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Office of the Sheriff



SANTA BARBARA COUNTY

HEADQUARTERS

P.O. Box 6427 • 4434 Calle Real • Santa Barbara, California 93160

Phone (805) 681-4100 • Fax (805) 681-4322

www.sbsheriff.org

BILL BROWN

Sheriff - Coroner

JIM PETERSON

Undersheriff

STATIONS

Buellton

140 W. Highway 246
Buellton, CA 93427
Phone (805) 686-8150

Carpinteria

5775 Carpinteria Avenue
Carpinteria, CA 93013
Phone (805) 684-4561

Isla Vista

6504 Trigo Road
Isla Vista, CA 93117
Phone (805) 681-4179

Lompoc

3500 Harris Grade Road
Lompoc, CA 93436
Phone (805) 737-7737

New Cuyama

70 Newsome Street
New Cuyama, CA 93254
Phone (661) 766-2310

Santa Maria

812-A W. Foster Road
Santa Maria, CA 93455
Phone (805) 934-6150

Solvang

1745 Mission Drive
Solvang, CA 93463
Phone (805) 686-5000

Sheriff - Coroner Office

66 S. San Antonio Road
Santa Barbara, CA 93110
Phone (805) 681-4145

Main Jail

4436 Calle Real
Santa Barbara, CA 93110
Phone (805) 681-4260

COURT SERVICES
CIVIL OFFICES

Santa Barbara

1105 Santa Barbara Street
P.O. Box 690
Santa Barbara, CA 93102
Phone (805) 568-2900

Santa Maria

312 E. Cook Street, "O"
P.O. Box 5049
Santa Maria, CA 93456
Phone (805) 346-7430

July 16, 2012

Mr. Ted Sten
Santa Barbara County Grand Jury
1100 Anacapa Street
Santa Barbara, California 93101

RE: Response to 2011-12 Grand Jury Report Entitled "*Citizen Access To Law Enforcement Audio/Video Recordings: To Be Seen or Not To Be Seen?*"

Dear Mr. Sten:

Enclosed please find the Santa Barbara County Sheriff's Office response to the 2011-2012 Santa Barbara County Civil Grand Jury Report entitled "*Citizen Access To Law Enforcement Audio/Video Recordings: To Be Seen or Not To Be Seen?*"

The Santa Barbara County Sheriff's Office has been utilizing audio visual technologies for many years to augment our ability to effectively document and investigate crimes and other law enforcement related activities. In 2004, the Sheriff's Office installed the COBAN mobile audio video recording system in our patrol vehicles for the purpose of recording/documenting citizen contacts. I have enclosed a comprehensive report prepared by my staff, addressing each of the Grand Jury's questions.

Should you have additional questions, please feel free to contact me or Undersheriff Jim Peterson at 681-4290.

Sincerely,

BILL BROWN
Sheriff - Coroner

Enclosure

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BY

SANTA BARBARA COUNTY SHERIFF'S OFFICE
RESPONSE TO THE SANTA BARBARA COUNTY
GRAND JURY 2011-2012 REPORT
"CITIZEN ACCESS TO LAW ENFORCEMENT
AUDIO/VIDEO RECORDINGS:
TO BE SEEN OR NOT TO BE SEEN"

FINDINGS AND RECOMMENDATIONS

Finding 1: *Government Code section 6252(f) allows law enforcement agencies discretion to provide citizen access to patrol vehicle audio / video recordings.*

Response to Finding 1: **The Sheriff's Office agrees with the finding.**

It should be noted that on occasion, and at the discretion of the Sheriff's Office, audio / video recordings of citizen contacts are made available to the public to address citizen concerns. An example of this would be reviewing the video -taped evidence indicative of intoxication with a parent following an arrest in Isla Vista subsequent to our annual Halloween enforcement operations.

Finding 2: *Law enforcement agencies in Santa Barbara County do not provide routine citizen access to patrol vehicle audio/visual recordings.*

Response to Finding 2: **The Sheriff's Office agrees with the finding.**

However, the Sheriff's Office maintains the discretion to allow public access to audio / video recordings on occasion. Routine access is neither warranted nor desirable, based upon staff limitations, investigative imperatives, the integrity of the discovery process, and consistency with the California Evidence Code. Any audio / visual recording obtained during a citizen contact by way of the mobile audio / video recording system that is deemed to be evidentiary in nature can be obtained through the discovery process. Furthermore, audio / visual recordings of citizen contacts that are not of an evidentiary nature may be obtained by the public under the provisions of the California Public Records Act.

As stated previously, on occasion, and at the discretion of the Sheriff's Office, audio / video recordings of citizen contacts are made available to the public to address citizen concerns. Such releases are evaluated on a case by case basis.

Finding 3: *Law enforcement agencies in Santa Barbara County do not routinely inform the affected citizen that there is an audio/video recording being made during a patrol vehicle stop.*

Response to Finding 3: **The Sheriff's Office agrees with the finding.**

The Sheriff Office maintains that there is no affirmative duty on the part of law enforcement to inform the public of the audio /video recordings obtained during the course of a citizen contact,

as the public have no reasonable expectation of privacy during the course of contacts with law enforcement personnel.

