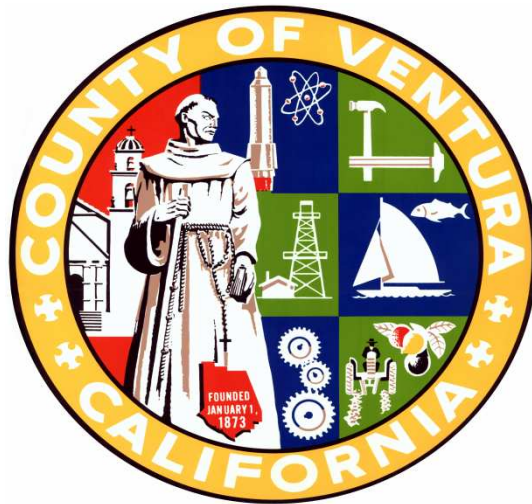


# **Ventura County Grand Jury 2010 - 2011**



## **Final Report**

### **Santa Paula Police Firing Range**

**June 13, 2011**

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## **Santa Paula Police Firing Range**

### **Summary**

The 2010-2011 Ventura County Grand Jury (Grand Jury) received a complaint regarding the use by the City of Santa Paula (City) Police Department of private property in the unincorporated area of Ventura County (County) as a firing range. Citizen concerns were raised about whether or not this was a permitted land use, and whether or not concerns regarding safety of the site for live firing, noise pollution, grading activities, business licensing, and lead contamination were properly addressed.

The Grand Jury found that the City Council had approved the City staff recommendation to enter into an agreement for the use of a temporary firing range facility (Agreement). The City Council approved the action on September 7, 2010. There was nothing in the public record to demonstrate that the City had adequately considered the appropriateness of the site as a firing range, had considered the legal liabilities of such an arrangement, or had considered what the specific arrangements would be for using the site. No proposed Agreement was presented to the City Council prior to the City approving the action. Subsequent to the City's approval, the County issued a Notice of Violation (NOV) and Notice of Impending Civil Administrative Penalties for violations of the Ventura County Building Code and/or Non-Coastal Zoning Ordinance to the owner of the property on which the range was located. As of the end of April 2011, there was no signed Agreement or any other document, such as a Hold Harmless Agreement, that had been executed by the City regarding this temporary range.

The Grand Jury recommends that the City cease using the current temporary firing range until such time as the land is properly permitted as a firing range and enter into an Agreement that adequately meets City liability protection requirements. The Grand Jury also recommends that City staff and City Council give due attention to future agenda items with significant risks for liability.

### **Background**

Land use within the unincorporated areas of the County, or within the limits of any city in the County, is subject to the land use plans, zoning regulations, and permitting requirements of the County or the respective city within whose boundaries the land falls. To address the many facets of land use that include, among others, orderly development and planning, environmental concerns, and public safety, there are many regulations, policies, and procedures in place to guide municipal governments.

County and city meeting agendas are filled with items surrounding land use issues of which many are of interest to the public and for which some controversy is usually involved. The issues can be complex and emotional and government, in general, recognizes those sensitivities. Full disclosure to the public regarding land use, and to the decision-making bodies that approve land use, are required. Where municipal government leases facilities or services on privately owned

property, there remains an obligation on government to perform sufficient research and inquiry prior to entering into lease arrangements.

## **Methodology**

The Grand Jury reviewed materials provided with the complaint, conducted searches of the internet, visited City Hall, reviewed a recording of a City meeting, and interviewed representatives of the City to understand the process involved in the City's action approving the Agreement. The Grand Jury also interviewed a representative of the County Resource Management Agency (RMA) regarding the status of the violations noted and received documents from RMA concerning this issue.

