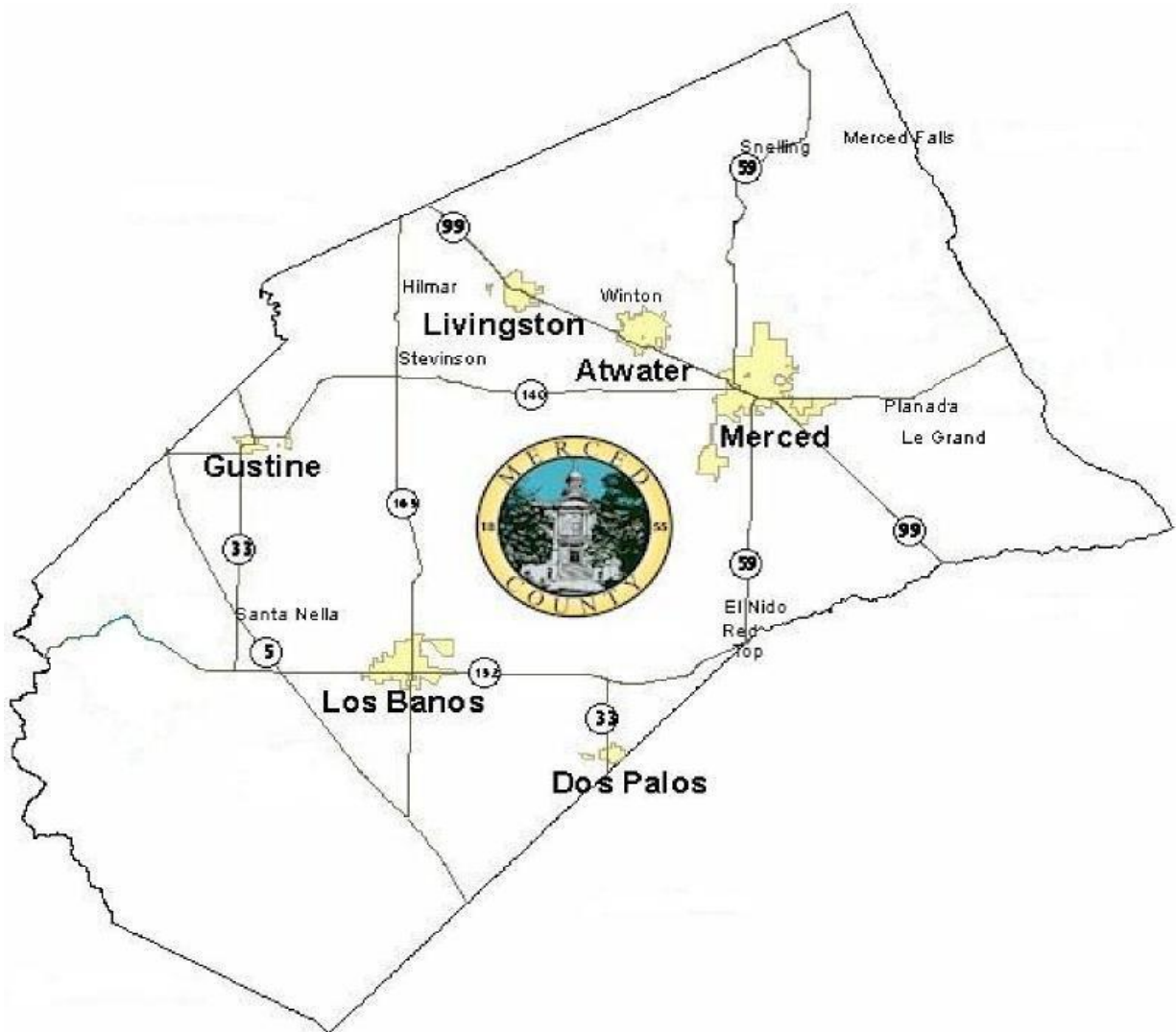


**MERCED COUNTY
CIVIL GRAND JURY
FINAL REPORT
2012-2013**





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**MERCED COUNTY
GRAND JURY**

PO Box 2034
Merced, California 95344
<http://www.co.merced.ca.us/grandjury>

June 17, 2013

The Honorable Mark Bacciarini
Presiding Judge of the Civil Grand Jury
Merced County Superior Court

Dear Judge Mark Bacciarini,

The 2012-2013 Merced County Civil Grand Jury is honored to present this Final Report to the Court and the citizens of Merced County in accordance with California Penal Code, Section 933. This report encompasses many dedicated hours and involves sincere, thoughtful decisions. Our mandated and initiated investigations covered agencies of county and city governments.

The Civil Grand Jury appreciates the cooperation and respect extended to us by all government and public agencies. The acceptance of the findings and implementation of our recommendations are now the responsibility of the agencies and departments identified in the 2012-2013 Merced County Civil Grand Jury Report.

Of the twenty four complaints received by this Civil Grand Jury, twenty were declined, one was resolved prior to investigation, one was referred to the District Attorney's Office and two were referred to next year's Civil Grand Jury.

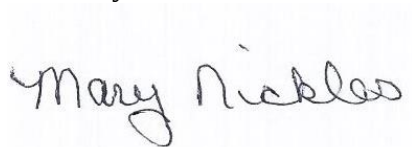
As mandated by law, the Civil Grand Jury inspected two correctional facilities, the John Latorraca Correctional Center and the Iris Garrett Juvenile Justice Correctional Complex. The Merced County Jail was also inspected. Police stations in Los Banos, Dos Palos and Merced were visited.

Ride-Alongs were conducted with Merced, Atwater, Los Banos and Gustine Police Departments and the Merced County Sheriff's Department.

The 2012-2013 Merced County Civil Grand Jury members appreciated the opportunity to serve the citizens of Merced County. All jurors agreed that serving on the Civil Grand Jury was a challenge, but also a rewarding and educational experience.

Thank you for your support, encouragement and counsel.

Sincerely,

A handwritten signature in cursive script that reads "Mary Nickles". The signature is written in dark ink on a light-colored background.

Mary Nickles, Foreperson
2012-2013 Merced County Civil Grand Jury

2012-2013 Merced County Civil Grand Jury Members

Mary Nickles – Foreperson
Thomas Dinwoodie –Foreperson Pro Tem
Paul Cauwels
Harold Compestine
James DeBruin
Anita Edler
Roberta Gray
Kathleen Hogston
John Lawrence*
Robert Lint
Lisa Lockwood*
Caleb Medefind
Kevin Olds
Steven Presto
Victor Reyes
Jeffrey Schindler
Elizabeth Schwartz*
Leon (Sandy) Teague
Maureen Touhy
Jim Sutherland

*Jurors unable to complete the full term

Jurors resided in the following communities of Merced County

Atwater
Hilmar
Le Grand
Los Banos
Merced
Snelling

MANDATED REPORT

PROBATION DEPARTMENT AND PUBLIC SAFETY REALIGNMENT

SUMMARY

The 2012-2013 Merced County Civil Grand Jury finds that both the Sheriff's Department (incarceration) and the Probation Department (controlled monitoring) face new challenges daily in dealing with more serious offenders who would previously have been the responsibility of the California Department of Corrections and Rehabilitation (CDCR).

The Probation Department's Adult Services Division has in place the policies and procedures to meet the challenges of Assembly Bill (AB)109 – The Public Safety Realignment Act.

Services and personnel are inadequate to meet the needs in the Los Banos area. The Assistant Chief Probation officer stated that 20% of the County's probation cases are handled at the Los Banos Probation Office. Many of the rehabilitation services available in Merced such as a Day Reporting Center (DRC) and a Probation and Community Team (PACT) are not available in Los Banos. The Civil Grand Jury recommends that the Probation Department contract with BI (Behavioral Intervention) to establish a center and work with local non-profits to form a PACT.

The Civil Grand Jury finds that the Sheriff's Department is not a collaborating agency of the Community Corrections Partnership's Vocation, Education, and Employment Programs (VEEP). This program conducts assessment, training and education to better prepare offenders for the workforce. The Civil Grand Jury recommends that this should be started during time of incarceration and Probation should invite the Sheriff to be a collaborating agency.

The Civil Grand Jury acknowledges that insufficient time has passed since the enactment of AB109 to provide statistical analysis of any short or long term effects of this legislation. The statistical analyst should develop and track programs that include rates of recidivism, program outcome and cost.

The Civil Grand Jury acknowledges the cooperative effort of the Probation Department, other county departments, and local non-profits in their efforts to facilitate the reentry of offenders into this community.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury must investigate and report on the operations, accounts and records of at least one county officer, department or function each year. (PC §925 and PC §933(a)).

The Civil Grand Jury elected to review the Merced County Probation Department Division of Adult Operations to better understand the impact of the Public Safety Realignment Act (AB109) on the citizens of Merced County.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury interviewed the Sheriff, Chief and Assistant Chief Probation Officers, the Adult Program Manager, the Adult Intake Supervisor, two Supervising Probation Officers (SPO) and the SPO in charge of the Los Banos Office. The Civil Grand Jury also interviewed formally and casually, line level probation officers (PO), a deputy district attorney and a deputy public defender.

The Civil Grand Jury observed the operations of the Drug Court and the Mental Health Court. The Civil Grand Jury attended a monthly Probation and Community Team (PACT) meeting, toured and received a detailed overview of BI Incorporated's facility, observed a designated probation sweep, toured and observed the operations of the AB109 Day Reporting Center (DRC).

DISCUSSION

PUBLIC SAFETY REALIGNMENT (AB109)

On April 4, 2011 Governor Edmund G. (Jerry) Brown Jr. signed Assembly Bill (AB) 109 - The Public Safety Realignment Act - into law to become effective October 1, 2011. AB109 transfers responsibility for supervising specific lower level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to the counties. Prior to implementation of AB109 the maximum sentence in any county jail was 365 days or less. Since implementation of AB109 multi-year sentenced offenders are being incarcerated in county jails. AB109 allows non-violent, non-serious, and non-sexual offenders (three-nons) to serve their sentences in county jails instead of state prisons.

Under Public Safety Realignment:

- No inmates currently in state prison will be transferred to county jail.
- No inmates currently in state prison will be released early.
- All felons sent to state prison will continue to serve their entire sentences in state prison.
- All felons convicted of current or prior serious or violent offenses, sex offenses and sex offenses against children will go to state prison.

County Level supervision will not include:

- Inmates paroled from life terms to include third-strike offenders.
- Offenders whose current commitment offense is violent or serious, as defined by California's Penal Code §§667.5(c) and 1192.7(c).
- High-risk sex offenders, as defined by CDCR.

- Mentally Disordered Offenders; nor
- Offenders on parole prior to October 1, 2011.

One of the primary objectives of AB109 is to close the revolving door of low-level inmates cycling in and out of state prison. It is also the cornerstone to California's solution for reducing the number of inmates in state prisons as ordered by a three judge federal panel and affirmed by the United States Supreme Court.

The CDCR continues to have jurisdiction over all parolees of record prior to AB109 implementation. County level supervision of offenders released from prison will include non-violent, non-serious (irrespective of prior convictions) and non-sexual offenders. The responsibility for parole revocation of inmates released to County supervision is with local courts. The responsibility for parole revocation of inmates by the CDCR will transfer to County courts on July 1, 2013. The CDCR estimates Merced County's "average daily population" (ADP) after full implementation of AB109 in approximately three years to be:

• Post-release Community Supervision	211
• Parole & Community Supervision violators	44
• Sentenced to local incarceration under AB109	<u>173</u>
	<u><u>428¹</u></u>

AB109 amended the California Penal Code, Section 1230 to provide for local Community Corrections Partnerships (CCP) to recommend a plan to the County Board of Supervisors. The CCP, chaired by the Chief Probation Officer, is also responsible for allocating the State funds to the various County and City agencies. An Executive Committee of the CCP is made up of the following:

- Presiding Judge, Merced County Superior Court
- Sheriff
- District Attorney
- Public Defender
- Mental Health Director
- Chief of Police, Merced
- Chief Probation Officer (Chair)

The CCP plan may include recommendations to maximize AB109 dollars on programs such as DRC, drug court, residential multi-service centers, mental health treatment, Global Positioning System (GPS) monitoring, victim restitution, counseling, community service, education and work training.

¹ Merced County Public Safety Realignment & Post Release Community Supervision 2012/2013 Strategies

A number of trailer bills to AB109 were signed into law in 2011 to secure sufficient funding to the counties. AB109 provided a dedicated and permanent revenue source to counties through Vehicle License Fees (VLF) and a portion of the State sales tax. In November of 2012, California voters passed a temporary sales and income tax increase (Proposition 30) which created a Constitutional amendment prohibiting the Legislature from reducing or removing realignment funding to the counties. Four hundred million dollars were provided to the counties in fiscal year (FY) 2011-2012; this amount grew to more than \$850 million in FY 2012-2013 and will increase to more than one billion dollars in FY 2013-2014.

Merced County received \$2.825 million in FY 2011-2012 based on the County's ADP. The 2012-2013 funding is \$5.209 million with mid-year adjustments due to Prop 30 and increased state revenues. The funding breakdown as established by the CCP is:

Probation Operations	40%	\$2,061,698
Sheriff's Operations	40%	\$2,081,368
Treatment and Educational Services	18%	\$940,564
County Analyst	2%	\$125,000

DIVISION OF ADULT OPERATION – MERCED COUNTY PROBATION DEPARTMENT

The Merced County Probation Department administrative office is located at 2150 M Street, Merced, CA. The Adult Probation Department is located at 3191 M Street, Merced, CA. The Los Banos office is located at 445 I Street, Los Banos, CA. The Division of Adult Operation recently opened an AB109 DRC in conjunction with the Sheriff's Department and the Mental Health Department at 777 W. 22nd Street, Merced, CA.

The Department's "...mission is to administer corrective services that hold offenders accountable for their behavior and provide rehabilitative services in order to strengthen and protect our community".²

The Department is organized into three divisions: administrative, juvenile, and adult. The 2012-2013 Merced County Civil Grand Jury chose to focus on the adult division. There is an adult services manager, three supervising probation officers (SPO), and twenty-four probation officers (PO) assigned to adult operations. The SPO in the Los Banos office supervises both adult and juvenile POs. All management, SPOs, and POs have a minimum of a four year college degree, many in criminal justice or social work. The Adult Intake SPO and the six POs are responsible to provide the court with bail assessment information and sentencing reports. This group enters Adult Intake Interview-Computer Input to gather personal history and contact information. They also complete the Static Risk and Offender Needs Guide (STRONG). All inmates released from jail or sentenced to probation are assessed to determine level of supervision. Approximately 300

² www.co.merced.ca.us/probation

clients are assigned to each of three administrative supervisors. Other supervisors assign probationers to a specific PO based on the probationers' primary need.

AB109 and AB117 realignment gave counties responsibility to manage two populations of offenders who have been the responsibility of CDCR.

- (1) Post Release Community Supervision (PRCS) parolees are accountable to Probation Officers who use validated assessment tools to connect offenders with community services and programs.
- (2) Local offenders (PC1170(h)) can be sentenced to incarceration, or a split sentence of incarceration followed by a mandatory term of supervised probation. These offenders have been convicted of a felony offense that is non-serious, non-violent and non-sexual ("the three nons").

Statewide only 23% of offenders sentenced to county jail have received split sentences. In the first year after implementation of AB109, Merced County sentenced 136 of 214 (63.6%) offenders to split sentences.³

Merced County Probation assesses offenders while still in jail or state prison to determine appropriate interventions. Split sentences allow for pre and post release planning and coordination with probation to create a mandatory supervision plan. Research shows that when a person is released from prison, a re-entry plan that ensures an individually targeted transition from jail to structured programs and supervision will provide the best opportunity to lower recidivism. Current research shows that the best outcome requires eighteen months of supervised probation.

Offenders requiring supervision are assigned to a PO based on their primary need as determined by the ONG portion of the STRONG assessment. Such factors as alcohol/drug use, mental health, aggression, attitudes and behavior as well as criminal history determine placement. Probationers are re-assessed every six months. The Merced County Probation Department has reduced and maintains a case load size of high risk PRCS offenders to fifty per PO to ensure proper levels of supervision.

The Department promotes a philosophy of a social worker client relationship mixed with a law enforcement attitude. This balance is flexible depending on the level of a person's criminal history. The greatest challenge appears to be seeing the individual's potential beyond the crime(s) committed.

COMMUNITY CORRECTIONS PARTNERSHIP

The Community Corrections Partnership (CCP) 2012-2013 strategies document provides for various treatment and recommended programs. The Department is in the early stages of developing a collaborative program for Vocation, Education, and Employment Programs (VEEP) as part of the re-entry effort. The intent of the program is to conduct

³ Chief Probation Officers of California, Volume 1; Issue 2

educational and employment readiness assessments for clients who are either in or out of jail. The objective is to identify career fields, career interest and training and educational needs. The Probation Department, Human Services Agency, Workforce Investment and the Merced County Office of Education are the collaborating agencies. The Civil Grand Jury notes that the Sheriff's Department is not a collaborating agency.

The CCP budget allocates money (\$125,000) to hire a County Analyst to meet the data collection requirements of AB109. Data is to be collected from the Sheriff's and Probation Departments for the following analytical purposes:

- Rates of recidivism: probationers, split sentence, and PRCS offenders
- Program success of all AB109 programs
- Jail population impact
- Community crime rates
- Cost effectiveness of AB109 efforts

The Sacramento Bee⁴ recently editorialized that Chief Probation Officers of California and other associations who deal with AB109 offenders each voluntarily collect some data, but there is no uniform statewide monitoring of recidivism; and other data vital to judging the success of the AB109 re-entry program.

DRUG COURT

The Civil Grand Jury observed the Drug Court held at the Superior Court of California County of Merced. Drug Court combines step-by-step positive re-enforcement combined with legal consequences. Participants in the Drug Court program have significant drug and/or alcohol problems with extensive arrest records. Drug and alcohol addiction is their primary cause for committing other crimes such as theft or burglary. In addition to daily classes, the Court requires frequent drug and alcohol testing. The Civil Grand Jury observed a "pep rally" atmosphere where participants cheered announcements of time periods of clean testing. Clients who have minor set-backs face legal consequences on another day in court. Drug Court brings together Probation, Mental Health, the Public Defender and the Courts to work to modify the behavior that leads to other crimes.

MENTAL HEALTH COURT

The Civil Grand Jury observed the Mental Health Court held at the Superior Court of California County of Merced. This court started in April of 2012, and is modeled on the success of the Drug Court. It is a collaboration of Superior Court, Mental Health and Probation Departments, Public Defender and District Attorney. The Probation Department has designated a PO to oversee PRCS and probation offenders who have high levels of behavioral health needs. The court may impose alternatives to jail sanctions or order the offender into custody for violations of their terms and conditions of probation. The court also reinforces and supports the offender's treatment plan. Offenders

⁴ www.sacbee.com/2013/04/25/whyisn't

are referred to the court to be acknowledged for successes. This court is in its early stages of formation and success of the program cannot yet be measured.

AB109 DAY REPORTING CENTER

The 2012-2013 Merced County Civil Grand Jury visited the AB109 DRC, known as the Trident Center, housed in a County owned building at 777 W. 22nd Street, Merced, CA across from the Sheriff's Department Headquarters. This facility opened in February 2013. The AB109 DRC serves as the equivalent of a Sheriff's sub-station and a satellite adult probation office. This building is open during normal business hours. The building contains an area for individual deputy and PO work cubicles, a large classroom, conference rooms, and separate offices for other County agencies. Secured areas store both departments' electronic monitoring/ankle bracelets.

The CCP established this one stop location to serve both PC1170 offenders and PRCS clients. Deputies monitor those offenders released from jail prior to the end of their period of incarceration. All PC1170 offenders are monitored twenty-four hours a day, seven days a week by GPS. Deputies are notified immediately by text message to their iPhone™ of any geographic violation. It also notifies the deputies if the bracelet is cut or disabled.

All recently released State prisoners are required to report within twenty-four hours of release to the DRC. After the initial assessment by an intake officer, PRCS clients are assigned a PO and periodically report as instructed. Home and/or workplace visits are also conducted. Random drug testing can be administered. There are three PO's, each with a case load of not more than fifty clients. There is a PO in Los Banos assigned to PRCS clients.

Services to the AB109 re-entry population by the Human Services Agency (HSA) and Mental Health Department are scheduled to commence in early May 2013. The SPO has scheduled County agencies on a regular basis to serve the needs of clients at this location. Other agencies and non-profits have shown an interest in utilizing the classroom or conference rooms for small group meetings. The HSA will initially conduct classes centered around "Leadership for Life" curriculum. Leadership for Life is a curriculum of workshops designed to introduce programs that impact families by offering an opportunity to practice related skills.

The Civil Grand Jury observed a cooperative effort in planning and execution of a sweep of Sheriff's PC1170 offenders and Probation's PRCS clients. Cooperation between the two agencies led to a well-coordinated round-up where random alcohol/drug tests were conducted, outstanding warrants were checked and contact information verified. The Civil Grand Jury was also briefed on a situation where a PC1170 offender received services for mental illness prior to becoming the responsibility of the Probation Department. This illustrates the cooperation between these two agencies.

This DRC monitors the activities of Merced County's most high-risk incarcerated prisoners on GPS monitoring and DRCS clients. The focus of the Trident Center is to rehabilitate and adhere to the re-entry concepts of AB109. The SPO stated that early results of the County's programs show a marked decrease in recidivism by those who complete probation.

BI (BEHAVIORAL INTERVENTION)

The County of Merced Probation Department contracts with BI (Behavioral Intervention), Inc. to operate a DRC for the highest risk probationers. This nationally recognized firm provides clients with professionals and proven programs not offered by County agencies.

Merced County has contracted with BI since 2007; the current contract runs through June 30, 2013. The County initially awarded BI a contract for a GPS monitoring program. BI was then awarded a DRC contract to provide a re-entry program and services for fifty adult offenders in March 2008. The adult contract has been amended to sixty-five adult clients. The FY 2012-2013 contract is for \$699,996. This money is fully funded by AB109.

The Merced BI-DRC provides intensive supervision, monitoring, treatment, and educational services. The DRC operates with the objectives of reducing recidivism, decreasing the County's jail population and increasing public confidence in the community's safety.

The BI-DRC, located at 3345 M Street, Merced, CA, is within walking distance of public transportation, near the Probation Department, the Court House and other community agencies. The building provides two group rooms, individual counseling rooms and staff offices. Even though the clients are the highest risk probationers, there has never been an altercation on the premises.

