

Law Enforcement Evidence Handling Units

A Report on Responses to the 2015-2016 Grand Jury Report

Summary

The 2016-2017 Nevada County Grand Jury (Jury) has reviewed the responses to the report entitled *Law Enforcement Evidence Handling Units* issued by the 2015-2016 Jury (2015-2016 Report) and inquired about progress toward implementation of those responses where appropriate. This report contains the results of follow-up interviews and information gathered to determine if the agencies are following through with the recommendations and responses given to that prior report.

Approach

The 2015-2016 Report examined the condition, operation, staffing, training, policies, and procedures of all law enforcement evidence handling units (EHUs) within Nevada County (County). The purpose of the review and this report was to determine if the law enforcement agencies implemented the actions they agreed to take in their responses to the 2015-2016 Report.

During the Jury's review they referred to the best practices and policies provided by Police Officer Standards and Training (POST) and Lexipol. POST is a state agency established in 1959 to set minimum selection and training standards for California law enforcement agencies. Lexipol is a service providing policy manuals including those for EHUs, with ongoing amendments to reflect changes in the law and best practices.

The Jury reviewed the responses to the 2015-2016 Report by the Nevada County Sheriff's Office (NCSO), the Grass Valley Police Department (GVPD), the Truckee Police Department (TPD), and the Nevada City Police Department (NCPD). The EHU of each agency was re-inspected by the Jury and the staff of each EHU was interviewed.

Responses to Recommendations of the 2015-2016 Report

Recommendation R1

Consolidation of the Grass Valley Police Department and the Nevada City Police Department evidence handling units should be considered again.

NCPD Response to Recommendation R1

The recommendation will not be implemented at this time. The NCPD and GVPD will continue to explore the possibility consolidating the Evidence Handling Unit to determine if consolidation is beneficial.

Current Status

The GVPD and the NCPD continue to operate separate EHUs.

Recommendation R2

Alternatively, the Nevada City Police Department should expedite its efforts to obtain and train a non-sworn evidence technician to reduce personnel costs and to free sworn officers for their primary duties.

Response to Recommendation R2

This recommendation is in the process of being implemented. The NCPD has hired and is currently training a part-time civilian CSO [Community Services Officer] to be assigned to the Evidence Handling Unit.

Current Status

The NCPD EHU staff consists of a CSO and a sworn officer. The sworn officer fills the EHU position as a collateral duty and is fully certified. The CSO completed training with the Commission on Peace Officers Standards and Training (POST) and became a certified evidence handling technician on November 9, 2016.

Recommendation R3

The Nevada County Sheriff's Department should draft and adopt written policies and procedures for its Sheriff's Property Unit that accurately reflect the current actual practice of its evidence technicians and that are in compliance with the current state of the law and best practices as recommended by POST and Lexipol.

Response to Recommendation R3

This recommendation has been partially implemented. The Sheriff's Office is in the process of updating and adopting updated policies and procedures regarding the processing of evidence into the Sheriff's Property Unit and expect to have this completed by September 1, 2016.

Current Status

The only written operating policies and procedures in place are a Sheriff's Office General Order dated August 1, 1993 and a POST Property and Evidence Manual dated 2008. It does not appear that the 2008 manual is used. The Jury has been informed that the Sheriff's Property Unit (SPU) technicians are creating a "Desk Manual" to document the actual procedures of the SPU but it was not complete as of January 5, 2017.

Recommendation R4

The Nevada County Sheriff's Department should immediately arrange for a complete external audit of its Sheriff's Property Unit.

Response to Recommendation R4

This recommendation has been partially implemented. The Sheriff's Office has requested an external audit to be done by POST but was told that they do not have sufficient staffing and cannot accommodate our request. We are currently researching the availability and cost of a third party vendor to conduct an audit prior to the end of 2016.

Current Status

The most recent written audit of the SPU was a POST Management Study dated July 30, 2007. It included numerous recommendations for change, only some of which have been adopted. No records of any subsequent inspections were found even though POST and the SPU's Property and Evidence Manual recommend external audits every two to three years. POST has no record of a request for an external audit from the NCSO since 2007.

