

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***SHERIFF'S VEHICLE ABATEMENT PROGRAM IS NECESSARY, BUT NEEDS NEW RULES***

Case Number GJ-13-13

### **REASON FOR REPORT**

The Grand Jury investigated the Vehicle Abatement Program because of allegations that the Sheriff's office conspired to take specific vehicles for reasons of profit and personal collection. The Vehicle Abatement Officer may have used the Vehicle Abatement Procedures to obtain vehicles for friends or clients. The Grand Jury found that allegation to be unsubstantiated.

However, during the investigation, the Grand Jury found concerns regarding implementation of the program. Those concerns are addressed in this report.

### **BACKGROUND**

El Dorado County has administered a Vehicle Abatement Program through the Sheriff's Department for approximately 15 years. It is authorized by California Vehicle Code §§ 22660-22717, and El Dorado County Ordinance Code, Chapter 10.16, Abandoned Vehicles. It is implemented by El Dorado County Sheriff's Office Vehicle Abatement Program Standard Operating Procedures (SOP).

In adopting the Vehicle Abatement Program the Board of Supervisors found that

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. (§ 10.16.010)

The Board then continued

Therefore the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof on private or public property...is declared to constitute a public nuisance which may be abated...

The procedure for abating a nuisance under the Vehicle Abatement Program is briefly summarized as:

1. Identification of a vehicle as a public nuisance. A vehicle may be identified as a public nuisance because it is wrecked, dismantled, inoperative or abandoned on public or private property. Identification may result either from a complaint received from the public or from an officer's observation. Both the Vehicle Code and the County Ordinance authorize the Officer to enter onto private property to examine the vehicle. The Officer is permitted, but not required, to obtain a search warrant.
2. Notice to the last registered owner of the vehicle and the owner of the property on which the vehicle is found. The notice shall be sent 10 days prior to any action to remove the vehicle, shall be sent by registered or certified mail and shall notify the owners of their hearing rights.
3. If no hearing is requested or the hearing officer rules against the owner of the vehicle or property, the vehicle is removed, title is transferred, and administrative costs assessed against the owner.
4. The California Department of Motor Vehicles is notified by the Sheriff's Office of the vehicle's non-operation.

The same Sheriff's Department Vehicle Abatement Officer has been the primary administrator and enforcement officer for ten years.

County ordinance § 10.16.050 provides that the amount to be assessed as administrative hearing costs shall be the amount established in Title 9 of the Ordinance Code or by action of the Board of Supervisors. The cost of removal shall be established by resolution of the Board of Supervisors. Instead, the Sheriff's Office has determined that the costs of the hearing shall be \$100.

During two years ending June 30, 2013, 580 vehicles were given notice as public nuisances. Of these, 529 vehicles were disposed of under the Vehicle Abatement Program.

## ACTIONS

- The Grand Jury interviewed the Sheriff personnel assigned to the Vehicle Abatement Program and reviewed statistics prepared by the Sheriff about the program.
- The Grand Jury reviewed several warrants used by the Vehicle Abatement Officer to enter private property to serve notice or remove vehicles. Sheriff personnel told the Grand Jury that warrants are rarely used. The Grand Jury noted there was little or no showing of probable cause within the officer's affidavit, and each document was vague in the description of the property to be searched and a description of the extent of that search.
- The Grand Jury interviewed 3 citizens who had vehicles towed under this program between 2005 and 2011.
- The Grand Jury reviewed the applicable California State Vehicle Code sections, El Dorado County ordinance chapters, and legal documents.

## FINDINGS

The Grand Jury supports the declared purpose of the Vehicle Abatement Program and finds:

1. None of the allegations identified in the initial reason for this report were proven to the Grand Jury.
2. Most of the vehicles given notice as public nuisances are voluntarily removed by the property and/or vehicle owners.
3. 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.
4. Law enforcement and county personnel often came on private property without either a warrant or the consent of the owner to view, give notice or supervise towing of the vehicles.
5. Property owners felt law enforcement and county personnel treated them unfairly by giving notice that their vehicles were public nuisances.
6. 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.
7. Ten days to request a hearing is insufficient in a rural county where many people receive their mail at a Post Office Box.
8. 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.
9. Having one individual act as the Vehicle Abatement Officer for ten years has contributed to suspicions surrounding the program. Changing Vehicle Abatement personnel more frequently would improve warrant preparation and relations with property owners.

## RECOMMENDATIONS

We recommend the Sheriff:

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

***The Grand Jury acknowledges that during discussion of the concerns arising from this investigation, the Sheriff immediately agreed to make the changes recommended in numbers 1 and 2 above.***

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

We recommend the Board of Supervisors:

4. Amend ordinance 10.16.070 pertaining to Vehicle Abatement to provide increased time for the property owner to request a hearing by allowing 20, not 10, days from the time of actually mailing a notice.
5. The Sheriff is the moving party of the action to take the vehicle. The ordinance should mandate that the hearing officer be independent from the Sheriff's Department so that the hearing will be seen as a fair proceeding.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

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

This Report has been provided to the El Dorado County Sheriff's Office and the Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

**ATTACHMENT** [ Adobe Reader is required to view attachment ]

El Dorado County Sheriff's Office – Vehicle Abatement Program