

## GOVERNMENT & ADMINISTRATION COMMITTEE

### *Mobile Homes/Senior Abuse*

Citizen Complaint #C12-02/03

#### **Reason for the Report**

A citizen's complaint alleged that the El Dorado County District Attorney did not respond in a timely manner to complaints regarding senior abuse in mobile home parks.

#### **Scope of the Investigation**

The Grand Jury interviewed the following persons:

- President of the Homeowners Coalition for Mobile Home Parks in El Dorado County and other witnesses;
- District Attorney;
- Chief Assistant District Attorney;
- Deputy District Attorney;
- Investigator with the District Attorney's Office;
- Senior Administrative Analyst, District Attorney's Office.

The Grand Jury also reviewed the following items:

- The citizen's complaint;
- The files of the Homeowners Coalition for Mobile Home Parks, which set forth 26 complaints against El Dorado County mobile home park owners;
- A criminal complaint against a mobile home park owner;
- The District Attorney's office procedures;
- The case management system used by the District Attorney (DAMION);
- All of the minutes of the Mobile Home Task Force meetings;
- Mobile Home Task Force Report to the Board of Supervisors, dated February 2003;
- Relevant California Code sections relating to mobile homes and senior abuse.

#### **Background**

On or about April 2001, the complainant delivered twenty-six separate complaints regarding mobile home parks and senior abuse to the District Attorney. The complaints alleged among other things; sewage leakage, abundance of rats, propane overcharges, and unlawful increases in rent.

Fifteen months later a complaint was received by this Grand Jury regarding the excessive delay by the District Attorney in connection with this matter.

The Grand Jury eventually learned the complaints had been languishing on a Deputy District Attorney's office floor during that fifteen-month period.

Thereafter, one of the complaints was assigned to the Chief Assistant District Attorney for prosecution. He successfully prosecuted the case and obtained a written stipulation creating a \$50,000 trust fund for future issues involving seniors in mobile homes.

During his testimony before the Grand Jury, the District Attorney said he did not prosecute the other 25 complaints because of "insufficient evidence" or they were "outside his purview."

The Grand Jury requested that the District Attorney's Office provide a copy of their written "office procedures." We received 17 internal memos dated from 1993 to 2002. The majority of these memos appear to relate to incidences that came up on that particular date. The memos were brief with some being no longer than a paragraph in length. The District Attorney also delivered a State of California "guidelines" manual that offered suggestions in operating a District Attorney's Office. From our review, it is apparent the District Attorney does not have an adequate internal policy and procedures handbook for his office.

The District Attorney, the Chief Assistant District Attorney, and the Deputy District Attorney informed the Grand Jury they are understaffed. According to the information received, attorneys type their own pleadings, file their own paperwork, answer telephones, and perform other clerical duties. Notwithstanding, the District Attorney's Office has 10.5 legal secretaries, 10 investigators, and 18.5 attorneys.

A DAMION case management system was purchased for over \$120,000. In addition, the purchase allowed for further consulting, training, customization, and implementation services from the vendor at an annual cost of \$100,000. The system was installed in June 2001. According to a September 17, 2002 internal memo, the District Attorney and his staff had not yet discussed or determined the elements to be entered into DAMION (convictions, cases dismissed, diversions, acquittals, mistrials, etc.). As of this report staff is still not fully trained on the use of the program.

It should be noted that the Board of Supervisors created a Mobile Home Task Force in May 2002 for a six-month period. Their purpose was to attempt to resolve issues relating to mobile home parks.

## **Findings**

- F1. A complaint languished in the District Attorney's Office for 15 months before being investigated.

### ***Response to F1: The respondent disagrees wholly with the finding.***

The typical function of the District Attorney's Office is to take completed investigation reports from law enforcement agencies or other agencies, review those reports and determine

whether there is any evidence of criminal wrongdoing that can be proved beyond a reasonable doubt. Our primary function is to enforce the criminal laws of this state and county. However, not every unlawful act is a criminal act. We receive many reports in a typical year that involve acts that may involve civil liability but not criminal. The District Attorney's office declines to file criminal charges on many cases each year that involve civil disputes and do not present criminal acts.

The majority of the complaints discussed in the Grand Jury Report were not received in April of 2001, but rather were received informally in July of 2001. Monica Hopkins, Elder Abuse Advocate for the Victim Witness Office had met with Mobile Home Tenant Advocates and had indicated that she would take any material pertaining to complaints regarding mobile home parks. She was given a large stack of documents, consisting of receipts, letters and other documents but no investigative report or summary. In July 2001, these documents were given by Ms. Hopkins to Lonnie Price, District Attorney Investigator, for his review. Mr. Price reviewed the documents and found them to be materials which did not amount to sufficient evidence of a criminal act. Based on those materials, Mr. Price could not tell if there were potential criminal matters involved or not, without substantial further investigation. Mr. Price made the decision to not further investigate the matter due to his heavy caseload.

