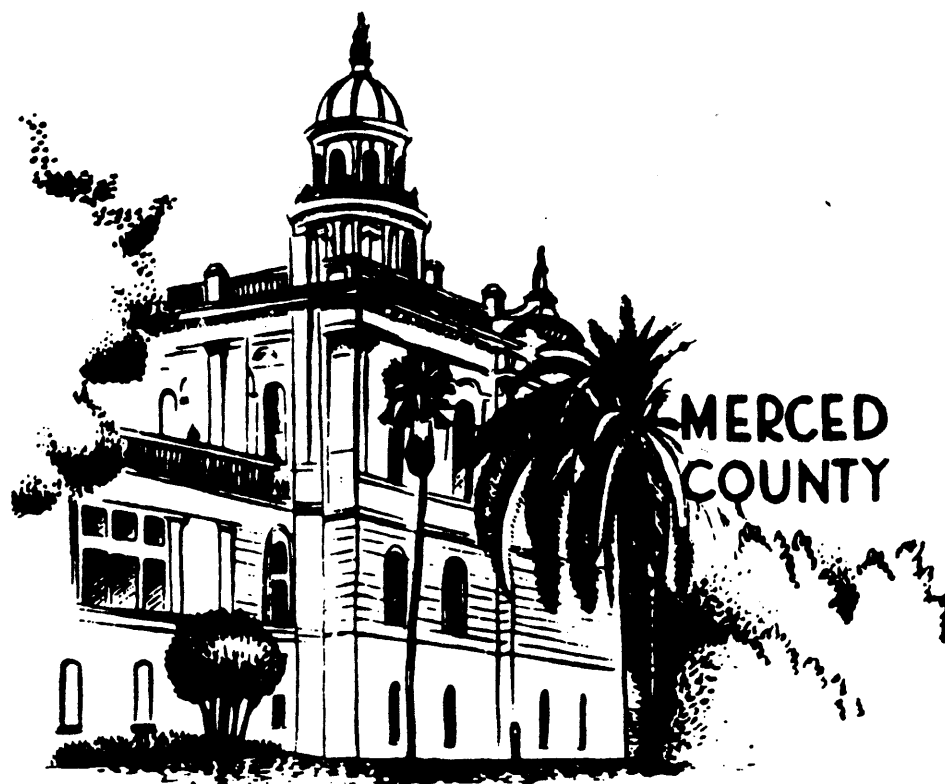
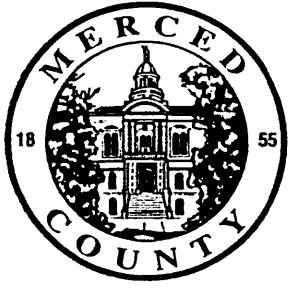


***GRAND JURY
REPORT
1999/2000***





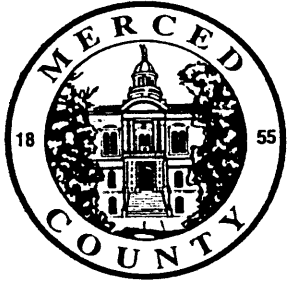
MERCED COUNTY GRAND JURY

P.O. BOX 2034
MERCED, CALIFORNIA 95344

THIS FINAL REPORT HAS BEEN REVIEWED
AND UNANIMOUSLY APPROVED BY THE
1999-2000 MERCED COUNTY GRAND JURY.

ART BROWNER, Foreperson
1999-2000 Merced County Grand Jury

GAYE RIGGS, Foreperson Pro Tem
1999-2000 Merced County Grand Jury



MERCED COUNTY

GRAND JURY

*P.O. BOX 2034
MERCED, CALIFORNIA 95344*

The Honorable Frank Dougherty
Presiding Judge
Merced County Superior Court

Dear Judge Dougherty:


It is indeed a pleasure for me on behalf of the 1999-2000 Grand Jury to submit our final report as required by the California Penal Code Section 933.

Merced County is fortunate to have citizens who are willing to devote time and effort in order to help their community become a better place to live. This Grand Jury was exemplary in its approach to the numerous investigations, interviews, and reviews that were conducted with the objective to be not adversarial, but firm and fair.

We owe a debt of gratitude to a number of professionals including the judges, administration and support staff of the Superior Court, Sheriff Tom Sawyer, District Attorney Gordon Spencer, County Administrative Officer Greg Wellman, Chief Probation Officer William Davidson, Deputy County Council James Tarhalla, Merced City Manager James G. Marshall, Merced Chief of Police Tony Dossetti, Livingston Police Chief Bill Eldridge, and the fire chiefs in Merced County. We are also grateful to the many private citizens who shared information and concerns, and trusted us to be diligent and confidential.

We are proud of our work on behalf of the citizens of Merced County and we are grateful to have served.

Respectfully,


Arthur Browner, Foreperson
1999-2000 Grand Jury

June 30, 2000

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**1999-2000
MERCED COUNTY
GRAND JURY MEMBERS**

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Arthur Browner	Foreperson
Suzanne Delaware	Committee Chairperson
Ollie Eddings	
Charles Galatro	
Stephanie Hernandez	
Ida Johnson	Recording Secretary
Jerry Kendrick	
Ronnie Leach	Committee Chairperson
Leon Martinez	Committee Chairperson
Larry Paaske	
Jerry Parson	Committee Chairperson
Vince Paul	Committee Chairperson
Charles Perkins	
Gaye Riggs	Foreperson Pro Tem Committee Chairperson
Rhonda Roberts	Corresponding Secretary
Joe A. Sadler	
Richard Van Guilder	Committee Chairperson

1999-2000
MERCED COUNTY GRAND JURY
Arthur Browner, Foreperson
Gaye Riggs, Foreperson Pro Tem
Ida Johnson, Recording Secretary
Rhonda Roberts, Corresponding Secretary

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MERCED COUNTY SHERIFF'S DEPARTMENT
ADMINISTRATION, MAIN JAIL AND SANDY MUSH FACILITIES
MANDATED INSPECTION

INTRODUCTION/BACKGROUND

Pursuant to California Penal Code Section 919, the Grand Jury has the responsibility to investigate the conditions and management of correctional facilities within Merced County.

METHOD OF INVESTIGATION

- 09-09-99 The Merced County Sheriff attended a Grand Jury general meeting to provide an overview of the department including the jail facilities.
- 10-10-99 The Merced County Sheriff conducted a guided tour of the Administrative offices and Main Jail located at 700 West 22nd Street in Merced and Sandy Mush Correctional Facility located at 2584 West Sandy Mush Road.
- 01-06-00 The Grand Jury conducted a joint interview with the Merced County Sheriff, the Merced County Chief Administrative Officer, and the Chief Probation Officer.
- 03-14-00 A telephone interview was conducted with the Merced County Sheriff to verify information.

FINDINGS

Administration:

All correctional facilities are operated under the supervision of the Merced County Sheriff who is elected every four years and interfaces with the Board of Supervisors relative to funding. Administrative facilities are well organized for the limited space available. The dispatch system is automated and can retrieve license plate information in 3-5 seconds after entry. Two dispatchers are on duty 24 hours a day 7 days a week. All County 911 calls, including County Fire, are handled through the Sheriff's Department. The California Highway Patrol handles 911 calls from cell phones. Cities (except Dos Palos and Gustine which are also handled through the Sheriff's Department) handle 911 calls made within their jurisdictions.

Stenographers are on duty 24 hours a day, 7 days a week to transcribe officer reports and to do other necessary reporting. The detective division has separate offices as well as interview and briefing rooms. Secured evidence lockers are in place where officers can log in and store evidence until it can be transferred to the off-site evidence warehouse.

A parking area near the administration offices is enclosed for the vehicle pool, which includes patrol cars and correctional vans that are used to transport inmates

to and from other facilities. An armored vehicle used by the SWAT Team is also housed here.

The department disposes of confiscated weapons as follows: Confiscated long guns, which are otherwise legal to possess, are sold by bid. All other types of long guns are destroyed. Seized handguns are disassembled and sold for parts. Handgun parts that have serial numbers are destroyed.

Preparation for the impact of UC Merced is underway. The Sheriff's Department is planning a new jail and an increase in patrol staff. However, most of the proposed new development will be within city limits and UC Merced will have its own police force.

Merced County Main Jail:

The Main Jail is a well-run and highly secure facility. A minimum of five officers is on duty at all times, working 8-hour shifts. On-call staff is available, if needed.

The jail capacity is approximately 185 persons and usually operates at 90% capacity. Inmates from other jurisdictions are processed through the Main Jail facility. Under most circumstances, only prisoners awaiting transportation to other facilities or pre-sentenced prisoners are housed at the Main Jail. However, the Main Jail also houses individuals booked for crimes that occurred within some cities of the County.

The Sheriff and city police departments have networked computers for records and identification. An inkless booking unit allows pictures to be taken and other information entered into a computer. These systems are available for use by other law enforcement agencies. A natural gas-powered generator provides emergency power.

Correctional officers at the jail do not carry firearms, which are not allowed in the jail.

Correctional officers staff the centrally located control room where they monitor all the cameras located throughout the jail. These officers have control over all the doors to cells, corridors, and exits. No cameras are placed in cells because the law requires inmate privacy. The officers maintain radio contact with other officers on duty. Another officer walks the cell blocks at all times.

A sally port on the northwest side of the jail allows for the transfer of prisoners into and out of the jail with a minimum of risk. No escapes have taken place since the installation of the port.

