

**Chief of Police, Oakdale Police Department**  
**Civil Grand Jury Case No. 10-09C**  
**2009/2010**

**SUMMARY**

The Stanislaus County Civil Grand Jury received a citizen's complaint regarding the handling of a case by the Chief of Police in the City of Oakdale. The complaint specifically accused the Chief of mishandling a case involving an eighteen year old adult and a fifteen year old juvenile.

The complaint requested the Chief be investigated for mishandling the case. The statements in the complaint provided enough information to warrant an investigation. The Civil Grand Jury elected to investigate the citizen's allegations.

After a careful review of key documents and interviews with parties involved and related to this inquiry, the Civil Grand Jury determined that:

1. The arresting officer and supervisor on this case followed departmental procedures.
2. The Oakdale Chief of Police was contacted and influenced by the Chief of Police of a neighboring city, who was a friend of the family of the eighteen year-old suspect, on behalf of the family.
3. The Chief of Police mishandled the case by treating the two suspects differently for the same crime.
4. By a preponderance of evidence, it is clear that on May 13, 2009, the Chief of Police issued and implemented a highly unusual verbal "standing order," also known as a departmental verbal policy. This standing order mandates that officers receive departmental and administrative approval prior to arresting suspects up to nineteen years of age on explosives charges.

**BACKGROUND**

On May 1, 2009, the Oakdale Police Department received a call regarding suspicious activity by two people sitting in a car by a park. An eighteen year old male adult, who is a well-known local high school athlete and recipient of an athletic scholarship, and a fifteen year old male juvenile, were the occupants of the car. When questioned by police, they admitted detonating a "dry ice bomb" earlier in the day. They also admitted that they had just placed, and were anticipating the detonation of, another device in the park. The park was secured, they were both arrested and the Stanislaus County Bomb Squad was called to assess the scene. The bomb squad rendered the device safe, and the park was reopened to the public.

The eighteen year old suspect, who confessed to the crime at the scene, and again later on a video-taped interview, was arrested and booked into the county jail for violation of Penal Code

(PC) Section 12303.2, possession of a destructive or explosive device in a public place, which is a felony. His bail was set at \$25,000, and was posted on May 4, 2009.

The juvenile was also arrested for violation of PC 12303.2. He was released to his father's custody pending action by the County Juvenile Probation Department.

Subsequently, the Chief of Police of a neighboring community contacted the Chief of Police of Oakdale. The neighboring Chief of Police is a friend of the family of the 18 year-old and was calling on his behalf.

On May 4, 2009, a Deputy District Attorney (DDA) reviewed the police report generated as a result of the May 1, 2009 incident. The DDA noted a lack of evidence necessary to prosecute the case. The DDA noted that the evidence should have accompanied the police report when it was forwarded to the District Attorney's Office. According to the Grand Jury investigation, the missing evidence was never provided to the District Attorney's Office.

On May 5, the District Attorney's office rejected the case against the 18 year old, which resulted in the arrest being reduced to a detention, and the charges of PC 12303.2 being dropped.

However, the juvenile was processed through the juvenile justice system and received consequences that will last until he is eighteen, at which time he must pay a fee of more than \$100.00 in order to apply to have his record sealed.

## **APPROACH**

The investigation of this complaint took place between October and December 2009. The Criminal Justice Committee took the following actions:

- Requested and reviewed documents from the Oakdale Police Department.
- Reviewed Oakdale Police logs.
- Viewed the booking interview tape of the adult arrestee.
- Interviewed former and current members of the Oakdale Police Department.
- Interviewed parties involved in and related to this case.
- Interviewed the Chief of Police of a neighboring law enforcement agency.
- Interviewed the Chief of Police of Oakdale.

## **DISCUSSION**

It is apparent from the Grand Jury investigation that the two young men arrested were treated differently after the arrest. They both admitted making and setting off a dry ice bomb and were about to detonate another. California Penal Code Section 12303.2 spells out the punishment for such an act:

## **California Penal Code Section 12303.2**

Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers for hire, or *other public place* ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of two, four, or six years.<sup>1</sup> (Emphasis added.)

Dry-ice bombs fall under the general classification of chemically reactive destructive devices covered in most state penal codes. Offenders construct the device by combining three elements. The resulting chemical reaction causes an explosion that sends harmful shrapnel into the surrounding area. Dry-ice bombs are extremely unstable and require a bomb unit to render them safe.<sup>2</sup>

## **FINDINGS**

The Civil Grand Jury finds as follows:

F1. The Civil Grand Jury finds that the arresting officer and supervisor followed departmental procedures.

F2. The Civil Grand Jury finds that the Oakdale Police Department mishandled the case investigated in this complaint by focusing on the adult in an apparent attempt to reduce or counteract his crime while ignoring the plight of the juvenile.

F3. The Civil Grand Jury finds that the Chief of Police failed to enforce the law equally for the two suspects and for the best interests of the residents of the City of Oakdale.

F4. The Civil Grand Jury finds that on May 13, 2009, the Chief of Police issued and implemented a highly unusual verbal "standing order," also known as a departmental verbal policy. This standing order mandates that officers receive departmental and administrative approval prior to arresting suspects up to nineteen years of age on explosives charges.

F5. The Civil Grand Jury finds that the Chief of Police demonstrated poor leadership in the handling of this case by being influenced by another police chief and by failing to follow through to make sure both suspects were treated equally under the law.

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<sup>1</sup> California Penal Code Section 12303.2.

<sup>2</sup> LawOfficer.com

## **RECOMMENDATIONS**

R1. The Civil Grand Jury recommends that the Chief of Police of Oakdale initiate improved communication and leadership within the police department.

R2. The Civil Grand Jury recommends that the Chief of Police follow the practice of unbiased and fair law enforcement.

R3. The Civil Grand Jury recommends that the Chief of Police withdraw the verbal standing order mandating that officers receive departmental and administrative approval prior to arresting suspects up to nineteen years of age on explosives charges.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

Oakdale Police Department

## **REFERENCES**

(i) California Penal Code Section 12303.2

(ii) LawOfficer.com

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.