2002-2003
San Luis Obispo County
Grand Jury

Final Report

June 2003

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GRAND JURY

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To the Citizens of San Luis Obispo County

We, members of the 2002-2003 San Luis Obispo County Grand Jury, present our *Final Report* to you. The most significant part of our report is a compilation of 11 individual reports on cases examining operations, conditions, management, and procedures of several public agencies in the county. In accordance with California Penal Code Section 940, at least 12 members of the grand jury approved this report.

We present two types of reports:

- *Investigation Reports* (8) are those where we present findings and, in all but one report, recommendations to which agencies must respond: "do you agree with what we found, and will you implement what we recommend?" We ask you, as citizens, to watch for a report of the next grand jury in early 2004 on those responses.
- *Information Reports* (3) are those where we want to increase your understanding about government programs that may affect your lives and how you judge those in government who serve you. These reports do not include findings or recommendations.

Other Parts of Our Final Report

- A description of how we went about our business as a grand jury from July 2002 to June 2003 to produce the investigation and information reports.
- A summary of the extent to which agencies are implementing recommendations of the 1998-1999 Grand Jury (continuing a tradition to tell the public how well agencies have responded to prior grand jury recommendations).

Required Inquiries

California Penal Code Section 919(b) requires every county grand jury to inquire into the condition and management of the public prisons within the county. In San Luis Obispo County, those prisons include two state institutions, the California Men's Colony and the El Paso de Robles Youth Facility, and the County Jail. We inspected all three facilities. We only report, however, on two: the El Paso de Robles Youth Facility and the County Jail. We have nothing to add to what previous grand juries have reported on the California Men's Colony.

Report Review

County counsel has reviewed this report. The presiding judge of the Superior Court of California in San Luis Obispo County has certified that the report complies with Title Four of the Penal Code and has directed the county clerk to accept and file the report as a public document.

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INVESTIGATION REPORTS

RISK MANAGEMENT—SMALL OFFICE, BIG RESPONSIBILITIES

Synopsis

Risk Management, an office with five employees, is responsible for the county government's insurance, liability, workers' compensation, county employee health benefits, unemployment insurance, and safety programs. The projected cost of servicing these programs in the 2002-2003 fiscal year[1] totals more than $10 million. State legislation and the events of 9/11 have substantially increased insurance premiums and administrative costs generally. Staffing turnover in recent months created problems for the office and made it necessary to extend the contract of the outside company Risk Management uses to process claims. This report discusses the functions Risk Management performs and makes recommendations on staffing, processing of workers' compensation claims, reviewing the work of the third-party administrator, and training of selected safety officers.

Concept

In common with private-sector business—and, for that matter with every homeowner—the county government must provide for and attempt to reduce the risks to which it is exposed. The mission statement of the Risk Management Division assigns it the responsibility "to minimize the loss of county assets by ensuring a safe, accessible environment, providing cost-effective employee benefit programs, and insuring against risk." Insurance is the first line of defense. The county insures itself against liability and workers' compensation claims up to $250,000 per claim. It buys coverage above that amount and, for property damage and medical malpractice, through a pooling arrangement with other California counties. Work-related injury or illness leads to workers' compensation claims. Risk Management's responsibility is (1) to coordinate and monitor countywide safety programs designed to prevent the work-related accidents or illnesses that produce such claims; and (2) once an employee makes a claim, to assure fair adjudication while holding down processing costs. The affordable and effective healthcare coverage Risk Management seeks to obtain as an employee benefit can also work to contain costs in the form of fewer claims and a more productive work force.

Findings, Conclusions and Recommendations

Does Risk Management have adequate staff?

Findings

(1) Normal staffing consists of a risk manager, a workers' compensation coordinator, a safety officer, a benefits coordinator, and a confidential assistant.[2]

(2) Risk Management is responsible for the county's insurance, workers' compensation, safety, and employee benefits programs.

(3) The office was without a permanent workers' compensation coordinator and a full-time safety officer for approximately three months.

(4) Risk Management's budget for the current fiscal year, 2002-2003, is $10.8 million. Its budget projection for 2003-2004 is over $15 million.

(5) The risk manager states that her goal is a more proactive managerial role for the office as a means to greater efficiency and cost containment. She further states that one or two additional lower-level employees to assist with the paperwork would help her achieve that goal.

Conclusions

With such a small staff and such heavy responsibilities, Risk Management needs to have permanent qualified employees in these two positions as soon as possible. Recruitment of a full-time safety officer is particularly important in view of the escalation in workers' compensation costs.

We are in no position to measure the volume of paperwork the office must deal with but can testify from frequent visits that there is a lot of it.

Extra support in processing paperwork should help free the risk manager and the coordinators for more active roles in working with the county departments on such problems as unnecessary delays in getting employees back on the job after absences as a result of work-related injury or illness.

Recommendations

(1) The county should assign a high priority to recruiting and training qualified individuals for the two positions.

(2) The risk manager should prepare a detailed justification for adding one or two clerical employees, including specifics on how she and her subordinates would make use of the time saved from paperwork.

(3) The county administrator should, if the justification makes sense, look at the possibility of shifting one or two clerical employees to Risk Management from other county departments. If that is not possible, he should consider recruiting from outside the county government. Salaries for two administrative assistant III positions would total $62,064 plus benefits at step 5 of the wage scale. We estimate this expense at 0.5 percent of the total annual 2003-2004 budget.

Is the third-party administrator furnishing the best available level of service in processing workers' compensation claims?

Findings

(6) Gallagher Bassett Services has been the third-party administrator since 1979.

(7) Gallagher Bassett processes the claims and notifies employees of their disposition.

(8) Gallagher Bassett won the most recent five-year contract in 1998 with the low bid for the first year's annual fee. In light of the sudden departure of the workers' compensation coordinator, the risk manager extended the contract for a year with the approval of the Board of Supervisors.

(9) The most recent outside audit of the processing of these claims found Gallagher Bassett performing effectively in the areas of investigation, decision making on compensation, communicating with claimants, and closing out cases.

(10) The audit found some areas for improvement. In the sample of cases checked, Gallagher Bassett made some payments inaccurately or in an untimely fashion. Reserves against projected future costs were not adequate in all cases. Gallagher Bassett paid some medical bills against the wrong files.

(11) The audit sample identified five out of ten claims that had been paid late. Of the claims paid late, the county averages 10 days to get the employer's report to Gallagher Bassett, which then averages another 9.8 days to issue the first payment or notice.

(12) California Labor Code Section 4652 requires issuing initial indemnity payment (or notice if there is no such payment) within 14 days of the first day of disability.

(13) The county paid $11,860 in penalties to workers between July 2002 and March 2003.

[1] July 2002 to June 2003.

[2] A confidential assistant has access to highly sensitive legal and personal information.

(14) Our examination of the records indicates some inconsistencies between the loss data Gallagher Bassett reported to the California State Association of Counties (CSAC) and to Risk Management.

(15) The county will seek proposals for the 2004-2009 contract next year.

Conclusions

County officials told us that the county has had a long and apparently satisfactory relationship with Gallagher Bassett.

Any long-term relationship of this kind merits a close look now and then.

A systematic review of Gallagher Bassett's performance, with a focus on the strengths and weaknesses the audit identified, could be useful in developing criteria to be used in future Request for Proposals (RFP) the county will issue in relation to contracts for third-party administrators.

In view of the legal requirements, both the county and Gallagher Bassett need to speed up the processing of employer reports.

Recommendations

(4) The county should make use of the months remaining before issuance of a new RFP to review Gallagher Bassett's performance in a systematic fashion, using the results of the audit as a starting point in developing criteria for the new RFP.

(5) The county should, to the extent its regulations permit, give due weight to other factors as well as cost in considering the proposals for the 2004-2009 contract. Among those factors should be historical performance, the ratio of projected claims to examiners, and the experience levels of the examiners.

Would additional training strengthen the county's safety program?

Findings

(16) The county has an overall safety committee that includes representatives of five key departments: General Services, Sheriff-Coroner, Medical Services, Public Works, and Social Services.

(17) Representatives of four of the five departments on the safety committee told us that they made use of various training aids in preparing for their responsibilities.[3] However, none had received formal training.

(18) The California Office of Environmental Health and Safety (CAL/OSHA) offers a wide variety of training classes in Sacramento and at other locations.

Conclusion

More thorough training of its members should help the committee strengthen the safety program throughout the county government.

Recommendation

(6) Risk Management's next full-time safety officer should look into the possibility of formal training for the key members of the safety committee.

Comment Requirements

As provided in Section 933 of the California Penal Code, the risk manager and the county administrative officer shall comment to the presiding judge of the Superior Court of California in San Luis Obispo on the findings and recommendations in this report within 60 days of its publication. The Board of Supervisors must comment within 90 days.

[3] A representative of the fifth department was not available.

The Setting: County Government Risk Management

Cost of Programs

The county's current fiscal year budget allots about $10.8 million to the servicing of the programs for which Risk Management has responsibility. Next year's fiscal year projections are for slightly over $15 million. Servicing includes insurance premiums, claim payments, third-party administrator fees, legal and medical expenses, and other operating expenditures. Escalating costs in the workers' compensation program contribute significantly to these numbers. That program's projected operating costs in 2003-2004 alone come to just over $8 million, a 68-percent increase in one year. The table on below displays the budget for the current fiscal year and the projected operating costs for 2003-2004.[4]

General Budget Overview

	----------2002-2003----------		-----2003-2004 (requested)-----	
Risk Management & Property Budget				
Salaries & Benefits		$ 455,829		$ 497,465
Property & Misc. Insurance Premiums		522,885		608,345
Services & Supplies		396,997		412,523
Risk Mgt. & Property Totals		$1,375,711		$1,518,333
Internal Service Fund Budget, Self-Insured Programs (Operating Expenses)				
Services & Supplies		$1,056,596		$ 931,609
Overhead		380,186		303,360
Gallagher Bassett Contracts				
Workers' Compensation	$ 182,972		$ 230,725	
Liability	102,970	285,942	108,833	339,558
Insurance Premiums				
Workers' Compensation	510,327		928,036	
Liability	121,507		505,916	
Medical Malpractice	270,904	902,738	311,540	1,745,492
Claims				
Workers' Compensation	3,376,000		6,000,000	
Liability	1,300,000		1,300,000	
Medical Malpractice	25,000		20,000	
Unemployment Insurance	232,000		714,000	
Dental Plan	1,173,000	6,106,000	1,528,500	9,562,500
Outside Legal				
Workers' Compensation	150,000		160,000	
Liability	540,000	690,000	500,000	660,000
ISF Totals		$9,421,442		$13,542,519
Totals, Both Budgets		**$10,797,153**		**$15,060,852**

Staff and Supervision

Only five employees make up Risk Management's regular staffing: the risk manager (classified in the personnel system as a principal administrative analyst), a personnel analyst to handle the workers' compensation program, the safety officer, a coordinator of the benefits program, and a confidential assistant.[5] The Board of Supervisors expects Risk Management to hold down the costs of these expensive programs, to manage them efficiently with due regard for employee welfare, and to guard the county against catastrophic loss. Following are brief discussions of each of the programs.

[4] The county divides Risk Management costs between two budgets. The budget for expenses, about $1.3 million, includes salaries and other office costs, as well as those associated with the property insurance programs. The Internal Service Fund (ISF) budget with expenses about $9.5 million, covers programs with a self-insured retention component including workers' compensation, liability, medical malpractice, unemployment, and a dental program.

[5] We understand that the county is in the process of shifting Risk Management from the Office of County Administrator to the Department of Personnel.

Insurance

To reduce its costs, the county participates in the insurance programs available to members of the CSAC Excess Insurance Authority (EIA). The EIA, established in 1979, pools substantial buying power in a tight insurance market. Today, 53 of California's 58 counties participate in one or more of the EIA programs. The arrangement has benefited San Luis Obispo County considerably. As an example, fiscal year 2001-2002 dividends[6] to the county from the pool in the liability program exceeded the gross premium of $380,429, making that year's liability insurance cost free. According to CSAC, liability insurance purchased that year in the open market would have cost $711,673, or close to double the gross premium.

But even with the pooling advantages, the premiums the county must pay in this difficult insurance market are rising rapidly, as the budget presented above illustrates.

Workers' Compensation. The county self-insures against workers' compensation claims of up to $250,000 per claim and buys coverage to $50 million through the EIA. The EIA premium was up 257 percent this fiscal year and will increase another 82 percent next year, according to the county's projection.

Liability. Payment of liability claims up to the $250,000 per claim self-insured level comes out of a budget unit in the county's Internal Service Fund (ISF). Insurance purchased through the EIA provides coverage over the risk the county retains (the $250,000 per claim) up to $25 million.

Medical Malpractice . Despite the closing or sale of General Hospital, the county will still need medical malpractice insurance to cover the doctors and other health personnel working in its clinics and jails. The malpractice insurance the county buys from the CSAC-EIA pool and from a private carrier through CSAC covers claims up to $11.5-million with a $10,000 deductible. A third-party administrator, Risk Management Services, processes the malpractice claims and engages outside legal counsel when needed to handle malpractice litigation.

Property. There is no self-insurance in the property program,[7] only a $10,000 deductible. The program includes a number of separate policies in addition to straight property coverage. Liability exposure at the airport is among the risks included in a separate policy. The premium for the county's property insurance nearly tripled from 2001-2002 to 2003-2004, in part as a result of the events of 9/11.[8] For insurance purposes, the county values its property at about $250 million. It insures property valued at approximately $112 million against earthquake risk.

Workers' Compensation

In common with every employer in the state, the county must compensate employees in accordance with the California Labor Code for disability leave and medical expenses associated with work-related injuries or illness. Risk Management's policy statement assigns it the responsibility for investigating and processing workers' compensation claims. In practice, the third-party administrator, Gallagher Bassett, processes the claims and arranges for investigation. Risk Management oversees this function.

The budget for next fiscal year, taking into account changes in the system by the state legislature, projects $6 million in payments for claims, up from an initially estimated $3.4 million this fiscal year. The number of claims has averaged around 300, or roughly 10 percent of the work force for the past 12 years. According to the county's actuarial firm, the amount of the average claim is $8,640, which—while above the CSAC average of $7,600—is well within CSAC's acceptable range of $6,500-$10,000. In fiscal year 2000-2001, employees lost 1,541 days due to workplace injury. In 2001-2002, the count improved to 1,078 days lost.

Claims Process. The workers' compensation process in the county requires the affected employee's department to fax to Risk Management an "Employee Report of Occupational Injury or Illness" within 24 hours of the occurrence of injury or illness. After reviewing it, that office in turn faxes the form to Gallagher Bassett, which has the contractual authority to settle claims up to $10,000. The risk manager must approve claims above that figure to $20,000.

Third-Party Administrator. The county has utilized the services of Gallagher Bassett since 1979 when the EIA first offered excess workers' compensation insurance. The relationship presently rests on a five-year contract awarded July 1, 1998. This contract directly results from an internal audit conducted by the county auditor-controller. A significant finding in the audit was that the county sent out an RFP to elicit competitive bids only once in a 20-year period, in 1987. The auditor-controller recommended that the county issue an RFP on a predetermined cycle of not more than every five years to ensure that the county gets the most efficient and cost-effective service available. Gallagher Bassett's bid for the initial year's fee came in approximately $45,000 below the next lowest bid.

Due to the unexpected departure of two of Risk Management's five permanent employees, the Board of Supervisors approved Risk Management's request to extend the contract one year to June 30, 2004. Among the services the company provides is a computerized claims-tracking system to which Risk Management has access. Gallagher Bassett notifies employees in writing of the disposition of their claims. It calculates and sends the temporary and permanent disability checks and other related payments, as required. In handling the more difficult claims, Gallagher Bassett may engage the services of outside investigators or attorneys. Over the life of the contract to last December, the county paid Gallagher Bassett $613,579 for outside legal counsel.

Risk Management's Role. In addition to its role as overseer, Risk Management acts as a liaison on workers' compensation matters between the county departments and the third-party administrator. The risk manager would like a broader role to include, among other responsibilities, providing training so that the departments can contribute more actively and directly to the workers' compensation program. She would like more control over the initial 30-day period in workers' compensation cases, particularly in the management of the medical aspect in order to hold down costs and ensure that prescribed treatment is appropriate. Ideally, in her view, the county would contract with a medical office to diagnose and treat all claimants in a timely fashion during that initial period.

The risk manager describes her approach to workers' compensation cases as "aggressive but fair"—aggressive in terms of preventing misuse of the program but fair in treatment of legitimate claims.

The chronic shortage of physicians in this county and the consequent difficulty in getting appointments can delay the processing of cases. That may mean a delay in returning employees to work adding to the county's cost.

Cost. Workers' compensation payments from July 1, 1998, to December 2, 2002, totaled more than $17 million. During that period the county paid more than $930,000[9] in premiums for coverage against claims exceeding the self-insured limit. As a result of state legislation signed into law in February 2002, benefits under workers' compensation will increase over a four-year transitional period. Beginning in January of this year, the maximum total disability payment went up from $409 to $602 per week. It will continue to rise on a yearly basis, reaching $840 per week in January 2006. Thereafter the rate will track average salaries in the state.

Liability

Liability claims against the county typically result from automobile accidents and other mishaps involving county vehicles, equipment, and property, as well as alleged misconduct on the part of county employees. A recent settlement to the victim of an automobile accident involving a county employee and county vehicle was $1.7 million. The County paid the first $250,000 and the CSAC-EIA policy will cover the rest. Gallagher Bassett can settle claims up to $10,000; the risk manager can settle claims up to $20,000; and claims above that figure require Board of Supervisors' approval.

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[6] A dividend is a share of surplus allocated to a policyholder in a participating insurance policy. For CSAC members participating in the pool, the low claims experience of the pool members generated dividends for all members in the pool.

[7] That fact accounts for the separate budgetary treatment of the property insurance programs mentioned previously.

[8] In the absence of the EIA, a stand-alone premium for property insurance purchased individually by the county might well run one million dollars or, more, if available at all.

[9] Next year's premium alone promises to equal that amount.

According to Risk Management's annual budget presentation in June 2002, the county on the average resolves 45 percent of its liability cases with no payment. The average liability claim, in which there is payment, settles for approximately $6,500. Nevertheless, the county projects $1.3 million in payments next fiscal year for claims under the $250,000 limit and $500,000 in legal fees. Records indicate that the county paid $3.3 million in claims and $2.3 million in legal fees between July 1, 1998 and February 2003. The budget presentation also states that the number of claims where the county made payment compares favorably with the results reported by other CSAC members: 1.15 claims per one million dollars of payroll as against an average of 1.22.

Benefits

Risk Management is responsible for negotiating and administrating county employee benefit programs, including health, dental, vision, life, and long-term disability insurance. The county contributes a "cafeteria benefit" toward each employee's cost of such insurance. Collective bargaining determines the amount for most employees. The monthly amounts currently range from $290 to $652.

Health, Vision, and Dental. Risk Management presently offers through the California Public Employees Retirement System (CALPERS) two Blue Cross plans and a Blue Shield HMO plan. The Lifeguard Company previously offered a fourth health plan. However, the plan failed financially and went into receivership on January 1, 2003. Lifeguard was a popular option with 668 active and 82 retired employees enrolled as of the end of 2002 out of an employee base of approximately 2,700. Payment of still open claims against Lifeguard should be completed shortly.

Currently, the monthly cost of health coverage for an employee with two dependents ranges from $694.86 to $1,425.00, minus the cafeteria benefit. These costs are up about 18-19 percent over 2001-2002. If the employee does not take one of the health, dental, and vision coverage options, he or she cannot collect the cafeteria benefit unless able to offer proof of adequate coverage through a policy outside the system. Risk Management is currently evaluating alternatives to the health insurance provided through CALPERS. Cost for an employee with two dependents is $ 55.15 per month for the Delta HMO, or $96.00 for the Delta Preferred Option. The comparable rate for the Vision Service Plan is $19.76.

