



PISMO BEACH POLICE DEPARTMENT

Jake Miller, Chief of Police

RECEIVED

SEP 29 2016

San Luis Obispo
Grand Jury

July 8, 2016

Foreperson Greg Schlitz
San Luis Obispo Grand Jury
P.O. Box 4910
San Luis Obispo, California 93403

Re: Agency Response – *“Keeping Suspects in Custody: When is Scheduled Bail not Enough?”*

Dear Foreperson Schlitz:

This letter constitutes the response of the City of Pismo Beach to the San Luis Obispo County Grand Jury request in regards to the Grand Jury Report stated above. Per California Penal Code Section 933(c) the following is the response from the Pismo Beach Police Department specifically on findings 1-8 and Recommendations 1-4.

Enclosed in this response is the “Response to Grand Jury Report” form and a written explanation of those recommendations requiring narrative. As for the “Findings,” the Pismo Beach Police Department does not dispute those findings as listed in the report and therefore, have no comments. I hope this information will assist in your endeavor and if any additional support material is needed, please do not hesitate to ask.

If I can be of any further assistance or clarify any information, please feel free to contact me at (805)773-7028.

Sincerely,

A handwritten signature in black ink, appearing to read "Jake Miller", with a long horizontal flourish extending to the right.

Jake Miller
Chief of Police

RESPONSE TO GRAND JURY REPORT

Report Title: Keeping Suspects in Custody: When is Scheduled Bail Not Enough?

Report Date: June 30, 2016

Response by: JAKE MILLER Title: CHIEF OF POLICE

FINDINGS

1. I (we) agree with the findings numbered: 1 - 8
2. I (we) disagree wholly or partially with the findings numbered: _____
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)

RECOMMENDATIONS

1. Recommendations numbered 1-4 have been implemented.
(Attach a summary describing the implementation actions.)
2. Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
3. Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report.)
4. Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: 8 July 2016

Signed: _____

Number of pages attached: _____

Recommendations Implementation Summary

1. *The District Attorney should coordinate the development of uniform written policies and procedures for local law enforcement agencies to make requests of the court for appropriate bail increases.*

This recommendation obligates the San Luis Obispo County District Attorney's Office to the development of uniform policies and procedures for local law enforcement agencies to make requests of the court for appropriate bail increases. The District Attorney's Office has published to all agencies a training memorandum for "Setting Bail at Booking" to include the consideration of increased bail. Along with that memorandum, dated November 20, 2015, is the declaration for such action. (See Memo Attached)

2. *The District Attorney's Office should coordinate formal training programs for the local law enforcement agencies in the process for obtaining bail increases.*

This recommendation obligates the San Luis Obispo County District Attorney's Office to coordinate formal training programs for the local law enforcement agencies in the process for obtaining bail increases. The District Attorney's Office has published to all agencies a training memorandum for "Setting Bail at Booking" to include the consideration of increased bail. Along with that memorandum, dated November 20, 2015, is the declaration for such action. (See Memo Attached)

3. *Local law enforcement agencies should work with the District Attorney in the development of the above policies and programs within the resources of their respective departments.*

The San Luis Obispo District Attorney's Office provided the guidelines and training bulletin prior to the finalization of this report negating the need for this recommendation.

4. *Local Law Enforcement agencies should rely only on California State Law when considering whether a bail increase is appropriate.*

Prior to this investigation and report, the Investigations Bureau of the Pismo Beach Police Department were cognizant of 1269c PC but there was no formal documentation of training. Now the Pismo Beach Police Department has added the training to include relying on California State Law in its monthly training to patrol as well which is documented for the department's national accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA). (See copy of Watch Commanders Log attached demonstrating training performed at briefing)

OFFICE OF THE DISTRICT ATTORNEY
County of San Luis Obispo



MEMORANDUM

TO: San Luis Obispo County Law Enforcement Agencies
FROM: Sandy Mitchell, Training DDA (781-5858)
DATE: November 20, 2015
RE: Setting Bail at Booking

The charges listed on the Booking Sheet determine the initial bail amount. In order to ensure appropriate bail is set, please consider the following:

