



August 9, 2016

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

Re: Marin County Civil Grand Jury – Police Firearm Security: Keeping Police Guns out of the Hands of Criminals


Dear Mr. Mann,

Attached is the official response from the Mill Valley Police Department regarding the recommendations of the Grand Jury in the report titled, "Police Firearm Security: Keeping Police Guns out of the Hands of Criminals." Our required response to the report's recommendation was approved by the City of Mill Valley City Council meeting on June 6, 2016.

The Mill Valley Police Department has implemented R1, R3 and R5. R4 has been discussed by the Marin County Police Chiefs Association as recommended. The Department will implement R2 by October 1, 2016.

Through the Civil Grand Jury's investigation, law enforcement in Marin County revisited their policies regarding firearms in unmarked police vehicles. Mill Valley Police Department has obtained lockable boxes for all unmarked police vehicle

Respectfully submitted,



John McCauley, Manor
City of Mill Valley



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



STAFF REPORT

TO: Mayor and City Council
FROM: Angel Bernal, Chief of Police
SUBJECT: Law Enforcement Citizen Complaint Procedures: The Grand Jury Has a Few Complaints
DATE: August 15, 2016

Approved for Forwarding:

James C. McCann, City Manager

- 1 **Issue:** Response to Marin County Civil Grand Jury Report: Law Enforcement Citizen
- 2 Complaint Procedures: The Grand Jury Has a Few Complaints
- 3
- 4 **Recommendation:** Approve the response for submittal to the Marin County Civil Grand
- 5 Jury.
- 6
- 7 **Background:** The 2015-2016 Marin County Civil Grand Jury issued a report on June 16,
- 8 2016, entitled " Law Enforcement Citizen Complaint Procedures: The Grand Jury Has a
- 9 Few Complaints." Pursuant to California Penal Code §933.05, the City is required to
- 10 respond in writing to the Findings and Recommendations contained in the Grand Jury
- 11 Report within 90 days of the release date, or September 16, 2016. The response form and
- 12 report are attached. (Attachments 1 and 2)
- 13
- 14 The Marin County Civil Grand Jury began their investigation into the Citizen Complaint
- 15 procedures used by Marin County law enforcement agencies. The Grand Jury focused
- 16 procedure accessibility, comprehensiveness and clarity. The Grand Jury authored the
- 17 attached report. (See Attachment 2)
- 18
- 19
- 20
- 21

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22 **Discussion:**

23

24 **Findings:** The Grand Jury Findings are as follows:

25

26 F1.

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

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

32

33 F2.

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

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

42

43 F3.

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

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

52

53 F4.

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

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

59

60 F5.

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

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

65

66 F6.

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

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

72

73 F7.

74

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

77

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

80

81 **Recommendations:**

82

83 R1.

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

- 88 • The recommendation has been implemented.

89

90 R2

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

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

96 R3.

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

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

102

103

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104 R4.

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

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

110

111 R5.

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

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

117

118 R6.

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

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

123

124 R7.

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

- 129 • The recommendation has been implemented. The Mill Valley Police Department
130 citizen complaint forms do not have language which refers to Penal Code Section
131 148.6 or Civil Code Section 47.5.

132

133 R8.

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

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

138

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

141 *You have the right to make a complaint against a police officer for any improper*
142 *police misconduct. California law requires this agency to have a procedure to*
143 *investigate citizen complaints. You have a right to a written description of this*

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144 *procedure. This agency may find that after investigation that there is not enough*
145 *evidence to warrant action on your complaint. Even if that is the case, you have*
146 *the right to make a complaint and have it investigated if you believe an officer*
147 *acted improperly. Citizen complaints and any reports or findings relating to*
148 *complaints must be retained by this agency for at least five years”.*

149

150 A complaint against a police officer for potential misconduct is a serious matter.
151 Considering the seriousness of the allegation, asking for the complainant (or the
152 parent or guardian of a person under the age of 18) to affirm that what they are
153 alleging is “*to the best of my knowledge, factual and accurate*” seems appropriate.
154 Ultimately, if the complainant is unwilling to sign, or the complaint is received
155 anonymously, it will still be investigated.

156

157 R9.

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

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

162

163 R10.

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

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

170

171 R11.

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

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

177 R12.

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

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

183

184

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185 R13.

186

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

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

196

197 R14.

198

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

201

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

205

206 **General Plan Conformance:**

207 PS.2-2 Maintain a high standard for the delivery of law enforcement services, including a
208 commitment to the use of state-of-the-art equipment and management techniques.

209

210 **Fiscal Impact:** None

211

212 **Attachments:**

213

- 214 1. Response Form
215 2. Marin County Civil Grand Jury Report: Law Enforcement Citizen Complaint
216 Procedures: The Grand Jury Has a Few Complaints
217 3. Mill Valley Police Department Citizen Complaint forms
4. Response Letters from the City of Mill Valley

CITY OF MILLVALLEY

RESPONSE TO GRAND JURY REPORT

Report Title: Police Firearm Security: Keeping Police Guns out of the Hands of Criminals

Report Date: April 21, 2016

Agenda Date: June 6, 2016

Response by: June 21, 2016

FINDINGS

- I (we) agree with the findings numbered: 1-4 and 6-8
- I (we) disagree partially with the findings numbered: 5
- 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 1 and 3-5 have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered 2 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 NA will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Signed:



Date:

06/06/2016

Number of pages attached: 2

ATTACHMENT 1

City of Mill Valley

Response to Marin County Civil Grand Jury Report

**Police Firearm Security:
Keeping Police Guns out of the Hands of Criminals
June 6, 2016**

FINDINGS:

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.

- The respondent partially disagrees with this finding as Mill Valley Police Department policy section 312.3.2 states "STORAGE AT HOME - Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access (Penal Code § 25100)." And section 312.5.2 states "STORAGE AT HOME -Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100)."

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.

- Respondent partially agrees with the findings. While the topic was not discussed by the Marin County Chiefs Association prior to the release of the Grand Jury report, the Marin County Police Chiefs Association did discuss this matter at their May 2016 meeting.
- While the statement to firearm security is a basic "common sense" responsibility of all peace officers, as noted in the response to Finding 2, the City of Mill Valley has established policies which address the storage of firearms.

RECOMMENDATIONS:

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.

- Recommendation numbered R2 has not been implemented, but will be implemented by the Mill Valley Police Department by October 1, 2016.

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 Chiefs 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.

- Recommendation R4 has been implemented. The Marin County Chiefs of Police Association discussed the issue of firearms security. The discussion included the storage, tracking and reporting of lost or stolen firearms. Individual agencies will establish their own policies on whether or not to allow a law enforcement firearm in a vehicle to be in a secured lock box.