However, it should be noted that existing policy requires that the investigating deputy document the use of the mobile audio / video recording system wherever a citizen contact results in a report or citation that is generated.

Finding 4: *Law enforcement agencies in Santa Barbara County do not routinely inform the parent/guardian that there is patrol vehicle audio/visual recording of the agency's contact with their juvenile.*

Response to Finding 4: The Sheriff's Office agrees with the finding.

The Sheriff Office maintains that there is no affirmative duty on the part of law enforcement to inform the public of the audio /video recordings obtained during the course of a citizen contact, since members of the public have no reasonable expectation of privacy during the course of these contacts.

However, as stated previously, on occasion, and at the discretion of the Sheriff's Office, audio / video recordings of citizen contacts are made available to public to address citizen concerns.

Recommendation 1: *That all Santa Barbara County law enforcement agencies permit citizens stopped by patrol officers to view audio/video recordings prior to filing a legal complaint or a juvenile petition.*

Response to Recommendation 1: This recommendation will not be implemented because it is not warranted or reasonable.

To implement the recommendation would place additional burden on the Sheriff's Office' already limited staff and would detract from their many duties.

The Sheriff's Office maintains that any audio / visual recording obtained during a citizen contact by way of the mobile audio video recording system that is deemed to be evidentiary in nature can currently be obtained through the discovery process. Audio / visual recordings of citizen contacts that are not of an evidentiary nature may be obtained under the provisions of the California Public Records Act.

Additionally, permitting the affected citizens to view audio / visual recording of a law enforcement contact in which they were the subject would have no bearing in determining whether or not the case, if it is of a criminal nature, will be forwarded to the District Attorney for review and/or filing with the Court or, in the case of a juvenile contact, Probation and the Juvenile Court.

Recommendation 2: *That all Santa Barbara County law enforcement agencies provide verbal as well as a printed notice to citizens contacted by a patrol officer that there is an audio/video recording of the incident and when and where they may view it.*

Response to Recommendation 2: **This recommendation will not be implemented because it is not warranted or reasonable.**

The Sheriff Office maintains that there is no affirmative duty or legal requirement on the part of law enforcement to inform the public of the audio / video recordings obtained during the course of a citizen contact, since members of the public have no reasonable expectation of privacy during the course of these contacts.

The Sheriff's Office does not have the available resources to absorb the additional discretionary duty of informing the public of the audio / video recordings by way of printed material, or by any other means of notification.

The Sheriff's Office maintains that any audio / visual recording obtained during a citizen contact by way of the mobile audio video recording system that is deemed to be evidentiary in nature can be obtained through the Discovery process as prescribed in the California Evidence Code. Audio visual recordings of citizen contacts that are not of an evidentiary nature may be obtained under the provisions of the California Public Records Act.

Again, existing policy requires that the investigating deputy document the use of the mobile audio / video recording system whenever a citizen contact results in a report or citation that is generated.

Recommendation 3: *That the parent/guardian of a juvenile contacted by a patrol officer be informed that an audio/video recording of a contact with their child has been made and when and where they may view it.*

Response to Recommendation 3: **The recommendation will not be implemented because it is not warranted or is not reasonable.**

The Sheriff Office maintains that there is no affirmative duty on the part of law enforcement to inform the public of the audio / video recordings obtained during the course of a citizen contact since the public has no reasonable expectation of privacy during the course of these contacts.

The Sheriff's Office maintains that any audio / visual recording obtained during a citizen contact that is deemed to be evidentiary in nature can be obtained through the Discovery process as prescribed in the California Evidence Code. Audio visual recordings of citizen contacts that are not of an evidentiary nature are subject to the provisions of the California Public Records Act.

Recommendation 4: *That all Santa Barbara County law enforcement agencies that currently have patrol vehicle audio/video recording capability evaluate the financial savings and report to*

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Santa Barbara County Sheriff's Office
Response to the Grand Jury 2011-2012 Report
Citizen Access to Law Enforcement Audio/Video Recordings – To Be Seen or Not To Be Seen?
Page 4 of 4

their city councils and/or Board of Supervisors the impact of initiating Recommendations 1, 2, and 3.

Response to Recommendation 4: The recommendation will not be implemented because it is not warranted or is not reasonable.

The Sheriff's Office believes it is unreasonable to assume that an accurate fiscal analysis could be pursued given the large number of variables which exist in the scenario created in the above recommendation. Coupled with our current staffing challenges, the Sheriff's Office' ability to go forward with a fiscal analysis of this nature is severely limited, as any and all available resources / staffing are being directed to meeting our present mandates and fulfilling our front line law enforcement commitments to the community.

Furthermore, the Sheriff's office respectfully disagrees with the Grand Jury and believes that the County would have significantly increased staffing and costs, rather than any savings, if the aforementioned recommendations were implemented.

The Santa Barbara County Sheriff's Office appreciates the work and observations of the Grand Jury. Although we respectfully disagree with your recommendations in this immediate instance, we applaud your commitment to our community and look forward to working with you in the future to improve the services we provide to our citizens.