

INTRODUCTION

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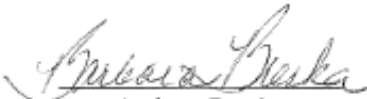
GRAND JURY APPROVAL

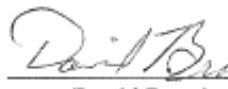
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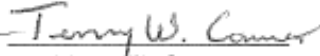
"Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year..."

In conformance with the aforementioned Penal Code requirement, the 2011-2012 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.

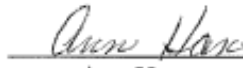

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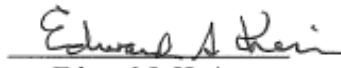

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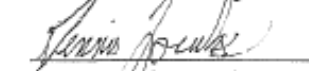

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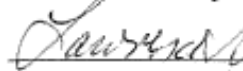

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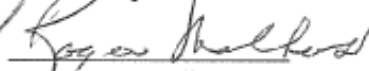

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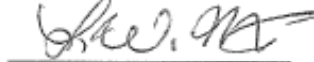

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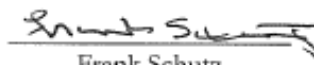

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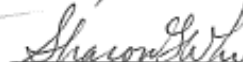

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TABLE OF CONTENTS

INTRODUCTION

GRAND JURY APPROVAL	iii
TABLE OF CONTENTS.....	v
FOREPERSON’S FOREWORD	vii
AUTHORITIES FOR GRAND JURY INQUIRIES	ix
AUTHORITIES FOR AGENCY RESPONSES	xi

FINAL REPORTS

CITIZEN COMPLAINTS AND INTERNAL AFFAIRS INVESTIGATIONS	3
CALIFORNIA MEN’S COLONY (CMC) INSPECTION REPORT	19
RESPONDING TO THE GRAND JURY	29
THE COUNTY JAIL, JUVENILE HALL, AND HOLDING CELLS	38
ARE PASO ROBLES SCHOOL BUDGETARY WOES A LESSON FOR OTHER DISTRICTS.....	53
ASSESSING TRANSPARENCY OF COMMUNITY SERVICE DISTRICTS	81
SAN LUIS OBISPO COUNTY EMERGENCY READINESS	97
THE GRIZZLY YOUTH ACADEMY : DREAM, BELIEVE, ACHIEVE.....	112
MEDICAL MARIJUANA IN SAN LUIS OBISPO COUNTY	123
LAW ENFORCEMENT PROPERTY AND EVIDENCE ROOMS	141
CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY	173

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FOREPERSON'S FOREWORD

Historians trace the origins of the Grand Jury to 12th century England. In America, the first Grand Jury was established in 1635 in the Massachusetts Bay Colony. Today, California is one of only eight states in which county grand juries are authorized to investigate more than cases of alleged misconduct on the part of county officials. The county grand jury has jurisdiction over all government entities in the county, with the exception of those under state or federal authority.

Each county in California has a Grand Jury, although the number of jurors on the grand jury depends on the population of the county; the largest counties have 24 grand jurors, most have 19, and the smallest have 11. In San Luis Obispo County, the Grand Jury has 19 members. Today's county grand juries are comprised of volunteers; the selection process is overseen by the Presiding Judge of Superior Court. Grand Jurors serve a one-year term that coincides with the fiscal year of county government – July 1 through June 30. Some counties allow holdovers, others do not.

Confidentiality and collegiality are key concepts that underlie the work of every Grand Jury. All Grand Jurors are sworn to confidentiality during their term. Each Grand Jury is a new “team,” perhaps with a few holdovers. Each year, the newly sworn-in Grand Jurors must learn to collaborate in deciding which citizen complaints to investigate or issues to pursue, in interviewing private citizens and government officials, and in writing reports with supported findings and recommendations. Moreover, a minimum of 12 of 19 Grand Jurors must approve the publication of any report.

All of the Grand Jury's work remains confidential, with the exception of the reports that the Grand Jury issues. The number of reports varies each year because there is no set minimum; the number of published reports is at the discretion of each Grand Jury. Reports may be either informational, with no responses required, or investigative, which require responses from the government agencies investigated.

The Grand Jury has enormous powers of investigation, but no enforcement authority. Its investigative reports contain findings and recommendations to which the agencies affected must respond within either 60 or 90 days. Enforcement, however, depends on the pressure exerted by public opinion.

In effect, the Grand Jury is a watchdog over local government as it attempts to ensure that local government is run efficiently and effectively, and in accordance with stated policy and adopted regulations. It strives to hold local government officials accountable for their actions or inaction, as the case may be.

The 2011-2012 San Luis Obispo County Grand Jury issued a mix of informational and investigative reports. Its reports covered county government, municipal government, law enforcement, education, and special districts. In many of its reports, the 2011-2012 Grand Jury compared local jurisdictions to inform the public how the performance of particular jurisdictions compares with that of other jurisdictions in the county.

The 2011-2012 Grand Jury was gratified by the considerable coverage its reports received from the local media. It believes that this coverage validates the work of the Grand Jury and underscores its significance for the citizens of the county.

As Foreperson of the 2011-2012 Grand Jury, I am compelled to note that the “80/20” rule, whereby 20 percent of a group accounts for 80 percent of the work, did not apply to the 2011-2012 Grand Jury. All of the members of the 2011-2012 Grand Jury contributed in multiple ways to the work of the Grand Jury. It is rare to find in one group of 19 individuals the combination of dedication, seriousness of purpose, and willingness to work that this Grand Jury demonstrated over its 12-month term. It was an honor to be part of the 2011-2012 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.

FINAL REPORTS

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CITIZEN COMPLAINTS AND INTERNAL AFFAIRS INVESTIGATIONS

SUMMARY

This Grand Jury report informs the public about their rights to file a complaint with a police agency and it describes the police agency process used to investigate that complaint.

This 2011-2012 Grand Jury investigation found that the San Luis Obispo County Sheriff's Department, under the leadership of the newly elected Sheriff Ian Parkinson, has made great strides in improving the handling of citizen complaints and internal affairs investigations by reestablishing its Internal Affairs Unit, now known as the Professional Standards Unit.

The 2011-2012 Grand Jury also found that police departments in San Luis Obispo County implemented recommendations made in the 2004-2005 Grand Jury report and adhere to established state standards in handling citizen complaints and conducting internal affairs investigations. Police departments in San Luis Obispo County also make use of modern video technology to record police interaction with the citizens of the county.

INTRODUCTION

Citizens are often concerned as to what recourse is available to them if they have a complaint about police personnel, and how they can file an official complaint against those officers. Citizens are also concerned about the process utilized by police departments in investigating their own officers, and how their specific complaint will be handled.

California Penal Code Section§ 832.5(a) states: "Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of those departments or agents, and shall make a written description of the procedure available to the public."

The 2011-2012 Grand Jury (hereafter referred to as the current Grand Jury) reviewed the current policies of San Luis Obispo County police agencies governing complaints received from citizens about police actions, and how those agencies investigate citizen complaints.

ORIGIN

The current Grand Jury decided to update the 2004-2005 Grand Jury (hereafter referred to as the previous Grand Jury) report on the same topic.

The current Grand Jury noted that almost all Chiefs of Police and the Sheriff are new to their office since the previous Grand Jury report. The current Grand Jury determined that a review of policies, practices and procedures relating to citizen complaints would be valuable to the citizens of the county.

METHOD

The Grand Jury requested and received written policies and procedures for handling citizen complaints and internal affairs investigations from all seven municipal police departments in the county and the Sheriff's Department.

The Grand Jury reviewed the previous Grand Jury report on citizen complaints, its findings and recommendations, and the responses provided by the Chiefs of Police and the Sheriff.

After reviewing the current policies of all police agencies, the Grand Jury arranged to interview all Chiefs of Police and the Sheriff. Those interviewed were as follows:

- Steve Annibali, Chief of Police, Arroyo Grande Police
- Jerel Haley, Chief of Police, Atascadero Police
- Steve Gesell, Commander, Atascadero Police
- Jim Copsey, Chief of Police, Grover Beach Police
- Tim Olivas, Chief of Police, Morro Bay Police
- Lisa Solomon, Chief of Police, Paso Robles Police

- Jeff Norton, Chief of Police, Pismo Beach Police
- Deborah Linden, Chief of Police, San Luis Obispo Police
- Ian Parkinson, Sheriff, San Luis Obispo County
- Jim Voge, Commander, San Luis Obispo County Sheriff's Department

NARRATIVE

The previous Grand Jury report noted that not all police agencies were consistent in how they handled citizen complaints or the investigative process. During the interview process with the Chiefs of Police and the Sheriff, the current Grand Jury was advised that all agencies now have a similar policy, provided by Lexipol.¹

Lexipol also provides policy suggestions in almost every area of law enforcement, and it has become the most common tool utilized by law enforcement agencies, along with policy direction provided through the offices of the Peace Officers Standards and Training Commission (POST).

The Commission on POST was established by the California Legislature in 1959 to set minimum selection and training standards for California law enforcement. The POST organization, with more than 130 staff members, functions under the direction of an Executive Director appointed by the Commission.

POST funding comes from the Peace Officers Training Fund (POTF). The POTF receives money from the State Penalty Assessment Fund, which in turn receives money from penalty assessments on criminal and traffic fines. Therefore, the people who violate the laws that peace officers are trained to enforce fund the POST Program.

¹Lexipol is the leading provider of risk management resources for public safety organizations, delivering its services through a unique, web-based development system with an integrated training component. The Lexipol system has helped law enforcement agencies reduce risk and stay ahead of litigation while communicating clear and concise policy guidance to their employees.

The POST Program is voluntary and incentive-based. Participating agencies agree to abide by the standards established by POST. More than 600 police agencies participate in the POST Program and are eligible to receive the Commission's services and benefits, which include:

- Job-related assessment tools
- Research into improved officer selection standards
- Management counseling services
- The development of new training courses
- Reimbursement for training, and
- Leadership training programs

All police agencies in San Luis Obispo County, with the exception of Pismo Beach, adhere to the policies and procedures of POST. Pismo Beach is the only San Luis Obispo County agency that is accredited by the Commission on Accreditation for Law Enforcement (CALEA), which is a national accreditation program. However, Pismo Beach does follow POST guidelines through CALEA, as POST and CALEA are similar in nature.

Over 600 California agencies follow POST guidelines, and only a few California agencies participate in CALEA.

During the interview process with the Chiefs and the Sheriff, the Grand Jury asked a number of questions with regard to citizen complaint procedures.

Does your agency provide citizen complaint forms to individuals who request them?

All agencies provide citizen complaint forms and make brochures that explain the complaint process available to the public.

Are the forms available in Spanish?

All agencies have their forms available in Spanish, and they all subscribe to a service through AT&T that provides telephone interpreters as needed.

Do you have any Spanish language personnel who can assist a complainant?

All agencies have access to some Spanish-speaking personnel and, as previously noted, they can use the service provided by AT&T for other interpreting needs.

Do you have your citizen complaint forms on your Internet site?

Pismo Beach, Grover Beach and the Sheriff's Department have citizen complaint information on the web. Paso Robles and San Luis Obispo stated that they will be placing the information on their websites soon. Arroyo Grande, Atascadero and Morro Bay do not have the information on their websites at this time.

If a citizen makes a complaint, how is the initial complaint handled and by whom?

In all instances, the complainant has the opportunity to discuss the complaint with a supervisor when the initial complaint is made. The complainant may stop an interview with a supervisor at any time. The complaint is then forwarded to a supervisor or commanding officer, if it cannot be resolved at the first level. Ultimately, the final decision regarding the handling of the complaint rests with the Chief of Police or Sheriff. The Sheriff Department's new system will be discussed separately as it merits special attention.

Can a complainant take the forms and return them at a later date? If so, what is the process when the form is returned?

Every department responded that complainants are free to take forms with them and return them at a later date.

Does the form used by your department advise individuals that they are committing a crime by filing a false report?

Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo Police Departments have an admonition on their complaint forms. The admonition states that if a citizen files a false report against an officer they can be charged with a misdemeanor.

Arroyo Grande, Pismo Beach and the Sheriff's Department do not have the admonition on their complaint forms. However, the Pismo Beach Police Department also had the admonition on its website. Subsequent to the current Grand Jury interview with Chief of Police Jeff Norton, the admonition was removed from the website. The admonition could have been interpreted to be threatening, thereby dissuading citizens from filing a complaint.

California Penal Code requires that a citizen sign a form stating that they are aware that a false report filed against a police officer can be found a misdemeanor.²

A California Appellate Court has ruled that Section 148.6 of the penal code is constitutional, and citizens may be prosecuted for filing a false report.³ However, Federal Courts have ruled the section is unconstitutional under Federal law because it deprives a citizen of their right to complain about a public official.⁴

Leading California police personnel attorneys have advised their clients that section 148.6, although held to be constitutional by the California Supreme Court, is basically unenforceable because federal constitutional law generally trumps state constitutional law in the area of citizens' rights. Consequently, they have advised their clients to remove the admonition from all complaint forms.

How are complaints handled after the initial filing?

After a decision is made to investigate the complaint, it is assigned to an investigator. All police departments appear to conduct a complete and thorough investigation into each complaint. In all cases,

² California Penal Code 148.6

³ *People vs. Stanistreet* (2002) 29 Cal. 4th 497- California Supreme Court,

⁴ *Chaker vs. Crogan* (2005) 428 F. 3rd 1215- Court of Appeals, 9th Circuit

the investigation ultimately is reviewed by the Chief or Sheriff and, in consultation with staff, a decision is made as to what, if any, disciplinary action is required.

Who determines who will investigate a complaint?

If the investigation requires an internal affairs investigation, the Chief of Police or the Sheriff, in concert with staff, will make a determination as to who will handle the investigation. In all cases, an officer senior to the officer being investigated will conduct the investigation. In rare instances involving a senior officer or the Chief of Police, cities have used outside investigators to conduct an impartial investigation.

There are **four possible findings** to all investigations pursuant to Penal Code Section 832.5.

Unfounded: The investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code 832.5 (c)).

Exonerated: The investigation discloses that the alleged act occurred, but the act was justified, lawful and/or proper.

Not Sustained: The investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained: The investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

What is the process after the investigation is completed?

Upon completion of the investigation, a recommendation will be made to the Chief of Police or the Sheriff as to what, if any, disciplinary action is required. Based upon the above criteria, a determination will be made if the complaint is sustained or not sustained.

What is the complainant advised after the investigation is complete?

All departments notify the complainant that the investigation has been completed, and the findings pursuant to the four categories: unfounded, exonerated, not sustained or sustained. It is often difficult to explain to a complainant why they cannot be privy to additional information; however, Government Code 3300, The Peace Officer's Bill of Rights, protects the personnel files of all police officers. Based upon existing state law, complainants are not entitled to be notified of any disciplinary action taken against an officer.

Do you have a specific person or persons assigned to internal affairs investigations?

Because police departments in San Luis Obispo County are relatively small, they do not have a special internal affairs unit or personnel assigned specifically to internal affairs. The San Luis Obispo County Sheriff's Department is an exception and will be discussed separately.

Do you ever use outside investigators if you believe there may be a conflict of interest in using department personnel?

As previously noted, outside investigators are not usually used; however, if the complaint involves the Chief of Police or the Sheriff, or even a high-ranking member of the department, it is possible to utilize the services of an outside investigator.

What kind of a log do you keep with regard to citizen complaints filed?

All departments maintain a master log of citizen complaints. The log includes administrative complaints that have been handled informally, as well as complaints that resulted in internal affairs investigations. These complaint logs are usually separate. Minor complaints are purged from an officer's personnel files after a prescribed period of time, usually based upon the department's own policies. Informal counseling does not require retention of file documents.

All Chiefs of Police and the Sheriff indicated that they utilize a master log to track officers' activities and the number of complaints against any individual officer. The Sheriff's Department has a unique system of tracking.⁵

All departments maintain the log for a period of time required by law, usually five years if an internal affairs investigation was a part of the complaint process.⁶

How are your personnel trained to conduct internal affairs investigations?

All departments train their personnel in Internal Affairs Investigation through POST-certified training schools. Departments are reluctant to utilize personnel who have not received POST training in internal affairs investigations. In such cases, a POST-certified supervisor will monitor the investigation.

Is in-house training conducted on the handling of internal affairs investigations?

Departments continuously train their personnel either through external courses or Lexipol training in-house.

Do you have any community outreach programs to encourage citizens to come forth with complaints if they feel justified in doing so? In that same regard, do you have any programs encouraging citizens to come forth with positive comments and commendations about police personnel?

All Chiefs and the Sheriff indicated that they participate in community activities, such as service clubs, homeowner groups, and local organizations, where they encourage citizens to come forward with any comments about the department. There is no concerted effort to solicit complaints; however, all indicated that they are always open and responsive to citizen input.

⁵ Discussed under a separate heading for the Sheriff's Department

⁶ The State of California requires at least five year retention for citizen complaints. The statute of limitations is four years for misconduct. Internal Affairs and statewide guidelines recommend twenty-five year retention for officer-involved shootings.

Do you have any specific technology that is utilized to assist your agency when conducting internal affairs investigations, such as mini-video cameras, personal recording devices, in-vehicle video or other similar technology?

All departments have cameras, recording devices and other technology to assist them in documenting events, and they use such technology when conducting an internal affairs investigation. It is often easier to show a complainant a video of their actions in a given situation than to try to convince them that there was no wrongdoing on the part of an officer. Conversely, if an officer has committed an act of misconduct, it is easier for the department to take corrective action with the aid of such technology.

Many departments have the ability to download videos when an officer arrives at the station, and each department maintains digital recordings of all activities. The Sheriff's Department is currently unable to download video from patrol vehicles and must maintain DVDs in their evidence storage area, which is cumbersome, requires excessive storage space and is not time efficient.

Many officers have individual recording devices that they activate when at the scene of an incident, and the video cameras in the vehicles can often observe activity at a great distance when an officer leaves the vehicle.

All Chiefs and the Sheriff agreed that new technology has aided them enormously in being able to supervise personnel and provide additional safety for officers; it has also assisted in effectively resolving many citizen complaints.

SAN LUIS OBISPO COUNTY SHERIFF'S INTERNAL AFFAIRS UNIT

Under the previous administration, the Sheriff's Department did not have an Internal Affairs Unit. At that time, the Sheriff would receive a complaint and decide if it should be handled as an Administrative Inquiry (AI) or an Internal Affairs (IA) investigation. AIs did not receive a tracking number.

Under the new administration, the Sheriff's Department does not conduct AIs, only IA investigations. As a result, all citizen complaints are tracked and recorded. Statistically, this may give the impression

that citizen complaints have increased under the new Sheriff. However, the percentage of sustained complaints has been reduced and the overall tracking of citizen complaints has been improved.

During his 2010 election campaign, Sheriff Ian Parkinson made a commitment to restore an Internal Affairs Unit to the Sheriff's Department. On February 14th 2011, this unit was reestablished and renamed.⁷

The Sheriff employed Jim Voge, retired Commander from the Los Angeles Police Department, to head the new unit. Commander Voge has over 33 years of experience and ran the Los Angeles Police Department's Internal Affairs Unit comprised of 278 employees. Commander Voge is currently creating a new Internal Affairs School for Central Coast police agencies, and he is seeking POST approval for such training.

The Sheriff's Department advised that it had implemented a system called IA PRO, in response to the question "**Do you maintain a log of citizen complaints?**" IA PRO is a software program that aids in the investigation and retention of citizen complaints. The Professional Standards Unit provides a number through IA PRO to every citizen complaint and maintains both an electronic and hard copy of every investigation.

This IA PRO system allows the department to monitor the behavior of its officers because all complaints are tracked. Under the previous administration, when complaints were taken and resolved at the station level by supervisors, a record of the complaint was not always maintained. As a result, an officer may have had several complaints in the past, but without proper recording of the complaints there was no way to identify officers who may have needed correction.

Commander Voge has now trained all supervisors in the Sheriff's Department regarding proper investigative procedures for citizen complaints.

⁷ Information was based upon documents submitted to the current Grand Jury by the Sheriff's Department.

CONCLUSION

Based upon interviews and documents that were submitted to the current Grand Jury, it appears that all police agencies in San Luis Obispo County are now conducting investigations into citizen complaints in a positive and effective manner. The recommendations made by the previous Grand Jury have been implemented.

As a result of the previous Grand Jury recommendations, all police departments in the county have implemented the changes suggested and improved their citizen complaint process. All departments now adhere to the guidelines suggested by POST and Lexipol, particularly with regard to maintaining proper complaint logs and following up on citizen complaints in a timely manner.

FINDINGS

1. The Police Departments of Pismo Beach and Grover Beach and the Sheriff's Department have citizen complaint forms on their websites.
2. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay do not have citizen complaint forms available on their websites.
3. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo have an admonition on their citizen complaint forms.
4. The Police Department of Grover Beach and the Sheriff's Department do not have an admonition on their websites.
5. The Police Departments of Paso Robles and San Luis Obispo indicated that they would soon place citizen complaint forms on their websites.
6. All Police Departments use the policy guidelines proposed by Lexipol.
7. All Police Departments and the Sheriff's Department adhere to the policy guidelines for citizen complaints proposed by POST. However, the Pismo Beach Police Department also adheres to the guidelines of CALEA, a national organization.
8. The Sheriff's Department has an outdated system of video recording in their vehicles and lacks the ability to store video data efficiently. The storage of DVDs is inefficient, requires too much space and slows retrieval time when it is necessary to utilize the information.

RECOMMENDATIONS

1. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay should add citizen complaint forms to their websites.
2. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo should remove the admonition from their complaint forms.
3. The Sheriff's Department should upgrade its vehicles with digital recording devices in order to enhance safety for all personnel, reduce download time and storage space required, and improve the ability to retrieve information, thereby providing better service overall.

COMMENDATIONS

The San Luis Obispo Sheriff's Department is to be commended for implementing a new Internal Affairs Unit. Sheriff Ian Parkinson is to be commended for following through on a campaign promise in such a timely manner.

Additionally, the employment of Commander Jim Voge and the implementation of the IA PRO system represent a vast improvement in the Sheriff's ability to monitor the conduct of his personnel.

REQUIRED RESPONSES

The City of Arroyo Grande is required to respond to Findings 2, 6 and 7, and Recommendation 1. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Atascadero is required to respond to Findings 2, 3, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Grover Beach is required to respond to Findings 1, 3, 6, and 7, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Morro Bay is required to respond to Findings 2, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Paso Robles is required to respond to Findings 1, 5, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of San Luis Obispo is required to respond to Findings 2, 3, 5, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The Sheriff's Department is required to respond to Findings 1, 4, 6, 7, and 8, and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 19, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The e-mail address for the Grand Jury is: GrandJury@co.slo.ca.us

CALIFORNIA MEN'S COLONY (CMC) INSPECTION REPORT

INTRODUCTION

Each year the San Luis Obispo County Grand Jury conducts inspections of prisons, jails and holding cells within the county. This is mandated by law.⁸ Authorization extends to interviewing inmates and to reviewing inmates' grievances.

This report describes the inquiry process followed by the current Grand Jury, and sets out its findings relating to the condition and management of CMC.⁹

PROCEDURE

Members of the current Grand Jury received specialized training in prison inspections by a county field representative of the California Corrections Standards Authority. The current Grand Jury began its CMC inspection with an orientation meeting hosted by CMC managers to present facts and list concerns. This facilitated a free-flow exchange of questions and answers. Management teams led grand jurors on a group tour. Grand jurors met with two representatives from the Inmates Advisory Council (IAC) and small teams of Grand Jurors also attended inmate hearings conducted by correctional officers. Staff also discussed particular safety and security concerns.

Documents reviewed included the following:

- Selected CMC policies and procedures
- *2010-2011 Grand Jury Report of San Luis Obispo County*, titled "Inspection of County Prisons, Jails and Allied Agencies"
- *California Men's Colony Briefing Document for the San Luis Obispo County Grand Jury*

⁸ California Penal Code 919 (b) "The Grand Jury shall inquire into the condition and management of the public prisons within the county."

⁹ Authority for inspections does not extend to Atascadero State Hospital (ASH)

The Grand Jury conducted its on-site inspections and interviews on October 3-4, 2011. See Appendix A for inspection details.

NARRATIVE

Even though Grand Jurors were pre-screened by the judicial system and by CMC, as visitors to the facilities they went through the same lengthy on-site screening process to which ordinary visitors are subjected. This included following certain clothing and jewelry restrictions and a prohibition on carrying cell phones. Civilian staff appeared to have more leeway during the screening process.

CMC, as part of California Department of Corrections and Rehabilitation (CDCR), has a capacity of 6,485 inmates. It has a total annual operating budget of \$241.4 million. This figure includes three separate programs: Institutional, at \$150.0 million; Education, at \$4.7 million; and, Health Care, at \$85.7 million. It operates on 356 acres of land, some of which is leased from the California National Guard. CMC provides sewer and water services, as well as inmate labor to the National Guard by the terms of the lease, in exchange for the use of their shooting range for custody staff's annual training requirements. Although the National Correctional Standards Association has never inspected the facility, CMC management and staff are working to fulfill the requirements for accreditation.

Facilities and Population: CMC is divided into two facilities: West Side, which opened in 1954, and has a capacity to hold 2,738 inmates; and East Side, which opened in 1961 and has a capacity of 3,747.

West Side is a level I/II (minimum security) prison that occupies refurbished military barracks. The inmate count was 2,472 on the date of the inspection in October, down from the prior year population of 2,750.¹⁰ This decreasing trend is continuing in response to the 2011 Public Safety Realignment Act, more commonly known as AB 109, which sends offenders convicted of certain lower-level felonies to the county jail of the county where the offense occurred. The Grand Jury has been advised that, by July 2012, the West Side Facility will experience an additional inmate population reduction of approximately 600.¹¹

¹⁰ "Inspection of County Prisons, Jails and Allied Agencies," *Final 2010-2011 Grand Jury Report*, p. 116

¹¹ Email dated March 16, 2012 from Lieutenant Dean Spears, Public Information Officer, California Men's Colony

One unit of the West Side facility contains a Level I Fire Camp and Minimum Support Facility. West Side works extensively with San Luis Obispo County, in conjunction with other governmental entities, on conservation, community service, and other valuable service work.¹²

The East is a Level III (medium security) facility divided into four quadrangle program yards, known as Quads A, B, C, and D. An electrified fence secures the East Side, and no escapes have been recorded since the fence was installed.

Each quad has its own athletic field, dining room, triage unit, and two three-story housing units. The East Side contains one of CDCR's two remaining fully licensed General Acute Care Hospitals. The hospital provides a full range of medical services, including some general surgical procedures. In addition, this facility provides services and treatment to the largest mental health population in the CDCR system. CMC also has the largest and most diverse Prison Industry Authority (PIA) program in the system.

On the date of the Grand Jury inspection, East Side had a population of 3,700, about the same as the prior year.¹³ By January 2012, East Side population had experienced a reduction of 600.¹⁴

Visiting Rooms: The Visiting Room on the East Side is a large open space with a raised platform at one end. In addition, inmates and guests may mingle in the adjacent open-air courtyard. Inmates qualified for visits, but restricted to no contact, may receive visitors in the closed and partitioned cubicles adjacent to the main room. The visiting room is furnished with portable plastic tables and stacking chairs. Vending machines line a wall. During visiting hours, there are four officers to supervise the areas provided for visitation. Including inmates and guests, the crowd may number 400 or more. The four officers assigned to supervision have only two low-resolution video cameras to assist them with monitoring inappropriate contact and the passing of contraband.

The Visiting Room on the West Side is overseen by an officer at a surveillance desk. Contact is allowed between inmates and their families, who often arrive by busloads.

¹² *California Men's Colony Briefing Document for the San Luis Obispo County Grand Jury*

¹³ "Inspection of County Prisons, Jails and Allied Agencies," *Final 2010-2011 Grand Jury Report*, p. 116

¹⁴ Email dated March 16, 2012 from Lieutenant Dean Spears, California Men's Colony

Contraband Issues: Contraband is a serious problem in prisons. Today, even a cell phone can be considered a weapon. Cell phones pose hazards such as: inmates threatening witnesses, inmates orchestrating additional crimes, prisoners exposing prison security measures, and the re-victimization of those targeted by the inmate. In the form of illegal alcohol, tobacco and drugs, contraband contributes to an unruly population and inmate-on-inmate violence, crime and coercion.

As of October 3, 2011, the prison had already confiscated 420 cell phones from prisoners during 2011. When a prisoner is found with a cell phone, drugs, alcohol, tobacco or other contraband, a disciplinary proceeding is required, which is a costly undertaking in terms of staff time.

Just days after the Grand Jury's visit, the CDCR inspected the West Side using search dogs brought in from outside the facility. In one dorm, they found three cell phones, four chargers, tobacco, and methamphetamine.

Staffing: Custodial staff numbers 1,054. Non-custody support staff, including health care services, is 903; 276 are medical and 209 are mental health staff.

Staff expenses are 88% of the budget. Overtime occurs daily. Management reported that it could not function without overtime. Due to the aforementioned existing and anticipated population decline, CMC anticipates a total of 200 staff positions will be cut in both custody and non-custody staff.¹⁵

Volunteers: CMC relies on scores of outside volunteers, at least one of whom teaches English as a second language. Other volunteers are involved as counselors in various substance abuse programs.

Inmates can volunteer for a group called "Gold Coats," a hospice-like organization that helps other inmates with special needs, such as dementia, for daily navigational support services, including taking inmates to their medical appointments. Recently, this program received national press attention.¹⁶

Grievances: Inmates have an Inmate Advisory Council (IAC) that meets with management once a week. Its primary function is to process population grievances (not individual inmates' personal grievances). A

¹⁵ Email dated March 16, 2012 from Lieutenant Dean Spears, California Men's Colony

¹⁶ Pam Belluck, "Life, With Dementia," *The New York Times Reprints*, February 25, 2012
(<http://www.nytimes.com/2012/02/26/health/dealing-with-dementia...>)

common population grievance is that there are not enough movies. Interviews with two inmate members of the IAC revealed that the conditions at CMC are relatively safe and management is relatively fair. The inmates reported that they know from experience that the level of violence at CMC is below that at other state prisons.

Personal grievances go through an informal and formal process. At the informal level, an inmate makes a complaint in writing to a particular staff member with whom the inmate has an issue, the receipt of which must be acknowledged by that staff member in writing. The staff member then has the opportunity to try to resolve the issue. Since the inception of this informal approach, the use of the formal appeals process has decreased. There are three levels of appeal in the formal process.¹⁷ According to prison management, in most appeals, higher management sustains the staff and/or the institution.

Grievances number about 200 per month or from about 3% of the population, assuming a population of 6,200. Prison officials report that with the declining population there has also been a statistically significant reduction over the prior year in incident reports (56%), disciplinary reports (46%), Administrative Segregation placements (36%), and requests for medical appointments (30%). They expect this trend to continue.¹⁸

Medical Services: At the time the Grand Jury inspected CMC in October, medical appointments averaged about 60,000 per month, about half of which are mental health related. This figure represents not only “one-on-one” doctor-patient appointments with physicians, dentists, and psychiatrists, but also group therapy appointments.¹⁹ However, by February 2012, because of realignment, that number had already dropped to 40,000 per month, and the “one-on-one” proportion was about 26,000. Six suicides occurred in 2010.

¹⁷ See California Department of Corrections and Rehabilitation, Title 15, Article 8, Section 3084.2 (b) “Informal Attempt Prerequisite,” which states “The inmate or parolee shall attempt to resolve the grievance informally with the involved staff....” See also Section 3084.5, dealing with the three levels of appeals and their disposition.

