

2016-2017 San Luis Obispo County Grand Jury

FINAL REPORT



San Luis Obispo County Grand Jury



P.O. Box 4910
San Luis Obispo, California 93403
(805) 781-5188
www.slocourts.net/grand_jury





2016-2017 San Luis Obispo County Grand Jury

Back Row, L-R: Barry T. LaBarbera, Presiding Judge; Gary Renzaglia, Dennis Frahmman, Kathy Mastako, Bill McQuilkin, Janice Stone, Anita Schwaber, William Hayes

Front Row, L-R: Craig Levin, Lee Stephens, Foreperson, Judy Groat, Christine Wheeler, Raymond Foster, Richard Ivie

Not Pictured: James Duenow, Diane Schlageter, Tomme Young

TABLE OF CONTENTS

INTRODUCTION

Table of Contents.....	i
Grand Jury Approval	ii
Foreperson’s Foreword	iii
Authorities for Grand Jury Inquiries	iv
Authorities for Agency Responses	vi

FINAL REPORTS

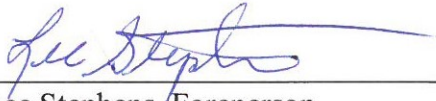
How Long Will The Need Go Unfulfilled? Residential Detoxification In San Luis Obispo County	1
Is It Five Minutes To Midnight In Cambria? An Update On The Risk Of Catastrophic Fire	23
Incarceration In San Luis Obispo County: Inmate Health And Safety At The County Jail	31
Juvenile Hall: Safe, Secure And SupportiveBut Does It Have Surplus Space?	45
An Innovative Approach To Cost And Scheduling Challenges In County Capital Projects	65
Inspecting California Men’s Colony: A Focus On Health And Safety	89
Catching And Passing The Baton: The Work Of The Grand Jury.....	97

GRAND JURY APPROVAL

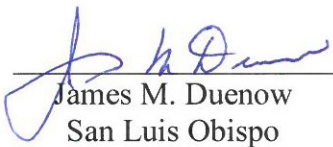
California Penal Code §933(a) states:

"Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year..."

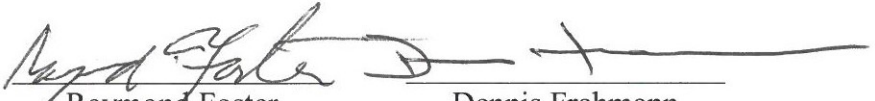
In conformance with the aforementioned Penal Code requirement, the 2016-2017 San Luis Obispo County Grand Jury approves and respectfully submits this report to the Honorable Barry T. LaBarbera Presiding Judge, Superior Court of California, County of San Luis Obispo.




Lee Stephens, Foreperson
Arroyo Grande



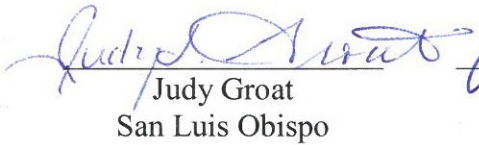
James M. Duenow
San Luis Obispo



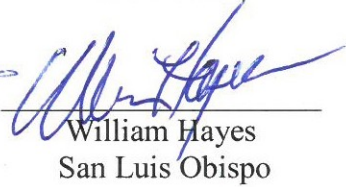
Raymond Foster
Paso Robles



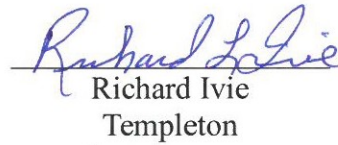
Dennis Frahmman
Cambria



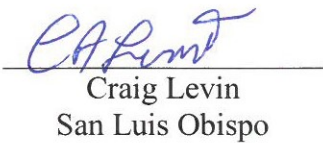
Judy Groat
San Luis Obispo



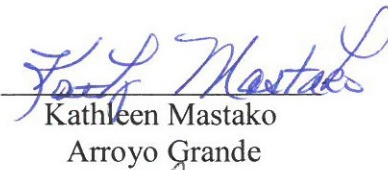
William Hayes
San Luis Obispo



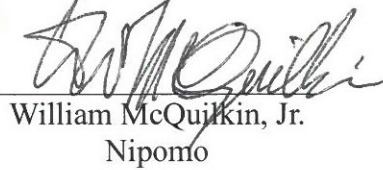
Richard Ivie
Templeton



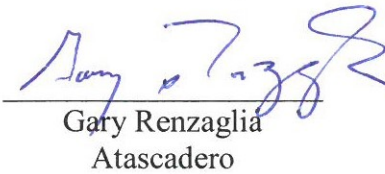
Craig Levin
San Luis Obispo



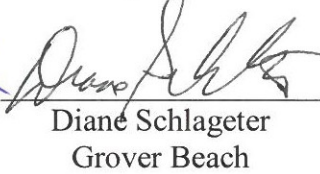
Kathleen Mastako
Arroyo Grande



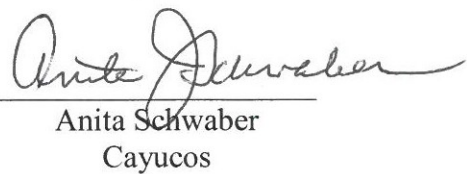
William McQuilkin, Jr.
Nipomo



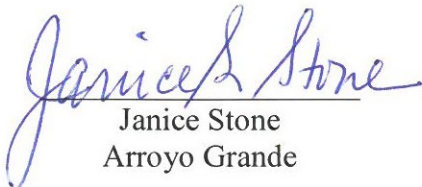
Gary Renzaglia
Atascadero



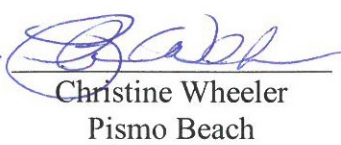
Diane Schlageter
Grover Beach



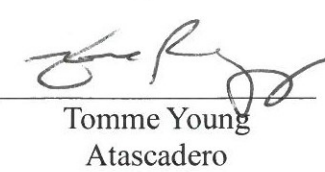
Anita Schwaber
Cayucos



Janice Stone
Arroyo Grande



Christine Wheeler
Pismo Beach



Tomme Young
Atascadero

FOREPERSON'S FORWARD

Each year the Foreperson of the Grand Jury is asked to comment on Grand Jury service, the makeup of the jury, and the functions of such a unique body. It is always difficult to provide information that is not the same year after year, so it is my task to say a few words to the reader that will identify some of the tasks of the Grand Jury as well as differences in juries from year to year.

One of the best statements made on the role of the Grand Jury was by Maryellen Simkins, in the 2007-2008 San Luis Obispo County Grand Jury final report, "The Grand Jury's charge is to shine a light on community government in order to educate and to improve government and citizens." That is a simple answer to "What does a Grand Jury do?"

One of the traditional duties of the Grand Jury Foreperson is to review the accomplishments of the term just completed. While the published reports speak for themselves, it is the coalescence of the members who must overcome the impediments of time, resources and the cooperation of the departments and/or individuals investigated. Experience or the absence of experienced Grand Jurors is a critical factor in the number and quality of reports completed. Typically, there are four to six holdovers for each incoming Grand Jury year. The Foreperson is customarily chosen from the jurors who have been held over and together they assist in training and guiding the new jurors. This is to insure the continuity of experience and duties necessary to bring the plenary up to speed. While a one year term may seem an adequate amount of time to accomplish chosen goals with an experienced plenary, it is not unusual to find that additional time and effort are required for the plenary to complete its work.

It is with background that I address the accomplishments of the 2016-2017 Grand Jury. Instead of the preferred four to six juror holdovers, we began with two but not from the preceding Grand Jury. It is a remarkable experience to witness a plenary with such diverse backgrounds and personalities come together so quickly and accomplish so much. I could single out many of the plenary members for their extraordinary dedication but that would take pages; certainly, their reports are an indication of the hard work that was put in to each one. I would like to highlight two for their exemplary efforts. Dennis Frahmman who, from the beginning set a high standard of performance and kept us focused on the issues not personalities. His knowledge of publication standards, especially Grand Jury reports, was essential in to our accomplishments. In addition, I want to thank Kathy Mastako, our plenary secretary, whose minutes recorded more of our musing than we might have wanted on record.

Lee Stephens, Foreperson
2016-2017 San Luis Obispo County Grand Jury

AUTHORITIES FOR GRAND JURY INQUIRIES

The authority for our inquiries is sanctioned by one or more of the following sections of the California Penal Code:

§919(b): “The grand jury shall inquire into the condition and management of public prisons within the county.”

§925: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county”.

§925(a): “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 investigatory 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 grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.”

§928: “Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.”

§933.5: “A 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.”

§933.6: “A grand jury may at any time examine the books and records of any nonprofit corporation established by or operated on behalf of a public entity the books and records of which it is authorized by law to examine, 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 nonprofit corporation.”

AUTHORITIES FOR AGENCY RESPONSES

The following section of the California Penal Code is cited as the authority under which each agency must respond to the Superior Court:

§933.05 (a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, 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 therefore.

§933.05 (b): For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, 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 therefore.

§933.05 (c): However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand

jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

§933.05 (d): A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

§933.05 (e): During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

§933.05 (f): A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

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FINAL REPORTS

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HOW LONG WILL THE NEED GO UNFULFILLED? RESIDENTIAL DETOXIFICATION IN SAN LUIS OBISPO COUNTY

SUMMARY

The need for residential detox treatment for persons addicted to drugs and alcohol in San Luis Obispo County is evident every day by the large number of people going through withdrawal in our County's Jail. Addictions to alcohol and drugs are medical illnesses, which can and should be treated. For each dollar invested in substance-abuse treatment, there is a ten-fold savings in health care and criminal justice costs. Comprehensive addiction services, encompassing a full continuum of care, are critical for reaching those in greatest need.

Currently, the County's Drug and Alcohol Services is poised to expand its capabilities by way of a federal waiver to Medicaid (Medi-Cal in California) under provisions of the Affordable Care Act. Though funding is set to improve, providing residential treatment is dependent on both a suitable provider and a cost-effective site location. For the county's lower income residents in particular, the jail remains the de facto detox facility, and it is only available for addicts who end up violating the law. The jail is not designed to deliver treatment. It provides some limited medical assistance to reduce complications from withdrawal but is neither resourced nor organized in ways to provide the supportive environment or services known to lead to better outcomes.

The Grand Jury, based on its investigation of the need for residential detoxification services, has identified several changes within the jail that would enhance delivery of addiction treatment services. These include separating substance abusers from the general population, co-locating service providers, allowing additional medical treatments, initiating psychological and social services for a greater number of inmates, and targeting services to inmates going through detoxification. The Grand Jury also recommends that the County consider a new police-led diversion program for certain substance abusing arrestees that could help to maximize their treatment involvement. On siting a detox facility, the Grand Jury recommends that the vacated space in the Honor Farm created by the new women's jail be considered for locating a residential treatment facility to serve Medi-Cal insured residents and those in diversion programs.

ORIGIN

The Grand Jury initiated this investigation in response to concerns raised in meetings with county administrative staff and various news reports documenting an epidemic of opioid use, addiction and death.

AUTHORITY

The issuance of this report is authorized under the investigative powers of the Grand Jury pursuant to California Penal Code sections 919, 922 and 925.

METHOD

The Grand Jury used the following sources to develop this report:

- Inspection and review of the San Luis Obispo County Jail (Jail), including interviews with inmates and representative staff from law enforcement, medical care, drug/alcohol services and contracted service providers
- Interviews with County staff responsible for managing and delivering community-based drug and alcohol services
- Interviews with addiction specialists practicing in privately operated detox services
- Written responses from select County staff to questions arising from interviews and the jail visit
- Review of County reports on Addressing Detoxification Needs in San Luis Obispo County (2007 and 2013) and the Drug Medi-Cal Organized Delivery System (DMC-ODS) - Implementation Plan (signed July 5,2016)
- Review of information available through the National Institute on Drug Abuse, National Institute on Alcohol Abuse and Alcoholism, and the recently released Surgeon General's Report on Alcohol, Drugs, and Health ("Facing Addiction in America," November, 2016)

NARRATIVE

This report is organized by first presenting background on the nature of addiction and need for detox services, followed by reviews of current services in the County, and then examination of plans for new services.

Sections on addiction draw heavily from information in the Surgeon General’s 2016 report, “Facing Addiction in America,” and from the National Institute on Drug Abuse and National Institute on Alcohol Abuse and Alcoholism. The brief history of the County’s detox services is taken primarily from information provided in two County reports addressing detox needs. The current state of services derives from Grand Jury interviews, direct observations, and a review of the DMC-ODS¹ implementation plan. The Bibliography provides full citations for these various sources.

NATURE OF ADDICTION

According to the Surgeon General, addictions to drugs and alcohol are chronic brain diseases, medical illnesses, and not moral failings or willful rejections of social norms. These diseases of addiction are life changing and lead to irresponsible and sometimes criminal behavior, as well as death from overdose, accident, suicide, and health complications.

The Surgeon General indicates that both genetic and developmental factors contribute to onset of addiction. Neurobiologically, addiction derives from disruptions to specific brain circuits in three areas of the brain. These disrupted circuits lead to increased importance of substances, reduced sensitivity to pleasure, heightened stress responses, and reduced executive control, particularly in decision making, emotional expression and impulse regulation. These changes heighten the three-stage cycle of abuse: binging/intoxication, withdrawal/negative affect, and preoccupation/anticipation. Adolescence is the most “at risk period” for developing addiction because it is the time when the brain is still undergoing significant change and is more susceptible to psycho-active substances.

Over time, with greater use and increasing tolerance, changes in brain circuitry make it more and more difficult for a person to manage his or her abuse behavior. Life becomes dominated by acquiring and using the abused substance, while important social, family, occupational and leisure behaviors deteriorate. For addicts, the brain disruptions can persist for months after discontinuing

¹ Drug Medi-Cal Organized Delivery System (DMC-ODS), 2016.

substance use. Current research is unclear as to how long or whether some changes in the brain are ever fully reversed.

Diseases of addiction are known as substance use disorders and include designations of symptom severity and substance of abuse, e.g., Amphetamine Use Disorder or Opioid Use Disorder. Severity is assigned as either “mild,” “moderate” or “severe.” About 8.5% of the U.S. population is in need of substance-use treatment based on National Institute on Drug Abuse nationwide trend data, while only 0.9% of the total population is receiving some form of care. This would mean 24,000 county residents likely need substance abuse treatment.

ADDICTION TREATMENT

Scientific evidence shows that substance use disorders (SUD) can be treated. In fact, approximately 50% of persons who once met criteria for a SUD are currently in stable remission. Yet at any point in time, only about 10% of people with active SUDs are receiving some type of specialty treatment and only a third of them receive treatment that meets standards of care. The Surgeon General report asserts that one reason for this low treatment participation is the poor integration of drug/alcohol services within the broader health care system. It also notes that for every dollar spent on substance abuse treatment it saves four dollars in health care and seven dollars in criminal justice costs.

Drug and alcohol treatment often includes periods of relapse and remission. Relapse rates can be as high as 60% in the first year of treatment and it can take eight to nine years after first seeking treatment for a severely addicted person to achieve a state of sustained recovery. Recurrence rates for treated addictions are similar to those of other chronic illnesses like asthma, diabetes, and hypertension.

Treatment of SUDs requires a chronic-illness-management approach. The severity of the SUD dictates the level of care. Becoming and staying engaged in treatment is the critical variable in recovery and to a large part this is dependent on receiving the appropriate treatment at the right time. No single treatment pathway to recovery works for all addicts; cultural and social factors often determine what will work for a particular person, at a particular time. The lack of available

and affordable treatment is given by about 50% of those not engaged in treatment as their reason for not seeking help. As such, it is essential to have a continuum of care that includes inpatient, residential, intensive outpatient, medication assisted treatment, outpatient, and social recovery services.

The first step always begins with detoxification. By itself detoxification is rarely sufficient and almost all who only go through physical detox will resume substance use within a short time. The standard of care for treating those with severe addictions starts with medically supervised detoxification for three to seven days that is fully integrated within one to three months of residential stabilization. This is followed by several months of intensive outpatient treatment and five to six months of regular outpatient sessions. For most, ongoing social-recovery supports (e.g., 12-step mutual aid groups and peer recovery coaches) are then needed to sustain the recovery. Because relapse is common, the treatment course typically includes several starts and stops, often taking several years to complete. A full continuum of care must have elements to cover all of these steps.

Currently, San Luis Obispo County does not make that full continuum of care available to all its residents.

DETOX SERVICES IN SAN LUIS OBISPO COUNTY

This section provides a brief overview of the history of local detox services and recent additions to the offerings.

History of San Luis Obispo County Detox Services

In San Luis Obispo County, the availability of residential detoxification services has been an issue since the 1982 closure of the 16-bed non-medical detox unit at the now-closed, county's General Hospital. Aside from a brief period in the mid-1990's when French Hospital had an inpatient detox unit, the County relied on outpatient detox services operating from the former General Hospital facilities from 1982-2003, then following a 10-year break and beginning in 2013 operating out of the County's Drug and Alcohol Services (DAS) clinics.

In 2007, the DAS issued its first comprehensive report on addressing detoxification needs, which indicated a need for six or seven residential treatment beds to meet the County's needs. This was determined by analyzing bed-to-population ratios in comparable counties which had residential detox services. By 2008, the DAS identified several private entities that were looking to open residential detox services in the County, including the homeless shelter. Reportedly due to high costs, problems in site location, limited local expertise, and questions about revenue stream, none of these materialized. As a result, out-of-county detox services were contracted to provide services to those with the severest need. These contracted services were rarely used.

By 2013 the most recent DAS report on detox needs proposed the creation of a mobile, outpatient detox team to better address the residential deficits as well as the increase in opioid abuse. With this team, features of a residential detox service could be approximated, at least in part, for those addicted persons able to relocate to a sober living home with the mobile team providing the medications and limited counseling services needed to move through detoxification. The hope was that this would lessen the residential-treatment need until private providers could be found or sober living houses could be converted to residential treatment facilities. This team was put into operation in 2014.

Finally in 2016 a private, high-end medically oriented residential treatment service has opened in south County to meet some of the County's need.

County's Outpatient Detox Team

As noted, the County's outpatient detox team has been operating since 2014 and is intended to serve 150 clients a year. It is composed of a part-time nurse practitioner, a psychiatric technician or licensed vocational nurse, and a case manager. This team is designed to be "mobile and available for consultation and detox visits in the field or homes as needed."² Included services are ongoing medication monitoring and as-needed or as-willing treatment groups, individual counseling, and/or case management assistance. According to American Society of Addiction Medicine, such outpatient services are suitable for persons with SUDs of mild to moderate severity.

²Report for Addressing Detoxification Needs for Substance Use Disorders in San Luis Obispo County," September 2013

Information from the 2015-16 fiscal year indicates that 141 people received services, 16 for alcoholism and 125 for opioid addiction (95% of which were slowly detoxed using Medication Assisted Treatments or MAT). For those receiving more than just MAT, the average length of treatment was about 4.7 months. Twelve clients were noted to be repeats. Individual counseling was provided to only 30 of the 141 participants. In its review of 60 discharged cases who received two or more services, 27 (45%) were considered “successful.” When interviewed, staff reported that the team was most effective delivering services to opioid-addicted persons. They also noted that residential treatment would be used more often if available locally and they identified a particular need for residential detox to serve persons with alcohol addiction.

The Haven

This new private 18-bed residential treatment program began serving County and out-of-county residents in June, 2016. The Haven is composed of three separate six-bed houses, one for men, a second for women and a third for detoxification. Staffing for the medically-managed detox unit is superior to that found in less costly clinically-managed services. Like other residential treatment services, the Haven utilizes drug and alcohol trained staff to deliver group and individual counseling, and activity-based treatments. Medications are provided by two physicians—an addiction specialist and a practicing psychiatrist—each providing their services on a part-time basis. Although detox treatment is designed to last 30 days, insurance companies are covering less time, generally from 3 to 14 days only. Following detox, the Haven is designed to provide additional residential treatment at its other houses and then outpatient services following discharge.

Clientele is reported to be 80% alcohol and only 20% drug involved. Cost of care is upwards of \$30,000 per month. Neither Medi-Cal nor Medicare is accepted in payment. County residents are expected to make up 50% to 60% of the Haven’s clientele.

When interviewed, Haven staff reported that they have been receiving upwards of five calls a day inquiring about residential treatment for addicted persons on Medi-Cal or Medicare. When asked about need for additional residential detox services in the county, staff acknowledged the deficit

and significant need for at least 12 beds to serve those with few financial resources, no insurance, on Medi-Cal, or on Medicare.

DE FACTO DETOX SERVICES AT THE JAIL

County administrators, law enforcement personnel, and health services staff readily acknowledge that the County Jail serves as the de facto detox facility and no one interviewed believed this is a good situation. Persons arrested in the County show high incidences of SUDs. Among the approximately 1,000 arrestees booked each month, jail staff estimates that over 50% are substance abusers; this is in line with national estimates indicating 65% of all prisoners meet SUD criteria. In the last half of 2016, the jail reported an average monthly intake of 985 persons, of which 265 (27%) were identified as under the influence of opiates, benzodiazepines or alcohol. Jail staff acknowledges that this number is likely an underestimation because they see substance-involved inmates who have gone undetected at intake.

