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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### FINAL NOTICES

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its September 10, 2013 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).
- b) **Evaluation of Executive Officer** – Notice pursuant to Government Code Section 54957.

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, FINDINGS & RATIONALE

#### 12-069

1. Misconduct/Procedure – Deputy 1 parked his motorcycle facing the wrong direction and impeded pedestrian and vehicle traffic.

Board Finding: Not Sustained

Rationale: Deputy 1 was conducting radar traffic enforcement from his motorcycle at the entrance to a shopping center on El Camino Real. The complainant stated that Deputy 1 was parked against a red curb in the driveway, facing the wrong direction, and part of his motorcycle blocked the sidewalk, violations of California Vehicle Code § 22500, Prohibited Stopping, Standing, or Parking. Photographic evidence did not conclusively show that Deputy 1 parked in a red curb area or blocked the sidewalk. Deputy 1 stated that he was positioned at that location to enforce traffic speed laws and denied that any pedestrians or vehicles were impeded by his location. There was insufficient evidence to either prove or disprove that Deputy 1's actions were in violation of California Vehicle and Encinitas Municipal Codes.

2. Misconduct/Discourtesy - Deputy 1 told the complainant, "What are you going to do, tell my boss? My boss only cares about how much revenue I can bring in. My job is to make revenue for the city!" or words to that effect.

Board Finding: Not Sustained

Rationale: The complainant observed Deputy 1 as he conducted radar traffic enforcement and asked what he was doing. Deputy 1 denied making any such statement. The complainant's statement to Deputy 1's supervisor is contrary to that listed in his complaint. He told Deputy 1's supervisor that the radar enforcement, "...was a speed trap and that he (the deputy) was there only to generate money for the Sheriff's Department," to which Deputy 1 allegedly replied, "You are right sir." There were no witnesses to support or refute the statements, and there is insufficient evidence to prove or disprove this subjective allegation.

3. Misconduct/Procedure – Deputy 2 utilized the complainant's business lot for monitoring traffic, but will not respond to accidents citing "it's a private lot."

Board Finding: Unfounded

Rationale: The complainant did not offer any specific incidents when Deputy 2 failed to respond to calls for service at the El Camino Real location. A review of calls for service at the N. El Camino Real location for the period January 1-July 1, 2012 revealed nine calls for service, which included: disturbing the peace, shoplifting, traffic stop, vehicle accident, parking space dispute, and stalking. All calls for service resulted in a Department response. The evidence showed that the alleged acts did not occur.

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**12-079**

1. Excessive Force - Deputies 6, 7, 9, and 10 used force which caused injury to the complainant while placing him in a safety cell.

Board Finding: Action Justified

Rationale: Deputies 6, 7, 9, and 10 used department approved force to overcome resistance and gain the complainant's compliance. The complainant had injured himself necessitating removal from his cell for medical evaluation, and because of his violent history, a tactical team was used to effect removal. The complainant had blocked his cell door with his mattress and wedged a foreign object into the cell door jamb to prevent operation of the locking mechanism. After the cell door was opened, he was placed on a gurney without incident and prepared for medical evaluation and transfer to a safety cell. As deputies placed the complainant in the safety cell he refused to follow instructions, spit at and attempted to grab deputies, and actively resisted their actions. Deputies 6, 7, 9, and 10 used verbal commands, kicks, punches, head strikes, and taser deployment to regain control of the complainant. Sheriff's Policy and Procedure 6.28, Physical Force, and Sheriff's Detention Policy & Procedures I.89, Use of Force, permits the use of force, including head strikes, for officer protection and to prevent escape. The complainant's handcuffs were reapplied and medical personnel evaluated his injuries. Video evidence of the cell extraction and safety cell placement showed that the complainant repeatedly failed to comply with instructions and resisted deputy control resulting in the use of necessary and reasonable force to overcome resistance. The evidence showed the alleged conduct did occur but was lawful, justified and proper.

2. Misconduct/Procedure - Deputy 3 placed the complainant on razor restriction without reason.

Board Finding: Action Justified

Rationale: Deputy 3 reviewed the complainant's Inmate History and Board that the complainant be placed on razor restriction for safety reasons because he was considered a danger to himself and others. The complainant had been involved in numerous assaults on staff, had a history of incidents involving razors, and reportedly stated that he planned an assault on staff with a jail-made weapon. On April 15, 2012, the complainant was placed on razor restriction and denied the use of a razor per Detention Policies and Procedures L.7, Razors. The evidence showed the alleged act did occur but was lawful, justified and proper.

