



# OFFICE OF THE DISTRICT ATTORNEY

## County of Ventura, State of California

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District Attorney

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VENTURA COUNTY  
GRAND JURY

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**MICHAEL D. SCHWARTZ**  
Special Assistant District Attorney

**ROBERT A. BRINER**  
Chief - Bureau of Investigation

June 22, 2007

The Honorable Colleen Toy White  
Presiding Judge  
Ventura County Superior Court  
Hall of Justice  
800 S. Victoria Avenue  
Ventura, CA 93009-2120

Re: **Response to 2006-2007 Grand Jury Report**  
Public Safety: Rancho Simi Recreation and Park District Ranger Program

Dear Presiding Judge White:

This response to the above-referenced report of the 2006-2007 Grand Jury regarding the Rancho Simi Recreation and Park District Ranger Program ("District") is provided pursuant to Penal Code sections 933 and 933.05, and Chapter II-14 of the County of Ventura 2005 Administrative Policy Manual.

### FINDINGS

The only Finding in the Report which is "pertaining to matters under the control" of the District Attorney (Penal Code, § 933(c)) is finding F-16:

*The District has had difficulty convincing the Ventura County District Attorney's Office (VCDA) to prosecute citations written by the Rangers.*

We disagree partially with this finding.

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While it is literally true that the District Attorney's Office requested additional information before accepting some cases for prosecution, and declined to file some other cases, we believe that we acted properly in doing so. We do not believe that it has been more difficult for the District than other law enforcement agencies to obtain prosecutions.

By way of background, citations for infractions (offenses punishable by only a fine) are directly filed by the arresting agency with the court, without involvement by the District Attorney's Office. (Penal Code, § 853.6(e)(1).) Citations for misdemeanors (offenses punishable by up to one year in jail) are presented by the arresting agency to the District Attorney's Office, which exercises its discretion to determine whether to file criminal complaints in court. (Penal Code, § 853.6(e)(1).) This evaluation of the charges by the District Attorney is independent of the opinion of the arresting agency and acts as a check and balance before a defendant is charged with a misdemeanor in court.

The Ventura County District Attorney's Office has attorneys specifically assigned to this "complaint review" function. In reviewing cases for prosecution, our standard is whether given the facts of the case and the evidence available, we believe a jury is likely to convict under the burden of proof of beyond a reasonable doubt. We may accept or reject cases outright, or may request further information before making a decision. When a case is rejected or further information is requested, a confidential Complaint Request Evaluation form is sent to the originating agency that explains why the case is being rejected or what additional information is needed.

From 2003 through the present, we have identified only two cases presented by the District that the District Attorney's Office has rejected for prosecution. Both of these citations were against the same individual for resisting, delaying, or obstructing a public officer or peace officer in the discharge or attempt to discharge his duties under Penal Code section 148(a)(1). Both of these incidents arose when a park ranger attempted to enforce the District ordinance that prohibits skateboarding on park property.

Violations of Penal Code section 148 range from very serious violations, such as an arrestee physically attacking an officer or a dangerous felon escaping and running from police custody, to more technical violations such as failing to comply with police commands regarding minor violations with no physical contact. As explained in the Complaint Request Evaluation forms for the two cases in question, it was our evaluation that while there were technical violations that established the elements of the crime, our experience with recent jury trials had shown that it was unlikely that a jury would be willing to convict under the facts presented.

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The deputy district attorney who rejected these cases is an experienced senior attorney who met in his office with the ranger who issued the citations to discuss the actions we were taking. In rejecting the second case, he offered two options: (1) resubmit both cases in the event there is a third incident, or (2) directly file the skateboarding violation as an infraction.

While officers for every agency sometimes disagree with our rejection of cases for prosecution, this is the nature of the independent review of charges by the District Attorney's Office. I believe we have properly exercised our discretion in reviewing cases presented to us by the District.

### CONCLUSIONS

Penal Code sections 933 and 933.05 require that we respond to "findings" and "recommendations," but do not specifically mention "conclusions." However, we wish to respond to Conclusion C-02:

*A lack of awareness of the mission, duties, enforcement authority, and responsibilities of the Ranger Program has resulted in the District having difficulty obtaining criminal prosecution through the VCDA.*

We disagree wholly with this conclusion.

