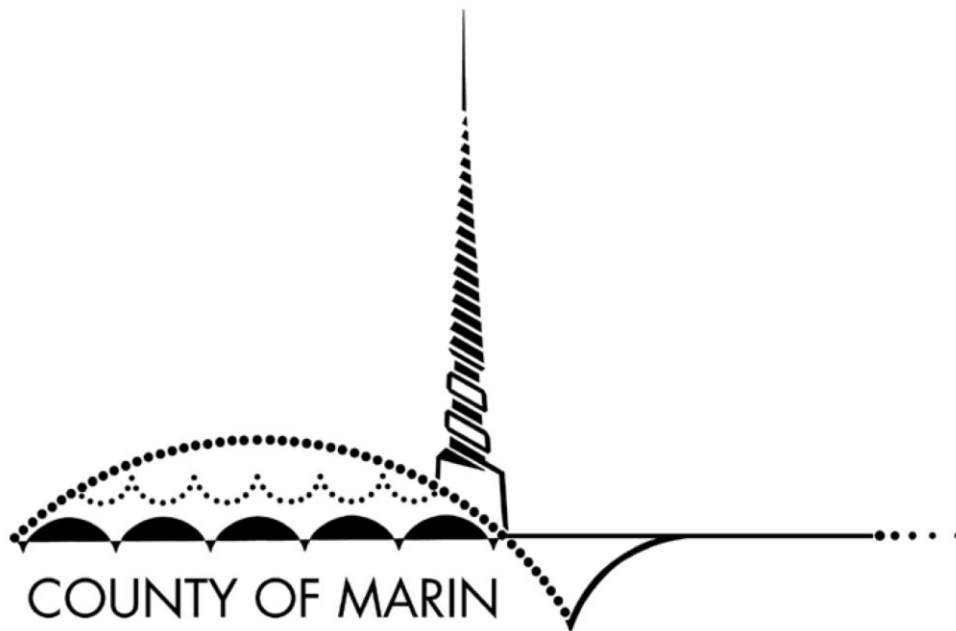


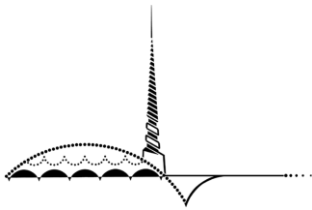
2015/2016 MARIN COUNTY CIVIL GRAND JURY

Police Firearm Security

Keeping Police Guns out of the Hands of Criminals

Report Date: April 21, 2016
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Police Firearm Security

Keeping Police Guns out of the Hands of Criminals

SUMMARY

Guns and unattended police cars are a lethal combination. The loss of police firearms from unmarked department vehicles has recently been “front page” news. Use of those firearms in subsequent crimes, including two homicides, has led to increased public concern and calls for changes in police practice and legislation. Three reports of stolen firearms within one month in the Bay Area raise questions and concerns. Further reports of stolen police guns indicate that police are still leaving firearms unsecured in their vehicles and vulnerable to theft.

The Grand Jury investigated the status of law enforcement firearm security in Marin County and which policies, if any, exist to safeguard guns from being lost or stolen. The Grand Jury also investigated whether any changes have been made or are under consideration to prevent police guns from ending up in the hands of criminals. This investigation was prompted in part when, during Grand Jury training, two Marin County police chiefs had distinctly different responses when asked about the firearm thefts. Neither response indicated that the recent thefts of police firearms prompted a change in practice or policy.

The Grand Jury investigation found the incidence of police firearms stolen from vehicles in Marin is low, but thefts have occurred. The “epidemic rise” in auto burglaries suggests that the odds have increased that if a police officer leaves a gun in a vehicle it is more likely it will be stolen. The Grand Jury investigation revealed that in spite of the number of thefts, resulting publicity, a request from the San Francisco Police Chief for policy change,¹ and the deaths of two people killed by stolen law enforcement guns, only one Marin Police agency has changed or amended its gun security policy.² At present, most police and sheriff vehicles are not equipped with secured lock boxes to protect firearms left in a vehicle. The Grand Jury believes that the best policy is for law enforcement never to leave a firearm in a vehicle. Short of that, lock boxes should be installed in every department vehicle and policies should state specifically *how* firearms are to be secured. The Grand Jury recommends that a lock box be installed securely within every department vehicle.