3. Misconduct/Procedure - Deputies 2, 4, and 11 refused to allow the complainant to groom himself prior to court.

Board Finding: Action Justified

Rationale: Deputies 2, 4, and 11 did not allow the complainant access to a razor prior to his court appearance on April 17, 2012. On April 15, 2012, the complainant was placed on razor restriction per Detentions Policies and Procedures L.7, Razors, for safety reasons because he was considered a danger to himself and others. The evidence showed the alleged act did occur but was lawful, justified and proper.

4. Excessive Force: Deputy 8 used force causing injury while placing the complainant in a patrol car for transportation to court.

Board Finding - Not Sustained

Rationale: Deputy 8 denied using force to place the complainant into the transport vehicle. The complainant had become passively aggressive toward deputies as they prepared to transfer him to court, and he refused to comply with their instructions. His failure to comply required him to be physically removed from his cell and placed on a gurney for movement to the transport vehicle. The complainant continued to be uncooperative which required deputies to place him in the back seat of the department sedan. The rear driver-side door appeared to be obstructed preventing its closure. Deputy 8 told the complainant to stop placing his head against the door and the complainant refused, obstructing the door from closing. The complainant stated that Deputy 8 shut the door on his face causing him to lose a tooth. Video evidence showed Deputy 8 twice attempted to close the door without success and then added additional pressure using his hands and hip to ensure the door latched. There was no video or audio evidence to show the complainant's position or actions inside the transport vehicle. There was insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Procedure - Deputy 1 refused to provide the complainant with toilet paper for his cell.

Board Finding: Unfounded

Rationale: The complainant demanded that Deputy 1 provide him a roll of toilet paper, and upon learning that the shipment had not yet arrived that day, began to place paper over his cell door windows in violation of Inmate Rules and Regulations. Deputy 1 did retrieve a roll of toilet paper from another floor and gave it to the complainant. During the disciplinary hearing the complainant acknowledged that Deputy 1 provided him with the roll of toilet paper. The evidence showed that the alleged conduct did not occur.

6. Misconduct/Discourtesy - Deputy 5 told the complainant, "I am gonna drop your food on the floor like a dog."

Board Finding: Not Sustained

Rationale: Deputy 5 denied making the alleged statement. Deputy 5 placed the complainant's food tray on the floor through the food flap because the complainant had thrown an unidentified liquid at Deputy 5 and grabbed his shirt during an earlier incident. Based on the complainant's aggressive/assaultive behavior toward staff, the delivery of the complainant's food tray in this manner was considered necessary to protect the safety and welfare of the deputy. There were no independent witnesses or video records in this matter, therefore insufficient evidence was available to either prove or disprove the alleged statement.

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**12-082**

1. False Arrest – Deputy 7 arrested the complainant for assault on September 2, 2011.

Board Finding: Action Justified

Rationale: Having been identified as the suspect in a felony battery case, Deputy 7 arrested the complainant pursuant to Penal Code § 243(d), Felony Battery. The evidence showed the conduct was lawful, justified and proper.

2. Illegal Seizure - Deputies 2, 5, 7, and/or 8 kept the complainant in a patrol unit for an unreasonable amount of time while his home was being searched.

Board Finding: Not Sustained

Rationale: Having been identified as the suspect in a felony battery case, Deputy 7 placed the complainant under arrest pursuant to Penal Code § 243(d), Felony Battery, at 9:57 pm, and later departed the Sheriff's Station at 2:51 am, en route to San Diego Central Jail. Deputy 2 denied keeping the complainant in a patrol car while conducting a Fourth Amendment Wavier Search of his residence, and Deputies 5, 7, and/or 8 believed the complainant had been transported to the Sheriff's Station for further transfer to San Diego Central Jail. Departmental records did not reveal which deputy transported the complainant from initial traffic stop to the Sheriff's Station. There was insufficient evidence to either prove or disprove the allegation.

3. Illegal Search - Deputies 2, 6, and 8 conducted a search of the complainant's residence on September 2, 2011.

Board Finding: Action Justified

Rationale: Deputies 2, 6, and 8 conducted a 4<sup>th</sup> Amendment Waiver search of the complainant's resident incident to his arrest for felony battery. The search resulted in the location of nunchuks, narcotic paraphernalia, syringes, counterfeit U.S. currency, counterfeit identification making supplies, U.S. Mail and personal checks belonging to other individuals, and various articles of identification belonging to other people. The residents were known to be on searchable probation and California law permits a search without reasonable suspicion or any other amount of particularized suspicion, as long as the probation condition permits a search by any law enforcement officer. The evidence showed the alleged act did occur but was lawful, justified and proper.

