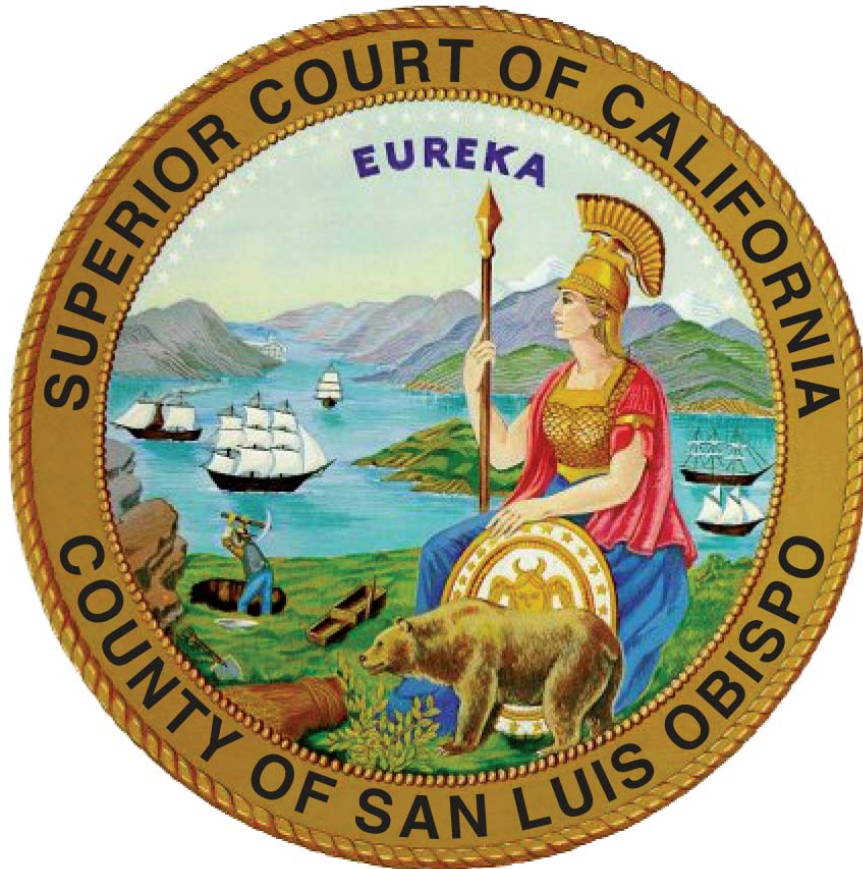


2006 -2007
San Luis Obispo County
Grand Jury



FINAL REPORT

San Luis Obispo County Grand Jury

P.O. Box 4910

San Luis Obispo, California 93403

Telephone: (805)781-5188

www.slocourts.net/grandjury



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INTRODUCTORY LETTER

Each year in June, nineteen people are selected by the Superior Court from among citizen volunteers in San Luis County to serve for a full year as members of the Grand Jury. Members of the 2006-2007 Grand Jury were drawn from all areas of the county and had diverse educational and professional experiences. The resulting mix of ideas and talents, combined with a high level of dedication and energy allowed this group to produce informative and incisive reports about the workings of county government.

For the benefit of citizens who may be uninformed about how a grand jury operates and how its reports are generated, and for those who may have an interest in serving on a future grand jury, the following explanation is offered.

Citizens of the county who apply for grand jury service are invited to an orientation session for an overview of the process. They are then interviewed by a judge and, iff approved, their name is forwarded for inclusion in the annual grand jury lottery. Random selection results in panel members and alternates.

Only panel members are sworn in and instructed in their charge by the presiding judge. Jurors take an oath of confidentiality regarding any grand jury matters, not only for their term, but for the rest of their lives. Grand juries conduct proceedings behind closed doors, as required by law, primarily for the protection of people who file complaints or who testify during investigations.

Once a grand jury is impaneled, jurors spend six weeks in training with county and court officials, including the District Attorney, County Counsel, County Auditor, County Administrator and the Superior Court's Administrator and Jury Commissioner. Before jurors begin any investigations, they receive training on the Grand Jury Procedures Handbook and the Penal Codes which apply to their work. The current handbook and penal codes are on the grand jury's website at www.slocourts.net/grandjury.

After the training period is completed, jurors begin by reviewing any complaints received that might be the subject of an inquiry and identifying areas of interest that might become the subject of self-initiated investigations. A review is done to determine which agencies of local government have not been looked into by prior grand juries within the past five years. Grand juries inspect and report on local prison conditions, as mandated by law.

Each grand jury sets its own rules of proceeding and creates committees to investigate and create reports. The process of generating reports from grand jury investigations has a number of safeguards built in:

1. A committee first develops an action plan and brings it to the full grand jury for review and approval. Jurors with a conflict of interest absent themselves from all activities on that topic and recuse themselves from all voting on the report.
2. Once an investigation is complete, a draft of the report is written by the committee and reviewed by the full jury. The jury gives input and eventual approval by a vote of at least 12 of its 19 members.
3. The report is then sent to the County Counsel for legal review.
4. The report then goes to the responsible government department for a check on its 'factual accuracy.' Input is carefully considered, and corrections are made if necessary.
5. The final draft of the report is submitted to the presiding judge of the Superior Court for review and approval.
6. The report is then released to the media and posted on the grand jury's website.

It is important to note that while a report's findings are based on solid facts gathered by the grand jury's investigations, the conclusions and recommendations are the result of the panel's agreed-upon opinion. Each report is presented to the appropriate department or agency which must respond within 60 days. No later than 90 days after the release of the report, the governing body of the public agency must comment to the presiding judge of the Superior Court on the findings and recommendations in the report.

Positive changes have resulted from grand jury investigations within San Luis Obispo County. Some recommendations take time to implement, and some can be adopted immediately:

1. The 2005-2006 Grand Jury questioned the efficacy of the complex land use program, based on the transfer of development credits. This report has prompted a reevaluation of the system in the light of present pressures on land use in this county.
2. The 2005-2006 Grand Jury also recommended creating increased protection for oak trees. The County Planning Department now has strict ordinances to protect oak trees in unincorporated areas.

Serving as a member of a grand jury is a unique opportunity. It is a challenging and rewarding experience for those with an interest in how government works and with a willingness to spend time and energy as part of a team. Participation on the grand jury educates jurors about local government and in turn, the grand jury reports educate the public at large.

Each grand jury leaves its own unique mark. We, the members of the 2006-2007 Grand Jury have worked hard to make our mark by issuing a Final Report which is both a roadmap for change and a source of thought-provoking information.


SPECIAL ACKNOWLEDGEMENTS

The Grand Jury wishes to thank the following:


- Presiding Judge Roger Picquet for his excellent guidance and support during this Grand Jury's term.
- Members of our local and regional media outlets for their valuable assistance in publicizing our reports. Without their interest and support, only a fraction of the public would be aware of our work.
- Staff members of local government agencies for their cooperation and assistance to the Grand Jury in carrying out our inquiries. The Grand Jury believes that the county agencies we reviewed this year are, on the whole, serving the public with efficiency and dedication.

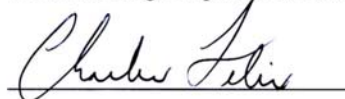
- AGP Video of Morro Bay for providing the Grand Jury, free of charge, tapes of the weekly Board of Supervisors' meetings.
- Sylvia Martinez, Administrative Assistant to the Grand Jury, for her able and unfailingly cheerful support of all of us during the past year.


And finally, we thank those members of the public who took the time and trouble to send in their concerns and complaints to the Grand Jury during the past year. Citizen participation is the essence of good government.

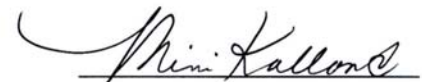

Joanna Hamburg, Foreperson, Cambria



Thomas LaMoreaux, Nipomo



Rich L. Ivie, Templeton



Charles Felix, Pro Tem, San Luis Obispo

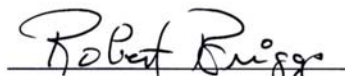

Walter Macklin, Paso Robles


Mimi Kalland, Los Osos

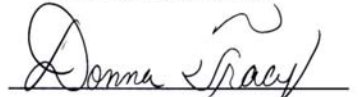

Mary Beth Armstrong, Avila Beach



Ronald Magoffin, San Luis Obispo

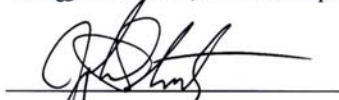

Carole Kreiss, Cambria



Robert Briggs, Atascadero

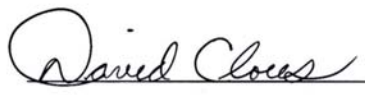

Marguerite Maxwell, San Luis Obispo

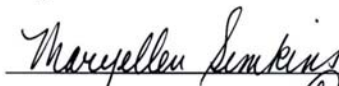

Donna Tracy, San Miguel

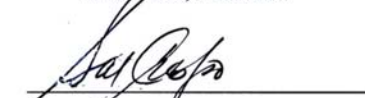

Al Brill, Arroyo Grande

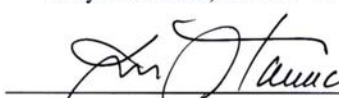

John Schutz, San Luis Obispo


Jacqueline Whitesides, San Luis Obispo


David Clous, Atascadero


Maryellen Simkins, Los Osos


Sal Crespo, Paso Robles


Jim Stanco, Atascadero

AUTHORITIES FOR GRAND JURY INQUIRIES

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

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

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

§925(a): “The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit. The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.”

§928: “Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system

of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.”

§933.5: “A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.”

§933.6: “A grand jury may at any time examine the books and records of any nonprofit corporation established by or operated on behalf of a public entity the books and records of which it is authorized by law to examine, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such nonprofit corporation.” (*emphasis added*)

AUTHORITIES FOR AGENCY RESPONSES

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

§933.05 (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

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

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

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

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

§933.05 (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

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

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

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

INVESTIGATIVE REPORTS

1. DIABLO CANYON: SAN LUIS OBISPO'S KATRINA?

INTRODUCTION

In the aftermath of Hurricane Katrina, the breakdown of the emergency response system in New Orleans was apparent and appalling to the entire nation over a period of days, weeks and months. Citizens of every community must have watched and asked themselves, "Could this happen in my community?"

Every region has its unique challenges in terms of potential natural and human-caused disasters. In San Luis Obispo we live in proximity to one of only two nuclear power plants in the State of California. Although there has never been an alert or a site area emergency in the 22 years that Diablo Canyon Power Plant has been in operation, the possibility exists. If there were a disaster at Diablo, would our emergency response system respond effectively?

PURPOSE

The San Luis Obispo County Office of Emergency Services (OES) has basic responsibility for providing integrated and effective safety and emergency management services in any natural or human-caused emergency. Although past Grand Juries have looked at OES before, this study focuses in particular on emergency planning related to Diablo Canyon Nuclear Power Plant. In the aftermath of the Katrina fiasco, the Grand Jury was particularly interested in looking at disaster planning in response to possible threats, which might require evacuation or sheltering-in-place. Our concerns included evacuation routes, interagency communication, communication with the public, special needs evacuation, sheltering in place, and potassium iodide distribution methods.



METHOD

As part of its investigation, Grand Jurors:

- Toured Diablo Canyon Nuclear Power Plant and listened to presentations by the Vice President of Nuclear Services and the Manager of Government and Public Relations.
- Toured the San Luis Obispo County Emergency Operations Center and listened to presentations by the San Luis Obispo County Sheriff and Under Sheriff.
- Interviewed the Deputy County Administrative Officer and one of the long time Emergency Service Coordinators.
- Interviewed the Pacific Gas & Electric (PG&E) Emergency Planning Coordinator.
- Interviewed three board members from Mothers for Peace.

- Interviewed both the San Luis Obispo County and the San Luis Obispo City Community Emergency Response Team (CERT) program coordinators.
- Conducted an informal telephone survey of 12 local pharmacies regarding availability of potassium iodide.
- Reviewed the emergency planning information for Diablo Canyon Nuclear Power Plant contained in the Customer Guide Section of the 2005 AT&T telephone book.
- Reviewed the San Luis Obispo County Emergency Management Coordination Overview Document Version 2.
- Reviewed the Federal Department of Homeland Security's draft report on a 2006 nuclear power plant emergency response exercise conducted October 25, 2006.
- Reviewed the 2004-2005 Annual Report of the Diablo Canyon Independent Safety Committee (DCISC).
- Reviewed the American Red Cross Shelter-in-Place Fact Sheet.
- Reviewed the CERT Student Manual.
- Reviewed the California Office of Emergency Services "San Simeon Earthquake After Action Report" November 2, 2004
- Reviewed the websites for the following organizations: the U.S. Department of Health and Human Services Center for Disease Control (Emergency Preparedness and Response); U.S. Nuclear Regulatory Commission (Frequently Asked Question About Potassium Iodide); American Thyroid Association (Public Health Statement), American Academy of Pediatrics (April 2003 News Release on Potassium Iodide).

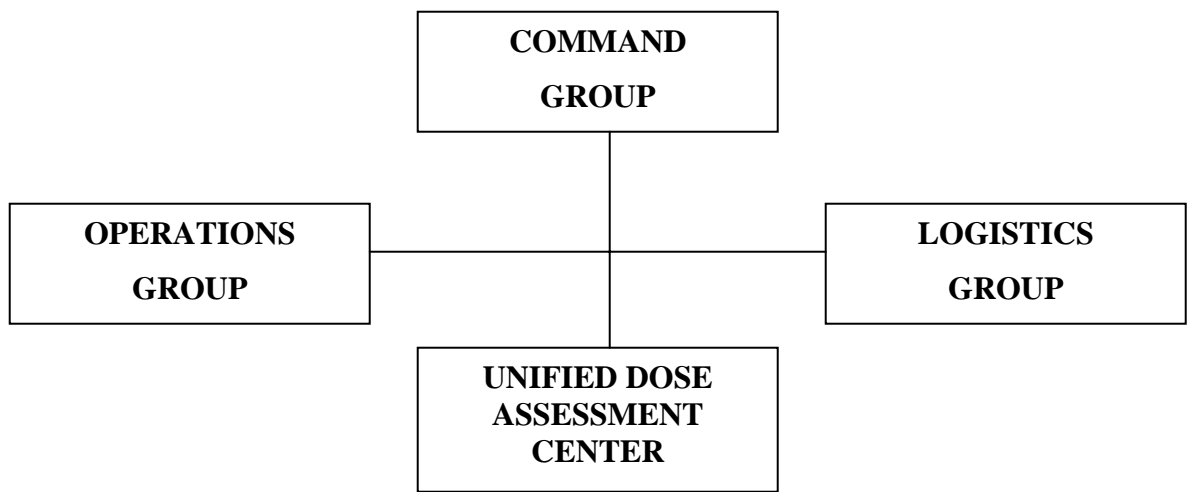
BACKGROUND

The Office of Emergency Services (OES) is responsible for developing a plan for responding to an emergency at Diablo Canyon, and for coordinating the plan with other emergency response organizations such as parent company Pacific Gas and Electric, the State of California, Federal Department of Homeland Security, and Federal Emergency Management Agency (FEMA). The

purpose of the OES Emergency Operations Plan is to protect the health and safety of the public by mobilizing emergency workers, notifying the public, and implementing decisions for protective action.

Organization

Under the plan organized by OES, emergency personnel, are divided into four primary groups as follows:



The Command Group includes the County Administrative Officer, the County Sheriff, the County Fire Chief and the County Health Officer. These key managers direct and coordinate the county’s emergency response and act as the liaison with cities, state and federal agencies, and PG&E.

The Operations Group is made up of county, state and non-governmental agencies coordinating direct response activities in the field. This group includes, for example, police, fire, emergency medical, public works, school districts and the American Red Cross.

The Logistics Group provides management and specialized skills. It generally consists of the County Counsel, General Services, Information Services, the County Public Information Officer, and Emergency Services Coordinators.

The Unified Dose Assessment Center receives radiation measurement data from Diablo Canyon Power Plant as well as from pre-positioned radiation monitors in place at various locations in the county. Based on this information, the Command Group makes decisions about protective actions for emergency workers and the public. The Center is coordinated by the County Director of Environmental Health and brings together county staff from Environmental Health, the Agricultural Commission, and the Air Pollution Control District, as well as PG&E staff and state and federal agencies.

Facility

The County Emergency Operations Center (EOC), which includes the working spaces for the Command Group, Operations Group and Logistics Group mentioned above, and the Unified Dose Assessment Center, is located in a single building near the Sheriff's office. In addition, the building houses the Sheriff's Dispatch Center, the Joint Media Center, and PG&E's Emergency Operations Facility. A joint Information Center/Media Center is located nearby to support the EOC. This building was funded by the Diablo Canyon Power Plant project as a requirement of the United States Nuclear Regulatory Commission to handle potential emergencies at Diablo Canyon. However, the EOC also serves as San Luis Obispo County's core location for any type of emergency, including major disasters and terrorism; as well as earthquake, fire, flood, tsunami, hazardous materials, and bomb threats.

Protective Action Recommendations

The basic danger in a nuclear power plant emergency is radiation exposure. The amount of radiation released, the length of the release, and the prevailing weather patterns determine exposure. The job of the Command Group is to use all available information to decide on recommendations to best protect the public and emergency workers. They may recommend sheltering, or evacuation of specific areas.

Sheltering means staying indoors with doors and windows closed and ventilation systems turned off. This decreases chances of breathing contaminated air or receiving airborne contamination. Emergency Service personnel recommend that the shelterer use duct tape and plastic sheeting to seal doors and windows and have a portable radio for continuing emergency information.

Evacuation would be ordered by Protective Action Zone (PAZ). These are the twelve areas described in the AT&T telephone book that surround the power plant. OES considers it extremely unlikely that a Diablo emergency would ever require an evacuation of all twelve Protective Action Zones. Hence, it is important for residents to know what their zone number is, and to have a radio or television tuned to a local station for information.

The Command Group may also recommend, as a supplemental protective measure, the use of potassium iodide (KI). While potassium iodide protects the thyroid gland from radioactive iodine, it does not protect the rest of the body from other contaminants. In 2003 The Federal Government provided KI to states with nuclear power plants, which, in turn, distributed it to areas where plants were located. There was a distribution to residents of Diablo Canyon PAZ's in the spring of 2003. It is the state's responsibility to distribute KI to those who wish to take it within four hours of a radiation emergency.

NARRATIVE

The Grand Jury's investigation focused on several areas of particular interest. Among these were the availability of alternative evacuation routes, particularly from Avila Beach; interagency communication and communication with the public; emergency preparation plans for the disabled; information about sheltering in place; and potassium iodide distribution.

Evacuation Routes

Because of their proximity, residents of Avila Beach are especially vulnerable in any discussion of evacuation because there appears to be only one way out. But there is an alternate route, which has been designated since 1993 and is a part of the Emergency Response Plan. This is Blue Heron Road from the San Luis Bay Inn and exiting out San Luis Bay Drive through Avila Bay Estates (see Appendix A). The plan includes traffic control at the points noted in Appendix A and notification to the public when these routes are opened. Traffic control means an officer would be assigned to those points to direct traffic if an evacuation order were given. A second alternate route through the golf course exists via Harford Canyon Road and Lupine Canyon Road. The private property owner has been cooperative in assuring that these roads will be maintained and improved so that their condition is adequate for use as emergency evacuation routes.

The Cave Landing Road to Bluff Drive leading to Shell Beach is apparently no longer considered an alternative. An existing dirt road through this private property could be upgraded to provide an exit route from Avila Beach to Shell Beach. This possibility arose when the county and land conservationists proposed buying the 120 acre parcel in October 2006.

Communication in an Emergency

The Emergency Operations Center has long had a "Red Net" phone system, hard-wired to public safety offices. Using this system, the entire emergency system was mobilized and in place at the EOC within a half hour following the San Simeon earthquake in December 2003. Interagency communication can be conducted via land phone lines within the EOC, as well as cell phones and pagers. The EOC also contains a communications facility set up by the Amateur Radio Emergency Service/Radio Amateurs Civil Emergency Services that can provide communication throughout the county as needed. After Hurricane Katrina knocked out all land lines and cell towers, Homeland Security provided funding that allowed the EOC to purchase a new satellite phone system which functions with complete independence from local conditions.

The initial public warning is, of course, the siren system. According to the AT&T telephone book, the sirens' message is to go indoors and listen to an Emergency Alert System station on the radio, or any other radio or television station, which will then inform residents and visitors what to do. It is assumed that everyone can access and comprehend a radio or TV message, and that radio, television and electrical systems are functioning.

Special Needs Emergency Planning

In the past, caretakers for people with various disabilities had been critical of county disaster planning because it did not adequately address the special needs of many members of the community, such as wheelchair accessibility and auditory limitations issues. Following Katrina, a private ombudsman and the OES formed a committee to address some of these problems. Some of their ideas, such as simplified mail-in special needs request cards, have been implemented. At their suggestion, a workshop was held in June 2006, which included 200 representatives of all licensed facilities for residents with special needs. The emphasis was on emergency training for people working with vulnerable populations. According to participants the workshop was extremely valuable. The primary message was, "You need to be able to take care of yourselves for 72 hours."

Sheltering

Sheltering orders for a radioactive release would generally be short term, and the brief directions provided in the AT&T telephone book reflect this. However, in almost every interview, Grand Jury members heard emergency planners stress the need for all individuals to be prepared to provide for themselves for at least 72 hours. The disastrous days after Hurricane Katrina served to emphasize the importance of self-reliance in an extreme emergency. Additional information about basic emergency supplies and the benefits of a battery- or self-powered radio would be of great value to county residents.

Potassium Iodide (KI) Distribution

The information about potassium iodide provided in the PG&E booklet and the 2005 AT&T phone directory states that it "can be taken as a supplemental protective measure," after specific

instruction by a public health official. There is then reference to a website for more information. To access information, the user must go to www.oes.ca.gov; from there he/she must click on “Radiological/Nuclear” and then locate “Obtaining Potassium Iodide,” which then simply lists two commercial websites for Anbex and Thyrosafe. For those who can’t navigate the internet, the phone book provides an 800 number where “a recorded KI information line has been established to answer questions you may have about the program.” That number offers 9 options, none of which are related to potassium iodide. (One deals with emergency preparedness kits, but does not mention KI.)¹

The AT&T phone directory also indicates that taking KI is voluntary. This would seem to be the kind of decision that residents within the Protective Action Zones and Public Education Zones would need to make in advance. Nothing in the material provided, or in the references given, provides information that would be helpful in making a decision about KI. The American Thyroid Association states, “Highest priority for potassium iodide use should be given to babies, children up to 18 years of age, and pregnant women.” The U.S. Food and Drug Administration (FDA) Center for Drug Evaluation and Research states, “Adults older than 40 have the lowest chance of developing thyroid cancer or thyroid injury after contamination with radioactive iodine. They also have a greater chance of having an allergic reaction to KI.” A National Research Council Board on Radiation Effects Report dated December 2003 states, “There is little benefit in providing KI to adults over 40.” On January 12, 2005 the FDA approved a more palatable KI oral solution for use in children (See Appendix B). This half-dose oral solution is not mentioned in any of the materials provided to the public.

The phone book further states that potassium iodide can be purchased in some local pharmacies. Grand Jury members conducted an informal survey in September 2006 and randomly called 12 pharmacies in San Luis Obispo, Pismo Beach, Los Osos and Arroyo Grande. Eleven pharmacies stated that they did not stock KI. Two said they could order the liquid form only, but would require a prescription.

¹ The 2006 Phone Book has a new number which connects to the State of California OES.

CONCLUSIONS

San Luis Obispo County Office of Emergency Services is widely recognized as one of the best in the State of California as well as the western region.

In a State of California “After Action Report” following the San Simeon earthquake, a FEMA staff member was quoted as saying, “The response to the San Simeon Earthquake by local, county, state, federal and volunteer agencies at all five SEMS (Standardized Emergency Management System) response levels was a textbook example of how a large, complex, multi-jurisdiction emergency can be managed in an efficient effective manner.” In June 2003, the State of California awarded a commendation to the county for exemplary performance during Nuclear Power Plant Emergency Preparedness exercises.

The U.S. Department of Homeland Security conducts a Radiological Emergency Preparedness Program exercise in this county biennially. The most recent drill occurred on October 25 and 26, 2006. Twenty-one participating agencies were evaluated in 32 areas. In these areas all criteria were met and there were no deficiencies assessed.

On November 15, 2006 the U.S. Environmental Protection Agency presented its fourth annual regional Emergency Preparedness Leadership Award to San Luis Obispo County. The region represented included Arizona, California, Hawaii, Nevada, the Pacific Islands, and Tribal Nations. The award was in recognition of unified leadership in developing a joint nuclear power plant emergency response plan, which is unique to most areas of the United States.

In summary, the OES has developed a unified emergency response plan that requires all local and locally based agencies to work together effectively and cohesively. Diablo Canyon Nuclear Power Plant has provided the funding for the County Emergency Operations Center, for much of the equipment in the Center, for three of the four Emergency Services Coordinators, for the EOC Red Net phone system which connects directly to all seven cities in the county as well as Cal Poly, and for much of the extensive training and sophisticated emergency drills which go far

beyond the level of most county emergency service offices. Finally, the relatively sparse population of the county gives us an advantage in dealing with an emergency that might require evacuation. Could there be another Katrina in San Luis Obispo County? Clearly the answer is no. That said, there are several areas where current procedures should be reviewed.

FINDINGS

1. Because of their proximity, residents of Avila Beach are understandably most concerned about limited emergency evacuation routes. . The county has been successful in working cooperatively with the private property owner of the Avila Beach Resort and Golf Course. For residents on the south side of Avila Beach, the Cave Landing to Bluff Drive route, originally considered as a possible exit, seems like an obvious alternative. The existing dirt road should be upgraded and designated as another alternative evacuation route from Avila Beach.
2. Emergency responders repeatedly stress the need for all residents to be self-sufficient for at least 72 hours. As one Emergency Services Coordinator put it, “Planning starts at the individual level and moves out from there.” However there is limited information about what people need to do to prepare to be self-sufficient.
3. The very successful meeting on emergency planning for people with special needs was specifically for providers in licensed county facilities. It did not include special needs residents who are living on their own with family or professional assistance.
4. Liquid potassium iodide especially prepared for infants and children, the most vulnerable population to radiation, is not readily available. The information in the AT&T telephone book about potassium iodide is insufficient and outdated. Currently the State of California does not stock liquid KI.

RECOMMENDATIONS

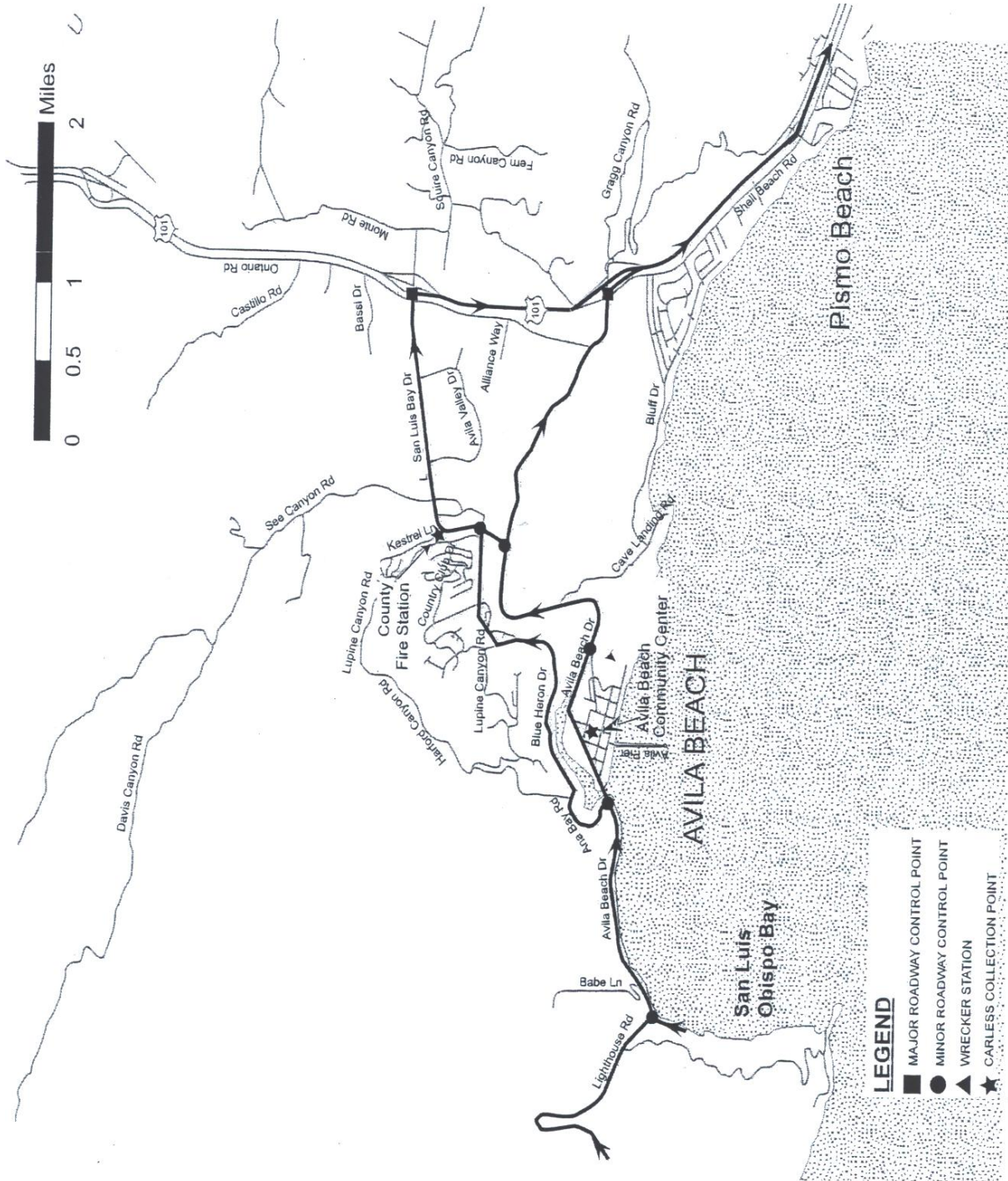
1. The Office of Emergency Services should work with private owners San Miguelito Partners to explore the addition of Cave Landing to Bluff Drive as an alternative emergency exit from Avila Beach. (Finding 1)
2. Information about self-sufficiency, how to prepare a 72 hour emergency kit, and how to obtain potassium iodide as an individual should be developed and mailed directly to county households annually. As part of this mailing, information about CERT (Community Emergency Response Team) should also be included. This could be included in the annual Disabled Registration card mailer or sent as a separate mailer to all county residents. (Finding 2)
3. Using the Disabled Registration cards, OES should organize meetings with independent special needs residents and their caretakers to discuss emergency response and self-sufficiency. (Finding 3)
4. An information sheet about potassium iodide should be prepared for distribution to county obstetricians and pediatricians. OES should review all information in the AT&T telephone book headed "Nuclear Emergency Information" for currency, accuracy and clarity. Particular attention should be paid to the section on potassium iodide. (Finding 4)

REQUIRED RESPONSES

1. San Luis Obispo County Office of Emergency Services: Due (All Findings and Recommendations)
2. San Luis Obispo County Health Officer: Due (Findings and Recommendations 3 & 4)
3. San Luis Obispo County Board of Supervisors: Due (All Findings and Recommendations)

Appendix A

Avila Beach Emergency Evacuation Routes



Appendix B

NRC Approval of Liquid Potassium Iodide

November 10, 2005

James D. Boyd, Commissioner
California Energy Commission
1516 Ninth Street, MS-34
Sacramento, CA 95814

Dear Commissioner Boyd:

The purpose of this letter is to announce the availability of an additional dosage form of liquid potassium iodide for use in children under the age of 10 years to protect the thyroid gland from uptake of radioactive iodine.

On December 20, 2001, the U.S. Nuclear Regulatory Commission (NRC) informed the Governor-designated State Liaison Officer, and Federally-recognized Tribal Governments with populations in the 10-mile Emergency Planning Zone (EPZ) that NRC emergency planning regulations had been amended. The amended regulations require that States consider including the prophylactic use of potassium iodide (KI) as a supplement to evacuation and sheltering for the general public in the plume exposure pathway EPZ (66 FR 5427, January 19, 2001). In the letter, the NRC also made an offer to fund an initial supply of KI for States and Federally-recognized Tribal Governments that choose to incorporate KI for the general public in their emergency plans. At the time of this initial offer, KI was only available in 130 mg tablets.

A 65 mg dosage form of KI was subsequently approved by the Food and Drug Administration (FDA). In a letter dated January 23, 2004 the NRC informed the Governor-designated State Liaison Officers that the FDA had approved the 65 mg tablets and that the NRC would be making these available to the States and Federally-recognized Tribal Governments for their populations within the 10-mile EPZ. When the current KI contract was put into effect, only 130 mg and 65 mg tablets were approved by the FDA. No dosage form suitable for children who could not swallow pills was available.

On January 12, 2005, the FDA approved ThyroShield™ (Potassium Iodide Oral Solution, USP) 65 mg/mL for use in children. The oral solution is the first to be developed specifically for children, although it is suitable for adult use. One milliliter of the solution contains 65mg of potassium iodide in a black raspberry-flavored solution, providing easy, emergency-ready dosing for individuals ranging from infants to adults. The black raspberry taste is designed to make it more palatable to children, as current adult-dose tablets are bitter. Also, while tablets must be broken into pieces to provide a child's dose, ThyroShield™ is designed for simple administration of the liquid KI utilizing a graduated eyedropper. ThyroShield™ is provided in one ounce (30 mL) bottles that provide up to 30 pediatric doses of KI per bottle. Dosing instructions are based on the child's age and weight and are included in the consumer product information sheet that accompanies the bottles. As with the tablet form of KI, ThyroShield™ should be taken as soon as possible after being directed to do so by public officials in the event of a nuclear emergency. While ThyroShield™ is designed for children, it was not initially packaged in such a way as to child proof access to the product. That will be remedied such that no liquid KI will be shipped to States until that condition is met.

The Department of Health and Human Services (DHHS) Office of Public Health Emergency Preparedness (OPHEP) and the NRC are making available, at this time, to all eligible States and Federally-recognized Tribal Governments, the opportunity to request an order of the FDA approved pediatric formulation of (liquid) potassium iodide (KI). HHS/NRC will supply sufficient ThyroShield™ for each child under 10 years of age in the 10-mile EPZ(s).

If you are interested in this offer and would like to either add to your current KI stockpiles or to request KI for the first time, you may request the HHS/NRC to provide KI by writing to Nader Mamish, Director, Emergency Preparedness Directorate, Mail Stop O6-H2, U.S. NRC, Washington, D.C. 20555. Your letter must include the following information: The nuclear power plant (NPP) site(s); the number of 30 mL (30 cc) Bottles of ThyroShield™ you are requesting; the pediatric population under 10 years of age in the NPP's 10-mile EPZ for which you are responsible; the contact person authorized to receive the KI; and the 'Ship to' address for

KI delivery. Upon receipt of this information, the NRC will validate the data and make arrangements for HHS's contractor to ship KI directly to your designated contact/address. You may also fax your request to 301-415-2968. If your State has not yet requested its initial supply of KI tablets, you may also do so at this time.

We request that a single submittal for KI be provided by each State and Federally-recognized Tribal Government no later than January 30, 2006. If decisions about emergency planning and the use of KI are the responsibility of local, rather than State authorities, we request that the State consolidate the local requests and forward the consolidated request covering all NPPs within the State to the NRC.

The following information is enclosed to this letter for your consideration and use: FDA guidance on use of KI (Enclosure 1); FEMA guidelines for KI program implementation (Enclosure 2); NRC Statements of Consideration published in support of the final KI rule (Enclosure 3); and NRC Disclaimer (Enclosure 4). Additional information about NRC's KI policy can be found on NRC's web site at: <http://www.nrc.gov/what-we-do/emerg-preparedness/protect-public/potassium-iodide.html>. If you have any questions about the purchase of KI or require assistance in this matter, please contact Patricia Milligan, Office of Nuclear Security and Incident Response, Division of Preparedness and Response, by telephone at 301-415-2223 or by e-mail at pxm@nrc.gov.

Thank you for your consideration of this important issue.

Sincerely,

/RA/

Janet R. Schlueter, Director
Office of State and Tribal Programs

2. YOUR VOTE COUNTS – IT REALLY DOES



Hanging chads, faulty or rigged voting machines, suspect totals from voting machines in Ohio and a herd of confused voters in Florida are what many people remember from the 2000 and 2004 elections. What about San Luis Obispo County? Did anything like that happen here? Could it happen here? How free from suspicion or corruption are the election results in San Luis Obispo County?

ORIGIN

The Grand Jury received a complaint regarding the use of electronic voting machines asking that it investigate the vulnerabilities of the County's present voting system, which, the complainant alleged, included machines that were "hackable." The complainant also alleged faulty software protocol, and that memory cards contained within electronic machines could be programmed to determine election outcomes, and cited information regarding San Luis Obispo County's 2002 primary election posted at www.blackbox.org. That site alleged that on Election Day, 2002, Diebold machines "phoned home" at 3:31 PM and reported vote totals from the precinct.

