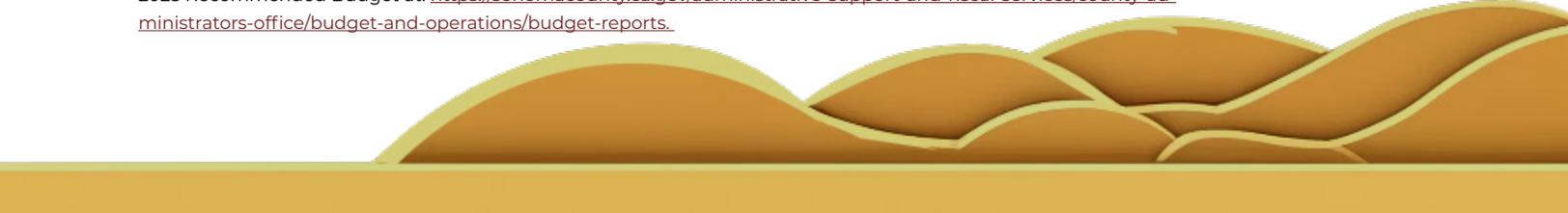
This year focused heavily on training for the auditors, but does not mark the end of their training. IOLERO is committed to its auditors' continuing professional education. To further this commitment, IOLERO has adopted an hourly training requirement for auditors, consistent with Generally Accepted Government Auditing Standards. Going forward, auditors will complete at least 80 hours of continuing professional education every 2 years.

C. IOLERO's Budget

IOLERO entered the 23-24 Fiscal Year with a budget of \$2.1 million to meet the funding mandate of the equivalent of 1% of the Sheriff's Office budget.¹ IOLERO also entered the fiscal year fully staffed with six permanent positions, and the services of a part-time extra help Law Enforcement Auditor. We have also had part-time staffing assistance from the County Executive's Office. This past year we continued to have the services of our past contractor for graphic design, web presence, and translation, Ricardo Ibarra of Watza Lab, and added a new contractor, Rania Adwan, to assist the work of the Community Advisory Committee.

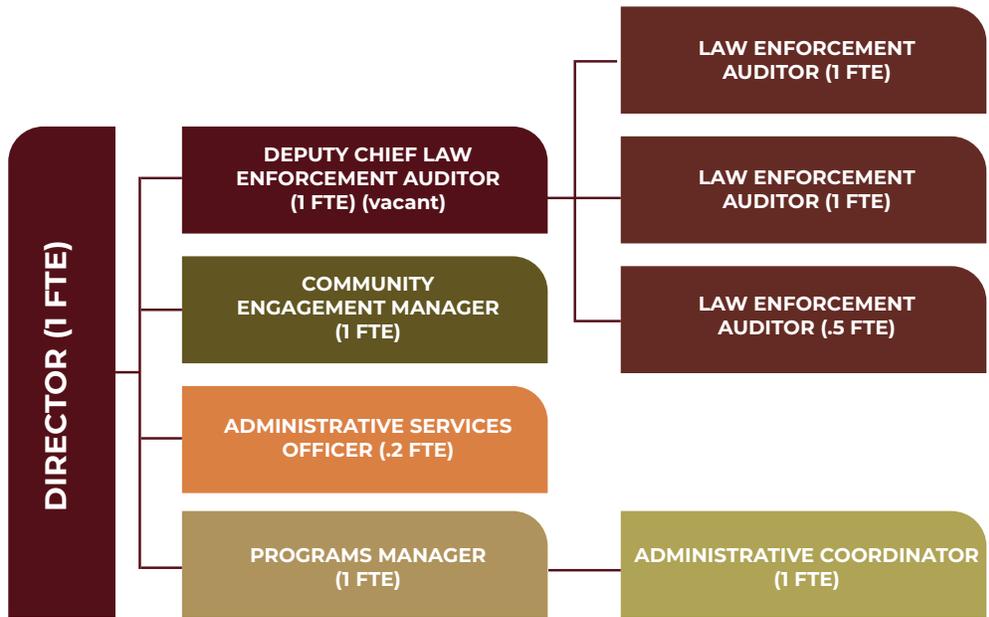
With a fully staffed IOLERO team and the support of an Administrative Services Officer we share with the County Administrator's Office and the Office of Equity,

¹ Information about IOLERO's budget for this new fiscal year can be found by viewing the County's Fiscal Year 2024-2025 Recommended Budget at: <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/county-administrators-office/budget-and-operations/budget-reports>.



IOLERO began work in earnest to fully implement our Measure P authorities. This work included working with our chosen vendor to develop a complaint tracking database, gearing up to conduct investigations, and establishing processes for identifying audits subject to public release under SB 1421.

Fiscal year 2023-2024 might be defined as a year of stabilization. Measure P's guaranteed funding floor for IOLERO is a significant part of the stabilization; knowing our funding will be at least a set percentage of the Sheriff's Office budget helps us plan long-term and also gives new hires the confidence their time here is also likely to be long-term. For these reasons, we now have a team with some longevity in this work under its belt. And, as noted above, we enter the 24-25 Fiscal Year with additional staffing positions. We're grateful to the Board of Supervisors and the County Executive for their support for, and approval of, these staffing requests. Our new organizational chart will look like this in our upcoming year:



Our rate of staffing growth has leveled off for the time-being. Many matters pertaining to our authority under Measure P have been resolved, and we are able to meet many of operational needs with our current budgeting. With many of our greatest challenges behind us, we look forward to refining our internal work processes, further developing our staff through trainings critical to the work of oversight and furthering our engagement with the community we serve.

III. OUTREACH, ACCESS AND ENGAGEMENT UPDATE

A. Outreach

IOLERO engages in community outreach to establish an ongoing dialogue with the community we serve and to build a transparent, collaborative relationship between the Sheriff’s Office and the community. We seek to develop relationships with the residents, community groups, non-governmental organizations, educators, and vulnerable populations. We are committed to following up with complainants and to understanding the community needs.

In this section of our annual report we highlight the community engagement events attended by our Community Advisory Council (CAC) members, our Community Engagement Manager and other staff, and the IOLERO Director. The goals of the community outreach are to invite the Sonoma County community to get involved with the Community Advisory Council and IOLERO as they work to recommend policy recommendations to the Sonoma County Sheriff’s Office, and also to spread awareness that IOLERO is available to take complaints about the conduct of Sheriff’s Office personnel.

Some examples of IOLERO’s outreach work in 2023-2024 included presentations by Director Alden at the Santa Rosa Junior College Public Safety Training Center, the Oakmont Democratic Club, Cloverdale Rotary, and the Lower Russian River Municipal Advisory Committee (MAC), among others. Director Alden also presented at the national conference for NACOLE.

Other community events that our Community Engagement Manager, Lizett Camacho, attended were the Criminal Justice Program day by the Santa Rosa Leadership (LSR) where she was a guest speaker, the Guerneville Townhall on Emergency Services in District 5, Violence Prevention Seminar on Gang Prevention hosted by the Santa Rosa High School, Dia de los Cien, Wednesday Night Market in downtown Santa Rosa, the Community Health & Engagement Fair in Guerneville, 5 de Mayo in Santa Rosa, Sonoma County Juneteenth celebration, Summer in the Park organized by the South Park Coalition, and Sonoma-Marin Fair in Petaluma. Many of our IOLERO staff and CAC members also attended these events to help spread the word about our work.

Recently, Supervisor Hopkins appointed Imelda Martinez De Montano to the CAC from District Five. Imelda has become the first monolingual (Spanish speaking) individual to join a board, commission, or council in Sonoma County. We worked diligently to provide her with training in Spanish to come on board as a Community Advisory Council member. Also, Supervisor Gore appointed John Azevedo to the Community Advisory Council from District Four. John comes to the CAC with experience in the wine industry and is



committed to the community that includes strong beliefs in equity, safety, and the process of continual improvement. He is our first CAC member who has also been a member of the Farm Bureau Board of Directors. We look forward to these two new members helping us expand the reach of our community engagement.

B. Access

In addition to outreach, we're also working to improve access. We were also pleased to have the opportunity to be involved with the Sonoma County Office of Equity by joining focus groups to help craft the County of Sonoma language access plan, which the Board of Supervisors subsequently adopted. That plan guides County staff on next steps for improving language access throughout the County, including in our work at IOLERO. We were able to work with Information Services Department to provide translation on our website as well as on our monthly Community Advisory Council meetings. We continue to work on improving language access here at IOLERO and at the CAC.

IOLERO has continued to publish its bilingual newsletter which provides updates on the work on the office, cases of significant interest to the community, legal updates, from the courts and legislative developments on criminal justice and police reform. Lastly, Lizett has done some wonderful work by participating in Spanish radio ads with La Maquina Musical 105.7 and La Musikera 107.5 via Luna Media USA about the work IOLERO and the CAC are doing. We have hosted townhalls on topics such as: the annual report 2022-2023, and the Truth ACT and Immigration and Customs Enforcement (ICE).

C. Engagement

This past year, we pushed to expand our efforts from outreach – telling people about us – to engagement – inviting people to guide our priorities and to participate in our work.

To do this, we worked with the Community Advisory Council (CAC) to engage the public with question-and-answer style Town Halls with policy experts on topics the community asked us to highlight. This last year, we conducted a Town Hall on the IOLERO Annual Report, and another on the relationship between the federal Immigration and Customs Enforcement (ICE) agency and our local jail. We're planning more this upcoming year, including another on this Annual Report, Canine Policy, and other topics.

We also worked with the CAC to expand the CAC's small working groups, called Ad Hoc Committees, to include interested members of the public, not just CAC members. Those groups were more effective and enjoyed the support of increased community input this way. Next year we hope to expand those groups, and have them reach out directly to engage (not just inform) the public in their work.

IV. COMPLAINTS AND AUDITS

We provided a detailed overview of IOLERO’s Auditing process in prior Annual Reports. (See Annual Report 2022-2023 at 12-27). To avoid repetition, we provide a summary here and refer the reader to the 2202-2023 Annual Report for additional details.

A. What is an Administrative Investigation?

The Sonoma County Sheriff’s Office (SCSO), like other government agencies, employs personnel who must comply with applicable federal, state and local laws and regulations, and with SCSO’s own internal policies. When an employee is accused of misconduct, SCSO conducts an Administrative Investigation and may impose employment discipline if the employee is found to have violated law or policy. Discipline can range from informal counseling all the way to termination of employment, depending on the seriousness of the violation.

SCSO’s Policies are divided between the Law Enforcement (Patrol) Division and the Detention Division. They are available for public review at <https://www.sonomasheriff.org/policies-and-training>.

SCSO’s Administrative Investigation is *not a criminal inquiry*. Nor is it a *civil liability inquiry*. Rather, it is a review by SCSO to determine whether (i) the alleged acts occurred and (ii) whether the employee’s actions meet the performance standards that SCSO, institutionally, expects of its employees.

1. Employer Expectations of Performance

SCSO’s expectations of officer conduct are set out in its written Policies (prepared for SCSO by Lexipol, LLC) and training. At a minimum, these reflect the legal requirements imposed by law, including the 1st, 4th, 5th, 8th and 14th Amendments to the U.S. Constitution, the California Penal Code, the California Government Code, the California Administrative Code, and governing federal and state court decisions.



SCSO's expectations are also reflected in how SCSO actually applies its policies and procedures (which by necessity are broadly written) to individual matters.

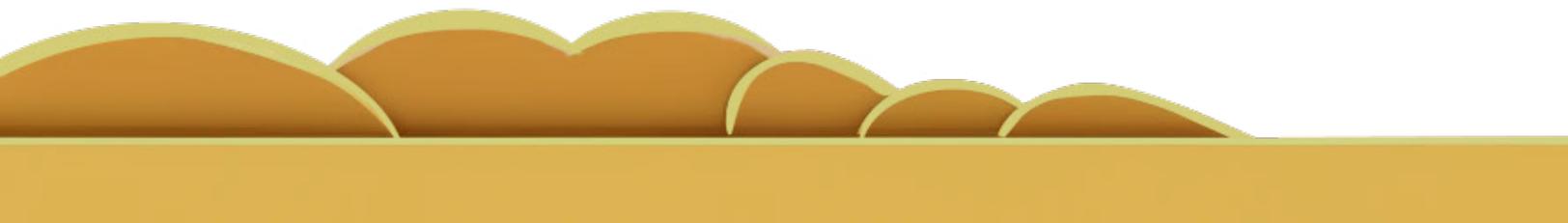
Identifying the scope and breadth of an agency's expectations of officer performance is a necessary threshold to provide the public an understanding of the agency's operations.

For example, under U.S. Supreme Court precedent and California law, the legality of force is governed by looking to whether a trained officer presented with the same circumstances and knowledge of facts reasonably could have believed the level of force used was necessary to protect life or bring a matter under control. This 35-year-old test established in *Graham v. Conner*, 490 U.S. 386 (1989), is officer-centric and provides law enforcement officers the benefit of the doubt. California law also requires force to be proportional to the perceived risk and the use of de-escalation where feasible.

An agency's expectations of officer actions may be co-extensive with minimum legal standards: if the officer's use of force complied with minimal legal standards they also complied with the agency's expectations. This approach consigns the setting of standards to third parties such as litigants and courts, and largely renders the agency itself a passive participant that reacts to legal decisions instead of actively participating in their formation or development.

But law enforcement agencies, institutionally, may impose expectations on its officers that are more rigorous than the minimum required by law, and they are well within their prerogative to insist its officers follow practices that are more stringent than the bare legal requirements. For example, an agency may train, and expect, its officers to de-escalate encounters in a more wide-spread and affirmative manner by utilizing containment tactics, even where such tactics are not legally required. An agency may train, and expect, its officers to err on the side of caution when confronting a person with outward indications of mental health or drug intoxication issues, by defaulting to a call for mental health professionals and law enforcement back-up, even when this is not strictly required by law.

By providing clear explanation in an Administrative Investigation of how a Policy or procedure applies to specific facts, SCSO institutionally clarifies for officers, and memorializes for SCSO, how SCSO expects that Policy and procedure to work *in practice*, reduces ambiguities, and gives officers (and by extension, the public) fair notice of what SCSO expects of its officer and what conduct may expose them to employment discipline under those policies.



We noted in the 2022-2023 Annual Report that our review of SCSO Administrative Investigations identified in that year generally indicated that SCSO's "expectations" were co-extensive with, and did not go beyond, the minimum required by law.

This observation remains the same for 2023-2024. The limited analyses provided by SCSO in its Administrative Investigations continue to reflect, in our assessment, SCSO's expectations of employee performance, as it relates to claims of misconduct, to be co-extensive with the minimum required by law.

2. Standard of Proof – Preponderance of the Evidence

Administrative investigations into employee conduct are governed by the "preponderance of the evidence" standard. See Sonoma County Civil Service Commission Rule 10.5(l)(2). This means, generally, that the evidence makes it "more likely than not" that the alleged conduct occurred and/or that it violated policy.

Thus, even if the District Attorney reviewed the employee conduct and decided to not bring a criminal charge, a "preponderance of the evidence" could still show an officer violated SCSO Policy or training and subject them to employment discipline. For example, the district attorney may decline to bring criminal charges against an officer for their use of force on a citizen, because there was insufficient evidence to prove "beyond a reasonable doubt" that the force used was excessive. However, the same available evidence could be more than sufficient to prove "by a preponderance" that the force used was excessive. In that case, the law enforcement agency could conclude the officer violated agency policy prohibiting excessive use of force and impose employment discipline on the officer, up to and including dismissal.

It is important to emphasize that the relationship between the "preponderance" standard and the employer's expectations discussed above can be made confusing, and can result in opaque agency decisions that raise questions in the public's mind. For example, an agency may have a policy whose plain text prohibits excessive force. However, the agency *interprets* that policy to mean only that the officer cannot use force that *actually* resulted in a criminal charge against him. This "interpretation" is not set out in the text of the policy, but represents the agency's internal understanding of what it means. Thus, if a "preponderance" of the evidence showed that an officer used excessive force but no criminal charges were in fact brought against the officer, then the agency could "exonerate" the officer under what is an otherwise clearly written excessive force policy, based on the agency's internal *interpretation* of that policy.

This hypothetical example highlights the importance of law enforcement agencies providing a written and substantive explanation in an administrative investigation



as to how they *interpret* their policies. Absent that explanation, an agency's operations and expectations of employee conduct will suffer from an *inherent* lack of transparency.

IOLERO has highlighted this point to SCSO in several audits over the past year, building on similar observations from the prior fiscal year. While SCSO's written reports and interpretative reasoning have improved over the past year, they remain below the required minimum standard for public transparency and there continues to be significant need for improvement.

3. Procedural Protections for Law Enforcement Personnel

SCSO can compel employees to provide information during an Administrative Investigation, including sitting for an interview with SCSO's Internal Affairs Division (IAD). Refusing to comply with an SCSO directive, or providing untruthful information, are independent grounds for employment discipline.

At the same time, law enforcement employees (like other public employees) are entitled to due process before their employment may be diminished, such as suffering a demotion or suspension, or terminated.

California's Government Code §§ 3300 *et seq.* provides law enforcement employees procedural rights concerning (among other things): the timing and length of administrative interviews; prior notice of the nature of the investigation and of the names/positions of the agency's interviewers; limitation on number of questioners from an agency; prohibition on threats or rewards for testimony; and prohibition on unconsented exposure to the media. The Government Code also restricts use of an employee's compelled testimony in separate civil matters, and requires employees to be informed of their constitutional rights (including inability to use compelled testimony against them in a criminal matter) if it appears they may be subject to criminal charges (known as a *Lybarger* advisement).

One such right is the right against self-incrimination. Sheriff's Deputies and all other law enforcement officers have the same Fifth Amendment right against self-incrimination as all other people. Employers, like the County of Sonoma, cannot discipline Deputies for asserting this right. (*Garrity v. New Jersey* (1967) 385 U.S. 493) So, for example, a Sheriff's Deputy who shoots someone while on duty can expect to be interviewed in a criminal investigation assessing whether the Deputy committed a crime by shooting that person. That Deputy can assert their Fifth Amendment right and refuse to answer those questions. We have not yet seen Sonoma County Sheriff's Deputies do this in a criminal investigation in the matters

IOLERO has investigated or audited, but in some jurisdictions, this is common. Historically, for example, most Los Angeles Police Officers have asserted this right in shootings and not answered questions.

That said, an employer, like Sonoma County, can still order Deputies to answer questions in *administrative* cases like the ones IAD and IOLERO conduct. If so ordered, the Deputy still has to answer questions, but those answers cannot be used against them in a criminal prosecution. (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822.)

In addition, the Government Code requires Administrative Investigations be completed within 12 months (with some exceptions) if the agency intends to impose any discipline. Employees are entitled to a written disciplinary decision and have the right to an administrative appeal.

4. Completeness

California Penal Code § 832.5 requires that an agency’s determination that a claim is “unfounded” (factually untrue) or that the employee should be “exonerated” (did not violate policy), must be “clearly established” by the investigation. In other words, the investigation must be “complete”.

Both the facts and the legal/policy issues vary for each law enforcement encounter. What constitutes a “logistically complete” investigation (documents reviewed, interviews conducted, video reviewed) is not a one-size-fits-all standard and must be evaluated on a case-by-case basis. Similarly, what constitutes an “analytically complete” investigation (identifying relevant law/policies, providing SCSO’s interpretation of how those laws/policies apply to the specific facts) also requires case-by-case review.

Last year IOLERO and SCSO jointly agreed to a Completeness “Checklist” as a guide to documenting IOLERO’s review of the completeness of SCSO’s Administrative Investigations on an individual-case basis. (See IOLERO Annual Report 2022-2023, Appendix B). That checklist has been applied in the audits identified in this Report.

5. Timeliness

California Gov’t Code § 3304(d) permits discipline of a peace officer only if (subject to some exceptions) the administrative investigation is completed by the employer within 12 months of when the acts were discovered by a person authorized to initiate an investigation.



IV.

Last year we noted that several matters were provided to IOLERO by SCSO after the 12-month period had expired. As a result, IOLERO was unable to provide SCSO with its views on an investigation with sufficient time for SCSO to review them and determine if any change to its findings should be made. So this year we tried to address the issue proactively.

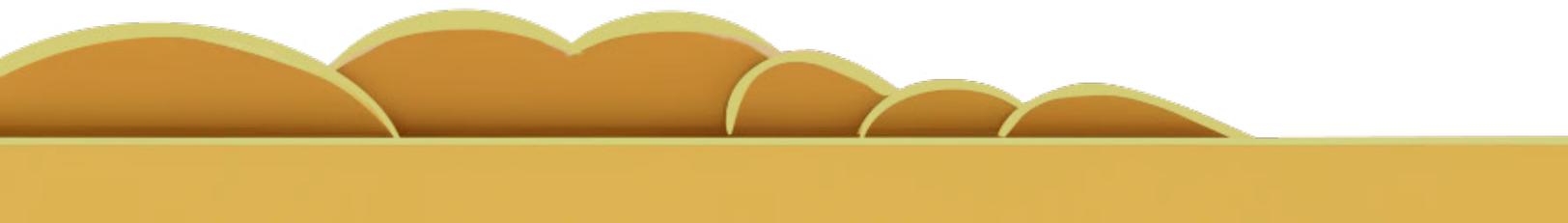
To do this, IOLERO and SCSO worked together to establish a “Timeliness” checklist which identifies a general schedule for SCSO’s completion of investigations and IOLERO’s auditing. Those guidelines are applied to new IAD investigations starting February 5, 2024, or later. A copy of the “Timeliness Checklist” is attached as Appendix D.

Moving forward, we expect that using this Timeliness Checklist will help to clarify IOLERO’s expectations about when Internal Affairs investigations should be completed, as well as when IOLERO’s audits of those investigations should be completed. This will help both agencies set internal expectations for their teams, and measure their own efficacy. Expect to see more about this issue in our next annual report, when we’ll be able to show how many cases were completed in a timely way.

B. What Is An Audit?

When SCSO completes the Administrative Investigation it forwards the record and report to IOLERO for independent review and analysis, generally referred to as the “Audit”.

An SCSO Administrative Investigation results in one of four general findings about each allegation:

1. “Sustained,” meaning SCSO found a violation of its policies;
 2. “Exonerated,” meaning SCSO found that the employee’s conduct did not violate policy;
 3. “Not sustained/Inconclusive,” meaning there was not enough evidence to either prove or disprove the claim; or
 4. “Unfounded,” meaning SCSO found the employee did not engage in the alleged conduct.
- 

In its Audit, IOLERO independently reviews the record, relevant law and policies, and SCSO's findings, and provides the following conclusions:

1. "Agree," meaning IOLERO agrees that the finding reached by SCSO was supported by the material gathered in the investigation;
2. "Disagree," meaning IOLERO believes a different finding would have been more appropriate given the material gathered in the investigation, usually accompanied by a statement of which finding IOLERO thought should have been reached;
3. "Incomplete," meaning IOLERO believed that the investigation was not thorough enough to justify reaching a conclusion yet, such as cases in which additional evidence could and should have been gathered, or better articulation of the rationale for the finding should have been memorialized.
4. IOLERO may also "Note" issues of interest, and provide "Recommendations" to address identified issues.
5. IOLERO may request SCSO to further investigate a matter or IOLERO may choose to conduct further investigation itself if it finds SCSO's investigation to have been incomplete or deficient.

Sometimes officers' actions are consistent with law, policy, procedure and training but are nonetheless upsetting to the public. Where possible, IOLERO flags this disconnect between existing law enforcement practices and public expectation so that SCSO can consider altering policy, procedures, and training to bridge any gaps between SCSO's employment expectations (as discussed above) and the community's expectations.

C. What Standards Does IOLERO Follow?

The work of auditing is, fundamentally, to assess an institution's performance against objective standards used in that field. Here at IOLERO, that's exactly what we do: we check the work of the Sheriff's Office against the Sheriff's own policies and applicable state and federal law. Our job is not to second-guess or merely present a different opinion about how we wish a Deputy might have acted, but to show how Sheriff's Office performance does or does not meet the rules the Sheriff has adopted and/or which the law imposes. For example, when we audit the Sheriff's



IV.

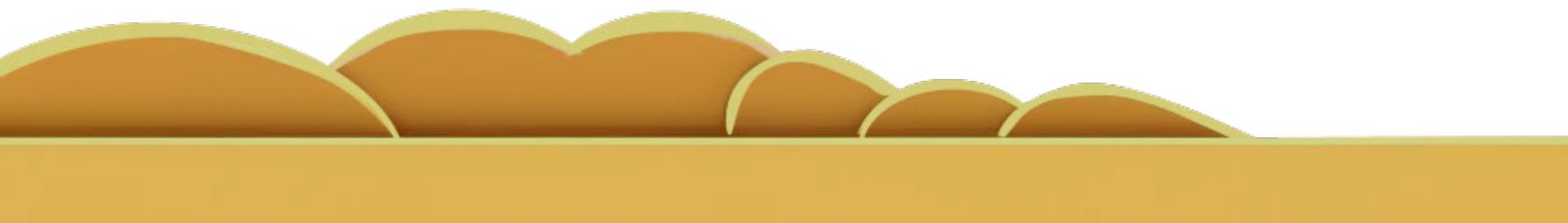
Office work of investigating a complaint about a Deputy, we (i) objectively assess whether the Sheriff's Office's investigation of that employee was appropriately conducted under established rules, and (ii) objectively assess whether the Sheriff's Office's conclusion about the employee's conduct is supported by the investigative evidence and applicable policy and law.

Using this objective approach, we ensure the measuring stick we're using to assess the Sheriff's Office is clear, predictable, and supported by existing authority. It also ensures that our feedback to the Sheriff is credible. And finally, it gives the Sheriff's Office advance notice of the standards we're using, so they have the opportunity to ensure their performance meets standards from the outset.

Two examples of using objective standards like these are the Completeness and Timeliness standards for IAD investigations. We created these checklists in coordination with the Sheriff's Office using existing law, SCSO policies, and best practices, and then compiled all these standards into one place - the checklists. Once we and the Sheriff's Office reached agreements on what these standards are and listed them out, then SCSO knew what standards to train its managers and investigators to follow, and IOLERO knew what standards to grade their work against. Now, when we find an IAD investigation is complete, we can explain exactly why. And when an investigation is not complete, we can explain that, too, by referring back to an item on the Checklist.

The federal government has law enforcement auditors overseeing their law enforcement agencies, too. For example, the U.S. Department of Justice Office of the Inspector General audits the Federal Bureau of Investigation in much the same way that IOLERO audits the Sheriff's Office. In this last year, IOLERO began adopting some of the same internal quality standards for its own work as those used by the U.S. Department of Justice Office of the Inspector General. These are called the Generally Accepted Government Auditing Standards (GAGAS), and are commonly referred to as the "Yellow Book." Because these standards for auditing are used at the highest levels of law enforcement auditing in the country, and are designed for Inspectors General like IOLERO, we saw these as appropriate guidelines for creating our own procedures.

The Yellow Book standards are too long to be repeated here, but are available online at gao.gov/yellowbook. A few portions (Chapters Six and Seven) relate only to financial auditing, which IOLERO has not yet done, so we haven't applied those. But



other portions have led to concrete, specific additions to our work, including the concept of creating the Completeness and Timeliness Checklists. Some other key parts of our IOLERO auditing process that were inspired by Yellow Book standards include (but are not limited to):

- Increasing our continuing education requirements for IOLERO auditors above the state law requirement of 25 hours every three years to the Yellow Book standard of 80 hours every two years (GAGAS Ch. 4.16).
 - Strengthening development of objective criteria through joint development of the Completeness and Timeliness Checklists.
 - Ensuring IOLERO has defined what its “independence” means (see Chapter 5(A) of this annual report, below, for more detail) and ensuring we maintain that independence (GAGAS Ch. 3.17).
 - Adopting a formal conflict of interest policy for auditors, to ensure a lack of bias in individual audits (GAGAS Ch. 3.09 et al.).
 - Treating the auditing work described in Measure P as an annual audit plan (GAGAS Ch. 8.33) and our individual audits as the population of instances audited (GAGAS Ch. 6.52, Ch. 7.49, et al.). These Chapters in GAGAS then provide further guidance about how to improve this annual report over time and also how to conduct each audit.
 - Ensuring each audit is approved by a supervisor, not just by the auditor themselves, before finalization (GAGAS Ch. 8.135).
 - Giving the Sheriff’s Office an opportunity to respond to each audit of an IAD investigation, and then considering whether we should change our audit given those responses (if SCSO makes one) (GAGAS Ch. 9.50).
 - Moving forward, we strive to hone the auditing process in accordance with applicable Yellow Book principles. We anticipate this will take some time, but we’re encouraged by the progress we made this year. We look forward to reporting even more progress next year.
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D. How does IOLERO's Power to Audit Civil Cases Work?

As part of its authority under Measure P, IOLERO, in cooperation with Sonoma County's County Counsel ("County Counsel") and Human Resources/Risk Management ("HR/RM") departments, respectively, has developed a "Civil Lawsuit Audit Program" in which IOLERO conducts periodic reviews and comparisons of legal claims filed against the County of Sonoma, and which relate to the Sonoma County Sheriff's Office ("SCSO") and/or the conduct of its personnel.

1. Authority to Audit Civil Claims

Chapter 2 – Article XXVII, Sec. 2-392 of the Sonoma County Municipal Code dictates that part of the "mission" of IOLERO is to "propose thoughtful policy recommendations to the sheriff-coroner" (see §§ 3), "increase transparency of law enforcement operations" (see §§ 4), and "foster a culture of accountability and communication . . . and [enhance] public confidence in policing and corrections services provided by the sheriff-coroner" (see §§ 5).

More directly, as part of the "Powers and Duties" delineated in Measure P, IOLERO is authorized to "[r]eview, audit and analyze administrative and public complaint investigations in mutual coordination and cooperation with the sheriff-coroner." See Chapter 2-Article XXVII of the Sonoma County Municipal Code, Sec. 2-394 § (b) (2). As part of that authority, IOLERO is required to review, audit, and analyze the following types of matters:

1. All complaints or investigations or analyses of incidents that involve a possible violation of the U.S. or state constitutional rights of individuals. *Id.* at § (b)(2)(iii) (emphasis added);
2. Every case where a civil lawsuit is filed against the Sheriff's Office related to the use of force regardless of whether a complaint is filed with IOLERO or the sheriff-coroner. *Id.* at § (b)(2)(viii) (emphasis added);
3. Any other complaints or investigations or analyses of incidents that become a matter of media interest. *Id.* at § (b)(2)(x) (emphasis added).

IOLERO interprets these authorities as imposing a requirement that IOLERO review all claims advanced in civil litigation against the Sonoma County Sheriff's Office that concern the Use of Force by Sonoma County Sheriff's Office personnel (the "Civil Litigation Claims"). The Sonoma County Sheriff's Office already has a practice of investigating these same Civil Litigation Claims in the same way they would investigate other complaints of misconduct from the public. So IOLERO reviews

and audits these internal affairs investigations conducted by the Sonoma County Sheriff's Internal Affairs Division ("SCSO IAD") in the same way we would audit a complaint made to IOLERO.

2. Audits of Incidents Involving Civil Claims

To do this work, we verify that we have in fact received the investigative case file from the SCSO Internal Affairs Division for each and every one of the Civil Litigation Claims filed against SCSO. Sonoma County's County Counsel and HR/RM help by giving us a list of Civil Litigation Claims that have closed in the respective fiscal year, and to compare/contrast that list against the list of cases which IOLERO has already received from SCSO IAD for that same period. In doing so, IOLERO is able to verify that for each Civil Litigation Claim filed against SCSO, the corresponding investigative file is in our hands for auditing.

In the past two fiscal years, we used this double-checking method to confirm that SCSO provided to IOLERO all those IAD investigations that involved Civil Litigation Claims. As a general rule, we found almost all such cases had already been sent to us by SCSO, and therefore were already included in our audit caseload. In many instances, this was because the case already involved some other factor that triggered an IOLERO review, such as a complaint made to IOLERO, media attention to the case, or uses of force. Canine bites, for example, have generally come to IOLERO even before a civil claim is made by the person bitten, just because those cases often result in physical injuries that would trigger IOLERO review even if no one sued over the incident. In its review of Civil Litigation claims for the 2021 – 2022 Fiscal Year, IOLERO reviewed twelve (12) Civil Litigation Claims and found no additional cases that were not already subject to review and audit. In its following review for Fiscal Year 2022 – 2023, IOLERO reviewed an additional seven (7) Civil Litigation Claims, and identified two (2) cases for which it had not yet received corresponding materials for review. While this may be a proportionally small number of cases relative to the overall workload at IOLERO, utilizing the civil claim auditing program has become a useful and effective tool for ensuring that IOLERO reveals all cases that fall under its mandate under Measure P.

Since most cases flagged through our civil claim auditing program were already in our caseload for these other reasons, we have not separated them out here. That said, lessons learned from those cases are still included in the audits noted below, and also in the policy recommendations noted in this report. Again, the canine



cases are a strong example: the policy recommendations we have made regarding canines are, generally, from Civil Litigation Claims. For this reason, we see the Civil Lawsuit Auditing Program as an important part of IOLERO's work.

3. The Cost of Settling Civil Claims

Many stakeholders have let us know that the public would like to see greater transparency about how the county manages the cost of settling claims resulting from the conduct of SCSO and its Deputies. IOLERO has worked with County Counsel and HR/RM to explore ways to do this. Some of the materials the County creates in this regard are confidential, and for good reason: some cases involve personnel matters that state law requires the County to keep confidential, and others involve confidential legal advice. So, too, are some of the costs: the cost per suit of legal representation is not generally available to the public because that sometimes reveals important details about the legal advice and/or strategies used by the county to defend the taxpayer's dollars.

That said, state law makes the amounts paid to claimants to settle each Civil Litigation Claim public. This creates an opportunity to compare overall settlement payment costs (but not the cost of mounting a defense) across jurisdictions, but only a few other jurisdictions in the state have reported these sums in an organized way. For this reason, finding data from other jurisdictions to compare to Sonoma County's has been too cumbersome and laborious for IOLERO to accomplish so far. IOLERO will continue to work cooperatively with SCSO, County Counsel, and HR/RM on providing greater insight to the public as to how Sonoma County is doing with respect to managing the total cost of claims made against the Sheriff's Office, and whether Sonoma County can find ways to minimize these costs.

E. What Can IOLERO Share About The Audits?

Generally speaking, California law protects from public disclosure (1) peace officer personnel records, and (2) records of citizen complaints about individual officers, and reports or findings relating to investigation of such complaints or incidents. (Pen. Code § 832.7(a)). However, the law allows IOLERO to publicly report non-confidential information including critiques and evaluation of the Administrative Investigation, the manner in which SCSO procedures and practices may have contributed to the basis of the complaint or incident, and **IOLERO'S RECOMMENDATIONS** for institutional improvement.

Under more recent legislation, IOLERO is also permitted to publicly share materials concerning an officer’s discharge of a firearm at a person, an officer’s use of force resulting in death or great bodily injury, a “sustained” finding of unreasonable or excessive force, a “sustained” finding of an officer’s failure to intervene against unreasonable or excessive force, a “sustained” finding of an officer’s sexual assault involving a member of the public, a “sustained” finding of dishonesty, a “sustained” finding of prejudice or discrimination, or “sustained” finding of an unlawful arrest or search. (Penal Code § 832.7(b)).

SCSO posts public materials on its website, <https://www.sonomasheriff.org/sb1421>.

Last year, IOLERO posted on its website those Audits that are publicly reportable. This year, there was only one such case, but our website continues to host all the Audits from prior years that were publicly reportable. <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/independent-office-of-law-enforcement-review-and-outreach/audit-reports>.

F. Race and Ethnicity of Complainants

You may have noticed that the audit summaries in this report include each complainant’s race or ethnicity; and that IOLERO’s complaint forms ask for this information, plus the person’s gender and date of birth. This section explains why and how we collect that information.

1. Why Does IOLERO Ask Complainants To Share This Information?

The IOLERO complaint forms ask for a variety of information, and for a variety of reasons. For example, they ask questions about what happened, when and where it happened, who was involved, and who witnessed it. These questions can help make sure that SCSO has as much information as possible for its investigation. The complaint forms also ask for the complainant’s contact information. This allows SCSO to contact the complainant if they have follow-up questions, and allows SCSO and IOLERO to communicate with the complainant when the investigation and audit are finished.

Information about a complainant’s race or ethnicity, gender, or age can be helpful in more abstract ways. For example, it can help us understand whether certain



communities are more likely to file a complaint with IOLERO than with SCSO, which can help focus SCSO's future engagement with those communities. It can also help us identify communities where we need to conduct more outreach; or help us understand whether different communities have different concerns about their interactions with SCSO. Most of this doesn't happen on a complaint-by-complaint basis – instead, it involves analyzing many complaints over six months, a year, or longer.

On the other hand, there are things that IOLERO *never* uses this information for. Regardless of the complainant's race or ethnicity, gender, age, or other personal information, IOLERO handles all complaints according to the same internal procedures. IOLERO doesn't treat complaints differently based on this information, and doesn't make decisions based on this information when sending complaints to SCSO or when conducting audits.

2. What Happens If A Complainant Doesn't Share This Information?

When someone files a complaint with IOLERO, they have the choice to share their personal information. This is IOLERO's best source of information, but it's not available in every case. IOLERO complainants may choose not to share their information for many reasons. IOLERO also audits several cases each year where the complaint was made to SCSO – and SCSO doesn't have a practice of asking complainants for this information. As a result, each year there are gaps in the data that IOLERO receives about complainants' race or ethnicity.

IOLERO's staff fill in some of those gaps using other information available to them. For example, staff may be able to determine that a complainant is Hispanic/Latine(x) with a reasonable amount of certainty, based on the complainant's name and their use of fluent Spanish throughout the incident and in their complaint. Other times, IOLERO staff simply don't have enough information to make a determination. When this happens, we report the complainant's race and ethnicity as "Unspecified."

3. How Does IOLERO Describe Different Races And Ethnicities?

Beginning with this reporting period, IOLERO has adopted the race and ethnicity terminology that's used statewide under the Racial and Identity Profiling Act (RIPA).

RIPA prohibits racial profiling and identity profiling by law enforcement. RIPA also requires law enforcement agencies like SCSO to report specific data related to (a) pedestrian/vehicle stops and (b) profiling complaints, in an effort to work toward its goal of eliminating profiling. For example, a deputy must report the race or

ethnicity of a driver they stop. The data from SCSO are combined with the data from other law enforcement agencies across the state, and then shared with the public. Community advocates, organizations, policymakers, law enforcement, and other stakeholders may use the data to analyze trends in policing, identify best practices, and develop recommendations toward eliminating profiling.

RIPA regulations specify the exact information that needs to be reported. For example, a deputy or officer reporting a person’s race or ethnicity will always choose from the following categories: Asian; Black/African American; Hispanic/Latine(x); Middle Eastern or South Asian; Native American; Pacific Islander; and/or White. (Cal. Code of Regs. § 999.226). This helps ensure consistent data collection across the state.

IOLERO adopted the RIPA terminology because it’s the methodology that law enforcement agencies are using and reporting statewide. This allows IOLERO to analyze its data in the context of the larger data pool. The RIPA methodology has also received a substantial amount of public vetting. This type of public input is particularly valuable when describing diverse communities and developing statistical tools.

In this report, IOLERO uses the RIPA terminology when discussing race and ethnicity in complaints and audits. In the future, IOLERO’s complaint forms will also use the RIPA terminology for race and ethnicity, gender, and disability.¹ This change is designed to facilitate consistent data collection and meaningful data analysis. It’s also reflected in IOLERO’s new database, which is discussed in Section VI.

¹ RIPA uses the following terminology when collecting data on gender: Cisgender man/boy; Cisgender woman/girl; Transgender man/boy; Transgender woman/girl; or Nonbinary person. RIPA uses the following terminology when collecting data on disabilities: Deafness or difficulty hearing; Speech impairment or limited use of language; Blind or limited vision; Mental health condition; Intellectual or developmental disability, including dementia; Other disability; and/or None. (Cal. Code of Regs. § 999.226).



V. IOLERO'S INDEPENDENT INVESTIGATIVE AUTHORITY

Until recently, IOLERO focused exclusively on reviewing administrative investigations that SCSO itself had already completed.

With the full implementation of Measure P, IOLERO now has authority to independently investigate (i) deaths resulting from officer conduct (ii) whistleblower complaints, and (iii) deaths occurring while in the custody of SCSO. In order to conduct these investigations, IOLERO is empowered with the ability to subpoena records and to subpoena witnesses for interviews. This year, we worked with the Sheriff's Office on an agreement about a subpoena form and procedures for serving subpoenas. And to facilitate these interviews, IOLERO constructed a new interview room at IOLERO's office.

A. How IOLERO Conducts Independent Investigations

This past year, IOLERO began conducting independent investigations. No two investigations are exactly the same, but there are principles and processes that underlie all of IOLERO's investigations.

What Does Independence Mean?

In its broadest sense, independence refers to an absence of influence from SCSO, political actors, and other special interests looking to affect the operations of IOLERO. This includes real and perceived influence, and is especially important in the face of high-profile issues or incidents. (Adapted from the National Association of Civilian Oversight of Law Enforcement, <https://www.nacole.org/principles>, and GAGAS (Yellow Book) Chapter 3.17 et seq.).

In practice, this means that:

- IOLERO decides what incidents to investigate
 - IOLERO decides what issues, policies, and laws to consider
- 

- IOLERO decides what SCSO employees to investigate
- IOLERO decides what evidence to collect
- IOLERO decides what evidence is important
- IOLERO decides what findings are appropriate – whether there was misconduct or not
- IOLERO decides what recommendations to make regarding policy, training, or discipline

IOLERO does all of this without relying on input from SCSO, County officials, or others who may have a stake in the investigation.

It's important to understand that IOLERO may still communicate with SCSO, County employees, or others during investigations, and that these communications do not affect its independence. For example, IOLERO may need to interview individuals who have a stake in the investigation, like the complainant or deputies. IOLERO may also need to get evidence or information from SCSO, like training materials or information about the Internal Affairs investigation; or information from other County departments, like County Counsel or HR. These types of communications can help IOLERO conduct a more thorough investigation.

Neutrality

IOLERO's goal is to conduct investigations without bias or prejudice. This means that IOLERO begins each investigation without pre-conceived notions of what happened or who was at fault. IOLERO relies on documentable evidence to determine the facts, and relies on the law and policy to determine what the facts mean. It also means that IOLERO is aware of the legal rights that are given to SCSO employees during investigations, and respects those rights.

IOLERO recognizes that even the most well-meaning individuals can have inherent biases. IOLERO strives to recognize those inherent biases where they may exist, and prevent them from influencing its investigations.

Evidence and Subpoenas

Evidence is the foundation of every IOLERO investigation. Here are some common types of evidence that IOLERO may consider in its investigations, depending on the issues being investigated:

- Video footage from body-worn cameras, security cameras, or bystander cell phones
- 911 calls
- Radio traffic between deputies
- Reports written by deputies
- Jail records
- Photographs
- Medical records
- Policy and training materials

IOLERO may also interview the deputies who were involved in the incident, witnesses who know something about the incident, or individuals who have specialized knowledge of SCSO's policy and training.

Some incidents that IOLERO investigates also involve a criminal investigation. For example, if a shooting occurs, the Santa Rosa Police Department might conduct a criminal investigation to help the District Attorney decide whether to charge anyone with a crime. In this situation, IOLERO can also access the criminal investigation – evidence the criminal investigators collected, the criminal investigators' interviews, and the criminal investigators' reports. This helps ensure that IOLERO has access to all relevant evidence and information.

Subpoenas are one tool that IOLERO uses to collect the evidence it needs. Measure P and state law authorize this. (See, for example, Government Code section 25303.7(c) (2).) IOLERO's subpoenas can order someone to turn over documents or to attend an interview. IOLERO issued its first subpoenas this past year.¹

Standard of Proof

The standard of proof is the amount of evidence needed to determine that something did or did not happen. IOLERO's independent investigations are governed by the "preponderance of the evidence" standard. This is the same standard that governs SCSO's administrative investigations into employee conduct. See our section on auditing, above, for more information about this standard of proof.

¹ Just after the end of the fiscal year, a dispute arose with SCSO regarding IOLERO's ability to issue subpoenas in certain cases. That dispute is not discussed in this report because it occurred outside the reporting period.

B. Deaths Resulting From Officer Conduct

This past year, IOLERO began conducting independent investigations of deaths resulting from officer conduct. These investigations can involve a variety of circumstances, but one example is when an officer shoots a person and the person dies as a result. Like the other independent investigations, these cases also often involve interviews of personnel, and direct gathering of documents, video, and other evidence. And here, as in the other independent investigations, IOLERO is able to independently identify potential violations of policy and recommend discipline to the Sheriff.

IOLERO'S Investigative Authority

IOLERO is authorized to conduct independent investigations of incidents resulting in the death of a person that “results from the actions of an employee” of SCSO. (Measure P § 2-394(b)(5)(viii)).

IOLERO is now independently investigating one death, the July 2022 shooting of David Pelaez Chavez.

When Does IOLERO Start Investigating?

- Multiple agencies may conduct an investigation when a deputy's actions result in a person's death:
- IOLERO may investigate whether the deputy (or others) violated SCSO policy or the law, and whether SCSO should change its policy or training.
- SCSO Internal Affairs may investigate whether the deputy (or others) violated SCSO policy or the law, and whether SCSO should change its policy or training.
- A different law enforcement agency – not SCSO – may investigate whether the deputy (or others) committed a crime. Based on that criminal investigation, the DA's Office may determine whether to charge the deputy or others with a crime.
- The DA's Office may do its own separate investigation.

These investigations don't all happen at the same time, however. In general, the criminal investigation comes first.

The timing of SCSO's Internal Affairs investigation is controlled by an agreement between SCSO and other law enforcement agencies in the County. Under that agreement, the criminal investigation always takes priority over the SCSO Internal Affairs investigation. According to the agreement, this prevents the IA investigation from possibly compromising the criminal investigation, and minimizes conflicts between the two investigations. (Law Enforcement Employee-Involved Critical Incident Protocol § III(A)(1), III(B)(12)(a)).

IOLERO is not controlled by this agreement. However, IOLERO has other agreements with the different SCSO bargaining units that guide the timing of IOLERO's independent investigation. For example, in many cases, IOLERO may not begin its investigation until "90 days following the District Attorney's receipt of the criminal investigation, or communication of a charging decision, whichever comes first." Similarly, in many cases, IOLERO may not begin its investigation until SCSO begins its Internal Affairs investigation. (First Amended Letter of Agreement with Deputy Sheriffs' Association § IV(D)(i)(b)). In practice, this means that the IOLERO investigation might begin several months after the incident occurs.

What Can IOLERO Share About These Investigations?

California law restricts the amount of information that IOLERO can share with the public about the individual cases it audits and investigates. These restrictions often diminish, however, when a deputy's actions result in a person's death. For example, when IOLERO investigates an incident "involving the use of force against a person by a [deputy] that resulted in death," IOLERO can share substantially more information about that case. The same is true when IOLERO investigates an incident "involving the discharge of a firearm at a person" by a deputy. (Penal Code § 832.7).

This provides an enhanced level of transparency for IOLERO's work in these cases. IOLERO plans to take advantage of that opportunity for transparency, and proactively share its investigation reports with the community whenever possible.



C. Whistleblower Complaints

This past year, IOLERO began receiving and investigating whistleblower complaints related to SCSO. A whistleblower complaint is:

- made by a Sonoma County employee;
- about SCSO – including the Sonoma Police Department or Windsor Police Department; and
- related to a violation of federal or state law, or noncompliance with a local, state, or federal rule, policy, or regulation.

In response to a whistleblower complaint, IOLERO may investigate the Sheriff and any SCSO employee. IOLERO may also determine that another agency would handle the whistleblower complaint best, and forward the complaint to that agency. For example, some kinds of financial mismanagement are best handled by the Auditor-Controller-Treasurer-Tax Collector of Sonoma County, which has specialized training in financial investigations and a separate whistleblower program for that purpose.

Like IOLERO's other independent investigations, whistleblower cases may also involve interviews of personnel, and direct gathering of documents, video, and other evidence. And here, as in the other independent investigations, IOLERO is able to independently identify potential violations and recommend discipline to the Sheriff.

IOLERO's Investigative Authority

IOLERO is authorized to “[a]ct as a receiving and investigative agency for whistleblower complaints involving the sheriff-coroner.” (Measure P § 2-394(b)(3)). We summarize below some factors involved in investigating whistleblower complaints.

Confidentiality is often a concern for whistleblowers. Movies and tv shows make it seem like it's a risky proposition to be a whistleblower. After all, a whistleblower might report sensitive, serious, or even illegal activities; and a whistleblower might report the person who writes their paycheck, or a supervisor who can discipline them. In reality, the law gives specific protections to whistleblowers. For example, it's illegal for a whistleblower's employer to retaliate against them. (Labor Code § 1102.5). County employees have these same protections when they file a whistleblower complaint with IOLERO. (Measure P § 2-394(b)(3)).

