

BOARD MEMBERS

LOREN VINSON
Chair
SANDRA I. ARKIN
Vice Chair
DEBRA DEPRATTI GARDNER
Secretary
GARY BROWN
DELORES CHAVEZ-HARMES
P. DARREL HARRISON
JAMES LASSWELL
CLIFFORD O. MYERS III
LOURDES N. SILVA



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

REGULAR MEETING AGENDA

TUESDAY, NOVEMBER 10, 2015, 5:30 P.M.

San Diego County Administration Center

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

(Free parking is available in the underground parking garage, on the south side of Ash Street, 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 555 W Beech Street, Ste. 505, San Diego, CA.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the October 2015 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) N/A

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)

5. NEW BUSINESS

- a) Nomination Committee for the 2016 CLERB Executive Board

-continued on next page-

6. UNFINISHED BUSINESS

- a) Interim Policy & Procedure: Body Worn Cameras Field Test Evaluation

7. BOARD MEMBER COMMENTS

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).

- 14-072 / Giles
- 14-073 / Orozco (Sustained – Deputy 3)
- 14-074 / Foster (Sustained – Deputy 3)
- 14-075 / James (Sustained – Deputy 6 & the Sheriff’s Department)
- 14-114 / Morales (Sustained – Deputies 1 & 2)

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 (9)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

14-004

1. Death Investigation / Suicide - Inmate Rodda was discovered on the floor of a cell, unconscious and alone with a shirt tied around his neck. Deputies and medical personnel initiated life-saving measures and obtained a pulse. Rodda was transferred to a hospital where he later died.

Recommended Finding: Action Justified

Rationale: The decedent was arrested for being under the influence of a controlled substance and probation violations. He was medically cleared for booking and placed into a sobering cell. After being cleared from the sobering cell, the decedent was transferred to a different detention facility for an overnight stay. The following day, during transport for court proceedings, Rodda exhibited signs of paranoia toward other inmates; he was subsequently isolated in a holding cell to prevent any incidents. Security checks were conducted in compliance with policy, however, within two hours of cell placement, deputies discovered Rodda face down with clothing tied around his neck. Life-saving measures were initiated until a pulse was obtained, and Rodda was transferred to a hospital where he died the following day. A review of the incident was conducted, and determined the actions taken by all sworn and medical personnel were lawful, justified and proper.

14-109

1. Sexual Harassment – Deputy 2 “manipulated laundry exchange” so that he could be in position to observe the complainant’s penis.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 2 “manipulated” laundry exchange; that he conducted the process different than how it’s customarily performed, so that he could be in position to observe the complainant’s and the other inmate’s genitalia. Deputy 2 did not specifically recall his interaction with the complainant, but reported that he conducted laundry exchange and the attendant “strip searches” as he always has, and according to his training and policy. Detentions Policy I.52, Inmate Searches, authorizes deputies to check the inmates’ genitalia during laundry exchange to ensure that inmates are not concealing contraband, weapons or narcotics. This is to ensure the safety of other inmates and detentions staff. Surveillance video showed that Deputy 2’s search of the complainant was within policy and consistent with how the other inmates were searched. The evidence showed that his actions were lawful, justified and proper.

2. Misconduct/Intimidation – Deputy 1 threatened the complainant three times to find contraband in his area.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that three separate times, Deputy 1 threatened to find contraband in his area. These threats were reportedly made in response to the complainant’s allegations of sexual impropriety against another deputy. Deputy 1 denied that he made this threat to the complainant at any time during their contact. There were no independent witnesses or audio recording of this alleged threat, leaving insufficient evidence to either prove or disprove the allegation.

3. False Reporting – Deputy 1 made false charges against the complainant, resulting in the complainant being placed “in the hole.”

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 made false charges against him, resulting in Disciplinary Isolation placement. Per Detentions Policy J.3, Segregation: Definition and Use, the use of isolation as a disciplinary measure should be reserved for major sanctions and/or multiple of cumulative offenses. The complainant was charged with interfering with jail operations for refusing to exit the module when directed, and making statements that his allegations about being sexually harassed by Deputy 2, and subsequent grievances on the matter, had not been addressed. Deputy 1 reported that he spoke with the complainant and provided to him documentation of multiple grievance responses that refuted his allegation of non-responsiveness by detentions staff. The complainant’s false and persistent claims of staff’s failure to respond to his grievances interfered with jail operations, and he was appropriately charged for that rule violation. Deputy 1 denied making false charges against the complainant and only charged him with rule violations that were witnessed and appropriately documented; this action was lawful, justified and proper.

