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August 12, 2010

The Honorable Jack M. Jacobson
Presiding Judge
Stanislaus County Superior Court
P.O. Box 3488
Modesto, California 95353

Dear Judge Jacobson,

Attached please find the City of Oakdale's response to the findings and recommendations of the Civil Grand Jury's final report relating to the Oakdale Police Department. I have met with Marty West, the Oakdale Police Chief, to prepare this letter in response to each of the Civil Grand Jury's findings and recommendations. In this response, I have included their original findings and recommendations followed by a specific response.

F2 – The Civil Grand Jury finds that the Oakdale Police Department mishandled the case investigated in this complaint by focusing on the adult in an apparent attempt to reduce or counteract his crime while ignoring the plight of the juvenile.

There is no evidence to support a finding that the Oakdale Police Department mishandled the case against either offender. The Oakdale Police Department's investigation was submitted to the Stanislaus County District Attorneys' Office and the Stanislaus County Probation Department, as is common practice in law enforcement. The District Attorney's Office noted a lack of evidence against the 18-year-old offender and did not file criminal charges. The District Attorney's Office (Juvenile Division) dismissed charges against the juvenile offender and closed the case against him for reasons undisclosed.

As stated by Stanislaus County District Attorney Birgit Fladager, "there is no indication that anyone at OPD withheld information or in any way interfered with the investigation or referral of either of the two suspects' cases."

F3 – The Civil Grand Jury finds that the Chief of Police failed to enforce the law equally for the two suspects and for the best interests of the residents of the City of Oakdale.

There is no evidence to support this finding. Chief West was not involved in the arrest of either offender. He first learned of the crime on Monday, May 4, 2009, three days after the arrest of the offenders, when he received an e-mail inquiry from Ceres Police Chief Art DeWerk. At the time, he was out of town attending a conference. DeWerk expressed concerns in his e-mail that Oakdale officers arrested and charged two boys with a felony for what he described as a harmless juvenile prank. At the time, Chief West telephoned Lieutenant Gladney to inquire about the case. Gladney informed West that two males, an 18-year-old and a 15-year-old, had been arrested attempting to detonate a dry ice bomb under a park bench in Valley View Park. At the time of the incident, it was raining and the park was unoccupied. The bomb had not detonated and there was no damage to park. West learned from Gladney that both males had been arrested for a felony. In addition, the District Attorney's Office noted that it did not believe they could meet their burden of proof if the case went to trial.

F4 - The Civil Grand Jury finds that on May 13, 2009, the Chief of Police issued and implemented a highly unusual verbal "standing order," also known as a departmental verbal policy. This standing order mandates that officers receive departmental and administrative approval prior to arresting suspects up to nineteen years of age on explosive charges.

The City disagrees with this finding. Chief West does not have a "departmental verbal policy" mandating that officers receive departmental and administrative approval prior to making any arrest. However, he has had a longstanding practice of requiring the lieutenants, sergeants, or watch commanders to notify him of major crimes and unusual occurrences that come to their attention. This bomb incident was an unusual case. West's practice of requiring notification allows him the opportunity to provide direction and guidance to his staff regarding the handling of critical incidents.

F5 - The Civil Grand Jury finds that the Chief of Police demonstrated poor leadership in the handling of this case by being influenced by another police chief and by failing to follow through to make sure both suspects were treated equally under the law.

The City disagrees with this finding because Chief DeWerk's e-mail did not influence Chief West to make the inquiry anymore than any other e-mail or phone call from a citizen would have influenced him. After Lieutenant Gladney provided him with the facts of the case, he agreed with DeWerk that the facts did not support a felony charge under the specified Penal Code section. At West's direction, Gladney placed calls to the District Attorney's Office and the Probation Department expressing concerns that the actions of the suspects did not appear to fit the elements of the crime. Again, the District Attorney's Office found that there was nothing that was improper about the referral of either case, and that they did not believe they could meet their burden of proof in the adult's case.

R1- Civil Grand Jury recommends that the Chief of Police of Oakdale initiate improved communication and leadership within the police department.

The Chief of Police is committed to continuing to enhance communication and leadership within the Oakdale Police Department. As recently as August 2009, the Chief organized a three-day management retreat that was facilitated by a professional consultant. The consultant was one of several firms that had been recommended by the State of California, Commission on Peace Officers Standards and Training. The Chief and his managers and supervisors were active participants at the retreat. At the recommendation of the consultant, the City Manager attended an afternoon session to further enhance communication. The retreat was dedicated to creating a dialogue in a team setting that would lead to a list of new goals and tasks to be completed. Communication and leadership were topics that were discussed during the three-day session. The Chief remains committed to scheduling these types of on and offsite sessions using outside facilitators to promote communication and leadership within the Oakdale Police Department.

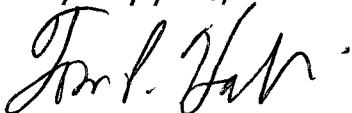
R2 - The Civil Grand Jury recommends that the Chief of Police follow the practice of unbiased and fair law enforcement.

The City of Oakdale disagrees with this recommendation because there is nothing in the facts presented in the grand jury report to suggest that Chief West was biased or unfair to either offender in this case. Throughout his 36-year career, Chief West has always followed the practice of unbiased and fair law enforcement.

R3 – The Civil Grand Jury recommends that the Chief of Police withdraw the verbal “standing order” mandating that officers receive departmental and administrative approval prior to arresting suspects up to nineteen years of age on explosive charges.

The City disagrees with this recommendation because no such verbal standing order exists. However, Chief West will issue a written directive reiterating that departmental and administrative approval is not required prior to arresting offenders. However, the directive will remind the lieutenant, sergeants, and watch commanders of the requirement that they notify Chief West of any serious or unusual law enforcement-related event occurring in the City. It is also his intent to continue to provide direction and guidance to his employees. If he determines that their actions are inappropriate or could potentially subject the City or any employee to criminal or civil liability, then he will to take the appropriate measures necessary to prevent such a development.

Very truly yours,



Tom Hallinan
City Attorney