



**SOLANO COUNTY GRAND JURY**

2015 - 2016

**SOLANO COUNTY**

**LOCAL LAW ENFORCEMENT AGENCIES**

**CITIZEN'S COMPLAINT PROCESS**

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**I. SUMMARY**

With the growing number of law enforcement agencies under scrutiny for misconduct, the 2015-2016 Solano County Grand Jury (GJ) elected to look into the citizen's complaint process for local law enforcement agencies. The Grand Jury reviewed policies and procedures of all law enforcement agencies within the county (with the exception of California Highway Patrol which is a state agency). The GJ studied the processes from inception to disposition.

The GJ selected five police departments within the county to interview. The departments varied in sizes and area of coverage. Throughout the interviews we learned most departments have a very similar process and approach to handling citizen's complaints. The agencies interviewed stated they approach all complaints as a serious issue to be resolved in a timely manner and come to a resolution appropriate to both the citizen and the department.

Collectively Solano County employs 894 officers, responding to approximately 341,600 calls for service in 2015, which have generated a minimal number of complaints (5 sustained complaints from a total of 95 formal complaints filed).

**II. INTRODUCTION**

It seems every time we pick up a newspaper, turn on the television, and tune in the radio, there is a story about the police being involved in some kind of misconduct interacting with citizens. One would get the impression that the police conduct themselves in a manner which is adversarial to the citizens they serve. Recent high-profile cases throughout the country have resulted in protest marches, criminal proceedings, or no action by the administration in the jurisdictions which they occurred. When interacting with the public, if a peace officer does not appear to be treating an individual in the manner which we, the public, expect them to, then a conflict exists. The 2015-2016 Solano County Grand Jury decided to inquire into the process of how citizen complaints are handled by Solano County Law Enforcement Agencies.

### **III. METHODOLOGY**

Reviewed Policy Manuals:

- Benicia Police Department
- Dixon Police Department
- Fairfield Police Department
- Rio Vista Police Department
- Solano County Sheriff's Department
- Suisun City Police Department
- Vacaville Police Department
- Vallejo Police Department

Reviewed written Citizen Complaint Forms and Brochures

Interviewed members of senior staff in the:

- City of Dixon
- City of Fairfield
- City of Rio Vista
- City of Suisun City
- City of Vallejo

Inspected 2014-2015 Citizen Complaint Case Logs for:

- City of Benicia
- City of Dixon
- City of Fairfield
- City of Rio Vista
- Solano County Sheriff's Office
- City of Suisun City
- City of Vacaville
- City of Vallejo

#### IV. STATEMENT OF FACTS

Living in a society which is governed by laws requires we hire individuals who are given the duties and the responsibilities to enforce those laws. Part of those duties and responsibilities are to maintain the public's trust in their jobs and perform those jobs in a manner which is professional, courteous, lawful, and respectful.

The California Department of Justice monitors all police agencies in the State of California and now requires an annual report of citizens' complaints against peace officers. In their instructions on how to complete a department's annual report, the state expects all departments to adhere to the ***“Definitions of citizen's complaints and the methods of their calculations should be determined as by each police agency under Penal Code section 832.5, which requires police agencies to establish procedures to investigate such complaints to make the written description of the procedures used.”***

The reporting requirements cover three types of complaints:

- total complaints noncriminal, misdemeanor, and felony
- total complaints in local detention facilities noncriminal, misdemeanor, and felony
- total racial profiling complaints
  - racial profiling complaints categorized by state mandated reporting requirements include:
    - race or ethnicity, nationality, gender, age, religion, gender identity or expression, sexual orientation, mental disability, and physical disability

In the above categories, agencies are required to report the number reported, the number sustained, the number exonerated, the number not sustained, the number unfounded, and those which are still pending further investigation. Each of the categories and subcategories are defined in the instructions for completing the forms.

