



**Napa County
Grand Jury**

2004-2005

Final Report

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Members of the 2004-2005 Napa County Civil Grand Jury:

Front Row (kneeling L to R): Ronald Citron, M.D., Kymberlee Gilson, Barry Urbach.

Middle Row (L to R): William Moore, Kenneth Narlow, Mary Beth Kitchens, Grand Jury Foreperson Brent Randol, Jonnie Loughlin-Hagan, Jean Garry Worton, Larry Albedi.

Back Row (L to R): Roy Hagar, Daniel Brauning, Roger Russell, David Shantz, Dee Cuney, George Henke, Richard Popko, Richard Hart.

Not pictured are members who served partial terms: Anthony Baldini, Peggy Bradford, Mary Lou Freathy, June Kirkpatrick, Patricia Rogers, Wayne Schmaling, Amy Taylor, Russell Thomas.

The Honorable Richard A. Bennett
Presiding Judge
Napa County Superior Court
825 Brown Street
Napa, CA 94559

May 18, 2005

Dear Judge Bennett:

Pursuant to California Penal Code Section 933, the 2004-2005 Napa County Grand Jury submits to you its Final Report. Our investigations were conducted in a manner consistent with the historic role of the Grand Jury—to protect the interests of the citizens of Napa County.

Representing a cross section of the population and geography of our county, the members of this year's Grand Jury have given generously of their time and talents to serve the citizens of Napa County. It has been a privilege and a pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Brent Randol". The signature is written in dark ink and is positioned above the typed name and title.

Brent Randol, Foreperson
2004-2005 Grand Jury

To the Citizens of Napa County:

We, the members of the 2004-2005 Napa County Grand Jury, are pleased to present our final report.

The role of the Grand Jury is to serve as a quality assurance program for public agencies in Napa County. The 2004-2005 Grand Jury conducted investigations into the operation and management practices of nineteen agencies. We also investigated a number of citizen complaints.

Our final report includes:

- a description of how we conducted the business of the Grand Jury.
- required reports—the results of investigations that are conducted pursuant to Penal Code Section 919, which states in part, “Every County Grand Jury will inquire into the condition and management of public prisons in the County”.
- investigation reports—the results of our investigation into other agencies that are examined on a regular, rotating basis.
- a report on the extent to which County agencies are implementing the recommendations of the 2003-2004 Grand Jury.

Napa County Counsel has reviewed this final report and the Presiding Judge of the Napa County Superior Court has certified that the report complies with Title 4 of the California Penal Code. The final report has also been accepted and filed as a public document by the County Clerk.

Copies of the final report are available for your review in the Napa City Library and online by following the link to Grand Jury at <http://www.napacourt.com/>

It has been a pleasure to serve you over the course of the last twelve months. We hope you find the final report interesting and informative.

2004-2005 Napa County Grand Jurors

ACKNOWLEDGMENTS

The 2004-2005 Napa County Grand Jury wishes to acknowledge the assistance of the following persons:

The Honorable Stephen T. Kroyer, Napa County Superior Court
Robert Westmeyer, Napa County Counsel
Patricia Tyrrell, Deputy County Counsel
Georgene Larsen, Assistant Court Executive Officer
Sue Ann Vannatter, Fiscal Department, Napa County
Loy Morgan, Fiscal Department, Napa County
Pat Grisham, Secretary, Napa County Executive Office
Helene Franchi, Analyst, Napa County Executive Office
Joseph G. Peatman, President, Gasser Foundation
Neilann A. Martinez, Office Manager, Gasser Foundation
Linda Waterbury, Administrative Assistant, Gasser Foundation
Bonnie Thoreen, Dean, Upper Valley Campus, Napa Valley College
Napa County Grand Juror's Association
California Grand Juror's Association
The Napa Register
The Families of the Grand Jury Members

Function of the Grand Jury

The Grand Jury

The primary function of the Grand Jury is to examine all aspects of local government, including county and city agencies and special districts. The nineteen-member Grand Jury in Napa County conducts non-criminal investigations to ensure that governmental funds are judiciously used, that services are effectively delivered, and that all accounts are properly audited.

The Grand Jury is an independent and confidential body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel and the State Attorney General can, and do, provide advice, but they may not, except for legal cause, prevent the body from acting within its jurisdiction.

A county Grand Jury does not have jurisdiction in state and federal matters and cannot investigate state or federal agencies. Nor does it have any jurisdiction over the courts or a matter that is in litigation. But, in general, governmental bodies within Napa County, and events involving those bodies, can be investigated by the Grand Jury.

Grand Jurors are expected to be fair, to show sound judgment, to maintain absolute confidentiality, and to serve as representatives of the public. Therefore, the Grand Jury is not the forum from which to express narrow political ideals or viewpoints, but is, rather, the organization that seeks to better the government that presently exists. Nineteen members are selected from among Napa County residents. Beginning in 1993, all residents were offered an opportunity to volunteer; judges and friends of the court also may nominate county residents. Up to ten members, in their initial term of service, may volunteer to hold over for one additional year. Each Grand Jury is impaneled for one year, from July 1 through the following June 30.

How to apply to be a member of the Napa County Grand Jury

Napa County residents who are interested in serving as Grand Jurors are encouraged to apply. To be considered, an applicant must:

- be a citizen of the United States and at least 18 years old.
- have resided in Napa County for at least one year.
- have average intelligence and good character.

- possess a working knowledge of the English language.
- not currently be serving as a trial juror.
- not have been a Grand Juror within one year of being selected (except holdovers).
- not have been convicted of a felony or malfeasance in office.
- not currently be serving as an elected official.

Interested citizens should write to the Superior Court of California, County of Napa, 825 Brown Street, Napa, CA 94559, or call 299-1110 to volunteer or nominate someone. To find out more, visit the Grand Jury website at <http://www.napacourt.com/>, where an online application is available and may be submitted at any time.

The Grand Jury is an arm of the court system rather than the District Attorney's office and is not a law enforcement agency. For the most part, grand juries function as civil grand juries rather than criminal grand juries. The reason for this is that preliminary hearings in the courts have, in general, taken the place of criminal indictments by grand juries. In the federal system, the rule is the opposite because the United States Constitution requires grand jury indictments for all serious federal crimes.

A grand jury has very limited powers. The California Supreme Court has held that the grand jury does not have inherent powers to establish its own investigative apparatus for the detection of crime. Moreover, a grand jury should not engage in fishing expeditions, have hidden agendas, or meddle indiscriminately. The scope of inquiry of a grand jury is limited to those subjects that are founded upon knowledge which comes to the grand jury, by information acquired from grand jury investigations, or from individual grand jurors' own observations.

For the most part, grand jurors are charged with providing quality assurance checks by investigating the operations, accounts and records of the officers and departments of local government and the method or system those officers and departments employ in performing their duties.

After the investigations are completed, the only findings to be included in the final report must be approved by at least twelve of nineteen grand jurors. At the end of its term, the grand jury's final report is then published and provided to the general public after it has been reviewed and approved for release by the court.

In extraordinary circumstances, the grand jury may become a participant in the legal process to remove from office or indict a government official, but any such action initiated by a grand jury must be based on facts substantiated and

confirmed by the grand jury's own investigation. The grand jury can take no action based solely on allegations of other parties.

California law provides for civil and criminal function for grand juries. While a grand jury may function also as a criminal grand jury, it is unlikely that would occur. Were a criminal matter to be taken up by a grand jury at the request of the District Attorney, it is likely that a separate grand jury would be convened for that purpose.

How investigations are conducted

Jurors initially meet with the management and staff of an office or an agency. Various records and the physical facilities are inspected and representative public meetings, if any, are attended. Leads are followed that might provide additional information. Eventually, proposed findings and recommendations are developed.

Citizen complaints and letters to the Grand Jury

Occasionally, correspondence is received from citizens expressing concern or requesting an investigation of various city or county agencies and special districts. Each complaint is reviewed by the Grand Jury and action is taken to either (1) investigate the matter and make a report, (2) investigate the matter and drop it, or (3) drop the matter without investigation. It is best to submit any complaint or request at the beginning of the jury term so that the Grand Jury will have sufficient time to investigate the matter. Due to the constraints of time, a Grand Jury may refer a complaint to the subsequent year's Grand Jury.

What happens after the Grand Jury's Final Report is published

Copies of the Grand Jury Final Report are maintained on file in the office of the Court Executive Officer and the Clerk of the Board of Supervisors, where they remain accessible to the public. Final Reports are also available at county libraries, in local newspapers and on the following website, www.napacourt.com

Agencies that are required to make responses must respond in writing to the Presiding Judge of the Superior Court of California, Napa County, within 60 to 90 days after publication of the report. The responses must be placed on file with the clerk of the investigated agency and at the office of the Court Executive

Officer. They may be accessed by the public at those locations as well as on the Grand Jury website.

Note to Respondents

The legal requirement for response to the Grand Jury findings and recommendations are set forth in California Penal Code, Section 933.05. Each Respondent should become familiar with those legal requirements and, if in doubt, should consult with legal counsel before responding. For the assistance of Respondents, Section 933.05 of the Penal Code is summarized below.

How to respond to findings

The responding person or entity must respond in one of two ways:

1. that there is agreement with the finding.
2. that there is disagreement, wholly or partially, with the finding. In such a case, the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons for the disagreement.

How to report action taken in response to a finding and recommendation

Recommendations made by the Grand Jury require action. The responding person or entity must report action on each recommendation in one of four ways:

1. the recommendation has been implemented, with a summary of actions taken.
2. the recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
3. the recommendation requires further analysis. If a Respondent replies in this manner, the law requires a detailed explanation of the analysis or study and a time frame not to exceed six months from the date of publication of the Grand Jury Final Report by which time the recommendation will be discussed.
4. the recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation as to why it is not warranted or reasonable.

Budgetary or personnel recommendations

If a finding or recommendation deals with the budgetary or personnel matters of a county department headed by an elected officer, both the elected officer and

the Board of Supervisors shall respond, if the Grand Jury so requests. While the response of the Board of Supervisors may be somewhat limited, the response by the department head must address all aspects of the findings and recommendations.

Advance release of Grand Jury Report

Two working days prior to public release of the Final Report, the Grand Jury is required to provide a copy of the pertinent portion of the report to each affected agency or person. *No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to its public release.*

Time to respond; to whom to respond

The Penal Code provides for two different response methods:

1. **For a Public Agency:** The governing body (i.e. the Board of Supervisors, a City Council, Board of Governors of a special district, etc.) of the public agency must respond within ninety days after public release of the Final Report. The response must be addressed to the Presiding Judge of the Superior Court.
2. **For an Elected Officer or an Agency Head:** All elected officers or heads of agencies who are required to respond must do so within sixty days after public release of the Final Report. The response must be addressed to the Presiding Judge of the Superior Court, with an information copy to the Board of Supervisors.