Approximately 13,000 individuals are processed through the jail each year. A transportation coordinator works with other law enforcement agencies to facilitate the transfer of prisoners from one location to another. An intoxicilizer is

located inside the sally port entrance that saves time and cost of transporting persons to the hospital for testing.

Most regular inmates are housed in cells, which hold a maximum of 8 persons. All cells have access to bathrooms, showers, and TVs. Curtains provide some privacy. Each cell also has an eating area. A change of clothing is provided every other day. Peer pressure is relied upon to ensure cleanliness of cells and individuals.

Special holding cells are used for detoxification and for segregation of high-risk prisoners. Persons identified as dangerous to themselves or others are placed in a special padded cell with a grate in the floor to be used for elimination. Medical, mental health, booking, or other staff members may access this cell. Officers work in pairs whenever required to remove persons from this cell. Those assessed as suicidal have clothes removed to prevent intentional hanging and are placed on every-15 minute watches.

Inmate recreation and diversions are limited. Face-to-face visitation is behind glass barriers with communication by private intercom phone. Inmates are allowed two 18 minute per day collect phone calls. Access to legal reference materials as required by Section 6030 of the Penal Code is provided at an on-site library. This room also is used for programs offered by jail chaplains. Funds to supply the law library come from the Inmate Welfare Fund. Interview rooms for attorneys and investigators are available and have special entrances as a safety precaution. They are private and not monitored. A monitored exercise yard is divided by fencing so rival gangs can be in the yard at the same time. Inmates are provided with 3 hours per week in the exercise yard. Use of the exercise yard may be given or withdrawn as a privilege.

Meals served to inmates are prepared at the Sandy Mush facility and transported to the jail. Breakfast and dinner are served as hot meals and lunch is a bag lunch. Inmates eat in their cells. Cost per meal is about \$.78.

The medical office has exam rooms and a rest room. A separate dental room is available to provide urgent dental work provided by a contract dentist. A nurse practitioner is available every afternoon and a doctor is scheduled for once a week. A doctor is always on call in case of an emergency. When an individual is booked, he or she completes a questionnaire that is sent to the medical office. The medical office completes an assessment. The Sheriff's department is responsible for necessary medical treatment for all inmates. The cost to provide these services is approximately \$1.4 million per year. If an inmate has a serious medical condition such as cancer and has been incarcerated for a minor offense, he or she may be released. Extensive costs for a serious medical condition are negotiable for inmates who will be incarcerated for a length of time and cannot be released due to the seriousness of their crime. The medical office has a secured storage area for drugs. The cost to provide medication to inmates is approximately \$60,000 per year.

Most inmates at the Main Jail are maximum security and have not been sentenced. One courtroom shares a common wall with the jail and is soon to be remodeled so inmates will not have to leave the security of the facility for court. All other courtrooms adjacent to the jail may be accessed only by leaving the jail building. The movement of inmates on foot down the sidewalk is a serious security risk.

Money in the possession of an inmate at the time of booking is placed in a holding account at a bank. The inmate may use these funds during incarceration to purchase toiletries and snacks. When an inmate is released, a check is issued for the balance not used by the inmate.

Trustees used at the Main Jail are housed in a 14-bed unit and have privileges not afforded regular inmates. They perform duties as meal delivery and cleaning under supervision of correctional officers.

Sandy Mush Correctional Facility:

Sandy Mush Correctional Facility is located on a 138 acres site. It has beds to house 342 male and 81 female prisoners. When crowding becomes a problem, an early release procedure may be used. A typical male dormitory contains 18 beds. The average daily cost for housing an inmate is \$47, compared to the State average of \$60. The ability to incarcerate at this lower cost is in part due to the food grown at the facility with much of the labor provided by inmates. The farm is located adjacent to but outside of the lock-up facilities.

The jail facility has a library/program room. The library's collection is old and donations must be carefully monitored due to problems with drug smuggling.

The facility has an emergency power back-up system, which will sustain it (including the water treatment and cold storage) for 30 days without outside electricity. There is a 100,000-gallon water supply, of which 80,000 gallons must always be available for fire emergency. There is an off site training room for in-service and meetings use.

The medical facility is similar to the Main Jail but with the addition of X-ray capability. The medical facility is staffed 24 hours a day.

Food service facilities were very clean and well organized. Men and women eat in separate areas. Three inmate food preparation crews help the regular kitchen personnel. The inmates working in the kitchen are screened for contagious diseases and certified for food handling. The annual budget for food is \$600,000. Food prepared here also is delivered to the Juvenile Hall and Main Jail.

The Sandy Mush site and, most strikingly, the areas around the food service loading docks, kitchen, and dining rooms were inundated with aggressive flies. The Grand Jury could not determine if this problem was specific to the time of

year of the visit (October) or if it exists throughout the year. The sheriff stated that the health department did not allow fly abatement such as the use of fly strips and flypaper.

More un-sentenced than sentenced inmates are housed at Sandy Mush. The average stay is 19 days, usually awaiting trial. Inmates with good behavior can earn more privileges. Those not working are free to do whatever they wish within the lock-up area. Each dorm has its own exercise yard. There is one officer in the yard whenever prisoners are outside. There is a store available where inmates may purchase candy and other miscellaneous items. A computerized accounting for each inmate is maintained which keeps track of any cash in possession at the time of booking or which relatives may provide.

Most bookings occur at the Main Jail. However, in the middle-of-the-night and with high-risk arrestees from the Westside, bookings may occur at Sand Mush as it is closer that driving into Merced.

The men's dining room serves as the visitation area for inmates. Visitation is allowed one hour per week, often taken in two 30-minute blocks on Saturday and Sunday. Children are allowed in these visits.

Security is a primary concern. An officer patrols the perimeter of the facility throughout the night. No weapons are allowed in the facility. All doorways, hallways, and walkways are monitored, as are cells from the outside. The facility follows guidelines as set forth in Title 24 Section 470A.2.22 stating that closed circuit television should not be solely relied on to monitor cells or should it be used to view inmates showering or using toilet facilities. All telephone calls are monitored and can be traced, if necessary. A newly installed security system has 32 cameras with zoom capability. From the control room monitoring occurs 24 hours a day, 7 days a week. For prisoners who have difficulty in a dormitory setting and cannot get along with the general prison population, lockdown cells are used. The lockdown area has 4 smaller cells, 1 detoxification cell, and 1 safety cell. When there are space problems a male inmate is locked in an individual cell located within the female dorm. Special equipment is available for the safety of prisoners and staff when prisoners become physically difficult to control. A restraint chair is used which is designed to prevent "positional asphyxiation". A "spit hat", through which an inmate may see, is placed on an inmate who exhibits spitting behavior. A "suicide smock" is used when an inmate is placed on suicide watch. The smock is tear resistant, can be used as a blanket, but is designed so it may not be used for hanging.

Approximately 20 acres on the Sandy Mush site is dedicated to the new Juvenile Hall facility. When built, this facility will share medical, laundry, water/sewer, chaplain services, and food services. The basic infrastructure is in place for this addition.

Inmate Welfare Fund:

The 1998-99 Grand Jury made recommendations related to the Inmate Welfare Fund. This fund exists from profits made from the sale of goods and services to inmates such as candy, cigarettes, and telephone use. Currently, the committee has seven members: three within the department and four outside the department. A majority is required to conduct business. This group is only an advisory committee to the sheriff and was formed by the sheriff. There is no law governing the committee.

RECOMMENDATIONS

Administration: Use of available space has been maximized. The workload may be beyond available staffing. With the anticipated UC Merced impact, planning must begin immediately to prepare for increases and changes in law enforcement needs. A strong *written* policy should be in place regarding the disposition of confiscated weapons.

Merced County Jail: Plans to meet the UC impact demands should be a high priority. Jail space use is at maximum now with offenders of less violent crimes being released to accommodate offenders that are more violent. In addition, there is not space enough to separate inmates with lesser offenses from the more serious offenders. The remodeling of the contiguous courtroom should be carried out as soon as possible.

Sandy Mush Correctional Facility: The perimeter security fence is too close to the main road and, therefore, allows for introduction of contraband into the facility. If it is not feasible to relocate approach roads then more intense monitoring of the perimeter should be implemented. The sheriff and the Merced County Health Department must work together to develop an effective fly and mosquito abatement program.

Inmate Welfare Fund: Some recommendations made by the 1998-1999 Grand Jury were implemented. Fund management and oversight should continue to be studied by subsequent Grand Juries.

General Concerns: Staff retention is a primary concern at all facilities. Maintaining proper staffing levels required to meet security demands is critical. The Grand Jury investigated salaries of comparable counties and found Merced County is lower. Steps must be taken to provide salaries that will encourage trained personnel to remain with Merced County and will maintain adequate staff to cover the stressful and dangerous job of a correctional officer.

The greatest concern of the Grand Jury is the significant discrepancy between the compensation and status of correctional officers employed by the Sheriff's Department and those who serve similar, albeit younger, inmates at the Juvenile Hall facility (and employed by the Probation Department). It is recommended that

the Sheriff and Probation Departments immediately begin work on memorandums of understanding that will lead to collaboration on training and cross staffing.

The departments are commended for the existing collaborative efforts such as provision of meals by Sandy Mush for Juvenile Hall, plans for the juvenile facility at the Sandy Mush site, and collaboration on a grant for the Narcotics Task Force.

