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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### REGULAR MEETING AGENDA

### TUESDAY, FEBRUARY 9, 2016, 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 north 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 January 2016 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) State Mandated Ethics Training (AB 1234)

-continued on next page-

**6. UNFINISHED BUSINESS**

- a) 2016 CLERB Executive Board Election
- b) Sheriff’s Department Response to CLERB recommendations regarding the Sheriff’s 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) **Request for Reconsideration:** Pursuant to CLERB Rules & Regulations: 16.9 Reconsideration of Final Report. Upon request by the complainant, subject officer or their representatives, the Final Report may be re-opened for reconsideration by the Review Board provided that: (a) previously unknown relevant evidence is discovered which was not available to the Review Board before it issued its Final Report, and; (b) there is a reasonable likelihood the new evidence will alter the findings and recommendations contained in the Final Report.
  - 14-072 / Giles
- b) **Discussion & Consideration of Complaints & Reports:** 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).
  - 14-121 / Korsch (Sustained – Deputy 3)
  - 15-105 / Leaf (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 (12)**

**ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE**

## 14-015

1. Death Investigation/In-Custody Medical – Deputy 1 observed Ronnie Sandoval’s eyes roll back in his head and watched as he fell to the floor hitting his head, before he suffered a seizure.

Recommended Finding: Action Justified

Rationale: There was no complaint of wrongdoing for this incident; a review was conducted in accordance with CLERB Rules & Regulations, 4.6 Citizen Complaint Not Required. While being booked into custody, Sandoval was observed sweating profusely so deputies noted the necessity for medical intervention. Sandoval was held in the medical screening area for observation for seven hours, under the care of nursing personnel and deputies; he never concluded the booking process. There are set parameters for blood sugar levels, and an inmate will be rejected for booking if their blood sugar is too high; meanwhile, there are no parameters for drug intoxication levels. Sandoval denied recent drug use, and his blood sugars were evaluated and determined to be within normal range. An autopsy revealed that Sandoval died an accidental death, due to acute methamphetamine intoxication. The Medical Examiner reported that the toxicological findings were suggestive that the decedent may have swallowed a drug bindle/package of some type at the time of his arrest, or concealed it and ingested it while in custody; however, no ruptured bindle could be identified in the gastrointestinal tract. Sworn and medical staff took the appropriate precautions and followed protocol for medical emergencies; their actions were lawful, justified and proper.

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## 14-129

1. Misconduct/Procedure – Deputy 1 failed to immediately notify the complainant when her 12-year-old child was taken into temporary custody.

Recommended Finding: Sustained

Rationale: The complainant alleged that Deputy 1 questioned her child without her permission regarding his alleged involvement in a crime. Witnesses identified the complainant’s son as the primary suspect in a felony vandalism crime. Deputy 1 had reasonable cause to believe that the complainant’s child had violated the law and was a person described in Section 602 of the Welfare & Institution code, so he contacted the minor at school, and without Mirandizing him (advising a person of their constitutional rights), questioned the minor regarding his involvement in the crime being investigated. Deputy 1 acknowledged that he did not contact the complainant until after he had completed his interview with the minor. The minor was in temporary custody at the time of this questioning, as he was not free to leave. Welfare & Institutions Code Section 627 requires that when an officer takes a minor into custody and to any place of confinement, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody, and the place where he is being held. Deputy 1 did not provide this notification, and his actions were not justified.

2. Misconduct/Procedure – Deputy 1 failed to provide telephone calls to the complainant’s 12-year-old child when he was taken into temporary custody.

Recommended Finding: Sustained

Rationale: Deputy 1 had reasonable cause to believe that the complainant’s child had violated the law and was a person described in Section 602 of the Welfare & Institution code, and took the minor into temporary custody for questioning. Welfare & Institutions Code Section 627 requires that a minor is allowed the right to make at least two telephone calls from the place where he is being held, immediately after being taken into custody. Deputy 1 acknowledged that he did not provide the minor these telephone calls and his actions were not justified.

