

Challenged to Excellence
PROBATION
COUNTY OF SAN BERNARDINO



PUBLIC DEFENDER



LAW AND JUSTICE COMMITTEE



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LAW AND JUSTICE COMMITTEE

The Law and Justice Committee had responsibility for oversight of the following County departments:

- District Attorney
- Probation
- Public Administrator/Coroner/Public Guardian
- Public Defender / Indigent Defense
- Sheriff

The committee reviewed each department's current activities and looked at the Grand Jury reports of the previous five years to help determine the areas in which inquiries should be directed. The committee determined the District Attorney's department did not warrant an investigation at this time.

Subcommittees were formed to make inquiry into the operations of each department to ensure adherence to the applicable laws, ordinances and procedures. In light of the current budgetary situation, we paid particular attention to ways the costs of these departments could be reduced without affecting public services.

The following reports offer a brief background, address findings and offer recommendations that, if accepted, would allow these departments to operate more efficiently and effectively.

PROBATION DEPARTMENT

PRE-TRIAL DETENTION REVIEW UNIT

BACKGROUND

In the course of investigating the County's Office of the Public Defender, this Grand Jury was led to believe that no investigation was made on the financial status of defendants to whom the Public Defender is appointed. We discovered that in other counties various means are employed to ascertain defendants' financial situation. Additionally, in years past many municipal courts, including municipal courts in San Bernardino County, employed "Own Recognizance" (OR) officers who provided this and a number of other valuable services. However, these "OR Officers" apparently fell victim to Proposition 220, which consolidated the State's Municipal and Superior Courts in 1998.

In the course of this investigation, we discovered the Probation Department's Pre-Trial Detention Review Unit has been providing some of the services of an "OR Officer" for over a decade.

FINDINGS

The County's Probation Department maintains a "Pre-Trial Detention Review Unit" (PTDRU). This unit investigates and interviews persons who have been arrested. Its primary purpose is to recommend to the court whether or not the accused ought to be released on their own recognizance pending trial and, in some cases, recommends that the bail amount be raised or lowered. In 2002, this unit screened 35,990 arrestees – almost 100 per day. Of those, the unit interviewed 349 and the court released 266 people on their own recognizance based on this unit's recommendations. The PTDRU also investigated and reviewed 720 court-referred cases.

This unit's seven budgeted positions are filled. Two of the seven Detention Review Officers are currently on military leave; it is not known when they will return, which creates a serious strain on the remaining staff. According to the Chief Probation Officer, the unit's unique employee classification prevents the County from

transferring other County employees into temporarily vacant positions. The unit's workload increased dramatically, from 4,253 pre-arraignment reports in 2001 to 5,426 reports in 2002.

Staff of the Pre-Trial Detention Review Unit believe they would be able to make more OR recommendations with more employees since they would be able to conduct more thorough investigations and not be forced to err on the side of caution in making their recommendations. The current staffing level and workload indicators suggest that the unit is in need of more employees to permit more thorough investigations. PTDRU staff feel that more thorough investigations would permit more OR recommendations, since OR recommendations are made only after considering the seriousness of the alleged offense, the arrestee's flight risk and the arrestee's threat to the public.

Examination of flight risk generally entails an investigation into the arrestee's employment status (including income in many cases), ties to the community and living situation. This information is not shared with the Public Defender, which could use it to determine if the arrestee is indigent and therefore qualified for the Public Defender's services.

Releasing a low flight risk arrestee who does not present a danger to the community on his or her own recognizance saves the County money in a variety of ways. It reduces the Sheriff's housing and transportation costs. Additionally, OR releases are able to maintain their employment where ordinarily they would be terminated for failure to appear at work for a number of days. The accused may then be able to retain a private attorney instead of relying on the County to provide legal representation. It also keeps the dependents of the accused from going on the public assistance rolls.