Life and Long-Term Disability. The county provides and pays for term life insurance for management and confidential employees,[10] all attorneys, and the investigators in the district attorney's office. Employees at the lower levels of these categories receive $30,000 of such insurance at a cost to the county of $8.10 a month. Department heads and general managers benefit from $50,000 of coverage at a cost of $13.50 a month.

The employees in these categories also receive long-term disability coverage at a premium rate of 0.53 percent of gross salary to a monthly gross of $9,000. Life and long-term disability insurance are benefits negotiated through collective bargaining. About 550 employees are eligible to receive these benefits.

Safety

The California Occupational Safety and Health Act obligates every employer to maintain an effective Illness and Injury Prevention Program (IIPP) in writing. Risk Management has prepared an IIPP Policy and Procedures Manual as guidance for management and staff in implementing the program. The safety officer is responsible for coordinating the program with all county departments. In examining the manual, we found that it addresses all of the requirements listed in act, including assignment of responsibilities, inspections, training, accident investigations, and record keeping.

Investigation Details

Origin of the Investigation

We encountered the Risk Management Division in the course of inquiring into a citizen complaint. The members of the grand jury were, for the most part, unaware of the existence of such an office. To inform ourselves, we undertook the investigation that led to this report. The objective of the report, in turn, is to inform the public about the important responsibilities and functions of an entity of the county government we assume is as little known to other citizens as it was to us.

Authority/Jurisdiction for the Investigation

Section 925 of the California Penal Code provides that the "grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. . . ." This report comes within that authority.

Other Issues

The critical issues we encountered in preparing this report transcend both the authority and analytical capabilities of any grand jury. Those issues relate to the exorbitant costs of the programs for which Risk Management is responsible. Absent a more favorable insurance market and reforms in the statewide workers' compensation system, that office can do little to reduce the burden on the county and its taxpayers.

Lesser issues included, in addition to those we have addressed in this report, the question of where to place Risk Management in the county's administrative structure. As noted, there is a proposal to switch it from the County Administrator's Office to the Department of Personnel. We are unable to judge the pros and cons of such a move. We discussed the question of whether the safety and benefit programs belong in Risk Management. Some counties limit risk management to administering only the insurance functions. This comes down to a matter of administrative convenience. We see nothing intrinsically wrong in the current arrangement, always assuming staffing is adequate. In part because of the turnover in personnel, we did not assess the overall management of the division. We did find the risk manager to be both dedicated to her job and highly industrious.

Methods and Validity

In gathering information for this report, we interviewed a number of county employees—active and retired—as well as sources outside the county government. We met numerous times with the current risk manager, at some trial to her patience. Her retired predecessor gave us information, as did the employee benefits coordinator, the former safety officer, and the former workers' compensation coordinator. We also discussed risk management operations with the county administrator, assistant county administrator, assistant county counsel, the auditor-controller, assistant auditor-controller, and the county personnel director. Four of the five key members of the safety committee provided their views. At least two jurors participated in every interview.

We obtained information from state offices in Sacramento, including those dealing with self-insurance plans, workers' compensation, and managed health care. Two senior analysts at CSAC helped us with information. We also consulted two partners and an analyst at a private company in the field of risk services. And we consulted the company that did the outside audit on Gallagher Bassett.

In order to obtain and confirm the data we presented, we reviewed division budgets provided by the risk manager, overall county budgets, and the comprehensive annual financial reports provided by the auditor-controller. We also reviewed the most recent annual CSAC/EIA reports on this county, the CSAC risk-loss data reports, as well as overall CSAC annual reports for the past five years. And we examined Gallagher Bassett claims reports and all related vendor payments the county made for the past five years, matching vendor payments to premium history provided by CSAC. We checked and rechecked all the numbers in this report.

The risk manager reviewed our findings and provided comment.

[10] Confidential employees are those with access to highly sensitive information.

Grover Beach Police Department Makes Management Improvements; More Needed

Synopsis

The past few years have been somewhat turbulent for the Grover Beach Police Department. This is due, at least in part, to internal differences in law enforcement and public allegations of mismanagement against the department by an employee it terminated. We examined those differences and allegations in several management areas. While the department had a problem in 2000 and 2001 with respect to a police officer maintaining firearms proficiency, it corrected the problem—albeit slowly. While there were inconsistencies in the department's conduct of arrests of persons for driving under the influence (DUI) of alcohol or drugs, there is no longer a problem because of personnel changes. The department could, however, endanger public safety and expose the city to financial risk in how it continues to deal with the vehicles driven by DUI arrestees. We recommend a way for the department to reduce this risk.

We commend the department for the positive changes it has made. Nevertheless, we found a lack of strong management, accountability, and sense of urgency in resolving issues such as firearms qualification, DUI enforcement, vehicle towing, concerns about liability, and gender bias. Moreover, it has taken the department two years to comprehensively update its outdated *Policy and Procedures Manual.* We recommend that the department seek accreditation from the Commission on Accreditation for Law Enforcement Agencies. Achieving accreditation, which involves setting police department standards, is a way to control liability costs, contribute to administrative improvements, achieve greater accountability from supervisors, and increase governmental and community support.

Findings, Conclusions, and Recommendations

In 2000 and 2001, did the Grover Beach Police Department potentially endanger public safety or expose the city to financial risk in its policies and conduct of its requalification of peace officers in firearms proficiency?

Findings

(1) The department's current *Policy and Procedures Manual* contains no policy with respect to officers achieving and maintaining firearms proficiency on the range.

(2) A revision to the *Policy and Procedures Manual*, in draft but not yet adopted, does contain a policy with respect to officers achieving and maintaining firearms proficiency on the range.

(3) In 2000 and 2001, the practice (unwritten) with respect to officers achieving and maintaining firearms proficiency on the range was that officers went to a range to requalify on firearms once or twice a year.

(4) Beginning in 2002, the practice (unwritten) with respect to officers achieving and maintaining firearms proficiency on the range is that officers go to the range monthly: every three months to requalify and the other months to practice and train.

(5) Between June 2000 and July 2001, one officer failed to requalify on firearms proficiency four times: June 2000, July 2000, November 2000, and January 2001.

(6) That officer had previously requalified in September 1999, October 1999, and January 2000.

(7) That officer requalified in July 2001. Department management asked the Arroyo Grande Police Department rangemaster to conduct the requalification test to dispel any allegations of impartiality or impropriety. The officer has subsequently requalified at every range since then.

(8) In 2000 and 2001, the department had no policy, written or unwritten, with respect to how to deal with an officer who repeatedly fails to requalify on firearms proficiency.

(9) The current draft revision to the department's Policies and Procedures Manual contains the policy: "All qualified personnel are required to qualify quarterly with their duty weapons on an approved course and that sworn members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow."

(10) In January 2001, department management stated that the range program had lost direction.

(11) During the period of the officer's failure to requalify, a department supervisor directed a sergeant to draft a policy on range and qualification standards. The sergeant submitted the draft on February 9, 2001.

(12) Department management rejected the draft on the basis that parts of it (1) were too punitive against officers or (2) conflicted with the Fair Standards Labor Act and worker's compensation regulations.

(13) During the period that the officer failed to requalify, the department gave the officer remedial training.

(14) The officer is a female.

(15) During the period that the officer failed to requalify, she carried on her normal duties that required her to carry and potentially use firearms. She was also a member of the department's Special Problems Team (SPT), a special unit directed to area-containment activities in crisis situations.

(16) Three department supervisors involved in officer range qualification made statements about her performance as a female officer. Two of the three told her that she was in danger of being fired. They expressed concern to management about her qualifications, given her nonqualification on the firing range, to serve on the SPT.

(17) In a May 2001 memo to the chief, two sergeants expressed disagreement on department procedures with respect to the repeated failure of an officer to qualify on firearms. The two officers also delivered the memo to the city manager and discussed it with him. One of the officers is a friend of a city councilmember, who had access to the memo. The two officers also made information contained in the memo available to the media.

(18) The chief responded in a June 2001 memo criticizing the sergeants for not sending the memo up through the department's established chain of command.

(19) The chief told the sergeants that he had received the memo but disagreed with their findings and conclusions.

(20) The chief removed one of the sergeants as rangemaster, saying that he had "lost faith in his ability to oversee our range program."

(21) The female officer orally alleged gender bias incidents to department personnel in command positions.

(22) The officer did not file a formal sexual harassment complaint, saying that she just wanted to get on with her job.

(23) In late 2001, the department decided to use the Arroyo Grande Police Department range to requalify all department officers in firearms proficiency.

(24) There were discussions among employees of the department and officials of the City of Grover Beach with respect to what might be the financial liability implications of an officer failing to pass firearms proficiency tests and subsequently firing his or her weapon inadvertently causing injury.

(25) During the time that the officer failed to requalify, there was no incident in which she fired her firearm in an unsatisfactory manner.

(26) The officer has received satisfactory performance evaluations.

(27) Except for this one officer during 2000 and 2001, no witness could recall when an officer ever failed to requalify after more than two requalification ranges.

Conclusions

The department did not endanger public safety and expose the city to financial risk in its policies and conduct of its requalification of peace officers in firearms proficiency. The issue did, however, expose deficiencies in policies and operations in the requalification process.

In 2000 and 2001, the department dealt with a problem that it had never faced before: the failure of a sworn police officer to qualify in firearms proficiency four consecutive times over a 13-month period, June 2000 to July 2001. The officer had qualified three times prior to June 2000 and has subsequently qualified every time since July 2001.

Until now, the department had no policy on how to deal with an officer who repeatedly failed firearms qualifications' tests. The department is about to adopt a policy that addresses the issue: "All qualified personnel are required to qualify quarterly with their duty weapons on an approved course and that sworn members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow." This new policy is a direct result of one officer's failure to qualify over the 13-month period.

In May 2001, two department sergeants sent a memo to their department commanders expressing their concern about the risk to other officers and the public from allowing an officer to continue to carry firearms when she consistently failed to qualify on firearms proficiency. The memo also addressed potential financial liability to the city if she caused injury to other officers or the public by firing a weapon during her period of non-qualification. The sergeants writing the memo inappropriately provided copies to the then city manager and to at least one city councilmember.

By this time, department managers were concerned about the validity of the firearms qualification tests that the officer failed. They therefore discounted some of the allegations. Rather than directly addressing the substance of the May 2001 memo, they objected to its distribution directly to the chief of police, thus outside the chain of command.

Although the officer did not file a formal complaint, there is evidence suggesting that gender bias was a consideration in how the supervisors dealt with the firearms qualification of that officer.

Given the problem, department managers took control of firearms proficiency qualification. In that officer's case, they (1) removed certain officers from supervising firearms qualification and (2) selected a neutral agency, the Arroyo Grande Police Department to test her. As indicated before, the officer qualified on that test and has qualified on every field test since then. During the period of the officer's non-qualification on firearms proficiency, there was no incident that might have resulted in safety or liability issues.

Since the summer of 2001, the department has done all of its firearms qualification and testing at the Arroyo Grande Police Department range in cooperation with that department's rangemaster.

We commend the department for adopting a new policy covering firearms qualification certification. However, we express our concern that department managers allowed this specific issue to get out of control. They could have resolved the issue by taking control much earlier rather than relying on the reports of their rangemasters in whom they had lost confidence.

From 1999 to 2001, were there inconsistencies or deficiencies in the department's policies for and conduct of arrests of persons for driving under the influence (DUI) of alcohol or drugs?

Findings

(28) The department has no current or proposed policies specifically addressing how an officer should handle DUI arrests.

(29) The department follows appropriate sections of the California Penal Code and California Vehicle Code in handling DUI arrests.

(30) Department records state the following with respect to DUI adult arrests: 40 in 1997, 65 in 1998, 136 in 1999, 123 in 2000, 66 in 2001, and 56 in 2002.

(31) There were 259 DUI arrests in 1999 and 2000. Two officers (of 17) made 168 of them (65%).

(32) The department sent those two and other officers to special DUI training between 1998 and 2000.

(33) In 1999 and 2000, one of those two and other officers received Mothers Against Drunk Driving (MADD) and California Office of Traffic Safety (OTS) awards for their positive efforts in DUI enforcement, based on recommendations by department management.

(34) In applying for a grant from the OTS in 2000, the department stated that one of its objectives was to increase DUI arrests by 15 percent from the calendar 1998 base year from 83 to 95 by June 2001 and an additional 15 percent from 95 to 110 by June 2002. From July 2001 to June 2002, there were 80 DUI arrests.

(35) Also in applying for the OTS grant, the department stated that one of its objective was to decrease alcohol-related fatal and injury collisions by 50 percent from the calendar 1998 base year of 8 to 4 by June 2002.

(36) Department records state the following with respect to DUI injury traffic collisions: 4 in 1997, 6 in 1998, 2 in 1999, 5 in 2000, 6 in 2001, and 6 in 2002. There were no DUI fatal traffic collisions.

(37) Department records state the following with respect to all DUI traffic collisions (injury and non-injury): 9 in 1997, 12 in 1998, 10 in 1999, 9 in 2000, 18 in 2001, and 14 in 2002.

(38) One of the officers came under department scrutiny because the quantity of his DUI arrests were interfering with his performance of other patrol officer duties.

(39) Department supervisors discussed their concerns with him.

(40) Later, department management expressed to him their concern about the quality of his DUI arrests. One instance involved the arrest of a person who passed the officer's Field Sobriety Test and whose field Preliminary Alcohol Screening (PAS) test indicated a blood alcohol content (BAC) below the 0.08 threshold. The arrestee challenged the arrest. The officer's supervisor nullified the arrest because the BAC was below the threshold.

(41) Department management did verbally counsel the officer regarding his using probable cause in making DUI arrests. Management did not initiate any proceedings against the officer for his conduct of DUI arrests.

(42) Based on a concern about the quality of the officer's DUI arrests, department management asked the County District Attorney's office if it had received any negative reports about the officer. The response was that there were none. Prior to initiating a field test to determine whether the officer was using probable cause in making DUI arrests, the department placed him on administrative leave for other actions that led to his termination.

(43) The department received verbal complaints from tavern owners in the city that officers were "sitting on bars," defined as staking out bars, waiting for a patron to get behind the wheel and drive away, and then stop him as a suspected DUI.

(44) Department management told officers that "sitting on bars" is "against all department protocols."

Conclusions

There were inconsistencies in the department's conduct of arrests of persons for DUI.

The department's *Policy and Procedures Manual* does not specifically address DUI arrests. We have no evidence to suggest that the manual should include them, since state laws provide the necessary direction.

In 1999 and 2000, the number of annual DUI arrests by department officers more than doubled the number of arrests in earlier or later years. This two-year "bubble" seems consistent with the department's objective (stated to the OTS) to increase DUI arrests by 15 percent annually. The department did not, however, sustain the increase; the DUI arrests fell back to former levels in 2001. This was due to the

facts that, in 2001, one of the two officers responsible for the majority of arrests was no longer with the department, and the other officer had assumed different duties that did not give him the opportunity to make as many DUI arrests. The two officers gave DUIs a higher priority in relation to their other patrol duties than did most other officers. In 1999 and 2000, there was an inconsistency in carrying out the department's law enforcement priorities.

While we do not know whether there is a relationship between the number of DUI arrests and the number of DUI traffic collisions (injury and non-injury), one might expect more arrests to result in fewer collisions and fewer arrests to result in more collisions. The following table compares the two, 1997 to 2002.

DUI Arrests and Traffic Collisions, 1997-2002						
	1997	1998	1999	2000	2001	2002
Adult DUI Arrests	40	65	136	123	66	56
DUI Traffic Collisions (Injury & Non-Injury)	9	12	10	9	18	14
DUI Injury Traffic Collisions	4	6	2	5	6	6

All DUI traffic collisions did increase substantially after 1999 and 2000, but injury traffic collisions remained relatively stable over the six-year period. We do not know whether this is statistically significant.

Despite management's concern about the quantity and quality of one officer's DUI arrests and alleged practices such as "sitting on bars," the department's only action was to counsel him. Management did not initiate any disciplinary action. This suggests that the officer did not violate any law, policy, or procedure with respect to his DUI activities.

Does the department potentially endanger public safety and expose the city to financial risk in its policies and conduct in dealing with the vehicles of DUI arrestees?

Findings

(45) From at least 1999 to the present, the department's *Policy and Procedures Manual* has contained no policy with respect to the impoundment and towing of vehicles driven by DUI arrestees. The department's draft revision to its *Policy and Procedures Manual* includes a vehicle towing policy (August 2002). The policy is not yet in force.

(46) The general department policy (unwritten) from 1999 to 2001 with respect to vehicle impoundment and towing is that the officer should not impound and tow a vehicle in situations where a vehicle can be safely parked and locked and where no obvious valuables are involved. But overall, the decision to impound and tow is at the officer's discretion.

(47) In 1999, department supervisors told two officers that they were impounding and towing too many vehicles and directed them to comply with the unwritten policy.

(48) Those two officers decreased towing vehicles of DUI arrestees.

(49) The department received oral inquiries from towing companies under contract to the city about the reduction in their business due to fewer towings.

(50) The chief of police's direction to his officers is that they must have a reason to tow a car: "there is no reason to tow every car."

(51) Those two officers raised with department supervisors an issue regarding the potential safety of the public or liability to the department or the City of Grover Beach from a released DUI arrestee causing an accident or injury from driving himself home immediately following the release.

(52) The department supervisors responded that that was a "what if" situation: "It has never happened; we don't deal with hypotheticals."

(53) The general department procedure from 1999 to 2001 with respect to the release of a DUI arrestee from the department's holding facility was to release him to a responsible adult, give the arrestee all his belongings (including his car keys), and tell the responsible adult to drive him home. There is no follow-up to ensure that the arrestee himself doesn't drive the car (when he might still be intoxicated).

(54) The revised draft department *Policy and Procedures Manual* has a section on "storage at arrest scenes" as part of the "vehicle towing policy." It states that it is the general policy of the department to store [impound] vehicles driven by persons who are arrested but that officers retain the discretion to not store the vehicle at the request of the arrestee and when there is no obvious need to store the car for the continued investigation or prosecution of the case. Reasons cited for not towing are a traffic-related warrant arrest; situations where the vehicle was not used to further the offense for which the driver was arrested; and a situation where a vehicle can be safely parked, locked, and no obvious valuables are involved. The policy is not yet in force.

(55) The department does not keep statistics on the number of towed vehicles of DUI arrestees. Department records state the following with respect to the number of vehicles towed for whatever reason: 263 in 1997, 254 in 1998, 296 in 1999, 311 in 2000, 356 in 2001, and 376 in 2002.

Conclusions

The department could endanger public safety and expose the city to financial risk in its policies and conduct in dealing with the vehicles of DUI arrestees.

The hypothesis proposed was that if:

- an officer arrested a person for DUI and simply parked the car nearby,
- the officer released the person while still intoxicated to an adult acquaintance, and
- the arrested person drove his vehicle and crashed it resulting in injury or death to someone,

then the department might be criminally liable and the city financially liable to the victims.

In August 2001, a new law took effect in the State of New Jersey addressing just such a situation. The DWI (driving while intoxicated) Vehicle Impoundment Law (known as "John's Law" after the victim) authorizes, but does not require, law enforcement agencies in the state to (1) impound the vehicle operated by the DUI arrestee for up to 12 hours and (2) issue written warnings of responsibility regarding potential criminal and civil liability to persons assuming custody of the arrestees.

U.S. Senate Bill 192, introduced in January 2003, would amend the U.S. Code by making impoundment of vehicles driven by DUI arrestees mandatory nationwide.

