

## **BUTTE COUNTY GRAND JURY**

### **Law Enforcement (Paradise Police Department)**

#### **SUMMARY**

The Butte County Grand Jury (BCGJ) 2007-2008 reviewed the four city police departments throughout Butte County, Oroville Police Department (OPD), Chico Police Department (CPD), Paradise Police Department (PPD), and Gridley-Biggs Police Department (G-B PD).

In 2007, the Grand Jury received a complaint from a citizen alleging he was a victim of excessive force while being arrested by the PPD. The Grand Jury obtained copies of the arrest reports made out by the two PPD officers that made the arrest. After reviewing these reports, the Grand Jury decided not to pursue the complaint any further.

Months later, the media printed articles about other cases of excessive force complaints involving officers of the PPD. Since the Grand Jury had already planned to investigate the PPD, a meeting was scheduled with the Paradise Police Department - Chief of Police (PPD-COP) to review his department's overall operations. During this investigation, the Grand Jury became aware of three additional complaints against PPD officers.

Of the cases giving rise to the four "use of force complaints", made during 2007, (Attachment 1), three of them are in various stages of the criminal and civil courts. This leaves the one remaining excessive force complaint. This was the original complaint that the Grand Jury decided not to pursue. When the PPD-COP was asked for further details on this complaint, he stated that he was conducting an internal investigation of this case and could not discuss any details until his department had completed their review.

The PPD-COP subsequently completed the internal investigation concerning this complaint, and ruled there was no excessive force used during the arrest. There has been extensive media exposure about these complaints. The FBI is conducting an investigation, at the request of a family member, into a number of allegations that PPD officers have used excessive force.

The last issue the Grand Jury investigated, was a PPD officer that shot and killed an armed woman in February 2008. The Grand Jury discussed this incident with the Butte County District Attorney who ruled this shooting to be justified. The Grand Jury also talked to the PPD-COP, and he explained what happened. The PPD officer had no choice as the apparently distraught women pointed a loaded gun at the officer and refused to drop the weapon.

The Grand Jury interviewed the PPD-COP about the operations of his department and found that the PPD operates very professionally. Their ability to obtain grants for

additional police (leased) vehicles and Community Service Officers (CSO) has allowed the department to grow without breaking the budget, (Attachment 2).

The Grand Jury discovered that all PPD uniformed officers are responsible for being equipped with a departmentally issued audio recorder in good working order (Attachment 3). None of the excessive force complaints had audio recorders in use at the time the officers made the arrest. If they had been recording the audio during the arrest, there may not have been as many complaints.

The PPD has an answer to the recorder-activating problem. PPD has two police cars equipped with digital video cameras and digital audio recorders. These recorders can be activated by a button on the officers' belt. This leaves the officers' hands free to deal with the defendant. Unfortunately, none of the police cars involved in the four "use of force complaints" had this new technology.

## **GLOSSARY**

Oroville Police Department – OPD

Chico Police Department – CPD

Paradise Police Department – PPD

Gridley-Biggs Police Department – G-B PD

Paradise Police Department - Chief of Police – PPD-COP

## **BACKGROUND**

The last two Grand Juries focused their law enforcement reviews on the CPD (2005-2006), and OPD (2006-2007). While the 2007-2008 Grand Jury made unannounced visits to all four-city law enforcement agencies in Butte County, this review is focused on the PPD.

In 2007, the Grand Jury received a complaint alleging excessive force while being arrested by the PPD.

The PPD-COP provided the members of the Grand Jury a copy of all officer complaints for the last 3 years (Attachment 1). After reviewing this list, the Grand Jury found that in 2005, there were three complaints against PPD officers. In 2006, there were six complaints. None of these complaints were about officers using excessive force. In 2007, there were ten complaints; four of these which were for excessive force.

In addition, in February 2008, PPD police officer shot and killed a woman who pointed a loaded pistol at him.

In March 2008, the Grand Jury met with and the PPD-COP and one of his lieutenants and discussed the results of their internal investigation of the excessive force complaint.

In April 2008, members of the Grand Jury met with the PPD-COP and several other officers to inspect the two new police cars equipped with digital video and audio recorders.