¹⁸ Email dated March 16, 2012 from Lieutenant Dean Spears, California Men’s Colony

¹⁹ Lt. Spears, telephone conversation with Law and Justice Committee, February 23, 2012. He also reported that as of that date the overall population had decreased to 5,500 because of realignment.

CMC reported to the Grand Jury that their medical recordkeeping is one of the best in the state corrections system. Electronic scanning was implemented in July 2011, a vast improvement over the paper-intensive process observed by the 2010-2011 Grand Jury.²⁰ Documentation scanning should be complete in 2012 with no hard copies remaining.

Medical staff reports that they feel safe because they are trained to use force when necessary, and they all wear alert buttons and whistles. Staff reported that CMC does not have the level of violence noted at Atascadero State Hospital (ASH).

Prison Industries Authority (PIA): A number of industrial enterprises operate within CMC under PIA. These industries supply CDCR and other state agencies with products the prisons would otherwise buy on the open market, such as boots and t-shirts. Their print shop supplies the entire state with license plate tags.

PIA employs approximately 500 inmate workers. Inmates qualify to work in PIA if they score at the 9th grade education level through the Inmate Employability Program. The work programs assist in reducing prison violence through behavior modification. The work skills, habits and training inmates acquire are all transferable to work situations “on the outside.” Many of these inmates have never been gainfully employed prior to their incarceration.

Jobs in PIA provide many benefits and incentives to inmates, including: paying for victim restitution, purchasing commissary items such as snacks and toiletries, improving work habits, learning job skills, and relieving the boredom of cell time. Even though the wages are minimal (average wage is \$.55 per hour), they provide inmates with extended sentences the opportunity to bank enough money to help them become reestablished once released from incarceration.

Grand Jurors toured the education facilities and the West Side library, but no classroom activities were observed. Education programs include adult basic education, General Education Degree, English Language Development, and other specialty programs. The average reading level at both West and East facilities is about grade 7.9.

²⁰ “Inspection of County Prisons, Jails and Allied Agencies,” *Final 2010-2011 Grand Jury Report*, p. 118

CONCLUSIONS

The Grand Jury found the condition of both the West Side and the East Side generally clean, safe and secure for all inmates and staff.

Inmate population, both East Side and West Side, is decreasing as a result of AB 109. Consequently, CMC anticipates a reduction of 200 custody and non-custody staff positions.

Other effects from the declining CMC population due to AB 109 include decreases in:

- Incident reports
- Disciplinary reports
- Administrative Segment placements
- Requests for medical appointments

CMC has an ongoing contraband problem with cell phones and drugs, but it must rely on other agencies to provide trained dogs to conduct searches.

The East Side visiting room has outdated video surveillance equipment.

CMC has educational/rehabilitative programs that benefit inmates. Chief among these is PIA, which provides many quantifiable and unquantifiable benefits to the inmates and prison administration.

Mental health issues comprise a substantial portion of the total medical services provided at CMC.

Volunteers play an important role in providing services to inmates at CMC.

COMMENDATIONS

The Grand Jury commends CMC for:

- Its impressive progress in digitizing its medical records
- The Prison Industries Administration at CMC
- The “Gold Coats” inmate volunteer program at CMC

REQUIRED RESPONSES

No response is required.

APPENDIX A

INSPECTION REPORT

STATE OF CALIFORNIA MEN'S COLONY

Facility Name: State of California Men's Colony	Inspection Date: October 3-4, 2011
Facility Capacity: 6,485	Last Inspection Date: October, 2010
Address: Highway 1, San Luis Obispo	Facility Administrator: Warden Terri Gonzalez
Interviews with: Warden, Chief Deputy Wardens, East and West Side staff, Public Information Officer, Medical and Mental Health staff, food service staff, and others	
Committee Inspection Team Members: Members of 2011-2012 San Luis Obispo County Grand Jury	
Findings: 1. CMC is generally clean, safe and managed professionally. 2. <i>Visiting Room</i> is large open space with a moderately raised platform at one end comprises the visiting room at CMC. In addition, inmates and guests may mingle in the adjacent open-air courtyard and foyer. Inmates qualified for visits but restricted to no contact may receive visitors in the closed, partitioned cubicles adjacent to the main room. The visiting room is furnished with portable plastic/metal tables and stacking chairs. Vending machines line a wall. During visiting hours, there are four officers to supervise the three areas provided for visitation. Between inmates and guests, the crowd can include 400 or more people. The four officers assigned to supervision have only two low-resolution video cameras to assist them with monitoring inappropriate contact and the passing of contraband 3. <i>Prison Industries Authority (PIA)</i> PIA is composed of two knitting mills, four factories, print plant, laundry, PIA warehouse, and PIA maintenance. They manufacture over \$20,000,000.00 worth of products utilized by other state agencies. The t-shirt factory is capable of manufacturing over 6,000 items a day. Recent contracts with Caltrans for high visibility shirts has resulted in the manufacture of 60,000 shirts completed, another 50,000 now under construction and future orders for an additional 50,000 shirts. Grand Jurors toured the shoe manufactory and print shop. The skills taught and practiced here range from fork lift driving to machine operation and printing. All work areas were orderly and efficient. Inmates and staff appear safe and content. 4. <i>Kitchen area on West Side:</i> The kitchen appeared neat and clean.	

5. *Educational Programs/Libraries:* No inmates were present during the Grand Jury's inspection of academic settings. The U.S. government and law books do not appear to be up-to-date. Access to law books requires filling out a form with the librarian. The Grand Jury did not see the law librarian during its visit.
6. *Medical Services:* Medical recordkeeping system is being digitized.
- *Dental Care:* Inmates filled all chairs at the time of the Grand Jury inspection. Inmates under age 50 get one dental check-up every two years. Over age 50 they get one check-up per year.
 - *Outpatient Services:* Patients line up outside to make medical appointments. The outpatient services area is small, congested and appears chaotic for staff and patients. Lab tests, X-Rays, a pharmacy, and minor surgery are available.
 - *In-Patient Services:* There are 2 semi-private wards and one isolated room. It appears there is adequate space for the inmate patients, but not for storage. Families may visit the critically ill. There are 37 beds for acute care, nursing home care and rehabilitation. Building 50 is the "psych ward," which houses many developmentally disabled inmates. The state pays for most of their care.

RESPONDING TO THE GRAND JURY:

SOME AGENCIES IMPLEMENT RECOMMENDATIONS EFFECTIVELY, OTHERS OBFUSCATE AND DELAY

INTRODUCTION

Each San Luis Obispo County Grand Jury reinforces the impact and effectiveness of the work of the previous year's Grand Jury by tracking the way agencies respond to that jury's recommendations. Agencies and government entities are required by Penal Code Sections 933 and 933.05 to respond to the findings and recommendations in the final report of each year's Grand Jury. The agencies are directed by the penal code to report if a recommendation has been implemented or provide a time frame for implementation. If an agency rejects the recommendation, it must provide an explanation. When an agency decides to implement a recommendation, it is agreeing to change practices to provide improved service to the public. Each year, the Grand Jury posts each agency's responses on-line. They are accessible at www.slocourts.net/grand_jury, together with the final reports.

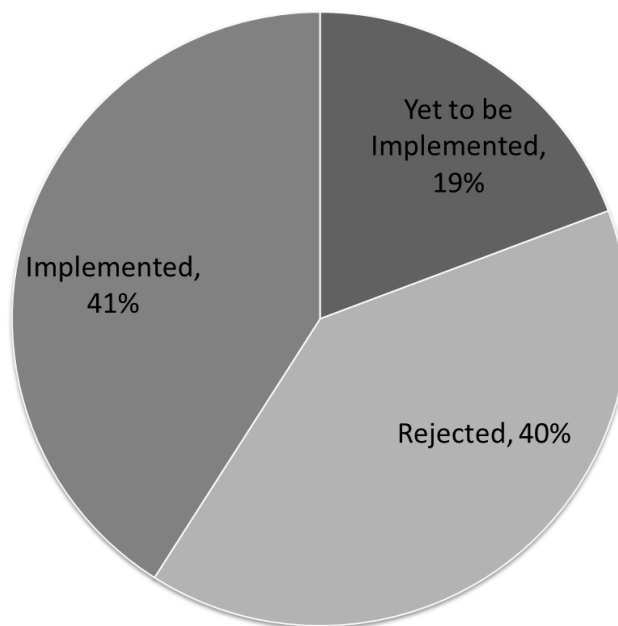
NARRATIVE

The 2010-2011 Grand Jury issued ten reports, with seven requiring responses. This year's Grand Jury followed up on the 83 responses required of the recommendations in those reports. Below are both a table that breaks down the responses to the recommendations, by agency, and a pie chart that shows the status of the Grand Jury recommendations in the aggregate.

Status of All 83 Responses to Recommendations Made by the 2010-11 Grand Jury

Report	Yet to be Implemented	Rejected	Implemented	Totals
1. So. Co. Sanitation Dist.	0	5	2	7
2. e-Government	0	1	3	4
3. Restaurant Inspections	1	7	16	24
4. Paso Robles Bearcats	6	0	2	8
5. Emer. Med. Helicopters	1	3	3	7
6. Water Rate Setting	8	17	6	31
7. Atascadero Police Chief	0	0	2	2
Totals	16	33	34	83
Percent of Total	19%	40%	41%	100%

**Status of All 83 Responses to Recommendations
Made by the 2010-11 Grand Jury**



An effective response came from San Luis Obispo County's Office of Information Technology within the General Services Agency. Early last fall it implemented three recommendations from the 2010-2011 Grand Jury's report, "What's On Line? – e-Gov in San Luis Obispo County."

The 2010-2011 investigation of the Paso Robles Bearcat Athletic Foundation also proved effective. In response to three recommendations, the district's superintendent wrote, "We appreciate the recommendations of the Grand Jury, as they have enabled the Paso Robles Joint Unified School District and Paso Robles High School to establish protocols and procedures that were adopted by our school district's Board of Trustees." The board issued a new handbook that establishes "regulations for all of our parent organizations and booster clubs."

When jury recommendations are rejected, cost is often the stated reason. In other cases, the responding party disagrees wholly or in part with jury findings on which the recommendations are based – as in the responses to the 2010-2011 Grand Jury's "South County Sanitation District" and "Emergency Medical Helicopters" reports.

A troubling aspect of the 83 total responses is the number of agencies that agreed to implement recommendations, but had not completed them by April 15, 2012. It is unclear when or if most of these 16 recommendations will be implemented. A list at the end of this report specifies the individual recommendations that remain to be implemented. Some recommendations on that list have been partially implemented.

Following is a discussion of significant responses to recommendations contained in all seven of the 2010-2011 Grand Jury reports that required a response.

1. South County Sanitation District

As recommended by the Grand Jury, the County Auditor-Controller conducted a limited scope review of internal controls at the District with the full cooperation of the South County Sanitation District (District), and published his report in October 2011.

The District, on the other hand, disagreed with seven of the fifteen findings and five of the seven recommendations in the Grand Jury report. The primary reason cited by the District for not concurring

with many of the findings was a 1993 San Luis Obispo County Grand Jury report finding about a potential conflict of interest at the San Simeon Community Services District (CSD).

This 2011-2012 Grand Jury found this reasoning flawed because the San Simeon CSD is not comparable in size or budget to this District. Moreover, a Grand Jury report does not establish a precedent or case law; each Grand Jury report stands on its own findings and recommendations.

Despite its initial rejection of five of the Grand Jury recommendations, the District took steps to address all five of the recommendations. The most significant steps were to:

- Split the original single contract with John Wallace into two contracts – one for District Administrator (John Wallace) and one for District Engineer (Wallace Group)
- Initiate an “Outside Agency Peer Review” that “will develop a list of recommendations to include action steps, specific to the budget and payment process, which address the perception of a conflict of interest.”

While one contract has now been split into two contracts, the oversight procedures remain the same. Some clauses to enhance accountability have been included in the contracts, however, to help mitigate the perception of a conflict of interest.

The results of the Peer Review were made public at the District board meeting on March 7, 2012. Regarding the conflict of interest perception, the Peer Review Committee recommended that the District consider hiring independent management for the District. The District board indicated that it will consider this recommendation for future action.

2. e-GOV in San Luis Obispo County

The General Services Agency (GSA) agreed with all five findings of the San Luis Obispo County Grand Jury Report concerning the county’s use of electronic communication tools. The Report put forward three recommendations that the county’s e-Government Community of Interest decided to begin implementing by: 1) establishing an e-Gov advisory group to improve public utilization of the county’s website; and, 2) surveying county staff about how to improve utilization of the county’s own intranet; and, 3) establishing an internal task force targeted at improving that intranet. A recommendation that

the county establish a focus group to seek public response to its website was rejected because the county was already asking public users of the site to critique it.

3. Restaurant Inspections

Last year's Grand Jury recommended that the county's Environmental Health Services (EHS) office revise the point values on food-facility inspection results to place a greater emphasis on critical violations that contribute to food-borne illness. In agreement, the agency revised inspection forms using a new scoring method of 100 points per inspection that took effect August 1, 2011.

The current Grand Jury has two remaining concerns:

1. As of April 15, 2012, the EHS website is still confusing, balky and unfriendly. For better transparency, the website should be easy to use, intuitive and complete.
2. The Grand Jury recommended that Inspection Notices be posted in easily visible locations. It noted that the present posting requirements meet minimum state standards. The Grand Jury asked Environmental Health Services to meet a higher standard and require the notices be placed in front windows or at the payment or hostess station, as is done in other counties.

4. Paso Robles Bearcat Athletic Foundation

As a result of a complaint, the 2010-2011 Grand Jury investigated the Paso Robles Bearcat Athletic Foundation. The jury found that none of the specific allegations were true. It discovered, however, that the foundation's efforts were harmed by a lack of transparency and attention to details in its internal operations and governance. The foundation also suffered from poorly defined policies and procedures, and lacked oversight by administrators from the school district. The foundation's Board of Directors agreed with the jury's conclusion and recommendations and began the process of dissolving the foundation.

Meanwhile, the trustees of the Paso Robles Joint Unified School District have adopted new rules to regulate operations of similar support groups.

5. Emergency Medical Helicopters

The purposes of the 2010-2011 investigation were to determine if policies and procedures relating to dispatch and cancellation of emergency medical helicopters were being followed or whether further revisions were needed.

Responses from the multiple agencies, nonprofits and the lone private ambulance company involved in servicing medical emergencies revealed continued resistance to making many of the changes recommended by three successive Grand Juries. Four agencies disagreed wholly or partially with ten of the jury's twelve findings. The County Health Department rejected four of seven recommendations as "not warranted," including one that suggested the Emergency Medical Services Agency (EMSA) should adopt a policy of dispatching one of the county's two emergency helicopters within three minutes of a request. The County Health Department agreed to consider a recommendation that it include a representative of the State Park Rangers on the EMSA's operations and quality improvement subcommittees. In April, 2012, the county officials explained that the recommendation had been partially implemented. They said State Parks "are welcome to attend the (operations subcommittee) meetings as non-voting representatives." Also, State Parks representatives would be "invited to quality improvement workgroup meetings only if a call that occurred on State Parks jurisdiction was to be reviewed/ discussed."

6. Rate Setting as a Water Conservation Tool

The 2010-2011 Grand Jury initiated a review of water service pricing by most public providers within the county to determine if rate structures were designed to promote water conservation.

Nine cities and CSDs have incorporated tiered pricing into their rate structures so that heavy usage costs more per unit of water. Most fail, however, to make that policy obvious to their customers. At the time of the report, only two indicated tiers on customer bills (City of Arroyo Grande and Atascadero Mutual Water Company) and only one showed usage by tiers (Atascadero MWC). Oceano and San Miguel CSDs implemented billing that shows usage by tiers last fall. Six cities and districts indicated that they will implement the revised billing system in the future.

The Grand Jury encountered total rejection of the idea that cities and districts, which base sewage fees on water usage, should inform users of that practice. A recommendation that individual apartment water usage should be metered was also rejected across the board.

7. City of Atascadero and the Former Chief of Police

The Grand Jury responded to a citizen complaint that the City of Atascadero was not being transparent when it announced that the Chief of Police unexpectedly resigned “to spend more time with his family.”

Two weeks later, after a public information request, the city revealed a negotiated settlement with the chief, giving him a \$126,000 settlement payment.

City officials disagreed “wholly or partially” with two **findings** in the Grand Jury’s report: that the city released the settlement agreement only in response to a public information request and that the partial and sequential disclosure exposed the city to media and community complaints.

The city officials responded, nonetheless, that they have acted in response to two Grand Jury **recommendations**: “With respect to the release of information, the City Manager and City Attorney will review each case and determine appropriate releases within the law.” Also, officials say they have begun implementing the recommendation that the City Manager conduct annual written reviews of employee performance. Specific to the question of the city incurring risk if the annual reviews are not completed, the city manager wrote “The employment agreement with (the new police chief) eliminated the ‘annual’ requirement and thus eliminated any risk.” Personnel rules are currently under review with new rules anticipated to be presented to the Council during summer 2012.

2010–2011 RECOMMENDATIONS YET TO BE IMPLEMENTED

Restaurant Inspections

The responding Agency is San Luis Obispo County Health Services Division.

Recommendation 7 a – Improve website access and information, provide easier access to restaurant inspection reports and searches, and implement a more user-friendly website with a consistent search method.²¹

Paso Robles Bearcat Athletic Foundation

Recommendations 1 through 5 and 7 involving the foundation’s procedures would be rendered moot if the foundation were to dissolve, as promised. However, that process has yet to be completed.

Emergency Medical Helicopters

The responding Agency is San Luis Obispo County Health Agency.

Recommendation 4 – The Emergency Medical Services Agency should include a representative from the State Parks Rangers on its operations and quality improvement subcommittees.²²

Rate Setting As a Water Conservation Tool

Recommendation 1 – **Morro Bay** should review its water rate schedule.

Recommendation 2 – **Paso Robles, Avila Beach Community Services District (CSD), and San Simeon CSD** should consider adopting tiered water rates that target high volume users.

Avila Beach CSD agreed to future implementation of this recommendation.

Recommendation 3 – **Arroyo Grande, Grover Beach, Morro Bay, Pismo Beach, San Luis Obispo, Cambria CSD, Heritage Ranch CSD, Los Osos CSD, Nipomo CSD, Oceano CSD, San Miguel CSD**

²¹ Partially implemented

²² Partially implemented

and **Templeton CSD** should consider revising water bills to show rate tiers, water usage for each tier and the charges for each tier.

Arroyo Grande, Morro Bay, San Luis Obispo²³ and **Templeton CSD** agreed to implement this recommendation in the future.

Recommendation 6 – **Arroyo Grande, Grover Beach, Morro Bay, Avila Beach CSD, Cambria CSD, and San Simeon CSD** should consider revising sewer bills to show that water usage affects sewer charges.

Arroyo Grande and **Morro Bay** agreed to implement this recommendation in the future.

²³ Partially implemented

THE COUNTY JAIL, JUVENILE HALL, AND HOLDING CELLS:

INSPECTION AND INFORMATION REPORT

INTRODUCTION

This report presents the 2011-2012 San Luis Obispo County Grand Jury's inquiry into the conditions and management of the San Luis Obispo County Jail (Jail), San Luis Obispo County Juvenile Hall (Juvenile Hall), and city and county temporary holding facilities.

AUTHORITY

State law mandates "The Grand Jury shall inquire into the condition and management of the public prisons within the county."²⁴ Authorization extends to interviewing inmates and reviewing inmates' grievances.

METHOD

Members of the current grand jury received specialized training in prison inspections by a representative of the California Corrections Standards Authority.

Members of the Grand Jury conducted the following inspection tours:

- County Jail, October 31, 2011; see Appendix A for inspection checklist
- Juvenile Hall, November 18, 2011
- County Courthouse holding facility, December 8, 2011
- The seven city police departments²⁵ from November 2011 through January 2012

²⁴ California Penal Code 919 (b)

²⁵ City police departments: Arroyo Grande, Atascadero, Morro Bay, Grover Beach, Paso Robles, Pismo Beach, and San Luis Obispo

Documents reviewed included:

- “Inspection of County Prisons, Jails and Allied Agencies,” *Final Report, 2010-2011 San Luis Obispo County Grand Jury Report*.
- *Inmate Rules* for the Jail.
- “Grand Jury Jail Tour, October 31, 2011,” San Luis Obispo Sheriff’s Department handout.

Interviews with staff included:

- County Sheriff /Coroner
- Undersheriff and Chief Administrator of County Jail
- Correctional Lieutenant, Services, overseer of Honor Farm
- Correctional Lieutenant, Operations, overseer of Main Jail
- Director of Probation and Chair of County Community Correction Partnership Executive Committee
- Chief Deputy Probation Officer, Superintendent of Juvenile Hall
- Police Chiefs, Watch Commanders and/or Lieutenants of seven city police departments

A Grand Jury team interviewed nine inmate volunteers at the Jail and Juvenile Hall on February 18, 2012. Interviews with inmates included:

- 7 County Jail inmates, 4 males and 3 females
- 2 Juvenile Hall inmates, 1 long-time resident (male) and 1 short-time resident (female)

NARRATIVE

The County Jail

Impact of Realignment: The 2011 Public Safety Realignment Act, AB 109, was enacted to reduce overcrowding in California state prisons. As a result, targeted offenders are now incarcerated in the county where the offense occurred. This law has exacerbated already crowded conditions at the Jail, and it has resulted in a reduction of inmate services. There are too few housing units, beds and blankets. The impact of the law is visible and notable for all inmate populations, but it is worse among the female population, where overcrowding has existed for years. In addition, the costs of medical and psychiatric services have increased significantly.

Facility:

The facility is both a Class I (temporary lockup) holding facility and a Class II lockup facility (for sentenced and yet-to-be-sentenced inmates). The State Board of Corrections rated the Jail as sufficient to house 518 inmates. On October 31, 2011, the inmate count was about 660. When the 2010-2011 Grand Jury inspected, there were 555 inmates.²⁶ While there are more inmates per square foot than state standards allow, management reports that the State Board observed “no noted deficiencies” in its last inspection. The Jail Custody Annual Budget is about \$23,000,000, including both salaries and services.

The Jail houses a wide range of inmates, not just those convicted of lower-level offenses. It houses patients from Atascadero State Hospital (ASH) charged with a crime while at ASH. It also holds all county suspects charged with any level of offense before sentencing. Now, as a result of the realignment, it houses state-realigned felons convicted of non-serious, non-violent, non-predatory offenses in this county and all other felons who violate state prison parole within this county. As a result, the Jail may house some felons for an extended period of time.

²⁶ *Final Report, 2010-2011 Grand Jury Report*, p. 120

Staffing: Allocated positions are 158 Sheriff's Department County Jail employees, plus medical/psychiatric staff, substance abuse counselors and numerous volunteers. There are one or two floor sergeants per shift. A typical shift has eighteen employees, thirteen officers and five technicians.²⁷

Medical/Psychiatric Services:²⁸ Three full-time staff members meet inmates' health, medical and psychiatric needs on a seven day per week schedule. Dental services include a Thursday Evaluation Clinic, one hour per week, and Friday Treatment, one and one-half to two hours per week. On average, there are 1,700 inmate appointments per month for medical and/or psychiatric services, ranging from alcohol withdrawal to heart problems.

Psychiatric Services had over 6,000 contacts in 2010 or about 17-18 per day. It is not unusual to receive 20-40 requests per day. This does not include staff telephone calls for emergency situations (a common occurrence), court-ordered evaluations or various requests from service providers and family members for immediate evaluation of an at-risk inmate.

Staff reported that prescription costs exceed \$370,000, of which \$280,000 is for psychiatric medication. Inmates from ASH and inmates receiving HIV medication are the primary sources of these costs. Roughly two-thirds of the Jail population is on prescription medication. A medical dispensary is staffed 24/7, with additional support from local hospitals, as needed. About 25 percent of the inmates are on psychiatric medication, down from 27 percent in the past. Health professionals at the Jail expressed concern regarding the high cost of anti-psychotic drugs required for inmates transferred from ASH due to violent activity.

Housing: The Jail has six housing units and an Honor Farm. The Grand Jury found the cells to be clean and saw no graffiti. Personal possessions (art and books) are allowed in the cells.

There are too few real beds. Due to overcrowding in certain areas, some inmates sleep in hard plastic "boats" (also known as "portable beds") or on floor mattresses. Although the "boats" cannot be stowed

²⁷ "Grand Jury Jail Tour, October 31, 2011," p. 1

²⁸ Ibid., p. 4

under existing beds when not in use, the floor mattresses can be. Currently, twelve inmates in the Main Jail are sleeping on mattresses on the floor.

When the count exceeds 40 in the Women's Jail, some women also sleep either in "boats" or on floor mattresses. Currently eighteen women in the Women's Jail are in this situation.²⁹

Two modular units in the Women's Jail are being remodeled. These units will house 24 female Honor Farm inmates and include 8 additional beds in an area used for program activity. Once the remodeling is complete, video supervision will be installed.

Inmates: The inmates appeared respectful, well-groomed, and clean. Their clothing fits. Inmates have access to telephones and are aware that their incoming and outgoing mail may be read. Confidential correspondence is allowed with attorneys, legal assistants and legislators. Inmates are allowed unlimited visits by attorneys and ministers. Social visitation is limited to two hours per week, or three hours per week on the Honor Farm. Staff supervises all visits.

Inmate Programs:³⁰ The Jail provides numerous rehabilitative services, several of which are financed by the Inmate Welfare Fund.³¹ See Appendix B for a more detailed description of these programs. Volunteers provide religious services, as well as education and counseling programs.

Inmate Interviews: A team of three Grand Jurors interviewed seven volunteer inmates, four men and three women, housed in the Honor Farm and in the general population.

Interviewed inmates, all of whom have spent years in and out of state prisons and other county jails, commented that the conditions and management at the County Jail are very good compared with other facilities.

²⁹ Lieutenant Kelly Kenitz email to Law and Justice Committee, May 7, 2012

³⁰ Grand Jury Tour, pp. 5-10

³¹ Under the California Penal Code Section 4025, an Inmate Welfare Fund (IWF) is mandated to provide services essential to the benefit, welfare, and educational needs of the inmates confined in the detention facilities. It is financed through the revenue generated from inmate use of public telephones, profits from inmate purchases from the jail commissary, revenue generated from contracts with educational agencies, and interest earned on unused funds.

All inmates interviewed, including the juveniles, said they had received the facility's *Rule Book*. However, few had actually read it and said they did so only out of boredom from not having anything else to read. The inmates said they learn the rules from the Jail staff and other inmates.

Juvenile Hall

The County Probation Department oversees the Juvenile Hall. It was built in 1983 and was a state-of-the-art facility for that time. A three-phase improvement program, including a new wing, is now under way. It will create separate areas for criminally sophisticated juveniles resistant to rehabilitation programs and add 20 beds. It will also include separate entryways for the public and for law enforcement.

Juvenile Hall houses juveniles who have committed felonies and is a last resort for offenders under the age of 18. They are separated into three blocks, based on the seriousness of their offense. The average stay is three weeks, but a few may be incarcerated for a year or more. The dissolution of the California Youth Authority will require Juvenile Hall to hold juveniles longer, including those with violent records.

San Luis Obispo County has fewer youth incarcerated than counties of similar demographics, such as Sonoma and Marin. According to staff, recidivism is currently at 20 percent. Staff relies upon evidence-based cognitive treatments to help juvenile inmates change their ways of thinking. Programs such as anger-replacement training and an emphasis on pro-social activities support this goal. Offenders can receive high school credits and attend other special programs.

The facility has a low use-of-force rate; staff attributes this in part to using pepper spray, instead of force, when inmates become unruly.

Staffing: The Juvenile Hall Superintendent oversees a staff of three Supervising Deputy Probation Officers (SDPOs), 6 Juvenile Services Officers III (JSOs) and 22 JSOs I and II. In addition, there is one Home Supervisor supplemented by four Correction Technicians and four temporary workers. The Department of Public Health provides 2.5 full time equivalent (FTE) nurses, and the County Office of Education provides two FTE teachers and three instructional assistants.³²

³² San Luis Obispo County Probation Organizational Chart, provided to current Grand Jury by Chief Deputy and Juvenile Hall Superintendent, Gary Joralemon, via email, March 12, 2012

Volunteerism at Juvenile Hall is significant, as local churches, Cal Poly and other groups provide people and materials for juvenile programs and activities. Sister Theresa Harpin organized about 50 volunteers under a program called Restorative Partnership to teach juveniles art, jewelry making and yoga. The yoga program has received local media attention for reducing violence in the Juvenile Hall by at least 20 percent.³³

Medical/Psychiatric Services: The facility has 3 full-time nurses and 1 nurse practitioner. The Jail provides back-up medical care, as necessary. An on-call dentist addresses dental problems.

Interviews at Juvenile Hall:

The staff, education system, special programs, visitation regime, and food are generally very good. Sister Theresa and the Cal Poly volunteers are well-liked. The facility is not overcrowded.

However, individually interviewed juveniles and staff identified certain sanitation problems, which are being addressed. The juveniles reported that they must take all their meals inside their cells, thereby creating mice and insect infestations in the cells. Management acknowledged the problem and is addressing it. It was explained that staff shortages prohibit adequate supervision of a common dining area. In addition, management is addressing keeping common surfaces, including floors and carpets, in good sanitary condition.

City Police and County Courthouse Holding Facilities (Holding Facilities)

Holding facilities are small, minimum security lockups intended to hold someone for a very brief time, up to four hours. The holding cell facilities appeared clean and safe. Although each city in the county has a holding cell, for all practical purposes, only the cities of San Luis Obispo and Paso Robles use them. Typically, a city will transport a suspect directly to the Jail for booking and thereby avoid using its own holding cell. Paso Robles has the largest holding cell and uses it primarily during the California Mid State Fair.

The San Luis Obispo County Courthouse (Courthouse) holding facility is generally crowded with inmates awaiting judicial action. These inmates come from CMC, the Jail and ASH. Inmates enter the

³³ <http://www.ksby.com/news/nun-leads-program-for-yoga-music-in-slo-county-jail-juvenile-hall/#!/prettyPhoto/0/>

Courthouse through a secure sally port and are held in separate confinement areas. Wheelchair-bound inmates enter the holding cells through public corridors. The ADA-compliant holding cells appeared clean and orderly.

Courthouse correctional deputies have outdated video equipment to monitor inmate activity.

The restroom for the Courthouse correctional deputies remains a problem, as noted in previous Grand Jury reports. Maintenance costs under \$15,000 for fiscal year 2012-2013 reportedly will be under the control of the local Superior Court in San Luis Obispo County,³⁴ which may allow this issue to be addressed.

CONCLUSIONS

The Grand Jurors who participated in the tours found the conditions at each inspected facility generally clean, safe and secure for all inmates and staff, with the exception of Juvenile Hall where a sanitation issue is being addressed by staff.

The Grand Jurors also observed a high degree of professionalism and respectful behavior among correctional officers, management and inmates. The inmate interviewees concurred that this observation was correct. They also agreed that facilities, food, recreation and rehabilitation programs, and visitation policies are satisfactory.

Overcrowding at the Jail is a continuing observable fact, particularly for women inmates. Staff and inmates agreed that the inmate population is increasing at the Jail due to the state realignment mandate.

Mental health services comprise a substantial portion of the medical services provided at the Jail and Juvenile Hall, and approximately two-thirds of the Jail inmates are on prescription medication.