4. Excessive Force - Deputies 2, 6, and/or 8 used unnecessary force to handcuff the complainant's 15-year old son and daughter.

Board Finding: Not Sustained

Rationale: Deputies 2, 6, and/or 8 entered the complainant's residence to conduct a 4<sup>th</sup> Amendment Waiver search. The minor children in the home were handcuffed while deputies conducted a protective sweep of the residence. Deputies 2 and 8 stated that the minor children were cooperative and denied that force was used, and once the house was cleared, handcuffs were removed. There was insufficient evidence to either prove or disprove that the handcuffing procedure during this arrest was excessive.

5. Illegal Search – Deputies 2-4, 6, and 8 conducted a search of the complainant's residence on September 9, 2011.

Board Finding: Action Justified

Rationale: Deputies 2-4, 6, and 8 went to the complainant's residence on September 9, 2011 to conduct a follow-up investigation and to check on the welfare of children in the home. The complainant was not present during the search; however, the complainant's spouse and another adult, both probationers, were present along with three minor children. The search resulted in the location of 12 syringes, a bong, two scales, and a glass containing a small amount of crystal amphetamine. The residents were known to be on searchable probation and California law permits a search without reasonable suspicion or any other amount of particularized suspicion, as long as the probation condition permits a search by any law enforcement officer. The evidence showed the alleged act did occur but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 4 removed the complainant's children from the home.

Board Finding: Action Justified

Rationale: Deputies 2-4, 6, and 8 went to the complainant's residence on September 9, 2011 to conduct a follow-up investigation and check on the welfare of children in the home. While searching the home, deputies found 12 syringes, a bong, two scales, and a shot glass containing crystal amphetamine; the two adult probationers present were arrested for being under the influence of a controlled substance. When children are determined to be unsafe in their home, law enforcement may take them into protective custody by law enforcement and removed from the home. Deputies determined that the physical environment posed an immediate threat to the children's safety, and as per Welfare & Institutions § 305, Deputy 4 took custody of the complainant's minor children and transported them to Polinsky Children's Center. The evidence showed that the alleged act did occur but was lawful, justified and proper.

7. False Arrest – Deputy 2 arrested the complainant because of a black backpack seized from his home on September 2, 2011.

Board Finding: Action Justified

Rationale: On September 16, 2011, Deputy 2 went to the complainant's home to arrest him for violation of Penal Code §§ 243(d) Felony Battery, 273(a) Child Endangerment, and 496(a) Receiving Stolen Property. Deputy 2 had probable cause to arrest the complainant after a prior search resulted in the location of drug paraphernalia, counterfeit U.S. currency, counterfeit identification making supplies, U.S. Mail and personal checks belonging to other individuals, and various articles of identification belonging to other people, in a backpack reportedly owned by the complainant. The evidence showed the alleged act did occur but was lawful, justified and proper.

8. Excessive Force - Deputies 1-3, and 9 approached the complainant's house at gunpoint.

Board Finding: Action Justified

Rationale: Deputies 1-3, and 9 approached the complainant's home with weapons drawn because of the complainant's criminal affiliations and prior history. Further, Sheriff's Department Policy and Procedure 8.1, Use of Firearms/Deadly Force, authorizes deputies to display their firearms when effectuating the arrest of felony suspects. The complainant and two other occupants exited the home as directed by law enforcement; the complainant and one other individual were taken into custody without incident. The evidence showed that the conduct of Deputies 1-3, and 9 was lawful, justified and proper.

9. Illegal Search – Deputies 1-3 conducted a search of the complainant's residence on September 16, 2011.

Board Finding: Action Justified

Rationale: After the complainant was taken into custody, Deputies 1-3 entered the residence to determine if anyone else had been in the home. No additional persons were found, no search was conducted, and deputies left the property. The evidence showed that deputies' entry were lawful, justified and proper.

10. Excessive Force – Deputy 2 handcuffed the complainant roughly causing injury.

Board Finding: Not Sustained

Rationale: Following law enforcement direction, three occupants of the residence exited the home and were taken into custody without incident. Deputy 2 denied that force was used to apply handcuffs on the complainant. The complainant later reported a shoulder injury while he was in custody, but records indicated he was on prescribed medication for a shoulder injury prior to his arrest. There was insufficient evidence to either prove or disprove that the handcuffing procedure during this arrest caused or further exacerbated his condition.