## **Facts**

- FA-01.** The City Police Department has an extensive training program (Program) for its officers that includes the need for a live fire range for service weapons familiarization and qualification. (Att-01)
- FA-02.** The Program goes well beyond the eight-hour per year requirement of the California Police Officers Standards and Training to maintain service weapon qualifications. It provides extensive training in the use of less-than-lethal weapons as well as the latest tactics. [Ref-02] (Att-01)
- FA-03.** The City used the Ventura Police Range for live firing until the range was closed in 2006. (Att-01)
- FA-04.** In 2006 the City began using another firing range facility near the City limits at Willard Road. The City discontinued use of the facility in 2010 after the County RMA issued an NOV to the property owner. The property did not have a Conditional Use Permit (CUP) to operate as a firing range. (Att-01 and Att-02)
- FA-05.** The landowner of the Willard Road facility had been cited by the County on December 14, 2009 for operating a firing range without the required CUP. (Att-02)
- FA-06.** The City staff provided a one page report to the City Council indicating that the Police Department had lost the use of a property for firearms training and a short-term solution was needed to maintain training standards. The report was prepared and presented for the City Council meeting of September 7, 2010, Consent Agenda item number 9.M., and the item was titled "Firing Range Contract for Short-Term Use." The report recommended that the City enter into an Agreement to use a private property as a firing range. (Att-03)
- FA-07.** There was no other staff report for Consent Agenda item 9.M. provided to the City Council that indicated there was any research regarding the appropriateness of the land for a firing range. Whether or not there were any environmental or safety concerns that had to be addressed, or what liabilities or responsibilities the City might have in using the firing range,

were not addressed. There was no information provided in the public record for this agenda item regarding with whom the City was entering into the Agreement. There was no proposed Agreement either provided to, or requested by the City Council prior to their approving the action. [Ref-01]

- FA-08.** On September 7, 2010, the City approved Consent Agenda item number 9.M. without City Council or public comment. As a matter of policy, agenda items are placed on the Consent Agenda because they are considered routine, non-controversial, and are routinely not discussed. [Ref-01]
- FA-09.** The approval of Consent Agenda item number 9.M. " . . . 1) authorize[d] the City Manager to enter into an agreement, in a form approved by the City Attorney, for the use of a temporary firing range facility; and 2) take such additional, related, action that may be appropriate." [Ref-01]
- FA-10.** On the regular agenda for the same September 7, 2010 City Council meeting, there was a presentation made by City staff titled "Long-Term Option for a Firing Range/Training Facility" (agenda item 10.D.) and a request for City Council guidance to staff on how to proceed. The agenda item 10.D. and presentation were heard after Consent Agenda item 9.M. Staff recognized that a permanent range facility was an option to meet the requirements of the Police Department, and eliminate the disadvantages of using temporary or out-of-area facilities for training. The presentation acknowledged some of the possible citizen concerns with a firing range at various potential sites. The presentation also addressed some safety considerations, the potential costs and revenues associated with building, owning, and operating a firing range, and other possible impacts. [Ref-01] (Att-01)
- FA-11.** Live firing ranges have inherent operating dangers and associated liabilities that require careful consideration. Where adequate planning and compliant design and construction are used, and all applicable environmental and operating regulations are followed, these dangers and liabilities can be reasonably minimized.
- FA-12.** Sometime after the approval of the temporary firing range, Consent Agenda item 9.M., complaints by citizens hearing gunfire were received in the latter months of 2010 and into February 2011 by the County Code Compliance Division of RMA and by the City. The temporary firing range is located in the vicinity of South Mountain. (Att-04 and Att-05)
- FA-13.** The Code Compliance Division of RMA sent a letter, dated February 4, 2011, to the land owner and to the business providing use of the South Mountain firing range to the City. The letter stated that they had received complaints regarding shooting activities and that there was no CUP on the property to operate a firing range. In another letter from RMA, dated the same day, it was noted that a complaint alleged violations for lack of a CUP, structures and lights constructed on the

property without permits or inspection, and grading of land without a permit. (Att-04 and Att-06)

- FA-14.** Subsequently, on February 25, 2011, the Code Compliance Division of RMA issued a letter for NOV and Notice of Impending Civil Administrative Penalties for confirmed violations of the Ventura County Building Code and/or Non-Coastal Zoning Ordinance. The letter was sent to the land owner and to the business providing the firing range to the City. (Att-07)
- FA-15.** The City acknowledged a citizen complaint in February 2011 and indicated that some mitigation measures were being taken to reduce firearm noise associated with training conducted for the City Police Department at the South Mountain firing range. (Att-05)
- FA-16.** As of April 2011, the South Mountain firing range was still available to the City for live firing and other training.
- FA-17.** As of May 3, 2011, the City had not entered into a written agreement as specified by the City Council.
- FA-18.** City staff has indicated that the City is in the process of entering into a Hold Harmless Agreement with the business that is providing the South Mountain firing range services to the City. This is approximately eight months after the City began using the firing range for live firing.