3. Misconduct/Procedure – Deputy 1 questioned a minor regarding his involvement in a crime, without Mirandizing him.

Recommended Finding: Sustained

Rationale: The complainant reported that Deputy 1 questioned her 12-year-old child regarding his involvement

in a crime, without advising the minor of his constitutional rights. Deputy 1 acknowledged that he did not advise the minor prior to questioning him, nor at any time while the minor was in temporary custody. Welfare & Institution Code § 625, Temporary custody by peace officer; advisement of constitutional rights, requires that when a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor has violated any law, he shall receive a Miranda advisement. Deputy 1 had reasonable cause to believe that the complainant's 12-year-old child had violated the law, and did not advise the minor of his rights upon taking him into temporary custody. The evidence supports the allegation, and the act was not justified.

4. Misconduct/Intimidation – Deputy 1 told the complainant's 12-year-old child to confess to a crime or go to jail, or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant was informed by her child that during questioning, Deputy 1 told the minor to confess to a crime or go to jail, or used words to that effect. Deputy 1 denied making this statement, and school officials present while the minor was being questioned, denied that they heard Deputy 1 make this alleged statement. Absent the presence of independent witnesses, and an audio recording of Deputy 1's interview with the minor, there is insufficient evidence to either prove or disprove the allegation.

5. Misconduct/Discourtesy – Deputy 1 shouted at the complainant to “Get off the phone” when she tried to contact her lawyer for legal advice.

Recommended Finding: Not Sustained

Rationale: The complainant reported that Deputy 1 exclaimed, “Get off the phone!” when she attempted to contact her attorney for legal advice. Deputy 1 denied that he shouted to the complainant to “Get off the phone,” but rather asked her to hang the phone up or at least set the phone down so that he could continue his investigation. There were no independent witnesses or audio recording of this statement in order to assess the content and tone of what Deputy 1 specifically stated to the complainant. Absent this evidence, it cannot be determined if the actual statement could be construed as discourteous, leaving insufficient evidence to either prove or disprove the allegation.

**POLICY RECOMMENDATIONS:**

It is recommended that the San Diego Sheriff's Department revises Sheriff's Policy 6.2, Juvenile Procedures, to align more accurately with WI§ 625, Temporary custody by peace officer; advisement of constitutional rights, by removing language from the policy that allows advisements to be provided “*prior to being released from custody,*” and incorrectly requires advisements only if “*the juvenile is to be questioned about a specific offense.*”

It is also recommended that Sheriff's Policy 6.2, relative to WI§ 627, Parent or guardian notification of custody; minor's right to telephone calls, be further revised by removing from the policy the added stipulation “*and transports that juvenile to a place of confinement, such as a substation, station or Juvenile Hall,*” as this additional language inaccurately reflects the intent of the code relative to parent notification, and the minor's rights to telephone calls.

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**15-001**

1. Misconduct/Harassment – Deputy 3 “harassed” the aggrieved.

Recommended Finding: Not Sustained

Rationale: The complainant reported that the aggrieved had experienced numerous recent encounters with deputies that were deemed unwarranted and harassing. The complainant did not provide any documentation to support the allegation, and the attempts to clarify the alleged harassment with the aggrieved were unsuccessful. There was insufficient evidence to prove or disprove the allegation.

2. Misconduct/Procedure – Deputy 2 delayed and/or did not take a complaint from the aggrieved.

Recommended Finding: Not Sustained

Rationale: The complainant stated that the aggrieved went to the Sheriff's Station to obtain names and badge numbers of deputies so that he could file a complaint related to unwarranted harassment. Deputy 2 reported that the aggrieved did not request deputy identification information, but requested to speak with an off-duty Sergeant. The aggrieved was told that the Sergeant would be back the following day, and was provided a telephone number to contact the Sergeant to leave a voice message; however, the aggrieved refused to leave the Sheriff's Station. Deputy 2 denied that the aggrieved requested to file a complaint. Attempts to contact the aggrieved were unsuccessful, and therefore the information exchanged at the Sheriff's Station could not be verified. There was insufficient evidence to prove or disprove the allegation.

3. False Arrest – Deputy 1 arrested the aggrieved for a “No Bail Juvenile Bench Warrant,” booked him, and then released him the following night without any charges.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that the aggrieved was arrested under false pretense, because the bench warrant cited in his arrest was previously recalled by the Court. Deputy 1 reported that he contacted the aggrieved after deputies confirmed that there was an active bench warrant for his arrest. The evidence showed that the Court had directed the recall of the warrant prior to the aggrieved's arrest, but the Court Clerk failed to recall the warrant as court ordered. Because the warrant remained active in the system, the complainant was subsequently arrested. The Court Clerk, not sworn deputies from the Sheriff's Department, was responsible to recall the warrant, and Court personnel do not fall under CLERB jurisdiction. Per CLERB Rules & Regulations 4.1, CLERB lacks jurisdiction over the individual responsible for the aggrieved's arrest.