IOLERO takes additional steps to protect whistleblowers.

First, IOLERO does not have to report whistleblower complaints to SCSO or Internal Affairs. (Measure P, § 2-394(b)(3)). This is different than IOLERO's other independent investigations. When IOLERO investigates a death, for example, Internal Affairs is typically aware of IOLERO's investigation – Internal Affairs will usually conduct their own investigation, may know what issues IOLERO is investigating, and will give IOLERO copies of evidence that SCSO has. In a whistleblower case, weeks or months may pass before Internal Affairs even knows an investigation exists. Even then, Internal Affairs may not know what issues IOLERO is investigating. This helps protect the whistleblower, and also protects the integrity of IOLERO's investigation.

Second, IOLERO allows whistleblowers to make anonymous complaints. In order to facilitate this, IOLERO has a dedicated website and hotline that allow whistleblowers to communicate anonymously with IOLERO (discussed in more detail below). IOLERO may also communicate with the whistleblower through an attorney in order to maintain anonymity; or may interview the whistleblower in a way that protects their identity. All of these efforts allow the whistleblower to control information about their identity, while still allowing IOLERO to conduct a thorough investigation.

Third, there are certain circumstances where IOLERO may need to disclose information about the whistleblower complaint – for example, if IOLERO needs to subpoena evidence from SCSO, or if the law requires disclosures. If that happens, IOLERO takes precautions to release only the information necessary, and in compliance with applicable law. This helps protect the whistleblower and the integrity of IOLERO's investigation, while still allowing IOLERO to conduct a thorough investigation and comply with legal requirements.

To learn more about IOLERO's whistleblower program in general, visit <https://integritycounts.ca/org/IOLERO>.

Please note: IOLERO invites the public to visit this website to learn more about IOLERO's whistleblower program. However, individuals who do not work for Sonoma County should continue to make online complaints using IOLERO's main website: <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/independent-office-of-law-enforcement-review-and-outreach/file-a-complaint-about-the-sheriffs-office>



IOLERO's Whistleblower Website/Hotline

This past year, IOLERO created a dedicated website and hotline for whistleblower complaints. Whistleblowers can still make a complaint in all the same ways that any community member can – for example, on IOLERO's main website or by phone. But the new website and hotline provide additional features specifically for whistleblowers.

IOLERO created this website and hotline to address a particular issue that can develop in whistleblower cases. Whistleblowers may be more likely to make complaints anonymously, because of concerns about possible retaliation. As a result, it's important to accept and investigate anonymous complaints in the same way as other complaints. However, it can be challenging to investigate anonymous complaints. IOLERO may have follow-up questions for the whistleblower, or may need additional evidence from them. After all, as a County employee, the whistleblower may be more knowledgeable about some internal workings than IOLERO is. But with an anonymous complaint, IOLERO often has no way to contact the whistleblower to get the necessary information or evidence.

The new website solves this issue by providing a fully anonymous messaging system. This allows IOLERO to send messages to the whistleblower – and allows the whistleblower to send messages back – without IOLERO ever knowing the whistleblower's identity or contact information.

D. In-Custody Deaths

This past year, IOLERO began conducting independent investigations of in-custody deaths. Like the other independent investigations, these cases also involved interviews of personnel, and direct gathering of documents, video, and other evidence. And here, as in the other independent investigations, IOLERO is able to independently identify potential violations of policy and recommend discipline to the Sheriff.

IOLERO'S Investigative Authority

IOLERO is authorized to conduct independent investigations of incidents “resulting in the death of a person in custody of the sheriff-coroner”. (Measure P § 2-394(b)(5)(viii)). We summarize below some factors involved in investigating in-custody deaths.

A person may be deemed “in-custody” in two general ways: (1) they may be held by law enforcement officers after being detained or arrested (*e.g.*, at the scene of an incident or during transport), or (2) they may be held at a detention center such as the Main Adult Detention Facility (MADF) (either awaiting trial or after being convicted of a crime).

Under California law, when an in-custody death occurs, SCSO must within 10 days report the death and factual circumstances to the California Attorney General’s office. If the death occurred in a custodial facility such as the MADF, SCSO must also post this information on its website, including the person’s age, race and gender, the date of death, the person’s custodial status, and the manner and means of death. (Gov’t Code § 12525; Penal Code § 10008). SCSO’s in-custody death postings can be viewed on its website at <https://www.sonomasheriff.org/ab2761>.

The causes of in-custody deaths vary. Persons may experience a medical emergency from a pre-existing or newly arising medical condition. A person may experience a medical emergency resulting from the physical conditions accompanying an arrest or detention, from an accident (such as a fall), or from the use of force. A person may also engage in self-harm and take their own life.

The U.S. Constitution requires law enforcement to respond to the medical needs of persons in their custody. The constitutional standards for law enforcement medical care are substantially different from non-constitutional medical standards applied to the public generally.

For persons held in jail as a “pre-trial detainee” (*e.g.*, those charged with a crime and awaiting trial), the Fourteenth Amendment prohibits custodial staff from being “deliberately indifferent” to a person’s medical and mental health needs that are reasonably known or that should have been known. This standard is not one of “medical malpractice” or “medical negligence”. Instead, it bars custodial staff from acting in “reckless disregard” of a person’s health needs. If an incarcerated person is in custody after conviction of a crime, the “deliberate indifference” standard is measured under the Eighth Amendment’s prohibition against cruel and unusual punishment, which generally looks to whether the custodial staff intentionally disregarded a person’s known medical or mental health condition.

To comply with these constitutional requirements, custodial staff in general must be trained to identify medical and mental health issues throughout a person’s incarceration, to monitor persons through direct view safety checks, and to report issues to medical personnel. Local detention facilities have also had to assume the additional—and substantial—task of providing routine medical, mental health and dental care to incarcerated persons as a general matter.

Sonoma County (like many other jurisdictions) provides care by contracting with a professional third-party medical and mental health provider to work alongside the custodial staff. In Sonoma County, this is California Forensic Medical Group, Inc. (CFMG), also known as Wellpath. Under its contract, CFMG is required to meet standards issued by the National Commission on Correctional Health Care (NCCHC). NCCHC accreditation is an external peer review regarding the effectiveness of a correctional facility's health services delivery system. Accreditation is achieved when the facility complies with 100% of the applicable "essential standards" and at least 85% of the "important standards". (See NCCHC, *Standards for Health Services in Jails*, Appendix A (2108)). The MADF received NCCHC accreditation in June 2023.

Last year IOLERO audited SCSO's completed investigations of two in-custody deaths that occurred during the detention or arrest of individuals by SCSO patrol deputies. Neither involved the MADF. (See IOLERO Annual Report 2022-2023 at pp. 30-33). This year, IOLERO audited one in-custody death that occurred at the MADF in 2020. That review is summarized in the Audit Section below.

IOLERO is now independently investigating two deaths that occurred at the MADF in September 2023, a third that occurred in early 2024 and a fourth that occurred in May 2024.

California State Review of In-Custody Deaths -- SB 519 (Effective July 1, 2024)

California's Senate Bill (SB) 519 (codified at California Penal Code § 6034) recently authorized the Board of State and Community Corrections (CSCC) (the state agency overseeing local detention facilities) to review in-custody death investigations conducted by local detention facilities. Effective July 1, 2024, local detention facilities must report in-custody death investigations to the newly established Director of In-Custody Death Review operating within the newly created In-Custody Death Review Division in the CSCC. The Director may conduct additional review of the incident as needed, make policy and staffing recommendations, and review the delivery of medical and mental health care at the facility. Local detention facilities must provide responses to the Director's recommendations.

The law also amended the Penal Code by adding § 832.10 which (as of July 1, 2024) makes public “any record relating to an investigation conducted by the local detention facility involving a death incident maintained by a local detention facility”. The publicly available information includes all investigative reports, evidence, interviews, autopsy reports, all materials presented for review to the district attorney or to any person charged with determining whether action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take. Also included are documents setting out findings or recommended findings, copies of disciplinary records relating to the death incident, documents reflecting modifications of discipline due to the pre-discipline hearing or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Historically, much of a jail's investigation into an in-custody death was kept private under state law. (Penal Code § 832.7.) But Penal Code § 832.10 makes much of the Sheriff's investigations into such in-custody deaths available to the public. Moving forward, IOLERO will closely track which records can be made public in these cases to ensure the greatest possible transparency.

Local detention facilities are required to notify BSCC of a death within 10 days of the incident, complete an initial review and report of the death within 30 days, and submit a copy of the initial review report to the Director within 60 days of the death in a format suitable for public release under § 832.10. (15 C.C.R. § 1046(c)).

This new Director of In-Custody Death Review position became effective after the reporting period for this annual report, and as of the date of this report, no person has yet been appointed to fill it. How this new review process will, or will not, interface with IOLERO's review of these same deaths is not yet known.

More information on this can be found on the BCSS website: <https://www.bscc.ca.gov/in-custody-death-review-division/>



VI. COMPLAINTS RECEIVED AND INVESTIGATIONS AUDITED IN 2023-2024

In Fiscal Year 2023-2024, IOLERO launched a new database to track its own work. This database allows us to more readily track the progress of our audits internally, and also to report to the public more detail about those audits.

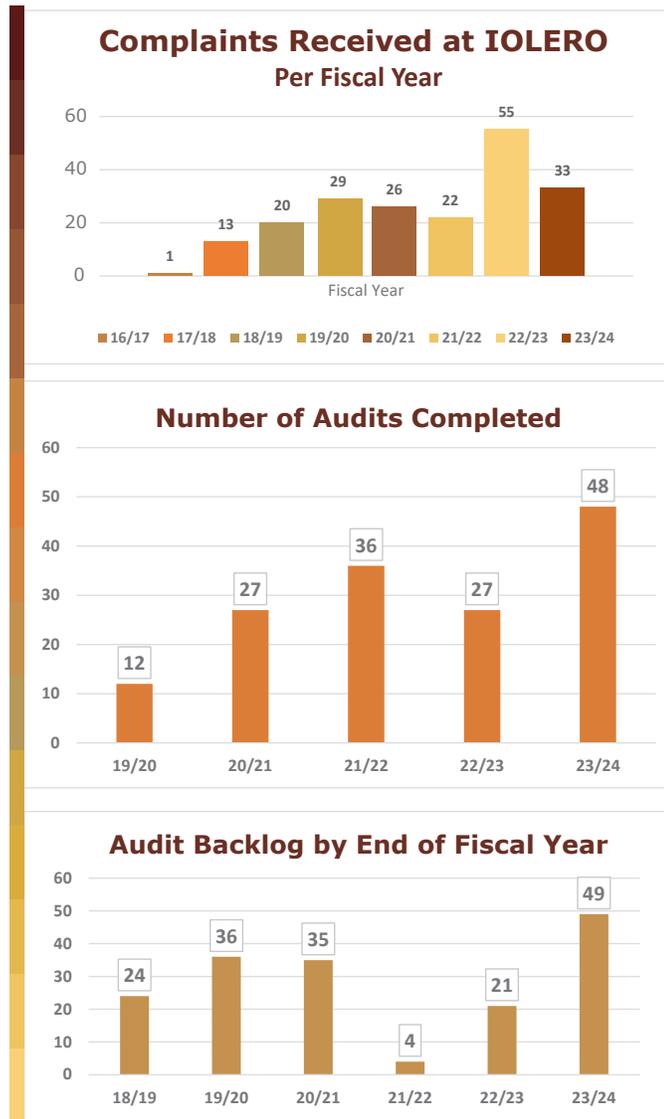
IOLERO completed audits of 48 SCSO Administrative Investigations in Fiscal Year 2023-2024. These investigations included cases in which people complained to the Sheriff's Office, other cases in which people complained to IOLERO, and other cases in which there was no complaint, but Measure P required IOLERO to audit the investigation because of the kinds of conduct in the case, such as cases of dishonesty. Some cases might involve combinations of these factors, like a complaint made to IOLERO and also a complaint made to the Sheriff's Office about the same event.

During this same period IOLERO received from SCSO 67 completed Administrative Investigations for auditing. Again, these cases originally came from three different sources, only one of which were cases in which people complained to IOLERO.

For the same period IOLERO received 33 complaints from the public which were forwarded to SCSO for investigation. Of course, SCSO must have commenced additional cases during that time that will eventually come to IOLERO for audit, but we do not know how many.



Complaints and Audits Chart



1. Complaints received include only those received at IOLERO, not those filed at the Sheriff's Office.
2. Data reported for years prior to FY 19/20 may be incomplete due to a break in administration of the office and incorporation of new tracking systems.
3. "Audits completed" do not necessarily represent actual fiscal years. The move to having reports align with fiscal years began with the FY 22/23 Annual Report.

So in sum, we completed more audits than in any prior year, but we received more cases than ever before, too. Thus, the end of this fiscal year, we still had the biggest backlog ever: 49 cases. That said, we have new staff coming on this year, and our newer staff are further along in their training, so are more efficient at the work of auditing. For these reasons, we are cautiously optimistic that this backlog can be resolved soon.

SCSO's investigations audited by IOLERO fell into three general types: Administrative Reviews ("AR"), Internal Affairs Administrative Investigations ("IA") (sometimes referred to as "PP"), and Citizen Complaint Administrative Investigations ("C"):

TYPE	NUMBER
Administrative Review Investigations (AR)	1
Internal Affairs Investigations (IA) or (PP)	1
Citizen Complaint Investigations (C)	46

These investigations span several subject matters including Use of Force, In-Custody Deaths, the Prison Rape Elimination Act (PREA), MADF operations, Officer Conduct, and Response to Calls for Service. The claims that were investigated can generally be broken down as follows:

IOLERO By The Numbers

IOLERO BY THE NUMBERS 2023-2024

Total Complaints Received at IOLERO and assigned complaint case number	Complaints SCSO processed as Grievances	Total Cases sent to IOLERO from SCSO for Auditing	Complaints Resolved without Investigation by SCSO	Complaints Received at IOLERO and Forwarded to Other Agencies
33	15	67	3	3
Total Audits Completed				
48				

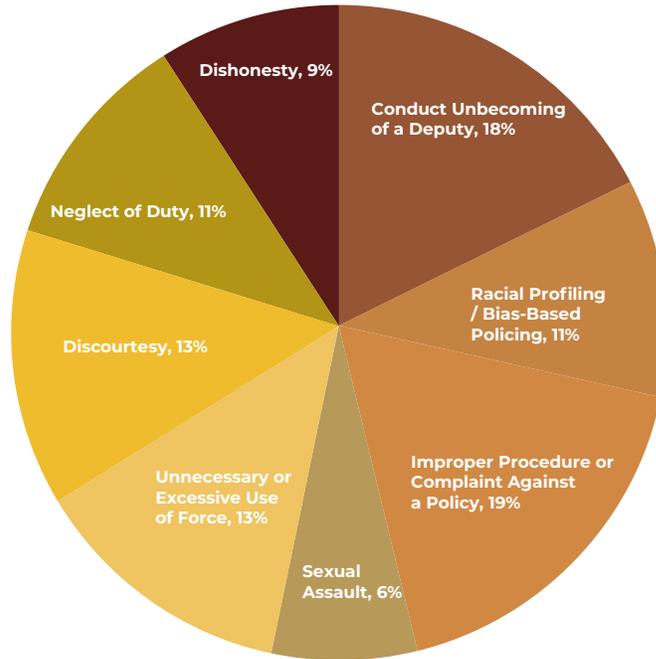
EACH COMPLAINT MAY CONTAIN MULTIPLE ALLEGATIONS

Total Allegations Investigated /Audited	Conduct Unbecoming of a Deputy	Racial Profiling/ Bias-Based Policing	Improper Procedure or Complaint Against a Policy	Sexual Assault	Unnecessary or Excessive Use of Force	Discourtesy	Neglect of Duty	Dishonesty
113	20	12	21	7	15	15	13	10

Other Public Contact Received at IOLERO, requiring follow-up (email, mail, phone call, etc.)	English	Spanish
90	86	4



INVESTIGATED ALLEGATIONS



- Conduct Unbecoming of a Deputy
- Racial Profiling/ Bias-Based Policing
- Improper Procedure or Complaint Against a Policy
- Sexual Assault
- Unnecessary or Excessive Use of Force
- Discourtesy
- Neglect of Duty
- Dishonesty

VII. IOLERO’S ASSESSMENT OF COMPLETENESS AND FINDINGS IN 2023-2024

A. Completeness

IOLERO concluded that 32 of the 48 Administrative Investigations (66%) conducted by SCSO and reviewed by IOLERO were complete in their entirety, although as was the case last year, SCSO’s analysis was often not as clear as it could or should have been. This is a 12-point drop from the 78% rate from last year.

The number of audited cases which were found “Incomplete”—either in its entirety, or on one or more issues—was 17, or 34% of the whole. This is a 12-point increase from the 22% identified last year. Of these, 15 were “mixed” with the investigations on some allegations being “Complete” and on other allegations “Incomplete”. IOLERO concluded the investigation was “Incomplete” in its entirety in 2 matters.

This statistic does not include three complaints that IOLERO received from the public and sent to IAD, but in which IAD closed the case without sending IOLERO an investigative report to audit. We’re told by IAD that these cases were quickly resolved without generating a report. For example, if a complainant files a complaint at IOLERO naming a Sheriff’s Deputy, but the Sheriff’s Office quickly determines that no Deputy of that name works for the Sheriff, or that the events described were in a place and time where no Sheriff’s Deputies were present, they might close the case. That said, the lack of a report about how this conclusion was reached prevents IOLERO from auditing the work to see if it was complete, and whether we agree with the outcome. In any event, the number of such cases are so small that they would have only a modest effect on the completeness statistics noted here.

The increase in “incomplete” findings this year is largely due to IOLERO’s view that SCSO did not review or provide an analysis of *all* allegations reasonably raised by a complainant, even where SCSO did properly review some (or even the central) claims



presented. In fact, in roughly half of the incomplete findings, IOLERO concluded that SCSO overlooked or failed to investigate specific claims made by complainants. On the other hand, the majority of the incomplete cases were finished by SCSO near or before the time that the Completeness Checklist was resolved between IOLERO and SCSO. Since the time of that checklist being finalized, the completeness rate has significantly improved. If these trends continue, we would expect to see a strong rate of completeness in our next annual report.

Complainants often raise several issues about an interaction with SCSO. For example, a complainant may allege that an officer was rude or discourteous because the officer applied handcuffs in an overly forceful manner. Such a claim raises two discrete issues: (i) use of force and (ii) the officer's personal conduct (rudeness or discourtesy). SCSO might not separately address the use of force issue in its report because (hypothetically) the Body Worn Camera video showed what actually occurred was a standard handcuffing that did not involve any meaningful use of force. Instead, SCSO may conclude more generally (and properly) that the officer acted appropriately in applying handcuffs, and was not rude or discourteous under SCSO Policy 320.

In such a case, IOLERO may find SCSO's investigation was "Complete" as to the discourtesy claim (applying the rules of courtesy under Policy 320), but "Incomplete" on Use of Force (which must be reviewed under federal and state law and SCSO Policy 300) because (i) SCSO did not specifically address it at all in its report, or (ii) SCSO addressed it only in passing without providing a stand-alone analysis (even if briefly), or (iii) SCSO simply assumed force was not used or was otherwise not a problem. IOLERO's view is that SCSO should separately evaluate—in every report—all substantive claims under applicable standards where the issue has been *reasonably* raised in or implicated by a complaint, even if it requires only a cursory analysis under applicable standards.

The need for separate analysis on the record is not academic; indeed, it is critically important to demonstrate that SCSO in fact properly sorted through and distinguished the issues. The standards concerning use of force are materially different from those concerning personal conduct such as discourtesy. Finding an officer was not discourteous without separately and expressly reviewing the underlying claim of use of force (under this example) could be viewed by a third party reader as a finding that use of force is governed by the personal conduct standards. This is incorrect. Use of force is governed by federal constitutional requirements concerning objective reasonableness and California rules concerning de-escalation and proportionality. Discourtesy, on the other hand, looks more generally to the quality of the officer's conduct and demeanor towards a person.

Separately addressing use of force and discourtesy in distinct analyses ensures that the former is not lost in, or improperly subsumed by, an analysis of the latter using materially different standards.

IOLERO notes that a complainant's allegations may at times be broad and vague. It is sometimes difficult to discern the scope of allegations from a complaint, even when the complainant is interviewed. IOLERO also agrees with SCSO that an investigation need not review *all* possible issues, however remote, implicated by a claim. Time and resources require a good faith interpretation of the allegations to determine what must, in fairness, be reviewed. That said, California law still requires that a complainant's allegations be investigated, which can only be done if **all** of their allegations are investigated. In this regard, IOLERO looks to whether SCSO's interpretation of the allegations and scope of investigation was reasonable in light of the circumstances.

IOLERO also notes that it may be a natural tendency for a law enforcement officer conducting an administrative investigation of alleged misconduct to assume a conclusion where the record facially appears to support it, based on their subjective experiences in the field. In such instances, an investigator may simply deem the answer too obvious to merit discussion—for example, assuming there was no force used in the handcuffing so no analysis was really necessary. However, evaluations of compliance with law and policy are exercises in *objective* analyses, and they must be made on a record and in a manner that shows the issue was actually considered and evaluated under the applicable requirements. If an issue is reasonably raised by a complaint, it should be separately addressed even if the outcome initially appears obvious to the investigator.

B. Findings

IOLERO agreed with SCSO's *substantive conclusions* in 32 of the 48 cases, or 66%. This is a 4-point drop from the 70% identified last year. In some matters IOLERO disagreed with SCSO's finding even though both IOLERO and SCSO otherwise agreed the complaint should not be sustained. In other words, SCSO concluded a claim was "unfounded" and IOLERO concluded it should have been labeled "exonerated", or *vice versa*. Although application of the appropriate finding label is highly important (exonerated speaks to the operation of the policy, while unfounded speaks to whether the acts occurred), we do not view these as disagreements on the substantive outcome and therefore they do not contribute to this particular statistic.

As was the case last year, our agreement on the outcome does *not* mean that IOLERO agreed with SCSO's *analysis*. Many investigative reports continued to lack

clear interpretative analysis of governing law and policies. In one matter, IOLERO found the investigation to be “logistically” complete in that relevant evidence was acquired, but “analytically” incomplete because the record showed SCSO did not apply the relevant evaluative standards that were required to reach a determination.

Overall IOLERO disagreed with SCSO’s substantive conclusions in 16 matters, or 33% of the whole. In 14 of the 16, IOLERO partially agreed, and partially disagreed, with SCSO’s substantive conclusions. In the other 2 matters, IOLERO disagreed with the entirety of SCSO’s findings.

The increase in “disagree” findings tracks the increase in “incomplete” findings, and in particular the increase in “partially incomplete” findings. The circumstances of each matter vary. But to illustrate using the example from above, SCSO’s finding that an officer did not violate personal conduct Policy 320 carries an implicit finding that use of force was proper. IOLERO may agree with **SCSO’S CONCLUSION** that the officer did not violate Policy 320 based on the record, but because SCSO did not review the use of force issue separately, IOLERO may disagree with the implicit finding by SCSO that use of force was appropriate—not because the force was inappropriate, but because it was not analyzed at all.

C. Broader Observations on SCSO’s Investigations

On a broader scale we noted an *overall improvement* in the substantive quality of SCSO’s investigations, even those IOLERO found to be a mixed complete/incomplete or a mixed agree/disagree.

Administrative investigations conducted at the MADF were markedly improved with more detailed acquisition and summarization of evidence, interviews, and narrative analysis of applicable policies and state regulations. Though not as pronounced as the MADF matters, Administrative Investigations conducted of non-MADF matters also reflect improvements in evidence acquisition and documentation, policy identification and analysis. This may be, in part, because SCSO chose to assign a Sergeant who had worked in the MADF, and therefore knew its policies and procedures well, to IAD to investigate cases that occurred in the MADF. IOLERO recommends that this kind of assignment continue; having Sergeants familiar with patrol functions on the Law Enforcement side of SCSO investigating cases that arise on patrol, and Sergeants familiar with MADF investigating MADF cases is a sound strategy for improving IAD investigations.

Thus, our general observation from this year is: (i) there remain areas of concern and needed improvement (ii) at the same time, SCSO has taken affirmative steps to strengthen and enhance its administrative investigatory process which is evident in the cases reviewed.

VIII. ISSUES / TOPICAL OBSERVATIONS FOR 2023-2024

As shown in the Audit Summaries set out later in this Report, the 2023-2024 Audits and related work by IOLERO cover a wide range of issues. Below we describe those that we identified as meriting more extended individualized discussion.

A. Use Of Force

This year IOLERO audited 5 matters involving Use of Force which occurred at the MADF. The force involved was lower level such as pain compliance techniques (wrist locks and controlled take-downs), or medium level (knee strikes). In some instances the complainant’s characterizations of the type of force used was inaccurate (stating they were “punched” or “shoved” when the record shows they were not), a factor that required additional scrutiny in order to apply the legal rules to the force that was actually employed.

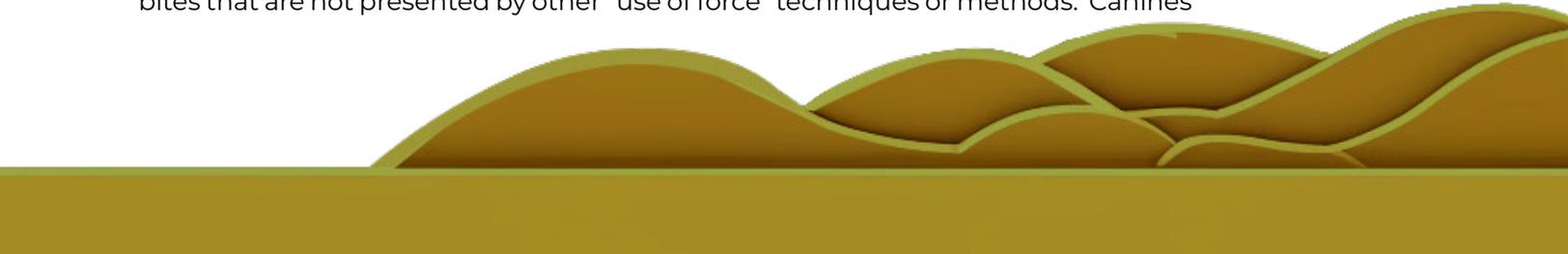
Generally, IOLERO agreed with SCSO’s conclusion that the force actually used in the various cases was minimal and complied with the Fourth Amendment’s requirements and with California’s proportionality and de-escalation requirements. As earlier stated generally in connection with other SCSO administrative investigations, the level of analyses was not as clear as it could or should be. Nevertheless, IOLERO agreed that SCSO’s findings were supported by the record in these matters.

B. Use of Canine Bites to Apprehend

1. Summary of Last Year’s Findings

Last year IOLERO reviewed three matters involving the use of canines to apprehend persons, and concluded the investigative records showed a likely violation of use of force rules and gaps in policy.

In the course of these reviews, we identified unique considerations with canine bites that are not presented by other “use of force” techniques or methods. Canines



have both “force” (apprehension) and “non-force” (search/rescue, drug/explosive detection) functions, but SCSO Policy did not specifically link the “force” component to its Use of Force Policy. Canine bites almost invariably result in foreseeable and painful skin punctures and can lead to significant injuries including death. Because an off-leash canine is an autonomous animal, there is an inherent risk that it might not act as anticipated, including holding a bite longer than commanded or inflicting wounds the deputy never intended. There is also a stigma from historical misuse of canines.

We recommended that SCSO review its canine policy with these factors in mind.

2. Third-Party Consultant Report

In 2023, SCSO retained Sheepdog Guardian Consulting (“SGC”) to review its Use of Force Policy 300 and Canine Policy 309. SGC issued its Report on September 11, 2023.

The central SGC recommendation was to link Canine Policy to Use-of-Force Policy by characterizing canine bites as a “pain compliance technique”. These techniques utilize managed levels of pain caused by physical force or pressure to induce compliance. Examples are wrist locks, knee strikes, pressure points. Under Use of Force Policy 300.3.3, characterizing canine bites as a “pain compliance technique” requires consideration of the degree to which the canine may be controlled given the level of resistance, whether the person can comply with orders, and whether the person has been given sufficient time to comply.

Other recommendations included defining “serious offenses” by reference to specific provisions of the Penal Code, and expanding the term “deployment” to include the act of taking the canine from the vehicle even if it is not ultimately released to apprehend a person.

3. Legislative Actions

In February 2023 California Assembly Member Corey Jackson introduced AB 742 which would prohibit the use of a canine bite to apprehend a person unless the circumstances would otherwise allow use of deadly force under existing law. In other words, canine force would be defined by statute as “deadly force” and thus subjected to more stringent constitutional and statutory rules. The statute would have superseded courts decisions that have declined to define canines as “deadly force” *per se*. This restriction would not have affected canine use for tasks not involving a bite (e.g., drug/explosive detection, searches).

Various California law enforcement agencies argued AB 742 would undermine valuable canine uses. These arguments included (i) canines “de-escalate” situations because the mere *threat* of their use results in compliance 99% of the time canines are brought to a scene (ii) this may impede ability to search and deny officers distance/time to evaluate situations (iii) in the 1% where canine bites are used they rarely result in life-threatening injuries or death. See *California Police Chiefs Association Press Release*, “Legislation Would Decimate Police K9 Programs”; Murietta Police Officers Association letter to Assembly Member Jones-Sawyer dated March 2, 2023; *San Diego Police Department News Release*, “Chief David Nisleit Issues Statement on Proposed Assembly Bill 742 Regarding Police Canines”; Riverside County Sheriff Statement.

The Appropriations Committee approved AB 742 but it was not passed by the Assembly by the June 1, 2023 deadline and was placed in “inactive” status. Assembly Member Jackson expressed an intent to introduce it again.

4. SCSO’s Modified Canine Policy

SCSO issued a revised Canine Policy 309 in January 2024. Among other things, SCSO (i) expressly linked canine use to its Use of Force Policy 300 (ii) added separate provisions to address canine use when serving warrants or when a person is concealed (iii) identified circumstances when canines may *not* be deployed, and (iv) added a requirement that a canine hold on a person be released once there are adequate resources to take the person into custody.

This is a very generalized summary of the most visible changes to Canine Policy 309; the revisions contain other modifications, including several relating to the use of canines for non-apprehension purposes.

IOLERO did not audit or review any canine apprehension matters in FY 2023-2024. Accordingly, we have not yet had occasion to review SCSO’s application of its revised Canine Policy 309 to actual deployments, or to assess SCSO’s interpretation and employee expectations under the revised policy.

5. Continuing Work on Canines

The Community Advisory Council (CAC) has been conducting its own review of canine apprehension through an ad hoc Committee. This work has included talking to canine unit trainers at the Sheriff’s Office, attending training sessions for the canine units, and assessing policies from other jurisdictions. That review is ongoing. Currently, the CAC expects to conduct a Town Hall in the fall of 2024 on canine policy to solicit more community input, and then release recommendations about canine policy after that.



C. Personal Conduct / Free Speech

IOLERO reviewed 4 matters this year addressing regulation of an employee's off-duty conduct and off-duty speech.

Peace officers are held to a higher standard of off-duty conduct than other public employees. In this regard, law enforcement agencies have latitude to define their mission, to clarify the types of conduct and speech that the agency concludes is adverse to its mission and operations, and to subject such conduct or speech to employment discipline. At the same time, certain legal parameters must be met before penalizing an employee for off-duty conduct or speech.

Rules concerning off-duty personal conduct must account for a wide range of circumstances and are necessarily generalized. It is therefore vital that in its investigative reports SCSO explicitly outline its interpretation of those rules when applying them to specific situations. Without explicit substantive explanations, enforcement of SCSO's Personal Conduct policies is perceived as, and risks actually being, largely *ad hoc*, arbitrary, non-transparent and firmly resistant to oversight.

The matters we reviewed this year generally lacked the necessary substantive interpretation. Although we concluded, based on our independent assessment, that SCSO reached the correct outcome in most instances, the absence of explicit substantive interpretations by SCSO of its personal conduct policies is a significant issue that must be addressed.

We discuss the general standards concerning off-duty conduct and off-duty speech.

“Discredit” or “Conduct Unbecoming”

A public agency may discipline an employee for off-duty conduct that brings “discredit” to the agency. Courts have made clear that “discrediting” an agency does not encompass all conduct of which the agency might generally disapprove. Rather, the conduct (i) must bear some rational relationship to the employment, and (ii) must be of such character that it can easily result in the impairment or disruption of the public service.

A law enforcement agency may also discipline an officer's off-duty actions as “conduct unbecoming”. This phrase is often used colloquially by the public to describe conduct generally deemed to be rude. However, “conduct unbecoming” is a term of art that does not generally encompass isolated, disagreeable conduct. Rather, it is a legal term identifying actions that indicate an officer's lack of fitness

to perform the functions of law enforcement. This could include (but is not limited to) showing dishonesty, engaging in *repeated* acts of rudeness or policy violation, or violating laws that as peace officers they took an oath to uphold.

This year we agreed with SCSO's substantive determinations in 2 cases that off-duty conduct did not meet these requirements and thus did not merit disciplinary action. However, we noted that SCSO did not analyze the issue under the applicable legal standards. To provide meaningful guidance, the investigative reports must explain SCSO's *expectations* of what constitutes impermissible off-duty conduct in accordance with its defined mission.

In a third matter we agreed with SCSO's determination that a deputy violated personal conduct rules by engaging in inappropriate relationships with multiple persons, misusing SCSO property and being dishonest with SCSO management. However, as with the other matters referenced above, SCSO did not provide substantive interpretations of the personal conduct rules. Although the conduct at issue left little doubt that it was incompatible with the core functions of a law enforcement officer, a substantive interpretation of the personal conduct rules is nevertheless necessary in order to document SCSO's expectation as to how those policies are to apply in other matters.

“Off-Duty Speech”

In a fourth matter, IOLERO concluded that SCSO's investigation into a deputy's off-duty podcast concerning use of force was “incomplete” because it did not meaningfully evaluate the issues under existing policies and law, and did not engage in sufficient fact gathering. To the extent SCSO attempted to make findings on the incomplete record, we disagreed with SCSO and, based on IOLERO's independent review of law and policy, we concluded that even the incomplete record would likely sustain violations of law and policy by the deputy, including bringing discredit to the agency. SCSO responded by affirming its decision on the ground that the deputy's off-duty speech was private and protected by the First Amendment, and did not in fact result in actual workplace disruptions. IOLERO reviewed the response and notified SCSO that it did not change IOLERO's findings or analysis set out in the Audit.

Because of the importance of applying First Amendment free speech protections in the government employee setting, we provide a somewhat lengthy overview of those principles here.

A *private* employer may establish policies restricting an employee's speech.



Generally, this does not implicate the First Amendment (which applies only to government action).

When the *government* is the employer, it too may establish policies concerning employee speech. However, public employees—including peace officers—have First Amendment rights to engage in speech as a *private* citizen about matters of *public* concern. *Connick v. Myers*, 461 U.S. 138, 140 (1983), *citing Pickering v. Board of Education*, 391 U.S. 563 (1968). The task is to arrive “at a balance between the interests of the employee, as a citizen, in commenting upon matters of public concern and the interests of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Connick v. Myers*, 461 U.S. at 140. Applying the U.S. Supreme Court’s balancing test (known as the *Pickering* test), the Ninth Circuit uses a multi-step inquiry to evaluate a government employee’s First Amendment challenge to employment discipline imposed for their off-duty speech.

The initial question is whether the speech is addressed to a “public concern”? The term “public concern” encompasses most speech, with the exception of speech which concerns *only* the employee’s personal interest (for example, an internal private employment dispute with the agency). *Hernandez v. City of Phoenix*, 43 F.4th 966, 977 (9th Cir. 2022). The “public concern” character of speech is based on its content, form (time, place, manner), and context.

If speech involves a “public concern”, the employee’s First Amendment interest is then measured on a sliding scale—it may have more, or less, First Amendment substance depending on its content. For example, employees have a core First Amendment interest in bringing to public light actual or potential wrongdoing in their agency, and speech of this nature lies at the apex of the employee’s First Amendment interest. *Hernandez v. City of Phoenix*, 43 F.4th at 976–77. At the other end of the scale, an employee’s interest in speaking racial epithets lies at the outer periphery of the *Pickering* balance. *Id.* at 978-79.

The government’s burden in justifying discipline therefore varies “depending on the nature of the employee’s expression.” *Hernandez v. City of Phoenix*, 43 F.4th at 977. The more substantially an employee’s speech involves matters of public concern, the weightier must be the employer’s interest in preventing disruption of the workplace or impairment of the agency’s mission. *Id.* On the other hand, the government has a strong interest in prohibiting speech that impairs close working relationships among co-workers, impedes performance of the person’s job duties, interferes with the effective functioning of the employer’s operations, or undermines the employer’s mission. *Id.* at 977.

The 9th Circuit’s most recent decision in *Hernandez v. City of Phoenix* provides a clear application of this balancing. A police officer made posts on his private Facebook

account mocking a religious group. The court concluded these posts touched on issues of public concern because they were mingled with topics of government spending, cultural assimilation (at least tangentially), or involved posts that had been subject to media interest. *Hernandez*, 43 F.4th at 977–78. The question was whether the police agency identified a sufficient interest to regulate that speech through employment discipline.

The court found that the government may restrict off-duty speech to prevent disruption to the workplace, strengthen employee relations, and advance the agency’s mission. *Actual* disruption is not required; “reasonable predictions of disruption” are also sufficient so long as the employer provides “some evidence” for its prediction rather than “rank speculation or bald allegation”. *Riley’s Am. Heritage Farm. v. Elsasser*, 32 F.4th 707, 725 (9th Cir. 2022); *Moser v. Las Vegas Metro. Police Dep’t*, 984 F.3d 900, 908–09 (9th Cir. 2021). An employer’s “reasonable” prediction of disruption to its operations or mission receives “greater deference” than justifications used to restrict the public’s speech in general. *Moser*, 984 F.3d at 909.

Applying these principles the *Hernandez* court noted that it was “likely that Hernandez’s posts could impede the performance of his job duties and interfere with the Phoenix Police Department’s ability to effectively carry out its mission”. However, because no record was made of “the actual or potential disruptive impact caused by Hernandez’s posts”, the case was sent back to the lower court for review with instructive observations:

In remanding the case, we do not mean to suggest that the [Police] Department will face a particularly onerous burden to justify disciplining Hernandez for his posts, given the comparatively low value of his speech. Government employee speech that exposes wrongdoing or corruption within the employee’s own agency lies at “the apex of the First Amendment” in this context. [citation omitted]. Needless to say, Hernandez’s Facebook posts occupy a much lower rung on the First Amendment hierarchy, and indeed they touched on matters of public concern “only in the most limited sense.” [citation omitted]. On the other side of the scale, a police department’s determination that an officer’s speech warrants discipline is afforded considerable deference [citation omitted], and police departments may permissibly consider the special status officers occupy in the community when deciding what limitations to place on officers’ off-duty speech. [citation omitted]. Speech by a police officer that suggests bias against racial or religious minorities can hinder that officer’s ability to effectively perform his or her job duties and undermine the department’s ability to effectively carry out its mission. [citation omitted].

Id. at 979.



The court more broadly found that, on their face, most of the department's restrictions "directly promote the same interests that the Supreme Court has already held to be valid bases for imposing restrictions on public employee speech": undermining the agency's mission and hampering effective functioning of the employer's operations. *Id.* at 980–81.

That interest justifies the policy's restrictions on social media posts that are "detrimental to the mission and functions of the Department" or which "undermine the goals and mission of the Department or City." Police departments also have a strong interest in maintaining a relationship of trust and confidence with the communities they serve, [citation omitted], which justifies the policy's restriction on speech that would "undermine respect or public confidence in the Department". Given how closely these clauses of the policy track interests that the Department may constitutionally pursue, we cannot say that a "substantial number" of the policy's applications are unconstitutional, judged in relation to the policy's "plainly legitimate sweep." [citation omitted].

Id. at 981.

In the off-duty speech matter review by IOLERO, an SCSO deputy participated in a panel podcast in which examples of improper, and in some instances patently illegal, uses of force were discussed in a joking manner. The deputy also conceded to having previously and secretly possessed an illegal non-firearm weapon and of providing it secretly to another deputy. It was clear in the podcast that the deputy was a law enforcement officer, but the podcast did not disclose his affiliation with SCSO.

SCSO correctly noted that regulating an officer's off-duty speech may implicate First Amendment concerns under the *Pickering* test, and this test is in fact reflected in SCSO Policy 1030. However, our Audit found that SCSO's investigation did not actually apply substantive policy or legal provisions, including the *Pickering* test, and did not explain SCSO's expectations of the agency's mission and deputy conduct as it related to them content of this specific podcast.

Among other things, the *Pickering* test allows SCSO to regulate off-duty speech based on its *predicative* effects on the agency's operations and public mission. SCSO's response that there had been no *actual* disruptions to its operations applies a restriction to its ability to regulate off-duty speech that is far greater than what the First Amendment requires. By applying this unduly strict standard, SCSO avoids having to engage in the important, and perhaps more sensitive, task of evaluating

the content of the challenged speech, and evaluating its potential impact on SCSO's overall mission and operations in light of SCSO's publicly stated principles. As discussed above, this impedes transparency as to the agency's internally defined expectations of its officers.

D. Detention Facility: “Strip Searches”

IOLERO reviewed a matter involving the question of what constitutes a “strip search”. This arose prior to SCSO's revision of its Detention Policies which began in February 2023. Accordingly, we outline the legal and policy rules in place at the time of the events, and summarize the changes made by SCSO's subsequent policy revisions.

Under Penal Code § 4030, before a detained person is placed into a booking cell, detention staff may conduct “**patdown** searches, metal detector searches, body scanners, and thorough clothing searches” to detect concealed weapons and contraband. (§ 4030(d)). A “pat search” is a thorough manual search conducted by running hands over a person's clothed body, including but not limited to pockets, shoes and socks. (28 C.F.R. § 115.5; Detention Policy “Searches– Pat Searches & Strip Searches” § 2.0 [definitions]). Pat searches are mandatory when a person enters or leaves the facility. (Detention Policy “Searches–Pat Searches & Strip Searches” § 5.0.A; “Booking – General Procedures” § 5.1.E.2).

Penal Code § 4030 and Pre-2023 SCSO Detention Policy impose more stringent restrictions on when persons may be subject to a “**strip search**”. A “strip search” is defined as a “search which requires a person to remove or arrange some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.” (§ 4030(c)(3); Detention Policy “Searches – Pat Searches & Strip Searches § 2.0 [definitions]).

Persons conducting a strip search or who are within sight of the detainee during a strip search “shall be of the same sex as the person being searched”. (§ 4030(k); Detention Policy “Searches – Pat Searches & Strip Searches § 7.1.B). All strip searches “shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted.” (§ 4030(l); Detention Policy “Searches – Pat Searches & Strip Searches § 7.1.A). “Inmates shall not be strip searched within the sight of other inmates.” Detention Policy “Searches – Pat Searches & Strip Searches § 7.1.A).

At the conclusion of a strip search, persons “shall be issued clothing and allowed to dress in privacy, outside the purview of any staff or inmates”. (Detention Policy “Searches – Pat Searches & Strip Searches § 7.1.D).

The revised SCSO Detention Custody Manual and Procedure Manual implemented in February 2023 largely follows the pre-2023 Detention Policy, with some notable refinements. The Custody Manual now divides “strip searches” into two categories. A “**modified strip search**” is when a person removes or rearranges clothing, and may involve a “tactile” search of the person’s partially unclothed body, but it does *not* allow for a visual inspection of breasts, buttocks or genitalia. (Custody Manual § 510.1.1 [definitions]). A more general “**strip search**”, on the other hand, involves removing or rearranging some or all of a person’s clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia of the person”. (*Id.* [definitions]). No “modified strip search” or “strip search” may be conducted on a person prior to placement into MADF housing without reasonable suspicion of a weapon or contraband or medical need, or without prior authorization from the on-duty Sergeant. (Custody Manual § 510.4.1). Modified strip searches and strip searches must be conducted in a “professional manner” by an officer of the same sex as the person, and in an area of privacy that cannot be observed by persons not participating in the search. (*Id.* § 510.4.4).

In the matter reviewed by IOLERO, a correctional deputy unzipped a person’s outer clothing to inspect undergarments as part of what the deputy understood to be a standard pat search. Based on the Penal Code and SCSO Policy, we concluded that the search started as a pat search but transformed into a “strip search”. We **RECOMMENDED** that SCSO review its Policies and evaluate whether its training adequately guides MADF staff in conducting pat and strip searches.

E. Detention Facility: Telephone Access and Signage

IOLERO reviewed two matters that raised issues of telephone access at the MADF when a detainee is initially brought to the facility.

Telephone Access

One issue was whether SCSO’s practice of providing telephone access to Sobering Cell detainees only after their booking was completed complied with state law. We concluded that it *might* not comply, depending on the factual circumstances.

Penal Code § 851.5 and SCSO Policy both require that a person be permitted to make at least three telephone calls immediately after booking or within three hours of their arrest unless it is “physically impossible”.

At the MADF, cooperative detainees may be placed in an open-space “Booking Waiting Area” where telephones are available. Individual Booking Cells also have telephones that a detainee may use.

However, detainees found to be under the influence of a drug may be placed into a Sobering Cell until they are sufficiently sober to complete the booking process. This is known as “partial” booking. Detainees in Sobering Cells are not provided telephone access until they leave the Sobering Cell and their booking is completed (known as “unpartialling”).

The 9th Circuit has interpreted § 851.5 as “drastically limiting” officer discretion by mandating phone access unless it is “physically impossible”. *Carlo v. City of Chino*, 105 F.3d 493, 502 (1997). Because § 851.5 is mandatory, violations may give rise to claims under 42 U.S.C. § 1983 for deprivation of procedural Due Process rights under the Fourteenth Amendment. *Id.* What constitutes “physical impossibility” is a fact-based determination for each circumstance. *Dennison v. Lane*, 2013 U.S. Dist. LEXIS 15026* 15–*16 (N.D. Cal. Feb. 4, 2013); *Maley v. County of Orange*, 224 Fed. Appx 591, 593 (9th Cir. Mar. 7, 2007); *Low v. Stanton*, 2009 U.S. Dist. LEXIS 8761 at *7–*13; *Golden v. County of Tulare*, 2011 U.S. Dist. LEXIS 30004 at *9–*11 (E.D. Cal. Mar. 23, 2011).

More specifically, an arrestee’s placement into a segregated cell such as a Sobering Cell, by itself, is insufficient to demonstrate physical impossibility. *Allen v. Stanislaus County*, 2017 U.S. Dist. LEXIS 15843 at *38–*42 (E.D. Cal. Feb. 3, 2017). Specific facts are needed to show why it is physically impossible to provide a Sobering Cell detainee with telephone access.

Based on the matters we reviewed, there was a *prima facie* basis to conclude that, depending on how it is actually applied, the “practice” identified by SCSO could be non-compliant with § 851.5 and SCSO Policy. An intoxicated person might be on the verge of sleep or be so intoxicated that they are unable to speak lucidly. In such a case it may be reasonable to conclude such arrestees are unable to physically use a telephone despite their request to do so. On the other hand, other intoxicated persons may be fairly lucid and have the physical ability to use the telephone even while intoxicated, before they are completely sober, or before Staff is able to complete the booking.

Thus, SCSO’s practice concerning Sobering Cell detainees may result in instances where the arrestee is denied telephone access in contravention of Penal Code § 851.5 and SCSO Policy.

SCSO's current Custody Manual (dated May 15, 2024) requires that "except where physically impossible, every incarcerated person detained in this facility shall be entitled to at least three completed telephone calls immediately upon being admitted and no later than three hours after arrest." (§ 502.8). In contrast to pre-February 2023 Detention Policy, current Custody Manual § 502 provides additional clarity by noting that Staff have no obligation to make a call for an arrestee if, for example, the person "is so intoxicated that they cannot make a call". Staff is also not obligated to "wake an intoxicated person" so they can make a call but the person should be provided the opportunity to make the call once they awaken. (§ 502.8).

While the revised Custody Manual provides some clarification on telephone access, it does not directly bar the "practice" of not providing telephone access to arrestees in Sobering Cells until their "partial" booking is "unpartialled", regardless of the arrestee's actual physical condition.

We therefore **RECOMMENDED** that SCSO review this "practice" to determine whether it is still being used, and if it is, to evaluate whether its use is consistent with Penal Code § 851.5 and SCSO Policy.

Telephone Signage

California Penal Code § 851.5 provides that "[a]t any police facility or place where an arrestee is detained" a "sign" written in "bold block type shall be posted in a conspicuous place" informing persons they have the "right to free telephone calls" locally or long-distance calls at their expense, to a lawyer, bail bondsman, a relative or other person. (§ 851.5(b)).

