

Rohnert Park Department of Public Safety

Better Procedures to Avoid Future Misconduct

SUMMARY

Between 2014 and 2017, the police division of the Rohnert Park Department of Public Safety (RPDPS or Department) had a drug interdiction task force. In conjunction with other jurisdictions, it engaged in drug enforcement activities along the Highway 101 corridor in an attempt to stop the flow of marijuana into Sonoma County. Following the November 2016 state ballot initiative legalizing marijuana, these activities declined throughout Sonoma County and were officially ended in early 2017 by the City of Rohnert Park (City). However, the interdictions were continued by two rogue RPDPS officers.

In late 2017, the first of three private racketeering lawsuits was filed against the City of Rohnert Park, alleging that these same two officers were illegally stopping vehicles, confiscating cash and marijuana, and violating the plaintiffs' civil rights. Internal investigations and audits were initiated by the Rohnert Park City Council and the FBI. While the FBI conducted its investigation, the City Council hired two outside consulting firms through the City Attorney. Pending the outcome of the investigations, the two officers were suspended. In 2018, one of the officers, the Director of Public Safety (Director), and one commander resigned or retired. The second officer resigned, agreeing not to sue the City in exchange for a \$75,000 settlement. All three private lawsuits were settled by the City for approximately \$2 million. In March 2021, federal criminal charges were brought alleging the two officers had conspired to extort goods and cash under the 'color of official right', among other allegations. One officer named in the lawsuits has since pled guilty and trial is pending for the other officer.

Investigations and audits identified deficiencies in the policies and operations of the RPDPS and recommended that numerous actions be taken to eliminate the possibility of future misconduct. The Department has made significant progress in terms of restructuring its command and supervisory functions. It has implemented numerous changes in policies that touch on such diverse subjects as evidence handling, use of body cameras, vehicle monitoring, and related improvements. The 2020-2021 Sonoma County Civil Grand Jury's (Grand Jury) investigation found that while significant steps have been taken to improve supervision and enforcement of Departmental regulations and policies, further improvements are needed to enhance the oversight of the Department by the City Manager and the City Council and to further enhance adherence to departmental regulations.

GLOSSARY

- City City of Rohnert Park
- Color of Official Right The wrongful taking by a public officer of money or property not due to him or his office with or without force, threats or use of fear
- CPSM Center for Public Safety Management
- GPS Global positioning system
- MDC Mobile Data Computer
- RPDPS Rohnert Park Department of Public Safety
- PSOA Public Safety Officers Association

BACKGROUND

Legal Proceedings Against the Two Officers

The RPDPS was involved in multi-jurisdictional drug interdiction activities intended to stop the illegal flow of marijuana into and through Sonoma County between 2014 and 2017. During that time, the RPDPS seized assets estimated to be in excess of \$2 million. Asset seizures consisted primarily of cash and marijuana, and were conducted along the Highway 101 corridor in Sonoma and Mendocino Counties.

Asset forfeitures reported by the two rogue RPDPS officers consistently exceeded those of other jurisdictions in the county, exceeding even the amounts reported by the Sonoma County Sheriff's Department whose jurisdiction is county-wide. In 2016, the RPDPS seized \$1.4 million in asset forfeitures from drug interdiction. This was 25 times the amount seized by the City of Santa Rosa Police Department, which has more than twice as many police officers as the City of Rohnert Park. Although Rohnert Park's interdiction program was ceased in February 2017, the City nonetheless recorded over \$700,000 in asset seizures during 2017, compared to no seizures in similarly situated cities.

The first of three private lawsuits was filed in November of 2017, alleging deprivation of civil rights by the two patrol officers of the RPDPS. The eight plaintiffs in the three lawsuits alleged that their marijuana and cash were illegally taken by the two officers; at least one lawsuit also named management personnel among the defendants. Related allegations included that the officers wore no identification, drove unmarked vehicles, failed to provide receipts for seized items, and issued no citations for alleged violations. Numerous investigations were initiated by the City, by local press and news outlets, and ultimately by the FBI. The City commissioned two audits, one was initiated prior to the lawsuits by the Center for Public Safety Management (CPSM) and the other was initiated as a direct result of the lawsuits by a consulting firm operated by a retired Oakland Police Chief. Although the CPSM audit and accompanying recommendations were provided to the Grand Jury, the second report was withheld under a claim of privilege asserted by the City Attorney.