BI provides the following services:

- Orientation and assessment
- Development of a behavior change plan
- Daily check-ins
- Alcohol and drug testing
- Substance abuse counseling
- Anger management
- Community service
- Parenting skills
- Job re-address and employment assistance
- Life skills
- Aftercare
- Substance abuse education and treatment

- Education services – literacy, General Education Diploma (GED)
- Community Connections

BI works on the principal of targeted intervention. They assess the client's specific needs in order to reduce the chances of the client being rearrested. Clients and their families are made aware that a condition of their probation is participation in the program; not complying with any aspect of the program will result in sanctions. Selection is typically based on:

- Probation for felony offenses
- Risk of re-incarceration
- Likely benefit from program

There are four levels of supervision at the BI-DRC. Each client starts in the most intensive level and progressively moves through the program. The level of supervision and time spent at the center depend upon actual behavioral changes.

Alcohol and drug use is strictly prohibited including medical marijuana. Substance abuse is evident in 80% of probationers entering the program. Each time a client reports to the BI-DRC they are required to submit to a breathalyzer test. A positive reading can lead to placement in a substance abuse program. If the test reading is very high, the client will be taken to jail or a hospital for detoxification.

Each client must submit to random drug testing. Any positive reading will be reported in an incident report; there will be an assessment for possible placement in a substance abuse group. Clients with medical marijuana cards are allowed to continue in the program but cannot graduate. BI has seen a number of clients stop using medical marijuana in order to graduate from the program. Since 2008 four hundred client/offenders have been involved in the program. The average length of involvement is 150 days although the program is designed for eighteen months. The average attendance is 89% for a minimum of twenty hours per week. Thirty-six percent who successfully completed the program have been rearrested.⁵ Due to the criminal history of participants, a low success ratio is to be expected. Even a few successes benefit the community.

The Civil Grand Jury found that there were extensive services available to clients, strict alcohol and drug standards and extensive hours of operation. The BI-DRC building operates from 8 a.m. to 8 p.m. Monday through Friday and noon to 5 p.m. on Saturday and Sunday. These hours also accommodate clients that have found employment through the BI-DRC efforts.

The Civil Grand Jury noted, based on interviews with BI and the Probation Department, that per client costs estimates vary widely. The continuous movement of clients into and removal from the program makes it difficult to judge its success.

⁵ BI program terminations from DRC reports, dated February 17, 2013

COMMUNITY SERVICES

PROBATION AND COMMUNITY TEAM

The 2012-2013 Merced County Civil Grand Jury attended a monthly breakfast meeting of the Probation and Community Team (PACT) voluntarily sponsored by Gateway Church, 353 E. Donna Drive, Merced, CA. This probation orientation meeting provides recently released probationers and post release offenders with a “one-stop shopping” location to learn about community resources. Although this meeting is a one-time requirement, clients can use the services as often as needed. “PACT helps returning citizens and their families get what they need to succeed as they re-enter society.”⁶

PACT meetings provide a breakfast prepared by the church, motivational speakers and access to state/local government agencies and community non-profit representatives. Over fifty groups participate in PACT (Workforce Investment, Child Support Services, Merced County Office of Education, Adult Literacy Program, Alcoholics Anonymous, Love/Faith/Hope Baptist Church, Total Self Insight and many others).

LOS BANOS

The Los Banos Probation Office supervises and provides limited services to clients in Los Banos, Dos Palos, Santa Nella, and Gustine. The office has responsibility for supervision of both juvenile and adult clients as well as court intake. The three adult PO’s supervise PRCS and mandated community supervision, high risk, sex, drug, property crimes, and gang affiliates. One adult intake PO handles court presentence reports, good and work time credits, sentencing and assessment of new clients.

There are limited county and community resources. The one Mental Health Department clinician has a three to four month backlog for counseling. The Los Banos SPO stated that the majority of clients have mental health issues. There is no DRC, but some PO’s require some clients to report several times a week to the probation office. Some clients are referred to Alcoholics Anonymous (AA) and the local Salvation Army. There are no education classes except parenting classes at the Merced College Los Banos campus. Services such as Mental Health Court, Drug Court, AB109 DRC, BI, and PACT are not offered in Los Banos. Limited availability of transportation makes it difficult for clients to travel to Merced for these services.

The Assistant Chief Probation Officer estimated that 30% of court cases and 20% of probation clients are managed by the Los Banos office. The Civil Grand Jury visited the Los Banos Probation Department office. The office is located in the Ted Falasco Justice Center. This building houses one courtroom, the Sheriff’s Department, Probation Department and satellite offices of other County departments. The actual probation office is very crowded. The close proximity of offices in this building compromises

⁶ Probation Orientation Meeting Brochure

confidentiality. PO's must share office space. The Los Banos staff had two vacancies at the time of our interview. Staff is cross trained and has the ability to multi-task.

FINDINGS AND RECOMMENDATIONS

F1. The intent of the Community Corrections Partnership's VEEP program is to conduct educational and employment readiness assessments/training for clients who are either in or out of jail. The Probation Department, Human Services Agency, Workforce Investment and the Merced County Office of Education are the collaborating agencies. The Civil Grand Jury notes that the Sheriff's Department is not a collaborating agency. AB109 inmates are serving multi-year sentences. This time would be better spent pursuing educational, vocational and life skills.

R1. The 2012-2013 Merced County Civil Grand Jury recommends that the VEEP collaborative group includes the Sheriff's Department.

F2. Prior to AB109 offenders could serve no longer than a year in a local jail.

F3. The Sheriff stated that limited educational opportunities have been provided by a prison ministry program.

F4. AB109 mandates that non-violent, non-serious, and non-sexual offenders serve their sentences in county jails instead of state prisons.

R2, R3, R4. The 2012-2013 Merced County Civil Grand Jury recommends that assessments to identify career interest, training and educational needs should start in jail as a transition to probation and re-entry into the community.

F5. Statistics on success and completion of programs implemented to facilitate AB109 re-entry programs were not available. The Civil Grand Jury realizes that this program is in its infancy. A statistical analyst was included in the 2012-2013 CCP budget.

R5. The 2012-2013 Merced County Civil Grand Jury recommends that the Probation Department's AB109 statistical analyst develop a report that includes rates of recidivism, program successes and cost.

F6. The Civil Grand Jury found that Los Banos Probation Department does not have a day reporting facility, drug court, mental health court, BI, or a PACT.

F7. There is limited public transportation from Los Banos to Merced which makes it difficult for clients to attend the programs offered in Merced.

R6 and R7. The 2012-2013 Merced County Civil Grand Jury recommends that the Probation Department establish a Probation and Community Team (PACT) in Los

Banos with local non-profits. It is further recommended that the Probation Department contract with BI for a Los Banos center.

COMMENDATION

The 2012-2013 Merced County Civil Grand Jury recognizes that both the drug and mental health courts are positive interventions. Frequent monitoring, multiple agency reports, and acknowledgement of successes should increase a client's likelihood to transition back into the community.

The Civil Grand Jury commends the Supervising Probation Officer of the AB 109 DRC for developing a full calendar coordinating office hours for county departments and community non- profits to meet the needs of the clients.

Senior management encourages group effort throughout the department. The Chief holds a monthly meeting with different line level personnel and has an open door policy. Morale appears to be high despite having to do with less. All levels of the Department take great pride in functioning at a high level.

GLOSSARY

AB109	Public Safety Realignment Act
Jail	A county incarceration facility. Prior to AB109 used for terms of less than a year and while awaiting trial
Parole	Conditional release from State custody
PC1170	Felon previous sentenced to State Prison who now serve their time at a local jail
Prison	A State incarceration facility
Probation	Conditional release of an offender from local custody
Recidivism	Relapse into crime by a previously convicted criminal

ABBREVIATION GLOSSARY

ADP	Average Daily Population
BI	Behavioral Intervention
CCP	Community Corrections Partnership
CDCR	California Department of Corrections and Rehabilitation

DRC	Day Reporting Center
PACT	Probation and Community Team
PO	Probation Officer
PRCS	Post Release Community Supervision
SPO	Supervising Probation Officer
STRONG	Static Risk and Offenders Needs Guide
VEEP	Vocation, Education, and Employment Programs

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

MANDATED INSPECTIONS OF JAIL FACILITIES

MANDATED INSPECTION MERCED COUNTY SHERIFF'S DEPARTMENT JOHN LATORRACA CORRECTIONAL CENTER

SUMMARY

The 2012-2013 Merced County Civil Grand Jury found that the John Latorraca Correctional Center (JLCC) was built as a minimum security facility that now houses medium to high risk offenders due to the implementation of Assembly Bill (AB)109. Since implementation of AB109 multi-year sentences are being imposed that keep the inmate at our local facility. The JLCC's full capacity under State rating is 564 inmates. On October 1, 2011, when AB109 went into effect there were 553 pretrial felons. As of April 11, 2013 there were 682 pretrial felons. As of April 25, 2013 there were 103 inmates sentenced under Penal Code Section 1170 in custody, fifty-two of which are on alternative programs. The Civil Grand Jury found that there has been an increase of assaults, contraband, and escapes. Medical, sick call and dental have increased. There has been more damage to the facility.

The Civil Grand Jury found that the facility was out of compliance with the regulation that governs the amount of time that each inmate has for visitation.

It is recommended that the County conduct a study to determine the adequacy of the current facility. If the current facility is determined to be inadequate, the Civil Grand Jury recommends that the County conduct a feasibility study to determine if a new facility should be built to accommodate higher risk inmates and the increase in population. We also recommend that the video-visitation system that the agency is selecting be installed as soon as possible to meet the regulatory minimums.

INTRODUCTION/BACKGROUND

California Penal Code Section 919(b) mandates the Civil Grand Jury annually inspect correctional facilities within their respective counties. The Board of State and Community Corrections (BSCC) inspects correctional facilities every two years.

The Civil Grand Jury inspection focused on the physical facility itself and generally on the overall daily operation and management of inmates.

DISCUSSION

The 2012-2013 Merced County Civil Grand Jury toured the JLCC located at 2584 W. Sandy Mush Road, Merced, CA on September 22, 2012. The JLCC was opened in 1990 and evaluated as a Type II facility under the applicable 1986, 1994, and 2001 Title 24 Standards. The facility has a Board Rated Capacity of 564 inmates and a total of 691 installed beds. The site is under the direct supervision of a Commander, who provided

the Civil Grand Jury members with a PowerPoint presentation of the new online booking system.

The tour included the following areas:

- Officer Training Classroom - display of confiscated weapons
- Medical exam rooms
- Control Center
- Food preparation area
- Commissary area
- Video Conferencing area

Correctional Officers are given limited peace officer status in accordance with Penal Code Section 830.55. New Correctional Officers attend a six-week, 240-hour state correctional training course. This training is completed within the first year of hire. Correctional Officers are required to take twenty-four hours of training every two years. Annual training is done within the department by Corrections Standards Authority (CSA) certified trainers. There are qualified officers within the department who provide this training.

The Civil Grand Jury was escorted through the medical examination area and briefed on availability of medical services.

The control center monitors activities throughout the facility. The control center has a pending contract for modernization.

All males are booked at the main jail facility. All females are booked at the JLCC.

There is a lockdown section with individual cells for those who fall under Welfare and Institutions Code §5150, which allows qualified officers or clinicians to confine a person deemed to have a mental disorder that makes him or her a danger to themselves and others or who are gravely disabled.

The passage and implementation of AB109 has and will continue to have significant impact on the facility. AB109 transfers responsibility for supervising specific lower level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to the counties. AB109 allows non-violent, non-serious, and non-sexual offenders to serve their sentences in county jails instead of state prisons. This increases the population as well as having more medium to high risk offenders held at this facility. The State will continue to incarcerate offenders who commit serious, violent or sexual crimes.

The JLCC's full capacity under State rating is 564 inmates. On October 1, 2011, when AB109 went into effect there were 553 pretrial felons. As of April 11, 2013 there were 682 pretrial felons. As of April 25, 2013 there were 103 inmates sentenced under Penal Code Section 1170 in custody, fifty-two of which are on alternative programs.

There has been an increase of:

- Inmate on inmate assaults.
- Inmates in the probable cause holding cells coming in from the State.
- Different classifications of inmates that include new gangs that were formed at the California Department of Corrections and Rehabilitation (CDCR).
- Medical, sick call and dental needs. The noticeable changes have been with emergency runs to the hospital/medi-flights. This requires two officers or an officer and security guard to stay with the inmate. These incidents increase the overtime of staff.
- Mental Health needs.
- Pruno (prison wine) and contraband.
- Escapes and attempted escapes.
- Damage to the facility by inmates.
- Lengths of time inmates are staying at the County level. They often get new charges while in custody.
- Court appearances and complaints/writs filed. This puts a strain on the transportation unit.

The staff of JLCC prepares and delivers the meals to the Iris Garrett Juvenile Complex, Marie Green Mental Health Facility, the downtown main jail facility, as well as the JLCC. The kitchen operates twenty-two hours a day.

Inmates are given a clean set of clothes on a daily basis. Clothing provided is color coded by inmate classification. There are laundry facilities on the premises, operated by inmates, running twenty hours a day.

A commissary area is provided where inmates can purchase personal hygiene items and snacks. Commissary privileges can be suspended depending upon behavior; however, personal hygiene items are not restricted.

At the time of this tour, the visitation portion of the video system, which would allow private conversations between legal representatives and their clients and with family members, had not yet been implemented. A biennial inspection and report from the BSCC dated October 31, 2012 stated that pursuant to regulation Title 15 Section 1062 each inmate has no less than two visiting sessions weekly totaling at least one hour for each inmate. At the JLCC only a single sixty minute visiting session is offered. This is non-compliant with this regulation.

FINDINGS

F1. This correctional center was designed and built during the late 1980s as a minimum security prison to house low risk offenders for no more than 365 days. Almost twenty-five years later, the county criminal population has risen dramatically, resulting in overcrowding. The recent passage of AB109 has contributed greatly to the increase of inmates at the correctional center. More importantly, AB109 has caused the retention of medium to high risk inmates at the center, which it is not designed to accommodate.

F2. Video conferencing has not been implemented. Visitation is limited to a single sixty minute visitation. The lack of at least two visiting sessions is non-compliant with Title 15 Section 1062 as found in the BSCC report dated October 31, 2012.

RECOMMENDATIONS

R1. It is recommended by the 2012-2013 Merced County Civil Grand Jury that the County conduct a study to determine the adequacy of the current center. If the current center is determined to be inadequate, the Civil Grand Jury recommends that the County conduct a feasibility study to determine if a new center should be built.

R2. It is recommended that the video-visitation system be put in place to comply with the regulatory minimums.

COMMENDATION

The Sheriff's Department should be commended for their efforts to enhance and upgrade the booking system for increased efficiency.

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of two members who were recused due to a potential conflict of interest. Those jurors were excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

MANDATED ANNUAL INSPECTION IRIS GARRETT JUVENILE CORRECTIONAL COMPLEX

SUMMARY

Members of the 2012-2013 Merced County Civil Grand Jury toured the Iris Garrett Juvenile Justice Correctional Complex and found it to be clean, well maintained and managed. Minors are well supervised and provided classes to help them complete their high school education. Because the juvenile court is located on the premises, cases proceeding through the system can be handled efficiently and most are completed within a month.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury toured the Iris Garrett Juvenile Justice Correctional Complex as mandated by California Penal Code, Section 919(b).

METHODOLOGY

The Civil Grand Jury met with the Chief Probation Officer, Assistant Chief Probation Officer, and an incarcerated minor. The Civil Grand Jury then toured the complex.

DISCUSSION

The Chief Probation Officer briefed the Civil Grand Jury members on the procedures of the juvenile court system. All juvenile delinquency court cases in the county are processed through this courtroom. The assigned judge presides over hearings of minors who have been charged with the commission of crimes within the meaning of the California Penal Code and governed by the California Welfare and Institutions Code and Title 15 (Delinquency). Petitions (the document that charges a minor with a criminal offense) are filed within forty-eight hours and a detention hearing is held within twenty-four hours of the filing. Most cases are completed within a month. The Juvenile Court processes an average of twenty cases per day. Welfare and Institutions Code 707(b) classifications allow a minor to be charged as an adult for serious offenses.

At the time of the tour the population of the facility was seventy-one minors, which included six females and sixty-five males. Total capacity at the complex is 120.

A medical doctor is on call and is at the complex on Wednesdays and Saturdays. There is also a mental health doctor assigned to the complex. A Registered Nurse is present for the day shift and a Licensed Vocational Nurse is present for the swing shift. If a medical emergency arises during the night shift, the nurse from the John Latorraca Correctional Facility located next door can be called. All medications are secured in a locked room with locked cabinets. If daily medication is required the nurse takes the medication to the minor. The complex has a "safety cell" for minors who may need to be restricted to prevent them from hurting themselves or others.

Continuing educational classes are provided for all minors, as well as vocational and Regional Occupational Programs (ROP). When released from custody, those minors who have not completed their education will continue their education at the Bear Creek Academy in Merced County.

COMMENDATION

The 2012-2013 Merced County Civil Grand Jury found the complex to be very clean, maintained and well managed.

DISCLAIMER

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MANDATED INSPECTION MERCED COUNTY SHERIFF'S DEPARTMENT MAIN JAIL FACILITY

SUMMARY

The 2012-2013 Merced County Civil Grand Jury found that this facility was clean and well-functioning and the staff conducted operations in a professional and efficient manner.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury toured the Sheriff's Department Main Jail facility located at 700 W. 22nd Street, Merced, CA as mandated by California Penal Code, Section 919(b).

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury toured the Merced County Sheriff's Department Main Jail facility.

The Civil Grand Jury took two tours of the Main Jail facility. Both tours were conducted by a veteran Sergeant who provided information on the overall operations of the facility.

Areas toured included the control center, booking, medical, sobering cell, kitchen, laundry, administration segregation unit, interview rooms, and the video arraignment room.

DISCUSSION

The Main Jail's maximum capacity is 192. As of April 25, 2013 the population of this facility was 156. The control center is managed by an officer or trained civilian twenty-four hours a day. All officers on duty are trained to man the control panels. One person mans the control center and is relieved by another officer for breaks. This officer/civilian also answers phone calls from the public. The control center monitors both the inside and around the perimeter of this facility.

The minimum staffing level is six. Shifts are usually one Sergeant and five officers. Medical staff is on premises twenty-four hours a day.

The facility wasn't built for long term inmates. There hasn't been an escape from this facility since the late 1990's. AB109 transfers responsibility for supervising specific lower level inmates and parolees from the California Department of Corrections and

Rehabilitation (CDCR) to the counties. AB109 allows non-violent, non-serious, and non-sexual offenders to serve their sentences in county jails instead of state prisons.

The facility cannot go over the maximum inmate capacity because it has a federal cap. When close to capacity, inmates are transferred to the John Latorraca Correctional Center (JLCC) or released.

Anyone arrested by an outside agency is brought into this facility through the intake area and booked, except females and arrestees brought in by the California Highway Patrol (CHP). Females are taken to JLCC and the CHP can book at JLCC or Los Banos. Depending on their classification and charges the arrestee will either stay at the Main Jail or be transported to the JLCC.

The booking area is manned by whoever is assigned to intake and is available at the time someone comes in to be booked. Intake assignments have varied duties such as booking, block officer, roof duty, etc. Booking is started by putting information into the system provided by the arresting officer. The arrestee is brought to the window to finish the booking process. There are two windows for booking. Bookings per day can vary but average about twenty to twenty two per day. Day shift is busier than weekends because they include court remands. Bookings take about one hour on average. The Sheriff's Office books and releases from this facility. Staffing is down because of budget cuts.

The Civil Grand Jury viewed the interview rooms where inmates can talk to their counsel; sometimes these rooms are used to house an inmate that can't get along with others. On occasion overcrowding causes insufficient space for counsel interviews. They can either wait or talk to their clients at the courthouse. There is no time limit on how long counsel and an inmate can talk between 7:00 a.m. and 10:00 p.m.

A doctor comes in and reviews the medical files to determine who needs to be seen. This doctor is also on call. There is a nurse practitioner that holds sick call. A dentist comes in every two weeks to provide minor dental work. Medicine is in a locked cabinet.

Medical staff is on premises twenty-four hours a day. Minimum requirement is a Registered Nurse (RN). There is usually an RN and a Licensed Vocational Nurse (LVN) on duty.

If there is an emergency, the officers on duty can move inmates from a cell block. If the whole facility needs evacuating they call for mutual aid from other agencies such as the Merced Police Department.

Officers can't carry lethal weapons in the facility. They can carry pepper spray, batons, and Tasers.

Budget cuts have reduced personnel, which results in overtime. Shifts are seven a.m. to three p.m., three p.m. to eleven p.m., and eleven p.m. to seven a.m. Officers can pull a double shift but cannot work more than two doubles in a row. It is mandatory that they

take at least one of their two days a week off. If working a double shift, during the second shift they make sure that they are working an assignment where it is constantly moving and where it is not required to stay past those sixteen hours.

A ranking officer noted the impact that AB109 is having on being able to keep criminals in jail. He said, "It's like having a revolving door at the booking station and criminals are beginning to catch on that they won't be put behind bars for certain crimes." The facility was built for minor crimes and probation violations, not for long term inmates.

Average stay of an inmate at this facility is six to eight months at the minimum. The majority of inmates at this facility are not sentenced.

Booking:

- Inmate is brought into the intake area and the arresting officer completes a probable cause arrest sheet. (This states how the officer came into contact with the arrestee and what they were arrested for.) The probable cause information is reviewed by a judge.
- A cursory search is completed. All items taken from the arrestee are logged and put into a bag.
- A Sheriff's officer enters the intake area and reviews the probable cause form and the property that has been placed in the bag.
- The arrestee is brought into the facility and another cursory search is performed.
- All paperwork is given to the booking clerk.
- The arrestee is asked a battery of questions:
 1. Medical issues and if they are taking any medications.
 2. Have had any alcohol to drink or taken any street drugs within twenty-four hours. Depending on their answer, medical staff may be called to clear the arrestee before they can be booked. Ninety percent of the time medical staff has to clear the arrestee.
 3. Current or former gang affiliation.
- If their blood pressure is too high, have a medical condition, or are too drunk they may not be accepted for booking. The arresting officer has to take them to a hospital to get cleared.
- The arrestee must walk into the jail on his/her own; they can't be assisted by the officer.

Once the above process is completed then the inmate is booked.

