

Merced County

GRAND JURY FINAL REPORT



2008-2009

June 20, 2009

The Honorable Carol Ash
Presiding Judge of the Grand Jury
Merced County Superior Court

Dear Judge Ash:

As the foreperson of the 2008-09 Merced County Grand Jury, it is my distinct honor to submit this final report to you as required by the California Penal Code Section 933. This report was reviewed and approved by a vote of the outgoing members of the 2008-09 Merced County Grand Jury.

All of the members of the 2008-09 Merced County Grand Jury worked very hard in carrying out their duties and it has been a privilege and honor as well as a challenge for all of us to serve in this capacity over the past year.

As is required by law, the Grand Jury made mandated inspections of the Merced County Juvenile Justice Facility, both the Merced County jails, and the Los Banos Jail. The Grand Jury also visited the Gustine, Atwater, and Dos Palos police departments. The Grand Jury received over 20 complaints of which it investigated five of those, declined to investigate fourteen, and deferred two to the 2009-2010 Grand Jury. It also added postscripts to two complaints which the 2007-2008 Grand Jury had investigated.

All correspondence received was discussed by the entire Grand Jury and appropriate action was taken.

In closing, the entire Grand Jury is proud of the work that we have done on behalf of the citizens of Merced County and hope that we have made a positive contribution to our community.

Respectfully,

A handwritten signature in cursive script that reads "Harlan Dake".

Harlan Dake, foreperson
2008-09 Merced County Grand Jury

2008-2008
MERCED COUNTY GRAND JURY

FOREPERSON: Harlan Dake

DEPUTY FOREPERSON: Linda Roland

SECRETARY AND REPORTS ADMINISTRATOR: Barbara Adams

LAW, JUSTICE, AND PUBLIC SAFETY

Linda Roland (Chair)
Billie Moore
Kathy Moser
Gary Prine
Nancy Rodriguez

AUDIT AND FINANCE

Jose Delgadillo (Chair)
Helen Amarant
Galen Chastain
Katie Luxon

COUNTY ADMINISTRATION/COUNTY SERVICES

Lee Haugen (Chair)
Jil Borden
Tom Lindquist
Jane Ornberg

HEALTH, EDUCATION, AND WELFARE

Gene Post (Chair)
Vecente Gimeno
Carol Novak
Lupina Roan

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Merced County 2008-2009 Grand Jury
Atwater Police Department Inspection

Summary

Grand Jury members inspected the Atwater Police Department on September 10, 2008. The facility is located at 750 Bellevue Rd., Atwater, Ca. The Grand Jury had not inspected the Atwater department in several years.

Chief Richard Hawthorne and Detective Pietro greeted the Grand Jury members and escorted them to a conference room located at the back of the main building; this conference room is located in a portable facility. Chief Hawthorne informed members of the updated department policies and procedures manual. Members checked the department complaint log and it was determined that it met required standards. Each member received a complaint form and a personnel complaint procedure packet for them to review.

The department was clean and in good condition. Several of the rooms are being renovated for interview and interrogation purposes, as well as pre-booking and patrol briefing areas. The dispatch area is scheduled for remodeling beginning in November of 2009. Although the evidence room is small, it is secure. A larger facility is located off site in a secure building. A select number of administration personnel have access to a locked area in the main building which stores arms and ammunition.

Chief Hawthorne began his law enforcement career in 1976 as a deputy for the Merced County Sheriff Department. He moved to the Atwater Police Department in 1979. Since that time, he has acquired his Associate of Arts degree as well as a Bachelor of Arts degree. He also teaches criminal justice courses at Merced College

The department has 33 sworn officers and has acquired a new crime scene van through a Homeland Security grant. The department has obtained a set of portable solar-powered cameras which are utilized to observe high crime areas. Patrol cars are equipped with mobile data terminals, which allow officers to access information quickly; an additional benefit is a lighter load for radios and dispatchers. Officers receive ongoing training, practice shoots six times a year, and attend mandatory monthly meeting. Employee turnover has been high in the past; however, the officer pay schedule in the department is now competitive with other agencies in the area, and the turnover rate has dramatically decreased.

The Atwater Police Department now has a Police Activity League and an Explorer Scout program for local youths. There is a school resource officer at Atwater High School, Buhach High School and Yosemite High School. Additionally, the officer covers all the elementary schools in the Atwater city area. The Atwater Police Department street crimes unit has recently made 19 arrests for graffiti, and gang influence in the area has declined with the help of the countwide gang task force.

Recommendations

The department facility is crowded and is shared with the Atwater city hall. An expanding city population warrants a larger facility, as well as more officers. Atwater should make every effort to move the various other city departments out of this facility and to construct a separate building for them.

The Grand Jury commends the Atwater Police Department for its work and its use of grants from other government entities and also for its formation of a Police Athletics League and an Explorer unit for the youth of the city.

Merced Grand Jury Inspection of Gustine Police Department

Introduction- The Merced Grand Jury inspected the Gustine Police Department located at 682 3rd St. Gustine, on April 29, 2009. Members of the Grand Jury met with newly hired Chief of Police Richard Calderon and City Manager Margaret Silveira.

Findings- During the interview of Chief Calderon, it was learned that his prior experience consisted of 30 years with the San Jose Police Dept. He rose from the rank of patrol officer to Captain and worked all fazes of law enforcement during his career at San Jose. He has a BA degree and was working on a Masters Degree until the chiefs job at Gustine required much of his time.

Gustine Police Department has 9 officers and 1 clerk. They, at the present time, have 3 unpaid reserve officers and a flourishing explorer scout program. The officers work 11 hour shifts in a community based policing program. The department is extremely cramped for space and still operates out of City Hall. They have no holding facility and if interrogating multiple suspects, some remain handcuffed in a hallway outside the office until released or booked at Los Banos or Merced County jail. The evidence room is computerized with the evidence being identified by a bar code. It is handled by one person to maintain control.

The Chief and City Manager are applying for grant money from several programs in hopes of obtaining funds to remodel half of the Goman Community Center into a new facility for the Police Dept. The Gustine Dept. currently uses Turlock Police Dept. in Stanislaus County for their radio communication. It seems that the Merced County Sheriffs Office removed their radio communication from Gustine in 2006 and have since refused service to them. It was also learned that felony warrants obtained by Gustine are not entered into the County wide database for wanted persons and are therefore not entered into NCIS state database. Chief Calderon has tried to rectify this problem with the Sheriff and the District Attorney with no success thus far.

Recommendations- We find the fact that there is no cooperation from county law enforcement to Gustine P D reprehensible. It hampers the safety of the officers working the streets. They should be able to communicate by radio with county officers and their felony warrants listed in the county and state databases. This problem should be rectified immediately by the Merced County Sheriff and Merced District Attorney.

The new Chief of Police has his departments and the citizens of Gustine's support and is doing a good job. If they are successful in obtaining federal money to move the department to new facilities, they can be more accessible and efficient to the citizens of Gustine.

MERCED COUNTY 2008-2009 GRAND JURY
DOS PALOS POLICE DEPARTMENT INSPECTION

SUMMARY

The Merced County Grand Jury, under authority of Penal Code 925-a, made an appointment for 10-08-2009 with Chief Barry Mann for the purposes of investigating and reporting on the operations and performance of the Dos Palos police department.

This was a follow-up inspection to look at records, to inspect the facilities, and to determine what changes had taken place since the 2006-2007 inspection.

The department facility was clean and orderly, but cramped for space for the officers. The department is in the process of remodeling three holding cells so that computer equipment can be moved into this area. The relocation of the computer equipment is to ensure its safety and to gain some space in the officer's squad room.

The department is composed of seven sworn officers: one chief, one sergeant, one detective, and four patrol officers. It also employs one clerk, three non-sworn personnel, and three reserve officers. The department still has one dog utilized by the patrol officers; however none have been specifically trained in dog handling and training.

Training for the officers is current and recorded by Chief Mann. The chief would like to incorporate more training, but is unable to do so due to budget constraints.

With grant money, the chief has purchased a computer with GPS capabilities so patrol cars' locations are visible on screen in the department office. Each car is equipped with a laptop to aid officers in their investigation and report writing.

When asked what the department's biggest concerns are, he responded it was gangs and drugs. The department identifies gangs and their members and tries to keep abreast of their activities. He keeps open communication with the schools in Dos Palos in order to respond to problems there before they occur. The high school keeps an open campus during the lunch hour which is sometimes a problem. High drug use, high unemployment, and seasonal work also contribute to department problems.