The Probation Department of Los Angeles County maintains a "Pretrial Services Division" that performs the same functions as the PTDRU in San Bernardino County. The Pretrial Services Division performs a number of additional and very valuable tasks, such as screening people who request a civil name change for criminal backgrounds and sex offender registrations, supervising drug court participants and Proposition 36 drug treatment program enrollees and screening probationers for eligibility in the Electronic Monitoring Program.

The Pretrial Services Division also maintains an Early Disposition Program in which defendants are investigated and a recommendation made to the court concerning their sentence should they choose to plead guilty to the charges. This is referred to as a "pre-trial plea report". This program accelerates the trial process

since negotiating a plea agreement takes time, during which a defendant must sit in jail, sometimes for a longer period of time than they can be sentenced for the crimes for which they have been accused. In serious cases involving sentences to state prison, this also saves the County money by expediting transfers to state prisons, reducing county jail stays.

There is no equivalent of the Early Disposition Program in San Bernardino County.

Discussions with various law enforcement officials in the County revealed a consensus that the PTDRU serves a valuable function for the Sheriff and saves money for the County of San Bernardino.

RECOMMENDATIONS

- 03-53 EXPAND THE DUTIES OF THE PRE-TRIAL DETENTION REVIEW UNIT TO INCLUDE PROVIDING PRE-TRIAL PLEA REPORTS TO THE COURT.

- 03-54 THE PRE-TRIAL DETENTION REVIEW UNIT SHARE INFORMATION WITH THE PUBLIC DEFENDER CONCERNING THE FINANCIAL SITUATION OF POTENTIAL PUBLIC DEFENDER CLIENTS.

- 03-55 FILL TEMPORARILY VACANT DETENTION REVIEW OFFICER POSITIONS IN THE PRE-TRIAL DETENTION REVIEW UNIT.

- 03-56 REVIEW THE POSSIBILITY OF EXPANDING THE PRE-TRIAL DETENTION REVIEW UNIT.

PUBLIC ADMINISTRATOR/CORONER/ PUBLIC GUARDIAN

BACKGROUND

The office of Public Administrator/Coroner/Public Guardian is comprised of three separate agencies that serve different public needs. The current Public Administrator/Coroner was elected in 1982 and is now serving his sixth elected term. The Public Guardian acts as conservator for persons unable to manage their own affairs, and is appointed by the Superior Court.

The Coroner oversees the Medical Examiners who perform the autopsies. Deputy Coroner investigators are responsible for all investigations pertaining to causes and manner of death. They are responsible for the identification of deceased and notification of the next of kin and safeguarding personal property of decedents.

The Public Administrator is required by law to take responsibility for property belonging to persons who have died and assigned no executor or administrator. This office manages the estates of the deceased until their families assume responsibility. If not claimed by family, the estate will be disposed of at public auction.

The Public Guardian is appointed by the Superior Court and acts as conservator for individuals not able to care for themselves, and arranges for custodial care of ill and elderly persons in nursing homes. The Public Guardian administers the estates of disabled or incompetent persons and coordinates legal and social services on their behalf.

FINDINGS

There are deputy coroners in each major city. All bodies are transported to the Coroner's office in San Bernardino for autopsy or storage.

The main Coroner facility is inadequate. The microscope room and specimen pick-up facility double as one. Boxes with ashes of deceased were stacked 3-4 high on a desk.

The autopsy room is permeated with an offensive smell. A mixture of odors of body fluids, tissue and other unknown sources are overwhelming. The ventilation system is poor and inadequate as compared to the Riverside County Coroner's facility, which was visited by this Grand Jury.

A tour of the refrigeration room where bodies are kept revealed numerous problems. A terrible odor existed. The area was highly congested: 68 bodies were stacked 2 to 3 bodies to a table with no separation by shelving or "racks" as was observed at Riverside County. Freezer space is inadequate and the area needs ventilation.

The Grand Jury reviewed 21 sections of the Coroner's manual and observed that 16 had not been updated since the 1980's.

