

CENTRAL MARIN POLICE COUNCIL

HELD AT
CENTRAL MARIN POLICE AUTHORITY BUILDING
250 DOHERTY DRIVE
LARKSPUR, CA 94939
ON
THURSDAY, FEBRUARY 2, 2017
AT 6:00 P.M.

REGULAR MEETING MINUTES

ROLL CALL

The Central Marin Police Council Regular Meeting was called to order at 6:02 p.m.

COUNCIL MEMBERS PRESENT:

Diane Furst, Chair/Council Member, Town of Corte Madera
Carla Condon, Council Member, Town of Corte Madera
Ann Morrison, Vice-Chair/Council Member, City of Larkspur
Larry Chu, Council Member, City of Larkspur
John Wright, Council Member, Town of San Anselmo
Tom McInerney, Council Member, Town of San Anselmo

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Dan Schwarz, Larkspur City Manager
Dave Donery, Assistant Town Manager, San Anselmo
Tom Bertrand, Legal Counsel
Michael Norton, Chief of Police
Hamid Khalili, Captain
Zaneta Feleo, Administrative Assistant

STAFF ABSENT:

Debbie Stutsman, San Anselmo Town Manager

43 Todd Cusimano, Corte Madera Town Manager

44
45 **PLEDGE OF ALLEGIANCE**

46
47 The Pledge of Allegiance was recited.

48
49 **OPEN TIME FOR PUBLIC EXPRESSION**

50
51 Chair Furst asked if any members of the public would like to address the Council, and there
52 were no speakers.

53
54 **REPORTS AND COMMENTS**

55
56 **A. COUNCIL MEMBERS**

57
58 Council Member McInerney requested an item be placed on the next agenda regarding current
59 practices and potential future policies and practices in police's response in addressing
60 undocumented persons. Chair Furst stated she has received emails regarding this and
61 supported it being placed on the next meeting agenda.

62
63 Council Member Condon voiced thanks to CMPA for use of its community room, specifically
64 administrative staff for Age-Friendly Corte Madera events and for LAFCO's annual strategic
65 planning session.

66
67 Council Member Wright thanked CMPA for their assistance with a recent ABC decoy sting
68 operation.

69
70 **B. MANAGEMENT COMMITTEE**

71
72 City Manager Schwarz reported that the committee is working on next year's budget and
73 working to resolve a couple of issues. Because the next Authority meeting is scheduled for May
74 4 which will be too late to address these issues, a poll will be sent out to schedule a special
75 meeting in March/April timeframe.

76
77 Mr. Schwarz introduced Dave Donery as the Town of San Anselmo's new Town Manager
78 effective March 1, 2017. Mr. Donery said he is excited to be able to serve as Town Manager
79 and looks forward to working with the Council.

80
81 **C. CHIEF'S COMMENTS**

- 82
83 a. Life Saving Awards – Awards were presented by Chief Norton to the
84 following individuals who were recognized for their efforts, and Council
85 Members applauded officers for their life-saving achievements:
86

- 87 • Corporal Aaron Damm and Officer McMahon
88
89 b. Promotions - Introduction of new Sergeants and Corporals –Chief Norton
90 introduced and provided a background on the following officers who were
91 recently promoted, and Council Members congratulated them:
92
93 • Alberto Dueñas , Sergeant
94 • Vera Hicks Corporal
95 • Aaron Damm, Corporal
96
97 c. Citizen’s Academy launch – Police Chief Norton invited Council Members to
98 the Citizen’s Academy kick off February 9, 2017 at 6:30 p.m. There will be 15
99 people in the class, 5 from each jurisdiction of various ages and experience.
100 The Academy is 8 sessions long and each week a different officer will educate
101 them about police operations, traffic, patrol, investigations, and one class
102 will be held in San Anselmo. He invited Council Members to also attend the
103 graduation ceremony which will be held on March 30, 2017 at 6:30 p.m.
104

105 Legal Counsel Tom Bertrand reported that at the last Council meeting he discussed a lawsuit
106 which was going to trial next month involving a gentleman on drugs who terrorized a Larkspur
107 neighborhood. The Motion for Summary Judgement was granted by the court and the case has
108 concluded unless it is appealed. Chief Norton recognized Mr. Bertrand’s work on the case.
109

