GRAND JURY
SANTA CLARA COUNTY

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City Council Office

June 4, 2004

Honoralbe John Howe
Mayor
City of Sunnyvale
456 West Olive Avenue
P. O. Box 3707
Sunnyvale, CA 94088-3707

Dear Mayor Howe and Members of the City Council:

The 2003-2004 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **Inquiry into Police Evidence Rooms in Santa Clara County**.

California Penal Code Section 933(c) requires that a governing body of the particular public agency or department which has been the subject of a Grand Jury final report shall respond within **90 days** to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code Section 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is summarized in the attached form, which should be filled out and returned.

PLEASE NOTE:

1. **As stated in Penal Code Section 933.05, you are required to "Agree" or "Disagree" with each FINDING(S)** – Numbered I, II, III, IV, V, VI and VII. ***If you disagree, in whole or part, you must include an explanation of the reasons you disagree.***

2. **As stated in Penal Code Section 933.05, you are required to respond to each RECOMMENDATION(S)** – Numbered I, II-A, II-B, II-C, III, IV, V, VI, VII-A and VII-B, ***with one of four possible actions.***

Your comments are due in the office of the Honorable Thomas P. Hansen, Presiding Judge, Santa Clara County Superior Court, 191 North First Street, San Jose, CA 95113, no later than September 7, 2004.

Copies of all responses shall be placed on file with the Clerk of the Court.

Sincerely,

RICHARD H. WOODWARD
Foreperson
2003-2004 Civil Grand Jury

RHW:dsa
Enc.

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KIRI TORRE
Chief Executive Officer
Superior Court of CA County of Santa Clara
BY S. Marshall DEPUTY

2003-2004 SANTA CLARA COUNTY CIVIL GRAND JURY

INQUIRY INTO POLICE EVIDENCE ROOMS IN SANTA CLARA COUNTY

Summary

The Santa Clara County Civil Grand Jury (Grand Jury) conducted a survey of the auditing practices for evidence rooms at thirteen police agencies within Santa Clara County (County), including the County District Attorney's Bureau of Investigations (DA), and the Office of the Sheriff. The Grand Jury inspected five representative police evidence rooms, interviewed personnel in charge of the evidence rooms, and reviewed procedures for securing and storing evidence within the police agencies.

The Grand Jury found that only five (5 out of 13) evidence rooms had been audited by external auditors in the last five years. A majority of the agencies surveyed periodically spot check their own records for accuracy.

The Grand Jury found the following in the evidence rooms they inspected:

- Personnel were extremely dedicated and diligent, as well as compliant with good practices for evidence handling.
- More space was needed (except at the San Jose Police Department).
- Recordkeeping technology varied widely. Some agencies had data management software and bar code equipment to track each piece of evidence. Others only had manual paper systems.
- Three evidence rooms did not have separate air venting systems for the storage of narcotics.

Background

For purposes of this report, police evidence rooms are storage rooms with the systems for securing and retrieving evidence. They are under the control of police departments, public safety departments, the Office of the Santa Clara County District Attorney (DA), and the County Office of the Sheriff. Police evidence rooms contain evidence; property held for safekeeping; such as

guns confiscated in domestic violence incidents and money or property from accidents; and lost property found within the local jurisdiction.

The most critical property stored is evidence collected during the course of an investigation into a crime. Evidence plays a vital role in the investigation, prosecution, and conviction of persons who have been accused of criminal acts. Maintaining a proper, well-documented chain of custody and ensuring the integrity of evidence are crucial to successful law enforcement, prosecution, and court operations. Examples of evidence range from DNA and biological evidence that must be specially stored at constant temperatures, to large pieces of evidence such as vehicles. Less than 1% of evidence collected is used in trials. Most evidence related to crimes and investigations is returned to owners or destroyed when cases are resolved. In the case of property crimes, the physical evidence is processed for fingerprints and photographed; its serial number is recorded and then released to its owner.

Legislation requires criminal justice agencies to maintain certain evidence for extended periods of time, sometimes forever. For example, the law mandates that all death penalty case evidence be held indefinitely. Evidence from certain homicides, sexual assaults, and serious felonies is secured for a long time. Domestic violence tapes are stored for ten years. Often, the evidence must be kept for the lifetime of a convicted criminal and even beyond, if other individuals could, at some time, be tried or exonerated for the crime. In those property crime cases where no suspect has been identified, evidence is kept for a period prescribed by law for the specific crime.