³⁴ “Court a test case for facility upkeep,” Nick Wilson, (<http://www.sanluisobispo.com/2012/04/16>: accessed 26 April 2012); confirmed by telephone with Court Executive Officer, 26 April 2012.

Management and inmates agreed that volunteers play an important role in providing services to inmates at the Jail and Juvenile Hall. Their service in providing education and counseling to inmates is invaluable.

FINDINGS

County Jail:

1. Overcrowding at the Jail remains a problem.
2. Realignment is causing an increase in the Jail population.
3. Many inmates sleep in plastic “boats” on the floor.
4. Costs and workload for inmate services are increasing, particularly in the area of medical and mental care.
5. Transfers from ASH have substantially increased costs for psychiatric medications.

Juvenile Hall:

6. Juveniles and Juvenile Hall management agree that certain identifiable unsanitary conditions are in need of correction.

Courthouse Holding Facility:

7. Correctional officers at the Courthouse do not have ready access to restroom facilities.
8. Inmates in wheelchairs are transported to holding cells through the public corridors of the Courthouse.
9. Video surveillance systems are out of date in the Courthouse holding area.

RECOMMENDATIONS

1. The Sheriff’s Office should aggressively pursue reimbursement from ASH for medications prescribed for ASH patients who are transferred to the Jail.
2. Juvenile Hall management should take preventive and maintenance measures to address sanitation issues.
3. Courthouse Correctional Officers should explore an alternative route for wheel-chair bound prison inmates other than through public corridors.

COMMENDATIONS

The Grand Jury commends the high degree of professionalism of management and Correctional Officers at the Jail and at the Juvenile Hall. This includes the prompt response of management to follow-up questions posed by the Grand Jury and their prompt efforts to correct noted problems.

The Grand Jury commends the Jail kitchen management and staff for producing quality meals at low cost.

The Grand Jury commends Sister Theresa and her Restorative Partnership volunteers, Cal Poly students, and other volunteers for their service at Juvenile Hall.

REQUIRED RESPONSES

The County Sheriff's Department should respond to Findings 1 through 5 and 7 through 9, and Recommendations 1 and 3.

The County Probation Department should respond to Finding 6 and Recommendation 2.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The email address for the Grand Jury is: GrandJury@co.slo.ca.us

APPENDIX A

INSPECTION REPORT

SAN LUIS OBISPO COUNTY JAIL

Facility Name: San Luis Obispo County Jail	Inspection Date: October 31, 2011
Facility Capacity: 518	Last Inspection Date: 10/2010
Address: Kansas Avenue, San Luis Obispo	Facility Administrator: Undersheriff
Interviews with: Sheriff, Undersheriff, Lieutenant in charge of Correctional Services, Lieutenant in charge of Correctional Operations, and others.	
Inspection Team: 2011-2012 SLO County Grand Jurors	
Findings: 1. The exterior of the building was in good condition. The interior of buildings appeared in good condition, except for the main linear old jail, where paint was peeling. Hallways were clear. There was adequate lighting. The temperature was comfortable. The exercise yards are inside, except at the Honor Farm. 2. <i>Intake/Release:</i> The center is 62,000 square feet, completed in 1993 at a cost of \$8,000,000. Here inmates are searched; their money and personal items are stored in Reception. They are given an Intoxilyzer test (if necessary), and medical and property forms are completed. Once booked by Correctional Technicians, they are taken to a holding or sobering cell. Holding cells are used for inmates not under the influence of alcohol or drugs. Arrestees are given access to a telephone while in the holding cells. Sobering cells with rubberized floors and no benches, and are used for inmates under the influence of alcohol or drugs. 3. <i>Processing Room:</i> Digital photographs and wrist bands are made. Fingerprints are taken with modern technology. 4. <i>Inmate Dress-out Rooms:</i> Two rooms (one for males, one for females) are available for inmates to shower and receive jail clothing. Street clothing and bulk items are stored. Deputies interview inmates to determine appropriate housing. Decisions are based on the inmates' criminal history, criminal sophistication, past history of disciplinary problems, and medical and mental health problems. 5. <i>The Control Rooms:</i> All exterior doors and selected interior doors are centrally controlled. Exterior and interior locations have camera surveillance. Fire alarm panels	

and interior doors, lights, telephones and televisions are also centrally controlled. The Jail staff conducts fire drills on a regular basis. There were no successful suicides in the past year, although numerous attempts were made. There have been few escapes.

6. *Transportation and Court Service:* From 35 to 85 inmates per day are transported to court in 6 transportation vehicles. Staffing includes 1 Sergeant, 1 Senior Correctional Deputy and 8 Deputies. Transportation is also provided for:
 - medical and dental appointments outside the jail
 - inmates sentenced to state prisons and from other counties on San Luis Obispo warrants.
7. *The Kitchen* is located on the Honor Farm, and is staffed by 6 cooks and 1 supervisor. Honor Farm inmates provide the labor, 12 inmates per shift, and 2 shifts per day. Meals are delivered to the jail and juvenile hall by truck at 6 a.m., 11 a.m. and 4 p.m. Meals are served in the cells and dayrooms. The inmates may converse during meals. About 635,625 meals were served in 2010. The kitchen bakery saves \$40,000 per year by baking its own baked goods. The average cost per meal is about 90-95 cents, up from 86 cents in 2010. The kitchen area is clean. Knives and chemicals are locked. The inmates who work here and are fully trained in food safety receive a certificate that allows them to pursue food safety employment upon release.
8. *Medical/Psychiatric Services:* Medical staff is present 7 days a week, 365 days a year. Physician hours are Monday through Friday, 8 a.m. to 11 a.m., with a total of 15 hours per week split between them. Hours of operation are generally 7 a.m. to 4 p.m., but can vary according to the schedule and availability of doctors. Only 1 mental health therapist is on duty on the weekend.
9. Medical and Psychiatric staff includes:
 - two physicians
 - three dentists
 - twelve registered nurses and one nurse supervisor
 - one licensed vocational nurse
 - two psychiatric doctors
 - three mental health therapists

APPENDIX B INMATE PROGRAMS SAN LUIS OBISPO COUNTY JAIL

1. *General Educational Development (GED)* is open to all inmates and is a state-approved program contracted with Cuesta College for earning a high school diploma. In 2010, two hundred ten inmates participated, seventy-four were tested and twenty-five passed.
2. *Adult Basic Education (ABE)* instructs inmates in the basics of reading and writing. In 2010, nineteen inmates participated.
3. *English as a Second Language (ESL)* teaches the English language. In 2010, ninety-one inmates participated.
4. *Vocational Education (VEP)* teaches vocational job search and clerical office skills. It utilizes ten computer stations with CD ROMS, books and audio/video tapes. It is open to the Women's Jail Honor Farm and Dorm inmates. The goal is to facilitate employment post-release. In 2010, two hundred sixty-eight inmates participated.
5. *Life Skill* is open to female inmates. It teaches building relationships, stress management, job-seeking and maintenance, time-management, self-motivation, child-rearing, goal-setting, and staying healthy. In 2010, one hundred forty inmates participated.
6. *Workplace Readiness Skills (WRS)* is open to male Honor Farm inmates. The program teaches work application skills: computer skills, resume-building, interview techniques, workplace attitude, and time management. In 2010, forty to sixty inmates participated.
7. *Alternatives to Violence Workshops (AVP)* involves workshops for teaching skills and attitudes to reduce recidivism. It helps inmates focus on unresolved conflicts in their lives and those around them. It is open to male Honor Farm inmates and focuses on establishing a base of self-esteem, trust and cooperation, communication and creative problem-solving. Each workshop is unique. These workshops are voluntary and require 18 participants to run. The workshops are 20 hours, consist of two workshops of 10 hours each, and meet on Saturday and Sunday. In 2010, nineteen inmates attended.
8. *Food Safety Certification*: Fifty inmates have taken the Food Safety Certification course; thirty-five have passed and been certified. This certificate is valid for two years.
9. *Culinary* is open to Men's Honor Farm inmates. Kitchen duties include food service, prep work, baking and general cleanup.
10. *Laundry* is open to inmates of the Men and Women's Honor Farm. Inmates learn the operation of commercial grade washers and driers. Inmates also do cleaning, folding, and minor sewing repairs on inmate clothes.

11. *Bike Shop* is open to Men's Honor Farm. Inmates work in one of the largest bike repair shops in the County. Inmates repair bikes for donation to underprivileged children within the County at Christmas.
12. *Landscaping* is open to Men's Honor Farm. Duties include mowing grass, cleaning plant beds and arrangement of landscaping materials.
13. *Horticulture* is open to Men's Honor Farm. Inmates grow tomatoes, broccoli and bell peppers, among other vegetables.
14. *Road Work* is open to inmates of the Men's Honor Farm. Inmates learn skills from County road and tree crews and Cal Trans. Cutting trees, clearing roads, and equipment operation are skills translated into employment upon release.
15. *Communications Shop* is open to Men's Honor Farm. Here inmates learn skills in electronic repairs, such as for radios.
16. *County Garage and Car Wash* is open to Men's Honor Farm. Inmates clean and detail county automobiles.
17. *Kennel Worker* is open to Men's Honor Farm. Duties include cleaning kennels, feeding animals and general maintenance.
18. *Cleaning* is open to Men and Women's Honor Farm. Inmates vacuum and buff floors, dust, and clean windows for the Honor Farm and Court services.
19. *Alcoholics and Narcotics Anonymous and Ministry Services* are open to all inmates.
20. *Forensic Reentry Services (FRS)* is a Community Service/Outreach Program supervised by County Mental Health. FRS has two full time case managers. The FRS team, together with the jail Psychiatric Services, assists inmates scheduled for release who have a primary mental health diagnosis or co-occurring disorder(s). The goal is to bridge the transition from the jail to community services, including but not limited to housing, food, fiscal planning, employment, medical care, mental health follow-ups, and social security/insurance needs.
21. *Forensic Coordination Team (FCT)* is open to mentally ill offenders who require more intensive supervision.
22. *Police and Corrections Team (PACT)* is open to parolees from the jail or state prison. It involves a monthly meeting and "services fair" for parolees in need of community resources and services.
23. *Drug Court* is open to all inmates through Probation. It consists of an 18 month intensive supervision and counseling program to reduce recidivism for lower-risk inmates.
24. *Mental Health Court* is open to mentally ill offenders through the Probation Department. It attempts to find alternatives to incarceration.

25. *Proposition 36* is open to all inmates. It is similar to Drug Court and offered through the state Parole Department. It directs those arrested for parole violations to participate in alcohol and drug counseling while in the jail.

ARE PASO ROBLES SCHOOL BUDGETARY WOES A LESSON FOR OTHER DISTRICTS?

SUMMARY

Last fall, Paso Robles Joint Unified School District (District) found itself facing budget problems serious enough to predict that it might end this year nearly bankrupt. The primary causes were as follows:

1. The governing board and superintendent had ignored dwindling reserves for three straight years.
2. Expenses for special education students exceeded the District's expectations.
3. The District's financial managers were using an accounting procedure that artificially inflated year to year reserves.

Correcting that accounting practice became a \$1.58 million hit to last year's bottom line, reducing the remaining reserves below the required level.

In urgent bargaining this spring, the District reached employee agreements that eliminated six school days in May. This action reduced salaries enough to leave a projected reserve fund at the end of the year and avoid a state takeover. Otherwise, the District might have found itself needing to borrow money from the state to pay its bills. Paying back that loan could take decades; and, the state would appoint an administrator who would assume total control, leaving the local Governing Board with no power.

This report examines how the Paso Robles Joint Unified School District ended up in this situation. It suggests that there are lessons in this story for San Luis Obispo County's (SLO County) other nine public school districts, all of which plan to spend more money than they receive for the current fiscal year ending June 30. All ten school districts in the county are incurring an annual deficit, even the three districts that have sufficient property tax revenue to avoid relying on help from state funding to pay for the basic costs of educating their students.

ORIGIN

This report was self-initiated by the 2011-12 Grand Jury. The Grand Jury became interested in this topic after learning in the general media of the District's financial troubles.

AUTHORITY

Under Articles 933.1 of the State Penal Code the Grand Jury “at any time may examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county (and)... may investigate and report upon the method or system of performing the duties of such district or commission.”

METHOD

Members of the Grand Jury interviewed:

- One member of the Governing Board (Governing Board) of the Paso Robles Joint Unified School District
- The Superintendent of Paso Robles Joint Unified School District
- A leader of the Paso Robles Public Educators (local teachers' union)
- The San Luis Obispo County Superintendent of Schools, who has the responsibility for approving local school district budgets

Documents examined included:

- California State Education Code
- 2011-2012 Second Interim Report by Districts for all school districts in San Luis Obispo County, except San Miguel, as issued by County Office of Education
- *2011-2012 First Interim Report for San Miguel Joint Union Elementary School District*
- *2012 San Luis Obispo County Schools Annual Education Report*

- Governing Board agenda packets for individual school districts, which contain updated information on each district's annual budget
- *State Controller's Office – Accounting Division, Lottery Educational Apportionment System, Report of Payments to Educational Entities by Fiscal Year*
- Other County Office of Education background documents
- Websites of individual school districts

NARRATIVE

Education Terminology

Funding terms:

Average Daily Attendance (ADA) – The total number of days of student attendance divided by the total number of days in the regular school year.

Revenue Limit – Dollar amount per unit of ADA that the state provides to school districts.

Unrestricted Funding – Funds in district budgets that are not required to be spent for specific purposes and are under the control of the district governing board. These funds can include revenue limit funds, receipts of donations from parent organizations and others.

Required Reserves – This is the required percentage of projected budget expenditures that each district must plan to maintain in their unrestricted ending fund balance to achieve positive financial certification. The required reserves are determined by the Superintendent of Public Instruction, the Controller, and the Director of the Department of Finance per Education Code 33127 and 33128.

Types of School Districts under State Law:

Basic Aid - Three school districts in SLO County are classified as Basic Aid Districts, meaning the annual property tax revenue in those districts exceeds what the state provides to other districts for ADA funding. These school districts do not rely as heavily on state funding as the other seven school districts.

Basic Aid Districts are Cayucos Elementary School District, Coast Unified School District and San Luis Coastal Unified School District.

Revenue Limit: The other seven school districts in the county are funded by a revenue limit composed of both local property taxes and state taxes (using an ADA formula). This funding is distributed by the state on the basis of a court-mandated formula intended to equalize school funding statewide. This equalization stems from the *Serrano v. Priest* California Supreme Court decision of 1976, and the various Proposition 13-like limits that California voters have imposed on property tax increases since 1978.

Revenue limit districts are Atascadero Unified School District, Lucia Mar Unified School District, Paso Robles Joint Unified School District, Pleasant Valley Joint Union School District, San Miguel Joint Union School District, Shandon Joint Unified School District, and Templeton Unified School District.

District Financial Certifications:

The California Education Code defines three types of school district financial certifications:

Positive: A positive financial certification means a school district will meet its fiscal obligations for the current year and two subsequent fiscal years.

Qualified: A qualified financial certification means a school district may not meet its fiscal obligations for the current year or two subsequent fiscal years.

Negative: A negative financial certifications means a school district will not be able to meet its fiscal obligations for the remainder of the current or subsequent fiscal year.

The Paso Robles Story

The District serves the community of Paso Robles as well as surrounding rural areas and is governed by a seven-member Board.

The District's average daily attendance is 6,428 students. There are six elementary schools, two middle schools, one high school, one continuation high school and an alternative high school.

As a Revenue Limit district, Paso Robles' unrestricted revenue limit per student is \$5,436, comparable to other SLO County Revenue Limit districts.

Enrollment is declining in the District, and the decline is projected to continue with a loss of 181 and 116 students in each of the next two school years (2012-13 and 2013-14) respectively.

On April 13th, the San Luis Obispo County Office of Education projected the District's year-end reserve to be 0.78% for school year 2011-12. The reserve levels are projected to drop in the two subsequent years to negative 4.24% in 2012-13 and negative 10.59% in 2013-14. In the absence of corrective action by the Governing Board, the District will likely exhaust all financial resources in the 2012-13 year and will run out of cash needed to meet its financial obligations.

In December 2011, the Superintendent of the District filed an interim report that self-certified the District as "negative," meaning that its current revenue and spending pattern could force it into insolvency. The details behind that negative financial certification were submitted to the County Office of Education for review, in accordance with Education Code Section (E.C.) 42127. Given the negative certification, the County Office of Education has assigned a fiscal adviser to the District. When this report became public, the District staff and the community began asking, "How did this happen?"

The negative certification did not come without warning. For the prior three years, the District was certified as “qualified.” That rating should have alerted the District administrators and the governing board that there were potential budgetary issues on the horizon. A qualified rating gives the local governing board an urgent reason to review its budget and fiscal policies, and take control of the district’s financial situation.

Other districts have received qualified certifications, but have reacted quickly to address their budget issues with program cuts and salary reductions. District administrators now note that this year’s negative certification could have been avoided through increasing class sizes, taking furlough days or reducing employee compensation. Certificated union officials say they suggested many alternative approaches years ago, including a hiring freeze for vacated positions.

The District’s administrators admit they failed to exercise significant budget trimming options until recently. They eliminated several programs and made cuts, but these actions were insufficient. They continued to hire new employees to fill non-essential positions. A significant part of the problem was the apparent inability of the District administration and its employee unions to agree on actions needed to address the District’s worsening fiscal situation.

From 2008 through 2011, the years of “qualified” ratings, a “perfect storm” was brewing. State funding per student declined while at the same time enrollment dropped. Federal stimulus funding helped retain teachers and temporarily kept the negative certification at bay during the 2010-2011 school year.

Contrary to expectations, special education costs ballooned when the District took over that function from the County Office of Education. While state revenues declined, District programs were maintained by overspending allotted budgets.

Governing Board members were offered education in how school district budgets are constructed and how they are constrained by state funding. However, few took advantage of workshops offered by the County Superintendent or the California School Boards Association. That budgetary expertise has generally been relegated to the District superintendent’s staff.

In January of this school year, \$1.58 million was added to the District’s deficit as a result of what a newly hired auditor explained as an accounting error carried forward from prior years. The error which

involved health and welfare benefits was discovered during the 2010-11 fiscal year. The resulting adjustment increased the total year-end deficit to \$4.5 million. As a result of correcting this accounting practice, the year-end fund balance entering this fiscal year (2011-12) was also reduced. This correction contributed to the negative certification.

In recent weeks the District has taken advantage of state provisions that allow it to reduce school days without having the state reduce ADA funding. The District's recent decision to cut six of the possible twelve school days will save salaries that would have otherwise been paid to District employees.

Given staff furloughs this year and 12 furlough days next year, the County Superintendent now predicts that the District will end this year with a reserve of 2.89% of the general fund revenues and will maintain a 2.16% reserve in 2012-13. The County Superintendent also believes that without additional reductions and/or additional funding the District could end 2013-14 with a negative fund balance of almost 1%.

The County Superintendent noted in an April 13 letter that he will "continue to assign a Fiscal Advisor to the District to assist the District in moving from this negative certification to an adopted budget for the 2012-13 school year that I can approve." He added that he believes "District leadership is capable and dedicated to restoring the District to a sound financial condition."

If District leadership is unable to restore the District to a sound financial condition, the state will assume control of the District.

There are other school districts in the county that already have been certified "qualified" and still others have the potential to be similarly downgraded.

The lesson to be learned is that when the District was alerted via the "qualified" rating, they did not aggressively address the issue through the collective bargaining process, execute appropriate and significant cost cutting measures, or explore other revenue enhancements.

An Overview of Fiscal Problems Countywide

In April of 2012, the County Superintendent of Schools warned five of the seven revenue limit school districts that they must make adjustments to end deficit spending or they could be insolvent within three years. Year-after-year reductions in the state funding of ADA, combined with stable or declining enrollments, place huge stresses on the finances of these districts.

Despite their qualified ratings, the County Superintendent believes that Lucia Mar, Atascadero, Shandon and San Miguel districts have predictable revenues that are sufficient because they have engaged in cost-cutting options to avoid depleting their reserves. Assurances aside, however, leaders of the other revenue limit districts should not ignore the warning signs. All ten school districts in the county are expected to engage in deficit spending this year and to compensate by dipping into their prior year-end fund balances.

Two proposed November 2012 ballot initiatives would raise money for K-12 education if approved by voters. California Legislative Analyst has projected that, if neither passes, there could be a reduction of approximately \$400 per student for revenue limit school districts. The County Superintendent has instructed school districts to build their 2012-2013 year budgets and their future projections on the assumption the initiatives will fail.

Governing board members receive little education in overseeing the financial operation of the school districts. The County Office provides a one-day training workshop for newly elected board members, and only a few hours of that education focus on budget issues. Board members are usually encouraged to attend education and training workshops presented annually by the California School Boards Association. Those workshops cover a wide variety of education issues. They include sessions on school finance but attendance is not mandatory and many board members prefer to rely on the local superintendent and staff to provide budget guidance

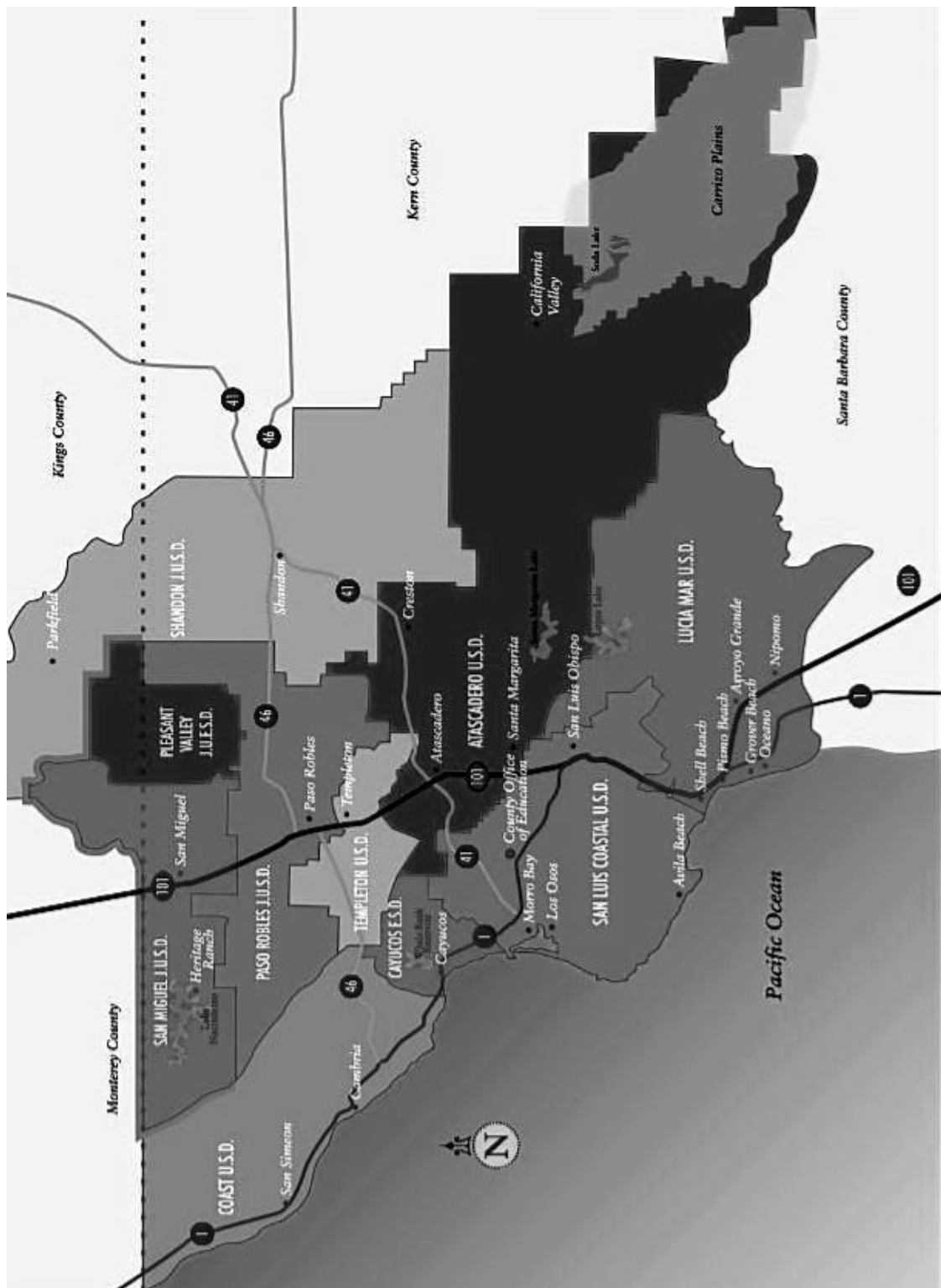


Figure 1 – County School Districts within San Luis Obispo County

Source: San Luis Obispo County Office of Education

Below is a financial review of each of the other nine SLO County school districts.

BASIC AID DISTRICTS:

Cayucos Elementary School District

Cayucos Elementary School District serves the community of Cayucos and contiguous unincorporated areas and is governed by a five-member Board.

The District's average daily attendance is 223 students. Cayucos Elementary School, which serves kindergarten through 8th grade, is the only school in the District.

The District's per student funding from unrestricted revenues is \$8,971.

Student population increased by eighteen students in 2011-12, and enrollment is projected to be stable for 2012-13 and 2013-14.

Deficit spending for 2011-12 was \$224,273. The County Office of Education notes, "The projected unrestricted ending general fund balance drops from \$456,417 in FY 2011-12 to \$277,675 by FY 2013-14. General Fund balance reserves are not an ongoing source of funding, and the District is encouraged to build a balanced budget with ongoing revenues equaling expenditures in the subsequent years."

The District is required to have 5% in reserves. In 2011-12 the District is expected to end the year with 7% in reserves. It is projected that the District will end with 9% in reserves 2012-13 and 2013-14.

The San Luis Obispo County Office of Education staff concurs with the positive certification for 2011-12. However, the District is cautioned to be aware of the continued revenue shortfalls predicted for the State Budget and the potential of additional cuts to educational grant funding for 2012-13 and 2013-14.

Coast Unified School District

Coast Unified School District serves the communities of San Simeon to the north, Cambria, and Cayucos to the south (grades 9-12), as well as contiguous rural areas, and is governed by a five-member Board.

The District's average daily attendance is 715 students. There is one elementary school, one middle school, one high school, one continuation high school, and one community day school, an alternative education school.

The District's per student funding from unrestricted revenues is \$10,506, which is the highest per student funding of the Basic Aid districts.

There has been an increase of enrollment of 18 students in 2011-12. It has been projected that from 2012-14 there will be a total decrease in enrollment of nine students.

Deficit spending for 2011-12 is projected at \$1.1 million.

The District is required to have 4% in reserves. In 2011-12 the District had 8% in reserves, and it is projected to have 8% in reserves for 2012-13 and 2013-14.

The San Luis Obispo County Office of Education staff concurs with the positive certification for 2011-12. Coast Unified is cautioned about the potential for reduction in state education grant funding in 2012-13 and 2013-14.

Coast Unified School District has been recognized by WestEd³⁵ as one of the California's seven highest performing districts in providing education to all students, including those who do not speak English, require special education or come from low-income families. It is the only rural district in the state to be

³⁵ WestEd: A San Francisco-based nonpartisan, nonprofit, mission-focused organization. The organization's mission states, "WestEd, a research, development, and services agency, works with education and other communities to promote excellence, achieve equity, and improve learning for children, youth, and adults. (Wiki)

so honored. The other high-achieving school districts honored in California were Carmel, Redondo Beach, Glendale, Temecula, San Marcos and St. Helena.

San Luis Coastal Unified School District

San Luis Coastal Unified School District serves the communities of Avila Beach, San Luis Obispo, Los Osos, and Morro Bay and adjacent rural areas. The District is governed by a seven-member Board.

Average daily attendance is 6,952 students. There are ten elementary schools, two middle schools, two high schools, and one continuation high school.

The District benefits from significantly higher property values than other areas. It also draws on the property tax revenue contributed by Diablo Canyon Nuclear Power Plant.

The District is not dependent upon state funding to supplement local property taxes. The District receives state money only in the form of state-funded grants.

The District's per student funding from unrestricted revenues is \$8,851.

Enrollment increased by 127 students in 2011. Projections anticipate that enrollment will remain stable in 2012-13 and 2013-14.

Deficit spending for 2011-12 is projected to be \$8.6 million.

The County Office of Education staff concurs with the positive certification for 2011-12. A positive certification means that the District is projected to have at least 3% in reserves for this year and the next two years, and can meet its financial obligations. The County Superintendent of Schools commended the San Luis Coastal Unified School District Board of Education for presenting a budget with the stated commitment of maintaining reserves of 10% for economic uncertainty, exceeding the state's required minimum level of 3% in the current year and subsequent two years. San Luis Coastal has just

announced that cuts will have to be made in the coming years to reduce deficit spending and maintain 10% reserves.

REVENUE LIMIT SCHOOL DISTRICTS:

Atascadero Unified School District

The district encompasses the City of Atascadero and the unincorporated areas of Santa Margarita, Creston and California Valley. It is the largest school district in the county and is governed by a seven-member Board.

Atascadero's average daily attendance is 4,662. It operates eight elementary schools, one junior high school, one high school, and a continuation high school.

The District's per student funding from unrestricted revenues is \$5,189, which is comparable to the other SLO County revenue limit districts.

The District projects a decline in enrollment of 82 in 2012-13 and 68 in 2013-14.

Deficit spending for 2011-12 is expected to total \$2.1 million. Projected deficit spending is \$2.4 million in 2012-13 and \$2.6 million in 2013-14. According to the County Office of Education, the projected deficit numbers for FY 2012-13 and FY 2013-14 assume a tax initiative passes. Should the tax initiatives fail, the District projects that the shortfall would grow by an additional \$1.7 million per year.

The District is required to have 3% in reserves. In 2011-12, the District expects to end the year with 3.01% in reserves. The County Office of Education External Fiscal Services staff raises questions about "the district's ability to make reductions of over \$3.5 million to \$7 million to achieve a 3% reserve level" for 2012-13 and 2013-14.

On the basis of the deficit spending and uncertain reserves, the County Office of Education concurs with the qualified certification for 2011-12.

Lucia Mar Unified School District

The district covers 550 square miles and serves the adjoining communities of Arroyo Grande, Grover Beach, Nipomo, Oceano, Pismo Beach, and Shell Beach and the surrounding unincorporated areas. The District has the largest school student enrollment in San Luis Obispo County and is governed by a seven-member Board.

Lucia Mar's average daily attendance is 10,205 students. The District has eleven elementary schools, three middle schools, two high schools, and one continuation high school.

The District's per student funding from unrestricted revenues is \$5,186, which is comparable to the other Revenue Limit school districts.

Enrollment is predicted to decline by 150 students for 2012-13.

The District projects unrestricted deficit spending of \$3.4 million in the current year, growing to over \$4 million in 2012-13, and \$5 million in 2013-14, absent budget reductions or revenue enhancements. These projected deficit spending numbers assume that a tax initiative passes. Should the tax initiative fail, the District anticipates an estimated \$400 per ADA loss in funding, equal to \$3.8 million in lost funding. Deficit spending at these levels is not sustainable, and will necessitate even larger budget reductions in future years.

The District projects reserves of 3% for 2011-12. Budget reductions of \$2 million will be needed in 2012-13, and an additional \$8.7 million in 2013-14, in order to maintain a 3% minimum reserve level, should the tax initiatives fail.

The County Office of Education staff agreed with the District's qualified certification indicating that the District may not be able to meet its financial obligations for the current fiscal year or two subsequent fiscal years.

