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DEPARTMENT OF AGING AND ADULT SERVICES

ELDER ABUSE

BACKGROUND

Members of the Grand Jury visited with the administrators of the Department of Aging and Adult Services (DAAS). Discussions involved an overview of the Department with a special emphasis on the topic of elder abuse. A subcommittee received and reviewed the document, *San Bernardino County Elder and Dependent Adult Abuse Inter-Agency Protocol, November 1, 200* . Discussions also centered on the Public Guardian and Conservator services provided by the County.

The Grand Jury has recognized that the demographics of the County regarding the percentage of the population defined as elderly is dramatically increasing.

Statistics indicate that reported cases of elder abuse have been increasing in the County over the past decade. While the number of reported cases has been on the rise, state funding to investigate these complaints has been declining.

Even with declining funding, it is imperative that the outreach program for reporting elder abuse be enhanced.

The website for DAAS has a prominent display in the middle of their home page highlighting the HOTLINE TO REPORT ELDER ABUSE.

FINDINGS

1. The Department website provides a tab listing *SENIOR CENTERS* within the County.
2. The Grand Jury visited a number of Senior Centers listed on the County website tab, and found few postings or brochures providing information on how to report elder abuse.

RECOMMENDATION

- 09-25 Provide and display large, visible posters, of at least 11 by 17 inches. Posters will provide information regarding the reporting of elder abuse and are to be displayed near exits of all of the Senior Centers listed on the DAAS website. (Findings 1, 2)

HOMELESS

HOMELESS ADVOCATE

BACKGROUND

To qualify for federal funds, Housing and Urban Development (HUD) has required counties to create and implement a ten-year plan to end chronic homelessness. The Grand Jury found that San Bernardino County is in the process of complying with this HUD mandate and has a coalition which is working toward this goal. Individuals were interviewed from the Department of Behavioral Health, Department of Legislative Affairs, San Bernardino Police Department, San Bernardino County Schools, and the Central City Lutheran Mission. Some Grand Jury members also attended the November 2008, Homeless Summit.

FINDINGS

1. A significant number of homeless individuals have been identified in the City of San Bernardino. Business owners and residents in City of San Bernardino often call the police, complaining that homeless individuals have been panhandling, trespassing, or causing a public nuisance. The responding officer can arrest and book, which costs time and money, or order the offenders to disperse, which only moves the problem to another location.
2. Three years ago, the San Bernardino Police Department (SBPD) assigned one Homeless Advocate Officer (HAO) to deal with incidents involving the homeless population. This HAO has created a unique program which provides professional, compassionate customer service to both the City and its homeless population. Problems involving minor crimes or mental illness are referred to Homeless Court. There, those who qualify are offered the opportunity to do community service, to receive treatment, or to participate in a program which will help them improve their quality of life. Occasionally the HAO has been able to assist clients by obtaining medical insurance through Medically Indigent Adults (MIA) or to refer them to low-cost clinics such as Social Action Community Norton or Central City Mission's H Street Clinic. This officer not only answers police calls, but personally goes into the homeless camps and seeks people who can be helped by the programs which are already in place.

3. The assignment of one dedicated officer who deals with the homeless population has been beneficial to the entire police department. This officer's expertise in locating services, in defusing potential altercations, and in understanding individual limitations has saved the City of San Bernardino much stress, time, and money.
4. This HAO has given presentations to other groups, such as Code Compliance, Public Works, Caltrans, Department of Behavioral Health, law enforcement, non-profit and faith-based organizations, stressing the importance of collaborative and compassionate efforts in dealing with the homeless population.

COMMENDATION

With no established program in place to deal effectively with police interactions with the homeless, this HAO has created and continues to implement a viable and exemplary program.

RECOMMENDATION

09-26 Establish a Homeless Advocate Officer position in the Sheriff's Department. (Finding 3)

HOMELESS CONTINUUM OF CARE

BACKGROUND

Recent investigations into the conditions of and care for the homeless of San Bernardino County (SBC) indicated that the County has some homeless programs in place, but more oversight is needed in order to create an effective and comprehensive plan. The 2008 application submitted by the San Bernardino County Continuum of Care (CoC) to the Housing and Urban Development (HUD) was not awarded funding for new projects. This highlights areas of concern in the County's homeless program. This Grand Jury report demonstrates that a lack of cooperation among participating agencies has resulted in the loss of millions of dollars for new programs for the County.

Prior to the CoC Debriefing Summary, the 2008-2009 Grand Jury was comfortable with the direction of the homeless programs in the County. At the Homeless

Summit in November 2008, the Keynote Speaker from HUD had high praise for San Bernardino County.

FINDINGS

1. The April 22, 2009, Debriefing Summary concerning San Bernardino County's Continuum of Care application to HUD reported that the County received 74.25 points out of 100, falling short of the 78.25 threshold for funding. That shortcoming in the application cost the County \$6-8 million dollars of HUD funding for new projects in SBC.
2. The County is not the lead fiscal agency and has no oversight for the application submitted by the San Bernardino County Continuum of Care. The application was in response to the Housing and Urban Development (HUD) 2008 Notice of Funding Announcement (NOFA). The CoC Debriefing Summary demonstrated a lack of cooperation by the involved agencies. Agencies that receive HUD funding were deficient in reporting their required performance measures.
3. The application process for completion and approval is quite lengthy. All the providers, or agencies participating, are required to enter information such as bed-counts and bed-count usage into the Homeless Management Information System (HMIS). In 2008, this requirement was either not accomplished or not forwarded to HUD as required. Results show a lack of training by Office of Homeless Services (OHS) to assist agencies, and little, if any, monitoring by HUD.
4. The Community Action Partnership (CAP), a private non-profit benefit corporation, is responsible for the application of the Homeless Management Information System. HUD gives CAP funds to run the HMIS system. This arrangement resulted in a successful application in 2007, but a denial of new funding in 2008.
5. The County has not yet established an effective oversight group to bring together into a cohesive and active body all the current and potential organizations which aid the homeless. Successful results in the fight against homelessness will only be achieved through collaboration and cooperation with the Homeless Partnership.
6. San Bernardino County has fallen behind in its effort to achieve the 2005 Federal Government's National Alliance to End Homelessness plan which urged the cities and counties nationwide to create and implement a 10-Year Plan to deal with the homeless. The Counties of Riverside, Orange, Los Angeles, and Santa Barbara already have their 10-year plan in operation. Currently more than one dozen cities in San Bernardino County are involved in a County partnership to fulfill this plan.

The County has requested, through the Homeless Partnership, that the mayors of these cities present plans for their respective homeless situations, especially regarding the establishment of permanent supportive housing for chronically homeless persons. However, most agencies and cities continue to be reluctant to provide this permanent-type housing.

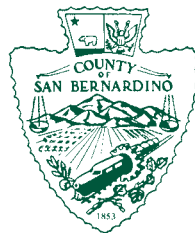
7. A consultant was hired for \$30,000 to assist in the writing of the CoC application. Despite this assistance, funding was not granted to the County for new programs.

RECOMMENDATIONS

- 09-27 Establish the OHS as the lead fiscal agency on behalf of San Bernardino County Homeless Partnership. (Finding 2)
- 09-28 Request that HUD provide training for each agency to establish 100% accuracy and timeliness for HMIS entries and request that HUD monitor the County's application process from start to completion. (Findings 2, 3, 4)
- 09-29 Require that OHS submit the completed 10-Year Plan to the Board of Supervisors for approval well in advance of the application deadline to HUD. (Finding 6)
- 09-30 Urge mayors and city councils that are not currently part of the OHS Partnership to support the County leadership by identifying one or more providers of permanent supportive housing for chronically homeless persons. (Finding 6)
- 09-31 Request that cities within the homeless partnership of the County provide more support to the County's 10-year plan and prepare for their cities to address the homeless conditions. (Finding 6)
- 09-32 Allow no contracts with paid consultants to assist in applications for HUD funding. (Finding 7)

LAW AND JUSTICE COMMITTEE

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LAW AND JUSTICE COMMITTEE



Front row le t to rig t:

James Wilson, Dr. Peter Bulza, Jan Flammang, Roger D. Trussell,
Sandra Shahan, Ken Taylor

Back row le t to rig t:

John R. Saathoff, Dr. Harry Stavros, Tom Hale

LAW AND JUSTICE COMMITTEE

The Law and Justice Committee experienced a very active year of investigations. Our term enabled us to focus on the following three areas:

- All of the San Bernardino County Jails and several of the Sheriff's stations
- Probation (High Desert Juvenile Detention and Assessment Center and the Fred D. Jones Youth Center)
- Public Defender (Indigent Defense Fund process and staffing)

San Bernardino County Jails/Stations:

The following jail facilities were inspected:

Adelanto Detention Center	Barstow Station
Big Bear Station	Central Detention Center
Colorado River Station	Glen Helen Rehabilitation Center
Twin Peaks Station	Victor Valley Station
West Valley Detention Center	Yucaipa Station

Juvenile Detention and Assessment Centers:

- Apple Valley
- Gilbert Street
- Rancho Cucamonga

Visitation reports were written on each of the above facilities. Findings and recommendations were written on those facilities where we deemed improvements were needed.

GENERAL FINDINGS FOR JAILS

The Sheriff's Department is concerned about the safety of department personnel. Proactive involvement in lessening the possibility of danger to Sheriff's Department employees needs to be pursued in the following areas:

1. According to the Centers for Disease Control (CDC) in Atlanta, the number of reported cases of tuberculosis (TB) in the U.S. during the past decade has been on the rise. TB is spread from person to person through the air. Individuals working in confined environments, such as jails, patrol cars or offices, are more likely to contract the disease than individuals working outdoors.

During this past summer, there was an incident in the Needles area that brought members of the Sheriff's Department into contact with a food service worker who, allegedly, had active TB. The Sheriff's Department did an outstanding job in dealing with this situation.

After the first of this year, a community college student was also diagnosed with TB.

TB-related incidents are becoming numerous, and contracting TB is more likely for those dealing with the public.

