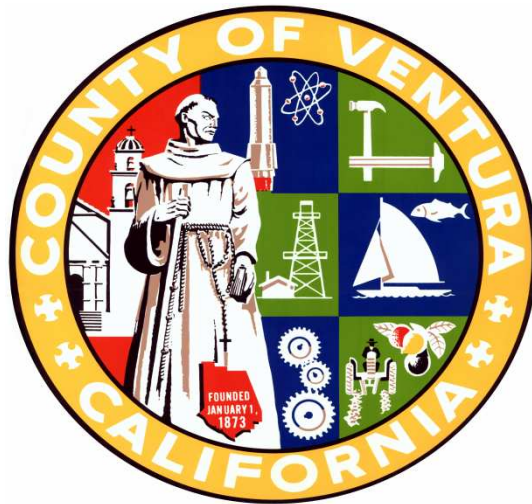


Ventura County Grand Jury 2010 - 2011



Final Report

Review of Select Simi Valley Police Department Processes

June 13, 2011

This page intentionally blank

Review of Select Simi Valley Police Department Processes

Summary

In January of 2011—at the request of the City of Simi Valley (City) and on its own initiative—the 2010–2011 Ventura County Grand Jury (Grand Jury) opened an investigation into public implications in two instances of alleged improper activity by the Simi Valley Police Department (SVPD). Both incidents—one, an alleged delay in investigating a criminal complaint, and two, a surveillance associated with a separate criminal complaint—were allegedly politically motivated. [Ref-01 through Ref-14] (Att-01)

The implications of improper political activity by the SVPD came to the public's attention through a series of news articles by the *Ventura County Star* (Star). The articles were interpreted as implying or alleging improper political activity by the SVPD in support of a candidate for the Office of Mayor of the City (Mayor). That candidate had been endorsed for that position by the Simi Valley Police Officers' Association (Officers' Association). This endorsement followed—what has been described to the Grand Jury as—a “long and bitter” history of contract negotiations between that organization and the City. [Ref-01 through Ref-14]

The Star reported an attorney saying, in Superior Court of California, Ventura County, that the SVPD had said that “. . . they would not do anything [regarding an alleged criminal complaint] until after the mayoral election was decided. . . .” This criminal complaint involved the handling of an alleged major embezzlement by an attorney associated in his law practice with the Officers' Association's endorsed candidate for Mayor. [Ref-01]

A related Star interview reported a statement questioning the appropriate use of police resources for a stakeout concerning vandalism of political signs of the Officers' Association's endorsed candidate. The Star also reported that it was alleged that the officer conducting the surveillance was a participant in that candidate's political campaign. [Ref-02]

The Star reported that interested citizens were calling for an independent investigation of these matters and, in an Editorial, the Star joined the call. [Ref-13]

The Grand Jury found that the SVPD had acted properly in its processing of the alleged criminal embezzlement complaint with respect to SVPD policies and procedures and without political motivation or unusual delay.

With respect to the SVPD surveillance incident, allegedly having political overtones, the Grand Jury found that the records reviewed by the Grand Jury substantiated that the surveillance was in accordance with SVPD policy. It had been approved by management before being undertaken, and it was performed on the basis of a criminal complaint filed by a citizen. Moreover, there is documented precedent in the SVPD files to reflect that this type of filed complaint had previously been subject to investigation by the SVPD.