Pleasant Valley Joint Union Elementary School District

Pleasant Valley Joint Union Elementary School District is located northeast of Paso Robles and east of San Miguel and serves the rural area of San Miguel and eastward. It is the smallest of the school districts in San Luis Obispo County and is governed by a five-member Board.

Pleasant Valley's average daily attendance is 108 students at Pleasant Valley Elementary School, the only school in the District.

The District's per student funding from unrestricted revenues is \$5,085, which is comparable to the other SLO County Revenue Limited districts.

The enrollment for 2011-12 increased by five, but there is no growth projected for 2012-13 or 2013-14.

Deficit spending for 2011-12 is expected to total \$21,312.

The County Office of Education concurs with the positive certification for 2011-12. The District is required to have 5% in reserves. In 2011-12, it had 11% in reserves and has projected 11% in reserves for 2012-13 and 7% in reserves for 2013-14. Pleasant Valley is only one of two Revenue Limit districts that has achieved a positive certification. An Interim Superintendent has been hired at a significantly lower salary than the previous Superintendent. This in part accounts for the District's ability to exceed its reserve requirement.

San Miguel Joint Union School District

San Miguel Joint Union School District serves the communities of San Miguel, Heritage Ranch and Lake Nacimiento, and the surrounding rural areas. The District is governed by a five-member Board.

The average daily attendance is 557 students at the two elementary schools in the District.

The District's per student funding from unrestricted revenues is \$5,078, which is comparable to the other Revenue Limit districts in the county.

There was an increase in enrollment of 60 students in 2011-12. It is projected that there will be an increase of 53 students from 2012-14.

In April, deficit spending for 2011-12 was expected to total \$711,939. The District reduced that early in May when it shortened its school year by five days. It is projected that deficit spending for 2012-13 will be \$244,190 and \$148,787 for 2013-14.

San Miguel is required to have 4% in reserves. For 2011-12, the District expected to end the year with 4.79% in reserves. The County Office of Education warned in April that multi-year projections show that the required reserves will not be achieved in FY 2012-13 and FY 2013-14 until additional budget adjustments are implemented.

The inability to maintain the required reserve levels within the ending balances of the subsequent two years reflected in the multi-year projections is the basis for the San Luis Obispo County Office of Education External Fiscal Services staff to concur with a qualified certification for 2011-12.

Shandon Joint Unified School District

The Shandon Joint Unified School District serves the communities of Shandon and Parkfield, and the surrounding rural areas. The District is governed by a five-member Board.

The District's average daily attendance is 203 students at its two elementary schools and one high school.

The District's per student funding from unrestricted revenues is \$5,492. Shandon is one of the smallest districts in the county and receives additional state funding granted to Necessary Small Schools.

Enrollment has been steady in 2011 and a slight increase of 4 students is projected for 2012-14.

Deficit spending for 2011-12 is expected to total \$ 251,800. Based on current revenue trends, the District projects deficit spending of \$210,461 in 2012-13, and \$91,747 in 2013-14.

Shandon is required to have 5% in reserves. In 2011-12 the District had 9.10% in reserves. However, the multi-year projection anticipates that the required reserves of 5% will not be achieved in FY 2012-13 and FY 2013-14 until additional budget adjustments are implemented.

The County Office of Education staff concurs with the qualified certification for 2011-12. Julian D. Crocker, County Superintendent of Schools, added, “I understand the financial circumstances faced by the district, given the current state budget crisis and the uncertainty surrounding education funding. Nevertheless, the district has no choice but to continue a high degree of fiscal discipline in order to meet its current future fiscal obligations.”

Templeton Unified School District

Templeton Unified School District serves the community of Templeton and the surrounding rural areas, and is governed by a five-member Board.

The District’s average daily attendance is 2,216 students. There are two elementary schools, one middle school, one high school, and one continuation high school in the District.

The District’s per student funding from unrestricted revenues is \$5,187, which is comparable to the other Revenue Limit districts in SLO County.

Enrollment in the district increased by 45 students in 2011-12 and is projected to stay stable.

Deficit spending for 2011-12 is projected at \$1.5 million. Deficit spending is expected to be \$815,703 in 2012-13 and \$643,752 in 2013-14. The County Office of Education warns that deficit spending at these dollar levels is not sustainable beyond FY 2013-14, and the District will need to reevaluate its spending priorities.

Templeton is required to have 4% in reserves. The District is expected to maintain 4% in reserves for 2011-12 and is projected to maintain 4% in reserves for 2012-13 and 2013-14.

Templeton Unified School District is one of only two Revenue Limit districts in the County to receive a positive certification for 2011-12 and was complimented for the detailed and comprehensive presentation of its First Interim Report. However, the County Superintendent of Schools, “cautions the district to be aware of the potential revenue shortfalls for the 2011-12 and 2012-13 State Budgets, and the likelihood of additional revenue reductions for school districts should a tax initiative fail or not generate the forecasted revenue levels.”

Basic Aid Districts

DISTRICTS	Number of Students	Funding per Student	Certification
Cayucos Elementary	212	\$8,971	Positive
Coast Union	731	\$10,506	Positive
San Luis Coastal	6,968	\$8,851	Positive

Revenue Limit Districts

DISTRICTS	Number of Students	Funding per Student	Certification
Atascadero Unified	4,667	\$5,189	Qualified
Lucia Mar Unified	10,205	\$5,186	Qualified
Paso Robles Unified	6,428	\$5,436	Negative
Pleasant Valley	108	\$5,085	Positive
San Miguel	557	\$5,078	Qualified
Shandon Unified	203	\$5,492	Qualified
Templeton Unified	2,216	\$5,187	Positive

See Appendix A for additional detail about how the levels of deficits and fund balances compare for the ten districts.

Revenue Sources for Schools

California schools are dependent on local property taxes and state funding for the vast majority of their revenues. Additional revenues can come from federal sources, school educational foundations, grants, state lottery allocations, rental income, and voter-approved parcel taxes. Parcel taxes require two-thirds approval of voters in the school district and assess the same dollar amount of taxes on each parcel, regardless of its assessed value.

In most SLO County school districts, educational foundations are limited in funds and offer small grants to teachers for specified projects. In California, a state-wide tax increase must be approved by two-thirds of the legislature of a majority of the state's voters, making passage difficult.

The California State Lottery was established in 1984 with the approval of Proposition 37. The Lottery's mandate in this Act was to provide supplemental funding to California public education at all levels from kindergarten through the University of California plus several specialized schools. Since the original stated intention was to increase funding for public schools, there is a common misconception that lottery funds would eliminate any funding problems that California school districts might encounter. The fact is that lottery funds have a very small impact on a school district's budget.

For example, in two of the larger school districts in North County in 2011, lottery revenues ranged from 1.5% of total revenues for Atascadero Unified to 2.4% for Templeton Unified. Paso Robles' lottery revenues in 2011 comprised 1.8% of total revenues. The County Superintendent of Schools reports the percentage of total revenues received by school districts countywide is 1.8%.³⁶ opposition 20 lottery funding is restricted to the purchase of materials and support services that may improve instruction.

³⁶The California State Lottery has been amended twice, in 2000 and 2010. The net effect has been to reduce administrative costs, and place restrictions on the use of a portion of lottery funds. The amount of lottery funds for prizes must be at least 50% of the revenue, and the balance less administrative costs, goes to the schools.

A ballot measure approved by voters in 1988, titled Proposition 98, enacted a complex set of formulas that were designed to assure that K-12 and community college funding was increased in years when the state was growing economically, and was held as stable as possible in years that tax revenues fell. The formulas have proven difficult to reconcile with state revenues and have not provided the floor in school funding that was the goal of Proposition 98 proponents.

CONCLUSIONS

The public schools in San Luis Obispo County are confronting an era of declining resources and student enrollment, and federally-mandated spending on special education, to which they have not fully adapted. All school districts in the County, even those with strong property tax revenues, are currently running annual deficits - their total annual expenditures exceed their total annual revenues.

Despite laying off staff, consolidating administrative positions and reducing the total number of positions, the Paso Robles Joint Unified School District found itself near insolvency earlier this school year. The Governing Board had not adopted sufficient measures to deal with the District's deteriorating financial position. As a result, the District would not meet its state-required financial reserve.

Absent state assistance in addressing the situation, local governing boards must find local solutions, which means addressing both revenues and expenditures.

In order to determine local solutions, however, local governing boards must educate themselves about school finance rather than relying almost solely on the expertise of administrative staff. Both the County Superintendent and state organizations offer budget and finance workshops to governing board members.

The immediate task is to break the current cycle of deficit spending. If this cycle is not broken, each district could eventually find itself in a situation similar to Paso Robles. Simultaneously, local districts must develop new financial resources for the long term, in order to maintain the viability of public primary and secondary education in the County.

If local governing boards and administrators do not take the actions needed to stop the downward spiral and restore financial health, the state will take over the districts and local control will be lost.

FINDINGS

Finding 1: A primary responsibility of a governing board is financial oversight and accountability.

Finding 2: Governing board members overseeing the county's ten districts, similar to governing board members statewide, are offered education and training in school district budgeting and financial oversight, but seldom take maximum advantage of the workshops offered.

Finding 3: All ten school districts in San Luis Obispo County are currently in deficit spending.

Finding 4: In January 2012, the County Superintendent of Schools agreed with the decision of the Paso Robles Joint Unified School District management to declare negative status.

Finding 5: The Paso Robles Joint Unified School District and its unions agreed to take six staff furlough days in May of this year, in order to reduce expenditures sufficiently to end the fiscal year with positive reserves.

Finding 6: The County Superintendent has issued "qualified" warnings to four other school districts, Atascadero, Lucia Mar Unified, San Miguel Joint Unified, and Shandon Joint Unified, and suggested that they make new budget cuts to remain solvent over the next two years.

Finding 7: Two districts, Templeton and Pleasant Valley, rely on Revenue Limit funding from the state, have maintained substantial reserves and are expected to weather the current state budget crisis with minimal disruption of their education programs.

Finding 8: Three Basic Aid districts, Cayucos, San Luis Coastal and Coast Unified, which receive revenue from local property taxes and have maintained substantial reserves, are expected to weather the current state budget crisis with minimal disruption of their education programs.

Finding 9: The County Superintendent of Schools has advised the county school districts to prepare budgets that assume the proposed ballot initiatives to raise state income taxes and sales taxes in order to increase funding for public education statewide will not pass.

Finding 10: During the current school year, State Lottery proceeds will provide about \$4.8 million to the ten school districts in San Luis Obispo County, 17 % less than the previous year and only 1.8% of the total \$267 million in annual revenues the ten school districts will receive this year.

Finding 11: A parcel tax is a viable revenue source for school districts; however, the two-thirds voter approval requirement is a substantial challenge.

RECOMMENDATIONS

Recommendation 1: The SLO County Office of Education should develop a minimum two-day mandatory education program for new governing board members with a concentration on budgeting and financial oversight, supplemented by an annual continuing training program.

Recommendation 2: Each governing board in the county should establish a policy requiring new board members to attend a minimum of two days of education on school district budgeting and financial oversight. Each governing board should also require follow-up financial training for board members annually.

Recommendation 3: The administration and Governing Board of Paso Robles Joint Unified School District should take additional budget cutting steps beyond the 12 annual furlough days scheduled for the next year, in order to be assured of achieving the County Office of Education Superintendent's recommended reserve at the end of the 2013-2014 fiscal year.

Recommendation 4: The administration and Governing Boards of Paso Robles, Atascadero, San Miguel and Shandon school districts should establish budget reductions in the coming year that will assure meeting the state's recommended reserve for districts of their size by the end of 2013-2014

Recommendation 5: The Governing Boards of Atascadero, Lucia Mar, Paso Robles, San Miguel, and Shandon school districts should seriously consider a parcel tax as a revenue source and educate the public about its importance and viability.

REQUIRED RESPONSES

1. The County Office of Education is required to respond to Findings 1, 2, 4, 6, 8, 9, 10, and 11, and Recommendation 1. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **August 27, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
2. The Governing Board of Paso Robles Joint Unified School District is required to respond to Findings 1, 2, 3, and 5, and Recommendations 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
3. The Governing Board of Atascadero Unified School District is required to respond to Findings 1, 2, 3, and 6, and Recommendations 2, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
4. The Governing Board of Cayucos Elementary School District is required to respond to Findings 1, 2, 3, and 8, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

5. The Governing Board of Coast Unified School District is required to respond to Findings 1, 2, 3, and 8, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
6. The Governing Board of Lucia Mar Unified School District is required to respond to Findings 1, 2, 3, and 6, and Recommendations 2 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
7. The Governing Board of Pleasant Valley Joint Union Elementary School District is required to respond to Findings 1, 2, 3, and 7, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
8. The Governing Board of San Luis Coastal Unified School District is required to respond to Findings 1, 2, 3, and 8, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
9. The Governing Board of San Miguel Joint Union School District is required to respond to Findings 1, 2, 3, and 6, and Recommendations 2, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
10. The Governing Board of Shandon Joint Unified School District is required to respond to Findings 1, 2, 3, and 6, and Recommendations 2, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

11. The Governing Board of Templeton Unified School District is required to respond to Findings 1, 2, 3, and 7, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402
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The email address for the Grand Jury is: GrandJury@co.slo.ca.us

APPENDIX A

FY 2011-12 Revenues, Expenditures, and Fund Balances

Basic Aid School Districts

School District ==>	Cayucos	Coast	San Luis Coastal
1. Revenues	\$2,385,146	\$9,841,855	\$71,038,923
2. Expenditures	\$2,666,010	\$10,902,136	\$79,896,532
3. (Deficit) or Surplus Line 3 equals Line 1 minus Line 2	(\$280,864)	(\$1,060,281)	(\$8,857,609)
4. Transfers IN from Other Sources	\$75,000	\$17,753	\$300,000
5. Transfers OUT to Other Uses	\$18,409	\$100,000	\$0
6. Net (Decrease) or Increase Line 6 equals Line 3 plus Line 4 minus Line 5	(\$224,273)	(\$1,142,528)	(\$8,557,609)
7. Beginning Fund Balance, 01 July 2011	\$685,881	\$3,467,851	\$25,826,574
8. Ending Fund Balance, 30 June 2012 Line 8 equals Line 7 plus Line 6	\$461,608	\$2,325,323	\$17,268,965

Small School Districts - Revenue Limit

School District ==>	Pleasant Valley	San Miguel	Shandon
1. Revenues	\$893,896	\$4,679,915	\$3,320,711
2. Expenditures	\$915,208	\$5,223,520	\$3,572,511
3. (Deficit) or Surplus Line 3 equals Line 1 minus Line 2	(\$21,312)	(\$543,605)	(\$251,800)
4. Transfers IN from Other Sources	\$0	\$21,418	\$0
5. Transfers OUT to Other Uses	\$0	\$189,751	\$0
6. Net (Decrease) or Increase Line 6 equals Line 3 plus Line 4 minus Line 5	(\$21,312)	(\$711,938)	(\$251,800)
7. Beginning Fund Balance, 01 July 2011	\$314,720	\$924,892	\$714,044
8. Ending Fund Balance, 30 June 2012 Line 8 equals Line 7 plus Line 6	\$293,408	\$212,954	\$462,244

Large School Districts - Revenue Limit

School District ==>	Atascadero	Lucia Mar	Paso Robles	Templeton
1. Revenues	\$36,253,758	\$80,152,964	\$54,145,017	\$16,458,315
2. Expenditures	\$38,681,248	\$83,553,823	\$56,188,226	\$17,753,074
3. (Deficit) or Surplus Line 3 equals Line 1 minus Line 2	(\$2,427,490)	(\$3,400,859)	(\$2,043,209)	(\$1,294,759)
4. Transfers IN from Other Sources	\$300,000	\$0	\$115,000	\$3,000
5. Transfers OUT to Other Uses	\$0	\$0	\$0	\$169,546
6. Net (Decrease) or Increase Line 6 equals Line 3 plus Line 4 minus Line 5	(\$2,127,490)	(\$3,400,859)	(\$1,928,209)	(\$1,461,305)
7. Beginning Fund Balance, 01 July 2011	\$5,037,809	\$13,051,477	\$2,614,875	\$4,011,672
8. Ending Fund Balance, 30 June 2012 Line 8 equals Line 7 plus Line 6	\$2,910,319	\$9,650,618	\$686,666	\$2,550,367

Source: San Luis Obispo County Office of Education, April 17, 201012

APPENDIX B

Monitoring and Oversight per Assembly Bill 1200

Fiscal monitoring and oversight of school districts is accomplished using guidelines provided through numerous federal and state regulations, particularly Assembly Bill (AB) 1200, School District Budget Review,³⁷ and AB 2756, Financial Accountability & Oversight Provision.³⁸

AB 1200 and AB 2756 define a system of fiscal accountability for school districts and county offices of education to prevent school district fiscal insolvency. The law requires school districts to:

- develop multi-year financial projections
- identify sources of funding for substantial cost increases, such as employee raises, and
- make public the cost implications of such increases before approving employee contracts.

AB 1200, AB 2756 and other related legislation is simply referred to as “AB 1200” in school fiscal monitoring circles.

In addition to monitoring school district budgets, the staff of San Luis Obispo County Office of Education (SLOCOE), External Fiscal Services, provides financial management assistance and reviews of non-voter approved debt issuance, collective bargaining, and a countywide pooled financing for tax and revenue anticipation notes.³⁹ California’s Department of Education has developed forms and computer software to aid school district accounting technicians and officials to report consistently and completely school districts’ fiscal solvency to the County Superintendent of Schools. The County Superintendent either concurs or does not concur with the school districts’ reports.

State law designates “apportionment funds” from state and federal agencies received directly or through the San Luis Obispo County Auditor/Controller’s Office to be distributed pursuant with each agency’s restrictions to school districts.

³⁷ Chapter 1213 of the 1991 California Statutes

³⁸ Chapter 52 of the 2004 California Statutes

³⁹ Tax and revenue anticipation notes are issued by units of local government to solve problems associated with the mismatch between the receipt of property tax or other revenues and ongoing expenditures.

Training for school district business staff is provided by the San Luis Obispo County Office of Education, External Fiscal Services staff through Quarterly Accounting Workshops and a Year End Workshop, as needed. School district officials meet monthly to discuss current issues and accounting practices.

In accordance with AB 1200, the County Superintendent of Schools has fiscal oversight responsibility for school districts in San Luis Obispo County. The California Superintendent of Public Instruction (SPI) has fiscal oversight responsibility over the County Superintendent. The SPI has authority to intervene in SLOCOE fiscal matters.

MANAGING MILLIONS:

ASSESSING TRANSPARENCY OF COMMUNITY SERVICE DISTRICTS

INTRODUCTION

A community service district (CSD) is formed and governed under the Principal Act of the State of California. The Local Agency Formation Commission (LAFCO)⁴⁰ oversees the formation of a district and which active powers it holds (see *Government Code 61100* for a full listing). Control of each district originates with the registered voters within the district's boundaries who elect a Board of Directors, which then acts on their behalf.

The budgets of the 15 Community Service Districts (CSDs) in San Luis Obispo County (the County) total nearly \$31 million. The budgets of these CSDs range from zero to \$7,330,000. CSD responsibilities range from providing a single service, such as road maintenance, to multiple services, such as water, sewer, fire, trash collection, and lighting. Managed by a board of five people elected from their respective community, each CSD's operation profoundly impacts the quality of the infrastructure and, therefore, the quality of life in that CSD.

This Grand Jury report addresses how readily CSD residents can find information on the Internet about how their CSDs are governed and how their budgets are allocated. In order to make this determination, the Grand Jury examined and compared the relevant and/or legally required information each CSD offers its constituents via its website.⁴¹

⁴⁰ The purpose of LAFCO is to encourage orderly growth and development, promote efficient provision of public services, preserve agricultural land resources, and discourage urban sprawl

⁴¹ Only CSDs are included in this report; special districts, such as sanitary districts, were not examined

AUTHORITY

Section 925 of the California Penal Code authorizes the Grand Jury to investigate special legislative or other districts in the county.

ORIGIN

Inspiration for this report came from new legislation,⁴² which took effect in January 2012 and requires that CSDs with a website post their board meeting agendas.

PROCEDURE

The Grand Jury identified 15 CSDs in the County, based on LAFCO records. The Grand Jury examined all available CSD websites and sent inquiries to the CSDs for more information. The CSDs provided all budget values for 2011-2012 (unless otherwise noted) and are rounded to the nearest \$10,000.

NARRATIVE

Below is a brief description of each CSD in the County with a discussion of its website information. Since many of the CSDs in the County are small and not well-known, the descriptions offered in the “location” field provide the reader with a general idea of the area served. It is neither a precise nor a legal definition.

⁴² Assembly Bill 392 and Government Code Section 5494.2, modification to the Ralph M. Brown Act

Avila Beach

Annual Budget: \$1,130,000

Location: Avila Beach

Charter: Water, Sewer, Street Lighting, Solid Waste, and Fire Protection

General Manager: Wallace Group

Website: None

Agendas: Not posted; *Budget*: Not posted; *Minutes*: Not posted

Lack of a website makes it very difficult to quantify what this district does or who should be contacted for more information. The absence of a website seems odd because this district performs many vital functions and operates with a large budget. LAFCO noted in its 2009 Municipal Service Review of Avila Beach CSD that it could “benefit from having a website.”⁴³ District residents must find it difficult to contact the professionals responsible for providing services. The non-profit Avila Beach Community Center/Civic Association serves a similar population to the CSD and supplies ample community information on its website.

California Valley

Annual Budget: \$350,000

Location: Far eastern edge of the county on Hwy 58

Charter: Solid waste pick up/disposal and road maintenance

General Manager: Sharee Washer

Website: <http://appliedvb.com/californiavalley>

Agendas: Posted; *Budget*: Not posted; *Minutes*: Posted

While the website provides California Valley residents a wealth of information, it lacks the annual budget. As required by law, board agendas are posted, as are board minutes. Records for each extend back several years. The website includes Board member profiles. It helpfully summarizes service availabilities and limitations in this remote community. Road maintenance request forms, trash and recycling statistics and other information useful to the population are included. With the wealth of

⁴³ LAFCO Avila Beach CSD Municipal Service Review, 2009, page 29

information provided it is surprising that the budget is excluded. The website is not linked from the county website.

Cambria

Annual Budget: \$7,330,000

Location: Cambria

Charter: Water, waste water, fire, trash, lighting, and community services

General Manager: Jerry Gruber

Website: <http://www.cambriacsd.org/cm/Home.html>

Agendas: Posted; *Budget*: Posted; *Minutes*: Posted

This excellent website includes board meeting minutes, agendas, annual budget, audio of board meetings, pertinent codes, public records request forms, Parks and Recreation Department details, emergency operations information, and almost anything else district residents might need. While the history of agendas and board minutes is extensive, meeting minutes have not been updated since December of 2011. There is a comprehensive list of contact telephone numbers for community services and district board members. Residents may also learn more about their water rates, start and stop service, and obtain updates on area projects. This CSD complies with the agenda posting requirement. Overall, it is very attractive, useful, and easy to use. The website links from the county site.

Creston Hills Ranch

Annual Budget: None

Location: South of Hwy 41, west of Webster Street

Charter: Improve and maintain roads

Website: None

Agendas: Not posted; *Budget*: No budget; *Minutes*: Not posted

No board member information was found. By letter, this CSD explained that it has no budget and the bylaws do not allow for a budget.

Ground Squirrel Hollow

Annual Budget: \$200,000

Location: East of Paso Robles

Charter: Road maintenance services

General Manager: Lonnie Lepore, Wallace Group

Website: <http://www.groundsquirrelhollowcsd.org>

Agendas: Posted; *Budget*: Outdated; *Minutes*: Posted

This small, single-function CSD has a very nice website. It provides board minutes and agendas, as well as information useful to the community members (community bulletin board, building permit details, etc.). The lengthy history of board agendas and minutes is up to date. However, there is no mailing address for the district on the website. The most recent budget posting dates from 2009-2010, yet a new budget has been approved by the date of this report. This CSD meets the requirement to post the board agenda. The website does not link from the county website.

Heritage Ranch

Annual Budget: \$2,300,000

Location: Lake Nacimiento area

Charter: Water and sewer services, solid waste, parks and recreation

General Manager: John D'Ornellas

Website: <http://www.heritageranchcsd.com>

Agendas: Posted; *Budget*: Posted; *Minutes*: Posted

This thorough and attractive website features board agendas, minutes and the budget. It also offers residents a calendar of events, employment applications, and many other useful resources. It is attractive and easy to use. Despite the very thorough nature of the website, it lacks an email or phone number for the district's general manager. This CSD meets the requirement to post the board agenda. The county website links here successfully.

Independence Ranch

Annual Budget: \$170,000

Location: Near San Miguel

Charter: Road maintenance

General Manager: John Eulberg

Website: <http://www.iranch.org>

Agendas: Not Posted; *Budget*: Posted; *Minutes*: Outdated

For a small district this website provides adequate information on board minutes and district budgets, as well as contact information for board members and management. In keeping with the charter, it also provides maps and road maintenance information. No new minutes have been posted since December of 2011 and the “agenda” link actually contains minutes from the same month. It is not apparent that the board agenda is posted prior to board meetings, so this website may not be in compliance with the law. The website is not linked from the county website.

Linne Road

Annual Budget: \$60,000

Location: Pomar/Estrella planning area

Charter: Road improvements and maintenance

Website: No

Agendas: Not Posted; *Budget*: Not Posted; *Minutes*: Not Posted

Without a website, it is difficult to find information about this CSD. Board member and general manager information, which is available through LAFCO, is outdated, as is the contact information for the district. This district’s budget is very small.

Los Osos

Annual Budget: \$4,290,000

Location: Los Osos

Charter: water, wastewater, drainage, parks, recreation, street lighting, solid waste, fire emergency and rescue response

General Manager (interim): Mitch Cooney

Website: <http://www.losososcscsd.org/cm/Home.html>

Agendas: Posted; Budget: Posted; Minutes: Posted;

Consistent with the wide-ranging services provided, the Los Osos website contains a great deal of information, including the legally required board agenda, plus minutes and the budget. Additional community benefits include linking to the local Chamber of Commerce, a document library, and emergency management resources. One element, unique in the county to this district, is the ability to borrow board meeting DVDs. This CSD meets the requirement to post the board agenda. The county website links to this website.

Nipomo

Annual Budget: \$3,800,000

Location: Nipomo

Charter: Water, wastewater, solid waste franchise, some street lighting and drainage, parks

General Manager: Michael S. LeBrun

Website: <http://www.ncsd.ca.gov/cm/Home.html>

Agendas: Posted; Budget: Posted; Minutes: Posted

Nipomo's website includes easily accessible board agendas and minutes, and the budget. It is easy to find sewer and wastewater information and the community calendar of events. Overall, this highly informative website appears to provide the information district residents need, and it meets the requirement to post board agendas. The website appears to have a link from the county website, but the link is dysfunctional.

Oceano

Annual Budget: \$4,070,000

Location: Oceano

Charter: Water, sewer, fire protection, street lighting and “other miscellaneous items”

General Manager: Thomas Geaslan

Website: <http://oceanocsd.org/main>

Agendas: Posted; *Budget*: Posted; *Minutes*: Not Posted

A unique feature offered by Oceano’s website is the weekly “Friday Report” from the general manager. While this is a useful and informative offering, it does not make up for the lack of board minutes. The site includes a posting that combines the board package (a commendable offering) and agenda. The current budget resides on the website, as well as a calendar of events and bill-paying information. Board meetings are televised and the website provides a link for those wishing to access more information. This CSD complies with the agenda-posting law. The county website lists a link to this website, but that link does not work.

San Miguel

Annual Budget: \$1,380,000

Location: San Miguel

Charter: Water, wastewater, solid waste

General Manager: Rene Salas

Website: <http://www.sanmiguelcsd.org>

Agendas: Posted; *Budget*: Not posted; *Minutes*: Not posted

The required board agenda can be found on this website, along with a personnel directory and information for water, fire, and sewer services. No minutes or budget information is provided. As required by law, the agenda is posted and current. What appears to be the board package is included, a very nice feature. The county website links to this site.

San Simeon

Annual Budget: \$530,000 (from 2010-2011)

Location: San Simeon

Charter: Utility services

General Manager: Charlie Grace

Website: <http://www.sansimeoncsd.com>

Agendas: Posted; *Budget*: Not Posted; *Minutes*: Posted

This small district provides board agendas, minutes and, unlike many other websites, the board packet. Ordinances, committee information, and the water master plan can also be found here. Board members can be emailed directly. Unfortunately, an actual copy of the budget is not posted but this information could probably be found within the board meeting minutes. This CSD is in compliance with the law regarding posting of the agenda. The county website displays a link to the San Simeon CSD website, but it does not work.

Squire Canyon

Annual Budget: \$30,000

Location: North of Pismo Beach, east of the 101

Charter: Improve and maintain roads, including drainage

General Manager: Lonnie Lepore/Wallace Group

Website: <http://www.squirecanyoncsd.com>

Agendas: Broken links; *Budget*: Not Posted; *Minutes*: Broken links

This website promises much, but delivers little. Board agendas and minutes are listed, but when they are accessed, the documents cannot be found. With the current agenda unavailable, this website does not comply with the law. A link on the website offered an out-of-date budget (2009-2010), but it is not there. There is an audit available on line, but it dates from 2009. The board of this district meets only four times a year. Overall, the content of this website seems appropriate for such a small district responsible only for roads, but the links to documents should work. The site is completely devoid of any

form of contact information – no telephone numbers, no mailing addresses, and no emails that work. The county website does not link to this website.

Templeton

Annual Budget: \$5,140,000

Location: Templeton

Charter: Water, wastewater, trash, fire (volunteer), parks & recreation

General Manager: Jeff Hodge

Website: <http://www.templetoncsd.org/cm/Home.html>

Agenda: Posted; *Budget*: Not Posted; *Minutes*: Not Posted

With board agendas posted, it is odd that this site lacks board minutes. There is a link to the current budget, but it does not function. Further resources for the community posted to this website include a newsletter, employment opportunities and information about fire, park services, and conservation. Here residents can also find committee information and agendas, plus utility information. Strangely, only one phone number appears on the entire website, and it is not on the home page. This website meets the agenda-posting law and links from the county website.

CONCLUSION

The following table summarizes the information provided by the CSDs in San Luis Obispo County:

CSD	Budget	Website	Agenda Posted	Budget Posted	Minutes Posted
Avila Beach	\$1,130,000	No	No	No	No
California Valley	\$350,000	Yes	Yes	No	Yes
Cambria	\$7,330,000	Yes	Yes	Yes	Yes
Creston Hills Ranch	\$0	No	No	No	No
Ground Squirrel Hollow	\$200,000	Yes	Yes	Outdated	Yes
Heritage Ranch	\$2,300,000	Yes	Yes	Yes	Yes
Independence Ranch	\$170,000	Yes	No	Yes	Outdated
Linne Road	\$60,000	No	No	No	No
Los Osos	\$4,290,000	Yes	Yes	Yes	Yes
Nipomo	\$3,800,000	Yes	Yes	Yes	Yes
Oceano	\$4,070,000	Yes	Yes	Yes	No
San Miguel	\$1,380,000	Yes	Yes	No	No
San Simeon	\$530,000	Yes	Yes	No	Yes
Squire Canyon	\$30,000	Yes	Broken link	No	Broken link
Templeton	\$5,140,000	Yes	Yes	No	No
TOTAL	\$30,780,000				

CSD budgets in the county range from zero to \$7,330,000. In the main, the CSDs of the county provide websites which meet at least the minimal legal requirement to post board agendas. Some websites are excellent, while others are neglected, with outdated content and/or broken links.