Current California law authorizes, but does not require, the impoundment of vehicles arrested for DUI. Accordingly, the Grover Beach Police Department's current unwritten policy gives each officer discretion as to when to impound.

The number of all vehicles towed by the department has increased every year since 1998 (48% more in 2002 than in 1998).

The department's proposed policy (to be part of its updated *Policy and Procedures Manual*) states that officers should generally impound vehicles, but gives them the discretion not to impound for several listed reasons. This policy is pro-impoundment, allowing for specific exceptions. The chief of police's direction is inconsistent with this policy, since he says that "you have to have a reason to tow every car." His direction is anti-impoundment.

To date, the issues resulting in John's Law and the current U.S. Senate bill have not affected Grover Beach. No released DUI arrestee has ever returned to his car, driven away while still intoxicated, and caused a traffic collision. Department management has avoided the issue.

This avoidance is shortsighted. The events leading to John's Law might never happen in the small community of Grover Beach. Then again, it would take only one serious incident to reflect adversely on the department. It took only one incident in New Jersey to produce John's Law.

The department does not need to impound all vehicles driven by DUI arrestees. But it should take additional steps to protect itself, the city, and the public.

Does the department need to improve its management and accountability?

Findings

Findings 1-55 above that apply to specific procedures and actions are appropriate in answering this question. In addition, we have the following findings:

(56) The department's *Policy and Procedures Manual* establishes rules under which the department operates.

(57) The department last comprehensively updated its manual in 1999, but updated portions of the manual "as needed."

(58) In 2001, the department began a comprehensive update of the manual.

(59) On the department's recommendation, the city contracted with a law firm to draft the manual and subsequently update it annually.

(60) Final approval of the updated manual is pending (as of the date of this report).

(61) In between updates of the manual, written orders from the chief of police override the manual to the extent that the orders bring department policies and procedures in compliance with new laws.

(62) The chief of police also issues written and verbal orders to ensure compliance with his management philosophy and priorities.

(63) Department supervisors guide and counsel officers on their actions to ensure that they are consistent with the chief's management direction and priorities.

(64) Failure to follow policies, procedures, and orders is subject to counseling and, if necessary, discipline (from written reprimand to days off without pay to termination, depending on the severity of the failure).

(65) The current *Policy and Procedures Manual* prohibits probationary officers from serving as watch commanders (shift supervisors).

(66) Probationary officers have served as watch commanders.

(67) The revised *Policy and Procedures Manual* permits probationary officers with at least six months of prior police officer experience to serve as watch commanders.

(68) In defending one officer-dismissal case, the city has spent $400,000 in legal expenses since the firing in June 2001.

(69) Police department and city officials stated that their focus on that officer-dismissal case affected how they addressed other department issues, including firearms qualification, DUI, and internal investigations.

(70) In June 2002, the San Luis Obispo County Sheriff's Department submitted a preliminary proposal to the City of Grover Beach in response to the city's request for proposal about the Sheriff's Department assuming responsibilities for police services in Grover Beach. The Sheriff's Department presented three alternatives. In the one it favored, the sheriff estimated that its department would save Grover Beach $462,000 per year, mostly through economy of scale by using a centralized communications center, central records system, and centralized property control.

(71) To date, the city has made no response to the Sheriff's Department proposal.

(72) The City of Grover Beach is now exploring with the cities of Arroyo Grande and Pismo Beach with respect to consolidating their police dispatch functions into a single operation.

Conclusions

The department has taken positive steps to improve its management by updating the department's *Policy and Procedures Manual* that contains, for the first time, policies on firearms qualification and vehicle towing. The updated manual also allows probationary officers with six months law enforcement experience to serve as watch commanders. Moreover, the departure of three officers from the department has eased internal discord. Nevertheless, the department still needs to improve its management and accountability.

The department is still operating under a manual that it last comprehensively updated in 1996. The department began its current comprehensive update in 2001. At the writing of this report, the chief of police has yet to approve the update. Until that approval, the current policies and procedures (without polices on firearms qualification and vehicle towing) direct operations. It should not take almost two years to update such a manual.

A city councilmember allowing himself to be approached in the firearms qualification issue was inappropriate for two reasons. First, it complicated department management's resolution of the issue. Second, it was inconsistent with the Grover Beach city-manager form of government, which gives (1) the city manager control over management and operations and (2) the city council control over policy.

Participation in the officer-termination case distracted management in carrying out other responsibilities. Management relied too much on sergeants to resolve internal disputes such as those involving firearms qualification, DUI enforcement, vehicle towing, concerns about liability, and gender bias.

Public exposure of discord on many of the issues addressed in this report has not contributed to public confidence in the department, city government, and the city council.

The Sheriff Department's proposal to provide contracted police services to the city focuses mainly on cost savings. We received the report too late in our investigation to evaluate it.

The Grover Beach Police Department should take additional steps to control liability costs, contribute to administrative improvements, achieve greater accountability from supervisors, and increase governmental and community support. Obtaining national accreditation can be an effective way to do this.

Overall Recommendations

(1) Require—as part of the release of every DUI arrestee—that the person assuming custody of the arrestee sign a statement acknowledging his or her potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while intoxicated. This should become part of the department's *Policy and Procedures Manual*.

(2) Seek police department accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).

We make this recommendation because this accreditation would address many of management issues we have addressed in this report. The benefits include:

- *Reduced Exposure to Liability*. Accreditation status can decrease liability costs.
- *Stronger Defense against Lawsuits and Citizen Complaints*. Accredited agencies are better able to defend themselves against lawsuits and citizen complaints. Many agencies report a decline in legal actions against them, once they become accredited.
- *Greater Accountability within the Agency*. Accreditation standards give the chief executive officer a proven management system of written directives, sound training, clearly defined lines of authority, and routine reports that support decision-making and resource allocation.
- *Staunch Support from Government Officials*. Accreditation provides objective evidence of an agency's commitment to excellence in leadership, resource management, and service-delivery. Thus, government officials are more confident in the agency's ability to operate efficiently and meet community needs.
- *Increased Community Advocacy*. Accreditation embodies the precepts of community-oriented policing. It creates a forum in which police and citizens work together to prevent and control challenges confronting law enforcement and provides clear direction about community expectations.

CALEA is an independent accrediting authority established by the four major law enforcement membership associations: International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Sheriffs' Association, and Police Executive Research Forum. Their members represent about 80 percent of the law enforcement profession in the nation.

Through a voluntary process, CALEA accredits law enforcement agencies. The purpose of the accreditation program is to improve delivery of law enforcement service by offering a body of standards, developed by law enforcement practitioners, that cover a wide range of up-to-date law enforcement topics.

According to CALEA, the accreditation process serves as an "audit" to determine whether or not the police department's operational policies, written and unwritten, comply with the standards to which the courts and the public hold city managers, police chiefs, supervisors, and patrol officers accountable in the everyday conduct of their business. By having an accredited police department, a city can be reasonably confident that the agency is doing things right.

The accreditation process may take over two years, but it may take the Grover Beach Police Department less time because it has just updated its *Policy and Procedures Manual*.

The cost of accreditation for an agency of the police department's size is $7,650.

An alternative is for the department to participate in the CALEA Recognition Program, which can serve as a stepping stone for smaller law enforcement agencies that wish to participate in a professional credentialing program before seeking accreditation. The CALEA Recognition Program is intended for smaller agencies that may not have the resources for the full accreditation program. The award of CALEA Recognition is for three years. The estimated cost is $2,500.

Comment Requirements

Section 933 on the California Penal Code requires comments on the findings and recommendations to the presiding judge of the Superior Court of California in San Luis Obispo County by (1) the chief of police of the Grover Beach Police Department within 60 days and (2) the Grover Beach City Council within 90 days.

Investigation Setting: the Grover Beach Police Department

The Grover Beach Police Department provides law enforcement and related public safety services to the residents of Grover Beach (2000 population: 13,067), in the southern portion of the county. The city encompasses 2.25 square miles.

The department's services include responding to emergency and non-emergency incidents related to crimes, nuisances, traffic, municipal code violations, animal complaints, and various other activities. The department operates under the direction of a chief of police, who reports to the city manager. Under the chief, an operations lieutenant is responsible for all patrol, traffic, community activities, detectives, property, emergency planning, and related administrative functions. A support services lieutenant is responsible for dispatch, records, property, internal affairs, and primary department/administrative functions. In 2002, the department underwent a reorganization. Previously, a commander (same rank as lieutenant) oversaw the operations functions; a sergeant, the support services.

The department has an authorized strength of 21 full-time sworn (peace officer) personnel and 10 non-sworn support personnel. The current staff is 20 full-time sworn personnel and 10 non-sworn personnel. Testimony during the course of our investigation indicated that, over the years, it was difficult to hire and retain peace officers because the department salaries were lower than other law enforcement agencies in the county. Recent salary increases ordered by the city manager and approved by the city council have made the department more competitive in hiring officers.

The department's budget for fiscal year 2003 (July 2002 to June 2003) is $2.3 million. The City of Grover Beach's total budget is about $11 million, $4.9 million of which comes from the city's general fund (tax revenues and license fees). Most of the funding for the police department comes from the general fund.

Investigation Details

Origin of the Investigation

The investigation resulted from a complaint from a citizen, who made several allegations about management and operations of the Grover Beach Police Department generally during the period 1999 to 2001. We used the complaint as a starting point for our investigation but did not investigate all allegations. We did not, for example, examine anything with respect to an employee termination action that is currently open between an employee and the department. As a matter of policy, the grand jury conducts no investigations on matters where legal proceedings are ongoing. Since it is public record, we can state (without violating our oath of confidentiality) that the complainant, Todd Miller, is the former employee engaged in the currently unresolved termination action.

Over the course of our investigation, the complainant submitted several letters either elaborating on or introducing new issues. We carefully considered each submittal.

Authority/Jurisdiction for the Investigation

We undertook this investigation under Section 925a of the California Penal Code:

> "Authority to Examine Records of City or Joint Powers Agency. The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigative powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit."

The Grover Beach Police Department is a department of the City of Grover Beach, an incorporated city.

Main Issues

As stated before, we did not address any allegation related to the ongoing officer-termination case. Our investigation encompassed the following issues, some of which the complainant proposed and others that we identified during the course of our work:

(1) **In 2000 to 2001, did the department potentially endanger public safety and expose the city to financial risk in its policies and conduct of its requalification of peace officers of firearms proficiency?** See our findings and conclusions above for our answer (beginning on page 7).

(2) **From 1999 to 2001, were there inconsistencies or deficiencies in the department's policies for and conduct of arrests of persons for driving under the influence (DUI) of alcohol or drugs?** See our findings and conclusions above for our answer (beginning on page 9).

(3) **Does the department potentially endanger public safety and expose the city to financial risk in its policies for and conduct in dealing with the vehicles of DUI arrestees?** See our findings and conclusions above for our answer (beginning on page10).

(4) **In 2001, did department supervisorial personnel establish quotas for traffic citations in violation of state law?** We found no evidence to support this allegation.

(5) **Were selected officers treated unfairly, and did some officers receive more favorable treatment that others?** We found no evidence to support this allegation.

(6) **Does the department need to improve its management and accountability?** See our findings, conclusions, and overall recommendations above for our answer (beginning on page 11).

Methods and Validity

Principal Methods

(1) **Initial Document Review.** We reviewed the documentation provided with the complaint. We developed a list of initial records needed from the department.

(2) **Investigative Plan**. We developed an initial plan for the investigation that included the issues to be investigated, the documents needed, and the witnesses to be called. We updated the plan, as appropriate, over the course of the investigation.

(3) **Witness Interviews.** We interviewed, under oath, 24 witnesses: current and former police department personnel (Grover Beach and other), current and former city elected and appointed officials, and state and county government officials. We interviewed four people more than once. Prior to each interview, we developed questions to ask. During each interview, we asked follow-up questions, as appropriate. Collectively, we asked 1,200 questions. We also gave witnesses the opportunity to say anything else they considered important to our understanding of department operations.

(4) **Document Review**. We reviewed over 1,000 pages of documents: current and proposed department policies and procedures, statistical records, range qualification records and reports, arrest records and reports, internal investigation files, meeting summaries, email messages and directives, and internal memos. The department complied with all of our requests for information.

Validity. We took the following steps to verify the accuracy of this report's findings:

1) **Grand Jury Validation of Testimony**. At least five grand jurors interviewed each witness except for one interview conducted outside the county.

(2) **Verification of Facts**. We based all findings on official records and/or the testimony by at least two independent sources.

(3) **Elimination of Hearsay Testimony**. We rejected every hearsay statement (in person or in writing) unless we could validate it through official records or the testimony (in person or in writing) by at least two independent sources who were present or directly involved in the incident described in the hearsay statement.

(4) **Consultation with Legal Advisors**. We consulted with a representative of the county counsel's office on legal issues concerning the investigation.

Review

(1) Throughout the course of the investigation, the grand jury—at its weekly meetings—received reports on the investigation's progress and issues.

(2) The chief of police reviewed our findings and provided comment.

RALCCO Recycling Site in Nipomo—Cleanup Due

Synopsis

RALCCO, a company engaged in recycling household and construction material, operated a plant and storage yard at 801 Ralcoa Way in Nipomo. The company stopped recycling at that facility in October 2001 and has since ceased to function as a business. Sixteen months later, the site remained littered with unprocessed material. The county's Division of Environmental Health Services issued a series of notices and orders requiring the company and the owner of the land to clean up the site, but to no effect. On March 10, 2003, the agency issued a new notice and order complete with prospective fines for failure to comply. Representatives of the California Integrated Waste Management Board (CIWMB) inspected the site and indicated that state funds might be available for the cleanup. We recommend that Environmental Health take whatever action necessary to assure a prompt cleanup, regardless of whether state funds become available. We further recommend that the agency again explore the possibility of excavations at the site to determine if buried drums are present, as was once alleged.

Findings, Conclusions, and Recommendations

Condition of the Site

Findings

(1) There has been no recycling at the site since early October 2001, according to RALCCO's owner and as he notified the California Department of Conservation on October 15, 2001.

(2) In a letter to the CIWMB dated March 17, 2003, Environmental Health stated that "large volumes of solid waste, construction/demolition debris, cardboard, paper, and plastic" are present on the site.

(3) Visual evidence confirmed that statement. We took the photos below on February 8, 2003.

(4) The director of Environmental Health stated in September 2002 that the RALCCO problem fell into the third and lowest priority of nuisance complaints and did not represent a threat to public health.

(5) In its March 17 letter to CIWMB, the agency characterizes the site as a "threat to public health and safety" because of fire hazard and the danger to trespassers.

Conclusions

As of March 17, 2003, some 16 months after RALCCO ceased operations, the site resembled a junkyard.

Renewed inspections of the site (see below) evidently persuaded Environmental Health that a cleanup deserved a higher priority.

Responsibilities

Findings

(6) The Stipulated Order dated November 4, 1999, to which the owner of the business agreed, requires the processing of recyclable material at the site within five days of receipt and prohibits storing such material for more than 60 days.

(7) The Order applies "in perpetuity" and commits Environmental Health to "immediately proceed with regulatory actions" in the event of non-compliance.

(8) Environmental Health notified RALCCO on November 17, 2000, that it was in compliance, but in July 2001 found the company out of compliance.

(9) Subsequent to the stipulated order, Environmental Health issued five separate additional notices of violations and/or orders beginning in January 2000 and ending with the Notice and Order of March 10, 2003. The latter order carries with it prospective fines for failure to comply.

(10) More than a year passed between the July 2001 Notice of Violation and the Notice to Remove of November 12, 2002.

(11) The director of Environmental Health stated in September 2002 that a staffing problem and the low priority his office assigned to the RALCCO problem accounted for delays in addressing that problem.

(12) The law provides that the Department of Health is responsible for the removal of solid waste from private property.

(13) The owner of RALCCO has informed the grand jury and Environmental Health that financial difficulties made it impossible to comply with the orders issued prior to the March 10 order. He has filed a plan for compliance with the latter order.

Conclusions

Environmental Health failed to enforce the stipulated order after the initial period of compliance.

The record indicates that the agency did not turn its attention again to the site after the July 2001 notice until the fall of 2002.

Although a low priority and staffing problems could reasonably delay action somewhat, at least 18 months passed between the time the agency became aware that the RALCCO problem had reoccurred and its issuance of the March 10, 2003, notice and order.

It remains to be seen if the owner of RALCCO will be able to carry out his plan to comply.

Environmental Health has the responsibility under the stipulated order and the law to assure a cleanup of the site.

Hazardous Waste

Findings

(14) The California Department of Toxic Substances Control (DTSC), in response to an anonymous allegation that two drums of toxic waste had been buried at the site, conducted a magnetometer survey and took soil samples on October 28, 1998.

(15) According to the director of Environmental Health, the samples indicated levels of lead and zinc above regulatory limits, but not to a degree dangerous to public health as long as the site remained in its current use. He understood the magnetometer survey to have been inconclusive.

(16) Environmental Health requested permission on August 3, 1999, to excavate portions of the site as a follow-up to the DTSC investigation. RALCCO did not grant permission, asserting that the disruption and digging involved would seriously damage its ongoing business.

(17) In August 2002, the director of Environmental Health consulted the county counsel on that refusal and determined that there was insufficient evidence to seek an administrative search warrant in order to enter the property.

(18) The manager of the Integrated Waste Management Authority (IWMA), who received and reported the allegation of buried drums, continues to believe it should be investigated.

Conclusions

The delay of more than three years in seeking the advice of the county counsel indicates that Environmental Health did not consider credible the report of buried drums, or at least relegated it to a lower priority.

Excavations as originally planned would clear up any disagreement between IWMA and Environmental Health on that score.

RALCCO's no longer operating the site disposes of the problems digging there would have caused its business.

State Action

Findings

(19) Representatives of the CIWMB inspected the site on March 11, 2003, in connection with a review of landfills and other waste sites that might represent a fire hazard.

(20) As a result of the inspection, Environmental Health requested that the board provide funds from the Solid Waste Disposal and Co-disposal Site Cleanup Program (Assembly Bill 2136) for the removal of the material stored at the RALCCO site.

Conclusion

State funds and the involvement of the CIWMB (if that comes to pass) should resolve this long-standing problem.

Overall Recommendations

(1) Environmental Health should take whatever measures necessary to assure a prompt cleanup of the site, regardless of how the CIWMB decides on its request for funds.

(2) If RALCCO is unable to comply fully with the Order of March 10, 2003, the agency should consult with the County Counsel on what further legal action may be feasible.

(3) Environmental Health should make another effort to investigate on site the allegation of buried drums. Now that RALCCO is no longer operating the facility, excavation can take place without damage to an ongoing business. The agency should request permission for excavation on that basis.

(4) The Integrated Waste Management Authority should respond to these recommendations if, as has been proposed, it takes over Environmental Health's responsibilities for the regulation of solid waste,

Comment Requirements

Section 933 on the California Penal Code requires comments on the findings and recommendations to the presiding judge of the Superior Court of California in San Luis Obispo County by (1) the director of Environmental Health Services, the county counsel, and the manager of the Integrated Waste Management Authority within 60 days; and (2) the Board of Supervisors within 90 days.

Investigation Setting: Waste Management in the County and RALCCO

The Division of Environmental Health is the Local Enforcement Agency (LEA) of the California Integrated Waste Management Board. The LEA is responsible for enforcing state laws and regulations pertaining to landfills, composting facilities, and transfer stations. Recyclers are exempt from state laws and regulations applied to solid waste facilities as long as the residual waste after processing is less than 10 percent of the material received. The agency found in 1999 that RALCCO was taking in significant amounts of material and then transferring it to a landfill rather than processing it. That qualified the site as a transfer station subject to the LEA's regulation. The result was the stipulated order. In July 2001, the agency found RALCCO out of compliance. The series of notice and orders followed. The agency refers to RALCCO as an "unpermitted transfer station" in its March 21, 2003, request to the CIWMB for funds.

