

1999-2000 SAN BENITO COUNTY GRAND JURY

Co-Foreman: Dian Wood Picone
Co-Foreman: Robert Graves
Secretary: Suzanne J. Gere
Foreman Pro Tem: Roy McFadden

Ken Capulli	Chuck Dav'e
Marla Davies*	John A. Delgado
Gary Galusha*	Teresa Garcia
Suzanne Gere**	Robert Graves**
Billie Jimenez	Lori Landry
Kathleen MacWilliamson	Kim Marquez*
Jose Martinez	Royce McFadden
Jerald G. McGrath	Reb Monaco
Dian Wood Picone**	Leonard Poletti
Carolyn Rivers**	Andy Rollins
Jerry Thome	

**Held over from 1998-1999 Grand Jury

*Unable to complete the year.

GRAND JURY COMPENSATION AND MEETING PLACE

The San Benito County Grand Jury is provided with a meeting place, a mail drawer in the Superior Court Clerk's Office, and a file cabinet. In the past, the Grand Jury conducted its twice-monthly meetings, Committee meetings, and interviews in Courtroom Two at the Superior Court. For some time, it has been observed that this courtroom offers little privacy. The courtroom has large windows along an outdoor veranda/corridor and is not soundproof.

This year, the Grand Jury was allowed to use a conference room, after working hours, at one of the county agencies for its meetings. The gift of this meeting space is greatly appreciated. However, during Grand Jury deliberations, a person was observed walking down the corridor of the agency. She had left the building before it could be determined who she was, whether she had the right to be in the building and how long she had been there. As all Grand Jury business is confidential and deliberations secret the presence of an unknown outsider was of great concern. This occurrence highlighted the fact that the Grand Jury needs a permanent, adequate, and secure meeting place as well as a small office space.

Grand Jury records are kept in a locked file cabinet in a locked office at the County Jail. While this is an improvement on the Grand Jury's prior arrangement, the "locked cabinet" would deter only the most incompetent lock-picker and cannot be considered secure. Most Grand Juries in California are provided with, at least, office space. The San Benito County Grand Jury has none. All reports that are generated by the Grand Jury are created on Grand Jurors' private equipment.

Although provided by law, most Grand Jurors do not ask for compensation for paper, ink-cartridges, and other supplies used in the Grand Jury's behalf.

Most of California's County Grand Jury members receive more than the minimum compensation of \$10.00 for attendance at each Grand Jury meeting. Many, as well, receive compensation for additional twice-monthly committee meetings. Grand Jurors' devote many more than four hours per month to their duties and do not expect compensation for this time. It is time that San Benito County increased its twice-monthly Grand Jury meeting compensation to \$15.00 per month.

RECOMMENDATIONS

1. The Grand Jury recommends that an adequate and secure permanent meeting place be allocated to the Grand Jury for its meetings as well as an office space which can be secured and is large enough to accommodate a desk, telephone, file cabinets and bookshelves.
2. The Grand Jury recommends that beginning with the 2000-2001 Grand Jury, the compensation for Grand Jurors twice monthly meetings be change to \$15.00 per meeting.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Superior Court

RESPONSE REQUIRED

California Penal Code, §933, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Dear Judge Tobias:

As required by statute, on behalf of the 1999 - 2000 San Benito County Civil Grand Jury, it is our duty and pleasure to present to you our Final Report. This report is the culmination of our year's work and we, the Grand Jurors are proud to have had the opportunity to serve the county and our fellow citizens.

Having served on the previous Grand Jury, we were not surprised to discover the wealth of talent and expertise that our fellow Grand Jurors brought to the 1999-2000 Grand Jury. Nonetheless, it was exciting to witness the seriousness with which nineteen individuals of disparate experience, background and opinion, came together to research, investigate, deliberate, form a consensus, and report on the state of the various county agencies and respond to citizen complaints.

Frequently, we found that suggestions made in the course of an investigation were implemented by an agency. It was gratifying to find that the Grand Jury's investigations were producing effects even before the issuance of its Final Report.

In many ways, the cities and the county resemble large corporations, subject to the same strengths and foibles. Over time, it can become easy to lose perspective and a sense of obligation to one's employers, whether they are stockholders or taxpayers. This is particularly so when the employer is the collective citizenry of the cities and the county. In the process of complying with its mandate to investigate and report on the needs of the county officers and departments, the Grand Jury acts as a reminder to them of their need to perform duties with respect, as well as diligence. It also offers the Grand Jury an opportunity to observe and report that most, if not all, county and city employees, department heads, and elected officials are honest, efficient and conscientious. They often perform excellent work under difficult circumstances, with limited budgets, and they deserve our respect. We thank those whom we came into contact with this year for their candor and assistance.

One of our proud accomplishments this year is the initiation of the Grand Jury's own web page, www.sanbenitocountygrandjury.org. An edited version of the 1998 - 1999 Final Report is posted on the site thanks to Grand Juror Andy Rollins, who painstakingly scanned last year's report, page by page, onto a disk for us. This year's report will be posted after its release, as well as Grand Jury Applications and Citizen's Complaint Forms. We owe thanks as well to Hollister Internet for its assistance in creating the website and for its ongoing support.

We acknowledge the valued assistance of our advisors, the presiding justices, county counsel and Attorney Frank Ubhaus of Berliner Cohen who advised us when a conflict of interest arose with the District Attorney's Office.

We thank you for the opportunity to serve with the 1999 - 2000 Grand Jury.

Respectfully submitted,

Dian Wood Picone and Robert Graves,

Co-Foremen of the 1999-2000 San Benito County Grand Jury

City and County Committee

CHARTER

The City and County Committee is responsible to investigate matters pertaining to the various city and county governments, special districts and joint-powers agencies.

Committee Members

Robert P. Graves, Chairperson
Ken Capulli
John A. Delgado
Royce McFadden
Leonard J. Poletti

BACKGROUND

Authority for investigation of San Benito County and the Cities of San Juan Bautista and Hollister is given by §914.1 of the Penal Code which says, in part that the Grand Jury should "ascertain by a careful and diligent investigation whether such provisions (city and county matters of civil concern) have been complied with, and to note the result of such investigation in its report."

METHOD OF REVIEW

1. Statement of Investment Policy for the County of San Benito
2. Review of the Auditor-Controller's Office
3. Departmental Deposit of Funds with the Treasurer
4. Review County Planning Department and Road Department
5. Review City of Hollister Planning and Building Department
6. Review County Personnel System
7. Review of the County Integrated Waste Management Department
8. Review City of Hollister Building Inspection Department
9. Review of Bartig, Basler & Ray Audit of County Public Works Department
10. Review City of Hollister Public Works Department

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The 1998-1999 Grand Jury, in its report to the San Benito County Board of Supervisors, recommended that an independent auditor conduct a full financial audit of the county's finances. The Board of Supervisors engaged the firm of Bartig, Basler & Ray to perform the audit. The Grand Jury finds that the audit was not, as recommended, an in-depth and detailed examination of the financial condition of the county. The need for a full financial audit of the county's financial condition remains.

The Grand Jury recommended to the Board of Supervisors a process for tracing fee-funds as early as December 31, 1998, after its review of procedures at the Auditor-Controller's Office. The Grand Jury finds that, to date, the recommended process has not been implemented.

In tracing fee-funds from the County Planning Department to deposit with the County Treasurer, the Grand Jury determined that there was a lapse of up to three days before checks received for fees were deposited with the Treasurer. It appears that the laxness in depositing fees is attributable to an absence of procedures regarding the expeditious handling of these funds. The Grand Jury finds that the paper receipt in use by the County Planning Department, as well as every county department, should be under the control of the Auditor-Controller's Office. Both the paper receipt and the fee check should reflect information which enables the Auditor-Controller's Office to account for every fee-fund deposit that is made into the Treasury and allows the Treasury to trace each deposit back to its source. The sequential numbering machine, presently in the Treasurer's Office, should be returned to the Auditor-Controller's Office so that the identification, and tracing, of fee-fund deposits to the department of origin can be maintained.

The County is required to publish its approved budget and make it available not later than October 1st of each year. Although the Board of Supervisors approved the county's budget in August, as of late November 1999, the Auditor-Controller had not made the budget available to the public.

The Grand Jury observed that the Finance Officer position of the Auditor-Controller's Office has remained vacant for nearly two years. Rather than fill the vacant position, the Auditor-Controller has used the funds budgeted for this position to hire lesser-qualified temporary staff. The Grand Jury finds that there is a need for the expertise that would be provided by a Finance Officer. The Grand Jury finds that there is a need for additional basic level accounting/clerical staff in the Auditor-Controller's Office as is substantiated by the recommendations contained in the Bartig, Basler and Ray report.

