

**2012-2013
Madera County Grand Jury
Final Report
Criminal Complaints within the
Madera County Jail**

Introduction:

Pursuant to California Penal Code Section 919(b) the Madera County Grand Jury (GJ) inquired into the condition and management of the public prisons within the county. The GJ toured the Central California Women's Facility located at 23370 Road 22, Chowchilla, CA on September 14,2012. Valley State Prison for Women (now Valley State Prison) located at 21633 Avenue 24, Chowchilla, CA on September 17,2012, and the Madera County Department of Corrections (County Jail) at 14191 Road 28, Madera, CA 93638 on October 25,2012.

During the GJ annual inspections of these institutions the GJ uncovered concerns about the lack of filing criminal complaints of crimes committed within the facilities.

Facts:

1. All three institutions refer crimes committed in their facilities to the Madera County District Attorney's Office for filing criminal complaints.
2. A Memorandum of Understanding (MOU) between the California Department of Corrections and Rehabilitation and the Office of the District Attorney currently in effect is dated January 22,2013.
3. The MOU covers the agreement to establish guidelines for:
 - a. The prosecution of serious crimes committed in the state institutions
 - b. Investigation of criminal activity
 - c. Release of inmate records to the District Attorney's Office
 - d. Notification of an inmate death or other major incidents.
4. A Deputy District Attorney is assigned to process referrals from the state penal institutions.
5. The State of California provides funding to the District Attorney's Office for the prosecution of State inmates in Madera County Superior Court.
6. The County Jail has no MOU or guidelines in effect to refer criminal cases occurring in the facility for prosecution.
7. There is no liaison between the District Attorney's Office and the County Jail.
8. The District Attorney's Office has three funded supervisory positions currently unfilled.

Findings:

1. A MOU provides the guidelines which assist the state penal institutions in referring serious crimes committed in the institution to the District Attorney's office for prosecution.
2. There is a lack of liaison and communication (feedback) between the District Attorney's Office and the County Jail.
3. The County Jail might not refer a crime to the District Attorney's Office because they perceive the DA's Office will not prosecute the case.

Recommendations:

1. Establish an MOU guideline for the prosecution of crimes occurring at the County Jail facility.
 - *As of February 2013 three cases have been filed with the DA's Office. MCDC case #JR0030350 was filed 2/27/13 is set for preliminary hearing on 05/03/2013. MCDC case #JR0030916 and case #JR0030935 were filed on March 8, 2013 at the DA's office and as of April 17, 2013 we are still awaiting for the arraignment on those cases. The Madera County Department of Corrections and Madera County District Attorney's Office are still working on setting up guidelines for prosecuting crimes in the county jail. The Madera County Department of Corrections still has concerns in regards to penal code sections pertaining to State Correctional Facilities that DA office does not apply to County Correctional Facilities.*
2. Provide the County Jail with a liaison to the District Attorney's Office.
 - *As of March 2013 the Madera County District Attorney's Office has assigned Deputy District Attorney Rachel Cartier to the Madera County Department of Corrections. DDA Cartier has been corresponding with the Classification Service Unit on a weekly basis pertaining to in-custody cases that have been filed and keeps an open line of communication between the Madera County District Attorney's Office and the Madera County Department of Corrections.*
 - *I would like to thank the District Attorneys' Office in working closely with the Classification Services Unit and ensuring the prevention of crimes being committed in the county jail are important in keeping the jail safe for the inmates and the Correctional Staff.*



Chief Manuel Perez

Madera County Dept. of Corrections
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Madera County Grand Jury

P. O. Box 534, Madera, CA 93639
Tel. 559-662-0946

April 15, 2013

Madera County Department of Corrections
Director 14191 Road 28 Madera, CA 93638

Enclosed is a copy of the 2012-13 Madera County Grand Jury report entitled:

**Criminal Complaints within the
Madera County Jail**

Pursuant to California Penal Code Section 933.05(f), a copy of the report is being provided to you two working days prior to the report's public release. The public release of this report is scheduled for May 18, 2013. Please note that under Penal Code section 933.05(f), (no) "officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report."

In accordance with California Penal Code Section 933.05(a) and (b), you shall respond to **all Findings and Recommendations** in this report that address subjects under your control.

According to Penal Code Section 933(c), you have 90 days to submit your responses to both the **findings and recommendations** contained in this report. Accordingly, the date on which the responses must be submitted is July 15, 2013.

Please send your responses to:

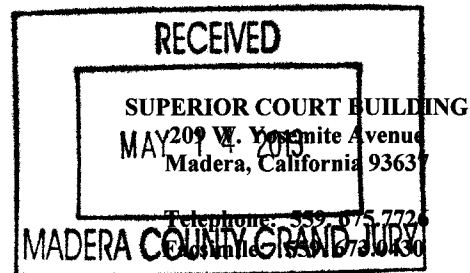
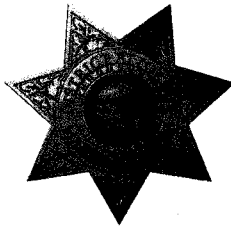
Presiding Judge
Madera County Superior Court
209 West Yosemite Avenue
Madera, CA 93637

Madera County Grand Jury
P.O. Box 634
Madera, CA 93639

Thank you.