METHOD

Early Posting of Absentee Ballot Results

The Grand Jury's investigation began by focusing on an allegation of early posting of absentee ballot results in the 2002 election.

1. Some web sites dealt with this story as an exposé, while others reported it as if it were actual news.
2. Charges were made that some results of absentee ballots had been posted on the Diebold website at 3:31 PM on Election Day, 2002. CBS reported it as true.
3. The Grand Jury interviewed the County Clerk-Recorder and the Assistant County Clerk-Recorder regarding this reported incident, which, if true, could have changed the outcome of that election.

Election of November, 2006

1. On November 4, 2006, three days prior to the election, members of the Grand Jury visited the Clerk-Recorder's office to observe the routines for handling, processing and counting absentee ballots. While there, they reviewed data security procedures and general office security procedures.
2. On Monday, November 6, 2006, the day before Election Day, members of the Grand Jury

It is important to state here that the Grand Jury found no evidence to support the charges and believes them to be baseless rumors.

- returned to the Clerk-Recorder's office to observe the final preparation activities for Election Day and to again review security procedures.
3. On Tuesday, November 7, 2006, Election Day, members of the Grand Jury fanned out across the County going to randomly selected polling locations to observe the opening of the polls. They inspected ballot boxes to be sure they were empty and checked the optical scanners to be sure digital counters had been set to zero. They watched as the first ballot was scanned to be sure the digital counter then read "1." In addition they observed the poll workers, the facility, and the early flow of voters through the polling place.
 4. Throughout the day's activities, members of the Grand Jury monitored selected polling locations. They observed the physical conditions of polling places, staffing levels, and the flow of voters through the facility.
 5. Polling locations were also inspected at the end of the day as well as through the closing of the polls. This included the end-of-balloting routine used on the optical scanners, the

tally by the inspectors, the packing of ballots and supplies, and the transfer of these materials by the polling location's precinct inspector to either a regional staging area or directly to the Clerk-Recorder's office.

6. In some locations, the balloting results were transferred by modem to the Clerk-Recorder's office, while at others the results were transferred electronically when the optical scanner arrived at the office of the Clerk-Recorder.
7. Members of the Grand Jury arrived at the Clerk-Recorder's office at approximately 7:30 PM on Election Day to observe tabulating and publishing of balloting results, as well as the receiving and processing of ballots and supplies as they were brought to the site.
8. While there, members of the Grand Jury observed procedures followed by poll inspectors as they arrived to return poll materials to the outside reception team waiting at the curb in front of the Clerk-Recorder's office. They also observed the outside reception team as they checked the materials being returned and then processed those items. They stayed until after the last truck from the regional centers arrived and was unloaded, finally leaving at approximately 11:00 PM.
9. Subsequent to the certification of the election results, on November 28th, members of the Grand Jury requested additional information from the County Clerk-Recorder. The requested information was provided promptly.

NARRATIVE

Both the 2000 and 2004 elections cast a pall over the entire election process leaving many Americans wondering if their votes were counted at all and, if they were, were they counted correctly? With evidence of wrong-doing at the highest levels, media reports of hacking, and a myriad of problems with non-paper balloting, many of us need reassurance that our vote will be counted as it was cast.

Misinformation on the Web

While stories about San Luis Obispo's 2002 results being posted on the Internet hours before the polls closed were widespread, we found those allegations not to be true. We also found that no news organization contacted the Clerk-Recorder to verify or disprove the story.

The Grand Jury found that what had actually occurred was:

- a) At the 2002 primary election, a data backup was made on Election Day to ensure that the new system was operating as expected and in case of a crash, to secure the data.
- b) A Diebold representative offered to store that backup on Diebold's servers and the Clerk-Recorder agreed. This was the third election in which the system had been used, and the first in which touch-screen machines were used for early voting in the office and was a reasonable and prudent decision by the Clerk-Recorder. After that election, the data stayed on Diebold's FTP servers (isolated, secure units used for this purpose.) While that may have been an oversight, it was after the fact and the data was of no use to anyone since the results had been made public and precinct by precinct breakdowns of the results were widely available.
- c) It was *that* data, then 18 months old, that was discovered on the Diebold FTP site. No current data had been hacked.
- d) No one contacted the Clerk-Recorder to ask about what had happened or to verify the story.

Current Security and Backup protocols

Shortly before the election, the Clerk-Recorder programs the memory cards used in its optical scanners, inserts them into the scanner, and places appropriate seals over them. The County uses Diebold's AccuVote optical scanners to count votes at the polling locations, as well as a similar device in the Clerk-Recorder's office to count absentee ballots.

The server used in San Luis Obispo County elections is housed in a lockable metal cabinet. Only the County Clerk-Recorder and Assistant County Clerk-Recorder have keys to that cabinet. For added security, a camera is focused on it. Prior to the election, the only connection to the server is from the optical scanners in the office used to transmit the data from absentee ballots as they

are run. *There are no connections to modems, cable modems, T-1 lines or the like for output or input from external sources.*

A system that is not connected to any such device cannot be accessed remotely by hackers.

Just as you cannot make or receive telephone calls if you've unplugged your telephone from the wall, a computer cannot receive or transmit data if it is not connected. The server is not connected to its modem until a few minutes after 8:00 PM on Election Day, when the polls are closed.

CONCLUSIONS

Voters in San Luis Obispo County's 2006 election can be assured that after casting their ballots, whether in person or absentee, not only were their votes counted, and counted correctly, but that their vote counted. No chads, no stolen votes, no miscounted votes, no lost votes, no rigged voting machines or suspect totals. Not here in San Luis Obispo County.

The Clerk-Recorder repeatedly reviewed the routines and protocols to be sure that Election Day ran smoothly. The planning and logistics were finely tuned with continual checks in place to be sure that all ballots received were counted as the voter intended. As in past years, experienced part-time workers came back to help the regular staff with the extra work during election time.

FINDINGS

1. The pre-election procedures for ensuring that optical scanners accurately counted our votes were followed to the letter. The back-up routines employed by the Clerk-Recorder's office to ensure against any loss of voting data meet the highest standards. The computer security policies in place precluded the possibility of hacking into, altering,

or modifying any data in the system. Please see Appendix A for a detailed description of that process.

2. On Election night, several AccuVote scanners were returned to the reception area with damaged seals. Please see Appendix B for a list of those anomalies prepared by the Clerk-Recorder's office.
3. The procedures used for securing, processing, counting, and verifying San Luis Obispo County's absentee ballots were followed explicitly. Please see Appendix C for a detailed description of that process.
4. The procedures employed at the polling places on Election Day for securing ballots, ensuring that eligible voters were guaranteed their right to vote, relaying or transporting ballots or results, and safeguarding the equipment were very effective as well. Please see Appendix D for a detailed description of that process.
5. The procedures for gathering, processing, verifying and publishing the results of balloting on Election Day worked to perfection. The staff at the County Clerk-Recorder's office made it look simple as well. Please see Appendix E for a detailed description of that process.
6. The quality control procedures used for safeguarding and storing ballots and other critical items after the election have been designed to offer both security of these items and an audit trail should any questions arise within 22 months of the election. Please see Appendix F for a description of that process.
7. The rumor regarding posting of balloting information was proven to be false.
8. The November, 2006, countywide election cost the taxpayers about \$570,000.

APPENDICES

- Appendix A Security and Backup Procedures**
- Appendix B November 7, 2006 Seal Anomalies**
- Appendix C Absentee Ballot Processing**
- Appendix D Election Day Balloting and Processing**
- Appendix E Activities at the County Clerk-Recorder's Office**
- Appendix F Gathering election materials at the end of the day.**
- Appendix G Samples of Checklists Used by the Clerk-Recorder:**
- 1. Processing AV Ballot Applications (AV = Absentee Voter)**
 - 2. Absentee Ballot Stuffing Instructions**
 - 3. Absentee Processing Instructions Checking Incoming Envelopes**
 - 4. Processing Returned Absentee Ballots**
 - 5. Supply Box Contents**
 - 6. Ballot Statement**
 - 7. Canvass Manual**

APPENDIX A

Security and Backup Procedures

- Shortly before the election, appropriate data for the upcoming election is programmed into the memory cards and inserted into the AccuVote systems. A seal is then applied to the scanner.
- There are four seals, one red plastic and three blue adhesives that are placed on each AccuVote scanner after the memory card is inserted and set for the election.
- The first, the red plastic seal, is placed through the hole to lock the bar securing the memory card slot. The number of the red plastic seal is recorded on a memory card seal log which is kept with the AccuVote.
- The poll-workers are instructed to ensure this red seal is in place upon arrival in the morning. The Precinct Assistants sign off that this seal is in place. If the precinct assistant has to change a machine out on Election Day, they will place a new red seal on the machine and record the new number on the log. This seal must be intact when it arrives at the collection center and/or main office.
- If the machine's modem has failed, the memory card is removed at the collection center so the results can be transmitted from another machine.
- If this seal is not intact on election morning, a new memory card is programmed and both the AccuVote and memory card are replaced.
- Adhesive blue seals are placed in the following locations:
 - Across the metal bar, that secures the memory card slot.
 - Over the screw on the right side of the AccuVote case.
 - Over the modem connection on the back of the machine.
- When a blue adhesive seal is removed, the word VOID will appear on the seal.

- These seals were added in response to a concern that someone with access to the AccuVote could remove all the screws in the case, open the case and remove the memory card without breaking the red seal.
- In addition, the seal across the modem connection protects poll-workers from allegations that they allowed access to machines through a modem prior to election night.
- On their first visit of the morning, the precinct assistant verifies that all three blue seals and the red seal are in place.
- The machine is kept in the locked ballot box until it is removed after the polls close. Then the data is either transmitted directly from the polling place or it is returned to the collection center/main office where the data is transferred.
- The blue seal over the modem connection would be removed in those instances when the results are transmitted from the polling place.

APPENDIX B

November 7, 2006 Seal Anomalies

The following anomalies occurred on November 7, 2006:

- Vote Center 15- A seal was intact at the collection center, but broken in transit to the SLO office.
- Vote Center 20- A seal was broken by Clerk's staff at collection center.
- Vote Center 21- A seal was broken by Clerk's staff at collection center.
- Vote Center 46- A seal was broken by Clerk's staff at collection center.

At one of the vote centers in South County, the precinct inspector removed the seal covering the modem while searching for the on/off button. When the precinct assistant arrived, the other poll-workers attested that the seal was intact when the machine arrived at the polling place.

APPENDIX C

Absentee Ballot Processing

- There were approximately 68,000 absentee ballots mailed out to the 155,495 registered voters in this county for the November, 2006, General Election.
- By the Saturday prior to the election, approximately 39,000 of those ballots had been returned and counted. By the time the election was certified, over 55,000 absentee ballots were returned and counted.
- Counting absentee ballots is a very labor intensive and precise process with each of the approximately 55,000 ballots being handled several times.
- Most absentee ballots arrive at the Clerk/Recorder's office by mail. Others are dropped off at the office by voters in the days preceding Election Day.
- On Election Day a designated team is stationed at the curb in front of the office to accept ballots from voters who simply wish to drive up and drop off their ballots without getting out of their cars. Some voters like to park and walk inside to personally deliver their ballots, while others are dropped off at polling locations on Election Day.
- Upon arrival at the Clerk-Recorder's office, the envelopes are inspected:
 - For damage.
 - To see if there is a check-mark in the box indicating the envelope contains a damaged ballot.
 - For a signature.
- Envelopes with any anomalies are set aside for further processing.
- Those that pass inspection are placed into trays and sent on to the next station for signature verification.
- The County's voter database not only has each voter's name and address, but has a matching scanned signature as well.

- The pre-printed name and address on each ballot envelope is the information used to access each voter's record, and then the signature on the envelope is compared against the scanned signature on file.
 - If the signatures match, it is placed into a batch to be passed to the next station.
 - If the signatures do not match, the envelope is set aside for further review and special processing.
- From there the ballots are sent to the next station where they are batched into groups of 50 and then sent through a large envelope opener where they are slit.
 - The slit envelopes with ballots inside are again counted into groups of 50 and sent to the next station.
- At this point, the envelopes are opened, ballots removed, envelopes counted, ballots counted and envelopes placed into a cardboard box, again in batches of 50.
- Each batch of 50 ballots is taken by an election worker, unfolded, and stacked face up. Each of these ballots is inspected:
 - For physical damage.
 - To be sure the voter has not used a red pen or marked the ballot in a way that the machine cannot read.
 - To be sure that only the proper number of votes per ballot item has been cast (i.e. only one for Governor).
 - For write-in votes, which must be hand tallied.
 - If an anomaly is spotted, that ballot is set aside for further review to see if the voter's intention can be determined so it can be corrected or duplicated.
- The ballots, still in batches of 50 are then moved to the optical scanners.
 - As staff feed them through the optical scanners, the votes are counted.
 - If the scanner senses a problem, it stops, displays an error message and the staff member determines the problem.
 - Sometimes the ballot simply needs to be re-fed through the scanner and occasionally the ballot markings may need to be clarified.
 - In addition, the machines stop if a write-in ballot is detected so staff can check to see if the write-in vote is valid and should be hand tallied.

- There are typically four scanners in use, and all are connected to a server located a few feet away.
- The server is in a lockable steel cabinet. It is not connected to a modem, T-1 line, or any other such device that would enable transmission of data to any location. The server is not connected to the county's local area network.
- The ballots are counted in groups of 50 to ensure that every ballot is counted and is counted only once, but the batch is not committed until 200 ballots have been counted.
- Once the ballots are counted they are placed into a box with an identifying batch slip. The box is sealed, labeled, and signed by either the County Clerk-Recorder or Assistant County Clerk-Recorder.
 - These boxes are stored for 22 months in accordance with the county's retention policy.
- The number of ballots that are moved through the system is logged to account for every ballot. For instance, the processing board logs the number of ballots removed from the secure room and the number of ballots that are returned ready for counting.
 - They also log those ballots that need to be duplicated or that must have write-in votes, hand tallied.
 - In addition, the counting board logs the ballots it removes for counting, the number counted and those that are returned to the secure room for duplication.
 - Each of these logs is balanced at the end of the day and any anomalies are investigated and resolved.

APPENDIX D

Election Day Balloting and Processing

1. Election Day Polling locations typically house several precincts, each with its own set up, tables and poll-workers. Signs make it easy for voters to locate their precincts. Upon arriving at polling locations, voters go to their designated precinct area, identify themselves, sign the registration list and are handed a ballot and privacy cover. Voters then step into a voting booth where they mark their ballots, place them into a secrecy sleeve and carry it to the optical scanner located within each polling place. Voters feed their ballots into the optical scanner, which retains them, and hands the secrecy sleeve to the poll-worker stationed there.
2. AutoMark Voter Assist Terminals, the special devices used by handicapped voters to mark their ballots, are at each polling location. The AutoMark only marks the ballots; they do not record votes. These ballots are returned to the desk where they are placed in individual envelopes to be hand carried to the County Clerk-Recorder's office where they are tabulated.
3. Voters at the polling locations whose record indicates they had been sent an absentee ballot are provided with provisional ballots. These ballots are placed into pink envelopes to be carried to the County Clerk-Recorder's office where they are tabulated once the voters' status can be verified.
4. Voters who arrive at the polling locations and face some other anomaly are also given a provisional ballot. These ballots are also placed into pink envelopes to be carried to the County Clerk-Recorder's office for verification and tabulation.
5. While the polls close at 8:00 PM, any voter already in line is permitted to vote. At some polling locations, a poll worker walks out and stands at the end of the line as a "marker", while at other locations the last eligible voter in line is asked to be the end of line marker.

6. After the last eligible voter has voted, the polling location inspector inserts the “end of vote” card into the optical scanner to conclude the day’s balloting. The digital readout which indicates the number of votes cast is noted and compared with the handwritten tally. The ballots are removed from the ballot box, and sent to the County elections office in a sealed box.
7. If a telephone line is available at the polling location, the optical scanner is connected to it and the balloting results are transmitted to the office of the Clerk-Recorder. If no telephone line is available or there is some other problem with transmitting the data, the poll inspector will relay that fact to the reception teams at the Clerk-Recorder’s office so that the results can be transmitted upon arrival at the Clerk-Recorder’s office.
8. Poll inspectors then complete their paperwork and load all supplies, ballots and equipment into their cars. Depending upon the poll’s location they either drive directly to the office of the Clerk-Recorder in downtown San Luis Obispo to turn everything in, or they go to one of several regional staging areas where a crew and truck is waiting to gather the equipment from that area.

APPENDIX E

Activities at the County Clerk-Recorder's Office

1. By 8:00 PM the reception teams have set up a table curb-side in front of the Clerk-Recorder's office. At this election, the first poll inspector pulled up at about 8:40 PM with a fairly steady trickle following. A little before 10:00 PM the first truck from a regional center pulled in and by 10:30 all ballots, equipment and supplies had reached the Clerk Recorder's office.
2. As the poll inspectors arrived the reception teams removed the ballots, supplies, and equipment from their cars and placed them on the table. The poll inspector walked to the table, handed a packet to a member of the team and stated out loud, to identify it as either "Modemed" or "Not Modemed." The team member receiving the packet repeated this statement aloud, so that the poll inspector could hear and confirm it, and so that the team member who would carry the AccuVote scanner into the office would hear it as well. They in turn would repeat it to a staffer inside whose job it was to separate and track those AccuVote scanners whose data had been transmitted and those that had not. Once there, the AccuVote scanners with data that had not been transmitted were separated and taken to the secured area where their data is retrieved and fed into the server.
3. The early results are typically those of the absentee voters with the transmitted results being added as available.
4. State law requires that each county transmit some results to the Secretary of State's office by 9:00 PM. Thereafter, results are transmitted every two hours.

APPENDIX F

Gathering of Election Materials at the End of the Day

The following items are returned to the County Elections Office on Election Night:

- *Envelope #1*
 - Receipt for precinct supplies
 - Voted ballots sealed in containers
 - Voted absentee ballots and provisional ballots sealed in blue bags
- Envelope #2
 - Non-processed ballots (voted but not counted on Election Day)
 - Voter registration cards
 - Provisional roster
 - Provisional ballot statement
- Envelope #3
 - Voted write-in ballots
- Envelope #4
 - Roster
 - Outside indexes
 - Payroll sheet
 - Yellow copy of ballot statement
 - Inventory sheet from supply box contents list
 - AccuVote totals tape (for those precincts who have an AccuVote assigned)
- AccuVote unit

The following items are left at the polling place for pick up by the delivery crews on the day after the election:

- Sealed in Envelope #5
 - Spoiled, unused, and unwrapped ballots
 - Stubs from issued AccuVote ballots
 - Surrendered (spoiled or not voted) absentee ballots
- Supply tub
- Ballot box

APPENDIX G

Samples of Checklists Used by the Clerk-Recorder

- 1. Processing Absentee Voter (AV) Ballot Applications**
- 2. Absentee Ballot Stuffing Instructions**
- 3. Absentee Processing Instructions Checking Incoming Envelopes**
- 4. Processing Returned Absentee Ballots**
- 5. Supply Box Contents**
- 6. Ballot Statement**
- 7. Canvass Manual**

1. PROCESSING AV BALLOT APPLICATIONS

SORTING

1. Sort applications into two stacks:
 - SLO county sample ballot application
 - Other applications

2. For each type of application, sort by permanent absentee status box into two stacks:
 - Requesting pav status (checkmark or initial)
 - Not requesting pav status

Once applications are sorted into stacks as above, perform the following checks on all stacks

1. Duplicates on sample ballot applications . The phrase "you are a permanent absentee voter" or "you vote by mail@ will be printed in place of the polling place."
 - a. Check these dups for different mailing addresses - place in separate stack
 - b. All other dups, place in duplicate box- NOTE: this only applies during the week of E-29 to E-22. After that a duplicate letter is sent to the voter.

2. PO boxes or Mailing address (M on sample ballot applications) - put these in a separate stack to verify residence addresses.

3. Other address for mailing ballot (not residence or mailing address as registered- separate stack

4. Check signature - make sure signature is same as printed name (sometimes a husband or wife signs the wrong form)

5. When the above checks are completed, you will have 4 stacks of ballots to be processed which can be placed in the corresponding trays:
 - pav applications to be wanda'd
 - pav applications to be manually entered
 - reg applications to be wanda'd
 - reg applications to be manually entered.

6. You will also have the following stacks for additional processing
 - PO Boxes or mailing addresses- verify in DIMS that the residence address on the application is the same as the registration address.
 - If no- place in CHANGE box.
 - If yes- mark ok and place in appropriate tray for processing as above.
 - Duplicates with different mailing address- place in box for reissuance of ballot with lost ballot statement
 - Other Address for mailing ballot- place in box for OTHER ADDRESS
 - Signature Different- Cross off voter's name and write in name of voter who signed application. Place in applications to be manually entered.

ENTERING APPLICATIONS

WANDA APPLICATIONS

1. For all applications to be wanda'd, recheck for 1-4 above and that the residence address on the application matches printed residence address.

2. Prepare Wanda according to instructions. As each application is scanned, ensure that the barcode read is the same as on the application. This is very important.

3. Upload the applications to DIMS, per instructions. PAV applications are uploaded first as Regular applications and then reuploaded as adding permanent status only. Regular applications are just uploaded once as Regular.
4. Rubber band applications of each type together. Write the date processed on the first application and place in the appropriate processed application box.

MANUALLY ENTERED APPLICATIONS

1. Enter the absentee ballot request in Dims per instructions
2. Make sure to check that the information on the application matches the registration information. If it does not, process according to #6 above.
3. If the application is a duplicate application and the ballot was issued within the last week, write DUP on the application and place in DUP box.
4. If the application is a duplicate and the ballot was issued more than a week ago, place in the DUP to be reissued and sent lost ballot box.
5. Once all applications are entered into system, rubber band the PAV apps together and place in the box labeled PAVs to be processed after Election.
Rubberband the regular applications together and place in Processed Application box.

2. ABSENTEE BALLOT STUFFING INSTRUCTIONS

Ensure all envelopes and ballots in batch are the same:

****precinct****

****ballot type****

****party** (primary election only)**

Count envelopes and ballots to see that they match (same amount).

Look for Out of Country Addresses

Stuff envelopes with ballots, instructions, and I.D. return envelope

Before putting in mail tray - make sure addresses show through envelope window

Keep flaps up

First Class envelopes (ballots going outside San Luis Obispo County) have to be kept separate from others.

Approximately 250 stuffed ballots fit into a mail trail

3. ABSENTEE PROCESSING INSTRUCTIONS -

CHECKING INCOMING ENVELOPES

- A. Check envelopes
1. Check every envelope for a mark in the spoiled box. Take out and set aside for reissuance .
 2. Check every envelope to ensure that it has been signed.
 - a. If the signature is missing, set it aside to mail out again.
 - b. If the ballot is signed by someone other than the voter to whom it is issued or the signature is printed, place in AProblem Signature@ box.
 3. Place all envelopes that have been checked upside down in a small mail tray. Lavender envelopes are placed in a separate tray.
- B. Scan Envelopes- It is important that the envelopes are kept in the same order as they are scanned. When the signatures are being checked, the voter registration information will appear in the same order as the envelope was scanned.
1. Scan bar codes on envelopes using the Wanda hand held scanner.
 2. Ensure that the bar code that is read by the scanner is the correct bar code
 3. If any bar code cannot be read by the scanner, enter the number by hand.
 4. Place scanned envelope tray with Wanda unit on top of it on the cart by the door.
- C. Uploading Scanned Envelopes
1. Connect Wanda to computer with cable.
 2. In Dims, select Miscellaneous, Wanda, Wanda Upload
 3. Check the Returned AV Ballots and enter the return source (usually mail)

4. Click on the OK button in DIMS. Instruct the Wanda unit to upload the report.
 5. Once the upload is completed, a report will be generated in DIMS.
 - a. Print the report and clip it to the front of the tray of signatures.
 - b. Place the tray of signatures in order on the shelves of the roll down unit.
 - c. It is important that the trays are checked in the order that they are uploaded
 6. Delete the file on the wanda unit so it is ready to scan the next batch of signatures.
- D. Check Signatures- see instructions for verification of signatures

PROCESSING OF BALLOTS TO BE RESENT TO VOTERS

A Spoiled Ballots

1. In Dims, suspend the spoiled ballot and reissue a new ballot. Print labels.
2. Affix labels to new envelopes. Mark in red on bottom left side of the envelope 2nd ISSUE (or 3rd issue, if appropriate)
3. Pull ballots and stuff outgoing envelope with instructions.
4. Stamp outgoing envelope in RED with OPEN IMMEDIATELY, RE-PLACEMENT BALLOT IS ENCLOSED stamp.
5. On spoiled ballot envelope write: Reissued and Date.
6. Place spoiled ballots in Spoiled Ballot Box

B I.D. Envelopes Requiring Signatures

1. Enter challenge code: Return to Voter- no signature in the absentee module.

2. Highlight signature space
3. Place ID envelope in outgoing envelope.
4. Stamp outgoing envelope in RED with OPEN IMMEDIATELY, ABSENTEE BALLOT IS BEING RETURNED FOR SIGNATURE ON I.D. ENVELOPE stamp.

PROCESSING OF BALLOTS WITH PROBLEM SIGNATURES

- A If the ballot has been signed by someone other than the voter
1. Verify that the person who signed the ballot has requested an absentee ballot. Often, spouses or parents/children will sign the wrong ballot.
 2. If the person who signed has been issued a ballot, attempt to contact the voters by phone. Inform them that the other voter should vote and sign the other ballot. Instruct them to cross off the name of the voter on the envelope.
 - 3.. Make a note on the envelope and place back in the problem signature box.
 4. If you cannot contact the person, make a note and place back in the problem signature box. Sometimes the voter will contact us themselves or the signature on the other envelope will be rejected also and the envelopes can be matched up and verified.
 5. If the person who signed the envelope has not requested an absentee ballot, process above as though there is no signature.
- B. If the signature on the envelope is printed.
1. Verify that the voter registration signature is not printed. If it is printed and it matches the signature on the ballot, verify manually in DIMS
 2. If the voter registration signature not printed, return ballot with letter instructing the voter that they must SIGN the ballot using their normal signature.

3. Follow procedure above for no signature on ballot.
- C. If signed by a someone other than the voter as a power of attorney
1. Attempt to contact the voter and explain that the voter must make a mark which can be witnessed by another person but the POA is not acceptable.
 2. If the voter cannot be contacted, return the ballot with a letter explaining the witness procedure.
 3. Follow procedure for no signature on the ballot.

4. PROCESSING RETURNED ABSENTEE BALLOTS

Verifying Signatures: See instructions for handling errors also

1. Select first envelope in tray and find absentee voter in DIMS (yellow envelope on tool bar).
2. Remove envelopes four at a time to work with
3. Click on View Batch to View 4 Signatures per Screen
4. Verify Signatures and Addresses.
 - a. The residence address that the voter wrote must match the residence address on the screen.
 - b. If residence and signature are correct make a red check mark to the right of the signature.
5. When you get to end of batch, click OK and then cancel.
6. A report will display that indicates how many challenged ballots you have. Verify that the number is correct (should only be Signature Problem ballots)
 - a. If the number on the report indicates less challenged ballots than you have, verify that all the challenged ballots were given a challenge code.

- b. If the number on the report indicates more challenged ballots than you have, the batch must be reviewed to find the challenged ballot so it is not opened.
7. With the signatures facing you, mark the tops and left sides of envelopes with a pink highlighter. Mark batch report as validated, initial it and place it on top of the envelopes. If there are problems, contact a Supervisor.

ERRORS WHEN CHECKING SIGNATURES AND WHAT TO DO WITH THEM.

The report that is attached to each batch will list errors that you will encounter as you process the tray of ballots. You will also encounter other errors (such as a missed envelope, residence address wrong and signature problems) that are not identified on the report. Below you will find the solution to each of the errors you may encounter. When a ballot needs to be challenged, complete the proper code as you work through the batch. For the other corrections, it will work out best to do all of your corrections at the end of the batch. Until you are familiar with the system, work with a supervisor to correct the problems. All corrections must be done before putting the tray away and signing off on the report.

ERRORS FOUND ON THE REPORT

NO MVF- This indicates that the AVID number that was read by the bar code scanner is not a valid #. You will most likely have an envelope in this place in the batch that has not been scanned and there will be a blank record on the screen.

ACTION: Set envelope aside to hand verify at the end of the batch.

If you do not have an envelope without a matching record, it means that the error was caught when scanning and the envelope was rescanned. No action required if this happens.

PREVIOUSLY CHALLENGED OR SUSPENDED- This indicates that the ballot that was scanned was suspended and a second ballot was issued to the voter.

ACTION: Write on the ballot SUSPENDED and set aside to place in the box for Suspended ballots to be checked later. We will wait until after the election to ensure that the 2nd ballot was not returned before processing.

DUPLICATE FROM WAND- This means that the ballot was scanned twice. No action required.

DUPLICATE FROM AV ELECTION TABLE- This means that the voter already had their envelope scanned and uploaded.

ACTION: Write DUPE? On the envelope and set aside for a supervisor to research.

ERRORS NOT FOUND ON THE REPORT

THE NAME IN THE BATCH DOES NOT MATCH THE NAME ON THE ENVELOPE:

Most likely, the bar code was misread when it was scanned, but instead of it being an invalid #, the number read matches another voter.

ACTION: Write the name, AVID# of the voter on the screen, and “scanned no envelope” on the AV return report so that voter’s record can be corrected. Place the mis-scanned envelope into the stack to be hand verified at the end of the batch.

THE RESIDENCE ADDRESS DOES NOT MATCH-

ACTION: Verify and red mark the signature. Write Res ? on the envelope flap and place in the Residence Address box. DO NOT challenge the ballot.

THE SIGNATURE DOES NOT MATCH-

ACTION: Insert the “Signature Miscompares” code in the challenge field. Write SIG? on the envelope flap and place in the Problem Signature box.

A SIGNATURE DOES NOT EXIST IN DIMS FOR THE VOTER

ACTION: Insert the “No Signature” code in the challenge field. Write NO SIG on the envelope flap and place in the Problem Signature box.

SIGNATURE IN NEW NAME: VOTER HAS CHANGED NAME BUT NOT RE-REGISTERED

ACTIONS: Insert "Signature Miscompares" code in the challenge field. Write Sig? on the envelope flap and place in the Problem Signature box.

SIGNATURE IS PRINTED AND DOES NOT MATCH

ACTION: Insert the "Printed Signature" code in the challenge field. Write PRINTED SIG on the envelope flap and give to a supervisor so the ballot can be returned to the voter.

ANOTHER PERSON HAS SIGNED THE BALLOT

ACTION: Insert the "Signature Miscompares" code in the challenge field. Write SIG? on the envelope flap and give to a Supervisor for research.

5. Supply Box Contents

Loose in Tub:

Warehouse Check	Pct. Inspector Check
<input type="checkbox"/>	<input type="checkbox"/> Magnifying Glass Sheet
<input type="checkbox"/>	<input type="checkbox"/> Ruler
<input type="checkbox"/>	<input type="checkbox"/> "I Voted" Stickers
<input type="checkbox"/>	<input type="checkbox"/> Voter Registration Forms (Approx. 20)
<input type="checkbox"/>	<input type="checkbox"/> Plastic "Vote Here" Signs with Wire Frames
<input type="checkbox"/>	<input type="checkbox"/> Black or Canvas Ballot Bag
<input type="checkbox"/>	<input type="checkbox"/> AccuVote Ballots
<input type="checkbox"/>	<input type="checkbox"/> AutoMARK Ballots and Ballot Statement (Only in Accuvote Inspector's tub)
<input type="checkbox"/>	<input type="checkbox"/> Roster Index
<input type="checkbox"/>	<input type="checkbox"/> 2 Inside-Outside Indexes
<input type="checkbox"/>	<input type="checkbox"/> Bag #1 and instruction sheet
<input type="checkbox"/>	<input type="checkbox"/> Provisional Ballots
<input type="checkbox"/>	<input type="checkbox"/> Provisional Roster
<input type="checkbox"/>	<input type="checkbox"/> Provisional Envelopes
<input type="checkbox"/>	<input type="checkbox"/> Provisional Ballot Statement
<input type="checkbox"/>	<input type="checkbox"/> Provisional Voter Manual
<input type="checkbox"/>	<input type="checkbox"/> Provisional Voter Information (pink pad)
<input type="checkbox"/>	<input type="checkbox"/> Envelope #2
<input type="checkbox"/>	<input type="checkbox"/> Envelope #3
<input type="checkbox"/>	<input type="checkbox"/> Envelope #4
<input type="checkbox"/>	<input type="checkbox"/> Envelope #5
<input type="checkbox"/>	<input type="checkbox"/> Green Absentee Envelopes with Instructions
<input type="checkbox"/>	<input type="checkbox"/> Street Guide
<input type="checkbox"/>	<input type="checkbox"/> American Flag
<input type="checkbox"/>	<input type="checkbox"/> Plastic Bag with Voting Pens with String and Clothes Pins to Clip to Booths
<input type="checkbox"/>	<input type="checkbox"/> Secrecy Sleeves for all ballots (we had to improvise for the 18" long ballot)
<input type="checkbox"/>	<input type="checkbox"/> Plastic Bag with Stationery Supplies
<input type="checkbox"/>	<input type="checkbox"/> Precinct Worker Training CD
<input type="checkbox"/>	<input type="checkbox"/> Precinct Worker Badges
<input type="checkbox"/>	<input type="checkbox"/> Precinct Worker Pins
<input type="checkbox"/>	<input type="checkbox"/> Unofficial Results Sign for Second Copy of AccuVote Tape

Manila Envelope:

Warehouse	Pct. Inspector
Check	Check
<input type="checkbox"/>	<input type="checkbox"/> Outside Index Tally System
<input type="checkbox"/>	<input type="checkbox"/> "Challenged Voter Procedure" Poster
<input type="checkbox"/>	<input type="checkbox"/> "Vote Here" Signs
<input type="checkbox"/>	<input type="checkbox"/> "Polling Place" Signs
<input type="checkbox"/>	<input type="checkbox"/> "100 Feet" Signs
<input type="checkbox"/>	<input type="checkbox"/> "Please State Name and Address" sign
<input type="checkbox"/>	<input type="checkbox"/> 2 Voter Rights Posters to Be Posted Inside and Outside the Poll Location
<input type="checkbox"/>	<input type="checkbox"/> Voting Instructions - Post One in Each Booth
<input type="checkbox"/>	<input type="checkbox"/> Tampering is a Felony sign
<input type="checkbox"/>	<input type="checkbox"/> Voter Information Guides (state pamphlet) & Sample Ballot Booklets (local information)
<input type="checkbox"/>	<input type="checkbox"/> Demonstration Ballots
<input type="checkbox"/>	<input type="checkbox"/> Ballot Statement - Certificate of Packaging & Sealing
<input type="checkbox"/>	<input type="checkbox"/> Tamper Proof Seals for Containers of Voted Ballots
<input type="checkbox"/>	<input type="checkbox"/> Tamper Proof Seals for Envelope #5
<input type="checkbox"/>	<input type="checkbox"/> Postage Paid Return Envelope for White Copy of Ballot Statement
<input type="checkbox"/>	<input type="checkbox"/> Receipt for Precinct Supplies (Take to Return Center)
<input type="checkbox"/>	<input type="checkbox"/> Payroll
<input type="checkbox"/>	<input type="checkbox"/> Precinct Workers OR Inspectors' Manual
<input type="checkbox"/>	<input type="checkbox"/> Election Officer Digest
<input type="checkbox"/>	<input type="checkbox"/> Job Description Sheets
<input type="checkbox"/>	<input type="checkbox"/> Poll Watcher Information
<input type="checkbox"/>	<input type="checkbox"/> Emergency Procedures

6. BALLOT STATEMENT

PUT yellow copy in Envelope #4
MAIL white
copy in envelope

FOR THE CONSOLIDATED GENERAL ELECTION, NOVEMBER 7, 2006
(remember to leave more space for labels for pct number)

CON _____ POLL BALLOT STATEMENT (Elections Code § 14405; 14421; 15271; 15275)

1. TOTAL NUMBER OF POLL BALLOTS RECEIVED FROM THE BALLOT QUANTITIES WORKSHEET **LINE 1** _____
2. TOTAL NUMBER OF VOTERS WHO SIGNED ROSTER (INCLUDING INACTIVE) **LINE 2** _____
3. NUMBER OF VOTED BALLOTS:
- a. NUMBER OF VOTED BALLOTS ON THE ACCU-VOTE TAPE FOR YOUR PRECINCT **LINE 3a** _____
 - b. NUMBER OF NON-PROCESSED BALLOTS NOT FED THROUGH THE AccuVote (IF ANY)
(Ballots have been voted; machine would not accept them) **LINE 3b** _____
 - c. NUMBER OF AUTOMARK BALLOTS (IF ANY) **LINE 3c** _____
- TOTAL OF LINE 3a, 3b, AND 3c **TOTAL LINE 3** _____
4. DIFFERENCE BETWEEN NUMBER ON LINE 2 (signatures on roster) AND ON LINE 3 (voted ballots), IF ANY **LINE 4** _____
5. NUMBER OF SPOILED BALLOTS (Ballots issued to a voter but returned spoiled) **LINE 5** _____
6. NUMBER OF UNUSED POLL BALLOTS - SEE BALLOT QUANTITY WORKSHEET **LINE 6** _____

Reasons for differences, if any, between lines 2 and 3, as entered on Line 4.

