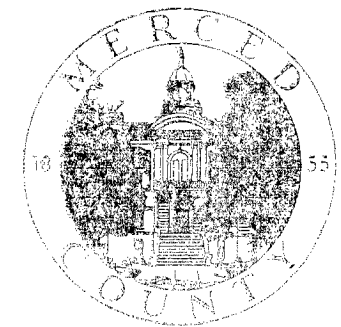
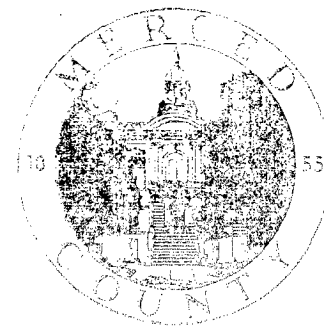
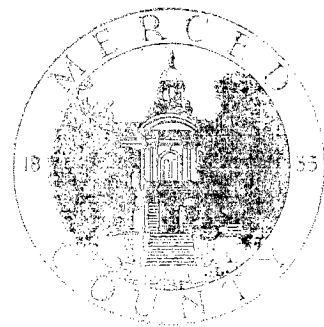
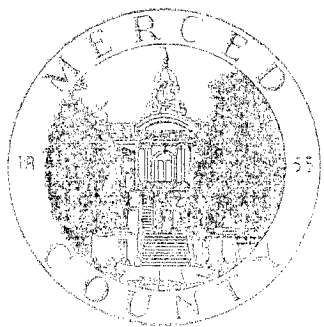
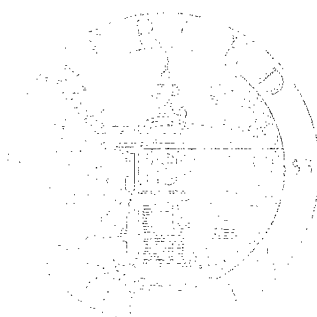
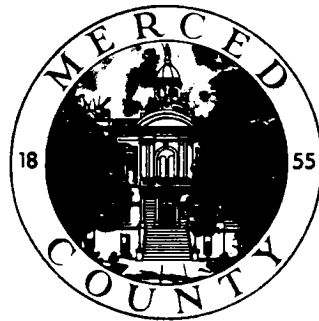
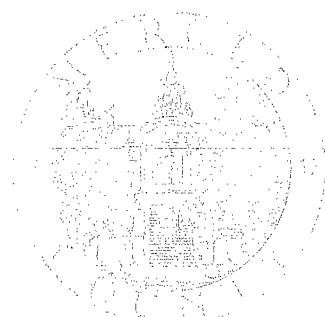
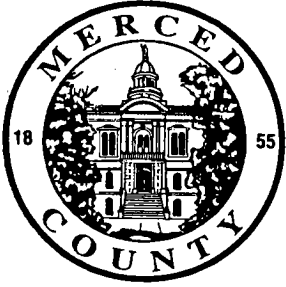


Merced County

2002 - 2003

Grand Jury Report





MERCED COUNTY GRAND JURY

P.O. BOX 2034
MERCED, CALIFORNIA 95344

June 20, 2003

The Honorable John D. Kiriara
Presiding Judge of the Grand Jury
Merced County Superior Court

Dear Judge Kiriara:

The 2002-2003 Merced County Grand Jury is pleased to submit this final report to you in accordance with the charge given to us by this court and pursuant to California Penal Code Section 933.

We are honored that we were entrusted with the power and duty to investigate and report on matters of our county, city, and special district governments. We had a wide range of experiences - some invigorating, some disappointing, some encouraging, some frustrating, most challenging, but all educational. We kept our goal of making a difference always before us. We worked hard, with a view to performing our service with impartiality and objectivity. We are proud of our efforts.

Thank you for your counsel, encouragement, and support.

Respectfully yours,

A handwritten signature in cursive script that reads "Betty Hoffman".

Betty Hoffman, Foreperson
2002-2003 Merced County Grand Jury

**MERCED COUNTY GRAND JURY
2002-2003 FINAL REPORTS**

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**MERCED COUNTY
GRAND JURY MEMBERS
2002-2003**

Vicki Beckham	
Constance Bennett	Secretary
Jan Carroll	Committee Chairperson
Marie Cox	
Mary Gregory	
Juli Harp	
Barbara Heller	Committee Chairperson
Betty Hoffman	Foreperson
* Cheryl King	
Norma MacMillan	Committee Chairperson
Sally McDonald	
* Frederick Moltoza	
Joann Odle	
Melba Quinn	
Barbara Robinson	Foreperson Pro Tem
Marcela Rodriguez	
John Russell-Curry	Committee Chairperson
Carol Silva	Committee Chairperson
Arthur Wert	

Note:

Grand Jurors reside in the following cities within the County of Merced: Atwater, Livingston, Los Banos, Merced, Santa Nella.

* Jurors unable to complete the full term.

MERCED COUNTY 2002-2003 GRAND JURY

Betty Hoffman, Foreperson
Barbara Robinson, Foreperson Pro Tem
Constance Bennett, Secretary

COMMITTEES

AUDIT AND FINANCE/CITIES AND JOINT POWERS

Carol Silva, Chair
Vicki Beckham
Juli Harp
Arthur Wert

COUNTY ADMINISTRATION/COUNTY SERVICES

Jan Carroll, Chair
Maria Cox,
*Fred Moltoza,
Marcela Rodriguez

HEALTH, EDUCATION AND WELFARE

Norma MacMillan, Chair
Constance Bennett
*Cheryl King
Sally McDonald
Joann Odle

LAW, JUSTICE, AND PUBLIC SAFETY/SPECIAL DISTRICTS

Barbara Heller, Chair
Mary Gregory
Melba Quinn
John Russell-Curry

RESPONSE/IMPLEMENTATION REVIEW

John Russell-Curry, Chair
Jan Carroll
Mary Gregory
Barbara Heller
Barbara Robinson

EDIT

Barbara Robinson, Chair
Jan Carroll
Barbara Heller

*Jurors unable to complete full term.

**MERCED COUNTY SHERIFF'S DEPARTMENT
MAIN JAIL AND CORRECTIONAL CENTER
Mandated Inspection**

INTRODUCTION

Grand Jury annual inspection of the Main Jail and Correctional Center is mandated under California Penal Code Section 919.

METHOD OF INVESTIGATION

9/20/02 The Grand Jury toured the Main Jail at 700 W. 22nd St., Merced and the Correctional Center at 2584 W. Sandy Mush Rd., Merced.

FINDINGS

Main Jail

- This facility was built in 1968. There are four cellblocks that can house 40 to 50 inmates each. In addition, there are cells for holding, segregation, detoxification, and safety. The maximum capacity is 191 with an average daily population of 167.
- The number of bookings per year averages 10,000. Only male inmates are booked and housed at this facility. The cost for booking is \$136.00 per inmate. A fee of \$112.00 is charged to city police for each booking. The average stay for inmates is 25 days. Due to overcrowding, approximately 65 percent of inmates booked on misdemeanor charges stay only one day and are released with a date for court appearance. Inmates may be housed at this facility for as long as four years while awaiting sentencing by the court.
- Trustees are housed together in a cell with a capacity maximum of 14. The trustees do inmate laundry, general cleanup, and assist with serving food.
- The ratio of officers to inmates is five to 167 or one officer to 33 inmates. Five officers cover four cellblocks, the intake/booking area, and the cells used for temporary housing and safety. There is a two-officer requirement for moving inmates that are violent, suicidal, or in administrative segregation. A second officer is called to leave his/her designated post to assist the officer in charge, jeopardizing security and putting the officers and inmates at risk.
- On an average weekday, 100 inmates are transported from the Correctional Center to the Main Jail for court appearance and housed in the holding cells from 30 minutes to an hour at a time.

- Mandated 24 hour nursing service is provided. Chaplain consultation is available daily.

Correctional Center

- The Correctional Center was constructed in 1990 as a minimum-security facility but currently maximum-security inmates are a significant percentage of the population. The maximum capacity for the center is 532. The current population is approximately 480. Dormitories provide the majority of housing with males and females in separate buildings and exercise yards. All females arrested in Merced County are brought to this facility for booking and housing.
- Eighty-eight inmates can be housed in the lockdown unit, which has one bed and two bed cells. Males are housed on both the upper and lower levels. Females are segregated in one area of cells on the lower level. To move an inmate in this unit, the Security Officer must call another officer for assistance, leaving a post unattended.
- Four Correctional Officers monitor the dorms and one Correctional Officer monitors the lockdown unit per shift. Additionally, there is one security officer on duty at all times in the control room. One Correctional Officer per shift must be female to monitor the female inmate's dormitory. This officer is pulled from her post to assist with bookings or moving female inmates in the lockdown unit. When this occurs, the dormitory she covers is unsupervised. That dormitory is then monitored by use of audiovisual equipment. Any dormitory left unsupervised becomes a security risk and endangers both inmates and officers.
- The average stay for inmates is 30 days but some stay three to four years. Approximately 555 inmates were released last year due to overcrowding. Of that number, 90 percent were felons.
- There were four escapes last year (2001-2002) but all four inmates were caught.
- Only sentenced inmates can participate in the work program. A kitchen crew of civilian employees and inmates prepares approximately 2,200 meals daily. Meals are delivered each day to the Main Jail, Juvenile Hall, and the Marie Green Psychiatric Center. Civilian employees supervise the inmates on the kitchen crew with a periodic walk-through by a Correctional Officer. Inmates under the supervision of a civilian employee do the laundry for the Correctional Center as well as Juvenile Hall.
- Correctional Officers transport 60 to 150 inmates daily to/from the main jail, courts, and other locations.