1. Misconduct/Procedure – Deputy 3 did not arrest a Temporary Restraining Order (TRO) violator.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 3 did not enforce a TRO when notified by the protected party. Deputy 3 documented a reported violation after being contacted by the aggrieved and a witness, one day after the reported violation. Subsequent investigation revealed there was probable cause to arrest the TRO offender, and Deputy 3 attempted to locate the offender at known locations, without success. Additional allegations were brought to Deputy 3's attention by telephone and in a face-to-face meeting with the aggrieved and a witness. Deputy 3 advised the aggrieved and witness that deputies were looking for the restrained party, but he could not guarantee an arrest until the restrained party was found. Deputy 3 documented the incidents in a Crime Report as required by Department Policies and Procedures 6.55, Protective Orders and Sheriff's Patrol Manual Policy 33, Domestic Violence. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 did not arrest a TRO violator.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 2 did not enforce a TRO when notified by the protected party. Deputy 2 responded to a radio call to investigate a TRO violation, which involved telephone calls made to the aggrieved's cell phone. Deputy 2 stated he was not presented with any evidence of the reported violations, documented the incident in a Crime Report, as required by Department Policies and Procedures 6.55, Protective Orders and Sheriff's Patrol Manual Policy 33, Domestic Violence, and advised Deputy 3 of the report. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 did not arrest a TRO violator.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 1 failed to arrest the restrained party when he observed a restraining order violation. Deputy 1 responded to a reported restraining order violation and determined that the restrained party was more than 100 yards away from the protected persons as required by the restraining order, and therefore was not a violation of the order. Subsequent to this contact, Deputy 1 was directed by his supervisor to arrest the restrained party for multiple restraining order violations that had been documented earlier. The restrained party was located and taken into custody. Deputy 1 documented the initial call, and the subsequent arrest in an Arrest Report. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 1 said the TRO offender could turn firearms over to a licensed dealer, in violation of current law.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 told the protected party that the TRO offender could turn over firearms to a licensed dealer despite being told by Deputy 3 that he could not turn them in to a dealer. Deputy 3 did not recall specifics of the conversation, but indicated that the law had not changed and firearms could still be turned over to a licensed dealer. Deputy 1 acknowledged that he told the aggrieved that firearms could be turned over to a licensed firearms dealer, at which time his partner stated that the law had changed, and firearms should be turned over to law enforcement, after which Deputy 1 corrected his statement. A witness present stated that Deputy 1 did not retract his statement. Family Code § 6389, Firearms-Surrender, directs that "if no request is made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer..." The TRO issued by the Superior Court stated that the restrained party must, "Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within your immediate possession or control. Do so within 24 hours of being served with this order." Restraining Order documents issued by California Courts continue to

allow for the sale or storage with licensed gun dealers, therefore Deputy 1 did not provide the aggrieved with information in violation of current law. The evidence showed that Deputy 1's statement was consistent with California law and the issued TRO, therefore the act did occur, but was lawful, justified and proper.

5. Misconduct/Discourtesy – Deputy 1 said to the aggrieved protected party, “It’s not like he’s punching you in the face,” and/or, “he’s just calling you to say that he loves you,” or words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant stated that Deputy 1 showed a lack of concern when he told the aggrieved, “It’s not like he’s punching you in the face,” and/or, “he’s just calling you to say that he loves you,” or words to that effect. Deputy 1 acknowledged information provided by the aggrieved, but disputed the attributed context of the statements. Deputy 1 reported that he attempted to explain to the aggrieved that the reported acts were minor in nature, should be documented in Crime Reports, and forwarded to the District Attorney. There was dispute as to the context of these statements. Absent an audio recording of these statements and their context, it cannot be determined if the statement was a violation of the department’s courtesy policy; as such, there was insufficient evidence to either prove or disprove the allegation.

14-124

1. Excessive Force – Deputy 2 shot her dogs with pepper balls.

Recommended Finding: Unfounded

Rationale: The complainant reported that Deputy 2 mistreated her dogs by shooting them with pepper balls. The Sheriff’s Department had no reported calls for service to the complainant’s address, nor were there any documented contacts during the time period identified by the complainant. The complainant, and the complainant’s witnesses, failed to cooperate with the investigation, and there was no credible evidence to show that the incident occurred.