WE THE UNDERSIGNED PRECINCT BOARD MEMBERS, HEREBY CERTIFY
that the above accounting of official ballots is true and correct

CERTIFICATE OF PACKAGING AND SEALING

We further certify that the following containers were sealed (if necessary) in our presence, and that we have enclosed in the containers their respective appropriate listed contents.

Take the following items to the Regional Central Collection Center.

BAG #1 VOTED ABSENTEE BALLOTS and VOTED PROVISIONAL BALLOTS
(if any)

Canvas Bag Containing:

ENVELOPE #2 SEE ENVELOPE FOR LIST OF CONTENTS

ENVELOPE #3 **WRITE-IN BALLOTS (if any)**

ENVELOPE #4 SEE ENVELOPE FOR LIST OF CONTENTS

CONTAINER FOR Voted ballots from AccuVote unit
VOTED BALLOTS (INDICATE NUMBER OF BOXES RETURNED ON SEAL)

Leave the following items at the polling place.

ENVELOPE #5 SEE ENVELOPE FOR LIST OF CONTENTS

Date: _____

Time: _____

_____ Inspector

_____ Clerk

_____ Clerk

_____ Clerk

_____ Clerk

_____ Clerk

7. CANVASS MANUAL

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I. GENERAL INFORMATION:

The Official Canvass shall commence no later than the Thursday following the election and shall be open to the public. The canvass shall be continued daily, Saturdays, Sundays and holidays excepted, for not less than six hours each day until completed. (EC ' 15301)

The official canvass shall include, but not be limited to, the following tasks (EC ' 15302):

An inspection of materials and supplies returned by the poll workers.

A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement.

In the event of a discrepancy in the reconciliation, the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement.

A reconciliation of the number of ballots counted, spoiled, canceled or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including absentee and provisional ballots, by the vote counting system.

Processing and counting any valid absentee and provisional ballots not included in the semifinal-official canvass.

Counting any valid write-in votes.

Duplicating and counting any damaged ballots, if necessary.

A manual tally of votes cast in one percent of the precincts and for each race not included in the initial group of precincts, the counting of one additional precinct. The hand count shall apply only to the race not previously counted.

9. Reporting final results to the governing board and the Secretary of State, as required.

II. STARTING THE CANVASS:

In order to keep the canvass moving in a smooth progression, tasks will be done in the following order:

E+1

- 1 team (2 employees) will begin working on envelopes and preparing rosters
- 1 team (2 employees) complete election night processing of absentee and provisional ballots
- 1 team (2-? Employees) will scan and check signatures on absentee ballots

E+2

All employees will open and process absentee ballots in preparation for counting

E+3

- Employees as needed on opening and processing
- 1 team (2-5 Employees) begin scanning roster signatures

E+6- E+ 14-

- 1 team (2-4 employees) balance rosters
- 1 team (2-4 employees) process provisionals (after all rosters scanned)
- 1 team (1-2 employees) finish absentees that need additional processing (check voting history, re check signatures, etc.)
- 1 team (2-4 employees) count ballots as necessary
- 1 team (1-4 employees) review write in ballots and manual tally valid write-in votes as required.

E+ 13- E+ 16

Teams as needed - Manual Tally of precincts and absentees

Supplies Needed:

1. Canvass Packet
 - a. Ballot Count Log #2 - Non-Processed Ballots
 - b. Envelope #3 Log- Write-Ins
 - c. Envelope #4 Log- Rosters, etc.
 - i. Provisional Ballot Log for Inspector Evaluations
 - d. Red Pens
 - e. Seals for ballot containers
 - f. Rubber Bands
 - g. Tally Sheets for Write-Ins
 - h. Boxes for VRCs, Rosters, Accuvote tapes, write in ballots, non-processed ballots
 - i. Tubs for envelopes and miscellaneous items.
 - j. Roster Labels
2. Absentee Ballots turned in at the polls and Provisional Ballots (already in trays from election night).
3. Envelope #2 - Non-Processed Ballots, VRC=s
4. Envelope #3 - Write-Ins
5. Envelope #4- Roster, Outside Indexes, Payroll, AccuVote Tape (if applicable), Yellow copy of Ballot Statement, Supply List

III. VERIFICATION OF RETURNED ITEMS

If any of the items required to be returned are missing, notify a supervisor immediately so they can be tracked down.

Envelope #4

Remove the Roster, Accuvote Tape (if AccuVote was assigned to that precinct), Outside Indexes, Ballot Statement and Payroll and check them off on the Envelope #4 Log. Put any miscellaneous items with Payroll sheet.

1. Affix label to front cover (not binder of roster) and put Rosters in Boxes in Con Precinct order - one box for 100's, one for 200's, etc.
2. Put Payroll Sheets in Con Precinct order and give to Pam. If Envelope #4 included items not called for, paper clip them to the payroll sheets.
3. Put the yellow copy of the Ballot Statements in Con Precinct Order.
4. Fold the Accuvote Tapes so the Vote Center shows and place them in Vote Center # order.
5. Put Outside Indexes into boxes.

Envelope #2:

1. Enter the number of Non-Processed Ballots (these ballots were not counted election night) as noted on the envelope on the Ballot Count Log #2 under APoll Count@.
2. Count the number of Non-Processed Ballots - enter total on Ballot Count Log #2 under AOffice Count@.
3. Remove VRC=s, if any, and place in VRC box.
4. Place ballots in con # order in box.

Envelope #3:

1. Enter the number of Write-In Ballots as noted on Envelope #3 under Write-In Poll Count on the Envelope #3 Log.
2. Open Envelope #3 - count the number of Write-In Ballots - enter the total on the Envelope #3 Log under Write-In Office Count.
3. Rubber band or paper clip the Write-In Ballots from each Con Precinct and put in tub in precinct order. (These ballots were counted election night - write-in votes, if valid, must be hand tallied)

IV. ROSTER RECONCILIATION

Roster Preparation:

1. Using the poll ballot statements, complete the Roster balance spreadsheet in Excel- just the columns that pertain to the Poll Ballot Statement. (total issued, # voted, # Automarks, #non-processed, # spoiled and # unused.)
2. Wanda scan each signature on each page (including Inactives). Keep a close eye on the scanner display to ensure that the barcode scanned is the number on the display. If the number does not match the barcode, let a supervisor know so it can be corrected.
3. For the primary election, prior to scanning signatures, use a highlighter to identify the DS voters that have voted. These voters will have to be scanned separately according to their cross-over party voting, if applicable.
4. Upload to DIMS. Print Wanda Report.
5. Note on the Roster label that the signatures have been scanned.
6. Place poll ballot statement and wanda report in the inside pocket of the roster binder.

Roster Balancing:

1. You will need the following for balancing the roster: 1 blank roster balance sheet; Poll Ballot statement; Wanda Report; Election Summary Report and Accuvote tape.
2. Complete roster balance sheet according to instructions.
3. If roster balances,
 - a. mark precinct # off master balancing list
 - b. staple roster balance sheet, poll ballot statement, wanda report and summary report together (in that order) and place in “balanced” box
 - c. Note on roster label that it is balanced.
 - d. Place roster back in roster box.
4. If roster does not balance
 - a. Leave all materials together and place in not balanced stack.
5. Follow instructions for roster reconciliation for all rosters that do not balance on 1st try.
6. Any rosters that cannot be balanced by 2nd try must be reviewed and signed off by County Clerk-Recorder or Assistant County Clerk-Recorder

Ballot Statement Reconciliation:

1. Complete Roster Balance spreadsheet – columns for accuvote report, # counted nonprocessed and # of signatures.
2. Print spreadsheet and store with poll ballot statements.

Roster Checklist -Check the roster for the following and complete checklist:

1. The Declaration on the inside front cover has been signed by each precinct worker and witnessed.

2. The AccuVote Tape has been signed at the opening and at the closing of the polls.
3. Absentees have been hand marked in the roster for those voters on the Late Absentee List. Mark a red check & your initials on the list to show this has been done.
4. Certificate AA@ on the inside back cover has been completed and signed by each precinct worker.
5. Ballot Statement is completed correctly and signed by each precinct worker.
6. Voter Tally matches the number of signatures in the roster including provisional and inactive voters.
- 7.

V. BALLOT PROCESSING

Provisional Ballots:

1. All rosters must have signature scanning completed prior to beginning this process.
2. Process all envelopes from one precinct together.
3. Once processed,
 - a. rubber band ballots to be counted together and place in COUNT tray.
 - b. Rubber band rejected ballot together and place in DON'T COUNT tray.
4. Complete Inspector Evaluations
5. Envelopes that are marked Don=t Count will be double checked by someone other than the person who made the original determination.
6. Once provisional ballot process is completed, the ballots will be opened by the Opening Board. Provisional ballots are counted on central count units into the poll ballot buckets.

Write Ins:

1. Check the number of write-in=s for qualified write ins turned in election night in Envelope #3 against the Summary Report from election night to make sure the precinct put all the write-in ballots into Envelope #3. If there is a difference check to see if ballots with write-in votes are with the voted ballots from that precinct. If all write in ballots cannot be found notify a supervisor.
2. Check the write in ballots from the absentee processing board to determine if there are any valid votes for qualified write in candidates. These ballots have not yet been counted.
3. If there are qualified write-in=s from the absentee ballots and/or the precinct ballots the Write-In Ballot Board will be set up.
4. Poll ballots can be put back in the box of voted ballots for that precinct.
5. Absentee ballots should be batched and logged to go to the Counting Board.

Non-Processed:

1. These ballots will be counted only if after balancing we find that we need them to balance the roster, because you can=t be 100% sure they haven=t already been counted at the polls.
2. If it is determined that they should be counted, note on non-processed log and set aside for duplication/enhancement board.

Duplicating/Enhancing:

1. Three people to a board.
2. Use the Ballot Duplication Packet which contains:
 - a. Instructions
 - b. Pens - Red Pen, Blue & Black Markers
 - c. Duplicate and Void Stamps
 - d. Correction Tape
 - e. Envelopes/Boxes for Void Ballots

- f. Ballot Duplication/Enhancement Log
 - g. Certificate of Ballot Duplication/Enhancement Board
 - h. Blue Highlighter
3. Follow the Ballot Duplication Board Instructions.

VI. 1% MANUAL HAND TALLY

Poll Ballots:

1. Every race in one percent of the precincts (2 precincts) , chosen at random by the elections official, shall be hand counted.
2. In addition to the one percent count, for each race not included in the initial two precincts, count one additional precinct. This shall only apply to races not previously counted.
3. The additional precincts may be chosen at the discretion of the elections official.
4. Follow the procedures for the manual tally.

Central Count:

1. Determine by random which batches will be hand tallied. (1% of the total absentee ballots counted- usually 3 absentee batches and 2 mail ballot precinct batches)
2. Make backup of database and delete all batches except those to be hand tallied.
3. Prepare a database for each batch and delete all but that one batch.
4. Print summary reports for each batch of ballot.
5. Follow procedures for manual tally

VII. AUDIT REPORTS

1. Print Audit Log from Gems
2. Print Audit Reports from every memory card.
3. Review for any potential discrepancies.
4. Retain Audit logs and reports with other certification materials.

VIII. CERTIFICATES:

1. Results of Canvass of All Votes Cast
 - a. Send certificate and copy of Statement of Vote pages to other counties with shared districts.
2. Results of Canvass for each entity with a measure or candidate race.
 - a. Send certificate and copy of Statement of Vote pages to each entity.
3. Destruction of Unused Ballots
 - a. Attach to list of unused ballots and put in main file.
4. Enter Write-In Results in Gems
5. Certificates for elected and appointed in-lieu candidates.
6. Letter to Board of Supervisors to Declare Results.
7. Letter to Board of Supervisors to Make Appointments In-Lieu of Election.
8. Send Statement of Vote and Supplemental Statement of Vote to SOS.

IX. STATEMENT OF VOTE:

1. Print Statement of Vote for All Ballots, Poll Ballots and Absentee Ballots after all ballots have been counted, rosters balanced, hand count is finished and write ins have been entered.
2. Number each page at the bottom right corner with numbering stamp.
3. Include the following in the Statement of Vote for All Ballots:
 - a. Table of Contents

- b. Certificate of County Clerk - Results of Canvass of All Votes Cast
- c. Certificate of County Clerk - Results of Write-In Votes Cast
- d. Certificates to the Result of the Canvass for each entity with a contest on the ballot.
- e. Official Final Summary Report.
- f. Consolidated Precinct List.
- g. Statement of Vote or summary report from other counties with shared districts.
- h. Send Statement of Vote to Reprographics for copying and binding

X. DESTRUCTION OF UNUSED BALLOTS:

- 1. Make a list of ballot numbers for each ballot type and party, if applicable, for all absentee and mail ballots not used.
- 2. Seal ballots in boxes labeled.

XI. COMPLETION OF ELECTION:

- 1. Precinct Officer Evaluations (not required by law)
- 2. Verification of signatures scanned against roster to ensure correct voter history.
- 3. Prepare packet of information for files.
 - a. Sample Ballots
 - b. State Pamphlet and Addendum (if applicable)
 - c. Easy Reader Voter Guide
 - d. Candidate/Media/Precinct Worker Booklets
 - e. Final Precinct Summary
 - f. Candidate List & Successful Candidate List
 - g. List of contests and ballot type cross reference
- 4. Package up materials to go to camp.

ROSTER BALANCE SHEET

CONSOLIDATED PRECINCT # _____

BALANCED: _____

INITIALS _____

COUNT BALLOTS IN BOX? _____

RECOUNT BALLOTS? _____

Step 1: Determine # of voters who were issued ballots	
# of signatures from Wanda report	
Adjustments: Write Voter's name and adjustment (ie. Remove or add)	
Total # of voters issued ballots	
Step 2: Determine # of ballots issued/voted	
# of ballots from precinct summary report	
# of non-processed ballots determined to be valid to count (+)	
Adjustments:	
Total # of ballots issued/voted	

Comments: _____

3. SLO PUBLIC DEFENDERS

INTRODUCTION

The San Luis Obispo County Grand Jury investigated a complaint lodged against the county's public defenders. The complainant believed she had not been well served by her public defenders. Assigned a series of different attorneys to represent her, she believed an agreed-upon arrangement worked out by one of those attorneys, with concurrence of the judge and district attorney, was not honored when a subsequent attorney took over the case.

San Luis Obispo County does not have a public defenders' office. The county has a contract with the law offices of Maguire & Ashbaugh (the firm) for this service. This contract is described in more detail below.

METHOD

Members of the Grand Jury interviewed two attorneys, both sub-contracting public defenders who worked on the complainant's case. One interview was in person and the other was conducted by conference call. In addition, a partner in the firm of Maguire & Ashbaugh made a presentation to members of the Grand Jury and answered questions related to the complainant's case. It should be noted that the complainant had previously waived her right to attorney-client privilege. Members of the Grand Jury interviewed the presiding Judge regarding his opinions of the performance of public defenders in San Luis Obispo County and, finally, members of the Grand Jury examined the Minute Order (defined below) relating to the complainant's case, and determined the final outcome of her sentencing by contacting the Sheriff's office.

NARRATIVE

In large counties, such as Los Angeles, the public defender is an elected official and the county maintains an office of the public defender that employs its own attorneys. In smaller counties, including San Luis Obispo, the county contracts for public defender services. The contract in our county is a flat rate three-year contract that has been held by the firm of Maguire & Ashbaugh since 1980. The current contract is for approximately eight million dollars for the three years ending June 30, 2007. The contract requires the firm to provide attorneys for each criminal courtroom in San Luis Obispo County every working day. The contract further states that they cannot take on any additional criminal cases other than public defender work. It also requires the firm to provide the County with monthly statistics accounting for the number of hours spent working on assigned cases and the number of their appearances in court. Last year the firm handled approximately 8,500 cases, mostly misdemeanors, as part of their contract obligation. In addition to adult criminal court, the firm is required to represent defendants in juvenile court, the mentally ill, and certain conservatorship cases. The firm sub-contracts part of its work to eighteen other attorneys and hires four investigators, three paralegals, and clerical staff to assist the attorneys.

In San Luis Obispo the courts have adopted a direct calendar system, which means a case is directed to one judge and remains with that judge throughout the process. Also, the courts, misdemeanor and felony, are divided alphabetically further ensuring that defendants see the same judge, public defender, and district attorney throughout the process. Hence, repeat offenders tend to see the same parties. Defendants do, however, have a legal right to change judges one time only. The public defenders normally see a case from beginning to end. The exception is when a case originates in North or South County and the defendant wants a trial. All trials are held in San Luis Obispo. In these cases one public defender begins the case and then transfers it to another public defender in San Luis Obispo. In rare exceptions, cases may be handled by more than one public defender because of illness, job turnover, or other such circumstances. Most of the attorneys working under sub-contract for Maguire & Ashbaugh have done so for many years. Last year, however, an opening occurred and was filled by a succession of new attorneys, two of whom stayed only a short time before transferring to positions in

other counties. Therefore, this complainant in this matter was represented by four different public defenders.

Her case originated in North County and was transferred to San Luis Obispo; she was subsequently represented by both of the new sub-contract public defenders who stayed only a short while. It appears hers was an unusual situation for San Luis Obispo County. While it is often the norm in larger counties, where cases are tracked using a master calendar system, and different attorneys represent defendants for different purposes (e.g., arraignment, trial, sentencing), it is unusual in this county for defendants to be assigned a succession of public defenders.

When we interviewed the sub-contracting attorney who represented the complainant during sentencing, he showed us her file but was unclear about the meaning of some of the notations made on the file's jacket by one of the previous attorneys. When we inquired about the agreement reached by the previous attorney with the judge and district attorney, he also appeared unclear about the previous agreement and began looking for the Minute Order, which he was unable to find. He then indicated that the Minute Order was not in the complainant's file. He said that he was also a bit unsure why it was not included, but assured us that its absence was not a serious issue because the attorney could always go to the court and obtain another copy. We subsequently obtained a copy of this Minute Order from the court. A Minute Order is the courtroom clerk's written minutes of court proceedings. Usually a copy is made available immediately to both the district attorney and the public defender working on the case.

During our interview with the firm's partner, the Grand Jury inquired about training of new sub-contracting attorneys. He informed us that new attorneys work with more experienced public defenders for a month to obtain on-the-job training. He also emphasized that the firm "strongly encourages attorneys to take and keep notes in their files." When attorneys apply to become subcontractors with the firm they are expected to meet certain standards, for example: law school graduation and California State Bar membership. When they are interviewed, their past experiences as attorneys are determining factors in whether or not they are accepted as subcontractors. He also told us

that, typically, when a case is transferred from one attorney to another, there is communication between the two.

In further discussion with the firm's partner along with the presiding Judge, the Grand Jury learned that the complainant may have misunderstood the nature of the original agreement among the public defender, judge, and district attorney. State law and the nature of her case left the judge with very little discretion; therefore, the complainant's interpretation would not have been legally feasible.

FINDINGS

1. Based upon the Grand Jury's interviews with two sub-contracting public defenders, a partner from the firm of Maguire & Ashbaugh, and the presiding judge, we believe the county's public defender contract with the law firm of Maguire & Ashbaugh is serving the needs of San Luis Obispo County well.
2. The use of multiple public defenders in the complainant's case appears to be an aberration, not a pattern. The bulk of the defendant's complaint appears to be based on a misunderstanding, compounded by a succession of public defenders handling her case.
3. Training of new sub-contracting public defenders needs strengthening, especially with regard to expectations/requirements concerning taking and filing good notes and the placement of Minute Orders in files.

RECOMMENDATIONS

1. New sub-contracting public defenders should be given training that incorporates an operations manual or check-list that includes required notes for each case. (Finding 3).
2. Minute Orders should be maintained in files. (Finding 3).

REQUIRED RESPONSES

1. San Luis Obispo County Public Defenders (The law firm of Maguire & Ashbaugh) (Finding 3 and Recommendations 1 and 2).
2. San Luis Obispo County Board of Supervisors.

4. COUNTY CONTRACTS: DO WE GET WHAT WE PAY FOR?

INTRODUCTION

San Luis Obispo County departments issue hundreds of contracts every year. These contracts vary considerably in value and complexity and are issued for a variety of purposes. While the purposes of individual contracts may differ, their basic intent is to ensure a clearly documented process detailing how funds are dispersed as well as services or goods that are received by the County.

To ensure that citizens can be confident that County funds are properly managed, it is especially critical that County's staff oversee and document each step of the contracting process.

ORIGIN / PURPOSE

The Grand Jury received several citizen complaints that in some aspects involved County contracts. While the contracts themselves may not have been the primary issue raised by the complainants, the review of these complaints required a thorough evaluation of the related contract documents. As part of this evaluation, the Grand Jury identified several common procedural questions relating to how these contracts were managed after they were executed. The Grand Jury decided that it would be appropriate to initiate a separate investigation to review the County's procedures for post-award contract management. The goal of this investigation was to determine whether the County has adequate procedures in place to ensure that potential problems causing contract mismanagement do not occur.

METHOD

As part of its investigation, Grand Jurors did the following:

- Reviewed contract documents relating to complaints received by the Grand Jury.
- Interviewed one of the contractors.
- Interviewed departments that initiate the majority of County contracts.
- Interviewed the County Auditor-Controller and Administration staff.
- Reviewed contract management reference materials supplied by County departments.

BACKGROUND

As mentioned in the introduction, San Luis Obispo County departments issue hundreds of contracts every year for a variety of purposes:

- Construction of County infrastructure.
- Procuring supplies and materials.
- Rental or lease of County property or facilities.
- Obtaining professional services (consulting, service outsourcing, etc.).

Though the purpose of these contracts may differ, the basic steps involved with their creation, execution and post-award management are similar:

- Develop a clear description of the contract's purpose.
- Write contract provisions that detail the requirements necessary to accomplish the purpose, and develop an estimate of the contract's total costs/revenues.
- Ensure that all contract provisions are legal and binding (review by County Counsel or use of standardized provisions).
- Advertise contract to ensure that all qualified parties have an equal chance to compete.
- Provide an objective evaluation process to identify the most qualified contractor and ensure that total costs/revenues are within acceptable limits of the original estimate.

- Award and execute the contract.
- Monitor contract progress to ensure that milestones, deliverables and other contract provisions are accomplished as required.

As can be seen from the above list, a good deal of the work in managing contracts takes place prior to award and execution. Most scrutiny of contracts typically involves either the development of contract documents or the evaluation and selection of potential contractors. Usually what happens after a contract is awarded does not come to the public's attention unless there is a major error by the contractor or a substantial increase to the overall cost of the contract. Although hundreds of contracts that are issued and completed without incident, what guarantees do the public have that all contract provisions are actually met?

NARRATIVE

The first step in this investigation was to look at the County's standard procedures relating to post-award contract management. Through interviews with the County Administrative and Auditor-Controller staff, the Grand Jury learned that there are no formal County-Wide procedures in place for contract management. The Grand Jury was told that each department is responsible for managing those contracts for which it has lead responsibility. As a result, it is up to each department to determine how contracts are monitored after award.

The Grand Jury then interviewed managers from two County departments that annually issue a large number of contracts. Neither of those departments has a set of published standard operating procedures that address how contracts should be monitored once they are issued. This did not present a problem for large construction contracts which inherently have a more formalized procedure. These contracts also have assigned project managers who monitor the phases of construction and are responsible to ensure that their contracts are on-time and within budget. However, this level of detailed oversight is not provided for the large number of smaller contracts.

In order to monitor these smaller contracts, the Grand Jury found that several managers have their own tracking tools. As an example, one department manager developed a database in Microsoft *Access* to track contract parameters and another manager in the same department created a Microsoft *Word* document that is used as a “tickler” file (a collection of notes and dates used as a reminder that follow-up actions are required in the future).

While these *ad hoc* tracking systems may currently provide individual managers with the data they need, they are not designed as high-reliability systems and lack comprehensive documentation. Should key managers suddenly leave, staff that would have to assume their duties may not be aware of systems used by their predecessors, or they may not know how to access or operate them. This potential loss of tracking information could result in inadequate monitoring of contracts or a lack of consistency in the way they are managed.

That each department is responsible for issuing and monitoring its own contracts creates another potential for inadequate contract management. Departments like General Services and Public Works issue a large number of contracts while other sections of the County, such as the Auditor-Controller’s Office, issue contracts infrequently. A department that is more familiar with contract administration is less likely to make errors in managing various stages of a contract and is more likely to proactively identify when a contractor is having problems meeting their contractual obligations.

The Grand Jury did not find that the County has any procedure for the regular review of contracts once their termination dates have been reached. A “*post mortem*” review of this type would appear to have several advantages, including:

- Verifying that all contract provisions had been met.
- Verifying that all contract milestones had been completed on time.
- Determining whether any follow-up with the contractor was required.
- Evaluating the effectiveness of the contract management procedures used, and determining whether any changes should be made to the adopted best practices.

CONCLUSIONS

In general, the Grand Jury found that current County staff is dedicated to ensuring that the citizens of San Luis Obispo County get what they pay for. However, it appears that current, existing standards and procedures, particularly for post-award contract management, may become inadequate as the County continues to grow, and more employees become involved in the administration of increasingly complex County contracts.

FINDINGS

1. There appears to be a lack of formal, published standard operating procedures for contract administration. An employee faced with a question relating to a particular aspect of managing contracts may have to seek out other employees who have some familiarity with the problem.
2. Managers in major contracting departments are dedicated and are doing a good job of ensuring that contractors are meeting their obligations. However, tools they currently in use to track contracts are not standardized and may not be sufficiently reliable to meet County's long-term needs.
3. Not all sections of County staff have the same familiarity and expertise in managing contracts. This could cause inconsistency in contract management throughout the County. In addition, expertise and best practices developed within certain County departments are not shared with other departments.
4. The Grand Jury did not identify any standard procedures for review of contracts after their terms had ended. A review of this type would verify whether all provisions were met, if any action against the contractor is required, and whether any changes need to made to contract management standard procedures.

RECOMMENDATIONS

1. All County departments that issue contracts should develop standard contract management operating procedures. These procedures should cover all aspects of contract management and clearly define tasks and responsibilities for each step in the contracting process. (Finding #1)
2. Any automated tracking systems used for contract management should be created using robust, high-reliability database programming standards. Systems should be fully documented and data should be protected from loss or corruption. (Finding #2)
3. County offices that do not issue contracts on a regular basis should work through other departments that are more familiar with contract management procedures sharing established best practices. (Finding #3)
4. When any contract term ends, the issuing office should review the contract to evaluate its effectiveness. (Finding #4)

REQUIRED RESPONSES

1. San Luis Obispo County Administrator. (all recommendations)
2. San Luis Obispo County Board of Supervisors. (all recommendations)

5. ELDER AND DEPENDENT ADULT ABUSE

INTRODUCTION

As a large number of the general population of the County of San Luis Obispo ages, many elderly and dependent adults can become vulnerable to various forms of abuse and neglect. An elder is defined as any person 65 years of age or older. A dependent adult is any person between the ages of 18 and 64 who has physical or mental limitations that restrict their ability to engage in normal activity or to protect their rights as citizens. They may have physical, mental or developmental disabilities or these abilities have diminished with age. It also includes any person between the ages of 18 and 64 who has been admitted to a 24 hour care facility because they are unable to care for themselves or have been determined to pose a danger to themselves or others.

To effectively serve the needs of this group, a task force was organized by the District Attorney's Office along with various countywide agencies to coordinate elder assistance programs of government and community service care providers.

PURPOSE

This Grand Jury report is meant to shine a light into the dim and shadowy lives of aged people who suffer from dementia and live a confused and fearful existence. In 2006, The Task Force on Crimes Against Elderly and Dependent Adults published "Response to Incidents Involving Elderly & Dependent Adults, A Protocol for First Responders and Support Agencies," in San Luis Obispo County. This document details how to recognize abuse and neglect, what can be done about it, as well as where to go if there is suspicion of elder abuse.

METHOD

As part of their investigation, Grand Jurors:

- Studied “Response to Incidents Involving Elderly & Dependent Adults, A Protocol for First Responders and Support Agencies,” published by The Task Force on Crimes Against Elderly and Dependent Adults in 2006.
- Attended bimonthly meetings with the Task Force at the District Attorney’s Office regarding elder abuse.

BACKGROUND

All the various forms of elder abuse and neglect inflict tremendous pain and suffering on victims, families and the community. The San Luis Obispo County First Responder’s Protocol Task Force developed the San Luis Obispo County Elder and Dependent Adult Abuse Protocol. It is a comprehensive guideline for professionals to protect elders from abuse, to utilize interventions, to identify their abusers and hold them accountable, and to prevent new or continued victimization. By coordinating their efforts to investigate and provide assistance and intervention, government and community service providers can do a better job to ensure the safety and well being of all those involved.

NARRATIVE

In its report, the task force summarizes areas of abuse or neglect that affect the elderly. These include, but are not limited to:

PHYSICAL ABUSE

Physical abuse is a crime. Assault, battery, assault with a deadly weapon, unreasonable physical constraints, prolonged or continued deprivation of food and water are criminal behaviors and must be reported to law enforcement.

FINANCIAL ABUSE

This form of abuse occurs if a person takes, secretes or appropriates money or property for any wrongful use, or with the intent to commit fraud. Financial abuse can also occur when a person is the victim of grand or petty theft, forgery, embezzlement or identity theft. Abuse can also exist if an elder is legally or medically unable to consent to making purchases, accept assistance, or transact business. Persons must act freely and not under the influence of threats, force, duress or undue influence. If a contract or financial transaction is entered into through undue influence, it may be considered invalid and a criminal violation.

NEGLECT

Neglect means creating an environment that causes failure to thrive. An elder may endure self-neglect if they fail to provide reasonable care for themselves. Neglect that is imposed by a trusted care provider that may or may not cause bodily harm or death can be prosecuted.

A care provider can be an agency, facility, administrator, employee or any person who has the care, custody or control, and occupies a position of trust with an elder or dependent adult. A mandated care custodian of an agency or facility is required to report any real or suspected abuse of a person in their care. Failure to do so is a misdemeanor.

CAPACITY

If a person is unable to perform certain mental tasks such as remembering, reasoning or understanding the consequences of their actions, they lack capacity. For example, capacity to contract is the ability to understand the nature and consequences of a contract. Also, for a will or trust to be legal, an individual must have sufficient mental (testamentary) capacity to (1) understand the act, (2) understand and recollect the nature and extent of their property, (3) appreciate their relationship to a living spouse and descendants who will be affected by the will.

A person must demonstrate sufficient mental capacity, that is, to act freely and voluntarily with an understanding of the act, to engage in sexual activity. It can be a violation of law if a perpetrator, within reason, knows of the victim's lack of ability to consent.

The burden of proof falls on the prosecutor when trying to establish that a person lacks capacity. Medical records, prior reports of dementia, mental health exams and statements from family, doctors, friends and neighbors help to establish whether or not a person has the necessary mental capacity to make decisions for him or herself.

CONCLUSION

The San Luis Obispo Elder and Dependent Adult Abuse Protocol was designed to provide both an investigational aid to those involved in criminal prosecutions, as well as a guide for community providers who may need direction when encountering these victims. It is recognized that first responders will most often encounter non-criminal situations of elder and dependent abuse and neglect. Therefore, this Protocol aims to offer assistance for such intervention by aiding and ensuring the safety and well-being of these communities. By coordinating efforts, both government and community service providers will do a better job of protecting and caring for the county's elder population.

HELP AND SUPPORT

FIRST RESPONDERS PROTOCOL PHONE DIRECTORY

	<u>Phone number</u>	
	<u>Daytime</u>	<u>24 Hour</u>
Adult Protective Services	781-1790	781-1790
Alzheimer's Association	547-3830	(800)272-3900
Arroyo Grande Fire Dept/Police Dept	473-5100	473-5100
Atascadero Fire Department	461-5070	466-9111
Atascadero Police Department	461-5051	466-9111
California Highway Patrol	549-3610	549-3610
Cambria Fire Department	543-4242	543-4242
Camp Roberts Emergency Military Depart.	238-8117	238-8911
Cayucos Fire Protection District	543-4242	543-4242
CDF/SLO County Fire Department	543-4242	543-4242
Department of Social Services	781-1600	781-1600
District Attorney's Office	781-5800	781-5800
Drug and Alcohol Services	781-4753	
Grover Beach Fire Department / Grover Beach Police Department	473-4511	473-4511
Hearst Castle Fire Department	927-2045	927-2045
Hospice Partners of the Central Coast	781-8608	781-8608 (Nurse on call)
Morro Bay Fire Department/ Morro Bay Police Department	772-6225	772-6225
Long Term Care Ombudsman	785-0132	(800)231-4024
Oceano CSD Fire Department	473-4511	473-4511
Paso Robles Fire Dept/Paso Robles Police Dept.	237-6464	237-6464

	<u>Phone number</u>	
	<u>Daytime</u>	<u>24 Hour</u>
Pismo Beach Fire Dept./Pismo Beach Police Dept.	773-2208	773-2208
Public Guardian	781-5845	
San Luis Ambulance	543-2626	543-2626
San Luis Obispo County Sheriffs Department	781-4550	
Animal Services	781-4403	781-4550
Coroner	781-4513	
San Luis Obispo County Depart. Of Mental/ Health/Mobile Crisis Center	781-4700	(800)838-1381
San Luis Obispo County Depart. Of Public Health	781-5500	781-4550
San Luis Obispo Fire Department/ San Luis Obispo Police Department	781-7317	781-7317
San Miguel CSD Fire Department	467-3300	543-4242
Santa Margarita Fire Department	438-3185	543-4242
Senior Legal Services Project	543-5140	
Superior Court Probate Investigator's Office	781-5424	
Suspected Abuse Response Team	781-4878	781-4550
Templeton Fire Department	434-4900	543-4242
Tri-Counties Regional Center	543-2833	(800)322-6994
Victim/Witness Assistance Center Division of the District Attorney's Office	781-5821	
EMERGENCY	911	

6. GETTING TO KNOW LAFCO

ORIGIN

The Local Agency Formation Commission (LAFCO) of San Luis Obispo County plays a significant part in the use of land and the development of our living space. Although their decisions have an overall impact on our way of life, most citizens are unaware of the Commission's role until that rare occasion when a LAFCO recommendation affects them directly.

In September 2006, a LAFCO determination to deny a petition to dissolve the Los Osos Community Services District brought brief attention to the agency. Many residents may have followed this in the news and wondered about this relatively obscure organization. Since there appears to be no record of a LAFCO review by a Grand Jury in this county, it seems an appropriate time to prepare an informational report on the goals and responsibilities of this important though little-known agency.

METHOD

Members of the Grand Jury attended a LAFCO meeting, and interviewed the Executive Officer of the Commission. In addition, Grand Jury members interviewed three of the seven current LAFCO Commissioners and one alternate Commissioner. Jurors also reviewed the following documents:

- San Luis Obispo LAFCO website (www.slolafco.com)
- "What is LAFCO?" A publication of the California Association of Local Agency Formation Commissions (CALAFCO)
- "Major Provisions of AB 2838: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000" State of California Office of Planning and Research
- "Directory of Local Agencies" San Luis Obispo LAFCO, October 2006

- *Growth Within Bounds: Planning California Governance for the 21st Century*; State of California, 2000
- “Sphere of Influence Update/Municipal Service Review: City of Paso Robles” San Luis Obispo LAFCO, September 2004

A BRIEF HISTORY

Post World War II saw a period of unrestricted growth in California. Poor planning and land use decisions resulted in an alarming conversion of prime agricultural land to urban uses. Prior to 1963 any proposal for incorporation, annexation or formation of a new district was formulated through petition to the local governing body. In the competition for tax dollars, cities were anxious to annex new developments. At the same time, counties were encouraging these developments to incorporate and contract with them for services such as public safety, public utilities, transit, or cultural and recreational services. The result was a proliferation of overlapping and inefficient systems for delivering public services.

In 1963 AB1662 (Knox) created a Local Agency Formation Commission (LAFCO) for each county, with representation from county, cities and the public to oversee procedures for incorporation and annexation. “The LAFCO boards...(create) an extra review step in the incorporation process. (This) allows municipal government a voice in a process that the county supervisors had performed virtually alone.” (*Growth Within Bounds*, p. 27)

Various changes to the original enabling 1963 legislation were enacted over the years. However, an ongoing debate over the independence of LAFCOs continued. In 2000 the Commission on Local Governance for the 21st Century issued a report that made a number of recommendations to reform and reorganize LAFCO. These recommendations were the basis for the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838).

