

2000-2001

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COUNTY OF SAN BENITO

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DEPUTY

San Benito
County
Grand Jury

Final
Report

SAN BENITO COUNTY
GRAND JURY
P.O. BOX 1624
HOLLISTER, CA 95024



2000-2001 Grand Jury Foreman's Report

Honorable Judge Harry Tobias:

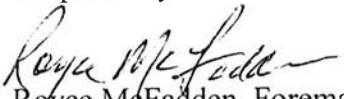
As required per sections 928 and 933 of the California Penal Code, on behalf of the San Benito County Grand Jury, we take great pride and pleasure in presenting you our final report. We are honored to have served the citizens and officials of San Benito County.

I, personally, am pleased to have served on both the present grand jury and the 1999-2000 grand jury along with repeat members Kathleen MacWilliamson and Jose Martinez. I have become acquainted with some very fine, outstanding people who bring a wealth of knowledge and expertise to this panel. All the members have dedicated an enormous amount of time for little reward other than wanting to better their community.

The Grand Jury, which is comprised of nineteen members, met bimonthly, and each of the various committees met at least that often. Additionally, the committees made visits to the various departments within the County of San Benito, City of Hollister, and City of San Juan Bautista. Committee reports gleaned from those visits are included in the body of this report.

I, along with all the members of the Grand Jury, would like to thank all the officials of the various departments for their assistance in producing this report. We would like to especially thank Judge Harry Tobias, Judge Thomas Breen, Judge Steve Sanders, District Attorney Harry Damkar, and County Counsel Karen Forcum for their advice and guidance. The Grand Jury could not have completed its arduous task without their help

Respectfully submitted,


Royce McFadden, Foreman
San Benito County Grand Jury

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THE 2000 - 2001 SAN BENITO COUNTY GRAND JURY

Royce McFadden, Foreman
Kathleen MacWilliamson, Foreman Pro Tem
P.J. Carlson, Secretary
Jose Martinez, Sergeant-at-arms

Bob Carlson
P.J. Carlson
Joanne Churchill*
Jean Gillaspie
Mark Gillaspie
Vince Gattuso
John Johnson
Jose Martinez**
Elisha (Lou) Morgan, Jr.
Kathleen MacWilliamson**
Royce McFadden**
Roy Navarro
Michael Oliveira
Leonard Poletti* **
Dan Reyes*
Mike Sheldon
JoAnn Souza
Phyllis Swallow
Paul Thomas*
Diana Tucker
Adam Tuomala

* Unable to complete the year

**Held over from 1999-2000 Grand Jury

CITY AND COUNTY COMMITTEE

CHARTER

The City and County Committee is responsible to investigate matters pertaining to the various City and County governments, special districts, and joint-power agencies.

Committee Members

Roy Navarro, Chairperson
Diana Tucker
John Johnson
Adam Tuomala

I. CITY WATER AND SEWER FACILITIES OF SAN JUAN BAUTISTA

BACKGROUND

This investigation stemmed from a complaint that was received by the 1999/2000 Grand Jury. Part of that complaint alleged there was collusion between the City of San Juan Bautista's then City Manager and the City's contracted facilities maintenance and engineering firm to enhance the capacity of the existing facilities to secure approval for a proposed 35 unit subdivision.

METHOD OF REVIEW

Interviews

- City Council
- Contracted maintenance and engineering firm
- City Manager
- City officials (building/planning)
- City employees

Tour of San Juan Bautista wastewater facility

Tour of San Juan Bautista municipal well

Tour of San Juan Bautista reservoir

Documents

- Facsimile transmittals
- Application for grant funding
- Feasibility study from facilities maintenance and engineering firm
- Memoranda
- Cease and desist orders
- Clarification notices
- Personal affidavits
- Emergency notices
- Discharge self-monitoring reports

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury conducted a tour of the City of San Juan Bautista's municipal water and sewer facilities to try to determine if there was enough capacity to support and sustain current demand as well as any future growth of the City.

The City of San Juan Bautista has three wells that either currently or at one time supplied the City with its water demands. Well #1 is permanently out of service due to silt which makes it undrinkable. This well is currently being rented for agricultural purposes. Well #2 is the City's primary source of potable (drinkable) water. Well #3 is currently slated for emergency use only due to excessive levels of nitrate. Nitrate is used in fertilizer and is found in sewage and waste from humans and/or farm animals. Excessive levels of nitrate can cause serious illness and sometimes death, especially to infants.

A well's capacity (the amount of water a well can produce) is measured in gallons per day (gpd). Each individual well is measured and given a rated capacity that is determined to be reliable during seasons when demand is at its highest.

In a January, 1994 report from the contracted engineering firm to the (then) City Manager they stated that the City's water demand averaged about 315,000 gpd and that the capacity of well #2 was approximately "360 gallons per minute" (gpm) or approximately 518,400 gpd. This report also concludes that "under normal operating conditions, either one of the city wells can meet the system demands and the other well is a standby. Wells #2 and #3 are used on an alternating basis. City well #1 is not used."

In a January, 1998 letter from the contracted engineering firm to a City of San Juan Bautista official, the firm stated that the City's current peak water demand was approximately 520,000 gpd. The letter also stated that well #2 has a capacity of 530,000 gpd and well #3 has a capacity of 576,000 gpd. The firm concludes that "as long as both wells are operational, the water system has sufficient capacity for these developments." As noted earlier, well #3 is now condemned as a primary water supply and is to be used for emergencies only.

In a transmittal dated November 10, 1999 from the contracted engineering firm to the City Manager of San Juan Bautista, the firm seeks to "clarify" the capacities of the City's wells and their ability to supply a proposed 35 lot development. "In re-reviewing water production from well #2 in 1998, there were many days when the well produced over 630,000 gpd and although our January 22, 1999 letter stated a capacity of 530,000 gpd for well #2, that was simply based on the average daily water production in the maximum month, not based on peak production days. As a result, the capacity of both wells as stated in the letter is actually higher if you consider peak production days and not peak production months. Thus, the capacity of well #2 should be considered to be over 600,000 gpd and well #3 over 650,000 gpd. The 35 lot development will add only about 23,000 gpd of demand which represents about 3.6% of the capacity of the smallest well, and this additional demand should be the basis on which the decision to proceed or not with this development should be based."

The Grand Jury asked the engineering firm what the rated capacity of the pump is on well #2. We received a written response of "370 gallons per minute." This represents the maximum rated gallons per minute the pump on well #2 can actually flow. If the pump runs at 100% of its rated capacity, this equates to 532,800 gpd.

Furthermore, in a 2000-2001 block grant application from the City of San Juan Bautista to procure funding to upgrade the City's water facilities, the grant application states that "both wells pump 325 gallons per minute (468,000 gpd) into the municipal system" and "given the City's peak usage of 500,000 gpd the reservoir does not even hold one day's storage and has no fire capacity."

The Grand Jury finds that there are many discrepancies with respect to the capacities of the water facilities. It seems unlikely that the "peak demand" decreased from 1998 to

2001 and that the well capacity has increased. Considering the most consistent readings ('94 through '98) with a peak demand of 520,000 gpd and water production of 532,800 gpd, there would be a net of 12,800 gpd available. The proposed 35 lot development is projected to add an additional demand of 23,000 gpd - that equates to a 10,200 gpd shortfall!