In summary, the City of Rohnert Park has settled the private lawsuits for approximately \$2 million. The two officers of the RPDPS were indicted on federal criminal charges for conspiracy and extortion under color of official right, tax evasion, and falsification of a police report. One of the indicted officers has since pled guilty and is awaiting sentencing. The case against the second officer is proceeding to trial.

An Environment Ripe for Misconduct

Where the typical public safety model consists of separate police and fire departments, these activities are combined in the RPDPS, such that all personnel are trained to respond to both police and fire incidents. Staff normally perform six-month rotations in those two divisions. Prior to 2019, the supervisory hierarchy consisted of a Director and three commanders: one for administrative services, one for police activities, and one for fire activities. The three commanders supervised the sergeants, patrol officers, and fire officers as well as civilian staff. Like the sworn sergeants and officers, the commanders also worked 10-hour shifts. While sergeants and officers worked staggered shifts around the clock, commanders only worked day

shift. This meant that in any 24-hour period, there was a 14-hour period functionally without commander supervision.



It is alleged that the two rogue officers were able to extort drugs and cash from motorists for at least two years without anyone in the RPDPS or the City Manager's office being aware of their illicit activities. In the aftermath of the investigations and legal proceedings, numerous factors were identified as having contributed to the ability of these officers to behave with impunity over the course of several years. The Grand Jury self-initiated an investigation to understand how this was possible, and whether the City has adequately addressed factors to prevent a recurrence of police misconduct and unethical behavior.

Inadequate Police Supervision

During the investigation, the Grand Jury discovered that at least one of the audits commissioned by the City Council noted that a missing tier of supervision created a supervisory gap. The RPDPS lacked adequate supervision at the upper and mid-levels of management. The CPSM audit recommended a larger command staff, including the creation of deputy director and lieutenant positions overseeing the sergeants and patrol officers. In response, the City increased their command staff but did not add as many additional supervisory positions as CPSM recommended. Currently, the additional command positions with staggered shifts provide 20 hours of supervision per day, seven days a week, thereby significantly reducing the amount of time sergeants and patrol officers are working without command supervision.

Inadequate and Unenforced Police Procedures

Potential factors that allowed the alleged misconduct to occur included the lack of enforcement related to breaches of procedures in place and the lack of adequate procedures. The two rogue officers were able to use unmarked cars without following established protocols. At the time, procedure required officers to sign out vehicles, but there was no tracking or verification of cars being checked out so their unauthorized use went unnoticed. The officers also mishandled evidence due to inadequate procedures and minimal enforcement of the prescribed procedures. KQED reported that 800 pounds of marijuana and the destruction orders that should have been

filed in conjunction with those seizures were either never placed into the evidence room or were improperly removed. And at the time, there was no consistent use of body-worn cameras. The combination of lack of supervision, lack of procedure enforcement, and lack of adequate procedures contributed to the ongoing officer misconduct going unnoticed for years.

Officer Discontent

Members of the Police Officers Association complained to the Director and the City Manager for several years that the Director was not doing enough to secure additional resources to reduce officers' mandatory overtime. In May 2017, the members of the Public Safety Officers Association (PSOA) issued a 36-6 vote of no confidence in the Director of the RPDPS. Because the Director was performing satisfactorily in other aspects of his job, his contract was renewed a week before the vote of no confidence despite the Association's concerns.

METHODOLOGY

This is a self-initiated investigation by the 2021–2022 Sonoma County Civil Grand Jury.

The Grand Jury conducted interviews with individuals involved with the Rohnert Park Department of Public Safety before, during, and after the drug interdiction activities that led to the lawsuits, investigations, audits, and federal charges filed against the two officers. These interviews included members of both the Rohnert Park Department of Public Safety and individuals outside the RPDPS.

The Grand Jury conducted extensive research and reviewed RPDPS policy and procedure manuals, internal documents, minutes from meetings of the Rohnert Park City Council, press reports, and consulting firm audits. Information was obtained from public websites, as well as from documents supplied by interviewees.