Personal estate items are poorly stacked and only separated by cardboard dividers, which are inadequate as boxes may become intermingled over time. Property is stacked 6-8 feet high, rising above the dividers. Individual items are not tagged, making it impossible to identify commingled items. Visits to other counties facilities found every item tagged with adhesive labels and individual "lots" kept together.

Valuable property such as jewelry and firearms are collected and logged by investigators and taken to the Coroner's office for safekeeping.

The warehouse staff collects all other personal property in bulk and maintains a separate inventory log in the warehouse.

The Public Administrator has no itemized estate property inventory list showing all assets removed from the residence.

The Riverside County Coroner/Public Administrator has an estate property inventory log, which lists all items individually and is distributed to the file of the deceased, the warehouse, accounting and witness. San Bernardino County has an inadequate tracking system to safeguard distribution of collected personal property.

Personal property is kept 3-4 years. Only the Courts can authorize the disposal of property.

Despite prior Grand Jury recommendations, it was observed that no corrective action has been taken. This has resulted in a deterioration of the overall operation of all departments of the Coroner/Public Administrator/Public Guardian's office.

RECOMMENDATIONS

- 03-57 CONDUCT A STUDY REGARDING ADDITIONAL SPACE NEEDS IN THE CORONER'S OFFICE.
- 03-58 TAKE IMMEDIATE STEPS TO GREATLY IMPROVE CLEANLINESS OF THE MORGUE FACILITY.
- 03-59 CONDUCT AN ENVIRONMENTAL TEST OF THE AIR IN THE AUTOPSY AND FREEZER UNITS.
- 03-60 UPDATE POLICIES AND PROCEDURES MANUAL BY REVIEWING EVERY YEAR AND UPDATE AS NECESSARY, AS RECOMMENDED BY PREVIOUS GRAND JURIES.
- 03-61 CREATE A MORE ACCURATE SYSTEM FOR RECORD KEEPING OF PERSONAL PROPERTY IN THE WAREHOUSE.
- 03-62 SEPARATE THE PROPERTY OF DECEASED INDIVIDUALS FROM PROPERTY BELONGING TO THE PUBLIC GUARDIAN BY THE USE OF ADHESIVE LABELS OR PALLET RACKS. KEEP AN ITEMIZED PROPERTY INVENTORY LOG WITH EACH PROPERTY LOT, AS RECOMMENDED BY THE 2001-2002 GRAND JURY.
- 03-63 LOG ALL PROPERTY AT THE TIME OF COLLECTION, PRIOR TO TRANSFER TO THE CORONER'S OFFICE. A COPY OF THE INVENTORY SHOULD BE KEPT AT THE PUBLIC ADMINISTRATOR'S OFFICE, IN ADDITION TO THE CORONER'S RECORD SO A "BACK-UP" IS CREATED.

03-64 PROVIDE AN ANNUAL INVENTORY OF STORED ITEMS TO THE COURT FOR
AUTHORIZATION AND DISPOSAL.

LAW OFFICES OF THE PUBLIC DEFENDER

BACKGROUND

The Law Offices of the Public Defender of San Bernardino County provide reduced or no cost legal representation to persons charged with a crime who claim they cannot afford to retain their own attorney. The department budget for 2002-2003 was \$17.7 million. Legal Assistance will be provided for an estimated 13,000 felony, 31,500 misdemeanor and 4,200 juvenile cases. The department has a staff of approximately 280 employees, including just over 100 attorneys. Members of the Grand Jury toured several County Public Defender branch offices, and interviewed representatives from Public Defender's offices in nearby counties.

FINDINGS

Financial Investigation of Potential Clients of the Public Defender

The Public Defender is usually appointed to represent a defendant during arraignment, when the defendant claims that they cannot afford to retain private counsel. The defendant then pays a \$25 fee, fills out a short form with name, address, social security number and phone number. At the end of the trial, defendants are supposed to attend a hearing to determine if they could have afforded a private attorney; however, in the vast majority of cases, judges simply waive the hearing and levy a small assessment, which often goes unpaid. The Public Defender conducts no investigation of any kind into its clients to determine if they are indigent and qualify for the Public Defender's services.