Avila Beach provides no website, despite its large budget and recommendation from LAFCO to develop a website. With the exception of Avila Beach, most CSDs provide a level of information appropriate to their district charter.

FINDINGS

1. Avila Beach CSD lacks a website.
2. Linne Road CSD lacks a website.
3. California Valley CSD meets the agenda requirement, but posts no annual budget.
4. Cambria CSD meets the agenda requirement, but board minutes should be kept more current.
5. Ground Squirrel Hollow CSD meets the agenda requirement, but lacks an up-to-date budget and has insufficient contact information.
6. Heritage Ranch CSD meets the agenda requirement. It has insufficient contact information for the general manager.
7. Independence Ranch CSD does not meet the agenda requirement. The budget is posted but board minutes are outdated.
8. Los Osos CSD meets the agenda requirement, and provides many good links and information resources to the community.
9. Nipomo CSD meets the agenda requirement. It further benefits residents by including a great deal of additional information.
10. Oceano CSD meets the agenda requirement but lacks board minutes. The inclusion of the board package is a significant benefit to the residents, but combining it with the agenda makes finding it awkward.
11. San Miguel CSD meets the agenda requirement, but lacks minutes and a budget on its website. District stakeholders benefit from the posting of the board package.
12. San Simeon CSD meets the agenda requirement, but fails to post the budget and board minutes. Providing the board package online is a great service to district residents.
13. Squire Canyon CSD has broken links for its agenda and minutes, and no link for a budget.
14. Templeton CSD meets the agenda requirement, but does not post its minutes or budget on its website. It also has insufficient contact information.
15. The County's CSD web page contains several broken links to CSDs, and some CSDs with websites are not listed.

RECOMMENDATIONS

1. Avila Beach CSD, due to its size and the breadth of its services, should develop a website to comply with the LAFCO recommendation to do so.
2. The Avila Beach CSD website should have a functional link to its board agendas.
3. The Independence Ranch CSD website should have a functional link to its board agendas.
4. The Squire Canyon CSD website should have a functional link to its board agendas.
5. The Avila Beach CSD website should include a functional link to its annual budget and approved board minutes.
6. The California Valley CSD website should include a functional link to its annual budget and approved board minutes.
7. The Cambria CSD website should include a functional link to its annual budget and approved board minutes.
8. The Ground Squirrel Hollow CSD website should include a functional link to its annual budget and approved board minutes.
9. The Independence Ranch CSD website should meet the agenda requirement and include a functional link to its annual budget and approved board minutes.
10. The Oceano CSD website should include a functional link to its annual budget and approved board minutes.
11. The San Miguel CSD website should include a functional link to its annual budget and approved board minutes.
12. The San Simeon CSD website should include a functional link to its annual budget and approved board minutes.
13. The Squire Canyon CSD website should repair the link to its board agendas and minutes, and include a functional link to its annual budget.
14. The Templeton CSD website should include a functional link to its annual budget and approved board minutes.
15. San Luis Obispo County should repair or create links between its website and each CSD website.

REQUIRED RESPONSES

1. Avila Beach CSD is required to respond to Finding 1 and Recommendations 1, 2, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
2. California Valley CSD is required to respond to Finding 3 and Recommendation 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
3. Cambria CSD is required to respond to Finding 4 and Recommendation 7. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
4. Ground Squirrel Hollow CSD is required to respond to Finding 5 and Recommendation 8. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
5. Heritage Ranch CSD is required to respond to Finding 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
6. Independence Ranch CSD is required to respond to Finding 7 and Recommendation 9. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

7. Linne Road CSD is required to respond to Finding 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
8. Oceano CSD is required to respond to Finding 10 and Recommendation 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
9. San Miguel CSD is required to respond to Finding 11 and Recommendation 11. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
10. San Simeon CSD is required to respond to Finding 12 and Recommendation 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
11. Squire Canyon CSD is required to respond to Finding 13 and Recommendation 13. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
12. Templeton CSD is required to respond to Finding 14 and Recommendation 14. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.
13. The County of San Luis Obispo is required to respond to Finding 15 and Recommendation 15. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior

Court by **September 20, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The email address for the Grand Jury is: GrandJury@co.slo.ca.us

SAN LUIS OBISPO COUNTY EMERGENCY READINESS

INTRODUCTION

The 2011 earthquake/tsunami/nuclear disaster that revealed weaknesses in Japan's emergency preparedness inspired the 2011-2012 San Luis Obispo County Grand Jury to look at emergency preparedness in San Luis Obispo County. The Grand Jury initiated a study to assess San Luis Obispo County's overall process for resolving emergencies that threaten the well-being of public and private interests in the county.*

AUTHORITY

Section 925 of the California Penal Code authorizes the Grand Jury to "investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county..."

METHOD

The Grand Jury reviewed the emergency plans of county departments and prepared a list of questions for discussion with the department heads of the Office of Emergency Services (OES), Public Works, Public Health, and Cal Fire/SLO. The Grand Jury then interviewed these county officials. Each described their plans for dealing with emergencies.

The responses to the questions helped the Grand Jury to better understand their plans. The thoroughness of the county's planning processes and the responses to the questions allayed many of the Grand Jury's initial concerns. After the interviews, the Grand Jury submitted additional questions in writing to those interviewed and the California Highway Patrol (CHP). Their responses are an integral part of this report. To supplement interviews with county officials, members of the Grand Jury toured the County Emergency Operations Center (EOC), which operates under the OES.

*A number of acronyms are found throughout this report. For the convenience of the reader, there is a list of acronyms at the end of the report.

BACKGROUND

The county prepares for various levels of emergencies. The least serious and most common level is called an “incident.” Incidents occur daily and run the gamut from an automobile accident to a house fire. Resolving an incident generally requires few local resources. If an incident suddenly increases in its effect, it becomes a minor emergency requiring additional resources. For example, a brush fire may begin as a house fire and expand to surrounding areas. Major emergencies, on the other hand, are those that involve multiple, nearly simultaneous incidents and require application of much more significant resources. This study examines the county’s plans for dealing with and resolving incidents and both minor and major emergencies.

NARRATIVE

San Luis Obispo County Emergency Response System

When an incident occurs, the senior on-scene in-charge responder becomes the “incident commander.” Fortunately, few incidents cause problems beyond the local area in which they occur. If an incident requires additional resources, the incident commander first notifies his or her home agency. This action may, depending on its severity, prompt activation of a county Department Operations Center (DOC) or a city EOC for needed support.⁴⁴ Few incidents result in such activation.

⁴⁴All seven cities within the county have EOCs that serve as a center in which those responsible gather when an emergency occurs that necessitates supplying additional support to the incident commanders in the field.

The ten (of sixteen) most important county DOCs or their functional equivalents include:

- Public Health
- Public Works
- County Office of Education
- County Office of Emergency Services
- California Highway Patrol Dispatch Center
- CalFire Emergency Command Center (ECC)
- City Public Safety Answering Points (9-1-1 centers)
- Sheriff's Dispatch, and
- University Police at Cal Poly

In the event of a more serious incident that requires resources unavailable to the incident commander's home city EOC or county DOC, the county OES may be asked for help. It then coordinates the acquisition and deployment of the additional resources to the county DOC or city EOC that requested the support.

The Grand Jury learned from county EOC management that it contacts the city EOCs and county DOCs monthly to assess their readiness to function in concert with the county EOC. A checklist is used to verify *static* readiness (equipment tested and functional, and facilities operational) and some *dynamic* readiness (ability to send and receive detailed information about the emergency when required).

Many county volunteer organizations with minimal functional equivalents of EOCs or DOCs are activated during emergencies. On activation, they make their presence known to the county EOC, indicating that they are ready to supply pre-defined support on request.

When a major emergency results in multiple, nearly simultaneous incidents, involving multiple jurisdictions or agencies, the EOC uses the Standardized Emergency Management System (SEMS) protocols, which provide a set of basic emergency management principles, including the National Incident Management System (NIMS).⁴⁵

⁴⁵ The National Incident Management System (NIMS) was developed following the 9-11 attack on the United States.

Emergency personnel use NIMS to identify the implications of, and respond to, incidents and emergencies, regardless of the source. It requires the use of common terminology, structures, and operating principles. This approach is essential for reacting to and resolving emergencies requiring resources from or interactions with multiple institutions and organizations that are otherwise organizationally or functionally unrelated. The use of common processes ensures that all the sides working on resolving the emergency can communicate most effectively.

Unresolved incidents within the county EOCs and city EOCs may result in full activation of an Operational Area (OA), as mandated by the state when multiple municipalities or agencies are involved. Interagency coordination using the OA concept, coupled with prior established mutual aid agreements, was developed shortly after the terrorist attacks on September 11, 2001.⁴⁶

Communication

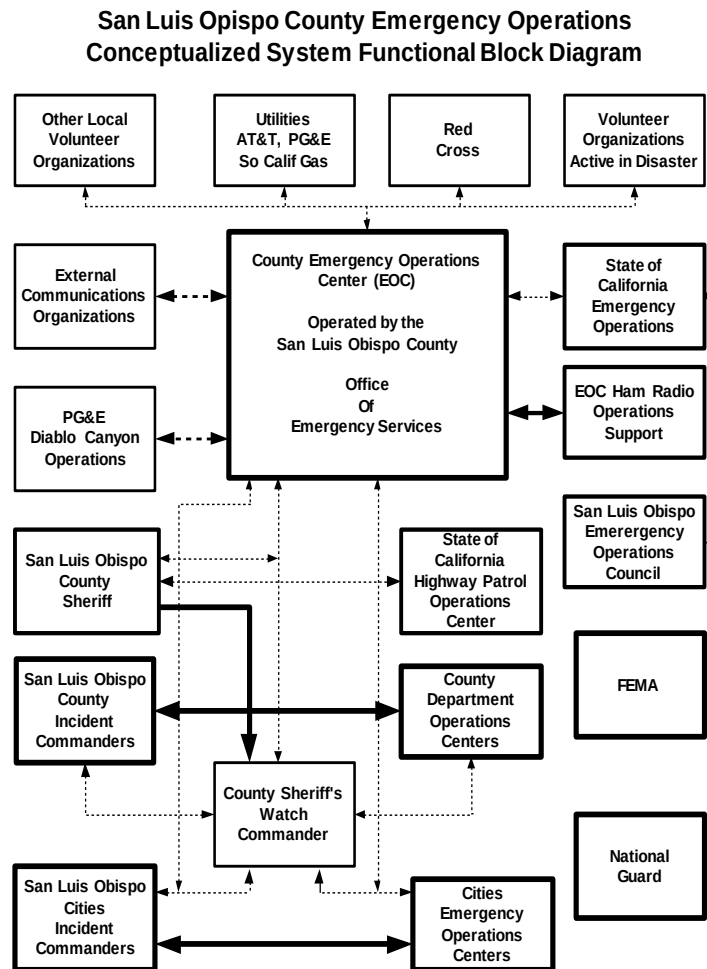
The county EOC uses WebEOC, a software program that provides multiple users with common approaches of documenting, dealing with, and communicating about emergencies. It allows the county to acquire, send, and store data generated during emergencies and exercises. The county EOC routinely saves data acquired during emergency response/recovery⁴⁷ operations and training exercises on three identical off-site data backup systems, to assure the data are always available when needed. This approach makes the county EOC less vulnerable to internal data accumulation and storage failures. This safety measure provides access to these data when reviewing processes to address and resolve specific incidents/emergencies.

The capabilities of WebEOC impressed the Grand Jury, especially its capacity for utilizing electronic display “boards” to document an incident and the recovery activities necessary to resolve it. These boards are the electronic equivalent of the black and white boards formerly used to document problem status (now called an incident).

⁴⁶*San Luis Obispo Emergency Operations Plan*, Part 1, Sections 5.4 through 5.6, Pages 50-55

⁴⁷ Response/Recovery: This is the period between occurrence of an incident or an emergency and its closure.

The figure below is a conceptualized System Function Block Diagram of the San Luis Obispo Emergency Operations communication process. Dashed lines indicate communication channels, line weight indicates relative interaction intensity, and solid lines indicate control responsibility. Communication intensity increases if incidents grow in effect.



CalFire is currently evaluating a pre-release version of the next-generation National Incident Command System (NICS) software. The Defense Advanced Research Projects Agency (DARPA) developed this software for Homeland Security. It allows those working to resolve incidents or operating in EOCs and DOCs to use the internet to see real-time incident mapping updates. If it proves to be more effective than WebEOC, its eventual broader use within the county may provide more interactive data exchange than is currently available from WebEOC.

The county EOC has several communication backup systems. In the event of the loss of web-based services crucial to the use of WebEOC, the county will use radio transceivers and ham radio operators to communicate, as was done in prior years. In addition, the county EOC has a satellite phone system that facilitates communication with agencies outside of the emergency area. These communication channels are regularly tested and maintained to ensure the emergency response system remains functional.

Education and Training

County EOC personnel provide education and training to others in the use of WebEOC software. The County OES is developing an expanded education and training process for all WebEOC users. Data are accumulated during education and training exercises, which are then included in an EOC "after action" file, supplemented by action meetings and accompanying documentation. After-action debriefings help document lessons learned from the exercise. The EOC staff takes similar action after actual events that required EOC activation.

For example, after the March 11, 2011 Japanese tsunami, multiple local agencies met as a training exercise to review the data acquired. An additional training exercise followed with other involved agencies and jurisdictions. The purpose of this after-action documentation process is to ensure that any problems experienced in the response process are rectified and documented to preclude their reoccurrence.

During the county EOC tour, the Grand Jury learned that training exercises had clearly demonstrated an ability to quickly staff the county EOC in an emergency. For example, the 2003 San Simeon earthquake resulted in a fully-staffed county EOC within 29 minutes. More recently, an early morning Diablo

Canyon nuclear power plant (Diablo Canyon) alert in March 2011 produced similar results. However, because there was no county infrastructure structure damage that might have precluded such rapid EOC staffing, it is not clear that, during a real emergency, such rapid EOC staffing will be possible.

Senior personnel should be involved in pre-emergency education and training. Fortunately, the County Administrative Officer is heavily involved in training and takes his role as the County's Emergency Services Director seriously. Other senior county managers understand the importance of their participation in emergency training exercises and function accordingly. Senior county management has been involved in multiple training exercises and during events such as the March 11, 2011 tsunami alert.

County Emergency Operations Center

During the Grand Jury tour of the county EOC, the focus was on the EOC's internal functions, as well as its capacity to communicate with multiple internal and external organizations and agencies. Of special interest to the Grand Jury was the EOC's ability to react to and coordinate the county's response to multiple emergency scenarios. Such scenarios range from the least probable, e.g., a system malfunction at Diablo Canyon that stimulates either a site area or general emergency⁴⁸ to more probable emergencies such as flooding due to extended rainfall.

The building in which the county EOC is based is located only one-half mile beyond the ten-mile Protective Action Zone (PAZ) for Diablo Canyon. The PAZ is recommended by the Nuclear Regulatory Commission (NRC). The county EOC and the Sheriff's Watch Commander (SWC) are located on the first floor of the facility and PG&E⁴⁹ emergency response personnel occupy the second floor.

The county has identified alternate EOC facilities in Paso Robles and Atascadero, if an emergency should make the county facility unusable. EOC management has surveyed these facilities and understands their strengths and weaknesses. Because of the limited space at these alternate sites, it may be necessary to use two online WebEOC-connected sites. Since EOC data is stored on the county's computers, access from these alternate EOC locations is simplified.

⁴⁸ Site area and general emergencies are two of four PG&E emergency categories.

⁴⁹ PG&E owns the building in which EOC is located.

The county also has inter-agency agreements with adjoining counties for moving its officials outside of the county, if a major emergency causing very severe damage makes this evacuation process essential. In that event, the EOC is required to notify California Emergency Operations of the change of location.

To ensure the EOC can function if an emergency affects its primary electrical power source, the EOC has backup power capability sufficient for six days of operation. Public Works, Cal Fire, Public Health, the Office of Emergency Services (OES), and the County Office of Education all have similar capabilities. In addition, two state Homeland Security grant-funded mobile communication units are available to serve as virtual EOCs, backup dispatch centers or DOCs. The volunteer ham radio operators⁵⁰ that support the county EOC also have backup power.

The Grand Jurors who toured the county EOC found management and emergency coordinators competent, with a clear understanding of their roles and responsibilities. The tour also demonstrated the county EOC's capacity to accommodate the large number of people involved in reacting to a major emergency.

Emergency Evacuation

The county EOC, the County Sheriff, and the CHP have detailed, complementary evacuation plans outlining the processes used to move people from the site(s) of an emergency to safe areas. The plans address differing emergency scenarios, ranging from earthquakes to hazardous material spills. The public agencies involved have access to these plans and, during any serious emergency involving evacuation, the CHP plans to have liaison officers at each activated city EOC.

If a problem at Diablo Canyon warrants evacuation, the CHP and County Sheriff have detailed evacuation plans down to the level of the personnel required, timing, and the traffic control points necessary to evacuate each PAZ. The CHP also has plans to prevent traffic from entering the county during such an emergency and has identified useable detour routes.

⁵⁰ San Luis Obispo County Emergency Communications Council (SLECC) is the logistic support organization for amateur radio emergency communications in San Luis Obispo County. <http://www.slocounty.ca.gov/it/sloecc.htm> .

In a 2002 study sponsored by PG&E, the county EOC developed detailed estimates of the time required to evacuate specific PAZ areas. These data will be extrapolated to assess non-Diablo Canyon emergency evacuations. In 2011, the EOC conducted a telephone survey, data from which will be compared to data from the original survey. The EOC will use this updated information on evacuation times to validate and update the previously acquired information.

The county EOC is the evacuation coordinating entity. The CHP and the County Sheriff both operate from the EOC when it is activated during a major emergency. They act in unison to ensure that evacuation is carefully planned and coordinated. EOC-based emergency personnel also interact with the Caltrans Traffic Management Center, related agencies, and CHP dispatch. These agencies, in turn, coordinate evacuation and traffic control.

During a declared mandatory evacuation involving defined PAZ areas, the county will provide public transportation to people without transportation or who have special needs. The county OES maintains a special list of individuals who require such assistance. The county annually mails cards to all addressees in the Diablo Canyon PAZ to identify their needs.

Residents in other areas of the county with special needs can notify their local fire department to be added to the list. This information allows county Public Health to identify who they are and what support they might need when resources are available. In addition, major emergencies that involve large-scale evacuations will prompt county activation of a specific phone number for their use to request help. The media will notify the public of this information and the phone number to call at the time of the evacuation.

The Red Cross works closely with the county and other agencies to open, staff, and equip evacuation shelters. The Red Cross has action teams on standby for emergencies that range from a single house fire to major emergencies. It also has plans to provide the shelters necessary to support the needs of evacuees.

For example, in March 2011, the Red Cross, reacting to the tsunami warning, established and staffed six evacuation centers with provisions to accommodate large numbers of evacuees. The Red Cross also opened an evacuation shelter during the December 2010 storms to meet evacuee needs.

Local government agencies and the Red Cross, coupled with the Volunteer Organizations Active in Disaster (VOAD)⁵¹ organization, have a long-established working relationship; evacuees have utilized these resources many times. VOAD has over 40 organizations working together to promote communication, cooperation, coordination, and collaboration among community organizations, faith-based groups, private companies, and government agencies to streamline service delivery to people affected by disasters, while eliminating duplication of effort.

The strain placed on County Sheriff and CHP personnel by a major evacuation process may limit their ability to protect public and private property. In that event, the Sheriff and the CHP would call on other counties, using pre-negotiated mutual aid agreements, to help in this capacity. Obtaining this support is only a solution if those counties are not similarly affected by the emergency. If that were the case, local authorities would have to request that the governor call out the California National Guard.

The ten relatively autonomous school districts in the county have slightly over 34,000 students. The County Office of Education is the interface between these districts and the California Department of Education. Each district has an evacuation plan, ranging from shelter-in-place to the transportation of students to pre-designated, off-campus assembly sites. During the first week of school each year, students' families receive information with details of the plan. As a result, parents will know where their children will be kept or taken in the event of an emergency.

To reduce potential mix-ups, the school buses have radio transceivers that allow the drivers to communicate among themselves and with their home district. The missing link in this communication chain is a radio transceiver connection between the districts and their buses and the County Office of Education, and hence to the county EOC. The County Office of Education, in coordination with the county EOC, is pursuing potential sources of funds to acquire these radio transceivers. County Office of

⁵¹ VOAD: www.slovoad.org

Education communication to and from school buses was the subject of a finding and recommendation by a previous Grand Jury.⁵²

One issue not discussed in any county emergency planning literature is the potential need for management and care of evacuees entering the county due to major emergencies in contiguous areas. One possible scenario is a rupture along the San Andreas fault that might create an influx of people from the affected areas in a magnitude nearly equivalent to a major county emergency.

Citizen Involvement and Education

It is the Grand Jury's understanding that most citizens have little knowledge or awareness of how public officials plan to deal with emergencies. Without an understanding of the plans made by the professionals, citizens may inadvertently thwart the efforts of the emergency planners. If they understood that public officials have detailed plans, and a workforce educated and trained to deal with such emergencies, they might be less prone to react inappropriately. Knowledge will not necessarily prevent panic, but may reduce its impact. At the April 4, 2011 Board of Supervisors meeting, an emergency planner from Diablo Canyon strongly echoed this sentiment.

This county is fortunate to have many entities that provide emergency education and training, such as the Red Cross, local cities, and others. Training for residents of the county is available through the Community Emergency Response Team (CERT) training program, which provides training in preparedness and team response. The San Luis Obispo County Fire Chiefs Association and the Sheriff's Advisory Council sponsor the program.

The goals of CERT are:

- To prepare your family and home to survive all types of disasters.
- To protect yourself first so that you will be able to help others.
- To assist family and neighbors during the time of a disaster.
- To work, if you so desire, as part of an emergency response team in the community.

⁵² The 2009-2010 Grand Jury recommended that all county school buses and the headquarters of the County Superintendent of Schools be equipped with two-way radios to ensure their ability to communicate internally with and with the EOC.

The CERT training program is a 20-hour course consisting of five evening classes and covers:

- Earthquake/Disaster Awareness
- Preparation/Emergency Supplies
- Hazard Awareness/Mitigation
- Disaster Medicine
- Disaster Psychology
- Light Search and Rescue Techniques

Some communities are currently offering this course to their citizens. There is a charge to cover the cost of materials distributed to the trainees.

If the public spent time online reviewing the county's emergency plans, it would be better informed. However, one plan has over 500 pages and the other has over 160 pages. More concise plans or summaries thereof would provide a more effective communication vehicle for the general public.

Some, but not all, phone books list nuclear and other emergency information. The information includes:

- emergency and siren activation information
- diagrams of the PAZ
- a list of public school and assigned relocation sites
- descriptions of emergency planning zones
- collection points for those without other transportation
- suggested family evacuation plans and checklists
- suggestions for use of potassium iodine, and
- phone numbers to call for information and help during a major emergency.

Each year the county OES and PG&E provide an emergency preparedness calendar with extensive emergency and safety information regarding the Diablo Canyon nuclear power plant. The Nuclear Regulatory Commission and the Federal Emergency Management Agency require and regulate this information.⁵³

⁵³www.slocounty.ca.gov/OES/oesinfo.htm

Pacific Gas & Electric Activities

Last year, PG&E sponsored ten “First Responder Workshops,” including one in San Luis Obispo. At these workshops, PG&E included, for the first time, the utility’s gas transmission system map. PG&E’s plans outlined how they would manage emergency scenarios ranging from gas pipeline and electrical equipment incidents to power line damage by metallic⁵⁴ balloons. It also defined who should receive emergency training and its frequency. PG&E provides resources to 38 public service organizations in San Luis Obispo County to ensure that county organizations participate in its planning process.

Additionally, PG&E funds 4.25 out of 5.00 positions in the county OES. PG&E also provides the building in which the EOC is located. Furthermore, the county OES regularly coordinates training with PG&E on-site and off-site emergency responders.

PG&E officials want to ensure that its projections of worst-case emergency scenarios are valid. They also want residents to understand this and have confidence in the safety aspects of the nuclear power plant operations. To respond to concerns about earthquake or tsunami effects on the Diablo Canyon nuclear power plant, PG&E is planning to make extensive three-dimensional (3-D) measurements of the Hosgri and Shoreline faults which bracket the plant. Once available, these measurement data will be compared to data compiled prior to plant construction. These measurements will provide new information to reevaluate plant design and safety margin. Furthermore, PG&E will provide the resulting analysis to the NRC for its independent review.

Emergency Recovery Operations

The county’s emergency recovery plan provides detail on the processes required to acquire state and federal funds. It lists funding sources and types of facilities that would consider funding. It also lists the estimated cost (as of the date the plan was prepared) of replacing county infrastructure. The county will likely seek Stafford Act⁵⁵ support to recover from a major presidential-declared disaster. Depending on

⁵⁴ Metallic balloons have an external metal coating that often creates power line short circuits.

⁵⁵Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-707, signed into law November 23, 1988; amended the Disaster Relief Act of 1974, PL 93-288. This Act constitutes the statutory authority for most Federal disaster response activities, especially as they pertain to FEMA and FEMA programs.

the scope of the emergency, the county will seek recovery funding from multiple state and federal agencies.

Obtaining state and federal recovery funds is time-consuming. Quick formation of teams to define and document infrastructure damage is important following the onset of an emergency, in order to expedite the process. This approach could avoid or mitigate potentially negative post-recovery audits by the federal government.

A belated audit of two recent local cases involving government disaster recovery funds resulted in findings of misapplied funds by the cities involved. The federal government is now seeking to recover the funds. Careful documentation of damage and close adherence to regulations will diminish the likelihood of subsequent government demands for the recovery of similar emergency-related funds.

CONCLUSION

Throughout San Luis Obispo County, the Grand Jury found a high level of readiness in emergency planning. The OES, other relevant government agencies, PG&E, and volunteer organizations have plans and tools to promote public safety in the event of emergency. However, members of the public should also take steps to prepare themselves for emergencies.

This study could be used as the basis for other more detailed and focused reports on:

- how multiple, county-wide volunteer groups provide support during emergencies
- communication links between those working on incidents in the field and their home DOCs and EOCs
- evacuation plans and approaches
- education and training of emergency responders
- education and training available to the public, and
- communication among multiple public agencies and the public

COMMENDATION

The Grand Jury generated this report in close cooperation with the management of the County Office of Emergency Services. The almost continuous interaction over many months helped the Grand Jury understand the details and thoroughness of the county's readiness for dealing with a wide range of emergencies. The Grand Jury applauds the county's efforts in emergency preparedness, in both planning and training.

This is an informational report that does not require a response.

LIST OF ACRONYMS

CERT – Community Emergency Response Team
CHP – California Highway Patrol
DARPA – Defense Advanced Research Projects Agency
DOC – Department Operations Center
ECC –Emergency Communication Center– Cal Fire
EOC – Emergency Operations Center
NIMS – National Incident Management System
OA – Operational Area
OES – Office of Emergency Services
PAZ – Protective Action Zone
SEMS – Standardized Emergency Management System
SWC – Sheriff's Watch Command
VOAD – Community Emergency Response Team

THE GRIZZLY YOUTH ACADEMY: DREAM, BELIEVE, ACHIEVE

An Ending as the Beginning:

“At the end of our tour, my last impression will be of a young man (with whom I had lunch) who passed me on the way out of the cafeteria. He turned and smiled and said ‘Thank you ma’am, so much for coming and visiting’.”--- Grand Juror

And Now the Rest of the Story:

The California National Guard Grizzly Youth Academy (Grizzly Academy), located at Camp San Luis, opened its doors in August, 1998 to 73 student cadets. This first class graduated in January 1999. Since then, nearly 4,000 youth (ages 16-18) have completed the 22-week long academic/residential phase. The Grizzly Academy serves at-risk youth from central and northern California.

THE NATIONAL GUARD YOUTH CHALLENGE PROGRAM

The National Guard Youth ChalleNGe program was established in 1991, when the United States House Armed Services Committee tasked the National Guard to develop a plan to help at-risk teens and “add value to America.” In 1993, the Youth ChalleNGe program began a three-year pilot program to provide values, skills, education, and discipline to young people using the structure and esprit de corps of the military model. Fifteen states participated in the pilot program, which became a permanent National Guard program in 1996.

Today, the Camp San Luis-based Grizzly Academy program is one of 34 such operations in 27 states and Puerto Rico. A second program in California is based in Los Alamitos and serves southern California counties.

ORIGIN

The 2010-2011 Grand Jury visited the Grizzly Academy and recommended that subsequent Grand Juries also visit.

METHOD

Two different groups from the 2011-2012 Grand Jury visited the Grizzly Academy at different times, in the fall and the winter, thereby allowing Grand Jurors the opportunity to observe two different cadet cohorts. During an orientation by Major Oberg and key staff, Grand Jurors were provided informational materials and background on the National Guard commitment to the program. Following a question and answer session, Grand Jurors toured the cadets' living quarters (barracks). Grand Jurors then had an informal discussion with the principal (first tour) and assistant principal (second tour) about the education program. Each visit concluded with conversation over lunch with the cadets, a highlight of the tour.

"The Grizzly tour was an eye-opener for me. I had heard about the program and work that was being done with the young people, but to see them in operation and meet the staff was terrific. My takeaway is how impressed I am with the staff (cadre) and their commitment to the program and the kids enrolled. The staff really take an interest in the cadets and go all out to see that the cadets succeed. They are so involved with them and know what makes them tick and what guidance is needed. Plus, they are such encouragers."--- Grand Juror

This commendation report is intended to be informational in nature and highlights both the student and cadet aspects of the program. The report includes comments from Grand Jurors and cadets, as well as comments and information obtained from Major John Oberg, Director of the Grizzly Academy.

NARRATIVE

The Grizzly Academy Mission

The mission of the Grizzly Academy is three-fold:

1. To provide a safe, structured environment that promotes academic achievement
2. To develop leadership traits that improve self-esteem, pride, and personal confidence
3. To teach life skills that will benefit young men and women in the adult working world (such as personal budgeting, personal hygiene, punctuality, teamwork, and responsibility)

The Grizzly Academy Admission Requirements

In order to be eligible for the Grizzly Academy, there are eight basic requirements. Cadets-to-be must:

1. Have no felony adjudications/convictions or pending charges, not be awaiting trial or in trial proceedings
2. Be between 16 to 18 years of age by the first day of the 22-week session
3. Be a high school drop-out or at risk of dropping out (i.e., extremely behind in credits)
4. Be a citizen or legal resident of the United States and reside in California
5. Volunteer (the program is not an alternative sentencing program)
6. Be committed to making a life change
7. Be physically, mentally, and emotionally capable of completing the program
8. Be drug-free (there is a mandatory drug test during the first 45 days). Failure to pass the test results in mandatory expulsion - NO exceptions

Grizzly Academy Funding/Cost

The Grizzly Academy is funded primarily through the Federal government (75%) and State of California (25%), which includes state lottery monies. Other nominal funding is obtained through grants and donations. Tuition, room and board, and books are provided at **no cost** to the families. Each cadet is also assigned a laptop computer to assist with studies; access is allowed to monitored internet sites only. There is a minimum personal clothing requirement that must be met by the family upon admission to the

program. In addition, there are **optional** costs near the completion of the residential phase, such as yearbook, class ring, and pictures.

The Grizzly Academy Program Phases

The Grizzly Academy program is divided into three phases.