California Safely Surrendered Baby Law

Summary

The focus of this Grand Jury investigation is the California Safely Surrendered Baby Law (CSSBL) SB1368 that took effect January 1, 2001. On August 1, 2003, SB139 added fire and police stations as safe havens, strengthening the already existing law. According to Andrew Ross, the spokesperson for the California Department of Social Services, "Fifty-eight babies have been surrendered statewide, (while) at the same time at least thirty babies have been found deceased since the law took effect on January 1, 2001". The CSSBL allows distressed birth parents to legally, confidentially and safely surrender a baby, both providing the baby a safe place, and protecting parents from arrest or prosecution for abandonment. It does not require names be given when the baby is surrendered, and permits parents to bring the baby to a designated safe haven within three days of birth. The law is advertised as "No shame, No blame, No names".

Background

The Grand Jury began its investigation by studying the CSSBL through Internet information and citizen informational investigative telephone calls to local hospitals, and health and human services agencies. The Grand Jury learned that the designated safe havens for surrendering babies are fire stations, hospitals and police stations. Each is required to post uniform signs and to authorize "any personnel on duty" to accept physical custody of an infant.

In October 2004, the Grand Jury conducted a Safe Baby Surrender drill at the Napa City Fire Department. Using a life-like doll, the Grand Jury "surrendered a baby" to a Napa fire station. It quickly became apparent there was no current CSSBL policy, procedure or training for either the responding fire or police department personnel or the Napa County Department of Health and Human Services staff.

Methodology

Interviews Conducted:

Napa City Fire Department

- Battalion Chief
- Fire Fighter
- Station Capitan
- Fire Chief
- Fire Station Staff

Napa City Police Department

- Police Officer
- Police Chief

Local Hospital Emergency Room Staff

- Nurses
- Social Worker
- Physician
- Public Relations Representative
- Intake Representative

Local Ambulance Service Staff

Napa County Child Protective Services, Social Worker

Napa County Health and Human Services, Director

Documents Reviewed:

Various newspaper articles

Police Academy curriculum

Safe Haven law and related legislation

- SB1368 Ch. 825
- SB2817 Ch 1099
- SB139 CH 150

Internet references: California Safe Baby Surrender web sites:

- <http://www.babysafe.ca.gov>
- <http://www.chs.co.la.ca.us/safehaven/publicinfo.htm>
- http://www.co.contra-costa.ca.us/depart/dis2/ca_safely_surrender.htm
- <http://www.lacofd.org/pdf/AboutLACoFD.pdf>
- <http://www.ladhs.org/safeHaven/whatislaw.htm>

Discussion

During the Grand Jury Safe Baby Surrender drill, it became evident that the responding fire department and the police department personnel did not have adequate training, policies or procedures to follow in the event of an actual baby surrender. Although personnel responded professionally and with compassion for the “baby”, they lacked knowledge of the law and the steps to be taken. During the course of the investigation, the Napa City Fire Chief in a joint effort with the Napa County Department of Health and Human Services began developing a training and an implementation policy.

Finding 1:

The Napa City Fire Department and Police Department personnel did not have policies, procedures or adequate training regarding the CSSBL.

Recommendation 1:

Continue the collaborative development of procedures, policy and training for Napa Fire and Police Departments.

Response:

- Napa City Fire Chief
- Napa Police Chief

After interviewing the Napa County Department of Health and Human Services staff, the Grand Jury found significant understanding by the Child Protective Services Social Worker. However, the Grand Jury found a lack of awareness, procedures, and importance being placed on such a serious social issue by the Acting Director of Health and Human Services.

Finding 2:

Napa County Health and Human Services and Child Protective Services do not have policies, procedures or training regarding the CSSBL.

Recommendation 2:

Training, policies and procedures must be developed and implemented for the Napa County Department of Health and Human Services.

Response:

Napa County Department of Health and Human Services, Director

During the course of the investigation, Napa County residents became aware of the drill when local media coverage drew attention to this important social issue. It became evident to the Grand Jury that community education is also lacking.

Finding 3:

The public lacks education and awareness of the CSSBL.

Recommendation 3:

The Department of Health and Human Services must initiate an ongoing public awareness campaign of the CSSBL. Funding could be obtained from “First 5 Napa County”, created from county cigarette-tax dollars to support issues affecting children 0-5 years old.

Response:

Napa County Department of Health and Human Services, Director

Glossary

- CSSBL – California Safely Surrendered Baby Law
- SB – California Senate Bill

Circle Oaks County Water District

Summary

The Grand Jury investigated Circle Oaks County Water District (COCWD) as it related to the building moratorium imposed in 2000. The moratorium was imposed because of insufficient water reserves in the event of a wildfire. Storage capacity and availability of water for fire anywhere in the district is insufficient because total storage is limited. Additionally, emergency water cannot be pumped between the two storage “zones” at sufficient rate to meet wildfire protection standards.

The water tanks are nearing the end of their useful life, and the district has no funds to replace the facilities. Although the water rates are already the highest in the county, an assessment may become necessary.

Background

Since 2000, the Circle Oaks subdivision served by this small water district has faced a county-issued building moratorium. With 189 of the 300 parcels already developed, county planning and fire officials became concerned that the district's water storage capacity was insufficient to fight a wildfire. The county told the district's directors that the water storage problem had to be resolved before the moratorium would be lifted. Unfortunately the district did not have the money to solve the problem.

To further complicate matters, COCWD's water board has had staffing problems over the last two years with few actively participating directors. Recently, however, new board members have been appointed and are working to improve conditions.

Methodology

Interviews Conducted:

- COCWD staff.
- Local Agency Formation Commission (LAFCO)

Documents Reviewed:

- Napa County Fire Department reports
- Triad/Holmes Associates engineering reports
- Phillips & Associates engineering reports

Discussion

The COCWD gets its water from two sources: three vertical wells and two horizontal spring bores, both of which are high in iron and manganese. Costly purification of the water is needed because of these minerals and also because the spring water is considered surface water and is subject to mandated treatment before it is potable. The district's water-treatment cost for the year ending June 2003 was \$61,412.

The treated water is stored in two aging redwood tanks, which require frequent repairs and will soon need replacement. The larger tank holds 200,000 gallons, the smaller one, 50,000. Each tank is connected to a "zone" of houses and in turn is connected to the other tank by water lines and a 40 gallon-per-minute pump. This equipment is adequate for transferring water from one tank to the other for daily domestic needs, but is not able to produce the high flow rates needed in case of a fire.

There are conflicting regulations for the required amount of stored water. The Public Utilities Commission General Order 104 (California Fire Code) requires 90,000 gallons. The Napa County Fire Code requires a minimum of 120,000 gallons for subdivisions with more than 141 parcels, an amount calculated for needs other than a wildfire. However, the Napa County Fire Marshall requires emergency storage of 300,000 gallons, the estimated flow required to protect structures during a moderate to worst-case wildfire. This estimate was arrived at by considering the surrounding wild-lands, the proximity of the structures to each other, the materials used, and the fire weather and history. As a result, the California Division of Forestry (CDF) rates the Circle Oaks subdivision as a Very High Fire Hazard Severity Zone.

To clarify this situation, a July 21, 2004, memo from the Napa County Fire Department to COCWD clearly states that the water-storage requirements for fire-safety must be increased from current capacity of 250,000 gallons to at least 300,000 gallons. These standards cannot be met using the district's existing water transfer and storage infrastructure. Without the needed upgrades, effectively fighting a wildfire in the subdivision is questionable.

Further, the district's current water supply is marginal at best because only one of the district's three deep wells is producing substantial quantities of water. Thus the district has minimal ability to increase the total amount of water in the system.

The financial requirements for the needed improvements further complicate the district's current predicament. The capital investment needed to bring the water system up to current standards would require a high assessment on customers who are already paying water rates more than twice as high as those in

surrounding water districts. Expanding the customer base to achieve some greater economies of scale is not feasible for two reasons. The remoteness of the subdivision makes it impractical to merge with larger neighboring water systems, and the building moratorium limits growth in the subdivision.

Finding 1:

The system's total storage capacity of 250,000 gallons still does not meet the county's recommended minimum for the subdivision, making the current building moratorium both necessary and prudent to protect public safety.

Recommendation 1:

Until emergency water storage capacity is increased to at least 300,000 gallons, a moratorium on new development must continue in effect.

Response 1:

Circle Oaks County Water District Board of Directors
Napa County Board of Supervisors

Finding 2:

In the event of a wildfire, water cannot be transferred rapidly from one storage tank to the other.

Recommendation 2:

The district must install a pump and water lines large enough to transfer water quickly between the two storage tanks in case of fire.

Finding 3:

Because of the limited number of customers and high costs of treating surface water, COCWD water rates are about twice the rates found in other county water districts.

Recommendation 3:

When funding becomes available for additional water, the use of surface water from springs should be scaled back or abandoned in order to decrease water treatment costs.

Finding 4:

Total capacity in the system is limited. With only one of the three vertical wells producing in any substantial quantity, production is limited to 140,000 treated gallons per day. Maximum water demand in 2002 was 130,000 gallons per day.

Recommendation 4:

Additional water sources must be found.

Finding 5:

Circle Oaks Water District has insufficient emergency monetary reserves, with no prospect of long-term funding from its customers.

Recommendation 5:

While continuing to consult with LAFCO, COCWD must work diligently to acquire funding.

Response for 2-5:

Circle Oaks County Water District Board of Directors

Water Loss

Summary

Every water district in Napa County must confront the problem of lost water attributable to a combination of leaks, inaccurate and aging meters, unknown water processing losses, inaccurate reading of meters and un-metered water use. The Grand Jury has inquired into this problem in all the cities and water districts in the county and has received replies from them. Currently the standard for unaccounted water loss is set at no more than 10 percent of total water. Municipalities that exceed this amount must determine the cause and take remedial action.

Background

Water use and water wastage become increasingly critical with growing population needs and declining water tables. Water losses of 25 percent or more not only cause shortages in times of drought, but also represent real financial losses running into millions of dollars.

Unaccounted-for water is defined as the total amount of water entering the system *minus* water accounted for both by metering and by estimating volumes used for municipal irrigation, flushing operations, street cleaning and firefighting.

In general, most municipalities calculate unaccounted-for water on a continuing basis. The *2050 Napa Valley Water Resources Study* (a report in progress) will update unaccounted-for water data only through the year 2002 for the entire county.

Residential meters will leak and become inaccurate as they near the end of their 15 to 20 year life, with commercial meters being even more fragile and having a shorter life. Sound water policy requires ongoing inspection, testing, and replacement of meters.

Methodology:

Water districts were asked to calculate their unaccounted-for water according to the formula above. Current industry standards define losses up to 10 percent as acceptable. This number has been revised downward from the prior recommendation of 15 percent.

Findings:

As reported by the cities, towns and water districts in the county, current unaccounted water losses are listed below.

- City of Napa about 12%
- American Canyon 30%
- Calistoga about 6%
- Yountville 3%
- St. Helena about 6%
- Circle Oaks about 2%
- Spanish Flat 27%
- Berryessa Pines 31%
- Lake Berryessa Resort Improvement District 26%
- Napa-Berryessa Resort Improvement District about 23%

Recommendations:

1. Water districts and municipalities must monitor unaccounted-for water on an annual basis.
2. Water districts and municipalities must follow the methodology and goal for calculating unaccounted-for water according to the *American Water Works Association*.
3. Water districts and municipalities must have in place a system for inspecting, testing, maintenance and replacement of meters.
4. Water districts and municipalities should consider joining the *California Urban Water Conservation Council*. The council establishes standards and audit procedures.
5. The City of American Canyon, the City of Napa, the Napa-Berryessa Resort Improvement District, and the Spanish Flat, Berryessa Pines, and Lake Berryessa Resort Improvement Districts must find, explain, and fix the high, unaccounted-for water loss.