The security of property stored for safekeeping and found property is equally important as a matter of public trust, even though this property does not enter the judicial system. Much of the found property may be auctioned if the owners cannot be found or do not wish to claim it.

Every police agency receives evidence collected at a crime scene and throughout the entire investigation period. Police headquarters have packaging stations for the proper handling and storage of evidence. Packaging has the dual purpose of inhibiting contamination as well as preventing deterioration or destruction. Packaging also assists in efficient warehousing and retrieval. A locker system secures evidence until the evidence technician processes the material for storage or it is picked up for transport to the County Crime Laboratory for analysis.

When major crimes occur, the police agency crime scene investigation unit reports to the scene to ensure that all evidence is properly packaged and labeled. Clothing may need to be dried, paperwork completed, and other evidence examined prior to being forwarded to the evidence room.

Usually the evidence and property storage function within each police agency is assigned to one or more technicians who are not sworn police officers. Some agencies combine evidence room activities with the other duties of a sworn officer. In both cases, evidence room personnel work closely with detectives as they investigate crimes and work towards convictions in concert with the DA.

Discussion

The Grand Jury sent out questionnaires to thirteen law enforcement agencies, including the DA, inquiring into their auditing practices. The Grand Jury asked three questions in its survey:

1. **Who in your organization directly supervises your evidence room?**
   The answers were:

   - 4 investigating lieutenants
   - 3 detective sergeants
   - 3 division captains
   - 1 assistant chief
   - 1 commander
   - 1 deputy chief

2. **Has your evidence room been audited in the last five years?**
   The answers were:

   - 8 Yes, but not complete and by using internal personnel.
   - 5 Yes, by external auditors

3. **Is an audit scheduled within the next two years?**
   The answers were:

   - 6 No
   - 4 Yes, by internal personnel.
   - 3 Yes, by external auditors

The data are tabulated in Appendix A.

After reviewing the responses, the Grand Jury visited a representative group of evidence rooms to see firsthand how evidence and property were being handled. Because of time constraints and limited resources, the Grand Jury selected five out of thirteen evidence rooms to visit. The DA evidence room was added to this schedule of visits, since it also collects and stores criminal evidence, (See Appendix B).

Evidence rooms fall under the supervision of the investigative or services division/bureau. Usually, direct supervision is by a senior detective sergeant or higher-ranking sworn officer. A non-sworn community services technician usually performs the actual physical and clerical work.

Procedures for receiving, packaging, storing, and tracking evidence are well documented in the California Peace Officer Standards and Training (POST) Law Enforcement and Evidence Management Guide. The California Association for Property Evidence (CAPE) and the California Criminal Justice Information Center also publish guidelines and best practice bulletins for county police departments' use. The county has a very active local chapter of CAPE called

Santa Clara County Regional Association of Property and Evidence (SCRAPE); police agencies in the county, as well as other law enforcement agencies like the CHP, County Crime Laboratory, college and university campus police, and the Superior Court belong to SCRAPE and network at bimonthly meetings. Currently this group is developing consistent policies and procedures for all of the county's agencies dealing with property and evidence.

A major problem in the management of police evidence rooms is the lack of physical space. With the advances in DNA testing, biological evidence has become very important. The California Department of Justice maintains a database of DNA profiles of offenders for use in the identification of future sexual assault suspects and victims. County law enforcement agencies store most biological evidence indefinitely in refrigerators on the chance of matching suspects or victims to this database in the future. These actions add to the volume of evidence that is stored in police evidence rooms.

The storage of found property—mainly bicycles and backpacks—consumes an inordinate amount of space for its value and exacerbates the crowding in evidence rooms. In some cases, the space needed to hold these items was greater than the size of the main evidence storage rooms. Some agencies are working very hard to dispose of these items through outside auction companies after a 90-day holding period. The length of the holding period is not a hard and fast rule, but is established by each municipality.

The practice of photographing certain physical evidence and then purging it has helped, but there is no reason to expect that the volume of evidence, property for safekeeping and found property stored in the county's evidence rooms is likely to decrease in the future.

Grand Jury Inspections: Summary of Facts

Physical and access security are satisfactory, or better, at all the main evidence rooms, (See Appendix B) Environments are made secure and access was controlled by some combination of the following: location in the interior of police buildings, multiple locks, a very limited number of keys, motion sensors, cameras, alarms, and log-in/log-out procedures. Physical and access security at off-site locations where bulky items, old evidence, and found property is stored is also satisfactory or better in all cases, although the Grand Jury noted log-in and log-out procedures are not always followed. With off-site storage sites multiplying, satisfactory physical and access security might become harder to maintain.

