

# Grand Jury

## County of Monterey

---

P.O. Box 414  
Salinas, CA 93902  
(831)775-5594



December 30, 2005

The Honorable Stephen A. Sillman  
Presiding Judge, Superior Court  
of California, County of Monterey  
240 Church Street  
Salinas, CA 93901

Dear Judge Sillman:

Forwarded herewith is the Final Report of the 2005 Monterey County Civil Grand Jury. As directed by your order to us on January 6, 2005, the Grand Jury has made the mandated visits to prisons and other facilities of incarceration located within Monterey County. We have investigated selected county and municipal entities' operations with a view to safeguarding the public's interests. The Grand Jury has evaluated complaints submitted by the public throughout the year and have investigated a number of those complaints. The Grand jury received numerous public complaints that were determined by the full Grand Jury to be outside of its jurisdiction. When appropriate, those were forwarded to the District Attorney. A number of public complaints will be forwarded to the next Civil Grand Jury.

The Grand jury determined early in our proceedings that we would limit ourselves to a relatively few issues, compared with some past Grand Juries, and try to investigate those issues in a thorough manner. Focus committees were required to receive the approval of the full Grand Jury prior to initiating any formal inquiry. Those formal inquiries were purposely limited in scope. The Grand Jury accepts that policies are set by elected officials and procedures of execution by the executives of the public agency administrative staffs. We viewed the measurements of effectiveness used and the demonstrated adherence or lack of adherence to declared policy to be within our preview of inquiry.

The Grand Jury reviewed official responses to the last Grand Jury's Final Report for completeness and any egregious failures to respond to the last Grand Jury's findings and recommendations. No significant failures to respond were noted.

In closing, the Civil Grand Jury wishes to acknowledge the competent and frequent assistance of Ms. Linda A. Nemeroff, Ms. Maria Robledo, and Ms. Maria R. Garcia of the Deputy Court Executive Office. The District Attorney's Office and the County Counsel's Office were also frequently of great assistance in the discharge of our duties. The Grand Jury is also appreciative of your Honor's guidance and assistance.

Respectfully submitted,

A handwritten signature in blue ink that reads "K.H.T. McCabe". The signature is written in a cursive, flowing style.

Kevin H. T. McCabe  
Presiding Juror

**2005 MONTEREY COUNTY CIVIL GRAND JURY  
FINAL REPORT**

**Table of Contents**

	<b>Page Number</b>
Presiding Juror’s Letter to Presiding Judge	
Table of Contents	
List of 2005 Civil Grand Jury Members.....	i
Photo of 2005 Civil Grand Jury Members,..... Presiding Judge and Superior Court Staff	ii
Grand Jury Mission and Response Requirements.....	iii
 <b><u>REPORTS</u></b>	
<b>Administration</b>	
Monterey County Planning and Building Inspection Department	1
 <b>Cities and Special Districts</b>	
Open Government.....	18
Monterey Peninsula Water Management District, Ordinance No. 98 - Bathroom Fixture Ordinance.....	21
 <b>Education</b>	
Monterey County Office of Education.....	23
Monterey County Head Start Program.....	26
Monterey County Office of Migrant Education, Region XVI.....	28
 <b>Health and Social Services</b>	
West Nile Virus and North Salinas Valley Mosquito Abatement District.....	31
Child Placement in Monterey Count.....	34
Monterey County Environmental Health – Public Public Food Service.....	41
 <b>Law Enforcement and Prisons</b>	
Law Enforcement in Monterey County.....	43

## **2005 MONTEREY COUNTY CIVIL GRAND JURY**

### **OFFICERS**

Kevin H.T. McCabe, Presiding Juror  
Manus J. Donahue, Presiding Juror Pro Tempore  
Janet A. Brennan, Secretary

### **MEMBERS**

Janet A. Brennan	Carmel Valley
Percy Bryant	Big Sur
Wright G. Byrom	Seaside
George M. Cullinan	Pacific Grove
Edgar B. Dally	Carmel Valley
Lydia DeVita	Marina
Manus J. Donahue	Pacific Grove
Nancy T. Edgin	Salinas
Thomas Ferri-Irons	(Castroville) Monterey County
Raymond J. Malpica, Sr.	Salinas
Kevin H.T. McCabe	Salinas
Alan Murphy	Carmel
William D. Nye	Big Sur
Robert A. Pankonin	Carmel-by-the-Sea
Steven L. Rhodes	Salinas
Ruben Rueda	Salinas
Colette S. Rule	Castroville
Carol G. Todd	Monterey
Samuel A. Womer	Carmel

**PHOTOGRAPH - 2005 MONTEREY COUNTY CIVIL GRAND JURY**



**FRONT ROW (left to right)**

**Maria R. Garcia, Deputy Court Executive Officer  
Kevin H. T. McCabe, Foreman  
The Honorable Stephen A. Sillman, 2005 Presiding Judge  
Lisa M. Galdos, Court Executive Officer  
Maria L. Robledo, Grand Jury Liaison**

**MIDDLE ROW (left to right)**

**Wright G. Byrom, George M. Cullinan,  
Nancy T. Edgin, Carol G. Todd, Colette S. Rule, Percy Bryant,**

**BACK ROW**

**Raymond J. Malpica Sr., Ruben Rueda, Janet A. Brennan, Steven L. Rhodes,  
Edgar B. Dally, Alan Murphy, Sam Womer, Bill Nye, Manus J. Donahue,  
Thomas Ferri-Irons  
Missing from Picture: Lydia DeVita and Robert Pankonin**

## **CIVIL GRAND JURY MISSION AND RESPONSE REQUIREMENTS**

Empowered as part of the judicial branch of local government, the Civil Grand Jury operates under the aegis of the Presiding Judge of the Superior Court of the State of California in and for the County of Monterey. The Judges of the Superior Court nominate 30 citizens who have volunteered from throughout the County to be selected as officers of the Court in a public drawing of 19 Jurors and 11 Alternates held during a court proceeding convened during the first week after the New Year holiday.

The primary mission of a Civil Grand Jury in the State of California is (1) to examine county and city governments as well as districts and other offices in order to ensure that the responsibilities of these entities are conducted lawfully and efficiently, and (2) to recommend measures for improving the functioning and accountability of these organizations which are intended to serve the public interest.

According to Section 888 of the California Penal Code: “Each grand jury...shall be charged and sworn to investigate or inquire into county matters of civil concern, such as the needs of county officers, including the abolition or creation of offices...or changes in the method or system of, performing the duties of the agencies subject to investigation pursuant to Section 914.1.”

Section 925 states, “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in ex officio capacity as officers of the districts.” Additionally, Section 919(b) prescribes that, “The grand jury shall inquire into the condition and management of the public prisons within the county,” and Section 919(c) prescribes that, “The grand jury shall inquire into willful or corrupt misconduct in office of public officers of every description within the county.”

All who appear as witnesses or communicate in writing with the Jury are protected by strict rules of confidentiality, for which violators are subject to legal sanction. The minutes and records of Jury meetings are protected by law and cannot be subpoenaed or inspected by anyone.

Section 933(a) declares: “Each grand jury shall submit...a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year.” Every “elected county officer” and “governing body” to whom a Finding and/or Recommendation has been addressed must respond in writing to the Presiding Judge within 60 and 90 days respectively.

Section 933(b) declares: “One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.”

According to its statutory authority, the Jury investigates activities (1) by responding to written complaints from County residents about alleged irregularities in local government, and (2) by initiating inquiries about “offenses and matters of civil concern” (Section 915). Jury initiatives may

involve investigations commenced by previous juries (Section 924.4), including evaluation of governmental responses to Findings and Recommendations given prior to Final Reports.

Residents of Monterey County may request complaint forms or correspond to the Grand Jury by contacting the Office of the Monterey County Civil Grand Jury at (831) 775-5400, ext. 3014. Residents may also view the Final Report or obtain complaint forms through the Grand Jury's web site address at [www.monterey.courts.ca.gov](http://www.monterey.courts.ca.gov).

Sections 933 and 933.05 of the California Penal Code (excerpts on following two pages) describe who must respond to Findings and Recommendations published in the Final Report of a Civil Grand Jury, when the response must be submitted, and the format of the response. Penal Code requirements are mandatory; please read and follow them carefully.

Pursuant to Penal Code Section 933(b), responses to the Final Report of the 2005 Monterey County Civil Grand Jury are due as follows:

**ELECTED COUNTY OFFICERS:** (60-Day Response Period)

Due on or before March 3, 2006.

**GOVERNING BODIES OF PUBLIC AGENCIES:** (90-Day Response Period)

Due on or before April 3, 2006.

**ADDRESS FOR DELIVERY OF RESPONSES TO THE PRESIDING JUDGE:**

**Mailing Address and Street Address**

The Honorable Stephen A. Sillman  
2005 Presiding Judge of the Superior Court  
County of Monterey  
240 Church Street, North Wing, Room 318  
Salinas, CA 93901

*Civil Grand Jury Mission and Response Requirements (Continued)*

**PENAL CODE SECTION 933(c)**

“Comments and Reports on Grand Jury Recommendations.

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.”

**PENAL CODE SECTION 933.05 (a) and (b)**

“Response to Grand Jury Recommendations -- Content Requirements; Personal Appearance by Responding Party: Grand Jury Report to Affected Agency.

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding.
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

*Civil Grand Jury Mission and Response Requirements (Continued)*

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future with a timeframe for implementation.
- (3) The recommendation requires further analysis with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable with an explanation therefore.

## **MONTEREY COUNTY PLANNING AND BUILDING INSPECTION DEPARTMENT**

### **SUMMARY**

The Planning and Building Inspection Department (PBID) is dysfunctional, suffering from ineffective and inefficient leadership, operational shortcomings, complex and inconsistent land use policies and negative internal and external pressures. These problems are reflected in one of the highest employee turnover rates in the State with about one-third of the staff leaving every year. Twenty of the last 30 Grand Juries, from 1973 to 2003, have reported on this Department. While the 2003 Grand Jury noted improvements in the permitting process, conditions have deteriorated in the intervening years. Two major reports assessing problems in the Department have been written in the last 20 years and partially implemented, and numerous in-house staff assessments have been prepared. Yet the problems persist.

There has been responsibility at all levels of County authority concerning the current condition of the Department. In many cases applicants have experienced weeks and in some cases months of delays and thousands of dollars in extra fees generated by misinterpretation, misapplication of regulations, misdirection and lack of consistent interpretation of existing codes. There are examples of multi-year delays caused by incorrect decisions and lack of action that create costs to applicants due to outstanding loans, payments to consultants, and additional fees. Delay of projects prevents properties or property improvements from enrollment on to the property tax base, denying the County additional revenues. Additionally, revenue has been lost as a result of an ineffective Code Enforcement effort. It would be a simple matter to claim these conditions are solely a matter of budget cutbacks and high turnover. As a result of our investigation we find that these are not reasonable causes for this loss of revenue to the County and delays and added costs to the applicant.

### **BACKGROUND**

While investigating several complaints filed against the Monterey County Planning and Building Department, we found that the same issues had been revisited numerous times by previous Grand Juries and reports.

The role of PBID includes, but is not limited to: Processing permits in accordance with General Plan Policies, County Zoning Ordinances and numerous other ordinances and policies; preparing and/or overseeing the preparation of environmental documents; confirming project compliance with permit conditions; responding to Code Enforcement complaints from citizens regarding violations of County ordinances; verifying that violations of building permits are corrected; preparing staff reports and/or making presentations to the Planning Director, Zoning Administrator, Subdivision Committees, Planning Commission and Board of Supervisors for consideration of projects; updating the General Plan and processing General Plan Amendments; preparing General Plan and zoning ordinance implementation policies; responding to public record requests; establishing planning and other fees, and collecting permit fees, fines and penalties.