110 Chief Norton reported that Consent Calendar Item F in the packet included an outdated staff
111 report which was subsequently updated and reposted.
112

113 **CONSENT CALENDAR**

114
115 Council Member Wright questioned if there were any outstanding technical issues involving
116 Items C and D.
117

118 City Manager Schwarz explained that auditors have adopted stricter review requirements which
119 necessitate more detail from local agencies, and this has been addressed for each of the
120 resolutions.
121

- 122 A. Approval of Minutes: November 3, 2016
123 B. Acknowledge Central Marin Police Authority’s Warrant List –October 1 to December
124 31, 2016
125 C. Resolution 2017/01 –Side Letters of Agreement to the 2013 and 2015
126 Memorandums of Understanding between the Central Marin Police Authority and
127 the Central Marin Police Officers’ Association, based on findings of the CalPERS
128 compensation review audit

- 129 D. Resolution 2017/02 – Amendments to Resolution 2013/01, Resolution 2015/09, and
130 Resolution 2016/10 of the Central Marin Police Authority based on findings of the
131 CalPERS Compensation Review Audit
132 E. Resolution 2017/03 – Adoption of Resolution No. 2017/03, assign a salary range to
133 each full-time position of the Central Marin Police Authority for Fiscal Year
134 2014/2015
135 F. Resolution 2017/04 –Amending Resolution 2016/01, allowing the movement of
136 extra monies in the equipment replacement fund to the insurance fund
137

138 ACTION: It was M/S/C (Condon/Morrison) to approve Consent Calendar Items A through F,
139 which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison and
140 Wright; Noes: None).

141

142 **BUSINESS ITEMS**

143

144 **A. Strategic Planning for the Central Marin Police Authority for 2017**

145 *Recommendation: that Council receive presentation and comment on the strategic*
146 *planning for the year.*

147

148 Chief Norton stated before the Board are short, medium and long range goals to be considered
149 by the Board and he asked for comments, questions and feedback.

150

151 **Short range goals (1 year or less)**

152

- 153 1. Improve community outreach and relationships
- 154 a. Police sponsored community programs such as Citizen Academy and National
 - 155 Night Out
 - 156 b. Increased physical presence at community events and meetings
 - 157 c. Increased presence on social media

158

159 He stated that over the last year CMPA has sought to improve its community outreach and
160 relationships which involve the items below. Staff has instituted *Coffee with a Cop*. Another
161 round of these events will be staggered one week apart with each town next month. Police
162 staff has also made efforts to attend more local events and meetings and began posting these
163 on a group Outlook calendar. They are also working on increased presence on social media.

164

- 165 2. Improve training for our officers through improved in-house training
- 166 a. More scenario based training models
 - 167 b. When to apply and not apply skills in stressful situations

168

169 Over the last year CMPA has sought to improve its community outreach and relationships. He
170 recognized Lt. Mike Legan has been their use of force instructor for many years and he
171 recognized his outstanding efforts. Police will move towards scenario-based training which is
172 improved from standard training.

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- 3. Improve working relationship with police officers
 - a. More continuous involvement with POA
 - b. Work to improve retention and reduce liability

He reported that when people leave and go to other agencies, it is a bit of a shock and they will seek to work closer with the POA and improve retention in order to strengthen morale and get ahead of any issues.

In response to questions of Council Members, Chief Norton discussed new hires and difficult commutes from outside of Marin, the hope for improvements with highway congestion, SMART train incentives for law enforcement, the need for affordable housing in Marin.

Chief Norton stated they are also looking for an on-line reporting system, given that people sometimes prefer using the Internet versus face to face interactions.

- 4. On-Line reporting system
 - a. Option for community members to use website instead of face to face interactions with police

Medium range goals (2 – 5 years)

- 1. Expand our volunteer program
 - a. Increase cost savings and community involvement
- 2. Improve succession planning
 - a. Field training programs for all new hires and newly promoted
- 3. Obtain necessary equipment to keep the Authority the pride of Marin
 - a. Rotate out aging fleet
 - b. Audit all equipment to make sure it is still cutting edge for officers

Chief Norton said they are hoping the Citizen’s Academy might serve as a feeder program for their volunteer program and will consider other duties performed by volunteers to keep costs down. The Authority is starting to experience aging in their technology and equipment and will study needs.