In fact, State and local legislation has been proposed and in some cases enacted to require firearms be secured whenever left in a vehicle. This legislation is the result of law enforcement guns being stolen from vehicles and subsequently used in crimes and the public’s concern for greater safeguards. The Grand Jury was surprised to find that there is not overwhelming support among Marin law enforcement executives for such laws or ordinances. The Grand Jury believes that such a law can be clear, apply to police and citizens alike and be a “common sense” prevention measure. Law enforcement cannot prevent the public from leaving guns in vehicles. However, law enforcement officers should never leave a gun unsecured in a vehicle.

¹ Letter from San Francisco Police Chief to the Police Chiefs of Marin County. November 2, 2015.

² Fairfax Police Department Policy manual.

BACKGROUND

Theft of police firearms from unmarked police vehicles has recently made headline news in the Bay Area. The murder of a young woman in San Francisco was particularly shocking, in part because the weapon used had been stolen the previous week from an unattended unmarked department vehicle belonging to the Bureau of Land Management³. Since that report, several other incidents involving police firearms stolen from department vehicles have been published in Bay Area newspapers:

- The pistol and ammunition belonging to a Hayward police officer assigned to a regional drug task force was stolen from his parked car.⁴
- A department vehicle assigned to the University of California, Berkeley PD chief was burglarized and her firearm, badge and computer were stolen.⁵
- A gun belonging to an Immigration and Customs agent was stolen from a vehicle and used in the slaying of a local artist in Oakland.⁶

Despite these disturbing headlines, once again three guns belonging to FBI agents were stolen from an unmarked vehicle in Benicia.⁷

The cases above are just those that made the headlines. Not all thefts of police firearms do. An NBC Bay Area investigation into the loss and theft of police firearms uncovered that since 2010 more than 500 weapons have gone missing from eight different law enforcement agencies, including the California Highway Patrol, the Federal Drug Enforcement Administration and six Bay Area departments.⁸

The urgency for changes in firearm security policy has been emphasized by Mike Sena, Director of the Northern California Regional Intelligence Center, whose team is responsible for analyzing data on car break-ins. Mr. Sena noted, “Over the last six months, literally auto burglaries have doubled... This is not a rarity, this is happening throughout the Bay Area.”⁹

Law enforcement should be held to a higher standard when it comes to gun handling and security. This is especially compelling since theft is a primary way firearms fall into the hands of criminals. Stolen guns present a significant risk to the public and to peace officers. Many stolen guns are subsequently used to commit crimes. A U.S. Department of the Treasury study revealed that nearly a quarter of all Alcohol, Tobacco and Firearms (ATF) gun trafficking investigations involved stolen firearms and were associated with over 11,000 trafficked firearms.¹⁰ A gun acquired through theft is an obvious way to circumvent laws regarding who can own firearms, background checks and gun registration. If a gun is not left in the car, it cannot be stolen.

³ NBC Bay Area.

<http://www.nbcbayarea.com/news/local/Gun-Used-in-Pier-14-Shooting-Stolen-From-Bureau-of-Land-Management-Sources-312517441.html>

⁴ SF Gate. <http://www.sfgate.com/crime/article/Another-law-enforcement-officer-s-gun-stolen-6467108.php>

⁵ SF Gate. <http://www.sfgate.com/crime/article/Stolen-gun-badge-belonged-to-UC-Berkeley-s-top-6462766.php>

⁶ NBC Bay Area <http://www.sfgate.com/crime/article/Another-law-enforcement-officer-s-gun-stolen-6467108.php>

⁷ SF Gate. <http://www.sfgate.com/crime/article/3-guns-stolen-from-FBI-vehicle-in-Benicia-6794467.php>

⁸ NBC Bay Area. <http://www.nbcbayarea.com/investigations/>

[Unaccounted-For-Hundreds-of-Guns-Lost-or-Stolen-From-Bay-Area-Police-Agencies-Since-2010-350768311.html](http://www.nbcbayarea.com/investigations/Unaccounted-For-Hundreds-of-Guns-Lost-or-Stolen-From-Bay-Area-Police-Agencies-Since-2010-350768311.html)

⁹ <http://www.nbcbayarea.com/investigations/>

[Car-Burglaries-Hit-Epidemic-Levels-Across-the-Bay-Area-344920362.html](http://www.nbcbayarea.com/investigations/Car-Burglaries-Hit-Epidemic-Levels-Across-the-Bay-Area-344920362.html)

¹⁰ US General Accounting Office (GAO) <http://www.gao.gov/new.items/d03688.pdf>

Currently there are no state laws or guidelines that mandate how California peace officers transport and secure firearms in vehicles. Individual police agencies, however, *do* have policy manuals that spell out expectations, rules and guidelines, and officers must comply with those. Policies generally require that officers ensure that all firearms are locked and secured while in their homes, vehicles and other areas in a manner that will assure they are inaccessible to children and others who should not have access to guns. However, implementation of these policies is left up to the discretion and judgment of individual officers.