There are seven police departments in Solano County, as well as the Sheriff's Department and coverage by the California Highway Patrol. All of the departments have written policies and procedures to address the issue of citizens' complaints. Only the City of Fairfield has a Citizen's Review Board. Most, if not all, of the policies and procedures are similar as they use a service called Lexapol to provide them with the most current information and laws and regulations which are applicable to the issue of citizens' complaints. All of the policies outline the manner in which any complaint, formal or informal, is to be handled in a timely manner with proper effective and reasonable investigation. Consideration shall be given to all complaints. An individual's confidentiality is protected, to the extent that is possible, with a written complaint always being kept in a secure confidential case file or folder.

All parties that become aware of the complaint are admonished to take no action that could be seen or interpreted as inappropriate or retaliatory. Included in the formal complaint is an admonishment against making false reports. Only the complaint form of The City of Suisun City may require a person to take a polygraph test, if deemed necessary.

The cities of Dixon and Vallejo offer their complaint form in a secondary language and the city of Vacaville provides a brochure “*What to do if stopped by a police officer*” in English and Spanish.

The cities of Dixon, Rio Vista, Suisun City and Vallejo provide the complaint form online.

All departments have policies concerning the time frame in which to address complaints. Complaints are to be dealt with either the same day that they are received or as soon as the supervisor is made aware of the complaint and can meet and discuss the issue with the complainant. If complaints are moved to the formal status, then they are to be resolved within 30 to 60 days. Depending on the nature of the complaint, more time can be allowed to ensure a thorough and complete investigation.

Complaints may be lodged against a member of any of the departments or officers whether they are sworn or non-sworn, on or off duty, full-time, part-time, or volunteer. Allegations of misconduct may include:

- Violations of any policy, procedure, administrative instructions, or lawful order
- Violations of any policy or procedure under the department’s rules and regulations
- Violations of any law codified by the city, county, state, federal statutes, regular regulations or constitutional provisions
- Use of unnecessary or excessive force
- Misuse the authority of his/her official position
- Violation of a person or group’s civil rights
- Using abusive, insulting and/or demeaning language or conduct which, is reasonably believed to be directed at a person’s race, religion, sexual orientation, national origin, age, gender, and/or disability

Complaints may be made by any citizen or non-citizen of any age either in person, in writing, on the phone or in some cases by electronic or digital means (email or social media). In cases where the complaint is made by a minor, the parents or guardians are notified that a complaint has been made. Complaints may also be generated by internal observation by an officer’s supervisor or other members of the department. There are specific procedures for handling complaints made anonymously and by third parties (i.e., attorneys, parents, interpreters). These types of complaints must show definite improper actions and give sufficient particulars to make an investigation feasible.

Once a complaint has been received and investigated, it is categorized in the following manner:

- **Unfounded:** allegation is identified as the result of the investigation it is clearly established the allegation is not true.
- **Not sustained:** defined as the investigation failed to disclose sufficient evidence that clearly proves or disproves the allegation in the complaint.
- **Sustained:** is defined as the investigation discloses sufficient evidence to prove the truth of the allegation in the complaint by the preponderance of evidence.
- **Exonerated:** the disposition assigned to a complaint whereby allegations did occur; however, the investigation revealed that the acts were justified, lawful and proper.
- **Pending further investigation:** investigations requiring more information or interviews to resolve the matter.

Size of departments/ Number of calls for service

2015

Agency	Population	Number of Officers In Department	Area covered (square miles)	Calls for service
Benicia	26,997	26	15.72	29,549
Dixon	18,351	19	7.1	15,757
Fairfield	109,320	123	37.63	~100,000
Rio Vista	8,468	15 +3 reserve	7.5	~ 8,000
Sherriff Office	413,344	178 Sworn Officers 277 Non-sworn	906	56,474
Suisun City	28,819	23	4.16	20,772
Vacaville	94,275	101	28.58	38,897
Vallejo	115,942	109	49.5	72,135

The various police agencies in Solano County differ in size and resources available. Their procedures are not identical, but do follow the same general format. All agencies approach complaints whether, minor or major, as a serious issue to be resolved in a timely manner and come to a resolution that is appropriate for the citizen and the department.

