



**Renne Sloan Holtzman Sakai**  
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**CONFIDENTIAL**  
**INVESTIGATIVE REPORT**

**CLIENT:**           **SANTA CLARA COUNTY SHERIFF'S OFFICE**

**SUBJECT:**       **IN CUSTODY INJURY OF**                               **AND**  
**IN CUSTODY DEATH OF**

**DATE:**           **JANUARY 7, 2016**

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**ALLEGATIONS OF MISCONDUCT IN CONNECTION WITH THE IN CUSTODY INJURY TO JAIL INMATE AND THE IN CUSTODY DEATH OF JAIL INMATE**

**I. INTRODUCTION**

In October 2015, the County of Santa Clara, through the Offices of the Sheriff and County Counsel (“County”), retained the law firm of Renne Sloan Holtzman Sakai LLP (the “Firm”) to conduct an independent investigation into allegations of misconduct in connection with the use of force against County Jail inmates and . The County asked the Firm to investigate allegations that three Sheriff’s Office Correctional Deputies assigned to the County Jail violated Sheriff’s Department policies in connection with injuries to and the death of . The deputies are Jereh Lubrin, Matthew Farris, and Rafael Rodriguez. The District Attorney’s Office charged the three deputies with assault against and murder in the death of . The deputies are currently out of custody on bail. The Firm assigned the following personnel to the investigation: Attorney Louise Renne, Attorney Linda Ross, and licensed investigators Howard Jordan and Michael Yoell. <sup>1</sup>

Based on a preponderance of the evidence, and as detailed below, the Firm concludes that Correctional Deputies Lubrin, Farris and Rodriguez violated Sheriff’s Department and County policies by engaging in the following conduct. On August 26, 2015, between 10:38 p.m and 11:09 p.m., during a cell search of for excess clothing, the deputies sought to discipline and for disruptions that had occurred earlier in the evening. During that time period the three deputies used excessive force against and . The deputies did not file required reports on use of force. On August 27, 2015, at 12:35 a.m., was declared dead. After death, the deputies made false and misleading statements in incident briefings and written Employee Reports. The deputies later violated orders to respond to questioning during the internal investigation into death.

Additionally, based on a preponderance of the evidence, as detailed below, the Firm concludes that Pablo Tempra, the Floor Deputy for on August 26 and 27, 2015, also violated Sheriff’s Department and County policies. During an interview on October 29, 2015, Tempra disclosed to Firm investigators that on August 26, 2015, within a short time after leaving Module

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<sup>1</sup> Firm attorneys Steve Shaw and Nikki Hall also reviewed this report.

Lubrin stated to Tempra, in the presence of Farris and Rodriguez, that Lubrin had used force on [redacted]. That night, Tempra failed to inform a supervisor of this fact or file a required use of force report. After [redacted] death, during two interviews with Sheriff's Department investigators, on September 1 and 5, 2015, Tempra also failed to disclose Lubrin's statement. It was not until the October 29, 2015, interview that Tempra informed investigators of this fact. In addition, Tempra's statements that he heard no noise from [redacted] during the time period of [redacted] beating and [redacted] death are not credible based on the evidence.

## II. SUMMARY OF FINDINGS

### A. Deputies Lubrin, Farris and Rodriguez.

Based on a preponderance of the evidence standard, there is sufficient evidence to SUSTAIN charges that Deputies Lubrin, Farris and Rodriguez each violated the following policies:

D.O.C. Policy 3.31.II.A – Employee Relationships with Inmates (provide for safety of inmates)

D.O.C. Policy 3.31.II.B – Employee Relationships with Inmates (no brutality)

D.O.C. Policy 3.31.II.C – Employee Relationships with Inmates (limits on touching inmates)

D.O.C. Policy 3.31.IV.J.I.a – Employee Conduct/Conformance to Law (compliance with county policies or law)

D.O.C. Policy 3.31.IV.J.2 – Compliance with Order (employees shall obey a lawful order from a supervisor)

D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct/Use of Force (limits on use of force)

D.O.C. Policy 3.31.IV.J.4.a – Integrity of Reporting System (reporting requirements)

D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming (prohibition on conduct unbecoming)

D.O.C. Policy 3.31.IV.J.10.b – Neglect of Duty/Unsatisfactory Performance (requirement of satisfactory performance)

D.O.C. Policy 3.31.IV.J.14.a – Employee Conduct/Untruthful Statements (requirement of

truthful statements)

D.O.C. Policy 9.01.I.A.1 – Use of Force (only necessary and objectively reasonable force)

D.O.C. Policy 9.01.I.A.2 – Use of Force (badge staff will not use force to discipline)

D.O.C. Policy 9.27.I.B – Reporting of Incidents (prompt notification of incidents including written report)

Santa Clara County Merit System Rule A25-301(a)(1) (compliance with county and department rules)

Santa Clara County Merit System Rule A25-301(a)(4) (no brutality in the performance of duties)

Santa Clara County Merit System Rule A25-301(b)(1) (gross misconduct, conduct unbecoming)

Santa Clara County Merit System Rule A25-301(b)(2) (immoral conduct or criminal act)

**B. Deputy Temptra.**

Based on a preponderance of the evidence standard, there is sufficient evidence to SUSTAIN charges that Deputy Temptra violated the following policies:

D.O.C. Policy 3.31.IV.J.4.a – Integrity of Reporting System (reporting requirements)

D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming (prohibition on conduct unbecoming)

D.O.C. Policy 3.31.IV.J.10.b – Neglect of Duty/Unsatisfactory Performance (requirement of satisfactory performance)

D.O.C. Policy 3.31.IV.J.14.a – Employee Conduct/Untruthful Statements (requirement of truthful statements)

D.O.C. Policy 9.27.I.B – Reporting of Incidents (prompt notification of incidents including written report)

Santa Clara County Merit System Rule A25-301(a)(1) (compliance with county and department

rules)

Santa Clara County Merit System Rule A25-301(b)(1) (gross misconduct, conduct unbecoming)

### III. INVESTIGATIVE PROCEDURE

The firm obtained evidence from witness interviews, Sheriff's department records, and cell phone and computer records obtained by the Sheriff's Office criminal investigators through search warrants. Evidence relied upon is listed below and contained as Exhibits to the Appendix.

#### A. Reports and Interviews of Department Personnel.

After the death of Sheriff's Department deputies made reports, and Sheriff's Department investigators (CID) interviewed Department personnel. During the internal investigation, the Firm conducted additional interviews of Department personnel.

Exhibit	Individual	Position	Report/Interview
1.	Jonathan David Cuilla	Correctional Deputy	9/5/15 Written Report
2.			9/5/15 Supplemental Written Report
3.			9/5/15 Interview by CID (Breit 9/5/15)
4.			9/11/15 Interview by CID (Omori 9/14/15)
5.			10/10/15 Interview by Firm (Jordan/Yoell 10/10/15)
6.	Matthew Farris	Correctional Deputy	10/30/15 Interview by Firm (Jordan/Yoell 10/30/15) Signed acknowledgement form by Farris and statement by counsel
7.	Jereh Lubrin	Correctional Deputy	8/27/15 Incident Briefing (Harrington 8/27/15)



<b>Exhibit</b>	<b>Individual</b>	<b>Position</b>	<b>Report/Interview</b>
8.			8/27/15 Incident Briefing (Carroll 8/27/15)
9.			8/27/15 Incident Briefing (Brown 9/5/15)
10.			8/27/15 Incident Briefing (Carrasco 9/5/15)
11.			8/27/15 Employee's Report
12.			11/6/15 interview by Firm (Jordan/Yoell 11/6/15) Signed acknowledgement form by Lubrin and statement by counsel
13.			10/8/15 interview by Firm (Jordan/Yoell 10/8/15)
14.	Rafael Rodriguez	Correctional Deputy	8/27/15 Employee's Report
15.			10/30/15 interview by Firm (Jordan/Yoell 10/30/15) Signed acknowledgement form by Rodriguez and statement by counsel
16.	Koret Shettleworth	Correctional Deputy	10/15/15 interview by Firm (Jordan/Yoell 10/15/15)
17.	Nathaniel Salcedo	Correctional Deputy	10/22/15 interview by Firm (Jordan/Yoell 10/22/15)
18.	Pablo Temptra	Correctional Deputy	9/1/15 interview by CID (Mah 9/4/15)
19.			9/5/15 interview by CID (Weekes 9/6/15)

Exhibit	Individual	Position	Report/Interview
20.			10/16/15 interview by Firm (Jordan/Yoell 10/16/15)
21.			10/29/15 interview by Firm (Jordan/Yoell 10/29/15)
22.			11/24/15 interview by Firm (Yoell 11/24/15)
23.			Signed acknowledgment forms by Tempra (10/16/15, 10/17/15, 10/29/15 )

**B. Interviews of Inmates.**

As part of the criminal investigation, the Sheriff's Department criminal investigators interviewed the following witnesses who were inmates in \_\_\_\_\_ at the time of the incidents. Interviews were conducted on August 27 and 28, 2015. The criminal investigators taped and summarized the statements, which are included as Exhibits to the Appendix. The District Attorney's Office requested that the Firm not re-interview the inmates in light of the pending criminal investigation and charges.

Exhibit	Cell	Inmate Name	PFN	Party Page Identifier
24.				
25.				
26.				
27.				
28.				
29.				
30.				
		(VACANT)	(VACANT)	(VACANT)
31.				

<b>Exhibit</b>	<b>Cell</b>	<b>Inmate Name</b>	<b>PFN</b>	<b>Party Page Identifier</b>
32.				
33.				
34.				
35.				
36.				
37.				
38.				
39.				
40.				
41.				
42.				
43.				
44.				
45.				
46.				
47.				
48.				
49.				
50.				
51.				
52.				
53.				
54.				
55.				
56.				

Exhibit	Cell	Inmate Name	PFN	Party Page Identifier
57.				
58.				
59.				
60.				
61.				
		(VACANT)	(VACANT)	(VACANT)
62.				
63.				
64.				
65.				
66.				
67.				
		(VACANT)	(VACANT)	(VACANT)
68.				
69.				
70.				
71.				
72.				
73.				
74.				
75.				
76.				

**C. Other Evidence Reviewed.**

The following documentary and other evidence was reviewed as part of the investigation.

<b>Exhibit</b>	<b>Document Description</b>
77.	8/27/15 Internet searches, Rodriguez personal computer
78.	Text Messages, Farris and Rodriguez phones
79.	Subjects of Interest – Extraction Report from Suspect Farris’s Phone
80.	Stills from surveillance video, Main Jail
81.	autopsy photos, selected
82.	Medical Examiner’s Report,
83.	Photos of injuries
84.	Sergeant Brackett’s Supervisor’s Report
85.	Post Incident Time-Line
86.	-Diagrams of Module
87.	Post Log Book (pg 306/349)
88.	Department of Corrections Policy and Procedures Manual-- Policy # 1.05 – Code of Ethics
89.	Department of Corrections Policy and Procedures Manual – Policy #1.19 – Internal Affairs Unit
90.	Department of Corrections Policy and Procedure Manual-- Policy #3.31 – Employee Conduct & Performance
91.	Department of Corrections Policy and Procedure Manual – Policy #9.01 – Use of Force and Restraints
92.	Department of Corrections Policy and Procedures Manual-- Policy #9.27- Reporting of Incident

93.	Santa Clara County Merit System Rules, Article II, Disciplinary Actions
94.	Sheriff's Department, Standards of Conduct, General Order #11
95.	Inmate audio recording by Sergeant Brown (hard drive only)
96.	Surveillance video, (hard drive only)
97.	Video recorded interview of Lubrin (hard drive only)
98.	Video recorded interview of Farris (hard drive only)
99.	Video recorded interview of Rodriguez (hard drive only)
100.	Incident Report 15-239-0032J (pg. 1-401) (hard drive only)
101.	CSI photos by Carroll (hard drive only)
102.	Photos of Module (hard drive only)
103.	Welfare Check/Dayroom/Sundeck log (hard drive only)
104.	Hard drive with all documents and recordings provided by Sheriff's Department (drive only)

#### IV. SUMMARY OF EVIDENCE

On August 26, 2015, between 10:38 p.m. and 11:09 p.m., a 44 year old inmate in the Santa Clara County Main Jail suffered injuries to his arm, shoulder, wrist and knee, resulting in visual bruising. On August 27, 2015, at 12:35 a.m., a 31 year old inmate in the Santa Clara County Main Jail was declared dead. The Medical Examiner's Report concluded that sustained a severed spleen and liver resulting from the infliction of blunt force trauma. and were in protective custody and had mental health issues. Neither had a history of violence against inmates or Department personnel.

The three Correctional Deputies on duty in at the time of injuries and death were Jereh Lubrin, Matthew Farris and Rafael Rodriguez. Lubrin graduated from the Academy in 2011; Farris and Rodriguez graduated in 2014. The three deputies worked the night shift, from 6 p.m. to 6 a.m., and were responsible for Main Jail and (They had worked together since June or July, 2015) Deputy Lubrin was responsible

for Deputy Pablo Tempra staffed the Floor Desk and controlled the doors to the Modules.

Jail records, reports by department personnel (including by Deputy Lubrin) and reports by inmates place Deputies Lubrin, Farris and Rodriguez in the cells of the two inmates at the time of their injuries. has 48 cells on two tiers; 45 were occupied. The Sheriff's Department criminal investigators interviewed the inmates on August 27 and 28, 2015. Almost every inmate in reported seeing or hearing evidence that and were subjected to force during the time the deputies were in their cells. None of the three deputies reported, either verbally or in writing, any use of force.

The evidence reviewed by Firm investigators shows the following in connection with the injuries to and the death of

**A. Pill Call.**

On August 26, 2015, at approximately 7:30 p.m. (1930 hours), the inmates lined up for "pill call" in to obtain their medication from the nurse who provided it through a metal opening next to the door to the unit. According to Deputy Lubrin (in verbal reports made during his shift on August 27, and a written report of the same date), hid his medication and did not take it in front of the nurse as required. The nurse summoned Deputy Lubrin, who required to take the medication. During this incident, also according to Deputy Lubrin, called the nurse names such as a "liar" "Satan" and "rapist." Other Department witnesses, including the and the deputy in charge of the floor station, corroborate that this incident occurred. (Exhs. 7-11, Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15; Carroll 8/27/15; Brown 9/5/15; and Carrasco 9/5/15]; Lubrin 8/27/15 Employee's Report; Exhs. 18-22, Tempra Interviews [Mah 9/1/15; Weekes 9/5/15; Jordan/Yoell 10/16/15 and 10/29/15; Yoell 11/24/15]; Exh. 13, Interview [Jordan and Yoell 10/8/15].)

**B. Program Time.**

That evening, there was "program time" in the Module, during which inmates were permitted to leave their cells and go to a common area. During program time, there was an argument between and another inmate. went back to his cell and slammed his cell door. When interviewed, stated that the dispute was over payment for stamps. He said he returned to his cell and locked himself down. (Exh. 76, interview [Brown 8/28/15].)

### C. Cell Search.

Also on August 26, the Module had “clothing exchange,” during which inmates turn in their clothing for clean items. Lubrin’s written Employee’s Report states that he, Deputy Farris and Deputy Rodriguez “conducted a routine security check in [redacted] for extra clothing.” They began the search at approximately 10:38 p.m. (2240 hours), starting at [redacted] and proceeding around the upper tier from [redacted] (Exhs. 7-11, Lubrin 8/27/15 Employee’s Report; Lubrin 8/27/15 Incident Briefings [Carroll 8/27/15; Brown 9/5/15; Carrasco 9/5/15].) The video camera that covers the doorway to [redacted] shows Deputies Lubrin and Farris entering the Module at 10:38 p.m. (Exh. 80.)

#### 1.

The last cell on the top tier was [redacted] occupied by [redacted] Deputy Rodriguez joined Lubrin and Farris at [redacted] cell. The video camera that covers the doorway to [redacted] shows Rodriguez entering the Module at 10:48 p.m. (Exh. 80.)