Response:

- City of American Canyon Public Works, City Manager and City Council
- Napa Berryessa Resort Improvement District Public Works Director
- Spanish Flat Water District Manager
- Berryessa Pines Water District Manager
- Lake Berryessa Resort Improvement District Manager
- Circle Oaks County Water District
- City of Yountville Public Works and Mayor
- City of St. Helena Public Works and Mayor
- City of Calistoga Public Works and Mayor
- City of Napa Public Works and Mayor

Napa County Elections Report

Summary

Napa County's Election Department and Registrar of Voters were criticized for problems relating to two recent elections. These problems resulted in court proceedings and erosion of public confidence in the election process.

March 2004 elections saw the introduction of touch-screen voting in Napa County. Although touch-screen voting is a controversial issue nationwide, it reportedly worked well for Napa County.

The Registrar of Voters has made several changes in security and procedures to ensure reliable election results. Still there are several areas where the Grand Jury is recommending additional changes.

Background

Complaints were received by the Grand Jury about the November 2003 and March 2004 elections. Additional complaints questioned the use of electronic voting.

The November 2003 election was marred by the distribution of ballots that did not reflect the Napa College District overlay in certain precincts. This resulted in votes being cast for candidates for whom the voters were not entitled to vote. Likewise, other voters were not given the opportunity to vote for their candidates. This election was invalidated and recast with valid results.

The March 2004 supervisorial election saw over 90 absentee ballots going to District 4 voters rather than the eligible voters in District 5.

Both of these elections resulted in courtroom proceedings and erosion of public trust. The trial relating to the March 2004 election confirmed the original winner, but exposed weaknesses in the Election Department. These weaknesses include failure to:

- adequately monitor the distribution of absentee ballots.
- safeguard paper ballot material returned to the Election Department.
- adequately perform testing of automated vote counting machinery prior to elections.
- provide written procedures, particularly as to "under marking" and "over marking" of incomplete ballots.

The Napa County Elections Department introduced touch-screen voting machines for the March 2004 election. While these machines were not a subject of the court proceedings in the March 2004 election, their use has generated controversy in Napa County and nationwide.

Methodology

Interviews Conducted:

Napa County Registrar of Voters
Election Department staff
Candidates in disputed elections
Members of the Elections Department Logic and Accuracy Board.

Documents Reviewed:

Secretary of State Kevin Shelley, Secretary of State's Ad Hoc Touch Screen Task Force Report. July 1, 2003
(http://www.ss.ca.gov/elections/taskforce_report_entire.pdf)

Sequoia Voting Systems, Inc. State of California Procedures Required for the Use of the 400C® Optical Scan Voting System. September 10, 2004
(http://www.ss.ca.gov/elections/091404_5b_p.pdf)

Napa County Board of Supervisors Elections Task Force. Task Force Final Report. November 21, 2004.
(<http://www.co.napa.ca.us/edm/Applets/ViewDocumentEx.asp?dochandle=109183>)

Procedure for Correction of Ballots Napa County Elections Department.
Several complaints to the Grand Jury.
Numerous newspaper and web page articles.

Observations:

A demonstration of Napa County's touch-screen voting machines.
Precinct worker orientation
November 2, 2004 election at precinct level through final vote tally at the Elections Department.

Inspection Completed:

Napa County Elections Department

Discussion

The Napa County Registrar of Voters has made wide-ranging changes in election procedures to eliminate problems that have plagued recent elections.

Absentee Ballots

Registrar of Voters has instituted a procedure to double check each absentee ballot before it is released to ensure that the correct ballot is delivered to the voter. Even with this system in place, a small number of incorrect ballots were distributed in the November 2004 election. With the increased attention to this area, the error was quickly discovered and the Registrar of Voters personally delivered the correct ballots to the affected voters.

Commendation:

The Napa County Registrar of Voters and the Elections Department are to be commended on the corrective actions they have taken.

Security at the Elections Department

The Registrar of Voters enclosed the ballot storage area and increased its security. A wall has been extended to the ceiling, blocking access to sensitive areas. Locks have been replaced and access to keys strictly controlled. Previously, 26 or more people had access to the ballot storage area. Now, only two people have keys, and only regular employees of the Elections Department can gain access during business hours. Camera surveillance with recording capability has been installed in this area. However, the Grand Jury noted during inspection of the Elections Department that some areas are still not secured from the rest of the building. Still, a person who manages to enter the building during non-business hours could climb over the office partition and gain access to voter registration cards.

Finding 1:

The Registrar and Elections Department have taken commendable steps in securing their offices and records. However, some partitions continue to allow potential access to sensitive areas.

Recommendation 1:

Registrar of Voters must extend all partitions to the ceiling on the perimeter of the Election Department's offices.

Response 1:

Napa County Registrar of Voters

Paper Ballot Procedures

Several complaints against the Elections Department related to the handling of paper ballots. According to the Registrar, problems arise because each election yields many paper ballots that have been marked incorrectly so that they are unreadable by machine. To indicate their choice on Napa's paper ballots, county voters must completely darken a segmented arrow icon in blue or black ink. Some ballots are returned on which voters do not completely darken the arrow although their intent is still clear. In other cases, voters mark an "X" after a candidate's name or ballot initiative instead of darkening the arrow, or mark the ballot with pink or purple ink, which is not machine readable.

Formerly, election workers were instructed to complete these ballots so they could be read by machine. In some cases, they were marking over the voter's original marks. Because some ballots were "over marked," it was impossible for officials to determine the intent of the voter's original mark during a recount.

The Registrar, with approval of the California Secretary of State, has written a procedure for the handling of these under-marked or mis-marked ballots. The procedure requires that the original ballot be retained without modification, and a duplicate ballot be made and linked to the original by a serial number. The duplicate ballot is then counted. Over marking of the original ballot is no longer permitted. This procedure was in place for the November 2004 Election.

The Napa County Board of Supervisor's Election Task Force has recommended several more changes relating to security and the appointment of a management level employee in the Registrar's Office who would report to the Registrar of Voters.

Finding 2:

The Registrar of Voters and the Elections Department have taken adequate steps to correct the cited paper ballots problems.

Logic and Accuracy Board

The Logic and Accuracy Board (L&A) is charged with independent testing of all electronic voting machines before elections so that any defective or malfunctioning equipment, or faulty procedures can be identified and remedied. These L&A duties date back to the very first punch-card voting systems. This three-person board currently comprises a retired county employee, a current county employee not working in the Elections Department, and a Napa citizen.

However, two of the L&A board members do work part time for the Registrar's Office during election periods, one as an instructor of precinct workers on the use of electronic voting equipment and the other in the Elections Department performing general tasks.

Until recently, L&A only had the duty of ensuring that machine voting is correct. Now their duties are spelled out in a document written by Sequoia Voting Systems, Inc. titled "State of California Procedures Required for the Use of the 400C Optical Scan Voting System". The California Secretary of State approved these procedures. Currently, L&A also determines that the touch-screen voting machines are correctly tabulating the vote and that the electronic count is correct. Logic and accuracy testing is a critical component in the use of touch-screen voting and other electronic voting equipment. A private company (Sequoia Voting Systems, Inc.), which is outside the jurisdiction of Grand Jury investigation, provides the equipment and software to Napa County. The Elections Department and Napa County citizens must rely on the representations of Sequoia Voting Systems as to the background and qualifications of employees that provide services for Napa County elections. Independent logic and accuracy testing is therefore the only method the Elections Department can use to guarantee that these services meet the high standards required by the California Secretary of State.

Finding 3:

The Grand Jury finds that Napa County has been well served by the members of the L&A Board. Although they are well motivated in the goal of providing free and fair election results and are competent in performing their duties, the Grand Jury questions the potential for conflict of interest when members also work for the Election Department.

Recommendation 3:

The Grand Jury recommends that Napa County Board of Supervisors, with the assistance of the Registrar of Voters and the current members of L&A Board, prepare written operating policies and procedures for the L&A Board including:

- expansion of duties and authority to include quality control of all Election Department activities.
- qualification of members.
- method of appointment and term of service of board members.
- compensation.
- description of possible conflicts of interest.

Response:

- Napa County Board of Supervisors

- Napa County Registrar of Voters

Chain of Custody

Finding 4:

While observing election-day procedures, the Grand Jury noted a lack of documenting the chain of custody of election equipment and materials from the time they leave the Election Department until they return. Equipment and materials include voting machines, voting machine electronic storage cards, paper ballots (both used and unused) and associated items.

Recommendation 4:

The Registrar of Voters should establish a policy for tighter controls in the “chain of custody” of voting equipment and materials before, during and after elections.

Response 4:

Registrar of Voters

Touch-Screen Voting

The Grand Jury reviewed procedures and practices relating to electronic voting using Sequoia Systems AVC Edge machines. No substantial problems have been reported with the touch-screen voting machines in either the March or November 2004 elections although some of the touch-screen machines were not immediately available in November due to a minor technical problem. The problem was resolved quickly, and affected machines were all in operation within an hour of the polls opening.

Perceived problems on the part of the voting public include unauthorized electronic access (hacking) of the touch-screen voting machines and the lack of a paper audit trail.

The Grand Jury concludes that unauthorized electronic access is highly unlikely. Voting machines are self-contained, not part of a computer network, and have no modem, wireless, or Internet access. The voter’s selections are written to a non-removable hard drive within the machine and recorded to two memory cards, one removable, one fixed. The removable memory card is located in a sealed area of the machine. At the end of election day, the seal on the machine is broken and the memory card is removed, transported and then counted at the secured counting room of the Elections Department. These memory cards can also be used to print each ballot cast. To comply with state statute, ballots are routinely printed from a percentage of the machines, manually counted and compared with

the machine count to ensure accuracy. In a disputed election, it would be possible to print out every ballot. Should one of the removable memory cards be lost, the vote information can be replaced by having a technician remove the second memory card from the machine or, should that fail, recall the information from the hard disk drive.

With the present system, the electronic ballot is reviewed on-screen and confirmed by the individual voter before it is recorded. Beginning in 2006, the electronic voting machines will have an individual printer to make a paper record of each vote cast. Mandated by California statute, this “paper trail” will allow each voter to see, approve and/or correct his or her ballot on a rolled paper form before leaving the voting booth. This written record will then be retained by election officials and used should a recount be necessary.

During the November 2004 election, Grand Jurors observed officials from the California Secretary of State’s office remove a randomly selected touch-screen voting machine from service just before the polls opened. The officials tested the machine and software by performing a mock election. They reported that the touch-screen machine passed all tests with a perfect score.

Finding 5:

The Grand Jury concludes that adequate procedures are now in place to provide reliable and auditable results using Napa County’s touch-screen voting machines.

Commendation:

Grand Jury commends the Registrar of Voters, election department staff and the L&A Board for updating and improving voting procedures and practices.