## **Findings**

- FI-01.** There is a lack of information available to the public and to the City Council to demonstrate that the City carefully and adequately considered the appropriateness, safety, and potential liabilities of entering into a temporary firing range agreement. (FA-06 and FA-07)
- FI-02.** The introduction of the Agreement as a Consent Agenda item, the lack of a proposed agreement at the time of City Council approval, and the lack of any subsequent agreement executed through April 2011, demonstrates that the City Council and City staff considered this to be a casual action with little risk to the City. (FA-07, FA-08, and FA-11)
- FI-03.** Whether using firing ranges leased from others or considering the construction and ownership of a permanent firing range, there are risks and potential liabilities associated with both actions that merit careful consideration. (FA-10 and FA-11)
- FI-04.** There is a pattern of the City entering into arrangements for the use of firing range facilities for which the City staff has not done its due diligence to verify that the facilities are appropriately permitted and legally operated. (FA-04, FA-05, FA-07, FA-08, FA-13, and FA-14)
- FI-05.** The City is now proceeding with due care and consideration in assessing whether or not the City should own and operate a permanent firing range and training facility. (FA-10 and FA-11)

**FI-06.** By not having a written Agreement in place, immediately upon City Council approval, the City is unnecessarily and carelessly exposing itself to liability in using a live firing range. (FA-08, FA-11, and FA-16 through FA-18)

## **Recommendations**

**R-01.** City Council should direct City staff to more carefully consider the potential controversy, liability, and legality of proposed City Council agenda items before placing them on the Consent Agenda. (FI-01 and FI-03)

**R-02.** City Council should require City staff to provide complete staff reports that adequately address legal, safety, environmental, fiscal and other applicable areas of concern and City Council should recognize when they are not provided. (FI-01, FI-02, and FI-06)

**R-03.** The City should cease using the South Mountain facility until the current County NOV is satisfactorily resolved and the facility is appropriately permitted for such use. (FI-04 and FI-06)

**R-04.** The City Council should require City staff to provide proposed written agreements, if not agreements already signed by the other party, for the City to execute upon City Council approval, and not allow activities to commence until the agreements are fully executed. (FI-01 and FI-06)

## **Responses**

### Responses Required From:

City Council, City of Santa Paula (FI-01, FI-02, FI-04, and FI-06) (R-01 through R-04)

### Responses Requested From:

Chief of Police, City of Santa Paula (FI-01, FI-02, and FI-04) (R-01 and R-03)

## **References**

- Ref-01.** City of Santa Paula City Council Meeting minutes of September 7, 2010 Page 197 through 207, Book EE.
- Ref-02.** The California Police Officer Standards & Training Commission.

## **Attachments**

- Att-01.** City of Santa Paula Power Point Presentation on September 7, 2010 for regular agenda item 10.D. titled, "The Future of Police Training: Alternatives for a Firearms and Less-lethal Training Facility" (redacted)
- Att-02.** County of Ventura, Resource Management Agency, Code Compliance Division letter of December 14, 2009 (redacted)
- Att-03.** City of Santa Paula Memorandum of August 30, 2010 from Chief of Police Stephen MacKinnon, subject "Firing Range Contract for Short-Term Use"
- Att-04.** County of Ventura, Resource Management Agency, Code Compliance Division letter of February 4, 2011, subject "Case Number: CV 11-0020" regarding complaints received (redacted)
- Att-05.** City of Santa Paula e-mail of February 4, 2011, subject "Response to questions/concerns regarding Firearms Range" (redacted)
- Att-06.** County of Ventura, Resource Management Agency, Code Compliance Division letter of February 4, 2011, subject "Case Number: CV 11-0020" regarding alleged violations and request for inspection (redacted)
- Att-07.** County of Ventura, Resource Management Agency, Code Compliance Division letter of February 25, 2011 (redacted)

## **Disclaimer**

This report is issued by the 2010-2011 Ventura County Grand Jury. Due to a potential conflict of interest, a member of this Grand Jury was excused from participating in any aspect of the production of this report.