## **APPROACH**

The Grand Jury met with the PPD-COP on several visits to obtain information and documents concerning the investigation of the excessive force complaints, the shooting of a woman on February 17, 2008, the use of digital audio recorders, and other general operations of the PPD. The following activities occurred in the process of gathering information to determine the Findings and Recommendations of this report.

- On August 24, 2007, the Grand Jury received a complaint from a citizen claiming the PPD used excessive force during his arrest.
- On September 6, 2007, the Grand Jury obtained copies of the arrest reports of two PPD officers involved in the arrest of the defendant.
- On December 13, 2007, members of the Grand Jury made an announced visit to the PPD. Present at this meeting were the PPD-COP, 2 lieutenants, 2 sergeants, and the supervisor of the Paradise Animal Shelter. The Grand Jury discussed the operations of the department, budget, manpower, and, use of less lethal weapons such as tasers, pepper spray, and batons. The animal shelter supervisor explained the operations of the shelter and invited the Grand Jury to visit anytime. The PPD-COP gave the Grand Jury a tour of the 911 Dispatch Center. The excessive force complaint was discussed with the PPD-COP. He told us this complaint was under an internal investigation, and he could not discuss the details until the investigation was completed.
- While waiting for the PPD to complete their internal investigation, on February 7, 2008, the Grand Jury obtained copies of the Butte County Jail booking records from the night of the arrest of the complaining defendant.
- On March 5, 2008, the Grand Jury met with the Butte County District Attorney who explained why he ruled the shooting of a woman by a PPD officer was justifiable.
- On March 24, 2008, the PPD-COP notified the Grand Jury that he had completed his internal investigation.
- On March 25, 2008, the Grand Jury met with the PPD-COP and he reviewed the findings of the PPD internal investigation. He detailed the methods used and the number of hours (218) involved in this case. The

Grand Jury found the PPD-COP investigation very thorough. The PPD interviewed a number of the defendant's neighbors, the defendant, and members of the Butte County Jail booking and medical staff.

- On April 29, 2008, the Grand Jury met the PPD-COP and several of his officers. The purpose of this meeting was to inspect the digital audio recorders carried by all uniformed officers. The PPD-COP showed the Grand Jury their new digital video and audio recorders installed in one of the police cars. The officer assigned to this car demonstrated how the system operated.

## DISCUSSION

There has been extensive media attention concerning the four excessive force complaints occurring between December 2006, and December 2007. The FBI has been asked by a family member to conduct an investigation into these complaints. The 2007-2008 Grand Jury received a complaint from a citizen involved in one of these arrests. The Grand Jury reviewed the reports made by the two arresting PPD officers and the Butte County Jail booking documents.

The Grand Jury reviewed the results of the PPD's internal investigation of one of the excessive force complaints. The PPD-cop stated that the PPD spent 218 hours investigating the complaint and ruled that the PPD officers did not use excessive force while arresting the defendant.

The PPD interviewed the defendant several times and the defendant's accounting of what happened changed each time. They also interviewed the defendant's neighbors, the arresting PPD officers, and the Butte County Jail booking and medical personnel. All of these interviews were recorded.

The Grand Jury interviewed the PPD-COP about the departments training procedures about using force to make arrests. The PPD-COP stated that all PPD officers receive ongoing training on all policies and procedures including the use of force to conduct arrests. All PPD officers are required to take tests after each training session.

On February 17, 2008, a PPD officer shot and killed an armed woman at the Paradise Cemetery. The apparently distraught woman failed to heed several demands to drop her weapon. The Grand Jury interviewed the Butte County District Attorney about this shooting. He stated that there were a number of witnesses who saw the woman point the weapon at the officer and heard the officer tell the woman several times to drop the gun. The District Attorney ruled this shooting was justified.

All uniformed PPD officers are required to carry digital audio recorders. These recorders are thinner than a pack of cigarettes and are usually carried in the shirt pocket of the officer's uniform. While this seems handy, the pocket is kept closed by

Velcro and is not easy to open quickly. This is made even more difficult during the winter when the officers may wear gloves and jackets. Even if the officer removes the recorder from his pocket, it can become a problem to see the record button in the dark and especially while trying to arrest an intoxicated defendant. In the four excessive force cases, the recorders were not in use.

