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Richard C. Scholl
Sheriff/Coroner

MONO COUNTY SHERIFF'S OFFICE

Ralph Obenberger
Undersheriff

To: Honorable Judge Stan Eller
Date: 12/10/2011
From: Sheriff Rick Scholl

GRAND JURY RESPONSE

2010-2011

In regards to the Mono County Grand Jury Final Report for the year, 2010-2011, I would like to respond to the inquiries and recommendations from the Grand Jury.

As the Sheriff-Coroner and respondent to this report, I disagree wholly with the findings regarding Grand Jury Complaint 10-01.

The Grand Jury report summary states that the complainant's complaints were "well founded"; the officers did not investigate properly, did not document properly and did not report properly. They also state that the officers acted unprofessionally.

A complaint was brought to the Grand Jury from a county resident in April 2010, approximately 9 months after the allegations occurred. According to the Grand Jury, the complainant made a formal complaint to the Mono County Sheriff's Office which, according to our records, never occurred.

RECOMMENDATIONS: Under the primary summary, the Grand Jury states that we did not investigate properly, did not document properly and did not report properly and that our deputies acted unprofessionally.

Under the broad stroke of this summary and recommendations, I am unclear as to the failure of the investigation, documenting and reporting. In the report, the Grand Jury discusses these perceived failures in two separate regards. The first being the failure of the Department to receive a citizen complaint, investigate the complaint and notify the complainant of the outcome. The second reference in the Grand Jury report is referring to the contact with the complainant by our deputies on two different occasions.

Response: I disagree with the finding of the Grand Jury in respect to the failure of the Sheriff's Office to investigate citizen's complaints. The Sheriff's Office has policies and procedures in place to investigate all citizens' complaints. Those procedures are followed as outlined in the California Penal Code and our own procedures manual. The Grand Jury fails to support their findings anywhere in their report indicating that we did not accept a citizen's complaint. When the Sheriff's Office does receive a complaint, the citizen is notified in writing that we have received the complaint and a follow-up letter is sent after the investigation to notify the complainant the outcome of their complaint. According to our records, the complainant to the Grand Jury never filed a complaint with the Sheriff's Office.

The second area of concern by the Grand Jury was that our deputies acted unprofessionally. I again disagree with their findings and will respond to the individual recommendations to more fully explain the reasons for disagreement.

Recommendation 1 (a): The Grand Jury indicates Harassment and Intimidation by a Deputy Safety Officer but makes no recommendation. The employee in the focus of this investigation has retired from the Sheriff's Office.

Response: I disagree with the Grand Jury finding even though the Grand Jury makes no recommendation. Regarding this area of the complaint, their report goes on to make five recommendations regarding earlier incidents involving the Deputy Safety Officer. This employee retired from the Sheriff's Office in 2010 and is not subject to an internal affairs investigation. The mere inference that our Deputy Safety Officer was Harassing and Intimidating, without interviewing the involved employee would not be a fair and impartial investigation. The Sheriff's Office does not find any merit in opening an investigation on an employee whom has left the department a year and a half ago.

Recommendation 1:

The Grand Jury makes recommendations that the Sheriff's Office should acknowledge the receipt of citizen complaints, to have that acknowledgement in writing and inform the complainant that the complaint was investigated.

Response: I do not disagree with the Grand Jury recommendation, however the department policy and procedure manual specifies exactly what the Grand Jury recommends. The Sheriff's Office has implemented that policy and procedures long before I was elected Sheriff and that policy has been adhered to as far as I am aware. There will be no change in our policy.

Recommendation 2:

The Grand Jury recommends that all altercations, use of force, or accusations against a citizen be documented in a crime or arrest report. It is also recommended that a policy should be implemented if additional officers are used.

Response: Once again I do not disagree with the recommendation except for the policy on additional officers. There are incidents where several officers are present at a scene and the reporting officers will most often include additional officers in the report. However, if the other officer's involvement has no evidentiary value, they may not be listed in the report depending on the significance of the incident. The charges brought against the complainant were well documented, audio taped and a report was sent to the District Attorney for prosecution as the Grand Jury report indicates. Not everyone at the location was included in the report as the officer making the allegations against the complainant is a court certified expert witness in narcotics cases and the other officers at the scene did not have the expertise of the reporting deputy. There will be no change in our department policy.