The Grand Jury conducted a tour of the City's sewer facilities to determine if the facility had the capacity to sustain current demands as well as future growth. The sewage treatment facility measures its capacity in tons per day (tpd) during what is called an average dry weather flow (adwf). Flows can vary significantly depending on weather. The current adwf is approximately 190,000 tpd. This facility was recently reconfigured slightly which helped the entire system work more efficiently.

The San Juan Bautista sewage facility can handle a significantly larger daily flow than its permit allows (270,000 tpd). The system has in the past managed flows as high as 700,000 tpd without problems. The problem with the sewage plant is not the capacity of the facility but rather the capacity of the permit.

During our visits, the Grand Jury noticed several problems with the security of the facilities. When we toured the sewer plant we noticed that the fencing and gate were poorly secured and would not prevent intruders or curious youths from entering the premises. We also made note that there was a manhole cover missing from one of the inlets with about a 10-foot drop to the concrete.

When the Grand Jury toured the City's water reservoir, we noted that this is an aging facility with a failing wooden structure. The doors had apparently just received new locks and the surrounding area seemed to have been recently mowed and cleaned up. The Grand Jury cannot overstress the importance of security at the reservoir. Despite the fact that it is old, it still needs regular maintenance and security. In a letter dated January 7, 1999 a local water emergency was ordered due to an "unknown source of debris" which had contaminated the reservoir "during the night." The reality is that the City's water supply could be thoroughly contaminated very easily. It would be a small expense to better secure the doors and improve the latches at this facility.

When the Grand Jury toured the City's well #2, we were again surprised at the lack of security at the facility. There was no substantial fencing or gate to protect the well, pump, and other devices. The chlorine and chlorine pump could easily be vandalized as well as the main pump. It would be little problem for someone to disable the City's sole water supply in a few minutes. This area also appeared to have been hastily prepped for our arrival with new locks, data logs, safety equipment, etc.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The City of San Juan Bautista hire an independent water engineering firm to test the City's water facilities to determine the exact capacity of well #2 (the City's only potable water supply) before any further building projects are approved.
2. The City of San Juan Bautista take steps to better secure the City's well enclosure and all devices.
3. They secure the chlorine barrels and chlorine pump to prevent spillage from seismic movement or vandalism.
4. They secure the electrical switchgear with padlocks.
5. They secure the doors of the reservoir with more substantial latches and locks.

AFFECTED AGENCIES

San Juan Bautista City Council
San Juan Bautista City Manager
San Juan Bautista Public Works

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

II. FINANCIAL PRACTICES OF SAN JUAN BAUTISTA

BACKGROUND

Review of the financial practices of the City of San Juan Bautista was conducted as recommended by both the 1998-1999 and 1999-2000 San Benito County Grand Juries. Authority for investigation of San Benito County and the Cities of San Juan Bautista and Hollister is given by s/s 914.1 of the Penal Code which says, in part, that the Grand Jury should "ascertain by a careful and diligent investigation whether such provisions have been complied with, and to note the result of such investigation in its report".

The 1999-2000 San Benito County Grand Jury, in its report to the San Benito County Board of Supervisors, advised that due to time constraints its periodic review of the City of San Juan Bautista could not be completed and recommended that such review be completed by the 2000-2001 Grand Jury.

METHOD OF REVIEW

Review of the Independent Auditor's Report, dated September 5, 2000
Review of City Manager's Memorandum to City Council, Re: Draft Budget, dated September 19, 2000
Independent Auditor's letter to City Council and the City Manager, dated November 16, 2000
Review of City of San Juan Bautista accounts-payable check register for Fiscal Year 99/00
Interview of the City Manager, San Juan Bautista
Interviews of complainants and a city resident

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The 2000-2001 Grand Jury reviewed the independent auditor's report and had no significant questions relative to the auditor's findings. The audit report stated that the general purpose financial statements of the City of San Juan Bautista for the year ended June 30, 2000 "present fairly, in all material respects, the financial position of City of San Juan Bautista as of June 30, 2000, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles."

According to the auditor's report, there was one omission to the financial statements that should be corrected. The report states that "prior to 1988, the City recorded acquisitions of fixed assets as expenses when purchased rather than capitalizing and depreciating the assets over their estimated useful lives". Therefore, the financial statements reviewed during the audit did not contain the amounts of fixed assets acquired prior to 1988, or their depreciation expense

The independent auditor's letter to San Juan Bautista stated that their initial review of the City accounting records revealed that bank statements had not been reconciled for several months prior to the audit. The reconciliation difficulties were attributed primarily to issues with the "Fund Balance 32" software and the procedures used in recording accounts payable. Review of the accounts receivable aging report and the accounts receivable balance in the general ledger showed that the detail by customer totals did not agree with the balances reflected in the general ledger. The auditor reviewed three different accounts payable reports; aging by fund, aging by vendor and the balance sheet through November 15, 2000. All three reports from "Fund Balance 32" software had a different balance. Many requested reports were either not available or not provided to the auditors. For instance, a summary of cash receipts was not available, which could contribute to the difficulty experienced in performing the bank reconciliation task.

The independent auditor also stated that the City was unable to provide requested federal grant documentation and that an organized grant record system is needed. Such a system will be critical should the City's annual grant award expenditures exceed \$300,000. That would trigger a federally mandated single audit.

The auditor found that duties are not properly distributed among employees. For instance, the staff member who opens the City's mail also records the cash receipts and accounts receivable in the general ledger, and prepares the bank deposit.

The auditor also determined that there is no formal policy in place for the city council to approve certain management authorized transactions. Furthermore, the existence of specific purchase order requirements, contract or bid requirements and fixed asset purchase requirements could not be verified. The auditor was unable to verify the approval of several fixed asset purchases by reviewing the minutes of City Council board meetings.

The auditor noted that the City does not provide for consistent backup and storage of electronic files and related documentation.

The current City Manager advised the Grand Jury that many of the auditor's recommendations are being implemented and that specific duties have been assigned to city staff members to improve financial accountability. The City Manager also stated that staff familiarity with the "Fund Balance 32" software has improved and the software is now being put to better use. The Grand Jury was not provided with any written procedures or guidelines to validate the progress related by the City Manager.

After considering all the material available for review and input from interviews, the 2000-2001 Grand Jury finds that there are insufficient procedures, guidelines, controls and record keeping to establish accountability while providing an adequate audit trail of City receipts and expenditures. It should be noted that the Grand Jury believes that the City Manager and the City Staff have made significant improvements since the issuance of the September 5, 2000 audit report. However, in the absence of written procedures and guidelines, such improvements must be viewed as temporary. The Grand Jury

further finds there is no evidence of any misconduct or intentional misuse of funds by any City staff member.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The San Juan Bautista City Council establish formal policies and procedures governing transactions and/or expenditures requiring City Council approval. Such policies and procedures should clearly delineate those authorization levels delegated to the City Manager, as well as the reporting requirements imposed.
2. The San Juan Bautista City Manager review and update detailed job descriptions and ensure a list of duties and responsibilities is in place for each city staff position.
3. The City of San Juan Bautista develop and implement a plan of action to ensure that federal grant recordkeeping meets or exceeds government requirements. It is also recommended that one member of the City staff be designated to coordinate grant recordkeeping functions and to advise the City Manager of potential shortfalls.
4. The City of San Juan Bautista establish procedures for the backup and storage of electronic files, perhaps at an offsite location.
5. The 2001-2002 San Benito County Grand Jury review the audit of the financial statements and procedures of San Juan Bautista after the year ending June 30, 2002.

