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May 16, 2016

CONFIDENTIAL/ATTORNEY-CLIENT COMMUNICATION

Charlotte Addington
Sonoma County Grand Jury
P.O. Box 5109
Santa Rosa, CA 95402

RE: Citizen Complaint Procedures

Dear Ms. Addington:

I have reviewed the above-entitled Grand Jury Report and in my opinion it:

Does not contain defamatory material. *Brooks v. Binderup* (1995) 39 Cal.App.4th 1289;

Meets the witness secrecy requirements. *McClatchy Newspapers v. Superior Court* (1988) 44 Cal.3d 1162, 1172-1178;

Is within the subject matter and geographic jurisdiction of the Grand Jury. *People v. Superior Court* (1973 Grand Jury) (1975) 13 Cal.3d 430, 437-438; *Board of Trustees v. Leach* (1968) 258 Cal.App.2d 281, 285; and,

Meets the requirement that "raw evidentiary material" not be disclosed, except as authorized by statute. *McClatchy Newspapers v. Superior Court* (1988) 44 Cal.3d 1162, 1178-1183; *Daily Journal Corp. v. Superior Court* (1999) 20 Cal.4th 1117. Please note, the prohibition in McClatchy does not extend to selective paraphrasing of testimony in findings that do not disclose the identity of the witness nor does it extend to quoting statements from public documents.

Please let me know if you have any questions or would like to discuss this further.

Very truly yours,

Jeffrey L. Berk
Deputy County Counsel

JLB:ao
cc: Judge Raima Ballinger

Approved: Ballenger
Superior Court Judge

Date: 5.23.16

CITIZENS COMPLAINT PROCEDURES

SUMMARY

In 2015, *The President's Task Force on 21st Century Policing* provided guidelines for building trust, using social media and technology, and implementing community policing. In keeping with the public demand for more community oversight, this report provides an examination of citizen procedures in three law enforcement agencies in Sonoma County

Occasionally, someone files a complaint with a local law enforcement agency arising from an interaction with a law enforcement officer. Agencies offer several methods for filing complaints, and each agency has its own internal policies and procedures for handling those complaints. The criteria for determining which matters should be logged as citizen complaints, and the method of tracking complaints, differ among law enforcement agencies.

Each agency has procedures for conducting an internal investigation. At the conclusion of an internal investigation, a letter is sent to the complainant stating the outcome. If the complainant is dissatisfied with the outcome, each organization has procedures whereby the complainant may escalate his/her concerns to the agency's senior staff.

Statistics on the number and outcome of citizen complaints are tracked within each agency and filed annually with the California Department of Justice. However, because each agency uses different criteria for logging and tracking complaints, the numbers reported are not useful for comparison purposes

BACKGROUND

Law enforcement agencies in Sonoma County have taken steps to implement the recommendations of the Final Report of *The President's Task Force on 21st Century Policing*. This task force was created to strengthen community policing and trust between law enforcement officers and the communities they serve. The Sonoma County Civil Grand Jury initiated an investigation into the policies and procedures used by local law enforcement agencies in responding to citizens' complaints.

METHODOLOGY

The Grand Jury conducted interviews with the Santa Rosa Police Department, the Rohnert Park Police and Fire Department and the Petaluma Police Department. The Grand Jury also examined written materials covering each department's policies and procedures concerning citizens' interactions with law enforcement personnel. We reviewed hard copy and online information about filing a complaint from each agency's website and obtained statistical information from the Office of the California State Attorney General.

DISCUSSION

Many law enforcement agencies have developed programs to increase their visibility with the public. Each agency's objective is to expand its presence within the community and to be responsive to issues that arise. To reach that goal each agency offers several forms of outreach programs including town hall meetings and "coffee with cops." The agencies we interviewed direct beat officers to walk their downtown business areas to introduce themselves, hand out business cards and talk to citizens and business owners.

Citizen complaints can be submitted in person at the local police department or online at the agency's website. Complaint forms are posted in most agency lobbies. Both web-based and paper complaint forms are available in English and Spanish. Complaints may also be submitted by telephone. Some complainants wish to remain anonymous. Anonymous complaints are investigated in the same manner as those submitted by a named citizen. Each agency offers telephone-based translation services for individuals whose primary language is other than English or Spanish.

The agencies we interviewed state that they take citizens' complaints seriously and respond accordingly. Each of the agencies has its own policies and procedures for handling complaints and uses its own criteria for tracking complaints. In some cases, a complaint is resolved immediately by discussion with an officer or employee at the front desk. If the complainant is not satisfied with the resolution, the Duty Officer is called to speak with him/her. Should the Duty Officer determine that the complaint warrants further review, an internal, administrative investigation is initiated. Such investigations follow a specific protocol and are led by a Sergeant or higher-ranking staff member. The status of on-going complaints is reviewed weekly with the Chief.