MERCED COUNTY JUVENILE DETENTION CENTER

Mandated Inspection

INTRODUCTION/BACKGROUND

The Grand Jury is required, per Section 919 of the California Penal Code, to inquire into the condition and management of detention facilities within the county. Included within this mandate is the Merced County Juvenile Hall.

METHOD OF INVESTIGATION

- 09-23-99 The Chief Probation Officer spoke to and answered questions from the Grand Jury at a general meeting.
- 09-30-99 The Grand Jury toured the Merced County Juvenile Hall located at 1411 B Street, Merced, California. The tour, conducted by the Chief Probation Officer, included the detention facility, courtroom used by the Juvenile Court Commissioner, and classrooms staffed by the Merced County Office of Education. A question and answer session followed the tour.
- 10-07-99 The Juvenile Court Commissioner spoke to and answered questions from the Grand Jury at a general meeting. Discussion of issues related to the Juvenile Hall facility was included in this session.
- 10-14-99 The Grand Jury viewed the proposed site for the new juvenile detention facility adjacent to the Sandy Mush Correctional Facility.
- 10-14-99 Two members of the Grand Jury visited the juvenile detention facility in Madera County and on October 18, 1999, they visited the juvenile detention facility in Stanislaus County. The purpose of these visits was to better understand the juvenile detention system within the San Joaquin Valley.
- 11-18-99 The Chief Probation Officer provided an update to the Grand Jury on developments related to funding a new juvenile detention facility.
- 01-06-00 The Grand Jury conducted a joint interview with the Merced County Sheriff, the Merced County Chief Administrative Officer, and the Chief Probation Officer.

FINDINGS

The Juvenile Hall is operated under the authority of the Merced County Probation Department. In 1948, it was converted from a four-room residence to a juvenile detention facility of 19 beds housing what would now be considered minor offenders. The facility has been expanded three (3) times to a current capacity of forty-two (42) beds. As of September 30, 1999 there were forty-three (43) juveniles housed in the facility with one hundred sixty-nine (169) waiting to begin their sentences. Electronic monitoring is used on some offenders. Lack of space prevents segregation of gang members and violent offenders from other offenders. Overall, conditions including facility age, design, size, and staffing levels place staff and the juvenile population in significant physical danger. The Grand Jury

was informed that on nearly any given day there were more offenders charged with murder in Juvenile Hall than in the entire adult inmate population of the county.

There have been some changes at the juvenile hall facility since the 1998-99 Grand Jury Report:

- Merced County Mental Health has made more counselors available to juvenile inmates.
- The broom closet now houses two (2) counselors instead of one (1).
- The entrance to the facility is now a sally port-type with two opposing doors requiring one to be closed in order for the other to be opened.
- A live scan computer is used to take finger and palm prints, which allows for faster records check of offenders.
- The emergency generator is hooked up to natural gas.

Other observations including matters that have not been remediated since the 1998-99 Grand Jury report:

- The booking clerk (hired in January 1998) continues to rely upon the assistance of supervisory personnel and staff to file and retrieve booking reports.
- Due to lack of staff, the recreation yard is seldom used.
- The security control room has not been realigned. The closed circuit TV monitors are not hooked in to a recording system and remain the exposed fixed-angle type instead of concealed and movable.
- There remains a "dead zone" in the outside recreation area that cannot be seen on the closed circuit TV monitors or by staff if they are at the door entering the area.
- The floor of the laundry room has not been reinforced to support a commercial-type washing machine. Inadequate household-type machines with a twenty (20) pound capacity remain in use.
- State mandated earthquake retrofits have not been made.
- Approximately forty-five (45) juvenile cases are heard daily in the on-site juvenile court.
- Low salaries, limited local career ladders, and salaries not competitive with other corrections-type jobs (Sheriff's department personnel at Sandy Mush and the Main Jail) contribute to high staff turnover and morale issues.
- Even though training and job expectations are similar for juvenile hall and the county adult facilities and there is little difference in severity of offenses of the inmates, many barriers exist in the quest for parity in salaries and possibility of cross staffing. Such barriers include claimed difference in focus (rehabilitation vs. strict detention), different union representation, an appointed department head vs. an elected department head, and political complexity of salary realignment.

- Adequate storage for supplies and spare equipment continues to be a problem. Mattresses are stored in an electrical distribution room creating a fire hazard.
- Two multipurpose rooms are used as dining rooms, social centers (TV and social interchange), computer labs, as well as classrooms. Four (4) 240-minute school sessions are conducted each day (one in each room in the morning and one in each room in the afternoon) except during Christmas and Spring breaks.
- Recreational reading material is stored on a small cart and is extremely limited.

Observations from site visits to juvenile facilities in the adjacent counties of Madera and Stanislaus offer interesting comparisons to the Merced County juvenile hall:

- **Mission:** Both facilities are primary detention facilities. Counseling is secondary.
- **Facility design:** Both facilities were designed to fulfill mission as detention facilities. Both are well laid-out, with few blind spots and have lockdown and protective rooms. The chief probation officer and a local contractor designed Madera's facility. The Stanislaus facility was designed by an architect with experience in designing correctional facilities. Facility administrators recommended that new facilities should be designed to accommodate growth and that architects and contractors experienced with correctional facilities be used for design and construction.
- **Facility Capacity:** The Madera facility was designed for 30 juveniles, but 40 are actually housed. Madera actually believes in "overcrowding". The facility has boot camp, which is not effective unless the juvenile is motivated to remain out of trouble. The return of boot camp graduates into the juvenile detention system is approximately 80%. The Stanislaus facility has a capacity of 102 juveniles. Eighty-eight (88) were housed the day of the site visit. **Neither facility has a waiting list of juveniles waiting to serve sentences.**
- **Facility Use:** Counseling offices are adequate in size. Cells are monitored by intercom and random, hourly visual checks. Protective cells are monitored every fifteen (15) minutes. Both facilities use closed circuit TV. Stanislaus does not videotape but will start when the new addition is complete. Madera videotapes protective cells and the booking area to show condition and attitude of juvenile when booked. Madera's new control room will tape all areas. Both control rooms are well laid out with room for expansion. Both facilities have diesel-powered emergency generators. Madera is capable of one hundred fifty (150) hours of

non-refueled operation. Stanislaus is capable of forty (40) non-refueled operation.

- Ancillary Services: Madera has difficulty securing Mental Health services while Stanislaus usually has Mental Health on site. Both facilities have medical staff on during the day with on-call staff available at other times. Both facilities contract out for medical services. Madera contracts for food service and laundry. Stanislaus uses food and laundry services provided by the Stanislaus County Sheriff's Department. Classrooms are located in each detention pod with gender segregation and instruction is provided for 240 minutes daily. Recreational reading material is available although there is a need for more mature books written at a lower reading level.
- Detainee Dress and Expectations: In both facilities, all juvenile detainees were dressed in identifying uniforms. Madera used orange jump suits and Stanislaus used blue sweats with gray t-shirts. Uniforms were designed to reinforce to the detainees that they were incarcerated. Both facilities have a zero tolerance for rule infraction of any kind. Any infraction brings instant lockdown and loss of privileges with the expectation that they will have the opportunity to "do better tomorrow." The tone at both facilities was stern and no-nonsense. Booking is a serious process and inmates are treated as offenders. (Note: If students in the county school system are disruptive enough to have the police called, they are sent directly to the Juvenile Detention Center and booked pending appearance in juvenile court.) At both facilities, floor staff for situation control carries pepper spray.
- Staffing: In Madera, staff are badged, uniformed, and sworn. They are classified at Juvenile Detention Officers working 12-hour shifts with a starting salary of about \$1700 per month. Booking is not done by staff, but by the arresting officer. In Stanislaus, staff wear polo-type shirts, no badges, and are sworn. They are classified at Group Supervisors working regular shifts with a starting salary of \$1700. Approximately thirty-five (35) regular part-time staff is called in for emergencies. Booking is done by the Group Supervisors. In both facilities, turnover is a problem as these positions are used as entrees to other city or county positions.

RECOMMENDATIONS

- 1) Merced County must make the construction of a modern, safe, and adequately staffed juvenile facility its first priority. The facility should be designed to house and rehabilitate today's complex juvenile offender population including gang members, extremely violent inmates, and those who may benefit from counseling and education remediation. Failure to build this facility places staff members and juvenile detainees at continued great physical and emotional risk.

- 2) The annual bill to "farm out" Merced County juvenile offenders to the California Youth Authority and other facilities currently exceeds \$5,000,000 per year and will likely increase until an adequately-sized juvenile facility is built in Merced County. With an adequate facility, many juveniles would not require out-of-county placement and the dollars used to house them out-of-county could be used to support the new facility.
- 3) Staff salaries and classifications must undergo review and realignment, no matter how great the political and institutional barriers. Staff salaries are built on correctional philosophies and inmate populations of fifty years ago when offenders were runaways and mischief-makers and it was the staff's job to provide "counseling and guidance". Today's juvenile offenders rival their adult counterparts in violence and recalcitrance. The salaries and benefits of staff in the juvenile hall system should be at parity with correctional officers within the Sheriff's Department.
- 4) During construction of a new juvenile facility, interim measures may be taken to ameliorate some immediate crises. As the large recreation field is seldom used due to lack of staff, it may be feasible to move the juvenile court into a modular courtroom placed at this location. This would allow space to be freed within the facility for counseling, storage, and administration.
- 5) Augmentation of the reading materials for detainees is necessary.