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**15-003**

1. Excessive Force/Pepper Spray – Deputy 2 responded to an inmate-on-inmate assault with a use of force against the complainant.

Recommended Finding: Action Justified

Rationale: The complainant reported that the victim initiated a fight with her. Video evidence documented the complainant repeatedly and violently striking the victim in the head with her fist. Deputy 2 reportedly responded to the assault and issued commands, but the complainant continued to fight until two-short bursts of pepper-spray were applied to her face. Video evidence corroborated that the force used was proper and necessary to prevent further injury to the victim.

2. Misconduct/Procedure - Deputy 1 placed the complainant in lock-up without providing medical care for a wrist fracture.

Recommended Finding: Action Justified

Rationale: The complainant was unavailable for further clarification in this matter. Sheriff's medical records confirmed the complainant was treated by medical staff, who followed protocol for pepper spray removal, and issued her an ice pack for an unspecified strain. There was no documentation associated with a wrist injury. Deputy 1 conducted a Disciplinary Hearing with the complainant following the use of force for an inmate-on-inmate assault. Based upon comments, actions and observations of video evidence, he determined the complainant was in violation of the following Inmate Rules & Regulations - assaulted an inmate, interfered with jail operations, and disobeyed staff instructions. Deputy 1 imposed five days of disciplinary isolation in accordance with policy. The complainant then sought medical treatment following her release from custody and hospital records confirmed assessment and treatment for wrist, neck, back, and leg pains. The evidence showed the actions taken by medical and sworn staff at the time of the incident were lawful, justified and proper.

## 15-004

1. False Arrest – PO 1 arrested the complainant.

Recommended Finding: Action Justified

Rationale: The complainant was released to Post Release Community Supervision (PRCS) pursuant to Penal Code section 3450, Post Release Community Supervision Act of 2011, and was subject to community supervision provided by the San Diego County Probation Department. General and special conditions of release were outlined and explained to the complainant during his office visit with PO 1. The complainant signed these conditions indicating that he understood, and was receptive to all outlined conditions. The complainant's probation conditions required that he report to Probation within two days of release from custody, and he failed to do so. The complainant violated probation, a warrant was issued for his arrest, and he was subsequently re-arrested. The evidence showed that the act did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – PO 1 requested full access to the complainant's computer accounts and passwords under threat of incarceration.

Recommended Finding: Action Justified

Rationale: The complainant stated that PO 1 forced him to turn over passwords for all of his online accounts. The complainant's probation conditions required that he "Submit person, vehicle, residence, property, personal effects, computers, and recordable media to search at any time with or without a warrant, and with or without reasonable cause, when required by law enforcement, probation or peace officer." Additional conditions were added pursuant to Penal Code § 3450(6)(B), Intensive Community Supervision, requiring that the complainant provide all electronic usernames and passwords, to include all social media, Craigslist, PayPal, eBay, and any other information, as required by his probation officer. The complainant signed the modified conditions, and understood that failure to comply with the condition could result in his rearrest. The evidence showed that the act did occur, but was lawful, justified and proper.

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## 15-016

1. Illegal Search & Seizure – Deputy 1 searched the aggrieved's property without her permission.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 searched her house guest's property without her permission. The complainant was on searchable probation, which in part required that she submit her person, vehicle, residence and property to search by her Probation Officer or law enforcement officers, at any time, with or without a warrant, and with or without reasonable cause. Deputies were conducting a Fourth Waiver search at the residence of the complainant, when during a protective sweep, the aggrieved was contacted while in the complainant's bedroom and escorted to the kitchen area downstairs. The aggrieved's backpack was located in the complainant's bedroom and searched by Deputy 1. It is disputed as to whether or not consent was given for the search, however during probation searches, any property under a probationer's control is subject to search, without consent. The backpack was located in the complainant's bedroom, a person who was on searchable probation, and as such the actions of Deputy 1 were lawful, justified and proper.