In December 2007, the PPD equipped two of their new police cars with digital video and audio recorders. This equipment was obtained through a grant from the State Office of Traffic Safety. The purpose of this grant was to assist police officers in DUI arrests. These audio recorders will record audio up to 1000 feet. A button on the officer's belt can activate the camera and audio recorder. It costs from \$3,500 and \$5,000 per vehicle to have this equipment installed. While these video and audio recorders were designed for use in DUI cases, they could also be valuable to record other arrests but they have limitations. If the arrests take place out of camera range, behind or inside a building or even behind the police car, they can't record anything on the camera but may still record the audio. If any of the four excessive force complaints had either the video or audio recorded, this recording could have provided clarification of what occurred.

The Grand Jury interviewed the PPD-COP and members of his staff and discussed their 2006/2007 accomplishments (Attachment 3). The administrative officers of this department are very accomplished in obtaining grants for equipment and staff positions. This has allowed the department to grow while obtaining new technology and staff without increasing the budget. The PPD runs the Animal Control Shelter for the Town of Paradise.

At the time of this report, the PPD has a manpower shortage problem. There are currently five officers either off duty or on light duty as a result of injuries or illness, causing the remaining officers to work longer shifts. The PPD is attempting to recruit new officers. They have one candidate graduating from the police academy in June 2008. This candidate's salary is partially supported by the PPD.

## **FINDINGS**

F1. The Grand Jury was satisfied that the internal investigation of the excessive force complaints by the PPD was thorough and complete.

F2. Regarding the incident of the fatal shooting of a woman in the Paradise Cemetery, a PPD officer asked the woman several times to put down the weapon, but she lifted the pistol and pointed it directly at the officer. The Grand Jury met with the Butte County District Attorney and discussed his investigation into this shooting. He told the Grand Jury that the officer had no choice but to shoot the woman, after she pointed a loaded weapon at him. He ruled the shooting justified.

F3. The new video and audio recorders now in use by the PPD will not only help in convictions but may reduce future complaints. These are very expensive to install and it does not pay to install them in older police cars, which may be retired soon.

F4. The Grand Jury was impressed with the leadership of the PPD. Outside of the image problem created by these excessive force complaints; the department's biggest problem appears to be lack of manpower.

## **RECOMMENDATIONS**

R1. The PPD should continue to seek DUI grant funding for video and audio recorders from State Office of Traffic Safety. Additional funding for recording equipment should be sought through the budget process from the Town of Paradise.

R2. The PPD should continue the police-recruiting program, which sponsors cadets enrolled in the police academy.

## **RESPONSES REQUIRED**

From the following governing bodies:

- Town of Paradise

## Use of Audio Recorders

### 450.1 PURPOSE AND SCOPE

The Paradise Police Department has provided each of its sworn members with access to audio recorders for use while on-duty. These recorders are intended to assist officers in the performance of their duties by providing an unbiased audio record of a contact.

### 450.2 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed officer will be responsible for making sure that he/she is equipped with a departmentally issued audio recorder in good working order.

Each officer shall be responsible for maintaining his/her own recordings until the media is either full or placed into evidence/safekeeping.

### 450.3 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to non-uniformed positions may carry a departmentally issued audio recorder at any time the officer believes that such a device may be beneficial to the situation.

### 450.4 ACTIVATION OF THE AUDIO RECORDER

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

- (a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
  - (b) Any member of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.
    1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
    2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio recorder will have knowledge that such a contact is being recorded.
  - (c) Members of the Department are highly encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.
    1. At no time should an officer jeopardize his/her safety in order to activate a recorder or change the recording media.
    2. Officers are prohibited from utilizing department recorders and recording media for personal use.
-

*Use of Audio Recorders*

---

**450.5 RETENTION OF RECORDING MEDIA**

At any time that an officer records any portion of a contact which the officer reasonably believes constitutes evidence in a criminal case; the officer shall record the related case number and book the recording media into evidence and download the file in accordance with current procedure for storing digital files.

- (a) The officer shall further note in any related report that the recording has been placed into evidence.
- (b) Recording media placed into evidence shall be retained through the final disposition of the related criminal case.

**450.51 NON-CRIMINAL MATTER**

At any time that an officer reasonably believes that a recorded contact may be of benefit in a non-criminal matter (e.g., a hostile contact), the officer may book the recording media into safekeeping or download the file in accordance with current procedure for storing digital files.