Detox Process

A standard process occurs at the jail for inmates who might be substance abusers. Custody and nursing staffs do brief screenings of every arrestee's mental and physical status, during which the level of intoxication is assessed. Signs of severe physical complications from substance use, such as delirium or seizures that can be life threatening, are evaluated. As a result, some arrestees, deemed to be medically unsuitable or questionable for jail placement, are turned away. And the arresting officers are required to take the person to a hospital emergency room for evaluation of need for hospital care. No summary data were available on how often this occurs, but staff estimated that, on average, it happened about once a day.

Following booking, the substance-involved arrestee is placed in a sobering cell located in the Intake and Release Center. These cells have padded floors, toilet, glass fronts for easy monitoring, and no furniture, beds or seating. The cells are gender separated, supervised by custody staff and always lighted. There are also several non-custody personnel working in the area who provide incidental monitoring. The substance-involved arrestees can be held in these cells for a maximum of 12 hours before either being released from jail or transferred to one of the jail's dorm, double-cell or single-cell units pursuant to the jail's inmate-classification procedures. Custody staff report

that signs and symptoms of severe intoxication as well as painful withdrawal are often evident with inmates in these sobering cells, and staff have observed some very sick, disoriented, scared, and tormented people sometimes squirming on the floor in the throes of withdrawal.

For those inmates identified as experiencing severe alcohol or opioid withdrawal, the jail's medical service provides both medications to lessen symptoms and daily checks to assure physical complications are identified early. The intake nurse is responsible to initiate withdrawal protocols when indicated. Custody personnel can also make referrals for medical evaluation based on their direct observation of an inmate's behavior or an inmate's request for medical help with substance withdrawal. When medical services receive a referral, according to current written protocols, a registered nurse is required to assess the inmate within 8 hours in the case of alcohol use and 16 hours for opiates. Response times, however, are reported to be much shorter, and these protocols are under revision to reflect this quicker response. On assessment, the nurse determines whether a withdrawal protocol is to be started and for what duration. In rare cases, the nurse may recommend hospital evaluation and transfer. Data on frequency of such hospital transfers of inmates for substance-induced symptoms is not available, but several staff estimated that it occurs about once a month.

The approved withdrawal protocols for mild to moderate symptoms entail a short course of medications and monitoring for either three or five days. Specific medications target symptoms of restlessness, nausea, diarrhea, anxiety, depression, and confusion. These protocols are reported by staff to be similar to what is commonly done under medical supervision in residential detox programs.

Scope of This Process

Data collected over the last six months of 2016 indicate a significant number of inmates underwent this limited medical detox at the jail. On average, 43 inmates per month were placed on opiate and 14 on alcohol withdrawal protocols. This resulted in an average of 57 people per month receiving detox treatments to ease the suffering of withdrawal. This translates to more than 680 people per year going through medically-supervised detox at the jail.

Challenges of This Process

Several staff at the jail mentioned that evidenced-based medication assisted treatments for either opioid or alcohol are not allowed to be initiated for those beginning detoxification. Continuation of these treatments is allowed in a few situations. If a new inmate is on Buprenorphine, a medicine often used for opioid addiction, it may be administered in the jail as long as the outside prescription can be verified. For someone on Methadone Maintenance Therapy, administration is also possible but more difficult in the jail since this therapy requires an approved community methadone clinic to both authorize and supply the medicine for an inmate who is actively enrolled in the clinic's program. So, for practical purposes, medication assisted treatment is not an option for detoxing inmates with severe addictions at the jail.

Also, as noted earlier, detox alone is not proven to be sufficient in changing the course of addiction. The jail is simply unable to offer the psychological and social services (e.g., SUD counseling and education) that should be provided during and following physical detoxification. These services are essential to prepare the person for the next step in managing his or her illness. The jail has two DAS counselors and one case manager who serve only inmates covered by the AB 109 law (the prison realignment statute that downgraded certain felony crimes, resulting in sentences being served in county jails rather than prison). These counselors provide group and individual services to these long-term inmates, who account for only a small percentage of those going through detoxification. Counselors are intended to serve a caseload of no more than 30. One counselor is assigned to male inmates and the other to the females. With these limited resources, it means that the majority of inmates actually going through jail detox receive none of the critical psycho-social treatments that are integral to the efficacy of residential treatment programs.

DAS counselors report little collaboration with staff from medical services, in part due to offices being located in different parts of the jail. Counselors indicate that they rarely receive direct referrals from medical or, for that matter, psychiatric services. In turn, when asked by the Grand Jury about DAS services, several medical staff members were unable to say how many DAS counselors were on staff or describe the services. On this apparent separateness, several experts interviewed stated specifically that this was an issue, and they felt that a fuller integration of these separate services would help support rehabilitation.

Finally, staff and service providers report a host of additional institutional challenges in delivering group treatments in the jail setting not suitably designed or equipped for such. These include the following:

- Limitations on available treatment space
- Need to conduct groups in open areas where uninvolved inmates can listen or disrupt
- Low group attendance due to pressure from other inmates who dislike being locked in their cells during group time
- Few participants in groups on some units and no way to allow cross unit participation
- Too much time spent in transit from unit to unit
- Scheduling challenges for custody staff
- Skeptical comments from other staff about the helpfulness of treatment
- Inmate complaints of being pressured to drop out of treatment

Possible Remedies

Staff and others familiar with the jail offered their thoughts about remedies to meet some of these challenges, which included:

- Housing inmates motivated for drug and alcohol treatment in one part of the jail
- Creating an area of the jail for primary substance abusers that approximates a treatment center
- Increasing training for custody staff to help overcome some of the misconceptions about addiction and its treatment, to enhance understanding and compassion

During the Grand Jury's visit, many of these logistical challenges were evident: groups were held in open areas or in small rooms, older units appeared to lack space, and inmate movement from unit to unit was disallowed. It was also noted that, with the opening of the new women's jail, female honor-farm participants had been moved from the communal housing at the honor farm back to the jail, leaving the 57 beds and buildings in the honor farm unoccupied.

Additionally, several staff members would like to see something done to help inmates who detox and are then released to the community only to resume using. They note that the month after release is the most difficult for addicts and alcoholics and it is a time that the chance for overdosing peaks. One of their recommendations is to allow medical staff to initiate Medication Assisted Treatments, i.e., Buprenorphine for opioid addiction and perhaps Naltrexone for both opioid addiction and alcoholism. Both medicines are being used by community addiction specialists and are proven to

be helpful in stabilizing the addict and reducing substance use. Initiating the use of such medications with incarcerated persons is being done in other states, such as Maine, Rhode Island and Maryland, which are providing these medications for select jail populations to prevent overdose on release and increase the likelihood of transitioning to community recovery programs.

JAIL DIVERSION

When addiction experts were asked about alternatives to jail placement for lower-level, substance-abusing arrestees, several agreed that finding alternatives to the criminal justice system would be beneficial, especially for some young adults who are not so criminally minded. Several experts interviewed spoke highly of the County's Adult Drug Court, but also liked the idea of exploring ways to divert arrestees before entering the criminal justice system.

To that end, the Grand Jury learned of a new, pre-booking program called the Law Enforcement Assisted Diversion program (LEAD) which has been operating in Seattle, Washington since 2011 (*New York Times*, October 25, 2016) and more recently implemented in other cities across the country. This police-led diversion program enables the arresting officer to divert the drug-offending arrestee into the care of a case manager, drug treatment service, residential substance abuse program, or other social service. Studies have found that LEAD participants were 58% less likely to be rearrested than non-participants. This sort of diversion is seen to enhance motivation, change circumstances, and perhaps alter a life's course. And it keeps a lifetime blemish off the person's record, an arrest record that can significantly reduce employment and training options in the person's future. Implementation of LEAD pilot programs in California has been approved (June 2016) and codified in the Penal Code (Sections 1001.85-1001.88), with grants administered through the Board of State and Community Corrections³. The decision to implement this type of program rests with the law enforcement agency (city police or county sheriff) and its governing body (city council or board of supervisors).

³ Note: Applications for LEAD pilot program grants authorized by this legislation were due by February 1, 2017.

HOMELESS SHELTER

For the past decade, the DAS has reported on the Homeless Shelter's intention to develop two or three detox beds. The Grand Jury inquired into the status of this and learned that there would be space available in the new Homeless Services Center (HSC) when completed next year for two detox beds. The HSC Board representative, however, indicated that the HSC does not anticipate having the resources to actually administer such beds and would need a treatment provider to deliver the requisite detox services. This creates numerous challenges including the high staffing costs for only two detox treatment beds if the HSC is unable to provide some or most of the 24/7 coverage required of a licensed residential treatment service. The Grand Jury learned of another option available to the County, one which is currently being used at the Good Samaritan Shelter's drug and alcohol detox program in Santa Maria. This program utilizes what appear to be on-site outpatient service providers to deliver the treatment detox services for program participants residing in the facility's "acute care" detox beds.

DRUG MEDI-CAL ORGANIZED DELIVERY SYSTEM (DMC-ODS)

The County is planning to make a significant improvement in this area with a program called the Drug Medi-Cal Organized Delivery System (DMC-ODS). Its implementation plan drafted in July 2016 and approved by the County Board of Supervisors in August 2016, lays out a very ambitious and comprehensive delivery system to expand county drug and alcohol services and better meet the increasing need for substance abuse treatment. Consistent with national standards, this plan describes a managed care approach and targets those receiving Medicaid under the Affordable Care Act. In fact, the funding that underlies the plan derives from a federal waiver granted to California on its implementation of Medicaid (i.e., Medi-Cal) services. Obviously in these political times, both the waiver and allocation of Medicaid dollars are at risk for reduction.

Final approvals for the County's implementation plan by the Federal Centers for Medicaid and Medicare Services and the California Department of Health Care Services were received in March 2017. Partial roll out has begun but absent confirmation of its Fiscal Plan and final approval by the Board of Supervisors (expected by July 2017), the hiring of new clinicians and support staff for full activation has been delayed. When this plan is fully implemented, there will be a significant change in how County drug and alcohol services are funded. Previously, 60% of service

participants had been on sliding fee and 40% on Medi-Cal; with implementation, over 85% will be Medi-Cal and less than 15% sliding fee. The plan's target population is the estimated 4,100 to 5,600 Medi-Cal recipients in the County who suffer from substance-use disorders.

Treatment services are required to increase significantly under this plan. Services must include withdrawal management/detox, residential services, intensive outpatient, outpatient, opioid treatment, recovery services, case management, and physician consultation, plus a toll-free 24/7 access phone line. Optional services encompass medication assisted treatment, recovery residences, and telehealth (video-mediated service provision). Without the federal waiver, Medi-Cal reimburses for only three services: outpatient, opioid treatment, and residential treatment for pregnant women and their children. Though the Grand Jury has not seen a copy of the Fiscal Plan which sets fees for each service, it assumes that activating the plan will allow the County to receive fee-for-service reimbursements for the eight required services and perhaps some of the optional ones. With these added billable services, the County's fiscal resources in support of drug and alcohol treatment will improve substantially.

Coordinated services under this plan are provided according to the client's assessed level of care, based on criteria established by the American Society of Addiction Medicine (ASAM). Four levels are described. Detox services are required at each level as shown in the chart below.

ASAM Levels of Care for Withdrawal Management (Detox)

Level	Withdrawal Management	Description
1 – Outpatient ⁴	Ambulatory detox without extended on-site monitoring	Mild withdrawal with daily or less outpatient supervision
2 – Intensive Outpatient ⁵	Ambulatory detox with extended on-site monitoring	Moderate withdrawal with daily support and supervision
3 – Residential Treatment	3.2 Clinically managed residential detox 3.7 Medically monitored inpatient detox	Moderate withdrawal but needs 24 hour support Severe withdrawal, needs 24 hour nursing visits
4 – Inpatient	Medically managed intensive inpatient detox	Severe and unstable withdrawal, needs hospital care with daily physician contact

The plan commits the County to providing only outpatient detox under Level 1, with the other detox levels being provided through as-needed contracts. Residential detox treatment services are to be provided through out-of-county providers. Within three years, the plan indicates a decision will be made on whether local residential treatment services are necessary and must be developed within the County.

⁴ Outpatient—less than nine hours of service per week for adults, less than six for youth

⁵ Intensive Outpatient—nine or more hours of service per week for adults, more than six for youth

CONCLUSIONS

The Grand Jury completed an extensive investigation into the history, need, and future plans for residential detox services in San Luis Obispo County. This need has been apparent since 1982 when the detox unit at General Hospital closed its doors. The addition of the Haven last year reduces the need for those who can afford or have private insurance to cover the high costs. For those less fortunate, the county jail remains as a de facto detox facility and it is not an option for most residents in need. Addicts admitted to the jail experience services that are less than optimal. Jail staff and service providers have identified areas for improvement. Though medicines are used for short-term withdrawal management, the standard medication assisted treatments for opioid addiction are rarely employed at the jail. And, some substance-abusing inmates are considered as simply misplaced in the jail setting. As an alternative, a police-led, pre-booking diversion program (LEAD) was identified as a way to better serve some lower-level drug and alcohol offenders, including residential treatment when needed. Coincidentally, space for alternative programs or repurposing has become available on the grounds of the jail with the relocation of female honor-farm participants to the new women's jail. For the County's homeless whose addiction rates run very high, the long-planned detox beds at the soon-to-be-completed Homeless Services Center remain possible but appear to lack a clear plan. And lastly, the Grand Jury notes the likely positive impact that the County's DMC-ODC Implementation Plan will have on detoxification services, if that plan comes to fruition.

FINDINGS

F1. Available and affordable residential detox services are necessary for delivering comprehensive substance abuse treatment in San Luis Obispo County.

F2. The opening of the Haven provides needed detox services for County residents who are privately insured or can afford the high costs.

F3. There are no residential detox services available in the County for those with limited financial resources or insurance through Medi-Cal or Medicare.

F4. The County Jail provides physical detox to newly admitted inmates but fails to provide the additional psychological and social treatments and supportive environment essential for the first phase of addiction treatment: detox-stabilization.

F5. There are some arrestees currently booked in the County Jail who would be more effectively served by a diversion program, like Law Enforcement Assisted Diversion, and/or receiving treatment in a residential substance-abuse facility.

F6. There is a lack of integration in how medical and drug/alcohol services are provided at the County Jail.

F7. The use of medication-assisted approaches for detox and addiction treatment at the County Jail is limited while other jurisdictions have been able to provide such treatments.

F8. Logistical and environmental challenges at the County Jail make delivery of drug and alcohol treatment services difficult and inefficient due to placement of inmates with substance use disorders.

F9. With the opening of the women's jail, there is unused space in the honor farm which presents an opportunity for alternative program development.

F10. The homeless shelter has no clear plan as to how it will provide its long-anticipated detox beds/service.

RECOMMENDATIONS

R1. The County Health Agency's Drug and Alcohol Services should resume its concentrated efforts to develop a residential detox service in the County to serve its Medi-Cal and less financially able citizens.

R2. The Board of Supervisors should direct the Sheriff and the Health Agency to evaluate the feasibility of and approach to repurposing vacated buildings within the County Jail's honor farm as a residential detox service. A final report on the feasibility and if indicated the specific steps required to convert this housing to a substance-abuse residential and/or treatment facility should be completed by June 2018.

R3. The County Health Agency's Drug and Alcohol Services should expand its County Jail programs, including individual and group counseling, to cover inmates who go through withdrawal protocols regardless of AB 109 status.

R4. The County Jail should revise inmate classification and cell assignment to take into account the inmate's substance abuse treatment needs and interest in such when determining cell placement.

R5. The County Jail should house inmates interested and/or involved in drug and alcohol services in such a way as to create groups of addiction-treatment participants (e.g., units or pods) that allow for efficient delivery of treatment services; this includes separation from other inmates who interfere or disrupt treatment participation.

R6. The County Health Agency and Sheriff should integrate the functions of the jail's medical and drug and alcohol service providers by locating their offices in close proximity and requiring coordinated care for inmates with substance use disorders.

R7. The County Health Agency should pilot the usage of medication-assisted treatments, i.e., Buprenorphine and Naltrexone, with a select population of opioid and alcohol addicts at the County Jail.

R8. The Board of Supervisors should evaluate the Law Enforcement Assisted Diversion program or a similar pre-booking substance abuse diversion for County implementation as a means of motivating and engaging young adult arrestees who are assessed to be primarily substance abusers and not criminally oriented. A written evaluation by the County Administrative Officer should be reviewed at a meeting of Board of Supervisors by June 2018.

R9. The San Luis Obispo City Council should evaluate the Law Enforcement Assisted Diversion program or a similar pre-booking substance abuse diversion for City implementation as a means of motivating and engaging young adult arrestees who are assessed to be primarily substance abusers and not criminally oriented. A written evaluation by the City Manager should be reviewed at a meeting of the San Luis Obispo City Council, by June 2018.

R10. The County Health Agency should direct its Drug and Alcohol Services to work with the board of the homeless shelter to develop a plan for operationalizing two detox beds in the yet-to-be-built Homeless Services Center, which could entail the DAS providing onsite outpatient detox services if other treatment options are not viable. This plan is to be developed prior to the opening of the center or by June 2018.

REQUIRED RESPONSES

The County Health Agency's Drug and Alcohol Services is required to respond to Findings F1, F2, F3, F4, F5, F6, F8, and F10.

The County Health Agency's Health Care Services Division is required to respond to Findings F5, F6, and F7

The County Health Agency is required to respond to Recommendations R1, R3, R6, R7, and R10.

The Sheriff is required to respond to Findings F4, F8, and F9 and Recommendations R4, R5, and R6.

The Board of Supervisors is required to respond to Recommendations R2 and R8.

The San Luis Obispo City Council is required to respond to Recommendation R9.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

BIBLIOGRAPHY

- Brenna, Kelly. “Bangor Launches drug Diversion Program,” WABI TV5. Bangor, Maine. March 1, 2017. <http://wabi.tv/2017/03/01/bangor-launches-drug-diversion-program/>
- Board of State and Community Corrections, BSCC-California, LEAD Grant Program Information (April 27, 2017). <http://www.bscc.ca.gov>
- Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*. Fifth Edition. American Psychiatric Association. 2013.
- “Drug Medi-Cal Organized Delivery System Implementation Plan for County of San Luis Obispo.” Health Agency, Behavioral Health Department, July 2016. <http://www.slocounty.ca.gov/Assets/DAS/SLO+Drug+Medi-Cal+Organized+Delivery+System+Draft+Implementation+Plan.pdf>
- “Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs and Health,” U.S. Department of Health & Human Services, November 2016. <http://addiction.surgeongeneral.gov/>
- Graber, Star, PhD., LMFT. “Drug Medi-Cal Organized Delivery System (DMC-ODS).” Power Point presentation, San Luis Obispo, CA., February 2016. <http://www.slocounty.ca.gov/Assets/PH/ACA+Planning+Group/County+of+SLO+ACA+Mtg+Presentation+2-16-16.pdf>
- . “Report and Plan for Addressing Detoxification Needs of Substance Users in SLO County,” Drug and Alcohol Services Division, Fall 2007. www.slocounty.ca.gov/.../San+Luis+Obispo+County+Detoxification+Services+Report.pdf
- . “Report for Addressing Detoxification Needs for Substance Use Disorders in San Luis Obispo County,” September 2013. www.slocounty.ca.gov/Assets/DAS/Detox/2013+Detox+Report.pdf
- Lamb, Jonah Owen. “Diversion program could send more drug and alcohol offenders away from jail,” San Francisco Examiner, April 7, 2017. <http://www.sfexaminer.com/diversion-program-send-drug-alcohol-offenders-away-jail/>

Law Enforcement Assisted Diversion (LEAD) Pilot Program. California Penal Code [1001.85 – 1001.88], Chapter 2.92. 2016.

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=6&part=2.92&chapter=2.92&article=

“LEAD: Law Enforcement Assisted Diversion.” (March 17, 2017)

<http://leadkingcounty.org/about/>

“National Institute on Drug Abuse.” NIH (April 7, 2017). <https://www.drugabuse.gov/>

“National Institute on Alcohol Abuse and Alcoholism.” NIH (February 9, 2017).

<https://www.niaaa.nih.gov/>

Preston, Caroline. “Don’t lock ’em up. Give ’em a chance to quit drugs,” New York Times, October 25, 2016. www.nytimes.com/2016/10/25/opinion/dont-lock-em-up-give-em-a-chance-to-quit-drugs.html?_r=0

“Report and Plan for Addressing Detoxification Needs of Substance Users,” Status Memo. Drug and Alcohol Services, San Luis Obispo County, CA. February 1, 2008.