The Public Defender can, in some instances, be appointed to represent defendants who are able to retain their own attorneys.

Other counties take steps to assure Public Defenders are appointed only to represent defendants who are truly indigent. Los Angeles County defendants are required to fill out a one-page financial disclosure form to determine if they are genuinely indigent. Employees of the Public Defender in Orange County interview

defendants prior to arraignment and appointment to ascertain, among other things, their financial situation. In San Diego County, the courts require defendants to fill out a financial screening questionnaire.

While the Grand Jury has recommended in prior years that the Public Defender attempt to ascertain the financial situations of their clients, the Board of Supervisors response has been that it is illegal for the Public Defender to investigate its own clients. However, prior to having a Public Defender appointed, a County agency can investigate the defendant's financial status.

The Probation Department's Pre-Trial Detention Review Unit investigates all persons charged with a crime in the County. This investigation often includes examining the defendant's financial status in an effort to determine his or her flight risk - specifically, whether or not the accused is currently employed. This information could easily be used to determine whether or not a person could afford to retain their own private attorney to represent them. However, there is no apparent communication between the Pre-Trial Detention Review Unit and the Public Defender.

Facilities

Members of this Grand Jury made the following observations during tours:

- The Barstow office space is insufficient for the Public Defender's needs. One attorney has an "office" in a hallway next to the records storage area, which makes it impossible to have confidential meetings with clients. Two clerks and a receptionist currently share office space designed for one person. In addition to creating a difficult working environment, the space conditions represent a serious safety hazard.
- The Needles office of the Public Defender is inadequate. The attorney's office is the size of a small closet, and the part-time investigator has no office space.
- The former law library space at the Rancho Cucamonga courthouse (known as the Foothill Communities Law and Justice Center) has been vacant for the last two years. The Public Defender staff stated that the space would be ideal for use by the Public Defender's West Valley Juvenile Division. The Board of Supervisors response to the 2001-2002 Grand Jury recommendation stated that the County would find a use for the space; to date it remains empty.

- The West Valley Public Defender's Juvenile Division is inefficiently located one block away from the courthouse in a privately owned, leased facility.
- The Juvenile Division's San Bernardino office is insecure. In all other offices we visited, the public waiting area consisted of a separate room, with receptionists in an adjacent room separated by glass; members of the public had to be "buzzed in" to the rest of the office.

Indigent Defense Fund

The Indigent Defense Fund pays for attorneys appointed by the court to represent indigent criminal defendants when the Public Defender cannot provide representation. The court administers the fund, which was budgeted for \$9.6 million this year, and negotiates the contracts with private attorneys. As a result, the County has no control over how the money is spent and the court has no incentive to assure that the money is being spent wisely and economically.

The Effect of Budget Cuts on the Public Defender and the County's Overall Indigent Defense Cost

Given the current financial situation of the County as a result of proposed State budget cuts, the Board of Supervisors has required most departments to reduce their budget targets by 30 percent for next year. While this might seem at first glance to significantly reduce the County's expenses, in the case of the Public Defender such a substantial cut would, in all likelihood, actually increase the County's overall indigent defense cost. The County is legally mandated to provide adequate legal representation to all indigent persons charged with a crime. While the Public Defender represents most of the County's indigent criminal defendants, there are some instances in which the Public Defender is unable to provide representation. In this case, the defendant is represented by a court-appointed private attorney at a substantially greater cost to the County. (For a more detailed study of the difference in costs between the Public Defender and County-paid private attorneys, see the included report on the Alternate Public Defender).