- 1. For a felony arrest, check the CII history for prior prison terms and/or prior "strikes".** A prior prison term under PC 667.5(b) adds \$10,000 bail. A serious or violent felony prior, PC 667(e)(1), adds \$50,000 bail; two or more serious or violent felony priors, PC 667(e)(2,) adds \$250,000. There are numerous priors which apply to sex offenses. See pages 56-57 of the SLO County Bail Schedule.
- 2. For a felony arrest, consider adding applicable enhancements.** A great bodily injury enhancement, PC 12022.7, adds \$30,000 bail. The enhancement for a principal being armed with a firearm, PC 12022(a)(1), adds \$15,000. Personal use of a deadly weapon, PC 12022(b), adds \$20,000. The enhancement for committing a felony while released on another felony, PC 12022.1, adds \$25,000 bail. There are enhancements relating to discharge of firearms, taking or damaging property of great value, and causing great bodily injury to special victims. See pages 29-30 of the SLO County Bail Schedule.
- 3. When the arrestee has a stolen access card, consider a felony PC 530.5(a) or PC 484e(d) charge.** The USE of a stolen access card or access card information is a violation of PC 530.5(a), a felony, regardless of the amount charged. There is a split in authority as to whether Prop 47 applies to PC 484e(d), possession of a stolen card with the intent to defraud (no use required); see *People v. Grayson* (2015) 241 Cal App 4th 454 and *People v. Romanowski* 2015 WL 7074794.
- 4. Consider a Declaration to Increase Bail or a Declaration to Examine Source of Bail.** Pursuant to PC 1269c, the officer can request an increase in bail if the arrest is for any felony OR for a misdemeanor violation of a domestic violence restraining order, and the arresting officer has reasonable cause to believe that the scheduled bail amount is insufficient to ensure the arrestee's appearance OR to ensure the protection of the victim or the victim's family. Pursuant to PC 1275.1, the officer can seek an order to examine the source of bail if there is probable cause to believe bail will be posted using funds that are feloniously obtained. Financial crimes, gang crimes and narcotics sales often qualify for such an order. The CJIS "Templates" tab has templates for both requests. Contact the on-duty supervisor at the jail to HOLD the arrestee while the declaration is prepared and the order signed by a judge (the on-call judge if after hours).

1 Dan Dow
District Attorney
2 State Bar #237986
County of San Luis Obispo
3 Courthouse Annex, Room 450
San Luis Obispo, CA 93408
4 Telephone: (805) 781-5800

5 Attorney for the People of the State of California

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7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN LUIS OBISPO

10
11 THE PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO:
12)
Plaintiff,)
13 vs.) REQUEST FOR BAIL IN EXCESS OF
14) FELONY BAIL SCHEDULE AND
DECLARATION OF < >
15 <Defendant(s)>) (Penal Code Section 1269c
16)
17 Defendant.) Date:
Time:
Dept.

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19
20 **DECLARATION**

21 The undersigned hereby declares that he/she is a peace officer; that the defendant
22 named above has been arrested for the crimes of < >; and that the bail set thereon by
23 the San Luis Obispo County Felony Bail Schedule is < >.

24 For the following reasons, the undersigned believes that the standard bail is
25 insufficient to assure the defendant's appearance in court and therefore requests that bail
26 be set in the amount of \$< >.

27 < (Reasons) >

1 I declare under penalty of perjury that the foregoing is true and correct, dated this
2 _____ day of _____, 2015 at _____, California.

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< Name >
Declarant

ORDER

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Good cause appearing, it is hereby ordered that bail be set in the amount of

\$ _____.

Dated: _____

Judge of the Superior Court

1 PROOF OF SERVICE

2 Code of Civil Procedure §1013a; CRC Rule 2006(d)

3 STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

4 I am and at all times herein mentioned as a citizen of the United States and a
5 resident of the County of San Luis Obispo over the age of 18 years and not a party to the
6 within entitled action. My business address is County Government Center, Room 450,
7 San Luis Obispo, California, 93408.

8 On <DATE>, I served the foregoing document(s) described as:

9 <TITLE OF DOCUMENT>
10 (People v.; Case No.)

