



# POLICE DEPARTMENT

## CITY OF GUADALUPE, CALIFORNIA

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GEORGE A. MITCHELL • CHIEF OF POLICE

**August 14, 2012**

### 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 Guadalupe Police Department agrees with the finding.

The Guadalupe Police Department shall continue to exercise the discretion granted it in the Government Code. The decision to release audio/video recordings shall be at the discretion of the Chief of Police or his designee.

***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 Guadalupe Police Department agrees and disagrees with the finding.

The Guadalupe Police Department retains the discretion to determine when audio/video recordings should be released to the public.

Routine access is neither warranted nor desirable. Procedures are currently in place to address the appropriate release of these recordings. Recordings of an evidentiary nature are available through the proper exercise of the Discovery process. Those not deemed to be evidentiary in nature may be obtained by the public under the provisions of the California Public Records Act.

***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 Guadalupe Police Department agrees and disagrees with the finding.**

The Guadalupe Police Department maintains that there is no legal requirement or 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. The department asserts the public have no reasonable expectation of privacy during the course of contacts with law enforcement personnel.

Department policy does, however, require that the investigating officer document the use of the audio/video recording system wherever a citizen contact results in enforcement action or the generation of a report or a citation.

***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 Guadalupe Police Department agrees and disagrees with the finding.**

The Guadalupe Police Department maintains that there is no legal requirement or 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.

The Guadalupe Police Department retains the discretion to make audio/video recordings of citizen contacts available to the public.

***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.**

The implementation of this recommendation would place an unreasonable burden on the Guadalupe Police Department's severely limited staff and would take them away from other, more pressing, duties.

The Police Department maintains that procedures are already in place to provide citizen access to any audio/visual recording generated during a citizen contact. Recordings deemed to be of an evidentiary nature can be obtained through the Discovery process. Recordings of citizen

contacts that are not of an evidentiary nature may be obtained under the provisions of the California Public Records Act.

Whether or not a recording is viewed by a citizen would have no impact or bearing in determining whether or not a criminal case will be forwarded to the District Attorney's Office for review and/or filing with the Court or, in the case of a juvenile contact, the Probation Department 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 Guadalupe Police Department maintains that there is no legal requirement or 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.

The Guadalupe Police Department does not have the available resources (personnel or funding) to absorb the recommended duty of informing the public of the audio/video recordings by way of printed material, or by any other means of notification.

The Police Department 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 may be obtained under the provisions of the California Public Records Act.

Again, existing policy requires that the investigating officer document the use of the mobile audio/video recording system whenever a citizen contact results in enforcement action or the generation of a report or citation.

***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 Guadalupe Police Department maintains that there is no legal requirement or 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 Police Department 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 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 Guadalupe Police Department is currently working to acquire and implement audio/video recording capabilities for patrol officers. It has already established procedures in the department's policy manual to address their use.

The Police Department is not confident an accurate fiscal analysis could be determined given the complex nature of, and the number of variables which exist in, the scenario created in the above recommendation. Additionally, the increased administrative burden coupled with current staffing challenges would virtually preclude the Police Department from proceeding with a fiscal analysis of this nature. It is felt that the Police Department's limited resources are better utilized directed to meeting our primary public safety duties and fulfilling our front line law enforcement commitments to the community.

The Guadalupe Police Department respectfully, but strongly disagrees with the Grand Jury's presumption that the City would experience savings by implementing Recommendations 1, 2 and 3. In fact, the Police Department believes that the City would experience significantly increased costs, if the aforementioned recommendations were implemented.

The Guadalupe Police Department acknowledges the Grand Jury's interest in public safety and appreciates the effort that has gone into addressing this important issue. Although we respectfully disagree with your recommendations regarding this issue, we admire your commitment to the law enforcement community and your drive to assist the Police Department in seeking ways to increase our ability to provide the highest possible level of service to the community.