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**FINAL NOTICES**

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its April 12, 2016 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:** 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).
  - 14-129 / Natisin (Sustained - Deputy 1)
  - 15-027 / Hamidi (Sustained x 3 – Deputy 1)
  - 15-028 / Dowding (Sustained x 2 – Deputy 1)  
(Sustained x 2 – Deputy 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 (8)**

**ALLEGATIONS, FINDINGS & RATIONALE**

**14-041**

1. Death Investigation/Suicide – Deputies 1 and 2, during a routine security check, discovered Inmate Brandon Mason hanging by his neck in his cell, with blood coming from his mouth and nose.

Board Finding: Action Justified

Rationale: A family member believed that Mason was not suicidal; said she was told that guards entered his cell for over an hour before medical response was called; and that there was blood spatter on the wall. She also reported that she observed taser marks on Mason's neck and stab marks near his groin area at the hospital; and that the Sheriff's department had Mason's body cremated so there would be no evidence of a cover-up. The

decendent gave no indication to anyone that he was suicidal, so no safety precautions were in place or mandated. Based on the autopsy findings, the cause of death was anoxic/ischemic brain injury due to resuscitated hanging, and the manner of death was suicide. There was a lightly scabbed ligature furrow (rubbed mark) of the neck, consistent with the history of self-hanging with a sheet. The Medical Examiner documented all of the medical intervention sites (8), including a puncture site to the right groin. The homicide investigation revealed no evidence of foul play or involvement by others with Mason's death. Video evidence corroborated the timeline, and the evidence was clear, that Mason was the sole occupant of his cell and no one entered the cell prior to when he was last seen alive; approximately nine minutes prior to when deputies found him hanging. Deputies took immediate action, followed prescribed protocol in summoning medical personnel, and their actions were lawful, justified and proper.

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## **15-008**

1. Misconduct/Procedure – Deputies 1 and 2 “tore up” the aggrieved’s cell while conducting a cell search.

**Board Finding:** Not Sustained

**Rationale:** The complainant alleged that Deputies 1 and 2 “tore up” the aggrieved’s cell while conducting a cell search. Efforts to contact the aggrieved for first-hand, clarifying information about this complaint were unsuccessful, as the aggrieved failed to respond to CLERB’s queries. Deputy 1 did not recall the identity of the deputy who assisted with the search of the aggrieved’s cell, but denied that he or the other deputy involved “tore up” the aggrieved’s cell during the search. He reported that the cell search was recorded on camera and archived, but this video could not be located and was not available for review. Absent video evidence and/or detailed information from the aggrieved about the search, there is insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – Deputy 1 confiscated the aggrieved’s prescribed medication and several books while conducting a cell search.

**Board Finding:** Action Justified

**Rationale:** The complainant alleged that Deputy 1 confiscated the aggrieved’s prescribed medication and several books while conducting a cell search. During a search of the aggrieved’s cell, Deputy 1 located 13½ “Watch take” pills that had been “cheeked” and hoarded by the aggrieved. Watch take medications are narcotics and other strong medications that inmates must take while being observed by medical and sworn staff to ensure ingestion, as inmates will often hide these types of pills in their cheeks and hoard them in their cells for later use or to sell. This is a violation of detentions Policy O.1, Inmate Rules and Regulations, which prohibit inmates from accumulating prescription medication and requires that all medication is consumed at the prescribed time. Deputy 1 also confiscated several books during this cell search, as the aggrieved had books in his possession over the allowable limit. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 confiscated the aggrieved’s legal files while conducting a cell search.

**Board Finding:** Not Sustained

**Rationale:** Deputy 1 denied that he confiscated the aggrieved’s legal files while conducting a cell search, stating that only the metal binders in the folders were removed and confiscated as contraband. The aggrieved had taken the metal pieces from the folders and fashioned them into something other than their intended use, which is a rules violation. Per Deputy 1, all of the aggrieved’s legal material was given back to him once the metal items were removed. It is unclear; however, whether or not screening of the aggrieved’s legal files was done in his presence, as required by policy. Without direct statements from the aggrieved regarding this allegation, there is insufficient evidence to either prove or disprove the allegation.

4. Excessive Force – Deputy 2 “deliberately inflicted pain” on the aggrieved by “pulling his injured arm behind his back.”