Long range goals (5+ years)

- 1. Provide exceptional service to our communities on an individual and personal “small town” level, while operating the Authority as a large well-functioning and efficient organization

- 216 2. Maintain fiscal responsibility with regards to employee benefits, equipment, and other
217 costs as they relate to our overall budget
218
219 3. Continue to research shared services opportunities with other agencies to improve the
220 service to our communities and improve the revenue into our budget.
221

222 Chief Norton commented that long range goals were those developed by former Police Chief
223 Cusimano which he has maintained. He then asked for comments and questions from Council
224 Members.
225

226 Council Member Condon questioned participation under the *R U Ok* program. Chief Norton
227 discussed the lack of interest and difficulties with the robotic telephone call system and
228 discussed CMPA's attempts to find another way to reach the same goal but in a different way.
229

230 Council Member Condon asked that funding continue for Age-Friendly Corte Madera, stating
231 that their speaker series was booked through June. Chief Norton noted that budget discussions
232 will occur in June and suggested funding be considered at that time.
233

234 Council Member Chu asked if there were grant opportunities for the scenario-based training.
235 Chief Norton did not know of any given the fact that simulators are often viewed as a justified
236 need. He said the County Sheriff has a simulator and he will determine whether this can be
237 used as opposed to purchasing one.
238

239 Council Member Wright asked and confirmed that item 2 under long-range goals relates to
240 CMPA's continued approach to manage and reduce its pension obligations.
241

242 Chief Norton briefly discussed the various tiers under CalPERS and commented that new hires
243 are at Tier 3 which greatly reduces and improves the Authority's pension obligations.
244

245 Council Member Wright questioned the department's approach with respect to looking for
246 shared service opportunities and brief discussion occurred regarding the trend with many Bay
247 Area agencies. Mr. Bertrand commented that consolidation has the potential to save funds;
248 however, he suggested organizations carefully approach the subject and that proper analysis be
249 conducted and a wait period when proposing consolidation for more than one local
250 government service.
251

252 Council Member Wright and Chief Norton briefly addressed opportunities for new and
253 proactive approaches for traffic and parking enforcement.
254

255 Chair Furst thanked Chief Norton for what she viewed as comprehensive short, medium and
256 long range goals. She referred to the last item under the long range goals and suggested revised
257 wording to state: "Continue to research shared service opportunities with other agencies to
258 improve the service and cost efficiencies to our communities." Council Members concurred
259 with the revision.

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Council Members thanked Chief Norton and confirmed that departments will provide an update of these goals which will be incorporated into the budget at the time specific police accomplishments and statistics by division will be presented.

Chair Furst asked if any members of the public would like to address the Council, and there were no speakers.

B. Resolution 2017/05 –Authorizing the Management Committee to Execute an Employment Agreement with Chief Michael Norton

Recommendation: that Council receive presentation and approve Resolution 2017/04 regarding employment agreement.

City Manager Schwarz said before the Council is a contract for Chief Michael Norton which clarifies his role in the organization and which also provides a mechanism to address any employment matters. The proposal is to permanently establish the salary and benefits the Chief had received during his interim capacity. He noted that Chief Norton and all officers will pick up another percent of their pension costs. Officers have stipulated in their MOU that they will receive an offset. The would like this as well for Chief Norton and salaries will be adjusted on July 1, 2017 to provide that offset.

Council Members had the following comments, questions and suggestions:

- Council Member Chu cited several instances of incorrect possessive term of the word, “Chief” and asked that this be corrected throughout the document.
- Regarding Item F, “Separation for Cause”, Council Member Chu suggested Mr. Bertrand revise wording to be broader, given the State’s recent approval of marijuana use and cases where performance may be affected due to injury in the taking of alcohol and prescription and non-prescription drugs.
- Council Member McInerney referred to page 4 regarding the Chief’s performance evaluation and asked for clarity regarding the process of the Management Committee and Police Council’s roles in preparing the evaluation.