The California Department of Corrections requires their personnel have a TB test every year. California public schools require their personnel to have a TB test every two years.

If TB is diagnosed early, medications are available for effective treatment.

2. Each Sheriff's Academy graduate is issued a protective vest. Currently, the policy for wearing protective vests when working in the jails is voluntary. Many Sheriff's Department employees who work in the jails do not wear protective vests.

During the past five years, a similar voluntary policy was in effect at the California Institution for Men (CIM) at Chino until an employee died as a result of being stabbed. He was not wearing a protective vest. The Grand Jury realizes that an incident similar to this is possible at any of our facilities. At present at CIM, all personnel are required to wear protective vests.

RECOMMENDATIONS

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|-------|--|
| 09-33 | Require all Sheriff's Department employees to have an annual TB test as part of their continued service with the department. (Finding 1) |
| 09-34 | Require designated Sheriff's Department employees working in the jails to wear protective vests while on duty. (Finding 2) |

PROBATION DEPARTMENT

SUMMARY

In November 2007, the County of San Bernardino (County) ended its partnership with a subsidiary of a national juvenile group home company. The once enthusiastic and hopeful plan of the San Bernardino County Probation Department, the company, and its subsidiary to house juveniles in a new facility called the Fred D. Jones Youth Center (Center) ended in November, 2007. The subsidiary emptied its Hesperia facility of personnel and juveniles and closed its doors. The facility was sold and reopened as a public charter school.

BACKGROUND

In February 2004, the Center was opened and began accepting juveniles placed by the county juvenile courts and by the Probation Department. This facility was located in the First Supervisorial District and was actively supported by the former Chairman of the Board of Supervisors, Bill Postmus. The new 65,000 square-foot facility was constructed at a cost of nearly five million dollars. The parent company and subsidiary funded the construction of the facility through loans secured on the basis of a contract with the County. The County and the company had signed a ten-year renewable, \$48 million agreement. Construction of the facility took over a year to complete. It was located in the 16900 block of Lemon Street in Hesperia, California.

The Center was planned to house a relatively large number of juveniles from the ages of 12 to 18. According to subsidiary management, there would be no locks and no time-out rooms. Rather, the juveniles would participate in strenuous outdoor activities, attend school, optional Bible study, and have access to mental health treatment. The programs provided at the facility would aim to instill a sense of self-discipline, dignity and a sense of honor in the juveniles. But in January 2007, the Probation Department, citing moral issues, unilaterally backed out of the agreement and began withdrawing and relocating its juveniles.

In the early 2000's, State-licensed foster care facilities were nothing new to the Probation Department. There were over a hundred homes for assigned risk juveniles in San Bernardino County. The County Probation Department is responsible for assigning each juvenile to a home appropriate for his or her risk designation. In this case *risk* does not mean dangerous. Risk factors are related to the amount of care each individual needs. For instance, juveniles with special needs, health, emotional, and learning problems are considered a higher risk factor than those without those needs. Higher *risk* does not directly translate to *more dangerous*. Juvenile group homes are not intended for the criminal juvenile elements. The Probation Department has a long and successful history of utilizing private group homes managed by organizations such as Boys Republic, Trinity Youth Center, Silver Lakes Group Homes, and many others.

Individual counties determine into which type of facilities their juveniles are placed. Private juvenile homes became more prevalent in California, growing from 3,295 private homes in 2002 to 5,465 private homes in 2005. Beginning in 2001, the parent company proposed that the Center, which was then in the planning stage, would be for nonviolent juveniles. According to the 2003-2004 San Bernardino County Grand Jury Report, the Probation Department needed to respond to a demand by the California Department of Corrections for more bed space for juvenile residential detention treatment centers. Despite some controversy over the terms of the agreement, the Board of Supervisors approved a ten-year agreement with the parent company and subsidiary for 72 beds for in-County juvenile resident assessments and treatment services. The agreement stated, among a number of other items, that Probation personnel would not be required at the facility and the State and County would share the \$5000 a month cost for each juvenile. Unfortunately, the Grand Jury 2003-2004 Report assumed that the agreement contained a clause that allowed a *release from bed guarantee* if there were an insufficient number of juveniles to fill the 72-bed requirement. This clause grew to be the major contentious issue between the subsidiary's management and the Probation Department. A high-ranking Probation Department administrator had, in 2001, promised the Board of Supervisors, who had been considering housing juveniles in tents, that those beds would be filled for many years to come.

The parent company's website describes media articles and programs aired and published during the 1980's. Many of these articles, TV spots, and commentaries were, at least in part, critical of its methods and style. Prior to 2000, *60 Minutes* televised at least two critical segments about the parent company's unorthodox management of juvenile offenders. A number of websites and news articles from the 1980's and 1990's reviewed by members of the Grand Jury reported many problems associated with the parent company's facilities in other states.

After nearly four years of planning, the 65,000 square-foot, ten-acre Center opened on a Monday in January, 2004. The Center accepted its first 20 juveniles the following Friday. Problems with the Center's operations began immediately.

The facility housed juveniles from San Bernardino County in addition to juveniles from other counties. At the subsidiary-managed Center, not only were the juveniles involved with several types of misconduct, but so was the staff. One staff member was arrested in March of 2006, for having unlawful sex with the 14-year-old daughter of another staff member. The subsidiary president resigned in May of 2006, after the publication of sexual molestation incidents involving juveniles by two female staff members. One female staff member reportedly had sexual relations with two underage boys from other counties. The allegations were verified and the staffer fired.

The Probation Department felt that the State was not responsive to the 300-plus incident reports sent to the State by Probation in 2005 concerning the situation at the Center, and the State continued to license the facility. However, newspaper reports describe a 2006 investigation of the Youth Center by the State Department of Social Services after a complaint by one of the molestation victim's mothers. The State's investigation of the Center found that the juveniles were served food containing foreign objects including flies, metal and plastic. One juvenile was choked by a staff member while roughhousing. Another juvenile was denied medical attention after he injured his

hand. The State investigation found that one juvenile housed at the facility had a sexual perpetrator history, a violation of both State regulations and the County agreements with the subsidiary.

During 2005, 82 juveniles ran away from the facility. The large, nearly unsecured facility was a short distance to a bus stop and a trip to San Bernardino and other points. In the period from April through July 2006, 51 calls to the Sheriff's station in Hesperia were made for assistance at the Center. The Sheriff's Department voiced concern with the number of calls involving the Center. This prompted the Probation Department to staff a Probation Officer at the Center. One of the original selling points to the Board of Supervisors was that no County staff would be needed at the facility.

The problem of runaways from the facility created issues of public safety. A 15 year-old was committed to the Center in early 2006. One of many runaways from the Jones Center, the juvenile surfaced months later as the suspected shooter in an incident that left an 11 year-old dead and a 13 year-old wounded on the grounds of Martin Luther King Jr. Middle School in the City of San Bernardino. San Bernardino Police reports said witnesses described the juvenile as asking an 11 year-old boy where he was from, meaning what gang did he belong to. When the boy responded he didn't belong to a gang, the juvenile shot and killed him. The boy's brother was shot in the hand and has since recovered. The adjudication of this case has not been made public, as all juvenile proceedings are confidential.

Because the County was required to pay for 72 occupied beds per day at the facility, whether or not the beds were occupied, billing became an on-going point of contention between the subsidiary and the Probation Department. Problems at the Center were the subject of numerous meetings between the subsidiary and Probation, but no satisfactory solution was reached. In late summer of 2006, the Probation Department had lost faith in the partnership. After repeated attempts to end the contract and having had to provide County staff to assist at the Center, in July 2006, Probation no longer complied with the 72-bed requirement.

The Probation Department's association with the subsidiary was terminated on January 1, 2007. However, even without the original legal agreement, Probation continued to house some juveniles at the facility. The subsidiary struggled on with a dwindling number of juveniles sent by other counties throughout the State until November, 2007, when the company ceased operations and left California. The subsidiary is still an affiliate of the parent company operating a juvenile home in another state. As the result of the contractual wording in the original agreement, several key points were disputed by the parties. The main point of contention was the payment for the bed guarantee requirement. After studying the situation, even the 2003-2004 Grand Jury, the media, and the Probation Department were confused on this point. The Probation Department and County Counsel disagreed with the parent company regarding when certain obligations under the contract were triggered. The result was a breach of contract suit brought against the County in April 2007, and settled in March 2009, for \$2,700,000 in favor of the subsidiary and parent company.

FINDINGS

1. The current administration of the Probation Department acted in the best interest of the County in terminating its association with the parent company and its subsidiary in November 2007.
2. The County contract between the parent company and its subsidiary in California was unclear in its intent and treatments of the participating party's responsibilities and duties.
3. Although the State did license the facility at the beginning of the relationship between the County and the subsidiary, no County entity investigated the past history of the subsidiary, its parent company, or those people working for those companies before entering into an expensive contractual agreement.

COMMENDATION

Regardless of the consequences of the contractual arrangement with the parent company and its subsidiary, the Probation Department protected the juveniles under its control from a dangerous situation. (Finding 1)

RECOMMENDATIONS

- 09-35 Clarify responsibilities and state exact time specifications in future contracts with private companies. (Finding 2)
- 09-36 Conduct operational and financial audits on private business enterprises. (Finding 3)
- 09-37 Perform background checks on executive personnel before entering into contracts with private companies. (Finding 3)

HIGH DESERT JUVENILE DETENTION AND ASSESSMENT CENTER

SUMMARY

The four-year old Probation Department facility, located north of Apple Valley on Dale Evans Parkway, is a state-of-the-art facility. The basic layout is a mirror image of the older sister facility at West Valley Juvenile Detention Center in Rancho Cucamonga. It is well-designed and engineered for the safety of both inmates and workers. Personnel, at all levels interviewed, were enthusiastic about the facility and their own positions. There is tight control over the inmates (wards) in highly-structured programs and environment. 113 sworn officers work assigned shifts of eight hours each, plus overtime.