Recommendation R5

The Nevada County Sheriff's Department should conduct a complete inventory of its Sheriff's Property Unit upon the retirement of its senior evidence technician.

Response to Recommendation R5

This recommendation has been partially implemented. The Sheriff's Office began a complete inventory upon the retirement of one of our evidence technicians and is still in the process of the inventory. The inventory should be complete by the end of 2016.

Current Status

The complete inventory was not done. Instead, the NCSO has adopted a policy of "Continual Inventory" whereby one day each week is devoted to inventorying a section of the facility. By the end of a year the entire facility is expected to have been inventoried. This process is described in guideline 5.2 of the POST *Law Enforcement Evidence & Property Management Guide* as a perpetual inventory. Guideline 5.2 requires that the inventory of the entire facility be completed at the end of one year.

Recommendation R6

The Nevada County Sheriff's Department should require that there be periodic spot inventories of its Sheriff's Property Unit and should require that written records of those spot inventories be maintained.

Response to Recommendation R6

This recommendation has been partially implemented. The Sheriff's Office has conducted periodic spot inventories but has not maintained a record. Updated policies will require written record of the spot inventories to be maintained. The updated policies will be in place by September 1, 2016.

Current Status

The supervising sergeant has been conducting and documenting quarterly random spot audits. However, as noted in the status of Recommendation 3, above, written policies are not yet complete.

Recommendation R7

All agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics, and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

Response to Recommendation R7 by NCSO

This recommendation will be partially implemented.

To my knowledge the Nevada County Sheriff's Property Unit has never lost an item of evidence. Every time an item of evidence is requested for court, or to be returned to an individual, the item has been located. Each and every one of these instances acts as a spot inventory. This is not to say that scheduled inventories and audits are not needed, just that the urgency is not apparent. Supervisors have and will continue to make spot inventories of the inventory at the Property Unit. Additionally, we will update our policy to require the spot inventory results to be documented. We expect the updated policies to be in place by September 1, 2016. We will request an outside audit be performed prior to the end of 2016. We are currently in the process of completing a complete inventory, a process that was begun right after the retirement of one of our evidence technicians. It is not reasonable to conduct a complete inventory upon change of every supervisor, as the supervisors do not perform the function of the evidence technicians.

Current NCSO Status

The complete inventory was not done. Instead, the NCSO has adopted a policy of "Continual Inventory" whereby one day each week is devoted to inventorying a section of the facility. By the end of a year the entire facility is expected to have been inventoried. This process is described in guideline 5.2 of the POST *Law Enforcement Evidence & Property Management Guide* as a perpetual inventory. Guideline 5.2 requires that the inventory of the entire facility be completed at the end of one year.

The supervising sergeant has been conducting and documenting quarterly random spot audits. However, written policies are not yet complete.

The most recent written audit of the SPU was the *Report of the POST Management Study for the Nevada County Sheriff's Department* dated July 30, 2007. It included numerous recommendations for change, only some of which have been adopted. No records of any subsequent inspections were found even though POST and the SPU's *Property and Evidence Manual* recommend external audits every two to three years. POST has no record of a request for an external audit from the NCSO since 2007.

Response to Recommendation R7 by NCPD

The recommendation is in the process of being implemented. The NCPD currently conducts monthly Audit Spot Checks which are recorded. Inventory policies are followed and records are maintained. Evidence purging is conducted as necessary to ensure that space is available for new arrivals. There is a need for a biennial external audit which will be scheduled before the end of the year.

Current NCPD Status

NCPD submitted a request to POST for an external audit in October 2016. However, an audit has not been scheduled due to lack of available POST personnel. Audit spot checks are conducted monthly and recorded. Inventory policies are followed and records are maintained.

Response to Recommendation R7 by GVPD

The recommendation has been *implemented*.