A 30 percent cut in the Public Defender's budget would require a reduction in staffing, which would reduce the number of cases the Public Defender could handle by providing an adequate and reasonable

defense. In such a situation, legal ethics require the Public Defender to decline to represent the defendant, requiring the court to appoint a private attorney at the County's expense. If the Public Defender accepted appointments at the same rate, the reduced staffing level would make it impossible to provide an adequate and reasonable defense, which would also increase the County's future costs as cases are appealed and/or retried due to an inadequate defense.

RECOMMENDATIONS

- 03-65 THE PRE-TRIAL DETENTION REVIEW UNIT OF THE PROBATION DEPARTMENT SHARE INFORMATION WITH THE PUBLIC DEFENDER CONCERNING THE FINANCIAL SITUATION OF POTENTIAL PUBLIC DEFENDER CLIENTS.
- 03-66 THE PUBLIC DEFENDER DECLINE TO REPRESENT CLIENTS WHO CAN AFFORD TO RETAIN THEIR OWN ATTORNEY.
- 03-67 EXPAND OR RELOCATE OVERCROWDED PUBLIC DEFENDER OFFICES.
- 03-68 MAKE USE OF THE VACANT FORMER LAW LIBRARY SPACE AT THE FOOTHILL COMMUNITIES LAW AND JUSTICE CENTER (RANCHO CUCAMONGA COURTHOUSE).
- 03-69 IMPROVE SECURITY BETWEEN THE PUBLIC AND EMPLOYEES' AREAS AT THE JUVENILE DIVISION'S CENTRAL OFFICE.
- 03-70 THE COUNTY ASSUME CONTROL OF THE ADMINISTRATION OF THE INDIGENT DEFENSE FUND.
- 03-71 REFRAIN FROM REDUCTIONS IN THE PUBLIC DEFENDER'S BUDGET WHEN SUCH BUDGET REDUCTIONS INCREASE COUNTY EXPENSES ELSEWHERE.

ALTERNATE PUBLIC DEFENDER OFFICE

BACKGROUND

The County of San Bernardino is constitutionally mandated to provide legal counsel to persons charged with a crime who cannot afford to retain a private attorney. In the majority of cases, the county's Public Defender represents these indigent defendants. In some cases, however, the Public Defender cannot represent a particular defendant due to a conflict of interest. In most instances, conflicts of interest arise in cases involving multiple defendants or where a defendant is a witness in another case. When the Public Defender declares a conflict, the court appoints a private attorney at the County's expense. These court-appointed private attorneys constitute what is generally known as the Conflicts Panel.

Under the direction of the 1995-1996 San Bernardino County Grand Jury, the Harvey M. Rose Accountancy Corporation conducted an audit of the County's indigent defense costs. This audit found that the Conflicts Panel was substantially more expensive, on a cost-per-case basis, than the Public Defender. The primary recommendation of the audit was that the County study the feasibility of establishing an Alternate Public Defender's office (APD). The APD would function the same as the regular Public Defender's office, but would be able to take cases on which the Public Defender had declared a conflict. The APD would be an entirely separate law firm with its own offices and records, physically separated from the Public Defender's office. Ideally, the APD's expenses and overhead costs would be roughly comparable to the Public Defenders, so their costs per case would also be about the same. This would be much less expensive than continuing to pay private attorneys on the Conflicts Panel. To date, however, the County has not conducted any studies on the feasibility of creating an Alternate Public Defender as a way of reducing indigent legal defense costs.

FINDINGS

In the 2000-2001 fiscal year, the County Public Defender represented indigent defendants charged with a total of 11,547 felonies, 26,893 misdemeanors, and 5,111 juvenile delinquency charges. These 56,433 cases were handled at a cost of \$14.8 million. The Conflicts Panel represented defendants charged with

approximately 4,800 felonies, 2,800 misdemeanors, and 2,600 juvenile delinquency charges. These 10,200 cases were handled at a cost of \$9.4 million.