PBID deals directly or indirectly with a hierarchy of codes, ordinances, and regulations governing issuance of permits. These include, but are not limited to, the County General Plan, Titles 20 and 21 of the Monterey County Code; seven Area Plans; the Carmel Valley Master Plan; four Coastal Plans and numerous implementation plans; California Environmental Quality Act (CEQA) conformance and State and Federal statutory regulations such as the endangered species acts. Twelve Land Use

Advisory Committees and two design review committees also review permits and forward their recommendations to the PBID. The General Plan, with its Area Plans and Coastal Plans, is the basis for land use in unincorporated Monterey County. It is implemented through zoning ordinances, which under State law must be consistent with the General Plan.

In addition to these land use requirements, approval is often required by other agencies and departments within the county and State for resources under their jurisdictions, such as Water Resources, Environmental Health, fire districts, Public Works, Fish and Game, County Counsel, Risk Management, water districts, and Cal-Trans. These entities individually process issues within their jurisdictions and either recommend conditions to be added to the County permit or issue their own permits.

Projects span the spectrum from minor permits such as re-roofing to home additions, construction of single family homes, minor and major subdivisions and industrial development such as quarries, to name a few. This diversity requires of planners broad experience, professional education, detailed knowledge of biological, archeological, geological issues, CEQA, State and Federal regulations and many other technical, regulatory and legal matters. PBID and applicants must use consultants frequently and extensively to correctly process permits and to respond to the information required.

Permits are approved by various bodies including the Planning Director, the Zoning Administrator, the Planning Commission, and the Board of Supervisors. The Planning Commission and Board of Supervisors also hear appeals of planning decisions.

Interaction between the Board of Supervisors and PBID is generally indirect, but involves budget approval, consideration of permits and appeals from lower decision-making bodies, and adoption of the General Plan, General Plan Amendments, and Zoning Ordinances. There is interaction also between members of the Board of Supervisors and PBID regarding complaints from constituents applying for permits.

The Chief Administrative Officer (CAO) of Monterey County has an important, and presently, a changing role in the operation of PBID. (Note: At this writing, the CAO has established a Resource Management Agency (RMA) to oversee and coordinate operations of PBID and other departments. Departmental functions are in the process of being developed and finalized.) The CAO appoints the Planning Director, and his office and/or RMA will perform budgeting and accounting functions, handle contract management (new), and oversee liaison functions for PBID with Environmental Health, Public Works, Water Resources, and other departments and agencies (new).

Monterey County and PBID must deal with outside factors that impact the planning process. Monterey County remains significantly rural and agricultural; however, pressure exists to develop housing perceived to impact the rural agricultural character of the County. Conflicting, unresolved differences among environmental, development and agricultural interests persist among advocates of slow growth versus more rapid development versus retention of agricultural land that will impact the future character of Monterey County. These disagreements complicate the flow and pace of permit processing and often lead to litigation. Monterey Peninsula and Carmel Valley are impacted by limitations on water consumption, although water issues exist in major areas of the rest of the county. Water issues increasingly enter into the planning process.

## **INQUIRY PROCESS**

The Grand Jury conducted 41 interviews which included employees, former employees, members of management, clients, decision makers and representatives of the development and environmental communities regarding the operations of the Planning and Building Inspection Department. In addition, the Grand Jury reviewed numerous documents and reports.

## **FINDINGS**

### **Senior Management**

Three major changes in the senior management team and Departmental responsibilities have occurred in the last five years. When combined with budget constraints, these changes have resulted in discontinuity and loss of momentum in efforts to improve operations. The high turnover rate has resulted in a loss of continuity in operations and both loss of and evolution of a new base of institutional memory.

Overall, senior management lacks pro-active management, knowledge of operational systems development, leadership skills and land use experience. Senior Management has made little or no effort to improve operational structure or to control or manage day-to-day operations. Staff interviews revealed a disconnect between senior management and staff in communications, control of operations, and discipline.

1. After 15 years, one Planning Director retired, and a new Planning Director was hired in 1999. In 2000, that Planning Director was replaced with a Planning Director operating out of the County Administrative Office with two Assistant Planning Directors operating the Department. In 2001, a new Planning Director was hired to operate within the Department with a new Chief Assistant Planning Director, an Assistant Director for Planning and an Assistant Planning Director for Building and Inspections.
2. The Planning Director and Chief Assistant Planning Director formed an Executive Committee consisting of themselves and the Assistant Planning Directors of Planning and Building Inspection Divisions.
3. Development of the General Plan was moved to the County Administrator's Office (CAO) in 2001 but later was returned to the Department in 2005. Additional staff was not allocated to PBID for the General Plan Update (GPU) assignment.
4. In early 2005, the newly appointed County Administrative Officer announced consolidation of agencies dealing with land use issues into the Resource Management Agency (RMA) to be composed of Planning and Building Inspection Department, Redevelopment, Capital Projects, and Public Works. In addition, liaison personnel for Environmental Health and Water Resources Agency have been designated to work with the new RMA. A new director for RMA assumed responsibilities for the Agency in October.
5. The CAO moved responsibility for financial management, human resources and administrative operations into the RMA office. Each department will have a human

resources person who will report to the Human Resources Manager in the RMA.

6. The CAO was the appointing authority for the Planning Director prior to the creation of RMA; now the Planning Director is appointed by the RMA Director. The most recent Planning Director was appointed by the immediate past County Administrative Officer. There was no job description or outside recruitment for the position. It should be noted that the Planning Director has announced his retirement at the end of 2005.
7. The Chief Assistant Director was appointed by the Planning Director 3 1/2 years ago. While the recruitment announcement included a brief job description, there was no official job description and, in fact, a job description remains in draft form. The Chief Assistant Director's primary responsibilities are as a lead project planner, e.g., Rancho San Juan, September Ranch, East Garrison, and GPU.
8. The Building and Inspection Director, employed since 2003, left in mid-2005.
9. The focus of senior management is on processing major projects, developing the County General Plan and related policies rather than on day-to-day operations and administration of the Department.
10. The majority of those interviewed stated that there is a lack of leadership and knowledge of land use and building inspection within senior management.

### **Middle Management and Line-Staff**

The high turnover rate among planning staff results in inefficient Departmental operations with the on-going loss of planning expertise and increased need for time and resources to train new staff.

11. From 1999 to 2004, 183 employees left the Department (37 per year on average). Based on these data there has been an equivalent of 100% turnover rate every 3 1/2 years.
12. Turnover of middle-management and Senior Planners positions is low; however, turnover among Assistant and Associate Planners is among the highest. At one point in 2005, all 14 Associate Planner positions were vacant.
13. Reasons for turnover include workload, stressful work environment from both internal and external pressures, cost of living in the Monterey Bay region, lack of job satisfaction, lack of operational management structure, lack of leadership, and complex and numerous regulations. This list of deficiencies has contributed to low morale among members of the staff.
14. Because PBID did not have a current compensation study, the Grand Jury undertook a comparison of compensation for Monterey County planners with the coastal counties of Ventura, Santa Barbara San Luis Obispo, and Santa Cruz and found compensation to be comparable. Additionally, former employees interviewed did not indicate compensation as the primary reason for leaving the PBID.

15. Overall, professional planning staff has requisite educational credentials. However, many are entry level planners without experience, and the Department serves as an arena within which planners gain experience to proceed to new positions elsewhere.
16. Formal training programs for line-staff are available from many sources, but the training budget was significantly reduced in the previous 3 years. Because of the lack of training funds, internal departmental education is the primary training resource. Furthermore, planners and lower level managers are often forced into a choice of devoting time to training as against taking time away from the demands to respond to applicants' needs.
17. About 4,000 building permit applications are received every year. As of March 14, 2005, case load per Planning Manager ranged from 11 to 62; Senior Planners ranged from 8 to 55; Associate Planners ranged from 28 to 70; Assistant Planners ranged from 13 to 40. Case load does not reflect tracking over 1,350 projects which are inactive over 80 days to determine if they comply with permit conditions. The case load for planners increased significantly later on in the year with the loss of planning staff with some planners having a case load as high as 170 projects. A consulting firm was hired to assist with the backlog of permits.
18. In March, Code Enforcement had 120 active cases for the Peninsula and had 242 active cases for North County. Code Enforcement/Building Inspectors average 59 building violations and 91 grading violations. Building Inspectors had 12 to 16 inspections/day.
19. Public records requests demand more and more time of staff. It was reported that there were 140 such requests between September 2004 and February 2005.
20. While every planner is required to implement requirements of the California Environmental Quality Act (CEQA), few planners have the opportunity to attend CEQA classes presented by experts. There is a general lack of detailed knowledge of CEQA within the Department. Compliance with CEQA can be a time and cost driver for many permit applications, and applicants need to be informed in the initial phases of an application whether or not the project is subject to CEQA and related requirements.
21. The Building and Inspection Division certifies that all permit conditions from the Planning Department and all other agencies are in compliance. When compliance is complete, the Division issues building permits. Building Inspectors are required to validate that construction is in accordance with site and building plans permitted and in compliance with the permit and that there are no code violations.
22. Inspectors are required to have current certification in the crafts that are required for project inspection (e.g., structure, plumbing, electrical, etc.). There are between 15 and 20 different certificates held by some inspectors. The Grand Jury found that of the 12 inspectors, available certifications and their dates of record varied widely, with some having many up-to-date certifications, others with a minimal number of certificates, and some having certificates dating back many years. All inspectors do not have the full array of current certifications to assure that projects are in compliance with the latest codes. In addition, if inspectors do not have the full array of certificates, a project site might require inspection by multiple inspectors at different times instead of one visit to certify compliance. This situation

can result in delays for builders and additional costs to the County and applicant. Courses in any of the required certification are available from several different professional organizations and are reimbursed by the County.

23. Based on interviews, it appears that many non-exempt planners work overtime without compensation even though they were instructed otherwise. Unauthorized overtime work was undertaken simply to stay on top of the workload.

### **Organizational Structure**

Operationally, the chain of command is confusing. The functional operation of the Department differs from the organization chart.

24. Permit processing staff is divided into four teams - Inland, Coastal, Special Projects, and Permit Coordinating, and the teams are managed by Planning and Building Managers. The Grand Jury noted the effectiveness of this organizational structure.
25. The Chief Assistant Director is a project planner for several major projects, which would normally be handled by the teams. Staff used from various teams must stop processing applications from their already heavy workload to work on those major projects.
26. An Administrative Permit Team to process simple permit applications was eliminated due to budget constraints even though the team facilitated the permitting process.
27. It should be noted the Marina Office will remain open primarily to issue minor building permits as a convenience to applicants on the Monterey Peninsula at a cost of \$650,000 annually.

### **Internal Operations**

Personnel procedures are not followed and internal administrative procedures for day-to-day operations are limited.

28. Of the 17 current and former employees interviewed (excluding the Planning Director and Chief Assistant Planning Director), 12 did not have annual performance evaluations as required for all employees by County Personnel Policies.
29. Of the employees for which we requested evaluation dates from PBID, four had one evaluation during the last five years and one had one evaluation during the previous two years. One former employee stated he had no evaluations in the two years he was employed. Reviews were sporadic in occurrence for the rest. Several employees reported making

repeated requests for performance reviews over extended periods of time without success. Planners received limited official feedback on performance, and based on the number of performance reviews conducted, planners overwhelmingly received salary step increases unrelated to their job performance. Because of this practice, it is difficult to release underperforming employees without evaluations and documentation conducted over an extended period of time, as is standard procedure for the conduct of human resources management.

