



MONTEREY COUNTY SHERIFF'S OFFICE

June 13, 2014

Honorable Marla O. Anderson, Presiding Judge
Superior Court of the State of California
County of Monterey
240 Church Street
Salinas, CA 93901

Dear Judge Anderson,

Response to the Monterey County Grand Jury Interim Final Report #2: "Public Safety and Cost Reduction Considerations in the Monterey County Superior Court Criminal Arraignment Process"

Pursuant to California Penal Code Section 933, the following is my response to the Grand Jury's Findings and Recommendations.

Grand Jury Finding 1:

"Virtually all of the personnel in the Agencies and Departments we interviewed either concurred in principle or fully agreed with our Grand Jury Recommendation that an Arraignment Courtroom facility should be provided either as part of the expanded Natividad Jail facilities, or immediately adjacent to it, so that all the Arraignment hearings for incarcerated prisoners can be conducted on the grounds of the Natividad site of the Jail."

Response to Grand Jury Finding 1: The Sheriff Office has no information regarding the opinions of "all personnel interviewed who either concurred in principle or fully agreed with ...[the] Grand Jury Recommendation that an Arraignment Courtroom facility should be provided either as part of the expanded Natividad Jail facilities, or immediately adjacent to it, so that all the Arraignment hearings for incarcerated prisoners can be conducted on the grounds of the Natividad site of the Jail" and as such cannot issue an opinion on this finding.

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Grand Jury Finding 2. The recent establishment of Department 11 Arraignment Court by the Monterey Superior Court has made these Recommendations a near perfect solution for both the County and the Sheriff, as well as for the County taxpayers, and for the State which funds much of this security process. There are also potential financial and operational benefits to the Superior Court, itself, which benefits can be enhanced by careful joint planning of this proposed new facility, and its future operation, by all concerned.

Response to Grand Jury Finding 2: Whether or not the Court established a department in which the Court assigns arraignment proceedings, has no bearing on any recommendation being a "perfect solution." It is convenient for the Office of the Sheriff Court Security and Transportation Division that the Court has consolidated all arraignment proceedings in one courtroom wherever that courtroom may be located. The Office of the Sheriff cannot venture to guess or provide an opinion on how or what benefits the Superior Court.

Grand Jury Finding 3. The Sheriffs' Department is in a unique position to benefit from incorporating an arraignment courtroom co-located at the Jail. Once the new Jail addition is built and occupied, there may eventually be more prisoners held in the Jail which increase will undoubtedly result in a larger number of required arraignment hearings. Additional prisoners at the Jail will otherwise create an immediate need for more prisoner transports and increased security concerns, if there is no Arraignment Courtroom on site.

Response to Grand Jury Finding 3: The Office of the Sheriff has no opinion on the future population of the Jail since the consequences of AB109 have not been fully realized and there is no empirical evidence to suggest the jail population will grow as a result. Prisoner transportation to the Salinas Courthouse will continue regardless where the Court conducts arraignments. There may be fewer inmates transported for court proceedings, but this does not necessarily result in fewer trips by Sheriff's Transportation to the courthouse. The construction of an arraignment court with a satellite room for public video viewing of the proceedings at the Salinas Courthouse should enhance security by reducing the number of inmates transported out of the jails security envelope.

Grand Jury Finding 4. The Superior Court and its Department 11 would also benefit by having a more flexible scheduling agenda for Arraignment hearings, which can even be shared with its Traffic and Misdemeanor Court facilities, as a logical way to avoid transporting incarcerated prisoners for cases involving relatively minor infractions and misdemeanors.

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Response to Grand Jury Finding 4: The Office of the Sheriff has no information available to comment on this finding and the Grand Jury's opinion that it is "logical." Command Staff from the Office of the Sheriff have already met with the Superior Court CEO and yourself in May and resolved the issue of in-custody defendants being transported to the Marina Traffic Court.

Grand Jury Finding 5. The consolidation of all these outstanding in-custody inmate cases to the one onsite courtroom would reduce the distance and risks of the present process of transporting felons, where appropriate and agreeable to the parties. Alternatively, an interim installation and lease of CCTV facilities at the Jail and the Marina Traffic Court could also save costs and risks. Accordingly, these alternatives for the Traffic Court could be considered, if an arraignment facility at the Jail were planned to be used only by the Superior Court.

Response to Grand Jury Finding 5: Command Staff from the Office of the Sheriff have already met with the Superior Court Administrative Officer and yourself in May and were able to work out a system that will consolidate cases of in-custody inmates. As a result we have rectified the issue of transporting in-custody inmates to the Marina Traffic Court. As a result of the changes the cost reduction is less than \$40,000 per year, however security is substantially increased.