<http://www.slocounty.ca.gov/Assets/DAS/Status+Memo+on+Detox.pdf>

“Report and Plan for Addressing Detoxification Needs of Substance Users,” Status Memo. Drug and Alcohol Services, San Luis Obispo County, CA. June 30, 2012.

www.slocounty.ca.gov/Assets/.../Detox/2012+Detox+Status+Memo.pdf

Russell, Dean. “For Opioid-Addicted Inmates, More Jails Rely On

Vivitrol,” <http://www.wbur.org/hereandnow/2017/03/30/opioid-addicted-inmates-vivitrol>

“University of Massachusetts Medical School partnering with New England states to improve addiction treatment in prisons.” umassmed.edu. February 6, 2017.

<http://www.umassmed.edu/news/news-archives/2017/02/umms-partnering-with-new-england-states-to-improve-addiction-treatment-in-prisons/>

Witte, Brian. “Maryland lawmakers outline plans to fight opioid overdose,” The Oklahoman, March 24, 2017. <https://newsok.com/maryland-lawmakers-outline-plans-to-fight-opioid-overdoses/article/feed/1191475>

IS IT FIVE MINUTES TO MIDNIGHT IN CAMBRIA? AN UPDATE ON THE RISK OF CATASTROPHIC FIRE

INTRODUCTION

The risk of a catastrophic fire in Cambria has been the subject of extreme urgency for several years. Two years ago, the 2014-2015 Grand Jury issued an in-depth report that identified areas for additional work and attention. Since then, many of the recommendations made by that Grand Jury have been adopted and the people charged with the fire management responsibility for Cambria have moved aggressively to attract additional funding for the equipment and manpower required.

The 2016-2017 Grand Jury chose to look again at the current fire risk and provide an updated assessment. We are issuing this investigative report to:

- Assure everyone remains focused on this imminent risk
- Make people aware of the advances that have been made
- Identify areas requiring additional attention

ORIGIN

The 2014-2015 Grand Jury issued two reports connected to Cambria on the topics of fire risk and emergency response. In 2016, the current Grand Jury received multiple, identical complaints individually submitted by several Cambria residents expressing concerns connected to the Cambria Community Services District, its focus on related water and fire issues and the agency's original response to the earlier reports. After a preliminary investigation into the elements of these new complaints, the Grand Jury launched an in-depth investigation into the specific topic of fire hazard and the community response to date.

AUTHORITY

California Penal Code section 925 authorizes the Grand Jury to investigate and report on the operations, accounts and records of special districts within the county.

METHOD

The Grand Jury conducted the investigation by interviewing some of the complainants, as well as relevant staff members and board members of key organizations that included CAL FIRE, Cambria Community Services District (CCSD), CCSD Fire Department (Cambria FD), San Luis Obispo County Community Firesafe Council (SLO Firesafe Council), the Cambria Fire Safe Focus Group, the Cambria Emergency Response Team (CERT) and other concerned citizens. The Grand Jury also reviewed several relevant documents related to fire planning and forest management.

BACKGROUND

A serious fire risk has existed in Cambria for many years. Characteristics that make Cambria a highly desirable place to live contribute to this risk. The Monterrey pines are emblematic of the area yet the recent high mortality among these trees, due in part to the recent drought, enables fires to spread rapidly. Cambria's remote location makes it a serene haven, but that remoteness also makes rapid fire response more difficult. And while the narrow, winding roads in many areas create inviting, warm neighborhoods, those same streets make evacuation and emergency response vehicle access harder and at times impossible. Given these facts, eliminating the risk of wildfire is virtually impossible. Reducing the risk through preparedness and prevention is an ongoing challenge.

NARRATIVE

In assessing the current fire risk, the Grand Jury first examined the impact of the dying forest and fire risk, then examined steps taken to date, the status of the community response services and finally evaluated other community activities related to preparedness.

THE DYING FOREST AND THE FIRE RISK

The U.S. Department of Agriculture estimates there are currently 102 million dead trees throughout California, with the majority located in the southern and central Sierra Nevada region⁶.

Given the widespread nature of the problem within California, counties are vying for funds available from state and federal agencies. Even in this competitive environment, Cambria has been successful in obtaining grants and making progress in improving the situation.

The Monterrey pine forest in Cambria is a major example of this mortality, with estimates ranging from 40 to 80 percent of the trees dead within specific areas. But even if the forest were healthy, risk of a catastrophic fire would remain high. The area is a combination of urban and forest areas with limited entry and exit points. Its streets are often narrow and winding, with small lots and older construction which would enable fire to spread rapidly. The community is relatively remote from other potential mutual aid fire agencies. Its day-to-day population involves a mix of tourists, part-timers and retired residents. All in all, these factors that define Cambria also create a volatile mix for wildfire devastation.

Currently the community is serviced by its own fire department, Cambria FD, which is managed by CCSD, and by a CAL FIRE station.

⁶ USDA Office of Communications News Release, November 2016

RECENT STEPS TO REDUCE FIRE RISK

Key accomplishments over the past two years noted by the Grand Jury include the following:

- CCSD obtained a SAFER (Staffing for Adequate Fire Emergency and Response) grant that allowed the Cambria FD to increase its standard staffing per shift from three to four people
- CCSD authorized the purchase of a new fire engine to replace the outdated engine that was noted in a 2014-2015 Grand Jury report⁷
- CCSD updated water storage tanks on the Fiscalini Ranch to better support firefighting needs
- CCSD worked with the County to get a blanket permit to simplify the homeowners' process of removing trees, with about 200 homeowners taking advantage of the program
- CCSD worked with CERT and local fire safety councils to provide evacuation route maps and improve local awareness of danger, emergency preparedness and reverse 911 sign-up

Finally, Cambria conducted a year-long trial of outsourcing the fire management responsibility for Cambria to CAL FIRE. While relevant parties reported that they found the trial very informative and helpful, the decision was made to maintain the Cambria FD as an independent agency. CAL FIRE continues to maintain its station as part of its state and county roles. Both agencies respond to emergency calls. All involved parties report a high level of satisfaction with this collaborative approach.

CONCERNS MOVING FORWARD

Three issues came to light during this investigation:

- Fire hydrant testing
- Removal of dead trees
- Broader steps for prevention and preparedness

Fire Hydrant Testing

Cambria fire hydrants have not been tested for several years. This was a subject of serious concern expressed to the Grand Jury by many residents. Cambria FD explained this was due to concerns over the need to conserve water. One complainant estimated that water usage for flushing all 357 fire hydrants in Cambria would be between 350,000 and 1,785,000 gallons of water, depending on

⁷ Making the Case for Efficiency: Maximizing Emergency Services in Cambria

the length of the operational flow. While Cambria FD reported it did spot testing, it acknowledged it did not conduct an ongoing, routine and thorough system check. Various officials interviewed agreed with the need to reinstate routine fire hydrant testing to bring the program back into compliance with state guidelines. These guidelines state that fire hydrants are required to be inspected, tested and maintained on a regulated schedule conducted annually with additional inspection criteria every five years in accordance with NFPA-291 Fire Code Inspection requirements.

Removal of Dead Trees

A second issue is the difficulty of removing dead trees. Diseased trees cannot be transported out of the area nor can they be used for firewood. To address this issue, CCSD is seeking to purchase a biomass machine which chops the trees into chips and converts the wood chips to thermal energy. That energy can then be used to power the wastewater treatment plant in Cambria. It is a product in high demand. Cambria is finalizing funding in advance of purchasing the equipment.

There has also been discussion of CCSD adopting an ordinance that will allow it to require property owners within the CCSD boundaries to remove dead trees. Currently CCSD is only able to require property owners to clear brush. Such an action would require amending the local fire code.

Broader Steps for Prevention and Preparedness

The third concern noted by some interviewees was that a long-term strategic plan for Cambria FD was written over three years ago, but was not adopted or reviewed by the CCSD Board of Directors at that time. There is interest in updating and bringing the report back to CCSD for review and approval.

Various interviewees raised additional ideas which the Grand Jury feels are worth consideration:

- Aggressive removal of broom (an invasive type of non-native plant that greatly increases fire danger) and other flammables along Highway 1. It was noted that individual permits were required for this, and it would be helpful if Cal Trans, owner of the rights-of-way, would allow more removal per permit.
- Improving the reach of the reverse 911 program which warns citizens of existing hazards. This program needs to be revisited to assure total awareness.
- Posting evacuation route signs, particularly in areas of town with limited egress.

- Installing a siren system to support emergency notices.
- Creating a no-parking policy on certain extremely narrow streets to ensure fire truck access.

Finally, residents can take a more active role in both preparedness and response by removing fuel from their property, having an evacuation plan with a “go-bag” in place and registering their cell phones with the reverse 911 program.

CONCLUSIONS

The fire risk remains high. While significant work has been done to lower the danger, continuous improvement requires that all involved parties see it as the highest priority. The primary parties include CCSD and its fire department, with the support of CAL FIRE, the Fire Safe Council, the Cambria Fire Safe Focus group and, importantly, the citizens of Cambria.

FINDINGS

F1. Local agencies took the report issued by the 2014-2015 Grand Jury seriously and have made a positive impact by their responses to it.

F2. CCSD’s continued lack of a fire hydrant testing program represents an unnecessary risk.

F3. The CCSD is currently limited in its ability to force removal of dead trees from private property which adds unnecessarily to the fire risk.

F4. Additional actions are warranted to further limit the critical fire danger and prepare for improved response to a critical fire.

RECOMMENDATIONS

R1. CCSD should resume a regular plan for fire hydrant testing as soon as possible and no later than the end of calendar year 2017.

R2. CCSD should amend their fire code to require the removal of dead trees from private property while exploring funding sources to help homeowners in need of financial assistance comply with that requirement

R3. CCSD should request its staff to evaluate and recommend whether any of the following actions should be pursued and funded:

- Post evacuation route signs on primary evacuation routes.
- Identify key streets presenting fire truck access challenges and develop a no-parking strategy for those streets.
- Work with the Fire Safe Council to seek additional funding and permits to allow for removal of broom and other flammable brush along Highway 1 rights-of-way within the general area of Cambria.
- Develop a strategic fire plan for Cambria. Gain approval by the CCSD Board of Directors, and implement the plan by the end of 2017.
- Renew efforts to ensure the reverse 911 plan is fully understood by Cambria residents and that everyone who should be registered is registered.

REQUIRED RESPONSES

The Board of Directors of CCSD is required to respond to findings F2 through F4 and to recommendations R1 through R3.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by June 26, 2017. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

INCARCERATION IN SAN LUIS OBISPO COUNTY: INMATE HEALTH AND SAFETY AT THE COUNTY JAIL

SUMMARY

As required by state penal code, the Grand Jury annually inspects all public prisons, including state prisons, county jails, juvenile halls, and holding cells for police departments and courthouses. In this year's inspection, the Grand Jury chose to take a detailed look at issues related to changes in population and programs, with a specific focus on safety and health at the San Luis Obispo County Jail (County Jail). This includes suicide risk and overall medical care.

In particular, the Grand Jury took an initial look at the death of four inmates from the County Jail between July 2016 and April 2017. Although it was only able to investigate those deaths to a limited extent given the current term of the jury and other constraints, it is recommending that the Sheriff and the County Health Agency conduct a joint review of the adequacy and appropriateness of management structure, policies and procedures as those three items relate to inmate safety and health.

The Grand Jury made several additional observations that supported this call for a joint review, including the following:

- Impact of recent laws on programming at the County Jail
- Complex medical reporting structure at the County Jail
- Reduced use of police holding cells
- Non-compliance issues identified during the 2014-2016 California Board of State and Community (BSCC) Inspections

The Grand Jury also identified opportunities for more effective use of space at the San Luis Obispo County Juvenile Hall (Juvenile Hall). This concern is addressed in a separate report released on May 9, 2017 titled "Juvenile Hall: Safe, Secure and SupportiveBut Does It Have Surplus Space?"

AUTHORITY

California Penal Code section 919(b) mandates “The grand jury shall inquire into the condition and management of the public prisons within the county.”

METHOD/PROCEDURE

The Grand Jury inspected the following sites by touring them and interviewing various officials during those visits:

- California Men’s Colony (CMC)
- County Jail, including
 - Men’s Honor Farm (Honor Farm)
 - Kansas Facility (Women’s Jail), including the Women’s Honor Farm
- Juvenile Hall
- Holding cells⁸ operated by the police departments in the cities of:
 - San Luis Obispo
 - Pismo Beach
 - Paso Robles
 - Grover Beach
- San Luis Obispo County Courthouse Holding Facility

During the site inspections, the survey instrument found in Appendix A was used to gather information. In addition, representatives of both CMC and County Jail provided written follow-up to questions prompted by the survey or the inspections. On the CMC and County Jail visits, some inmates were also interviewed. The Grand Jury interviewed individuals associated with programming and medical care at the County Jail. Additional visits and tours were scheduled to Juvenile Hall and the Women’s Jail after the opening of the new facilities.

Finally, the Grand Jury reviewed the following documents:

- Inspection reports completed this year by the BSCC
- Medical/Mental Health Evaluation of County Jail conducted by Institute for Medical Quality (IMQ)

⁸ Note: the cities of Arroyo Grande, Atascadero and Morro Bay do not operate holding cells.

- The reports of investigations by the Sheriff's office into inmate deaths while in custody at County Jail, one by suicide
- Local media coverage of deaths at the County Jail during this time period

NARRATIVE

This report is organized by first recapping the recent County Jail deaths, then presenting the focus and rationale of the 2016-2017 inspections, followed by overall comments and ending with more detailed descriptions of specific observations related to the County Jail.

DEATHS AT THE COUNTY JAIL

Three individuals under the care of the County Jail died in circumstances that raised broadly reported public concern.

- On September 20, 2016, a 36-year-old male inmate (Jordan Benjamin Turner) committed suicide while in custody. The inmate had been provided a safety razor to shave in preparation for a court appearance. Subsequently he used that razor to slash his arm and died from loss of blood. The Grand Jury requested and was provided a copy of the Sheriff's investigation and review of that in-custody death. Requested medical and psychiatric record information was not provided due to federal confidentiality laws.
- On January 22, 2017, a 36-year-old male inmate (Andrew Chaylon Holland) died in County Jail due to a pulmonary embolism. Prior to his death, he had been strapped in a restraint chair for 46 hours, while awaiting transfer to a mental health facility. The Grand Jury requested information regarding the incident and was provided a copy of the coroner's report and relevant policies of the Sheriff's Office and the County Health Agency. Requested medical and psychiatric record information was not provided due to federal confidentiality laws.
- On April 13, 2017, a 60-year-old male inmate (Kevin Lee McLaughlin) died while in custody shortly after he complained of shoulder pain. He was later found unresponsive and could not be revived. The preliminary autopsy report indicated the inmate died of a heart attack. Shoulder pain is listed by the American Heart Association as a common warning sign of an impending heart attack.

In addition, in July 2016, a 62-year-old female inmate (Nicole Honait Luxor) died in hospital care, due to complications from gallbladder cancer, after transfer from the jail.

Following the April 13th death of McLaughlin, the Sheriff held a press conference to announce he was asking the District Attorney's office and the FBI to investigate that death, as well as any other recent deaths that they felt were warranted. (Since January 2011, 11 inmates have died while in custody of the County Jail.) The Sheriff also noted that recent state prison realignment (as discussed in a following section) has led to an increased need for providing medical and mental health services at the County Jail. As described in a following section of this report, medical care at the County Jail is the responsibility of the County Health Agency.

The Grand Jury does not normally investigate areas while cases are still under a separate internal or external investigation or a pending lawsuit. Accordingly, it determined it could not conduct a more in-depth look at this time into the circumstances of these three cases.

The Grand Jury recognizes a strong public interest in these three cases and the importance of a future, more detailed review. Additionally, the Grand Jury has concerns about delivery of medical and mental health care, restraint chair usage, transfers to the county's Psychiatric Health Facility and to the California Department of State Hospitals, and related policies and practices of both the County Jail and County Health Agency. Accordingly, the Grand Jury encourages future grand juries to continue to monitor the resolution of these cases, including any changes to county services or procedures.

FOCUS OF THIS YEAR'S INSPECTIONS

In 2011, California signed into law Assembly Bill 109 for Public Safety Realignment (AB 109), which moved responsibility for a number of offenders from state prisons to county jails. In 2014, California passed Proposition 47 (Prop 47), which reduced certain felonies to misdemeanors that again impacted prison and jail populations. The Grand Jury sought to understand the impact of these laws on the local prison and jails. It took particular interest in population, programs and management, spotlighting how the local prison and jails deal with suicide risk and medical care.

With these questions in mind, the Grand Jury created a detailed set of questions (Appendix A) that it used as the basis of each of its inspections. Questions were modified to reflect the nature of the specific facility being inspected.

In addition to the impact of AB 109 and Prop 47, a number of significant changes occurred in local prisons and jails during the tenure of this Grand Jury. Notable events include the following:

- An expansion of the Juvenile Hall, which was authorized in 2009 and broke ground in 2014, came on line in the fall of 2016. This project increased capacity and added classrooms, administrative offices, counseling rooms and a gym.
- A new Women's Jail broke ground in early 2014 and opened in April 2017. It provides a facility separate from the men's jail, with additional space for programs shared by the two facilities. The former women's unit is scheduled to be demolished and replaced with a new medical facility to serve both the men's and women's jails. The new facility has a bed capacity of 196; during the Grand Jury visit on April 18, the population was 92.
- The Women's Honor Farm as a separate physical facility has been closed. Its residents are integrated into a space in the new Women's Jail with 24 dedicated beds; during the Grand Jury visit on April 18, 2017, the population was 13.
- Increased use of camera monitoring has been noted at the county facilities.

OBSERVATION 1. IMPACT OF AB 109 AND PROP 47

A primary focus of this year's inspection of both the County Jail and CMC was to review the impact of AB 109 and Prop 47.

Impact of AB 109 on the County Jail and CMC

Overall, AB 109 has resulted in a clear reduction in average daily population at CMC. Since the passage of the law, average daily population has dropped from nearly 7,000 to approximately 4,100. As a result of the smaller population, CMC has been able to reduce the need to double up inmates in cells originally designed for one, revise staffing models, and manage both its population and programs more effectively.

The reduction of the inmate population at CMC due to AB 109 corresponded with an increase in individuals placed at County Jail from January 2011 through 2014. The average daily population grew from 555 in 2011 to 697 in 2013. It also resulted in a change in the nature of the population, namely individuals serving longer sentences and for more serious crimes. This growth in population required both an increase in custody staffing and more programming for inmates while

incarcerated; AB 109 provided funding for these programs. This change in population has also impacted the demands for mental and medical health care.

To increase bed capacity, the County Jail also undertook considerable reorganization of space. This included the following:

- Modifying the housing criteria at the Honor Farms to allow more inmates
- Adding extra beds to every housing unit
- Expanding capacity in alternative custody programs
- Accelerating release of inmates as authorized by state law

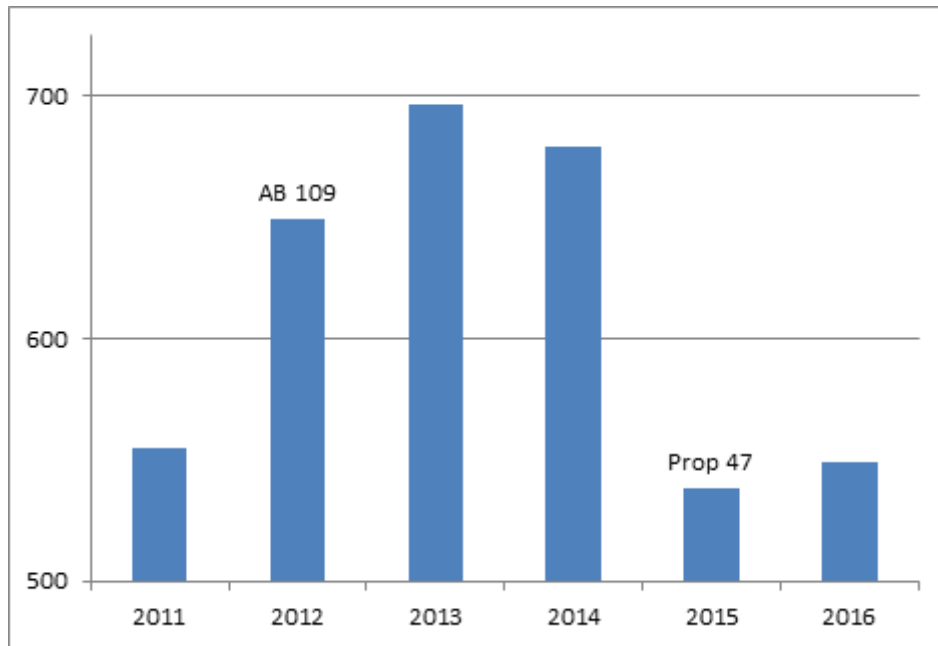
Impact of Prop 47 on County Jail

After passage of Prop 47 in 2014, the County Jail's average daily population began to shrink from its high of 697 in 2013 to 549 in 2016, returning to its pre-AB 109 level. The population dropped because Prop 47 reduced the penalties associated with certain drug and property crimes and prevented prosecutors in most cases from charging those offenses as felonies. As a result of this new law, the following factors caused a decline in County Jail population:

- An immediate drop in new bookings on arrests and warrants for Prop 47 offenses caused a reduced flow of individuals into the jail system.
- Fewer convictions occurred for this category of crime, which further reduced the inmate numbers.
- The share of Prop 47 defendants receiving pretrial releases increased, which reduced jail populations.
- The average length of stay was reduced for sentenced offenders.

