MILL VALLEY

August 15, 2016

The Honorable Judge Kelly V. Simmons
Marin County Superior Court
P.O. Box 4988
San Rafael, CA 94913-4988

Re: Marin County Civil Grand Jury – "Law Enforcement Citizen Complaint Procedures: The Grand Jury Has a Few Complaints"

Dear Judge Simmons,

Attached is the official response from the Mill Valley Police Department regarding the recommendations of the Grand Jury in the report titled, "Law Enforcement Citizen Complaint Procedures: The Grand Jury Has a Few Complaints." Our required response to the report's recommendations was approved by the City of Mill Valley City Council meeting on August 15, 2016.

The Mill Valley Police Department is committed to carrying out its duties and seek out, accept and carefully consider any and all expressions of concerns by the citizens who come in contact with the Department personnel. The Department has implemented recommendations R1-R7 and R11-R13. Recommendation R4 has not yet been implemented by will be implemented in the future.

The Mill Valley Police Department would like to acknowledge the time and effort of the Marin County Civil Grand Jury in producing the above report.

Respectfully submitted,

John McCauley, Mayor
City of Mill Valley

J. Angel Bernal, Chief of Police
City of Mill Valley

CITY OF MILLVALLEY

RESPONSE TO GRAND JURY REPORT

Report Title: Law Enforcement Citizen Complaint Procedures: The Grand Jury Has a Few Complaints

Report Date: June 16, 2016

Agenda Date: August 15, 2016

Response by: September 16, 2016

FINDINGS

- I (we) agree with the findings numbered: F7
- I (we) disagree partially with the findings numbered: F1-F6
- I (we) disagree wholly with the findings numbered: NA
  (Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered R1-R7 and R11-R13 have been implemented.
  (Attach a summary describing the implemented actions.)
- Recommendations numbered R14 has not yet been implemented, but will be implemented in the future.
  (Attach a timeframe for the implementation.)
- Recommendations numbered NA require further analysis.
  (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered R8-R10 will not be implemented because they are not warranted or are not reasonable.
  (Attach an explanation.)

Signed: _____ **Date:** 08/15/2016

Number of pages attached: 4

ATTACHMENT 1

City of Mill Valley

Response to Marin County Civil Grand Jury Report

Law enforcement Citizen Complaint Procedures:
The Grand Jury Has a Few Complaints

FINDINGS: The Grand Jury Findings are as follows:

F1.

Marin County law enforcement agencies have procedures for Citizen Complaints that could act as deterrents to participation in the complaint process.

- The respondent partially disagrees with this finding as it relates to the Mill Valley Police Department. The Mill Valley Police Department accepts Citizen Complaints by letter, telephone, or in person. Anonymous complaints are accepted.

F2.

Some Marin County law enforcement agencies employ procedures and admonitions that have been held to be unconstitutional.

- The respondent partially disagrees with this finding. The Mill Valley Police Department provides a citizen complaint form which includes a place for a complainant to sign. However, a signed complaint is not required as the Mill Valley Police Department investigates citizen complaints in writing, by email, by telephone, as well as in person. The Mill Valley Police Department does not provide the admonition that has been held to be unconstitutional. .

F3.

Some Marin County law enforcement agencies' complaint procedures require face-to-face contact with law enforcement officers, which may deter citizens from using the Citizen Complaint process.

- The respondent partially disagrees with this finding. The Mill Valley Police Department does not require citizen complaints to be made in person. However, complainants may be encouraged to file complaints in person so signatures, photographs or physical evidence may be taken as necessary to conduct a thorough investigation.

F4.

Not all Marin County law enforcement agencies provide written policies, procedures and Citizen Complaint forms in English and Spanish.

- The respondent partially disagrees with this finding. The Mill Valley Police Department provides citizen complaint forms in English and Spanish both online and in government buildings throughout the City.

F5.

Not all Marin County law enforcement agencies accept and investigate anonymous Citizen Complaints.

- The respondent partially disagrees with this finding. The Mill Valley Police Department accepts anonymous complaints. .

F6.

Information about and access to the Citizen Complaint procedure is difficult to find on Marin County law enforcement agency websites.

- The respondent partially disagrees with this finding. Information regarding filing a citizen complaint may be found on the Police Department page of the City of Mill Valley website.

F7.

Marin County law enforcement agencies do not publish the number, the nature or the disposition of Citizen Complaints

- The respondent agrees with this finding as it applies to the Mill Valley Police Department.

Recommendations:

R1.

Every Marin County law enforcement agency should have a clear and full description of the law enforcement agency's policy and procedures for handling Citizen Complaints on its website that is accessible by a direct link from the law enforcement agency's home page to a clearly identified "Citizen Complaints" folder.