Background

On October 19, 2010, a citizen filed a police report with the SVPD alleging that an attorney had embezzled a large sum of money from an estate for which the complainant—subsequent to the alleged embezzlement—had been appointed administrator of the estate (Administrator). [Ref-01 through Ref-14]

The Star published several articles concerning court proceedings relative to the estate in question. One of these articles included a report that a statement was made in court by an attorney, “. . . that the police [SVPD] told them [the attorney and the Administrator] they would not do anything until after the mayoral election was decided” At the time, the candidate for Mayor, who had been endorsed by the Officers’ Association, was an associate of the accused embezzler in their law practice. The Star also reported an e-mail from the Administrator’s attorney quoting the Administrator as saying that “She [the administrator] was told that they [SVPD] would not start the investigation until after Thanksgiving, . . .” [Ref-01]

These comments led to an allegation that the SVPD delayed the investigation for political reasons and raised the issue of whether the SVPD action should be reviewed. [Ref-01 through Ref-14]

In a subsequent article the Star quoted a second candidate for the Office of Mayor as stating: “Right now, there is a black cloud over our Police Department,... I think the police shouldn’t be investigating themselves. We should have a third party review’ the allegations. . . .” Other civic leaders called for an independent review of the matter. [Ref-02 through Ref-04, Ref-07, Ref-11, and Ref-13]

In one of the Star articles it was incidentally disclosed that a second circumstance suggesting possible improper political activity by the SVPD had occurred. It reported that a stakeout was alleged to have taken place relative to the alleged vandalism of political signs of the mayoral candidate endorsed by the Officers’ Association. It was suggested that such a stakeout raised the question of whether it was an appropriate use of police resources. The Star also reported that the officer conducting the stakeout was alleged to be an active supporter of the Officers’ Association’s endorsed candidate. [Ref-02 and Ref-07]

The SVPD completed its review of the alleged delay in the processing of the criminal complaint in question on December 9, 2010 and submitted it to the City. The City then requested that the Ventura County District Attorney (District Attorney) investigate the allegations. The District Attorney declined to investigate, because “. . . even if [the allegations of delay were] found to be true, [they] would not constitute a crime, and would not be a prudent use of this office’s resources. . . .” The District Attorney went on to suggest that the civil Grand Jury was empowered to investigate this type of non-criminal complaint and might be available should the City decide to request its review. [Ref-12] (Att-02)

On January 13, 2011, the City requested the Grand Jury to “. . . review, and if deemed appropriate, investigate the allegations described in the attached news article” [Ref-07] (Att-01)

Methodology

The Grand Jury interviewed numerous persons with regard to the transactions discussed above.* The Grand Jury followed the trail of media reports tracking the incidents leading to the subject inquiry. It also studied the SVPD recording system used to record all official police reports and reported incidents. It specifically studied the records, policies, and the allocation of resources with respect to the performance of various common SVPD functions. Further, it reviewed training records, incident reports, and resource records relevant to the transactions under review.

*With respect to the release of information by the Grand Jury to the public, the California Penal Code provides that; “. . . the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, *shall not be released. . . .*” (Pen. Code § 929) (italics added)

Facts

- FA-01.** The SVPD has a fully computerized Records Management System (RMS). The first step in the recording process is that the reporting officer enters a report into the officer’s Mobile Reporting System (MRS). From there it goes to a supervisor’s queue (Approval Queue) where it is reviewed for form, content, and offense code, and is either approved or sent back to the officer for correction. After supervisory approval, it enters the Transcription Queue. There it is again reviewed for form, content, and offense code. It then enters the RMS and is routed to the appropriate unit for action, e.g., detectives.
- FA-02.** Once a report is entered into the RMS it may only be altered in three basic ways: by a Supplemental Report made by the reporting officer, who may add previously unreported material; by a Follow-Up Report by the case investigators adding new material; and, by changing the Case Notes, which consist of the offense coding and other routine administrative data.
- FA-03.** Every entry into the RMS is time dated and an identifying code of the person making the entry is recorded.
- FA-04.** On October 19, 2010, a police report of an alleged major embezzlement (\$500,000) from a law office, operated by two attorneys at the time of the alleged embezzlement, was entered into the RMS. [Ref-01 through Ref-05, Ref-09, and Ref-11 through Ref-13]
- FA-05.** On October 25, 2010, pursuant to SVPD news media release of information policy, the SVPD—upon inquiry from the Star—confirmed to the Star that “. . . a crime report was filed . . .” with respect to the alleged embezzlement and that detectives would conduct an investigation. [Ref-09]
- FA-06.** The Officers’ Association’s endorsed candidate for Mayor was associated with the alleged embezzler in law practice. [Ref-01 through Ref-04, Ref-07, and Ref-11 through Ref-13]

