



CITY OF SANTA MARIA  
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December 5, 2012

The Honorable Judge Brian Hill  
Presiding Judge of the Superior Court of Santa Barbara County  
1100 Anacapa Street  
Santa Barbara, CA 93101

Honorable Judge Hill:

The below response was approved by the Santa Maria City Council on August 7, 2012. Unfortunately, due to an oversight, the response was not forwarded to the Grand Jury at the time of Council approval. Therefore, we are now forwarding the same, and apologize for this oversight and delay.

The 2011-12 Santa Barbara County Civil Grand Jury recently released its report entitled *Citizen Access to Law Enforcement Audio/Video Recordings - To be Seen or Not to be Seen*. The City of Santa Maria is named as an affected agency and is required to respond to applicable findings and recommendations within 90 days of the report issuance.

RESPONSE TO THE GRAND JURY FINDING REGARDING CITIZEN ACCESS TO  
LAW ENFORCEMENT AUDIO/VIDEO RECORDINGS - TO BE SEEN OR NOT TO BE  
SEEN

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

**City Response:** The City agrees with the finding. Occasionally and at the discretion of the Police Department, law enforcement audio/video recordings of citizen contacts are made available for review to clarify and address specific citizen concerns with regard to Police conduct. An example of this would be reviewing the videotaped evidence of a vehicular traffic stop of a minor refusing to sign a citation with a parent following an arrest.

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

**City Response:** The Police Department agrees with the finding. Although the Police Department maintains the discretion to allow public access to audio/video recordings on occasion, routine access is neither warranted or desirable by the Police Department.



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This position is based upon impacts to staff, maintaining California Evidence Code integrities and investigative imperatives. Any audio/video recording of a law enforcement contact involving a citizen that has been deemed of evidentiary value can be obtained through the discovery process. The same actions can be applied to requests made for law enforcement audio/video recordings of citizen contacts that are not of an evidentiary nature, they may be obtained by the public under the provisions afforded by the California Records Act.

As aforementioned, on occasion, and at the discretion of the Police Department, audio/video recordings of citizen contacts are made available to the public to address citizen concerns; however, 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.

**City Response:** The Police Department agrees with the finding. The Police Department maintains the position there is no duty or responsibility on the part of law enforcement to inform the public that a citizen contact is being audio/video recorded, as members of the public have no reasonable expectation of privacy during contacts with law enforcement personnel.

The Police Department does require in existing policy that investigating officers document the use of a mobile audio/video recording system and the patrol unit number whenever a citizen contact results in a report of evidentiary value or citation being issued.

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

**City Response:** The Police Department agrees with the finding. The Police Department maintains the position there is no affirmative duty or responsibility on the part of law enforcement to inform the public that a citizen contact is being audio/video recorded, as members of the public have no reasonable expectation of privacy during contacts with law enforcement personnel.

As aforementioned, on occasion, and at the discretion of the Police Department, audio/video recordings of citizen contacts are made available to the 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.



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To implement the recommendation would place addition burden on the Police Departments already limited staff and would detract from their many duties.

The Police Department maintains the position that any audio/video recording obtained of a citizen contact by utilizing the mobile audio/video recording system that is determined to be of evidentiary value can currently be obtained through the discovery process. Those same recordings of citizen contacts that are not of evidentiary value may be obtained under the provisions afforded under the California Public Records Act.

Allowing affected citizens to view audio/video recordings of law enforcement contact they were the subject of would have no bearing in determining, if the case is criminal in nature that it will be forwarded to the District Attorney for review and/or filing with the Court; in the case of a juvenile contact, Probation Department or Juvenile Court review.

**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 Police Department maintains the position there is no affirmative duty or legal responsibility on behalf of law enforcement to inform the public that a citizen contact is being audio/video recorded, as members of the public have no reasonable expectation of privacy during contacts with law enforcement personnel.

The Police Department does not have the necessary staffing and available resources to sustain additional duties of informing the public of audio/video recordings by way of printed material, or any other means of notification.

As aforementioned within this document, any audio/video recording obtained of a citizen contact by utilizing the mobile audio/video recording system that is determined to be of evidentiary value can be obtained through the Discovery process as prescribed within the California Evidence Code. Similarly, audio/video recordings of citizen contacts holding no evidentiary value may be obtained under the provisions afforded by the California Public Records Act.

To reemphasize, existing Police policy requires investigating officers to document use of the mobile audio/video recording system whenever a citizen contact results in a report of evidentiary significance or citation that is issued.

**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.



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Again, the Police Department maintains the position there is no affirmative duty or legal responsibility on behalf of law enforcement to inform the public that a citizen contact is being audio/video recorded since members of the public have no reasonable expectation to privacy during contacts with law enforcement personnel.

The Police Department maintains the position that any audio/video recording obtained of a citizen contact by utilizing the mobile audio/video recording system that is determined to be of evidentiary value can be obtained through the Discovery process as prescribed within the California Evidence Code. Audio/video recordings of citizen contacts holding no evidentiary value may be obtained under provisions afforded by the California 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 their City Councils and/or board of supervisors the impact of initiating Recommendations 1, 2, and 3.

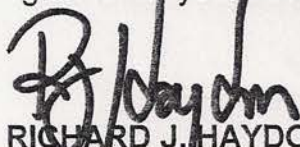
**Response to Recommendation 4:** The recommendation will not be implemented because it is not warranted or is not reasonable.

The Santa Maria Police Department currently faces significant staffing challenges to address and meet its law enforcement commitments to the community. All available resources are being directed to focus on priorities identified within the community. The Police Departments ability to go forward with a fiscal analysis of this nature is severely limited.

The Police Department is in agreement with the Sheriff's Office position, that implementation of the Grand Juries recommendations will have significant financial and staffing ramifications to the City of Santa Maria rather than any savings.

The Santa Maria Police Department is appreciative of the work and observations of the Grand Jury. Like the Sheriff's Office, the City of Santa Maria respectfully disagrees with your recommendations at the present time; however, the City does look forward to continued collaboration with you in the future in an effort to identify mechanisms to improve services in the community.

The above concludes the City's response to the Grand Jury's Report on *Citizen Access to Law Enforcement Audio/Video Recordings - To be Seen or Not to be Seen*. The City of Santa Maria respectfully submits this response to the Grand Jury and thanks you again for all your efforts associated with this 2011-12 Grand Jury Report.

  
RICHARD J. HAYDON  
City Manager

cc: Santa Barbara County Grand Jury, 1100 Anacapa Street, Santa Barbara, CA 93101