In December 2002, the owner of the land on which the site is located sold the parcel across the road at 734 Ralcoa Way. RALCCO used that parcel in part to store hazardous waste. Subsequent to the sale, Environmental Health issued an order enforcing a cleanup based on hazardous waste violations. The order listed nine violations determined in the course of five site inspections beginning in October 27, 1998. The new owner of the property and the owner of RALCCO arranged a cleanup and reached an agreement on paying the fines involved.

Environmental Health's role as a LEA may be coming to an end. The Board of Supervisors has voted to request the CIWMB to designate the local Integrated Waste Management Authority as the LEA in its place. The CIWMB itself, with no intermediary, acts as the LEA in the case of solid waste disposal at the city of Paso Robles. The city prefers this arrangement to participation in the countywide program that Environmental Health oversees.

Investigation Details

Origin of the Investigation

We encountered the problem of the RALCCO site during the course of an inquiry into the regulation and permitting of solid waste operations in this county. A member of the Board of Supervisors suggested that inquiry. Complaints addressed to us of a failure to enforce applicable regulations in the RALCCO case persuaded us to undertake a separate investigation.

Authority/Jurisdiction for the Investigation

Section 925 of the California Penal Code provides that the "grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county."

Main Issues

The investigation began with a complaint from a landfill operator that Environmental Health was not enforcing its rules and regulations in the case of RALCCO. We first checked the site itself to confirm its condition. We then conducted interviews and analyzed documents in an effort to determine the reasons for the delay in enforcement. This report lays out the results of those inquiries.

The alleged buried drums posed a second issue. In this instance, we found no evidence either to confirm or deny what remains an anonymous story.

A third main issue was how to gauge the importance of cleaning up the site. We believe the CIWMB's inspection of the site and the resulting letter of March 21, 2003, settles the issue as a practical matter. The cleanup will proceed on the basis that the site is a "threat to public health and safety."

Methods and Validity

We interviewed the director of Environmental Health (twice), his deputy, two landfill operators, the manager of the Integrated Waste Management Authority, the former general manager and owner of RALCCO, the landowner of the site, two neighboring property owners, and the attorney in the County Counsel's office who deals with waste issues. We checked the site from outside the fence on four occasions, and once on the site itself with permission from RALCCO's owner. Documentary sources included tax records, the 1998 Inspection Report of the California Department of Toxic Substance Control, minutes of meetings of the Integrated Waste Management Authority Board, the Stipulated Order of November 4, 1999, and the Notice and Order of March 10, 2003. We reviewed letters written over more than three years by the director of Environmental Health and his subordinates, as well as letters and written messages from the other parties concerned with the problem. Documentary evidence supports all the findings in this report.

Improvement Needed in the Integrated Waste Management Program

Synopsis

The San Luis Obispo County Division of Environmental Health Services (agency) is the designated local enforcement agency responsible for overseeing the collection and disposal of household solid waste. That responsibility includes permitting, inspection, and enforcing state and county laws. Environmental Health enforces and regulates solid waste laws in all parts of the county except the City of Paso Robles.

The agency has had problems maintaining trained staff in the solid waste program. The staffing problems have contributed to difficulties in issuing permits, conducting inspections, and enforcing orders to correct violations. The disposal site operators have had problems obtaining permits and complying with permit conditions. The extra costs of compliance result in higher disposal fees for consumers.

We recommend that the agency either fill the solid waste position with one full-time person or, if two part-time staff members are necessary, give one of these persons the lead role for making program decisions. We also recommend that the county work with the State Integrated Waste Management Board to allow minor changes to a permit without requiring major revisions to the entire permit.

Findings, Conclusions, and Recommendations

Agency Staffing

Findings

(1) During the past five years, there have been six separate inspectors in the solid waste program.

(2) According to the director of Environmental Health, it takes from four to six months to train a registered environmental health specialist for the solid waste position.

(3) When a program member resigns, inspections have occasionally been made by staff not fully trained in the solid waste program.

(4) The solid waste program does not have a dedicated full-time person. The director is currently staffing the program with two people working 86 percent of their time in solid waste. The purpose of this arrangement is to provide backup in case one of the staff leaves the program.

(5) As a result of staffing problems, Environmental Health did not complete all of the required inspections of closed sites in the year 2000.

(6) The Board of Supervisors has held hearings regarding changing the local enforcement agency from the Environmental Health Division of the Public Health Department to the county's Integrated Waste Management Authority.

Conclusions

The frequent turnover of staff is making it difficult for the agency to remain focused on the details of the program. Training replacement staff further reduces the manpower available. In order to function effectively, the program must find qualified staff and find ways to keep the staff in the program. Staff in charge of the solid waste program receive specialized training beyond the training required to be a registered environmental health specialist. When an inspector in the solid waste program leaves the position, there are usually no qualified replacements on the staff to immediately fill the position. On some occasions, the department had to use untrained or partially trained individuals to conduct the required site inspections.

Employees of the State Integrated Waste Management Board confirmed that staffing in the program was a problem in other counties, as well.

Recommendation

(1) The agency needs a qualified lead staff person to coordinate the solid waste program. Alternatively, the agency should assign more responsibility for the solid waste program to the supervisor and fully train him in the program so that he can fill any temporary vacancy.

Permitting

Findings

(6) The director of Environmental Health maintains that there is no such a thing as a minor change to a permit. Any modification opens the entire permit to review.

(7) The director said that, perhaps in issuing a specific permit, the agency overlooked factors that came up for review when the permit was later modified.

(8) The agency must review every landfill permit every five years unless modified earlier by the permit holder.

(9) According to the director, permit reviews normally take four months from the time the agency deems the application complete.

(10) Waste site operators must file a report called *Disposal Site Information* as part of their permit application. This document fills a four-inch binder and costs $50,000 to $100,000, according to the operator of a major waste site.

(11) In addition to the county review, all permits must be reviewed and approved by the State Integrated Waste Management Board.

Conclusions

The permit process is overly complicated. Due to the costly and time consuming process involved in modifying a permit, it is essential that the agency assure careful review of permits prior to issuance. Simple modifications to the permit should be possible without opening the entire permit to review. An unnecessarily detailed review only adds to the cost of permitting and makes waste disposal more expensive for the community. The automatic five-year review of the permit should provide sufficient environmental protection.

Recommendations

(2) Environmental Health should work with the State Integrated Waste Management Board to establish procedures for allowing minor permit modifications without requiring complete permit reviews.

(3) If the local Integrated Waste Management Authority becomes the local enforcement agency, as proposed, it should take this recommendation into account.

Comment Requirements

As provided in Section 933(c) of the California Penal Code, the director of Environmental Health Services shall comment to the presiding judge of the Superior Court of California in San Luis Obispo County on the findings and recommendations in this report within 60 days of its publication. The Board of Supervisors must comment within 90 days.

Investigation Setting: Integrated Waste Management

Originally, Environmental Health had authorization to enforce the solid waste program in seven cities and in the county. Several years ago, the City of Paso Robles requested that the State Integrated Waste Management Board become the enforcement agency for its operation.

The Environmental Health Division has traditionally had the charge of protecting the public health in such settings as drinking water supply, waste water disposal, sanitary food handling, public swimming pool safety and sanitation, and sanitary housing. Employees of the Environmental Health Division must have bachelors' degrees in science. After completing several months of on-the-job training, new employees become eligible to take a comprehensive test covering all aspects of environmental health. On successful completion of the test, they earn the title of Registered Environmental Health Specialist.

Since 1989, a local enforcement agency must carry out solid waste laws. The State Integrated Waste Management Board must approve the cities and the county law enforcement agencies. By state law, each agency must have on its staff a registered environmental health specialist.

Funding of the local enforcement agency comes from permit fees, a grant from the Integrated Waste Management Board, and some general fund money.

The California Integrated Waste Management Board has the lead role in the solid waste management program. The board reviews all aspects of the local enforcement agency's program and has the power to withdraw the authorization of the local agency for cause. The local agency has little room to negotiate its enforcement program.

Investigation Details

Origin of the Investigation

A member of the Board of Supervisors suggested there might be a problem with the solid waste program. The concern came from reports to the board of difficulties in obtaining solid waste permits in a timely manner. There were also concerns that Environmental Health was requiring renewal of operating permits on a more frequent schedule than the five years stipulated in the regulations. In addition, the operators expressed frustration with the frequent turnover of inspectors and the different interpretation of the law that each inspector made during inspections.

Authority/Jurisdiction for the Investigation

Section 925 of the California Penal Code provides that the Grand Jury shall investigate and report on the operations, accounts and records of the officers, departments or functions of the county. The Division of Environmental Health Services is a county agency.

Main Issues

For almost a decade, the Environmental Health Division has been acting as the local enforcement agency in San Luis Obispo County. During this time, the agency has done a relatively good job of managing the program according to the State Integrated Waste Management Board staff. One problem that the agency has not been able to deal with effectively is staffing. There is a relatively high turnover of staff in the division. The lack of experienced staff has resulted in problems conducting required inspections, issuing permits in a timely manner, and maintaining consistency in conducting inspections. As a result of the staffing problems, the regulated community has experienced additional costs to comply with the solid waste regulations. In addition, the regulated community has experienced disruptions in its business by not being able to obtain permits in a timely manner.

Methods and Validity

Principal Methods. We interviewed operators of two of the largest disposal sites in San Luis Obispo County, the director of Environmental Health and his supervisor of solid waste, the manager of the Integrated Waste Management Authority, and staff of the State Integrated Waste Management Board. We also reviewed copies of permits issued to one site operator, inspection reports conducted by the agency at a disposal site, correspondence between a site operator and the county regarding permitting issues, and the county's enforcement program plan.

Validity. Operators of the county's two largest disposal sites first provided the information regarding the performance of the Environmental Health Division. We verified the information by reviewing letters between the site operators and Environmental Health. We also interviewed both the director of Environmental Health and his supervisor separately. We asked each one specific questions regarding the deficiencies alleged by the operators. We also conducted a telephone interview with staff members of the Integrated Waste Management Board regarding their reviews of the Environmental Health Division.

Cuesta College Associate Degree Nursing Program Adjusts Well to a Change in Admission Policy

Synopsis

There is a shortage of nurses in California. Cuesta College operates the only Associate Degree Nursing (ADN) Program in San Luis Obispo County. In 1997, the California Chancellor's Office of Community Colleges directed all community colleges to change their ADN admission policy from selecting students through traditional competition to selecting students randomly from a "qualified pool" consisting of all applicants with a grade average of "C" or better.

How did this policy change affect the number of Cuesta students who became nurses? The percentage of program graduates declined for the first two years under the new policy, but returned to previous levels during the last two years. The percentage of graduates who passed their licensing exams to become registered nurses held steady for students admitted during the first two years of the new policy, declined significantly for the next two years, and then increased again. Cuesta College is bettering statewide statistics.

Cuesta's ADN Program hopes to change its admissions policy soon. It needs Board of Trustees' approval to admit applicants from the random drawing pool in an order based on their GPA performance in their prerequisite courses.

Since there are more applicants than spaces at Cuesta College's ADN Program, adding spaces is more important than changing policies to increase the number of nurses in California.

Findings and Conclusions

Findings

(1) There are more applicants than there are spaces for students in the Associate Degree Nursing (ADN) Program at Cuesta College (See Appendix A, page 18).

(2) Before 1997, Cuesta College evaluated each applicant individually and gave points for academic achievement, performance at an interview, references and a few other factors. Cuesta College then admitted applicants with the highest point totals.

(3) The School of Nursing at Cuesta College was not alone in using grades and other criteria for selecting their nursing students. The community college system in California is decentralized, and nursing programs at these colleges were allowed to make their own decisions on how to decide who to admit.

(4) After the Chancellor's Office of the California Community Colleges lost a series of lawsuits against it in the 1980s and early 1990s, it decided in 1993 to make changes to Title 5 of the California Code of Regulations that eliminated grade-related prerequisite and co-requisite requirements.

(5) Cuesta College decided to comply with the Chancellor's Office's policy and eliminated all admission criteria that it could not validate as predictors to students' success in the field of nursing. Beginning in 1997, Cuesta College placed all applicants who maintain a "C" average in math and science prerequisite courses into a pool from which it randomly selected a set number of them to be admitted into the next class.

(6) The number of student spaces in the program dropped from 45 in 1996 to 35 in 1997 through 1999 due mainly to the lack of clinical space for training.

(7) In 2000 and 2001, the number of spaces increased to 46.

(8) In 2000, the program had fewer enrolled students (37) than spaces (46).

(9) Cuesta officials stated that standards for evaluating students did not change following implementation of the Qualified Applicant Pool system. We were not able to verify the statement because of time and resource constraints. They stated also they believed that students admitted under the new program were less prepared for the rigors of the ADN program than those admitted under the point system.

(10) Since Cuesta and other community colleges implemented this change in admissions policy, there has been a decrease statewide in the number of admitted students who complete the course of study through to graduation (success rate): statewide, the success rates of ADN students have declined from about 82 percent in 1994-95 to about 73 percent in 1998-99.

(11) At Cuesta College's ADN Program, students admitted during the last five years of the point system have had about an 82 percent success rate, which was the same as the statewide success rate.

(12) During the first two years following inauguration of the Qualified Applicant Pool system for selecting students for admission, nursing students at Cuesta have had a success rate of about 63 percent.

(13) During the last two years of measurement, 1999-2000 and 2000-2001, the success rate at Cuesta College averaged about 86 percent.

(14) In 2002, the Research and Planning Group's Center for Student Success (CSS) engaged in a study designed to improve the prediction of successful student completion in ADN programs: *The Associate Degree Nursing: Model Prerequisites Validation Study*.

(15) This study acknowledged that there were other factors over which the community colleges had no control that were contributing to the shortage of nurses in California. These factors included more attractive jobs in other professions, low wages, poor working conditions, and high training costs to nurses. However, the assumption of the study was that attrition in nursing programs is an important contributing factor.

(16) The study found that there were four factors that rose to the top in the prediction model: overall college grade point average (GPA), English GPA, Core Biology GPA (anatomy, physiology and microbiology), and Core Biology repetitions (the number of times a student repeats any of the core biology courses). The study found also that the application of these factors significantly improved the chance for success for completing the ADN program.

(17) In 2002, CSS sent this study to the chancellor and the Academic Senate of the California Community Colleges.

(18) The president of the Academic Senate wrote in his update in June 2002 that the Academic Senate is "adamantly opposed" to any measures that would limit access, and believes that community colleges should find alternative means of ensuring the success of nursing students other than imposing entrance requirements that "would screen out 'less-prepared' candidates." The President also stated that "if the state is serious about wanting us to crank out more nurses, it can give us more resources with which to get our students through our programs."

(19) The chancellor wrote in opposition to implementing any change in entrance requirements as recommended by the CSS study. In his Weekly Email Update, the Chancellor wrote on June 7, 2002:

"At this point it's appropriate that we put a big, red 'stop' sign in front of us. It would be dangerous to consider and implement this research in isolation. The discussion we're undertaking is one of rationing access—looking at who gets in to limited spaces. This discussion is in direct conflict to the open access mission of the California Community Colleges. And, if we're not extremely careful, this discussion will be in direct conflict to our core beliefs of student equity and equal opportunity. Let's back up and look at the big picture before we proceed. If we keep our eye on the big picture it means we must pursue a multi-part strategy: 1) Aggressively increasing the number of nursing slots available in our colleges, 2) doing more outreach in terms of recruiting students to our programs, 3) having counseling, advice, and other intervention strategies in place to help students understand their options and overcome obstacles to success, and 4) carefully implementing methods to help determine the order in which we serve students."

(20) In June 2002, the Chancellor's Office wrote that it would provide the community colleges its recommendations on the findings of the CSS Study. The Chancellor's Office stated recently that these recommendations would be ready by the end of April, but officials at Cuesta College say that they are not optimistic that this date will be met.

(21) Although they have not received the Chancellor Office's recommendations, officials at Cuesta College say that they plan to implement some recommendations of the CSS study related to admissions policy. Approval by the Board of Trustees is necessary. Cuesta's plan is to maintain the qualified pool of applicants, but end the random drawing from the pool. Instead, Cuesta will admit applicants in an order determined by their GPA in prerequisite courses. Applicants not admitted will go on a waitlist and offered study skills courses. Cuesta would place waitlisted applicants, if still interested, on next year's qualified pool and admitted first.

(22) The nursing authority in the state where a nurse intends to practice must license the person as a registered nurse. To obtain this license, the nurse must pass the National Council Licensure Examination for Registered Nurses, commonly called NCLEX-RN.

(23) For those students admitted during the last two years of the point system, Cuesta College had the second highest NCLEX-RN pass rate (97%) of all California community colleges that graduated ADN students who took the NCLEX-RN examination for the first time. The overall statewide pass rate among ADN programs was 85 percent (see Appendix B, page 18).

(24) Of the Cuesta College ADN graduates admitted during the first three years of the qualified applicant pool system and who took the NCLEX-RN examination for the first time, 84.4 percent passed the exam. The pass rate for those three years in all ADN programs in California was 83.5 percent. While Cuesta exceeded that pass rate, 33 of the reported 71 ADN programs had higher pass rates (see Appendix B).

(25) For July 1 to September 30, 2002, 16 Cuesta College nursing graduates (all admitted under the qualified applicant pool system) took and passed the NCLEX-RN examination.

(26) In February 1999, the Board of Registered Nursing expressed concern about declining pass rates statewide on the NCLEX-RN examination. In December 2000, the board's NCLEX-RN Task Force issued a report recommending ways to ameliorate the effects of the decline. Cuesta College has adopted some recommendations from the report. These include:

- *Incorporate an assessment of language proficiency, reading level, and reading comprehension as part of pre-nursing assessment for potential nursing students or for counseling newly admitted students to the nursing major*. Cuesta currently uses the Test of Essential Academic Skills, designed to assess student competencies in the areas of mathematics, science, English, reading and comprehension. These results give both students and instructors information about areas of student weakness.
- *Develop techniques to identify at-risk students early and implement remediation plans*. Cuesta College has recently recommended giving nursing majors a higher registration priority. This will allow the college to identify potential applicants very early in the process. In addition, Cuesta College is forming learning communities for this fall. These communities will join science courses with study skills courses to assist all students, but particularly those students at risk.

Conclusions

During the first two years of the new "qualified pool" admission policy, a higher percentage of the students admitted to the ADN Program at Cuesta College did not finish the program than had the students admitted during the previous "point system" admission policy. Evidence suggests that there was a correlation between these events.

The proposed new admissions policy based on the factors raised in the CSS study would probably improve the prediction of ADN program completion. However, Cuesta College is already doing better than the state averages, and some of the problems reported statewide may not necessarily apply to the program at Cuesta. In the last two years, the percentage of students who failed to complete the Cuesta College nursing program has decreased significantly. The percentage of students who pass the NCLEX-RN test after completing the Cuesta College nursing program has started to rise again. The ADN program at Cuesta College is being courageous in not waiting for recommendations from the Chancellor's Office before acting on the findings of the CSS Study. Given the pressure from both the chancellor and the president of the Academic Senate, Cuesta is doing the best it can to deal with the situation.

Since there are more applicants for spaces at the Nursing Program at Cuesta College than there are spaces, increasing the number of spaces available, as the chancellor suggests, would have a greater effect on increasing the number of nurses in California than would making changes to admission policies. Unfortunately, budget cuts for community colleges and reductions in medical facilities in the county (where students must do their clinical training) make increasing the number of spaces at Cuesta unlikely.

We commend Cuesta for adopting some of the recommendations from the Board of Nursing report to help increase its success rate.

