

**BOARD MEMBERS**  
 GEORGE A. DELABARRE II  
 Chair  
 LOREN VINSON  
 Vice Chair  
 DEBRA DEPRATTI GARDNER  
 Secretary  
 JAMES J. ACHENBACH  
 SANDRA I. ARKIN  
 GARY BROWN  
 DELORES CHAVEZ-HARMES  
 RILEY GORDON  
 JAMES LASSWELL  
 CLIFFORD O. MYERS III  
 CALIXTO PENA



**EXECUTIVE OFFICER**  
 PATRICK A. HUNTER

*County of San Diego*  
**CITIZENS' LAW ENFORCEMENT REVIEW BOARD**

555 W BEECH STREET, SUITE 505, SAN DIEGO, CA 92101-2940  
 TELEPHONE: (619) 238-6776 FAX: (619) 238-6775  
 www.sdcounty.ca.gov/clerb

**FINAL NOTICES**

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its March 11, 2014 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at [www.sdcounty.ca.gov/clerb](http://www.sdcounty.ca.gov/clerb).

**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).
- 12-142 / Woods (Sustained – Deputy 3)
  - 13-006 / Davis (Sustained – Deputy 1)

<b>DEFINITION OF FINDINGS</b>	
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 (8)**

**ALLEGATIONS, FINDINGS & RATIONALE**

**12-067**

1. Death Investigation - Inmate Gregory Jewell died while hospitalized.

Board Finding: Action Justified

Rationale: While incarcerated, the decedent sought medical treatment at the detention facility infirmary for chest pain, wheezing and shortness of breath. After routine treatment was ineffective, medical staff called 911 and the complainant was transported to a hospital for assessment and intervention. The complainant was admitted and hospitalized until his condition deteriorated and a "do not resuscitate" order was given by a family member. Based on the circumstances as currently known, the cause of death was acute congestive heart failure due to acute myocardial infarct due to hypertensive cardiomyopathy with chronic obstructive pulmonary disease and bipolar disorder listed as contributing conditions; the manner of death was natural. The evidence shows the actions taken by detentions staff was lawful, justified and proper.

2. Excessive Force - Deputies 1 and 2 used force against the decedent while hospitalized.

Board Finding: Action Justified

Rationale: According to documentation by the involved deputies, restraint techniques were utilized to subdue Jewell when he became angry, combative, attempted to bite a deputy, and spit on nursing staff. Hands-on control was exercised at a level necessary to restrain Jewell during medical intervention procedures and until he was chemically sedated. No impact weapons were used and Jewell was never struck; the only force used was body weight and strength to overcome his resistance. The bruises and light hemorrhaging that resulted did not contribute to his death in any way. Incident reports and medical records, documented the actions taken by Deputies 1 and 2, as well as medical security staff, which were lawful, justified and proper.

---

## **13-016**

1. Misconduct/Procedure – Deputies 4, 6, and 7 withheld food from the aggrieved for 72 hours on two occasions.

Board Finding: ~~Not Sustained~~-Unfounded

Rationale: Deputies 4, 6, and 7 denied that they withheld food from the aggrieved. Behavioral infractions twice resulted in placement of the aggrieved on a 3-Day Special Disciplinary Isolation Diet; however, Deputies 4, 6, and 7 were not involved in food delivery, documentation of the rule violations, or the subsequent Disciplinary Hearings and Appeal. The evidence showed that the alleged conduct did not occur.

2. Misconduct/Procedure – Deputy 2 withheld food from the aggrieved for 72 hours on two occasions.

Board Finding: Action Justified

Rationale: Deputy 2 approved the aggrieved for two 3-Day Special Disciplinary Diets because of behavioral infractions. The Special Disciplinary Isolation Diet does not withhold food from inmates, rather food is provided twice daily in accordance with California Code of Regulations, Title 15 § 1247, Disciplinary Isolation Diet, and Sheriff's Detentions Procedures K.27, Special Disciplinary Isolation Diet, and O.1, Disciplinary Actions. Department records documented the reduced diet, and recorded that the aggrieved refused two meals during each of the discipline periods. The evidence showed that the two 3-Day Special Disciplinary Isolation Diets were lawful, justified and proper.

