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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, NOVEMBER 12, 2013, 5:30 P.M.

San Diego County Administration Center

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

(Free parking is available in the new underground parking garage on the south side of Ash Street only in the 3-hour public parking spaces)

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.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the October 2013 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) Sheriff's Department: Detention Facilities Video Capabilities.

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)
- b) CLERB December 2013 Meeting

5. BOARD MEMBER COMMENTS

-continued on next page-

6. UNFINISHED BUSINESS

- a) **13-032 / Wade Policy Recommendation:** San Diego Sheriff’s Department should review and modify the Detention Services Bureau Manual of Policies and Procedures, Facility Green Sheets, and Post Orders to identify positions responsible for the performance and documentation of security checks. Each position should be provided with sufficient detail and direction to ensure that security checks are conducted in compliance with existing Policies and Procedures I.64, but specifying responsibility for the coordinated manner to maintain safe and secure facilities.

7. NEW BUSINESS

- a) Nominations for the 2014 CLERB Executive Board Election

8. PUBLIC COMMENTS

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

9. SHERIFF / PROBATION LIAISON QUERY

10. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports / Officer Discipline Recommendation:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).
 - 12-121 / Vasquez (Sustained – Deputy 2)
 - 12-135 / Battle (Sustained – Deputy 7)
 - 13-032 / Wade (Sustained – Deputy 5)

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (12)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

11-131

1. Death Investigation/Officer Involved Shooting – Deputy 1 shot and killed Robert Moore.

Recommended Finding: Action Justified

Rationale: There was no complaint of wrongdoing in this death investigation; a review was conducted in accordance with CLERB Rules & Regulations, 4.6 Citizen Complaint Not Required: Jurisdiction with Respect to Actions Involving Death. Deputies attempted to arrest Robert Moore for an outstanding warrant when he fled and ran directly toward, and then away, from Deputy 1. Moore was observed to have an unidentifiable shiny object in his right hand, later identified as a pair of channel lock pliers, which he used in swinging and stabbing motions toward deputies. Verbal commands, hand controls, a taser, and a baton were ineffective in controlling Moore, as he continued to resist apprehension. Moore then grabbed Deputy 1's discarded baton, regained his feet, and advanced on Deputy 1. Having exhausted all reasonable means to control Moore, Deputy 1 perceived Moore's actions were an immediate threat to his life and fired six shots striking him several times. Moore was transported to Palomar Medical Center where he succumbed to his wounds. The evidence showed the actions taken by Deputy 1 were lawful, justified and proper.

12-102

1. Misconduct/Procedure – Deputy 3 failed to clear the complainant for transfer from Vista to East Mesa for approximately three weeks.

Recommended Finding: Action Justified

Rationale: Classification for inmate transfers are based upon the census of each of the (7) detention facilities and the individual needs of every prisoner incarcerated throughout the system. The complainant had numerous hazards and enemies, which affected his classification requirements. The complainant's Inmate History documented his transfers and was in compliance with Sheriff's Policy & Procedure R.1, Inmate Classification. The evidence shows the alleged act was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 3 lost the complainant's personal items including legal documents during transfer from Vista Detention Facility.

Recommended Finding: Sustained

Rationale: The complainant detailed how he prepared his property for transport and what he was able to observe. His Inmate History Report documented that two bags departed VDF, but there is no record of them being received at any detention facility. Property for inmates housed at East Mesa is stored at GBDF. Sheriff's Policy & Procedure Q.66, Transfer of Inmate Property states the Receiving Deputy, identified as Deputy 1, is to make a JIM's log entry concerning if the property did or did not arrive. Deputy 1 said this is typically done by any Processing Rover assigned for that day, but no such entry was ever made and attempts to locate the property were unsuccessful. The evidence supports the allegation and the act or conduct was not justified.

3. Misconduct/Procedure – Deputy 2 failed to provide copies of grievances to the complainant.

Recommended Finding: Action Justified

Rationale: Sheriff's records documented (4) Inmate Grievances submitted by the complainant. Three submitted on August 24, August 30, and September 7, 2012, concerned lost property, and a request for copies of his grievances was submitted on September 5, 2012. An Inmate Grievance sheet is a 2-part NCR form, (carbonless copy) one of which is given to the inmate as a receipt after being signed by a staff member. Deputy 2 provided a written response to each of the complainant's four grievances and specifically stated that the Sheriff's Department was not legally obligated to provide additional copies. The evidence shows the alleged act was lawful, justified and proper.