1. The two-week acclimation phase is a time when the candidates are evaluated for physical and mental strengths and weaknesses; they are subjected to the strict, quasi-military daily routine to determine if they are prepared for the rigor of the program. During the two-week acclimation phase, the average wash-out rate is 14%.
2. The “ChalleNGe” phase is a 20-week residential period of academics, physical fitness, individual and group counseling, life skills training, and team building. This phase most resembles a military boarding school as cadets live in barracks, eat in the base dining facility, and attend school on the base. Following the 5:00 AM wake-up, the student-cadets have a half hour to dress, make their bunks, get ready for school and march in units to the chow hall. Classes begin at 8:00 AM and run until noon and from 1:30-3:30 PM. At 3:30 PM, cadets participate in physical training or attend counseling groups until 5:00 PM. Dinner is from 5:00-6:30 PM, followed by mandatory study hall from 6:30-7:30 PM. Lights are out at 9:00 PM. During the 20-week residential phase, the wash-out rate is 7%.
3. The post-residential phase is a one-year mentoring program⁵⁶ completed in the cadet’s home community with guidance provided by a carefully screened and matched mentor, respected and trusted by the cadet. Mentors are given an orientation by the Grizzly Academy staff and report back to the staff throughout the post-residential phase. In this way, the Grizzly Academy tracks the progress of its graduates. According to Major Oberg, 91% of Grizzly Academy graduates in the post-residential phase are either:
 - Employed full-time (12% in military service)
 - Attending high school, college or technical/vocational training full-time
 - Employed part-time and attending school part-time, or
 - Acting as volunteers in their respective communities a minimum 30 hours per week.

⁵⁶ It is noteworthy that with its one-year mentoring phase the National Guard’s ChalleNGe Program is the second largest mentoring program in the nation after the Big Brothers/Big Sisters program

“I was impressed with the staff (cadre). They were all enthusiastic about the program, were well-trained, and most importantly, they genuinely cared about the students. This was exemplified by everyone, from the commanding officer to the assistant principal, the day staff, and the cafeteria workers. The respect shown to the students was reflected back by those very students.” --- Grand Juror

Mentor Criteria

Mentors must meet a strict set of criteria to become involved in the Grizzly Academy program:

- Cadets must know the mentor and want to work with them. A cadet selects his/her mentor based on the “friendly match” approach versus the “cold match” approach employed by Big Brothers/Big Sisters.
- Mentors must be the same sex as the cadet, but rare exceptions may be granted
- Mentors must be a minimum 25 years old
- A mentor may not be a member of the cadet’s immediate family
- Mentor candidates must undergo Megan’s Law screening and are Live-Scanned, an immediate, computerized personal background search. Any mentor candidate with a felony conviction must obtain approval from the Program Director and is considered on a case-by-case basis.

Charter High School⁵⁷

According to Major Oberg, when the Grizzly Academy opened in 1998, the decision was made by the planners and local officials to establish a charter school because it allowed for:

- Multiple revenue streams, from the Department of Defense and the State of California, to finance the school operation, and
- Greater flexibility with curriculum design, so that the ChalleNGe Program’s eight core components could be integrated

During its first five years, the Grizzly ChalleNGe Charter School (GCCS) was chartered by the Paso Robles School District. In 2003, it was re-chartered under the San Luis Obispo County Office of

⁵⁷ A charter school is a public school that may provide instruction in any grades K-12 that is created by a group of teachers, parents, community leaders or a community based organization. --- as defined by the California Department of Education.

Education (SLOCOE). The school continues with the SLOCOE charter today because of its longstanding, successful relationship with SLOCOE, which provides credentialed and classified staff.

The Grizzly Academy is one of only two ChalleNGe Programs in the nation that utilize the charter high school model. The majority of the other ChalleNGe programs in the nation use a GED attainment model as the principal means of education.

GCCS has the ability to award high school diplomas to cadets who meet graduation requirements. Students can earn up to 55 credits in language arts, math, science, P.E., and other electives. GCCS is currently chartered through the SLOCOE as an alternative high school and is accredited by the Western Association of Schools and Colleges (WASC).

*“I have never liked school before becoming a Grizzly. Now I can hardly wait to get to class. I knew the Academy would help me with my studies and would help me get in shape...but I didn’t know it would help me set goals—help me get to where I want to be.”
--- as told by a cadet to a Grand Juror*

The focus is on academic excellence. Academic instruction predominantly occurs in a classroom setting. This training is supplemented with ten off-site field trips during the residential phase. The destinations of these trips vary, depending on the curriculum. Field trips have included museums, the Monterey Bay Aquarium, local colleges and universities, Hearst Castle, and live theatre performances.

“The educational program is structured in an orderly fashion, but not in lockstep, so students can advance at their own pace. Behavior modification techniques are well-designed. On-line tutoring is available from Kahn Academy⁵⁸ This is a good strategy to reinforce math instruction.” --- Grand Juror

The Grizzly Academy Education Statement

“Since the Grizzly education program places a heavy emphasis on intervention and remediation, students in need of improving skills to meet grade level standards are grouped together to

⁵⁸ The Khan Academy is a non-profit educational organization created in 2006 by an MIT graduate, Salmon Kahn. With the stated mission of “providing a high quality education to anyone, anywhere” the website supplies a free on-line collection of more than 3100 micro lectures via video tutorials. They can be found on YouTube. Sample subjects are mathematics, history, American civics, economics, and computer science.
Source: Wikipedia

receive increased support. Small groups may be pulled out for specific interventions, individualized tutoring, extended time for assignment completion, and more. In addition, full time instructional assistants work in the classroom with the teachers. Cadre is available to assist with discipline and counselors are available to support students with emotional issues.

“Additional student performance indicators that are pertinent to improving student achievement are:

- Attendance*
- Homework completion*
- Class completion; and*
- Student satisfaction (indicators of feelings towards school).*

“The changes in these educational behaviors from the students previous school experiences indicate success since many of the students were non-attendees and therefore did not complete homework, assignments or courses.

“Finally, the staff has participated in staff development in areas designed to understand the “culture of poverty” and strategies for relationship building among students and between staff and student.”⁵⁹

Education Statistics⁶⁰

- Grizzly Academy graduates in the last two classes/years: 357
- Number of GED and high school diplomas awarded since 1998: 1,461
- Number of GED and high school diplomas awarded in the past two years (four classes): 135
- Average improvement in grade levels obtained during the 20-week residential phase: 1.2 grade level increase

Other Training

The cadre is responsible for other training at Grizzly Academy as part of the disciplined routine. They teach cadets the importance of being prompt, dressing appropriately, focusing on daily tasks (including homework), acting ethically, and accepting responsibility for their actions. The cadre is also responsible for the cadets’ physical fitness, personal hygiene, health, and welfare. Physical training, marching, and barracks inspection are all integral parts of teaching cooperation, tolerance of others, and teamwork.

⁵⁹ Grizzly Academy Education Mission Statement, Purpose and Summary

⁶⁰ Grizzly Academy informational materials

Counselors and Case Managers

There are four counselors and four case managers at the Grizzly Academy. Counselors possess a master's degree and provide individual and group counseling to cadets. The counselors also work with parents to develop plans for cadet home passes, and serve as the principal link between parents and cadets.

Case managers primarily track cadets who are in the post-residential phase through the mentors. They also team with counselors to help cadets develop "My Action Plans" (MAPs). MAPs include short-term and long-term goals to achieve when cadets graduate and return to their communities.

Service to the Community Is a Win-Win Situation

Since it opened, Grizzly Academy cadets have donated their time to more than 50 non-profit organizations in the county. In the past two years, Grizzly Academy cadets have provided more than 25,000 hours of community service to an assortment of county-wide organizations. Based on the state's minimum wage of \$8.00 per hour, the community service translates into a benefit of approximately \$200,000 in San Luis Obispo County.

The Grizzly Academy has a special relationship with the Sexual Assault Recovery and Prevention (SARP) Center (located in San Luis Obispo). According to Major Oberg, there are three aspects of the SARP relationship:

1. SARP provides a male and a female counselor who leads two separate counseling/education groups, called "Her Power and My Strength." This once-per-week session is conducted over 10 consecutive weeks.
2. At their local headquarters, SARP provides once-per-week therapy for six selected cadets.
3. Cadets participate in the annual "Walk a Mile in her Shoes" walk around downtown San Luis Obispo, and provide community service support for the event.

In exit surveys administered prior to graduating from the residential phase, cadets report that community service is one of most important and fun things in which they participated. Many cadets report that assisting others through volunteer work has helped them to feel part of the community in San Luis Obispo County.

Cadets particularly enjoyed working at the Arroyo Grande Care Center with elderly patients, as well as participating in the community service events supporting Relay for Life/American Cancer Society and donating hair to “Locks for Love” for wigs for cancer patients.

Savings to Society

In addition to local community service, there is a larger benefit to society as a whole. Since the inception of the nationwide ChalleNGe program, the program has:

- Saved \$109 million, based on an average \$14,000 yearly cost for each cadet vs. \$40,000 in annual corrections cost per juvenile
- Saved taxpayers nearly \$32 million each year, based on students receiving their GED vs. ongoing educational costs
- Provided \$20.2 million worth of hours of community service, based on four million hours performed by program graduates since 1993
- Removed 20% of 16-to-18-year-olds enrolled in the program from federal assistance programs
- Contributed an increase in the tax revenue base of \$26-\$30 million, based on program graduates joining the workforce

The California National Guard Youth ChalleNGe Program Awards Received

- 2001: “Excellence in Mentoring” Award (National Mentoring Partnership)
- 2003: LTG Herbert R. Temple “Leadership” Award (National Guard)
- 2005: “Best All Around” ChalleNGe Program (National Guard)
- 2006: Richard A. Wolf “Excellence in Innovation” Award (National Guard)
- 2006: “Health and Hygiene Core Component” Award (National Guard)
- 2007: “Best Post-Residential Performance” Award (National Guard)
- 2008: “Golden Bell Award for Excellence in Education” Award (California School Board Association)
- 2009: “Outstanding Volunteer Organization of the Year” Award (National Multiple Sclerosis Society)

Cost-Benefit Analysis of the National Guard ChalleNGe Program

The Rand Corporation conducted a cost-benefit analysis of the National Guard Youth ChalleNGe program, which was sponsored by The National Guard Youth Foundation. The findings of the analysis “support public investment in the program as currently operated and targeted.”⁶¹ The following excerpts are from the analysis.

“Decades of research show that high school dropouts are more likely to commit crimes, abuse drugs and alcohol, have children out of wedlock, earn low wages, are unemployed and suffer from poor health. The ChalleNGe program, currently operating in 27 states, is a residential program coupled with post-residential mentoring that seeks to alter the life course of high school drop-outs age 16-18.

“A rigorous evaluation of the ChalleNGe program employing random assignment has demonstrated that the program has positive effects on educational attainment and employment. The cost-benefit analysis presented in this document estimates that those and other program effects yield \$25,549 (2010 calculations) in social benefits per individual admitted to the program, or \$2.66 in social benefits for every \$1.00 expended for a return on investment of 166%.

“The program’s benefits accrue mostly in the form of higher lifetime earnings attributable to higher levels of educational attainment induced by the program.

“Under baseline assumptions, this cost-benefit analysis suggests continued operation of existing ChalleNGe sites will yield substantial net benefits to program participants and society-at-large. This quantitative finding supports public investment in the ChalleNGe program as currently operated and targeted.”

Major Oberg points out, “I would add to the RAND Analysis that I believe that our program provides a life-changing experience and a much-needed holistic program to a group of students who are desperately in need of structure, education and a sense of belonging to the world.”

⁶¹Perez-Arce, Francisco, Louay Constant, David S. Loughran and Lynn A. Karoly. A Cost-Benefit Analysis of the National Guard Youth ChalleNGe Program. Santa Monica, CA: RAND Corporation, 2012.

FINAL COMMENTS

From the Cadets

- “The Grizzly Youth Academy program has allowed me to graduate from high school with a diploma and prepared me to be the first person in my family to ever graduate from high school and attend college.”
- “The food is good and plenty of it.”
- “The teachers really like us.”

From the Grand Jurors

- “Impressive”
- “Good facilities”
- “Disciplined”
- “Excellent food”
- “The cadets were polite, very bright, and willing to talk”
- “The dormitory rooms were extremely neat and clean, as was the bathroom and shower”
- “The staff/cadre we encountered seemed both capable and caring”
- “The Grizzly people are what make the program work, and because of that, the kids are very fortunate to be able to participate in the program”

OUT OF SIGHT, OUT OF MIND:

MEDICAL MARIJUANA IN SAN LUIS OBISPO COUNTY

SUMMARY

Medical marijuana is legal in California, but regulation of the dispensing of medical marijuana in San Luis Obispo County is subjective and inconsistent. A county ordinance governing medical marijuana brick and mortar dispensaries has been approved, but the County Board of Supervisors has repeatedly rejected the applications of such dispensaries. Moreover, an unknown number of unregulated medical marijuana delivery services are active in both the cities and the unincorporated areas of the county. These delivery services have created a “gray” market that local government is ignoring.

As a result, safe access for those legally authorized for medical marijuana use is not ensured, thereby placing the safety of the community at risk. Well-defined governmental regulation and oversight would support healthcare providers and optimize patient safety and well-being by ensuring safe access to medical marijuana for those legally authorized, while limiting its diversion to recreational use.

INTRODUCTION

This Grand Jury report is intended to be an overview of how medical marijuana is regulated within the boundaries of our county. It analyzes the confusing, conflicting, and ineffective laws, policies, and practices regarding the dispensing of medical marijuana that so frustrate local jurisdictions in California. The U.S. Attorneys’ recent emphasis on enforcement of federal law in California adds another layer of confusion. The fact that federal law does not consider marijuana medically beneficial further complicates the situation. Ultimately, the courts may resolve these issues.

The findings presented in this report are meant to inform; the recommendations are meant to suggest that local governments have the ability to create order amid the current chaos through regulation and oversight. Local regulation and oversight could make medical marijuana at the local level safer for those who are legally authorized to use it and less available to those who abuse it.

Finally, this report is not to be construed as advocating the use of marijuana in any form.

AUTHORITY

Section 925 of the California Penal Code provides statutory authority for Grand Jury reports.

ORIGIN

The widely reported abuses to the intent of Proposition 215 - The Compassionate Use Act of 1996 - and SB 420 - The Medical Marijuana Program Act - created a perceived need for the Grand Jury to review the situation within San Luis Obispo County.

METHOD

The Grand Jury's inquiry included:

1. Review of Proposition 215 and SB 420
2. Interview with San Luis Obispo County Sheriff's Administration
3. Interviews with County Health Department staff
4. Interviews with local physicians familiar with the medical marijuana authorization process and related issues
5. Interviews with local medical marijuana delivery service collective managers/owners
6. Interview with an owner of a brick and mortar medical marijuana collective dispensary in another California county
7. Interview with County Building and Planning Department staff
8. A survey of city managers within the county
9. Review of city municipal codes relevant to medical marijuana
10. Interview with County Drug and Alcohol Services staff
11. Review of a sampling of hydroponics and "smoke shop" retail venues
12. Review of current research and literature concerning medical marijuana

13. Review of federal statutes

14. Review of medical marijuana policies in Mendocino County, Colorado, and Canada

NARRATIVE

In 1996, over 55% of California voters passed Proposition 215, legalizing the medical use of marijuana. Proposition 215 states that its purposes are:

- “To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a California licensed physician who has determined that a person’s health would benefit from the use of marijuana...
- “To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a California licensed physician are not subject to criminal prosecution or sanction.” (see *Online Sources* in Appendix A)

In addition, Proposition 215 decriminalizes the possession and cultivation of marijuana by seriously ill individuals or their primary caregivers upon a California-licensed physician’s recommendation for approval. The law stipulates that to receive medical marijuana a patient must see a doctor and receive an authorization (not a prescription).

On January 1, 2004, the California legislature enacted SB 420 to clarify Proposition 215. It states that a patient’s medical records must contain written documentation by the attending physician that the patient has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate. (Cannabis is the scientific name for marijuana.) A “serious medical condition is defined to include: AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms (multiple sclerosis), seizures, severe nausea, and any other chronic or persistent medical symptom that either substantially limits the ability of the person to conduct one or more major life activities or if not alleviated, may cause serious harm to the patient’s safety or physical or mental health.”

Implementation of SB 420 calls for the attending physician to fulfill a number of requirements, including licensing, examinations, and diagnoses, documentation of condition, medical records, and medical release forms. Physicians who authorize medical marijuana for a serious disease may not recommend a specific medical marijuana dispensary and may not authorize a certain dosage.

Obtaining Medical Marijuana Authorization in San Luis Obispo County

The Grand Jury interviewed local physicians familiar with marijuana policies, including one who does not issue medical marijuana authorizations and two whose practices involve medical marijuana examinations and authorizations. There are some similarities among the physicians. All are licensed to practice medicine in the State of California. All agreed that the state law and county regulations are too vague, making it difficult to determine whether a physician is failing to provide an acceptable standard of care.

Those physicians granting medical marijuana authorizations differ widely in how they evaluate patients. Not all of these physicians are members of recognized professional organizations, however, The physicians interviewed are familiar with the guidelines published by the California Medical Association (CMA), and the two physicians who do issue authorizations claim that they are following those guidelines, as well as all related laws. They sign a medical marijuana authorization that states the patient has a “serious disease” and is authorized to legally possess marijuana. These two physicians do not recommend a specific medical marijuana dispensary and do not authorize a certain dosage. Both of these physicians believe that medical marijuana can treat anxiety, insomnia, chronic pain, depression, panic attacks, and migraines.

The Role of the County Health Department

The language of SB 420 imposed “various duties upon county health departments relating to the issuance of identification cards, creating a state mandated local program.” It became mandatory that all counties participate in a new identification card (ID) program by:

- providing applications upon request to individuals seeking to join the identification card program
- processing completed applications
- maintaining certain records
- following state implementation protocols, and
- issuing Department of Public Health (DPH) ID cards to approved applicants or their designated primary caregivers

For the County Health Department, the medical marijuana ID program is strictly administrative. The Vital Records staff verifies identity, medical authorizations, and the authorizing physician’s California medical license. Staff also takes the ID card photo, requests the ID card from Sacramento, processes fees, and maintains a record of applications. There is no provision for checking criminal records

The fee is \$135 of which half goes to the state and half to the county. There is a reduced fee of \$67.50 for Medi-Cal recipients. The card expires after one year and is renewable with annual payment of the fee.

The primary intent of the California Medical Marijuana ID Card is to provide information to law enforcement officers who may want to verify the identity and authorization of a medical marijuana patient. It is not mandatory for the patient to obtain an ID card, however. By law, an authorization by a California-licensed physician is all that is required for a patient to buy or possess medical marijuana.

Since 2006, the county has issued 408 cards. The highest yearly total issued was 128 in 2010; in 2011, the count decreased to 48. County staff could not attribute the drop to anything in particular, except that patients may not have wanted to pay the fee because the card is not mandatory. The county has never denied an application for an ID card.

Currently, the Health Department does not concern itself with matters of public health in regard to medical marijuana. The contaminants, pesticide content, and potency of the marijuana distributed to authorized citizens of the county are not addressed. Edible medical marijuana products are not monitored or regulated by the county health agencies (nor by the state) as are other commercially distributed edible products. The Director of the San Luis Obispo County Health Agency stated in an interview that the County Health Department would “probably” have jurisdiction over marijuana edibles. The Department is researching the issue.

Appropriate testing and regulating of medical marijuana, including edibles, by the county or incorporated cities would undoubtedly be expensive, but not necessarily a non-recoverable expense. For example, the City of Oakland taxes medical marijuana. It reported that \$1.4 million in business taxes was collected in 2011 from medical marijuana dispensaries, nearly three percent of all business taxes collected in the city that year.

City and County Ordinances

Each incorporated city in the county has an ordinance prohibiting medical marijuana dispensaries.

On February 6, 2007, the County Board of Supervisors approved an ordinance requiring a Minor Use Permit for medical marijuana dispensaries. It was authored by County Building and Planning staff and centered on the following design and operational standards:

1. The location must be outside the central business district and a minimum of 1000 feet from any school, library, park or recreation area.
2. Limitation on use.
 - a. Hours of operation are limited to 11:00 a.m. to 6:00 p.m. seven days per week.
 - b. No person under the age of 18 permitted.
 - c. No retail sales of paraphernalia
 - d. No cultivation permitted at or on dispensary property.
3. Staff/employees must be 21 years of age or older.
4. A security plan must be submitted.
5. A notice must be posted that persons under the age of 18 are not allowed.

6. A notice must be posted that consumption of medical marijuana is prohibited in the vicinity of the dispensary.
7. The Sheriff's Department shall be notified of the dispensary name, location and contact information.

The process begins with an application to the County Building and Planning Department. County Building and Planning staff produces a report with a recommendation to the Planning Commission. The Planning Commission convenes a public hearing and may approve or disapprove the application for a Minor Use Permit. The Planning Commission may also recommend conditions and move the Conditional Use Permit to the Board of Supervisors for approval. The public may appeal the Planning Commission's decision to the Board of Supervisors.

There have been three applications for collective dispensaries since the county ordinance was passed. The first two applications were denied. The last application to go before the Planning Commission was heard on November 3, 2011. Staff recommended denial of the application, but the Planning Commission granted a Conditional Use Permit. The approval was appealed to the Board of Supervisors and the Board upheld the appeal, thereby denying the application, on March 6, 2012.

Brick and Mortar Dispensaries/Collectives

"Collective" is the legal term for a dispensary. The purpose of these dispensaries/collectives is to provide safe and secure access to medical marijuana. In a collective, marijuana received from growers and manufactured edibles may be tested for contaminants (including pesticides) and THC levels. Edibles can also be labeled for potency by the manufacturer.

On January 18, 2012 the California Supreme Court voted unanimously to review how cities and counties regulate medical marijuana dispensaries based on four medical marijuana cases:

- *Pack v. City of Long Beach* involves a Court of Appeal ruling that Long Beach's medical marijuana dispensary ordinance was pre-empted by the federal Controlled Substances Act.

- *City of Riverside v. Inland Patient's Health & Wellness Center, Inc.* and *People v. G3 Holistic* concern Court of Appeal decisions upholding ordinances that banned medical marijuana dispensaries.
- *Traudt v. City of Dana Point* involves a Court of Appeals decision concerning an individual's standing to bring a lawsuit alleging a violation of state law with respect to a medical marijuana collective.⁶²

Mobile Delivery Collectives

Proposition 215 did not stipulate that all collective operations emanate from a “brick and mortar” collective, thereby leaving room for mobile delivery collectives. Mobile delivery collectives register medical marijuana patients as members and deliver medical marijuana to the members, usually at home. The members' obligation to the collective is the cash they contribute in exchange for the medical marijuana. Several of these collectives advertise in San Luis Obispo County, in the local media and online.

The Grand Jury heard testimony that as many as 40 delivery services currently operate within the incorporated and unincorporated areas of the county. Medical marijuana mobile delivery collectives are more difficult to regulate because they operate in multiple jurisdictions, which adds to law enforcement's challenges.

Cities within San Luis Obispo County and the county itself have ordinances prohibiting or regulating brick and mortar medical marijuana dispensaries, but there are no regulations affecting medical marijuana mobile delivery collectives, with one exception. The city of Atascadero has approved an ordinance prohibiting mobile delivery collectives.

The lack of ordinances and regulations governing mobile delivery collectives at the local level has led to a chaotic situation. The Attorney General of California has issued General Guidelines regarding medical marijuana, but there are no local regulations to which mobile delivery collectives must adhere.

⁶²League of California Cities. “California Supreme Court Grants Review of Four Medical Marijuana Cases,” January 20, 2012. www.cacities.org/Top/News/News-Articles/2012/January.

As a result, law enforcement officials have few tools to evaluate whether mobile delivery collectives are operating legitimately.

Some collectives make a serious attempt to comply with Proposition 215 and SB 420, and the Attorney General Guidelines regarding medical marijuana; others pay little or no attention. The minimum age required to become a member of the collective varies; some allow members as young as 18, others have a minimum age of 21. Some collectives keep close records of their members and amounts disbursed, and verify physician authorizations for medical marijuana; others do not. A few collectives track medical marijuana from grower to collective to delivery driver, and to the collective member, and even weigh it at each stage, to ensure that there is no loss; others do not. Some collectives obtain local business licenses; most do not.

Although medical marijuana is authorized by physicians to treat certain conditions, it is not a prescription drug and is, therefore, subject to tax. Not all mobile delivery services, however, collect and pay sales taxes.

Finally, mobile delivery services conduct no testing of the product they sell. As a result, the quality of medical marijuana delivered can vary widely.

All city managers were asked if all businesses in their jurisdiction needed a business license. All answered in the affirmative, with Atascadero requiring a business tax. A search of the advertised delivery services in city records showed very few with business licenses. All city managers and Cal Poly law enforcement were asked how many medical marijuana delivery services operated within their jurisdiction. All answered none to their knowledge.

Local governments are simply not aware of the number of medical marijuana mobile collective delivery services operating in their jurisdictions and make no attempt to regulate these businesses. It is possible, however, for the county and the cities to take steps to require business licenses and fees for mobile delivery services. Additional revenue could then be generated for the county and the cities.

All the mobile collective delivery service managers interviewed by the Grand Jury operate within incorporated and unincorporated areas of the county, and one operates in a tri-county area. Membership agreements, recordkeeping and verification of physician authorizations were consistent for these collectives. Possession of a Sellers Permit and a Business License, as specified in the Attorney General Guidelines, however, was not consistent.

One interviewee stated that the local business environment actually encouraged creation of a growing “gray” or “black market” by forcing reputable mobile collective delivery services that attempt to comply with legal mandates out of business. The “grays and blacks” do not keep records or pay sales tax, thereby undercutting reputable mobile collective delivery services in pricing.

All of the managers interviewed agreed that testing for quality and potency would be appropriate and should be required. However, additional costs for testing would require higher prices that would likely drive their clients to the black market competition.

The Biggest Challenge: Enforcing the Law

California law enforcement agencies face a challenge in interpreting Proposition 215 for enforcement purposes. The law lacks clarity for agencies that are required to operate within “the letter of the law.” Initially, the Attorney General issued guidelines that proved helpful; over time, however, with legal challenges and various suggested interpretations, it has become increasingly difficult to separate the legal from the illegal.

For example, in December 2010, a San Luis Obispo County Narcotics Task Force operation resulted in the arrest of twelve local medical marijuana collective delivery service providers. This operation involved an undercover officer posing as a medical marijuana patient.

Issues emerged at the trial as a result of the investigation and interpretation of the law. There was a lack of consistency in the municipal requirement of a business license, seller’s permit or incorporation as a California Mutual Benefit Non-Profit operation.

One of the county's high-ranking law enforcement officers approached the Governor (who in his former position as Attorney General formulated the Proposition 215 Guidelines) with the question, "What makes a 'collective' illegal?" The answer was "profits" but a definitive definition of "profit" in regard to collectives has not been provided by the state.

In 2011, the California Attorney General formally asked the legislature to clarify state law to bring "certainty and consistency" to law enforcement, the medical marijuana collectives and authorized patients. Areas to be addressed include: defining the contours of the right to collective and cooperative cultivation; what constitutes a "dispensary;" a definition of non-profit operation as it applies to providers; and, requirements for edible medical marijuana products.

At present, local governments that apply conflicting rules and regulations largely govern medical marijuana. A proposed November 2012 initiative would establish a medical marijuana enforcement bureau in the California Department of Consumer Affairs. This could be a step forward in assisting peace officers to perform their duties more efficiently and effectively.

Law enforcement officials in the county have linked two homicides and a dozen home invasions to medical marijuana. Some medical marijuana is diverted to non-patients, young people, and the black market. For public safety, it is important that law enforcement have guidelines to help determine who is a legal provider or user of medical marijuana.

CONCLUSION

Accurate medical marijuana usage estimates cannot be made due to the lack of regulatory reporting. County and most municipal officials are either uninformed or they ignore the mobile collective delivery services.

San Luis Obispo County has an ordinance allowing brick and mortar medical marijuana dispensaries, but the Board of Supervisors has denied all applications to date. Incorporated cities have ordinances that ban brick and mortar collectives, but most have no ordinance governing mobile delivery services in their communities, similar to the county. Unregulated mobile collective delivery services driving through our county and its communities with unknown sums of money and large quantities of medical marijuana invite potentially tragic consequences.

Safe access for authorized medical marijuana patients is the issue, and regulation is the key. Codes and ordinances could place specific, reviewable, measurable, and enforceable conditions on dispensaries, as well as delivery services.

If governing bodies in the county would acknowledge these issues and act to mitigate them, authorized patients might then have safe access to medical marijuana and local governments could receive business license revenue. Also, law enforcement would have the means to distinguish between legitimate, state-authorized operations and those that are illegitimate, in other words, distinguish between “the good guys” and “the bad guys.”

FINDINGS

Finding 1: San Luis Obispo County has an ordinance allowing brick and mortar medical marijuana collectives, but the Board of Supervisors has rejected all applications to date.

Finding 2: Each incorporated city in the county has an ordinance prohibiting brick and mortar medical marijuana collectives within its city limits.

Finding 3: The county and incorporated cities in the county have not adopted an ordinance regarding medical marijuana mobile collective delivery services operating within their jurisdictions, with the exception of Atascadero.

Finding 4: Business licenses are required for all businesses operating in the incorporated and unincorporated areas of the county.

Finding 5: Many medical marijuana mobile collective delivery services operate in the incorporated and unincorporated areas of the county without a business license.

Finding 6: There is currently no way to determine the exact number of medical marijuana mobile collective delivery services operating in the incorporated and unincorporated areas of the county or on the Cal Poly campus.

Finding 7: There is no protocol for medical marijuana mobile collective delivery service recordkeeping.

Finding 8: Medical marijuana, including edibles, is not regulated by the County Health Department.

Finding 9: Home invasions and homicides have resulted from medical marijuana being present or grown in homes.

Finding 10: The County Health Department is designated to administer the medical marijuana ID program and it satisfies the requirements set forth in Proposition 215 and SB 420.

RECOMMENDATIONS

Recommendation 1: The County Board of Supervisors should convene a committee comprised of the County Sheriff, County Building and Planning staff, local public health officials, the County Tax Collector, the County Planning Commission, brick and mortar medical marijuana collective and mobile collective delivery service managers, medical marijuana physician providers, and community representatives. The purpose of the committee should be to develop a fair and viable local ordinance for brick and mortar medical marijuana collectives that provide authorized patients with safe access to contaminant-free medical marijuana in accordance with California law.

Recommendation 2: The county and incorporated cities in the county should develop an ordinance regarding medical marijuana mobile collective delivery services within their respective jurisdictions.

Recommendation 3: By code or ordinance, the county and each incorporated city in the county should require medical marijuana mobile collective delivery services operating within their jurisdiction to possess a business license and seller's permit.

Recommendation 4: Using business license records, seller's permits and sales taxes, the county and each incorporated city in the county should compile a list of medical marijuana mobile collective delivery services operating within their jurisdictions.

Recommendation 5: By code or ordinance, the county and each incorporated city in the county should require medical marijuana collectives and mobile collective delivery services to keep current records.

Recommendation 6: The County Health Department should consider establishing standards for edible medical marijuana sold in the county.