The Grand Jury reviewed San Benito County's personnel practices and policies, specifically hiring practices, intradepartmental transfers, and promotions. The present system has been in place for many years. A final candidate for county employment is chosen from a field of the top ten (10) applicants. The choice from this field is not based on the applicant's superior qualifications, but on the head of department's subjective decision. The wide field from which the finalist is chosen makes it possible that the least qualified candidate could be chosen to fill a position. The Grand Jury finds that the "Rule of Five," used in most Merit Systems, reduces the likelihood of less qualified persons being hired. Further, only applicants in the top ten are notified of their failure to be appointed to the position for which they applied.

Applicants for county positions may include county employees wishing to transfer from one department to a like-position in another department. The ability to transfer from one position to another within the county frequently results in the depletion of knowledgeable employees within a particular department. The Grand Jury finds that Auditor-Controller's Office has been hard hit as a result of this practice. In order to maintain continuity and the smooth operation of a complex and vital department of county government such as the Auditor-Controller's Office, experienced

employees are essential. As county employees may exercise their freedom of choice in work location, incentives to remain within a department should be explored. Proper staffing and workload, as well as an increase in pay specifically apportioned for seniority may alleviate staffing problems experienced by the departments.

The Grand Jury observed that the new Director of the Integrated Waste Management Department solved a long-standing "fee collection" problem, identifying over \$115,000.00 in uncollected fees and recovering over \$85,000.00 to date. She discovered an un-deposited fee check for \$300,000.00, which had languished for several months in a drawer rather than accrue a significant amount of interest on deposit. While the Director has made improvements to the Department, it is a "one-person" department at the present time and a qualified full-time assistant is needed to bring the Department to an acceptable level of operation.

The City of Hollister has made great strides in solving the problems identified in the 1998-1999 Grand Jury Report, particularly those of the Building Department and its Building Inspectors.

The Director of Hollister Public Works made useful recommendations to the Grand Jury for maintenance of the City's streets, as well as describing a plan for facilitating efficient traffic patterns throughout the City. A comprehensive study of traffic flow on Fourth Street through the intersection of East Street is essential. The back up that occurs during times of heavy traffic causes serious delay and congestion on the thoroughfare. The Public Works Director explained how the flow of traffic could be improved and the Grand Jury found that his ideas had merit.

As did the 1998-1999 Grand Jury, this Grand Jury observes that a central purchasing agent for the City of Hollister and the County of San Benito could obtain substantial savings in the purchase of office supplies and equipment. At the present time, each department makes its own purchases without the benefit of quantity pricing. As has been noted in prior Grand Jury Reports, savings could be achieved by negotiating with suppliers for quantity purchases as is done in private industry.

Departmental heads of various county agencies have made repeated requests for a County Grant Writer to assist them in obtaining grant funds. This Grand Jury joins its predecessor, the 1998-1999 Grand Jury, in recommending that the county hire or identify a Grant Writer to serve the County and to assist in capturing moneys otherwise not available to it. The Board of Supervisors has repeatedly claimed that individual department heads should write their own grants. Yet department heads, with few exceptions, have informed the Grand Jury that grant writing is a specialized skill that they do not possess. The Grand Jury has heard of only two heads of departments who have the ability to write their own grants, as well as having the knowledge and background to know where to pursue such grants. Salaries for grant writers are more often than not included in the grants themselves and an experienced grant writer should be able to minimize his/her expense to the cities and the county. The Grand Jury has information that many other counties and cities do hire a grant writer to assist the various departments in obtaining grant moneys from the state and federal government. This year the State of California has substantial unexpected and unallocated revenue, money that may go to counties having the know-how to write grants accessing these funds. San Benito County likely will not be one of them.

After interviewing various selected public officials and reviewing departmental procedures, the Grand Jury found that the county departments on the whole were operating satisfactorily.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Board of Supervisors orders that a full financial audit of the county's financial condition be performed by an independent auditor.
2. The Board of Supervisors order an in-depth management audit of the Auditor-Controller's Office, as well as a periodic management audit of all county departments on a rotating basis to assure that the departments are being managed in an up-to-date, professional and efficient manner. The Grand Jury recommends that the Board of Supervisors consult with the 2000-2001 Grand Jury in its selection of the Auditor.
3. The sequential numbering machine located in the Tax Collector's Office be transferred to the Auditor-Controller's Office and that a departmental procedure be instituted requiring that each department record on the back of each check the date of receipt, identification of the department and clerk-recipient, as well as the date of deposit by the Treasurer. This procedure would provide accountability and ensure expeditious handling of county funds.
4. The Auditor-Controller's Office meet statutory requirements and timely publish the budget and make it available to the public.
5. The Finance Officer position in the Auditor-Controller's Office be filled immediately and that the Board of Supervisors grants to the Auditor-Controller's Office one additional basic accounting/clerical staff position.

If the Auditor-Controller can justify to the Board of Supervisors that the Office does not require the services of a Financial Officer, that he request that the Financial Officer position be eliminated and replaced by additional accounting/clerical staff positions.

6. The Board of Supervisors changes the county's practice of allowing the head of a department to hire from the top ten qualified applicants for each job and limit the choice to the top five qualified applicants. Departments should, as a matter of courtesy, notify in writing all applicants not chosen for employment.
7. The Board of Supervisors investigates incentives designed to encourage retention of experienced personnel within the departments.
8. The Board of Supervisors hires a qualified full-time assistant for the Director of the Integrated Waste Management Department in order to bring the Department to an acceptable level of operation.

9. The City of Hollister orders a comprehensive study of traffic flow on Fourth Street through the intersection of East Street as a basis for resolution of traffic problems and congestion in the area.
10. The County of San Benito and the City of Hollister hire or identify a purchasing agent to obtain bids and negotiate contracts for supplies and equipment.
11. The Board of Supervisors hires a grant writer to assist the various county departments in obtaining grants.
12. Because of time constraints, the Grand Jury's periodic review of the City of San Juan Bautista could not be completed. The Grand Jury recommends that its review of San Juan Bautista be completed by the 2000-2001 Grand Jury.

AFFECTED AGENCIES:

San Benito County Board of Supervisors
San Benito County Chief Administrative Officer
Hollister City Council
Hollister City Manager

RESPONSE REQUIRED

California Penal Code, §933, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Education Committee Part 1

CHARTER

The Education Committee is responsible for investigating complaints and other issues relating to Education, to the school districts and operations of individual schools.

Committee Members

Lori Landry, Chairperson
Chuck Dav'e
Teresa Garcia
Jerald G. McGrath

I. EMERGENCY CREDENTIAL TEACHERS

BACKGROUND

The Grand Jury received information that an individual affiliated with National Hispanic University was showing favoritism to individuals who were employed by the Hollister School District as teachers under the emergency credential policy. The allegation was that some individuals were receiving credits towards their credentials without having to complete and/or pass required course work.

METHOD OF REVIEW

Interviews

Documents

1. Roster of Emergency Credential Teachers

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury interviewed Hollister School Department personnel who stated that there was no truth to the allegation that certain individuals were given credit toward their teaching credentials without having to perform the course work and examinations. The Grand Jury was provided documents to review and the process by which emergency credentials were issued and the method for obtaining a permanent teaching credential was described.

The Grand Jury interviewed a Hollister teacher currently holding an emergency teaching credential. The teacher told the Grand Jury that an emergency credential is valid for four years and may not be renewed in the year following the four year period unless the holder has earned thirty required education course credits per year from an accredited college or university. By the end of the fourth year the individual must take the MSTAT (Multiple Subject Teacher's Assessment Test), and pass with a score of seventy or higher. Failure to complete the course requirements and to pass the MSTAT within the four-year period results in loss of eligibility to teach under the emergency credential program and the individual is no longer allowed to teach. Passing the MSTAT exam is a prerequisite for a permanent teaching position in a California public school.

The Grand Jury was advised that teachers with emergency credentials are compensated at a lower rate than teachers with full credentials and they are not eligible to participate in certain other benefit programs.

The Grand Jury learned that the State of California Office of Education and the college and universities offering teaching credential courses had in place a system of checks and balances offering little, if any, opportunity to "cheat" within the program.

The Grand Jury finds that the emergency credential program in the Hollister School District is satisfactory. Due to the strict requirements imposed by the State Department of Education and the financial burden of the required courses, only individuals truly interested in teaching as a career would undertake the very hard work of obtaining a permanent teaching credential. The requirement of taking and passing the MSTAT examination before receiving a permanent

teaching credential makes "cheating the system" by teachers and their college instructors highly unlikely.

The Grand Jury found that that the Hollister School District did not keep a record of the credential status of candidates employed as emergency credential teachers. An audit of the last three years showed teachers moving in and out of the program without accurate notation as to their credential status. For this reason, the Grand Jury could not determine if individuals completed the program, voluntarily left the school district for employment in other school districts, or left teaching as a profession. The State provides each teacher holding an emergency credential with a record of the credits accrued toward a permanent credential. The teacher is required to hold this record, and update the school department. The School district should keep a copy of the teacher's record and a notation of the teacher's credential and teaching status.