12-103

1. Misconduct/Procedure – Deputies 2 & 3 did not escort and/or accommodate the shackled complainant on stairs resulting in falls and/or injury.

Recommended Finding: Not Sustained

Rationale: The complainant had a “Dayroom Chains” restriction because of past documented behaviors. He believed deputies were required to escort him under Title 15, State Prisons, but Deputy 1 relayed that local detention facilities are covered under the local institutions Title 15, which has different standards than the former. A handrail on the stairs was in place for use that the complainant chose to ignore and Deputy 2 reported it appeared that the complainant threw himself down the stairs. Deputy 1 said deputies are present for escort, but not with “hands on” for the entire time of the movement, or they risk being injured. Detentions Policy requires a 2-deputy escort and SDCJ further requires that for the safety of inmates and staff that those deputies “physically escort” inmates. The term physical escort is in dispute and the Facility Commander is currently taking steps to correct misconceptions.

2. Misconduct/Medical – Medical personnel failed to provide prescribed medication to the complainant.

Recommended Finding: Summary Dismissal

Rationale: The Review Board lacks jurisdiction over medical staff and their procedures, which are conducted by non-sworn personnel. The following applies: CLERB Rules & Regulations 4.1 Citizen Complaints: Authority. Pursuant to Ordinance #7880, as amended, (Article XVIII, Section 340 340.9 of the San Diego County Administrative Code), the Review Board shall have authority to receive, review, investigate and report on citizen complaints filed against peace officers or custodial officers employed by the County in the Sheriff's Department... This matter was referred to the Sheriff's Department upon receipt of this complaint.

3. Misconduct/Procedure – Deputy 4 did not provide dayroom time to the complainant after he fell on 7/28/12 and again when he was moved to a different cell from 9/24-10/4/12.

Recommended Finding: Action Justified

Rationale: The complainant said he did not go to the Dayroom, but was told by a deputy that his dayroom time was documented in the computer. As evidence, the complainant provided an Inmate Grievance sheet dated 10/04/12. An Incident Report dated 09/30/12, explained the complainant violated Inmate Rules & Regulations when during an inspection, deputies discovered a 9" piece of plastic cut away from the cell window. The makeshift weapon was held in place by toothpaste as a means to conceal the contraband. Martinez was housed alone and was moved to the next cell until the broken area could be fixed. Inmate History records documented the complainant's dayroom time during that period on 9/24, 9/26, 9/28 and 10/4.

12-105

1. Misconduct/Procedure – Detective 1 failed to conduct a proper investigation into a burglary at the complainant's residence.

Recommended Finding: Action Justified

Rationale: The complainant stated Detective 1 failed to investigate individuals she believed to be involved in the residential burglary of her home resulting in the theft of jewelry and identification information. Detective 1 stated that all leads, provided by the complainant or any other source, were pursued in a timely manner, and all persons considered to hold pertinent information were interviewed. Sheriff's Policy 2.51, Arrest, Search and Seizure, directs employees not to make any arrest, search, or seizure in a manner which they know or ought to know is not in accordance with law and established Department policies and procedures. Detective 1 used appropriate law enforcement protocols in an effort to locate the complainant's stolen property and/or information concerning the alleged suspects. The investigation did not result in any arrests or recovery of the complainant's jewelry and identification documents. On September 30, 2013 the complainant reported to Detective 1 that someone attempted to open accounts using identification documents she believed were stolen in the burglary; the investigation of this new information is ongoing. The evidence showed that the investigation conducted was lawful, justified and proper.

2. Misconduct/Truthfulness – Detective 1 was not truthful with the complainant about actions he said he took on her case.

Recommended Finding: Not Sustained

Rationale: The complainant actively investigated elements of her case and discussed her findings with Detective 1; however, she stated Detective 1 was not forthcoming and truthful as to his investigative actions. The complainant questioned whether or not vehicle information had been accessed or if a fingerprint had been submitted for comparison. Detective 1 stated that all leads, provided by the complainant or any other source, were pursued in a timely manner, and all persons considered to hold pertinent information were interviewed. Department of Motor Vehicles records were accessed in search of a suspected vehicle without success, and the Regional Crime Laboratory determined that the fingerprint recovered at the scene was of no value. Detective 1 did not recall the content or the amount of information he released to the complainant, therefore there was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 2 was condescending, rude, and failed to assist the complainant.