There are 4 components to recommendation 7. The following describes our implemented actions related to each of them:

1. Adherence to the requirement for a complete inventory upon a change of evidence technician or supervisor:
The Grass Valley Police Department has and will continue to adhere to this requirement. Audits will be diligently scheduled upon the change of an evidence technician or evidence supervisor. These audits will include a 100% inventory of all firearms, money, and narcotics. These audits were performed in 2012 and 2015 upon the change of evidence technicians, and again in 2016 upon the appointment of a new Chief of Police.
2. Random spot inventories need to be performed and documented:
Although random “spot inventories” are performed on a regular basis by the evidence sergeant and Captain, they have not been consistently documented. GVPD has initiated a protocol for capturing and documenting these spot inventories. The evidence sergeant will keep and maintain the records of his audit and inventory activity and it will be available to the Captain, Chief of Police, or an independent auditor upon request.
3. Inventories of firearms, narcotics, and money must be conducted on at least a quarterly basis:
The random spot inventories conducted by the evidence sergeant and captain have and will continue to include checking of firearms, narcotics, and money. These random spot inventories will be conducted quarterly at a minimum.
4. External audits must be conducted on a biennial basis at a minimum:
External audits have been and will continue to be conducted on a biennial basis.

Current GVPD Status

GVPD has fully complied with recommendation R7. A complete inventory was conducted in April of 2016. Documentation of random spot inventories and quarterly firearm, narcotics, and money inventories is being maintained in digital format. An external audit was conducted in April of 2016.

Response to Recommendation R7 by TPD

The recommendation has been partially implemented but will not be fully implemented. As indicated in Finding #6, the Truckee Police Department currently complies with the recommendation to conduct complete inventories when there is a change in evidence personnel or agency head as well as the recommended random spot inventories and inventories of firearms, narcotics, and money on a regular basis. To that extent, this recommendation was implemented prior to the Grand Jury’s review. However, as stated above, the recommendation to conduct biennial external audits will not be implemented. Pursuant to California Penal Code Section 933.05(b)(4), this aspect of the Grand Jury’s recommendation “is not warranted ... [and] is not reasonable ...” Biennial audits are not required by the POST Law Enforcement Evidence & Property Management Guide. POST is part of the government of the State of California, and the POST Guide is considered to represent best practices for evidence handling and property management. As such, biennial audits would represent an additional expense and administrative

burden without a corresponding benefit, and the Town of Truckee declines to implement this aspect of the Grand Jury's recommendation.

Current TPD Status

Lexipol procedures have been adopted and are in use. Moreover, inspection and inventory policies are adhered to and accurate records are maintained on the PS.Net/RMS system. Random checks and mini-audits are conducted and logged. A protocol for purging unneeded evidence is in place.

The last external audit was conducted in 2012 when the new Chief of Police assumed command. External audits are considered a best practice and are beneficial because reviews by experienced auditors frequently lead to improved operations. The Jury learned that TPD has asked for a proposal from an independent auditor for an external audit.

Recommendation R8

The Nevada County District Attorney should continue to develop and improve its process for authorizing the disposal of evidence.

Response to Recommendation R8

The recommendation has been implemented. On January 6, 2016, District Attorney changed the internal policy as it relates to evidence disposition forms in completed cases. Previously, staff would wait until the appellate period in an individual case had run then would route the file back to the Deputy District Attorney (DDA) handling the case who would then determine if appeal had been filed, then fill out the form and reroute it back to the agency through their secretary. Upon review of this process it was determined to be inefficient and cumbersome, in few cases review was not being done at all due to misrouted or non-existing release form. In January this year the process was modified to require the DDA handling the case at sentencing to fill in the evidence disposition form, calculate the appellate period, add 30 days, and route it back to the agency with directions to check with court and, if no appeal has been filed, dispose of the evidence per agency policy. This process reduces the amount of times DA staff handle the file and promptly puts the agency in control of the evidence.

Current Status

The District Attorney was immediately responsive to the Grand Jury recommendation when informed of the issue, taking action even before the report was issued. Discussion with each evidence unit's personnel showed that the process is significantly better and that they were grateful for the change.

Conclusion

With a few exceptions the Nevada County law enforcement agencies have been responsive to the recommendations contained in the 2015-2016 Report on EHUs.

The more significant exceptions are the failure of the NCSO to achieve the goal of having updated written policies and procedures in place by September 1, 2016 and the failure to schedule and have an external audit conducted prior to the end of 2016.

TPD declined to accept the recommendation to conduct an external audit, however the Jury has learned that the TPD is preparing a contract for an external audit.