DISCUSSION

Departmental Organization

The RPDPS is one of two public safety departments in California with integrated police and fire services. All sworn members of the department serve as both law enforcement officers and firefighters, with patrol officers and sergeants rotating on a regular basis. During the period when the multi-jurisdictional drug interdiction program was in full-swing, the RPDPS supervisory hierarchy consisted of the Director of Public Safety, who reported to the City Manager, and three commanders: one in charge of the Administrative Services, one overseeing the Police operations, and one in charge of Fire operations. The three commanders worked a typical work week, Monday through Friday during normal business hours. Reporting directly to these three commanders were a budgeted thirteen sergeants, fifty-four Public Safety Officers, and thirteen in dispatch. These officers and employees had varying shifts to cover 24/7 operations of the RPDPS.

Unrecognized Officer Misconduct

In 2015, one of the rogue officers was promoted to the rank of sergeant and given the "Officer of the Year" award for his drug interdiction activities. In 2014, the same officer led a probation search that was subsequently found by the US District Court to have violated the civil rights of the homeowners and resulted in a \$145,000 settlement paid by the City of Rohnert Park. The

judge in that case noted in her 2019 opinion, that the Department lacked a written procedure as to how probation searches were to be conducted.

When this officer and his partner in 2016 exceeded the seizures by other, and significantly larger, jurisdictions, the Grand Jury found no evidence that red flags or other concerns were raised either in the Department or the City Manager's office. In fact, it appears they were regarded as model officers by both the rank and file and by many supervisors within the department. Although the two officers claimed to have seized over 750 pounds of marijuana, they only booked a ten-pound sample into the evidence room. Neither the remaining marijuana, nor the destruction orders that should have been processed to dispose of the drugs, have ever been located. Despite the evidence, there is no documentation that the Department undertook any type of spot-checking to verify that the marijuana had, in fact, been destroyed.

Inadequate Supervision

The Grand Jury concluded that there was a strong correlation between the lack of on-site supervision, particularly during evening hours, and the lack of oversight over the activities of the rogue officers. Additionally, there appears to have been little enforcement of procedures already in place that should have inhibited rogue behavior. There was insufficient tracking of body camera use, limited tracking of when unmarked police vehicles were checked out or when officers were operating outside the jurisdictional limits of the City of Rohnert Park, and poor tracking of evidence to the extent it was turned in to the property room. Police reports authored by the rogue officers were not correlated with case numbers or tracked to evidence retained in the property room.

Officer Discontent with Management

The Grand Jury also found that many rank and file patrol officers felt that management, to the extent it existed, was disengaged from the activities and concerns of the patrol officers. Their concerns were largely unrelated to the interdiction activities, which they too were unaware of at the time. In May 2017, the membership of the PSOA delivered a vote of no confidence in their Director.

Performance Evaluation of Director

Just one week prior to the vote of no confidence, the Director's contract was renewed for four more years with a 13% increase in pay. Given that the opinion of the Director's performance was questioned by many rank and file officers, the Grand Jury sought to understand why officer dissatisfaction was not acknowledged by the City Manager and the City Council. With the exception of the Director, all Department personnel receive an annual written evaluation. However, the Director, who reports to the City Manager, does not.

Although the City Manager has a *Performance Appraisal Executive Management* form that covers job performance factors in great detail, it is not used after the first six months for the Director of Public Safety. The City Manager provided the previous Director of Public Safety one written evaluation during the five years in which the Director reported to him. The current Director of Public Safety has received only one written evaluation in his three-year tenure. There is consequently no written record of performance feedback provided to either the Director of Public Safety or the City Council in over two years. After the first six months of a Director's tenure, performance evaluation feedback is only provided informally and is not documented. A formal annual written evaluation of the Director's performance could provide early detection of

problems and an opportunity to remedy them before they escalate. A written evaluation would also formally acknowledge a Director's positive accomplishments while simultaneously identifying areas for improvement.

