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The Brown Act specifically states:

“Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act.”

The Brown Act further states:

“Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.”

FINDINGS

- F1. California State Law requires the public shall have free and open access to public meetings and recordings.
- F2. No consistent written minutes exist for the Marysville City Council meetings.
- F3. DVD recordings are made of the Marysville City Council meetings.
- F4. Media formats, such as DVDs, degrade over time. Media formats also change. Currently as new technology evolves, there is no procedure in place to ensure successful monitoring and updating of the electronic documents and video recordings.
- F5. There is no dedicated device to be used by the public to view meetings which have been electronically recorded.
- F6. California citizens were denied access to the available recordings of the City Council’s meetings. Grand Jurors however, were provided access.
- F7. The City of Marysville has recently hired a temporary employee to review and transcribe all electronic recorded Council meetings into an outline format. The outline formats are to be presented to the City Council for their review and approval.

RECOMMENDATIONS

- R1. Encourage transcribing, by trained staff, the current video recordings into outline form. This will continue to provide a permanent and ready access to the outcome of votes and meeting minutes.
- R2. A designated area within the City Clerk's office must be made available at all times, with a dedicated device, for the public to view the meeting recordings.
- R3. A policy should be drafted and implemented which will establish procedures to transfer the City Council meeting records and documents to new technology, as it becomes available, as well as monitoring the quality of the existing stored data.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- Marysville Mayor: F1-F7, R1-R3
- Marysville City Manager: F1-F7, R1-R3
- Marysville City Clerk: F1-F7, R1-R3

From the following governing bodies:

- Marysville City Council: F1-F7, R1-R3

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

This report of the "Marysville City Council Minutes" is issued by the 2010-2011 Grand Jury with the exception of one member of this Grand Jury who is a former employee of the City of Marysville. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations, and the making and acceptance of the report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

Report

Police Car Not in Compliance

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POLICE VEHICLE NOT IN COMPLIANCE

SUMMARY

After receiving a resident complaint that a City of Marysville uniformed police officer was observed driving an unmarked and unlicensed vehicle to a local eatery, Grand Jurors made an unannounced visit to the Marysville Police Department. The vehicle in question was in the parking lot and was in violation of California Vehicle Code. After speaking to a police official, it was determined that the vehicle had recently been purchased from another jurisdiction and the Department was in the process of obtaining permanent license plates. During one visit by Grand Jurors, a police department official placed a temporary operating permit in the windshield at the conclusion of the Grand Jurors' visit. On a subsequent visit, Grand Jurors had a discussion with a police officer to determine if a citation could be issued to the operator of the vehicle in its current condition and the response was in the affirmative. After the conclusion of the investigation and at some point in late March, the vehicle did have a California license plate attached with an expiration date of January 2012. Marysville Police Department must comply with even the most basic of laws, or risk losing public confidence in their integrity and commitment to uphold the law.

BACKGROUND

This investigation was the result of a resident complaint. Portions of that complaint included operation of a vehicle without a license plate. The Grand Jury chose to set aside the issue of the vehicle to go to lunch, and focused its attention on the fact that the vehicle was being operated in violation of the Vehicle Code. While the lunch issue may be problematic to some residents, it is a common practice for first responders i.e. firemen and police officers to take their assigned vehicles on meal breaks while on duty. As to the complaint that the vehicle was not in compliance with the Vehicle Code, the Grand Jury found the resident complaint to be a valid issue.

APPROACH

The Marysville Police Department was visited on several separate occasions. On the first visit, the vehicle was identified and a Police Department official rectified the problem by placing a temporary operating permit in the windshield. On the second visit, the temporary operating permit had expired. On the third visit, a uniformed police officer standing outside the Police Department was engaged and was asked: "Could you issue a citation to the vehicle in its current condition?" The response was "Yes." On a fourth visit, the vehicle had no temporary permit at all. At some point in March, a license plate was attached to the vehicle with an expiration date of January 2012.

DISCUSSION

Is there a need to operate a vehicle without a license plate on the public roadways in violation of the California Vehicle Code?

No, there does not appear to be any justification to operate a vehicle in violation of the Vehicle Code. Sworn Peace Officers are held to a higher standard than the residents they serve, and, as such, must have the appearance that they are above reproach and not above the law, but are always in compliance with the law. The Police Department appears to have disregarded a basic regulation. Such disregard potentially negatively impacts the public's perception of the Police Department. The Police Department was dismissive of this Grand Jury's concerns when they apparently tried to appease the Grand Jury by placing the required decal in the car during the Grand Jurors first visit, thus, allowing the Grand Jurors to go away satisfied that the vehicle was in compliance. Follow up inspections of the vehicle demonstrated that the Marysville Police Department had no apparent interest in ensuring that the vehicle remained in compliance.

FINDINGS

F1. The Marysville Police Department was operating a vehicle in violation of the Vehicle Code Sections 4001 and 5202.

RECOMMENDATIONS

R1. If the City is unable to get the proper documentation for one of its vehicles, they should park the vehicle until it is able to do so.

To promote a sense of fairness to the public, the Marysville Police Department ought to comply with all the laws and regulations that the residents of Marysville must comply with. This is especially true of high visibility situations involving interactions with the public.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- City of Marysville, Chief of Police: F1, R1
- City of Marysville, City Manager: F1, R1

From the following governing bodies:

- City of Marysville, City Council F1, R1

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

- California Vehicle Code Sections 4001 and 5202

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