## **Glossary**

**TERM****DEFINITION**

Agreement	Agreement for temporary firing range approved September 7, 2010
City	City of Santa Paula, California
County	County of Ventura
CUP	Conditional Use Permit
Grand Jury	2010-2011 Ventura County Grand Jury
NOV	Notice of Violation
RMA	Resource Management Agency, County of Ventura

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## **Attachment 01**

**City of Santa Paula Power Point Presentation on September 7, 2010  
for regular agenda item 10.D. titled, "The Future of Police Training:  
Alternatives for a Firearms and Less-Lethal Training Facility"  
(redacted)**

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## **The Future of Police Training:**

### ***Alternatives for a Firearms and Less-Lethal Training Facility***



## **History**

- In 1998 a Model Firearms Training Program was designed and implemented
- Up until 2006 we used the Ventura Police Range until it was shut down
- Until this year, we used a facility provided by Reserve Sergeant Levy just outside the city limits
- As a result of County intervention, this facility is no longer available

## Statement of the Problem

- Modern police departments must maintain officer proficiency with training in the use of firearms as well as other levels of less-lethal force
- Agency's must have access to a facility where this training can take place in a learning and safe environment
- With the loss of our location - training, proficiency, and civil liability will all be negatively impacted

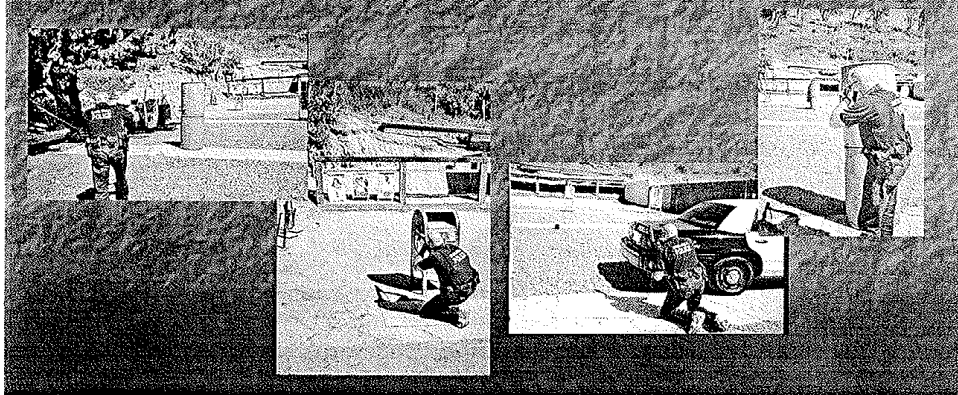
## Typical Monthly Training

- Our standard requires monthly training using a variety of teaching and training methods
- Training constantly tests the officer using the most recent tactics and training available



## Typical Monthly Training

- Our current training program has resulted in no significant challenges to the decision-making out on the streets



## Loss of the Range: Potential Impact

- Increase in civil liability for the City
- Unbudgeted costs to rent a facility outside of the area
- Significant increased costs in overtime and payment for mileage to/from the range
- Deterioration of the training levels of all police personnel



## A Possible Solution:

*Based on our research to date, and considering a wide variety of other alternatives, we would suggest the best approach may be for the City to consider building a range facility that will meet the training needs of its Police Officers now and into the future.*

## Possible Locations

- A number of sites were evaluated throughout the City
- Three sites were identified as having the potential to meet our long term needs
- Each site would have minimal impact on residential areas while providing good access for officers, even while on duty