As the Grand Jury Report noted, the District Attorney's Office has seen a dramatic increase in the number of cases handled by our office. Last year, our cases were up 17%. Yet, we have had chronic staff shortages throughout the period encompassed by this report. During that period, we have prosecuted numerous murders, felony assaults, robberies, burglaries, domestic violence cases, and the literally thousands of other crimes attendant to this growing community. The District Attorney's Office has attempted to meet this increase of serious crimes with fewer overall employees, and especially fewer Deputy District Attorneys. For the current fiscal year, we have four positions unfunded, including one Deputy District Attorney, one District Attorney Investigator, one Investigative Assistant, and one Legal Secretary. Given these realities, the District Attorney's Office must establish priorities in allocating our resources. Our priorities have been to effectively deal with dangerous criminals that victimize our citizens' homes and persons. Our one Deputy District Attorney who was assigned to prosecute the mobile home complaints was at the same time, also prosecuting numerous cases of physical and financial Elder Abuse, Environmental crimes, Fraud, Worker's Compensation fraud, Automobile and Insurance Fraud and an assortment of other non-traditional criminal and civil actions. The District Attorney's Office did not, and in the foreseeable future, will not have enough resources to examine, investigate and prosecute every complaint made in the County.

The finding of the Grand Jury that these complaints "languished in the District Attorney's Office for 15 months before being investigated" ignores the fiscal realities of the County. In a time of massive budget cuts, there are not enough resources to do everything that is asked of the District Attorney's Office. However, with what resources are available, the District Attorney's office will continue to protect our citizens from crime.

- F2. Written policy and procedures for handling complaints to the District Attorney's Office appear to be inadequate.

***Response to F2: The respondent disagrees partially with the finding.***

The District Attorney's Office has procedures in place to deal with complaints received by our office in a traditional manner. As noted in the response to Finding F1, our office typically receives investigative reports from law enforcement agencies and state and federal agencies that are charged with investigating criminal activity. These agencies then present the case to our office in a report form, which provides a summary of witness statements, and the course of the investigation, so that our office can evaluate the reports and determine whether criminal charges are appropriate. These procedures are well established and do not require written policy or procedures. In the case addressed by the Grand Jury, the matter came to our attention by the "back door". That is, an advocate for our office, who was not an attorney, nor ever responsible for logging in investigative reports, received documents from an individual who was not a trained investigator. These documents were not summarized, categorized or laid out in such a manner that a determination could be made that a crime had been committed. The advocate turned the documents over to one of our District Attorney Investigators who has a caseload of high volume, complex cases to handle. This investigator reviewed the documents and was unable to determine, without considerable investigative resources, what issues were presented by the documents. Therefore the documents were not processed by our usual procedures. In that respect, the Office procedures were not geared to handle these highly unusual circumstances. However, the District Attorney's Office disagrees with the sweeping nature of the finding, and asserts that overall, its procedures are more than adequate to handle our cases.

- F3. Several staff members, including the District Attorney, mentioned the office is understaffed. It appears to be a waste of taxpayer's monies for attorneys to perform clerical duties and, as a result, not have enough time to respond to the concerns of the public and their prosecutorial duties.

***Response to F3: The respondent agrees with the finding.***

- F4. The DAMION case management system, installed in June 2001, does not appear to be utilized to its full potential.

***Response to F4: The respondent disagrees partially with the finding.***

As noted in the Grand Jury Report, the DAMION system was implemented in late June of 2001. Because of staff shortages during this period, we have been slowly exploring the potential uses of the system, and its makeup to ensure that the database program is both useful and "user-friendly". As we experience the program by working with it on a daily basis, we are fine-tuning our use of the system. For example, we have traditionally had difficulty in tracking our numerous case files, creating a situation where a great deal of employee time is used in finding case files. We recently implemented a case tracking system

within DAMION, using bar coding, that enables us to more easily find our case files, and reduce staff time spent in this endeavor.

Further, this Fall we will be implementing an imaging system within DAMION which will allow us to scan all our documents into DAMION so that reports and other documents are available to be examined without having to track down the case file. This system also will allow us to receive our audio and video pieces of evidence from law enforcement, enabling our office to create digital discovery files, including film, photos, and police reports on CD-ROMS for delivery to the defendants in criminal cases. This will also allow employees of the office to examine all reports, videotapes, audiotapes and photos, in other words the entire case, without needing the case file in front of them.

To the extent the report suggests that the District Attorney's Office does not utilize the DAMION program effectively or with an eye toward its future benefits, the District Attorney's office disagrees wholeheartedly with that suggestion. To the extent that the report suggests we can do better, we would always agree that all things can be done better. We believe that we are carefully and consistently better using the program to make our tasks easier and more effective.

### **Recommendations**

- R1. The District Attorney's Office needs written procedures and policies for handling and tracking complaints in a timely and professional manner.

***Response to R1: The recommendation will not be implemented because it is unreasonable.***  
The Board of Supervisors can't formulate procedures for the District Attorney's office and has no choice but to respond by saying the recommendation will not be implemented by the Board of Supervisors. The Board of Supervisors expects the District Attorney to adopt appropriate procedures governing his department.

- R2. The District Attorney should assign one of his staff to be responsible for community relations to facilitate an open door policy between the public and his office.

***Response to R2: The recommendation will not be implemented because it is unreasonable***  
The Board of Supervisors can't formulate procedures for the District Attorney's office and has no choice but to respond by saying the recommendation will not be implemented by the Board of Supervisors. The Board of Supervisors expects the District Attorney to adopt appropriate procedures governing his department.

- R3. All relevant employees in the District Attorney's Office should be fully trained in the DAMION system.

***Response to R3: The recommendation will not be implemented because it is unreasonable***