The overall change in the County Jail population over the period just described is summarized in Table 1.

Table 1. Average Daily Population at County Jail



Concerns on Programming Constraints on County Jail

AB 109 allocated state programming dollars to the County. The source of the AB 109 funding is a dedicated and permanent revenue stream⁹ to the County through Vehicle License Fees and a portion of the state sales tax.

Table 2. AB 109 Realignment Funding

Time Period	State Allocation
7/1/12 to 6/30/13	\$5,565,653
7/1/13 to 6/30/14	\$6,802,936
9/1/14 to 8/31/15	\$5,848,236
9/1/15 to 8/31/16	\$7,164,312

⁹ 2011 Public Safety Realignment Fact Sheet, California Department of Corrections and Rehabilitation, July 2012

The Community Corrections Partnership (CCP), which oversees programming services, has been fiscally prudent, and by policy has designated a contingency fund of \$500,000; however, it covers only approved items within the scope of CCP parameters. Any items required outside of CCP guidelines must come from other funding sources.

In reviewing the level of programming at the County Jail, the Grand Jury noted the following concerns:

- As the seriousness of inmate crimes has increased, a smaller percentage of County Jail population is considered eligible for Honor Farm placement. Currently the County Jail is seeking to streamline the application process and criteria used by classification and medical staff. Classification staff has also transferred qualified individuals directly from intake rather than first being housed in the jail. Further consideration of changes to the classification criteria may be needed.
 - Male Honor Farm: 49 were housed during our inspection, with a rated capacity for 63.
 - Female Honor Farm: In late December 2016, the 10 remaining inmates in the Female Honor Farm, which has a rated capacity of 57, were moved back into the general jail population.
- Inadequate physical space to conduct programming restricts the amount of programming offered, as well as inmate participation. Many programs/classes are taught in the communal area of a housing unit. These areas lack proper facilities and pose an elevated risk for providers and administrators.
- Various reports from program administrators and providers state resistance from custody staff to facilitate programming.
- Automated tracking of program participation just began in April 2016. Attendance is underrepresented due to un-sentenced inmates not linked to the report. Also, some programs cannot be tracked due to principal providers and privacy issues, e.g. Ministry, 12-step and substance abuse related programs. Cuesta College's attendance is not accessible to the Jail, but can be provided upon request. Programming attendance reporting is still a work-in-process at this time.

The Grand Jury encourages future grand juries to continue to review the level of programming in future inspections.

OBSERVATION 2. COMPLEX MEDICAL MANAGEMENT STRUCTURES

The Grand Jury sought significant information as it relates to inmate health and safety, including information related to injury, suicide and death rates, as well as data related to addiction treatment (see Appendix A).

Frequently, the Grand Jury found it challenging to obtain this information. In some cases we were told it was simply not available. But as a result of seeking this data, the Grand Jury came to understand the overall custodial head of the County Jail does not have management control over the medical elements. In fact, the authority over medical elements is complex.

Three different departments within the County Public Health Agency Services—which reports to the County Administrative Officer—provide health-related services; these programs are Drug and Alcohol Services, Mental Health Services, and Public Health Services. The jail itself is managed by the Sheriff’s Department, which does not report to the County Administrative Office. An independent evaluation of the delivery of medical and mental health services is provided by IMQ. The most recent survey was conducted on December 16, 2016.

Such a structure raises a concern about how well various aspects of inmate care are coordinated, especially when health issues cross multiple boundaries such as drug abuse, psychiatric care and on-going medical issues. In addition, the County has recently noted challenges in hiring professional medical staff at the County Jail, particularly in relation to mental health care roles. This may also have an impact on the quality and responsiveness of care.

Other counties, such as Santa Barbara County, provide custodial management direct control over medical care by contracting that care to an independent firm. Several such firms exist, including California Forensic Medical Group which provides correctional health care to neighboring Monterey County. Over the past few years, the Sheriff’s office reports meeting with the County Administrator to discuss a possible request for proposal or request for information to explore such possibilities for this county. Rather than pursuing such proposals, the two parties determined to seek to improve communication and cooperation.

The Grand Jury encourages future grand juries to continue to review how well management structures support inmate care.

OBSERVATION 3. REDUCED USE OF HOLDING CELLS

In its inspection of holding cells at city police departments and county courthouse, the Grand Jury noted no concerns with the facilities themselves. However, it did make a general observation that local cities are making more limited use of their holding cells. Overall, cities seek to bring any person in custody to County Jail as quickly as possible; police departments may even interview the detainee in the patrol car in lieu of placing the person in the holding cell. This trend appears related both to the reduced staffing levels common to most city police departments and to increased concerns about liability. This increased reliance on the County Jail by local departments may further compound the challenges resulting from its changing population.

OBSERVATION 4. BSCC INSPECTION

On September 7, 2016, the BSCC issued the results of its 2014-2016 biennial inspection of the County Jail, which was conducted June 15-17, 2016. The purpose of this inspection is to verify compliance with the minimum standards for local detention facilities as outlined in Titles 15 and 24 of the California Code of Regulations. Resolving these violations is voluntary.

BSCC noted seven violations. One violation dealt with temporary bunks, the other six violations involved issues of health and safety:

- Nurses can issue psychotropic medications based on a telephone order but without benefit of a physician's examination or the inmate's consent. (This is non-compliant with Title 15, Section 1204, Health Care Procedures.)
- Potentially, a psychotropic medication could be administered without the inmate's informed consent or a determination of mental incapacity. (Title 15, Section 1214. Informed Consent. This also represents non-compliance with Section 1207, Psychotropic Medications.)
- At the time of the inspection, the County Jail had not completed its mandatory annual review of the health services manual. (Title 15, Section 1206, Health Care Procedures Manual)
- Completed inmate sick-call slips, a medical record, are handled by custody staff; this practice fails to protect physician-patient confidentiality. (Title 15, Section 1205, Health Care Records)
- The County Jail houses restrained inmates in the protected environment of sobering cells to minimize risk of harm, but such cells are intended only for inebriated inmates. (Title 15, Section 1056, Use of Sobering Cell)

As stated earlier, multiple agencies are involved with the delivery of health services at the County Jail; therefore, corrections to these violations may require changes to processes and procedures that involve both the Jail and the County Health Agency.

To the Grand Jury, these violations reinforce an overall concern with health and safety at the County Jail and the potential for inmate harm. The Grand Jury recommends that next year's grand jury specifically review whether the County Jail has provided to the BSSC evidence of correction to show compliance or rationale for non-compliance.

FINDINGS

F1. There is inadequate physical space to conduct programming for male inmates. This lack of space restricts the amount of programming offered, as well as inmate participation.

F2. There is no single official at the County Jail level that has true oversight and responsibility over all aspects of an inmate's well-being.

F3. Other counties sometimes contract correctional health care services to an outside provider giving the custodial side direct responsibility over all aspects of an inmate's well-being.

F4. Violations noted in the biennial BSCC report, issued September 7, 2016 involve health and safety issues that are largely managed by the County Health Agency.

F5. Recent deaths of inmates at the County Jail and violations noted in the most recent BSCC report have raised public concern over the adequacy of health and safety procedures and policies related to the current population.

RECOMMENDATIONS

R1. The Sheriff and the County Health Agency should conduct a joint review of the adequacy and appropriateness of management structure, policies, and procedures related to inmate safety, physical and mental health (including suicide prevention), and should issue a public report by December 31, 2017.

REQUIRED RESPONSES

The Sheriff is required to respond to Findings 1 through 5 and Recommendation 1.

The County Health Agency is required to respond to Findings 1 through 5 and Recommendation 1.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

APPENDIX A. SURVEY TOPICS

The following is a summary of the key data sought by the Grand Jury prior to or during each inspection.

- 1) Population
 - a) Current census
 - b) Average daily census
 - c) Capacity
 - d) Average time a person is held
 - e) Are people ever held without charges
 - f) Significant changes in inmate population
- 2) Disciplinary actions taken against staff for inmate-related issues
- 3) Escapes
 - a) Details
 - b) Remedial actions
- 4) Use of force incidents
- 5) Health services
 - a) How delivered
 - b) Common medical problems
 - c) Public health concerns
- 6) Injuries
 - a) Injuries to inmates due to aggression/agitation
 - b) Accidental injuries to inmates requiring medical attention great than first aid
 - c) Injuries to staff by inmates due to assault or managing inmate aggression/agitation
- 7) Suicide
 - a) Suicide attempts/deaths
 - b) Serious self-injury incidents require medical attention beyond first aid
- 8) Drugs
 - a) Drug overdoses
 - b) Drug deaths by overdose
- 9) Deaths
 - a) Other deaths
- 10) Training (title, hours, and instructor credentials for each type)
 - a) Managing inmate violence
 - b) Handling mental health behaviors
 - c) Responding to drug/alcohol related problems

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JUVENILE HALL: SAFE, SECURE AND SUPPORTIVEBUT DOES IT HAVE SURPLUS SPACE?

SUMMARY

In 2016 San Luis Obispo County (County) completed a \$20 million expansion of its Juvenile Hall (Hall), increasing it from 18,000 to 42,000 square feet and from 45 to 65 beds. The project was many years in the making. While 15, 10 or even 5 years ago, no one would have questioned the need for a larger Hall, a look through the rear-view mirror suggests it may have been overbuilt. When a facility has excess space, there is the potential for unnecessary cost.

The County's Probation Department (Probation) is implementing a program that will make use of some of this excess space. In fact, repurposing some of this space was one of the County's objectives in building the larger Hall. Adding more space to the Hall has allowed Probation to realize a long-term goal: converting part of the Hall to an in-custody treatment program.

Probation is repurposing an old 15-bed unit and using some of the Hall's new space to treat youthful offenders in a secure setting. The treatment program adds 7 juvenile services officers to the Hall's staff of 36. The program is expected to pay for itself by saving the County money it would otherwise spend placing these youthful offenders elsewhere.

Potential for underuse remains even with the inclusion of the treatment program. Unless staffing can flex with the Hall's daily census, other uses may need to be made of the Hall's excess space to make the facility cost-effective.

ORIGIN

The Grand Jury initiated this report of its own volition and not from a complaint.

AUTHORITY

California Penal Code section 919(b) requires the Grand Jury to “inquire into the condition and management of the public prisons within the county.”

METHOD/PROCEDURE

The Grand Jury gathered information for this report through:

- Interviewing Probation, the District Attorney’s Office (DA), Department of Social Services and County Office of Education relevant staff
- Holding discussions with other juvenile justice stakeholders
- Studying reports listed in the bibliography, including Marin and San Mateo county civil grand jury reports that expressed similar concerns about juvenile detention facility excess space
- Reviewing relevant County Board of Supervisors (Board) meeting materials, budget reports, juvenile detention needs assessment reports and information requested from County officials
- Analyzing County juvenile population growth estimates prepared by California’s Department of Finance
- Researching issues and trends related to juvenile offenders, juvenile justice and repurposing of juvenile detention facilities
- Visiting the Hall, once in September 2016, before the expansion was occupied and again in March 2017, after the transition occurred and the treatment program was underway

INTRODUCTION

San Luis Obispo County has a population of about 22,600 youths age 10 to 17 and a Juvenile Hall with beds for 65 youths. Before its recent expansion, it had 45 beds. Juvenile arrests, booking into

the Hall, and the Hall’s average daily population have declined significantly since fiscal year 2010-11 when planning for the expanded Hall was well underway. Juvenile crime is down and the growth of the County’s youth population has stagnated. Unless trends reverse, the larger Hall will have underutilized space.

Probation is using a portion of the expanded Hall’s excess space—an old 15-bed housing unit—for an in-custody treatment program which has long been identified by the County as a gap in its youth services. Operating costs for this repurposed space are expected to be offset by revenues and cost-savings in other areas so the program can pay for itself rather than adding more cost to running the larger Hall.

Even with the repurposing of some of its old detention beds, the Hall may still be too big to operate cost-effectively. Other repurposing may be needed, or cost-reduction measures put in place, to operate the expanded Hall in a more cost-effective manner.

NARRATIVE

The Hall is the detention arm of the County’s juvenile services center. It is located at 1067 Kansas Avenue, about five miles west of the city of San Luis Obispo. The original Hall was completed in 1981. Before its expansion, it had 45 beds.

The expansion provides higher-security beds and space to better serve youths’ therapeutic, educational and recreational needs. It also improves working conditions for staff. The State paid \$13.1 million toward the cost of the expansion. County general fund dollars paid the remaining \$6.9 million. California is selling bonds to finance its share of the expansion’s cost. Until these bonds have been paid, the State has a say in how the new space can be used¹⁰.

¹⁰ The California Department of Corrections and Rehabilitation, in conjunction with the State of California Public Works Board, is providing long-term financing for the State’s funding of the expansion through the sale of lease revenue bonds. The State is subleasing the new space back to the County so that the County can operate the new space over the term the bonds are paid back to the State. The new space represents the security for the bonds.

THE ORIGINAL HALL—WHAT WAS LACKING

Reports to the Board indicate Probation considered the old facility inadequate in many ways.

Concerns included:

- No adequate administrative or staff space. The juvenile hall’s superintendent and assistant superintendent were housed in space with no privacy to conduct personnel matters. Staff lockers were located inside the facility’s staff meeting room which created access problems when the room was in use.
- No showers or changing facilities for staff. Staff had to be sent home to change when contaminated by bodily fluids or pepper spray.
- No private counseling space for therapists to conduct individual or group therapy for youth with mental health issues.
- No designated classrooms. Education was conducted in the housing units and was subject to disruption by youth confined to their sleeping rooms.
- No adequate indoor space for legally-required large muscle activity.
- No high-security rooms. The facility lacked higher security housing for youth posing a greater security risk and requiring greater separation from the rest of the youth population.

WHAT THE BUILD-OUT PROVIDED

The expansion built three separate structures, including:

- A single-story 8600 square foot building with 20 sleeping rooms, day room space and counseling rooms, and an adjacent outdoor recreation yard
- A two-story 9800 square foot building with three classrooms on the first floor and staff showers, lockers and administrative offices on the second floor
- A 5000 square foot multipurpose gymnasium

In all, the expansion added 24,000 square feet to the original 18,000 square foot facility along with 20 more beds. Ten additional beds were included in the design but were not built.

OPERATING THE HALL – WHAT IT COSTS

Hall operating costs were \$5.9 million during fiscal year 2015-16, the year before the expansion came on line. General fund costs were \$4.7 million; \$1.2 million was paid from other sources. See Table 1 in the Appendix.

Most of the costs to operate the Hall are due to required staffing which, because of California’s Title 15 requirements, cannot easily flex based on the daily census. These costs are generally fixed. So, as the number of youth decreases, the cost per youth increases. The fiscal year 2015-16 cost

was \$702 per day per youth based on the average daily population of 23 youth. Had the Hall been at capacity, the cost would have been \$359 per day per youth.

Staffing requirements aside, the larger infrastructure will require additional custodial and maintenance services. The County's fiscal year 2016-17 budget reported that facility services costs are projected to increase going forward due to the Hall's expansion. The new square footage will also increase the Hall's utility bills. Therefore, in future years, the annual cost to operate the Hall will be greater than before the expansion occurred.

THE ELEPHANT IN THE ROOM

The expansion made the Hall more modern and spacious, with improved facilities to better meet the needs of youth and staff. The opportunity to add 24,000 square feet to the Hall and pay just one-third of the cost probably will not come again. But the question is whether, as of today, the need exists for this substantial increase in beds. Like other juvenile halls throughout California,¹¹ the Hall includes beds that have been going empty.

Hall Population Trends – Up, Then Way Down

Things looked different in 2002 when consultants prepared a needs assessment to help the County look out to the year 2030. The assessment projected County juvenile justice and delinquency trends including the number of youth likely to spend time in the Hall. The study noted the Hall had suffered from overcrowding during the 1990s, peaking in 1995 when the Hall's average daily population of 44 youth exceeded the 40-bed capacity the Hall had at the time.

Use of the Hall moderated after 1995. The Hall's average daily population declined for a time; by 2000 the average daily population was 33. By 2001 bed capacity had increased to 45 and, the report noted, overcrowding had been largely eliminated. Nevertheless, the study concluded the Hall's average daily population would to grow to at least 71 by 2030 driven largely by expected growth in the County's youth population.

¹¹ In 2015, California county juvenile detention facilities had capacity for 13,007 youth, an average daily population of 6,926 youth, and space available for 6,081 youth.

The County commissioned another needs assessment in 2007 to support its request for State funds to help build a bigger Hall. Consultants found the Hall significantly crowded—the Hall’s average daily population was 48 that year. The study recommended 30 more beds but noted that County growth and juvenile crime trends did not support adding more than 30 beds.

The County was successful in its request for \$13.1 million in State funding. But by fiscal year 2010-11, when the Board directed staff to move ahead with the expansion project, trends were starting to go in the other direction.

Bookings into the Hall decreased 47 percent between fiscal years 2010-11 and 2015-16. The Hall’s average daily population decreased 38 percent. Filings by the DA’s office charging juveniles with a criminal offense decreased 64 percent. See Table 2 in the Appendix.

An in-depth discussion regarding the reasons for fewer bookings, more empty beds and fewer juvenile criminal charges is beyond the scope of this report. However, no research the Grand Jury has reviewed suggests these trends will reverse within the foreseeable future. A dramatic slowing in the County’s juvenile population growth rate¹², declining juvenile crime rate¹³, increased emphasis on prevention and early intervention, and reluctance to use incarceration when other less-restrictive sanctions are available—all of this suggests the Hall's underutilization could be a long-term truth.

Could the Trend Reverse?

This is not to say the Grand Jury has a crystal ball. It is possible the pendulum will swing the other way at some point and, should it do so, it is good the County has a juvenile hall ready to house a larger youth population.

¹² The County’s juvenile population, age 10 to 17 years, is expected to grow, on average, only one-quarter of one percent each year during the next 40 years. See Table 3 in the Appendix.

¹³ The Juvenile Justice Crime Prevention Act requires all California counties to report on the annual county arrest rate per 100,000 juveniles age 10 to 17. These reports indicate the County’s juvenile arrest rate dropped 55% between 2010 and 2014.

- The County's youth population could grow significantly more than the State of California Department of Finance has estimated. A larger youth population could cause youth crime to go up even if the overall youth crime rate remained the same or went down.
- More youth crime could occur even without significant growth in the County's youth population. Gangs pushing through the County's borders could cause youth gang-related criminal behavior to increase. The economy could plunge again and motivate more youth to commit property theft. Laws that de-criminalized certain youth behavior or reduced felonies to misdemeanors could be repealed.
- The County's juvenile court could change its current philosophy which is oriented toward rehabilitation, and order more youth locked up.
- The charging pattern of the DA's office could change. More youth could be charged with a crime enhancement that would require incarceration.
- Probation's philosophy could change when a successor replaces the department's current chief. A new chief could be less interested in using early intervention and diversion with youthful offenders and more inclined to recommend detention in the Hall.

And, although outside the scope of this report, new legislation including AB 403 and Proposition 57 could cause Hall usage to increase. AB 403 reduces reliance on group homes for long-term placement of youthful offenders. Proposition 57 requires that, before youth can be transferred to adult court, they must have a hearing in juvenile court to determine whether they should be transferred.

REPURPOSING PART OF THE HALL – THE ACADEMY

Not a New Idea

At the same time adding 20 beds was being planned, so was repurposing one of the old facility's three 15-bed units. It was not a new idea. Repurposing part of the Hall had been on Probation's radar for years.

In fact, in 1999, the Board gave Probation the go-ahead to apply for a license to run a group home within the Hall in one of the 15-bed units, seeing the lack of a residential treatment program as a gap in youth services. The Board was told detention staff would maintain a population of up to 30 youth in the other two units of the Hall and that staffing needs in the Hall would remain the same. (The average daily population during fiscal years 1997 and 1998 had been 28, so freeing up 15 of the facility's 45 beds was not seen as an issue.) The group home was ultimately not developed.

The average daily detention population increased and took up the housing Probation had hoped to use for the group home program.

Trying it Again

Once the expansion was done, Probation told the Board, one of the Hall's existing housing pods would be used as a treatment center. Part of the justification for the build-out was that adding 20 high-security detention beds, with room to add 10 more beds in the future, would free up 15 beds in the Hall's east unit for a treatment center. The lack of a treatment center was identified as a service weakness in the County's Comprehensive Multi-Agency Juvenile Case Plan. The term "repurposed" was used to describe the treatment center. The Board was told the Hall's expansion would allow "*existing space to be repurposed to provide treatment programs that keep juveniles in County and out of group homes.*"

Probation would recommend the youth who would be suitable, but program participation would be court-ordered. The program would treat offenders in the 14 to 17 age range with behavioral, mental health or addiction problems. Its treatment models would target identified at-risk factors to rehabilitate participants in a secure setting. It would reduce the number of youthful offenders sent to group homes located largely outside the County. Probation would be able to house and treat offenders within the local community and closer to their families rather than transporting them to facilities far away.