In response to recently reported thefts, several Bay Area police departments have developed and/or amended policies to address how firearms are to be secured if left in a vehicle. These policies range from informing officers of best ways to secure a firearm in a vehicle —usually in a locked trunk or lock box secured in the car —to mandating that a firearm simply never be left in an unattended vehicle. Several cities have also responded with ordinances aimed at preventing guns from being left and then stolen from vehicles. Most notably, San Francisco and Oakland have passed new legislation.

San Francisco’s legislation mandates anyone leaving a firearm in an unattended vehicle in San Francisco must lock the firearm in a trunk that can not be opened from the main body of the vehicle, or inside a box permanently attached to the vehicle. If the vehicle lacks a trunk, the lock box should be under a seat or otherwise hidden from view. A violation is a misdemeanor offense, punishable by a fine of up to \$10,000 and six months in jail.¹¹

Oakland’s legislation specifically addresses city-owned firearms left unattended in police vehicles, city vehicles, and officer’s private vehicles.¹² The ordinance codifies the City’s policy intent and directive that the City establish a higher level of safety to protect the public, residents and Oakland police officers from the harm and threat stolen guns pose.

Based on the number of recent thefts of firearms from Bay Area police agencies, the Marin County Civil Grand Jury initiated an investigation to determine the status of law enforcement firearm security in Marin County and what policies exist to safeguard guns from being lost or stolen. Most importantly, (with the current rash of firearms stolen from law enforcement officer’s vehicles), have the Marin County Sheriff and Police Department Chiefs proposed any changes to their policies to safeguard Marin agencies from becoming “front page news”?

¹¹ San Francisco Ordinance. <https://sfgov.legistar.com/View.ashx?M=F&ID=4226996&GUID=F8A6CC97-37F3-42F7-B382-36D68EEB48D6>

¹² Oakland City Council Ordinance No. 13351. February 11, 2016.

METHODOLOGY

The Grand Jury reviewed the policies for each of the City Police departments and the County Sheriff specifically for sections that apply to firearms. This included written policy on the transportation, storage, and reporting of any losses and/or thefts. With the exception of the Sheriff's Department, all the City Police agencies contract with Lexipol, a company that provides model policies to police agencies for use in developing their individual written department policies.

The Grand Jury met and interviewed each Police Chief¹³ and the Sheriff regarding the following:

- Policies and training specific to firearm security
- Administration and regularity of inventories of department firearms
- Data on lost, stolen and/or unaccounted for agency firearms
- Data on crime statistics of firearm thefts from homes and vehicles over the last five years
- Any policy changes proposed by the Sheriff and Chiefs to decrease the risk of firearm theft from law enforcement officers

DISCUSSION

Marin County law enforcement agencies reported few police firearms stolen during the last 5 years.¹⁴ Nevertheless, any firearm stolen is in the hands of a criminal. This is particularly reckless if the firearm is one entrusted to or owned by a peace officer. None of the County agencies reported any department firearms unaccounted for, but auditing firearm inventory is inconsistent in practice and policy in the County.¹⁵ Unlike the numbers reported from other Bay Area agencies, however, Marin agencies assert they are not losing track of their firearms.¹⁶

Policy and Procedure

The Grand Jury asked the Sheriff and all nine Police Chiefs about their policies and procedures for securing firearms in vehicles both on and off duty. The consensus was that it is “common sense” and officers are expected to be responsible. Only one agency has amended its policy specifically to forbid a firearm ever being left in an unattended vehicle.¹⁷

A review of the police policy manuals found that whenever reference was made to securing firearms in vehicles it was incorporated in the Firearms Policy, usually in a section titled “Storage of Firearms at Home”. Three agencies title the section “Storage at Home or in Vehicles”. This policy complies with CA Penal Code 25100, which addresses firearm storage, and is intended to keep guns out of the hands of children and other persons statutorily forbidden to possess a firearm. Other language specifies how to secure firearms within the jail or the police facility but, with the exception of two agencies, local policies include no specific reference regarding securing firearms in personal or department vehicles. Of those two agencies, one explicitly forbids that a firearm be left in a vehicle, and the other agency prescribes how and

¹³ In the case of Novato, we interviewed the acting Police Chief as the Chief was on extended sick leave.