Recommended Finding: Not Sustained

Rationale: The complainant contacted Deputy 2 concerning the residential burglary of her home. Over a period of six months she actively conducted investigative activities on her own and shared the information with department personnel. The complainant felt that more aggressive investigative actions should have been undertaken and believed that the responses she received from Deputy 2 were rude and condescending. These interactions occurred in telephone conversations and personal meetings that were not recorded and as such cannot be evaluated for the content of the communications. There was insufficient evidence to either prove or disprove the allegation.

12-109

1. Death Investigation/Officer-Involved Shooting – Deputy 1 shot and killed Christopher Hannowsky.

Recommended Finding: Action Justified

Rationale: There was no complaint of wrongdoing in this death investigation; a review was conducted in accordance with CLERB Rules & Regulations, 4.6 Citizen Complaint Not Required: Jurisdiction with Respect to Actions Involving Death. Deputy 1 contacted the decedent after he observed him attempting to conceal what appeared to be a weapon protruding from his waistband. During this contact, the decedent placed his hand into his left front pocket, prompting Deputy 1 to grab his arm, fearing the decedent could be arming himself with the weapon he had previously seen. The decedent resisted and a violent altercation ensued, during which Deputy 1 employed several department approved force techniques, including his Taser, but to no avail. During this struggle, the decedent gained control of Deputy 1's Taser, brandished it against him, and ignored Deputy 1's orders to get on the ground. Fearing for his safety, Deputy 1 reacted to this threat by discharging two rounds from his duty weapon, fatally injuring the decedent. The discharge of a firearm by Deputy 1 was legal, justified and proper under the Sheriff Department's Policies & Procedures, and state law. There is no evidence to support any allegation of misconduct against Sheriff's Department personnel.

12-130

1. Misconduct/Procedure – Deputy 4 refused to issue the complainant his commissary items.

Recommended Finding: Action Justified

Rationale: A November 9, 2012 incident involving the complainant documented a Rule Violation Report which resulted in the complainant's loss of commissary privileges for one week. Deputy 4 did not issue the complainant's commissary items on November 14, 2012 per Detention Facility Services Manual of Policies and Procedures O.1, Disciplinary Action. The evidence showed that the alleged act did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 4 refused to issue the complainant a shaving razor.

Recommended Finding: Action Justified

Rationale: November 4 and November 13, 2012 incidents involving the complainant resulted in placement into a Safety Cell for his own safety. Records confirmed the recommendation that the complainant be placed on Razor Restriction, and classification records documented the Razor Restriction effective November 14, 2012 in accordance with Detention Facility Services Manual of Policies and Procedures L.7, Razors. The evidence showed that the alleged act did occur but was lawful, justified and proper.

3. Misconduct/Intimidation – Deputy 4 threatened to kill the complainant while he was in a Safety Cell.

Recommended Finding: Not Sustained

Rationale: Deputy 4 denied that he threatened to kill the complainant. There was no audio/visual evidence available, nor were any witnesses identified to interview regarding the allegation. There is insufficient evidence to prove or disprove this allegation.

4. Misconduct/Discourtesy – Deputy 4 called the complainant a “black nigger.”

Recommended Finding: Not Sustained

Rationale: Deputy 4 denied that he referred to the complainant as a “black nigger.” There was no audio/visual evidence available, nor were any witnesses identified to interview regarding the allegation. There is insufficient evidence to prove or disprove this allegation.

5. Misconduct/Procedure – Deputy 4 did not allow a nurse to give the complainant his medications.

Recommended Finding: Action Justified

Rationale: The complainant was assigned to Disciplinary Isolation and had refused the administration of his medications. Deputy 4 reported that the complainant refused his medications and that medical staff were unable to provide his medications for security reasons. The evidence showed that the alleged act did occur but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 4 denied the complainant access to a shower.