Comment Requirements

Section 933 of the California Penal Code requires comments of the findings to the presiding judge of the Superior Court of California in San Luis Obispo County by (1) the president of Cuesta College within 60 days and (2) the college Board of Trustees within 90 days.

The Setting: Cuesta College Nursing Program

Reports of impending and actual shortages of registered nurses (RNs) as well as other nursing personnel appear frequently in the California and national press. Factors contributing to California's nursing shortage include changes in the healthcare environment that downsized the nursing work force due to managed care, the aging nursing work force, and public policy regarding nursing education. As a result, California ranks 50th in the nation in number of RNs per 100,000 population. The current shortage is a "public health crisis" because of a projected shortfall of 25,000 nurses within the next five years. Seventy percent of registered nurses in California are graduates of community colleges with ADN programs. About one percent of these California community college ADN graduates are from Cuesta College.

Currently, Cuesta admits 46 students each fall to its ADN program. Applicants must complete the following Cuesta College courses and assessment test or equivalent courses with a "C" or better by the end of the fall semester prior to the year for which they are applying: anatomy, physiology, bacteriology, and English 1A. Applicants must also take the Test of Essential Academic Skills. Applicants follow the testing directions published in the Cuesta nursing application form for the year for which they are applying. This is a standardized test for pre-nursing candidates in the following areas: reading, basic mathematics, basic science, English, and language usage. Applications are available from July through mid-December. A random computerized drawing from completed applications makes the student selection. Cuesta places students not selected in that drawing on a wait list. Cuesta encourages students to continue their education after graduation. After students complete their prerequisites, they enter the four-semester ADN program, excluding summers. Cuesta schedules clinical rotations during day and evening shifts throughout the county.

Investigation Details

Origin of the Investigation

We initiated this investigation because some of us expressed concern that no one had followed up on measuring whether there were any effects resulting from Cuesta College's change of admissions policy in 1997.

Authority/Jurisdiction for the Investigation

We undertook this investigation under Section 933.5 of the California Penal Code:

> "Examination of Books of Special District or Commission. The grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission."

Methods and Validity

Principal Methods. We interviewed many representatives of Cuesta College administration in academic and business areas. We also spoke with officials involved at the State of California level when the change to the statewide admission policy occurred. We researched and analyzed relevant studies. We also read and analyzed writings of state officials responsible for reacting to these studies and for making recommendations based on them.

Validity. We verified information from Cuesta College officials by checking it against information from the State Board of Registered Nursing and other sources. The vice president of Student Services at Cuesta College and staff of the ADN program reviewed our findings and provided comments.

Appendix A

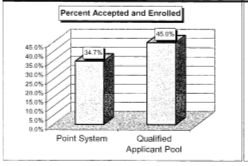
Cuesta College Nursing Program Statistics

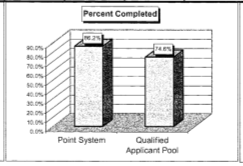
Point System (1994-1998)

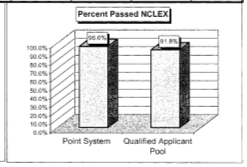
Year Admitted	Year of Graduation	Number of Qualified Applicants	Accepted and Enrolled	% Accepted and Enrolled	Number of Completers[1]	% Completed	NCLEX Test Year	Took NCLEX	% Took NCLEX	Passed NCLEX	% Passed NCLEX
1992	1994	134	45	33.6%	39	86.7%	1994-95	na	na	na	na
1993	1995	103	45	43.7%	37	82.2%	1995-96	45	na	43	95.6%
1994	1996	112	45	40.2%	45	100.0%	1996-97	33	na	31	93.9%
1995	1997	153	45	29.4%	39	86.7%	1997-98	52	na	52	100.0%
1996	1998	146	45	30.8%	34	75.6%	1998-99	19	na	17	89.5%
Total		**648**	**225**	**34.7%**	**194**	**86.2%**		**149**	**na**	**143**	**96.0%**

Qualified Applicant Pool (1999-2003)

Year Admitted	Year of Graduation	Number of Qualified Applicants	Accepted and Enrolled	% Accepted and Enrolled	Number of Completers[1]	% Completed	NCLEX Test Year	Took NCLEX	% Took NCLEX	Passed NCLEX	% Passed NCLEX
1997	1999	81	35[2]	43.2%	24	68.6%	1999-00	24	na	22	91.7%
1998	2000	134	35[2]	26.1%	20	57.1%	2000-01	33	na	31	93.9%
1999	2001	74	35[2]	47.3%	33	94.3%	2001-02	40	na	36	90.0%
2000	2002	52	37[3]	71.2%	29	78.4%	2002-03	na	na	na	na
2001[4]	2003	77	46	59.7%	na	na	2003-04	na	na	na	na
Total		**418**	**188**	**45.0%**	**106**	**74.6%**		**97**	**na**	**89**	**91.8%**







[1]A Completer is defined as a student who is eligible to sit for the NCLEX.
[2]From 1997 to 1999, only 35 spots were available due primarily to lack of clinical space.
[3]This is the only year in which the number accepted and enrolled was less than the total number of available spots (46 in this case).
[4]Incomplete data as class is still in progress.

Appendix B

California Board of Registered Nursing (BRN) NCLEX Pass Rates for BRN-Accredited Associate Degree Registered Nursing Programs

The table to the right, based on information from the Board of Registered Nursing's web site (April 7, 2003), reflects the results of all Associate Degree (AD) graduates (including students who graduated *prior* to July 1997) who have taken the NCLEX examination for the *first time* within the last five years. The data are by academic year (for example, July 2001-June 2002). The first two years were under the earlier point system; the last three years were under the new qualified pool system. We present the data in order of pass rates for the last three years.

Program	Earlier Point System				New Qualified Pool System						% Pass Last 3 Yrs.
	1997/1998		1998/1999		1999/2000		2000/2001		2001/2002		
	# Taken	% Pass	# Taken	% Pass	# Taken	% Pass	# Taken	% Pass	# Taken	% Pass	
Moorpark College	61	93.44	46	89.13	42	97.62	49	95.92	62	93.55	95.4
Santa Rosa Junior College	38	89.47	47	93.62	48	93.75	50	92.00	47	95.74	93.8
Sierra College	41	95.12	27	88.89	29	89.66	33	93.94	47	95.74	93.6
Los Angeles Harbor College	53	90.57	46	91.30	38	92.11	48	91.67	45	95.56	93.1
Palomar College	74	94.59	47	95.74	60	91.67	41	92.68	57	94.74	93.0
Butte Community College	28	78.57	23	91.30	22	86.36	21	95.24	21	95.24	92.2
Sacramento City College	48	85.42	56	89.29	51	88.24	38	92.11	36	97.22	92.0
Cypress College	70	95.71	72	88.89	76	92.11	60	95.00	54	87.04	91.6
College of the Desert	50	96.00	55	92.73	44	95.45	53	88.68	41	90.24	91.3
Chaffey College	46	97.83	61	95.08	33	90.91	46	89.13	48	91.67	90.6
Mount San Antonio College	54	79.63	30	76.67	39	94.87	50	82.00	39	97.44	90.6
San Bernardino Valley College	71	88.73	65	92.31	58	86.21	76	85.53	75	96.00	89.5
Bakersfield College	55	89.09	50	94.00	53	92.45	47	87.23	77	88.31	89.3
Santa Barbara City College	30	93.33	30	100.00	26	80.77	35	91.43	36	91.67	88.7
Ventura College	70	77.14	68	85.29	59	88.14	66	87.88	59	89.83	88.6
Modesto Junior College	69	94.20	55	81.82	65	81.54	79	89.87	86	91.86	88.2
Antelope Valley College	81	90.12	66	89.39	50	84.00	52	94.23	41	85.37	88.1
El Camino College	61	95.08	74	89.19	68	92.65	65	84.62	72	86.11	87.8
Saddleback College	102	91.18	89	93.26	82	92.68	74	89.19	89	89.89	87.8
Long Beach City College	89	88.76	84	94.05	78	91.03	86	87.21	83	84.34	87.4
Riverside Community College	98	89.80	101	88.12	97	85.57	99	83.84	101	92.08	87.2
American River College	55	87.27	51	82.35	65	84.62	59	89.83	51	86.27	86.9
Shasta College	41	97.56	47	85.11	41	90.24	47	82.98	57	87.72	86.9
Gavilan College	16	87.50	15	80.00	13	76.92	10	80.00	15	100.00	86.8
Cabrillo College	37	97.30	34	94.12	38	84.21	29	89.66	40	87.50	86.6
Mount San Jacinto College	17	100.00	14	85.71	12	100.00	17	64.71	29	93.10	86.2
Yuba College	23	100.00	24	91.67	25	80.00	22	86.36	45	88.89	85.9
Grossmont College	71	97.18	67	86.57	71	91.55	74	82.43	81	83.95	85.8
Ohlone College	32	90.63	50	92.00	25	88.00	36	86.11	35	82.86	85.4
Los Medanos College	40	92.50	33	78.79	35	94.29	48	85.42	46	78.26	85.2
College of the Sequoias	58	93.10	33	90.91	61	88.52	52	80.77	48	85.42	85.1
Monterey Peninsula College	43	93.02	39	97.44	46	89.13	36	80.56	39	84.62	85.1
Victor Valley College	67	85.07	66	90.91	61	83.61	24	58.33	59	96.61	84.7
CUESTA COLLEGE	**52**	**100.00**	**19**	**89.47**	**24**	**91.67**	**34**	**79.41**	**40**	**85.00**	**84.4**
Evergreen Valley College	56	89.29	41	85.37	38	84.21	31	77.42	40	90.00	84.4
Cerritos College	62	80.65	69	76.81	78	80.77	91	87.91	99	81.82	84.3
College of San Mateo	26	92.31	34	76.47	36	86.11	28	71.43	39	89.74	83.5
Golden West College	79	89.87	67	97.01	54	92.59	75	89.33	72	81.94	83.4
College of Marin	47	87.23	43	81.40	31	87.10	36	80.56	34	82.35	83.2
Glendale Community College	42	83.33	34	85.29	31	80.65	40	90.00	54	79.63	83.2
Rio Hondo College	46	89.13	51	82.35	53	84.91	45	82.22	38	81.58	83.1
De Anza Community College	50	88.00	47	87.23	63	85.71	50	80.00	52	84.62	83.0
City College of San Francisco	50	88.00	64	90.63	54	81.48	46	86.96	62	80.65	82.7
Santa Monica College	52	88.46	56	92.86	50	84.00	48	89.58	51	74.51	82.6
Pasadena City College	75	90.67	68	86.76	67	77.61	80	82.50	82	86.59	82.5
College of the Canyons	56	85.71	65	89.23	62	77.42	43	86.05	54	85.19	82.4
College of the Redwoods	41	100.00	39	64.10	36	77.78	39	94.87	24	66.67	81.8
Fresno City College	59	91.53	73	86.30	102	81.37	125	80.00	120	83.33	81.6
Pacific Union College	51	88.24	76	84.21	54	83.33	82	82.93	46	76.09	81.3
Solano Community College	44	88.64	38	86.84	26	88.46	34	88.24	31	67.74	81.3
San Joaquin Delta College	84	82.14	45	82.22	88	87.50	70	75.71	88	79.55	80.6
Contra Costa College	34	85.29	40	72.50	49	79.59	29	65.52	38	92.11	80.2
Imperial Valley College	30	73.33	40	70.00	28	92.86	34	82.35	34	67.65	80.2
Chabot College	40	90.00	32	84.38	37	81.08	21	66.67	26	88.46	79.8
San Diego City College	50	68.00	51	76.47	47	87.23	48	70.83	46	76.09	79.1
Allan Hancock College	N/A	N/A	21	71.43	3	100.00	22	72.73	3	100.00	78.6
Santa Ana College	62	87.10	59	84.75	52	73.08	72	79.17	62	82.26	78.5
Los Angeles County College of Nursing & Allied Health	53	86.78	37	70.27	85	81.18	72	66.67	68	79.41	76.0
Los Angeles Valley College	76	84.21	90	73.33	87	77.01	89	68.54	89	75.28	73.3
Merritt College	39	71.79	28	60.71	17	88.24	29	62.07	9	77.78	72.7
Los Angeles Trade-Tech. College	45	82.22	46	78.26	40	75.00	33	66.67	25	76.00	72.4
Hartnell College	24	87.50	29	68.97	23	82.61	34	70.59	40	65.00	71.1
Merced College	25	92.00	20	75.00	12	66.67	19	73.68	14	71.43	71.1
Los Angeles Pierce College	67	85.07	47	91.49	56	71.43	60	61.67	60	80.00	71.0
Southwestern Community College	39	92.31	40	62.50	36	75.00	34	58.82	30	80.00	71.0
East Los Angeles College	70	70.00	66	63.64	102	58.82	58	77.59	37	86.49	69.5
Maric College	135	65.19	122	80.33	159	65.41	121	71.07	94	74.47	69.5
Mount Saint Mary's College	53	60.38	77	62.34	67	47.76	71	83.10	71	76.06	69.4
Napa Valley College	43	79.07	40	75.00	39	79.49	41	60.98	45	75.56	64.0
Compton Community College	25	80.00	16	75.00	28	71.43	7	28.57	20	25.00	49.1
Los Angeles Southwest College	37	72.97	25	68.00	36	61.11	49	46.94	58	36.21	46.2
TOTALS	3,708	87.08	3,520	82.27	3,561	82.81	3,652	81.47	3,656	83.86	83.5

North County Needs New System for Booking Accused Law Breakers

Synopsis

Law enforcement agencies in San Luis Obispo County use holding facilities to confine arrestees for a short period of time before law enforcement officers must either release the arrestees or book them in the county jail in San Luis Obispo for later court trial. This creates a particular burden for the law enforcement agencies in the north county. An officer in that area must leave his or her normal duties (downtime) and transport the arrested person to the county jail and await that person's booking. Over the past two or three years, the four law enforcement agencies of north county have collectively averaged 2,502 hours per year transporting arrestees to the county jail. When officers are transporting and booking arrestees, they are unable to perform regular patrol and other duties. We recommend that the county establish a new booking office in Templeton. This would cut downtime by at least half.

Findings, Conclusions, and Recommendations

Can law enforcement agencies be more efficient by booking arrestees in north county for later trial?

Findings

(1) Holding facilities exist at law enforcement agencies in the county to detain arrestees for up to six hours prior to their release, booking at the county jail on Kansas Avenue on the western end of San Luis Obispo, or appearance in court.

(2) In north county, the police departments of Paso Robles and Atascadero have holding facilities.

(3) The four law enforcement agencies in north county report the following statistics over the past two or three years:

- The Paso Robles Police Department (36 full-time officers) has averaged 24 bookings per month over the last three years at an annual cost of 720 hours. Average time spent per booking has been 2.5 hours. The roundtrip between Paso Robles and the county jail is 66 miles; between Paso Robles and Templeton, the roundtrip is 14 miles.
- The Atascadero Police Department (29 full-time officers) has averaged 31 bookings per month over the last three years at an annual cost of 558 hours. Average time spent booking has been 1.5 hours. The roundtrip between Atascadero and the county jail is 42 miles; between Atascadero and Templeton, the roundtrip is 10 miles.
- The sheriff's sub-station at Temple-ton (28 full-time officers) has averaged 38 bookings per month over the last two years at an annual cost of 684 hours. Average time spent booking has been 1.5 hours. The roundtrip between Templeton and the county jail is 52 miles.
- The Templeton office of the California Highway Patrol (CHP) also books arrestees at the county jail. The CHP (22 full-time officers) has averaged 30 bookings per month over the last three years at an annual cost of 540 hours. The average booking time and distance to the county jail are the same as those for the sheriff's sub-station.

(4) The chief of police of the Paso Robles Police Department and the sergeant in charge of Atascadero Police Depart-ment's holding facility said they favor changes to reduce the time lost in booking arrestees.

(5) The Board of Supervisors has authorized the construction of a new sheriff's sub-station for north county in Templeton. As of the writing of this report, construction has not yet started.

Conclusions

Annually, the officers of the four agencies spend about 2,502 hours transporting arrestees to the county jail for booking. These hours are the equivalent of over 1.25 person-years. This time-consuming booking system takes officers in north county away from their regular assigned duties to an inordinate degree and to the detriment of law enforcement in the area. We calculate that the establishment of a booking facility associated with the new sheriff's sub-station in Templeton would cut the time required to book by least one-half because of the substantially reduced driving distances.

There is an added cost in the wear and tear on the vehicles the officers use in transporting arrestees in north county to the county jail. The average annual bookings of about 1,456 by the four agencies require the officers to drive about 71,000 miles per year. Establishing a booking facility in Templeton would reduce the mileage by 89 percent: to 7,750.

Recommendations

(1) The Board of Supervisors and the Sheriff's Department should add jail and booking facilities to the new authorized sheriff's sub-station in Templeton.

This would allow the four law enforcement agencies to book arrestees in north county. We are not in a position to calculate the cost of building such a facility. But we believe that, in time, the facility will produce more than enough savings in time and vehicle expenses to compensate. The county might increase the current booking fee to offset some of the cost. The higher booking fee would still cost the agencies less than the time and expense of the drive to the main jail.

(2) If current budgetary problems prevent implementation of the first recommendation at least in the immediate future, the Sheriff's Department and the Board of Supervisors should determine the feasibility of establishing a shuttle service (prisoner van) to pick up arrestees at the various holding facilities in north county for booking at the county jail.

The Sheriff's Department could offset the cost by charging a fee, based on mileage, for the shuttle service.

Comment Requirements

Section 933 on the California Penal Code requires comments on the findings and recommendations to the presiding judge of the Superior Court of California in San Luis Obispo County by (1) the county sheriff within 60 days and (2) the Board of Supervisors within 90 days.

Investigation Setting: Holding Facilities in the County

We inspected the seven jail holding facilities in the county. According to policy, each department holds an arrestee for no more than six hours. The department then either transports the arrestee to the main jail or releases him or her. Except for felonies and serious misdemeanors, the basic policy of each department with holding cells is to book and release on citation to appear in court on a given date.

In September 2002, the Paso Robles Police Department had four holding cells and a booking cage. The department had no special provisions for juvenile detainees. In February 2003, the department moved into its new state-of-the-art public safety complex nearby. The department now has two cells for juveniles, two booking cells, one rubber padded cell, one wheelchair-accessible cell, and three other holding cells.

The Atascadero Police Department has four holding cells. In another area of the building, the department detains juveniles in an office under supervision of an officer.

The San Luis Obispo Police Department has two holding cells and booking facilities.

The Sheriff's Court holding facility, operated by sheriff's correctional officers, consists of four holding cells and two attorney/client conference rooms. The officers monitor inmates visually and by video cameras.

The Pismo Beach Police Department has two holding cells and holds juveniles separately.

The Grover Beach Police Department monitors its holding cells both visually and by closed circuit television connected to the dispatch center just down the hallway.

The Arroyo Grande Police Department has three holding cells.

For each detainee held for four hours or more, the six police departments provide a sandwich and drink purchased from a nearby eating establishment. The Sheriff's Court holding facility provides detainees with sack lunches prepared by the main jail kitchen.

At each inspection site, the officers concerned knew in detail the law applicable to the holding of detainees and the policies of their respective departments regarding the detention of juveniles, women, and violent persons.

Investigation Details

Origin of the Investigation

We inspected the Paso Robles and Atascadero police departments on September 16, 2002. We learned of the difficulties involved in transporting and booking arrestees at the county jail. We decided to investigate whether the county could improve the transportation and booking process.

Authority/Jurisdiction for the Investigation

Section 919(b) of the California Penal Code states that "the grand jury shall inquire into the condition and management of the public prisons within the county." Holding facilities fall within the category of public prisons.