Mr. Schwarz explained the evaluation process and said it had not been previously conducted by all six Council Members during a Closed Session, but rather went through a vetting process with each of the Managers and their two Councilmembers, along with a self-evaluation by the Chief.

- Council Member McInerney suggested revising language to allow Council review and discussion during Closed Session in order to summarize overall guidance rather than what has been the existing process.

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Mr. Schwarz agreed to return the matter to the next meeting and to add a stipulation that the Chief will be reviewed annually pursuant to a policy adopted by the Council and Management Committee.

- Council Member McInerney referred to page 6 under “Separation”, subsection A which identifies “Resignation and Retirement”. He asked and confirmed that the advanced notice more relates to CalPERS and organizational planning impacts and procedures when a resignation or retirement notice is given.
- Council Member McInerney referred to the next subsection under “Termination” and said one of the grounds is that “termination includes a reduction in salary and other financial benefits of the Chief which the Chief declines to accept.” He asked that this be revised to state “a material reduction” given this could include more contribution to CalPERS. Mr. Bertrand concurred and agreed to revise this section.
- Council Member McInerney referred to “Separation for Cause” and said one of the grounds is “a final judgment by a court of law of unlawful harassment, discrimination or retaliation.” He voiced concern with the lengthy process involved with a final judgment of a court and suggested consideration for it to state “determination of harassment”.

Mr. Bertrand discussed due process according to law, arbitration versus binding arbitration, at-will employment and severance. Brief discussion ensued and he recommended that the current wording had provided sufficient protection.

Chair Furst concluded the matter recognizing there were no additional questions or comments of the Council. She asked if any members of the public would like to address the Council, and there were no speakers.

ACTION: It was M/S/C (Morrison/Condon) to approve Resolution 2017/05, subject to revisions, Authorizing the Management Committee to Execute an Employment Agreement with Chief Michael Norton, which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison and Wright; Noes: None).

A. Appointment of the Central Marin Police Council Officers

Recommendation: that Council discuss and announce the appointments of Police Council Chair and Vice-Chair.

Chief Norton stated that a new Council Chair and Vice-Chair are selected at the beginning of each year, and Chair Furst entertained nominations.

344 ACTION: It was M/S/C (Condon/McInerney) to appoint Council Member Morrison to serve as
345 Chair, which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison
346 and Wright; Noes: None).

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348 ACTION: It was M/S/C (Morrison/Furst) to appoint Council Member Wright to serve as Vice-
349 Chair, which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison
350 and Wright; Noes: None).

351
352 Council Members thanked Chair Furst and Vice-Chair Morrison for their work over the year as
353 Chair and Vice-Chair and welcomed incoming Chair Morrison and Vice-Chair Wright.

354
355 **B. Discussion of Social Host Ordinance and Minor Alcohol Issues**
356 *Recommendation: that Council receive presentation, discuss and advise on*
357 *information regarding the current Social Host Municipal Code and minor alcohol*
358 *issues.*

359
360 Mr. Bertrand stated prior to making any changes to the ordinance, he had asked the Chief to
361 pull statistics to determine the magnitude of the problem. He found the history of enforcement
362 and said results are not significant in terms of citations.

363
364 He reviewed differences in all three agency's ordinances and larger agencies which typically
365 involves enforcement of marijuana and controlled substances. Differences include those
366 agencies having wording of "controlled substances", "right of possession", "prima fascia
367 evidence", "regardless of any contract or agreement clauses", and "organizes and supervises,
368 officiates, hosts, conducts or controls", "taking all reasonable steps", "marijuana and other
369 controlled substances", a variety of physical areas under which the ordinance would fall under
370 and "reasonable steps" language.