¹⁴ Marin Police Chief Interviews

¹⁵ Marin Police Chief Interviews

¹⁶ NBC Bay Area. <http://www.nbcbayarea.com/investigations/Unaccounted-For-Hundreds-of-Guns-Lost-or-Stolen-From-Bay-Area-Police-Agencies-Since-2010-350768311.html>

¹⁷ Fairfax Police Policy Manual

when leaving a gun in a vehicle is allowed.¹⁸ The reporting of any loss or theft of a firearm is included in general policies regarding department property.

The Grand Jury asked the police chiefs and Sheriff as to whether any discussions or consideration occurred in the wake of the recent high profile thefts of firearms from unattended police vehicles. These cases were particularly troubling given the subsequent criminal use of those stolen guns. The Grand Jury was surprised to hear that discussion of the issue has been minimal and not discussed at the Marin County Chiefs Association meetings.¹⁹ In addition, we were told that no request was made to Lexipol regarding potential or current changes to existing policy regarding increased firearm security.

Our surprise turned to concern in light of a letter dated November 2, 2015 from San Francisco Police Chief Suhr and sent to all Bay Area police chiefs, including those in Marin County²⁰. In that letter Chief Suhr stated that after a gun stolen from the vehicle of a law enforcement officer was used in the killing of a young woman in San Francisco, “One would think that would have all law enforcement officers taking extra measures to make sure their weapons are secure. That said, as recently as last week, another firearm was reported stolen from the vehicle of a law enforcement officer”. He went on to say that law enforcement cannot control what is left in vehicles by the general public, but they can take steps to reduce the likelihood of a law enforcement firearm being stolen and used in a crime. The Chief stated one of the things that keeps him up at night is worry that a weapon stolen from the vehicle of a law enforcement officer could be used to shoot or kill someone. He told the Bay Area Chiefs that he has issued an order (policy) that prescribes how SFPD officers are to secure their firearms properly and enclosed a copy of that order in his letter. He asked his fellow Chiefs to review the directive and “consider adopting a similar policy. “ At the minimum he recommended that they request that their respective officers, when in San Francisco, secure their firearms consistent with SFPD policy. He signed off with the request to “please help me in keeping San Francisco safe”. Clearly, Chief Suhr sees a correlation between public safety and securing law enforcement firearms when they are left in vehicles.

Securing a Firearm in a Vehicle

The Grand Jury asked the Marin County Sheriff and Police Chiefs whether department vehicles are equipped with a lock box or some other means to secure a firearm should there be a need to leave the vehicle unattended. Marked vehicles and some specialty vehicles have mounted locking devices primarily used for rifles and shotguns. Few, if any vehicles have a means to secure an officer's handgun. The response to the Grand Jury's inquiry was mixed as to the utility of a lock box. One Chief stated that it might “slow an officer down” if a firearm was quickly needed, though another Chief thought that it would be a great idea. A third Chief felt guns should not be left in cars at all. This is, of course, the surest way to prevent an unattended gun from being stolen.

Officers do carry handguns and those guns usually are carried concealed on their person - even while driving. There are times when leaving a firearm in the vehicle may be necessary, although some Chiefs are of the belief that, if an officer does carry a gun, he/she should carry it and not

¹⁸ Marin County Police Policy Manuals and the County Sheriff's Policy Manual

¹⁹ Marin County Police Chief Interviews

²⁰ Letter from San Francisco Police Chief to the Police Chiefs of Marin County. November 2, 2015.

leave it. As noted, one Marin Police department absolutely prohibits leaving a gun in a vehicle.²¹ This is, of course, the best way to prevent a gun from being stolen. Firearm lockboxes for cars are available for as little as \$50, while most recommended boxes cost between \$100-\$200. When one considers the cost of the handgun, car and all of the safety equipment that departments consider mandatory, adding \$100-\$200 per lockbox seems a very reasonable price to assure that guns can be secured in vehicles when necessary.

Legislation

Responding to public concern, legislators on the State and local level are proposing laws that would require securing firearms left in unattended vehicles and timely reporting of any stolen firearms. Oakland, San Francisco, Sunnyvale, and Berkeley are just a few that have passed or are proposing ordinances. Tiburon has amended its ordinance to require timely reporting. On the State level, pending legislation includes Senate Bill 869²² which would require all firearms left in vehicles to be secured in a locked trunk or secured box and “The Safety for All Act of 2016”²³ would require all lost or stolen guns be reported.

