

SAN BERNARDINO COUNTY
GRAND JURY



2012-2013
FINAL REPORT

SAN BERNARDINO COUNTY
GRAND JURY



2012-2013
FINAL REPORT

EDITORIAL COMMITTEE



From left to right: Robert O. Turley, Kristen Suzanne Atkinson, Dianne D. Tolbert, Ernesto Armenta



The Editorial Committee acknowledges and thanks the following individuals for their hard work and invaluable assistance in the preparation of the Final Report of the 2012-2013 San Bernardino County Grand Jury.

Graphic Arts
Cover Design
Photographs
Printing Services
Typing/Preparation

Silvia Schreiber, Graphic Designer
Silvia Schreiber, Graphic Designer
Silvia Schreiber, Graphic Designer
County Printing Services Personnel
Melonee Vartanian, Grand Jury Assistant

GRAND JURY



COUNTY OF SAN BERNARDINO

351 North Arrowhead Avenue, Room 200, Courthouse
San Bernardino, CA 92415-0243 • (909) 387-3820
Fax (909) 387-4170

June 28, 2013

Honorable Marsha G. Slough, Presiding Judge
Superior Court of California, County of San Bernardino
303 West Third Street, Fourth Floor
San Bernardino, CA 92415-0302

Dear Judge Slough:

On behalf of the 2012-2013 Grand Jury, I am pleased to present this report to you, the San Bernardino County Board of Supervisors, and the citizens of San Bernardino County.

Throughout the year Grand Jury members interacted with numerous employees of County, Cities, and Special District Operations. We were continually impressed with the knowledge and dedication of the vast majority of the employees we met.

In the course of the year we received and investigated complaints from citizens. Many of the complaints did not fall within the scope of the Grand Jury. However, in many instances we were able to help the complainant by providing information as to where to seek a resolution to their particular issue.

Follow-up visits to several agencies were conducted for the purpose of verifying that recommendations from the previous Grand Juries had been followed and implemented. These visits are found in the Response Accountability section of this report.

I would especially like to note the assistance given to the Grand Jury by the City Managers of Needles, Yucca Valley, and Rancho Cucamonga. Additionally, the Finance Directors of the cities of Apple Valley, Yucaipa, Ontario and Upland were instrumental in carrying out the work of the Grand Jury.

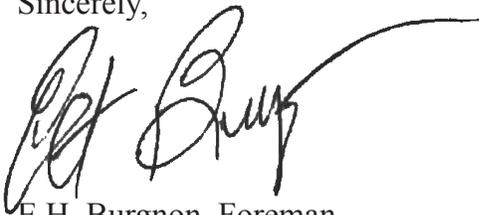
Honorable Marsha G. Slough, Presiding Judge
Superior Court of California, County of San Bernardino
June 28, 2013
Page Two

The success of the 2012-2013 Grand Jury would not be possible without the dedication of the 19 citizen volunteers who gave countless hours to the citizens of San Bernardino County in an effort to improve the quality of life for all of its citizens. Throughout their term they worked in harmony with each other and formed lasting relationships. The Jury as a whole was productive throughout the entire term.

It has been an honor to serve as the Foreman of this Jury. I cannot think of anything more gratifying to me throughout my entire professional career.

Finally, I would like to recognize Melonee Vartanian and Charles Umeda for their continuing dedication to the Grand Jury process. Without them, this report would not be possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'E.H. Burgnon', with a long, sweeping horizontal line extending to the right.

E.H. Burgnon, Foreman
2012-2013 Grand Jury

2012-2013 GRAND JURY

SAN BERNARDINO COUNTY

OFFICERS:

Edward H. Burgnon	◇	Foreman
Kent Fogleman	◇	Foreman Pro Tem
Marilyn Tolone	◇	Secretary
Sandra Shahan	◇	Assistant Secretary
Nino Valmassoi	◇	Sergeant-at-Arms
Allen "Skip" Burt	◇	Assistant Sergeant-at-Arms

MEMBERS:

Allen "Skip" Burt	◇	Alta Loma
Dianne D. Tolbert	◇	Rialto
Edward H. Burgnon	◇	Apple Valley
Ernesto Armenta	◇	Rialto
Ever Marie James	◇	Colton
Jan Flammang	◇	Chino
Kent Fogleman	◇	Redlands
Kristen Suzanne Atkinson	◇	Grand Terrace
Marilyn J. Trombetta	◇	Redlands
Marilyn Tolone	◇	Crestline
Nino Valmassoi	◇	Yucaipa
Richard L. Skeate	◇	Crestline
Robert O. Turley	◇	Redlands
Robert P. Deao	◇	Rancho Cucamonga
Roger D. Trussell	◇	Hesperia
Rosalio "Rosie" Hinojos	◇	Helendale
Sandra Shahan	◇	Rancho Cucamonga
Thomas Wilkin	◇	Redlands
William B. Lundstrom	◇	Rancho Cucamonga

FORMER MEMBERS:

Clifford O. Young	◇	Rialto	◇	Resigned October 2012
Rebecca Fults	◇	Colton	◇	Resigned October 2012

ADMINISTRATION:

Presiding Judges	◇	Ronald M. Christianson
	◇	Marsha G. Slough
Legal Advisor	◇	Charles J. Umeda
Grand Jury Assistant	◇	Melonee A. Vartanian

2012-2013 GRAND JURY SAN BERNARDINO COUNTY



Back row from left to right:
Kent Fogleman, Edward H. Burgnon, Robert O. Turley, Nino Valmassoi, Allen "Skip" Burt,
Robert P. Deao, Thomas Wilkin

Center row from left to right:
Richard L. Skeate, Rosalio "Rosie" Hinojos, Ernesto Armenta, William B. Lundstrom, Roger D. Trussell

Front row from left to right:
Jan Flammang, Dianne D. Tolbert, Kristen Suzanne Atkinson, Marilyn J. Trombetta, Sandra Shahan,
Marilyn Tolone, Ever Marie James



Honorable
Ronald M. Christianson



Melonee Vartanian, Grand Jury Assistant and
Charlie Umeda, Grand Jury Legal Advisor



Honorable
Marsha G. Slough

*A special thank you to the **Social Committee** for making the Grand Jury's year of service pleasant and enjoyable:*



Back row: Thomas Wilkin, Nino Valmassoi, Ernesto Armenta
Front row: Marilyn Tolone, Kristen Suzanne Atkinson, Sandra Shahan, Jan Flammang



TABLE OF CONTENTS

2012-2013 GRAND JURY

FINAL REPORT

CITIES/SPECIAL DISTRICTS COMMITTEE	1
Prehospital Emergency Medical Services	3
Rancho Cucamonga Animal Care and Adoption Center	8
Victor Valley College Police Department.....	12
COMPLAINTS	14
COUNTY COMMITTEE	15
Arrowhead Regional Medical Center – Pediatric Trauma Act	17
SAFE Call Box Program – Where Our Dollar Goes.....	19
San Bernardino County Workforce Investment Board	26
HUMAN SERVICES COMMITTEE	31
10-Year Strategy to End Homelessness	32
Alternatives to Detaining Juvenile Offenders	40
San Bernardino County Children and Family Services	47
LAW AND JUSTICE COMMITTEE.....	54
County Impact of Assembly Bill 109.....	55
Gangs	59
San Bernardino County Sheriff Department – Compliance for Handling Citizen Complaints	65
Detention Centers in San Bernardino County	68

AD HOC COMMITTEES.....	69
Bail Solicitation of Inmates at County Detention Centers	70
Newberry Community Services District	80
San Bernardino County Sheriff – Taser Policies and Usage.....	81
RESPONSE ACCOUNTABILITY	87
San Bernardino County Central Collections	88
San Bernardino County Public Defender	89
San Bernardino County Registrar of Voters	90
San Bernardino International Airport (SBIA).....	92





**CITIES/SPECIAL DISTRICTS
COMMITTEE**



CITIES/SPECIAL DISTRICTS COMMITTEE



Back row: William B. Lundstrom, Roger D. Trussell, Robert O. Turley, Nino Valmassoi, Ernesto Armenta

Front row: Jan Flammang, Sandra Shahan, Ever Marie James



CITIES/SPECIAL DISTRICTS COMMITTEE

INTRODUCTION

The Cities/Special Districts Committee reviews the following public officials and departments:

City Administrators
City Clerks
City Councils
City Engineers
City Managers
City Planners
Fire Districts
Local Agency Commissions
Mayors
Special Districts, *i.e.*, Air Pollution Control
Ambulance Service
Cemetery
Community Service
Fire Protection
Health Care
Law Library
Lighting
Memorial Buildings
Public Utility
Public Works
Reclamation
Recreation and Parks
Sanitation, Waste Water

In the course of the Committee's reviews, the following agencies and locations were visited:

- California Highway Patrol - Dispatch Center
- County Fire Districts in Rancho Cucamonga, Rialto and Yucca Valley
- Cities, towns, and districts: 29 Palms, Apple Valley, Colton, Needles, Hesperia, Newberry Springs, Ontario, Rancho Cucamonga, Rialto, San Bernardino, Upland, Victorville, Yucaipa, and Yucca Valley

- City Managers in Ontario and Yucca Valley
- ConFire Dispatch Center in Rialto
- County Fire Districts and City Fire Departments in Rancho Cucamonga, Rialto, Yucca Valley, Hesperia and Ontario
- Finance Directors in Apple Valley, Ontario and Yucaipa
- Inland Counties Emergency Medical Agency, joint with Inyo and Mono Counties
- Mayor of Upland
- Rancho Cucamonga Animal Care and Adoption Center
- San Bernardino County Fire Chief
- Victor Valley College Police Department

The following reports are being issued:

- Prehospital Emergency Medical Services
- Rancho Cucamonga Animal Care and Adoption Center
- Victor Valley College Police Department

PREHOSPITAL EMERGENCY MEDICAL SERVICES

BACKGROUND

Grand Jury members have observed commercial ambulances, public agency ambulances, fire engines, fire trucks, and various combinations of these resources respond to medical aid emergency 9-1-1 calls. Wishing to understand why a fire engine shows up when there is no fire, why in some areas a commercial ambulance responds while in other areas a fire department's ambulance responds, and if these different practices have different impacts to taxpayers, the Grand Jury decided to investigate. This investigation involved reviewing:

- The Emergency Medical Services (EMS) system
- The local implementation and oversight of EMS
- EMS communications and dispatching processes

In 1966, the National Highway Safety Act charged the U. S. Department of Transportation with developing emergency medical services systems standards and with assisting the states to upgrade the quality of their prehospital emergency care. This act, along with the 1973 Emergency Medical Services System Act, guided the early years of EMS growth at the regional, state, and local levels. Prior to 1980, California did not have a central state agency responsible for ensuring the development and coordination of EMS programs. In 1980, California's Emergency Medical Services System and Prehospital Emergency Care Personnel Act (SB 125) was signed creating the state's Emergency Medical Services Authority and adding Division 2.5 to the California Health and Safety Code.

FACTS

Local Implementation and Oversight of EMS

Division 2.5 of the code allows each county to develop an emergency medical services program, and requires the county to designate a Local Emergency Medical Services Agency (LEMSA). The Inland Counties Emergency Medical Agency (ICEMA) is the LEMSAs for San Bernardino County. ICEMA is a joint powers agency in a partnership with Inyo and Mono Counties.

Section 1797.222 of the Health and Safety code states: *“A county, upon the recommendation of its local EMS agency, may adopt ordinances governing the transport of a patient which is receiving care in the field from prehospital emergency medical personnel...”* It also requires: *“The ordinances shall, to the extent possible, ensure that individual patients receive appropriate medical care while protecting the interest of the community at large by making maximum use of available emergency medical care resources.”* When such ordinances are enacted, ICEMA is responsible for their implementation and oversight. ICEMA’s mission statement is to *ensure an effective system of quality patient care and coordinated emergency medical response by planning, implementing and evaluating an effective emergency medical services system including fire department and public ambulances, prehospital providers and hospitals, including specialty care hospitals, such as trauma and cardiac care hospitals.*

ICEMA is empowered per section 1797.224 of the code to *“create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan.”* Within San Bernardino County ICEMA has established 27 Exclusive Operating Areas (EOAs) for ambulance services designated as urban, rural, or wilderness areas. Ambulance services for these areas are provided by private companies or public fire departments. All private providers are required to enter into a performance-based contract; with the appropriate oversight agencies public providers are required to enter into a Memorandum of Understanding (MOU) with ICEMA.

Private providers are not awarded using a bid price methodology, nor has ICEMA performed an economic evaluation of the EOAs. EOA contracts are awarded based upon level of service commitments and guarantees offered by bidders without income to the County. ICEMA does, however, charge an oversight fee for administrative costs. ICEMA limits the maximum amount EOA contractors may charge the public for their services since they operate as local monopolies. Awarded contracts contain a detailed methodology for ensuring compliance with ICEMA policies and procedures by the contractor with an emphasis on response time compliance, and provide for financial penalties for non-compliance. ICEMA compiles and publishes an annual report for all performance-based contracts within San Bernardino County.

Not all areas of the County are included in EOAs. The Health and Safety Code allows cities and districts which contracted for, or provided as of June 1, 1980, prehospital emergency medical services to be continued at not less than the existing level until such time as they have requested and entered into an agreement with the County. Cities and districts wishing to continue providing their own ambulance services do so by not entering into a contract with the County. This is the avenue by which some cities and

districts are still found providing public agency ambulance services within their local boundaries. These agencies, although not ICEMA administered EOAs, are bound by a MOU to comply with ICEMA policies and procedures including medical protocols and certain data reporting requirements, such as incident response times.

Individual agencies record and report their response times differently. In recognition of these data inconsistencies and other associated problems, ICEMA is moving toward the Countywide adoption of a single software package which will capture response times in a consistent manner, record patient care information, facilitate the electronic transfer of data, and other useful functions.

EMS Communications and Dispatching Processes

Within San Bernardino County all 9-1-1 calls, cell and landlines, are routed to a law enforcement agency. If the caller is requesting medical assistance, the law enforcement call center transfers the call to one of several fire and medical aid dispatch centers, based upon the location of the incident. One such center is the Consolidated Fire Agencies of the East Valley in Rialto, also known as “ConFire.”

ConFire answers calls by following a uniform computer-based script. Following the script allows for the gathering of basic information about each incident such as a callback phone number, the incident location and the nature and seriousness of the problem. Collecting this information can be difficult because of a chaotic scene and caller stress and anxiety. Based upon the information provided by the caller, the system assigns a “determinate code” indicating, on a graduated scale, the nature and seriousness of the incident.

ConFire does not make dispatching decisions about what resources to send to a particular incident. Rather, it executes the pre-defined plans of each supported agency based upon each incident’s specifics.

Historically, in accordance with the Health and Safety Code, all medical aid calls have been processed as high-level life-threatening incidents. The EMS system is required to “*ensure that individual patients receive appropriate medical care... by making maximum use of available emergency medical care resources.*” ConFire and the County’s Fire Chiefs are defining and implementing process changes which will allow for dispatching resources at a level dictated by the patient’s medical care requirements.

ConFire achieved accreditation from the National Academies of Emergency Dispatch in February of 2011. Fire professionals agree this is a significant

accomplishment. Maintaining accreditation requires ongoing quality control reviews to ensure the thoroughness of data collected. With effective data, accurate determinate codes are assigned, and a member agency's response plans can be individually linked to these codes. With reliable codes, ConFire's agencies can now review their dispatching plans for efficiency improvements. Implementation of proposed changes will require approval by each agency's governing body.

Possible improvements may include dispatching a basic life-support ambulance, responding without lights and sirens, for a simple non-life-threatening transport; this as opposed to both an ambulance and paramedic fire engine responding with lights and sirens. For non-life-threatening responses, not only would the patient receive the appropriate level of medical care, but responders would not be unnecessarily endangered. Such changes may facilitate certain cost savings by reducing the number of personnel at some incidents, reducing equipment related expenses, and operating supply costs. In life-threatening incidents, when getting appropriate personnel on the scene quickly is essential, dispatching multiple units may still be appropriate.

Accounting for Ambulance Services

Cities and districts which have retained ambulance transport as a component of their agency's service may charge their patients in accordance with ICEMA established rates.

In financial reporting by cities and districts, the incremental revenue generated from ambulance service's billings is generally found clearly highlighted. Costs associated with cities and districts providing medical aid services, and even more discreetly the costs for providing ambulance services, were not identified separately in reviewed financial documents.

For cities or districts utilizing private ambulance services, there are no accounting issues or a public agency financial impact.

Ambulance Service Subscription Programs

Some cities and districts offer an ambulance subscription program. The program offers membership for property owners who may pay for all or part of their ambulance fees. The Grand Jury was unable to determine whether these programs are cost-effective.

FINDINGS

1. Reporting of EMS response times is not standardized throughout the County. However, improvements in ambulance response time measurements are being implemented to ensure public safety objectives are maintained. This is being accomplished via a Countywide adoption of a software package, which is being adopted nationwide.
2. ConFire’s gaining accreditation was a key stepping stone to enable the members and contracted agencies to pursue updates for their EMS resource response plans.
3. ConFire is the only dispatch facility in the County accredited by the National Academies of Emergency Dispatch.
4. Some fire management personnel within the County recognize not all medical emergencies require dispatching a large number of resources.

COMMENDATION

The Grand Jury commends the Consolidated Fire Agencies of the East Valley for achieving and maintaining accreditation from the National Academies of Emergency Dispatch, along with the participating Fire Chief’s efforts for enabling paradigm shifting changes to prehospital emergency medical service’s resource response plans.

RECOMMENDATION

- 13-1. Continue to work toward achieving a standard response time measurement through adoption of the software package. (Finding 1)

Responding Agency	Recommendations	Due Date
ICEMA Administrator	13-1	09/28/13

RANCHO CUCAMONGA ANIMAL CARE AND ADOPTION CENTER

BACKGROUND

In December 2012, the Grand Jury received a complaint alleging cruelty to animals at the Rancho Cucamonga Animal Care and Adoption Center (RCAC). Some of the allegations did not fall within the purview of the Grand Jury.

The original complaint allegations concerning the operation of RCAC were as listed below:

1. Dogs confined to crates for long periods of time without exercise.
2. Staff discharging firearms on the RCAC grounds in violation of City Code Ordinance 9.04.010.
3. Funds raised at charity events were not used exclusively for the benefit of animals by RCAC.
4. Claims of a higher rate of adoption than was actually experienced.
5. Off-site animal adoptions, dog training classes and other programs have been reduced or discontinued.

FACTS

In 1998, the California Legislature enacted Senate Bill 1785 (SB 1785), also known as the Hayden Law, in an effort to reduce the rate of euthanasia of animals in California's animal shelters and to facilitate adoption and owner redemption of animals as alternatives to euthanasia, while improving the overall living conditions of animals entrusted to the care of those shelters. SB 1785 indicates the Legislature's intent by establishing standards of care for animals in California's animal shelters,

- Imposing mandatory holding periods for stray animals to allow owners to find lost animals or for adoption,
- Requiring that all animals be scanned for microchip identification upon impound,
- Actively promoting adoption either to individuals directly or through rescue groups, rather than euthanasia. Provisions of the Hayden Law are codified in the California Food and Agricultural Code, Civil Code and Penal Code.

The RCAC was constructed in 1993 and at the time was managed by San Bernardino County. In 2005, the Rancho Cucamonga City Council authorized the city taking over the animal program from the County. In 2006, city staff was hired and renovation was completed. RCAC officially opened May, 2006.

Grand Jury Investigation

1. The Grand Jury made three separate visits to the RCAC. The first visitation was on February 13, 2013, during an Open House. The purpose of the Open House was to stimulate interest in adopting a pet and for the community to observe the day-to-day operation.

The second visit by the Grand Jury was with the Director of RCAC before it was open to the general public on March 8, 2013. A tour of the facility led by the Director was given including the cleaning of cages, feeding, exercise yard and adoptions areas. The Director answered all questions regarding the operation of the center. These questions included financial reports, rehabilitation and training of all types of dogs not concentrating on one breed, fund raising events for the benefit of all the animals, foster care of newly born kittens and pups, euthanasia and future plans for RCAC.

The third visit was unannounced and took place April 2, 2013. During this visit the Grand Jury toured the facility led by an officer. The Grand Jury observed cleanliness of the facility, the personal care given all animals, outreach programs, accounting of funds, rehabilitation/training of all breeds of dogs, which are well within compliance with the Hayden Law. It was noted that cats were released from their cages and placed in “free roaming rooms.” The rooms were also used to showcase cats for adoption. There were accommodation rooms for cats with surgeries or disabilities. There is a fenced-in area in the main lobby where rabbits could exercise. All cats, rabbits and other animals had beds or blankets for comfort.

On all three visits the Grand Jury saw animals in stainless steel crates and dogs in outside and inside concrete-floored kennels. Each cage or kennel had either a built-in hammock-type bed, or blankets and towels provided for comfort. Each cage or kennel had food and water, floors were washed and blankets or towels were frequently changed. Each cage or kennel had sufficient height or floor space for the animals to stand up, sit down, and turn-about freely using normal body movements without the head touching the tops of enclosure and able to lie down with limbs outstretched.

Other provisions for the comfort of animals include:

- An outside yard is used for exercise. Staff members supervise the exercise of dogs in a covered, sand filled yard at least three days a week, with help from citizen volunteers.
- Like-sized dogs are grouped together for exercise and play.
- During the noon hour people from the community, including employees, come to the center to walk dogs.
- The dog play area when not in use for exercise is devoted to training and rehabilitation, and a meet-and-greet with potential adopters.
- The Center has a program called “No Dog Left Behind” where dogs who do not play well with others are given a chance to exercise alone. No animals were observed being mistreated.

At no time during the three visits, announced or unannounced, was adverse action toward animals, caged or free-roaming, observed. The cages were clean and size-appropriate and blankets or towels were provided for comfort and warmth. The center has industrial washers and dryers in use 12 hours per day for blankets and towels. The washing, drying and folding of the blankets are maintained by a group of special needs volunteers. No animal appeared sick or underfed. There were volunteers or a staff member in all areas inspected by the Grand Jury. A veterinarian and veterinarian technicians are on staff and were present for evaluation of in-coming animals.

2. The Grand Jury investigated the allegation of a weapon discharge on RCAC property. The only gun on the premises is a tranquilizer dart gun used for emergencies and is secured in a locked safe. The gun was used once at the center to control an aggressive animal during in-take two years ago. All staff are trained in usage of the dart gun at the City Yard as part of ongoing training and condition of employment. Due to the lack of evidence, the Grand Jury was unable to substantiate this allegation.

3. The Grand Jury investigated the concerns that monies were going to benefit Victoria Gardens Cultural Center versus the RCAC. Monies from outside events and personal donations are deposited in a 501(c)(3) umbrella organization with five other charities supervised by the Rancho Cucamonga Cultural Arts Foundation (RCCAF). Only RCAC personnel can withdraw from this account which is ear-marked for the RCAC. Monies collected from donations or funds raised for RCAC must be used for the benefit of the animals.

The RCAC holds monthly and yearly fund-raising events which netted approximately \$58,000 in 2012 and is added to the monies from the general fund and deposited in the RCCAF 501(c) (3) account. At the end of the fiscal year, after expenses are paid, the remaining balance is rolled-over for the next year.

The Grand Jury received and reviewed a copy of the City of Rancho Cucamonga's fiscal year 2012-2013 Annual Budget Summary for Animal Care and Services. It should be noted that each year the RCAC receives a budget line item of approximately \$2,000,000 from the City General Fund to operate the center. This money is allocated for full time employee's salaries, overtime, benefits, operation and maintenance. The center has 29 employees. It has been documented that volunteers donated approximately 10,000 hours in 2012. The center's management recognizes the volunteers as a valuable resource in the day-to-day operations of RCAC.

4. The Grand Jury received published documentation of statistics presented to the City referencing the RCAC field officer calls, licenses sold, intake of live animals, adoption, and euthanized animals. Included in the statistics are birds, hamsters, rabbits and wildlife returned back into the wild after being rehabilitated.

Total animal intake for 2012 were 5,390 of which 785 were euthanized for various reasons, i.e. sick, injured or overly aggressive animals who could not be trained or rehabilitated. Adoption rate was 84%.

5. The Grand Jury found no evidence during the visits that programs such as "play day" for dogs were reduced or discontinued. RCAC is continuing off-site adoption promotions and implementing more community outreach programs. RCAC is targeting low-cost spay and neuter days and no-cost microchip clinics. These costs are funded from the \$58,000 raised from donations and charity events sponsored by RCAC.

FINDINGS

1. Dogs are not confined to cages for long periods of time.
2. There is no evidence of a weapon discharged on the RCAC grounds.
3. Funds raised and donations to RCAC are directed exclusively to the RCAC account.
4. Adoption rates are accurately reported by RCAC.
5. Programs promoting the RCAC have not been discontinued or deleted.
6. Management, staff and volunteers, exhibit professionalism and commitment in the operation of RCAC.
7. RCAC is transparent in its operation.

VICTOR VALLEY COLLEGE POLICE DEPARTMENT

BACKGROUND

The Grand Jury received a citizen's complaint regarding the Victor Valley College (VVC) Police Department. The Grand Jury investigated whether the VVC Police Department was in compliance with applicable laws and regulations.

VVC is located in Victorville with enrollment in excess of 10,000 students and a commensurate level of faculty and staff. The campus operates from early morning hours to late evening hours. Additionally, the campus frequently serves as a location for community events and cultural activities. The VVC Police Department is responsible for security and safety for its students, faculty and visitors.

FACTS

The Peace Officer Standards and Training (POST) Program is voluntary and incentive-based. Participating agencies agree to abide by the standards established by POST. More than 600 agencies participate in the POST Program and are eligible to receive the Commission's services and benefits. Currently, the VVC Police Department is not a POST participating agency but operates as a department in voluntary compliance with POST standards.

California Penal Code Section 832.3(f) requires that police officers employed by a California Community College district complete a basic course of training prescribed by POST before exercising the powers of a peace officer. There are currently two classifications of officers assigned to the VVC Police Department: Police Officer and Public Safety Officer. Public Safety Officers do not have "peace officer" status and are assigned lesser duties. Public Safety Officers are not required to complete a basic POST training course. Currently all of the police officers employed by VVC Police Department have completed the basic training course prescribed by POST.

FINDINGS

1. VVC Police Department is complying with legal requirements that police officers complete a basic POST training course.
2. VVC has been working with POST to attain participating member status for the agency. Member status will enhance training resources and opportunities for VVC Police Officers.

RECOMMENDATIONS

13-2. The Board of Trustees completes the application process in order for the VVC Police Department to become a participating POST agency. (Findings 1, 2)

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Due Date</u>
Victor Valley College Board of Trustees	13-2	08/28/13



COMPLAINTS



COMPLAINTS

The Grand Jury receives citizen complaints throughout the year. Every complaint is reviewed and a determination is made regarding the jurisdiction of the Grand Jury and each particular complaint.

If jurisdiction is confirmed and the complaint warrants investigation, it is assigned to an appropriate committee. At times, an ad hoc committee is formed to investigate specific complaints. The complaint would then be investigated and the outcome reported to the Grand Jury.

The process to submit a complaint is to obtain a Confidential Citizen Complaint Form from either the Grand Jury website or by calling the Grand Jury office. Once completed and signed, the form is returned to the office. Although the Grand Jury normally does not investigate unsigned complaints, depending on the issue, it may conduct an investigation from an anonymous source.

The 2012-2013 Grand Jury received 30 new complaints and seven were referred from the 2011-2012 Grand Jury. Of those 37 complaints, 25 were assigned and investigated, with six of those investigations included in this Final Report. Nine complaints were not within the jurisdiction of the Grand Jury and the additional three are being referred to the 2013-2014 Grand Jury.



COUNTY
COMMITTEE



COUNTY COMMITTEE



Back row: Rosalio “Rosie” Hinojos, Allen “Skip” Burt, Richard L. Skeate
Front row: Jan Flammang, Dianne D. Tolbert, Marilyn Tolone, Ever Marie James



COUNTY COMMITTEE

INTRODUCTION

This committee has responsibility for dealing with County government matters. It reviews agendas and notices of public hearings. Whenever possible, attend meetings randomly to ensure that the interest of the public is represented and that Government Code sections with regard to open meeting laws are being followed.

The following public officials and departments are within the purview of the County Committee:

- Airport
- Assessor/Recorder/County Clerk
- Auditor/Controller-Treasurer/Tax Collector
- Board of Directors
- Board of Supervisors
- Central Collections
- County Administrator
- County Clerk – Elections
- Data Processing
- General Services
 - Building – Grounds
 - Emergency Services
 - Garage
 - Printing
 - Purchasing
 - Real Estate
 - Risk Management
 - Human Resources – Civil Service
- Permit and Resource Management Department
 - Public Works
 - Water Agency

The following departments and agencies were visited and reviewed:

- Arrowhead Regional Medical Center
- Assessor/Recorder/County Clerk
- Board of Supervisors
- County Administrator

- County Audit Meetings
- Human Resources Department
- Mail Services/Printing/Purchasing
- Public Works – Solid Waste Management
- Public Works – Transportation
- Real Estate Services
- San Bernardino County Sheriff Department
- SANBAG
- Workforce Investment Board

Final Reports were issued on the following:

- Arrowhead Regional Medical Center - Pediatric Trauma Act
- SAFE Call Box Programs
- Workforce Investment Board

ARROWHEAD REGIONAL MEDICAL CENTER PEDIATRIC TRAUMA ACT

BACKGROUND

The Pediatric Trauma Act of 2006 authorizes a county to establish a Maddy Emergency Services Fund to be used to reimburse hospitals for patients who cannot pay for emergency medical services. The Maddy Emergency Services Fund was originally created by Senate Bill (SB) 12 in 1987.

FACTS

The Pediatric Trauma Act was implemented in 2007. This fund was set up to collect revenue associated with implementation of SB 1773, Chapter 841 of the Statute of 2006. This allows counties to collect an additional two dollars for every ten dollars including various fines, penalties, forfeitures and primary violations collected by the San Bernardino Court and deposited into the Maddy Fund.

One of the Pediatric Trauma Centers in San Bernardino County is located at Arrowhead Regional Medical Center (ARMC). The other is Loma Linda University Children's Hospital (LLUCH).

In Fiscal Year 2008-2009, the Maddy Fund contained approximately \$95 million from the State of California.

The Inland Counties Emergency Medical Agency (ICEMA) is the local Emergency Medical Services Agency for the counties of San Bernardino, Inyo and Mono. ICEMA has the responsibility to ensure pediatric patients receive specialty-care in hospitals, such as trauma centers, and hospitals for the citizens of those counties. Revenues are recognized and budgeted directly within the ICEMA special revenue budget unit to cover anticipated program expenditures. The County of San Bernardino Board of Supervisors has approved an agreement with the ICEMA for \$312,179 in Emergency Medical Services Pediatric Trauma Funds. This fund was applied to new medical devices, training and safety equipment for ARMC. The funding averages \$300,000 to \$400,000 per year. ARMC spent all but \$18.00 on equipment and training to Pediatric Trauma.

In 2012, \$55 million was received from the Maddy Fund and given to several hospitals statewide, based on population. LLUCH received \$1.2 million for their Level One Trauma Center. Level One and Two Trauma Centers focus specifically on pediatric trauma patients. These two Levels are required to have additional pediatric specialties, and research and training facilities. Trauma Center designations include Levels One through Four. Pediatric Trauma Centers are designated only as Level One or Two. ARMC is working toward becoming a Level One Pediatric Trauma Unit.