Probation did extensive preparation for the program's implementation by:

- Creating a workgroup to design the program
- Employing the University of Cincinnati Corrections Institute to develop the program's substance abuse treatment and cognitive behavioral therapy curriculum
- Researching in-custody treatment program best practices and principles
- Visiting in-custody treatment programs in Santa Barbara, Ventura, and Orange counties and a program in Portland, Oregon
- Consulting and coordinating with Family Care Network, the outside treatment provider under contract to provide most of the program's therapeutic services

Probation has not finalized the written operational manual for the treatment program. According to the County's 2015-16 budget, the manual was scheduled to have been completed in September 2016. As of mid-April 2017, the Grand Jury was informed the manual was not yet finished.

The rehabilitative benefits of an in-custody treatment program that keeps youthful offenders close to home and enables family involvement are outside the scope of this report. The Grand Jury was told outcomes are expected to be better. Participants who successfully complete the program are expected to pose a lower re-offending risk. Although located inside the Hall the treatment unit has a different look and feel. Clothing for youth is less institutional; furnishings and décor are more home-like. Participants have a dedicated classroom, special education credentialed teacher and para-educator for educational instruction. Youth who make good progress can participate in off-site community activities and work service projects and receive home passes. Probation has named the program Coastal Valley Academy (CVA).

The Grand Jury observed youth participating in the CVA in March 2017, shortly after the program opened. The Grand Jury was impressed with the enthusiasm for the program exhibited by the youth, as well as Probation management and the Hall's custody, educational and administrative staff. It is clear all involved have a strong desire for the program to succeed. Five youth were enrolled on the day the Grand Jury visited.

A partial repurposing already underway—the conversion of detention beds into treatment beds—will make use of some of the excess space. In the Grand Jury's view, this repurposing is appropriate and has been well-planned. But what will this alternative use cost?

The Cost Question

The County's fiscal year 2016-17 budget reported the treatment program would have a net zero impact to its general fund. Revenues and general fund savings from fewer group home placements are expected to equal general fund program costs. The County budgeted \$880,091 to run the program this year, including costs for seven additional staff, but expects offsets in group home savings and Public Safety Realignment revenues to equal the \$880,091 it plans to spend:

“When fully operational the Juvenile Hall expansion will require seven additional positions to staff the expanded facility. Annual staffing and operating costs are estimated to be \$660,665. First year expenses for the treatment program mainly due to one-time purchases are estimated to be \$69,426. Annual counseling services for the treatment program are estimated to be \$150,000. The Probation Department intends to offset this expense by annual savings in group home placements which are estimated to be \$670,689 and with additional annual revenues from Public Safety Realignment estimated to be \$209,402.”¹⁴

The net zero impact will not be achieved if anticipated savings in group home placements are not realized, unless the County makes cuts in other budget areas. General fund savings will depend on the number of youth the County can avoid placing in group home settings.

The Reporting Dilemma

Probation produces comprehensive annual statistical reports and posts them on its website for use by researchers and other members of the public with an interest in knowing more about the offenders under Probation’s supervision. These reports include trend data, including the Hall’s average daily population. With a dual-purpose facility, serving both treatment needs and detention needs, the Hall’s average daily population could trend up even if significant underuse remains.

The dilemma is how to calculate the numbers. If the Hall’s average daily population is calculated based on all youth residing in the Hall, this will decrease transparency and mask the extent of underuse. For example, if all 15 beds in the treatment unit are occupied on average, and 23 out of 50 beds in the detention units are occupied on average, the Hall’s overall average daily population would be 38, which is 58 percent of its overall 65-bed capacity.

If the numbers are calculated separately for the treatment side and the detention side, transparency increases regarding utilization but complicates statistical reporting. In the above example, the

¹⁴ Source: County’s fiscal year 2016-17 final budget, page C-413.

treatment side would be at 100 percent of its 15-bed capacity and the detention side at 46 percent of its 50-bed capacity.

Average and median length of stay statistics could also trend up depending upon how the data is reported since the treatment program is expected to involve a stay of up to 180 days or longer. Average length of stay in the Hall was 23.5 days in fiscal year 2015-16; median length of stay, 13 days.

OTHER POTENTIAL ALTERNATIVE USES

Through interviews with County staff and research on what other counties have done to repurpose underused juvenile detention space, several suggestions surfaced. The Grand Jury has not evaluated the feasibility of implementing these suggestions; their potential to make the Hall's infrastructure more cost-effective and require less general fund support; or the retrofitting that would be required. And, while the State has no say in alternative uses involving the old facility, the Grand Jury has not evaluated how the State might react to any repurposing involving the new facility. With these caveats in mind, the Grand Jury offers several suggestions for consideration in the event of the Hall's sustained underuse.

- Lease treatment beds to other counties which lack an in-custody treatment program for youthful offenders who would benefit from a secure-setting rehabilitative program.
- Lease space to the County Sheriff for day uses benefiting inmates at the nearby County Jail, including therapeutic programming, vocational training, and/or reentry center providing job training and life skills (including basic finance) to inmates nearing the end of their sentences.
- Move young adult offenders (age 18-20) from the Jail to the Hall to separate them from older, more criminally sophisticated inmates and provide them with rehabilitative services the Jail lacks. Sleeping rooms in the Hall are not the required size for adult offenders but would meet required size minimums for offenders in the 18-20 age group.
- Mothball a portion of the old facility and dedicate a portion of the estimated yearly savings in staffing and other costs to fund additional or enhanced intensive community supervision, therapeutic services, crisis intervention and diversion programs.
- Work out a leasing arrangement for the new multipurpose gymnasium with organizations willing to run a sports boot camp or other programs for at-risk youth when the gym is not in use and contribute to the gym's upkeep expense.
- Contract with an outside organization to run programs benefiting the community in underused space.

- Hold a community forum. Ask County citizens to give their input on how underutilized space at the Hall could be repurposed.
-

CONCLUSIONS

The expanded Hall has 65 beds, although the Hall’s average daily population ¹⁵ was 23 during the fiscal year before the expansion opened. In hindsight, the Hall was likely overbuilt, although excess space allows Probation the opportunity to open an in-custody treatment program within the hall to treat high-needs youthful offenders. Probation is repurposing one of the Hall’s old units to run this treatment program but the program’s net zero impact to the County’s general fund has yet to be seen. Even with this repurposing, the Hall’s underuse could be significant and prolonged, although the Hall’s reported average daily population could mask underuse if Probation does not separate out statistics for the treatment side versus the detention side of the Hall. Underuse has cost implications for County taxpayers. Alternative uses may provide solutions.

FINDINGS

- F1. Juvenile Hall staff members demonstrate an impressive level of care and concern for the safety, security, well-being and rehabilitation of the youth under their care.
- F2. With its new expansion, Juvenile Hall has more space than it is likely to need.
- F3. It has been 10 years since the last Juvenile Hall needs analysis was prepared.
- F4. The treatment program’s repurposing of 15 beds is not expected to impact the County budget, but this depends on expected group home cost-savings or cuts in other budget areas to

¹⁵ The Grand Jury understands bed needs are not the same as average daily population and that the Hall needs to be able to handle days when the population is higher than average and provide for the flexibility to separate youth by gender, age, seriousness of offense, etc. However, average daily population is a standard statistic used and reported by counties as a measure of occupancy versus capacity.

make the program cost-neutral. If the treatment program does not pay for itself, it adds to the expense of running a larger Juvenile Hall instead of staffing and using its infrastructure more cost-effectively.

F5. The treatment program is operating without a written operational manual.

F6. A dual-purpose facility creates a statistical reporting dilemma. Occupancy trends may be harder to discern depending on how data is reported. Data such as average daily population and average length of stay are used by researchers and members of the public interested in understanding juvenile justice trends. If the numbers from both the treatment unit and the detention units are aggregated in developing this data, trends will become more difficult to discern. If the numbers are separated out, transparency will increase but reporting the data will become more complicated.

F7. Even assuming the treatment program increases the Juvenile Hall's usage and cost-effectiveness, the larger Hall may still cost too much for the overall use it is likely to get. Additional repurposing could reduce overall operating costs.

RECOMMENDATIONS

R1. The Board should commission a new needs analysis for completion no later than June 30, 2019, to help the County understand if 50 detention beds are too many and if the Juvenile Hall being too big adds unnecessarily to the County's general fund expense.

The last needs analysis was in 2007. While the Grand Jury believes it is time for a new needs analysis to be done, waiting until fiscal year 2018-19 to do so will give the County time to experience the effects of new legislation (AB 403 and Proposition 57) and the impact on Juvenile Hall usage.

R2. The Board should request a report on program costs versus group home savings as part of its annual budget hearings, starting with the budget hearings for fiscal year 2017-18. If expected savings are not achieved, the Board should decide if cuts in other areas of the County’s budget are needed to allow this important program to continue.

The benefits of a treatment program in the Juvenile Hall need to be weighed against the costs. Probation has suggested it would make cuts in other areas of its budget if expected group home cost savings are not realized. Probation’s desire to do what is in the best interest of County youth is important. Transparency in the program’s net impact to the County budget is important as well.

R3. Probation should separately report statistical data for Juvenile Hall’s treatment population versus its detention population for improved transparency.

R4. If the results of the needs analysis in R1 indicate a sustained underuse, the County should determine no later than June 30, 2020, whether the repurposing suggestions in this report or other alternative uses would benefit the community and improve Juvenile Hall’s cost effectiveness, would be feasible to implement, and would be consistent with the County’s lease agreement with the State.

As an alternative to repurposing, a staffing pattern that flexes based on the number of youth occupants—that is, based on usage—would improve cost-effectiveness.

COMMENDATIONS

The Grand Jury commends the Probation Department, the District Attorney’s office, the Juvenile Court, the Department of Social Services, the County Office of Education, the Juvenile Justice Commission and the Juvenile Delinquency Prevention Commission for their compassionate and caring attitude toward the County’s youth and the determined efforts they make in their ongoing mission to keep youth out of the juvenile justice system and help those who do offend rehabilitate and mature into responsible adults.

The Grand Jury also commends Probation for posting comprehensive annual statistical reports on its website for use by researchers and members of the public interested in knowing more about the offenders Probation supervises.

REQUIRED RESPONSES

The Board of Supervisors is required to respond to Findings 2, 3, 4 and 7 and Recommendations 1, 2 and 4.

The Probation Department is required to respond to Findings 2-7 and Recommendation 3.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by July 5, 2017. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

APPENDIX

TABLE 1

Juvenile Hall Operating Costs, Fiscal Year 2015-16*

Agency	FY 2015-16 General Fund	FY 2015-16 Other Funding	FY 2015-16 Combined
Probation	\$4,710,771	\$93,242	\$4,804,013
Law Enforcement Medical Care	\$0	\$537,061	\$537,061
County Office of Education	\$0	\$552,888	\$552,888
Total FY 2015-16 Cost	\$4,710,771 (80%)	\$1,183,191 (20%)	\$5,893,962

*Source: County Auditor-Controller and County Office of Education

TABLE 2

Juvenile Hall Bookings, Juvenile Hall Average Daily Population and DA’s Office Filings of Juvenile Criminal Charges: Fiscal Year 2010-11 through 2015-16*:

FISCAL YEAR	NUMBER OF JUVENILE HALL BOOKINGS	JUVENILE HALL AVERAGE DAILY POPULATION	FILINGS OF JUVENILE CRIMINAL CHARGES
2010-11	677	36.9	702
2011-12	633	30.7	658
2012-13	638	34.0	726
2013-14	520	26.6	298
2014-15	433	27.8	274
2015-16	355	23.0	257

*Source: Probation for Hall bookings and average daily population; County final budgets for filings of juvenile criminal charges

TABLE 3

San Luis Obispo County Estimated Youth Population Aged 10 to 17 *:

YEAR	ESTIMATED YOUTH POPULATION	PERCENT CHANGE FROM PRIOR ESTIMATE	PERCENT CHANGE FROM 2017
2017	22,682		
2027	24,487	8%	8%
2037	23,959	-2%	6%
2047	23,521	-2%	4%
2057	24,953	6%	10%

*Source: State of California Department of Finance County Population Projections:

BIBLIOGRAPHY

2014-15 Marin County Civil Grand Jury Final Reports, *Marin County Juvenile Hall: A Time for a Change*, June 25, 2015. <http://www.marincounty.org/depts/gj/reports-and-responses/reports-responses/2014-15/juvenile-hall>.

2015-16 San Mateo County Civil Grand Jury Final Reports, *Juvenile Services Division's Youth Detention Facilities: Underutilized and Overpriced?* July 20, 2016.

http://www.sanmateocourt.org/documents/grand_jury/2015/youth_detention_facilities.pdf

California – Child and Family Services Review, System Improvement Plan 2015-2020, County of San Luis Obispo, approved by Board of Supervisors November 3, 2015.

<http://www.slocounty.ca.gov/Assets/DSS/Reports/2015+SLO+SIP+Report.pdf>

California – Child and Family Services Review, Annual SIP Progress Report, 2015-2016, June 10, 2015-June 10, 2016, County of San Luis Obispo.

<http://www.childsworld.ca.gov/res/SIPs/2016/SanLuisObispoSIP.pdf>

California Sentencing Institute, A Project of the Center on Juvenile and Criminal Justice, interactive map for San Luis Obispo County showing population-adjusted rates of juvenile arrests and incarcerations, 2009-2015. <http://casi.cjcj.org/Juvenile/San-Luis-Obispo>

Kidsdata.org, A Program of Lucile Packard Foundation for Children's Health, County of San Luis Obispo Under-18 Population 1995 – 2016.

<http://www.kidsdata.org/topic/32/childpopulation/trend#fmt=139&loc=2,361&tf=13,88>.

Males, Mike. "California's Radical Youth Trends," Center on Juvenile and Criminal Justice, San Francisco, July 29, 2014. <http://www.cjcj.org/news/7994>

San Luis Obispo County Probation Department Annual Statistical Report Fiscal Year 2013-14, Amended January 2017.

<http://www.slocounty.ca.gov/Assets/PR/Annual+Statistical+Report+FY+13-14.pdf>

San Luis Obispo County Probation Department Annual Statistical Report Fiscal Year 2014-15, Amended January 2017.

<http://www.slocounty.ca.gov/Assets/PR/Annual+Statistical+Report+FY14-15.pdf>

San Luis Obispo County Probation Department Annual Statistical Report Fiscal Year 2015-16, Amended January 2017.

<http://www.slocounty.ca.gov/Assets/PR/Annual+Statistical+Report+FY15-16.pdf>

U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention Statistical
Briefing Book, Law Enforcement & Juvenile Crime, Juvenile Arrest Rate Trends.

https://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05201

<http://www.dof.ca.gov/Forecasting/Demographics/projections/>.

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AN INNOVATIVE APPROACH TO COST AND SCHEDULING CHALLENGES IN COUNTY CAPITAL PROJECTS

SUMMARY

Taxpayers and other members of the public who follow the actions of San Luis Obispo County government have sometimes expressed the concern that County capital projects tend to overrun their budgets and finish later than their scheduled completion dates. (It doesn't help when even projects that have significantly increased in cost and schedule since they were originally publicized are reported by the County as having come in "on time and within budget."¹⁶)

The San Luis Obispo County Grand Jury investigated this concern, finding that, while construction costs frequently exceed original estimates adopted in the planning process, County capital projects are generally carefully planned, prioritized, budgeted and overseen. The perception that they are not appears to be more a function of miscommunication than of mismanagement.

In this connection, the Grand Jury also investigated the County's decision to pilot the use of the Design-Build method – a new approach that may help to minimize budget increases and schedule delays in its high-value capital projects. This investigation suggests that Design-Build represents a significant step forward in improving performance, cost effectiveness and financial responsibility for the County's high-value capital projects (*i.e.*, projects whose costs are estimated at one million dollars or more).

¹⁶ See, *e.g.*, "Juvenile Hall Expansion Completed On Time, Under Budget;" SLO County Government Blog (E-newsletter) Post. Undated, but apparently posted in October, 2016.

ORIGIN

This report arises from a complaint received by the Grand Jury expressing concern that large County capital projects are often completed late and well over the cost estimates that formed the basis of the County's original go-ahead decision. The complainant questioned whether this record could engender doubts about the County's level of responsibility for the taxpayers' money. Upon further investigation, it appeared that other taxpayers share the same concern, leading the Grand Jury to investigate how County capital projects are budgeted and overseen and what the County is doing to minimize project cost overruns and delays.

AUTHORITY

California Penal Code section 925 authorizes the Grand Jury to investigate and report on the operations, accounts and records of any County officer, department or function.

METHOD/PROCEDURE

The Grand Jury conducted interviews of high-level County employees and former employees with experience in awarding, delivery and oversight of County capital projects; and additional interviews with, respectively, a contractor with public contract work experience and a senior university academic in the field of construction management. In addition, as reflected in the bibliography, this report reflects information gleaned from County documents (minutes, budgets, audio files and other data relating to capital projects) a range of California state agencies, and national and international organizations of professionals in the field of public construction.

While the issue of County capital projects¹⁷ is broad and multifaceted, the concerns that underlie this report are relatively narrow. To address them, this report focuses on "vertical" capital projects

¹⁷ For an appropriate definition of "capital project," this report turned to the County's Fiscal Year Final Budget (FY 2016-2017), which describes the items included in the County's "capital projects budget" as "financing for major one-time capital projects such as the acquisition of land and buildings, construction of buildings and structures, and significant improvements to facilities."

(*i.e.*, building construction and retrofit/maintenance, as opposed to “horizontal” infrastructure projects such as streets, highways and water.) The report is further limited to “large capital projects,” defined here as projects valued at more than one million dollars.

NARRATIVE

To address concerns regarding cost overruns and schedule delays in the County’s large capital projects, the Grand Jury’s first step was to investigate the County’s financial and scheduling performance in recent projects by comparing final project costs and completion dates against original budgeted costs and schedules. The investigation then examined relevant aspects of the County’s project planning and budgeting processes, noting in particular the challenges of cost increases and schedule delays after the relevant contracts have been awarded.

The report also discusses the Design-Build approach, and how and why the County hopes that it will help to address many of these challenges. In essence, the Design-Build approach changes the way construction contracts are written, and the way the construction work under them is performed, by changing the alignments among the owner, designer and builder. The goal of the Design-Build approach is to decrease the owner’s risk of post-contract cost increases and schedule changes. A more detailed explanation of the Design-Build approach and the County’s recent moves to try it out in two upcoming capital projects are discussed in the final sections of this report.

DO LARGE COUNTY PROJECTS EXCEED BUDGETED COSTS AND SCHEDULES?

Seeking an initial understanding of the basic facts underlying this investigation, the Grand Jury began by interviewing County officials, reviewing state and County reports, and comparing the most accessible cost and schedule information about 20 large-value capital projects completed by the County between 2012 and 2016.¹⁸ On the surface, the results of this cursory examination aligned with the complainant’s perception (described above) and the media reports that appear when a new County project is completed. The initial estimates used by the County in deciding to

¹⁸ This sampling was deemed representative of the Board’s research which was in turn based on several reports and sources, which compiled some of this data for all projects completed in FYs 2012-13 through 2015-16.

go ahead with a project were nearly always less than the final costs and completion date. Moving on from this analysis, however, the Grand Jury’s investigation found the true situation with regard to the County’s control of costs and delays to be very different. To understand the Grand Jury’s conclusions in this report, it is necessary to understand (1) how County staff prioritizes, budgets and oversees contracts; and (2) how the Board of Supervisors makes capital decisions.

County Capital Project Priorities and Budget/Schedule Development

In February of each year, the Board of Supervisors adopts an *Infrastructure and Facilities Capital Improvement Program Five Year Plan* (CIP) for the following fiscal year, covering that year and the next four fiscal years. Each CIP is the product of an eight-month-long CIP-development process conducted by County staff, which began the previous June or July.

Initially, all County departments are asked to submit proposals for necessary capital projects valued at \$100,000 or more, including both vertical and horizontal projects, and both new capital development and “major” maintenance projects. These are amalgamated with the list of ongoing project development work, then prioritized. An estimation process identifies the highest priority projects, assesses the apparent cost of each, and divides those costs over the years that the project would be developed. This information is then forwarded to the Capital Improvement Executive Steering Committee,¹⁹ which (under the budgeting, direction and oversight of the County Administrative Office) organizes it into a prioritized list, fine-tuning it based on a range of established criteria (including level of need for the project, availability of outside funding, etc.).