In one instance an arrestee complained that signage required by Penal Code § 851.5 was not posted in the Sobering Cell. SCSO found this to be correct but concluded that Sobering Cells are not required to have such signage under the Building Code set out in California Code of Regulations Title 24, Pt. 2, § 1231.2.4.

We agreed that Title 24's Building Code does not reference such signage for Sobering Cells. However, we did *not* agree that Title 24 resolves this issue. Instead, the relevant question is whether Penal Code § 851.5 requires such signage in Sobering Cells.

Penal Code § 851.5 provides that "[a]t any police facility or place where an arrestee is detained" a sign notifying the arrestee of their right to make telephone calls "shall be posted *in a conspicuous place*". (Emphasis added). For example, posting signage in the Booking Waiting Area for inmates physically in the Waiting Area to see, facially complies with this requirement.

However, compliance with § 851.5 is questionable regarding lack of such signage in a Sobering Cell. An arrestee taken directly to a Sobering Cell is unlikely to see signage in the Waiting Area or have any reasonable opportunity to read it. A person in a Sobering Cell without signage would not be informed of their right to a telephone call and therefore might not know to request it (the very problem the signage requirement is intended to address).

The Building Code requirements of Title 24 do not change this. Section 1231.2.4 concerns the required *physical* layout and dimensions of Sobering Cells. It does not address an arrestee's *substantive right* to be notified of telephone access. Indeed, Title 24 does not list telephone signage at all as part of the Building Code requirements for a Type II facility, but there is no dispute that § 851.5 requires it.

In the end, it is § 851.5, not Title 24, that governs signage posting. We **RECOMMENDED** that SCSO review its telephone signage to ensure it complies with Penal Code § 851.5 and SCSO Policy.

F. Prison Rape Elimination Act (PREA)

Federal law requires detention facilities to have in place policies and procedures to prevent sexual abuse and sexual harassment in the facility, and to investigate sexual abuse and harassment claims. While this statute has the word "Prison" in the title, it also applies to local jails like Sonoma County's. Among other requirements, PREA obligates the Sonoma County MADF to ensure there is an investigation into every allegation of a sexual assault. Both criminal (assessing whether someone should be prosecuted) and administrative (checking for failures in policy, training, or conduct) investigations must be conducted and memorialized. IOLERO assesses these investigations for completeness and timeliness when PREA matters come to us, as well as assessing whether we agree with the conclusions reached and whether policy recommendations are warranted. Because these kinds of claims necessarily concern very serious allegations, it's appropriate that the law requires thorough assessment of them, and that IOLERO double-check that work.

Completeness

We noted that SCSO conducted particularly effective PREA investigations in two matters.

In one case, SCSO did not simply rely on the initial administrative PREA review. Instead, (i) it included follow-up independent interviews of the involved deputies; (ii) an interlocutory status report was provided to the complainant; and (iii) the entirety of the prior PREA reviews were attached as part of the record.

VIII.

In the second matter, SCSO (i) again did not rely solely on the initial PREA review, and included follow-up independent interviews of the deputy (ii) conducted additional inquiry into the deputy's physical location during the incident in issue and (iii) attached the entirety of the prior PREA reviews as part of the record.

These subsequent investigative steps materially added to the completeness and transparency of the record and reinforced the overall strength and credibility of the administrative investigative findings. As set out in the U.S. Department of Justice PREA regulations and SCSO's Policies, administrative investigations of PREA claims are intended to go beyond the initial criminal and MADF PREA reviews, by assessing possible responsibility of any SCSO Member.

Additional investigative steps might only be incremental in cases where the initial PREA reviews were otherwise substantial (as is the case here), but they nevertheless serve a vital role in supporting administrative findings in concert with the investigation's stated purpose under PREA.

Mental Health

We also noted that in the same two cases discussed above, SCSO properly relied on factual evidence and did not either discount the allegations, or assess credibility, based solely on the complainants' mental health status.

This factor is particularly important in PREA claims. Persons with mental health issues are more vulnerable than the general population to sexual abuse, in part because they often are unable to articulate what occurred and may be improperly seen as unreliable witnesses. Thus, a person's claim of abuse cannot be discounted solely because they have mental health issues. Investigations must take into account that mental health may impede a person's ability to articulate the facts of the abuse. California Commission on Peace Officer Standards and Training (POST) materials and SCSO's own Policies acknowledge and reflect this principle.

SCSO identified mental health issues, but these two investigations did not rely on this factor in evaluating the claims. Rather, the records showed SCSO properly investigated the relevant underlying facts and based their decisions on these facts.

G. Body Worn Camera Activations at the MADF

In two matters we reviewed the practical implications of activating Body Worn Cameras (BWC) at the MADF.

SCSO Policy requires BWCs to be activated when a contact in the MADF becomes “adversarial”. The purpose of this requirement is several-fold (i) deter a deputy from making inappropriate verbal comments and memorialize such comments if they were made (ii) conversely, confirm when a deputy’s comments were appropriate (iii) permit review of an inmate’s comments for content and accuracy (iv) facilitate dispositive administrative investigations into complaints about a specific interaction (v) remove suspicion (whether merited or not) that the BWC was not activated in order to avoid having a record made of the comments.

At the same time, it is not feasible for deputies to activate the BWC in connection with every interaction with an inmate, and BWC Policy reflects this. There remains, therefore, an open question as to how this “adversarial” requirement is to work in practice.

In one matter, the deputy did not activate their BWC as they were conducting rounds during which the deputy made some verbal comment to the inmate (documented by internal MADF video cameras, not BWC, but without audio). While the deputy’s interaction with the inmate could have been viewed as adversarial in theory, this was not clearly established and the deputy’s failure to activate the BWC did not violate SCSO Policy. However, we noted that the lack of BWC recording made it impossible to identify what the deputy actually said to the inmate (the record was clear he did say something), which in turn prevented any findings from being made on the inmate’s complaint. BWC footage includes an audio recording, so a BWC recording here would have been useful.

In the second matter, the deputy did not activate their BWC when responding to an inmate’s request for toiletries. The inmate later verbally shouted at the deputy and engaged in disruptive conduct. In subsequent interactions in or around the inmate the deputy activated their BWC which captured the inmate’s statements and confirmed that the inmate’s allegations against the deputy were without factual foundation.

We acknowledged that it is impracticable to require correctional deputies to activate their BWCs during routine activities, and that requiring activation when an interaction becomes “confrontational” is an appropriate trigger. However, given the diverse outcomes in these two matters that stemmed, in large part, on whether

the BWC was or was not activated, we **RECOMMENDED** that SCSO review this policy and its training to determine whether further clarification can be made as to when BWCs should be activated.

H. Preservation of Jail Video

We reviewed one matter in which video files of relevant events at the MADF had been automatically purged from SCSO's system after the IA investigator reviewed them. Video of events is often the most revealing evidence. Among other things it shows what physically occurred, assists in corroborating oral and documentary evidence, and assists in confirming timelines of events and identification of persons involved. Destruction of video adversely affects SCSO's ability to investigate a claim, exposes SCSO to liability in civil proceedings, and impairs IOLERO's ability to audit the investigation. As a result, it is critical for IA investigators to ensure that they preserve all video in the case file. This is especially important where SCSO has protocols in place to automatically delete video after a designated period of time. In that situation, the only way to ensure that video is preserved is for the IA investigator or others to take action to preserve it.

Additionally, this issue was not unique to the matter we reviewed this year. In 2022, a federal court sanctioned Sonoma County for losing relevant jail footage in another case. The court required the County to pay monetary sanctions, and also allowed the jury to presume that the lost footage was unfavorable to SCSO. (*Bosco Estate v. County of Sonoma*, Order Granting Motion for Sanctions (N.D. Cal. 11/14/2022, Case 20-cv-04859)). Those sanctions highlight the importance of retaining relevant jail footage. They should also have put SCSO on notice of the retention issue.

IOLERO's Completeness Checklist for audits already reflects the importance of retaining evidence. However, because of the importance of jail video in particular, and the adverse impact to an investigation resulting from its being purged or erased, IOLERO has set a bright-line rule: if IA fails to preserve jail footage that was relied upon during its investigation, IOLERO will automatically conclude that the investigation is procedurally "incomplete." This new rule took effect midway through the reporting period. No SCSO investigations have triggered it yet.

I. MADF Staffing Levels

We reviewed a matter in which a complainant argued that (i) staffing shortages directly resulted in increased lockdowns, and (ii) that the offending lockdowns directly resulted in violation of California Code of Regulations Title 15 which sets operating standards for local detention facilities.

We agreed with SCSO's conclusion that the evidence showed this specific complaint lacked merit. Because MADF staffing levels have been the subject of significant public discussion, we outline below some of the considerations relevant to this issue.

Title 15 requires detention facilities have "sufficient" staffing "to ensure the implementation and operation of the programs and activities required by these regulations". (15 C.C.R. § 1027). Title 15 does not set a specific number of required staff at any given time, or set any fixed ratio of staff-to-inmates. Instead, a staffing shortage violates the regulatory requirement only if staffing is not generally "sufficient" to ensure operation of required programs and activities.

The term "sufficient" is not defined, but its ordinary use reflects a flexible range rather than a rigid number. Because each local detention facility has its own unique demographics, population size and needs, it is not practical to identify a standard or set number of staffing applicable to all. This is particularly the case where, as here, the MADF serves as the detention facility for arrests made by all Sonoma County law enforcement agencies (not just SCSO), and is required to house persons serving sentences after criminal conviction based on California's re-alignment policies.

It is well known generally that the MADF has experienced staffing shortfalls in recent years. Some of this may be due to ordinary attrition and general turnover; correctional work is challenging. However, the current shortfall was also caused, in large degree, by the pandemic. Disruptions to facility operations were further exacerbated by COVID isolation requirements, federal, state and local health directives, and increased medical care obligations.

SCSO took various measures to address staffing shortages, including citing and releasing more arrestees before they entered the facility, and reducing its average daily population by transferring inmates to other facilities or releasing persons who



had been booked for misdemeanor charges based on their promise to appear in court (citation). SCSO also required mandatory overtime for its correctional officers and MADF staff (averaging 92 hours per employee per month from September to November 2023), and assigning deputies from the patrol division to the MADF. This final tool – reassignment of patrol deputies – required the cooperation of the employee associations representing Deputies in the MADF and the Law Enforcement Division (patrol). We applaud Sheriff Engram and those Associations for reaching that agreement.

Not surprisingly, meeting these COVID and staffing challenges resulted in frustration for inmates regarding changes to their Out-of-Cell Activity (OCA) time, and the availability and timing of other inmate programs. These frustrations have been aired publicly and are well-known generally. The complainant in the matter we reviewed echoed these frustrations.

Nevertheless, the record we reviewed in that case showed that SCSO was able to meet the general requirements of Title 15. Isolated incidents of non-compliance (for example, with OCA access), or generalized frustration with changes in programs, are not desired by anyone, including SCSO. But on their own, they do not support a more generalized finding that overall staffing was inadequate to properly operate the facility at the minimal levels required by Title 15. We emphasize that this observation is based on, and thus limited by, the single matter that we reviewed this year. Whether other complaints would lead to different assessments is unknown.

We further note that SCSO has been engaged in an extensive campaign to recruit correctional officers and lower the vacancy rate for the MADF. In April 2024, SCSO announced that an additional 26 correctional deputies had been hired, reducing the staff vacancy at the MADF to single digit percentage. This is a significant improvement that should have a positive effect on MADF operations.

Moreover, the Sheriff took the leadership to secure approval from the Civil Service Commission, and other stakeholders, to modernize the requirements for hiring in the MADF such that persons with a legal right to work in the United States can apply, not just citizens of the United States as formerly was the case. This change promises a larger, expanded applicant pool with a wide range of language skills in the future. We think Sheriff Engram deserves credit for making this important change.



J. Dispatch Polices / Procedures for Complaints

We reviewed a matter in which the subject deputy used dispatch records to learn about the complaint before Internal Affairs could begin its investigation. Dispatch personnel received the complaint and entered specific information in their records about it. That allowed the deputy to learn that he was the subject of a complaint, identify the complainant and the incident they were complaining about, and erase potentially incriminating evidence before he was ordered not to.

The IA investigator noted this issue, and recommended that SCSO modify its dispatch policy and/or procedure to prevent this from happening again. IOLERO agreed, and believes that this is an important recommendation for SCSO to implement.



IX. CASES AUDITED BY IOLERO

A. CSO ADMINISTRATIVE REVIEWS (“AR”)

The matters in this section involve Audits of “Administrative Reviews” conducted by SCSO pursuant to “Sonoma County Law Enforcement Chiefs’ Association Critical Incident Protocol 93-1”. The Critical Incident Protocol is an agreement between various Sonoma County law enforcement agencies, including SCSO, as to how certain “critical” incidents such as officer-involved shootings, officer-involved deaths, and in-custody deaths are to be investigated. The Critical Incident Protocol can be found as part of SCSO Law Enforcement Division (Patrol) Policy 305 at https://www.sonomasheriff.org/policies-and-training_



1. IN-CUSTODY DEATH

CASE NUMBER 20-AR-0001

ADMINISTRATIVE REVIEW NO. 1

ORIGIN OF COMPLAINT SCSO Self-Initiated Administrative Review

RACE OR ETHNICITY OF DECEDENT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT No complaint or allegations of misconduct were made. In 2020, Decedent died from methamphetamine overdose while being held at the MADF during the booking stage. SCSO initiated an Administrative Review to assess compliance with law and Policy.

SCSO'S CONCLUSIO SCSO reviewed the incident/investigative report, summarized statements of five deputies, reviewed the sobering cell log, and reviewed the BWC files for the responding deputies. SCSO also reviewed policies concerning medical emergency care, cell checks and critical incident procedure.

Based on these materials, SCSO made findings of **NO VIOLATION NOTED** of law or SCSO Policy by any staff concerning the incident.

IOLERO'S CONCLUSION IOLERO concluded that SCSO's review was **COMPLETE** on discrete issues concerning compliance with use of a cell extraction team, the follow up medical response, and reporting of the death.

However, IOLERO concluded the review was **INCOMPLETE** as an overall assessment of the incident. The Administrative Review was too narrow and did not address substantive issues leading up to the medical response, including whether sufficient procedures were in place and were followed during intake and booking process to detect and prevent an overdose.

Background. The record showed the decedent was arrested on several charges, including drug possession. On arrival at the MADF, he was identified as intoxicated and placed into a sobering cell where staff visually monitored his condition for a couple of hours. Medical staff then directed decedent be brought out of the cell to be medicated when he showed signs of medical distress. An extraction team



removed decedent from the cell but he was now unresponsive. Emergency medical treatment was immediately provided and continued until emergency medical personnel arrived and transported decedent to the hospital where he later died. The Napa County Coroner concluded the cause of death was acute methamphetamine and cocaine intoxication and the manner of death was accidental.

Cell Extraction. The record showed no indication of a violation of the cell extraction policy. Decedent's erratic behavior and refusal to be handcuffed supported the decision to use a team to remove him from the cell for the safety of all persons and for facility security. The team entered the cell and when decedent was found to have "agonal" (distressed) breathing the team immediately brought decedent out of the cell. These actions facially complied with Policy and we **AGREED** with SCSO that there was **NO POLICY VIOLATION NOTED** concerning the use and performance of the extraction team.

Medical Response. On medical response, the record shows that SCSO staff identified decedent's agonal breathing 2 minutes 22 seconds after entering the cell, immediately brought him out of the cell, called for an ambulance, and initiated resuscitative efforts which were continued until emergency medical personnel arrived. These actions facially complied with law and Policy. Indeed, the record shows staff's response was immediate and thorough. We **AGREED** with SCSO that there was **NO POLICY VIOLATION NOTED** concerning the medical response conducted by MADF staff after decedent was removed from the cell.

Reporting. SCSO's violent crimes investigations unit was notified of the incident, the MADF scene was cordoned off and evidence collected, and detectives interviewed a range of MADF staff concerning the incident. This record shows facial compliance with the Critical Incident Protocol and SCSO Policy concerning criminal investigation of an in-custody death. The death was also promptly reported to the California Attorney General's office according to law. We **AGREED** with SCSO that here was **NO POLICY VIOLATION NOTED** concerning the criminal investigation and reporting of the death.

Events Prior to the Cell Extraction.

The U.S. Constitution prohibits detention staff from being "deliberately indifferent" to the "serious medical needs" of an inmate. "Reckless disregard" is the standard, meaning staff must be more than "negligent" but they do not have to intentionally ignore a person's medical needs. Title 15 of the California Code of Regulations also requires detention facilities to provide medical care to inmates. Medical care at

the MADF is provided by California Forensic Medical Group, Inc. (CFMG) under contract. Clinical medical decisions lie solely with the province of medical staff, but medical care must be coordinated with applicable security requirements which MADF correctional officers are obligated by law to enforce. Correctional staff are also responsible for monitoring persons for possible medical issues and reporting them to medical staff.

Medical screening is conducted by both medical staff and correctional staff upon arrival and during booking. If a person is deemed to be intoxicated upon arrival, medical staff may direct placement into a sobering cell until they are sober enough to accurately respond to health and other questions. Sobering cells are monitored visually four times an hour and observations recorded on a log.

SCSO broadly concluded that decedent's death was not due to the fault of any SCSO personnel. This appears to be based on the finding by the criminal investigator that there was no criminal liability by any SCSO personnel. A criminal investigation, however, applies different evidentiary standards and substantive legal rules than does an administrative investigation. An Administrative Review concerning compliance with non-criminal legal and Policy requirements involves materially different (and materially broader) substantive and burden-of-proof standards. Accordingly, an administrative investigation generally cannot rest solely on whether involved persons were cleared of criminal responsibility.

In this case, the in-custody death raises two overarching non-criminal issues: (i) did MADF Staff provide constitutionally required medical care beginning with decedent's arrival at the facility, and (ii) did MADF Staff otherwise comply with regulatory, Policy and contract standards in connection with addressing decedent's state and level of intoxication.

SCSO's report did not address the constitutional standards at all. While the report referenced Detention Policies concerning Medical Emergencies, Booking and Pre-Booking Medical Screening, Sobering Cell placement and Safety Checks, the report did not substantively evaluate these issues as they related to events occurring from the time decedent arrived at the facility until the time he was removed from his cell. Nor did the report evaluate MADF Staff's actions prior to cell removal as they specifically related to medical issues associated with decedent's intoxication. Moreover, the record compiled in the Administrative Review did not include all of the substantive material compiled in the criminal investigation, rendering it impossible for IOLERO to evaluate these issues independently without further investigation.

We must clarify and emphasize that there is no evidence in the limited record that MADF Staff acted with “deliberate indifference” or actually violated any Policy or medical standards, and this Audit should not be construed as suggesting that there was. Rather, we conclude only that the investigation and resulting record was **INCOMPLETE** and was therefore insufficient to support any finding on these questions.

We **NOTED** that this incident occurred in 2020 and reflects prior SCSO practices that have since changed. IOLERO and SCSO have worked jointly to develop a “Completeness” checklist to guide both parties. Those completeness standards are largely a restatement of those previously applied by IOLERO to SCSO’s investigations. Going forward, Administrative Reviews of in-custody deaths should adhere to, and will be measured by, these standards, just as other administrative investigations are. This includes (i) addressing all directly relevant policies in issue (ii) compiling a sufficient evidentiary record (including recorded interviews when necessary) and (iii) preserving all relevant evidence in the investigative database (AIM).

In addition, we **NOTED** that CFMG’s contract was renewed in 2021 and now requires compliance with medical standards for detention facilities issued by the National Commission on Correctional Health Care (NCCHC). SCSO Policies have also been amended in response to the NCCHC requirements. Administrative reviews of in-custody deaths must account for these amended standards.

IOLERO’S RECOMMENDATIONS None.

SCSO’S RESPONSE None.



B. SCSO INTERNAL AFFAIRS ADMINISTRATIVE INVESTIGATION ("IA" OR "PP")

The matter in this section is an SCSO Internal Affairs Administrative Investigation (denoted "IA" or "PP"). An "IA" investigation is not necessarily based on a citizen complaint. Rather, it can be based on facts or reports identified by SCSO internally that could constitute misconduct or Policy violation by an SCSO employee and therefore merits an administrative investigation.

CASE NUMBER 22-PP-0008

INTERNAL AFFAIRS INVESTIGATION NO. 1 RACIAL BIAS / CONDUCT UNBECOMING/
DISCOURTESY

ORIGIN OF COMPLAINT SCSO

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT SCSO conducted a self-initiated internal review of a use-of-force incident in the MADF in which an inmate was taken to the floor, and a deputy deployed three knee strikes and pinned the individual's head to the floor.

SCSO'S CONCLUSION SCSO reviewed Body Worn Camera files and MADF video files, medical records, and internal incident reports. SCSO also interviewed the deputies involved in the incident.

Based on these materials SCSO concluded the deputy acted in accordance with law and Policy in taking the person to the floor, delivering the knee strikes and controlling the person by pinning their head against the floor. Accordingly SCSO concluded the deputy should be **EXONERATED**.

IOLERO'S CONCLUSION IOLERO concluded that the investigation was **COMPLETE**. SCSO reviewed the relevant evidence which showed the specific type and amount of force that was used and the circumstances of its use. SCSO then applied an evaluation of applicable use of force standards to the factual record.

On the merits, IOLERO **AGREED** with SCSO that use of force in this incident complied with law and Policy and that the finding should be **EXONERATED**.

Take Down and Pinning of Body. Applying the Fourth Amendment “objective reasonableness” test, a controlled take down to the ground to gain compliance by a resisting person, and applying pressure to pin a person to the ground, constitute minimal levels of force. See also Californian Commission on Police Officer Standards and Training (POST) guidelines.

In this case the record shows the inmate physically resisted while en route to a cell. The take down was controlled and did not result in unmediated impact against the ground. The deputy then pushed on the back of the resisting inmate’s head to turn them towards the ground. The deputy did not strike the individual and did not use the floor as an impact device. The deputy had a significant interest in maintaining control of the inmate; medical staff were in the immediate area and an unrestrained arrestee could harm others and create a broader security risk to the facility. The balancing of interests and level of force required under the Constitution’s “objective reasonableness” test is in favor of the deputy.

California law also requires a separate analysis of whether the force was proportional to the offense or threat. SCSO questioned the deputy about “proportionality” of using knee strikes (discussed below), but not about the take down and pinning of the body. We **NOTED** that SCSO should separately discuss “proportionality” in each use of force review for each level of force applied, even if proportionality is reasonably evident from the record or may require only a brief discussion.

In this case, the record shows the force was at the lower end of the severity spectrum, was temporary, and was limited to gaining physical control in a correctional setting. There is nothing in the record showing that the inmate was particularly susceptible to physical harm from such techniques (or if he was, that MADF staff was reasonably aware of such susceptibility). A deputy’s belief that the minimal level of force used was proportional to the inmate’s level of resistance and the associated security risks is reasonable in these circumstances. Accordingly we agreed that a preponderance of the evidence shows that the takedown and head control techniques were reasonably proportional as required by California law.

California law also requires de-escalation be employed if feasible. The record showed no alternative de-escalation avenues were reasonably feasible once the inmate attempted to break away from the deputy’s physical control. The Use of Force Review did note that it would have been better practice had the inmate been

handcuffed immediately once the deputies decided to place him back into his cell, and that this may have reduced the eventual need for force. We agreed with this observation and SCSO's directive for deputies to take this step. Nevertheless, once the inmate attempted to break away from the deputy's physical control, alternative de-escalation methods not involving use of force were no longer reasonably feasible.

SCSO Policy 300 permits pain compliance techniques to gain control of an actively resisting person (in line with POST guidelines). However, we noted that SCSO's definitions of "active" resistance was ambiguous. IOLERO accordingly reviewed SCSO Policy using general rules of interpretation and interpreted the Policy in a manner consistent with the POST guidelines, and strongly recommended SCSO revise the definition of active resistance to clarify its operation.

Knee Strikes. Applying the Fourth Amendment "objective reasonableness" test, knee strikes can inflict substantial injury and are generally viewed as "intermediate" or "significant" force.

The record showed that after being taken to the floor, the inmate ignored deputies directives and continued using arms and hands to raise himself up from the floor. While the likelihood of breaking away was reduced, the inmate was still in a position to strike a deputy, grab a utility item on a belt, and inflict injury. Prolonged resistance increased security risk to the facility overall, and the deputy had a significant interest in using knee strikes to secure the inmate quickly. The knee strikes were limited in number and they were terminated when the deputy transitioned to a lesser force of pinning to the ground. A correctional officer faced with these circumstances could objectively and reasonably conclude that knee-strikes to divert a resisting person's attention and gain compliance was appropriate.

The record shows that one knee strike hit the inmate in the back of the head, and intentional strikes to the head or neck could render otherwise an otherwise reasonable force technique excessive. The record showed that the knee strikes were aimed at the back of the inmate's shoulder and that contact to the back of the head was inadvertent and not intentional.

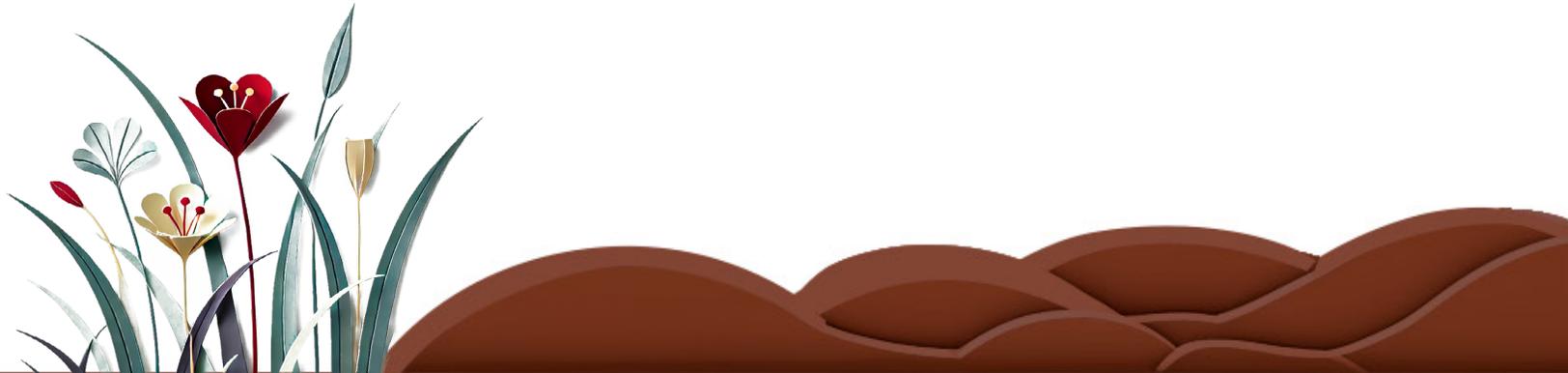
On proportionality, the deputy explained that the only alternatives he had was to pull on the inmate's arm (which he tried) or to use closed fist strikes which would have compromised his hold on the inmate. The record supports this explanation, and the deputy's belief that using limited knee strikes under these circumstances was proportional to the resistance and threat was objectively reasonable.

The also record shows no feasible de-escalatory alternative was available to control the inmate once he began to physically resist.

Finally, SCSO Policy requires deputies to consider whether pain compliance techniques such as knee strikes can be controlled, whether the person can comply with directives and whether they are provided sufficient opportunity to comply. The record showed the inmate was capable of complying and was provided an opportunity to comply. The deputy was also capable of controlling the force used based on the level of resistance, although we noted that aiming strikes at the shoulder risked missing and striking the head. Accordingly we agreed that the deputy's use of knee strikes complied with SCSO's pain compliance Policy.

IOLERO'S RECOMMENDATIONS SCSO revise the language of Use of Force Policy § 300.1.1 defining "active resistance/assaultive behavior" to address the structural and substantive ambiguity in the current language, and to bring it in line with POST and other prevailing legal requirements.

SCSO'S RESPONSE SCSO implemented the suggested revision to its Use of Force Policy.



C. CITIZEN COMPLAINTS (“C”)

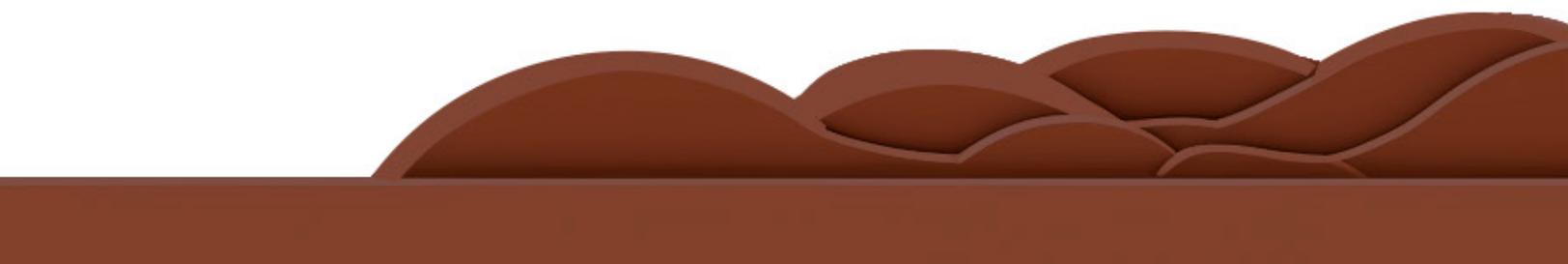
The Audits in this section concern complaints made by citizens concerning officer or employee conduct. These make up the bulk of matters reviewed this past year.

A citizen can submit a complaint directly to SCSO, or they can submit it to IOLERO which records the complaint and transfers the matter to SCSO for investigation.

An inmate in the Main Adult Detention Facility (MADF) may also submit a complaint to SCSO or IOLERO. Because pursuant to state law the MADF has a separate internal process for handling inmates’ “grievances” concerning “conditions of confinement”, SCSO may preliminarily assess whether the matter should be processed through the MADF “grievance” process or separately investigated by SCSO for IOLERO Audit and review.

Citizen complaint investigations are conducted under SCSO Policy 1010 which outlines the procedures for investigating complaints against SCSO employees. Policy 1010 is part of SCSO’s Law Enforcement Division (Patrol) Policies which can be reviewed at <https://www.sonomasheriff.org/policies-and-training>.

The Audits listed below involve citizen complaints spanning a wide range of topics and they are organized below by the predominant issue raised by the complaint.



1. PATROL

A. INVESTIGATORY CONDUCT

CASE NUMBER 23-C-0005

CITIZEN COMPLAINT NO. 1 CONDUCT UNBECOMING; DISCOURTESY;
BREACH OF DUTY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged a deputy was rude and disrespectful when responding to a domestic violence call.

SCSO'S CONCLUSION SCSO reviewed the incident reports and the BWC files for the responding deputies. Based on these materials, SCSO found that the deputy responded to the domestic violence appropriately and within Policy and concluded that the claim was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The documentary materials and BWC files showed in detail the events under review. We noted that an administrative interview with the complainant is generally preferred, but in this case the record and circumstances were more than sufficient to resolve the claim without this step.

On the merits, IOLERO **AGREED** with SCSO's finding. The record showed the deputy responded to the domestic call and engaged with the complainant appropriately and as required by law and policy. The complainant's characterization of the deputy's actions was not objectively supported by the record. Accordingly, we agreed with SCSO's finding of **UNFOUNDED** on this claim.

IOLERO **NOTED** that a separate deputy's comment during the response call raised a question regarding whether, and to what extent, that deputy relied on one of the party's status as a former law enforcement reservist when assessing credibility. This reference did not compromise the investigative outcome in this matter, but it did raise a substantial question concerning credibility determinations in general.

IOLERO'S RECOMMENDATIONS We **RECOMMENDED** that SCSO review this issue of law enforcement status and credibility determinations, both generally and in the context of domestic violence calls, for clarification.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0012

CITIZEN COMPLAINT NO. 2DISHONESTY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged an SCSO officer directed another SCSO officer to alter a traffic citation issued to complainant to reflect a non-existent DUI charge.

SCSO'S CONCLUSION SCSO reviewed court records, the traffic citation, a notice of correction, and incident report. SCSO also twice interviewed complainant, and concluded the claim was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The investigator reviewed relevant materials and spoke with complainant to clarify the allegations. This was sufficient to address the claim.

On the merits, the record showed complainant received a traffic citation, and later received a DUI charge in a separate incident. The two cases were consolidated by the court which may have confused complainant. But the record was clear that no officer directed the traffic citation be amended to reflect a non-existent DUI charge as alleged. Accordingly we agreed with SCSO that the finding on this claim should be **UNFOUNDED**.

The record also showed the original traffic citation was amended in a manner unrelated to any DUI charge. SCSO did not reviewed this amendment specifically but this did not alter the completeness of the review or SCSO's findings. To eliminate any uncertainty, IOLERO independently review this issue and concluded that the amendment was made according to law and Policy. To the extent complainant may have been disputing the amendment, we concluded that SCSO officers should be **EXONERATED**.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0022

CITIZEN COMPLAINT NO. 3 DISCOURTESY; NEGLECT OF DUTY

ORIGIN OF COMPLAINT IOLERO – Submitted Online

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that an SCSO Deputy engaged in Discourtesy, Neglect of Duty, and Improper Procedure when they responded to a call for service concerning alleged violations of a noise ordinance on and around the area surrounding the Complainant's dwelling unit.

SCSO'S CONCLUSION SCSO investigated the allegations, conducting interviews of the Deputy and the Complainant. The Investigator also reviewed all of the available and relevant Computer Assisted Dispatch records associated with the call for service.

SCSO narrowed the scope of its investigation to cover only the allegation of Discourtesy. Based upon its investigation, SCSO found that the allegation of Discourtesy was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation to be **COMPLETE**. The investigation was thorough, and the evidence compiled and reviewed by the Investigator, including the interviews of the Deputy and the Complainant, were sufficient to resolve the issues presented in the complaint.

On the merits, IOLERO **DISAGREED** with SCSO's finding of **UNFOUNDED** as to the allegation of Discourtesy. IOLERO's disagreement was due to the fact that the interaction between the Deputy and the Complainant did occur, however the Deputy's conduct during the call was within the bounds of SCSO's related policies. Therefore, a finding of **EXONERATED** was more appropriate.

Although SCSO did not review the allegation of Neglect of Duty, IOLERO separately addressed this allegation. IOLERO found that the Deputy should be **EXONERATED** as to the same, as the deputy fulfilled his obligations and duties under SCSO's policies concerning the patrol function. Specifically, the evidence under review supported the Deputy's choice to close the investigation following their determination that

no crime had occurred, especially in light of the fact that Sonoma County lacks a specific noise ordinance separate from the state law prohibition against Disturbing the Peace contained within California Penal Code 415.

IOLERO’S RECOMMENDATIONS None

SCSO’S RESPONSE None.

CASE NUMBER 22-C-0029

CITIZEN COMPLAINT NO. 4

**CONDUCT UNBECOMING OF A DEPUTY;
UNNECESSARY OR EXCESSIVE USE OF FORCE; IMPROPER PROCEDURE
OR COMPLAINT AGAINST POLICY; NEGLIGENCE
OF DUTY; DISHONESTY**

ORIGIN OF COMPLAINT IOLERO – Submitted Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant filed a complaint after a dog owned by the Complainant’s family entered a neighboring property and harmed livestock owned by the neighbors.

The neighboring property owner, an off-duty non-SCSO peace officer, discharged a firearm and struck the dog. The Complainant claimed that following their call into SCSO’s dispatch, SCSO refused to come to the scene of the incident.

The Complainant felt that SCSO should have physically responded to the scene in light of the discharge of a firearm, but did not. The Complainant further claimed



that they and their family members made a second call in to SCSO dispatch, but that SCSO's personnel still did not show up at the scene of the incident. The Complainant articulated that they believed SCSO's decision not to respond to the physical location was due to the fact that SCSO knew that the property owner who discharged the firearm was a peace officer in a neighboring jurisdiction.

SCSO'S CONCLUSION SCSO's investigator conducted investigative interviews of both the Complainant and the SCSO Deputy that responded to the call for service. Additionally, SCSO reviewed relevant Computer Assisted Dispatch Records, recorded dispatch audio, and relevant state and local law, particularly California Food and Agriculture Code §§ 31102, 31103, and Sonoma County Code of Ordinances § 5-146.

Based on its review of the complaint and relevant substantive materials, SCSO narrowed the scope of its investigation to cover only the allegations of Neglect of Duty and Conduct Unbecoming.

Concerning Neglect of Duty, the Investigator found that the Deputy should be **EXONERATED**, reasoning that the Deputy did not neglect their duties, and had not failed to properly follow any procedures or relevant policies.

Concerning Conduct Unbecoming, the Investigator found that the Deputy should be **EXONERATED**, reasoning that the Deputy's response to the call for service was within policy, and that there was no evidence in the record demonstrating that the Deputy brought discredit upon SCSO.

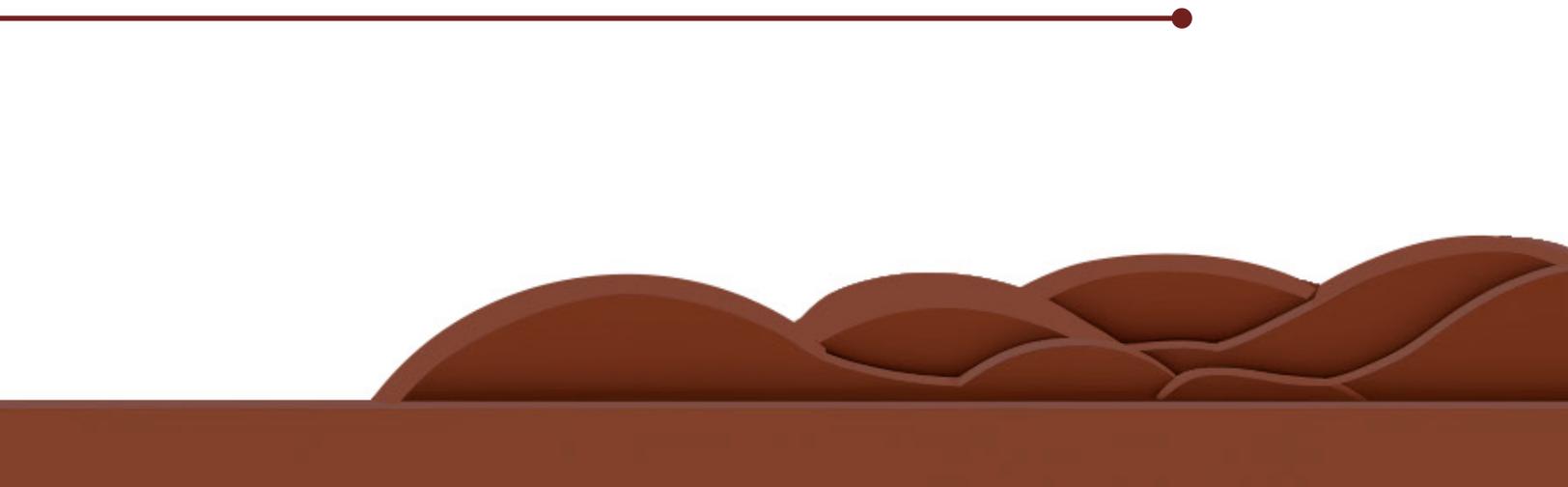
IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **COMPLETE**. The investigator gathered the facts and information necessary to reach a determination as to each of the respective allegations in the complaint. The investigator's choice to narrow the allegations to only those backed by the narrative in the complaint did not negatively impact the completeness of the investigation.

IOLERO **AGREED** with SCSO's findings of **EXONERATED** as to both Neglect of Duty and Conduct Unbecoming. IOLERO found that the Deputies' actions were appropriate and within policy, particularly SCSO's policy concerning termination of criminal investigations, wherein SCSO's Deputies are empowered to terminate investigations into alleged criminal conduct upon determining that no crime had actually occurred. SCSO's deputy exercised his discretion under that policy based upon his knowledge that California state law and local ordinances authorize the owners of livestock to use firearms to defend livestock, particularly against canines.

IOLERO however **NOTED** that SCSO assigned the immediate supervisor for the Deputy under investigation to conduct the internal affairs investigation, and seemingly did so as a “formal” investigation under SCSO’s Policy § 1010. That same Investigator was directly involved in the investigation into the firearm discharge. Notably, the Investigator was involved in dispatch communications concerning the event, and the dispatch audio and CAD records under review in the investigation confirmed as much. Additionally, the Investigator used their personal knowledge stemming from their involvement in the incident in order to develop their findings in the internal affairs investigative narrative. While the record didn’t contain any direct evidence of a clear conflict of interest, IOLERO felt it necessary to highlight the potential for such a conflict due to the manner in which SCSO assigned the investigation. Accordingly, IOLERO recommended that SCSO adopt a policy explicitly tailored to the issue of conflicts of interests for investigators for Personnel Complaints under SCSO Policy § 1010, as discussed below.

IOLERO’S RECOMMENDATIONS IOLERO **RECOMMENDED** that SCSO adopt a policy explicitly tailored to the issue of conflicts of interest in Personnel Complaints under SCSO Policy § 1010. IOLERO recommended that such a policy contain a mechanism by which SCSO personnel could be screened from investigating conduct which they were involved in to any degree. Such a policy should include direction to SCSO’s Internal Affairs about when a direct supervisor should or should not be assigned a particular investigation. In addition, IOLERO recommended that such a policy give specific guidance about when other relationships between the investigator and the accused member require assigning a different investigator, such as past history of being partnered together on assignments, close familial relationships, financial relationships, and the like. IOLERO further recommended that SCSO make application of this policy and screening of its investigators a routine step at the outset of the investigation, and memorialize as much through its Internal Affairs supervisors, or the assigned investigator.

SCSO’S RESPONSE None.



CASE NUMBER 23-C-0023

CITIZEN COMPLAINT NO. 5

**CONDUCT UNBECOMING OF A
DEPUTY; BIAS-BASED POLICING; IMPROPER PROCEDURE OR COMPLAINT
AGAINST
POLICY; DISCOURTESY; NEGLECT OF DUTY; DISHONESTY**

ORIGIN OF COMPLAINT IOLERO – via interview of Complainant

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant alleged that SCSO's ongoing investigation into the death of their relative was inadequate and incomprehensive, plagued by bias-based policing practices due to the Complainant's place of residence, and that the three (3) SCSO detectives assigned to the case were discourteous to the Complainant and their family members during contacts with the family regarding the ongoing investigation.

In total, the complaint contained eight (8) substantive allegations:

1. SCSO's Detectives failed to conduct additional interviews of individuals that the Complainant believed had further information concerning the decedent's death;
2. SCSO's Detectives failed to follow investigative leads and information offered by the Complainant and her family members as to particular individuals;
3. SCSO failed to treat the decedent's romantic partner as a suspect in the investigation;
4. SCSO's investigation of both the scene where the decedent's body was recovered and the decedent's vehicle was inadequate. The investigation of the scene was alleged to be inadequate due to failure to recover evidence associated with the alleged crime. The Complainant further alleged that the vehicle search was inadequate due to it only lasting for one singular day,

and the inventory search of the vehicle left drugs/drug paraphernalia in the vehicle when the vehicle was returned to the family;

5. SCSO did an inadequate job of documenting the condition of the decedent's body following its recovery by SCSO personnel, and further failed to inventory potential evidence relating to the same;
6. SCSO's Detectives were "rude" to the Complainant and her romantic partner, and further that the Detectives were dismissive of information offered by the family, didn't return phone calls, and were "dishonest about their intentions to follow up on information" offered by the family;
7. One of the three Detectives assigned to the case had told the Complainant and her family that they "[weren't] going to waste [their] time chasing down drug addicts and ghosts," and that this comment constituted discourteous behavior;
8. SCSO engaged in bias-based policing due to the fact that the Decedent and her family were residents of the Guerneville area and treated residents of the area like "trash." The Complainant added that each of the respective Detectives involved in the investigation shared in this bias.

SCSO'S CONCLUSION In reviewing the allegations contained in the Complaint, the Investigator chose to investigate six (6) separate types of misconduct as to each of the three (3) detectives: 1) Conduct Unbecoming of a Deputy; 2) Bias-Based Policing; 3) Improper Procedure or Complaint Against Policy; 4) Discourtesy; 5) Neglect of Duty; and, 6) Dishonesty. The investigator applied all six types of alleged misconduct to each of the respective Detectives, for a total of eighteen (18) claims.

Notably, at the time of the complaint and following Internal Affairs investigation, the suspicious death investigation concerning the decedent remained ongoing.

SCSO's investigator conducted a comprehensive review of the entire investigative file compiled by SCSO relating to the decedent's death, telephonic interviews, attempted in-person meetings, and email communications with the Complainant and their family members, and further conductive investigative interviews with each of the respective SCSO Detectives that were a part of the suspicious death investigation.

SCSO's investigator ultimately concluded that of the eighteen (18) total allegations, seventeen (17) were **UNFOUNDED**. For the singular remaining allegation, the allegation of discourtesy against one of the Detectives, the investigator concluded that the Detective should be **EXONERATED**.

Relating to the claims levied in the Complaint, the investigator found that SCSO:

1. Conducted interviews of each of the individuals identified by the Complainant and their family, and communicated as much to the family;
2. Followed the investigative leads offered by the Complainant and their family, and conducted interviews with each of the respective individuals associated with those leads and expended significant time doing so;
3. Treated the decedent's romantic partner as a suspect, and had subjected said individual to over 12 hours of recorded custodial interviews as part of the investigation;
4. SCSO's detectives conducted evidentiary sweeps and investigation into the scene where the decedent's body was recovered, and had afforded the Complainant and their family the opportunity to canvas the area and point out additional items that they believed could be related to the investigation. Additionally, the decedent's vehicle was recovered and inventoried over the course of three (3) days, and that there was not any evidence in the record to support the claim that the vehicle had been returned to the Complainant's family with drugs and drug paraphernalia still in the vehicle.
5. The Complainant's claims regarding the alleged mistakes and oversights of SCSO's Detectives concerning the recovery and investigation of the decedent's body were not supported by the record, and were contradicted directly by the investigative materials reviewed.
6. The Detectives that had interacted with the Complainant's family were "at all times professional, at times spoke unfortunate truths while being compassionate . . ." and that the respective detectives "did their best [to] track down the origin of the information provided [by the Decedent's family]" but that none of that information had panned into "credible leads." Furthermore, the Investigator found that the Decedent's family members had been offered, and scheduled meetings with the Detectives multiple times, but either cancelled or failed to attend scheduled meetings with the Detectives.
7. Concerning the allegation that one of the three Detectives had made discourteous statements, the investigator relayed that the Detective denied ever having made the quoted statement, but did state that they had been "blunt" with the family regarding exhaustion of investigative efforts relating to the rumors surrounding the Decedent's death, and obstacles imposed

by other contemporaneous investigations. The investigator also noted that the Complainant had allegedly recorded the conversation from which the allegation arose, but failed to provide such a recording to the investigator when prompted.

8. The investigator found that there was no indication that any SCSO employee practiced bias during the investigation, and that the allegation was completely without merit. The investigator found that the investigation into the Decedent's death was "handled as any other investigation of this nature" would have been. The Investigator further noted that the respective Detectives had "worked diligently to find answers . . . utilized all modernized procedures and resources . . ." and that "there is no credible verifiable information or evidence to show that [Decedent's] death was a result of criminal action by another."

IOLERO'S CONCLUSION IOLERO found SCSO's investigation to be **COMPLETE**. The investigation gathered all facts necessary to resolve the various allegations raised by the Complainant. IOLERO noted that of the eighteen (18) individual allegations, seventeen (17) of them could be resolved by a simple review of the associated investigative record assembled by SCSO's detectives and investigative personnel. For the singular remaining allegation of Discourtesy, the Investigator exhausted all potential avenues of investigation, and the Complainant's failure to produce materials allegedly corroborating their allegations (which were contradicted by the existing record) contributed directly to said exhaustion.

IOLERO however **NOTED** that the Internal Affairs Narrative generated by the investigator contained no substantive analysis of SCSO's policies or relevant law concerning the allegations levied in the Complaint. IOLERO accordingly reiterated the importance of including a substantive analysis of the applicable policies and law to the factual record.

IOLERO **AGREED** with SCSO's respective conclusions of **EXONERATED** and **UNFOUNDED** with regard to all eighteen (18) individual allegations.

IOLERO applied SCSO's policies to the facts, and found that under SCSO Policy § 320 (which requires *inter alia*, that SCSO personnel refrain from discourteous, disrespectful, discriminatory, dishonest, or unbecoming conduct) the allegations of Dishonesty and Conduct Unbecoming were wholly **UNFOUNDED** and unsupported by the record. The allegation of Discourtesy was **UNFOUNDED** as to two of the detectives as there was no evidence supporting the allegation. IOLERO **AGREED** with the finding of **EXONERATED**, as the conversation between the Complainant's family and the detective did occur, however the preponderance of the evidence did not support the allegation.