11 on the interested parties in this action by placing a true copy thereof enclosed in a sealed
12 envelope and addressed as follows:

13 BY MAIL: I caused such envelope with postage thereon fully prepaid to
14 be placed in the U.S. Mail at San Luis Obispo, California. I am "readily familiar"
15 with the firm's practice of collection and processing correspondence for mailing.
16 Under that practice it is deposited with the U.S. Postal Service on that same day in
17 the ordinary course of business. I am aware that upon motion of the party served,
18 service is presumed invalid if the postal cancellation date of postage meter date is
19 more than one day after date of deposit for mailing affidavit.

20 BY PERSONAL SERVICE: I delivered such envelope by hand to
21 the office of the addressee(s) noted above during normal business hours.
22 I delivered such envelope by hand to the "will-call" box of addressee(s) located
23 outside of Room 385 of the County Government Center, San Luis Obispo,
24 California.

25 BY FACSIMILE TRANSMISSION: By use of facsimile telephone number
26 805.781.1311, I caused such document(s) to be transmitted to the addressee(s)
27 facsimile number noted below. The facsimile machine I used complies with Rule
28 1003(3) and the transmission was reported as complete without error. Pursuant to
California Rules of Court, rule 2005(i), I caused the machine to print a
transmission record of the facsimile transmission, a copy of which is attached to
this declaration.

Name: . Facsimile No.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this declaration was executed on <DATE>, at San
Luis Obispo, California.

<NAME>

PISMO BEACH POLICE DEPARTMENT

Watch Commander's Log

WATCH	DAY / DATE	WATCH COMMANDER
Days A	Tues. / September 20, 2016	Sgt. Hernandez

DEPLOYMENT				
DISPATCH	WORK HOURS	OFFICER	WORK HOURS	BEAT/ASSIGNMENT
Gunn	0600 - 1600	Sgt. Hernandez	0700 - 1700	WC / S-3 / 135
Moskowitz	1000 - 2000	Ofc. Mytych	1100 - 1700	North / A-6 / 133
		Ofc. Francis	0700 - 1700	South / A-10 / 132

STATION CHECK			
TIME	DETAIL	TIME	DETAIL
0700	Perimeter Security Check	0700	Subpoena Log Check
0700	Interior Walk Through	0700	Time Sheet Review

JAIL FACILITY CHECK			
TIME	DETAIL	TIME	DETAIL
0700	Holding Cells	0700	Fire Alarms and Detectors
0700	Facility Sanitation (Includes Vermin / Pests)	0700	Custody Log Books

BRIEFING / OTHER TRAINING (Hours = Total Time X # of Officers)					
HOURS	TOPIC	SUBJECT / Sect. #	HOURS	TOPIC	SUBJECT
	Policy Manual			Officer Safety	
	Int. Directives			POST Training	
	Misc. Case Law			In-Service Training	
25	Briefing Training	Setting Bail at Booking 1269PC			

PATROL VEHICLE CHECK					
TIME	VEHICLES			CONTRABAND LOCATED	
0700	<input type="checkbox"/> ALL	<input checked="" type="checkbox"/> Some (expl.)	<input type="checkbox"/> None (expl.)	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES (see case number(s) below)

SIGNIFICANT ACTIVITY			
CASE #	TIME	SUMMARY	Rpt. Ofc.
16-1810	1103	SCAR Report - Report of a possible emotional abuse of a child was reported to CWS who investigated and found no abuse occurred. Documentation report accomplished.	Ofc. Mytych
16-1811	1338	PC 1203.2, H&S 11364, H&S 11350(A), Warrant, weapons violations - Contact with subjects in and near a vehicle behind Oxford Suites leads to the contact of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Lerma was found to have discarded methamphetamine and a smoking pipe. Several subjects were found to be on probation with search terms and during a search of the vehicle and persons, items located included drug paraphernalia, a Glock model 26 9mm handgun, high capacity magazine (loaded), and previously reported stolen credit cards. Lerma, Rodriguez, Robinson, and Dana were transported and booked into SLOCJ. Montez was released at the scene on a citation for H&S 11350(A). Gutierrez was	Ofc. Francis / Shift

