



# MADERA COUNTY FIRE DEPARTMENT



In Cooperation with **CAL FIRE**

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## Attachment 2

May 6, 2013

To: The Honorable D. Lynn Jones  
Presiding Judge  
Madera Superior Court  
209 West Yosemite Avenue  
Madera, Ca. 93637

From: Fire Administration

Re: 2012-2013 Grand Jury Report

I have received and reviewed the 2012-2013 Madera County Grand Jury Report regarding the Madera County Fire Department. While I truly appreciate the work of the Grand Jury, I have concluded that most of the findings are vague and inaccurate based simply on hearsay and innuendo. As the Fire Chief, at no time did I speak with any member of the Grand Jury. Therefore find it difficult to answer in the spirit of the document, which I believe is to find resolution and answer to wrong-doings.

In an attempt to address the findings, below you will find my response and comments regarding the Grand Jury's Findings and Recommendations for the Madera County Fire Department.

### **Introduction:**

I completely agree with the opening statement made in the Grand Jury's introduction. As the Fire Chief, I have similar concerns to the Grand Jury report as there was simply not enough time paid to fully evaluate the department. The report concentrates on Volunteer/PCF issues but falls short in reviewing the overall concerns the Fire Chief has raised with respect to the Madera County Fire Department.

Many of the topics of concern to the Grand Jury are topics that would require an expert's evaluation and professional opinion and should be addressed through a professional evaluation service in order to have a full unbiased understanding of the issues of concerns within Madera County Fire Department.

**Facts:**

Several facts must be disputed in order to fully answer the Findings. The items in dispute are listed below according to the number on the Final Report:

6. The Facts state that the April 12, 1988 BoS approved, "Madera County Fire Department Policy Statement has specific policy addressing "PCF grievance and complaint process" when in fact the only language referenced in that document regarding grievances reads as such:

"All complaints and grievances shall be taken up through channels to the Company Captain, to the Battalion Chief, to the County Fire Chief."

I would contend that the statement is no "process". It simply lists the chain of command. It makes no mention to how the complaint or grievance is filed, addressed, or brought to resolution.

7. The organizational structure mentioned in #7 regarding the "Policy Statement" is not well-defined in the language at all. I understand it is a "Fact", however it was used to make a biased case against actions the fire department is using in the current organizational structure of the department. To state that the organizational chart listed on the back page is the structure the Fire Department is working under is a complete distortion since many of the titles and actual positions filled in the department do not exist as listed on that document. Part of the "fact" should state that while an organizational structure is listed, it is inaccurate and out of date and cannot be relied upon for accuracy.
9. This Fact states that the Ordinance 88-187 sets policy and direction for, among other things, the "PCF fire company captains". This is a misrepresentation of the language since the ordinance addresses "Fire Companies" with only a sentence stating "Each Fire Company has an elected Company Captain who commands the Company and operates under the overall coordination and direction of the County Fire Chief or representative." The Fact is meant to infer that the BoS's has provided policy and direction, when in actuality it is simply stating that the Fire Chief provides that direction.
11. The Paid-Call Volunteer Operating Policy is NOT being re-written by CAL FIRE. It is being re-written by the Madera County Fire Department, in coordination and cooperation with all the Volunteer/PCF Companies, the Executive Committee, the County Administrative Officer, Human Resources and the Board of Supervisors.
15. Unfortunately, not all company bylaws address all aspects as listed in the final report.
22. That is an untrue statement. While several training classes can be found and attended at some of the additional CAL FIRE training centers outside Madera County, the majority of the training is still conducted within Madera County. Additional training has been offered throughout the Unit in hopes of increasing our Volunteers ability to fit training more easily into their schedules.

## Findings:

1. The Grand Jury found that the PCFs are essential to the overall fire services to the county.

*I whole-heartedly agree with the finding. Not only are they essential, they are a tie to the community that paid staff alone cannot meet. Many of the paid staff of the Madera County Fire Dept. are residents of their communities and have lived here most of their lives, but often we have paid staff who are new to the area or covering from another Unit due to the fire activity that occurs throughout the state. Since Madera County Fire must rely on the Amador program to staff several areas within the County, that allows for people outside the area to respond to the needs of the communities and we are truly grateful for what the Volunteer/PCF's bring to our combination fire department of paid and volunteer staff.*

2. The Grand Jury found that the Board of Supervisors is not overseeing the on-going application of ordinances and resolutions already in effect pertaining to the Madera County Fire Department.