Concerning the allegations of Neglect of Duty and Improper Procedure/Complaint Against Policy, IOLERO **AGREED** with SCSO's finding that the respective allegations were **UNFOUNDED**.

IOLERO applied SCSO Policy § 320.5.7, which prohibits SCSO personnel from engaging in Neglect of Duty, and found that the three Detectives at no time neglected their duties. Jointly, IOLERO found that the Complaint articulated no direct accusations of how SCSO's policies were either violated or misguided/non-aligned with existing law. Further, IOLERO found that the existing evidence clearly demonstrated that to the extent any such allegation existed, SCSO's personnel followed all existing investigative procedures associated with the actual investigative processes employed by SCSO.

IOLERO also AGREED with the finding of **UNFOUNDED** as to the allegation of Bias-Based Policing. Applying SCSO Policy § 410 *et seq*, IOLERO found that the Complainant's accusations did not identify any belonging to membership within a protected class under covered by the bias-based policing policy, and that as a result, it needn't endeavor to analyze the issue any further to reach a finding of unfounded.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0021

CITIZEN COMPLAINT NO. 6

IMPROPER PROCEDURE OR COMPLAINT AGAINST POLICY

ORIGIN OF COMPLAINT IOLERO – via Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant was in a long-standing dispute with a neighboring property owner concerning the use of a portion of their property as a shooting range.



The Complainant claimed that SCSO personnel's repeated decisions regarding whether or not the use of the shooting range constituted criminal activity under the Sonoma County Municipal Code Chapter 19A, which provides that "[a]ny person who discharges any small arm device within one hundred fifty (150) yards of any building, dwelling house, camp, or other place where human beings inhabit, assemble, frequent, or pass, excepting publicly maintained roads, said one hundred fifty (150) yard area being hereby declared a 'safety zone,' is guilty of a misdemeanor."

The Complainant believed that SCSO's interpretation and application of the ordinance was in error, and requested that IOLERO help to "force a temporary halt to the shooting while the safety and legal issues are addressed."

SCSO'S CONCLUSION SCSO investigated the complaint on the basis of SCSO's internal Rules and Regulations Regarding Conduct, and § 5.B.2 and 8, which requires that SCSO personnel, *inter alia*, observe, obey, and uphold laws, further that they "maintain law and order."

SCSO found that all of the SCSO personnel who had responded to the scene of the dispute found that there was "no clear evidence [the shooting range/shooting range owner] was in violation of Sonoma County Ordinance 19.A-5 (*sic*), 246 PC or 246.3 PC or any other crime" and that therefore no employee of SCSO had failed to maintain law and order, reaching a conclusion of **EXONERATED**.

IOLERO'S CONCLUSION IOLERO began its analysis by noting that IOLERO does not have the authority to oversee or direct SCSO with regard to its criminal investigative function, noting that Sonoma County Code of Ordinances Article XXVII, Title 2 §2-394(c) (amongst other authorities) states that "IOLERO shall not be authorized to . . . interfere with the performance of the powers and duties of the sheriff-coroner as prohibited by law." IOLERO further noted that the determination of whether a property owner's weapon discharge on their property complies with criminal statutes or ordinances lies within the investigative function of SCSO and/or the prosecutorial functions of the Sonoma County District Attorney's Office, and is therefore outside of IOLERO's authority. IOLERO further noted that the same applied to determinations of possible civil or administrative recourse that the Complainant may explore through the judicial system or administrative agencies, noting that the under Sonoma County Code of Ordinances Article XXVII, Title 2 §2-394(c) "IOLERO shall not be authorized to . . . [d]ecide policies, direct activities, or impose discipline on other county departments, officers, or employees."



IOLERO found that to the extent that SCSO's investigation investigated compliance with SCSO's policies, the investigation was **COMPLETE**. IOLERO found that the investigator reviewed the relevant investigative materials compiled by the numerous SCSO personnel that had responded to the property, relevant body-worn camera footage, and applicable statutes and ordinances. The investigation was sufficient to reasonably address and resolve the question of whether SCSO's responses to the calls for service and resulting criminal investigation generally complied with SCSO's related policies.

IOLERO however **NOTED** that the investigator did not provide a substantive analysis or interpretation of the Rules and Regulations cited in support of their finding. IOLERO reiterated that such an analysis is critical to identifying the basis on which the claim is being reviewed, and to provide substantive understanding as to how SCSO interprets its policies and regulations, and further reiterated the need for such an analysis in future matters.

IOLERO analyzed the allegations under SCSO Policy §§ 320, 400, and 600, and SCSO's Office Wide Policy and Procedure Manual, Rules and Regulations Regarding Conduct, Section 5.B. IOLERO found that SCSO responded to calls concerning the shooting range, and conducted an extensive investigation, created written records of their responses which documented its evaluation of applicable statutes and ordinances, and ultimately recorded its finding that no criminal conduct or probable cause existed to pursue criminal charges and/or arrest. IOLERO further found that there was no evidence suggesting that SCSO's investigation of the shooting range was incomplete or otherwise not in accord with the requirements of SCSO's policies.

Accordingly, IOLERO **AGREED** with SCSO's finding of **EXONERATED** as to all involved SCSO members.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0028

CITIZEN COMPLAINT NO. 7

NEGLECT OF DUTY

ORIGIN OF COMPLAINT IOLERO – Via Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that two personnel within SCSO's Violent Crimes Investigations Unit had ignored a report prepared and provided to SCSO by a private investigator, which contained "substantial circumstantial evidence" implicating an individual as a survivor of the "Hitchhiker Murders and Zodiac Killer cases." The Complainant alleged that the failure to investigate and address the information provided to SCSO had caused improper medical care, deprivation of the subject's rights, and an "escalation of crisis and emotional suffering."

SCSO'S CONCLUSION SCSO's investigator conducted an interview of the Complainant via phone to seek additional clarity on the nature of the allegations in the complaint. During the course of the conversation with Complainant, the investigator provided information to the complainant regarding SCSO's inability to convey information regarding direct access to information concerning ongoing investigations. The Investigator also clarified that SCSO had never received any form of contact from the subject of the Complaint, separate from the contacts and information that it had with the Private Investigator. Finally, the Investigator clarified that the allegations regarding medical care and emotional crises and suffering were unrelated to SCSO's actions.

As a result of its investigation, SCSO reached a finding of **UNFOUNDED** as to the allegations. The Investigator stated that they "determined no violations of policy or law occurred regarding the two named SCSO employees.

IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **COMPLETE**. The investigator took necessary investigative steps to gather the information sufficient to reasonably address the alleged misconduct and conduct a substantive analysis of the information under the applicable SCSO policies and law. Namely, the investigation gather sufficient facts to address the Complainant's allegations that SCSO: 1) intentionally ignored the report provided by the Private Investigator; and 2) did not take the report's content seriously.

IOLERO however **NOTED** that the Internal Affairs narrative provided by SCSO provided no substantive analysis of SCSO's policies or relevant law. IOLERO further reiterated the importance of substantive analysis, and requested that SCSO do so going forward.

IOLERO **AGREED** with the finding of **UNFOUNDED** as it related to the claim that SCSO ignored the Private Investigator's report. SCSO's VCI Bureau received the report, created appropriate investigative records stemming from the same, and provided confirmation of receipt to the Private Investigator via telephone. The preponderance of the evidence shows that SCSO did not ignore the report at all, and therefore the accusation was unfounded.

IOLERO separately found that SCSO's personnel should be **EXONERATED** as to the allegation that they failed to investigate the criminal matters that are the subject matter of the report proffered by the Private Investigator. Looking to SCSO Policy §§ 320, 400, and 600 as a basis for its review, IOLERO noted that the investigation concerning the report was ongoing at the time that the Complaint was filed, and that SCSO had not reached any investigative conclusions regarding the criminal matters that were the subject of the Report. IOLERO reiterated that the investigation concerned a "cold" case, and that as a result the investigation was subject to limitations imposed by finite agency resources and consideration for addressing more recent active matters. IOLERO concluded that although SCSO had accepted the report, begun its investigative process concerning the same, and had not reached a conclusion, there was no record evidence supporting the claim that SCSO's VCI personnel had failed to investigate the matter as required by policy.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0009

CITIZEN COMPLAINT NO. 8

RACIAL PROFILING/BIAS-BASED POLICING

ORIGIN OF COMPLAINT IOLERO – via Online

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complainant was subject to a brief interaction with an SCSO Deputy while the Deputy was en route to a separate call for service in the area. The Complainant claimed that he was unlawfully stopped, and that the Deputy “threatened” the Complainant. The Complainant further claimed that he was targeted by the Deputy because they are “not white. . .” and “. . . Latin or poor.”

SCSO’S CONCLUSION SCSO investigated the claim on the bases of 1) Discourtesy; and, 2) Bias-Based Policing.

Although the Complaint contained an indication that the Complainant believed the Deputy committed Conduct Unbecoming, Improper Procedure or Complaint Against Policy, and Dishonesty, no facts described in the narrative portion of the Complaint supported such claims.

SCSO’s investigator gathered and reviewed records relating to the Complainant’s claims, and conducted an administrative interview of the subject Deputy, subject to an administrative admonition.

SCSO’s investigator concluded that the Deputy should be **EXONERATED** as to the allegations of both Discourtesy and Bias-Based Policing.

The Investigator found that the Deputy had “legal authority to contact [the Complainant] for potential vehicle code violations and/or detain [Complainant] and further conduct a search based on the conditions of the Complainant’s probation/parole terms.” The Investigator further found that “[i]n Lieu of a law enforcement detention and possible criminal investigation, [the Subject Deputy] chose to have a community caretaking conversation with [Complainant] that became verbally confrontational. The Investigator concluded that the Deputy was not discourteous to the Complainant in any form.



Concerning Bias-Based Policing, the Investigator concluded that the Deputy's prior knowledge of the complainant's status as a parolee, in combination with the apparent violations of the vehicle code and related safety risks, gave the Deputy the right to stop and detain the Complainant, but that the Deputy chose to handle the incident at a lower level "community caretaking event."

IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **INCOMPLETE**.

Here, the Investigator's review of the complaint and associated materials, and subsequent investigation by SCSO's investigator were sufficient to reasonably resolve the issues presented by the Complaint, and otherwise complete. However, the Investigator failed to investigate and analyze a facially apparent body-worn camera policy violation. The Investigator recognized the body-worn camera policy violation, addressed it in the administrative interview of the subject Deputy, however they did not address the issue in the Internal Affairs Narrative. IOLERO did note that the investigator *could* have developed an analysis of the body-worn camera policy violation based upon the record, but did not do so. Accordingly, IOLERO found the investigation incomplete.

IOLERO **AGREED** with SCSO's findings of **EXONERATED** as to both the allegation of Discourtesy and Bias-Based Policing.

Concerning Discourtesy, IOLERO found that neither account (the Deputy's and the Complainant's, respectively) contained any evidence demonstrating discourtesy on the part of the subject Deputy. IOLERO however **NOTED** that the investigator chose not to address the issues of Dishonesty and Conduct Unbecoming, but further reasoned that a similar result could be reached, as there was also no record evidence to support either claim. IOLERO further noted that the law would have supported the subject Deputy taking further action to detain the Complainant based on their violation of the California Vehicle Code and related Sonoma County Ordinances, however the Deputy used their discretion to keep the investigation at a lower level.

Concerning the allegation of Bias-Based Policing, IOLERO found that while the Complainant did belong to qualifying protected classifications, the evidence did not support the claim that the Deputy's choice to interact with the Complainant was based on their belonging to those protected classifications. In fact, the record did not contain any record evidence to support such a claim. Instead, a preponderance of the evidence showed that the Deputy engaged the Complainant due to facial violations of the Vehicle Code and County Ordinances. Accordingly, IOLERO found that the Deputy should be Exonerated.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0031

CITIZEN COMPLAINT NO. 9

DISCOURTESY; NEGLECT OF DUTY

ORIGIN OF COMPLAINT IOLERO – Via Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant and members of their household were at their place of residence when SCSO executed a search warrant relating to a series of commercial burglaries in the greater Santa Rosa area.

The Complainant alleged that the SCSO personnel involved in the execution of the search warrant “approach[ed] the situation very aggressively and disrespectfully.” The Complainant also believed that the search warrant and its execution were improper and outside SCSO’s policy, as per the Complainant’s words, a search warrant “must be signed by a judge with detailed information of address of place the search occurred and items that are being searched for.”

The Complainant checked the following boxes on the Complaint Form submitted to IOLERO: 1) Conduct unbecoming; 2) Improper Procedure or Complaint Against Policy; 3) Unnecessary or Excessive Use of Force; 5) Discourtesy; and 6) Dishonesty.

The Complaint named two SCSO personnel involved with the execution of the search warrant as being involved.

SCSO’S CONCLUSION SCSO’s Investigator gathered Computer Aided Dispatch, the underlying search warrant, arrest/detention reports, Incident/Investigation Reports and related Supplemental Reports, Use of Force Reports, Operation Orders, and available Body-Worn Camera recordings. SCSO also conducted an interview of the Complainant prior to their filing of a Complaint. SCSO’s investigator conducted further administrative interviews of the two named SCSO personnel, as well as non-administrative interviews of other SCSO personnel present on the day of the search warrant’s execution.

SCSO’s Investigator reviewed the allegations in the Complaint, and resolved to treat the allegations as applying only to the two SCSO personnel named in the Complaint. The Investigator investigated the two respective personnel for 1) Conduct Unbecoming; 2) Improper Procedure or Complaint Against Policy; 3) Unnecessary



or Excessive Use of Force; 4) Discourtesy; and 5) Dishonesty. For purposes of this summary, IOLERO will refer to the involved SCSO personnel as “Det. 1” and “Det. 2.”

SCSO’s Investigator found that the allegation of Conduct Unbecoming was **UNFOUNDED** with regard to both SCSO Personnel.

SCSO’s Investigator further found that Det. 1 should be **EXONERATED** as to the allegation of Improper Procedure or Complaint Against Policy. Separately, the Investigator found that the allegation of Improper Procedure or Complaint Against Policy was **UNFOUNDED** as to Det. 2.

Furthermore, the Investigator found that both personnel should be **EXONERATED** as to the allegation of Unnecessary or Excessive Use of Force.

The Investigator found that the allegation of Discourtesy was **UNFOUNDED** as to both personnel.

Finally, the Investigator found that Det. 1 should be **EXONERATED** as to the allegation of Dishonesty, and that the same allegation was **UNFOUNDED** as to Det. 2.

IOLERO’S CONCLUSION IOLERO found that SCSO’s investigation into the Complaint was **COMPLETE**. The Investigator’s decision to limit the evaluation of the allegations levied in the complaint to only the SCSO personnel named in the Complaint was a reasonable. This was, in part, due to the fact that the Complainant did not return or answer any of the Investigator’s phone calls after the Complainant filed the Complaint, and thus prevented the Investigator from seeking clarity as to the allegations.

IOLERO **NOTED** that due to the lack of clarity in the narrative portion of the Complaint, as well as the timing of the Complainant’s contact with SCSO/the IA Investigator prior to the filing of the Complaint, the allegations *could* have related to the Complainant’s interactions with the IA Investigator themselves, and that this was not considered by the Investigator. IOLERO did not find that reading of the Complaint to be warranted in light of the circumstances and facts, and also limited its own review to the interpretation adopted by SCSO’s Investigator.

IOLERO found that the Complainant’s allegations concerning Improper Procedure stemmed from the Complainant’s confusion regarding the Incident Reports and the Search Warrant. While the Complainant was correct that the Fourth Amendment requires that search warrants name with particularity the location(s) to be searched as well as the probable cause supporting the warrant application, the Complainant was mistaken as to which document was the search warrant. The Complainant

correctly observed that the address listed on the Incident Report was inaccurate, however the address listed on the body of the warrant application and resulting warrant were in fact correct. Furthermore, Det. 1 prepared the warrant application, Det. 2 reviewed the warrant application, and the application was subsequently reviewed by a Deputy District Attorney prior to being proffered to a Judicial Officer, who endorsed the warrant.

The mistaken transcription of the address on the Incident Report had no material affect on the validity of the Search Warrant. The Search Warrant was valid, and obtained within the bounds of SCSO's policies and law. Accordingly, IOLERO **AGREED** with SCSO's finding of **EXONERATED** as to both SCSO personnel.

IOLERO also **AGREED** that a preponderance of the evidence showed that the SCSO personnel's actions in executing the warrant were within the bounds of SCSO's policies, and that both of the SCSO personnel should be **EXONERATED**. Particularly, SCSO's use of handcuffs, as well as the use of firearms in a low-ready position (without any discharge of said firearms) was well within the bounds of SCSO Policy § 300. Upon their arrival at the property and the beginning of the execution of the search warrant, the SCSO personnel were met with resistance on the part of both the Complainant and one of the other subjects of the criminal investigation, who themselves cohabitated in the searched property. Both individuals failed to vacate the premises upon SCSO's verbal order. The Complainant specifically locked themselves into a restroom on the premises, and refused to remove themselves from the restroom until SCSO's personnel were able to open the door with firearms drawn in low-ready position. IOLERO ultimately agreed with SCSO that the use of force in order to gain control over the subjects of the criminal investigation during the execution of a search warrant, and where the individuals were non-compliant, and not visible to SCSO's personnel, and the destruction of evidence was a direct concern. IOLERO also noted that the use of firearms in a low-ready position ceased as soon as control over the Complainant was established.

IOLERO additionally found that the personnel's report preparation was consistent with SCSO Policy. Notably, the investigator stated that the emplacement of the SCSO main office's address (rather than the actual location of a search) at the top of incident reports prepared in connection with an execution of related search warrants at multiple locations as part of one singular investigation. Exactly such a situation was applicable here, as SCSO was simultaneously executing search warrants at multiple locales, including the Complainant's address. Furthermore, the actual address was included in the body of the incident report. Accordingly, IOLERO **AGREED** with SCSO's

finding of **EXONERATED** with regard to the allegation of Improper Procedure as it relates to the accuracy of reporting against both SCSO personnel.

IOLERO further found that the allegation of Dishonesty was not supported by the record under review.

Concerning the allegation of Dishonesty, IOLERO **DISAGREED** with SCSO's finding, instead finding that that the allegation as to Det. 1 should be **UNFOUNDED**, rather than exonerated. IOLERO also **AGREED** with SCSO's finding of **UNFOUNDED** as to dishonesty with respect to Det. 2. On review there was no evidence in the record supporting either such an allegation as to either of the SCSO personnel.

Regarding the allegation of Discourtesy, IOLERO **AGREED** with SCSO, and found that there was no record evidence to support the allegation of Discourtesy, ultimately reaching a conclusion of **UNFOUNDED** as to both SCSO personnel.

On the final subject of Conduct Unbecoming, IOLERO again **AGREED** with SCSO's finding of **UNFOUNDED** as to both SCSO personnel. Again, no conduct described in any part of the record by either of the SCSO personnel could be read to fall within the bounds of SCSO's established policies. Furthermore, none of that same conduct could reasonably be viewed as falling within the category of conduct that would indicated a lack of fitness to perform the functions of a law enforcement officer.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 22-C-0026

CITIZEN COMPLAINT NO. 10 DISCRIMINATION, DISHONESTY, DISCOURTESY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The complainant contacted SCSO to report that he was the victim of domestic violence. The complainant alleged that a deputy who handled the report was discriminatory and racist toward him; was dishonest and attempted to cast him (the complainant) as dishonest; and yelled at him.

SCSO'S CONCLUSION SCSO reviewed the complainant's call to dispatch, the related radio traffic, the dispatch log, BWC footage from two interactions between deputies and the complainant, and the subject deputy's written reports.

SCSO found that the deputy did not discriminate against the complainant, did not lie or accuse the complainant of lying, and did not yell. SCSO found that the deputy promptly initiated an investigation, conducted a thorough investigation consistent with law and policy, and arrested the aggressor as mandated by law; that the deputy was professional and calm throughout the investigation and never yelled; and that there was generally no evidence of racism, discrimination, questionable integrity, or accusing the complainant of lying. Accordingly, SCSO found all of the complainant's claims **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO **AGREED** with SCSO's finding that the deputy was not dishonest, did not accuse the complainant of dishonesty, and did not yell at the complainant. BWC footage captured the large majority of interactions between the deputy and complainant, and did not show the deputy engaging in this behavior. Accordingly, IOLERO agreed with SCSO's finding of **UNFOUNDED** on these claims.



IOLERO found that SCSO's investigation of the discrimination allegation was **INCOMPLETE**. The record suggested that the deputy may have taken one discretionary action against the complainant's interests—denying the complainant's request for a restraining order. The record also suggested that the deputy may have been biased against complainant based on his sex. SCSO did not consider evidence related to the restraining order request, and did not consider sex discrimination. This part of the investigation was incomplete as a result; although IOLERO agreed that the deputy's *other* actions were not discriminatory.

IOLERO found that SCSO's investigation was also **INCOMPLETE** because it did not address an additional issue presented by the record. Law and policy prohibited deputies from sharing certain confidential information with unauthorized individuals. BWC footage showed the deputy sharing what appeared to be prohibited confidential information with complainant's girlfriend. SCSO did not address this issue in its investigation.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0021

CITIZEN COMPLAINT NO. 11

DISCOURTESY

ORIGIN OF COMPLAINT IOLERO – Via Online

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT The Complainant alleges that they suffered from discourteous treatment on the part of at least two separate SCSO personnel: 1) an SCSO Dispatcher; and 2) an SCSO Deputy.

The Complainant alleges that the Dispatcher was “quite rude, unknowledgeable, and very uncaring.” The Complainant further alleged that the dispatcher “counter argued” and tried to “discredit” the Complainant concerning the subject matter of



their call into dispatch. The Complainant further alleged that they suffered from “resistance” on the part of an SCSO deputy that responded following their call into SCSO’s dispatch. The Complainant further alleges that they suffered from similar discourteous treatment by an SCSO Deputy that responded to a separate call for service at least one week prior. The Complainant stated their frustration that they had been “questioned as if [Complainant] was a suspect” by the Deputy.

SCSO’s Conclusion The Investigator reviewed the complaint by reviewing the available recorded audio from the Complainant’s call into Dispatch. The Investigator chose to review the allegations only as they applied to the Dispatcher. The Investigator did not review the allegations raised against either of the two identified SCSO Deputies.

In doing so, the Investigator conducted their review by reviewing two items: 1) the Computer Aided Dispatch Event Chronology for the call for service; and 2) the recorded audio stemming from the Complainant’s call into dispatch. The Investigator did not conduct any investigative interviews as part of their investigation.

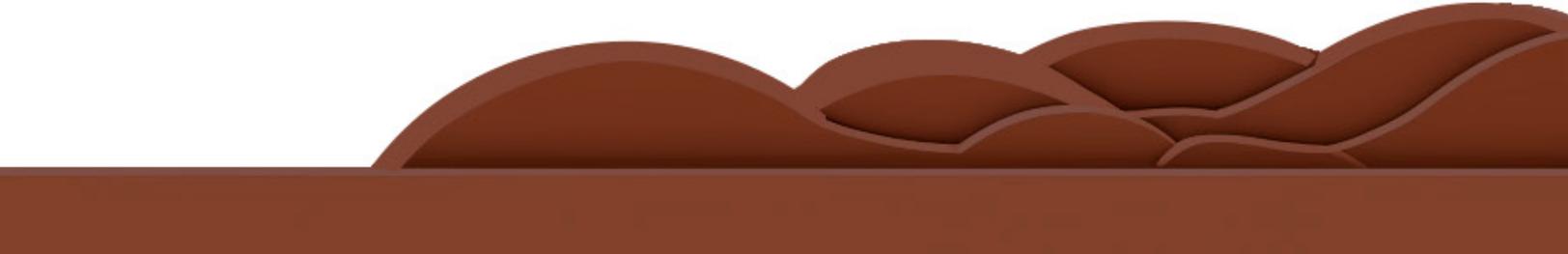
The Investigator concluded that the allegations of Discourtesy raised against the SCSO Dispatcher was **UNFOUNDED**. In reaching this finding, the Investigator found that the dispatcher was “professional throughout [their] entire conversation and spoke in a calm clear manner.” The Investigator further stated that in their review of the recorded dispatch audio, they “never once heard [the Dispatcher] say anything to suggest he was unknowledgeable and uncaring” and further that they “found no evidence to support the Complainant’s allegation.”

IOLERO’S CONCLUSION IOLERO found that SCSO’s investigation was **INCOMPLETE**. IOLERO found that the investigation was categorically incomplete due to the Investigator’s failure to review and address the separate allegations concerning SCSO’s deputies. Moreover, the investigator failed to provide any explanation as to why those allegations went unaddressed. IOLERO did however note that, to the extent that SCSO reviewed the allegations pertaining to the dispatcher, the Investigator gathered sufficient information to reach a conclusion.

IOLERO found that a finding of **EXONERATED** was more appropriate in light of the evidence in the record. IOLERO reasoned that the available evidence indicated that the conversation between the Dispatcher and the Complainant did occur, but that the Dispatcher’s conduct could not reasonably be viewed as Discourteous.

IOLERO’S RECOMMENDATIONS None.

SCSO’S RESPONSE None.



CASE NUMBER 23-C-0029

CITIZEN COMPLAINT NO. 12

NEGLECT OF DUTY

ORIGIN OF COMPLAINT IOLERO – via Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant alleged that they had “called [SCSO] several times and complained about illegal activity at the county run parking lot” located at 18092 Highway 12, in Sonoma, CA. The Complainant further alleged that an “illegal bike chop shop,” sales of illicit drugs, and illegal homeless encampments were occurring on the same property.

The Complainant named a specific SCSO Deputy, however failed to provide details as to how that Deputy was involve, or how his performance was unsatisfactory or otherwise a cause for concern.

However, the Complainant did check-mark the box for “Neglect of Duty” under the “Type of Complaint” heading on the Complaint form.

SCSO’S CONCLUSION The Investigator gathered and reviewed the Computer Aided Dispatch entries for several calls for service received in connection with the property in question, and for which the Complainant was the reporting party. The Investigator additionally conducted an interview with the Complainant.

During the course of the interview, the Complainant specified that they filed the complaint due to the Deputy’s mistaken belief that the property in question was privately owned, rather than owned by the County of Sonoma. In the Complainant’s words, they desired for the Deputy to “be educated” regarding the ownership of the parking lot. The Complainant further clarified that the deputy did not do anything wrong, other than misunderstand the ownership of the parking lot.

The Investigator reviewed the conduct utilizing SCSO’s Rules and Regulations Regarding Conduct, and specifically Rule 5.0 (B)(8) thereto. The Investigator did not apply this policy to the facts at issue, but instead summarily concluded that the Deputy’s behavior during his conversation with the Complainant was “consistent



with department policy and related law.” The Investigator accordingly found that the allegation against the Deputy was **UNFOUNDED**, stating that the Deputy “had not committed the alleged conduct.”

IOLERO’S CONCLUSION IOLERO determined that SCSO’s investigation was **COMPLETE**. In finding as much, SCSO gathered sufficient evidence to provide a sufficient basis upon which the issues raised in the Complaint could be resolved. However, IOLERO **NOTED** that the Investigator did not provide a substantive analysis or application of the relevant policies to the facts, and reiterated the need for the same.

IOLERO ultimately **AGREED** with SCSO’s finding of **UNFOUNDED**. In reaching this determination, IOLERO conducted an analysis under SCSO Policies 320, 400, 431, and 600, as well as the aforementioned Rules and Regulations Regarding Conduct. IOLERO determined that the Deputy validly terminated a criminal investigation after reviewing the evidence and allegation, and determining that (in line with SCSO’s policies concerning homeless persons under Policy 431) no crime had occurred. Furthermore, IOLERO found that the Complainant’s concern regarding the private/public nature of the parking lot was of no import to the Deputy’s decision to terminate the investigation. IOLERO further highlighted that the allegations raised in the complaint regarding an illegal bike chop shop and illicit drug sales were not raised during any of the Complainant’s calls into SCSO Dispatch.

In conclusion, IOLERO reasoned that there was no evidence to support the allegation that the Deputy, or any other SCSO personnel, had engaged in a neglect of duty. Further, IOLERO stated that, even *assuming arguendo* that the allegations levied in the complaint were valid, the actions of the deputy could not be interpreted as a violation of SCSO Policy, SCSO Regulations, or the law.

IOLERO’S RECOMMENDATIONS None.

SCSO’S RESPONSE None.



CASE NUMBER 23-C-0055

CITIZEN COMPLAINT NO. 13

**UNNECESSARY OR EXCESSIVE FORCE; DAMAGE TO PROPERTY;
BIAS-BASED POLICING**

ORIGIN OF COMPLAINT Claim submitted to Board of Supervisors

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complaint stemmed from a series of reports from various reporting parties whom had reported concerns of an active/ongoing domestic disturbance. SCSO dispatched multiple deputies to investigate the reported disturbance. During the course of their investigation, the deputies found a home matching the description provided by several reporting parties. Upon further investigation, and based upon a further review of the probation status for one of the occupants of the property, the Deputies elected to engage in a probation search of the property. As a result of their respective resistance and obstruction during the course of the probation search, the Complainant and the probationer subjected to arrest for their respective violations of California Penal Code § 148.

During the course of the Complainant's arrest, they were subjected to a use of force by two separate SCSO Deputies in the form of a controlled hold on the arm by the Deputy that initiated arrest, and an elongated rear wrist lock on the opposing arm by a separate assisting Deputy.

The Complainant was also subjected to a later use of force due to their failure to abide by the initiating Deputy's order to place herself into the back of an SCSO patrol vehicle.

The Complainant alleged that the SCSO Deputy that initiated arrested her was "solely responsible for the death of [Complainant's] service dog, a broken gate, [a] kicked in bathroom door and wall. . . a broken finger, a dislocated shoulder, the lost (*sic*) of a job offer and prevention of future government job offers." The Complainant additionally alleged that their civil rights were violated.

The Complainant further alleged that the Deputy had engaged in “assaulting a persons (*sic*) with disabilities, harassment, [and] endangering of more than one service animals (*sic*).” As a result of SCSO’s investigation stemming from a claim form submitted through the Sonoma County Board of Supervisors, the Complaint also contained an inventory of the particular damage claims levied by the Complainant.

In the Complainant’s responses to a Questionnaire propounded by the Investigator, they additionally provided that they felt that SCSO’s use of a probation search, and her subsequent arrest for resistance and obstruction of said probation search, was violative of her civil rights or were otherwise illegal.

SCSO’S CONCLUSION The Investigator resolved to investigate the Complaint upon two bases: 1) the Unnecessary or Excessive Use of Force; and, 2) the allegation of property damage.

The Investigator attempted to contact the Complainant multiple times, but was unable to speak directly to the Complainant due to their lack of a functioning phone line. The Investigator allowed the Complainant to complete a questionnaire in lieu of an investigative interview. The Investigator additionally gathered relevant CAD records, Body-Worn Camera footage from the involved SCSO personnel, dispatch audio, and each of the incident/supplemental reports completed by the respective SCSO personnel.

The Investigator did not conduct any interviews of any of the various SCSO personnel involved in the probation search and subsequent arrest of the Complainant.

Concerning the allegation of Unnecessary or Excessive Use of Force, the Investigator reviewed the initiating Deputy’s use of shove upon the Complainant to place them into the back of an SCSO patrol vehicle.

Notably, the Investigator did not review Use of Force by the two deputies who placed the complainant into handcuffs at the outset of their arrest. As a result of this choice, the Investigator also did not conduct any analysis of the Use of Force by the deputy that assisted in the Complainant’s arrest by way of an elongated rear wrist lock.

The Investigator reviewed the Deputy’s use of a shove under SCSO Policy § 300.3. In doing so, the Investigator ultimately concluded that the “investigation showed [the Deputy’s] use of force was proportional to the [Complainant’s] level of resistance” noting that the Deputy had “attempted to reason with [Complainant] for an extended period of time.” The Investigator therefore reached a finding of

EXONERATED as to the allegation of unnecessary or excessive Use of Force.

The Investigator reviewed the allegation of damage to property by utilizing SCSO Policy § 320.5.9 (i). In doing so, the Investigator concluded that “there was no evidence any deputy caused [the damage] as alleged by [Complainant]. The Investigator also stated that, based upon their review of the available Body-Worn Camera footage, the Complainant “was the only person who seemingly slammed the gate shut in a fashion that could’ve caused damage.” The Investigator additionally stated that there “was no evidence any of the dogs were harmed in any way . . .” and that the Deputy who allegedly caused the death of one of the dogs “ensured the gate to the backyard was closed preventing the dogs from exiting the yard . . .” Accordingly, the Investigator reached a finding of **UNFOUNDED** as to the various allegations of damage to property.

The Investigator did not separately review, nor come to a formal conclusion as to the issue of whether the use of a probation search by the Deputies was lawful or within the bounds of SCSO Policy.

IOLERO’S CONCLUSION IOLERO determined that SCSO’s investigation of the Complaint *was as a whole* **INCOMPLETE**. In reaching this conclusion, IOLERO reached individual determinations as to SCSO’s investigative efforts concerning particular allegations raised by the Complainant.

Particularly, IOLERO reasoned that:

1. the investigation into the Use of Force by the Deputy that initiated the Complainant’s arrest was **COMPLETE** despite some notable deficiencies;
2. The investigation into the Use of Force by the Deputy that assisted in the Complainant’s arrest was **INCOMPLETE**, as this Use of Force was not considered by the Investigator;
3. The investigation into the appropriateness and legality of the Deputies’ use of a probation search was **INCOMPLETE**; and,
4. the investigation into the respective allegations of property damage and personal injury were **COMPLETE**.

In addition, IOLERO **NOTED** that the Investigator’s very limited discussion of “exigent circumstances” a justification for a search of the property (while not used to reach a formal determination) did not use a proper analytical framework reflective of the law, and furthermore was not supported by the factual record due to the Investigator’s choice not to conduct any interviews of SCSO personnel.

IOLERO independently reviewed the three instances of Use of Force apparent in the record:

the Initiating Deputy's use of a controlled hold upon the Complainant during their arrest;

1. The Initiating Deputy's use of a shove upon the Plaintiff to secure them in the back of a patrol vehicle following arrest; and,
2. The Assisting Deputy's use of an elongated rear wrist lock upon the Complainant during their arrest.
3. As to each of the respective Uses of Force, IOLERO AGREED with the Investigator that the Deputies should be EXONERATED due to, inter alia, the Complainant's active resistance against, failure to cooperate with lawful orders and instructions.

IOLERO additionally conducted a review of the Probation Search employed by the Deputies, and concluded that the search was lawful and within policy, thereby reaching a finding of **EXONERATED**. IOLERO reasoned that the Deputies were clearly aware of the Probationer's status as subject to search terms, lawfully invoked their authority to conduct a probation search, and executed upon that probation search in compliance with the law and SCSO Policy § 311.

Finally, IOLERO **AGREED** with SCSO's finding of **UNFOUNDED** as to the Complainant's respective allegations of damage to property, job loss, and personal injury. IOLERO's review of the record demonstrated that:

1. the alleged actions causing damage to the property never occurred;
2. no animals were harmed at any point during the search and arrest of the Complainant;
3. the available evidence in the record did not support that Complainant suffered any physical injury as a result of their arrest; and,
4. The sole evidence supporting the Complainant's claim of a lost job/economic opportunity predated the Complainant's arrest by nearly a decade, and was furthermore not a valid concern upon which SCSO could choose to selectively enforce the law in the Complainant's favor.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0040

CITIZEN COMPLAINT NO. 14

CONDUCT UNBECOMING OF A DEPUTY; UNNECESSARY OR EXCESSIVE USE OF FORCE; DISCOURTESY

ORIGIN OF COMPLAINT IOLERO – via Online

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complaint stems from the Complainant's interactions with SCSO Deputies resulting from a call into SCSO dispatch by an advice nurse employed by a local hospital.

The advice nurse had contacted SCSO dispatch, and informed SCSO's dispatch personnel that the Complainant's romantic partner had contacted the advice nurse line seeking advice due to their ingestion of double their normal dosage of the narcotic medication VYVANSE. The advice nurse further informed the dispatch personnel that following their initial call into the advice nurse, the Complainant's romantic partner did not answer subsequent call-backs by the advice nurse.

SCSO's dispatch then assigned two SCSO Deputies to "check the welfare" of the Complainant's romantic partner at their address.

The Complainant felt that the manner in which the Deputies knocked on their front door was "very aggressiv[e]" and that the brief wait between the first and second knocks did not grant the Complainant sufficient time to respond, and further that the second knock in particular was "unreasonably aggressive." The Complainant further alleged that the Deputies contributed to "escalating the situation" and stated that the Deputies were "jarheads" that "ramp[ed] up the tension." The Complainant further stated that the Deputies were "unhelpful and unnecessary."

The Complainant additionally marked "Conduct Unbecoming of a Deputy," "Unnecessary or Excessive Use of Force," and "Discourtesy" under the "type of complaint" box on the face of the Complaint Form.

SCSO'S CONCLUSION The Investigator gathered the Body-Worn Camera Footage collected by the Deputies, the available CAD notes for the relevant event, and the recorded dispatch audio. The Investigator did not conduct interviews of either any SCSO personnel or the Complainant.

The Investigator determined that SCSO Policies §§ 320.5.9 (c), 320.5.9 (f), 300.5 and SCSO Rules and Regulations § 5.0 (17) and (E)(1) were relevant to their analysis.

The Investigator did not apply any of those policies to the facts of the case. Instead, the investigator stated that after “weighing the allegations” against SCSO Policy 320, the investigator “found no merit in any of the check box allegations made on the boiler plate IOLERO complaint form” and further concluded that “the preponderance of the evidence showed that [the Deputies] had not committed the alleged conduct.

The Investigator thereby reached a finding of **UNFOUNDED**. While not addressed explicitly in the IA Narrative, no use of force occurred against the Complainant or any member of their household, and SCSO's Investigator did not engage in any analysis of this issue accordingly.

IOLERO'S CONCLUSION IOLERO found SCSO's Investigation to be **INCOMPLETE**. In reaching this determination, IOLERO noted that the Investigator interpreted the complaint as squarely concerning the behavior of the deputies and their actions in responding to the call for service issued by SCSO Dispatch. In doing so, the Investigator did not review or conduct any investigative action concerning the broader issue identified in the Complaint, that of the dispatch policies that lead to law enforcement personnel responding to a medical emergency.

IOLERO further noted that the Investigator did not conduct interviews of dispatch personnel, did not review relevant and available dispatch policies and procedures, and did not conduct any analysis of those issues, and did not evaluate the compliance of the dispatch personnel's performance with SCSO's enumerated policies. IOLERO did however reserve that, to the extent the Investigator reviewed the allegations against the Deputies, the investigation was likely complete, however the failure to identify and investigate the broader concerns raised by the complaint rendered the investigation as a whole incomplete.

IOLERO additionally independently reviewed the allegations levied in the complaint. IOLERO determined that the allegation that the Deputies should be **EXONERATED** as to the allegation that they violated policy by conducting a welfare check on the Complainant and their romantic partner. IOLERO reasoned that the Deputies

conduct squarely fell within the enumerated duties and responsibilities under SCSO Policy § 400 *et seq.* Furthermore, IOLERO found that the Deputies conduct was at all times professional, respectful, and not unduly aggressive/escalatory.

Furthermore, IOLERO found that the Deputies should be **EXONERATED** as to the respective allegations of Discourtesy and Conduct Unbecoming of a Deputy. IOLERO's review of the available evidence demonstrated that the Deputies were at all times polite and courteous. IOLERO found that the Deputies committed no conduct which could reasonably be interpreted as impugning their fitness to perform the duties of a law enforcement officer.

Finally, IOLERO found that the failure of the Investigator to review any policies and procedures relating to SCSO's dispatch personnel and their performance under said policies rendered the record incomplete, and that **NO FINDING** could be supported in that regard.

IOLERO **NOTED** that this case is an example of a community preference for non-law enforcement responses to medical emergencies, and further that dispatching law enforcement personnel rather than medical personnel first may have unnecessarily escalated the situation.

IOLERO'S RECOMMENDATIONS IOLERO **RECOMMENDED** that SCSO consider whether medical or other emergency personnel, like paramedics or firefighters, could be dispatched to calls of this sort. Moreover, SCSO may wish to consider the clarity, precision, and guidance of its dispatch policies and procedures concerning medical events, and the assignment of appropriate resources in light of the above.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0054

CITIZEN COMPLAINT NO. 15

DISCOURTESY; NEGLECT OF DUTY

ORIGIN OF COMPLAINT IOLERO – via Email

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant alleged that two SCSO Deputies and an SCSO Dispatcher were respectively dismissive, rude, and neglectful of their duties following the complainant's contacts with SCSO concerning alleged criminal vandalism that a neighbor had engaged in, and which resulted to damage to the Complainant's property.

The Complainant alleged that the various SCSO personnel whom with they interacted had stated that they "don't believe" the complainant's allegations, questioned the nature of the allegations themselves, and that the personnel had an "attitude," among other things. The Complainant further alleged that the Deputies whom with she interacted refused to take reports relating to her allegations.

SCSO'S CONCLUSION SCSO's Investigator retrieved and reviewed CAD notes for two of the at-issue contacts with SCSO. Following his retrieval of this information, the Investigator contacted the complainant via phone and conducted an investigative interview. This interview was recorded utilizing the Investigator's Body-Worn Camera.

The interview with the Complainant covered information relating to both the at-issue complaint, as well as several separate complaints also filed by the Complainant.

During the portion of the investigative interview that related to the instant allegation, the Investigator asked "About the [date of the at-issue incident] thing ... what do you want me to do with that." The Complainant then responded by stating that the Investigator could "Toss it, it doesn't matter now." The Complainant further added that their further/successive complaints were "repetitive."

SCSO's Investigator did not complete a typical IA Narrative in this case. Instead, the Investigator entered an email memorandum to the Lieutenant for SCSO's Professional Standards Bureau memorializing his conversation with the Complainant, and their authorization to "[t]oss" the at-issue Complaint.

SCSO's Lieutenant for the Professional Standards Bureau then entered a finding of **UNFOUNDED** into the AIM record for the case.

IOLERO'S CONCLUSION IOLERO determined that SCSO's Investigation was **COMPLETE**. IOLERO reasoned that the Complainant's voluntary withdrawal of their Complaint rendered the investigation sufficient to reasonably resolve the presented issues.

IOLERO **NOTED** that SCSO Policy § 1010 provides little clarity on the ability of a Complainant to provide a voluntary withdrawal of their complaint, and furthermore does not provide any explicit direction as to what the result of such a withdrawal should be from an administrative and procedural perspective. IOLERO highlighted that this lack of clarity provides no guidance to SCSO's investigators as to how to conclude an investigation wherein the complaint is withdrawn.

IOLERO'S RECOMMENDATIONS In accord with the **NOTE** above, IOLERO **RECOMMENDED** that SCSO develop a policy framework that *explicitly* contemplates voluntary withdrawals of complaints by complainants, and provides guidance as to the administrative and/or disciplinary outcomes that result.

SCSO'S RESPONSE None.

CASE NUMBER 20-C-0006

CITIZEN COMPLAINT NO. 16

**BIAS-BASED POLICING; UNNECESSARY
OR EXCESSIVE USE OF FORCE**

ORIGIN OF COMPLAINT Claim submitted to Board of Supervisors

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complaint stems from two SCSO Deputies (hereinafter referred to respectively as "Deputy 1" and "Deputy 2") involvement in a traffic stop that escalated into a Use of Force and the subsequent arrest of the Complainant. At the time of the incident in question, the Complainant



was subject to pre-trial release order that contained a search clause pursuant to California Penal Code § 1318 (a)(2). The Deputies attempted to conduct a traffic stop on the Complainant in light of their observation that the Complainant's vehicle had a non-functioning tail-lamp. The Deputies' attempt to stop the Complainant failed, as the Complainant appeared to foot bail from their vehicle into a nearby property enclosed by a fence. Several of the Complainant's family members appeared from behind the fence line, and the Deputies attempted to gain their cooperation in bringing the Complainant out from behind the fence to conduct a search. The Complainant then appeared from behind the fence, and the Deputies moved to conduct a search. As a result of this interaction, several of the Complainant's family members attempted to stop the Deputies from interacting with the Complainant, and the Deputies used force to secure the Complainant in handcuffs, and then subjected him to arrest.

The Complainant alleges that they were "targeted, harassed, discriminated & racially profiled when [they] [were] clearly not a suspect of any crime" and further that they were "assaulted numerous times by a closed fist, choked (*sic*) & then body slammed to the ground" by two SCSO Deputies. The Complainant further alleged that they "never resisted" during this interaction with SCSO's personnel.

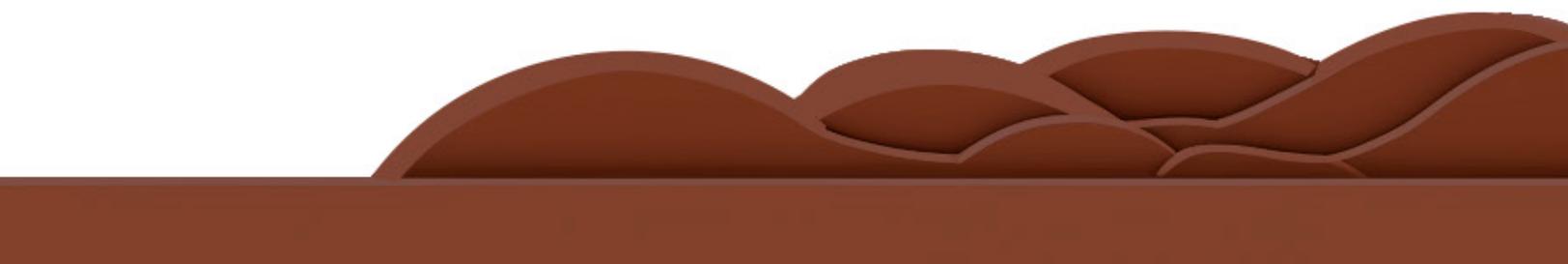
The Complainant further alleges that SCSO's Deputies were "lying in court," and "doctoring camera footage." The Complainant further alleges that SCSO's deputies stole his personal property, including a phone, a mouthguard, and ear pods.

Finally, the Complainant claimed that they suffered from "pain & suffering emotion (*sic*) distress & mental duress . . . harassment, racial profiling, targeting, lying & assault . . . injury by law enforcement . . . asphyxiation, body slamming . . . wrist pain, headaches, double or blurred vision, panic attacks, depression" and a "loss of work & freedom."

SCSO'S CONCLUSION The Investigator gathered the available Body-Worn Camera footage from the incident in question, the available incident and supplemental reports, MADF medical records and photos taken during the course of the Complainant's medical evaluation during booking.

The Investigator did not conduct any interviews of the two SCSO Deputies involved in the Complainant's arrest. Instead, the Investigator propounded questionnaires to the two respective Deputies concerning the allegations of theft of the Complainant's personal property. Both Deputies responded to the respective questionnaires.

The Investigator, having reviewed the Complaint, chose to interpret the allegations in the complaint As constituting:



IX.

1. An allegation of Excessive Use of Force as to Dep. 1;
2. An allegation of Excessive Use of Force as to Dep. 2;
3. An allegation of Conduct Unbecoming as to Dep. 1;
4. An allegation of Neglect of Duty as to Dep. 1; and,
5. An allegation of Neglect of Duty as to Dep. 2

The Investigator determined that both of the respective claims of Excessive use of Force should result in a finding of **EXONERATED**, finding particularly that the Deputies' Use of Force was "appropriate, lawful, and within policy" based upon the Complainant and his family members' levels of resistance.

The Investigator further determined that the allegation of theft of person property should result in a finding of **EXONERATED**. The Investigator reasoned that while Deputy 1 had taken personal property from the Complainant's person, and emplaced it upon the cowl of his patrol vehicle, Deputy 1 "forgot" that he had emplaced the items there, and further that there "was no evidence to suggest the items were stolen."

The Investigator additionally found that Dep. 1 should be **EXONERATED** as to the allegation that he committed a Neglect of Duty by virtue of his search and seizure against the Complainant. The Investigator reasoned that Deputy 1 contacted the Complainant in the course of his duties, and that the "[Complainant] was uncooperative with deputies... even though he was required to submit to search and seizure personal property."

Similarly, the Investigator found that Deputy 2 should similarly be **EXONERATED** as to the allegation that they engaged in a Neglect of Duty by virtue of their choice to search the Complainant.

It was not clear in the investigative record why the Investigator chose to review the allegations concerning the search and seizure under the standard for Neglect of Duty. It may have been the case that the Investigator utilized this analysis in lieu of addressing the allegations of bias-based policing/profiling levied in the Complaint.

IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **INCOMPLETE**. In reaching this determination, IOLERO pointed to the failure of the Investigator to conduct interviews of the Subject SCSO personnel following a Use of Force incident, the Investigator's failure to adequately analyze the issue of Use of Force, and the Investigator's failure to identify relevant bodies of SCSO policy applicable to each of the respective allegations (noting with particularity SCSO's

policies concerning searches and seizures, and inventory techniques for property confiscated during a search).

IOLERO conducted an independent analysis of the record. In doing so, IOLERO **AGREED** with SCSO's respective findings of **EXONERATED** as to the uses of force by the two Deputies. IOLERO reasoned that the Deputies were aware of the Complainant's status as subject to pre-trial release terms inclusive of search and seizure, and had engaged in a lawful stop, as well as a lawful search of the Complainant. The Complainant then engaged in active resistance against the Deputies, and the Deputies were additionally obstructed by the Complainant's family members. The Deputies respective uses of controlled holds, closed fist strikes, leg sweeps, and controlled takedowns were each reasonable, especially in light of the ongoing active resistance that the Deputies were faced with from multiple persons whom outnumbered the Deputies.

Notably, the IOLERO did not utilize the more recently developed legal standards for proportionality and de-escalation imposed by California State Law in its Use of Force analysis, as these updates were not in place at the time of the incident.

IOLERO additionally found that the allegation against Deputy 1 should result in a finding of **EXONERATED**. In reaching this conclusion, IOLERO reasoned that the available evidence in the record does not support the allegation that the property in question was stolen. The last possible placement of the property was the cowl panel of Deputy 1's patrol vehicle, but there is no evidence available in the record demonstrating what ultimately occurred with said property. Weighing the evidence, the preponderance indicates that the property was not stolen.

IOLERO further noted that the Investigator did not conduct an analysis of whether Deputy 1's handling of the Complainant's personal property was compliant with existing SCSO Policy. While IOLERO was not able to conduct a complete analysis using the full policies and procedures (due to the fact that IOLERO is not in possession of complete copies of the relevant policies) it was clear from the record that, at minimum, Deputy 1's self-admitted failure to inventory and maintain the property once he took possession was non-compliant with SCSO policies. However, in light of the Investigator's failure to conduct an interview, IOLERO stopped short of reaching a finding of sustained, instead reaching a finding of **INCOMPLETE** as to that component of the Investigation.

Finally, IOLERO found that there was no evidence in the record to support the claim that SCSO's attempted stop, search, and subsequent arrest of the Complainant were unlawful or otherwise not authorized by policy. IOLERO determined that SCSO's initial stop was authorized under California Penal Code § 1318 (a)(2), which authorizes the imposition of search and seizure terms upon pre-trial detainees. IOLERO also reasoned that the initial stop was further authorized under California Vehicle Code § 24600, which requires that motor vehicles be equipped with effective lighted tail lamps. Furthermore, the Deputies also had probable cause to detain and arrest the Complainant in light of their flight from the Deputies attempted traffic stop under the authority granted by California Penal Code § 148 (a)(1).

Additionally, IOLERO found that there was no evidence in the record to support that SCSO Deputies were motivated by any form of bias when they chose to attempt a stop upon the Complainant. No factual details provided in the record support this allegation, and furthermore the Deputies had objective and valid reasons for engaging in the attempted stop, namely the Complainant's non-compliance with the law.

Accordingly, IOLERO found that the Deputies should each respectively be **EXONERATED** as to the allegations of Bias-Based Policing and/or that the stop, search, and arrest of the Complainant were unlawful or non-compliant with SCSO policy.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0068

CITIZEN COMPLAINT NO. 17

BREACH OF DUTY; RETALIATION

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged SCSO officers improperly arrested her for domestic violence in retaliation for having reported information concerning various unresolved criminal matters.

SCSO'S CONCLUSION SCSO reviewed Body Worn Camera files of responding deputies and arrest and booking records. SCSO made several attempts through email, telephone and certified mail to interview complainant but was unable to do so.

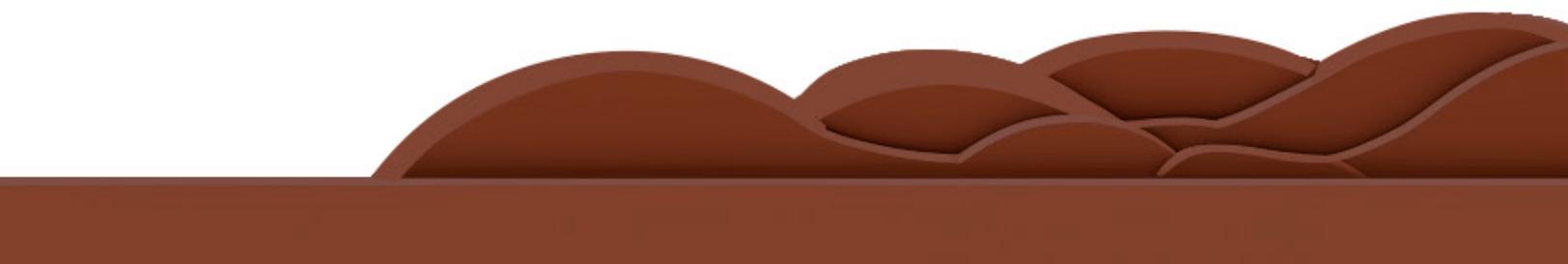
IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The investigator reviewed relevant materials sufficient to address the propriety of the arrest and surrounding circumstances.

On the merits, the record showed the deputies complied with California law and SCSO policy in investigating the domestic disturbance call, in assessing and arresting the dominant aggressor as required by law, and in collecting additional evidence concerning complainant's medical status. SCSO did not formally make a dispositive finding but IOLERO concluded that a finding of **EXONERATED** should be stated explicitly on the record as to both deputies.

IOLERO further **AGREED** with SCSO that complainant's allegation that the deputies were discourteous, disrespectful or discriminatory, and that the deputies and SCSO in general were acting against her in retaliation for having provided information about cold cases, was **UNFOUNDED**. In this regard, IOLERO affirmatively **NOTED** that the record showed the deputies acted with exceptional professionalism in their handling of this call and their interaction with complainant.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0034

CITIZEN COMPLAINT NO. 18

DISCOURTESY; POLICY/PROCEDURE;
RETALIATION

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The complainant alleged SCSO officers engaged in wide-ranging misconduct beginning at the time he was arrested during a traffic stop until he was released from the Main Adult Detention Facility (MADF) later that day.

SCSO's Conclusion SCSO conducted an extensive review that include Body Worn Camera files of responding deputies, video files from the MADF, interviews of involved patrol and correctional deputies, and two separate interviews of the complainant.

SCSO found all of complainant's claims as identified by SCSO to be without merit (either **UNFOUNDED** or **EXONERATED**), but determined that a patrol deputy deactivated his BWC during transport to the MADF and **SUSTAINED** a violation of BWC policy on this point.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE** on matters involving MADF staff, use of force by patrol deputies, the patrol deputy's alleged "dishonesty", and the patrol deputy's use of profanity as part of tactical use of command presence. However, IOLERO concluded that the investigation was **INCOMPLETE** on the specific issue of the search of complainant at the scene and the decision to book complainant rather than cite and release on the scene.

On the merits, IOLERO divided findings of Patrol claims from MADF claims

Patrol: IOLERO **AGREED** with SCSO that the stop, detention and arrest were within law and Policy, the deputy was not dishonest with complainant about the stop, and therefore the claim of "dishonesty" was **UNFOUNDED**.

IOLERO **AGREED** with SCSO that the allegation the deputy improperly applied handcuffs or otherwise used force lacked factual support and was **UNFOUNDED**.

IOLERO concluded the investigation regarding whether complainant consented to a search of his person was **INCOMPLETE** and the record therefore precludes any finding.

IOLERO concluded that the investigation was **INCOMPLETE** regarding whether the deputy may have used his discretion to book or release complainant as leverage to acquire additional information and whether such action is consistent with SCSO Policy 411 and 603.

IOLERO **AGREED** that, based on SCSO's implicit interpretation of its Policy § 320.5.9, the finding for using profanity and harsh tone as a "command presence" technique to bring an unsettled situation under immediate control during the pre-detention period should be **EXONERATED**. However, we **DISAGREED** to the extent SCSO suggested that profanity, harsh tone and insults used after complainant was detained were excused by use of "command presence", and conclude that absent a valid explanation, such conduct under these circumstances facially violates the plain terms of § 320.5.9(f) and would support a **SUSTAINED** finding.

IOLERO **AGREED** with SCSO that the deputy's decision to de-activate his Body Worn Camera (BWC) prior to arriving at the MADF violated Policy 425 and that the finding on this issue should be **SUSTAINED**.

MADF:

IOLERO **AGREED** with SCSO that a preponderance of the evidence shows complainant was not sexually harassed and the finding on this claim should be **UNFOUNDED**.

IOLERO **AGREED** with SCSO that the claimed failure to provide the required PREA Advisement at the MADF lacked merit. To the extent complainant alleged the PREA form was not provided until he was released from custody, the finding should be **UNFOUNDED**. To the extent complainant claimed he should have been provided the PREA form earlier as a general matter, the record showed compliance with policy and MADF Staff should be **EXONERATED**.



IOLERO **AGREED** with SCSO that to the extent complainant was alleging he did not receive telephone access at the MADF immediately upon being booked, the claim was **UNFOUNDED**. IOLERO separately concluded that to the extent complainant was alleging he was not provided telephone access as soon as “practicable” after he requested it, the finding should be **EXONERATED**. Finally, IOLERO separately concluded that to the extent complainant was claiming he did not receive telephone access within 3 hours of his arrest, the finding should be **NOT SUSTAINED**.

IOLERO concluded that a preponderance of the evidence shows no retaliation against complainant by any MADF Staff when complainant’s property was undisputably misplaced, and the claim should be **UNFOUNDED**.

IOLERO’S RECOMMENDATIONS To the extent SCSO’s training on use of profanity in the limited context of a legitimate use of command presence tactics, SCSO should make such exception clear in its personal conduct policy § 320.5.9 which generally bars officers from using profanity in interactions with the public.

SCSO’S RESPONSE None.



B. PERSONAL CONDUCT

CASE NUMBER 22-C-0018

CITIZEN COMPLAINT NO. 1

CONDUCT UNBECOMING; DISCOURTESY; DISHONESTY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged an SCSO officer violated a civil court order.

SCSO'S CONCLUSION SCSO reviewed court documents, emails, investigative reports and charging records. SCSO also interviewed the SCSO officer and obtained a legal interpretation of the court order in issue.

Based on these materials, SCSO concluded the claim of violating the court order was **NOT SUSTAINED**, and the officer should be **EXONERATED** on the claim of bringing discredit to SCSO.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The investigator reviewed relevant materials, interviewed the officer, and obtained independent legal review of the court order in issue. SCSO did not interview the complainant but because the issue primarily revolves around interpretation of the court order, this did not undermine the completeness of the investigation.

However, we **NOTED** that SCSO provided only a conclusory statement regarding SCSO Policy 320 regulating personal conduct, did not provide any substantive analysis of the "discredit" standard, and did not expressly address other personal conduct standards including "conduct unbecoming". IOLERO has previously discussed the need for "analytical completeness" in addition to logistical completeness, and reiterated the importance of providing complete substantive analyses of all relevant policies and issues. (See IOLERO 2022-2023 Annual Report).

On the merits, the record showed the terms and operation of the court order was inconclusive on the issue under review. The interpretation provided by the officer and the differing interpretation provided by the complainant were both reasonable applications of the order's terms. SCSO sought outside legal review which confirmed the agreement permitted more than one reasonable interpretation. Determining which interpretation is correct is a civil matter between the parties to be resolved in court. Accordingly we **AGREED** with SCSO that the claim regarding violation of the court order should be **NOT SUSTAINED**.

SCSO also concluded that the officer did not bring discredit to SCSO because disputes over civil orders are common. We ultimately agreed with SCSO's outcome, but we did not agree with this rationale.

Peace officers are held to a higher standard of off-duty conduct than other public employees. This general principle is reflected in SCSO's Policies. Those policies mirror other general public employee rules by subjecting an officer to discipline for off-duty conduct that brings "discredit" to SCSO or the County. "Discredit" does not mean any or all conduct of which SCSO generally disapproves. Rather, the conduct (i) must bear some rational relationship to the employment and (ii) must be of such character that it can easily result in the impairment or disruption of the public service. Examples include peace officers violating laws which their employment requires them to enforce.

Under these standards, the issue here is not whether civil court order disputes are common; it is whether the officer's actions in connection with that dispute were of such character to bring discredit to SCSO under the relevant legal test.

Officers are responsible for impartially enforcing civil orders and there is therefore a nexus between the alleged conduct and the officer's employment duties. However, the record does not show the officer's actions were of a character as to result in the impairment or disruption of the public service. The officer's interpretation of the civil order was one plausible version. Reasonable persons may differ as to whether they would have acted in the same manner but the record does not show the officer's actions were of such character as to disrupt or impair his public service, and thereby call into question SCSO's credibility as an impartial law enforcement agency. Accordingly, we **AGREED** with SCSO's finding of **EXONERATED**, but not with SCSO's rationale.

We also **NOTED** that SCSO did not address the separate (but related) issue of whether the officer’s actions constituted “conduct unbecoming” under SCSO Policy 320. Like “discredit”, the term “conduct unbecoming” does not mean action found to be generally disagreeable. Rather, it is a legal term indicating an officer’s lack of fitness to perform the functions of law enforcement. SCSO officers are subject to discipline for engaging in conduct (on- or off-duty) that constitutes conduct unbecoming, or which the officer knew or should have known would be cause for discipline given their position and responsibilities as a law enforcement officer regardless of whether the exact conduct was identified in policy. The record showed the officer’s actions did not rise to the level of conduct unbecoming, but we noted that SCSO should have discussed this standard.

IOLERO’S RECOMMENDATIONS None.

SCSO’S RESPONSE None.



CASE NUMBER 23-C-0057

CITIZEN COMPLAINT NO. 2

IMPROPER PROCEDURE; CONDUCT UNBECOMING

ORIGIN OF COMPLAINT IOLERO (submitted anonymously)

RACE OR ETHNICITY OF COMPLAINANT Unspecified.

ALLEGATIONS IN THE COMPLAINT The complainant alleged an SCSO canine officer abused their authority by allowing two people to enter a VIP area at an event for which they had no tickets.

SCSO’s Conclusion SCSO reviewed duty rosters and public records to identify the event in question and to identify canine officers on duty on the day in question.

Based on these materials, SCSO concluded the finding should **NOT SUSTAINED**.



IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The complaint did not identify the officer's name or physical description. The only meaningful information provided was the officer was a canine handler and the date of the event. SCSO made reasonable but unsuccessful efforts to gain more information about the claim. Through public research SCSO identified the event in question and reviewed its records of canine officers on duty that date. This review was sufficient to address the claim.

On the merits, SCSO found that SCSO will provide security under contract for public events, but SCSO was not on contract for the event in question here. All canine officers assigned on the date in question were accounted for in records and none were assigned to the event. The record does not disclose which law enforcement agency provided canine security, but other law enforcement agencies in Sonoma County have canine units.

Based on this record, IOLERO **AGREED** with SCSO that there was no evidence of SCSO involvement at the event in question, but concluded that the record supports a dispositive finding of **UNFOUNDED** rather than **NOT SUSTAINED** as found by SCSO.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0004

CITIZEN COMPLAINT NO. 3

SOCIAL MEDIA; CONDUCT UNBECOMING

ORIGIN OF COMPLAINT IOLERO and SCSO

RACE OR ETHNICITY OF COMPLAINANT Unspecified.

ALLEGATIONS IN THE COMPLAINT The complainant alleged an SCSO deputy violated SCSO's Social Media and personal conduct policy by participating in an off-duty video podcast in which a panel jokingly discussed instances of unlawful use of force and in which the deputy admitted to having possessed and transferred an illegal weapon.



SCSO'S CONCLUSION SCSO reviewed the podcast video and interviewed the deputy.

SCSO concluded that the deputy did not violate SCSO Social Media Policy 1030, and did not bring discredit to SCSO, because (i) the deputy did not identify his relationship with SCSO in the podcast (ii) he was speaking in his private capacity, and (iii) he stated he did not intend to bring discredit to the agency.

SCSO also concluded that the deputy did not violate SCSO Policy by having received and retained for several years an illegal sap glove (a lead-filled leather glove or pouch) because it was ultimately destroyed in the 2017 wildfires.

Accordingly SCSO **EXONERATED** the deputy.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation **INCOMPLETE**. Evaluating compliance with SCSO's personal conduct and social media policies required assessing the content of the video as a whole, the substance of the message(s) reasonably conveyed, the deputy's role (active and passive), and the impact the deputy's participation could reasonably be expected to have on the functioning and credibility of a law enforcement agency such as SCSO due to its affiliation with the deputy.

The deputy interview (lasting 2½ minutes) was inadequate, and SCSO did not meaningfully address governing standards concerning use of force, "discrediting" conduct, "conduct unbecoming", or the limitations placed on social media and off-duty speech by SCSO Policy.

In addition, although the Investigator knew the deputy's possession and transfer of sap gloves violated criminal law, he did not assess the impact of such conduct on SCSO's public law enforcement function, particularly when viewed in combination with the podcast's overall flippant treatment of illegal uses of force.

On the merits, IOLERO applied its independent interpretation of the governing standards and **DISAGREED** with SCSO's conclusions to the extent SCSO based them on the incomplete record.

Sap Device: California Penal Code § 22210 prohibits possession or transfer of a sap device. The record is undisputed that the deputy surreptitiously received two sap gloves early in his career with SCSO, he later provided one to his own trainee, and as of January 2023 the deputy believed he still had one in his possession. These facts show the deputy's *prima facie* long-term violation of criminal law by possessing and transferring the sap devices, as well as a violation by the trainee to

whom the deputy transferred the device. They also show *prima facie* violation of SCSO Policy 320 (comply with federal, state, local laws), Policy 418 (Field Training Officer program), and called into question the deputy's ability to perform essential functions of law enforcement, particularly arresting persons possessing weapons, including sap devices, when he was simultaneously violating the same laws.

We cannot conceive of a legitimate basis excusing the retention and transfer of an illegal weapon under SCSO policy under these circumstances. The issue is not whether the glove was later destroyed in a fire (as SCSO relied on to exonerate him) but whether the deputy's knowing possession and transfer of an illegal device in violation of criminal law contravened SCSO Policy, brought "discredit" to the agency, or undermined the deputy's ability to perform essential functions of law enforcement.

SCSO'S CONCLUSION "exonerating" the deputy is not supported by this incomplete record. To the contrary, as it is currently constituted, this incomplete record is more than sufficient to support a **SUSTAINED** finding based on IOLERO's independent evaluation of the policies at issue.

Personal Conduct and Speech:

SCSO Policy 320 provides discipline for conduct that brings "discredit" to SCSO, adversely affects an officer's relationship with SCSO, tends to reflect unfavorably upon SCSO or its members, is contrary to good order, efficiency or morale, or otherwise constitutes conduct "unbecoming a member of [SCSO]".

Policy 1030 similarly provides discipline for speech that is "significantly linked to, or related to, the Sonoma County Sheriff's Office and tends to compromise or damage the mission, function, reputation or professionalism" of SCSO or its employees, including "statements that indicate disregard for the law or the state or U.S. Constitution", and expression that "demonstrates support for criminal activity", that have a "negative impact on the credibility of the employee as a witness", that "glorify or endorse dishonesty, unlawful discrimination or illegal behavior", or is contrary to" the Law Enforcement Code of Ethics.

To address the deputy's actions under Policy 320 and portions of Policy 1030, SCSO must determine (1) if there a nexus between the conduct, speech or expression and the person's employment with the agency, and (2) whether the conduct, speech or expression reflect negatively on or brings discredit to the agency.

SCSO did not conduct this analysis or provide a clear statement as to how it interpreted its policies in this regard. Nevertheless, SCSO made a finding exonerating the deputy. Accordingly, IOLERO independently evaluated the partial record upon which SCSO based its finding.

We concluded that the partial record showed a clear nexus between the deputy's participation in the video and his law enforcement employment with SCSO. The video addressed law enforcement's use of force, the deputy's status as a law enforcement officer was clear, and the deputy and other panelists spoke openly about their law enforcement experiences. Any viewer would reasonably conclude the deputy was a law enforcement officer and could reasonably ascribe his comments and conduct to whatever law enforcement agency that employed him. SCSO's finding that the deputy did not expressly identify his relationship with SCSO, while correct, is not dispositive. The issue is the impact the deputy's actions would have on SCSO if someone—as is the case here—did link the deputy to SCSO.

We also concluded that the deputy's actions would objectively have an adverse impact on SCSO's operations as a law enforcement agency. The deputy and other participants spoke jokingly about using car doors, moving automobiles, an old-style telephone handle, and an old-style radio to physically strike people in violation of use of force law. In two examples the described force constituted criminal assault or battery. These examples, had they actually been used by an SCSO deputy, would plainly violate SCSO's use of force and personal conduct policies as IOLERO interpreted them.

We acknowledged that the deputy and panelists might argue they were merely describing stories they heard or witnessed but did not engage in themselves. In our view this does nothing to soften, much less eliminate, the public discredit brought to a law enforcement agency by the deputy's participation in the panel discussion.

Use of force is carefully restricted under the 4th Amendment, California law and SCSO Policy, including “de-escalation” and “proportionality” requirements. According to SCSO, its Use of Force Policies reflect the serious responsibility with which officers must act. Use of force is a “matter of critical concern, both to the public and to the law enforcement community” and “[d]eputies must have an understanding of, and true appreciation for, their authority and limitations.” (Policy § 300.2). SCSO “recognizes and respects the value of all human life and dignity” and vesting deputies with the authority to use reasonable force “requires monitoring,

evaluation and a careful balancing of interests”. (§ 300.2). Any deputy observing another officer using force that is “clearly beyond that which is necessary” shall intercede to prevent such force, and must report the use of excessive force. (§ 300.2.1; 300.2.3).

Thus, the deputy and panelists referenced conduct that, if carried out by the deputy, triggers a cascade of grounds for discipline for personal misconduct under SCSO Policy 320: violation of federal, state or local law or rules (§ 320.5.1(c)), “wrongful or unlawful exercise of authority” for “any other improper purpose” (§ 320.5.2(b)), “[u]nreasonable and unwarranted force to a person encountered or a person under arrest” (§ 320.5.9(b)); “[e]xceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct” (§ 320.5.9(c)); “[u]nauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another” (§ 320.5.9(d)); and “[d]iscourteous, disrespectful or discriminatory treatment of any member of the public” (§ 320.5.9(f)).

The conduct referenced by the podcast would also trigger disciplinary grounds under Social Media Policy 1030: “indicate disregard for the law or the state or U.S. Constitution; demonstrate “support for criminal activity”; “glorify or endorse” “illegal behavior”; contrary to the Law Enforcement Code of Ethics. (§ 1030.4(e)).

In our view, the deputy’s participation undermines these publicly stated principles. Regardless of whether the participants themselves actually engaged in the specific conduct, a person could reasonably conclude that notwithstanding his pledges under SCSO Policy, the deputy does not take serious the responsibilities and limitations imposed on law enforcement’s use of force.

Moreover, by *employing* the deputy as a law enforcement officer with knowledge of the deputy’s podcast, the *same* questions of credibility flow to SCSO and to the other peace officers employed by SCSO who are governed by the same standards.

SCSO’S CONCLUSION “exonerating” the deputy is not supported by this incomplete record, either factually or analytically. To the contrary, as it is currently constituted, this incomplete record would support a **SUSTAINED** finding.

IOLERO’S RECOMMENDATIONS SCSO did not provide a substantive interpretation of its Policies concerning officers’ off-duty conduct or how SCSO as an agency believes those Policies apply to the circumstances in this case. Accordingly, it was not clear to IOLERO whether and to what extent the Investigator’s findings in fact reflected SCSO’s institutional understanding and directive as to how these Policies are to be applied.

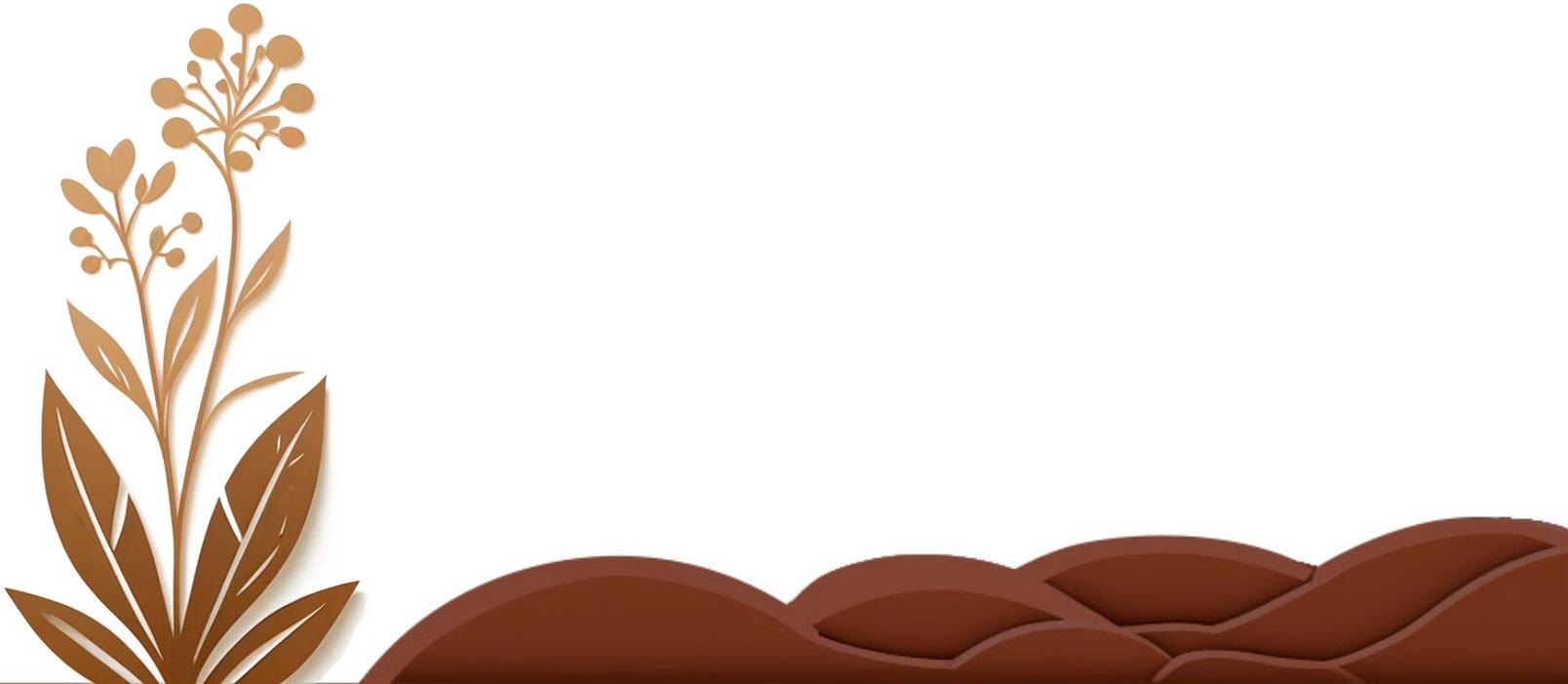
Presented with this gap, IOLERO independently reviewed SCSO's Policies and court/administrative decisions applying identical or substantially similar policies issued by other law enforcement agencies. **IOLERO'S CONCLUSION** that a violation by the deputy could be sustained on the incomplete record is based on this analysis and on the plain text of SCSO's Policies.

As the employing agency, SCSO is responsible and entitled in the first instance to establish internal policy governing employee conduct, and for taking disciplinary action when warranted. It is therefore incumbent on SCSO to provide its own substantive analysis on these issues.

Accordingly we **RECOMMENDED** that SCSO re-evaluate this case and provide its own substantive analysis of its Personal Conduct and Social Media Policies.

SCSO'S RESPONSE SCSO responded to our recommendation to re-evaluate this matter by stating that the deputy's actions were private speech protected under the First Amendment. SCSO also contended that it had not identified actual disruption in the workplace, impediment of the mission of SCSO, or diminishment of public trust, but SCSO did not present any further investigative record to support this.

Pursuant to the Operational Agreement, IOLERO reviewed **SCSO'S RESPONSE** carefully and informed SCSO that the Response did not alter or change IOLERO's analysis or conclusions as stated in the Audit, and that the Audit was therefore final.



CASE NUMBER 23-C-0001

CITIZEN COMPLAINT NO. 4

INAPPROPRIATE RELATIONSHIPS, DISCREDIT TO THE DEPARTMENT,
INAPPROPRIATE USE OF DEPARTMENT-
ISSUED CELL PHONE, AND DISHONESTY

ORIGIN OF COMPLAINT SCSO

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT The complainant reported that an SCSO deputy arrested complainant's wife (Ms. A) during a domestic violence incident, and that the deputy later requested (and received) photos of Ms. A's "ass." During the course of the investigation, SCSO discovered similar allegations against the deputy related to two other women (Ms. B and Ms. C).

SCSO'S CONCLUSION SCSO interviewed the complainant; reviewed documents/BWC from the work incident where the deputy interacted with Ms. A and the complainant; reviewed text messages and photos on the deputy's department-issued cell phone; used some of those text messages to identify Ms. B and Ms. C; and reviewed documents/BWC from the work incidents where the deputy interacted with Ms. B and Ms. C. SCSO also interviewed all three women; requested/collected additional evidence from the three women; and interviewed the deputy.

SCSO found that the deputy met all three women in his professional capacity – Ms. A when he responded to a domestic violence call where he ultimately arrested her; Ms. B when he responded to her report of a hit and run; and Ms. C when he responded to a roommate dispute. SCSO found that the deputy then used his department-issued phone to send flirtatious text messages to all three women, to request or send sexually explicit photos with two of them, and to send text messages suggesting that the women come to his hotel room while he was traveling for training. SCSO investigated three allegations related to this conduct. First, that the deputy violated SCSO's policy regarding inappropriate personal relationships.

Second, that the deputy discredited the Sheriff's Office. Third, that the deputy violated SCSO's policy regarding department-issued phones. SCSO found that all of three of these allegations were **SUSTAINED**.

SCSO also found that the deputy deleted his text messages with Ms. A when he learned about the complaint; made contradictory statements in his IA interview; did not disclose his conduct with Ms. B in the IA interview until after interviewers confronted him with evidence; and did not disclose his conduct with Ms. C in the IA interview. SCSO investigated this conduct as a violation of SCSO's policy against false/misleading statements and misrepresenting/omitting material information in connection with an investigation. SCSO found that this allegation was **SUSTAINED**.

SCSO noted that dispatch entered information about the complaint when the complainant first called. SCSO noted that this allowed the deputy to learn that a complaint was filed about him soon after the complainant called; allowed the deputy to identify the complainant; and in doing so, also allowed the deputy to erase evidence from his department-issued phone before he was ordered not to. SCSO recommended that dispatch modify its policies/ procedures to avoid this situation in the future.

IOLERO'S CONCLUSION IOLERO's Audit in this matter is publicly available on IOLERO's website pursuant to SB 1421.

IOLERO found that SCSO's investigation was **COMPLETE**.

IOLERO **AGREED** with SCSO's finding that the deputy engaged in inappropriate personal relationships, discredited the Sheriff's Office, and misused his department-issued phone. The deputy admitted some of the alleged misconduct in his interview; as to the rest, the three women's testimony was credible, and was supported by phone records documenting many of their interactions with the deputy. IOLERO also **AGREED** with SCSO's finding that the deputy made false/misleading statements and/or misrepresented/omitted material information in connection with the IA investigation. The deputy admitted that he intentionally deleted his text messages with Ms. A, and the recording of the deputy's interview documented his contradictory statements and his failures to disclose information. Accordingly, IOLERO agreed with SCSO's finding of **SUSTAINED** on these claims.

Lastly, IOLERO **AGREED** with the Investigator's recommendation that dispatch modify its policies and procedures related to complaint information.

IOLERO also noted that IA conducted particularly strong interviews in this case, was diligent in expanding the investigation to address newly discovered allegations, and wrote a very good report.

IOLERO'S RECOMMENDATIONS IOLERO recommended that SCSO reassess the training it provides to new sergeants regarding how to handle complaints against personnel and internal investigations. In particular, SCSO should consider additional training on the early stages of investigation and the collection/preservation of evidence.

IOLERO recommended that SCSO provide informal counseling to a Sergeant who intentionally deleted evidence that was relevant to the IA investigation. IOLERO recommended informal counseling, as opposed to a follow-up investigation or discipline, because the Sergeant appeared to delete the evidence for good faith (although poorly-thought-through) reasons.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0035

CITIZEN COMPLAINT NO. 5

CONDUCT UNBECOMING;

IMPROPER PROCEDURE OR COMPLAINT AGAINST POLICY

ORIGIN OF COMPLAINT IOLERO – via Online

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT The Complainant alleged that an SCSO Deputy utilized their SCSO issued Patrol Vehicle for personal purposes by picking up a youth from a sporting event at a local high school campus while the Deputy was on-duty.

The Complainant specifically alleged that the use of the patrol vehicle for this purpose was violative of SCSO Policy §§ 320 (f), 320.5.2, 320.5.6, 320.5.9, and 703 (2).

The Complainant further alleged that due to the Deputy's status as a "supervisor," their "disregard for the rules as well as public perception is very disgraceful to the sheriff's office."

SCSO's Conclusion SCSO's investigation was limited by the fact that the Complaint was submitted anonymously, and without any contact information by which SCSO's investigator could reach the Complainant.

Nonetheless, the Investigator conducted an investigative interview subject to an administrative admonishment of the subject Deputy. During the course of this interview, the Deputy explained that he did use his patrol vehicle to pick up his child from a sporting event at the high school on the date in question. The Deputy further explained that he did so due to interpersonal scheduling conflicts.

The Investigator did not directly discuss any of the relevant policies or common practices at SCSO concerning patrol vehicle usage during the course of the interview.

The Investigator reviewed the allegations based upon SCSO Policy §§ 703 and 320.

Notably, the Investigator assigned to this case was also the "on-duty Watch Commander" at the time of the incident giving rise to the Complaint.

The Investigator concluded that "as the on-duty Watch Commander (Sheriff designee), I would have approved [the Deputy] picking-up [their child]" from the sporting event and transporting them home. The Investigator further added that it was a long standing "pattern and practice" for Watch Commanders to provide approval for the use of on-duty time and SCSO patrol vehicles for personal purposes, and further that the "Sheriff's Office is in the process of changing the policy."

The Investigator thereby concluded that the Deputy should be **EXONERATED** as to the allegation that he violated SCSO Policy §§ 703 and 320, respectively.

IOLERO'S CONCLUSION IOLERO determined that the SCSO's investigation was **INCOMPLETE**. IOLERO noted that, SCSO Policy did not contain any identifiable exception to its vehicle use policies that would authorize the conduct engaged in by the Deputy. IOLERO further noted that while the Investigator identified the pertinent policies pertaining to the alleged misconduct, the Investigator's analysis did not rest on the policies. Rather, it relied upon an assertion by the Investigator that:

IX.

1. SCSO's Watch Commanders held the authority to authorize deviations from stated SCSO Policies; and,
2. Had the Investigator been presented with such a request, they would have approved it in their capacity as a Watch Commander.

IOLERO noted that the Investigator did not provide any source for the proposition that a Watch Commander could authorize a deviation from the plain terms of an established SCSO Policy. IOLERO, having independently surveyed SCSO's available and applicable policies, could find no source for this proposition.

As a result of this failure by the Investigator, in combination with the fact that the Investigator, by definition, cannot serve as a witness, IOLERO determined that it was "impossible, *on this record*, to determine whether [the Deputy's] actions complied with SCSO Policy and enumerated procedures." (emphasis in original.

Because the investigation relied on an unidentified, unsourced, and undocumented authority to exempt an SCSO member from the plain terms of the Policy, IOLERO **DISAGREED** with the finding of **EXONERATED** and instead found that the **NO FINDING** could be reached based upon the existing investigative record.

Finally, IOLERO **NOTED** that if SCSO has a practice of granting exceptions to SCSO Policy § 703 as described by the Investigator, that the process and criteria for granting such exceptions be memorialized within said policy. IOLERO emphasized that doing so would allow the public to be aware of when conduct such as the at-issue conduct is/is not acceptable to SCSO, and furthermore would provide SCSO's supervisory staff and their subordinates specific guidance for making or requesting such exceptions.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

2-MADF

A. PREA CLAIMS

CASE NUMBER 21-C-0001

PREA COMPLAINT NO. 1

CONDUCT UNBECOMING; DISCOURTESY; BREACH OF DUTY

ORIGIN OF COMPLAINT IOLERO

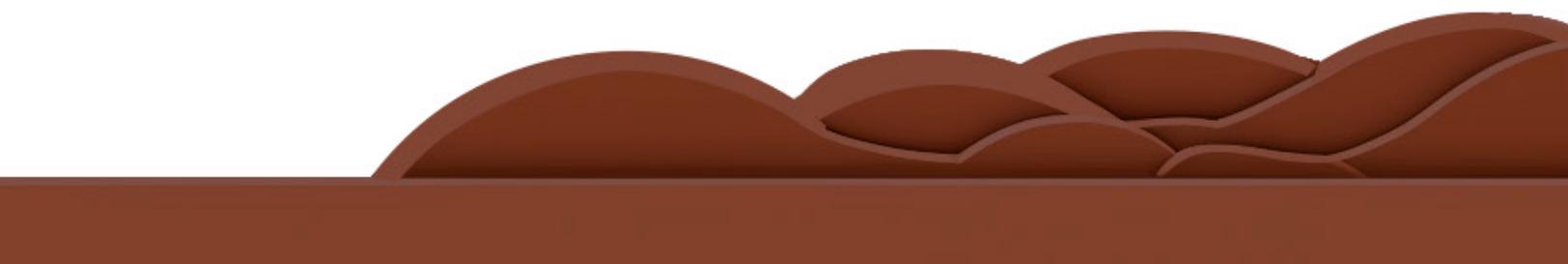
RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged a correctional deputy made a sexually harassing statement and threatened physical violence.

SCSO'S CONCLUSION SCSO reviewed shift logs and internal reports, interviewed both the complainant and the accused deputy, and sought to interview a witness who had become unavailable. Based on these materials, SCSO concluded the claim that the deputy violated PREA and engaged in misconduct was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. The claim focused on complainant's perception of a single event allegedly occurring outside a cell. While the interview of the deputy provided little information due to the passage of time, the complainant explained the basis of the claim and the reason for interpreting the deputy's actions as sexual harassment and threatening. The investigation's focus on resolving the ambiguity in the complaint during the complainant's interview was sufficient to address the allegations.

IOLERO **AGREED** with SCSO's finding. The record did not show that the alleged statement was made. But even assuming the deputy did make the statement, the complainant acknowledged that they did not relate it to sexual identity and



they did not know what was meant by the comment. On the alleged physical threat, the record again did not show that the statement had been made and even if it had been made, the complainant acknowledged that the statement was not actually made to them and agreed that they never had been physically assaulted. Accordingly, we agreed with SCSO's finding of **UNFOUNDED** on the PREA claim and the claim of misconduct.

IOLERO **NOTED** that the investigator identified an incorrect standard of proof. Penal Code § 832.5, PREA and SCSO Policy all impose a "preponderance of the evidence" standard. The investigator utilized the term "clear and convincing evidence", which is a higher standard of proof. We reviewed the record carefully and determined that use of the phrase "clear and convincing evidence" was an error in labeling, and that the investigator in substance applied the lower requirement of "preponderance of the evidence". We advised SCSO to take care to ensure the correct evidentiary standard was cited and applied.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0002

PREA COMPLAINT NO. 2

CONDUCT UNBECOMING; DISCOURTESY; BREACH OF DUTY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Black/African American

ALLEGATIONS IN THE COMPLAINT The complainant alleged a correctional deputy improperly performed a strip search at the MADF during booking, engaged in racial profiling, and used excessive force. The complainant also alleged that they had been denied telephone access and that the holding cell was unsanitary.



SCSO'S CONCLUSION SCSO reviewed applicable incident reports, medical records, telephone records, MADF video, and an interview with complainant on the date of the incident. The involved correctional deputy was also interviewed. Several unsuccessful attempts were made to contact the complainant for follow up interview.

Based on these materials, SCSO concluded the following claims were **UNFOUNDED**: (i) PREA (ii) excessive force and (iii) telephone access.

IOLERO'S CONCLUSION IOLERO reorganized the issues under review to set out a more comprehensive evaluation.

IOLERO found SCSO's investigation was **COMPLETE** with respect to telephone access, use of force, cell cleanliness and, in part, the PREA claim. However, IOLERO concluded the investigation was **INCOMPLETE** concerning the core claim of whether the complainant was improperly strip searched and whether the search intruded into privacy in violation of PREA and rules of personal conduct.

A. On the merits, IOLERO agreed with SCSO's findings concerning the claim of excessive force, telephone access, racial bias, cell cleanliness and, in part, PREA compliance.

The record showed the correctional deputy used minimal force consisting of hand pressure on a shoulder to induce complainant to sit down and a non-pressure wrist lock during escort to a holding cell. Complainant's characterization that the force nearly broke a wrist was not objectively supported. Because the force complied with law and Policy, we concluded that the finding should be **EXONERATED** rather than **UNFOUNDED**.

State law requires persons held at a detention facility be granted telephone access as soon as practicable after booking. The record showed complainant was provided telephone access within 50 minutes after arrival at the facility, and before booking had been completed. Because telephone access complied with law and Policy, we concluded that the finding should be **EXONERATED** rather than **UNFOUNDED**.

SCSO Policy 300.2.2, 320.5.3 and 401.2 strictly forbid racial bias in policing. The record shows all persons entering the MADF must be pat searched (e.g., running hands on the outside of clothing) for contraband, and the decision to pat search the complainant was not discretionary for the correctional deputy. As noted below, IOLERO concluded that the pat search evolved into a strip search, but there was no evidence that this was based on racial considerations. Accordingly, we agreed that the claim of racial bias was **UNFOUNDED**.



PREA prohibits intentional contact with a person's private areas that is unrelated to official duties. The record showed the search was made as part of official duties and no intentional contact was made with any private areas beyond that necessarily incident to the search. Accordingly, we agreed with SCSO to the extent it (i) interpreted the PREA claim to include an allegation of improper touching and (ii) that the claim was **UNFOUNDED**.

Complainant alleged the holding cell was dirty but provided no details. The investigator attempted several times to contact complainant without success. Because of the lack of information, the investigator concluded the claim could not be further evaluated. IOLERO agreed, but concluded that the finding should be **NOT SUSTAINED**.

B. IOLERO concluded that the record showed the pat search evolved into a strip search, and did not comply with governing law and Policy.

Penal Code § 4030 and SCSO's Policy defines a strip search as including the "arranging" of some clothing to permit an inspection of underclothing. In this case, complainant's outer clothing was unzipped to reveal underclothing and constituted a strip search as defined. The strip search did not receive prior approval, and was conducted in a non-private area and in the presence of persons of the opposite sex, which is prohibited by law and Policy. The investigator characterized this as a pat search and did not evaluate whether, as a strip search, it complied with law or Policy, and the investigation was therefore **INCOMPLETE**. However, a preponderance of the evidence in the existing record shows that whether characterized as either a pat search or a strip search, it violated law and Policy and the claim should have been **SUSTAINED**.

C. IOLERO concluded that a finding cannot be made regarding violation of PREA privacy.

PREA prohibits voyeurism which is defined, in part, as invading a person's bodily privacy for reasons unrelated to official duties. The investigator did not review this issue as it relates to the strip search. The investigation was therefore **INCOMPLETE** and the record is insufficient to support a finding.

D. IOLERO concluded findings are mixed on the personal conduct claim.

SCSO Policy 320.5.9 prohibits discourteous or disrespectful treatment.

The complainant alleged the deputy called them a “liar” which, on its face, would be discourteous or disrespectful. However, the record evidence does not support a finding that the deputy either did or did not make such a statement. Accordingly, IOLERO concluded that the finding should be **NOT SUSTAINED**.

The complainant also claimed the deputy treated them roughly. The record shows that searching complainant was non-discretionary. While the deputy might have incorrectly believed the strip search was Policy-compliant, there is no evidence the deputy acted roughly or with intent to violate Policy.

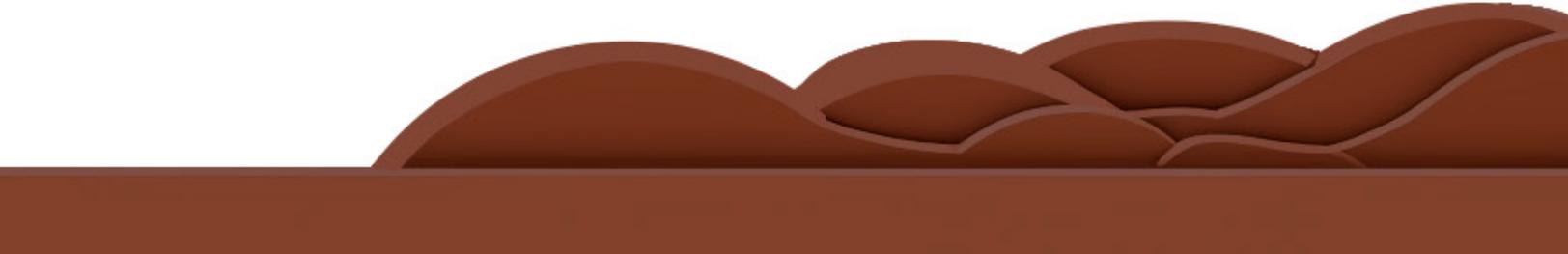
However, the record also showed the deputy declined to re-zip the complainant’s outer clothing when the search was completed based on the deputy’s personal practice. The investigator did not address how this practice conformed to the privacy requirements of conducting strip searches.

IOLERO discounted the investigator’s finding that the deputy would have been more sympathetic had they known of complainant’s undisclosed prior victimization. Empirical data showed persons are likely to have been the victim of sexual assault in their lifetime and the presumption should therefore be that a person was, rather than was not, a prior victim. Moreover, the deputy was equivocal as to whether they would have zipped up the clothing even had they known of complainant’s prior victimization.

Accordingly, IOLERO concluded that, on this specific record, a preponderance of the evidence showed that the deputy’s refusal to zip up clothing as requested by complainant based on the deputy’s personal practice amounts to “discourteous” or “disrespectful” conduct based on IOLERO’s interpretation of Policy § 320.5.9, and that the finding on this narrow issue should be **SUSTAINED**.

IOLERO’S RECOMMENDATIONS IOLERO recommended that SCSO review its current Custody Manual concerning strip searches and evaluate whether training adequately guides MADF Staff in conducting such searches.

SCSO’S RESPONSE None.



CASE NUMBER 23-C-0027

PREA COMPLAINT NO. 3

CONDUCT UNBECOMING; DISCOURTESY; BREACH OF DUTY

ORIGIN OF COMPLAINT SCSO / IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged a correctional deputy physically sexually assaulted her.

SCSO'S CONCLUSION SCSO conducted an initial PREA interview with complainant, conducted a criminal PREA review by patrol deputies, and conducted a follow up internal PREA review. These involved review of MADF video files, Body Worn Camera files, incident reports, classification and movement history, inmate request forms, and shift logs. SCSO then followed with the PREA administrative investigation based on the prior reviews and evidentiary record, and which included additional interviews of the involved deputies.

Based on these materials, SCSO found there was no evidence of a sexual assault and concluded the finding should be **UNFOUNDED**. Although not raised by complainant, SCSO independently reviewed whether a deputy improperly failed to activate their Body Worn Camera and concluded this issue was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. Complainant was interviewed the day of the alleged incident. In the course of the PREA investigation SCSO reviewed appropriate documentary and video materials, conducted a criminal review and separate interview with complainant, and interviewed the involved deputies. The investigation was sufficient to address the PREA claim.

We further **NOTED** that this PREA investigative procedure (which was also followed in case number 23-C-0025 summarized below) was particularly effective because (i) it did not simply rely on the initial PREA review, and included follow-up independent

interviews of the involved deputies (ii) SCSO provided an interlocutory status report to complainant and (iii) the entirety of the prior PREA reviews was attached as part of the record.

These subsequent investigative steps materially add to the completeness and transparency of the record and reinforce the overall strength and credibility of the administrative investigative findings. As set out in the U.S. Department of Justice regulations and SCSO's Policies, administrative investigations of PREA claims are intended to go beyond the initial criminal and MADF PREA reviews, by assessing possible responsibility of any SCSO Member. Additional investigative steps might only be incremental in cases where the initial PREA reviews were otherwise substantial (as is the case here), but they nevertheless serve a vital role in supporting administrative findings in concert with the investigation's stated purpose under PREA.