MERCED COUNTY SUPERIOR COURT FACILITIES

INTRODUCTION/BACKGROUND

The Grand Jury's interest in the Superior Court facilities emerged from Grand Jury mandated inspections of the Merced County Main Jail and the Juvenile Detention Center.

The Superior Court of Merced County operates ten courtrooms, nine located in Merced and one in Los Banos.

In Merced, the Superior Court is housed in buildings in three areas of the city with file storage in a fourth location.

Main Court Complex:

The main court complex is located at the corner of 21st and "M" Streets, adjacent to the historic Merced County Courthouse Museum, the historic high school/library (which is vacant and boarded), and the Merced County Main Jail. Seven buildings comprise the main court complex:

1. The "New Courts Building" was completed in 1950. Housed in the building are three courtrooms, a division of the Superior Court Clerk's office, court reporters, and the felony division of the District Attorney's Office. The courts occupy approximately 80% of the 17,572 square feet or 14,057 square feet.
2. One courtroom is attached to the county jail that was built in 1959. A division of the Superior Court Clerk's office is also housed in this facility. The courts occupy 2,868 square feet in this building.
3. A county-owned adobe building was built in 1937. Court offices for the traffic division, accounting division and administrative offices occupy 3,268 square feet in this building. Also housed in this facility are the Marshal's Office and Law Library.
4. The jury assembly room and jury staff occupies another county-owned building of 2,130 square feet, built in 1954.
5. A temporary (portable) building was purchased by the county in 1978. At 2,400 square feet, the building houses two courtrooms.
6. Another division of the Superior Court Clerk's Office is housed in a temporary (portable) building of 1,440 square feet. The building is leased and was moved onto the complex in 1990.
7. One courtroom and judges chambers occupy a third temporary (portable) building of 2,160 square feet. The building is leased and was moved onto the complex in 1990.

The public may access these seven, single-story buildings in the main court complex from any of nineteen entrances. Security stations at the multitude of entrances are not physically or economically feasible. One set of public restrooms

is available in the New Courts Building. The other six buildings do not contain public restrooms. Staff restrooms are available in only three of the buildings. The complex has one handicap parking space, others having been eliminated when one of the portable buildings was added. Jury deliberation rooms are adjacent to the three courtrooms in the New Courts Building. The other four courtrooms (one adjoining the jail and three in portable buildings) do not have jury deliberation rooms.

Juvenile Courtroom

Juvenile court is located in a small courtroom built in 1983 that is attached to the county-owned Juvenile Hall circa 1948. Located two miles from the main court complex, this facility encompasses 1,500 square feet, including the courtroom, judge's chambers, and a small waiting area.

Family Law Courtroom

The Family Law courtroom is located in a building of 5,000 square feet that was leased by the court in 1997. Located one mile from the court complex in a business area, this building also houses the Family Law Clerk's Office, Child Support Facilitators, Mediators, and two offices for district attorneys. A staffed metal detector is located at the one public entrance to this facility.

Records Storage Facility

A county-leased building of 1,500 square feet, approximately 1½ mile north of the court complex, is used for records storage.

Located thirty-eight miles west of Merced, the branch court in Los Banos is housed in a county-owned building that was completed in 1980. The branch court and clerk's office occupy approximately 45% of the building's 15,060 square feet, or 6,777 square feet. The building also houses county branch offices for the sheriff, district attorney, marshal, and probation. The Los Banos courtroom does not have a jury deliberation room. All Superior Court jury trials are held in Merced.

METHOD OF INVESTIGATION

The main court facility complex, as well as the courtroom located at the Juvenile Hall, was toured by the Grand Jury. Interviews were held with a representative from court administration, two judges, and the County Public Works Department. The Grand Jury also met with four representatives of the Merced County Historical Society

FINDINGS

- The Superior Court facilities are entirely inadequate. The main facilities on 21st Street are a hodgepodge of permanent and temporary facilities. Three courtrooms are in portables only one of which has a toilet. Clerical staff is scattered among many buildings with completely inadequate toilet facilities. In some cases, hot water is not available.

- There is clear and immediate risk to judges, staff, lawyers, persons in custody, and the public because of the difficulty in maintaining a secure environment. Inmates are walked down the sidewalk to court; an insufficient numbers of metal detectors are available at the main court complex; marshal staff is limited; court conditions are crowded; portables have no waiting areas and entry and exit doors that open out to major downtown streets; and nineteen entrances into the complex make security a nightmare.
- The Merced County Historical Society has worked for years to preserve the old high school/library building that has been included on the National Historical Register. This building is now surrounded on three sides by both permanent and temporary court buildings.
- The old high school/library is dangerously in disrepair. Windows are nearly all missing and pigeons have claimed the facility as home. The County of Merced has performed no basic repair on the building even when offered funds for some specific repairs by the Historical Society. There is a perception that even stopgap repairs have been avoided to allow the building to appear, and perhaps be, hopelessly lost.
- The Merced County Public Works Department, in concert with the Superior Court judges and staff, has developed several options for new court construction and remodeling. A major question looming over the design and construction of new court facilities is whether to renovate, mothball, or demolish the historical high school/library building located on 21st Street.
- Barriers to the construction of adequate, much less progressive, court facilities include: limited dollars; politics; the conflicting interests of judges, the Historical Society, county government and the Board of Supervisors; lack of planning and communication among all parties; and lack of will.
- Options generated by County Public Works only address *current* facility needs and do not address or anticipate expected population growth especially related to UC Merced.
- The relationship of the courts and the Board of Supervisors complicates the planning process. The courts are independent in administration and function, but the Board of Supervisors controls the dollars the courts depend upon to plan and grow.
- The high school/library building is recorded on the National Historical Registry and removal from this list will be difficult, if not impossible. However, the historical designation was based upon its original design that has been altered throughout the years. It is unlikely due to the type of brick used to construct the building and new code requirements that the building would ever be returned to its original form.

- The adobe building built in 1937 and currently housing court administration and the marshal's office is worthy of renovation and restoration.

RECOMMENDATIONS

- 1) Phases I and II of remodeling the present court facilities should proceed on schedule.
- 2) The Superior Court, county administration, and the Board of Supervisors should schedule bimonthly meetings to begin earnest collaboration on the court issue including site selection, disposition of the high school/library, financing, and long-range planning. Other interested constituencies should be included such as, but not limited to, the Merced County Historical Society, the Sheriff's and Probation Departments, and County Public Works.
- 3) Planning for the new court complex should include incorporation of unique historical treasures such as the Merced County Courthouse Museum and the high school/library building. The Grand Jury asserts that these buildings will add an important counterpoint to the many new buildings that will be built in Merced resulting from the UC project.
- 4) The immediate and *primary* concern of the Grand Jury is funding for the juvenile facility. It is hoped that the Juvenile Hall and Superior Court buildings do not have to compete for the same funds so that both projects may prevail.

We have been impressed with the knowledge, dedication, and capabilities of court personnel and its leadership. Their cooperation with the Grand Jury to improve the difficult conditions under which they must labor is most commendable.

MERCED COUNTY LIBRARY

INTRODUCTION/BACKGROUND

The 1998-1999 Grand Jury conducted an inquiry into the Merced County Library that was the first in several years. They recommended that subsequent Grand Juries conduct annual visits to monitor the library's emergence from catastrophic budget cuts of the 1990's.

The Merced County Library system consists of the Main Library and fifteen (15) branches. This is a reduction from a high of eighteen (18) branches. The primary professional staff conducts administration and ordering functions out of the Main Library.

METHOD OF INVESTIGATION

03-02-00 A committee of the Grand Jury toured the Main Library at 2100 O Street, Merced and interviewed the head librarian.

FINDINGS

- **Funding** The Merced County Library funding is currently at approximately one-half of the FY 92-93 budget. The budget actually began eroding in 1988 and was cut completely in 1993 by the Board of Supervisors.
- **Staffing** The Merced County Library system employs thirteen (13) full time equivalent staff. (Based on population the National average is 90.6 FTE and California is 63.9 FTE.) Most branches are staffed by paraprofessionals.
- **Hours of Operation** Hours of operation, except the Main Library, are at 1992-93 levels. The Main Library operates thirty (30) hours per week instead of at the 1992-93 level of forty-six (46) hours. There is a proposal to add eight (8) hours to re-open the Main Library on Tuesdays.
- **Changes in Services/Facilities During Past Year** The Los Banos branch increased shelving by 75% and received a new roof and paint. The Ballico library was closed after it was determined that many users preferred to use the library in Turlock. The Ballico collection has been distributed to other branches. Los Banos and Atwater branches became automated bringing the total number of automated libraries in the system to six (6). The goal is to have all branches automated by June 2001.
- **Status of the Collection** The children's collection, thanks to Soroptimist International of Merced and the Family Resource Council, is at acceptable levels. The main collection has serious deficits in both fiction and non-fiction. There is a very small foreign language collection, mostly in Spanish. The video collection, which has been

in storage since the 1993 library closure, is not back in circulation. This collection is very dated and is very labor intensive to keep in circulation. Staff must constantly call borrowers to return tapes and repair is a constant burden. If this collection is restored priority will be given to Public Broadcasting Company videos and videos with medical topics.