COMMENDATIONS

The Dos Palos Police Department has made improvements in some areas since last year's grand jury inspection. The department is improving with training and obtaining new equipment that will enhance their ability to do the job. The department has a dedicated weapons room with a locked storage locker for weapons. The room is also alarmed for added security.

RECOMMENDATIONS

1. There is still not a secure area in which to park the department vehicles.
2. The department should train one officer if they determine a K-9 unit is needed.
3. The department needs more space, but it should be noted they optimize the space they currently have.

Merced County Sheriff's Office Main Jail Mandated Inspection

Introduction

The Merced County Grand Jury inspected the main Merced County Jail at 700 W. 22nd Street on February 18, 2009. This inspection is to be performed annually as prescribed by California Penal Code Section 919.

Members of the Grand Jury met with officer Jeff Miller, who at the time was in charge of the jail. He provided a quick overview of the jail operations and a report of the jails employment needs. He also expressed an apparent lack of concern by the Merced County Supervisors on the need for additional staff and the conditions of the outdated facility.

Findings

On the date of inspection, the jail was filled to capacity. At the present time their capacity is 150 inmates (1 bed-1 inmate). There were numerous complaints with possible solutions offered by officer Miller. He indicated that one officer was utilized in transferring prisoners on the bus, inadequate security around jail to park vehicles which are subject to vandalization, and extreme shortage of personnel.

They are staffed with the minimum number of officers necessary to operate the facility. If someone calls in sick, someone else has to work a double shift. Not much has changed from the 2008 report, other than the interior is being repainted. The Sheriffs Office bought the paint and is utilizing inmate labor to scrape down the old paint and repaint. With limited supervision, it appears to be a good job and looks much better.

Recommendations

The Merced County Sheriffs Office and the county Board of Supervisors must deal with the severe shortage of correctional officers and deal with conditions that are dangerous to the officers. They deal with numerous dangerous gang members which must be kept separate for their own safety and the officer's as well.

The possibility for inmate disturbance, inmate escape, damage to the facility, and officer injury or death is very possible if the situation is not addressed. Since they are ultimately responsible to make the necessary correction, each supervisor should put in an 8 hour shift to assess the conditions for themselves. The Grand Jury has made many inspections and recommendations with negligible affect.

Merced County 2008-2009 Grand Jury Inspection Latorraca Correctional Center

Introduction

The Merced County Grand Jury inspected the John Latorraca Correction Center located at 2584 W. Sandy Mush Road. This inspection was prescribed by Section 919 of the Penal Code which mandates a yearly inspection.

Findings

Grand Jury members were met at the facility by Commander Scott and given a brief overview of the prison via a slide show. The slide show presented many facts about the prison and its operations. The prison is run with two commanders, 12 sergeants, 85 full-time officers, and 20 part-time officers. It has one food service supervisor and seven food service workers. They prepare meals for the center, the main jail, and the juvenile facility. This amounts to 3000 meals per day.

Grand Jury members were given a tour of the center by Sgt. Salacup and Commander Thorsen. The center is in good order, clean and appears to be well run. Commander Thorsen informed members in order to maintain the present standards they are required to utilize overtime, with the same officers working 16 hours per day. He indicated it is cheaper to pay the overtime than to hire additional staff. However, at times this may promote officer burnout. Their budget for overtime pay is approximately \$1,000,000 per year. The prison population is usually around 650 inmates, with an approximate housing and feeding cost of \$127 per day per inmate.

The center has a drug treatment program which has 50 participating inmates, and a G.E.D. program that maintains participation of 10-15 inmates who are pursuing a high school diploma.

The center unit must maintain an inmate classification unit comprised of one sergeant and four officers. This is necessary because of numerous gangs within the population. Each gang is identified by color of prison clothes and must be kept segregated.

The center also has its own correctional core academy which is run through Merced College and is taught at the center. The academy trains the center's officers as well as other valley agencies' personnel. The center also has its own transportation department; last year the center transported 1338 inmates to various state prisons and approximately 130 prisoners per day to various county agencies (court, medical facilities, mental health, etc.).

The personnel indicated a filtrations system has been added to the water supply system due to arsenic, but they must still use bottled water because it is off-line much of the time. There are planned renovations, which are much needed, for the medical service and exam room, kitchen, laundry room, holding cells, attorney interview rooms, employee

locker room, and break room. The security fence needs work and some 360 degree security cameras need to be added.

Recommendations

As always, it comes down to the almighty dollar! These men and women work in a dangerous environment, and the Board of Supervisors should do more to deal with some of their work-related problems. Some of these officers are working 16-hour shifts in order to maintain a safe level of staff. The center has just received some triple decker bunks because of the increase in prison population. The center needs a remodel plan designed by an entity which specializes in prison design. The staff presented the Grand Jury with a brochure showing an option to increase capacity at the Latorraca site. Spring Instant Structures of West Gordon, Utah has an innovative way to increase inmate housing at low cost. The Sheriff and the Board of Supervisors should consider this concept when they discuss ways to improve the Latorraca facility.

Merced County 2008-2009 Grand Jury Inspection Los Banos Jail

Introduction

On May 6, 2009, the Merced County Grand Jury inspected the City of Los Banos Jail and Police Department located at 945 5th St, Los Banos, CA. This inspection was prescribed by Section 919 of the Penal Code which mandates a yearly inspection.

Findings

Grand Jury members were met at the facility by Chief of Police Dan Fitchie. Chief Fitchie informed the Grand Jury members he has 28 years of service and is planning on retiring soon. Chief Fitchie accompanied the Grand Jury on the tour; however, he turned over the duties of leading the tour to Sergeant Chet Stygar. Sergeant Stygar provided a thorough tour of the jail and the police department facilities.

Los Banos operates a Type 1 jail facility which allows the Department to house no more than 20 inmates for up to 96 hours, excluding holidays. On the day of the Grand Jury's visit, there were no inmates being held in the facility. The California Highway Patrol, Dos Palos Police Department, California Fish and Game Department, Merced County Sheriff's Department, and Gustine Police Department all use the Los Banos jail for booking purposes. In 2008 there were 3,235 bookings; this was 317 less from the previous year. Chief Fitchie proudly reported there were zero homicides in 2008, despite 389 gang-related incidents.

The jail is part of the police department facility and was designed according to the standards in effect at the time of its construction in 1969. As such, it no longer meets criteria in effect today, and cannot be modified to meet today's standards. The jail has passed all required inspections, including those of the health department, fire department and juvenile justice agencies. There is one cell designed to hold inmates who may be in danger of injuring themselves. Again, due to its age, the materials used in that cell are no longer available, and repairs to the surfaces are difficult to accomplish, expensive, and only minimally satisfactory. There is a kitchen area where sandwiches and other snacks are prepared for inmates. All personnel entering the jail area are required to place all dangerous devices in a secured locker. The Grand Jury did not find any accessible dangerous objects within the jail area.

Los Banos Police officials will not hold violent or mentally disturbed detainees, who are considered unique inmates. These inmates are immediately transported to the appropriate Merced County facility. The Los Banos Jail has demonstrated its efficient use of its facilities by keeping approximately 16,000 inmates out of county jail facilities over a ten-year period. Generally speaking, these inmates have been "cite and release" or "bailed out" detainees.

Chief Fitchie stated the Los Banos PD is pleased with the cooperation it receives from other Westside law enforcement agencies. Unfortunately, there is still no direct link with the Merced County Sheriff Department's car radios. Because most of their officers now have cell phones, the linkage problem has been minimized.

Los Banos PD is currently in the midst of a hiring freeze. Five officers will be laid off, but may be replaced with five new Community Service Officer (CSO) hires. The Los Banos PD has presented the proposal to city officials and hope it will be accepted. The proposal would save Los Banos approximately \$40,000 per year. The Community Service Officers are used as jail monitors under the supervision of an on-duty sergeant. When a CSO is not available, the jail area is under constant surveillance by police dispatch personnel. Chief Fitchie hopes the Los Banos jail will soon be expanded to include some holding cells (12-hour maximum).

Recommendations

The 2009-2010 Grand Jury should meet with the new incoming Los Banos Chief of Police during their tenure. The incoming Chief should be given time to settle into the new position before the Grand Jury visits.

Commendation

Chief Fitchie and Sergeant Stygar provided an informative tour and project a positive presence and attitude. The Grand Jury also commends the Los Banos Police Department for producing well-written reports and posting them on their website.

