



RON FREITAS

District Attorney, San Joaquin County
PROTECTING OUR COMMUNITY SINCE 1850

To: Gus C. Barrera II, Presiding Judge
San Joaquin Superior Court

Irving Jimenez, Staff Secretary
2023-2024 San Joaquin County Civil Grand Jury

From: Ron Freitas, District Attorney
San Joaquin County

Date: August 5, 2024

RE: DA's Response to "Second Look: 2018-2019 San Joaquin County Civil Grand Jury Report Cold Cases in San Joaquin County: On the Back-Burner Case #0318

The 2018 -2019 San Joaquin County Civil Grand Jury issued report #0318 "Cold Cases in San Joaquin County: On the Back Burner" which summarized a series of discussions, findings, and recommendations. Recently, that same civil grand jury issued amendments to that report in the 2023-2024 report with further discussions, two findings and two recommendations. This civil grand jury has requested the District Attorney Office respond to their inquiries. It should be noted that the 2023-2024 Report requests that the San Joaquin County District Attorney's Office respond its single findings (F1), its two recommendations (R1.0 and R1.1) and all recommendations of the 2018-2019 report (R1, R2, R4, R6, R7, R8, R9 and R10).

It should be noted that the District Attorney's Office, under a previous administration, responded to the 2018-2019 Report (July 17, 2019). Because the current District Attorney did not take Office until January 2, 2023, the new District Attorney's Office administration had no responsibility for the responses previously provided in 2019, and was not involved in those responses provided, nor responsible for that District Attorney's failure to implement any of the recommendations because neither he or his staff were assigned to the Cold Case Unit, Homicide Division, and/or Administration from July 2019 until taking Office in January 2023.

The California Constitution and statutes of the California Government Code define the District Attorney as the Chief Law Enforcement Officer of San Joaquin County with specified powers and duties. Therefore, the District Attorney is the only agency with jurisdiction of all homicides in the County. However, the District Attorney's Office lacks *original* jurisdiction for homicides, to wit, local law enforcement agencies are responsible for homicides in their city limits, and the Sheriff is responsible for unincorporated San Joaquin County.

The current District Attorney Administration takes these responsibilities very seriously, and works closely with the Sheriff and all local law enforcement throughout homicide investigations, providing advice, legal determinations, investigators, victim witness advocates, and ultimately leading to charging decisions for arrest and search warrants, complaints, information, indictments filed with the Courts, and ultimately the prosecution of the cases throughout the court proceedings from arrest, trial, and appeals.

It is therefore important as the Chief Law Enforcement Officer of the County, that the District Attorney be responsible for the County's Cold Case Homicide Task Force going forward.

While it is true that the current District Attorney reorganized the District Attorney's Office, it is NOT true that he has not prioritized Cold Cases (page 57). The Homicide Division had been run by a Supervising Deputy District Attorney that also shared responsibility of the Homicide Division with the Gang Unit. The current Administration prioritized Homicides and Cold Cases by the Homicide Chief Deputy District Attorney which has greater authority and responsibilities for homicides. The individual selected came was recruited from another county and had substantially higher homicide, trial, and organizational skills than his predecessor. Since his appointment, the Homicide Chief Deputy District Attorney reached out to all law enforcement agencies and closely reviewed all cases filed or declined by the prior administration. He is solely responsible for homicides and does not share responsibility with any other division, allowing him to devote full time to homicides, cold cases, and homicide victims.

The 2023-2024 Report is broken into three parts: Discussion; Findings; and Recommendations. Each are addressed below.

Discussion:

- 1) The 2023-2024 report indicates the District Attorney's Office had two assigned cold case investigators, however one investigator was on loan to Tracy PD and the other was assigned to other unrelated matters. (See Page 55). This is not the case. The District Attorney's Office has one full-time investigator dedicated to cold case investigations. A second investigator is slated to be assigned to cold cases beginning August 2024. In addition, the District Attorney Investigations has a myriad of other investigators, that if called upon, could and would provide additional support and expertise in cold case investigations. It is not uncommon when required, other investigators would lend assistance in any task required. Other investigators often provide additional assistance with social media warrants, call-detail warrants, DNA warrants, investigating significant leads, obtaining additional evidence, and interviewing or re-interviewing witnesses. The District Attorney's Office has never "loaned" an investigator to Tracy Police Department. The investigator at issue merely assisted Tracy PD in further investigating a Tracy cold case. Similarly, many investigators from the Bureau of Investigations often assist other agencies.
- 2) The 2023-2024 report indicates that the San Joaquin County Sheriff's Department is aware of the Stockton Police Department and the San Joaquin County District Attorney's cold case investigators but do not have any formal or regular working relationship with them. (See Page 5). This is not true. The San Joaquin County District Attorney's Office has always maintained a very close relationship with the homicide investigators of every Law Enforcement Agency in the county. It is not uncommon for investigators at various law enforcement agencies, their sergeants, their lieutenants and their command staff to have regular contact with each other, and with the District Attorney's Office specifically. While a regularly calendared county-wide meeting does not necessarily occur, the lines of communication remain open daily, and are utilized often.
- 3) The 2023-2024 report indicates that "There has been little or no change in the DA's cold case unit including the number of cold case investigators, and their times divided among other responsibilities. The

Chief Deputy District Attorney heading up the cold case unit is also signed to prosecute current homicide cases” (See page 6). As previously indicated the District Attorney’s Office has a single cold case investigator solely dedicated to cold case investigations, with an additional investigator to be assigned to solely investigate cold cases in August of 2024. However, there are numerous investigators that can participate in any aspect of a cold case investigation when the need arises. The infancy of an investigation of any sort is always a time sensitive situation. An investigator may be temporarily pulled away from the task at hand to address an immediate need. For example, in a recent serial killings case, all investigators were tasked with various responsibilities in order to ensure the proper capture and prosecution of the perpetrator. Upon completion of that investigation, those investigators immediately returned to their normal assignments. In another example, in attempting to effectuate the capture of a triple murder suspect who had burned his family alive, various investigators were pulled from their existing responsibilities to assist that investigation. Similarly, upon completion of the task they returned to their normal duties. The District Attorney’s Office has found that this rapid response and flexible approach is an effective means of investigating cases and apprehending the perpetrators. Also, it should be noted the Chief Deputy District Attorney does not prosecute cases. That position provides supervision of the homicide unit and overseas the prosecution of all homicides in county including all cold cases.

