



CITY OF FAIRFIELD

Founded 1856

Incorporated December 12, 1903

COUNCIL

Mayor
Karin MacMillan
(707) 428-7395

Vice Mayor
Harry T. Price
(707) 429-6298

Councilmembers
(707) 429-6298

Jack Batson
John English
Marilyn Farley

March 30, 2005

Peter B. Foor
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Avenue
Fairfield, CA 94533

Dear Judge Foor:

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City Manager
Kevin O'Rourke
(707) 428-7400

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City Attorney
Greg Stepanicich
(707) 428-7419

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City Clerk
Arletta Cortright
(707) 428-7384

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City Treasurer
Oscar G. Reyes, Jr.
(707) 428-7497

This letter is in response to the 2004-2005 Grand Jury Report entitled: Solano County Towing Policies: "To Tow or Not to Tow" dated March 1, 2005. The Grand Jury has asked for a written response to the Findings and Recommendations contained in the report pursuant to Penal Code Section 933.05.

Finding #3 – The Fairfield Police Department has complete and exhaustive documentation covering all aspects of its rules and regulations relating to vehicle towing situations and its contracts with private towing companies.

We agree with this finding.

Recommendation #3 – None.

None.

Finding #10 – Without exception, hearings on disputed towing and storage charges are conductive by members of the staffs of the various Solano County law enforcement departments.

We agree with this finding.

Recommendation #10 – The California Vehicle Code Section 40215 (4)(A) specifies that hearing officers or examiners in parking enforcement "shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement, parking citation processing, collection, or issuance. The examiner shall be separate and independent form the citation collection or processing function." In the sprit of this law, the Grand Jury recommends all agencies appoint independent hearing officers to rule on towing and storage disputes following the excellent model for parking enforcement.

In the case of the City of Fairfield, this recommendation will not be implemented because it is not warranted at this time. Laws and requirements are separate and unique for

DEPARTMENTS

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Planning & Development
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Police
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Public Works
(707) 428-7485

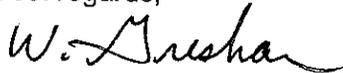
parking ticket hearings and towed vehicle hearings. The City of Fairfield Police Department is in full compliance with the law as enumerated in California Vehicle Code Section 22852 (4)(c). It states, "The poststorage hearing shall be conducted within 48 hours of the request, excluding weekends and holiday. The public agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle."

Our internal procedure Section 4842 states in part that "Whenever a member of the police department directs the towing and storage of a vehicle . . . the department will—upon demand—provide the owner a prompt fair hearing to determine the validity of the towing and storage, as required by California Vehicle Code Section 22852. The police department Hearing Officer will conduct the hearings. If the Hearing Officer is unavailable, then the Traffic Unit supervisor or his designee will conduct the hearing. Any supervisor may conduct a tow hearing in the event that the Hearing Officer or the Traffic Unit supervisor are not available in a reasonable amount of time. The Hearing Officer may not be the same person who directed the storage of the vehicle."

The 48-hour turn around time is much different and much swifter than what occurs with a parking citation. The goal is to conduct a prompt hearing so as to minimize the storage fees that can accrue from a vehicle being left in storage for days or weeks at a time. Swift resolution of the dispute is the key to success. Appointing an independent hearing officer who would be able to hold hearings in a timely manner would be cost prohibitive. It would require that someone be available full time to conduct these hearings within 48 hours, even if days might go by without an actual hearing taking place. On the other hand, parking citation hearings are scheduled in advance allowing planning and scheduling to occur. In times of fiscal constraint and competing budgets, we are asking staff to do more with less.

We have a retired police officer that works as a civilian and conducts Dangerous Dog Hearings, Nuisance Abatement Hearings, and Towed Vehicle Hearings. She does an excellent job, is independent from the enforcement and operations branches of the police department, does not direct the storage of vehicles and we see no reason to make an adjustment in our procedure at this time.

Best regards,



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