RECOMMENDATIONS

The Grand Jury recommends that the Hollister School District keep an accurate record of the credential status of those participating in the emergency credential program.

AFFECTED AGENCY

The Hollister School District

RESPONSE REQUIRED

California Penal Code, §933, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Education Committee Part 2

II. SAN BENITO HIGH SCHOOL CAMPUS SECURITY

BACKGROUND

The Grand Jury followed-up on the recommendation of the 1998-1999 Grand Jury regarding security at the High School.

METHOD OF REVIEW

Tour of San Benito High School

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury toured the San Benito High School and observed the following:

The school grounds have been outfitted with a closed circuit monitoring system. Additionally, when a disturbance occurs or if the Administration feels it necessary, portable video cameras are used by the staff to record the event/incident. The school has a written procedure to be followed for any emergency, including in-house disturbances or intruders on campus. A phone system is in place and extends to all classrooms to ensure immediate help for teachers in an emergency situation.

During the breaks and between classes, the staff supervises student behavior. They are responsible for monitoring the safety of the students and the cleanliness of the school. Twenty (20) to twenty-six (26) supervisors are on duty at any given time. Campus supervisors are equipped with radios. The Grand Jury observed that the high school staff is monitoring school safety.

The Hollister Police Department received a grant this year that provides funding for a police officer on campus. It is the goal of the grant program to expand drug education, deter drug activity, and create a better relationship between students and law enforcement. The program appears to be an effective means of fighting drug problems at the high school.

The Grand Jury notes that San Benito High School is over-crowded, a well-known condition that affects school safety. However, the security system and the supporting policies and procedures are adequate for the present time.

AFFECTED AGENCIES

Superintendent of San Benito High School

NO RESPONSE REQUIRED

Education Committee Part 3

III. UNFAIR DISCIPLINE AT SAN BENITO HIGH SCHOOL

BACKGROUND

The Grand Jury received information suggesting there was selective enforcement of discipline at the high school.

METHOD OF REVIEW

Interviews

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury was informed of various problems facing the high school today, including gang-related issues. The school has a "Zero Tolerance" policy (drugs, weapons and violence) and makes every effort to enforce it. At the beginning of each year the Student-Parent Handbook is mailed to the home of every enrolled student. Upon examination, the Grand Jury concluded that the book is complete and comprehensive, that it includes a current year calendar of events, a letter from the Principal, a list of expectations, Education Guidelines, attendance requirements, including a detailed list of the types of absences that will not be excused. It contains as well, a detailed description of discipline policy, information about student activities and athletics, the California Education Code, relevant Penal Codes and the "Zero Tolerance" policy. After review of the Student-Parent Handbook, the Grand Jury concluded that the high school had accomplished its purpose of informing students and parents about their rights and responsibilities.

When a parent formally objects to discipline imposed on a student, the Grand Jury learned there is a lengthy process and specific procedures that must be followed. These could lead up to a review before the San Benito High School District Board.

The Grand Jury revisited the high school to inquire about allegations that when students were disciplined, a staff member would verbally abuse and harass the students, so as to cause them to act out, and thus, receive a more intense form of discipline. Staff was not aware of any such accusation or situation, but said the allegations would be investigated and, if true, action would be taken. At present, the school has no policy requiring written responses to a complaining parent in the event that allegation of harassment or imposition of unfair discipline is found to be true. The Grand Jury was informed that San Benito High School is working hard to maintain an atmosphere of respect between students and staff.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The 2000 - 2001 Grand Jury continues monitoring this matter.
2. That when a parent requests review of a disciplinary action imposed on their child by a Staff member, or complains that a punishment is not warranted and is being imposed unfairly, the response by the high school to the parent is in writing. A copy of the letter of response to the parent should be included in the student's file as well as the Staff member's file.

AFFECTED AGENCIES

San Benito High School District

RESPONSE REQUIRED

California Penal Code, §933, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Law and Justice Committee Part 1

CHARTER

The Law and Justice Committee is responsible to investigate all branches of county government to be assured that they are being administered efficiently, honestly, in the best interest of its citizens and to report on the operations, books, records and accounts of all county offices.

Committee Members

Royce McFadden, Chairperson
Chuck Dav'e
Teresa Garcia
Suzanne Gere
Reb Monaco
Carolyn Rivers
Lori Landry

BACKGROUND

The Grand Jury made its statutory annual inspection of the San Benito County Jail and Juvenile Hall. Pursuant to the previous Grand Jury's recommendation, it visited the Sheriff's Evidence Room. Three complaints, filed with the Grand Jury by citizens of the county, were referred for investigation.

METHOD OF REVIEW

Interviews

Inspections:

San Benito County Jail

San Benito County Juvenile Hall

San Benito County Sheriffs Office Evidence Room

I. SAN BENITO COUNTY JAIL

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The eight-year-old San Benito County Jail is scrupulously clean and neat; not surprising as there is a strictly enforced zero tolerance policy for graffiti, garbage, drugs and fighting. The jail is composed of several wings (pods), which are centered on an observation room (Central Control). From Central Control, the on-duty officer may observe all wings at one time. Any areas not easily observed by the Central Control officer are monitored by video camera and may be seen via a closed circuit TV system. Security appears to be strictly enforced and has been enhanced by the new prisoner classification process. Each prisoner, before being placed in a pod, is interviewed by a specially trained officer and evaluated by several factors. The prisoner

is then placed in a pod suited to his characteristics. This process, it was stated, has eliminated much inmate fighting.

The jail has its own physician's assistant who may examine inmates and distribute prescription medications and/or over-the-counter drugs as required. A local dentist provides limited dental assistance in the form of emergency tooth extraction. He has an office that is specially equipped for inmates.

The Grand Jury finds that the Jail is approaching capacity. There are currently beds for 126 inmates. However, if the number of inmates exceeds 100 for more than one year, California Penal Code §4023 mandates a full time physician must be onsite 24 hours per day. The added expense of an onsite physician, estimated at \$250,000 to \$300,000 per year, would severely strain the county budget. The Grand Jury was informed that last year the average daily inmate population was 102, which exceeded the maximum amount allowed by law. The County of San Benito must adhere to the requirements of the California Board of Corrections and the Penal Code or face additional liability. At the current rate of population growth, the Jail will be inadequate within the decade.

The Grand Jury learned that the Jail is minimally staffed and additional correctional officers are needed. The total compliment of staff includes 1 lieutenant, 4 sergeants, 16 officers and 6 support staff. There is not enough staff to maintain more than 3 persons per shift. Staffing does not comply with minimum jail standards as set by the California Board of Corrections. Frequently, early release of prisoners and transfer of inmates to work alternative programs is necessitated by lack of staff to operate the jail, not lack of space. Additionally, stress illness and injury due to excess overtime causes the department to exceed the allotted payroll budget and to lose officers.

Many of the inmates need psychological evaluation and/or require prescription medicines. Currently, these inmates must be transported by a correctional officer to the Mental Health Department. This takes a duty officer away from scheduled work and makes manpower resources even more limited. Instead of transporting inmates to the Mental Health Department, having psychologists, psychiatrists, or other mental health practitioners go to the Jail would help alleviate Jail staffing problems. Additionally, Jail security is compromised when inmates are transported to the Mental Health Department. San Benito County faces additional and unnecessary liability for the safety of the prisoners, the correctional officers and the staff at

Mental Health by transporting prisoners back and forth instead of having a doctor or psychologist attend them at the facility.

The failure to provide additional staff at the Jail increases the probability of injuries to staff and prisoners, thus increasing the county's liability. The population of the county is growing quickly and the Grand Jury estimates that the jail will not be adequate within ten (10) years. The Board of Supervisors should make provision for the hiring of additional staff.

RECOMMENDATIONS

The Grand Jury recommends that:

1. When vacancies occur in allotted positions for correction officers, they be filled immediately.
2. Arrangements be made for psychologists, psychiatrists, or other mental health practitioners from the Department of Mental Health to interview and examine inmates on the Jail premises and, that unless hospitalization is required, the transportation of inmates outside the facility for mental health treatment be terminated.
3. The inevitable expansion of the jail be planned and budgeted for as soon as possible.

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report and its recommendations must be delivered to the presiding judge of the Superior Court within 90 days of receipt of this report.

Law and Justice Committee Part 2

II. SAN BENITO COUNTY CHILD PROTECTIVE SERVICES

BACKGROUND

The Grand Jury reviewed San Benito County Health and Human Services Agency, Child Protective Services.