Recommended Finding: Action Justified

Rationale: Deputy 4 contacted the complainant to offer him an opportunity to shower while he was assigned to Disciplinary Isolation. The complainant refused, and became belligerent and argumentative. Deputy 4 advised the complainant if he changed his mind he should notify deputies when he was ready for his shower. There is no documentation to demonstrate that the complainant later requested to use the shower. The evidence showed that the alleged act did occur but was lawful, justified and proper.

7. Discrimination/Sexual Harassment – Deputy 1 sexually harassed the complainant.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied making any inappropriate comments to the complainant. The complainant alleged that Deputy 1 sexually harassed him by looking at his body inappropriately and asking questions about his anatomy. There was no audio or video evidence to support the allegation; therefore, there was insufficient evidence to either prove or disprove the allegation.

8. Misconduct/Procedure – Deputy 5 blocked the nurse from dispensing his medication.

Recommended Finding: Action Justified

Rationale: Deputy 5 did not block the nurse from dispensing medication. Because of the complainant’s behavior problems, Deputy 5 did not feel comfortable letting the nurse place her hand near the complainant putting her security at risk. The medications were dispensed by medical staff and handed to the complainant by Deputy 5.

Department Policy M.19, Emergency Medication Administration, authorizes sworn staff to administer inmate medications that have been packaged, labeled, and prescribed by the detention facility medical staff. There was no violation of policy or procedure. The evidence showed that the Deputy 5 handed the complainant medication dispensed and packaged medication by, and in the presence of medical staff. The act did occur but was lawful, justified and proper.

9. Misconduct/Procedure – Deputy 3 attempted to issue the complainant a food tray containing illegal medication.

Recommended Finding: Action Justified

Rationale: The complainant filed a grievance that Deputy 3 had attempted to issue food that contained illegal medication. All meals, including snacks, are prepared in the kitchen and labeled with the inmate's name by kitchen staff. Per Department Policy K.07, Medically Prescribed Diets, restricted diets for inmates are provided as prescribed only by a physician's written orders. The complainant denied being on a medical diet; however, the investigation revealed that the prescription was current and the complainant was scheduled to receive a medically prescribed snack daily. Deputy 3 delivered a medically prescribed meal that had been packaged by kitchen staff. The evidence shows the alleged act did occur but was lawful, justified and proper.

10. Misconduct/Procedure – Deputy 2 refused to deliver the complainant's legal mail.

Recommended Finding: Action Justified

Rationale: The complainant received legal mail from the Citizens' Review Board on Police Practices. Deputy 2 delivered and opened the legal mail in the complainant's presence as required by Detention Facility Services Manual of Policies and Procedures P.3, Inmate Mail. Deputy 2 believed the contents was a solicitation rather than legal mail, so she cleared delivery with the sergeant, immediately placed the document into the envelope, and returned it to the complainant. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

11. Misconduct/Discourtesy – Deputy 2 used profane and improper words when addressing the complainant.

Recommended Finding: Not Sustained

Rationale: Deputy 2 denied addressing the complainant with any profane or improper language. There were no independent witnesses nearby to hear the entire conversation between Deputy 2 and the complainant. There was no audio or video evidence to support the allegation; therefore, there was insufficient evidence to either prove or disprove the allegation.

12-138

1. Misconduct/Procedure – Deputy 2 told the complainant not to write grievances “on his watch” and/or the complainant had no right to use the inmate grievance process.

Recommended Finding: Summary Dismissal

Rationale: Deputy 2 left the Sheriff's Department in March of 2013 and is no longer subject to CLERB's request(s) for information. The Review Board lacks jurisdiction based on CLERB Rule & Regulation 4.1 in that Deputy 2 is no longer employed by the Sheriff's Department and is not required to cooperate.

2. Misconduct/Retaliation – Deputy 2 “harassed” the complainant and placed him into solitary confinement on November 20, 2012.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 investigated a complaint against Deputy 2, supported his conduct, and/or informed the complainant he “did not have the right to file a civil complaint.”

Recommended Finding: Action Justified

Rationale: Deputy 2 wrote a Rule Violation Report against the complainant for violations to include: Disrespect to Staff, Disobeying Staff Instructions, and Disrupting Normal Operations, which the complainant disputed. Deputy 1 conducted a Disciplinary Hearing in accordance with Sheriff's Policy & Procedure O.1, Disciplinary Action, found the complainant guilty based upon Deputy 1's report and the complainant's statements and assessed 5 days of Disciplinary lockdown, 2 of which were stayed. The evidence shows the alleged conduct that occurred was lawful, justified and proper. Civil litigation is handled by the County Claims Division and not under the authority of the Sheriff's Department and/or CLERB.

