



THE CITY OF  
**NOVATO**  
CALIFORNIA

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Interim City Manager  
Cathy Capriola

July 27, 2016

John Mann, Foreperson  
Marin County Civil Grand Jury  
3501 Civic Center Drive, Room #275  
San Rafael, CA 94903

Re: Response to Grand Jury Report - "Law Enforcement Citizen Complaint Procedure".

Dear Foreperson Mann:

At its regular meeting of July 26, 2016, the Novato City Council reviewed the above report which requests the City of Novato to respond to Findings F1 through F7 and Recommendations R1 through R14, of the report. The City's response to all is attached.

If the members of the Grand Jury require additional information, please contact Interim City Manager Cathy Capriola at 415-899-8900 or [ccapriola@novato.org](mailto:ccapriola@novato.org).

We appreciate the work of the Grand Jury and thank you for your service to our residents and the Marin community.

Sincerely,

Pat Eklund  
Mayor  
City of Novato

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

## RESPONSE TO GRAND JURY REPORT

Report Title: Law Enforcement Citizen Complaint Proc

Report Date: 6/16/16

Agenda Date: 7/26/16

Response by: Mayor Pat Eklund and No Title: Mayor and Council Member

### FINDINGS

- I (we) agree with the findings numbered: F7
- I (we) disagree *partially* with the findings numbered: F1, 2, 3, 5, 6
- I (we) disagree *wholly* with the findings numbered: \_\_\_\_\_

(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

### RECOMMENDATIONS

- Recommendations numbered R2, 3, 4, 5, 6, 11, 12 have been implemented.  
(Attach a summary describing the implemented actions.)
- Recommendations numbered R1, \_\_\_\_\_ have not yet been implemented, but will be implemented in the future.  
(Attach a timeframe for the implementation.)
- Recommendations numbered \_\_\_\_\_ 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, 9, 10, 14 will not be implemented because they are not warranted or are not reasonable.  
(Attach an explanation.)

Date: 7/26/16

Signed: \_\_\_\_\_



Number of pages attached 5

As required by Penal Code Section 933.05, I offer the following response to the 2015-2016 Civil Grand Jury Report entitled, "Law Enforcement Citizen Complaint Procedure: The Grand Jury Has A Few Complaints"

#### **FINDINGS**

**F7.** Marin County law enforcement agencies do not publish the number, the nature or the disposition of Citizen Complaints.

**Response:** The City agrees with the finding numbered F7.

#### **FINDING**

**F1.** Marin County law enforcement agencies have procedures for Citizen Complaints that could act as deterrents to participation in the complaint process.

**Response:** The City disagrees partially with this finding.

While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department.

#### **FINDING**

**F2.** Some Marin County law enforcement agencies employ procedures and admonitions that have been held to be unconstitutional.

**Response:** The City disagrees partially with this finding.

While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department.

#### **FINDING**

**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.

**Response:** The City disagrees partially with this finding.

While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department.

#### **FINDING**

**F4.** Not all Marin County law enforcement agencies provide written policies, procedures and Citizen Complaint forms in English and Spanish.

Response: While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department. In Novato, the Citizen Complaint forms which are available in both English and Spanish. The Novato Police Department does not post the actual policy and procedure (over 20 pages in length) on its webpage, but instead posts a FAQ in Spanish and English of the most common questions that citizens have about filing a complaint. These documents were previously provided to the Grand Jury.

#### **FINDING**

**F5.** Not all Marin County law enforcement agencies accept and investigate anonymous Citizen Complaints.

Response:

While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department. Novato Police Department does accept and investigates anonymous citizens complaints.

#### **FINDING**

**F6.** Information about and access to the Citizen Complaint procedure is difficult to find on Marin County law enforcement agency websites.

Response:

While this might be true, I have no specific knowledge of procedures that other Marin County law enforcement agencies might have, nor have I been provided with any information that would substantiate this claim. I know this statement **not to be true** as it relates to the Novato Police Department. The Novato Police Department's home page has a "Forms" link, clicking on that link takes you to a page with links to forms including "Citizen Complaint (English)" and "Citizen Complaint (Spanish)".