Napa County Jail Report

Summary

The Grand Jury completed the required annual inspection of the Napa County Jail. The Grand Jury's findings resulted in three areas of concern: inmate medical care deficiencies, unclaimed Inmate Welfare and Trust Funds, and inmate overcrowding.

Background

The Napa County Jail is a secure facility used for the detention of male and female offenders eighteen years of age and older. It is operated by the Napa County Department of Corrections (NCDC) and is supervised by its own director who reports to the Board of Supervisors through the County Executive Officer. The facility is staffed with officers from the NCDC, which is responsible for its operation in compliance with governmental regulations.

Napa County has a contract with California Forensic Medical Group, Inc. (CFMG) to provide medical and mental health services to the adult inmates. The contract includes an onsite medical director and a Registered Nurse (RN) who acts as program manager; services provided include psychiatry and dentistry.

Methodology

Interviews Conducted:

- Director, Napa County Jail
- Assistant Director, Napa County Jail
- Correctional Lieutenant
- Watch commanders
- Correctional officers (male and female)
- Office manager
- Registered Nurse, Medical Program Manger of the Napa Count Jail
- Inmates (male and female) (2)

Documents Reviewed:

- NCDC County Budget
- NCDC policies, procedures and forms
- Coroner's reports, including autopsy and toxicology testing
- NCDC inmate booking sheet
- Arrest/detention/complaint form
- Sheriff's narrative

Physical Inspection:

- Initial booking area
- Holding cells
- Sally port entry
- Male & female prisoners cells
- Sick bay
- Mental health cells
- Food preparation and dining areas
- Exercise area
- Visitation area

Discussion

When inmates are booked into the jail, procedures are in place both to handle their personal property and to obtain their medical information. Jail staffing includes a Watch Commander, a sergeant, a registered nurse and other correctional officers on each shift. The training of officers meets the state requirements for correctional officers and includes First Aid (FA) and Cardio-pulmonary Resuscitation (CPR).

Inmates indicated during interviews that they were generally well treated; however, several raised issues of concern relating to the quality of health care provided by CFMG. Problems cited include difficulty in getting prescribed medications, and timely, appropriate medical care. These complaints are echoed statewide by reports from other organizations, which use private contractors for health care in jails and prisons. The contracting agency is responsible for overseeing and assessing the quality of health care services.

Deficient Medical Care

The Grand Jury has investigated the circumstances of two deaths at the Napa County Jail. Death of inmate number one occurred in June 1999, and the second inmate died in October 2004. Although these incidents occurred five and half years apart, both the inmates lacked appropriate medical assessment and care.

In 1999 at the time of inmate death number one, the medical provider for the jail was Prison Health Services, while the current medical provider is California Forensic Medical Group (CFMG). As private companies, they are outside the investigational jurisdiction of the Grand Jury. Although different medical contractors were involved, they both employed licensed medical personnel who should have had the ability to assess, evaluate and respond to reported inmate care needs.

1. Inmate Death Number One

A local businessperson died of an intra-cerebral (brain) hemorrhage shortly after being released from the NCDC. He had left work early due to a severe headache, and was seen driving erratically. He was reported to the Napa Police Department (NPD), when his behavior became inappropriate (trying to shower in a neighbor's bathroom). He was arrested because police assumed his erratic behavior was due to intoxication. No breath or blood test was administered by either the NPD or NCDC to substantiate the presence of alcohol. This inmate was held at the jail from June 28, 1999 at 2:45 p.m. and released June 30 at 9 p.m. A witness reported that the subject was unsteady on his feet and staggering, but was able to walk and communicate with the police officers and NCDC staff when arrested. His condition deteriorated during incarceration. He was reported to be incontinent, drooling and incoherent. He also complained that he had a severe headache and that he could not move his legs. The inmate was seen several times by medical and psychiatric staff at the jail. At one point he was treated with Valium (a tranquilizer), and, when multiple bruises were noted, he was placed in a padded safety cell.

When the inmate was released, his spouse reported that he was unable to stand, walk or talk. A local hospital, to which he was transported by ambulance, later transferred him to a Sonoma County hospital. The man died on July 2, 1999, at 11:35 a.m. An autopsy confirmed brain hemorrhage as the cause of death.

2. Inmate Death Number Two

On October 22, 2004, an inmate, held by NCDC on a probation violation, stated during booking that he needed medication to control seizures. The inmate did not have the prescribed medication when arrested. Records indicate that the inmate asked for his seizure medication several times during incarceration, but no medication was provided. Thirty-two hours after his incarceration, the inmate was found dead in his cell. The coroner's report attributed death from "seizure disorder". Laboratory reports concluded that he had been on anti-seizure medication, but that the concentration present at the time of death was at the low

end of therapeutic level. The coroner's report further states that no anti-seizure medications were given to him during his incarceration.

Finding 1:

The death of two inmates in the Napa County Jail indicates that medical assessment, evaluation and subsequent care were inadequate.

Recommendation 1:

The NCDC must review policy and procedures to ensure every inmate gets appropriate medical assessment, evaluation and care, including the prompt provision of prescribed medications.

Response:

- Napa County Board of Supervisors
- Napa County Department of Corrections, Director

Finding 2:

The Grand Jury finds insufficient oversight and management of Napa County Jail health care operations by NCDC.

Recommendation 2:

NCDC must regularly monitor inmate health care to ensure appropriate assessment and health care, and must hold the medical services contractor fully accountable.

Response:

- Napa County Board of Supervisors
- Napa County Department of Corrections, Director

Finding 3:

Correctional guards need additional training in understanding medical conditions in order to recognize when signs/symptoms could potentially be a signal of a medical need or crisis.

Recommendation 3:

The NCDC must provide education to correctional officers in recognizing the health-care needs or crises of inmates.

Response:

- Napa County Board of Supervisors
- Napa County Department of Corrections, Director

Inmate Welfare Trust and Inmate Cash Trust

As of June 30, 2004, Napa County held \$452,592.86 in the Inmate Welfare Trust and \$199,998.96 in the Inmate Cash Trust. The funds accumulated in the Inmate Welfare Trust are the result primarily of net profits from the operations of the jail commissary and inmate telephone service. The funds in the Inmate Cash Trust are mostly from funds surrendered by inmates in the county jail and juvenile hall at time of booking. Often when inmates leave the jail, they fail to claim funds that are held in trust by the county. Some of these funds have been held in trust for decades, and in the last year, the county has made good faith attempts to locate the individuals owed funds from this trust. The funds, which remain unclaimed after sufficient notice, will be placed in the Inmate Welfare Trust. It is anticipated that approximately \$140,000 will be transferred in late 2005, expanding this trust to approximately \$590,000.

Finding 4

Napa County holds approximately \$590,000 in the Inmate Welfare Trust.

Recommendation 4:

Using the Inmate Welfare Trust, NCDC should provide programs to directly aid inmates. These might include expanded counseling services for drug, alcohol, and anger management problems; housing assistance for released homeless inmates; work release and home detention programs; and vocational training and placement services.

Response:

- Napa County Board of Supervisors
- Napa County Department of Corrections, Director

Jail Overcrowding

The Napa County Jail is consistently at or above its designed capacity of 250 inmates. There is very little hope to control the overflow until the facilities are expanded. The Napa County Sheriff's Department has recently moved into a new facility near the Napa County Airport, thus freeing up space in the same building now used by the jail. Also, during inspections, the Grand Jury noted that the jail was holding eight inmates from Napa State Hospital (NSH). Of these inmates, one has been in the jail for nearly a year, and two require that two officers must be present when the cell door is opened.

Finding 5:

The Napa County Jail is overcrowded and needs to expand.

Recommendation 5:

The Napa County Jail should expand by using the space vacated by the Sheriff's Department. The Napa County Probation Department, working with the cooperation of the county courts, should seek to expand home detention and work release programs as an alternative to incarceration.

Response:

- Napa County Probation Department
- Napa County Board of Supervisors

Finding 6:

NSH inmates often require additional guard support and contribute to the overcrowding at the jail.

Recommendation 6:

NSH inmates should be transported to and from the court directly from the hospital, where their needs are best served. This would also help relieve overcrowding, by increasing the jail capacity by three percent.

Response:

- Napa County Department of Corrections
- Napa County District Sheriffs Department

Napa County Juvenile Hall Report

Summary

Spring 2005 marks the opening of Napa County's new Juvenile Justice Center. Built on property adjacent to the 50-year-old building it replaces, the new building more than doubles the capacity of the older structure, which, despite its age, is clean and well maintained. As a result of its investigations, the major issues noted by the Grand Jury include both positives and negatives. The Grand Jury concluded that the daily operations of the hall are carried out in a competent and professional manner. However, the jurors were concerned that the Probation Department, the county agency in charge of juvenile hall, appears to lack systematic evaluation of its program effectiveness and that the planned expansion of juvenile hall staff may not be justified in light of the already high costs of operating the new, larger facility.

Background

Present Facility

The Napa County Probation Department operates the juvenile facility to house all male and female detainees under the age of eighteen in a secured facility. Opened for detention of minors in 1954, the current building was designed to house 26 detainees although it has held up to 43. The Napa County Chief of Probation manages the juvenile hall with a staff of twenty-three department employees.

New Facility

At the time of the Grand Jury investigation, the new juvenile hall was still under construction with completion scheduled for late spring of 2005. More than doubling the capacity of the older building, this new facility can house up to 60 detainees. It has holding and reception areas and two housing pods of thirty beds each, one for low-security and one for high-security detainees.

Methodology

Interviews Conducted:

- Chief of Probation
- Superintendent, Napa County Office of Education
- Juvenile Hall Superintendent
- Senior Counselors
- 5 Group Counselors
- 4 Female Detainees
- 2 Male Detainees
- Director of Nursing
- Head Nurse
- Floor Nurse
- Cook

Documents Reviewed:

- Proposal for Local Juvenile Detention Facility Construction Grants Juvenile Facility Funding Application Form-FY 2000-2001 In Response to RFP Issued September 21, 2000, dated February 20, 2001 (Includes Resolution No. 01-19 Napa County Board of Supervisors).
- Napa County Budget
- Napa County Office of Education Budget
- The California Board of Corrections Monthly and Quarterly Juvenile Detention Surveys for Napa County, covering the period from January, 2004 through March 2005.
- Napa County Probation Department Mission Statement and Goals

Inspections Completed:

Over the course of the year, the Grand Jury conducted one scheduled visit and several other unannounced inspections of Juvenile Hall, including both the old and new buildings.

Discussion

Daily Operations

The Grand Jury's interviews with department staff and observations of conditions in the county's juvenile facility confirmed that the county is fulfilling its duty to care for the young people housed there in a competent, professional and humane manner. The detainees were neatly clothed and well fed. The medical facility is fully staffed and jurors observed a plaque in the medical room certifying that the Institute for Medical Quality's (IMQ) Corrections and Detentions Health Care Accreditation

Committee awarded Napa County Juvenile Hall the "ACCREDITATION WITH SPECIAL RECOGNITION" of the health care delivery system at the hall. The accreditation covers a two-year period beginning December 2003.