State grants are difficult to obtain due to the fact that hospitals are based on Pediatric Trauma Center designated levels. When grants are approved and distributed within the state,

LLUCH (Level One facility) receives a larger grant. Smaller grants are given to hospitals which are a Level Two.

Maddy Fund Allocations are approved annually by the State Legislature and ARMC is anticipating the same amount that was distributed to them in 2011-2012. All monies received need to be approved by ICEMA to purchase equipment for pediatric trauma.

Riverside County and ARMC both refer special needs cases to LLUCH Trauma Center.

ARMC's emphasis is currently on upgrading staff training and facilities for Pediatric Trauma to treat victims of earthquakes, epidemics and other disasters.

CONCLUSION

ARMC Pediatric Trauma is well run and all funds received are properly utilized.

In December 2012, the American Colleges of Emergency Physicians (ACEP) newsletter stated, "So far, 50 California counties have established Maddy Funds. Some of those counties have been aggressive about collections, accounting and distribution. But others have done a poor job of collections or accounting, which means that not all of the monies are properly distributed or distributed at all." In San Bernardino County, ARMC utilized the funds efficiently.

Maddy Funds were spent on equipment needed for the pediatric unit at the hospital. Examples of equipment include a hand-held ultrasound machine and three noninvasive ventilators.

ARMC utilized the Maddy Fund to purchase equipment to improve the quality of care for pediatric patients.

SAFE CALL BOX PROGRAM WHERE OUR DOLLAR* GOES

BACKGROUND

The 2012-2013 Grand Jury conducted a study of San Bernardino County's Service Authority for Freeway Emergencies (SAFE) Call Box Program since little was known about it or how it functioned. With the proliferation of communication devices available to the motoring public, the continued need for call boxes was questioned. Also of concern was how the decline in call box usage affected the funds required to administer this program.

On January 1, 1986, Senate Bill 1199 was enacted to provide the basic format for the formation of SAFE Programs. It outlined governmental responsibilities, revenue generating policies and prescribed locations for call box placement. Call boxes enable traveling motorists to report an accident or obtain emergency assistance should they become stranded.

San Bernardino Associated Governments (SANBAG) was designated in 1986 as the agency to administer the SAFE Call Box Program for San Bernardino County. SANBAG is made up of mayors and city council members of the 24 cities within San Bernardino County, as well as all members of the San Bernardino County Board of Supervisors. The SAFE Call Box Program is funded by a \$1 fee* that is assessed annually by the California Department of Motor Vehicles on all vehicles registered within the County.

METHODOLOGY

Grand Jury members interviewed officials from SANBAG to discuss the structure, operations and expenditures of this program. In addition, the Professional Communications Network (PCN) Call Answering Center (CAC) and the California Highway Patrol Inland Communications Center (CHP-ICC) were toured to obtain an insight as to how SAFE Call Box calls were handled.

Grand Jury members also reviewed the California Streets and Highways Code, Section 2550-2559, which authorizes the formation of the agency to establish and maintain the SAFE Call Box Program. Other information reviewed included SANBAG's Budget for Fiscal Year 2012-2013 Report, SANBAG's Budget Appendix for Fiscal Year 2012-2013 Report, SANBAG's Web Page, Senate Bill 1199, enacted on January 1, 1986, and Senate Bill 565, enacted on October 8, 1991.

FACTS

The SAFE Call Box Program is one of SANBAG's Air Quality and Mobility Programs. Although this report addresses only the SAFE Call Box Program, the other programs include Intelligent Transportation Systems, Rideshare and Commuter Services, Clean Fuels, and Freeway Service Patrol. The SAFE Call Box Program is administered by the Director of Management Services, SAFE Call Box Program Coordinator and two analysts. Outside contractors are hired on a competitive basis to provide the necessary services required to operate and maintain this program. This includes maintenance, knockdown recovery, call answering, and cellular services. In addition, liaison support from the CHP in Sacramento is also accomplished on a contract basis.

There are approximately 1,200 call boxes along 1,800 centerline highway miles throughout San Bernardino County. The spacing of call boxes range from one-quarter mile intervals in high volume traffic areas, to two mile intervals in more remote locations. Each call box contains a battery-powered, solar-charged cellular telephone which operates on a digital cellular signal. Each call box is equipped with a large antenna powered by solar energy, which provides a reliable power source, and will receive a cellular signal in areas where regular cell phones may not be able to receive a clear signal. Call boxes are in compliance with the Americans with Disabilities Act (ADA) and are equipped with Teletypewriter (TTY) devices to assist those motorists with hearing or speaking disabilities.

When a motorist opens the door to a call box, he/she has the option of utilizing the TTY device or the telephone to communicate with a CAC Dispatcher. Calls that involve an emergency such as fire, accidents and/or medical assistance are transferred to the CHP 911 Dispatch Center. All other calls requesting roadside assistance such as mechanical failure, flat tire or any other roadside problems are dispatched to an appropriate agency. The CAC has bilingual operators available should the motorist not speak English. Spanish translators are the most in demand. Other translators are available if the need arises.

Due to the broad availability of cell phones, as well as other personal communication devices that are now available to the motoring public, call box usage has declined drastically. During fiscal year 2007-2008, a total of 26,645 call box calls were placed as compared to a total of 15,969 for fiscal year 2011-2012. This represents a 40% decline in call box calls for this timeframe. These figures are based on SANBAG's Fiscal Year Summary Call Type Report, shown as Appendix A.

Revenue from SAFE vehicle registration fees for fiscal year 2010-2011 totaled \$1,628,049 and actual program expenditures for this same period totaled \$1,080,517. The funding surplus of \$547,532 was utilized to help fund other Air Quality and Mobility Programs. Senate Bill 565 allows for the use of SAFE funds, which are in excess of the amount needed for call box

programs, to be used for additional motorist aid services or support. The largest expenditure during this timeframe was for Professional Services, which totaled \$772,323 or approximately 71% of the total program expenditures. The line item for Advertising Expenditures indicates there were no funds spent in this category during this timeframe. Revenue and expenditure figures are based on SANBAG's Budget Fiscal Year 2012-2013 Report, shown as Appendices B and C, respectively.

Administrators of the SAFE Call Box Program realize call box usage is declining and are pursuing new technology that will continue to make the call box useful for the motoring public. New technologies being reviewed include retrofitting the call boxes to provide traffic census, pollution monitoring, hazardous weather detection monitoring, and closed circuit video surveillance.

FINDINGS

1. The SAFE Call Box Program is not publicized adequately to inform the motoring public of its existence and/or its funding.

COMMENDATION

The 2012-2013 Grand Jury wishes to commend SANBAG's SAFE Call Box Program for its exceptional management of the Program. With the decline in call box calls, they are being proactive in pursuing new technology to utilize the existing call boxes in ways that will continue to assist the motoring public. We also thank them for providing all requested documentation, some of which is included in this report, and for facilitating our visits to the PCN-CAC in Riverside and the CHP-ICC in Fontana. The staff at the PCN-CAC welcomed our visit and provided us with an excellent overview of their role in the administration of the SAFE Call Box Program. During our tour, we observed the operators handling incoming calls in a professional manner and negotiating through their video screens with little effort as they obtained the necessary information from the callers. It is safe to assume that not all motorists have communication devices available to them, or if they do, a clear signal may not always be available. This makes San Bernardino County's SAFE Call Box Program a vital public safety service.

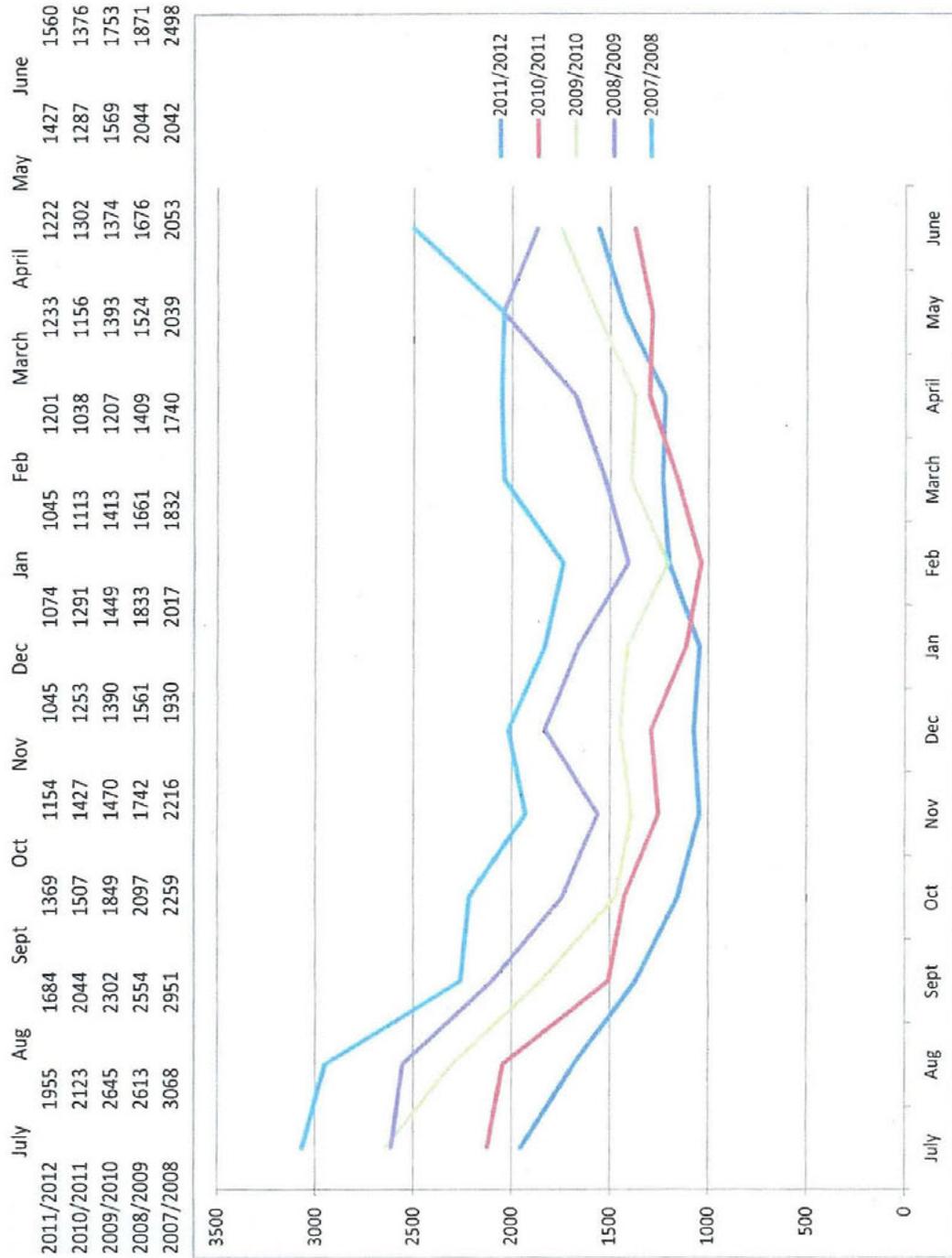
RECOMMENDATIONS

- 13-3. Publicize, in conjunction with the California Department of Motor Vehicles, the SAFE Call Box Program with an informational card that is included with the yearly registration notice that is mailed to County motorists. (Finding 1)

13-4. Publicize, in conjunction with the California Department of Motor Vehicles, the SAFE Call Box Program with informational posters at all California Department of Motor Vehicles locations within San Bernardino County. (Finding 1)

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Due Date</u>
SANBAG Director of Management Services	13-3 and 13-4	08/28/13

APPENDIX A



Number of Call Box Calls Monthly Over the Last 5 Fiscal Years

APPENDIX B

San Bernardino Associated Governments			
Estimated Revenues			
Fiscal Year 2012/2013			
Category of Revenue	2010/2011 Actual	2011/2012 Revised Budget	2012/2013 Budget
Grants and Other Revenue			
Congestion Mitigation and Air Quality	16,587,911	32,836,066	18,392,359
Federal Demonstration Funds	-	5,311,818	10,972,781
Federal Transit Administration	773,387	-	-
Traffic Congestion Relief Program	3,177,999	4,883,104	7,494,743
Proposition 1B Traffic Light Synchronization	-	204,713	-
Corridor Mobility Improvement Account	99,437	2,918,220	16,154,591
Public Trans Modern, Improve & Svc Enhance Acct	-	-	70,069
Transportation Enhancement Activities	-	2,641,000	1,162,000
American Recovery and Reinvestment Act	35,993,841	26,030,000	35,327,985
Regional Improvement Program	3,910,365	26,150,000	34,484,882
Trade Corridor Improvement Fund	-	41,200,000	110,862,474
Surface Transportation Program	77,892	16,436,200	46,010,289
State Highway Operational & Protection Program	-	339,000	300,000
Interregional Improvement Program	1,880,924	36,000	1,719,075
Public Utilities Commission	-	-	800,000
Department of Energy	1,844,820	2,438,326	3,108,450
Sales Tax Revenue Bond Proceeds	-	62,175,000	-
California Energy Commission	-	2,336,033	-
Project National & Regional Significance	1,324,332	9,107,500	21,504,764
Planning, Programming and Monitoring	1,200,000	1,200,000	1,300,000
SAFE Vehicle Registration Fees	1,628,049	1,500,000	1,684,950
Freeway Service Patrol/State	1,670,547	1,329,163	1,420,178
Rail Asset	458,773	250,000	400,000
Local Funds/Reimbursements	20,749,293	56,140,750	68,692,429
Other Revenue	5,311,193	1,486,000	1,398,810
<i>Sub-Total</i>	96,688,763	296,948,893	383,260,829
Local Transportation Fund			
Administration	450,000	450,000	850,000
Planning	1,626,966	1,907,555	2,372,339
Rail	91,416	8,250,000	19,462,950
Pass-Through	55,315,442	50,198,404	43,264,662
<i>Sub-Total</i>	57,483,824	60,805,959	65,949,951
State Transit Assistance Fund			
Rail	1,568	1,090,322	3,597,946
Pass-Through	586,226	9,702,087	10,504,006
<i>Sub-Total</i>	587,794	10,792,409	14,101,952
<i>Category of Revenue Continued on Next Page</i>			
SANBAG Budget Fiscal Year 2012/2013			29

APPENDIX C

Task 0702 Call Box System			
Budget Detail	2010-2011 Actual	2011-2012 Revised Budget	2012-2013 Budget
Expenditures			
Regular Full-Time Employees	54,786	63,814	48,816
Regular Part-Time Employees	1,100	-	-
Overtime	-	50	-
Fringe Allocation-General	47,533	55,677	44,540
Professional Services	772,323	369,500	685,000
Consulting Services	3,780	25,700	60,000
Program Management Fees	21,760	-	-
Legal Fees	1,615	4,000	-
Mountain Avenue Callbox	373	400	-
Maintenance-Motor Vehicles	-	120	120
Maintenance-Office Equipment	-	952,930	-
Maintenance-Call Boxes	-	159,650	-
Training/Membership	-	150	150
Postage	116	400	100
Travel Expense - Employee	393	4,150	4,150
Travel Expense-Mileage-Employee	211	620	620
Travel Expense-Mileage-Non-Employee	-	250	-
Advertising	-	1,000	-
Printing - External	-	500	500
Printing - Internal	-	150	150
Communications	95,245	136,077	92,000
Record/Equipment Storage	834	5,000	5,000
Office Expense	-	500	1,500
Meeting Expense	-	500	500
Indirect Allocation-General	77,303	99,279	83,112
Indirect Allocation-Project Management	3,145	-	-
Total Expenditures	\$1,080,517	\$1,880,417	\$1,026,258
Funding Sources			
SAFE-Vehicle Registration Fees			1,026,258
Total Funding Sources			\$1,026,258

SAN BERNARDINO COUNTY WORKFORCE INVESTMENT BOARD

BACKGROUND

The Workforce Investment Act (WIA) was signed into law on August 7, 1998. The WIA provides funding and the framework for a national workforce preparation and employment system designed to meet the needs of businesses, as well as job seekers and individuals who want to further their careers. Pursuant to the WIA, San Bernardino County was designated as a Local Workforce Investment Area (LWIA) for the operation of the workforce investment system.

The United States Department of Labor disburses the funds to the state which in turn provides the funds to the LWIA. The Governor of the State of California appointed the California Workforce Investment Board (State Board) to oversee the utilization of these funds at the state and local levels. The State Board's responsibilities include reviewing and approving Local Workforce Investment Act plans, certifying local Workforce Investment Boards (WIB), and ensuring the Boards comply with federal and state law membership requirements.

Under the WIA, the chief elected official establishes and the Governor certifies the local Workforce Investment Board. The WIB sets policy for the LWIA and provides for mandated programs in accordance with the WIA. The organizational structure for the San Bernardino County WIB was established by Resolution 2000-90 of the Board of Supervisors.

The San Bernardino County WIB, through the Department of Workforce Development (DWD), one of four departments within the San Bernardino County Economic Development Agency, operates programs which serve job seekers and businesses through three Employment Resource Centers (ERCs) located in San Bernardino, Rancho Cucamonga and Victorville. The DWD Executive Director operates under the direction of the WIB, as well as the DWD Economic Development Administrator. The WIB membership is comprised of 44 private business representatives and WIA mandated public partners who are appointed by the San Bernardino County Board of Supervisors. They are appointed for a two-year term and may be reappointed for additional two-year terms with no limit on the number of terms served.

The ERCs provide individuals with job training, job placement and the tools to strengthen their skills to achieve a higher quality of life. Other assistance provided to job seekers at each ERC includes skills assessment, job placement, vocational training,

resume and interview workshops, and career development mentoring. The goal is to assist job seekers in gaining the skills and training necessary to meet the needs of the local business community. The programs available at the ERCs continue to develop and grow depending on the needs of the businesses and their job seekers.

All programs provided by the WIB are funded by grants from the United States Department of Labor on a two-year funding cycle, with the latest being 2012-2014. Based on this funding, these programs are self-sufficient without funding provided by the County's General Fund. WIB programs include: the Adult Program, which serves anyone 18 years of age and over; the Dislocated Worker Program, designed for individuals who have been laid off; the Veterans Program, which trains and places recently-separated, as well as other veterans re-entering the work force; and the Youth Program, which provides programs for those between the ages of 14 and 21 who meet income requirements. Veterans are given first priority for assistance in reestablishing their careers as they return to the civilian workforce.

METHODOLOGY

Grand Jury members conducted interviews with WIB members and staff, and reviewed the following WIB publications:

- Workforce Investment Act of 1998
- County of San Bernardino Workforce Investment Board Policy Manual
- United States Code, Title 29, Section 2832, Local Workforce Investment Boards
- The County of San Bernardino Local Workforce Investment Board and Youth Council By-Laws
- WIB 2010 – 2011 Annual Report
- WIB Trial Balance sheets for Fiscal Years ending June 30, 2011, June 30, 2012; and mid-year for January 7, 2013
- WIB Budgets for Fiscal Years 2010-2011, 2011-2012, and 2012-2013
- Single Audit Reports for Fiscal Years ending June 30, 2010 and June 30, 2011
- WIB Expenditure Reports for Fiscal Years ending June 30, 2011 and June 30, 2012
- Individual Training Account Transactions from July 1, 2011 to June 30, 2012 and July 1, 2012 to March 31, 2013
- San Bernardino County WIB Strategic Plan 2012-2017

- Board Chair and Board Member Best Practice Packet, published by Nonprofit Alliance (NPA) at Kellogg Community College
- “Make Good Use of the Treasurer and Finance Committee,” by Kate Barr, Executive Director of Nonprofits Assistance Fund.

Grand Jury members also attended a WIB general meeting on January 7, 2013, and toured the Employment Resource Center located in San Bernardino.

FACTS

The State requires a monthly financial report accounting for the funding and allocations of the WIB programs. The County is also provided with monthly financial reports. Financial audits are completed on an annual basis with the latest audit having been completed for Fiscal Year ending June 30, 2011.

During their bi-monthly general meetings, WIB are provided a financial report detailing program expenditures by WIB staff, not the Fiscal/Contracts Committee. A general review of these reports is conducted with WIB staff, although not by line item. WIB members appear to review the reports to ensure the funds are being delivered appropriately to training programs. WIB staff prepares the annual budget, with little or no participation by WIB members. WIB member participation in the budget process is limited to review by the WIB Executive Committee. The Fiscal/Contracts Committee, which consists of six WIB members, does not participate in the WIB annual budgetary process. A special Fiscal/Contracts Committee meeting is held and WIB staff presents the prepared budget to committee members. Some members don't question the presented budget due to its being too confusing. However, other members will question how the funds are being spent and if they are on track to spend it. Neither the Fiscal/Contracts Committee nor the WIB reviews or approves any of the financial reports required by the State or County regarding program funding or expenditures. The WIB staff is responsible for filing all required WIB monthly financial reports.

Audit firms are selected by WIB staff and upon completion of an annual audit, only the audit's summary is reviewed by WIB members. WIB staff advises WIB members of any issues that may arise from a completed audit although in the past, only administrative issues have been noted and nothing regarding financial issues. The WIB staff also prepares all WIB financial reports required by the State and County, of which only a summary is reviewed by WIB members.

The United States Code, Title 29, Section 2832, Subdivision (d) states:

(A) Budget:

“The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.”

The County of San Bernardino Workforce Investment Board and Youth Council By-laws, Section 3.01, Section (F), states:

“The WIB shall develop a budget and may employ staff, subject to the approval of the BOS (Board of Supervisors), to provide for the execution of duties assigned it through these By-laws.”

Also, these By-laws describe the position of the Fiscal/Contracts Committee Chairperson as follows:

“The Fiscal/Contracts Committee Chairperson, who shall be the Treasurer, shall oversee the Fiscal/Contracts Committee and keep the WIB informed of the WIB’s financial status.”

The *Board Chair and Board Member Best Practice Packet* published by NPA, states in part:

“In order for board members to effectively carry out their fiduciary responsibility, they must be able to read and understand the financial statements that will be published periodically (typically monthly) by management. The members of the finance committee generally have a deep understanding of financial statements. They also will perform a more detailed review of the various elements of the statements and report their findings back to the full board.”

The “Make Good Use of the Treasurer and Finance Committee” article published by Kate Barr, Executive Director of Nonprofits Assistance Fund, states in part:

“Finance committees participate in budget planning, recommend fiscal policies, and discuss financial statements in detail. Finance committee members should do more than just look at reports, though. They should use a financial lens to consider the organization’s plans and challenges. The best finance committees help the staff and boards think through financial questions and develop options.”

FINDINGS

1. WIB members do not participate in the preparation of its annual budget.

2. WIB members do not participate in preparing or approving its monthly County or State financial program status reports. The WIB staff assumes this responsibility.
3. Some members of the WIB Executive Committee are unaware of WIB financial reports, such as the Trial Balance Sheets for Fiscal Year ended June 30, 2011 and June 30, 2012.
4. WIB Executive Committee members review only the summary portion of annual audits conducted on their programs and administration expenditures. They depend on WIB staff to advise them of any audit issues.

RECOMMENDATIONS

- 13-5. WIB staff conduct annual budget preparation workshops to increase member knowledge of financial statement basics and to increase member participation in the budget process. (Finding 1)
- 13-6. The WIB members, in conjunction with WIB staff, devote time during Board meetings as necessary to review all required governmental program financial reports submitted by WIB staff. (Finding 2)
- 13-7. The WIB staff conduct periodic informational sessions for members to review and explain Trial Balance Sheets, as well as all financial statements. (Finding 3)
- 13-8. The WIB members and WIB staff conduct on an annual basis, an informational session to thoroughly review completed WIB audits. The WIB’s external auditors be required to also attend the session and provide their input on the completed audit. (Finding 4)

Responding Agency	Recommendations	Due Date
Workforce Investment Board Chair	13-5 through 13-8	08/28/13



HUMAN SERVICES COMMITTEE



HUMAN SERVICES COMMITTEE



Back row: Robert O. Turley, Richard L. Skeate, Thomas Wilkin, Ernesto Armenta
Front row: Marilyn J. Trombetta, Sandra Shahn, Kristen Suzanne Atkinson, Marilyn Tolone,
Dianne D. Tolbert



HUMAN SERVICES COMMITTEE

INTRODUCTION

The Human Services Committee of the Grand Jury has the responsibility of investigating and reviewing social services in the County, including:

- Animal Regulations
- County Library
- Economic Department
- Fairgrounds
- Hospital
- Housing & Community Development
- Human Services
- Juvenile Hall
- Mental Health Services
- Nonprofit Corporations
- Parks & Recreation
- Public Health
- School Districts, including County Superintendent of Schools
- Veterans Services
- Weights & Measures

The following departments or agencies were reviewed:

- Department of Aging and Adult Services
- Department of Probation
- Department of Behavioral Health
- Children and Family Services

The Grand Jury examined a citizen issue involving a County department, finding the agency in question was in compliance with County policy.

The following reports are included in this Final Report:

- 10-Year Strategy to End Homelessness
- Alternatives to Detaining Juvenile Offenders
- Children and Family Services

10-YEAR STRATEGY TO END HOMELESSNESS

BACKGROUND

The Grand Jury investigated the progress to date of the 2007 10-Year Strategy to End Homelessness Report.

In part, the contents of this report revealed that a coalition of members came together spearheaded by the Fifth District Supervisor. The Supervisor was able to bring together colleagues, board members, County government agencies, mayors, and a host of faith-based and private organizations to support this mission. The formal name of the group was the San Bernardino County Homeless Partnership 10-Year Planning Committee.

In March 2008, after an exchange of ideas, the committee adopted 25 recommendations which read as follows:

- 1) Implement countywide homelessness prevention strategies to prevent individuals and families from becoming homeless.
- 2) Use funding from the American Recovery and Reinvestment Act of 2009, Homeless Prevention and Rapid Re-Housing Program (HPRP), for supplemental resources including rental assistance and utility assistance.
- 3) Implement a community outreach and education campaign that raises awareness about households at risk of becoming homeless and provides information about resources available through homeless prevention programs. The effort was to leverage the 2-1-1 System (Homeless Resources) for easy access when appropriate.
- 4) Formalize protocols and improve the coordination of discharge planning so that new persons do not find themselves living without social and economic supports.
- 5) Establish a Central Contact Center that would respond to community calls and concerns for traditional street outreach and engagement and/or assertive community treatment.
- 6) Expand Street Outreach and Engagement Services to include multi-disciplinary practitioners and services.

- 7) Expand Street Outreach and Engagement Services to include volunteers from various community groups.
- 8) Establish Regional One-Stop Centers which contain standardized intake and assessment with related protocols to guarantee consistency between regional centers. The social services to be included are: employment, healthcare, housing placement, mental healthcare, substance abuse counseling and treatment with coordination between private and public agencies.
- 9) Use a comprehensive tool that determines potential eligibility for mainstream resources and integrate this tool into the Homeless Management Information System (HMIS).
- 10) Appropriate case management services should be available to all homeless persons whether they are on the street, in emergency shelters or transitional housing or receiving permanent supportive services. Also, re-establish new Continuum of Care Programs which link case management with HMIS.
- 11) Develop and execute a rapid exit strategy focusing on early identification and resolution of the barriers to housing through case management services in order to facilitate the return of a homeless person to permanent housing as quickly as possible.
- 12) Implement a Rapid Re-Housing Approach for Households with dependent children.
- 13) Increase the number of emergency and transitional housing units.
- 14) Implement a Housing First Approach which is the belief that homeless families are more responsive to interventions and social services when living in their own housing.
- 15) Obtain more shelter plus care certificates. This housing assists homeless individuals and families with mental illness, chronic substance abuse and/or infected with HIV/AIDS with long-term affordable rental housing, and increases the participants' independent living skills.
- 16) Increase the number of permanent housing units with an emphasis on the development of Safe Havens. This includes apartment buildings, single and multi-family housing, single room occupancy and low-demand units requiring clients to abstain from alcohol and drug use and not to exhibit threatening behavior.
- 17) Encourage all local jurisdictions to adopt an inclusionary housing policy that requires a certain percentage of new housing to be affordable to extremely low and very low income residents.

- 18) Assess the feasibility of a Housing Trust Fund for County and local levels of government. Six counties in the State of California have created housing trust funds which support the production and preservation of affordable housing.
- 19) Expand the capacity of Homeless Management Information System (HMIS) so that agencies may make better use of data, decrease time and effort at intake and enhance the planning and development functions of the Continuum of Care. HMIS is a Congressional Housing of Urban Development (HUD) Directive for understanding the homeless and measuring program effectiveness.
- 20) Conduct periodic Homeless 101 Training concerning community issues such as:
 - a) law enforcement policies and homeless persons,
 - b) responses by residents, business employees, and homeless persons,
 - c) appropriate actions and responses by social service providers when contacted by the above-mentioned,
 - d) information distribution concerning resources and referral contacts.
- 21) Increase awareness of the collaborative Justice Courts and alternative sentencing programs for defendants experiencing homelessness. Courts included are: Homeless, Adult Drug, Mental Health and Veteran. This would be for the purpose of reducing state costs and ultimately improving public safety.
- 22) Implement and educate the community on the principles, goals and recommendations of this report.
- 23) Enlist the support of faith-based organizations to help implement the goals and recommendations of this report.
- 24) Create an Interagency Council on Homelessness for San Bernardino County charged with coordinating and evaluating policies concerning these recommendations and related activities within the plan.
- 25) Appoint the partnership members as an advisory body to the Interagency Council and appoint representatives as standing members to the Interagency Council.

INTRODUCTION

The Grand Jury reviewed the 10-Year Strategy to End Homelessness report in its entirety and agreed to follow-up on various components of the Planning Committee, conducting a number of interviews.

FACT 1

The Office of Homeless Services, Department of Behavioral Health (OHS) was created in 2007 as the result of the Board of Supervisor of the Fifth District. Their role is primarily administrative and to support the Homeless Provider Network (HPN), Interagency Council on Homelessness (ICH), faith-based and non-profit organizations. The agency also promotes, coordinates and ensures that the Continuum of Care encouraged by HUD is carried out by agencies providing homeless services.

Since establishment of the Homeless Services Division, HUD has required this agency to count on a biennial basis, a point-in-time estimate which has resulted in a lower number of the homeless population. Each city in San Bernardino County is now required to account for its own homeless population when requesting funds. The population of the homeless in 2007 was 7,331. This number includes all homeless, sheltered and unsheltered. In 2011, there were 2,876 individuals and families homeless; 1,692 unsheltered; 1,039 sheltered and 145 hotel/motel vouchers.

In an effort to obtain an accurate accounting of the homeless, hundreds of volunteers are solicited to participate in this activity. It requires the agency at least six months to coordinate this event.

The OHS participates with San Bernardino County Homeless Partnership in hosting homeless summits and providing information in bridging the gaps of homelessness. Twice a year, "Homeless Project Connects," a community organization, sponsors free on-site services, resources and referrals for low-income individuals and families. Also, there is no limit to the time that a homeless individual may reside in low-income housing. There is only a permanent housing supply as per HUD rules, especially if a person is disabled.

The OHS indicated that additional housing had increased since inception of the program. Also noted, there had been an increase in the number of emergency and transitional housing units. In addition, the Pettis Memorial Veterans Hospital located in Loma Linda works closely with veterans who have become homeless, servicing most of their needs.

An initial recommendation made by the 10-Year Planning Committee included implementing a management information system (data collected on the homeless). Since 2007, this implementation has been in place and administered by the Community Action Partnership (CAP).