#### **RECOMENDATIONS**

**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 not yet been implemented, but will be in the next four months.

The Novato Police Department's home page has a "Forms" link, clicking on that link takes you to a page with links to forms including "Citizen Complaint (English)" and "Citizen Complaint (Spanish)". In the future the home page will have a "Citizens Complaints, Comments and Commendations" link where community members can make a complaint, commend an employee's actions, or just leave us feedback.

- R2. All Marin County law enforcement agencies should accept the filing of Citizen Complaints online.**

The recommendation has already been implemented.

The Citizen Complaint (English) and Citizen Complaint (Spanish) are available online. The person submitting the complaint has the option of mailing the form, or emailing it to a Novato Police Department email address.

- 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 already been implemented.

These documents are already available in the lobby of the Novato 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 already been implemented.

These documents are available in English and Spanish.

- 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 already been implemented.

All members of the Novato Police Department are responsible for having a working knowledge of the department's citizen's complaint policy. Those in a supervisory role have additional training in receiving of and the investigation of those 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 already been implemented.

All members of the Novato Police Department are responsible for having a working knowledge of the department's citizen's complaint policy. Those in a supervisory role have additional training in the investigation of those complaints. All staff act in a professional manner to help all citizens resolve whatever their complaint is.

- 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 already been implemented.

No Novato Police Department document relating to citizen complaints has that language.

**R8. A person who initiates a Citizen Complaint should not be required to verify or certify the contents of the complaint form.**

This recommendation will not be implemented

The Novato 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's 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 behaved improperly. Citizen complaints and any reports or findings relating to complaints must be retained by this agency for at least five years.*

*I have read and understood the above statement."*

A complaint against a police officer for potential misconduct is a serious matter. Considering the potential seriousness of the allegation, asking for the complainant (or parent or guardian if under 18) to affirm that what they are alleging is "*to the best of my knowledge, factual and accurate*", seems appropriate. Ultimately if the complainant refuses to sign, or we receive the complaint anonymously, it will still be investigated.

**R9. The identification of the complainant on the Citizen Complaint form should be optional.**

This recommendation will not be implemented

Again, the City and the Police Chief fail to see the Grand Jury's concern with this requirement in its report. Ultimately if the complainant refuses to identify themselves, or we receive the complaint anonymously, it will still be investigated. Complying with this recommendation could inhibit the Novato Police Department from thoroughly investigating an incident because the complainant, who most of the time is an important witness, leaves off their contact information because the form tells them it's "optional". This can make it impossible for an investigator to contact this person. Ultimately, this recommendation may allow an employee to escape discipline because of an incomplete investigation.

**R10. The signature of the complainant should not be required on the form.**

This recommendation will not be implemented

Again, the City and the Police Chief fail to see the Grand Jury's concern with this requirement in its report. Ultimately if the complainant refuses to sign the complaint, or we receive the complaint anonymously, it will still be investigated.

**R11. Anonymous Citizen Complaints, and complaints initiated by minors, should be accepted and investigated in accordance with the agency's procedures.**

The recommendation has already been implemented.

We already investigate complaints received anonymously and by juveniles.

**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 already been implemented.

This is not required, but staff will offer that citizen an opportunity to speak to a supervisor. We look at every citizen contact as an opportunity to interact with that individual and get feedback about our performance.

**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 has already been implemented.

By City of Novato resolution, if after being notified of the results of an investigation, and the complainant is not satisfied, "*the matter may be appealed to the City Manager. The City Manager, after reviewing the complaint, may forward the complaint to the Police Advisory and Review Board for further review or investigation.*" (Novato City Resolution 43-00).

**R14. Marin County law enforcement agencies should publish on their websites and annually update the number, nature and disposition of Citizen Complaints.**

This recommendation will not be implemented

Although this recommendation will not be implemented, it has generated some discussion at the command staff level. In the future as we will be evaluating a personnel investigations tracking system that should be able to generate a report that could be posted on the Novato Police Department's website.