



CITY OF  
*San Rafael*

MAYOR GARY O. PHILLIPS  
VICE MAYOR KATE COLIN  
COUNCILMEMBER MARIBETH BUSHEY  
COUNCILMEMBER JOHN GAMBLIN  
COUNCILMEMBER ANDREW CU'YUGAN MCCULLOUGH

CITY CLERK  
415-485-3065

June 29, 2016

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

John Mann, Foreperson  
Marin County Civil Grand Jury 2015/2016  
3501 Civic Center Drive, Room #275  
San Rafael, CA 94903

Honorable Judge Simmons:  
Mr. Mann:

RE: Marin County Civil Grand Jury Report 2015-16 Entitled: "Police Firearm Security:  
Keeping Police Guns out of the Hands of Criminals"

We are forwarding to you the following documents:

- A certified copy of Resolution No. 14143 adopted by the San Rafael City Council on June 20, 2016, approving and authorizing the Mayor to execute the response;
- Original of the "Response to Grand Jury Report Form," executed by Vice-Mayor Kate Colin on behalf of Mayor Phillips on June 22, 2016;
- Copy of the City of San Rafael Staff Report dated June 20, 2016

Should you need further assistance, please contact me at (415) 485-3065.

Sincerely,

*Esther C. Beirne*  
ESTHER C. BEIRNE  
City Clerk

cc: Diana Bishop, Chief of Police  
Gary O. Phillips, Mayor  
Kate Colin, Vice-Mayor

**RESOLUTION NO. 14143**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CITY OF SAN RAFAEL RESPONSE TO THE 2015-2016 MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED "POLICE FIREARM SECURITY: KEEPING POLICE GUNS OUT OF THE HANDS OF CRIMINALS"**

**WHEREAS**, pursuant to Penal Code section 933, a public agency which receives a Grand Jury Report addressing aspects of the public agency's operations, must comment on the Report's findings and recommendations contained in the Report in writing within ninety (90) days to the Presiding Judge of the Superior Court with a copy to the Foreperson of the Grand Jury; and

**WHEREAS**, Penal Code section 933 specifically requires that the "governing body" of the public agency provide said response and, in order to lawfully comply, the governing body must consider and adopt the response at a noticed public meeting pursuant to the Brown Act; and

**WHEREAS**, the City Council of the City of San Rafael has received and reviewed the 2015-2016 Marin County Civil Grand Jury Report, dated April 21, 2016, entitled "Police Firearm Security: Keeping Police Guns out of the Hands of Criminals " and has agendized it at this meeting for a response.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Rafael hereby:

1. Approves and authorizes the Mayor to execute the City of San Rafael's response to the 2015-2016 Marin County Civil Grand Jury Report entitled "Police Firearm Security: Keeping Police Guns out of the Hands of Criminals," a copy of which is attached hereto.
2. Directs the City Clerk to forward the City's Grand Jury Report response to the Presiding Judge of the Marin County Superior Court and to the Foreperson of the Marin County Civil Grand Jury.

I, Esther Beirne, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on June 20, 2016 by the following vote to wit:

AYES: Councilmembers: Gamblin, McCullough & Vice-Mayor Colin  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Bushey and Mayor Phillips

  
ESTHER C. BEIRNE, City Clerk

## RESPONSE TO GRAND JURY REPORT FORM

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

Report Date: April 21, 2016

Public Release Date: April 28, 2016

Response By: Mayor Gary Phillips and San Rafael City Council

### FINDINGS:

- We agree with the findings numbered: F1-F5 and F7-F8
- We disagree *wholly/partially* with the findings numbered: F6  
(See Attachment A)

### RECOMMENDATIONS:

- Recommendations numbered R3 and R4 have been implemented.  
(See Attachment A)
- Recommendation number R5 has not yet been implemented, but will be implemented in the future.  
(See Attachment A)
- Recommendations numbered R1 and R2 will not be implemented because it is not warranted or is not reasonable.  
(See Attachment A)

Date: 6.22.2016

Signed: Kate Colin, Vice Mayor  
for Gary O. Phillips, Mayor

Attest: Esther Beirne  
Esther Beirne, City Clerk

Number of Pages Attached: 32

**ATTACHMENT "A"**

**RESPONSE OF THE CITY OF SAN RAFAEL TO GRAND JURY REPORT  
POLICE FIREARM SECURITY:  
KEEPING POLICE GUNS OUT OF THE HANDS OF CRIMINALS**

**Findings:**

**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.**

**Response: Disagree partially.**

Subsequent to the issuance of the Grand Jury report, in May 2016, the subject of firearm security was discussed at length at the Marin County Police Chief's Association meeting. The impetus for the discussion was most certainly this report and its findings.

It should also be noted that upon receipt of the November 2015 letter from the San Francisco Police Chief, San Rafael Police Chief Bishop directed San Rafael's Police Captains to have their Lieutenants discuss the contents of the letter with their sworn staff members.