3. Misconduct/Procedure – Deputy 9 did not allow the complainant to purchase food through the commissary.

Board Finding: Action Justified

Rationale: The aggrieved had multiple rule violations for behavioral infractions that resulted in Disciplinary Isolation placement. Disciplinary Isolation inmates can order only select hygiene products, correspondence related items, and phone time. Deputy 9 rejected the aggrieved's Commissary food orders in accordance with Sheriff's Detentions Policy and Procedure O.1, Disciplinary Action. The evidence showed that acts did occur, but were lawful, justified and proper.

4. Misconduct/Procedure – Deputy 1 opened and read the aggrieved's privileged communications not in his presence.

Board Finding: Not Sustained

Rationale: Deputy 1 denied that he opened the aggrieved's privileged communications. Deputy 1 reported that he delivered a partially opened letter to the aggrieved, and in his presence opened the envelope in accordance with Department Policy and Procedures P.3, Inmate Mail. The complainant believed Deputy 1 opened the letter prior to delivery and refused acceptance. There was insufficient evidence to prove or disprove the condition of the letter received at the detention facility and subsequently delivered to the complainant.

5. Misconduct/Procedure – Deputy 3 refused to deliver the aggrieved's privileged communications from his attorney.

Board Finding: Action Justified

Rationale: The aggrieved refused to accept legal mail from his attorney because he believed Deputy 1 opened

the envelope in violation of Department Policy and Procedure. Deputy 1 returned the letter to the Deputy 3, who noted the refusal, deemed the mail undeliverable, and returned the mail to sender in accordance with Department Policy and Procedure P.3, Inmate Mail. The evidence showed that act did occur, but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 5 denied the complainant social visits with her son.

Board Finding: Action Justified

Rationale: Deputy 5 offered the aggrieved multiple opportunities to complete the Sheriff's Department inmate telephone registration process, and the aggrieved refused. Registration in the inmate telephone system is necessary to activate visitor and housing module telephones, and inmates refusing to complete registration are ineligible for social visits. The Sheriff's Department facilitated a special visit between the complainant and the aggrieved, and the aggrieved subsequently completed the registration process, which enabled him to have social visits with family members. The evidence showed that act did occur, but was lawful, justified and proper.

7. Misconduct/Medical – The aggrieved was denied adequate medical care.

Board Finding: Summary Dismissal

Rationale: Sheriff's medical records documented the aggrieved received medical care on a regular basis after incarceration. The Review Board has no jurisdiction over complaints involving jail medical personnel or issues; only over complaints involving Sheriff's Deputies and Probation Officers employed by the County of San Diego, (County Charter § 606 (f)(1); San Diego County Administrative Code, Article XVIII, §§ 340, 340.9 (a)), and the complaint was referred to the San Diego Sheriff's Department. The Review Board lacks jurisdiction.

---

## **13-028**

1. False Arrest – Probation Officer 1 arrested the complainant's son for being under the influence of alcohol.

Board Finding: Action Justified

Rationale: Probation Officer 1 arrested the complainant's probationer son on December 18, 2012 after conducting an unannounced field visit at the probationer's residence. The probationer had recently been arrested, failed to report the arrest to his probation officer, and failed to refrain from alcohol use, which were in violation of the terms of his probation. Probation Officer 1 re-arrested the probationer for violation of Penal Code § 1203.2(a), Violation of Probation Terms, and the evidence showed the alleged act did occur, but was lawful, justified and proper.

2. Illegal Search or Seizure – Probation Officers 1 and 2 entered and searched the complainant's home without permission or explanation.

Board Finding: Action Justified

Rationale: On December 18, 2012, Probation Officers 1 and 2 reported they knocked and announced their purpose, were granted entry to the residence, and were then escorted to the probationer's location. Officers were escorted through the house but denied that a search of the complainant's residence was conducted. The probationer previously waived his Fourth Amendment Rights under the U.S. Constitution, and as such, searches are permissible of areas under the probationer's control and the common areas of the residence. Probation Officer 2 did conduct a search of the probationer's living area in accordance Adult Field Services Policies and Procedures Manual 16.15, Search and Seizure. The evidence showed the actions of the officers were lawful, justified and proper

3. False Arrest – Probation Officer 1 arrested the complainant's son for being under the influence of alcohol.

Board Finding: Action Justified

Rationale: Probation Officer 1 arrested the complainant's son on April 17, 2013 after conducting an unannounced field visit to the probationer's residence. The probationer tested positive for alcohol use in

violation of his probation terms. Probation Officer 1 re-arrested the probationer for violation of Penal Code § 1203.2(a), Violation of Probation Terms, and the evidence showed the alleged act did occur, but was lawful, justified and proper.

