

**SOUTH  
LAKE TAHOE**

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## **South Lake Tahoe Committee**

### ***Policy and Procedures for Counter Reports***

Citizen Complaint # 00/01-C-005

#### **Reason for Report**

This investigation is in response to a citizen complaint about the inadequacy of counter service at the South Lake Tahoe Police Department (SLTPD).

#### **Scope of Investigation**

The South Lake Tahoe Committee:

- Interviewed the complainant;
- Interviewed the South Lake Tahoe Chief of Police;
- Reviewed the SLTPD Manual. This is commonly referred to as the Policy and Procedures Manual;
- Reviewed SLTPD policies and procedures relating to the taking of counter reports; and
- Reviewed a written response provided to the Committee by the Police Chief.

#### **Findings**

- F1. Counter reports are complaint reports taken by a law enforcement agency at its facility.
- F2. A citizen requested that a child endangerment report be taken, during regular business hours, at the counter of the SLTPD.
- F3. The individual behind the counter stated that no officer was available to take the report and requested that the citizen go home and wait for an officer on patrol to come by and take the report.
- F4. Due to possible neighbor conflicts, the citizen did not want a police patrol car parked in front of their home.
- F5. The citizen asked to speak to the Watch Commander but was advised that no supervisor was available.
- F6. The SLTPD has limited hours of counter service available for the public to file police reports or conduct other business. The hours are 8:00 a.m. to noon and 1:00 p.m. to 4:00 p.m. Monday through Friday. The front doors of the police station are locked at

all other times. An intercom is available for the public to contact police staff at other times if needed.

F7. Section 4.1.2, "Desk Complaint", of the SLTPD manual states:

"Every 'call for service' received by the Department will be recorded on a numbered Complaint Dispatch Card (36 SLTPD) and shall represent, at a minimum, the Department response to that 'call for service'. The person receiving the call shall record on the complaint card the caller's name, address, date and time, type of incident, and other available, relevant information."

- Dispatch shall assure the call is appropriately numbered and assigned for action.
- Upon recording the disposition of the call on the complaint card, the dispatcher shall enter the appropriate computer data.
- The "Desk Complaint" section of the SLTPD Manual does not address procedures for filing a report or complaint from the public at the Police Station.

### **Recommendations**

- R1. The SLTPD Manual should include a counter report policy/procedure.
- R2. The SLTPD should provide qualified personnel, during regular business hours, who are able to assist the public with police reports.
- R3. A sign should be placed, in a readily viewable area at the Police Department, to inform the public that if counter reports cannot be taken immediately, the individual can call for an appointment to have the report taken at a later time.

### **Responses Required for Findings**

F1 through F7            South Lake Tahoe City Council

### **Responses Required for Recommendations**

R1 through R3            South Lake Tahoe City Council

## **South Lake Tahoe Committee**

### ***Disabled Parking Citations Issuance by Private Security Personnel***

Investigation #00/01-I-002

#### **Reason for the Report**

The 2000/2001 Grand Jury received a citizen's complaint about the legality of citations issued by a private security agency. The citations in question were issued on a City of South Lake Tahoe ("City") Police Department citation form for violations of the California Vehicle Code ("CVC") Section 22507.8 occurring within the jurisdictional boundaries of the City.

#### **Scope of the Investigation**

The South Lake Tahoe Committee interviewed:

- The City Attorney;
- The City Attorney's Legal Coordinator;
- The City Manager; and
- The City Chief of Police.

The Committee also reviewed the following:

- Portions of the CVC;
- City Code-Section 2-24;
- The contract between the City and High Sierra Patrol, Inc. ("HSP") dated "12 May 2000";
- Memorandums written on the letterhead of the City outlining the position of the Office of the City Attorney on this issue; and
- An independent legal review of this issue.

#### **Findings**

- F1. Employees of HSP issued citations for violations of CVC Section 22507.8 on private property.
- F2. The citations were written on City Police Department parking violation forms.
- F3. CVC statutory requirements for marking and sign posting of Disabled Parking spaces were not uniformly maintained on private property within the City.