On the merits, IOLERO **AGREED** with SCSO that the claim of sexual assault was **UNFOUNDED**.

The record showed that the deputies used minimal force to place complainant back in her cell when she refused to enter and physically resisted by locking her legs and arms around the doorjamb. The video files clearly show no deputy physically touched complainant in any sexual or inappropriate manner or area.

Mental Health. SCSO noted complainant had mental health issues. This is an important issue in all investigations, and particularly in PREA matters. Accordingly, IOLERO reviewed this issue in more detail. Persons with mental health issues are more vulnerable than the general population to sexual abuse, in part because they often are unable to articulate what occurred and may be seen as unreliable witnesses. Thus, a person's claim of abuse cannot be discounted solely because they have mental health issues. Investigations must take into account that mental health may impede a person's ability to articulate the facts of the abuse. California Commission on Peace Officer Standards and Training (POST) materials and SCSO's own Policies acknowledge and reflect this principle.

In this case, the record showed that SCSO did not rely solely on complainant's mental health in reaching its findings or in discounting the allegations. Instead, the record showed SCSO properly investigated the factual basis for the allegations and based the conclusions on that factual investigation.

IOLERO also **AGREED** with SCSO that one deputy's failure to activate their Body Worn Camera did not violate Policy, but we concluded the finding should be **EXONERATED** rather than **UNFOUNDED**.



SCSO Office-Wide Policy § 425.6 requires BWC activation when a contact becomes adversarial. SCSO found one deputy attempted to activate his BWC after the contact with complainant became adversarial and believed he had done so, but he did not notice it had not activated until after the incident was over. The record supports this finding. The BWC Policy requires BWC activation unless it would be unsafe, impossible or impracticable, and therefore it does not impose “strict liability”. A good-faith, but unsuccessful, attempt to activate a BWC while the deputy was actively engaged in an incident, as the deputy was here, is consistent with the BWC Policy terms.

IOLERO’S RECOMMENDATIONS Continue to utilize the more complete PREA investigatory process employed in this matter.

SCSO’S RESPONSE None.

CASE NUMBER 23-C-0025

PREA COMPLAINT NO. 4

CONDUCT UNBECOMING; DISCOURTESY; BREACH OF DUTY

ORIGIN OF COMPLAINT SCSO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The complainant made a verbal allegation that a correctional deputy physically sexually assaulted her.

SCSO’S CONCLUSION SCSO conducted an initial PREA interview with complainant and, based on her statements, reviewed internal MADF records to identify the date of the alleged incident. SCSO then reviewed MADF video files of the incident and shift logs to identify the deputies on duty at that time. SCSO also conducted a criminal PREA review which evaluated the initial PREA investigative record and concluded the claim was unfounded. SCSO then followed with the PREA administrative investigation based on the prior reviews and evidentiary record, and which included an additional interview with the identified deputy.

Based on these materials, SCSO found that the named deputy was not on duty or present at the incident during which complainant alleged the assault occurred, and video of the incident showed complainant was not assaulted by anyone. Accordingly, SCSO concluded the allegation was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. SCSO properly treated the verbal allegation as a PREA claim, interviewed complainant the day the allegation was made, reviewed records to determine the date of the alleged incident based on complainant's statements, and reviewed records and video files to ascertain the deputy's presence and what occurred during the incident in question, and interviewed the deputy. The investigation was sufficient to address the PREA claim.

We further **NOTED** that this PREA investigative procedure (which was also followed in case number 23-C-0027 summarized above) was particularly effective because (i) it did not simply rely on the initial PREA review, and included follow-up independent interviews of the deputy (ii) conducted additional inquiry into the deputy's physical location during the incident in issue and (iii) attached the entirety of the prior PREA reviews as part of the record.

These subsequent investigative steps materially add to the completeness and transparency of the record and reinforce the overall strength and credibility of the administrative investigative findings. As noted in Audit 23-C-0027 above, these additional steps may seem somewhat duplicative given the state of evidence available during the initial MADF and criminal PREA reviews, but in fact these steps fill critical areas of inquiry. In this case, they establish the deputy's physical whereabouts as well as the reasons for his entry into the MADF that day. Additional investigative steps might only be incremental, but they nevertheless serve a vital role in supporting administrative findings in concert with the investigation's stated purpose under PREA.

On the merits, IOLERO **AGREED** with SCSO that the claim of sexual assault was **UNFOUNDED**.

The record showed (i) the named deputy was not present at the incident during which the alleged sexual assault occurred and (ii) that no sexual assault was committed by any person during the incident in question (in which complainant was removed from her cell by an extraction team for medication and then placed into another cell without incident).

Mental Health. As in Case No. 23-C-0027 above, SCSO noted complainant had mental health issues and IOLERO reviewed this matter in more detail. In this case the Investigator did not rely solely on complainant's mental health issues. Rather, SCSO properly continued the investigation based on the factual information complainant was able to provide. These factual anchors provided by complainant were specific and provided a sufficient basis to reasonably determine the date of the alleged assault from MADF records, and therefore identify evidence of what actually occurred that day, which SCSO did.

IOLERO'S RECOMMENDATIONS Continue to utilize the more complete PREA investigatory process employed in this matter.

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0032

PREA COMPLAINT NO. 5

RAPE, USE OF FORCE

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT Complainant alleged that Deputy A raped and tased her multiple times while she was incarcerated in the jail in 2022. Complainant alleged that the rapes occurred across seven specific dates, and also occurred during two general periods that include another 37 dates. Complainant alleged that a second, retired deputy (Deputy B) raped and tased her while she was incarcerated in the jail in 2019-2020.

SCSO'S CONCLUSION SCSO found that complainant's allegations of rape and force against Deputy A were **UNFOUNDED**. SCSO reviewed statements from complainant and Deputy A, contacted potential witnesses that complainant identified, and tried to do a follow-up interview with complainant; reviewed jail records and video showing complainant's and Deputy A's movements; reviewed Deputy A's taser records; and reviewed reports prepared by jail, patrol, and criminal investigation personnel who also investigated aspects of the allegations. SCSO found that Deputy A was not working on multiple, specific dates when complainant alleged she was raped; and that Deputy A's taser was not discharged on the relevant dates. SCSO also evaluated complainant's credibility and found that she had made inconsistent, vague statements to investigators; considered Deputy A's denial of wrongdoing; and considered the criminal investigation's conclusion that there was no evidence of a crime.

Separate from complainant's allegations, SCSO determined that one of the jail's policies was unclear. Before she filed a complaint with IOLERO, complainant made many of the same allegations to jail staff and patrol deputies. SCSO's "PREA" (Prison Rape Elimination Act) policy instructed jail staff and patrol deputies how to investigate those allegations. SCSO noted that it was unclear whether the policy required the patrol deputies to forward complainant's original allegations to criminal investigators. The Investigator notified the relevant SCSO personnel, who then provided additional training to patrol staff.

IOLERO'S CONCLUSION IOLERO **AGREED** with SCSO's finding that the rape and force allegations against Deputy A should be **UNFOUNDED**. SCSO reviewed and developed substantial evidence, as discussed above. Taser records showed that Deputy A's taser was not discharged during the relevant time period. On the seven specific dates that complainant alleged she was raped, jail records showed that Deputy A was not working and/or complainant's cell door was not opened. Jail records showed that the same was true on 33 of the 37 other dates that complaint alleged more generally. As to the four remaining dates that were not addressed by jail records, there was no affirmative evidence corroborating the allegations, and complainant's allegations were not credible based on various factors.

IOLERO found that SCSO's investigation was **INCOMPLETE**, however, because it did not address complainant's allegation that former Deputy B raped and tased her while she was incarcerated during 2019-2020.

IOLERO'S RECOMMENDATIONS IOLERO announced a clarification to the way it evaluates completeness. Going forward, IOLERO will conclude that an IA investigation is procedurally incomplete if IA failed to preserve jail footage that was relied upon during the investigation, regardless of any other potential indicators of the investigation's quality. IOLERO will apply this standard to all investigations that IA completes after February 15, 2024. (See discussion above in Section VIII (H) "Preservation of Jail Video".)

IOLERO recommended that SCSO personnel record all interviews conducted for IA investigations and PREA investigations. Here, the Investigator did not record two interviews during the IA investigation, and a patrol deputy did not record one interview during the earlier PREA investigation.

IOLERO also recommended that IA specifically identify each allegation and all potential policy violations in its report. Here, the IA report did not specifically reach a finding on the taser allegation.

SCSO'S RESPONSE None.



B. BOOKING PROCEDURES

CASE NUMBER 22-C-0025

MADF COMPLAINT NO. 1

CONDUCT UNBECOMING; DISCOURTESY;
BREACH OF DUTY

ORIGIN OF COMPLAINT SCSO and IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

Allegations in the Complaint The complainant made wide-ranging allegations concerning her booking into the MADF, including that MADF Staff denied her telephone access by placing her in a sobering cell, denied her sanitary supplies and clothing, and threatened to call child protective services to check on her children. Complainant also claimed that the holding cell was unsanitary and she received only ibuprofen in response to a request for mental health care.

SCSO'S CONCLUSION SCSO reviewed 14 MADF videos of the day in question, complainant's records, shift logs, rounds documentation, sobering cell log, telephone logs and SCSO's booking policies and procedures. SCSO also spoke with 13 MADF Staff and interviewed the complainant.

Based on these records, SCSO concluded that the claim regarding denial of clothing, sanitary items and bedding, and the claim that the cell was moldy and unsanitary, were **UNFOUNDED**.

SCSO also found that it was MADF practice to wait until a person is released from the sobering cell to provide telephone access, and that there was no evidence that anyone threatened to call child protective services as a threat to complainant. Accordingly SCSO found these claims to be **UNFOUNDED**.

Finally, SCSO concluded complainant received medical screening on arrival and three subsequent medical and one mental health checks, none of which identified any medical or mental health issuers requiring treatment. Accordingly SCSO found these claims to be **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**.

The investigator reviewed relevant documentary materials and interviewed a host of MADF Staff as well as the complainant, which was more than sufficient to resolve the issues. The investigator also reviewed a substantial number of MADF video files covering a multi-hour period.

SCSO noted that the investigator did not record the interviews and was not aware they should have been, and directed that future interviews be recorded. Recording interviews is necessary to, among other things, preserve the original factual materials on which the investigator relied and from which they drew their conclusions. Failure to record interviews may render an investigation incomplete in some circumstances. However, IOLERO concluded that in this case the scope and breadth of the investigation was in fact extensive, and that failure to record the interviews did not render the investigation incomplete. Nevertheless, the failure to memorialize these interviews left a gap in the record that prevents a review of original fact sources. IOLERO does not doubt the veracity of the investigator's summary of these interviews but it remains impossible to objectively audit the investigator's summaries against the interviews themselves. This record gap has an adverse evidentiary impact that prevented a dispositive finding from being made on some issues, as identified below.

Issuance of Clothing. The record showed complainant in fact received facility-issued clothing. Accordingly, we **AGREED** with SCSO that this claim was **UNFOUNDED**.

Issuance of Footwear. Neither Title 15 nor MADF Policy provide for issuance of footwear during the booking process, and MADF Policy bars shoes from sobering cells. MADF Staff acted in accordance with law and Policy by not issuing footwear and IOLERO agreed that the MADF Staff should be **EXONERATED** on this point.

Change of Clothing. The complainant alleged she was required to remain in soiled pants for more than four hours. The record shows complainant met with MADF Staff several times during this 4-hour window and there is no evidence a request for change of clothes was made or that complainant informed anyone, or acted in a manner to suggest, that she soiled her clothing. However, because interviews were not recorded it is not possible to determine whether this issue was addressed and therefore IOLERO concluded the finding should be **NOT SUSTAINED**.

Sanitation. Sanitation was conducted in the booking area while complainant was in the booking process, MADF Staff entered the cell on several occasions without indication of a complaint of sanitary conditions, and when complainant

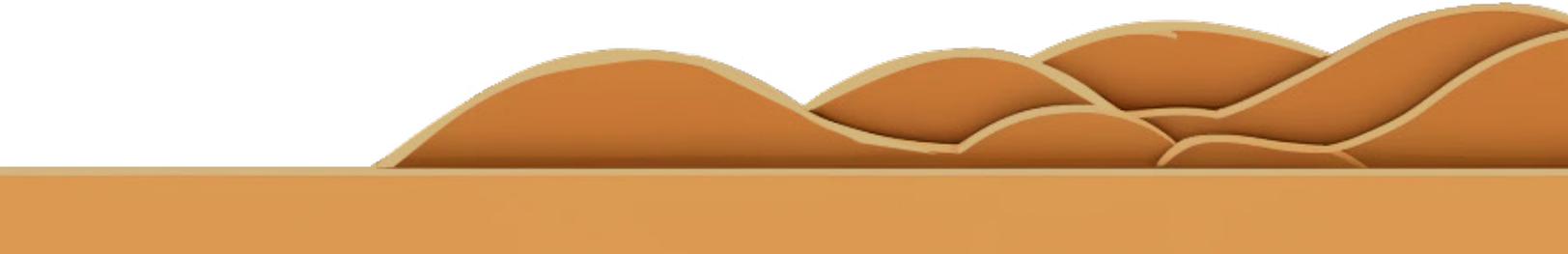
was released later in the day there is no indication she complained about sanitary conditions. However, because interviews were not recorded, it is not possible to determine whether this issue was addressed and therefore IOLERO concluded the finding should be **NOT SUSTAINED**.

Issuance of Bedding. Title 15 and MADF Policy do not require issuance of bedding unless the person enters MADF housing. Complainant was released from the facility after booking and never entered MADF housing, and non-issuance of bedding was compliant with law and Policy. Accordingly, IOLERO concluded MADF Staff should be **EXONERATED** on this claim.

Toiletries. The record showed MADF Staff provided complainant with toilet paper and that this claim was **UNFOUNDED**. However, complainant's allegation may reasonably be interpreted as challenging the timing of when the toilet paper was provided. Because interviews were not recorded, it is not possible to determine whether this issue was addressed and therefore IOLERO concluded the finding should be **NOT SUSTAINED**.

Sobering Cell. The record shows that medical staff examined complainant on arrival and concluded she was under the influence. Complainant acknowledged later that she had been drinking prior to the arrest. Complainant's claim that staff knew she was not intoxicated when they placed her into the sobering cell was **UNFOUNDED**. To the extent complainant alleged placement into the sobering cell violated law or Policy, the finding should be **EXONERATED**.

Medical Care. Medical staff assessed complainant four times and staff conducted additional visual checks four times every hour. The timing and frequency of the medical reviews are consistent with Title 15 and MADF Policy. Complainant objected that she should have received more than ibuprofen for what she considered to be mental health issues. However, medical and mental health clinical judgments "are the sole province of the responsible qualified health care professionals, dentist, and psychiatrist or psychologist", and there is nothing in the record to question medical staff's judgments or to indicate that they provided medical or mental health evaluations below the level reasonably required of such staff. Accordingly IOLERO concluded the finding should be **EXONERATED**.



Child Protective Services. Complainant alleged that when she asked to use the telephone to check on her children, staff stated they would call Child Protective Services to conduct the check which complainant interpreted as a “threat”. The record was not sufficiently developed to make a finding. SCSO found that staff did not discuss with complainant about contacting CPS, while complainant alleged otherwise. Because the interviews with complainant and staff were not recorded it is not possible to assess whether information provided by those parties was sufficient to resolve this discrepancy, or to provide clarity to the claim. Based on the present record, several scenarios are possible: (i) no reference to CPS was made at all; (ii) reference was made to CPS as alleged, or (iii) reference to CPS was made in some other context. Accordingly we concluded that the finding on this specific issue should be **NOT SUSTAINED**.

Telephone Access. Penal Code § 851.5 and SCSO Policy both require that a person be permitted to make at least three telephone calls immediately after booking or within three hours of their arrest unless it is “physically impossible”. Had complainant not been placed in a sobering cell and deemed a “partial” booking, denial of requested access to a telephone for more than 3 hours (in this case 8 hours) following her arrest would clearly violate § 851.5 and SCSO Policy.

However, SCSO concluded that MADF practice is that arrestees placed in a sobering cell are not given access to a phone until their booking is completed and they are “un-partialed.”

The question is whether this “practice” is consistent with SCSO Policy and Penal Code § 851.5. SCSO did not evaluate this issue.

The Ninth Circuit has held that § 851.5’s requirement to provide an arrestee telephone access within 3 hours of arrest is mandatory, subject only to “physical impossibility”. Placement in a segregated cell such as a safety cell, by itself, does not constitute “physical impossibility”. Instead, there must be a factual basis for why it was physically impossible to provide a particular arrestee telephone access.

The record here showed that complainant was placed in a sobering cell due to intoxication. But there was no evidence she was violent in the facility, or that there were any other specific factors which made it physically impossible to provide her telephone access due to a physical or mental condition. The telephone in complainant’s cell could have been activated at any time and the delay was due entirely to waiting for partial booking to be completed.

Based on the record as presented here, there is a prima facie basis to conclude that, depending on how it is actually applied, the “practice” identified by the SCSO could be non-compliant with § 851.5 or SCSO Policy. For example, an intoxicated person might be on the verge of sleep or be so intoxicated that they are unable to speak lucidly. In such a case it may be reasonable to conclude such arrestees are unable to physically use a telephone despite their request to do so. On the other hand, other intoxicated persons may be fairly lucid and have the physical ability to use the telephone even while intoxicated, before they are completely sober, or before Staff is able to complete the booking.

SCSO Policy appears to acknowledge this distinction. (See Detention Policy “Telephone–Inmate” § 4.2.B [inmates may make calls “as soon as the inmate is physically able to complete the call”]). However, the MADF practice identified by the SCSO does not distinguish between these (or other) scenarios, but instead appears to delay telephone access for all “partially” booked arrestees placed in a sobering cell until booking is “unpartialed”, regardless of the physical condition of the arrestee or the time that elapses. Unless it specifically assesses whether it is “physically impossible” to provide telephone access to a particular arrestee based on facts specific to that arrestee, a general practice that may result in delayed telephone access for more than 3 hours following arrest contradicts the Ninth Circuit’s governing requirements.

Given the wide scope of the investigation, it is possible that facts relevant to this issue were addressed by SCSO. For example, complainant may have identified the time she made her request to use a telephone (e.g., upon arrival; after placement in the cell; sometime later during the night; during the completion of booking). Staff may also have provided more facts concerning complainant’s physical condition as it bears on her ability to use a telephone when she made her request. These facts and circumstances are directly relevant to assessing whether it was “physically impossible” to provide telephone access when a request was made.

On the record as presented it was not possible to review the content of interviews conducted with Staff and complainant concerning these items. It was also not possible to assess whether this “practice” is a blanket procedure applied without regard to the intoxicated person’s actual condition, or is being applied on a fact-specific basis consistent with governing law. Accordingly, a dispositive finding cannot be made on the present record and we concluded that the finding should be **NOT SUSTAINED**.

IOLERO'S RECOMMENDATIONS The "practice" identified by SCSO of not providing arrestees placed in a sobering cell with telephone access until the booking process is completed may result in instances where an arrestee is denied telephone access in contravention of Penal Code § 851.5 and SCSO Policy.

We **RECOMMENDED** that SCSO review its booking and telephone practices to ensure they comply with Penal Code § 851.5 and SCSO Policy. (See also Case No. 23-C-0006 below).

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0006

MADF COMPLAINT NO. 2

CONDUCT UNBECOMING; DISCOURTESY; BREACH OF DUTY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged MADF Staff intentionally delayed his booking, he was improperly denied telephone access, and he was provided inadequate medical care.

SCSO'S CONCLUSION SCSO reviewed applicable booking documentation, MADF video files, duty roster, medical and mental health records, cell logs and telephone records. SCSO also interviewed three deputies involved in the booking and communicated with complainant via email (at complainant's request) about the claims.

Based on these materials, SCSO concluded the claims were **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**.

On the merits, IOLERO partially agreed and partially disagreed with SCSO.

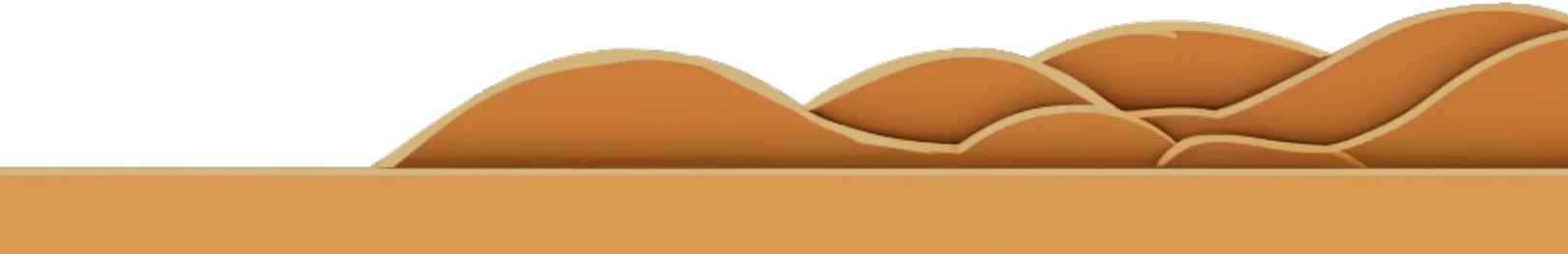
Medical Care. The Constitution prohibits MADF Staff from being “deliberately indifferent” to a person’s medical issues. The record showed no evidence of such indifference or evidence that complainant’s medical needs were not assessed. Accordingly, IOLERO agreed that to the extent the complainant alleged his medical needs were “ignored”, the claim was **UNFOUNDED**. To the extent the claim was that medical care did not comply with law and Policy, IOLERO concluded that the MADF Staff should be **EXONERATED**.

Sobering Cell Use. California Code of Regulations Title 15 and SCSO Policy require removal from a sobering cell when a person is sober enough to complete booking, and the record shows that occurred in this case. Complainant was intoxicated and completion of booking was delayed until they were sober and could provide reliable information about health and medical issues. There was no evidence that complainant’s placement into a sobering cell was an attempt to deliberately delay booking or was done at the request of any outside law enforcement agency as complainant alleged. Accordingly, IOLERO agreed with SCSO that the claim of deliberate delay in booking was **UNFOUNDED**.

Telephone Access. With respect to telephone access, IOLERO's conclusions are mixed.

Penal Code § 851.5 requires signage in the MADF informing persons of their right to telephone access. SCSO acknowledged this signage is not in the sobering cell but concluded that it is not required in that cell because the Title 24 Building Code for detention facilities does not specifically require it in the sobering cell. IOLERO concluded, however, that the signage requirement is governed by Penal Code § 851.5, not Title 24. Accordingly IOLERO **DISAGREED** with SCSO that the signage claim was **UNFOUNDED**, and concluded instead that the claim was **NOT SUSTAINED**, and recommended SCSO re-evaluate this issue as it relates to sobering cell signage under § 851.5.

As to whether MADF Staff verbally failed to offer telephone access, the Penal Code does not require such verbal offers. Instead, signage must be posted and Staff are required to provide access upon a person’s request. To the extent complainant



alleged Staff did not verbally offer telephone access, IOLERO concluded MADF Staff should be **EXONERATED**.

With regarding to waiting until booking was completed before providing telephone access (in this case a period of ten hours), the record showed MADF Staff were acting in accordance with SCSO's institutional practice, and Staff should be **EXONERATED**.

However, the record was not clear as to whether SCSO's institutional "practice" complies with Penal Code § 851.5, which requires telephone access within 3 hours of arrest subject only to "physical impossibility". Placement into a sobering cell, alone, is not "physical impossibility" under § 851.5. The 9th Circuit instead requires a factual reason for why it is physically impossible to provide a person in a sobering cell telephone access.

The MADF "practice" appears to delay telephone access for all "partially" booked arrestees placed in a sobering cell until booking is completed, regardless of the physical condition of the arrestee or the time that elapses. Unless it specifically assesses whether it is "physically impossible" to provide telephone access to a particular arrestee based on facts specific to that arrestee, a generalized practice resulting in delayed telephone access for more than 3 hours following arrest contradicts the Ninth Circuit's governing requirements.

Accordingly, IOLERO **DISAGREED** with SCSO's finding of **UNFOUNDED** regarding timely access to a telephone, and concluded instead that the record did not support a finding of compliance or non-compliance with § 851.5 and that the finding should be **NOT SUSTAINED**.

Transparency in Administrative Interviews. Transparency is a fundamental tenet of an administrative investigation, and SCSO Policy § 1010.6.2 provides that interviews should be recorded. IOLERO **NOTED** in reviewing this matter that the investigator engaged in whispered communications with deputies during their interviews that were clearly not intended to be part of the record.

After carefully scrutinizing the entirety of the record, IOLERO found no indication the investigator acted with improper motives, and the substance of the whispered communications does not change **IOLERO'S CONCLUSION**s concerning SCSO's investigatory findings, based on IOLERO's independent assessment. Nevertheless, they raise fundamental concerns about transparency and objectivity that must be corrected. We therefore strongly **RECOMMENDED** that SCSO review this issue and,

at a minimum, instruct and ensure all administrative investigators adhere to the transparency and objectivity principles.

IOLERO'S RECOMMENDATIONS 1. We **RECOMMENDED** that SCSO review its telephone use signage and booking practices to ensure they comply with Penal Code § 851.5 and SCSO Policy. (See also Case No. 22-C-0025).

2. We **RECOMMENDED** SCSO take steps to ensure administrative investigators adhere to transparency requirements during all stages of investigations.

SCSO'S RESPONSE None.



C. GENERAL CONDUCT

CASE NUMBER 22-C-0024

MADF COMPLAINT NO. 1

CONDUCT UNBECOMING

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The complainant alleged a correctional deputy insulted his physical appearance and improperly charged him with a rule violation.

SCSO'S CONCLUSION SCSO reviewed the relevant internal incident report and disciplinary hearing disposition form, and interviewed the complainant and the involved deputy. Based on these materials, SCSO concluded the claims were **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. Complainant was essentially disputing a major violation charge concerning an incident where he yelled from his cell and insulted the deputy. SCSO reviewed the complaint, the incident report, and the disciplinary hearing record, and spoke with complainant and the deputy. This investigation was sufficient to evaluate complainant's claim.

On the merits, IOLERO **AGREED** with SCSO that the claims were **UNFOUNDED**.

Complainant was afforded an opportunity to dispute the rule violation charge during the disciplinary hearing, chose to not contest it, and the record supported the charge. Complainant was also entitled to dispute the disciplinary process through the grievance procedure and elected not to do so.

Complainant nevertheless claimed the deputy falsely wrote that he previously warned complainant about yelling, which the deputy denied. Standing alone, conflicting versions do not resolve an issue. However, the record showed various substantive inconsistencies between complainant's allegations, his subsequent factual statements, and documented materials that undermine critical elements of complainant's allegation. This included complainant's inability to identify how the deputy alleged insulted his physical appearance. These discrepancies do not suggest improper intent by the complainant; they may be due to complainant's anger at being charged with a rule violation or based on a mistaken interpretation of the incident report. Nevertheless, evaluating the record as a whole, a preponderance of the evidence supported the conclusion that the deputy was truthful in his report entries and did not engage in improper conduct.

Accordingly, IOLERO **AGREED** with SCSO that the complainant's allegations were **UNFOUNDED**.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0033

MADF COMPLAINT NO. 2

CONDUCT UNBECOMING

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/
Latine(x)

ALLEGATIONS IN THE COMPLAINT Complainant challenged various conditions of confinement at the MADF over a two-year period, including alleged racial slurs by staff, lack of out-of-cell time, and alleged denial of medical care.

SCSO'S CONCLUSION SCSO organized complainant's wide-ranging allegations, compiled duty logs, reviewed movement and classification history, reviewed MADF video files covering 25 days, compiled door reports, reviewed out-of-cell logs and activity logs, supervisors logs, emergency staffing materials, incident reports, Body Worn Camera files, grievances, classification inputs, management notes, and medical records. SCSO also interviewed complainant and three correctional deputies.

Based on these materials, SCSO concluded in a lengthy report that complainant's allegations were either **UNFOUNDED** or **NOT SUSTAINED**.

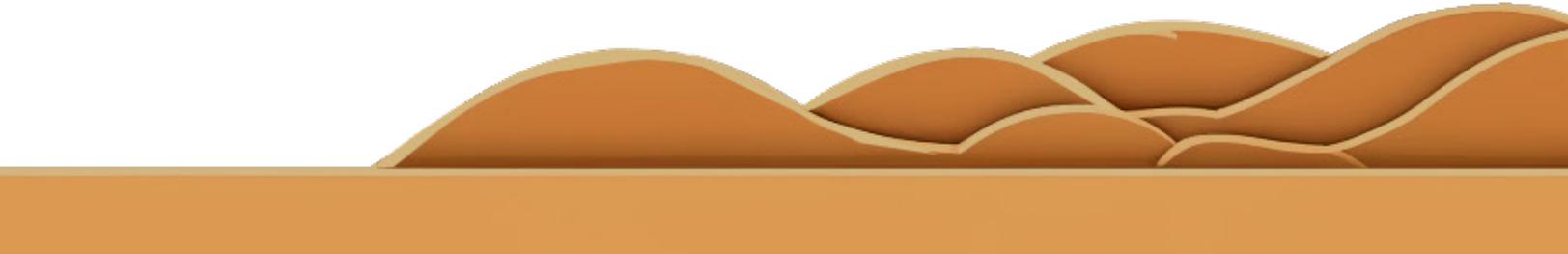
IOLERO'S CONCLUSION IOLERO found SCSO's investigation was **COMPLETE**. We further **NOTED** that SCSO provided an extensive report that is particularly detailed and effective in several respects.

The record showed complainant's factual allegations were vague, contradictory and conclusory, and his demeanor aggressive and at times volatile and threatening. This record made it difficult to organize and characterize the allegations in a meaningful way. SCSO nevertheless did so in a reasonable and workable manner that accurately reflects the substance of the claims.

The record also showed the investigator reviewed a substantial volume of facility records relevant to the claims, and synthesized lengthy records to provide a clear measure of the claims. The investigator interviewed complainant in a lengthy session displaying remarkable patience during the process. The materials reviewed were also listed separately as part of an exhibit list and provided meaningful access for review. The scope and breadth of this investigation was not only sufficient to resolve the issues presented, it was exhaustive.

The Investigator also provided a summary of the relevant Title 15 requirements, SCSO Policies and Detention Policies, and Medical Standards, and set out lengthy evaluations of the factual record as they relate to those regulations, Policies and standards. While there may be some areas where further refinement is needed, the investigator's analysis was substantial and positively addressed many of the observations noted in prior Audits and that were set out in IOLERO's FY 2022-2023 Annual Report concerning "Analytical Completeness".

On the merits, IOLERO **AGREED** with SCSO that the record does not support any of the claims alleged and that the findings on all claims (even those SCSO determined to be **NOT SUSTAINED**). However, we noted that the findings should comply with definitions in Penal Code §§ 832.5, 832.7 and 832.8.



“Sustained” means the evidence shows the actions both occurred and violated law or policy. “Exonerated” means the evidence shows the actions occurred but did not violate law or policy. “Unfounded” means the evidence showed the actions did not occur. “Not sustained” means it is not possible on the evidence to determine if the actions occurred and/or if they violated law or policy. “Frivolous” means the evidence shows the actions did not occur and the claim was made in bad faith.

Proper identification of outcome is important. “Unfounded” means the evidence did not show that the actions factually occurred, and the inquiry generally concludes there. An “exonerated” finding, on the other hand, means the actions did occur and requires an evaluation, interpretation and application of substantive law and policy. Sometimes an allegation raises both factual and policy issues. For example, a person’s characterization that an officer “viciously attacked” them may be “unfounded” when the evidence shows the officer in fact used only a wrist lock while escorting the person to their cell. But whether the wrist lock, as it actually occurred, complied with law and Policy is a separate issue. A determination that the deputy should be “exonerated” for using the wrist lock requires a substantive discussion of the applicable law and Policy, including SCSO’s interpretation and analysis as they are applied to the facts.

In this case, SCSO concluded that the claims of denial of OCA for extended periods, denial of grievance access, retaliation, and an alleged homicide were **UNFOUNDED**. This finding category properly reflects the lack of evidence that any of these alleged actions or events factually occurred as alleged.

However, SCSO also concluded that the claim for medical care and use of restraints complied with regulations, medical standards and SCSO Policy. Because this evaluation involves an assessment of whether the medical care actually provided and the restraints actually used complied with law and Policy, the findings must be based on interpretation and application of law and Policy and therefore the conclusion should be **EXONERATED** rather than “unfounded” or “not sustained”.

Finally, to the extent the record shows that no MADF staff in fact engaged in racial bias or in fact threatened complainant, the finding should be **UNFOUNDED** as to those claims.

Alleged Racial Slurs. Complainant accused three deputies of making a racial slur, and each deputy denied making such statements. While a denial of wrongdoing alone is not dispositive, the record corroborates the deputies’ denials. Complainant’s factual description of the circumstances under which the alleged statement occurred is at odds with documentary evidence of when the deputies were on duty. The only racial invective actually documented came from complainant.

Alleged Sexual References. Complainant accused a deputy of making inappropriate sexual references about complainant's daughter. The deputy denied this and the record supports this denial. Complainant raised this claim during an interaction with the deputy in a module, in which the deputy not only denied it, but reacted verbally with clear repulsion at what was stated. There is no reasonable basis to question the sincerity of the deputy's contemporaneous reaction. Complainant also alternated the time frame of the alleged statements and the deputies all confirmed they did not know complainant had a child.

Alleged Extended Denial of OCA Time. Complainant alleged he had been denied OCA for extended times. The MADF records show that complainant was either provided OCA time, denied OCA based on documented conduct, denied OCA because of placement into a safety cell, or complainant refused OCA time, all as required by Title 15 and MADF Policy. There were four days in which a lack of OCA was not documented. While this lack of documentation is not appropriate, it was limited and it does not support complainant's claim of an extended OCA denial over several consecutive days.

Alleged Improper Grievance Handling. Complainant alleged his grievances were not processed or had been removed from his cell. The record shows that the grievances, including those concerning medical care, retaliation and classification, were processed and resolved by MADF Staff, and reviewed through the chain of command, according to Policy.

Use of Restraints. Complainant disagreed with the use of restraints. The record contained substantial evidence of threatening and abusive behavior by complainant that could result in the use of restraints under both the Pre-2023 Detention Policy and the current 2023 Detention Facility Policy Manual and SCSO Policy.

Alleged Labeling as a Snitch and Threat to Suffocate Him. Complainant alleged that a deputy called him a snitch for contacting IOLERO, and that a medical staff threatened to have him die in his cell. The deputy denied making such a statement, and the records show the deputy was not on duty that day. With respect to medical staff, BWC video of the interaction showed they made no such threat.

Alleged Retaliation. Complainant alleged that a County request to send him to a mental hospital and/or seek compelled medication from the court was "retaliation" for filing an IOLERO complaint. The record showed this claim was raised in a grievance, mental health staff had no knowledge of an IOLERO complaint, medical orders were due to complainant's clinical diagnosis, and the timing of the court request was coincidental.

Alleged Denial of Medical Care. Complainant alleged that medical staff withheld an inhaler and acted with racial bias and malpractice. The record shows that medical staff, including two medical doctors, reviewed complainant's condition and there is an abundance of evidence providing prima facie support for the doctors' clinical judgments in this regard.

Alleged Homicide. Complainant alleged he witnessed a deputy commit a homicide in a safety cell in 2022. The record showed no evidence of any inmate death on or immediately surrounding the alleged date, or any discrepancy in the inmate count. Complainant declined to provide information about this claim during his interview, and he suffered from a specific (and additional) credibility issue: he threatened staff that he would make this allegation unless provided with greater access to his inhaler, suggesting an ulterior motive to fabricate the claim.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0007

MADF COMPLAINT NO. 3

CONDUCT UNBECOMING / DISCOURTESY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x); Native American; White

ALLEGATIONS IN THE COMPLAINT Complainant alleged a deputy threatened him at the MADF, stating the deputy would have his cousins give complainant a haircut when he was released from the facility.

SCSO'S CONCLUSION SCSO reviewed the OCA and shift log for the date in question, two MADF video files, and a written report concerning complainant's prior rule violation. SCSO also interviewed complainant, two witnesses, the involved deputy and another deputy.

Based on these materials SCSO concluded that there was no evidence supporting the claim that the deputy threatened complainant and concluded the allegation was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO found SCSO's investigation was "logistically" **COMPLETE**, meaning relevant sources of evidence were compiled and reviewed. However, IOLERO concluded that the investigation was "analytically" **INCOMPLETE**, meaning that instead of evaluating each discrete question raised by the allegation, SCSO conflated them, resulting in an incomplete analysis of the issues presented. (See 2022-2023 IOLERO Annual discussing "analytical" completeness).

Accordingly, IOLERO disagreed with SCSO's finding of **UNFOUNDED**, and instead concluded that the finding should be **NOT SUSTAINED**.

The record was clear that the deputy stated something to complainant, thereby raising four discrete issues: (i) what was said (ii) did it constitute a "threat" (iii) if not a threat, was it otherwise inappropriate, and (iv) is there any evidence the deputy belonged to a law enforcement gang as alleged by complainant.

What was said. Because there was no audio recording of the interaction (only video), the content must be determined from statements of the complainant and the deputy. However, the deputy's denial was overly general, while the complainant and a witness suffered from significant credibility issues. This record did not support a finding one way or the other as to what the deputy in fact stated to the complainant.

Did it Constitute a Threat. Even assuming the alleged statement had been made, the record was inconclusive as to whether it could reasonably be construed as a threat. Complainant did not view the comment as threatening and did not file a complaint at that time it was made, and records showed complainant weeks later verbally insulting the deputy. The witnesses also did not view the interaction between the deputy and complainant as serious. It is possible that the alleged statement could be interpreted or intended as a threat, but the dissonance in the record prevented a finding one way or another.

Was the deputy interaction with complainant otherwise improper. Even if the alleged statement was not a threat, it could be discourteous or disrespectful under SCSO Policy § 320.5.9.

There appeared to be no legitimate correctional-based reason for a deputy to make a statement to complainant concerning cousins and haircuts as alleged. If this had been stated, it would be prima facie indication of discourtesy or disrespectful conduct. Moreover, even if the cousins/haircut comment was not made, the record was clear

that the deputy said something. Given the documented tension between them and the fact that complainant may have been taunting the deputy, it was possible the deputy's comment was acerbic and could have been disrespectful or discourteous.

However, as discussed above a preponderance of the evidence did not support a finding of what the deputy actually said. Therefore the record did not support a finding of whether the unresolved content of the statement was discourteous or disrespectful.

Law Enforcement Gang Association. Complainant suggested that the deputy was part of a law enforcement or criminal gang. Membership in a law enforcement or criminal gang is strictly prohibited by law and SCSO Policy.

The sole factual basis for complainant's suggestion was his claim that the deputy made the "cousins/haircut" remark. As discussed above, the record was inconclusive as to whether such a remark was actually made, and inconclusive as to whether such a remark was threatening if in fact it had been made. Interpreting SCSO finding to include a determination that the deputy's alleged comment about "cousins" and "haircuts" did not support a finding of gang association, we concluded that the record is inconclusive.

IOLERO **NOTED** that SCSO Policy requires Body Worn Cameras to be activated when a contact in the MADF becomes "adversarial". The purpose of this requirement appears to be several-fold (i) deter a deputy from making inappropriate verbal comments and memorialize such comments if they were made (ii) conversely, confirm when a deputy's comments were appropriate (iii) permit review of an inmate's comments for content and accuracy (iv) facilitate dispositive administrative investigations into complaints about a specific interaction (v) remove suspicion (whether merited or not) that the BWC was not activated in order to avoid having a record made of the comments.

In this case, the deputy addressed complainant in circumstances that could reasonably be viewed as "adversarial". Activating the BWC would have advanced all of these purposes.

At the same time, it is not feasible for deputies to activate the BWC in connection with every interaction with an inmate, and BWC Policy reflects this. There remains, therefore, an open question as to how this "adversarial" requirement is to work in practice.

SCSO did not identify or address the BWC Policy. Given the circumstances of this case, the question of whether the BWC Policy required the deputy to activate his BWC in these circumstances should have been addressed to provide clarity to when correctional deputies are expected to activate those devices.

IOLERO'S RECOMMENDATIONS SCSO review application of the BWC Policy requiring activation when an interaction with a person becomes adversarial, and reinforce the importance of this requirement. (See Case No. 23-C-0024 below).

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0024

MADF COMPLAINT NO. 4

CONDUCT UNBECOMING / DISCOURTESY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/
Latine(x); Native American; White

ALLEGATIONS IN THE COMPLAINT Complainant alleged a correctional deputy improperly responded to a request for toiletries by using profanity and calling him a dog, in retaliation for having filed a complaint against another correctional deputy.

SCSO'S CONCLUSION SCSO reviewed shift logs, three MADF video files, three Body Worn Camera files, and incident reports. SCSO also interviewed the involved deputy and another deputy on duty at the time. Multiple attempts were made to interview the complainant who had been transferred to another facility but were unsuccessful.

Based on these materials SCSO concluded that the manner in which the deputy responded to complainant's request for toiletries properly accounted for safety concerns, was not discriminatory, and complied with policy, and the finding should be **EXONERATED**. With respect to using profanity, SCSO concluded the finding should be **NOT SUSTAINED**.

IOLERO'S CONCLUSION IOLERO found the investigation was **COMPLETE**. The investigator reviewed relevant documentary materials, video files, and interviewed staff. This was sufficient to address the claims. We further **NOTED**

that the investigator was particularly diligent in trying to interview complainant and provided detail as to why the interview could not be arranged.

On the merits, the record showed the deputy's decision to provide toilet paper by sliding sheets under the cell door rather than opening the food port was in response to legitimate and documented security and safety concerns that complainant was using his request as a ruse to gain access to the food port and prevent it from being closed. Accordingly we **AGREED** with SCSO that the finding on this issue should be **EXONERATED**.

The record also showed no evidence of discrimination or retaliation. The deputy had a legitimate and documented basis for her actions, and there was no evidence of any discriminatory or retaliatory motive. Accordingly, IOLERO **AGREED** with SCSO that this claim lacked merit, but concluded that the finding should be **UNFOUNDED** rather than **EXONERATED**.

There is also no evidence the deputy used profanity or referred to complainant as a dog. Rather, the record shows that it was likely the complainant who characterized himself as being treated like a "dog". Complainant also had significant credibility issues, with a documented history of using profane, demeaning and racially insulting language. On the other hand, the record corroborated the deputy's description of complainant's conduct and the events that occurred that day. Neither the allegation that the deputy actually used profanity and called complainant a dog, nor complainant's characterization that he was treated like a dog, were supported and we concluded the finding should be **UNFOUNDED** rather than **NOT SUSTAINED** as determined by SCSO.

IOLERO further **NOTED** that SCSO Policy requires Body Worn Cameras to be activated when a contact in the MADF becomes "adversarial".

As we noted in our Audit in 23-C-0007, it is not feasible for deputies to activate the BWC in connection with every interaction with an inmate, and BWC Policy reflects this. There remains, therefore, an open question as to how this "adversarial" requirement is to work in practice.

In this case, following the initial interaction the deputy activated her BWC for every subsequent contact with complainant. Activation of the BWC during adversarial encounters serves the interests of both inmate and the deputy; in this case it clarified events decidedly in the deputy's favor.

IOLERO'S RECOMMENDATIONS Review application of the BWC Policy in interactions with a person who has become "adversarial".

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0022

MADF COMPLAINT NO. 5

CONDUCT UNBECOMING / DISCOURTESY

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT Complainant alleged defects in the MADF grievance and mail handling process, and retaliation by MADF staff involving a variety of issues.

SCSO'S CONCLUSION SCSO reviewed documentary materials and voice messages provided by complainant and spoke with complainant on four separate occasions.

SCSO also contacted deputies identified in complainant's grievances, spoke with two Disciplinary Grievance Officers (DGO) who handled the grievances, contacted MADF mail personnel, reviewed copies of exemplar grievances and Inmate Request Forms provided by complainant, and reviewed SCSO's Grievance and Mail policies. SCSO further reviewed grievance logs, MADF records concerning module worker assignments, management notes and rule violation disciplinary materials.

Based on these materials SCSO concluded the finding on all claims should be **NOT SUSTAINED**.

IOLERO'S CONCLUSION IOLERO found the investigation was **COMPLETE**. The investigator reviewed relevant documentary materials, video files, and interviewed staff. We further noted that this investigation was particularly extensive and thorough, especially when considered against the wide-ranging, vague and abstract nature of some of complainant's allegations. The scope of this investigative work reflected a conscientious effort to fairly evaluate this complaint and SCSO and MADF Staff should be commended.

However, the investigator did not record the many interviews conducted. Recording interviews is necessary to, among other things, preserve the original factual materials on which the Investigator relied and from which they drew their conclusions. Failure to record interviews may render an investigation "incomplete" in some circumstances.

Given the scope and breadth of the investigation conducted in this matter, IOLERO did not view this omission as rendering this specific investigation "incomplete".

Nevertheless, the failure to memorialize these interviews left a gap in the record that prevented a review of original fact sources. IOLERO does not doubt the veracity of the investigator's summary of these interviews but it remained impossible to objectively audit the summaries against the interviews themselves.

SCSO Management identified this issue and took corrective action by instructing MADF Staff to record all interviews in subsequent matters. As a consequence of this omission, SCSO Management also appears to have substantively changed the preliminary dispositive findings to a non-dispositive finding of "not sustained". IOLERO agreed that this change to a non-dispositive finding properly reflects the adverse evidentiary impact of not recording the interviews in this matter. SCSO Management should be commended for the review and corrective actions it applied.

On the merits, IOLERO agreed with SCSO that findings on certain claims should be **NOT SUSTAINED**, but concluded that findings on other claims should be either **UNFOUNDED** or **EXONERATED**.

Grievance Tracking. Complainant alleged grievances were not being tracked. This issue was reviewed and resolved by SCSO in the internal grievance process and corrective action was taken. The record supported the conclusion reached in the grievance process and IOLERO concluded that complainant's re-stated claim on this previously resolved issue was **UNFOUNDED**.

Inmate Request Forms. Complainant alleged MADF staff did not respond to his request forms (which are separate from grievances) on a variety of general issues. The record showed staff did respond to most, and that the requests could be objectively viewed as having been made in jest. While the record did not support complainant's allegation, the failure to record interviews with complainant created an evidentiary defect that prevented making a dispositive finding. Accordingly we agreed with SCSO that the finding should be **NOT SUSTAINED**.

Threats/Retaliation/Improper Cell Searches. Complainant alleged he was fired as a module worker, medical staff disqualified him from kitchen work, and his cell and papers were searched, all in retaliation for filing grievances. The record showed medical care and cell searches complied with law and Policy and there was no evidence of property damage, and the findings should be **EXONERATED** and **UNFOUNDED** on these claims. However, the failure to record interviews created an evidentiary defect that prevented making a dispositive finding on the general claim of retaliation, and therefore we agreed with SCSO that the finding should be **NOT SUSTAINED** limited to that claim.

Mail Policy. Complainant alleged his "legal" mail was being opened prior to delivery. State regulations and SCSO Policy allow opening legal mail solely to

search for contraband and only in the presence of the addressee. SCSO identifies legal mail by requiring a red stamp be placed on the envelope; those lacking a stamp are opened along with general mail prior to delivery. Because SCSO did not evaluate the impact of its method for identifying legal mail, and the likelihood that this process could result in improperly opening legal mail, IOLERO concluded the finding on this issue should be **NOT SUSTAINED** and recommended SCSO further review this issue.

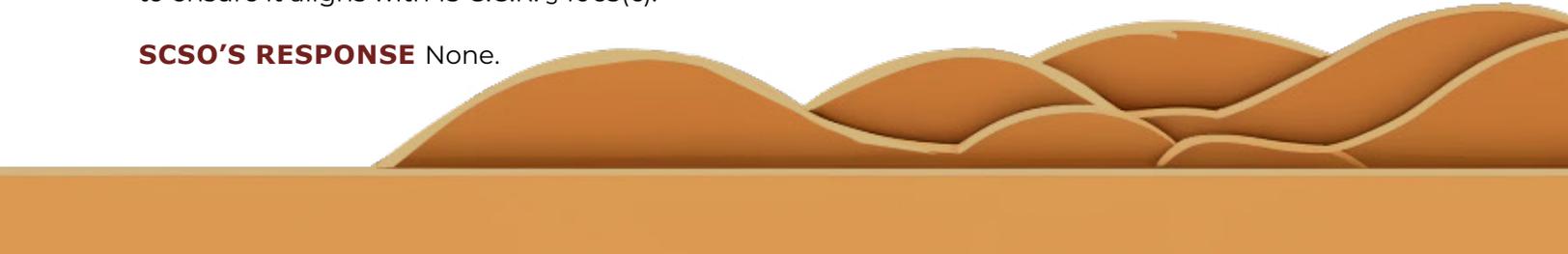
Grievance Form Receipts. Complainant alleged deputies were refusing to provide receipts for submitted grievances. The record generally did not support this claim. However, the failure to record interviews created an evidentiary defect that prevented making a dispositive finding and therefore we agreed with SCSO that the finding should be **NOT SUSTAINED**.