Board Finding: Unfounded

Rationale: The complainant reported second hand information, stating that unidentified deputies “deliberately inflicted pain” on the aggrieved by “pulling his injured arm behind his back.” The aggrieved failed to respond to CLERB’s attempts to clarify these complaint issues, but stated in a recorded interview with detentions staff that unidentified deputies “forced me to put my arms behind my back,” and hold that position despite being informed that this position was causing him pain. The aggrieved did not indicate that deputies “pulled” his arms or even touched him, and denied that any force was used. A video recording of cell searches in the aggrieved’s module on the incident date, showed inmates exiting their cells and facing a wall, with their hands, unassisted, either behind their backs or to their sides. Although the aggrieved could not be specifically identified in the video, the recording showed that inmates cooperated with the cell searches, and deputies were not required to use force. The aggrieved’s statements and available video evidence, indicate that the alleged act did not occur.

5. Excessive Force – Deputy 2 forcibly held the aggrieved’s arm in a painful position for over 6 minutes.

Board Finding: Unfounded

Rationale: See Rationale #4

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**15-030**

1. Misconduct/Procedure – Deputy 1 placed the complainant in Administrative Segregation (Ad Seg) for making complaints.

Board Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 placed him in Administrative Segregation for making complaints against sworn and medical staff. The complainant had a history of psychiatric and behavioral problems resulting in an inability to be housed and maintained in General Population. The complainant had refused to allow the placement of another inmate in his cell, which was a violation of rules, and had alleged that other inmates, who per the complainant were cops in disguise, were using “wizardry and black magic” on him. Inmate Policy J.3, Segregation: Definition and Use, permits the separation of inmates from the general population into special housing for inmate and staff safety, as well as facility security, when an inmate displays the “continual inability or unwillingness to adjust and conform to the minimum standards expected of those in mainline housing.” Deputy 1 reported that he placed the complainant in segregated housing for his safety; this placement was according to policy, and was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 placed the complainant in Administrative Segregation for making complaints.

Board Finding: Action Justified

Rationale: The complainant alleged that Deputy 2 placed him in Administrative Segregation for making complaints against sworn and medical staff. Deputy 2 reported that she placed the complainant in segregated housing, pending a classification and psychiatric review, after several inmates approached her stating that the complainant needed to be moved out of the module because he continued to yell and scream at inmates, and tried to pick fights by swinging at them. Inmate Policy J.3, Segregation: Definition and Use, permits the separation of inmates from the general population into special housing for inmate and staff safety, as well as facility security, when an inmate displays the “continual inability or unwillingness to adjust and conform to the minimum standards expected of those in mainline housing.” The complainant was placed in segregated housing because he displayed behaviors that precluded continued placement in mainline housing. This placement was according to policy, and was lawful, justified and proper.

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**15-035**

1. Misconduct/Procedure – Deputy 1 failed to place the complainant in a safety belt prior to transporting him.

Board Finding: Sustained

Rationale: The complainant reported that Deputy 1 failed to place him in a safety belt prior to being transported, resulting in numerous injuries caused by a collision. Deputy 1 was transporting the complainant to a detention facility when he was involved in a three car collision. Deputy 1 acknowledged that he did not place the complainant in a safety belt prior to the transport, but had observed Deputy 2 attempt to do so. Per deputies, Deputy 2 could not secure the safety belt around the complainant due to his large size. VC§ 27315, Mandatory Seat Belt Law; Motor Vehicle Safety Act, mandates that *“a person shall not operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt.”* Sheriff’s Policy 5.5, Safety Belts, reiterates this requirement stating that *“the driver of any county vehicle shall use and ensure all passengers use the available safety belt/shoulder harness restraint equipment installed in the vehicle before moving that vehicle.”* The only exception is if transporting a violently combative prisoner, where during placement of a seat belt on a subject would create a potential injury situation to the deputy and/or prisoner. A Sheriff’s Department Information Source reported that if a passenger is too large to be secured in a standard safety belt, protocol requires that the passenger should be transported in a facility van, or the Prisoner Transportation Unit be contacted for transportation assistance. The evidence supports the allegation and the act was not justified.

2. Misconduct/Procedure – Deputy 1 drove at an unsafe speed while transporting the complainant, causing a collision and injury to the complainant.