- Services available for the inmates include contracted nursing, chaplain consultation, General Education Development classes, mental health counseling, and Bible studies.
- A new dormitory building for housing inmates is under construction and completion and occupation of this building is anticipated for sometime in the spring of 2003.

RECOMMENDATIONS

The Grand Jury recommends that at least one additional Correctional Officer be added per shift for both the Main Jail and the Correctional Center to alleviate the danger of leaving areas unsupervised. Special consideration should be given for the need of female officers at the Correctional Center.

The Grand Jury also recommends the expeditious opening of the new dormitory building at the Correctional Center.

COMMENDATIONS

The staff of both these facilities merits commendation for their work under conditions that contribute to the danger that is ever present in this profession.

MERCED COUNTY JUVENILE DETENTION CENTER

Mandated Inspection

INTRODUCTION/BACKGROUND

Under California Penal Code 919 (b) the Grand Jury is required annually to inspect the condition and management of detention facilities within the county.

METHOD OF INVESTIGATION

- 10/03/02 Bill Davidson, Chief Probation Officer in charge of Juvenile Hall Operations, and Franz Moosbauer, Division Director – Custody Services Division, met with the Grand Jury. They gave a slide presentation on the new Merced County Juvenile Detention Center which is in the process of being built on Sandy Mush Road adjacent to the Merced County Sheriff's Adult Correctional Facility.
- 11/04/02 The Grand Jury toured the Juvenile Hall facility located at 1411 B Street in Merced.

FINDINGS

- The current facility is over 50 years old. It is being replaced in a three-phase building plan, which provides for phase one to be completed in December of 2003.
- The current facility has a rating capacity of 42 juveniles. The capacity is sometimes exceeded; however, it cannot at any time exceed 50. At that point, juveniles need to be released. When the unit is over capacity, sentenced juveniles may be released with electronic bracelets. Juveniles are detained while awaiting sentencing, which takes 20 to 35 days. After sentencing, the juveniles serve on average one-third of the court-ordered time unless they misbehave in the center. It is projected that detention space for 240 juveniles will be needed in the year 2005.
- The juveniles are segregated by size, age, gang affiliation, and seriousness of offense. Privileges are determined by a point system.
- The staffing ratio is one full-time Correctional Officer for every ten juveniles in the daytime and one to thirty at night, with one officer present for each gender.

- There is a manager on the premises. The administrators have offices at 3050 M Street in Merced.
- Medical care is provided through the Merced County Health Department, and a Mental Health Counselor is also provided. A Physician's Assistant attends the juveniles three times a week for general physicals and sick call. He comes at any time in between for a sick call. Medical services will be contracted through a private company in the new facility.
- The County Office of Education determines the school curriculum; supplies computers, textbooks and necessary materials; and provides two teachers and one aide to teach the students. The juveniles are individually tested and receive individualized instruction. Their transcripts and homework assignments can be obtained through their school of attendance and their credits from the center can be transferred. The principal of the Valley Continuation School oversees the school program. The juveniles attend school on site 240 minutes each day, which is considered a minimum regular school day.
- Full-time extra-help employees are needed to relieve regular employees for vacations, sick time, or training. An attempt is being made to remedy this by hiring five additional full-time Correctional Officers. The job requirements for the juvenile facility are essentially the same as those for the adult correctional facility. However, juvenile correctional officers make \$500 to \$600 less a month. They often leave for better pay elsewhere.

RECOMMENDATIONS

The Grand Jury recommends that the county proceed with hiring additional full-time Juvenile Correctional officers.

The Grand Jury recommends that the salary difference between Adult and Juvenile Correctional Officers be reviewed.

COMMENDATIONS

The Grand Jury recognizes the difficulty in running an over-crowded, antiquated facility and commends the employees for their effort and concern for the well being of juveniles.

MERCED COUNTY ANIMAL CONTROL

INTRODUCTION/BACKGROUND

The Grand Jury has the responsibility to review County Departments of choice. Merced County Animal Control was selected for review.

The Animal Control Division has the responsibility of collecting stray animals, enforcing the law in regard to humane treatment of animals, caring for the animals it houses, performing euthanasia of animals as necessary, and maintaining an animal shelter. The Animal Control Shelter is located at 2080 Grogan Avenue in Merced. Animals that are handled at the shelter are dogs, cats, horses, reptiles, birds, and exotic animals. The Animal Control Division also assists the U.S. Drug Enforcement Association, Sheriff's Department, and Police Department in action against illegal activities.

METHOD OF INVESTIGATION

- 9/7/2002 A Grand Jury Committee made an unannounced visit to the Merced County Animal Control Shelter and toured the facility.
- 3/3/2003 A Grand Jury Committee met with Mr. Rick Blackwell, Animal Services Manager; Mr. David Robinson, Agricultural Commissioner and Director of the Animal Control Department; and Kristi Garrett, Animal Services and Operations Supervisor.

FINDINGS

- There is a new office building on the facility site. The Department of Public Works has identified four or five possible sites for a new facility. After a feasibility study and conceptual drawings have been completed, the plans will be submitted to the Merced County Board of Supervisors for their approval.
- There are five full-time positions for Animal Control Officers and four positions for Kennel Attendants. The Kennel Attendants work forty hours a week and have rotating weekend shifts. The kennel duties include assisting the veterinarian in medicating and treating animals, grooming and bathing the animals, monitoring health, and temperament testing of animals for adoption. They also are responsible for repairs, mowing lawns, disinfecting the kennels, and janitorial work. Kennel Attendants were classified as janitors as a result of a salary survey.
- There is a veterinarian, Dr. Richard Rosebrock, on staff three days a week.

- Seven staff members, including department supervisors, are trained to perform euthanasia by lethal injection as required by state law.
- This is the only facility in the county that performs euthanasia. Animals from other shelters in the county are brought to the Grogan Avenue facility for this procedure. Approximately 9,500 animals were euthanized last year with an average cost of \$8.04 per animal. A rendering company picks up euthanized animals. The cost of disposal is \$1.17 per animal. Cremation can only be performed under certain guidelines of the Environmental Protection Agency.
- There are 44 kennels, which include overflow kennels and five puppy runs. Current overcrowded conditions push the preferred maximum capacity of two dogs per pen up to seven dogs per pen. Approximately 12,500 animals were handled last year.
- Overcrowding forces the common housing of sick and healthy animals until space is available to separate and accommodate the sick ones. Animals brought in with Parvo or Distemper are euthanized immediately.
- An old garage has been converted into a surgical suite and a grooming facility equipped with washer and dryer to launder animal bedding.
- A minimum five-day hold is mandated by the state. Animals can be kept longer, but overcrowded conditions often prohibit extension. The average cost of a five-day stay is \$12.24 per animal.
- The cost of adoption is \$25.00, which includes a microchip, immunizations, and a license. Eight hundred to one thousand animals were adopted last year. There is a fee of approximately \$40.00 for mandatory spaying and neutering before an animal leaves the shelter.
- The shelter works with many rescue organizations, as well as service dog organizations. Last year, there were approximately 350 rescues.

FUTURE FACILITY

Mr. Blackwell stated that the new facility would have a kennel with 250 pens, plus separate rooms for puppies, cats, and exotic animals. There will be isolation for sick animals, surgical isolation, and an adoption area. They hope to have a "No Kill Facility," which means adoptable animals will be kept until adopted. Injured or sick animals and animals which do not pass the temperament test may still be euthanized. Other expectations include having an active volunteer program, making the facility as user-friendly as possible, and having it located in an area convenient to the public.

RECOMMENDATIONS

- **Make the building of an adequate facility a priority by the Board of Supervisors in order to facilitate a "No Kill" program for adoptable animals.**
- **Review the Kennel Attendants' job classification and adjust to better represent/compensate their major job duties.**
- **Continue public education in regard to spaying and neutering of animals.**
- **Implement their marketing ideas such as pet fairs and the sale of pet-related items.**
- **Develop a volunteer program at the new facility.**

COMMENDATION

The Grand Jury commends the Kennel Attendants for working daily with little resources to bring comfort to the homeless animals in Merced County. Their integrity and commitment in spite of the negative aspect of the job is to be applauded.

MERCED COUNTY AUDITOR-CONTROLLER ELECTIONS-VOTER REGISTRATION DEPARTMENT

INTRODUCTION/BACKGROUND

The Grand Jury selected to review the Election-Voter Registration Department of the Merced County Auditor-Controllers Office, specifically, the mechanics of the November 2002 Atwater Elementary School District bond election.

METHOD OF INVESTIGATION

- 1/16/03 A Grand Jury committee visited Steven Jones, the Merced County Auditor-Controller, at 2222 M Street regarding the 2002 November elections.
- 3/18/03 A Grand Jury committee interviewed Deana Brown, Deputy Registrar of Voters.
- 3/24/03 A Grand Jury committee interviewed Lee Anderson, Superintendent of Merced County Schools.
- 4/03/03 A Grand Jury committee interviewed Gordon Stallings, Assistant Superintendent for Instructional Services-Public Affairs for Merced County Schools.
- 5/20/03 A Grand Jury committee spoke with Merced County Undersheriff Bill Blake.