Recreation activities for detainees in the old facility were somewhat limited, but the new building will offer a wider range of activities. The hall's fire safety plan was found to be current, with placards properly displayed. The detainees can be visited by family members and, if necessary, by legal counsel on a regular basis. Interviews with detainees confirmed that they were well treated, had positive impressions of the staff, and felt safe in the facility. At least two full-time counselors are always on duty, and all staff members receive at least 40 hours of continuing education annually. The rules of the facility, based on a policy of rewarding positive behavior, are reviewed daily, with written copies given to each detainee.

Finding 1:

The Grand Jury found the day-to-day operations of the county's juvenile hall to be conducted in a professional and competent manner. The "accreditation with special recognition" awarded to the hall's medical staff is especially worthy of mention.

Commendation 1:

The Grand Jury commends the staff of the juvenile hall for exemplary performance in the day-to-day operations of the facilities.

Department Planning and Evaluation

The Quarterly Detention Surveys filed with the California Board of Corrections for 2004 reveal an abundance of statistics about the way the Juvenile Hall is used. The detainees' average length of stay ranged from a little less than two weeks (13.6 days) the first quarter of 2004 to a high of more than three weeks (22.4 days) in the fourth quarter of last year. On average, 33 detainees were confined in the hall in 2004. These statistics confirm that the hall is used for short to medium-term detentions only, with detainees being transferred to other facilities like work camps or group homes. Given that the capacity of the old facility was 26 detainees, the 2004 average of only 33 detainees led jurors to attempt to determine what justifications led to the construction of a 60-bed facility. Interviews with top administrators of the department and study of *Proposal for Local Juvenile Detention Facility Construction Grants Juvenile Facility Funding Application Form-FY 2000-2001 In Response to RFP Issued September 21, 2000, dated February 20, 2001 (Includes Resolution No. 01-19 Napa County Board of Supervisors)* revealed that planners increased county population estimates by twenty percent over the figures derived from standard statistical formulas used by the state to predict population growth. The reasons for these estimates remain unclear to the Grand Jury. These

issues led the Grand Jury to ask questions about the increased costs to the county by doubling the size of juvenile hall.

Several senior county officials were questioned about the cost-per-day to house a detainee both at the current facility and at the newly constructed facility. Further questions were posed as to the need for a facility to house up to 60 detainees. When the Grand Jury repeatedly found no answers to these questions, the members realized that the county may not have compiled the statistics which the Grand Jury requested. Working on that assumption, the Grand Jury assembled its own estimates using county budget reports. The total cost of incarcerating juvenile offenders is spread across the budgets of several departments including Probation, Public Works and the Napa County General Fund.

The table below shows the Grand Jury's cost estimates per juvenile detainee.

Budget periods	2003-2004	2004-2005	Increase (Decrease)
Salaries & Employee Benefits ¹	1,530,283	2,168,234	637,951
Services & Supplies, Other Charges	288,849	458,655	169,805
Medical Services	191,532	208,578	17,046
Total Expenses	\$2,010,644	\$2,835,467	\$824,802
Cost per Detainee/Day ²	\$166	\$235	\$69
Cost per Detainee/Year	\$60,590	\$85,775	\$25,185

¹ From proposed county budget. It reflects the completion of the new building and hiring nine additional staff as approved by the Board of Supervisors for the 2004-2005 budget. As of this writing, the Grand Jury has been informed that the Board of Supervisors is considering increasing the total number of positions to fourteen, an increase of fifty percent over the prior year.

² Average detainee population of 33 times 365 days equals 12,045 detainee/days. (The average population of detainees was given to the Grand Jury by Probation Department officials.)

The Grand Jury realizes that the current Juvenile Hall had reached the end of its useful life and needed to be replaced. However, as far as the Grand Jury was able to determine, the 60-bed capacity of the new facility is not based on any anticipated or current need to house juvenile offenders. The Probation Department's own statistics show that the average population of the hall has remained relatively stable. For the last 15 months, it averages 33 detainees per night with some seasonal and monthly fluctuations where the number of detainees climbed to as high as 43.

Further, the Napa County Supervisors have approved several new staff positions to operate this facility because the design incorporates two separate units. The proposed county budget for 2004-05 indicates that nine new staff members will be added. Discussions are underway at this writing between the Probation Department and the Board of Supervisors to increase the new positions to fourteen, which is a staffing increase of fifty percent.

Finding 2:

According to the Grand Jury's own estimates shown in the table above, the costs will increase by nearly a third (approx. 30%, by the Grand Jury's estimates) when the new facility opens. Given a relatively stable average population of 33 detainees, the Grand Jury questions the initial need and costs for fourteen new staff positions.

Recommendation 2:

County officials should reconsider increases in staffing until the average number of detentions rises sufficiently to justify the added personnel.

Finding 3:

The department was unable to provide financial records of the daily cost per bed of housing juvenile detainees.

Recommendation 3:

In order to better control staffing and budgets, County officials must regularly calculate the daily and annual cost per bed of housing juvenile detainees.

The Department of Probation budget report alludes to the department's strategic plan and measurable goals. However, when the Grand Jury requested a copy of the strategic plan, members were told none existed, and instead were provided with a brief list of eleven departmental goals. It does not appear to the Grand Jury that a comprehensive evaluation process of the operations and programs associated with Napa County Juvenile Hall exists. In the absence of regular program evaluations, including statistics on rehabilitation and recidivism rates for detainees, it is impossible to determine if the Department of Probation and Juvenile Hall are meeting their goals. The only regular statistics currently being compiled by the department are the monthly and quarterly detention population numbers mandated by the California Department of Corrections.

Finding 4:

Without a strategic plan, the Department of Probation and Juvenile Hall neglect long-term planning, goal-setting and evaluation of program effectiveness.

Recommendation 4:

The Department of Probation must immediately develop and implement a comprehensive strategic plan, including long-term goals and evaluation methods.

Responses 2 - 4:

Napa County Juvenile Hall, Director

Napa County Probation Department, Director

Napa County Board of Supervisors

Student Health and Safety in Middle and High Schools

Summary

The Grand Jury was charged to investigate the Napa Unified School District (NVUSD) facilities. To narrow the topic, the Grand Jury chose to concentrate on the health and safety of students on middle and high-school campuses. Generally, the Grand Jury found the campuses to be safe places for students, while recognizing there are always areas in which to improve. However the NVUSD's support structure to maintain the daily health and safety of all students was found deficient. In exploring the selected topic, the Grand Jury discovered serious problems in the following five categories.

1. Campus Security and Safety
2. Emergency/Disaster Plans
3. Food Safety
4. Student Health
5. Administrative Management

In the current climate of decreasing budgets, reduced staffing and overcrowded schools, the Grand Jury acknowledges the many challenges facing the NVUSD. The Grand Jury was told that student test scores, which increase school funding, are NVUSD's number one priority. Meanwhile student health and safety is being compromised by lack of management and oversight, and of financial expenditure for school needs by both the administrative staff and the Board of Trustees. The Grand Jury charges the NVUSD and Board of Trustees to institute an aggressive and unbending policy of putting safety first.

Background

Current and expected future population increases in the cities of Napa and American Canyon already have and will continue to aggravate forced overcrowding of all the district's secondary schools beyond their designed capacities. This situation, plus cutbacks in school funding and increased emphasis on student academic performance to meet state and federal mandated standards, led the Grand Jury to be concerned that health and safety in the schools was being compromised. During the past year, the Grand Jury studied current health and safety policies, procedures, and activities at Napa, Vintage, and New Technology high schools; and at Redwood, Silverado, Harvest, and American Canyon middle schools.

Methodology

Interviews conducted:

NVUSD Administration Staff:

- Superintendent of Schools
- Assistant Superintendent of Business Services
- Director of Student Services
- Director of General Services and Facilities
- Director of Food Services
- Coordinator of Prevention Education
- Supervisor of Maintenance and Construction
- Supervisor of Operations and Safety

NVUSD School Staff:

- Principals
- Vice-Principals/Assistant Principals
- Dean of Students
- Napa Police School Resource Officers (SRO)
- Safety Plan Representative
- Health Services Assistant: Licensed Nurse (RN or LVN)
- Head Custodians
- Teachers

Napa Police Department: Police Chief

Fire Departments:

- Napa City: Fire Chief
- Fire Marshall
- Fire Prevention Officer

American Canyon: Fire Chief

Napa County Environmental Health Department:

- Environmental Health Inspector

Documents reviewed:

- NVUSD: Organizational Chart
- Budget for 2004-05
- Job Descriptions
- Medication Policies
- Student Expulsion and Suspension reports
- Safety plan template
- Maintenance Work Order Forms
- District's Safety Plan

Napa County Office of Education (NCOE)
NVUSD Auditor's Report
Resource Guide for Parents booklet
School Safety Plans
Student Survey
Parent Handbook and Survey
Facts on Gangs Brochure
Incident Report

Fire Department:
Inspection Forms and Fire Codes
School Fire Inspection Reports for previous years
Standardized Emergency Management System Policy

Napa County Environmental Health Department
Inspection Forms
School cafeteria/kitchen reports

Multiple newspapers' articles

Internet:
National Association of SRO website
NCOE website School Security.org
State Office of Education:
Education Codes
Williams Act

Inspections completed:

The Grand Jury did a full-school, on-site physical inspection at each of the selected secondary schools.

Discussion

As noted above, the Grand Jury's investigation of health and safety in the NVUSD is reported under the five selected categories.

Campus Security and Safety

1. School Resource Officers

School Resource Officers are police officers, assigned to protect schools and to assist the administration by managing disruptive or criminal activities; deterring

misconduct by high visibility on campus; being both a resource and a counselor to students, faculty and families; contributing to safety plans and strategies and educating students and staff. Faced with overcrowding, gang violence, drugs and other illegal activities in the schools, the School Resource Officers (SROs) are an invaluable aid to maintaining an orderly, positive and academically productive campus atmosphere. School administrators and SROs repeatedly acknowledged in their Grand Jury interviews that student behavior improved significantly when SROs are present.

Current SRO staffing is troubling because it is inequitable, with the majority of schools suffering from cuts in service. The Grand Jury determined that these cuts were and continue to be crippling to the program's two basic purposes, to increase campus security and to improve relations between the police and the secondary school community.

Two grants, one to the Napa Police Department (NPD) and the other to the NVUSD jointly fund the SRO program. All Napa city secondary schools, except one, had full-time SROs until two years ago when SRO staffing was cut in half for unexplained reasons even though the program grants were fully funded. The SRO program is in jeopardy, partly because the NPD failed to reapply for their portion of the grant last year and because the state's financial crisis threatens the future of the district's half of the SRO funding.

Cutting the SROs campus time in half diminishes their service and results in concentrating the officers' attention only on problems. Officers are unavailable to teach critical drug, alcohol and gang prevention programs. More importantly, the SROs lack time to interact informally and positively with students outside of the classroom, activities which are the very essence of modern community policing policies.

In a positive development in early 2005, the Napa County Sheriffs Department, partnering with Solano County, obtained funding for a full-time SRO at American Canyon Middle School. As a result, at the time this report was written, the school district is in the inequitable position of offering full-time SRO staffing to students in only one of its secondary schools; the other five schools in Napa continue to make do with half-time officers on their campuses while one high school still has no SRO at all.