12-146

1. Misconduct/Procedure – Deputies 1, 2 and 3 failed to identify themselves during their contact with the complainant.

Recommended Finding: Action Justified

Rationale: Deputies 1, 2 and 3 assisted Parole Agents in a compliance search of the residence of record of a parolee who resided in the home of the complainant. Upon contact with the complainant, Deputies 1 and 3 reported that they identified themselves, as did the Parole Agent leading this multijurisdictional operation. Deputy 2 reported that she did not contact nor identify herself to the complainant, as this was not required in her role in this operation. The evidence showed that the actions of the deputies involved in this operation were lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1, 2 and 3 entered the complainant's home uninvited.

Recommended Finding: Action Justified

Rationale: Deputies 1, 2 and 3 entered the complainant's home to assist Parole Agents with a compliance search on a parolee residing in that home. Pursuant to Penal Code § 3067, Parole Search Terms, all parolees are subject to search at any time, with or without a search warrant or with or without cause. Deputies 1, 2 and 3 had a legal right to enter the home without invitation to execute a search on a parolee with a valid Fourth Waiver. The parolee resided in the complainant's home and case law holds that people who live with parolees/probationers cannot "reasonably expect privacy" in shared areas of the residence. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

3. Excessive Force – Deputy 1 aggressively lifted the complainant's arms to his mid-back before handcuffing him.

Recommended Finding: Not Sustained

Rationale: Deputy 1 reported that during the execution of a parole compliance check, the complainant refused to comply with his request not to enter the kitchen area where several knives were located and accessible. The complainant was handcuffed, due to officer safety issues and seated in a chair in the dining room. Deputy 1 denied that he aggressively lifted the complainant's arms to his mid-back before handcuffing him or that any level of force was used during this process. Per Deputy 1, he asked the complainant to place his hands behind his back and the complainant complied with his request, obviating the need for force. Deputy 3 was present when Deputy 1 handcuffed the complainant and denied that force was used. Absent a video recording of this event, there is insufficient evidence to either prove or disprove the allegation.

4. Illegal Search or Seizure – Deputy 3 searched areas of the complainant's home unoccupied by a resident parolee.

Recommended Finding: Action Justified

Rationale: Deputy 3 reported that in preparation of seating the complainant on a couch located in the living room, she searched the cushions and in the cracks to ensure that no weapons were hidden. Deputy 3 denied that she searched other areas of the living room, but informed that the living room is considered a common area and shared area of the residence, and subject to search pursuant to other Fourth Waiver search provisions. The evidence showed that her actions, with the limited search conducted, were lawful, justified and proper.

5. Illegal Search or Seizure - Deputies 1 and 2 searched through the personal possessions of the complainant.

Recommended Finding: Unfounded

Rationale: Deputies 1 and 2 denied that they searched through the personal possessions of the complainant. Their role in this multijurisdictional operation was to assist Parole Agents in the execution of a parole compliance check by providing uniform presence at the scene, and if necessary, arresting any parolee in violation of their conditions. A Parole Agent on scene reported that only she and another Parole Agent searched the room controlled by the parolee, in which the complainant alleged that his personal possessions were searched. The Parole Agent corroborated Deputies 1 and 2's assertion that they did not participate in the compliance search, and specifically that they did not search through the personal possessions of the complainant. The evidence showed that the alleged act did not occur.

13-008

1. Misconduct/Procedure – PO 1 authorized the complainant to be taken into custody for a probation condition that had not been violated.

Recommended Finding: Action Justified

Rationale: PO 1 authorized the complainant to be taken into custody after being informed by a San Diego Police Officer that the complainant was contacted in an area specifically prohibited by his Post Release Community Supervision conditions. This specific, locality-based condition was outlined during a meeting between PO 1 and the complainant, with the complainant endorsing his understanding of this condition. Moreover, at the time of this contact, the complainant was in violation of drug conditions, having recently provided two positive drug tests for THC. Pursuant to Penal Code § 3453(q) Post Release Community Supervision (PRCS); Conditions, the complainant was arrested and booked into custody for a Flash Incarceration for violating his conditions of PRCS. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

13-014

1. Death Investigation/In-Custody Overdose: Deputies 1 and 2 found the decedent, Timothy Graves, unresponsive in his cell.