Complaint # 08-09-5

Merced City School Teachers Association

SUMMARY

The Grand Jury received a complaint regarding the Merced City School District's lack of clarity and comprehensiveness in accounting for and reporting of revenue and expenditures in the Employee Benefits Insurance Program for the last two years. The complaint was accepted and assigned to the Health, Education and Welfare Committee. In its investigation the committee found that prior to 10/01/03, the Merced City School District (MCSD) had serviced its health care benefits for certificated employees by using SISK (Self Insure Schools of Kern), a statewide consortium of school districts that pooled their funds to minimize risk. From 10/01/03 until 06/31/07, the MCSD was self funded for health care benefits. On July 1, 2008, the MCSD returned to SISK. In its investigation, the committee also found that administrative staff changes within the Business Office during the above timeframe were pertinent to the complaint.

INTRODUCTION

The Grand Jury received a complaint that mismanagement of health care funding had caused an increase in employee contributions toward health care insurance premiums and that, for the last two years, requests for an accounting of health care costs have been met with varied, inconsistent and inaccurate figures.

METHOD OF INVESTIGATION

Individuals from the District Teachers Association and the Business Office were interviewed. Documents presented by these individuals were reviewed. Among the documents reviewed were revenue and expenditure reports pertinent to the Employee Benefits Insurance Program and the MCSD Annual Financial Reports for fiscal year 03-04 through 06-07, the latter being provided by the independent auditing firm of Vavrinek, Trine, Day & Co. , LLP.

FINDINGS

During the last two fiscal years, the Merced City School District has undergone dramatic staff changes within the Business Office, not the least of which was the departure of its Chief Financial Officer. These changes alone have contributed to the breakdown of communications between the MCSD and the District Teachers Association (DTA). Additionally, in 2004-05, an exceptionally bad year in terms of insurance claims (a period in which the MCSD was self funding its health insurance) there was a significantly large deficit in the fund that eventually resulted in an audit adjustment and the completion of an additional actuarial study.

It is clear from the Annual Financial Reports that there has been no effort on the part of the MCSD to be deceptive in its accounting of revenue and expenditures in the Benefits Insurance Program. However, the committee finds that it is exceedingly difficult to follow and fully understand the internal documents used by administrative staff to report transactions within this program to the DTA.

RECOMMENDATIONS

- 1. The MCSD should carefully monitor the revenue and expenditures of its Benefits Insurance Program and provide timely reports to the DTA that clearly reflect the status of the Program.**
- 2. The MCSD should augment its efforts to communicate financial transactions within the Benefits Insurance Program in a manner that can be easily understood by certificated employees.**
- 3. The MCSD should give serious consideration to the DTA's request for the establishment of a Trust Fund for specific purpose of compartmentalizing all financial transactions related to the Employee Benefits Insurance Program.**

Board of Education: President Dennis Jordan; Clerk Tom Parker; Darrell Cherf; Gene Stamm; Susan Walsh
Acting District Superintendent: RoseMary P. Duran, Ed.D.

February, 25, 2009

Mr. Harlan Dake, Deputy Foreperson
2008-2009 Merced County Grand Jury
P.O. Box 2034
Merced, California 95344

Re: Merced City School District Response to Grand Jury Complaint 08-09-5

Dear Mr. Dake:

The Merced City School District has reviewed the findings and recommendations of the Merced County Grand Jury Report concerning complaint No. 08-09-5.

I understand that this complaint was presented to the Grand Jury by the Merced City Teachers' Association (MCTA) over their feeling that the District had mismanaged the self-insured health care plan.

Grand Jury Recommendations:

Finding: The MCSD should carefully monitor the revenue and expenditures of its Benefits Insurance Program and provide timely reports to the DTA that clearly reflect the status of the Program.

District Response: The District will revise its financial reports to present the revenue and expenditure information to DTA in a more easily understood format.

Finding: The MCSD should augment its efforts to communicate financial transactions within the Benefits Insurance Program in a manner that can be easily understood by certificated employees.

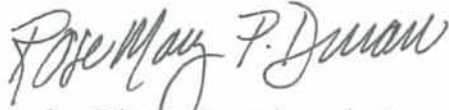
District Response: The District discontinued its Self-Insurance Program, with the exception of Dental, as of June 30, 2008. Every effort will be made to ensure DTA completely understands any financial information presented to them.

Finding: The MCSD should give serious consideration to the DTA's request for the establishment of a Trust Fund for specific purpose of compartmentalizing all financial transactions related to the Employee Benefit Insurance Program.

District Response: The District maintains a separate Fund at the County Treasury solely for the purpose of tracking revenues and expenses for the Health Insurance Program.

I appreciate the opportunity to respond to the Merced County Grand Jury findings.

Sincerely,

A handwritten signature in cursive script that reads "RoseMary P. Duran". The signature is written in dark ink and is positioned above the printed name.

Acting District Superintendent
RoseMary P. Duran, Ed.D.

RD:ktk

**MERCED COUNTY 2008-2009 GRAND JURY
COMPLAINT # 08-09-09**

Board of Commissioners Housing Authority of the County of Merced (HACM)

SUMMARY

The Grand Jury received a complaint regarding Board of Supervisor appointments made to the Housing Authority's Board of Commissioners. (HABC) The complaint was accepted by the Grand Jury and assigned to the Law and Justice Committee. The complaint alleges that the recent appointees to the HABC were biased and had financial conflicts of interests; moreover, the complaint alleges that these appointees were responsible for the financial losses incurred by the Housing Authority (HA). The complaint also alleges harassment and retaliatory behavior by at least one commissioner directed at the Executive Director.

INTRODUCTION

On February 26, 2008, the Board of Supervisors adopted Resolution 2008-28 which was intended to provide a formal, fair and equitable process for making appointments to boards, commissions and committees of Merced County. Provisions of this resolution stipulate that candidates for at-large Board of Supervisor appointments complete an application and supplemental questionnaire that details their background and experience. Also, candidates must submit to an interview before the full Board of Supervisors. Each Board member evaluates the candidates' applications, questionnaires, and interviews. The top scorers above a minimum of 70% are eligible for appointment.

As reflected in the Board of Supervisors minutes of the February 26th meeting, Supervisor Nelson stated words to the effect that the aforementioned resolution will not only require the completion of Form 700 (disclosure of potential conflicts of interest) for people interested in serving on Boards, Commissions and Committees, but also will require the stated additional steps in the appointment process. He also stated that the proposed changes will, "ensure the County has ethical representatives."

The complaint delineates five (5) major areas of concern regarding the process by which commissioners are appointed and warranted examination for possible abuses or conflicts of interest, to wit:

1. A Director of Firm Build (vendor/renter of HACM) was appointed to the HABC. He was informed that the HA could not contract with Firm Build because to do so would create a financial conflict of interest under provisions of 24 CFR (Code of Federal Regulations) §85.36b and §19 of HUD's contract. Due to the obvious perception of a financial conflict of interest, the Executive Director of the HA refused to do so when asked by the HABC to renew Firm Build's contracts.
2. A former member of the Firm Build Board was also appointed to the HABC during which time Firm Build was in default on payments to the HACM for a \$200,000 loan, the future collection of which is not likely. During this time, Firm Build was also in default on rent and utility payments to HACM.
3. In 2007, Firm Build requested a "gift" of \$500,000 of public funds to pay off its debts to creditors. The Executive Director summarily denied the request given that such a transaction would, in her opinion, be a gift of public funds. The Executive Director has spoken with the District Attorney regarding this matter and its potential for being an illegal practice.
4. A Commissioner of the HA asked the HABC to use HACM funds to satisfy his personal debts and to indemnify him against any legal action stemming from his association with Firm Build. The HABC voted to partially approve the Commissioner's request by paying several thousand dollars of the Commissioner's personal debt.
5. A recent appointee who was a former employee of HAMC was alleged to have made threatening remarks directed to the Executive Director that were retaliatory in nature.

METHOD OF INVESTIGATION

The Law and Justice Committee interviewed various County Supervisors, selected HACM staff and certain members of the HABC. Various documents and selected correspondence pertinent to the complaint were also reviewed by the committee. The Committee also attended one meeting of the HABC.