BACKGROUND

Power Supply: Probation personnel attested to the functionality of back-up power generation. They said that Southern California Edison (SCE) power outages occur several times a year and the generators have never failed. The longest outages are in the two-hour range, but the generators have always been reliable. Due to the number of SCE outages at the complex and the number of test trials per year, the electrical system appears adequate.

Education: Schooling is required for wards under 18 years of age. The County Office of Education operates the educational classes at various locations within the facility. There are 10 to 15 students per classroom with one teacher and one aide. Wards showed an intense concentration not normally found in public schools.

Wards excel in General Education Diploma (GED) testing. 90% of the students taking the test have received a passing grade. Students are transported to the Central Detention Center (CDC) for testing. Any high school credits earned are sent to the ward's home school for evaluation and acceptance toward a high school diploma.

Medical: The clinic is well-staffed with nurses and support personnel on duty 24/7 and a medical doctor three days per week. Wards are given a physical examination by a nurse upon entry, each time they re-enter the system, and annually thereafter.

Wards are allowed one sick call every 24 hours for non-emergency situations. They are provided with care for reproductive health, including treatment of sexually transmitted diseases and birth control.

Lab work is drawn and collected in-house and sent to Arrowhead Regional Medical Center (ARMC). Wards with injuries or serious medical problems are transported to ARMC or, in an emergency, to St. Mary's Hospital in Apple Valley.

Mental Health and Treatment: There is an extensive mental health program for the wards at the facility. In addition to a psychiatric evaluation upon entrance, psychiatric care is available one time per week, and counseling is provided 24/7.

There is a specialized Forensic Adolescent Services Team (FAST) for needs such as behavioral problems, crisis intervention, independent living skills and reintegration into home and society. An administrator spoke at length, explaining the concept, and the varied "watch levels" of behavioral conduct. He also explained that probation staff does all internal risk classification. This classification is by gender, age, size, type of crime, history and attitude. This process usually takes less than one week for new wards.

Wards in the juvenile system tend to have many mental issues. About 50% of those entering this facility indulge in alcohol consumption. About 90% have identifiable problems with alcohol and other drugs. A psychotherapist does local testing and evaluation and is also responsible for psychological interns. At the time of the Grand Jury visit, there were two females and five males on suicide watch.

Housing: Wards are housed two to a cell in community pod-type arrangements. They are assigned to a certain pod according to the classification interview. These community pod structures are situated around an interior exercise/activity area with showers within each individual cell group. Activity is almost entirely within the individual pod structures, although wards have access to adjacent outside exercise yards. Each pod has ten rooms, with one room specifically for those wards with problems. This room has a small opening which allows for handcuffs to be applied and removed when necessary.

Each ward adheres to strict rules and is never left alone. Wards are required to maintain their own cells. Other than individual educational and chore assignments within the pod, wards perform no work in the complex. Adherence to behavioral standards earns an Honor Night each week, with points earned for the purchase of privileged items.

Visitation: The only visitors allowed are parents and grandparents. Visits are allowed once a week, only on weekdays from 7 to 9 P.M. There is no weekend visitation. Occasionally, there may be special circumstances for a visitor outside of these parameters.

Telephone calls are allowed seven days per week. Wards get at least two free calls, but all other calls must be collect, unless otherwise ordered by the Courts.

Capacity: The center has a capacity for 200 wards, but at the time of the Grand Jury visit, there were 128, consisting of 115 males and 13 females. Most wards are from the high desert area of San Bernardino County, but occasionally, some are accepted from other areas/counties, depending on needs assessment.

Meals: The kitchen microwaves about 500 frozen ConAgra meals per day for wards and staff, with locally added pastries, salads and deserts. The usual fare is two hot and one cold, normally lunch.

Facilities Maintenance: County Facilities Management personnel maintain the plant. It is very well maintained with no observed hazards.

Overall, this facility is exceptionally well engineered and operated.

FINDING

1. While interior cameras are adequate and have recording operations, exterior cameras lack recording capability. Staff has had to use hand-held cameras in some circumstances.

RECOMMENDATION

09-38 Upgrade all exterior cameras to include recording capabilities. (Finding 1)

PUBLIC DEFENDER'S OFFICE

BACKGROUND

The Public Defender is charged with the responsibility to defend persons charged with offenses who are unable to afford a private attorney.

During a visit regarding a past Grand Jury recommendation concerning indigent defense funding, the Public Defender was concerned over clients being arrested for failure to pay indigent fees. This concern was related to the location of an arrest warning for violation of probation terms and chargeable fees on the same *tahl sheet* of the misdemeanor form.

Many Public Defender deputies appear with clients in video arraignments within the actual jail. In fiscal year 2008-2009, the San Bernardino County Public Defender's office had 116 budgeted Deputy Public Defender positions, but only 122 were actually filled. This office handles 80% of the caseload of the District Attorney's office and averages over 500 cases per deputy. Compared to a 325 to 350 caseload of deputies in other counties, such as Riverside or San Diego, it demonstrates that County personnel carry a disproportionate burden.

The current downturn in the economy is having no immediate effect on this office, as it is part of the Law and Justice Group and not subject to the 8% cut in funds. Some cases are dismissed by the District Attorney because of the length of time required for bringing a case to trial. If budget cuts were applied to the Public Defender's office, more cases would be dismissed before getting to court.

FINDINGS

1. Many arrest warrants, issued over unpaid indigent fees could be resolved by placing the fee schedule on a separate page.

RECOMMENDATIONS

- 09-39 Put Indigent Fee Schedule on a separate page from the probation warning.
(Finding 1)

SHERIFF-CORONER

JAIL FACILITIES

ADELANTO DETENTION CENTER

BACKGROUND

Adelanto was formerly a privately-operated prison, beginning with its construction in 1997. It was purchased in 2005, at a cost of \$80,000 per bed. If built new, the facility would have cost about \$125,000 per bed.

The current expansion of the Adelanto Detention Center was funded by State Grant (via AB800) of \$100 million, which will add 1,386 beds, in three pods of 462 prisoners. When added to the present 706 prisoners, this will provide a total of 2,092 beds. The completion date is anticipated for 2011-2012.

Other than a few holding cells for intake and transport, the jail population is housed in open dormitory-type sections. They are placed according to their risk factor, determined by customary assessment of attitude, violence risk and level of crime. Almost all inmates are felons. At the present time there are no female prisoners

Because showers and toilet facilities are minimally screened with modesty panels, video camera placement is limited in the open dormitory areas. However, video cameras in the Bridge (control room) area can be operated, in time of need, by the deputy on station. All cameras have recording capability.

The jail provides General Educational Development (GED) classes but is limited by space.

The kitchen area is clean and well maintained.

There are 151 assigned staff positions for the jail, 95% of which are filled.

There are RN's and/or LVN's available 24/7, with doctors available on call for medical and mental health issues. The facility lacks a dental hygiene program, but inmates with dental issues are transported and seen at West Valley Detention Center.

The question of deputies wearing protective vests has been asked in each jail and the answer is always that the equipment is available, but use is not mandatory. The Grand Jury asked the Captain if employees are required to have tuberculosis (TB) tests yearly, and was told that it has never been mandated but employees can request testing if they feel it is necessary.

FINDINGS

1. Facility is cooled by evaporative coolers.
2. Floor coverings in housing pods have deteriorated.

RECOMMENDATIONS

- 09-40 Replace evaporative cooling system with an air conditioning system.
(Finding 1)
- 09-41 Install new flooring in the housing pods. (Finding 2)

BARSTOW STATION

BACKGROUND

The Barstow Jail facility is the oldest Sheriff's building in the county. This Type I facility has a capacity for 36 male prisoners and 12 female prisoners. The Barstow Sheriff's Station is responsible to protect a 9,812 square-mile field area plus the jail operation. West Valley Detention Center (WVDC) does approximately 400 bookings for this facility. Buses pick up and deliver prisoners each day. The prisoners are non-sentenced and held no longer than overnight for court appearances. Inmate workers (four trustees) and County Facilities Management maintain the building and grounds. The trustees have a barracks-style room with a computer. Jail Deputies work eight-hour shifts, Patrol Deputies work 10-hour shifts, and the Watch Commander works a 12-hour shift. Additionally, they operate with Military Police at Fort Irwin on felony cases. Deputies are not required to wear protective vests within the jail. They do wear protective vests while on patrol. The kitchen is clean and small. It is adequate for serving the staff and the 48 present inmates. The jail cook is a trustee who is Regional Occupational Program (ROP) certified and handles the preparation of food sent from WVDC.

FINDINGS

1. The Board of Supervisors has approved \$3.5 million for two phases of expansion.
2. The roof leaks in the Bridge (control room).
3. The exposed electrical wiring problems in the Bridge constitute a potential safety hazard.
4. A low-hanging metal box in the entry way is a potential safety hazard.
5. Restroom/locker room facilities are inadequate for female employees.

6. The exit for released prisoners is through the patrol car parking lot.

RECOMMENDATIONS

- 09-42 Expedite the remodel and expansion of the facility. (Finding 1)
- 09-43 Repair the roof leaks in the Bridge area and the electrical/wiring problems. (Findings 2, 3)
- 09-44 Remove the low-hanging metal box in the entry area. (Finding 4)
- 09-45 Provide adequate female locker/restroom facilities. (Finding 5)
- 09-46 Install a locking-bar jail door to existing exit at front parking lot. (Finding 6)

BIG BEAR STATION

BACKGROUND

The Big Bear Jail is a 22-bed facility (10 single and 3 four-person rooms). The food is prepared at and transported from the West Valley Detention Center.

One building houses various County offices, including the jail, Sheriff's Office and Superior Court.

If a prisoner were to need medical attention beyond first-aid, the Big Bear Community Hospital is one block away.

The jail section of the station was clean and well-maintained. The kitchen, laundry room and common room were in excellent condition. Big Bear Jail uses several sentenced prisoners from Glen Helen to do the routine custodial duties.

FINDINGS

1. The video equipment is inadequate. It is old, can only be accessed by several black and white video monitors located in various parts of the station, and has no recording capability.
2. Parking is inadequate for the number of people who use the jail, court and various county offices. There is limited secured parking.
3. A jail this size normally has four or five Sheriff Custodial Specialists (SCS). Big Bear has only three SCSs, which requires a deputy to be on duty in the jail. The

station has only one female deputy and one female SCS who are authorized to search female subjects. This can cause a problem if both are off duty. In that case, one female would have to be called in and paid overtime.

