

LAW AND JUSTICE COMMITTEE



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LAW AND JUSTICE COMMITTEE

The Law and Justice Committee reviewed past Grand Juries' reports and decided to expand into areas that have historically not been reviewed or investigated. The Committee participated in mandatory tours and reviews of the Jails and Detention Centers in the County, which included:

Adelanto Correctional Facility (owned and operated by City of Adelanto)
Adelanto Detention Center
Barstow Station
Glen Helen Rehabilitation Center
San Bernardino Courthouse Holding and Transfers to Court
West Valley Detention Center

Juvenile Detention Centers located in:
Apple Valley
San Bernardino

Tours were also conducted at two state prisons located in the County:
California Institution for Men
California Institution for Women

Visitation reports were written on each of the above facilities. The Adelanto Correctional Facility is in the process of being sold, therefore no follow-up visit or work was done. The other county facilities are doing a good job and received favorable reviews and comments.

Several other County facilities were toured and investigations were completed with favorable reports or no recommendations made. Some recommendations would have been made if the current economy permitted the expenditures. These facilities include:

County Coroner
County Court House Security
County Disaster Preparedness
Public Defender's Office

The scope of our investigation was broadened from the Sheriff's Department to include city Police Departments. Investigations were conducted into city agencies and policies, they include:

Barstow Police Department
Rialto Police Department
San Bernardino City Charter, relating to City Attorney's Office
San Bernardino Police Department

Reports and recommendations follow. An investigation of the Sheriff's Department's Scientific Investigations Division also resulted in a report with significant recommendations.

BARSTOW POLICE DEPARTMENT

BACKGROUND

The Barstow Police Department services 40 square miles with a city population of 23,000. Interstates 15 and 40, State Route 58 and Historic Route 66 run through the city. Because of their location and surrounding communities, the Barstow Police Department services approximately 60,000 people with a staff of 54, of which 40 are sworn officers. They have an annual budget of \$8,000,000. They also received \$100,000 per year from the State in what is called a “Cop’s Grant.” The Barstow Police station is quite small and the detectives have to work off-site as there is no room to house them in the Police Station facility. The purpose of our visitation was to inquire about the present status of the Barstow Police Department. The Grand Jury has not visited the Barstow Police Department in recent years and they were informed that there were some problems over the past few years.

FINDINGS

1. Dianne Burns was hired as the Barstow Chief of Police on July 2, 2007.
2. Prior to her arrival, not all of the Barstow Police Officers had received basic firing range and tactical training. Since becoming Chief of Police, Ms. Burns has instituted a shooting and tactical training school just outside of Hinkley and all officers receive shooting and tactical training for two days every six months.
3. The Department Policies and Procedures Manual had not been updated since 1983 and the department lacked an Internal Affairs Manual. Chief Burns is now in the process of re-writing this manual and is also writing an Internal Affairs Manual for the department.
4. Chief Burns has worked to improve the interdepartmental relationship with the Sheriff’s Station in Barstow.

5. She has encouraged department involvement in community programs such as Cops for Kids and the Neighborhood Watch Program. Chief Burns plans to start a street fair in the poorer neighborhoods in town with hopes of developing good relationships with those citizens. Her officers also participate in the “Cook and Serve” of the homeless that is held at a local pizza parlor. Chief Burns is also involved in the “Reading for Kids” program and is an active member of the local Rotary Club.
6. Chief Burns has used the “Cop’s Grant” money (\$100,000 per year) to update equipment, buy new computers, and provide the officers with protective vests.

COMMENDATION

The Grand Jury commends Police Chief Dianne Burns for the changes, improvements, and upgrades she has made since becoming Chief of Police. It is hoped that the citizens of Barstow and the surrounding area appreciate her fine work.

RIALTO POLICE DEPARTMENT

BACKGROUND

The Law and Justice Committee investigated the City of Rialto Police Department. Inter-views were conducted with various Rialto police administration and field personnel. These interviews revealed issues regarding disabled officers assigned to civilian jobs, and problems in the Worker's Compensation and Disability Retirement programs.

FINDINGS

1. The City's Workers' Compensation Procedures Manual implemented in August 1991 states as follows:

Permanent Disability is a handicap resulting from the effects of illness/injury. This means that the employee may return to work with medical restrictions that do not prevent the employee from performing his/her usual and customary duties (e.g., no repeated lifting over fifty pounds). Restrictions are guidelines prescribed by a doctor relative to limiting an employee's job activities. Information regarding medical restrictions may appear on the doctor's release and return-to-work slip. In addition, the risk manager may review any medical restrictions with the supervisor. The department head is responsible for (1) ensuring that the employee is not assigned tasks that are in conflict with the medical restrictions, (2) instructing the supervisor of the employee's medical restrictions, and (3) monitoring the return-to-work performance of the employee.