Methods and Validity

Principal methods. We inspected the Paso Robles, Atascadero, San Luis Obispo police departments, and the Sheriff's Court holding facility in the city of San Luis Obispo on September 16, 2002. During the inspections in Paso Robles and Atascadero, we interviewed the officers in charge of the facilities and their superiors. We learned of the difficulties involved in transporting and booking arrestees at the county jail. Subsequently, we sent written inquiries to those two police departments, the CHP office in Templeton, and the sheriff's sub-station in Templeton. That survey produced the data we used above in this report's findings.

On September 25, 2002, we inspected the holding facilities in Arroyo Grande, Pismo Beach, and Grover Beach.

At all seven locations, we interviewed the personnel responsible for receiving and processing individuals under arrest.

Review process. The sheriff reviewed the findings of this report and provided comments.

Validity. We based all findings on official agency records and/or verification by at least two independent sources.

Juvenile Court Courtroom in County Needs Better Security

Synopsis

The Juvenile Court in San Luis Obispo County seriously lacks security against an armed intruder entering the courtroom: there is no visitor screening, and only unlocked doors separate the courtroom from the general public. There is little protection against the potential tragedy of a distraught relative or anyone else from walking into court and settling grievances with weapons. While the Juvenile Court is under the jurisdiction of the Superior Court, the physical facility of the Juvenile Court is the property of the county because it houses juvenile hall and other facilities of the Juvenile Services Center. We recommend that the county, as the de facto landlord, use its influence with the court to bring about enhanced security to the facility by screening visitors for weapons. The court and the county should avoid exposing those attending court proceedings, including families and children, to serious harm. Personnel of the other facilities in the Juvenile Services Center would also benefit from such enhanced security. A tragic incident could also expose the court and the county to major financial liability.

Findings, Conclusions and Recommendations

Findings

(1) Juvenile Court, a division of the State Superior Court, occupies rooms comprising part of the county-owned Juvenile Services Center on Kansas Avenue northwest of San Luis Obispo.

(2) The courtroom used by the Juvenile Court is half as big as the courtrooms in the county courthouse.

(3) A set of double doors is the only point of public access and egress from the courtroom. During court proceedings, officials of the court, county welfare personnel, clients and their lawyers, and visitors continually use these doors without screening for weapons.

(4) The Juvenile Court judge or commissioner hears dependency and juvenile court cases in this courtroom. The cases include child custody disputes and allegations of child abuse.

(5) A bailiff, who is a member of the County Sheriff's Department, provides courtroom security. The court pays the bailiff's salary.

(6) The armed bailiff stations himself inside the courtroom at a desk near the presiding judge or commissioner.

(7) The public accesses the courtroom via the outside doors at the east end of the Juvenile Services Center and the court lobby leading to the unlocked double-door courtroom entrance.

(8) In a juvenile court case involving gang activity about two years ago, the court employed additional sheriff's deputies and a portable metal detector to enhance building and courtroom security.

(9) The east entrance and court lobby also provide public access to other court offices as well as offices and restrooms used and maintained by the Probation Department.

(10) A 2002 state law [SB 1732 (Escutia)– Chapter 1082, Statutes of 2002] requires the transfer of all superior court facilities from county to state ownership by 2007.

- Where court facilities are an integral part of larger non-court related facilities, as is the case with the Juvenile Court in the county, the law calls for tenancy agreements between the county and the courts.
- The law provides that physical improvements required by the court in facilities covered by tenancy agreements be designed and funded by mutual agreement between the parties.
- The law does not spell out the exact form of such tenancy, and design and funding agreements.

(11) The County Probation Department has requested funding to remodel and add on to the Juvenile Services Center to provide (1) secure access for bookings to the juvenile hall and (2) a separate secure entrance for adults (as parents or witnesses) brought in custody to the Juvenile Court.

(12) Current plans have prisoners and minors involved in criminal proceedings using the new secure access route, while those involved in civil proceedings in Juvenile Court or visiting adjacent court and Probation Department offices continue to use the existing route through the court lobby.

Conclusions

As presently configured and managed, the courtroom of the Juvenile Court in the county fails to provide the requisite security to the court and persons having business before the court. Any member of the public may enter the building and the

Juvenile Court without challenge. There are no means to check visitors for possible weapons possession prior to their entry. The close quarters and crowded condition of the courtroom itself would hamper the ability of the lone bailiff to apprehend and control an armed intruder before serious harm came to the room's occupants.

The Juvenile Court and the County Probation Department have acknowledged the threat to security from criminal defendants by committing to building more secure access facilities specifically for such individuals. However, the court and the department are not acknowledging the comparable risk potentially posed by people connected with civil cases, especially those involving contested child custody or alleged child abuse.

Effective courtroom security requires screening all visitors for weapons. The court and the department could accomplish this by installing a visitor screening station consisting of a metal detector either at the east entrance to the Juvenile Services Center or immediately outside the double-door courtroom entrance. A screening station at either location would substantially reduce the potential of an armed intruder reaching the Juvenile Court. Locating a screening station at the east entrance offers the additional advantage of providing security to court and Probation Department personnel working in offices adjoining the court lobby.

Recommendation

(1) As an essential feature of its tenancy agreement with the court, the County Probation Department should include provision for enhanced screening of visitors for weapons to the Juvenile Court accessing the courtroom via the court lobby of the Juvenile Services Center.

A metal detector entails a relatively modest investment at a cost of about $5,000. The most significant screening station cost would be the salary of the station attendant. As the principal beneficiary of the enhanced security such a station would provide, the court should bear the bulk of the expense, including salaries.

Comment Requirements

Section 933 of the California Penal Code requires comments on the findings and recommendation to the presiding judge of the Superior Court on California in San Luis Obispo County by the County Probation Department within 60 days and by the Board of Supervisors within 90 days.

Investigation Setting: the Juvenile Courtroom

The Juvenile Court occupies approximately 1,575 square feet out of the overall 17,500-square-foot Juvenile Services Center. This center also houses county Probation Department offices and Juvenile Hall, a juvenile detention facility. Included in the court area (located at the east end of the facility) is the 550-square-foot courtroom itself. Juvenile Court is typically in session six hours a day, five days a week. The court may address 25 uncontested cases in a single morning; contested cases (10 to 30% of the total) take an hour or more each. Every day as the court calendar progresses from case to case, the parties and their attorneys, special advocates, and social workers come and go from the courtroom.

Investigation Details

Origin of the Investigation

We visited the Juvenile Court to observe the processing of cases similar to those involved in complaints brought before the grand jury. We were struck by the lack of security against a possible armed intrusion into the courtroom and decided to investigate the situation.

Authority/Jurisdiction for the Investigation

We undertook this investigation under Section 925 of the California Penal Code, which provides that the "grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county." We acknowledge that we cannot investigate or report on the operations of courts or state agencies except as provided by law. The Juvenile Court facility comes within our jurisdiction because (1) the county owns it and shares facility use, and (2) the Sheriff Department provides bailiff services.

Main Issues

In the course of three such visits to the Juvenile Court, we detected a palpable threat in the combination of the tense and highly emotional state of some individuals involved in court cases and the close quarters for the proceedings. We discovered that there were no restrictions to public access to the courtroom. The potential exists for an armed intruder, perhaps a distraught relative, to barge into the courtroom and take out his or her frustrations on anyone within range. We discussed these impressions with the presiding commissioner to better understand his perspective on the perceived threat and the prospects for relieving the threat. His response centered on the historic lack of the requisite funding to provide larger and more secure facilities, and he seemed to accept the possibility of an armed intruder entering the courtroom. We then consulted with officials of the County Public Works and Probation departments to determine who had responsibility for dealing with security problems and the possible means and costs of providing a remedy. County officials also cited funding limitations of their own and uncertainty about funding responsibility arising out of recent legislation transferring court property from counties to the state court system. These officials believe the court system would need to fund enhanced courtroom security, but they also saw advantages to county operations in the facility from better overall building security. This latter consideration and the continued involvement of the county in the building and attendant liability led us to pursue the issue.

Methods and Validity

Principal methods. We gathered information relevant to this case in the course of site visits to the Juvenile Court, interviews with the court Commissioner, and interviews with representatives of the County Public Works and Probation departments most familiar with the Juvenile Services Center and its associated security issues. The county provided architectural drawings showing the courtroom and adjacent access (both existing and proposed), construction budgets, and related documents.

Review process. The chief probation officer reviewed our findings and provided comments.

Validity. Three teams of two grand jurors each verified the character of the physical facilities and the current standard mode of operation of the Juvenile Court by visiting the court on three different days. We verified the information on the county's involvement in the ownership, maintenance, and planned remodeling of the Juvenile Services Center by interviewing representatives of the Public Works and Probation departments and comparing the facts and figures presented. Finally, we consulted with the county counsel regarding the law and established that these matters are properly within our authority to investigate.

Few Problems Exist in San Luis Obispo County Jail

Synopsis

The San Luis Obispo County Sheriff's Department operates the county jail. The facility houses inmates convicted of misdemeanors and persons con fined during their court trial. We commend personnel of the Sheriff's Department for their dedication and hard work in maintaining a well-run jail. However, we make the following recommendations with respect to inmate maturation, education, and rehabilitation.

Findings, Conclusions and Recommendations

Findings	Conclusions	Recommendations
(1) Jail staff issues each inmate a set of *Inmate Rules*, which include information on contraband, inmate conduct, procedures, and services available in the jail.	During our inspections, we determined that not all inmates are aware of the services available.	(1) At the time of booking, have each inmate sign his or her copy of *Inmate Rules.*
(2) We observed that inmates spend their waking hours watching TV, talking, playing cards, and lying on their bunks.	Such passive activities do not help people improve themselves.	(2) Turn off the TV during the hours that exercise yards are open, and encourage inmates to take part in available educational programs.
(3) Staff does not always refer inmates with mental health problems to the Department of Mental Health Services at the time of their release.	Referring mentally ill inmates to the Department of Mental Health Services would lower the recidivism rate and improve inmate health.	(3) Adopt the policy now being developed by the Mental Health/Criminal Justice Task Force designed to treat mental problems before, during, and after involvement in the criminal justice system.
(4) The jail pays for psychotropic medications dispensed at the time of release out of the inmate welfare fund.	The jail should use money from the inmate welfare fund for the welfare of all inmates.	(4) The Department of Mental Health Services should pay for psychotropic medications administered by the jail staff.
(5) The jail allows each inmate one visiting hour per week (the state minimum). Six counties allow two to four hours per week.	More visiting hours help maintain or reestablish family relationships.	(5) Increase inmate visiting time per week.
(6) A law library is available for inmate use. All other reading material is limited to about 100 old, worn books.	More and better reading material would help improve inmate knowledge and make better use of inmate time.	(6) Find sources of worthwhile free reading (for example, library book sales).
(7) In the past three years, the number of chaplain volunteers has declined from 30 to fewer than 10.	An adequate number of volunteers is necessary to counsel the inmates' spiritual needs.	(7) Require the jail chaplain to spend a minimum number of hours per week in the jail and that he recruit more volunteers.

Comment Requirements

Section 933 on the California Penal Code requires comments on the findings and recommendations to the presiding judge of the Superior Court of California in San Luis Obispo County by (1) the county sheriff within 60 days and (2) the Board of Supervisors within 90 days.

Investigation Setting: the County Jail

The San Luis Obispo County Sheriff's Department operates the county jail. The facility houses inmates convicted of misdemeanors and persons confined during their court trials regarding misdemeanors or felonies. The inmate population and length of incarceration fluctuate. During our inspection, 444 inmates were in custody; 67 were female. The jail has a capacity of 766 inmates. Average stay is 22 days. The sheriff informed us that physical limitations and resources do not allow him to increase visiting hours. The staff consists of 106 sworn officers and 44 support personnel.

We commend personnel of the Sheriff's Department for their dedication and hard work maintaining a well-run jail. We observed the staff to be competent and of high morale. The facility is clean and orderly. Inmate diet is adequate and nutritious.

The Mental Health/Criminal Justice Community Task Force is an unprecedented local effort to respond to the needs of people with mental illness who are involved, or at risk of involvement, with the criminal justice system. It is a joint effort of professional members from the County Mental Health Department, Sheriff's Department, Superior Court, District Attorney's Office, Drug and Alcohol Services, Economic Opportunity Commission, Homeless Outreach, and the Board of Supervisors, to name a few. Inmates released by the court without prior notice may, or may not, be referred to the Department of Mental Health Services.

Investigation Details

Origin of the Investigation

Sheriff Patrick Hedges described to us the operation of the jail on July 25, 2002. We inspected the county jail on August 20, 2002. This report results from those two sessions and small group meetings with senior officers and jail staff.

Authority/Jurisdiction for the Investigation

Section 919(b) of the California Penal Code states that "the grand jury shall inquire into the condition and management of the public prisons within the county." The county jail is a public prison.

Methods and Validity

Principal methods. As stated above, we met with the sheriff in July 2002 and inspected the jail in August 2002. The inspection involved a briefing and a guided tour of the men's and women's sections of the old and new jail, the honor farm, and the kitchen. We talked with many inmates.

Review Process. The Sheriff reviewed our findings and provided comments.

Validity. We based all findings on briefings received, our inspections, and official agency records.

Information Reports

Sexually Violent Predators Act Is Effective—But with Reservations

Synopsis

The California Legislature passed the Sexually Violent Predators Act in 1995, which became effective on January 1, 1996. The purpose of the act is to provide treatment to persons convicted of sexually violent crimes who, if released, would be a threat to the community. The provisions of the act are for treatment until an individual no longer presents a threat to society and only as long as his mental disorder constitutes a danger to the health and safety of others. The act mandates the commitment of such persons to Atascadero State Hospital (ASH) for treatment. The U.S. Supreme Court has upheld a similar law in another state. The California Supreme Court has upheld the state SVP act.

The act has been successful in keeping sexually violent predators in ASH for treatment. With regard to the treatment, however, the results are not so clear. ASH has a program in place to provide treatment, but most patients have refused it. Further, sufficient time has not passed to evaluate the effectiveness of treatment.

The Report: the Sexually Violent Predators Program at Atascadero State Hospital

Legal Background

General. The SVP program, created by the California Legislature in Welfare and Institutions Code Sections 6600-6609.3, became effective on January 1, 1996. The purposes of the statutes were to deal with what people perceived was an alarming recidivism rate among persons convicted of felony crimes of a sexual nature, to protect the public from "sexual predators," and to provide psychiatric treatment for the offenders.

Several states have enacted similar statutes followed by court challenges. The U.S. Supreme Court made a definitive ruling in 1996 on a similar law enacted by the State of Kansas. The following excerpt from a Reuters news story describes the legal issues discussed by the members of the court:

> Kansas Attorney General Carla Stovall defended the state follow-up confinement laws as providing treatment to mentally ill, violent sex offenders who pose a great risk of committing more crimes if released.
>
> But Thomas Weilert, representing a convicted, repeat child molester (Leo Hendricks, 62) who challenged the law, argued that a state cannot constitutionally continue confinement once prison sentence has been served because that would constitute permanent punishment.
>
> "What is the state supposed to do, just wait until he goes out and does it again?" Chief Justice William Rehnquist asked.
>
> Weilert said that the state has other options available, such as restrictions on a sex offender's parole and requirements to stay away from schools or children. But Justice Sandra Day O'Connor said such requirements were " just not very effective." She then asked if any state could simply 'lock up any violent offender' with a mental abnormality of any kind if the Supreme Court upholds this law.
>
> Stovall said the two key factors to be decided were the medical justification and the criminal's dangerousness. She said courts historically have not considered civil commitments as punishment, and the treatment goals were much different than the purpose of retribution and deterrence in criminal sentences.
>
> Weilert disagreed, saying the law extends confinement after the prison term has been finished and amounts to 'effective permanent incarceration.' He admitted that Hendricks likely would commit more sex crimes against children if freed, but said that prediction was insufficient to keep him confined.

The Court upheld the Kansas law by a vote of five to four, with Justice Clarence Thomas writing the opinion for the majority. The California Supreme Court upheld the SVP law in Hubbart v. Superior Court (1999).

Provisions of the Law. The SVP statutes give the Department of Corrections and the Board of Prison Terms initial responsibility for identifying an SVP. The process typically begins when a person incarcerated in the state prison system reaches a date within six months of his release date. At this time, the department screens the individual's records to determine if he meets the criteria for consideration for the SVP program, which are:

- A person who has been convicted of a sexually violent offense against two or more victims for which he received a determinate prison sentence.[1]
- A person who has a current diagnosed mental disorder that makes the person a danger to the health and safety of others in that he will likely engage in sexually violent behavior.
- The person must currently be in custody under the jurisdiction of the California Department of Corrections as an inmate or as a parolee in revoked status.

Following his identification as a candidate for the SVP program, the Department of Corrections and the Board of Prison Terms refer the inmate to the Department of Mental Health to conduct a clinical evaluation of the inmate using a standardized assessment protocol. If the department concludes that the inmate meets the statutory mental health criteria for an SVP, it refers the case to the district attorney's office in the county of original commitment. The district attorney may then file a petition in superior court for civil commitment of the inmate as an SVP.

A judge of the superior court reviews the petition to determine whether probable cause exists that the inmate will to engage in sexually predatory behavior upon release. If the court determines that there is probable cause, it orders that the inmate remain in custody until the completion of a trial, If the court determines that there is not probable cause, it dismissed the petition. The inmate has a right to legal counsel (usually obtained through the office of public defender) at all stages of the court proceedings.

If the court determines that there is probable cause, the inmate has a right to a jury trial. The burden of proof is on the state to prove beyond a reasonable doubt that the inmate is a sexually violent predator. A jury trial requires a unanimous verdict.

The initial term of treatment and confinement for each SVP is two years. The law allows the district attorney to file with the court petitions for the inmate's treatment and confinement for additional two-year periods. After one year of confinement in each period, the SVP may file a petition for conditional release and subsequent unconditional discharge. Approval of the petition requires the Department of Mental Health to advise the district attorney that the SVP's mental disorder has so changed the he is not likely to present a danger if supervised and treated in the community. We present a flow chart of the process described above, with the number of cases currently surviving each step, in Appendix A, page 25.

If eventually released, the SVP must register as a sex offender.[2]

The superior court has adjudicated 18 SVP trials to date in San Luis Obispo County. Of these, 12 were for initial confinement; 6 were for extension of confinement, and 3 trials are pending. Over the objections of the district attorney and the hospital staff, the court has released one SVP patient as a result of a jury trial. Statistics are not available on the number of petitions that SVP patients have initiated. None has been successful. The statutes allow the court to deny petitions without hearings.

Effectiveness. The state has been successful in keeping SVPs in a state mental hospital for treatment. SVPs who might, without the law, be free to prey on society, cannot do so.

Dissenting Opinions. There is, nevertheless, a segment of the legal community that strongly disapproves of the SVP law. While agreeing that the law is effective, the belief here echoes that of the arguments made in the Supreme Court case previously cited: that the section of the law requiring treatment of SVPs in a mental hospital is merely a legal hook to accomplish what is basically unconstitutional—that is, the continued incarceration of an individual after he has served his legal sentence. The further argument presented is: if such individuals are mentally ill and will respond to treatment, why do they serve prison sentences at all? Why should they not go directly to a mental hospital when treatment can begin immediately?

Also, some sources have suggested that defense attorneys encourage their SVP clients to refuse treatment because they believe that (1) the alleged "mental ill-

[1] The following California Penal Code sections define the specific crimes that qualify as sexually violent offenses: 261(a)(2), 262(a)(1), 264.1, 286, 288(a), 288(b), and 289(a).