Phil Atkinson
Foreman
2012-13 Madera County Grand Jury

MICHAEL R. KEITZ
District Attorney



OFFICE OF THE
DISTRICT ATTORNEY

May 4, 2013

D. Lynn Jones
Presiding Judge
Madera Superior Court
209 West Yosemite Avenue
Madera, California 93637

Re: Response to the 2012-2013 Madera County Grand Jury Report
entitled: Criminal Complaints within the Madera County Jail

Dear Judge Jones:

This letter responds, pursuant to Penal Code section 933.05(a) and (b), to the relevant findings and recommendations set forth in the 2012-2013 Grand Jury report entitled: Criminal Complaints within the Madera County Jail.

Grand Jury Findings

1. A Memorandum of Understanding ("MOU") provides the guidelines which assist the state penal institutions in referring serious crimes committed in the institution to the District Attorney's Office for prosecution.

District Attorney's Office Response:

Agree

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2. There is a lack of a liaison and communication (feedback) between the District Attorney's Office and the County Jail.

District Attorney's Office Response:

Disagree.

The staff attorney assigned to prosecute prison crimes also prosecutes crimes committed within the County Jail. That prosecutor engages in regular discussion with the County Jail staff concerning criminal activity. Furthermore, both the District Attorney and the Assistant District Attorney are available to discuss issues arising in the jail, or between the agencies. The District Attorney and the Assistant District Attorney regularly communicate either by telephone or email regarding inmate issues at the Jail.

3. The County Jail might not refer a crime to the District Attorney's Office because they perceive the DA's Office will not prosecute the case.

District Attorney's Office Response:

The District Attorney's Office is unable to formulate an opinion that may or may not exist in the minds of the staff of the County Jail.

Each year, the District Attorney's Office receives over 9,000 cases from over 35 law enforcement agencies. Each case submitted to the District Attorney's Office is evaluated according to the standards that are required by the United States and California Constitutions. The burden on the District Attorney's Office, as a prosecutor for the State of California, is to prove each case beyond a reasonable doubt. It is unethical for a prosecutor to file a case in which the prosecutor does not feel sufficient evidence will exist at trial to warrant a conviction.

Cases submitted to the District Attorney's Office which fail to meet this standard are rejected for prosecution or returned to the submitting agency for further investigation, as was true of some cases submitted by the jail during the past year.

Where a law enforcement agency disputes the filing decision on a case, the agency may appeal the rejection decision of the reviewing prosecutor to the Supervising Deputy District Attorney/Assistant District Attorney. Notice of this procedure is set forth on the District Attorney Intake Form that must be submitted with each case. Further appeal is available to the District Attorney. No review of any rejected case has been sought by jail staff during the preceding year, even though regular communications occurred between the jail staff and District Attorney staff throughout the year.

Furthermore, the District Attorney's Office has a previously established procedure for reviewing significant or sensitive cases. The process involves

having the investigative staff of the submitting law enforcement agency present their case to the District Attorney's Office in front of senior prosecutors who review the evidence in the case, ask probing questions, challenge the sufficiency of proof and make recommendations for further investigation. This forum is available to the County Jail, as had been discussed previously with Jail management. The jail staff did not request to use this procedure during the previous year.

Due to budgetary constraints the District Attorney's Office has been chronically short of prosecutors, investigators and clerical staff for a number of years.

A comparable county, Kings County, has three prisons. The District Attorney's Office for Kings County is staffed with a prosecutor and a dedicated investigator for each prison. On the other hand, the Madera County District Attorney's Office has one prosecutor, and no dedicated investigator for two prisons and the county jail.

Accordingly, the District Attorney's Office is without resources to take a marginal case and conduct further investigation to improve it to prosecutable standards. Should the Board of Supervisors provide the District Attorney's Office with more investigative staff to conduct investigation of in-custody offenses, then the District Attorney's Office can provide further investigative assistance to the jail.

The District Attorney has recommended to jail management that its investigative staff receive the specialized training necessary to conduct investigation of crimes committed in institutional settings and preparing a case to meet prosecutable standards.

Grand Jury Recommendations:

1. Establish an MOU guideline for the prosecution of crimes occurring at the County Jail facility.

District Attorney's Office Response:

Will not be implemented.

An MOU (a contract) with the State Prisons is necessary because the State of California reimburses the District Attorney's Office for prosecution and investigation services. An MOU cannot require the District Attorney to file a case. Neither can it affect the evidentiary burden the District Attorney is constitutionally required to prove in court. For these reasons an MOU is not required, nor utilized, by nearly all the other numerous Law Enforcement agencies operating within Madera County.

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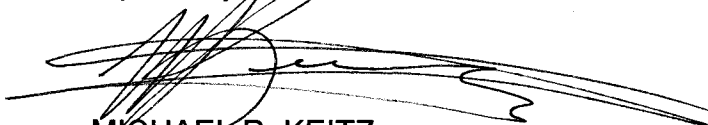
2. Provide the County Jail with a liaison to the District Attorney's Office.

District Attorney's Office Response:

A designated liaison with the County Jail already exists as outlined above.

I would like to thank the members of the Grand Jury for their service, commitment to improving the government of Madera County and allowing the District Attorney's Office the opportunity to explain the constitutional requirements and process for the filing of criminal charges by this office.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael R. Keitz", written over a horizontal line.

MICHAEL R. KEITZ
District Attorney