REQUIRED RESPONSES

The San Luis Obispo County Board of Supervisors is required to respond to **Findings** 1, 3, 4, 5, 6, and 7, and **Recommendations** 1, 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Arroyo Grande is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Atascadero is required to respond to **Findings** 2, 4, 5, 6, and 7, and **Recommendations** 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Grover Beach is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Morro Bay is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Paso Robles is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of Pismo Beach is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The City of San Luis Obispo is required to respond to **Findings** 2, 3, 4, 5, 6, and 7, and **Recommendations** 2, 3, 4, and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 24, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The San Luis Obispo County Health Department is required to respond to **Findings** 8 and 10, and **Recommendation** 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **August 27, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well. The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The e-mail address for the Grand Jury is: GrandJury@co.slo.ca.us

APPENDIX A

ONLINE SOURCES*

CA Attorney General Guidelines:

www.ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf

Medical Marijuana Identification Card Program:

www.slocounty.ca.gov/health/publichealth/mmic_htm

Driving Miss Mary Jane, David Freed, January/February 2012:

www.Miller-Mcune.com

Medical Marijuana Raid In SLO County Raises Questions:

www.sanluisobispo/2011/01/08/1436280/medical-marijuana-raid.html

Proposition 215, Health & Safety Code 11362.5:

www.cannorml.org/laws/hsc11362_5.html

Senate Bill 420, Health and Safety Code 11362.7:

www.potdoc/bill_sb_420.html

Testing for Contaminants and Potency in Medical Marijuana:

www.Halent.com

Marijuana Addiction and Medical Marijuana Patients:

www.cannabisdoctorsnetwork.com/marijuana-addiction-symptoms.php

www.cmanet.org/medicalmarijuana

www.mbc.ca.gov/media/releases_2004_05_13_marijuana.html

<http://sanluisobispo.areaconnect.com/doctors>

[http://en.wikipedia.org/wiki/California_proposition_15_\(1996\)](http://en.wikipedia.org/wiki/California_proposition_15_(1996))

CA Attorney General's Letter to Lawmakers, December 21, 2011:

www.californiaprogressreport.com/site/attorney-general-issues-letter-lawmakers-medical-marijuana

Regulation of Medical Marijuana Dispensaries to be considered by the California Supreme Court:
www.sanluisobispo.com/2012/01/19/1913641/marijuana-dispensaries-california-html#storylink=cpy

Delivery Services Map:
www.californiawatch.org/public-safety/map-medical-marijuana-delivery-services-california

Delivery Services by Zip:
www.weedmaps.com

Marijuana Edibles:
www.fhwcc.org/edibles/

Medical Marijuana: Inhalation vs. Edibles:
www.marijuanamedicine.com/2009/06/medical-marijuana-inhalation-vs-edibles-why-is-it-so-different/

Cannabis Doctors Network:
www.cannabisdoctorsnetwork.com/marijuana-addiction-symptoms.php

Canada:
www.hc-sc.gc.ca/dhp-mps/marihuana/about-apropos/faq-eng.php

Colorado:
www.cdphe.state.co.us/hs/medicalmarijuana
<http://reason.com/blog/2012/03/05/us-attorney-in-colorado-says-all-state-1>

Mendocino County:
www.mendocinosheriff.com
www.mendocinocountry.com/independent/1cannabis/2policy/9.31passes.html

*To be useful, these links may best be copied and pasted into a browser

A Vital Function of the Judicial System:

LAW ENFORCEMENT PROPERTY AND EVIDENCE ROOMS

SUMMARY

The proper collection and retention of evidence is a foundational element of our judicial system. While most commonly attributed to the prosecution of criminal acts, it can also be of vital importance in the exoneration of the innocent. The results of the Grand Jury's review of management and control of property and evidence rooms in law enforcement agencies in San Luis Obispo County varied widely. Some agencies allocated the staff and budget resources needed to meet compliance, while others were not in compliance with their policies and acknowledged that improvements were needed.

ORIGIN

The 2011-2012 San Luis Obispo County Grand Jury decided to examine all law enforcement agency property and evidence rooms within the county to determine compliance with recommended policies of recognized property/evidence organizations, as well as with their own internal policies.⁶³

METHOD

In order to determine whether the law enforcement agencies in San Luis Obispo County are following the proper procedures for the security and control of property and evidence, the Grand Jury:

- Requested that agencies complete selected sections of the *Property & Evidence System Audit Guide* written by the California Commission on Peace Officer Standards and Training (POST)⁶⁴
- Consulted with a representative of POST regarding available training/certifications
- Interviewed a consultant who specializes in the evaluation of property/evidence rooms throughout California

⁶³ The Grand Jury has no jurisdiction regarding state agencies, CHP and Cal Poly State University.

⁶⁴ POST: The State Commission on Peace Officer Standards and Training (POST) was established in 1959 to set minimum selection and training standards for California law enforcement.

- Reviewed *Commission on Accreditation for Law Enforcement Agencies (CALEA)*⁶⁵ *Property and Control Standards*
- Reviewed International Association for Property and Evidence (IAPE)⁶⁶ audit policies
- Reviewed each agency's internal policies and procedures related to property and evidence room functions and audits
- Conducted on-site inspections of each agency's property and evidence room using the POST audit and safety policies
- Conducted interviews with the designated property and evidence room representative from each agency

NARRATIVE

This report first discusses general property/evidence room management practices and then reviews the results of the Grand Jury's inspection of each agency's property/evidence room.

Property/evidence rooms store not only evidence from crimes but also found property, property for safekeeping, contraband, and property for destruction. Evidence must be collected, packaged and properly stored. Often referred to as the "chain of evidence," documentation is necessary to show where the evidence is located, who located the evidence and every person who comes in possession of the evidence, from the initial collection through the judicial process. Ultimately, when the item is no longer of evidentiary value, it is returned to its owner, sold at auction or destroyed.

⁶⁵ CALEA: A national Commission on Accreditation for Law Enforcement Agencies, Inc. created in 1979 as a credentialing authority. The purpose of this national accreditation program is to improve the delivery of public safety services, primarily by: maintaining a body of standards covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence.

⁶⁶ IAPE: International Property and Evidence Association is a non-profit organization offering training, certification and resources pertaining to all aspects of the handling, storage, maintenance, and disposal of law enforcement held property and evidence.

Property/Evidence Room Management

Audits and inventories should be conducted to ensure the continuity of the custody of property and evidence. POST's *Property and Evidence System Audit Guide*, states "It is the responsibility of management to see that a sound system of internal control is developed and implemented."⁶⁷ The reason for periodic audits and inventories is "Audits and inventories, on an ongoing basis, will enhance the safekeeping of property and evidence and minimize mismanagement which can easily lead to court cases not being filed, loss of public confidence (and that of collateral criminal justice system agencies), personnel problems, litigation, and possible financial loss."⁶⁸

As stated in the *Audit Guide*, "An inspection is conducted to determine whether:

- the property/evidence room is clean and orderly;
- the integrity of the property and evidence is being maintained;
- departmental provisions and policies are being followed;
- property/evidence is being protected from damage or deterioration;
- employee health and safety is protected;
- property/evidence accountability procedures are being used; and
- property having no further value as evidence is being promptly disposed."

More than 600 agencies statewide participate in the POST Program and are eligible to receive the Commission's services and benefits, which include training programs and management counseling through its Management Counseling Services Bureau (MCB). All law enforcement agencies in San Luis Obispo County, with the exception of Pismo Beach, adhere to the policies and procedures of POST. Pismo Beach is the only agency accredited by CALEA. However, since POST and CALEA are similar in nature, Pismo Beach effectively follows POST guidelines.

The Grand Jury's review of each agency's policies relating to property/evidence room management revealed that all agencies in the county have adopted or are in final draft review of policies provided by Lexipol, LLC, a provider of risk management resources for public safety organizations. The company uses a unique, web-based development system with an integrated training component. The Lexipol

⁶⁷ *Property & Evidence System Audit Guide*, p. Intro, V.

⁶⁸ *Ibid.*, p. Intro, IV.

management system has aided law enforcement, custody and fire agencies in reducing litigation risk, while providing clear and concise policy guidance to public safety organizations and their employees. The Lexipol policy regarding evidence room inspections states:

804.8 Inspections of the Evidence Room

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the [Designated Officer].
- (c) An annual audit of evidence held by the department shall be conducted by a [Designated Officer] not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated to the property room or function to ensure that records are correct and all evidence/property is accounted for.

The Grand Jury found that management practices within agencies vary widely. Some comply with their policies, others do not. Audits and inventories in some agencies are far from routine, while others exercise strong management practices in this area. To their credit, some agencies recognized the need to address deficiencies prior to the Grand Jury inspections. Other agencies have made or are planning changes as a result of the Grand Jury's inquiries into the management practices of their property/evidence rooms.

Staffing and Training

It is of vital importance that each Property/Evidence Technician effectively manages the property/evidence room function to maintain the highest standards. Each law enforcement agency in San Luis Obispo County operates its own property/evidence room and, depending on staffing, incurs considerable expense to conform to its own policies. Based on information provided by the agencies (with the exception of Paso Robles which was unable to provide this information), the yearly salary and benefit expenditures for the property/evidence room function in county law enforcement agencies total nearly \$700,000.

The Grand Jury learned through its investigation that San Mateo County is considering consolidating individual police property/evidence rooms into one central evidence room. Consolidation could possibly increase the efficiency of operations and reduce costs.

To ensure proper operation, each Property/Evidence Technician should receive ongoing training to remain current with evidence case law and new procedures/policies. Most personnel assigned to the property/evidence rooms within the county have had some training either through CAPE (California Association for Property and Evidence)⁶⁹ or POST.

POST offers a single course in Property and Evidence and has no certification program for property and evidence. It does, however, provide management guides, such as the *Property & Evidence System Audit Guide* referenced in this report. The guides are excellent and allow agencies to conduct a self-assessment of their property/evidence management practices.

Tracking and Inventory

In each agency, documentation of all property/evidence is computer-controlled. The software provides a detailed custody history from the receipt of the item through release or disposal. All property/evidence is labeled with a bar code generated from the evidence tracking software. By scanning the bar code, all information relevant to the evidence, such as case number, item number, type of property, date, officer name, and description of the item, can be examined.

All agencies in the county utilize the PsNet software with the exception of the San Luis Obispo Police Department, which uses Spillman software.⁷⁰

Purging/Disposal Process

Managing a property/evidence room is a formidable task. Each agency has a limited amount of space and staff and management does not know from day-to-day how much evidence may await processing by

⁶⁹ CAPE was formed to promote professionalism in property and evidence gathering, processing and retention. Emphasis is placed on information sharing, training and support.

⁷⁰ PsNet and Spillman: Public safety software covering areas of dispatch, records management, mobile digital communications, and web-based applications.

the Property/Evidence Technician. Certain evidence, such as that from a homicide, is kept indefinitely, while other evidence must be kept under refrigeration, sometimes for years, depending on the case. Other evidence may be discarded after the statute of limitations has elapsed. For certain offenses that have been referred to the District Attorney's Office for prosecution, an order must be issued prior to the return/disposal of evidence. Depending on the nature of the offense, if the conviction is appealed, evidence may be held for years after a conviction. The purge process can be complicated and time-consuming.

During the Grand Jury interviews, several agencies reported a delay in obtaining destruction authorization from the District Attorney's Office for evidence held in their property/evidence rooms. The primary concern was storing marijuana occupied excessive space in their property/evidence rooms and requests for disposal were not processed in a timely fashion. During its inspection of the Sheriff's Department, the Grand Jury also viewed carts of evidence (not marijuana) waiting for destruction authorization.

The Grand Jury reviewed the topic of evidence destruction with a representative from the District Attorney's Office and found that it does not have a formal policy/procedure governing the purging/disposal of evidence. The Grand Jury found that other counties do have formal policies/guidelines that concisely set out purging/disposal procedures. As an example, a copy of Butte County's policy is attached as Appendix A. Another guideline was developed in Santa Clara County,⁷¹ but it was not included as an appendix due to its length (64 pages).

The District Attorney's Office provides each agency with monthly Agency Case Disposition Reports. It is incumbent upon each agency, with some exceptions, to review the disposition reports to determine if evidence may be destroyed.

The process to determine if evidence can properly be destroyed is complex. If each case is not reviewed properly, prosecution or exoneration of a person may be jeopardized in the event that evidence is improperly destroyed. While not all-inclusive, some of the criteria to be considered for disposal of evidence are:

⁷¹ Santa Clara Regional Association for Property and Evidence (SCRAPE)

- Statute of limitations
- Post conviction
 - a. Plea or no contest
 - b. Convicted by Jury
 - c. Murder case (187 Penal Code) and life sentence cases
- Post dismissal/cases not filed
 - a. Dismissed due to lack of evidence or interest of justice
- DNA evidence, required length of evidence retention
- Sexually Violent Predators, required length of evidence retention
- Domestic Violence/Elder Abuse/Child Abuse (Evidence Code 1109), length of retention
- Drug Diversion Cases
- Search Warrant evidence (1136 Penal Code)
- Weapons Destruction Order (12028 Penal Code)
- Narcotics Destruction Order (11367,11473,11473.5 Health & Safety Code)

The District Attorney's Office is in the process of establishing Memoranda of Understanding (MOUs) with local jurisdictions regarding medical marijuana held as evidence. Once agreement is reached, property/evidence technicians will have guidance regarding the retention, release and/or disposal of medical marijuana only.

Some purged items have monetary value and are eligible for auction. All agencies in the county use a service called propertyroom.com. This service collects items of value and performs the auction in accordance with Civil Code Section 2080 et al.⁷² A percentage of the sale is returned to the jurisdictions. Contraband, drugs, guns, and hazardous materials are not auctioned. They are transported to specific disposal sites where law enforcement personnel witness their destruction.

⁷² California Civil Code Section 2080 et al. provides regulations for the proper care and disposition of found property.

The Grand Jury calculated a purge rate for each agency by comparing the number of items taken as evidence in the past five years to the number of items purged/disposed of during the same five year period. A higher percentage reflects a more efficient operation and use of space. Purge rates ranged from 20% to 87%.

The following pages summarize the results of the Grand Jury's inspections of the individual agencies.

Arroyo Grande Police Department

Facility: The Arroyo Grande property/evidence room is approximately 247 square feet and contained 3,211 items of evidence (near capacity) at the time the POST audit form was completed. The Support Services Technician indicated that an additional 150 square feet would be beneficial. Personnel access to the room is limited. The Grand Jury found that the items inside the caged, secure area appeared to be packaged properly and were stored in an orderly fashion.

Staffing: The Support Services Technician has primary control and two other supervisory personnel have authorized access. The Support Services Technician also performs other duties in the agency not related to property/evidence. He estimated approximately 30 hours per week are allocated to the property/evidence function. Based on salary information provided to the Grand Jury, annualized salary with benefits (prorated to 30 hours per week) totals \$77,922.

Purging/Disposal: In view of Arroyo Grande's limited space, the purging or disposal of evidence is critical to managing the property/evidence room. In the past five years, a total of 5,234 items of evidence were accepted into property/evidence. During the same time period, 1,042 items were purged/disposed of. The purge rate of 20% was the lowest in the county.

Audits/Inventories: The Arroyo Grande Police Department is not in compliance with their stated Lexipol policies:

- An annual audit of evidence held by the department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
 - The last inventory was conducted two years ago.

- Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.
 - The Evidence Technician has been in that assignment for approximately three years and no inventory was conducted at the time of his initial assignment.

Safety Policies: The Grand Jury found that the Arroyo Grande Police Department was in compliance with safety policies with the exception of the following:

- No ventilation system exists to outside air, required for drug/narcotics storage⁷³
- Appropriate storage containers for flammables are not explosion-proof (storage area for flammables is located outside)
- Storage area for flammables is not appropriately ventilated
- Safety manuals are not provided to employees
- No emergency evacuation plan is established

Atascadero Police Department

The Atascadero Police Department's property/evidence room is excellent in both management and day-to-day operation. Over the past several years, and during several police administrations, there has been a commitment to continued improvement in the operation of the property/evidence function. It is a model for other agencies to follow.

In 2005, the department began auditing and improving its property/evidence room. The Atascadero Police Department is the only agency in the county which contracts with an outside consultant to audit its property/evidence room. The department implemented the consultant's recommendations and another audit was authorized in 2008. The 2008 audit set forth additional recommendations that were also implemented. The consultant's last audit was conducted in June 2010 and the agency received the highest rating, "MEETS STANDARDS++." The consultant commented in his report that in over 60 performance audits he has conducted over 12 years, no other agency has been rated so highly.

⁷³ A requirement of *POST Evidence Management Guide* 3-3, 66261.4 CCR

Consequently, the consultant rates the Atascadero Police Department in the top 10-15% of property/evidence rooms in California.

Facility: At the time of the Grand Jury inspection, the 368 square foot property/evidence room was neat and orderly, and examined evidence appeared to be packaged properly. Data is backed- up and access to the system is limited to authorized police administrators. The evidence area is secure and only the Property/Evidence Specialist has primary access. The Grand Jury members were required to sign an entry log prior to entering the secure area, an excellent security procedure. The size of the property/evidence area is adequate to meet the needs of the agency.

Staffing: Atascadero has one Property/Evidence Specialist assigned to the property/evidence room. Additional duties include crime scene investigation. The Specialist has attended training from CAPE, has had five years of in-house training, and additional basic and advanced crime scene investigation training. The position is full-time and total compensation, including benefits, is \$92,307.

Purging/Disposal: At the time the audit survey was completed, there were 4,154 items in property/evidence. In the past five years, 22,035 items of property/evidence were logged into the property/evidence room and, during that same period, 19,224 were purged/disposed of. The purge rate is outstanding at 87%.

Audits/Inventories: Atascadero Police Department will be adopting the Lexipol policy. At the time of the Grand Jury inspection, the policy was in “draft” form and had not yet been adopted. At the time of the Grand Jury inspection, the department was in compliance with its existing policy and (as indicated in the consultant’s report) it is also in compliance with the following policies: CALEA Property and Control Standards, CAPE, IAPE, California POST, and IACP guidelines (International Association of Chiefs of Police).

Safety Policies: Atascadero Police Department complies with nearly all the safety guidelines as outlined in the POST audit. Two exceptions were noted in their survey response:

- No appropriate explosion-proof containers are available
- A lack of appropriate safety signage

Grover Beach Police Department

Facility: The Grover Beach Police Department property/evidence room is neat and orderly, containing approximately 4,400 items. The room is adequate but is close to or at capacity. The square footage was not provided. The evidence examined by the Grand Jury members was packaged properly, stored neatly and bar coded. The room is secure and the Property Room Technician and the Division Lieutenant are the only people allowed access. An access log is maintained for any other people requesting access to the controlled area. The Grand Jury learned during interviews that the department has tentative plans to convert a larger office space into the property/evidence room because the current evidence room does not have required ventilation and the proposed space is ventilated.

Staffing: Currently, there is one Property/Evidence Technician who is also assigned to the Records Division. The Technician has received POST training. The time spent solely for the property/evidence function is estimated at 600 hours per year. The pro-rated salary, plus benefits, for the Property/Evidence Technician totals \$19,332 per year.

Purging/Disposal: In view of the space constraints, purging/disposal of property/evidence is important in maintaining an orderly property/evidence room. In the past five years, 7,835 items of evidence were placed into evidence and 2,618 items were purged/disposed of during that same period. The purge rate is 33%.

Audits/Inventories: The Grand Jury learned through interviews that, prior to 2009, no purging or audits had been conducted for at least 18 to 20 years. However, the administration of the department as well as management of the property/evidence room has improved in the past three years. In April 2011, the Grover Beach Police Department adopted the Lexipol policies for property/evidence room procedures as well as for other functions of the agency. The policy exceptions to property/evidence inspections/audits are:

- On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
 - The Division Lieutenant estimated that monthly inspections occur 75% of the time.

- An annual audit of evidence held by the department shall be conducted by a Division Lieutenant (as appointed by the Chief of Police) who is not routinely or directly connected with evidence control.
 - A full audit of the property/evidence room is currently underway and the estimated completion date is April 2012. The Division Lieutenant who is responsible for evidence control is conducting the audit. Technically, the *other* Division Lieutenant, who is not connected with evidence control, should conduct the audit. There is no record of any previously conducted audits.
- Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated with the property room or function to ensure that records are correct and all evidence property is accounted for.
 - The last personnel change occurred in 2009. A full audit is now in progress.

Safety Policies: The Grand Jury inspection revealed the following safety issues:

- Respirators are not supplied.
- The property/evidence room is not ventilated.

Morro Bay Police Department

Facility: The Morro Bay Police Department property/evidence room is limited in size with approximately 230 square feet. Additional storage for large items, such as bicycles, is located off-site. The room is neat and orderly, and the evidence inspected was packaged properly. Security was adequate; no entry log is maintained to document who enters the secure area beyond the property/evidence technician. There have been recent improvements to the property/evidence room. Grant funds were used to purchase new evidence lockers that include a refrigerated locker for perishable evidence. Once removed from the refrigerated evidence locker, items are placed in a larger refrigerator inside the evidence room for long-term storage.

Staffing: The recently filled Property/Evidence Technician position had been vacant since 2009. The new position is part-time, without benefits, and is funded by a yearly grant in the amount of \$17,000. The agency has provided in-house training to the Property/Evidence Technician and further training is being considered through CAPE.

Purging/Disposal: The disposal or purge rate of evidence for the past five years exceeds the amount taken in during the same five-year period. Evidence had not been purged in many years, thus 4,099 items were purged and 2,217 were taken in during the same period. Recognizing that the evidence room was disorganized, the Chief of Police authorized a full audit/inventory in 2009 and property/evidence no longer of significance was purged or disposed of. Currently, there are 2,217 items of evidence in the property/evidence areas and items are purged when authorized by either the District Attorney's Office or by department policy.

Audits/Inventories: The Morro Bay Police Department inspection practice exceeds the Lexipol policy. The Grand Jury was advised that the Police Commander, who is not affiliated with the property/evidence function, conducts monthly inspections. Now, monthly inspections by the Commander focus on adherence to policies, unannounced inspections and monthly audits in lieu of annual audits. The Support Services Manager completed the last full audit/inventory in March 2009 due to a personnel change. Another audit/inventory is planned with the recent hiring of the new, part-time Property/Evidence Technician.

Safety Policies: Appropriate safety procedures are in place. The property/evidence room is ventilated and policies are in place for the handling of biohazards, hazardous and flammable items. The Grand Jury noted only one exception:

- Respirators are not provided for the evidence technician

Paso Robles Police Department

Facility: The Paso Robles Police Department is located in a relatively new building (2003) that is also the headquarters for the Department of Emergency Services. The main property/evidence room is located inside the main building. At the time the agency completed the audit form for the Grand Jury, a total of 10,570 items were located in the main area as well as in secondary secure, storage areas. The combined property/evidence area totals 898 square feet.

While the main evidence area is spacious, items requiring additional security (guns, money and drugs) are located in a separate secure room. Those items were not stored in an orderly fashion. Guns, money

and drugs were piled on top of each other; some guns were stored in evidence boxes while others, not boxed, were lying on shelves. Additional space for these items is needed to permit orderly storage.

Staffing: A Supervising Lieutenant and two detectives currently staff the property/evidence room. A previous full-time dedicated position was eliminated from the budget. The staff typically rotates every two to four years. At the time of the Grand Jury inspection, the plan was to train two dispatchers to staff the evidence room, in addition to the Supervising Lieutenant and two detectives, for a total of five personnel. The agency was unable to provide labor expense figures for the property/evidence room operation.

Purging/Disposal: The agency uses PsNet tracking software. Unfortunately, data entry errors over a period of time listed items checked out as “Disposed” evidence when in fact they were checked out for court, lab analysis or other valid reasons. The disposition of “Disposed” evidence items was not changed when the item(s) was returned to the property/evidence room. Due to this property/evidence documentation tracking error, the Supervising Lieutenant and two detectives planned a full audit of every item beginning in February 2012. The full inventory was expected to take approximately one month to complete.

In view of the PsNet entry error, the purge rate could not be calculated. Of the 10,570 items at the time of survey, 7,916 were taken into evidence in the past five years. Because the number of items purged/disposed of was not available, the purge rate could not be calculated.

Audits/Inventories: The Paso Robles Police Department is in partial compliance with its Lexipol policy pertaining to evidence room inspections:

- On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures
 - According to the Supervising Lieutenant, a few evidence items are checked monthly on a random basis

The department is not in compliance with its remaining policies. The last partial inventory was completed in June 2011 and pertained to drug evidence only. Prior to that date, an inventory of guns, money and drugs was conducted in 2009. The last full inventory was conducted in 2003. A full audit is planned for 2012.

Safety Policies: With regard to health and safety for evidence room personnel, the agency is in compliance with the policy guidelines set forth in the POST audit form, with only two exceptions:

- Ammunition/black powder is not being stored separately from other property
- Explosion-proof storage containers are not provided

Pismo Beach Police Department

The Pismo Beach Police Department is the only agency in the county to receive CALEA accreditation, a process that took several years. After meeting all CALEA proofs of compliance, the department became an accredited agency in 2007. The administration and staff are to be commended for their dedication in obtaining the accreditation.

Facility: The property/evidence room is located inside the police department, and is clean and well-organized. The 445 square foot area is secure and only the primary Property/Evidence Technician has routine access. All others requesting access must sign the entry log, document their purpose, and be escorted by the technician or the supervisor of the property/evidence room. During the Grand Jury's inspection, inspected evidence was properly packaged and the labeling was consistent with standard practices.

Staffing: The Property/Evidence Room Technician has been employed by the agency for the past nine years and maintains a neat and well-organized evidence room. The technician is also the president of the local property/evidence room association, CAPE. The technician's dedication to her position, as well as promotion of the professionalism of the property/evidence room function throughout the county, is to be commended. The annual expense (salary and benefits) for the full-time Property/Evidence Room Technician totals \$82,659.

Purging/Disposal: At the time the audit form was completed, there were approximately 11,065 items of evidence. In the past five years, 5,984 items were entered into evidence and 2,586 were purged/disposed of. The purge rate is 43%.

Audits/Inventories: In addition to using CALEA standards regarding property and evidence control, Pismo Beach relies on Lexipol policies in other areas of operation. CALEA and Lexipol policies are very similar in form and content. The CALEA standard for inspections/audits states:⁷⁴

84.1.6 In order to maintain a high degree of evidentiary integrity over agency-controlled property and evidence, the following documented inspections, inventory, and audits shall be completed:

- a. An inspection to determine adherence to procedures used for the control of property is conducted semi-annually by the person responsible for the property and evidence control function or his/her designee;
- b. An inventory of property occurs whenever the property and evidence custodian is assigned to and/or transferred from the position and is conducted jointly by the newly designated property and evidence custodian and a designee of the CEO to ensure that records are correct and property annotated;
- c. An annual audit of property and evidence held by the agency is conducted by a supervisor not routinely or directly connected with the control of property and evidence; and
- d. Unannounced inspections of property storage areas are conducted, as directed by the agency's CEO, at least once a year.

The Pismo Beach Police Department is in compliance with all CALEA policies. Their last annual audit was completed in June 2011.

Safety Policies: In view of the POST audit pertaining to safety, the following deficiencies were found:

- Respirators are not provided
- Safe storage for chemicals is not provided
- The flammable storage area is not appropriately ventilated
- No outside storage for flammables exists
- Designated storage containers are not explosion-proof

⁷⁴ *Commission on Accreditation for Law Enforcement Agencies (CALEA)*⁷⁴ *Property and Control Standards*

San Luis Obispo Police Department

The San Luis Obispo Police Department is the largest municipal police agency in the county. The department tracks all property/evidence through Spillman software. If the system is not accessible, the Evidence Clerk has devised a manual filing system that allows for the retrieval of evidence based on date. This system is unique to the San Luis Obispo Police Department and the Evidence Clerk should be commended for implementing a simple, logical, back-up filing system.

Facility: Due to space limitations, property/evidence is stored in several different locations. The combined space totals 1,685 square feet. All areas are properly secured. As a result of the Grand Jury inspection, an entry log for escorted persons will be implemented. The evidence room areas were neat and orderly, with the exception of hand gun storage.

Numerous hand guns were piled on a shelf, limiting the orderly removal/examination of a particular firearm. Many agencies in the county place guns in evidence boxes designed for safe storage. It is the preference of the Evidence Clerk to be able to examine the weapon to ensure that it is unloaded and in safe condition prior to acceptance into the property/evidence room. The approach is logical. However, if the agency prefers to store handguns without packaging, it should store them individually, in a neat and orderly manner.

Staffing: The primary control of the property/evidence room is assigned to one full-time Property/Evidence Clerk who is responsible for the day-to-day operation. The Property/Evidence Clerk has attended IAPE and CAPE training. The clerk has been in the position for approximately seven years with an annual compensation (salary and benefits) reported to be \$100,000 per year.

Purging/Disposal: There were 26,043 items in evidence at the time the audit survey was completed. A total of 38,471 items were logged into evidence during the past five years and 31,524 items were purged/disposed of during that time. The purge rate is an impressive 82%. It is noteworthy that the San Luis Obispo Police Department donates unclaimed bicycles to at-risk youth.

Audit/Inspections: The San Luis Obispo Police Department is in compliance with its audit/inspection policy. The current policy is that the Property/Evidence Technician, assisted by the Investigation Sergeant and Investigation Lieutenant, conducts an audit every six months. Audits were conducted in March and October 2011. The audits focused on three areas: firearms, money and drug/narcotics. Per their policy, all firearms and money are examined during the audits, as well as forty randomly selected narcotics cases and forty random pieces of evidence. Audited items are checked for proper sealing, packaging and identification. A report of the findings is forwarded to the Chief of Police, noting any discrepancies. A full inventory of every item is scheduled for March 2012.

The San Luis Obispo Police Department is in the process of changing its department policies, and will adopt the Lexipol standard in the near future. The department is currently reviewing each Lexipol policy prior to acceptance and implementation. Some policies may be modified to best suit the needs of the agency. Once the Lexipol policies are adopted, those provisions pertaining to evidence room inspections/audits will be followed.

Safety Policies: A review of the POST audit forms on safety shows that the department is in compliance with POST standards, with one exception:

- Annual biohazard update training.

San Luis Obispo County Sheriff's Department

Facility: The security of the County Sheriff's property/evidence room is adequate; however, at 2,500 square feet, the building size is not adequate for the volume of property/evidence stored. The property/evidence room currently contains over 75,000 items in a space that is not well designed or orderly. Additionally, the surplus shelving in use does not maximize the current space. While the evidence area is cluttered, the evidence observed was packaged properly and the evidence tracking software is used properly. Sheriff Ian Parkinson described the space as a "disaster"⁷⁵ and he has made correcting the property/evidence room deficiencies a top priority.

⁷⁵ C. Lambert, (Top 10 Stories of 2011: No. 10: Parkinson Brings Changes to County Sheriff's Office. *The Tribune*, December 23, 2011

Plans have been approved to move the evidence room to another site approximately twice as large as the current property/evidence room, with additional adjacent space available when needed. Funding has been secured; the new location is expected to be fully operational and compliant with policy and standards by the end of 2012.

Staffing: The agency has two full-time, non-sworn, property technicians who are responsible for the property/evidence room function. Recently, the agency added a part-time employee to assist in managing the high volume of evidence. The total cost of all employees to operate and maintain the property/evidence room, including benefits, is \$300,070.

Purging/Disposal: In the past five years, according to property system records, 516,284 items of evidence were logged into evidence; of that number, 242,910 items were purged/disposed of. The purge rate is 47%. The Sheriff's Department is proactive in the management of its available space, but their authority to dispose of certain types of evidence has been slowed awaiting approval by the District Attorney's Office. The Grand Jury viewed carts of evidence waiting approval by the District Attorney's Office; some disposal requests date as far back as 2009.