FINDINGS

- 1. We find that the Executive Director acted appropriately when she denied Firm Build's request to renew its contracts with the HACM.**
- 2. We find that the Board of Supervisors erred in judgment by appointing a Firm Build Director to the HABC.**
- 3. We find that the Board of Supervisors erred in judgment by appointing a former member of the Firm Build Board to the HABC.**
- 4. We find that the Executive Director acted appropriately and in the best interests of the HA when she denied Firm Build's request for \$500,000.**
- 5. We find that the HABC took inappropriate and potentially illegal action when granting a Commissioner's request for funds to satisfy the Commissioner's personal debt.**
- 6. We find that the Board of Supervisors erred in judgment by appointing a former disgruntled employee of the HA to the HABC.**
- 7. We find that the aforementioned Commissioner mentioned in finding #6 has been grossly unprofessional by displaying retaliatory and potentially slanderous behavior toward the Executive Director. We further find that such behavior is seriously detrimental to orderly conduct of HABC business.**
- 8. The HA is not in compliance with its own By-Laws (Article 1, Section 4).**

RECOMMENDATIONS

- 1. The Board of Supervisors should take greater care in its selection process for making appointments to Boards, Commissions and Committees and should avoid appointing anyone who may have a personal "axe to grind", or who is known to be at high risk of having a financial conflict of interest.**

2. Under the California Health and Safety Code § 34282, the Board of Supervisors has the power to remove individuals whom they have appointed to boards or commissions. Using this power, the Board of Supervisors should take prompt, appropriate action to remove from the HABC any and all commissioners who have had any former close association with Firm Build, or who have been formerly employed by the HACM.

3. The updated selection process adopted pursuant to Resolution 2008-28 should be revised again. Currently, it is seriously flawed because it does not have sufficient safeguards to prevent Supervisors' from "stacking" the Boards, Commissions, and Committees to beneficially serve their personal interests or to satisfy their personal agenda.

4. The HA should comply with all provisions of its By-Laws as amended on July 15, 2008.

COMMENDATION

The Executive Director should be applauded for her commendable service to the HA by virtue of her steadfast insistence on maintaining generally accepted business and accounting practices that can withstand public scrutiny and any legal challenges.

MERCED COUNTY 2008-2009 GRAND JURY
COMPLAINT # 08-09-10
MERCED COUNTY OFFICE OF EDUCATION

INTERIM REPORT

The Merced County Grand Jury received a request by a complainant to review the relationship between the Merced County Office of Education and the non-profit organization known as Firm Build. In 2002, the MCOE entered into a Memorandum of Understanding (MOU) with a private entity known as Firm Build. The MOU would be renewed yearly until 2006, when Firm Build declared bankruptcy. Firm Build was a non-profit organization (503c under the Internal Revenue Code) which had been created by the Housing Authority of Merced County (HAMC) for the initial purpose of providing construction job skills training for Housing Authority tenants. Firm Build initially provided rehabilitation work on HAMC properties, but as time passed, it expanded its scope to bid and work on construction projects in the local community

INTRODUCTION

The Grand Jury focused on three areas of investigation with regard to the relationship between the MCOE and Firm Build. The areas of focus are as follows:

- 1.) The MCOE'S construction of the Auto Training Center (ATC) at the former Castle Air Force Base.
- 2.) The relationship between the MCOE and Firm Build administrations and the functioning of the Workplace Learning Academy (WLA).
- 3.) The reimbursement of several Firm Build employees by the MCOE for expenses incurred while attending the International Builders Show in Orlando, Florida in January, 2005.

1.) The idea for the construction of the Auto Training Center came out of discussions among various groups interested in auto repair trades in Merced County. These groups included the Automotive Services Council, several local auto repair establishments, and MCOE automotive instructors. They believed there was a need for more vocational automotive training programs for the youth of Merced County.

After discussions among several MCOE administrators, including the coordinator of Career Alternative Education Department (which oversaw the automotive training program) and the Assistant Superintendent for Alternative Education, as well as the automotive training instructors, approval was given to begin scouting suitable locations for a state of the art training facility that the MCOE could renovate and use for its purposes. The directive to proceed was also approved by the MCOE Superintendent as well as the MCOE Chief Financial Officer. After several months of reviewing potential sites, Building #325 located at 2240 Jetlift Drive on the

grounds of former Castle Air Force Base was chosen and what was deemed a favorable lease was negotiated with the County of Merced. This building had been used by the Air Force as the base motor pool until the base closure in 1995. The renovation project was initially estimated at \$599,000 and the costs would be paid by QZAB (a federal bond) funds that had been applied for by the coordinator of the Career Alternative Education Department on behalf of the MCOE. The application for the QZAB loan was for \$2 million in early 2005; MCOE was awarded the funds and construction began on the ATC in the summer of 2005.

The ATC did not go under the customary bidding process as required by the California Education Code. When this became known, it was explained that Firm Build was named the general contractor on the project in an attempt to capitalize on what was perceived by the MCOE to be a “win-win” situation for MCOE and Firm Build. Firm Build was already contracted with MCOE under a MOU for training costs associated with MCOE students that they had trained the various construction trades programs that they had offered. Further, the work forces of Firm Build had consisted largely of MCOE students who would earn a wage and learn valuable construction skills while working for Firm Build on the ATC project.

Firm Build and the MCOE never entered into a contract for the ATC project. The MCOE coordinator for the project called the project a “design build” which allowed the project to grow considerably as various issues related to the ultimate design were encountered and addressed. As a result, what was originally proposed as a \$599,000 project was disregarded and ultimately cost the MCOE \$1.25 million payable to Firm Build as the general contractor. Firm Build concluded work on the ATC in October 2006 and the project coordinator told the Assistant Superintendent for Alternative Education the ATC had passed final inspection and the MCOE had been given a certificate of occupancy; in reality, it had not. Therefore, MCOE allowed students to use the ATC in the fall of 2006 based on those recommendations. In December 2006, Firm Build received the final payment for the work that it had completed on the ATC. In June 2007, the County of Merced discovered that the ATC had never passed inspection by the county of Merced. Numerous defects in construction were discovered when the county began its inspection and in order to receive an occupancy permit, the MCOE hired additional work crews to complete the unfinished items at the cost of an additional \$10,000. The ATC finally passed inspection in December 2007.

2.) A second area the Grand Jury investigated was the relationship between the MCOE and Firm Build in the operation of the Workplace Learning Academy (WLA). The WLA was established by the MCOE in September 2003. The specific purpose of the WLA was to assist at-risk juveniles in Merced County with the vocational training and work by providing the following:

- Working and contracting with private businesses and public agencies in providing training and jobs for at-risk juveniles
- Assisting in initiating and/or enhancing various education and/or vocational program for at-risk juveniles
- Raising and soliciting funds to accomplish the above purposes.

As the WLA program developed, the MCOE through its alternative education office began to contract with Firm Build to provide training and on-site job situations for the students who were

involved with WLA. The students who were in the program were counted as full-time students and MCOE received ADA (average daily attendance) funds from the state of California. These funds were then used to cover expenses of the WLA which included a small hourly wage for the students who were working for Firm Build. The Grand Jury found that the WLA had been organized as a non-profit organization. One of the purposes of the non-profit was to obtain funds from members and community organizations within Merced County. During the July 2005-April 2008 period, WLA records showed that they had just \$5,851 in private donations and scholarship donation of \$10,000 given by Napa Auto Parts.

3.) The Grand Jury also reviewed the funding of a trip by members of the Firm Build staff to a conference in Orlando, Florida in January 2005. On that date, four employees of MCOE and three Firm Build employees attended the International Builders Show in Orlando, Florida. The Firm Build attendees used the Firm Build First Equity credit card for its expenses at this conference. It then presented a bill for \$8,496 to the MCOE. Firm Build had made all of arrangements for this conference and the MCOE reimbursed Firm Build for all of its expenses incurred at the conference. In its investigation, the Grand Jury found the funding for this conference was well documented. Although it seemed Firm Build might be getting an all expenses paid trip, this was not the case.

METHOD OF INVESTIGATION

The Merced County Grand Jury's Health, Education, and Welfare committee interviewed various administrators of the MCOE. The superintendent, the assistant superintendent for finance, the assistant superintendent for alternative education, and the former assistant superintendent for alternative education were all questioned by the Grand Jury. Merced County District Attorney's office also provided extensive documentation about this complaint, as it had been reviewing Firm Build activities from late 2007 to early 2008.