In one case in 2006, an individual was cited by a District ranger for resisting, delaying, or obstructing an officer in the attempt to discharge his duties under Penal Code section 148(a)(1). (This is a different individual and a different incident than the two rejected cases discussed in the Findings section above.) The case was ultimately accepted by the District Attorney's Office for prosecution. But before that occurred, our complaint review deputy sent a Complaint Request Evaluation to the District asking for a copy of the skateboarding ordinance the ranger was attempting to enforce. Requesting such a copy is not an unusual request when dealing with the ordinances of a special district. Although our law library has copies of state statutes, county ordinances and city ordinances, we do not have ready access to ordinances of districts such as park districts or port districts. (Ordinance No. 2 of the Rancho Simi Recreation and Park District has since been posted on its Web site.) Prosecution for section 148 requires that we prove that the officer was in the lawful performance of his duties at the time the defendant resisted, so it is important to know what law he was enforcing.

In that same Complaint Request Evaluation, we asked whether the ranger was a peace officer or other public officer. This is also an element of violation of section 148(a), that the person resisted is a peace officer, public officer, or emergency medical technician.

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Peace officers include dozens of categories of individuals as defined in several lengthy sections of the Penal Code (sections 830-830.65). The applicable provision here is Penal Code section 830.31(b), which defines peace officers as including “[a] person designated by a local agency as a park ranger and regularly employed and paid in that capacity, if the primary duty of the officer is the protection of park and other property of the agency and the preservation of the peace therein.” The most direct means of determining whether the ranger here met that definition was to ask the ranger.

We have identified only six cases presented by the District to the District Attorney for prosecution from 2003 through the present. Given this small number, it is not surprising that the complaint review deputy did not have a copy of the ordinance in his office and did not know the legal status of the rangers. Once the District responded with the requested information, the District Attorney’s Office accepted the case for prosecution.

I want to make clear that the District Attorney’s Office does not employ a different standard for prosecution of cases based on the size of the agency. The vast majority of our cases are presented to us by the Ventura County Sheriff, the cities’ police departments, and the California Highway Patrol. But we also review and file cases from a number of smaller agencies such as the Ventura County Community College District Police, the California State University Channel Islands Police, the California State Park Rangers, the Bureau of Automotive Repair, the Department of Alcoholic Beverage Control, and the Department of Fish and Game, among others.

We often request additional information or additional investigation from agencies of all sizes before making a filing decision. When we inquired about the District’s ordinance and peace officer status before making a filing decision in the case discussed above, the questions were answered and the case was approved for filing. I believe that this process is appropriate and is not properly characterized as “difficulty” in obtaining a prosecution.

#### RECOMMENDATIONS

The report references Recommendations R-02, R-03, and R-06 for response by the District Attorney.

*R-02. The District should execute formal Memoranda of Understanding/Agreement with SVPD and VCSD defining the operational and jurisdictional interface between the Ranger Program and the two agencies.*

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This recommendation will not be implemented by the District Attorney's Office because this is a matter between the District, SVPD and VCSD. We take no position as to whether formal memoranda are necessary or advisable to ensure cooperation between the agencies mentioned.

*R-03. The District should establish a mechanism by which SVPD and VCSD report to the Ranger Program all crimes and incidents occurring on District Property.*

This recommendation will not be implemented by the District Attorney's Office because this is a matter between the District, SVPD and VCSD. We take no position as to whether additional mechanisms need to be established to report crimes occurring on District property.

*R-06. The District should meet regularly with the VCDA to exchange information and better educate VCDA personnel about activities of the Ranger Program.*

The recommendation has been implemented.

On June 13, 2007, Special Assistant District Attorney Michael Schwartz, Supervising Attorney William Haney, and Senior Deputy District Attorney Scott Hendrickson had a productive meeting at the District Attorney's Office with District General Manager Larry Peterson, Business Supervisor Theresa Pennington, and Lieutenant/Senior Park Ranger Jerry De Rosa. We discussed a number of topics including the jurisdiction of the District and its park rangers, the interaction between the rangers with SVPD and VCSD, the District's ordinances, the procedure for processing infractions and misdemeanors, and the background of the rangers as experienced law enforcement officers previously employed by police departments. We discussed issues regarding prosecutions for Penal Code section 148, and provided the District personnel with copies of the jury instructions for that crime. We also discussed strategies to address the homeless problem in the parks.

We agreed to have additional meetings as needed. Mr. Schwartz invited District personnel to call either him or Mr. Haney any time issues come up.

#### SUMMATION

The park rangers have a difficult task in enforcing the law and maintaining order in the parks within their jurisdiction. I am impressed with the professionalism of the rangers in addressing these challenges. The District Attorney's Office is committed to do our part to assist their efforts.


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I appreciate the consideration of my comments by the court and the Grand Jury. I also appreciate the opportunity the report presented for my office to learn more about the workings of the Rancho Simi Recreation and Park District.

Very truly yours,



GREGORY D. TOTTEN

District Attorney

GDT/ck

pc: ✓ Alyce O. Klussman, Grand Jury Foreman  
John F. Johnston, County Executive Officer  
Larry Peterson, General Manager, RSRPD