- **Internet Access Policy** There is no filtering software installed on computers with Internet access. Computers are currently in highly visible, centralized sections of the libraries that may be a deterrent to misuse. If a user is observed not using the Internet properly (e.g. at a site containing pornography), library privileges are withdrawn. "Chat" features are not available on library computers and email users must have web-based email accounts such as Yahoo or Hot Mail. Library patrons may access the library via the Internet (using the number on a borrower's library card) at www.co.merced.ca.us/library.
- **Children's Services** It is anticipated that a half-time librarian will be added to oversee the children's collection and services. Volunteers provide storytelling nearly every Saturday of the year and will be coordinated by a high school student paid from funds donated by Soroptimist International of Merced. Generous donations to the children's collection have brought it up to the desired level.
- **Collaboration with Other Library Systems** Participation in the inter-library loan program ended in 1993 when library funds were terminated. The Merced College collection is included on the automated database, but participation in the inter-library loan program cannot be re-instituted until the database is completely updated. That is projected for July 2000.
- **Gates Foundation Grant** The Merced County Library received a grant from the Bill and Melinda Gates Foundation for \$235,000 earmarked for computers and training to increase public access to the Internet. The grant will provide fifty-four (54) computers to be distributed among the Main Library and fifteen branches.
- **Volunteers** The library relies on volunteers to help with the automation project and Saturday storytelling. The Friends of the Library do fundraising and oversee the store located on the first floor that sells used books. Volunteers who work with children must undergo mandatory background screening that costs \$42 each. This cost is prohibitive for the library, so few volunteers work with children. The storytellers are excepted because parents are present during this time.
- **Library Cards** The 1998-99 Grand Jury expressed concern about the process used in the transition from old style library cards to new bar-coded versions. Extensive information is now required including provision of a social security number and references. This was perceived as intrusive and unnecessary. When asked about this

procedure, the head librarian explained that borrowing a book is much like a " financial transaction" and the information is needed for fraud prevention.

- **Community Outreach Programs** While described as important, it is not the highest priority for the library given low staffing levels.
- **Vision for the Future** The main priorities for the library are stable funding and automation. The goal is not to simply return to the way they were prior to the 1993 de-funding. Library services must change to meet future challenges of the electronic era.

RECOMMENDATIONS

The Merced County Library system is slowly emerging from the defunding crisis of 1993. The Grand Jury is impressed with efforts to computerize the system through grants and other funding sources. The library staff is to be congratulated on the successful proposal for the Gates Foundation Grant.

- 1) Participation in the inter-library loan program should be a re-instituted no later than the 2000-2001 fiscal year.
- 2) Priority should be given to augmentation of the general fiction and non-fiction collections.
- 3) The financial feasibility of the video loan program should be reviewed, as it requires an inordinate number of staff hours to administer.
- 4) A community outreach program should be instituted that educates the public about availability of library services and assesses local community priorities for library services.
- 5) Members of the Board of Supervisors are encouraged to publicize library services available in their districts and to raise community awareness of library funding issues.
- 6) The Merced County Library should be reviewed by succeeding Grand Juries until services reach minimum national standards for staffing, automation, and collection levels.

The 1999-2000 Grand Jury congratulates the staff for its dedication to improvement of library services in Merced County.

MERCED CITY WATER DEPARTMENT

INTRODUCTION/BACKGROUND

This investigation emanated from Grand Jury interest in water rates in the City of Merced.

METHOD OF INVESTIGATION

Interviews were conducted and documents were requested and received from various Merced City departments.

- 12-21-99 A Grand Jury committee met with the Director of Public Works and the Merced City Finance Officer at City Hall for an overview of how the city water district operates and how water consumption is billed.
- 02-03-00 A Grand Jury committee met at the county government building with the Director of Public Works and the Public Works Manager.
- 03-07-00 A Grand Jury committee met with the Merced City Attorney in his office to discuss legal issues related to water policies.
- 03-28-00 A Grand Jury committee met with the engineer for the City of Merced in his office to discuss technical issues related to city water distribution and rate structure.
- 04-20-00 A member of the Grand Jury met with the Merced City Finance Officer to discuss water usage charges per hundred cubic feet of water for non-metered and metered usage.

FINDINGS

There are approximately 15,000 water customers in the City of Merced. Approximately 11,000 are non-metered (flat rate) and about 4,000 are metered. Metered customers are charged for all water used on a per hundred cubic feet basis. Non-metered customers are charged a monthly flat rate for all water used. Historically, flat rates were usually determined based on the size of the property. The majority of flat rate customers pay \$14.68 per month.

On January 1, 1992, the state mandated that meters be installed on all new construction. Prior to that date, it was not mandatory to install meters on new construction.

For metered customers, a minimum rate charged per month is based on the meter size; that is, a ¾" meter rate is \$17.50 per month for 35 hundred cubic feet of water, and a 1" meter rate is \$21.00 per month for 42 hundred cubic feet of water. For any usage over the minimum, there is a charge of \$.50 per each hundred cubic feet of water. This minimum rate structure for metered customers provides no incentive for conservation below the minimum because water up to the minimum must be paid for if used or not. Additionally, non-metered customers have no incentive to conserve water because there is no cost for excess

usage. During water shortage periods, non-metered customers may continue to wash cars, sidewalks, and driveways. In some incidences, non-metered customers have added in-law apartments or ignored faulty plumbing and the city has no way of recapturing lost revenues for this excess consumption.

The Grand Jury committee examined schedules provided by the Finance Department illustrating the total revenues received for water consumption for the calendar year 1997. These schedules showed the water usage per hundred cubic feet of water and revenue for metered customers, and revenues only for non-metered customers.

The total gallons of water supplied to the city for 1997 were 7,393,670,000 gallons. The city engineer informed the Grand Jury that an average city has a loss of between 8-10% of the water supplied. Using a loss of 10% and using 7.5 gallons per cubic foot this would convert to 8,872,404 hundred cubic feet of water sold in 1997.

Metered water customers include approximately 1,313 residences and 2,687 commercial and professional businesses and city parks. Non-metered customers are primarily residences. Metered water customers used 3,554,260 hundred cubic feet of water and paid \$1,991,446 at a cost to each customer of about \$.56 per hundred cubic feet of water. Non-metered customers used 5,318,144 hundred cubic feet of water and paid \$2,312,795 at a cost to each customer of about \$.43 per hundred cubic feet of water. To emphasize this inequity in another way, approximately 4,000 metered customers (27% of total customers) paid 46.3% of all revenues for water and 11,000 non-metered customers (73% of total customers) paid 53.7% of the revenues.

RECOMMENDATIONS

The Grand Jury committee discussed with city officials steps that could be taken to correct the inequities between metered and non-metered customers. The cost to the city to install meters on all non-metered properties was estimated at \$4 million. This was considered prohibitive. The committee suggested that when a non-metered customer transferred property ownership, a meter would be installed and either the transferring party or receiving party or both would bear all costs for the installation.

It was learned that approximately 600 homes are transferred and about 200 new homes are built annually. At this rate, it would take approximately eighteen years for all customers to have meters. This time could be shortened, as suggested by some city officials, if a meter was required when a permit for renovations was applied for and granted.

The cost to install a meter at the time of transfer would be between \$300 and \$400 and would result in no cost to the city.

MERCED COUNTY BOARD OF SUPERVISORS COMPENSATION OF MEMBERS

INTRODUCTION/BACKGROUND

The Grand Jury elected to examine salaries paid to the Merced County Board of Supervisors. In question was whether compensation of Merced County Supervisors is comparable to supervisors in similar counties and reflects the level of responsibility and workload required of the job.

The following questions provided a framework for the inquiry:

- 1) What does the job of Merced County Supervisor entail?
- 2) What is the workload? How many hours per week do supervisors work?
- 3) What are the benefits or extra compensations?
- 4) Are supervisors aware of salary differences between Merced County Supervisors and those in other counties?
- 5) How do Merced County Supervisors rate their workload compared to supervisors in comparable counties?
- 6) Why does Merced County not compensate the chairperson of the Board of Supervisors in similar ways to that of other counties?
- 7) How do the supervisors believe their role will be affected by the development of U.C. Merced?
- 8) Do the supervisors believe that a salary increase for board members is warranted?

METHOD OF INVESTIGATION

Interviews were conducted and documents were reviewed as follows:

10-28-99	Grand Jury committee interviewed supervisors from Districts 4 and 5.
01-28-00	Grand Jury committee interviewed supervisor from District 1.
02-09-00	Grand Jury committee interviewed supervisors from Districts 2 and 3.

FINDINGS

Members of the Merced County Board of Supervisors earn \$2978 per month. The average salary for supervisors in nine like-counties is \$3851, a difference of -29%.

Supervisors described their jobs as varied and covering a full spectrum of activities and concerns. One supervisor described it as including, "A variety of duties from fixing potholes to revenue sharing." All spoke to the many night meetings and community functions that are required and necessary in order for them to remain connected to the people they represent. Meeting with constituents and listening to concerns were described as major functions of their job.

Supervisors estimated that they work between 50 - 70 hours per week. Benefits and extra compensations include health benefits, mileage, reimbursement for cell

phone usage and tickets for job-related functions. Two supervisors have benefits from previous employment and, therefore, do not take the health benefits.

The supervisors admit to being aware of the discrepancy between their salary and those of comparable counties. One Supervisor stated that Merced County salaries were an embarrassment. Three of five supervisors stated that monetary concerns for themselves were not as much a concern as a need to have administrative assistance to do research, meet with constituents, and help in other job-related ways.