2. Misconduct/Procedure – Deputy 1 fed bananas to the complainant’s dogs.

Recommended Finding: Unfounded

Rationale: The complainant stated that one of the “lady deputies” fed bananas to her two pit bulls, jeopardizing the health of the animals. Deputy 1 was the only female deputy documented at the complainant’s residence, and Deputy 1 denied having any contact with the complainant’s dogs. While the Sheriff’s Department does not have a departmental policy or procedure for feeding animals, it is not advisable to do so without an owner’s consent. The complainant, and the complainant’s witnesses, failed to cooperate with the investigation, and there was no credible evidence to show that the incident occurred.

14-125

1. Misconduct/Procedure – Deputy 1 grabbed onto the complainant’s firearm and unsnapped the holster, after the complainant identified himself as a federal officer and said he was armed.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 1 grabbed onto his firearm and unsnapped the holster, after he had identified himself as a federal officer and said he was armed. Deputy 1 reported he initiated a traffic stop because the complainant had been observed speeding. Deputy 1 stated that as he approached the complainant and requested his driver’s license, he heard the complainant state that he was armed. Deputy 1 asked where the complainant’s firearm was located and placed his left hand over the handle and rear slide of the firearm in the holster, but denied that he unsnapped the holster. Deputy 1 reported that the complainant then told him he was a federal law enforcement officer, but did not initially offer his federal law enforcement identification, and there was no visible law enforcement identification or badge next to or near the firearm. Deputies are permitted to do whatever is reasonable to protect themselves, and once Deputy 1 located and inspected the complainant’s

identification and badge, he released his hold on the firearm. The alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 was confrontational when the complainant repeatedly asked if the complainant was being disarmed.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 1 became confrontational after placing his hand on the complainant's firearm, because the complainant demanded to know if he was being disarmed. Deputy 1 reported that he had not yet confirmed that the complainant was federal law enforcement, and maintained control of the complainant's firearm until identification was established. After Deputy 1 placed his hand on the complainant's firearm, the complainant placed his hand on top of the deputy's hand, and demanded to know if he was being disarmed. Deputy 1 ordered the complainant to place his hands on the back of his motorcycle helmet and requested cover officers, because the complainant was armed and refused to remove his hand from the weapon. After Deputy 1 requested cover, the complainant complied with the order to place his hands behind his head. The actions employed by Deputy 1 when he encountered the complainant were reasonable and necessary to verify that the complainant was a federal law enforcement officer. The alleged conduct did occur, but was lawful, justified and proper.

3. Misconduct/Discourtesy – Deputy 1 told the complainant he, “had an attitude and needed to bring it down.”

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 1 requested his work identification, and once the work identification had been located, told the complainant that he “had an attitude and needed to bring it down. The complainant had grabbed at his firearm as Deputy 1 attempted to determine the concealed carry status of the off duty, plain clothes, law enforcement official. Department Policies and Procedures 2.22, Courtesy, requires deputies to be tactful and not use insolent language in the performance of their duties. Deputy 1 acknowledged that he made the statement, because he believed that a reasonable law enforcement official would have understood the approach taken to ensure officer safety, prior to establishment of his federal law enforcement officer status. The alleged conduct did occur, but was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 1 threatened arrest when the complainant requested a supervisor.

Recommended Finding: Action Justified

Rationale: The complainant stated as he prepared to sign the citation, he requested to speak with a supervisor, and Deputy 1 threatened him with arrest. Deputy 1 denied that he threatened arrest because the complainant had requested a supervisor; rather, he reported that the complainant was told if he did not sign the citation, the only other alternative was arrest. A witness deputy reported that the complainant repeatedly demanded that Deputy 1 have a supervisor report to the scene, and Deputy 1 responded by telling the complainant that if he refused to sign the citation, he would be arrested. Deputy 1 was authorized to arrest the complainant if he refused to give written response to appear in court, as per California Vehicle Code § 40302, Mandatory Appearance. The alleged act did occur, but was lawful, justified and proper.

5. Excessive Force – Deputy 1 ordered, “Hands behind your back” and then grabbed him with force when the complainant requested a supervisor.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 1 ordered, “Hands behind your back” and then grabbed his hands with force, when the complainant requested a supervisor. Deputy 1 denied that he forcefully grabbed the complainant's hands and pulled them behind his back. Deputy 1 reported that because the complainant refused to sign a citation, he directed the complainant to place his hands behind his back; the complainant complied without use of force. A witness deputy reported that he observed Deputy 1 take control of the complainant's hands with one hand and when he began to reach for his handcuffs, the complainant agreed to sign the citation, at which time Deputy 1 released his hands. The alleged act did occur, but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 1 told the complainant to go to the Sheriff’s Station to speak to a supervisor.