30. Non-management employees receive automatic pay steps even if they do not receive a performance review. There is a departmental “tickler” system that alerts managers when reviews are due.
31. Performance Evaluations for the Assistant Managers were prepared only once every two years.
32. One senior employee acknowledged holding outside employment. Personnel Policies and Practices Resolution No. 98-394 requires annual notice of outside employment. This notice must be approved by the department head. Only two have been filed, one in 2001 which was not signed by the Planning Director, and one in 2003.
33. The Grand Jury made at least two requests to PBID for copies of internal administrative procedures, but none were provided. While written procedures related to permit processing abound, there appear to be limited procedures for the day-to-day or standard operations of the Department.
34. The Grand Jury questioned employees about the policy for use of e-mail. Employees had limited awareness that an e-mail policy existed, but had either not seen it or not received orientation as to its application.
35. As of June 1, 2005, there were four consultant contracts in arrears because documentation of schedule changes and/or changes in permit conditions was not completed within the contractual time lines by the project planner. When this occurs, a consultant is not paid, and progress on the project stops. However, it was reported to the Grand Jury that some consultants work without pay to maintain progress on projects. (Note that consultants are hired both by the County to prepare environmental documents required by the CEQA and by applicants for non-CEQA studies, but in either case the consultant is paid directly or indirectly by the applicant. Those hired by the County are not paid if the contract is in arrears due to County delays.) Senior management had various and inconsistent explanations for the Department’s failure to process consultant contracts in a timely manner.
36. Members of the Board of Supervisors generally have a hands-off policy as it relates to dealing directly with changing operations within the Department, leaving this responsibility to the County Administrative Officer.
37. No studies comparing staffing levels, public record requests, and the number of law suits filed with comparable county planning and building inspection departments have been undertaken.
38. Preparation of recent budgets did not involve all members of senior management. Additionally, one senior manager did not receive a copy of the adopted budget after several requests and consequently was unaware of funds budgeted for staff training. Budget preparation for the next fiscal year and fiscal administration was assigned to staff in the Public Works Department in mid-year and will be moved to the Resource Management Agency (RMA) when that department becomes functional. This change should improve PBID operations.

## **Permit Processing**

The 1982 General Plan, Area Plans and zoning ordinance requirements vary throughout the county, are subject to a wide variety of interpretations, and are so numerous that they create a significant stumbling block to maintaining competent staff. Testimony from clients was unanimous regarding excessive delays in permit processing and inconsistent applications of regulations. Development pressures on the County as well as the complexity and vagueness of some land use requirements create an environment that invites litigation and political intervention by members of the Board of Supervisors trying to address their constituents' concerns.

39. An overwhelming number of those interviewed said obtaining a permit takes too long, frequently beyond the time frames of the State Permit Streamlining Act, and that there is a lack of consistency in implementing General Plan policies and zoning ordinances.
40. The Grand Jury heard testimony from numerous people interviewed that the permitting process resulted in capricious and inconsistent application of regulations and codes. For example, multiple soil reports by different experts have been required for no apparent reasons; reports from certified experts have been rejected and replaced with staff's own decisions even when staff does not have expertise in those areas, and decisions by other permitting agencies or sister agencies with particular expertise have been overruled. Such action added significantly to applicants' costs and delays.
41. There appears to be no internal mechanism to assure consistent interpretation of regulations from one team to the next.
42. A manual with unofficial written interpretations of zoning ordinance and General Plan policies made by planning staff over the years is not updated regularly or readily accessible to staff. The Grand Jury requested a copy of this unofficial document, but it was not provided.
43. The permit tracking system is incomplete. For example, a log is not maintained by reviewing agencies such as Environmental Health and Water Resources Agency for dates that permit applications are sent by the PBID for review and returned by reviewing agencies.

44. The State Permit Streamlining Act requires permitting agencies to determine if applications are complete or incomplete within 30 days. Multiple agencies are frequently involved for even a single family residence and even more for minor and major subdivisions. It was reported to the Grand Jury that agencies have been known to find applications “incomplete” to comply with the 30 day rule, although the application might not have been reviewed. Some of those County agencies are also reported to be seriously understaffed for this function or not staffed by knowledgeable individuals.
45. Land Use Technicians are used at the counter to accept applications. Lack of training and land use knowledge of these entry level employees jeopardizes correct, efficient and timely permit processing.
46. Those who regularly deal with the permitting process are able to facilitate the issuance of permits by seeking out planners they have worked with successfully in the past and who have good knowledge of regulations and procedures.
47. Applicants consistently complain about continual changes in planners and/or building inspectors assigned to their project. Such a loss of continuity complicates and delays the process. Some applicants reported up to nine different planners for the same project.
48. Interviewees stated that the permitting process is not user-friendly, appointments are cancelled without notification, and phone calls are not returned in a timely manner, if at all, and public records not readily accessible. While this may in part be due to stress caused by excessive workloads, the public is nevertheless adversely affected.
49. Coordinating with the various departments involved in the permitting process is cumbersome. Once an application is found to be incomplete, it is up to the applicant to work with various and sometimes numerous agencies to determine what additional information is needed.
50. Coordination among the various departments involved in land use permits has improved with the move to the new offices in Salinas. Public Works and the PBID are located on the same floor and Environmental Health has staff present to assist applicants.
51. Some applicants can complete the permitting process prior to a hearing without providing assurance that a long-term and sustainable water supply is available. Others are required to provide this information prior to finding their applications complete. Addressing this issue at the end of the process rather than at the beginning means that applicants can spend thousands of dollars only to have their permits denied because of inadequate water availability.
52. The County’s General Plan and zoning requirements are complex, numerous and vary from one planning area to another which in part accounts for delays in issuing permits particularly for new planners.
53. The Grand Jury recognizes the tremendous pressure on PBID due to a growing county,

superimposed on a political struggle among pro-agriculture, slow growth, and pro-growth groups. As a result there is an active constituency for chaos with a legal and consulting industry built around the complexity and uncertainty of the permitting process.

54. One major draft report, the Zucker Report (2003), and other reports initiated by staff on making the permitting process more efficient have been prepared. The Zucker Report was never finalized, and staff recommendations were not implemented.
55. The role of the 12 Land Use Advisory Committees (LUACs) established to review projects in the Planning Areas has been marginalized because of limited staff resources and lack of a strong commitment to the structure by the Department. This leaves the Department without valuable input from local communities where land use issues can be more effectively addressed. Additionally, LUACs frequently are not provided with all the reports and information necessary to make recommendations.
56. Complex regulations, onerous time requirements, and costs for obtaining permits encourage people to avoid the permitting process altogether and undertake illegal building activities.
57. Fees for appealing Planning Commission decisions to the Board of Supervisors are excessive and discourage public participation.
58. Based on information provided as part of the public record on the Revised Rancho San Juan Plan and updated by the Grand Jury, there are about 3,650 dwelling units currently being processed by PBID and about 2,000 approved, and not built, in unincorporated Monterey County. Adding the 7,400 potential dwelling units that could be built on current legal lots of record brings the total of foreseeable dwelling units that Planning and Building Inspection must process to about 13,100.

Dwelling units currently being processed and approved, but not built, within cities total about 8,540. Thus countywide, there are about 21,600 dwelling units that are foreseeable. The number of dwelling units contained in recently adopted general plans for Soledad and Greenfield; Boronda, Castroville, and Pajaro Community Plans; preliminary Spheres of Influence for King City and the City of Salinas; California State University at Monterey Bay and the Army total about 38,000.

Adding all of these units together, the County of Monterey has the potential for at least 59,600 units with an estimated population of almost 187,100 persons or about 47,300 persons in excess of Association of Monterey Bay Area Governments' 2025 forecast. Note, that the buildout from older general plans for other cities is not included, so that these numbers underestimate the total buildout downstream from today.

In addition to new dwelling construction, PBID must also process permit applications for remodels, expansions and demolitions followed by replacement dwellings. Other workload includes commercial, industrial and agricultural construction. The Grand Jury did not attempt to estimate the numbers of these projects, which today constitute a major part of the workload.

## **Code Enforcement**

59. As of this writing, there is a backlog of 1,050 code enforcement cases. Fees and penalties are collected for code violations. Enforcement of many cases has been held in abeyance for many years because a decision was made in the past to enforce them only if the property were transferred to a new owner. This status results in either deferred revenue or a loss of revenue to the County. A reputation for timely code enforcement by the County is an important preventive stimulus. In some cases these issues are required to be cleared prior to transfer, others after.
60. Five positions were added to the Building and Inspection Department budget in early 2005 to help address workload.
61. Code enforcement personnel establish their own priorities for pursuing enforcement cases when there is a backlog and they are unable to complete all assignments.
62. The Planning Director reported that long deferred enforcement has recently been activated. In the past year numerous cases were cleared that brought \$200,000 in additional revenue to the County.
63. Several hundred other unresolved enforcement cases were closed in 2004 later to be reinstated after a lawsuit was filed. Tabling unresolved enforcement cases results in unequal enforcement of regulations.
64. Code violations have occurred resulting in nominal penalties where it is less costly to the applicant to pay penalties than to comply with regulations.

### **Information Technology**

Inadequate information technology resources are crippling the permitting process. Information Technology Systems to assist in project evaluation is fragmented and not up-to-date.

65. The Grand Jury found during inquiry into PBID Information Technology (IT) operations, that County land use databases, as needed by PBID for its operations, are not accessible, not existent or not up-to-date. The Grand Jury's findings unavoidably have to include findings concerning the greater County land use system, due to its impacts on PBID operations.
66. The County Information Technology Department (ITD) maintains servers that contain data from departments and agencies in a Geographical Information System (GIS). The GIS is fully functional from the point of view of a supportive infrastructure, structured as a pyramid, as shown in the table below.

<b>Pyramid Order</b>	<b>Lead Body</b>	<b>Pyramid Components</b>	<b>Status of Pyramid Components</b>
Top	County Coordinating Committee	Databases	Maintained by agencies and departments. Some data bases not kept up-to-date
	Each Department	Applications	Not fully implemented; 911 is
	IT Dept. focus	Platforms	Servers, high capacity, in place
	IT Dept. focus	Storage	Plenty of storage available
Bottom	IT Dept. focus	Network	Complete; accessible, high speed, large bandwidth

67. The County's IT Department acts as a centralized repository for storing computerized information including GIS data, but neither leads nor coordinates centralized information system database development. A position to coordinate GIS programs among departments and agencies was eliminated two years ago due to budget constraints, and the coordinating committee composed of some Department Heads rarely meets. County departments and agencies are not utilizing the full potential power of GIS into which the County has invested considerable funds. Proactive coordination is lacking to complete the integration of GIS throughout County departments and agencies and to establish and maintain GIS data.
68. Departments and agencies maintain the databases for their functions. Key and extensive information in several of these databases is required by PBID for its operations. However, not all departments or agencies utilize the GIS or maintain databases. PBID, Water Resources Agency, Public Works, and the Agricultural Commission each have separate GIS databases, which are not maintained.
69. Planners require access to a substantial amount of information in order to process permit applications. These data, in addition to what is accessible in the PBID database, are scattered among several departments and agencies within the County. To access and use this information planner must be computer literate. New and inexperienced planners require in-depth and extensive training to learn diverse land use databases from multiple sources.
70. Two programs were purchased some time ago from software vendors for use by PBID. The online permitting system accessible by applicants was terminated because it did not correctly identify the location of parcels and property addresses. This caused difficulty to differentiate between incorporated and unincorporated areas and resulted in inspections being issued in cities.
71. Currently, PBID utilizes four IT sources to process a permit application.
- A. The main working program for a planner is a vendor supplied permit data system. This program has no interface the County GIS.

- B. The ARC IMS Viewer that contains the State supplied archeological, biological and geological information in the County.
- C. The Assessor's database, accessible through a website address that accesses the County GIS.
- D. County GIS accessible through the County Intranet.