The California Office of Planning and Research identifies the major provisions of the Cortese-Knox-Hertzberg Act (CKH Act) as follows:

- Streamlines and clarifies LAFCO policies and procedures.
- Makes LAFCO neutral, independent, and balanced in representation for counties, cities and special districts.
- Strengthens LAFCO powers to prevent sprawl and ensure the orderly extension of government services.
- Enhances communication, coordination and procedures of LAFCO and local governments.
- Enhances opportunities for public involvement, active participation, and information regarding government decision-making.

(For a more detailed description of these provisions, see Appendix A.)

SAN LUIS OBISPO COUNTY LAFCO TODAY

STAFF

Since the CKH Act of 2000, a number of changes have taken place within LAFCO in San Luis Obispo County. The Commission staff has moved out of the county government building where it was formerly housed and the source of its funding has become diversified. The number of LAFCO Commissioners includes two city members, two county members, two special district members, and one public member chosen by the other six. In addition there are alternates for each category. The staff now includes an Executive Officer, a LAFCO Analyst, a Legal Counsel, and a Commission Clerk. The policies and procedures of the Commission have been expanded and aligned with the CKH Act. Detailed information about the Commission, its membership, current projects, policies and procedures, agendas, staff reports, minutes of monthly meetings and copies of recent service reviews and sphere of influence updates, as well as fee schedules and applications are available on the SLO LAFCO website: www.slolafco.com.

OBJECTIVES

LAFCO's major objectives under the CKH Act are to encourage the orderly formation of local government agencies; to preserve agricultural land resources; and to discourage urban sprawl. In order to meet these objectives LAFCO has the authority to:

- Conduct a comprehensive municipal service review of local government agencies every five years. Local government agencies include cities, community service districts, county service areas and other special districts. The CKH Act identifies nine factors to be addressed when preparing a service review. These factors are specified in the *Policies and Procedures* section of the SLO LAFCO website. For each factor, information is gathered and analyzed, with written determinations prepared for LAFCO's consideration.
- Determine spheres of influence for local government agencies that designate the agencies' probable future boundary and service area. Spheres, based in part on municipal service reviews, are reviewed every five years.
- Initiate proposals that include dissolution or consolidation of special districts or merging of existing subsidiary districts.
- Regulate, through approval or denial, boundary changes to local government agencies such as annexations proposed by other public agencies or individuals.
- Approve outside user agreements between local agencies and service providers outside the agencies' boundaries.

BUDGET

The county, the cities, and the independent special districts in the county fund LAFCO. Each of these three groups pays one third of the LAFCO budget. Each city or special district pays a share based on its total revenues as a percentage of total cities' (or special districts') revenues. LAFCO's 2006-2007 income from these sources was \$454,515.

Additional application fees are charged for various LAFCO activities such as annexations, formations, incorporations, dissolutions, consolidations, mergers and reorganizations. These fees range from \$1,500 to \$15,000 depending on the complexity of the activity. A complete list of fees can be seen on their website at www.slolafco.com. LAFCO's 2006-2007 income from application fees is \$44,501.

LOCAL AGENCIES

There are currently seven cities in San Luis Obispo County: Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo. City incorporation requires

LAFCO approval. The process for incorporation of a new city includes a comprehensive fiscal analysis, a cost/benefit justification, proof of revenue sufficient for municipal services, and a review of California State Guidelines for Incorporation as well as LAFCO guidelines prepared by the State Office of Planning and Research. The last city to incorporate was Atascadero in 1978.

Community Service Districts (CSDs) provide a variety of services to their residents. Many CSDs in San Luis Obispo County are multi-service districts that provide water, wastewater, fire protection, and solid waste services to the community. CSDs that provide multiple services are Avila Beach, California Valley, Cambria, Heritage Ranch, Los Osos, Nipomo, Oceano, San Miguel, San Simeon, Squire Canyon and Templeton. Of the 15 CSDs in the county, four provide the single purpose of road maintenance. CSDs and other special districts can add services by applying to LAFCO for activation of a latent power.

A County Service Area (CSA) is managed by the County Board of Supervisors and may be formed to provide water, wastewater or solid waste services, fire protection, public recreation, street lighting, mosquito abatement, police services, street improvement, conversion to underground power and communication cables, ambulance services, airport facilities and transportation services.

In addition to cities, CSDs and CSAs, Special Districts can be formed to provide special services to a community or a region. There are, for example, eleven public cemetery districts, as well as nine special districts that provide services as varied as healthcare, fire, sanitation, harbor, resource conservation, and water.

EXCLUSIONS

Excluded from LAFCO reviews are school districts and community college districts. Thus, if a school district or community college district wishes to build a new school, it is not required to go through the LAFCO review process to determine the impact on services or land use. In addition, any district formed solely for the purpose of financing infrastructure, such as a special assessment district or an improvement district, is excluded from LAFCO review.

Finally, it should be noted that LAFCO has no jurisdiction over county urbanization outside the urban reserve line of cities. In other words, the commission's authority is generally limited to approving or denying applications for community services districts, city incorporations or annexations, and conducting regular service reviews and sphere of influence reviews for cities and districts. Thus the Santa Margarita Ranch development, for example, has proposed an "agricultural residential cluster subdivision" which would include 112 homes now and another 400 homes plus wineries, lodging, a commercial center, churches and a golf course on what is now agricultural land. Therefore, unless the proposed development is tied to the formation of a special district, LAFCO has no jurisdiction over the approval of this massive project. Instead the Board of Supervisors is ultimately responsible for approval.

CONCLUSION

The consensus among the people interviewed by the Grand Jury is that LAFCO serves a valuable function within San Luis Obispo County as an agency that is able to serve as an intermediary among various jurisdictions. Particularly since the Cortese-Knox-Hertzberg Act of 2000, the Commission has been viewed as more independent from county government. As a result, there is now much more cooperation among the county, cities, special districts, and agencies that provide services.

The five-year reviews conducted by LAFCO give local agencies an opportunity to assess their areas of strength and weakness, and move toward changes in spheres of influence and annexations in a more deliberate and rational way. The Commission's Executive Officer and Analyst have made an ongoing effort to meet with local agencies and planning departments and to hold well-publicized public hearings.

The Commission is currently working on the development of agricultural resources policy and procedures that would be added to the current general policy base. These guidelines may include options such as preservation, conversion and/or mitigation, consistent with other county and city general plan policies.

That said, the CKH legislation may give lip service to preserving farmland and preventing urban sprawl, but it does not give LAFCO the power it needs to do this because it has no jurisdiction over land use decisions outside of cities. Most of the prime agricultural land, as well as many of the “antiquated subdivisions”¹ with inadequate service delivery systems are outside of cities. Under state law it is the county supervisors, not LAFCO, who ultimately make decisions about development in these areas.

Certainly the fact that two of the five county supervisors serve as LAFCO commissioners helps to open lines of communication between county and city/special district representatives. And LAFCO has developed an outstanding reputation as an honest broker in bringing the county to the table for responsibility-sharing as well as revenue-sharing memorandums of agreement with other agencies within the county. But the bottom line is that California state law takes land use decisions in unincorporated areas out of the hands of LAFCO. Thus the major goals of LAFCO, to prevent urban sprawl and protect prime farmland, are essentially beyond its reach. Until new legislation is forthcoming which expands LAFCO’s authority, land use decisions outside of cities are ultimately under the jurisdiction of the County Board of Supervisors.

¹ Antiquated subdivisions are areas such as Oceano, Los Osos, and Jardine Road subdivision bordering Paso Robles that were subdivided long before zoning rules were established.

APPENDIX A

State of California Office of Planning and Research

Major Provisions of AB 2838: "The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000"

On February 28, 2000, Assemblyman Robert Hertzberg introduced AB 2838, which incorporated all of the recommendations relating to reform of the Local Government Reorganization Act from ***Growth Within Bounds***, the report of the Commission on Local Governance for the 21st Century. On August 31, 2000, an amended version of the bill passed the Legislature and was signed by Governor Davis on September 26, 2000. Following is a summary of the major provisions of AB 2838 (Chapter 761/2000). For each issue, a reference chapter in the Commission report is noted in parentheses.

ISSUE: REFORM OF LOCAL GOVERNMENT REORGANIZATION LAW

Problem: Current procedures in the Local Government Reorganization Act were enacted prior to Proposition 13 and the extensive growth of the past 35 years. The law is a composite of three previous procedural statutes that were not substantially modified when combined, nor have they been since. Consequently, policies are often unclear and procedures are cumbersome and uncertain. Moreover, LAFCOs are viewed by many local officials as biased and non-responsive to local development needs.

(1) AB 2838 streamlines and clarifies LAFCO policies and procedures.

- Comprehensively reorganizes and revises the Cortese-Knox Act to make procedures more consistent and easier to understand. (*Chapter 3*)
- Requires all LAFCOs to adopt written policies and procedures. (*Chapter 3*)

- Establishes consistent procedures for voter/land owner petitions to initiate a change of organization or reorganization. (*Chapter 3*)
- Requires preparation of State guidelines for the comprehensive fiscal analysis, to improve its value and consistency. (*Chapter 4*)
- Makes LAFCO the conducting authority for all local government reorganization proceedings. (*Chapter 3*)

(2) AB 2838 makes LAFCOs neutral, independent, and balanced in representation for counties, cities, and special districts.

- Except for special statutory exceptions (Los Angeles, San Diego, Santa Clara, and Sacramento counties), applies a uniform membership selection scheme to all LAFCOs as follows: 2 from counties, 2 from cities (except counties with no cities), 2 from special districts (if requested), and 1 public member, whose selection requires an affirmative vote from at least one of the members from each selection authority. (*Chapter 3*)
- Requires all LAFCOs to select their own executive officers and counsel, although LAFCOs may select county or other public employees for these roles. (*Chapter 3*)
- Applies conflict of interest laws to LAFCO members and staffs; requires disclosure of contributions to a reorganization campaign; requires LAFCOs to hold a hearing on the need for lobbying disclosure regulations, but does not require their adoption. (*Chapter 3*)
- Establishes a LAFCO funding scheme whereby operational costs are borne jointly and equally by each appointing category. (*Chapter 3*)

ISSUE: ORDERLY GROWTH AND RESOURCE PROTECTION

Problem: Urban growth sometimes proceeds into areas where extension of services is inefficient, expensive, or ill-timed. Despite the policies and procedures of the Cortese-Knox Act, the loss of prime agricultural and open-space lands continues to occur where it might be averted through more effective advance planning.

(3) AB 2838 strengthens LAFCO powers to prevent sprawl and ensure the orderly extension of government services.

- Requires pre-zoning for territory proposed to be annexed to a city to ensure clear knowledge of plans and potential impacts. (*Chapter 4*)

- Requires LAFCO to update spheres of influence at least once every five years. *(Chapter 6)*
- Requires LAFCO to initiate periodic regional or sub-regional service reviews at least every five years, to determine local government service needs and adequacy. *(Chapter 6)*
- Requires counties to consult with affected cities prior to approving any development or land use change within a sphere of influence. Requires LAFCOs to give "great weight" to any agreements reached between cities and counties on development within spheres of influence. *(Chapter 6)*
- Requires LAFCOs to ensure that a proposal to extend services to previously unserved territory within an unincorporated area is consistent with the policies of the Act, including promoting orderly development, discouraging urban sprawl, preserving open space and prime agricultural lands, providing housing for persons and families of all incomes, and the efficient extension of governmental services *(Chapter 6)*.
- Defines "prime agricultural lands" more precisely. *(Chapter 6)*
- Requires LAFCO to consider existing data on timely availability of water supplies, regional housing needs, information from land owners, and land-use designations in boundary change decisions. *(Chapter 3)*
- Allows LAFCO, when making a decision, to consider regional growth goals and policies adopted by a formally established collaboration of local elected officials. *(Chapter 6)*

ISSUE: LOCAL GOVERNMENT COORDINATION AND EFFICIENCY

Problem: *State and local agencies often proceed with planning for their own needs without recognizing the potential effects on other agencies and the broader public. The result can be confusion and dissatisfaction with services.*

(4) AB 2838 enhances communication, coordination, and procedures of LAFCOs and local governments.

- Strengthens notification, coordination, and boundary-setting procedures between local governments and school districts. *(Chapter 3)*
- Subjects to LAFCO approval any extension of services outside a city's or a special district's existing jurisdiction, if an expansion in service capacity is planned, even if the service recipient is another public agency. *(Chapter 6)*

ISSUE: PUBLIC INTEREST AND INVOLVEMENT IN GOVERNMENT

Problem: *Voter turn-outs and public opinion surveys indicate an alarming*

level of apathy by the public regarding government processes and actions and a degree of distrust of government in general.

(5) AB 2838 enhances opportunities for public involvement, active participation, and information regarding government decisionmaking.

- Requires LAFCOs to post information on a web site. *(Chapter 8)*
- Expands LAFCO public and governmental notification requirements. *(Chapters 3 and 8)*
- Requires proponents of reorganization actions to report campaign contributions and expenditures. *(Chapter 3)*
- Permits proponents of a new incorporation or special reorganization to petition LAFCO for full or partial waiver of fees if State funds are available for a loan covering the costs. The loan, if granted, would be repayable by the new city. *(Chapter 4)*
- Declares the cost of verifying citizen petitions for any change of organization to be a governmental cost. *(Chapter 4)*
- Permits a proposed new city under a special reorganization to include in its incorporation proposal the election of 5, 7, or 9 council members by district, to expand representativeness. *(Chapter 4)*

7. SAN LUIS OBISPO COUNTY REGIONAL AIRPORT

INTRODUCTION

San Luis Obispo County Regional Airport (the Airport) is one of the County's major economic engines. The Airport provides the region with commercial air service and it is home to more than 300 general aviation tenants as well as a number of businesses that provide aviation related services. In providing these services, the Airport annually generates as much as \$180 million in total economic benefits.

Because of its importance to the County's economy, it is critical that Airport staff and County managers have policies and plans in place to ensure the Airport's current and future economic vitality. They must also ensure that any plans for future growth are appropriate and do not negatively impact neighboring communities.



ORIGIN / PURPOSE

The 2006-2007 San Luis Obispo County Grand Jury received a citizen complaint that included claims of County mismanagement for several of its commercial operations (golf courses, airports, property leases, etc.), and specifically identified several Airport related issues. The claims related to non-Airport issues were vague and dealt more with the County's policy decisions which are not within the Grand Jury's investigative jurisdiction. As a result, the Grand Jury decided to investigate only Airport related issues.

As the investigation proceeded, the Grand Jury decided that providing a complete overview of the Airport would be appropriate. In addition to resolving issues in the complaint, the Grand Jury wanted to provide County citizens useful information about this important regional resource.

METHOD

As part of its investigation, Grand Jurors did the following:

- Reviewed requests for proposal, agreements and other contract documents relating to Airport planning, commercial operations and facility leases.
- Interviewed Airport staff.
- Interviewed general aviation tenants and commercial operators.
- Interviewed County Auditor-Controller's staff.
- Reviewed Airport Master Plan documents.
- Reviewed planning documents and Airport informational materials.
- Toured Airport facilities.
- Reviewed planning documents for proposed Airport expansions and new facilities.

HISTORY

The San Luis Obispo County Regional Airport began when Earl Thomson, along with his brothers-in-law, William "Chris" and David Hoover, convinced county officials to lease them the land needed for an airport. In April, 1939, the airport opened with an 88'-by-100' hangar and dirt runways. In 1940, the War Department installed hard surface runways and lights. In 1940 and 1941, 183 private pilots and 20 advanced students were trained here through a federally sponsored Civilian Pilot Training Program for armed services fliers. The federal government took over the airport during World War II and turned it back to the county in 1946. In that year Southwest Airways inaugurated airline passenger service to San Luis Obispo.

In 1947, county supervisors contracted for another hangar, ramp, and eventually an administration building. A full-time airport manager was appointed in 1953. In 1987, the San Luis Obispo County Regional Airport was dedicated as McChesney Field, in honor of Leroy E. McChesney for his leadership and dedication to aviation.

Airport facilities now include a terminal building, restaurant, numerous hangars and airplane related businesses, and in 1988, a control tower was opened by the Federal Aviation Administration (FAA). When the control tower opened, Wings West, Skywest, West Air, and American Eagle were already in operation. Today, three regional airlines serve the community: United Express (Skywest Airlines), American Eagle and America West Express (Mesa Airlines), with service to Los Angeles, San Francisco, Phoenix and Las Vegas. In June 2007, Delta Connection will begin service to Salt Lake City.

NARRATIVE

ECONOMIC VALUE

As mentioned in the introduction, the Airport is a major economic engine for the County. The following chart shows the Airport’s estimated economic value to the community in the 2003-2004 fiscal year.

BENEFIT MEASURES

	Revenues	Earnings	Employment
On-Airport Aviation Employers	\$51,406,000	\$10,029,000	347
Capital Projects	<u>\$2,599,000</u>	<u>\$374,000</u>	<u>18</u>
All On-Airport Economic Benefits	\$54,005,000	\$10,403,000	365
Air Visitor Benefits	\$19,717,000	\$8,210,000	457
Indirect Benefits (Multiplier Effect of Secondary Spending)	<u>\$68,327,000</u>	<u>\$19,690,000</u>	<u>719</u>
TOTAL BENEFITS	\$142,049,000	\$38,303,000	1,541

Table Definitions:

- Revenue – The value in dollars of the output of goods and services produced by businesses.
- Earnings – Employee compensation (the dollar value of payments received by workers as wages and benefits) and proprietor’s income of business owners.
- Employment – The number of jobs supported by the revenues created by the Airport.
- Air Visitor Benefits – Benefits from commercial and general aviation air travelers who use the Airport.
- Indirect Benefits – The “multiplier effects” that result from additional spending induced in the economy to produce the other benefits listed.

However, the Airport is not a static enterprise. The most recent Airport Master Plan Update projects a steady growth in operations and number of aircraft. The table below shows these projections over the next 20 years. Assuming that growth takes place as projected, the Airport will continue to be critical to the region's ongoing economic vitality.

	Fiscal Year 2003	Fiscal Year 2008	Fiscal Year 2013	Fiscal Year 2023
Annual Enplanements ¹	155,177	198,000	232,000	301,000
Commercial Operations	14,710	13,600	13,000	15,000
Air Taxi Operations	1,630	1,800	2,000	2,200
Military Operations	769	850	850	850
General Aviation Operations	<u>92,155</u>	<u>101,300</u>	<u>107,800</u>	<u>122,000</u>
Total Operations	109,264	117,550	123,650	140,050
Total Air Cargo (pounds)	1,242,592	1,400,000	1,600,000	2,000,000
Based Aircraft	301	320	350	400

¹ # of passengers who board an aircraft in scheduled and non-scheduled service

FUNDING

The Airport is an "Enterprise Fund." This means that, unlike most other County agencies, the Airport's primary source of funding is not the County's general fund. The Airport depends upon revenue it generates as its primary source of funding. For major improvements (runways, terminals, etc.) the Airport also receives funding from state and federal grants, as well as from bonds issued for specific projects. The debt financing for these other funding sources is paid from Airport revenues. This means the Airport's ability to make staffing, service and infrastructure improvements is limited by its current and projected revenues. Any failure to maximize these revenues could severely impact

the Airport's ability to provide the level of service that its customers (area citizens and Airport tenants) expect. Therefore, the Airport must continually balance the need to increase its fees with the possible loss of revenue that could occur if customers go to other airports due to unreasonable costs.

There is one major expense over which the Airport has little control. Because it uses County facilities and services, the Airport is required to pay more than \$500,000 in overhead and direct charges back to the County's general fund. This amount is currently within federally allowed limits. However, as is the case with government owned airports throughout the country, there is a constant tension between the County's need to maximize its revenue sources (particularly during tight budget years) and the FAA's mandate that airports primarily use their funds to operate, maintain and improve their aviation related services. The "diversion of revenue" issue is both a legal and an investment question. While within FAA limits, every dollar of Airport revenue the County takes can have a service level impact. If this impact becomes too serious, financial loss to the County from a reduction in generated benefits could outweigh the revenue transferred to the general fund.

CUSTOMER SERVICE

The Airport faces several serious impediments in addressing all of its customer needs. Some problems relate to physical constraints of the Airport site which limit the Airport's ability to meet the needs of general aviation tenants for additional services and hanger space. It also limits the ability to extend runway lengths and expand terminal facilities to address commercial aviation's desire to accommodate more and larger aircraft. As these sometimes-conflicting needs increase, the Airport is faced with the difficult problem of allocating its limited resources. The Airport Master Plan determines its long-term needs and optimal ways to address them. This document (available on-line at <http://sloairport.com/Master%20Plan.htm>) is reviewed and updated on a regularly to ensure its financial and market projections for the Airport are current and all facility and service changes are incorporated.

The Grand Jury interviewed several tenants. Their main concern was whether all tenants were being treated equally, and whether the Airport's enforcement of rules and regulations was consistent. They also claimed certain tenants received preferential treatment, and favoritism influenced the awarding of

certain Airport contracts and allocation of hanger space. The Grand Jury found no facts supporting either allegation. These complaints may be due to differing perceptions that could be addressed through increased outreach by the Airport to keep tenants better informed and involved.

Parking fees at the airport are another customer service issue. While fees charged at San Luis Obispo County Regional Airport are very reasonable compared to other airports that charge for parking, nearby Santa Maria Public Airport provides “free” parking. The Grand Jury found that, for most airports, parking fees constitute the majority of revenues. Other funding sources must be found to supplement the loss of revenue at airports with free parking. In Santa Maria, this is done through an assessment district that taxes local residents and businesses to subsidize parking for airport patrons. In San Luis Obispo County, those who use the airport pay for this service rather than placing the cost on local taxpayers who may or may not use this facility.

USE OF TECHNOLOGY

As is the case with most competitive businesses, it is critical that the Airport consider emerging technologies to help optimize productivity. One Airport project that demonstrates an innovative use of technology is the planned runway extension.

In order to accommodate a greater variety of aircraft, the Airport is planning to extend its main runway 1,000 feet to an ultimate length of 6,300 feet. The FAA typically requires a paved runway safety area extending 1,000 feet beyond the end of each runway. This safety area is primarily required for those rare occasions when aircraft overrun a runway and need extra room to decelerate and stop. Using the FAA standard design at San Luis Obispo County Regional Airport would have required extending the paved area over Acacia Creek on the northeast edge of the Airport. In addition to increased cost, the potential for severe environmental impacts would have delayed or even stopped the project. To address this problem, the Airport’s current design calls for the use of an Engineered Material Arresting System (EMAS), typically constructed from lightweight, crushable concrete. Should an aircraft roll into an EMAS arrestor bed, its tires would sink into the lightweight concrete, thus slowing the aircraft by having to roll through the material. This system allows the Airport to reduce the total length of both

safety areas by as much as 800 feet, avoiding any impact to the creek. There are currently only eighteen other airports in the United States using this design.

While this is a very impressive project, the Airport should continue investigating new technologies to enhance safety and security, lower operating costs and improve customer services.

ORGANIZATIONAL STRUCTURE

The Airport is a division within the County's General Services Department. Because the Airport is an enterprise fund and operates in a very competitive market, its business model is similar to that of private sector companies and very different from other County agencies. In order to be profitable, it must evaluate shifting customer needs and respond to rapidly changing market forces that drive the air transportation industry. Due to their importance to regional economies and their unique requirements, most government-owned, commercial airports are not divisions within departments. More typically, they are their own departments reporting directly to the local governing body or its appointed administrator, or independent "authorities" managed by a board that includes local officials. As a division, the added layer of management could inhibit an airport's innovation and calculated risk-taking essential to succeed in a competitive and rapidly changing environment. Because the Board of Supervisors is often more attuned to the region's overall business climate than other County staff, a closer working relationship between that body and the Airport would be advantageous to both entities and would better serve the community.

The Grand Jury also identified Airport staffing as another potential organizational problem. Airport management is a very specialized field, thus finding experienced airport professionals to fill key vacancies can be challenging, even more so due to San Luis Obispo County's high cost of living. The County needs to ensure hiring procedures and position classification structures will promote the quick filling of any key vacancies that may occur. In addition, decisions and actions of the Airport Manager can have a direct influence on the regional economy, thus the Board of Supervisors may wish to consider making this position unclassified, serving at the will of the Board.

CONCLUSIONS

Overall, the Grand Jury found San Luis Obispo County Regional Airport to be a professional and well managed organization. Throughout the investigation it was obvious that due to its location, demographics, and other factors, the Airport has the ability to attract and retain general and commercial aviation services that significantly benefit the region. Even those tenants who had negative comments about the airport admitted that, in spite of these problems, they would rather be at this Airport than at other facilities in San Luis Obispo or other adjacent counties.

The Airport is an investment that generates considerable regional economic benefits. However, the aviation services market is complicated and notorious for its rapidly shifting nature and vulnerability to external factors such as fuel costs and international instability. In order to protect this investment, the Airport must continually monitor its customers' needs and changing business environment, and County government should support those changes that will ensure the Airport's continued success.

FINDINGS

1. The San Luis Obispo County Regional Airport is one of the County's major economic engines.
2. The Airport is an "Enterprise Fund." Hence, unlike most other County agencies, the Airport's primary source of funding is not the County's general fund. The Airport depends upon revenue it generates as its primary source of funding. A major expenditure not within Airport control is its reimbursement to the County's general fund for use of County facilities and services. If the amount transferred becomes excessive, it could seriously impact the Airport's capability to maintain an acceptable level of customer service.
3. While several Airport tenants expressed concerns regarding on-site operations and planning decisions, none appeared serious enough to drive tenants away. There may be an opportunity to reduce this dissatisfaction through increased outreach to the tenant community, making them an important part of the Airport's decision-making process.

4. The Airport uses innovative technologies to maximize utilization and efficiency of its area-constrained facilities. However, it should seek out additional opportunities to benefit from technology.
5. The Airport is a division within the County's General Services Department. Because the Airport is an enterprise fund and operates in a very competitive market, its business model is very different from that of other County agencies. The current organizational structure will not provide flexibility the Airport needs to succeed in an extremely complex and rapidly changing market.
6. Because airport management is a very specialized field, finding experienced airport professionals to fill key vacancies can be a challenge. Current County hiring procedures and position classification structures will not have sufficient flexibility to quickly fill future Airport vacancies.

RECOMMENDATIONS

1. The County should continually review the amount the Airport is required to reimburse to the general fund, ensuring conformance with FAA requirements and intent. (Finding #2)
2. Most complaints raised by Airport tenants were due primarily to differing perceptions. The Airport should address these concerns by increasing outreach programs to keep tenants better informed and involved. (Finding #3)
3. The County should establish an independent, fact-finding committee or task force to investigate benefits and implications of creating an Airport Department or Authority. (Finding #5)
4. The County should ensure hiring procedures and position classification structures have the flexibility to quickly fill any key Airport vacancies that may occur. (Finding #6)

REQUIRED RESPONSES

1. San Luis Obispo County Auditor/Controller. (Recommendation #1)
2. San Luis Obispo County Airport Manager. (Recommendation #2)
3. San Luis Obispo County Administrator. (Recommendations #3 & #4)
4. San Luis Obispo County Board of Supervisors. (All Recommendations)

8. AFFORDABLE HOUSING IN SAN LUIS OBISPO COUNTY

Wishful Thinking or One Step at a Time?

INTRODUCTION

Inherent natural beauty and a moderate climate, combined with limited development and population growth due in part to challenging overland access and limited inexpensive fresh water, have made San Luis Obispo County a desirable destination, both for tourists and for prospective new residents. The lure of the simpler life of small towns combined with the energy and sophistication supplied by a major university has and will continue to drive housing costs in the county well beyond the means of typical wage earners. The median sales price of single-family homes in San Luis Obispo County exceeded \$600,000 in February, 2006. Less than 10% of the County's households can afford to buy housing at this price.

As in other areas of California, the lack of affordable housing can make it increasingly difficult to maintain essential services including education, police and fire protection, health care, local government, and utilities, and to support businesses in the area including agriculture, tourism related, high-tech startups and others whose employees value the quality of life here. Some officials express the need for San Luis Obispo County to avoid becoming known as a "rich retirees' ghetto" as certain California communities are sometimes described.

Affordable housing can benefit the county by:

- ensuring that employers have access to high quality workers.
- enabling people to live near their workplaces, shopping and other frequently visited locations.
- providing housing opportunities for people within urban areas as an alternative to living in sensitive habitat areas and agricultural lands.
- allowing persons and households of all income levels to live in the County.

The cost of land, a fundamental obstacle, reduces desirability of private development of lower cost housing in an open market because a greater return on investment can be achieved in many other ways. Although a structure of federal, state and local government policies exists to enable public and private cooperation in producing and maintaining affordable housing, there remains a large gap between supply and demand. Thus, going forward, it is apparent a variety of approaches will be needed. No one magical solution is out there waiting to be discovered.

ORIGIN

The Grand Jury of 2004-5 looked at the City of San Luis Obispo Housing Authority and its processes for addressing housing needs for low income families, and concluded “public housing properties are virtually indistinguishable from adjacent and nearby private properties.” At the beginning of our term, this Grand Jury identified topics of concern, and again included affordable housing, an ongoing, many faceted issue in this county. In July, 2004, the County of San Luis Obispo issued an update to the General Plan Housing Element, with the next update due June 30, 2009. Included in the 2004 update were proposals for concept papers related to affordable housing including mobilehome park conversions, condominium conversions, and inclusionary housing. This Jury has focused on Manufactured Home Parks within the county with brief looks at Inclusionary Housing policies, and a new employee housing project sponsored by Cal Poly State University.

METHOD

As part of its investigation the Grand Jury:

- Interviewed
 - A resident from Sea Oaks Mobile Home Community, Los Osos
 - A resident from DunaVista Mobile Home Park, Oceano
 - A resident from Sunny Oaks Mobile Home Park, Los Osos

- A resident from Meadowbrook Mobile Home Park, Templeton
- A member of the San Luis Obispo County Board of Supervisors
- The San Luis Obispo County Supervising Planner of Housing and Economic Development, San Luis Obispo County Planning and Building Department
- The Executive Director of the San Luis Obispo County Housing Trust Fund
- The Executive Director of People’s Self-Help Housing
- The San Luis Obispo County Auditor-Controller
- The Managing Director of Cal Poly Housing Corporation
- Attended meetings and/or reviewed the videotaped portions of the San Luis Obispo County Board of Supervisors dealing with a mobile home park conversion ordinance on November 9, December 14, February 27, and March 27
- Reviewed the following written materials:
 - Planning Commission Staff Work Program for Preparing a Permanent Ordinance
 - San Luis Obispo County Housing Element
 - “Commission Listening to Both Sides” by Dana Lilley: Viewpoint article in The Tribune; November 7, 2006
 - “Housing Issue Needs a Complex Approach” by Jerry Rioux; Viewpoint article in The Tribune; January 30, 2007
 - “How to Secure Mobilehome Parks’ Future” by Jerry Rioux; Viewpoint article in The Tribune; March 21, 2007
 - “Mobile Home Residents Feeling Stuck” Los Angeles Times; March 1, 2007
 - “Builders Tack on Fees, Home’s Future Buyers Pay for Them” Los Angeles Times; April 22, 2007
 - Summary of Assembly Bill 1542 (Mobile Home Park Conversion to Condominiums) <http://www.leginfo.ca.gov>
 - Housing Needs and Production Chart : San Luis Obispo County Planning and Building Department (see Appendix A)
 - “Concept Paper: Mobilehome Park Conversion Ordinance” San Luis Obispo County Department of Planning and Building; October, 2005

BACKGROUND

Satisfaction of Fair Share Requirements

The lack of affordable housing statewide has become so acute that the State Legislature currently requires all cities and counties to provide for affordable housing for all economic segments of the community and to specifically provide their “**fair share**” of the region’s housing needs. Each region’s “fair share” housing requirement is determined by the State Department of Housing and Community Development (HCD), with local allocations made by the San Luis Obispo Council of Governments (SLOCOG) in their Regional Housing Needs Plan. Appendix A shows San Luis Obispo’s share versus actual units built for 2001-2005, with just 12% of Very Low and Lower Income households’ needs being met.

All cities and counties in California must have a general plan that includes a housing plan – known as the “housing element.” The general plan serves as the local constitution for land use and development. Once adopted, it has the force of law – a local government cannot legally act inconsistently with its general plan.

Housing elements are updated every five to eight years. First, the regional council of governments allocates to each city and county a number of new housing units that it must plan for, broken down into four income categories from “very low” to “above moderate.” San Luis Obispo County issued their most recent housing element update in July, 2004, which included proposals for three new or modified ordinances aimed at producing and preserving affordable housing. While the law does not require cities and counties to build these new homes themselves, their housing elements must:

- Establish housing programs and policies that encourage affordable housing for people of all incomes and those with special needs.
- Demonstrate that they have enough land zoned for multifamily housing to build all of the homes needed for lower-income families.
- Reduce obstacles to housing development, such as density limits, excessive requirements for parking spaces, even community opposition.
- Describe how they will use available funding for affordable housing.

Thus far, California housing element law lacks strong sanctions for municipalities that don't comply, and only the threat of increased scrutiny and unfavorable comparisons with their neighbors induced many cities to make a better effort to produce a timely and effective housing element.

Manufactured homes (includes mobilehomes) are "single- family dwellings" transportable in one or more sections constructed to a federally preemptive standard.

In 1957, an industry group known as the Trailer Coach Association (TCA) representing "trailer" manufacturers sponsored legislation that made it unlawful after September 1, 1958 for any person to sell or offer for sale within California, any trailer not in compliance with construction regulations of the Department of Industrial Relations, Division of Housing. This was the first by any state to regulate trailer (also known as "trailer coaches") construction and the predecessor to today's modern codes regulating mobilehome, manufactured home, commercial modular, special purpose commercial modular, and recreational vehicle construction.

In the beginning, all types of trailers were entitled "trailer coaches" in the law and regulations. As time passed and manufacturers began producing specific types of units for different markets and uses, the names "mobilehome" and "commercial modular" emerged. In 1979, the name "special purpose commercial modular" came into use to separate smaller vehicular type commercial modulars with a high degree of mobility from those which are larger transportable structures generally intended for extended or permanent installation.

In 1976, the U.S. Department of Housing and Urban Development (HUD) adopted preemptive federal regulations for the construction of mobilehomes (now manufactured homes). The HUD definition for "mobilehome" was essentially the same as California's existing definition except that it applied only to single-family dwellings while a California mobilehome could consist of two dwelling units. In 1980 the U.S. Congress legislated a change in terminology from "mobilehome" to "manufactured home," that took effect on January 1, 1981. In 1982, HUD changed from "mobilehome" to "manufactured home," although "mobilehome" remains in popular usage.

A Manufactured Home Park Conversion Ordinance was proposed as part of San Luis Obispo County's Housing Element update in 2004. The county initiated this effort at the request of some mobilehome park residents. In 2003, as the county was preparing to update the Housing Element of the San Luis Obispo County General Plan, residents of a few mobilehome parks asked the Department of Planning and Building to prepare an ordinance regulating conversion or closure of mobilehome parks because they believed that state law did not provide adequate protection for the residents. After a preliminary review of state law, county staff concluded that, at a minimum, the uncertainties in state law warranted further investigation and analysis. There are 39 mobilehome parks with 2,634 spaces in the county, not including parks within the cities. Mobilehome parks comprise an important part of the affordable housing stock. Accordingly, the updated Housing Element adopted in 2004 included a program directing staff to "review existing ordinances and, if necessary, prepare an ordinance addressing proposals to convert mobilehome parks, including mitigation of impacts to existing tenants."

NARRATIVE

Mobilehome park owners have testified to the Board of Supervisors that the County Rent Stabilization Ordinance limits their return on investment despite the appeal process. This concern has led to proposed provisions in the ordinance that would aid park owners in selling existing parks either to residents of the park or to a non-profit entity intending to continue its operation. In particular, the San Luis Obispo County Housing Trust Fund assists in supporting resident buyouts and helping to arrange financing.

Resident buyouts are effective in avoiding conversion to other uses, and to preserve affordable housing for those currently living in a park. Once such a buyout occurs, generally rent stabilization no longer applies; further, when a resident or his/her heirs decide to sell a unit and its lot, the price will be at market rates and no longer as 'affordable', although still below that of conventional homes.

As envisioned by County Planners, some new mobilehome parks may be developed as higher density, two or more story manufactured modular homes in ‘fill-in’ locations within or close to existing municipalities, or replace older mobilehome parks with an accompanying zoning change.

No new mobilehome parks have been developed in San Luis Obispo County for more than 10 years because they are not viewed as attractive investments by many landowners. This is despite the fact that the county rent control ordinance, adopted by voter initiative in 1984, does not apply to any park created after 1984. Non-profit or resident ownership appears to be the most feasible approach for meeting the needs of future residents of mobilehome parks. The Grand Jury endorses the plans outlined by county planners which include a new Mobile Home Park Zoning category and other incentives intended to help preserve existing parks and encourage development of new parks, and full financial compensation for mobilehome park residents displaced by conversion or closure. Further, we predict the resulting ordinances will need revising from time to time as conditions evolve.