RECOMMENDATIONS

- 09-47 Provide a state-of-the-art monitoring/recording video system similar to the one created at Victorville for ALL of the other small jails. (Finding 1)
- 09-48 Provide additional secured parking in the area. (Finding 2)
- 09-49 Transfer at least one additional female SCS and/or deputy sheriff to the Big Bear Station. (Finding 3)

COLORADO RIVER STATION

BACKGROUND

The Colorado River Sheriff's Station building was constructed in 1973. The building is clean but, other than the kitchen, has no ceiling sprinkler system. Fire extinguishers are easily available. The kitchen area has been updated with modern sink, stove, counters, and refrigerator. Prisoner food is delivered every week from West Valley Detention Center (WVDC). The facility includes a laundry room.

The building has an intake area for booking and one attorney visiting room. Fingerprinting, booking photos, and a breathalyzer machine are located in a separate room. There are also visiting rooms with phones for prisoners and family members.

Due to the monsoons in the desert areas, maintenance crews check back-up generators monthly for serviceability. All vehicles are kept in the secured fenced parking lot.

FINDINGS

1. Crown Victoria automobiles currently in use are not appropriate for off-road use.
2. The aging Boston Whaler patrol boats need constant repairs causing additional expense to a limited budget.

RECOMMENDATIONS

- 09-50 Replace Crown Victoria automobiles with 4-wheel drive vehicles on a scheduled basis. (Finding 1)
- 09-51 Replace Boston Whaler patrol boats on a scheduled basis. (Finding 2)

GLEN HELEN REHABILITATION CENTER

BACKGROUND

Glen Helen Facility is 50 years old. During this period of time Glen Helen has changed and now houses inmates who have committed felonies and misdemeanors. This facility also has week-end prisoners that are given jobs at County parks and Caltrans. Prisoners check in each day and leave at 6:00 pm., returning the next day for another work detail. They bring their own lunch, but water is provided.

An electronic monitoring ankle-bracelet program will be initiated shortly. The Sheriff's Department will make the decision as to who will wear the ankle bracelets. The Department predicts that the cost for the program will pay for itself by charging the prisoner a minimum of \$15.00 a day. If the electronic monitoring is violated, a warrant will be issued, and the individual will then do straight-time with no weekends.

Continuous Professional Training (CPT) is provided for each deputy (24 hours every two years). This is done with videos and simulator training. Advanced Officer Training is optional.

Medical care is provided by RN's or LVN's. If serious medical attention is necessary, the prisoner is transported to West Valley Detention Center.

The new prisoner receiving area is too small for current needs.

Some cells house two prisoners; some prisoners are housed in open dorms. The jail also has protective housing for prisoners with special needs. Prisoners wear different colored jumpsuits to signify their level of incarceration: green clothing for protective custody, orange for general population, and blue for prison workers.

The cafeteria was immaculate, large and in a separate building from cell housing.

FINDINGS

1. The jail area is old and in need of paint. The two-man cells are small but appear clean and neat.
2. The open dorms were dirty and litter-filled and could invite insects and vermin.
3. The Receiving Room for booking of new arrivals was too small to accommodate the handling of a large group of incoming prisoners.
4. The deputies carry mace and are issued tasers for protection in case of an altercation. No protective vests were worn by officers. Officers have them, but to wear them is optional.

RECOMMENDATIONS

- 09-52 Paint the building, which is old and in need. (Finding 1)
- 09-53 Provide prisoners housed in dorms with footlockers to store their extra clothing and food in order to keep the area free from insects and vermin. (Finding 2)
- 09-54 Enlarge the Receiving Room area in order to process large groups of incoming prisoners. (Finding 3)

MORONGO STATION

BACKGROUND

The Morongo Basin Station is the third largest Sheriff's station in the County, both in number of calls which averages 5,000 per month and the area serviced, 52,000 square miles. Five patrolled districts service a population of about 85,000. The area of responsibility includes the incorporated City of Twenty-nine Palms and the Town of Yucca Valley. Unincorporated communities are Morongo Valley, Landers, Johnson Valley, Joshua Tree, Wonder Valley, Pioneer Town, Amboy, Cadiz and Flamingo Heights.

The station is located in the County's Law and Justice Complex in Joshua Valley. This facility also houses three courtrooms as well as other County offices. There are two satellite offices in Yucca Valley and Twenty-nine Palms. They have joint law enforcement jurisdiction and authority on the Twenty-nine Palms Marine Corps Base located within the boundaries of the City of Twenty-nine Palms.

The entire building accommodates 92 personnel. This number includes the jail division which has five deputies, a corporal, and five Sheriff Custodial Specialists (SCS) booking officers.

This Type I Jail has a 75-bed capacity with a maximum stay of 96 hours.

The jail houses pretrial inmates, with the exception of four inmate workers who are housed separately.

Inmates are picked up by bus and transported to West Valley Detention Center on Monday, Wednesday and Friday.

No medical care is available on site, but prescription drugs can be dispensed. Minor or simple treatment is administered by the hospital which is about 300 yards from the jail. Inmates with serious medical injuries are transported to West Valley Detention Center.

A major problem of retaining deputy personnel is the active recruiting by nearby cities such as Beaumont. They offer attractive packages of higher pay and greater benefits, such as fully-paid medical.

Currently, the Morongo Station does not have a Sheriff/Coroner. This creates a problem because bodies of deceased persons may remain at the scenes for several hours before a coroner can arrive from San Bernardino. While there are potential deputy volunteers for coroner training, the funding is lacking. Minimal training would be for eight weeks, plus 60 hours overtime.

Most deputy shifts are 10 hours, alternating four days on for one week, then three days on the next week.

No juveniles are housed at this facility. They are cite-released or transferred to Juvenile Hall in San Bernardino.

There is very little gang activity, due to the rural environment.

FINDINGS

1. When the facility was built in 1984, it served a much smaller population. The area population has grown significantly. For example, one toilet, on the jail side of the main building, serves 59 males. One commercially-supplied chemical toilet is placed in the rear patrol car parking area at a cost of \$110.00 per month.
2. The parking lot is unsecured and also used for detective vehicles and some privately owned vehicles of judges.
3. The squad room and detectives' offices are housed in temporary portable buildings adjacent to the parking lot. These have been in place since about 1996. These buildings are very small.
4. The kitchen area is cramped and potentially a hazard.
5. In the jail area itself, the doors are not Americans with Disabilities Act (ADA) compliant, which has resulted in at least one inmate-initiated lawsuit. In that case, jail personnel disassembled and reassembled the wheelchair which enabled the inmate to use it within the confines.
6. The required equipment in the Bridge is maintained, but outdated and worn. The workspace is cramped.
7. Throughout the areas of the jail, there is a need for security camera/recorders. Currently there are two cameras which only serve as monitors, without recording ability.

8. Officers work 10-hour shifts and often must work overtime due to needs such as court appearances. Deputies often must sleep in their cars in the unsecured parking area. This is not conducive to their being alert and rested for the danger and stress of their duties. There is a need for an area which would allow a comfortable refuge for rest.

RECOMMENDATIONS

- 09-55 Add one more restroom jail-side and remodel the existing one. (Finding 1)
- 09-56 Take steps as soon as possible to secure the parking area from public access. (Finding 2)
- 09-57 Include adequate fencing and gates for controlled access at either end. (Finding 2)
- 09-58 Update the squad room and detective area into permanent or upgraded facilities to relieve the confined space problem. (Finding 3)
- 09-59 Remodel or rearrange kitchen equipment. (Finding 4)
- 09-60 Take immediate steps to bring the jail area doorways into ADA compliance. (Finding 5)
- 09-61 Conduct an audit to update the Bridge equipment as well as the general work area. (Finding 6)
- 09-62 Purchase and install a new video monitoring/recording system. (Finding 7)
- 09-63 Conduct a space audit to provide a refuge for commuting deputies. (Finding 8)

SAN BERNARDINO COURTHOUSE HOLDING CELL

BACKGROUND

The San Bernardino Courthouse, which houses the holding cells, was constructed in 1926. The purpose of the holding cells is to house prisoners who are awaiting their court appearances.

Two to three buses a day transport between 130-150 prisoners from other jails to these holding cells for court hearings.

Buses depart the court house at 10:30 a.m., 12:30 p.m. and 4:30 p.m.. The prisoners are returned to the jails from which they originated. No prisoners spend the night.

Before being sent to court, the prisoners are classified and are clothed appropriately to indicate their security needs. Orange jumpsuits are for the general population, red indicates high security, and green denotes prisoners segregated from the general population prisoners. Prisoners wearing blue jumpsuits are from Glen Helen and are used as janitors as needed.

There are usually four prisoners to a cell; juvenile offenders are housed separately. Female and male prisoners are housed separately and checked every 30 to 60 minutes for security. The holding facility has a staff of seven.

Deputies carry radios, pepper spray, and tasers for safety. None of the deputies are required to wear protective vests, but they are available for use.

When prisoners are transferred from the cells to courtrooms on other floors, they are secured with waist and leg chains.

FINDINGS

1. Between 12 and 14 secured prisoners are placed in an elevator with one deputy and taken down to the transportation area. Some prisoners are moved through public hallways in order to reach their assigned courtrooms.
2. The jail paint is chipped and the floors are deteriorating.
3. The jail is fully staffed. Some deputies are cross-trained to work in other areas of the jail.
4. The Sheriff Deputies handle all levels of prisoners daily. For protection they carry pepper spray, tasers and radios.

RECOMMENDATIONS

- 09-64 Review the ratio of prisoners-to-guards for the purpose of escorting prisoners to and from the holding area to the courtrooms. (Finding 1)
- 09-65 Paint the upper cell area and repair deteriorating floors. (Finding 2)

TWIN PEAKS STATION

BACKGROUND

The Twin Peaks building is shared by Building and Safety, Assessor, Sheriff, including Search and Rescue, and occasionally by Agriculture.