72. The following table summarizes the main features of programs used by planners.

<b>System</b>	<b>Data Available in System</b>	<b>Source</b>	<b>Comment</b>
Commercial Planning Software "Data System Program"	Principal program used by planners. Applicant's project information. Office Link data from agencies and departments	Planner input. Accepts documents through Office Link sent by agencies, departments. Places information into a matrix for the project, (e.g.; conditions required and compliance, mitigation, etc.).	No maps. No access to GIS. Lack of personnel to maintain system.
ARC IMS Viewer	Parcel based system, with resource maps. Provides topographical, biological, archeological, geological database	State of California	Lack of personnel to maintain the database and maintain liaison with IT Dept.
Assessor's database	APN number, owner's address	Assessor. Public Works assigns addresses; Assessor enters addresses into its database	APN address is address of owner. No situs address for non-resident owners. 18 to 24 months behind in updates. Lacks history of parcel. Data not in GIS.
County GIS	GIS database. For some departments and agencies	Maintains network, servers, and stored databases. Includes area plans, zoning, fire districts, local archeological information, fire service responsibility, lot maps, parcel reports.	Limited central coordination for development of improved databases, database updates and accessibility by planners.

73. Parcel information in ARC IMS includes zoning, different levels of overlay, geological hazards, slopes, land use planning, road, land ownership, fire districts and other information. Planners utilize this program extensively. ARC IMS database is not kept up-to-date due to the loss of the trained and experienced person who previously maintained it. No position is available for a successor. ARC IMS is up to 24 months out-of-date. If State and other information are not up-to-date in the database, planners may not be aware, and permits may not be complete. Discovery of omissions late in the planning process causes delays and additional costs.
74. Addressing of County parcels in the Assessor database is poor. The Assessor maintains the parcel owner's address, but if the owner is a non-resident, planners do not have access to the situs address. Additionally, addresses are not promptly entered into the database. The assessor database is 18 to 24 months behind in updating Assessor's parcel number (APN) information.
75. There is no in-house staff in PBID to maintain a "permits data system." This software program contains historical data only back to 1997. Historical files are stored at Natividad Hospital and must be manually retrieved. Old files are also stored on microfiche.

Other historical parcel files are stored in the Public Works database. These Public Works data are stored in a large PBID file, but the file is not updated.

76. Lack of database updating adds significant time to the planning process.
77. The information in the “permits data system” does not provide sufficient information to determine which projects have been approved but not yet constructed. This information is needed for long-range planning purposes.
78. Not all parcels in the 100-year flood plain are noted on maps. If a flood plain boundary extends beyond the boundary of the parcel map, a planner does not know if a parcel is in the flood plain, because the flood plain is not noted on the parcel map.
79. GIS has been a positive factor for access to topography, soil information, biological and geological data.

## **RECOMMENDATIONS**

### **Senior Management**

1. The Board of Supervisors and CAO should take a pro-active role in assuring the efficient operation of the PBID and assure future organizational stability once a structure and process are established.
2. A Planning Director job description should be prepared requiring extensive knowledge of land use planning and building inspection and several years of management experience.
3. The job description for the Chief Assistant Planning Director should include responsibilities for developing clear internal operating policies and procedures, enhancing internal communications, overseeing training and certifications, developing and maintaining a complete tracking data base for permit applications and status, and developing standards of performance for annual performance reviews and to assure that annual performance reviews are conducted. Qualifications for the position should include necessary management experience for managing a large department and knowledge of the land use and building inspection process.
4. All planners should be scheduled to attend courses offered by outside professionals that provide a working knowledge of CEQA and other courses deemed essential to the planning process.
5. Code Enforcement personnel should be scheduled for training programs, including those offered by the California Association of Code Enforcement.
6. Building Inspectors should be scheduled to attend courses that will lead to expanding their array of certifications and updating their current certifications.
7. The County should allocate funding each year to carryout ongoing training.

8. The CAO should review costs and benefits of maintaining the Marina office and consider reallocation of funds to programs that have the highest priority.

### **Organizational Structure**

9. Studies should be undertaken by the CAO and the RMA Director comparing staffing levels and number of lawsuits filed and public record requests made with comparable county planning departments to evaluate how efficiently and competently PBID operates and to determine what organizational changes, if any, should be made.
10. Major projects should be assigned to appropriate teams and not assigned to personnel outside of those teams.

### **Internal Operations**

11. All personnel should be made aware of legal requirements for overtime work and these requirements should be followed.
12. Written standard operating procedures should be prepared and available to all staff members.

### **Permit Processing**

13. The CAO and the RMA Director should coordinate the interactions among the departments and agencies required to carry out an efficient permitting system.
14. The administrative permitting process should be streamlined by reestablishing the minor permit project team and having well trained staff at the counter to accept permit applications.
15. With regard to CEQA and other planning requirements, applicants should be informed at the beginning of the permitting process concerning the issues related to processing their applications before unnecessary costs are incurred.
16. Environmental Health should be added to the Resource Management Agency.
17. On-line permitting should be reinstated once the issue of project addresses is resolved.
18. Professionals trained in transportation, hydrogeology, and biology should be hired to facilitate the planning process, review consultant reports, and provide in-house consultation. The addition of this expertise would also reduce costs to many applicants.
19. To facilitate the permit application process and save applicants unnecessary costs, proof of a long term and sustainable water supply should be required prior to finding all applications complete.
20. Efforts to improve customer service including keeping appointments, returning phone calls in a timely manner, and making public records readily accessible should continue.
21. An ombudsman should be appointed to provide assistance to the public and to help relieve

Board members in addressing their constituents' complaints about the permitting and code enforcement process.

22. The County needs to complete a new General Plan and revised zoning ordinances to implement the General Plan. The new General Plan should be precise, clear and eliminate ambiguity to improve the efficiency and cost of the permitting process.
23. Staff and County Counsel interpretations of planning regulations should be made a formal Department document, maintained, and made readily available to staff.
24. Reviewing agencies for permit applications should maintain a date log of applications received and returned to PBID and a tickler system.
25. A mechanism should be established to assure consistent application or regulations among the teams.
26. Responsibilities of LUACs should be reinstated to those established prior to the adoption of the 2004 interim procedures.
27. LUACs should be provided with all reports and environmental documents prior to scheduling of projects for consideration.
28. Appeal fees should be reassessed in light of their adverse impact on public participation.
29. PBID must be organized, managed and staffed in order to process this total, increased workload in unincorporated Monterey County in a timely, consistent and efficient manner.

### **Code Enforcement**

30. Code enforcement complaints and violations should be promptly investigated, and penalties should be promptly enforced and be onerous enough to deter violations. When there is insufficient staff to keep up with the workload, Executive Management should establish priorities for undertaking investigations.

### **Information Technology**

31. The Board of Supervisors should assign to the appropriate agency the responsibility and authority to proactively coordinate, integrate and maintain GIS, promote the creation of databases lacking in GIS, establish communication among databases and maintain databases. The Board of Supervisors should provide long-term budgets for personnel and on-going maintenance required to carry out recommendations.
32. The Board of Supervisors should commission an outside consultant with knowledge and experience with GIS used in California counties to study county operations requiring GIS and make recommendations required to structure operations and integrate GIS throughout County departments and agencies so that PBID and other entities can utilize GIS efficiencies. The consultant should work through the appropriate agency designated by the Board of Supervisors.

33. The Board of Supervisors should provide a budget to commission an outside consultant, or utilize the consultant recommended in item 32 above, to review in depth the structure and functioning of PBID IT systems, capital acquisitions and software and recommend how to integrate them into GIS so PBID can access databases it requires for more efficient operation.
34. The Board of Supervisors should provide long-term capital and operating budgets necessary to implement recommendations of consultants, including budgets for personnel required to maintain databases required by PBID. PBID should provide a budget for consideration by the Board of Supervisors.
35. PBID should review database content to assure that information in Permits Plus is comprehensive, complete, up-to-date and in consistent format for projects in its database and should provide permit applicants access to all database information concerning the status of their permit applications.
36. PBID should develop necessary training budgets for IT systems and establish dedicated professional training for personnel to understand and operate them and provide on-going training to all affected personnel for system changes and updates.

## **RESPONSES REQUIRED**

### **FINDINGS**

Monterey County Board of Supervisors

Findings 1 - 79

Assessor

Finding 65

### **RECOMMENDATIONS**

Monterey County Board of Supervisors

Recommendations 1 - 36

## **OPEN GOVERNMENT**

### **SUMMARY**

The Grand Jury investigated the procedures that city governments have in place to support openness in government and have focused on the actual experience the public has as these procedures are administered.

- Open government, in this context, means the ability of the public to submit items to their elected representatives to be agendaized for discussion at future city council meetings and to have confidence these items will be responded to in a timely manner and with accountability as to follow-up and resolution.

Through interviews and observations, we concluded that the procedures where currently published appear to be adequate but may be circumvented or arbitrarily executed in certain instances resulting in lack of open debate, delayed or inadequate follow-up and no resolution.

The recommendations which follow generally go beyond current procedures and focus on changes or modifications that city governments can implement which would create an environment where topics or concerns can be brought forward for open discussion with a higher level of visibility and accountability: in effect, a more open government.

- Whether or not the public interest is being subverted through any covert process may be immaterial if the public has the perception their interests are not represented and outcomes are predetermined.

### **BACKGROUND**

A number of complaints were received from residents and former employees of the City of Carmel-by-the-Sea. These complaints ranged from human resource issues resulting from the organizational downsizing that occurred in 2004 to issues of communications with the residents of Carmel-by-the-Sea and an alleged inaccessibility of elected officials to participate in open debate and timely resolution of issues.

This triggered the impetus for an investigation of how all city governments in Monterey County support an open and participative process. Procedures for all cities were reviewed, but the focus was on the City of Carmel-by-the-Sea.

- The objective was to improve the process as opposed to singling out any city for criticism.

## **INQUIRY PROCESS**

The Grand Jury conducted 11 interviews. Complainants were interviewed to determine if a systemic or wide spread basis existed for such complaints. Additionally, Carmel-by-the-Sea citizens, public officials, city council members and employees were interviewed with the intent to gain a broader understanding of open government and how established procedures were administered.

Procedures for placing items on city council agendas and the process of tracking, responding to and resolving such items once the topic was presented were reviewed for several cities in Monterey County.

City council meetings on the Monterey Peninsula were attended with particular attention paid to how citizens are granted an audience to discuss topics of concern and how those topics were tracked and resolved.

## **FINDINGS**

1. Interviews disclosed that a pattern of obstacles exist that make it difficult to schedule, discuss, document for the record, and gain appropriate resolution of topics or issues presented by the public.
2. All cities have a three-minute speaking limit at council meetings for individuals to bring issues to the attention of city councils on items not on the agenda. In certain cases, this allotted time might not be adequate for the topic by the public.
3. It is unclear what happens to a public comment topic if follow-up is necessary.
4. It is also unclear who determines if follow-up is justified, or if the topic might be placed on the agenda for future city council consideration.
5. Cities generally do not record three-minute public comment topics in the recording secretary's minutes. Other than a videotaped record (if recording occurs), there generally is no written public record of the topic or any commitment to follow-up by city administrators.
6. All cities have a published procedure and a form for the public to place items on city council agendas. It is understood that, in the interests of time and efficiency, city councils cannot immediately schedule every topic for discussion. The setting of agendas is critical in determining what and when issues are discussed.
7. Over-control of this process by mayors is not in the public interest.

## **RECOMMENDATIONS**

The Brown Act (Government Code Section 54950 et seq.) is the law that requires elected officials to let the public speak. Section 54954 of the Act governs Regular Meetings and includes conditions for scheduling and public notice, but it does not include requirements for scheduling agenda items from the public.