Of course, Marin County would be included under any proposed State legislation that becomes law. Should this legislation not be passed at the State level, however, it is incumbent on Marin County, cities and towns to implement our own policies and procedures to protect officers and the general public. Nevertheless, Marin law enforcement executives were of mixed opinion on the value of prospective ordinances or laws. Some felt that there is no need and others felt that, if it applied to everyone and “not just cops”, then it might be a good idea. Several Chiefs did mention that the proposed legislation in Sacramento would make local ordinances unnecessary. The California Police Chiefs Association,²⁴ which takes positions on proposed legislation and employs a legal advocacy law firm, is currently just “watching” SB 869 rather than supporting it²⁵.

Watching and waiting is no solution to keeping police guns out of the hands of criminals.

²¹ Fairfax Police Policy Manual

²² Senate Bill 869. <http://www.guns.com/2016/01/14/california-moves-to-criminalize-cops-leaving-guns-unsecured-in-cars/>

²³ The Safety for All Act of 2016. <http://smartgunlaws.org/wp-content/uploads/2015/10/SafetyForAllActFinal.pdf>

²⁴ California Police Chiefs Association. <http://www.californiapolicechiefs.org/bill-positions-legislative-report>

²⁵ Senate Bill 869 <http://www.guns.com/2016/01/14/california-moves-to-criminalize-cops-leaving-guns-unsecured-in-cars/>

FINDINGS

- F1. Firearms left in unattended vehicles are vulnerable to theft and, if stolen, are in the hands of criminals.
- F2. Firearms belonging to Marin County peace officers have been stolen from their vehicles, although the incidence is low.
- F3. There is currently no public tracking of lost or stolen firearms from Marin County peace officers, making the number of firearms missing difficult to determine.
- F4. With the exception the Fairfax Police Department, Marin County Police Departments and the Sheriff's Office have not amended or updated their policies in response to high profile reports of law enforcement guns being stolen from vehicles.
- F5. Most Marin County Police and Sheriff's Departments do not have a clear-cut policy and/or procedure specifying how firearms are to be secured if left in an unattended vehicle.
- F6. Neither the general topic of firearm security nor a specific letter from the SF Chief has been discussed at Marin County Police Chief's Association meetings. The view commonly expressed by the law enforcement executives is that it is a "common sense" responsibility and understood as such by deputies and officers.
- F7. Concern for public safety has led to proposed State and some recent local legislation (in San Francisco and Oakland) requiring that firearms be secured in all unattended vehicles.
- F8. Specifically designed lock boxes are readily available for safely securing firearms inside a vehicle, should a gun and vehicle need to be left unattended.

RECOMMENDATIONS

- R1. Marin County Sheriff's Office and Police Departments should track and record all firearms that have been lost or stolen from law enforcement and personal vehicles.
- R2. Marin County Sheriff's Office and Police Departments should make public the number and circumstances of all firearms that have been lost or stolen from law enforcement and personal vehicles.
- R3. Marin County Sheriff's Office and Police Departments should update their policies and procedures regarding firearm security, particularly with regard to firearms left in unattended vehicles (departmental and personal) and if a firearm is left in a vehicle, how it is to be secured.
- R4. The Marin County Sheriff and all Police Chiefs should discuss the issue of firearm security including storage, tracking and reporting of lost or stolen firearms at Marin County Police Chief Association meetings and make a recommendation as to whether there should be a standard county policy for leaving a law enforcement firearm in a vehicle.
- R5. Marin County Sheriff's Office and Police Departments should install lock boxes in all department vehicles and require that in the event it is necessary to leave a firearm in a vehicle, the firearm be secured in the lock box.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Cities and Towns of Belvedere, Corte Madera, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito and Tiburon: F1 - F8 and R1 - R5
- The Town of Fairfax F1 – F8 and R1, R2, R4, R5
- Central Marin Police Authority: F1 - F8 and R1 - R5

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

From the following individuals:

- The Marin County Sheriff: F1 - F8 and R1 - R5

The Grand Jury invites the following individuals to respond:

- President, The Marin County Police Chiefs Association: F1 - F8 and R1 - R5
- The Police Chiefs of Belvedere, Mill Valley, Novato, Ross, San Rafael, Sausalito, Tiburon and Central Marin Police Authority: F1 – F8 and R1 – R5
- The Police Chief of Fairfax: F1 – F8 and R1, R2, R4, R5

Note: At the time this report was prepared, information was available at the websites listed.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.