In his interview, [redacted] reported that after the dispute over the stamps, he returned to his cell and locked himself in, slamming the door. [redacted] stated that during the cell search, he was going to stand up at the wall, but the “Mongolian-looking” bald headed deputy told him to sit down and punched him in the mouth. When [redacted] asked why, the deputy said [redacted] was lucky the deputy did not hit him with the baton, and showed him the baton. [redacted] also said that during this incident the “Mexican officer” slapped [redacted] on his head. This deputy also asked [redacted] why didn’t take on the other inmate during program time, and why he retreated. A white deputy put [redacted] in a headlock and threw him to the ground. The first deputy and the white deputy twisted [redacted] arm, pushed him into the wall, and then threw him onto the bed. [redacted] said they hit him on his back when he was on the bed. [redacted] said he was not resisting because he did not want to go to a holding cell. [redacted] said that he later heard [redacted] yelling. He said that [redacted] was his “best friend,” they were both in protective custody, “they were the same” which is why they “were attacked.” [redacted] cried at the end of the interview. [redacted] had bruises on his arm, shoulder, wrist and knee. (Exh. 76, [redacted] interview [Brown 8/28/15].)

On August 27 and 28, 2015, as part of the investigation into [redacted] death, Sheriff’s Department criminal investigators interviewed inmates in [redacted] The following inmates, among many others, saw or heard the deputies in [redacted] cell using force on him: [redacted] (indicated that he observed Lubrin or Lubrin and Farris hitting [redacted] (saw deputies throw [redacted] onto the bed); [redacted] (saw deputies have [redacted] on bed); (heard a “thump, thump, thump” from [redacted] cell and heard [redacted] say “Okay. Okay. Stop”);



(could hear being physically assaulted and screaming “Please, stop, stop.”);  
(heard grunting from Cell as if someone was being “hemmed up”);  
(heard noise from cell and saw him “hemmed up” by Lubrin);  
(same); (heard being roughed up and the sounds of slaps  
along with screaming); (heard someone getting slapped in cell);  
(heard deputies roughing up and telling them “Hey, what are  
you doing? Leave me alone. I’m not a bitch”); (heard yelling and  
slapping noises, along with saying “I’m not a bitch. Don’t bitch slap me”).

(The summaries of witness statements created by the Sheriff’s department criminal investigators are attached as Exhibits 24-76 to the Appendix. Key excerpts are included in Section VII.)

Deputies Lubrin, Farris and Rodriguez did not report any use of force in connection with that night.

## 2.

After leaving cell, the deputies resumed their search for clothing on the first tier of cells, beginning at the cell below. The three deputies proceeded along the lower tier to the cell of. In his verbal and written reports on August 27, after the death of Deputy Lubrin reported that the deputies began their search of cell at approximately 11:15 p.m. (2315 hours). Lubrin reported that initially would not get up when asked to, that Lubrin asked to go sit in his chair, and that complied. Lubrin reported that then began yelling for them to get out of his cell, called them the “Devil,” said he hated them and asked why they were there. Lubrin said that he told to stand against the wall, and that was slow but complied. Lubrin reported that the deputies then left the cell. (Exhs. 7-11, Lubrin 8/27/15 Employee’s Report; Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15, Carroll 8/27/15, Brown 9/5/15, Carrasco 9/5/15].)

Again, as part of the investigation, on August 27 and 28, 2015, Sheriff’s Department criminal investigators interviewed inmates in. A few inmates with a line of sight into reported seeing the deputies in the cell with. Almost every inmate reported hearing yells or screams of pain. Most inmates who could make out words gave similar reports of the words and phrases used by. The following inmates, among others, saw or heard the deputies in cell using force on him: (states that deputies roughed up inmate in could not see but heard screaming, like was screaming in pain); (heard inmate yelling “Fuck it hurts! Stop! Stop!” along with banging in the cell and smashing into the wall; also heard deputies yelling “Stop resisting” and “Shut the fuck up, motherfucker”; believed mouth was covered up because yelling sounded muffled, saw

deputies do fist pounds afterwards); (heard inmate in say repeatedly in a loud voice “I’m sorry. I’m sorry. I understand” and that it sounded like someone was being beaten); (stated that deputies “messed up bad, they put hand[s] on him”); while he could not see, he stated “I heard everything because I’m right next door”; it sounded like did not want to get up as he kept questioning deputies asking why he had to get up, causing Farris to get angry and tell to “get the fuck up” a number of times; described what he heard next as a lot of wall banging, thumping, body shots, straight hits and dull thuds to the body, with saying “What the fuck. Let me go. What did I do?” and screaming “I’m sorry. I’m sorry. Let go”); (witnessed restrained by deputies with hands behind his back and heard deputies tell him not to move; was standing against wall between his bed and the sink; when deputies left, he heard say something like “I’m dying. Help.” and heard a thump on the cement); (heard someone in screaming and loud thud type noises before it went silent, all three deputies were present in room while screaming was happening, deputies turned light off before exiting cell); (heard screaming and yelling that he was sorry and could tell was getting smacked around); (could hear deputies roughing up an inmate on bottom tier, lots of screaming from (same).

(The summaries of witness statements created by the Sheriff’s department criminal investigators are attached as Exhibits 24-76 to the Appendix. Key excerpts are included in Section VII.)

The inmates reported that after the deputies left cell they quickly proceeded from cell to cell to finish their search. According to inmates and in Deputy Lubrin asked the two inmates what they would say if anyone asked if anything had happened. He told them the answer was “Nah, you didn’t hear anything. The answer is no.” (Exhs. 51-52, )

After the deputies completed the cell searches, the deputies then exited the Unit. The inmate in next to cell, reported that he heard talking to himself, pacing and crying. He heard say, “If they want to kill me, then they can kill me” and he heard a loud thump. The inmate in near cell, reported that he heard saying something like “I’m dying. Help” and then he heard a thump on the cement. (Exhs. 66, 75, .)

One inmate reported seeing officers do “fist pounds” as they ended the cell searches. (Exh. 58, .) Correctional Deputy Pablo Tempra, who staffed the Floor Station, also reported seeing a “knuckle bump” between Deputies Farris and Rodriguez as they left the Module. (Exh. 21, Tempra Interview [Jordan/Yoell 10/29/15].)

Video of the \_\_\_\_\_ of the Main Jail shows the three deputies leaving \_\_\_\_\_ at approximately 11:09 p.m. (2309 hours). The video shows Lubrin appearing to bow as he held the door for the other two deputies. (Exh. 80.)

Lubrin, Farris and Rodriguez did not report any use of force in connection with that night.

#### **D. Pablo Tempra, Floor Station Deputy.**

Pablo Tempra, the deputy in charge of the Floor Station on the \_\_\_\_\_, was interviewed on four occasions in connection with the investigation. Tempra is on administrative leave in connection with allegations that he was not truthful in his interviews concerning the incident.

##### **1. Lubrin Use of Force Against \_\_\_\_\_**

In his interviews with the Sheriff's Department on September 1 and 5, 2015, Tempra did not report that Lubrin had made any comment about using force against \_\_\_\_\_. On October 29, 2015, Tempra stated for the first time that Lubrin had told Tempra on August 26, 2015 that Lubrin had used force against \_\_\_\_\_. Tempra stated the following during those interviews.

**September 1, 2015 Interview by CID.** In an interview on September 1, 2015, Tempra told Sheriff's Department investigators that on August 26, 2015, before the in custody death occurred, the only notable incident Tempra recalled was \_\_\_\_\_ yelling at the nurse during pill call. He said that Lubrin, Farris and Rodriguez conducted cell checks during the night before the incident and did not notice anything unusual. He stated that at approximately 2330-0000 hours, he left the \_\_\_\_\_ and went to the second floor infirmary to provide lunch relief. While he was on the second floor he heard a "man down" call on the \_\_\_\_\_ via radio. He went off duty at the same time as Lubrin, Farris and Rodriguez but did not report any talk of the incident. The next day, Tempra and the other officers were assigned to work the \_\_\_\_\_. Tempra also said there was nothing said between the other officers and him about the incident that day before the other officers were ordered to pack their gear and leave. (Exh. 18, Tempra Interview [Mah 9/1/15 at pp. 1-2].)

**September 5, 2015 Interview by CID.** On September 5, 2015, a Sheriff's Department criminal investigator interviewed Tempra. The investigator's summary of this interview states that Tempra stated the following during the interview:

“After the cell checks were completed and S01 Lubrin, S01 Farris and S03 Rodriguez exited \_\_\_\_\_, there were no conversations between any of the officers about how the cell checks went. W35 Tempra said that all of the officers were acting normal and did not appear to be in an altercation. The only conversation W35 recalls having with S01 Lubrin, S01 Farris and S03 Rodriguez was how he needed to go to the 2nd floor for lunch relief at approximately 0000 hours.

W35 Tempra did not recall any conversations regarding how the cell checks went when all of the officers were out of the camera view shortly after S01 Lubrin, S01 Farris and S03 Rodriguez exited from their cell checks.

Tempra remained at the \_\_\_\_\_ Station for approximately 40 minutes before going to the \_\_\_\_\_ y for lunch relief. W35 Tempra said all of the officers assigned to the \_\_\_\_\_ remained near the floor station desk just joking around. W35 Tempra could not remember exactly what conversations they had, but it was mostly normal conversations about Android Cell phones versus I-Phone call phones, their families, and joking with each other.” (Exh. 19, Tempra Interview [Weekes 9/5/15].)

**October 16, 2015 Interview by Firm.** During this interview, Tempra stated that after Lubrin, Farris and Rodriguez completed the bar check, nothing unusual occurred and the deputies acted normally. He denied there was any conversation about the incident with \_\_\_\_\_. Tempra stated he did not believe the deputies beat \_\_\_\_\_ to death and it could have been an inmate who popped the door, but did not know why this would be the case. During this interview, based on seemingly evasive responses, Tempra was given a Lybarger admonition. The interview was continued to another date so Tempra could obtain counsel. (Exh. 20, Tempra Interview [Jordan/Yoell 10/16/15].)

**October 29, 2015 Continued Interview by Firm.** The October 16, 2015 interview was reconvened on October 29, 2015, after Tempra obtained counsel, who was present for the interview. In this interview, Tempra reported for the first time that, on August 26, 2015, after the “bar checks” Lubrin told him that during the bar check in \_\_\_\_\_ cell, \_\_\_\_\_ was not cooperating and Lubrin placed a hold on \_\_\_\_\_. Tempra revealed this information in response to a question whether he and the other deputies ever discussed problem inmates, to which Tempra replied,

“Ahh, just that night when they did the ‘bar checks’ he, ah Lubrin mentioned during bar checks, ah, ah \_\_\_\_\_ was sitting on his bench and then they (deputies) said ‘bar checks’... supposed to stand ah, facing the wall under the towel rack with your hands behind your

back; he (Lubrin) said he wasn't complying, he was just sitting there, so, he was, Lubrin... he put a twist lock on him . . . guide to the wall.”

When asked what happened next, Tempra said:

“After that he didn't twist him up, he just ah, put a hold on him and then after that he said he ( didn't complain of pain and then they walk out; that's what he said, according to Lubrin.”

Tempra stated that Farris and Rodriguez were present but said nothing. Tempra said that he advised Lubrin to write up the incident. During this interview, Tempra watched the video tape of the entryway to . He watched as Lubrin, Farris and Rodriguez exited, after the bar searches, and observed that two of the deputies touched gloves. (Exh. 21, Tempra Interview [Jordan/Yoell 10/29/15].)

## **2. Noise From**

In every interview, Tempra either did not report or denied hearing any noise form during the time the three deputies were doing the cell searches. The report of Tempra's September 9, 2015 interview states: “While S01 Lubrin, S02 Farris, and S03 Rodriguez were in conducting cell checks, W35 Tempra did not hear any screaming or yelling within the module.” (Exh. 18, Tempra Interview [Mah 9/1/15]; see also Exh. 21, Jordan/Yoell 10/29/15.) This statement lacks credibility for the following reasons. First, in his September 5, 2015 interview, Tempra stated that he generally could hear noise from the modules. “W35 Tempra later stated that with the amount of time he has worked as a floor station officer, there are times that you can hear inmates yelling from their cells or if there is an altercation within the module while the main entry door to the module is closed.” (Exh. 18, Tempra Interview [Mah 9/1/15].) Second, during the cell searches, multiple inmates reported hearing loud yelling and screaming from and Third, on November 19, 2015, the Firm investigators did a noise check that demonstrated yelling from and could be heard at the floor station.

## **E. Discovery of**

At approximately midnight, Deputy Lubrin returned to to do a welfare check. According to Deputy Lubrin (in his August 27 verbal briefings and written report) at approximately 12:10 a.m. (0010 hours), when he checked he saw on the floor on his left side facing the toilet, naked, with food and feces in the cell. After completing his welfare check, he returned to to determine why was on the floor. When he returned, he found to be unresponsive. At approximately 12:12 p.m. (0012 hours), Deputy Lubrin

summoned assistance, pulled [redacted] out of his cell and began CPR. (Exhs. 7-11.) In their interviews, inmates gave similar accounts of how [redacted] body was discovered. They stated that Deputy Lubrin returned to the unit to do his welfare check, observed [redacted] asked other inmates whether [redacted] normally “shitted” on himself, completed his welfare check, returned to cell, radioed, and began CPR.

Emergency personnel were summoned to the jail. At 12:35 a.m. (0035 hours), [redacted] was declared dead.

#### **F. Summary of Reports By Deputies Lubrin, Farris and Rodriguez.**

Deputies Lubrin, Farris and Rodriguez remained on shift until 6 a.m. As the deputy in charge of [redacted] Deputy Lubrin made verbal reports. (Exhs. 7-10.) He also filed a written Employee’s Report. (Exh. 11.) Deputy Rodriguez filed a written Employee’s Report concerning the discovery of [redacted] body and after the discovery, a list of personnel entering and leaving the module. (Exh. 14.) Farris did not make any reports but some comments by Farris are referenced in one of the reports of Lubrin’s incident briefing. Farris was listening to Lubrin’s briefing of the incident and made comments, including that [redacted] had said to the deputies “I hate you.” (Exh.10, Lubrin 8/27/15 briefing [Carrasco 9/5/15 at p. 7.]; Exh. 9 [Brown 9/5/15 at p. 8].) None of the reports, verbal or written, reported any use of force on [redacted] or [redacted]

#### **G. Statements Made By Deputies At Shift Change.**

Deputy Jonathan Cuilla worked the day shift, beginning at 6 a.m., in [redacted] On August 27, 2015, Cuilla started his shift and rode the elevator to [redacted] He observed Deputies Lubrin and Farris at the officer station desk. Deputy Lubrin, said, “Everything’s Code-4. Nothing happened last night.” (Exh. 4, Cuilla Interview [Omori 9/11/15 at p. 3].) Rodriguez was documenting individuals entering and exiting [redacted] because it had been designated a crime scene. Cuilla asked what happened. Farris replied, “You didn’t hear what happened? There was a 10-56, completed 10-56.” Cuilla asked who had passed. Farris replied “

Note: “Code-4” indicates “no further assistance needed.” “10-56” indicates there was a suicide.” (Exh. 1, Cuilla Report at p. 1; Exh. 4, Cuilla Interview [Omori 9/11/15 at p. 4]; Exh. 5, Cuilla Interview [Jordan/Yoell 10/10/15 at p. 3].)

**H. Timeline, August 26 and 27, 2015.**

<b>Time</b>	<b>Event</b>	<b>Source</b>
<b>6:00 p.m.</b> (1800 hours)	Night shift begins	
<b>7:30 p.m.</b> (1930 hours)	Pill call	Lubrin Employee's Report, Exh. 11
<b>10:38:11 p.m.</b> (2238 hours)	Lubrin and Farris enter Module and begin cell searches	Lubrin Employee's Report, Exh. 11 Video camera, Exh. 80
	Lubrin and Farris enter cell	
<b>10:48:49 p.m.</b> (2248 hours)	Rodriguez enters Module	Video camera, Exh. 80
	Lubrin, Farris and Rodriguez enter cell	
<b>11:09:39 p.m.</b> (2309 hours)	Lubrin, Farris and Rodriguez exit Module	Video camera, Exh. 80
<b>12:07:48 a.m.</b> (0007 hours)	Lubrin reenters Module to conduct welfare check	Lubrin Employee's Report, Exh. 11 Video camera, Exh. 80
	Lubrin discovers on floor of cell	Lubrin Employee's Report, Exh. 11
<b>12:12 a.m.</b> (0012 hours) -	Lubrin summons assistance	Lubrin Employee's Report. Exh. 11
<b>12:35 a.m.</b> (0035 hours)	declared dead	

## **I. Other Evidence.**

### **1. Medical Examiner's Report.**

The Medical Examiner concluded that \_\_\_\_\_ died of complications of exsanguination due to blunt force injury (laceration) of the liver and spleen. The report concluded: "Because Mr. \_\_\_\_\_ suffered death at the hands of another, the manner of death is classified as homicide." (Exh. 82.)

