



VENTURA COUNTY SHERIFF'S OFFICE

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July 8, 2021

The Honorable Bruce Young
Presiding Judge, Superior Court of California
County of Ventura
800 South Victoria Ave.
Ventura, CA 93009

Subject: Grand Jury Report, Policing by The Ventura County Sheriff's Office
(April 30, 2021)

Dear Judge Young:

This letter is in response to the Grand Jury's Findings and Recommendations pertaining to their report "Policing by the Ventura County Sheriff's Office".

FINDINGS

- I (we) agree with the Findings numbered: F-1 through F-14, F-16
- I (we) disagree wholly or partially with the Finding numbered: F-15

Finding: F-09 – *The Grand Jury finds that VCSO's policy regarding BWC's contains an element of discretion as to when the BWC is to be turned on or off.*

Response: Agree. Prior to the publication of the Grand Jury Report, the Sheriff's Office modified the Body Worn Policy in a manner that limits, but does not eliminate, discretion.

Finding: F-10 – *The Grand Jury finds that BWC information can be an important element in determining the outcome of many citizen complaints.*

Response: Agree. Although Body Worn Camera video is helpful, it is only part of the total evaluation of an incident and cannot be relied upon exclusively in all situations.

Finding: F-15 – *The Grand Jury finds that the creation of a sheriff oversight board for VCSO would benefit both VCSO and the public by increasing accountability and transparency, and would serve to provide an additional level of trust to community members who encounter deputies.*

Response: Respectfully Disagree. The Grand Jury Report does not provide references to the empirical data supporting a direct correlation between public trust of police and oversight boards. Many supporters of this concept make conclusionary statements regarding such correlations, however, we are unaware of evidence supporting the idea that the unilateral implementation of oversight boards will result in increased public trust and transparency in all jurisdictions. Communities across California and the country face different challenges requiring different solutions and a solution that works well in one area may not work well in another. In fact, it may hinder efficient communications and services. Some boards have an adversarial relationship with the police which may result in an inordinate amount of administrative time responding to criticisms and issues that are not based in local experiences.

The Sheriff's Office believes that public trust and transparency are created at the local level, between local agencies and communities they serve. The Grand Jury report notes relationships developed between the Sheriff's Office and advocacy groups and public programs. We have a long-standing culture of engagement with the community at every patrol station and we seek input from communities we serve. Additionally, after substantial research, the Grand Jury report concludes there are no significant issues in the areas considered.

Other methods of oversight, such as the courts, Civil Service and the Grand Jury, as evidenced by this report, are already in use as a form of check and balance. As to transparency, the Sheriff's Office publicly posts all policies, Use of Force data, contact demographics, TRUTH Act information, training materials, and we are currently working on posting officer involved shooting reports per the recent revisions to Penal Code section 832.7.

Adding an oversight board in a jurisdiction that does not need one may create unnecessary friction that inhibits objective enforcement, reduces morale, increases bureaucracy, increases liability and introduces political agendas into police activities that could have disparate impacts on our communities.

Finding: *F-16 – The Grand Jury finds that VCSO's Citizen Complaint Form does not comply with the express wording and formatting requirements of PC Section 148.6(a)(2).*

Response: Agree. The Complaint Form does omit the second paragraph of Penal Code section 148.6(a)(2), which advises a complainant that knowingly filing a false complaint against a deputy is a misdemeanor. Please see Recommendation 4 for further explanation.

RECOMMENDATIONS

Recommendation: *R-01 – The Grand Jury recommends that VCSO require activation of BWC's when responding to all calls for service and during all enforcement related encounters and activities.*

Response: The Body Worn Camera Policy has been modified to incorporate this recommendation for personnel who have been issued a body worn camera. It should be noted there are exceptions for rare instances in which it may be unsafe or impractical to activate the device, or when speaking with victims, witnesses, or uninvolved parties under certain sensitive circumstances.

Recommendation: *R-02 – The Grand Jury recommends that, once a BWC is activated, whether in accordance with the previous recommendation or for any other reason, VCSO require the BWC to remain in recording mode until the conclusion of the encounter/activity or the officer has left the scene, except for limited exceptions announced while the BWC is recording.*

Response: Generally, the Body Worn Camera Policy has been modified to incorporate this recommendation. As indicated above, with certain limited exceptions, the Sheriff's Office policy requires body worn cameras to record continuously during calls and enforcement related encounters. However, there may be a circumstance in which a deputy activates a body worn camera when not on a call and when not taking enforcement action. Under these circumstances, the deputy has the latitude to terminate the recording when there is no likelihood of force being used or anything of evidentiary nature occurring.

The policy does not require a verbal justification for the termination of the recording while the body worn camera is active. We believe this is unnecessary as it will be self-evident in the vast majority of instances, and in situations in which a recording was ended inappropriately, individual deputies can be held accountable.

Recommendation: *R-04 – The Grand Jury recommends that VCSO revise its Citizen Complaint Form to comply with the express wording and formatting requirements of California Penal Code Section 148.6(a)(2).*

Response: Section 148.6(a)(2) makes it a misdemeanor to file a false allegation of misconduct against a police officer, knowing the allegation to be false. Although a legal California statute, in November 2005, the United States 9th Circuit Court of Appeals deemed 148.6(a)(2) P.C. unconstitutional. The 9th Circuit determined the section violated the First Amendment and equal protection clause. The law firm Jones & Mayer filed an amicus curiae brief on behalf of the California State Sheriff's Association and the California Police Chiefs Association, but the United States Supreme Court declined

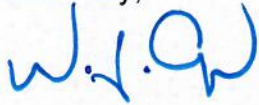
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to hear the case, which made the 9th Circuit opinion final. In May 2006, Jones & Mayer issued a Client Alert stating the application of 148.6(a)(2) P.C. could lead to civil rights lawsuits resulting in substantial damages; therefore, they recommended eliminating the language on complaint forms.

The Ventura County Sheriff's Office has sought input from our County Counsel representative on this matter. Our County Counsel representative has recommended we do not add the language proposed by the Grand Jury to our Complaint Forms. The Sheriff's Office will not modify the Complaint Form as proposed.

Thank you for the opportunity to respond to this Grand Jury report. If additional explanation is needed, please feel free to contact Assistant Sheriff Eric Dowd (805) 654-3926 or eric.dowd@ventura.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. J. Ayub", with a stylized flourish at the end.

Bill Ayub
Sheriff

cc: Foreman, Ventura County Grand Jury
Assistant Sheriff Eric Dowd
Chrissy Ortega, CEO Analyst