On a cost-per-case basis, the Conflicts Panel is far more expensive than the Public Defender. Although the contract attorneys handled only 18 percent of all criminal defendants in the 2000-2001 fiscal year, they represented 39 percent of the County's total indigent defense cost. The average cost per case in that year for felonies was \$615 for the Public Defender and \$1,047 for the Conflicts Panel; for misdemeanors, it was \$174 and \$343, respectively. This cost differential represents a substantial drain on the County's financial resources.

This problem is not unique to San Bernardino County. During the 1990's, a number of counties throughout the state created Alternate Public Defenders to reduce indigent defense costs. The first county to do so was San Diego in 1990. In its first year of operation, the Alternate Public Defender saved the taxpayers of San Diego County an estimated \$1.7 million.

Los Angeles County spent \$56.6 million on indigent legal defense in Fiscal Year 1989-90. Although that county's equivalent of the Conflicts Panel represented only ten percent (10%) of the criminal defenses that year, it accounted for \$26.6 million (47 percent) of the indigent legal defense costs. Los Angeles County followed San Diego County's lead in creating an Alternate Public Defender in 1993, on the recommendation of the Los Angeles County Grand Jury.

Los Angeles County, concerned that judges might not appoint the Alternate Public Defender and instead continue appointing private attorneys at the county's expense, succeeded in lobbying the State Assembly to amend Penal Code Section 987.2 to require judges to appoint the Alternate Public Defender in cases where the Public Defender had declared a conflict of interest, in 1993 (AB 1170 – Epple).

In 1994 Orange County's equivalent of the Conflicts Panel was costing nearly six times as much as the Public Defender on a cost-per-case basis. Faced with a serious financial scandal that sent the county into bankruptcy, the Orange County Board of Supervisors ordered the creation of an Alternate Public Defender to save money on indigent legal defense costs. In its first year of operation, the Alternate Public Defender of Orange County saved approximately \$6.3 million, and was up and running within ten (10) days of its establishment.

Additional cost savings in these counties have also been realized by pooling resources between the Public Defender and Alternate Public Defender where legally permissible. For example, combined training programs, sharing the costs of expert witness testimony and technical support.

RECOMMENDATION

03-72 COUNTY OF SAN BERNARDINO CREATE AN ALTERNATE PUBLIC DEFENDER OFFICE TO HANDLE THE LEGAL DEFENSE OF INDIGENT DEFENDANTS IN CASES WHERE THE PUBLIC DEFENDER HAS DECLARED A CONFLICT OF INTEREST AND BEEN REMOVED AS LEGAL COUNSEL.

SHERIFF INCLUDING NEEDLES OFFICES OF THE SHERIFF AND PUBLIC DEFENDER

BACKGROUND

The following areas of the Sheriff's Department were reviewed or investigated:

- The 2002-03 approved final budget as it pertained to the Sheriff
- SB 90 compliance (SB 90 claims are monies spent by the County on programs mandated by the State and reimbursable to the County)
- Vehicle purchasing policies
- Aviation Division, including aircraft maintenance records
- Megan's Law application as it pertains to public access
- Operation of Sheriff's substations
- Tour of detention facilities

During this Grand Jury's tenure, several policy and procedure changes were made (i.e.: vehicle purchasing policy and Megan's Law application), which satisfied any concerns that may have been addressed.

An ad hoc committee, entitled "Needles Special Project", was formed by this Grand Jury to look into County operations/services as they pertain to the City of Needles. As part of this inquiry the Sheriff's Department and Public Defender's office in Needles were looked at. Since these portions of the Needles Special Project Ad Hoc Committee report fall under the umbrella of the Law and Justice Committee, findings and recommendations are repeated herein.

FINDINGS

The Public Defender's office in the City of Needles is very small and cramped. The clerk's office area is also very small and, with increased filings for the past three years, the workload and limited workspace are detrimental to an efficiently run Public Defender's office. In the year 2000 there were 81 felony and 359 misdemeanor cases filed in Needles; 2001 showed 106 felony and 375 misdemeanor cases, and 2002 had 132 felony and 450 misdemeanor cases filed. In the first two and one-half months of 2003, there have been 36 felony and 69 misdemeanor cases filed.