### **2. Rodriguez Internet Searches.**

A search warrant for the home computer of Deputy Rodriguez revealed that on the afternoon of August 27, 2015, someone conducted the following searches, among others: "Punched in the stomach questions," "can you die if someone punches you in the armpit," "if you get punched in the armpit will you poop?" (Exh. 77.)

### **3. Farris and Rodriguez Text Messages.**

Search warrants for the cell phones of Deputy Farris and Deputy Rodriguez revealed a number of messages regarding use of force prior to August 26, 2015. Instant Messages to and from Deputy Farris included evidence of past incidents of force used on inmates.<sup>2</sup> Some examples from the CID report:

On 7/10/15 at 21:47:12 hours, S2 Farris sent \_\_\_\_\_ an instant message, "You bang in?" \_\_\_\_\_ replied, "Hell Yeah!" S2 Farris said, "Bang bang bang!!! Lubrin back in the dorm tonight lamo." \_\_\_\_\_ responded, "I guess I'll have a mess to clean up next week." \_\_\_\_\_ told S2 Farris, "10-36 though." (10-36 is police code for confidential information.) S2 Farris said, "Yeah def bro."

On 7/20/15 at 23:32:01 hours, \_\_\_\_\_ instant messaged S2 Farris, "I'm going to start pulling people out at 2 am for no reason to twist them up." S2 Farris responded, "Come to the \_\_\_\_\_ bro. We do it at 0001 not 0200." \_\_\_\_\_ responded, "Lol Hardcore."

On 7/25/15 at 22:09:24 hours, S2 Farris and \_\_\_\_\_ were talking about staffing. \_\_\_\_\_ said, "Should be good though. Rodriguez is good. You kept Lubrin too. S2 Farris responded, "Yah Lubrin has calmed down. \_\_\_\_\_ and I been checking him." \_\_\_\_\_ said, "He needs it. Got to be smart about things."

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<sup>2</sup>



On 8/15/15 at 23:5:58 hours, S2 Farris said to [REDACTED], “We going to start pulling guys out man lol. Going hard on those south siders.” [REDACTED] responded, “ [REDACTED] would be my targets.” At 00:09:46 hours, [REDACTED] said, “Good lookin. I wanted to hit him today.” S2 Farris said, “We got him bro he was a bitch haha. I told him do you wanna fuck with my partners.” [REDACTED] responded, “Haha good lookin bro lmao.”

Messages to and from Deputy Rodriguez included evidence of past incidents of force used on inmates, including:

On 7/25/15 at 08:24:00 hours, S2 Farris sent S3 Rodriguez a SMS message stating, “Just got home. You in da cage haha.” S3 Rodriguez responded, “Naw I been [REDACTED] last 2 days I think it’s my new home. Haha.” S2 Farris said, “No way!! Ahhh just twist fools up but write paper don’t trust those peeps up there. Inmate lovers. I love [REDACTED] no camera and no groups. I hope I keep it.”

On 7/24/15 at 08:31:32 hours, S3 Rodriguez wrote, “No way I slapped a guy yesterday CU he was cursing at the [REDACTED] and I told him to shut the fuck up and have some respect. He said or else what and I slapped the shit out of him and said I am the wrong guy to fuck with. He was so surprised about me slapping him that he sat on his bed with his hand on his cheek hahaha. I told him I bet your parents never spanked u but I will haha. He apologized to the [REDACTED] and me. And then [REDACTED] was like hey man we don’t do that here and I was like well u beg him like he’s a little kid and he didn’t do shit and my way worked haha.” S2 Farris responded, “Bahahhaa Dude fuck those clowns get rolled up but don’t get in trouble. [REDACTED] will be the first to teach you about what you do and who you do it in front of.” S3 Rodriguez said, “I know I did it so he can tell [REDACTED] to roll me up.” S2 Farris responded, “Lol good.”

On 7/30/15 at 08:51:41 hours, S3 Rodriguez SMS messaged S2 Farris, “They said llaves when I walked in so I popped the first guy I seen twist him up and told him u say llaves again I’m a fuck u up. And he was like sorry sir it wasn’t me hah.” S2 Farris responded, “Lmao!” (Note: “llaves” is Spanish for “keys” – which are carried by the deputies.)

On 7/30/15 at 22:03:11 hours, S3 Rodriguez asked S2 Farris, “Ha big Rojo! U ready for Window bar checks on the [REDACTED] side today?” S2 Farris said, “Chyeea trainee, double glove, Concealed keys haha.”

(Exh. 78, Leonard 9/8/15 at pp. 6-13.)

Messages also include messages sent on August 27 and 28, 2015, after the death of including a group message on August 28 between Lubrin, Farris and Rodriguez about meeting at Starbucks. (Exh. 78, pp. 14-15.)

#### **4. Lubrin Conduct, Other Incidents.**

In their interviews, Correctional Deputies Pablo Temptra and Koret Shettlesworth reported that Deputy Lubrin often used his baton in a threatening and/or sexual manner. (Exh. 21, Temptra interview [Jordan/Yoell 10/29/15]; Exh. 16, Shettlesworth interview [Jordan/Yoell 10/15/15].) Inmate [redacted] and Deputy Temptra also provided information about a prior incident in which Deputy Lubrin had shoved [redacted] face into feces on the floor of [redacted] cell. (Exhs. 21,76.) A number of inmates described incidents in which Lubrin was perceived as harassing inmates with mental health issues (characterized as [redacted] based on prison slang).

#### **J. Interviews Of Deputies Lubrin, Farris and Rodriguez.**

On September 3, 2015, the Sheriff's Department notified Deputy Farris to appear for an investigative interview at 1400 hours on October 1, 2015. After the interview date was continued, Deputy Farris appeared on October 30, 2015, accompanied by counsel. Deputy Farris was given a Lybarger admonition. Farris invoked his Fifth Amendment privilege against self-incrimination. Deputy Farris's counsel then read a statement explaining why Farris was refusing to be interviewed. (Exh. 6.)

On September 3, 2015, the Sheriff's Department notified Deputy Lubrin to appear for an investigative interview at 1000 hours on October 2, 2015. After the interview date was continued, Deputy Lubrin appeared on November 6, 2015, accompanied by counsel. Deputy Lubrin was given a Lybarger admonition. Lubrin invoked his Fifth Amendment privilege against self-incrimination. Deputy Lubrin's counsel then read a statement explaining why Lubrin was refusing to be interviewed. (Exh. 12.)

On September 3, 2015, the Sheriff's Department notified Deputy Rodriguez to appear for an investigative interview at 1000 hours on October 1, 2015. After the interview date was continued, Deputy Rodriguez appeared on October 30, 2015, accompanied by counsel. Deputy Rodriguez was given a Lybarger admonition. Rodriguez invoked his Fifth Amendment privilege against self-incrimination. Deputy Rodriguez's counsel then read a statement explaining why Rodriguez was refusing to be interviewed. (Exh. 15.)

## **K. Conclusions From Evidence.**

### **1. Deputies Lubrin, Farris, Rodriguez.**

The information gathered during the investigation shows that, by a preponderance of the evidence, on August 26, 2015, Deputies Lubrin, Farris and Rodriguez used excessive force against inmates and leading to their injuries, failed to report the use of force, and later made false and misleading statements.

1. Deputy Lubrin's own reports, the reports by Floor Deputy Tempra, and the video camera placed the three deputies in during the time period of the injuries. That period began at 10:38 p.m., when Lubrin and Farris entered the Module, at 10:48 p.m., when Rodriguez joined them, and ended at 11:09 p.m., when the three deputies exited the Module. The interviews with inmate and other inmates provide evidence that the deputies were in cell. Deputy Lubrin's reports, his admission to Deputy Tempra that he used force on that night, and inmate reports place the three deputies in cell.

2. Despite differences in vantage points and proximity to and respective cells, numerous inmates reported that they saw or heard both and being physically attacked by the deputies. Most inmates reported similar words yelled or screamed by and such as "I'm not a bitch. Don't bitch slap me" from and "I'm sorry. I'm sorry" or "Please stop, stop" from Inmates reported that a deputy admonished that he did not want to hear anything more from him, as the deputies closed cell door and turned off his light. Two inmates, in cells near cell, reported hearing talking to himself in his cell, one reporting that said "if they want to kill me, then they can kill me" and then the sound of him falling.

The inmate accounts are credible. Many expressly noted the limits of what they could and could not see or hear. The accounts varied according to the inmates' sight line into and proximity to and The inmates began to report the events of the prior night at the beginning of the 6 a.m. shift on August 27, 2015. The first reports were made to Deputy Cuilla when he let inmates out of their cells to serve breakfast. By the afternoon, Sheriff's department investigators were conducting interviews of the inmates. Based on these factors, there was insufficient time for so many inmates to have fabricated or coordinated their stories.

3. Two inmates in reported that after these incidents, Deputy Lubrin warned them not to talk about what they saw or heard. stated that Lubrin told him, "Nah, you didn't hear anything. The answer is no." corroborated that Lubrin made that statement, telling them not to say that they saw or heard anything.

4. During the approximate one hour time period between when Deputies Lubrin, Farris and Rodriguez left the module around 11:09 p.m. and Lubrin's discovery of body at about 12:10 a.m., cell was locked and only the deputies had the keys. Lubrin's log entry of that night confirms that all cell door locks were working. There is no evidence that anyone else was

in \_\_\_\_\_ cell during the approximate one hour between the time Lubrin, Farris and Rodriguez left the cell and Lubrin later found \_\_\_\_\_ body.

5. The Medical Examiner's report concludes that \_\_\_\_\_ died of blunt force trauma to his liver and spleen. This trauma is consistent with the use of a Yawara stick, in the possession of Lubrin, or punching by deputies, as they did to

6. A search warrant of Rodriguez's home computer revealed that on August 27, 2015 the following internet searches were done on Rodriguez's computer: "Punched in the stomach questions," "can you die if someone punches you in the armpit," "if you get punched in the armpit will you poop?" The kind of punches referenced in these searches are consistent with the conclusion by the Medical Examiner as to the source of \_\_\_\_\_ injuries

7. Although there are numerous statements reflecting that \_\_\_\_\_ suffered from mental illness, there is no indication that \_\_\_\_\_ committed suicide or had the equipment in his cell necessary to inflict the type of trauma that is reflected in the Medical Examiner's report.

8. The text messages to and from Farris and Rodriguez reveal a pattern of use of excessive force against inmates. Inmate and deputy interviews provide evidence that Lubrin taunted inmates with his Yawara stick, and targeted mentally ill inmates for abuse.

9. It is undisputed that none of the deputies reported any use of force against \_\_\_\_\_ or \_\_\_\_\_ that night. The verbal statements made after \_\_\_\_\_ death by Lubrin and Farris were false and misleading. The written Employee Reports filed by Lubrin and Rodriguez were also false and misleading.

## **2. Deputy Tempra.**

The evidence shows, by a preponderance, that:

1. On August 27, 2015, Deputy Tempra failed to report Lubrin's use of force. Tempra admits that Lubrin disclosed to Tempra on August 26, 2015, after the "bar checks," that Lubrin had used force on \_\_\_\_\_. Tempra, however, did not report this use of force during or after his shift that night.

2. During interviews on September 1 and 5, 2015, Deputy Tempra withheld the fact that Lubrin had disclosed to Tempra that Lubrin had used force against \_\_\_\_\_. In an interview on September 1, 2015, Tempra did not disclose Lubrin's statement. In an interview on September 5, 2015, Tempra specifically stated that on August 26 and 27, 2015, he had no conversations with Lubrin, Farris or Rodriguez about any events that occurred during the cell checks. It was

not until his interview of October 29, 2015 that Tempra disclosed to investigators that on August 26, 2015, Lubrin told Tempra that Lubrin had used a compliance hold against

3. In his interviews dated September 5, 2015, and October 29, 2015, Tempra stated that he did not hear any sounds from during the time Deputies Lubrin, Farris and Rodriguez were conducting cell checks. Those statements lack credibility. First, in his interviews, Tempra also stated that generally he could hear loud noises from inside the modules. Second, in interviews, inmates described loud yelling and screaming coming from and Third, a sound test done by investigators, conducted at approximately 11 p.m. on November 19, 2015 demonstrated that yelling from those locations can be heard at the Floor Station where Tempra was working on August 26, 2015.

## V. STANDARDS ON USE OF FORCE

Reasonable force is that amount of force that is objectively reasonable to affect a lawful police purpose and protect the safety of members or others based upon the totality of the circumstances. *Graham v. Connor*, 490 U.S. 386 (1989).

Under D.O.C. Policy 9.01 Section I.A., “Use of Force,” “badge staff are authorized to use only that level of force, which is necessary and objectively reasonable, under the circumstances,

- a. To overcome resistance to their lawful authority
- b. To effect a lawful arrest or detention of persons resisting or attempting to evade that arrest or detention
- c. To bring an incident under control
- d. To protect themselves or others from injury
- e. To prevent a person from inflicting self-injury or injury to others
- f. To assist, as necessary, in effecting the following orders [obtaining samples in compliance with the Penal Code or providing security assistance with forced medication]”

D.O.C. Policy 9.01, Section I.A.2 states: “Badge staff will not use force to discipline ....

(Exh. 92.)

The investigators conclude that Lubrin, Farris and Rodriguez used excessive force against and The evidence shows that the force used to discipline and was not

necessary or objectively reasonable to overcome resistance to lawful authority, protect the officers or others from injury, or otherwise justified.

## VI. CONCLUSIONS – ALLEGATIONS OF MISCONDUCT

Based on the investigation, there is a preponderance of evidence that the three officers violated the following policies of the Santa Clara County Sheriff's Department.

### A. DEPUTY JEREH LUBRIN

Deputy Lubrin was the deputy in charge of \_\_\_\_\_ on August 26 and 27, 2015. Based on a preponderance of the evidence, the Department should SUSTAIN charges that he violated the following Department and County policies.

1. **D.O.C. Policy 3.31.II.A – Employee Relationships with Inmates:**  
**“Employees have the responsibility to provide for the safety, security and welfare of the inmates under their supervision.”**

A preponderance of the evidence shows that Lubrin engaged in the following conduct. On August 26, 2015, between 10:38 and 11:09 p.m., during cell searches of \_\_\_\_\_, Deputy Lubrin, in conjunction with Deputies Farris and Rodriguez, sought to punish jail inmate \_\_\_\_\_ for a disruption that had occurred earlier that evening during program time in which \_\_\_\_\_ had an argument with another inmate. Deputy Lubrin, without provocation, punched \_\_\_\_\_ in the face, and threatened him with a Yawara stick. Deputies Lubrin and Farris placed \_\_\_\_\_ in pain compliance holds, and threw \_\_\_\_\_ up against the wall and on the bed. Deputy Rodriguez slapped \_\_\_\_\_ in the head and taunted him by asking him why he had retreated from conflict during program time. Deputies punched \_\_\_\_\_ in the back. This force was not necessary and objectively unreasonable. \_\_\_\_\_ sustained bruises to his arm, shoulder, wrist and knee. These actions violated the safety, security and welfare of \_\_\_\_\_ who was under Lubrin's supervision.