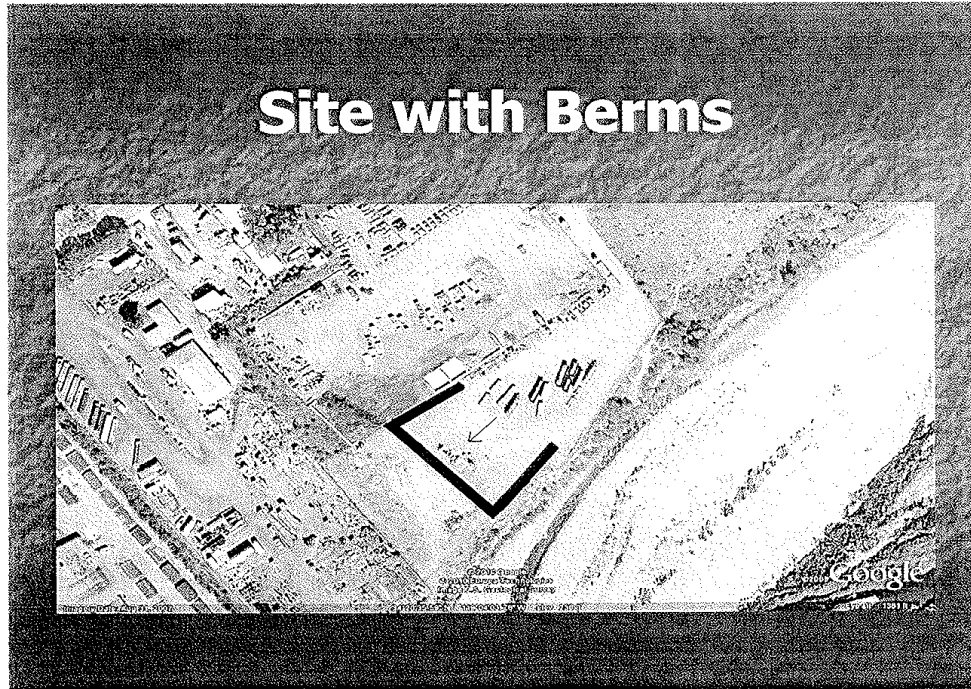


## Site A: Palm Street

- A potential 2 acre City-owned site has been identified at the south end of Palm Ave.
- This was the site of the old city dump.
- This area will have minimal impact on any residential areas while providing good access for officers, even while on duty.

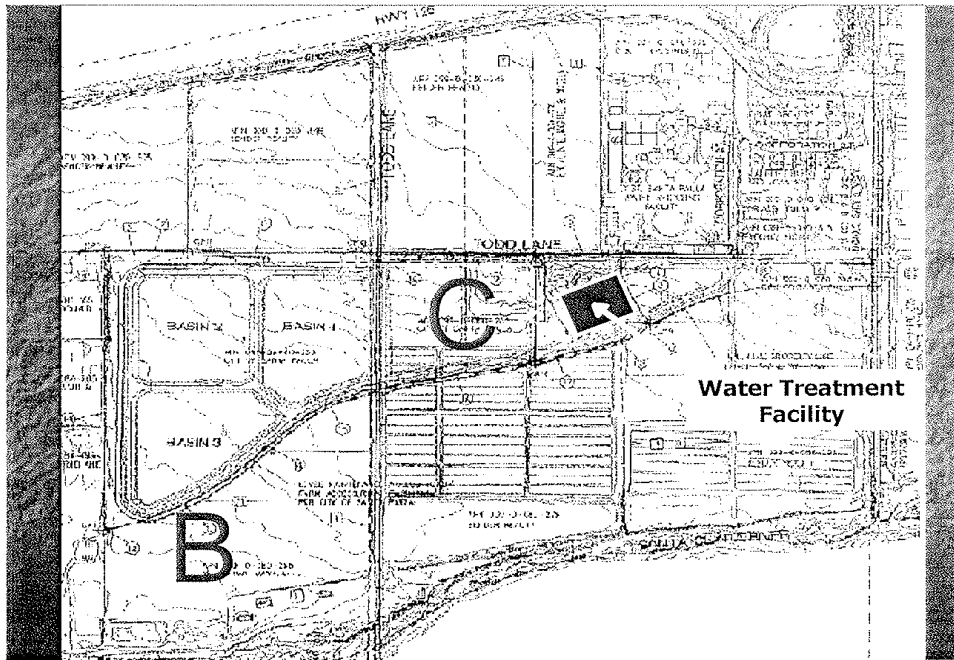
## Site A: Palm Street





## Pros and Cons: Site A

- Little to no operational costs
- Potential revenue generated by outside users
- Officers available during training to respond to calls
- Minimal Overtime
- Loss of revenue from existing tenant (\$6K)
- Old Dump site could have "issues" (though only limited uses are allowed now)



## Site B: West End

- A potential of an 11 acre City-owned site
- Located on the south west perimeter of the New Sewage Treatment Plant at the west end of the city
- This area will also have minimal impact on any residential areas while providing good access for officers, even while on duty.



## Pros and Cons: Site B

- Potential for major revenue generation
- Officers available during training to respond to calls
- Minimal Overtime
- Property is outside the City limits (LAFCO and Bd of Supervisors must be involved)
- Loss of Revenue from existing tenant (\$11K)
- Potential for litigation from neighbors