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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### REGULAR MEETING AGENDA

#### TUESDAY, April 9, 2013, 5:30 P.M.

#### San Diego County Administration Center

#### 1600 Pacific Highway, Room 302/303, San Diego, 92101

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

#### DISABLED ACCESS TO MEETING

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

#### WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 1168 Union Street, Suite 400, San Diego, CA.

## AMENDMENT TO ABOVE AGENDA

### ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

#### 12-037

1. False Arrest – Deputy 1 stopped the complainant for speeding and an incomplete stop, and then subsequently arrested her for DUI.

Recommended Finding: Action Justified

Rationale: Deputy 1 observed the complainant in violation of California Vehicle Code § 22350, Basic Speed Law, and California Vehicle Code § 22450(a), Stop Requirements and conducted a traffic stop. After contacting the complainant he smelled an odor of alcoholic beverage and administered a series of Field Coordination Tests and three Preliminary Alcohol Screenings (PAS). Based on the reported objective symptoms of alcoholic beverage intoxication, the overall performance on the field coordination tests, her excessive driving speed, and positive results from the PAS, Deputy 1 determined that the complainant had been driving a motor vehicle while under the influence of an alcoholic beverage. She was arrested for violation of California Vehicle Code § 23152(a) and (b), Driving Under Influence of Alcohol or Drugs. The San Diego Sheriff's Regional Crime Laboratory later reported the complainant's Blood Alcohol Concentration (BAC) at 0.08%, exceeding the legal limit under California Vehicle Code § 23152(a) and (b). The evidence showed that the alleged act did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 handcuffed the complainant who has a defective back.

Recommended Finding: Action Justified

Rationale: Deputy 1 placed the complainant under arrest and handcuffed her for transportation to the Substation and then to a detention facility. The complainant did not believe handcuffs were necessary because she told the deputy that she had a bad back, and that she had cooperated with the deputy throughout the stop. Deputy 1 advised the complainant that handcuffing was a standard procedure and he could not remove the cuffs. Based on the complainant's statement of about her back, Deputy 1 used two sets of handcuffs instead of one to ease any stress to her shoulders and back. The evidence showed that the alleged act did occur but was lawful, justified and proper.

3. Misconduct/Discourtesy – Deputy 1 was “out of line, arrogant, rude and belligerent” to the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant and witness accounts differed from Deputy 1's statement and that of a witness deputy. Without further exculpatory evidence, there was insufficient evidence to either prove or disprove this allegation, which is subjective and was not recorded in any way.

4. False Reporting – Deputy 1 incorrectly recorded the complainant's social security number on an unknown form.

Recommended Finding: Action Justified

Rationale: Deputy 1 acknowledged that complainant's social security number was incorrectly recorded on a document. The Booking Intake/Personal Property Inventory Form, signed by both the complainant and the deputy, was annotated immediately when the error was noted. Additional booking documentation properly recorded the complainant's social security number in the Sheriff's Jail Information System. Deputy 1's Booking Intake/Personal Property Inventory Form admittedly contained an error, which was corrected. The evidence shows the alleged act occurred but was lawful, justified and proper.

5. Discrimination/National Origin – Deputy 1 mistreated and/or treated the complainant differently because of her race.

Recommended Finding: Unfounded

Rationale: Deputy 1 denied mistreating the complainant differently because of her race. Sheriff's Policy and Procedure 2.48, Treatment of Persons in Custody, states that employees shall not mistreat, nor abuse physically or verbally, persons who are in their custody, Policy and Procedure 2.53, Discrimination, states that employees shall not express any prejudice or harassment concerning race, religious creed, color, or nationality. Policy and Procedure 2.55, Non-biased Based Policing, requires that all investigative detentions, traffic stops, arrests, searches, and seizures of property will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution and relevant statutory authority. The complainant was observed speeding, rolled through a stop sign, and was subsequently arrested for driving under the influence. The evidence showed that Deputy 1 had probable cause to conduct the traffic stop, administer the field coordination tests, and effect arrest. The actions were justified and the alleged discrimination cannot be attributed to Deputy 1.

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*End of Report*