*I would disagree since there are policies and ordinances that are in effect, but the statement requires a response from the Board of Supervisors and not the fire department.*

3. The Grand Jury found that the Madera County Fire Chief is not following the policies set forth in Resolution No. 88-187 and other directives and ordinances adopted by the board.

*This Finding is far too vague and does not contain specifics as to the policies, directives and ordinances that are NOT being followed. In order for me to be able to make an informative response, I would ask the Grand Jury to list the specific and verifiable violations that have been committed so that I may be afforded the opportunity to respond appropriately.*

4. The Grand Jury found that the new Policy and Procedures Manual being prepared by CAL FIRE has not yet been vetted by PCFs.

*I disagree with the finding. First point is that the document is being prepared by Madera County Fire. The fact that CAL FIRE personnel are Madera County Fire Department representatives does not negate the fact that we are Madera County Fire. The notion that CAL FIRE is doing anything that would not be representative of Madera County Fire is an attempt to continue the derisive discussions by people that are uneducated to the mission and vision of a Cooperative Fire Protection Agreement. The Grand Jury stated earlier that CAL FIRE has been the Madera County Fire Dept. since the early 1920's and that fact means that there is not a person in county government or the current fire dept, paid or volunteer, that remembers Madera County Fire without CAL FIRE. It is an insult to CAL FIRE and Madera County firefighters to insist that this fire department is anything other than simply Madera County Fire.*

*Secondly, the draft document was made available to the respective representatives from each PCF company on several occasions and only two PCF's chose to make comments. Those comments were considered in the latest review of the document and many of their recommendations were adopted.*

5. The Grand Jury found that some PCF fire companies do not have or follow the approved bylaws which outline their basic authority, responsibilities of the fire company and its officers and members.

*Unfortunately I must agree with the finding.*

6. The Grand Jury found that PCF fire companies need to have nonprofit status as defined in the IRS Rule 501(c) to control and support their fund raising activities.

*I agree with the finding and will continue to work with the PCF's to attain that status. Since my inception as the Fire Chief we have had several companies reach their 501(c)3 and the goal is to assist all companies in reaching that objective.*

7. The Grand Jury found that the total number of PCFs throughout the county has significantly decreased over the past few years. The 10 "PCF" only" staffed fire stations, which have an authorized allocation of 200, currently have approximately 44 active PCFs.

*I partially agree with the finding. Nationwide, volunteerism numbers are dropping and the fire department is no exception. The PCFs numbers throughout the county have dropped, but it has been a trend for nearly 20 years. Some of the main reasons for the decline in numbers are listed in Finding #8 below. They include the increased state and federal training requirements, time commitments, family and job commitments and demographics. I would also include; the aging volunteer work force, and many unpaid hours of response.*

*All fire departments must adhere to the requirements of mandated training and unfortunately our volunteers are not paid for training. They must justify continuing in the fire dept versus attending a paying job to put food on the table or pay bills. Many of our firefighters love this job, but have to make financial decisions to support their families. Another cause is the arduous duties of the fire dept. that have increased over the years; more calls, more gear, heavier equipment and some of our best volunteers have been doing this for 20+ years. For many of them, this is not their primary job and as you age this profession it is definitely more difficult. The main reasons for deaths in the fire service are heart attacks, and the cruel reality is that the majority of those deaths are in volunteers. This is not a new statistic and many of them know the trend so they chose to leave the dept. or not join at all.*

8. The Grand Jury found that Recruitment and retention of PCFs has become more challenging due to:

- Increased training requirements
  - Increased time commitments to the fire service
  - Increased commitments to family and jobs
  - The changing demographics of rural communities
- I completely agree with the finding*

9. The Grand Jury found that the required basic training scheduled out of area for PCFs causes a time and financial hardship.

*I partially agree with the finding. While we understand the hardship, due to the financial constraints of Madera County Fire, we opted to allow Madera firefighters to join our Merced firefighters in the Basic Operations academy, held jointly with Merced County Fire Department, in an attempt to meet our Madera County current training budget. Our normal mode of operation is to hold our training within the county. We opened up the training for the Madera County PCF's in order to get more PCF's on board quickly to strengthen our responses in the communities. The PCF's were not forced to attend in Merced, but unfortunately there would not have been a County funded Basic class for the year and we did not want them to miss out on an opportunity for training.*

10. The Grand Jury found that the change of job classification for PCFs to "Extra Help" has caused the reduction in PCF benefits and rights which conflict with policies, ordinances and resolutions adopted by the BoS.