San Bernardino County law enforcement agencies are participating in ongoing training, specifically crisis intervention. The San Bernardino County Sheriff Department has established a

direct line of communication for obtaining assistance for the homeless. There is a button mounted on the dashboard of their vehicles enabling them to contact the 2-1-1 Helpline System. The operators of this system are a part of United Way and provide information about various services available.

Since AB 109 was implemented, homeless individuals are referred to Homeless Court. The court works with the Probation and Sheriff Departments with re-entry providers for assistance.

The Continuum of Care is composed of agencies which apply for federal grant dollars on a competitive basis. Applications are made once a year. The OHS is responsible for contacting and monitoring agencies who submit applications for funding. The OHS is not a pass-through agency; instead the federal government transmits funds directly to the specific agency applying.

The OHS has been successful in receiving over \$8,000,000 during the past three years for the Continuum of Care agencies throughout San Bernardino County. Of the \$8,000,000, \$3,000,000 are for new programs and \$5,000,000 for renewal programs.

In 2009, the President of the United States signed the Homeless Emergency and Rapid Transition of Housing Act (HEARTH) formerly known as the McKinney-Vento Act established by HUD for Continuum of Care Programs. The funds provided are Emergency Solution Grants (ESG) and Emergency Food and Shelter Programs (EFSP) for food, which are directly from FEMA (Federal Emergency Management Agency).

In October 2012, the OHS supplied the Grand Jury with a report entitled: Recalibrating for Results: A Three-Year Evaluation of the 2009-2019 San Bernardino County 10-Year Plan to End Homelessness.

The evaluation was overseen by the San Bernardino County Homeless Provider Network Committee chairs in cooperation with the San Bernardino County Office of Homeless Services and the Institute for Urban Initiatives. The evaluation began January 2011 and ended June 2012. The 10-Year Strategy was adopted in 2009.

As a result of the initial recommendations 15 were renewed, expanded upon, folded into new recommendations and others were eliminated.

The amended recommendations included the following:

- 1) Adopt and implement Housing First Model

- 2) Community Outreach, Engagement and Treatment for chronically homeless individuals and families
- 3) Obtain Shelter +Care Certificates
- 4) Increase Permanent Supportive Housing Beds
- 5) Carry out Veterans Affairs Supported Housing (VASH) Vouchers
- 6) Implement Rapid Re-Housing Strategy
- 7) Target Homeless Prevention Resources and Services
- 8) Implement a Community Outreach and Education Campaign concerning those at-risk of homelessness
- 9) Formalize protocols and improve the coordination of discharge planning
- 10) Ensure access to Mainstream Resources
- 11) Expand Homeless Management Information System (HMIS)
- 12) Conduct periodic Homelessness 101 Training for law enforcement personnel
- 13) Implement Coordinated Assessment and Access system for assessing homeless services and needs
- 14) Increase Permanent Affordable Housing
- 15) Increase opportunities for employment

FACT 2

The Homeless Provider Network (HPN) is composed of non-profit organizations, governmental agencies, community based organizations, and faith-based institutions working together to deliver homeless related services. HPN participates in monthly meetings and operates under established bylaws which are reviewed annually.

HPNs are not specifically monitored; however, any agency participating in the Continuum of Care and receiving funding must be in compliance with the requirements of HUD.

One of the goals of the HPN is to reach out to other agencies and encourage them to become involved in this program. This is accomplished by word-of-mouth, linking into the County's website and networking.

The HPNs have been successful in reaching the homeless. This is demonstrated during their monthly meetings as each HPN showcases its accomplishments and report on the number of homeless they have impacted.

Also, the Grand Jury received information concerning the Point-In-Time Count activity. This was a count of the homeless scheduled to take place on January 24, 2013. The participants involved in this event include: police, code enforcement, services providers, non-profits, county and city employees, faith-based organizations, college students and a host of community volunteers.

FACT 3

The Homeless Management Information System (HMIS) is a central database operation wherein demographics and vital information collected by local participating agencies is maintained on the homeless entering the system.

All information the agency collects on the homeless is placed in a database. This information is to be kept current in order to satisfy HUD requirements. HMIS encourages local agencies to refine their use of this data in a timely manner. By doing so, this reduces time and effort in storing and retrieving client information.

HMIS is also responsible for furnishing computers and data equipment to the local agencies for tracking the homeless in the County of San Bernardino. Participating members are trained in the use of this equipment either on-site or at HMIS location in compliance with HUD criteria. HMIS is responsible for providing error record reports, changes it receives from HUD and forwarding this information to the local participating agencies. Although HMIS is the central location for maintaining data records on homeless clients, it is the local agencies responsibility to retain hard copies of this information as well. In addition, agencies are required to collect the following: intakes, assessments, case notes and service provider names. The time limit for maintaining these records at the agency level is seven years specifically mandated by HUD.

As a result of this record-keeping practice, additional housing will be provided. At present, the housing structure is as follows: emergency shelters, 24 hours; emergency housing, 30 days and transitional housing, two years.

FACT 4

In developing a 10-Year Strategy to End Chronic Homelessness political figures came together, including the Board of Supervisors, various county departments, city mayors and a host of other community partners, to support this mission.

In 2004, it was discovered there had not been a comprehensive approach in addressing the homeless issue. The Grand Jury found in the early stages of the process, resistance existed among various counterparts upon attempting to secure funds for homeless programs, and that Community Action Partnership (CAP) was an ongoing resource for providing funding for the homeless programs.

Since 2007, there has been a substantial increase in the homeless population. Today there are more single parents with children and the fastest and largest growing homeless population is single men with children.

2013 Point-In-Time Count

On January 9, 2013, members of the Grand Jury attended a two-hour evening training session conducted by the County of San Bernardino. The session was attended by approximately 45 participants. The attendees were instructed in the do's and don'ts of counting the homeless. Teams consisted of a lead person gathering the data on the homeless using the instrument provided; the counter who observes the numbers and a lookout who is watchful of the surroundings for all parties. The attendees were advised to be polite, respectful and safe in conducting this task.

On January 24, 2013, the Grand Jury braved the cold and rain to arrive at the designated deployment center at 5:30 a.m. After a brief meeting, volunteers were en-route to their assigned areas.

Over 400 volunteers participated in the local region. Once information had been gathered, supplies were provided to the homeless consisting of such items as soap, socks and other toiletries.

The results of this survey required by HUD will help the County of San Bernardino determine how they will be able to help the homeless exit life on the street and better serve the community.

Since 2007, the Grand Jury found a significant amount of information and effort has gone into the 10-Year Strategy Plan to End Homelessness. A number of County agencies and representatives, partners, private and faith-based organizations have provided their support to adhering to the initial 25-recommendations.

ALTERNATIVES TO DETAINING JUVENILE OFFENDERS

BACKGROUND

The Grand Jury conducted an overview of programs provided by the Probation Department focusing on juvenile offenders. The Chief of the Probation Department and management staff have made significant changes to align their system with modern practices in juvenile rehabilitation. Innovative programs designed to target first-time juvenile offenders and those at-risk of becoming an offender have been developed. The Grand Jury found the following juvenile community corrections programs warranted further review:

- Day Reporting Centers,
- Gateway Placement Program,
- Specialty Courts –Drug Court,
- Youth Accountability Boards.

Onsite visits, reviews and interviews with each administrative staff of the programs were conducted.

The County Probation Department supervised 3,593 juvenile offenders during 2011; 594 juveniles committed a new felony or misdemeanor while a current ward of the court (that is a recidivism rate of 8.49% of all wards of the court). In 2009, 13 minors were committed to the State Department of Juvenile Justice (DJJ). It is projected by the Department the numbers are trending toward a 30% reduction in DJJ commitments for 2012. The average daily population of juvenile detainees is 291.

All juveniles arrested in San Bernardino County and booked into a Juvenile Detention and Assessment Center are given a Correctional Officer-Offender Management Profiling Alternative Sanctions (COMPAS) assessment, which is an analysis of the immediate risks and needs of the minor. A probation officer is assigned the juvenile case and conducts a review prior to being processed through the formal Juvenile Justice Court system. This investigation is the basis for determining if the juvenile will be referred to a diversionary program or processed through the formal court. The decision is based upon the level of offense, juvenile history and a desire on the minor's part to change their plight. It is the goal of the department to determine the level of supervision most appropriate for the juvenile. The focus of the Probation Officer investigation is to evaluate the juvenile's risks and needs, including those of the family, in order to assist in preventing the juvenile from reoffending.

FINDINGS

Day Reporting Centers (DRC)

There are three centers in San Bernardino County:

- Montclair DRC,
- High Desert DRC,
- Central DRC.

This program requires the juvenile to report daily to the center for probation oversight and counseling. High school education, with courses approved by the National Curriculum and Training Institute, combined with vocational training is provided. Additional courses in substance abuse, anger management, parenting and life skills are offered. Family and individual counseling is available.

Personal and vocational skills such as cooking, horticulture, home repair and financial management are taught. General Education Development (GED) preparation and testing in lieu of achieving a High School Diploma is also available. Juveniles have been ordered by the Court to attend these centers for a specified period of time under Court identified terms and conditions.

There are two levels of classification at the DRC: Level One means they are not on formal probation. Level Two means they are on court ordered probation, which is further divided into informal and formal. Formal is a Summary Court order and a mandatory six month evaluation. Informal is a low level crisis situation, e.g. shoplifting, marijuana use, or destruction of property/damage for which the minor must pay restitution or serve community service hours. Formal probationary juveniles are usually not able to return to their school/district if they have been expelled from school for any number of reasons, e.g. fighting, weapons, or drugs.

The juvenile probationers must meet with their Probation Officer (PO) every 30 days. Minors who have been arrested for drug use or alcohol violations are required to give daily urine samples. The DRC is connected with the Wraparound Program which is designed to help a minor and family create stability in all areas of their lives and provide services which will fit their needs and culture.

Individuals in the House Arrest Program report to the DRC, helping to reduce the population of juvenile detention centers by providing a supervised in-home program. Both parent and minor agree to abide by the rules for the intensive supervision. These rules include: wearing a Global Positioning System tracking device; mandatory school attendance; and/or completion of behavior modification classes at the DRC.

Gateway Placement Program (Gateway Program)

The program was designed with the passage of SB 81 in 2007, which realigned the juveniles with specific offenses to the Juvenile and Probation Departments of the jurisdictions where the offenses had occurred. The juveniles start in Phase I in a juvenile detention facility where they have been sent by the Court. Phase II, is placement into a comprehensive diversionary program known as the Gateway Program. It has a 24/7 facility with a staff of 35 and a capacity for 40 candidates. The program consists of males only. There are no plans at this time for a program for females.

The participants must be between the ages 16 and 18 but can remain until age 19, if circumstances dictate. An individual can participate if on psychotropic drugs; however, cannot if diagnosed with a serious mental issue. An individual must be recommended by probation staff for the Gateway Program. A potential candidate is evaluated for educational aptitude and psychological readiness. Interviews are conducted by a committee of multi-disciplined staff at the juvenile detention center. This allows for a collective evaluation to determine their juvenile's potential for success in the program; not all juveniles are eligible.

There is a full-time teacher with a fully-equipped classroom for GED, continuation high school and college entrance preparation. It is a locked facility; however, the individuals are able to leave the facility under supervision after they have gone through transitional levels. They may be involved in Regional Occupational Program (ROP) vocational training in landscaping, which has a contract with San Bernardino County to provide landscaping services at various buildings. Earnings from the contract go into a Trust Fund for cultural activities and field trips which would not otherwise be available to the participants. AmeriCorp, the Urban Conservation Corps and the Workforce Development Department are partners with the Gateway Program to provide the participants with options for employment or vocational training.

Through a '*pass system*' and on an '*honor basis*,' participants may leave the Gateway grounds unsupervised to attend college classes or maintain employment. This intensive program is for 18 months. The juvenile is reviewed at 12 months and if all the requirements are met, i.e. GED and vocational training, he can be granted an early release at 15 months. When the program is completed, the juvenile could have additional months to serve out his probationary sentence. Follow-up contact for six months after program completion is performed to ensure the juvenile maintains the lifestyle changes.

The offender must be serious about changing his life to be successful in this program. He must be self-motivated because he will be going back into the same neighborhoods and cultural environments as before.

Specialty Courts – Drug Court

The Juvenile Drug Court is an intervention program for minors who are on probation and require strict monitoring to stay clean and sober. This program is a collaborative effort among professionals in the Juvenile Court, District Attorney’s Office, Probation Department, Public Defender’s Office and community treatment providers. The collaboration is focused on total support of the minor to maintain a drug-free life. Drug Court is designed with “The Drug Court Ten Key Components,” which cover the integration of alcohol and drug treatment services with the justice system, with frequently monitored drug testing. A coordinated strategy with other related treatment and rehabilitation services forges partnerships among the courts, public agencies and community-based organizations.

The Drug Court program was originally developed in 1989 by the Attorney General for the State of Florida. Drug Courts in the State of California are funded by Proposition 36, the Substance and Crime Prevention Act of 2000. It costs approximately \$60,000 per minor to be treated in a drug court versus approximately \$150,000 per year for incarceration. According to a UCLA study released in 2006, Proposition 36 is saving California taxpayers \$1.4 billion over a five year period.

Unique to this program is the active participation of the Drug Court team in the decision-making process regarding the juvenile’s judicial case. Minors are approached from a non-adversarial position and encouraged with moral support and incentives to complete the program. Before the Drug Court hearing, the judge will receive a progress report prepared by the Drug Court team showing drug testing results, school attendance, participation and cooperation in the treatment program. The judge asks questions and talks with the minor about any problems he may be having. Good progress is awarded with an incentive. Common incentives are gift certificates and being praised by the Drug Team. Negative behavior may be sanctioned by warnings, increased court appearances, detainment in juvenile hall or termination from the program.

Drug Court is a program divided into four intervention phases, described in the chart on the next page. The juvenile must successfully complete each phase before transitioning to the next phase.

DRUG COURT INTERVENTION PHASES			
Phase I	Phase II	Phase III	Phase IV
60 days in duration	60 days in duration	60 days in duration	60 days in duration
30 consecutive days of sobriety	45 consecutive days of sobriety	55 consecutive days of sobriety	60 consecutive days of sobriety
Compliance with counseling, family & group treatment	Compliance with counseling, family & group treatment	Compliance with counseling, family & group treatment	Compliance with counseling, family & group treatment
Weekly attendance in Drug Court	Bi-weekly attendance in Drug Court	Attendance every 3rd week in Drug Court	Attendance once a month in Drug Court
Prepare and present to Drug Court & family a thoughtful Proposal of their progress before moving to the next phase	Prepare and present to Drug Court & family a thoughtful Proposal of their progress before moving to the next phase	Prepare and present to Drug Court & family a thoughtful Proposal before moving to the next phase	Proposal presented at graduation ceremony

Source: Juvenile Drug Court Handbook

The final proposal is prepared and presented at a special graduation ceremony describing lessons learned in the program and goals and objectives for their future. The ceremony provides opportunities for the drug team and loved ones to congratulate and celebrate with the juvenile for successfully completing the Drug Court Program and establishing a drug-free life. Graduation from Drug Court provides the juvenile with the eligibility for terminating probation and sealing his record.

Youth Accountability Boards (YAB)

This juvenile intervention program is made up of committed adult volunteers from communities throughout the County. There are 142 active volunteer members who participate on 15 Boards. The Boards are divided into panels of three or four members. The Boards meet on a monthly basis or more often if necessary. Volunteers apply for the Board positions, subject to background checks and fingerprinting protocols. Volunteers consist of retired teachers, counselors, and other professionals. The Probation Department screens, interviews and selects community members who are considered to have the desire and motivation to mentor juveniles within their neighborhoods. YAB is a diversionary program for first time offenders of low level infractions. Is also serves to alleviate caseloads of Probation Officers. During the fiscal year 2010-2011, this program served 661 youth.

The YAB operates on an informal basis with the juvenile and voluntarily with their family. The Probation Officer refers the juvenile to YAB for services, but it is up to the Board to accept the case; rarely are cases not accepted. The Board Member designated as the Social Investigator contacts and interviews the family and juvenile. It is the Social Investigator's responsibility to gather as much information about the case as possible, while getting to know the minor. The interview is the tool used to develop rapport. A date is scheduled for a presentation of the family and minor to the Board or a panel of professionals by the Social Investigator.

The presentation includes mandatory rules to be followed and may include community service hours to be completed in a contract format which is agreed to be the minor, family and YAB. Contracts usually cover a four to six month period of time. Failure to comply with the contract could result in the minor being immediately returned to the Probation Department for processing through the Juvenile Court System. During the contract period, a YAB member, assigned to monitor and mentor the minor's progress, will visit with the minor at least once a month. The visits are to discuss any concerns or situations occurring which are inhibiting the minor from successful completion of the contract. The YAB volunteer encourages and assists in trouble-shooting alternatives to addressing situations productively. These interactions are intended to teach the youth their community cares about them.

A goal of the YAB program is to model to the juvenile that delinquent behavior has consequences and they will be held accountable for their actions. Also, YAB provides the family with resources and guidance in developing productive interactions with their children. Every successful youth who completes the YAB program may be one less offender whom law enforcement may not have to re-arrest. Upon reaching the age of 18, if the minor has had no further violations, he may apply to the Probation Department to have his juvenile record sealed.

YAB is a concerted community-based effort in deferring first-time youth offenders from re-offending. This program assists law enforcement to reduce juvenile crime and lessens Probation Officer workloads for handling more dangerous delinquents. YAB members have the opportunity to participate in resolving juvenile crime within their community. Minors and their families have the opportunity to interact in a positive and constructive manner with other members of the community.

COMMENDATION

The San Bernardino County Probation Department has demonstrated through leadership and innovation bold changes can be made to align the juvenile system with modern practices in diversion and rehabilitation. When faced with limited resources and greater demands for juvenile supervision, the Department has developed and implemented programs which best utilize department staff, multi-disciplinary resources and community partners. The programs are working; juvenile recidivism rates in San Bernardino County have been trending downward since a high of 10.19% in 2008 to 7.47% for the first 10 months of 2012.

To their credit, the Department has been contacted by various agencies from around the world, to discuss, review and conduct on-site visitations, for their award-winning juvenile diversionary programs.

SAN BERNARDINO COUNTY CHILDREN AND FAMILY SERVICES

BACKGROUND

The 2012-2013 Grand Jury chose to revisit Foster Care, which was last visited by the 2005-2006 Grand Jury. Foster Care is the central operation of Children and Family Services (CFS).

A major organizational redesign process is underway at CFS. At the request of CFS, the County Board of Supervisors had commissioned a consultant to conduct a \$250,000, six-month study to redesign CFS. The consultant recommendations report had just been published and the period of guidance for initiating their Business Redesign Project was coming to a close.

Another significant internal development at CFS was the impending 2012 Self-Reassessment, a major measure of accountability for the agency. It is essentially a report of the System Improvement Program (SIP), a three-year effort to improve operations and services of CFS. In 2009, a multi-agency, stakeholder taskforce had selected four SIP goals for CFS to work toward and helped devise a methodology for achieving them.

The Grand Jury also noted two external sources of change imposed on CFS by the State Legislature within the current fiscal year. The first change was the result of Assembly Bills (AB) 118 and 16, which respectively realigned state funding for CFS to the County level and redirected specified tax revenues to fund this effort. The other change resulted from AB 12, which extended CFS services to children 18-21 years of age under specified conditions.

In view of the major changes confronting the entire agency, from within and without, the Grand Jury decided to elevate our look at Foster Care to a more comprehensive investigation of CFS.

The stated mission of CFS is “to protect endangered children, preserve and strengthen their families, and develop alternative family settings.” The agency is funded primarily with federal and state funds. CFS maintains a staff of approximately 800 employees in ten offices in six regions of the County. There are usually about 5,000 children in the system. The average caseload for intake social workers, those who initially screen, assess and recommend placement for referrals, is 25. For carrier social workers, those who monitor the care and treatment of those in foster care is 30. Carrier caseworkers are legally mandated to visit children in their caseload at least once a month.

In its operations, CFS is a partner in a collaborative coalition of related human services, law enforcement, and court agencies. In addition to foster care, CFS conducts adoptions as a permanency option for some foster children. Foster parents are recruited at civic and faith-based

events. Those selected are trained in parenting skills and relevant law and best practices for foster parenting.

CFS is a large and complex public organization. Therefore, the Grand Jury narrowed its focus to three areas: the redesign, agency accountability, and its presentation to the public.

FACTS

1. THE CHALLENGE OF CHANGE: CFS REDESIGN PLUS MANDATED CHANGES

In the redesign study, the researchers employed a wide array of social science methods to study employees: surveys, interviews, focus groups, job shadows, and ride-alongs in the field. The consultant observed that 437 responses to the staff-wide survey indicated a high level of interest in the research. The researchers also surveyed foster parents and conducted a Visioning Session for associated agency stakeholders to look into the long-term future for CFS.

The Redesign's comprehensive, structural and operational opportunities for change go to the core of CFS operations. The redesign report, "San Bernardino Business Redesign Final Recommendations," recognizes specific existing strengths, and details opportunities for change in 13 major elements of CFS operations. The first five elements emerged from focus group discussions among CFS employees, which began in 2007. The consultant added the remaining elements. Two pilot programs, in place before the study began, anticipated two major elements. Major recommendations of the redesign include:

- conversion of existing "blended units" consisting of both intake and carrier social workers, into side-by-side intake units and carrier units (A prior pilot study had been conducted.);
- addition of a swing shift from 2:00 p.m. - 11:00 p.m. to cover the high-demand period after 5:00 p.m. (prior pilot study);
- increased geo-staffing, i.e., distributing cases by zip code;
- smaller caseloads through more effective risk management training;
- rotation in staff between intake and carrier units;
- creation of a Lead Worker position;
- technological improvements such as laptops, cell phones and Global Positioning System (GPS) navigation enabling workers to use their time more productively, particularly in the field;
- increased cross-training of some staff positions;
- changes in support staff responsibilities; and
- more effective communication and use of meetings.

The 147-page Report contains a detailed plan for implementation of the changes to be introduced as time, funding and personnel resources warrant. A CFS attachment to the Report

revealed the initial steps CFS is taking in the redesign. The redesign's summary, as quoted below, reveals as much about the current state of CFS as it does its hopes for the future.

Change has already begun at CFS. Making the decision to implement some of the higher priority recommendations can heighten the ability of San Bernardino County to offer enhanced, sophisticated, practice-oriented services to children and families. It can also ease the workload and number of tasks that programs are responsible for. It should mobilize the workforce toward change, accountability, engagement, commitment and better child welfare outcomes overall. It should move the agency toward becoming a learning agency supported by excellent leadership, aligned goals, enhanced and evidence based practices. It should mean that children achieve more timely response, timelier reunification with their families, and more timely permanency if they cannot go home. It should mean that staff will be happier and even more proud of working for CFS so that they will want to stay and build long careers dedicated to the CFS community.

2. EVALUATION AND ASSESSMENT FOR ACCOUNTABILITY TO THE PUBLIC

CFS views its primary means of evaluating its operations and justifying its budget is through setting and measuring progress toward achieving:

- two goals imposed on itself annually and
- four System Improvement Plan goals selected by a multi-agency oversight group from a federal list to be achieved over a multi-year period.

Regarding SIP goals, the Grand Jury received another major document, "CFS 2012 County Self-Reassessment." It is essentially the SIP report of CFS progress toward achievement of four California Child and Family Review goals selected and set by the agency task force in 2009. They are as follows:

- C1.3 - Reunification Within 12 Months (Entry Cohort) - This measure computes the percentage of children reunified within 12 months or removal for a cohort first entering foster care.
- C3.1 - Exits to Permanency (24 Months in Care) - This measure computes the percentage of children discharged to a permanent home prior to turning 18 who had been in foster care for 24 months or longer.
- C3.3 - In Care Three Years or Longer (Emancipation/Age 18) - This measure computes the percentage of children with two or fewer placements while having been in foster care for 24 months or more.
- C4.3 - Placement Stability (At Least 24 Months in Care) - This measure computes the percentage of children with two or fewer placements while having been in foster care for 24 months or more.

The Self-Reassessment is a 209-page, highly technical document. It includes an extensive plan for achieving the goals in the time allotted in which the four goals became eight, which were expanded into 26 strategies and 85 milestones. In the final analysis, the outcomes were mixed:

- C1.3, a decrease from 41.6 to 39.6%;
- C3.1, a decrease from 24 to 22.9%;
- C3.3: a positive decline from 61.5 to 56.1%; and
- C4.3: an increase from 32.6 to 36%.

The last section of the Self-Reassessment acknowledges the redesign and how it might offer opportunities for improvement in the structure of CFS, its operations, and its service delivery and outcomes.

3. THE PUBLIC FACE OF CFS

The Grand Jury was given an annual report for 2011 and a pocket folder of miscellaneous applications, forms, and other documents utilized by the agency.

CFS publishes two annual reports. One is brief and is prepared as part of the County Human Services Annual Report. CFS indicated that the other Annual Report was “boilerplate” and intended for an internal audience. It also appears on the CFS Intranet. As this investigation was drawing to a close in response to inquiries, the Grand Jury received a final draft of the 2012 Annual Report (to be published at a later date).

The Annual Report contains:

- a listing of independent CFS programs, and those performed in collaboration with other agencies, indiscriminate as to relative importance;
- a recitation of “accomplishments:” numbers of children served in some capacity or activity in that year; and
- a “testimonial,” a narrative account of one child’s experience out of 5,000 in the system.

Although the 2012 draft Annual Report is more attractive and colorful and has more narrative content and pages, conformity to the boilerplate was still evident. Statistics comparing CFS operations over time and with other counties and the State were absent. In its 2011 report to the County, CFS does present a table on referrals over several years, but no outcome measures are reported. The section’s text states, “CFS has the ability to produce reports based on very specific criteria including demographics, program information services provided, and case information.”

Such statistics are not only available, but CFS produces them in-house. One internal document given to the Grand Jury, “Department Assessment Management Reports: August 2012” (DAMR) provides 17 pages of comparative tables on CFS performance on multiple measures over the prior year and regions of the County. The DAMR provides evidence that CFS can compile summary data and present it in more comprehensible terms than the Self-

Assessment. In addition to the DAMR, the Grand Jury was given a loose, single-page line graph showing a decline in the number of children in the system with the successive implementation of new programs from 1999 to the present.

These documents were prepared by CFS' own statistics unit. This unit tracks clients and sends the data off regularly to the University of California at Berkeley. On two occasions, a CFS executive referred the Grand Jury to data from the website of the Center for Social Services Research, School of Welfare, U.C. Berkeley. The website tables do provide extensive data comparing our local CFS performance with other counties, and the statewide figures over time. As informative as this site is as a source for agency accountability, it is not referenced in any CFS publications except for its central role in the outcomes of the opaque Self-Reassessment.

The final element of CFS' public face: in the 21st century, the Internet has become a primary resource of information for a great many people including those seeking information on CFS.

FINDINGS

1. Regarding the evaluation and assessment for accountability to the public

- The one-time-only redesign presents a vivid, revealing and un-retouched candid snapshot of CFS, which stands in contrast to the usual documentation CFS presents. Its pattern of identifying strengths and recommending opportunities for change in 13 elements implies a measure of accountability.
- CFS has an obligation to measure its accountability to the public and express it in terms which can be understood by the public.
- Normally CFS publications include:
 - CFS' brief contribution to the Human Services Annual Report, which is a public document;
 - the bound Annual Report, which contains little in the way of accountability, and the intended audience is CFS, not the public;
 - documents such as the DAMR provide some insight into CFS operations, which are not available to the public; and
 - the Self-Reassessment, based on the SIP results (formerly published after three years, now extended to five years), is clearly intended for a professional audience, not the public.
- Two annual goals are cited in the CFS Report incorporated in the Human Services Annual Report and other publications, yet the Grand Jury was unable to readily find the outcomes for these goals reported in either CFS public documents or on the CFS website. They are cited in the Human Services Department annual budget.
- CFS' current method of reporting evaluation of its effectiveness and accountability to the public is inadequate. It is too dependent on the outcomes of the periodic SIP goals and the unreported outcomes of annual internal goals. This makes it difficult for the public to be able to determine if CFS is operating effectively within its budget.

- CFS has a statistics unit, which can generate data to enhance the CFS image and communication with the public.

2. Regarding the public face of CFS

- Except for the raw numbers, the Annual Reports vary little from year-to-year. This year's delayed and expanded draft still follows the formula.
- CFS reports lack a date of publication and clear attribution as to the person(s) responsible for their publication or whom to contact for further information.
- The Grand Jury finds that the CFS website is lacking in informative value and is out-of-date.

COMMENDATION

The Grand Jury commends the CFS Executive team for having the foresight to establish pilot studies in the field; for seeking employee initiatives since 2007 to develop proposals for change, which eventually were incorporated in the Redesign; and recognizing the need for significant changes in the structure, management, and operations of CFS; and responding with the commission for, and implementation of, the Redesign. (Finding 1-1)

RECOMMENDATIONS

13-9. CFS devise more suitable means of reporting its accountability to the public in an annual publication presented in understandable terminology and easy to access. Go beyond the simple listing of CFS operations and numbers of children served on one hand, and the complexity of the Self-Reassessment on the other, to explain how CFS operates and evaluate how well it functions. (Finding 1)

13-10. Enhance the Annual Report for this purpose. Use available data already compiled by the CFS statistics unit to construct tables to compare the County CFS performance over a period of years, and with other counties and the State averages. In addition, horizontal branching diagrams could:

- track clients, starting with referrals and ending in permanency alternatives;
- summarize operational programs;
- indicate their respective percentages;
- clarify their relative importance; and
- illustrate their interrelationships.

Include the Report's publication date and attribution to the person(s) responsible for its composition and/or a contact person for clarification or further information in this and other CFS documents. (Findings 1, 2)

13-11. Reexamine the actual and prospective uses of, and intended audience(s) for, the CFS Annual Report. (Finding 1)

13-12. Update and enliven the CFS website and maintain it routinely. Post such things as the Redesign, the Annual Reports, goal outcomes, public relations releases and news articles, staff commemorations and vignettes, and other materials to heighten public interest in, and estimation for, the agency. (Finding 2)

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Due Date</u>
Director, Children and Family Services	13-9 through 13-12	08/28/13



LAW AND JUSTICE COMMITTEE



LAW AND JUSTICE COMMITTEE



Back row: Roger D. Trussell, Allen “Skip” Burt, Nino Valmassoi, William B. Lundstrom, Thomas Wilkin
Front row: Marilyn J. Trombetta, Jan Flammang, Kristen Suzanne Atkinson, Rosalio “Rosie” Hinojos



LAW AND JUSTICE COMMITTEE

INTRODUCTION

The Law and Justice Committee is responsible for reviewing the following public officials and departments within the County of San Bernardino:

County Counsel
County District Attorney
County Fire Department
County Probation Department
County Public Defender
County Sheriff-Coroner
Detention Facilities
Municipal Police Departments

Completed investigations which are included in this report were as follows:

- County Impact of Assembly Bill 109
- Gangs
- San Bernardino County Sheriff Department Compliance For Handling Citizen Complaints

California Penal Code (CPC) 919(b) states: “*The Grand Jury shall inquire into the condition and management of the public prisons within the County.*” As such, this mandate is the responsibility of the Law and Justice Committee and is only one of numerous investigations conducted by this committee during the year.