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## **12-087**

1. False Arrest – Deputies 1 and/or 2 arrested the complainant for domestic violence.

Board Finding: Action Justified

Rationale: The complainant's wife called 911 to report his violation of an active restraining order. Violation of a court order constitutes a crime, and case law required deputies to respond and act. Sheriff's Policy & Procedure 6.55, Protective Orders mandates that an arrest shall be made when there is reasonable cause to believe the subject of the restraining order has violated the order. Court records verified a restraining/protective order in place against the complainant from 2010 until 2013. The evidence shows the alleged act or conduct did occur and was lawful, justified and proper.

2. Excessive Force – Deputies 1 and/or 2 utilized force on the compliant complainant and dislocated his right elbow.

Board Finding: Action Justified

Rationale: Deputies are permitted to use force to overcome resistance and effect an arrest. The complainant stated the deputies were very aggressive while he was cooperative and there was no reason for them to use force. Deputies and a trained witness described the complainant as uncooperative and angry, and that he refused to obey deputies' orders; 911 records also voice-recorded the complainant's non-compliance with deputies. In addition, medical personnel documented his agitation, aggressiveness and lack of cooperation with medical staff and deputies. Furthermore, an Incident Report included testimony from deputies and medical personnel of the complainant's attempt to kick Deputy 2 during administration of medical treatment. Medical records confirmed the complainant received medical and follow-up treatment for an elbow injury and neck strain. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure - Deputies 1 and/or 2 left minor children in the care of a non-custodial parent.

Board Finding: Action Justified

Rationale: After the father was arrested for violation of a restraining order and resisting arrest, the complainant's minor children were placed in the care of their mother. The complainant said deputies would not listen to him and gave his children to their "unfit," non-custodial mother. All other parties to this incident stated there was no indication that the mother was mentally or otherwise impaired and they were not made aware she was a non-custodial parent. The complainant offered no evidence verifying any parental restrictions. The day following the complainant's arrest, the mother once again called 911 for assistance and law enforcement responded. The mother was hospitalized and the father/complainant, who had posted bail and was released, then resumed custody of their children. The evidence shows the alleged conduct was lawful, justified and proper.

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## 12-088

1. Criminal Conduct – Deputy 1's enforcement of AB109 "violates Federal & State laws, statutes and mandates."

Board Finding: Unfounded

Rationale: The complainant cited a number of California statutes and federal case law believed to demonstrate that the San Diego Sheriff's Department implementation of Public Safety Realignment, Assembly Bill 109 was in violation of Federal & State laws, statutes, and mandates. However, the complainant's citations were primarily associated with administrative rules and regulations, and rule making procedures of the California Department of Corrections and Rehabilitation, and did not impact San Diego County Jails. Operation of San Diego County Jails has remained in compliance with the direction of AB 109 and California Code of Regulations, Minimum Standards for Local Detention Facilities, Title 15-Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4. The evidence shows that the alleged conduct did not occur.

2. Misconduct/Procedure – Deputy 1 locked-down the complainant for 20 hours a day.

Board Finding: ~~Unfounded~~ Not Sustained

Rationale: The complainant had been incarcerated more than twelve months at the time of filing his complaint. All inmates entering San Diego County Jails are assigned a security/custody level which determines their classification for housing. He was classified for housing in the general population and did not require special management in Administrative Segregation or Protective Custody, as such he was housed in multiple detention facilities and housing units until his release. While the complainant's housing unit may have been placed on lockdown for periods of time he was not subjected to lockdown for the duration of his incarceration. ~~The evidence showed that the alleged conduct did not occur.~~

3. Misconduct/Procedure – Deputy 1 misclassified the "non-violent, low level, minimum custody" complainant and/or other inmates to "dangerous and violent, Level 3" inmates.

Board Finding: Action Justified

Rationale: Deputy 1 classified the complainant as a Level 3–Medium inmate. Level 2-Low inmates have no current or significant prior assaultive history, no escape history, or known disciplinary problems, but are somewhat criminally experienced. Level 3-Medium inmates normally have no escape history or known

disciplinary problems, but are somewhat more criminally experienced than a Level 2 inmate. The complainant's extensive criminal history dating to 1987, and commitment to state prison on multiple prior convictions, was instrumental in assignment to the Level 3-Medium classification. The evidence showed the alleged act did occur but was lawful, justified and proper.

