



OFFICE OF THE
DISTRICT ATTORNEY

Stanislaus County

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JAMES C. BRAZELTON

District Attorney

November 24, 2003

Board of Supervisors
Stanislaus County
1010 10th Street
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Re: Board Budget Presentation - November 25, 2003

Members of the Board of Supervisors:

When we appeared before you in April of this year, the District Attorney's office had 151 allocated positions. Thirty of those positions were vacant, presumably temporarily, as part of a cost saving measure. I had requested approval and funding to fill fifteen of those thirty positions. You and the former CEO gave approval for eight of the vacant positions to be filled and funded. Recognizing the budget situation, both at the State level and the structural salary shortfall in the County budget, I agreed to temporarily settle for the eight positions which included three Deputy District Attorneys, two Investigators and three clerical positions. On July 1, 2003, you eliminated from our budget the remaining twenty-two vacant positions.

We have attempted to continue our mission with the current staff but the reality is, we cannot. The population of Stanislaus County continues to grow and crime continues to increase. This office must maintain staffing to safeguard the public safety needs of the county.

Stanislaus County's population has increased by 18% in eight years. Today the County's population is 481,600 and growing steadily. Law enforcement agencies have also seen an increase in sworn personnel. This has caused an increase in our caseload. We reviewed 53% more felony cases in 2002 than in 1995 and issued 12% more. A total of 16,632 defendants were processed through the felony criminal process in 2002. Currently in our office there are 61 defendants charged with murder in various stages of prosecution. Seventeen (17) of these are death penalty eligible. We cannot and will not allow financial considerations to become a determining factor in making decisions as whether or not to seek capital punishment. There can

be no price tag placed on justice.

For many years, we have been fortunate to obtain grants from the state Office of Criminal Justice Planning (OCJP). Presently we have vertical prosecution grants from OCJP in Statutory Rape Vertical Prosecution, Major Narcotic Vendor Prosecution, Career Criminal Prosecution and Elder Abuse Vertical Prosecution. In most grants, we are able to staff a Deputy District Attorney and a Criminal Investigator. In the Statutory Rape grant, the funding would only allow us to staff a Deputy District Attorney and a Victim Advocate.

Grants

OCJP	DDA	Investigator	Advocate
SRVP	1	0	1
MNVP	1	1	0
CCP	1	1	0
EAVP	0	1	0

Sheriff's Office

Cal-MMET	1	1	0
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We have recently received word that as a result of the State's budget, OCJP must cut their vertical prosecution grant programs by 50%. In doing so, they are allowing the grant money to be block budgeted so each county can determine how to distribute the money to their vertical prosecution programs. Only Elder Abuse has been spared a cut in this fiscal year. In prioritizing the caseloads, we have chosen to terminate the SRVP grant, and move that money to MNVP and CCP. This will still leave both MNVP and CCP short on funding so we will have to eliminate one investigator position and utilize the other investigator 50% with MNVP and 50% CCP. In all, if new funding is not forthcoming, we will lose one Deputy District Attorney, one Criminal Investigator and one Victim Advocate.

Grants

OCJP	DDA	Investigator	Advocate
SRVP	±		±
MNVP	1	1	0
CCP	1	±	0
EAVP	0	1	0

In addition, we have been able to participate in the Cal-MMET program by way of funding from the Sheriff's office for one Deputy District Attorney and one Criminal Investigator. The Sheriff has advised us that the Cal-MMET funding has been cut and he will only be able to fund a Criminal Investigator from our office. As of October 31, 2003, we no longer have funding for the Deputy District Attorney.

Sheriff's Office

Cal-MMET	±	1	0
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The recommendation of the Chief Executive Office is to not backfill or fund the Attorney position from Cal-Mett, to delete the Attorney and Interviewer positions from the SRVP grant and the Criminal Investigator position in the Career Criminal Prosecution grant. We cannot afford to lose any more staff. Losing those positions from the grants will be devastating. Law enforcement will continue to make arrests. The cases will continue to come into our office. We will not be able to prosecute those crimes. We must, at the very least, retain our present staff.

In addition to what I have already described we have cases which are highly complex, high publicity cases in process at this time. The Peterson case has two Chief Deputy District Attorneys, two senior Deputy District Attorneys, one Criminal Investigator, and two clerks assigned. The Sabatino case has one senior Deputy District Attorney and one Investigator from our office as well as a Detective from the Sheriff's office. The Conner case has a Senior Deputy District Attorney and one Criminal Investigator. The "Medic-alert" case is utilizing a Senior Deputy District Attorney assigned to Elder Abuse and one Criminal Investigator.

Recently, a multi-agency task force successfully arrested eleven (11) violent and dangerous criminals who were terrorizing the County in a series of home invasion robberies. Successfully prosecuting these individuals is of the highest priority. Two deputy district attorneys and an investigator have been assigned to these cases. Over our objection, the Court recently severed the trials of these individuals which will result in the expenditure of additional resources by our office.

These cases should have the exclusive attention of those assigned to them. That is not possible. Each of the staff mentioned have other cases they are working.

I do not believe that in the history of this office there have ever been as many high profile, serious and violent cases being prosecuted at one time. There appears to be no relief in sight. Given the increase in population we can only expect to see the caseload continue to escalate.

The decreases in staff which we have already experienced have impacted the office in the following manner:

We have reduced our team leader positions from three to one
We have reduced the number of off-site training opportunities for staff
Management and our Confidential staff have not received any bonuses since May, 2002.
I deputized three attorneys from the County Counsel's office to prosecute code violations.
We do not make court appearances on Proposition 36 cases.
We utilize an extra help attorney to appear in Drug Court.
The Chief Deputy District Attorneys, instead of supervising, are making court appearances on calendars. In addition, the three Chief Deputy District Attorneys and the Assistant District Attorney have absorbed the duties of the Chief Deputy of Administration while at the same time losing their clerical support.
We have limited our appearances at SARB Hearings
We eliminated the presentation of Mock Trials during Red Ribbon Week at schools
We have limited the Statutory Rape presentations at schools.

