JOHN D'AGOSTINI
SHERIFF - CORONER - PUBLIC ADMINISTRATOR
COUNTY OF EL DORADO
STATE OF CALIFORNIA

July 18, 2014

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

RE: Report No. 13-SHERIFF'S VEHICLE ABATEMENT PROGRAM

The Honorable Suzanne N. Kingsbury,

This Office has received and reviewed a report by the 2013-2014 Grand Jury relating to the Sheriff's Office Vehicle Abatement Program. Please find the below responses to those findings and recommendations relevant to the Sheriff's Office.

Sheriff's Response to Specific Findings

1. Finding: None of the allegations identified in the initial reason for this report were proven to the Grand Jury.

   Response: The Sheriff agrees with the finding.

2. Finding: Most of the vehicles given notice as public nuisances are voluntarily removed by the property and/or vehicle owners.

   Response: The Sheriff agrees with the finding.

3. Finding: Although search warrants are not often used by the Vehicle Abatement Officer, the warrants issued were deficient in many ways. There was little or no showing of probable cause within the officer's affidavit, and each document was vague in the all-important description of the property to be searched and the extent of that search.

   Response: The Sheriff disagrees wholly with the finding. The description in a warrant of the property to be searched and the extent of the search need not be a model of specificity. When the description of the premises to be searched is particular enough to allow the officers to locate it, a warrant will be upheld by the courts. Every affidavit to support the issuance of a warrant is submitted to a judge

of the Superior Court who independently determines whether the affidavit states sufficient facts to establish probable cause to justify the search. All vehicle abatement warrants served were reviewed and granted by a sitting judge in the county of El Dorado.

4. Finding: Law enforcement and county personnel often came on private property without either a warrant or the consent of the owner to view, given notice or supervise towing of the vehicles.

   Response: The Sheriff agrees with the finding. The California Vehicle Code Section 22663 and El Dorado County Ordinance authorize entrance upon private property for the purpose of examination; obtain information as to the identity of a vehicle and/or remove or cause removal of a vehicle.

5. Finding: Property owners felt law enforcement and county personnel treated them unfairly by giving notice that their vehicles were public nuisances.

   Response: The Sheriff disagrees wholly with the finding. As the Grand Jury noted in their report, they interviewed three citizens who had their vehicles towed under this program between 2005 and 2011. During a two year period ending June 30, 2013, the Sheriff's Office issued 580 vehicle abatement public nuisance notices. I do not dismiss the beliefs of the three citizens interviewed, but even accepting the belief of these three individuals, the statistical sampling is far too small to justify a conclusion that "property owners" which implies all or a large percentage of property owners, felt they were treated unfairly. Additionally, the individuals interviewed were involved in specific instances which occurred more than three years ago. Finally, there are no facts stated from which one could determine the basis of or merit of the complaints made by the three individuals.

6. Finding: Those individuals who did not voluntarily take care of their vehicles by moving or removing them generally did not request a hearing within the 10 day time period allowed and no hearing was held.

   Response: The Sheriff agrees with the finding.

7. Finding: Ten days to request a hearing is insufficient in a rural community where many people receive their mail at a Post Office Box.

   Response: The Sheriff agrees with the finding. The 10 day response period is a standard period set forth in the County Ordinance for code enforcement administrative hearings. El Dorado County Ordinance 9.02.380 and 10.16.060. This time limit is consistent with the California Vehicle Code section 22661 (e).

8. Finding: The $100 hearing fee charged by the Sheriff's Office is not authorized by law and may be so large as to inhibit the property owner's ability or desire to request a hearing.

Response: The Sheriff disagrees partially with the finding. The El Dorado County Ordinance 10.16.040 B, states the amount to be assessed as administrative hearing cost shall be the amount established in Title 9 or by action of the Board of Supervisors.

El Dorado County Ordinance 9.02.380 states in part, "No hearing to contest an administrative citation shall be held unless and until a request for hearing form provided by the county has been completed and submitted with a hearing fee and the administrative fine. The refundable hearing fee shall be two hundred dollars ($200.00) payable to El Dorado County to defray the cost of the hearing and may be changed by resolution of the board of supervisors…."

The Sheriff's Office is adhering to the procedures set forth in Title 9 and Title 10 of the County Ordinance.

9. Finding: Having one individual act as a Vehicle Abatement Officer for 10 years has contributed to suspicions surrounding the program. Changing Vehicle Abatement personnel more frequently would improve warrant preparation and relations with property owners.

   Response: The Sheriff partially agrees with the finding. This finding assumes that there are "suspicions surrounding the program." As the Grand Jury found there was no merit to the allegations that the vehicle abatement program was used to take specific vehicles for reasons of profit and personal collection. Other than speaking to three individuals, the Grand Jury did not identify any widespread suspicions surrounding the program. This finding also assumes that the warrant preparation was inadequate, an earlier finding with which the Sheriff disagrees. However, the Sheriff does not take issue with the suggestion that more frequent rotation of the Vehicle Abatement Officer may be advisable.

Sheriff's Response to the Grand Jury Recommendations

1. Recommendation: Discontinue the $100 fee charged to vehicle and/or property owners who wish to have a public hearing to contest the nuisance finding.

   Response: The administrative hearing cost of $200 is established by the Board of Supervisors by ordinance. The Sheriff does not have the independent authority to waive or modify the fee set by the Board of Supervisors.

2. Recommendation: Change El Dorado County Sheriff (SOP) procedures to comply with title 10.16.040 A, where "...regularly salaried full-time employees of the county sheriff's office…" have the ability to administer and enforce a program.

Response: The Vehicle Abatement program is administered by regular salaried full-time employees.

3. Recommendation: Assure warrants for the Vehicle Abatement program are raised to the standard of search warrants generally employed by law enforcement.

   Response: The Sheriff's Office will continue to ensure that the affidavits and warrants issued pursuant to the affidavits meet the legal standards required by the courts.

Sincerely,

John D'Agostini
Sheriff-Coroner-Public Administrator