The draft CIP is presented to the Board of Supervisors, which adopts it as a basis for ensuring that the next fiscal year’s capital expenditure decisions will be well and carefully considered. The CIP may be amended over the year, whenever new needs come before the Board. It is, in essence, a prioritization of project options, leaving it to the Board to choose which projects it will take forward, and what budgeted funds it will commit to each project.

¹⁹ The members of this committee include specifically designated representatives from many departments with direct responsibility for capital project issues (Public Works, Planning, Central Services, etc.)

Although it provides one of the most comprehensive sources of public information on County projects, the CIP is not a formal approval of the listed projects – it is only a plan for possible projects that might be approved over the coming five years, should funding be available. Some CIP-listed projects have been previously initiated, some are under construction, some have been partially investigated, and many have yet to be approved. Before the County commits to any expenditure related to a proposed capital project, that project must be presented individually to the Board, as discussed below.

The County’s Project Approval Process

When the Board of Supervisors makes its initial decision to begin analysis of a proposed project, its process is comparable to the actions of a would-be homeowner who is considering building a house. For example, the Board’s initial decision is based on staff’s best estimate about what the project will cost and how long it will take. Unlike the homeowner, however, the County must publicly mention this estimate in its initial go-ahead for the project.

After this initial decision, the County (like any prospective homeowner) has a lot of work to do, firming up this estimate. Many factors may affect this process, including inflation over the time spent finding funding and finalizing the proposal. Other factors include increases in the cost of funds, changes in the law that require different construction materials and practices and discovery of on-site conditions that need to be addressed, as well as less predictable impacts such as weather and “acts of God.”²⁰ With this firmer estimate in hand, the County must investigate the price that will be charged for the services of the architect and contractor, and for other services. By the time these investigations are complete, the figures regarding cost and schedule will normally be quite different from the original estimate. At this point, the Board of Supervisors must reevaluate its earlier decision, to determine whether it can go forward. That determination is reflected in another formal budgetary approval decision, after which the County enters into one or more contracts for completion of the project.

²⁰ For example, following Hurricane Katrina, construction projects in California became more expensive due to that disaster, which led to a decrease in petroleum-based ingredients from the affected area that are used in the production of roofing materials. Other commonly needed construction materials are also produced in and/or shipped through the affected region and were less available and more expensive during that time. In addition, region-wide demand in the afflicted area affected the availability of lumber and cement throughout North America.

Post-Contract Cost Increases and Scheduling Delays

After County capital construction contracts are in place, their costs often increase further during the period of construction. Construction schedules frequently expand, sometimes dramatically. As an example of this evolution, Table 1 shows how annual increases in the Juvenile Hall Expansion – one of the County’s largest recent capital projects – came to be reflected in the County’s capital improvement budget:

Table 1: Changes over Time – the Budgetary Approvals of the Juvenile Hall Expansion *

	Initial Cost Estimates (2008)	Re-evaluation of Cost Estimates (2009) ²¹	Updated Estimates (2013)	FY 2013-14 (ground-breaking)	FY 2014-15 (Budget)	FY 2016-17 (Completion)
Overall Cost	\$12,500,000	\$17,500,000	\$18,553,283	\$18,572,778	\$21,337,168	\$19,984,110
State Bond Financing (75% of application amount)	\$9,375,000	\$13,100,000	\$13,120,983 ²²	\$13,100,000	\$13,120,983	\$13,120,983
Costs paid by the County (“Matching funds”)	\$3,125,000	\$4,400,000	\$5,432,300	\$5,472, 778	\$8,216,185	\$6,863,127
Estimated completion date	2013	-	2015	(work began Nov. 2014)	July 2016	(Completed 10/18/2016)

*Source: Grand Jury compilation (Note: Sources vary slightly from year to year, but all information taken from official County records)

The Juvenile Hall expansion project was, upon completion, publicized by the County as having come in “on-time and under budget.”²³

²¹ Based on the re-evaluation of its cost estimates, the County was able to obtain the maximum amount of state co-funding: \$13.1 million.
²² The figure \$13,120,983, appears to be a more precise version of the rounded figure \$13.1 million that appears in previous estimates and reports.
²³ See footnote 1

Over the life of each project, changes may be reflected in the County’s budget in one of three ways. First, some adjustments may be under the “contingency” budget line of the approved contract.²⁴ The change orders for these adjustments are approved using a relatively quick and simple process. Second, if the change amounts to more than a specified percentage (usually less than 10%) of the contracted total price, it may be addressed as a “change order,” which is approved by staff and later submitted for budgetary approval as a new appropriation. Finally, regardless of contract size, any change that will increase project costs by more than \$210,000 must be directly submitted to and approved by the Board of Supervisors.

A number of factors may give rise to the need for a change. The most commonly cited recent example of cost increases above the originally agreed contract price is the Women’s Jail Expansion, on which the County began to plan and find funding in 2009.²⁵ The project broke ground in 2014 under a contract for approximately \$28 million. In 2016, it was reported as having required 23 change orders totaling approximately \$1.4 million, and requiring additional change orders estimated at over \$800,000. The first phase of this project was completed in 2017. Like most other such works, this project’s cost increases and delays were partly caused by the passage of time between the adoption of the decision to go ahead with the project and the final approvals of external funding and other key requirements. The primary reason for most of the cost increase and delay, however, arose out of an unexpected subsurface problem. Soil conditions on the site made the drilling and construction of caissons (foundations) a much more difficult process, leading to unexpected delays and cost increases. Additional changes were required by the State Fire Marshall.

Unforeseen site conditions have arisen in other projects, although not usually so dramatically. Other common reasons for cost increases and schedule extensions include late-discovered problems with the design; unavailability of necessary materials; unexpected construction or labor problems; and changes in relevant regulations.

²⁴ In the County’s public contracts, a construction contingency of ten percent is normally included. Some projects also include a “soft-cost contingency” of between five and ten percent.

²⁵ Although discussions in the Board of Supervisors and elsewhere began as early as 2005, the go-ahead for planning the project was given in 2009.

As noted above, the County is bound by the California Public Contract Code, which requires that its contracts must be developed in a manner that conforms to detailed rules and practices (mandated by state law) regarding whether and how such changes are approved. Those provisions require that both the County and the contractor comply with those rules throughout their execution of the contract.²⁶ If the project goes forward to completion, all approved changes are, by definition, included in the County’s budget and schedule as they arise. Thus, the statements issued by the County are factually correct in reporting that, as of the date of completion of a project, that project was “on-time and within budget,” because those statements are made on the basis of the various formal amendments of the contract. Such statements, however, are perhaps inadvisable, without clearer explanation of the various evolutions of the budget. County residents who follow the actions of the County, especially those with an interest in how their tax dollars are spent, will often recall the cost and schedule estimates included in the publicity surrounding the original decision to go forward with the project. They will naturally arrive at the misunderstanding first mentioned above.²⁷

THE DESIGN-BUILD APPROACH: A SMALL STEP FOR CONTRACTORS; A GIANT LEAP FOR SLO COUNTY?

While many of the causes of post-contract changes to schedule and cost are “unforeseen,” only some are actually unforeseeable. Failure to foresee problems may be an error of the architect, of the contractor, or even of the original proposal and contract. As noted below, this situation often places the owner (i.e., the County, in the case of county projects) in the position where it may have to shoulder the blame, if it wants to complete the project. For private owners, there are many options that help them legally protect themselves against the risks of unforeseen problems. Until recently, however, the law governing public contracts prevented California counties and local

²⁶ After the start of construction, the County has limited options. If it feels a contractor is making outrageous demands, it may refuse the change, leading the contractor to cancel the contract. Most public projects must be bonded; however, bond agencies carefully scrutinize all dealings searching for a reason that the bond should not be paid, in whole or in part. Even where the bond is paid, the County would then have to go through the public bid process to find a new contractor to complete the work. There is no certainty that the new contract price will be less than the sum of the bond plus the unpaid portion of the original price, or that the new contractor will not require additional change orders

²⁷ This impression may be underscored by media reporting that, again, is based on comparing the initial project estimates with the final costs and completion date, without in-depth inquiry into what occurred in the interim.

agencies from using the types of innovative contractual mechanisms and project delivery options that are becoming common practice in private-sector construction contracts.

Up to now, San Luis Obispo County has utilized only one option for large capital project delivery: opening the project to competitive bidding (the conventional Design-Bid-Build approach) and awarding contracts on the basis of the “lowest responsible bid.” This option may often pose challenges to effective County oversight of large capital project development. The County is currently taking the initial steps that will enable it to use another tool for addressing these challenges – the “Design-Build” approach.²⁸ An understanding of these two project-delivery methods could help concerned taxpayers gain greater confidence in the County’s management of public projects.

Current Practices: The “Design-Bid-Build” Approach and the “Lowest Responsible Bid”

The basic operation of the Design-Bid-Build approach as used by the County is as follows:

- The County decides to engage an architect to design the project.
- The architect is administratively selected from among a small number of qualified professionals, and the cost of this service is normally estimated at between five and ten percent of the total project cost.
- Based on this design, the County seeks a general contractor to construct the project. In choosing the contractor, the County is legally required to hold an open “public bidding” process, under which any contractor may submit its bid to build the project as designed.²⁹

When bids are received, the County is subject to a requirement that is very different from anything required of private owners. Specifically, as a public agency, the County is bound under California law to award the construction contract to the contractor who submits the “lowest responsible bid.” This legal requirement was originally adopted in the 1920s to prevent “pork-barrel” contracts, in which government officials unduly favor their friends, relatives and contributors, by awarding them high-value contracts to do low-value work. Today, it has become apparent that the lowest-responsible-bid requirement has many shortcomings for local agencies.

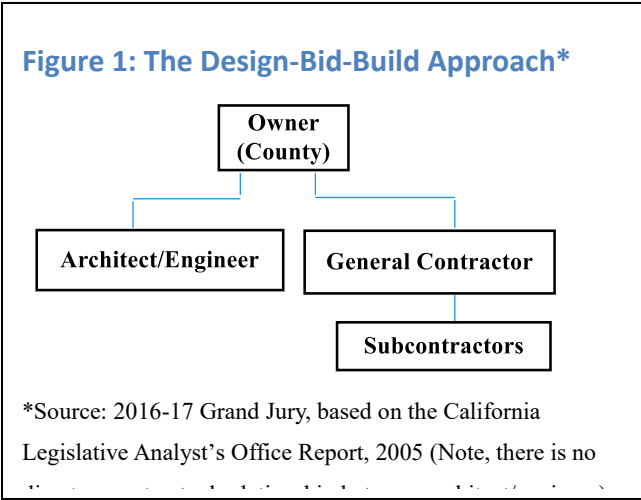
²⁸ Another type of contracting, the “Construction Manager at-Risk” (CMAR) contract is also technically possible for projects above \$1 million. California Public Contract Code § 20146. Although it is not a “project approach,” in many iterations, CMAR may be used as a component of the overall Design-Build approach used in a particular project. CMAR is generally viewed as less common and more difficult to apply fairly.

²⁹ For most private owners, the “bid” part of “Design-Bid-Build” involves visiting one or more contractors who have been recommended, getting a bid from each, and then choosing one.

In particular, the lowest-responsible-bid system is believed to pressure bidders to submit a very low bid, possibly relying on future “change orders” to increase the eventual contract amount. Where change orders are not possible the low bidder may take short-cuts and quality trims, in order to maximize profits. Public agencies like the County often find it very challenging to address these shortcomings within the framework of the public bidding laws.

The most important drawback of all Design-Bid-Build arrangements is diagrammed in Figure 1.

The owner has contractual relationships with both the architect and the contractor separately, but the architect and contractor are not contractually linked. As a result, a contractor will often seek a “change order” when the costs of completing the structure increase, claiming that the additional costs arose because of a defect in the design. The architect may respond that problems arose due to the contractor’s workmanship or



errors in his interpretation of the architect’s plans, and state that these are the reasons for the additional costs. The owner, in the middle, has no short-term way³⁰ to force the two to collaborate to finish on time. All too often, the owner’s only option is to agree to the change order.

In essence, the Design-Bid-Build approach creates an “accountability vacuum” for the owner, who must bear the responsibility for problems whenever the architect and contractor disagree over which of them should be held responsible. Bound by the lowest-responsible-bid process, the County has had limited options – it has been forced to operate within this vacuum.

The Design-Build Project Delivery Method

The “Design-Build” approach to contract delivery is not new. It has long been used in private contracts, where owners rely on it to stimulate greater accountability and shift some of the risks

³⁰ In the long term, he or she may attempt a lawsuit.

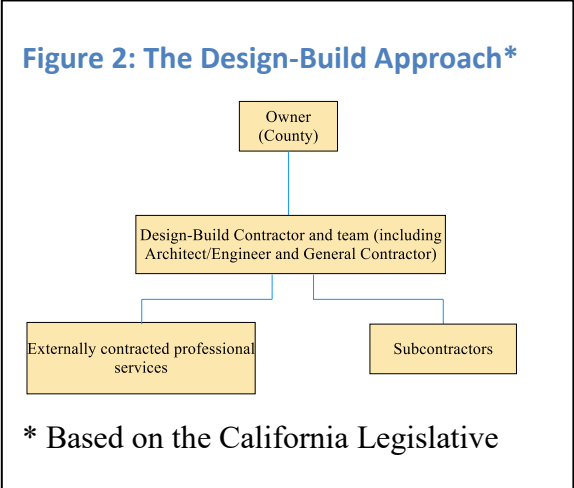
described above from the owner to the design/build team. The basic operation of this process is that the owner (County), having decided on a project, hires a person or entity – the “Design-Build contractor” – who will have responsibility for *both* design and construction of the project. As it will be used by the County, that process is as follows:

- The County’s first step is to hire a person or company to serve as the project’s “Project/Construction Manager” (PM/CM.) The PM/CM is a specially trained, experienced expert, generally described as the County’s “primary single point of contact” for the project. He or she is responsible for overseeing all work, in conjunction with County staff, consultants and the Design-Build contractor. He or she coordinates the County’s side of the process, from selection of the Design-Build contractor through construction oversight.
- With the help of the PM/CM, the County then prepares a general “bridging document” explaining the essential elements that it requires the Design-Build project to include. This document may include input from many staff members and consultants.³¹
- Next, as a public entity, the County is required to put the proposed project out for public bid, but this process occurs in two stages (both primarily shepherded by the PM/CM):
 - First, the “Design/Build Pre-qualification” (RFQ) document is prepared and published. It invites all interested bidders to submit documentation of their qualifications. From this, the County identifies a few “prequalified bidders.”
 - On the basis of a “Design/Build Request for Proposals” (RFP,) the prequalified bidders each develop and submit a proposal including a basic design and a bid that sets out the fixed price to be paid and the proposed schedule.
- The County chooses the winning bid through a judging process, based on its identification of the “best value,” using a set of previously adopted standards.³²
- At this point, a final contract is negotiated. The PM/CM and the winning bidder may discuss the possibility of altering the winning proposal to include features from other bidders’ proposals. The final contract specifies a single price to be paid for the work.
- Finally, in completing the project, the work is both designed and built by the selected Design-Build contractor, in collaboration with the County.

³¹ For example, in the new Animal Shelter project, discussed below, the bridging document will include input from a “master architect,” a structural engineer, mechanical/plumbing engineers, an electrical engineer, a network communications engineer, a civil engineer and a landscape architect. The bridging document will also discuss the Leadership in Energy and Environmental Design (LEED) certification standards that will be required for the project.

³² California Public Contract Code § 26161 briefly summarizes the components of “best value” as follows: “ ‘Best value’ means a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.” See also § 22164, for more discussion of the selection process and criteria.

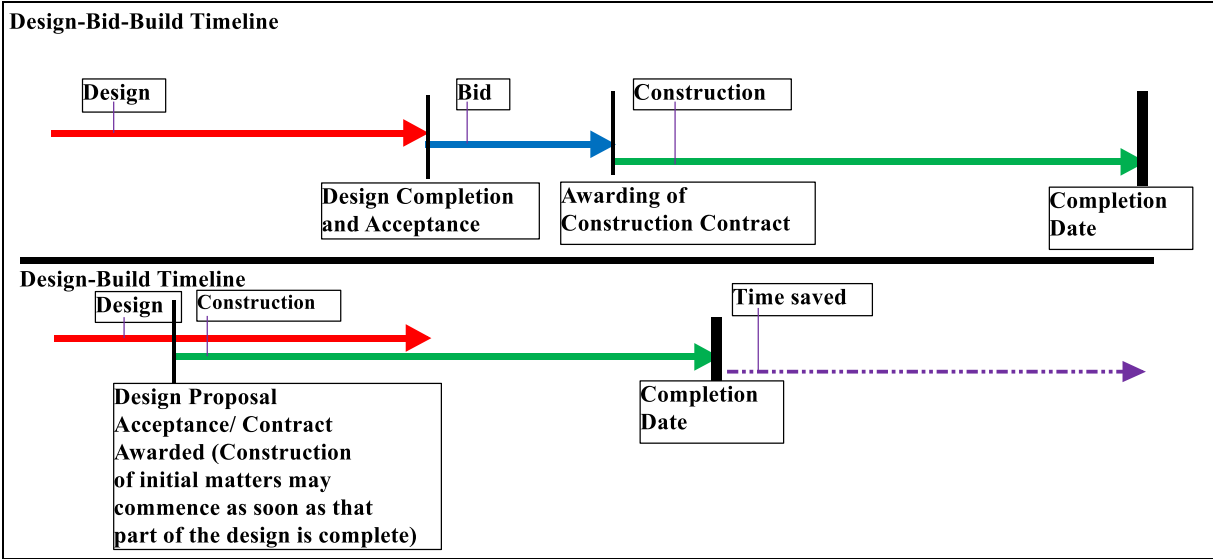
The Design-Build approach has numerous advantages over the Design-Bid-Build approach. As diagrammed in Figure 2, the primary advantage is that it eliminates the accountability vacuum of the Design-Bid-Build system, as described above. Rather than pitting the architect and contractor against one another in a system that emphasizes finger-pointing and leaves the County “holding the bag,” the Design-Build approach promotes coordination by the professionals working on the project. In this way, it fosters an innovative approach to practical design, through which the project can more effectively achieve the County’s objective. When a challenge arises, whether in design or construction, the collaborative approach enables the contractor’s practical skills and knowledge to combine with the unique skills of the architect and engineer, as well as the special knowledge of the County regarding its regulations, needs and experience with similar facilities. In essence, the buck stops with the Design-Build team, rather than leaving the owner in the middle with little or no recourse beyond agreeing to a change order and its resulting costs.



The Design-Build approach can offer several other benefits not as readily available under the Design-Bid-Build approach. One of these is price certainty. As the accountability vacuum disappears, the number of change orders becomes fewer. Another advantage is the involvement of the builder (a professional whose focus is on practical issues of project completion) at the design level, where practicalities often do not get sufficient attention.

In addition, the integration of the builders and the designers into a collaborative team may enable faster completion of the project. As noted above, in a Design-Bid-Build project, the bidding cannot begin until the design of the project is essentially complete. By contrast, as shown in Figure 3, the coordinated Design-Build team may be able to begin construction of initial elements of a Design-Build project as soon as those elements are designed, often well before the design documents are fully complete (Figure 3.)

Figure 3: Design-Bid-Build/Design-Build Timeline Comparison *



*Based on information supplied by a professor of construction management

The California Legislative Analyst’s³³ office has identified a few possible disadvantages and risks connected to the use of the Design-Build approach and awarding contracts on a best-value basis:

- The Design-Build system leaves quality control in the direct responsibility of the Design-Build contractor, rather than the owner. This may limit the County’s direct assurance of quality control.³⁴
- The subjective nature of the best-value selection process minimizes the County’s ability to rely on the anti-favoritism protections underlying the lowest-responsible-bid system.³⁵ The process is, by definition, less transparent than open bidding. In addition, the subjective point system can make comparing proposals difficult.
- The prequalification element of the process may limit the ability of small contractors and new companies to have access to the system. In this regard, this Grand Jury’s investigation has indicated that few contractors within SLO County have Design-Build experience. While there are solutions that help minimize this disadvantage, they require careful attention by the PM/CMs who implement the County’s Design-Build process.

³³ A component of the California Legislature’s Nonpartisan Fiscal and Policy Advisor.

³⁴ Reportedly, to address this risk, the County will hire an external expert to serve as the “inspector of record.”

³⁵ To address this concern, § 22162(c) of the California Public Contracts Code requires each county/local agency using Design-Build to adopt its own “organizational conflict-of-interest policy” addressing relationships to Design-Build entities and members of a Design-Build team seeking to submit qualifications or proposals.

Could Design-Build Have Resolved Recent Capital Project Challenges?