Board Finding: Sustained

Rationale: The complainant alleged that Deputy 1 drove at excessive and unsafe speeds while transporting him, causing a collision. Deputy 1 denied that he drove at an unsafe speed prior to colliding into a vehicle ahead of him, and did not acknowledge any culpability for the accident. Another driver involved in this accident reported that immediately prior to the collision, he was traveling at approximately 40 miles per hour, in stop-and-go traffic, when he had to abruptly brake due to traffic ahead suddenly stopping. Sheriff’s Policy 2.35, Operation of Vehicles, requires that Employees operate all county owned or maintained vehicles, or any vehicle being operated in the performance of their official duties, in a careful and prudent manner, and shall obey all laws of the state and all Departmental orders pertaining to such operation. A California Highway Patrol Officer (CHP) conducted a collision investigation and determined that Deputy 1 was the primary cause of this collision by driving in violation of VC§ 22350, Basic speed Law, which states in part that: *“No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility and in no event at a speed which endangers the safety of persons or property.”* The CHP investigation further concluded that *“Deputy 1 was traveling at such a speed, that he was unable to observe, perceive and react in time.”* The evidence supports the allegation and the act was not justified.

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**15-050**

1. Illegal Seizure – Deputy 4 detained the complainant and placed her in the back of his patrol vehicle.

Board Finding: Action Justified

Rationale: The complainant stated that she was detained and placed in the back of a patrol vehicle after she was pulled over by Deputy 4. The complainant said that she did not immediately pull over when she saw the emergency lights, because of poor lighting and the roadway did not offer a safe place to yield. Deputy 4 reported that he initiated the traffic stop after he observed the complainant operating her vehicle with a non-working license plate light, and the complainant failed to yield to the lights and siren, driving approximately 1.2 miles before yielding. Due to the complainant’s failure to yield to emergency lights and siren, she was ordered to exit the vehicle, handcuffed, and placed in a patrol vehicle. The complainant was detained and placed into a patrol vehicle, and he acts were lawful, justified and proper.

2. Excessive Force/Tight Handcuffs – Deputy 4 applied handcuffs tightly on the complainant’s wrists.

Board Finding: Not Sustained

Rationale: The complainant stated that Deputy 4 put the handcuffs on tightly, hurting her wrists. Deputy 4

denied placing the handcuffs on too tight, stating that after placement, he placed his index finger between the handcuffs and the complainant's wrist to ensure they were not too tight. Deputy 6 removed the handcuffs at the conclusion of the traffic stop, but did not recall if the complainant had complained about the handcuffs being uncomfortable or too tight. Other deputies at the scene denied that they heard the complainant say that the handcuffs were too tight. There was insufficient evidence to prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 4 would not provide the complainant with a reason for a traffic stop.

Board Finding: Not Sustained

Rationale: The complainant said she immediately began to ask why she needed to pull over, and deputies would not respond. After she was handcuffed and placed into a patrol vehicle, she said she asked Deputy 4 why she was going to be arrested, and he did not respond. Deputy 4 reported that he did advise the complainant of the reason for the stop, and ultimately released her with a citation for violation of California Vehicle Code §§ 21806, Failure to Yield to Authorized Emergency Vehicles, and 24601, No License Plate Lamp. There was no audio or video evidence of the incident, nor were there any independent witnesses to show whether or not Deputy 4 notified the complainant of the reason for stop prior to issuing the citation. There was insufficient evidence to prove or disprove the allegation.

4. Excessive Force – Deputies 1-7 and/or 8 pointed their weapons toward the complainant's head.

Board Finding: Not Sustained

Rationale: The complainant stated that she fell as she got out of her car; she looked up, and saw “guns aimed at her head.” Deputy 4 initiated the pursuit of the complainant's vehicle because she had failed to yield to an emergency vehicle, and considered it a high risk vehicle stop. Deputy 4 reported that per training guidelines, he removed his firearm from the holster as he got out of his patrol vehicle; however, once Deputy 4 observed the driver was an older female adult, responsive and compliant with commands, he holstered his weapon without pointing it at the complainant. Deputies 1-8 denied pointing their firearms at the complainant. There was no audio or video evidence of the incident, nor were there any independent witnesses to the incident, therefore, there was insufficient evidence to prove or disprove the allegation.

5. Illegal Search/Vehicle – Deputies 1-7 and/or 8 searched the complainant's vehicle.

Board Finding: Not Sustained

Rationale: The complainant stated that an unidentified deputy retrieved her vehicle registration and proof of insurance from her glove compartment, searched shopping bags, and the trunk of her car. The complainant did not present her vehicle registration and proof of insurance to Deputy 4 because she had been handcuffed, and placed in the back of a patrol vehicle. All deputies present denied searching the complainant's vehicle, and Deputy 4 reported that he could not recall the identity of the deputy that handed him the complainant's registration and proof of insurance. Case law allows for a limited search of a vehicle for license and registration and a warrantless search is permissible incident to an arrest. However, there was insufficient evidence to either prove or disprove that the vehicle search exceeded that needed to locate the complainant's vehicle license and registration.

