

2013-2014 MONTEREY COUNTY CIVIL GRAND JURY

INTERIM FINAL REPORT NO. 2

**PUBLIC SAFETY AND COST REDUCTION CONSIDERATIONS
IN THE MONTEREY COUNTY SUPERIOR COURT
CRIMINAL ARRAIGNMENT PROCESS**

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SUMMARY

The Monterey County Superior Court and the Monterey County Jail ("Jail") are no longer co-located, as they were for many years before the new North Wing Courthouse building and the new Jail were constructed. The Jail is over two (2) miles from the downtown Courthouse. As a result, the current procedure for Superior Court criminal arraignments requires the physical transport by the Monterey County Sheriff's Office of all incarcerated prisoners from the Monterey County Jail to the Superior Court courtrooms in downtown Salinas. There is also a similar issue concerning transport of some incarcerated felony prisoners, who may have also been charged with traffic infractions, that requires their movement from the Natividad Jail to and from the Traffic Court in Marina for arraignment.

Any such transportation of inmates involves potential security issues such as escape attempts, attempts to separate and injure inmates, or fights occurring among the inmates, while in transport. The current procedures appear to be unnecessarily costly because there are less expensive alternatives available.

It is the belief of the Monterey County Civil Grand Jury that both issues could be minimized, if not eliminated, by cooperation between the County, Sheriff, and the Superior Court in planning and developing an Arraignment courthouse facility built next to the Jail on the Jail land. There is an alternative possibility of seeking State legislation to allow video appearances for felony arraignments at the existing jail facilities, linked to the several Monterey courts in order to conduct the appearance, which is also considered in this Report. Existing law already allows misdemeanor video hearings.

BACKGROUND

A. The State-funded Monterey Superior Court system is independent of the County of Monterey, although the Court routinely works cooperatively with County departments on many matters of mutual public interest. This Civil Grand Jury has no jurisdiction over the Monterey Superior Court system except to make suggestions which may involve Court interaction with these various County departments.

B. We understand that in 2011 AB 118 codified how State funding for Court security *and* transport of prisoners to and from various locations is handled and paid for under most circumstances. Under current law the State allocates an annual calculated sum for such costs to

the Monterey Sheriff's Office, instead of sending these funds direct to the Superior Court to cover these Court costs. For the coming fiscal year 2014-2015 this is projected to involve funds of over \$4 million to be provided the County Sheriff's Office. Planning for and actual use of these funds makes the interaction and cooperation between the County Board of Supervisors, the Sheriff and the Superior Court Executive Offices all the more important and necessary, because the State bases the funding on information provided to it by these entities.

C. The Sheriff's Office maintains nine special, secured vans and three buses primarily for use in transporting prisoners to and from the Courts and to other required locations. The operation of these vehicles involves assignment of about ten sworn officers to this duty, although not all such deputies are on shift at any one time. Most such daily transports involve carrying a group of no more than thirteen inmates, and often less, in each van, and up to forty-five on the buses. Special vans are needed for mobility impaired prisoners in some cases. As an example of these significant transport costs, we note that due to recent State of California major budget cuts for the California Courts, the Monterey Superior Court was forced to order the closing of the King City Superior Courthouse and its related facilities. This closing resulted in over \$200,000 potential annual cost-savings to the Sheriff's Department which sum was formerly used for transporting prisoners and for services of deputies as bailiffs in the King City courtrooms. Some of these "saved" funds have since been used for the Sheriff's Department Court security operations including re-assignment of deputies to other more critical law enforcement duties and the assignment of more bailiffs to provide better security of prisoners when in the Courtrooms, and during transports for arraignments and for other required Court hearings.

D. Due to two important fairly recent events, the Superior Court, the County Supervisors, and the County Sheriff's office now have an unusual opportunity to implement policy, procedures and new technologies to achieve several significant benefits:

(i). Commencing October 1, 2013 an organizational change by the Superior Court management resulted in establishment of what is known as "Department 11" of the Court, the sole function of which is to consolidate and handle all criminal arraignments for the Monterey County Superior Court system into that one courtroom and before its assigned judge. A major purpose of this change is to create Court efficiencies, consolidation of Court resources, and to provide an environment for early resolution of criminal cases at the initial arraignment proceeding. Early resolution can reduce the need for subsequent trials thereby saving the Court and the County Sheriff the significant costs incurred if and when a full criminal trial were actually necessary. In addition, it decreases the inmate population at the Jail, otherwise being held for trial. At the time of release of this Report, in the second quarter of 2014, Department 11 was operating very successfully toward its several objectives, according to the Executive Offices of the Court.

(ii). The County Board of Supervisors has now allocated the required local \$7.87 million funding match required to obtain \$80 million in AB 900 jail construction funds. These funds will be used to construct a planned 576-bed addition to the existing Jail on the Natividad site.