- 4) The 2023-2024 report indicates that “The DA’s office has no internal cold case database. Because cold cases are a low priority funding for DNA and lab testing is limited”. The District Attorney’s Office does not have a cold case database. The District Attorney’s Office agrees with the findings and will work with the San Joaquin County Sheriff’s Department in establishing a database. The District Attorney and Sheriff will discuss further who should maintain the database. Cold cases are not a low priority. What is often at issue is the backlog of cases by the State Department of Justice Lab in Ripon. In the rare cases in which further DNA testing may result in additional development of evidence (those cases are few and far between), it takes significant amount of time to get the results, if any. However, should a manifest need occur in which

time sensitive testing is required, our DOJ partners have responded in a timely manner. The funding mechanism of the Department of Justice Lab in Ripon is dependent upon the state not the local jurisdictions.

- 5) A County-Wide Cold Case Task Force is sound, and the District Attorney's Office will take the lead. It would arguably lead to more cooperation and exchange of information between agencies which in turn would likely lead to better investigations.

Findings:

- 1.0 In finding 1.0, the 2023-2024 Civil Grand Jury findings indicate that in general, law enforcement failed to implement the recommendations of the 2018-2019 grand jury. They base this failure to lack of leadership, lack of desire and the COVID 19 pandemic. It should be noted that the previous administration of the District Attorney's Office responded to the grand jury's findings and recommendations on July 17th of 2019. That administration had approximately 3 ½ years to implement those recommendations and failed to do so. The current administration has been in place since January of 2023. In that time, it has been tasked with significant budgetary constraints and personnel constraints. These required immediate remedial efforts prior to the implementation of Cold Case recommendations. Despite those challenges, the District Attorney's Office continues to investigate and prosecute every homicide case (cold or otherwise) that presents sufficient evidence to do so. It appears to be a bit incongruent to blame the current administration with the failings of the past administration.

Recommendations:

- 1.1 The District Attorney's Office agrees with this recommendation of the formation of the task force but disagrees that it should be led by the San Joaquin County Sheriff. After meeting with the members of the Sheriff's Office and the County Administrator's Office, we have agreed that due to jurisdictional issues, the task force would be best led by the District Attorney's Office.

- 1.0 The 2023-2024 Civil Grand Jury's recommendation 1.0 is simply a restatement of the 2023 to 2019 Civil Grand Jury recommendations. Those are responded to below accordingly.

R1 – The District Attorney’s Office agrees with recommendation #1 and will accomplish this goal through the county wide task force.

R2 – The District Attorney’s Office agrees with recommendation #2 and will work towards a common, county-wide task force definition of “Cold Case”. The current definition is attached and should assist further dialogue on an agreed upon definition.

R4 – This recommendation has already been implemented.

R6 - The District Attorney’s Office agrees with recommendation #6 and will accomplish this goal through the county wide task force.

R7 - The District Attorney’s Office agrees with recommendation #7 and will accomplish this goal through the county wide task force.

R8 - The District Attorney’s Office agrees with recommendation #8 and will accomplish this goal through the county wide task force.

R9 – The District Attorney’s Office has always maintained a partnership with the California DOJ crime lab in Ripon, and other DOJ labs throughout the state. We continue to work collaboratively with the Department of Justice and maintain regular contact with them. However, this office has no input into the laboratory resources (personnel, certification or equipment) of the State of California. While the necessity of relevant testing is transmitted to Cal-DOJ, we are often subject to timing issues beyond our control.

R10 – The District Attorney’s Office has a current practice and procedure of maintaining contact with family members of any case. Staff members of the District Attorney’s victim witness division and representatives from the victim advocacy groups within the community continue to maintain a system of periodic contact. It should be noted that continual contact with family members regarding a pending cold case that has little or no significant leads or significant chance of apprehending the person responsible, has

proven at time to be detrimental to the psychology of the victim'
next of kin and should be dealt with very carefully.

Respectfully,



Richard B. Price
Assistant District Attorney
San Joaquin County

c: Irving Jimenez, Judicial Staff Secretary to the Grand Jury
Suzie Saiers, Senior Deputy County Administrator
San Joaquin County Board of Supervisors
Sheriff Patrick Withrow, San Joaquin County
Edward Kiernan, County Counsel



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Cold Case Definition

A cold case is an unsolved crime previously reported to law enforcement agency and the agency determined the investigative leads were exhausted. The initial investigation of the cold case failed to result in the identification of a suspect, the arrest of a suspect, the referral of the case to the district attorney's office or the filing of criminal charges by the district attorney's office. Due to the passage of time, the development of evidence of other crimes, and/or the lack of further investigative leads, the law enforcement agency is no longer actively investigating the crime. These cases are deemed open investigations

For the purposes of cold case definition, "cold cases" include unsolved homicides, missing persons with suspicious circumstances and sexual assault, specifically Penal Code section 261.