METHOD OF REVIEW

Interviews

Documents:

Child Protective Services Handbook
Welfare and Institutions Code Book
Child Protective Services Policies and Procedures Manual

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury reviewed San Benito County Child Protective Services Agency (CPS) and interviewed most staff. At the time of the review, CPS is inadequately staffed as was evidenced by its high overtime costs. In some instances, it appeared that new and inexperienced workers were being placed in positions requiring a significant level of skill and expertise. Improved training and increased training are essential and would not only increase the level of service provided but also reduce the risk of potential lawsuits and lower overtime expense.

During the Grand Jury's interviews with CPS staff, concern was expressed about becoming personally liable in the event that a child in care was injured or harmed on their watch. The Grand Jury was told that CPS failed to enforce State and/or Federal rules. For example, at times CPS places children taken into custody by law enforcement with relatives, instead of a foster care facility. Before that can be done, the relative is required to undergo a criminal background check to ensure that he/she does not have a record of offenses that might place a child at risk of harm. Placement with the relative cannot take place until the background check is satisfactorily completed. In some instances, when a background check could not immediately be done, the child was placed with the relative anyway, instead of at a shelter. It was reported to the Grand Jury that this was done with the knowledge of supervisory staff and those even higher in the Agency hierarchy. This kind of illegal placement created liability risks for the county.

There was also fear that personal liability would attach to the individual workers if services were provided in contradiction to the Agency's (CPS) specified procedures and in violation of State regulations. This belief has been stated as a cause for leaving CPS.

Understaffing can be attributed, in part, to the high turnover ratio. The high turnover is due, not only to a lower pay rate than that of surrounding counties, but also to "burnout" from the stress associated with the job. Social Workers complained of having to perform too many tasks. This extra work took them away from normal duties and they felt too thinly spread. In larger counties, Social Workers tend to specialize in particular areas of social work. In San Benito County, because of its small size, Social Workers are at times working in areas where they do not possess (or desire to learn) specialized skills.

Many Social Workers stated that there was a tendency to overburden the more efficient, while the less efficient Social Workers got away with less effort. They felt that they were taken advantage of because they were conscientious. There was a belief that the uncomplaining and more efficient Social Workers were putting in a tremendous amount of time and energy with very little to show for their effort.

The Grand Jury found that there is a lack of accountability in CPS. There were complaints that Social Workers either did not know the required procedures or ignored them without

consequence. There were reports of a Social Worker being disciplined by a supervisor and having the discipline rescinded by someone higher up. The disciplined worker, it was reported, ignored the chain of command and went to a "higher-up" in the agency for relief and got it. A relaxed management style and a long-standing "open-door" policy in the Agency appeared to undermine supervision. It appears that there was no chain of command and this resulted in no one being accountable for his or her actions. Further, county counsel should have reviewed any disciplinary action before being instituted.

New employees are given a Child Protective Services Handbook and a Welfare and Institutions Codebook. A CPS Policy and Procedures manual is made available, but not issued to each individual employee. There is no procedure in place to determine if employees have read and familiarized themselves with the content of the handbook, codebook and manual.

There is a lack of appropriate "in-house" training. More experienced staff members normally mentor new employees, but there are no formal "field training" programs. A formal program would make both trainers and trainees accountable for their acts or for their failure to act. The Grand Jury was informed that: 1) although there are regularly scheduled staff meetings, many times staff leaves these meetings with unanswered questions, 2) frequently, there is no formal agenda available to staff members prior to the meetings to alert them to topics for discussion, 3) Staff members are not given copies of instructional material, but instead, a copy is passed around to be read and initialed, 4) State mandated forms are not always properly completed. For example, the required "cross reporting" forms sometimes are not sent to law enforcement agencies.

There were reports of the unavailability of cell phones that are needed when a Social Worker is out in the field and requires assistance. There were reports that the vehicles used by the social workers are not always dependable.

The Grand Jury repeatedly heard complaints that the mandated "10 day response" procedure on cases requiring investigation was not always followed. The problem arises from the necessity to enter the cases in a computer system, which is mandated by the State. The time needed to enter all the required information can sometimes take up to four days to accomplish, leaving the caseworker only six days to complete the investigation and file a petition with the court. It appears to be a case where the State regulations require that more time be spent filling out forms or entering information into a database. However, the Social Workers merely have the additional work piled onto an already full workweek. There is a need either to provide support staff to take over the clerical work or to set aside a part of the workweek for office time.

The Grand Jury received reports of cases being "evaluated out" (means "no investigation is required") which should have been investigated. Further, it was reported that new employees were assigned to take initial contact calls without adequate training. They were supplied with a list of generic questions to ask callers, but were not trained to ask specific questions designed to elicit information needed to make a proper referral. The Grand Jury was told that there were instances of employees classifying all calls received as "10 day response" calls because they didn't know what else to do. The Grand Jury was also told that in a number of instances, cases that should have been investigated were not.

In the past, CPS has been able to provide services to a familiar population in an informal manner. Population growth placed a heavy burden on the Agency's resources at a time when government mandates both changed and increased the workload. Additionally, CPS appeared to have suffered a kind of culture shock when new people with different training came into the Agency. The Grand Jury was told that the longer-term workers resisted the imposition of new procedures and a more professional attitude. Management's inability to mediate between these two groups, both having something valuable to offer the Agency, resulted in a breakdown. A talented group of people left CPS. It appears to the Grand Jury, that management learned a hard lesson in the past year and is trying, and in many ways succeeding, in making necessary changes.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Agency attempt to fill promptly all vacant positions in the Child Protective Services Division of the Health and Human Services Agency and request additional positions as needed.
2. The Director of the Health and Human Services Agency appoint a Child and Adult Protective Services Director experienced in social work and in administration.
3. The Board of Supervisors requests a management audit of the Agency by the State.
4. All employees (present and future) be given a copy of the CPS Policy and Procedures manual. In addition, a form be developed wherein each employee signs that they have read and understood the policies and procedures.
5. CPS revises its "in house" training program, in order to ensure that all new staff are adequately trained and institute a formal program of continuing education.
6. CPS formulates a policy to assign the caseload in an equitable manner.
7. CPS institutes and adheres to a "chain of command."
8. CPS looks into the feasibility of equipping the vehicles used by Social Workers with county radios and explore the possibility of obtaining a grant to fund the installation.
9. CPS purchase additional cell phones, and assign them to individual Social Workers for security when in the field.
10. CPS review the possibility of changing to a "4-10" (four day week, ten hours per day) plan to help alleviate overtime and give stressed workers an additional day to recuperate.
11. The 2000 - 2001 Grand Jury continues to monitor the progress at CPS.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Health and Human Services Agency

RESPONSES REQUIRED

California Penal Code, §923, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Law and Justice Committee
Part 3

III. SHERIFF'S DEPARTMENT BUDGET

BACKGROUND

The Grand Jury reviewed the Sheriff's Department's approved budget and alleged overages.

METHOD OF REVIEW

Interviews

San Benito County Board of Supervisors
San Benito County Sheriff 's Department
Documents

San Benito County Approved Budget 1999 - 2000

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

In December 1999, shortly after the final budget was released, budget to actual expenditures were reviewed by the Grand Jury. The Sheriff's Department budget, overtime at the Department, and a proposed vehicle lease program scrutinized. The Sheriff has stated that the overtime budgeted for 1999-2000 was less than half of the actual overtime spent for the past few years.

The Sheriff explained to the Grand Jury that due to being understaffed, overtime "backfill" occurred regularly. "Backfill" occurs when a deputy is called to work after his or her required hours have been satisfied. If required because of manpower shortages, a deputy who has worked his hours may be called back to work. The deputy may need to fill in for another deputy who is out on sick leave or to perform other than patrol duties. For example, court room security, transporting prisoners, securing a crime scene and performing criminal investigations. It does not appear that "backfill" will go away or be alleviated until the department is appropriately staffed.

The Board of Supervisors and the Sheriff are unable to agree on the appropriate number of sworn officers (Deputy Sheriffs) required to adequately serve and protect San Benito County. The

Sheriff does have positions that are approved and not filled. The Grand Jury was informed that it has been difficult to recruit qualified individuals to work in a department that can only pay a beginner's wage. Historically, law enforcement in San Benito County has been unable to pay competitive wages. Even though San Benito County's cost of living is competitive with Monterey, Santa Cruz, and Santa Clara counties, wages paid are not commensurate with San Benito County. SCB continues to be compared with the rural counties of California. Due to the proximity of high paying jobs in Silicon Valley and the influx of individuals who have moved here but work there, the cities within San Benito County can no longer be thought of and operated as "rural."

These facts contribute to the Department's inability to hire and/or keep personnel. This adds to the problem of identifying likely candidates for vacant positions. Because there is insufficient personnel, at times the Sheriff will need to fill-in with overtime. The amount of overtime is difficult to predict and, therefore, difficult to budget. The Board of Supervisors should expect that there will be times when it will be called upon to provide additional funds for the Sheriff's Department overtime.