Grand Jury Finding 6. Reducing the transportation of prisoners to and from the Natividad Jail to the Salinas Courthouse each year for brief Arraignment hearings is of obvious benefit to public safety. Such changes would mean that there is far less chance of an escape, or efforts to escape, and may reduce violence or injuries from altercations between inmates during transport. While such events are not common, reducing even the possibility is very important to the Public and the County.

Response to Grand Jury Finding 6: The Office of the Sheriff agrees that reducing the number of inmates transported outside the security envelope of the Jail would benefit public safety.

Grand Jury Finding 7. Any effort to quantify the specific financial savings to the County and the Court by adopting the Recommendations is a more difficult process. Nonetheless, there are several aspects of this proposed change that show the likelihood of major financial savings even if not a specific amount. With all the pressures on cutting budgets at all levels of government this could help reduce costs over the next many years without the necessity of laying off badly needed Sheriff's Department law enforcement personnel.

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Response to Grand Jury Finding 7: The office of the Sheriff agrees “Any effort to quantify the specific financial savings to the County and the Court by adopting the Recommendations is a more difficult process.” The Office of the Sheriff does not believe there will be any specific financial savings. In fact the Office of the Sheriff believes that this proposal will result in additional staffing costs. The proposal will result in no reduction in transportation staff. Inmate classification and security issues will still require multiple transportation trips for the hearings not held at a jail courtroom. Additionally, as the jail population changes with AB109 it is likely that these same transportation deputies will be utilized to transport inmates to medical and other outside appointments. The Office of the Sheriff estimates that at least four additional escort deputies will be required to move inmates throughout the jail as a result of the collocation of an arraignment facility at the jail at an annual cost of at least \$600,700.

Grand Jury Finding 8. However, we do recognize that even if all arraignment proceedings were moved to the proposed Court Arraignment facility at the expanded County Jail, the Sheriff's Office will still have to transport a number of prisoners daily to the Salinas Courthouse for the actual Court criminal trials, as well as for all the attendant pre-trial and other case related hearings and appearances. There appears to be no other alternative to this.

Response to Grand Jury Finding 8: The Office of the Sheriff does not support transferring “all arraignment proceedings” to a collocated courthouse on jail grounds, only those for in-custody inmates. The Office of the Sheriff concurs with the rest of the finding.

Grand Jury Finding 9. If we assume, for example, a reduction of two full-time deputies because of the proposed change in transporting prisoners, this could reduce salary and benefit costs by more than \$200,000 per year, plus eliminating significant vehicular operational costs for fuel and wear and tear and the carbon emissions associated. Each trip avoided saves a 4+ mile roundtrip to and from the Salinas Courthouse. Some of the current contingent of personnel and vehicles will, of course, still need to be used for transport and backup of other Sheriff's Office activities, and deputies are still going to have to escort prisoners from their cells to the Arraignment courtroom. Yet, based on data provided to the Grand Jury by the Executive Offices of the Superior Court, it is clear that the actual number of prisoners would be reduced from the large number presently being transported.

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Response to Grand Jury Finding 9: The Sheriff's Office believes a collocated courthouse will not reduce the need for two deputy sheriff's transporting prisoners. The Transportation unit is understaffed at this time to meet the current needs and is often supplemented by jail staff for medical appointments and high security movements. There will be no overall cost savings as a result of this proposal. Costs are projected to increase approximately \$600,000 per year if this proposal is adopted.

If the King City or other South County Courthouse were to be re-opened even more stress on an already overburdened transportation unit will result. As previously mentioned a collocated courtroom will increase the need for four additional escort deputies at a cost of \$600,000 per year. The escort deputies will be needed to move prisoners to and from the courtroom and the jail while court is in session. This will replace the current practice of marshaling the prisoners twice a day to be transported to court.

Grand Jury Finding 10. The Superior Court Executive Offices have advised the Grand Jury that the actual total number of Arraignment Hearings in Department 11 during the last three calendar months of 2013 was 2,885 cases - with 1,043 such hearings during October, 929 in November and 913 in December. Such statistics for a longer period would also give more conclusive evidence of the reduction involved, but were available to us at this time. It should be understood that these figures include some out-of-custody defendants who do not normally have to be transported, and that these numbers reflect only the number of cases, and not the number of defendants appearing for a particular case. Some defendants may have multiple cases against them, each of which is treated as a separate arraignment matter. Misdemeanor cases seldom involve transport of the defendants because most are released after citation, while felony cases almost always involve arrest and incarceration. Nonetheless, on a projected annualized basis, this data projects out to a total of 11,540 required Arraignment hearings per year.

Response to Grand Jury Finding 10: The Office of the Sheriff concurs with the finding "that these numbers reflect only the number of cases, and not the number of defendants appearing for a particular case. Some defendants may have multiple cases against them, each of which is treated as a separate arraignment matter."