AFFECTED AGENCIES

San Juan Bautista City Council
San Juan Bautista City Manager

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

III. COMPLAINT AGAINST SAN JUAN BAUTISTA

BACKGROUND

This particular investigation stemmed from a complaint that was received by the 1999/2000 Grand Jury. The complaint alleged "Overall mismanagement of funds and city operations" and "harassment of employees, favoritism and deal making."

METHOD OF REVIEW

Interviews
Memoranda
Public Checking Registers
Invoices
Planning Commission Staff Report
Accounts Payable Report
Accounts Receivable

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury conducted extensive interviews and reviewed documents pertaining to the complaint. The Grand Jury found no evidence to support that portion of the complaint regarding "overall mismanagement of funds." While there are appearances of impropriety, actual irregularities were not evident. The Grand Jury finds that better controls need to be in place for the effective management and collection of city fees. The Grand Jury found permit fees outstanding for several years with no collection effort in force.

Management of the City of San Juan Bautista has changed since the start of this investigation. In light of this, many of the problems that were in evidence at one time seem to have been addressed. The complainants stated that they were harassed. The Grand Jury found that there was evidence of certain employees being harassed by members of the public who had interests in City affairs and that management made little effort to intervene in specific harassment events. The Grand Jury found that the lack of action taken to separate the employees from the harassment created an extremely uncomfortable work environment. The information provided to the Grand Jury suggested a dispute between a city employee and a private citizen, not a pattern of management's treatment of its employees. The Grand Jury found that there were no written policies or reporting procedures in place that address the issue of harassment.

The Grand Jury did find a few cases relating to the charge of "favoritism and deal-making." The Grand Jury received evidence that the then City Manager waived the business license fee of a county supervisor. The Grand Jury feels this action was inappropriate. The city purchased equipment from a local Council member. Section 1090 of the Government Code strictly requires that public officials and employees shall not be financially interested in any contract made by them in their official capacity. City management needs to look at outside sources for its equipment needs.

The Grand Jury also found that a capital expenditure was billed in several small increments to avoid sending it out to bid. This type of accounting sleight-of-hand takes public comment out of the process and gives the appearance of favoritism.

The overall fiscal management of city revenue requires much diligence by those placed in trust of those funds. An audit report released for the year 2000 showed that there were many areas of correction needed. An accounting error has severely limited the revenue stream into the city, creating a delicate balance between solvency and insolvency. Certain current expenditures should be carefully reviewed including, but not limited to, the expense of a grant writer. The current management of the City of San Juan Bautista must balance the future benefit of possible grants to the immediate needs of the community.

As the City of San Juan Bautista faces the challenges of the future, controls need to be in place that insure inclusion of the public in the decision making process. Many of the issues above served to exclude the taxpaying public from due process. The role of city officials is to represent the will of the people and lead the city forward. In order for this to happen city officials need to right the ship to sail forward.

RECOMMENDATIONS

The Grand Jury recommends that:

1. City employees should avoid any appearance of conflict of interest.
2. City management should avoid any appearance of favoritism.
3. City management should provide all employees with city policy and procedure handbooks, Harassment should specifically be covered therein.
4. Next year's Grand Jury should investigate the conflict of interest issues within the City for possible violation of s/s 1090 of the Government Code.
5. City management should look to outside sources for its equipment and supply needs.

AFFECTED AGENCIES

San Juan Bautista City Council
San Juan Bautista City Manager

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

EDUCATION, HEALTH, AND WELFARE COMMITTEE

CHARTER

The Education, Health and Welfare Committee is responsible for investigating complaints and other issues relating to the school districts, Health Department and Welfare Department.

Committee Members

JoAnn Souza, Chairperson
P.J. Carlson
Mark Gillaspie
Adam Tuomala

I. CHILDREN AND FAMILIES COMMISSION

BACKGROUND

The 2000-2001 San Benito County Grand Jury investigated the newly formed San Benito County Children and Families Commission. This Commission was formed shortly after the November 1998 enactment of Proposition 10, the California Children and Families Act of 1998. Proposition 10 increased the tax on tobacco products and created a trust fund for revenues collected. Eighty percent of these revenues were mandated to be annually distributed to the 58 individual California counties to benefit children aged zero to five years old. The remaining twenty percent is earmarked for the support of statewide programs and research.

The State Commission identified strategic outcomes for improvements in the development of strong families, preparing children for school and improving the health of children. To meet these needs, commissions were formed throughout the State to distribute State tobacco tax funds to various agencies based on submitted written proposals. The California Children and Families Act of 1998 mandates the composition of these commissions. Following this mandate, the San Benito County Commission consists of seven members representing the service areas of county government; public health, social services, education and early child care and learning.

The Commission developed a state mandated Strategic Plan, hired a competent and experienced Executive Director, developed a Letter of Intent and then a Request for Proposals. These were then sent out to those community agencies that met the criteria that were developed as a result of gathered information and community input regarding the current condition of the County. Based on their findings, and in accordance with the intent of the California Children and Families Act of 1998, proposals received were required to address the need for (a) parent education and support services, (b) childcare and early education, (c) health and wellness services.

Professional readers were employed to review and evaluate the submitted Proposals using a scoring Rubric system. Evaluation of the proposals was based upon individual program's compatibility with the commission's goals with the focus on programs aimed at improving the lives of children ages zero to five. Any program focusing on that age group was eligible to submit a proposal, including, but not limited to local public or private preschools, public or private daycare centers or providers and health clinics.

The end result was the awarding of \$976,744.00 to eleven agencies located in San Benito County. The intent is to fund programs for only a limited amount of time – one to two years. Each program must be able to sustain their project without Prop 10 funds at the end of the contract period. Seed money is to remain in a trust account to help secure future funding for County programs.

METHOD OF REVIEW

Review of Documentation:

- Strategic Plan
- Letters of Intent
- Request for Proposals
- Submitted Proposals
- Minutes of Commission meetings
- Bylaws of Commission
- Budget

Attendance at Commission meetings

Interviews:

- Health and Human Services Director – San Benito County
- Executive Director of Children and Families Commission

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury looked at the structure of the Children and Families Commission and the program from its inception. We reviewed the formation of the Commission, the appointment of directors, the plan of action, the intent of the Commission and its budgeting process. It is our opinion that overall the program is developing in a satisfactory manner. Leadership appears to be strong and goals for the most part are being met. A few areas of concern were noted and should continue to be monitored.

A conflict of interest among several members of the San Benito County Children and Families Commission exists and is acknowledged by Commission members. Several of them work for the same groups that sought funding from the Commission. The issues of conflict of interest in the Prop 10 Commissions are statewide due to the way the State structured the county commissions and the State is attempting to rectify this problem. However, we feel it is an area of concern that needs to be monitored.

Budgetary discrepancies were noted due to funding received from the State and administered by the County. These discrepancies have been resolved, but we feel the budget should continue to be monitored due to the large amount of monies involved.

It was noted that the Request for Proposal was worded in a manner that was difficult to understand for some of the potential submitters. We were informed that steps are being taken to rewrite the Letter of Intent and the Request for Proposals in a user-friendly manner.