A preponderance of the evidence shows that Lubrin engaged in the following conduct. On August 26, 2015, between 10:38 and 11:09 p.m., during cell searches, Deputy Lubrin, in conjunction with Deputies Farris and Rodriguez, sought to punish jail inmate \_\_\_\_\_ for \_\_\_\_\_ outburst earlier that evening at pill call when \_\_\_\_\_ tried to hide his medication and called the nurse names. Lubrin admitted to the floor deputy, Pablo Tempra, that Lubrin used a compliance hold to require \_\_\_\_\_ to stand up against the wall during the search. The evidence shows, however, that Lubrin, Farris and Rodriguez participated in the use of force against \_\_\_\_\_ that involved pain

compliance holds and blunt force blows to . This force was not necessary and objectively unreasonable. On August 27, 2015 at 12:35, was pronounced dead from blunt force trauma to his spleen and liver. Lubrin's actions violated the safety, security and welfare of

2. **D.O.C. Policy 3.31.II.B – Employee Relationships with Inmates:**  
**“Brutality will not be tolerated and is cause for dismissal and possible criminal charges.”**

The actions described in section 1 also violated this section. These actions involved brutality against inmates and

3. **D.O.C. Policy 3.31.II.C – Employee Relationships with Inmates:**  
**“Employees shall not touch an inmate except to: 1. Defend themselves. 2. Control or restrain an inmate. 3. Prevent the escape of an inmate. 4. Prevent serious injury or damage to a person or property. 5. Quell a disturbance. 6. Search an inmate. 7. Render medical aid.”**

The actions described in section 1 also violated this section. These actions were not required for any of the purposes listed in D.O.C. Policy 3.31.II.C

4. **D.O.C. Policy 3.31.IV.J.I.a – Employee Conduct/Conformance to Law:** **“Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules, and all laws applicable to the general public.”**

Deputy Lubrin violated this policy based on his violation of the Department and County policies listed in this Section A.

5. **D.O.C Policy 3.31.IV.J.2. – Compliance with Order:** **“Employees shall obey a lawful order from a supervisor.”**

On November 6, 2015, Lubrin appeared for an interview by the Firm in connection with this investigation. During the interview, Lubrin was given a Lybarger admonition, and ordered to respond to questions. Despite being given a Lybarger admonition, Lubrin invoked his Fifth Amendment privilege and refused to respond to questions.

6. **D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct/Use of Force:**  
**“Employees shall only use force in accordance with the law and the**

**Department Policy 9.01, Use of Force and Restraints.”**

Lubrin used force in violation of Policy 9.01 as described in section 1.

7. **D.O.C. Policy 3.31.IV.J.4.a – Integrity of Reporting System:** “Employees shall submit all necessary reports in accordance with established Department policy and procedures. These reports will be accurate, complete, and timely and will be submitted before the end of the employees’ tour of duty unless permission is obtained from the on-duty watch Commander to do otherwise.”

D.O.C. Policy 9.27 I. A requires deputies to submit an Incident Report for all “use of force or restraints.” D.O.C. Policy 9.27.I.B. requires staff made aware of reportable Incidents to promptly notify their supervisor. Deputy Lubrin failed to submit use of force reports, or notify a supervisor, in connection with the force used against [redacted] and [redacted] on August 26, 2015. Deputy Lubrin’s verbal reports of the incident and his written Employee’s Report were false, incomplete and misleading. These reports did not include the use of force against [redacted] the amount of force used against [redacted] or the participation of Deputies Farris and Rodriguez in the use of force.

8. **D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming:** “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”

Deputy Lubrin committed conduct unbecoming a Department employee by his unnecessary and objectively unreasonable use of force against [redacted] and [redacted] on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the false, incomplete and misleading statements made in his Employee’s Report of August 27, 2015 and his verbal reports of that date.

9. **D.O.C. Policy 3.31.IV.J.10.b – Neglect of Duty/Unsatisfactory Performance:** “Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade or position.”

Deputy Lubrin engaged in unsatisfactory performance by his unnecessary and objectively unreasonable use of force against [redacted] and [redacted] on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the false, incomplete and misleading statements made in his Employee’s Report of August 27, 2015 and his verbal reports of that date.



10. **D.O.C. Policy 3.31.IV.J.14.a – Employee Conduct/Untruthful Statements:** “Employees shall not make less than truthful statements, either verbal or written.”

Deputy Lubrin made untruthful statements concerning the death of \_\_\_\_\_ in verbal reports he made on August 27, 2015, and in his Employee’s Report of that date. He did not describe the use of force against \_\_\_\_\_ the amount of force used against \_\_\_\_\_ or the participation of Deputies Farris and Rodriguez in that use of force.

11. **D.O.C. Policy 9.01.I.A.1 – Use of Force:** “In the performance of their duties, badge staff is authorized to use that level of force, which is necessary and objectively reasonable, under the circumstances.”

The actions described in section 1 also violated this section. The actions against \_\_\_\_\_ and \_\_\_\_\_ involved excessive use of force not necessary or objectively reasonable under the circumstances. The evidence shows that \_\_\_\_\_ and \_\_\_\_\_ were not resisting the deputies or posing a threat to self or others.

12. **D.O.C. Policy 9.01.I.A.2 – Use of Force:** “Badge staff will not use force to discipline ...”

The actions described in section 1 also violated this section. These actions involved use of force to discipline an inmate.

13. **D.O.C. Policy 9.27.I.B – Reporting of Incidents:** “Staff made aware of reportable incidents or conditions shall promptly notify their supervisor. The seriousness of the situation shall dictate the means of notification. All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”

Lubrin failed to notify a supervisor concerning the use of force on August 27, 2015 against inmates \_\_\_\_\_ and \_\_\_\_\_ Deputy Lubrin made untruthful, incomplete and misleading statements concerning the death of \_\_\_\_\_ in verbal reports he made on August 27, 2015, and in his Employee’s Report of that date. He did not describe the use of force against \_\_\_\_\_ the amount of force used against \_\_\_\_\_ or the participation of Deputies Farris and Rodriguez in that use of force.

14. **Santa Clara County Merit System Rule A25-301(a)(1):** “Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict

with this article.”

Lubrin’s actions on August 26 and August 27, 2015 violated the rules and policies listed in this Section A.

15. **Santa Clara County Merit System Rule A25-301(a)(4): “Brutality in the performance of duties.”**

The actions described in section 1 also violated this section. These actions involved brutality in the performance of duties.

16. **Santa Clara County Merit System Rule A25-301(b)(1): “Guilty of gross misconduct, or conduct unbecoming a county officer of employee which tends to discredit the county or county service.”**

Deputy Lubrin committed gross misconduct and conduct unbecoming a Department employee by his unnecessary and objectively unreasonable use of force against and on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the false and incomplete statements made in his Employee’s Report of August 27, 2015 and his verbal reports of that date.

17. **Santa Clara County Merit System Rule A25-301(b)(2): “Guilty of immoral conduct or criminal act.”**

Deputy Lubrin committed immoral conduct or criminal acts on August 26 and 27, 2015, by his unnecessary and objectively unreasonable use of force against and his demeaning and threatening verbal statements, his failure to file use of force reports, and the false and incomplete statements made in his Employee’s Report of August 27, 2015 and his verbal reports of that date.

**B. DEPUTY MATTHEW FARRIS**

Deputy Farris was assigned to Main Jail, floor 6, on August 26 and 27, 2015, and participated, along with Deputies Lubrin and Rodriguez in the cell searches of on August 26, 2015. Based on a preponderance of the evidence, the Department should SUSTAIN charges that he violated the following Department and County policies.

1. **D.O.C. Policy 3.31.II.A – Employee Relationships with Inmates:**  
**“Employees have the responsibility to provide for the safety, security**

**and welfare of the inmates under their supervision.”**

A preponderance of the evidence shows that Farris engaged in in the following conduct. On August 26, 2015, between 10:38 and 11:09 p.m., during cell searches of \_\_\_\_\_, Deputy Farris, in conjunction with Deputies Lubrin and Rodriguez, sought to punish jail inmate \_\_\_\_\_ for a disruption that had occurred earlier that evening during program time in which \_\_\_\_\_ had an argument with another inmate. Farris participated in the following conduct. Deputy Lubrin, without provocation, punched \_\_\_\_\_ in the face, and threatened him with a Yawara stick. Deputies Lubrin and Farris placed \_\_\_\_\_ in pain compliance holds, and threw \_\_\_\_\_ up against the wall and on the bed. Deputy Rodriguez slapped \_\_\_\_\_ and taunted him for retreating from a conflict during program time. This force was unnecessary and objectively unreasonable. \_\_\_\_\_ sustained bruises to his arm, shoulder, wrist and knee. These actions violated the safety, security and welfare of \_\_\_\_\_ who was under Farris’s supervision.

A preponderance of the evidence shows that Farris engaged in the following conduct. On August 26, 2015, between 10:38 and 11:09 p.m., during cell searches, Deputy Farris, in conjunction with Deputies Lubrin and Rodriguez, sought to punish jail inmate \_\_\_\_\_ for \_\_\_\_\_ outburst earlier that evening at pill call when \_\_\_\_\_ tried to hide his medication and called the nurse names. Deputy Lubrin admitted to the floor deputy, Pablo Tempra, that Lubrin used a compliance hold to require \_\_\_\_\_ to stand up against the wall during the search. The evidence shows, however, that Lubrin, Farris and Rodriguez participated in the unnecessary and objectively unreasonable use of force against \_\_\_\_\_ that involved pain compliance holds and blunt force blows to \_\_\_\_\_. On August 27, 2015 at 12:35, \_\_\_\_\_ was pronounced dead from blunt force trauma to his spleen and liver. Farris’s actions violated the safety, security and welfare of \_\_\_\_\_

**2. D.O.C. Policy 3.31.II.B – Employee Relationships with Inmates:  
“Brutality will not be tolerated and is cause for dismissal and possible criminal charges.”**

The actions described in section 1 also violated this section. These actions involved brutality against inmates \_\_\_\_\_ and \_\_\_\_\_

**3. D.O.C. Policy 3.31.II.C – Employee Relationships with Inmates:  
“Employees shall not touch an inmate except to: 1. Defend themselves. 2. Control or restrain an inmate. 3. Prevent the escape of an inmate. 4. Prevent serious injury or damage to a person or \_\_\_\_\_**

**property. 5. Quell a disturbance. 6. Search an inmate. 7. Render medical aid.**

The actions described in section 1 also violated this section. These actions were not required for any of the purposes listed in D.O.C. Policy 3.31.II.C.

4. **D.O.C. Policy 3.31.IV.J.I.a – Employee Conduct/Conformance to Law: “Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules, and all laws applicable to the general public.”**

Deputy Farris violated this policy based on his violation of the Department and County policies listed in this Section B.

5. **D.O.C Policy 3.31.IV.J.2 – Compliance with Order: “Employees shall obey a lawful order from a supervisor.”**

On October 30, 2015, Deputy Farris appeared for an interview noticed by Sheriff’s Department investigators in connection with this investigation. During the interview, Farris was given a Lybarger admonition, and ordered to respond to questions. Despite being given a Lybarger admonition, Farris invoked his Fifth Amendment privilege and refused to respond to questions.

6. **D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct/Use of Force: “Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force and Restraints.”**

Farris used force in violation of Policy 9.01 as described in section 1.

7. **D.O.C. Policy 3.31.IV.J.4.a – Integrity of Reporting System: “Employees shall submit all necessary reports in accordance with established Department policy and procedures. These reports will be accurate, complete, and timely and will be submitted before the end of the employees’ tour of duty unless permission is obtained from the on-duty watch Commander to do otherwise.”**

D.O.C. Policy 9.27 I.A. requires deputies to submit an Incident Report for all “use of force or restraints.” D.O.C. Policy 9.27.I.B. requires staff made aware of reportable Incidents to promptly notify their supervisor. Deputy Farris failed to submit use of force reports, or notify a supervisor, in connection with the force used against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015.

8. **D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming:** “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”

Deputy Farris committed conduct unbecoming a Department employee by his use of unnecessary and unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, the misleading and incomplete statements he made during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and his false and misleading statements to Deputy Cuilla on August 27, 2015, when Cuilla relieved Farris at 6 a.m.

9. **D.O.C. Policy 3.31.IV.J.10.b. – Neglect of Duty/Unsatisfactory Performance:** “Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade or position.”

Deputy Farris engaged in unsatisfactory performance by his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, the misleading and incomplete statements he made during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and the his false and incomplete and misleading statements to Deputy Cuilla on August 27, 2015 when Cuilla relieved Farris at 6 a.m.

10. **D.O.C. Policy 3.31.IV.J.14.a – Employee Conduct/Untruthful Statements:** Employees shall not make less than truthful statements, either verbal or written.”

Deputy Farris made misleading and incomplete statements during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and false and incomplete and misleading statements to Deputy Cuilla on August 27, 2015 when Cuilla relieved Farris at 6 a.m.

11. **D.O.C. Policy 9.01.I.A.1 – Use of Force:** “In the performance of their duties, badge staff is authorized to use that level of force, which is necessary and objectively reasonable, under the circumstances.”

The actions described in section 1 also violated this section. The actions against \_\_\_\_\_ and \_\_\_\_\_ involved excessive use of force not necessary and objectively reasonable under the circumstances. \_\_\_\_\_ and \_\_\_\_\_ were not resisting or posing a threat to self or others.

**12. D.O.C. Policy 9.01.I.A.2 – Use of Force: “Badge staff will not use force to discipline ...”**

The actions described in section 1 also violated this section. These actions involved use of force to discipline an inmate.

**13. D.O.C. Policy 9.27.I.B – Reporting of Incidents: “Staff made aware of reportable incidents of conditions shall promptly notify their supervisor. The seriousness of the situation shall dictate the means of notification. All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”**

Farris failed to notify a supervisor, or file a written report, concerning the use of force on August 27, 2015 against inmates and

**14. Santa Clara County Merit System Rule A25-301(a)(1): “Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article.”**

Farris’s actions on August 26 and 27, 2015 violated the rules and policies listed in this Section B.

**15. Santa Clara County Merit System Rule A25-301(a)(4): “Brutality in the performance of duties.”**

The actions described in section 1 also violated this section. These actions involved brutality in the performance of duties.

**16. Santa Clara County Merit System Rule A25-301(b)(1): “Guilty of gross misconduct, or conduct unbecoming a county officer or employee which tends to discredit the county or county service.”**

Deputy Farris committed gross misconduct and conduct unbecoming a county officer or employee by his use of unnecessary and objectively unreasonable force against and on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, the misleading and incomplete statements he made during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and the his misleading and incomplete statements to Deputy Cuilla on August 27, 2015 when Cuilla relieved Farris at 6 a.m.

17. **Santa Clara County Merit System Rule A25-301(b)(2): “Guilty of immoral conduct or criminal act.”**

Deputy Farris committed immoral conduct or criminal acts by his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, the misleading verbal comments he interjected during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and his false and misleading statements to Deputy Cuilla on August 27, 2015 when Cuilla relieved Farris at 6 a.m.

**C. DEPUTY RAFAEL RODRIGUEZ**

Deputy Rodriguez was assigned to Main Jail, \_\_\_\_\_ on August 26 and 27, 2015, and participated, along with Deputies Lubrin and Farris, in the cell searches of \_\_\_\_\_ on August 26, 2015. Based on a preponderance of the evidence, the Department should SUSTAIN charges that he violated the following Department and County policies.

1. **D.O.C. Policy 3.31.II.A – Employee Relationships with Inmates: “Employees have the responsibility to provide for the safety, security and welfare of the inmates under their supervision.”**

A preponderance of the evidence shows that Rodriguez engaged in in the following conduct. On August 26, 2015, between 10:48 and 11:09 p.m., during cell searches of \_\_\_\_\_ Deputy Rodriguez, in conjunction with Deputies Lubrin and Farris, sought to punish jail inmate \_\_\_\_\_ for a disruption that had occurred earlier that evening during program time in which \_\_\_\_\_ had an argument with another inmate. Deputy Rodriguez participated in the following conduct. During the cell searches Deputy Lubrin, without provocation, punched \_\_\_\_\_ in the face, and threatened him with a Yawara stick. Deputies Lubrin and Farris placed \_\_\_\_\_ in pain compliance holds, and threw \_\_\_\_\_ up against the wall and on the bed. During these activities, Deputy Rodriguez slapped \_\_\_\_\_ on the head, and taunted \_\_\_\_\_ by asking him why \_\_\_\_\_ did not fight another inmate during program time, but instead retreated. The deputies punched \_\_\_\_\_ in the back when he was on the bed. This use of force was not necessary or objectively reasonable. \_\_\_\_\_ sustained bruises to his arm, shoulder, wrist and knee. These actions violated the safety, security and welfare of \_\_\_\_\_ who was under Rodriguez’s supervision.