Every situation has a starting point or event. An event is defined as an occurrence of alleged misconduct which has the unity of time, place, and behavior. In some circumstances where there may be multiple alleged victims, consideration should be given to modifying the County procedures to account for the number of victims.

Events include, but are not limited to, traffic, pedestrian stops, or actions taken during the stop, such as asking questions, frisks, consensual and non-consensual searches of a person or any property, seizing of any property, removing vehicle occupants during a traffic stop, issuing a citation and/or making an arrest.

Factors which may contribute to the complainants perception of the officer's behavior could be events unrelated to their interaction, e.g., being late for work, being angry, being uninformed about the law, or stressful situations just prior to the event. In the process of exploring and attempting to resolve a complaint those factors may have some bearing on the outcome.

As a result of our interviews with the police representatives and their written material, we will try to explain how the process typically unfolds.

### **Informal Complaints:**

An event happens when a citizen feels they were treated unfairly, their rights were violated, or they were the victim of officer misconduct. Typically, the complainant will call the department and ask to speak to a supervisor or use the departmental complaint form. They are asked the nature of the complaint, who was involved and how they may be reached if the supervisor is not immediately available.

As soon as possible, the supervisor with direct responsibility for the officer will contact the citizen and listen to their concerns regarding the complaint or event. The supervisor will attempt to resolve the issue either over the phone or have the individual come into the office to discuss the issue at a mutually agreed upon time. If an in-person meeting cannot be arranged, then a complaint package is mailed to the individual.

Most complaints are handled at the initial stage. In some cases, a lack of knowledge or understanding of policies, procedures and applicable law leads to a misunderstanding of their particular situation. In some cases it is the style, demeanor, or attitude (e.g., rudeness, abruptness, in a hurry, etc.) which is the source of the complaint. Whatever the circumstances, the supervisor attempts to reach a conclusion satisfying the individual and resolving the complaint.

The supervisor will review any documentation the citizen has in their possession (cell phone, audio or visual information) and quite possibly the officer's body camera information to gain a fuller understanding of the events which occurred. Generally, body camera footage is stored for one to two years, depending on departmental policy.

In most instances the supervisor will discuss the issue with the officer involved in an attempt to use the issue of a complaint as a training tool to improve the officer's performance of duties. Most of the agencies keep an informal log of all complaints for a year. If similar issues are brought to the department's attention they can be the basis for departmental action.

While the departments did not provide the Grand Jury with numbers concerning informal complaints, they did provide us with information concerning formal complaints which will be discussed later.

When the supervisor is unable to resolve the issue at their level, they recommend the citizen complete the formal complaint forms and provide them with the necessary documentation to proceed.

Although not part of the state mandated reporting requirements, most departments are tracking the total number of informal complaints an officer may receive for departmental purposes (e.g., updating training, reviewing departmental policies and procedures).

### **Formal Complaint:**

The formal complaint form has the following information:

- Full Contact information
- Telephone number
- Location of the incident
- Date and time of the incident
- Employee's first and last name (if known)
- Officer's badge number
- Car number
- Any witnesses to the event
- A summary of the complaint
- The facts supporting the complaint

The complaint form is usually filled out by the individual; however, in some cases it may be completed with the individual and the supervisor. Once a formal complaint has been filed it is usually assigned a case number and an investigator to investigate the allegation(s). Complaint forms are also logged. In most instances, the Chief of Police is made aware of the complaint.

The investigation is handled by a sergeant or higher, who is trained in professional standards and who will conduct a thorough investigation. If the allegation(s) involves criminal activity then the Chief may refer the matter to the District Attorney for further investigation.

