

CAUSE AND EFFECT

BACKGROUND:

The Tulare County Grand Jury received a complaint on July 6, 2015, from a citizen alleging that he had been unlawfully tased and that his family had been harassed by the Tulare Police Department. He also alleged that he was falsely jailed and as a result, missed a civil court date.

Assembly Bill (AB) 109, Public Safety Realignment, was implemented in 2011 and shifted the supervision of non-violent, non-serious, non-sexual inmates on probation from the State to the various counties. As part of AB 109 and pursuant to Penal Code §3450, individuals on Post-Release Community Supervision (PRCS) are supervised by county probation officers.

Individuals on PRCS are required to comply with all release conditions mandated by the court and are subject to revocation if not in compliance. At the time of the incident, it was determined the complainant was on probation. This knowledge gives law enforcement the legal right to detain and search.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury investigates all citizen complaints which involve city and county agencies. The review of all police departments in Tulare County fall under the jurisdiction of the Grand Jury.

METHOD OF INVESTIGATION:

The Tulare County Grand Jury reviewed all documentation. Interviews were conducted with the complainant, staff of the Tulare Police Department and Tulare County Probation Office.

FACTS:

1. Any individual on PRCS, early release per AB-109, can be detained and searched by law enforcement.
2. Per PRCS, court mandated random drug testing is at the Probation Officer's discretion. However, the Tulare County Probation Office requires that high risk drug offenders be tested a minimum of every thirty (30) days.
3. Individuals on PRCS are responsible for notifying their Probation Officer of any address changes.
4. The complainant was homeless at the time of the incident.

5. Tulare Police Department has a written policy regarding the use of TASERS.

FINDINGS:

- F1. The complainant was on PRCS at the time of the incident.
- F2. The complainant was classified as a high-risk, chronic drug user and was not drug tested when taken into custody.
- F3. Reasonable cause was present when complainant was stopped, searched and detained by law enforcement.
- F4. For individuals on PRCS and homeless, a new policy was implemented by the Tulare County Probation Office requiring GPS monitoring.
- F5. The Officer used the TASER within the guidelines of the Tulare Police Department policy.
- F6. The complainant's allegations against the Tulare Police Department were not substantiated.

RECOMMENDATIONS:

- R1. The Tulare County Probation Office complies with the court mandated order for drug testing and the use of drugs.
- R2. The Tulare County Probation Office not deviate from its drug testing policy.

REQUIRED RESPONSES:

1. Tulare County Probation Office

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

County of Tulare

221 S. MOONEY BLVD., RM. 206
VISALIA, CA 93291-4593
PHONE: (559) 713-2750
FAX: (559) 730-2626

CHIEF PROBATION OFFICER
CHRISTIE MYER



PROBATION DEPARTMENT

June 30, 2016

Tulare County Grand Jury
5693 South Mooney Boulevard
Visalia, CA 93277

The Honorable Bret Hillman
Assistant Presiding Judge of the Superior Court
County Civic Center
221 S. Mooney Boulevard
Visalia, CA 93291

Tulare County Board of Supervisors
2404 West Burrell Avenue
Visalia, CA 93291

Attention: Chuck White
Foreman of the Grand Jury

Dear Mr. White and Members of the Grand Jury,

As per your request of May 6, 2016, I am submitting the following response in accordance with California Penal Code Section 933.05.

FINDINGS

F1. The complainant was on PRCS at the time of the incident.

Response: We agree with the finding.

F2. The complainant was classified as a high-risk, chronic drug user and was not drug tested when taken into custody.

Response: We agree with the finding. Offenders are not tested after being taken into custody based on safety issues.

F3. Reasonable cause was present when complainant was stopped, searched and detained by law enforcement.

RECEIVED
7/6/2016

Response: We agree with the finding.

F4: For individuals on PRCS and homeless, a new policy was implemented by the Tulare County Probation Office requiring GPS monitoring.

Response: A policy addressing issues involving the use of GPS on offenders purporting homelessness was drafted on August 24, 2015 and is being tested.

F5: The Officer used the TASER within the guidelines of the Tulare Police Department.

Response: The policies of the Tulare Police Department are outside our purview.

F6: The complainant's allegations against the Tulare Police Department were not substantiated.

Response: We agree with the finding.

RECOMMENDATIONS:

R1. The Tulare County Probation Office complies with the court mandated order for drug testing and the use of drugs.

Both the Special Conditions of Post-Release Community Supervision and the Terms and Conditions of probation for adult offenders as ordered by the Superior Court require only that individuals submit to chemical testing *at the direction of the Probation Officer*.

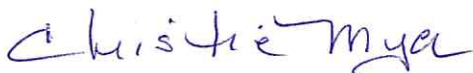
The Probation Department has established internal drug-testing standards based on a risk and needs assessment which, for offenders who are at a high risk of re-offending based on substance abuse issues, is set at a minimum of once per month. The testing schedule can be adjusted based on need or offender performance.

R2. The Tulare County Probation Office not deviate from its drug testing policy.

The Probation Department will continue to make every effort to meet internal standards while remaining mindful of officer safety issues in often chaotic home and other environments - environments that also pose privacy challenges for the offender based on the testing protocols.

In an effort to mitigate future problems, we have established a protocol in Tulare, where we do not have a Probation Office, whereby PRCS offenders who unwilling or are unable to be tested in the home environment can respond to the Tulare Police Department for testing by the assigned Probation Officer four (4) mornings a week.

Respectfully submitted,



CHRISTIE MYER
CHIEF PROBATION OFFICER