During the Grand Jury investigation, it became apparent that ensuring the availability of workforce housing and providing for other lower income residents will require a variety of approaches, and periodic review as mandated by the state fair share policy.

Two other approaches that the GJ felt worthy of mention are:

Inclusionary Housing

This refers to planning ordinances that require a given share of new construction be affordable to people with low to moderate incomes. The term *inclusionary* is derived from the fact these ordinances originally sought to counter *exclusionary* zoning practices by suburbs located near large cities which aimed to exclude affordable housing thus discouraging outward migration of lower income inner city residents. In practice, inclusionary policies involve placing deed restrictions on 10%-30% of new houses or apartments in a development of at least, say, five units, in order to make housing affordable for low to moderate income households. The developer can either build the required units or pay an in-lieu fee into a fund earmarked for affordable housing to be built in the same general housing area by a non-profit or for-profit group.

In return, developers are offered density bonuses and other incentives. A density bonus might mean, for example, that if the developer elects to build 20% of the units as affordable housing on-site, they would be allowed to increase the total number of units per acre by 20%. The mix of "affordable" and "market-rate" housing in the same neighborhood is seen as beneficial by many, especially in areas where workforce housing is in short supply.

Home builders have reacted in a variety of ways to inclusionary mandates. Some view the mandates as the cost of doing business in a profitable, high-cost area. Some believe that if density bonuses are provided, the builder can break even on the affordable units or even realize a profit. Other builders maintain that the requirements impose significant costs and regulatory burdens on the building industry and further increase the cost of market-rate housing in already costly areas, thereby making housing even less affordable for many families who are not eligible for the units built under the requirements.

Several cities within the county have adopted inclusionary housing policies as part of their housing element, and the County Planning and Building Department issued an Inclusionary Housing Concept Paper on May 13, 2005, with the intent of drafting an ordinance. Preparation on this and other County Affordable Housing Ordinances continues. A Draft Environmental Impact Report for the ordinances was issued February 28, 2007, with the public comment period open until April 30, 2007. Planning Commission hearings on the ordinances are likely later this year.

For these policies to succeed, buyers of new homes at market rate must be satisfied that the high quality of life in the area justifies their higher cost, and that population diversity and a competent local workforce contribute significantly to that quality of life.

Employee Housing

Another approach to workforce housing has recently been opened in San Luis Obispo by the Cal Poly Housing Corporation, a nonprofit affiliated with Cal Poly State University. A total of 69 condominiums, 2 or 3 bedroom from 1000 to 1600 sq. ft. in tri-plex or four-plex units, are intended to provide affordable living space for faculty and staff. Constructed on land already owned by the

University, the project has the advantage of being self-supporting and remaining affordable and available over time to future employees. The below-market prices will be adjusted upward annually by a fraction of the Consumer Price Index plus improvements made by the owner, and thus the units will not be desired as a speculative investment, however they should remain attractive to faculty and staff recruited from areas with lower housing costs. Should University employee demand fall short of supply, units will be made available as provided by a priority list to employees of other educational facilities within the county, public agency employees, or to the general public. A more detailed description of the project and policies can be found at www.bellamontanahomes.com/.

The Grand Jury believes that other large institutions, public or private, individually or in cooperation, could follow this example, particularly if a suitable site was already owned by one of the participating employers.

Other sources of funding for affordable housing in the county include **Community Development Block Grants (CDBG)**, and the **HOME Investment Partnerships Program (HOME)**, the largest Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households. Both are available each year from the US Department of Housing and Urban Development and are administered locally through a coalition of county and city planners. The City of San Luis Obispo, for example, expects to receive about \$580,000 in CDBG funds in 2007, compared with \$960,000 in 2004, \$720,000 in 2005, and \$645,914 in 2006.

Another method of funding affordable housing is through local **redevelopment agencies** which have been established by most cities in the county. The State Redevelopment Act of 1945, with major revisions in 1951, 1976 and 1993, provides incentives to rehabilitate or upgrade existing urban neighborhoods with funding generated by the incremental increase in tax revenue.

The Housing Needs and Production chart in Appendix A shows the significant gap between the State Fair Share of Affordable Housing assigned to San Luis Obispo County and units actually built 2001-2005.

It may be necessary for local governments to consider other tactics over the long term if we are to close that gap. Building a county housing fund available to assist development of self-sustaining affordable housing projects may require exploring new financing methods. Private real estate transfer fees have been used in other areas of California to enable builders to preserve open space, fund affordable housing or programs for the homeless. Such fees, typically 1% of a transaction, are attached to the deed and charged each time a property is sold over a period of say, 25 to 50 years. Not yet in widespread use and now the subject of pending legislation in Sacramento, transfer fees have been found legal, however the general use of transfer taxes for a specific purpose are not allowed under Proposition 13. Using such a fee, or a parcel tax, could be a method of sharing costs among new and resale home buyers, or among all property owners.

CONCLUSIONS

The availability of affordable housing is an issue faced by many parts of California, and is being addressed in a number of ways. To ensure that housing is available for a variety of income levels, state 'fair share' law has placed requirements on local governments to meet targets, while allowing some flexibility in how to achieve those goals.

The most pressing need appears to be attractive, convenient, long term housing for the workforce of the county and their families, including teachers, police officers, fire and other emergency responders, health care providers, local government staff, and employees of businesses ranging from tourism to utilities to agriculture to high tech. A growing population of retirees, many on fixed incomes, also requires consideration in planning for housing.

Solutions take many forms; some are still evolving and will need periodic review to ensure they continue to address current and anticipated needs.

The Grand Jury supports the County's plans for improving Mobilehome Park stability and growth through incentives for development, provisions for resident ownership, and protections for current

occupants. We encourage County staff and the Board of Supervisors to continue their efforts on projects spawned by the most recent Housing Element, issued July, 2004.

The Grand Jury also commends the efforts of all non-profits that are actively working in this county to increase availability of lower cost housing, including People's Self Help Housing, Housing Authority of San Luis Obispo, Habitat for Humanity, and the San Luis Obispo County Housing Trust Fund.

REFERENCES

The following websites offer additional information on topics discussed above:

http://www.slocounty.ca.gov/planning/Housing_and_Economic_Development.htm Here are concept papers that describe proposed county regulations to preserve existing affordable housing, make it easier to build new affordable housing, and to require development of new affordable housing.

<http://www.ci.san-luis-obispo.ca.us/communitydevelopment/housing/housing.asp> The City of San Luis Obispo's Housing website

<http://www.hcd.ca.gov/> The California Housing & Community Development Department, with a link to **The Mobilehome Ombudsman**

<http://www.hcd.ca.gov/hpd/> Housing policy development, discusses Housing Elements, Residential Development Fees, and other related topics

<http://www.hcd.ca.gov/fa/cdbg/> Community Development Block Grants

<http://www.hcd.ca.gov/fa/home/> HOME Investment Partnerships Program

<http://www.hcd.ca.gov/rda/> Redevelopment Agencies

<http://www.bellamontanahomes.com/> Cal Poly employee housing project

<http://www.hcd.ca.gov/hpd/inclusionary0805.pdf> “SELECTED MATERIALS ON INCLUSIONARY HOUSING ISSUES” *August 2005*

<http://www.sen.ca.gov/ftp/sen/committee/SELECT/MOBILEHOMES/home/senate.htm>
A listing of recent and pending California legislation on mobilehomes

APPENDIX A
Housing Needs and Production – San Luis Obispo County

	Very Low and Lower Income	Moderate Income	Above Moderate Income	Total
Unincorporated County Share per				
Regional Housing Needs Plan	1,807	929	4,284	7,020
Actual Units Built from 2001-2005	522	441	3,539	4,502
Percent Share Achieved	29%	47%	83%	64%
City of San Luis Obispo Share per				
Regional Housing Needs Plan	2,328	870	1,185	4,383
Actual Units Built from 2001-2005	60	96	814	970
Percent Share Achieved	3%	11%	69%	22%
Other Cities Share per Regional				
Housing Needs Plan	3,105	1,483	2,042	6,630
Actual Units Built from 2001-2005	305	476	3,122	3,903
Percent Share Achieved	10%	32%	153%	59%
Total Share per Regional Housing				
Needs Plan	7,240	3,282	7,511	18,033
Actual Units Built from 2001-2005	887	1,013	7,475	9,375
Percent Share Achieved	12%	31%	100%	52%

County of San Luis Obispo Planning and Building Dept.

NOTE: Actual units built are estimates based on data provided from cities and the County.

APPENDIX B

Affordable Housing Standards - Inland Areas

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

This bulletin summarizes the county's affordable housing standards *for non-coastal areas*, including maximum household incomes, home purchase prices and rents. These standards are effective May 1, 2007.

Income limits:

The state defines family income groups as follows: "**Extremely Low Income**" is defined by Health and Safety Code Section 50106 as 30% of county median income; "**Very Low Income**" is defined by Health and Safety Code Section 50105 as 50% of county median income; "**Lower Income**" is defined by Health and Safety Code Section 50079.5 as 80% of county median income; "**Moderate Income**" is defined by Health and Safety Code Section 50093 as 120% of county median income; "**Workforce**" is defined by Title 22 of the County Code as 160% of county median income.

Persons in Family	Extremely Low Income	Very Low Income	Lower Income	Median Income	Moderate Income	Workforce
1	\$13,500	\$22,450	\$35,950	\$44,900	\$53,900	\$71,840
2	\$15,400	\$25,700	\$41,100	\$51,400	\$61,600	\$82,240
3	\$17,350	\$28,900	\$46,200	\$57,800	\$69,300	\$92,480
4	\$19,250	\$32,100	\$51,350	\$64,200	\$77,000	\$102,720
5	\$20,800	\$34,650	\$55,450	\$69,300	\$83,200	\$110,880
6	\$22,350	\$37,250	\$59,550	\$74,500	\$89,300	\$119,200
7	\$23,850	\$39,800	\$63,650	\$79,600	\$95,500	\$127,360
8	\$25,400	\$42,350	\$67,800	\$84,700	\$101,600	\$135,520

Sample maximum sales prices: (see footnotes)

Unit Size (Bedrooms)	Extremely Low Income	Very Low Income	Lower Income	Moderate Income	Workforce
Studio	\$31,000	\$61,000	\$90,000	\$181,000	\$248,000
1	\$40,000	\$75,000	\$109,000	\$216,000	\$296,000
2	\$48,000	\$89,000	\$128,000	\$251,000	\$343,000
3	\$56,000	\$102,000	\$147,000	\$285,000	\$390,000
4	\$62,000	\$113,000	\$162,000	\$313,000	\$428,000

Note 1: Homeowner association fee assumed at \$100 per month.

Note 2: Mortgage financing assumed at 6.38% fixed rate for 30 years (per HSH Associates as of May 1, 2007).

Note 3: Prices shown are preliminary estimates and may be revised.

Note 4: Actual sales price limits will be determined by the County on a case-by-case basis. *Updated: 5/1/2007*

9. HISTORIC PRESERVATION

PRESERVING THE PAST TO ENRICH THE FUTURE

Farmers Alliance Bldg, Paso Robles, CA



Photo by Sal Crespo, Jan. 2005

INTRODUCTION

The County of San Luis Obispo possesses a mixture of natural beauty with generally moderate climatic conditions that have made it a desirable location for human habitation for thousands of years. The rugged mountains contribute to both the existence of local microclimates which favors a variety of agricultural opportunities, and challenging overland access which has historically limited development and population growth. Ocean access has provided sources of food, resources for trade and transportation to distant markets.

The pattern of steady but limited growth has left distinct communities intact, each with a unique history of settlement and development. As a result, the county has become a desirable destination, both for tourists and for prospective new residents seeking refuge from a more hectic metropolitan life. This combination of tourism and a growing influx of new residents has contributed to a strong desire among many to have the area maintained largely as it is, while others have come to accept the need for change as part of the cost of providing new jobs and maintaining the health of existing local businesses that are not directly supporting tourism.

Often residential neighborhoods and commercial communities in the county still contain many older buildings due to the slow pace of development. Unlike some other parts of California, this county gives visitors a ‘going back in time’ feel, caused in large part by the prevalence of intact historic structures. Residents have sensed the need for identifying and defining the historic character of areas within their communities, and cataloging significant historic buildings, both commercial and residential. All communities in the county, however, do not approach the issue of historic preservation in the same way.

Private preservation efforts, beginning perhaps with Mt. Vernon in 1848, eventually led to the National Historic Preservation Act of 1966, which requires states to administer the federal program. California law gives local governments tools to help identify cultural resources and provide incentives for rehabilitation and maintenance, while seeking a balance between property rights and the public’s interest in preserving local heritage.

ORIGIN

The Grand Jury elected to inquire into the purchase of the Farmers' Alliance Building, Paso Robles, by the Smart & Final Corporation in March, 2005 and the ultimate decision of Paso Robles' City Council, denying the issuance of a demolition permit which would have enabled Smart & Final to build a new store.³ The investigation into this City Council action included an inquiry concerning Paso Robles' process for identifying historic resources. The Grand Jury then began an investigation of other communities in San Luis Obispo County and their processes for identifying and preserving historic resources.

METHOD

Grand Jurors interviewed Smart & Final's Corporate Vice President for Construction and Purchasing along with the Director of Community Development for Paso Robles. They collected past and present data concerning historic relevance, City Council actions and how Paso Robles' procedures for designating historical significance compares with that of other San Luis Obispo cities and San Luis Obispo County (for the unincorporated areas).

NARRATIVE

In 1891 heavy rainfall led to record wheat crops, prompting San Luis Obispo and Monterey County farmers to come together and form the Farmers Alliance Business Association (FABA) for the purpose of building a warehouse in Paso Robles and utilizing the railroad to ship their

³ The Paso Robles City Council was supportive of Smart & Final coming to town and encouraged them to consider a restoration and adaptive reuse of the Farmers' Alliance Building. However, Smart & Final did not believe it was economically feasible to do so.

grain. They purchased land and developed the site fronting the Southern Pacific sidetrack that served local facilities of a competitor, Southern Pacific Milling. The competitor denied FABA the use of their sidetrack and FABA filed a grievance with the newly formed California State Railroad Commission. In August, 1891 the Commission voted that the Alliance was equally entitled to use the tracks with the Southern Pacific Milling Company. This ruling helped save FABA while establishing a tradition of supportive agricultural cooperation in California.

Paso Robles, once known as the “Almond Capital of the World,” is home to the building now known as the Farmers’ Alliance Building. In 1922, the building was constructed as the Paso Robles Almond Growers’ warehouse and processing plant. In 1936, the FABA expanded warehouse operations and purchased this building, just blocks away from its original site, which then became a cornerstone for the FABA’s processing operations. It functioned through the last half of the Great Depression, World War II and into the prosperity of the 1950’s. The FABA owned the warehouse until 1975 when, vacated and not used again until June 27, 1985, a Grant Deed was filed in the County of San Luis Obispo in favor of a William Jacobson, who retained the property under the name “Riverside Centre” until March 2, 2005 when it was sold to the Smart & Final Corp., City of Commerce, California.

Prior to the purchase, Smart & Final attempted to do their due diligence. A representative from Smart & Final reported to the Grand Jury the following events: In May, 2004 the company discussed the subject site with the city’s Associate Planner and asked whether they would be able to build a Smart & Final store on the site and if the site had historical significance. The Associate Planner responded that the site was not historically significant, and that the company could build what they were requesting, as long as they followed the Table of the Land Use requirements. On September 24, 2004 Smart & Final returned to the city and the same Associate Planner repeated/reassured them that the demolition permit would not be a problem. On December 16, 2004 Smart & Final met with several Paso Robles departments, including Planning (both the Community Development Director and Associate Planner), and no indications were given that the project could not proceed as envisioned. Based on information received from

the City of Paso Robles, Smart & Final proceeded with the purchase and escrow closed on March 5, 2005.

In September, 2005 The City of Paso Robles printed a notice of Smart & Final's demolition permit request in the San Luis Obispo *Tribune*, as required by Municipal Code chapter 17.16. The notice generated approximately seven⁴ e-mails/letters from concerned citizens imploring the council to disallow the permit.

A public hearing was held on October 4, 2005. The outcome of which was to direct the preparation of an historical evaluation on the Farmers' Alliance Building.

In November, 2005 The City of Paso Robles sent Smart & Final a request for \$50,000 to cover the cost of a comprehensive "Historic Significance Report" by the "Historic Resources Group," Los Angeles, California. In July, 2006, based on the "Historic Significance Report," the Paso Robles City Council denied Smart & Final's demolition request.

On December 6, 2006, San Luis Obispo Grand Jury members met with the Community Development Director, City of Paso Robles, and inquired into the manner in which the city processes and allows demolition permits, specifically with regard to Smart & Final. At that time, the Community Development Director replied that the City Council acted within its jurisdiction and guidelines. The Grand Jury was supplied with copies of the City's process for building demolitions, CEQA legislation regulating demolition of historic resources, and copies of documents related to demolition requests for other buildings in Paso Robles.

⁴ The Paso Robles Community Development Director, on May 3, 2007, indicated that there were nine emails/letters. However, when the Grand Jury originally asked for copies, only seven documents were supplied to us.

TIME LINE OF EVENTS

The following time line of events helps to explain the history of the Farmers' Alliance Building, as well as other buildings in Paso Robles which may have historical significance:

- 1922—Farmers' Alliance Building (as currently known) was constructed and completed as a warehouse and distribution facility for the Paso Robles Almond Growers' Association.
- 1936—Farmers Alliance Business Association purchased the building.
- 1975—Building became vacant.
- 1978—Permit issued for interior work for office space.
- 1985—William Jacobson (known as "Riverside Centre") purchased building.
- 1987—Permit issued for electric meter installations.
- 1988—Permit issued for re-roofing.
- 2001—Permit issued for cellular equipment work.
- December 16, 2004—Smart & Final's Vice President submitted to Paso Robles Acting Community Development Director plans to demolish the FABA building and replace it with a new structure, leaving the tower section, if structurally sound, for use by the Smart & Final store. Per Smart & Final, he "met with several departments, including planning" ("head planner and associate planner"). "We really never got a negative response from the city nor did they provide us with a letter indicating either a positive or negative response to our proposal."
- March 2, 2005—Escrow closed between sellers, Jacobson (Riverside Centre), and buyers, Smart & Final.
- Owners of other structures in Paso Robles requested and received demolition permits:
 - April 5, 2005: 2127 Oak Street, Paso Robles, application for demolition permit granted (structure included in City's 1984 Historic Resources Survey and Inventory.).
 - April 19, 2005: 1344 Oak Street, Paso Robles (Methodist Church), application granted for demolition permit (structure included in City's 1984 Historic Resources Survey and Inventory).

- June 21, 2005: 1319 Spring Street, Paso Robles, application for demolition permit granted (structure included in City’s 1984 Historic Resources Survey and Inventory).
- August 2, 2005: 733 23rd St., Paso Robles (Mennonite Church), application to expand outdoor playground for pre-school. Permit for expansion was granted (structure included in City’s 1984 Historic Resources Survey and Inventory).
- September 12, 2005—Smart & Final filed demolition application with city to remove the building and tower based on conceptual drawings for a new building with a new tower.
- September 14, 2005—Notice of Public Hearing regarding demolition application appeared in the *Tribune*.
- October 4, 2005—Seven (see footnote 2) emails/Faxes were received between 11:30 am and 5:01 pm by City Council from concerned local citizens and others. No previous correspondence was received from citizens regarding this matter. See Appendix A for times received).
- October 4, 2005—Per City Council minutes, “The building that is proposed for demolition [i.e., the building that was the subject of Smart & Final’s demolition request] was previously listed in the City Inventory of Historic Resources, although at this time the information is missing from the inventory.”
- November 29, 2005—Letter from City of Paso Robles to Smart & Final requesting \$50,000 for making bids to five firms with experience in historic resource evaluation.
- January 20, 2006—City of Paso Robles hired Historic Resources Group to prepare an historic evaluation report on the Farmers’ Alliance Building.
- June 23, 2006—City of Paso Robles received report from Historic Resources Group finding that Farmers’ Alliance building meets the criteria for listing on the National Register of Historic Places and California Register of Historic Places and therefore is considered a historic resource subject to the CEQA process.
- July 5, 2006—City Council adopted a resolution stating the Farmers’ Alliance Building is a historic site that meets criteria for listing on national and state registers of historic places and directing staff to add the building to the City’s Inventory of Historic Resources. City Council then denied the demolition permit requested by Smart & Final.

As the above time-line shows, several other permits for demolition or expansion of facilities for buildings on the City's Historic Resources Survey and Inventory were granted. None of those applicants were requested to either deposit funds or provide historic resource evaluations. Smart & Final, however, was treated differently. After citizens complained about the proposed demolition of the Farmers' Alliance Building, the company was required to obtain a \$50,000 historical evaluation and, based on the results of that evaluation, their demolition permit was denied, even though the building was not currently included on the City's Inventory of Historic Resources. City Council action on July 5, 2006 placed it there.

The Grand Jury requested from the Paso Robles Community Development Director documentation pertaining to the process of denying or approving demolition requests for the Farmers' Alliance Building and the other four properties mentioned earlier in the time line. Only the farmers' Alliance documentation included the public notice required by CEQA.

UPDATED RESPONSE SINCE GRAND JURY'S INQUIRY FROM COMMUNITY DEVELOPMENT DIRECTOR, PASO ROBLES:

The Grand Jury received the following information, dated March 16, 2007, from Paso Robles' Community Development Director: "As a follow-up action to the Council's July 5, 2006 decision to designate the Farmers' Alliance Building as historically significant, the Council directed staff to explore and report back on the process to update the City's Inventory of Historic Resources and adopt a Historic Preservation Ordinance. Staff has received a preliminary scope of work and cost estimate to do so and will be presenting it to the Council for consideration as part of their 2007-09 budget. Budget adoption is still a few months away and we are unsure at this time how this program will compete with many other worthwhile community goals. You will see that all demolition requests followed the same process contained in Chapter 17.16 of the Municipal Code. The different outcomes related to the historic significance of the buildings."

OTHER CITIES AND UNINCORPORATED AREAS

SAN LUIS OBISPO

For comparison purposes, the Grand Jury investigated the procedures used by other entities in the county, and the county itself, beginning with the City of San Luis Obispo. We found that inquiries to the San Luis Obispo Community Development Department's Planning Staff regarding possible demolition of any residence or commercial structure not listed on the City Inventory of Historic Resources or List of Contributing Properties, but having potential historical significance would result in the Community Development Director requiring an initial environmental study for historic resources in compliance with the California Environmental Quality Act (CEQA). That initial study would be forwarded to the City Cultural Heritage Committee (CHC) for review and recommendations. While approval of demolition is possible in cases of threat to the health, safety and welfare of the community, or where rehabilitation is economically infeasible, we found it likely that in the case of a structure such as the Farmers' Alliance building, the initial recommendation would be to seek alternatives, with demolition as the least favored option. A free brochure entitled *Owning and Renovating Historic Property in the City of San Luis Obispo* is available in the lobby of the Community Development Department which summarizes the above described procedures.

The City of San Luis Obispo created a Cultural Heritage Committee in 1981 consisting of seven volunteers, appointed by the City Council, and one City Planning Staff member whose duties include maintaining and updating a Master List of Historic Resources and a List of Contributing Properties, first published in 1983, that currently total about 725 structures. The CHC makes recommendations to the City Council on any renovation or demolition project on listed structures, nominations for additions to the lists, and other related matters the Council may so direct.

In 1987, the City established by resolution an Historical Preservation Program that defined three historic districts, with a fourth added in 1994, and published *Historical Preservation Program*

Guidelines which provide a variety of information and assistance to anyone seeking to purchase or renovate an historic property.

Owners of qualifying historic properties within the city who agree to renovate and maintain that property for a period of at least ten years may apply for property tax relief under the terms of the statewide Mills Act of 1972, which the City of San Luis Obispo adopted by resolution in the late 1990's. Of all the adjoining counties, only the Cities of San Luis Obispo and Monterey, and the County of Monterey have qualified to participate in tax abatement offered by Mills Act contracts. Currently, 82 cities and counties in California participate, and the City of San Luis Obispo has 25 such contracts with property owners, out of about 2,500 statewide.

Renovation projects of qualifying properties may use the State Historical Building Code (SHBC) which allows for reasonable alternatives based on performance rather than the strict prescriptive Uniform Building Code (UBC). Also, the SHBC does not automatically call for a full upgrading of a facility undergoing a partial renovation as required in the UBC. The City of San Luis Obispo Planning staff routinely recommends the SHBC and city inspectors are familiar with it. The Grand Jury believes the Historical Preservation Program in the City of San Luis Obispo is the best historic preservation program in the county and can serve as a model for other local communities. However there are additional steps available, beyond what San Luis Obispo has taken. One such step would be the Certified Local Government (CLG) Program established by the National Historic Preservation Act of 1966 as amended in 1980. The 53 cities and counties in California that are CLGs are eligible to apply annually for federal grants from the Historic Preservation Fund, and receive technical assistance and training for local staff and volunteers. Some of the qualifications for CLG status are, upgrading the local CHC to commission level by ordinance, committing to annual training sessions for each commissioner, and establishing an Historical Preservation Program as an ordinance.

In addition to investigating how the cities of San Luis Obispo and Paso Robles determine whether a resource has historic significance, the Grand Jury inquired about similar processes in the other cities within the county, and in the county government itself with respect to the

unincorporated area of the county. Below are brief summaries of each city's and the county's process to determine if a resource has historic significance. These summaries are brief because they are essentially how the cities and county described their processes, in writing, to the Grand Jury.

Arroyo Grande

The first source of information used to determine if a building has historical significance is the city's 1991 Historical Resource Survey. In 2003 the city expanded the survey area. If a building lies outside the overlay district the Community Development Director determines whether or not an archeological report is required. In 2005 the city created an Historical Resources Committee (HRC), but appointment of the HRC members did not take place until January 23, 2007. The role of the HRC is to assist the Community Development Director with additional surveys and determination of historical resources. Implementation of a new process and development of criteria for determination of local historical resources is thus under way.

Atascadero

The city's General Plan includes "Goals and Policies re: Historical Buildings/Cultural Resources." In the 1990s the Atascadero Historical Society inventoried historic houses, known as "Colony Homes." They are included in the city's Geographical Information System (GIS) which provides map details based on satellite information. When an application for development or demolition is received, Planning Department staff checks the application against the GIS map. Staff also reviews all buildings in excess of 50 years old, including the architectural quality and integrity of those buildings. If the permit request involves a listed historic building or a 50+ year old building exhibiting historical architectural quality and integrity, staff follows procedures identified in CEQA and federal standards and guidelines established by the Secretary of the Interior for Historic Preservation, which includes preparation of an historic analysis by a qualified professional.

Grover Beach

The environmental documents prepared for the establishment of the City's Industrial Enhancement Project Area in 2002 referenced the fact that there are no buildings or sites in the City listed on the National Register of Historic Sites. The City's General Plan and Local Coastal Programs contain the following policy: The applicant for a development or demolition permit must complete a "Development Application and Environmental Information Form." Planning staff visit the site and take photos. Based on the application, photos, and Environmental Information Form, staff determines if further review is needed. The City has contracted with a local environmental consulting firm to provide on-call assistance with this process, when it is deemed necessary.

City staff met with the Northern Chumash Tribal Council and completed official tribal cultural awareness training.

Morro Bay

A City Planner assigned to a specific project reviews and analyzes the applicable information in the Historical Resources File System Information Center to ascertain whether the resource is cultural and listed in the California Register of Historical Resources (CRHR). If it is, then the property qualifies as a significant historical resource. If the property is not listed in CRHR, the City Planner then reviews and analyzes whether the property is listed in a local historic register or deemed significant in an historical resource survey. If the City Planner makes a determination that the property is not significant even though it is listed in a local register or survey, he or she must cite for the record the specific, concrete evidence which supports that determination.

If a resource that is not listed in, or determined to be eligible for listing in, the CRHR, is not included in a local register of historic resources, or not deemed significant in an historical resource survey, it may nonetheless be historically significant. Thus, the Planning Staff may determine that a resource of historic significance exists where none had been identified before. The City Planner utilizes recognized criteria to determine whether a previously unrecognized significant historical resource exists.

The steps described above are called an Initial Study. Based on the Initial Study, it is then determined whether to prepare a Categorical Exemption, Negative Declaration, or EIR for the project. After the City Planner prepares one of those three documents it is filed with the State Clearing House and/or the County of San Luis Obispo and legal notice is given for review and comment from any concerned members of the public.

Pismo Beach

When the city receives an application to replace or reconstruct an existing building, staff examines a title report or does a site visit. If the building is stated to be more than 50 years old or appears to be an older building, the applicant is required to provide a professional assessment of the building's age and significance. This assessment is used by the city to determine the next step.

Certain areas of the city may contain archeological material. These areas require an archeological survey (Phase One Report) with submission of the development application. For all areas in the city, work must cease if archeological material is discovered during construction.

County of San Luis Obispo

The County Planning Department deals with historic resources on two levels:

1. Recognition of a limited number of structures and sites through the application of a General Plan "H" designation, and
2. During the evaluation of individual projects through the California Environmental Quality Act (CEQA) process.

The "H" (Historic) designation in the General Plan has been applied to a limited number of sites in the unincorporated area. These designations are typically requested by property owners or communities and the designation occurs during the update of the individual planning areas. An evaluation (usually by the owner, the community, or staff) is conducted in order to support the designation. The "H" designation requires a different level of permitting for alteration or demolition, and encourages preservation of these designated structures or sites. These "H"

properties constitute the County's list of historic designated properties in the unincorporated area.

Any discretionary project is also subject to environmental review under CEQA. The State CEQA guidelines include criteria for what is considered an historic resource. If a site meets any of the criteria, the impacts to the historic resource need to be considered and evaluated during the environmental review process. Due to the rather specialized nature of evaluating potentially historic resources (e.g., historic, architectural expertise), and the need to apply the criteria consistently, the county often requires an Historic Resource Evaluation be prepared by a qualified professional. This report is used by the county in its determination as to whether a structure qualifies as an historic resource and what mitigation measure may be appropriate.

FINDINGS

1. Information pertaining to the Farmers' Alliance Building was missing from the City's Inventory of Historic Resources, per the October 4, 2005 City Council minutes.
2. The Grand Jury believes a thorough local historic preservation process would decrease the likelihood of situations similar to Smart & Final's purchase of a building they later learned they were unable to use because of its historical significance.
3. Historic Preservation Committees/Commissions appear to be a key factor in assisting local governments to identify historic resources and maintain continuity of processes across historic resources and permit applicants.
4. The provisions of CEQA are intended to assist local governments in the proper identification and treatment of historic resources consistent with Federal regulations. A significant degree of local discretion exists, however, which allows local citizens to influence the degree of preservation in their communities through their elected representatives. The Historical Preservation Program in the City of San Luis Obispo, while it does not include all possible

provisions of CEQA, can serve as a model for other communities in the county, including making information available to residents.

RECOMMENDATIONS

1. The City of Paso Robles should review and improve their documentation procedures specific to their Historic Resources Survey and Inventory. (Finding 1)
2. Local governments in San Luis Obispo County that do not already have an Historic Preservation Committee/Commission should study the feasibility of creating one. Information about these committees/commissions can be obtained from the state Office of Historic Preservation (www.ohp.parks.ca.gov). (Finding 3)
3. If they are not already doing so, local communities should make available to their residents a handout/brochure containing information such as the following: (Finding 4)
 - Does the community have an historic preservation program?
 - Does the community have historic districts?
 - How does the community identify historic properties?
 - What benefits and services are available to owners of historic properties?
 - Can historic properties be changed? If so, what is the process?
 - Can historic structures be demolished? If so, what is the process?
 - What changes can be made to an historic structure without a building permit?
 - How can property owners find out more about their historic properties?

REQUIRED RESPONSES

1. County of San Luis Obispo Board of Supervisors (Recommendations 2 and 3)
 Department of Planning and Building
 (Recommendations 2 and 3)

2. City Council and City Administrator
 for the Cities of: Arroyo Grande (Recommendation 3)
 Atascadero (Recommendations 2 and 3)
 Grover Beach (Recommendations 2 and 3)
 Morro Bay (Recommendations 2 and 3)
 Paso Robles (Recommendations 1, 2, and 3)
 Pismo Beach (Recommendations 2 and 3)

APPENDIX A

List of e-Mails and Faxed Information Received Regarding Farmers' Alliance Building

1. October 4, 2005 11 :30 AM
2. October 4, 2005 1 :41 PM
3. October 4,2005 3:27 PM
4. October 4, 2005 Faxed letter
5. October 4, 2005 3:44 PM
6. October 4, 2005 4:22 PM
7. October 4, 2005 5:01 PM

REFERENCES

1. *California Public Resources Code*, Section 21084.1, Historic Resource Guidelines.
2. *California Environmental Quality Act (CEQA)*, Section 15300.2, Exceptions.
3. *California Environmental Quality Act (CEQA)*, Section 15300, Categorical Exemptions.
4. Remy, M. H. et al., 1999, *Guide to the California Environmental Quality Act*, Point Arena, California: Solano Press Books, 1999.
5. City of Paso Robles Municipal Code, Demolition of Buildings and Structures, Chapter 17.16.
6. Office of Historic Preservation web site: www.ohp.parks.ca.gov.

10. CALIFORNIA VALLEY

INTRODUCTION

Residents of California Valley are again voicing concerns about possible irregularities in the way their Community Services District (CVCSD) conducts business. Complaints put forward to this Grand Jury include, but are not limited to:

- Accounting practices and procedures,
- Election improprieties,
- Trash fees and collections,
- Road maintenance and equipment,
- Adequate county code enforcement, and
- Communication amongst the General Manager, Board and residents.

During its inquiries, this 2006-2007 Grand Jury noted that since 1992, several Grand Juries have investigated and responded to similar complaints. The 2003-2004 Grand Jury Final Report referred to and quoted from the findings of the 1999-2000 Report about some of these same concerns. This year one third of all complaints received by this Grand Jury office were generated by residents of California Valley who represent less than 0.2% of San Luis Obispo County. The investment of time to review and inquire into each complaint can be significant. Receipt of so many complaints should certainly sound an alarm, and call for an in-depth investigation into the principles and practices of the CVCSD.

METHOD

In the course of its investigation, members of the Grand Jury:

- Traveled to California Valley in February, 2007

- Attended the March, 2007 General Meeting of the CVCSD
- Subpoenaed, requested and reviewed the following CVCSD documents:
 - Financial records
 - Minutes and recordings of CSD meetings
 - Contracts
 - Personnel Records
 - CSD Communications
 - Election documents
 - Office Operations Manual
- Conducted interviews with:
 - Residents
 - The CVCSD General Manager
 - The CVCSD Board President
 - A former CVCSD Board Member
 - District 5 County Supervisor
 - A Member of San Luis Obispo Local Agency Formation Commission (LAFCO)
 - A Representative from the Office of the County Auditor-Controller
 - A Representative from the County Code Enforcement Office
- Researched past Grand Jury Investigations, and
- Researched County web sites for information specific to California Valley.

NARRATIVE

California Valley is a rural community of approximately 200 families located in the Carrizo Plains in the eastern part of San Luis Obispo County. Within the CSD, most of the 7,250 parcels (2.5 acres each) remain undeveloped. Water is the critical factor determining the quality and value of each site. The county closed down the original water delivery system in 1982, leaving only some parcels with an adequate supply of potable water. While only minimal services are

locally available, this area is home to local wild life, beautiful sunsets, and clear and vast star filled night skies. One resident explained to the Grand Jury that California Valley is their home “and we are content.”

Water concerns and lack of services are not new issues and many established residents are thriving. More than one county official has stated that other residents would like to see California Valley grow into a more developed community that might more closely mirror those with which they are more familiar.

The CVCS D was formed in 1960, before the existence of LAFCO, and is governed by an elected Board, consisting of five directors. The District employs a contracted General Manager, and various other employees for road maintenance duties. The functions of the CSD are limited to road maintenance, and solid waste collection and disposal. To accomplish road maintenance, the CSD Board purchased and maintains the necessary equipment. According to the San Luis Obispo County Auditor- Controller, California Valley CSD annual financial reports are filed in their office and audited by an outside Certified Public Accountant (CPA), from Santa Maria. For many years, the audit reports show a segregation of CSD funds between a “General Fund” and a “Special Revenue Fund.” According to the CPA, the description of the Special Revenue Fund indicates it is to account for road maintenance revenues and expenditures. The description of the General Fund, according to the CPA, includes providing services of trash collection and disposal, plus all other costs of the CSD. On April 4, 2006 the CVCS D adopted Ordinance 2006-01 for the collection and disposal of solid waste as required for the health, welfare and safety of residents. This ordinance implemented a new trash collection and disposal fee of \$15.00 per month, per residence, for trash pickup. Revenues from an on-going sheep-grazing contract, which also serves as a weed abatement measure, helps cover additional costs of trash collection. It is expected that in the near future, trash collection, including the cost of purchasing and maintaining equipment, will need to become self-supporting.