4. Criminal Conduct – Deputy 1 violated the complainant's and/or other inmates First Amendment rights concerning mail as of 09/01/12.

Board Finding: Action Justified

Rationale: San Diego Sheriff's Department implemented a post-card only policy for incoming inmate mail on September 1, 2012. As of that date, the only acceptable forms of incoming public correspondence were postcards and electronic mail messages (e-mail), with some exception (legal mail). Any incoming letter mail received is to be returned to the sender. Case law permits institutions the right to censor letters or withhold delivery if necessary to protect institutional security, and if the regulation is reasonably related to legitimate penological interests. Sheriff's Detention Policy and Procedures Manual P.3, Inmate Mail, was modified to reduce drugs and contraband from entering San Diego detention facilities. A similar policy was implemented in Ventura County and successfully defended in Superior Court; since that time three additional California Counties have implemented the post-card only policy. The evidence showed the alleged act did occur but was lawful, justified and proper.

5. Discrimination/Other – Deputy 1 discriminated against the complainant in their enforcement of overcrowding credits only being given to County commits.

Board Finding: Action Justified

Rationale: Penal Code § 4024.1, Release Due to Over-crowding, authorizes the Sheriff to periodically request, from the presiding judge of the superior court, general authorization to release county jail inmates under the provisions of this section. Criteria for application of the credit are discretionary, with inmates closest to their normal release, discharge, or expiration of sentence date given accelerated release priority. During the most recent application of this authorization, all inmates sentenced under California Penal Code § 1170(h), Determinate Sentencing, and those serving on Flash Incarceration sanctions, were excluded from all early release options. The evidence showed the alleged act did occur but was lawful, justified and proper.

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## 12-094

1. False Arrest – Deputy 2 arrested the complainant for assaulting an officer.

Board Finding: Summary Dismissal

Rationale: Deputy 2 is no longer employed by the San Diego Sheriff's Department, effective September, 2012. Pursuant to Section 15: Summary Dismissal, of CLERB's Rules and Regulations, the Review Board does not have jurisdiction over the subject matter of the Complaint.

2. Excessive Force/Taser – Deputy 3 twice tased the complainant while taking her into custody.

Board Finding: Action Justified

Rationale: The complainant actively resisted Deputy 1's attempts to detain her in handcuffs. Fearing the complainant would assault and potentially injure Deputy 1, Deputy 3 deployed his Taser to subdue and gain control of a combative subject. The first deployment was ineffective, requiring a second taser deployment. This achieved the desired effect and the complainant was taken into custody. Pursuant to Sheriff's Policy 6.48, Physical Force, a deputy is authorized to use reasonable force to effect the arrest, to prevent escape or to overcome resistance. Deputy 3 employed a department approved Use of Force control compliance technique in order to control a subject, and his actions were lawful, justified and proper.

3. Excessive Force/Handcuffs – Deputy 1 placed handcuffs on the complainant too tightly, causing pain.

Board Finding: Not Sustained

Rationale: The complainant resisted Deputies 1 and 2's efforts to detain her, and force was used to control a non-compliant suspect. The deputies struggled to place handcuffs on the complainant and reported that handcuffs were applied in the best manner possible. Deputy 1 denied that he applied the handcuffs excessively tight and did not recall the complainant stating that the cuffs were too tight. Following this incident, the complainant was seen by hospital staff with no report of any marks or bruises to the complainant's wrists area, and therefore insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Procedure – Deputy 2 failed to read the complainant her Miranda rights.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

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## 12-095

1. Misconduct/Procedure – Deputy 1 failed to maintain a safe and sanitary environment.

Board Finding: Summary Dismissal

Rationale: There were no reports of unsafe or unsanitary conditions in the complainant's cell; however, the maintenance of the various County detention facilities is a function performed by non-sworn professional staff of the Sheriff's Department, over whom CLERB exercises no jurisdiction. This matter was referred back to the Sheriff's Department for further investigation and follow-up.

2. Misconduct/Procedure – Deputy 1 improperly housed the complainant in a top tier cell.

Board Finding: Action Justified

Rationale: The complainant did not report any medical problems or restrictions requiring special housing, and was not given a medical classification at the time of booking. Pursuant to Policy M.39, Disabled Inmates, had it been determined that the complainant had a disability that fit the criteria of "disabled" as defined by this section, a medical recommendation (i.e., "lower bunk," "lower tier") would have been initiated and entered into his record for his safety and welfare. Additionally, following the complainant's treatment for a reported accident, there were no medical reports or after care summary advising of special medical or housing considerations that would have warranted reclassification. Classification Deputies housed the complainant pursuant to Policy R.1, Inmate Classification, with the evidence showing that their actions were lawful, justified and proper.