FINDINGS

1. The MCOE violated the California State Education Code by not putting the ATC out to bid and instead allowing Firm Build to construct the project.
2. The MCOE and Firm Build did not get the necessary permits from the County of Merced for the construction of the ATC.
3. The MCOE allowed students to use the ATC when it had neither passed inspection nor been approved for occupancy.
4. The MCOE, in its relationship with Firm Build, ignored a conflict of interest when it allowed its coordinator for the ATC project to serve on the Firm Build Board of Directors.
5. The Grand Jury investigation of the relationship between the MCOE and Firm Build and the operation of the WLA unveiled there was not clear oversight and supervision of the connection

between WLA and Firm Build. The Grand Jury commends the MCOE for its efforts in working and aiding at-risk students in Merced County and hopes the WLA will continue with the good work it has been doing.

6. The MCOE followed proper procedures when it approved expenditures for attendees at the International Home Builders Conference in 2005, acquiring written authorization for those who attended the conference. This authorization is required before any follow-up payment may be made for conference expenses.

7. The MCOE paid only for those documented charges on the Firm Build First Equity credit card, which amounted to \$8,496.64.

RECOMMENDATIONS

1. The MCOE should follow proper procedures as outlined in the California Education Code. All projects should be put out to bid as the law requires.

2. The MCOE should obtain the required building permits for future construction projects and should have the projects inspected as required.

3. For all future projects, the MCOE should have a contract signed by both parties to ensure the specifications of the contract are followed to the letter of the contract.

4. The MCOE should provide more supervision and oversight when it enters new projects. There was clearly a lack of both in the construction of the ATC and the MCOE and Firm Build needed to communicate more often and effectively.

5. The MCOE should ensure there is no conflict of interest when it enters into agreements with outside entities who desire to become involved in its operations.

6. The MCOE is encouraged to continue to look for funding and contributions with then local community to aid in funding for the WLA.

7. The MCOE should follow good accounting practices for all recordkeeping, keeping careful records of all incurred expenses involving outside parties, such as the case with Firm Build.

GLOSSARY OF TERMS

MCOE: Merced County of Education

MOU: Memo of Understanding

HAMC: Housing Authority of Merced County

ATC: Automotive Training Center

QZAB: A federal bond

WLA: Workplace Learning Academy

Postscript to FY2007/2008 Grand Jury's Report On The City of Livingston

Summary

On its own initiative, this Grand Jury voted to revisit the findings of the previous year's Grand Jury as relates to the City of Livingston. This decision was prompted by the City of Livingston's response to those findings that primarily consisted of denials of all the findings without elaboration. This year's Grand Jury felt that response did not comply with either the letter or the spirit of the law governing such responses. Therefore, and in accordance with the provisions of California Penal Code Section 939.9 that requires each Grand Jury to only make a report "on the basis of its own investigation of the matter", the County Administration/County Services Committee was tasked with conducting a new and independent investigation.

Introduction

Briefly, the findings of the FY2007/2009 Grand Jury can be summarized thusly:

- Some members of the City Council went directly to City staff to demand favorable treatment for themselves or family and friends.
- A needed position of Code Enforcement Officer, which had been authorized in the City's budgets for both Fiscal Years 2006/2007 and 2007/2008, had yet to be officially authorized by the City Council.
- Published minutes of the City County meetings were incomplete or inaccurate. However, the City does record those meetings and they can be made available to the public at a nominal cost.
- Allegations of violation of the Brown Act while suspected could not be substantiated.
- City Council members allow personal differences and conflicts to interfere with voting and decision making.
- Council Member Espinoza's purchase of property within the Redevelopment area while he was a Director of that Agency did not technically constitute a violation of California Health & Safety Code Section 3130(a).
- There was no clear evidence on the recorded City Council Meetings that Council Members voted on non-agenda items.

Method of Investigation

The County Administration/County Services Committee interviewed City of Livingston staff and private citizens, some of whom were the original complainants. The Committee declined to request interviews with Mayor Samra, as his was the only signature on the City's Response, or Council Member Espinoza since last year he availed himself on three separate occasions of his 5th Amendment rights although that Grand Jury had posed no questions to him concerning any alleged criminal conduct.

Findings

City Staff members once again testified to micro management and intimidation by some members of the City Council. However, they do agree that last year's Grand Jury report has caused these Members to be more circumspect in their demands for special treatment. Rather than directly approaching staff, these Members work through "at will" Supervisors to achieve those ends. In most instances, revealing specific details of these demands would cause the City employees involved to feel even more threatened and fearful for their jobs than they do already. The exception concerns pressure applied by Mayor Samra and Council Member Espinosa upon Police Chief William Eldridge to tow more automobiles. Chief Eldridge agreed that his name and the circumstances of this questionable behavior could be cited in this Report. He stated that on several occasions, the Mayor and the Council Member met with him and insisted that he direct his officers to cause more automobiles to be towed. The fact that Council Member Espinosa owns a towing company did not seem to register as an obvious conflict of interest to the two gentlemen. Finally, Chief Eldridge had to send a memo to the City Manager indicating the legal guidelines he and his officers must follow as regards the towing of automobiles.

All public employees have a right and a need to believe that if they follow the rules of their agency and treat all members of the public they serve with equal fairness they will not get in trouble with their governing board. When this belief is shaken, the employees get frustrated, fearful and, sometimes, indecisive. This new culture permeates their agency and creates a work environment detrimental to what is best in public service. Moreover, when members of a governing board serve the public only half as well as they serve themselves and insist on micromanaging the City, it is left to the City Manager, who is the Council's "at will" employee, to tidy up after them. His position then becomes akin to that of the circus worker who dutifully trails after the elephant parade with a wheeled bucket and shovel.

Testimony was given by several witnesses that at a 2007 City Council Meeting, without public discussion, three Council Members voted to scale down a previously voted on capital improvement project to pave the City's alleyways. This decision came as a complete surprise to the other two Council Members. While no violation of the Brown Act was observed or proven, unless the three Council Members shared a common cognitive flash of inspiration at the same moment in time, the appearance of a violation certainly exists.

As of the date of this report, no Code Enforcement Officer has been hired and no current recruitment is being conducted for that position.

As regards Council Member's Espinoza's refusal to give testimony before last year's Grand Jury, while silence is not assent in this case it does speak volumes about the Council Member's unwillingness to be candid about his actions as a public official.

Recommendations

In the most recent election, the Mayor and two City Council Members were voted out of office. Council Member Espinoza was not up for election. The Grand Jury strongly believes that this report as well as last year's report should be taken as a cautionary note to the new members of the Council. They can profit from a bad example. We also strongly urge the City Manager and City Attorney to brief the new City Council Members on their legal roles and responsibilities as well as give the carry over City Council Members a refresher course on these issues. We also recommend for the 2nd time, the recruitment and hiring of a Code Enforcement Officer.

Last year's report was only responded to by the Mayor. While the Mayor may comment on the report, California Penal Code Section 933 clearly states that the governing board of the agency must respond. Testimony was given that the City of Livingston's response to last year's Grand Jury Report was not agreed upon by all Members of the City Council. If dissention again exists this year, we can find nothing in the law that would prohibit a minority response.

POSTSCRIPT TO COMPLAINT 07-08-26 VOLTA COMMUNITY SERVICES DISTRICT

The intent of this postscript is to provide additional information regarding Case 07-08-26 which was received after the 2007-08 Grand Jury report was created. Toward the end of its term in June 2008, the 2007-08 Grand Jury opted to utilize the professional services of the accounting firm Price, Paige & Company to complete an audit of various financial records and documents provided by the Volta Community Services District Director/Secretary. The firm completed the audit and final report in July 2008 to the newly installed 2008-09 Grand Jury. In September 2008 the Grand Jury handed over the audit to the Merced County District Attorney. At a later date, the District Attorney informed the Grand Jury that the District Attorney's Office had begun an investigation into the Volta Community Services District based on the information provided to him by the Grand Jury. This postscript to Complaint 07-08-26 includes a preliminary report from the 2007-08 Grand Jury, a concluding statement from the 2008-09 Grand Jury, and correspondence from the independent auditing firm. While the report from Price, Paige & Company is comprehensive, this postscript is limited to the following items: 1) cover letter from Fausto Hinojosa, CPA, Certified Fraud Examiner at Price, Paige & Company addressed to the 2008-09 Grand Jury Foreperson; 2) findings of the fraud examination; and 3) summary of the fraud examination.