FINDINGS

- School districts hire and pay a percentage of the cost for Merced County to run their bond elections, unless a special election is held and then the entire cost is carried by the school district. Voting districts are affected when school districts change boundaries. The Merced County Office of Education is heading up a review of all county schools and their boundaries. Each school is responsible for providing the county with their own maps. The maps have been updated but haven't been redrawn since 1977.
- Because of the changing school boundaries, the county provided the schools with a copy of boundaries based on Merced County tax records.
- It is the responsibility of the school districts to make sure that county tax maps and school districts' attendance maps coincide.

- All school districts, except the two community college districts (Yosemite Junior College and Merced Junior College), are still working on revising their attendance maps. Old maps were used for the 2002 November elections.
- No ballots were considered invalid (ballot machine is programmed to read only ballots that should be used at each polling place) for the Atwater election of November 2002.
- The Merced College attendance map included Madera County residents and so both counties' totals were needed for final results.
- After a citizen called and complained, it was discovered that one polling station was using the wrong ballot. The mistake was taken care of after approximately 20 voters had cast their ballots. The error was corrected by 7:30 A.M.
- Two employees of the Auditor-Controller's Office were sent to investigate a complaint that citizens, who were backing a particular candidate for mayor, were harassing voters within 100 feet of the polling precinct. According to the Election Department that is not legal. The Livingston police were asked to intervene. They visited the site and continued to monitor throughout the election. The Auditor-Controller's Office filed a complaint with the Secretary of State. That complaint is currently in review and when the investigation is completed the Auditor-Controller's Office will be notified of the findings in writing by the Secretary of State.
- Approximately 300 temporary employees were hired and trained for the November 2002 Merced County election.

NOVEMBER 2003 ELECTIONS

- Merced County is not in compliance with the American Disabilities Act, and is in the process of implementing computer touch screens.
- The total cost of the new election program will be approximately \$1.4 million. Merced County will be paying approximately \$350,000. The balance will be paid from state and federal grants.
- A mock election is planned for the summer of 2003 for residents to get acquainted with the new technology of touch screens.

RECOMMENDATIONS

- The Merced County Auditor-Controller's Office should insure that the Superintendent of Merced County Schools has completed the process of finalizing

boundary/voting issues of all school districts in the county before the deadlines for the November 2003 election.

- Confirmation that school districts have finalized their boundary maps for the November 2003 election should be forwarded to the 2003/2004 Grand Jury.
- School boundary maps should be updated yearly. The Merced County Office of Education has provided updated data to the Merced County Association of Governments, which greatly reduces the cost of producing updated maps.
- A procedure should be in place to check that each polling station has the correct ballots before citizens vote.
- If a polling precinct deals with multiple voting districts, a procedure should be in place to insure that voters receive the correct ballot.
- The election department should provide election codes and laws so law enforcement can effectively monitor problems that may arise at polling precincts.
- A copy of any findings reported in the investigation of the Livingston polling precinct by the Office of the Secretary of State to the Auditor-Controller should be forwarded to the 2003-2004 Grand Jury.

**MERCED COUNTY
DEPARTMENT OF MENTAL HEALTH**

INTRODUCTION

The Grand Jury has the responsibility to review county departments of their choice. Of the ten Merced County Mental Health facilities, two were selected for review, the Marie Green Psychiatric Center and the Children's System of Care.

METHOD OF INVESTIGATION

Marie Green Psychiatric Center

300 E. 15th St., Merced

3/11/2003 A committee of the Grand Jury interviewed Mr. Troy Fox, Director of the Merced County Department of Mental Health, and Mrs. Christina Krausher, on-site Manager and toured the facility. They reported on finance, budget, and patient care. Mr. Fox stated that the staffing and facilities are adequate countywide for mandated services. He expects that the current state budget shortfall will affect the entire department with a loss of twelve positions, all of which are vacant at present. However, state mandated patient care will remain their top priority. Due to the nature of the confidential services provided, the tour of the facility was limited.

Children's System of Care

808 W. 16th St., Merced

3/25/2003 A committee of the Grand Jury interviewed Ms. Janet Spangler, Coordinator.

5/2720/03 A committee of the Grand Jury toured the facility and interviewed the Coordinator, Ms. Janet Spangler.

FINDINGS

Marie Green Psychiatric Center

- The Marie Green Psychiatric Center is a 16-bed inpatient facility constructed in 1995. The facility is clean, modern, and well equipped.
- This facility provides Medi-Cal covered mental health services as mandated under the California Welfare and Institutions Code. Services include assessment, treatment for acute psychiatric problems, and brief total psychiatric care. Under

California Welfare and Institutions Code 5150 a person may be detained involuntarily at this facility for 72 hours for evaluation and treatment of mental disorders.

- The staff consists of nurses, mental health workers, counselors, a social worker, a contracted doctor, and the site coordinator.
- Five nurses work on various shifts in a twenty-four hour period.
- Extended inpatient care is contracted with Merced Manor and a California State Hospital for individuals with serious mental illness.
- No patient deaths have occurred at this facility.
- Food is prepared at the Sandy Mush Correctional facility and transported to the center.
- The patients' clothes are laundered on site.

Children's System of Care

- This department moved in January of 2003 from a facility (located at 380 E. 13th Street in Merced) that provided outpatient services for both adults and children. That facility now serves outpatient adults only. The move was primarily due to overcrowded conditions but also served to separate the location of services for outpatient adults and outpatient children. The facility at the new location is clean, provides privacy for client consultation, is adequate for the number of clients currently served, and is located in close proximity to a Merced County Transit bus stop.
- Clients continued to be served during the time the facility at the new location was being organized and readied for staff.
- The Children's System of Care provides mental health services for Medi-Cal beneficiaries as mandated by the California Welfare and Institutions Code. A small percentage of the clients served have private insurance. Ages eligible to be served at this outpatient facility are birth to 21. Average ages served are nine through sixteen. Eight hundred clients are served yearly. Inpatient care for children is contracted with a Group Home pursuant to California Welfare and Institutions Code 5670-5676.5.
- Services available include assessment; individual, family, and group therapy; case management, medication support, and Therapeutic Behavior Services (T.B.S.) which is a short term one-on-one service for fully covered Medi-Cal beneficiaries.

- The staff consists of one child psychiatrist, one nurse, two psychologists, ten clinicians, ten mental health workers, seven clerical support employees, one educational psychologist (contracted through the Merced County Office of Education), two probation officers (contracted through the Merced County Probation Department), one child welfare social worker, two managers, and the coordinator.
- The caseload for each clinician is fifty to seventy-five clients. These caseloads are shared by the mental health workers who do the field work (home and school visits).
- Children are referred by schools within the county, the Merced County Probation Department, and the Merced County Department of Human Resources.
- Children's System of Care partners with schools, Child Protective Services, Merced County Probation Department, Central Valley Regional Center, and Family Service Center.
- The allocation for children's services is approximately 25% of the Merced County Department of Mental Health budget. Grant monies in the amount of \$400,000 accounted for about one fourth of the 2002-2003 budget for Children's System of Care.

COMMENDATION

The staff at Children's System of Care is commended for the capable handling of client services during the process of organizing the facility at the new location. The facility is well organized for the efficient use of available space.

**MERCED COUNTY
OFFICE OF THE PUBLIC DEFENDER**

INTRODUCTION

The Grand Jury has the discretionary responsibility to review county facilities and departments. The facility under review in this report is the Office of the Public Defender, 2150 M St., Merced.

METHOD OF INVESTIGATION

- 9/5/02 The committee met with a client of a contract public defender.
- 10/3/02 The Grand Jury Law committee visited and toured the office of the Public Defender. The Public Defender led the tour.
- 10/15/02 The committee met with a Deputy Public Defender regarding contract public defenders.
- 5/1/03 The committee met with the Public Defender in his office for an interview. Another tour of the facility was given immediately following this interview.

FINDINGS

- The Public Defender's Office has 13 attorneys and three clerical staff. An additional half-time staff member is assigned to the Los Banos Office of the Public Defender (not reviewed). Two private investigators and three part-time jail interviewers are on staff.
- Contract public defenders are not managed by the Public Defender's Office.
- Contract public defenders are hired by the Merced County Executive Officer (CEO) or his designee.
- Concerns exist regarding the hiring of unqualified contract public defenders.
- The total cases per year handled by the Public Defender's Office is between 9,000-10,000. The number of cases in one year peaked over 12,000. Each attorney handles between 800-900 cases per year depending upon the balance between misdemeanor and felony cases. This caseload is monitored by the Public Defender.

- The facility at 2150 M St., Merced, is conveniently and appropriately located near the courts.
- The facility is over-crowded and inappropriate for a professional legal office. Many of the attorneys share office space. Most of the walls do not go to the ceiling, many offices double as walkways to other offices, and insulation is poor if it exists, making privacy and confidentiality nonexistent.
- The carpeting is well worn and dirty, as are the seat covers on chairs in the waiting area. Dirt and dust is apparent behind the doors. The break room, which doubles as the library, has visible marks on the ceiling from an upstairs toilet, which has a history of overflowing.
- It was reported by the Public Defender that the assignment and review of facilities is the responsibility of the Merced County CEO.
- It was reported that the CEO has never visited this facility.
- It was reported that three members of the Merced County Board of Supervisors visited the facility five years ago.