Recommendation 3:

The Grand Jury recommends the establishment of a policy for regular training for officers to prevent situations where a citizen would feel intimidated by the Sheriff's Department.

Response: The Sheriff's Office has established policies and procedures for training of all employees. California Peace Officer Standards and Training evaluates all California POST certified agencies on a regular basis to make sure we comply with all training requirements. Some of that training includes dealing with difficult people and how to diffuse the situation without threats and intimidation. There are situations where the public may feel intimidated by any Peace Officer in the performance of their duties especially if they are the subject of a law enforcement action. Unfortunately, some people will be intimidated by the mere presence of a Deputy Sheriff and intimidation is at times an effective tool used in law enforcement so there will be no change in our policy or procedure.

Recommendation 4:

The Grand Jury recommends that the Sheriff's Department have policies and procedures in place to minimize conflicts between our deputies and the citizens.

Response: I agree with the recommendations and our policy and procedure manual does address this very concern. Our deputies must attend POST certified training in cultural diversity, conflict resolutions and a myriad of other human behavior trainings. In dealing with human beings, the personalities of the diverse work force and the diversity in human interaction will not always be amenable. The Sheriff's Office has a multitude of duties and some of these duties could pose to jeopardize the safety of someone the deputies have contact with. This is acceptable in most every case and will be reviewed on a case by case basis. There will be no change to our current policy or practice.

Recommendation 5:

A recommendation for the Sheriff's Office to distribute required safety codes to businesses that could affect public safety.

Response: The Sheriff's Office personnel do not specifically deliver "safety codes", to businesses or citizens in Mono County. I am not sure I understand the recommendation but will try and respond to what we currently have in practice. Specifically, in our "Boating " program, our employees consistently advise, educate and inform the public and marina operators on required equipment, safety concerns and other issues pertaining to the safe operation of their facility and to comply with California laws and regulations. The Mono County Sheriff's Office Boating Enforcement program has been doing this on a regular basis for approximately 25 years and will continue in this regard. There will be no change to existing practice or policy.

Recommendation 6:

The Grand Jury recommends the Sheriff's Office conduct an internal investigation of the incident occurring in August 2009.

Response: I do not concur with the finding/recommendations of the Grand Jury. An internal investigation into an incident occurring in 2009 would be difficult at best as the initial employee involved, retired in June 2010 and has moved out of the area. That employee would also have no requirement to cooperate with an internal investigation and apparently did not feel the need to file formal felony charges against the complainant at the time for whatever reason. It is not consistent with policy or practice that the Sheriff's Office takes third party complaints however if the complainant wishes to file a complaint in the future we will take appropriate action consistent with State law and our policy.

Recommendation 7:

The Grand Jury made the recommendation for the Sheriff's Department to maintain quality assurance procedures to insure that all required policies and procedures are followed and to track failures and to reduce the potential for failure in the future.

Response: To maintain a quality assurance program is a viable request by the Grand Jury. I believe we have that in place with over 400 pages of our policy and procedures manual along with a myriad of other laws that all employees must obey. In the Sheriff's Office as in any paramilitary organization, there is accountability from all ranks, much more so than most any employer. As the Sheriff-Coroner, it is my responsibility to require the compliance of all directives, orders and procedures. When there is a violation of those processes, disciplinary action or retraining maybe appropriate. The men and women of the Sheriff's Office are overwhelmingly professional, competent, and highly trained individuals that I am extremely proud of. The fact that we are dealing with human beings and not machines is a blessing in most all cases. To scrutinize and micro manage every action, or inaction of our personnel is not only demeaning but would only prove that we are dealing with human behavior. We are in a profession that mandates our personnel be assertive, inquisitive, and to be skeptical of the stories we are told. We are scrutinized by not only our own immediate supervisors but the media, the Grand Jury, the court system, and the public we served. I believe a quality assurance program is part of our day to day operation.

I would be happy to personally meet with any member of the public including the Grand Jury in regards to any complaint or allegation against the Sheriff's Office.

If the Grand Jury has any specific questions that I did not address in this letter, please don't hesitate to contact me.

Respectfully,



Rick Scholl

Mono County Sheriff-Coroner