In accordance with CPC 919(b), the following penal institutions, which are designated detention centers by the County of San Bernardino, were inspected and are included in this report:

- Apple Valley Juvenile Detention and Assessment Center
- Barstow Holding Facilities
- Redlands Holding Facilities
- San Bernardino Holding Facilities
- Victorville Holding Facilities
- West Valley Detention Center

COUNTY IMPACT OF ASSEMBLY BILL 109

BACKGROUND

After a U.S. Supreme Court decision regarding prison overcrowding and the availability of medical services in California it was mandated that California would reduce prison occupancy to 137.5% of its capacity by June 2014. On April 4, 2011, the Governor of State of California signed Assembly Bill 109 (AB 109), known as “The Public Safety Realignment Act” including the new law’s felony sentencing guidelines implemented by the State and Counties on October 1, 2011. The legislative objectives of the law were to address State budget shortfalls and to reduce overcrowding in the state prison system. These objectives were accomplished by shifting both supervision and housing of convicted felons and parolees from the State to the County.

FACTS

AB 109 Sentencing Guidelines

Under the new sentencing guidelines, an offender with prior or currently charged serious or violent felony, or with a prior or currently charged offense requiring registration as a sex offender, is required to serve the term of imprisonment in State prison.¹ However, defendants not falling within these three classifications serve their term of imprisonment in County jail. Since this procedure considers only the last offense, the County receives more violent and sophisticated inmates than their offense would indicate.

San Bernardino County Sheriff Department Jail Security and Capacity

The San Bernardino County Sheriff Department (SBCSD) detention centers are tailored primarily for pre-sentenced inmates and convicted inmates serving a relatively short sentence, usually fewer than two years. Currently, under AB 109, the SBCSD is responsible for housing inmates with much longer imprisonment terms. For example, the SBCSD is housing at least three inmates serving a sentence in excess of 10 years and Los Angeles County has an inmate with an imprisonment term of more than 40 years.

The Glen Helen Rehabilitation Center (GHRC) is the County’s primary facility for housing convicted inmates and is not suited for some of the convicted felons currently housed there. The security measures for the facility are insufficient for housing long-term inmates. The Sheriff Department is currently working on improving security at GHRC although the facility was not designed for inmates with a high degree of motivation to escape.

¹ Penal Code Section 1170(h).

The GHRC received \$1.5 million from the Board of Supervisors for security improvements shortly after an AB 109 inmate escaped and was accused of shooting a Los Angeles County Deputy and fatally shooting two others in Northern California shortly after his escape. This type of incident has been reported in various forms throughout California and has received media attention. The Adelanto Detention Center expansion has been designed and built with higher security measures allowing the facility to accommodate a more sophisticated and dangerous inmate population. The projected completion for the expansion is January 2014, however funding for staffing is still uncertain.

Jail overcrowding has been an on-going problem in San Bernardino County. In 1998, a court ordered that when a jail occupancy approaches 90% of its capacity, the Sheriff Department must seek ways to reduce that number by placing sentenced inmates on work release or other early-release programs. Jail overcrowding was enough of an issue in 2005 that the 2005-2006 San Bernardino County Grand Jury released a final report detailing this overcrowding condition and the problems with early releases.

Prior to AB 109 going into effect, SBCSD had approximately 5,000 inmates on the work release program, e.g. trash pick-up during the day and returning home at night. Because of AB 109, there are currently over 11,000 inmates in this program due to early release. In addition to early releases, SBCSD has tripled its use of the Global Positioning System (GPS) ankle bracelet tracking system.

A. AB 109 Impacts on the Probation Department

New sentencing options under AB 109 have raised concerns within Probation. In general, the sentencing courts now have two options:

1. Order a full term of imprisonment in the County jail of up to the maximum possible term. If a defendant is sentenced to serve the full term of imprisonment in County jail, upon release, the defendant will not be supervised or have any conditions or other type of parole supervision; or
2. Impose a sentence which is a combination of a term of imprisonment in County jail and mandatory supervision, but the two periods cannot together exceed the maximum possible sentence. In addition, upon release to mandatory supervision, a defendant will be supervised by the probation department under the same terms, conditions, and procedures of formal probation for the unserved portion of the sentence.

The San Bernardino County Probation Department (Probation) has received additional funding from the State, allowing Probation to hire approximately 100 new probation officers.

Probation has created three regional adult Day Reporting Centers (DRC) to assist in providing treatment and rehabilitation services. At the DRC, probationers check in for interviews, drug testing, monitoring and have a wide variety of services available.

Probation prefers the court sentence defendants to a combination of imprisonment and mandatory supervision. This would cause an inmate to serve less time in custody and then be placed in the Probation program where the released inmates could be monitored and possibly helped with their re-entry. However, defendants with more experience with the criminal justice system know if they demand a full term commitment in the County facility and do not agree to a split sentence, they would only do a small portion of their sentence. As described to the Grand Jury, if an inmate was sentenced to three years he would do half that time. In addition with the overcrowding factor they could be released 210 to 240 days earlier. This means a three-year sentence has been reduced to ten months with no probation supervision required.

AB 109 has required a change of strategies working within the criminal justice system. In order to fulfill the AB 109 mandates, there must be cooperation among the Sheriff Department, Probation, Public Defender, District Attorney Offices, and the Court.

A key factor of the re-entry process is unskilled inmates being released into a depressed economy in an area with double-digit unemployment. An emphasis is now being directed at re-entry and training programs, both while in custody and after release.

The County is currently awaiting notification of funds, (approximately \$80 million), available from Senate Bill 1022 (SB 1022) for construction of new housing facilities which would have classrooms adjoined. Inmates would not have to be transported for training. As currently interpreted by the Sheriff Department, SB 1022 funds cannot be used for additional construction of beds. Therefore, existing older facilities of the same capacity would have to be demolished after the completion of the new facilities. Improvements of the existing structures at GHRC have been halted, other than security upgrades, until the outcome of SB 1022 funds is known.

When AB 109 was implemented in October 2011, each County was required to form a commission to deal with its mandates. San Bernardino County Sheriff Department has been recognized as one of the leaders in the State for programs initiated and generally taking an active approach rather than reactive. Currently there is legislation in Sacramento to amend some provisions of AB 109. One of these provisions is that an inmate not serve time in a County jail with a sentence of more than three years. This would send the more sophisticated violent inmates back to State prisons where staff is better equipped to house them.

Throughout the State there have been many published reports of crime increasing, particularly violent crime since the beginning of AB 109. These reports, however, are being debated by the State of California Department of Corrections to whether this is directly related to

AB 109. The County has reported an increase in crime since the inception of AB 109. In addition, the Sheriff reported that in County detention centers inmate-on-inmate attacks are up 100% and inmate on staff attacks are up 50%. Felony filings in the Victor Valley have increased 10% according to the District Attorney’s office, and in the first year of the AB 109 program, the County received 4,711 inmates as opposed to the State projection of 3, 513. The Public Policy Institute of California has verified convicted felons who would have gone to State prison prior to AB 109 realignment are less likely to be incarcerated or serve much shorter terms when sent to a County jurisdiction. Although monies are being directed to the Counties to help fund the increased workload, these monies cannot change programs and department which were many years in development. County facilities were never intended to be State prisons.

FINDINGS

1. Due to increases of County jail population under AB 109, space must now be severely rationed with the highest priority being to house the most dangerous inmates.
2. The County does not have enough high security housing for the convicted inmates who prior to AB 109 would have been housed at State prisons.
3. AB 109 needs to be addressed by State Legislators and amended to keep violent career criminals under State jurisdiction.

RECOMMENDATIONS

- 13-13. Seek State funds to construct and fund additional high security facilities. (Findings 1, 2)
- 13-14. Work with elected representatives to address issues outlined in report through legislative amendments to the sentencing guidelines. (Finding 3)

Responding Agency	Recommendations	Due Date
Board of Supervisors	13-13 through 13-14	09/28/13

GANGS

BACKGROUND

A gang is a group or association of three or more persons having a common identifying sign, symbol, and/or name who individually or collectively engage in criminal activity; creating an atmosphere of fear and intimidation. According to The National Gang Intelligence Center, California has six gang members per 1,000 people (see Attachment). The number of street gangs in San Bernardino County in 2012 totaled 722, with 15,900 documented gang members.²

Street Gangs are involved in a range of criminal activities within our communities. For example, gangs are active in the illegal narcotics trade. The National Gang Intelligence Center has published a report stating the United States is encountering an illegal narcotic trade growing at an epidemic rate, with gangs receiving most of their income from trafficking in narcotics. United States-based gangs smuggle and distribute drugs, collect drug proceeds, launder money, smuggle weapons, kidnap, and serve as lookouts and enforcers on behalf of Mexican drug trafficking cartels in exchange for a constant drug supply. On a more local level, street gangs contribute to neighborhood blight by vandalizing buildings and other structures with graffiti. The County government and cities combined spend over one and a half million dollars for graffiti removal annually.

Recent research has shown risk factors for gang membership span all major risk factor domains, individual characteristics, family conditions, school performance and peer group influences. Gang members often come from families in which they are alienated or neglected, turning to gangs to meet their needs for attention. If a child is reared in a family in which parents are gang members, there is little hope of the child escaping the gang lifestyle.

METHODOLOGY

The Grand Jury conducted an investigation into how the problem of gangs was being addressed in San Bernardino County. The County's extensive gang problems stem from its vast geographic area, low-cost housing, and socioeconomic conditions. The Grand Jury wanted to determine the effectiveness of the San Bernardino County Probation Department's 2005 Countywide Strategic Plan on Gangs (Strategic Plan), which was published as a non-binding operational agreement with an overall goal of reducing gang violence within the County.

Numerous interviews were conducted with individuals directly responsible for public safety within our communities and for the prosecution of gang members. The Grand Jury conducted a survey to obtain current information from law enforcement agencies within San Bernardino County regarding the management of gang problems in their communities. Grand

² San Bernardino County Sheriff Department Statistic.

Jury members also participated in a ride-along with members of the Fontana Police Department Gang Task Force and observed the execution of a search warrant by police officers from that Department.

The members of the following law enforcement agencies were interviewed:

- Fontana Police Department Gang Task Force
- Redlands Police Department Gang Task Force
- San Bernardino County High Desert Regional Gang Task Force
- San Bernardino County Sheriff Gang Task Force
- Montclair Police Department Gang Task Force
- San Bernardino County Sheriff Department
- San Bernardino County District Attorney's Office
- San Bernardino County Probation Department
- San Bernardino County Superintendent of Schools
- Gang Reduction Intervention Program (GRIP)

The following publications were reviewed:

- 2005 Countywide Strategic Plan on Gangs
- 2011 National Gang Threat Assessment

FACTS

Cal-Gang Data Base and Law Enforcement Collaboration

It is imperative to have accurate information to determine how to address community levels of gang violence. Analysis of this data allows a community to focus its resources on the most problematic areas. Law enforcement agencies have been successful in reducing violent crime through effective collaboration and information sharing. The Cal-Gang database is an important information sharing tool for law enforcement. The Cal-Gang database, operating under United States Code of Federal Regulations, Title 28, and Section 23, was created to collect all pertinent gang information, i.e. tattoos, scars, criminal associates, nicknames, locations, criminal histories and activities which may associate an individual with a gang. This database provides the most recent statistics on gang activity.

Law enforcement collaboration and information sharing is also important in the prosecution of street gang members. Penal Code Section 186.22 criminalizes active participation in a street gang. Also, pursuant to this Code Section, the District Attorney's Office may seek

additional state prison commitment enhancements. To establish in court a crime committed by a defendant is gang-related, the prosecutor must prove beyond any reasonable doubt, “ongoing association with the group.” Testimony by officers specializing in street gangs with access to Cal-Gang database information and other intelligence is critical for the successful prosecution of street gang members and the sentencing of street gang members to enhanced state prison time.

Law Enforcement Survey

The Grand Jury visited multiple law enforcement agencies in San Bernardino County, all encountering differing problems with street gangs.

1. Fontana Police Department

The Fontana Police Department had a significant problem with graffiti. This problem escalated from an occasional gang member claiming territory, to tagging crews vandalizing large areas on a regular basis. The City hired extra work crews for cleanup with a goal of graffiti removal within 24 hours. An ordinance was passed allowing graffiti abatement at the owner’s expense when not removed within 48 hours. Officers contacted business owners and had them sign waivers allowing the city to access their property and remove the graffiti without charge. The city has seen a reduction in graffiti complaints going from 40 to five complaints daily.

The City of Fontana has ten documented gangs with approximately 800 gang members. Due to the number of gang members and budget restrictions, the police department has redeployed four officers from other duties to the field to protect citizens. Officers of the Gang Task Force voiced a concern regarding early release of violent criminals. A local officer stated that a major problem for law enforcement in arresting a gang member is the potential for shortened incarceration time due to jail overcrowding and early prisoner release.

The Fontana Police Chief collaborated with the Probation Department and was instrumental in establishment of a County Re-Entry Program. This program aids newly released inmates by providing numerous classes such as General Education Development (GED), anger management, substance abuse and referrals for other social services. These services are intended to pre-empt influence and recruitment by existing gangs in the probationer’s neighborhood.

2. Montclair Police Department

Montclair Police Department has assigned one gang suppression officer and has developed joint efforts with other law enforcement departments for assistance in serving a warrant.

3. San Bernardino Sheriff Department

Safety and security of the High-Desert areas are a joint responsibility of the San Bernardino Sheriff Department and the Barstow Police Department. The Sheriff Department Intelligence Bureau deciphers all gang information and intelligence which could be a threat to our County,

State or Nation. If a gang-related incident occurs, the Sheriff Department is able to assess the problem and deploy proper manpower and equipment from anywhere in the County.

The Sheriff Department reports over 700 different gangs in the High-Desert areas, but was unable to provide an accurate number of gang members. This is because the gangs are a mixture of several gangs with no allegiance to any particular one. The Sheriff Department works closely with San Bernardino Movement Against Street Hoodlums (SMASH) in suppressing gangs.

4. Inter-Agency Organizations

SMASH is a specialized combined law enforcement unit, whose focus of attention is on gang members having active arrest warrants, or currently on parole or probation. The team consists of about 100 personnel from different law enforcement and social agencies, e.g., Probation, Children and Family Services. These officers have received specialized training in interviewing and investigations pertinent to fact-finding and court room testimony.

Regional Gang Assessment Teams conduct quarterly meetings with the District Attorney (DA), Probation, Sheriff Department and SMASH units, to share pertinent gang information in the deployed area.

The regular rotation of an officer in a gang task force is normally three years. Law enforcement officers believe the requirement to become a successful Gang Unit member is years of street knowledge on gang activities, migrating patterns and graffiti interpretation. This unique knowledge learned on the street is often difficult to pass on to officers joining the task force who have not had personal street experiences. Maintaining these seasoned members on the task forces would aid in prosecution and conviction of gang members.

5. San Bernardino County District Attorney's Office

In 2012, the DA was successful in the prosecutions of PC 186.22 Gang Enhancement, providing for expansion of sentences of gang members whose activities directly benefit gangs.

The DA Gang Unit conducts felony prosecutions and civil injunctions. Their mission is to aggressively prosecute gangs to the fullest extent of the law. The DA is responsible for safeguarding a witness to testify in a gang case both before and after trial. A victim's testimony against gang members is often difficult, frightening and may be traumatic. The DA ensures the victims understand their rights under the California Bill of Rights.

Gang injunctions are civil court orders which prohibit a gang and its members from conducting certain specified activities within a defined geographic area known as a "safety zone." An example was the injunction in Rancho Cucamonga which protected a school, park and playground from gang members congregating in the area. These injunctions usually take one year or more to file and list all known gang members in this specific area. Violations of these injunctions are a criminal misdemeanor punishable by up to six months in jail and/or \$1,000 fine.

6. San Bernardino County Probation Department

The San Bernardino County Probation Department supervises approximately 26,000 adult probation cases, and 3,000 juvenile cases of which 300 are in custody and 200 in group homes. The Department estimates 20% of the total probationers are gang members. The Grand Jury learned San Bernardino County has the highest probationary rate in the state, with 155 probation cases per 100,000 people. A risk assessment score found 58% of County offenders have a risk of violence with gang ties, and is the most prevalent concern for probation supervision.

Policing Challenges For Law Enforcement

Street crimes are often committed by gang members with no regard for consequences. Because of their duties, street patrol officers make more contact with gang members than law officers on different assignments. These contacts afford an officer the opportunity to develop rapport with gang members which gives them greater insight into gang activities. Membership in a gang is not illegal; it is the activities of the gang which cross the criminal line. Street gangs are not diminishing in population. When police pressure is increased on a gang, its members tend to go underground and become secretive.

Confrontations with street gang members have the potential for violence. Police officers must have a strategic plan of action, which is flexible and varies with the community. A plan which works for gang enforcement in one jurisdiction may not work for gang enforcement in another. In a calm situation, an officer will initiate a conversation with a gang member. The gang member now becomes aware police know his identity, consequently the officer establishes himself as someone the gang members may respect.

Street gangs exist and function in a community from a base of strength gained through violent behavior. Once an identifiable gang problem has surfaced, an officer can neutralize the gang's grip by learning certain aspects of a member's lifestyle. The officer maintains a close liaison with school officials, businesses and citizens in the area. Gang members out to earn a reputation pose the greatest threat and, therefore, must be identified.

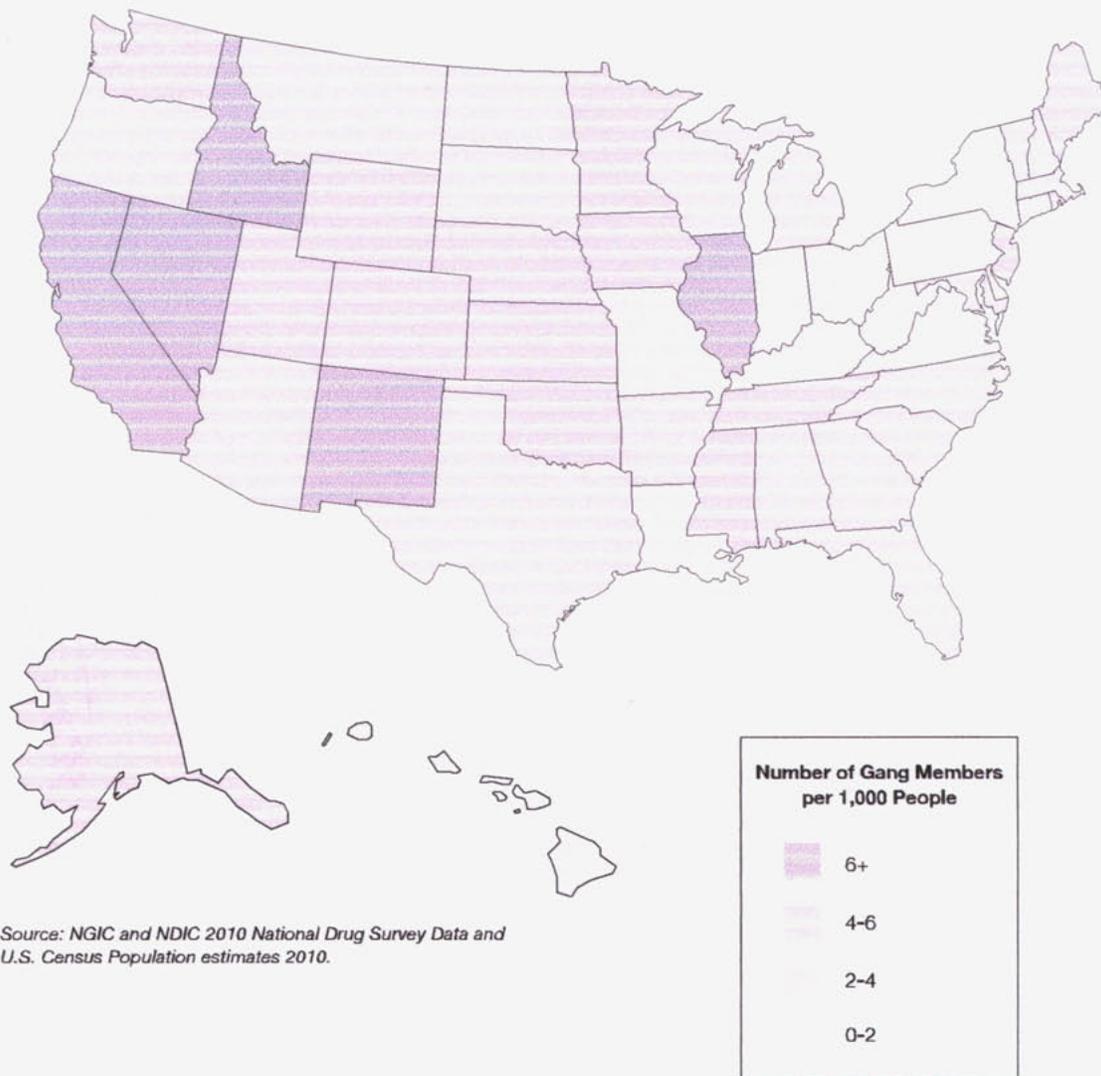
According to law enforcement officials, juvenile gang members host parties with restricted invitations for the purpose of recruitment, use and sale of illegal narcotics, sexual exploitation, and other illegal activities. Locating these parties is difficult due to the secretive methods used by the gang members to advertise the party and location. The Sheriff Department reports locating these parties in the desert regions is difficult because of the vastness of the area.

CONCLUSION

According to gang experts, many gangs members live in economically depressed circumstances and believe their only means of survival is through banding together. Also, these experts believe gangs are involved in a range of criminal activities involving drug sales, human/sex trafficking, white collar crime or identity theft. Police officers, probation officers, school officials and citizens should be working toward a common goal of decreasing gang activity. There is general agreement among these groups that intelligence gathering, prevention, suppression, intervention and community awareness are key elements in controlling and reducing gang membership and activity in San Bernardino County. The Strategic Plan states, “Research has shown working groups in multi-agency projects to use data analysis and collaboration with different agencies results in well-designed responses to violence. Previous projects confirm each agency has unique resources which, when pooled, make each unit more effective in curbing gang violence.”

The 2005 Countywide Strategic Plan on Gangs was an important step in addressing gang activity within San Bernardino County. However, a follow-up review of the Strategic Plan is necessary to determine the extent to which agencies have implemented the recommendations and the impact the Plan has had on suppressing street gang activity and reducing gang membership.

Figure 1. Estimated Nationwide Gang Presence per Capita per State



Source: NGIC and NDIC 2010 National Drug Survey Data and U.S. Census Population estimates 2010.

SAN BERNARDINO COUNTY SHERIFF DEPARTMENT COMPLIANCE FOR HANDLING CITIZEN COMPLAINTS

BACKGROUND

The Grand Jury investigated the process of a citizen making a formal report of an incident involving an off-duty Deputy which resulted in a traffic collision. However, the citizen involved in the traffic collision later decided to make a formal record of the incident and went to the San Bernardino County Sheriff Department (SBCSD), Yucaipa Substation to file a report.

FACTS

An SBCSD Deputy interviewed the citizen at the SBCSD Yucaipa Substation regarding the collision details. During the interview, the Deputy left to confirm the information with the driver of the vehicle. It was at this time the Deputy became aware that the driver was an off-duty Sheriff Deputy. The off-duty Sheriff Deputy stated it was not necessary to have any discussions with the citizen; neither party had wanted CHP involvement and insurance information had been exchanged. The Deputy returned to the citizen and reminded him there had been a verbal agreement at the incident site that the matter would be taken care of between them. The Deputy recorded his notes of the interview in a *Call History Report* and mentioned the incident to the sergeant on duty.

Approximately a week later, the Yucaipa Substation Commander was contacted by a Deputy Chief of the Sheriff Department requesting the Yucaipa Substation review an incident involving a citizen bicyclist and an off-duty Sheriff Deputy. After further review the Yucaipa Substation Commander initiated an investigation into the incident. An Accident Investigator was assigned to prepare the Incident Report, which included interviews of all parties involved.

The Grand Jury confirmed the Yucaipa Substation Commander had not been informed of an incident involving an off-duty Deputy until the call from the Deputy Chief. Also, the Grand Jury confirmed the driver had been employed by the SBCSD at the time of the incident.

Section 832.5 of the California Penal Codes requires

Each Department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies and shall make a written description of the procedure available to the public.

The Grand Jury reviewed the *Complaint Intake Process* policy at the Yucaipa Substation, which states:

Regardless of the source of the complaint, the department has an obligation to conduct a thorough, objective and unbiased investigation of the allegations.

Further, the policy directs a supervisor to provide the complainant with a complaint form and assist in the completion of said form. A copy of the department complaint form is provided to the citizen. A copy is forwarded to Internal Affairs Division for processing and investigation. *“If the allegation ...involves deputies from other divisions...the complaint shall be forwarded to the commander’s deputy chief.”* If the allegations are potentially criminal in nature, the Commander immediately notifies the deputy chief who may request a criminal investigation. In those types of cases, it is *“critical that the criminal investigation be isolated from the administrative investigation.”*

In addition to the policy and procedures at the Yucaipa Substation, the San Bernardino County Sheriff Department Manual states:

It is essential that public confidence be maintained in the ability of the Department to investigate and properly adjudicate complaints against its members. Additionally, the Department has the responsibility to seek out and discipline those whose conduct discredits the Department or impairs its effective operations. ...The Department has procedures in place to accept complaints from the public, its members and jail inmates in accordance with law.

In order to implement the above-stated policy the SBCSD has prepared a Citizen Complaint Form which is required for all citizen complaints. A “Citizen’s Complaint Procedure” brochure of July 7, 2006, has been prepared that provides the public with details of the procedures used to process a citizen’s complaint, including definitions and descriptions of the possible outcomes or findings.

FINDINGS

1. The Yucaipa Substation did not follow the policies and procedures of the SBCSD as it relates to the handling of a citizen complaint against a member of the SBCSD.
2. The Yucaipa Substation did not follow its own internal policies and procedures for handling of a citizen complaint.

RECOMMENDATIONS

- 13-15. Institute periodic in-service refresher training on departmental policies and procedures for handling citizen complaints. (Findings 1, 2)

- 13-16. Establish an annual internal audit process of division/substation handling of citizen complaints, including a review of logs, written documentation and other information documenting procedural and policy compliance. (Findings 1, 2)

Responding Agency	Recommendations	Due Date
Sheriff-Coroner	13-15 through 13-16	09/28/13

DETENTION CENTERS IN SAN BERNARDINO COUNTY

Type I and Type II Facilities

BACKGROUND

The Grand Jury, per Penal Code 919(b), is “required to inspect public prisons within the County” during each term. A Type I facility is described as “a local temporary holding facility used for the detention of persons for not more than 96 hours excluding holidays after booking.” The adult and juvenile facilities have been inspected by the California Code of Regulations (CCR) Title 15 as a Type II facility, is described as “a local detention facility used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment.”

The Grand Jury inspected the following:

- Barstow City Holding Facility (Type I)
- Redlands City Holding Facility (Type I)
- San Bernardino Holding Facility (Type I)
- Victorville City Holding Facility (Type I)
- Apple Valley Juvenile Detention and Assessment Center (Type II)
- West Valley Detention Center (Type II)

The State of California, Department of Corrections and Rehabilitation, Corrections Standards Authority conducts biennial inspections of the adult detention facilities for compliance with the minimum standards as outlined in the California Code of Regulations (CCR) Titles 15 and 24. The state inspection is in conjunction with the annual inspections and reports of the San Bernardino County Health Officer and State Fire Marshal. The most recent inspections, per Penal Code Section 6031, indicated no issues of non-compliance for the facilities.

The Grand Jury developed two different inspection survey reports to be used for conducting the on-site inspections of the Type II centers. The report for the adult detention centers was used for the West Valley Detention Center. The juvenile detention center survey report was used for the Apple Valley Juvenile Detention and Assessment Center. Type I holding facilities were inspected using an inspection survey specific to holding facilities. The inspection reports for the above named facilities are included in this Grand Jury Report.

CONCLUSION

The Grand Jury noted capacity limitations and security are being maintained. Medical services are provided. Cleanliness and the conditions of each of the facilities are in compliance. The professionalism demonstrated by all personnel during each site visit and/or follow-up is to be commended.

TYPE I FACILITY (HOLDING CELLS)

* * * INSPECTION FORM * * *

Please fill out those sections that apply to the facility you are inspecting

FACILITY NAME: Barstow Police Station	INSPECTION DATE: December 17, 2012
FACILITY CAPACITY:55	LAST STATE INSPECTION DATE:
ADDRESS: 225 East Mountain View Street Barstow, CA 92311	TELEPHONE NUMBER: 760 256 4846 FAX NUMBER:
TYPE OF FACILITY: Holding Facility	
DETENTION CENTER: NA	
OTHER:	

Any Additional information/notes:

There was concern expressed of the upcoming closure of courts causing more transportation time to San Bernardino. Needles will have to send inmates to Joshua Tree or Victorville, causing a three-hour drive.

GENERAL INFORMATION

- What is the capacity of the facility? 55
- What is the number of pretrial detainees? All
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? 96 hours
- Are detainees oriented to rules and procedures? Yes, with pamphlet
- Are rules and grievance procedures posted? Yes
- Are rules and grievance procedures understood by detainees? Yes
- Number of suicides. None
- Number of attempted suicides. None
- Number of deaths from other causes None
- Numbers of escapes. None
- Date of last fire/emergency drill. None for inmates, all employees are required to go through drills

STAFFING

- Is there enough staff to monitor detainees? Yes
- Does staff communicate in language that a detainee can understand? Yes
- Diversity of staff. Yes

- Impression of staff/ detainee interactions. Good

PROGRAMS

Exercise:

- Is it inside or out? Out
- How frequently is it offered? Every day, inmate workers only
- How much time is each detainee offered? 1 to 2 hours
- Do men get more exercise time than the women? Inmate workers are all men

TELEPHONE

- Do detainees have access to telephones? Yes-

CORRESPONDENCE

- Is there limited free postage for detainees without money? "Welfare" bag that can be purchased
- Incoming/outgoing – are detainees aware that mail can be read? Yes, workers only
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?
Standard procedures

VISITING

- Is there adequate space, convenient times or accommodations to family's work schedule?. Yes
- Are there provisions for special visits with attorneys? Yes

- Does staff supervise visits? Yes, with video, no sound
- Do all detainees have access to visiting? Yes
- If not, give reason:

DISCIPLINE OF DETAINEES

- How often is discipline enacted? Very seldom
- What is the range of discipline options? Appropriate to detainee action

GRIEVANCES

- What are the most common types of grievances filed by detainees? No grievances have been filed
- Is there a record kept based on type and number? N/A

MEALS/NUTRITION

- The kitchen area – Is it clean? Yes
- Are meals served in the cell? Yes
- If not where?
- Are detainees permitted to converse during meals? Yes
- Length of time allowed for eating? One-half hour or more

HEALTH

Medical Services: None on site

- How frequently is medical staff onsite? N/A
- How long do detainees wait to be seen? Immediately
- Is a physician available by phone or come inside? N/A

Mental Health Services: N/A

- What type of on-site health facility is available to detainees?
- How frequently is mental health staff onsite?