The scope of responsibility and workload were described as similar for supervisors in comparable counties. One supervisor stated that Merced County Supervisors have an unusually heavy workload due to the lack of staff assistance.

The chairperson is not compensated for the extra responsibility workload because of history and tradition. It simply has not been done that way in Merced County. Two board members stated that extra compensation should be instituted for the chairperson.

All except one supervisor stated that the role of Merced County Supervisors would change with the advent of the UC Merced. Supervisors expect an increase in workload, an increased number of constituents, increased number of meetings, a higher level of sophistication of community concerns, faster pace, more challenging issues, and greater need to use technology.

Only one supervisor would publicly support a pay raise, and only then if county employees received support in their quest for pay increases. Another supervisor summed up a common theme stating, "I couldn't support a pay raise until other issues are addressed. Compensation is the least of my problems. I need staff support."

RECOMMENDATIONS

- 1) The issue of improving Merced County Board of Supervisor's salaries should continue to be addressed. As the county population increases and with it the workload brought on by the UC Merced, the need to attract the very best candidates by providing salaries as least comparable to similar counties is important. As one supervisor stated:
Unless you are a wealthy person, a well-off retiree, or have a dual income family, you cannot afford to do this job. The people who can accept this salary are usually Anglo, upper-middle class persons. We need to look at whom we can attract to the county for these positions. Increasing the salary may result in more diversity and 'young blood' with new ideas.
- 2) Administrative assistance should be provided for each supervisor. Ideally, each supervisor would be provided with a part-time assistant to help with

such activities as research, phone calls, and representation at events. These assistants should be provided adequate space and equipment including a desk, phone, computer, and Internet connection.

The Merced County Grand Jury affirms a common concern for all county departments including the Merced County Board of Supervisors: Salaries are low, working conditions are challenging, and future expansion brought on by UC Merced will exacerbate current problems.

MERCED COUNTY ASSESSOR'S OFFICE

INTRODUCTION/BACKGROUND

In an effort to inspect as many departments, agencies, cities, and special districts as possible, the Grand Jury conducted a routine inquiry into the Merced County Assessor's Office.

METHOD OF INVESTIGATION

05-10-00 A committee of the Grand Jury toured the Assessor's Office located on the third floor of the County Administration building, 2222 M Street and interviewed the County Assessor. The Assistant County Assessor also was present.

FINDINGS

- **Role** The principal role of the Assessor's Office is to create the Assessment Roll for the county, which includes all citizens owning property and their addresses and property values for property tax purposes. This office also administers any tax exemptions and maintains a set of maps to identify parcels.
- **Personnel** There are 34 employees in the Assessor's Office divided into three major divisions: 1) Personal Property, 2) Real Property, and 3) Mapping and Title Services.
- **Funding** The budget for this office is 2.1 million dollars, which includes all salaries, computer support, capital outlay, etc.
- **Governance** This office is governed by the State of California via the California State Board of Equalization. A point of pride for this office is that in the 1999 state review it received four commendations, which is a very high number for any county.
- **Staffing/Recruitment** Members of the management staff have all been in the office for a significant length of time and have moved up through the ranks to management positions. It is becoming more and more difficult to attract personnel from outside of Merced, especially at the entry level. The pay is not competitive. The more successful appraisers are those who have college degrees; hence, the Assessor's Office is asking the County Personnel Department to time their recruitment efforts with college graduation times. UC Merced will probably attract the same candidates. The size of the staff is sufficient at this time for the workload. If the Williamson Act, which calls for a different valuation, passes there will be the need for two more assessors and more clerical help.
- **Staffing/Training** Everyone is required to earn certificates from the State Board of Equalization within one year of being hired. After that, twenty-four hours of in-service are required and twelve hours the following year. Clerical personnel are encouraged to improve their skills by taking community college classes. Office meetings are held one time per month and employees set the

agenda. The day before the general office meeting the management staff meets. Often a short training is held if something needs to be shared with staff.

- **Staffing/Working Conditions** In 1995, staff had to be trimmed due to cost reduction requirements. Six positions were eliminated. Some people opted to take retirement at this time. Since then, except for retirements, there has been little turnover. A problem with morale arose when it became necessary to have the clerical staff rotate their schedules in order to staff the front counter and meet the public. Some staff felt this was an inferior assignment taking them away from work they preferred doing. It has proven to be a more equitable way to do business.
- **Impact of UC Merced** The workload of the Assessor's Office is driven by what is occurring in the community. New construction and/or new ownership increase the amount of work done in the Assessor's Office. Merced County will have a difficult time attracting and keeping skilled people when the UC arrives due to a competition for labor.
- **Technology Resources** This office is proud of the foresight used to implement a integrated technology system that links the Assessor's, the Auditor's and the Tax Collector's Offices. By working with Kings County, the Assessor's Office was able to bring in this million-dollar system at a cost of \$180,000.
- **Needs** Some physical features of this office need improvement. The carpet is worn and repaired with duct tape. Painting is needed. Workstations have been ordered which will help the clerical staff. The office is becoming crowded with thousands of appraisal and property records. There is not an electronic data storage program in use.

RECOMMENDATIONS

- 1) The office should pursue its plans to provide technology to other departments such as Planning, Public Works, etc. Providing links to other agencies and companies such as title companies would be good business - even if a small user fee would need to be charged.
- 2) The office should continue and expand its' policy of "growing its own" managers and assessors through specialized training and employment opportunities.
- 3) The office needs to evaluate and draw up a plan for storage of files and documents, perhaps investigating electronic data storage.

LIVINGSTON POLICE DEPARTMENT

INTRODUCTION/BACKGROUND

At the invitation of Livingston Police Chief Bill Eldridge, the Grand Jury toured the newly completed facility in Livingston. The inspection of the Livingston Police Department reflected the commitment of the Grand Jury to inspect a broad range of governmental entities.

METHOD OF INVESTIGATION

02-01-00 The Grand Jury toured the Livingston Police Department and talked with Chief Bill Eldridge.

FINDINGS

The new Livingston police facility was completed in October 1999 and contains rooms for dispatch, briefings, projects, the armory, lockers, records, DUI/intoxilator use, private prisoner toilet, and prisoner restraint chairs. There are also offices for the chief, the chief's secretary, the commander and the sergeants and a patrol room, officer room, break room and Parks and Recreation room. The department is staffed by 17 officers who serve a population of 10,600 citizens, 74% of which are Hispanic.

Crime incident rate in 1999 was reported to be: 1 homicide, 13 rapes, 3 robberies, 129 assaults, 80 burglaries, 91 thefts, 32 auto thefts (22 of which were recovered), 89 incidences of domestic violence, 67 calls for weapon-related crimes.

There was impressive evidence of department dedication to prevention in its law enforcement strategies. The focus of the traffic program is DUI arrests, speed control, and child restraint and seat belt use. The traffic unit focuses on saving lives and has a zero-tolerance for drunk drivers. At a sobriety checkpoint in January 2000, 215 vehicles were stopped which resulted in 10 arrests: 2 for drunk driving, 2 for driving without a license, and 8 vehicle impoundments.

The department uses a 10-point system when interviewing suspected gang members. If a person earns 3 points, he or she is validated as a gang member. This information is entered into a computerized information system that is shared by statewide law enforcement agencies. Local gang suppression interventions are attempted using school resource officers. The focus is on teaching young people to resist drug use and to teach strategies to help them resist negative peer pressure.

The Livingston Police Department and the local schools share the Nextel Communalization System, which allows direct communication among the schools.

It also provides a direct line from the schools to the department shortening incident response time.

RECOMMENDATIONS

The Grand Jury was impressed with the enthusiasm of the department. The demographics of the Livingston community require that the department approach law enforcement in a manner that is responsive to and uniquely designed for its constituents. The Grand Jury observed a proactive, fair, and firm approach to law enforcement that contributes to strong public safety and good quality of life for the community.

MERCED COUNTY FIRE PROTECTION CALIFORNIA DEPARTMENT OF FORESTRY (CDF)

INTRODUCTION/BACKGROUND

The Grand Jury's interest in Merced County fire protection and the county's contract with the California Department of Forestry (CDF) emerged from several sources including concern about cost of delivery of services, budget shortfall, the study process undertaken by the Board of Supervisors, and input from volunteers.

METHOD OF INVESTIGATION

The Grand Jury interviewed the following persons:

11-04-99	CDF Chief Candace Gregory
02-03-00	CDF Chief Candace Gregory
02-17-00	Merced City Fire Chief Kenneth Mitten
03-02-00	Los Banos City Fire Chief Chet Guintini
03-16-00	Atwater City Fire Chief Dennis Sparks
05-18-00	Board of Supervisors Chairman Jerry O'Banion

FINDINGS

Fiscal year 99-00 is the third year of Merced County's fire protection agreement with CDF. The approved budget for FY 99-00 was \$5,816,935 (later amended to \$5,743,922). The proposed budget for FY 00-01 is \$6,084,021 reflecting a proposed increase of 4.59%.

Approximately 11% of the budget is allocated for administrative fees.

The fire department is funded primarily through a percentage of property tax revenues (General Fund). Revenues have not increased in relationship to the cost of services.

RECOMMENDATIONS

The Grand Jury recommends that:

- 1) The Board of Supervisors explore outsourcing of some fire services to the cities of Merced, Atwater, and Los Banos.
- 2) The Board of Supervisors encourage automatic aid agreements be made whenever possible. It is suggested that a one-year automatic aid pilot project be created with one city and CDF and reviewed for replication.
- 3) The Board of Supervisors encourage more input from and better utilization of volunteer firefighters by CDF.