4. Illegal Search or Seizure – Probation Officers 1, 2, and 3 entered and searched the complainant’s home without permission or explanation.

Board Finding: Action Justified

Rationale: Probation Officers 1, 2, and 3 reported they were granted entry to the residence by the complainant’s wife, but denied that the residence was searched on December 18, 2012. The probationer previously waived his Fourth Amendment Rights under the U.S. Constitution, and as such, searches are permissible of areas under the probationer’s control and the common areas of the residence. The evidence showed the actions of the officers were lawful, justified and proper.

5. Misconduct/Intimidation – Probation Officers 2 and/or 3 followed the complainant’s wife and daughter throughout the home during a search.

Board Finding: Not Sustained

Rationale: Probation Officers 2 and 3 denied the allegation. The complainant’s wife did not recall where she was located in the home during the April 17, 2013 contact; nor did she recall if Probation Officers 2 and/or 3 followed her or her daughter to other rooms in the home. The complainant’s daughter did not respond to interview requests. There was insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Intimidation – Probation Officers 2 and/or 3 stated to the complainant’s daughter that, “He could have killed my wife and daughter,” or words to that effect.

Board Finding: Not Sustained

Rationale: Probation Officers 2 and 3 denied making any threatening statements to the complainant’s daughter. The complainant’s daughter did not respond to interview requests and there were no independent witnesses to corroborate the allegation. There was insufficient evidence to either prove or disprove the allegation.

---

### 13-041

1. Misconduct/Procedure – Deputies 1 and 2 did not take a private person into custody after the complainant signed a Citizen’s Arrest Declaration.

Board Finding: Action Justified

Rationale: Deputies 1 and 2 responded to a radio call of a battery that had taken place at Mission Hills High School following a sporting event. Deputies contacted the complainant, the alleged suspect and witnesses on scene, but were unable to determine who the primary aggressor was, and believed that the fighting may have been mutual. The complainant and the other party involved both claimed to be the victim and desired prosecution against each other for battery. They both signed Citizen Arrest Declarations, placing each other under citizen’s arrest, but were released from custody pursuant to Penal Code § 849(b)(1), Arrest without Warrant, and Sheriff’s Policy 6.110, Private Person Arrest, which allow deputies to complete a Case Report without the arrest element if the deputy determines there is not probable cause for that arrest. Deputy 1 documented the incident in a Crime Report and forwarded the investigation to the San Marcos Detective Unit for follow-up. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Discourtesy – Deputies 1 and 2 treated the complainant in a demeaning manner throughout the contact, stating that, “he should man up,” “fighting is legal in some states,” and “take the beating like a man,” or words to that effect.

Board Finding: Not Sustained

Rationale: Deputy 1 reported that he stated, “fighting is legal in some states” in response to comments made by

a third party. Deputies 1 and 2 denied making or hearing any other of the alleged statements. Absent an audio or video recording of Deputy 1's admitted statement, the context and tone cannot be ascertained, and therefore it cannot be determined whether or not this statement rises to the level of a discourtesy. There is insufficient evidence to prove or disprove the allegation.

---

### **13-053**

1. Illegal Seizure – Deputy 1 handcuffed the complainant and seated her in the back of his patrol unit.

Board Finding: Action Justified

Rationale: The complainant fainted following a traffic collision, possibly striking her head on the ground. She was disoriented; did not know where she was or what had happened, and appeared to talk to imaginary people. Further, the complainant continued to have buckling knees and an unsteady gait, and was unable to stand without assistance. Deputy 1 attempted to assist the complainant by escorting her to Paramedics on scene to be medically evaluated, but she refused, becoming increasingly agitated, grabbing his hand while vigorously struggling to be released from Deputy 1's grasp. Due to officer safety concerns and the safety of the examining Paramedics, the complainant was handcuffed so that she could be controlled while being medically evaluated. Case law provides that during a lawful detention, officers are authorized to take such steps as are reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 transported the complainant to Tri City Medical Center for a 5150 evaluation.