- FA-07.** One week following the filing of the embezzlement complaint, on October 25, 2010, two detectives were assigned to work as a team on the embezzlement investigation (EI). The lead detective was the most experienced SVPD white-collar crime investigator and the second investigator was newly assigned to the detective division.
- FA-08.** On November 21, 2010, the lead detective role for the EI case was re-assigned to the second investigator, with support from the prior lead detective who had been transferred to another detective division. [Ref-05]
- FA-09.** RMS data reflects that, for the period from May 1, 2010 through October 28, 2010, the *average* (mean) time to assign a property report, such as embezzlement, to detectives was 7.04 days.
- FA-10.** RMS data reflects that, for the period from May 1, 2010 through October 28, 2010, the *average* (mean) time to *close* a property case from the initial report was 29.09 days. The *minimum* number of days to closure for that same period was 0 (same day as assignment). The *maximum* number of days to closure for that same period was 268.
- FA-11.** It was understood by the SVPD that this EI case would be time-consuming and complex. It was immediately understood by SVPD management that in a case involving a law office—where a specific attorney in a firm was accused of embezzlement—the complexity of the case would be extraordinary; among other things, it would require the appointment of a special master, to preview documents for the court to avoid disclosure of privileged information. [Ref-01, and Ref-03 through Ref-06]
- FA-12.** SVPD management understood that, in an EI case, it was necessary to proceed cautiously and thoroughly under the purview of their most experienced white collar crime investigators. In this case—because of the requirement in embezzlement investigations of massive paper gathering efforts from protected bank and office records—there appeared little risk of evidence being destroyed; start time—though important—was not a critical factor. [Ref-05]
- FA-13.** As of January 10, 2011, the RMS reflects a large number of entries for the EI case. These entries are indicative of the beginning of the volume of necessary evidence being acquired; as noted in FA-12, above. The EI, as of the date of this report, is still in process.
- FA-14.** A criminal complaint was filed with the SVPD on August 31, 2010 with respect to campaign signs being vandalized at various locations in the City. [Ref-02]
- FA-15.** In response to the complaint referred to in FA-14, above, surveillance was approved, before the fact, by SVPD management. The surveillance was conducted in a particular location where repeated vandalizing acts had occurred and, therefore, promised possible results.

- FA-16.** A filed criminal complaint—such as that referred to in FA-14—could not be responsibly ignored by the SVPD. There is SVPD documented history of a similar campaign sign surveillance having been conducted several years prior to this surveillance.
- FA-17.** Although there is no duty to inform the public, the media, or a complainant of the progress of a case, in this instance, there was a failure of the SVPD to provide timely *promised* feedback to the complainant on the status of the criminal embezzlement case. [Ref-01]

Findings

- FI-01.** The Grand Jury found that, with respect to the processing of the criminal complaint of alleged embezzlement, the SVPD had acted on that complaint properly as to its policies and procedures and without political motivation or unusual delay.
- The initial assignment of detectives and the start of the investigation occurred within a normal period of time for this type of investigation. Given the complexity of the case, the investigation could not have been closed for many months beyond the election date. (FA-01 through FA-13)
- FI-02.** The Grand Jury found no impropriety with respect to the questioned surveillance and discerned no improper political motivation. (FA-14 through FA-16)
- FI-03.** The Grand Jury found that a lack of timely *promised* feedback to the EI complainant led to frustration and resulted in negative comments in the press. (FA-17)

Recommendations

- R-01.** When feedback is promised, or is to be provided, to a complainant, the SVPD should assure reasonable promptness in that communication. This will avoid or reduce public misunderstanding of police investigative processes. (FI-03)

Responses

Responses Required From:

City Council, City of Simi Valley (FI-01 through FI-03) (R-01)

Responses Requested From:

Chief of Police, City of Simi Valley (FI-01 through FI-03) (R-01)

References

- Ref-01.** Stephanie Hoops, "Simi police delayed Takasugi probe, lawyer says," *Ventura County Star*, November 22, 2010.