**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.**

**Response: Will not be implemented.**

The recommendation will not be implemented; however, such tracking occurs in a different fashion. Currently, if a firearm were lost or stolen from a law enforcement vehicle or a personal vehicle the incident would be reported to the jurisdiction in which the incident occurred. That jurisdiction is required to report and track the loss or theft of any firearm.

**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.**

**Response: Will not be implemented.**

The San Rafael Police Department is somewhat unique in that the Department does not provide service handguns to its sworn members. Each officer purchases his or her own authorized handgun to use on duty. It is the personal property of the officer. As stated above, if a firearm were lost or stolen from a law enforcement vehicle or personal vehicle the incident would be reported to the jurisdiction in which the incident occurred. Public access to that information would be available via a Public Records Act Request.

**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 (department and personal) and if a firearm is left in a vehicle, how it is to be secured.**

**Response: Has been implemented.**

The Police Department has updated its policy.

**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.**

**Response: Has been implemented.**

The issue was discussed at the May 2016 meeting of the Marin County Police Chief Association. The Chiefs decided not to have a standard county policy but rather to allow each agency to formulate its own policy.

**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 a lock box.**

**Response: Has not yet been but will be implemented.**

Lock boxes have been ordered for department vehicles and will be installed within the next several months.



*San Rafael*

Agenda Item No: 5.c

Meeting Date: June 20, 2016

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: **Police**

Prepared by: **Diana Bishop**  
Chief of Police

City Manager Approval: 

**TOPIC: Response to the Grand Jury Report on firearm security**

**SUBJECT: Consideration of a Resolution of the City Council of the City of San Rafael Approving and Authorizing the Mayor to Execute the City of San Rafael Response to the 2015-2016 Marin County Civil Grand Jury Report Entitled "Police Firearm Security: Keeping Police Guns out of the Hands of Criminals"**

**RECOMMENDATION:**

Staff recommends that the City Council adopt the attached Resolution approving the proposed response to the Grand Jury report and authorizing the Mayor to execute the response.

**BACKGROUND:**

The 2015-2016 Marin County Civil Grand Jury has issued its report dated April 21, 2016 entitled "Police Firearm Security: Keeping Police Guns out of the Hands of Criminals." (See Attachment B) The Grand Jury has requested a response from all the cities and towns in Marin and the Central Marin Police Authority. The City of San Rafael has been requested to respond to Findings F1-F8 and Recommendations R1-R5. The Grand Jury's findings and recommendations are set out on page seven (7) of the eight (8) page report, a copy of which is attached hereto as Exhibit A.

The Grand Jury recommends that all law enforcement agencies in Marin County do the following:

- Track and record all firearms that have been lost or stolen from law enforcement and personal vehicles.
- Make public the number and circumstances of all firearms that have been lost or stolen from law enforcement and personal vehicles
- Update policies and procedures regarding firearm security, particularly with regard to firearms left in unattended vehicles (department and personal) and if a firearm is left in a vehicle, how it is to be secured.

**FOR CITY CLERK ONLY**

File No.: \_\_\_\_\_

Council Meeting: \_\_\_\_\_

Disposition: \_\_\_\_\_

**SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2**

- Discuss the issue of firearm security 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.
- 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 a lock box.

**ANALYSIS:**

As more fully set forth in the proposed response to the Grand Jury (see exhibit to attached Resolution), Staff agrees with Grand Jury Findings F1-F5 and F7-F8. Staff partially disagrees with Finding F6. Staff has implemented Recommendations R3 and R4 regarding firearm security policies. Staff is in the process of implementation of Recommendation R5, the purchase of lock boxes for all vehicles. Recommendations R1 and R2 for tracking of lost or stolen firearms will not be implemented because such tracking is performed by the law enforcement agency in which the incident occurred.

The City is required to respond to the Grand Jury Report. Penal Code Section 933 states in part:

“No later than 90 days after the Grand Jury submits a final report...the governing body of the public agency shall comment to the presiding Judge of the Superior Court on the findings and recommendations...[contained in the report].”

To comply with this statute, the City’s response to the Grand Jury report must be approved by Resolution of the City Council and submitted to the Presiding Judge of the Marin County Superior Court and the Foreperson of the Grand Jury by July 28, 2016. A proposed Resolution is attached that would approve the City’s response.

**FISCAL IMPACT:**

The cost for the purchase and installation of 37 lock boxes is approximately \$11,000 and will be funded from the City’s General Fund.

**OPTIONS:**

The City is required to respond, however, the Council could make changes to the proposed response and then adopt the Resolution and revised response. Alternatively, the Council could return the response to staff for further response and return to the Council at a later meeting.

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt the attached Resolution approving the proposed response to the Grand Jury report and authorizing the Mayor to execute the response.

**ATTACHMENTS:**

- A. Resolution with attached proposed response
- B. Grand Jury report dated April 21, 2016