California Government Code 21157 states that "The governing body of a contracting agency shall make its determination within six months of the date

of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member. A local safety member may waive the requirements of this section.”

2. The City of Rialto (“City”) has a Modified Duty Program which assigns injured sworn officers to non-law enforcement duties.
3. The City does not allow the police department to replace these officers taken off patrol or other street assignments, thereby reducing the deployment of officers available for patrol duties. A city with a similar program does replace the officers lost to street duty.
4. The City’s Human Resources Department is not involved in the process. Instead, all the injury claims are processed through the City’s Payroll/Finance Department.
5. The governing body has not complied with the time limit in Government Code Section 21157. The Public Employees Retirement System (PERS) has sent the City letters regarding its noncompliance with this Government Code section. This delay leaves the officers uncertain about their return to work status and lengthens the time officers are off regular duty.
6. A review of officer injury claim files indicate that the City has failed to approve, in a timely manner, continuing and follow-up treatment or therapy for claimants.
7. The Permanent Modified Duty program pays the injured officers full safety officers’ salary while they work in low level positions that normally have been filled by civilian personnel, cadets, or volunteers.

8. Officers who have injuries and are deemed “Permanent and Stationary” have been placed on Administrative Leave with full pay, effective April 13, 2010, pending disability retirement. Certification for retirement has not been filed by the City as of May 13, 2010.

9. Currently, there are six (6) officers working permanent modified duty assignments. The monthly payroll for these six is \$40,892. This averages to \$6,560 per officer each month. If these positions were filled with full time civilian employees with a pay of \$15 per hour the monthly costs would be \$15,840; thus saving the taxpayers \$25,052 per month.

Some of these officers do not perform forty hours a week of work, further reducing the need for civilian employees.

10. The Finance Department provided the cost of retiring the six officers on “Permanent and Stationary” status. The cost of retiring the officers amortized over 30 years would total \$2,457,991. In contrast, the annual cost of paying the salaries of these six officers, excluding benefits, at an average salary of \$6,560 per month totals \$472,320. The cost of continuing the Modified Duty Plan would exceed the cost of retiring the officers within six years, assuming the six officers remain employed by the City.

11. Departments within the City are reviewing the City of Long Beach’s Alternate Dispute Resolution Program for possible future adoption.

RECOMMENDATIONS

- 10-19 Make disability retirement determinations within the time limit required by Government Code Section 21157. (Finding 6)

- 10-20 Assign modified duty only for officers whose injuries are not classified as “Permanent and Stationary.” (Findings 2, 6)
- 10-21 Continue the Meet and Confer process with the Police and Fire Benefit Association on the issue of Modified Duty Policy. (Finding 2)
- 10-22 Adopt an alternate dispute resolution program patterned after the program adopted by the City of Long Beach. (Findings 3, 11)
- 10-23 Provide medical services immediately to prevent further injury and to shorten off duty time. (Finding 3)
- 10-24 Retire officers deemed “Permanent and Stationary” who are unable to perform regular police duties. (Findings 1, 9)

<u>RESPONDING AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DATE</u>
City of Rialto	10-19 through 10-24	09-30-2010

SAN BERNARDINO COUNTY SHERIFF-CORONER

SCIENTIFIC INVESTIGATIONS DIVISION

BACKGROUND

The 2007-2008 San Bernardino County Grand Jury reported on the functions of providing the resources and expertise to investigate crimes committed in San Bernardino County. It reported that the Scientific Investigations Division (SID) was in need of resources if it was expected to catch up and maintain the needs of the county to continue to provide this important service. The following were the recommendations made at that time:

- 08-52 Provide additional workspace for the Sheriff's Scientific Investigation Division taking into account the growth of the county.
- 08-53 Increase the number of Crime Scene Investigators from 12 to 24
- 08-54 Increase the number of Deoxyribonucleic Acid (DNA)/Forensic Analysts from 10 to 20.

Findings and Responses are as follows:

08-52 In the Findings and Response by the Sheriff – Coroner, regarding Workspace.