Through a number of administrator interviews, the Grand Jury heard that youth gangs are increasing both in membership and in violence and vandalism. The Grand Jury learned that youth gangs begin recruiting members in the middle schools, then continue their activities in the high schools where violence and vandalism are the inevitable result. These trends are supported by findings reported from a Student School Safety Survey conducted this year by the Dean

of Students at one of the high schools. High-school students representing a range of ages and abilities were polled on the extent to which (none, minimal, moderate, extensive, and don't know) a range of illegal activities exists in their school and neighborhood. While acknowledging that 260 replies is a modest sample of student responses, the Grand Jury believes that the survey results remain significant:

- 30-40% reported moderate levels of: graffiti, gang activity, truancy, illegal drug and alcohol use, crime (theft, extortion, hazing), vandalism, bullying/intimidation/harassment, suspensions/expulsions, fights/conflicts and assaults.
- 40% reported extensive levels of: illegal drug and alcohol use, and truancy.

Finding 1:

Full-time SRO staffing on every secondary school is crucial to student health and safety.

Recommendation 1:

Both the NPD and NVUSD must restore full-time SRO staffing for every secondary school.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- Napa Police Department, Police Chief

Finding 2:

Funding to support each secondary school having a full-time SRO is in jeopardy.

Recommendation 2:

NPD and NVUSD must make obtaining adequate funding for a full-time SRO in every middle and high school a top priority.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- Napa Police Department, Police Chief

2. Campus Staffing

Campus Supervisors are non-credentialed staff whose duties include oversight and monitoring of student actions and interactions on campus, especially at break and lunch time, plus before and after school. With yearly increasing student population, and a new high school in American Canyon not projected to open until 2010, the NVUSD must ensure that each secondary school has sufficient campus supervisor positions in addition to a full time SRO. Instead, the school district has decreased these campus supervisor positions, resulting in added student safety risk. The one high school without an SRO is also without a campus supervisor. Just a few years ago, for a student body of about 1,200 students, *two* deans of students supported campus supervision. Today a single dean is responsible for four times the number of students. Next year deans may be required to spend a quarter of their time teaching, further limiting their availability to oversee an increased number of students.

NVUSD statistics show that both student suspensions and expulsions have increased. In two schools suspensions have doubled, increasing from 273 to 469 and from 251 to 514. The top two reasons for suspensions (cited by number of incidents) were: Disruption/Defiance (from 84 to 195 and from 58 to 241) and caused/attempted/threatened injury (from 55 to 141 and from 59 to 100). A third reason, possession of a controlled substance increased in one high school from 35 to 62. Expulsions in one affected school increased dramatically, from 2 for battery and weapon possession, to 23 for weapon or knife possession, mutual combat, danger to others, substance possession and receipt of stolen property. The Grand Jury concludes that the deficit in SROs, Campus Supervisors, and Deans of Students, compounded by continued growth in student population, will adversely affect student health and safety.

Finding 3:

While the yearly student enrollment has increased dramatically, causing significantly overcrowded campuses, NVUSD secondary schools have had a decrease in both Campus Supervisors and SRO staffing, and an increase in violence and vandalism. One school has never had either an SRO or Campus Supervisor.

Recommendation 3:

NVUSD must commit to an appropriate ratio of campus supervisors to student population at all secondary schools. The Dean of Students position must not be compromised by requiring added teaching duties.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools

3. Fire Safety

The Grand Jury discovered several major deficiencies in school fire safety with regard to fire inspections, fire extinguishers and equipment, and school fire alarms.

No annual fire inspections have been completed in three selected Napa city secondary schools for more than 18 months, with the other three campuses going beyond two years without an inspection. Equally serious was the complete lack of awareness by the Napa Fire Chief and all NVUSD administrators, directors or supervisors responsible for safety inspections. The Fire Marshall cited several reasons for the department's failure to inspect schools, including priority given to inspecting new buildings, and decreased staffing.

The Grand Jury also found a significant number of fire extinguishers on school campuses that had not been annually recharged, or were not in their specified locations. On one high-school campus, the Grand Jury found an entire science wing, an acknowledged high fire risk area, where none of the extinguishers had been recharged or inspected.

A student practicing welding in a high-school metal shop accidentally ignited his clothes, suffering second and third degree burns. Missing fire-safety equipment contributed to the severity of his injuries because the classroom lacked the kind of fire extinguisher that can be sprayed directly on a person. Also missing were fire blankets, as well as a sufficient number of fire-protective suits and eyewear that must be worn by welding students to prevent such accidents. After repeated requests for an explanation by the Grand Jury, staff indicated that insufficient NVUSD budget was the reason for the lack of appropriate fire protective equipment and clothing.

Although the NVUSD does have policies in place for students to practice emergency drills, a number of secondary school campuses do not have fully functioning emergency alarm systems. Warning bells are inaudible and/or inoperative in some parts of some campuses, posing a significant threat to students' safety in case of an emergency.

Finding 4:

Annual fire inspections of Napa secondary schools were not conducted for more than 18 to 24 months.

Recommendation 4:

NVUSD staff must both immediately request fire inspections be conducted and develop a tracking procedure to ensure they are completed annually. Equally, the Napa Fire Department must conduct annual school fire inspections, and work with the NVUSD to ensure they are completed each year.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of General Services and Facilities.
- Napa Fire Department Fire Chief
- Napa Fire Department Fire Marshall

Finding 5:

Fire extinguishers were found outdated and missing from their designated locations. Critical fire prevention equipment was missing from shop classrooms, including fire blankets, protective clothing and eyewear, and appropriate type fire extinguishers.

Recommendation 5:

NVUSD must ensure that all outdated extinguishers are recharged now and annually, and that they are maintained in their designated locations. NVUSD must obtain classroom-specific safety equipment and enforce policies requiring the use of protective equipment by students.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of General Services and Facilities

Finding 6:

Inoperative and/or inaudible fire alarms exist on some campuses.

Recommendation 6:

NVUSD must immediately repair or replace non-functioning fire alarms.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of General Services and Facilities

Emergency/Disaster Safety Plans

Individual school safety plans are inconsistent with the NVUSD safety plan. Specific elements found in the district's plan, but missing in the schools' plans are:

- lockdown procedures: how to barricade unlockable doors, assume safe personal body posture in the classroom, be safe if outside a classroom, signal if medical help is needed in a locked classroom, know code words to signal "okay to unlock".
- communication guides: available tools and devices, coordination with public safety agencies, emergency phone numbers for NVUSD and local support resources, and communication with parents.
- evacuation center: the location where parents can retrieve children.
- bomb threat data: checklist and identification information.

School safety plans, alarm and code signals, and behavior directives vary extensively from one school safety plan to another. The comprehensiveness and quality of individual school emergency plans range from very detailed to quite sparse. Functional safety improvements learned from actual events at one school are not shared with other schools. This great diversity and inconsistency in the multiple safety plans throughout the schools would lead to mass confusion in the event of an actual disaster. Additionally, as students graduate or transfer, and staff move from one school to another, they should not have to re-learn new safety signals or codes for each school.

Both the NVUSD and each secondary school reviewed are non-compliant with the California Government Code, Section 8607. This code, occasioned by the Oakland Hills Fire in 1991, became law on January 1, 1993, and "requires state and local governments and special districts such as schools, to respond to disasters using the Standardized Emergency Management System (SEMS)." Neither the schools' plans nor the District plan follows SEMS. The District Safety Plan template incorporates some SEMS elements, indicating initial knowledge but lacking full implementation. SEMS is a statewide, universal response system,

enabling all state fire, police, schools, and any outside entity to work seamlessly in responding to a disaster. The required compliance with this state law will resolve the current incongruent issues with the various schools' and NVUSD's safety plans.

In this post-Columbine era, two Napa schools already have been forced to deal with armed intruders on campus. To protect students from campus intruders, all safety plans must include a lockdown procedure that requires teachers to lock students safely inside classrooms. To implement this "shelter-in-place" procedure, teachers can lock the majority of NVUSD classroom doors only from the outside, exposing both teachers and students to potential danger.

Finding 7:

NVUSD and all its schools are non-compliant with California Government Code, Section 8607 requiring schools to respond to disasters using the Standardized Emergency Management System (SEMS).

Recommendation 7:

With highest priority, NVUSD must work with Napa Fire Department Prevention Bureau to implement SEMS in every school and in the district's safety plan within the 2005-2006 school year.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of Student Services

Finding 8:

Inconsistent alarm and code signals in different schools put students at risk.

Recommendation 8:

NVUSD must establish identical alarm and code signals in all schools.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of Student Services

Finding 9:

External classroom door locks pose an unacceptable risk to students and staff in a lockdown emergency.

Recommendation 9:

NVUSD must change classroom door hardware to allow for safe lockdown in case of emergency.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of General Services and Facilities

Food Safety

The Grand Jury inspected food service facilities at all the secondary schools. An outside contractor using district employees provides NVUSD food service. The Grand Jury found two serious food safety incidents. In both situations, NVUSD failed to obtain the required Napa County Environmental Health Permits for operating a school kitchen and for school food sales.

One high school, which opened in 1996, has been both preparing cafeteria food and bringing in food from outside sites without ever having obtained county health permits, and without required subsequent annual kitchen inspections. NVUSD administration was unaware of this operating, unlicensed school kitchen and cafeteria. The Napa County Environmental Health Inspector found the kitchen having multiple violations and serious safety issues (deficiency: -26 points which is a C/D grade). As a short term solution, until full compliance for complete school kitchen licensing is completed, the school was directed to apply for a permit as a satellite food distribution facility. This permit legally restricts the school to serve only food prepared in NVUSD's off-campus kitchens. Another high school campus had an unlicensed student-run food preparation program selling food to students. This student food preparation program is suspended pending the granting of the required environmental health permits.

Finding 10:

The Grand Jury found non-compliance with food safety standards and missing Napa County Environmental Health permits on two high-school campuses.

Recommendation 10:

All NVUSD schools must comply with all food safety standards. District staff responsible for food operations, and staff responsible for completion of annual inspections, must develop policies and tracking systems to ensure legal

compliance. School administrators and staff must be trained in basic food safety standards to recognize and ensure compliance on campuses.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of Food Operations
- NVUSD Director of General Services and Facilities

Student Health

1. Staffing for Student Health Services

NVUSD has five credentialed school nurses (a RN certificated in School Nursing), one of whom is responsible for all secondary schools. Though rarely on campus, the school nurse oversees health care and supports the on-site school Health Services Assistant (HSA, or health clerk). The HSA administers first aid, maintains student health records and provides logistical and clerical support with mandated health screenings, immunizations, and notification of communicable diseases. HSAs must be certified in First Aid (FA) and Cardio-pulmonary Resuscitation (CPR). Although not required to hire nurses, the NVUSD has a Registered Nurse or a Licensed Vocational Nurse in four of the seven secondary schools; however, one school doesn't even have a trained and certified HSA.

When the HSA is absent (They work a maximum 25 hour-week.), untrained clerical staff provide health care. Besides the HSA, only physical education teachers and coaches are required to be FA and CPR-certified. The result is that certified staff are not always guaranteed to be available on campus during emergencies, a deficiency which will be remedied when SEMS is fully implemented.