Facial Challenge to Grievance Process. Complainant alleged the grievance process overall was inadequate to provide meaningful relief to inmate claims. The MADF grievance process generally provides an informal resolution mechanism and a follow-on 4-step formal grievance process which includes written findings at each stage, and an opportunity for an inmate to appeal at each stage up to the Lieutenant level. Broadly speaking, this process complies with the general requirements of Title 15. (See 15 C.C.R. § 1073(a)(1)-(10)). There is nothing on the face of this process that suggests it is inadequate to provide inmate resolution of a complained condition of confinement. To the contrary, when actually applied to complainant's grievance concerning tracking, the general process successfully resolved the matter in complainant's favor and resulted in a change of MADF Policy. Accordingly, IOLERO concluded that the generic claim that the grievance process is inadequate is **UNFOUNDED**.

However, complainant's challenge may be based on some fact or contention not otherwise appearing in the complaint or record, which complainant may have identified during his interviews. As before this is a speculative, but nevertheless necessary, result of not recording the interviews. The evidentiary impact of not recording the interviews therefore prevented making a dispositive finding on this specific claim to the extent complainant predicates it on facts or allegations that he may have identified during his interviews. Accordingly, we **AGREED** that the finding on this specific claim, to the extent it may be based on other facts or allegations made by complainant in his interviews, should be **NOT SUSTAINED**.

IOLERO'S RECOMMENDATIONS Detention Policy concerning the process to designate correspondence as Legal Mail could result in Legal Mail being opened and inspected outside the presence of the inmate. SCSO should review this policy to ensure it aligns with 15 C.C.R. § 1063(c).

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0010

MADF COMPLAINT NO. 6

RACIAL BIAS / CONDUCT UNBECOMING
/ DISCOURTESY

ORIGIN OF COMPLAINT SCSO

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT Complainant alleged racial discrimination in hiring Black persons as module workers and in responses to complainant's requests for hot water and visitation.

SCSO'S CONCLUSION SCSO interviewed complainant and two named witnesses, and reviewed prior grievances, shift logs and classification history. SCSO also interviewed the named deputy.

Based on these materials, SCSO concluded (i) the allegation that the deputy made a racially disparaging remark was **NOT SUSTAINED** (ii) the allegation of racial discrimination in selecting module workers was **UNFOUNDED** (iii) the allegation that visitation was shorted by the deputy was **NOT SUSTAINED** and (iv) the deputy should be **EXONERATED** on the claim of not providing complainant with hot water.

IOLERO'S CONCLUSION Complainant's allegations were ambiguous. In addition, SCSO's interview of complainant was inadequate because complainant was not provided access to his complaint (a point we discuss further below). These factors complicated the analysis of the issues, which IOLERO sought to untangle.

Based on our independent evaluation, we found the investigation was **COMPLETE** regarding responses to requests for hot water, visitation, and on intentional racial discrimination. However, we concluded that the investigation was **INCOMPLETE** regarding compliance with SCSO Policy 320 concerning personal conduct.

On the merits, IOLERO concluded the following:

Hot Water. Complainant alleged he was denied hot water. Incarcerated persons at the MADF have cold and warm water in their cell faucets, and may access hot water during their out of cell time. The record showed that while staff provided complainant with hot

water after lock down for medical purposes, they did not provide it when complainant demanded it for non-medical reasons. Staff's response was in accordance with SCSO Policy and we agreed the finding should be **EXONERATED**.

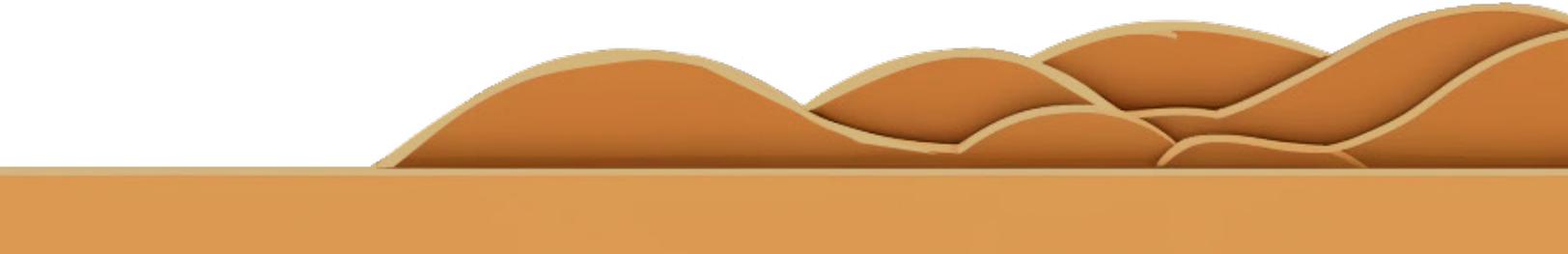
Visitation. California Code of Regulations Title 15 requires Type II facilities such as the MADF to provide at least two visits totaling not less than 60 minutes per week. At the same time, Title 15 requires deputies to ensure safety and security in the facility by conducting visual inspections at least twice every 60 minutes. The record showed the deputy did delay opening the door for several minutes while completing a security round, but that this was directly due to security and safety requirements, and the deputy added time to the end of the visitation to compensate for the delay. There is no evidence the deputy intentionally delayed or shorted visitation and we concluded that the finding should be **EXONERATED** rather than **NOT SUSTAINED** as concluded by SCSO.

Discriminatory Intent on Visitation and Hot Water Request. Complainant alleged that staff acted with discriminatory intent in handling his request for hot water and visitation. The record showed valid reasons for actions taken by staff in accordance with Policy, and there was no evidence that staff acted with a racial or other discriminatory intent. Accordingly we concluded that this claim was **UNFOUNDED**.

Discrimination in SCSO's module worker hiring process. Complainant alleged racial discrimination because no Black module workers had been hired for his module. SCSO Policy sets out a specific process for selecting module workers based on their behavioral history and ability to perform the tasks. These procedures are facially neutral and do not support a claim of racially discriminatory practices. Accordingly we concluded this claim was **UNFOUNDED**.

Discrimination by the individual deputy in hiring module workers. Complainant alleged that when asked why the module had no Black workers, a deputy stated they would rather keep Blacks in their cells.

If this statement were made, it could be evidence of racial animus and could violate SCSO's Personal Conduct Policy (a matter we discuss below). However, governing discrimination law requires the deputy to have also taken some action against complainant motivated directly and proximately by this racial animus. A racially charged or biased statement, standing alone, does not constitute intentional discrimination unless the deputy's racial animus is shown to have been a direct and proximate cause of action taken against an inmate . Whatley v. Grey, 2017 U.S. Dist. LEXIS 177884 at * 7-9 (S.D. Cal. Oct. 26, 2017); Seals v. Russell, 2007 U.S. Dist. LEXIS 40601 (N.D. Cal. May 23, 2007).



The record showed the deputy took no actions against complainant concerning module worker employment, and complainant did not allege any actions were taken against him. Accordingly we concluded that the allegation of intentional discrimination against complainant in module worker hiring was **UNFOUNDED** under governing legal standards.

Personal Conduct. The deputy's alleged comment about keeping Blacks in their cells did not support a finding of intentional discrimination, but it would facially violate SCSO Policy 320 which prohibits disrespectful treatment, disgraceful conduct and conduct unbecoming a deputy.

Telling a Black person that MADF Staff would rather keep Black persons in their cells rather than have them become module workers is, on its face, disrespectful. Whatley v. Gray, 2017 U.S. Dist. LEXIS 177884 at * 9 (racial epithets in a correctional facility are "thoroughly offensive, and it is particularly reprehensible for a government official to utter in the course of h[er] official duties").

Even if such a statement were made in jest or frustration, or was made as part of colloquial "locker room" banter, it is objectively derogatory and an inmate, staff, vendor or visitor could reasonably take offense regardless of whether it was directed at them personally. Such a statement would also reasonably support a conclusion that the speaker had a more generalized racial animus, which could raise significant questions about that deputy's motivations when taking any actions with regard to persons of a certain race.

More perniciously, if it were shown that the speaker made the statement, not in jest or as banter, but rather with a malicious intent to denigrate the addressee, the statement would likely reflect an overall unfitness to perform the heightened obligations of a correctional deputy. See Office-Wide Policy 320.5.9 (h) & (m) (discipline for "disgraceful" conduct adversely affect relationship with SCSO, and conduct deputy knows or reasonably should know is unbecoming member of SCSO, or tends to reflect unfavorably on SCSO or Members).

Accordingly, SCSO has a strong interest in demonstrating such conduct is not tolerated, as well as reducing legal exposure to future constitutional discrimination claims. This institutional interest naturally raises the substantive question of whether SCSO's Policies prohibiting "discriminatory treatment" adopts the minimal constitutional standard, or imposes a heightened standard on SCSO Members. See Office-Wide Policy § 320.5.9 (f) (discipline for "discriminatory treatment" of member of public); 401 (prohibiting bias-based or discriminatory policing).

SCSO did not analyze this issue. The investigator asked the deputy about this alleged statement and the deputy denied making it. However, the investigator did not ask complainant about this alleged statement. The record showed this was likely due to the fact complainant was required to summarize his complaint from memory and was not provided a copy of the complaint or a summary of what he stated in it.

We cannot identify a valid reason for not providing complainant with the complaint. Once complainant stated he could not recall the contents from memory, he should have been allowed an opportunity to refresh his recollection by either viewing the complaint or being verbally told what it stated. Complainant would then have had an opportunity to identify witnesses or facts to provide greater clarity. Because the specific question was not asked, however, the outcome ultimately remained speculative.

We **NOTED** that the SCSO appeared to hold complainant's lack of independent memory against his credibility. For the reasons discussed above, we did not agree that complainant's credibility is undermined by this factor.

We also **NOTED** that although the deputy denied making such a statement, SCSO did not look at whether the deputy had been accused of making racially charged statements in other instances. Because racial animus involves a state of mind, a person's broader pattern of conduct is often evidence of whether a statement is a one-off event or is reflective of broader animus. Evidence (or the lack thereof) that a deputy had been accused of making racial statements in other incidents is also relevant to credibility in determining whether he made the statement at issue here.

In the end, we agreed with SCSO that the record did not support a finding that the deputy either did, or did not, make such a statement. However, we **DISAGREED** with the finding of **NOT SUSTAINED**. The lack of conclusiveness in this record is not because the complainant was too vague; it is the result of the investigation not asking the question at all. Accordingly we concluded that the investigation on the specific question of what the deputy might have stated, and therefore whether he may have violated Policy 320, was **INCOMPLETE**.

Our conclusion does not suggest (and is not intended to suggest) that the deputy did in fact make such a statement, that he in fact has a racial animus, or that he acted contrary to Policy 320, and our Audit should not be interpreted as doing so. We concluded only that the incomplete investigation of this issue makes it impossible to make administrative findings on these questions.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0031

MADF COMPLAINT NO. 7

RACIAL BIAS / CONDUCT UNBECOMING
/ DISCOURTESY

ORIGIN OF COMPLAINT SCSO

RACE OR ETHNICITY OF COMPLAINANT White; Native American

ALLEGATIONS IN THE COMPLAINT Complainant alleged MADF staff threatened to use a Taser on him, failed to take him to a scheduled court hearing, and threatened to have him involuntarily medicated if he did not leave the state.

SCSO'S CONCLUSION SCSO reviewed booking records, court minutes, an internal incident report, shift logs, MADF video files and Body Worn Camera files. SCSO also interviewed three deputies and the complainant.

Based on these materials, SCSO concluded (i) the allegation that deputies failed to take complainant to court was **UNFOUNDED** (ii) the claim regarding threatened Taser use was **NOT SUSTAINED**, and (iii) there was insufficient information to make a finding on the threat to leave the state allegation. SCSO also found that SCSO was not involved in complainant's arrest and allegations concerning the arrest were outside the scope of the investigation.

IOLERO'S CONCLUSION IOLERO concluded that the investigation was **COMPLETE**. The investigator reviewed relevant materials and interviewed complainant and involved deputies. This review was sufficient to address the claims. The investigation was particularly diligent in identifying the specific date on one of the alleged incidents where the complainant's allegations were ambiguous.

We did **NOTE** that SCSO identified and applied Policy 320 generally (concerning personal conduct of officers), but did not expressly identify underlying policies concerning Taser use and court movement which were directly applicable. IOLERO independently reviewed these policies and concluded that SCSO in fact applied the substance of these policies, but we also noted that expressly identifying and discussing each of the applicable policies in issue strengthens the findings, and recommended that SCSO do so in all future investigations.

We also **NOTED** that complainant indirectly insinuated that staff's actions were in retaliation for filing grievances. The record did not support this insinuation, but we

observed that while this issue was implicitly covered by SCSO's review, SCSO did not expressly discuss it. This did not undermine the completeness of the investigation in this case or its findings. Nevertheless, breaking out each reasonably identifiable issue for separate discussion (even if the discussion is short) is a better practice that strengthens the report and comprehensiveness of the investigation. Accordingly, we recommended SCSO do this in future investigations.

On the merits, IOLERO concluded the following:

Court Movement. Complainant alleged deputies would not let him go to a court hearing. The record showed that complainant refused to permit application of restraints which was required by policy before transport to court. The deputies complied with policy by not transporting complainant to court under these circumstances and the court was notified. Accordingly, we **AGREED** with SCSO that this claim lacked merit but concluded the finding should be **EXONERATED** rather than **UNFOUNDED**.

Taser Warning. Complainant alleged staff threatened to use a Taser on him. The record shows complainant became angry, physically tried to break free during discussions with staff, and was placed in a safety cell. Based on complainant's classification level and physical movements, a reasonable deputy could conclude that complainant could be violent or physically resistive after entering the cell. While complainant ultimately entered the cell cooperatively, there was an objectively substantial possibility, given his demeanor and prior conduct, that he could become resistive or violent at any point and that the Taser could potentially be used.

The purpose of a verbal warning of possible Taser use was to convince complainant to stay on the ground until the deputies left to avoid the use of any force. This complied with SCSO Policy 304 requiring verbal warnings prior to Taser deployment. SCSO reached this finding but in an abundance of caution concluded the finding should be **NOT SUSTAINED** because it was possible complainant may have been referencing some other incident. We commend SCSO's caution, but based on our independent review we found that the record was sufficiently clear that allegation directly concerned the cell placement and therefore concluded that the finding should be **EXONERATED**.

Threat to leave the state. Complainant alleged someone threatened to medicate him if he did not leave the state. Complainant did not identify any individual and the record shows this claim could relate to a wide range of judicial process personnel and agencies with which complainant was involved. While there was nothing in the record to suggest any SCSO staff made such a threat, we **AGREED** with SCSO that the vagueness of the claim and wide range of possible agencies prevented a resolution, but we concluded the finding should be **NOT SUSTAINED**, rather than making no finding at all.

Arrest. Complainant alleged misconduct during his arrest. The record showed SCSO was not involved in the arrest and we **AGREED** with SCSO that this claim was outside the scope of SCSO's review.

IOLERO'S RECOMMENDATIONS In order to strengthen the investigative report and comprehensiveness of its findings, investigations should (i) identify the relevant Policies as specifically as possible, and (ii) separate out all reasonably identifiable and relevant issues for independent analysis in the investigative report.

SCSO'S RESPONSE None.

CASE NUMBER 23-C-0038

MADF COMPLAINT NO. 8

IMPROPER PROCEDURE; RETALIATION

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x);
Native American

ALLEGATIONS IN THE COMPLAINT Complainant alleged MADF staff did not mail his personal property to relatives as he requested when he was transferred to a state correctional facility.

SCSO'S CONCLUSION SCSO reviewed the property disposition forms, shift logs, and complainant's account statement, and interviewed relevant MADF staff.

The Investigator concluded that one correctional deputy was not involved at all in the handling of complainant's property and should be **EXONERATED**; two other correctional deputy were operating under unclear internal procedures and the finding on their actions was **INCONCLUSIVE**; and one deputy against whom a retaliation claim was made should be **EXONERATED**.

SCSO stated that its property handling procedures would be reviewed to clarify the process and provide secondary checks to ensure property was handled appropriately.

IOLERO'S CONCLUSION IOLERO concluded that the investigation was **COMPLETE**. The investigator reviewed relevant materials and interviewed

relevant personnel, and the record was sufficient to evaluate both the handling of complainant's property and the retaliation claim.

On the merits, IOLERO agreed with SCSO that MADF property handling procedures were unclear. Policy required generally that when an inmate who is transferred to state custody designates that his property be mailed to relatives, SCSO will do so for a fee charged against the inmate's account. However, in practice there was confusion among staff about who would ensure that the charge was made, how the charge was documented, and what was to happen to the property when a staff failed to charge the fee. This lack of procedural clarity resulted in the mistaken disposal of property that had clearly been designated by the inmate to be mailed.

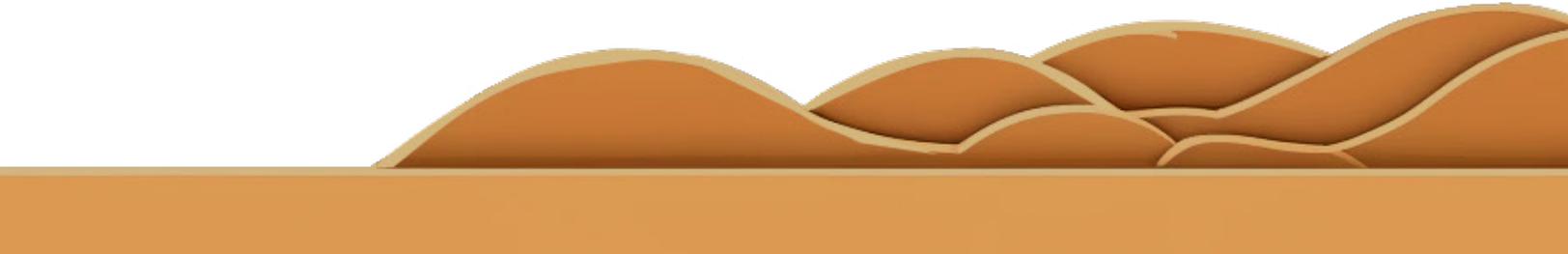
The lack of procedural and policy clarity existed on a *facility-wide* level, rather than with one or two individual staff. Therefore IOLERO concluded that instead of SCSO's finding of **INCONCLUSIVE**, the two deputies who handled the property should be **EXONERATED** because their actions did not violate SCSO's unclear policy and procedures; the fault was with the facility's procedures.

We agreed with SCSO that the claim against the deputy who had no role in handling the complainant's property was **UNFOUNDED**. To the extent the deputy spoke with the claimant, it was in connection with a separate job function, and in this separate role the deputy complied with policy and he should be **EXONERATED**.

We also agreed with SCSO that there was no evidence any correctional officer or MADF staff acted against complainant in retaliation for his previously having made a complaint against staff. None of the staff were aware of the prior complaint and there was no evidence whatsoever of retaliatory intent or motive. We concluded that the finding on the retaliation claim should be **UNFOUNDED** rather than **EXONERATED** as stated by SCSO.

IOLERO'S RECOMMENDATIONS We recommended that SCSO provide publicly available procedures for handling inmate property and addressing property claims.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0047

MADF COMPLAINT NO. 9

STAFFING LEVELS

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Unspecified

ALLEGATIONS IN THE COMPLAINT Complainant alleged SCSO failed to maintain sufficient staffing at the MADF in violation of California Code of Regulation Title 15, and failed to apply updated Title 15 rules to his grievances.

SCSO'S CONCLUSION SCSO reviewed Title 15 regulations issued before and April 2023, SCSO policies concerning visitation and Out of Cell Activity (OCA) access, the California Board of Community Corrections (BSCC) website, and OCA records covering complainant for the relevant period. SCSO also separately contacted BSCC personnel by email and telephone.

The Investigator confirmed that MADF staffing shortages did result in some lockdowns and curtailed OCA access during specified periods, but complainant received the required OCA time with the exception of two weeks which was corrected. The investigator also found that staffing changes did not affect visitation which otherwise complied with Title 15. Accordingly, SCSO concluded MADF staffing levels did not violate Title 15 and that the finding should be **EXONERATED**.

SCSO also found that April 2023 changes to Title 15 were not uploaded to the inmate electronic readers until July 2023 and that the claim on this point should be **SUSTAINED**.

Finally, SCSO concluded that while there was a delay in uploading revised Title 15 to the inmate readers, SCSO in fact updated its policies in April 2023 to reflect the revised Title 15. Therefore as of April 2023 SCSO was operating under the revised Title 15 and complainant's claim to the contrary was **UNFOUNDED**.

IOLERO'S CONCLUSION IOLERO concluded that the investigation was **COMPLETE** on most issues, including MADF staffing levels in general, OCA access, visitation, and adoption of revised Title 15 regulations.

However, we concluded that on the question of whether SCSO applied revised Title 15 regulations to specific grievances submitted by complainant, the investigation did not review the actual grievances and was therefore **INCOMPLETE** as to that narrow issue only.

MADF General Staffing Level

On the merits, IOLERO agreed with SCSO that MADF staffing levels did not violate Title 15. Section 1027 of Title 15 contains a general requirement of having a sufficient number of personnel “to ensure the implementation and operation of the programs and activities required by these regulations”. (15 C.C.R. § 1027).

By its terms, Title 15 does not set a specific number of required staff at any given time, or set any fixed ratio of staff-to-inmates. Instead, under § 1027 a staffing shortage violates the regulatory requirement only if staffing is not generally “sufficient” to ensure operation of required programs and activities. The term “sufficient” is not defined, but its ordinary use reflects a flexible range rather than a rigid number.

There is no dispute that MADF experienced a staffing shortage in 2023. See Press Democrat, “Sonoma County makes strides filling vacant positions, but some departments still struggling” (Apr. 25, 2024) (26% correctional deputy gap in 2023). This shortage stems, at least in part, from disruptions felt across the public and private sectors due to the COVID pandemic. The MADF nevertheless remained operating while being subjected to pandemic disruptions, included staffing availability, federal, state and local isolation requirements (for both inmates and staff), testing mandates, medical care, and other tasks imposed on the facility.

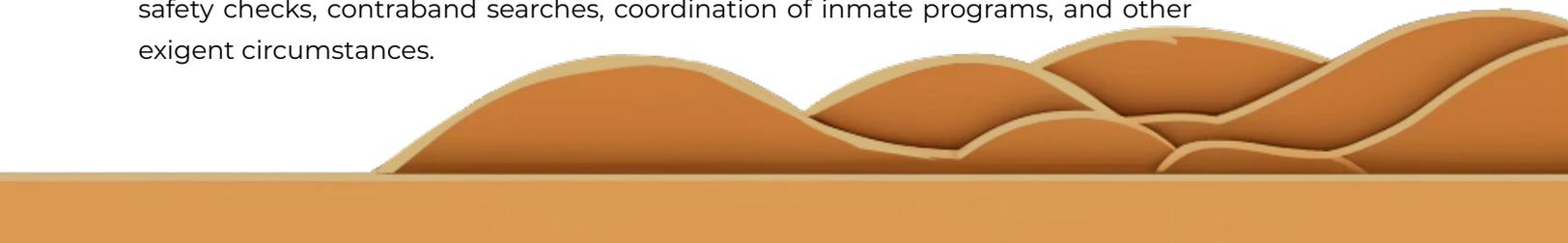
At the same time, public reports show SCSO responded to these challenges, including staffing, in various ways, including transferring inmates to other facilities, citing and releasing more arrestees, imposing mandatory overtime (92 hours per employee each month from September to November 2023), assigning Patrol Deputies to the MADF, and adjusting internal administrative schedules such as OCA and visitation (for example).

While staffing challenges and corrective measures may have resulted in program disruptions (with associated inmate frustrations), there was no evidence that staffing was insufficient to meet SCSO’s mandatory obligations under Title 15.

No Evidence of Link Between Lockdowns, Staffing Levels and OCA Violations

Complainant separately argued that failure to provide adequate OCA time was a direct result of lockdowns, which in turn was a direct result of inadequate staffing.

However, the record showed that complainant received appropriate OCA time every week except two in which the level fell short of the required 10 hours. While these two weeks violated Title 15, there was no evidence this was caused by lockdowns specifically, or that any specific lockdown was caused by staffing shortages – lockdowns occur routinely for several reasons unrelated to staffing levels, including safety checks, contraband searches, coordination of inmate programs, and other exigent circumstances.



In sum, there was no evidence that either staffing shortages or lockdowns caused by staffing shortages directly or proximately resulted in non-compliance OCA access.

No Evidence of Link Between Lockdowns, Staffing Levels and Violations of Visitation, Drug or Religious Programs

Complainant also argued that lockdowns resulting from inadequate staffing levels impacted visitation, drug counseling and religious programs. SCSO referenced this but did not address it directly.

Title 15, Section 1062 requires a minimum of 2 visits a week totaling not less than 60 minutes. There was no evidence that staffing levels or lockdowns caused by staffing shortages resulted in violation of this requirement.

Title 15, Sections 1070 and 1072 require SCSO to have written policies to facilitate family counseling and drug/alcohol counseling with community services, and to provide inmates an opportunity for religious services or counseling. There was no evidence that staffing shortages or lockdowns prevented complainant from availing himself of such services, or that such services were terminated by SCSO.

In the end, complainant identified legitimate frustrations about the impact lockdowns may have had on OCA, visitation and progress access, but these did not rise to the level of violating Title 15's general staffing requirement or the specific programs cited by complainant. Accordingly, we agreed with SCSO that the factual claim that staffing shortages created lockdowns which in turn violated Title 15 and specific programs was **UNFOUNDED**. To the extent complainant claimed the general staffing levels violated Title 15, we concluded SCSO should be **EXONERATED**.

Updating Policy and Inmate Tablets with revised Title 15 regulations

We agree with SCSO that the revised Title 15 regulations issued in April 2023 were not uploaded to inmate tablets until July 2023 and the claim on this point should be **SUSTAINED**. We also concluded that the claim that SCSO did not place the revised Title 15 regulations into its policies should be **SUSTAINED** for the period April 1-April 26, 2023, but was **UNFOUNDED** for the period after April 26.

Finally, we concluded that although the investigator's inference that SCSO applied the revised Title 15 regulations to complainant's grievance was reasonable, the claim required looking at the specific grievances in question. Because that was not done we concluded the investigation on this narrow issue was **INCOMPLETE**.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CASE NUMBER 22-C-0023

CITIZEN COMPLAINT NO. 10

UNNECESSARY OR EXCESSIVE USE OF FORCE; IMPROPER PROCEDURE OR COMPLAINT AGAINST POLICY; NEGLIGENCE OF DUTY

ORIGIN OF COMPLAINT IOLERO – Via Mail

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that, following their arrest for violation of the terms of their probation and subsequent detention at the MADF, they were held in a cell with no bed for over a day, unjustly placed into a psychiatric hospital for schizophrenia, and that during their time at said psychiatric hospital they were subjected to non-consensual injections and medications.

Further, the Complainant alleges that their arrest was a violation of their rights.

The Complainant specifically articulated that they believed that it was illegal for SCSO to confine them in a cell that had no bed. The Complainant alleged that doing so was inhumane, and akin to torture.

The Complainant also stated during an investigative interview conducted by SCSO that they were “stomped out” after attempting to open a door at the MADF.

SCSO’S CONCLUSION Based upon the Complaint, SCSO interpreted the Complainant’s allegations as being fourfold:

1. That the Complainant’s temporary incarceration at the MADF following his arrest and placement into booking and sobering cells was violative of policy and procedure;
2. That the circumstances leading to the Complainant’s arrest were unlawful, and thus violation of policy and procedure;
3. That the MADF medical staff’s determination that the complainant should be entered into an involuntary psychiatric hold constituted a Neglect of Duty; and,
4. That the Complainant was involuntarily medicated during both his detention at the MADF and his subsequent involuntary psychiatric hold, and that this constituted a Neglect of Duty

In addition, despite the fact that the Complaint did not contain direct allegations of Unnecessary or Excessive Use of Force, SCSO also chose to evaluate the two uses of force that occurred during the Complainant's detention at the MADF, namely 1) a use of controlled holds and rear wrist locks by two Correctional Deputies during the initial intake/booking process; and, 2) a use of controlled takedowns, rear wrist locks, arm bars, and handcuffing/leg restraints by several Correctional Deputies following the Complainant's attempted escape from custody.

SCSO's Investigators conducted investigative interviews of the Complainant, reviewed all available incident reports and correctional records related to the Complainant's detention, reviewed medical documentation prepared in connection with the Complainant's booking/intake, and further reviewed all available body-worn camera and overhead VMS footage.

Addressing the two incidents of Use of Force against the Complainant, SCSO's Investigator reached respective conclusions of **UNFOUNDED**.

Concerning the use of controlled holds and rear wrist locks, the investigator found that the use of force was reasonable and necessary to overcome the resistance and disobedience exhibited by the Complainant during the initial booking process.

Concerning the later use of controlled takedowns, rear wrist locks, arm bars, and handcuffing/leg restraints, the Investigator found that each of the techniques were reasonable, necessary, and appropriate in light of the Complainant's attempted escape from custody, assaultive behavior, and level of physical resistance.

Addressing the issue of the Complainant's allegedly unlawful arrest, The Investigator reached a finding of **UNFOUNDED**. In reaching this conclusion, the Investigator did not provide any analysis under any specific SCSO policies. Instead, the Investigator reviewed the incident reports prepared by the SCSO personnel involved in the Complainant's arrest. The investigator ultimately concluded that the arrest was supported by probable cause, and that probable cause was itself based upon the statements of direct witness statements collected by SCSO's personnel which evidenced that the Complainant had violated the terms of their probation.

Addressing the issue of the conditions and length of the Complainant's confinement in the booking and sobering cells during the course of their detention at the MADF, the Investigator reached a finding of **UNFOUNDED**. The investigator pointed to the medical evaluation conducted by MADF medical staff upon the Complainant's entry and intake into the facility, which indicated that the Complainant was under the influence of illicit drugs. Furthermore, the Investigator found that the use of the Sobering Cell complied with SCSO Detention Policy § 513. The Investigator

further noted that the Sobering Cells at the MADF do not contain beds or blankets, and are instead padded as to provide for the safety of those implaced in them. The investigator found that there was “no negligence” and that “[a]ll policies and procedures were followed” with regard to the Complainant’s housing and booking at the MADF.

Concerning the allegation that the Complainant was improperly subjected to an involuntary psychiatric hold, the Investigator reached a finding of **UNFOUNDED**. The investigator relied upon MADF medical staff’s medical finding that the Complainant was “gravely disabled” which was ultimately used as the basis for the invocation of an involuntary psychiatric hold under California Welfare and Institutions Code 5150. The Investigator noted that the Complainant’s inability to care for himself justified the use of such a hold. The Investigator concluded by finding that “no improper procedure, complaint against policy, or neglect of duty” throughout the process of emplacing the Complainant under an involuntary psychiatric hold.

Finally, the Investigator reached a finding of **UNFOUNDED** with regard to the allegation that the Complainant was involuntarily medicated while at the MADF. The investigator relied upon the Complainant’s statements in his own interview, wherein he stated that he was not provided nor administered any medications during his time at the MADF, and that he was only administered medications during his time at a medical facility following his placed into an involuntary psychiatric hold. Reviewing SCSO Policy § 320.5.9 (F), the Investigator concluded that SCSO’s correctional staff did not neglect their duty, but did not provide any application or discussion of how the policy applied to the facts.

IOLERO’S CONCLUSION IOLERO found that SCSO’s investigation was **COMPLETE**, despite the investigator’s failure to conduct post-incident interviews of SCSO personnel who had engaged in Use of Force against the Complainant. IOLERO’s completeness finding was due to its view that it would be inappropriate to do so when, on balance, the record was otherwise complete, and each of the respective issues identified in the Complaint could be resolved based upon the record assembled by the investigator.

Concerning the first instance of Use of Force against the Complainant (in response to the Complainant’s resistance during booking), IOLERO **DISAGREED** with SCSO’s finding of **UNFOUNDED**, instead finding that the respective personnel should be **EXONERATED**. IOLERO found as much because the Use of Force did occur, but was within the bounds of SCSO Policy § 300as well as relevant law. Specifically, SCSO’s personnel used force in response to the Complainant’s physical resistance during

the booking process. The controlled holds and wrist locks utilized were minimal and well-tailored to the legitimate law enforcement purpose of completing the booking process, proportional to the seriousness of the actual resistance exhibited by the Complainant, and reasonable in light of the totality of the circumstances.

Concerning the second instance of Use of Force against the Complainant (in response to the Complainant's attempted escape of the MADF), IOLERO also **DISAGREED** with SCSO's finding of **UNFOUNDED**, again finding that the respective personnel should be **EXONERATED**. IOLERO again found that the Use of Force did in fact occur, but was within the bounds of SCSO Policy § 300, as well as relevant law. Here, the Complainant attempted to escape the MADF by breaking away from correctional staff, and attempting to open the door to the MADF's pedestrian sallyport. His attempt was clearly captured on the available body worn camera and overhead video. Further, the same footage showed the Complainant exhibiting significant physical resistive force against the responding correctional personnel while they attempted to regain control over the Complainant. The Complainant's attempted physical flight, in combination with their active physical resistance, plainly necessitated the Use of Force by SCSO's correctional personnel. IOLERO found that the force used (controlled holds, rear wrist locks, arm bars, and handcuffing/leg restraints) was proportional in light of the circumstances, well-tailored to the legitimate law enforcement purpose of preventing a detainee from fleeing from law enforcement custody, and ultimately reasonable in light of the totality of the circumstances.

Concerning the issue of the allegedly unlawful arrest, IOLERO **DISAGREED** with SCSO's finding of **UNFOUNDED**, and instead came to a finding of **EXONERATED**. Here, the incident reports relating to the Complainant's arrest documented credible witness statements that indicated the Complainant was ingesting controlled substances. Ingesting controlled substances was an explicit breach of the terms of the Complainant's pre-existing probation. Accordingly, the arresting Deputies, in light of the totality of the circumstances, had the requisite Probable Cause to arrest the Complainant for violation of California Penal Code § 1203.2 (a), which allows for the arrest of any Probationer who violates the terms of their probation. Again, IOLERO found the Complainant was subject to an arrest, however the arrest was lawful, and accordingly a more appropriate finding is that of **EXONERATED** rather than unfounded.

Concerning the Complainant's accusations that the conditions of confinement, IOLERO **DISAGREED** with SCSO's finding of **UNFOUNDED**, and instead found that a more appropriate finding would be that of **EXONERATED**. IOLERO

treated the allegation here as twofold, the allegations being that : 1) placing the complainant in a cell without a bed was violative of policy and/or illegal; and, 2) maintaining the complainant in a sobering cell for approximately 28 hours was violative of policy and/or illegal. IOLERO found that SCSO's placement of the Complainant into a Sobering Cell was in line with SCSO's Detention Policy, and the "Sobering Cell Use" policy thereunder. Said policy required that any inmate brought into custody for alcohol and drug related charges, or under the influence of alcohol or drugs, be medically evaluated by MADF medical staff. That same policy further required that sobering cells be used only for individuals who were determined to be a threat to their own safety or to the safety of others. Furthermore, the policy required that individuals placed into a sobering cell be removed when they were able to continue to booking process and no longer posed a threat to their own safety of the safety of others.

The medical evaluation of the Complainant by MADF medical staff, as well as the complainant's own admissions during their pre-booking medical/mental health screening, supported the placement of the Complainant into a sobering cell. By the Complainant's own admission, they had been at minimum smoking marijuana and consuming alcohol. SCSO's sobering cells do not include beds, and are instead padded, as to impose minimal danger and risk of injury to intoxicated individuals. The complainant was placed in the sobering cell overnight, and was removed from the cell the following morning to in order to complete the booking process. Upon his removal, the Complainant then attempted his escape of the MADF, resulting in further delay in the process of his ultimate citation and release from correctional custody.

Relating to the claim that the Complainant's detainment in a sobering cell was illegal due to the length of time which he was held, California Penal Code Section 825 requires that detainees be taken before a magistrate without unnecessary delay within 48 hours after their arrest. Here, the Complainant was only detained at the MADF for a total of 28 hours. Further, SCSO's policies in place at the time did not oblige SCSO to remove the Complainant from a sobering cell while they continued to present a risk to the safety of others, and the medical documentation and evaluations completed by MADF medical staff supported the same. Nonetheless, the Complainant was cited and released from custody prior to the expiration of the 48-hour limitation imposed by the penal code.

Addressing the issue of the invocation of an involuntary psychiatric hold, IOLERO **DISAGREED** with SCSO's finding of **UNFOUNDED**, and instead found that the



choice to do so was supported by the facts, the law, and determinations rendered by MADF medical personnel and correctional staff, and accordingly the involved personnel should be **EXONERATED**. California Welfare and Institutions Code § 5150 allows peace officers or designated professionals to detain an individual in an involuntary psychiatric hold when, as a result of a mental health disorder, the individual is a danger to others or to themselves, or is gravely disabled. As discussed previously, the medical evaluations performed by MADF medical staff contained explicit findings that the Complainant was gravely disabled, and presented a danger to themselves and others. SCSO's decision to invoke an involuntary psychiatric hold upon the Complainant was within the bounds of relevant law.

Finally, addressing the issue of the Complainant being allegedly involuntarily medicated, IOLERO **AGREED** with SCSO's finding of **UNFOUNDED**. Per the Complainant's own admission in an investigative interview, the Complainant never received any medications during his detention at the MADF, and the medical records rendered by MADF medical personnel reflected the same.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



CASE NUMBER 23-C-0030
CITIZEN COMPLAINT NO. 11
DISCOURTESY; BIAS-BASED POLICING

ORIGIN OF COMPLAINT IOLERO – via email

RACE OR ETHNICITY OF COMPLAINANT White

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that they had a negative interaction when they attempted to attend a scheduled visit with pre-trial detainee at the MADF. The Complainant claimed that a Detention Specialist at the MADF was rude, obnoxious, unhelpful, and made the Complainant feel as though they were being discriminated against on the basis of their status as a disabled person.

SCSO’S CONCLUSION SCSO’s Investigator reviewed the substantive allegations contained in the Complaint and the attachments submitted alongside the Complaint, and resolved to investigate the allegations on the bases of 1) Discourtesy; and 2) Bias-Based Policing.

The Investigator attempted to conduct an investigative interview of the Complainant, but the Complainant was uncooperative with the Investigator, and indicated that the investigative interview “didn’t need to happen.”

The Investigator attempted to interview both the Detention Specialist who was allegedly rude to the Complainant, as well as a separate Detention Specialist who was assigned to the same shift. Neither of the Detention Specialists were able to recall details regarding the alleged interaction with the Complainant with any specificity.

SCSO reached a finding of **INCONCLUSIVE/NOT SUSTAINED** with regard to both Discourtesy and Bias-Based Policing. The Investigator stated that due to the inability to complete an interview with the Complainant, and the inability of the Detention Specialists to recall any details regarding the interaction with the Complainant, there was insufficient evidence to conclusively Exonerate the subject Detention Specialist, nor sustain the allegation.



IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **COMPLETE**. Although the investigation did not produce enough evidence to either Exonerate the Detention Specialist or Sustain the allegation, the investigator took sufficient investigative steps to reasonably address and resolve the issues raised in the complaint.

IOLERO **AGREED** with SCSO's findings of **NOT SUSTAINED** as to both Discourtesy and Bias-Based Policing. IOLERO specifically found that refusal of the Complainant to cooperate with the investigative interview, and the Detention Specialists' inability to recall the interaction left the factual record so lacking that it could not conclusively sustain the complaint nor render an exoneration as to either allegation.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.



D. USE OF FORCE

CASE NUMBERS 22-C-0016, 23-C-0018, 23-C-0019

MADF COMPLAINT NOS. 1-3

CONDUCT UNBECOMING / DISCOURTESY
/ EXCESSIVE FORCE / RACIAL BIAS

ORIGIN OF COMPLAINT IOLERO

RACE OR ETHNICITY OF COMPLAINANT Black/African American

ALLEGATIONS IN THE COMPLAINT Complainant alleged excessive force in three instances during his incarceration in the MADF and claimed it was due to racism.

SCSO'S CONCLUSION SCSO reviewed multiple Body Worn Camera files, MADF video files, photographs of complainant, internal management notes, medical records, incident reports, and grievances. SCSO also interviewed three sergeants. Based on these materials SCSO concluded that the claims were either factually **UNFOUNDED** or that staff's actions were compliant with law and Policy and they should be **EXONERATED**.

IOLERO'S CONCLUSION IOLERO found the investigation was **COMPLETE**. The investigator reviewed relevant documentary materials, video files, and interviewed staff. The specific type and amount of force, and the circumstances of its use, was clearly documented. SCSO did not interview complainant because he had been moved to a state correctional facility and because the interview would not likely provide additional relevant material beyond what the record already showed. We agreed with this conclusion. On the merits, we **AGREED** with SCSO that complainant's claims lacked merit. Mischaracterization of force use. There is no dispute force was used on complainant. However, complainant's claim centers on how he *characterized* the force that was used, alleging he was "punched" in the face, "jammed" with a fist, "pushed" onto a table, and intentionally handcuffed in a manner to cause bleeding. The force used was clearly documented on BWC files which shows these characterizations were factually incorrect. No deputy struck complainant in any manner. To the extent the claim was based on these

characterizations, we concluded the finding should be **UNFOUNDED**. Force actually used. The force actually used consisted of a wrist lock (bending a hand at the wrist) and mastoidal pressure (placing knuckle on pressure point behind the ear), and pinning complainant on a bed and in a wheelchair. These techniques are generally referred to as “pain compliance” and are deemed “minimal” levels of force under constitutional and training standards. The record shows deputies in fact employed these techniques on complainant in a minimal manner, and terminated as soon as compliance was achieved. It also shows that deputies had a significant safety and security interest in using force because complainant was intentionally resisting efforts to move him and refusing to comply with basic instructions. This balance showed the use of force was objectively reasonable under prevailing law. California law also requires force to be “proportional” to the threat, an analysis that is separate from the “reasonableness” standard. Proportionality requires an assessment of whether (and why) the officer believed the specific force he or she actually used was appropriate in light of the crime or level of resistance involved. IOLERO **NOTED** that while SCSO correctly concluded force was reasonable, SCSO did not specifically evaluate proportionality. IOLERO independently concluded that the force was proportional, and recommended SCSO conduct a separate proportionality review in future cases. SCSO Policy also sets out requirements for pain compliance. We **NOTED** ambiguity in the Policy concerning using pain compliance for both passive and active resistance, but that pain compliance in this instance complied with SCSO’s overall Use of Force Policy. Accordingly, we **AGREED** with SCSO that the force actually used against complainant was objectively reasonable, proportional, and complied with SCSO Policy, and that the finding should be **EXONERATED**. Racial Bias. Complainant alleged staff were racially biased against him and created false notes to “ambush” him. There was no evidence of racial bias by any MADF staff; the only racial references came from complainant who made derogatory comments about the race of various staff. There was also no evidence of inaccurate records being made. The record shows actions taken by MADF staff were based on legitimate correctional facility operational requirements, and the necessity to use force stemmed directly from complainant’s knowing and intentional non-compliance with lawful directives. Accordingly we **AGREED** with SCSO that this claim is **UNFOUNDED**.

IOLERO’S RECOMMENDATIONS SCSO Policy § 300.3.3 be revised to clarify that pain compliance techniques may be effective in controlling both passively resisting persons and actively resisting persons, in line with prevailing law and SCSO’s overall Use of Force Policy 300.

SCSO’S RESPONSE SCSO provided no response to this Audit. However, SCSO did revise its Use of Force Policy to reflect IOLERO’s recommendation.

CASE NUMBER 23-C-0003
CITIZEN COMPLAINT NO. 4
UNNECESSARY OR EXCESSIVE USE OF FORCE

ORIGIN OF COMPLAINT IOLERO – Submitted Online

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that SCSO’s Correctional Deputies engaged in Unnecessary or Excessive Use of Force during her intake and booking at the Sonoma County Main Adult Detention Facility (“MADF”) following their arrest on suspicion of driving under the influence. The Complainant specifically alleged that they were pushed to the ground with excessive force by the Correctional Deputies. The Complainant additionally alleged during the course of an investigative interview that they were later forcefully grabbed and pushed against a window by the same Correctional Deputies. In addition, the Complainant raised allegations that the same Correctional Deputies had been “rude” and “racist” to the complainant throughout the course of their intake and booking.

SCSO’S CONCLUSION SCSO investigated by reviewing the available body-worn camera footage from all of the involved SCSO personnel (as well as one set of footage obtained from a California Highway Patrol officer who was involved in the Complainant’s arrest), the available overhead VMS footage from stationary cameras within the MADF, reviewing the available incident reports generated by SCSO stemming from the incident, and by conducting an interview of the Complainant. In regard to the claims of Unnecessary or Excessive Use of Force, SCSO found that the Correctional Deputies’ respective uses of control holds, pain compliance techniques, a controlled takedown, and placement of handcuffs on the complainant were reasonable, within policy, and lawful, and resultantly reached a finding of **EXONERATED**. Concerning the allegation that the Correctional Deputies forcefully grabbed and pushed the Complainant against a window, SCSO determined that the allegation was **UNFOUNDED**, noting that the evidence showed no such interaction occurred. SCSO further found that the allegation that the Correctional Deputies were rude and/or racist to the Complainant were respectively **UNFOUNDED**, specifically noting that the Complainant did not provide any clear examples of how the correctional deputies were rude and/or racist to her,



and further that by the Complainant's own admission, the Deputies never made any rude or racist comments towards them.

IOLERO'S CONCLUSION IOLERO found that SCSO's investigation was **COMPLETE**, noting that the fruits of the investigation provided sufficient evidence to resolve each and every allegation levied in the Complaint. IOLERO **NOTED** that no post-incident interviews of the Correctional Deputies were conducted by the Investigator, however this deficiency did not render the investigation incomplete. IOLERO also **NOTED** that while the Investigator did not reach an explicit determination as to whether either of the deputies violated SCSO's Bias-Based Policing policy contained in SCSO Policy § 410, the investigation was not rendered incomplete in light of the Investigator's discussion and analysis of those allegations under SCSO Policy § 320 *et seq*, wherein the investigator concluded that the allegations of rudeness and racism by the Correctional Deputies was unfounded. IOLERO **AGREED** with SCSO's respective findings of **EXONERATED** with regard to the allegation of Unnecessary or Excessive Use of Force concerning the use of control holds, paincompliance techniques, a controlled takedown, and placement of handcuffs on the complainant. The available video evidence clearly demonstrated that the Complainant had slipped out of the handcuffs during the course of their intake and booking, and the Complainant was escalated from passive resistance to active resistance while the Correctional Deputies sought to resecure the handcuffs on their person. IOLERO specifically noted that the Correctional Deputies only used force following the Complainant's failure to follow clear verbal instructions, and thereafter the Complainant's physical resistance. In its analysis, IOLERO **NOTED** that while it ultimately agreed with SCSO's assessment as to the respective Uses of Force by the Correctional Deputies, SCSO's Investigator failed to engage in any substantive analysis as to *proportionality* or *de-escalation*. This failure was due in part to the fact the SCSO's investigator conducted no post-incident interviews with the Correctional Deputies. As a result, the investigator did not gather any information as to how the two respective personnel had considered the issues of proportionality and de-escalation. IOLERO encouraged SCSO and its Investigators to conduct interviews in all Use of Force cases in order to avoid similar analytical and investigative deficiencies in the future. IOLERO also **AGREED** with SCSO's finding of **UNFOUNDED** as to the allegation that the Correctional Deputies grabbed and shoved the Complainant into a window. Simply put, no evidence of this interaction was found in the record, and the record contained a complete view of the Deputies' respective interactions with the Complainant. Finally, IOLERO **AGREED** with SCSO's finding of **UNFOUNDED** as to the allegation that the Correctional Deputies were rude and/or racist to the Complainant. The Deputies respective interactions with the

Complainant were captured on body-worn camera, and no evidence of rude, racist, or discriminatory language was found amongst it. Furthermore, the Complainant admitted during the course of an investigative interview that the Deputies never made any rude or racist comments towards them. While SCSO analyzed these allegations under SCSO Policy § 320, and did not conduct any analysis under SCSO's bias-based policing policy, doing so was unnecessary in light of the fact that the allegations were fundamentally unsupported by the record.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

E. MEDICAL CARE

CASE NUMBER 23-C-0011
CITIZEN COMPLAINT NO. 1
INSUFFICIENT MEDICAL CARE

ORIGIN OF COMPLAINT IOLERO – Via Mail

RACE OR ETHNICITY OF COMPLAINANT Hispanic/Latine(x)

ALLEGATIONS IN THE COMPLAINT The Complainant claimed that he received improper and inadequate medical care while incarcerated at the MADF. Specifically, the Complainant claimed that he had been suffering for more than a year as a result of a pinched sciatic nerve, and that he had made formal requests for treatment that went unresponded to. The Complainant alleged that they had requested that Correctional Deputies call nurses to their cell on a near-daily basis, and that MADF medical staff never showed up to help the Complainant, and that those same medical staff had informed the Complainant that there was nothing that they could do to treat his condition. The Complainant alleged that medical staff refused to send the Complainant to the hospital for a medically necessary M.R.I.