371
372 Mr. Bertrand relayed the following talking points for Council Members to consider:

- 373
- 374 • The suggestion of "recreational facility or bus" could be added but there are some pre-
375 emption issues. This is a concept that if a higher legal authority like the state of
376 California or federal government occupies a position in the law, they would pre-empt
377 the local agency. There are ABC laws and a CPUC section.
 - 378
379 • The Council may wish to add "party buses" and "drugs" but he would not recommend it.
380 However, he said he was not a City Attorney and suggested any municipality could ask
381 that their City/Town Attorney review this.
 - 382
383 • The next area was expanding the penalty. There is the option to enforce the ordinances
384 as a misdemeanor or an administrative civil infraction and a middle ground which is a
385 criminal infraction that is not contained within the three ordinances. The appeal process
386 is now done before a hearing officer and the individual city/town pays for the hearing

387 officer and retains the fines which caps at \$1,000 per Government Code. If there were
388 individual minor violations for one event, this might be written into the ordinance.

389
390 • Next, he referred to expanding the definition of what is considered a minor's possession
391 such as adding the concept of minor's consent. He thinks this is difficult to enforce
392 unless the minor would consent to a test.

393
394 • Regarding clarifying the policy for releasing names and addresses of minors versus
395 adults, people were concerned about having parents bringing their minor children to a
396 hearing, and he commented that Novato was removing this provision.

397
398 • Regarding enhancing business requirements, this may be a pre-emption problem, as
399 ABC has exclusive power to license, regulate and enforce.

400
401 • He did not think the Council would want to ban all party buses, but there is a CPUC
402 section that has all of this in it and an argument could be made that the CPUC pre-empts
403 buses in trying to regulate control of them.

404
405 • Lastly, there is a section on uncontrolled substances and his personal belief is that it
406 would be extremely problematic for individual municipalities to start enforcing their
407 own drug laws. He said there are plenty of state laws officers can use in almost every
408 situation. Historically, social host ordinances all focused on alcohol and now they have
409 crept into use of drugs. Therefore, he cautioned this practice given there was no existing
410 state law that applied.

411
412 Mr. Bertrand also asked that the Council be mindful of the Authority's legal budget and the
413 expense the subject may involve.

414
415 Council Members voiced the following questions and comments:

416
417 *How many incidents have occurred where there was not adequate enforcement*
418 *authority?*

419
420 Chief Norton stated CMPA has a zero tolerance policy, but there is always a chance for
421 an error. He was not aware of any incident except for the recent party bus incident
422 where he felt like police did not have adequate tools. Prior to the social host ordinance
423 going into effect police began enforcing minor parties every Friday and Saturday night.
424 They found there were about 4 to 5 per weekend with alcohol involved. Once the social
425 host ordinance was adopted and citations issued parties were reduced to almost
426 nothing.

427
428 *How many appeals were received?*
429

430 Councilmember Chu noted that they had three immediate appeals but no more than six
431 over time. Mr. Bertrand commented that parents really wanted to appeal them just to
432 make their child experience the process as a punishment.

433

434 *How often do police get phone calls regarding juvenile issues involving the mentally ill*
435 *and suicide?*

436

437 Chief Norton stated juveniles sometimes need help with bullying and depression and
438 police go through periods where they receive one mental health call a week. They also
439 place juveniles on “mental health hold” which never used to happen.

440

441 *With respect to schools, if there was stronger language in the ordinance would it be a*
442 *deterrent to some kids?*

443

444 Chief Norton said he did not think stronger language would necessarily be a deterrent.
445 School Resource Officers all have many different abilities when they know problems
446 exist. But in order to find out about a situation police would have to issue a citation and
447 he was not sure if there was any student “slipping through the cracks” per se.

448

449 *Is the problem seasonal?*

450

451 Chief Norton said sometimes yes, but he said it could be different groups. The majority
452 of incidents seem to occur in the summer, the holidays and when people travel;
453 however, there is no real firm pattern.

454

455 Chair Morrison asked if any members of the public would like to address the Council.

456

457 Laurie Dubin, Twin Cities Coalition for Healthy Youth, said they feel there needs to be
458 consequences not only for parents but for kids with the idea that the process not be punitive
459 but instead referred to Youth Court and other restorative justice programs. She said in the case
460 of recent parties there were social host citations issued to the parents but kids at the party had
461 received safe rides home but no other consequences. Therefore, they would favor
462 consequences that lead to education and intervention for the kids involved.