The Board members have repeatedly stated that the Sheriff did not advise them of the need for an increased budget for 1999-2000. The Grand Jury listened to an audiotape of the Budget Hearing of August 9, 1999. The tape clearly revealed the Sheriff speaking at length about the need to increase staff in order to soften overtime expenditures.

At that hearing, the Sheriff requested permission to utilize Ford Motor Company's municipal lease program in order to replace worn out and potentially dangerous patrol vehicles. One member of the Board aggressively opposed the municipal lease program because he did not believe the program's one dollar (\$1.00) buy out. He stated that no one gave away anything for free or for a dollar. He further suggested that the Sheriff reread the fine print.

The Grand Jury contacted a leasing agent who spoke at length about the Ford Motor Company Municipal Lease Program. The agent stated the program is popular in communities and that almost every municipality in the country is using Ford's lease program. With it, the municipalities can put more cars into service for less money than when they are purchased from dealers. Ford benefits from the volume sales generated by the program and many municipalities benefit from a decrease in the expense of its patrol cars. The Board of Supervisors, however, appears to be concerned that participation in the Ford leasing plan requires that the county commit to significant yearly expenditures (approximately \$54,000 per year for three years for seven new vehicles now) for so long as the lease agreement is in force

The Grand Jury followed the Sheriff's budget closely during the 1st and 2nd quarters and other than overtime and excessive vehicle maintenance costs on worn-out vehicles, the Department's budget is running along appropriate percentages. In addition, it should be noted that the Workers' Compensation line item was increased by over 330% in 1999-2000. Rather than be amortized over 12 months, the entire premium was charged against the budget at the beginning of the fiscal year which gave the appearance of cost over runs early in the budget cycle.

The 1999-2000 budget proposed by the Sheriff's Department was \$2.3M. The amount approved by the Board of was \$1.9M. This is the amount recommended by the Chief Administrative Officer. However, projected spending by the Sheriff's Department for 1999-2000 is \$2.3M. In response to inquiries by the Board of Supervisors as to whether the \$2.3M budget he presented clearly reflected what he thought the department would need, the Sheriff told the Board of Supervisors that it was. He added that he had prepared the budget for several years when he was Undersheriff and was confident about what the department would need to operate for fiscal 1999-2000.

It is the observation of the Grand Jury that the Sheriff is aware of, and concerned about, the need to maintain a fiscally responsible budget. However, it is his position that his job requires him to look to the future and be proactive in protecting the citizens of San Benito County

The Sheriff told the Grand Jury that he has made attempts to re-align and re-project various line items from the aggregate budget. The Board of Supervisors' less than cooperative attitude to these changes has been widely publicized.

Members of the Board of Supervisors stated to the Grand Jury that they are concerned about the financial requirements of running the Sheriff's Department. Other issues between the Sheriff and the Board of Supervisors appear to be impacting the stance each is taking.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Board of Supervisors investigates the Ford Motor Company's leasing Programs as a solution to the Sheriff's worn-out fleet, maintenance and repair problems.
2. That the Sheriff's Department reviews its overtime policy.
3. That the Sheriff's Department investigates different accounting procedures, which may free up funds for overtime expenditure.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Sheriff's Department

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Law and Justice Committee

Part 4

IV. JUVENILE HALL

BACKGROUND

The 1999-2000 Law and Justice Committee made their statutory annual inspection of the San Benito County Juvenile Hall.

METHOD OF REVIEW

The Law and Justice Committee conducted an on-site inspection of the San Benito County Juvenile Hall.

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

The eight-year-old San Benito County Juvenile Hall facility is a relatively new building that is neat and well maintained. There is a strictly enforced non-tolerance policy for graffiti, garbage, drugs and fighting. A safety check or *shakedown* is done on the personal living quarters of the juveniles every day for weapons or illegal goods. Most of the juveniles being held in the facility are awaiting dispositions and are not serving time. The juveniles must attend in house school classes every weekday, which are conducted by a trained staff member/teacher.

There are always three (3) juvenile institution officers (counselors) present during the daytime who are in charge of the juveniles, and this is reduced to two (2) officers at night. The current daily capacity for the facility is twenty (20) juveniles, and the hall was at capacity a good portion of the year. It was over capacity for fifteen (15) days in all of 1999.

The facility has its own courtroom for ease and privacy of the juveniles and their families. It was noted that there was no metal detector at the entrance of the courtroom nor was there any type of security check for weapons or contraband on the days when proceedings are held. No bailiff is present during the hearings, but a staff member sometimes helps out when possible.

Many of the juveniles have some form of mental health problem. There is no on-site mental health care available except in extreme emergencies. Having a doctor or a psychologist from the San Benito County Mental Health Department come to the facility instead of transporting the juveniles back and forth would help with staffing, security, transportation and liability problems.

Currently there is no collection procedure for the fines and fees that must be paid by some juveniles and their parents. The facility tries to accommodate people who are willing to pay, even if they only pay \$5.00 per month, but the arrearages are significant and the county is losing interest on these funds. The County could easily fund a position to collect these and other outstanding moneys owed, such as to the court and the probation department.

Vacant allotted positions for juvenile institution officers should be filled immediately. This Grand Jury joins prior Grand Juries in putting the Board of Supervisors on notice that immediate expansion of the Juvenile Hall is necessary. It must be planned and implemented as soon as possible. The population of the county is growing quickly and the Grand Jury estimates the facility will not be adequate within 5-7 years.

RECOMMENDATIONS

The Grand Jury recommends:

1. The immediate filling of vacant positions.
2. The installation of a metal detector at the door to the courtroom and the addition of a bailiff for all hearings.
3. That arrangement is made for a psychologist or doctor from the Department of Mental Health to go to the juvenile hall facility to interview and examine inmates onsite.
4. That accounts receivable is scrutinized and a standardized collection program put into place or a collection agency hired to facilitate this process.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Juvenile Hall
San Benito County Probation Department

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Law and Justice Committee Part 5

V. SAN BENITO COUNTY DISTRICT ATTORNEY'S OFFICE - INDEPENDENT CONTRACTORS

BACKGROUND

In the process of investigating a citizen's complaint, the Grand Jury reviewed invoices submitted by a number of individuals who worked for the county on a contract basis. One contractor's invoices, approved for payment by the District Attorney as contract administrator, appeared to

contain various overcharges. The Grand Jury also became concerned about the District Attorney's approval of invoices billed by a contractor for "homicide investigation," clearly the purview of the District Attorney's Office Investigators, as well as the use of his Investigators as transport for the contractor during his work for the District Attorney's Office.

With regard to this matter, the Grand Jury made requests for an interview with the District Attorney. He informed the Grand Jury and the Presiding Judge that he was unable to meet with the Grand Jury due to the loss of personnel at his Office. Because the District Attorney was unable to meet with the Grand Jury, and because of time constraints imposed by publication of this Final Report, the Grand Jury used only those document entries, which were unlikely to be subject to interpretation as the basis for this report.

METHOD OF REVIEW

During the investigation, the Grand Jury selectively reviewed invoices submitted to the county by individuals doing work for the county on a contract basis. These records were not all the records submitted by the contractors. The records reviewed were randomly-selected invoices submitted to, and approved by, the District Attorney's Office as the contract administrator for work done by contractors for the District Attorney's Office as well as work done for court-appointed criminal defense counsel.

OBSERVATIONS AND FINDINGS

1. Most of the contractors, if anything, underestimated the mileage reported and their charges appeared to be reasonable.
2. Unlike the majority of claims, one set of invoices appeared to contain inaccurate mileage figures in that the mileage figures appear inflated and billings for work done in a number of instances appear inflated.
3. The invoices of concern were submitted by one individual (hereafter referred to as "VENDOR.")
4. VENDOR works for both court-appointed defense counsel and for the District Attorney's Office under a written contract, approved by the Board of Supervisors and administered by the District Attorney's Office.
5. VENDOR's office is one-tenth of a mile from the District Attorney's Office.
6. In every invoice reviewed, the VENDOR charged the county for 10 miles when traveling to the District Attorney's Office, a two-tenths of a mile round trip by car.
7. In at least six instances, the VENDOR charged the county 10 miles for traveling from his own office to defense counsel's office, both of which are located within the same building.