E. We have been advised that jail addition plans have been completed and are working their way through the environmental review process, with ground breaking currently anticipated in 2015. Due to restrictions on AB 900 funding the County is, at this point, unable to develop or modify the previously approved rough designs and construction plans in order to accommodate a fully equipped Arraignment Courtroom and related facilities *within* this new Jail addition.

F. However, the Grand Jury believes a Jail Arraignment Courtroom at the Jail site should be considered, which courtroom can then be used, either full-time or part-time, to allow other uses of the space. Actual use would depend on the nature and level of charges against the prisoners involved and how many prisoners were being arraigned on any given day. Significantly, the co-location of this courtroom at or adjacent to the Jail would eliminate almost all situations where the transport of prisoners would be needed for initial court proceedings. There are, of course, other reasons a prisoner still has to be transported to court at the later stages of the trial process if a trial takes place.

G. The actual physical process of arraigning prisoners in the Arraignment Courtroom is handled differently in various jurisdictions, but primarily depends on the distance from the jail to the arraignment locale and the nature of the inmate population. California Penal Code 977 allows some misdemeanor court appearances to be completed via video systems installed at the Jail and in the courtroom at the actual Courthouse. So, as one alternative to a co-located arraignment courtroom, the County and the criminal Courts *could* provide for creation of a video arraignment facility at the Jail which, would take less space than a full courtroom. If this were desirable, the Monterey County legislative delegation could be approached to seek legislation allowing felony arraignments and appearances by video, similar to those proposed to be permitted in AB 2397, as introduced by Assembly member Frazier.

INVESTIGATIVE METHODOLOGY

Research on the Internet by Grand Jury members revealed that the misdemeanor arraignment process used by some California counties is solely a closed circuit TV (CCTV) system between their jails and courthouses. Examples of use of this alternative system exist in California in Alameda County and Orange County. Both these counties claim this method is cost effective and minimizes public safety issues inherent in the physical transfer of prisoners from one remote location to another. Further, other examples exist as where the State legislatures of Michigan and North Carolina have enacted specific statutes providing for CCTV use in their courts. Our investigation here is predicated on both the Cost Savings issues and the Public Safety issues;

although there are reasons the CCTV method is a less valuable solution versus creation of the Jail site arraignment courtroom. We also reviewed the various Penal Code provisions relating to video arraignments – principally Penal Code §977.

During this investigation the Grand Jury interviewed key personnel of the following stakeholders associated with the arraignment process:

- 1) The Monterey County Superior Court and its Executive Offices
- 2) The Sheriff's Department
- 3) The County District Attorneys' Office
- 4) The County Public Defenders' Office
- 5) The Contracted Alternate Public Defenders' Group
- 6) The County Probation Department

Grand Jury members also visited the new Department 11, Arraignment Court in Salinas, in order to observe its actual procedures during both misdemeanor and felony hearings, which take place in the morning and afternoon, respectively.

The following documents were also relied on to support our Recommendations:

- 1) Previous CCTV proposal dated 2011 from the Monterey Superior Court.
- 2) Cost savings report by the County Sheriff's Department on the closing of the King City Court several years ago for budgetary reasons.
- 3) The Feasibility study of a Video Arraignment System for Yellowstone County, Montana by American University, Washington, D.C.
- 4) Monterey County Strategic Initiatives and Key Objectives approved by the Board of Supervisors in 2013.
- 5) Proposal Submitted by Polycom for a CCTV system between Marina Traffic Court and the County Jail Arraignment Facility (dated 12/04/2013).
- 6) In addition, valuable information in the form of recently compiled data and statistics concerning the number and nature of recent arraignments and criminal trials, as well as the sources of funding for prisoner transport, was provided the Grand Jury by the Executive Offices of the Superior Court in various emails and clarified during several in-person interviews.

FINDINGS AND CONCLUSIONS

F1. 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.

F2. 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.

F3. 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.

F4. 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.

F5. 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.

F6. 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.

F7. Any effort to quantify the *specific* financial savings to the County and the Courts 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.

F8. 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.

F9. 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.

F10. 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 unavailable 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.

F11. 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.

F12. 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.

F13. 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 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.

F14. 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.

RECOMMENDATIONS

R1. 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.

R2. 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.

R3. 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 Court 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.

R4. 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 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.

R5. 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.

R6. 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 R5 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.

R7. 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 planned 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.

R8. 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.

RESPONSES REQUIRED

Pursuant to Penal Code Section 933.05, the Grand Jury requests Responses to *all* Findings and to those Recommendations *as indicated*, from the following governing bodies:

- The Board of Supervisors of Monterey County – R1 thru R8

The following elected individuals:

- The Sheriff of Monterey County – R1 thru R8
- The District Attorney of Monterey County – R1 thru R7

And By Way of Voluntary Responses:

- The Grand Jury also respectfully invites The Executive Offices of the Monterey Superior Court, should it be so disposed, to respond to any and all of the Grand Jury's Findings and Recommendations in so far as they contemplate cooperative decision making on the desirability of such facilities, the design and construction plans, and on subsequent cooperative operation and scheduling of the Jail Arraignment facility and any related issues.

- END -