SUMMARY

The Volta Community Services District serves a small community and has historically had little oversight by officials of Merced County. A complaint filed with the Grand Jury questioned the validity of some purchases by the Volta Community Service District's Director/Secretary. The difficulty in finding willing Board members has created some timeframes of only one or two active Board members. At times, a lone director has been responsible for maintenance of the water system, bookkeeping, and collection of payments. Some problematic bookkeeping practices may be a result of the lack of oversight by additional board members and/or the Merced County Board of Supervisors. It is highly recommended the accounting functions of the District should be controlled by the Merced County Auditor's Office. The case has been referred to the Merced County District Attorney's Office for further investigation.

INTRODUCTION

A complaint was received regarding the lack of formal bookkeeping services, timely reporting to the state, and inappropriate use of district funds. Specifically, the complainant alleged a Volta Community Services District board member was utilizing district funds to pay for personal expenses.

METHOD OF INVESTIGATION

The Merced County Auditor's Office completed an audit of district-furnished financial records. The Grand Jury interviewed individuals involved with the Volta Community Services District. Additionally, the Grand Jury reviewed bookkeeping ledgers, invoices, and bank statements.

FINDINGS

A review of financial records indicated some problematic bookkeeping practices. Some paid invoices were questionable as district expenses, with checks made payable to DMV, Rite-Aid, and Merced County Tax Collector. The Grand Jury did not receive a series of checks that had been requested. The Grand Jury referred the case to the Merced County District Attorney's Office for further investigation.

RECOMMENDATIONS

1. Financial accounting and bookkeeping should be controlled by the Merced County Auditor's Office rather than through Volta Community Services District.
2. The Merced County Board of Supervisors should maintain better communication with the Volta Community Services District.
3. The Volta Community Services District should attempt to maintain five members on its board.

CONCLUDING STATEMENT

Within its assigned duties, one function of a county grand jury is to investigate the operations of government or service entities. Although the Volta Community Services District is one of the smaller special districts within Merced County, and the alleged misappropriation of funds by the Director/Secretary was a small amount, the Grand Jury believes the report should be made public in light of the current economic times and budgetary concerns. Government agencies are meant to serve the taxpayers, and should provide sufficient oversight to prevent use of public funds for personal gain.

CORRESPONDENCE FROM PRICE, PAIGE & COMPANY

Documentation follows.

PRICE PAIGE & COMPANY

ACCOUNTANCY CORPORATION

August 27, 2008

Mr. Harlan Dake
Merced County Grand Jury
P.O. Box 2034
Merced, California 95344

Dear Mr. Dake:

We have conducted a fraud examination concerning a possible misappropriation of assets of Volta Community District. This examination was predicated upon a complaint and preliminary investigation conducted by the Merced County Grand Jury.

Our fraud examination was conducted in accordance with lawful fraud examination techniques, which included an examination of books and records, voluntary interviews of appropriate personnel, and other such evidence-gathering procedures as necessary under the circumstances.

Based on the results of our fraud examination, we find that there is sufficient evidence to support the conclusion that assets in the approximate amount of \$5,600 were misappropriated from Volta Community District's bank account, and that Ms. Rosalie Logan appropriated these assets for her personal benefit.

Attached you will find schedules that detail and summarize the results of our examination. If you have any questions, please do not hesitate to contact me.

Sincerely,



Fausto Hinojosa, CPA
Certified Fraud Examiner
Price, Paige & Company

FINDINGS

The former Chairman of the Merced County Grand Jury (the Grand Jury) engaged our firm to perform a forensic investigation of the Volta Community District (the District). The District provides water service to individuals and businesses within its boundaries. Ms. Rosalie Logan manages all the financial affairs of the District. Accordingly, she bills for water service, collects payment, makes the bank deposits and pays all the bills. The Grand Jury Chairman stated that the Grand Jury had performed a preliminary investigation of the financial affairs of the District and had found questionable disbursements. Based on this predication we commenced our investigation.

We requested and were provided with bank account statements for the period from June 2005 thru May 2008. Additionally, we were provided with handwritten accounts receivable ledgers and supporting invoices for disbursements. We attempted to contact Ms. Logan several times and we were able to communicate briefly regarding this matter but she was, for the most part unresponsive.

The scope of our work consisted primarily of preparing an accounting of all receipts and disbursements and attempting to reconcile this activity to the activity reported on the bank statements. Our findings were as follows:

Disbursements

We prepared a detailed list of all disbursements as identified from the bank statements and attempted to trace the disbursements to adequate supporting documentation. During the period from June 2005 thru May 2008, total disbursements amounted to \$29,588.51. Of this amount, supporting invoices were only provided for \$13,588.25. No invoices or other supporting documentation was provided for the remaining balance of \$16,000.26.

We segregated the disbursements into three separate categories based on the payee and our best judgment regarding the nature of the disbursement. The three categories were as follows: 1) Questionable costs (items which may or may not be business related); 2) Personal (items which we believe were personal in nature and not business related); 3) Business (items which appeared to be related to the business of the District). This analysis required judgment given the fact that we did not have all of the supporting documentation, as well as the fact that Ms. Logan was unwilling to be interviewed regarding this matter. The total amount identified as "Personal" amounted to \$5,613.96 and the total amount of "Questionable costs" amounted to \$3,920.19. Attached to this report you will find detailed and summary schedules supporting these amounts.

Receipts

We prepared an accounting from the accounts receivable ledgers of all amounts billed for the period from June 2005 thru May 2008. We found the following:

Total Amount billed	35,861
Amount collected	34,681
Amount deposited	<u>33,332</u>
Potential Receipt	
Misappropriation	<u><u>1,349</u></u>

As can be seen, the amount collected is greater than the amount deposited. This difference is unaccounted for and has potentially been misappropriated. Due to the inconclusive nature of this analysis, this amount was not added to the total misappropriation reported on the previous page (1.a). Attached to this report you will find a detailed schedule supporting these amounts.

SUMMARY

Our investigation revealed that the internal control structure of the District was woefully inadequate. Ms. Logan had control over all financial affairs of the District which included paying the bills, billing the customers, collecting the payments and making the bank deposits. This situation is an egregious violation of a key internal control concept known as segregation of duties. Given the small size of the District it is understandable that the District could not hire separate people to perform these functions. However, a mitigating control should have been implemented to reduce the substantial risk of fraud that was present at the District. A board member or outside CPA should have been engaged to perform the bank reconciliation process for the District. The board member or outside CPA should receive the District bank statements unopened and should reconcile the bank activity with the disbursement and receipt ledgers maintained by Ms. Logan. This simple control would help to identify discrepancies in a timely manner and would provide the oversight that is required when dealing with public funds.

DISPOSITION OF OTHER COMPLAINTS

COMPLAINTS	DISPOSITIONS
08-09-1	Complaint reconsidered and rejected because complaintant had left area
08-09-2	Complaint from previous year against Housing Authority of Merced County And Section Eight program rejected by new Grand Jury
08-09-3	Complaint rejected by Grand Jury because this incident had been looked into by previous Grand Jury
08-09-4	Complaint rejected by Grand Jury because it had no merit
08-09-6; 08-09-8	Complaints did not fall into the jurisdiction of the Grand Jury
08-09-7	Complaint rejected by Grand Jury it had no merit
08-09-11	Complaint rejected by Grand Jury it had no merit
08-09-12	Complaint rejected by Grand Jury because of its frivolous nature
08-09-13	Complaint rejected by Grand Jury because it had no merit
08-09-14	Complaint rejected by Grand Jury because situation had no merit
08-09-15	Complaint rejected by Grand Jury because situation had no merit
08-09-16	Complaint remains active and will be carried over to 09-10 Grand Jury
08-09-17	Complaint revisited and rejected by Grand Jury after complaint withdrawn
08-09-18	Complaint remains active and will be carried over to 09-10 Grand Jury
08-09-19	Complaint rejected by Grand Jury because it had no merit
08-09-20	Complaint rejected by Grand Jury because it had no merit



COUNTY EXECUTIVE OFFICE

Demitrios O. Tatum
County Executive Officer

2222 "M" Street
Merced, CA 95340
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www.co.merced.ca.us

Equal Opportunity Employer

DATE: September 15, 2008

TO: Judge John Kiriara, Presiding Judge of the Superior Court

FROM: Mark Hendrickson, Director of Governmental Affairs

SUBJECT: **Grand Jury Response**

Enclosed is the appropriate County department response for the final Grant Jury report for Fiscal Year 2007/2008. I am including prior correspondence that was sent to you and the grand jury as parts of the report had been released to departments prior to the final report being released.

cc: Alfred G. Mueller, 2007/2008 Grand Jury Foreperson
Merced County Board of Supervisors
Demitrios O. Tatum, County Executive Officer



July 1, 2008

The Honorable John Kiriara
Presiding Judge of the Superior Court
Superior Court of California, County of Merced
670 West 22nd Street
Merced, CA 95340

RE: Grand Jury Response for Mandated Inspections

Dear Presiding Judge Kiriara:

The Board of Supervisors appreciates the commitment of the Merced County Grand Jury. In accordance with provisions of Penal Code 933, responses from elected and appointed officials have been received and appropriately forwarded. The following acknowledgements and information is respectfully submitted relating to matters under the jurisdiction of the Board of Supervisors.