The recommendations which follow generally go beyond current procedures, including the Brown Act, and focus on changes or modifications that city governments can implement which will create an environment where topics or concerns can be brought forward for open discussion with a higher level of visibility and accountability: in effect, a more open government.

1. The public should be allowed to register topics and have them included on council agendas for discussion in the Public Comment period. The presentation of these topics should still be limited to reasonable time limits set by the cities.
2. Discussion topics should be recorded in council minutes so as to provide a written and time-stamped record of such discussion.
3. Within a reasonable time period, the topic should be assigned, if follow-up or resolution is required, to a city council person as a contact point to represent the citizen's interest and work with city staff to attain an appropriate resolution.
4. A written public record of unresolved items, the status of the discussion topic, and responsible city council person should be provided.
5. The procedures and forms to be used by the public to place items on city agendas should be made available at council meetings.

## **REQUESTED RESPONSES**

### **FINDINGS**

City Councils of Monterey County  
Findings Nos. 1-7

### **RECOMMENDATIONS**

City Councils of Monterey County  
Recommendations 1-5

## **MONTEREY PENINSULA WATER MANAGEMENT DISTRICT**

## **ORDINANCE No. 98 - BATHROOM FIXTURE ORDINANCE**

### **SUMMARY**

The Grand Jury, responding to community comments, newspaper articles, and citizen complaints, initiated an investigation into the status of water allocations within the Monterey Peninsula Water Management District (MPWMD).

### **BACKGROUND**

After a thorough review of water history, ordinances, policies and infrastructure, as well as interviews with elected members of the MPWMD and District officials, the Grand Jury recognized that the various water agencies, together with California American Water Company (Cal-Am), are working toward developing new water sources for the future. The Grand Jury then chose to focus on the current allocation system within the various communities and unincorporated areas of the Monterey Peninsula.

### **INQUIRY PROCESS**

The Grand Jury studied the water history in the county, particularly on the Monterey Peninsula; reviewed ordinances, particularly Ordinance #98, policies and infrastructure, and interviewed several members of the MPWMD Board and management.

### **FINDINGS**

1. Current MPWMD permit requirements restrict individual property owners in the use of their property, particularly for remodels and additions. When property owners wish to add water fixtures such as toilets and showers to their homes, they are restricted by Ordinance #98. Prior to the Ordinance, property owners were not permitted to add water fixtures without meeting onerous and complex requirements including deed restrictions.
2. Ordinance No. 98 (Bathroom Fixture Ordinance), effective May 16, 2001, goes a long way toward addressing this issue. It reads, "Ordinance No. 98 allows an existing single family dwelling on a single family residential site with only one bathroom or an existing single family dwelling with less than two full bathrooms to add the lacking fixtures:(a) a single toilet, (b) a single bathtub, tub/shower combination or single shower stall and/or (c) one or two wash basins." While this is a positive step forward, it goes on to state, "...*the Ordinance does not apply to multi-family dwellings or residential sites with more than one living unit. The second bathroom cannot be added to an auxiliary or annex building.*"

## **RECOMMENDATIONS**

1. Property owners should have the choice of reducing landscaping to accommodate additional water fixtures as long as they stay within their historical water usage. The only restrictions that should apply are building codes, zoning ordinances and other planning requirements related to rentals, not water fixture controls.
2. The MPWMD should establish a water allocation system for properties that are remodeled or added to based on historical water usage. This information is available from public records.
3. Penalties should be established to enforce a water allocation system to assure adherence to historical water usage for these properties.

## **RESPONSES REQUIRED**

### All Findings and Recommendations

MPWMD

## MONTEREY COUNTY OFFICE OF EDUCATION

### SUMMARY

The Grand Jury focused its inquiry regarding education in Monterey County on programs implemented by the Monterey County Superintendent of Schools at the Monterey County Office of Education (MCOE).

### BACKGROUND

The mission of the MCOE is to "provide service, leadership, and support which contributes to strong educational programs and designed to meet the changing needs of the students, staff, and families in Monterey County. Through implementation and maintenance of accountability standards, coordination of activities and service, and the provision of technical assistance, the office assists, directs, and advocates to ensure compliance with legal mandates and equal educational opportunities."

In the early 1970's the educational system in California was considered excellent, arguably the best in the nation. Today this is no longer true. The RAND Corporation, a nonprofit research organization, provides objective analysis and effective solutions that address the challenges facing the public schools in the United States as well as worldwide. The 2005 RAND Report as well as the California Department of Education compared the California school system with other states of similar size by population as well as the nation as a whole where possible. For example, California spends about \$7,000 a year to educate a single student, while New York, New Jersey and Massachusetts spend about \$11,000 per student per year. However, California is among the most racially and ethnically diverse states. Racial and ethnic diversity is especially evident among California's youth. Furthermore the racial and ethnic distribution of the state's youth population is rapidly changing. Data are available showing that K-12 enrollment is presently 45 percent Hispanic, 24 percent Anglo (non-Hispanic white), 12 percent Asian and other (with "other" being mostly Filipino but also including "Asian and Pacific Islanders" and a small number of Native Americans), and 8 percent African-American. It is likely that by the 2012-2013 school year, the majority of California public school children will be Hispanic. Nearly one in every ten Californians is a recent immigrant, having entered the state within the past ten years. By comparison, not even one in 20 persons nationally is a recent immigrant. As a consequence, California has an abundance of English learners that heighten educational costs for affected schools, imposing specialized and/or higher *per capita* staffing needs.

The MCOE is the primary liaison between school districts and government agencies and is a service provider to our county's 24 school districts. The MCOE is a critical link between our county's schools and the State and Federal government and provides indispensable and cost effective service to local schools and districts. Some of the programs that MCOE provides include:

## **Professional Development for Teachers**

MCOE develops and conducts workshops, on line courses, and other learning opportunities for teachers and administrators. Ongoing courses on topics of common interest to educators are provided. Workshops can be customized for a single school or districts based on their goals and needs.

## **Technology for Teachers and Students**

MCOE is responsible for the development and management of local and area wide networks and thus serves as the hub for all districts in the county for Intranet, Internet and administrative technologies. Connected are 130 schools through integrated technology that makes Internet access, video conferencing, television, broadcasting, and other multimedia resources available directly to school offices, classrooms, and the community.

## **Teacher Resource Center**

MCOE's teacher resource center provides a single location where teachers have access to computers and other technology, plus materials and assistance to develop teaching tools to use in their classrooms.

## **Special Education Programs**

MCOE is responsible for operating and maintaining special programs and services for over 800 students with moderate to severe disabilities between the ages of three and 22 residing in one of the Monterey County school districts as required by State law. Specialized programs and service options are provided by a staff of over 400 professionals serving at more than 55 locations throughout the county. These support services include occupational therapy, speech and language therapy, psycho-educational assessment, adapted physical education, and specialized transportation. Students typically served by MCOE special education teachers and support staff include those who are deaf, blind, moderately to severely retarded, severely emotionally disturbed, multiple handicapped, or autistic. The MCOE houses and provides administrative support to the Monterey County Special Education Local Plan Area (SELPA). SELPA has the responsibility for coordinating the delivery of the special education programs and services throughout Monterey County. SELPA's other functions include the provision of staff development and the maintenance of the countywide special education student database.

## **Transportation Service**

MCOE maintains 70 buses providing services at 75 sites and transports more than 1,100 students for 1.4 million miles each year. It further provides, coordinates and contracts for transportation for special education students throughout the county, thus saving many smaller school districts the additional cost of having to provide comprehensive service to a very small number of participants.

## **KMST Television**

MCOE operates television station KMST-TV to provide educational and governmental programs in the counties of Monterey, Santa Cruz, and San Benito. Programming includes Homework Helpline, Life in the Arts, Foreign Language Instruction and Enrichment Programs, CNN World Classroom, and Electronic Video Field Trips. KMST offers engineering services to the county schools as they develop individual school site cable and wireless cable systems. The station also broadcasts debates for local elections. The news is broadcast daily in over 20 languages providing many recent immigrants to California information on worldwide events in their native language.

**Education for the Incarcerated Youth**

MCOE provides school programs at Juvenile Hall and the Youth Center for ages 12 to 18. Lessons are individually designed as required by State laws.

**General Education Development**

MCOE works with the Salinas Adult School offering the GED program on-site.

**INQUIRY PROCESS**

The 2005 Civil Grand Jury visited the MCOE facility in Salinas to inquire into the condition and management of the public education facilities within the county.

**FINDINGS**

1. MCOE is a large operation providing many needed and required State and Federal programs for the residents of Monterey County. If these required programs were to be provided by individual schools or school districts they would be considerably more expensive and not as efficient or cost effective. Although costly, the programs appear to efficiently run by qualified personnel.

**RECOMMENDATIONS**

None

**RESPONSES REQUIRED**

**Finding**

Monterey County Superintendent of Schools  
Finding 1

**MONTEREY COUNTY HEAD START PROGRAM**

## **SUMMARY**

The Grand Jury focused its inquiry regarding education in Monterey County on programs implemented by the Monterey County Superintendent of Schools at the Monterey County Office of Education (MCOE), including the Monterey County Head Start Program.

## **BACKGROUND**

The mission of “the Monterey County Head Start Program is committed to providing the highest quality education and services for families as facilitated through teamwork and community partnership”.

The Monterey County Head Start Program's goals include: to establish partnerships with families to meet their unique needs; to provide infants and children with an experience that fosters exploration, care and sensitivity in their development; to promote close relationships among adults and children; to promote healthy prenatal outcomes for pregnant women; to enhance the development of every young child, and to promote healthy family functioning and school readiness.

The Monterey County Head Start Program operates and monitors 25 sites, 28 classroom facilities, 56 sessions, 18 extended day care centers, one kitchen, 3 area offices, 8 Early Head Start Sites, and six Delegate Agency extended-day sites at six centers. Twenty-two of these centers are at school campuses, and one of these centers is on a university campus.

The Monterey County Head Start Program began in 1965. The 2004-2005 enrollment for Head Start is 1,245 preschoolers. There are 338 children at three years of age, 871 at four years of age, and 19 children at five years of age. There are four Native Americans or Alaskan natives, 43 Asian or Pacific Islanders, 24 African-Americans, 1,107 Hispanics, and 50 whites. Three hundred twenty four children are English speaking, 887 Spanish speaking, and 17 Asian language speaking.

According to a David L. Kirp study published in *Idea Lab* magazine (November 21, 2004), the results of a 40 year evaluation of the Head Start Program demonstrates that an innovative early education program can make a significant difference in the lives of poor youngsters for decades after attending the program.

## **INQUIRY PROCESS**

The Grand Jury visited the Monterey County Head Start Program in Soledad, Gonzalez and Castroville.

## **FINDINGS**

1. The Grand Jury found the Head Start Program in Monterey County to be very successful based on the number of participants that finish school versus similar students that do not participate in the program. The Grand Jury found that funding for the Head Start Program is considerably less expensive and more cost effective for society as compared to the more expensive funding for correctional facilities. Unfortunately, there is a long waiting list of children for services at Head Start. The service measured up to expectations. These included family support, health attention, food emergencies, instruction, and class control.

The staffing ratio of four staff to twenty students worked efficiently.

2. According to Kirp's article, all of the intervention programs like Head Start and Migrant Education Program (MEP) significantly increase the rate of students staying in school, finishing high school, and then seeking a college degree. Collectively the data point to the success of these programs.

## **RECOMMENDATIONS**

1. MCOE should expand the program by seeking added Federal funds and working with school districts to arrange for more space for the program.
2. The Head Start Program should be available to all students who want it.