- Ref-02.** Mike Harris, "Sojka cites police 'black cloud'; Councilman who lost Simi Valley mayoral race criticizes investigation," *Ventura County Star*, December 18, 2010.
- Ref-03.** Mike Harris, "Simi police label charges they delayed fraud investigation 'preposterous'," *Ventura County Star*, November 23, 2010.
- Ref-04.** Editorial, "Getting to the truth in Simi," *Ventura County Star*, November 26, 2010.
- Ref-05.** Mike Lewis, "Every cloud has silver lining," *Ventura County Star*, December 20, 2010.
- Ref-06.** Stephanie Hoops, "Police search Takasugi's home, offices as part of embezzlement probe," *Ventura County Star*, January 18, 2011.
- Ref-07.** Mike Harris, "Simi city manager asks grand jury to look into police investigation of Takasugi," *Ventura County Star*, January 21, 2011.
- Ref-08.** Stephanie Hoops, "Lawyer Russell Takasugi accused in probate documents of taking \$500,000 from estate," *Ventura County Star*, September 29, 2010.
- Ref-09.** Staff Reports, "Criminal complaint filed against lawyer," *Ventura County Star*, October 25, 2010.
- Ref-10.** Stephanie Hoops, "Civil trial slated for Takasugi over estate," *Ventura County Star*, October 14, 2010.
- Ref-11.** Mike Harris, "Simi officials ask DA to review allegation that police delayed fraud investigation," *Ventura County Star*, November 26, 2010.
- Ref-12.** From Staff Reports, "District Attorney declines to investigate Simi Valley Police Department," *Ventura County Star*, November 30, 2010.
- Ref-13.** Mike Harris, "Simi wants outside review of fraud investigation," *Ventura County Star*, December 7, 2010.
- Ref-14.** Stephanie Hoops, "Judge orders Takasugi to return money," *Ventura County Star*, December 15, 2010.

Attachments

- Att-01.** City of Simi Valley Press Release
- Att-02.** Ventura County District Attorney News Release

Glossary

TERM

DEFINITION

Administrator	Person appointed by the Superior Court (Probate) to administer the estate involved in this report
City	City of Simi Valley
District Attorney	Ventura County District Attorney
EI	Embezzlement Investigation
Grand Jury	2010–2011 Ventura County Grand Jury
Mayor	Mayor of the City of Simi Valley
MRS	Mobile Report System, Simi Valley Police Department
Officers' Association	Simi Valley Police Officers' Association
RMS	Record Management System, Simi Valley Police Department
Special Master	Court appointed officer (usually an attorney) to assist the judge in special functions
Star	<i>Ventura County Star</i>
SVPD	Simi Valley Police Department

This page intentionally blank

Attachment 01

City of Simi Valley Press Release

This page intentionally blank



January 21, 2011

FOR IMMEDIATE RELEASE

CONTACT: Mike Sedell
City Manager
(805) 583-6701

**CITY ASKS GRAND JURY TO REVIEW ALLEGATIONS
OF POLICE DELAY IN TAKASUGI CASE**

City Manager Mike Sedell today announced that he has asked the Ventura County Grand Jury to review, and if they deem appropriate, investigate, recent allegations made in a Probate Court hearing and reported in the media, that the Simi Valley Police Department delayed an investigation for political reasons. Sedell, in coordination with the City Attorney, has been independently reviewing the timeline and facts in the matter after the City Council called for an impartial review.