6. Illegal Search/Person – Deputies 1-7 and/or 8 searched the complainant's purse.

Board Finding: Action Justified

Rationale: The complainant stated that an unidentified deputy retrieved the license from her purse. Since the complainant had been handcuffed and placed in the patrol vehicle, it was necessary for deputies to locate the complainant's driver's license. Deputies present denied searching the complainant's purse, and Deputy 4 reported that he could not recall the identity of the deputy that handed him the complainant's driver's license. However, during any vehicle stop, deputies are entitled to see and examine the driver's license and the vehicle's registration, and case law allows for the limited search for license and registration. The complainant's driver's license was located in her purse, and the act was lawful, justified and proper.

1. Illegal Seizure – Deputy 1 detained the complainant.

Board Finding: Action Justified

Rationale: The complainant stated that Deputy 1 detained him as he left a swap meet. Deputy 1 observed the complainant's vehicle enter a swap meet, and noted an out-of-date temporary registration displayed in the rear window. Deputy 1 confirmed that the vehicle registration had been expired for more than one year. As the complainant departed the area, Deputy 1 initiated a traffic stop because the complainant's vehicle did not have a front license plate, a violation of the California Vehicle Code § 5200, Display of License Plates, and for suspicion that the vehicle registration was not current, a violation of California Vehicle Code § 4000, Registration Required. Additionally, the complainant's vehicle now displayed a different temporary operating permit than that previously observed. Per California case law, a traffic stop is lawful if a vehicle displays expired tags and the absence of a front license plate, even though the car displays a temporary operating permit. The act did occur, but was lawful, justified and proper.

2. Excessive Force – Deputy 1 “grabbed” the complainant by the throat and pulled him from his car.

Board Finding: Not Sustained

Rationale: The complainant stated that Deputy 1 reached into his vehicle, grabbed him by the throat, and pulled him from his truck. Deputy 1 denied that any force was used to remove the complainant from his vehicle because the complainant complied when he was told to step out of his vehicle. There were no independent witnesses, nor were there any audio or video recordings of the incident. There was insufficient evidence to prove or disprove the allegation.

3. Excessive Force – Deputy 1 “slammed” the complainant into the rear door of his vehicle.

Board Finding: Not Sustained

Rationale: The complainant stated that Deputy 1 slammed him hard on the rear driver side door. Deputy 1 denied that any force was used during the contact. There were no independent witnesses, nor were there any audio or video recordings of the incident. There was insufficient evidence to prove or disprove the allegation.

4. Excessive Force/Tight Handcuffs – Deputy 1 placed the complainant's handcuffs on so tight that his hands went numb.

Board Finding: Not Sustained

Rationale: The complainant stated that his hands went numb because the handcuffs were too tight. Deputy 1 reported that the handcuffs were not applied too tight, and further reported that the complainant did not make any statement that the handcuffs were too tight. There were no independent witnesses, nor were there any audio or video recordings of the incident. There was insufficient evidence to prove or disprove the allegation.

5. Illegal Search – Deputy 1 searched the complainant's vehicle.

Board Finding: Action Justified

Rationale: The complainant stated that Deputy 1 searched his vehicle without reason. Deputy 1 reported that the vehicle registration information provided by the complainant was incomplete, and he conducted a limited search of the center console armrest and glove compartment looking for current registration documents as permitted under California case law. During the limited search, Deputy 1 found prescription medications in an unmarked canister and suspected burglary tools, which resulted in the complainant's arrest. Deputy 1's limited search for documents, and the complete vehicle search incident to the complainant's arrest, was permissible under California case law. The act did occur, but was lawful, justified and proper.

6. Illegal Search – Deputy 1 searched the complainant's cell phone and deleted information.

Board Finding: Not Sustained

Rationale: The complainant said that he began to record the contact on his cell phone, but Deputy 1 confiscated the phone, searched it, and deleted the recording. Deputy 1 denied that he searched or accessed any of the content in the complainant's phone. Deputy 1 reported that he handled the complainant's cell phone on two occasions: first to remove it from his person, and then to secure the phone in a property bag during the booking process. There were no independent witnesses, nor were there any audio or video recordings of the incident. There was insufficient evidence to prove or disprove the allegation.