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## 12-101

1. Death Investigation / In-custody Overdose – Deputies 1 and 2 found inmate Aaron Blenderman deceased in his cell on September 7, 2012.

Board Finding: Action Justified

Rationale: A cellmate alerted deputies that Blenderman was ill, unresponsive and had been hoarding medications. Deputies 1 and 2 responded and found Blenderman without a pulse or breath, and said he was cold to their touch. 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 "Acute Methamphetamine and Heroin Intoxication." The investigation did not determine how or from whom Blenderman obtained the contraband.

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## 12-112

1. Misconduct/Intimidation – Deputy 1 threatened the complainant with incarceration for refusing to testify in a criminal case.

Board Finding: Summary Dismissal

Rationale: Deputy 1 retired from the Sheriff’s Department during the course of this ongoing investigation. CLERB does not have authority to investigate this complaint further based upon the following Rules & Regulations: Section 4: Authority, Jurisdiction, Duties and Responsibilities of Review Board: 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 or the Probation Department.

2. Misconduct/Discourtesy – Deputy 1 got “pissed off and yelled” at the complainant when he confronted her about her motives.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 failed to take action when another detective screamed profanities at the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Harassment – Deputy 1 “accused the complainant of illegal activities and repeatedly threatened him.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

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## **12-149**

1. Misconduct/Procedure – Deputy 1 failed to provide programs to the aggrieved.

Board Finding: Summary Dismissal

Rationale: Information received from the Supervising Correctional Counselor at the George Bailey Detention Facility, documented that services were provided to the aggrieved, and while he participated in some of the offered services, he failed to participate fully in others. That withstanding, pursuant to the Sheriff’s Detention Facility Services Manual of Policies and Procedures, T.1 Correctional Counseling Program, the provision of counseling services and programs is a function performed by non-sworn employees of the Sheriff’s Department, over whom CLERB has no jurisdiction.

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## **13-018**

1. Misconduct/Procedure – Deputy 2 did not assist the complainant with holding cell telephones.

Board Finding: Summary Dismissal

Rationale: The complainant failed to return a signed waiver and this case was submitted for Summary Dismissal based upon non-cooperation.

2. Misconduct/Procedure – Deputy 2 forced the complainant, who is a nurse, to take a chest x-ray even though she said she was possibly pregnant.

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

3. Misconduct/Procedure – Deputy 2 forced the complainant to sign a medical form under threat.

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

4. Misconduct/Procedure – Deputy 2 would not allow the complainant to access her purse to “self-bail.”

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

5. Misconduct/Procedure – Deputy 2 released the complainant with missing and/or damaged property.

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

6. Misconduct/Discourtesy – Deputy 2 was “disrespectful, non-responsive, and/or threatening.”

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

7. Misconduct/Procedure – Deputy 1 told the complainant she would follow-up, but then failed to contact her since March 7, 2013.

Board Finding: Summary Dismissal  
Rationale: See Rationale #1

*(Please note:* The complainant disclosed numerous other violations regarding the Sheriff Department’s facility and jail-house conditions: cold temperatures, unsanitary conditions, telephones located next to toilets, phone cords too short, complicated instructions, telephone instructions not within view of telephone, toilet paper used as pillow, lack of hot water, toilet paper, soap and/or towels, etc., which do not fall under the Review Board’s jurisdiction and were referred back to the Sheriff’s Department for telephone follow-up.)

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### 13-052

1. Misconduct/Procedure – The Sheriff’s Department failed to respond to the complainant’s call(s) for assistance.

Board Finding: Action Justified

Rationale: The Sheriff’s Department produced eight calls for service made by the complainant to the Sheriff’s Department over the past two years for various issues. Each call was documented with the appropriate actions taken by various deputies according to Sheriff’s Policies and Procedures. The complainant also said she was unable to reach and/or get a response from a deputy who was critically injured on-duty and is out on extended medical leave. Once the Department became aware of this situation, the Division of Inspectional Services linked the complainant to the Family Protection Detail. Child abuse reports are protected by confidentiality laws and inaccessible by this office. The evidence shows the alleged act(s) that occurred were lawful, justified and proper.

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*End of report*