RECOMMENDATIONS

- The Grand Jury recommends that the County of Merced upgrade this facility.
- The Public Defender's Office should be a facility comparable to private counsel handling a comparable law practice.
- Contract public defenders should be reviewed and assigned on the basis of experience and qualifications by a panel of legal professionals (including, at least, one judge).
- The Bar Association should be consulted regarding the credentials and prior experience of proposed contract public defenders.

CITY OF ATWATER

INTRODUCTION/BACKGROUND

The Grand Jury selected to review several departments within the City of Atwater

The City of Atwater has 125 employees, with a budget of approximately 20.6 million dollars. The general fund totals approximately 10 million dollars of which 53% is designated for police and fire protection. The remaining budget is primarily directed to enterprise funds: fresh water system, wastewater treatment plant, sanitation and garbage, and sewer lines.

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 2/6/03 The Grand Jury interviewed Atwater Police Chief Jerry Moore.
- 2/6/03 The Grand Jury interviewed Atwater Police Commander Richard Hawthorne.
- 2/6/03 The Grand Jury interviewed Atwater Police Commander Frank Pietro.
- 2/21/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager and John French, City of Atwater Finance Director.
- 2/28/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.
- 3/26/03 A Grand Jury Committee reviewed invoices, purchase orders, and the City of Atwater's budget.
- 3/26/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.

FINDINGS

- There was repeated failure of Atwater Police Department detectives to use standard investigative techniques in child molestation investigations.
- The repeated failure of standard investigative techniques compromised the investigation of a number of cases thereby adversely affecting public safety in the City of Atwater.

- Commander Richard Hawthorne and Commander Frank Pietro repeatedly requested Chief Moore to place new officers in the Detective Division. Chief Moore informed the Grand Jury that he had only recently become aware of the problems in the detective division and of the need to rotate personnel.
- Chief Moore gave an unsatisfactory explanation of why a new detective failed to utilize a standard investigative interview technique.
- Changes in the detective division were made and standard investigative techniques are now being used.
- The City of Atwater's VISA credit cards are assigned to each department.
- In reviewing the City of Atwater's invoices, it was discovered that city employees were utilizing the city's VISA credit card for items in which a purchase order should have been requested. This practice allowed employees to make purchases without planning ahead. The City of Atwater's purchasing policy for items under \$1,000 is broadly interpreted.
- In reviewing the City of Atwater's Annual Financial Report for the year ended June 30, 2002, prepared by Price Paige & Company, the following finding was reported:
 - “During our testing we found that purchase orders were not being used consistently by the city in accordance with their established policy to use purchase orders for expenditures of nonrecurring goods and services in excess of \$1,000.”
- The City of Atwater has no transportation and travel policy. Currently, reimbursement is based on actual costs with receipts.

RECOMMENDATIONS

- The City of Atwater Police Department should continue to use standard investigative techniques in the detective division.
- VISA credit cards should be kept locked up by each department head and signed out and in for each transaction. All receipts shall be turned in to the department head when returning the credit card.
- All departments should use more efficient purchasing practices for items under \$1,000 (grouping, planning, bulk purchases) to avoid small and frequent VISA credit card purchases.

- **The City of Atwater should implement the recommendation from the Price Paige & Company annual financial review for the year ended June 30, 2002 regarding the use of city purchase orders for invoices in excess of \$1,000.**
- **The City of Atwater should adopt a transportation & travel policy that includes a per diem for meals, lodging and other travel items.**

**MERCED COUNTY JUVENILE DIVISION
Complaint #02-03-01**

INTRODUCTION

A complaint was received alleging a lack of supervision in the COOL Program (Correcting Offenders Outcomes Locally) led to an assault of a juvenile in the program.

BACKGROUND

The COOL Program is an unconventional supervised program designed to curtail criminal behavior in a specific wardship population. Supervision is intense and is designed to hold juveniles and their parents accountable to the Juvenile Court. The program is located at Valley Community School. It runs from 8:30 AM to 3:15 PM, five days a week. The instructors at this program are employees of Merced County Office of Education (Department of Career and Alternative Education). The Program is supported and supplemented with a probation officer and two probation assistants.

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 8/29/02 The Grand Jury Law committee met with the Probation Officer in charge of the COOL Program.
- 9/5/02 The same committee met with the complainant and interviewed her regarding the complaint.
- 9/9/02 The committee met with the Division Director of Juvenile Services.
- 9/9/02 The committee met with the Deputy Probation Officer assigned to the COOL Program.
- 9/9/02 The committee met with the supervisor in charge of the COOL Program.
- 9/30/02 The committee met with the Public Defender assigned to the case.
- 10/15/02 The committee visited the Valley Community School site to inspect the logistics and also met with the school administrator.
- 10/21/02 The committee met with a Deputy District Attorney regarding the case.

FINDINGS

- There was an altercation in the classroom when the officer in charge left the immediate area.
- A student was assaulted by other students.
- This disagreement continued during an unsupervised bus ride home to Los Banos on public transportation.
- Staff absences resulted in a shortage of coverage in the program on the day of the assault.
- The site administrator reported a lack of communication by the probation department concerning the assault.
- No guidelines exist for the ratio of probation officers to students.
- The students involved in the altercation and assault received court ordered punishment.
- Staffing has been changed since the incident and there is now additional coverage of the COOL Program when a Probation Officer is not present.
- An additional probation department office exists on the school site facilitating coverage of the program.

CONCLUSION

- Ratio guidelines for probation officers to students need to be established.
- Measures have been taken to supervise the behavior of the juveniles and to ensure their safety. The Committee commends the COOL Program for its expediency in addressing this matter.

**MERCED CITY SCHOOL DISTRICT
TENAYA MIDDLE SCHOOL
Complaint #02-03-02**

INTRODUCTION/BACKGROUND

A complaint was received concerning Tenaya Middle School. The complaint alleges:

- Students are selling and buying snacks all day.
- Checkbook for student funds requires only a single signature and no specific pre-approval is required.
- No accounting for product or profit appears.
- One teacher appears to be making all decisions.

METHOD OF INVESTIGATION

9/19/02 A Grand Jury Committee met at Tenaya Middle School with Principal Leon Cope, Vice-Principal Trisha Wylie, and Merced City School District Assistant Superintendent Mona Lis to discuss specifics of the complaint.

Copies of guidelines, procedures related to fund raising, bank signature card, and related accounting forms were requested from Tenaya Middle School. Copies of checks and vouchers were requested from Merced City School District.

10/11/02 A Grand Jury Committee met at Merced City School District Office with Assistant Superintendent Mona Lis and Administrative Services personnel Hilda Miranda and Chris Cavellero.

Copies of policies regarding fund raising, field trips, accounting procedures and student body policies were requested.

1/22/03 A Grand Jury Committee met with a teacher at Tenaya Middle School to discuss the selling of snack items during school hours and to determine how the money is handled.

FINDINGS

- Prior to school year 2001-2002 students sold and purchased snacks all day long from a 6th grade teacher's store in her classroom. The proceeds of these sales were to be used for 6th grade field trips to baseball games in San Francisco.
- When the free breakfast program started in the school year 2001-2002, snacks could not be sold while Food Services was selling during breakfast and lunch.

Snacks continued to be sold throughout this school year by the 6th grade teacher at the appropriate times, 10:00 a.m. to 10:10 a.m. and after school. This program is to be discontinued next school year 2003-2004.

- All requested materials were received from Tenaya Middle School. The bank signature form indicated two signatures are required. All checks reviewed showed the required signatures. Copies of checks for \$2,750.00 and \$900.00 payable to the San Francisco Giants were included.
- Merced City School District provided copies of fund raising and field trip policies. According to these policies, all student body checks require two signatures. A check request form is also required. These policies were put into place this year, 2002-2003. Each year there is an independent audit of financial records, which includes student body.
- When purchasing snacks the teacher submits a check request form for the estimated cost of the purchase and receives a signed check. A receipt is submitted after the purchase.
- Daily collection reports are submitted to the vice-principal. A collection report for \$814.50 for the 6th grade fundraiser was submitted to the Grand Jury Committee for review.
- According to the Tenaya Money Collection Process,
"At the end of each day-
 - organize receipts (if called for)
 - organize and count money
 - fill out collection report
 - turn in all reports, receipts and money to the office before 4:00 p.m. each day.Do not keep any money in your classroom overnight. All money is to be kept in the safe."

RECOMMENDATIONS

Strict accounting procedures should be used in all cases where student funds are involved. All personnel involved should be trained in proper school policy procedures. The Grand Jury agrees that this particular fund raising program be discontinued.

**MERCED COUNTY HUMAN SERVICES AGENCY
CHILD WELFARE DIVISION
(Child Protective Services)
Complaint Number 02-03-08**

INTRODUCTION/BACKGROUND

A complaint was received from a citizen regarding Child Protective Services. The following concerns were listed in the complaint.