- The intake officer prepares what is called a global jacket for each inmate.
- The global jacket contains the name of the inmate, height, weight, tattoos, address, gang affiliation, scars, marks, etc.
- The intake officer lists the booking details, what shift the inmate was booked on, time, misdemeanor or felony, outstanding warrant, the arresting officer, where they were arrested, charges, and property.

- Release notification to arresting officer or victim, if requested, can also be included in such cases as domestic violence. Generally there is not a release on domestic violence cases, but the inmate can get bailed out. The booking system will not clear the inmate out of the facility if all notifications requested have not been performed.
- Classification staff determines where the inmate will be housed in the facility.

Sobering cell: Medical staff evaluates if an inmate needs to be placed in a sobering cell. Once in the sobering cell they are observed. Officers have to check on the inmate in this cell twice an hour. The cell floor is padded. At a minimum most inmates in the sobering cell are there six hours, but they have been there up to fourteen or fifteen hours depending on level of intoxication. They are re-evaluated before they are placed in a general cell. There can be more than one person in the sobering cell at a time.

Inmates are placed in a holding cell, if they are not in need of any medical intervention. Once inmates are classified they go to their cells in this facility or are transported to the JLCC. Transportation is usually once a day on the weekends and six to nine times a day during the week. Inmates that are scheduled to go to court during the week from the JLCC are transported to the Main Jail facility, placed in the general holding cells (if they can get along) and from there are bused over to the court.

Holding cells at the Main Jail are broken down into general population, victim potential, protective custody and women.

Inmate worker area: Food comes from the JLCC and the inmate worker crew sets up the trays and collects and washes the trays before they are sent back to the JLCC. Inmates on the crew are determined by the classification officers and are inmates that can get along with others. They have a day room with a TV and a microwave where they can eat and take a break. They have separate sleeping quarters. The inmates know their job assignment and are available on a twenty-four hour basis. They also do interpreter service, laundry, clean cells and floors, clean arresting officers' cars and prepare kits and boxes for incoming inmates. They do not have physical contact with other inmates. An officer is always present in the inmate work area. A Tier Tender is the title assigned to the inmate worker on each cell block.

Visitation is one hour per week on the weekend by two people that the inmates place on their visitation list. Conversation is recorded for facility security and officer and inmate safety. It is not monitored, but if there is a security or safety issue it can be reviewed. Visitors have to go through a criminal history background check. Before entering the visiting area they need to have a valid ID card, no outstanding warrants, no felony record, not have been arrested in the last five years, no current restraining orders, or ever had a drug arrest. If under the age of eighteen they must be accompanied by a parent or guardian who must show proof that they are the parent or guardian. The Sheriff can grant special visits but it is on a case by case basis.

Holiday and summer seasons usually see more arrests of a domestic violence nature.

The inmates are required to show their ID for medication and commissary purchases.

The arrestee is allowed to make three completed phone calls when they are first booked into the facility. A wall phone is provided for them.

DISCLAIMER

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This report was issued by the Grand Jury with the exception of two members whom were recused due to a potential conflict of interest. Those jurors were excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

INVESTIGATIVE REPORTS

MERCED COUNTY CORONER'S OFFICE

SUMMARY

The Merced County Coroner's Office is under the direct supervision of the Merced County Sheriff's Department. The 2012-2013 Merced County Civil Grand Jury found the facility to be very small and compact. Additional space is needed for staff and to house medical records. Expansion of the facility would also allow this agency to purchase, when budget allows, an X-Ray machine that in the long run would be cost effective to have on the premises.

INTRODUCTION/BACKGROUND

The following is a list of criteria set forth within the California Government Code (GC) §27491 which require death investigations by the Coroner:

- All violent, sudden, or unusual deaths.
- All unattended deaths.
- Deaths where a deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days before death.
- Deaths related to or following known or suspected self-induced or criminal abortion.
- Known or suspected homicide, suicide, or accidental poisoning.
- Deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent.
- Deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome.
- Death in whole or part occasioned by criminal means.
- Deaths associated with a known or alleged rape, or crime against nature.
- Deaths in prison or while under sentence.
- Deaths known or suspected as due to contagious disease and constituting a public hazard.
- Deaths from occupational diseases or occupational hazards.
- Deaths of patients in state mental hospitals, serving the mentally disabled and operated by the State Department of ~~***~~State Hospitals.
- Deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department Developmental Services.
- Deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another.
- Any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner.

In any case in which the coroner conducts an inquiry pursuant to the above section, the coroner or deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital. The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of the above listed sections.

The Deputy Coroner assigned to the case will determine if an autopsy is needed to complete the investigation. The County has an on-line listing of death certificates.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury conducted a site visit, interviewed the Sheriff/Coroner, Forensic Pathologist, and staff from the Coroner's Office to obtain a knowledge and understanding of the current facility, its procedures, its history and potential future growth.

DISCUSSION

The 2012-2013 Merced County Civil Grand Jury interviewed the County Sheriff/Coroner and several Coroner's Office staff members. During the discussions the Civil Grand Jury learned the process of the Coroner's Office. The process includes notification of a death, determination if an autopsy is needed, the autopsy process, requirements to complete the report, and the signing of the certificate of death.

The amount of time to complete an autopsy can vary depending on the complexity. Criminal cases take longer if x-rays need to be taken, if there is trauma, and if bodily fluids are taken. DNA samples are saved indefinitely as set forth by law.

If the death is a homicide, there is a criminal investigation by the agency. Next of kin is notified in the following order: Spouse, brother, sister, children. The Coroner's Office also assists the family of the deceased. The Forensic Pathologist reviews all autopsy reports.

There is an existing contract with the Forensic Medical Group to provide services on an as needed basis. They travel throughout northern California. The outside agency is used, as set by protocol, for such things as officer involved shootings and for vacation coverage for the Forensic Pathologist.

The Sheriff's Department conducts the investigation of in-custody deaths, unless the death was through an altercation with Sheriff's Department staff. If the death was through an altercation the investigation is conducted by the Forensic Medical Group.

If there is an officer involved shooting, the investigation is conducted by the Sheriff's Department Internal Affairs Division and the autopsy reports are reviewed by the County District Attorney and a pathologist from the Forensic Medical Group.

The Coroner's Office operates twenty-four hours a day, seven days a week and 365 days a year. The Coroner's Office has three full time deputy coroners, one part time extra help deputy coroner and a Forensic Pathologist. They specialize in death investigations and do not need to have Police Officers Standard Training (P.O.S.T.) certification. All require a bachelor's degree and have some education/background in the medical field. Two are licensed funeral directors and also certified death investigators with the American Board of Medical Legal Death Investigators. They attend a two-week course to recertify every two years.

As with every county department the Sheriff/Coroner has a reduced budget. Although they are not down any positions, the budget cuts have stopped them from growing but the work load has increased. The case load for 2012 was 861 cases.

There are two holding coolers at this facility. The smaller cooler is used for decomposition autopsies and is equipped with a separate ventilation system. The larger cooler can hold twenty five bodies. The area used for office space and storage of medical records is very small and compact and the space is inadequate.

The Coroner's Office has up-to-date technology with the exception of an X-Ray machine. If they had an X-Ray machine on the premises in the long run it would save money as this is currently an outsourced service. Laboratory results and X-Ray services are two outside contracted professional services that cost the county approximately \$27,000.00 per year.

The Sheriff's Department and Coroner's Office practice for mass casualty disasters. If one occurred, depending on what or how the disaster started, proper procedures would be implemented and followed. Chain of custody would be handled by multi-task forces from various agencies, but the Sheriff's Department would still be in charge of the autopsies of the bodies.

FINDINGS

F1. Office space is inadequate for staff and the storage of medical records.

F2. The purchase of an X-Ray machine would be cost effective in the long run, but there is currently no adequate space available.

RECOMMENDATIONS

R1. The 2012-2013 Merced County Civil Grand Jury recommends a larger facility to adequately house services currently being outsourced, increase staff work space and provide necessary space for storage of medical records.

R2. The 2012-2013 Merced County Civil Grand Jury recommends the purchase of an X-Ray machine as budget allows.

COMMENDATION

The 2012-2013 Merced County Civil Grand Jury recognizes the ongoing efforts of this agency to enhance and upgrade systems for increased efficiency. The Sheriff's Department and the Coroner's Office should be commended for a job well done.

DISCLAIMER

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This report was issued by the Grand Jury with the exception of one member who was recused due to a potential conflict of interest. That juror was excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

MERCED COUNTY 9-1-1 PROGRAM

SUMMARY

The 2012-2013 Merced County Civil Grand Jury found that the County of Merced spent \$351,783 in 2007 on a reverse 9-1-1 system that was never operational. The recently purchased Everbridge Emergency Notification System (ENS) requires individuals to register cell phones. Over a four month time period approximately 1,500 people in Merced County registered. The ENS can be upgraded to implement geographically targeted messaging for approximately \$2,000 annually. This would make current campaigns for individual registration unnecessary and obsolete.

Responders sometimes find themselves in locations where their radio systems and/or cell phones do not have an adequate signal. Budget cuts have reduced the number of dispatchers and responders while Assembly Bill (AB)109 Public Safety and Realignment Act has increased the number of criminals on the street.

The Civil Grand Jury recommends that the County should upgrade the ENS to send messages to residents' mobile phones within proximity of an emergency event, and ensure that public money is spent on services that serve the needs of the citizens of Merced County. The Civil Grand Jury further recommends addressing issues with inadequate emergency responder radio systems and increasing responder and dispatch staff as budget allows.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury decided to investigate and ensure that the 9-1-1 emergency systems and management in Merced County are adequately serving county citizens. The Civil Grand Jury was made aware of an incident where citizens had dialed 9-1-1 only to be transferred back and forth between two separate jurisdictions, neither believing they were the ones responsible to take the phone call. Merced County's 9-1-1 systems haven't been fully looked at by the Civil Grand Jury since before 2007. We focused on the following: emergency notification services and first responder radio systems. It was the general consensus of the law enforcement personnel interviewed that AB109 and fewer emergency responders have negatively impacted the crime rate and 9-1-1 call response time.

The Merced County Sheriff's Department maintains correctional facilities and operates correctional programs, while responding to calls and protecting the residents of Merced County. Other law enforcement jurisdictions that serve solely in Merced County are the police departments of Merced, Atwater, Los Banos, Livingston, Dos Palos, Gustine, and University of California Merced.

The Merced County Office of Emergency Services (OES) provides preparedness before, and coordination during, large-scale emergencies and disasters. OES coordinates with partner agencies including the six incorporated cities within the county, special districts, and key private agencies in providing planning, response, recovery and mitigation

activities as a result of disaster related incidents. OES is in charge of implementing the ENS.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury uses the investigation method of triangulation, which involves research, observation, and interviews.

RESEARCH

The Civil Grand Jury reviewed websites and documents received from various sources which can be viewed at the end of the report in the footnotes.

OBSERVATION

During this investigation, the Civil Grand Jury inspected and observed 9-1-1 responders and dispatch locations in various Merced County jurisdictions.

INTERVIEWS

The Civil Grand Jury interviewed numerous individuals, including a police chief, a fire battalion chief, an OES Director of Administration, a previous Merced County dispatch supervisor, and current County dispatch supervisor. The Civil Grand Jury asked questions of various 9-1-1 responders and ranking staff on our observation tours. In addition, the Civil Grand Jury received information from County contacts for the Everbridge system, along with information from the Auditor's Office.

DISCUSSION

1) EMERGENCY NOTIFICATION SYSTEM (ENS)

- An ENS alerts residents and businesses about natural disasters and other crises. Merced County has many characteristics that make having an operating ENS necessary; these include water dams, chemical plants, major freeways, and railway systems that are all within close proximity to populated residential and commercial areas.

In fiscal year 2007, Merced County received funds from the State Homeland Security Grant Program to cover the cost of an ENS, called Reverse 9-1-1. Due to technical difficulties and the structure of the County's existing communication trunk lines, and compatibility issues with the different cities, the new system never worked. The total cost for the Reverse 9-1-1 system hardware, software and licensing, setup, implementation, and county administration services was \$351,783. These funds were never recovered, and according to OES, the system has never worked.

In November of 2012, Merced County OES purchased a new web based ENS called the Everbridge System. The new ENS enables Merced County and participating cities to provide essential information quickly in a variety of

situations, such as earthquakes, severe weather, fires, floods, or evacuation of buildings or neighborhoods. The Everbridge system is designed to be utilized anywhere from a fully staffed dispatch center to just a cell phone.

The system is able to call all listed landlines, and all manually registered cell phones. The OES can send an alert with one call or a few clicks of a computer mouse, and can communicate with thousands of residents and businesses anywhere, anytime, via home phone, cell phone, business phone, or e-mail address. However, if residents desire to receive messages via cell phone, or e-mail, they have to go through a process of signing up online via the County's registration page.⁷

The new system was put to the test in Atwater, California on December 4th, 2012, when an ammonia leak was reported at the Dole plant. Approximately eleven homes in close proximity were alerted to evacuate using the new Everbridge notification service. Ten residents showed up at the community center until the all clear was given that it was safe to return home.

Since implementation in November, the OES has implemented an advertising campaign in the local newspapers, radio and on the OES website⁸ to get residents to register their cell phones and unlisted numbers to receive phone calls or e-mails in the event of an emergency. From the beginning of November 2012, to the end of February 2013, approximately 1,500 county residents had registered according to OES. This is negligible compared to the 258,000 people that reside here in Merced County. The OES continues to encourage more resident registration by conducting a larger media campaign on April 4th, 2013. According to the Centers for Disease Control, in 2010 approximately eighteen percent of homes in California had only a cell phone, and no landline.⁹ This percentage appeared to be increasing three to six percent annually.

Individuals who are not connected to a registered landline in Merced County whether at work, doing errands, visiting Merced, or those simply with just a cell phone are unable to be reached in the event of an emergency unless they register their cellular number.

The Civil Grand Jury has found that eighty-two state and local authorities in the United States have implemented notification systems that send geographically targeted messages to compatible mobile phones by cell tower proximity.¹⁰

This new technology is primarily covered by a Federal program known as the Integrated Public Alert and Warning System (IPAWS) and establishes itself as a

⁷ Office of Emergency Services, Merced County Emergency Notification Implementation Plan, November, 2012.

⁸ Merced County Notification System Sign Up Page <http://www.co.merced.ca.us/index.aspx?nid=1922>

⁹ CDC, National Health Statistics Reports, Number 39, April 20, 2011.

¹⁰ AWARE Forum Organization, <http://www.awareforum.org/2012/11/update-on-ipaws-and-cmas-usage/>

proximity notification system under the Commercial Mobile Alert System (CMAS) program.

According to the Federal Communications Commission (FCC)¹¹, Federal alerts can be sent to targeted counties; if Merced County wants access to send alerts to specific areas in the County, they can apply to the Federal program. Once registration is completed, they can then use the given account number to launch proximity based notifications via the CMAS system. This can be supplemented by the free Everbridge Mobile Member application should the County choose to implement the following upgrades on technology. According to the County's Everbridge contact, the technical service upgrades to the existing Everbridge system would cost Merced County approximately \$2,000 annually. This upgrade would enable the County to have the ability to alert the affected residents with precision. Merced County could apply for and acquire the Federal access code. According to Merced County's Everbridge contact, in mid-April 2013, the County system will be able to work with CMAS if they upgrade the Everbridge module. The upgrades would make individual registration for alerts unnecessary; and all registration media campaign funds could be allocated towards paying for Everbridge upgrades.

2) FIRST RESPONDER RADIO SYSTEMS

According to various interviewees, tours, and police ride-alongs, the 2012-2013 Merced County Civil Grand Jury found that many Merced County local first responders' radio equipment is inadequate. It was noted multiple times in various locations that the radio systems do not have sufficient signal strength. The Civil Grand Jury experienced, and were told of, multiple "dead zones" within Merced County that would leave responders stranded with no ability to communicate with other responders or their dispatch base.

3) FEWER RESPONDERS AND MORE CRIMINALS

During our investigation, the 2012-2013 Merced County Civil Grand Jury noted that county law enforcement jurisdictions are struggling to deal with the impact of budget constraints and AB109. There has been a 17% decrease in total annual revenue comparing the years 2009 and 2011 in Merced County. From 2007 to 2011 there was a decrease in property tax revenue of 15%.¹² Budget constraints have forced jurisdictions to employ fewer officers, and AB109 has increased the number of criminals that are on the street. The result has been higher crime. According to FBI crime statistics, from 2010 to 2011, crime in Merced County went up 8%.¹³

¹¹ FCC.GOV Commercial Mobile Alert System, <http://www.fcc.gov/guides/commercial-mobile-alert-system-cmas>

¹² Merced County Comprehensive Annual Financial Report, 2007 through 2011. <http://www.co.merced.ca.us/Archive.aspx?AMID=38>

Some of the causes and possible solutions are listed below.

■ FEWER RESPONDERS

Departments are required to manage with fewer first responders. There are two main things that are affected by this downsizing.

- 1) Responders' overtime has increased. This can wear down a department and make employees do their work without being fully rested.
- 2) There are fewer first responders on the streets at any one time covering their jurisdiction. Response times to calls are potentially slower, especially non-emergency calls.

■ MORE CRIMINALS

According to a Police Chief and ranking officials in the Sheriff's and Police Departments, one of the most concerning things for Merced County is the impact of AB109. The law's goal is to reduce California's prison population by 33,000 inmates by June 2014.¹⁴ County law enforcement officials noted that it is now harder to keep criminals behind bars for breaking the law. One went so far as to call the jail booking station a "revolving door", and that criminals are beginning to realize that while they may be charged for a crime, they may not serve any jail or prison time. This puts all Merced County residents at greater risk.

FINDINGS

- F1. The new ENS requires individuals to register all cell phones. In almost four months, approximately 1,500 people in Merced County have registered.
- F2. The Everbridge ENS can be upgraded to implement geographically targeted messaging for approximately \$2,000 annually. This would make current campaigns for individual registration unnecessary and obsolete.
- F3. Budget cuts have reduced the number of dispatchers and responders. AB109 has put more criminals back on the street. If one commits a minor crime, while they may be charged, they often will not see jail time. Criminals are often released as soon as they are processed.
- F4. In various jurisdictions in Merced County, responders will sometimes find themselves in locations where their radio systems and/or cell phones do not have an adequate signal.
- F5. The County of Merced spent \$351,783 on a reverse 9-1-1 system that was never operational.

¹³ <http://www.fbi.gov/stats-services/crimestats>

¹⁴ <http://www.cdcr.ca.gov/news/docs/2011-05-23-three-judge-panel-background.pdf>

RECOMMENDATIONS

- R1, R2. The 2012-2013 Merced County Civil Grand Jury recommends implementing the geographically targeted messaging system. This would make individual registration for alerts unnecessary; and all registration media campaign funds could be allocated towards paying for Everbridge upgrades. Until then the initial step of applying for and acquiring the Federal access code should be undertaken by Merced County.
- R3. The 2012-2013 Merced County Civil Grand Jury recommends that Merced County jurisdictions should increase the number of dispatchers and law enforcement responders as soon as budget allows.
- R4. The 2012-2013 Merced County Civil Grand Jury recommends that Merced County ensure that all emergency responder radio “dead zones” are located and the necessary actions are taken to ensure adequate radio signal strength.
- R5. The 2012-2013 Merced County Civil Grand Jury recommends the County of Merced require all departments in charge of purchasing for the County to have a clause in each contract that will allow the return of the equipment and a full refund if it does not work as advertised or with our systems. Also, enough research should be done prior to purchasing to ensure that the equipment will work with our systems.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the 2012-2013 Merced County Civil Grand Jury requests responses as follows:

From the following governing bodies:

- The County of Merced Administrative Services—Recommendation 5.
- The Merced County Office of Emergency Services—Recommendation 1, 2, 4.
- Merced County Law Enforcement Agencies—Recommendation 3, 4.
- The County Board of Supervisors—Recommendation 1, 2, 3, 5.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

GLOSSARY

ENS: Emergency Notification Services

OES: Office of Emergency Services

IPAWS: Integrated Public Alert and Warning System

CMAS: Commercial Mobile Alert System

FCC: Federal Communications Commission

ATTACHMENTS

A FBI Crime Statistics for Merced County 2010

B FBI Crime Statistics for Merced County 2011

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of two member who were recused due to a potential conflict of interest. Those jurors were excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

A) FBI Crime Statistics for Merced County 2010

CRIME BY COUNTY 2010					02/17/12							UCR55100				
					VIOLENT		PROPERTY		FORCIBLE		AGGRAVATED BUR-		MTR VEH			
MO	CTY	SMA	ORI	G	AGENCY NAME	POPULATION	CRIME	CRIME	MURD	RAPE	ROBBERY	ASSAULT	GLARY	LARCENY	THEFT	ARSON
12	023	CA02309	80		UPRR: MENDOCINO C		1	128				1		11	117	
12	023	CA02399	80		HP: MENDOCINO COU											
COUNTY TOTAL						87,841	488	1,518	4	43	45	396	515	829	174	25
12	024	522	CA02406	3	MERCED	78,958	549	2,808	7	33	141	368	633	1,934	241	23
12	024	522	CA02401	4	ATWATER	28,168	114	1,128	4	6	23	81	322	700	106	14
12	024	522	CA02402	6	DOS PALOS	4,950	48	171	1	3	5	39	58	105	8	6
12	024	522	CA02403	6	GUSTINE	5,520	8	175			1	7	69	85	21	1
12	024	522	CA02404	5	LIVINGSTON	13,058	103	346		4	13	86	163	151	32	6
12	024	522	CA02405	4	LOS BANOS	35,972	139	1,050	2	4	36	97	323	637	90	3
12	024	522	CA02412	7	UN OF CA: MERCED		1	18				1		18		
12	024	522	CA02400	98	MERCED	89,167	484	2,026	12	22	49	401	778	1,227	21	7
12	024	522	CA02408	90	UPRR: MERCED COUN			8						8		
12	024	522	CA02410	90	DPR: FOUR RIVERS		1	7			1			7		
12	024	522	CA02499	90	HP: MERCED COUNTY		1	507				1	1	72	434	
COUNTY TOTAL						255,793	1,448	8,244	26	72	269	1,081	2,347	4,944	953	60

B) FBI Crime Statistics for Merced County 2011

FBI CRIME STATS 2011 By County/City

CRIME BY COUNTY 2011						1/23/13		VIOLENT		PROPERTY		FORCIBLE		AGGRAVATED BUR-		UCR5		5100	
MO	CTY	SMA	ORI	G	AGENCY NAME	POPULATION	CRIME	CRIME	MURD	RAPE	ROBBER	ASSAULT	GLARY	LARCENY	THEFT	ARSON			
12	24	522	CA02406	3	MERCED	79,886	503	3,159	8	20	149	326	802	2,044	313	42			
12	24	522	CA02401	4	ATWATER	28,499	129	1,230		5	37	87	355	773	102	14			
12	24	522	CA02402	6	DOS PALOS	5,008	40	177			3	37	50	105	22	2			
12	24	522	CA02403	6	GUSTINE	5,585	34	148	1	2	5	26	46	81	21	1			
12	24	522	CA02404	5	LIVINGSTON	13,212	75	350	5	5	10	60	180	135	35	2			
12	24	522	CA02405	4	LOS BANOS	36,395	168	1,177	3	7	29	129	397	676	104	1			
12	24	522	CA02412	7	UN OF CA: MERCED		1	39				1	2	37					
12	24	522	CA02400	98	MERCED	90,215	459	2,319	2	22	41	394	767	1,538	14	6			
12	24	522	CA02408	9D	UPRR: MERCED COUN			14						14					
12	24	522	CA02410	9D	DPR: FOUR RIVERS			8					2	6					
12	24	522	CA02499	9D	HP: MERCED COUNTY			511					3	87	421				
COUNTY TOTAL						258,800	1,409	9,132	14	61	274	1,060	2,604	5,496	1,032	68			

INVESTIGATION
MERCED COUNTY PUBLIC HEALTH DEPARTMENT
DIVISION OF ENVIRONMENTAL HEALTH
FOOD SERVICES INSPECTIONS

SUMMARY

No division of the Department of Public Health (DPH) has been investigated by a Merced County Civil Grand Jury for at least five years. Inspectors are behind on their food inspections an average of 40%. Some areas of the county are only inspected if a complaint is received because there is not an assigned inspector in a district. Inspectors fill in as needed for the vacant positions. Many businesses that were not on the food inspection list were not reassigned when inspectors retired or moved to other districts. Some facilities with an unsatisfactory rating have not been re-inspected within thirty days as required by law. Clerical and office duties take the food inspectors out of the field. The inspectors are overwhelmed by the workload and morale is low. Hiring of temporary, extra help or volunteer staff should be considered.