2. False Arrest – Deputy 1 arrested the aggrieved without cause.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 arrested her house guest without cause. Deputy 1 contacted the aggrieved while conducting a protective sweep during a probation search in the complainant's home. The aggrieved's personal property was searched, and illegal contraband was located. Pursuant to PC§ 836, Peace Officer Arrests, a peace officer may arrest a person if the officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence. The aggrieved was found in possession of drug paraphernalia containing a small amount of a controlled substance. Deputy 1 arrested the aggrieved

pursuant to HS §§ 11364, Possession of Controlled Substance Paraphernalia, and 11377, Unlawful Possession of Restricted Dangerous Drug, and this action was lawful, justified and proper.

3. Illegal Search & Seizure – Deputy 2 searched the complainant’s vehicle without authorization or permission.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 2 searched her vehicle without authorization or consent. During the conduction of a Probation Search at the home of the complainant, the complainant’s vehicle was located in the garage and searched. The complainant was on searchable probation at the time of this search, and as such was required to submit her person, vehicle, residence and property to search by Probation Officers or law enforcement officers, at any time, with or without a warrant, and with or without reasonable cause. Deputy 2 searched the complainant’s vehicle pursuant to the complainant’s probation conditions, and his actions were lawful, justified and proper.

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**15-026**

1. Illegal Search or Seizure – Deputy 2 detained the complainant.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 2 detained him without cause. The complainant was seated in his car in a parking lot at approximately 11:00 pm waiting for a friend, when he was contacted by Deputy 2. Deputy 2 reported that he noticed a lone vehicle parked at the mall at an hour when all of the mall’s stores were closed, so he contacted the complainant to further inquire. While speaking with the complainant, Deputy 2 noticed in plain sight what appeared to be an opened alcohol container in the back seat of the vehicle, in violation of Business & Professional Code Section 25620, Possession of Open Container in Park or Other Public Property, and Poway Municipal Code 8.10.010(a) which prohibits possession of open alcoholic containers on or near premises where liquor is sold. Deputy 2 asked the complainant to exit his vehicle and detained him pending investigation of the alcohol container, to determine if the seal had been broken and contents partially removed. Case law holds that a detention is valid if law enforcement officers have "reasonable suspicion" that a crime has been committed, or is afoot; and the person being detained is connected with that activity. Deputy 2, having seen an open alcohol container in the complainant’s vehicle, had reasonable suspicion to detain the complainant, and his actions were lawful, justified and proper.

2. Misconduct/Discourtesy – Deputy 4 stated to the complainant, “Get the hell out of the car, or we’ll drag you out,” or used words to that effect.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 4 stated to him, “Get the hell out of the car, or we’ll drag you out,” or used words to that effect. Deputy 4 was dispatched to the scene at 11:00 pm, with a report that a suspicious, occupied vehicle had been located parked in the parking lot of a closed mall. When Deputy 4 arrived on scene, he heard Deputy 2 repeatedly order the complainant to step out of his vehicle, while the complainant continually argued and refused. In an attempt to avoid having to use physical force to gain compliance, Deputy 4 reported that he made the alleged statement, as experience had shown him that the use of strong language was helpful in avoiding the use of physical force when dealing with uncooperative subjects. The complainant immediately exited the vehicle without further incident. Sheriff’s Policy 2.22, Courtesy, prohibits the use of coarse, profane or violent language, except when necessary to establish control during a violent or dangerous situation. The complainant was seated in a dark vehicle and had repeatedly refused to follow Deputy 2’s orders to exit his vehicle. The complainant’s refusal to cooperate created a potentially dangerous situation, as the complainant possibly had access to concealed weapons while seated in his vehicle. Moreover, it is an atypical mindset that would blatantly disobey a lawful order given by law enforcement, and caution is paramount while dealing with such a person. Deputy 4’s language, while strong under normal conditions, was used within policy given the totality of the circumstances, and was justified and proper.

3. Misconduct/Discourtesy – Deputy 4 stated to the complainant, “Shut the hell up,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 4 stated to him to, "Shut the hell up," or used words to that effect during a law enforcement contact. Deputy 4 denied making this statement, and other deputies on scene denied that they heard Deputy 4 make the alleged statement. Absent independent witnesses or an audio recording of this contact, there was insufficient evidence to prove or disprove the allegation.