463

464 Council Member McInerney asked for comment regarding restorative justice. Mr. Bertrand
465 explained that they have experienced that a parent will have the minor ask for community
466 service. They experienced some issues with the type of community service until it was
467 stipulated that it had to do with alcohol education or peer-related programs. Many parents did
468 not want to pay the fine and wanted something else as a punishment for the minor.

469

470 He noted that Youth Court is an alternative but kids were hard on each other. Therefore, he
471 voiced his preference for community service with an alcohol education component.

472

473 Vice-Chair Wright said he was somewhat concerned about the added cost and amount of
474 administrative work involved, given the number of circumstances and effectiveness of the
475 ordinance. Additionally, if changes are made to each ordinance each agency must go before
476 their own councils.

477
478 Mr. Bertrand stated police and municipalities sought to make the ordinance the same for each
479 city/town which was quite an undertaking, but now all cities have social host ordinances and
480 the authority and enforcement is very good. Through expansion of ordinances some cities
481 experience increased legal challenges and appeals and he cited the prior example discussed
482 regarding existing drug laws.

483
484 Council Member Furst asked what Chief Norton and Captain Khalili would recommend.

485
486 Chief Norton stated he was comfortable with the current ordinance. When it comes to the
487 minor consumptions agreement he has made DUI arrests and it should be easy to have
488 someone blow into a mouthpiece; however, kids learn quickly and tell friends about what does
489 and does not happen as a result.

490
491 He also commented that all three populations are similar yet different and he would hate to
492 have a lot of legal work done and then have it shut down in a community because that
493 particular city does not get the support they think they would have received.

494
495 Chief Norton questioned whether or not Mr. Bertrand had discussed requirements for
496 secondary identification with ABC. Mr. Bertrand replied that ABC regulates the sale and
497 distribution of alcohol and he was not aware that this could be required of businesses.

498
499 Chief Norton suggested agencies might look to adopt local policies, but Mr. Bertrand likened
500 this to the pre-emption problem.

501
502 Council Member Condon questioned the instance of when a child is talked into having a party
503 at their house by their friend and who does not know the kids in attendance.

504
505 Chief Norton stated officers will cite a 647 for a child drunk at a party who was not the
506 organizer. At times there are a few kids and sometimes there are 100 kids. At a large
507 uncontrolled party, if kids scatter there is no way for officers to round them up. Police's
508 concerns more involve those left behind that are passed out, possibly not breathing or in need
509 of help.

510
511 Council Member Chu asked if police have adequate tools to address Proposition 64 or youth in
512 possession and under the influence of marijuana.

513
514 Chief Norton stated the law is that they must be 21 years old and have a medicinal card;
515 however, they have encountered 16 year olds with medicinal marijuana cards they got from
516 their parents.

517
518 Captain Khalili commented on the ordinance’s early years and refinement over time and agreed
519 that officers have adequate tools to manage it.

520
521 Council Member Furst said she hears the ordinance is working well and believes there were
522 adequate tools. She suggested the Chief consider working with the Management Committee to
523 bring back any recommended changes to the Council in the future.

524
525 Vice-Chair Wright considered any improvements or changes to the ordinance to be marginal
526 and expensive. He suggested a wait and see approach to determine whether there might be
527 access or other problems given the recent adoption of marijuana laws. Council Members
528 concurred.

529
530 Chief Norton lastly commented that the ordinance also serves as a constant reminder and he
531 cited the discussions on Next Door which helps parents and kids realize the issue is important.
532 He also recognized the efforts and involvement of representatives of the Twin Cities Coalition
533 for Healthy Youth and stated a task force has been formed comprised of himself, the San Rafael
534 Police Chief, the Undersheriff and one of the doctors from Marin Health and Human Services,
535 and they will be meeting in the future and could keep the Council updated.

536
537 Chair Morrison thanked Mr. Bertrand for his work on the matter and Council Members, staff
538 and the Twin Cities Police Coalition for Healthy Youth for their valuable input work and
539 participation.

540
541 **ADJOURNMENT**

542
543 The Council adjourned the meeting at 8:00 p.m. to a special meeting (date to be determined)
544 and thereafter to the regular meeting on May 4, 2017.

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547 _____
548 Lisa Harper, Minute Taker
549 c/o Central Marin Police Council