- There is a lack of collaboration and teamwork between CPS and mandated reporters (those required by law to report suspected child abuse), according to the complainant's interpretation of the Lanterman Act and related laws of the Welfare and Institutions Code 4514 (1).
- There is a lack of coordinated services provided by CPS.

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 12/20/02 A Grand Jury Committee interviewed the complainant.
- 2/04/03 A Grand Jury Committee interviewed Kathy Hassett, Deputy Director of Merced County Human Services Agency.
- 3/20/03 A Grand Jury Committee interviewed a Child Protective Services Social Worker.
- 3/20/03 A Grand Jury Committee interviewed an elementary school principal.
- 3/20/03 A Grand Jury Committee interviewed a teacher with the Merced County Office of Education.
- 3/20/03 A Grand Jury Committee interviewed an elementary school teacher.
- 3/26/03 A Grand Jury Committee interviewed by phone an employee of the Merced County District Attorney's Office.
- 4/01/03 A Grand Jury Committee interviewed a Child Protective Services Social Worker.
- 4/03/03 A Grand Jury Committee interviewed Hub Walsh, Madera County Director of Social Services.

- 5/05/03 A Grand Jury Committee interviewed a middle school principal.
- 6/05/03 A Grand Jury Committee interviewed Anna Pagan, Director of Merced County Human Services Agency.

FINDINGS

- The Lanterman Act and related laws of the Welfare and Institutions Code 4514 (I) are specific to Mental Health Patients with developmental disabilities.
- When a referral is made to Child Protective Services (CPS), the Emergency Response Staff completes an Emergency Response Notice of Referral Disposition form.
- The Emergency Response Staff determines the risk factors based on the information given to the Emergency Response Unit. The Emergency Response Unit determines whether the referral will be considered an immediate response or a ten-day response. All reports must be handled within 10 days of the referral.
- Emergency Response Staff investigates the referral and they determine if the allegation can be substantiated or appears to be unfounded. If substantiated, it is referred to another unit within CPS.
- After the initial investigation is completed, a computerized program generates the completed Emergency Response Notice of Referral Disposition that should be sent to the mandated reporter. The mandated reporter does not always receive this report or may not receive it in a timely manner.
- Many times the comment section of the Emergency Response Notice of Referral Disposition is not completed.
- There is confusion as to who is responsible for the training of mandated reporters.
- Some mandated reporters have reported the following problems in dealing with Child Protective Services:

Primary contact with law enforcement appears to get more immediate action than going through the usual channels.

It is the view of some mandated reporters that when they make numerous referrals on the same child, some social workers dismiss the reporters as being overzealous.

- Bellevue School in Atwater and the Dos Palos School District currently have a social worker assigned to provide coordination between Child Protective Services and school personnel /mandated reporters.

RECOMMENDATIONS

- To facilitate communication between mandated reporters and Child Protective Services, the comment section of the Emergency Response Notice of Referral Disposition should be completed.
- Child Protective Services should assist school districts in scheduling and providing training to mandated reporters on a yearly basis.
- To provide coordination between Child Protective Services and school personnel/mandated reporters, social workers could be assigned to school sites.

MERCED CITY POLICE DEPARTMENT
Complaint #02-03-10

INTRODUCTION

The Grand Jury received a complaint alleging sexual harassment resulting in a hostile work environment and retaliation in the work place.

BACKGROUND

The complaint indicated that sexual harassment and inappropriate behavior took place in the workplace. As a result of a sexual harassment complaint filed with the City of Merced, the complainant perceived hostility in the work environment. In addition, the complainant perceived retaliation due to a lack of consideration for promotion and shift assignments not in line with seniority.

METHOD OF INVESTIGATION

- | | |
|---------|---|
| 12/9/02 | The Grand Jury Law Committee met with the City of Merced Chief of Police. |
| 12/9/02 | The Committee met with the City of Merced Director of Support Services. |
| 1/14/03 | The Committee met with the complainant. |
| 1/14/03 | The Committee met with a witness named in the complaint. |
| 1/14/03 | The Committee met with the accused offender. |
| 1/21/03 | The Committee met with another witness named in the complaint. |
| 1/21/03 | The Committee met with the Deputy Chief of Police. |
| 3/20/03 | The Committee met with a co-worker of the complainant. |

DOCUMENTATION

- The Committee reviewed the job descriptions for positions in question.
- The Committee reviewed the current Bargaining Agreement between the City of Merced and the Merced Police Officers Association.

FINDINGS

- It is reported that the City of Merced has a zero tolerance policy for sexual harassment.
- A sexual harassment and hostile work environment claim was filed with the Director of Support Services.
- The investigation of the claim began with the Chief of Police.
- The Chief of Police was directed by the City of Merced Director of Support Services to halt the investigation and turn over the investigation to her.
- The claim was denied by the Director of Support Services.
- During the interview process, the Law Committee noted extreme inconsistencies in the form of conflicting testimony by staff members.
- It was noted and acknowledged that sexual harassment complaints are very difficult to review due to the nature of such situations.
- The complainant filed a complaint with the California State Department of Fair Employment and Housing (1320 E. Shaw Ave., Suite 150, Fresno) and awaits action.

RECOMMENDATIONS

- It is a conflict of interest to have a sexual harassment complaint by an employee of the City of Merced investigated by another employee of the City of Merced. An independent panel should review sexual harassment or hostile work environment claims.
- Procedures and protocol for reporting sexual harassment needs to be understood and followed by all employees of the City of Merced and its representatives.

CITY OF ATWATER
Complaint Number 02-03-14

INTRODUCTION/BACKGROUND

A complaint was received from a citizen of the City of Atwater. The complainant alleged the following:

- A member of the Atwater City Council uses his position to influence purchases of vehicles from a specific car dealership.
- A member of the Atwater City Council opens the closed bids prior to the required public opening of the said closed bids.

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 2/21/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager and John French, City of Atwater Finance Director.
- 2/25/03 A Grand Jury Committee interviewed the complainant.
- 2/26/03 A Grand Jury Committee interviewed Doug Tilley, Atwater City Parks Division Manager.
- 2/26/03 A Grand Jury Committee interviewed Dave Church, Atwater City Interim Public Works Director.
- 2/26/03 A Grand Jury Committee interviewed Eric Sorenson, Atwater City Streets Division Manager.
- 2/28/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.
- 3/18/03 A Grand Jury Committee interviewed an Atwater City employee.
- 3/26/03 A Grand Jury Committee reviewed invoices, purchase orders, and the City of Atwater's budget.
- 3/26/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.

FINDINGS

- The City of Atwater is complying with their Purchasing Manual dated October 14, 2002, in regards to the purchase of city vehicles.
- Vendors that receive a Request for Proposal (RFP), ask the City of Atwater to be placed on their vendor's list. The City of Atwater does not solicit vendors.
- The City of Atwater has a Public Works Committee that meets at 2:00 P.M. the first Thursday after the first City Council meeting of the month. This meeting is held in the conference room at Atwater City Hall, 750 Bellevue Road in Atwater and is open to the public. The committee consists of two Atwater City Council members, the Atwater City Public Works Director, an Atwater City engineer determined by the Community Development Director, and the department manager requesting the vehicle.
- All sealed bids are mailed to the City Clerk and opened by the City Clerk at the Public Works Committee Meeting.
- Atwater City Staff makes recommendations to the Public Works Committee on which bid to accept. These recommendations are based on meeting the required published specifications.

RECOMMENDATIONS

There are no recommendations.

CITY OF ATWATER
Complaint Number 02-03-15

INTRODUCTION/BACKGROUND

A complainant alleges the Atwater Public Works Director is acting inappropriately in the following areas:

- Using a city van for personal use
- Using a rented spray painting machine for personal use
- Conspiring with others to have a city employee terminated
- Allowing an employee time off without accountability

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 2/21/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager and John French, Atwater City Finance Director.
- 2/25/03 A Grand Jury Committee interviewed the complainant.
- 2/26/03 A Grand Jury Committee interviewed Doug Tilley, Atwater City Parks Division Manager.
- 2/26/03 A Grand Jury Committee interviewed Dave Church, Atwater City Interim Public Works Manager.
- 2/26/03 A Grand Jury Committee interviewed Eric Sorenson, Atwater City Streets Division Manager.
- 2/28/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.
- 3/18/03 A Grand Jury Committee interviewed an Atwater City employee.
- 3/26/03 A Grand Jury Committee reviewed invoices, purchase orders, and the City of Atwater's budget.
- 3/26/03 A Grand Jury Committee interviewed Greg Wellman, Atwater City Manager.

FINDINGS

- Invoices for transportation/travel and vehicle maintenance/repair were reviewed and no misuse of city vehicles was noted.
- Review of all invoices from November 2002 through March 2003, provided no documentation of the rental of a spray paint machine.
- After interviewing the Manager of the City of Atwater, it was determined that all personnel rules and regulations regarding demotions were followed.
- All City of Atwater employees are required to submit a Personnel Action Form when requesting vacation and when returning from sick leave.
- City of Atwater Public Works employees are able to check out hand tools (no power equipment) for personal use. The form used for these checkouts was reviewed.
- Atwater City Council members have circumvented the City Manager by directly contacting department managers regarding citizens' complaints about needed repairs.
- The Public Works office phone is placed on an answering machine during lunch hours. When the full-time secretary is on vacation or out on sick leave, the phone is normally transferred to city hall.
- The Boys' and Girls' Club uses the City of Atwater's vans for transportation.
- When reviewing the City of Atwater's invoices, it was determined that the City of Atwater uses VISA credit cards for repairs and maintenance of city vehicles.
- Several invoices for vehicle repairs were found to be incomplete.