A preponderance of the evidence shows that Rodriguez engaged in the following conduct. On August 26, 2015, between 10:48 and 11:09 p.m., during cell searches, Deputy Rodriguez, in conjunction with Deputies Lubrin and Farris, sought to

punish jail inmate \_\_\_\_\_ for \_\_\_\_\_ outburst earlier that evening at pill call when \_\_\_\_\_ tried to hide his medication and called the nurse names. Deputy Lubrin admitted to the floor deputy, Pablo Tempa, that Lubrin used a compliance hold to require \_\_\_\_\_ to stand up against the wall during the search. The evidence shows, however, that Lubrin, Farris and Rodriguez participated in the use of force against that involved pain compliance holds and blunt force blows to \_\_\_\_\_. This force was not necessary or objectively reasonable. On August 27, 2015 at 12:35, \_\_\_\_\_ was pronounced dead from blunt force trauma to his spleen and liver. Rodriguez's actions violated the safety, security and welfare of

2. **D.O.C. Policy 3.31.II.B – Employee Relationships with Inmates:**  
**“Brutality will not be tolerated and is cause for dismissal and possible criminal charges.”**

The actions described in section.1 also violated this section. These actions involved brutality against inmates \_\_\_\_\_ and \_\_\_\_\_

3. **D.O.C. Policy 3.31.II.C – Employee Relationships with Inmates:**  
**“Employees shall not touch an inmate except to: 1. Defend themselves. 2. Control or restrain an inmate. 3. Prevent the escape of an inmate. 4. Prevent serious injury or damage to a person or property. 5. Quell a disturbance. 6. Search an inmate. 7. Render medical aid.”**

The actions described in section 1 also violated this section. These actions were not required for any of the purposes listed in D.O.C. Policy 3.31.II.C.

4. **D.O.C. Policy 3.31.IV.J.I.a – Employee Conduct/Conformance to Law:** **“Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules, and all laws applicable to the general public.”**

Deputy Rodriguez violated this policy based on his violation of the Department and County policies listed in this Section C.

5. **D.O.C Policy 3.31.IV.J.2. -- Compliance with Order:** **“Employees shall obey a lawful order from a supervisor.”**

On October 30, 2015, Deputy Rodriguez appeared for an interview noticed by Sheriff's Department investigators in connection with this investigation. During the interview, Rodriguez was given a Lybarger admonition, and ordered to respond to questions.



Despite being given a Lybarger admonition, Rodriguez invoked his Fifth Amendment privilege and refused to respond to questions.

6. **D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct/Use of Force:**  
**“Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force and Restraints.”**

Deputy Rodriguez used force in violation of Policy 9.01 as described in section 1.

7. **D.O.C. Policy 3.31.IV.J.4.a. – Integrity of Reporting System.**  
**“Employees shall submit all necessary reports in accordance with established Department policy and procedures. These reports will be accurate, complete, and timely and will be submitted before the end of the employees’ tour of duty unless permission is obtained from the on-duty watch Commander to do otherwise.”**

D.O.C. Policy 9.27 I.A. requires deputies to submit an Incident Report for all “use of force or restraints.” D.O.C. Policy 9.27.I.B. requires staff made aware of reportable Incidents to promptly notify their supervisor. Deputy Rodriguez failed to submit use of force reports, or notify his supervisor, in connection with the force used against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015.

8. **D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming:** **“An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”**

Deputy Rodriguez committed conduct unbecoming a Department employee by his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the misleading and incomplete statements he made in his written Employee’s Report dated August 27, 2015.

9. **D.O.C. Policy 3.31.IV.J.10.b – Neglect of Duty/Unsatisfactory Performance:** **“Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade**

**or position.”**

Deputy Rodriguez engaged in unsatisfactory performance by his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the misleading and incomplete statements he made in his written Employee’s Report dated August 27, 2015.

10. **D.O.C. Policy 3.31.IV.J.14.a -- Employee Conduct/Untruthful Statements:** “Employees shall not make less than truthful statements, either verbal or written.”

Deputy Rodriguez made misleading and incomplete statements during Deputy Lubrin’s August 27, 2015 verbal report of the incident, and misleading and incomplete statements he made in his written Employee’s Report dated August 27, 2015.

11. **D.O.C. Policy 9.01.I.A.1 – Use of Force:** “In the performance of their duties, badge staff is authorized to use that level of force, which is necessary and objectively reasonable, under the circumstances.”

The actions described in section 1 also violated this section. The actions against \_\_\_\_\_ and \_\_\_\_\_ involved excessive use of force not necessary and objectively reasonable under the circumstances.

12. **D.O.C. Policy 9.01.I.A.2 – Use of Force:** “Badge staff will not use force to discipline ...”

The actions described in section 1 also violated this section. These actions involved use of force to discipline an inmate.

13. **D.O.C. Policy 9.27.I.B – Reporting of Incidents:** “Staff made aware of reportable incidents or conditions shall promptly notify their supervisor. The seriousness of the situation shall dictate the means of notification. All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”

Deputy Rodriguez failed to notify a supervisor concerning the use of force on August 27, 2015 against inmates \_\_\_\_\_ and \_\_\_\_\_ and failed to file a written report.

14. **Santa Clara County Merit System Rule A25-301(a)(1):** “Violation of the county charter, merit system rules and regulations and written

**and published departmental rules and policies which do not conflict with this article.”**

Deputy Rodriguez’s actions on August 26 and 27, 2015, violated the rules and policies listed in this Section C.

**15. Santa Clara County Merit System Rule A25-301(a)(4): “Brutality in the performance of duties.”**

The actions described in section 1 also violated this section. These actions involved brutality in the performance of duties.

**16. Santa Clara County Merit System Rule A25-301(b)(1): “Guilty of gross misconduct, or conduct unbecoming a county officer of employee which tends to discredit the county or county service.”**

Deputy Rodriguez engaged in gross misconduct and conduct unbecoming a county officer or employee in his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the misleading and incomplete statements he made in his written Employee’s Report dated August 27, 2015.

**17. Santa Clara County Merit System Rule A25-301(b)(2): “Guilty of immoral conduct or criminal act.”**

Deputy Rodriguez engaged in immoral conduct or criminal act by his use of unnecessary and objectively unreasonable force against \_\_\_\_\_ and \_\_\_\_\_ on August 26, 2015, his demeaning and threatening verbal statements, his failure to file use of force reports, and the misleading and incomplete statements he made in his written Employee’s Report, dated August 27, 2015.

**D. DEPUTY PABLO TEMPRA.**

Deputy Pablo Tempra was assigned to the Floor Station at the Main Jail, \_\_\_\_\_ on August 26 and 27, 2015. Based on a preponderance of the evidence, the Department should SUSTAIN charges that he violated the following Department and County policies.

- 1. D.O.C. Policy 3.31.IV.J.4.a – Integrity of Reporting System. “Employees shall submit all necessary reports in accordance with established Department policy and procedures. These reports will be accurate, complete, and timely and will be submitted before the end of the employees’ tour of duty unless permission is obtained from the on-**

**duty watch Commander to do otherwise.”**

D.O.C. Policy 9.27. I.A. requires deputies to submit an Incident Report for all “use of force or restraints.” D.O.C. Policy 9.27.I.B. requires staff made aware of Reportable Incidents to promptly notify their supervisor. In an interview dated October 29, 2015, Deputy Tempra admitted that on August 26, 2015, Deputy Lubrin informed him that Lubrin had used force against [redacted] by putting him in a compliance hold in order to guide him to the wall. Despite being notified of this use of force, Deputy Tempra failed to submit a use of force report, or notify his supervisor, in connection with the force used against [redacted] on August 26, 2015.

In interviews dated September 1, 2015, and September 5, 2015, with Sheriff’s Department investigators, Tempra did not report Lubrin’s August 26, 2015 statement that Lubrin had used force against [redacted]. In the interview dated September 5, 2015, Tempra specifically stated that on August 26 and 27, 2015 he had no conversations with Lubrin, Farris or Rodriguez about any events that occurred during the cell checks. It was not until his interview of October 29, 2015 that Tempra disclosed the statement by Lubrin to Tempra on August 26, 2015 that Lubrin had used a compliance hold against [redacted]. This sequence of events demonstrates that Tempra was not truthful in his prior statements.

In his interviews dated September 5, 2015 and October 29, 2015, Tempra stated that he did not hear any sounds from [redacted] during the time Deputies Lubrin, Farris and Rodriguez were conducting cell checks. In his interviews, Tempra stated that generally he could hear loud noises from inside the modules. In interviews, inmates described loud yelling and screaming coming from [redacted] and [redacted]. A sound test done by investigators, conducted at approximately 11 p.m. on 11/19/15 demonstrated that yelling from those locations can be heard at the Floor Station where Tempra was working. Accordingly, there is a preponderance of evidence that Tempra heard yelling and screaming on August 26, 2015, during the cell checks but did not report it that night or in any interview done by the Sheriff’s department.

2. **D.O.C. Policy 3.31.IV.J.9.a – Employee Conduct/Conduct Unbecoming:** “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”

The conduct described in section 1 violates this policy.

3. **D.O.C. Policy 3.31.IV.J.10.b. – Neglect of Duty/Unsatisfactory**

**Performance:** “Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade or position.”

The conduct described in section 1 violates this policy.

4. **D.O.C. Policy 3.31.IV.J.14.a: Employee Conduct/Untruthful Statements:** “Employees shall not make less than truthful statements, either verbal or written.”

The conduct described in section.1 violates this policy.

5. **D.O.C. Policy 9.27.I.B – Reporting of Incidents:** “Staff made aware of reportable incidents of conditions shall promptly notify their supervisor. The seriousness of the situation shall dictate the means of notification. All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”

The conduct described in section 1 violates this policy.

6. **Santa Clara County Merit System Rule A25-301(a)(1):** “Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article.”

The conduct described in section D.1 violates this policy

7. **Santa Clara County Merit System Rule A25-301(b)(1):** “Guilty of gross misconduct, or conduct unbecoming a county officer of employee which tends to discredit the county or county service.”

The conduct described in section 1 violates this policy.

## **VII. SUMMARY OF REPORTS AND INTERVIEWS**

This section summarizes the reports and interviews that occurred in connection with the death of  
These summaries are provided for convenience. The complete reports, complete investigation summaries, and tapes recordings are provided as exhibits.

## A. Jail Facility and Staffing

The Santa Clara County Jail has two main facilities: the Main Jail, and the Elmwood Correctional Facility. [redacted] and [redacted] were housed in the Main Jail North, [redacted]. [redacted] houses medium/maximum security level and protective custody inmates. (Exh. 7, Harrington report 8/27/15 at p. 4.) [redacted] has two tiers of cells, with cells on each tier, odd cells on the bottom tier and even cells on the top tier. (*Id.* at p. 4.) [redacted] cells are a 12 foot by 6 foot single person cell, with a wooden table, one metal bunk, a stainless steel sink with hot water, cold water, and a toilet, which are connected together as one piece. (*Id.*) [redacted] was housed in [redacted] the last cell on the top tier, and [redacted] was housed in [redacted] which is located on the bottom tier, in the corner underneath the staircase leading to the top tier. (*Id.*) Both were the sole occupants of their cells.

[redacted] is staffed by deputies on 12 hour shifts, 6 am to 6 pm, and 6 pm to 6 am. Generally [redacted] staff the [redacted], responsible for three units, [redacted] and [redacted]. Another deputy staffs a central command post opposite the elevator and controls the doors into the three units. Floor plans are attached as Exhibit 86. The deputies are supervised by a Sergeant, who supervises four floors at a time.

On the evening of August 26, 2015, the [redacted] was staffed by Deputies Lubrin, Rodriguez, and Farris, who worked the night shift, 6 p.m. to 6 a.m. These officers generally worked together on the shift. Deputy Lubrin was responsible for [redacted]. The command post was staffed by Deputy Pablo Tempra. The Sergeant on duty was Sergeant Brackett. Deputy Lubrin graduated from the Academy in 2011; Rodriguez and Farris graduated from the Academy in 2014. Deputy Tempra graduated in 2008. As the officer in charge of Unit [redacted] on August 27, 2015, Deputy Lubrin gave responding officers verbal reports of the facts leading up to the discovery of [redacted]. (Exhs. 7-10, Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15 at pp.5-6; Carroll 8/27/15 at pp. 2-3; Brown 9/5/15 at pp. 5-6].) On August 27, 2015, Lubrin also filed a written report. (Exh. 11.)

## B. Reports By Deputy Lubrin Given On August 27, 2015.

Deputy Lubrin provided the following verbal and written reports on 8/27/15.

### 1. Evening Pill Call.

In the evening, the inmates line up inside [redacted] along the wall on the left, facing the door to Unit [redacted] to receive their medication from the jail [redacted] through a metal opening to the left of the door to the Unit. According to Deputy Lubrin, on August 26, 2015, at approximately 1930

hours, [redacted] received medication form [redacted], but did not take it and attempted to hide it. The protocol is that inmates must take their medication in front of the nurse

Lubrin stated that [redacted] had tried “cheeking” his medication during the previous pill call. Lubrin was controlling the movements of the inmates by opening the doors to their cells from his officer’s station. The [redacted] conducting the pill call knocked on the window to obtain Lubrin’s attention. She told him that [redacted] was trying to “cheek” his medication. Lubrin asked the [redacted] where [redacted] had put his pills instead of taking them and the [redacted] pointed to [redacted] shirt pocket. [redacted] started calling the [redacted] a “liar,” but Lubrin stepped in front of him and asked to see what was in his pocket. [redacted] pulled the medicine cup out of his pocket, but began to call the [redacted] “Satan” and a “liar.” [redacted] took the pills and started to walk away. Lubrin stopped [redacted] and checked his mouth to make sure he swallowed the medication. [redacted] continued to yell at the [redacted] calling her names such as “rapist,” “Satan” and a “liar.” Once Lubrin was satisfied that [redacted] had taken his pills, Lubrin let him walk away and back to his cell. Lubrin described this behavior as normal for [redacted]. He said [redacted] was known to cheek his medications and the [redacted] are aware of his behavior during pill call. (Exhs. 7-10, Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15; Carroll 8/27/15; Brown 9/5/15; Carrasco 9/5/15]; Exh. 11, Lubrin 8/27/15 Employee’s Report.)

## **2. Check Of Inmate Cells For Excess Clothing.**

According to Deputy Lubrin, later that evening, he conducted a “routine security check for extras” after clothing exchange. He started on the top tier, in [redacted] and worked his way around to [redacted]. After [redacted] Lubrin went downstairs to [redacted] and began to work his way back to [redacted]. He was accompanied by Deputies Farris and Rodriguez. (Exh.9, Brown 9/5/15 at p. 6.)

According to Deputy Lubrin, at approximately 11:15 p.m. (2315 hours), Lubrin, Farris and Rodriguez entered [redacted] cell to inspect for excess clothing as part of their routine after “clothing exchange.” As they entered the cell, [redacted] reportedly told them to get out of his cell and refused to move from his bunk so they could inspect. Lubrin asked [redacted] to move and he got up and sat on the metal chair inside the cell without any force. [redacted] started to yell at them as they were completing their search. [redacted] called Correctional Deputy Lubrin and the others “the devil” while they were searching. According to Lubrin, the deputies completed their search and exited [redacted] cell without incident. (Exh. 7, Harrington 8/27/15 at p. 5.) Lubrin also said that [redacted] was yelling at them to get out of his cell, yelling “Get out! Get out! Get out of my cell!” even though [redacted] knew the procedure was for him to give up extra clothing. (Exh. 9, Brown 9/5/15 at p. 9.) Lubrin said that this was normal behavior for [redacted] and that during the

search he told [redacted] to stand against the wall and [redacted] complied. The deputies completed their search at approximately 2315 hours. Lubrin made an entry into his log book documenting the search for extra clothing and began to eat his lunch. (Exh. 7, Lubrin 8/27/15 Employee's Report; Exhs. 9-11, Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15; Brown 9/5/15; Carrasco 9/5/15].)