Recommended Finding: Action Justified

Rationale: The complainant stated that as he prepared to sign the traffic citation, he requested Deputy 1’s supervisor come to the scene. Deputy 1 acknowledged that the complainant requested his supervisor, after being presented with a traffic citation, resulting in repeated demands that a supervisor report to the scene. Deputy 1 reported that he told the complainant that Department policy did not require a supervisor when demanded, and provided the complainant with his supervisor’s name, and told him he could file a complaint at the Sheriff’s Station. The Sheriff’s Department does not have a policy requiring deputies to call a supervisor to report to the scene of a traffic citation. The alleged act did occur, but was lawful, justified and proper.

14-130

1. Misconduct/Procedure – Deputy 1 failed to take a crime report.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 refused to take a police report for the theft of prescription medications, jewelry, money and clothing taken from her motor home. The complainant told Deputy 1 that she had reported the theft six days earlier, and responding deputies advised her that she needed to locate a suspect before initiating an investigation. Sheriff’s Communications advised that there had been no calls for service by the complainant at this location over the past six days, and Deputy 1 told the complainant that victims were not required to find their own suspects to initiate an investigation. The complainant requested a crime report in order to refill prescriptions of the allegedly stolen prescription medications. The complainant declined Deputy 1’s offer to assist the complainant with a lost property report. Since there were no documented calls for service or records to demonstrate that the complainant reported the theft six days prior as claimed, there were no signs of forced entry, and there was no evidence of a crime, Deputy 1 determined that the incident as reported had not occurred. Deputy 1 documented the incident in his deputy’s patrol log and with Sheriff’s Communications; and the complainant was provided with the Incident number. The act did occur, but was lawful, justified and proper.

2. Illegal Search or Seizure – Deputy 4 towed the complainant’s motor home.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that her motor home was towed, causing her family to become homeless. California Vehicle Code § 22651, Circumstances Permitting Removal of Vehicle, authorizes the removal of a vehicle found on the roadway with a registration expiration date in excess of six months. Sheriff’s Reports documented that the complainant’s vehicle was towed by a Sheriff’s Department Community Services Officer (CSO) because it had received numerous citations for failure to move every 72-hours, and displayed expired out-of-state license plates that had expired over 16 months prior. CLERB Rules and Regulations permit the review of alleged improper or illegal conduct of peace officers or custodial officers arising out of the performance of their duties or the exercise of peace officer authority. The vehicle tow was processed by a non-sworn CSO, therefore CLERB lacked jurisdiction, and the matter was referred to the Sheriff’s Department for follow-up.

3. Misconduct/Procedure – Deputy 4 denied the complainant’s son an opportunity to gather essential belongings from the towed vehicle.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that her 23 year-old son was unable to retrieve essential belongings, such as shoes and dog leashes, from the motor home prior to it being towed. The CSO reported that more than 15 minutes was given for the complainant’s son to gather belongs and exit the motor home. Photographs taken by the CSO showed shoes and sandals on the sidewalk outside of the motor home, and both dogs had been leashed prior to the towing of the motor home. See Rationale #2.

4. Misconduct/Procedure – Deputy 4 abandoned the complainant’s son on a rural road.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that her 23 year-old son was left abandoned on a rural road. The vehicle had been parked on a public roadway approximately ¼ mile from a business area. See Rationale #2.

5. Misconduct/Discourtesy – Deputy 1 stated that the complainant’s motor home “was shit anyway,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant stated that Deputy 1 called her cell phone to inform her that he had nothing to do with having her motor home towed. During that conversation, the complainant said that Deputy 1 commented that her motor home “was shit anyway.” Deputy 1 reported that he did call the complainant’s cell phone in response to the complainant’s request that he call. Deputy 1 stated that he left the complainant a voice mail describing actions taken, but did not recall making the alleged statement. There was no audio recording of the conversation, and no independent witnesses; therefore, there was insufficient evidence to prove or disprove the allegation.

6. Misconduct/Discourtesy – Deputy 3 subjected the complainant to unprofessional, rude, and threatening behavior.

Recommended Finding: Not Sustained

Rationale: The complainant stated the Deputy 3 was rude, negative, constantly badgered her, and tried to provoke her during the contact. Deputy 3 denied making any rude or negative remarks toward the complainant. Deputy 2 reported that he was by Deputy 3’s side throughout the contact, and reported that Deputy 3 conducted himself in a courteous and professional manner. There was no audio recording of the conversation, and no independent witnesses; therefore, there was insufficient evidence to prove or disprove the allegation.