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Grand Jury Finding 11. Examination of those Superior Court statistics against further Court data indicates that during the period of October 2013 through the end of December 2013, there were a total of only 18 actual criminal trials at the Salinas Courthouse - 10 of which were felony trials while 8 were misdemeanor cases. These trials and all the pre-trial hearings before the trials almost always mean daily transports back and forth, day after day, for many days during the actual trial.

Response to Grand Jury Finding 11: As indicated in our response to F10, the Office of the Sheriff concurs that the data does not provide an accurate number for "those Superior Court statistics." The number of Trials fluctuates each year, with over 700 inmates in the jail awaiting trial, or the disposition of their cases, this number cannot be counted on as being stable. The Office of the Sheriff concurs with the statement: "These trials and all the pre-trial hearings before the trials almost always mean daily transports back and forth, day after day, for many days during the actual trial."

Grand Jury Finding 12. Assuming that these statistics were to be typical year to year, and although they undoubtedly would vary month to month, this means that the number of transports, which would be needed, if there were a Sheriff's Natividad Jail Arraignment courtroom, is far smaller than at present by a significant reduction of prisoner transport trips. This is a ratio of 72 annual criminal trials to 11,540 annual Arraignment hearings. Thus, the potential reduction of the number and costs of such Sheriff transports for arraignments is significant when viewed in this light. As noted above, there are still going to be some cases of need for transporting prisoners in case of appearances and hearings occurring after the initial arraignment has taken place.

Response to Grand Jury Finding 12: The Office of the Sheriff is not prepared to make assumptions based on the numbers noted in the report since the Grand Jury acknowledged those numbers are not accurate. An arraignment court will reduce the number of defendants transported, but may not reduce the number of transportation trips.

Grand Jury Finding 13. County and/or State/Superior Court capital funds would likely be involved in the cost of planning and the actual construction of the proposed Arraignment Courtroom, but it would seem that amortization of any such courtroom construction costs over a twenty five year life, and the location of the new Arraignment courtroom, as an example, would still show a significant savings to the State, the Sheriff's office, the County and its taxpayers. There are also other long term financial implications to both the County and the Superior

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Court because of the normal operating costs of Department 11 at the Natividad Jail; however, similar operating costs already exist for the present Department 11 courtroom. Any added operating costs to the Superior Courts are also offset by the Court being able to make available the use of the existing Department 11 courtroom at the Salinas Courthouse for other types of hearings and trials by the Courts. According to the Executive Offices of the Court, there is presently a serious shortage of courtrooms there, which would become even greater were all the present authorized vacancies of judges to be appointed by the Governor.

Response to Grand Jury Finding 13: The Office of the Sheriff does not believe there will be any financial savings as a result of collocated courtroom. The benefits of another courtroom for the Superior Court will result in expedited cases. An additional courtroom will require an additional bailiff deputy at a cost of \$150,175 per year. The increases in the total salary and benefit costs of the service changes in this proposal are at least \$750,000.

Grand Jury Finding 14. If the Grand Jury correctly understands the existing practices of the State of California (which effectively provides the funding for construction of all Courthouses), the State requires that the State own the land and the building for each of its courthouses. Therefore, the County and the Sheriff will need to verify the feasibility of this aspect and find a mutually acceptable approach to this factor, since the County currently owns the land around and under the proposed Jail courtroom. It is also possible that with special legislation introduced in the Legislature, the State might fully fund the construction of this special courtroom, as it already does for regular courthouses in other counties. This aspect of funding should be explored further with the Monterey County State Legislative delegation.

Response to Grand Jury Finding 14: The Office of the Sheriff concurs with this finding that verification and funding is needed.

RECOMMENDATIONS

Grand Jury Recommendation 1. A new Natividad Jail site plan should be developed that incorporates a fully equipped Department 11 Arraignment Courtroom on site and adjacent to the Jail, with appropriate and mutually agreed upon support amenities for staff offices and counsel conference facilities.

Response to Grand Jury Recommendation 1: With the AB900 funded Jail Construction project and the need for future construction of programs, medical, mental health and jail industry facilities on the Jail site, the Office of the Sheriff concurs that a Site Master Planning document should be developed for the entire

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property which could include a court room for the purposes of arraignments, probation violation hearings and other hearings for in-custody inmates as appropriate. This process is being used successfully in Orange County and could be replicated in Monterey County.

Grand Jury Recommendation 2. The Superior Court, the Board of Supervisors and the County agencies and their department heads (most notably the Sheriff and DA) involved in the arraignment process should promptly have their representatives meet with the Monterey County CAO to determine the desirability, feasibility and means of accomplishing these Recommendations, including identifying possible funding sources to co-locate a courtroom at the Jail. Furthermore the Board of Supervisors and Superior Court should take into consideration the various other factors discussed in this Report, in order to reach a prompt and conclusive decision to move forward.

