



CITY OF LAGUNA HILLS

City Council

August 23, 2016

MAYOR
Barbara Kogerman
MAYOR PRO TEMPORE
Don Sedgwick

COUNCIL MEMBERS
Andrew Blount
Melody Carruth
Dore J. Gilbert, M.D.

The Honorable Charles Margines
Presiding Judge of the Superior Court
County of Orange
700 Civic Center Drive West
Santa Ana, CA 92701

RE: California Penal Code Section 933 Response to Orange County Grand Jury Report, "Drones: Know Before You Fly."

Dear Judge Margines:

As requested by Orange County Grand Jury letter dated May 18, 2016, the City of Laguna Hills is responding to the findings and recommendations of the Grand Jury Report entitled, "Drones: Know Before You Fly." It should be noted that, as directed by the report, the City is responding to each finding and recommendation as it applies to itself only.

GRAND JURY FINDINGS

F.1. Recreational drones have greatly increased in number since December 2015 and it is probable their unregulated use will pose significant threats to public safety and privacy in Orange County cities and unincorporated areas.

Response: The City of Laguna Hills disagrees partially with the finding. While it can be demonstrated through certain studies that recreational drones have increased in number since December 2015, it cannot be proven that unregulated recreational drone use will pose significant threats to public safety and privacy in the City of Laguna Hills. In addition, the *Drones: Know Before You Fly* Grand Jury report states that "Except for a small smattering of inconsequential incidents, there have been no major problems reported" (p. 16) pertaining to the use of recreational drones.

Furthermore, drones are not unregulated. Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems, 49 U.S.C. § 44704, and 14 C.F.R. part 107 establish a federal

regulatory environment which sets forth operation and certification requirements for Model Aircraft and civil and public unmanned aircraft systems.

- F.2. With the exception of the recent Federal Aviation Administration registration rule, recreational drone owners are largely self-policed, which leads to a wide range of behavior.**

Response: The City of Laguna Hills disagrees wholly with the finding. With exception to the recent drone registration rule, a regulatory environment still exists and does not leave recreational drone owners largely self-policed. Model Aircraft and civil unmanned aircraft systems are currently regulated by Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems and 14 C.F.R part 107, respectively. In addition, the City of Laguna Hills cannot accurately predict types of behavior associated with drone owners while operating Model Aircraft or civil unmanned aircraft systems.

- F.3. Most of the cities and unincorporated areas of the County of Orange do not have a drone ordinance, nor do they have any immediate plans to enact an ordinance in the near future.**

Response: The City of Laguna Hills agrees with the finding as it applies to itself only.

- F.4. Most of the cities provide no educational programs for public awareness of the safety issues connected to recreational drones.**

Response: The City of Laguna Hills agrees with the finding as it applies to itself only.

- F.5. Some Orange County cities, despite recognizing potential issues with drones, are awaiting drone-related legislative action or other guidance by the State of California or FAA before enacting local ordinances.**

Response: The City of Laguna Hills disagrees wholly with the finding. The City of Laguna Hills believes that current federal law (Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems, 49 U.S.C. § 44704, and 14 C.F.R. part 107) establishes a sufficient regulatory framework for the use and operation of Model Aircraft and civil and public unmanned aircraft systems. In addition, the City of Laguna Hills cannot sufficiently determine future potential policy decisions of other Orange County cities.

- F.6. The FAA-required registration of recreational drones provides a useful tool for local enforcement of drone ordinances.**

Response: The City of Laguna Hills disagrees wholly with the finding. The City of Laguna Hills does not currently have an ordinance regulating the use of drones in its jurisdiction and, therefore, cannot confirm nor demonstrate the usefulness of the FAA-required registration of recreational drones as it relates to local enforcement. Furthermore, the

report does not substantiate how the FAA-required registration of drones would assist local enforcement of drone ordinances.

- F.7. Orange County cities have not established a procedure for reporting drone incidents, which results in under-reporting of drone safety and privacy events.**

Response: The City of Laguna Hills agrees with the finding as it applies to itself only.