- 4) The CDF fire chief should have a longer term of service than two years to provide opportunity for better collaboration with local fire chiefs.

MERCED CEMETERY DISTRICT

Complaint Number 99-00-05

INTRODUCTION/BACKGROUND

A complaint was received alleging that the Merced Cemetery District was not properly maintaining the grounds of the cemetery at 1300 B STREET in Merced.

METHOD OF INVESTIGATION

Interviews were conducted and on-site visits were made as follows:

- 08-31-99 A Grand Jury committee contacted the complainant by telephone to discuss the specifics of the complaint.
- 08-31-99 Grand Jury committee members toured the cemetery grounds and interviewed the superintendent of the cemetery.
- 09-22-99 A Grand Jury committee telephoned the superintendent with additional questions.

FINDINGS

The cemetery is maintained by property tax funds collected by the county for the special district. Additional funding is received from burial fees.

The total acreage to be maintained is forty (40). An entire week is required to complete a mowing and trimming cycle of the property. Four (4) full-time maintenance workers are employed. They also are responsible for work necessary for funerals such as gravesite preparation. The cemetery does receive assistance with extra-help from Work-In-Lieu Program, but the amount of help varies depending upon availability of inmates designated for work release. Summer Youth Program has also been a source of labor, but the program has been limited in the last year. Maintenance workers reset leaning grave markers when observed. Weed eating is a problem because of the large amount of acreage needing to be trimmed.

During the onsite visit, Grand Jury members observed one worker on a riding lawn mower, one tending to an area by hand, and another worker at the cemetery shop area.

The Grand Jury committee observed areas needing weeding especially in the old section of the cemetery. Dry spots were noted.

Several headstones were leaning and others were broken. Several ground level headstones were overgrown with weeds.

The cemetery layout contributes to the time-consuming maintenance. Plots are bordered by varying levels of cement requiring hand mowing and trimming rather

than riding equipment. The superintendent expressed that these areas are very labor-intensive to maintain.

The Grand Jury found the complaint against the Merced Cemetery District to be substantiated.

RECOMMENDATIONS

Inadequate maintenance of the cemetery appears to be because of insufficient staff. Additional staff should be secured through regular hiring or additional Work-in Lieu and Summer Youth Program personnel.

MERCED POLICE DEPARTMENT

Complaint Number 99-00-07

INTRODUCTION/BACKGROUND

The complaint alleged that on December 29, 1998 an officer of the Merced Police Department refused complainant's rights to a citizen's arrest because the complainant chose to remain silent under Miranda Rights.

METHOD OF INVESTIGATION

Interviews were conducted and documents were reviewed as follows:

- 09-29-99 A Grand Jury committee met with Chief of the Merced Police Department.
- 10-08-99 A Grand Jury committee interviewed a commander and an officer of Merced Police Department. The officer against whom the complaint was made refused to answer questions as so advised by his superior officer.
- 10-15-99 Grand Jury committee met with County Counsel.
- 10-19-99 Grand Jury committee interviewed the complainant.
- 11-23-99 Grand Jury committee interviewed Chief of Merced Police Department.
- 01-20-00 Grand Jury committee with subpoena interviewed Chief of Merced Police Department and reviewed records.
- 01-20-00 A Grand Jury committee interviewed with subpoena the officer against whom the complaint was made.

FINDINGS

There were no eyewitnesses to the incident other than the officer, the complainant, and the complainant's girlfriend. The committee was unable to substantiate the allegations.

The Merced Police Department citizen complaint process is not always timely or consistent in follow through.

RECOMMENDATIONS

- 1) The Merced Police Department should implement a complaint process with written guidelines that will ensure that citizen complaints are processed and investigated in a timely manner.
- 2) The Merced Police Department should implement a method of tracking the status of complaint investigations from intake to closure with the complainant being notified in writing as to the outcome of the investigation.

- 3) The Merced Police Department should provide for officers additional training in citizen arrest procedures.
- 4) The 2000-2001 Grand Jury should review the Merced Police Department's Citizen Complaint process to ensure that recommendations have been implemented.

The Grand Jury recognizes that there are laws restricting the provision of confidential information such as internal investigation documents, etc. The Merced Police Department verbally agreed to cooperate, but during this investigation, the department was less than forthcoming with the Grand Jury. The Grand Jury encourages the department to work cooperatively with future Grand Juries in an effort to benefit the entire community.

MERCED CITY SCHOOL DISTRICT

Complaint Number 99-00-08

INTRODUCTION/BACKGROUND

The complaint received alleged that:

- The Merced City School District's Office of Student and Family Services is routinely limiting the role of advocates who represent parents and students summoned before hearings and boards.
- The director of this office systematically refuses to return phone calls to concerned parents.
- Assignment of students is made based on school vacancies and the process does not evaluate student capabilities and ethnicity.
- Students are returned to the same environment that created the original problem when other clear options exist to protect the student.

METHOD OF INVESTIGATION

Individual face-to-face interviews were conducted with a parent and three advocates involved in expulsion hearings. Additional interviews were conducted with the Director of Special Education, Child Welfare and Student Records who served as facilitator of district expulsion hearings and two school principals who have served routinely on expulsion hearing panels. Materials provided to the parent were examined as were a plethora of sample documents provided by the school district related to expulsion procedures in the district.

FINDINGS

The intensity of the concern expressed by the complainants involved in the hearings cannot be minimized. Clearly the perception was, in more than one hearing within a two-year period, that families and advocates were not treated with sensitivity and respect in highly difficult situations. However, the concerns were difficult to substantiate through interviews, as it was often the word of one individual in opposition to another. The district appears to follow a carefully scripted process and there was evidence of a clear effort to follow the letter of the law including observation of the rights of children, families, and advocates. The director is very knowledgeable about related law, and the process, while perhaps not *personal*, has the intent to be fair.

RECOMMENDATIONS

- 1) While expulsion hearings may be a routine activity for school personnel, for a family it is a highly charged, emotional event. It is imperative that school personnel treat each situation with care, sensitivity, and compassion. Adequate time must be planned to allow for translations, questions by advocates and to support an atmosphere of unhurried deliberation.
- 2) The written materials provided to families by the school district are excellent and closely followed. The school district must make special effort

to be certain families understand the words and implication of the words being sent or spoken to them.

- 3) While translators and interpreters are provided in nearly every situation, insuring the families truly understand what is being said or written requires effort beyond translation from one language to another. The sensitivity of the situation may cause families to be more reticent than assertive. It is incumbent on the school district to create an atmosphere in which families can understand and will feel comfortable interacting.
- 4) The district should respond to parent inquiries promptly and be certain that all follow-up action be communicated to the parent directly with a high level of understanding.

The Grand Jury commends the Merced City School District for their cooperation during the investigation and their willingness to supply requested materials.

MERCED MARSHAL'S OFFICE

Complaint Number 99-00-09

INTRODUCTION/BACKGROUND

The complaint alleged that excessive force was used by a deputy marshal on an inmate in the custody of the deputy marshal.

METHOD OF INVESTIGATION

Interviews were conducted as follows:

- 11-23-99 Grand Jury committee interviewed complainant.
- 12-03-99 Grand Jury committee interviewed deputy marshal.
- 12-10-99 A Grand Jury committee interviewed a sergeant at the Marshal's Office.
- 12-16-99 Grand Jury committee interviewed deputy marshal.

FINDINGS

The complainant reported observing the deputy marshal using force to achieve an inmate's cooperation. The deputy marshal admitted that force was necessary to obtain control of the inmate. The Grand Jury was unable to substantiate that excessive force was used.

The Marshal's Office was very cooperative in all phases of the investigation.

RECOMMENDATIONS

- 1) The Marshal's Office should update the complaint form. (Was subsequently modified.)
- 2) The Marshal's Office should establish a training program to train deputy marshals in handling in-custody prisoners.
- 3) Closed circuit television (CCTV) monitors should be installed to monitor prisoners being escorted to and from jail/court facilities.

The Grand Jury appreciates the cooperation of the Marshal's Office.

PUBLIC SCHOOLS WITHIN MERCED COUNTY

SCHOOL FEES

Complaint Number 99-00-11

INTRODUCTION/BACKGROUND

The complaint received alleged that:

- Children attending public schools within Merced County occasionally bring home notes requesting payment of school fees of various kinds including fees for high school band.
- School fees not specifically authorized by law are illegal.

The complainant, in his letter to the Grand Jury dated November 17, 1999, referred to notes his children brought home from school requesting payment of "school fees" and to acquaintances of his children who had "to drop high school band because of band fees". *No specific school or school district was mentioned in the complaint.* The complainant attached documents to his letter referring to an ongoing investigation of school fees in Tulare County by the Tulare County Grand Jury.

METHOD OF INVESTIGATION

The complainant did not identify a specific school or school district within Merced County that was alleged to have imposed school fees. However, because general reference was made to the assessment of "high school band fees", the Merced County Grand Jury contacted the Merced Union High School District for information about that district's policies and practices relating to the imposition of school fees. The Merced Union High School district represents one of the largest school districts within Merced County. District representatives provided the Grand Jury with documents relating to recent activity within the district with reference to the imposition of school fees including copies of email interchanges, memos to school-site principals, board policy #1714 and an administrative council agenda.