Audit/Inspections: The Sheriff's Department is not in compliance with its Lexipol policies on audit procedures. The last audit was four years ago.

Safety Policies: According to the POST audit forms completed by the department, only minimal safety equipment is supplied (respirators, gloves and protective clothing). Specific deficiencies include:

- No safety manuals
- Annual safety training does not take place
- Emergency evacuation plans do not exist

CONCLUSION

All agencies use computerized inventory methodology, which, when managed correctly, provides excellent tracking and control of property and evidence.

All agencies have adopted, or are about to adopt, the Lexipol property/evidence room policies for audits and inspections. The Lexipol policies are fundamentally consistent with those of other recognized organizations, such as IAPE, CALEA and POST. While all agencies have similar policies, not all agencies comply with their stated policies.

There are several independent consulting firms that perform property/evidence room audits on a contract basis. Such firms provide an unbiased perspective on the management and operation of law enforcement agency property/evidence rooms. The City of Atascadero has utilized such an independent auditor for many years and, as a result, the operation and maintenance of its property/evidence room has continuously improved.

Some county agencies could benefit from POST management counseling, which can be requested by any agency. The POST Management Counseling Services Bureau (MCB) provides many services to local law enforcement agencies to improve the quality of police services at each level of the organization. The authority to provide counseling is pursuant to California Penal Code Section, 13513.⁷⁶ Local agencies in San Luis Obispo County can request management counseling services from POST related to the operation of Property/Evidence rooms. For example, POST conducted an exhaustive property/evidence room audit in 2006 for the Berkeley Police Department after the internal theft of drugs.⁷⁷

There are several professional organizations that offer standards and training, and promote the proper operation of property/evidence rooms. IAPE, for example, offers a certification. POST offers only guidelines. Given the numerous certificate programs offered by POST, the Grand Jury was surprised to learn that POST does not offer a certificate program for Property/Evidence Technicians.

⁷⁶ California Penal Code section, 13513: Upon the request of a local jurisdiction, the commission shall provide a counseling service to such local jurisdiction for the purpose of improving the administration, management or operations of a police agency and may aid such jurisdiction in implementing improved practices and techniques.

⁷⁷ City of Berkeley, Policy Review Commission Police Report, Evidence of Theft within the Berkeley Police Department, October 12, 2007.

In the purging process, all agencies in the county use propertyroom.com for the auctioning of eligible items. There is one notable exception to this practice. San Luis Obispo Police Department donates its bicycles to the Sheriff's Department for repair prior to being donated to their juvenile delinquency program. This practice benefits the community by providing projects for inmates, as well as benefiting at-risk youth.

Several agencies commented that destruction requests to the District Attorney's Office are not processed promptly and the delay reduces available storage space. The Sheriff's Department, for example, has requests dating as far back as 2009 that have had no response. The delay has adversely affected their ability to properly manage the property/evidence room. The primary complaint was that they were not receiving disposal authorization for marijuana stored at their facilities.

There is a variety of management practices of property/evidence rooms within San Luis Obispo County and property/evidence retention/disposal requirements are complex. However, the county lacks a standardized policy/procedure for all law enforcement agencies in the county.

At present, county law enforcement agencies spend approximately \$700,000 for property/evidence room employee salaries and benefits. Supervision, material, transportation, and facility costs increase this number and are difficult to quantify. There may be significant cost savings available if the multiple property/evidence rooms in the county were consolidated into one.

FINDINGS

1. The Police Departments of Arroyo Grande, Grover Beach, and Paso Robles, and the Sheriff's Department are not in full compliance with their respective policies pertaining to evidence room inspections.
2. The Police Departments of Atascadero, Morro Bay, Pismo Beach, and the City of San Luis Obispo are in compliance with their respective policies pertaining to evidence room inspections.
3. The Grover Beach Police Department is currently conducting a full inventory of its evidence room.
4. Morro Bay Police Department advised that it will complete a full inventory of its evidence room with the hiring of a new Property/Evidence Technician.
5. Paso Robles Police Department was unable to advise the number of evidence items purged due to a data entry error that occurred routinely over a period of time.
6. Paso Robles Police Department has advised the Grand Jury that it will complete a full inventory within the year.
7. Paso Robles Police Department does not store guns, money and drugs in a neat and orderly manner.
8. In the Paso Robles Police Department, five people have access to the evidence room and staff rotates every two to four years.
9. Arroyo Grande Police Department and the Grover Beach Police Department do not have ventilated property/evidence rooms for storage of drugs/narcotics.
10. The San Luis Obispo Police Department does not store handguns in a neat and orderly manner.
11. The San Luis Obispo Police Department is planning a full inventory within the year.
12. The Sheriff's Department has advised that it will move its property/evidence room operation to a new facility.
13. The District Attorney's office does not have formal, written property/evidence retention policies.
14. The District Attorney's Office is currently establishing a Memorandum of Understanding with each jurisdiction regarding the retention/destruction of medical marijuana.
15. As a result of the Grand Jury audit, changes are already being made to improve the property/evidence room function in some of the law enforcement agencies in the county.

RECOMMENDATIONS

1. All law enforcement agencies in the County should adhere to their respective policies relating to property/evidence room inspections.
2. The Arroyo Grande and Grover Beach Police Departments should ventilate their evidence rooms containing drugs/narcotics.
3. The Paso Robles Police Department should maintain their property/evidence room in a neat and orderly manner.
4. The Paso Robles Police Department should consider using the services of POST or an independent consulting service to conduct a full review of its property/evidence room function.
5. To reduce audit-related personnel costs, the Paso Robles Police Department should consider staffing the property/evidence room with a single dedicated Property/Evidence Technician.
6. The San Luis Obispo Police Department should store handguns in a safe, neat and orderly manner.
7. The District Attorney's Office should develop a formal property retention policy that will assist each law enforcement agency with the proper retention/destruction of property evidence.
8. The District Attorney's Office should establish a liaison between its office and each law enforcement jurisdiction to regularly review existing and new property/evidence laws and procedures.
9. All personnel assigned to property/evidence rooms in the county should continue their training and/or update their knowledge through professional organizations. It is also highly recommended that they join the county chapter of CAPE.
10. The Grand Jury encourages the county law enforcement agencies to utilize the services of either POST for management assistance or a qualified consultant specializing in property/evidence room management.
11. The following police departments shall submit evidence of a full property/evidence room audit to the Grand Jury: Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, San Luis Obispo, and the Sheriff's Department.
12. The Grand Jury recommends that the police chiefs and County Sheriff explore the feasibility of a county-wide property/evidence room consolidation, possibly under a joint powers agreement.
13. While the Grand Jury does not have jurisdiction over a state agency, it would highly recommend that the California POST Commission consider a statewide certification program for Property/Evidence Technicians that establishes minimum training, education and experience requirements.

COMMENDATIONS

The Atascadero Police Department is to be commended for its continued commitment to improving the operation and management of its property/evidence room. Since 2005, the department has retained the services of an independent property/evidence room consultant. Based on the consultant's recommendations and follow-up inspections in 2008 and 2010, continued improvements were made resulting in Atascadero being rated one of the best property/evidence rooms in California. The current Property/Evidence Technician, Ryan Infantino, as well as his predecessors, are to be commended.

The Pismo Beach Police Department has demonstrated its support and dedication to the property/evidence room function through its CALEA certification and adherence to POST standards. Specifically, Property/Evidence Technician Rachelle LaPan is to be commended for her management of the property/evidence room and her contribution as President of the local CAPE chapter.

The San Luis Obispo County Sheriff's Department recognized the necessity of moving its property/evidence room to larger facilities and reorganizing the manner in which evidence is stored. The move and reorganization are underway and the new facility should be operational by the end of 2012. Sheriff Ian Parkinson included the auditing of the property/evidence room as a top priority prior to his election as Sheriff. He is to be commended for keeping his pre-election promise.

REQUIRED RESPONSES

The Police Department of Arroyo Grande is required to respond to Findings 1 and 9, and Recommendations 1, 2, 9, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of Atascadero is required to respond to Recommendations 1, 9 and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of Grover Beach is required to respond to Findings 1, 3 and 9, and Recommendations 1, 2, 9, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of Morro Bay is required to respond to Finding 4 and Recommendations 1, 9, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of Paso Robles is required to respond to Findings 1, 5, 6, 7, and 8, and Recommendations 1, 3, 4, 5, 9, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of Pismo Beach is required to respond to Recommendations 1, 9 and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The Police Department of San Luis Obispo is required to respond to Findings 10 and 11, and Recommendations 1, 6, 9, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **September 4, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The San Luis Obispo County Sheriff is required to respond to Findings 1 and 12, and Recommendations, 1, 9, 10, 11, and 12. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **August 6, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The San Luis Obispo County District Attorney is required to respond to Findings 13 and 14, and Recommendations 7 and 8. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **August 6, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The e-mail address for the Grand Jury is: GrandJury@co.slo.ca.us

APPENDIX A

BUTTE COUNTY PROPERTY RETENTION POLICY

PURPOSE

The purpose of this policy is to establish standard criteria for Law Enforcement Agencies with regard to property retention.

POLICY

This document gives all agencies within _____ the authority to purge all property taken into their possession based on meeting the criteria outlined below. This was created with the input of all Butte County Law Enforcement Agencies, in conjunction with the Butte County District Attorney's Office.

PROCEDURE

Evidence Retention Considerations

- 1) Post conviction
- 2) Post dismissal
- 3) Case not filed
- 4) DNA/Biological evidence
- 5) Sexually Violent Predators (SVP) cases
- 6) Domestic Violence/Elder Abuse/Child Abuse
- 7) Juvenile cases
- 8) Drug diversion cases
- 9) Bench warrant vs. arrest warrant
- 10) Search warrant
- 11) General purge considerations
 - a) Statute of limitations considerations
 - b) Agency may initiate
 - c) Currency
- 12) Photograph and release option

Attachments

- 1) Statute of limitations
- 2) Warrant purge criteria

- 3) Return of service order (1536 PC)
- 4) Weapons destruction order (12028 PC)
- 5) Narcotics destruction order (11367, 11473, and 11473.5 H&S)

Purge criteria

Absent a directive by the District Attorney, the following criteria shall apply permitting the purging of property or evidence.

1) Post conviction

If case was a plea or no contest, the investigating agency can purge property as soon as they receive the Butte County District Attorney's Evidence Release Memo (hereinafter referred to as Evidence Release Memo). There is no need to hold onto the evidence any longer.

If convicted by jury, evidence shall be held for 60 days on misdemeanors and 90 days on felonies for possible appeals. This time is based on the date of the case adjudication and is for those cases in which an Evidence Release Memo is received.

In 187 PC and life sentence cases, there will not be an Evidence Release Memo sent until the (s) is deceased or released from prison and is on parole. If the (s) dies while in custody, this information may come to either the DA or the local agency. Once this information is received, it is important that both are made aware of this information. Therefore, always ensure the other party involved has been contacted and is aware of the status. Once the suspect has been released from prison or is deceased, the property can be purged. In order to check on the status of a particular inmate, contact Chico Parole. They will be able to provide you with parole information or a deceased notification on your suspect.

2) Post dismissal

The District Attorney's office shall send an Evidence Release Memo for cases that are dismissed due to lack of sufficient evidence or in the interest of justice. These evidence releases shall state the reason for the dismissal. Once an Evidence Release Memo has been received, the property section will verify the status with their case agent prior to disposal of property. The District Attorney will not move forward with the case unless the case agent has further information.

In co-defendant cases, the first Evidence Release Memo will state the fact there is a co-defendant. The subsequent release will state the final release of evidence.

3) Case not filed

The District Attorney's office shall send an Evidence Release Memo for cases that are either declined due to lack of sufficient evidence, or declined in the interest of justice. These Evidence Release Memos shall state the reason of the case being declined. Once an Evidence Release Memo has been received, the property section will check with their case agent prior to disposal of property. The District Attorney will not move forward with the case unless the case agent has further information.

For any cases without an arrest, all property can be purged at statute of limitations. For further information regarding statute of limitations, see Attachment 1.

4) DNA/Biological evidence

DNA evidence used to convict must be maintained until the (s) is released from prison, unless authorized by the District Attorney. The (s) has the right to have the DNA evidence retested at any point in time during their incarceration. However, if the proper documents have been signed by the (s), the (s) attorney, the DA, and the judge, all property can be purged after conviction. This documentation would accompany any evidence release memo sent by the District Attorney.

Each agency shall be held responsible for the retention of evidence when there is a John Doe warrant issued based on DNA. The agency shall verify status of any potential warrants prior to the disposal of DNA evidence at the statute of limitations.

5) Sexually Violent Predators (SVP) cases

CART interviews shall be conducted using DVD media and forwarded to the individual agencies.

Sexual assault cases have a statute of limitations of ten (10) years. No evidence in such cases, unless unfounded, can be purged prior to the statute of limitations. For the retention of any DNA evidence, refer to the DNA section of this document.

6) Domestic Violence/Elder Abuse/Child Abuse

All photos and interviews shall be maintained for a period of ten (10) years from the date of incident on all domestic violence/elder abuse/child abuse convictions. This is pursuant to California Evidence Code Section 1109. This is due to the fact that all prior convictions of such a crime are admissible for future

cases. This allows the District Attorney to attempt to show a pattern of this behavior for the (s) to include motive, intent, and opportunity.

All property, other than photos and interviews, may be purged once the Evidence Release Memo is received from the District Attorney's office.

7) Juvenile cases

The District Attorney's office will send an Evidence Release Memo on Juvenile cases based on case adjudication. Property may be purged upon receiving these releases.

If an Evidence Release Memo is not received, each agency may look up the case status in HOD. Once the case shows closed in HOD, the investigating agency may purge the property.

For cases without a suspect, property may be purged based on statute of limitations (see Attachment 1).

8) Drug diversion cases

All evidence seized in criminal cases that result in drug diversion will be maintained until the suspect completes their diversion process. Once diversion is successfully completed, an Evidence Release Memo will be sent to the investigating agency. If the suspect fails to complete diversion, the evidence will remain active. In all narcotics cases, the evidence will be considered active until an evidence release memo is received by the investigating agency.

In cases in which the suspect pleads, an Evidence Release Memo will be sent prior to the completion of drug diversion. The evidence will no longer be needed and can be purged.

All agencies are authorized to destroy all needles/syringes taken as evidence of Business and Professions Code Section 4140 after the seizing officer photographs (Xerox is also acceptable) the item and identifies the same with the agency case number. Hypodermic syringes containing suspected controlled substances are subject to the same procedure with the addition that a portion of the contents should be presumptively tested for proper criminal charging. The contents are then to be placed into a vacuum tube (void of preservative) and sent to the lab for analysis.

9) Bench warrant vs. arrest warrant

Bench warrant is issued after a person has appeared in court, but fails to show for additional court appearances.

Arrest warrants are issued for persons law enforcement maintains is a (s) in a case, but has yet to arrest with regard to the incident.

Firearms taken in cases in which there is an arrest or bench warrant, it can be purged after one year on possession cases only. Law Enforcement must document and photograph the firearm thoroughly, but can purge it as abandoned property after one year.

For purge criteria on misdemeanor cases, refer to Attachment 2. *This criteria is for those misdemeanor cases over seven (7) years old that have gone to warrant.*

10) Search warrant

All evidence taken as part of a search warrant must have a court order (1536 PC) prior to the return or purging of any property. If the original warrant service included a return (1536 PC) order, the property can be released by an evidence memo issued by the District Attorney upon case adjudication. All property considered to be stolen/recovered will be photographed and released to the rightful owner, refer to Attachment 3.

11) General purge considerations

a) Statute of limitations considerations

Purging of property in criminal cases is sometimes based on the statute of limitations. If there has not been an arrest on a case and there is not an outstanding warrant, purging is based on the statute of limitations. For the most part, the statute of limitations runs one (1) year on misdemeanor crimes and three (3) years on felony crimes. However, this is not a set standard. For clarification based on criminal code section, see Attachment 1. An example of crimes that do not meet this basic statute of limitations would be sex crimes or violent crimes against person.

b) Agency may initiate

Individual agencies may have individual purge criteria set up for various non-criminal or civil cases. A list of such cases includes, but is not limited to: 27491 GC, traffic collisions, and cases they deem are unfounded.

c) Currency

Any currency taken into the custody of local law enforcement agencies as part of a narcotics sales case will be handled by the District Attorney-Asset Forfeiture Unit.

In embezzlement cases, the money may be returned to the victim upon case adjudication. If the victim has filed a claim with their insurance company and received compensation, the money would then be released to the insurance company.

12) Photograph and release procedure

Stolen/Recovered items will be photographed and released to the (v). There is no need to maintain stolen/recovered property as evidence. Proper documentation (which includes obtaining and photographing the serial numbers) and photographing of all evidence must occur prior to the release of any property. These photos should include the (v) with the items to be returned. The (v) must also be informed to maintain possession of this property until the criminal case is adjudicated, in case it is needed for prosecution.

Pay Me Now or Pay Me Later:

CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY

INTRODUCTION

This report is a study of actual employee vacation and sick leave accumulation, and the rules and regulations governing these accumulations, in each San Luis Obispo County municipality.

ORIGIN

This Grand Jury investigation resulted from a citizen complaint and was expanded to include all cities in the County.

PROCEDURE

The Grand Jury obtained information for this report from the following sources:

1. Personnel Rules and Regulations from all seven cities in San Luis Obispo County
2. All Memorandums of Understanding⁷⁸ (MOUs) from all seven cities. Memorandums were for all bargaining units⁷⁹ in each jurisdiction; they identify vacation, sick leave and overtime policies in each city, unit by unit.
3. A record of each city employee, identifying his or her accumulated sick leave, vacation and overtime
4. Calculations of the potential unfunded liability⁸⁰ for vacation time in each jurisdiction, based upon current data submitted
5. Follow-up communication with a city if there was any question about the data received

⁷⁸ Memorandum of Understanding is an understanding reached as a result of meeting and conferring on hours, wages and working conditions pursuant to California law.

⁷⁹ Bargaining units are police and fire safety personnel, management employees, confidential (at will and exempt employees, usually working for management personnel) and miscellaneous employees, who are usually non-safety personnel, e.g., parks, building, planning.

⁸⁰ Unfunded liability is the payment owing for accumulated vacation time at a future date when an employee leaves the city, and is paid out of general operating funds available to the city at the time of payout. Usually, final payments are at a rate of pay higher than that being earned at the time the vacation was accumulated.

6. Calculations of accumulated vacation time at a conservative \$35 per hour based upon when the documentation was received by the 2011-2012 Grand Jury

NARRATIVE

CITY OF ARROYO GRANDE

Each employee unit has a different amount of maximum accumulated time that can be carried for vacation and sick leave. Vacation time can vary from 200 to 225 hours, except for management personnel who can accumulate up to 750 hours of vacation time. The City requires all employees to use at least 80 hours of vacation time annually after one year of service.

The Grand Jury found that there is only one employee who has exceeded the maximum amount of vacation time allowed; that person was grandfathered in when the rules were changed.

The City allows up to 480 hours of accumulated sick leave. Annually, an employee has the option of being paid 25% of his/her unused sick leave for the preceding twelve months. In lieu of payment, an employee may opt to transfer 25% of his/her unused sick leave to vacation credit.

Overall, the City has 83 full and part-time employees with a total of 7,232 hours of accumulated vacation time on its books and only one employee who exceeds the allowable accumulated time. The employee average is about 87 hours or 11 days of vacation.

The City currently has an unfunded liability for accumulated vacation time in the amount of \$253,120. As a result, the City appears to be managing its leave time very well.

CITY OF ATASCADERO

The City of Atascadero has a policy limiting vacation accrual, but has not enforced its own policy for over 20 years, thereby causing a major problem for the City. The City's policy clearly states, "Employees shall cease to accumulate vacation once their accrued vacation balance has reached two (2) times their annual accrual rate."

On October 25, 2011, the City Attorney provided a legal analysis to the City Council regarding restrictions on accrual of vacation, general principles and past practices, and submitted the following options for the City Council to consider:

- Maintain existing practice
- Revise Personnel Rules to reflect current practices
- Begin enforcing current rules, which would require a meet and confer process with employee bargaining units
- Allow employees to take time off and enforce the vacation cap gradually
- Create a new Personnel Rule for vacation accrual

The City Attorney developed these options for the City Manager and the City Council to help resolve this problem. As of this writing, however, no action has been taken by the City Council.

The City of Atascadero has unlimited accrual of sick leave and a "Stay Well" bonus program. Once eligible, an employee may opt to receive a pay-off equal to one-third of the unused annual allotment of sick leave. The City does not pay off accumulated sick leave when an employee leaves the City, with the exception of Mid-management personnel. Mid-management personnel are entitled to receive payment at their hourly rate for one-half of their accumulated sick leave.

The City of Atascadero currently has 116 employees with 25,352 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time of \$887,320. The average accumulated vacation time per employee is more than 218 hours or approximately 27 days, which is the second highest total in the County.

The City is managing its vacation time poorly and has built up a significant unfunded liability as a result.

CITY OF GROVER BEACH

Employees may earn up to 280 hours of vacation time a year, depending upon how long they have been with the City. The City has a “Buy Back” program for vacation when accumulation exceeds 60% of the authorized time allowed. Employees may be paid a maximum of 80 hours of compensation for vacation accumulation in any calendar year. This approach minimizes unfunded liability.

Employees with less than five years with the City may accumulate a maximum of 20 days, while employees with five to ten years may accumulate up to 25 days. Employees with over ten years with the City may accumulate a maximum of 34 days. Any vacation exceeding this amount will be forfeited, unless approved by the City Administrator in advance.

Management and Confidential unit employees may accumulate up to 632 hours of vacation time, depending on how many years they have worked for the City.

Sick leave may be accumulated up to 2,000 hours, and management personnel may be paid a maximum of 672 hours upon leaving city employment. However, effective with new contracts, the sick leave buy back policy has been suspended. Some accumulated sick leave may be applied to the Public Employee Retirement System (PERS), depending on the existing contracts at the time of retirement.

At present, the City has a total of 55 employees with 10,496 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time in the amount of \$367,360.

The relatively high unfunded liability may cause some concern, as the average vacation accumulation per employee is 190 hours or about 24 days. However, it appears as if the City is managing its accumulated vacation time quite well; it addresses the issue on an annual basis in an effort to limit its liability.

CITY OF MORRO BAY

The City of Morro Bay has a vacation accumulation policy ranging from 10 to 20 days per year. Employees may carry forward one year of their maximum allowable annual accumulation of vacation time. There is a “buy back” program for some employees when they exceed the maximum allowable accrual time.

The City has a policy that once an employee reaches the maximum vacation accumulation, the employee may not continue to accrue vacation time. However, City records indicate that several employees appear to have more time on the books than allowed by City rules and regulations. The City Manager is authorized to grant approval to exceed the maximum allowable accrual of vacation, but it is not known if such approval has been granted officially.

Management and Confidential Unit employees may accumulate up to 400 hours of vacation time.

The Grand Jury noted that twelve employees have over 300 hours of accumulated vacation time, four employees have over 400 hours and two employees have in excess of 600 hours.

The City has no limit on sick leave accumulation and there is a pay-off policy between 25% and 35% of sick leave accumulation when the employee leaves City employment, depending upon the bargaining unit.

The City has a total of 98 full and part-time employees with total accumulated vacation time of 14,766 hours and unfunded liability for accumulated vacation time of \$516,810. The average vacation accumulation per employee is about 151 hours or 19 days.

The City appears to be managing accrued vacation time reasonably well, but it does have some long-time employees who may cause a financial problem when they leave City employment.

CITY OF PASO ROBLES

The City of Paso Robles has a policy governing how many vacation hours an employee may accumulate on an annual basis. This accumulation is based upon time in service and ranges from 80 to 160 hours, except for Management and Confidential Unit employees who may accrue up to 200 hours.

In the City's Personnel Rules, under Section 16.02 (c), however, the policy states: "At no time may an employee have a total balance of vacation days in excess of one-and-one-half times its current, annual accrual rate. Excess vacation accrued in this manner shall be lost if not taken within 60 days of the date the maximum accumulation is reached."

The Grand Jury found that 67 of 165 City employees, or 40%, exceed the maximum vacation allowed, even though the City has a policy of paying off vacation time up to one week per year, if the employee has at least three weeks of vacation accumulated. It is obvious that the City does not follow its own vacation accrual policy.

The Grand Jury investigation revealed that the City has an enormous problem of accumulated vacation time and related unfunded liability. The largest accumulation is among the Police Department and Management and Confidential Unit employees, the two highest paid units in the City. This situation magnifies the problem because the cost of payout per employee in these two units exceeds the cost of payout per employee in the Miscellaneous Unit (non-safety personnel).

Currently, the City has 47,045 total hours of accumulated vacation on its books and unfunded liability for accumulated vacation time of \$1,646,575 because it does not enforce its maximum vacation accumulation policy. The 165 City employees have an average of 285 accumulated vacation hours or more than 36 days per employee, which is the highest accumulation in the County.

In contrast, the City of San Luis Obispo has 50,429 hours on its books for 345 employees, for an average time accumulated vacation time of only 18.25 days per employee.

The City of Paso Robles has unlimited accrual of sick leave, as do most of the cities in the county.

The Grand Jury also noted that the City of Paso Robles appears to have a set of personnel rules and regulations that has not been updated since 1989. As a result, there may be significant outdated policies and procedures that require a thorough review by the City Council and staff.

CITY OF PISMO BEACH

In the City of Pismo Beach, vacation time varies with the employee bargaining unit. Generally, employees can receive up to 20-22 days, depending upon time with the city, and may accrue up to 44 days or two times the employee's annual accrual rate.

The City has no cap on accumulated sick leave accruals; however, payment of accrued sick leave cannot exceed 480 hours. Some time may be converted to the retirement system, depending upon the existing city contract with PERS.

The City has a total of 85 employees with 8,691 accumulated vacation hours and unfunded liability for accumulated vacation time of \$304,185. Although this number may seem to be cause for concern, the City of Pismo Beach has no employees who exceed the maximum allowed. The City averages about 103 hours of accumulated time or about 13 days per employee. Vacation time appears to be well managed.

CITY OF SAN LUIS OBISPO

In the City of San Luis Obispo, vacation can be accrued up to two times the annual rate allowed for an employee. Depending upon the bargaining unit, the City may buy back from an employee up to 80 hours of vacation time annually.

The City of San Luis Obispo has unlimited accumulation of sick leave and can pay off Miscellaneous Unit employees between 10% and 15% of their accumulation, after an employee has 20 years with the City. Fire and Police personnel can receive up to 30% payment of their accumulation, depending upon time with the City.

There are so many variations on buy back of time, accrual rates and other forms of compensation that analysis of vacation time is the most meaningful.

The City of San Luis Obispo has a total of 50,740 hours of accumulated vacation time and unfunded liability for accumulated vacation time of \$1,775,900. With 345 employees, however, the City has an average accumulated vacation time of only 147 hours or approximately 18 days per employee.

The City of San Luis Obispo is well within its policy guidelines for vacation accumulation and vacation time appears to be well managed.

SUMMARY TABLES

The two tables below summarize the vacation accrual issues that each municipality in San Luis Obispo County must manage. The first table shows the amount of unfunded liability for vacation accrual by city in the County.

Table 1: **Summary of Unfunded Liability for Vacation Accrual**

<u>City</u>	<u>Unfunded Liability for Vacation Accrual</u>
Arroyo Grande	\$253,120
Atascadero	\$887,320
Grover Beach	\$367,360
Morro Bay	\$516,810
Paso Robles	\$1,646,575
Pismo Beach	\$304,185
San Luis Obispo	\$1,775,900

Note: Dates of the amount of unfunded liability vary by city. All calculations of accumulated vacation time are based upon when the documentation was submitted to the 2011-2012 Grand Jury in mid-2011, at an average cost of \$35 per hour.

The second table shows the average vacation accrual in hours per employee by city in the County.

Table 2: **Summary of Average Vacation Accrual per Employee**

<u>City</u>	<u>Average Vacation Accrual - Hours per Employee</u>
Arroyo Grande	87
Atascadero	218
Grover Beach	190
Morro Bay	151
Paso Robles	285
Pismo Beach	102
San Luis Obispo	147

CONCLUSION

After a review of the vacation and sick leave policies of the cities in San Luis Obispo County, and a review of accumulated vacation time for employees, it is apparent that some cities are not in compliance with their own personnel rules, regulations and policies.

Several jurisdictions have excessive accumulated vacation time that places the city in financial jeopardy due to unfunded liability. Employees have been allowed to accumulate excessive vacation time, either as a result of poor management practices or the inability of management to allow vacation time off for employees.

It is obvious that several jurisdictions have, or will have, a considerable problem in paying off accumulated vacation time. Almost all accumulated time is paid off at a **higher** rate than when it was earned, which adds an additional financial burden on all cities.

It is also clear that in some jurisdictions personnel rules and regulations have not been updated for some time. As a result, they do not reflect current practices. Some jurisdictions appear to use employee agreements in lieu of updating their personnel rules and regulations; they incorporate the agreements into the personnel rules by reference.

It is very difficult for an individual who is not familiar with a particular jurisdiction to understand employee benefits fully by reviewing only the Personnel Rules. All Memorandums of Understanding should be reviewed, as well.

FINDINGS

1. There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.
2. With the exception of the Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buy back or payoff of accumulated sick leave either annually or upon leaving city employment.
3. The City of Paso Robles, with only 165 employees, has more than 47,000 hours of accumulated vacation on its books and an enormous unfunded liability of \$1,646,575.
4. The City of Paso Robles has a policy stating that no employee can exceed one-and-one-half times their annual accumulation or they will lose their vacation time.
5. The City of Paso Robles is in gross violation of its own policies governing accumulated vacation time; 40% of City employees exceed the stated policy.
6. The City of Paso Robles has not updated its personnel rules and regulations since 1989.
7. The City of Atascadero has admittedly and blatantly violated its own policies on vacation time for more than 20 years.
8. The City of Atascadero has not acted to date on any policy changes related to its accumulated vacation problem, in spite of the recommendations of the City Attorney.
9. The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.
10. Most jurisdictions do not update their personnel rules and regulations after MOUs are developed with each bargaining unit. All personnel rules are incorporated into any new MOUs, but personnel rules are not always updated accordingly.

RECOMMENDATIONS

1. All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.
2. All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.
3. The City of Paso Robles should review and update its Personnel Rules and Regulations.
4. The City of Paso Robles should take immediate steps to stop additional vacation accumulation in violation of its own policies.
5. In order to reduce its unfunded liability, the City of Paso Robles should consider a multi-year program to pay off accumulated vacation time.
6. The Atascadero City Council should immediately address the recommendations made by their City Attorney for dealing with the problem of maximum allowable vacation time, implement one of the recommendations and adhere to it.
7. The City of Atascadero should consider a multi-year program to pay off accumulated vacation time and sick leave, and thereby reduce its unfunded liability.
8. The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.
9. All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.
10. All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability issue.

COMMENDATIONS

The Cities of Arroyo Grande, Pismo Beach and San Luis Obispo are managing their accumulated vacation time extremely well.

REQUIRED RESPONSES

All cities are required to respond to Findings 1, 2 and 10, and Recommendations 1, 2, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Paso Robles is required to respond to Findings 1-6 and 10, and Recommendations 1-5, 9 and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Atascadero is required to respond to Findings 1, 2, 7, 8, and 10, and Recommendations 1, 2, 6, 7, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Morro Bay is required to respond to Findings 1, 2, 9, and 10, and Recommendations 1, 2 and 8-10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The email address for the Grand Jury is: GrandJury@co.slo.ca.us