- (a) Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practicable.
- (b) Recording media which have been placed into safekeeping shall be retained for a period of no less than 180 days or until the related matter has been closed (e.g., internal investigation, civil litigation).

**450.6 REVIEW OF RECORDED MEDIA FILES**

Recorded files may be reviewed in any of the following situations:

- (a) By a supervisor investigating a specific act of officer conduct.
- (b) Upon approval by a supervisor, any member of the Department who is participating in an official investigation such as a personnel complaint, administrative investigation or criminal investigation.
- (c) By the personnel who originally recorded the incident.
- (d) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case.
- (e) By media personnel with permission of the Chief of Police or authorized designee.

Annual Report of Citizens' Complaints against Peace Officers

**Year 2005**

<u>Type of Complaint</u>	<u>Number Reported</u>	<u>Number Sustained</u>
Non-Criminal	3	0
Criminal (Felony)	0	0
Criminal (misdemeanor)	0	0

**Year 2006**

Non-Criminal	5	5
Criminal (Felony)	0	0
Criminal (misdemeanor)	1	0

**Year 2007**

Non-Criminal	10	1	(5 pending)
Criminal (Felony)	0	0	
Criminal (misdemeanor)	0	0	

2007-01	Incompetence	Not sustained
2007-02	Pursuit Policy	Exonerated
* 2007-03	Use of Force	Exonerated
* 2007-04	Use of Force	Pending criminal trial middle of Feb 08
2007-05	Discourtesy	Unfounded
* 2007-06	Use of Force	Pending Chief's final review
2007-07	Incompetence	Pending Juvenile court trial (1-10-08)
2007-08	Discourtesy/Conduct	Pending Workers comp
* 2007-09	Use of Force	Pending criminal trail set end of Jan 08
2007-10	Vehicle driving	Founded/written reprimand

**Unfounded:** when the investigation discloses that the alleged act(s) did not occur or did not involve Department Personnel-frivolous

**Exonerated:** when the investigation discloses that the alleged act occurred, but that the act was justified, lawful and or proper

**Not Sustained:** when the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerated the employee

**Sustained:** when the investigation discloses sufficient evidence (preponderance) to establish that the act occurred and that it constituted misconduct

**Mission Statement**

The purpose of the Paradise Police Department is to serve the residents of our community; to protect their lives, liberties, and property. Our mission is to provide the very highest level of law enforcement services possible for our community. This is accomplished by providing the people of our community with a sense of security, safety, and trust. Our goal is to vigorously pursue those who commit crimes against our citizens, while respecting the rights of those accused of committing crime, as well as being sensitive to those who have been victimized by crime.

**Animal Control**

The Primary mission of the Animal Control unit is to control the spread of rabies within the Town of Paradise through a pet licensing program, a stray and dead animal disposal program, animal quarantine program, and various public education projects. Along with a proactive uniformed patrol enforcement program, Animal Control also maintains a comprehensive shelter operation, animal adoptions, and spay/neutering programs.

Since the passage of Measure N, Animal Control is fully staffed at: one Animal Control Supervisor, one A/C officer, one part-time A/C officer and two part-time Shelter Assistants.

**Administration FY 2006/2007 Accomplishments**

- Implemented the *Police Recruit Program* which sponsors cadets enrolled in the police academy
- Secured COPS Grant funding for 6 additional police (leased) vehicles and CSO positions, two (2)
- Added a sixth sergeant's position for 7 day supervision
- Added new enterprise Traffic funding (62F) account for traffic related equipment
- Hired two part-time (18 hour) Record Clerks
- Increased CSO (Property & Evidence) position from 26 hours to 36 hours
- Conducted first ever Command inspection of entire staff and Department photograph.
- Purchased mobile 6x8 range trailer for supplies and equipment
- Hired Town's vehicle mechanic for motor pool
- Promoted (from within ranks) one Senior Public Safety Dispatcher for increased supervision.
- Updated and changed Public Safety Dispatcher job description and title
- Wrote and implemented department Evidence / Property Manual
- Increased Animal Control Coverage to 7 days per week
- Increased the Hours that the shelter is open to the public
- Increased number of animal adoptions to the public