FINDINGS

Though the Merced Union High School District was not named in the complaint, the district representatives stated that they were aware that the imposition of school fees had been a concern within their district due to misunderstanding of the law especially by booster groups and due to difficulty overseeing such groups by school staff. Some booster groups, in an eagerness to raise much-needed funds, have independently sent information to parents without a school administrator's knowledge and consent.

It was clear that the Merced Union High School District:

- clearly understands the law related to the imposition of school fees,

- has a "no tolerance" policy for the imposition of fees by any school-site or booster group,
- has an aggressive education program for principals and booster organizations about school fees,
- has district and school-level personnel designated to oversee compliance with the law.

RECOMMENDATIONS

No further action needs to be taken.

MERCED COUNTY MARSHAL'S OFFICE

Complaint Number 99-00-12

INTRODUCTION/BACKGROUND

COMPLAINT (PART I): A complaint was received regarding the sale of surplus weapons by the Marshal's Office. According to the complaint, a weapon was purchased by a deputy marshal for his wife and another weapon was purchased by another deputy for a civilian.

COMPLAINT (PART II): A complaint was received alleging the falsification of time cards at the Marshal's Office to cover the working of unauthorized hours, under the direction of the Sergeant, by some deputy marshals.

METHOD OF INVESTIGATION

Interviews were conducted and documents requested and received as follows:

COMPLAINT (PART I):

- 01/18/00 Grand Jury met with and interviewed the complainant to receive additional information.
- 02/28/00 Grand Jury met with and interviewed the County Director of General Services regarding County procedures on the disposal of surplus property.
- 04/04/00 Grand Jury met with the County Director of General Services for additional information.
- 04/12/00 Grand Jury contacted a weapons supply company regarding the weapons sales.
- 05/17/00 Grand Jury met with and interviewed a sergeant in the Marshal's Office.

COMPLAINT (PART II):

- 01/18/00 Grand Jury met with and interviewed the complainant to receive additional information.
- 01/19/00 Grand Jury met with the County Personnel Analyst for the Marshal's Office.
- 01/20/00 Grand Jury met with the County Personnel Analyst for the Marshal's Office.

FINDINGS - COMPLAINT (PART I)

As a result of the interviews and review of documentation regarding the purchase of new weapons and the trade in and sales of the old weapons by the Marshal's Office, and review of County policies regarding the sales of surplus property, the Grand Jury concluded that the allegations made by the complainant were unfounded.

FINDINGS - COMPLAINT (PART II)

As a result of the interviews and review of documentation, the Grand Jury concluded that no falsification of time cards had occurred. The hours worked by the Deputy Marshals were, in fact, authorized by County Administration.

RECOMMENDATIONS

No further action is necessary.

HUMAN SERVICES AGENCY-CHILD PROTECTIVE SERVICES

Complaints 99-00-13 and 99-00-14

Transitional Report

INTRODUCTION/BACKGROUND

The 1999-2000 Grand Jury initiated a study of Merced County Child Protective Services (Human Services Agency) in May 2000 in response to two specific citizen complaints and because of general interest by the Grand Jury. It was immediately clear that to study the issues fully and to prepare a comprehensive and fair report would require more time than the current Grand Jury had remaining in its term of service. Therefore, the 1999-2000 Grand Jury structured a study process for subsequent Grand Juries if they should choose to continue the investigation. The process developed includes creation of focus questions and identification of institutions, agencies, and individuals to be interviewed.

METHOD OF INVESTIGATION

Initial interviews were conducted with eight school principals, one vice principal, two school resource officers, two counselors and one superintendent representing elementary, middle and high schools in five county schools/districts including: Merced High School, Livingston High School, Merced City School District, Atwater Elementary School District, and Dos Palos-Ora Loma School District. *

FINDINGS

Findings from initial interviews suggest dissatisfaction by schools with deficiencies in follow-up by Child Protective Services including reporting status of investigations and lack of coordinated effort between schools and CPS in monitoring cases and sharing information.

RECOMMENDATIONS

The Grand Jury recommends the study of Child Protective Services (Human Services Agency) be continued and expanded. The focus of the study should be on the collaboration and coordination of CPS with schools, probation, and law enforcement.

*Interview results are available to the 2000-2001 Grand Jury.

LIVINGSTON CITY COUNCIL
ISSUE OF MEMBER RESIDENCY
Complaint Number 99-00-15

INTRODUCTION/BACKGROUND

Three (3) complaints were received alleging that a member of the Livingston City Council was not residing within the Livingston city limits as required by the Elections Code.

METHOD OF INVESTIGATION

Interviews were conducted, documents were reviewed, and other contacts were made as follows:

- 03-22-00 A Grand Jury committee met with the Deputy Registrar of Voters, County Elections Office.
- 04-04-00 A Grand Jury committee met with the Mayor Pro-Tem, City of Livingston and interviewed a resident of the City of Livingston.

The California State Elections Code was reviewed.

Two residences and an apartment located in the city of Livingston were checked.

A residence in the City of Atwater was checked.

County property ownership records were checked at the County Assessor's Office.

The definitions of a "residence" and a "domicile" were reviewed as pertaining to an elected official.

FINDINGS

The allegation that a member of the Livingston City Council was not residing within the Livingston city limits was unfounded. The Grand Jury verified that although the council member did not have a "domicile" within the city limits, the council member did have a "residence". A "residence" is defined as: 1) the fact or act of residing, and 2) the fact or status of living, or staying in a place while working, going to school, carrying out official duties, etc.

The Grand Jury verified that the council member did, in fact, have two places where she stayed within the city limits and utilized the places as her "residence" while she performed her official duties on the Livingston City council.

RECOMMENDATIONS

No further action is necessary.

MERCED COUNTY DISTRICT ATTORNEY

Complaint Number 99-00-16

INTRODUCTION/BACKGROUND

Two (2) complaints were received alleging misconduct within the Merced County District Attorney's Office related to the campaign for Superior Court Judge in March 2000. The Grand Jury studied the complaints and identified the following issues for investigation:

- Did an employee of the District Attorney's Office use a County telephone and fax during work hours to participate in activity related to the campaign for Superior Court Judge?
- Did the District Attorney contact individual(s) during business hours using a County telephone to advocate for or against a candidate for Superior Court Judge?
- Did the District Attorney provide untrue information about a candidate to another candidate for use in campaign literature?

METHOD OF INVESTIGATION

Interviews were conducted, documents were requested, and other contacts were made as follows:

- 05-03-00 A Grand Jury committee interviewed the two complainants separately.
- 05-04-00 The Grand Jury interviewed the Merced County District Attorney.
- 05-08-00 A Grand Jury committee member contacted the California Fair Political Practices Commission.

Campaign materials and other documents provided by the District Attorney and the complainants were reviewed.

FINDINGS

The allegations related to use of telephone by the District Attorney and an employee within the District Attorney's Office were substantiated. The allegation related to the provision of untrue information about a candidate for Superior Court Judge to another candidate for that office was not substantiated.

RECOMMENDATIONS

No further action is necessary. However, the Grand Jury recommends that public employees, whether hired, appointed, or elected should confine use of telephone and other communication devices, and should confine activity during business hours to responsibilities within their job descriptions.

MERCED POLICE DEPARTMENT

Complaint Number 99-00-18

INTRODUCTION/BACKGROUND

A complaint was received alleging false arrest and illegal police procedures used during an investigation. The complainant and her live-in boyfriend were arrested resulting from an incident of a domestic altercation involving physical assault. The complainant was charged with felony assault and the live-in boyfriend was cited and released on a misdemeanor charge. The District Attorney later dropped all charges against the complainant and the live-in boyfriend was charged with felony spousal abuse. The complainant posted bail prior to the charges being dropped and as a result has been unable to recover the \$2,000 paid for bail.

METHOD OF INVESTIGATION

Interviews were conducted and documents were reviewed and analyzed by the Grand Jury to arrive at a conclusion regarding the validity of the allegations. The investigation included the following activity:

- 03/23/00 A Grand Jury committee met with and interviewed the complainant to receive additional information.
- 04/03/00 A Grand Jury committee contacted the Victim/Witness program manager to review assistance being provided to the complainant.
- 04/18/00 A Grand Jury committee met with and interviewed a private citizen who has been actively working with the complainant in efforts to assist her.
- 05/17/00 A Grand Jury committee met with and interviewed an officer from the Merced Police Department who conducted a follow up investigation and was instrumental in getting the charges against the complainant dropped.

FINDINGS

The issues related to probable cause and to justification for the arrest are questions for the court rather than the Grand Jury. However, the Grand Jury concluded that the situation might have been handled more effectively had there been better training for officers in management of cases involving domestic violence. The follow-up investigator and the Deputy District Attorney, who later dropped the charges, determined that the complainant, although she had used a knife, acted in self-defense.

RECOMMENDATIONS

The Grand Jury recommends that:

- 1) The Merced Police Department provides additional training to patrol officers who are first responders to domestic violence calls in order to improve

assessments of circumstances at the scene.

- 2) The Merced Police Department makes more resources available to the domestic violence investigator and that his expertise and knowledge in domestic violence be utilized to provide additional training to patrol officers, perhaps on an ongoing basis.
- 3) The Merced Police Department develops guidelines to assist the patrol officers in domestic violence initial investigations.
- 4) The City of Merced and the Police Department continue the domestic violence investigator position and that they work with the District Attorney and the Sheriff's Office to continue the team concept implemented under the existing grant when grant funding ends.