Departmental Restructuring

An audit, commissioned by the Rohnert Park City Council in 2018 and conducted by the Center for Public Safety Management, recommended an increase of four sworn officers (two command and two patrol) and that a new middle tier be added to the command structure. The recommended structure called for the creation of seven lieutenant positions and a reduction of 5 sergeant positions. In December of 2018, the City Council authorized the restructuring of the RPDPS command structure. The new structure was to include two Deputy Chief positions, one for police and one for fire, and five lieutenants. The City Council further authorized promotions from within the department and elevated two of the current commanders to the Deputy Chief positions. The new tier of supervision at the lieutenant level included two lieutenants for police, two lieutenants for fire, and the previous position of Commander of Support Services was reassigned as the Manager of Support Services at the lieutenant level. Promotions were made within the department to fill these new positions.

This restructuring assured that command staff was on duty for 20 out of each 24 hours, with sergeants available during the early morning four-hour gap. In addition, all commanders and staff are on-call in the event of emergencies or critical incidents.

Vehicle Monitoring

Currently, all marked RPDPS police vehicles include location tracking through a mobile data computer (MDC) which contains a global positioning system (GPS) for logging vehicle location. These computers were also in place at the time of the drug interdiction activities. These computers must be turned on and logged into for information to be recorded. The data records are maintained and shared between most Sonoma County public safety jurisdictions through the Sonoma County Public Safety Consortium (SCPSC). When historic location data is needed for a specific vehicle,

RPDPS cannot access the data directly but contacts the SCPSC and requests the data. Unmarked vehicles, such as those used by detectives, do not carry MDCs and therefore have no GPS tracking of any kind. The CPSC audit recommended that



GPS be installed in all police vehicles, but to date that recommendation has not been implemented.

City Responses

In January 2021, the newly installed City Council identified greater accountability and transparency with respect to the RPDPS as one of its three priorities. In May 2021, the Director of Public Safety and the City Manager made a related presentation to the City Council and on August 10, 2021, the City Manager presented nine recommendations for increased law enforcement accountability and police community relations to the City Council. Of these nine recommendations, three are directly related to this investigation. These recommendations include the following:

- Retain an Independent Police Auditor to review public safety investigations into civilian complaints.
- Adopt a Public Safety Calendar for communication between the Department of Safety and the City Council.
- Create a Chief’s Community Round Table forum to obtain feedback from citizens from underrepresented minorities.

Public Opinion

It bears pointing out that despite the revelations arising from the malfeasance of two rogue officers, public support for the RPDPS remains consistently high among the 1,138 or 2.7% of Rohnert Park residents who responded to the 2022 Community Survey.