8. On one invoice, there was a charge for 44 miles when the actual travel appeared 12.8 miles based on the description of services provided by VENDOR.
9. Each mileage charge which appeared to be inaccurate was inflated to the VENDOR's benefit when the mileage charged in each invoice is compared against an Internet mapping service in accordance with the description of services provided by VENDOR.
10. Although the sums on each invoice are not large and although it appears that the VENDOR was using a rate less than the rate that the IRS would accept, the possible total amount of reimbursement for mileage could be significant given the potential number of invoices submitted by VENDOR over a substantial period of time.
11. The District Attorney's Office as Contract Administrator for services rendered to its office consistently approved the apparently inaccurate claims.
12. In one court-appointed case, the VENDOR charged the county \$45.00 for one hour's work which, according to the work described on the invoice, consisted of a telephone call to a person who was not at home so that the VENDOR made an appointment to speak to this person on another day. It is difficult to understand how this event could have taken 60 minutes.
13. On several claims, the VENDOR also described work that appeared to be work that should have been done by District Attorney's Office Investigators.
 - (a) One invoice contained a seven-hour charge at \$45.00/hour to attend an autopsy conducted in Monterey.
 - The invoice was for "crime scene reconstruction and homicide investigation."
 - The VENDOR's contract with the county specifies that his work is to consist of "crime scene reconstruction and/or accident reconstruction," not "homicide investigation."
 - "Homicide investigation" is within the purview of DA's Investigators.
 - It appears that a District Attorney's Office Investigator and/or a deputy or police officer must have transported the VENDOR and attended the autopsy because the VENDOR should be accompanied at the autopsy by a sworn officer.
 - (b) A second seven-hour charge on the invoice discussed in (a) above was for meeting with a Santa Cruz County forensic anthropologist and subsequent debriefing for the District Attorney.
 - The description of these services is work that is normally done by District Attorney's Office Investigators and such work may be outside the scope of VENDOR's contract with the county.

- (c) Another of VENDOR's invoices for work done for the District Attorney's Office is entitled, "Homicide Investigation."
- The Grand Jury believes that homicide investigations are to be conducted by the District Attorney's Office Investigators, and that such work specifically is not described in the VENDOR's approved contract with the county.
- (d) The invoice discussed in (c) above contains charges for serving a "search warrant."
- The Grand Jury believes that only sworn officers are allowed to serve search warrants and conduct the resulting search,
 - Therefore it can be assumed that a sworn officer accompanied the VENDOR on the service of the warrant and the search.

14. The District Attorney has repeatedly stated that he has hired the VENDOR for his expertise as a "crime scene reconstructionist and motor vehicle accident reconstructionist" and has denied that VENDOR is performing the job as a DA's Investigator.
15. The District Attorney's Office employs two Investigators.
16. District Attorney Investigators are peace officers and should have the qualifications to conduct homicide investigations, perform crime scene reconstruction, and help the prosecution prepare for trial and testify in court.

CONCLUSIONS

1. The apparent mileage discrepancies could be attributed to carelessness, especially those entries reporting travel to outlying areas.
2. It is troubling that more exacting review and correction, if necessary, did not occur.
3. The VENDOR's invoices indicate that VENDOR is performing many of the tasks appropriate to a District Attorney's Office Investigator. VENDOR's invoices describe VENDOR conducting homicide investigations, reporting his findings to the District Attorney to help prepare the prosecution's case, and testimony about VENDOR's homicide investigation at trial.
4. Each time the VENDOR attends an autopsy, serves a search warrant, or conducts a search, a sworn peace officer must accompany him, either from the District Attorney's Office or other law enforcement agency, requiring the county, in effect, to pay two people to do the job one person should be doing. If the District Attorney's Office Investigators, or personnel from other police departments must accompany the VENDOR

to lend an official presence, public employees are being used to transport VENDOR to and from the event.

5. The District Attorney refused to meet with the Grand Jury to offer any explanation about the concerns about VENDOR's invoices and services. Since the Grand Jury does not have the benefit of the District Attorney's opinion, the Grand Jury can only conclude either that the District Attorney's Office Investigators are not up to the task or are not necessary because the volume of work is not sufficiently great. If the VENDOR is the only competent homicide investigator available to the District Attorney's Office, then investigators at the San Benito County District Attorney's Office without the necessary skills and expertise to do this work should have been replaced. If the workload of the office is so light that one Investigator can be spared to escort the VENDOR when he is performing work for the District Attorney's Office, then the Board of Supervisors should eliminate one Investigator's position.
6. It appears to the Grand Jury that the District Attorney has approved invoices submitted to him for work done outside the approved contract by the VENDOR.
7. It also appears that the District Attorney has approved invoices containing both inflated hours and inflated mileage figures, which were submitted to the county by the VENDOR.
8. The Grand Jury concludes that at least one District Attorney's Office Investigator position may be superfluous.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Board of Supervisors audits all invoices submitted to the county by the VENDOR.
2. The Board of Supervisors orders a management audit of the District Attorney's Office and consults with the Grand Jury in the choice of an auditor.
3. The Board of Supervisors investigates whether the District Attorney's Office requires two Investigator positions.
4. The 2000-2001 Grand Jury continues the investigation of this matter.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County District Attorney's Office

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report's recommendations be delivered to the presiding judge of the Superior Court within 90 days of the receipt of the report.

Planning and Growth Committee Part 1

CHARTER

The Planning and Growth Committee investigates issues dealing with growth and development in San Benito County

Committee Members

Jerry Thome, Chairperson
Ken Capulli
Billie Jimenez
Jose Martinez
Reb Monaco
Dian Wood Picone

METHOD OF REVIEW

Documents

- County of San Benito Building permits issued July 1, 1999 through November 30, 1999.
- Treasurer/Tax Collector deposits from July 1, 1999 through November 30, 1999.
- City of Hollister Building permits issued July 1, 1999 through November 30, 1999.

Interviews

I. BUILDING PERMIT FEES

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

The Grand Jury has conducted a study over the past several months dealing with old and new problems the housing boom has brought to San Benito County and the City of Hollister. The Grand Jury began its investigation with the tracking of imposed impact fees, which are added to the permit fees. Permit fees are meant to cover operating expenses of the building department. Both the City and County charge permit fees. Impact fees are charged over and above building permit fees to mitigate the costs for items such as traffic, schools, parks, jails, police, fire and sewer.

The County Building Department was asked to turn over records of permits issued from July 1, 1999 through November 30, 1999, for a controlled comparison of fees collected to fees deposited. The County Treasury Department was also asked for deposit records for that same time period. Deposits were tracked to the County Auditor's Office for county deposits.

The City of Hollister Building Department was asked to turn over permit records from July 1, 1999 through November 30, 1999, and fees were tracked to the Hollister Finance Department for city deposits.

RECOMMENDATIONS

This Grand Jury found no discrepancies between fees collected and fees deposited either for the county or for the city. There were some time delays in county deposits, which may have caused a loss of interest income for the county. It would take an audit to determine if the funds collected by the city or the county are being used for their intended purpose.

The 1999-2000 Grand Jury makes the following recommendations to the San Benito County Board of Supervisors and the Hollister City Council:

1. That a full financial audit of all building permit and impact fees collected by the City of Hollister and the County of San Benito for the past three years be conducted by an independent auditor.
2. That the results of these audits be made public and a report be sent to the 2000-2001 Grand Jury.
3. That upon completion, the City of Hollister and the County of San Benito audits be used to determine whether an adjustment needs to be made to cover increasing costs related to development for city and county services.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Planning Commission
San Benito County Auditor's Office
Hollister City Council
Hollister City Manager
Hollister City Planning Commission

RESPONSE REQUIRED

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Planning and Growth Committee

Part 2

II. AFFORDABLE HOUSING NEEDS

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

With the average price for a home in San Benito County reaching \$300,000, an increased demand for affordable housing is at an all time high. A recent city study puts the median income of Hollister residents at \$50,000. That same study shows that the average yearly income of people who both live and work in San Benito County is just \$30,000. Second and third generation families who were born and raised here cannot afford homes in the current housing market.

Rentals are very high and are hard to find. Both of these factors have contributed to overcrowded housing and illegal non-permitted garage conversions and additions, which can be deadly. The plans for the future of the cities and the county should include development of affordable private housing, and of multi-family rental housing for low to moderate income citizens.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The city and the county encourage and support development of affordable housing.
2. The city and the county support development of multi-family rentals for low to moderate-income people.
3. The City encourages the restoration of older homes which has the effect of rehabilitating the neighborhoods.
4. The City and the County Building Departments receive suitable resources, including sufficient staff and training to ensure proper inspections and enhanced compliance with the Building Code.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Planning Commission
San Benito County Auditor's Office
Hollister City Council
Hollister City Manager
Hollister City Planning Commission

RESPONSE REQUIRED

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Planning and Growth Committee Part 3

III. SEWER TREATMENT SYSTEM

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

The single most important constraint to further development of new residential units in the City of Hollister is the limited capacity of the domestic wastewater treatment plant. It has been operating at near capacity and has been plagued with various problems. Lack of planning by city officials appears to have contributed to the current sewer crisis. All the past excuses of why the city could not take action to resolve the current crisis are neither valid nor acceptable. Other communities have experienced problems similar to Hollister's and have solved them. These communities have information that can be helpful and could save valuable time.

For example, sixteen years ago, the City of Gilroy faced problems comparable to those presently experienced by the City of Hollister. Gilroy, too, had its "back against the wall;" the sewerage system was at capacity, there was a lack of revenue to solve the problem, and a moratorium on building had been instituted.