RECOMMENDATIONS

- The City of Atwater should not allow employees to check out any city owned property for personal use.
- Atwater City Council Members should contact the city manager or his assistant regarding needed maintenance and repairs of city property.
- Since there is a full-time secretary and a part-time secretary working at the Public Works office, schedules should be adjusted for coverage of the front office and phones during lunch hours and vacation.

- The City of Atwater should require the Boys' and Girls' Club or any non-city agency to have sufficient liability insurance and provide a copy of the insurance policy, and sign a hold harmless agreement.
- The Department of Public Works should be utilizing city purchase orders rather than VISA cards for repairs and maintenance that exceed \$1,000 dollars for city vehicle repair.
- Invoices and forms used for vehicle repair should include vehicle make, model, year, reason for repair, date of repair, and work completed.

Disposition of Other Complaints

Complaint

- #02-03-03 This complaint was anonymous and not supported by sufficient information to warrant investigation by the Grand Jury.
- #02-03-04 This complaint was not within the province of the Grand Jury and complainant was advised to contact the District Attorney.
- #02-03-05 Complainant was advised that the Grand Jury would not accept the complaint due to employee/employer negotiations still in the process and avenues of resolution still available.
- #02-03-06 For the purpose of clarification, the Grand Jury requested (by mail with form included) that the complainant complete and return the complaint form. There was no response to our request. No action was taken.
- #02-03-07 Complainant was unavailable for interview, No action was taken.
- #02-03-09 This complainant was advised that other avenues were available for resolution. No action was taken.
- #02-03-11 Complainant was advised that the Grand Jury would take no action due to court proceedings in process and other avenues of resolution available.
- #02-03-12 Complainant was advised that the Grand Jury would take no action due to court proceedings in process and other avenues of resolution available.
- #02-03-13 The complainant withdrew the complaint.
- #02-03-16 This complaint was considered by the Grand Jury and it was determined that necessary information would not be available for review until 2003-2004. Therefore this complaint will be forwarded to the 2003-2004 Grand Jury for consideration.
- #02-03-17 The complainant was advised that other avenues of resolution were available and that the Grand Jury would take no action.
- #02-03-18 This complaint was anonymous and no action was taken.
- #02-03-29 The complainants were advised that court cases are not within the jurisdiction of the Grand Jury.

RESPONSES TO THE 2001-2002 GRAND JURY REPORT

Merced County Department of Public Works, Road Division

Grand Jury Recommendation #1

In order to prevent the costly reconstruction of roads, it is imperative that funding resources be explored which can provide the revenue necessary for a maintenance program to preserve the 1,100 miles of roads which exist in this county. It is recommended that all agencies work cooperatively and that revenue be shared in the best interest of protecting the public's investment in the existing road system.

Response

We could not agree more with the Grand Jury's recommendation. Additional funding sources are continually being investigated by this Department to help meet the huge shortfall of current road maintenance costs compared to current revenues. The Road Fund received \$150,000 in General Fund support in Fiscal Year 2001/2002 and the Department has requested an additional \$150,000 in the 2002/2003 budget from the Board of Supervisors.

We are also working with the Merced County Association of Governments (MCAG) to seek additional revenue sources, including their upcoming 1/2 cent sales tax measure, Measure M, which will go before Merced County voters in November to fund Countywide transportation needs, and has a significant amount dedicated to road and street maintenance. We also intend to continue to petition the MCAG Governing Board to release another portion of their "Regional Choice" funding, as allowed by SB-45, for road and street preservation needs. Lastly, the Department remains active in efforts to seek greater equity in the distribution of gas tax revenues between urban and rural counties in California. Current distribution formulas are greatly weighted towards the more highly urbanized counties.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

Policies and procedures regarding the collection of Impact Fees must be developed and put into place immediately. It is recommended that a set schedule for the timely notice of all delinquent fees be included and that a copy of such notices be sent to the Planning Department. It is strongly recommended that the Conditional Use Permit Agreement be revised to include an audit provision. All Conditional Use Permit Agreements must be signed by the applicant.

Response

We also agree with the Grand Jury in this regard and have implemented the attached policy to assure that road impact fees are collected and accounted for on a timely basis. This policy also addresses a procedure relative to delinquent fee payments, up to and

including revocation of the project's use permit if necessary. Language will be added to future road impact fee agreements that describes the consequences involved if payments are not made timely.

Grand Jury Follow-up
Response accepted.

Grand Jury Recommendation #3

In consideration of safety and county liability, careful thought must be given to more appropriate supervision of the work-in-lieu prisoners.

Response

The Public Works Department will continue to explore this issue with the Sheriff's Office to provide a level of supervision and training commensurate with the safety and liability risks involved. In general, we have found the work-in-lieu trustees to be hard working, safety conscious and a great benefit to our roadside refuse collection and maintenance efforts. We would use more of these workers but there is competition for them from other local public agencies. The Sheriff's Office has been most cooperative with regard to the occasional trustee who did not display a good work ethic.

Grand Jury Follow-up
Response accepted.

Merced County District Attorney

Grand Jury Recommendation #1

The Board of Supervisors should consider evaluating the need to consolidate the offices of the District Attorney or possibly including the department in a court complex.

Response

There was no response received from the Board of Supervisors.

Grand Jury Follow-up

This issue will be referred to the Grand Jury, 2003-2004, for consideration.

Grand Jury Recommendation #2

The Board of Supervisors should evaluate the need to add another general-purpose investigator.

Response

There was no response received from the Board of Supervisors.

Grand Jury Follow-up

This issue will be referred to the Grand Jury, 2003-2004, for consideration.

Grand Jury Recommendation #3

The Board of Supervisors should address the need to raise the salaries of the investigating officers to the Seven County Survey Average (a Merced County salary survey which compares salaries in seven surrounding counties) as soon as the budget allows.

Response

There was no response received from the Board of Supervisors.

Grand Jury Follow-up

This issue will be referred to the Grand Jury, 2003-2004, for consideration.

Merced County Juvenile Detention Center

Grand Jury Recommendation

The Grand Jury recommends that the County give priority to the scheduled building of the new Juvenile Hall facility.

Response

Regarding the Grand Jury's recommendation "that the County give priority to the scheduled building of the new Juvenile Hall facility" this writer is happy to report that ground breaking on the new facility took place on July 9, 2002. Construction is underway with a scheduled completion date of December 2003. Planning is also underway for the programs that will be put in place when the facility opens. Occupancy is anticipated to occur in the first quarter of 2004.

Grand Jury Follow-up

Response accepted.

Los Banos Police Department and City Jail

Grand Jury Recommendations

The Grand Jury had no recommendations.

Response

No response received.

Grand Jury Follow-up

No follow-up was necessary.

Merced County Sheriff's Department
Main Jail and Sandy Mush Facilities

Grand Jury Recommendation #1

The County has an obligation to create new detention facilities to ensure the safety of its residents.

Response

We obviously agree with the above and although, over the years this has been discussed with the Board of Supervisors by past Administrations, concrete commitments and action must be made to ensure that we protect the general public. Our department will, in the very near future, establish a committee much like the one we experienced with the Juvenile Hall new construction to identify a location, establish the amount of beds needed to house the criminal element and secure the funding for building and staffing. This is a much-needed project. (Note: We have made adjustment with the approval of Board of Corrections and increased our inmate capacity at Sandy Mush from 445 to 508 in custody over the last year.)

Grand Jury Follow-up

9/20/02 The Grand Jury toured the Main Jail at 700 W. 22nd St., Merced and the Correctional Center at 2584 W. Sandy Mush Rd., Merced. (See findings and recommendations of Mandated Inspection in 2002-2003 Grand Jury Report.)

2/13/03 A Grand Jury subcommittee revisited the Correctional Center to interview Commander Bill Atkinson regarding report recommendations.

The Grand Jury received and reviewed a report, *Staffing Analysis, Merced County Sheriff's Department, Jail Operations Division*, prepared by the California Board of Corrections, March 2003. This report supports the Grand Jury's concerns regarding staffing.

Grand Jury Recommendation #2

The County must budget for more correctional officers to be in compliance with Title 15 and to ensure the safety of the employees of the Sheriff's Department as well as the inmates they house.

Response

Agree. We will be bringing proposals to the Board of Supervisors during the next budget hearings. It must be noted that the last year has put a drain on all public safety in the aftermath of September 11th. We had operational and correctional personnel called to active duty along with job injuries and extended leaves due to medical conditions and pregnancies. Our agency has had to expend a substantial amount of overtime to keep up with the minimum requirement of the day-to-day operations of the Correctional Facilities. Our staff has done an exemplary job making ends meet every day. Our Board of Supervisors and County Administration have been strong supporters of our law

enforcement mission and I feel confident that together with our employee organizations, the Board of Supervisors, County Administration and Board of Corrections, we will identify the needs and handle this particular problem.

Grand Jury Follow-up

See Follow-up of #1 above.

The Grand Jury, 2002-2003, reviewed Grand Jury Reports concerning the Correctional Center going back 11 years. Eight of those 11 yearly reports noted inadequate staffing numbers.