In non-criminal matters, the investigator will look at the documentation; review any supporting evidence, interview all parties involved with the affected officer being the last person interviewed. Because a formal complaint can result in a variety of outcomes that can affect an officer's career, when they are given notice of the complaint they are also furnished a copy of the *Peace Officers' Bill of Rights*.



At the conclusion of the investigation, a written report is generated by the investigator. Typically, the report is forwarded to a lieutenant or captain for determination of charges or actions generated by the complaint. If, the complaint is sustained the officer can be subject to the following actions:

1. Counseling
2. Retraining
3. Written/Oral Reprimand
4. Disciplinary Reassignment
5. Suspension
6. Reduction in Salary Step
7. Demotion
8. Discharge/Termination.

Prior to the implementation of any disciplinary action, the officer will be served with a written notice of any proposed action and given an opportunity to meet with the Chief or Sheriff.

At the conclusion of the investigation, the complainant will be informed, in writing, the disposition of the complaint (e.g. sustained, not sustained, exonerated, unfounded, etc.). The action that the department takes against an officer is not shared with the complainant. In the event the complainant is not satisfied with the outcome of the departmental investigation, further action can be taken; (e.g., talk to the Chief, refer to District Attorney’s Office, to Attorney General’s Office, or take civil action).

#### 2015 Formal Complaints

Agency	Unfounded	Not Sustained	Sustained	Exonerated	Pending Further Investigation	Total
Benicia	1	0	0	0	0	1
Dixon	0	0	0	0	0	0
Fairfield	5	1 withdrawn	1	2	4	13
Rio Vista	1	0	0	0	0	1
Sheriff Office	18	4	3	3	3	31
Suisun City	4	3	0	1	0	8
Vacaville	7	1 frivolous	0	10	0	18
Vallejo	9	2	1	8	3	23

Fairfield had two cases which are in a category called TOLLED (they are awaiting the outcome of an investigation of a criminal nature).

The Grand Jury looked into the use of outside agencies regarding real or an apparent conflict of interest. Most of the departments interviewed stated that they do utilize outside agencies if a conflict is perceived. Typically, for traffic issues, this might include the California Highway Patrol or a neighboring law enforcement agency. For investigation issues, they may contact the District Attorney's Office or the Attorney General's Office.

## **V. FINDING AND RECOMMENDATIONS**

### **Finding 1**

The 2015-2016 Solano County Grand Jury found The City of Suisun City's written complaint form has a reference, "I further understand that I may be asked to submit to a polygraph examination as part of the investigation."

### **Recommendation 1**

The Grand Jury recommends The City of Suisun City revise their complaint form and remove the above statement.

### **Finding 2**

The cities of Dixon and Vallejo offer their complaint forms in a second language.

### **Recommendation 2**

The Grand Jury recommends all cities offer their complaint forms in a second language.

### **Finding 3**

The Grand Jury found most of the departments did not make their complaint form(s) available online.

### **Recommendation 3**

The Grand Jury recommends that complaints are readily available online

**Comment:**

The 2015-2016 Solano County Grand Jury would like to thank the Police Departments and Sheriff's Department for their transparency and participation in bringing this information to the residents of Solano County. The importance of community outreach was consistently demonstrated throughout the interviews. Programs in place include "coffee with a cop", community forums, open house at the police departments, neighborhood watch programs, etc.

**REQUIRED RESPONSES**

- Chief of Police, City of Benicia (Finding 2, 3)
- Chief of Police, City of Fairfield (Finding 2, 3)
- Chief of Police, City of Rio Vista (Finding 3)
- Chief of Police, City of Suisun City (Finding 1, 3)
- Chief of Police, City of Vacaville (Finding 2, 3)
- Sheriff, Solano County Sheriff's Department (Finding 2, 3)

**COURTESY COPIES**

- Clerk of the Solano County Board of Supervisors
- Chief of Police, City of Dixon