The Grand Jury visited the City of Gilroy to find out how it solved its sewerage and wastewater problems. The Grand Jury interviewed Norman Allen, Community Development Director for the City of Gilroy and Rick Smelser, City of Gilroy Engineer, at the beginning of the year. At that interview, the Grand Jury asked what steps the City of Gilroy took to resolve its sewer problem. It was informed by Mr. Allen that it took a great deal of planning, time, and money. He also stated that there was no "quick fix" solution, but a complex ongoing process.

The City of Gilroy chose to build a new 7.5 M.G.D. (million gallons per day) treatment plant rather than update its old plant. This provided for future growth. The City of Hollister plant has remained at 2.69 M.G.D. since 1987 and has projected the treatment capacity to be needed through 2010 to be 3.8 M.G.D. Approval, design and construction of Gilroy's treatment plant took approximately 11 years with a total cost of about 75 million dollars, a ratio of about 10 million dollars per 1.0 M.G.D. Gilroy started by hiring a consultant, Montgomery-Watson of Walnut Creek, to help with design and cost estimates.

New ways of funding Gilroy's new treatment plant had to be found. Impact fees for new developments were increased but were not sufficient. Residential rates had to rise and industrial waste rates had to be recalculated. Impact fees and rates were gradually increased over a period

of ten years. This began during the planning and design phase, and well before rate payers and taxpayers had the benefit of the new plant. The increased portion of the fees was earmarked for sewer plant development and construction. That meant less money would have to be borrowed up front and less interest paid back, helping to hold future rates down.

Instead of the usual five (5) and ten (10) year plans; thirty (30), forty (40), and longer-term plans were implemented. The idea that "once something gets into the sewer system, it can't be separated and must be treated," was introduced. This meant that leaks from storm drains into the sewer system were found and plugged. Industrial air conditioning condensation lines were diverted to storm drains rather than the sewer. A citywide program to keep infiltration and contamination of the sewer system down to a minimum was put into place. The City of Gilroy removed its moratorium on building, but continued a very strict building permit allocation on single family residential permits until a long-term working growth and development plan was in place.

The next problem to be resolved was what to do with treated sewer pond water. The City of Gilroy, after losing time and a great deal of money on a high-tech aerated pond system that didn't work, found that when it comes to sewer ponds low-tech solutions are less expensive and more forgiving. They have since gone back to a percolation pond system, as is used in Hollister.

A common problem with treatment (percolation) ponds is the salt content in the pond water that makes it unsuitable for irrigation. There are ways of overcoming this problem. Controlling what gets into the system in the first place is of primary importance. Blending, which is the method of mixing different quality waters to dilute salt content, is used. Additional treatment processes to remove salt from pond water may also be added at the end, but these are the most expensive options. Depending on the amount of salt in our water, one or all of these methods may need to be used. Although salt removal can be very expensive, it must be dealt with.

In Gilroy, during the dry season when water demands may be up, the treated pond water is used for irrigation in areas such as Eagle Ridge Golf and Country Club and grazing lands. The idea is not to make money on the water but merely to dispose of it. By doing this, ponds are completely dry during the summer to allow for pond maintenance. If maintenance is left undone it will destroy the percolation properties of the pond and will leave them useless. Every summer is used to prepare for the next winter.

The information provided by Gilroy building officials does not cover all information that is needed or is available for the construction and operation of a new sewer treatment plant in Hollister. However, the Grand Jury, in the space of a few hours, acquired information, which can be utilized in solving the problems in this area.

San Benito County and the City of Hollister also face groundwater quality and high groundwater table problems, which have a direct impact on the sewer treatment system. The increased use of San Felipe water and the decrease in use of local wells contributes to both City and County problems. Cooperation between city and county agencies is imperative. The problems we face resulting from growth and development, such as groundwater, effect us all and have no regard for city or county boundaries. There is a need to improve the quality of our groundwater and find

a balance between San Felipe water and well water. Perhaps even exporting groundwater to neighboring counties, such as Santa Cruz or Monterey, which needs water for its salt-water intrusion problem. This would control groundwater tables and help pond percolation.

RECOMMENDATIONS

The Grand Jury recommends:

1. That the cities and county cooperate in solving growth and development problems, such as ground water, that affect us all and have no regard for city or county boundaries.
2. That the City of Hollister hires an experienced and successful sewer consulting firm and immediately start funding the project. It appears the City of Hollister does realize the necessary work, effort, and funding needed to build a new treatment plant and implement an ongoing long-term plan.
3. The implementation of a citywide program to control sewer infiltration and contamination.
4. That the City of Hollister reviews and recalculates industrial city wastewater fees and collection.
5. That the City of Hollister improves the quality of treated sewer pond water and investigates its use for irrigation of areas such as golf courses and grazing lands.

AFFECTED AGENCIES

Hollister City Council
Hollister City Manager
Hollister City Planning Commission
Hollister City Public Works Director

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report and its recommendations must be delivered to the presiding judge of the Superior Court within 90 days of receipt of this report.

Planning and Growth Committee Part 4

IV. GROWTH AND DEVELOPMENT

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

The growth and development problems addressed in this report are just the beginning. Other service area problems that need to be addressed are fire protection, school expansion and improvement, as well as roads and highways that cannot accommodate the traffic we have now. City streets, especially those in the older Hollister areas, are literally disintegrating. Highway 25 has become a "blood alley," with Highway 156, Union and Fairview Roads soon to follow. Granted, the City and County have limited ability to effect a change in the State highways. However, the existence of the problems and the impact they have on development is well known. With all the problems that have not yet been addressed, or cannot be resolved, the Grand Jury finds the City of Hollister's granting 1,300 more single-family permits, at the least, irresponsible.

The Grand Jury cannot completely blame our growth problems on all our current city and county officials. They have been a long time in the making. What is done in the next five years and how it is done is critical to the future quality of life for all of us in San Benito County. While the county is required by law to contribute to the State's housing stock, it is not the responsibility of San Benito County to provide housing for all of Silicon Valley or to help large developers get richer at the expense of our community. We can only expect more of the same results if we continue to move forward on short-term plans, hopes, and unrealistic expectations.

RECOMMENDATIONS

1. The Grand Jury recommends that the city implement a strict building allocation on residential single family permits until the problems described in the above report have been addressed and a long-term (i.e. 30 to 40 year) working growth and development plan is approved and in place.

AFFECTED AGENCIES

Hollister City Council
Hollister City Manager
Hollister City Planning Commission

RESPONSE REQUIRED

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Special Projects Committee
Part 1

CHARTER

The Special Project Committee is charged with investigating topics, which fall outside the specific jurisdictions of the other Grand Jury committees.

Committee Members

Kathleen MacWilliamson, Chairperson
John A. Delgado
Billie Jimenez
Jose A. Martinez
Jerald G. McGrath
Andy Rollins

I. SUPERIOR COURT SECURITY

BACKGROUND

The Grand Jury identified a need to investigate the issue of courthouse security.

METHOD OF REVIEW

Interviews

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

Without exception, those interviewed expressed concern for the current level of security of the entire building housing the courts, with specific concerns for the courtrooms and court officers. They all are concerned that the problem be addressed. To cite a few examples of outstanding security problems:

The 2nd courtroom in Department 2 has large glass windows along an exterior hallway, which provide no protection from possible threat of harm.

The court has one (1) borrowed walk through metal detector and one (1) wand. They are selectively used.

There is no barrier between prisoners waiting in the jury box and the courtroom. Prisoners are held in the jury box due to lack of space and no other available holding area.

Until recently, there was little control exercised over building keys and, despite warnings, employees are still lax in securing and locking the double doors opening to the parking lot when they enter and leave the building.

There is no adequate alarm system in the building.

Prior to consolidation of the courts, Municipal Court security was the responsibility of the Marshall and the Sheriff were responsible for Superior Court security. The system currently in place has the Sheriff and Marshall each responsible for one Superior Court Department. This system is working, but is administratively cumbersome.

RECOMMENDATIONS

The Grand Jury finds that there is a need for investigation and implementation of short-term security strategies within the context of a long-range security plan. As part of a long-range plan, the employment of a courtroom security consultant should be considered. The Grand Jury recommends this because of the unique structural challenge, which the building presents. Certainly as the county grows, the court will become more vulnerable to breeches in security, and will demand a greater fiscal investment in security. It is only sensible to develop a plan to forestall the possibility of a serious security breach. That plan should include provisions for greater security staff (i.e. the Marshall and Sheriff's staff), increased use of technical devices, as well as necessary structural changes to the building.

The 1999-2000 Grand Jury recommends that the 2000-2001 Grand Jury continue to monitor Court security and continue this investigation.