“While we were in the process of our review, two things happened which indicated to me that the most effective answer to comprehensively place our Police Department above reproach in the eyes of the media and the public, would be an independent review by the Grand Jury”, Sedell noted. “The first was a realization that even after an independent review provided to the City Council, and ultimately the public, through our Office, a perception could exist that there was not complete independence as the Police Department is still an integral part of the City, and the City could ultimately be viewed as reviewing its own actions. The second factor in the decision was a request by the Grand Jury itself for any findings or reports concerning this matter.” Sedell informed the City Council of his request at the time it was made.

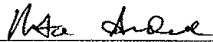
“The main objective of our entire City Council, and the Police Department itself, is to assure the public that their Police Department remains above reproach”, Sedell continued. “I have no preconception of the outcome, if any, of the Grand Jury’s review, and will support them in any way possible if they elect to undertake such a review. I fully support our Police Department and the job that they do, and know that they have earned the respect of our community over many years. It is extremely important, therefore, that we clear up any potential concerns regarding the actions of our Department”.

Bob Huber, Mayor Steven T. Sojka, Mayor Pro Tem Barbra Williamson, Council Member Glen T. Becerra, Council Member Mike Judge, Council Member
2929 Tapo Canyon Road, Simi Valley, CA 93063-2199 805.583.6700 www.simivalley.org

Page 2

Sedell also released copies of his request to the Grand Jury and their request of him. He noted that the Grand Jury has informed him that a decision for the Grand Jury to investigate “may or may not be made in the future”.

###



Mike Sedell
City Manager



January 13, 2011

Ventura County Grand Jury
800 South Victoria Avenue
Ventura, CA 93009

Dear Foreman Peskay and Members of the Grand Jury:

As you may be aware, there have been two recent articles in the Ventura County Star newspaper (copies w/Attachment 1) wherein our Police Department has been accused of delaying an investigation due to political considerations. Specifically "attorney Roger Stanard alleged in Ventura County Superior Court that city election politics played a role in police delaying a criminal investigation....." I should note that both newspaper articles were regarding the same allegation.

It has long been the practice of this City that when allegations of impropriety are made against our City employees and/or Officials, we forward those allegations to the District Attorney's Office for review and any appropriate action. In keeping with that long-standing practice, and the fact that such an allegation was recently made regarding the operations of our Police Department, I asked, on the City's behalf, that the District Attorney review the matter (Attachment 1).

After careful and due consideration, the District Attorney deferred any review back to the Police Department itself, or, in the alternative, to the Grand Jury. "In his letter the District Attorney declined to conduct the investigation for a number of reasons, including the circumstance that even if the allegations were true, the conduct would not constitute a crime." (District Attorney press release and letter, Attachment 2). The City understands the reasons and the concerns that the District Attorney more fully explained in his letter, which also suggested that the Grand Jury may be an appropriate body to review this matter.

Recognizing the aforementioned, the City remains concerned that some independent review take place in order that our Police Department maintain it's long held image in our community of being above reproach. Our citizens have enjoyed the ability to have complete confidence in their Police Department for many years, and have the right to continue with that expectation. While I can, and have begun to conduct, an independent review in conjunction with our City Attorney, I have come to the realization that the appearance of independence may be subject to challenge as the Police Department is still an integral part of the City organization.

Bob Huber, Mayor Steven T. Sojka, Mayor Pro Tem Barbra Williamson, Council Member Glen T. Becerra, Council Member Mike Judge, Council Member

2929 Tapo Canyon Road, Simi Valley, CA 93063-2199 805.583.6700 www.simivalley.org

Ventura County Grand Jury
January 13, 2011
Page 2

I am requesting at this time that the Grand Jury review, and if deemed appropriate, investigate, the allegations described in the attached news articles. As I noted in my letter to the District Attorney, please understand that the only motivation by the City in this request is to factually resolve the allegations and that there is no preconception of any outcome of your review. The City, City Council, Police Department, City Attorney and myself will all provide full cooperation and expeditiously provide any documents and answer any questions that you may have.