There are three cells which are seldom used and then only for two to three hours. If an individual were to be booked, he would be taken directly to West Valley Detention Center.

The building is well-maintained and has adequate parking. The fencing in the parking area is falling down. The emergency generator is 30 years old and difficult to maintain.

Normal watch includes a minimum of two units, with more for special occasions. That total staff of 19 includes two sergeants, one lieutenant, and one captain.

Twin Peaks substation has a very active Citizens on Patrol (CoP). These are non-sworn volunteers who are “out and about” helping with visual patrol. There are 30 volunteers which also help maintain the substation.

FINDINGS

1. The emergency generator is 30 years old, and it is difficult to keep it running in an emergency.
2. Fencing in east parking lot was falling down.

RECOMMENDATIONS

- 09-66 Replace emergency generator which is a vital piece of equipment and needs to be replaced or updated. (Finding 1)
- 09-67 Repair or replace fencing on the east side of the station. (Finding 2)

VICTOR VALLEY STATION

BACKGROUND

The facility was built in 1973, and it is cramped and crowded. The jail is a court holding facility with 67 beds. This is a Type 1 facility with three-man cells for 96-hour holding. There are two deputies who work the court-holding facility. There are 76 employees including 61 sworn deputies. Each deputy can cover 200 miles on each shift depending on the calls coming in. Three areas are covered with this facility: Phelan,

Victor Valley, and Lucerne Valley. Citizen-on-Patrol program is very active in the desert. There are 11 volunteer units and over 200 volunteers.

The Desert Control Center (Communications) processed 460,000 calls last year. In addition to the 911 operators, there are two Dispatch operators. The 911 operators route the calls to a dispatcher, who then relays the calls to the patrol cars. If the call center in Rialto were to shut down, all calls would be routed to the desert communication center, which would handle the load.

FINDING

1. While the station is clean and well maintained, heavy clutter from severe overcrowding was apparent. The facility is the busiest Type I Jail in the county. With bookings from 1200 to 1400 persons per month, its capacity is 67 prisoners, and is usually at maximum. Much of the station overcrowding could be alleviated by the Sheriff's Station moving to another location. Such a move would free up space for a much-needed expansion of the Control Center. These vital operator stations are cramped with aisleway navigation severely hampered by the back-to-back operator chairs.

RECOMMENDATION

09-68 Relocate to a larger building. (Finding 1)

WEST VALLEY DETENTION CENTER

BACKGROUND

The Captain of West Valley Detention Center gave the Grand Jury an over-view of this facility. The jail was built over a three-year period and opened in 1991 for 3,200 beds. It currently houses between 2,700 to 2,900 men and women. This is the primary booking facility for the County. Of the 600 employees, 261 are sworn Deputy Sheriffs; the remaining staff includes secretaries, Security Custody Assistants (SCA), Sheriff Custody Specialists (SCS), medical personnel, records staff, education staff and maintenance staff. West Valley is also a transportation hub with 13 buses and 13 vans. These vehicles are on the road most of the day transporting prisoners from one jail to another throughout the state.

The medical clinic has two physicians on duty, kidney dialysis rooms, and tuberculosis (TB) and hepatitis rooms with a reverse air duct system so disease cannot be spread. The dental clinic has the latest equipment and three dental chairs. Prisoners are transported to this facility from other County jails for medical/dental treatment.

Housing units are separate pods. Prisoners are classified at booking regarding their charges, gang affiliation, medical issues, and complete a detailed screening classification form to determine to which pod they are assigned. The main control area allows observance 24/7 of all pods and inmates only leave their pod for medical/dental issues. Inmate workers clean and polish all areas of their pod.

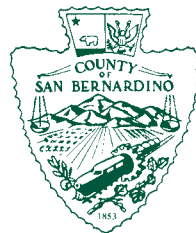
FINDING

1. The large area that houses the electrical generators and other related equipment does not appear to be well-secured.

RECOMMENDATION

09-69 Establish security at the rear of the facility where the power plant is located. (Finding 1)

PUBLIC & SUPPORT SERVICES COMMITTEE



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PUBLIC & SUPPORT SERVICES COMMITTEE



Front row left to right:

Robert Romero, Dr. Peter Bulza, Becki Hernandez-Powell,
Sandra Shahan, Dr. Izar Martinez

Back row left to right:

Rod Rupp, Ken Taylor, Patricia Swangel, Joyce P. Seeger,
Samuel Ferry

PUBLIC AND SUPPORT SERVICES COMMITTEE

Public and Support Services Committee (PSS) oversees the administration and budget activities of fourteen County departments charged with providing services to the public and to other County departments.

The departments of the PSS that were reviewed are as follows:

- Airports
- Architecture and Engineering
- County Fire
- County Library
- County Museum
- Fleet Management
- Facilities Management
- County Waste Division
- Real Estate Services
- Registrar of Voters

The departments not reviewed are as follows:

- Agriculture/Weights and Measures
- Land Use Services
 - Building and Safety
 - Code Enforcement
 - Planning
- Regional Parks
- Special Districts

AIRPORTS

SUMMARY

The Grand Jury looked into apparent problems with numerous managerial staff changes and dilapidated structural conditions at some of San Bernardino County airports. Our interviews with airport personnel cleared both items to our satisfaction. The staff situation movement was reasonable, and the poor hangar structural conditions at the Needles and Daggett airports were being remedied.

However, during our investigation and interviews, we found several items of interest. One was the aftermath of the radium contamination at the Chino Airport. The Grand Jury also investigated the Master Plan and the leasing environment for that airport. The Grand Jury also investigated the protection of CSA 60 (Apple Valley Airport) County cutbacks in funding, general airport safety, and insurance costs.

BACKGROUND

Last year the Environmental Protection Agency billed the County of San Bernardino nearly \$500,000 for the 2005 clean-up of abandoned aircraft gauges. The gauges' numbers had been painted with radioactive-laced paint and were stored in four hangars at Chino Airport. Airport managers did not know if, in fact, the airport's rates had increased due to the radium incident. The Grand Jury was referred to the Office of Risk Management for more information.

The Grand Jury found that the Airport Department did not have a consistent monitoring system in place for its hangar lessees, even though management was aware that hangar lessees were notorious for accumulating hazardous materials in their leased hangars. Lessees are charged a one-month advanced rent and no security deposit. The Airport Department has not contacted County Council since the radium incident for advisement on updating lease agreements in order to counter large cleanup expenses.

Our investigation determined that airport improvements at Chino Airport would be gained from a movement from agricultural leases to a reliance on aeronautical-centered lease and rental development. Such a move would be financially beneficial to the Department.

Complicated by several years of challenges by environmental groups, certain aspects of the 2003 Master Plan have not been fully implemented. That Master Plan was based on data from such organizations as the Southern California Association of Governments (SCAG). Data from SCAG has changed as much as 25% since it was used in the Master Plan. When considering worse-case scenarios, the Master Plan used data from relatively mild economic downturns, such as the recession of 1991. Forecasts of population, air traffic, development, employment and numerous other items referenced in the Master Plan are considerably outdated.

The Division of Aeronautics of Caltrans (DOA) periodically safety-inspects the County's airports. Caltrans notified the Grand Jury that its goal is to inspect each County airport annually. However, due to State budgetary problems, those inspections are much less often. According to the Division of Aeronautics, inspections are every 12 to 18 months. The Airport Department provided the results of the latest safety inspections made in 2005. A Federal Aviation Administration (FAA) runway safety inspection of the Chino Airport was performed in 2006. Thirty-eight safety related problems were noted during these inspections, and all were corrected by the Airport Department. The Airport Department does not contract for independent safety inspections of the County's airports between the periodic inspections made by the State Division of Aeronautics. Three to four years have passed since the last safety inspections at the County airports. Airport administration indicated to the Grand Jury that they expect the DOA to safety inspect the County airports in 2009. Still, a considerable amount of time has elapsed since the last inspections.

County Service Area 60 (CSA 60), the Apple Valley Airport, is a local tax-based service area consisting of 1,700 square miles of land in several high desert cities and unincorporated areas. The service area is funded by a property tax levy on businesses and residences in that area. CSA 60 contracts with San Bernardino County to provide material and personnel to operate the Apple Valley Airport. The airport receives no County General Fund money, and no money is extracted from CSA 60 to operate other County airports. Except for CSA 60's use of County operations to manage and operate the airport, no other financial arrangement has been made between the County of San Bernardino and CSA 60. Aside from the proximity of the airport to the Town of Apple Valley, there is no other relationship between the two.

FINDINGS

1. Lease agreements do not cover the County's expense for lessee's negligence.
2. The long-term financial interests of the County of San Bernardino will be better served by the Airport Department's moving from agricultural leases to an aeronautical-based development of airport-owned agricultural land.
3. The 2003 Master Plan is outdated.
4. Airport safety inspections are not being performed within the Division of Aeronautic's recommended time intervals.

RECOMMENDATIONS

- 09-70 Require lessees to provide a security deposit to cover the costs of inspections, clean-up, and damage. (Finding 1)
- 09-71 Provide financing for aeronautical-based development of the 300 agricultural acres around the Chino Airport. (Finding 2)

- 09-72 Review the Master Plan, update the data, consider the current economic circumstances of the County and of general aviation; then re-evaluate the assumptions to reflect current economic realities. (Finding 3)
- 09-73 Schedule the safety inspections at regular intervals to complement safety inspections performed by the Division of Aeronautics. (Finding 4)

ARROWHEAD REGIONAL MEDICAL CENTER (ARMC)

BACKGROUND

The Grand Jury was given a tour of the Arrowhead Regional Medical Center (ARMC) on November 14, 2008.

FINDING

1. A 17-year ARMC custodial employee was interviewed during the Grand Jury tour of the facility. The employee was on duty wearing an indistinguishable I.D. badge. The photo section was completely faded and the name and personal section practically unreadable.