*I disagree with the finding. What reductions to rights and benefits have occurred with respect to policies, ordinances and resolutions? I would need more specifics in order to answer this finding. Classifying the PCFs as "Extra Help" in and of itself is not the issue.*

11. The Grand Jury found that a contentious work environment for PCFs regarding numerous forms of discrimination exists.

*I wholly disagree with the finding. There has been no evidence or proof of any form of discrimination. Additionally, I would ask again for specifics as to "a contentious work environment". There have been a few PCFs that have voiced resistance to the current direction of the fire department but the vast majority are thriving and working cooperatively with the career staff.*

12. Neither the BoS nor the Fire Chief has sought funding for PCFs through the SAFER or other programs/grants.

*I disagree with this finding. We have enrolled all of the Madera County PCFs in the "Death and Serious Injury" insurance through SAFER. We have funded PCF equipment through SHSGP a "Homeland Security" grant, Volunteer Firefighter (VFA) grants and California Firefighter Assistance (CFAA) grants, as well as any other grant funding opportunities we can participate in. We are so committed to grant funding that Madera County Fire has a representative on the Units Grant Committee to ensure we can take advantage of any grants we meet the criteria for. The challenge in grants is that many of them require a match and the financial situation of the County does not allow for us to be able to apply for as many grants as we would like to.*

### **Recommendations:**

1. The Grand Jury recommends that the BoS direct the County Fire Chief to work cooperatively and transparently with PCFs on updating the operating policies that were adopted by the Board of Supervisors in February, 1994. This manual, at a minimum, should cover the following:
  - Chain of command
  - Complaint and grievance process
  - Work place issues, bias, racial, sexual harassment
  - Training; including fire and EMS, basic requirements, advanced and academy levels, plus day to day drills to enhance incident performance
  - Safety
  - Administration
  - Rules of conduct
  - Accountability

*The fire department has been working on this "recommendation" long before the Grand Jury report. The updated Policy and Procedure manual is currently in draft form and will be presented to the PCF's, Board of Supervisors, County Administrative Officer, Human Resources office and finally, County Counsel prior to implementation. We anticipate this process to begin on or about July 1, 2013.*

2. The Grand Jury recommends that the BoS direct the County Fire Chief to adhere to the Madera County Ordinance #515 adopted and codified April 19, 1988 entitled "Madera County Fire Department" and Resolution No. 88-187, "Policy Statement/Madera County Fire Chief" dated June 14, 1988.

*This recommendation is unnecessary as the Fire Chief currently follows the adopted ordinances. Unfortunately, this generic statement to "adhere" to the 1988 documents is an uninformed decision since many of the aspects of the ordinances are no longer relevant or current.*

*Adhering to the policies, would actually violate some state mandates as these 1988 policies are outdated. This is true as well for some policies that have been adhered to as "past practice" or in interpretations provided by county administration.*

*Several aspects of the ordinances, based on the applicable rules and regulations that all fire departments and volunteer companies must observe, would also cause violations under EMSA regulations, OSHA, and NFPA.*

*As the Fire Chief, I would recommend that before the Grand Jury dictates the Board of Supervisors to take action that could be violating state law or mandate, that the ordinances be reviewed for legality and that all of the fire department ordinances be reviewed and brought up to date. The Fire Chief currently acts under these ordinances, and the direction of the Board of Supervisors, even though they are based on outdated information. .*

3. The Grand Jury recommends that the BoS direct the County Fire Chief to include PCF representation in the Madera County Fire Department's Executive Committee. Document all meetings with copies of minutes sent to the Clerk of the Board of Supervisors and County Administrative Officer.

*The fire department has had PCF representation in all Executive Committee meetings since its inception. The Committee's membership includes PCF's from every company. To make this recommendation is unnecessary and shows a lack of understanding in fire department matters. This recommendation shows that many of the "findings" were not fully investigated and were acted upon based on innuendo by members of the fire department and/or outside community members. In regards to the minutes from the meetings, they are all available at the Madera County Headquarters and I would not entertain the notion to file them outside the agency unless there is a need to do so under the Meyers-Milias-Brown Act. On the other hand, there is no intent to keep the Board or the CAO from knowing what is happening in the department and if there is a request to review the minutes we will provide them.*

4. The Grand Jury recommends that the BoS direct the Madera County Fire Chief to insure each volunteer fire company have and adhere to a set of bylaws which has been reviewed and approved by the Madera County Fire Chief and the Executive Committee.