Grand Jury Recommendation #3

The Sheriff's Department should explore the benefits of hiring additional officers and its results in reducing overtime costs.

Response

This issue was addressed in part in 2.a. In addition the hiring of additional staff would reduce overtime expenditures, use of sick leave and increase morale. The increased staffing would promote officer safety and public safety.

Grand Jury Follow-up

See Follow-up of #1 and #2 above.

Grand Jury Recommendation #4

The Sheriff's Department, along with the County, should immediately look into the feasibility and implementation of similar programs like Placer County's as new revenue sources.

Response

Agree. This recommendation will be looked into by Sheriff's Correctional Administration.

Grand Jury Follow-up

See Follow-up of #1 above.

Grand Jury Recommendation #5

The County should form a committee to propose a measure to fund new construction of detention/justice facilities. The Grand Jury should review this committee's implementation and progress.

Response

Already addressed in this report, refer to 2.a.

Grand Jury Follow-up

See Follow-up of #1 above.

Grand Jury Recommendation #6

The County should budget for a sole grant writer to be dedicated to Merced County's law enforcement agencies.

Response

2002-2003 Grand Jury Report

We currently have a position within the department that has been vacant due to recruitment problems to find a qualified person for that position. The past position was filled by a person that went to Fresno County for better pay and benefits.

Grand Jury Follow-up

See Follow-up of #1 above.

This recommendation has not been implemented.

Grand Jury Recommendation #7

The County needs to create a long-term detention facility plan.

Response

We have submitted proposals in a study form in the past and will continue to re-evaluate and further study the issue using all available resources and Sheriff's Correctional Administration.

Grand Jury Follow-up

See Follow-up of #1 above.

Grand Jury Recommendation #8

The County needs to create a long-term staffing plan for the Sheriff's Department.

Response

This has been addressed in 2a.

Grand Jury Follow-up

See Follow-up of #2 above.

Grand Jury Recommendation #9

Automating the phone system in the Sheriff's Department would free up the Security Systems Operators to concentrate on Minute Order updates, accuracy, releases, etc.

Response

The Main Jail Facility currently has an automated phone system and our Merced County Adult Correctional Facility will have the system in the near future.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #10

A simple automated I.D. reader system to check for warrants would streamline and expedite the current manual process, providing for greater accuracy.

Response

We are constantly exploring a better way, be it through CAL I.D, or LiveScan, to quickly provide positive identification of persons entering into our Justice System.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #11

A video camera focused on the front door of administration at the Sandy Mush Facility would ensure the safety of staff during nighttime releases.

Response

We already have a camera at that location, however it does not rotate. We will look into upgrading that particular camera.

Grand Jury Follow-up

See Follow-up of #1 above.

Response accepted.

Grand Jury Recommendation #12

An automated front door for the Security Systems Operators to open at Sandy Mush Administration would help improve safety of staff during nighttime releases.

Response

It would be a nice feature to have, but it is not our top priority at this time. We will look into it in the future.

Grand Jury Follow-up

See Follow-up of #1 above.

Response accepted.

Grand Jury Recommendation #13

The front desk area of Sandy Mush should be made bullet proof for the safety of staff and inmates alike.

Response

We will look into getting this security issue addressed in our upcoming budget hearings.

Grand Jury Follow-up

See Follow-up of #1 above.

Response accepted.

Grand Jury Recommendation #14

The Sheriff's Department needs to implement a policy for housing two-officer inmates on the ground floor cells to provide for officer safety.

Response

This will be part of our staffing study. We hope to incorporate the expertise of the Board of Corrections with this study.

Grand Jury Follow-up

See Follow-up of #2 above.

Grand Jury Recommendation #15

The Sheriff's Department needs to implement a policy that dictates how many inmates one officer can transport back and forth from Sandy Mush to the Main Jail.

Response

This will be part of our staffing study.

Grand Jury Follow-up

See Follow-up of #2 above.

Grand Jury Recommendation #16

Only trained Correctional Officers need to be used to handle every aspect of inmate supervision.

Response

Correctional Officers are needed for any and all direct contact with inmates. We need to assure that our Security Systems Operators are not required to have direct contact with inmates without a Correctional Officer present.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #17

Budgeting must be made so an additional Correctional Officer can be added to the kitchen area to ensure everyone's safety.

Response

This will be looked at in the Needs Assessment of Staffing Study.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #18

It is recommended that the Sheriff's Department look into the feasibility of having a safety consultant review all aspects of the department.

Response

We will contact the Board of Corrections to see if they can assist in this area.

Grand Jury Follow-up

See Follow-up of #2 above.

Response accepted.

Atwater Police Department - Complaint Number 01-02-01

Grand Jury Recommendation #1

The Atwater Police Department should immediately correct on the website the inaccurate personal information on missing person Anthony Bass.

Response

The Atwater Police Department's website regarding partial misinformation about Anthony Bass was corrected on the date it was brought to our attention by members of the grand jury.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

The Atwater Police Department should establish procedures for posting, investigating, and monitoring missing person cases and information.

Response

The Atwater Police Department has had in place for over ten years a Standard Operating Procedure for handling and investigating Missing Persons. If the Grand Jury found that the Atwater Police Department did not comply with it's own procedures in handling Missing Persons regarding the Anthony Bass case, then where are the facts indicating our non-compliance with our own SOP.

Grand Jury Follow-up

Response accepted.

City of Atwater and Chief of Atwater Police - Complaint Number 01-02-02

Grand Jury Recommendation #1

The bylaws of the PAL organization and the Atwater Police Assignment Description should reflect how the two documents interface with regard to the hiring and firing of the Executive Director and the director's role and responsibilities to each organization.

Response

The Bylaws and the Assignment Description for the Atwater Police Activities League Executive Director are in the process of being interfaced so as they will not be in conflict with each other.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

Chief Moore must ensure he has the legal right to seize property before doing so.

Response

I never seized any property belonging to the Atwater Police Activities League. The keys mentioned in the 2001-2002 Grand Jury Report were never turned over to the police department. Minutes, records and check books were turned over to the PAL auditor by the President of the PAL board and not to the police department.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #3

Chief Moore must ensure he has the right to submit a list of new board members to a non-profit organization even if it is sponsored by the Atwater Police Department.

Response

The list of potential new board members that I submitted was at the request of the City Council and the existing PAL board at that time.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #4

The City Council and Mayor should restrict their comments and recommendations to the limit of their legal power. It is not the City Council or the Mayor's place to determine who should or should not run a non-profit organization.

Response

No response received from either the Atwater City Council or its Mayor.

Grand Jury Follow-up

No action taken.

Grand Jury Recommendation #5

The contract between the PAL organization and the City of Atwater to lease the kart facility should be honored as a legitimate contract free from threats, as would occur with any other profit or nonprofit business.

Response

No response received from the City of Atwater.

Grand Jury Follow-up

No action taken.

Grand Jury Recommendation #6

Chief Moore must not interfere with non-profit business affairs.

Response

What I have learned out of all this is at that particular point in time, I did not have the authority to interfere with the PAL organization as it was a non-profit organization or make recommendations on behalf of the PAL.

Grand Jury Follow-up

Response accepted.

City of Livingston - Complaint Number 01-02-05

Grand Jury Recommendation

The monthly financial reports should be clarified as to the actual cash balances of each account versus the fund balances. This will make clear the question of interest bearing and non-interest bearing accounts and actual balances.

Response

No response received from the City of Livingston.

Grand Jury Follow-up

No action taken.

Planada School District - Complaint Number 01-02-07

Grand Jury Recommendation #1

The Board of Trustees must realize that they cannot hire, promote or contract for services of their immediate families during their terms as trustees.

Response

The recommendation has not yet been implemented, but will be implemented within ninety (90) days. The Governing Board will schedule a conflict of interest seminar with its legal counsel and/or the Merced County Office of Education.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

Hiring procedures should be reviewed and possibly revised. Every effort should be made to draw the largest number of applicants for a given position.

Response

The recommendation has been implemented. By reference to this recommendation, the Governing Board hereby directs District staff to seek the largest number of applicants for a given position, within the confines of existing collective bargaining agreements.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #3

It is recommended that the Planada School Board requests education in the Brown Act from the County Schools Office. It is vital that small school districts have access to the laws regarding their decision-making.

Response

The recommendation has not yet been implemented, but will be implemented within ninety (90) days. The Governing Board will schedule a conflict of interest seminar with its legal counsel and/or the Merced County Office of Education.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #4

Board members-elect should be in-serviced in their responsibilities under the law before assuming office.

Response

The recommendation has not yet been implemented, but will be before a newly-elected board member takes office. After each regularly scheduled governing board election, and before board members take office, the Merced County Office of Education provides an all day training workshop for newly-elected board members. Newly elected board members will be highly advised to attend this workshop.

Grand Jury Follow-up
Response accepted.

Grand Jury Recommendation #5

The Brown Act is a method of conducting business that results in fairness to all. The Grand Jury feels strongly that the Board of Trustees must operate within the rules and regulations of the Brown Act. Failure to do so may result in continued investigation of the School Board by future Grand Juries.

Response

This recommendation has been implemented. The Governing Board believes that it has diligently complied with the Brown Act and will continue to do so.

