

Opinion: A dilemma has parked in Placerville

By Larry Weitzman

Placerville has a major ongoing problem. Illegally issued parking tickets, and it's not like they didn't know. Because the 2000-01 El Dorado County Grand Jury considered the legality of how parking tickets were issued, to say the city "fathers" didn't know, is like saying "I didn't know it was illegal to steal," which may be exactly what the city of Placerville is doing, stealing from you if you pay those nasty parking tickets.



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Some background. During that 2000-01 Grand Jury term an investigation was done with respect to private contractors issuing parking tickets and their validity. For a parking citation, which is an infraction, to be valid, according to California Vehicle Code Section 40202 it "must be issued by a peace officer or person authorized to enforce parking laws" and such a person is further described as the "issuing officer."

Because the California Legislature in CVC 40200.5 expressly allows cities to contract with private companies to process parking citations, which is a process that takes place after the issuance of the parking citation, by clear inference, it means that cities (and other local jurisdictions) must have

express legislative authority for private contractors to issue citations pursuant to California law. There is no such express legislative authority, for California General Law cities, which P'ville is.

By now you have already figured out that P'Ville uses a private company, Espy Parking Service to issue parking violations. P'Ville police officers do not issue parking violations. I have confirmed this fact with Placerville City Manager, Cleve Morris, that Espy Parking Service is the private contractor that does the job of parking enforcement including the issuing parking citations. The P'Ville city budget shows that the prior company, Banner Parking Service contract costs for the 2016-17 fiscal year is \$143,828. Morris didn't know, off hand, the revenue from the tickets, but believes they are below \$60,000 annually.

Making matters worse, EDC County Counsel Louis B. Green, around the time of the GJ investigation requested an opinion from the California Attorney General's office asking the question of whether a general law city can enter into a contract with a private security company authorizing the company's employees to issue citations for Vehicle Code parking violations?

On April 23, 2002, such an AG ruling was issued, No. 01-1103 answering this exact question. The ruling, which was five pages of legal reasoning, had the following conclusion: "A general law city may not enter into a contract with a private security company authorizing the company's employees to issue citations for Vehicle Code parking violations."

While AG opinions do not have the force of law, they are considered substantial authority which a court will usually rely on when making decisions. This AG ruling is much like a legal court ruling and the case law and legal reasoning upon which it relies on for its conclusion is quite clear. There is no authority within the CVC giving cities the ability to

contract with private companies for the issuance of parking citations.

In a discussing the parking enforcement issue with, Cleve Morris, the P'Ville City Manager on about November 14, 2017, remarked that he has been doing it for years, even in other cities. He was unaware of the Attorney General ruling "prohibiting" the practice.

In reviewing the financials of Placerville, it contracted with Banner Parking Service (now SP+), a private company, to enforce its parking regulations and issue parking citations at a cost of about \$144,000 annually, which City Manager Morris, confirmed. The revenue is still being determined, but Morris thinks that it might be somewhere around \$60,000 annually or less. That would equate to an average of four citations a day. If the Attorney General ruling is upheld by a court of law and a three-year statute of limitations is applied, the City would have to refund approximately \$200,000 to people who paid the "illegally" issued citations. And there may be extensive legal fees as provided by the California private attorney general law.

Hiring perhaps two people to enforce the 60 hours a week (8 am-6 pm daily except Sunday) of when there are parking regulations and limitations in effect within the City might be less expensive than the cost of the \$144,000 private contract and give the City much better control and more appropriate enforcement. At \$17 an hour the cost would be about \$1,000 a week which is about \$52,000 annually plus 40 percent or about \$21,000 for benefits. That is less than \$75,000 annually. Even with 10 hours a week of supervision and administration, it would still come in at under \$100,000 annually. And the law regarding the proper issuance of parking citations would be pursuant to the Attorney General opinion.

As with the Mitigation Fee Act litigation which I have written extensively about government either not following the law or

being above the law, here is another cut and dry example of a government misdeed. They knew the law. It would be surprising to think that this parking issue wasn't discussed at some government conference/junket. It was our own County Counsel who requested clarification via an AG opinion. Government chose to ignore it, thinking perhaps no one would notice. "Hey, we are the government we can do anything we want." Their ignorance is going to potentially cost Placerville taxpayers about a quarter of a million dollars, maybe more. It's about time that consequences are enacted against government officials for such malfeasance.

We will see how fast this potential problem is rectified.

Larry Weitzman is a resident of Rescue.