## **RESPONSES REQUIRED**

### **FINDINGS**

Monterey County Superintendent of Schools  
Findings 1 and 2

### **RECOMMENDATIONS**

Monterey County Superintendent of Schools  
Recommendations 1 and 2

## **SUMMARY**

The Grand Jury focused its inquiry regarding education in Monterey County on programs implemented by the Monterey County Superintendent of Schools at the Monterey County Office of Education (MCOE), including the Monterey County Office of Migrant Education, Region XVI.

## **BACKGROUND**

The Migrant Education Program Title 1 Part C (MEP) is authorized under the Elementary and Secondary Education Act 1965. The purpose of the MEP is to ensure that migrant children fully benefit from the same free public education provided to other children. To achieve this purpose, the MEP assists school districts to address the special educational needs of migrant children to enable better migrant children to succeed academically.

The MEP goals include: supporting high quality and comprehensive educational programs for migrant children in order to reduce the educational disruption and other problems that result from repeated moves; ensuring that migrant children who move among the states are not penalized in any manner by disparities in curriculum, graduation requirements, and State academic content and student academic achievement standards; ensuring that migrant children are provided with appropriate educational services that address their special needs in a coordinated and efficient manner; designing programs to help migrant children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit their ability to do well in school, and preparing them to make a successful transition to postsecondary education or employment and ensuring that migrant children benefit from State and local systemic reforms.

The MEP is federally funded and works under an annual budget of \$11 million of which \$3 million goes to the individual center and \$8 million goes directly to the district.

The MEP educates 30,087 students. There are 3,013 children ages three to four, 22,995 K-12 students, and 4,079 out-of-school youth.

## **INQUIRY PROCESS**

The Grand Jury visited the Migrant Education Program

## **FINDINGS**

1. A migrant worker is one who travels from one area to another in search of work. The MEP teaches its students, "how to play the game called school". The MEP would be a good program for all children. The better you play the game the better you do in school. The Grand Jury found that students, all students, would benefit from this program. The program seemed to justify itself by the higher graduation rate of students in the program compared to those who are not (80% versus 50%).
2. The effect that the MEP has on students was evidenced at the College Residential Summer Program reception attended by the Grand Jury. The program provides full scholarships for students to attend several different summer college programs at some schools as far away as upstate New York and take several different college courses at the university level. Through this program students and parents gain the confidence that their student can attend and compete at the university level. The migrant students who previously were concerned about graduating high school now have the confidence and the education skills required to be successful as college students. During the recognition ceremony the students told about their experiences across the county and how much they enjoyed and learned from them. The students no longer talk about the possibility of graduating from high school but the reality of being successful at college.
3. It is considerably less expensive to pay for education than to fund prisons. About \$7,000 a year *per* student is spent on education versus \$31,000 a year *per* prisoner in California.
4. Because of the high cost of living in Monterey County, attracting and retaining qualified educators is difficult, in effect making the county a "training ground" for teachers to learn and subsequently take their skills to a more economically feasible place to live.
5. Bilingual Education appears to be ubiquitous in Monterey County. From the Head Start Program to the Migrant Education Program to the classroom, all of the students observed by the Grand Jury spoke both their native language, usually Spanish, and English. Many students appeared to be proficient if not fluent in both languages. Students routinely translate for parents.
6. All of the intervention programs like MEP significantly increase the rate of students staying in school, finishing high school, and then seeking a college degree. Collectively the data point to the success of these programs.

## **RECOMMENDATIONS**

1. The MEP should be available to all students who want it.

## **RESPONSES REQUIRED**

**FINDINGS**

The Monterey County Superintendent of Schools  
Findings 1-6

**RECOMMENDATION**

The Monterey County Superintendent of Schools  
Recommendation 1

# **WEST NILE VIRUS AND NORTH SALINAS VALLEY MOSQUITO ABATEMENT DISTRICT**

## **SUMMARY**

Because of a wet winter, state health officials expected an increase in the West Nile virus in 2005. California had 830 human infections, the highest in the nation, from 23 counties including 28 fatalities in 2004. Experts with the Center for Disease Control say the best way to prevent West Nile virus is to prevent mosquito bites and recommend cleaning areas of standing water where mosquitoes can breed. West Nile virus causes mild flu-like symptoms. However, about one percent will develop encephalitis, an infection of the brain, or meningitis, an inflammation of the membrane around the brain and spinal cord. Either can be fatal.

## **BACKGROUND**

When the Grand Jury convened, the West Nile Virus was in the news as a potential national threat. Federal funds, given to the State, were made available to improve lab testing, track the virus, and evaluate mosquito-control efforts. The Monterey County Health Department and the NSVMAD, an independent special district, routinely meet to discuss issues of mutual interest and cooperation.

## **INQUIRY PROCESS**

The Grand Jury interviewed the Director and Assistant Director of Environmental Health, Manager/Zoologist of Northern Salinas Valley Mosquito Abatement District, and the Geographic Information System (GIS) Analyst. The Grand Jury also visited Information Technology and reviewed the California West Nile Latest Activity Report.

## **FINDINGS**

1. The Northern Salinas Valley Mosquito Abatement District (NSVMAD), an independent special district, covers the following 13 areas in the county: Salinas, Carmel area, Carmel-by-the-Sea, Chualar, Marina, Monterey, Pacific Grove, Pebble Beach, Seaside, Spreckels, Aromas, Castroville and Moss Landing at a cost of \$2.00 per parcel assessment. All other areas are under the jurisdiction of the Monterey County Environmental Health Department.
2. The objectives of the NSVMAD are to abate existing mosquito breeding sources and to prevent new ones. Chronic breeding sources created by standing water in street catch basins, subdivision drains, roadside ditches, flood channels, and ravines are controlled by the District by routine larviciding operations
3. Educating the public about West Nile for 2005 is a primary goal. NSVMAD has trained Monterey County and South County city staffs and 75 staff members of Environmental Health, Public Works, and Parks and Recreation Departments. For public education, the agency has given 173 classroom presentations (4,760 students in 47 schools), three workshops, three farm days, one career day in King City and at the Monterey County Fair. The agency has consulted, advised and trained staffs from San Luis Obispo County, San Benito County, Fort Hunter Liggett, Navel Post Graduate School, the Presidio, and Fort Ord.

- 4. A 2002 NASA project uses satellite imagery to overlay water courses, mosquito sources, susceptible human population clusters and mosquito species. This 3-D visual provides an important opportunity to apply NASA earth science technologies to a disease outbreak. A similar program was presented in January 2005 when Monterey hosted the annual statewide convention for Mosquito Vector and Control.
- 5. Financially, NSVMAD is able to operate to within 1% of its annual budget and reserves, plan long range for equipment replacement, and pay cash.
- 6. The Monterey County Health Department’s Environmental Health Divison applied for a state grant of \$60,000 for aerial spraying and equipment. It received \$6,327 for pesticides and \$5,102 for temporary over-time payroll to conduct surveillance. No funds were received for equipment or contracts for aerial application. NSVMAD did not apply for funds.
- 7. As of October 7, 2005, the West Nile State Report Statistics are:

<b>54 of 58</b>		<b>58 of 58</b>	
<b>California Counties Reporting</b>		<b>California Counties Reporting</b>	
2005 YTD West Nile Virus Activity		2004 West Nile Virus Activity	
Human Infections	823	Human Infections	830
Horses	442	Horses	540
Dead birds	2,746	Dead birds	3,232
Mosquito pools	1,215	Mosquito pools	1,136
Sentinel chickens	1,110	Sentinel chickens	805

- 8. The NSVMAD has demonstrated foresight and commitment for 55 years to community health and that of neighboring communities with its continuing education, cooperation, and work.

**RECOMMENDATIONS**

- 1. Funding should be provided to allow the Monterey County Health Department’s Environmental Health Division to budget for equipment, education, supplies, and aerial spraying.

**RESPONSE REQUIRED**

**FINDINGS**

Board of Directors of NSVMAD  
Findings 1-8

**RECOMMENDATIONS**

Monterey County Board of Supervisors  
Recommendation 1

## “What is best for the troubled youth in Monterey County?”

### **SUMMARY**

The Grand Jury is concerned for children in crisis who are ordered by the Court for out-of-home placement. The demographics of Monterey County are dramatic. There are vast neighborhoods of poverty close to some of the wealthiest communities. The two main sources of employment are the low paying jobs of agriculture and hospitality. The costs of living and housing are high and housing is often not available and/or affordable. One in five children live below the federal poverty line. Social services are greatly needed.

### **BACKGROUND**

The Grand Jury investigated the conditions of the children in care of the Department of Social Services of Monterey County. These are the children, adolescents, and young people who are wards of the Court and are in care of the Department of Social Services. They might reside in Foster Care, Relative Foster Care, Special Needs Foster Care, Group Home Care, Juvenile Detention, or in the Independent Living Program for young adults.

There is a shortage of county accommodations for children who are wards of the Court and who have complex social, emotional or physical needs. It is vital that children be placed in appropriate facilities to meet their needs. There are 14 designated levels of care. Out-of-county treatment is often the only option for placement. This is expensive and can result in travel hardships for families and social workers. Monterey County is the 7<sup>th</sup> lowest in the state for out-of-county placement.

### **INQUIRY PROCESS**

What happens to our children? The Grand Jury took the following steps:

- Visited the Monterey County Department of Social and Employment Services to interview officials.
- Interviewed the Children’s Behavioral Health Interagency Placement Committee.
- Made site visits at child-care facilities, level 12 and level 14 and interviewed these care facilities’ directors and employees.
- Visited Court Appointed Special Advocates (CASA) and interviewed its Executive Director.
- Visited and interviewed officials at Monterey County Probation and Juvenile Hall, Youth Center, Rancho Cielo and Silver Star Intervention at old Natividad Hospital.
- Received an explanation of Assembly Bill 490 (Education Rights of Children).
- Reviewed California Child Welfare Services Outcome and Accountability County Data Report, July 2005.

### **FINDINGS**

## **Monterey County Department of Social and Employment Services**

1. The Monterey County Department of Social and Employment Services deals with many social facets in the county, such as military and veterans affairs, aging and adult services, Calworks, medical, food stamps, housing subsidiary, and General Assistance. The Grand Jury inquired into Family and Children Services, specifically, placement. This service provides assistance to victims who are at risk of abuse, neglect or exploitation. It is the purpose of this service to promote a safe, nurturing and permanent home for all children in need in Monterey County. The Services represent a continuum of prevention, assessment, intervention and treatment.

The Service's first priority is to keep children in their homes. Family maintenance allows the child to remain at home with counseling, treatment, intervention and education. Child welfare workers evaluate the child, and Family Reunification works to reunite the family. When a child cannot remain at home or return home, guardianship with a relative is the next choice. Relative adoption is preferred. Family-to-Family is a program that is based on the belief that children are best served if they live in their home community. If this is not successful, other adoptive homes are sought. In all cases, the goal is to return the child to a safe home.

2. As of August 2005, there are approximately 108 licensed foster homes in Monterey County. To date, of 470 wards of the Court, 27 are out-of-county, 62 are in group homes, and the remainder are in foster homes. There are 13 group homes in the county, seven for probation and six for child services. Foster homes, group homes or a voluntary family agreement can be ordered by the Probation Department.
3. The number of children in care of the Monterey County Department of Social Services as of July 1, 2004 was 3.9 per thousand, less than one half of the state rate.
4. For 2004, 79.3% of children were reunited with their families within 12 months, compared to 65.9 % at the state level. During this time period, 67 % of the children who were adopted from a foster care setting were adopted within 24 months, compared to 28% at the state level.
5. Of the children placed in foster care during this period, 80.5% had no more than two different placements, compared to 84.3% at the state level. Also during this time period, of those who exited foster care, 9.5% were subsequent entries within 12 months, compared to 10.3% at the state level.
6. In 2003, the recurrence of substantiated maltreatment by children's families within 12 months was 8.6% in Monterey County as compared to 13.1% in the state. The rate of recurrence of abuse and/or neglect in homes where children were not removed, but received child welfare services, was 5.8% compared to 8.7% at the state level.
7. The new Emergency Response program, adopted in 2004, can deal with the child in immediate danger. Emergency response deals in physical abuse, sexual abuse, exploitation,

general neglect, severe neglect of malnutrition, emotional abuse, and the lack of supervision. An investigation is completed within 10 days. Immediate response compliance for 2004 was 96.8% in the county, compared to 95.3% in the state; 10-day response compliance was 88.8% in the county, compared to 90.9% in the state.