### 3. Discovery Of

According to Deputy Lubrin, at approximately midnight, Lubrin went back into the unit to conduct his next scheduled welfare check. The last time he saw [redacted] prior to the welfare check, [redacted] was lying on the bed in his cell. Deputy Lubrin did not hear or see anything coming from [redacted] cell during the hour in between the clothing search and the last welfare check. During that time between the two checks, Lubrin was eating his lunch, but did not leave the 6<sup>th</sup> floor. According to Deputy Lubrin, at approximately 0010 hours, Deputy Lubrin was completing his welfare check of the dorm and as he passed [redacted] cell he noticed him on the floor on his left side facing the toilet. [redacted] had what appeared to be food covering his face and he was naked. Lubrin completed his welfare check and returned to [redacted] cell to investigate why he was on the floor. Lubrin originally thought he was going to have to call HazMat to come and clean up the mess in the cell, so he wanted to complete the check of the rest of the dorm before making the call. (Exhs. 7 and 9, Lubrin 8/27/15 Incident Briefings [Harrington, 8/27/15 at p. 6 and Brown 9/5/15 at p. 7]; Exh. 11, Lubrin 8/27/15 written report at p. 1.)

According to Deputy Lubrin, Lubrin knocked on the door to [redacted] cell to see if he would move, then opened the cell door and attempted to shake [redacted] shoulders, but [redacted] was unresponsive. At approximately 0012 hours, Deputy Lubrin notified control of the incident on his department issued radio, pulled [redacted] out of cell and performed CPR. As he was administering chest compressions, vomit was coming out of [redacted] mouth. (Exh. 7, Lubrin 8/27/15 Incident Briefing [Harrington 8/27/15 at p. 6] and Exh. 11, Lubrin 8/27/15 written report at p. 1.)

At approximately 0012 hours, [redacted] was reported as unresponsive. Deputy Lubrin started CPR, medical staff, EMS #17 and County Fire Rig #7 responded, and at approximately 0035 hours, a paramedic pronounced [redacted] dead. (Exhs. 7 and 9, Lubrin 8/27/15 Incident Briefings [Harrington 8/27/15 p. 3, 6; and Brown 9/5/15 at p. 8].)



#### 4. Lubrin's Description Of

Lubrin said he did not know of any suicide attempts by [REDACTED]. He said that [REDACTED] normal behavior would be to lash out at the nurses, but then walk away and be calm. [REDACTED] would often go through the trash in the dorm or stand by himself near the doorway. Lubrin said that Lubrin would try to tell [REDACTED] he could not be by the door or had to stand somewhere else, but said he could not yell at [REDACTED] because [REDACTED] "doesn't seem like he's all there." Lubrin further discussed the earlier incident where [REDACTED] was caught "cheeking" his pills. He said he was not going to yell at [REDACTED] or use force on him, because "that's just how he is." [REDACTED] would say he was sorry and that he did not know he was cheeking the pills.

According to Lubrin, [REDACTED] never used the phone in the dorm. He would just push buttons but not make any calls. [REDACTED] would normally be alone in the dorm and not really socialize with anyone. [REDACTED] did not get items from the commissary cart when it came around and would often beg other inmates for coffee. [REDACTED] also did not like to shower or exchange clothing as often as everyone else in the dorm. Due to this, most of the other inmates in the dorm did not go around [REDACTED] much because of the strong odor coming from his body. (Exh. 9, Brown 9/5/15 at pp. 9-10.)

#### C. Interviews Of Department Personnel.

##### 1. [REDACTED]

[REDACTED] is a contract [REDACTED] for the Sheriff's office. She has worked in the Main Jail for the past 10 years, including the [REDACTED]. She was working on the [REDACTED] on August 26, 2015 as the [REDACTED]. At pill call, she saw [REDACTED] take the paper cup holding his pills and place it in his shirt pocket without taking the medication. She immediately notified Deputy Lubrin, who was standing inside [REDACTED] monitoring the pill call. Lubrin ordered [REDACTED] to return to the [REDACTED] so she could observe him take his medication. She said [REDACTED] was upset with [REDACTED] because she reported him to Lubrin. She did not see Lubrin use force on [REDACTED] when he ordered [REDACTED] to take the medication and return to his cell. (Exh. 13, Jordan/Yoell Interview 10/8/15.)

##### 2. Pablo Tempra.

Pablo Tempra is a correctional deputy. He graduated from the Academy in May of 2008, was assigned to the Elmwood facility after graduation, and reassigned to the Main Jail in January of 2012. In August 2012, he was assigned to the [REDACTED] working the Floor Station. When he began work on the [REDACTED], Deputies Lubrin, Farris and Rodriguez were already there.

Tempra is on administrative leave in connection with allegations that he was not forthcoming in his interviews concerning the incident. In his first interviews with the Sheriff's Department on 9/1/15 and 9/5/15, and his first interview with the Firm on 10/16/15, he did not report that Lubrin had made any comment about using force against [REDACTED]. It was only during his third interview, on 10/29/15, that Tempra stated Lubrin had made the comment on 8/26/15 about using force against [REDACTED]. He stated the following during those interviews.

**9/1/15 Interview by CID.** In an interview on 9/1/16, Tempra told Sheriff's Department investigators that on 8/26/15, before the in custody death occurred, the only notable incident Tempra recalled was [REDACTED] yelling at the [REDACTED] during pill call. Tempra saw Lubrin talking to [REDACTED] through the window and then they disappeared from his view. He said that Lubrin, Farris and Rodriguez conducted cell checks during the night before the incident and did not notice anything unusual. He stated that at approximately 2330 hours, he left the [REDACTED] and went to the [REDACTED] to provide lunch relief. While he was on the [REDACTED] he heard a "man down" call on the [REDACTED] via radio. He went off duty at the same time as Lubrin, Farris and Rodriguez but did not report any talk of the incident. The next day, Tempra and the other officers were assigned to work the [REDACTED]. He also said there was nothing said between the other officers and him about the incident that day before the other officers were ordered to pack their gear and leave. (Exh. 18, Tempra Interview [Mah 9/4/15 at pp. 1-2].)

**9/5/15 Interview by CID.** In an interview on 9/5/15, Tempra told Sheriff's Department investigators about the incident at pill call when [REDACTED] refused to take his pill. He also stated that Lubrin and Farris began to do cell checks at about 2235 hours and that Rodriguez joined in the cell searches at about 2300 hours. Tempra stated that during the time the three deputies were conducting cell checks, Tempra did not hear any screaming or yelling within the module. He later stated that during the time he has worked as a floor station officer, there are times that you can hear inmates yelling from their cells or if there is an altercation within the module. When asked whether there were any conversations among the officers about the cell checks after they left the module, the summary of this interview states the following:

After the cell checks were completed and S01 Lubrin, S01 Farris and S03 Rodriguez exited [REDACTED] there were no conversations 35 Tempra said that all of the officers were acting normal and did not appear to be in an altercation. The only conversation W35 recalls having with S01 Lubrin, S01 Farris and S03 Rodriguez was how he needed to go to the [REDACTED] for lunch relief at approximately 0000 hours.

W35 Tempra did not recall any conversations regarding how the cell checks went when all of the officers were out of the camera view shortly after S01 Lubrin, S01 Farris and S03 Rodriguez exited from their cell checks.

Tempra remained at the Station for approximately 40 minutes before going to the for lunch relief. W35 Tempra said all of the officers assigned to the remained near the floor station desk just joking around. W35 Tempra could not remember exactly what conversations they had, but it was mostly normal conversations about Android Cell phones versus I-Phone call phones, their families, and joking with each other. (Exh. 19, Tempra Interview [Weekes 9/6/15].)

**10/16/15 Interview by Firm.** In this interview, Tempra again stated that he did not hear anything during the time Lubrin, Farris and Rodriguez were in doing the “bar check.” Tempra said that from the Floor Station you can hear noise coming from Tempra stated that after Lubrin, Farris and Rodriguez completed the bar check, nothing unusual occurred and the deputies acted normally. He denied there was any conversation about the incident with Tempra stated he did not believe the deputies beat to death and it could have been an inmate who popped the door, but did not know why this would be the case. This interview was continued so Tempra could obtain counsel. (Exh. 20, Tempra Interview [Jordan/Yoell 10/16/15].)

**10/29/15 Interview by Firm.** During this interview Tempra was represented by counsel. In this interview, Tempra reported for the first time that, on August 26, 2015, after the “bar check” Lubrin told him that during the bar check in cell, Lubrin used force on

Tempra stated that beginning at 10:00 pm, Lubrin and Farris began to conduct “bar checks” of the module. Sometime between 10:30 and 10:45, Rodriguez joined Lubrin and Farris to assist with the bar checks. The checks ended at approximately 11:05 to 11:10. Tempra said he did not hear any noise coming from during the bar checks. After the bar checks, the three deputies returned to the area around the floor station. Tempra explained that the deputies typically gathered in front of in part due to the good cell phone reception in that location.

During his interview, Tempra was asked if he and the other deputies ever discussed problem inmates, to which Tempra replied, “Ahh, just that night when they did the ‘bar checks’ he, ah Lubrin mentioned during bar checks, ah, ah was sitting on his bench and then they (deputies) said ‘bar checks’... supposed to stand ah, facing the wall under the towel rack with your hands behind your back; he (Lubrin) said he wasn’t complying, he was just sitting there, so, he was, Lubrin... he put a twist lock on him . . . guide to the wall.”

When asked what happened next, Tempra said: "After that he didn't twist him up, he just ah, put a hold on him and then after that he said he ( ) didn't complain of pain and then they walk out; that's what he said, according to Lubrin."

Tempra said that Deputies Farris and Rodriguez did not say anything.

Tempra assisted with lunch breaks on other jail floors beginning at approximately midnight, returning at 12:45 a.m., when he discovered the activity surrounding death. (Exh. 21, Tempra Interview [Jordan/Yoell 10/29/15].)

### 3. Jonathan David Cuilla.

Cuilla is a correctional deputy. Deputy Cuilla graduated from the Academy in April 2014. Deputy Cuilla worked the day shift, beginning at 6 a.m., in Unit . On August 27, 2015, Cuilla started his shift and rode the elevator to Unit . He observed Deputies Tempra and Farris at the officer station desk. Deputy Lubrin, said "Everything's Code-4. Nothing happened last night." Rodriguez was documenting individuals entering and exiting Unit because it had been designated a crime scene. Cuilla asked what happened. Farris replied, "You didn't hear what happened? There was a 10-56, completed 10-56." Cuilla asked who had passed. Farris replied " Note: "Code-4" indicates "no further assistance needed." "10-56" indicates there was a suicide." (Exh. 1, Cuilla Written Report 9/5/15 at p. 1; Exh. 4, Cuilla Interview [Omori 9/14/15]; and Exh. 5, Cuilla Interview [Jordan/Yoell 10/10/15 at p. 3].)

When Cuilla began his duties for the day, he was approached by two inmates, and said, "They went into his cell last night and killed him." agreed and said "Yeah, they went in cell and fucked him up, then they fucked up that dude and left." Cuilla's report states:

said that Lubrin, Farris and Rodriguez returned to after the night recreation time was completed. The three Deputies began a clothing search starting at on the top tier. When they entered they began to assault inmate said, "they slapped the shit out of him" said they went downstairs and started to search the bottom tier, starting at said when they entered they heard begin to scream. said that was screaming, "I'm Sorry" and "Stop." said that he heard loud thumping noises and then complete silence. said the Deputies turned the light off in and closed the door. They completed the remainder of the clothing sweep quickly and left the module. said that when Lubrin returned to do his

welfare check,  
3.) (ID190)

was already dead. (Exh. 1, Cuilla Written Report 9/5/15 at p.

Cuilla later heard tell Sergeant Roland the same story that and had told him. (Exh. 1, Cuilla Written Report 9/5/15 at p. 5 and Exh. 5, Cuilla Interview [Jordan/Yoell 10/10/15 at pp. 3-3].)

Cuilla initially disbelieved the inmate reports. He stated that he did not view the initial inmate statements as credible, but after hearing additional inmate statements corroborating and it raised concerns that the incident need to be looked into. Cuilla said that the individual inmates were segregated at the time of the incident and it was unlikely they could have communicated the same information if untrue. Cuilla also stated that it was unlikely the inmates used any signals or jailhouse communications to communicate the incident. (Exh. 5, Cuilla Interview [Jordan/Yoell 10/10/15 at p. 4].)

On 8/27/15, Cuilla received text messages from Lubrin, including “I hearing rumors.” [sic] On 9/27/15, Cuilla called Lubrin while driving home from work. Cuilla told Lubrin that the inmates in were “spreading rumors that you were the reason for death” and were being interviewed by investigators. Deputy Lubrin responded that it was okay because he had two other officers there with him. Cuilla told Lubrin that he hoped he and his partners were being smart (that they did not do anything they would regret). Cuilla told Lubrin to keep his head up and hoped they were in the clear. (Exh. 4, Cuilla Interviews [Omori 9/4/15 at p. 8] and Exh. 5 [Jordan/Yoell 10/10/15 at p. 5].)

Cuilla stated that he had contact with for about a month. He said that was mentally ill and his communication skills were limited. would dig through the trash for food. He would often stand in the shower fully clothed and sometimes when the water was running. cell was always dirty and it was hard to get him to keep it clean. was “explosive” at times when he was upset at not being released, was verbally aggressive to inmates of color, but had not been physically aggressive toward staff. Mental health inmates are sometimes called ” a nickname used in prison. (Exh. 5, Cuilla Interview [Jordan/Yoell 10/10/15 at p. 2].)

#### **4. Deputy Koret Shettleworth.**

Correctional Deputy Koret Shettleworth is an Army veteran, 2014 graduate of the Academy, and has worked various places in the Main Jail. He attended the Academy with Rodriguez and Farris. Shettleworth worked with Lubrin at the Main Jail on the He said he has seen Lubrin use his Yawara Stick (small baton) to intimidate inmates through the cell window by

using it alike a “male sexual part” and mimicking felacio by putting the stick by his mouth. He said that others have also seen Lubrin do this. Shettleworth also said that Farris and Rodriguez were excited to get to the Main Jail from Elmwood and learn about going “hands on” from their training officers and that Farris told stories about use of force.

He also described a “training technique” in which a training officer would not let a trainee off of probation until the trainee had a physical altercation with an inmate. Shettleworth described an incident told to him in which training officer sent an inmate trustee to run up behind to see what his reaction would be.

Shettleworth also made general observations about use of force in the Main Jail, saying there was a level of inmate abuse that was deemed acceptable.

Shettleworth stated that asked him and others to read the grievance and how he should respond. Shettleworth stated that deputies are instructed to try and resolve grievances at the lowest level, that a deputy can pocket a grievance, and that there is no paper trial unless an inmate continues to complain. (Exh. 16, Shettleworth Interview [Jordan/Yoell 10/15/15].)

#### **D. Interviews of Inmates**

The floor plans, attached as Exhibit 86, show the location of the cells on the first and second tiers of Unit . The names of the inmates who were housed in the cells on 8/26/15 are listed next to the floor plan.

On 8/27/15 and 8/28/15, Sheriff’s Department investigators interviewed the inmates housed in Unit . The Department taped the interviews and summarized the contents. The Department summaries are included as Exhibits to the Appendix. For convenience, below is key testimony from the summaries done by the Department.