The *Administrative Operations Manual* for ARMC page two, paragraph six states: "A replacement badge will be issued at no charge for normal wear and tear." The same *Manual* section contains the Human Resource's form that the employee is required to complete in order to obtain a new badge.

RECOMMENDATION

- | | |
|-------|---|
| 09-74 | Enact a policy of renewing photo I.D. badges on a periodic basis. (Finding 1) |
| 09-75 | Require supervisors and managers to monitor employees to ensure their wearing of current, clear, and undamaged photo I.D. badges. (Finding 1) |

FACILITIES MANAGEMENT

SUMMARY

The Grand Jury began its general review of the Facilities Management custodial contract procedures. In the past there had been some lack of oversight in the area of contract compliance. During the process of research, the power outage of the West Valley Detention Center in August of 2008 occurred, and was investigated by the Grand Jury, which issued an interim final report.

BACKGROUND

The Facilities Management Department is responsible for the maintenance and custodial services of County-owned and leased buildings and parking facilities. The County Facilities Management Department employs approximately 140 workers and outsources approximately 64 more.

Contract vendors that successfully bid and are awarded a contract and provide the contract workers. There are currently approximately 12 awarded contracts active for the County Facilities Management Department.

The West Valley Detention Center in Rancho Cucamonga was constructed in 1991. Facilities Management has historically been responsible for power plant operation with 24/7 coverage. This area of responsibility includes, but is not limited to, maintaining transformers, providing live voltage from Southern California Edison, and providing emergency power when needed.

FINDINGS

The Grand Jury investigated two areas of Facilities Management Department:

1. Custodial Contracts and their compliance. Four vendor contract facilities were visited. The Grand Jury found these facilities satisfactorily complied with their contracts. The Facilities Management administration was also visited. Vendor files were provided to the Grand Jury for review. All files were checked against an internal checklist and everything was in order. A visitation to the Rancho Cucamonga Courthouse did establish one finding of concern. Supplies and equipment at this location are stored and maintained in a stairwell area near the main lobby. The stairway is in constant use by courthouse staff during working hours. This storage and work area is not conducive to a safe or secure work environment. The door to the stairwell opens onto the main lobby, and cleaning solutions are stored under employee traveled stairs. Facilities Management staff did advise the Grand Jury that their operational storage area has been moved to different locations over the years under the direction of the Court.

Further investigation showed that all the contracts specify that supervisors shall carry a pager and respond when paged. However, while one vendor did use a pager, the other three employees used cell phones to contact their supervisor.

2. West Valley Detention Center power failure of August 28, 2008. The Grand Jury interim final report was previously issued. (See Ad Hoc section of this Final Report)

RECOMMENDATIONS

- 09-76 Take immediate steps to relocate the Facilities Management custodial supply storage area to an adequate, safe, and secure area for all county employees, contracted employees, and members of the public. (Finding 1)
- 09-77 Modify vendor contracts to allow communication between employees and supervisors to include the use of either cell phones or pagers. (Finding 1)

INTERIM REPORT ON THE JOSHUA BASIN WATER DISTRICT

(Issued April 6, 2009)

BACKGROUND

On September 5, 2007, a citizen's complaint was submitted to the 2007-2008 San Bernardino County Grand Jury against the Joshua Basin Water District (JBWD). The 2007-2008 Grand Jury was unable to respond to the complaint because of time limitations and referred the complaint to the 2008-2009 Grand Jury.

The complaint made two allegations against the Joshua Basin Water District: 1) JBWD expended public money on engineering and planning studies for sewer construction in Joshua Tree prior to receiving authorization from the Local Agency Formation Commission (LAFCO), and 2) JBWD expended public money in an attempt to purchase county tax sale property for a sewer treatment plant, but JBWD did not have authority from LAFCO to purchase property for this use.

JURISDICTION

The Grand Jury has jurisdiction over this matter pursuant to Penal Code Sections 933.5 and 918.

INVESTIGATION

The 2008-2009 San Bernardino County Grand Jury reviewed the allegations and the documents provided. The Grand Jury also conducted a comprehensive review of the procedures followed by the JBWD in its dealings with LAFCO to provide sewer treatment services. Documents provided by the JBWD were reviewed and a managerial employee of JBWD was interviewed.

ALLEGATION ONE

Facts

Joshua Basin Water District did expend approximately \$40,000 from November 30, 2005, to June 30, 2006, for two feasibility studies: 1) "Joshua Basin Water District Wastewater Feasibility Study" dated May 31, 2006; and 2) "Joshua Basin Package Wastewater Treatment Plant Feasibility Report" dated April 7, 2006, rev. May 23, 2006. LAFCO granted JBWD authority to provide sewer treatment services through package sewer treatment plants and to plan and engineer sewer services on August 15, 2007.

LAFCO requires agencies requesting new authority from LAFCO to include the following information with the application form:

- A statement of the nature of the proposal and the reason therefore, and shall include (but not be limited to) general plan, growth rate, topography, and economic feasibility.
- A “Plan for Service” as defined in Government Code Section 56824.12.
- A legal description and map of the territory which is the subject of the proposal.

Government Code Section 56824.12 requires:

- The total estimated cost to provide the new or different function or class of services.
- The estimated cost of the new or different function or class of service to customers.
- An identification of the existing providers and the potential fiscal impacts to the customers of the existing providers.
- A plan for financing the new or different function or class of service.
- Alternatives for the establishment of the new or different function or class of service.

Findings

JBWD made expenditures for feasibility studies that provided information required by LAFCO and state law as part of the application process for new authority. The expenditures by JBWD for the feasibility studies were reasonable and appropriate. The Grand Jury found no evidence of other expenditures by JBWD related to planning or engineering for sewer services.

ALLEGATION TWO

Facts

On April 4, 2007, the board of directors for JWBD passed a resolution requesting that JWBD be allowed to purchase a tax defaulted property for the development of a sewer treatment plant. Subsequent to the passage of the resolution, LAFCO informed JWBD that the District did not have the authority to purchase property for a sewer treatment plant prior to LAFCO’s granting JWBD sewer service authority. Before the sale of the property, the property owner paid the taxes on the property and removed the property from the tax default list.

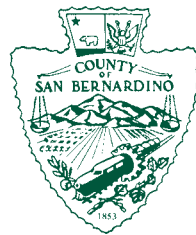
Findings

JWBD did not expend any public moneys to purchase property for a sewer treatment plant. The JWBD board of directors did not have authority from LAFCO to purchase property for a sewer treatment plant when the board of directors approved the April 4, 2007 resolution. However, the board’s approval of the resolution did not materially violate any law warranting further investigation or action.

PENAL CODE SECTION 933.05 RESPONSE :

No response to the Grand Jury findings is requested from JWBD.

AD HOC COMMITTEE



AD HOC COMMITTEE



Left to right:

Tom Hale, Ken Taylor, John R. Saathoff

INTERIM REPORT ON THE WEST VALLEY DETENTION CENTER POWER FAILURE

(Issued April 6, 2009)

BACKGROUND

The West Valley Detention Center (WVDC) was built in 1991 and has been occupied for approximately 18 years. On September 14, 2008, the Grand Jury attended a scheduled meeting at the WVDC. During this meeting the Grand Jury was informed the WVDC suffered a major power outage on August 28, 2008, the Friday before the Labor Day holiday.

Electric service from Southern California Edison (SCE) was interrupted from 10:00 PM to midnight on August 28. According to the Sheriff's Department, power was restored at approximately midnight, August 29, 2008, but again failed for a longer duration at 6:00 AM. The two power interruptions totaled 36 hours. During this electrical outage employees of the Sheriff's Department and other San Bernardino County personnel attempted to put WVDC's electrical system back to working order.

As a result of the power interruption from SCE, three of the seven county-owned step-down transformers were rendered inoperable. Due to the failure of the three transformers, the on-site electrical generation system failed as it attempted to start. In order to restore a minimum electrical service to WVDC, the County rented two large electrical generators and a larger number of smaller generators were rented or purchased to provide lights and power for essential services. Full power to WVDC was resumed in three weeks.

San Bernardino County Facilities Management was responsible for providing the interface electrical equipment and connection between SCE and WVDC. During an October 23, 2008, meeting attended by Grand Jurors, Facilities Management personnel reported that one of the step-down transformers had failed due to an oil leak. Also, other indicators of neglect and poor maintenance were noted during the discussion. When asked if the emergency power back-up system had ever been tested, Facilities Management personnel responded that the system had been tested once, but that test had failed. The County required the use of an outside electrical contractor, and their use of a single line diagram, to analyze the power outage problem leading to the eventual restoration of electrical service to WVDC.

FINDINGS

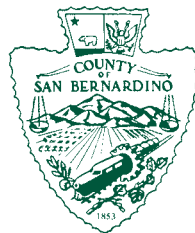
1. Facilities Management has the responsibility for maintaining the emergency power facility at WVDC, and their staff electricians and personnel lack cohesive direction and expertise in the operation and maintenance of WVDC's emergency power system.

2. Emergency power back-up generators at WVDC are not routinely tested.
3. There is no manufacturer service or certification program for several pieces of critical electrical equipment.

RECOMMENDATIONS

- 09-78 Shift the responsibility for the emergency electrical system at WVDC from Facilities Management to the Sheriffs Department. (Finding 1)
- 09-79 Begin a systematic process for testing the electrical equipment at the WVDC emergency power plant. (Finding 2)
- 09-80 Create a Plant Manager position at WVDC for the purpose of overseeing all electrical maintenance and testing at the facility. (Finding 1)
- 09-81 Institute a servicing and certification program for the following electrical equipment at WVDC:
- a. Switch gear at all electrical locations.
 - b. Electrical control equipment.
 - c. Emergency generators.
 - d. Transformers.
 - e. Any other equipment required to maintain emergency back-up power to WVDC. (Finding 3)

GOVERNMENTAL REFORM



GOVERNMENTAL REFORM

The 2008-2009 Grand Jurors started their term with questions and inquires regarding ethics and integrity, immediately following being sworn in. The subject of ethics in County politics had just made the news, and there was a large public outcry. While many in the County had never heard of an Ethics Commission, just these two words in one sentence seemed to give a feeling of security. One prospective County Supervisor ran for office with the promise of creating an Ethics Commission, and he won.

