



# COUNCIL MEMORANDUM

---

August 23, 2013

**TO:** City Council

**FROM:** Stephen Gesell, Police Chief

**VIA:** Katie Lichtig, City Manager

**SUBJECT:** Arrest and Subsequent Talk Show Appearance of Karen Velie

Following of an appearance by Karen Velie on a radio talk show during which she openly discussed her recent arrest for Driving Under the Influence we have received inquiries about the facts surrounding her arrest. In response to those inquiries the following information has been compiled.

On 8/13/13 Karen Velie was arrested by San Luis Obispo Police Officer Joshua Walsh for Driving Under the Influence of Alcohol. Since the arrest Ms. Velie and others have made public statements in speech and print claiming she was targeted due to her position as a reporter for the Cal Coast News. Those statements are false and the Police Department is releasing the following information in order to provide accurate factual background as to the events leading to Ms. Velie's arrest.

On August 13, 2013 at approximately 9:40 p.m. Officer Walsh was driving to a call for service. Officer Walsh stopped at the red light in the #2 (right hand) lane of northbound Chorro at the intersection with Foothill. A white pickup truck pulled up to the left of Officer Walsh in the dual turn lane. When the light turned, both vehicles initiated left hand turns from their respective lanes and the driver of the white pickup abruptly merged into Ofc. Walsh's traffic lane. This sudden movement caused Officer Walsh to quickly brake in order to avoid a collision. This unsafe lane change, which is a violation of the California Vehicle Code and can also be indicative of impaired driving, caused Ofc. Walsh to initiate a traffic stop and investigate further.

Prior to the traffic stop, Officer Walsh had no knowledge of the driver's identity and the white pickup driven by Ms. Velie was not registered in her name.

During Officer Walsh's contact with Ms. Velie, he observed objective indications of alcohol intoxication, including slurred speech, bloodshot and watery eyes and an odor of alcoholic beverage consumption, which led him to believe she was driving impaired. Based on physical observations and the unsafe driving maneuver that nearly resulted in a collision with the officer's vehicle, Officer Walsh determined further DUI investigation was appropriate. The investigation included a series of standardized questions and physical tests to evaluate Ms. Velie's level of comprehension, balance and coordination to help evaluate her level of impairment. Based on Ms. Velie's answers to questions and her poor performance on the field tests, Ofc. Walsh concluded Ms. Velie was driving while impaired.

Officer Walsh provided Ms. Velie with the opportunity to blow into a Preliminary Alcohol Screening device (PAS). A PAS is an in-field breath blood alcohol testing unit. The results from a PAS test are not evidentiary, but merely another tool an officer may use to evaluate whether a driver is operating a vehicle while impaired and

evaluate the accuracy of an officer's observations. Ms. Velie elected to take this test voluntarily and the device measured a Blood Alcohol Content (BAC) of .079 at the scene of the stop.

Ms. Velie's own statements on a local radio talk show confirmed that she had consumed alcohol prior to driving and engaged in the unsafe driving maneuver observed by Ofc. Walsh. These statements are consistent with Officer Walsh's account of events, as reflected above.

Like all SLOPD Officers, Officer Walsh has received training in DUI detection and investigation. In 2012, Officer Walsh was recognized by Mothers Against Drunk Driving (MADD) and the California Office Of Traffic Safety for his efforts in DUI enforcement. Utilizing his training and all information available at the time of the stop, Officer Walsh arrested Ms. Velie for a violation of California Vehicle Code (CVC) 23152(a) – Driving Under the Influence of Alcohol. That violation does not require any specified blood alcohol threshold as an element of the offense.

The section under which Ms. Velie was arrested is often confused with another section, CVC 23152(b), which establishes a per se threshold of .08 at which it is unlawful for any person to operate a motor vehicle. Violations of the Section under which Ms. Velie was arrested are based on an officer's evaluation of the totality of the circumstances. In this instance, Officer Walsh reasonably believed the evidence he observed supported a conclusion that Ms. Velie was impaired and that her continued operation of the vehicle could result in a public safety concern, not only for her as the driver, but for others in the community as well.

Once in custody, Ms. Velie chose to take a breath test, which is one of two options available to those arrested for DUI under California "implied consent law" (the other is a blood test). The breath testing was conducted on a machine secured at the police department that is calibrated regularly and meets legal and evidentiary standards. Ms. Velie provided two breath samples at the police department. The first breath sample registered a .07 and the second sample registered a .06. Ms. Velie was first stopped at approximately 9:45 p.m. and was administered the last legal breath test at 10:38 p.m.

Based on all information known to SLOPD at this time, Officer Walsh's actions were entirely appropriate and consistent with procedure where a driver is under the influence of alcohol and has demonstrated impairment while driving. To allow an obviously impaired driver to continue to operate a vehicle would have been both unsafe and irresponsible. It has been the standard protocol for SLOPD to arrest and book into county jail individuals under the circumstances present here.