4. Illegal Search or Seizure – Deputy 2 searched the complainant's vehicle without permission.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 2 searched his vehicle without permission. When Deputy 2 contacted the complainant, he noticed in plain sight what appeared to be an opened alcohol container in the back seat of the vehicle. The complainant was parked in a lot adjacent to a liquor store. Deputy 2 detained the complainant pending investigation of the alcohol container, and conducted a probable cause search of the complainant's vehicle for additional contraband. Under the "Automobile Exception," case law authorizes law enforcement officers to search any part of a vehicle (including the trunk and closed containers) if there is probable cause to believe that the vehicle contains evidence of criminal activity, and the evidence may be located in the area searched. Deputy 2 observed an open bottle of an alcoholic beverage inside the complainant's vehicle, and conducted a limited search of the vehicle to ensure that no other contraband was present. This search was within policy and was lawful, justified and proper.

5. Misconduct/Procedure – Deputies 2, 3 and 4 refused to provide the complainant their names and badge numbers when requested.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that he requested the names and badge numbers of Deputies 2, 3 and 4, but was declined. All three deputies reported that they had no recollection of being requested this information, and further stated that if asked, they would have provided this information to the complainant. There are no independent witnesses to this incident and absent an audio recording of this contact, there was insufficient evidence to prove or disprove the allegation

6. Misconduct/Procedure – Deputy 1 failed to take a complaint.

Recommended Finding: Not Sustained

Rationale: The complainant reported that he contacted Deputy 1 by phone following this incident with Deputies 2 and 4, but he would not take a complaint, informing the complainant that he would need to speak directly with the subject deputies' supervisor when he was on duty. Deputy 1 did not recall this contact with the complainant, but stated that in situations where a citizen would call and complain about a deputy's actions, customarily he would try to handle the complaint himself, and if that did not suffice, he would notify the deputy's immediate supervisor, who would contact the complainant once back on duty. If, however, a person wanted to file a formal complaint, Deputy 1 stated that he would inform the person about the process. To his recollection, the complainant never requested to file a formal complaint. The contact between Deputy 1 and the complainant took place over the phone with no independent witnesses present, leaving insufficient evidence to prove or disprove the allegation.

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**15-027**

1. Misconduct/Procedure – Deputy 1 cited the complainant for using his dealer plate for a "non-dealer related task."

Recommended Finding: Sustained

Rationale: The complainant reported that during a traffic stop, Deputy 1 cited him for using his dealer plate for non-business purposes. Deputy 1 conducted a traffic stop on the complainant after he was observed failing to stop at a red left turn signal. During the contact, Deputy 1 informed the complainant that his registration was expired, and that a dealer plate in his possession was being misused because the complainant was driving his



vehicle for non-dealer related tasks. The complainant informed Deputy 1 that he was a dealer and was allowed to operate his vehicle for any purpose. VC§ 11715, Operation with Special Plates: Exceptions, supports the complainant's assertion allowing for dealers to use assigned special dealer plates for any purpose, business or otherwise. Policy 2.30, Failure to Meet Standards, requires in part that deputies properly perform their duties and assume the responsibilities of their positions. Failure to meet standards may also be demonstrated by a lack of knowledge of the application of laws required to be enforced, as was the case in this instance. Deputy 1 acknowledged that he improperly cited the complainant in violation of Policy 2.30, and issued an amendment dismissing the infraction; however, his act was not justified.

2. Illegal Search or Seizure – Deputy 1 seized the complainant's special dealer plate.

Recommended Finding: Sustained

Rationale: The complainant reported that Deputy 1 seized his special dealer plate during a traffic stop. While conducting a traffic stop, Deputy 1 cited the complainant for using his dealer plate for non-business purposes, and reported that he confiscated the dealer plate as evidence, and to prevent any further misuse of the dealer plate. Deputy 1 incorrectly cited the complainant for misuse of his dealer plate and subsequently seized the complainant's dealer plate for improper reasons. The evidence supports the allegation and the act was not justified.

3. Misconduct/Discourtesy – Deputy 1 stated to the complainant, "I'm not trying to be an asshole," or used words to that effect.