Not all the inspectors use the county issued laptops in the field. Online training is available but is not required by the Supervising Environmental Health Specialist (SEHS). Inspectors should complete ongoing training and use the laptops in the field to avoid duplicate work.

The software system is deficient because inspection reports automatically fall off the website after two years and it doesn't interface well with the county's system. An Environmental Health Specialist III spends 50% of his/her time addressing issues of the software system. A study to determine the adequacy of the current software should be completed. The Division of Environmental Health (DEH) should re-evaluate the cost of the current software system.

The database should be checked quarterly to determine the most recent date of inspection. Hospitals, schools and facilities that have lapsed should take priority.

The 2012-2013 Merced County Civil Grand Jury visited forty facilities open for businesses that were not listed on the website. Only one had a current food inspection report.

In the course of our investigation, the Civil Grand Jury was asked by the SEHS to notify DEH of any food facilities that did not show up online.

The Civil Grand Jury was denied requests to observe a food inspection. The Director of the Public Health Department should reconsider allowing this for transparency.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury elected to investigate the Department of Public Health's Division of Environmental Health. The investigation focused specifically on food safety and facility inspections in the county. No division of DPH has been investigated by the Civil Grand Jury for at least five years.

The primary purpose of the food program is to protect the public from foodborne illnesses and assure that food provided for human consumption is wholesome, properly labeled, advertised, and produced under conditions which are safe and sanitary.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury interviewed the Director of Public Health, the Director of the Division of Environmental Health (DDEH), the Supervisor of the Environmental Health Services food program (SEHS), and Environmental Health Specialists (EHS). The DEH food inspections website was evaluated and site visits were conducted of facilities that were absent from the website. Subsequent follow up interviews were made with department management.

DISCUSSION

The Food Services DEH consists of one director, one SEHS, and six EHS when fully staffed. There are currently two EHS vacancies in this department.

INSPECTIONS

In the last three years, from January 1, 2010 through December 31, 2012, the Merced County DEH issued approximately 334 new and change of ownership permanent food facility health permits. There are approximately 900 fixed food facilities and 300 mobile facilities in Merced County. When a new facility opens with an initial inspection, they are entitled to an annual inspection upon payment of operating permit fees. A new facility's blueprint review costs \$600.00. DEH had a raise in food facility permit fees of 2.6% which went into effect in September 2012. Yearly permit/inspection fees vary by seating capacity and type of facility. For the year 2011-2012 the DEH collected an estimated \$621,152.32 from all food related programs, health permits, food facility inspections/re-inspections, and change of ownership inspections. The SEHS stated that revenue is dispersed into administration, food inspection, data management, clerical, and program development.

Chart - Environmental Health Food Program Fees – Effective January 5, 2013¹⁵

<u>FOOD PROGRAM</u>	<u>\$ RATE/FREQUENCY</u>
Food Facility with food preparation (i.e. restaurants, delicatessens)	
0 - 49 seats	395/year
50 - 149 seats	553/year
>150 seats	679/year
Hotel/Motel Continental Breakfast Only	230/year
Bar	425/year
Bakery	425/year
Cafeteria (School)	425/year
School Cafeteria Other-Warehouse	354/year
Commissary	425/year
Satellite Food Distribution Facility	213/year
Restricted Food Service Transient Occupancy Establishment (Bed and Breakfast)	425/year
Cottage Food Operation Class A	59/year
Cottage Food Operation Class B	236/year
Farmers Market (certified)	213/year
Produce Stand	213/year
Farm Stand	236/year
Produce Vehicle	106/year
Food Borne Illness Investigation	118/hour
Vending Machines (per machine)*	
1 - 5 at location	21/year
6 or more at one location	13/year

¹⁵ Merced County Environmental Health Website

*Excludes machines with food or beverage which are not potentially hazardous pursuant to Health & Safety Code (HSC) Section 113938.

Mobile Food Facility

Mobile food facility (Basic Cart) with packaged and/or unpackaged non-potentially hazardous or packaged frozen foods (i.e. produce, baked goods, packaged ice cream bars, packaged frozen meat)	177/year
Mobile food facility (Intermediate Cart) with packaged potentially hazardous food (i.e. hot food sales)	206/year
Mobile food facility (Advanced) with non-potentially hazardous food preparation, sales of raw fish, preparation of hot dogs or coffee-based drinks with milk as an ingredient (i.e. snow cones, fresh popped popcorn, cotton candy, churros)	236/year
Mobile food facility (Deep Fat Fryer, and/or cooked to order carts)	425/year
Single operating site mobile food facility w/non potentially hazardous food	118/year
Single operating site mobile food facility w/potentially hazardous food	177/year
Mobile support unit	213/year
Mobile food facility (Food Preparation Unit)	586/year

Food Bank/Pantry	118/year
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Temporary Food Facility

Temporary food facility operating at a weekly or monthly community event less than 25 consecutive or non-consecutive days in any 90 day period	354/event
Temporary food facility - low risk single event	31/event
Temporary food facility – low risk annual fee	154/year
Temporary food facility – high risk single event	88/event
Temporary food facility – high risk annual fee	441/year

Community Event Organizer

Community food events with 2-5 temporary food facilities (1.5 hours)	177/event
Community food events with 6-15 temporary food facilities (2.5 hours)	295/event

Community food events with 16-25 temporary food facilities (3.5 hours)	413/event
Community food events with 26+ temporary food facilities (5.5 hours)	649/event
Swap Meet Prepackaged Food Stands	197/year
Swap Meet/Flea Market Organizer Fee	
2-5 facilities	173/year
6-15 facilities	288/year
16-25 facilities	403/year
26+ facilities	633/year
Retail Market (grocery store)	
<500 sq. ft. (Pre-packaged, non-hazardous food)	30/year
<2,000 sq. ft.	318/year
2,001 - 6,000 sq. ft.	425/year
6,001 - 15,000 sq. ft.	638/year
15,001-30,000 sq. ft.	893/year
>30,001 sq. ft.	1,049/year
Licensed Health Care Facility 16-99 beds	425/year
Licensed Health Care Facility 100-199 beds	638/year
Licensed Health Care Facility 200+ beds	851/year
Plan Checks	
Prepackaged food only, that is non-potentially hazardous food (2.5 hour minimum, each additional hour at hourly rate)	295/each
Unpackaged food, food preparation also prepackaged potentially hazardous food (7 hour minimum, each additional hour at hourly rate)	826/each
Hazard Analysis Critical Control Point (HACCP) Plan Review (3.5 hour minimum, each additional hour at the hourly rate)	413/each
Re-inspection Fee	118/hour

Multiple Food Establishment Fees

Fees shall be set on any premises with multiple food establishments operating under the same business name/ownership, and shall pay the following fees: 100% of annual fee for the type of establishment with the highest prescribed fee, and 70% of each remaining fee. Mobile food facilities and retail food vehicles shall not be included as multiples and shall pay the standard fees.

At the inspection sites, inspectors are not required to wear gloves or hairnets. Inspectors would wear them if requested by the facility or if the State required it.

Food facility inspections are given a point system rating of "good", "satisfactory", and "unsatisfactory" upon completion of the inspection.

- GOOD
 1. No major violations or zero to three minor violations
- SATISFACTORY
 1. One major violation that is corrected during the inspection, and zero to three minor violations: or
 2. Four to six minor violations
- UNSATISFACTORY
 1. One or more major violations not corrected during the inspection, or
 2. One major violation which is corrected during the inspection and four or more minor violations, or
 3. Two or more major violations which were corrected during the inspection, or
 4. Seven or more minor violations.

An example of a minor violation would be dirty floors, no paper towels or sanitizing rinses. An example of a major violation would be inadequate hot water or refrigeration temperatures. Any major violation(s) not corrected during the inspection will result in immediate facility closure. Food facilities rated "unsatisfactory" are required to be re-inspected within thirty days. These re-inspections are billed at \$118.00 an hour.

The inspectors spend an average of 30% of their time on food inspections. Inspectors stated that they were behind on their inspections by an average of 40%. As of July 1, 2012 DEH was down one food inspector and as of January 8, 2013 they were down two inspectors. Firebaugh, Los Banos, Volta and part of Santa Nella currently have no permanently assigned inspector. When there is no permanently assigned food inspector in a district, the remaining inspectors cover the area only when a complaint is received. Some districts have been rotated twice in the last five years, while other districts have been assigned to an inspector for more than five years. Inspectors stated that they are overwhelmed by the workload and morale is low.

Schools are required to have only one inspection per year. The inspection falls somewhere during the school year. If a school receives an unsatisfactory report parents are not notified by DEH. Facility rating information can be found through the county website at www.co.merced.ca.us/environmentalhealth. Convalescent homes that don't fall under the Department of Social Services Community Care Licensing are inspected by county food inspectors. Clubs and lodge kitchens that only serve their members and guests are not required to have inspections. Hospitals are not given any priority for inspections.

The 2012-2013 Merced County Civil Grand Jury was denied a request by the Director of Public Health to personally observe a food inspector conducting a food facility inspection. The reason given was that it could pose a liability for the County and it might make the business owner uneasy. Through research, the Civil Grand Jury discovered that the 2010-2011 San Luis Obispo County Civil Grand Jury¹⁶ had observed three restaurant inspections in their county with no negative impact on the county or the restaurants they had observed. The purpose for their observing the food inspections was to determine whether the county's restaurant inspection process effectively protects the public. This was the same purpose for the Merced County Civil Grand Jury's request.

RESPONSIBILITIES

Each inspector is assigned a list of food facilities to inspect. It is the responsibility of each inspector to visit every facility assigned to them once a year. Each inspector may have from 134 to 200 food facilities assigned. Inspectors' schedules are checked by the SEHS as needed depending on their job performance. Even though the SEHS does an occasional spot check of inspectors during the year, this is inadequate when inspectors are behind an average of 40% of their inspections. EHS general duties include but are not limited to the following programs: food inspections, public swimming pools, substandard housing, smoking cessation programs, reviewing building permits, dairy complaints, water regulations, hazardous materials, well inspections and abandoned vehicles. Their additional miscellaneous duties include preparing and mailing invoices for annual health permits. EHS are required to take time from their regular schedule to help out the DPH with duties such as directing traffic when the County has shot clinics. An added duty of one of the EHS is being responsible for the DEH database management protocols and upkeep on the main computer tracking program Envision Connect. This added responsibility takes up about 50% of this inspector's workday resulting in being 50% behind in inspections. There are two clerical staff assigned to office duties, yet the inspectors are required to help three or four days a month with front desk duties. DEH does not use volunteers or temporary help for clerical duties. The SEHS indicated that inspectors are too busy to train and supervise volunteers. It was also indicated that the filing of paperwork requires some knowledge of Environmental Health and is a complex process.

The SEHS supports staff by handling complaints that would only require a letter and handles food inspections as warranted. The SEHS does not normally rotate inspectors within the county because he/she feels it does not maintain a good rapport with the business owner/operators. The SEHS acknowledged that staff is overwhelmed by the workload. At the time of our investigation the department was looking at hiring two Environmental Health Technicians (EHT) rather than EHS, so that the EHS can concentrate on routine inspections. An EHT cannot conduct food inspections. The SEHS stated that he/she has discussions with staff on job prioritizing. This occurs anywhere from monthly to twice a year; regardless, we found that all inspectors are behind in their inspections.

¹⁶ 2010-2011 San Luis Obispo County Civil Grand Jury Report

ASSEMBLY BILL (AB) 1616

AB1616, known as the California Homemade Food Act, went into effect January 1, 2013. This bill lifts restrictions on the sale of certain home-cooked foods (called cottage food operation) and imposes sanitation and labeling requirements. All operators of these types of businesses must register with the Merced County EHD. The act establishes criteria for permits, cleanliness and food handlers' training. Cottage food products can be sold directly to consumers without an inspection. An inspection is required if there are indirect sales. Both direct and indirect sales are subject to an inspection if there is a complaint.

The bill regulates what can be sold. Baked goods (except those made with cream or meat), candies, nuts, dried fruits, baking mixes, fruit pies, and jams are allowed.

Registration forms and permit applications are available on the Merced County website in the DEH section.

FOOD INSPECTION REPORTS

Food inspection reports are produced on a department issued laptop or are handwritten. If and when an inspector uses their laptop it will document the time of arrival at the food facility. Some inspectors stated that the county issued laptop can malfunction in the field. Examples of some of the malfunctions include freezing, computer shut downs, lack of a power source and printer failure. If the equipment malfunctions or inspectors are non-proficient in the use of the laptop, the inspector will take handwritten notes, give a copy to the owner and transfer them into the database upon return to the office or on the next business day. This results in duplicate work for the inspector. If the laptop is turned off, the entire report is lost. Inspectors stated that if a report isn't entered into the computer right away it is usually because of lack of time. They are not required to notify the SEHS if they fall behind in entering a report. If a report doesn't appear on the computer after two days then it has to be located to see if the report was deleted or not saved. Most inspectors don't check up on their own reports to see if they reached the web site. Inspection reports are available online within twenty-four hours of the report being entered, but it depends on how fast the server is at the time of entry. The SEHS stated that many businesses not found on the website are due to an inspector retiring or moving to another district. Facilities fall off the website if not inspected within two years, but the information stays in the database. There were conflicting statements made by the Director of DEH and the Supervising Environmental Health Specialist as to the purge policy for reports.

DEH uses the Envision Connect System by Decade Software Company, based in Fresno, California, to produce and manage their reports. The Decade Company's Envision Connect database service/maintenance contract for the fiscal year 2011-2012 was \$76,850.00. The software was purchased twenty-plus years ago. Envision Connect System is incapable of interfacing with any county program systems unless Decade Software Company approves the integration. The SEHS stated that there has been a continuing problem with Decade Software Company having "glitches" in transferring

data. Some of the problems involve printing invoices, processing payments, generating permits and inspection reports. An EHS III has been assigned to work with Decade Software Company in resolving problems with the software "glitches." This EHS III spends 50% of the workday addressing computer problems in addition to regularly assigned duties, putting the inspector at least 50% behind in inspections.

POSTING RATINGS

DEH does not use a posted on-site rating system for food facilities in the county. This type of rating would allow the consumer to know what degree of cleanliness the food facility has received. The SEHS stated there is no data available to prove that having a posted rating system in the view of the public improves food safety. He/she also stated that the rating system is a budget issue having to supply the rating letters for the food facilities and is not cost effective.

ON-SITE VISITS/OBSERVATIONS

Each food facility is required to have a current health permit to operate posted in plain sight. A most recent copy of a food inspection report is required to be available upon request.

The 2012-2013 Merced County Civil Grand Jury visited forty food facilities throughout the county over a three month period. Some of the facilities that were randomly visited were restaurants, grocery stores, fish markets, hospital, bakery, yogurt shop, pizza parlor, quick marts and big box stores. When the Civil Grand Jury conducted site visits, they requested to see a copy of the facility's current required health permit and inspection report. Thirty-seven facilities had current health permits on site. Only one newly opened facility had a current inspection report. The other thirty-nine showed no current reports. Three of the facilities the Civil Grand Jury visited, including a hospital, showed an unsatisfactory rating in 2011 and had not received the required thirty day follow up re-inspection. The Civil Grand Jury's findings on these visits indicate DEH is behind on their inspections as per their requirements to inspect facilities yearly and on their thirty day follow ups for facilities that received unsatisfactory ratings.

Numerous food facilities requiring yearly inspections were not listed on the DEH website at the beginning of our investigation. When brought to the attention of the SEHS, the issue was addressed and the website updated. The Civil Grand Jury also noted a facility with an unsatisfactory rating for the past eighteen months. The SEHS sent an inspector to re-inspect that facility the next day. Another facility listed as closed due to major violations on the website was actually open for business. When the SEHS was made aware of this, the website was updated to reflect the correct status.

ENVIRONMENTAL HEALTH WEBSITE

The Merced County DEH online food inspection reports are more user friendly than five of the surrounding counties that offer online reports. Merced County is the only one that lists a rating program based on points for violations at food facilities.

The DEH website (www.co.merced.ca.us/environmentalhealth) provides a wide variety of information. The website contains resources such as: applications, forms, permits, food inspections, food facility plan review, and laws and ordinances. At the time of the 2012-2013 Merced County Civil Grand Jury's investigation the website listed only 683 food facilities. The SEHS stated there are approximately 900 fixed and 300 mobile food facilities. Inspections of the mobile food facilities are not included on the website.

FINDINGS AND RECOMMENDATIONS

F1. In the last two years only complaint-based inspections are completed in Firebaugh, Los Banos, Volta and part of Santa Nella.

F2. Those facilities observed by the 2012-2013 Merced County Civil Grand Jury from December 5, 2012 to March 5, 2013 which received “unsatisfactory” ratings had not been re-inspected within the thirty days as required by law.

F3. As of July 1, 2012 DEH was down one EHS and as of January 8, 2013 they were down two EHS. There has not been any EHS recruitment since 2008.

F4. DEH posted a job listing on November 29, 2012 to hire an EHT. An EHT was hired April 8, 2013.

F5. EHS are required to do other duties beyond inspections, including “volunteering” their work time to do clerical work and aid the DPH as a whole for special events. The inspectors spend an average of 30% of their time on food inspections. Inspectors stated that they were behind on their inspections by an average of 40%.

F6. Inspectors are overwhelmed by the workload and morale is low.

F7. Inspectors are required to do front desk duty three or four days per month due to lack of clerical staff.

R1-7. The 2012-2013 Merced County Civil Grand Jury recommends DEH should explore bringing in temporary or volunteer staff to do these extra duties to free up more time for EHS to handle their food inspection duties. At least two EHT should be hired to do inspections that don't require an EHS so the EHS can cover their assigned food inspections in their districts.

F8. The hospital the Civil Grand Jury observed on March 5, 2013 had an unsatisfactory rating and was last inspected June 13, 2011. As of April 27, 2013 DEH had not re-inspected the facility.

R8. The 2012-2013 Merced County Civil Grand Jury recommends hospitals should be given priority for inspections.

F9. The facilities the Civil Grand Jury visited (with the exception of one) had current operating health permits, but the majority didn't have a current inspection report. Therefore, they are not receiving the services that are tied to the annual permit fee.

R9. The 2012-2013 Merced County Civil Grand Jury recommends the yearly permit list should be cross-referenced with the inspection database quarterly to determine the most recent date of inspection. Those facilities that have lapsed should take priority. This would act as a check and balance so the facilities would receive yearly inspections and remain on the website.

F10. Laptops are available to all EHS. Not all inspectors use the assigned laptop to write reports in the field. This results in duplication of work to get it from hand-written form to laptop when they return to the office. Training on the laptop is available online but is not required by the SEHS.

R10. The 2012-2013 Merced County Civil Grand Jury recommends inspectors be required to complete training and use the laptop for all inspections.

F11. DEH does not use an on-site posted rating system to inform consumers of business inspection status.

R11. The 2012-2013 Merced County Civil Grand Jury recommends DEH implement an on-site posted placard rating system. The inspector could carry the appropriate rating placard for placement at time of inspection. This would allow the public to have immediate access to the facility's inspection status and be readily visible. In the future the DEH should look into a Quick Response (QR) code reader to allow consumers the ability to use modern technology to access this information.

F12. The 2010-2011 San Luis Obispo County Civil Grand Jury¹⁷ observed three restaurant inspections in their county with no negative impact on the county or the restaurants they observed.

R12. The 2012-2013 Merced County Civil Grand Jury recommends the DPH consider a more transparent approach to any future Merced County Civil Grand Jury's request to observe a food inspector conducting a food facility inspection.

¹⁷ 2010-2011 San Luis Obispo County Civil Grand Jury Report

F13. The Envision Connect System by Decade Software Company doesn't interface well with the County system. The script for the reports used to trigger upload of food inspection report data to the internet is ineffective.

F14. One EHS III spends 50% of the work day addressing computer problems.

R13-14. The 2012-2013 Merced County Civil Grand Jury recommends DEH conduct a study to determine the adequacy of the current software. If inadequate, the Civil Grand Jury recommends that DEH conduct a feasibility study to determine if a new software program should be purchased. In the future DEH should embrace modern technology such as a QR reader and Smart Phones which could be more efficient and cost effective.

F15. If a facility hasn't been inspected within two years it falls off the website.

R15. The 2012-2013 Merced County Civil Grand Jury recommends reprogramming the software so reports remain on the website beyond two years.