The Complainant added that they felt their treatment was inhumane and cruel, and that they had been left lying on the floor of their cell for hours, and urinated on themselves multiple times without receiving any assistance from medical staff. Finally, the Complainant added that they felt the pain medications and treatments that they were provided were not helping with their alleged condition.

SCSO's Conclusion SCSO characterized the Complainant's allegations as five distinct allegations:

1. That the Complainant had not received medical care that they needed, namely an M.R.I.;
2. That MADF Medical Staff were aware of his injuries, but did nothing to address or respond to them;
3. That MADF Medical Staff informed the Complainant that there was "nothing they could do" for the Complainant after arriving at the Complainant's cell in response to alleged medical emergencies;
4. That the Complainant was the victim of cruel and inhumane treatment by MADF Medical Staff; and,
5. That the medications and treatments provided to the Complainant by MADF Medical Staff were ineffective, leaving the Complainant unable to function.

SCSO's Investigator reviewed the Complaint, a previous grievance filed by the Complainant and related grievance response memoranda, Case Management Notes and Medical Records relating to the Complainant's time at the MADF, a Medical History prepared at the request of the Investigator, and an Incident Report prepared by MADF correctional personnel following an incident involving the Complainant. Additionally, the Investigator conducted an investigative interview of the Complainant. SCSO's Investigator concluded that each of the respective allegations raised by the Complainant were **UNFOUNDED**. Concerning the first allegation, the Investigator found that the Case Management Notes, Medical File, and Medical Summary demonstrated that the Complainant had received significant care for his alleged injuries to his leg and lower back over the course of his stay at the MADF. Specifically, the Investigator noted that over an eight (8) month period, the Complainant was seen by MADF Medical Staff twenty-seven (27) times, including visits with Registered Nurses, Physician's Assistants, and Medical Doctors. The Investigator determined that the MADF Medical Staff and Correctional Staff had complied with Title 15, NCCHC Standards, and SCSO Policy. Concerning the second

allegation, the Investigator, again relying on the medical records, determined that the allegation was unfounded as the Complainant had received significant medical care for his alleged injuries. Concerning the third allegation, the Investigator again highlighted that the pertinent MADF medical records demonstrated that not only was the Complainant treated for issues when he raised complaints and medical concerns, but that the complainant's alleged symptoms did not align with diagnostics and observations performed by Medical Staff, noting that the Complainant complained of being unable to walk, but was observed by staff walking/ambulating without issue, and performing functions that the Complainant alleged were impossible due to his condition, including using the restroom, bending over. The investigator again concluded that the allegation was unfounded. Concerning the fourth allegation, the Investigator found that there was no evidence that the Complainant's medical care was inhumane and/or cruel, again relying on the Complainant's Medical Records, the investigator noted that the Complainant had been treated on a multitude of occasions, and further that the Complainant had been disrespectful and uncooperative with medical staff on several occasions when they had responded to his cell for medical calls. Concerning the fifth and final allegation, the investigator found that the Complainant was provided with the appropriate level of care, and that the Complainant was provided with a variety of medications and treatment methodologies in line with available medical resources, and that this was done within jail standards.

IOLERO'S CONCLUSION IOLERO found that SCSO's investigation into the Complainant's allegations was comprehensive, and that the Investigator reviewed each and every allegation raised by the Complainant in detail, and that the Investigator reviewed a significant volume of evidence probative of the issues raised in the Complaint. Accordingly, IOLERO found that the SCSO's investigation was **COMPLETE**. IOLERO did however note that the subject matter of the complaint had already been addressed in a grievance filed by the Complainant earlier in the same calendar year, which the Complainant subsequently failed to contest and/or exhaust, and that SCSO had failed to recognize that the subject matter of Complaint was duplicative of the previously filed grievance. IOLERO **AGREED** with SCSO's finding of **UNFOUNDED** as to all of the allegations raised by the Complainant. Concerning the first allegation, it was true that the Complainant had not received an MRI, but the MADF Medical Staff that provided treatment to the Complainant did not believe that doing so was necessary. Specifically, the Complainant was provided with x-ray diagnostics of his lumbar spine and hip, and those diagnostics respectively resulted in a negative finding for abnormalities of the spine and no fractures or dislocation of the otherwise intact hip joint. Furthermore, the medical assessment completed by MADF medical staff found no concern for neural impairment. Concerning the second allegation, the record contained no evidence that any of the Complainant's numerous requests for

medical assistance were ignored in any way, shape, or form. The Complainant was seen twenty-seven (27) times over the relevant time-frame, and there was no evidence in the record that suggests the Complainant's medical complaints went unaddressed. Concerning the third allegation, the record contained no evidence suggesting that any MADF personnel had ever informed him that there was nothing they could do upon evaluating his alleged injuries. The record suggests the opposite, with the Complainant being provided with extensive care for his alleged injuries. Furthermore, the MADF personnel, in responding to the grievance filed earlier by the complainant, laid out as much in the grievance response memoranda, which ultimately resulted in the Complainant's failure to exhaust the grievance procedure or otherwise contest the findings rendered therein. MADF medical personnel assessed the Complainant's condition, and offered treatment within the bounds of their medical discretion at every juncture, including, *inter alia*, equipment-based accommodations, pharmaceutical treatments, housing accommodations. Concerning the fourth allegation, namely that the Complainant was subject to cruel and inhumane treatment, the medical records amply demonstrated that the Complainant received consistent medical attention each and every time that they raised a complaint. Furthermore, there was no evidence in the record that the Complainant was ever left on the floor of his cell without assistance from MADF correctional personnel or Medical Staff. The record similarly contained no evidence that the Complainant had ever wet himself on the floor. Even further, the record contained direct refutations of the Complainant's allegations, including the fact that MADF medical personnel noted that the Complainant was observed ambulating without difficulty, changing positions without difficult, and had no documented loss of bowel control. Finally, concerning the fifth allegation, namely that the Complainant was provided ineffective medications and/or treatments which left him unable to function normally, the same findings reiterated above applied. The Complainant received voluminous evaluation and treatment by qualified medical professionals during his time at the MADF. Specifically, the complainant was provided with a bevy of pharmaceutical medications to treat his condition, and the medical records indicated that the Complainant was observed ambulating with a smooth coordinated gait, and without difficulty. The Complainant was consistently re-evaluated after raising further complaints, and his treatment plan adjusted within the medical discretion of the MADF Medical Staff. There was no indication in the record that the MADF's medical Staff used anything less than sound clinical judgment in rendering treatment for the Complainant in response their numerous requests.

IOLERO'S RECOMMENDATIONS None.

SCSO'S RESPONSE None.

CONCLUSION

This past year, we delivered on the work we promised at the end of our last annual report: our Whistleblower program launched, we've been auditing civil cases, and we worked on independent investigations. We also continued to build our team, increased our training, and added new tools like an interview room, a database, and internal policies and procedures.

As you can see above, this year we also audited a record number of cases. Our audits in the jail increased, giving us the ability to highlight some positive changes in jail administration, and also note some challenges. We continued to work on recommendations about the canine program, and were glad to see some improvements flowing from our work.

Thanks to the strong support of our County Executive and Board of Supervisors, this next year we'll be bringing on a new mid-level managing auditor, which will expand the work we're able to complete for you. We're excited to have even more to report next year!

But most importantly, it's an honor for all of us at IOLERO to serve the people of Sonoma County by fostering transparency, accountability, and collaboration between the community and the Sonoma County Sheriff's Office. Over 166,000 of you voted to support this work when Measure P was before you on the November, 2020, ballot. We deeply appreciate the support, and every one of us takes the responsibility you've given to us very seriously. Thanks for trusting us with this essential work.

John Alden

IOLERO Director



APPENDIX A - CAC MEMBER BIOGRAPHIES

FIRST DISTRICT ROBIN JURIS



Robin has lived in Sonoma County since her retirement from a 40 year career in Early Childhood Development in 2016. Over the years, her work with young children brought her into contact with hundreds of families. It is this investment in family as one of the pillars of our social fabric that makes her want to make law enforcement more accountable to the community it

serves. She cannot imagine being a mother who worries everytime her daughter or son walks out of the house if they will return alive or not. The death of George Floyd pushed her over the edge at which point she knew she had to take steps herself to work toward better policing policy and practice in her own community and throughout this country. Robin lives in Oakmont, District 1, where she founded a club called Standing for Justice. She provides educational forums about racial justice which lead people to civic action. Her interests take her outside the boundaries of Oakmont and into the Sonoma County community. She feels fortunate to live somewhere that the citizens' voices can make a difference.

Robin is the 5th of 6 children in her family, grew up in the East Bay (Berkeley) and has stayed in and around the Bay Area most of her life with the exception of 17 years she spent with her young family in New England. She is a member of an organization based in Los Angeles called White People for Black Lives which educates white people to the role they have played and continue to play in upholding white supremacy as well as leading them into action that can help to dismantle white supremacy. She is a member of the local NAACP and has just allied herself with the Police Accountability Task Force of the North Bay Organizing Project. She hopes to learn from her tenure on the CAC of IOLERO as well as to make any contributions she may be able to make.

NATHAN SOLOMON



Mr. Solomon holds a Bachelor of Arts in Psychology and a Master of Science in Computer Information Systems. In college he was first introduced to the psychology of policing when taking coursework from Craig Haney who conducted the Stanford Prison experiments. He currently works as a Senior Information Security Analyst for Jackson Family Wines. Nathan has over 25 years of experience in IT working various roles including founding his own software company.

Nathan is a native of Sonoma county and has lived in Santa Rosa for the past 14 years. He has a 17 year old son and wife of twenty one years who was raised in Santa Rosa. Nathan's interest in serving on the Community Advisory Council for IOLERO stems from the Andy Lopez homicide primarily and the recognition that we as a community have to do better.

Nathan lives in Sonoma County's first district represented by Supervisor Susan Gorin.

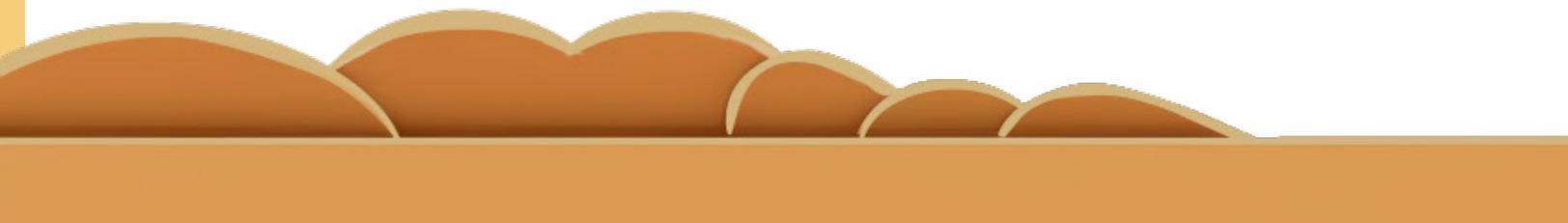
SECOND DISTRICT

CASEY JONES



I'm son of an Air Force pilot veteran of the Second World War. I was raised in Southern Cal and came north to attend UC Berkeley. I graduated from UC Law San Francisco, and practiced business litigation in San Francisco for 10 years. I fled north to find a sane balance between work, marriage, child raising and personal life. I was Assistant City Attorney for the City of Napa for 26 years, retiring at the end of 2022. My practice included advice to and advocacy for city officials and initiatives at all

levels. I worked closely with city management and police command staff and line officers in all aspects of law enforcement, including policy development, training, accountability, liability claims, litigation, and trial. I believe that law enforcement is a crucial, complex cornerstone of our self-governance, and that citizen oversight is



vital to law enforcement's health, effectiveness, and responsiveness to the needs of citizens. Since retiring I'm providing legal services to other lawyers part time, continuing to coach high school mock trial as I have for many years, reading, writing, cooking, drinking good beer and wine, and trying to break 70 on the golf course.

THIRD DISTRICT
LORENA BARRERA

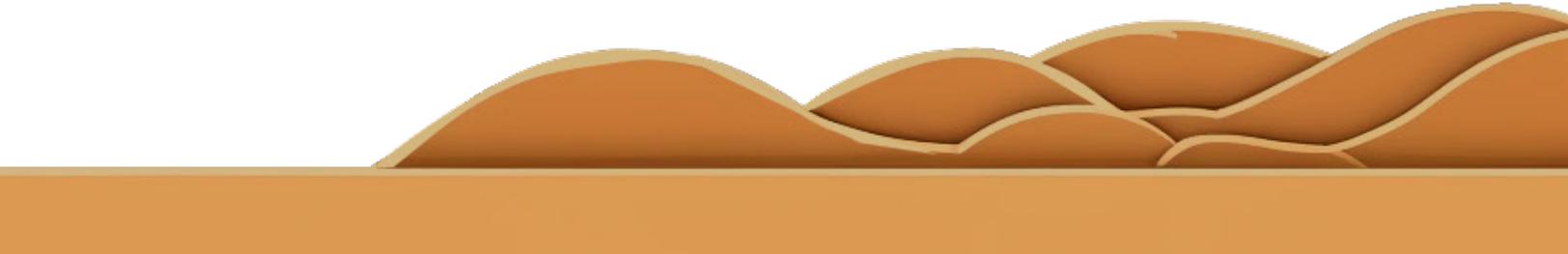


Ms. Barrera attended the University of California, Merced where she received a Bachelor's Degree in Political Science. Following her graduation, she moved to Sonoma County to attend Sonoma State University as a graduate student in the field of Public Administration. In 2016, she received her Master's Degree.

Around this time, Lorena began working as a staffer for a member of Congress where she was exposed to policy analysis and became more aware of the loopholes that exist in policy that affect both the public and the public agencies. As a minority in society, setting an example in the community is of great importance to Ms. Barrera. She believes in informing and educating people in order to strengthen communities.

As a resident of Sonoma County, Ms. Barrera seeks opportunities that will allow her to serve as a community representative because she cares about making a difference for everyone. Ms. Barrera has served on Sonoma County's Commission for the Status of Women (CSW) since 2015 where she currently serves as the vice-chair. As a member of the CSW, she served on the CSW's Mental Health Ad Hoc Committee where she did research on mental health and the stigmas that surround mental health conditions. Ms. Barrera brings to the CAC her experience studying mental health conditions and she will be instrumental in integrating that information into the CAC's outreach and policy work.

Ms. Barrera lives in Sonoma County's third district represented by Supervisor Chris Coursey.



TREVOR WARD



As a native of Sonoma County, my passion for politics and community service began in high-school through my involvement in competitive speech and policy debate. I studied music, political science and history at Santa Rosa Junior College and leadership at the University Of The Nation's in Kona, Hawaii.

After that, I worked with Youth With A Mission in Los Angeles where I had the privilege of serving on a short term outreach trip to the Philippines and Thailand and then leading two separate trips to Costa Rica and Panama. My roles during that time covered everything from working at an orphanage, to partnering with an anti-human trafficking organization and building a new service campus in the jungle.

From my early childhood until now, my heart and priority has always been to serve those who are poor and most vulnerable. Like many Americans, my passion for police oversight began after the murder of George Floyd in 2020. I was an activist and strong supporter of Measure P which established broader authority for the Independent Office of Law Enforcement Review and Outreach.

I had the honor and privilege of being appointed to the Community Advisory Council in the Fall of 2023 to represent District 3 (central Santa Rosa). While our work covers a broad range of topics, my greatest passion and hope is to serve individuals at the Sonoma County Jail and to make sure that we are giving them the best care and rehabilitation possible.

FOURTH DISTRICT JOHN AZEVEDO



John Azevedo is a life-long resident of Sonoma County having grown up on a ranch near Healdsburg, California. John still lives near Healdsburg with his wife Alicia and daughter Micaela. As the Senior Vice President of Farming for Jackson Family Wines (JFW), he has responsibility for vineyard teams and vineyards all over coastal California. John continues to manage his family's vineyard in addition to his responsibilities at

Jackson family Wines.

John has been involved with various community groups and holds a Bachelor of Science Degree from California State University at Fresno in Plant Science with an emphasis in viticulture. He is also a graduate of the California Agricultural Leadership Program class 37, where he had the opportunity to visit Asia in conjunction with consulting with other international agricultural leaders. John has a commitment to the community that includes strong beliefs in equity, safety, and the process of continual improvement, all of which drove his interest in participating with the IOLERO CAC.

GEORGE R. VALENZUELA



George Valenzuela George was born and raised in East Los Angeles to immigrant parents from Hermosillo, Sonora, Mexico. As a product of the LAUSD public school system, and as a First Generation College Student, he graduated from U.C. Berkeley (BA-Social Science/Ethnic Studies).

Upon graduation from Cal, George returned to Los Angeles County and worked as an Elementary/Middle School Spanish Bilingual Teacher. During that time period he married his college sweetheart (Rachel) and their first son was born (Adrian).

In 1996, George and his small family relocated to Windsor, CA. While George taught elementary school during the day at SRCS, he attended classes at night and graduated from Empire College School of Law (JD) in Santa Rosa, CA.



George was sworn in to the California Bar Association in 2001, and his second and third sons were born thereafter in Santa Rosa. From 2008-2020, George had the honor of serving WUSD as a School Board Member, wherein he served three terms as School Board President.

George has worked as an attorney in the areas of: Asbestos Personal Injury Complex Litigation, Child Support/Family Law, Child Dependency Law (CPS), Human Resources, Education Law (TK-12), Estate Planning and Landlord Tenant Disputes.

In addition to his law background, George has 11 years of experience as an elementary/middle school teacher in LA County, Sonoma County and Mendocino County. He also has 18 years of work experience as a school administrator in Sonoma County and Napa County.

George is currently employed as the Principal of Schaefer Charter School (TK-6, Santa Rosa) and he resides in Windsor with his wife and two adult sons (Jacob and Elias).



FIFTH DISTRICT

IMELDA MARTINEZ DE MONTANO

I was born in state of Michoacán, Mexico. I arrived in the United States in 1995. I became a U.S. citizen in 2015. I have been happily married for the last 30 years and I am the mother of 2 daughters and 1 son. I have lived in the West County area (Forestville & Guerneville) for 29 years.

In 2022, I began volunteering as a Health Promoter in the Russian River area. I like to contribute my service and be able to help with essential items that are a

benefit to our Latinx community. Several of our families who live in the west county are experiencing a form of isolation and disconnection, due to a lack of essential information and resources that are necessary for our members of the Spanish-speaking community. This was one of the reasons that motivated me to apply to the IOLERO, Community Advisory Council. To learn about the important work they are doing and be able to bring this educational information to our Latinx community.

I am grateful for this opportunity that has been given to me as a monolingual with Spanish being my native language. I want to continue contributing to my community and be helpful in bringing educational information to our West County area.

NANCY PEMBERTON



Nancy Pemberton obtained her B.A. degree at San Francisco State University and her J.D. degree at Berkeley Law School (then known as Boalt Hall). For most of her legal career, she specialized in representing defendants charged with capital crimes and facing possible execution, both as an attorney and mitigation specialist. Now retired from legal representation, she works part-time writing and editing content for a website used by capital litigators.

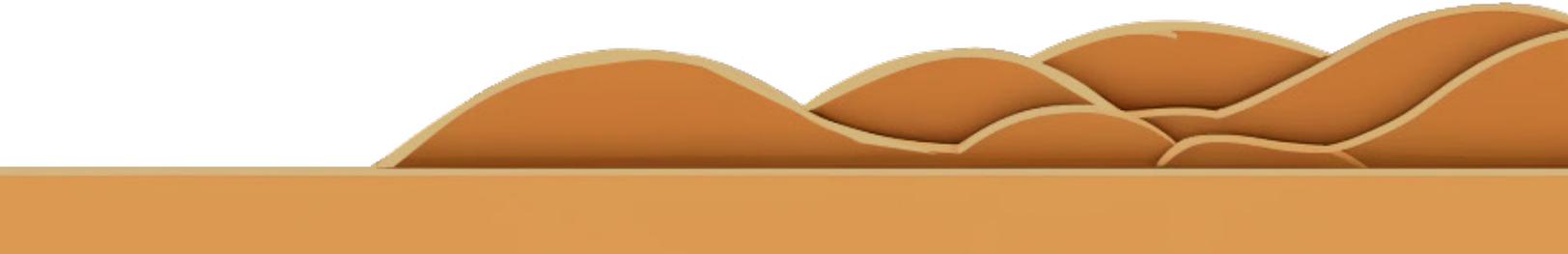
As part of her litigation practice, Ms. Pemberton volunteered time to train attorneys and investigators in capital litigation issues, presenting at legal and investigative conferences and seminars throughout the country. She also taught a clinical course, the Art of Investigation, at Santa Clara University Law School in conjunction with the Law School's Innocence Project.

In 2000, Ms. Pemberton and a fellow investigator co-founded the Institute for International Criminal Investigations (IICI), an organization that trains professionals in the investigation of human atrocities. She continues to sit on the IICI board. She also sat on the board of the American Civil Liberties Union of Northern California for many years, including chairing the board for six of those years.

Having moved to Sonoma County in 2014, Ms. Pemberton became involved in the campaign to pass the Evelyn Cheatham Effective IOLERO Ordinance, also known as Measure P, adopted in November 2020 with the approval of almost 2/3 of the vote. She now serves on the Committee for Law Enforcement Accountability Now (CLEAN), a group dedicated to ensuring the robust implementation of Measure P.

Ms. Pemberton is delighted to serve on the Community Advisory Council. She believes that it is the responsibility of everyone in a democracy to oversee the people in law enforcement to whom they have granted such enormous responsibility and authority; and she aspires to live in a community where law enforcement officers and the people they serve view each other with mutual respect and trust. She looks forward to doing her part to achieve those goals.

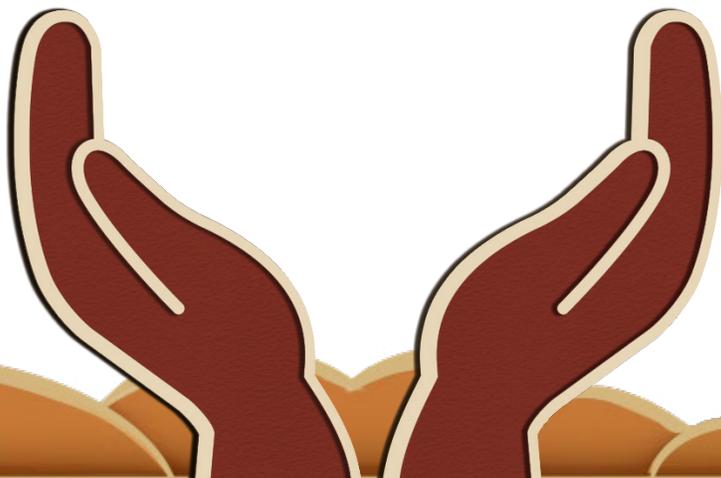
Ms. Pemberton lives in Sonoma County's Fifth District represented by Supervisor Lynda Hopkins.





AT-LARGE REPRESENTATIVE
DARNELL BOWEN

Darnell Bowen, a twenty plus years Sonoma County resident, is the co-founder of Nuestra Comunidad (NC) a local non-profit organization. NC's mission is to enhance the health, safety, and wellbeing of the community with an emphasis towards underserved communities by delivering services to improve the quality of life and fostering a culture of disaster preparedness. His professional experience encompasses leading the finance, accounting, and human relation functions for organizations ranging from fast growing, private equity backed start-ups to larger Fortune 500 companies. Darnell pursues the vision of a socially just society by serving organizations that focus on solutions including promoting equitable healthcare for vulnerable communities, providing housing & life skills support for those battling substance abuse, and supporting the work of local churches in the community. Darnell's educational background includes an MBA from the University of Arizona and a Bachelor of Science in Business Administration from California State University, Fresno. In his leisure time he enjoys spending time with his wife and children, gardening, swimming, and backpacking.



APPENDIX B - CAC 2024 WORK PLAN



DATE: April 4, 2024

TO: Sonoma County Board of Supervisors
Members of the Community Advisory Council (CAC)

FROM: Lorena Barrera, CAC Chair
Nancy Pemberton, CAC Vice-Chair
John Alden, IOLERO Director

RE: Work Plan from CAC 2024 Strategic Planning Workshop

The Community Advisory Council (CAC) held a Strategic Planning Workshop on Saturday, February 24, 2024, to review the CAC’s work in 2023, and to discuss what work the CAC might address in the coming year. This memo memorializes for the CAC and the Board of Supervisors the priorities the CAC identified at the Workshop, the committees the CAC chose to keep from 2023 and the membership of those committees and the expected schedules for those committees’ work. Together, these comprise the Work Plan for the CAC for the upcoming year.

A. PRIORITY POLICY ISSUES

Following are the priority issues the CAC adopted in 2023 and the status of the work on those issues:

1. Traffic Stops / RIPA Report Follow-Up

Members: Darnell Bowen, Chair; Lorena Barrera; Nathan Solomon

Racial disparities in traffic stops have been an issue of much discussion nationwide, and for some time. Recently the State of California has begun requiring individual law enforcement agencies to record the perceived race of stopped drivers, among other characteristics. Many agencies in Sonoma County just began to record such data in mid-2021. The state board responsible for gathering and reporting this data to the public is called “RIPA.” The RIPA annual reports summarizing and analyzing this data are far too complicated to recount accurately here. But in short, they do indicate that traffic stops of BIPOC drivers happen at a higher rate than BIPOC residents in California as a whole.

The 2023 RIPA Report showing Sonoma County’s data for the second half of 2021 is now available here: <https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf> At page 34, one

can find the total number of reported traffic stops for the SCSO and the contract agencies of Sonoma PD and Windsor PD. In total, these are just over 3,000 reported stops. More data for 2022 is expected shortly.

The Ad Hoc Committee began its work in 2023 by asking the Sheriff's Department to answer questions regarding the collection of data and how the data is submitted to DOJ. Committee members undertook an analysis of the data from the DOJ website described above and, after discussion patterns that emerged from the analysis of the data, they submitted additional questions in an effort to get an understanding of the accuracy of the data and how corrections to the data are made, when necessary.

The Ad Hoc Committee would like to continue its work in 2024 which will include gathering additional information from the SCSO RIPA Administrator, learning from the Santa Rosa RIPA Administrator how SRPD currently gathers and reports the required data and how it corrects that data, when necessary. The Committee intends to research RIPA programs in other jurisdictions outside the county for comparative purposes, including using a data validator or auditor, to ensure accurate reporting to DOJ.

The Ad Hoc Committee's goals are, in cooperation with SCSO, to offer solutions to the data submission problems currently facing the Sheriff's Department and, most importantly, address the issues the data raises regarding racial profiling in stops. The Committee plans to offer opportunities for public participation through webinars and public participation in the Committee's work.

The current estimate for completion is six months.

2. Recruitment, Hiring & Retention Best Practices / Law Enforcement Culture

Members: Nathan Solomon, Chair; Esther Lemus, Nancy Pemberton, Jim Duffy (public member)

Recruiting new hires has been a substantial challenge for law enforcement throughout the state and nation in the last few years. The SCSO has been assertive in the last few years in recruiting new members, and continues to need more recruits to maintain staffing. See, for example, the SCSO recruiting page: <https://sonomasheriffjobs.wordpress.com/>

Diversification of the law enforcement workforce has also been a priority nationwide. Sheriff Engram has stated his commitment to diversifying the SCSO workforce, as well, both by race and gender. Some studies suggest diversification of law enforcement agencies may lead to increased community trust. See, for example, the US Department of Justice / Equal Employment Opportunity Commission's Advancing Diversity in Law Enforcement initiative: <https://www.eeoc.gov/advancing-diversity-law-enforcement>

The Ad Hoc Committee spent last year educating itself on hiring, recruitment, and retention issues through a presentation from Sonoma County’s HR Department; research into policy recommendations by other entities; and submitted a list of questions to the Sheriff’s Department regarding its policies and practices. To date, the Sheriff’s Personnel Administrator has been unable to meet with the Committee or to answer the Committee’s questions.

At the Workshop, Sheriff Engram described the Department’s success in reducing the number of vacancies in the Department, temporarily re-assigning patrol deputies to correctional officer duties to reduce the amount of mandatory overtime for correctional officers, and adopting mental and physical health programs to help reduce stress and injuries.

The Committee would like to continue its work and decided to focus on two areas: the degree to which the Sheriff’s Department has diversified its staff and the extent to which discretionary decision-making reduces the diversification of the applicant pool; and the degree to which recruitment efforts underscore militarized policing rather than community policing. If necessary, the Committee will, in cooperation with SCSO, recommend policies, procedures, and practices that would achieve the goals of a diversified workforce and reduce the militarization of the Department.

Given the difficulty in obtaining data from the Sheriff’s Department, the Ad Hoc Committee is unable to set a timetable for completing its work.

3. Evictions and Unlawful Detainers

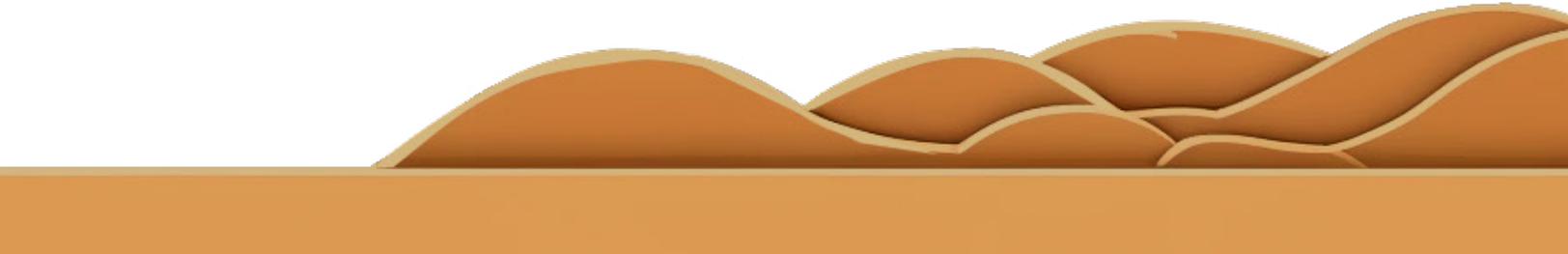
Members: Esther Lemus Chair; George Valenzuela; Patrick McDonnell (public member)

Sheriffs’ offices are the only law enforcement agencies specifically charged with handling evictions. Generally speaking, whether a person is evicted is a decision made by courts, not sheriffs. But local sheriffs do have some control over how they communicate with tenants, and how the evictions are carried out. See, for example, some examples from other communities:

<https://www.sfsheriff.com/services/civil-processes/evictions/get-help-if-youre-being-evicted><https://dcba.lacounty.gov/portfolio/eviction/>

The CAC created an ad hoc committee to address eviction issues in late 2023. The Ad Hoc Committee has been educating its members with the helpful expertise of members of the public. The Committee plans to gather information on local eviction practices when the Sheriff is involved and create recommendations for improving local practices. The Committee would like to address the question of additional training for deputies who carry out evictions on the issue of criminal trespass by landlords.

The Committee expects to complete its work in the second quarter of 2024.



4. Use of Canine Policy

Members: David Jones, Chair; Robin Jurs; Alan Pravel (public member); Carl Tennenbaum (public member)

The CAC had in 2021 adopted and submitted to the Sheriff's Department recommendations on use of canines. The Sheriff's Department did not respond to, or adopt, those recommendations. IOLERO's 2022-2023 annual report addressed three use of force cases involving canines and, in each case, IOLERO found that, contrary to the Sheriff's findings, each case involved violations of existing policy. Consequently, the CAC decided to take a fresh look at policies on the use of canines by the Sheriff's Department with a focus on adherence to 2021 legislation (Gov't. Code Sec 7286).

The committee has reviewed records on SCSO's recent canine uses of force, obtained records related to claims of injury arising out of those uses of canines, and researched studies regarding use of canines as well as policies from other California law enforcement agencies.

SCSO recently updated its canine policies and the Committee is reviewing those changes. The Committee intends to meet with SCSO representatives to discuss possible additional changes to the canine policy.

The Committee expects its work will be completed by December 2024.

5. Community Engagement

Members: Nancy Pemberton, Chair; Robin Jurs; Trevor Ward; Susan Lamont (public member)

The CAC created a standing Community Engagement Committee at its 2023 retreat. The Committee met three times during 2023.

During the Workshop, members of CAC and the public suggested the following efforts be undertaken to improve CAC's and IOLERO's community engagement.

- a. Expanding IOLERO's list of community organization contacts for sending newsletters and emails.
- b. Conduct workshops that allow increased public participation, perhaps quarterly.
- c. Create a FAQ page on the website to answer basic questions about IOLERO and CAC, including how IOLERO is funded.
- d. Use Instagram
- e. Conduct presentations aimed at high school seniors.
- f. Conduct presentations at Sonoma County Library

- g. Develop relationships with other organizations such as Los Cien, Latinos Unidos, NAMI Sonoma County
- h. Cultivate relationships with media outlets
- i. Host recorded webinars on issues of concern to CAC and the public, and post the recordings on our website.

This work is on-going.

The following issues were considered by the CAC at its 2023 Retreat but not pursued during 2023.

1. Mental Health

Provision of mental health treatment by first responders is evolving throughout the state.

The County of Sonoma and several cities within the County have already created systems to respond to calls for service for those experiencing mental health crises, rather than simply sending law enforcement to handle these issues themselves. In early 2023, the County was still considering how this model would work with law enforcement; for example, the County was still considering whether a Deputy Sheriff or a mental health practitioner would be the first to arrive at such a call. Since the CAC adopted this issue as a priority, the State has mandated a detailed first responder system for counties to implement, and Sonoma County has begun to create the program. The CAC was briefed on this new program in late 2023. This new state-mandated program resolved the debates within Sonoma County in 2023.

After that first response, continued treatment can be hard to secure. People needing treatment can then receive mental health services from local hospitals, but such resources in Sonoma County are reportedly strained to keep up with demand. Both funding for such services, and finding practitioners to provide such services, are challenges in Sonoma County and throughout the state. As a result, many of the detainees in the jail are suffering from mental health challenges, making the jail the largest single *de facto* mental health treatment facility in Sonoma County.

Due to these new measures, the CAC decided to table this priority in 2024.

2. De-Escalation

The CAC previously provided suggested policies with respect to de-escalation of force available at: <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/independent-office-of-law-enforcement-review-and-outreach> The SCSO subsequently enacted a de-escalation policy, as required by state law (available on SCSO website).



But since then, the CAC and SCSO do not appear to have followed-up with each other on the issue of de-escalation. Given the centrality of de-escalation to modern use of force, the CAC will continue the conversation with the SCSO on this topic by inquiring as to the differences between the recommended and adopted policies, examining current training at the SCSO on de-escalation, and assessing whether any data shows how well de-escalation policy and training have improved outcomes in the field for both the public and SCSO personnel.

For now, the CAC is focusing on de-escalation in canine policy, as noted above. The CAC may return to this issue more broadly in the future.

B. POSSIBLE ISSUES FOR FUTURE CONSIDERATION

Members of the public suggested several areas for CAC's future consideration:

1. SCSO's relationship with ICE in reporting persons eligible for deportation.
 - a. On this issue, the CAC intends to hold a webinar or town hall to inform the CAC and the public as to the current state of the law and SCSO practices.
2. Jail conditions including telephone access, mental health treatment, and its surveillance system, including surveillance of psychological evaluations.
3. Reducing tension between deputies and members of the public during initial engagement.
4. How the SCSO addresses situations in which deputies are arrested for, or accused of, committing domestic violence offenses.

We did not have time at the 2024 Strategic Planning Workshop to discuss re-structuring our meetings. That issue will be addressed at an upcoming monthly meeting.

APPENDIX C - SONOMA COUNTY SHERIFF'S OFFICE DEMOGRAPHIC DATA FOR EMPLOYEES

Sheriff's Office Demographic Rollup 3/22/2024													
Including Extra Help													
	6/5/2019	1/23/2020	6/22/2021	7/5/2022	2/16/2023	3/22/2024		6/5/2019	1/23/2020	6/22/2021	7/5/2022	2/16/2023	3/22/2024
Sworn Patrol							Sworn Detention						
US-Hispanic or Latin	27 10.0%	30 10.9%	33 12.2%	30 11.8%	29 11.3%	33 12.3%	US-Hispanic or Latin	46 22.0%	52 24.2%	51 26.2%	51 26.7%	50 27.8%	58 30.5%
US-White	232 85.6%	233 85.0%	227 83.8%	208 81.6%	208 80.9%	213 79.5%	US-White	145 69.4%	141 65.6%	122 62.6%	115 60.2%	106 58.9%	104 54.7%
US-American Indian/Alaska Nat	1 0.4%	1 0.4%	1 0.4%	1 0.4%	1 0.4%	2 0.7%	US-American Indian/Alaska Nat	1 0.5%	1 0.5%	1 0.5%	1 0.5%	1 0.6%	2 1.1%
US-Native Hawaiian Pac Islander	N/A	N/A	N/A	0 0.0%	0 0.0%	0 0.0%	US-Native Hawaiian Pac Islander	N/A	N/A	N/A	1 0.5%	1 0.6%	2 1.1%
US-Asian	5 1.8%	4 1.5%	4 1.5%	4 1.6%	3 1.2%	4 1.5%	US-Asian	4 1.9%	5 2.3%	4 2.1%	4 2.1%	3 1.7%	3 1.6%
US-Black or African American	2 0.7%	2 0.7%	2 0.7%	2 0.8%	2 0.8%	2 0.7%	US-Black or African American	9 4.3%	9 4.2%	6 3.1%	9 4.7%	9 5.0%	9 4.7%
US-Not Specified	3 1.1%	3 1.1%	3 1.1%	9 3.5%	13 5.1%	14 5.2%	US-Not Specified	2 1.0%	5 2.3%	9 4.6%	9 4.7%	8 4.4%	10 5.3%
US-Two or More Races	1 0.4%	1 0.4%	1 0.4%	1 0.4%	1 0.4%	0 0.0%	US-Two or More Races	2 1.0%	2 0.9%	2 1.0%	1 0.5%	2 1.1%	2 1.1%
TOTAL	271	274	271	255	257	268	TOTAL	209	215	195	191	180	190
Female	14 5.2%	17 6.2%	14 5.2%	12 4.7%	13 5.1%	16 6.0%	Female	51 24.4%	56 26.0%	52 26.7%	51 26.7%	53 29.4%	52 27.4%
Male	257 94.8%	257 93.8%	257 94.8%	243 95.3%	244 94.9%	252 94.0%	Male	158 75.6%	159 74.0%	143 73.3%	140 73.3%	127 70.6%	138 72.6%
TOTAL	271	274	271	255	257	268	TOTAL	209	215	195	191	180	190
Sworn Management							Management						
US-Hispanic or Latin	4 17.4%	4 16.0%	3 11.1%	3 11.5%	3 11.1%	2 8.0%	US-Hispanic or Latin	3 15.0%	3 15.0%	2 9.5%	2 11.1%	2 9.1%	2 9.5%
US-White	17 73.9%	19 76.0%	23 85.2%	22 84.6%	22 81.5%	21 84.0%	US-White	16 80.0%	16 80.0%	18 85.7%	16 88.9%	20 90.9%	18 85.7%
US-American Indian/Alaska Nat	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-American Indian/Alaska Nat	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
US-Native Hawaiian Pac Islander	N/A	N/A	N/A	0 0.0%	0 0.0%	0 0.0%	US-Native Hawaiian Pac Islander	N/A	N/A	N/A	0 0.0%	0 0.0%	0 0.0%
US-Asian	0 0.0%	0 0.0%	1 3.7%	0 0.0%	1 3.7%	1 4.0%	US-Asian	1 5.0%	1 5.0%	1 4.8%	0 0.0%	0 0.0%	1 4.8%
US-Black or African American	2 8.7%	2 8.0%	0 0.0%	1 3.8%	1 3.7%	1 4.0%	US-Black or African American	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
US-Not Specified	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-Not Specified	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
US-Two or More Races	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-Two or More Races	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
TOTAL	23	25	27	26	27	25	TOTAL	20	20	21	18	22	21
Female	1 4.3%	2 8.0%	1 3.7%	1 3.8%	2 7.4%	3 12.0%	Female	16 80.0%	16 80.0%	15 71.4%	14 77.8%	19 86.4%	18 85.7%
Male	22 95.7%	23 92.0%	26 96.3%	25 96.2%	25 92.6%	22 88.0%	Male	4 20.0%	4 20.0%	6 28.6%	4 22.2%	3 13.6%	3 14.3%
TOTAL	23	25	27	26	27	25	TOTAL	20	20	21	18	22	21
Dispatchers							Civilian Administrative						
US-Hispanic or Latin	0 0.0%	1 3.8%	3 11.5%	3 12.0%	3 12.5%	3 13.0%	US-Hispanic or Latin	3 11.1%	2 8.7%	3 11.5%	4 15.4%	5 16.7%	5 18.5%
US-White	25 89.3%	22 84.6%	21 80.8%	19 76.0%	18 75.0%	17 73.9%	US-White	23 85.2%	20 87.0%	20 76.9%	19 73.1%	21 70.0%	20 74.1%
US-American Indian/Alaska Nat	1 3.6%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-American Indian/Alaska Nat	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
US-Native Hawaiian Pac Islander	N/A	N/A	N/A	0 0.0%	0 0.0%	0 0.0%	US-Native Hawaiian Pac Islander	N/A	N/A	N/A	1 3.8%	1 3.3%	0 0.0%
US-Asian	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	1 4.3%	US-Asian	1 3.7%	1 4.3%	1 3.8%	1 3.8%	1 3.3%	1 3.7%
US-Black or African American	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-Black or African American	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
US-Not Specified	1 3.6%	2 7.7%	2 7.7%	3 12.0%	3 12.5%	2 8.7%	US-Not Specified	0 0.0%	0 0.0%	1 3.8%	0 0.0%	1 3.3%	1 3.7%
US-Two or More Races	1 3.6%	1 3.8%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	US-Two or More Races	0 0.0%	0 0.0%	1 3.8%	1 3.8%	1 3.3%	0 0.0%
TOTAL	28	26	26	25	24	23	TOTAL	27	23	26	26	30	27
Female	18 64.3%	19 73.1%	19 73.1%	18 72.0%	18 75.0%	16 69.6%	Female	26 96.3%	22 95.7%	25 96.2%	25 96.2%	28 93.3%	26 96.3%
Male	10 35.7%	7 26.9%	7 26.9%	7 28.0%	6 25.0%	7 30.4%	Male	1 3.7%	1 4.3%	1 3.8%	1 3.8%	2 6.7%	1 3.7%
TOTAL	28	26	26	25	24	23	TOTAL	27	23	26	26	30	27

Appendix C

Detention Support									Law Enforcement Support																
US-Hispanic or Latin	18	23.7%	17	23.6%	18	24.7%	18	27.7%	22	32.4%	26	33.8%	US-Hispanic or Latin	9	25.7%	7	23.3%	8	25.8%	8	36.4%	7	21.9%	11	29.7%
US-White	48	63.2%	45	62.5%	42	57.5%	38	58.5%	36	52.9%	37	48.1%	US-White	28	80.0%	22	73.3%	20	64.5%	12	54.5%	20	62.5%	20	54.1%
US-American Indian/Alaska Nat	2	2.6%	1	1.4%	1	1.4%	1	1.5%	1	1.5%	1	1.3%	US-American Indian/Alaska Nat	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
US-Native Hawaiian Pac Islander	N/A	N/A	N/A	N/A	N/A	N/A	0	0.0%	0	0.0%	0	0.0%	US-Native Hawaiian Pac Islander	N/A	N/A	N/A	N/A	N/A	N/A	0	0.0%	0	0.0%	0	0.0%
US-Asian	2	2.6%	2	2.8%	3	4.1%	2	3.1%	2	2.9%	3	3.9%	US-Asian	1	2.9%	1	3.3%	2	6.5%	2	9.1%	1	3.1%	2	5.4%
US-Black or African American	3	3.9%	4	5.6%	3	4.1%	2	3.1%	2	2.9%	3	3.9%	US-Black or African American	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
US-Not Specified	3	3.9%	3	4.2%	5	6.8%	4	6.2%	5	7.4%	7	9.1%	US-Not Specified	1	2.9%	0	0.0%	1	3.2%	0	0.0%	4	12.5%	4	10.8%
US-Two or More Races	0	0.0%	0	0.0%	1	1.4%	0	0.0%	0	0.0%	0	0.0%	US-Two or More Races	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
TOTAL	76		72		73		65		68		77		TOTAL	39		30		31		22		32		37	
Female	45	59.2%	41	56.9%	41	56.2%	38	58.5%	39	57.4%	44	57.1%	Female	30	85.7%	24	80.0%	24	77.4%	18	81.8%	26	81.3%	29	78.4%
Male	31	40.8%	31	43.1%	32	43.8%	27	41.5%	29	42.6%	33	42.9%	Male	9	25.7%	6	20.0%	7	22.6%	4	18.2%	6	18.8%	8	21.6%
TOTAL	76		72		73		65		68		77		TOTAL	39		30		31		22		32		37	
Technical Specialty									Sonoma County Demographic																
US-Hispanic or Latin	1	4.2%	1	4.0%	1	4.0%	3	11.5%	3	13.0%	3	12.0%	US-Hispanic or Latin	26.6%	27.2%	27.2%	28.3%	28.3%	28.9%						
US-White	21	87.5%	22	88.0%	22	88.0%	18	69.2%	16	69.6%	19	76.0%	US-White	63.5%	63.1%	63.1%	61.5%	61.5%	60.6%						
US-American Indian/Alaska Nat	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	US-American Indian/Alaska Nat	0.4%	2.2%	2.2%	2.3%	2.3%	2.3%						
US-Native Hawaiian Pac Islander	N/A	N/A	N/A	N/A	N/A	N/A	0	0.0%	0	0.0%	0	0.0%	US-Native Hawaiian Pac Islander	N/A	N/A	N/A	N/A	0.4%	0.4%						
US-Asian	1	4.2%	1	4.0%	1	4.0%	2	7.7%	2	8.7%	2	8.0%	US-Asian	4.2%	4.6%	4.6%	4.8%	4.8%	5.0%						
US-Black or African American	1	4.2%	1	4.0%	1	4.0%	1	3.8%	1	4.3%	1	4.0%	US-Black or African American	1.3%	2.1%	2.1%	2.1%	2.1%	2.2%						
US-Not Specified	0	0.0%	0	0.0%	0	0.0%	2	7.7%	1	4.3%	0	0.0%	US-Not Specified	N/A	N/A	N/A	N/A	N/A	N/A						
US-Two or More Races	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	US-Two or More Races	3.7%	4.0%	4.0%	4.3%	4.3%	4.4%						
TOTAL	24		25		25		26		23		25														
Female	5	20.8%	5	20.0%	5	20.0%	6	23.1%	6	26.1%	6	24.0%													
Male	19	79.2%	20	80.0%	20	80.0%	20	76.9%	17	73.9%	19	76.0%													
TOTAL	24		25		25		26		23		25														

<https://www.census.gov/quickfacts/fact/ta>

APPENDIX D - TIMELINESS CHECKLIST

IOLERO TIMELINESS CHECKLIST FOR AUDITING INTERNAL AFFAIRS INVESTIGATIONS

Aside from the 1-year statute of limitations, these deadlines are not defined by law or SCSO/IOLERO policy. Instead, they are intended to reflect best practices to (a) allow SCSO a reasonable time to conduct a thorough and timely investigation, (b) allow IOLERO reasonable time to conduct a thorough and timely audit, and (c) allow SCSO sufficient time to consider IOLERO's audit before the 1-year statute of limitations.

DEADLINES	Deadline Met?
SCSO: Send the investigation to IOLERO within 14 calendar days after command staff completes its review.	
SCSO: Send the investigation to IOLERO within 225 days after the date of complaint or after discovering the relevant employee conduct. Alternate deadline for investigations that are subject to tolling: Send the investigation to IOLERO at least 140 days before the statute of limitations expires.	
IOLERO: Send the draft audit to SCSO within 120 days after receiving SCSO's investigation.	
SCSO: Complete the investigation before the 1-year statute of limitations in compliance with SCSO Policy 1010.6.5.	