It was further noted that a few of the submitted proposals included funding of vehicles for programs. Our concern – especially on one-time funding requests – is what happens to that vehicle when the original fund request expires.

As the Commission is presently structured, The Executive Director is an employee of the San Benito County Health and Human Services Agency. We feel that this needs to be a separate department under the San Benito County Administrator in order to be more effective and to ameliorate the conflict of interest issues.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The conflict of interest among Commission members continue to be monitored by future Grand Juries.
2. The annual audit of Prop 10 funding continue to be monitored by future Grand Juries.
3. Letters of Intent and Requests for Proposals be written in simpler terms.
4. Future Requests for Proposals clarify how fixed assets are handled. Commission should look very closely at proposals requesting large expenditures (such as automobiles) to determine a cost benefit analysis and long-term benefit of such a purchase.
5. County Administrator and County Counsel should pursue establishing a separate department for Children and Families Commission to preserve the autonomy of the Executive Director and to alleviate some of the conflict of interest problems.

AFFECTED AGENCIES

Children and Families Commission
County Counsel
County Administrator
County Board of Supervisors

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

II. HEALTH, EDUCATION AND WELFARE

Because of our focus on the Prop 10 matter and the time expended on doing so, the Grand Jury was unable to explore the following topics that we feel are worthy of consideration by future Grand Juries:

Education – Hollister School District Board: (Reviewed by meeting agendas and budgets)

It appears teachers are buying classroom supplies and are being reimbursed by the District. We were unable to determine what the purchasing procedures are by reading the agenda material.

The District also voted to allow their superintendent to award construction contracts without going out to bid and we feel this is a questionable action.

Health:

This Grand Jury received information regarding an alleged lapse in procedure with respect to reporting communicable diseases as required by State Law. State Law says that certain communicable diseases – i.e. TB, AIDS, etc. – are required to be reported to State agencies. This Committee received information that area physicians are not following these procedures.

Welfare:

Alleged improprieties in the welfare application procedure were brought to our attention and it was suggested we look into it. Due to time constraints, this was not possible. We feel, however, it would be an area of concern that should be investigated.

RECOMMENDATION

1. Next Year's Grand Jury should pursue all of the above topics.

LAW AND JUSTICE COMMITTEE

CHARTER

The Law and Justice Committee is responsible to investigate all branches of County government to be assured that they are being administered efficiently and honestly in the best interests of its citizens and to report on the operations, books, records, and accounts of all County offices.

COMMITTEE MEMBERS

Elisha (Lou) Morgan, Jr., Chairperson
Vincent Gattuso
Phyllis Swallow
Mike Sheldon
Jean Gillaspie
John Johnson

I. SAN BENITO COUNTY VICTIM/WITNESS PROGRAM

BACKGROUND

The Grand Jury reviewed the Victim/Witness program.

METHOD OF REVIEW

Interview of Victim/Witness program Administrator

OBSERVATIONS AND FINDINGS

The Grand Jury met with the Administrator of the Victim/Witness program and learned that this program is free to victims and/or witnesses of all types of crimes. The crime must have occurred in California or the victim must be a California resident at the time of the crime. The crime must be reported to the appropriate law enforcement agency.

The program is run on grant money not tax dollars. Victims can be reimbursed for expenses up to \$70,000; battered women can receive up to \$2000 for moving expenses. Other losses that can be covered include:

- Medical/dental
- Mental health counseling
- Wage/income
- Financial support
- Funeral/burial
- Job retraining

After applying for assistance from this program, it takes approximately 120 days to determine if one qualifies.

CONCLUSION

The Grand Jury feels this is a worthwhile Program, and the County should continue to administer this Program as long as grant funds are available.

RECOMMENDATIONS

None

RESPONSE REQUIRED

None

II. SUBSTANCE ABUSE PROGRAM

BACKGROUND

The Grand Jury reviewed the San Benito County Substance Abuse Program

METHOD OF REVIEW

On-site interviews.

OBSERVATIONS, FINDINGS AND CONCLUSIONS

An inspection and general review of the Substance Abuse Program of San Benito County was conducted. We found that this department is made up of 9 full time employees. They supervise approximately 527 people. The staff appears to be very knowledgeable. This department is headquartered at 1111 San Felipe Road in Hollister. The department operates on an annual budget of \$700,000. When needed, they use outside programs for recovery. The main rehabilitation centers are Janice Rehab in Santa Cruz and "The Camp" in Scotts Valley. With the increase in drug abuse, the department has requested a methadone program be established.

RECOMMENDATIONS

The Grand Jury recommends that:

1. A study be conducted to see if their methadone program has merit.
2. Consideration be given to working with some other city or county agency on the methadone program.

AFFECTED AGENCIES

San Benito County Board of Supervisors
Administrator of the Substance Abuse Program

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

III. SAN BENITO COUNTY FAMILY SUPPORT

BACKGROUND

The Grand Jury reviewed the Family Support Division.

METHOD OF REVIEW

Interviewed the Administrator of the Family Support Division

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury interviewed the Family Support Division Administrator. This division is currently in the process of being transferred from the County's authority to the State of California authority. The exact date of the transfer has not been determined. While it is felt that clients of this department will be only slightly affected by the impact of the new system the exact results remain unknown.

The exact budget of this department could not be discussed at the time of this interview because that information was at the private residence of the administrator rather than at the office as it should have been. Although we were to be provided this information at a future date, this has not yet happened.

There are currently 24 full time employees. This department is not operating at full staff at this time.

RECOMMENDATIONS

The Grand Jury recommends that:

1. When vacancies occur in allotted position, they be filled immediately.
2. All information related to County business be available at the jobsite during normal working hours.

AFFECTED AGENCIES

District Attorney
San Benito County Board of Supervisors
Family Support Division Administrator

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

IV. SAN BENITO COUNTY DISTRICT ATTORNEY'S OFFICE

BACKGROUND

The Grand Jury made its annual review of the District Attorney's Office

METHOD OF REVIEW

Interviews

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury interviewed the District Attorney of San Benito County. Also present were two investigators. Current staff and quarters remain acceptable. At the time of our visit the budget appeared to be in line. However, a request was made by the District Attorney for additional funds for the purchase of computer upgrades. This software would be used to save time in researching case information.

RECOMMENDATIONS

The Grand jury recommends that:

1. The District Attorney's Office be allotted additional funds for the purchase of computer upgrades.

AFFECTED AGENCIES

District Attorney
San Benito County Board of Supervisors

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

V. CITY OF HOLLISTER ANIMAL CONTROL DIVISION

BACKGROUND

The 2000-2001 Grand Jury made its annual inspection of the City of Hollister Animal Shelter.

METHOD OF REVIEW

The Grand Jury conducted an on site inspection of the Hollister Animal Shelter.

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The City of Hollister Animal Shelter provides animal control and care for the City of Hollister and unincorporated areas of San Benito County. The shelter is staffed by four full time officers, one animal control officer assistant and a number of volunteers. Morale among the staff is excellent. The services rendered by the staff members are excellent. However, the shelter facilities are cramped and the current staff is badly overworked.

The Grand Jury was very impressed with the leadership of this department. We also wish to commend all the staff members for doing such a good job.