Members of the Grand Jury attended a regularly scheduled meeting of the CVCS D held at their community center. It was an evening meeting, giving working residents an opportunity to

attend. The meeting was well planned and executed. Some residents used the public comment portion to voice their concerns about various issues, and their feelings of frustration were barely contained. Grand Jurors came away from the meeting believing it was filled with hostility and contention.

The Grand Jury's investigation into allegations of mismanagement by California Valley's CSD Board was extensive. No evidence of any egregious or unlawful conduct was discovered.

There are, however, other concerns with the management of the CSD. The Office Procedures Manual, adopted by the CSD Board, is largely taken from a Special District Risk Management Authority (SDRMA) template. We agree that for a small organization, it is much more cost effective to adopt such an existing template rather than to re-invent the proverbial wheel. However it is incumbent upon the District to properly adapt it to meet its own specific needs. California Valley has not done a good job of this, and the resulting policy manual, the document by which the CSD is run and serves as the reference for District employees regarding their rights and benefits, is in some places confusing, in some places incoherent, and in some places provides information that could result in legal action against the CSD.

The manual contains references to sections that do not exist, as well as to sections that do not, in fact discuss the subject matter referenced. There are numerous typographical errors, some of which change the meaning of the document. There are sections that contradict testimony that was given the Grand Jury. A few examples of these errors are listed in Appendix A.

Policy 2050 on Water Testing, as written, indicates that the Board has posted non-potable water signs on potable water in order to deter theft of water from the District. At best, this is an example of a poorly written policy; at worst, it is deceptive.

Standing Committees of the Board are described in Section 3030. They include a Parks & Recreation Committee, which is responsible for "the creation of recreational facilities and the production of all social events," and the Emergency Preparedness Committee which is

responsible for “the education and to prepare the citizens of California Valley for an emergency.” Neither of these is a service of the CVCSD. This is at best an inappropriate use of CVCSD resources; at worst it is a misappropriation of personnel and funding.

While the Grand Jury examined every complaint filed by residents in a concerted effort to understand and resolve each of the various issues, it is ultimately up to the residents and their Board of Directors to find a way to work together to find solutions to these concerns. For example, the CVCSD office and Board Meetings should be limited to those areas within their jurisdictional boundaries, i.e., road maintenance, and solid waste collection and disposal.

CONCLUSION

This Grand Jury, as well as past Grand Juries, have investigated allegations of mismanagement and wrongdoing by various CVCSD Boards and have reached similar conclusions. It is not the responsibility of a Grand Jury to act as conflict manager between opposing groups who hold differing points of view about how their community should be managed. If the majority of voters are not satisfied with the elected Board, then some options include:

- Recruit new candidates to stand for election to the Board of Directors.
- Do not re-elect incumbents.
- Recall present members of the Board of Directors.
- Petition LAFCO to become a County Service Area under the authority of the Board of Supervisors.

It should be noted that if California Valley applied to become a CSD today, it would likely not qualify according to current LAFCO rules, which are based on population and finances.

FINDINGS

1. The following Findings are the result of the Grand Jury's investigation of complaints against the CVCSD.
2. The General Manager's Employment Contract contains a line stating that the General Manager of the CVCSD can be removed from office by the County Grand Jury.
3. The current \$15.00 fee for trash pickup and disposal is not adequate to cover the actual cost of these services. It is not clear from the information received from the County Auditor-Controller's office whether or not the additional funds to cover the actual cost of these services are being used as prescribed by law.
4. Current information being provided to the CVCSD from its external auditor does not include an annual management advisory letter, the purpose of which is to point out weaknesses in internal controls.
5. The current Office Procedures Manual being used by CVCSD, as adapted from a Special District Risk Management Authority template, does not serve the specific needs of California Valley.
6. Board Meetings include subjects not within the purview of the CVCSD, e.g., Emergency Preparedness, Parks and Recreation and Social Function.
7. The web site that is meant to represent CVCSD is inadequate and not under the control of the CVCSD.

RECOMMENDATIONS

1. The CVCSD should amend the General Manager's employment contract to remove the line stating the General Manager can be removed from this position by the Grand Jury. (Finding 1)

2. The County Tax Collector, the County Auditor-Controller and the California Valley CSD need to confirm that assessment monies are being designated and used as prescribed by law. (Finding 2)
3. The CVCSD should consider forming an audit committee whose responsibilities include selecting an external auditor and determining the scope of the audit engagement. (Finding 3)
4. The CVCSD Board should review and revise their current Office Procedures Manual so that it more accurately reflects this specific community. For example, job descriptions listed in the current manual are too broad-based to be useful. (Finding 4)
5. The CVCSD Board and management should conduct business with strict adherence to those areas within their purview, i.e., road maintenance and trash pickup and disposal. (Finding 5)
6. If the CVCSD intends to have a web site, then they should own it and have control over what is being published. (Finding 6)

REQUIRED RESPONSES

1. SLO County Tax Collector – Recommendation #2
2. SLO County Auditor-Controller – Recommendation #2
3. California Valley CSD Board– Recommendations #1, #3, #4, #5 & #6
4. Board of Supervisors– Recommendation #2

Appendix A

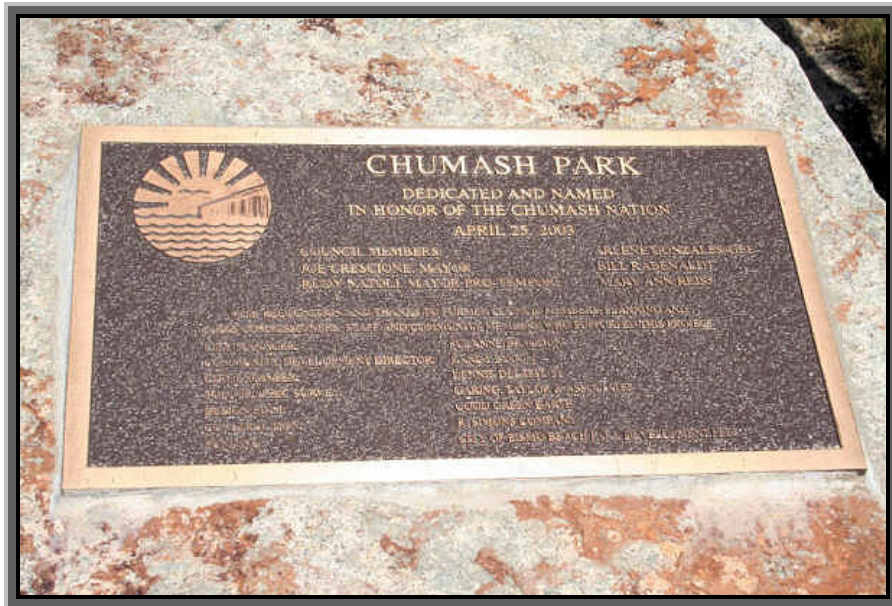
CSD Policy Manual – Examples of Errors

1. References to sections that do not exist or do not discuss the subject matter referenced:
 - Sections 1005, 2005, 5010.21 and 22 are missing, although they are listed in the Table of Contents and/or referenced in the text of the document.
 - Section 4 is referenced throughout Section 2031, however there is no such section.
 - Section 4000 and subsections regarding Board Meetings reference Section 5010.21 and .22 and 5020. These sections, where they actually exist, deal with Facilities Development and Major Maintenance, not the process of noticing Board Meetings.
 - Policy 3015.20 regarding remuneration and reimbursement of the Board of Directors, indicates that reimbursement will be made when authorized in accordance with Policy 4090, which does not exist in this policy manual.

2. Numerous typographical errors, some of which change the meaning of the document:
 - -Section 1015.50 Public Complaints, read in pertinent part: "...SDRMA chapter on claims. situation might exist, and how it can be corrected." and "Any pending corrective" and the section ends.
 - Safety Policy 2005, the CSD's mandated Injury Illness Prevention Program includes the following under the Specialized Training Section: "In addition, training is provided whenever:" and the section ends.
 - Section 2031.45, due to the absence of correct punctuation, states that "all" accounting records may be destroyed.
 - Personnel Policies are included in what is labeled as Chapter Two of the document, but which is actually Chapter 7.

- Chapter 8, Compensation, includes a reference to the performance evaluation policy as 8045 when it is actually 8050.
 - Chapter 9, Benefits, includes a reference to Policy 3030 regarding hours of work and overtime. It is actually Policy 8005.
 - Section 9010 Sick Leave and 9020 Bereavement Leave refer the reader to Section 2000(5) for a definition of immediate family. It is actually found in Section 7005.
 - Section 10010 Grievance Procedure refers the grieving employee to Appendix A for the approved form. It is actually Appendix B.
3. Sections that contradict testimony that was given the Grand Jury:
- Section 2030.23 regarding the handling of all monies remitted to the District

11. TRIBAL CONSULTATION – A PEACEFUL APPROACH



INTRODUCTION

Although recorded history of San Luis Obispo County extends continuously to the mid 1700's, reliable archaeological evidence suggests human habitation in some areas of the county for thousands of years. The Native American groups first encountered by European explorers in the mid 1500's include the Chumash and Salinan tribes, whose descendants, although small in number, still contribute to the cultural richness of this area.

ORIGIN

The Grand Jury received a complaint from the Northern Chumash Tribal Council indicating the Tribe was having difficulty in establishing effective communication with certain local governments as provided for in California Senate Bill 18, enacted in 2004. The Grand Jury

decided to study the provisions of SB 18 and review how it is being implemented in San Luis Obispo County.

METHOD

As part of its investigation, the Grand Jury:

- Reviewed sections of California Government Code that cover the provisions of SB 18
- Reviewed *Tribal Consultation Guidelines* (“**Guidelines**”), published by the Governor’s Office of Planning and Research, April 15, 2005, and its supplement of November 14, 2005
- Interviewed staff of the California Native American Heritage Commission (NAHC)
- Interviewed a representative of the Northern Chumash Tribal Council (NCTC)
- Interviewed a representative from the City of Pismo Beach
- Interviewed an archaeologist from the San Luis Obispo County list of Qualified Archaeological Consultants
- Reviewed written communication exchanged between the NCTC Tribe and representatives of the City of Pismo Beach

BACKGROUND

Senate Bill 18 was signed into law by Governor Arnold Schwarzenegger in September 2004, for the purpose of protecting Traditional Tribal Cultural Places ("cultural places"). The Guidelines state that “The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places.” Further, “SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process.” Local governments must notify each tribe that is on the

contact list maintained by the NAHC of the opportunity to request a consultation. If more than one tribe is on the contact list, local governments may have to consult with more than one tribe on any particular plan proposal.

The Guidelines provide extensive guidance on the consultation process, recognizing that significant cultural differences may exist between the parties. Government Code 65352.4 contains this definition:

“Consultation means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.”

According to the Guidelines, local governments and tribes “..are required to carefully consider the views of the other” and to seek an agreement, “where feasible.” Agreements are considered “feasible” when capable of being accomplished in a successful manner within a reasonable time taking into account economic, environmental, social and technological factors. The provisions regarding tribal consultation and notice contained in SB 18 took effect March 1, 2005.

SB 18 extends to both public and private lands, and includes both federally recognized and non-federally recognized tribes. Due to the forced relocation of tribes by the Spanish, Mexicans, and Americans, most tribes in California do not currently control or occupy the lands on which many of their cultural places are located.

The provisions of SB 18 expanded the responsibilities of the California Native American Heritage Commission (NAHC) which had been formed in 1976 to help identify and protect Native American burial sites. The NAHC has been designated the source of information for city and county planners regarding which recognized California Native American tribes must be contacted on projects in any specific area within California. The NAHC also maintains the list of

‘most likely descendants’ who must be contacted in the event human remains are discovered during excavation, grading or other activity, and confidential records of locations of special significance to Native Americans, including cemeteries, ceremonial or sacred sites. These lists and records are based on information supplied to the NAHC by the tribes, and are subject to examination and review by the NAHC which has established application procedures and minimum requirements to be met before, for example, an area could be designated by the NAHC as a sacred site for a particular tribe.

California has the largest number of tribes and the largest Native American population of any state in the contiguous United States. California is home to 109 federally recognized tribes and several dozen non-federally recognized tribes that have qualified for listing by the NAHC. According to the NAHC, the US Census of 2000 showed a Native American population in California of 333,511, with 2220 in San Luis Obispo County. Tribes whose areas include all or part of San Luis Obispo County are the Santa Ynez Band of Chumash Indians, the Northern Chumash Tribal Council, and the Salinan Tribal Council.

NARRATIVE

The Grand Jury learned that the Northern Chumash Tribal Council felt they had been rebuffed in their attempts to establish an SB 18 consultation process with the City of Pismo Beach. The Tribe indicated success in similar efforts with most other government entities in San Luis Obispo County. The City of Pismo Beach Planning Department in a letter from May, 2006, indicated their understanding “...that the City may utilize a tribal Council of it’s (sic) choosing. The City will be working with the Santa Ynez Council.” In October, however, the City changed their position and notified the NCTC that “When considering adoption or any amendment to the Pismo Beach General Plan, designating land as open space or amending a specific plan, the city will advise the Northern Chumash Tribal Council and the Santa Ynez Band of Chumash by certified letter.”

The Grand Jury believes this action meets the basic requirements of SB 18 per the Contact List supplied by the NAHC to the City of Pismo Beach which lists both tribes. The *Guidelines* state “Local governments must consult with each tribe who is identified by the NAHC and requests consultation.” However, the Guidelines also state “Simply notifying a tribe of a plan proposal is not the same as consultation. Tribal consultation should be done face-to-face. If acceptable to both parties, local and tribal governments may wish to define circumstances under which parts of the consultation process can be carried out via conference calls, e-mails, or letters.” No such face-to-face meeting had occurred as of May 1, 2007.

The *Guidelines* also state: “Before engaging in consultation...., local governments may want to consider developing relationships with tribes that have traditional lands within their jurisdiction. Although not required by law, these pre-consultation efforts may develop a foundation for a mutually respectful and cooperative relationship that helps to ensure more smooth and effective communication in future consultations.” There follows a section with suggestions on how to conduct pre-consultation meetings. The county government and all city governments within San Luis Obispo County have initiated such contact with the NCTC except the City of Pismo Beach.

The Grand Jury also learned that the Northern Chumash Tribal Council considers much of the area in and around the City of Pismo Beach as a ‘sacred site.’ Evidence from recorded archaeological sites supports the existence of habitation in the Pismo area going back several thousand years. An official designation as a recorded sacred site can be made by the NAHC, a process that can take a year or more.

Should portions of Pismo Beach be designed as a sacred site, that information would be available upon written request by the City Planning Division when preparing for tribal consultation on a particular project. Sacred site status would be one of the factors to be discussed in consultation, along with other cultural features, archaeological evidence, known burial sites, etc.

The *Guidelines* state: “Government Code 65352.3 requires local governments to conduct consultations with tribes (when requested) for the purpose of ‘preserving or mitigating impacts’

to California Native American cultural places..... Preservation is the conscious act of avoiding or protecting a cultural place from adverse impacts including loss or harm. Mitigation, on the other hand, is the act of moderating the adverse impacts that general plan or specific plan adoption or amendment may have on a cultural place.”

Preservation can take the form of relocating a project and conserving an area as open space. Mitigation can take many forms including capping an area with deep fill so that relics are left undisturbed, or developing an alternate site suitable for tribal purposes and acceptable to the tribe.

Further, although consultation for the purpose of reaching an agreement is required, there is no requirement to preserve a cultural place or adopt mitigation measures, if agreement cannot be reached. Under the definition of “consultation” within Government Code 65352.4, local governments and tribes are required to carefully consider each other’s views and seek an agreement, “where feasible.” If, after conducting consultations in good faith and within the spirit of the definition, the tribe or local government cannot reach agreement on preservation or mitigation of any impact to a California Native American cultural place, neither party is required to take any action under Government Code 65352.3(a), and further remedies as provided by law, should they be desired, would have to be sought elsewhere.

FINDING

It appears that the basic consultation requirements of SB 18 are now being met by applicable government entities in San Luis Obispo County, belatedly by some. The stated intent of SB 18 of encouraging local governments to conduct pre-consultation meetings with tribes to help establish lines of communication has been accepted by the county and all cities in the county, with the exception of the City of Pismo Beach, with Memoranda of Agreement either in place or in preparation. The pre-consultation procedures and face-to-face meetings described in SB 18, although not mandated, are intended to help local governments establish working relationships

with tribes that have traditional lands within their jurisdiction.

RECOMMENDATION

The City of Pismo Beach should review their procedures related to the requirements and recommendations of SB 18, 2004. They are urged to implement face-to-face pre-consultation meetings with the tribes on their NAHC contact list. (Finding 1)

REQUIRED RESPONSE

The City of Pismo Beach City Council

REFERENCES

1. *Tribal Consultation Guidelines*, Supplement to General Plan Guidelines, published by The Governor's Office of Planning and Research, November 14th, 2005
2. The Governor's Office of Planning and Research website: www.opr.ca.gov
3. The California Native American Heritage Commission website: www.nahc.ca.gov
4. Office of Historic Preservation website: www.ohp.parks.ca.gov

12. VECTOR CONTROL - AN OUNCE OF PREVENTION

INTRODUCTION

Americans are increasingly aware of pests that carry disease across the nation and around the world. Mosquitoes bring West Nile Virus (WNV), ticks carry Lyme Disease, mice transmit Hantavirus and rodents and their fleas are capable of transmitting Bubonic Plague. Insects or animals that carry or transmit disease are called **vectors**. These disease-carrying vectors and the diseases they transmit are monitored by the San Luis Obispo County Public Health Department.

BACKGROUND

Hantavirus (*Sin Nombre*) – rodent-vectored disease

Between 1975 and 2003, a total of 107 deer mice (*Peromyscus maniculatus*) were collected in San Luis Obispo County by the San Luis Obispo Health Department. Eleven of these specimens tested positive for the *Sin Nombre* virus antibody. Since 2003, no specimens have been collected for testing.

Bubonic Plague (*Yersinia pestis*)

Plague surveillance has been on-going in San Luis Obispo County for many years. In the last four years approximately 40 specimens per year have been tested for plague antibodies with none testing positive.

West Nile Virus

In 2004, the county had one human and one horse case of WNV and, in 2005, the county had 13 cases of WNV in horses but no human cases. Testing in San Luis Obispo County for WNV in 2003, 2004, and 2005 is summarized in Table 1:

Table 1

West Nile Virus Testing						
	Mosquitoes		Sentinel Chickens *		Avian Testing	
	Locations Tested	Positive Results	Chickens Tested	Positive Results	Dead Birds	Positive Results
2003	137	0	221	0	169	16
2004	207	1	370	0	671	15
2005	48	2	391	4	1254	41

* Sentinel Chickens: Test flocks of chickens that are regularly tested for WNV. If antibodies appear in the blood of the chickens, it shows they were recently bitten by infected mosquitoes.

Lyme Disease

Lyme Disease is transmitted to humans by infected ticks. San Luis Obispo County has had five reported cases of Lyme Disease in the past ten years with single cases in 1996, 1998, 1999, 2000, and 2005. From 2002 to 2006, no ticks have been submitted for Lyme Disease testing. Plagues and viruses are still a threat to our society and the County Health Department is our primary watchdog for these threats.

METHOD

Members of the San Luis Obispo County Grand Jury interviewed employees of the San Luis Obispo County Public Health Department, State of California biologists and a private county pest control company to ascertain what risks, if any, are still present, and what preventive measures might be taken.

NARRATIVE

After discovery of several cases of WNV infections in 2005, enhanced strategies such as targeting areas with higher temperatures (e.g., Atascadero and Paso Robles), led to a reduction of WNV cases. The 2006 mosquito season was marked by several incidences of (WNV) in the County of San Luis Obispo. In 2006, five horses and 14 dead birds tested positive for WNV. San Luis Obispo County also had one human WNV case. This should not justify indifference as the description of a single human case illustrates.

A SLO County resident, age 72, became ill in July 2005 and was not diagnosed with WNV until two weeks later. He spent 15 months in the hospital, developed pneumonia, and was placed on a ventilator for several months. He lost his speech for several weeks. He now has partial use of his arms and legs, and is troubled by mood swings that range from anger to depression.

It is unlikely that WNV will disappear from the county in 2007. It is probable that positive WNV test results will continue, although if surveillance is enhanced, county technicians should again reduce the frequency of positive results.

Mosquito Breeding Grounds

The major source of mosquito breeding grounds is standing water that accumulates in areas such as the following:

Ponds	Old tires
Swimming pools	Cooler drains
Tree holes	Catch basins
Plastic pools	Street gutters
Bird baths	Watering troughs
Containers	Roof gutters

Our Mediterranean climate affords ideal temperatures for mosquito breeding. The public can access information at the Center for Disease Control (CDC) website (www.cdc.gov) and contact trained county personnel for abatement assistance. Unfortunately, Laguna Lake, San Luis Creek and other waterways require professional treatment for eradication of mosquito larvae.

Homeowners and businesses have access to help and various aids to combat these threats. The County's Health Department provides mosquito fish and written tips on mosquito abatement at no charge. Other items such as mosquito **dunks** (see Appendix A), to be placed in standing water, are available for purchase at local hardware and feed stores.

Rat Control

The Health Department also gives advice on controlling rodent problems as do local pest control companies (see Appendices B & C). One species familiar to San Luis Obispo County is the roof rat. Rats and their fleas are capable of transmitting a variety of human diseases including Bubonic Plague, the most serious of these maladies. While there have not been any recent outbreaks of plague, the potential exists if rat populations are allowed to rise.

Homeowners should be alert for signs of roof rat activity:

- Damaged, partially eaten oranges, avocados, or other fruits.
- Broken snail shells under bushes, on fences, near nesting sites.
- Signs of gnawing on plastic, wood, or rubber materials.
- Greasy rub marks caused by rat's oily fur against painted surfaces or wooden beams.
- Rat droppings, signs of significant rat activity, may be randomly scattered and close to rat runways, feeding locations, or near shelters. They are dark in color, pellet shaped and about ½ inch long. Droppings may also be found in forced air heaters, swimming pool heater covers, and water heater closets. Hot tubs are especially susceptible.
- Visual sightings on utility cables, tops of fences, or in trees.

Mice Control

Mice can also carry plague-laden fleas as well as hantavirus. The Center for Disease Control website offers tips for preventing mice from invading your house, vacation home, yard or campsite.

Tick Control

Ticks prefer wooded, bushy areas with high grass and leaf litter. They are most active in May, June and July. The best protection against ticks is to use insect repellent before walking outdoors, and to wear long sleeves, long pants and socks. If a tick does manage to attach itself, it should be removed promptly.

County Survey

There appears to be a lack of public understanding regarding the need for mosquito abatement. The San Luis Obispo County Public Health Department in 2004, conducted a mailed random survey of 3000 homeowners in San Luis Obispo County with 750 respondents. Of those, 56% were aware of mosquito abatement and willing to assess themselves up to \$7.00 per year for additional mosquito abatement services. The survey stated that the County's current tax distribution to the Mosquito Abatement Program (MAP) is less than two cents a day per household. The proposed assessment of pennies a day would help protect against West Nile Virus and other viruses. These findings were forwarded to the San Luis Obispo County Board of Supervisors who, at that time, voted against putting this measure on the ballot. A special assessment election must pass by a 2/3 majority and the survey only had a 56% positive response rate.

FINDING

Mosquito abatement is not state funded, with only a benefit assessment from each county supporting the program. The San Luis Obispo County MAP covers the fourth largest service area in the state (3,326 square miles) with only three full-time technicians, and a budget that ranks 48th out of 61 funded MAP programs in the State of California. In 2005-6, the San Luis

Obispo County MAP received \$230,893, compared with an average of \$1,907,000 for the other 60 programs. Occasional grants from the state's Mosquito Abatement Program have been instrumental in controlling WNV in San Luis Obispo County by allowing technicians to treat more sources more thoroughly and with better larvicides.

RECOMMENDATION

The Board of Supervisors should consider conducting an informational campaign informing residents of the need for and benefits of additional mosquito abatement and pest control, followed by a voter survey to determine the likelihood that a special assessment would be passed by 2/3 of the voters.

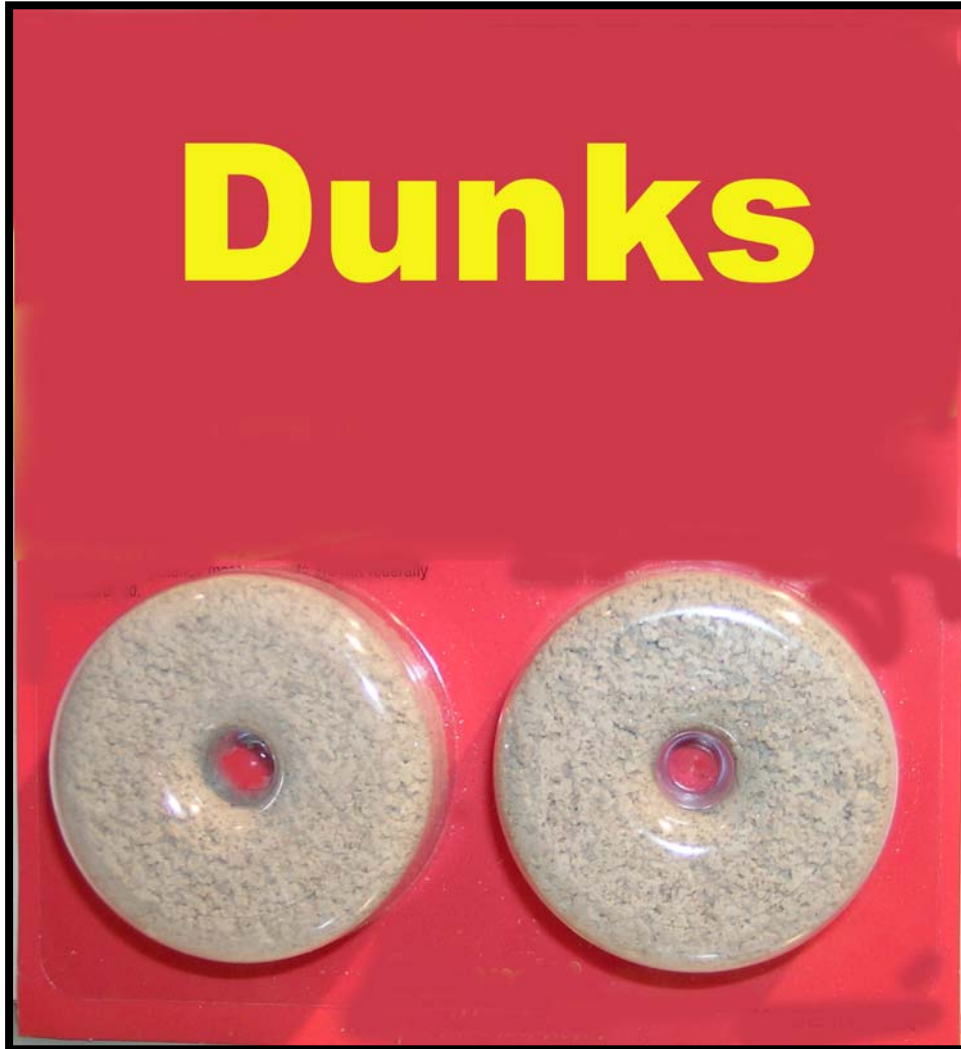
REQUIRED RESPONSES

San Luis Obispo County Public Health Department

San Luis Obispo County Board of Supervisors

Appendix A

Mosquito dunks are available at feed and hardware stores around San Luis Obispo County



Dunks are placed in ponds, water features, fountains
and similar locations to kill mosquito larvae.

Appendix B

RAT CONTROL IN RESIDENTIAL AREAS



GENERAL INFORMATION

The roof rat (*Rattus rattus*) is the problem rat species in Orange County. This rat is slender, agile, and a good climber. They feed on fruit often grown in residential backyards such as oranges, walnuts, avocados, plums, peaches, and apricots. They will nest in large overgrown ivy patches, piles of lumber and firewood, yucca plants, and palm trees. They may also be found nesting in old furniture, storage sheds, and inside buildings. The roof rat is also known as the tree rat, fruit rat, or black rat

RAT CONTROL

Rats may be trapped using snap traps available at nurseries and hardware stores. Peanut butter mixed with oatmeal, freshly cooked bacon, nutmeats, and pieces of apple are some of the effective baits which may be used.

POISONS

The safest rodenticides presently used in rat control are anticoagulant formulations which require several feedings to be effective. The homeowner may purchase these rodenticides at nurseries, hardware stores, and farm supply stores.

BUILDING MAINTENANCE

Keeping rats out of the home and other buildings is an important element of rat control. Roof rats can enter even small exterior openings of the home. Openings such as ventilation ports, basement windows, attic vents and louvers, vent pipes and shafts, mobile home base skirts, and other access points should be sealed or screened using 1/4 inch hardware cloth to keep rats out. Gaps around pipes and electrical conduits should be sealed along with cracks around doors and windows.

STEPS TO RAT CONTROL

The following is the recommended sequence of steps to rat control around the home.

STEP 1. Eliminate Food

- Remove all possible food sources from property. Pick ripe oranges, avocados, etc. Remove fallen fruit
- Keep trash cans closed with tightly fitted lids at all times.
- Store pet food in metal containers with lids.
- Do not leave pet food out overnight
- Control snails. They can serve as rat food.

STEP 2. Destroy Rats

- Rats should be trapped if they are inside a building to avoid a poisoned rat dying in an inaccessible area and causing a serious odor problem.
- Place traps near nesting areas or where rats are likely to hide. Do not place where children or pets will disturb or be harmed by them.
- Poison bait may be used outside when following these guidelines:
 - * A tamper-proof bait station should be used.
 - * Bait should be secured so that it cannot be carried away.
 - * Bait should not be placed in direct sunlight
 - * Bait should be placed where evidence of rat activity has been observed, such as near droppings, grease marks, or eaten fruit
 - * Bait should be hung rather than placed flat on a surface.
 - * If bait is not being eaten after two weeks, place in a new location.
 - * Remember! These formulations are poisonous and must be placed where pets and children cannot reach them.

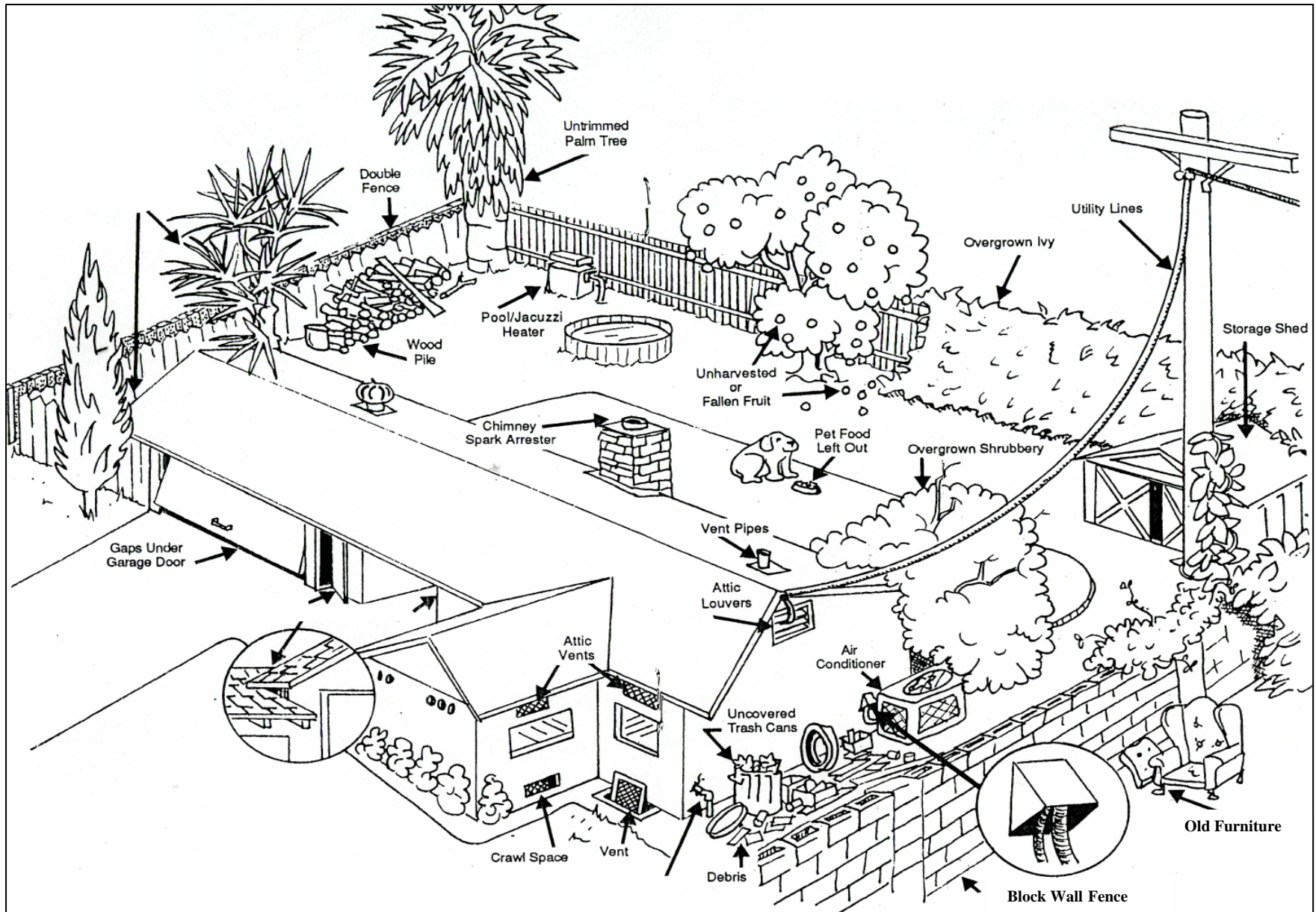
STEP 3. Eliminate Shelter

- After rats have been destroyed, harborage and nesting areas should be removed. It is important to wait until after rats have been eliminated to do this so that they do not disperse to surrounding areas. Algerian ivy, palm trees, yucca, bougainvillea, and other dense shrubbery should be thinned or eliminated completely.
- Firewood and lumber piles should be stacked at least 18 " off the ground and 12" away from fences and walls.

STEP 4. Maintaining a Rat Free Property

- After rats have been reduced, keep reinfestation from occurring by keeping harborage and food sources to a minimum.

Appendix C



Locations that provide ready access or breeding areas for rats

13. LUCIA MAR UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

INTRODUCTION

The San Luis Obispo County Grand Jury investigated a complaint against the Lucia Mar Unified School District (LMUSD) Board of Education. In February, 2007 two principals were called into the Superintendent's office and told they would lose their present positions¹ as principals in their respective schools after the current school year. However, they were told they might be able to fill other positions in the school district, if any existed. Because the principals were allegedly given no warning this might happen, and because parents and other community members in the district were quite outraged, the Grand Jury decided to look into the matter.

METHOD

Members of the Grand Jury interviewed current and former Lucia Mar Unified School District (LMUSD) Board members, parents, administration and staff. The Grand Jury examined LMUSD Board meeting agendas for February 20 and 27, 2007, both of which were special closed sessions of the Board. According to the Brown Act, Board members are required to report out, in open session, any actions to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee taken during closed session.² The Grand Jury also examined LMUSD Board minutes (February 20, 27 and March 6, 2007), a

¹ For purposes of this report, "lose present position" includes the following: retirement, dismissal, reassignment, release or other terms indicating the administrators would not remain in their present positions.