COMMENDATION

The Merced County online food inspection reports are more user friendly than five of the surrounding counties that offer online reports. Merced County is the only one that lists a rating program based on points for violations at food facilities.

GLOSSARY

DDEH	Director of the Division of Environmental Health
DEH	Division of Environmental Health
DPH	Department of Public Health
EHS	Environmental Health Specialist
EHT	Environmental Health Technician
SEHS	Supervising Environmental Health Specialist

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of one member who was recused due to a potential conflict of interest. That juror was excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

MERCED COUNTY REGIONAL WASTE MANAGEMENT

SUMMARY

The Hwy 59 Landfill and the Billy Wright Landfill in Merced County are under the authority of Merced County Association of Governments (MCAG) and governed by Merced County Regional Waste Management Authority (MCRWMA). The one exception is the City of Merced, which is a municipal collector. The incorporated cities award franchises for collection of solid waste to private organizations called haulers.

Merced County issues Franchise Agreements to solid waste haulers to provide curbside services for all the unincorporated areas.

Tipping fees from franchise haulers are the major source of revenue for the landfill. All heavy equipment used at the landfill is leased, which requires a loan with interest. An accrual account dedicated to buying heavy equipment when it needs to be replaced should be established.

The methane gas produced at the landfill is not sold; it is burned off. The landfill should work with the U.S. Environmental Protection Agency's Landfill Methane Outreach Program (LMOP), to determine the economic feasibility of gas-to-energy projects and help find financing resources. Grants to fund the start up cost of a methane conversion project should be explored.

The State requires at least 50% of the waste has to be recycled. Merced County has met this requirement because the waste from Foster Farms is added into the total for compost. The county is currently at 70%. Twenty-five to thirty percent of green waste and recycling is contaminated.

Customers are not recycling properly due to lack of recycling information. Multi-lingual door tags explaining what is recyclable and what is not should be used. Public service announcements, town hall meetings, and Municipal Advisory Councils should be used to further disseminate information.

Not all residents in rural areas have curbside recycling and green waste cans. Pickup of curbside recycling cans in rural areas is not cost effective. A monthly-designated area for haulers to pick up recyclables and green waste should be considered.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury chose to investigate MCAG, focusing on the landfills and the recycling program.

According to their website MCAG is a Council of Governments with responsibility to manage and implement regional transportation, transit, and solid waste disposal services, while providing a public forum for cross-jurisdictional issues. The eleven member MCAG Governing Board includes a Supervisor from each of the five county districts and an elected official from each of the six incorporated cities located within the political boundary of Merced County, California. Incorporated cities are: Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced.

MCAG Goals:

Goal 1: Promote the interests of the public through regional planning.

Goal 2: Communicate effectively to partners and the public to enhance policy decision-making.

Goal 3: Support positive relationships among MCAG directors and member agencies.

Goal 4: Increase MCAG's and member agencies' access to resources.

LANDFILLS

There are two landfill sites: Billy Wright Landfill located at 17173 S. Billy Wright Road, Los Banos and Highway 59 Landfill located at 7040 N. State HWY 59, Merced.

The landfills have always been owned by the Joint Powers Authority (JPA), but contracted with the County of Merced to operate. In 2007 they realized that this might be a conflict of interest so the JPA took over operations as well. [Cite~Merced County Regional Waste Management Authority First Amendment to Second Amendment and Restated Joint Powers Agreement-August 16, 2007] The JPA is made up of the county and the same six cities that are members of MCAG. The landfills are owned by all of these jurisdictions. Each of these has a say on the governing board, the MCRWMA. This collaboration allows them to pool resources and report to the state as a region, which they are required to do annually. The Executive Director of MCAG is also the Executive Director of MCRWMA.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury reviewed the operation of the landfills, which included a tour of the Hwy 59 Landfill.

The Civil Grand Jury interviewed administrative personnel from MCAG, the Director of Waste Management, and personnel from Merced County Public Works.

The Civil Grand Jury looked at documents and websites which included:

- Budgets: Fiscal Year (FY) 2010-2011; FY 2011-2012; FY 2012-2013.

- Audits: MCAG and MCRWMA year ending June 30, 2011.
- Franchise Agreements for Collection Areas 1-5, 6, 7, and 8 (see attachment 1) between the County and haulers.
- Merced County Regional Waste Management Authority Solid Waste Revenue Bonds series 2007: the bond for the expansion of the Hwy 59 Landfill and Billy Wright Landfill.
- Water Quality Reports.
- MCAG Online Agenda Packets and Minutes regarding MCRWMA board meetings including the section of the 2011-2012 Audit: Schedule of Findings and Questioned Costs for the Year Ended June 30, 2012.
- Merced County Regional Waste Management Authority First Amendment to Second Amended and Restated Joint Powers Agreement.
- MCAG Transportation Development Act Triennial Performance Audit for the Period July 1, 2008–June 30, 2011.
- Merced Sun-Star Article dated Tuesday, October 16, 2012 Title: “CalRecycle must tackle fraud, debt.”
- SOLID WASTE FACILITY PERMIT number 24-AA-0001 February 14, 2001.
- The MCAG, MercedRecycles, Allied Waste and the CalRecycle websites.

DISCUSSION

FRANCHISE AGREEMENTS

With the exception of the City of Merced, which is a municipal collector, the incorporated cities award franchises for collection of solid waste to private organizations called haulers. Merced County issues franchise agreements with solid waste haulers to provide curbside services for all the unincorporated areas divided into eight different jurisdictions. These franchises are issued under the County Code Chapter 9.08.

The agreements automatically renew unless the Merced County Board of Supervisors (BOS) have issues with the haulers. A five-year notice is required by the BOS and the haulers to terminate the Franchise agreement due to their large investment in equipment, offices, and facilities.

The County receives approximately \$850,000 per year from all haulers. Franchise fees of 7.5% from curbside pickup and 5% from drop boxes go into the County’s General Fund. The Franchise Agreements do not govern drop boxes. This goes into the General Fund in the revenue account called Franchise Revenue.

Once a year haulers may request a rate increase equal to the consumer price index, and the BOS may review the request, and the rates charged to the customers. The BOS may make such rate adjustments as are reasonable and caused by fluctuations in economic conditions.

For solid waste a Franchise Solid Waste Hauler is required. For recycling a private entity may be used. Merced County contracts with its own Franchise Solid Waste Haulers. The contracts are covered in a staff report that goes to the BOS and then with the recommendation of the staff it is usually approved by the BOS. The county Public Works Department handles the contracts with the haulers. The haulers pay the tipping fee at the landfill; they pay the county the franchise fee and then they pay themselves.

LANDFILLS

The Hwy 59 Landfill was expanded using revenue bonds issued in 2007 by the MCRWMA, with maturity dates from 2013 through 2027. In order to get the bonds for the landfill expansion, the JPA for the Waste Management Authority had to show there would be enough generated revenue for the debt service, which is the principle interest on those bonds. There was a rate increase imposed five years ago of 26% (5.2% per year over a five year period) in tipping fees at the landfill which was passed on to the customer through their garbage bill. That revenue pays the debt service on the bond. MCAG is making the debt service payment for the bond. On July 1, 2013 the final 5.2% tipping fee will be imposed. The outstanding bonds total is \$51,036,983.14, including principle and interest. The total interest liability is \$17,621,983.14. These bonds mature on June 1st of the following years 2013 to 2027. The average interest rate for these bonds is 4.30%. These bonds were issued in accordance with Governmental Accounting Standards Board (GASB).

Twenty-five percent of the trash comes from outside of Merced County. Fresno, Tuolumne, Gilroy, Modesto and Turlock send their overages. This provides additional revenue for the landfill. Load limit for the Hwy 59 Landfill is 1500 tons of waste per day.

Twenty-five to thirty percent of green waste and recycling is contaminated, rejected and dumped in the pit. The hauler is fined for each contaminated load.

Dumping of hazardous waste is by appointment or during special days with notification to the public. Electronic waste is banned from the landfill, and collected separately, and sold to a processor in Sacramento.

The landfill is built in such a way that there is no water runoff from the site. The solid waste pits are lined with an impermeable material. This liner's life expectancy is forever as long as it is not perforated. The pit is constructed with a liner, a felt liner, geo-textile liner, clay liner and a gravel layer. A cement ditch that surrounds the landfill catches the outer runoff.

The landfill turns green waste into compost. They save \$600,000 by using their own compost to spread over the liners in the bottom of the pits. The compost acts as a buffer that helps to eliminate perforations. Excess compost is sold to the public. Green waste, because of the EPA regulations, costs more to process than what they can sell it for. All methane gas in the pits is collected through a system of wells and pipes and then burned off. Methane gas is not sold from the landfill. San Joaquin Valley Air District (SJVAD) won't permit the Caterpillar™ generators that are used to generate electricity from the methane gas. Merced is in an Environmental Protection Agency (EPA)

attainment zone; this makes the restrictions more stringent. Methane gas can be used to run heating and cooling systems, can be purified into natural gas, and liquefied or compressed to power garbage trucks and municipal buses.¹⁸ There are over 70 monitoring and extraction wells. They have “hot” wells that need to be monitored daily. A new plume is headed east as a result of capping cell 4. Before capping, the gas was released into the air. The gas has escaped the cap and is causing the plume to head east. In drought years the gas migrates faster. Government regulations require an enormous amount of time to keep the landfills in compliance. SCS Field Services, a private contractor, assists the landfill in providing reports. Compiled reports are sent on schedule to the State Water Resources Control Board, SJVAD, County Division of Environmental Health, Local Enforcement Agency (LEA), County Public Health and to each jurisdiction. Failure to file a report or report problems could result in fines of up to \$10,000 per day.

Lots of garbage bags and gooey stuff contributes to the Landfill’s double-digit contamination of recyclables. The landfill salvages cardboard for recycling. There is a lot of packaging and plastic that doesn’t have any value on the market. They have set aside an area for a recycling process plant, but haven’t found a company that wants to come in to build and operate it.

ACCOUNTING

Tipping fees from franchise haulers are the major source of revenue for the landfill. The estimated revenues for 2012-2013 were budgeted at \$10.1 million. This covers salary, debt and equipment.

Information Technology (IT) services have been upgraded and there are no paper files. Information is virtual and stored on a cloud. The server is located at the landfill site.

There are mechanics at both sites that maintain heavy equipment and pickup trucks. This equipment is worth \$27 million.

All heavy equipment is leased, and when the lease expires the equipment becomes the property of the landfill. The equipment is well maintained, which extends its life. Old equipment only has residual value of the iron. Concrete is crushed/ground by a subcontractor. This is a less expensive alternative to buying or leasing equipment.

The landfill is charged a processing fee for the use of credit cards, which amounts to \$10,000 in the 2012-2013 budget.

EPA regulations require aerial photography and photogrammetry which costs \$45,000. The photos verify compliance.

Antifreeze, batteries, oil, and paint (ABOP) are not accepted at the landfill. Various vendors come and pick them up. Hydrocarbons and pesticides are not accepted.

At the time of the investigation there were forty-three full time employees. Overtime is required because the landfill is open on Saturday for four hours. The workweek is five and one half days. Cross training is provided to facilitate Saturday operations.

¹⁸ <http://www.governing.com/topics/engery-env/Methane-from-Landfills.html>

ENVIRONMENT

The operator shall comply with all federal, state, and local requirements. This facility shall comply with all provisions mandated under the State minimum standards for solid waste handling and disposal.

RECYCLING

The goal of the Merced County Recycling Program is to educate customers who currently have curbside recycling services. The goal of this program is to minimize contamination. When the load is contaminated the hauler is fined. The State requires that at least 50% of the waste has to be recycled. Merced County has met the requirements because the waste from Foster Farms is added into the total for compost. The landfill is currently at 70%. CalRecycle gives a target waste generation number, which is 10.6 lbs. per person. Merced County residents only generate 4.4 lbs. per person.

Each jurisdiction and hauler self-reports recycling commodities total tonnage. Those reports go to MCRWMA and that report goes to CalRecycles in Sacramento a minimum of four times a year. The landfill does not audit those reports.

The BOS has mandated curbside recycling and green waste in all unincorporated urbanized areas. The factor for an area to be classified as an urban area which has curbside recycling is determined by population density, proximity to neighbors and number of neighbors grouped together. The Planning Department's website has the Specific Urban Development Plan (SUDP) maps for the legal boundaries of the towns and cities. These maps were given to the haulers when the board adopted the service. Not all residents in rural areas have curbside recycling and green waste cans. This is determined between the hauler and the BOS.

The BOS implemented the green waste program first, then recycling four years later. The reason they don't do this in the rural areas is because the costs are exorbitant for the amount of diversion credits received to meet the State requirement. Sending two to three trucks to the rural area would cause an increase to the customer's bill. It is not cost effective because the county currently has a diversion rate of 79%. The county is required to have 50% according to AB 939. The State is considering raising the rate to 75%. Atwater collects green waste and Livingston will do so in the foreseeable future.

A Recycling Coordinator was hired, so that the county could have a consistent recycling program. It's up to the individual customer to recycle properly; if they don't, they can be red-tagged. The hauler will give tags three times for contamination in the recycling bin. The third violation can generate a fine. If the load has too much contamination it can't be processed and it ends up in the landfill. The landfill and the haulers are making an effort to get more clean recyclables and green waste. When the recycling program started the economy was good. There was a better market for recyclables. If it's not something that will sell, Newby Island doesn't process it, because the processing costs more than the sales of the item. The landfill has set aside an area for a recycling processing plant, but hasn't found a company that wants to come in to build and operate it.

It is up to the jurisdiction and their council as to what services are provided to customers regarding recycling and green waste. Jurisdictions are not required to have programs. The

landfill doesn't have anything to do with the contracts. However, they did recently consult with Livingston on their contract. Haulers have a list of acceptable commodities they can bring to the landfill. This list is provided to the haulers by the landfill.

For the incorporated cities, each council adopts how recycling is managed. There are drop off locations at both the landfills which are free. Livingston has a drop off location by its Public Works Department for residential and commercial recyclables. Gustine has a drop off location along with bins distributed around the main business area for commercial recycling. These bins are contaminated by people dumping things like couches, clothing and trash that they don't want to haul to the landfill.

The MercedRecycles website has been updated and provides information not only on recycling, but also provides a link to find nearby recycling centers.

THE PROCESS OF HANDLING RECYCLABLES

The householder puts the waste in the right containers. It goes to the landfill; the truck unloads it on the recycling pad and it is checked for contamination. Landfill staff pulls tires and cardboard. If recyclable loads are over 10% contaminated the hauler is charged a fee and the load is dumped in the landfill. If the load is less than 10% contaminated the hauler is charged \$8 per ton to reload it on to a long haul truck. The truck hauls it to Newby Island located in Milpitas, California, operated by Allied Waste. It is unloaded and contents are placed on a sorting line. The JPA contracts with Newby Island, but periodically checks other recycle sorting facilities.

Revenue received from Allied Waste is dependent on the market price for each distinct recyclable commodity. Jurisdictions have accounts with Allied Waste where money is credited when commodities are sold. Checks are sent out infrequently. There have been times when the jurisdictions have had to pay for transportation and disposal based on the market price. If the jurisdiction has a credit with Allied Waste, the money owed is charged against the credit. The contaminated waste reduces the amount paid out. The recycling facility in Newby Island will charge a solid waste dump fee instead of a recycling reimbursement for contaminated loads.

The landfill accepts the following: milk jugs, coffee creamer bottles, detergent bottles, soda and water bottles, shampoo and conditioner bottles. They do not accept plastic not in the form of a bottle or jug, including plastic bags. Newby Island just did a multi-million dollar upgrade on their equipment so it might change what kind of recyclables it accepts.

There has been limited education and enforcement in recycling. There are higher rates of contamination in poorer areas of the county. Reducing contamination requires education and enforcement. It's up to haulers to enforce proper recycling and MCRWMA to educate the public on recycling.

The Public Program Specialist (PPS) worked for MCAG doing public information on recyclables. This person now works for the MCRWMA as Recycling Coordinator/Assistant Analyst (RCAA) at the Hwy 59 Landfill. At the time of our investigation the RCAA worked at the Landfill doing scale house duties and clerical work.

Per CalRecycles website, the Highway 59 Landfill is due to close by 2039. Possible reuse of the land includes a bike and BMX™ track. Methane gas kills plants so it wouldn't be a good choice for a park or green space. Settling of the pit prevents building on the site for twenty years. The site has to be monitored for methane gas for at least thirty years.

The current plan has changed the dump into a sanitary landfill. There is not a current master plan for expansion for Merced County landfills. The next step would be a master plan that looks at long term disposal needs, long term trends in business, sufficient capacity to handle the population, and whether to become a regional landfill. MCRWMA will address the issue within the next two years.

FINDINGS

F1. Twenty-five to thirty percent of green waste and recycling is contaminated, rejected and dumped in the pit. There is not enough recycling education, so customers are not recycling properly. This is causing higher rates of contamination.

F2. All heavy equipment is leased.

F3. The methane gas produced at the landfill is not sold. SJVAD won't permit the use of Caterpillar™ generators that are needed to generate the electricity from the methane gas. Methane gas can be used to run heating and cooling systems, can be purified into natural gas, and liquefied or compressed to power garbage trucks and municipal buses.

F4. Not all residents in rural areas have curbside recycling and green waste cans. This would not be a cost effective program.

RECOMMENDATIONS

R1. The 2012-2013 Merced County Civil Grand Jury recommends placement of door tags. These should be multilingual. This is the cheapest and most effective way. It has been done in other jurisdictions with diverse cultures.

The 2012-2013 Merced County Civil Grand Jury recommends using public service announcements, town hall meetings, and Municipal Advisory Councils to further disseminate information.

R2. The 2012-2013 Merced County Civil Grand Jury recommends an accrual account dedicated to buying heavy equipment when it needs to be replaced.

R3. The 2012-2013 Merced County Civil Grand Jury recommends that MCRWMA participate in the U.S. Environmental Protection Agency's LMOP, a voluntary assistance program that helps to reduce methane emissions from landfills by encouraging the recovery and beneficial use of landfill gas (LFG) as an energy resource. According to their website: (<http://www.epa.gov/lmop/>) "by joining LMOP, companies, state agencies, organizations, landfills, and communities gain access to a vast network of industry experts and practitioners, as well as to various technical and marketing resources that can

help with LFG energy project development.” Grants to fund the start up cost of a methane conversion project should be explored.

R4. The 2012-2013 Merced County Civil Grand Jury recommends a monthly-designated area for haulers to pick up recyclables.

GLOSSARY

AB: Assembly Bill

ABOP: Antifreeze, Batteries, Oil, Paint

ACH: Automated Clearing House Transaction

BOS: Board of Supervisors

CFR: Code of Federal Regulations

DROP BOX: A waste bin ten or more yards which is dropped on site with no weekly service

EPA: Environmental Protection Agency

FY: Fiscal Year

GASB: Governmental Accounting Standards Board

“HOT” WELL: A very active methane gas well that requires constant monitoring

IT: Information Technology

JPA: Joint Powers Authority

LEA: Local Enforcement Agency

LMOP: Landfill Methane Outreach Program

MCAG: Merced County Association of Governments

MCRWMA: Merced County Regional Waste Management Authority

MUNICIPAL COLLECTOR: Incorporated city that is its own hauler

NEWBY ISLAND: Regional recycling plant

PWD: Public Works Department

PPS: Public Programs Specialist

RCAA: Recycling Coordinator/Assistant Analyst

SUDP: Specific Urban Development Plan

TIPPING FEES: Fees haulers pay to dump at the landfill

WDR: Waste Discharge Regulations

Websites:

www.calrecycle.ca.gov

www.mercedrecycles.com

www.mcagov.org

www.alliedwastesc.co

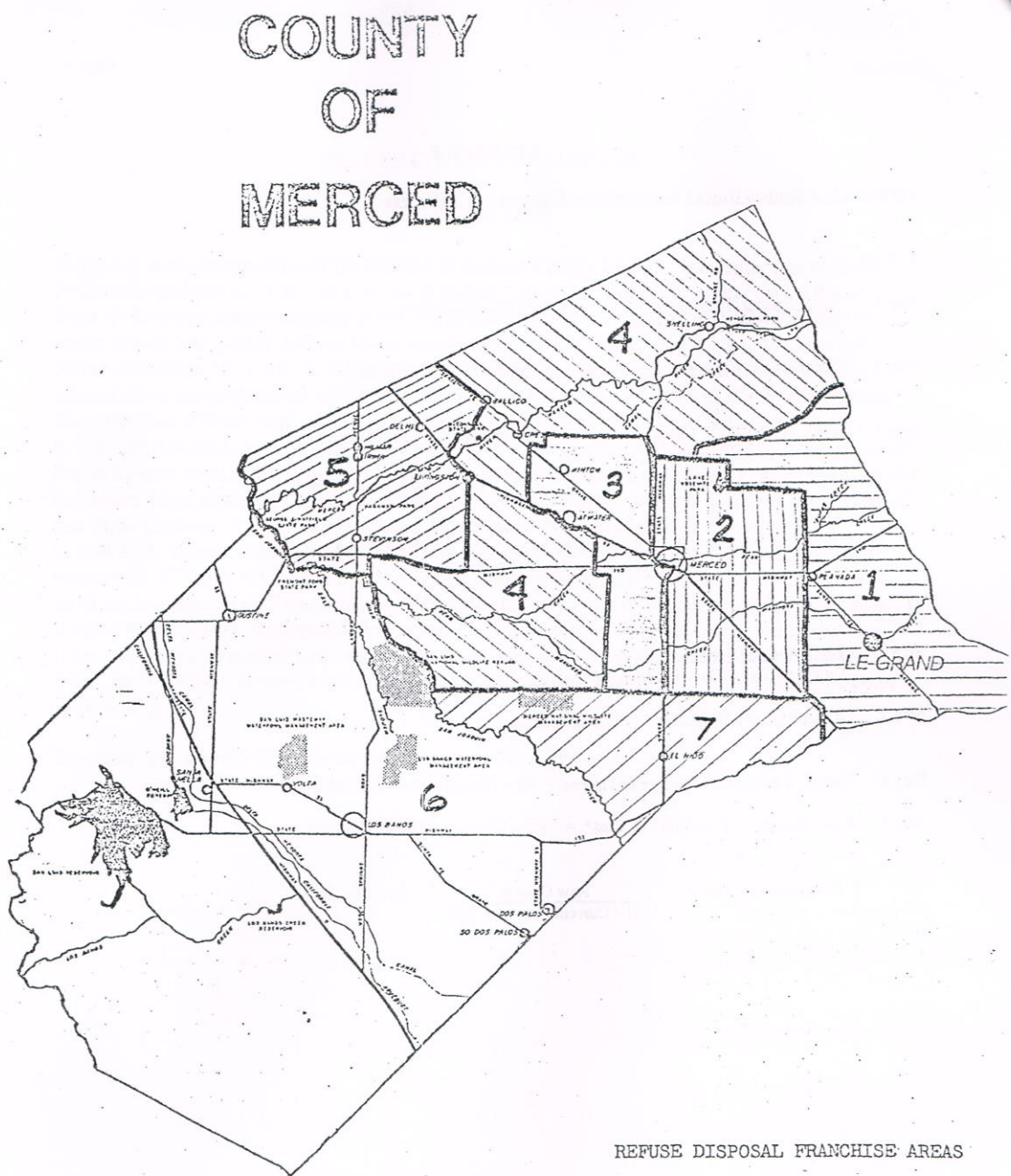
www.governing.com/topics/energy-env/Methane-from-Landfills.html