##### **1. Bottom Tier of Unit**

#1. is on the opposite side of the Unit from and .  
said he did not see anything, but heard screaming. He heard someone kick a door, followed by more screaming. (Exh. 24, Breit 8/28/15 at p. 26.) (ID 355)

**#7.** [redacted] was housed in [redacted], which is on the opposite side of the Unit from [redacted] and [redacted]. He reported seeing [redacted] in his cell before lockdown with an Hispanic male with frizzy hair lying on top of him, under the mattress cover, appearing to have sexual intercourse. (Exh. 50, Weekes 9/6/15 at p. 5) [redacted] later told [redacted] that he saw [redacted] and another inmate inside the cell having sex or some other interaction, and that the officers did put [redacted] against the wall and twisted his arms but they did not kill him or beat him up. (*Id.* at pp. 1-3.) (No other inmate reported seeing another inmate in [redacted] cell before lockdown.) (ID 144-149)

**#9.** [redacted] was interviewed on 8/28/15. He occupied [redacted] on the opposite side of the Unit from [redacted] and [redacted]. On the night of August 26, [redacted] was cleaning his cell in anticipation of the deputies' cell check. He saw all three deputies enter [redacted] and said they were in there for a long time, like 15 to 20 minutes. He could see [redacted] from his window and was wondering what they were doing in there. [redacted] did not hear the officers saying anything, giving orders or screaming. The only thing he heard was a loud "thud." (Exh. 31, Carrasco 9/5/15 at pp. 10-11.) (ID 192-193)

**#11.** [redacted] was interviewed on 8/27/15. He occupied [redacted]. [redacted] recalled a verbal exchange during programming that [redacted] had with another person. [redacted] was instructed to return to his cell and he did. During the cell searches, [redacted] a could hear someone yelling, "I'm sorry. I'm sorry." [redacted] knew it was [redacted]. He got up to look but could not see anything. (Exh. 33, Weekes 8/28/15.)

**#17.** [redacted] was interviewed on 8/27/15. He was in [redacted]. [redacted] has a view of [redacted] but the door to the shower next to the cell was open, obstructing [redacted] view. [redacted] could hear [redacted] screaming, "What do you guys want?" [redacted] said that [redacted] was being really loud and not really paying attention to the officers. [redacted] stated that [redacted] has his fits as well as mental health issues. He didn't see what the officers were doing, but he could hear [redacted] say, "Just let me get up." The officers went downstairs. [redacted] heard, "Ah! Ah! I'm sorry!" He saw the officers in [redacted]. The cell was open. Officers Lubrin, Farris and a third officer (Mexican) were in the cell. [redacted] could hear people moving in the cell, like a struggle. Officer Farris turned off the lights in [redacted] said something to [redacted] and closed the door. The incident lasted a few minutes, longer than the incident with [redacted] (Exh. 39, Breit 8/28/15 at p. 20.) (ID 348-349)

**#19.** [redacted] was interviewed on 8/27/15. He occupied [redacted] with his roommate [redacted]. [redacted] said that about 20 minutes after lockdown, Deputy Lubrin came back into the dorm with 2 other deputies and started "shaking our cells for extra clothing."

The deputies were Lubrin, Farris and a “Mexican dude.” The deputies started on the top tier at [redacted] and worked their way to [redacted]. [redacted] had a line of sight into [redacted]. He said that Lubrin and Farris did most of the top tier and when they got to [redacted], Rodriguez walked into the module and joined them. [redacted] said he saw that Lubrin and Lubrin or Farris were hitting [redacted]. He could not hear specific words, just commotion. [redacted] estimated that the deputies were in [redacted] for 3 or 4 minutes.

[redacted] said that the deputies then went downstairs to [redacted]. When asked if there were any other problems with any other cells, [redacted] said he heard someone screaming, “I’m sorry, “I’m sorry.” [redacted] and his roommate had been playing chess, but stopped and looked out their cell window to see what was going on, but there was a pillar in their way. His neighbor in [redacted] said the noise was coming from [redacted]. After it went quiet, [redacted] and his roommate when back to playing chess. About 40 minutes after the end of cell searches, Lubrin came back into the dorm, around midnight. [redacted] heard Lubrin calling [redacted] name, continuing doing a welfare check, and then calling [redacted] name again. He said that Lubrin looked toward their cell and asked his roommate [redacted] (because he was standing at the window), does [redacted] normally shit himself. He then heard Lubrin talking into the intercom voicebox about an unresponsive inmate.

When [redacted] heard the commotion, he looked out his cell window. He said the deputies went to [redacted], opened the door, called to [redacted] and then dragged [redacted] out of the cell, and placed his body in front of cells [redacted] and [redacted]. [redacted] said he noticed the body was white and knew [redacted] was dead. [redacted] described [redacted] as “a little slow and sometimes he didn’t make sense” and “harmless.” He said that [redacted] would go digging in the garbage and other inmates felt sorry for him so they would give him extra food. He said [redacted] clothes were filthy, his room often dirty and he didn’t take care of himself.” He said [redacted] had no enemies. (Exh. 43, Carrasco 9/5/15 at pp. 6-13.) (ID 155-162)

**#19.** [redacted] was interviewed on 8/27/15. [redacted] and [redacted] were roommates in [redacted]. [redacted] stated the after lockdown, Lubrin and another officer came around to do cell searches, with a third officer joining when they reached [redacted]. [redacted] said they roughed up the inmate in [redacted] by twisting his arms. He said that when the officers got to [redacted] they roughed him up too. [redacted] could not see anything but he heard screaming, like [redacted] was screaming in pain. The last thing [redacted] heard [redacted] say was “I’m sorry” and then the three deputies left [redacted] cell. The three deputies finished their cell searches and left the module. [redacted] said that Lubrin returned about an hour later, around midnight, stopped at [redacted] cell door and told him to wake up, asked [redacted] and [redacted] if [redacted] usually “shitted himself,” finished his welfare check and then went back to [redacted].



Lubrin called another officer into the module and when they couldn't wake up, they pulled him out of his cell, and did CPR. said was was "a He's not all there," that liked to dig through the trash for food, usually kept to himself, did not get into fights or have enemies in the dorm, and had mental health issues. (Exh. 44, Carrasco 9/5/15 at pp. 13-16) (ID 162-165)

**#21.** . was interviewed on 8/27/15. He was in He did not come out all day and was unsure at what time programming occurred. He stated he passed out. (Exh. 47, Breit 8/28/15 at p. 18.) (ID 347)

**#21.** . s was interviewed on 8/27/15. He was in . He did not see anything and heard about the incident the next day. He stated programming was between 1900 and 2200 hours. He looked and saw that too many people were playing handball. went to his room and watched television. He want to sleep and was unaware of any cell searches. (Exh. 46, Breit 8/28/15 at p. 16.) (ID 345)

**#23.** . was interviewed on 8/28/15. He was in He stated he had no idea what happened until this morning when someone said that someone died. He did not go out of his cell for programming. He was unaware of the cell searches. He stated he has thyroid cancer and has been trying to eat and sleep. He said he has been sleeping for a day and a half. He has been out only 2-3 times in 2 days. At lunch on 8/27/145, someone said that officers beat an inmate to death. (Exh. 49, Breit 8/28/15 at pp. 15-16.)

**#25.** was housed in , with was interviewed on 8/27/15. stated that when Deputies Lubrin and Farris reached heard something about "bitch." He could barely see, but saw the officers throw the inmate on the bunk. During the incident, Deputy Rodriguez entered the cell. When the deputies went downstairs, could not see, but heard someone screaming "Ow! Ow! Ow! Ow! Ah!" then heard, "'I'm sorry! I'm sorry! I'm sorry!" The incident lasted 3 to 4 minutes. (Exh. 51, Breit 8/28/15 at pp. 29-31.) (ID 358-359)

In a subsequent interview on 9/11/15, stated that Lubrin, Rodriguez and Farris entered his cell after being in cell. They asked and what they would say if they heard or saw anything. stated that he heard what happened in , referring to inmate being slapped by the three officers, and what happened in , referring to stated that Lubrin stepped forward toward him while was facing the wall and said, "Nah, you didn't hear anything. The answer is no." stated he was scared because he heard what had just happened in . stated he didn't want to be the next

victim so he replied, “No I didn’t hear anything.” After [redacted] learned that the three deputies had been charged with murder and knew they would not be returning to work, he submitted an inmate grievance form. (Exh. 51, Singleton 9/14/15 at p. 7.) (ID 63-65)

**#25.** [redacted] and cellmate [redacted] were in [redacted]. In his first statement on 8/27/15, [redacted] said he did not hear or see anything during the evening cell search for extra clothing. He said he had taken his medication and was sleeping when the deputies came in to do the cell search. He said his roommate, [redacted] woke him later and he saw deputies doing CPR on [redacted] described [redacted] as friendly, not acting out, but mentally disturbed. (Exh. 52, Carrasco 9/5/15 at p. 3-6.) (ID 152-156) In a later interview, on 9/11/15, [redacted] changed his account. He said that he saw Deputy Lubrin pull out a little black stick/baton (indicating with his hands that the stick was approximately 10 inches long) prior to entering the cell of [redacted]. [redacted] did not see the stick used, but [redacted] saw that the officers had [redacted] on the bed. During the incident, [redacted] yelled for them to leave him alone. (9/13/15 at p. 3.) As for [redacted] stated that he heard [redacted] yell for them to leave him alone, but that he didn’t see anything. After that, [redacted] did not hear any more noise. After the incident, “Lubrin and them came in” to [redacted] cell and said, “Hey man, if guys seen or heard anything, you wouldn’t say anything, right?” [redacted] responded, “I guess.” [redacted] later saw Lubrin do the cell check and saw Lubrin call [redacted] a couple times prior to Lubrin running out the door. After they pulled [redacted] body out of the cell, [redacted] “put 2 and 2 together.” Lubrin and an officer returned and gave CPR to [redacted] (Exh. 52, Breit 9/12/15, at p. 4.) (ID 96-97)

**#27.** [redacted] occupied [redacted] with [redacted]. He said he did not see anything. At about 2300-2330 hours, he heard Deputy Lubrin say “Somebody’s shitting on himself” and then guards came running. (Exh. 54, Breit 8/28/15.) (ID 335)

**#29.** [redacted] was interviewed on 8/27/15 and 8/28/15 (The 8/27/15 recording stopped at 12 seconds, so [redacted] was reinterviewed on 8/28/15.) [redacted] saw the incident in which [redacted] put his medication in his pocket. [redacted] said that during this incident, [redacted] told Deputy Lubrin that he was suicidal. Deputy Lubrin followed [redacted] to his cell and told him, “Take your fuckin meds.” Lubrin told [redacted] that he would not participate in programming.

[redacted] was in [redacted] 9, on the same side of the Unit as [redacted] said that it took officers about 15-20 minutes to search the top tier, starting at [redacted] and then get down to [redacted] on the bottom tier. While three officers (Lubrin, a young “Mexican” with faded black hair, and a tall white male) were in [redacted] [redacted] could hear the inmate yelling, “Fuck it hurts! Stop! Stop!” (On 8/27/15, [redacted] had said he heard “Ah! Help! Help!”) [redacted] also said he heard

the officers yelling, "Stop resisting," and "Shut the fuck up, mother fucker!" though mouth was covered up because the yelling sounded muffled. The officers slammed the door to when they left. He later saw the officers doing fist pounds for doing their job. (Exh. 58, Breit 8/28/15 at p. 32-33.) (ID 360-362)

**#33.** was interviewed on 8/28/15. He was interviewed in Spanish. occupied He said that two deputies began doing clothing check starting on the top tier, and then came to the bottom tier. He said they were in for about five minutes. He heard the inmate in say repeatedly in a loud voice, "I'm sorry. I'm sorry. I understand." He said the sounds from were loud and it sounded like someone was being beaten. He said that after about five minutes, the deputies closed the door to and continued cell checks in a much faster pace. He clarified that a third deputy had arrived and joined the other two deputies before coming to When the deputies opened his cell door, he noticed that the "white guy's" face looked red, almost as if he was scared. He said the "white deputy was slightly sweaty" and looks "asoleado" meaning he appeared to be tired out. He said the deputies moved quickly after leaving

described the inmate in has very calm and unkempt. He said the inmate kept to himself and would often pick left over food from the trash can to eat. (Exh. 62, Jaimez 9/3/15, at pp. 2-7.) (ID 280-282)

**#37.** was interviewed on 8/27/15. He was housed in next door to did not come out for pill call but saw Lubrin and exchange a few words. After lockdown, the deputies came back to the module and did shake down. He said that when the deputies got to cell, "They messed him up bad, they put hand on him." did not see anything but he said, "I heard everything because I'm right next door." The deputies were Lubrin, Farris and Rodriguez. said it sounded like did not want to get up when the deputies entered his cell. questioned the deputies like, "Why do I have to get up? I didn't do anything wrong. Why do I have to get up?" said that Farris got mad and told to "get the fuck up" a number of times and "If I tell you to do something. Do it, do it now." described what he heard next as a lot of wall banging, thumping, body shots, straight hits, and dull thuds to the body. He heard say, "What the fuck. Let me go. What did I do?" He heard scream a bunch of times, "I'm sorry. I'm sorry. Let go."

After the deputies left cell, they came to cell and Farris commented that it looked good. Later, Lubrin came back, started doing his rounds, stopped in front of and was mad about the "shit" in cell. Lubrin left the module for about 5 minutes and returned with the other deputies. said he thought had committed suicide because

was hurt, disrespected, maybe embarrassed about the way the deputies had treated him. said that after the deputies left the module, he heard talking to himself, pacing in his cell and crying. He heard say, "If they want to kill me, then they can kill me," and shortly thereafter heard a loud thunk.

said that was respectful, would politely ask for food, a "kid" and "low-key." said that Lubrin was cool and decent, but that Farris was a "bad dude" and goes into inmate's cells and "fucks them up all the time." He said he has never seen Farris use force, just heard about it. (Exh. 66, Carrasco 9/5/15 at pp. 24-27.) (ID 173-176)

**#41.** said he took his anti-psychotic medication prior to programming and his medication makes him tired. He claimed he saw the fight in but couldn't see much because it happened in the back of the cell. (Exh. 68, Weekes 8/28/15 at p. 11.)