² California Government Code Section 54957.1(a)(5)

LMUSD Board meeting tape of February 27, 2007 and performance reviews of one principal involved in the controversy (1984 to 2007). Members of the Grand Jury attended a meeting of the LMUSD Board of Education. We also reviewed various emails dated February 24 and 25, 2007 between concerned parents and LMUSD Board members. In addition the Grand Jury during the course of this investigation, reviewed the following documents:

1. Desk top references for School Boards and Superintendents
2. The Brown Act (Schools Legal Service)
3. Various District Policies of LMUSD
4. Education Codes pertaining to termination/reassignment of Administrators

NARRATIVE

TIME-LINE OF EVENTS

- In November, 2006, three new Board members were elected to the Lucia Mar Unified School District Board of Education.
- In December, 2006, according to testimony before the Grand Jury, a Board member shared with another individual that at least two other Board members intended to remove one or more principals from their current positions.
- On February 20, 2007, a Special Meeting of the LMUSD Board took place. The agenda listed two items to be discussed in closed session:
 - Public Employee Performance Evaluation
Title: Superintendent
 - Public Employee Discipline/Dismissal/Release
- The Minutes of February 20, 2007 reflect the following:
 - Six Board members were present, Ms. Santos was absent
 - The closed session lasted approximately 2 hours and 45 minutes
 - Nothing was reported out of closed session

- The meeting was adjourned as soon as the closed session ended.
- The next day, February 21, 2007, the complainant was summoned by the Superintendent via an email message. Later that day the Superintendent informed the complainant that the majority of the Board had given her direction to discuss possible employment/retirement options for the upcoming year because he would not be returning to his present position as principal of his current school. The complainant stated, “This came as a shock to me since I have had twenty-eight years of impeccable evaluations as a professional educator and have had extraordinary teacher, student and parent support during that time.” Note: the Grand Jury reviewed the management evaluations of the complainant and found them to be exemplary.
- On February 21, or 22, 2007, another principal had a similar interview with the Superintendent. Both principals told their staffs, and soon parents were aware that two well-respected principals were being removed from their current positions. Rumors began to spread about the causes for such abrupt action. It was reported the rumors were sometimes ugly and amounted to character assassination. Teachers, administrators, parents, even students were affected by what can only be termed an “uproar” in the community.
- On Monday, February 26, 2007 a LMUSD Board member attended a Parent Teacher Student Association (PTSA) meeting and spoke on the subject of the rumored dismissals. He claimed the Board did none of the actions the entire community thought it had done, and that he had no knowledge of why the Superintendent acted the way she did.
- On Tuesday, February 27, 2007 another Special Meeting of the LMUSD Board of Education was held. The agenda was the same as the week before, except that it included an item for the Board to report out of closed session. The Minutes reflect that the meeting was called to order at 7:00PM. After the Board heard public comments on closed session items, a motion was made and seconded by Board members to waive confidentiality so the previous week’s closed session could be discussed. The vote failed 5 to 2, in spite of the fact that the principals involved had waived their rights to confidentiality. Public comment continued until 9:45PM, at which time the Board went into closed session, which lasted until 10:44PM. Reported out of closed session was a

resolution, unanimously passed, expressing confidence and support in the principals involved. The Board issued a blanket apology and later blamed everything on “miscommunication.”

DAMAGE

The handling of the attempted reassignment/termination of two principals in the LMUSD caused great harm to the community, including the following:

1. Damage to the reputations of the principals due to rumors about the causes of the abrupt personnel actions.
2. Damage to the reputation of the Superintendent as rumors and conflicting information circulated regarding the reason she took action against the principals. The Superintendent subsequently resigned her position with LMUSD and accepted a position in Gilroy.
3. Potential loss of other administrators and teachers in the LMUSD because of fear, lowered morale, and mistrust caused by the actions against their colleagues and supervisors.
4. Confusion and stress among parents, followed by anger when Board members refused to discuss what had transpired on February 20, notwithstanding permission from principals involved.
5. Confusion and fear among students who heard many of the rumors.
6. Time taken away from educational and administrative matters and general disruption of educational processes.

WHAT SHOULD HAVE HAPPENED

While administrators in a school district serve at the will of the Board and can be released or reassigned for any reason or no reason, *after proper notification*, there are steps that are normally followed leading up to that notification. Some of these steps are codified in the *California Education Code*. Some are policies and procedures of individual school districts. The following is a summary of usual procedures for termination/reassignment of administrators, as given to the Grand Jury by the Superintendent and attorneys for LMUSD.

Typically, if there is reason to believe an administrator is not performing his/her duties as prescribed, issues are identified by the Superintendent, sometimes with input from the Board, and the Superintendent meets with the administrator to develop an improvement plan. The Superintendent and administrator meet regularly to monitor progress on the items identified for improvement. This can take a short time or a long time; however it is standard practice to provide plenty of opportunities to improve. If the improvement occurs there is no further action. If it does not occur, the administrator is notified that progress is not satisfactory, and s/he may receive a notice by March 15 that his/her services are no longer required. Issuance of a notice prior to March 15 is required for reassignment to be effective for the following school year. If an administrator receives such a notice and is reassigned to a teaching position, the administrator has the right to request a written statement of the reasons for the transfer. If the reason for transfer is incompetence or unsatisfactory performance, the administrator must have received an evaluation within the 60 days preceding the notice of reassignment.

In the normal course of evaluation, which occurs biennially for most administrators (annually for new administrators), they receive feedback on their performance. (It should be noted that all administrators employed by LMUSD were evaluated this school year by the Superintendent.) The discussion of an administrator's performance is typically initiated by the Superintendent, however it can be initiated by a Board member.

Of course, an egregious action by an administrator, for example, hitting a child, would lead to immediate action by the Superintendent and/or the Board, such as putting the administrator on administrative leave. That is not what happened at LMUSD.

THE BROWN ACT

Based on the complaint and evidence examined by the Grand Jury, including the procedures normally followed by LMUSD for removing administrators who are underperforming (described above), the Grand Jury questions whether the Superintendent acted on her own, without direction

from the LMUSD Board. The Board, however, has declined to reveal what transpired in closed session on February 20, 2007, citing the Brown Act as justification.

The intent of the Brown Act is to protect the public from actions taken by legislative agencies behind closed doors, not to protect those agencies from their own wrong-doing, when it occurs. The Brown Act is a set of standards for holding closed sessions. It requires a public agenda and reporting to the public all actions taken in closed session to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee.

The LMUSD frequently used the same “placeholder³” items for their closed session agendas, including “Public Employee Discipline/Dismissal/Release” and “Public Employee Performance Evaluation: Superintendent.” They apparently believed they were then free to discuss any personnel item that might arise. However, Section 54957 of the Brown Act states, “As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session.” Thus, the use of placeholders, at best, thwarts the spirit of transparency in government and, at worst, may set the stage for a violation of the above section of the Brown Act.

The Grand Jury does not know exactly what went on during the closed session of the LMUSD Board of Education on February 20, 2007. It is likely that some direction was given to the Superintendent, but whether it followed a formal vote, or the equivalent of a “straw vote,” or simply a meeting of the minds, is not clear. The Grand Jury, however, believes the community deserves to know exactly what happened. The Board has the power, under the Brown Act, to waive confidentiality. In this case, the Grand Jury believes it is in the best interest of the community for the Board to do so and make public what transpired during closed session on

³ A placeholder is a term, sign or some other thing which generally stands in the place of content which is unknown or not identified.

February 20, 2007. Without the Board voluntarily providing the information, the Brown Act gives the District Attorney the authority to obtain it.⁴

CONCLUSION

The Grand Jury reviewed documents and listened to testimony. Everything we have reviewed and heard indicates the two principals who were told they were being removed from their positions were performing in an exemplary fashion. The Superintendent's actions subsequent to the February 20, 2007 closed session of the LMUSD Board (i.e., summoning two principals and telling them they will be removed at the end of the school year) does not appear to be consistent with "miscommunication," or with a lack of direction from the Board. The individuals involved and the whole community has been harmed and deserves to learn the truth. The Board has the power to make the whole truth known by waiving confidentiality and then being open and truthful with the citizens who elected them.

FINDINGS

1. Great harm has come to the community because of the secrecy surrounding the closed session of the Lucia Mar Unified School District Board of Education held February 20, 2007, and actions taken thereafter.
2. The Lucia Mar Unified School District Board of Education members may have been in violation of the Brown Act if, in the February 20, 2007 closed session, a collective decision by a majority of the Board gave clear indication to the Superintendent of their expectations that she remove a number of principals from their present positions and the

⁴ California Government Code Section 54963(e)

Board did not subsequently report this action (i.e., giving direction to the Superintendent) in open session.

3. The Lucia Mar Unified School District Board of Education may be in violation of Section 54957 of the Brown Act if, in a February 20, 2007 closed session, specific complaints or charges were brought against any employees, including principals, and those employees were not notified in advance of their right to have the complaints or charges heard in an open session rather than a closed session.
4. The Lucia Mar Unified School District Board of Education is in violation of the spirit of openness when it uses “placeholders” as agenda items for closed sessions. A Board member testified to the Grand Jury about the placeholder “Public Employee Discipline/Dismissal/Release” saying, “I don’t think that’s legal. I think that if we’re going to be taking action against an employee, I think the Brown Act requires that we actually say ‘this is the employee we’re taking action against.’”
5. The Lucia Mar School Board’s actions subsequent to the February 20, 2007 special closed meeting exacerbated the problems. The public announcement and apology, blaming all the harm done on “miscommunication,” was not an adequate response to the community, based on testimony and continued public outcry.

RECOMMENDATIONS

1. Given that the affected principals have waived confidentiality, and given that the LMUSD Board of Education has the power to also waive confidentiality, the Board should, as a body, waive its right to confidentiality and place on the next possible agenda, a discussion of what actually occurred during the closed session of February 20, 2007. (Findings 1, 5)

2. If the LMUSD Board directed the Superintendent to remove principals from their current positions, Board members should make public their rationale for having done so without reporting out this action in open session, as required by the Brown Act. (Finding 2)
3. The LMUSD Board members should explain how their use of “placeholders” allowed them to discuss charges or complaints against employees in closed sessions, without first notifying those employees, under the Brown Act. (Findings 3, 4)
4. Receipt of required responses from Lucia Mar Unified School Board members and Superintendent should be forwarded to the San Luis Obispo County District Attorney for possible investigation of potential violations of the Brown Act by the Lucia Mar Unified School District Board of Education and for possible perjury in their testimony before the San Luis Obispo County Grand Jury. (Findings 1, 2, 3, 4)

REQUIRED RESPONSES

1. Responses from each Lucia Mar Unified School District Board of Education member – individually: Recommendations 1, 2, 3
2. Lucia Mar Unified School District Superintendent: Recommendations 1, 2, 3
3. San Luis Obispo County District Attorney: Recommendation 4

APPENDIX

SELECTED EXCERPTS FROM CALIFORNIA GOVERNMENT CODE

Sections 54950 – 54963

The Brown Act

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, Boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5. This chapter shall be known as the **Ralph M. Brown Act**.

54951. As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any Board, commission or agency thereof, or other local public agency.

54952.2. (a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the

legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an **agenda** containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in **closed session**. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

54954.5. For purposes of describing **closed session** items pursuant to Section 54954.2, the **agenda** may describe **closed sessions** as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the **closed session** items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

54957. Closed session regarding public security, facilities, employees, national security, examination of witness.

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session. (2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void. (3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body. (4) For the purposes of this subdivision, the term

"employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in **closed session** and the vote or abstention on that action of every member present, as follows:

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in **closed session** pursuant to Section 54957 shall be reported at the public meeting during which the **closed session** is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

54957.7. (a) Prior to holding any **closed session**, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the **closed session**. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the **closed session**, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) *After any **closed session**, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.*

(c) *The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the **closed session**, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.*

54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

54963. (a) A person may not disclose confidential information that has been acquired by being present in a **closed session** authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a **closed session** that is specifically related to the basis for the legislative body of a local agency to meet lawfully in **closed session** under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a **closed session** if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor **Code** or Article 4.5 (commencing with Section 53296) of Chapter 2 of this **code**.

PRISONS, JAILS & LOCAL LOCK-UPS INSPECTION REPORTS

14. REVIEW OF LAW ENFORCEMENT ACTIVITIES IN SLO COUNTY

BACKGROUND

As a portion of the 2006/2007 Civil Grand Jury responsibilities mandated by California Penal Code Section 919(b), visits were conducted at the following sites:

- California Men's Colony (East, West Facilities)
- El Paso de Robles Youth Correctional Facility
- San Luis Obispo County Jail and Honor Farm
- Juvenile Hall
- Police Departments within the County of San Luis Obispo.

The Grand Jury inspected areas for both adults (male and female) and juveniles (male and female). It should be noted that in the course of its investigations, the Grand Jury invested more than 850 personnel hours in on-site visits to these facilities.

METHODS/PROCEDURES

The inspections were conducted in the last quarter of 2006, and emphasized conditions of confinement, mental and physical health care, control and discipline of prisoners, staff safety, intake and release processes, and care of property held in custody, i.e., evidence, recovered property, and items held in safekeeping.

In addition, at those sites housing longer-term prisoners; i.e., California Men's Colony, the Youth Correctional Facility and County Jail, the Grand Jury examined educational opportunities

(academic and vocational), religious opportunities, rehabilitation programs, and work and pre-release activities.

At each major location, briefings were conducted by top management officials; the Warden and Administration staff at the California Men's Colony, the Sheriff/Coroner and division chiefs at the County Jail, the Superintendent and senior management staff at the Paso Robles Youth Correctional Facility, and the County Chief Probation Officer, Manager and Assistant at Juvenile Hall.

During visits to the seven police departments within the County of San Luis Obispo, the chiefs and/or their commanders made themselves available and conducted tours of their respective departments.

The following reports provide specific findings and recommendations of the Grand Jury for the El Paso de Robles Youth Correctional Facility, the California Men's Colony, the San Luis Obispo County Jail and Honor Farm, Juvenile Hall and local lock-up facilities.

15. CALIFORNIA MEN'S COLONY

AUTHORITY

Section 919(b) of the California Penal Code mandates Grand Juries to inspect prisons within their county each year. To fulfill this mandate, members of the 2006-2007 San Luis Obispo Grand Jury visited the East Facility of the California Men's Colony (CMC) on October 17, 2006, and visited the West Facility on October 24, 2006.

METHOD

Grand Jury members spent one and a half days touring CMC's East and West Facilities, meeting with administrative staff of both units, and learning about programs offered. Subsequent to the visits, jury members researched recent court cases that are having a large impact on the California prison system. More information about these cases and their effects on CMC is presented later in this report.

NARRATIVE

Prisons in California are ranked from security level I (least secure, fewer guns, prisoners have more privileges) to IV (highest level of security, prisoners locked up most of the time). CMC East is a level III security prison, while CMC West is level I/II. Both facilities house considerably more inmates than they were designed to hold, as shown in Table 1.

Table 1
Designed Bed Space and Count 10/2006

Facility Level	Design Capacity	Count
I/II (West)	1,459	2,854
III (East)	2,425	3,758
Total	3,884	6,612

The West Facility houses minimum security inmates in dormitory settings. This facility operates a camp program that includes fire suppression, conservation and other community service work. The East Facility houses medium security inmates and is divided into four quadrangles, each of which has its own dining room, classrooms, athletic field, and housing units. The East Facility also has a licensed acute care hospital, and provides a mental health crisis unit for temporary housing of inmates experiencing crises. Approximately 1,800 inmates at CMC are enrolled in a Mental Health Services Delivery System and are assigned to a case manager and psychiatrist. These inmates receive group therapy, one-on-one therapy, and a wide array of supportive services, depending on the severity of their mental illness.

CMC offers a variety of programs for inmates, including the following:

- Prison Industry Authority: Approximately 700 inmates employed in a glove factory, jacket factory, knitting mill, laundry, shoe factory, silk screening, T-shirt factory, specialty printing plant, textile products, NOMEX firefighting clothing manufacturing, maintenance, and shoe repair.

- Vocational: Auto body repair, auto mechanics, computer repair, data processing, dry cleaning, electronics, landscaping, machine shop, sewing machine repair, and small engine repair.
- Academic: Adult basic education, General Education Diploma, pre-release training, English as a Second Language, Literacy Program, and computer assisted education.
- Other: Community service crews, Youth Diversion, religious services, Arts in Corrections, victim awareness, drug and alcohol treatment/diversion, Project Change, Alternatives to Violence, anger management, Hospice, Criminals and Gangs Anonymous, Literacy Council, personal growth seminar, and veterans groups.

RECENT COURT CASES

Plata v. Schwarzenegger

Begun as *Plata v. Davis*, this case is the largest prison class action lawsuit ever filed. Prisoners alleged that California officials inflicted cruel and unusual punishment by being deliberately indifferent to serious medical needs. A settlement agreement filed in 2002 required the California Department of Corrections to completely overhaul its medical care policies and procedures. In an Order to Show Cause issue in May, 2005, the federal district court judge overseeing the case found continuing widespread medical malpractice and neglect. Subsequently, in October, 2005 the judge issued Findings of Fact and Conclusions of Law ordering that California's prison medical care system be placed under the control of a court-appointed receiver. On February 14, 2006, the United States District Court for the Northern District of California appointed Robert Sillen as Receiver to improve medical care in California prisons and begin the process of restructuring and developing a new medical health care delivery system.

Coleman v. Schwarzenegger

Begun as *Coleman v. Wilson*, the court found the entire mental health system operated by the California Department of Corrections was unconstitutional and that prison officials were

deliberately indifferent to the needs of mentally ill inmates. In April, 2006, J. Michael Keating Jr. was appointed Special Master to oversee mental health services for California inmates by the U.S. District Court in Sacramento.

Armstrong v. Schwarzenegger

Begun as *Armstrong v. Davis*, a federal District Court judge issued an injunction ordering the Board of Prison Terms to comply with the Americans with Disabilities Act during parole hearings. The injunction was upheld by the Ninth Circuit Court of Appeals in 2001. On January 12, 2007, a U.S. district court judge in San Francisco issued preliminary rulings in a case concerning accessibility for disabled inmates. The judge ordered an immediate increase in staffing for facilities that house disabled prisoners, and ordered that prisoners' grievances be handled more efficiently.

Perez v. Tilton

On August 21, 2006 a U.S. district judge approved a settlement about dental care in all California prisons. Under the Amended Stipulation and Order, the California Department of Corrections and Rehabilitation (CDCR) must make certain changes according to a specific Implementation Plan that requires CMC to come into compliance starting July 1, 2007, and be completed by December 31, 2009. Compliance is to be monitored by the prisoners' attorneys and their consultants, as well as independent court-appointed experts.

IMPACT OF RECENT CASES ON CMC

Plata v. Schwarzenegger

At CMC, prior to medical reforms dictated by the Receiver, prisoners who were ill or had a medical complaint went to the clinic for outpatient care, and/or were sent to their hospital wing, if necessary. At times prisoners experienced lengthy waits before being seen by medical personnel at the clinic. Today CMC has eight triage sites, one on each program yard; four at the

East Facility and four at the West. Each site sees about twelve patients per day, approximately half of whom are subsequently sent to the prison clinic to see a physician.

Perhaps the most significant impacts of *Plata* and *Perez* on CMC are the increase in required personnel, and additional work space needed to accommodate them and to treat inmate patients. Recently CMC has had clerical staff sharing office space and clinical staff sharing treatment space. The Medical Department acquired two modular units for office space, which then required reconfiguring/retrofitting the old physical plant for new uses with upgrades in wiring, plumbing, and heating/ventilation. All these challenges are met by CMC staff.

The increase in personnel required by *Plata v. Schwarzenegger* is shown in Table 2.

Table 2
Additional Personnel Required by
Plata v. Schwarzenegger (Medical Department)

Classification	New Positions	Vacancies 4/30/07	Comments:
Health Services Administrator	1	0	
Health Records Technician I	3.72	1.72	
Health Records Technician II	1	0	
Lab Assistant	1	0	
Medical Technical Assistant	9.2	0	Reclassified to LVNs
Medical Transcriber	1.91	4.91	Additional positions established by Mental Health Crisis Beds
Office Technician (Typing)	10.02	1.5	
Pharmacy Technician	2.1	2.1	
Registered Nurse	11.12	1.16	
Supervising Registered Nurse	1	1	
Total	42.07	12.39	

Coleman v. Schwarzenegger

In response to the October 20, 2006, *Coleman* court order requiring the CDCR to develop a Mental Health Bed Plan, including a long-range plan to provide acute and intermediate inpatient beds and enhanced outpatient beds, a plan was submitted to the court that listed CMC as a site for 1,100 of those mental health beds. In February, 2007, however, the court ruled the plan submitted by the CDCR did lack detail and was inadequate. Subsequently, on April 25, 2007, California's Governor and legislative leaders announced a comprehensive prison reform package, as summarized in Appendix A. On May 3, 2007, the prison reform package was signed into law. CMC will likely be assigned some of the new inmate beds in this reform package - however, as of May 1, 2007, specifics are unknown.

The increase in personnel, to date, required by *Coleman v. Schwarzenegger* is shown in Table 3.

Table 3
Additional Personnel Required by
***Coleman v. Schwarzenegger* (Mental Health Department)**

New Positions	New Positions	Vacancies 4/30/07	Comments
Clinical Social Worker	1.5	4.5	
Custodian	2	1	
Health Program Specialist	1	1	
Health Records Technician	1	0	
Materials & Stores Supervisor I	1	0	
Medical Transcriber	4	4	
Office Assistant (Typing)	1.5	1.5	
Office Services Supervisor II	1	1	
Officer Technician (Typing)	3	2	
Pharmacy Technician	1	1	
Psychiatric Technicians Safety	13.3	23.9	Additional positions established by Mental Health Crisis Beds

Table 3 (continued)

Psychologist Clinical	9.98	8.98	
Recreation Therapist	4.3	4.8	
Registered Nurse	37.2	5.02	
Staff Psychiatrist, CF	2	2	
Psychiatric Social Worker Sup.	6	6	
Supervising Registered Nurse	4	0	
Total	93.6	66.7	

Armstrong v. Schwarzenegger

CMC houses inmates with physical and mental disabilities that are recognized in the *Armstrong* case. Inmates with physical disabilities are placed into CMC's Disability Placement Program where the extent of their disability is evaluated, and they are accommodated accordingly. CMC does not house inmates whose disability affects their placement, such as wheelchair-bound inmates. CMC currently has 208 inmates in the Disability Placement Program, 119 at the East Facility and 89 at the West.

The increase in personnel required by *Armstrong v. Schwarzenegger* is shown in Table 4.

Table 4
Additional Personnel Required by
***Armstrong v. Schwarzenegger* (Americans with Disabilities Act)**

Classification	New Positions	Vacancies 4/30/07	Comments:
Correctional Counselor I	1	0	
Correctional Counselor II Specialist	.5	0	Shared with CTF Soledad
Total	1.5	0	

Perez v. Tilton

The biggest challenges related to *Perez* are space and staff. This report already discussed issues of an overcrowded facility under *Plata*, above. The final staffing required to meet federal mandates are unknown, but according to CMC's Chief Dental Officer the latest projections use a ratio of 550 prisoners to 1 dentist. What we do know about additional personnel required by *Perez* is shown in Table 5.

Table 5
Additional Personnel Required by
***Perez v. Tilton* (Dental Department)**

Classification	New Positions	Vacancies 4/30/07	Comments
Office Technician (Typing)	3	2	

CONCLUSION

In the last few years the prison system in California, including CMC, has experienced a turbulent environment due to several federal court cases, four of which have been summarized in this report. Judge Henderson, Receiver Sillen (*Plata*) and Special Master Keating (*Coleman*) have been coordinating efforts to achieve their respective goals. Nevertheless, changes required by all the courts at once seem staggering. Appendix B summarizes remarks made by Receiver Sillen April 20, 2007, showing a number of reforms that have taken place in one year. Unfortunately, perhaps because the prison system in California is exceptionally large, the courts decided to mandate changes in the system as a whole, instead of prison by prison, even though not all prisons have the same problems or need the same solutions. The Grand Jury believes CMC strove to provide appropriate medical, mental and dental health care to the inmate population before the federal mandates, and continues to provide adequate health care and rehabilitative services in spite of the significant impact these recent court cases have had on daily operations.

APPENDIX A

Public Safety and Offender Rehabilitation Services Act of 2007

Below are excerpts from the prison reform package agreed upon by legislative leaders and Governor Schwarzenegger on April 25, 2007, and signed into law on May 3, 2007. The agreement represents a shift, “moving away from a model of massive, remotely-located prisoner warehouses that breed more crime to smaller facilities with improved rehabilitation programs designed to reduce crime and enhance public safety.” (Governor’s web site).

Balancing More Beds With Better Rehabilitation

Total Beds: 53,000: This \$7.7 billion agreement will provide 53,000 prison and jail beds in two phases. Phase I funding will permit immediate construction. Phase II funding is contingent on the CDCR meeting rehabilitation, management and construction benchmarks during Phase I.

- Phase I: \$3.6 billion lease revenue bond.
- Phase II: \$2.5 billion lease revenue bond. Must be enacted by 2014.
- Local matches: 25% of \$1.2 billion in bonds for local jails.
- Additional funding: \$350 million General Fund (\$300 million for infrastructure, \$50 million for rehabilitation).

Prison and Community Re-Entry Beds for State Prisoners: 40,000: The agreement provides \$6.1 billion to increase the number of beds in state prisons. Rehabilitation services will accompany all new bed construction.

- **Rehabilitation and Secure Re-Entry Beds: 16,000:** Directs CDCR to set aside 4,000 beds for drug treatment and create 16,000 new beds in secure re-entry facilities.
 - Phase I Construction: 6,000 secure re-entry beds.
 - Phase II Construction: 10,000 secure re-entry beds.
- **“Infill” Beds: 16,000:** Adds 16,000 beds at existing prisons to reduce the number of prisoners in “bad” beds.
 - Phase I Construction: 12,000 infill beds.
 - Phase II Construction: 4,000 infill beds.

- **Medical Beds: 8,000.** Adds 8,000 medical, dental and mental health facility beds as mandated by the Federal Receiver. The Receiver will determine where these beds will be added and what services they will provide.
 - Phase I Construction: 6,000 medical beds.
 - Phase II Construction: 2,000 medical beds.
- **Local Jail Beds: 13,000.** Provides \$1.2 billion to increase the number of beds in local county jails by approximately 13,000 to remediate overcrowding faced by counties across the state. Counties are required to match 25% of the funds received, unless their population is less than 200,000.
- **Out of State Prison Transfers:** Gives the Legislature clear statutory authority to voluntarily and involuntarily transfer prisoners out of state for the next four years.
- **Phase I Benchmarks:** CDCR has committed to meet specific benchmarks during Phase I to trigger Phase II funding. They are:
 - Successfully completing construction of ½ of Phase I beds.
 - 75% average participation in drug treatment programs over six months.
 - Establishing the California Rehabilitation Oversight Board (C-ROB) in the Office of Inspector General.
 - Proper assessment and placement of offenders in rehabilitation programs when they enter the system, and then again when they are a year away from parole.
 - Increasing offender participation in classes and education programs.
 - C-ROB's completion of a prison-to-employment plan.
 - Providing mental health day treatment for parolees.
 - Completion of various studies by CDCR and C-ROB assessing the effectiveness of inmate programming.

Just the Facts

Early Release: In 2005 alone, 233,388 individuals avoided incarceration or were released early from jail sentences *due solely to a lack of jail space* [emphasis added]. Currently, 20 jails are under court-ordered population caps and 12 counties have established self-imposed caps.

[Source: “Do the Crime, Serve the Time? Maybe Not In California,” California State Sheriff’s Association, June 2006.]

Overcrowding and Violence: Crowding, and the tremendous increase in the prisoner population that underlies it, fuels violence. Crowding severely limits or eliminates the ability of prisoners to be productive, which can leave them feeling hopeless; pushes officers to rely on forceful means of control rather than communication, and makes it harder to classify and assign prisoners safely and identify the dangerously mentally ill. [Source: Confronting Confinement,” John J. Gibbons, Nicholas de B. Katzenbach, The Commission On Safety And Abuse In America’s Prisons. June 2006.]

Recidivism: National statistics show that 10 percent of all state parolees fail to report to parole officers after release. In California that rate is over 20 percent, which may be due in part to California’s lack of an effective re-entry strategy for its prisoners. [Source: California Department of Corrections and Rehabilitation.]

Secure Re-Entry Facilities: A 2003 Ohio Community Corrections Association study showed that 400 offenders could be served, at an annual cost savings of \$2 million, by providing 100 halfway house beds for re-entry prerelease/transitional control or for parole violators in lieu of returning to prison. [Source: “Halfway House Utilization: The Key to Reentry, A Cost Savings Report,” Anne Power, Power & Associates. Prepared for the Ohio Community Corrections Association, February 25, 2003.]

APPENDIX B

APRIL 20, 2007 LETTER FROM RECEIVER SILLEN

Below are excerpts from a letter from Receiver Robert Sillen on the first anniversary of the Receivership, April 20, 2007. The Receiver summarizes six accomplishments:

1. Salary crisis addressed

One year ago, prison doctors, nurses, pharmacists and other medical staff were paid drastically depressed wages. The below-market salaries caused high vacancies, the use of expensive temporary agencies (costing taxpayers \$90 million per year), often attracted poor performers and added to the chaos and discontinuity of care.

Today, medical staff are paid competitive salaries, (costing \$30 million per year when all the positions are filled), and vacancies are starting to shrink. So far, we have hired more than 500 Licensed Vocational Nurses (LVNs) and almost 300 Registered Nurses (RNs).

2. Pharmacy crisis addressed

One year ago, the prison pharmacy system was out of control, wasting \$46 to \$80 million tax dollars per year. Drugs went missing, there were no inventory or purchasing controls, lax oversight, and an atmosphere ripe for medical errors. Despite numerous reviews and audits over the past six years that found serious, wasteful and dangerous deficiencies in the prison pharmacy system, nothing had been done.

Today, national correctional pharmacy experts are managing the system and a turnaround is underway. Already, Maxor National Pharmacy Services Corp. has identified nearly \$500,000 in rebates that the state never collected.

3. Nurse staffing restructured

One year ago, Medical Technical Assistants (MTAs) served as LVNs in the prison medical system, but their dual role as correctional officer (CO) and nurse caused confusion in the

workplace, divided loyalties and made it even more difficult to recruit RNs. This problem had been previously identified by court experts but not addressed.

Today, LVNs are replacing MTAs at a savings to taxpayers of \$39 million per year. The new staffing is improving clarity of roles in the medical system.

4. Contracting crisis under control

One year ago, specialty physicians and community hospitals that contract with state prisons had not been paid some \$100 million for up to four years of work. As a result, the sickest and most medically needy patients were no longer getting care.

Today, all outstanding invoices have been paid and there is a four-prison pilot of a new automated contracting system that will replace CDCR's unwieldy, inefficient and broken paper-based system that handles 2,600 contracts worth \$43.3 million annually. The new system will save time and money, make fewer mistakes and provide better access to care. Our private and public sector partners deserve fair and timely payment for services they provide to our patients on behalf of the state.

5. Broken discipline system under repair

One year ago, medical staff worked without accountability. Efforts by supervisors to discipline incompetent or uncaring clinicians were often turned back by the machine of state bureaucracy. The Administrative Time Off (ATO) system had run amok, with at least 40 health care staff, about half physicians, sitting home with full pay for weeks, months and years, at an enormous waste of tax dollars and an immeasurable impact on morale.

Today, there are zero medical staff on ATO. They all have been called back to work, performing non-patient care duties, rather than being allowed to sit at home collecting full pay and benefits. Instead they are reporting to mailrooms, warehouses and filing paperwork.

6. Medical equipment and supplies delivered

One year ago, prison medical staff worked without the most basic medical supplies and equipment. During my prison visits, I learned of a staggering unmet need – for sutures and gauze, cardiac monitors, gurneys, anatomical charts, white boards... the list goes on.

Today, those in the clinical trenches have felt some relief, with \$5.6 million of medical equipment and supplies ordered, and more on the way.

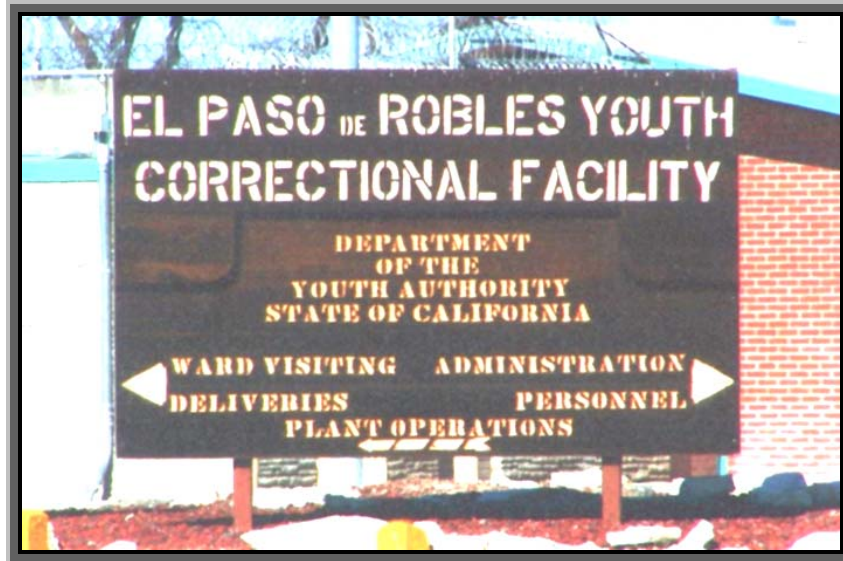
REFERENCES

California Department of Corrections and Rehabilitation web site: <http://www.cdcr.ca.gov>.

California Prison Health Care Receivership Corporation web site: <http://www.cprinc.org>.

California Governor's web site, "Comprehensive Prison Reform": <http://gov.ca.gov/index>.

16. THE EL PASO DE ROBLES YOUTH CORRECTIONAL FACILITY



AUTHORITY

California Penal Code, Section 919(b) states, “The Grand Jury shall inquire into the condition and management of the public prisons within the county.”

METHOD

Members of the Grand Jury met with the superintendent and senior staff members of The El Paso De Robles Youth Correctional Facility (referred to here as YCF), and participated in a walking tour of the facility. We were given a brief introduction, along with site-specific materials. The tour included visits to the most frequently used facilities including cottages, education buildings, the medical facility, visiting areas and various other places of interest. We found the buildings to be clean, orderly and conducive to the well being of the population they

are meant to serve. As we proceeded through the site, our questions were answered. The Grand Jury was provided with the same lunch that the wards were being given. It was nutritious and ample. After the tour, there was a comprehensive question and answer session attended by all senior staff members. A follow-up visit provided answers to additional questions. A number of pertinent documents were reviewed.

INTRODUCTION

In keeping with the needs, concerns and interests of the residents of the County of San Luis Obispo, the Grand Jury focuses on specific areas to determine if the public good is being served in an efficient manner. After descriptions of the physical site, the population served and the facility's safety and security measures, this report discusses two areas. The first area of focus has to do with the implementation of the state's "Safety and Welfare Remedial Plan" which is refocusing the mission of juvenile justice facilities in the State of California. The mission of the Department of Justice is defined by law:

"To protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the rehabilitation of young persons who have committed offenses."

In this regard, YCF is in the midst of a major overhaul. The overall plan, which is expected to benefit the public as well as the young men incarcerated in the system, is meant to substitute the former retributive punishment with the concept of rehabilitation. While this change stems from a series of lawsuits, it is considered a new standard in providing for the care, supervision, education, training, employment, discipline and governance of the young men in YCF's charge. It also strives to provide for the correction of their faults and the development of their character.

The other focus of concern to the county's residents has to do with public safety. We considered this in the short term, while wards are housed within our community and in the long term, after wards are paroled. The needs of wards are many and varied.

NARRATIVE

FACILITY DESCRIPTION

YCF sits on 60 acres near the airport in Paso Robles. This includes the parking areas and the Plant of Operations. While the facility is designed to accommodate 723 wards, it currently houses approximately 192 in 13 cottages able to house between 32 to 100 wards each. There are 18 support services buildings that provide for the care, treatment, education and training needs of this population. All buildings used by wards and staff are reinforced brick structures, with walls six to eight inches thick.

POPULATION SERVED

The wards incarcerated in YCF are mostly from Southern California and are generally considered to be higher-level, or more serious offenders. Many have been convicted of crimes involving violence such as assault or gang related activity. The average age of offenders at this facility is 17.2 years, and most have a history of juvenile offenses. Most first-time admissions to the Department of Juvenile Justice are made by juvenile courts, and include offenders who have committed both misdemeanors and felonies. A smaller percentage of wards are committed by criminal courts. These include those juveniles who have been tried and convicted as adults. A very small number of wards are classified as "M cases" and current law requires that they be transferred to state prison at age 18, unless their earliest possible release date comes before they reach 21.

Wards are categorized upon entry, based upon certain criteria such as age and street level sophistication. Category 1 offenders are the most severe and average about 7 years of prior incarceration. Category 7, on the other hand are the least severe with an average of 6 months

prior incarceration. The following chart indicates how many wards, by category, were housed at the facility when the Grand Jury visited:

Category of Offender	Number Housed in YCF
Category 1	8
Category 2	14
Category 3	16
Category 4	70
Category 5	45
Category 6	35
Category 7	0
Category "M"	3

The state charges the home county of each ward for their incarceration at this facility. The amount of each charge is based on a sliding scale according to category.

Category of Ward	Reimbursement rate per ward per year
1-4	\$ 2,100.00
5	\$18,250.00
6	\$27,375.00
7	\$36,500.00
M	\$ 2,100.00*

*predicated on commitment category

The state charges much higher amounts for less serious offenders to encourage counties to house those offenders locally, rather than sending them to state-run facilities.

At the beginning of their stay at YCF, all wards are professionally assessed and evaluated to determine psychological, educational, religious, medical and dental needs. The site has clean, modern and well-equipped medical, dental and educational facilities to help toward meeting many of these needs. Wards who demonstrate any at-risk concerns such as suicidal tendencies, drug dependency or other medical concerns are immediately identified and the appropriate care

provider is alerted. YCF includes an on-site high school, which has accreditation from the Western Association of Schools and Colleges. This school, the Marie C. Romero High School, holds graduation ceremonies for those who have completed the required course of study. Twenty-two wards received high school graduation diplomas during the 2005-2006 academic school year. Students may also work toward completing a GED, which is equivalent to a high school diploma. Some are enrolled in course work to earn an Associate of Arts degree.