www.epa.gov/lmop/

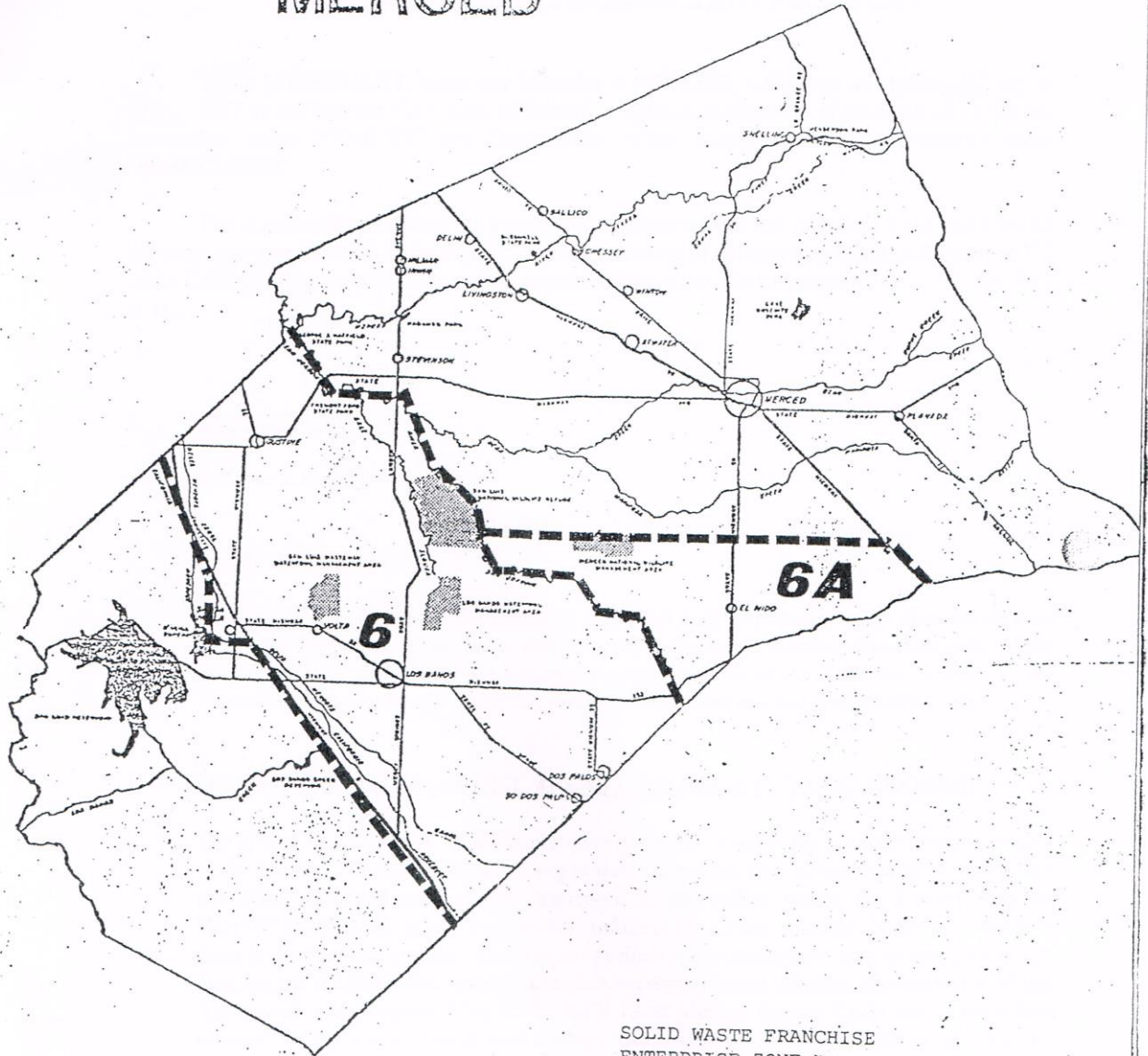
DISCLAIMER

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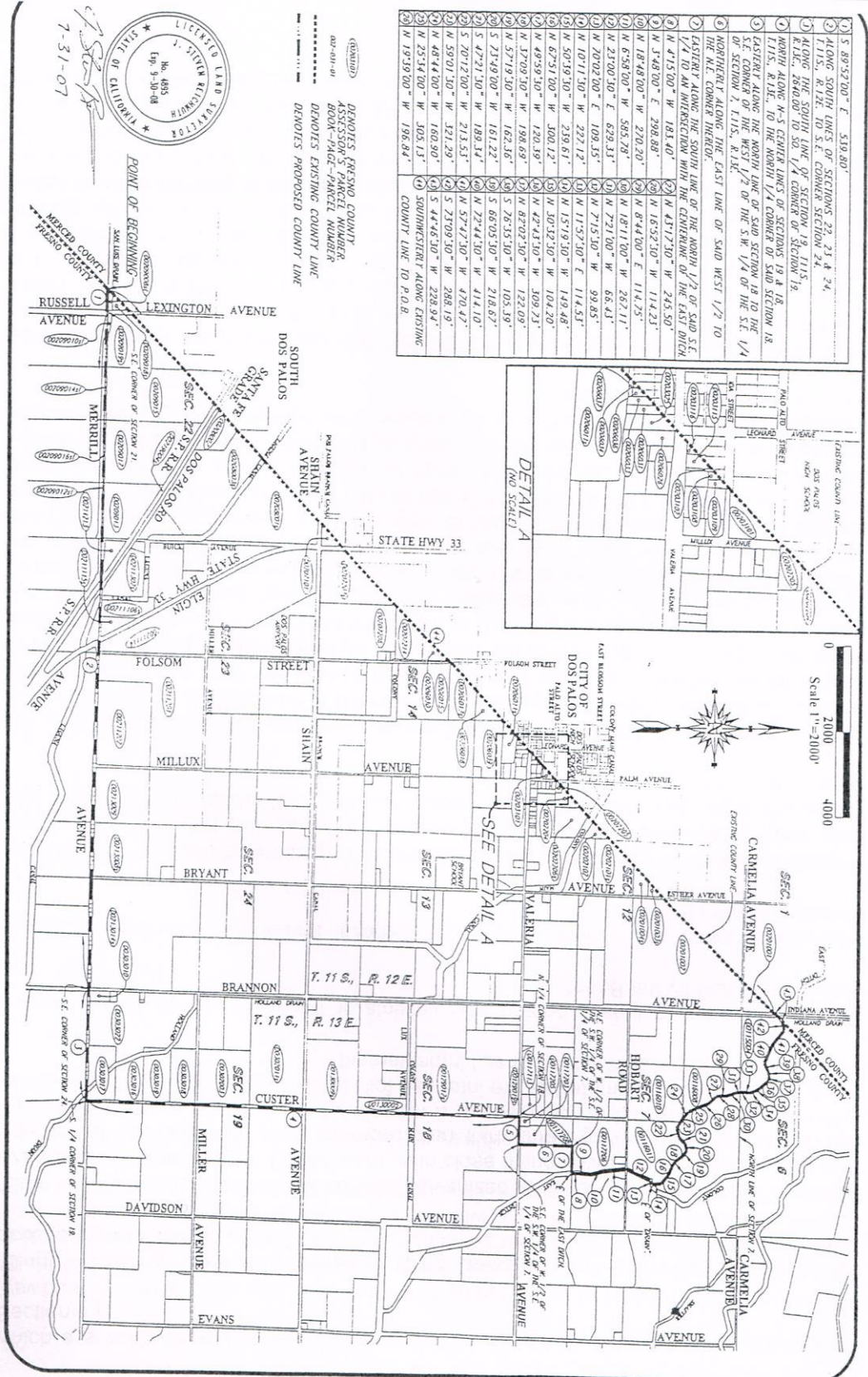
FRANCHISE AGREEMENT COLLECTION AREAS (ATTACHMENTS 1, 2 AND 3)



COUNTY OF MERCED



SOLID WASTE FRANCHISE
ENTERPRISE ZONE B
FRANCHISE AREA 6 & 6A



MERCED COUNTY SHERIFF'S DEPARTMENT: CCW PROGRAM

SUMMARY

The 2012-2013 Merced County Civil Grand Jury investigated nine months of License to Carry a Concealed Weapon (CCW) applications, attached police reports, and background checks. A Sheriff's deputy is assigned to review all applications and makes a recommendation. The Sheriff makes the final decision on who receives and who is denied a CCW.

The Civil Grand Jury noticed inconsistencies with regard to which applications were approved, and which were denied. Applicants that received a CCW were typically citizens of good moral character and with good cause to receive a CCW. A majority of applicants who were denied had similar cause and victim incident history as applicants who received permits. Why these applicants were granted a permit over someone with similar good cause and victim incident history? Were they shown favoritism? The Sheriff's Department should review their procedures to ensure that acceptance and denial of applications are given an equal/fair process. There needs to be consistent criteria for law-abiding citizens to receive a CCW fairly. With higher crime¹⁹ (FBI Crime Statistics, 2010 to 2011, 8% increase in Merced County) and fewer officers, 9-1-1 response time is slower, leaving individuals at higher risk.

The Sheriff's Department should review all denied applications from July 16, 2012 through April 16, 2013, which had similar good cause and victim incident history as approved applications for reconsideration.

INTRODUCTION/BACKGROUND

The 2012-2013 Merced County Civil Grand Jury received a complaint regarding a denied CCW application. The Civil Grand Jury decided to investigate the Merced County Sheriff's Department's CCW permit program to ensure that CCW permits were being granted on a fair and consistent basis.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury uses the investigation method of triangulation, which involves research, observation, and interviews.

RESEARCH

The Civil Grand Jury reviewed websites and documents received from various sources. These can be viewed at the end of the report in the footnote section.

¹⁹ FBI Crime Statistics, 2010, 2011. See attached documents.

OBSERVATION

During the investigation, the Civil Grand Jury reviewed nine months of approved and denied CCW applications at the Sheriff's office. There were eighty-one applications from July 16, 2012 to April 16, 2013.

INTERVIEWS

The Civil Grand Jury interviewed the Merced County Sheriff, asked CCW application process questions to Sheriff personnel and interviewed an applicant who was denied a CCW permit.

DISCUSSION

1) APPLICATION PROCESS AND FEES

The application form created by the California Department of Justice is a standardized application used by all counties in the State of California. The following is the process:

- Download the application online on the Sheriff's website²⁰ or pick one up in the office for ten dollars.
- Submit the application as well as a fingerprint Livescan (\$113)
- Background check with the Department of Justice (DOJ) as well as the Federal Bureau of Investigation (FBI).
- Letter approving or denying application is received from the Sheriff.
- If approved applicant must pay an additional forty dollars.
- Pay to take a CCW class (fees vary upon instructor and number of weapons).
- Do a live fire qualification course with the weapons that you choose to carry (up to three).

Renewal is every two years and the fees are twenty-five dollars for the Sheriff's Department and fifty-two dollars for the DOJ. To renew, one must re-qualify with their weapons and pay the fees.

Out of fifty states, California is one of eight that is a "may-issue" or "right-restricted" state. In California, this means that each County Sheriff has the authority to decide how to enforce the state standardized criteria used for issuing permits. This authority

²⁰ Merced County Sheriff CCW Application,
http://www.co.merced.ca.us/documents/Sheriff's%20Department/CCWAPP_1.PDF

is granted to the Sheriff by California Penal Code §12050. Most states (thirty-six) are “shall-issue.” This means that if you are a law-abiding citizen, and can pass the course, you shall be issued a CCW. Two states have laws where the issuing authority has partial discretion over the CCW process, but generally grants to law-abiding citizens. Four states require no permit to carry concealed, and one state, Illinois, does not allow CCW at all, according to the National Rifle Association Institute for Legislative Action.²¹

2) INCONSISTENCIES

The 2012-2013 Merced County Civil Grand Jury investigated nine months of applications and noticed inconsistencies with regard to which applications were approved, and which were denied. Applicants that received a CCW were typically citizens with good moral character and with good cause to receive a CCW. A majority of applicants that were denied had similar cause and victim incident history as those who received permits. The reviewing deputy recommended to the Sheriff that most applications be denied due to inadequate “good cause” and/or deficient “victim incident history.” The application instructs the applicant to explain good cause for a CCW:

“If the CCW license is desired for self-protection, the protection of others, or for the protection of large sums of money, or valuable property, you are required to explain and provide good cause for issuance of the license. For example, has your life or property been threatened or jeopardized? Explain incidents and include dates, times, locations, and names of police agencies to which these incidents were reported.”

A) APPROVED APPLICATIONS

Out of the eighty-one applications over the nine month period, there were a total of twenty-nine approved applications (36% approval rate) to grant permits. Six of the approved applications were automatically granted to judicial employees or spouse of a judicial employee (21% of those approved). The general public approval rate was 28%.

The Civil Grand Jury noted several applications that had been determined to be inadequate by the reviewing officer were later approved by the Sheriff.

There were three approved applications from individuals who had committed crimes including a misdemeanor driving under the influence (DUI), trespassing, and other misdemeanors. These applicants had no victim incident history, were of satisfactory mental state, but had only self-defense listed as their good cause.

²¹ National Rifle Association Institute for Legislative Action, <http://www.nraila.org/gun-laws/gun-law-map.aspx?altTemplate=ilaPrintGunLawMap&title=Right%20To%20Carry%20Laws>

Out of twenty-nine approved applications, withholding the six automatically granted permits, only nine (39%) had both documented incidents, and detailed good cause more than just self-defense.

Only four females out of the thirteen that requested a CCW permit were granted. Three were automatically granted and the fourth was a spouse of a law enforcement officer. The remaining nine denied female applicants included: business owners, police dispatchers, an animal control officer, physician's assistant, church secretary and a farmer. Many of the denied women had good cause such as carrying large sums of cash, threats from work, checking fields in remote areas with no cell service, working alone after dark, and collecting rent at rental properties. Some of these also had incident history such as threats from patients, victims of domestic violence by ex-husbands, vandalized vehicle with hateful words, harassment, and people growing marijuana in the fields they check.

B) DENIED APPLICATIONS

Out of the eighty-one applications over the nine month period, there were a total of fifty-two denied (64%). There were two denied who were noted to have possible paranoia issues. Overall, the denied applicants appeared to be good law-abiding citizens with reasonable justification and cause for requesting a CCW. Many listed "good causes" such as depositing or carrying large sums of money, business ownership, farming in remote areas, working at night, collecting rent, landlord evictions, hauling expensive equipment, and working/living in high crime areas. Many of the applicants were victims of crime, or had a circumstance and/or job that exposed them to a higher chance of becoming a victim of crime.

3) DETAILED COMPARISONS

A. AGRICULTURE

Out of the eighty-one applications, twenty-seven were involved in agriculture, and of these, nine applicants (33%) received a permit. A majority of applicants that were denied had similar cause and victim incident history as those who received permits.

Approved (nine):

1. Male farmer: misdemeanor DUI and trespassing on record, with no victim history, for self-defense.
2. Male farmer: had a CCW in Stanislaus County, limited good cause information, with no victim history, for basic safety and self-protection.
3. Male dairy farmer: trespassers on property, stolen four-wheeler, carries money for purchasing calves, no victim history, wants protection for work.

4. Male, part-time farmer: owns rentals, undocumented burglary, carries cash, no documented victim history.
5. Five other male applicants were involved with agriculture in isolated areas, all with documented police reports of theft and vandalism. Out of the five, four were initially denied by the deputy, but the Sheriff attached a Post-It™ note requesting reconsideration.

Denied (eighteen):

1. Eleven male applicants were involved in agriculture in isolated areas, working with orchards, hay, irrigation, dairy cows, and cattle. Most of them are ranch owners and many of them are employers. Due to the remote nature of their job, they travel a lot and work at night, usually carrying large sums of cash. Four of these cited crime or theft in the area, but had no police reports. Two had police reports documenting numerous thefts and break-ins at their livestock business. Their family member had been shot and killed at this business. None of these applicants had a criminal record.
2. Female Farmer: works and checks fields alone where no cell service is available. Has discovered marijuana grows in fields where working.
3. Male Farmer/Property Manager: owns over twenty properties, carries a lot of cash, family business where he occasionally works has been robbed.
4. Male Farmer: works late after dark, numerous thefts.
5. Male Rancher/Filmmaker: carries expensive equipment, has felt threatened, law enforcement letter of reference.
6. Male Farmer/Coach/Teacher: irrigates, witness to spousal abuse and assault, has been threatened multiple times which was reported to law enforcement, car was broken into.
7. Male Farmer: truck driver, limo driver, irrigates, multiple victim history reports, rental broken into, carries cash from limo bus, witness to attempted suicide and drug deal.
8. Dairy Farmer: six hundred acres to irrigate, carries cash for sale of calves, protection of life, law enforcement reference given.

B) BUSINESS OWNER/PROPERTY OWNER

Out of the eighty-one applications, thirteen were involved solely in business and property ownership, and of those, six (46%) received a permit. A majority of applicants who were denied had similar cause and victim incident history as those who received permits.

Approved (six):

1. Male: reviews properties that he owns, misdemeanor drinking in public, no victim incident history, self-defense.
2. Male: owns rentals and carries large sums of cash, victim of robbery, self-protection.
3. Male: retired military, owner of rentals in a bad neighborhood, carries money, no victim incident history.
4. Male: owner of gun shop, no victim incident history, guns and money.
5. Two other male applicants had businesses and had large sums of money. One of these had committed a misdemeanor. No victim incident history.

Denied (seven):

1. Two applicants (husband and wife): own a business in a bad neighborhood, carry large sums of money, victim incident report documenting theft, and wife was a victim of domestic violence by an ex-husband.
2. Female Business Owner: works late after dark by herself, collects rent from rental properties, carries large sums of cash.
3. Male, Carpentry Business: witness to malicious mischief, carries thousands of dollars of equipment, works in less than desirable areas, protect property.
4. Male, Trucking Business Owner: carries large amounts of cash, has a home and shop with a lot of equipment.
5. Male, Machine Shop Owner: victim of theft multiple times, large sums of cash, self-employed, death threat, documented victim history.
6. Male, Truck Driver: burglary victim, property owner, checks on rentals, serves eviction notices, death threats, denied for insufficient cause.

C) TIES TO LAW ENFORCEMENT/EMERGENCY SERVICES

Out of the eighty-one applications, nine had ties to law enforcement and emergency services, and of those, three (33%) received a permit.

Approved (three):

1. Female, wife of a law enforcement officer: threats had been made, worried about safety.
2. Male, ties to law enforcement: undocumented threats, carries money, worried about safety.
3. Male, Search and Rescue Member: no documented incident history.

Denied (six):

1. Two applicants were female dispatchers. One works for an out of county police department but lives in Merced County. She was advised to apply at her workplace, which is against the regulations of applying in the county that you live in. She commutes alone late at night, denied for “no qualifying incidents.” The other dispatcher who is employed in Merced County was a victim of domestic violence by her ex-husband. She leaves work late at night and has been confronted by people yelling at her about their unhappiness with the department. She feels threatened, but was denied for having only basic safety concerns.
2. Male, Animal Control Officer: Marine veteran, contact with aggressive, angry, and dangerous people.
3. Male, Firefighter: works in remote areas, helps with family business doing twenty-four hour service at client based locations fixing equipment, sometimes in dangerous places, helps family on ranch irrigating.
4. Male, Retired Firefighter: no victim incident history, basic safety concerns.
5. Male, Paramedic: has equipment and drugs, deals with all kinds of different people while on the job (gangs, criminals), safety when out in field.

D) JUDICIAL EMPLOYEE

Out of the eighty-one applications, six were either involved with the judicial system, or their spouse was, and of those, all six received a permit.
(PC§12050(c)(i))

E) MEDICAL

Out of the eighty-one applications, four were involved in the medical field, and of those, one (25%) received a permit. A majority of applicants who were denied had similar cause and victim incident history as those who received permits.

Approved (one):

1. Male, Dentist: writes prescriptions, no victim incident history, self-protection, was labeled as having “inadequate cause” by deputy; however, Sheriff approved. Sheriff wrote on Post-It™ note, “Deposits funds, and carries supplies, medical drugs.”

Denied (three):

1. Male, Doctor: second application, commutes to Fresno at all hours of the night, denied for “no qualifying incidents.”

2. Female, Physician's Assistant (P.A.): works in a "bad neighborhood," numerous threats from patients (who are drug abusers) because she refuses to write pain-killer prescriptions for them, prescription pad stolen from office, feels that her life is in danger, denied for "no qualifying incidents."
3. Male, Dentist: works in a "bad neighborhood," has large sums of money to carry to the bank, medications stored in office, denied for having "no documented incidents."

F) MISCELLANEOUS OCCUPATIONS

Out of the eighty-one applications, twenty-two were in unique and miscellaneous occupations, and of those, four (18%) received a permit. A majority of applicants who were denied had similar cause and victim incident history as those who received permits.

Approved (four):

1. Male: victim of road rage once, occupation not noted.
2. Male: no victim incident history, protection of family.
3. Male: no qualifying victim incident history, protection of family.
4. Male: self-protection, declared by deputy to have insufficient cause and no qualifying incidents but was approved by the Sheriff.