**#43.** was interviewed on 8/27/15. He was housed in He heard a struggle and thought that the officers were disciplining He described the sound as a "commotion." He heard the officers say "Don't say that again." He stated that was yelling because the officers were restraining his wrists, but he really could not see. (Exh. 70, Breit 8/28/15 at pp. 8-9.) (ID 337-338)

**# 47.** was interviewed on 8/27/15. He was in just below During the cell searches on 8/26/15, heard noise from the cell above, He described it as a "thump, thump, thump" and heard say "Okay. Okay. Stop. Stop." The deputies, Lubrin and a "Caucasian deputy" came to his cell for maybe 30 seconds to a minute. When the deputies entered they restrained He said he saw with his hands behind his back and heard the deputies tell not to move. He said his vantage point looking of his cell window into is not that good but he can see into it at an angle. He said was standing up against the wall in between his bed and the sink. He said when the deputies were about to leave cell, they told him to lay on his bunk and complied. He did not see anything else but he heard say, "Okay ... Okay ... It hurts, please let go ... I'm sorry. I'm sorry." One of the deputies asked "What are you sorry for?" And replied, "Whatever you want me to be sorry for. Whatever I did, I'm sorry, I'm sorry." He thought the deputies were in about 3 to 5 minutes. Once the deputies left the module, heard say something like, "I'm dying. Help" and then heard a thump on the cement. Later, Lubrin came into the module, began doing welfare checks, called out name, left the module, returned with other deputies and then called medical. body was naked when pulled from the cell. said that was "harmless." (Exh. 75, Carrasco 9/5/15 at pp. 16-19.) (ID 165-168)

## 2. Top Tier Of Unit

**#4.** [redacted] was interviewed on 8/27/15. He was in [redacted] on the upper tier. During the cell searches, [redacted] could hear the inmate in or near [redacted] yelling, but could not see what was going on inside the cell. [redacted] stated that earlier in the night during programing [redacted] got into a verbal argument with others and [redacted] was told to return to his cell. [redacted] heard yelling coming from the location of [redacted]. He heard "'I'm sorry 'I'm sorry.'" [redacted] stated that Farris turned out [redacted] cell light and close the door. (Exh. 27, Weekes 8/28/15 at p. 5.) (ID 368)

**#6.** [redacted] was interviewed on 8/27/15. He was in [redacted] on the upper tier. He did not see anything. When he officers got to [redacted] he heard someone yelling and screaming that they were sorry "over and over and over again." He said that the guy in [redacted] sounded like he was hurt. [redacted] stated he talked about the incidents with other people last night. [redacted] stated there is a rumor going around that the cops beat him up pretty bad. He stated another rumor is going around that [redacted] had cuts on his head and over his eyebrow. (Exh. 29, Breit 8/28/15 at pp. 14-15.) (ID 344)

**#8.** [redacted] was interviewed on 8/27/15. He occupied [redacted] said that he did not know [redacted] but described him as a quiet person who asks for food. [redacted] said that Lubrin did the cell searches and when he go to [redacted], [redacted] heard loud screaming coming from the cell. He said the screaming lasted approximately a minute or two. He described the screaming as if someone was in pain. (Exh. 71, Weekes 8/28/15 at p. 12.) (ID 375)

**#10.** [redacted] was interviewed on 8/27/15. He occupied [redacted] heard screaming during the cell searches. After he heard a second set of screams he got up and looked out of the bottom window of his cell door. He could not see [redacted] but could see the legs of the correctional officers. (Exh. 32, Weekes 8/28/15 at p. 9.) (ID 372)

**#12.** [redacted] was interviewed on 8/27/15 and 8/28/15 8/27/15. [redacted] is a Trustee on the [redacted]. He occupies [redacted]. He described [redacted] as a mental patient who needs assistance from the other inmates. [redacted] was not a violent person and would keep to himself. Deputy Lubrin conducted the cell searches with a taller white officer, beginning at [redacted] and going around the top tier. When the deputies got to [redacted], [redacted] could hear someone being physically assaulted. He could not see [redacted] but could hear a man

screaming, "Please stop, stop." said the officers were in the cell for 10-15 minutes. When the officers reached the bottom tier, could hear someone inside and loud thud type noises and then it went silent in the room. He said that all three deputies were in when the screaming was happening. He said a Hispanic officer grabbed the door and closed the door slightly while they were all inside. The officers were in the cell for approximately another 5 minutes. All three officers exited the cell and turned out the light inside the cell. found that strange, because sleeps on the floor on his mattress curled up in a ball, but he always sleeps with the light on. As the officers left the cell, Lubrin said "I don't want to hear nothing from you." (Exh. 34, Weekes 8/28/15 at pp. 10-11.) (ID 373-374)

8/28/15. was also interviewed on 8/28/15. said he had called Sergeant Leon because "they" killed him. He said "The CO's did." He did not know name but said "he's a tall white dude." was aware that something happened with during pill call; he did not see or hear anything, but knew something did happen with and the nurse. He said Lubrin was the module officer and told to lock it down and did so without further incident. is a trustee and he organized the inmate clothing exchange while the dorm was on lock down. While he was separating the clothing, Lubrin was "mad" because inmates wrote grievances that he did not give enough program time, and he was going to start "probing people on Wednesday now. "I'm gonna shake shit down, like go into people's cell and fuck with their shit, man."

said the three deputies then went downstairs to and began quickly searching the cells in the bottom tier, each cell taking 30 seconds to 1 minutes. When the got to said he could hear screaming. He said the deputies were in for about 6 to 7 minutes. said he could only see from the bottom of the window of the cell door. He saw all three deputies go into He said that during most of the quicker searches the cell door was all the way open but for the search of it was only partially open. When the screaming stopped, heard a sound like "boom, boom" and saw Rodriguez grab the door.

said that did not have problems with the other inmates. would steal things from others but nobody touched him because he's "not there, it would be like taking advantage of a kid." would talk to himself a lot and swing at himself, "like fighting in the wind." said that other inmates were not afraid of "He doesn't bother inmates."

said that about Lubrin, "It turns him on fucking with " ' said that a is "A person that's really mental, that takes psych medication and they are on the ." (Exh. 34, Carrasco 9/5/15 pp. 2-8.) (ID 184-190)

**#14.** [redacted] was interviewed on 8/27/15. He was in [redacted]. During the search, [redacted] heard [redacted] whom he described as a [redacted] "screaming. First, Lubrin and Farris were in the cell with [redacted] but then a third officer ran in during the incident. When the three officers reached [redacted] they were in the cell quite a while longer, he estimated 10 minutes. [redacted] heard [redacted] screaming, yelling that he was sorry. [redacted] could not see what was going on but said he could tell [redacted] was getting smacked around. The deputies finished their rounds and later, his neighbor, said "Oh shit, the dude's dead." About the time they were preparing to pull [redacted] from his cell, Lubrin asked inmates in the nearby cells, "Didn't you guys hear? Did you guys hear anything? Did you guys hear anything?" [redacted] said that "it could go a couple different ways. The guy was a [redacted] man." He said that [redacted] was known "for doing a lot of weird stuff." He said that [redacted] snorted Comet. He said [redacted] was "really out there" and "really nuts." He stated that, on one occasion, [redacted] took urine and feces out of his toilet, placed it on a paper tray, and threw it in the garbage. (Exh. 36, Breit 8/28/15 at pp. 10-12.) (ID 339-341)

**#16.** [redacted] was interviewed on 8/27/15. He was in [redacted] a single occupant cell. [redacted] said that after lockdown, Lubrin and Farris and Farris started the cell searches with the top tier. When they got to [redacted] the deputies were joined by Rodriguez. [redacted] heard grunting from the cell as if someone was getting "hemmed up." The deputies continued their cell searches, mostly quick, like 30 seconds per cell. When they got to [redacted] they were in there for almost 5 minutes. [redacted] said he saw all three deputies enter the cell, but could not see what happened, and could only hear noises. He heard [redacted] grunting, screaming and making noises, but no particular words. After the cell searches, Lubrin came back into the module around midnight, and started doing welfare checks. He stopped at [redacted] finished checking the dorm, left and returned with Deputy Rodriguez and went directly to [redacted] began calling [redacted] name, opened the door, and they pulled [redacted] out by the right shoulder. [redacted] said that [redacted] wasn't all there, kept to himself, and dug in the garbage. [redacted] said that Lubrin picks on the [redacted] – "someone who isn't all there." He said Lubrin will go in there and physically hem them up. Lubrin would pick on anyone is loud, kicks doors or someone yelling. He said he has witnessed this "multiple times." If Lubrin has to come back and speak to an inmate, he will come with 2 or 3 deputies and the other deputies will follow Lubrin's lead. (Exh. 38, Carrasco 9/5/15 at pp. 20-22.) (ID 169-171)

**#18.** [redacted] He was interviewed on 8/27/15. [redacted] was in [redacted] across from [redacted] and [redacted]. [redacted] said that Deputies Lubrin and Farris began cell searches at 2230 hours, starting with the top tier. [redacted] view of [redacted] was obstructed, but he heard say, "What the fuck do you guys want? Leave me along. Let me get up. You're nothing but a

bunch of bitches and cowards.” Rodriguez joined the other deputies. [redacted] heard shuffling as if people were wrestling. He did not hear any slaps. [redacted] estimated the incident lasted five minutes. From [redacted], [redacted] heard shouting between the deputies and the inmate. [redacted] heard someone say, “Stop. Leave me alone.” [redacted] estimated the incident lasted 5 to 6 minutes, but could have been longer. About 45 to 60 minutes later, [redacted] heard Deputy Lubrin come in to do a welfare check. He say Lubrin stopped and looked into [redacted]. Lubrin looked away and continued his welfare checks. Lubrin got about half way through the bottom tier (to approximately [redacted] 7) and asked [redacted] occupants, “Hey, does that dude normally shit on himself?” (Exh. 41, Breit 8/28/15 at p. 23.) (ID 352)

**#18.** [redacted] He was interviewed on 8/27/15. [redacted] was in [redacted] was eating his dinner in his cell when Lubrin and another officer began doing cell checks for extra clothing. When the officers got to cell [redacted], he could not see [redacted] but heard someone saying “Get off me. Get off me.” When the officers reached [redacted] he heard screaming coming from the cell. He could see a small portion of cell [redacted] but could not see anything that was happening inside. He saw the officers exit the cell and an officer said, “Hopefully you will be quiet now.” (Exh. 42, Weekes 8/28/15 at pp. 7-8.) (ID 370-371)

**#26.** [redacted] was interviewed on 8/27/15. He is housed in [redacted] He said he did not see or hear anything because he was lying in bed asleep and he did not know [redacted] (Exh. 53, Weekes 8/28/15 at p. 9.) (ID 372)

**#28.** [redacted] was interviewed on 8/27/15. He was in [redacted] said he heard loudness and saw [redacted] “hemmed up” by Lubrin in a control hold. He estimated the incident lasted about 8 minutes. The officers went downstairs. [redacted] stated that he was talking with his cellmate [redacted] when he heard a loud scream coming from downstairs and to the left. The scream was for help and to stop. [redacted] stated that everybody had been talking about the incident. “Not just a thought, but the people that actually saw it.” (Exh. 57, Breit 8/28/15 at p. 25.) (ID 354)

**#28.** [redacted] was interviewed on 8/27/15. He was in [redacted]. After Deputy Lubrin came by [redacted] cell, [redacted] roommate [redacted] told [redacted] “Hey. They’re beating somebody up.” [redacted] thought the involved inmate was [redacted] looked and saw Deputy Lubrin, a Caucasian officer and an officer by the possible name of Garcia. The Caucasian officer and officer Lubrin “had the old guy hemmed up.” The other officer was standing outside the cell. Officer Lubrin and the Caucasian officer were using control holds and placing [redacted] against a wall. They were twisting and holding [redacted] arms “real high.” [redacted] believes this was because [redacted] had an altercation with another inmate during programming.



guessed that the officers placed [redacted] on his bed, but he could only see the corner of [redacted] bed. [redacted] saw the officers walk downstairs. He returned to his bunk and prepared to go to sleep. Approximately 45 minutes to an hour later, [redacted] told [redacted] that a bunch of police were coming in. [redacted] saw nurses, medics, fire personnel and others. They tried to revive [redacted] but he stayed unresponsive. [redacted] stated there were a bunch of rumors that people heard the victim yelling that he was sorry as well as heard smacking sounds. Even though he was awake, [redacted] did not hear [redacted] yelling "I'm sorry." (Exh. 56, Breit 8/28/15 at pp. 13-14.) (ID 343)

**#30.** [redacted] was interviewed on 8/27/15. He was in [redacted] heard someone screaming from the direction of [redacted] cell, but could not confirm it was [redacted] He heard "I'm sorry. "I'm sorry, ow ow." (Exh. 60, Weekes 8/28/15 at p. 3.) (ID 366)

**#34.** [redacted] was interviewed on 8/27/15. He was in [redacted] said the searches began at [redacted] and moved to [redacted] heard the incident with [redacted] He heard [redacted] state, "I'm sorry. I'm not a bitch. "I'm sorry." He perceived [redacted] as screaming in pain. Deputy Rodriguez also went into the cell. When the officers went downstairs, [redacted] heard the inmate screaming in pain. He heard "Oh please, no! Leave me alone! I won't do it! Just leave me alone!" (Exh. 63, Breit 8/28/15 at p. 27.) (ID 356)

**#36.** [redacted] was interviewed on 8/27/15. He was in [redacted] He stated that the inmates around the area of the incident knew what happened. [redacted] could hear getting roughed up, as well as some slaps. "It's pretty much normal, you know. We get used to stuff like that. I've been down three years. So you kind of see what C.O.'s get over certain inmates. And ah, [redacted] is kind of known like a [redacted] So they slapped him around or whatever." He heard "screaming" and "little slaps." He described screams such as, "Ah!, Okay, okay, okay."

After going down to the bottom tier, officers went to [redacted]. Cervantes could not see it but he could hear it. He heard screaming. He could hear "hella screaming loud," such as "Ah!" The incident lasted for no more than two minutes. (Exh. 65, Breit 8/28/15 at p. 17.) (ID 346)

**#38.** [redacted] was interviewed on 8/27/15. He was in [redacted] During the cell search, [redacted] did not see what happened, but at [redacted] heard someone getting slapped. He heard [redacted] scream, "I ain't a bitch." When the deputies reached the bottom tier, [redacted] heard "loud-pitch screaming." He described it as someone screaming in pain. (Exh. 67, Breit 8/28/15 at p. 28.) (ID 357)

**#44.** [redacted] was interviewed 8/27/15. He was in [redacted]. During clothing search he said the officers went inside [redacted] (belonging to [redacted] and were roughing [redacted] up. [redacted] said, "Hey, what are you doing? Leave me alone. I'm not a bitch." At first it was just Lubrin and Farris in the cell with [redacted] but Rodriguez came in for back up. The incident lasted 15 to 20 minutes. Later [redacted] told him that they were bitch-slapping him and choking him.

When the deputies reached the bottom tier, he could hear the officers roughing up an inmate. He knew they were there because he could hear the keys. [redacted] said, "Stop. Please stop. I'm sorry. I'm sorry. Please stop. Stop. I'm sorry." He estimated that [redacted] was screaming for about 15 to 20 minutes before he did not hear it anymore. He though the incident with [redacted] took about 30 to 35 minutes.

[redacted] estimated he began to smell feces after the officers left the cell or about 10-15 minutes after they left. He thought it was the toilet backing up. About 40 minutes after the clothing search, officers returned and began kicking [redacted] door. Then emergency personnel came in. (Exh. 72, Breit 8/28/14 at pp. 6-8.) (ID 335-337)

**#46.** [redacted] was interviewed on 8/27/15. He was in [redacted], next to [redacted] said that Lubrin and Farris started to do cell searches at [redacted] and worked their way around the top tier. When they reached [redacted], [redacted] could hear [redacted] yelling at Lubrin and Farris. He could also hear what sounded like slapping noises as if someone was getting hit. [redacted] could hear [redacted] say, "I'm not a bitch, Don't bitch slap me." Shortly after, a third deputy came to [redacted]. He described the third deputy as a younger Hispanic guy, but did not know his name. The deputies were in the cell for approximately 7-10 minutes. After the deputies left [redacted] heard yelling coming from the lower tier. He knew it was because he has heard him screaming before. [redacted] heard [redacted] yelling, "Aahh I'm sorry. I'm sorry. Stop. Aahh." After the yelling, it became quiet and the deputies walked out of the cell. He heard Lubrin say, "I don't wanna hear anymore. No more noise from you tonight." (Exh. 74, Weekes 8/28/15 at pp. 6-7.) (ID 369-370)

See also interviews with inmates in

[redacted] (Exhs. 26, 28, 30, 35, 37, 39, 48, 45, 55, 59, 61, 62, 64, 69, 73, respectively.)

**VIII. CONCLUSION**

Based on a preponderance of the evidence, the Firm concludes that Correctional Deputies Lubrin, Farris and Rodriguez violated Sheriff’s Department and County policies by engaging in the following conduct. On August 26, 2015 between 10:38 p.m. and 11:09 p.m., during a cell search for excess clothing, the deputies sought to discipline and for disruptions that had occurred earlier in the evening. During that time period they used excessive force against and The deputies did not file required reports on use of force. On August 27, 2015 at 12:35 a.m., was declared dead. After death, the deputies made false and misleading statements and reports during the Sheriff’s Department investigation, and later violated orders to respond to questioning during the internal investigation

Based on a preponderance of the evidence, the Firm concludes that Pablo Tempra, the Floor Deputy on August 26 and 27, 2015, also violated Sheriff’s Department and County policies. On August 26, 2015, within a short time after leaving Lubrin disclosed to Tempra in the presence of Farris and Rodriguez that Lubrin had used force on Tempra did not file a required use of force report that night. In interviews made after death, Tempra did not disclose Lubrin’s statement. It was not until an interview on October 29, 2015 that Tempra disclosed Lubrin’s statements. In addition, in interviews after death, Tempra stated that he did not hear any noise from during cell searches on August 26. That statement is not credible given inmate reports of yelling and screaming, Tempra’s statements that he generally could hear activity in and a sound check done by investigators.

**IX. ADDENDUM. INMATES – ALPHABETICAL ORDER.**

Cell	Inmate Name	PFN	Party Page Identifier