MANDATED INSPECTIONS

The Grand Jury conducted an inspection of the Main Jail located at 700 W 22nd Street in Merced. The Grand Jury recommended that the Board of Supervisors and Sheriff's Department address the issue of increased population and staffing at the Jail. Additional recommendations for the Jail included improving maintenance of cell areas, inspecting and repairing the roof as necessary and making improvements to heating, cooling, and ventilation systems.

Another recommendation from the Grand Jury stemmed from its inspection of the John Latorraca Correctional Facility. It was recommended that funding be sought for additional staff and increasing the correctional facility capacity.

RESPONSE

The County Board of Supervisors is aware of the high volume of offenders that cycle through the County's correctional facilities, which put a continual strain on County financial and staffing resources. The Board is cognizant of jail population increases and the need for correctional staff. As a result of this understanding, the Board has added correctional staff in each of the past 7 years for a total of 22 correctional staff since FY 2001/2002, including 5 additional staff in the last fiscal year.

The County continues to seek additional avenues for funding. On February 26, 2008, the Board approved submitting a grant application to the State of California for building an additional 96 bed housing unit at the John Latorraca Correctional Facility. The County has since been notified that it is listed as number 14 on the list of projects to be funded, and unfortunately, it appears that only the top eight projects will be funded this year.

Board of Supervisors

John Pedrozo
Supervisor, District One

Kathleen M. Crookham
Supervisor, District Two

Michael G. Nelson
Supervisor, District Three

Daidre F. Kelsey
Supervisor, District Four

Jerry O'Banion
Supervisor, District Five

Dimitrios O. Tatum
County Executive Officer

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Merced County Board of Supervisors
Grand Jury Response
July 1, 2007
Page 2

The Board also recognizes the importance of ensuring that our correctional facilities are properly maintained and repaired as necessary. The County understands that requests for capital improvement projects related to roofing, painting and other facility needs have been forwarded to the Department of Public Works by the Sheriff's Department for the Main Jail facility. New heating and air conditioning units have already been authorized and purchased, and are currently awaiting installation.

Again, the Board of Supervisors appreciates the hard work, commitment and dedication of the Grand Jury to provide thoughtful recommendations to improve our County and community.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kathleen M. Crookham".

Kathleen M. Crookham
Chairman, Merced County Board of Supervisors

cc: Alfred G. Mueller, 2007-2008 Merced County Grand Jury Foreman
Mr. Demitrios O. Tatum, County Executive Officer



DEPARTMENT OF PUBLIC WORKS

Paul A. Fillebrown
Director

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Building Services
Countywide Transit
Parks and Recreation
Road
Fleet Management
County Surveyor
Solid Waste
Professional Services
Building & Safety
Castle Airport

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DATE: July 18, 2008

TO: Presiding Judge John Kurahara

FROM: Paul A. Fillebrown, Director of Public Works

SUBJECT: Comments/Responses to the 2007-2008 Grand Jury Report

MEMORANDUM

The following are responses by the Public Works Department to the 2007/2008 Grand Jury Report:

Merced County Main Jail:

In July, 2008, as part of a comprehensive energy retrofit, the Board of Supervisors will consider approving upgrading to the HVAC systems for the Main Jail. This upgrade, including new controls, will greatly reduce the level of moisture in the air with the older cell blocks and thus eliminate the present cause of the peeling paint and rusted hardware. Following completion of this project the cell blocks will be repainted; the new HVAC system will reduce and eliminate the wide variations in temperature in the cell blocks.

All known roof leaks have been repaired.

John Latorraca Correctional Facility:

The local water was not "contaminated" by arsenic. The arsenic is naturally occurring. What did happen was a reduction in State and Federal limits for arsenic. An arsenic treatment system has been installed and is now operating; eliminating the need for bottled water.

Merced County Coroner's Office:

Construction is currently underway to add a dedicated air conditioner-exhaust unit to the decomposition room. Installation is expected to be complete by the end of July, 2008.

PAF:ll

cc: Dee Tatum, County Executive Officer
Supervisor Kathleen Crookham, Chairman Board of Supervisors
Stephen Jones, Auditor-Controller

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HUMAN SERVICES AGENCY

Ana Pagan
Director

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Mailing Address
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Merced, CA 95341-0112

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July 18, 2008

The Honorable John Kiriara
Presiding Judge
Superior Court of California, Merced County
2222 M Street
Merced, CA 95340

Regarding: Grand Jury Report
Complaint #07-08-04 – Improper Removal of Children
Complaint #07-08-20 – Improper Investigation
Complaint #07-08-30 – Improper Removal of Children

The department of Human Services concurs with the Grand Jury that proper investigative procedures were followed and all detentions of children were justified.

The Human Services Department is grateful to the Grand Jury for their work and the recognition of the department's professionalism and commitment to providing quality services to the community.

Sincerely,



Ana Pagan
Director

cc: County Executive Office



DEPARTMENT OF MENTAL HEALTH

Frank Whitman, LCSW, MPA
Director

Administration
3090 M Street
Merced, CA 95348-3212
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(209) 725-3676 Fax
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Merced, CA 95344

Equal Opportunity Employer

July 18, 2008

The Honorable John Kiriara
Presiding Judge
Superior Court of California
County of Merced
627 West 21st Street
Merced, CA 95340

Your Honor:

I have reviewed the Grand Jury report and recommendations pertaining to Grand Jury complaint 07-08-02 in their entirety. Attached please find this Department's responses to the recommendations contained in that report.

If you require any further information, please contact me.

Respectfully,

Frank Whitman, LCSW, MPA
Director

c: Honorable Judge Brian McCabe

Attch: Response to Grand Jury Complaint 07-08-02

**Merced County Department of Mental Health
Response to Grand Jury Complaint 07-08-02**

Merced County Administration and the Department of Mental Health have reviewed the Grand Jury report and its findings and recommendations for Complaint 07-08-02. The following is the response to each of the recommendations contained in the report.

1. *The Mental Health Advisory Board should recruit authoritative personnel from various agencies to form a subcommittee to investigate and propose a strategy which will enable various agencies to collaborate and coordinate services to optimize limited resources. The Board of Supervisors should also investigate ways to increase effectiveness of the Mental Health Advisory Board.*

The Mental Health Advisory Board will send letters out to various agencies to attend Mental Health Advisory Board meetings or future trainings for input and recruitment. The Board will continue to individually recruit. Mr. Ed Diksa, CiMH, will work as a consultant to work on increased Board effectiveness. The Board will find another County to collaborate with in regards to forming strategies dealing with similar problems. The Planning Committee of the Mental Health Advisory Board will act as lead committee for follow-through.

2. *Merced County Mental Health and Public Health Departments, law enforcement agencies, and educational institutions should attempt to coordinate services to provide efficient and effective services to mental health consumers.*

In order to coordinate and manage County resources, the Merced County Department of Mental Health routinely maintains and updates written interagency protocols and agreements with other programs in the county that serve the County's target population. The Policy and Planning Council, comprised of interagency Directors, provide oversight to all contracts, agreements and MOU's related to Children's System of Care programs.

In accordance with W & I Code 5866, Merced County Department of Mental Health Policy and Planning Council is chaired by the Department's Director of Mental Health. The legitimacy of the Policy and Planning Council is maintained through on-going relationships with its members by way of joint decision-making, correspondence, agenda items, recordings of minutes, and various actions brought before the committee.

Membership consists of directors and administrative representatives from the following agencies:

- Challenged Family Resource Center Parent Partner
 - Merced County Department of Mental Health
 - Merced County Probation Department
 - Merced County Human Services Agency - Child Welfare Services
 - Merced County Department of Public Health
 - Merced County Office of Education
 - Merced County Superior Court – Juvenile Division
3. *The Board of Supervisors should make every effort to fill the vacant positions and increase the workforce in the Department of Mental Health as funds become available.*

Merced County is designated as a Mental Health Professional Shortage Area. The demand for bilingual, bicultural services certainly provide a challenge to our Department. The Merced County Department of Mental Health recognizes the demand for services and regularly recruits for the highest quality staff when resources are available to do so. However, due to the State's budgetary shortfall and its anticipated reductions in the health and human services sector, our ability to fill vacant positions is made more difficult.