GATE TO GATE

The entry evaluation is part of the “gate-to-gate” concept of quickly putting a ward on track toward a successful completion of programs designed to rehabilitate him so that he can be paroled as a safe and useful member of his community. As might be expected, not all wards are willing participants in this process.

Sentences are indeterminate, and wards are meant to be actively involved in securing their parole by providing and assisting with their own plans for success. For those who choose to take advantage of what is being offered, YCF offers a comprehensive rehabilitative program. Wards are expected to demonstrate significant progress in these areas:

- Improving social skills and appropriate behaviors
- Completing programs in
 - Anger management
 - Drug awareness
 - Victim awareness
- Vocational training
- Classroom success

It is necessary for wards to work with staff to become employment ready. Removing tattoos, improving dental and other physical appearance concerns, and working with volunteers and other available family members, are helpful to that end. Wards can earn a salary, up to \$1.00 an hour, for working in the cottages or the kitchen, half of which goes to a victim’s restitution fund.

THE SAFETY AND WELFARE REMEDIAL PLAN

The Safety and Welfare Remedial Plan (referred to here as The Plan) is the result of a 2002 lawsuit, *Farrell v. Allen* (Alameda Supreme Court, No. RG03079344, Consent decree filed November 16th, 2004). This suit charged that the California Youth Authority failed to provide adequate care and effective treatment programs to incarcerated wards. Issues raised in the court case include:

- High levels of violence in the facilities
- Abusive and punitive measures carried out by custody staff
- Inadequate provision for mental health, sex offender, and substance abuse treatment for wards

The administration agreed to develop and implement a plan to address deficiencies in six areas. They are:

- Education
- Treatment for inappropriate sexual behaviors
- Health care
- Mental health
- General corrections

The Governor's proposed budget includes monies from the State's General Fund to implement The Plan.

The Plan is comprehensive in its depth and breadth and is being phased in over 4 years. YCF is currently in the second year of implementation. Bringing about change is difficult and requires dedicating time and resources. The Plan also requires the re-training of personnel. Budgets, availability of materials and space constraints are just some of the issues that determine which parts and how quickly components of this program model can be implemented. These areas of the Safety and Welfare Plan have been implemented:

- Retraining staff
- Collection of usable measurable data
- Development of educational opportunities

Retraining Staff

In the past, YCF staff concerned itself primarily with confinement and control of wards. The Plan calls for their retraining by becoming active members of behavior treatment teams.

Treatment teams address the behaviors and needs of the wards assigned to them. A team, rather than various individuals, is responsible for a ward. They are multi-disciplinary and are meant to include, for example, someone from the ward's living unit, the medical unit, education, and parole departments, as well as a family member or community volunteer, if possible. The team works to provide a more holistic plan setting individual, attainable, performance-based goals for each ward. Being in a position to regularly monitor a ward's progress, they are better equipped to make more useful, productive recommendations and decisions. Treatment team goals might include:

- Behavior management/modification treatment
- Mental health treatment
- Substance abuse treatment
- Academic/vocational education
- Work training
- Health care
- Gang interdiction
- Sex offender/victim restitution
- Parenting/family interaction

Educational Opportunities

Without education, wards cannot hope to become successful members of their community. The Plan calls for varied educational opportunities. Wards under 18 are required to work toward completing high school or earning a GED. Wards over 18 are encouraged to participate in post-secondary education, possibly through the use of long-distance or remote learning. A well-stocked, eclectic library is available. They can take advantage of job readiness programs to acquire and practice skills that will help them secure and keep a job after their release. Along with job readiness, a job search program will help facilitate the ward's transition back into his community.

Expected Outcomes

The goals or outcomes for the components of The Plan are to provide as many areas of opportunity necessary to support the successful release of wards, and to help guarantee the safety of the communities into which they will be released.

SECURITY AND COMMUNITY SAFETY

A 12-foot high chain link fence that is topped with two strands of razor wire and equipped with an alarm system surrounds the facility's perimeter. A video fence surveillance system, which is monitored by staff, is located in the main control center.

Our review showed that security and personal safety measures for wards, staff and visitors are clearly in place and effective. The members of the Grand Jury were admitted only after presenting photo identity cards, and signing in. The same, small vertically/horizontally sensitive transmitters were worn by Grand Jury members, as are worn by all staff and personnel. They are meant to alert security should the need arise. A no cell phone rule is strictly enforced. All personnel follow rigorous sign- in/sign- out procedures. Firearms are not permitted in the facility and are kept in secure lockers at the entrance. The vehicle entry gate (sally-port) is electrically operated with the key held by specified on-site personnel. Most outside areas of the site are visually observed from a central tower, and uniformed staff patrol those areas that are not easily seen from the tower. Wards wear identifying colors and are required to walk silently in an orderly single file, with their hands in their pockets. As they proceed down the middle of a walking path, they follow a yellow line provided for that purpose. Shirt colors identify their housing units so that it is easy to determine if a ward is not in a specified area. Uniformed guards are clearly visible. Some are stationed at specified areas, some are escorting wards, and others are posted in cars on the perimeter.

The Peace Officers are directly responsible for supervising wards and ensuring their safety. They have a good working knowledge of all security and safety equipment. Reinforcement of safety policies and procedures include continuing education specific to safe working conditions,

and the use of specialized equipment, such as chemical and other non-lethal restraints. Instruction in the treatment of injuries is also reinforced. Specific operation plans in the event of an emergency are posted. Egress charts, for example, are easily seen, and fire and earthquake drills are scheduled monthly.

CONCLUSION

Research indicates, and common sense tells us, that when a young man can function as a responsible, financially viable and contributing member of his society, he is far less likely to become a return offender.

The task set before the staff of YCF is challenging, and they are doing good and important work at this facility. However, treatment teams have a lot to accomplish within the average 15 months that wards spend in their care. This is especially true considering that, on average, wards enter the facility with the equivalent of a fourth or fifth grade education. Also, research indicates staff must contend with young men who have often endured years of social and emotional deprivation and neglect. They are generally reluctant participants in programs designed to improve their future prospects.

Rehabilitation is not a new idea in the field of prison reform. The Grand Jury respectfully wonders if the ambitious Safety and Welfare Remedial Plan will bring about the changes that are needed, considering the short length of time wards spend at the facility.

While YCF has the facilities and space necessary to implement The Plan, it is important that they be ready to acquire the necessary professional staff that has already been identified, as soon as funding is made available. Locating, hiring and keeping staff to meet the standards of YCF is difficult in an area where the cost of living is as high as San Luis Obispo County.

FINDINGS

1. Change is difficult. The Grand Jury found that the leadership has created a positive climate and a great capacity for change among the senior staff. They clearly articulated an understanding of and commitment to the new model.
2. The Grand Jury is satisfied that YCF staff is doing a good job in the areas of public safety and welfare. Good safety and security measures are in place, with trained professional personnel monitoring all areas of the facility.
3. YCF is charged with the rehabilitation of the more serious youth offenders in the state. Considering that their stay at this facility averages about 15 months, there doesn't seem to be enough time to substantially influence wards so that they are more likely to experience success after parole.

RESOURCES ONLINE

Analysis of the 2006-07 Budget Bill www.lao.ca.gov/analysis_2006/crim
Juvenile Justice [justice/cj_06_an106](http://www.lao.ca.gov/analysis_2006/crim).

California Department of www.cya.ca.gov/BudgetRegs/
Corrections and Rehabilitation [cdcr_SOE](http://www.cya.ca.gov/BudgetRegs/).
State of Emergency

California Department of www.ebudget.ca.gov/
Corrections and Rehabilitation [BudgetSummary/CLE8866383](http://www.ebudget.ca.gov/).
Enhancing Public Safety in
California/Implementation of
Farrell v. Hickman

SUGGESTED ADDITIONAL READING

“Safety and Welfare Remedial Plan
Implementing Reform in California”

July 10, 2006

17. COUNTY JAIL

AUTHORITY

Section 919(b) California Penal Code states: “The Grand Jury shall inquire into the condition and management of the prisons within the county.”

METHOD

Members of the 2006-2007 San Luis Obispo County Grand Jury visited the county jail and met with the County Sheriff-Coroner. A presentation was made by the Sheriff and members of his staff describing the Sheriff’s Department’s operational responsibilities. Afterward the Grand Jury conducted an inspection of the facilities, including the following:

- Communication Center
- Kitchen Facility
- Honor Farm
- Women’s Jail

The State of California Board of Corrections (BOC) is responsible for conducting biennial inspections of the facility in accordance with Penal Code §6031, in addition to the yearly inspection by the County Grand Jury. The Grand Jury reviewed the BOC Inspection Report as part of its charge.

NARRATIVE

The facility is located on Kansas Avenue, off Highway 1 on the outskirts of the city of San Luis Obispo. The initial structures were built in 1971, the conference room and kitchen were added in 1991, and the newer section of the jail was built in 1993. Non-violent inmates are housed at the Honor Farm. Still in use are World War II Army barracks that house weekend prisoners.

There are approximately 98 Correctional and Senior Officers employed at the jail complex and court holding facility plus four officers currently in training. The county has budgeted for 108 officers, however, according to the Chief Deputy, the Department needs 120 officers. Correctional Officers attend an intensive five-week formal training period, followed by a probationary period of six month on-the-job training that includes an additional 24 hours of custodial training which is mandated by the State of California. Fortunately, due to the availability of in-house instructors, custodial training is extended to approximately 40-50 hours.

The physical capacity of the jail, as rated by the California Standard Authority, is 518 prisoners. The average daily population, however, is 548 with about 630 on weekends. The term of incarceration per prisoner is one year or less, 6 months on average. Inmates who are being held for trial prior to conviction for a crime are usually housed separately, but receive the same treatment as other inmates.

The women's section of the jail has a rated capacity of 43, with 82 actual beds. During 2006, the female population exceeded 100 on occasion, with the overflow is forced to sleep on mattresses on the floor. Additionally, women are restricted to medium custody placement, with no opportunity to engage in any minimum or Honor Farm programs, such as grounds keeping, working in the animal shelter, etc.

CONCLUSION

As stated in several prior Grand Jury reports, the County Jail continues to operate efficiently. In spite of overcrowding and its related problems, staff at the Jail and Honor Farm is performing admirably.

The chronic overcrowding, which is growing worse yearly, especially in the women's section has made the need for the County to find and dedicate funds for expansion more critical. On April 23, 2007, Governor Schwarzenegger announced a prison reform plan, that includes a provision of \$1.2 billion for local jail beds. The time is ripe, therefore, for the County to determine how to access these funds.

As the County experiences growth, it is likely that the jail population will increase at about the same rate as the County. It is critical for the welfare and safety of the citizens of this county to plan now and budget funds for future jail expansions.

With recent increase in drug use, particularly methamphetamines, merely arresting and jailing drug abusers for short periods of time due to lack of bed space, will tend to clog our courts with repeat offenders. In addition, increased crime in metropolitan areas of California is overwhelming the State Prison System to the point that one solution in the near future will likely be to place additional prisoners at the county level instead of the state level, thus compounding the problems of overcrowding.

FINDING

Overcrowding, especially in the women's section, continues to be the number one problem at the San Luis Obispo County Jail. Increases in county population, coupled with increases in drug abuse in the county, means that overcrowding will only get worse in the future. If the situation is

not addressed soon, the jail population could be capped judicially, as has occurred in other jurisdictions.

RECOMMENDATION

The County has experienced overcrowding in its jail facilities for many years, and has claimed lack of funds as its rationale for not solving the problem. The Governor's recent announcement of \$1.2 billion to be made available for local jail beds is an opportunity that San Luis cannot afford to miss. The Grand Jury recommends the County Board of Supervisors investigate every avenue for obtaining funding under the prison reform package announced by Governor Schwarzenegger on April 25, 2007. (Finding 1)

REQUIRED RESPONSE

San Luis Obispo County Board of Supervisors

18. JUVENILE HALL – JUVENILE SERVICES CENTER

ORIGIN

On November 14, 2006, members of the San Luis Obispo County Grand Jury toured Juvenile Hall ("the Hall") as part of its mandate to review prison facilities in the county (§919(b) California Penal Code).

METHOD

Information for this report was gathered in the following ways:

- Visit to and tour of the Juvenile Services Center and Juvenile Hall;
- Interviews/conversations with the Chief Probation Officer, Superintendent and Assistant Superintendent of Juvenile Hall, the on-duty nurse, Juvenile Services Officers, a cook, various other staff, minors detained in the facility, and the Supervising Juvenile Judge;
- Review of the County of San Luis Obispo Probation Department web site (www.slocounty.ca.gov/PR) including the "Juvenile Hall Handbook."

NARRATIVE

Background

Juvenile Hall is operated under the authority of the San Luis Obispo County Probation Department. The Leadership Team for Juvenile Hall, under the direction of the County's Chief Probation Officer, includes a Superintendent, an Assistant Superintendents, and four Supervising Juvenile Services Officers. There are 39 full time employees. The primary objective of the Hall is to provide safe and secure housing for youthful offenders (ages 11-18).

Juvenile Hall, built in 1981, had an expected lifespan of 20 years. It was originally built to house 45 youths in three units including a total of 32 sleeping rooms. After 26 years of operation, it is undergoing the first phase of a long overdue three phase expansion program.

Space Considerations

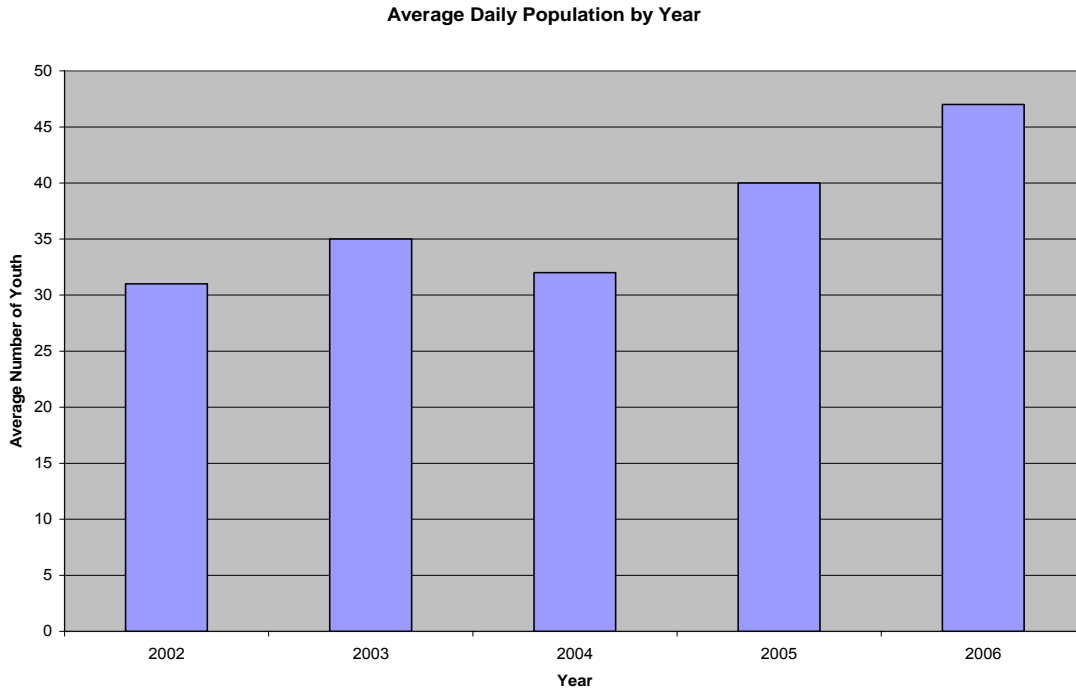


August, 2006, cots set up in the day room to accommodate overflow

As noted above, the San Luis Obispo County Juvenile Services Center was originally planned to meet the County's needs for up to 20 years. Facility space deficiencies have been noted since 1998 by the following: State of California Board of Corrections, the San Luis Obispo County Health Department, the Juvenile Justice Commission of San Luis Obispo County and the San Luis Obispo County Grand Jury. The facility is overcrowded. There are no separate units for housing males and females. Only two visiting rooms are available for attorneys and parents to meet privately with detainees.

- During 2006, capacity (45) was exceeded on 77 days, 16 of those during the month of October. The average monthly population in 2006 was 45.3, up from 40 in 2005.

Currently, fewer of the more serious juvenile offenders are sent to state facilities because of the cost, accounting for a portion of the overcrowding in county facilities. (The state charges back to each county the cost of housing juveniles in state facilities. It is more cost effective for counties to house their juvenile offenders locally.)



- The nurse's office is a converted storage closet that is too small for some larger youths to lie flat on the examining table. Due to this lack of space, some juveniles must be sent to San Luis Obispo to a doctor's office even though the nurse is qualified to do many procedures at the Hall. At this time there is no overnight nurse on duty. The Sheriff's Department overnight nurse is available for emergencies at the Hall, however the Sheriff's Department often does not have an overnight nurse either, resulting in costly trips to the emergency room.
- There is no maximum length of stay for youthful offenders although the Hall is designed as a "short term detention facility."
- The average length of stay is 13 days.

- When the maximum population of 45 is exceeded some offenders are selected for Home Detention where educational and vocational programs as well as adequate supervision are lacking.

Changing Demographics

Not only are there more juvenile offenders, but their makeup has changed. These changes include:

- Younger offenders, many with drug and alcohol problems;
- Longer sentences for violent crimes;
- More juveniles with mental health problems; and
- More females.

These changes create additional challenges for staff. For instance, staff must find ways to strike a balance between the needs of mentally ill youths who often require a great deal of attention and the needs of other minors whose behavior is primarily in compliance with Juvenile Hall expectations.

The population of females has increased by over 12% since 2003 and now comprises 31% of the total. Three hundred thirty females were admitted during the year 2006. As the population of females in the system increases staff must look for more programs that are gender specific to treat them.

Educational and Vocational Opportunities

Juvenile Court School operates within the facility, administered by the San Luis Obispo County Office of Education. Four hours of school per day is required. The school staff includes two teachers, a resource teacher and three instructional assistants teaching grades 6-12.

There are minors who have graduated from high school or completed a GED (general equivalency diploma). A challenge the staff faces is how to keep those who have graduated busy during the school day without disrupting ongoing classes taking place in overcrowded quarters. One of the options is to work in the kitchen. This vocational program, which provides training in food management and preparation, is available for credit and/or to complete required community

work service hours. In addition, graduates can spend time engaged in interactive activities that teach them transferable skills, such as knitting hats and scarves for the homeless.

Semi-recreational programs that teach other useful skills include Heeling Touch, which is offered in conjunction with the Sheriff's Department. In this program, dogs from the Animal Shelter are brought to the facility and juveniles participate in obedience training. This is an example of a win-win program: dogs are more adoptable after training and juveniles learn responsibility and how to train dogs.

There is also a Girl Scout troop with membership transferable to local troops after the girls are released and a Boys and Girls Club that provides computer and vocational training. Juveniles are encouraged to continue membership after release.

Facility Improvement Project

There is a need to expand the capacity of Juvenile Hall from 45 to 85 beds based on Probation Department projections.

Phase One of the Facility Improvement Project is currently under way. It will expand reception and entry areas and improve security for staff, youths and visitors to the facility. This phase of the project includes building a sally port (a secure entryway), a separate public entrance, interview rooms and the medical examination room.

Phase Two will add 6000 square feet to the overall facility, including space for 20 beds.

Phase Three will add another 6000 square feet to the overall facility, including space for an additional 20 beds, for a total of 85 beds.

Neither Phase Two nor Phase Three is designed or funded at this time. The costs of planning and construction continue to rise making it critical for the planning process to begin immediately.

Needs

While staff are doing a great job, there are areas of need within the Juvenile Services Division of the San Luis Obispo County Probation Department that could be addressed if funding was available. These include:

- Increased mental health services to provide treatment rather than assessment and crisis intervention;
- Increased community treatment resources;
- Developing facilities in northern San Luis Obispo County;
- Developing facilities for single fathers similar to those provided for mothers at Life Steps of San Luis Obispo;
- Group homes including gender specific programs for females;
- Creating a Juvenile Mental Health Calendar in Juvenile Court similar to the Truancy Court Calendar created by the Presiding Juvenile Court Judge;
- Overnight nursing staff on site; and
- Counseling programs for minors without Medi-Cal.

Please note that the above are being provided for informational purposes and are not a Recommendation of the Grand Jury.

FINDINGS

1. The population of minors residing at Juvenile Hall often exceeds capacity. There have been repeated requests for funding to increase the capacity of the Hall. The first phase of expansion is underway and will provide necessary infrastructure for expanding the number of beds. Expansion of the existing physical plant is a prerequisite to expansion of services.

2. Despite the age of the facility and the overcrowded conditions, it is working. There are some indicators of success. These include:
 - Cooperation among the various groups such as the Probation Department, County Health Services, Office of Education, and other agencies and employees;

- Long-term employees who demonstrate a caring commitment and are clearly invested in the success of their charges;
- Parents and family of the juveniles who are included in the entire process.

Due in part to space constraints, meals are served family style providing an opportunity to work with the juveniles on social skills, including table manners. Often, the superintendent and assistant superintendent have lunch with the juveniles. The Juvenile Court Judge also lunches with them regularly and has holiday dinners with them on occasion. This demonstrates a personal commitment on the part of the professionals who work at Juvenile Hall and helps to lessen the physical and financial shortfalls of the system.

RECOMMENDATION

The San Luis Obispo County Board of Supervisors should work with the County Probation Department to allocate immediate funding for design and building of Phases Two and Three of the Facility Improvement Project to accommodate current and projected numbers of confined youth. (Finding #1)

COMMENDATION

It is apparent from observation of and conversation with all those involved in the operation of Juvenile Hall and with the youth who are in their care, that staff are doing their absolute best to provide a safe, secure and nurturing environment for the youth who are housed there. This is being accomplished despite having to operate in extremely overcrowded facilities where 'making do' is a way of life. The Grand Jury commends the staff of Juvenile Hall for their creativity, their positive attitude and for their successes. (Finding #2)

REQUIRED RESPONSES

1. San Luis Obispo County Board of Supervisors (Finding #1, Recommendation #1)
2. San Luis Obispo County Probation Department (Finding #1, Recommendation #1)

SUGGESTED ADDITIONAL READING

http://www.slocounty.ca.gov/PR/Juvenile_Hall.htm

19. LOCAL LOCK-UPS

AUTHORITY

The California Penal Code, Section 919(b), states, “The Grand Jury shall inquire into the condition and management of the public prisons within the County.”

INTRODUCTION

The Cities’ and County’s short-term holding cells, located within the Cities’ Police Departments and the County Courthouse, are only intended as temporary holding facilities until the prisoners can be released or transported to the main jail facility within the county, the San Luis Obispo County Sheriff’s Department Jail.

INSPECTED HOLDING CELLS

The following holding facilities were inspected by members of the Grand Jury:

- | | |
|------------------------------|-------------------|
| 1. City of Arroyo Grande | Police Department |
| 2. City of Pismo Beach | Police Department |
| 3. City of Grover Beach | Police Department |
| 4. City of Morro Bay | Police Department |
| 5. City of San Luis Obispo | Police Department |
| 6. City of Atascadero | Police Department |
| 7. City of Paso Robles | Police Department |
| 8. County of San Luis Obispo | Superior Court |

METHOD

Members of the Grand Jury toured each of the city police departments and met with staff. During these meetings the Grand Jury was briefed about each department's operations and procedures. Copies of operational procedures were made available for Grand Jury review.

The holding cells in each department are intended for short-term use. The written policies generally require all prisoners to be transported to the San Luis Obispo County Jail within six hours. Grand Jury members inspected the inside of and areas surrounding the cells. The cells were neat and clean, as were all booking areas. The departments also had one or more of the following state-required inspection reports available for review:

- Adult Court and Temporary Holding Facilities: Local Detention Facility Health Inspection Report
- Adult Court and Temporary Holding Facilities: Physical Plant Evaluation
- Adult/Juvenile Detention Facilities: Fire/Life Safety Inspection Report
- Corrections Standards Authority Biennial Inspection Report
- Juvenile Justice Commission Lock-up Facility Inspection Report

An issue of significant concern for each City Police Department is dealing with reduction of police staff on the streets while booking and transporting prisoners to County Jail. Given the relatively small size of police departments, this reduction has a serious impact. When a city has only three police officers on the street and one of them is removed to transport a prisoner to the County Jail, 33% of the police coverage is removed from the city during that time. To deal with this situation, law enforcement agencies work together to protect the public and each other. City Police Officers, County Deputy Sheriffs, and the State Highway Patrol respond as needed to assist each other.

Another issue discussed with each Police Department was evidence and property storage. All agencies inspected had a very credible process for booking property into evidence, and for

storage of both confiscated and recovered property. Most departments have limited space for the latter items to be recorded, tagged and maintained. Some type of storage enclosure is utilized in the vehicle parking area for larger items, such as bicycles and large tools. Following the arrest of transients, their tents, backpacks and clothing are also retained in this manner.

All departments had adequate disposal procedures for terminated court cases. Unclaimed, and/or recovered stolen properties were also disposed of in an approved, regulated manner.

The San Luis Obispo County Sheriff's Department houses the main jail within the County. (A separate Grand Jury report relates to the County Jail). The County Sheriff also operates the prisoner holding cells in the County Courthouse. The Grand Jury inspection of this facility was conducted during a construction/upgrade process. The prisoners were being processed through to their court appointments in a very professional manner. The actual working area was limited, and a real challenge for the correctional officers'. Upon completion of construction, the holding cell area will be adequate to meet current needs, but will likely be inadequate in the not-too-distant future.

FINDINGS

1. The Grand Jury believes that the short term holding cells within San Luis Obispo County are being managed and maintained in a professional manner. All cells were clean, and well maintained. The Police and Sheriff's departments were well organized and have written procedures relating to their operations. The staffs are well trained and very professional.
2. The reduction of peace officers on the street during transport of prisoners seems to be a countywide issue. Additionally, financial constraints have resulted in departmental staff reductions in some cities. The impact of these conditions intensifies with growth and affects smaller departments the most.

3. While transporting a prisoner to County Jail might take only one peace officer off the streets for a few hours, that officer on the streets might have prevented an accident or saved a life. For each city to divert manpower for transporting prisoners seems inefficient.

RECOMMENDATION

The Grand Jury recommends the formation of a task force to study the feasibility of a countywide prisoner-transporting program. Such a program could be used to assist each police department through cost sharing, reducing the impact of both cost and loss of police presence on the streets for each city. (Findings 2 and 3)

REQUIRED RESPONSES

1. City of Arroyo Grande Police Department
2. City of Pismo Beach Police Department
3. City of Grover Beach Police Department
4. City of Morro Bay Police Department
5. City of San Luis Obispo Police Department
6. City of Atascadero Police Department
7. City of Paso Robles Police Department
8. County of San Luis Obispo Sheriffs' Department
9. County Board of Supervisors

REPONSES TO 2005-2006 GRAND JURY REPORTS

COUNTY HARBORS

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – A portion of the “bed tax” from Avila hotels should be shared with Harbor District.	Disagree. District has potential to increase funding through revenue sources currently under its control but bed tax is used for county wide services.
Recommendation #2 – County should take responsibility for designing, providing and maintaining a solution to flooding problems at the drainage ditch.	Not implemented, not warranted. – Want to form a zone of benefit to fund appropriate flood control.
Recommendation #3 – County should do regular mosquito abatement in and around the drainage ditch.	County Environmental Health does provide mosquito control.
Recommendation #4 – Drainage ditch should be fenced with restricted access to insure safety.	Agree.

SAN LUIS OBISPO COUNTY FLEET GARAGE

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – BOS should invalidate the Memorandum of Understanding between Depts. of General Services and Public Works.	Not implemented – adopting Public Works Department resolution – would impair its ability to meet its legally mandated responsibility to effectively operate its equipment.
Recommendation #2 – County Auditor should conduct operational audit of combined maintenance operations to determine if costs have been reduced due to consolidation.	BOS adopts Auditor’s response: Not implement, limited review has found that the 2 depts. costs aren’t in conflict.

PESTICIDE USE AT THE AGRICULTURAL/URBAN INTERFACE

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 BOS should support the Montreal Protocol and use less toxic materials to replace Methyl Bromide.	BOS will not implement – State has passed regulations that govern use of these pesticides.
Recommendation #2 – Review fines on growers and make them strong enough to discourage infractions.	BOS agrees with Agricultural Commissioner’s response: Current penalties agree with state laws. 96.3 % compliance rate, local enforcement reported as excellent.
Recommendation #3 – Restrict pesticides on school grounds.	BOS agree with Agricultural Commissioner’s responses: Not implemented Healthy School Act of 2000 adhered to until long-term effects can be documented.
Recommendation #4 – Update child care locations.	Agriculture dept. has no authority to require or obtain information regarding child care facilities.
Recommendation #5 – Adhere to recommendation from Agriculture Commission when planning new school locations.	No response.
Recommendation #6 – Task Force on Health and Pesticide Use should meet annually.	Not agree.
Recommendation #7 – Local citizens should work to protect school sites and surrounding residents from future contamination.	No response.

THE SAN LUIS OBISPO PLANNING COMMISSION

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – BOS should require Planning Commission to consider the opinion of the particular Commissioner, even in his absence.	Already implanted – Planning Commission is required to consider all opinions presented to it.
Recommendation #2 – BOS should increase Planning Commission to 7 members and require a unanimous vote for each at large appointee.	No – A larger commission will cost more and no reasons are presented to show that a larger commission would better serve the community.
Recommendation #3 -	No – Undermines the role of the Planning Commission in their “discretionary permitting” role.
Recommendation #4 – Conflict of Interest rules should be adopted for Planning Commission.	No – Commissioners are already subject to the Brown Act and other state laws of Conflicts of Interest and due process for office holders.
Recommendation #5 - Conflict of Interest rules should be adopted for Planning Commission.	No – Same as above.

LOS OSOS COMMUNITY SERVICE DISTRICT

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – LOCSD Board should waive attorney/client privileges to make information regarding expenditures of public funds available to the public.	Not implemented – LOCSD Board didn’t hold attorney/client privilege to censored invoices.
Recommendation #2 – If information was included in the recall election and Measure B, it should be referred to State Bar for possible further action.	Further action pending.

AREA ADVISORY COUNCIL RESOLUTION

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 –	Disagree – Current arrangements are sufficient.
Recommendation #2 –	Board does view this as a problem.
Recommendation #3 Check off items and other references to advisory councils should be removed form county permit application forms.	Not implemented.
Recommendation #4 – Planning Dept should review training of advisory councils so they understand the limits of its approval process and legal status.	Already implemented, handbook expanded.
Recommendation #5 – Same as #4.	Same as #4.
Recommendation #7 – Advisory Councils should respond to issues within the same time frame as Planning Dept.	Planning Dept. will implement this

BICYCLE RIDING IN SAN LUIS COUNTY

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – County should support “BikeEd” program or other bike safety training programs.	Implemented.
Recommendation #2 – County should continue to seek funding for bikeways and pedestrian safety construction projects and programs.	Implemented.
Recommendation #3 – Law enforcement should implement programs aimed at improving cyclist compliance with traffic regulations.	Pending.
Recommendation #4 – Rural roads should be marked with permanent signage warning cyclists and motorists to use caution and share the road.	Public Works department will implement this recommendation.

ATASCADERO HIGH SCHOOL: RACIAL ISSUES

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 - School District – AHS should develop policies regarding racial harassment and religious harassment.	Meets current state mandates.
Recommendation #2 – School District and AHS should form a volunteer advisory committee to focus on harassment and education on diversity and tolerance.	Administrators are annually trained on these issues.
Recommendation #3 – School District and AHS should change procedures for reporting incidents of race, religious or sexual orientation.	In progress.
Recommendation #4 – Start a tolerance training program for all District staff.	Same as #2.
Recommendation #5 – Start tolerance, sensitivity and diversity training programs for all K-12 students.	State does address issues. Expanding program to Jr. High Schools.
Recommendation # 6 – AHS should identify racial and religious harassment as equal to sexual harassment.	“Challenge day” scheduled for 2006. “Hot topics Night” and History Day are planned.
Recommendation #7 – AHS should provide counseling for suspended or expelled students.	Peer mediation added to services.
Recommendation #8 – District should re-evaluate the need for additional security at AHS and other campuses.	Agree. Camera surveillance has been installed.

COMMUNITY SCHOOLS

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – WORK program should continue and be expanded to include specific job skill exposure and training.	Agree – WORK program should be implemented
Recommendation #2 – WORK program should be expanded to north and south county community school campuses.	Agree with expansion throughout the county.
Recommendation #3 – COE and Probation should work together on needs of WORK program.	Agree.
Recommendation #4 – Private industry should be approached for additional funding of work and opportunities for on-the job training, etc.	Agree with process of seeking funds from private industry for job training.
Recommendation #5 – Probation should remain involved with work.	
Recommendation #6 – COE, Probation and ROP should approach state legislature for pilot program to include availability of career technical education for students.	Agree.
Recommendation #7 – Probation should cooperate with General Services to provide job opportunities with identifying the county system.	No response.
Recommendation #8 – COE should utilize their existing facilities to create job training at Community School sites.	“Hands on” courses are offered. Field trips and job shadowing are being explored.

OAK TREE PRESERVATION IN SAN LUIS OBISPO COUNTY

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – Protection and preservation of oaks should be mandated by ordinance in any new construction in all unincorporated areas including antiquated subdivisions and single family homes.	Neither agree or disagree, need further analysis.
Recommendation #2 – Oaks on agricultural lands (excluding those for cattle grazing) should be protected by ordinance.	Same as above.
Recommendation #3 – Proposed ordinances should be reviewed openly with consensus of stakeholders as the primary goal.	Implemented.
Recommendation #4 – Sanctions for violations should be severe enough to deter criminal acts.	Not implemented – Further assessment is required.
Recommendation #5 – The number of Code Enforcement investigators should be increased.	Same as above.

AGING OUT: THE FUTURE OF FOSTER CHILDREN

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 Formation of a task force to address housing of teens aging out of foster care and to seek grants to pay for residential living.	BOS adopts the county departments' responses already been implemented; additional work needs to be done.
Recommendation #2 – Community and Court Schools should include programs for vocational training and development of marketable skills.	
Recommendation #3 – Development of individual exit plan, identifying specific support people and local resources, with help of the foster parents.	Department of Social Services has implemented
Recommendation #4 – ILP classes should be held at convenient times and locations throughout the county.	Attempts are being made to find funding for expansion.

TRANSFER OF DEVELOPMENT CREDITS

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – The TDC program should continue, providing that recommendations in this report are implemented.	Disagree. Multiple advisory groups have recommended that TDC program be discontinued.
Recommendation #2 – BOS should develop an incentive program to attract both sender and receiver sites.	Not implemented, but will be considered by Blue Ribbon Committee established by the Board of Supervisors.
Recommendation #3 – Sender sites should not receive TDC's for land with no agricultural value.	Disagree.
Recommendation #4 – Receiver sites should be located near available public services.	Same as #2

RESTRAINING ORDERS: PAPER THIN PROTECTION

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – Information about local resources for victims of domestic violence should be available by public services announcements in the media and by placement on county website.	Agrees. Further efforts are being made to provide all available information to victims, both in Spanish and English.
Recommendation #2 – Domestic violence training should be an essential element for all law enforcement and first responses.	The Grover Beach and other city Police departments will continue to implement this recommendation.
Recommendation #3 – Emergency Protective Orders and bilingual brochures should be used when appropriate in cases of domestic violence disputes.	Agree. Police departments are and will continue to receive training both in English and Spanish.
Recommendation # 4 – Law enforcement officers should ensure that batterers surrender firearms as mandated by federal and state law.	Agree. This is part of regular training for all Police departments and has been reinforced during briefing updates.
Recommendation #5 – Batterers with stay –away orders from Family Court should undergo assessment prior to family reunification.	Batterers with CPO’s – Probation dept. <u>will</u> conduct an assessment before recommending to the court whether he can be united with family. However, Batterers with Family Court orders are <u>not</u> assessed as of now.

RECOMMENDATIONS FOR PRISON FACILITIES

CALIFORNIA MEN'S COLONY

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – Closed circuit TV and distance learning should be incorporated with the educational process.	Additional education programs are being added via closed circuit TV corrections learning network, correspondence courses and individual work and educational instruction now available.
Recommendation #2 – Renovation and expansion of the West Facility.	Disagree. Funding restrictions make this recommendation improbable in the near future.

SAN LUIS OBISPO COUNTY JAIL AND HONOR FARM

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation #1 – BOS should place a high priority on funding expansion of women's jail and begin construction ASAP.	Board of Supervisors has allocated \$1.29 million allowing women's jail qualify for state funding when it becomes available.

JUVENILE HALL/JUVENILE SERVICES CENTER

2005/2006 Grand Jury Recommendation	Agency Response
Recommendation – BOS should provide funds to expand the capacity to accommodate increased number of incarcerated youth.	Board of Supervisors has allocated \$2.75 million for Phase I, which is a necessary step in increasing the capacity of the jail.