Other:

- What off-site hospital is used for serious health issues? Arrowhead Medical Center, West Valley

Detention Center

- How detainees transported to off-site facilities? Bus, van, patrol car
- How is security handled? By deputies

SITE TOUR

AREA INSPECTED/REVIEWED
(Please Check)

QUALITY OF LIFE	AREA INSPECTED/REVIEWED (Please Check)	PERSONS INTERVIEWED
Booking x		Facility Manager x
Physical Plan x		Line Staff x
Meals/Nutrition Adequate		Food Services Staff

Any additional information/notes.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration Facility is old but well maintained
- Condition of the grounds, exercise areas, playing fields, and exercise equipment N/A
- General cleanliness of the facility including windows, lighting, lockers, desks Good
- Condition of sleeping room door panels N.A
- Temperature of living units Good
- Safety and security issues including fencing, outdoor lighting, location of the weapons locker
Good
- Access to toilet and drinking water Yes

INTERIOR OF BUILDINGS

Walls, paint, floors, drains, plumbing fixtures working, air vents, windows Good

- Are cleaning fluids and chemicals labeled and safely stored? Yes
- Weapons locker present Yes
- Recreation/sports equipment N/A
- Are the hallways clear, are doors propped open or closed? Yes
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Cells
- Beds – Type of bed and is it off the floor? Yes

- Adequate lighting Yes

- Temperature Good

- **INDIVIDUAL CELLS/ROOM**

- Condition of walls Good

- Personal possessions allowed in cell/room (Art, Books, Etc.) N/A

- Graffiti present No

- Ample bedding. Yes

PERSONAL APPEARANCE OF DETAINEES

- What is the appearance of Detainees (well groomed)? Yes

- Showers – frequency – (?), privacy - , maintained N/A

- Are there any reported assaults by detainees on detainees? No

- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? Yes

TYPE I FACILITY (HOLDING CELLS)

* * * INSPECTION FORM * * *

Please fill out those sections that apply to the facility you are inspecting

FACILITY NAME: Redlands City Jail	INSPECTION DATE: January 9, 2013
FACILITY CAPACITY: 5 (4 adult, 1 juvenile)	LAST STATE INSPECTION DATE:
ADDRESS: 1270 West Park Street Redlands, CA92373	TELEPHONE NUMBER: 909 798 7681 FAX NUMBER: 909 335 4754
TYPE OF FACILITY: Holding Facility	
OTHER:	

Any Additional Information/Notes:

GENERAL INFORMATION

- What is the capacity of the facility? 5
- What is the number of pretrial detainees? None
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? 1 hour
- Are detainees oriented to rules and procedures? Yes
- Are rules and grievance procedures posted? No
- Are rules and grievance procedures understood by detainees? Yes
- Number of suicides None
- Number of attempted suicides None
- Number of deaths from other causes None
- Numbers of escapes Since 2007 facility opened, 2 to 5 escapes, all caught while still on premises
- Date of last fire/emergency drill Staff knowledgeable of procedures

STAFFING

- Is there enough staff to monitor detainees? Yes
- Does staff communicate in language that a detainee can understand? Yes
- Diversity of staff Yes
- Impression of staff/ detainee interactions No detainees in custody at time of inspection

PROGRAMS N/A

Exercise:

- Is it inside or out?
- How frequently is it offered?
- How much time is each detainee offered?
- Do men get more exercise time than the women?

TELEPHONE

- Do detainees have access to telephones? Yes

CORRESPONDENCE N/A

- Is there a limited free postage for detainees without money?
- Incoming/outgoing – are detainees aware that mail can be read?
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?

VISITING N/A

- Is there adequate space, convenient times or accommodations to family's work schedule?.
- Are there provisions for special visits with attorneys?
- Does staff supervise visits?
- Do all detainees have access to visiting?
- If not, give reason: All detainees are transported to other facilities within one hour

DISCIPLINE OF DETAINEES

- How often is discipline enacted? 10 since 2007, incidents recorded
- What is the range of discipline options? Verbal commands, handcuffs

GRIEVANCES

- What are the most common types of grievances filed by detainees? None
- Is there a record kept based on type and number? N/A

MEALS/NUTRITION N/A

- The kitchen area – Is it clean?
- Are meals served in the cell?
- If not where?
- Are detainees permitted to converse during meals?
- Length of time allowed for eating?

HEALTH

Medical Services:

- How frequently is medical staff onsite? N/A
- How long do detainees wait to be seen? Immediately
- Is a physician available by phone or come inside? Medical services available from fire department paramedics located next door

Mental Health Services: N/A

- What type of on-site health facility is available to detainees?
- How frequently is mental health staff onsite?
- How long do Juvenile detainees wait to be seen?

Other:

- What off-site hospital is used for serious health issues? Redlands Community Hospital, other local facilities
- How detainees transported to off-site facilities? Paramedics
- How is security handled? Police

SITE TOUR

AREA INSPECTED/REVIEWED
(Please Check)

QUALITY OF LIFE		PERSONS INTERVIEWED
Booking x		Facility Manager x
Physical Plan x		Line Staff x
Meals/Nutrition Adequate N/A		Food Services Staff N/A
Mental Health N/A		
Visiting N/A		

Any additional information/notes.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration Good
- Condition of the grounds, exercise areas, playing fields, and exercise equipment N/A
- General cleanliness of the facility including windows, lighting, lockers, desks, conditions of the area Good
- Condition of sleeping room door panels N/A
- Temperature of living units Good
- Safety and security issues including fencing, outdoor lighting, location of the weapons locker
None
- If a court holding area is present in the facility, ensure access to toilet and drinking water N/A

INTERIOR OF BUILDINGS

Walls, paint, floors, drains, plumbing fixtures working, air vents, windows Good

- Are cleaning fluids and chemicals labeled and safely stored? Weapons locker present Yes
- Recreation/sports equipment N/A
- Are the hallways clear, are doors propped open or closed? Yes, Hallways clear and doors closed
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Cells
- Beds – Type of bed and is it off the floor? N/A

- Adequate lighting Yes

- Temperature. Good

- **INDIVIDUAL CELLS/ROOM**

- Condition of walls Good

- Personal possessions allowed in cell/room (Art, Books, Etc.) N/A

- Graffiti present No

- Ample bedding. N/A

PERSONAL APPEARANCE OF DETAINEES

- What is the appearance of Detainees (dirty, unkempt, well groomed, etc.)? Non observed

- Showers – frequency – (?), privacy - , maintained N/A

- Are there any reported assaults by detainees on detainees? No

- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? N/A

TYPE I FACILITY (HOLDING CELLS)

* * * INSPECTION FORM * * *

Please fill out those sections that apply to the facility you are inspecting

FACILITY NAME: San Bernardino Holding Cells	INSPECTION DATE: December 12, 2012
FACILITY CAPACITY: 200	LAST STATE INSPECTION DATE: July 25, 2012
ADDRESS: 351 North Arrowhead Avenue San Bernardino, CA 92415	TELEPHONE NUMBER: FAX NUMBER:
TYPE OF FACILITY: Holding Facility DETENTION CENTER: NA OTHER:	

Any Additional Information/Notes:

GENERAL INFORMATION

- What is the capacity of the facility? 200
- What is the number of pretrial detainees? All
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? 8 hours
- Are detainees oriented to rules and procedures? No
- Are rules and grievance procedures posted? No
- Are rules and grievance procedures understood by detainees? Yes
- Number of suicides None
- Number of attempted suicides None
- Number of deaths from other causes None
- Numbers of escapes None
- Date of last fire/emergency drill. None

STAFFING

- Is there enough staff to monitor Detainees? Yes, 6 deputies
- Does staff communicate in language that a Detainee can understand? Yes
- Diversity of staff Yes
- Impression of staff/ Detainee interactions Not observed, all detainees in court

PROGRAMS N/A

Exercise:

- Is it inside or out?
- How frequently is it offered?
- How much time is each detainee offered?
- Do men get more exercise time than the women?

TELEPHONE

- Do detainees have access to telephones? No

CORRESPONDENCE N/A

- Is there a limited free postage detainees without money?
- Incoming/outgoing – are Juvenile aware that mail can be read?
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?

VISITING

- Is there adequate space, convenient times or accommodations to family's work schedule? N/A
- Are there provisions for special visits with attorneys Yes
- Does staff supervise visits? Yes, video only, no sound
- Do all detainees have access to visiting? N/A
 - If not, give reason:

DISCIPLINE OF DETAINEES

- How often is discipline enacted? Any disciplinary action required is written up and referred to the detention facility
- What is the range of discipline options? Determined by the detention facility

GRIEVANCES

- What are the most common types of grievances filed by Detainees? Only 2 over the last 11 years (the time of employment by Deputy Garcia)
- Is there a record kept based on type and number? Yes (only type is treatment of detainee)

MEALS/NUTRITION

- The kitchen area – Is it clean? N/A (lunch is peanut butter and jelly sandwiches prepared off site)
- Are meals served in the cell? If not where? Yes, in cells
- Are detainees permitted to converse during meals? Yes
- Length of time allowed for eating? 30 minutes or more

HEALTH

- Medical Services:
 - How frequently is medical staff onsite? No medical staff onsite
 - How long do detainees wait to be seen? Immediately
 - Is a physician available by phone or come inside? Physician not notified, an ambulance would be called
 - What type of on-site health facility is available to detainees? None

Mental Health services: N/A

- How frequently is mental health staff onsite?
- Other:
 - What off-site hospital is used for serious health issues? Arrowhead Medical Center
 - How Detainees transported to off-site facilities? By ambulance
 - How is security handled? Deputy will follow ambulance to hospital and detainee would be handed off to deputy onsite

SITE TOUR

<u>AREA INSPECTED/REVIEWED</u> (Please Check)

QUALITY OF LIFE		PERSONS INTERVIEWED
Booking N/A		Facility Manager Yes
Physical Plan N/A		Line Staff No
Meals/Nutrition Adequate		Food Services Staff N/A
Mental Health N.A,		
Visiting		

Any additional information/notes.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration

Facility is very old but adequately maintained. Some graffiti noted in cells.

- Condition of the grounds, exercise areas, playing fields, and exercise equipment N/A
- General cleanliness of the facility including windows, lighting, lockers, desks, conditions of the mattresses, bedding and pillows

No pillows or bedding

- Condition of sleeping room door panels N/A

- Temperature of living units

Comfortable

- Safety and security issues including fencing, outdoor lighting, location of the weapons locker

Weapon locker located on first floor.

- If a court holding area is present in the facility, ensure access to toilet and drinking water

No holding facility, detainees have access to toilet and drinking water

INTERIOR OF BUILDINGS (walls, paint, floors, drains, plumbing fixtures working, air vents, windows)

- Are cleaning fluids and chemicals labeled and safely stored? Yes
- Weapons locker present Yes
- Recreation/sports equipment N/A
- Are the hallways clear, are doors propped open or closed? Yes, Hallways clear and door closed
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Cells only
- Beds – Type of bed and is it off the floor? Yes
- Adequate lighting Yes
- Temperature Comfortable

INDIVIDUAL CELLS/ROOM

- Condition of walls Adequate
- Personal possessions allowed in cell/room (Art, Books, Etc.) No
- Graffiti present Some in cells
- Ample bedding No bedding

PERSONAL APPEARANCE OF DETAINEES

- What is the appearance of Detainees (dirty, unkempt, well groomed, etc.)? OK
- Showers – frequency – (?), privacy - , maintained N/A
- Are there any reported assaults by Detainees on Detainees? No
- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? Appropriate

TYPE I FACILITY (HOLDING CELLS)

* * * INSPECTION FORM * * *

Please fill out those sections that apply to the facility you are inspecting

FACILITY NAME :Victorville Jail	INSPECTION DATE: December 17, 2012
FACILITY CAPACITY: 90	LAST STATE INSPECTION DATE:
ADDRESS: 1445 Civic Drive Victorville, CA 92392	TELEPHONE NUMBER: FAX NUMBER:
TYPE OF FACILITY: Holding Facility	
DETENTION CENTER: NA	
OTHER:	

Any Additional Information/Notes:

GENERAL INFORMATION

- What is the capacity of the facility? 90 (currently using 42)
- What is the number of pretrial detainees? All
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? 96 hours
- Are detainees oriented to rules and procedures? Yes
- Are rules and grievance procedures posted? No
- Are rules and grievance procedures understood by detainees? Yes – by pamphlet
- Number of suicides None
- Number of attempted suicides 3 (provided medical aid, counseling)
- Number of deaths from other causes None
- Numbers of escapes None
- Date of last fire/emergency drill Staff training (Leaving Facility)

STAFFING

- Is there enough staff to monitor detainees? Yes (22 total personnel)
- Does staff communicate in language that a detainee can understand? Yes
- Diversity of staff Yes
- Impression of staff/ detainee interactions Appropriate

PROGRAMS

Exercise: N/A (only for inmate workers)

- Is it inside or out? Out
- How frequently is it offered? 3 times a week
- How much time is each detainee offered? 1 hour/day
- Do men get more exercise time than the women? All men

TELEPHONE

- Do detainees have access to telephones? Yes

CORRESPONDENCE

- Is there a limited free postage for detainees without money? No
- Incoming/outgoing – are detainees aware that mail can be read? Yes
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?

Standard procedure

VISITING

Is there adequate space, convenient times or accommodations to family's work schedule?

Yes – large visitation area

- Are there provisions for special visits with attorneys? Yes
- Does staff supervise visits? Yes
- Do all detainees have access to visiting? Yes

DISCIPLINE OF DETAINEES

- How often is discipline enacted? Very seldom
- What is the range of discipline options? Refer to West Valley Detention Center if needed

GRIEVANCES

- What are the most common types of grievances filed by detainees? Inmate workers, only 2 in last 2 years
- Is there a record kept based on type and number? Yes

MEALS/NUTRITION

- The kitchen area – Is it clean? N/A
- Are meals served in the cell? Yes
- If not where?
- Are detainees permitted to converse during meals? Yes
- Length of time allowed for eating? 15 – 20 Minutes

HEALTH

Medical Services:

- How frequently is medical staff onsite? N/A (can use video conference to discuss problems with medical staff)
- How long do detainees wait to be seen? EMA response time and transportation to West Valley detention Center or local hospital

- Is a physician available by phone or come inside? By phone

Mental Health Services: N/A

- What type of on-site health facility is available to detainees? N/A
- How frequently is mental health staff onsite? N/A

Other:

- What off-site hospital is used for serious health issues? Victor Valley
- How detainees transported to off-site facilities? Bus, Van, Patrol car
- How is security handled? Deputy accompanies

SITE TOUR

AREA INSPECTED/REVIEWED
(Please Check)

QUALITY OF LIFE		PERSONS INTERVIEWED
Booking X		Facility Manager X
Physical Plan X		Line Staff X
Meals/Nutrition Adequate		Food Services Staff N/A
Mental Health N.A		
Visiting X		

Any additional information/notes.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration None
- Condition of the grounds, exercise areas, playing fields, and exercise equipment N/A
- General cleanliness of the facility including windows, lighting, lockers, desks, conditions of the mattresses, bedding and pillows OK
- Condition of sleeping room door panels N/A
- Temperature of living units Good
- Safety and security issues including fencing, outdoor lighting, location of the weapons locker OK
- If a court holding area is present in the facility, ensure access to toilet and drinking water Yes

INTERIOR OF BUILDINGS

Walls, paint, floors, drains, plumbing fixtures working, air vents, windows OK

- Are cleaning fluids and chemicals labeled and safely stored? Weapons locker present Yes
- Recreation/sports equipment N/A
- Are the hallways clear, are doors propped open or closed? Yes
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Cells
- Beds – Type of bed and is it off the floor? Yes
- Adequate lighting Yes

- Temperature OK

- **INDIVIDUAL CELLS/ROOM**

- Condition of walls OK
- Personal possessions allowed in cell/room (Art, Books, Etc.) N/A
- Graffiti present No
- Ample bedding. Yes

PERSONAL APPEARANCE OF DETAINEES

- What is the appearance of Detainees (dirty, unkempt, well groomed, etc.)? Not observed
- Showers – frequency – (?), privacy - , maintained N/A
- Are there any reported assaults by detainees on detainees? No
- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? Yes

GENERAL INFORMATION

- What is the capacity of the facility? 200 (180 at present)
- What is the number of pretrial Juvenile Detainees? Not available
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? Plus/minus 30 Days
- What is the Juvenile Detainee classification system? Describe
- HDJDAC Units (See attached Assessment/Classification/Roommate System Form)
- Number of weekend offenders? Zero
- Are Juvenile Detainees oriented to rules and procedures? Yes, with copy given at orientation
- Are rules and grievance procedures posted? Yes
- Are rules and grievance procedures understood by Juvenile Detainees? Yes
- Number of Juvenile Detainee suicides Zero
- Number of attempted suicides Two in the last year
- Number of deaths from other causes Zero
- Numbers of escapes Zero
- Date of last fir/emergency drill August 17, 2012 (and every three months)

STAFFING

- Is there enough staff to monitor Juvenile Detainees? Yes, one staff per ten juveniles
- Does staff communicate in language that a Juvenile Detainee can understand? Yes
- Diversity of staff Yes

- Impression of staff/Juvenile Detainee interactions N/A

PROGRAMS

- Exercise:
 - Is it inside or out? Both
 - How frequently is it offered? Seven days a week
 - How much time is each Juvenile Detainee offered?
Total three hours/week, five hours/weekends
 - Do men get more exercise time than the women? No
- Are there clergy available to Juvenile Detainees up on request? Yes
 - Are there religious services? Yes
- Are anger management and other applicable programs available? Yes
- Are vocational classes available? Yes
 - If so, what types:
ROP Forklift, Food handlers Certificate, Job Interview Training
 - Cooking No
 - Gardening Yes

TELEPHONE

- Do Juvenile Detainees have access to telephones? Yes

CORRESPONDENCE

- Is there a limited free postage for Juvenile Detainees without money? Yes
- Incoming/outgoing – are Juvenile Detainees aware that mail can be read? Yes
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?

Only screened for contraband

VISITING

- Is there adequate space, convenient times or accommodations to family's work schedule, etc.?

Yes

- Are there provisions for special visits with attorneys/clergy? Yes
- Does staff supervise visits? Yes
- Do all Juvenile Detainees have access to visiting? Yes
 - If not, give reason:

DISCIPLINE OF JUVENILE DETAINEES

- How often is discipline enacted?

Point system – Detainee will lose free time. Due process is followed with supervisor overseeing procedure.

- What is the range of discipline options? Administrative segregation

GRIEVANCES

- What are the most common types of grievances filed by Juvenile Detainees? 164 grievances

which included; visitation issues, guardian travel (long drive), mostly minor complainants

- Is there a record kept based on type and number? Yes, in quarterly reports

MEALS/NUTRITION

- The kitchen area – Is it clean? Yes Are knives and chemicals locked? Yes
- Have the Juvenile Detainees working in the kitchen been trained? No juveniles in kitchen
- Have the Juvenile Detainees had a medical clearance/review before assignment? N/A
- Are meals served in the cell or playroom
- Are Juvenile Detainees permitted to converse during meals? Yes, low chatter
- Length of time allowed for eating? 20 minutes or more

HEALTH

- Medical Services:
 - How frequently is medical staff onsite? Registered Nurse on site 24/7
 - How long do Juvenile Detainees wait to be seen? Detainees screened on intake and immediately or within 24 hours of sick call
 - Is a physician available by phone or come inside? Pediatrician on call 24/7, Provider available on Monday, Tuesday, Wednesday and Friday
 - What type of on-site health facility is available to Juvenile Detainees? Clinic, exam room
 - What type of on-site dental facility is available to Juvenile Detainees? Mobile dentist once a month, sent to dentist in emergency
- Mental Health services:

- How frequently is mental health staff onsite? 7 days a week, standby service available
- How long do Juvenile Detainees wait to be seen? Form is completed, seen within 24 hours, suicidal are seen immediately
- Other:
 - What off-site hospital is used for serious health issues? For 911 situations - Saint Mary, Apple Valley, - Arrowhead, Colton
 - How are Juvenile Detainees transported to off-site facilities? Non-emergency transportation, 911, ambulance
 - How is security handled? Accompanied by 2 staff members at all times

SITE TOUR

AREA INSPECTED/REVIEWED
(Please Check)

QUALITY OF LIFE	PROGRAMS	PERSONS INTERVIEWED
Physical Plan Yes	Educational Yes	Juvenile Detainees No
Meals/Nutrition Yes	Vocational Some	Facility Manager Yes
Mental Health Yes	Community Services N/A	Medical Yes
Physical/Dental Health Yes	Domestic Violence N/A	School Staff Yes
Religious Services Yes	Victim/Gang Awareness see note	Mental Health Staff Yes
Visiting Yes	Substance Abuse Yes	Line Staff Yes
Volunteer Involvement Yes	Other	Food Services Staff Yes
Other		Other

Any additional information/notes: Response to questions regarding procedures for handling two attempted suicides and gang related information attached.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration - Good
- Condition of the grounds, exercise areas, playing fields, and exercise equipment - Good
- General cleanliness of the facility including windows, lighting, lockers, desks, conditions of the mattresses, bedding and pillows - Good
- Condition of sleeping room door panels – Good
- Temperature of living units and classrooms - Good
- Safety and security issues including fencing, outdoor lighting, location of the weapons locker - Good
- If a court holding area is present in the facility, ensure access to toilet and drinking water – N/A

INTERIOR OF BUILDINGS (walls, paint, floors, drains, plumbing fixtures working, air vents, windows)

- Are cleaning fluids and chemicals labeled and safely stored? Yes
- Weapons locker present Not observed
- Recreation/sports equipment Good
- Are the hallways clear, are doors propped open or closed? Yes
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Yes
- Beds – Type of bed and is it off the floor? Single bed off the floor
- Adequate lighting Yes
- Temperature Good

INDIVIDUAL CELLS/ROOM

- Condition of walls Good
- Personal possessions allowed in cell/room (Art, Books, Etc.) Limited
- Graffiti present No
- Ample bedding Yes

PERSONAL APPEARANCE OF JUVENILE DETAINEES

- What is the appearance of Juvenile Detainees (dirty, unkempt, well groomed, etc.)? Well

Groomed

- Showers – frequency – (?), privacy Yes, maintained - Good, supervised by staff Yes?
- Are there any reported assaults by Juvenile Detainees on Juvenile Detainees? Yes, assaults
recorded on incident reports
- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? Yes

GENERAL INFORMATION

- What is the capacity of the facility? 3,347; 2,762 count to maintain (322 female/2,240 male)
- What is the number of pretrial Inmates? 2,552
- Has the facility exceeded capacity since the last state inspection? No
- What is the average length of detention? 22 months
- What is the Inmate classification system? Describe: Point system (in file)
- Number of weekend offenders? Not applicable
- Are Inmates oriented to rules and procedures? Video and written (Title 5)
- Are rules and grievance procedures posted? Yes
- Are rules and grievance procedures understood by Inmates? Yes
- Number of Inmate suicides 1 (annual)
- Number of attempted suicides 2
- Number of deaths from other causes 4 (medical ward, illness)
- Numbers of escapes 1
- Date of last fir/emergency drill 1 annual inspection; procedures in place; not practiced

STAFFING

- Is there enough staff to monitor Inmates? Yes, short 1, but staffed with overtime
- Does staff communicate in language that an Inmate can understand? Yes
- Diversity of staff Average; continuing to consider increasing monitoring
- Impression of staff/Inmate interactions: Professional (167 use of force)

PROGRAMS

- Exercise:
 - Is it inside or out? In/Out
 - How frequently is it offered? Three hours daily minimum/week (greater than minimum)
 - How much time is each Inmate offered? Three hours
 - Do men get more exercise time than the women? Same
- Are there clergy available to Inmates up on request? Yes
 - Are there religious services? Yes
- Are anger management and other applicable programs available? Yes and medical
- Are vocational classes available? Yes
 - If so, what types:
 - Cooking : Culinary
 - Gardening: N/A

TELEPHONE

- Do Inmates have access to telephones? Yes

CORRESPONDENCE

- Is there a limited free postage for Inmates without money? Yes
- Incoming/outgoing – are Inmates aware that mail can be read? Yes
- Confidential correspondence – letter to attorneys, legislators, CSA, etc., - how is it handled?

By legal restrictions

VISITING

- Is there adequate space, convenient times or accommodations to family's work schedule, etc.?
Yes
- Are there provisions for special visits with attorneys/clergy? Yes
- Does staff supervise visits? Yes; check visitors for contraband
- Do all Inmates have access to visiting? Yes – except for those on discipline
 - If not, give reason:

MEALS/NUTRITION

- The kitchen area – Is it clean? Yes Are knives and chemicals locked? Knives are tethered; chemicals locked
- Have the Inmates working in the kitchen been trained? Yes
- Have the Inmates had a medical clearance/review before assignment? Yes
- Are meals served in the cell, dayroom or at a central cafeteria? Cell and dayroom
- Are Inmates permitted to converse during meals? No - minimal
- Length of time allowed for eating? 15 minimum, but allow 23-30 minutes

HEALTH

- Medical Services:
 - How frequently is medical staff onsite? 24/7
 - How long do Inmates wait to be seen? Within 24 hours
 - Is a physician available by phone or come inside? 24/7
 - What type of on-site health facility is available to Inmates? Specialty housing including services for 60 cancer, 8 dialysis, 250 diabetic inmates
 - What type of on-site dental facility is available to Inmates? Yes

- Mental Health services:
 - How frequently is mental health staff onsite? 7 days a week; 12 hours a day
 - How long do Inmates wait to be seen? Immediately

- Other:
 - What off-site hospital is used for serious health issues? Arrowhead Regional Medical Center and contract with all area hospitals
 - How are Inmates transported to off-site facilities? Ambulance or staff
 - How is security handled? 2 deputies at Arrowhead and during transporting

SITE TOUR

AREA INSPECTED/REVIEWED
(Please Check)

	QUALITY OF LIFE		PROGRAMS		PERSONS INTERVIEWED
X	Physical Plan	X	Educational		Inmates - None
X	Meals/Nutrition	X	Vocational (culinary)	X	Facility Manager
X	Mental Health	N/A	Community Services	X	Medical
X	Physical/Dental Health	X	Domestic Violence		School Staff
X	Religious Services		Victim/Gang Awareness	X	Mental Health Staff
X	Visiting		Substance Abuse	X	Line Staff
N/A	Volunteer Involvement		Other	X	Food Services Staff
	Other				Other

Any additional information/notes:

Paraplegic; none because facility not ADA compliant.

Note the following items as you tour the facility:

- Condition of the exterior and interior of the building noting graffiti, peeling paint, unpleasant odors, or other signs of deterioration

Tile is broken in food preparation area; staff is aware of the condition.
Otherwise, facility in excellent condition.

- Condition of the grounds, exercise areas, playing fields, and exercise equipment

Excellent

- General cleanliness of the facility including windows, lighting, lockers, desks, conditions of the mattresses, bedding and pillows

Excellent

- Condition of sleeping room door panels Adequate

- Temperature of living units and classrooms Adequate

- Safety and security issues including fencing, outdoor lighting, location of the weapons locker
Adequate

- If a court holding area is present in the facility, ensure access to toilet and drinking water
Yes

INTERIOR OF BUILDINGS (walls, paint, floors, drains, plumbing fixtures working, air vents, windows)

- Are cleaning fluids and chemicals labeled and safely stored? Adequate
- Weapons locker present Yes
- Recreation/sports equipment Yes
- Are the hallways clear, are doors propped open or closed? Doors secured
- Holding areas (cells/rooms) – (if present), is there access to drinking water and toilet? Yes
- Are there individual cells/rooms, or dormitories? Yes
- Beds – Type of bed and is it off the floor? Yes
- Adequate lighting Yes
- Temperature Yes

INDIVIDUAL CELLS/ROOM

- Condition of walls Good
- Personal possessions allowed in cell/room (Art, Books, Etc.) Not observed
- Graffiti present No
- Ample bedding Yes

PERSONAL APPEARANCE OF INMATES

- What is the appearance of Inmates (dirty, unkempt, well groomed, etc.)? Well groomed
- Showers – frequency, privacy, maintained, supervised by staff? As needed; yes to all
- Are there any reported assaults by Inmates on Inmates? Yes
- Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)? Good



**AD HOC
COMMITTEES**



AD HOC COMMITTEES MEMBERS

Dianne D. Tolbert

Edward H. Burgnon

Kent Fogleman

Marilyn Trombetta

Nino Valmassoi

Roger D. Trussell

Robert O. Turley

Robert P. Deao

Sandra Shahan

Thomas Wilkin

William B. Lundstrom



AD HOC COMMITTEES

INTRODUCTION

The Grand Jury presently has four standing committees.

1. Cities/Special Districts
2. County
3. Human Services
4. Law & Justice

Each of these committees is responsible for handling assignments within the Cities and County, including Special Districts. For whatever reason, when it is felt that a standing committee is unable to absorb an issue into its scope, an Ad Hoc Committee is formed to examine that specific complaint, problem or issue.

The 2012-2013 Grand Jury formed three Ad Hoc Committees. The following is a summary of the issues.

1. Solicitation of Inmates by Bondsmen - The Grand Jury reviewed issues regarding the process, and solicitation activities of inmates at local detention centers, and visitation procedures by Bail Bond companies. A report was written regarding aspects of their processes that appear to be circumventing the California Laws and Penal Codes. Recommendations have been made to correct and enhance the policies and procedures of bondsmen regarding their interaction with inmates.
2. Newberry Community Services District – the Grand Jury reviewed issues regarding practices, Policy and Procedures and Board actions of the agency. A report follows in this section with recommendations.
3. San Bernardino County Sheriff Department Taser Policy – The main focus of investigation was to address taser use and was extended to Taser Training, what types of individuals should not be tasered, and what precautions were in place to minimize injury and/or death from the use of the Taser. The Grand Jury reviewed local and National cases and statistics regarding taser-related deaths.

The results of these investigations, including the Findings and Recommendations are included in the following Final reports.

BAIL SOLICITATION OF INMATES AT COUNTY DETENTION CENTERS

BACKGROUND

The Grand Jury received a complaint regarding the activities of bondsmen at the San Bernardino County Sheriff Department (SBCSD) Detention Centers, including the use of government websites by bondsmen for inappropriate purposes.

In order to identify and investigate issues and concerns, it was essential the Grand Jury understand the processes and legal procedures of bail bond transactions. Interviews of bail bond agents, representatives of the California Department of Insurance, and various government agencies were conducted. Policies and procedures for bail bondsmen visits to detention centers, including their need for face-to-face visitations with inmates, were collected and researched.

A bail is defined as a bond which is posted by a bail bond company to the court as a guarantee for the arrestee's appearance to all mandated court appearances and for the release of the person from detention. The bail bond fee is the sum of money or collateral which is exchanged between the arrestee and the bail bond company to secure the bond. The arrestee promises to attend all court appearances, as necessary. Bail bonds may be posted at any County detention center or holding facility, and at the rehabilitation facility for women only. However, the majority of bails bonds are posted at the West Valley Detention Center, Central Detention Center and Adelanto Detention Center/Victor Valley Jail. The scope of bail bond activities and magnitude of the potential revenues during a one-month period is illustrated in the Table below.

TOTAL ARRESTS FOR JULY 2012

San Bernardino Detention Centers	Arrests July 2013	Number of Arrestees Posted Bail Bonds	Average Bail \$25,000 Bail fee is \$2,500
			Bail fee @ 10% of bail amount
West Valley Detention Center	7,731	397	\$992,500
Central Detention Center	1505	56	\$140,000
Adelanto Detention Center/ Victor Valley Jail	1,116	65	\$162,500
Total	10,352	518	\$1,295,000

Source: San Bernardino County Sheriff Department –Detention Centers

If the total arrests for the month of July (10,352) were annualized, that number would be approximately 120,000 arrests each year in this County.