Space is the biggest constraint on evidence room operations. With the exception of San Jose, with its new warehouse-size evidence room, and Gilroy, with plans for a new police facility and large evidence room (to be completed in 2006), the other inspected rooms must make the best use of very limited space. Compromises are made on orderliness, shelving, boxing, and filing systems in order to make organizational systems work within confined spaces. The burgeoning amount of evidence makes off-site storage a necessity. Off-site storage sites ranged from pre-fab trailers to commercial storage rooms to a site shared with a fire department. Those agencies which routinely purged and/or auctioned items, especially large found items like bicycles and backpacks, wisely and proactively cleared space for new evidence and property. Making the

space problem even more difficult are the growing number of legal mandates and more informal requests from prosecutors to store critical evidence for longer periods of time. The combination of limited space and demands for longer storage periods produces the cramped and sometimes overflowing evidence rooms the Grand Jury toured.

A second constraint for several evidence rooms is a lack of resources for upgrading to computerized recordkeeping. A computerized system has obvious benefits. It would streamline a sometimes cumbersome process of identifying and recording evidence, expedite location and retrieval of evidence, provide easy access to the complete inventory and chain of custody documents, and facilitate regular purging. With only periodic purging and/or without a routine system for flagging items for final disposition, evidence continues to build up, contributing to already crowded conditions in the storage rooms. That said, all inspected evidence rooms maintained at least satisfactory recordkeeping, whether manual or automated. Grand Jury on-the-spot requests for specific items were always met with successful retrieval.

Documentation of chain of custody was uniformly excellent at all sites. However, when evidence leaves the site to go to court, the police-controlled document trail abruptly ends. Evidence room staff had limited knowledge about what happens to evidence once it enters the court system. A subcommittee of SCRAPE is working on a proposed procedure to document this transfer, for subsequent adoption by the court and local police agencies.

All evidence rooms earned high marks for safekeeping biological evidence, hazardous materials, ammunition, guns, high value items, and cash, with the exception of one case where a growing amount of found money was casually stored and another case where a large sum of money in a safe was never inventoried. Narcotics are kept securely in all instances. However, at half the sites, they are not vented to the outside, thus creating a health hazard for employees. Routine and safe disposal of guns, biological and hazardous materials, and narcotics earned all inspected rooms the highest grade.

At all locations, the civilian technicians who staffed the evidence rooms—with very little turnover—were knowledgeable, skilled and dedicated workers who, although interfacing on a daily basis with police bringing evidence in for storage or retrieving evidence for investigations/prosecutions, conducted their internal operations independently. At the majority of sites, senior staff did not make regular (either announced or unannounced) escorted visits to inspect evidence rooms. Perhaps, this hands-off management was based on the fear that such visits might complicate chain of custody questions and thus jeopardize the integrity of the evidence.

Finding I

As a general rule, the county police agencies perform audits of their evidence rooms after there is a change in the senior management of the department or key evidence personnel. Department personnel not directly involved in the evidence handling or its supervision usually perform this audit. Many departments periodically use a spot check of records against the physical item to test the integrity of their control systems.

Recommendation I

A full performance and physical audit by a competent outside agency should be performed at least every four years. The practice of spot check auditing should continue at least twice a year.

Finding II

Most police evidence and property rooms are overcrowded and the agencies have expanded secure storage by rehabilitating rooms within the stations, renting or purchasing temporary buildings, renting additional space, or have resorted to renting commercial public storage.

Recommendation II-A

Police agencies should complete a total inventory of their evidence and property and purge those items out of the secured storage area that can be returned to the owner or disposed of per California statute.

Recommendation II-B

Police agencies should enforce the policy in existence or develop a policy of not holding found property over 90 days, in order to regularly clear property out of the system, with special attention to bulky items such as bicycles and backpacks.

Recommendation II- C

Police agencies should explore the development of a common facility within the county for the long-term storage of evidence and property, including biological evidence, and reduce the storage of evidence and property on the police premises to active cases and newly found property.

Finding III

There is no procedure in place for documenting the change of custody that occurs when the police relinquish possession of evidence to the court for trial.

Recommendation III

The Grand Jury recommends that until a common policy for the transfer of evidence into the court system is adopted by the courts and the County's police agencies, that it be the responsibility of the police departments to obtain a court official's signature on a dated receipt listing all evidence handed over to the jurisdiction of the court, with copies provided to the court. The same receipt can be signed and dated again when evidence is returned to the police department.