Board Finding: Action Justified

Rationale: Following a traffic collision, the complainant collapsed without reason (possibly striking her head on the ground), was disoriented, observed talking to an imaginary person, was unaware of where she was and what had just occurred, all while refusing medical treatment. Although needing assistance to stand and continuing to walk with an unsteady gait, the complainant insisted that she was okay and attempted to return to her vehicle, possibly to drive away. The Welfare and Institution Code § 5150, authorizes a peace officer, upon probable cause, to take a person into custody and place him or her in a county designated facility for 72-hour treatment and evaluation if they determine that said person is a danger to themselves or others, or gravely disabled. Given the complainant's behavior, Deputy 1 determined that for her own safety, the complainant would be placed on a 72 hour hold pursuant to W & I Section Code 5150, and the evidence showed that his actions were lawful, justified and proper.

---

### **13-055**

1. Misconduct/Procedure – Deputy 1 handcuffed the complainant during a traffic stop.

Board Finding: Action Justified

Rationale: The complainant traveled recklessly at a high rate of speed and was delayed in responding to Deputy 1's emergency lights and siren. The complainant was also non-compliant and delayed in his response to Deputy 1's request to turn his motorcycle off, further fueling Deputy 1's suspicions that the complainant's motorcycle may have been stolen. Due to officer safety concerns, and to prevent the complainant from possibly leaving the scene, Deputy 1 placed the complainant in handcuffs until he could verify his identity and that his motorcycle had not been stolen. Case law provides that during a lawful detention, officers are authorized to take such steps as are reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

2. Excessive Force/Handcuffs – Deputy 1 placed handcuffs on the complainant too tightly.

Board Finding: Not Sustained

Rationale: Deputy 1 reported that he placed handcuffs on the complainant where they were “snug,” but leaving space where he was able to place one finger between the complainant’s wrists and the cuffs. Deputy 1 did not recall the complainant stating or indicating that the handcuffs were too tight. A photograph provided by the complainant taken approximately 3 hours after the traffic stop, showed slight linear bruising to the complainant’s wrist, but was insufficient to demonstrate whether the bruising was caused by the handcuffs being placed too tightly or bruising as a result of normal metal to skin contact. There was insufficient evidence to prove or disprove the allegation.

3. Illegal Search – Deputy 1 searched the complainant’s person.

Board Finding: Action Justified

Rationale: Case law permits peace officers to conduct a limited search on a vehicle’s driver for weapons or objects that could be used as a weapon, if they have specific facts indicating that the individual may be armed and dangerous. Deputy 1 believed that the complainant’s behavior of high speed erratic driving, delayed responsiveness to his emergency lights and sirens and non-compliance were associated with a person who had possibly stolen a vehicle. Until he could determine otherwise, Deputy 1 patted the complainant down for his personal safety, conducting the traffic stop in a manner consistent with contacting a person who potentially may be dangerous and carrying a weapon. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

4. False Arrest – Deputy 1 cited the complainant, falsely reporting the violation of a law.

Board Finding: Action Justified

Rationale: Deputy 1 cited the complainant for violation of VC § 22349, Maximum Speed Limit, indicating on the citation that the complainant was traveling approximately 95 mph, where 65 mph is the maximum speed allowed. Deputy 1 reported that he was able to determine the complainant’s speed, having been trained in visual speed estimation. He also reported that he paced the complainant’s vehicle using his own motorcycle’s digital speedometer and computer to capture the speed of the complainant’s motorcycle, as he pursued it on the freeway for over one half a mile. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

---

### 13-089

1. Discrimination/Sexual Harassment – Deputy 1 harassed the complainant with sexual comments.

Board Finding: Not Sustained

Rationale: Deputy 1 referred the complainant for a medical evaluation, which resulted in his placement into a Safety Cell. The complainant stated that Deputy 1 made explicit sexual statements to him when offered a means to facilitate removal of a ring from his finger. Deputy 1 denied making any inappropriate comments to the complainant, and two witness deputies present during the exchange denied seeing or hearing any inappropriate conduct. Video surveillance captured the Safety Cell placement and the attempted ring removal; however, there was no audio recording of this contact, therefore insufficient evidence was available to prove or disprove the allegation.

---

### 13-094

1. Misconduct/Procedure – Deputies denied the complainant’s request for a cell change.

Board Finding: Summary Dismissal

Rationale: The complainant was released from custody on January 4, 2014, failed to provide any out of custody contact information, and her current whereabouts are unknown. The complainant was unavailable for

clarification to factual matters presented in her written complaint regarding named members. Additionally, a principal witness failed to cooperate with the CLERB inquiry.

2. Misconduct/Procedure – Deputies improperly housed the complainant with a homicidal cellmate who assaulted her.

Board Finding: Summary Dismissal

Rationale: Please see Rationale #1

---

*End of Report*