- F4. Some citations were issued for violations of CVC Section 22507.8 where the statutory requirements for charging such violations did not exist.
- F5. Training designated for the employees of HSP did not cover the statutory requirements for the marking and posting of designated disabled or handicapped parking spaces.
- F6. A person receiving one of these citations would reasonably believe that the citation had been issued by a police officer, for the following reasons:
- The bottom of the citation form reads: "South Lake Tahoe Police Department";
  - The name of the person issuing the citation is preceded by the word "officer"; and
  - The inclusion of an ID number after the name of the issuing "officer" is commonly understood to be a badge number.
- F7. The City provided the Grand Jury with *all* of the Laws, Ordinances, City Codes, and Contracts that the City believed to constitute the legal foundation for its authorization to HSP to issue citations generally, and Notices of Violations of CVC Section 22507.8 in particular.
- F8. The Grand Jury requested statistical data regarding the citations issued for CVC Section 22507.8 and the training records of HSP required to be maintained by HSP and provided to the City upon request, as a condition of the terms of the Contract between the City and HSP. The material provided in response to the Grand Jury's request was incomplete.
- F9. The City's position is based upon its interpretation of City Code Section 2-24. Section 2-24, sets forth the powers and duties of the City Manager and states in part:... "he shall have the following powers and duties: A. ...To enforce all laws and ordinances *of the city*..." (Emphasis added) It is the position of the City that the specific language contained in Section 2-24 allows the City Manager to delegate the power and duty to issue handicapped parking citations to private security patrol officers. Presently, High Sierra Patrol issues citations pursuant to this section.
- F10. CVC Section 22507.8 is a state law, not a law or ordinance of the city.
- F11. CVC Section 21 states in part: "...no local authority shall *enact or enforce* any ordinance on the matters covered by this code *unless expressly authorized* herein." (Emphasis added)
- F12. City Code Section 2-24 grants the City Manager the power to "enforce all laws and ordinances of the city." It does not, however, give the City Manager peace officer status, nor does it empower the City Manager to enforce violations of state law, such as violations of the Vehicle Code in general, or Section 22507.8 in particular.

- F13. Section 40200.5(a) of the CVC *expressly authorizes* the City to contract with a private entity to *process* notices of parking violations. The CVC does not *expressly authorize* any local authority to contract with a private entity to *enforce* parking or any other violations of the code. In light of CVC Sections 21 and 40200.5(a), the Grand Jury believes that had the California Legislature intended to authorize local authorities to contract with private companies for the *enforcement* of parking and/or other violations of the Vehicle Code, it would have written statutory language, similar to CVC Section 40200.5(a), expressly authorizing local authorities to do so.
- F14. It is the position of the City that on June 7, 1994, the City Council authorized private security patrol officers who complete a basic training course through the Police Department to issue parking citations for violations of the California Vehicle Code Section 22507.8. This position is erroneous. The Minutes for the meeting in question reflect the Item (authority for Private Security Patrol Officers to issue Handicap Parking Citations) was "received and filed." An action to "receive and file," in common parlance, is neither an approval nor a disapproval. The Minutes do not indicate that any affirmative action was taken by the City Council to authorize private security patrols to issue disabled parking citations.
- F15. The City entered into an Agreement with HSP in a contract entitled City of South Lake Tahoe Agreement for Services Park Patrol Services. (sic)
- F16. Pertinent provisions of the Agreement include the following:
- Section 1. HSP "shall perform the services described in Exhibit A;"
  - Section 5. "At any time during the term of this agreement, City may request that HIGH SIERRA PATROL perform Extra Work. ... HIGH SIERRA PATROL shall not perform ... Extra Work without written authorization from CITY;" (sic)
  - Section 17. "This agreement constitutes the complete and exclusive statement of Agreement between CITY and HIGH SIERRRA PATROL;" (sic)
  - Section 18. "This agreement may be modified or amended only by a written document...;"
  - Exhibit A directs HSP to patrol seven (7) designated areas owned or controlled by the City within its jurisdiction. HSP duties include "informing the users ... of all City Ordinances [and] Issue citation(s) as the situations warrant it." (sic)
- F17. There is nothing in the May 2000 contract that either authorizes or obligates HSP to issue notices of violation for illegal parking generally, or illegal parking in disabled parking spaces in particular.
- F18. Notwithstanding the fact that the CVC does not expressly authorize the City to contract with a private entity for the enforcement of Section 22507.8, the contract between the City and HSP is insufficient on its face to authorize HSP to issue citations for violations of the CVC on private property within the City's jurisdiction.

- The Grand Jury believes that the procedures used by the City to authorize HSP enforcement of CVC Section 22507.8 are legally unauthorized for three separate reasons:
  - a. City Code 2-14 does not empower the City Manager to enforce State laws;
  - b. The CVC does not expressly authorize the City to contract with a private entity to enforce 22507.8; and
  - c. The contract between the City and HSP does not authorize HSP to issue notices of violation for section 22507.8 of the CVC.

**Recommendations**

- R1. The City of South Lake Tahoe should immediately cease using HSP to enforce violations the California Vehicle Code including Section 22507.8.
- R2. The City should continue to use police officers to enforce State laws and, if it deems necessary, *employ its own* personnel for the specific purpose of Parking Control Enforcement as expressly provided by the California Vehicle Code.

**Responses Required for Findings**

F1 through F18                      City Council of the City of South Lake Tahoe

**Responses Required for Recommendations**

R1 and R2                              City Council of the City of South Lake Tahoe