Bail Bond Process

When a person is arrested on suspicion of a crime and the Court has an established monetary value (bail) they have the right to seek and post a bail bond for their release. At the time of arrest and during the booking process the arrestee has an opportunity to make a call to a bail bond company to initiate the process of obtaining a bail bond. A posted directory is in each holding cell. The law states that a bail bondsman (bondsman) must be solicited for bail directly by the arrestee, the arrestee's attorney of record, or an adult friend or family member.

A bondsman has the authority to negotiate and complete the process of acquiring a bond from a surety insurer for any person who has been arrested and detained on a bondable offense. The California Department of Insurance has the administrative and enforcement authority for licensing and regulating of the activities of bondsmen. The bondsman is licensed upon conformance with the following qualifications:

- a minimum age of 18 years;
- residency in the State of California;
- completion of a minimum of 20 hours of approved classroom study;
- passage of a California licensing examination;
- provides a bond in the sum of \$1,000; and
- notice of appointment by a surety insurer.

A bondsman may have more than one appointment by a surety insurer and the surety companies do not have to be located within the State of California. Penal Codes §1300 through §1301, and California Code of Regulation (CCR), Title 10, §2054 through §2104 provide the legal basis for bail bond licenses, bondsmen and bail transactions.

When the bondsman working with a bail bond company posts the guarantee of the total bail amount for the release of a suspect, the company assumes the responsibility for making sure the suspect will be present in court at all court required appearances.

Because the bail bond company is taking a risk on the suspect, now identified as a bailee, it is necessary for the collateral to be as significant to the risk being taken, and significant for the bailee to be willing to comply with the court appearance requirements.

Bail bonds are negotiated in several ways. In a perfect world where all bondsmen follow the letter and spirit of the law, bondsmen charge ten percent of the bail amount as the fee. For example, on a \$25,000 bail the ten percent fee is \$2,500. However, to become more competitive,

a bondsman can negotiate a lower fee by using the 'rebate' law as approved by Proposition 103 legislation. This is accomplished by calculating a lower fee percentage as a 'rebate' back to the bailee. Recently, the economic climate has affected the ability of many to make financial arrangements for bail fees. Thus, the amount of the fee can be lowered anywhere from an eight percent fee to a two percent fee (i.e., 8% of \$25,000 is \$2,000 and 2% is \$500.) The rebate or discount process has brought the bail fee to a level which can be more affordable. There is also the process by some bail bond companies to offer a 'credit bail' where a down payment is made and partial payments are accepted until fully paid. It is illegal to charge interest on bail fees.

The bondsman may require the bond to be secured by a lien on an arrestee's or his family/friend's real estate property. This procedure is used in cases of high bail amounts when the bail fee is also substantial (i.e., ten percent of \$100,000.) In this situation, the bondsman usually requires ten percent of the fee in cash, with the remaining amount secured by asset(s).

The business costs of the bail bond company are 20% of the bail fee to be paid to the surety company, of which ten percent is placed into a buffer account. The buffer account is a holding account which provides a bail bond company the ability to absorb losses due to bond forfeitures. Once the buffer account has reached its maximum threshold, the ten percent payment is not necessary. The remainder of the bail fee is gross profit to the bail bond company.

A bond company and/or bondsman may surrender the bailee to the court or custody if it is determined the bailee is a potential flight risk. Per CCR §2090, if the bailee is surrendered, the bail fee is refundable minus administrative costs. It is not legal for the bondsman to surrender a bailee to custody for non-payment of bail fees.

If the bailee does not appear in court as required, the court orders the 'bail is forfeited' and notifies the bail bond company there are 185 days to locate the defendant and surrender him to detention or present him to the court. The bondsman has the authority to hire a bounty hunter to locate and retrieve the bailee. Bounty hunters are not licensed by the State of California. Bounty hunters have no more enforcement powers than an average citizen, as in a 'citizen's arrest' or 'citizen's hold for arrest.'

At the end of the initial 185 days, the bail bond company may file a request for an extension, if a good cause can be shown, for an additional 180 days to locate and retrieve the bailee. A good cause would be the bailee has been located in another state and additional time is necessary to return him to the local jurisdiction. If the client appears voluntarily or has been placed in custody for an additional crime, the bond forfeiture is vacated and the bond is exonerated.

A bail bond company may file a motion to exonerate the forfeited bond prior to the 365 days allowed for returning the client once the bail has been forfeited. The motion may be based upon evidence the client cannot be produced due to death, permanent inability to appear because

of disability, long-term hospitalization, mental illness, military detention, or incarceration. All motions for bail exoneration must be reviewed and approved by the San Bernardino County Counsel which will analyze the merits of the motion and determine if in agreement or opposition to the motion. Opposition may be raised by evidentiary objections based upon investigating and authenticating the foundations set forth in the bond company motion. In the cases when the bond is forfeited by Summary Judgment, the bond company has 30 days to pay the amount of the bail to the court. Failure to make the payment results in the bond company being disqualified from posting any bails within the jurisdiction of the court. If a bond company appeals the Summary Judgment for bond forfeiture, they must post an appeal bond, with an outside surety company.

FACTS

Inmate Locator System

The website for the San Bernardino County Sheriff Department includes an Inmate Locator page. The purpose of the page is to provide a means of identifying an arrestee, the detention facility in which an arrestee is detained, if the detainee has been released, and other case related data. Most arrestees at a County detention center are pretrial inmates and under suspicion of committing a crime.

Queries of the Inmate Locator System are subject to certain access restrictions. To make a query, the user must enter either the arrestee's name and age, or the booking number. The Inmate Locator System monitors the number of queries based upon the user's internet address. After five unsuccessful booking number queries in a 24-hour period from the same internet address ('information not found'), the system prevents any additional access or response for two hours. The intent of restricting access to this data, as opposed to merely listing all the names of the arrestees, is to protect the privacy of the individual. The bondsman, following appropriate protocols, would have sufficient information from the inmate or family/friend, to query the system for necessary details to post the bail.

For the bondsman and bail bond companies, being able to view and monitor new bookings by detention center and bail amount, is more than just informational; it is a list of potential new bail clients. The Inmate Locator System access rule for limiting queries to five attempts per internet address can be defeated simply by either using multiple computers or devices (each device has its own internet address), or by using the services of an internet address switching and/or masking company. These companies may route customer activity through servers throughout the world in order to hide the actual internet address of the user. Once the tactic for making unlimited number of queries is established, the inmate booking number field is accessible by the bond company employees.

The San Bernardino County Sheriff Department booking number contains embedded information which identifies the detention center, the month, the year, and a sequential (booking)

number assigned to each arrestee. The sequential booking number starts over at the beginning of each month. With unlimited access to the booking numbers, it is a simple matter to zero in on the most current booking number for each facility and monitor the system for the next number. With the booking number, an arrestee's personal data can be retrieved. This scheme is not by itself illegal, it is what can be accomplished with the information that facilitates illegal solicitation activities.

The information which is acquired via the Inmate Locator System can be used as root data to locate additional personal facts about the arrestee. Internet websites offering to locate individuals through free subscriptions or paid websites, list employment information, various financial details, asset ownership, and identity of family/friends of the individual. The objective of the bond company, when using these sites is to '*data mine*' for information that will identify family members/friends of the arrestee that can be targeted family/friend by a solicitation phone call. The bondsman calls the target and implies they are calling on behalf of the arrestee to inform the target the person has been arrested. If the targeted person would like to get the arrestee released, a bail bond can be arranged over the phone with follow-up later at the bond company office.

The bondsman can additionally use the information obtained from the Inmate Locator System to seek a visitation with a potential client at the detention center and directly solicit bond services from the inmate, purporting to be acting "on request" of a family member or friend.

Website '*spoofing*' is the act of creating a website for the purposes of misleading users into believing the spoofed website actually belongs to a different organization. Web pages displaying government logos, entity trademarks or copyright, without permission and for malicious purposes, are clearly illegal. Web pages with large print headers such as "***West Valley Detention Inmate Information***" or "***West Valley Detention Center Inmate Information***" are misleading to all but the most observant user. Per the California Business and Professional Code §17.500, even though the spoofed website statement(s) may be true, if couched in such a manner that it is likely to mislead or deceive the consumer, are illegal. On September 16, 2011, at the request of the SBCSD, County Counsel issued a '*Cease and Desist*' order to an offending bond company. However, these types of websites continue to persist.

The objective of spoofing the San Bernardino County Sheriff official website is to trick the user into believing they are utilizing the official website. This is where the bond company initiates the process of 'phishing.' Users who have logged onto this type of spoofed website are invited to enter their contact information in addition to the information regarding the arrestee they are trying to locate (i.e., name and birth date). These users voluntarily enter the requested information believing they are communicating with the SBCSD. However, in reality they are communicating with a bail bond company. Once their personal information is transmitted to the bond company, the bond company is 'free' to contact that person and offer bail services.

Therefore, it is not considered to be initiating contact or solicitation because the bond company is responding to a customer.

Official Visitor's Process

Bondsmen use the Official Visitor's process to visit inmates in the San Bernardino Sheriff Detention Centers. The Official Visitors policy in the Police Officers Standards and Training (POST) Orders specific to the West Valley Detention Center identifies bondmen licensed by the State of California as being able to use Official Visitors process. When a bondsman requests to visit a detainee at the West Valley Detention Center, presents their license identification, completes a 'Bail Agent Request' with the information of who has contacted him to arrange the bail, and signs it, certifying the accuracy of the information. If the completed request is in order, the lobby Custody Assistant will call the unit where the inmate is located, notifying him of an Official Visitor. A visitor's pass is provided along with a key to an attorney visiting room for the unsupervised visit. If multiple visit requests are made, the bondsman must return to the lobby and complete an additional form requesting the next inmate to be contacted. A deputy in the lobby will examine the bondsman's briefcase and/or paperwork for contraband. The bondsman passes through a metal detector and is allowed entry into the secured area. Each detention facility commander has responsibility for establishing written procedures for inmate visiting, specific to the facility.

The Grand Jury conducted a survey of Riverside, San Diego, Orange and Los Angeles Counties to review their local policies and procedures for how visits of inmates by bondsmen are handled at their detention centers. The Table on the following page compares these policies with those of the County of San Bernardino.

POLICY	Bondsmen designated as an official visitor	Request by bondsmen for visitation verified?	Supervised visitation of bondsmen
County of San Bernardino	Yes, and access is provided in official visitor's room	Only in case staff has questions	No, the visitation is within the official visitor's room
County of Riverside	Yes, but has access in the normal supervised visiting areas.	Only if staff is suspicious of reason to see inmate.	Yes, if documents require signature, use of pass through slot for deputy or inmate is used.
County of San Diego	Yes, if it can reasonably be accommodated without hindrance to jail operations.	No, request to visit form includes the name of the detainee and person who requested the agent's services.	Yes, bondsman may visit detainees in the same capacity as a social visitor, via phone behind secured glass window.
County of Orange	Yes, but access is provided in the normal visiting areas, unless documents require signature.	Yes, randomly, staff may call the number provided on the request form for the person who requested their services.	Yes, bondsman may visit in the same capacity as a social visitor, behind secured glass window.
County of Los Angeles	Yes, communication with inmates is considered privileged.	The Watch Commander approves the interview request or notifies a follow-up investigator if there are questions.	No, but visitations are conducted without compromise to Officer or inmate security

Based upon the survey results, it appears that other jurisdictions have initiated official visitation policies that limit direct access of bondsmen to inmates.

Official Visitors are defined in the SBCSD POST orders as bondsmen, attorney, peace officers, clergy, any government official with proper identification, interpreters, and a Notary Public. Official Visitors can visit inmates at any time between 0830 and 2200 hours. This differs from regular visitors who must schedule visitations at the discretion of the detention facility. Additionally, Official Visitors are able to conduct unsupervised face-to-face visits in an enclosed room with inmates.

The Official Visitors' Log at the West Valley Detention Center and Victor Valley Jail reveal that bondsmen, representing one or two of the local bond companies, visit two through seven inmates as official visitors on a daily basis. The Central Detention Center does not have a log for bondsmen. However, most bondsmen maintain it is not routinely necessary to have a face-to-face visit with an inmate before posting the bail bond. The negotiation of a bail bond can be conducted by telephone or with a representative of the inmate, (i.e., family or friend). The only time it is necessary for a bondsman to meet with an inmate is to get signatures from the inmate when securing real estate property for posting the bond. That action, in itself, is not needed in all of those limited circumstances, as it is more common for the inmate's family or friend to use their real estate property to secure the bond. In those cases, the inmate signature is not needed.

In consideration of an issue raised in the original complaint, the Grand Jury evaluated the process of bail bond forfeitures and exonerations which are adjudicated in the San Bernardino County Courts. The County receives approximately three to four motions for exoneration per week. County Counsel's Office tracks and litigates all the motions for bond exoneration to ensure compliance with jurisdictional prescriptions and statutory requirements. It is their responsibility to enforce and collect summary judgments of forfeited bail bonds. During the year 2011, nine summary judgments were satisfied on forfeited bonds totaling \$444,750, and in 2012, 10 summary judgments were satisfied on forfeited bonds totaling \$487,296. The monies from the paid judgments on forfeited bail bonds are received by the Court Clerk and then transferred by the Court Financial Services Department to the County Auditor who distributes the monies to the appropriate entity and into the San Bernardino County Treasury. The distribution of funds is governed by a statutory formula prescribed in Penal Code §1463. The distribution, by percentages of forfeited amount, go to the County where the arrest was made, to the municipality, if applicable, in which the arrest was made, and to the State depending on the charged crime, after any court and administrative fees have been deducted. The consequence of nonpayment on a forfeited bail bond, after the entry of summary judgment by a bail bond company or surety, results in the disqualification of the affected company from posting bail bonds and acting as surety.

FINDINGS

1. Websites and web pages are currently in existence which are spoofing the San Bernardino County Sheriff Department (SBCSD) Inmate locator, detention centers, and official Websites.
2. The SBCSD Inmate locator website access/restriction controls are deficient and facilitate opportunities for inappropriate solicitation options by bondsmen.
3. SBCSD has the authority to define who has privacy privileges and use of official visitor's room.
4. The "Request for Visit" form used by bondsmen to visit inmates does not include a certification of accuracy and truthfulness by signature of the bondsman.
5. Bondsmen have conducted up to seven unsupervised official visits to different inmates in a day facilitating abuses by bondsmen in contacting inmates for bail services.
6. The SBCSD Detention Centers do not have consistent policies for maintaining logs for bondsmen visits.
7. The County of San Bernardino Office of County Counsel is effectively responding to motions for bond forfeitures and exonerations.
8. Inmates are not generally aware that it is illegal for bondsmen to solicit bail services.

RECOMMENDATIONS

- 13-17. SBCSD to establish procedures for conducting periodic website inspections which imitate government titles, logos or booking information, attempting to mirror the SBCSD Inmate Locator web page, in order to issue "Cease and Desist Orders." (Finding 1)
- 13-18. SBCSD to withhold inmate booking number from the public for 72 hours. A legitimate bondsman would have sufficient information to post a bail bond. (Finding 2)
- 13-19. SBCSD to revise "Request for Visit" form to include identity of requesting contacts for services with phone numbers for verification. (Findings 4, 5)
- 13-20. SBCSD to revise "Request for Visit" form to include certification of accuracy and truthfulness of information provided by signature of the bondsmen. (Findings 4, 5)

- 13-21. SBCSD to establish a policy which randomly verifies contact information from “Request for Visit” forms from bondsmen. (Finding 5)
- 13-22. SBCSD to modify POST orders to require bondsmen use the supervised social visitor process via phone behind secured glass window. If inmate signatures are required, deputies can assist with the transfer of documents. (Finding 5)
- 13-23. SBCSD to establish policy for all detention centers to maintain daily logs for bondsmen visitation. This will allow for monitoring of frequency of visits and trigger the random verification of the ‘Request to Visit’ form. (Finding 5)
- 13-24. SBCSD to consider adding information indicating solicitation by bondsmen for bail services is illegal to the pre-recorded messages which are provided inmates when using detention phone systems to make out-going calls. (Finding 9)
- 13-25. SBCSD to consider adding a statement, “It is illegal for bondsmen to solicit you,” to the signs listing bail bond companies. These signs are currently posted in all holding cells at County detention centers. (Finding 9)

Responding Agency	Recommendations	Due Date
Sheriff-Coroner	13-17 through 13-25	09/28/13

NEWBERRY COMMUNITY SERVICES DISTRICT

BACKGROUND

The Grand Jury received multiple citizen complaints regarding Newberry Community Services District. Issues reviewed were regarding practices, Policy and Procedures and Board actions of the agency.

Due to the numerous issues involved and the detailed information to review, the Grand Jury requested the assistance of an outside consultant. The report that follows is a combination of the Grand Jury and the outside consultant's efforts.

RECOMMENDATIONS

- 13-26. The recommendations within the following report in the Governance Section, numbered 1-3 be responded to appropriately.
- 13-27. The recommendations within the following report in the Accounting and Financial Management Section, numbered 4-7 be responded to appropriately.
- 13-28. The recommendations within the following report in the Internal Controls Section, numbered 8-15 be responded to appropriately.

Responding Agency	Recommendations	Due Date
Newberry Community Services District	1 through 3 4 through 5 8 through 14	09/28/13
LAFCO	15	09/28/13
San Bernardino County Auditor/Controller	6 and 7	09/28/13

NEWBERRY COMMUNITY SERVICES DISTRICT

Table of Contents

Introduction.....	ii
Executive Summary.....	v
Governance.....	1
Accounting and Financial Management.....	7
Internal Controls.....	14

Introduction

Purpose

The Grand Jury received multiple citizen complaints regarding Newberry Community Services District's (NCSD or District) activities.

Background

Community Services Districts are special districts provided for in the State Government Code by the California Legislature to enable residents and property owners in California's diverse communities to achieve local governance, provide needed public facilities, and supply public services. Community Services Districts may be any of the following:

1. A permanent form of governance that can provide locally adequate levels of public facilities and services;
2. An effective form of governance for combining two or more special districts that serve overlapping or adjacent territory into a multifunction special district;
3. A form of governance that can serve as an alternative to the incorporation of a new city; or,
4. A transitional form of governance as the community approaches cityhood.

Community Services Districts are legal entities, defined within State Government Code, with powers:

1. To adopt and enforce rules for administration, operation, and services;
2. To sue and be sued;
3. To acquire real and personal property;
4. To appoint employees, define their qualifications and duties;
5. To engage counsel and other professional services; and,
6. To enter into contracts and joint powers agreements

Community Services Districts are required to have an elected Board of Directors. The Board of Directors are responsible for making policies that ensure District's staff are providing chartered services in a responsible, regulatory compliant, and cost effective manner. State Code prescribes rules governing the manner in which a Board must post public notices of meetings, conduct their meetings, and record actions taken at meetings. Community Services District Board of Directors and their meetings are subject to the Ralph M. Brown Act which requires all Board business, but for specific exemptions such as personnel matters and legal advice, to be conducted in public along with certain other conduct related provisions.

NCSD consists of a five member elected Board of Directors. Current Board makeup consists of three men and two women each living within the Districts boundaries. The Board meets monthly to review Districts Operations and Financials in an open public format. Responsibilities of the

Board include oversight of the NCSO Fire Department, public street lighting, and parks and recreation upkeep and maintenance.

In order to execute their responsibilities, a Community Services District's Board of Directors has the ability to:

1. Obtain legal counsel on matters such as:
 - a. Brown Act compliance.
 - b. Employment related laws.
 - c. Bidding and procurement laws.
 - d. Advice on contracts and memorandums of understanding.
2. Obtain financial advice on planning, investments, accounting, and taxes issues.
3. Hire auditors to:
 - a. Ensure an accurate accounting of all District monies.
 - b. Review the District's system of internal controls.
4. Hire subject matter experts for advice on areas of specific concern.
5. Attend training specifically designed for Special District Board members.
6. Raise revenues via special taxes, benefit assessments, and by charging certain fees.
7. Direct the hiring of qualified staff in sufficient quantities, such that: State and county code requirements are met; a system of internal controls and checks-and-balances are in place; minutes of meetings are taken; bills are paid on time and accurately recorded; and to ensure the services, with which the District has been empowered to provide, are adequately provided. Positions may include a Treasurer, a Board Secretary, and administrative and functional department staff as required.

The Newberry Community Services District was formed on December 15, 1958. The District has been specifically empowered by the County of San Bernardino and the County's Local Agency Formation Commission (LAFCO) to provide the following services:

1. Water, including for management, domestic use, irrigation, sanitation, fire protection, and recreational purposes.
2. Fire Protection, including structural, watershed, suppression, and prevention.
3. Street lighting.
4. Parks and Recreation, including local park development, operation, and maintenance.
5. Sewers, including planning and engineering.

Scope

Utilizing the regulatory framework established for Community Services Districts, as outlined above, the Grand Jury took the following actions to evaluate the issues raised in the citizens' complaints:

1. Subpoenaed financial documents, Board of Director's Meeting Minutes, District Bylaws, District Policy and Procedure manuals, banking records, and certain other district records.
2. Observed District Board of Directors' meetings.
3. Inspected certain facilities.

4. Conducted interviews.
5. Reviewed documentation provided by the District for compliance with State and County code, with its own policies and procedures, and for the adequacy of a system of internal controls.
6. Retained a management consulting firm with expertise in public agency matters and public agency accounting requirements.

Financial Period Reviewed

Financial information reviewed was based primarily upon the District's 2011-2012 fiscal year, which ended on June 30, 2012 and utilized information from the District's General Ledger as of that date.

Acknowledgements

The Grand Jury would like to thank the personnel from the Newberry Community Services District and others for their insight into the finances and operations of the District. In particular, we would like to thank the immediate past General Manager and staff for their efforts in compiling and indexing the many documents required for this review.

Executive Summary

The Grand Jury received multiple citizen complaints of activities conducted by the Newberry Community Services District.

To accomplish these objectives, the Grand Jury reviewed various District documents and records; observed Board of Directors' meetings; inspected certain facilities; conducted interviews; and, retained a management consulting firm with expertise in public agency matters.

A summary of the findings and recommendations contained in this report are presented on the pages that follow, by report section number.

Section 1. Governance

Newberry Springs Community Services District (NCSO) Board meetings are not conducted in accordance with rules of order or professional conduct recognized as best practices in public sector organizations. In addition, the NCSO does not consistently record or post official minutes in a timely manner, in violation of the District's own policies, and compromising the ability of Board members to recall official actions when reviewing the minutes for accuracy. A clear violation of California's Open Meeting Law, also known as the Brown Act, was observed by the Grand Jury and has been the topic of concern by members of the Newberry Springs community.

Further, members of the Board have attended mandatory ethics training. However, expanded trainings on leadership and effectively chairing public meetings are available through the California Special District Association, the Special District Leadership Foundation, the California State Association of Counties, and other bodies.

The Board should attend such trainings, and adopt and adhere to expanded, formal policies and rules regarding conduct at public meetings. In addition, NCSO management should take steps to ensure that records of official Board action are routinely recorded, approved for accuracy, and indexed for timely access by the public.

Based on these findings, the NCSO Board of Directors should:

1. The NCSO Board should direct the General Manager to develop proposed policies and rules for conducting public meetings, based on *Roberts Rules of Order* and other accepted standards for parliamentary procedure.
2. Seek to attend courses offered by the CSDA and CSAC on the roles and functions of elected officials, including those offered on leadership and conducting public meetings.
3. Direct the General Manager to begin and maintain a process to record, transcribe, post and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Section 2. Accounting and Financial Management

The NCS D has not completed annual financial audits for the previous three fiscal years (2009-2010, 2010-2011, and 2011-2012). State Government Code requires public agencies, including special districts, to conduct annual financial audits within 12 months of the end of each fiscal year. The Board of Directors failure to execute this responsibility is in noncompliance with California Government Code at Section 26909 and 61118 for 2009-2010 and 2010-2011. Further, while State Code requires the County Auditor-Controller to ensure such audits are completed, efforts to monitor and enforce this provision have had limited effectiveness.

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCS D, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that it agrees with the official records of the District. The financial information that has been provided, while unaudited, indicates some financial instability, which further underlies the need for regular financial audits.

NCS D lacks basic accounting procedures and controls. Specifically, District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, the District lacks a consistent method for authorizing, classifying, and documenting expenditures from purchase cards.

Based on these findings, the NCS D Board of Directors should direct the General Manager to:

4. Re-adopt a numerical and hierarchical account numbering structure for use in the District's general ledger and income statement.
5. Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual.
6. Create purchase card procedures that require District staff to include documentation showing the purpose and justification for all expenditures.

The Auditor Controller should:

7. Revise *Outside Audit Report* procedures to include corrective actions for special districts that do not comply with State audit requirements for an extended period of time. Such corrective actions could include conducting audits and billing the districts for Auditor-Controller staff time or hiring an outside certified public accountant to conduct the audit and billing the district for the accountant's work.
8. Work with the Newberry Community Services District General Manager to determine a feasible approach to comply with audit requirements established in State Government Code Section 26909. Such approaches could, with the *unanimous* request of the Board of Directors and the *unanimous* approval of the Board of Supervisors, include:
 - (a) A biennial audit covering a two-year period;

- (b) An audit covering a five-year period, if the District's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
- (c) An audit conducted at specific intervals, as recommended by the County Auditor-Controller, which shall be completed at least once every five years.

Section 3. Internal Controls

The District has By-laws and a Policy Handbook that contain some internal controls to help protect the District's financial and capital assets against the potential risk of loss or misuse. However, these policies remain insufficient for minimizing risk exposure to potential fraud and abuse. For example, the District's policies on purchase cards do not include spending and transaction limits to ensure that there are sufficient funds to pay for expenditures, segregate duties of purchase approvals and reconciliation to prevent potential fraud, or provide mechanisms for handling disputes and unauthorized charges.

In addition, the policies adopted to establish internal controls are not consistently implemented by Board members and District personnel, further exposing the District to unnecessary costs and potential misuse of District tax dollars for personal benefits. Violations of policies that indicate weak internal controls include:

- The lack of documentation for purchase card expenditures;
- Significant expenditures made with purchase cards without required Board approval;
- Lack of timely payments for purchase card billing statements to avoid potential penalties and fees;
- Reimbursement of expenses without sufficient documentation to ensure they were for District business; and,
- The lack of several key documents and tools such a log of all communication with District Counsel, a policy handbook for the Fire Department, and a catalog of retained District records.

Multiple resignations and terminations by the Board of key personnel within the organization during the audit period coincided with breakdowns in internal controls and the ability of the organization to respond by reassigning functions or implementing compensating controls is limited.

Finally, the District does not have an adequate Capital Management Asset System to control inventory and record key information central to making maintenance and replacement decisions.

Based on these findings, the NCSB Board of Directors should:

9. Revise its purchase card policies to:

- (a) Exclude Board members from the use of purchase cards in order to be in compliance with the State Master Services Agreement for purchase cards,

subsequently relinquish any purchase cards currently issued to Board members, and

- (b) Include additional policies to ensure that there are sufficient funds for paying authorized purchase card transactions, prevent potential fraud and abuse through unauthorized and/or inappropriate purchases, and avoid unnecessary penalties and fees from late payments, such as:
 - (i) Spending and transaction limits for each cardholder;
 - (ii) Clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders;
 - (iii) A process for handling disputes and unauthorized purchases; and,
 - (iv) A requirement that purchase cardholders use personal funds to pay for transactions that lack the timely submission of sufficient documentation of the transaction and purpose, as well as any subsequent penalties and fees that result from the delay in submitting such documentation.

10. Diligently review the list of disbursements to be approved on the consent agenda prior to scheduled Board meetings and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

The General Manager should:

- 11. Train all participants in the purchase card program on the new and revised policies and procedures for purchase cards.
- 12. Review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the purchase(s) into compliance with the Policy Handbook.
- 13. Carefully review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook prior to approval.
- 14. Establish the following to ensure that the District is in compliance with the Policy Handbook and maintains adequate internal controls:
 - (a) District Legal Counsel Log;
 - (b) Policy handbook for the Fire Department; and,
 - (c) Catalog of all retained District records.

15. Establish a Capital Asset Management System that records capital asset information such as the purchase date, condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs.

The Local Agency Formation Commission (LAFCO) should:

16. Review suggestions made in its 2009 report and include more robust analysis of governance and reorganization options for the next Service Review of the District, scheduled for 2014.

1. NCSO Governance

As a public entity, the NCSO is bound by various laws embedded in the California State Government Code, which establish rules for open meetings and the retention of official records. In addition, best practices are employed by government entities around the world to ensure that the deliberations of public bodies are clearly communicated, and actions are well articulated and accurately recorded. Further, best practices establish various protocol for members of the public to be provided with the opportunity to comment on matters before elected bodies or on matters of general concern, in an orderly, respectful and efficient manner.

NCSO Public Meetings

Because the NCSO is a public entity that derives its authority from the voters, it is incumbent upon members of the elected Board of Directors to establish policies, procedures and rules that govern the manner in which it conducts the public's business. Based on a review of records, testimony from individual Board members and observations at public meetings, the Grand Jury found that: (1) the Board has not formalized a robust policy framework, rules or protocol for conducting public meetings; (2) individual members of the Board and other persons often exhibit inappropriate behavior during public meetings; and, (3) records of official action are not consistently prepared or otherwise completed in a timely manner.

Open Government Policy Framework and Rules Are Weak

NCSO Policy 5070 establishes the "Rules of Order for Board and Committee Meetings." Although loosely based on well-regarded rules defining parliamentary procedures, Section 5070.1.1 states that "These rules of order are intended to be informal and applied flexibly. The Board prefers a flexible form of meeting and, therefore, does not conduct its meetings under formalized rules – Roberts Rules of Order." Subsection 5070.1.1.1 further states that "If a Director believes order is not being maintained, then he/she should raise a point of order – not requiring a second – to the President. If the ruling of the President is not satisfactory to the Director, then it may be appealed to the Board. A majority of the Board will govern and determine the point of order."

The intended flexibility of these Rules of Order is emphasized in other sections of the policy. Subsection 5070.5.1 states that "The President shall take whatever actions are necessary and appropriate to preserve order and decorum during Board meetings, including public hearings. The President may eject any person or persons making personal, impertinent or slanderous remarks, refusing to abide by a request from the President, or otherwise disrupting the meeting or hearing." Further, Subsection 5060.6.1 states that "By motion made, seconded and approved by a majority vote, the Board may, at its discretion and at any meeting: a) temporarily suspend these rules in whole or in part; b) amend these rules in whole or in part; or, c) both." The remainder of the Policy addresses procedures for individual Directors to obtain the floor; and, offering, commenting and moving motions to a vote.

Although different parliamentary procedures have been developed over the years, *Roberts Rules of Order* are generally considered to be the standard for local government entities in the United

States. The *Institute for Local Government*¹ states that formalized rules of order are necessary to “guide the discussion and decision-making process.” Although following parliamentary procedure is not required in California, it is considered to be a best practice, makes public meetings more efficient, and reduces the chances of official actions being declared illegal or challenged for procedural deficiencies.

Further, the League of California Cities, in the organization’s publication *Open and Public IV*, has made the observation that there are certain key principles and goals that should be considered when government bodies develop their policies regarding public meetings:

- A legislative body's need to get its business done smoothly;
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time;
- A local agency's right to confidentially address certain negotiations, personnel matters, claims and litigation; and,
- The right of the press to fully understand and communicate public agency decision-making.