The Grand Jury recommends that:

1. The Court institutes a thorough assessment of key and lock management.
2. The Board of Supervisors replaces glass windows in courtroom walls with more secure material.
3. The Court investigates an employee identification badge system.
4. The Court investigates the installation of polycarbonate shields to separate prisoners from staff and gallery members in all courtrooms.
5. The court purchases adequate metal/weapon detectors and implements a consistent metal/weapon detection policy.
6. The Court consider a security foot patrol around building perimeter and/or installation of a perimeter alarms system.
7. The Court install "panic button" alarm systems in all areas.
8. The Court and the Board of Supervisors encourage a "culture of security" in all building employees.

AFFECTED AGENCIES

San Benito County Board of Supervisors

San Benito County Superior Court

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report and its recommendations must be delivered to the presiding judge of the Superior Court within 90 days of receipt of this report.

Special Projects Committee Part 2

II. COUNTY FIRE STAFFING

BACKGROUND

The 1998-1999 Grand Jury began an investigation of the Hollister Fire Department and the California Department of Forestry/Fire Protection for San Benito County. Due to rapid population growth, and concern about adequate fire protection in the community, it was recommended that the investigation be continued by the 1999-2000 Grand Jury.

This report is a follow-up to last year's investigation of the county's ability to provide adequate fire protection staffing. The primary concern was to insure inclusion of the entire county, not just the City of Hollister, in fire protection planning. Interest in the matter increased when the California Department of Forestry and Fire Protection for San Benito County requested an increase in its funding, due to legislation requiring minimum staffing levels.

METHOD OF REVIEW

Visits

City of Hollister Fire Department
San Benito County Administration Office

Interviews

Changes: deletion of names of interviewees

OBSERVATIONS, FINDINGS, AND CONCLUSIONS

The California Department of Forestry and Fire Protection made a presentation to the entire Grand Jury during a regularly scheduled meeting. The Grand Jury was informed of the reasons for a request that the county increase funds budgeted for county fire protection. This was necessitated by the rule of "two in, two out," a California State statutory requirement setting forth the minimum staffing level when fighting structure fires.

The Grand Jury inspected the City of Hollister Fire Department. and was informed of the need to cross-train personnel and to expand the Fire Department's coverage to meet the "five-minute" response time. Additional fire stations are required in order to meet the needs of the rapidly growing City of Hollister and San Benito County and still stay within a five-minute response time. The "five-minute" response time is recommended as a national standard for all fire departments. The Hollister City Council has approved a second fire station but its location has not been determined.

The Grand Jury met with the new Special Fire Protection Committee. The San Benito County Special Fire Protection Committee was formed to determine the fire protection needs of the county.

The Grand Jury finds that there remains a need to expand and upgrade fire protection for the entire community. The Grand Jury is not alone in being concerned about the issue as evidenced by the formation of the Special Fire Protection Committee at the end of 1999. The stated purpose of the Special Fire Protection Committee, to explore "alternatives to reduction or increase in fire protection," indicates that there is a countywide recognition that more needs to be done. This Committee consists of members from the following jurisdictions: City of Hollister, San Benito County Board of Supervisors, City of San Juan Bautista and Aromas

The charge of the Special Fire Protection Committee is to review the development of the city and county fire protection plans. Consolidation of the various county fire departments (City of Hollister Fire Department, San Benito County Fire Department, San Juan Fire Department, Aromas Fire Department, and CDF) was considered. The required "two in two out" rule and how it effects the County Fire Department and CDF was explored. The Grand Jury found that during the off season, the county and CDF do not have the staffing to meet this requirement. CDF has requested an increase in budget of \$88,000 to increase staff.

There is no "quick fix" to San Benito County's fire staffing problem. Any and all proposed solutions would require several years to evaluate and integrate into a countywide full safety/protection service. One of the main concerns is to incorporate the City Fire, County Fire and other Fire Districts into a Unified Fire District. The main goal of this plan would be to comply with the suggested five-minute response time. The Hollister City Fire Department has started to cross-train its staff to maximize the use of personnel. This procedure is also recommended for the county's Fire Department so that equipment and staffing work together.

CDF cannot continue to staff the county Fire Department at the current rate and meet the safety standards required by the citizens of Hollister and San Benito County. CDF claims that it would close down, and not be able to respond to fires effectively without the staffing required for the "two in/ two out" rule.

RECOMMENDATIONS

1. The Grand Jury recommends that the Special Fire Protection Committee continue its search for solutions to the fire protection problems affecting the cities and county.

2. The Grand Jury recommends that the CDF be granted the additional funds it has requested until such time as the Special Fire Protection Committee develops and implements a plan which solves the fire protection problems currently affecting the cities and county.
3. The 2000-2001 Grand Jury, and following Grand Juries, should continue this investigation until a satisfactory solution is reached.

AFFECTED AGENCIES:

San Benito County Board of Supervisors
Hollister City Council
San Juan Bautista City Council
California Department of Forestry/Fire Protection
City of Hollister Fire Department
Aromas Fire District
San Juan Volunteer Fire Department

RESPONSES REQUIRED

California Penal Code, §923, requires that a response to this final report and its recommendations must be delivered to the presiding judge of the Superior Court within 90 days of receipt of this report.

Special Projects Committee Part 3

III. UNCOLLECTED COURT-IMPOSED FEES AND FINES

BACKGROUND

The 1999-2000 Grand Jury began an investigation into the loss of revenue occasioned by the failure to collect fines and fees assessed to individuals by the San Benito County Superior Court. The Grand Jury assigned the investigation to the Special Project Committee.

METHOD OF REVIEW

Interviews

OBSERVATIONS, FINDINGS AND CONCLUSIONS

For a number of years, San Benito County has not had a procedure for collecting Court imposed fees and fines. This concerned the Grand Jury for two reasons:

1. When the Court imposes a fine, it is part of a defendant's penalty for breaking a law. By not actively collecting these fines, the county fails not only to enforce the law, but also undermines the authority of the Court.
2. Loss of revenue. The amount of uncollected fees and fines is estimated to be well over one million dollars (\$1,000,000.).

In the fall of 1999, the Board of Supervisors approved the hiring of a private collection agency to recover uncollected fees and fines. Soon after, the Deputy County Administrator solicited bids from collection agencies, an agency was chosen, and a contract was negotiated. To date, the contract remains unsigned, with fees and fines yet to be collected. The delay in concluding the contract appears to be caused by the State (the Court) and the county being unable to agree on the percentage of recovered funds each is to receive or the amount they are willing to pay the collection agency.

RECOMMENDATIONS

1. The Grand Jury recommends that within sixty days of receipt of this report, the Court and the county conclude the contract with the collection agency at the customary rate. This can easily be determined. Apportionment of funds between agencies can be worked-out while money is collected. Regardless of how the recovered money is apportioned after it is collected, it is as important that sentences be carried out. Failure to collect court-imposed fees and fines, part of a defendant's sentence, undermines respect for the rule of law and deprives the Court and county of needed revenue.
2. The Grand Jury recommends that its investigation of this matter be continued by the 2000 - 2001 Grand Jury.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Superior Court
San Benito County Administrative Office

RESPONSE REQUIRED

California Penal Code, §923, requires that a response to this final report and its recommendations must be delivered to the presiding judge of the Superior Court within 90 days of receipt of this report.

Web Site Committee

CHARTER

The Web Site Committee was established as a special committee charged with establishing a permanent Internet web site that would include Grand Jury reports, and general Grand Jury information of interest to the community.

Committee Members

Robert Graves, Chairperson*
Marla Davies, Chairperson*
Andy Rollins

*Mrs. Davies resigned the chair position due to time constraints. Robert Graves was appointed as her replacement.

www.sanbenitocountygrandjury.org

The San Benito County Grand Jury voted to establish a Grand Jury web site. A committee was formed to explore the mechanics of accomplishing this task.

METHOD AND OUTCOME:

It was directed by the Grand Jury that the site should be as follows:

In the public interest,

Autonomous of any government agency,

Low maintenance,

No cost to the public,

Contain Grand Jury final reports for two (2) years only.

Upon addition of the most recent final report, the older report is to be deleted. The site was to include General Grand Jury information, complaint and application forms that could be printed and used by the public.

The 1998-1999 Grand Jury Final Report was scanned onto disk for site installation and appears on the site in an abridged version. The web version of the 1998-1999 final report contains only Grand Jury generated documents as a means to conserve space. The full bound report, containing supporting documents and related material is available at the office of the San Benito County

Clerk.

The Grand Jury offers its sincere thanks to Hollister Internet: its President Darlene Colvin, Web Designer Doug Eaton, and Chief Engineer Brent Olson. Without their expertise and support the web site would not have been possible. Hollister Internet's continuing commitment to provide for and to maintain the Grand Jury web site is extraordinarily generous and we truly appreciate its efforts on behalf of the community.

The site is up and running as of 6-1-00.

www.sanbenitocountygrandjury.org