GRAND JURY RECOMMENDATIONS

- R.1. Each City Council should direct its City Attorney to provide a report to the city's police department and City Council on existing laws that can be applied to the use of recreational drones in the city's jurisdiction by December 30, 2016. (F.2., F.3., F.5., F.6.)**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. Together, Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems, 49 U.S.C. § 44704, and 14 C.F.R. part 107 create a federal regulatory framework for the operation and certification of Model Aircraft and civil and public unmanned aircraft systems. Therefore, the City of Laguna Hills finds that an extensive legal analysis assessing the feasibility of applying existing law to the use of recreational drones is not warranted given the existing federal regulatory environment. In addition, the City of Laguna Hills contracts with the Orange County Sheriff's Department (OCSD) for law enforcement services. Consequently, the OCSD and its counsel are responsible for interpreting and enforcing existing laws related to drones in the City of Laguna Hills.

- R.2. Each City should adopt a recreational drone ownership and operation ordinance, with regulations similar to those found in Los Angeles City ordinance #183912, by March 31, 2017, to the extent not preempted or superseded by Federal law or Federal regulations. (F.1., F.2., F.3., F.5., F.6.)**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The Los Angeles City ordinance #183912 regulates Model Aircraft and civil unmanned aircraft systems in a manner that mimics requirements set forth in Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems. Consequently, being that the Federal Aviation Administration (FAA) requires registration of and regulates Model Aircraft and unmanned aircraft systems, adopting a recreational drone ownership and operation ordinance is not necessary.

Furthermore, on December 17, 2015, the FAA Chief Counsel and the Director of the FAA's UAS Integration Office released a public statement pertaining to state and local regulation of unmanned aircraft systems, which stated that "Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft." In addition, the FAA holds the position that differing restrictions created by local and state

governments could severely limit the flexibility of the FAA in controlling the national airspace system and related flight patterns, among other issues.

- R.3. Each City should inform its citizens about laws and ordinances that apply to recreational drone operators through print media, city-related web sites, social media sites and/or public forums by March 31, 2017. (F.4., F.6.)**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. Laws and ordinances that are applicable to unmanned aircraft systems are widely available on web sites and can be easily accessed using internet search browsers such as Google, Firefox, Internet Explorer, and Safari. In addition, the Federal Aviation Authority updates its website (www.faa.gov/uas) regularly with the most current federal regulations pertaining to unmanned aircraft systems.

- R.4. Each City should establish and publish on its website a point of contact for drone-related citizen complaints by December 30, 2016. (F.7.)**

Response: The recommendation will be implemented by December 30, 2016. The City of Laguna Hills provides an easily accessible and user-friendly incident reporting system on both its website and mobile application through which drone incidents can be properly reported and responded to by City staff.

- R.5. Each City should post FAA drone ownership and operation educational links on city-related websites, newsletters, and flyers by December 30, 2016. (F.4.)**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. Laws and ordinances that are applicable to unmanned aircraft systems are widely available on web sites and can be easily accessed using internet search browsers such as Google, Firefox, Internet Explorer, and Safari. In addition, the Federal Aviation Authority updates its website (www.faa.gov/uas) regularly with the most current federal regulations pertaining to unmanned aircraft systems.

- R.9. The County and each City should formally gather data on recreational drone incidents within their jurisdictions and review these data annually and report the results publicly. The first analysis and publication should occur within 1 year of the publication of this report. (F.1., F.2., F.3., F.7.)**

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. Drone incidents can be reported to the City of Laguna Hills through its website or mobile application. Any records of drone incidents in the City of Laguna Hills are subject to the California Public Records Act and can be requested for public viewing at any time.

Should you have any questions or need additional information, please contact Donald White, Assistant City Manager, at (949) 707-2620.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Kogerman". The signature is written in black ink and is positioned above the printed name.

BARBARA KOGERMAN,
Mayor

cc: Peter Hersh
Foreperson, 2015-2016 Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, CA 92701