Although prepared in the context of the State’s Open Meeting Law (i.e., the “Brown Act”), these principles support the concept that in order to operate effectively, meetings require rules and procedures to ensure orderly, efficient, and productive sessions in a calm, professional setting. The limitations of the District’s current policy, including the desire for “flexibility” embedded in the policy foundation, do not support the accomplishment of these goals. The League of California Cities continues by stating, “An explicit and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law . . . A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law, and look at its unique circumstances and determine if there is a better way to prevent potential problems and promote public trust.”

As will be discussed below, the public trust appears to have been damaged in the NCSD, in part by the manner in which public meetings are conducted, the behavior of Directors during public meetings and inconsistencies with the preparation and maintenance of official records of action. As a first step toward improving public access and communication, the NCSD should adopt more robust policies regarding parliamentary procedure, adhering to the basic principles of *Roberts Rules of Order*, which have been in existence and used by local government agencies in the United States for well over 100 years. When developing these policies, the District should consult with the California Special District Association (CSDA), which can provide resources and make suggestions regarding best practices for special district organizations.

Members of the Board Exhibit Inappropriate Behavior at Public Meetings and May Have Acted in Violation of California Law

¹An affiliate of the California State Association of Counties (CSAC) and the League of California Cities.

As part of the Grand Jury's investigation, members attended NCSB Board meetings and listened to numerous tape recordings of other meetings to assess the effect of the weak policy foundation on proceedings. The following observations were made:

- Before the start of Board meetings, members of the public who wish to address the Board fill out a "Request to Be Heard" card and are provided with three minutes to voice their concerns. Although this is a typical practice in government organizations, members of the public were also permitted to engage in discussions at any time during the meeting, without filing the required Request to Be Heard Card. Often, members of the public spoke to individual directors without going through the President and, although some persons would raise their hand to be recognized, in many instances other persons would simply begin to speak without being recognized. Sometimes, multiple conversations occurred simultaneously and discussions between persons in the audience were conducted separately while the Board merely watched and listened.
- In several instances, members of the Board engaged in arguments with one another and members of the public. During these exchanges, the meetings were disrupted as people talked over one another and made sarcastic and snide remarks. In some instances, the arguments between Board members became overly heated, causing some members to walk out while the meeting proceeded. In another instance, a Board member challenged a member of the public who had just finished addressing the Board. This resulted in a brief shouting match between the two. In another instance, a member of the public was talking loudly during the meeting and, when asked by a Board member to be silent, the person responded with an obscene gesture.
- Some Board members were seen slouching in their chairs, keeping their heads down and speaking in voices that could barely be heard by the audience. Such behavior gives the impression that these members are indifferent and/or disinterested in the proceedings, is disrespectful and unprofessional.
- The unprofessional behavior of the Board has been observed for some time by previous employees and members of the public. In March 2012, the resignation letter submitted by a former Fire Chief, stated that his departure was due, in part, to ". . . the public fights and bickering so prevalent on the NCSB Board."
- At the February 26, 2013 meeting of the Board, an argument started regarding whether the Board member could remove an agenda item without a vote of the Board. The item in question concerned an accusation that a sitting member of the Board had committed fraud and conspiracy. During recess, three members of the Board (a quorum) were observed talking together in private, which is a clear violation of the Brown Act. The Newberry Springs Community Alliance, which describes itself as a ". . . grassroots organization of residents and property owners fostering an improvement of Newberry Springs through the engagement of educating the community" regularly blogs critical comments about the Board. In March 2013, this organization blogged "The CSD Board has had a hard time holding a single meeting that doesn't contain a Brown Act violation."

These examples of poor behavior by Board members, and the inability of the President to control both Board member and audience interaction, suggest that the individual members of the Board

have not yet developed the necessary skills to lead or participate in public meetings in a professional manner. Combined with more robust policies, procedures and rules defining parliamentary procedures, Board members should be provided with training on duties, responsibilities and behavior as elected officials.

Further, it is clear that members of the Board may not be familiar with the requirements of the California Open Meeting Law or Records Retention Act, as discussed in the section, below. Accordingly, the City Attorney should be requested to develop and lead workshops on these topics to ensure that current and future Board members have the background and knowledge to adhere to these laws.

Board Members Have Not Been Provided With Appropriate Training

Assembly Bill 1234 requires that all board members of special districts complete a two-hour, on-line Ethics Compliance Training Course after joining the Board. Based on records maintained by the District, all Board members have received this training. The California Special District Association (CSDA) provides training for elected officials and managers of special districts, including various orientation trainings, leadership summits, and related topics such as human relations and resource management. Other courses are provided through the Special District Leadership Foundation, and guides are available through the State Board of Equalization and other bodies. In addition, other trainings are offered by Statewide organizations, such as the California State Association of Counties (CSAC) that may be helpful to the District's leadership. For example, CSAC has an agreement with California State University Northridge to provide special courses for elected officials and managers that can be attended to obtain credit towards a Master Degree in Public Administration. In addition, CSAC offers courses through the *Institute for Excellence in County Government*, which may be beneficial to the District directors, including:

- The Art and Practice of Elected Leadership;
- Getting Things Done: Working Effectively to Achieve Objectives;
- Chairing and Managing Effective Public Meetings;
- Making Impressions: Media Interviewing;
- Negotiation and Collaboration in Complex Environments; and,
- Advanced Practice in Negotiation.²

Although these courses are designed for County elected officials, the topics and content can also be applied to the operations of the NCSO. The members of the Board should explore the opportunity for attending selected courses, with the goal of improving the conduct of public meetings and interactions with each other and members of the public.

Records of Board Actions Are Not Complete or Prepared in a Timely Manner

² Go to http://www.csac.counties.org/sites/main/files/file-attachments/2013-winter-spring-publish_3.pdf to view a complete description of available courses for the Spring 2013 schedule.

NCSD Policy 5060.1.1 states that:

Copies of a meeting's minutes shall be posted for a minimum of 10 days on the NCSD website within 14 (days) of NCSD meeting for public review. Copies of meeting minutes shall be distributed to Directors as part of the information packet for the next regular meeting of the Board, at which time the Board will consider approving the minutes as presented or with modifications. Once approved by the Board, the official minutes shall be kept in a fireproof vault or in a fire-resistant cabinet.

The NCSD does not adhere to this policy.

During the period of this review, the Grand Jury found that Board minutes were not being consistently recorded, posted and secured in the manner prescribed by Policy 5060.1.1. Minutes were generally not transcribed promptly and were not ready for approval at the next regularly scheduled Board meeting. When copies of minutes were requested, the current General Manager reported that she had to look in several locations before they were located. A number of Board minutes were audio recorded but not transcribed for weeks or months later, resulting in some Board members not recalling what actions were taken on agenda items when presented with the written notes for approval.

Members of the Grand Jury reviewed the written notes and listened to numerous audio recordings of Board meetings. The background noise on some recordings made it difficult to hear or understand who was speaking and, in some cases, what was being said. Some audio recordings were started after the meetings were called to order and no references to the dates of the meetings were heard. This creates difficulties with providing an accurate written record of Board proceedings, even when the audio recordings are transcribed. For example, the Board minutes from the August 28, 2012 meeting included a typed side-note that stated the notes “. . . are not transcripts of the meetings; only the hi-lights and hopefully accurate.”

To ensure that there are accurate records of official actions, the Board should direct the General Manager to begin and maintain a process to record, transcribe, post, and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Conclusions

NCSD Board meetings are not conducted in accordance with rules of order or professional conduct recognized as best practices in public sector organizations. In addition, the NCSD does not consistently record or post official minutes in a timely manner, in violation of the District's own policies, and compromising the ability of Board members to recall official actions when reviewing the minutes for accuracy. A clear violation of California's Open Meeting Law, also known as the Brown Act, was observed by the Grand Jury and has been the topic of concern by members of the Newberry Springs community.

Further, members of the Board have attended mandatory ethics training. However, expanded trainings on leadership and effectively chairing public meetings are available through the California Special District Association, the Special District Leadership Foundation, the California State Association of Counties, and other bodies.

The Board should attend such trainings, and adopt and adhere to expanded, formal policies and rules regarding conduct at public meetings. In addition, NCSD management should take steps to

ensure that records of official Board action are routinely recorded, approved for accuracy, and indexed for timely access by the public.

Recommendations

The NCSD Board of Directors should:

- 1 The NCSD Board should direct the General Manager to develop proposed policies and rules for conducting public meetings, based on *Roberts Rules of Order* and other accepted standards for parliamentary procedure.
- 2 Seek to attend courses offered by the CSDA and CSAC on the roles and functions of elected officials, including those offered on leadership and conducting public meetings.
- 3 Direct the General Manager to begin and maintain a process to record, transcribe, post and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Costs and Benefits

There would be minimal cost for the members of the Board to attend leadership and other training offered by CSDA and CSAC.

Parliamentary procedures recognized throughout the world would be followed by the NCSD Board, and the Board members would receive the training necessary to provide leadership and ensure a more professional atmosphere at public meetings. The risk of Directors violating California Open Meeting Laws and the California Records Act would be reduced.

2. Accounting and Financial Management

NCSD Lacks State-Mandated Financial Audits

NCSD has not completed annual financial audits for fiscal years 2009-2010, 2010-2011, and 2011-2012. NCSD is therefore not in compliance with State Government Code Section 26909 for 2009-2010 and 2010-2011, which requires annual audits of financial condition for all special districts within 12 months of the end of a fiscal year.

The State Controller's Office prescribed minimum auditing requirements for special districts, set out in Title 2, Section 1131.2 of the California Code of Regulations, consist of 17 general statements that county auditors or independent accounting firms should consider in preparing an audit program. These 17 statements include the following important steps, among others:

- A proper study and evaluation of the existing internal control and the financial organizational structure;
- A review of the district's report of financial transactions to the State Controller to see that it agrees with official records of the district for the period. The State Controller should be informed of any material difference;
- A determination that expenditures were properly documented, authorized and incurred and are proper charges to the fund and appropriation against which they have been charged; and,
- A verification of all assets and liabilities in accordance with generally accepted auditing standards.

The failure to follow these and the other requirements set out by the State Controller has led to negative consequences for NCSD including: (1) putting NCSD out of compliance with State Code; (2) leaving residents and taxpayers without a reasonable assurance that financial statements are presented fairly and accurately; and, (3) putting the District at greater risk of waste, fraud and abuse due to the absence of any review of internal controls.

The lack of audited financial statements is also not consistent with industry best practices, such as those promulgated by the *Institute for Local Government*, which notes that "audited financial reports alert governing body members if there are irregularities in financial practices and financial reporting."³

³ The Institute for Local Government is an affiliate of the California State Association of Counties and the League of California Cities. The best practices information can be found online at this address: http://www.ca-ilg.org/sites/main/files/file-attachments/resources_3r_Financial_Reporting_and_Accounting.pdf

Auditor-Controller Monitoring of Audit Requirements Has Had Limited Effectiveness with NCSD

State code places responsibility on the County Auditor-Controller for making sure special districts are audited annually or on a different frequency under certain restrictions. Specifically, Section 26909 of the State Government Code requires county auditors to:

Either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided.

The Internal Audits Section of the County Auditor-Controller, which is responsible for performing operational and financial audits of special districts, has taken steps to monitor special districts' compliance with State auditing requirements. However, these efforts have not been successful with NCSD.

The Auditor-Controller has procedures that call for repeated, increasingly assertive correspondence with general managers and district boards that have not completed a financial audit on time. In the case of NCSD's FY 2011-12 audit, the Auditor-Controller relied on the District's general manager's and its certified public accountant's assertions that a contract was in place to conduct audit services. However, as noted later in this section, the work performed by the certified public accountant does not comply with State audit requirements.

The enforcement of Section 26909 is somewhat complicated by the Code's requirement that any costs incurred by the county auditor, including any contracts with accountants, be borne by the special district. County Auditor-Controller management staff has asserted to our audit team that there has been some hesitancy to enforce the annual audit requirement on NCSD due to the District's budgetary constraints. However, there has been no formal steps taken or analysis conducted by the Auditor-Controller to determine the most cost effective method of complying with State audit requirements.

NCSD and Auditor-Controller Have Not Pursued Potential Alternatives to Annual Audits

Neither NCSD nor the Auditor-Controller have studied or pursued potential alternatives to annual audits allowed for in the State Government Code under certain restrictions. Specifically, Government Code Section 26909 allows for the following three alternatives if requested unanimously by the special district's governing board and unanimously approved by the Board of Supervisors:

1. A biennial audit covering a two-year period;
2. An audit covering a five-year period, if the special district's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
3. An audit conducted at specific intervals, as recommended by the County Auditor, which shall be completed at least once every five years.

Given the District's relatively small budget of approximately \$250,000 per year, the Auditor-Controller and District Board members should consider these alternatives, which would require fewer resources to be devoted to financial audits, but would still be in compliance with State requirements.

2011-12 Financial Review Did Not Meet Minimum Audit Requirements

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCSO, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that they agree with the official records of the District.

In September 2012, NCSO contracted with a certified public accountant for audit services covering financial transactions in FY 2011-12. The Auditor stated the District did not provide adequate or sufficient documentation to complete an audit and express an audit opinion. However, these services did not meet the minimum requirements prescribed by the State Controller's Office for audits of special districts. Rather, in his transmittal letter to the District's Board of Directors the certified public accountant stated that his work was limited to putting together the financial report that must be filed annually with the State Controller. Further, the letter states that "I have not audited or reviewed the financial statements referred to above and accordingly do not express an opinion or any other form of assurance on them."

The State Controller's prescribed minimum audit requirements are contained in the California Code of Regulations (Title 2, Section 1131.2). As previously mentioned, these minimum requirements include the statement that:

the district's report of financial transactions to the State Controller should be reviewed to see that it agrees with the official records of the district for the period. The State Controller should be informed of any material difference.

The General Manager should prepare the District's financial statements on an annual basis before they are reviewed by the Auditor-Controller or a certified public accountant to ensure they are an accurate reflection of the District's financial condition.

Financial Data Reported to State Controller Indicate Financial Instability and Structural Deficits

Although the data provided to the State Controller's Office is unaudited, a review of such data indicates financial instability, which further underlies the need for regular financial audits. As seen in Table 2.1 below, the District appears to have run a deficit in FY 2009-10 of approximately \$18,000 or about 8 percent of total revenues. Further, the lighting and lighting maintenance function has run deficits ranging from \$41,142 to \$5,011 from FY 2008-09 to FY 2010-11 and the Recreation and Park Function has run deficits of approximately \$25,000 in FY 2009-10 and about \$2,300 FY 2010-11. NCSO management has been unable to identify the cause(s) of these deficits. Additionally, the District's methodology for assigning district-wide costs such as Director's fee, office costs, and accounting and legal fees between the three functional departments is not documented, and therefore cannot be verified.

Table 2.1**NCSD Expenditure Data Reported to State Controller**

Activity	FY 2008-09 Revenues	FY 2008-09 Expenditures	FY 2009-10 Revenues	FY 2009-10 Expenditures	FY 2010-11 Revenues	FY 2010-11 Expenditures
Fire Protection	\$152,701	\$119,179	\$124,762	\$112,437	\$136,411	\$109,611
Lighting and Lighting Maintenance	3,434	44,576	2,141	7,152	2,210	8,698
Recreation and Park	155,645	142,136	98,935	124,115	100,563	102,910
Total	\$311,780	\$287,891	\$225,838	\$243,704	\$239,184	\$221,219

Source: State Controller's Office

NCSD Lacks Sufficient Accounting Procedures and Controls

NCSD lacks sufficient accounting procedures and controls. According to State Government Code 61053, NCSD must:

adopt a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles.

However, the District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, although the State Controller requires special districts to use the modified accrual basis of accounting, it is not employed at NCSD.

NCSD Lacks Account Numbering System and Financial Manual

Beginning in FY 2012-13, the District abandoned utilizing its numerical and hierarchical account structure in favor of an accounting scheme based on account titles. A fundamental objective of accounting is to accurately classify transactions such as expenditures and receipts into proper "buckets" or accounts. Accounts are generally identified utilizing a numeric or alpha-numeric scheme. Accounting identifiers are usually broken down into some type of hierarchical components to accommodate data correlation and reporting activities. The numerical assignment of an accounting identifier also facilitates system to system and intra-system exchanges of data, such as from a Purchase Order system to the General Ledger. The abandonment of account numbers inhibits accurate and efficient hand-offs of accounting data for establishment and performance measurement of budgets and future growth into new and more sophisticated computer system interfaces.

NCSD lacks a financial or accounting manual, which would provide guidance to the General Manager and other staff on how to create and maintain District accounts and prepare the District's income statement, general ledger, and annual financial statement. In addition, a

financial or accounting manual would assist the staff in using modified accrual based accounting, which is required by the State Controller for non-enterprise funds.

The lack of a financial or accounting manual may have led to the following odd general ledger and income statement entries observed by the Grand Jury from FY 2011-12:

- On the District’s Income Statement, a revenue line title “Deposits Not Recorded” shows a value of \$121,248.76, which is 47 percent of the District’s fiscal year revenue. No explanation was found for the purpose or intended usage of this account.
- Account 5100 titled “Directors Stipend” reflects amounts that are not in increments of \$50 even though Directors are paid \$50 per authorized meeting.
- Account 5101 titled “Secretary Salary” reflects payments made to five individuals ranging from \$39.67 to \$12,640.02. However, the District did not have five secretaries during FY 2011-12.

Expenditures Not Consistently Classified to Support Proper Accounting

NCSO does not consistently classify or document expenditures to allow for proper accounting of the various functions carried out by the District. For example, approximately \$20,000 of purchase card expenditures was placed in a general ledger clearing account because the former General Manager, lacking documentation, could not determine the appropriate cost account. Additionally, a 4,000 gallon Water Tender Truck was acquired via a capital lease, but is being accounted for as an operating lease. This misstates both the District’s assets and liabilities. The failure to properly classify expenditures leaves the District non-compliant with the State Code requirement to adopt a system of accounting and auditing that shall completely and at all times show the District’s financial condition. It also affects the accuracy of the District’s State-mandated financial reporting.

District Has Weak Check Reconciliation Process

NCSO’s check reconciliation process has been deficient. The District’s FY 2011-2012 account for workers’ compensation insurance was overstated by the value of one extra quarterly payment in the amount of \$2,172, which resulted from a voided check not being reversed off the books. This is an indicator of a weak check reconciliation process.

Reconciling bank statements to check registers and to General Ledger account balances is a fundamental management practice and a basic internal control process. This process ensures the bank’s records are in-line with the District’s records, and that any voided or un-cashed checks are identified for follow-up and corrective action if needed. A check that has been voided must also have its charged reversed on the accounting ledgers. Failure to reverse an entry in the accounting ledger will overstate expenditures and under-state the District’s actual cash position. The General Manager has indicated that improvements to the check reconciliation process have been implemented. Identifying any additional prior year problems requires the completion of outstanding audit work.

Conclusions

The Newberry Community Services District (NCS D) has not completed annual financial audits for the previous three fiscal years (2009-2010, 2010-2011, and 2011-2012). State Government Code requires public agencies, including special districts, to conduct annual financial audits within 12 months of the end of each fiscal year. The Board of Directors failure to execute this responsibility is in noncompliance with California Government Code at Section 26909 and 61118 for 2009-2010 and 2010-2011. Further, while State Code requires the County Auditor-Controller to ensure such audits are completed, efforts to monitor and enforce this provision have had limited effectiveness.

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCS D, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that it agrees with the official records of the District. The financial information that has been provided, while unaudited, indicates some financial instability, which further underlies the need for regular financial audits.

NCS D lacks basic accounting procedures and controls. Specifically, District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, the District lacks a consistent method for authorizing, classifying, and documenting expenditures from purchase cards.

Recommendations

The Newberry Community Services District Board of Directors should direct the General Manager to:

- 4 Re-adopt a numerical and hierarchical account numbering structure for use in the District's general ledger and income statement.
- 5 Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual.

The Auditor Controller should:

- 6 Revise *Outside Audit Report* procedures to include corrective actions for special districts that do not comply with State audit requirements for an extended period of time. Such corrective actions could include conducting audits and billing the districts for Auditor-Controller staff time or hiring an outside certified public accountant to conduct the audit and billing the district for the accountant's work.
- 7 Work with the Newberry Community Services District General Manager to determine a feasible approach to complying with audit requirements established in State Government Code Section 26909. Such approaches could, with the *unanimous* request of the Board of Directors and the *unanimous* approval of the Board of Supervisors, include:

- (a) A biennial audit covering a two-year period;
- (b) An audit covering a five-year period, if the District's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
- (c) An audit conducted at specific intervals, as recommended by the County Auditor-Controller, which shall be completed at least once every five years.

Costs and Benefits

The costs of implementing with these recommendations would include District staff time to draft and adopt policies and procedures.

The benefits of implementing these recommendations would include stronger controls over accounting and management of the District's finances and greater transparency in the reporting of the District's financial condition. The benefits would also include compliance with State Government Code audit requirements for special districts.

3. Internal Controls

According to the Government Finance Officers Association (GFOA), the purpose of internal controls is to protect government's financial and capital assets against the potential risk of loss or misuse. Further, internal controls are needed to ensure that all financial transactions are properly authorized and data in financial reports are reliable. Although there are references to internal controls in the NCS D By-laws and Policy Handbook, they are (1) insufficient for ensuring that the District's assets are protected against potential loss or misuse and (2) are not consistently implemented by District Board members and personnel.

Deficient Internal Controls for District Expenditures

NCS D revenues are used to procure materials, supplies and services for District business through purchase cards, contracts with outside contractors and consultants, and reimbursement of expenses made by District Board members and personnel. The Policy Handbook requires various protocols for approval of such expenditures, along with sufficient documentation to ensure that expenditures were appropriately tied to District business. However, sufficient documentation of required approval and/or explanations for the appropriateness of the expenditures were not always provided to the Grand Jury.

CAL-Card Purchase Cards

The California Department of General Services has a Master Services Agreement (MSA) with U.S. Bank for purchase card services. Local tax funded agencies such as the District are able to participate in the MSA and obtain CAL-Cards (purchase cards) by submitting required documentation, including a signed Local Agency Addendum to the MSA. Advantages of participating in the CAL-Card program include: (1) no cost for participation; (2) rebates for average transactions, volume sales and prompt payment; and, (3) streamlined purchases by eliminating the need for extensive advertising, bidding and contracting procedures.⁴

Insufficient Internal Control Policies and Procedures

In accordance with the U.S. Bank CAL-Card Program Administrator Guide, the District adopted purchase card policies on July 26, 2011.⁵ However, based on a comparison with GFOA recommended internal control best practices for purchase cards, these policies are not adequate to ensure that the District can minimize the risk of costly, unnecessary, and/or inappropriate purchases. Table 3.1 below illustrates that the District lacks a few key internal control policies such as spending and transaction limits, reconciliation procedures, and a process for handling disputes and unauthorized purchases.

⁴ California Department of General Services, CAL-Card (Purchase Card), <http://www.dgs.ca.gov/pd/Programs/CALCard.aspx>

⁵ District Policy Handbook: Policy Number 3075.

Table 3.1

Government Finance Officer Association (GFOA) Best Practices vs. District Purchase Card Policies

GFOA Best Practices	District Policy Number 3075	Grand Jury Comments
Clear guidelines on the appropriate use of purchasing cards	3075.3.2 All purchasing card expenses shall be reasonable and necessary to the furtherance of District business. No personal expenses shall be charged on a District purchasing card.	
Spending and transaction limits for each cardholder, both per transaction and on a monthly basis		Spending and transaction limits ensure that the District has sufficient funds to pay for expenditures. The Policy Handbook fails to mention spending limits. The District did not provide the Grand Jury with additional internal usage guidelines for purchase cards.
Review and approval process	3075.3.3¹ The Treasurer shall review and approve purchasing card transactions by the cardholders.	
Timely reconciliation by cardholders and supervisors		Reconciliation includes verifying that purchased goods and services were received, acceptable, and charged appropriately in the purchase card statement. The Policy Handbook fails to mention reconciliation policies and procedures.
Retention of sales receipts and documentation of purchases	3075.3.3¹ All purchase card expenses shall have third-party documents (receipts) attached and the District purpose annotated by the cardholder.	
Segregation of duties for payment approvals, accounting, and reconciliation	3075.3 A purchasing card shall be issued to the General Manager and the Treasurer. Purchasing cards shall not be issued to members of the Board of Directors without a majority vote of approval by the Board. 3075.3.3¹ (Above)	Although both the General Manager and Treasurer are issued a purchase card, only the Treasurer shall review purchases. This is a failure to segregate approval of use from actual use. The Policy Handbook fails to mention reconciliation policies and procedures.
Procedures for handling disputes and unauthorized purchases		If reconciliation occurs on a consistent basis and errors are identified, there should be a process for preventing payment for unauthorized or incorrect charges. The Policy Handbook fails to mention procedures for handling disputes and unauthorized purchases.

Source: "GFOA Best Practice: Purchasing Card Programs," Approved February 2011 and District Policy Handbook, 2012.

¹3075.3.3 is listed twice in the District Policy Handbook.

Segregation of Duties

The District is in violation of the State MSA by allowing District Board members to be purchase cardholders, with a majority vote of approval by the Board.⁶ The MSA explicitly states that the CAL-Card Program is available for use by individual government employees. Pursuant to California Government Code 6140, Board members are responsible for determining policies such as budgets and programs, while the General Manager, a government employee, is responsible for implementing them.

Despite the segregation of duties between policy making and implementation of those policies, such as making purchases, two District Board members⁷ were issued purchase cards and incurred \$10,059 and \$7,985, or a total of \$18,044 in expenditures in FY 2011-12. This represents approximately 25 percent of the total FY 2011-12 expenditures of \$70,767 incurred through purchase cards. When District Board members make purchases of this magnitude, the General Manager and/or Treasurer, as government employees, are placed in an awkward position of approving expenditures for those with the power to terminate their employment. Such conditions diminish the District's ability to effectively implement internal controls.

The State Master Services Agreement and U.S. Bank CAL-Card Program guides identify at least four distinct roles and their respective duties within any agency participating in the purchase card program. The segregation of duties prevents any single person from taking advantage of the purchase card program to make unauthorized and/or personal purchases. In contrast, the District Policy Handbook identifies the General Manager, Treasurer, and any other potential cardholder, but the duties of each are not as clearly defined or segregated.

According to the MSA participating agencies should have the following:

- **Program Coordinator/Administrator:** An individual responsible for management and oversight of the purchase card program, including following contract terms, ensuring timely payment of invoices, developing and enforcing agency policy, procedures and training. A Purchasing Officer or equivalent typically maintains this position.
- **Approving Official:** An individual responsible for monitoring, reviewing, and approving the purchases of assigned cardholders. A Budget Manager for which the funds are to be expended by the assigned cardholders typically maintains this position.
- **Billing Officer:** An individual responsible for the timely management and oversight of the invoice reconciliation and payment process. An Accounting Officer or equivalent typically maintains this position.
- **Cardholder:** An individual designated by the Program Coordinator/Administrator and Approving Official to receive a purchase card and make purchases.

⁶ Approval by the Board of Directors assumes a "yes" vote by at least two Board members, the minimum number of members to achieve a majority when there are three Board members present to establish quorum and take action.

⁷ As of the writing of this report, the Grand Jury could not verify if the two Board members received the necessary approval from other Board members to receive purchase cards.

The District is violating the best practice of segregating duties because the Treasurer appears to serve in at least three of the above roles and perform the following duties simultaneously: (1) recommending internal usage guidelines for the purchasing cards to the Board for approval (Program Coordinator/Administrator duty), (2) approving purchases of assigned cardholders (Approving Official duty), and (3) making purchases on behalf of the District with an issued purchase card (Cardholder duty). Additionally, no personnel are explicitly assigned invoice reconciliation and payment responsibilities (Billing Officer duty) in the District Policy Handbook. It is more appropriate for the General Manager to serve in the function of Program Coordinator/Administrator and Approving Official while the Treasurer serves as the Billing Officer.

Because of the small size of the District, it may be acceptable to issue purchase cards to both the General Manager and Treasurer. However, approving and reconciling purchases should be conducted by someone other than the person making purchases, as recommended by GFOA best practices. Therefore, if both the General Manager and Treasurer continue to make purchases with issued purchase cards, the Treasurer should approve and reconcile the General Manager's purchases and vice versa.

The District should revise its Policy Handbook to (a) exclude Board members as purchase cardholders and (b) include internal controls such as (i) spending and transaction limits; (ii) clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders; and, (iii) a process for handling disputes and unauthorized purchases. Purchase cards issued to Board members should be subsequently relinquished. Additionally, the General Manager should train all staff involved in the purchase card program of the new and revised purchase card policies.

Inconsistent Implementation of Policies and Procedures

In addition to lacking key internal controls for purchase card expenditures, the District has failed to provide consistent documentation to ensure that the internal controls that do exist are executed and serving its purpose(s).

Lack of Receipts make it Difficult to Conclude Appropriate Expenditures

The District spent \$70,767 in FY 2011-12, but the District did not provide receipts explaining what individual charges on the U.S. Bank statements were for. Without such documentation, it is impossible to verify if the charges met the Policy Handbook's criteria of "reasonable and necessary" expenses for District businesses or if personal expenses were charged to the purchase cards and paid for with District tax dollars. For example, typical purchase card expenditures in FY 2011-12 included fuel at a gas station. However, there was an instance when one cardholder made three separate fuel purchases on the same day. Without documentation and further explanation, it is difficult to determine if significant travel for district business occurred on the same day, requiring multiple fueling, or if multiple cars, including personal cars, were fueled with the same District purchase card. Going forward, the Treasurer or General Manager should not approve payment of purchase card transactions without the submission of sufficient documentation demonstrating the appropriateness of the purchase(s). If a cardholder fails to timely submit receipts and other documentation, the cardholder should be held responsible for paying the purchase with their own funds and any subsequent late fees or penalties caused by delays in submitting receipts and/or payment.

Significant Expenditures Occurred without Board Approval

In September of 2011, a single transaction totaling \$11,277 was charged for a purchase from NUVAIR. Three additional purchases from NUVAIR occurred on the same date, resulting in a total of \$12,587 charged to the same purchase card. The initial transaction and aggregate transactions for the same vendor exceed \$5,000. District Policy 3040.2 states that any purchase or expense greater than \$5,000 must be submitted to the Board of Directors for approval. However, approval for the NUVAIR purchase was not recorded in Board meeting minutes. Therefore, internal controls are insufficient to ensure that purchase card transactions comply with other District expenditure policies.

Lack of Timely Payments of Billing Statements

Although the Policy Handbook requires that all purchase card bills shall be paid in a timely manner to avoid late fees and finance charges, half of the billing statements in FY 2011-12 showed that a payment was not previously submitted. The District was not charged any late penalties or fees because their subsequent payments still met the terms of the purchase card agreement. According to the State MSA, the full amount of each participating agency's monthly balance or billing cycle, with the exception of reported fraud or disputed items, is due within 45 days⁸ from the billing cycle date of the invoice. According to District personnel and Board members, payments for a billing statement were made after receiving the subsequent billing statement(s) due to the lack of verification of expenditures.

The General Manager should be designated the role of Program Coordinator/Administrator and ensure that purchase cards are paid in a timely manner. By (a) imposing spending and transaction limits and (b) requiring either the General Manager or the Treasurer approve all purchases prior to incurring actual costs based on the (i) appropriateness of the purchase and (ii) availability of funds, the District can ensure that there are sufficient funds available to pay for all expenditures. By requiring cardholders to pay for any charges that do not have sufficient documentation to justify and verify purchases on the bank statement, the District should have sufficient documentation to reconcile and pay the bank statements in a timely manner and/or have an additional source of revenue, other than District tax dollars, to pay for disputed or unauthorized purchases.