8. Social workers are required to visit a child in foster placement once a month. For 2003, the compliance rate was 67.1% in the county; in 2004, the compliance rate was up to 90.2%. Compare this to the state rate in 2003 which was 72.2% and up to 89.4% in 2004.
9. When children are 16 years of age, they can be referred to an Independent Living Program (ILP). This program offers education, job and life skills that prepare the youth for adulthood. This is a program that is below the state average; 17% in Monterey County receive high school diplomas as compared to the state average of 21%. There were 11% enrolled in college, compared to the state average of 14%. The Department has developed strategies that increase communication regarding ILP services with interagency, community partners, and youth. However, there is no mechanism for tracking eligibility and participation in the Independent Living Program.
10. On August 15, 2005, Family and Children's Services implemented the Specialized Care Program (SCP). Its purpose is to enhance support to care givers for those who have children with special needs through a periodic assessment of the needs of the child, specific training to care givers, and increased monthly stipends, where appropriate. The current Specialized Care rate is \$730 per month for children of all ages regardless of the child's needs. The new Specialized Care Program has specific criteria for each of three levels based on the severity of the child's needs or problems. The rate of each level is an increment added to the basic rate, based on the age of the child.

Age Range.	Current Basic Rate	Specialized Care Increments		
		Level One Specialized Care	- Or- Level Two Intermediate Care	- Or- Level Three Intensive Care
0-4	\$425	+\$300= \$725	+\$475= \$900	+\$650= \$1075
5-8	\$462	+\$300= \$762	+\$475= \$937	+\$650= \$1112
9-11	\$494	+\$300= \$794	+\$475= \$969	+\$650= \$1144
12-14	\$546	+\$300= \$846	+\$475=\$1021	+\$650= \$1196
15-19	\$597	+\$300= \$897	+\$475=\$1072	+\$650= \$1247

11. In 2004, the Department implemented a State program called the "Differential Response Program". This new approach to evaluating family and child well-being enhances a community's ability to keep children safe.
12. The overall impressions of the Department of Social Services personnel are that they are dedicated to their vocations.

13. Monterey County does not have a secured psychiatric unit for emergency placement of seriously disturbed children. Referrals have to go to out-of-county facilities at a higher cost.

### **Children's Behavioral Health Interagency Placement Committee**

14. The critical life-affecting decisions of where to place children are made by the Interagency Placement Committee. This Committee of Supervising Social Workers meets weekly and is familiar with the children and their history.
15. One of the Committee's biggest accomplishments for children first coming to its attention is the CHERISH Center, a 23-hour assessment program. It is the hope of the Committee that these children feel protected and cared for. This short term time frame gives the system time to give health care and screening. It gives time to find relatives who can intervene and keep children out of foster care. Two hundred and thirteen children have gone through this program from October 2004 to May 2005.

### **Child Care Facilities**

16. The Department of Social Services contracts with residential group homes providing various levels of care. For example, a facility classified Level 14 accommodates children requiring the greatest care.
17. The Grand Jury visited a Level 12 home providing care for girls ages six through eighteen. The facility was in two spacious adjoining homes in a tranquil neighborhood close to schools. These children were diagnosed as seriously emotionally disturbed or with developmental disabilities. There were specially designed programs to address their needs. As the children improved they could be classified to a lower level of care, thereby saving the County the expense of the more intense care.
18. The Grand Jury visited a Level 14 home in Monterey County which provides up to 90 days of therapeutic evaluation and care in two well maintained homes in a rural part of the county. There is an on-site classroom and a teacher assigned by the Monterey County Office of Education (MCOE). The goal is to provide a safe and nurturing environment for high risk children with the hope that they can return to their families or a lower level group home.
19. The Grand Jury found there are complex contractual arrangements between Monterey County and services provided by foster care agencies.

### **Court Appointed Special Advocates (CASA)**

20. CASA is a nationwide, non-profit child advocacy organization with 41 offices in California. There are nearly one hundred CASA Volunteers in Monterey County who are assigned by the Superior Court to represent the interest of children who are neglected, abused, or for other reasons removed from the care of their families. They speak to the Court on behalf of the child and at Department of Social Service Administrative Hearings. Many Advocates are also appointed Surrogate Parents by the MCOE. In this capacity they represent the child in education issues.

## **Probation Department**

21. The Grand Jury visited the Probation Department and found various programs dealing with juvenile offenders. In all cases the Department makes every effort to keep children in their homes if they are safe. These young people also can be placed in foster or group homes. The Juvenile Division is responsible for processing juvenile offenders in Monterey County. Probation officers prepare court reports, recommend suitable rehabilitation, and supervise the program.
22. The Grand Jury visited Juvenile Hall, which was reopened in 2004. It houses youth under 19 years of age who are awaiting processing in Juvenile Court or transferring to another facility. They are there for criminal acts or probation violations. Typically, the stay is 90 days or less. An on-campus school is provided by the MCOE. Graduate Equivalency Diplomas (GED) or a high school diploma is achievable.
23. The Grand Jury visited the Youth Center that has residents who have a need for academic and vocational help and behavioral support. It provides help to high risk minors and their families. It is a low security, residential treatment facility for boys and girls, ages 13 to 18. The minimum stay is 120 days. Education is emphasized. One of the programs is culinary training.
24. The Probation Department's Silver Star Program is now housed at Rancho Cielo, which is a ranch in the foothills above Salinas supported by both private and public funding. The goals are to encourage youth to increase self-esteem, to learn marketable life skills, to become productive members of the community, and to continue their education. Youth are referred to these programs by the Probation Department, courts, schools, and parents. They are transported there for the day and are provided academic and physical activity. Caring for horses is one of the programs that helps develop responsibility. Rancho Cielo is being renovated. There exists significant deferred maintenance, e.g., the gymnasium needs ventilation and a new roof.
25. The Probation Department's Resource Center works to support services for youth and their families by having probation officers assigned to schools to assess problems, conduct home visits, educate parents, and refer youth and families to counseling and other services.
26. The Grand Jury observes that the leadership of the Probation Department is strong and dedicated in all areas of child care reviewed by the Grand Jury.

## **California State Assembly Bill 490**

27. California State Assembly Bill 490 [Statutes of 2003, Chapter 862], effective January 1, 2004, mandates that all children in foster care in group homes or foster family homes are

entitled to the same access to education as other children. Placement agencies must exert every effort to keep children in their own school while they are residing in foster care or being transferred to different foster care residences. Changing schools is disruptive and could be devastating to a child. Research shows that academic records do not always follow the child. Every school district must designate a liaison to assist the foster child when a transfer becomes imperative. School records must be moved within two business days. The child's educational rights must be upheld.

28. Preschool age children in foster care placement should be mandated to attend preschool.
29. There are gaps in the education of Monterey County children in foster home situations. Many children's records never follow them, and a great deal of time is spent facilitating enrollment.

## **RECOMMENDATIONS**

1. Monterey County should perform an in-house operational and financial audit of services provided by contractors for all levels of child care.
2. Educational institutions and group homes should receive training on implementing AB 490. The Monterey County Superintendent of Schools should hold a conference on the implementation of AB 490 with participants to include group home administrators, Department of Social Service social workers, Probation Department, CASA, parents, and guardians.
3. Classrooms and on ground schools located at group homes should be monitored monthly by the Monterey County Board of Education for compliance with AB 490.
4. Monterey County should have a secured psychiatric unit for emergency placement of seriously disturbed children.
5. Monterey County should increase funding and staff in the Probation Department in areas related to juvenile issues.
6. Monterey County should increase funding to rehabilitate and maintain facilities at Rancho Cielo. It should also take steps to promote funding from the private sector.
7. Social services should create a tracking method for eligibility and participation in the Independent Living Program. The need is to increase cooperation among the Probation Department, Office of Employment, California State University Monterey Bay, Hartnell Community College, and Monterey Peninsula College to use their cross resources to make a commitment to reach each youth.
8. The Department of Social Services should review programs that may have overlapping functions and/or may not be effective.

## **RESPONSES REQUIRED**

### **FINDINGS**

Board of Supervisors

Findings: 1-19, 22-26, 28 and 29.

Monterey County Superintendent of Schools and Monterey County Board of Education

Findings: 27-29.

CASA

Finding: 20

### **RECOMMENDATIONS**

Monterey County Board of Supervisors

Recommendations: 1-8

Monterey County Superintendent of Schools

Recommendations: 2

## **PUBLIC FOOD SERVICE**

### **SUMMARY**

The hospitality industry is the second largest employer in the county. The safe operation of approximately four thousand food preparation facilities (restaurants, butcher shops, mobile canteens, etc.) is the responsibility of the Environmental Health Division of the Monterey County Department of Health.

### **BACKGROUND**

The Grand Jury visited a restaurant which had a previous inspection. This inspection disclosed a number of inadequacies and opportunities for improvements. The purpose of this second inspection was to see if corrections were implemented. In this instance, corrections were made, but others problems were observed. Overall, improper food storage and refrigeration are the greatest health concerns. Conditions obvious to the customers are not necessarily dangerous health problems.

The Department tries to avoid punitive actions. Staff sees themselves being more effective if they are educators rather than agents of enforcement.

### **INQUIRY PROCESS**

The Grand Jury interviewed senior managers of Environmental Health and participated in health inspection site visits.

### **FINDINGS**

1. According to the Department of Environmental Health, the major dangers of food-related illness are illegally imported foods and unlicensed caterers.
2. Rather than publish a complex numeric evaluation system like those of some other health departments in California, Monterey County initiated a "Gold Seal" program to recognize facilities that demonstrate substantial compliance with the California Retail Food Facilities Law and the California Health and Safety Code. Qualifiers are awarded a prominent decal and encouraged to place it on public display.
3. The Consumer Health Protection Services completed 1,870 retail food inspections from April 15, 2005 to July 15, 2005. Fifty seven percent of 1,060 were awarded the "Gold Seal".
4. The Division has challenges recruiting and retaining public health professionals because of the high cost of living in Monterey County.

**RECOMMENDATIONS**

None

**RESPONSE REQUIRED**

**FINDINGS**

Monterey County Board of Supervisors  
Findings 1-4

**RECOMMENDATIONS**

None

## **LAW ENFORCEMENT IN MONTEREY COUNTY**

### **SUMMARY**

The Grand Jury visited the State prisons in Monterey County and the County Jail in accordance with its mandate to inquire into the condition and management of public prison within the county (Penal Code Section 919 (a) and (b)). In addition, the Grand Jury visited the County Probation Department. The California Department of Corrections and Rehabilitation (CDCR) operate all State prisons, oversee a variety of community correctional facilities, and supervise parolees during their re-entry into society.