Recommended Finding: Action Justified

Rationale: There was no complaint of wrongdoing in this death investigation; a review was conducted in accordance with CLERB Rules & Regulations, 4.6 Citizen Complaint Not Required: Jurisdiction with Respect to Actions involving Death. A cellmate contacted deputies and reported that Graves did not leave his cell for breakfast and was lying unresponsive on his bed. Deputies 1 and 2 responded and found Graves without a pulse or breath. Deputies, medical staff, and paramedics instituted life-saving measures for approximately thirty minutes until death was pronounced. The investigation determined that deputies acted in compliance with Sheriff's Policy & Procedure M.6, Life Threatening Emergencies: Code Blue. The cause of death was determined to be "Acute Heroin, Tramadol, and Gabapentin Intoxication," and the manner of death an "Accident." The investigation did not determine how or from whom Graves obtained the contraband.

13-034

1. Illegal Search & Seizure – Deputies ordered the complainant to take her hands out of her trench coat as she walked down the street.

Recommended Finding: Action Justified

Rationale: A 911 call was initiated in response to the complainant causing a disturbance on a public street. Deputies were dispatched and encountered the complainant who was reportedly screaming and did not obey

Deputy 2's commands to stop, and instead placed her hands into the pocket of a trench coat, presenting a safety issue. The complainant said she did not take her hands out of her coat because it was cold outside. Deputy 2 had the legal right to stop and question the complainant based upon the 911 call and the behavior the complainant exhibited. The evidence shows the alleged act or conduct that occurred was lawful, justified and proper.

2. Excessive Force – Deputies handcuffed the complainant and threw her to the ground, cutting her eye.

Recommended Finding: Action Justified

Rationale: The complainant said she suffers from PTSD (Post Traumatic Stress Disorder) caused by previous interaction with law enforcement and/or alleged abuse. When Deputy 2 approached the complainant, she turned and ran away. Deputies 1 and 2 shouted verbal commands with negative results. They then grabbed the complainant's arms and took her to the ground where the complainant continued to struggle until handcuffed. Deputies believed the complainant to be a danger to herself or others and utilized an amount of force necessary to overcome resistance. The complainant was treated for a half-inch laceration above her right eyebrow. The deputies' actions were in compliance with policy.

3. Misconduct/Procedure – Deputies accused the sober complainant of drinking and held her on a 5150 charge.

Recommended Finding: Action Justified

Rationale: The complainant said she was not drinking, but became angry when deputies questioned her. Based upon the complainants' statements, Deputies 1 and 2 took custody and transported her for examination by mental health professionals. Tri-City Hospital medical personnel determined hospitalization was in order and held the complainant for 72 hrs. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

13-093

1. Misconduct/Procedure - Deputy 1 did not provide a police escort after stopping the complainant for a traffic infraction.

Recommended Finding: Action Justified

Rationale: The complainant stated that his companion was in medical distress, so while en route to a hospital he did not complete a stop at a stop sign. Deputy 1 cited the complainant for the vehicle infraction. The complainant believed the deputy should have provided an escort the remainder of the way to the hospital. Deputy 1 offered to call for emergency services i.e. ambulance/medics, which the complainant declined. Sheriff's Policy & Procedures 5.1, Emergency Driving, does not allow deputies to violate existing traffic laws for exigent circumstances of this type. The evidence shows the alleged act or conduct did occur and was lawful, justified and proper.

2. False Reporting - Deputy 1 incorrectly identified a cross-section on Citation #624198.

Recommended Finding: Action Justified

Rationale: The complainant stated this incident occurred at Saxony & Brittany and not Saxony & Burgandy (sic) as reported on the citation. Deputy 1 acknowledged his mistake and followed procedural requirements by amending the location of violation from Burgandy to Brittany as permitted by Sheriff's Policy & Procedure 6.76, Citation Amendment. Deputy 1's actions were lawful, justified and proper.

End of Report