RECOMMENDATIONS

The Grand Jury recommends:

1. Additional full time animal control officers be hired.
2. The Hollister City Council consider one of the following options:
 - A. Appoint a committee to look for and obtain a site to build a larger facility for this department, or
 - B. Investigate the possibility of obtaining the current Public Works Department property and buildings (which are currently located near The animal shelter) after that department is relocated to a new site.

AFFECTED AGENCIES

Hollister City Council
San Benito County Board of Supervisors
Animal Control Agency

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

VI. SAN BENITO COUNTY PROBATION DEPARTMENT

BACKGROUND

The Grand Jury reviewed the San Benito County Probation Department

METHOD OF REVIEW

Interview with the Chief Probation Officer

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury interviewed the Chief of the San Benito County Probation Department. At this time the department supervises 748 offenders; of this number 38 are recorded sex offenders which generates an additional workload.

With the increase in County population and the subsequent increase in support services, the department is in need of larger quarters. We find that the department is well run. The staff appears to be well trained and operates efficiently.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Board of Supervisors seek immediate funding for larger quarters to house this department.

AFFECTED AGENCIES

San Benito County Board of Supervisors
San Benito County Probation Department

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

VII. SAN BENITO COUNTY HALL OF RECORDS

BACKGROUND

The Grand Jury inspected the Hall of Records

METHOD OF REVIEW

On site review

Letter received from County Clerk (attached)

OBSERVATIONS, FINDINGS AND CONCLUSIONS

The Grand Jury made its annual review of the Evidence Locker at the Hall of Records. We found that a deplorable situation exists. It should be brought to the attention of the Board of Supervisors and the Judges that the security within this hall leaves a great deal to be desired. Although we have received a letter from the County Clerk indicating that the situation has been corrected, several members of this body walked through the hall and were neither stopped nor requested to sign-in on the control sheet.

The Grand Jury was advised that the courts and their evidence and holding areas come under the State of California jurisdiction.

RECOMMENDATIONS

1. We feel that this information should be forwarded to the appropriate State agency.

AFFECTED AGENCIES

San Benito County Superior Court
San Benito County Board of Supervisors

RESPONSE REQUIRED


California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

JOHN R. HODGES
Clerk, Auditor and Recorder
Registrar of Voters
County Clerk
(831) 636-4029
Elections
(831) 636-4016
Recorders
(831) 636-4046

440 Fifth Street
Room 206, Courthouse
Hollister, California 95023

COUNTY OF SAN BENITO

TO: Grand Jury

FROM: John R. Hodges
County Clerk/Auditor/Recorder 

DATE: March 27, 2001

SUBJECT: Access to Hall of Records

The procedures for allowing access to the Hall of Records have been updated. Anyone requesting access must now sign in at the front counter before entering and must sign out upon leaving.

A gate has been installed to remind people that they must sign in to gain access to the Hall of Records.

The Hall of Records will continue to remain open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

VIII. SAN BENITO COUNTY JAIL AND JUVENILE HALL

BACKGROUND

The Grand Jury made its statutory annual inspection of the San Benito County Jail and Juvenile Hall.

METHOD OF REVIEW

Interviews

Inspections of the Jail and Juvenile Hall

A. San Benito County Jail

The San Benito County Jail is extremely clean and orderly. There is a strictly enforced zero tolerance policy for graffiti, garbage, drugs and fighting. The jail is composed of several pods (wings), which are controlled by a central control room. From this room the officer on duty has the ability to observe all of the pods at one time. Those areas not easily observed are monitored by a video camera and can be seen via a closed circuit TV system. Security appears to be strictly enforced.

Each prisoner is interviewed and evaluated by a trained officer prior to being placed in a pod. Inmates are not charged a fee for housing and do not receive payment for duties performed at the jail. The outer clothing is "color coded" based on the inmate's crime risk with orange being for high risk/felony and beige being for unclassified inmates. All laundry is done "in-house" and each inmate's clothes are dried inside white mesh bags, thereby eliminating the need for sorting, etc.

There is a Food Service Supervisor as well as a cook to supervise the preparation of the food by the inmates. This staff also prepares the meals for the Juvenile Hall inmates. The menus are basically the same for both locations with the exception that the juvenile inmates receive more milk. Individual diet requirements are met, if necessary, because of health, religion, etc. The kitchen is approximately 1500 sq. ft. and is extremely clean and well organized.

The jail has its own nurse on duty from Monday-Friday from 8:30 A.M.-5:30 P.M. She may distribute prescription medications and/or over-the-counter drugs as required. A local dentist provides limited dental assistance. There is a specially equipped dental office as well as a medical office adjacent to the nurse's station. In the event of a medical emergency the inmate is transported to the hospital.

Many of the inmates require psychological evaluation appointments/visits. Currently these inmates must be transported by a correctional officer to the Mental Health Department. Many times there are several inmates requiring treatment/visit, and because the Psychologist is not on site there are additional concerns that must be addressed relative to the transportation/staffing issue. The absence of this officer at the jail

compromises the jail security, increases the county's liability and decreases the job availability of this officer.

The Grand Jury learned that the jail staff is comprised of one lieutenant, four sergeants, and eighteen correctional officers. Additionally there is one secretary, one clerk, one nurse and two cooks as well as one part-time maintenance man. The jail is inspected once a year by the State Board of Corrections and is currently in compliance in every area except staffing. On the average there are 4 correctional officers per shift as is required in the minimum jail standards guidelines set by the State Board of Corrections.

The jail budget for the year is \$2.2 million. Currently the jail is operating within its budget guidelines for the fiscal year. This has been achieved in spite of operating with an almost continual maximum inmate population.

There is consideration being given to upgrading the correctional officers at the jail to "full deputy status". A major advantage of doing so would be that the Sheriff could pull staff from the jail to patrol, etc. An advantage for the employee would be greater career advancement opportunities. The only disadvantage would be the additional cost and time of training.

RECOMMENDATIONS

The Grand Jury recommends that:

1. When vacancies occur in allotted positions for correction officers, they be filled promptly.
2. Arrangements be made for psychologists, psychiatrists, or other mental health practitioners from the Department of Mental Health to interview and examine inmates on the jail premises.

AFFECTED AGENCIES

San Benito County Sheriff
San Benito County Board of Supervisors

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

B. San Benito County Juvenile Hall

The nine year old San Benito County Juvenile Hall facility is extremely neat, clean and orderly. There is a strictly enforced zero tolerance policy for graffiti, garbage, drugs and fighting. A security check is done on every juvenile upon entering the facility. In addition all juvenile living quarters are safety checked every day.

The juveniles must attend in-house school classes every weekday. There is one teacher and one teacher's aide. The classroom is very orderly with a good selection of books as well as computers. Each juvenile is allowed to have a maximum of 3 soft-covered books in his/her dormitory style "room" at one time. Additionally the offenders receive AA Counseling, Church/Spiritual guidance, drug counseling as well as "life skills" training. The inmates days are intentionally well structured with a minimum amount of idle time.

There are 13 people on staff. The staff is broken down as follows: 7 juvenile institution officers, 4 juvenile supervisors, 1 secretary and 1 superintendent.

This facility has its own on-site courtroom for ease and privacy of the juveniles and their families. No metal detector at the entrance of the courtroom was observed.

At this time no on-site psychologist treatment/evaluation is available and therefore inmates must be transported to the San Benito County Mental Health Department for these appointments.