- The annual budget for the CDCR is \$5.7 billion (2004-2005 Budget Act). The average cost per inmate is \$30,929 and per parolee is \$3,364. The staff is approximately 49,100 (42,453 in institutions, 3,114 parole officers, and 3,505 in administration). The CDCR employs about 31,220 sworn peace officers.
- The number of offenders under CDCR's jurisdiction statewide is approximately 301,200.
- There are 32 State prisons, 40 camps, 12 community correctional facilities, and five prisoner facilities for mothers with approximately 154,200 in prison, 4,100 in camps, 5,500 in community facilities, and the rest in smaller facilities.
- The State prison population is 93% male. The average age is 36 years, and the average time served is 52.9 months. Most test at a seventh grade reading level. Inmates are 29% white, 29% black, and 37% Hispanic. California has 27,252 prisoners sentenced for life without the possibility of parole. Of those eligible for parole, the overall recidivism rate is 72%. Forty percent return to prison in one year.

### **BACKGROUND**

The Grand Jury visited the Salinas Valley State Prison, the Correction Training Facility (CTF) in Soledad, the County Jail in Salinas, and the Probation Department. It costs \$31,000 to incarcerate an inmate for a year. Many of the senior staff with whom the Grand Jury spoke within the correctional system thought that it was a misdirection of funds and resources as well as a waste of human potential to keep prisoners incarcerated for life with no hope of parole.

### **INQUIRY PROCESS**

#### **Salinas Valley State Prison**

The Salinas Valley State Prison (SVSP) provides long-term housing and services for mainly maximum custody male inmates (Level IV).

- There are approximately 470 (10%) Level I inmates and 4,100 (90%) Level IV inmates in a prison for 2,224 when opened in May 1996.

- There is a staff of 1,335 and an annual budget of \$113,801,778. Annual medical care for the inmates is over \$28 million. Many arrive in prison in poor health and receive needed medical care.

## **FINDINGS**

1. On July 1, 2005, the California Department of Corrections was reorganized into the California Department of Corrections and Rehabilitation (CDCR). Though intended to create a flatter and more responsive management structure with a focus on restoring public confidence in California's correctional system, the mission remains largely the same. In part, "to have a direct impact on crime by reducing the number of offenders who re-offend and re-victimize".
2. The facility is frequently in a state of "lockdown" (prisoners in cells 23 hours a day) due to many prison rule violations, e.g., assault on guards (120 last year) and/or other inmates, drug violations, and illegal weapons. Much is perpetrated by powerful gangs organized along regional and ethnic interests. Their influence extends well beyond the prison. Strict supervision, great vigilance, and separation are the only procedures to prevent violence within the prison.
3. Due to lack of funding, all vocational training programs in Level IV facilities were terminated in 2003. There was questionable value to vocational training programs for those serving life sentences.
4. SVSP is seriously overcrowded, and part of the reason for the continual prison "lock down" is for the safety of prisoners and custodial staff.
5. SVSP has funding for 181 officers and cannot fill the positions which contributes to the reason for continual lockdown.
6. A major challenge at SVSP is a very high turnover rate and a difficulty in filling open staff positions. This is generally due to the high cost of living in the area and high job-related stress. Most new staff (16 per month) terminates or accepts transfers to other prisons at the first opportunity. Salaries are competitive with comparable positions, but housing subsidies, educational opportunities, family support, or other incentives would be required to remedy this problem.
7. The media has extensively reported on a group of Correctional Officers who organized into a secret support group. They have been called "The Green Wall". The Warden assured the Grand Jury that this activity is not tolerated in prison and that offenders are terminated.
8. The Warden appears to be highly regarded and respected by the staff. He also appears to be doing a good job under stressful circumstances and economic restraints.

## **Correctional Training Facility**

The primary mission of the Correctional Training Facility (CTF) is to incarcerate and to provide programs and services for medium custody inmates.

- This facility has an annual budget of \$136 million. It has a staff of 1,488 with 959 full-time custodial staff.
- It has three different facilities (South, Central and North). Both the South and Central facilities contain Level II inmates while the North facility is Level III. The South facility dates back to 1946 and presently contains 1,108 inmates. It was originally designed for 510. The Central facility, opened in 1951 and presently holding 3,022 inmates, was designed for 1,515. The North facility houses 2,869 inmates and when opened in 1958 was designed to hold 1,300 prisoners.
- Inmate programs that are available are:
  - A. Prison Industry Authority (PIA): dairy, textiles, warehouse, wood products, and silk-screen.
  - B. Vocational Programs: appliance repair, commercial painting, drafting, dry cleaning, electronic data processing, landscaping and gardening, machine shop, mill and cabinet building, printing, small engine repair, upholstery, welding, and vocational computer refurbishing.
  - C. Academic: adult basic education, high school/GED, pre-release orientation, English as a second language, literacy program, and computer assisted education.
  - D. Other Programs: the inmates at CTF can earn the privilege to work on Community Service Crews, Blind project, Arts in Corrections, and diversion and recycling programs. They are encouraged to participate in drug and alcohol programs and Victim Awareness.
- Inmates made generous contributions to disaster relief efforts. Religion is very important to some inmates.

## **FINDINGS**

10. The CTF is seriously overcrowded. Originally designed for 2,800 inmates, it now contains about 7,000.
11. The Warden appears to be highly regarded and respected by the staff. He also appears to be doing a good job under stressful circumstances and economic restraints.
12. Many inmates who are released after serving their sentences end up back at CTF after a very short period of time. The recidivism rate is around 80%. This, in part, appears to be due to the lack of meaningful jobs and/or education of the inmates. This prevents them from finding and maintaining a job which would allow them to re-enter society and become self-supporting.
13. The cost per prisoner is \$31,000 per year.
14. The CTF provides excellent inmate training and education opportunities. Peer pressure appears to be a key factor in motivating inmates to participate in these programs. As an

example, GED graduates are recognized for their accomplishments in a graduation ceremony witnessed by the prison population as well as their families. Vocational training, as part of the Prison Industry Authority, also provides inmates with marketable skills in the outside world should they decide to pursue them. Unfortunately, few inmates participate in the programs.

15. There is a large turnover in staff similar to SVSP because of the high cost of living in the area and high job-related stress.

### **County Jail**

There are three major divisions in the Sheriff's Office: Enforcement Operations, Administration Bureau, and Custody Operations.

The Sheriff's Office is ranked third with respect to size of departments within Monterey County government. The Sheriff's Office budget for 2004/2005 is \$57,262,627. There are currently 453.5 authorized and funded positions including 332 peace officers and 121.5 professional staff.

The Sheriff's Office has jurisdiction throughout Monterey County with a total estimated population of 425,100. Approximately 106,000 people living in the unincorporated areas of Monterey County receive their law enforcement protection from the Sheriff's Office.

### **FINDINGS**

16. The Sheriff's Department is understaffed due to budget constraints. The staff is short 17.5 full-time positions.
17. Low salaries create difficulties in recruiting.
18. The cost of housing in this area is another factor in maintaining employees.
19. The cost of maintaining an inmate in the County Jail is \$68 per day.
20. Gang violence is a major problem. Members from different gangs must be separately incarcerated. This is difficult and costly.
21. Much attention and energy of the custodial deputies are directed towards violence prevention. Minor offenders are housed apart from serious offenders. Sexual predators are kept separate from other inmates.
22. Persons arrested in a Monterey County city on a Friday evening for a non-bailable offense are placed in the County jail until arraigned on the following Monday. The County then bills the particular city for the booking fee. Since the State has reduced the amount of reimbursement to \$110, the County does not receive the total cost for incarcerating the inmates from cities. County General Fund is then paying for the additional cost of housing and feeding these inmates.

### **Monterey County Probation Department**

The Probation Department is divided into five divisions: Juvenile, Adult, the Silver Star Youth Center, Juvenile Hall, and Finance. Total expenditures for the Department in 2003/2004 were \$22,165,568. Of this, 41.6% or \$9,912,243 was the net cost to the County. For Probation Services (Budget Unit 255) and Institutions and Alternative Programs (Budget Unit 256), annual funding comes from Federal, State, and County taxes.

23. Information was obtained on Monterey County's salary structure and compared to eight comparable counties as identified by the Board of Supervisors. Monterey County Probation Department salaries are lower than the average of their counterparts in comparable counties.
24. The Probation Department is housed in a very old building with deferred maintenance and a substandard, overcrowded working environment.
25. This Department is also understaffed. The Department has difficulty retaining good people because staff leaves to work for other offices that offer higher compensation within and outside County government.
26. The Department appears to be well managed with many dedicated professional staff.
27. Numerous strong programs are available to assist young inmates:
  - A. The Silver Star Youth Program: This is a model resource center for youthful offenders and at-risk youth. The program helps youth to develop and maintain a positive self-image both to themselves and others. The youth are taught marketable life skills and work habits. The program also teaches youth to become responsible members of the community and to continue their education. This is an excellent program with monies being well spent.
  - B. Youth Center: The youth center located in East Salinas is a low security, education and residential treatment facility for boys and girls ages 13 to 18. It was originally administered as a modified boot camp, but this was found to be counterproductive. The program focus has now evolved into a comprehensive collaboration with Monterey County Behavioral Health, Monterey County Office of Education, as well as other county agencies and departments and some community partnerships.

The program also receives placement orders from the Juvenile Court and can place residents into Pinnacles Bay Assessment Unit, Gabilan Bay Custody Program for boys, and/or Santa Lucia Day Treatment Program for girls. Gabilan and Pinnacles Bay are open dormitories. The boys' programs are generally 365 days. The first nine months are spent in custody at the Youth Center. The last three months is an aftercare program where residents reunify with their families and reintegrate into their respective communities. All of these programs appear to be successful.

## **OVERALL FINDINGS**

28. There appears to be no immediate solution to the problem of the escalating prison population,

violence, and recidivism. New approaches to penology and the criminal justice system are required before any real progress can be achieved. Day-to-day management of the prisons (SVSP and CTF) is merely a holding action. Sustainable, longer-term solutions will require an enlightened approach from both State and Federal levels.

29. Education and re-integration of inmates into society are not occurring with current approaches to penology at any of the facilities (SVSP or CTF). Most inmates at SVSP are incarcerated for life, and most (over 80%) of the inmates at CTF return as inmates.
30. Prison staff appear to be doing an excellent job of fulfilling their immediate mission despite overcrowding and limited resources.
31. There is a tremendous turnover in the custodial staff at all of the facilities due to the high cost of living in the area and persistent job-related stress. Staffing at SVSP, for example, is down 181 officers.
32. The CTF facility, through the PIA, fabricates and assembles a number of useful and saleable products, e.g., furniture, uniforms and seat covers for cars. These items are only sold to other State agencies in accordance with State law. PIA thus provides inmates with a small income while helping them to learn a useful trade and benefiting agencies that acquire their products.
33. A proportion of inmates incarcerated in Monterey County are unlawful residents of the United States. The inability of the U.S. Border and Transportation Security Directorate to stem illegal immigration exacerbates overcrowding in most correctional facilities.

## **RECOMMENDATIONS**

1. Monterey County should build a new County Jail.
2. The SVSP, CTF, and Sheriff's Department should develop a supplementary housing allowance program for its law enforcement employees.
3. CDCR should investigate an overcrowding relief program.
4. CDCR should undertake a salary review that includes consideration of the high cost of housing in Monterey County.
5. CDCR should investigate how PIA might cooperate with private enterprise to broaden the market share for products made by inmates, increase production, and generate additional income to help offset the \$31,000 per year cost of incarcerating inmates.
6. State correctional staff should work with the Federal government to address overcrowding and funding issues associated with unlawful residents housed in correctional facilities.

## **RESPONSES REQUIRED**

## **FINDINGS**

Board of Supervisors

Findings 16, 17, 18, 22, 23, 24 and 25

CDCR

Findings 2, 10, 28, 31 and 33

Monterey County Sheriff

Findings 16, 17, 24 and 25

## **RECOMMENDATIONS**

Board of Supervisors

Recommendation 1

CDCR

Recommendation 2-6