7. Misconduct/Procedure – Deputy 1 held the complainant in a patrol vehicle for an extended period of time with no air conditioning.

Board Finding: Not Sustained

Rationale: The complainant said he was held in the patrol vehicle for an extended period without air conditioning, causing him to feel ill. Deputy 1 reported that his patrol vehicle air conditioning was operational but, there were no air conditioning vents in the rear passenger compartment. The complainant said Deputy 1 opened the windows shortly after his request; Deputy 1 reported that the rear windows were open during the entire contact. There were no independent witnesses, nor were there any audio or video recordings of the incident; therefore, there was insufficient evidence to prove or disprove the allegation.

8. False Arrest – Deputy 1 arrested the complainant.

Board Finding: Action Justified

Rationale: The complainant did not believe that Deputy 1 had probable cause to place him under arrest. Deputy 1 initiated the traffic stop because of the absence of a front license plate on the complainant's vehicle, and an expired temporary operating permit. As Deputy 1 searched the vehicle for current registration information, he located prescription drugs and suspected burglary tools which led to the complainant's arrest for violations of Health and Safety Code § 11377(a), Unlawful Possession of Restricted Dangerous Drugs, and Penal Code § 466, Possession of Burglars' Tools. The act did occur, but the arrest was lawful, justified and proper.

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## 15-069

1. Excessive Force/Drawn Firearm – Deputy 1 pointed a taser at the complainant.

Board Finding: Action Justified

Rationale: The complainant stated that Deputy 1 exited his patrol vehicle and pointed a taser at his face. Deputy 1 reported that he contacted the complainant because he matched the broadcast description of a suspect, reported to have brandished a weapon and spit in a shop owner's face. Deputy 1 exited his patrol vehicle, pointed his department issued firearm at the complainant, and ordered him to take his hands out of his pockets. The complainant complied and was ordered to the ground; after which Deputy 1 transitioned from his firearm to his taser, pointing the taser at the complainant until he was handcuffed. Sheriff's Department Addendum F, Use of Force Guidelines, directs deputies to use the available force option which is reasonable and necessary for the circumstances at the time. Deputy 1 had reasonable suspicion that the complainant was armed, and used reasonable and necessary force to take him into custody. The act did occur, but was lawful, justified and proper.

2. Illegal Search – Deputy 1 removed the complainant's pants and shoes.

Board Finding: Action Justified

Rationale: The complainant stated that Deputy 1 took off his pants and shoes. Deputy 1 contacted the complainant because he was suspected of threatening a store owner with a knife. The complainant was wearing multiple layers of clothing which required Deputy 1 to remove some layers to search for the weapon. Penal Code § 833, Possession of Dangerous Weapons, allows peace officers to search for dangerous weapons on any person whom he has legal cause to arrest, whenever there is reasonable cause to believe that the person possesses a dangerous weapon. Deputy 1 reported that the outer layers of the complainant's clothing were removed to facilitate the search, and the complainant was found to be in possession of a sharpened tent stake. The act did occur, but was lawful, justified and proper.

3. Excessive Force – Deputy 1 “ripped” the complainant’s hair from his head.

Board Finding: Unfounded

Rationale: The complainant said that Deputy 1 “went beserk and started ripping out my hair.” Deputy 1 denied that he grabbed the complainant and pulled out his hair during the contact. Photographic evidence did not reveal any discernable difference in the complainant’s photographs taken by a deputy earlier in the day, and the complainant’s booking photograph to demonstrate any hair loss by the complainant. The complainant stated that he did not report this alleged conduct to any medical personnel, and did not release his medical records for review. The preponderance of the evidence showed that the alleged act or conduct did not occur.

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## **16-024**

1. No Allegation(s) against Sheriff Deputies and/or Probation Officers.

Board Finding: Summary Dismissal

Rationale: On February 9, 2016, the complainant submitted a written statement to CLERB regarding improper housing that was not signed under penalty of perjury. A complaint packet was sent and on March 4, 2016, the complainant submitted a signed statement, rescinding his original complaint, and alleging improprieties by members of other law enforcement agencies. Per CLERB Rules & Regulations 4.1, Jurisdiction; CLERB does not have any authority to investigate other law enforcement agencies to include Special Agents, DA Investigators, or San Diego Police Officers. The complainant was referred to those respective entities.

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*End of Report*