Denied (nineteen):

1. Female: travels for work, carries cash, undocumented incidents of theft and harassment.
2. Male, Software Engineer: self-defense.
3. Male, Utility Technician: home broken into, has four children, protect family.
4. Three male applicants are a handyman, a truck driver, and an insurance agent. The truck driver had a misdemeanor DUI and is on probation. The insurance agent had a misdemeanor. All three of these applicants only expressed basic safety concerns for just cause, but none had qualifying incidents.
5. Male, Business Manager: home theft victim, travels for work with high value items and confidential papers, a man pointed gun at him while he was catching up on work on side of the road.
6. Two males were believed to be paranoid or not of sound mind.
7. Male, Realtor: shows houses at night, no victim incident history, for basic safety.

8. Female, Church Secretary: does cash deposits, works in “bad neighborhood.”
9. Male, Minister: cash deposits and house calls at all hours of day and night, works in “bad neighborhood.”
10. Two Males, Retirees: one travels, for security.
11. Male, Unemployed: storage shed and tool shed broken into (undocumented), lives in rural area, no close neighbors, river runs by property, trespassers, has been confronted, has a driving on suspended license and wet reckless conviction, law enforcement reference given.
12. Male, Cell Phone Carrier Utility Technician: arrives at work locations in remote areas and finds them to have been burglarized (typically theft of copper), self-protection.
13. Male, Business Maintenance Manager: burglary victim, called in to work at all hours.

4. PERMITS FOR LAW-ABIDING CITIZENS

It takes the Merced County Sheriff’s Department an average of twenty minutes to respond to 9-1-1 calls county-wide according to a Merced County of Associated Governments study done in 2008.²²

In the past, the Sheriff has declared smaller budgets as the reason to slow or halt the CCW program. In 2010, there were no permits issued for nine consecutive months. The reason given was financial. However, if Merced County has fewer officers due to budget constraints and more crime occurring in the county (FBI Crime Statistics, 2010-2011, 8% increase in Merced County), every effort should be made to allow law-abiding citizens to protect themselves.

According to the Modesto Bee²³ Stanislaus County Sheriff Adam Christianson issued 1,250 permits in two years even though they had lost a quarter of their force due to budget cuts. This averages out to be 625 per year when Merced County issued twenty-nine in a nine month period. Sheriff Christianson has declared that he will give them to people of “good moral character” who present logical reasons. He was quoted as saying “that despite hundreds more people packing heat in these parts, there hasn’t been a single case of anyone who has abused the system or the privilege.” There have been instances in which citizens were able to protect themselves with their CCW. There are approximately 1,800 additional permits currently being processed. Sheriff Christianson has said he decided to grant more permits partly to help people defend themselves, due to

²² Merced County Association of Governments, Atwater-Merced Expressway Project Report, http://www.mcagov.org/pdfs/2008/AME/DraftEIR/4.14_PublicServices.pdf Page 3

²³ The Modesto Bee, Monday, April 22, 2013. http://www.modbee.com/2013/04/22/2682744/gun-owners-press-sheriff-to-speed.html?story_link=email_msg

fewer deputies and more criminals on the streets since state officials began reducing prison populations a couple of years ago.

Many Merced County law-abiding citizens who were denied CCW permits had similar cause and incident history as those who received permits.

FINDINGS

- F1.** A majority of CCW applicants who were denied had similar cause and victim incident history as those who received permits.
- F2.** A Sheriff's Deputy is assigned to review all applications. The Sheriff, taking the deputy's notes into consideration, makes the final decision on who receives and who is denied a CCW.
- F3.** There were seven applicants granted a CCW who did not supply adequate "good cause" and "victim incident history."
- F4.** There is higher crime and there are fewer officers in Merced County. Response time to 9-1-1 calls is lengthy in the county, leaving residents without protection for longer periods of time.

RECOMMENDATIONS

- R1. and R2.** The 2012-2013 Merced County Civil Grand Jury recommends the Sheriff's Department review their procedures to ensure that approval and denial of applications are given an equal/fair process. The 2013-2014 Merced County Civil Grand Jury should review six months of CCW applications to ensure consistency in the permitting process.
- R3.** The 2012-2013 Merced County Civil Grand Jury recommends the Sheriff's Department review and reconsider all denied applications from July 16, 2012 through April 16, 2013 which had similar good cause and victim incident history as accepted applications.
- R4.** The 2012-2013 Merced County Civil Grand Jury recommends the Sheriff grant CCWs to law-abiding citizens with good cause and reasonable justification.

REQUEST FOR RESPONSE

Pursuant to Penal code section 933.05, the grand jury requests a response.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

ATTACHMENTS

A) FBI Statistics for Merced County 2010

B) FBI Statistics for Merced County 2011

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of three members who were recused due to a potential conflict of interest. Those jurors were excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

A) FBI Statistics for Merced County 2010

1 0	CRIME BY COUNTY 2010				POPULATION	02/17/12				UCR55100			
	MO	CTY	SMA	ORI	G	AGENCY NAME	VIOLENT CRIME	PROPERTY CRIME	MURD	FORCIBLE RAPE	AGGRAVATED BUR- GLARY	ASSAULT	ARSON
	12	023	CA02309	8D		UPRR: MENDOCINO C							
	12	023	CA02399	8D		HP: MENDOCINO COU	1	128				1	117
						COUNTY TOTAL	488	1,518	4	43	45	396	25
	12	024	522	CA02406	3	MERCED	549	2,808	7	33	141	368	23
	12	024	522	CA02401	4	ATWATER	114	1,128	4	6	23	81	14
	12	024	522	CA02402	6	DOS PALOS	48	171	1	3	5	39	6
	12	024	522	CA02403	6	GUSTINE	8	175			1	7	1
	12	024	522	CA02404	5	LIVINGSTON	103	346		4	13	86	6
	12	024	522	CA02405	4	LOS BANOS	139	1,050	2	4	36	97	3
	12	024	522	CA02412	7	UN OF CA: MERCED	1	18				1	
	12	024	522	CA02400	98	MERCED	484	2,026	12	22	49	401	7
	12	024	522	CA02408	9D	UPRR: MERCED COUN		8				8	
	12	024	522	CA02410	9D	DPR: FOUR RIVERS	1	7			1		
	12	024	522	CA02499	9D	HP: MERCED COUNTY	1	507				1	
						COUNTY TOTAL	1,448	8,244	26	72	269	1,081	60
							255,793					2,347	
												4,944	
												953	

B) FBI Statistics for Merced County 2011

FBI CRIME STATS 2011
By County/City

			CRIME BY COUNTY 2011		1/23/13											UCR5		5100		
MO	CTY	SMA	ORI	G	AGENCY NAME	POPULATION	CRIME	VIOLENT	PROPERTY	MURD	RAPE	FORCIBLE	ROBB	AGGRAVATED	BUR-	GLARY	LARCENY	MTR	VEH	ARSON
12	24	522	CA02406	3	MERCED	79,886	503	3,159	8	20	149	326	802	2,044	313	42				
12	24	522	CA02401	4	ATWATER	28,499	129	1,230	5	37	355	773	102	14						
12	24	522	CA02402	6	DOS PALOS	5,008	40	177		3	50	105	22	2						
12	24	522	CA02403	6	GUSTINE	5,585	34	148	1	2	5	26	46	81	21	1				
12	24	522	CA02404	5	LIVINGSTON	13,212	75	350		5	10	60	180	135	35	2				
12	24	522	CA02405	4	LOS BANOS	36,395	168	1,177	3	7	29	129	397	676	104	1				
12	24	522	CA02412	7	UN OF CA: MERCED		1	39				1	2	37						
12	24	522	CA02400	98	MERCED	90,215	459	2,319	2	22	41	394	767	1,538	14	6				
12	24	522	CA02408	9D	UPPR: MERCED COUN			14						14						
12	24	522	CA02410	9D	DPR: FOUR RIVERS			8					2	6						
12	24	522	CA02499	9D	HP: MERCED COUNTY			511					3	87	421					
					COUNTY TOTAL	258,800	1,409	9,132	14	61	274	1,060	2,604	5,496	1,032	68				

RIDE-ALONG REPORTS

RIDE-ALONG MERCED POLICE DEPARTMENT

Members of the 2012-2013 Merced County Civil Grand Jury recently participated in a Ride-Along with the Merced Police Department.

The Civil Grand Jury members observed officers briefing and were given a complete overview of the police car and equipment. During routine patrols with the officers several incidents occurred that demonstrated the overall effectiveness and outstanding work of the police department. These incidents included:

- Arrested three individuals with outstanding warrants.
- Responded to a fight in progress and an arrest was made.
- Pulled over vehicle towing overloaded trailer.
- Responded to a fight between two males, one of which was transported for booking into jail.
- Responded to a call regarding suspicious vehicle parked in neighborhood and possible theft of bicycle at that location.
- Responded to the scene of a DUI accident.
- Responded to a domestic dispute. Subject had a large cut on his hand and was transported to the hospital by ambulance. The Officer interviewed all witnesses then proceeded to the hospital.

The Civil Grand Jury observed that the current radio system was poor, making it hard to hear dispatch and other officers. There were areas of non-reception.

A booking at county jail facilities is a slow process because of county cut backs and layoffs. They can only book two people at a time and the officer has to stay with the suspect until booking accepts responsibility. This can take an hour or more of the officer's patrol time. In cases of emergency, backup is provided by other agencies.

The staff was professional, friendly and willing to answer all questions.

FINDING

F1. Radio system is poor and at times there are areas of non-reception.

RECOMMENDATION

R1. The 2012-2013 Merced County Civil Grand Jury recommends that the equipment and communication system be upgraded.

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

RIDE-ALONG GUSTINE POLICE DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury participated in a Ride-Along with the Gustine Police Department.

During the routine patrols with the officers the following incidents occurred that demonstrated the overall effectiveness and outstanding work of the police department. These incidents included:

- An alarm at the high school.
- A traffic stop for a non-working tail light.

The Grand Jury toured the offices of the police department, and were given a thorough briefing of the policies and procedures, including the 9-1-1 and reverse 9-1-1 systems.

Dispatch for the Gustine Police Department is provided by the Livingston Police Department. Routine patrol routes covered the entire city limits. It was observed that radio reception is not available in several areas. In cases of emergency, backup is provided by other agencies such as the Newman and Patterson Police Departments, and the Merced County Sheriff's Department.

The staff was very professional, friendly and more than willing to answer all questions.

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of one member who was recused due to a potential conflict of interest. That juror was excluded from all parts of the investigation, including deliberations and the making and acceptance of this report.

INSPECTION

LOS BANOS POLICE DEPARTMENT JAIL FACILITY

SUMMARY

The 2012-2013 Merced County Civil Grand Jury investigated non-compliance issues with State mandated guidelines pursuant to Penal Code 6031. The Civil Grand Jury found that the Los Banos Police Department jail facility is in full compliance with all Federal, State and local mandates.

INTRODUCTION/BACKGROUND

On March 25, 2013, the 2012-2013 Merced County Civil Grand Jury conducted a site visit to the Los Banos Police Department jail facility. This site visit was to ensure the Los Banos Police Department jail facility corrected the deficiencies identified in the biennial Correction Standards Authority (CSA) Report of October 5, 2011.

METHODOLOGY

The 2012-2013 Merced County Civil Grand Jury interviewed the Chief and two commanders, reviewed personnel records, and inspected selected patrol vehicles. The Civil Grand Jury then toured the facility.

DISCUSSION

The CSA inspection on September 22, 2011 identified areas of non-compliance:

Title 15-Section 1023 - Jail Management Training: This regulation requires all jail management personnel to complete either the Standards and Training for Corrections (STC) or Peace Officer Standards Training (POST) management course within one year of assignment. All personnel completed the training as of February 2013 and a copy of the certificate was provided to the Civil Grand Jury.

Title 15-Section 1024 - Continuing Professional Training: This regulation requires all custody personnel of selected types of facilities to complete annual training (24-40 hours, depending on position). All personnel have completed the training as of February 2013 and a copy of the certificate was provided to the Civil Grand Jury.

Title 15-Section 145 - Decision on Secure Detention: This regulation requires the secure detention only be applied to minors in custody for offenses described by Welfare and Institutions Code (WIC) Section 602, who present a serious security risk and are at least fourteen years of age. The CSA report found that the detention records determined that a thirteen year old detainee was held in secure detention for forty-seven minutes.

The Civil Grand Jury received a copy of the Order and memos to staff that address this issue with personnel.

During the discussion it was learned that the Los Banos Police Department operates a Type IJ jail facility which allows the Department to house no more than twenty inmates for up to ninety-six hours, excluding holidays. Community Service Officers (CSO) 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. The Chief of Police hopes the Los Banos jail will soon be expanded to include some holding cells (twelve-hour maximum).

The California Highway Patrol, Dos Palos Police Department, California Department of Fish and Game, Merced County Sheriff's Department, and Gustine Police Department all use the Los Banos jail for booking purposes.

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. 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. 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 Civil 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. They are considered unique inmates. These inmates are immediately transported to the appropriate Merced County facilities.

FINDING:

F1. The 2012-2013 Merced County Civil Grand Jury found that all deficiencies had been corrected at the time of our site visit.

RECOMMENDATION:

R1. The 2013-2014 Merced County Civil Grand Jury should meet with the Los Banos Chief of Police to ensure that the facility remains in compliance.

COMMENDATION:

The 2012-2013 Merced County Civil Grand Jury commends the Los Banos Police Department for ensuring the overall operation of the facility is in full compliance with all Federal, State and local mandates.

DISCLAIMER

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

DISPOSITION OF COMPLAINTS

DISPOSITION OF COMPLAINTS

COMPLAINT#12-04-01

MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

After initial review and preliminary investigation of the complaint the Grand Jury declined to take further action.

COMPLAINT #12-04-02

MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

The Grand Jury does not take action on matters pending before the Court. Therefore, no action was taken in this matter.

COMPLAINT #12-04-03

CITY OF MERCED POLICE DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the City of Merced Police Department.

After an initial review and preliminary investigation the Grand Jury declined to take further action.

COMPLAINT #12-04-04

MERCED COUNTY SHERIFF'S DEPARTMENT, CHANNEL 30 NEWS, MERCED SUN STAR

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

The Grand Jury does not take action on matters pending before the Court. The Grand Jury also does not have jurisdiction to investigate Channel 30 News or the Merced Sun Star. Therefore, no action was taken in this matter.

COMPLAINT #12-05-05
MERCED COUNTY CHILD WELFARE SERVICES

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Child Welfare Services.

The Grand Jury does not take action on matters pending before the courts. Therefore, no action was taken.

COMPLAINT #12-05-06
ATWATER ELEMENTARY SCHOOL DISTRICT TRUSTEES

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Atwater Elementary School District Trustees.

The issue addressed in the complaint was resolved prior to any investigation by the Grand Jury. Therefore, no further action was taken.

COMPLAINT #12-07-07
MERCED COUNTY COMMUNITY COLLEGE

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate Merced County Community College.

This was an anonymous complaint and the Grand Jury needed additional information to proceed. Therefore, the complaint was declined.

COMPLAINT #12-07-08
MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

After initial review, this matter was referred to the District Attorney's Office.

COMPLAINT #12-07-09
BOARD OF DIRECTORS OF LIVINGSTON COMMUNITY
HEALTH

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Board of Directors of Livingston Community Health.

After an initial review and preliminary investigation the Grand Jury declined to further investigate the complaint.

COMPLAINT #12-07-10
MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

The Grand Jury does not take action on matters pending before the courts. Therefore, no action was taken in this matter.

COMPLAINT #12-07-11
HEALTHY HOUSE

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate Healthy House.

After a preliminary investigation the Grand Jury declined to proceed on the complaint.

COMPLAINT #12-08-12
CITY OF GUSTINE/GUSTINE POLICE DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the City of Gustine/Gustine Police Department.

After preliminary investigation and interview the Grand Jury declined further action on this complaint.

COMPLAINT #12-09-13
ATWATER CITY COUNCIL

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Atwater city Council.

Request for additional information was requested and not provided by the complainant. Therefore, the Grand Jury declined to take further action.

COMPLAINT #12-09-14
DEPARTMENT OF SOCIAL SERVICES, HEALTH AND HUMAN SERVICES, COUNTY OF MERCED

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Department of Social Services, Health and Human Services, County of Merced.

The Grand Jury does not take action on matters pending before the courts. There were other remedies available to the complainant such as appeal and hearing with administrative law judge. Therefore, no action was taken in this matter.

COMPLAINT #12-09-15
MERCED CITY SCHOOLS

The 2012-2013 Merced County Civil Grand Jury received a letter requesting a face to face meeting to discuss an investigation of Merced City Schools.

The Grand Jury process requires that an complaint be filed to proceed. The Grand Jury declined to set up the face to face meeting and sent the complainant a complaint form to fill out and file.

COMPLAINT #12-09-16
MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

The Grand Jury does not take action on matters pending before the courts. Therefore, no action was taken in this matter.

COMPLAINT #13-01-17
MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

After a preliminary investigation and interview, the Grand Jury declined to take further action.

COMPLAINT #13-03-18
MERCED POLICE K-9 UNIT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced Police K-9 Unit.

The complaint was anonymous and not clear as to what the complainant wanted the Grand Jury to investigate. Unable to obtain further information, the complaint was declined.

COMPLAINT #13-03-19
LOS BANOS UNIFIED SCHOOL DISTRICT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Los Banos Unified School District.

Due to limitations on time the grand Jury referred this matter to the 2013-2014 Merced County Civil Grand Jury

COMPLAINT #13-03-20
MERCED CITY SCHOOL BOARD

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced City School Board.

Due to limitations on time the Grand Jury referred this matter to the 2013-2014 Merced County Civil Grand Jury.

COMPLAINT #13-03-21
MERCED SCHOOL DISTRICT OFFICE ADMINISTRATORS

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced School District Office Administrators.

The Grand Jury declined to take action on the above complaint.

COMPLAINT #13-04-22
GUSTINE SCHOOL DISTRICT BOARD MEMBERS

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Gustine School District Board Members.

Due to limitations on time the Grand Jury referred this matter to the 2013-2014 Merced County Civil Grand Jury.

COMPLAINT #13-05-23
MERCED COUNTY SHERIFF'S DEPARTMENT

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Merced County Sheriff's Department.

After review of the complaint the Grand Jury declined to proceed.

COMPLAINT #13-05-24
ATWATER CITY COUNCIL MEMBERS

The 2012-2013 Merced County Civil Grand Jury received a complaint to investigate the Atwater City Council Members.

After review of the complaint the Grand Jury declined to proceed.

RESPONSES
TO THE 2011-2012
FINAL GRAND
JURY REPORT



**DEPARTMENT OF
CHILD SUPPORT SERVICES**

Karen Rodriguez
Interim Director

3368 N Highway 59, Suite A
Merced, CA 95348
(866) 901-3212
(209) 722-0556 Fax
www.merceddcss.com

Mailing Address
P.O. Box 3199
Merced, CA 95344

Equal Opportunity Employer

July 2, 2012

TO: Brian McCabe, Presiding Judge
Superior Court of California, County of Merced

ATTN: Angelo Lamas

RE: Grand Jury Report Response 2011/12
Child Support Complaint # 10-11-12

The Merced County Department of Child Support Services (DCSS) acknowledges that we have received and reviewed the 2011-2012 Grand Jury Report.

Complaint 10-11-12 alleges that Merced County Child Support Staff failed to verify the personal information of the complainant, erroneously placed a lien on his property and failed to identify themselves on the phone or explain the department policy on confidentiality to the complainant.

Department management staff had the opportunity to meet with the grand jury and resolve this complaint.

Recommendation 1: The department's normal work processes require that all necessary information is on the paperwork before it is filed in court. In this case, the identifying information was redacted from the filed copy of the lien.

After meeting with the Grand Jury on December 13, 2011, DCSS was able to research this issue using the complainant's address which was provided by the Grand Jury. With this additional information we were able to search the Whatcom County (Washington) Recorder's Office to view recorded property liens, conveyance documents, and property lien releases. Whatcom County images all of their recorded property transaction documents. This allowed DCSS to compare the complainant's signature on the property transfer documents to our non-custodial parent's (NCP) signature on a filed court document in our county. Comparing the signatures helped confirm that the complainant and NCP were two different individuals and we had inappropriately recorded a lien against the complainant.

The recorded lien had both our case number and superior court case # on it. The original lien generated by us referenced NCP's social security number (SSN) and date of birth (DOB); however, this information was missing on the recorded lien.

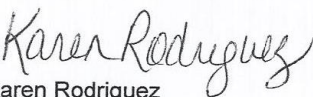
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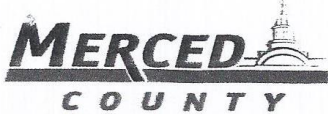
While speaking to the Whatcom County Recorder, our staff was able to confirm that Whatcom County will reject any lien that includes a DOB and/or SSN. They would have returned the lien to us to redact the DOB and SSN, or their representative said they may have redacted the information themselves. They only record documents by name. Since all of their recorded documents are imaged and available for public viewing they will not accept any which include personal identifying information like DOBs or SSNs. Therefore, the omission of NCP's personal identifying information (SSN/DOB) on the recorded lien was the result of the Whatcom County Recorder's confidentiality policy and procedures. This was not determined until after we met with the Grand Jury.

Recommendation 2: It is the department policy that our employees identify themselves when asked by any caller. Department staff will be provided a refresher course on phone etiquette, including identifying themselves and providing information on the department policy regarding confidentiality. In this case, we had received a phone call from the complainant in September of 2008. During that call, he refused to provide his address, phone number or fax us a copy of his ID so we could exclude him. He did express his concerns about confidentiality at that time. The individual said he did not trust the department staff to be who they said they were and he would not provide any personally identifying information. Our department does have a complaint process that the individual could have used, which would have resolved the issue much quicker. Fortunately, he felt comfortable relaying this information through the Grand Jury representative, so that we were able to resolve the identify issue and remove the erroneous property lien.

I appreciate the opportunity to work with the Grand Jury to resolve this complaint. I found the jurors both patient and dedicated. They were very interested in understanding county governmental practices in order to make the best decisions.

Sincerely,


Karen Rodriguez
Interim Director



September 11, 2012

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

RE: Board of Supervisors Grand Jury Response

Dear Presiding Judge McCabe:

The Board of Supervisors appreciates the Merced County Grand Jury's responsibilities and commitment to public service. Pursuant to 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 – John Latorraca Correctional Facility and Main Jail

The Grand Jury conducted an inspection of the John Latorraca Correctional Facility at 2584 West Sandy Mush Road and Main Jail at 700 West 22nd Street, both located in Merced. The Grand Jury recommended that the Board of Supervisors carefully consider the Sheriff Department requests for video monitoring upgrades and control center improvements, and to utilize electronic monitoring more in order to help reduce inmate population and incarceration costs.