While Design-Build may have significant positive impacts on the management of the County's capital projects, it cannot resolve all types of challenges. In particular, the Design-Build approach cannot prevent cost increases and delays caused by the emergence of unexpected site conditions (as experienced in the Women's Jail Expansion). In these situations, the key question is who has responsibility for investigating site conditions prior to entering into the contract, and whether those investigations satisfied reasonable professional standards. In the case of the Women's Jail Expansion, that question leads inevitably to a conflict between the architectural staff and the contractor. In a Design-Build project, the question is more direct: whether or not the responsibility rested with the County or the Design-Build contractor. The result is not predictable, but depends on the conditions underlying each project. Clearly, some projects might have placed this responsibility on the Design-Build team, which may have failed to meet its obligation. In that situation, the Design-Build team would have to go forward without additional compensation. In other situations, this responsibility may rest with the County. Or, the Design-Build team may be found to have satisfied professional standards in its investigation, despite the fact that this investigation did not disclose the hidden problem. In either of these instances, the only solution will be contract adjustment – a change order. Even then, the adjustment may be more unified and final in Design-Build projects. The collaborative Design-Build team will be called upon to address this issue directly and completely in a single re-adjustment design process, leading to a fixed price that will not change unless a new and different unforeseen condition is discovered later.

In the New Animal Shelter Project (discussed below), for example, the PM/CM contract states that the County will be responsible for obtaining consultant services that determine site features, adjacent uses, boundaries, topography, soil conditions, seismic conditions, hydrology, biological, archeology, utilities, planning/building code requirements and other matters. In addition, the County will be responsible if the preparation of a formal environmental impact report is required.

ENABLING SAN LUIS OBISPO COUNTY'S USE OF DESIGN-BUILD

Before the County could use the Design-Build approach, several key actions were necessary.

Changes to State Law

Prior to 2014, the general law applicable to county governments required them to use only the Design-Bid-Build approach and to award contracts on the basis of lowest responsible bid.³⁶ Since 1993, the state legislature has been aware of growing concerns about the negative impacts of competitive bidding for local and county public contracts, and deeply involved in a careful process of trying out the Design-Build approach at the local and county level.³⁷ Then, in 2014, the state legislature changed the law.³⁸ While counties, cities and other local agencies are still allowed to use the Design-Bid-Build/lowest responsible bid system when they feel it is a better option, they are now also permitted to choose the Design-Build method, awarding contracts based on a “best value” determination, for any public works contracts costing more than one million dollars, with limited exceptions.³⁹ The County may now choose between the two methods, on a project-by-project basis.

This law includes a specific finding that Design-Build “using a best value procurement methodology, has been authorized for various agencies that have reported benefits from such projects including reduced project costs, expedited project completion, and design features that are not achievable through the traditional design-bid-build method.”

San Luis Obispo County’s Acceptance of Design-Build

In the final months of 2016, the Board of Supervisors authorized two new capital projects that will serve as the County’s “pilot projects” for the use of the Design-Build method – the new Animal Shelter (currently estimated at \$14.8 million⁴⁰) and the Co-located Emergency Dispatch Center (currently estimated at \$13.4 million). In agreeing to use this method, the Board of Supervisors stated that its goal was “to minimize the County’s exposure to costly change orders and contractor

³⁶ California Public Contract Code §§ 20161 and 20162.

³⁷ Since 1993, seventeen statutes have been enacted authorizing limited use of Design-Build in specific instances. Most of these statutes gave specific counties permission to use Design-Build, sometimes limited to specified projects or project types. All of them set time limits by which their authority would expire, whether used or not.

³⁸ This law is generally time-limited; however, the limit is quite long (the sunset date of the law is 2025) indicating that its purpose is to give the legislature the option to amend or repeal, if counties do not use it in the meantime.

³⁹ The Design-Build authority does not include certain kinds of horizontal infrastructure (streets and highways, highway infrastructure, public rail transit, or water resources facilities California Public Contracts Code, § 22160, *et seq.* See especially §§ 22161(g)(1) and 22162(a).

⁴⁰ WBS 320088. The current total to design and construct of the New Animal Shelter project is estimated at \$13.7 million. This figure excludes \$1.1 million of other costs (demolition, depreciation and land costs.)

claims.” This choice increases the County’s ability to utilize the experiences of other counties in similar projects. For example, the request for Design-Build proposals on the Animal Shelter project will go out through a state-wide system, encouraging teams that worked on similar projects throughout the state to submit proposals based on that experience.

In order to comply with the new state law authorizing its use of Design-Build, the County was required to develop a range of procedures and standards. This meant that, before beginning the pilot projects, it was necessary to adopt pilot versions of these documents. In this connection, the County found useful guidance from other California counties that gained significant experience with the Design-Build approach by using that approach under earlier pilot state legislation. Among other benefits of piloting Design-Build, the experience gained will enable SLO County to fine-tune these procedures and standards to best reflect its needs and situation.

The County has already begun the Design-Build process for the Animal Shelter project, having selected Kitchell Construction as the PM/CM for the project, through a public request for proposals. Kitchell will prepare the RFQ/RFP for the selection of a Design-Build contractor. The RFQ process will prequalify the top three Design-Build firms⁴¹ that apply, authorizing each to submit its Design-Build proposal. One of these three will be selected, after which the contract will be negotiated to finalize the proposal, price, schedules and other factors. This same process has begun for the Co-located Emergency Dispatch Facility.

Even though the County has not used Design-Build in the past, there are County staff members who already have experience with and/or education in the application of the method. As a result, there is a high level of staff support for the decision to enable future use of Design-Build. This is reflected in the text of the *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2017-18 through FY 2021-22*,⁴² which notes that “streamlined project delivery tools such as Design-Build ... are means to keep pace with the concentrated facilities replacement activities.”

⁴¹ “Design-Build firms” is a term used to describe all who submit documents in response to the RFQ. Although in some cases, a single firm will submit qualification, other submissions may come from joint ventures and other collaborative arrangements between cooperating professionals (architectural, contracting, and engineering firms) who band together to aggregate their qualifications.

⁴² The Board of Supervisors adopted the 2016-17 CIP on February 21, 2017, without discussion of any of the issues or statements discussed here.

The CIP also describes the goal underlying County’s decision to utilize Design-Build: “to streamline the project delivery process and eliminate unnecessary risk to the County.”

Contrary to nearly all other sources consulted, however, the CIP also suggests limiting the use of Design-Build approach to “larger projects in excess of \$5 million.” In the course of the Grand Jury’s investigation, state, county and private experts generally agreed that there is no evidence to suggest that the authority to use Design-Build should be restricted only to the highest value projects (i.e., those above \$5 million). Most affirmatively indicate that if any threshold should apply, it should be much lower. As noted above, the state law governing the use of Design-Build by counties allows its use for projects costing more than \$1 million. The California Legislative Analyst’s Office, reviewing the experiences of counties that have utilized the Design-Build approach under earlier laws, specifically noted that “local agencies do not see any compelling reason for imposing cost thresholds” on the use of Design-Build, and ultimately agreed that no such reason is apparent. Other experts consulted recommended keeping the value threshold as low as possible, and could find no reason that Design-Build should not be available as an option for any County vertical capital project.

FINDINGS

F1. The first public announcement of the cost and schedule of an approved project is an initial estimate, which is usually lower than the eventually approved budget for the project based on the building contract costs and similar factors.

F2. Major factors contributing to the increase in final cost/completion over original estimates include the passage of time between initial estimates and the execution of project contracts, changes in the cost of funds, late-discovered need for changes of design, unavailability of necessary materials, unexpected construction/labor problems, and changes in relevant regulations.

F3. The reporting of final project completion sometimes includes statements that give rise to speculation that projects are not well managed.

F4. California law imposes detailed process requirements on all counties awarding building contracts for capital projects, with the clear intent of eliminating the possibility that anyone could allege bias, nepotism, or preferential treatment in the awarding of any public contract.

F5. As the state authorizes it and as the County proposes to use it, the Design-Build project delivery method has generally proven in practice to expedite project completion and enable more cost-effective contracting with less financial and other risk to the owner.

F6. While experts generally indicate that the Design-Build method can be useful for all types and sizes of projects, under California law there is a limit: If County policy permits, the County may use Design-Build for any vertical project with a price tag that will exceed one million dollars.

RECOMMENDATIONS

R1. Recognizing that many County residents and taxpayers are concerned about capital project development costs and delays, the County should keep the public abreast of the extent of its efforts to ensure financial rigor in the management/delivery of capital projects.

R2. Rather than simply stating at the time of completion that a project came in “on-time and within budget,” the County should provide more detailed information in a reader-friendly way, with a goal of diffusing the erroneous perception that project cost-overruns are being “slipped past the voters.”

R3. The County should give itself the option to use Design-Build for any project valued above one million dollars (as opposed to the current five million dollar threshold.)

COMMENDATION

The Grand Jury commends the County on its efforts to take advantage of the new opportunity to add the Design-Build approach to its toolbox for managing the delivery of County capital projects.

In particular, the Grand Jury agrees with and applauds its decision to take this step carefully, with due consideration and the use of two pilot projects as a means of gaining experience to evaluate the use of the Design-Build delivery method in the future, before making commitments to a permanent change from prior practices.

REQUIRED RESPONSES

The Board of Supervisors is required to respond to Findings 1, 3, 5 and 6 and Recommendations 1, 2 and 3, with particular attention to their policy impact.

The Department of Public Works is required to respond to Findings 1, 2, 4, 5 and 6, and Recommendations 1, 2 and 3.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403 grandjury@co.slo.ca.us

BIBLIOGRAPHY

California Expands Use of Construction Manager At-risk to Counties on Projects over \$1 Million. Jones-Day Commentary, January 2014. Available online at

<http://www.jonesday.com/files/Publication/f78a5d20-2438-42cb-9395-4da444e97503/Presentation/PublicationAttachment/b2a69f2e-be25-4a4c-b630-543d6ad31c71/CA%20Expands%20Use%20of%20Construction%20Manager%20at-Risk.pdf>

California Legislative Analyst's Office. "Counties and Design-Build: Pursuant to Section 20133 of the Public Contract Code". January 7, 2014, Online at

http://www.lao.ca.gov/reports/2010/edu/Counties_and_DesignBuild/counties_and_designbuild_10810.pdf (last consulted 4/2/2017.)

California Legislative Analyst's Office, October 24, 2003, "Interim Report: Use of Design-Build for K-12 School Construction". Online at

http://www.lao.ca.gov/2003/design_build/102403_design_build.pdf (last consulted 4/2/2017.)

California Public Contract Code, §§ 22160 – 2169 (Design-Build authority) (and other sections relating to public contracting and the requirements imposed on California's non-charter cities, counties and local agencies.)

——— § 20146 *et seq.* (Construction Manager at-Risk contracting), adopted in 2013

California State Senate Committee on Local Government. "Local Agencies and Design-Build Contracting: A Briefing Paper for Legislators and Their Staffs." State of California, September 9, 2009

———. "Faster, Cheaper, Better? A Legislative Oversight Hearing on How Counties Use Design-Build Contracting." State of California, January 20, 2010

Construction Management Association of America. *An Owner's Guide to Project Delivery Methods*. CMA, 2012,

Design-Build Institute of America (DBIA.) Website: <https://www.dbia.org/Pages/default.aspx> (last consulted 4/2/2017.)

Hill, Elizabeth G. “Design-Build: An Alternative Construction System”. California Legislative Analyst’s Office February 3, 2005. Online at

http://www.lao.ca.gov/2005/design_build/design_build_020305.htm (last consulted 3/26/2017.)

“Juvenile Hall Expansion Completed On Time, Under Budget;” SLO County Government Blog (E-newsletter) Post. Undated, but apparently published in October, 2016, Available online at.

http://www.slocounty.ca.gov/admin/newsletters/articles/2016/10/Juvenile_Hall_Expansion_Completed_On_Time_Under_Budget.htm. (last consulted 3/27/2017)

Lieb, Duane P. Staff Report to the San Luis Obispo County Board of Supervisors captioned “Approval of the ‘Design/Build’ Construction Project Delivery Method as Allowed and Detailed in the California Public Contract Code.” County of San Luis Obispo, Department of General Services, May 8, 2007. Available online at

http://slocounty.granicus.com/MediaPlayer.php?view_id=2&clip_id=173 , by clicking “Staff Report” under item D-2 (last consulted 5/8/2017.)

———. Staff Report to the San Luis Obispo County Board of Supervisors captioned “Creation of a New Capital Project: Airports – San Luis Obispo – New Parking Structure #330008; Approval of a Budget Adjustment in the amount of \$1,000,000 by Four-Fifths Vote; and Approval of a Design Contract.” County of San Luis Obispo, Department of General Services, June 12, 2007. Available online at

http://slocounty.granicus.com/MetaViewer.php?view_id=2&clip_id=190&meta_id=53015 (last consulted 5/4/2017.)

San Luis Obispo County. Board of Supervisors Resolution approving the Consulting Agreement hiring Kitchell Construction as PM/CM for the Animal Shelter project. (WBS 320088.) February 28, 2017

———. Board of Supervisors Organizational Conflict of Interest Policy addressing organizational conflict of interest guidelines applicable to design-build projects procured pursuant to Public Contract. April 12, 2016.

———. Board of Supervisors Resolution: “Adoption of the Five Year Infrastructure and Facilities Capital Improvement Plan. All Districts.” February 21, 2017

———. Department of General Services Request For Proposal Ps- 977 Design & Construction Management Services For San Luis Obispo County Regional Airport New Passengers Terminal #300003; Airport Parking Structure #330008 (D/B). November 5, 2007 Available online at [http://www.slocounty.ca.gov/Assets/GS/Purchasing/Bids+!\\$26+Proposals/2007/977+Design+!\\$26+Construction+Management+Services+for+San+Luis+Obispo+County+Regional+Airport.pdf](http://www.slocounty.ca.gov/Assets/GS/Purchasing/Bids+!$26+Proposals/2007/977+Design+!$26+Construction+Management+Services+for+San+Luis+Obispo+County+Regional+Airport.pdf) (last consulted 5/8/2017.)

———. Department of General Services Request for Proposal PS- #989 Professional Community Survey. April 10, 2008 Available online at [http://www.slocounty.ca.gov/Assets/GS/Purchasing/Bids+!\\$26+Proposals/2008/989+Professiona+Community+Survey.pdf](http://www.slocounty.ca.gov/Assets/GS/Purchasing/Bids+!$26+Proposals/2008/989+Professiona+Community+Survey.pdf) (last consulted 5/8/2017.)

———. Fiscal Year Final Budgets (FY 2016-2017 and previous years).

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2017-18 through FY 2021-22*, Approved February 21, 2017. Available online at <http://agenda.slocounty.ca.gov/agenda/sanluisobispo/7046/QXR0YWNobWVudC0gNSBZZWFyIENJUCAyMDE3LTE4LnBkZg==/12/n/73774.doc> (last consulted 3/27/2017.)

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2016-17 through FY 2020-21* Available online at <http://www.slocounty.ca.gov/Assets/PW/CIP/2016-17+CIP/2016-17+CIP+Five+Year+Plan.pdf> (last consulted 3/27/2017.)

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2015-16 through FY 2019-20*. Available online at http://www.slocounty.ca.gov/PW/capitalprojects/cip/2015-16_CIP_5_Year_Plan.htm (last consulted 3/27/2017.)

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2014-15 through FY 2018-19*. Available online at http://www.slocounty.ca.gov/PW/capitalprojects/cip/2014_cip.htm (last consulted 3/27/2017.)

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2013 14 through FY 2017-18*. Available online at http://www.slocounty.ca.gov/PW/capitalprojects/cip/2013-14_CIP_5_Year_Plan.htm (last consulted 3/27/2017.)

———. *Infrastructure and Facilities Capital Improvement Program Five Year Plan FY 2012 13 through FY 2016-17*. Available online at http://www.slocounty.ca.gov/PW/capitalprojects/cip/2012-13_CIP_Five_Year_Plan.htm (last consulted 3/27/2017.)

———, Proposed Contract for Professional Construction /Project Management and Master Architectural Consultant Services for the New Animal Shelter, Project No. 320088. Available online at <http://agenda.slocounty.ca.gov/agenda/sanluisobispo/7078/QXR0YWNobWVudC0ga2l0Y2h1bGwgY29udHJhY3RfRklOQUwucGRm/12/n/74172.doc>.) (last consulted 3/12/2017.)

“SLO County Supervisors Approve Construction of \$13.7 Million Animal Shelter,” *The Tribune*. February 28, 2017. Also available online at http://www.sanluisobispo.com/news/local/article135551138.html#emlnl=Afternoon_Newsletter (last consulted 3/1/2017.)

“SLO County Women’s Jail Expansion Behind Schedule and Over Budget.” *The Tribune*. August 9, 2016. Also available online at <http://www.sanluisobispo.com/news/local/article94741687.html> (last consulted 3/28/2017.)

Smith, Nancy C., July 2006, “Design-Build Contracts Under California Public Contracting Laws”, Nossaman Guthner Knox & Elliott LLP.

Tanaka, Clayton, (undated) “Navigating the Confusion in Competitive Bidding,” Newmeyer & Dillon.

Van Dorn, Cody and Dave Flynn. Memorandum to the Board of Supervisors captioned “Request to approve pilot design build project delivery method for the new Animal Services Facility and Co-located Dispatch Facility at the County Operations Center. All Districts.” San Luis Obispo County Department of Public Works and Department of Central Services, April 12, 2016. Available online at <http://agenda.slocounty.ca.gov/agenda/sanluisobispo/5829/SXRlbSBEB2N1bWVudCAoUHVibGljKSA=/14/n/59069.doc> (last consulted 3/26/2017).

Various documents, audio records and other materials, regarding several capital-improvement agenda items that came before the San Luis Obispo County Board of Supervisors between April, 2008 and February, 2017.

INSPECTING CALIFORNIA MEN’S COLONY: A FOCUS ON HEALTH AND SAFETY

INTRODUCTION

As required by state penal code, the Grand Jury annually inspects all public prisons, including state prisons, county jails, juvenile halls, and holding cells utilized by police departments and courthouses. In this year’s inspection, the Grand Jury chose to take a detailed look at issues related to changes in population and programs, with a specific focus on safety and health at the California Men’s Colony (CMC). It also took an in-depth look at some of the occupational health and safety issues related to the California Prison Industries Authority (CALPIA) facilities located at CMC.

AUTHORITY

California Penal Code section 919(b) mandates “The grand jury shall inquire into the condition and management of the public prisons within the county.”

METHOD/PROCEDURE

The Grand Jury obtained information for this report by conducting inspections at both the East and West facilities of CMC and inspections at three of the five CMC CALPIA factories, interviewing CALPIA officials and reviewing the applicable documentation. This includes the following:

- Touring both the East and West Facilities at CMC, including these CALPIA facilities:
 - Shoe Factory
 - Knitting Mill
 - Print Plant
- Interviewing representative inmate workers at these CALPIA facilities
- Interviewing staff members of CMC and CALPIA
- Reviewing inspection reports of these CALPIA facilities
- Reviewing relevant CAL/OSHA regulations for workplace safety

- Reviewing CALPIA Hearing Conservation Program Requirements document, dated February 2, 2017
- Reviewing CALPIA Noise Survey report, dated November 18, 2008
- Reviewing CALPIA provided Summary Audiometric Testing for undisclosed period
- Reviewing CALPIA provided Sample Individual Audiometric History

During the site inspections, a survey was used to gather information. In addition, representatives of CMC provided written follow-up to questions prompted by the survey and inspections. The Grand Jury also pursued in writing follow-up with California Correctional Health Care Services (CC Healthcare) which is responsible for planning, organizing, coordinating and implementing a health care delivery system at CMC.

NARRATIVE

This narrative is organized by first recapping general observations resulting from the 2016-2017 CMC inspection, followed by specific comments related to a more in-depth look at certain occupational safety procedures.

GENERAL OBSERVATIONS

In 2011, California signed into law Assembly Bill 109 for Public Safety Realignment (AB 109), which moved responsibility for a number of offenders from state prison to county jails. In 2014, California passed Proposition 47 (Prop 47), which reduced a number of felonies to misdemeanors that again impacted jail populations. The Grand Jury sought to understand the impact of these laws on CMC, and it took particular interest in population, programs and management.

The Grand Jury made several general observations including the following:

- Overall, AB 109 has resulted in a clear reduction in average daily population (ADP) at CMC. Since the passage of the law, ADP has dropped from nearly 7000 to approximately 4100, which is now near design capacity. As a result of the smaller population, CMC has been able to reduce the need to double up inmates in cells originally designed for one, change staffing levels and manage both its population and programs more effectively.
- The Grand Jury sought significant information as it relates to inmate health and safety, including information related to injury, suicide and death rates, as well as data related to

addiction treatment. Frequently, the Grand Jury found it challenging to obtain this information. In some cases we were told it was simply not available or could not be provided. But as a result of seeking this data, the Grand Jury came to understand that the CMC warden, the overall custodial head of the prison, does not have management control over the medical elements that report into CC Healthcare. Significant collaboration and goodwill is needed to ensure a cooperative working relationship among these separate supervisory structures. A weekly Health Care Executive Leadership team meeting involving CC Healthcare and CMC staff facilitates this process.