The juvenile's parents/guardian is billed \$11.84 per day for each day the juvenile is in this facility. This figure is established by a County resolution. While payment is encouraged, it appears that non-payment is not pursued. However, many responsible parties do attempt to make some sort of payment.

The food for the inmates is prepared at the main jail and is brought over on individual trays in a closed cart.

RECOMMENDATIONS

The Grand Jury recommends that:

1. When vacancies occur in allotted positions they be filled immediately.
2. A metal detector be installed at the door to the courtroom.
3. Arrangements be made for mental health practitioners from the Department of Mental Health to interview and treat inmates on the premises.
4. Outstanding housing payments be pursued.

AFFECTED AGENCIES

**San Benito County Probation Department
San Benito County Superior Court
San Benito County Board of Supervisors**

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

IX. EVIDENCE LOCKERS

BACKGROUND

The Grand Jury visited the Sheriff's evidence room, the District Attorney's evidence room, the Hollister Police Department evidence room, and the Superior Court evidence room.

METHOD OF REVIEW

Interviews

Visits to evidence rooms

OBSERVATIONS AND FINDINGS

A. San Benito County District Attorney's Evidence Locker

We discussed the collection procedures for evidence with both the District Attorney and his investigators. We found that a log is kept for each piece of evidence that is received as a result of an investigation. Each piece of evidence is identified, tagged and put into a property envelope or box depending on its size. These envelopes/boxes are stored in a locked room within the District Attorney's office from which they are retrieved for use during court proceedings.

B. San Benito County Sheriff's Department Evidence Locker

We interviewed two members of the Sheriff's Department regarding this locker. This locker is located in the basement area of the former jail building. Both members were well versed in their duties and were conscientious in maintaining the security of this location. The security locks on the lockers had been upgraded within the past few months. This upgrading increased the protection of property substantially. All evidence is entered into the property log where it is assigned a number. It is then assigned a location based on its size and stored within the security room.

We were able to "test the system" by following a randomly chosen piece of evidence from the log-in book to its final assigned location. Access to the evidence lockers is strictly monitored and extremely limited. When evidence is required for presentation during court cases strict "hand over" procedures are followed by authorized personnel in accordance with department regulations.

C. Hollister Police Department Evidence Locker

We interviewed a member of the Hollister Police Department regarding this locker. This person has many years of police department experience in addition to his duties of being responsible for all Department evidence. We observed a very concise procedure for the handling of all evidence collected during the investigation of an incident or crime. The

evidence room is located within the Hollister Police Department Headquarters. Once the evidence has been identified and logged in and the necessary paperwork filed, it is placed into the evidence room which has very limited access. When the evidence is required for presentation during court cases strict "hand over" procedures are followed by authorized personnel in accordance with department rules.

D. Marshall's Office Evidence Locker

We interviewed members of the Marshall's office regarding their evidence handling procedure. They receive a very limited amount of evidence directly and as such do not have a separate locker room. They do however, have a large safe within their office in the court house.

CONCLUSION

The Grand Jury wishes to congratulate the San Benito County District Attorney's Office, the San Benito County Sheriffs Department, the Hollister Police Department and the San Benito County Marshall's Office on the manner in which their various evidence lockers were maintained. This Grand Jury feels that these agencies deserve acknowledgement for a job well done!

RECOMMENDATIONS

None

AFFECTED AGENCIES

None

X. SHERIFF'S DEPARTMENT BUDGET AND OPERATIONS

BACKGROUND

The Grand jury reviewed the Sheriff's Department.

METHOD OF REVIEW

Interview San Benito County Sheriff's Department Personnel
Reviewed San Benito County Approved Budget 2000-2001

OBSERVATIONS, FINDINGS AND CONCLUSIONS

A. Sheriff's Department Budget

The current budget to actual expenditures was reviewed by the Grand Jury. It was found to be within the required guidelines at the time of review. According to Sheriff's staff members there is money available through various grants. However, due to limited staff they are unable to pursue this money.

Currently there are 9 deputy positions open. The Sheriff's staff pointed out that this is a State-wide problem. It is difficult to attract young citizens into the law enforcement occupation due to the fact that higher salaries can be commanded in far safer occupations. Because of this it is becoming increasingly important to retain current staff members.

B. Sheriff's Department Operations

One of the major changes that is taking place at the jail is the modification of the cell doors; the result of a recent disturbance. After looking at the cost of replacing the doors compared to modifying the existing ones, it was decided to do the latter, using a local business. This resulted in substantial savings to the taxpayers. After this work is completed the safety of the jail staff will be increased considerably. The inmates responsible have been identified as a result of the review of surveillance camera film, charges have been filed, and they will be held financially responsible for damages.

Recently, a lawyer was attacked in court. This led the Sheriff's Department to review their handling of inmates in the courthouse. From now on, inmates will be allowed to wear civilian clothing only during their trial. After the jury has received their case, the inmate will be returned to jail clothing and arm and leg restraints. Additionally, the jail staff has been issued stricter handling guidelines for transporting inmates and supervising them while in court.

Overall security at the courthouse is primarily the responsibility of the Sheriff's Department. The Marshall's office does have responsibility for safety in courtroom #1 and the two agencies do assist each other when needed. It should be noted, however, that on at least one occasion when a security recommendation was made by the Sheriff to

Courthouse employees, it was ignored with the explanation that it would have been too restrictive and inconvenient for employees.

Another issue the Sheriff's Department has recently resolved concerns the transportation of inmates for mental health treatment. An agreement has been reached whereby the Sheriff's Department has agreed to pay a \$70.00/hr. fee for consultation/treatment by the mental health professionals to be conducted at the jail facility. A 2-hour per week schedule is currently being defined. This expenditure is considered fair since a deputy can only safely transport a minimum amount of inmates at one time, and in some cases certain inmates need to be transported alone for security. When considering the cost of the deputy's wages as well as wear and tear on the vehicle and the potential liability to the County, this is a solution long overdue. The Sheriff and the Mental Health Department are to be commended for arriving at a solution to a very serious, costly and time consuming problem.

RECOMMENDATIONS

The Grand Jury recommends that:

1. When vacancies occur in allotted positions, they be filled immediately.
2. The issue of safety/security at the court house be given a higher priority than is currently obvious. If necessary, private security firms should be contacted for guidance and recommendations.
3. The County should give serious consideration to the hiring of a grant writer. We feel that the County would benefit greatly if one were hired. The County May want to consider working with the City of Hollister in this matter.

AFFECTED AGENCIES

San Benito County Sheriff
San Benito County Board of Supervisors
San Benito County Superior Court

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

XI. INVESTIGATION OF COMPLAINTS

A. Complaint Against 1999-2000 Grand Jury

BACKGROUND

The 2000-2001 Grand Jury received a complaint from a citizen regarding a problem with an investigation done by the 1999-2000 Grand Jury.

METHOD OF REVIEW

Reviewed documents from complainant

Interviews:

Members of San Benito County Judiciary

Members of San Benito County District Attorney's office

Members of State Attorney General's office

FINDINGS

The 2000-2001 Grand Jury found that this complaint was not within our province, thus no further action could be taken. The citizen was sent a letter of notification of this resolution.

B. Complaint Regarding Child Abuse

BACKGROUND

The Grand Jury received a complaint from a citizen requesting an investigation of the child protection services and various law enforcement agencies.