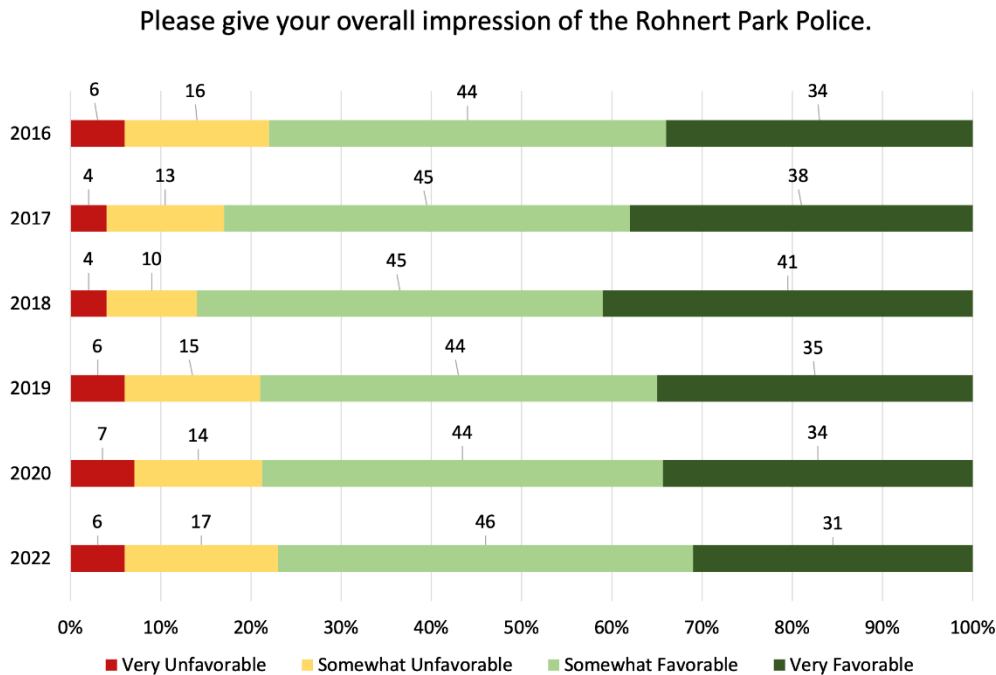


Table 1: Survey results from rpcity.org

CONCLUSION

Only when a huge scandal surfaced in the media did the City of Rohnert Park discover and acknowledge there were serious problems in the Department of Public Safety. That said, departmental procedures have been tightened up considerably since the events leading up to

2018. As recognized in the CPSM audit, the process of implementing the audit's recommendations "will not take just weeks or even months, but years."

The implementation of a new command structure provides supervision and support throughout most of the 24/7 public safety operations. This structure also provides opportunities for advancement throughout the ranks.

Officer morale and retention have improved within the RPDPS and public support has continued. The City has implemented numerous improvements:

- Implemented a new command structure
- Tightened up protocols related to vehicle check-out
- Implemented electronic barcoding of evidence and other seized items
- Implemented camera surveillance and monitoring of the evidence room
- Limited access to the evidence room to three designated persons with key access
- Implemented counting of seized cash on body worn cameras at time of seizure
- Contracted with an outside firm to investigate citizen complaints of RPDPS officers

The Grand Jury has identified areas in which we believe improvement can continue to be made to ensure the continued adherence to established policies and procedures. These recommendations will provide added checks and balances to maintain compliance with existing practices and protocols.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. The previous Director of Public Safety received one formal written evaluation from the current City Manager during the five years in which he reported to him.
- F2. During his three-year tenure, the present Director of Public Safety has received only one formal written evaluation, which occurred at the end of his first six months.
- F3. A single evaluation fails to document the strengths and weaknesses of the Director's ongoing performance.
- F4. The City Manager has no formal process to solicit input from within the Public Safety Department and to communicate concerns to the Director of Public Safety.
- F5. There is no procedural requirement dictating regularly scheduled meetings between the Director of Public Safety and the City Manager. While meetings currently happen weekly at the request of the current Director, there is no procedure requiring that this practice be maintained into the future.
- F6. There is no requirement for the Director of Public Safety to routinely provide presentations or department updates to the City Council in a public setting. Therefore, there is little opportunity to allow community input to or provide transparency of the Department's activities.
- F7. Police vehicle tracking has been and remains inadequate.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By December 31, 2022, the City Manager institute an annual written performance evaluation for the Director of Public Safety. (F1, F2, F3)
- R2. By December 31, 2022, the City Manager obtain input from a representative sample of Rohnert Park Department of Public Safety personnel to be considered in the evaluation of the Director's annual performance. (F4)
- R3. By December 31, 2022, the City Manager establish a schedule for communicating with and getting feedback from the Public Safety Officer Association. (F4, F5)
- R4. By September 30, 2022, the City Manager and the Director of Public Safety complete the preparations for and institute the Public Safety Presentation Calendar as recommended to the City Council on August 10th of 2021. (F6)
- R5. By December 31, 2022, the City Manager and the Director of Public Safety complete the recruitment for and establishment of the Chief's Community Round Table as recommended to the City Council on August 10, 2021. (F6)
- R6. By July 1, 2023, the City Council allocate funds to install GPS tracking on all police vehicles. (F7)
- R7. By December 31, 2023, the Director of Public Safety shall install GPS tracking on all police vehicles. (F7)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- City of Rohnert Park (R1, R2, R3, R4, R5, R6, R7)

The governing body indicated above should be aware that their comments and responses must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

INVITED RESPONSES

The Grand Jury invites the following to respond:

- Rohnert Park City Manager (R1, R2, R3, R4, R5)
- Rohnert Park Director of Public Safety (R4, R5, R7)

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DISCLAIMER

This report was issued by the Grand Jury with the exception of one juror who was a known critic of the Rohnert Park Department of Public Safety. This juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of the report.