At this time improvements to facility control centers and monitoring systems are being planned. In addition, the Board encourages all justice departments, including the local Court, to consider utilization of electronic monitoring and other alternate sentencing programs whenever possible, as a means to reduce incarceration rates and promote more positive outcomes.

Mandated Inspections – Iris Garrett Juvenile Justice Correctional Complex

The Grand Jury conducted a mandated inspection of the Iris Garrett Juvenile Justice Correctional Complex, located at 2840 W Sandy Mush Road, in Merced. The Grand Jury was satisfied with their visit to the facility and with the efforts being made for detained minors.

The Merced County Board of Supervisors commends the men and women who serve at the Juvenile Correctional Complex.

Complaint 10-11-12

The Grand Jury investigated a complaint regarding Child Support Services where the allegations included false accusations, personal information not being verified, a lien inappropriately being placed on an individual's property and improper phone etiquette. The Grand Jury reported that in an effort to locate an absent parent to collect support payments, the department made several attempts through different resources to locate the absent parent who has had a number of addresses and was reported to have used

**Board of
Supervisors**

John Pedrozo
Supervisor, District One

Hubert "Hub" Walsh, Jr.
Supervisor, District Two

Linn Davis
Supervisor, District Three

Deidre F. Kelsey
Supervisor, District Four

Jerry O'Banion
Supervisor, District Five

James L. Brown
County Executive Officer

Merced County
Administration Building
2222 "M" Street
Merced, CA 95340
(209) 385-7366
(209) 726-7977 Fax
www.co.merced.ca.us

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more than one social security number. The complainant in this situation was calling from out of state and has the same name as the absent parent and also had addresses from the same states. After several unsuccessful attempts to contact the absent parent, Child Support Services took subsequent steps in their procedures to pursue support payments by placing a lien on property owned. However, during the course of interviews it was established that the complainant was not the absent parent the department was seeking and the issue has been addressed and the lien on the property removed. Some of the difficulties in this situation were compounded because other states do not maintain date of birth or social security numbers and only record some documents by name. In addition, when contacting the department, the complainant refused to provide any personal identifying information which could have proven his identity and excluded him as the absent parent. The complainant also chose not to use the complaint process established by Child Support Services, which could have resolved the issue sooner.

Response

The Board respects the efforts of Child Support Services representatives in the challenges they face in assisting families, conducting investigations, locating and dealing with absent parents, and working in an environment where information and cooperation is very limited. The efforts of the Grand Jury in resolving this issue was appreciated. We also support refresher training for staff that will develop their customer service skills, including phone etiquette.

Complaint 07-01-11

The Grand Jury investigated a complaint regarding the Merced County Sheriff Department and whether an employee within the department was illegally hired. The Grand Jury did establish that the employee was legally hired in accordance with proper standards. It was discovered, however, that confidentiality had been breached when background investigation information was leaked to department employees who should not need or have knowledge of this information.

It was recommended that all personnel within the department be provided training on the issue of confidentiality, especially within the Background Investigation Unit, and that all personnel be advised of the consequences for breaches of confidentiality.

Response

The Board of Supervisors holds confidentiality to be paramount in regard to personnel or client matters. The Board will continue to stress the significance of this issue when working with departments in establishing training needs. Doing so builds mutual respect among staff.

Complaint 07-02-11

The Grand Jury received a complaint requesting an investigation of alleged inappropriate activities within the Merced County Sheriff Department. All of the allegations were found to be unsupported; however, the Grand Jury did research one allegation about inappropriate hiring of personnel. No instance of inappropriate hiring was found after employment records were reviewed by the Grand Jury. Interviews with Human Resources and Sheriff Department staff indicated that the hiring of the employee was in accordance with established policy.

The Grand Jury did provide a recommendation, however, that Merced County Human Resources take steps to insure that all employee documentation includes a complete and thorough employment history and that departments review employment applications for complete information and to insure that county nepotism policy is not violated.

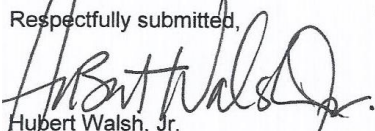
Response

The Board of Supervisors encourages departments to consistently use established County policies when selecting and hiring applicants for a position. The application and interview process are a vital part of this hiring process. Complete and valid information is sought through the application and supplemental questions. The County application also requests information as to whether applicants have family members employed with the County. The interview process is to be utilized to gain more information that is not readily available in the application and thus interviewing/hiring departments are able to select the best possible applicant without violating any County nepotism policies.

Conclusion

The Board continues to make every effort to ensure that County departments are operating as effectively as possible and in accordance with public policies. The Board of Supervisors recognizes the Grand Jury for its efforts and appreciates its responsibilities to provide thoughtful recommendations to improve our County and community.

Respectfully submitted,



Hubert Walsh, Jr.
Chairman, Board of Supervisors

cc: Dan Gaines, 2011-2012 Merced County Grand Jury Foreman ✓
James L. Brown, County Executive Officer



AUDITOR-CONTROLLER

Lisa Cardella-Presto, CPA
Auditor-Controller

2222 "M" Street
Merced, CA 95340
(209) 385-7511
(209) 725-3900 Fax
www.co.merced.ca.us

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June 27, 2012

TO: Angelo Lamas, County Executive Office

FROM: Lisa Cardella-Presto, CPA, Auditor-Controller

RE: Merced County Grand Jury Report for 2011/2012

There are no issues in the Merced County Grand Jury Report for 2011/2012 which pertain to matters under the control of the Merced County Auditor-Controller.

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COUNTY ASSESSOR-CLERK-RECORDER

Kent B. Christensen
Assessor-Clerk-Recorder

2222 "M" Street
Merced, CA 95340
(209) 385-7501
FAX (209) 385-7387
(www.co.merced.ca.us)

Equal Opportunity Employer

July 2, 2012

TO: Honorable Brian McCabe, Presiding Judge
Superior Court of California
County of Merced

FROM: Kent B. Christensen
Merced County Assessor-Clerk-Recorder-ROV

SUBJECT: 2011-2012 Grand Jury Report

I have received and reviewed the Merced 2011-2012 Grand Jury Report and have determined that there are no issues that pertain to the departments I am responsible for.

Sincerely,

Kent B. Christensen
Merced County Assessor-Clerk-Recorder-ROV

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DEPARTMENT OF AGRICULTURE

David A. Robinson
*Agricultural Commissioner
Director of Weights and Measures
Director of Animal Control*

2139 Wardrobe Avenue
Merced, CA 95341-6445
Phone: (209) 385-7431
Fax: (209) 725-3536
Los Banos Office: (209) 827-2030

Animal Control: (209) 385-7436
www.co.merced.ca.us

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July 2, 2012

Honorable Brian McCabe
Presiding Judge
Superior Court of California, County of Merced
2260 "M" Street
Merced, Ca 95340

Re: 2011/2012 Grand Jury Report

Your Honor,

I have received and reviewed the 2011/2012 Grand Jury Report. There are no issues in the report which require further action by the Merced County Department of Agriculture.

Sincerely,

David A. Robinson
Agricultural Commissioner
Sealer of Weights and Measures
Director of Animal Control

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ADMINISTRATIVE SERVICES DEPARTMENT

Information Systems
Geographical Information Services
Purchasing

Communications
Custodial Services
Central Services

Mark A. Cowart
Director / Chief Information Officer

2222 "M" Street
(209) 385-7690
(209) 725-3535 Fax
www.co.merced.ca.us

Mailing Address
2222 "M" Street
Merced, CA 95340

Equal Opportunity Employer

MEMORANDUM

July 23, 2012

From: Mark Cowart

To: Angelo Lamas, County Executive Office

Subject: **ACKNOWLEDGEMENT OF THE 2011/2012 GRAND JURY REPORT**

I have received and reviewed the 2011/2012 Grand Jury Report. I find no issues in the report which pertain to matters under my control.



COUNTY EXECUTIVE OFFICE

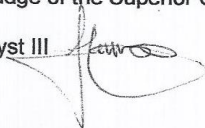
James L. Brown
County Executive Officer

2222 "M" Street
Merced, CA 95340
(209) 385-7637
(209) 385-7375 Fax
www.co.merced.ca.us

Equal Opportunity Employer

DATE: August 24, 2012

TO: Judge Brian McCabe, Presiding Judge of the Superior Court

FROM: Angelo Lamas, Management Analyst III 

SUBJECT: **Grand Jury Response**

Enclosed are the appropriate County department responses for the final Grant Jury report for Fiscal Year 2011/2012. The Board of Supervisor response to the Grand Jury report is expected in September.

cc: Dan Gaines, 2011-2012 Merced County Grand Jury Foreman
Merced County Board of Supervisors
James L. Brown, County Executive Officer

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COPY

**DEPARTMENT OF
WORKFORCE INVESTMENT**

Robert A. Morris
Acting Director

1880 Wardrobe Avenue
Merced, CA 95341-6407
(209) 724-2000
(209) 725-3592 Fax
www.co.merced.ca.us/index.asp?NID=9

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MEMORANDUM

July 2, 2012

To: Honorable Brian McCabe, Presiding Judge,
Superior Court of California, County of Merced

From: Robert A. Morris, Acting Director, Department of Workforce
Investment

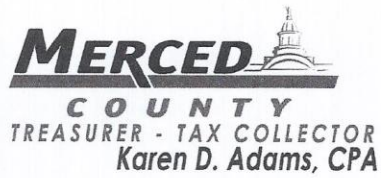
Subject: Acknowledgement of the 2011/2012 Grand Jury Report

I am acknowledging receipt of the Grand Jury report of 2011/2012. I have reviewed the report and find no reference to issues under my control and jurisdiction and have no comments regarding any of the findings or recommendations contained in the report.

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WIF 00-21B

Revised 01/09



Karen D. Adams, CPA
Treasurer-Tax Collector

2222 "M" Street
Merced, CA 95340
(209) 385-7307
(209) 725-3905 (Fax)
<http://www.mercedtaxcollector.org>

June 27, 2012

The Honorable Brian McCabe
Presiding Judge of the Superior Court
Merced County Superior Court
P.O. Box 2034
Merced, CA 95344

SUBJECT: 2011-2012 GRAND JURY REPORT

I received and reviewed the 2011-2012 Grand Jury Report. I have no comments regarding any of the findings or recommendations contained in the report.

Sincerely,

Karen D. Adams
Treasurer-Tax Collector

COMMITTED TO EXCELLENCE



403 "F" STREET ★ LOS BANOS, CA 93635

209-826-5166 ★ FAX 209-826-8737

July 11, 2012

Merced County Executive Office
2222 M Street
Merced, CA 95340
Attn: Angelo Lamas

Re: Acknowledgment of 2011/2012 Grand Jury Report

Honorable Brian McCabe
Presiding Judge, Merced County Superior Court:

Please note I have received and reviewed the 2011/2012 Grand Jury Report. There are no issues in the report which pertain to matters under my control.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Brandt".

Ron Brandt
Manager



MARK N. PAZIN
COUNTY OF MERCED
OFFICE OF THE SHERIFF-CORONER

August 14, 2012

The Honorable Brian McCabe
Presiding Judge
Merced County Superior Court
Merced, CA 95340

Re: Response to the 2011/2012 Grand Jury Report

Dear Judge McCabe:

I have reviewed the 2011-2012 Grand Jury Report.

I concur generally with the observations and recommendations of the report.

Sincerely,

A handwritten signature in cursive script that reads "Mark N. Pazin".

Mark N. Pazin
Merced County Sheriff-Coroner

2222 M STREET • MERCED • CALIFORNIA • 95340 • (209) 385-7451



**MERCED COUNTY
EMPLOYEES' RETIREMENT
ASSOCIATION**
3199 "M" Street
Merced, California 95348

MARIA L. AREVALO
Plan Administrator

Telephone 209-725-3636
Fax 209-725-3637

July 3, 2012

To: Presiding Judge, Merced County Superior Court.
From: Maria L. Arevalo, Retirement Plan Administrator
Re: 2011/2012 Merced Grand Jury Report

Dear Judge Brian McCabe:

I have received and reviewed the Merced 2010/2011 Grand Jury Report and have determined that there are no issues requiring a response by the Merced County Employees' Retirement Association.

Sincerely,

Maria L. Arevalo
Retirement Plan Administrator

Cc. County Executive Office



DEPARTMENT OF PUBLIC WORKS

Richard A. Schwarz
Acting Director

715 Martin Luther King Jr. Way
Merced, CA 95340-6041
(209) 385-7602
(209) 725-3989 Fax
www.co.merced.ca.us

Building Services
Parks and Recreation
Roads
Fleet Management
County Surveyor
Building & Safety

Equal Opportunity Employer

DATE: July 26, 2012
TO: Presiding Judge Brian McCabe
FROM: Richard A. Schwarz, Acting Director of Public Works 
SUBJECT: 2011-2012 Merced County Grand Jury Report

MEMORANDUM

Please be advised that I have received and reviewed the 2011/2012 Merced County Grand Jury Report.

There are no issues in the report which pertain to matters regarding my Department, so I have no detailed comments.

RAS:jlr

cc: Angelo Lamas, County Executive Office

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DEPARTMENT OF PUBLIC HEALTH

Kathleen Grassi, R.D., M.P.H.
Director

Administration
260 E. 15th Street
Merced, CA 95341-6216
(209) 381-1200
(209) 381-1215 (FAX)
www.co.merced.ca.us/health

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July 3, 2012

Angelo Lamas
County Executive Office
2222 M Street
Merced, CA 95340

Dear Mr. Lamas:

The Department of Public Health has reviewed the 2011/2012 Grand Jury Report and there are no issues contained in the report that pertain to matters under the control of our department. If I can be of further assistance, please feel free to contact me.

Sincerely,

Kathleen Grassi, R.D., M.P.H.
Director of Public Health

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PUBLIC DEFENDER

Eric Dumars
Interim Public Defender

2150 "M" Street
Merced, CA 95340
(209) 385-7692
www.co.merced.ca.us

August 1, 2012

TO: The Honorable Brian McCabe
Presiding Judge of the Merced Superior Court

FROM: Eric Dumars, Interim Public Defender 40

RE: 2011/2012 Grand Jury Report

The Merced County Public Defender's Office has read and reviewed the 10/11 Grand Jury Report and has no comment.

ED:jh

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PROBATION DEPARTMENT



Scott M. Ball
Chief Probation Officer

June 27, 2012

The Honorable Brian McCabe
Presiding Judge
Merced County Superior Court
627 W. 21st Street
Merced, CA 95340

Re: Acknowledgement/Response to Grand Jury Report 2011/2012

Dear Judge McCabe:

I have received and reviewed the Grand Jury Report with regard to the inspection of the Iris Garrett Juvenile Justice Complex. The inspection occurred on November 10, 2011, and the Grand Jury did not find reason to provide any recommendations. I greatly appreciate the work of the Grand Jury and their commendations of our staff and facilities.

Sincerely,

Scott M. Ball
Chief Probation Officer

cc: Hub Walsh, Chairperson, Board of Supervisors
James L. Brown, County Executive Officer
Scott De Moss, Assistant County Executive Officer
Angelo Lamas, County Executive Office

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DEPARTMENT OF MENTAL HEALTH
Administration

Manuel J. Jimenez, Jr., MA, MFT
Director

Administration
1944 M Street
Merced, CA 95340
(209) 381-6813
(209) 725-3676 Fax
www.co.merced.ca.us

Mailing Address
PO Box 2087
Merced, CA 95344

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DATE: July 2, 2012
TO: County Executive Office
Angelo Lamas
FROM: Manuel J. Jimenez, Jr.
SUBJECT: Grand Jury Final Report 2011-2012

I have received and reviewed the Merced County Civil Grand Jury Final Report for 2011-2012. There are no issues to report on regarding the Merced County Mental Health Department.

If you require any further information, please contact me.

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MERCED COUNTY LIBRARY

Jacque Meriam
County Librarian

2100 "O" Street
Merced, CA 95340
(209) 385-7484
(209) 726-7912 Fax
jmeriam@co.merced.ca.us
Equal Opportunity Employer

TO: Brian McCabe, Presiding Judge,
Superior Court of California,
County of Merced

FROM: Jacque Meriam
Merced County Librarian

SUBJECT: 2011-2012 Merced Grand Jury Report

DATE: June 28, 2012

I, Jacqueline M. Dodd Meriam, Merced County Librarian, via e-mail, have received and reviewed the 2011-2012 Merced Grand Jury Report. There are no issues in the report which pertain to the Merced County Library System.

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HUMAN SERVICES AGENCY

Ana Pagan
Director

2115 W. Wardrobe Avenue
(209) 385-3000
(209) 354-2501 Fax
www.co.merced.ca.us

Mailing Address
P.O. Box 112
Merced, CA 95341-0112

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June 27, 2012

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

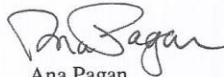
Regarding: Grand Jury Report 2011/2012

I have received and reviewed the report.

There were no issues in the report that pertain to matters under our control.

We are appreciative of the grand jury's commendation related to the Human Services Agency activities regarding mandated reporter education.

Sincerely,


Ana Pagan
Director

cc: Angelo Lamas, County Executive Office

STRIVING FOR EXCELLENCE



FIRE DEPARTMENT

735 MARTIN LUTHER KING JR. WAY
MERCED, CA 95341
TELEPHONE (209) 385-7344
FAX (209) 725-0174

NANCY B. KOERPERICH
Fire Chief
(209) 966-3622

MARK LAWSON
Division Chief - Operations
(209) 385-7450

Honorable Brian McCabe
Presiding Judge
Merced County Superior Court
2260 "M" Street
Merced, CA 95340

Re: 2011-2012 Grand Jury Report

Your Honor:

I have received and reviewed the 2011-2012 Civil Grand Jury Final Report. There are no issues in the report which require further response by the Merced County Fire Department.

Sincerely,

Nancy B. Koerperich
Fire Chief

In cooperation with **CAL FIRE**

STRIVING FOR EXCELLENCE



COUNTY EXECUTIVE OFFICE
Human Resources

James L. Brown
County Executive Officer

Robert A. Morris
Director of Human Resources

2222 "M" Street
Merced, CA 95340
(209) 385-7682
(209) 385-7375 Fax
www.co.merced.ca.us

Equal Opportunity Employer

August 6, 2012

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

RE: 2011/2012 Grand Jury Complaint 07-02-11

Dear Presiding Judge McCabe:

We have received and reviewed the Grand Jury report and complaint indicated above. In the complaint it was recommended that Merced County Human Resource Department take steps to insure that employee documentation include complete employment history and that applications identify whether applicants have family members employed with the County or not.

During the interview stage, departments have opportunities to ask about periods of unemployment on an application. Our application also requests if applicant has any family member employed with the County of Merced and provides an opportunity for each interviewing or hiring department to select the best possible applicant without violating any County nepotism policies.

The Merced County Human Resource Department appreciates the Merced County Grand Jury's efforts trying to find ways to prevent these types of hiring issues from arising. Human Resources will continue to ensure that the application process is effective and that departments have opportunities to select the best possible applicant. These employees are our number one resource.

Sincerely,

Robert A. Morris
Director of Human Resources

STRIVING FOR EXCELLENCE



**DISTRICT ATTORNEY
LARRY D. MORSE II**

550 W. Main Street
Merced, CA 95340
Phone (209) 385-7381
Fax (209) 725-3669

Chief Deputy District Attorney
HAROLD L. NUTT

Chief Deputy District Attorney
JOHN J. GOOLD

Chief Deputy District Attorney
ROBERT O. CARROLL

Director of Administrative Services
JEANNETTE PACHECO

**INVESTIGATIONS
(209) 385-7383**

Chief Investigator
PATRICK N. LUNNEY

**VICTIM WITNESS
(209) 385-7385**

Victim Witness Program Director
LISA DeSANTIS

LOS BANOS DIVISION

445 I Street
Los Banos, CA 93635
Phone (209) 710-6070
Fax (209) 827-2029

www.co.merced.ca.us/da

July 2, 2012

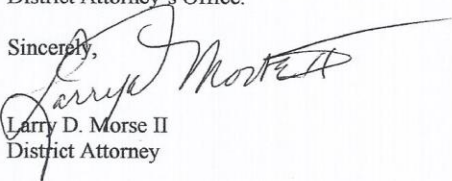
Honorable Brian McCabe
Presiding Judge
Merced County Superior Court
2260 "M" Street
Merced, CA 95340

Re: 2011-2012 Grand Jury Report

Your Honor:

I have received and reviewed the 2011-2012 Civil Grand Jury Final Report. There are no issues in the report which require further response by the Merced County District Attorney's Office.

Sincerely,


Larry D. Morse II
District Attorney



DEPARTMENT OF COMMERCE, AVIATION
AND ECONOMIC DEVELOPMENT

Mark J. Hendrickson
Director

2507 Heritage Drive
Atwater, CA 95301
(209) 385-7686
(209) 383-4959 Fax
www.co.merced.ca.us

Equal Opportunity Employer

DATE: June 26, 2012

TO: The Honorable Mark Bacciarini
Presiding Judge of the Civil Grand Jury

FROM: Mark J. Hendrickson, Director
Commerce, Aviation and Economic Development Department and
Planning Department

RE: I have reviewed the 2011-2012 Civil Grand Jury Report and there are no issues in the
report that pertain to matters under the control of my departments.

While there was a complaint made (#07-11-11) to investigate the Planning/Code
Enforcement Department, the report noted that the Grand Jury declined to proceed with
an investigation after review of the said complaint.

If I can be of further assistance, please feel free to contact me at your earliest
convenience.

STRIVING FOR EXCELLENCE

City of Atwater Police Department



Frank Pietro
Chief of Police
(209) 357-6282



CIVIC CENTER
750 BELLEVUE ROAD
ATWATER, CALIFORNIA 95301

Merced County Grand Jury
PO Box 2034
Merced, CA 95344

Attn: Mary Nickles, Foreperson

Dear Ms. Nickles,

I am very sorry for the delay in responding as I thought that I had responded several months ago. In regards to the "Live Scan" Machine we have purchased one thru grant monies, and it will be delivered and set up the last week of March. In regards to securing the rear portion of the Civic Center, we did in fact have it budged for the 12/13 budget, but it was removed due to the financial crises the city was facing. In lieu of the rear security fence, I have installed two cameras that are monitored by our Dispatch Center 24/7. We have had no vandalism to any of our vehicles in the past several years. Thank you for your recommendations and please accept my apology for not responding in a timely manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Pietro".

Frank Pietro
Police Chief/Interim City Manager
City of Atwater