METHOD OF REVIEW

Reviewed documents from complainant

Interviewed law enforcement personnel

FINDINGS

The Grand Jury found that all San Benito County agencies acted appropriately. No further action was taken and a letter of notification was sent to the citizen

C. Complaint Against Judges, etal

BACKGROUND

The Grand Jury received a complaint from a citizen requesting an investigation of the San Benito County courts and judges.

METHOD OF REVIEW

Reviewed complainant's letter
Reviewed statutes referenced by complainant

FINDINGS

The Grand Jury found that the topic of the complaint was not properly within our province, thus no action was taken. The citizen was sent a letter of notification.

D. Complaint Against the United Narcotics Enforcement Task Force

BACKGROUND

The Grand Jury received a complaint from a citizen alleging that two pieces of personal property were taken from a private residence by the United Narcotics Enforcement Task Force in the course of a search. It was also stated that the property had not been returned as directed by a court order.

METHOD OF REVIEW

Reviewed the complaint

Interviews:

- Members of the San Benito County Sheriff's office
- Members of the San Benito County District Attorney's office
- A San Benito County Superior Court Judge

FINDINGS

The Grand Jury found that one of the pieces of property was illegal and was therefore destroyed as per the requirement of the law. The other piece of property remains in the Sheriff's Department evidence locker. The Grand Jury could find no evidence of a court order directing the confiscated property be returned to the citizen.

The Grand Jury recommended in a letter to the citizen that they provide the court with a copy of the court order stating that the remaining property must be returned to the citizen.

SPECIAL PROJECTS COMMITTEE

CHARTER

The Special Projects Committee is charged with investigating topics which fall outside the specific jurisdictions of the other Grand Jury committees

COMMITTEE MEMBERS

Jose Martinez, Chairperson
Mike Oliveira
Jean Gillaspie
Mike Sheldon
Diana Tucker

I. VETERANS' SERVICE OFFICER SELECTION PROCESS COMPLAINTS

BACKGROUND

Three citizen complaints were received by the Grand Jury concerning the selection process for the position of Veterans' Service Officer. The complaints alleged two counts against the County Board of Supervisors and the San Benito County Chief Administrative Officer. One count of the complaint stated that the County had failed to comply with Affirmative Action/Equal Opportunity employment policy. The second count alleged that tampering had occurred during the process of selecting the final five candidates to be interviewed. The Grand Jury investigated the allegations in those complaints.

METHOD OF REVIEW

Reviewed:

- Agenda Item Transmittal to Board of Supervisors (2/20/01)
- Applications that met minimum requirements
- Veterans' Service Officer job announcement
- Military and Veterans Code (Section 980)
- San Benito County Personnel (Chapter 12)
- San Benito County Personnel Rules (Sections 3 & 4)
- San Benito County Recruitment and Selection Guidelines

Interviewed:

- Complainants
- San Benito County Chief Administrative Officer
- San Benito County Supervisors

OBSERVATIONS AND FINDINGS

The San Benito County Board of Supervisors, supported by the San Benito County Chief Administrative Officer, conducted a selection process to fill the vacant Veteran's Service Officer position during the first quarter of 2001.

The process used by the Chief Administrative Officer was, first, to disqualify any applications which failed to meet the minimum requirements. That threshold was primarily the definition of "veteran" (from the Military and Veterans Code) used as a Federal requirement for the position: The term "veteran" as used in this context requires military service during very specific time periods during history. That requirement plus experience and education requirements reduced the list of 20 applicants to 10 qualified ones.

The Chief Administrative Officer's next step was to reduce the list of 10 to what he considered a more manageable number (5) to be interviewed, using County Recruitment and Selection Guidelines. The approach used by the Chief Administrative Officer was to send the 10 applications to 3 existing Veteran's Service Officers in neighboring counties

and ask them to evaluate and rank them. This was accomplished and from that activity a final list of five candidates was obtained. Interviews were then scheduled with all five.

Unfortunately, the interview date conflicted with other commitments for two of the Supervisors and the decision was made to go ahead with the interviews with only three Supervisors present, which still constituted a quorum. After the interviews were scheduled and just shortly before the interview date, another Supervisor dropped off the interview panel, leaving only two Supervisors available to do the interviewing. The Chair of the Board of Supervisors decided to "appoint a subcommittee" consisting of the remaining two members and go ahead with the interviews. That subcommittee would then report back to full Board at a later date. Shortly after the interviews, one of the Supervisors disqualified herself, leaving one Supervisor to report to the other three.

Another part of the complaint alleges that one Supervisor not only took all 20 applications home, but presumably discussed the merits of those candidates with her husband, the retiring San Benito County Veteran's Service Officer. The complaint further alleges that that Supervisor then provided the Chief Administrative Officer with a list of the five finalists she wanted. That Supervisor did, in fact, take all 20 applications home but denies having her husband review the applications, saying she only asked him for suggested questions to the interviewees. That Supervisor did provide the Chief Administrative Officer with a list of the five candidates she thought were most qualified and submitted it to him during his downselect process. The Chief Administrative Officer denied using that list in any way, relying solely on the recommendations of the three out-of-County Veteran's Service Officers to make his final list. Because of the controversy that arose over this issue, that Supervisor removed herself from any further dealings with the Veterans' Service Officer hiring process.

CONCLUSIONS

The Grand Jury found no evidence that Affirmative Action/Equal Opportunity rules were violated.

The Chief Administrative Officer conducted an objective, businesslike downselect process fully compliant with precedent and County rules.

The selection process was marred by a few irregularities during its course, but the Grand Jury found no evidence of code or guideline violations that would invalidate the result.

The Grand Jury found no evidence that receiving a suggestive list from one of the Supervisors during the selection process had any influence on the Chief Administrative Officer's final list of applicants to be interviewed. The Grand Jury does, however, consider the submission of that list to the Chief Administrative Officer as inappropriate.

Conducting the interviews with a "Subcommittee" of two Supervisors has sufficient precedent to be deemed legitimate. The Grand Jury believes, however, that for an important activity such as selecting a Department Head, the Board should be sensitive to

"sending a message" of unimportance of the position to potential candidates. The interviews should have been rescheduled to a later time when a quorum of the Board was available.

Since the Grand Jury has no knowledge of the other commitments of the three non-attending Supervisors, it is not in a position to evaluate their priorities placed on the selection process.

The proper role of the Board of Supervisors during a hiring and selection process for department heads is undocumented and, in this case, was somewhat undisciplined.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The County Board of Supervisors establish a written set of guidelines to define their role in department head hiring processes.
2. The County Board of supervisors guarantee at least a quorum when conducting future interviews for department head positions.

AFFECTED AGENCIES

San Benito County Board of Supervisors

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

II. UNCOLLECTED COURT-IMPOSED FEES AND FINES

BACKGROUND

The 1999/2000 Grand Jury began an investigation into the loss of revenue due to the failure to collect fines and fees assessed to individuals by the San Benito County Superior Court. This loss of revenue was estimated to be well over one million dollars (\$1,000,000.00) as of December, 1999. In the fall of 1999, the Deputy County Administrator solicited bids from collection agencies with the approval of the County Board of Supervisors. The County chose a collection agency and a contract was negotiated but not signed. A disagreement between the County and the Court has caused a delay in getting a contract in place. Recovery of that money and its apportionment has not yet been negotiated between the two agencies (County & Court).

The charge of the 2000/2001 Grand Jury was to actively pursue and continue the investigation recommended by the 1999/2000 Grand Jury.