One additional student health-care concern identified by the HSAs, is the increased enrollment of impoverished, medically needy students without health insurance, which has changed their practice by raising significantly both the level and volume of their professional responsibilities.

Finding 11:

FA and CPR-certified staff are not always readily available on campuses when students are present, risking students' health and safety.

Recommendation 11:

Implement SEMS, which requires that FA and CPR-certificated staff be available on campus when students are present.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of Student Services

2. Medications

The storage and dispensing of prescription medicines to students requires detailed, specific procedures to ensure safety. According to NVUSD medications policy, “designated personnel,” who have no specific required training, can “assist” students in taking medication, and can “assist the student in monitoring, testing, or other treatment of an existing medical condition.” The only training required by the NVUSD’s medication administration policy is for staff to be annually trained in the use of “auto-injectors” (Epi-pens for anaphylactic reactions) and for all staff to receive annual training in the recognition of signs and symptoms of anaphylactic reactions. The NVUSD was unable to provide the Grand Jury with documentation of such training within the past two years. The licensed nurses, as HSA’s, report many students are on oral and injectable medication requiring oversight and/or administration. The Grand Jury is concerned that when the licensed nurse is unavailable, clerical staff become the untrained ‘designated personnel’.

During its physical inspections of campuses, the Grand Jury found several instances of unsafe storage and handling of student prescription medications, namely storage in unlocked cabinets, in open and unlocked containers, and in unlocked, unsupervised areas.

Finding 12:

Unsafe storage of student prescription medications was found on several campuses, and NVUSD policy allows for non-trained staff to assist students with medication, as well as with monitoring, testing or providing medical treatment. NVUSD lacked records of required annual training in auto-injector medication and anaphylaxis reactions.

Recommendation 12:

NVUSD must provide new written policies and procedures to be implemented immediately:

- 1) Credentialed School Nurse or Licensed Nurse must:

- annually train the health clerks and designated staff to store and dispense student medication safely.
 - oversee the health clerks and designated staff to ensure policies and procedures are followed.
 - train the health clerk and designated staff to assist students as needed with any individual specific monitoring, testing, or medical treatment.
- 2) Documentation of all required training will be maintained in both district records and in individual employee files.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent
- NVUSD Director of Student Services

Administrative Management

1. Napa Valley Unified School District

After conducting interviews with all NVUSD and secondary school administrative staff, the Grand Jury realized that both district and school site administrators work in almost total isolation from one another, devoid of effective oversight, communication, and management. This insularity exposes the district to unnecessary liability and puts students and staff in jeopardy.

Under the current NVUSD administration, full operational responsibility is delegated to the site administrators, who are expected to lead their schools with minimal NVUSD support and supervision. Additional incidents of concern to the Grand Jury include the following:

- a site administrator drove a critically ill student to an emergency room in a personal car in lieu of calling 911.
- an administrator independently handled an act of student violence outside of the jurisdiction of the campus SRO who learned about the incident only when the student’s parents complained, demanding legal remedies.
- members of the Grand Jury observed a student riding on the hood of a moving car in the school parking lot because the campus lacks supervision having neither a Campus Supervisor nor a SRO.

- two principals directly stated that it is “understood” that it’s useless to ask for district assistance due to NVUSD’s volume of work and diminished staffing.
- one custodian reported having to solicit private family assistance to remove hazardous material because of a lack of response to repeatedly submitted NVUSD work orders.

Minimal supervision and accountability also exist within the NVUSD at the district operations level. Highest-level district administrators were unaware of many of the findings cited above, most of which were the direct responsibility of a district director or supervisory staff. The most significant ones include:

- the lack of Napa secondary school fire inspections for the past 18 to 24 months.
- multiple fire extinguishers not annually updated or missing/out of place; shop classroom missing appropriate safety equipment and adequate type of fire extinguisher.
- campus cafeteria and kitchen not being licensed by Napa County Department of Environmental Health.
- student-prepared food sales on campus without health permit.
- lack of compliance with state law mandating SEMS disaster plans.
- district administrative staff failed to demonstrate to the Grand Jury evidence of any systematic reporting, or of checks and balances to minimize liability and ensure student safety.

Additional factors affecting the compromised health and safety of students include the following considerations:

- **Management Structure:** The NVUSD administration restructured in 2003 from a hierarchical or multi-tiered design to a one level, collaborative model, similar to consulting firms. As reported in the local newspaper on January 11, 2004, this change placed more autonomy on the individual schools, with the goal of streamlining access to district staff. However, the trade off means that school administrators no longer report directly to a district administrator. They can now *choose* to share information with the

district, even serious events like accidents, which require calling 911. School administrators were all originally trained as teachers, and their main focus remains, as it should, the education of students. While recognizing that the intent of the restructuring is to allow school administrators direct contact with all district staff, the Grand Jury is concerned that the consulting model discourages school administrators from seeking the expertise of the superintendent and his staff in operational matters such as security, crisis management, and student safety. This restructuring also promotes a lack of management, oversight and accountability by the district office with the diminished direct reporting exacerbating the leadership void.

- **Management Style:** A repeated theme voiced by the majority of the schools' leadership staff is twofold: 1) the primary focus is on test scores and 2) there are severe reductions both in the budget and in staffing throughout the district. The constant message is the lack of money to obtain and support the many reported items and needs for student safety, from full-time SROs and appropriate number of campus supervisors, to safety equipment in the classroom and school maintenance. This repeated message to the schools and to the students is to 'do more with less'. It starts with overcrowding school facilities, with substantial increase in student enrollment each year "managed" by temporary classrooms, but without an increase in bathroom facilities. The recent Williams vs. Board of Education decision speaks to this very issue of overcrowded schools with inadequate, unclean and unhealthy school facilities in disrepair.

The Grand Jury thinks that instead of spending funds on reactive or "fix it" maintenance work, that the district consider shifting funds to proactive or "prevent it" staffing. If given sufficient SRO and Campus Supervisors to oversee students, repeated vandalism of bathrooms would most likely diminish, which in turn would reduce the maintenance team staffing hours (more than 80 painter hours each week) and materials now spent to fix the same bathrooms repeatedly, all with safer overall outcomes for students.

- **Financial Management:** NVUSD has a serious record of being poor debt collectors as evidenced in the second interim auditor's report presented at the School Board of Trustees' meeting March 18, 2005. The District has records which identify potentially uncollectible accounts receivable of about \$700,000 from 1999 to present. In addition, the auditor's reports evidenced deficit spending in many areas, exacerbating the poor fiscal condition of the district. Certainly, state funding cuts contribute heavily to the budget crisis, but the apparent gross mishandling of billing and receiving of monies owed from outstanding invoices inside and outside the district is under the direct control and responsibility of the NVUSD.

While the current Superintendent of Schools, who was hired in November 2002, inherited this accounting problem, it is also under his stewardship that this financial debt has been allowed to continue and accrue. The recent auditor's report did state that new accounting procedures are being designed. However the fact that no corrective action has been taken for three years illustrates NVUSD's leadership and management problems.

- **NCOE Management:** The Napa County Office of Education (NCOE) is a "multifaceted agency mandated by the State constitution to act as a go-between the State Department of Education and local school districts, and as a State-empowered monitor of district personnel and fiscal practices". As State Department of Education liaison, the NCOE should have known about and required NVUSD implementation of state-mandated SEMS. With the regularly scheduled fiscal audits of the NVUSD, the NCOE should have identified the significant accounts receivable deficits and deficit spending years ago. Practicing sound management principles, NCOE should have immediately insisted on a policy and procedure change stopping the financial mismanagement.

Finding 13:

NVUSD staff at both the district and school levels are placing students at significant health and safety risk, as evidenced by the lack of communication, supervision, management and accountability. Equally, lack of management and accountability over NVUSD rests with the NCOE.

Recommendation 13:

NVUSD management must thoroughly examine their organization on all levels to review, update, develop and implement policies and procedures. Following this, district administrators must establish and maintain clear, concrete mechanisms of accountability for improving communication, oversight, and management and for implementing these ideas. Both NCOE and NVUSD must supervise and hold all staff accountable for their assigned responsibilities.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NCOE Superintendent

2. Safety First Policy

With the number of schools, the age of the buildings, and the student enrollment, plus community use of the campuses, the Grand Jury expected to find wear-and-tear issues with perhaps a few overlooked areas needing to be brought to the NVUSD's attention. However, as the months of investigation passed, the Grand Jury found multiple, serious issues which not only severely put students at risk, but also potentially expose the NVUSD to significant liability risks. NVUSD is not alone in this challenge of balancing performance and finances with school-safety needs as evidenced in two national reports. The '04 Survey of the National Association of SRO's states: "At a time when the hot-button issues in education tend to focus on meeting mandated test scores and saving school budgets from continued financial cuts, school safety must rank as important an issue as ever. Schools must be safe in order for children to learn, teachers to teach, and academic achievement levels to increase. As a nation, we cannot fail to keep school safety 'on the front burner' while simultaneously dealing with other important education issues."

The school security.org website posted an article on Trends in School Security and Emergency Preparedness, which points out the high liability risks: "Proactive school security practices and emergency preparedness planning are key leadership issues in today's education communities. Parents will hold teachers, principals, superintendents and board members accountable 'by name' if their children are the victims of life-threatening crime, violence or other safety hazards that could be prevented by basic risk reduction and emergency preparedness measures."

Finding 14:

NVUSD secondary-school students are at risk because their health and safety are not top priorities of district administrative staff and the Board of Trustees.

Recommendation 14:

The NVUSD must adopt an unbending "Safety First Policy" that would demand first priority for funds, staffing, and implementation of programs and policies to ensure student safety.

Response:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools

3. Napa City Fire Department

Within the Napa City Fire Department, there is a lack of communication, oversight and management as it relates to the NVUSD. The Fire Chief was

unaware that the Fire Prevention Bureau did not inspect the Napa secondary schools for the past 18 to more than 24 months. It is unclear how work responsibilities are prioritized, how decisions are made and approved to eliminate annual inspections; and how interdepartmental reports are communicated.

Additionally, in reviewing the fire inspection reports for 2002 and 2003, and the Fire Inspection form itself, the Grand Jury found that the inspection failed to check for specialized fire equipment specific to classrooms needing a particular type of fire extinguisher, a fire blanket and other protective equipment. The Fire Inspectors should have both recognized and reported the need for specialized equipment in some classrooms.

Finding 15:

The Grand Jury found a lack of communication, oversight and management within the Napa City Fire Department, as it relates to the NVUSD.

Recommendation 15:

The Napa City Fire Department must maintain mechanisms for communication, oversight and management as they relate to the NVUSD.

Response:

Napa City Fire Department, Fire Chief

Finding 16:

The 2002 and 2003 Fire Inspections for Napa city middle and high schools did not indicate need for classroom-specific fire protection equipment.

Recommendation 16:

All fire department safety inspections must include recommended classroom-specific safety equipment in all schools.