I greatly appreciate your assistance in this matter and would hope that you deem this request appropriate under Penal Code § 925(a) as noted by the District Attorney. Thank you for your consideration of this request and your individual dedication of a great amount of personal time to the citizens of Ventura County.

Sincerely,



Mike Sedell
City Manager

cc The Honorable Greg Totten, District Attorney
City Council
City Attorney

Attachment 02

Ventura County District Attorney News Release

This page intentionally blank

**OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA**

Attachment 2

NEWS RELEASE

GREGORY D. TOTTEN
DISTRICT ATTORNEY

Release Date: November 30, 2010

Contact: James D. Ellison, Chief Assistant District Attorney
(805) 654-5082

Release No.: 10-078

Approved By: JDE

District Attorney Gregory D. Totten issued the attached letter today to Simi Valley City Manager Mike Sedell. The letter was sent in response to earlier correspondence from Mr. Sedell requesting a District Attorney investigation into a recent allegation that the Simi Valley Police Department delayed a criminal investigation for political reasons.

In his letter, the District Attorney declined to conduct the investigation for a number of reasons, including the circumstance that even if the allegations were true, the conduct would not constitute a crime.



OFFICE OF THE DISTRICT ATTORNEY
County of Ventura, State of California

GREGORY D. TOTTE
District Attorney

JAMES D. ELLISON
Chief Assistant District Attorney

MICHAEL K. FRAWLEY
Chief Deputy District Attorney
Criminal Prosecutions

GREGORY W. BROSE
Chief Deputy District Attorney
Special Prosecutions

MICHAEL D. SCHWARTZ
Special Assistant District Attorney

ROBERT A. BRINER
Chief Investigator

November 30, 2010

VIA U.S. MAIL & E-MAIL

Mr. Mike Sedell
City Manager
City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, CA 93063-2199

Re: **Request for District Attorney Investigation**

Dear Mr. Sedell:

Thank you for your letter of November 24, 2010, requesting that the District Attorney's Office review the claim that the Simi Valley Police Department delayed a criminal investigation based on city election politics. I appreciate your bringing this matter to my attention. However, I respectfully decline to conduct an investigation into this matter.

This matter arises out of a probate case that is currently pending in superior court. An attorney in the probate case reportedly alleged that the police department delayed a criminal investigation until after the election in which the suspect's former law associate was running for mayor. Captain John McGinty has strenuously denied the allegation.

The law provides that complaints against peace officers are to be investigated by the law enforcement agency that employs them. (Penal Code, § 832.5(a).) While I agree that maintaining public trust in law enforcement agencies is essential, I believe that a thorough review of the allegations by the command staff of the police department can satisfy that goal. Having the District Attorney's Office investigate and "factually resolve the allegations," when the conduct alleged, even if found to be true, would not constitute a crime, would not be a prudent use of this office's limited resources.


Embezzlement and other fraud cases often take significant time to investigate, based both on their complexity and the limited resources of law enforcement agencies to handle them. It is the

Mr. Mike Sedell
City Manager
November 30, 2010
Page 2

responsibility of the police agency to allocate and prioritize department resources among these investigations. The District Attorney does not have administrative or supervisory authority over how police agencies allocate their resources, and it would create an unfortunate precedent if our office were to undertake investigations into such internal police department decisions when no criminal activity is involved

The civil grand jury has the authority to investigate and report on the operations, functions and method or system of performing the duties of city departments. (Penal Code, § 925a.) If you feel that a legitimate issue as to the efficient use of government resources has been raised in this matter, you may wish to refer it to the grand jury.

Very truly yours,



GREGORY D. TOTTON
District Attorney

GDT/jd

cc: Mayor Robert O. Huber
City Council
City Attorney
Chief Mike Lewis