[2] Citizens have raised some concerns due to a recent news story that reported some 33,000 unaccounted for registered sex offenders are living in the state. While this does not apply to the SVP program, local courts and law enforcement agencies do not believe that number is accurate. The reasons given are: (1) a significant number of those reported have reached the age where one might reasonably presume them to be dead, but this is not reflected in the estimated number; (2) the law requires that the sex offender must register each year (a number of offenders have not done so, even though they may be living in the same residence); and (3) a number of the offenses for which the courts originally convicted the offenders are no longer crimes (for example, homosexual acts between consenting adults).

ness" is merely a legal device to prolong incarceration, (2) SVPS are not mentally ill, and (3) any treatment program is, therefore, irrelevant. According to a local source, defense attorneys in this county do not do this. Our source conceded the possibility, however, that defense attorneys in other counties follow this practice.

The SVP Program at ASH

The Hospital. Atascadero State Hospital is a California Department of Mental Health maximum security hospital located in Atascadero in the northern part of the county. It has a staff of 1,500 (including both administration and "level of care" personnel) providing treatment for 1,200 patients, who fall into five categories (the applicable state statute is in parenthesis):

- Not guilty by reason of insanity (Penal Code 1026)
- Incompetent to stand trial (Penal Code 1370)
- Mentally disordered offender (Penal Code 2960)
- Sexually violent predators (Welfare & Institutions Code 6600)
- State prisoner under special psychiatric care (Penal Code 2684)

The patients at ASH are all male. The staff is 60-percent female. There is one female SVP patient undergoing treatment at Patton State Hospital.

Treatment. When the SVP law passed, the medical staff at ASH faced a formidable task. They had to design a treatment program for a mental disease for which there was little research available. They had to start from scratch.

Paraphilia is the usual mental disorder for classifying sexual predators. The *Diagnostic and Statistical Manual of Mental Disorders* defines paraphilia as: "...recurrent intense sexual disorders and sexually arousing fantasies generally involving either (1) non-human objects, (2) the suffering or humiliation of oneself or one's partner (not merely simulated), or (3) children or other non-consenting persons."

This manual lists in detail the various forms of this disorder, increasing the difficulty of designing a blanket treatment program to accommodate the variations of the disease. For example, pedophilia is one variation of this diagnosis in which the patients abnormal behavior is of a nonviolent type, as compared to a serial rapist. For this reason, staff must, to some degree, tailor treatment of SVPs to fit the needs of each individual case.

The basic aim of the treatment program is to teach cognitive-behavioral methods for preventing the offense. In layman's terms, this means that professionals recognize that there is no known cure for this particular mental disorder. Therefore, the approach is to teach patients to recognize the behavioral patterns that lead them to commit their crimes and to provide techniques to allow patients to avoid the situations that will lead to criminal behavior.

To accomplish this goal, ASH has developed a five-phase program. Each patient must satisfy the criteria for each phase before advancing to the next phase. The phases and the current number of patients in each phase are:

I. Treatment Readiness [390].
II. Skill Acquisition [76].
III. Skill Application [17].
IV. Transition [6].
V. Conditional Release [3 pending].

Appendix B (page 29) summarizes the elements of each phase.

In addition to group and individual therapy, ASH offers two types of voluntary medications:

- Antiandrogens—these drugs do not change the arousal pattern per se, they simply make this interest less intense.
- Selective Serotonin Re-uptake Inhibitors (SSRI), which have shown some promise in reducing severity of paraphilic fantasies in pedophiles and other paraphiliacs (Greenberg et al, 1996). However this study did not report on the drugs' efficacy in the reduction of paraphilic behavior in the subjects. All in all, the literature points to the fact that contact paraphilia (for example, frotteurism or pedophilia or violent sexual activities such as rape are not amenable to such treatment).

The one obvious drawback to prescribing medications to these patients is that they must take them on a continuing basis and would have to do so once they are released.

Although some studies have shown that castration (voluntary only) is an effective deterrent to aberrant sexual behavior, castration is not an option at ASH. The reasons for this decision are not within the scope of this report.

While the hospital must provide treatment, participation by the individual patient is voluntary. Of the total number of SVP patients, less than 20 percent are enrolled in the program. The primary reason for refusal to participate is " I am not mentally ill, therefore there is no point in my undergoing treatment."

At this point, there are no patients who have completed the program, and ASH has not had to release anyone for that reason. Thus, there is no means of evaluating the effectiveness of the treatment program. Further, even if ASH does release such patients in the future, it will take some time to review the results. Hospital authorities are making plans to track released patients.

Security. There have been two SVP escapes from ASH. Authorities captured the first escapee while still on the grounds. The second was at large for ten days, and authorities eventually found him in Oregon. They returned him to ASH and charged him with the crime of escape.

The court rejected the escape charge on the basis that the escape law does not apply to a person who escapes from a mental hospital. Following this episode, the Public Safety Committee of the State Legislature considered but did not recommend to the legislature bills to criminalize the act of escape from ASH.

District attorney and ASH officials have expressed concern about the legislature's refusal to act on the bills, saying that there is no deterrent to escape unless there is subsequent punishment. They ask why, when the legislature spent so much time and effort to create a law to prevent violent sexual predators from causing harm to the public, is it then possible for a SVP escape and be virtually immune from arrest and prosecution.

There is a reason in the law. For the first two years of his confinement, an SVP is on parole. Should he escape during this period, authorities may return him to prison on the basis of violating his parole. In the incident cited above, the escapee had been at ASH for over two years so had run out his parole time. His recommitment as an SVP was under the provisions of the SVP law (a civil commitment). Thus, he had not violated his parole and his escape was not a violation of law.

ASH is continuously undergoing security improvements. It has added a second guard tower and installed razor wire and "impact locator" devices in sensitive areas. ASH police do not carry weapons and only use pepper spray sparingly.

Inquiry Details

Origin of the Inquiry

The reason for our inquiry is that the SVP program is one in which the public has voiced interest and concern as evidenced by numerous stories in the media, letters to the editor, and discussion on radio talk shows. The largest percentage of patients at ASH is SVPs (40-45%).

Authority/Jurisdiction for the Inquiry

California Penal Code Section 919{b) states that the grand jury "shall inquire into the condition and management of the public prisons within the county." A 1979 California Attorney General Opinion, however, states that the term "public prisons" in Section 919(b) does not include state hospitals (62 Ops.Atty.Gen. 268, 5-18-79). Attorney general opinions are for guidance only and are not binding. In San Luis Obispo County, the state prison is the California Men's Colony, which falls within Subsection 919b. That prison, like others in the state, identifies inmates as potential SVPs.

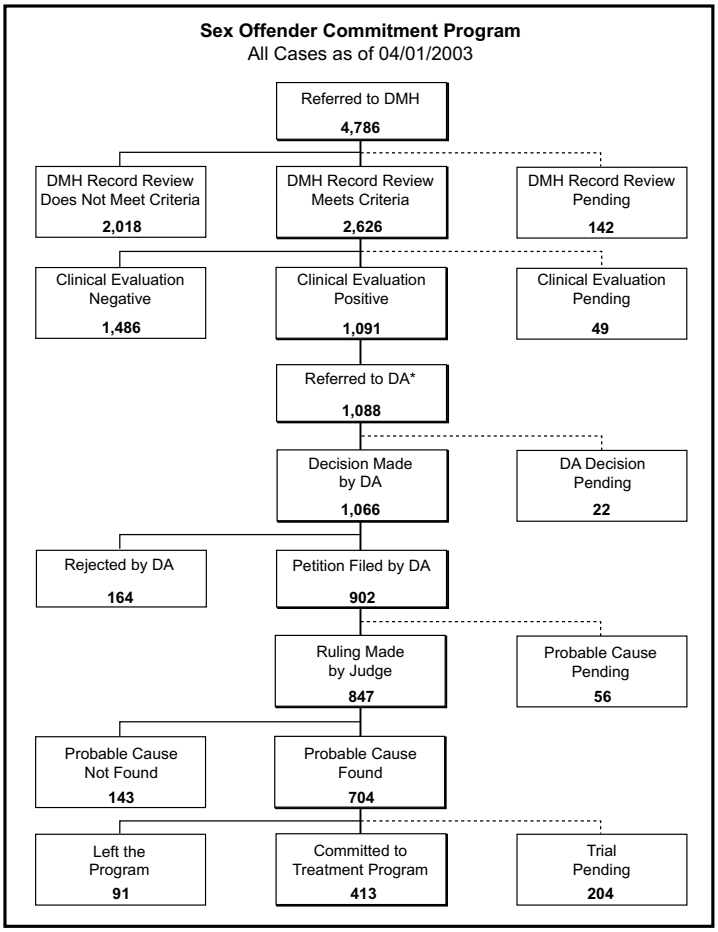
We requested and received cooperation from the administrators at ASH on a voluntary basis in providing information for this report.

Methods of Inquiry

We interviewed attorneys from the district attorney's office conversant with the SVP program, a court officer of the superior court, a representative of the law firm which has the county contract to provide legal services for indigent patients at ASH, staff members from CMC, and administrative staff members from ASH. In each case, we submitted and received answers to subsequent follow-up questions.

We participated in a site-perimeter tour conducted by a member of the ASH Police Department. ASH personnel provided written material detailing the various elements of the SVP program.

Appendix A



* Three cases with Positive Clinical Evaluation not referred to DA for various reasons.

Chart based on chart by California Department of Mental Health

Appendix B

Elements of the Five-Phase SVP Program

Phase I. Treatment Readiness

This phase, educational in nature, addresses:

- Law
- Components of the treatment program
- Common effects on victims
- Relapse prevention terms

There are three specialty groups in:

- Anger management
- Medication management
- Sex education

Phase II. Skill Acquisition

The criteria are:

- Acknowledge past offenses
- Desire to reduce risk for re-offending
- Willing to discuss offenses
- Participate in assessment
- Appropriate group conduct
- Sign a treatment agreement

The tasks are:

- Autobiography
- Behavior chain
- Decision matrix
- Viewing empathy tapes
- Cognitive distortions

There are two specialty groups in:

- Human sexuality
- Interpersonal relationships

Phase III. Skill Application

The criteria are:

- Commitment not to offend
- Control
- Completed assessment
- Completed assignments
- Recognizes basic risk factors and cognitive distortions

The activities are:

- Practice coping responses
- Logging tasks
- Journals
- Victim clarification letters and role plays

There are three specialty groups in:

- Sexual arousal management
- Interpersonal skills
- Family counseling

Phase IV. Transition Skills

The criteria are:

- Effectively identifies and manages all risks
- Self-corrects cognitive distortions
- Understands impact on victims
- Accepted by Conditional Release Program (CONREP, Phase V)

The tasks are:

- Maintenance manual
- Release plan
- Registration
- Community notification

Additional treatments are:

- Family therapy
- Informing support systems

Phase V. Conditional Release Program (CONREP)

- Accepted by CONREP
- Court approval
- On-going monitoring and supervision
- Treatment sessions

Paso Robles Youth Correctional Facility Downsizing—Changes Ahead

Synopsis

The California Youth Authority (CYA) operates a detention facility in Paso Robles for young males 15 years and older convicted of felonies: the El Paso de Robles Youth Correctional Facility. Over the last two years, the number of inmates ("wards") has declined substantially, due at least in part to the higher charges counties must pay toward the upkeep of the wards. In common with CYA institutions across the state, the Paso Robles facility is going through a period of consolidation and change in the months ahead. The superintendent and his staff are aware of the need for more Spanish-speaking guards, given the large number of Hispanic wards. The facility hopes to acquire shortly its own laser machine for removing tattoos.

The Report: Paso Robles Youth Correctional Facility

The Paso Robles facility is one of eleven institutions and four forestry camps in which the CYA houses young lawbreakers. The April 16, 2003, administrative summary of the facility reported 419 wards in residence, a reduction of 79 just since the beginning of the year. The 1999-2000 grand jury stated a population of 775. As recently as August 5, 2002, the administrative summary provided to the grand jury reported a population of 596 wards. With the smaller number on hand, the superintendent has closed two of the dormitories ("cottages"). He plans to reopen one of these later in the year as a specialized counseling unit to receive from other CYA facilities 40 or 50 wards with borderline mental health problems. On April 16, 2003, the total full-time staff on board was 309, plus 64 employees listed as "intermittent." Guards ("peace officers") were 185 in number; support staff came to 156.

Ward population has gone down comparably in CYA facilities statewide. As of the end of December 2002, the total population of its institutions and camps was 5,439 according to a CYA report from Sacramento provided to the grand jury. The superintendent in Paso Robles states that the total population 10 years ago exceeded 10,000. Due to the decline in the number of inmates and the current budget problems, CYA has drawn up a proposal to close one of its facilities in the state and parts of two others. The CYA has not included the Paso Robles facility in its closure proposal.

Youthful offenders in this state divide into seven categories as prescribed by a 1997 law, beginning with the most serious felonies in category 1 down to the least serious in category 7. On April 16, 2003, 200 of the 419 inmates (48%) fell into the first four categories. When an offender goes to a CYA facility, the county from which he comes must pay a percentage of the ward's upkeep. According to CYA calculates, the cost of keeping a ward is currently $49,200. But because of the sharp increase in that figure—over $10,000 from that year to this, CYA has temporarily frozen the amounts counties must contribute. A sliding scale applies, beginning with a flat $150 a month for categories 1-4, rising to $15,600 a year for category 5, to $23,400 in category 6, and to $31,200 in category 7. Categories 4, 5, and 6 have accounted for most of the decline in population. According to the superintendent of the Paso Robles facility, the charge for a ward before the 1997 law took effect was $25 per month without regard to categories. He adds that some counties are currently sending youthful offenders out of state for incarceration as a cost-saving measure.

The facility's April 16 administrative summary indicates that 181 (58%) of the wards are ethnically Hispanic. This number includes 87 illegal aliens who on parole may be subject to deportation. One peace officer and five members of the support staff are certified by the state as bilingual in Spanish and English. Other guards and employees speak Spanish with varying degrees of fluency, as the grand jury was able to confirm during its visits. The facility presently provides no written material in Spanish to wards. Management's own recruitment program publicizing openings in the staff and guard force reaches areas of Hispanic population both within and outside the county in its effort to attract qualified Spanish speakers.

Management at the facility has had an interest over the last three years in acquiring a laser machine for the removal of tattoos from wards on a voluntary basis. The reasoning is that tattoo removal can be an aid to a paroled ward in getting a job and generally in the transition to a law-abiding role in society. CYA field parole units do make use of five such machines, provided in part through a federal grant. But the Paso Robes facility has not so far registered a high enough priority to obtain one. The superintendent recently determined that one of the machines assigned to a field parole unit might become available. The federal grant requires that these machines be accessible to the public. The superintendent states that he can make arrangements to meet that condition. In the meantime, wards who volunteer and who are eligible for transport outside the facility will continue to make use of a machine at Sierra Vista Hospital.

Inquiry Details

Origin and Authority/Jurisdiction of the Inquiry

The California Penal Code, Section 919(b), stipulates that "the grand jury shall inquire into the condition and management of the public prisons within the county." No report as result of that inquiry is required. Nevertheless, we voted to publish a report on the El Paso de Robles Youth Correctional Facility in light of the changes at the facility due to the ongoing reduction in the number of wards.

Methods of Inquiry

The superintendent of the facility and his deputy briefed us in July 2002. Most of us visited the facility in August for further briefings and an extensive tour. Two unannounced visits followed in September and October. In November, we consulted with the facility's advisory committee of local citizens in Paso Robles. We again visited twice in January and communicated by fax and telephone with the facility in recent months to obtain additional information. We reviewed documentation including briefing material, administrative summaries, and past grand jury reports.

Planning Department Is Trying to Make Life Easier for Its Customers

Synopsis

The San Luis Obispo County Planning and Building Department is installing software that will make it possible for permit applicants to track a construction project from permit application on through to final inspection. The new system should be fully operational before the end of the year. It will address a chronic problem. According to the department itself (and as we confirmed through a review of citizen complaints to this and previous grand juries), contractors, realtors, title companies, and individuals have found frustrating the process of getting up-to-date information from the department on the current status of their projects. Access to the new system will give them that information quickly. The system will provide detailed information on zoning, building inspections, and enforcement actions. The basic software is already up and running, but with outside access limited to a few other departments of the county government.

The Report: User Friendly Permit Tracking System

County and city governments across the country make use of software packages for automated tracking and reporting of the permit and inspection process, and have done so for some time. According to its director, the Planning Department began researching advanced systems four years ago. Employees of the department visited other governments in the state to study the systems they used. With the help of the Department of Information Services, employee groups in Planning developed the requirements for a Request for Proposals that the county issued in the fall of 1999. An interagency committee reviewed the four resulting proposals and chose a system offered by Tidemark Solutions (now a part of the Accela Cor-

poration). After determining that the existing automated voice response system (AVR) was incompatible with the *Tidemark* system, the committee chose Selectron to provide a compatible AVR. Initial cost for these contracts and related expenditures for hardware came to $375,000 in the 2000-2001 fiscal year.

Installation

A team of five employees headed by an acting project leader has been working on the installation of the *Tidemark* system. The work included obtaining additional software to allow interfacing with the various software applications in use elsewhere in the county government. As of May 12, 2003, the team had installed most of the system, checked it out, and finished the necessary training within the department. Work continues on firewalls to preserve the integrity of the data in the system for future public access and on assuring that the cashier system will provide auditable information on that part of the system that deals with the collection and distribution of fees to the proper accounts. A web browser is in place to allow access by Planning and other key departments of the county government, including the Assessor, Tax Collector, Auditor-Controller, Public Works, the Health Agency, and the Sheriff. The planning staff believes the system will be complete, fully operational, and ready for public access before the end of 2003.

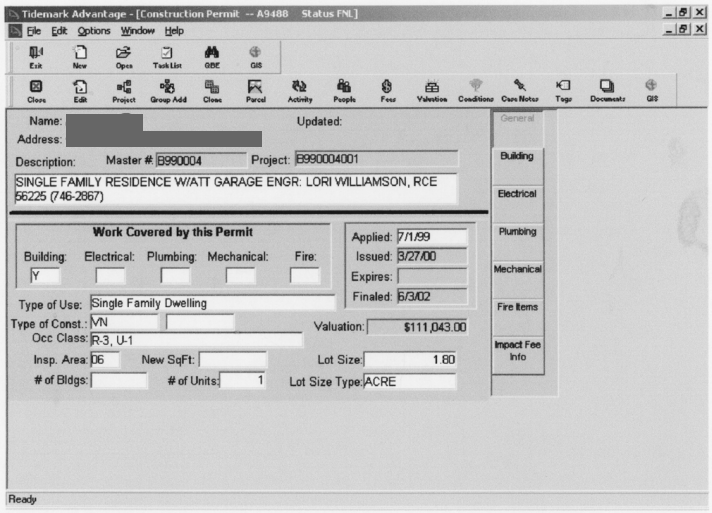
Capabilities

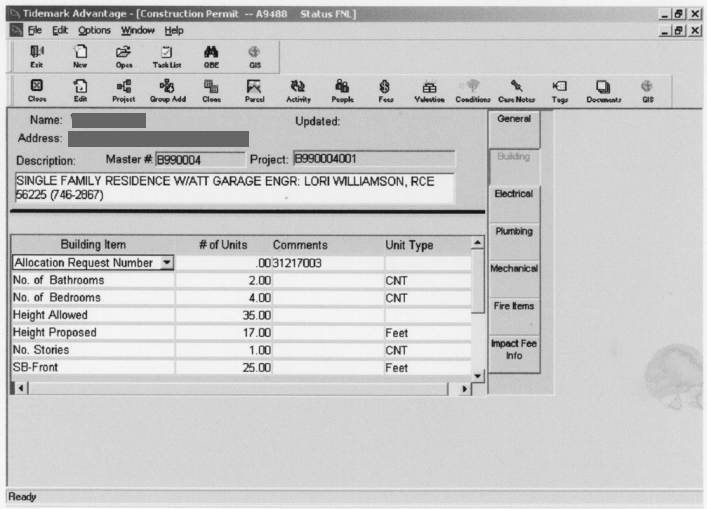
The *Tidemark* system tracks a project through the entire Planning Department process, telling the user exactly where in the process it is and whether there are any holds on it. The system collects information about what is being built (or to be built), the parcel involved, and related zoning. It lists owners, applicants, addresses, valuations, fees, and any enforcement actions the county has made with regard to zoning or building-code violations. A "cashiering" feature of the new system allows collection and recording of fees in cases established through its tracking system. The AVR will enable users to schedule inspections, request information by fax, and check permit applications and inspection results. The mainframe database will contain 16 years of permit information.