With this in mind, the Grand Jury established a new section in the Grand Jury Final Report for the year 2008-2009. This section is dedicated to topics related to ethics, integrity, and county law, as well as to the very subject of ethics itself. The Governmental Reform section of the Final Report will cover Findings and Recommendations for the following:

- The Board of Supervisors
- Form 700
- Campaign Contributions
- Establishing an Ethics Commission
- 1200 acres of property in Rancho Cucamonga

BOARD OF SUPERVISORS

BACKGROUND

The 2008-2009 Grand Jury Administrative Committee established a subcommittee to monitor and observe functions, activities, actions taken, and decisions made by the Board of Supervisors (Board). The committee assigned a minimum of two members to attend all regular and special Board meetings.

The Grand Jury would like to thank the Board for providing reserved seating for the Grand Jury members attending their meetings. A weekly Board meeting report was prepared for all members of the Grand Jury.

The Grand Jury has reviewed the 2007-2008 Final Report of the Grand Jury “The Assessor’s Function” and the “The Investigation of County Assessor Bill Postmus – Report of Findings” released by the Board of Supervisors on May 12, 2009.

A copy of the Rule I, Code of Ethics and Commitment to County Public Service, was reviewed by the Grand Jury (See Attachment A). The code of ethics from various state, county and city governments was also studied and compared with the San Bernardino County’s Code of Ethics.

Two Grand Juries have encountered instances of newly-elected County officials requesting and receiving approval from the Board of Supervisors for staff allowances. The 2008-2009 Grand Jury also witnessed the placement of start-up staff for the most recently won seat on the Board of Supervisors. Currently, staffing increases and start-up budgets for newly-elected county supervisors are based on the discretion of the Board. There are no Board policies that provide guidance on the issues of staffing and start-up budgets for newly-elected county supervisors.

FINDINGS

1. The current County Code of Ethics does not clearly address the abuse of office documented in the 2007-2008 Grand Jury Final Report and the “Hueston Report.”
2. The code of ethics of other governmental entities prohibits a public official from using his/her office or position for personal gain.
3. The inclusion of such a prohibition would strengthen the oversight of public officials by the Grand Jury and by the proposed Ethics Commission.
4. There are no regulations or policy regarding staff start-up time and number of start-up staff. The current process appears arbitrary and has no governing rules. This was demonstrated at the Board meeting on August 26, 2008 by the

discussion over so-called precedents. A motion was passed by the Board allowing for the staff of Supervisor-elect Neil Derry to begin setting up his office ninety days prior to being sworn in. The Board used two very old examples to support its decision to approve Mr. Derry's request. Neither of these precedents was approximate to the time and expense of Mr. Derry's request.

RECOMMENDATIONS

- 09-82 Amend the Code of Ethics to include a section prohibiting the use of a public office or position by a public official for personal gain. (Findings 1, 2, and 3)
- 09-83 Draft and approve a Board policy that establishes start-up time frames, staffing and budget limits, with emphasis on minimum staff until an official takes office. (Finding 4)

STREAMLINE FORM 700 - REPORTING OF GIFTS AND INCOME

BACKGROUND

San Bernardino County's Board of Supervisors has created a commendable one-stop, main County internet site. In addition to reporting Board activities and other contact information on an easily accessible web link, it now has an Open Government link that provides access to financial reporting information including the Statement of Economic Interest and County Conflict of Interest Code Form 700 procedure.

A Form 700 is used to report all gifts, such as lunches, tickets, and other personal services, and also includes any outside income. Designated County officials and their executive staffs, members of County boards and commissions, and some other local public entities are required to file a Form 700 when assuming/leaving office and on an annual basis.

Due to recent well-publicized problems with Form 700 reporting, the Chairman of the Board of Supervisors has requested that the Grand Jury investigate and make recommendations to streamline the reporting procedure for Form 700.

FINDINGS

1. The current San Bernardino County's Form 700 reporting procedure utilizes the internet to aid users in posting information. This makes it much easier to fill out the form as it saves information from previous years. However, with the current

practice of filling out the form once a year, as state law requires, it is too easy for filers to forget appointments, gifts or even income received.

Form 700 was created by the California Fair Political Practices Commission, and the form itself cannot be changed. Any changes on a County level will have to be on the reporting process. In addition, the Political Reform Act requires every government agency to review its Conflict of Interest Code biennially to determine whether it should be amended. The Clerk of the Board oversees this biennial review process for designated agencies within San Bernardino County.

RECOMMENDATION

09-84 Require that all gifts and outside income be reported online, using the Form 700, within a thirty-day window instead of annually. (Finding 1)

**RULE I:
CODE OF ETHICS AND COMMITMENT
TO COUNTY PUBLIC SERVICE**

Section 1 – Purpose

This code establishes the standards of conduct required of all public officials and employees for the proper operation of County government and has the force of law. These standards are intended to strengthen public service and to maintain and promote faith and confidence of the people in their government.

Section 2 – Responsibilities of Public Office

Public officials and employees are agents of the public purpose and serve for the benefit of the public. They shall uphold and adhere to the Constitution of the United States, the Constitution of the State of California, and the Charter of the County of San Bernardino, rules, regulations and policies of the County, and shall carry out impartially the laws of the Nation, State, and County. In their official acts, they shall discharge faithfully their duties, recognizing that the public interest is paramount. All public officials and employees must demonstrate the highest standards of morality and ethics consistent with the requirements of their position and consistent with the law.

Section 3 – Dedicated Service

In the performance of their duties, all officials and employees shall support governmental objectives expressed by the electorate and interpreted by the Board of Supervisors and the County programs developed to attain these objectives. Officials and employees shall adhere to work rules and performance standards established for their positions by the appointing authority. The County requires all officials and employees to use good manners, to be considerate, to be accurate and truthful in statement and to exercise sound judgment in the performance of their work. During the hours covered by active County employment, no official or employee shall work for any other employer or agency and neither conduct nor pursue any unauthorized activity for remuneration. Officials and employees shall neither exceed their authority nor breach the law nor ask others to do so. They shall work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of the work.

Section 4 – Nondiscrimination

No official or employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstance. No person shall be favored or discriminated against with respect to any appointment in the County service because of family or social relationships, sex, race, religion, national origin, marital status, age, physical handicap, political opinion or political affiliation.

Section 5 – Oath of Allegiance

Pursuant to State law, all officials and employees must execute an Oath of Allegiance as follows: "I, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation

freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

Section 6 – Confidential Information

As appropriate, every appointing authority shall make known to subordinates which information is regarded as confidential. No official or employee shall neither disclose such confidential information except as authorized or required by law or office nor otherwise use such information for personal gain or benefit. All personnel records shall be confidential except when disclosure is required by law.

Section 7 – Use of Public Property

Officials and employees are prohibited from using County-owned equipment, materials, or property for personal benefit or profit unless specifically authorized by the Board of Supervisors as an element of compensation.

Section 8 – Conflict of Interest

No official or employee shall engage in any business or transaction or shall have a financial or other personal interest or association, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political association. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active County employment providing such acts do not constitute a conflict of interest as defined herein. An employee is also subject to applicable provisions of the California Government Code, including but not limited to Sections 1090, 1126, 87100, and/or any other conflict of interest Code, policy or rule applicable to County employment.

Section 9 – Political Activity

It is the intent of the Board of Supervisors that every County employee participates in the political process to the extent that such participation does not interfere with the orderly performance of County employees’ duties and functions. The provisions of California State Government Code 3201-3205 and 3302 and any future amendments thereto are hereby incorporated as part of this Rule. Employees engaged in political activity in violation of any personnel rule, County policy, labor contract, or regulation governing the conduct of County employees shall constitute cause for disciplinary action.

Section 10 – County/Employee Responsibility

The County shall provide all employees appointed to a regular classified or unclassified position with the County, with a copy of these Rules. It shall be the responsibility of employees to become aware and knowledgeable of these Rules.

Section 11 – Delegation of Approval

Any action which requires the approval of the Director of Human Resources may be taken by a Human Resources employee who has been delegated that responsibility in writing by the Director of Human Resources.

CAMPAIGN CONTRIBUTIONS

BACKGROUND

The 2008-2009 San Bernardino Grand Jury has reviewed campaign contributions made to elected and appointed officials in the County of San Bernardino during the past five years. Data available at the Registrar of Voters reveal that Board of Supervisors and other elected officials in San Bernardino County have raised hundreds of thousands of dollars to finance their campaigns. For example, during the 2007 calendar year, more than \$2.3 million was contributed to the five San Bernardino County Supervisors. Contributions, ranging from a modest \$200 to \$400,000, were made by individuals, special interest groups, land developers, businesses, employee associations, and others.

Political science literature indicates that contributors tend to support candidates with whom they are already in agreement. However, when large sums of money are contributed to a candidate, the public perception is that the donor expects some favor in return. Also, many citizens equate campaign financing with corruption and bribery. It is possible that individuals and/or organizations that contribute large sums of money to an elected official's campaign have better access to that official than those who do not contribute. Better access may not necessarily guarantee favorable results, but it may allow an individual and/or organization to make its point and promote special interests.

Incumbent officials have contended that a limit on campaign contributions will result in only rich individuals running for elected office. Others claim that the current fund-raising requirements discourage many individuals from entering the election process. Additionally, other incumbent officials believe that none of this matters because the public can access all contribution information, thus keeping an eye on officials and holding them accountable by good conscience.

The reality is that attempting to obtain such information from the Registrar of Voters and from the many Political Action Committees (PAC) is a complex task. Countless ordinary citizens lack access both to computers and to the technological knowledge necessary to obtain such information. Limiting campaign contributions and spending limits puts campaigns within the reach of ordinary citizens. Under the current "no limit" campaign contribution system, ordinary citizens are, to some extent, denied entry into the political processes.