Even with these reductions, we have experienced employee burnout. Three Deputy District Attorneys are off or on limited duty for medical reasons as is one Criminal Investigator. This increases the workload and makes it even more difficult when sick leave, maternity leave, or vacations occur. In addition, the Administrative Services Manager, without more staff, cannot keep up with the grants, budget and other financial needs of the office.

To maintain our current staff, we are asking the Board to approve the transfer of the advocate/interviewer and Attorney positions from SRVP and the Investigator position from CCP to the general fund and provide funding for the revenue lost in the OCJP cutbacks, as well as providing full funding for the Cal-MMET DDA. This will cost the county for this fiscal year \$252,148, annualized to \$289,145. In addition, I had hoped to underfill the Chief Investigator position with a Criminal Investigator. However, the need to have a Chief Investigator is critical. The duties of the Chief Investigator are presently absorbed by a Chief Deputy District Attorney who does not have sufficient time to supervise 21 investigators and his own staff of 19 attorneys and paralegals. I am requesting funding for a Personal Services Contract for a Chief Criminal Investigator. This would be an additional cost of approximately \$50,000 for this fiscal year and \$84,060 on an annual basis.

If we do not receive funding to retain our current staff, the following impacts will occur:

Follow-up investigation by our criminal investigators would be done only on homicides.

We would not be able to initiate any case from this office, as we would have no resources to investigate it. This would include any white collar or political corruption crime. The Attorney General has notified us that they will only accept cases in which the District Attorney has a direct conflict. They would, therefore, not be of assistance in these types of cases/investigations. We would have to look to the law enforcement agency in the jurisdiction the crime occurred. These agencies have conflicts, lack of resources and in many cases are not able to assign personnel with adequate expertise in given areas.

We would be forced to reassign the juvenile unit investigator to the main office to assist on homicide cases leaving juvenile without any investigative support.

Prosecution of misdemeanor cases would be severely reduced. Some cases which are prosecuted now, would not be prosecuted.

We would reject any case that would initially qualify for Drug Court or Prop 36 court. This means that convicted felons as well as criminals with both serious and minor criminal histories would simply not be prosecuted for drug possession.

We would no longer assist with SARB hearings (Student Attendance Review Boards), which enable schools to attempt to keep students enrolled and attending, and we would be unable to provide any education or outreach to the community.

We would have to consider not providing staff to the high volume Domestic Violence Court where convicted spousal abusers are monitored by way of return court dates.

We would have to reduce the number of parole board hearings (Lifer Hearings) resulting in the real risk that convicted murderers would be released back into the community earlier than appropriate.

DDA attendance at CAIRE Center interviews have already decreased with Level 1 reductions and would be reduced further under this reduction. The CAIRE Center interviews are the evidence-gathering interviews of young child molest and abuse victims.

Supervisors would be utilized as line staff to "get the job done" which would further reduce the already compromised effectiveness as supervisors. Other projects/programs would not be implemented, improved, or completed. A likely possibility would be that the number of plea bargains would increase and violent criminals would be sent to prison for only a fraction of the appropriate time.

In addition to retaining our present staff, we are in critical need of the following positions:

3 Deputy District Attorneys - one to join an already overburdened Gang Unit, one to assist with Vehicle Theft cases and one to be the Public Information Office for the office.

Account Clerk III - the Administrative Services Manager is "drowning" with Budget, grants, California Witness Protection and the various financial reports due during the year. She needs an additional staff member to assist her.

Confidential Assistant III - this confidential position would serve the three Chief Deputy District Attorneys. This would make them more available to supervise staff rather than doing clerical work.

Legal Clerk III - we have no back-up personnel to assist for vacations and sick leave. Each clerical position presently assigned has a full day's work. Taking on another person's duties would prohibit both assignments from getting done.

If we cannot retain our present positions with full funding, in addition to not supplementing our current positions, we will be in violation of our Constitutional mandate.

The California Constitution, case law and opinions of the California Attorney General provide that a County Board of Supervisors may not, by ***failing to appropriate funds***, prevent the district attorney from incurring necessary expenses for crime detection and prosecution as county charges. It is also concluded that the board is not authorized to govern the actions of a district attorney concerning the manner in which their budget allotments are expended or the manner in which personnel are assigned. It is also concluded that the board may not freeze positions or manage budgetary resource

allotments the responsibility for which is conferred by law upon the district attorney. The district attorney may expend whatever amounts he/she determines to be necessary to provide for public safety and such amounts expended become a charge upon the county. It is unlawful for the Auditor to refuse to pay such expenditures.

The Attorney General concluded in a formal opinion that **“the expenses of the administration of justice in criminal matters are by law imposed on the counties and the counties cannot escape their obligations merely by failing to provide for them in the budget.”** Charges of this sort are **payable even in the absence of a budget appropriation.** This conclusion is fortified by the passage of Article 13, section 35(a) of the California Constitution (Proposition 172) that states:

“Public safety services are critically important to the security and well-being of the State’s citizens and to the growth and revitalization of the State’s economic base. The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.”

The founding fathers of this great country, the Constitution of the State of California and you, the Board of Supervisors, have all concluded that public safety is the first priority of government. We must adhere to that principle since without public safety all other phases of government are meaningless.

I realize the difficulties you face with this request. I have given you my best assessment of what my office and this community will face if I cannot fill and supplement all of my current allocations. Thank you for your time.