Response to Grand Jury Recommendation 2: Command Staff from the Office of the Sheriff have already met with the Superior Court Administrative Officer and yourself to discuss the a collocated arraignment court. Sheriff's Staff have requested preliminary costs estimates from the California Prison Industry Authority for the Construction of a Courtroom with sufficient facilities to be constructed on the site. It would be appropriate to meet with all County stakeholders and the Court.

Grand Jury Recommendation 3. Once the Board of Supervisors and the Court have preliminarily agreed on sources of funding and the need for the creation of the necessary facilities to operate Superior Department 11 at the Natividad Jail, the County Administrator, in conjunction with the Public Defender, District Attorney, the Sheriff and the Superior Court Executive Offices, should commence the detailed planning process, including aggressively pursuing the most likely and successful source of the construction funding.

Response to Grand Jury Recommendation 3: The Office of the Sheriff concurs that the County and the Court should identify funding and work with the stakeholders to open and staff a Courtroom on the County Jail property.

Grand Jury Recommendation 4. For the present time these same parties might consider, as part of this same planning activity, providing for a temporary inexpensive closed circuit television (CCTV) system connecting the Traffic Court and the existing County Jail for the purpose of misdemeanor arraignments and traffic hearings; at least until the new Natividad Jail arraignment courtroom is made available for operation which likely would not be operational for several years. We do not, however, recommend the CCTV approach except as a

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necessary alternative because it is not consistent with the concept of encouraging early resolution of cases, in that it is difficult with CCTV to have counsel for the prisoners at the same location so they can discuss the possible pleas or settlement proposals to be made, if counsel and the prisoner are not both at the Jail.

Response to Grand Jury Recommendation 4: Command Staff from the Office of the Sheriff have already met with the Superior Court Administrative Officer and yourself in May. We were able to work out a system that consolidated all cases of in-custody inmates similar to what is done throughout the State, avoiding the transportation of in-custody inmates to the Marina Traffic Court. This insures that all cases before the Court are heard by the same judge and allows consolidation of sentencing and avoids issues of multiple cases and sentences by different courts that cause additional court appearances to resolve. The Office of the Sheriff appreciates the partnership it enjoys with the Court on quickly resolving issues. AB2397 should be approved by the Senate by June 30, 2014. This will allow the use of video arraignments to be expanded.

Grand Jury Recommendation 5. In the meantime, we recommend that the Court and the DA should encourage the voluntary transfer of all the Marina Traffic Court arraignments involving incarcerated prisoners to the Salinas Misdemeanor Court, with consent of their legal counsel, so a major portion of the transport costs and security issues of those prisoners currently required to be transported to the Marina Traffic Court can be eliminated.

Response to Grand Jury Recommendation 5: All in-custody traffic matters have already been transferred to the Salinas Court.

Grand Jury Recommendation 6. The Marina Traffic and Salinas Misdemeanor Courts could eventually use the proposed Arraignment Courthouse at the new Jail for all incarcerated prisoners within their jurisdictions. In the interim, Recommendations R4 and RS would reduce transport costs and public safety. However, this particular additional use of the Jail facility should be worked out so that it does not interfere with the Department 11 misdemeanor and felony inmate case arraignments, which are the primary and most important purpose of these Recommendations.

Response to Grand Jury Recommendation 6: There are many possible uses if a courthouse was collocated at the jail, and all should be explored if a court room is constructed.

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Grand Jury Recommendation 7. If the participants in this planning and implementation process feel that use of the Jail site courtroom by the Traffic Courts is inconsistent with the primary use by the Department 11 arraignment operations, prompt action should be taken to encourage use of one of the two other alternatives, discussed above, concerning the Marina Traffic and the Salinas Misdemeanor Courts.

Response to Grand Jury Recommendation 7: The Marina Traffic Court in-custody issue has been resolved and AB 2397 should expand the use of video arraignment.

Grand Jury Recommendation 8. Finally, the CAO, the Superior Court Administrative office, and the Sheriff's Department should promptly investigate how to apply to the State for a further grant for the costs of planning and constructing the proposed on-site Arraignment Courtroom facility and adjoining conference and office facilities. If special legislation appears necessary, the parties should then promptly seek the assistance of Monterey County area state legislators since without funding this proposal, however valid, will go nowhere.

Response to Grand Jury Recommendation 7: The Office of the Sheriff concurs with this finding that verification and funding is needed. In May, after meeting with yourself and the Court Administrative Officer, Office of the Sheriff command staff began investigating the cost and possible locations for a courtroom at the jail. The Office of the Sheriff will work with the Superior Court and CAO to identify any possible funding for the construction and operation of such a courtroom.

My staff and I appreciate the opportunity to respond on this important issue.

Respectfully,



Scott Miller, Sheriff