During the past three years, media reports have been replete with accounts of investigations of unethical behavior by county officials and the suggested influence by special interest groups through their monetary contributions. Recent arrests of County officials have harmed the reputation of the County. Such behavior of elected officials communicates to ordinary citizens that a culture of corruption exists in the County.

The solution to the problem of excessive campaign contributions does not lie with elected or appointed officials or with those who may seek such offices. The problem lies

with the lack of reasonable regulations of large contributions from various sources by which such candidates are allowed to finance their campaigns. Changing the rules by placing a reasonable limit on contributions made by special interest groups and/or individuals will help to restore the public trust of elected and appointed County officials.

The Grand Jury investigated several state, county and national ethics commissions. Some commissions have worked, and a few have established successful guidelines for campaign contributions. Two of the more successful commissions are those of the City of Los Angeles and Ventura County.

FINDINGS

1. The County of San Bernardino has no contribution limits for candidates running for County office.
2. California State Law only sets minimum requirements and restrictions for campaign financing. Basically the requirement is limited to disclosure.
3. In California, 13 counties and 98 cities have enacted campaign finance reform laws.
4. Proposition 208, approved by voters in 1996, allowed most donors to give no more than \$240 per election to candidates for local offices and the Legislature, and \$500 for election of state-wide candidates. However, in 1998, a federal judge struck down the limits, ruling they were too stringent to allow the typical candidate to communicate with voters. In 2000, voters approved Proposition 34 that placed campaign limits on statewide officers, but was silent on local election contributions.
5. Campaign contributions made to Supervisors and other candidates for County office have been in excess of \$2.2 million in each of the past five years. During this same period, Supervisors and six County elected officials received a total of \$13,297,197 in contributions from individuals and special interest groups.

RECOMMENDATION

- 09-85 Enact County ordinance setting a cap on campaign contributions to a candidate's campaign committee by individuals, corporations, PACs, employees unions and other non-individual contributors. (Findings 1, 2, 3, 4, 5)

ETHICS COMMISSION

BACKGROUND

One of the first topics of interest the 2008-2009 San Bernardino County Grand Jury entertained was that of the establishment of an Ethics Commission for this County. We looked at the mechanics of the three major ethics commissions in California, California's Fair Political Practices Commission, and numerous other state and municipal ethics commissions including the cities of Los Angeles, San Diego and San Francisco. Some of these commissions work quite well, some not.

FACTS

Currently, San Bernardino County maintains two ethics-oriented organizations.

San Bernardino County District Attorney Michael A. Ramos campaigned on the issue of restoring public integrity to San Bernardino County. Within the first four months after being elected, Mr. Ramos fulfilled his promise to the electorate, and in 2003 created the Public Integrity Unit. The Unit, which is comprised of two attorneys, three investigators and a secretary, handles complaints involving those people holding public office. Some types of issues might involve the following: the illegal use of campaign funds, residency violations, and open meeting/Brown Act violations. The Unit is responsible for monitoring City Councils, elected Boards, and Commissions.

The San Bernardino County Office of Compliance & Ethics works under the direction of AB1234 which the Governor signed on October 7, 2005. This law requires that all local agencies that provide compensation, salary, or stipend to, or reimburse the expenses of members of a legislative body must provide ethics training to local agency officials by January 1, 2007, and every two years thereafter. Among many other responsibilities, the Office of Compliance & Ethics provides ethics training to all County employees.

Although both of these organizations provide a valuable service to the County, ethics issues among the County's elected officials, their staffs and other appointed officials continue. The District Attorney's Public Integrity Unit was created by the current District Attorney in 2003. This Unit is not permanent and may not be carried on by future District Attorneys. The Office of Compliance & Ethics is basically a training and informational department. Neither of these organizations is tasked with the responsibility of monitoring improper, but not necessarily illegal behavior by the County's elected officials, their staffs, or appointees.

FINDINGS

1. The Board of Supervisors has expressed a desire to establish an ethics commission. The Board's efforts are currently ongoing.

2. The selection of unbiased and independent ethics board commissioners is the most important and controversial aspect of creating an ethics commission.
3. Other counties and municipalities have tried various methods of commissioner selection. For example, a panel of three Superior Court Judges selects the ethics commissioners from a qualified pool of applicants.

COMMENDATION

The Grand Jury commends the County Supervisors for their desire to establish an ethics commission. The Grand Jury supports the Board of Supervisors' efforts to establish an effective and independent ethics commission.

RECOMMENDATION

- 09-86 Establish a credible selection process for members of the ethics commission that is untainted by political influences and biases. Such a selection process must result in an independent ethics commission. (Findings 1, 2, 3)

1200 ACRES/SURPLUS LAND SALE IN RANCHO CUCAMONGA

BACKGROUND

On June 7, 2008, the Board of Supervisors (Board) approved a project concept for 1200 acres of County Flood Control District (FCD) property deemed surplus property. This surplus flood control land is one of the last large undeveloped parcels in the Inland Valley. A portion of this property is located within the City of Rancho Cucamonga (City) and the rest in the San Bernardino County (County). This includes 385 acres of mitigated land. Also, all 1200 acres are within the City's sphere of influence.

Under the project concept, the County would enter into an Option to Purchase Agreement with FCD to purchase the property at an appraised market value. According to the County, the FCD would receive fair market value for the property, "receiving periodic option payments" and ultimately the entire agreed upon purchase amount from the County.

Once the County had acquired the property, the project concept proposed that the County enter into a Cooperative Agreement (Agreement) with the City to plan jointly for development of the area. Under the Agreement, the City in cooperation with the County would finalize and issue a Request for Qualifications (RFQ) to interested developers for two sub-areas described as "Area A" and "Area B." In the agreement, the City would hold public hearings and recommend the two "best qualified" developers, in order of preference, to the Board for final consideration for each sub-area, or one developer for both.

The Board may approve or reject the City's recommended candidates. If the Board rejects both of the City's recommended candidates for either or both sub-areas, the Board may then select any other developer. The County or the City may also cancel the Agreement with a 30-day notice.

Upon the Board's approval of the City's recommendation, the County must promptly enter into negotiations with the selected developer for a development agreement, which must be brought back to the Board for consideration and approval.

Six developers submitted RFQs. These developers were Rancho Alliance Investors, LLC, Foremost Communities, K & K Developers, Richland Communities, Brookfield Homes and Toll Brothers. According to the Board, the Rancho Alliance Investors includes the following: Lewis Group of Companies, Diversified Pacific, Young Homes, and Shea Homes. Jeff Burum is founder and member of Diversified Pacific and also a co-managing member of Colonies Partner.

After the issuance of the “Hueston Report” which investigated wrongdoing within the Assessor's Office and the filing of civil lawsuits against former assessor Bill Postmus and Rancho Cucamonga Councilmember Rex Gutierrez, among other former Assessor's Office employees, the Board on May 19, 2009, terminated the Agreement with the City and the option agreement with FCD.

FINDINGS

1. This project has been terminated by the Board of Supervisors. The 2008-2009 Grand Jury received several complaints from citizens requesting that it initiate an investigation. The Grand Jury created a special committee and conducted confidential interviews with County and City staff and elected officials who were involved in this selection process.
2. During the 2006 lawsuit involving the County and Colonies Partners, the 1200 acres of property were discussed as part of the settlement negotiations.
3. In a “Talking Points” document distributed by the County to officials involved in the process, officials were to respond to the question “What does the County expect to gain from this sale?” They were told that the answer should be “By purchasing the 1200 acres property from the Flood Control District, the County will provide funding for a number of vital flood control projects in the County’s west end.” However, a report to the Board of Supervisors states, “The value of the property is estimated to be in the range of \$50 to 80 million and this could be used to pay down most or all of the outstanding debt settlement the District incurred as a result of The Colonies case.”

The FCD is obligated to pay \$7 million per year on the bonds issued to pay the Colonies settlement. The number of flood control projects to be funded by the sale of the 1200 acres is unknown and dependent on future Board decisions regarding allocation of proceeds between flood control projects and pay down of FCD bond indebtedness.

4. San Bernardino County surplus property is sold according to the following procedure:
 - The Board declares the land to be surplus
 - The land is appraised and the appraised value is used to establish a minimum bid
 - A public auction is held at a time and date decided upon by Board resolution
 - The land is advertised for not less than 30 days and up to six months depending on the size of the property
 - An auction is held and the property is sold to the highest bidder

The auction is standard procedure in San Bernardino County and other counties when selling surplus real property.

5. The Cooperative Agreement requires the County to enter into a development agreement with the selected developer, but leaves the critical issue of the sale price unanswered. First, the sale price of the property will be negotiated by the Board in closed session and will not be subject to public scrutiny or oversight. Second, the appraised value of the property is uncertain and subject to a broad range of valuation. The Grand Jury has received different information on how and when the property would have been appraised. For example in 2005 it was estimated that the property “was worth more than \$100 million.” A recent unofficial estimate by the County reflected the property would likely sell somewhere near the lower end of \$37.5 million to \$75 million.
6. According to the “Hueston Report,” Jeff Burum, whose Rancho Alliance Group is competing to develop the surplus property, had intervened twice on behalf of Rancho Cucamonga Councilman Rex Gutierrez's employment with the Assessor's Office; when Rex Gutierrez was first hired with the Assessor's office and when his position was extended for a number of months. After leaving the Assessor's Office, Rex Gutierrez was hired by the Economic Development Department on January 5, 2009, as an economic development specialist. The Grand Jury has documented that before Rex Gutierrez was hired by that department, Jeff Burum called an individual within the Economic Development department and discussed Rex Gutierrez and the specialist position.

RECOMMENDATIONS

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| 09-87 | Support the Board of Supervisors' action of terminating the option purchase agreement with the Flood Control District and the cooperative agreement with the City of Rancho Cucamonga. (Finding 1) |
| 09-88 | Dispose of the flood control property in the future utilizing the established County auction procedure. (Finding 4) |
| 09-89 | Refer issue of whether the activities of Jeff Burum on behalf of Councilmember Rex Gutierrez create a bias and conflict of interest requiring the councilmember to recuse himself from the developer selection process to the City of Rancho Cucamonga City Council and City Attorney. (Finding 6) |