Outside Contracts and Consultants

Requiring Board approval for consultant contracts and expenditures over \$5,000 is an essential internal control to ensure that significant funds are not committed to consultants or vendors that are unqualified, unnecessarily costly, and/or participants in fraud or abuse. Open, public discussions among Board members regarding contracts and expenditures could provide a control to help prevent Board members from personally benefiting from the selection of particular contractors or consultants. The General Manager should diligently review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the procurement into compliance with the Policy Handbook.

⁸ The total number of days could be adjusted depending on the postmark date of the invoice and/or payment.

Reimbursements

While the Policy Handbook may allow reimbursements of expenses directly related to District business, the Board appears to have violated its policies by allowing a Board member to be reimbursed for a personal cell phone and internet bill on May 26, 2012. Policy 2270.3.18 states that the District is not responsible for maintaining or payment of personal internet accounts or related software. Additionally, the District By-laws state that Board members may authorize reimbursement for expenditures made for “operating supplies, or new and replacement items for office use and also for travel expenses.”⁹ The Board members approved the disbursement and the General Manager issued a check equivalent to the entire amount of a personal cell phone and home internet bill. Even if some of the personal cell phone and home internet services were used for District business, there was no additional documentation to justify what portion of the cell phone and home internet bill justified reimbursement.

To improve enforcement of District policies and enhance internal controls against inappropriate use of District funds, the General Manager should review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook. Further, all Board members should carefully review the list of disbursements to be approved on the consent agenda prior to the scheduled Board meeting and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

Violations of other Policies Indicate Weak Internal Controls

The Board of Directors has approved District policies to ensure efficient, effective and economical District operations and use of tax funds. However, violations of these policies expose the District to the risk of misuse of tax funds through poor and weak operations.

Lack of a District Legal Counsel Log

In 2009, the Board of Directors adopted a policy to maintain a log of all communication with District Legal Counsel, including the date of the communication, method of communication, and approximate length of time for communication for telephone and in-person communications. However, District personnel reported that no such log was available. The log is supposed to serve as a tool for District personnel to verify District Legal Counsel invoices and expenditures. The Policy Handbook restricts communication with District Legal Counsel to the President of the Board or his/her designee. Therefore, the log also serves as a tool for other District personnel and Board members to be aware of the frequency of District Legal Counsel communication and question any possible misuse of District Legal Counsel for personal benefit, *before* receiving a bill. The District should immediately establish a District Legal Counsel Log to be in compliance with the Policy Handbook and maintain an important control over legal expenditures.

Lack of a Policy Handbook for the Fire Department

A policy handbook, specifically for the operation of the Newberry Springs Fire Department, has not been adopted by the Board, even though a Board policy adopted in 2009 requires one. A

⁹ District By-laws, Article III, Internal Organization, #15.

draft policy handbook for the Fire Department was initiated in 2012, three years after the adoption of the policy. However, approval of the policy is not recorded in Board meeting minutes in 2012 or 2013, as of the writing of this report. The GFOA recognizes that establishing policies and procedures is a critical element of creating and maintaining internal controls. Without policies and procedures, the District cannot ensure that the Fire Department is operating efficiently, nor can it adequately evaluate the performance of Fire Department personnel, including the Fire Chief. The District should immediately adopt a policy handbook for the Fire Department.

Poor Implementation of Record Retention Policies

Despite having guidelines in the Policy Handbook for record retention, the manner in which District records are stored and maintained make it difficult to ascertain whether the District is: (i) providing for the identification, maintenance, safeguarding and disposal of records in the normal course of business; (ii) ensuring prompt and accurate retrieval of records; and, (iii) ensuring compliance with legal and regulatory requirements.

During the course of the investigation, the Grand Jury experienced significant delays in retrieving critical documents. For example, a subpoena was issued in September, 2012 for the latest version of Board approved By-laws and Policies and Procedures. Board approval was initiated on January 24, 2012, although items were not fully remitted to the Grand Jury until March 5, 2013, after a subsequent request in February 2013. However, according to the District's retention record policy, adopted pursuant to California Government Code 60201,¹⁰ these records should be with District personnel and maintained to ensure "prompt and accurate retrieval." Grand Jury members observed several unmarked cardboard boxes in various locations throughout the District office that contained District records, and there was no central log describing the contents of each box and their location, potentially contributing to the delay in record retrieval.

The lack of a proper records management system impedes any third party's ability to determine if the District has been complying with laws and regulations. In contrast, the Secretary of State's guidelines on record management state that proper record management is beneficial because it improves customer service, increases staff efficiency, and allocates scarce resources. The District should catalog all remaining records by category and the catalog should remain in a central location that is easily accessible by District personnel. Any records that exceed the retention periods adopted in the District's policies should also be disposed of.

Staff Vacancies Contribute to Weak Internal Controls

The management staff of the NSCD has been unstable in recent years, with multiple resignations and terminations by the Board of key personnel within the organization. This pattern has been particularly apparent in 2012, as follows:

- The previous General Manager, who also performed the functions of Board Secretary and Treasurer due to vacancies, resigned and was rehired twice during 2012. A third resignation,

¹⁰California Government Code 60201 states that the legislative body of districts may adopt a record retention schedule that complies with guidelines provided by the Secretary of State. It also prohibits districts from destroying certain records, including minutes of any Board meetings.

in July 2012, resulted in the hiring of the current General Manager in October 2012, who resigned on May 22, 2013. The position was vacant at the time this report was finalized.

- The Treasurer position has been vacant since April 2012 and the duties have been assumed temporarily by a member of the Board.
- The Fire Chief, who had been employed by the District since at least 2007, was dismissed by the Board in March 2012. An Interim Fire Chief, hired shortly after the previous incumbent, was dismissed six months later in September 2012. His replacement, a second Interim Fire Chief hired in September, was dismissed by the Board five months later in February 2013. The position of Fire Chief remains vacant, as of the writing of this report, with day-to-day management duties being assumed by a Fire Captain.

With only eight authorized positions, this amount of turnover at the highest levels of the organization is disruptive to operations and result in short-term weaknesses in internal control.

According to testimony received during the Grand Jury’s investigation, the Board generally terminated employees due to performance concerns expressed by some members. Conversely, some resignations have reportedly occurred because of the dysfunction of the Board and an environment where individuals feel as though they have been treated unfairly. This was alleged by the Fire Chief in his March 2012 resignation letter, who stated that his resignation was, in part, due to “. . . the public fights and bickering so prevalent on the Board.”

According to other testimony, it is sometimes difficult to recruit employees because of the remote location of the NCSD, the small size of the organization, the limited number of hours and pay offered to employees, and other factors. In addition, given recent turnover history and the culture of the organization, some prospective employees may be reluctant to apply. For example, statements were made that hiring a new Fire Chief has been difficult because of the limited number of potential applicants and the recent history of terminations.

Although a close examination of these factors could not be conducted, given the limited resources available to the Grand Jury, the impacts on the organization have been substantial. As stated separately in this section, the breakdown in internal controls has been significant in some instances and the ability of the organization to respond by reassigning functions or implementing compensating controls is limited.

In July 2009, the Local Agency Formation Commission (LAFCO) of San Bernardino County issued a *Service Review and Sphere of Influence Update for the Newberry Community Service District*. Among the various observations made in that report, it was suggested that possible improvements should be examined, including: (1) removing the NCSD fire protection powers from the District and reassigning them to the County; or – more substantially – (2) consolidating the NCSD with two adjacent community services districts, to allow for “economies of scale and provide the opportunity for streamlined governance and compliance with CSD law.” These two suggestions merit further review, and more robust analysis of governance and reorganization options should be included in LAFCO’s next Service Review of the District, scheduled for 2014.

NCSD Needs an Adequate Capital Asset Management System

The District's management of capital assets is weak compared to GFOA best practices to ensure that entities assess assets, appropriately plan, and budget for any capital maintenance and replacement needs. According to District personnel, an inventory of capital assets only occurs at the time, and with the assistance, of the annual audit. There is no Capital Asset Management System to record the date an asset was purchased, the condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs. Such information is important for District personnel and the Board to review when making key decisions, such as whether to approve an agreement for the consignment and sale of a water tender that was obtained in 2009, or to pursue the various repairs for equipment charged to purchase cards in FY 2011-12. In addition, an adequate Capital Asset Management System should prevent loss or misuse of capital assets through central recording and inventory control. The District should establish a Capital Asset Management System.

Conclusions

The District has By-laws and a Policy Handbook that contain some internal controls to help protect the District's financial and capital assets against the potential risk of loss or misuse. However, these policies remain insufficient for minimizing risk exposure to potential fraud and abuse. For example, the District's policies on purchase cards do not include spending and transaction limits to ensure that there are sufficient funds to pay for expenditures, segregate duties of purchase approvals and reconciliation to prevent potential fraud, or provide mechanisms for handling disputes and unauthorized charges.

In addition, the policies adopted to establish internal controls are not consistently implemented by Board members and District personnel, further exposing the District to unnecessary costs and potential misuse of District tax dollars for personal benefits. Violations of policies that indicate weak internal controls include:

- The lack of documentation for purchase card expenditures;
- Significant expenditures made with purchase cards without required Board approval;
- Lack of timely payments for purchase card billing statements to avoid potential penalties and fees;
- Reimbursement of expenses without sufficient documentation to ensure they were for District business; and,
- The lack of several key documents and tools such a log of all communication with District Counsel, a policy handbook for the Fire Department, and a catalog of retained District records.

Multiple resignations and terminations by the Board of key personnel within the organization during the audit period coincided with breakdowns in internal controls and the ability of the

organization to respond by reassigning functions or implementing compensating controls is limited.

Finally, the District does not have an adequate Capital Management Asset System to control inventory and record key information central to making maintenance and replacement decisions.

Recommendations

The Board of Directors should:

- 8 Revise its purchase card policies to:
 - (a) Exclude Board members from the use of purchase cards in order to be in compliance with the State Master Services Agreement for purchase cards, subsequently relinquish any purchase cards currently issued to Board members, and
 - (b) Include additional policies to ensure that there are sufficient funds for paying authorized purchase card transactions, prevent potential fraud and abuse through unauthorized and/or inappropriate purchases, and avoid unnecessary penalties and fees from late payments, such as:
 - (i) Spending and transaction limits for each cardholder;
 - (v) Clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders;
 - (vi) A process for handling disputes and unauthorized purchases; and,
 - (vii) A requirement that purchase cardholders use personal funds to pay for transactions that lack the timely submission of sufficient documentation of the transaction and purpose, as well as any subsequent penalties and fees that result from the delay in submitting such documentation.
- 9 Diligently review the list of disbursements to be approved on the consent agenda prior to scheduled Board meetings and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

The General Manager should:

- 10 Train all participants in the purchase card program on the new and revised policies and procedures for purchase cards.
- 11 Review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure

approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the purchase(s) into compliance with the Policy Handbook.

- 12 Carefully review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook prior to approval.
- 13 Establish the following to ensure that the District is in compliance with the Policy Handbook and maintains adequate internal controls:
 - (a) District Legal Counsel Log;
 - (b) Policy handbook for the Fire Department; and,
 - (c) Catalog of all retained District records.
- 14 Establish a Capital Asset Management System that records capital asset information such as the purchase date, condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs.

The Local Agency Formation Commission (LAFCO) should:

- 15 Review suggestions made in its 2009 report and include more robust analysis of governance and reorganization options for the next Service Review of the District, scheduled for 2014.

Costs and Benefits

Implementing these recommendations will require additional staff time, but should be done with existing resources.

Proper internal controls over District expenditures through purchase cards, contracts, and reimbursements should prevent subsequent unauthorized, inappropriate or unnecessary costs. Additionally, a good records management system would help the District (i) increase staff efficiency when key documents are easily accessible and (ii) ensure compliance with legal and regulatory requirements.

SAN BERNARDINO COUNTY SHERIFF DEPARTMENT TASER POLICIES AND USAGE

BACKGROUND

In the past year there have been a number of nationwide and local newspaper articles regarding deaths which resulted after a person had been subjected to taser. Amnesty International, a global movement which champions human rights, issued a press release on February 20, 2012, which stated since the advent of tasers, there have been over 500 individuals in the United States who have died after being shocked with a taser during arrest or while in custody. The vast majority of these deaths occurred when the person received multiple taser exposures.

Taser related deaths are not uncommon in San Bernardino County. In July 2008, an Apple Valley man died after being tasered three times. In 2009, a man died after being tasered twice while in custody at West Valley Detention Center. In May 2011, in the Lake Arrowhead area, a man was subjected to 16 taser exposures. In the latter case, some deputies believed their tasers were not working.

Based on these newspapers accounts, the Grand Jury formed a committee to examine the San Bernardino County Sheriff Department (SBCSD) taser policy. The focus of the investigation was in the areas of:

1. The information supplied by the taser manufacturer,
2. The nature and extent of training which deputies receive,
3. Individuals who are at high risk from taser,
4. What constitutes excessive use of a taser by a deputy.

FACTS

An Electronic Control Device (ECD), commonly known as a taser, is a product marketed by TASER International, Inc. and, according to the manufacturer, is a non-lethal weapon. Tasers are used by many law enforcement agencies in the United States. Tasers use an electrical current to disrupt voluntary muscle control and causes neuromuscular incapacitation (NMI).

There are two ways to deploy a taser:

1. The first is the Drive-Stun mode which is generally temporary as well as localized, and reportedly does not cause NMI. In this mode, the taser is held

against the suspect without firing the projectiles. Compliance is achieved through the infliction of pain in the Drive Stun mode without incapacitating the target.

2. The second method of deployment is by the use of barbs shot from a short distance. A compressed nitrogen cartridge propels a pair of barbs or darts which are attached to insulated wires. The maximum range is about 20 feet; this being the length of the wires which are attached to the weapon. These wires carry the electric current. In this mode, the deputy is not directly in contact with the person.



Taser Model X2: Used by San Bernardino County Sheriff Department.

The Grand Jury was provided a copy of the Taser Training Academy manual (TTA), Instructor's Certification Lesson Plan, a copy of their Taser Policy manual (TP), and data on taser usage within the scope of Use of Force instances.

The TTA is a training manual for deputies to become a certified instructor in the use of tasers which is valid for two years. Deputy instructor training totals approximately 18 hours (two days). Slides and videos are used extensively in this training. This manual relies heavily on information supplied by the manufacturer. All deputies must successfully complete the department's taser training before being able to carry one.

There is no information in the TTA which specifically mentions how many times a person can be safely tasered. This would depend on individual circumstances and is left to the discretion of the deputy. There were, however, at least seven warning references to minimize repeated, continuous, or simultaneous ECD exposures, primarily because being tased is "... a physically stressful event."

In the TP manual, there were 13 cautionary references to avoid repeated, multiple, prolonged, continuous, or simultaneous ECD exposures. In fact, in the case of the SBCSD TTA manual, there was no information in this policy dealing with how many times a person can safely be tasered. This is discretionary, and each officer makes the decision.

The TP manual states, "... pregnant women, the infirm, the elderly, small children and people with low body-mass index" are considered high risk individuals and the ECD's have "...not been scientifically tested on..." people in this category, and "...ECD use on these individuals could increase the risk of death or serious injury." In these high risk cases, the manual states, "The taser should not be used."

Under Section 3.630.45 in the TP manual, styled "Taser: Limitations of Use," it states tasers should not be used:

- Over a prolonged period of time. Minimize repeated, continuous, or simultaneous exposures,
- Near flammable liquids or fumes; or when the deputy knows that a subject has recently come in contact with flammable liquids likely to be on his person,
- In conjunction with the application of pepper spray,
- When the subject is likely to fall from a precarious position, such as at the top of a staircase, on a balcony or ledge, in a tree, or in or next to a body of water,
- When the subject is obviously pregnant, or known to be pregnant,
- When the subject is visibly enfeebled due to advanced age or illness,
- When the subject is handcuffed or otherwise restrained, absent overly assaultive behavior, cannot be reasonably overcome by other less intrusive manners.

The TTA and TP manuals list areas of the body where tasers should not be directed unless the deputy has "legal justification." These sensitive areas are:

- Lower Head
- Throat
- Chest/breast
- Groin area and
- Known, pre-existing injury areas.

The preferred target areas are: center mass (below the chest) for front shots and below the neck area for back shots.

In both the TTA and TP manuals, there are several references to "Silence is Golden," which refers to the fact the taser's electrical current is relatively quiet when it makes contact with

a person's body, because the taser is directly discharging the energy into the body. If the taser is loud, the electric current is arcing in the air. Thus, when the deputy deploys the taser and there is very little noise, it is working properly.

Under "Sudden Unexpected Deaths," section it mentions in several autopsies the taser has been listed as a contributing factor in a death, but "...these cases are disputed by independent medical experts." Factors associated with sudden death include chronic/toxic drug use, pre-existing heart conditions, obesity and poor cardiovascular condition, diabetes and other pre-existing diseases, protracted physical struggle, exhaustive mania/metabolic acidosis, agitated/excited delirium, and positional/restraint/compressive asphyxia."

In the 2009-2010 TP manual Taser Update, under "What TASER'S Don't Do," it lists the following items:

- Does not damage nervous tissue,
- Does not cause serious burns,
- Does not cause "electrocution" in a wet environment,
- No reports of a TASER causing death,
- Electrical output not harmful to fetuses (but the fall or stress could harm mother),
- Generally does not cause urination or defecation.

Any use of a taser is a reportable "use of force" and requires the completion of a "Use of Force" report which includes a "force application areas – points of contact" section. The supervisor is responsible for completing the form specifying areas of contact with the taser. The reporting supervisor indicates whether the use of force was reasonable. The commander reviews the report for completeness and makes a preliminary finding as to policy compliance. The completed forms with all relevant documentation are routed to the Civil Liabilities Division.

The information on taser usage by other law enforcement agencies is extensive. For example, the International Association of Chiefs of Police, during a January 18, 2007, Police Executive Research Forum (PERF), concluded the use of tasers is controversial due to highly publicized incidents involving what appears to be misuse of the weapons, e.g., use on passive or at-risk individuals, and deaths linked to the tasers. It urged law enforcement departments to consider under what circumstances multiple discharges and direct stun would be permissible. The PERF report concluded law enforcement agencies should have concerns about regulations, safety, and liability risks.

The May 2011, briefing by the U.S. Department of Justice, in their "Police Use of Force, Tasers and Other Lethal Weapons" program, stated tasers are being used by more than 15,000 law enforcement and military agencies across the United States. The briefing noted preliminary

reviews of deaths following taser exposures found many were associated with continuous or repeated shocks, and cautioned officers about the risks of multiple activations. It urged agencies to adopt department policies and training, to insure officers evaluate the age, size, gender, apparent physical capacities and health of the suspect. The Department of Justice characterized the taser as being "...a less lethal use of force," even though taser-related deaths are continuing.

Two Ninth Circuit Court of Appeals cases illustrate law enforcement officers are not immune from liability when they subject a suspect to multiple taser exposures. In *Bryan v. MacPherson*, the Court ruled a taser had been used in a way which constituted excessive force and was, therefore, a violation of the Fourth Amendment. In the case of *Mattos v. Agarano*, the Court held in two situations involving taser use, one in Drive Stun mode and the other in dart mode, officers had used excessive force causing the death of the individual. There are more cases throughout the United States wherein the courts have decided against law enforcement agencies when multiple and repeated tasing has occurred.

FINDINGS

1. After the Taser Model X2 is deployed against a target, the unit does not provide any active indicators such as a warning light or sound indicating the unit is active and passing an electrical charge into the target. In order to determine whether or not the taser unit is working, the officer must rely on his training and observations. This training consists of compliance with the "Silence is Golden" rule, i.e., no sound means taser is discharging electrical current into the target; a sound means current is arcing in the air. The officer must also rely on his observations of the target, i.e., target is exhibiting symptoms of NMI or is responding to the tasing by becoming compliant. However, in detention scenarios where the target is not exhibiting NMI symptoms or showing signs of compliance, officers have incorrectly assumed the taser unit was not working properly, thereby leading to potentially unnecessary discharges.
2. The SBCSD training manual does not require on-scene tracking of taser usage by deputies during multiple officer detention scenarios. This on-scene tracking is critical when officers arrive at the scene of a detention at different times and deploy tasers against the target without information regarding previous discharges by other officers. This lack of situational awareness may lead to multiple, repeated and continuous exposures in violation of the SBCSD taser policy manual.

RECOMMENDATIONS

- 13-29. Implement enhanced officer training regarding the "Silence is Golden" rule to include situations where the target does not exhibit NMI symptoms or compliance. (Finding 1)

- 13-30. Amend SBCSD TTA manual to require greater communication among on-scene officers regarding the number of discharges of the taser against the target to avoid multiple, repeated or continuous exposures. (Findings 1, 2)
- 13-31. Increase hands-on training with tasers, focusing on the issue of identifying when a taser discharge is effective. (Finding 1)
- 13-32. Formulate training to address the problem of knowing whether the taser is operating properly to avoid continuous, repeated and prolonged use of the taser. (Finding 1)
- 13-33. When multiple deputies are using tasers, the highest ranking deputy at the scene be required to keep track of the cumulative number of taser exposures. (Findings 1, 2)

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Due Date</u>
Sheriff-Coroner	13-29 through 13-33	09/28/13



**RESPONSE
ACCOUNTABILITY**



RESPONSE ACCOUNTABILITY

INTRODUCTION

Each year the Grand Jury is required by law (California Penal Code, Section 933(c)) to submit a Final Report to the presiding judge of the Superior Court with appropriate recommendations and results from investigations conducted by the Grand Jury.

The Grand Jury decided to review and follow up on some past Grand Jury reports. Prior reports were reviewed, various reports were selected for follow-up, and interviews were conducted. These interviews determined if the recommendations made and agreed to, were actually completed.

This section of the Final Report contains updates on four of those past issues:

- San Bernardino County Central Collections
- San Bernardino County Public Defender
- San Bernardino County Registrar of Voters
- San Bernardino International Airport (SBIA)

SAN BERNARDINO COUNTY CENTRAL COLLECTIONS

FINAL REPORT YEAR: 2010 – 2011

Recommendation Number: 2011-30

Stated: Have Central Collections continue to track the effectiveness of the recommended fee increase to support future fee adjustments.

The Department/County agreed to the recommendation, stating:

The County is implementing this recommendation. For fiscal year 2011-2012, the Interim Public Defender has asked Central Collections to conduct a fee study to determine the Public Defender's cost for indigent representation. The Interim Public Defender will work with Central Collections to establish a procedure for reviewing indigent representation fees every two years. Any fee adjustment should be discussed with the Public Defender and must be approved by the Court before implementation.

Should Central Collections conduct a fee survey, counties such as Riverside, Santa Clara, Orange, Sacramento, and San Diego will be considered as they have comparable populations to San Bernardino County.

Question: Has the recommendation been implemented?

Answer: The recommendation has not been implemented. The Central Collections Department was advised that the Public Defender's Office and Internal Audit are responsible for implementing this recommendation.

SAN BERNARDINO COUNTY PUBLIC DEFENDER

Final Report: 2010 – 2011

Recommendation Number: 11-30

Stated: Have Central Collections continue to track the effectiveness of the recommended fee increase to support future fee adjustments.

The Department/County agreed to the recommendation, stating:

The County is implementing this recommendation. For fiscal year 2011-2012, the Public Defender has asked Central Collections to conduct a fee study to determine the Public Defender's cost for indigent representation. The Public Defender will work with Central Collections to establish a procedure for reviewing indigent representation fees every two years. Any fee adjustment should be discussed with the Public Defender and must be approved by the Court before implementation.

Should Central Collections conduct a fee survey, counties such as Riverside, Santa Clara, Orange, Sacramento, and San Diego will be considered as they have comparable populations to San Bernardino County.

Question: Has the recommendation been implemented?

Answer:

To date, the recommendation has not been implemented. The Public Defender's Office is working with Internal Audit on the fee study. However, it is a complicated process and the Public Defender's Office and the Internal Auditor's Office are not in agreement with some of the legal policies that are involved. Some of the Public Defender's fees have been adjusted such as the \$50.00 fee for misdemeanors, which was increased to \$150.00, and the \$150.00 fee for felonies, which was increased to \$500.00.

The Public Defender's Office is currently conducting their bi-annual review of their indigent representation fees. However, no procedure is presently in place. The new Chief of Administration is working on this procedure on a continuing basis. This procedure should be in place by mid-year, 2013.

Conclusion:

This Response Accountability Report will be included in the Grand Jury's 2012-2013 Continuity Report for possible follow-up by the incoming 2013-2014 Grand Jury.

SAN BERNARDINO COUNTY REGISTRAR OF VOTERS

FINAL REPORT YEAR: 2006-2007

Recommendation Number: 2007-81

Stated: The temperature in the Registrar of Voters (ROV) warehouse should be a constant 78 degrees. [This was because of the temperature sensitive paper for the VeriVoter Printer attached to the Direct Recorder Electronic (DRE) device.]

The Department agreed to the recommendation, stating:

They will continue to monitor this to insure the temperature remains a constant 78 degrees.

Question: Has the recommendation been implemented?

Answer: Yes

The temperature is checked at least once daily by staff.

How is it working? This procedure is working well, as expected.

Recommendation Number: 2007-83

Stated: Make sure the DREs are working properly and there is plenty of paper available.

The Department agreed to the recommendation, stating:

They will continue to address this issue to insure the machines are working properly and paper is available.

Question: Has the recommendation been implemented?

Answer: Yes

If so, how was it implemented/what changes were made?

The ROV has assigned staff to make sure paper is always available and that machines, if inoperative, receive prompt repairs.

How is it working? There have been no appreciable problems since an assigned staff person is responsible for this recommendation.

Recommendation Number: 2007-83

Stated: All Security Cameras in the building should be in operation.

The Department agreed to the recommendation, stating:

At the conclusion of the building remodel project, the security cameras will be back in operation.

Question: Has the recommendation been implemented?

Answer: Yes

If so, how was it implemented/what changes were made?

After the remodeling was complete, all security cameras were re-installed and have been functioning properly for the past five years.

SAN BERNARDINO INTERNATIONAL AIRPORT (SBIA)

BACKGROUND 2010 – 2011

The Grand Jury conducted a follow-up review of the 2010-2011 Grand Jury recommendations to San Bernardino International Airport Authority Commission (SBIAA).

The recommendations were as follows:

Section 1. Internal Controls

- 1.1 Direct management to develop comprehensive policies within 12 months of the receipt of the report.
- 1.2 Direct management to refine processes for ensuring the comprehensive documentation of business processes and transactions.
- 1.3 Convene a workshop to evaluate approaches to improving the quality and understandability of management reports to the governing board.
- 1.4 Adopt a policy to rotate financial auditing firms every five years.
- 1.5 Solicit proposals from qualified auditing firms to provide financial service for the next five year cycle.

Section 2. Construction Management

- 2.1 Immediately require SBIAA management to strengthen controls and reporting to the commission including:
 - a. Implementing procedures for the use of contingency funds for existing and future capital projects.
 - b. Require Chief Financial Officer review and approval of all expenditures prior to disbursement of capital funds.
 - c. Enforce all provisions in the Terminal and Fixed Based Operator (FBO) leases requiring the developer to provide detailed monthly reports. The Commission should also require the developer to provide such reports to the Commission meetings.
 - d. Engage the services of a reputable, independent auditing firm to examine all expenses incurred as a result of Terminal Development and FBO Projects. The scope of such an audit should include a review of construction meeting minutes to determine if the developer purposely inflated costs.

Section 3. Equipment Acquisition

- 3.1 Make a formal policy decision to only authorize contracts after they have been signed, on condition of Commission approval, so it can properly review such contracts and to ensure that all major agreements are accompanied by signed and executed contracts.
- 3.2 Formally approve a purchasing policy that includes revisions to address the deficiencies identified in our review, eliminate the *Negotiated Purchases* section of the purchasing policy and require that all purchases above \$25,000 (or a different threshold deemed more appropriate by the Commission), regardless of purpose, require a formal contract to be approved by the Commission.
- 3.3 Set a regular schedule for reviewing, revising, and formally approving updates to the purchasing policy.
- 3.4 Engage the services of a reputable, independent auditing firm to examine the representations and warranties made by Norton Development management and SBIA management in connection with the purchase of used equipment as well as the amount actually spent on such equipment, and the estimated useful life and/or resale potential resale of the equipment
- 3.5 Formally direct the Interim Executive Director and Assistant Director to cease from approving and further fund payments to Norton Development or any third parties with agreements to provide services in connection to the used aviation equipment, which was originally authorized on July 3, 2007.

Section 4. Lawsuit Settlement

- 4.1 Engage the services of a reputable, independent auditing firm to examine the representations and warranties made by Norton Aircraft Maintenance and SBD Properties management in connection with the *Settlement and Mutual Release Agreement* and, if found to be false or untrue, demand immediate repayment of the Insurance Loan, Rent Credit and Temporary Aircraft Rehabilitation Loan Balance.

Section 5. Contractor Relations

- 5.1 Direct staff to review current contracts for construction services and Airport operations with the companies he manages to identify modification that may be necessary to protect the Inland Development Agency and SBIAA from potential future risk.

BACKGROUND 2012 - 2013

SBIA responded to the 2011-2012 recommendations on June 8, 2011. The recommendations were acceptable, with one exception, Recommendation 3.5 was determined to be “not applicable.” Each recommendation had the number of months by which the requirements of the recommendations would be met. The number of months varied from one to 12 months.

Information regarding the
San Bernardino County Grand Jury
or an application to serve on the Grand Jury
can be obtained by contacting the

Office of the Grand Jury
351 North Arrowhead Avenue, Room 200
San Bernardino, CA 92415-0243

Office: (909) 387-3820

Fax: (909) 387-4170

Information is also provided on the website at www.sbcounty.gov/grandjury

FACTS

1. The Grand Jury received SBIA's Policies and Procedures manuals on November 7, 2012. A review of the Policies and Procedures manual by the Grand Jury found several of the original recommendations by the 2010-2011 Grand Jury had not been specifically identified. The original list of questions were each noted with "Yes" with a note to location in the manual or "Not answered." SBIAA responded to questions regarding these issues in a satisfactory manner.
2. The Grand Jury members have been attending the SBIAA Board meetings since October, 2009. The Board Meeting agendas identify each possible item that might be a conflict of interest for a Board member. If there is conflict of interest, the affected Board member would leave the meeting until after the item is voted upon by the remaining Board members. The government code for conflict of interest statute is printed in each Board agenda. The Grand Jury has noted this procedure is being followed at all meetings. The Board agendas have complete information regarding all the recommendations of the 2010-2011 Grand Jury and are available for public review.
3. Due to the court actions taken on behalf of SBIAA by the current Interim Executive Director, the previous Master Leaseholder/Construction Manager has been removed from any involvement in SBIA operations.

FINDINGS

1. SBIA has completed the recommendations put forth by the 2010-2011 Grand Jury. (Facts 1, 2)
2. Former personnel in charge of SBIA operations no longer have any input to current operations. (Fact 3)

CONCLUSION

SBIA has implemented all of the Grand Jury recommendations.

Information regarding the
San Bernardino County Grand Jury
or an application to serve on the Grand Jury
can be obtained by contacting the

Office of the Grand Jury
351 North Arrowhead Avenue, Room 200
San Bernardino, CA 92415-0243

Office: (909) 387-3820

Fax: (909) 387-4170

Information is also provided on the website at www.sbcounty.gov/grandjury