*I completely agree with this recommendation and have asked for copies of by-laws from the companies for several months. There are currently a number of bylaws with no standardization and they fail to meet all the aspects of a legal set of bylaws. The fire department is currently reviewing a template for the bylaws in order to ensure consistency, applicability and legality. We anticipate this rewrite to be completed on or about September 1, 2013.*

5. The Grand Jury recommend that the BoS direct the Madera County Fire Chief to assist and advise PCF fire companies and auxiliaries to obtain tax exempt status under IRS Rule 501 (c).

*I had already started that action long before the Grand Jury began looking into issues with the fire department and I will continue to work with the companies until they are complete. Since becoming Fire Chief, I have expressed that desire at an Executive Committee and with several members of the fire department. Two of the companies have achieved their tax exempt status, four companies have applied and completed the proper procedures and are awaiting confirmation from the IRS. The remaining companies have been directed to complete the process. Two companies have not raised money for two or more years.*

6. The Grand Jury recommends that the BoS direct the Madera County Fire Chief to immediately establish a recruitment and retention program to increase PCF staffing.

*The recommendation has been implemented. We have identified resources for a recruitment and retention campaign and have sent several career Chief Officers and several Volunteer/Paid call firefighters to the California State Firefighters Association (CSFA) grant funded "Volunteer Firefighter Recruitment and Retention" workshop.*

7. The Grand Jury recommends that the BoS direct the Madera County Fire Chief to explore local training possibilities to reduce travel time and inconvenience to volunteers.

*The recommendation has been implemented but in order to continue to have all training needs meet within the County, the budget will need to be enhanced.*



*The "Basic Operation" academy was combined with Merced County Fire Department one time. That was done as a cost savings measure to the County. We plan to, not only, hold a minimum of one basic operations academy each year but also plan to rotate the sessions within the academy around the county to different fire stations to reduce travel time and inconvenience.*

8. The Grand Jury recommends we reimburse PCFs when required training is out of county.

*I would actually prefer that the recommendation read, "reimburse PCF's when conducting monthly mandatory training, Basic Operations training and other required training as determined by the Fire Chief". There is no relevance to whether the training is being conducted in or outside the county. For instance, most training that occurs outside of the county is grant funded for specific types of training, i.e Hazardous Materials technician, Swift water rescue operational, etc. and if a volunteer is stationed at a location requiring other specific training due to the target hazards in their areas, they should also be reimbursed for that training. The budget should reflect an increase in the amount that would be large enough to handle the basic, mandatory and required trainings for a reasonable amount of personnel within the Volunteer/PCF ranks.*

9. The Grand Jury recommends that the BoS direct that County Administration, Human Resources and the County Fire Chief work together to establish a new classification for PCFs. The new classification should include volunteer/paid call firefighters, driver operators, station company captains, rights and pay rates.

*The recommendation has been implemented. We are currently working with the County Administrative Officer (CAO) and the Director of Human Resources to do just this. We have already had meetings and are working with a consultant hired through the CAO.*

10. The Grand Jury recommends that Human Resources investigate the concerns of the PCFs relating to the contentious work environment.

*I disagree with this recommendation. It clearly states in the 1988 ordinances, that the Fire Chief is the person who is ultimately responsible to handle all grievances and complaints. The Grand Jury cannot recommend on one account to adhere to the 1988 policies and on another account, recommend we disregard them. Either the firefighters fall under the direction of county administration, or they fall under the direction of the Fire Chief. HR should not have to deal with PCF issues. We will continue to work with the HR office to clearly define the process Volunteer/PCFs will take in the future in hopes of stopping the need to violate Board policy by going around the Fire Chief.*

11. The Grand Jury recommends that the BoS seek funding for additional PCF compensation through the SAFER or other programs/grants.

*As stated earlier, the Fire Department is always looking for ways to increase funding and staffing in the agency. Responding with one person on an engine is a safety hazard and violates numerous aspects of NFPA and CAL FIRE mandates. Unfortunately, there are many loopholes in the SAFER grants that could cause additional financial liabilities and burdens and they should be further investigated to ensure they will meet the needs of the county as well as the fire department.*

Thank you for the opportunity to address this report.

Respectfully,

Nancy B. Koerperich  
Fire Chief