- New mental healthcare responsibility. CMC has recently become a “hub” facility for mentally ill inmates who require administrative segregation. CMC takes inmates from other institutions who are receiving enhanced outpatient treatment for their serious mental illnesses and require segregated housing due to an act of violence or serious rules violation committed while in custody. Typically, these inmates stay an average of 60 days before being transferred to another facility for permanent housing. Unlike CMC’s resident population, these inmates are generally “maximum custody” with significant disciplinary records. With the addition of these highly assaultive inmate patients, the number of staff batteries and assaults is reported to have increased as well as the number of “uses of force.” Information on staff injuries related to managing these and other mentally ill inmates is not tracked and could not be provided when requested.
- Three escapes occurred from CMC during the time-period reviewed. Each of them involved inmates working in fire camps, but only one of them occurred on CMC-managed grounds. In that case, as part of regular institutional security measures, the CMC Investigative Services Unit staff conducted an unannounced search of the grounds. The investigation identified items of contraband that suggested one or more of the inmates may have been leaving grounds at night to retrieve contraband. Through investigation, the inmate was identified and admitted to leaving the camp in the middle of the night to retrieve contraband that was being left by an accomplice at the edge of the institution in the creek bed. As a result, the inmate was removed from his assignment, rehoused in administrative segregation and charged with an escape.

The other two escapes involved non-CMC inmates who were assigned to fire crews operated by the California Department of Fire and housed in a staging area across Highway 1 from CMC. Because CMC was the nearest facility, it had responsibility to investigate these escapes. Neither inmate was gone for long. One had left and returned in the night before staff had learned of his escape; the other was found by 10:00 AM following an early morning departure.

- Suicides. During the two years reviewed, there were a total of five suicides (three in 2015 and two in 2016). Methods included two hangings, one overdose, one laceration, and one by asphyxiation. The number of suicides for both years exceeded the number reported in the most recent special master's report issued January 2013 in the "Coleman" case (this is the federal court case that found California's prison system did not meet the federal law for treatment of mentally ill prisoners). In 2012, there was only one suicide at CMC. The current two-year average of 2.5 suicides is higher than expected given the reported rate of 23.7 per 100,000 inmates.⁴³ For a population of a little more than 4000 at CMC, the expected number of suicides would be 1 per year.

OCCUPATIONAL SAFETY

During an initial inspection visit in September 2016, the Grand Jury noted a potential concern involving high noise levels in several CALPIA facilities at CMC. In a review of previous grand jury reports, this Grand Jury noted it is not the first time this concern has been mentioned, but it has not been previously reported upon in detail.

The Grand Jury observed over 200 inmates working as employees in CALPIA manufacturing programs at CMC that include a Shoe Factory, Knitting Mill and Print Plant. CALPIA work facilities pay inmate workers a wage and therefore must comply with California Division of Occupational Safety and Health (CAL/OSHA) regulations and requirements under Title 8 California Code of Regulations (CCR) §5095-5100.

The Grand Jury noted that in 2003 and 2008 CALPIA conducted noise surveys to determine if noise exposures exceeded CAL/OSHA threshold requirements. These noise surveys indicated that Permissible Noise Exposure Levels had been exceeded and that the implementation of a Hearing Conservation Program was required. The CALPIA Hearing Conservation Program has been implemented and is in use by CALPIA to insure inmate workers are protected from exposure to excessively high noise levels.

During the initial Grand Jury inspection of the CALPIA Shoe Factory in September 2016, it was observed that only three of the several dozen inmate workers were wearing hearing protection.

⁴³ Twenty-fifth round monitoring report of the special master on the defendants' compliance with provisionally approved plans, policies, and protocols, Mathew Lopes, Jr, Special Master, U.S. District Court for the Eastern District of California, Coleman v. Brown.

Grand jurors were told at that time that hearing protection requirements were dependent upon the sound levels near specific machines. In contrast to the September 2016 inspection, it was noted during the second Grand Jury inspection of the Shoe Factory and first inspection of the Knitting Mill in March 2017 that every inmate worker was observed to be wearing one of several types of hearing protection. The CALPIA Noise Survey Report for CMC indicated that a hearing conservation program is required only in the Shoe Factory and Knitting Mill.

During these visits, all inmates interviewed stated that they had full access to the hearing protection either required or optional for their specific job task. They also stated that they were participating in a hearing testing program and felt adequately protected. The administrators, managers, and superintendents interviewed stated that it was their mission to ensure that the CALPIA factories are a safe, productive, and valuable training opportunity for inmate workers.

The Grand Jury observed there were no consistent and specific perimeter markings or demarcations around high noise producing equipment that would indicate hearing protection should be worn by inmate workers. When asked about this, CALPIA staff informed the Grand Jury that those who did not spend at least 8 hours of their working day in the close vicinity of high noise producing equipment would not be expected to exceed the 8-hour time-weighted-average (TWA) sound level exposure limit and therefore would not require hearing protection. This response indicated that CALPIA felt that no demarcation lines were needed. Yet in the dense, extremely confined spaces around the high noise producing equipment in these factories, it is difficult to determine where demarcations should be located and where hearing protection might be most beneficial.

Records of inmate workers' 6-month hearing tests or summary data of these testings were not easily accessible to the Grand Jury during the initial inspection of the Shoe Factory and the Knitting Mill. Initially, the Grand Jury was told that CALPIA's documentation of hearing test results showed that no hearing loss to inmate workers had occurred. The Grand Jury was not provided with that documentation. During the initial inspection, the Grand Jury also received verbal assurances from CALPIA staff that there had been no occurrences of hearing loss by workers at these facilities.

However, after additional requests for data summaries, the Grand Jury received on May 25, 2017, a summary of audiometric testing (undated) from CALPIA. The data indicates 119 inmate workers were tested; 63 were being tested to establish a baseline and 56 were being retested. Of the 56 retests, 3 experienced significant hearing loss, identified as a Standard Threshold Shift from baseline.

CONCLUSIONS

CALPIA at CMC appears to meet requirements imposed for workplace noise exposure levels as required by the Hearing Conservation Program and CAL/OSHA regulations. However, some questions did arise regarding the availability and easy access of audiometric testing data, and how such data is being used.

The Grand Jury noted the following areas of interest that future grand juries may wish to examine:

- Records of inmate worker hearing tests to determine if hearing loss has occurred
- Observation of inmate worker use of hearing protection devices when required to do so and interviews of randomly selected workers in the CALPIA factories to determine if they feel adequately protected
- Consistent implementation of the Hearing Conservation Program
- Appropriate use of audiometric testing results in the Hearing Conservation Program by local CALPIA staff

FINDINGS

F1: The suicide rate over the past two years at CMC appears higher than expected based on available system-wide data on suicides.

F2: Records of inmate worker 6-month hearing tests or other individual hearing tests were not easily accessible to the Grand Jury.

F3: Audiometric Testing data received indicated that three inmate workers experienced a significant hearing loss.

F4: The Grand Jury noted that the wearing of hearing protection devices by inmate workers was inconsistent, and the procedures which required the wearing of hearing protection may not have been uniformly implemented.

REQUIRED RESPONSES

While CMC as a state institution is not required by law to respond to findings and recommendations made by a county Grand Jury, it is encouraged to do so.

Responses can be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403 Email: grandjury@co.slo.ca.us

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CATCHING AND PASSING THE BATON: THE WORK OF THE GRAND JURY

INTRODUCTION

The mission of a Grand Jury in California, as defined in the State Penal Code, is to provide citizen oversight of governmental agencies within a county, such as cities, special districts or county agencies. Jury members identify issues they believe need attention, interview relevant parties and do extensive research. By the end of their term they issue reports and recommendations on their findings. The relevant agencies are required to respond to each recommendation noting their agreement or disagreement.

A continuity report, like this one, enables an entering Grand Jury to look back to determine if those recommendations with which the agencies agreed have been implemented, or if those with which they disagreed have received any attention. The end goal is to ensure that the work of the Grand Jury is taken seriously by the addressed agencies, and that the public is provided an update on responses.

The following informational report provides both a recap of the status of recommendations made by the 2014-2015 San Luis Obispo County Grand Jury and an update on the status of any open recommendations noted in the 2015-2016 Continuity Report.

ORIGIN

A continuity report is traditionally prepared by each year's San Luis Obispo County Grand Jury (Grand Jury).

AUTHORITY

California Penal Code sections 933 and 933.05 prescribe responses to findings and recommendations. The Grand Jury posts all its reports and each agency's response(s) online each year at http://slocourts.net/grand_jury.

METHOD

The 2016-2017 Grand Jury reviewed all official responses from all agencies in preparing this report. Agencies were asked to respond if they agree to a recommendation, mostly agree, disagree or would implement later. Their response typically included additional comments or rationale. When additional details were required, such as current status on replies where intent to implement a recommendation was earlier provided, the Grand Jury formally requested by letter an update of status.

NARRATIVE

The 2015-2016 Grand Jury issued two investigative reports requiring follow up. This report contains detailed information regarding agency responses to the 2015-2016 recommendations. In addition, the current Grand Jury followed up on 11 still-open recommendations from the 2014-2015 reports to determine if any open issues remained.

REPORT: KEEPING SUSPECTS IN JAIL: WHEN IS SCHEDULED BAIL NOT ENOUGH?

This report was conducted to determine if local law enforcement agencies are utilizing their option to request enhanced bail for arrestees when indicated to preserve public safety and increase the chances that the offender will appear in court. The 2015-2016 Grand Jury found some inconsistencies in the development of policies for requesting enhanced bail and in the training of local law enforcement professionals in this area. The following recommendations were made to

ensure all local law enforcement personnel had consistent policies to rely on and were trained in the implementation of these policies.

Recommendation 1

“The San Luis Obispo County District Attorney (DA) should coordinate the development of uniform written policies and procedures for local law enforcement agencies to make requests of the court for appropriate bail increases.” The DA, San Luis Obispo County Sheriff (Sheriff) and chiefs of police for each of the seven cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Pismo Beach, Paso Robles and San Luis Obispo (Seven Cities) were required to respond.

The DA partially agreed with this recommendation and is already providing guidance in this area. The Sheriff also partially agreed, and already has written policies and training in place. Most cities agreed, noting these policies and procedures are in place and well documented. A detailed table showing response by agency is found in Appendix A.

Recommendation 2

“The District Attorney should coordinate formal training programs for the local law enforcement agencies in the process of obtaining bail increases.” The DA, Sheriff and Seven Cities were required to respond.

The DA and Sheriff disagreed with this recommendation, both stating that the training of law enforcement professionals remains the responsibility of the local law enforcement agency. With the exception of Paso Robles which disagreed, the cities responded that the required training is already in place, with some cities noting that the DA has provided the templates and that it is up to their local management to make sure the proper training is in place.

Recommendation 3

“Local law enforcement agencies should work with the District Attorney in the development of the above policies and programs within the resources of their respective departments.” The DA, Sheriff and Seven Cities were required to respond.

With the exception of the DA and Paso Robles, respondents said the proper policies are in place.

Recommendation 4

“Local law enforcement agencies should rely only on California state law when considering whether a bail increase is appropriate.” The Sheriff and Seven Cities were required to respond.

All responding agencies state they are currently following California law.

Overall Assessment

Overall, agencies’ responses are in agreement with the report’s recommendations, but it should be noted that the detailed responses make clear that the agencies felt they were already following such policies. None of the responses indicated any agency would be changing its policies or practices as a result of this report’s recommendations.

REPORT: MINOR USE PERMITS: AN OXYMORON?

Acting on a citizen’s complaint concerning the notification process used in the issuance of a Minor Use Permit (MUP), the previous Grand Jury looked at the Planning and Building Department’s process for issuing MUPs. They issued five recommendations, requiring responses from the Planning and Building Department (Department), County Administrative Officer (CAO) and San Luis Obispo County Board of Supervisors (Board). The Department prepared responses to all recommendations, and the CAO and Board accepted their recommended responses as their own.

Recommendation 1

“The Board of Supervisors should fund the update of the 1980 General Plan, incorporating appropriate amendments, and make it easily accessible using an electronic search.” The Board and CAO were required to respond.

The Board approved a response prepared by the Department that this recommendation will not be implemented “because it is not warranted or is not reasonable.” To quote the Department’s response, “It is not accurate to say that the General Plan is outdated. Due to the size and scale of the County, instead of comprehensive updates every 15-20 years, the County of San Luis Obispo

has chosen the strategy to complete significant element updates on a rotational basis. The County has completed the following significant element updates in the year listed:

- Land Use and Circulation Element, 2014
- Housing, 2014
- Coastal Land Use and Circulation Element, 2011
- Open Space, 2010
- Conservation, 2010
- Safety, 1999
- Noise, 1992”

Recommendation 2

“An estimated project cost should be required on the application to assist the public in evaluating the project’s impact.” The Board, CAO and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted and is not reasonable.” The Department stated, “We do not believe that project cost is a relevant indicator of project impacts. A more accurate indicator of potential project impact is a detailed project description. A detailed project description is included on every public hearing notice.”

Recommendation 3

“The Board of Supervisors should direct the Department of Planning and Building to ensure MUP fees cover all costs of the application process.” The Board, CAO and Department were required to respond.

The Department responded that this recommendation has already been implemented. “The Department already recovers full staff cost including overhead for Minor Use Permits through fee development process.” (It should be noted that the 2016-2017 Grand Jury believes the intent of the 2015-2016 recommendation differs from the interpretation made by the Department and Board. The report focused on adding new elements to the application process that could then be covered by additional application fees. The Department did not address this issue.)

Recommendation 4

“Tier III MUP projects should mandate a public hearing and not go on the Planning and Building Department’s consent agenda.” The Board, CAO and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted or is not reasonable.” The Department wrote, “The MUP process is designed to let the public decide which projects will get public hearings and which ones will remain on the consent agenda. The process works by sending all neighbors within 300 feet of the project site a notice with a detailed project description and instructions for requesting a public hearing. To request a hearing, all a neighbor or member of the public must do is send the Department a letter or email indicating his or her desire to request a public hearing on the matter. The item is then removed from the consent agenda and receives a public hearing.”

Recommendation 5

“The Department should increase public notification above what is required by the State of California as the MUP tier levels increase as follows:

- a. The fee tier level and estimated cost of the project should be on the mailer to allow the public to gauge the scope of the project.
- b. The distribution area of the mailer should be appropriately increased in accordance with the tier level.
- c. The type size of the newspaper notice should be increased in accordance with the tier level.
- d. On-site signage containing the project information should be reinstated.
- e. The applicant should be charged for all costs.”

The Board, CAO, and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted and is not reasonable except for Recommendation 5e which has already been implemented.”

Overall Assessment

Both the Department and Board disagreed directly with three of the four recommendations and acknowledged that it was doing only an aspect of the fourth. This Grand Jury believes that this

report raised important concerns about the County's General Plan and would encourage future Grand Juries to consider reexamining this issue.

FOLLOW-UP TO 2014-2015 GRAND JURY RECOMMENDATIONS

The current Grand Jury reviewed the status of all responses from the 2015-2016 Grand Jury continuity report cycle in which the responding agency indicated that a previous recommendation was agreed to but not yet implemented. Based on its follow-up, the current Grand Jury determined that all agreed-to actions have been or are in the process of being carried out.

Report 1: In a State of Emergency: Assessing Fire Risk in Cambria

Follow up requested: The Cambria Community Services District (CCSD) was asked to confirm the status of a grant of \$498,000 designated to

- Improve existing fuel breaks
- Expand the fuel break program
- Remove dead and dying trees
- Remove other fire hazards such as ladder fuels and other flammable materials

Response received: CCSD clarified that the money was awarded to the San Luis Obispo County Community Fire Safe Council. This organization submitted a detailed grant allocation document, indicating the funds were directed towards the items listed in the original response.

Report 2: Making the Case for Efficiency: Maximizing Emergency Services in Cambria

Follow up requested: CCSD was asked to confirm that a multi-year plan to address fire management had been developed.

Response received: CCSD noted that the development of a multi-year plan was dependent on a decision to contract with CAL FIRE for fire management or keep it under local jurisdiction. A one-year trial was initiated, with CAL FIRE taking the lead in fire management for Cambria. At the end of the trial period, it was decided that the trial had been very beneficial, but the community

would retain its independent fire department and asked CAL FIRE to also operate a fire station in Cambria. Since that decision has been made, now the multi-year plan will be addressed.

Follow up requested: CCSD and the Cambria Community Healthcare District (CCHD) should set in place funding approaches, including reserves, to update or replace fire and emergency equipment.

Response received: CCSD has sought funding to update or replace equipment. It has recently purchased a new fire engine, putting it in compliance with the requirements of the National Fire Protection Association (NFPA) 1901 Annex D, relating to vehicle and fleet replacement schedules. In addition, CCSD has hired three more full-time firefighters, putting it in line with NFPA 1901 standards. CCHD noted that a reserve/asset replacement policy is being developed which will identify the funding sources and amount of funds available for updating and replacing emergency equipment, including ambulances.

Follow up requested: CCSD and CCHD should determine how best to utilize firefighters and emergency medical services personnel within a common management organization.

Response received: CCSD replied that no joint agency has been formed because legal restrictions have not been resolved. CCHD replied that more study is required before proceeding with joining these organizations.

Report: Morro Bay Municipal Code Enforcement: Band-Aid or Progress?

Follow-up requested: The City Manager was asked to confirm the acquisition and installation of a municipal code management software package to track all code violations and that city staff has been trained on the software.

Response received: The City Manager confirmed that Morro Bay has purchased Cityworks, a software package designed to track code violations, and they have hired a consultant to implement the software suite. They have completed workflow processes for permitting, licensing and code

enforcement, and the city hopes to have those operational in the months ahead. Code enforcement staff has been included in the workflow planning and is fully trained on the software process.

Report: Working or Not: Challenges in Enforcing Coastal Vacation Rental Regulations

Follow up requested: It was recommended that San Luis Obispo County, as a desirable tourist destination, develop a way to track short-term rentals and collect appropriate taxes.

Response received: Initially, the Board disagreed with the recommendation, as it was deemed not reasonable or warranted. Subsequently on November 15, 2016 the Board has changed direction and is subscribing to a service that alerts counties to short-term rental activity.

Report: We Are Waiting: Access to County-Provided Mental Health Services

Follow up requested: The Grand Jury recommended hiring additional staff to reduce the wait time to see a mental health professional. The follow-up request asked if the agency has been successful in hiring the additional staff and reducing the wait time for intake and assessment.

Response received: The agency responded that recruiting qualified individuals continued to be difficult. They are allocated 2.75 mental health nurse practitioner positions and only 1.25 are filled. They are allocated 6 mental health nurse positions and currently 4.5 of those are filled as of October 21, 2016. The wait time has been reduced for adult outpatient services by the addition of six licensed or waived mental health therapists. The wait times for assessments in the mental health programs have dropped considerably over the past three years. Wait times for initial assessments are at or below the agency's benchmark of 14 days. The wait time for psychiatric assessment is below its benchmark of 30 days. In Youth Services, the average wait time is now less than 10 days.

Report: Energy Use, Time Lost, Results Missing

Follow up requested: The CAO was asked to confirm that software to track energy use in county buildings had been purchased and that the appropriate staff had been trained in using the software.

Response received: The CAO confirmed that EnergyWise software has been purchased and installed and that the staff has been trained.

Report: California Men's Colony Inspection Report

Follow up requested: Moldy bread was seen on a tour of the California Men's Colony (CMC). CMC was asked to correct the issue.

Response received: CMC responded that it was addressing the issue of moldy bread with the supplier. CMC also reported it had detected mold in other parts of the kitchen. To remediate that issue, it is doing extensive repair work to remove and replace tainted areas.

CONCLUSIONS

A summary of the comments and responses to the 2015-2016 bail report indicates general agreement and that the agencies were already largely implementing the bail enhancement policies.

Recommendations in the 2015-2016 MUP report were largely rejected. The Board consistently agreed with the reasons for rejection as prepared by the Department.

Overall, agencies have followed through on their committed responses to the 2014-2015 reports.

REQUIRED RESPONSES

This is an informational report. No responses are required

APPENDIX A. DETAILED RESPONSES TO BAIL REPORT

This summary table recaps each agency’s response to each recommendation. For purpose of tracking, if an agency said it already complied with the recommendation, the response is shown as “agree.” If an agency plans to do more research to provide its final answer, the response is shown as “defining further.”

Agency	Recommendation 1	Recommendation 2	Recommendation 3	Recommendation 4
District Attorney	Partially agree	Disagree	Disagree	No required response
Sheriff	Partially agree	Disagree	Already in place	Didn’t understand
Arroyo Grande	Defining further	Defining further	Defining further	Defining further
Atascadero	Defining further	Defining further	Already in place	Already in place
Grover Beach	Agree	Agree	Agree	Agree
Morro Bay	Agree	Agree	Agree	Agree
Pismo Beach	Already in place	Already in place	Already in place	Already in place
Paso Robles	Partially disagree	Disagree	Partially disagree	Agree
San Luis Obispo	Agree	Agree	Future implementation	Agree
Overall comment	General agreement or already in place	DA and Sheriff disagree but cities generally agree	Only DA and Paso Robles disagree	General agreement or already in place

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