Recommended Finding: Sustained

Rationale: The complainant alleged that Deputy 1 stated to him, "I'm not trying to be an asshole," or used words to that effect, while citing him during a traffic stop. Deputy 1 acknowledged making this comment, stating that he made the remark with a calm demeanor and even toned voice, attempting to diffuse the situation and to get the complainant to see that he was only doing his job in citing him for traffic violations. That withstanding, Sheriff's Policy 2.22, Courtesy, forbids the use of coarse, profane or violent language unless necessary to establish control during a violent or dangerous situation. Deputy 1 used prohibited language during a traffic stop that was under control and was neither violent nor dangerous. This conduct was in violation of sheriff's policy and was not justified.

4. Misconduct/Procedure – Deputy 1 declined the complainant's request to summon a sergeant to the scene.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 declined his request to speak to a supervisor there at the scene. Deputy 1 reported that when the complainant requested to see a sergeant in person, he provided him a Sheriff's business card and informed him of which number to call to speak with an on duty Sergeant. The Sheriff's Department does not have a policy that requires deputies to summon a sergeant to a scene upon request by a citizen. Deputy 1 provided the complainant appropriate contact information and this conduct was lawful, justified and proper.

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## 15-040

1. Excessive Force – Deputies 1-5 used excessive force on the complainant during laundry exchange.

Recommended Finding: Action Justified

Rationale: The complainant alleged that he was grabbed and thrown to the ground during laundry exchange. Deputies reported that the complainant was approached and directed to step closer to and face the wall; and the complainant responded by turning further from the wall. Deputies 1 and 3 approached and directed the complainant to place his hands behind his back, when he actively resisted by tensing his arms and attempted to break free of the deputies' holds. Surveillance video showed that deputies approached, and appeared to give the complainant direction; the complainant also appeared to turn toward deputies and respond. Deputies attempted to place the complainant in handcuffs, a struggle ensued, and the complainant was taken to the ground. Deputies

2, 4 and 5 assisted by using Department approved control compliance techniques, body weight, and elbow, knee, and fist strikes to subdue the inmate. Following the use of force, the complainant was evaluated and treated by medical personnel. The complainant's failure to obey staff instructions and resistance to deputies' hand controls necessitated the use of force, and the actions were lawful, justified and proper.

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#### **15-041**

1. Misconduct/Procedure – Deputy 1 forced the disabled complainant to slide across the floor on his bottom during movement.

Recommended Finding: Summary Dismissal

Rationale: The complainant submitted a signed complaint a year to the date, for the incident giving rise to his complaint. He left local custody on an unknown date and was not found to be in state custody. An out-of-custody telephone number provided by the complainant was also non-operable, and his current whereabouts are unknown. There was no identification of any named member(s) and the complainant was unavailable for clarification of any of the evidence produced by the Sheriff's Department.

2. Misconduct/Procedure – Deputy 1 violated American Disabilities Act (ADA) requirements.

Recommended Finding: Summary Dismissal

Rationale: See rationale #1.

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#### **15-077**

1. Misconduct/Procedure – Deputy 1 placed the complainant in a Safety Cell without a garment.

Recommended Finding: Action Justified

Rationale: The complainant stated she was held in a safety cell for an extended period of time without any garment. Deputy 1 documented that the complainant was not to be given a safety cell garment per a doctor's order. Detentions Policies and Procedures J.1, Safety Cells, Definition and Use, state that safety cell garments may be withheld if there is reason to believe that the inmate is likely to attempt to use the safety cell garment to harm oneself. Based on the complainant's identifiable risks provided by the arresting officers and medical personnel, the complainant's safety cell garment was withheld pending evaluation. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

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#### **15-115**

1. Excessive Force/Fist – Deputies 1-3 placed the complainant into a safety cell and injured his left eye when they hit him.

Recommended Finding: Action Justified

Rationale: The complainant said as he sat in a jail cell with others who wanted to kill themselves, he received a hit in the left eye and still has the scar. Surveillance video malfunctioned and was unavailable for review. Officer Reports documented the complainant's intent to mortally harm himself by jumping off a top tier headfirst, and a doctor's subsequent order for safety cell placement. During placement, the complainant screamed, "I want to die!" He was actively resistant and displayed aggressive behavior toward deputies. The complainant continued to resist the deputies' efforts to secure him, and Deputy 2 delivered a fist strike to the left side of his face in order to control him. Deputies 1 and 3 assisted by using department approved hand control, in an attempt to restrain the complainant, who fell to his knees and continued to thrash about until deputies pinned him to the floor. The force utilized was reasonable and necessary to prevent the complainant from harming himself and/or others.

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*End of Report*