Response:

- Napa City Fire Department, Fire Chief
- Napa City Fire Department, Fire Marshall

Commendation:

The Grand Jury commends the chief of the Napa City Fire Department on prompt recognition of and accountability for both issues of concern arising from the Grand Jury's investigation of school fire inspections and of the Safely Surrendered Baby law. Recognizing that the chief has

been in his current position for less than a year and that he is not responsible for events which occurred before he was appointed, he is to be commended for quickly implementing an assertive action plan to resolve both the identified deficiencies.

Appendix

Williams vs. Board of Education Decision

Funding resources include:

- U.S. Department of Education has >\$28 million in school emergency planning grants
- U.S. Department of Justice
- U.S. Department of Health and Human Services
- Federal grants alert web site
- State Grants
- Other Options: local partnerships with criminal justice; businesses, foundations, and philanthropic organizations.
- School security.org

Glossary

- GJ—Grand Jury
- NVUSD—Napa Valley Unified School District
- SRO—School Resource Officer
- NPD—Napa Police Department
- NASRO—National Association of School Resource Officers
- FA—First Aid
- CPR—Cardio-Pulmonary Resuscitation
- SEMS—Standard Emergency Management System
- RN—Registered Nurse
- LVN—Licensed Vocational Nurse
- HSA—Health Services Assistant

Student Safety Addendum: Citizens' Complaints

Summary

The Grand Jury received letters from parents of a middle school complaining about how a recent bomb threat was handled by NVUSD staff and school administration. Issues include: timeliness of evacuation, erosion of parent confidence in the school district, and absence of post-event student debriefing.

Background

The complaint letters were received by the Grand Jury after the Student Health and Safety report was completed. Due to the seriousness of the event and its relevance to the findings of the finished report, as well as the level of concern expressed by parents, the Grand Jury chose to investigate.

Methodology

Interviews conducted:

- School Principal
- NVUSD Director of Student Services
- School Resource Officer (SRO)
- Police Sergeant

Documents reviewed:

- Parent complaint letters
- Comprehensive school safety plan
- Napa Police Department Bomb Threat and Incidents Policy and Procedures
- Principal's Parent and Student Letter
- Newspaper Article relating to the event

Discussion

On April 22, 2005, a bomb threat note was discovered at 12:45 p.m. in a boys' bathroom stall and brought to the attention of a campus supervisor, who immediately reported it to the school's SRO. The SRO secured the note for investigative purposes and notified the school principal. Between 1-1:15 p.m., the principal notified NVUSD Director of Student Services who in turn notified the Superintendent of Schools. Simultaneously, the SRO called the SRO sergeant, who summoned two additional SRO's, then had the fire department place a truck

on standby near the school. A school-wide PA announcement advised teachers to read a confidential email, notifying them of the bomb threat and requesting an immediate search of classrooms for anything unusual. Meanwhile, the site administrators, two district maintenance supervisors and the four police officers (3 SRO's and the SRO sergeant) searched the school grounds and buildings, including the roofs, a process which took about half an hour.

After some discussion and with the advice of the police officers, who followed their department protocol for a covert search, the principal initially chose not to evacuate the school. But as the 3 p.m. bomb threat deadline approached, the principal changed his mind and initiated a fire drill, in order to evacuate the school without unduly alarming students. At approximately 2:45 p.m. students were sent to the normal assembly area for a fire drill, and were held until 3:07 p.m. when they were dismissed.

The parents' number one complaint was that the school was not immediately evacuated; instead, students remained in class while the campus was searched. One wrote: "the students were left in buildings while the administration determined the threat was worthy of police response. This appears a staggeringly cavalier attitude when the safety of all persons on campus could not be assured with confidence." Parents found it unconscionable that students would be left in classrooms, while the roofs of their buildings were being searched. As another letter stated: "You had over two hours of this knowledge and yet left our children at risk while you searched". The letters indicated that some school staff members and numerous parents removed their students from campus during this time, a circumstance which further upset parents who were not given the opportunity to retrieve their children early. Concluding, one parent said: "No one wants to be the person to call a false alarm, but in light of the potential tragic consequences of inadequate response, it behooves the persons charged with lives and safety of so many to firmly establish a priority of safety". "No one believed that Columbine could happen. But it did."

According to the *Napa Valley Register's* article, the principal indicated that, in his five years at the school, "there has never been an incident as serious as this." A letter was sent to parents and students the next school day stating that "safety procedures and protocols were immediately put into effect", and "the school was evacuated to further ensure the safety of everyone". He concluded, "actions also ensured that at no time was the safety of your child jeopardized".

All NVUSD staff must recognize that parents and students are the "customers" of the district. Parents must have confidence that the best interests of their children are top priority, be it education or safety. Additionally the school staff should serve as safety role models for students, and must exemplify the highest levels of behavior and prevention practice.

Finding 1:

Although procedures were followed with appropriate authorities notified and responding, the decision not to evacuate the campus while it was being searched is the universal concern. If the level of threat required police and NVUSD participation, then it also should have required the highest level of student safety precautions. Also, if the threat were legitimate, how could anyone trust that the bomb would explode at exactly the prescribed time and thus wait to evacuate until just prior to the 3 p.m. deadline?

Recommendation 1:

The NVUSD and individual school safety plans must be written to minimize student risk and always to implement procedures that ensure the highest level of student safety.

Finding 2:

Parents' confidence is shaken not only in school safety policy and procedures, but also in the school and NVUSD's ability to listen and respond to their concerns. To ensure action, parents found it necessary to contact the Grand Jury. The parents' confidence was also eroded when the principal claimed that at no time was the student's safety jeopardized, when in reality, no one could guarantee the threat was a hoax.

Recommendation 2:

In order to re-establish parent dialogue and confidence, increased opportunity for parental participation in the planning and review of the revised school safety program must be provided. Ongoing opportunities for direct communication must also occur regularly throughout the school year.

Finding 3:

In both the serious student safety issues investigated by the Grand Jury, this bomb threat and the welding student who was severely burned, NVUSD did not provide opportunity for debriefing of students and/or parents following these incidents.

Recommendation 3:

NVUSD must recognize that students need post-event support and education to dissipate fear and anxiety and reinforce safety. Parents also need to be reassured and to have questions answered. The district and school must provide follow up support services and opportunities for direct communication.

Response 1-3:

- NVUSD Board of Trustees
- NVUSD Superintendent of Schools
- NVUSD Director of Student Services
- School Principal

2003-2004 Grand Jury Response Report

Summary

The 2004-2005 Grand Jury reviewed all organization or official responses required to last year's Grand Jury Report. The Grand Jury received all required responses within the statute-mandated timeline. If the responses needed further clarification, the Grand Jury further investigated and collected information from the appropriate persons/organizations.

Background

For every recommendation in a Grand Jury Report, state statute requires at least one organization or official must submit a written response. The current Grand Jury is responsible to verify that each organization or official cited in the previous year's Grand Jury Report actually received a copy of the report. Further the current Grand Jury must assure each response was submitted within the timeframe and is adequate as required by the Penal Code.

Methodology

The current Grand Jury evaluated the responses to the 2003-2004 Grand Jury's findings and recommendations to ensure that all complied with the requirements of California Penal Code Section 933.05, "Responses to findings". The following response criteria were considered:

- The response was received within the statute timeline: for a public agency, within 90 days; and for an elected official or agency head, within 60 days.
- The respondent indicated agreement with the finding, or in the case of whole or partial disagreement, specified the portion of the finding disputed and included an explanation of the reasons.
- If a recommendation was implemented, the respondent so indicated and provided a summary regarding the implementation action.
- If a recommendation had not been implemented, but would be within six (6) months, the respondent provided a timeline for implementation.
- If a recommendation required further analysis, the respondent provided an explanation of the scope and parameters of an analysis or study, and a timeline for the matter to be prepared and discussed by appropriate

agency personnel. This timeframe shall not exceed 6 months from the date of the Grand Jury Report publication date.

- If the respondent indicated that a recommendation was not to be implemented because it was not warranted or reasonable, with an explanation therefore.

If a respondent failed to satisfy one or more of the above applicable criteria, this year's Grand Jury investigated and collected further information.

Discussion

Twelve respondents to nine individual reports within the 2003-2004 Grand Jury Report submitted their written reports in a timely manner. After reviewing each response, the 2004-2005 Grand Jury found all to be satisfactory and complete. However two reports required follow up to ensure compliance with stated responses.

Auditor-Controller Department Report

Last year's Grand Jury report had two recommendations for the Auditor-Controller's Department (A-C Dept): one, for staff to receive training in the new version of PeopleSoft software and two, for the general ledger to be reconciled each month. The current Grand Jury interviewed staff and verified that they had completed training with Peoplesoft, and checked to insure the general ledger cards were balanced at the end of the month. The Grand Jury found both the trust accounts and cash ledgers are balanced at the end of the month. It was also discovered that there are more than 1600 general account ledgers, which is far too many to manually balance on a monthly basis. Currently, the A-C Dept. is working with Napa County's Information Technology Systems (ITS) to set up templates so specific accounting data, can be retrieved.

Finding:

The Auditor-Controller reports needing one staff person well trained in both computer technology and accounting to enable best collaboration and understanding between ITS and the A-C Dept. staff.

Recommendation:

The Auditor-Controller must hire a staff person well trained in both computer technology and accounting or provide added computer training to at least one staff person.

Napa County Mosquito Abatement

Following the 2003-2004 Grand Jury report, the Napa County Mosquito Abatement District was scheduled to receive an extra \$700 thousand in additional funds from a voter-approved assessment. This money was earmarked for hiring additional staff; deploying nine additional chicken flocks as an early warning system; identifying and eradicating programs for mosquitoes carrying West Nile Virus; controlling protocols for a yellow jacket problem; establishing a 24-hour response to citizen complaints; and educating the public about mosquito and vector control, and disease prevention. To ensure the funds were received and appropriately dispersed, the Grand Jury interviewed the Mosquito Abatement District personnel, and found that it had met all of their stated goals submitted in their written response to last year's Grand Jury report.

Commendation:

The Grand Jury commends the Napa County Mosquito Abatement District for not only implementing the various targeted program components from the \$700 thousand received, but also completing a new building without utilizing any taxpayer dollars.

Citizen Complaints to the Grand Jury

General

A Citizen Complaint Form is included with every published Grand Jury Final Report. Every year the Grand Jury receives several completed forms and also complaint letters that describe problems and may request investigations of various government entities. These letters are a valuable source of information for a grand jury, particularly as it begins its term and is deciding on its investigative agenda.

Procedures

A common procedure followed by many grand juries is to consider citizen complaints initially by the full Grand Jury and then, if the Jury decides investigation of the complaint is warranted, it is either routed to the appropriate Grand Jury committee for review.

Some complaints are integrated into the investigative work of the various Grand Jury committees. The investigating body reports back with a recommendation for disposition, which is then decided upon by the full Grand Jury. The complaint topics are then addressed, and findings and recommendations are incorporated in the Grand Jury Final Report.

Some complaints and the issues they raised are sometimes judged not to fall under the jurisdiction of the Grand Jury. Others are dismissed without further action. All citizen complaints receive a response from the Grand Jury stating that the complaint was received and is being considered by the Grand Jury. Any other comment is kept confidential and the only further response will included in the Grand Jury Final Report.