Agencies maintain logs where complaints are recorded and assigned a case number. Investigators are assigned to each case and meet weekly with their Chief until the investigation is concluded. Each jurisdiction uses somewhat different terminology for identifying the resolution of a complaint. For example, we have included below a copy of the Santa Rosa Police Department's 2014 Report, summarizing the number of complaints the Department received and the categories assigned to the complaints. The common definitions used by the agencies in their investigations correspond to the following:

- Unfounded: When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel.
- Exonerated: When the investigation discloses that the alleged act did not occur, or that it occurred and the act was deemed justified and lawful.
- Inconclusive: When the investigation discloses that either there is insufficient evidence to sustain the complaint or to fully exonerate the employee.
- Sustained: When the investigation discloses sufficient evidence to establish that the act occurred and that it constitutes misconduct.

At the conclusion of an internal administrative investigation, the investigating officer prepares an outcome recommendation, detailing the findings, which is forwarded to the Chief of the agency. A letter setting forth the outcome is also sent to the complainant, unless the complaint was submitted anonymously. The agency's letter to the complainant does not include any information pertaining to disciplinary measures which may have been taken against any officer who was the subject of the investigation. Such disclosures are prohibited by California's Public Safety Officers Procedural Bill of Rights Act.

Occasionally the complainant is dissatisfied with the outcome. In that event, he/she may ask to speak with a senior staff member for further consideration of the complaint. Should the complainant still not be satisfied, the agency Chief will meet with him/her in a further attempt to reach a resolution. If a resolution still cannot be reached to the complainant's satisfaction, he/she may seek recourse by forwarding the complaint to the California Attorney General's Office.

Recently, in part as a response to public demands for civilian oversight of law enforcement policies and practices, the Sonoma County Board of Supervisors created the Independent Office of Law Enforcement Review and Outreach. Santa Rosa's City Manager and its Police Department have also hired an Auditor of Oversight for the Santa Rosa Police Department. The cost and effectiveness of these measures remains to be seen.

FINDINGS

F1. The Sonoma County law enforcement agencies interviewed by the Grand Jury have policies and procedures in place to respond to citizen complaints.

F2. Each agency uses its own criteria to determine and categorize citizen complaints.

RECOMMENDATIONS

None.

RESOURCES

The Public Safety Officers Procedural Bill of Rights Act, California Government Code Sections 3300-3313.

The *California Department of Justice Policy Governing Citizen Complaints Against Law Enforcement*, Section 2, General Policy, states:

> It is the Department of Justice general policy that local government will be primarily responsible for citizen complaints against law enforcement agencies or employees and that appropriate local resources (e.g. sheriff or police department, district attorney, etc.) within the area or jurisdiction be utilized for resolution of such complaints prior to a request for intervention by the Attorney General.

The Final Report of The President's Task Force on 21st Century Policing

The Santa Rosa Police Department Annual Report 2014

In 2014, SRPD had over 230,000 citizen contacts from which the department received 86 external personnel complaints. In addition, the department had 5 internally generated complaints. All complaints are formally documented and are forwarded to the employees' supervisors for follow-up. Below is a comparison of complaints received in 2013 and 2014. To followup on a previously filed complaint, call (707) 543-3559.

PERSONNEL COMPLAINTS							
Finding	2013			2014			Percent Change
	Internal	External	Total	Internal	External	Total	
Unfounded	2	52	54	1	55	56	+4%
Sustained	8	9	17	3	8	11	-35%
Inconclusive	0	1	1	0	2	2	+50%
Exonerated	0	0	0	0	2	2	+100%
Resolved	3	16	19	1	14	15	-19%
Total	13	78	91	5	81	86	-5%

ADMINISTRATIVE INVESTIGATIONS (Complaints elevated to a higher level of investigation)				
Finding	2012	2013	2014	Percent Change 2013 to 2014
Sustained	6	9	12	+33%
Inconclusive	0	0	2	+100%
Exonerated	0	0	1	+100%

Definitions of Findings:

Unfounded: The alleged act(s) did not occur or did not involve department personnel.
Sustained: The act(s) did occur and it constituted misconduct.
Inconclusive: There is insufficient evidence to sustain the complaint or fully exonerate the employee.
Exonerated: The alleged act(s) did occur but the act was justified, lawful and/or proper.
Resolved: Complaint was resolved and no further action was taken.

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.