Finding IV

Some police evidence rooms do not vent narcotic holding areas separately from the main air conditioning systems.

Recommendation IV

Police agencies should install an appropriate air venting system or move the narcotics storage area to a location where venting to the outside can be economically installed.

Finding V

The lack of office automation in some evidence rooms increases the clerical workload, introduces the possibility of errors into the tracking system, and inhibits the timely identification of property records for final disposition.

Recommendation V

Police agencies should acquire appropriate computer hardware and software to track evidence and property in and out of evidence rooms. A standard spreadsheet or database program would often suffice.

Finding VI

Top management within the police agencies often stay clear of evidence rooms.

Recommendation VI

The chief of police, or equivalent, or his deputy, should tour and review the evidence room at least annually to observe the working conditions for evidence room personnel, the condition of the evidence room, and the operating procedures.

Finding VII

Most of the police agencies within the county are members of CAPE and SCRAPE and participate in procedural development, and network at educational development conferences provided by CAPE and SCRAPE.

Recommendation VII-A

Police agency personnel involved in evidence and property matters should continue to participate in CAPE and SCRAPE functions.

Recommendation VII-B

Santa Clara County police agencies should explore the possibility of inspecting each other's police evidence rooms to share good techniques and ideas. In periods between external audits, periodic reciprocal audits by another police agency could provide many of the benefits of an external audit at relatively little cost.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 20th day of May 2004.

Richard H. Woodward
Foreperson

APPENDIX A

Evidence Room Survey Responses

	LAST AUDIT			NEXT AUDIT	
Agency	**Type of Audit**	**Audit Date**	**Type of Audit**	**Audit Date**	**Type of Audit**
Campbell	Internal	2002	Internal Spot	Not Scheduled	
Morgan Hill	External	2003	External	2004	External
Gilroy	External	2000	External	Not Scheduled	
Los Altos	Internal	2001	Internal	2004	Internal
Los Gatos Monte Sereno	Internal	2003	Internal	Not Scheduled	
Milpitas	Unknown	Unknown	Unknown	Not Scheduled	
Mountain View	Internal	2003	Internal	2004	External
Palo Alto	Internal	2003	Internal	2004	Internal
San Jose	Internal	2003	Internal	2005	Internal
Santa Clara	External	2002	External	Not Scheduled	
Sunnyvale	External	2001	External	2004	External
District Attorney	Internal	2001	Internal Spot	2004	External
County Sheriff	External	1999	External	Not Scheduled	External

APPENDIX B

Police Evidence Room Inspection Assessment Grades

	Gilroy	Los Altos	Los Gatos	Palo Alto	San Jose	District Attorney
Physical Security	C	B	B	C	B	B
Access Security	B	B	B	B	B	C
Space	C	B	B	D(Fac)	A	B
Recordkeeping	C	A	B	C	B	C
Chain of Custody	A	A	A	A	A	A
Storage Organization	D(Fac)	B	A	C	B	B
Biological Storage	A	A	A	A	A	A
Guns/High Value Items/$	C	A	A	A	A	A
Narcotics	D(Fac)	B	D(Fac)	D(Fac)	B	N/A
Disposals	A	A	A	A	A	A
Found Property	D(Fac)	C	C	A	C	N/A
Management Practice	C	C	B	C	A	B

Legend:
The single-grade ratings above are the lowest rating for observations made in three categories and not an overall rating for the function:

- Facilities **(Fac)**
- Procedures **(P)**
- Best Practices **(BP)**
- **Disposals** – Disposal of Guns and Narcotics
- **Management Practices** – visits by senior management

A = Excellent
B = Exceed minimum requirements
C = Satisfactory
D = Needs Improvement

References

Documents

California Peace Officer Standards and Training (P.O.S.T.) **www.post.ca.gov**.

Law Enforce Property and Evidence Management Guide, POST, May 2001.

Physical Evidence Manual, Santa Clara County Crime Laboratory, July 8, 1998.

Santa Clara Regional Association of Property and Evidence (SCRAPE) Bulletins.

Written Responses to the Grand Jury's survey See Attachment A for a compilation.

Tours with Interviews

Gilroy Police Department, February 2, 2004.

Los Alto Police Department, January 26, 2004.

Los Gatos Police Department, February 19, 2004.

Palo Alto Police Department, January 26, 2004.

San Jose Police Department, January 16, 2004.

Santa Clara County District Attorney, Investigations Bureau, January 30, 2004.