7. Misconduct/Discourtesy – Deputy 3 stated to the complainant, “Poor ..., she thinks the whole world is on her back, and that everybody is out to get her,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant stated that Deputy 3 made a disparaging comment about her. Deputy 3 denied making any such statement. Deputy 2 was present throughout the contact and stated that Deputy 3 did not make the alleged statement. There was no audio recording of the conversation, and no independent witnesses; therefore, there was insufficient evidence to prove or disprove the allegation.

8. Illegal Search or Seizure – Deputy 2 searched the complainant’s possessions.

Recommended Finding: Not Sustained

Rationale: The complainant stated that Deputy 2 searched her possessions after being informed that she was not a Fourth Waiver. Deputy 2 reported that he has had previous contacts with the complainant and knew that she had not waived her Fourth Amendment rights. Deputy 2 observed the complainant’s possessions in a shopping cart, but denied that he searched the complainant’s possessions. Deputy 3 reported that he did not see Deputy 2 search the complainant’s property. There was no audio recording of the conversation, and no independent witnesses; therefore, there was insufficient evidence to prove or disprove the allegation.

14-138

1. Illegal Search or Seizure – Deputy 1 searched the complainant’s bedroom while conducting a Fourth Waiver search on one of his tenants.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 searched his bedroom while conducting a Fourth Waiver search on one of his tenants. A tenant residing in the home of the complainant was on Post Release Community Supervision (PRCS), pursuant to Penal Code Section 3450, Post Release Community Supervision Act of 2011,

and was subject to community supervision to be provided by the San Diego County Probation Department. One probationary condition required, in part, that the probationer submit his person, vehicle, residence and property to search, at any time with or without a warrant, and with or without reasonable cause, when required by his Probation Officer or law enforcement officers. Per Case Law, Search and Seizure – Joint Occupants, people who live with probationers or parolees cannot "reasonably expect privacy" in shared areas of the residence. During Fourth Waiver searches, law enforcement officers are permitted to conduct protective sweeps of every room of a residence for officer safety, and conduct a narrow search of each room to identify ownership of the room. Deputy 1 executed a protective sweep of the complainant's room, and conducted a narrow search of his room to establish Dominion and Control of the room; these actions were lawful, justified and proper.

14-142

1. Excessive Force/Taser – Deputy 1 deployed his Taser on the complainant's 35-year-old son.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 deployed his taser on his son, the aggrieved, when less force could have been used to control him. Deputy 1 was dispatched to the complainant's home to investigate a report of a family fight. The aggrieved had violently attacked the 72-year-old complainant and had left the family residence. Deputy 1 contacted the aggrieved while he was walking down the street, and three separate times instructed him to stop, so that he could talk to him; each time, the aggrieved refused. When the aggrieved dropped his head and shoulders, and began to charge at Deputy 1, fearing for his safety, the deputy deployed his taser, striking the aggrieved's torso and upper part of his leg. Pursuant to Sheriff's Policy 6.48, Physical Force, a deputy is authorized to use reasonable force to effect an arrest, to prevent escape or to overcome resistance. Deputy 1 employed a department approved Use of Force control compliance technique in order to control a subject, and his actions were lawful, justified and proper.

15-103

1. Misconduct/Procedure – PO 1 arrested a probationer and then failed to care for/house his orphaned animals.

Recommended Finding: Action Justified

Rationale: The complainant reported that a probationer and his pets were staying in a motorhome on the complainant's property, when the probationer was arrested and the complainant requested that "legal agencies" remove the pets. PO 1 confirmed he arrested a probationer who provided directives for the care of his pets. PO 1 followed those specified instructions including giving the RV keys to a third party, who agreed to provide care during the probationer's absence. PO 1 had multiple contacts with Animal Control officers, until the animals were removed from the RV and impounded on 9/27/15. The evidence shows PO 1's actions were lawful, justified and proper.

2. Misconduct/Procedure – PO 1 sent a third party civilian onto the complainant's property without permission and over explicit objections.

Recommended Finding: Action Justified

Rationale: The complainant said that he specifically told a probationer and his probation officer, that he did not want a "Mexican Tweeker," on his property. He also stated that the "Twecker" went to his house, but upon seeing the complainant, he fled. The complainant left, and upon his return, the motorhome had been moved across the street. The probationer who was staying on the complainant's property until the time of his arrest, did not respond to CLERB's request for information and was unavailable for clarification. PO 1 denied directing the "Twecker" to the complainant's property, but admittedly facilitated instructions provided by his probationer. The evidence showed PO 1's conduct was lawful, justified and proper.

End of Report