- The recommendation has been implemented.

R2.

All Marin County law enforcement agencies should accept the filing of Citizen Complaints online.

- The recommendation is partially available as citizens may email complaints to the Mill Valley Police Department. Within the next six month, the new police website will provide a standardized online citizen complaint process.

R3.

A clear and full description of the law enforcement agency's policy and procedures along with forms for filing Citizen Complaints should be available to the public in the lobby of each law enforcement agency.

- The recommendation has been implemented. Citizen complaint forms in English and Spanish are provided in the lobby of the Police Department.

R4.

Written policies and procedures, as well as Citizen Complaint forms, should be available to the public in English, Spanish and other languages appropriate to the community.

- The recommendation has been implemented. Citizen complaint forms are provided in English and Spanish at of Mill Valley City Hall, The Mill Valley Library, and the Mill Valley Community Center.

R5.

Marin County law enforcement agency personnel should be trained in the agency's Citizen Complaint policy and procedures in order to fully describe them to members of the public.

- The recommendation has been implemented. At briefings and via the Lexipol electronic policy manual, staff is provided with training on citizen complaint procedures and our policy on personnel complaints

R6.

All public-facing law enforcement personnel should present an open and welcoming attitude to any inquiry about the Citizen Complaint process.

- The recommendation has been implemented. Staff has been reminded to provide an open and welcoming attitude toward acceptance of citizen complaints.

R7.

No policy, procedure or form for handling Citizen Complaints should have any language based in whole or in part on California Penal Code Section 148.6 and/or California Civil Code of Civil Procedure Section 47.5, nor should a complainant be required to acknowledge that they have read and understood such language.

- The recommendation has been implemented. The Mill Valley Police Department citizen complaint forms do not have language which refers to Penal Code Section 148.6 or Civil Code Section 47.5.

R8.

A person who initiates a Citizen Complaint should not be required to verify or certify the contents of the complaint form.

- The recommendation will not be implemented. The Mill Valley Police Department citizen complaint form has the following language:

  "I affirm that the statements contained herein are, to the best of my knowledge, factual and accurate. I affirm that I have read the following statement.

  You have the right to make a complaint against a police officer for any improper police misconduct. California law requires this agency to have a procedure to investigate citizen complaints. You have a right to a written description of this procedure. This agency may find that after investigation that there is not enough evidence to warrant action on your complaint. Even if that is the case, you have the right to make a complaint and have it investigated if you believe an officer acted improperly. Citizen complaints and any reports or findings relating to complaints must be retained by this agency for at least five years".

  A complaint against a police officer for potential misconduct is a serious matter. Considering the seriousness of the allegation, asking for the complainant (or the parent or guardian of a person under the age of 18) to affirm that what they are alleging is "***to the best of my***

knowledge, factual and accurate" seems appropriate. Ultimately, if the complainant is unwilling to sign, or the complaint is received anonymously, it will still be investigated.

R9.

The identification of the complainant on the Citizen Complaint form should be optional.

- The recommendation will not be implemented. Thorough investigations could be inhibited if complainant and/or witness information is not included on the citizen complaint form. Anonymous complaints will still be investigated.

R10.

The signature of the complainant should not be required on the form.

- The recommendation will not be implemented. The citizen complaint form does not refer to an admonition which would deter a person from making a citizen complaint. To the contrary, our form provides information which informs potential complainants of their right to make a complaint and our agency's responsibility to investigate a citizen complaint.

R11.

Anonymous Citizen Complaints, and complaints initiated by minors, should be accepted and investigated in accordance with the agency's procedures.

- The recommendation is implemented. Anonymous complaints and complaints initiated by minors are accepted and investigated to best of our ability, given the information provided and the evidence we are able to discover.

R12.

Members of the public who desire information regarding a law enforcement agency's policy, procedures and Citizen Complaint forms should not be required to discuss their involvement, identity or situation before the materials are provided.

- The recommendation has been implemented. Information about the citizen complaint process is available online and by request.

R13.

All Marin County law enforcement agencies should incorporate within their policies and procedures an appeal process that allows the complainant to appeal the disposition to an entity outside of the law enforcement agency.

- The recommendation is implemented. A notice to the public regarding the complaint process includes the following statement, "*If after being notified of the results of the investigation, you are not satisfied, the matter may be appealed to the City Manager. You also have the right to make a complaint with the Marin County District Attorney's Office, the Federal Bureau of Investigation (FBI) or the Marin County Human Rights Commission.*

R14.

Marin County law enforcement agencies should publish on their websites and annually update the number, nature and disposition of Citizen Complaints.

- The recommendation will be implemented. The City of Mill Valley is building a new website. Within the next six months, we will incorporate this information in the new Police Department webpage.