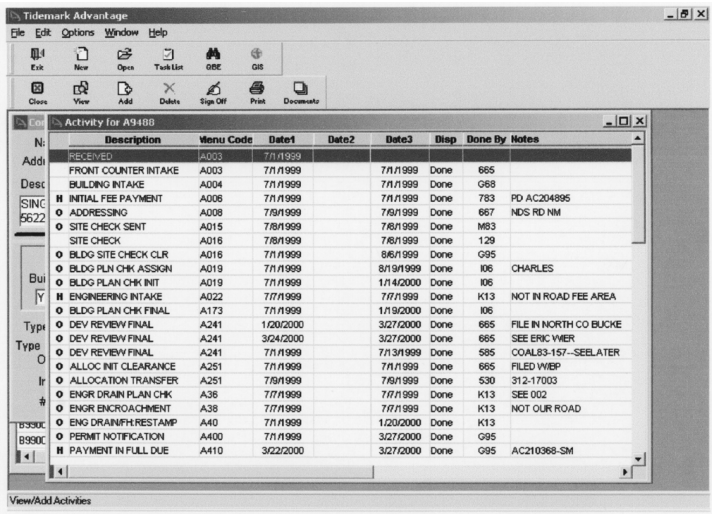
User Friendly

The public will access the system through a web site. Planning will give notice of the internet address once it establishes the site. Access to a specific case will be by a parcel number, an address, a *Tidemark or* case number as assigned by the department at the time the application is filed. The public will not have access to certain types of information—for example, any related to ongoing litigation.

The graphics to the right and one page 28 are examples of what web-site users can expect to see on each case.







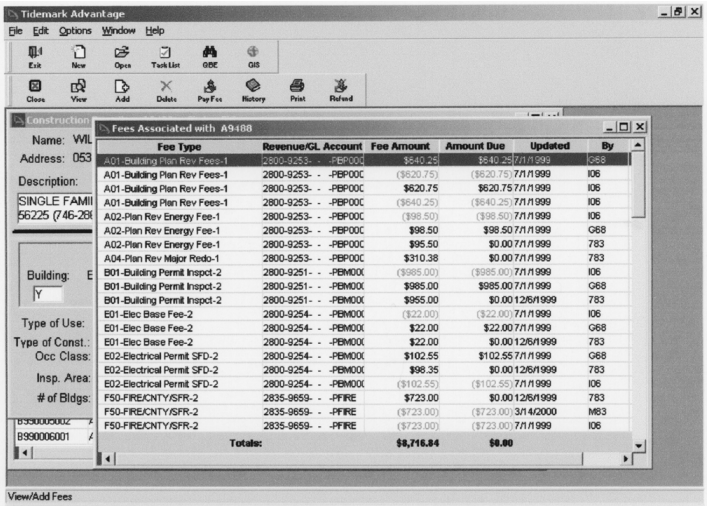
Inquiry Details

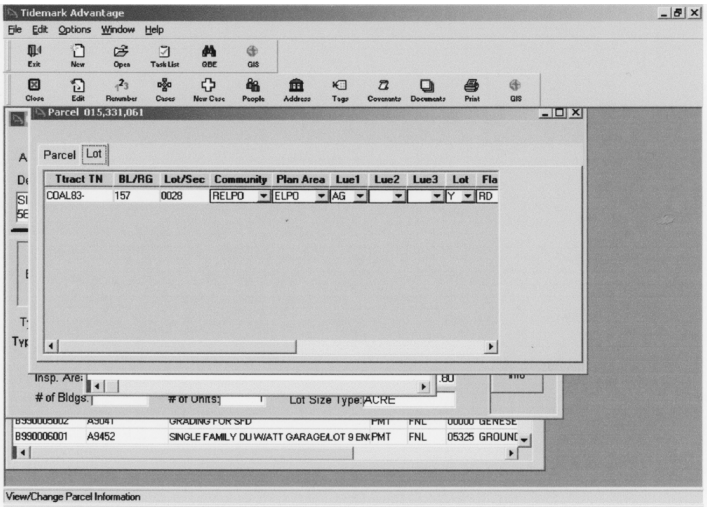
Origin and Authority/Jurisdiction of the Inquiry

We learned that the department planned to install new tracking software in the course of an interview last year with the director. He said that the software could resolve a long-standing problem of difficulties in obtaining timely information on projects. We then decided to make further inquiries and write this report. California Penal Code Section 925 authorizes grand juries to investigate and report on the operations, accounts, and records of county departments.

Methods of Inquiry

We interviewed the director of the Planning and Building Department, and a member of the County Planning Commission. We had long discussions about the new system with the staff assigned to install it. We saw a demonstration of the system. We interviewed the acting chief of the project team on four occasions. All inquiries involved at least two members of the jury. We reviewed documents including a summary of the *Tidemark* project prepared by the planning staff- and the request to approve the initial contracts the department submitted to the Board of Supervisors. We also reviewed 10 citizen complaints against the Planning Department filed with this grand jury and our two predecessors.





2002-2003 Grand Jury Activity

Orientation and Education

During the grand jury year, we engaged in training, inspections, tours, and interviews that were not part of specific cases or complaints. These events were part of the process to educate us in grand jury functions and government operations in the county. Some led us to specific cases on which we have reported. We do not include in the table below any event that was part of a specific case.

Event	Date
Briefing by 2001-2002 Grand Jury	July 1, 2002
Confidentiality Training by Patricia Stevens, Deputy Counsel, County Child Welfare Services	July 31, 2002
Interview with Wendy Most, Director of CASA	August 21, 2002
Grand Juror Training by California Grand Jurors Association	August 26-27, 2002
Inspection of California Men's Colony	August 29, 2002
Interview with Ken Hampian, City Administrative Officer, San Luis Obispo	September 5, 2002
Interview with Bill Estrada, Assistant County Auditor	September 7, 2002
Briefing by Don Blythe, 2001-2002 Grand Jury Foreman	September 11, 2002
Interview with County Supervisor Shirley Bianchi	September 12, 2002
Interview with Gregory Thomas, Director, County Department of Public Health	September 26, 2002
Interview with James Gardiner, Chief of Police, San Luis Obispo	October 2, 2002
Interview with Dale Wolff, Director, County Mental Health Services	October 3, 2002
Interview with Leland Collins, Director, County Department of Social Services	October 23, 2002
Inspection of County Juvenile Hall	October 25, 2002
Interview with David Edge, County Administrator	November 7, 2002
Interview with Pam Heatherington, ECOSLO	November 13, 2002
Interview with Julian Crocker, County Superintendent of Schools	November 14, 2002
Interview with County Supervisor Peg Pinard	November 20, 2002
Interview with County Supervisor Harry Ovit	December 4, 2002
Interview with Curt Batson, Environmental Health, County Public Health Department	December 5, 2002
Interview with Chris Rose, California Regional Water Quality Control Board	December 12, 2002
Interview with County Supervisor Katcho Achadjian	December 18, 2002
Interview with Debby Jeter, Deputy Director, County Department of Social Services	January 16, 2003
Interview with County Supervisor Mike Ryan	February 19, 2003
Interview with Eric Gobler, Senior Engineer, California Regional Water Quality Control Board	February 25, 2003
Interview with Debra Linden, Chief of Police, San Luis Obispo	March 20, 2003

Organization and Procedures

Beginning on July 1, 2002, we met as a full grand jury for about three hours once a week (except for two holiday periods). The grand jury secretary prepared detailed minutes of each meeting. The main functions of the full grand jury were to:

- Receive and act on all complaints submitted by citizens.
- Approve all cases for investigation.
- Give guidance and support to jury members throughout each investigation.
- Adopt all specific reports and the final report.

We did most of our work through two types of committees: **program** and **support**. **Program committees** are those that evaluated the complaints and conducted the investigations that have led to this report. We had four program committees (most of us were members of two):

- The **Law and Justice Committee** covered state prisons, county correctional facilities, and law enforcement agencies within the county.
- The **Health and Social Services Committee** covered health and social services issues in county agencies and special districts.
- The **County Plans and Administration Committee** covered county government departments and special districts within the county.
- The **City Plans and Administration Committee** covered city agencies, education districts within the county, and nonprofit corporations under contract to county agencies.

Each committee met weekly. In addition, committee members spent countless hours evaluating complaints, planning investigations, interviewing witnesses, reviewing documents, and writing reports. They reported weekly to the full grand jury on their progress and issues.

We had two **support committees**. The **Edit Committee** (1) prepared guidance and formats for report writing and (2) edited all reports. The **Publicity Committee** (1) arranged for jury members to speak to community groups and on television about the grand jury process and (2) generally promoted grand jury awareness and the benefits of grand jury service to the public.

As part of our work we also compiled and published the *Addendum to the 2001-2002 Grand Jury Report* (March 2003).

Using our statutory requirement to investigate public prisons and our statutory discretion to investigate all public agencies at the county level and below, we initiated most of the cases on which we report. We selected those cases based on interviews we conducted, inspections we made, documents we studied, and news articles we read.

Over the course of the grand jury year, we received 47 complaints from citizens. We evaluated each in sufficient detail to decide if it warranted further grand jury action. In most cases, we were unable to take such action for one or more of the following reasons: was outside the authority of the grand jury, fell within the policy discretion of the target agency, had no merit, did not take into account other available remedies, appeared to be politically motivated, was in litigation, or provided incomplete information. In several instances, however, we found information from citizen complaints useful in considering broader issues.

Implementation of Recommendations of the 1998-1999 San Luis Obispo County Grand Jury

Each year the San Luis Obispo County Grand Jury issues a final report covering its inquiries into the operations of local governments. The report makes recommendations. The agencies and governing bodies concerned must respond to those recommendations. It has been the practice in recent years for the sitting grand jury to review the commitments made in response to the recommendations of the grand jury that served four years earlier. In other words, did the agencies follow through on their commitments?

We of the 2002-2003 Grand Jury reviewed the *Final Report Recommendations of the 1998-1999 San Luis Obispo County Grand Jury*. We wrote to each agency, asking for a written response on the current status of the recommendations. All agencies responded.

We determined that—overall—the responsible agencies and their governing bodies have made a good faith effort in implementing their commitments to the recommendations.

The 1998-1999 Grand Jury made recommendations on nine cases. We briefly describe below the essence of each case and the responses we received to our inquiries. Verbatim copies of the responses are available from the grand jury office: 1035 Palm St., San Luis Obispo 93408.

To the extent that the agencies may not have met their commitments, we will present this information to the 2003-2004 Grand Jury for consideration in opening new cases for investigation.

City of Atascadero Eagle Creek Development

The grand jury investigated the physical problems with a golf driving range at the development and possible conflicts of interest involving the city council.

The driving range no longer exists, making the physical problems moot. The grand jury recommended that the city council adopt a policy regarding conflict of interest and the appearance of conflict of interest. The city manager has delivered to the grand jury a copy of the city's *Conflict on Interest Code*, which appears to address the grand jury's concern.

San Luis Obispo County Board of Supervisors: Environmental Damage Settlements and the Public Interest

The grand jury investigated the process by which lawsuits for environmental damages are settled, addressing local government and public representation in the settlement process.

The Board of Supervisors accepted all recommendations and incorporated them into the county's formal legislative platform beginning in 2000. The recommendations also called for changes in state and federal laws. The county has not been successful in getting legislative bodies to change those laws.

Port San Luis Harbor District Operations

The grand jury investigated financial, maintenance, safety, and cleanliness issues of the district.

The Harbor Commission states that it has addressed all recommendations that still apply. It states that the UNOCAL reconstruction has changed the entire facility for the better. In seeking to assure the recommended maintenance, the commission has not been successful in attempting to turn over operation and mainte-

nance of the facilities to the local community services district, State Parks, County Parks, or anyone else who might be interested. The commission says that it maintains the facilities well. It has yet to obtain fire insurance for the two old piers, but it has asked for quotes from its insurer.

Regulatory Agencies and Local Disaster Mitigation and Preparedness Actions

The grand jury investigated what improvements might be necessary in county operations to better comply with environmental law while preserving the county's capacity to repair and maintain critical public works. Problems from the winter floods of 1995 prompted the case.

The San Luis Obispo County Public Works Department has complied with the intent of the major recommendation by developing a program and system to assure compliance with environmental laws in carrying out public works projects. County staff is "specifically dedicated" to assuring public notice of environmental determinations in connection with such projects and to responding to public inquiries. The county has not been successful in getting the U.S. Army Corps of Engineers to change its procedures dealing with appeals and emergency-permitting processes.

County Mental Health Services for Juveniles

The grand jury investigated issues related to identifying juveniles with mental health problems, the methods and procedures involved, and the programs and treatment available for such juveniles. The grand jury made recommendations with respect to improving, expanding, and adding programs; restoring funding; and strengthening leadership and systems.

Following up on this case and its recommendations, the 1999-2000 Grand Jury initiated a comprehensive review of juvenile services in the county. It recommended reinstating a program serving out-of-control youth and the funding of the Children's Services Network to provide leadership in coordinating services for children and youth.

In replying to our letter, the director of the Department of Behavioral Health did not address the specific recommendations of the 1998-1999 Grand Jury. Instead, he reported on further progress and new developments: success with the Children's Services Network, positive performance outcomes, new programs, administrative changes, and areas where the department is making improvements. We could not, therefore, determine the extent to which the department met its commitments to the 1998-1999 recommendations.

The 2003-2004 Grand Jury, as part of its *Implementation Review*, may wish to review the report of the 1999-2000 Grand Jury on juvenile services in the county.

California Men's Colony (CMC)

The case resulted from the requirement that the grand jury each year inquire into the conditions and management of the public prisons within the county. The grand jury's recommendations dealt with computer programming tasks for inmates, testing and care for HIV/AIDS cases, and other medical care.

Inmate access to computers is now more restrictive; they can no longer service and repair computers. In September 1999, the CMC warden basically rejected the recommendations with respect to HIV/AIDS testing and other medical care. There is no change.

El Paso de Robles Youth Correctional Facility

The case resulted from the requirement that the grand jury each year inquire into the conditions and management of the public prisons within the county. The grand jury's recommendations dealt with tattoo removal, employee recognition, transitional programs, instruction programs and techniques, bilingual staff, animals for wards, contact with parole agents, and an infirmary.

For the most part, the facility is implementing all recommendations. This report of the sitting grand jury indicates that a tattoo removal machine may shortly become available to the facility. Efforts with respect to employee recognition, transitional programs, instruction programs and techniques, bilingual staff, animals for wards, and contact with parole agents are consistent with the recommendations. A new infirmary project began in 1999, with an outpatient-housing unit opened in 2001.

County Jail Facility

The case resulted from the requirement that the grand jury each year inquire into the conditions and management of the public prisons within the county. The grand jury's recommendations dealt with accommodations and training for female inmates, interdepartmental projects, and facility repairs.

The Sheriff's Department is proceeding with (1) the master plan for the women's facility (fund availability is not certain), (2) adding vocational training for female inmates, and (3) working with other departments. The department has completed the repairs.

County Courthouse Holding Facilities

The case resulted from the requirement that the grand jury each year inquire into the conditions and management of the public prisons within the county. The grand jury's recommendations dealt with a new courthouse, inmate overcrowding, security, and facility improvements.

The county's response is that a new courthouse, inmate overcrowding, and facility improvements are within the jurisdiction of the court rather than the county. Some additional security measures are in place. Others are not in place due to the costs and that fact that they are the responsibility of the court rather than the county.

Response Requirements to this Report's Findings and Recommendations

California Penal Code Section 933 requires responses to each report's findings and recommendations to the presiding judge of the superior court: (1) within 60 days from each agency which is the subject of a report and (2) within 90 days from the governing body of that agency. The individual reports in this document specifically identify who must respond.

Section 933.05 provides specific instructions on the permissible responses to the grand jury findings and recommendations.

Findings. The responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

Recommendations. The responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

2002-2003 San Luis Obispo County Grand Jury

Front Row (L to R)
Honorable Judge Barry LaBarbera, **Sylvia Martinez** (secretary), **Harry Shlaudeman**, **Cosmo Insalaco**, **Gordon Herb**, **Bill Kerstan**, **Gail Lafferty**, **Honorable Judge Michael Duffy**

Middle Row
Robert Gagnon, **Ann Schlegel**, **Kenneth Fowler**, **Barton Dennen**, **Ronald Magoffin**, **Harold Tune**

Back Row
Kip Chase, **Norman Hulsey**, **Jeffry Green**, **Bill Baldridge**, **Ben Pollard**, **James Ragan**

Not in Photo: **Betty Scanlan**

GRAND JURY CITIZEN COMPLAINT FORM

The 2003-2004 San Luis Obispo County Grand Jury convenes on July 1, 2003. If you have a complaint against a government organization or public official that you would like the grand jury to investigate, please full out the form below—following the instructions (below right)—and mail it to the grand jury address shown on the form.

GRAND JURY
CITIZEN COMPLAINT FORM

TO: Grand Jury
County Government Center
1035 Palm Street
San Luis Obispo, CA 93408

_____
DATE

THIS COMPLAINT IS AGAINST:

_____
NAME/TITLE

_____
ORGANIZATION

_____
ADDRESS

_____
CITY

_____
PHONE

MY COMPLAINT AGAINST THE ABOVE IS:

(USE EXTRA SHEETS IF NECESSARY)

(FOR GRAND JURY USE ONLY)

COMPLAINANT

_____
(Name)

_____
(Address)

_____

_____
(Phone)

_____
(Signature)

ALL COMUNICATIONS TO THE GRAND JURY ARE CONFIDENTIAL.

Instructions

A. Complete the Grand Jury Citizen Complaint Form after all attempts to correct a situation have been explored and were unsuccessful.

B. Complete the form as follows:

1. **The complaint is against:**
   a. Provide the name of the individual or organization the complaint is against. Ensure correct spelling of the name(s).
   b. If the complaint is against an individual in an organization, include the individual's title or position in the organization.
   c. Provide the street address (not a P.O. Box), city, and zip code.
   d. Provide the telephone number of the organization or individual.
2. **My complaint against the above is:**
   a. Describe the problem in your own words.
   b. Be as concise as possible; provide dates, times, and names of individuals involved.
   c. Cite specific instances as opposed to broad statements.
   d. Attach any available photographs, correspondence, and documentation that support the complaint.
   e. If you need more space to describe your complaint, attach extra sheets as necessary. Indicate on the last line of the first sheet how many additional sheets you are attaching (for example, "3 additional sheets attached").
3. **Complainant (The grand jury will rigorously protect your confidentiality)**
   a. Provide your name, mailing address, city, zip code, and telephone number.
   b. Sign the complaint. While you may file a complaint anonymously, this may make it much more difficult for the grand jury to investigate the allegations.
   c. Mail the complaint to the address shown on the complaint form.

The grand jury will review and acknowledge receipt of your complaint. The grand jury may or may not advise you whether or not it will undertake an investigation. The grand jury may contact you during the conduct of an investigation.

If you have questions, contact the grand jury secretary at (805) 781-5188.