In the Needles City/County complex, the County owns three buildings and the City owns the fourth. The County is leasing 4,800 square feet of the city-owned building as part of a booking fee settlement agreement wherein the County received use of the space for seven years. The County currently occupies only 525 square feet of that building. Plans for expanding the County's use of the city-owned building are being developed.

Within the Sheriff's station at Needles there is no client/attorney confidentiality in the interview room. A glass partition separating the client and attorney requires the raising of one's voice, which can be heard in the adjoining interview booth.

There is currently no "video arraignment" or "video conferencing" system operating between the West Valley Detention Center (WVDC) and Needles. The installation of these video systems would reduce transportation costs by allowing the use of a van instead of a bus and potentially one less trip per week to transport inmates. The average annual cost to transport inmates from WVDC to Needles, at the current rate of three round trips per week, is \$403,470.

The County Board of Supervisors approved a request for a grant from the South Coast Air Quality Management District for \$301,284 to install a “video conference” system at WVDC and at branches of the Public Defender’s office.

The County Information Services Department has the infrastructure and capabilities in place to handle a video arraignment and video conferencing system in Needles.

RECOMMENDATIONS

- 03-73 MOVE THE PUBLIC DEFENDER’S OPERATION IN NEEDLES INTO A PORTION OF THE 4,275 SQUARE FEET OF UNUSED SPACE.

- 03-74 INSTALL A PHONE SYSTEM IN THE ATTORNEY/CLIENT INTERVIEW ROOM AT THE SHERIFF’S COLORADO RIVER STATION IN NEEDLES.

- 03-75 INSTALL VIDEO ARRAIGNMENT EQUIPMENT IN NEEDLES TO REDUCE THE COST OF TRANSPORTING INMATES FROM THE WEST VALLEY DETENTION CENTER TO NEEDLES.

- 03-76 USE THE GRANT MONEY REQUESTED FROM THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT TO INSTALL A VIDEO CONFERENCE SYSTEM IN THE NEEDLES BRANCH OF THE PUBLIC DEFENDER’S OFFICE.

INSPECTION OF PUBLIC PRISONS BY COUNTY GRAND JURY

BACKGROUND

All of the Grand Juries of San Bernardino County have, in the past, visited the State prisons within the County during their term of office.

This Grand Jury will inspect one or more of the State prisons during its term.

FINDINGS

Penal Code Section 919(b) states:

“(b) The Grand Jury shall inquire into the condition and management of the public prisons within the county.”

The word shall in Section 919(b) makes the investigation mandatory; therefore the Grand Jury must inspect the prisons within the County.

The Grand Jury is the investigative arm of the Superior Court with jurisdiction to make recommendations as to the operation of County government.

The Department of Corrections, which operates the State prisons, is an agency of the State government and the Grand Jury has no jurisdiction over a State department.

There are many persons who see a necessity for a Statewide Grand Jury.

Law requires that the Grand Jury is to inspect the State prisons but cannot recommend any changes or improvements as to their operation even though the County pays for the Grand Jury's inspection. The State Legislature can, by amending the Penal Code, give Grand Juries the authority to investigate and make recommendations to the Board of Corrections to which they would have to respond.

RECOMMENDATION

03-77 THE BOARD OF SUPERVISORS SEEK LEGISLATIVE CHANGES TO PENAL CODE SECTION 919(b) TO GIVE COUNTY GRAND JURIES JURISDICTION TO MAKE RECOMMENDATIONS REGARDING STATE PRISONS WITHIN THEIR COUNTY, AND REQUIRE THE STATE DEPARTMENT OF CORRECTIONS TO RESPOND TO THOSE RECOMMENDATIONS.