Grand Jury Follow-up
Response accepted.

Merced County Management Services - Complaint Number 01-02-10

Grand Jury Recommendation #1

Management Services must develop and implement a testing procedure for clerical-skill applicants.

Response

The report also recommends Management Services develop and implement a testing procedure for clerical-skill applicants. Clerical testing is still used by some employers. While once done by the County, it was abandoned many years ago as not being a time/cost effective qualifying tool. Many County departments do include skill testing as part of their hiring interviews. This is acceptable and encouraged if the department feels such testing is necessary to ensure success in a position. Clerical positions vary greatly in the skills they require and the degree to which such skills are needed in proportion to the overall responsibilities of the job. To impose a rigid testing standard might serve to exclude some applicants who would otherwise possess the skills to be successful in some positions.

Grand Jury Follow-up
Response accepted.

Grand Jury Recommendation #2

In order to recruit a fair selection of qualified applicants, Management Services must implement a procedure to ensure proof of all educational and training documentation.

Response

The Grand Jury further recommends a procedure be established to ensure proof of all educational and training documentation. Within the scope of County service, there are

positions which require very specific credentials, licenses, certificates, etc. Departments are expected to verify such credentials prior to hiring for those positions. Other positions require experience within a range of possible alternatives and staff must interpret whether each candidate's experience/education meets the minimum qualifications. It is our policy to "widen the circle" rather than to restrict it. Therefore we give the applicant the benefit of the doubt whenever possible.

Grand Jury Follow-up
Response accepted.

Grand Jury Recommendation #3

Management Services must honor its own guidelines of fair employment recruitment.

Response

Approximately 25,000 applications are processed each year and very rarely does it occur that an employee falsifies information. To implement a standard procedure which would require staff time be taken with verifying education or other credential documentation on each application would not be cost effective.

Grand Jury Follow-up
Response accepted.

Merced County District Attorney - Complaint Number 01-02-13

Grand Jury Recommendation

Police Chief Moore should make sure he has legal authority to seize property before doing so.

Response

No response received from the Merced County District Attorney.

Grand Jury Follow-up
No action taken.

Atwater Police Department - Complaint Number 01-02-14

Grand Jury Recommendation #1

Any and all violations and/or incidents involving any citizen should be treated equally according to the law.

Grand Jury Recommendation #2

Chief Moore should follow established procedures for voiding a citation.

Grand Jury Recommendation #3

The Atwater Police Department should have a written policy and procedure for voiding tickets and require there be written documentation that the policy was followed.

Response

The Atwater Police Department is in the process of establishing written policy and procedures for voiding citations.

Grand Jury Follow-up

Response accepted.

Atwater Police Department - Complaint Number 01-02-15

Grand Jury Recommendation

Filing a complaint with the Police Department is the proper procedure to follow. This gives them the opportunity to act on the matter. The Grand Jury can then investigate after this has occurred.

Response

The respondent agrees with the findings.

Grand Jury Follow-up

Response accepted.

Atwater City Planning Commission - Complaint Number 01-02-16

Grand Jury Recommendation #1

Civil office appointments in question for the City of Atwater must be fully reviewed by legal counsel and Atwater City Council members before being voted upon and granted.

Response

No response received from the Atwater City Planning Commission.

Grand Jury Follow-up

No action taken.

Recommendation #2

The Atwater City Council should review its current policy for appointing planning commissioners to be in compliance with state law.

Response

No response received from the Atwater City Planning Commission.

Grand Jury Follow-up

No action taken.

Merced County Board Supervisor - Complaint Number 01-02-19

Grand Jury Recommendation #1

A Code of Ethics Policy should be in place for the Board of Supervisors.

Response

Another item mentioned in the Grand Jury Report was something called a "Code of Ethics". The Board of Supervisors has adopted a Code of Conflicts pursuant to the code sections set forth above.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

The County Planning Department needs to improve and strictly enforce its permit policies, even when a Supervisor is involved.

Response

The Planning and Community Development Department has a consistent and formalized zoning code compliance program. There are no new policies or procedures needed to address the concerns raised in the Grand Jury investigation. However, in response to the Grand Jury's findings and recommendations, the Department will endeavor to pursue enforcement of all pending cases whether they involve elected officials or other citizens, and we will continue to utilize the services of the District Attorney when we have exhausted all the avenues available to the department in bringing a property into compliance with County Code requirements.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #3

The County Public Works Road Division needs to implement and regulate a Roadway Impact Agreement tracking system.

Response

No response received regarding this recommendation.

Grand Jury Follow-up

No action taken.

Grand Jury Recommendation #4

All permit holders within the county should be held accountable for any violation of their permit conditions.

Response

See response to #2 above.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #5

The Planning Department must equally enforce policies and regulations for all individuals conducting business in Merced County.

Response

See response to #2 above.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #6

Inquiries made by County Supervisors to department heads, on behalf of their constituents, should be submitted in writing.

Response

No response received regarding this recommendation.

Grand Jury Follow-up

No action taken.

Merced County Sheriff's Department - Complaint Number 01-02-22

Grand Jury Recommendation #1

Proper training should be provided to correctional officers before they are asked to be Officer in Charge.

Grand Jury Recommendation #2

Appropriate compensation should be given to correctional officers when they meet all training criteria and are assigned to Officer in Charge status.

Grand Jury Recommendation #3

To avoid further confusion, the list should only contain names of those who have been trained and are qualified to be Officer in Charge.

Response

We currently utilize Correctional Sergeants, CO III's and on occasion, CO II's to supervise a shift. The vast majority of the time, supervision is scheduled to be handled by the CO III and Sergeants. Our duties are 365 days a year, 7 days a week, 24 hours a day. With that said, the conditions under which we work and the circumstances make it impossible to staff the total year with CO III's and Sergeants. It has always been a law enforcement practice to have Officers in Charge that are traditionally senior personnel and have qualified, through on-the-job training, and are willing to accept a lead person role for a short period of time. They only handle the immediate need of one shift and are not required to do the other duties of a supervisor, i.e., approving time off, scheduling and disciplinary issues. We intend to identify concerns of the Employee's Association and deal with County Personnel to see if their concerns are dealt with in upcoming MOU's.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #4

The correctional officers who were denied promotion as a result of the blacklist should be reconsidered for any future promotions or to fill additional positions.

Response

On June 7, 2002, the Law Offices of Bennett & Shape, Inc. 925 ÒNÓ Street, Suite 150, Fresno, CA, filed a Petition for Writ of Mandate on behalf of Merced County Sheriff's Employees' Association vs. County of Merced, Board of Supervisors, County of Merced, Gary Carlson, Sheriff-Coroner, County of Merced. (Case No. 145987)

The Writ cites some of the concerns among others that are contained in Complaint 01-02-22. I, (Sheriff Gary T. Carlson) along with Assistant Sheriff Mark Pazin and Correctional Administration, met with representatives of the Merced County Sheriff's Employee Association and discussed the issues at hand. We agreed on a course of action that met both of our concerns and subsequently the Writ of Mandate has been withdrawn.

This matter will be worked out in upcoming MOU's with Merced County and the Merced County Sheriff's Department Policies and Procedures.

Grand Jury Follow-up

Response accepted.

Merced County Sheriff's Department - Complaint Number 01-02-24

Grand Jury Recommendation #1

The County, including elected officials, needs to apply county rules and policies in a fair and equitable manner, regardless of the person's position.

Response

Every member of County Government is required to apply all laws, rules, and regulations and policies in a fair and equitable manner, regardless of a person's position. Anything less is unacceptable.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #2

Since there is no policy for disciplinary action against elected employees, the County needs to develop and enforce a mechanism to protect the employees and itself from sexual harassment issues.

Response

The Sheriffs of this State are held to standards much higher than other positions within the County or State. The Peace Officer's Code of Ethics spells out standards. The Grand Jury can be impaneled to check on the Sheriff's actions and the State Attorney General oversees the various Sheriff's conduct. Please let's not forget secret ballot elections and the ability of the voters to decide if a person gets the job or retains it. Last, but not least, the ability of the voters to recall an elected official.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #3

The county's EEOC officer should be able to seek legal opinions outside of County Counsel so the employee's complaint does not present a conflict of interest with county liability.

Response

The duties of the County Counsel include representing the county against claims of liability and providing legal advice to the Board of Supervisors, the Chief Executive Officer, all department heads and elected officials. In that capacity, the County Counsel is the only authorized legal advisor to the county's Equal Employment Opportunity Officer. There is no conflict of interest, as a matter of law, because the mission of the Equal Employment Opportunity Officer and the County Counsel are the same: to assure that the county, its officers, employees and departments comply with the law.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #4

The Sheriff's Department needs to enforce policies for investigation of wrongdoing by officials in the department so they do not end up investigating themselves. These

procedures should include employing private outside investigators to conduct independent investigations.

Response

We have and do retain outside investigative services to deal with sensitive or high profile matters occurring within the department.

Grand Jury Follow-up

Response accepted.

Grand Jury Recommendation #5

The Sheriff's Office must actively enforce the zero-tolerance policy for sexual harassment.

Response

The Sheriff adheres to the Zero Tolerance Policy for sexual harassment and has all complaints investigated and matters referred to the EEOC Officer and County Administration.

Grand Jury Follow-up

Response accepted.