METHOD OF REVIEW

Interviews:

San Benito County Administrative Officer
San Benito County Deputy Administrative Officer
Presiding Judge, Superior Court

OBSERVATION, FINDINGS AND CONCLUSIONS

Part of the penalty for breaking a law is the fine or fees that the Court imposes. When an individual is fined it is a punishment for breaking a law. By not actively collecting these fines or fees, the Court not only fails to enforce the law, but also undermines its authority. Failure to collect court-imposed fines or fees also deprives the Court and the County of needed revenue.

The lack of collections of these fines or fees is setting an extremely negative precedent, sending the message we don't care enough to follow-up and make criminals pay for their crimes. Regardless of where the money goes, the people in this community should respect our courts and laws. No action was taken by the County or the Courts in response to the 1999/2000 Grand Jury final report. The non-collection of imposed fines or fees is also undermining the Grand Jury and its final report. The County's general taxpaying public becomes the loser when revenue is not collected!

Communications between the County and the Courts did not continue on a regular basis after the 1999/2000 Grand Jury's final report. This year's Grand Jury did get both parties talking again. However to date, no contract has been signed or put into place by either the County or the Courts. Apparently there is still the question as to where the dollars are

going to go once they are collected. The County and the Courts each want a percentage of the uncollected fines or fees but have failed to agree on how those funds are to be divided. The Courts have determined that the uncollected fines or fees do not necessarily need to be shared or negotiated with the County. The Courts have, however, been trying to keep a very positive outlook in negotiating with the County and giving them (what the Courts believe to be) a reasonable percentage.

RECOMMENDATIONS

1. The Grand Jury recommends that within sixty days of receipt of this report, the County conclude the contract with the collection agency at the customary rate. This can easily be determined. Apportionment of funds between agencies can be worked out while money is collected. Regardless of how the recovered money is apportioned after it is collected, it is important that sentences be carried out. Failure to collect court-imposed fees and fines, part of a defendant's sentence, undermines respect for the rule of law and deprives the Court and County of needed revenue. This recommendation is identical to the one in last year's Grand Jury final report. This year's Grand Jury finds it inexcusable that this issue has not been resolved long ago.
2. The Grand Jury recommends that investigation of this matter be continued by the 2001-2002 Grand Jury.

AFFECTED AGENCIES

San Benito County Superior Court
San Benito County Board of Supervisors

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

III. FIRE DEPARTMENT UNIFICATION

BACKGROUND

The focus of this investigation is unification of the Hollister Fire Department, the California Department of Forestry, the Fire Departments in San Juan Bautista and Aromas, and the San Benito County Fire Department. The largest city in the county, Hollister, currently has one fire station located at 110 5th Street. The California Forestry and Fire Protection Department (CDF) has the Hollister Air Attack Base located at 2300 San Felipe Road, which operates mainly during the fire season. During the off-season period the CDF services are "on call" for assistance. The investigation was begun during the 1998-1999 Grand Jury and has continued through the 1999-2000 and 2000-2001 Grand Juries. The concerns of fire protection for the County as a whole, staffing levels, the number of fire stations and the funding levels were investigated. The objective has been to determine if a unification of the Hollister Fire Department, the CDF and outlying units in San Juan Bautista and Aromas was feasible and could aid in the coverage of protection and in meeting the minimum response time requirements of San Benito County. At this time there is an informal but mutual state of assistance between the various Fire Stations.

METHOD OF REVIEW

Study of previous Grand Jury reports

Interviews:

- The Chief Administrative Officer
- The Deputy Administrative Officer
- Hollister City Manager

OBSERVATIONS AND FINDINGS

An interview was held with the Hollister City Manager on October 4, 2000 to discuss any progress made in the unification of the fire protection districts throughout the County that was begun three years earlier.

Several points of interest were made regarding service requirements for Hollister's situation. Currently it is costing \$250.00 per household per year to operate the fire department. The annual budget is approximately \$2,000,000. There are several areas of the city that do not fall within the "5 minute" response time limit which is a widely accepted goal throughout the State. Some locations are closer to ten minutes. Funds are available to build and equip a new second station, and a potential site has been identified. The City Manager feels it would be difficult to hire additional staff due to the current housing market. He is satisfied with the staffing level for the current station at the present time. The City Manager believes that when construction of a new fire station is begun, it could become operational in less than two years. The City has held discussions regarding additional third and fourth stations over the next twenty years.

The County does not consider unification a high priority at this time and therefore is not interested in assisting with the funding. The County Board of Supervisors shows no interest in entering into a joint agreement with the City regarding the unification of the fire districts.

Hazardous Materials incidents are also a responsibility of the Fire Department. Due to regulatory restrictions, according to the City Manager, the city currently contracts this service to an outside agency. The City Manager also points out that the ability to perform basic containment procedures is in place and will remain so in the future.

CONCLUSIONS

It appears that the affected agencies and governing bodies are having difficulty in addressing this issue as a matter of importance. Although all parties are aware that a unification of fire services would certainly benefit the County, urban and rural citizens alike, there does seem to be an inability to come to a progressive solution. Funding is a major factor in preventing the factions from coming together. The Grand Jury believes that the continued expansive growth within the County should warrant a proactive approach to future fire protection, and the many obvious benefits it would bring.

RECOMMENDATIONS

1. The Grand Jury recommends that efforts continue to bring together the entities involved in a cooperative manner.
2. Fire protection from sources other than the Fire Department should also be evaluated (e.g. fire sprinkler systems).

AFFECTED AGENCIES

Hollister Fire Department
San Benito County Fire Department
California Department of Forestry
San Juan Bautista Fire Department
Aromas Fire Department

RESPONSE REQUIRED

California Penal Code s/s 933 requires that a response to this final report's recommendations be delivered to the presiding judge within 90 days of the receipt of the report.

IV. GRAND JURY RECRUITMENT

The 1999/2000 Grand Jury began late in their term. One reason was due to lack of applications from the community at large. It was learned that many citizens did not fully understand the exact nature of the Grand Jury. The Grand Jury acknowledged that there is an ongoing need to educate the public about the purpose and duties of a Grand Juror.

The charge of the Special Project Committee was to actively pursue recruitment of community members for upcoming Grand Juries for years to come. This was to be accomplished in three ways: First, by establishing a web site; second, to design an informational brochure; and third, to find other means of making contact with the community.

A web site was designed and put into use as of June 2000. The web site is www.sanbenitocountygrandjury.org; this web site is updated regularly.

A handout was developed to make information more available to the public. It was designed as a tri-folded single page informational brochure along with a bookmark.

The "Spotlight on Hollister" event offered the Grand Jury members an opportunity to meet and answer questions of the local citizens. It also afforded the Grand Juries of 1999/2000 and 2000/2001 a chance to distribute the information that lists the basic requirements necessary to become a juror.

In an effort to educate the public in more than a single event, the 2000/2001 Grand Jury elected to purchase literature holders to display the brochures. These can be located at various local government agency offices and businesses. The Special Projects Committee restocks the brochures regularly. The response from the participating agencies displaying the brochure in their offices has been very positive.

RECOMMENDATIONS

1. Recruitment should be actively pursued in an effort to maintain a culturally diverse Grand Jury in future years.
2. Current web site and informational brochures be continued and upgraded, as necessary.