With the passage of Proposition 63, Mental Health Services Act (MHSA), the Department has successfully submitted and received approval from the California State Department of Mental Health for their Workforce Education and Training (WET) Plan. The WET Plan money has been designated to train and educate consumers, family members, Mental Health staff, and contract providers in an effort to recruit and retain qualified mental health professionals in Merced County.

As for recruitment and retention of hard-to-fill positions, the Merced County Department of Mental Health requested and the Board of Supervisors approved incentives to recruit and retain personnel in hard-to-fill positions.

The incentives have resulted in recruiting and retaining:

- 1 Full-time Medical Director
- 3 Full-time Psychiatrists
- 1 Saturday clinic Psychiatrist for medication services
- 1 Contract Child Psychiatrist who comes in once a week to provide services
- 1 Contract Psychiatrist who comes in 32-hours per week

The above psychiatry coverage is a total of 4.5 full-time equivalents (the Medical Director also provides direct services). In addition, the Department has filled all the vacant Mental Health Clinician positions allocated to the Department. When incumbents leave, the vacant positions go in the recruitment process immediately. Currently, there are two vacancies. Interviews are being held for those two positions.

On a continual basis, the Department collaborates with Probation and the Human Services Agency to leverage various funding streams to best provide a wide array of services to our population.

DISTRICT ATTORNEY

DISTRICT ATTORNEY
Larry D. Morse II

CHIEF DEPUTY
DISTRICT ATTORNEY
David W. Moranda



ASSISTANT
DISTRICT ATTORNEY
Joseph M. Tresidder

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September 8, 2008

Honorable John Kiriara
Presiding Judge
Merced County Superior Court
2260 "N" St.
Merced, CA 95340

Re: Grand Jury Response

Dear Judge Kiriara,

I responded to the Grand Jury on July 1, 2008 regarding number 07-08-20. The letter was not received by the Grand Jury in time to be included in the report. Enclosed is that response. Regarding numbers 07-08-21 and 07-08-22, no response is necessary.

Sincerely,


Larry D. Morse II
District Attorney

DISTRICT ATTORNEY

DISTRICT ATTORNEY
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CHIEF DEPUTY
DISTRICT ATTORNEY
David W. Moranda



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July 1, 2008

Alfred G. Mueller, Foreman
Merced County Grand Jury
P.O. Box 2034
Merced, CA 95344

Re: Case #07-08-20

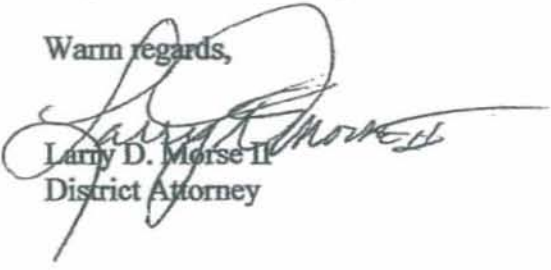
Dear Mr. Mueller:

Per the Grand Jury's recommendation, I met on July 1, 2008 with the complainant in the above referenced case and a friend who has assisted her in this matter.

We had a frank, pleasant conversation. I apologized for the difficulties she had experienced with my office, including her efforts to meet with me. I also assured her that I will review the case in which she believes she was a victim and make certain that we have done everything we can to seek justice.

I appreciate your response to her concerns and courtesies to me. Please accept my sincere thanks for your service as foreperson on the 2007-2008 Grand Jury.

Warm regards,


Larry D. Morse II
District Attorney



PROBATION DEPARTMENT



Brian L. Cooley
Chief Probation Officer

August 27, 2008

TO: Honorable John Kiriara, Presiding Judge
Merced County Superior Court

FROM: Brian L. Cooley
Chief Probation Officer

RE: Acknowledgement/Response to Grand Jury Report 2007/08

This memorandum is to formally acknowledge I have received and reviewed the 2007/08 Grand Jury Report.

Mandated Inspection – Iris Garrett Juvenile Justice Correctional Complex

Contained within the Grand Jury's Report is a section on mandated inspection of the Merced County Iris Garrett Juvenile Justice Correctional Complex. That report contains one "Finding", No Recommendation and a Commendation.

Finding - Iris Garrett Juvenile Justice Correctional Complex

This writer agrees with the information in this finding.

Commendation-

The staff and administration of the Merced County Juvenile Justice Center are to be commended for the excellent work they are doing. The facility is very secure and well managed, thus helping to ensure the safety of the community as well as the minors.

I would like to thank the Grand Jury for a very thorough report. The staff and administrators of the Juvenile Facility work very hard to provide a safe and secure environment for the minors in our custody. I'm very pleased that the Grand Jury recognized their efforts and honored them with this commendation.

As you indicated in the Commendation, our institutional officers have a very difficult job and one that is often times not known to the general public. On their behalf, I thank you for understanding their role in the Juvenile Justice System and your commendation.

cc: Kathleen Crookham, Chair, Board of Supervisors
Demetrios Tatum, County Executive Officer
James Brown, Assistant County Executive Officer



DEPARTMENT OF PUBLIC HEALTH

John Volanti, M.P.H.
Director of Public Health

Administration
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Merced, CA 95340-6216
(209) 381-1200
(209) 381-1215 Fax
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MEMORANDUM

TO: Presiding Judge John Kirihara
FROM: John Volanti, Director, Department of Public Health
DATE: September 15, 2008
RE: Response to the 2007/2008 Grand Jury Report

Complaint #07-08-02

On page 35 of the report, under Recommendations (#2), the Grand Jury suggests that the Public Health Department "coordinate services [*with Mental Health and law enforcement agencies*] to provide efficient and effective services to mental health consumers."

The complaint spoke primarily to the lack of Mental Health services due to budget constraints as well as the elimination of the Mobile Emergency Services Unit. The Public Health Department has no ability to affect either issue, but does coordinate with the Mental Health Department where possible in the community and for the benefit of both Departments' clients.

Complaint #07-08-23/ Complaint #07-08-24

On page 45 of the report, the Grand Jury indicated that there were two complaints against the Environmental Health Division. The Grand Jury declined to investigate either complaint.

October 8, 2009

Dear Honorable John D. Kiriara,

To start, the Volta Community Services District (CSD) Board of Directors would like to thank the Merced County Grand Jury for their service and their investigation of our District. We insure you that it is the current Board's intent to insure the District is compliant with all laws and that we operate at all times in the best interest of District residents and customers.

We would like to respond to your first recommendation, which advises that the finances of the Volta CSD should be controlled by the Merced County Auditor's Office. Every dimension of the District's finances and management has undergone a thorough overhaul since July of 2008. We now have a complete separation of powers including a functioning Board of Directors and separate General Manager, Treasurer and Distribution Operator. Public bi-monthly board meetings take place and all documentation of board functions and finances are readily available to any interested party. We are also currently receiving assistance from the Merced County Auditor's Office to prepare our annual State Controller's Report as well as annual tax forms and any other documents for which we require their financial assistance or advice. This all being said, we believe that the Volta CSD is now very stable and doing an excellent job of managing its own finances, both responsibly and legally.

The Grand Jury expressed concern that there has been inadequate communication between the Volta CSD and the Merced County Board of Supervisors. Unlike in past years, our District now has regular contact with the County. We have submitted our annual budget, updated our staff lists and answered any other questions posed by the Board of Supervisors. We also consult regularly with Jerry O'Banion, the County Supervisor.

The final recommendation for the Volta CSD was to attempt to maintain five members on our Board of Directors. Four of five seats have been filled consistently since last summer. We are on a never-ending search to fill the last seat, but it has been difficult to find interested candidates because the population of Volta is so small. The effort will continue until the last vacancy is filled.

As a final thought, I encourage any and all enquiries regarding the financial or managerial state of our District. We now have a website, www.voltawater.com, which has posted our By-Laws, Consumer Confidence Reports and contact information. Please do not hesitate to contact us with any lingering questions or concerns.

Thank you again for your perseverance and hard work.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Dorris". The signature is fluid and cursive, with the first name "Amanda" written in a larger, more prominent script than the last name "Dorris".

Amanda Dorris
President, Volta Community Services District Board of Directors