It was reported the SID was awarded a 2007 DNA Backlog Reduction Grant, which funded the renovation of the Forensic Biology Area, providing additional workstations and bringing the total number of analyst workstations to 14. In FY 2006-2007, the Board of Supervisors committed \$25 million towards an expansion project for the SID. However, after a formal needs assessment was completed, it was learned that construction costs had risen considerably. To complete the project as originally proposed,

an additional \$38 million would be necessary. The Sheriff made this additional funding request in his FY 2008-2009 budget proposal to the Board of Supervisors.

08-53 In the Finding and Response to increasing the number of Crime Scene Investigators from 12 to 24.

The Sheriff indicated that the department could not immediately accommodate the recommended doubling of the staff from 12 to 24 due to workplace and equipment restrictions. The Sheriff requested the Board of Supervisors fund two additional Crime Scene Investigators during the FY 2007-2008 budget workshop.

08-54 The Finding and Response to increasing the number of DNA/Forensic Analysts from 10 to 20.

The Sheriff reported that by increasing the number of DNA/Forensic Analysts he could not immediately accommodate the doubling of the staff due to workspace and equipment restrictions. The Department continued to work with both the Board of Supervisors and the Regional Access Network (RAN) Board to increase staffing. During the FY 2007-2008 budget workshop, the Sheriff requested funding for three additional Criminalists to handle the increasing workload. While the request was not funded, the RAN Board approved funding for two (2) DNA Analysts for the FY 2008-2009 budget. This funding was approved for the 2007-2008 budget year; however, it was deferred to the 2008-2009 budget cycle to offset training and space concerns. Proposition 69 revenues were used to fund one DNA Analyst for the 2008-2009 budget years.

FINDINGS

The SID subcommittee met with the Sheriff's Department's Administrators on two occasions, to tour the facility and obtain up-to-date information.

1. The Scientific Investigations Division is the workplace of 100 law enforcement, scientific, technical and support personnel. SID's mission is to provide forensic support (criminalists, identification, and crime scene investigation) to both Sheriff's stations and divisions, and outside agencies. SID is also home to the Sheriff's Central Property/Evidence Unit and the Photography Laboratory.
2. The annual budget for the SID is near \$6.5 million and includes approximately \$425,000 of a \$1 million Office Criminal Justice Program grant. The grant is managed by Sheriff's Narcotics and is shared with the San Bernardino County District Attorney, Probation and a number of city police departments.
3. In 1986, San Bernardino and Riverside counties entered into a regional partnership known as CAL-ID. Today, CAL-ID provides DNA and Automated Fingerprint Identification System (AFIS) services to all member agencies in both counties. A per capita assessment combined with penalty assessments and fine monies comprise the annual budget for these CAL-ID services. Early release of prisoners increases the possibility of an increase in SID work.

SID Current SID Backlog

4. The current SID Backlog situation was reviewed and all evidence is classified in the Priority System, as to where the function is assigned to:
 - a. Priority 1 cases are in the Court process
 - b. Priority 2 cases are considered less urgent
 - c. Priority 3 where there are no samples for comparison

5. The SID is currently working with the District Attorney (DA) in addressing the DNA Backlog issues. They have 300 current cases they are working on and 350 cases backlogged. The Blood Alcohol Analysis backlogged cases show 459 cases with the oldest case dated 12/23/09. They can process 100 cases per day. The Controlled Substances Analysis list shows 41 backlogged cases with the oldest case dating back to October 26, 2009. According to the Laboratory Director they can conduct the testing fairly quickly and have a 10 day turn around agreement with the DA.

6. The firearm testing takes much longer due to not having personnel trained in certain aspects of Firearm Analysis. The one trained Firearm Technician/Examiner, retired in February 2010. Plans are to employ him as a consultant to assist them, temporarily, until a new Firearm Analysts is trained or hired. The department has a new Examiner trained in bullet comparison in this section, but their production will be slow for the time being. One of the reasons the department can't train their examiners quickly is that ATF accepts only 16 trainees per year nationwide and this is a one and one-half year training program (nine months in class, nine months on the job). They are currently trying to get one of their trainees accepted into the next class.

DNA Process

7. In discussing the DNA process, they indicated that they will be using a new DNA kit named "IdentifilerPlus." It takes months to validate a sample and each sample must have a technical review followed up by an administrative review. If the department sends their sample to another lab the technical and administrative review must be conducted by San Bernardino County's lab. Currently they have 10 DNA Analysts, with two being added in the near future. A new case can take up to six months to process.

8. The SID serves all law enforcement agencies in the San Bernardino County and provides services for Riverside County. Services in San Bernardino County are free. Riverside County agencies pay a fee for the services.
9. During the Grand Jury's review, it was reported that SID currently connected to the Cal ID system, using the Remote Data Terminal Four to check fingerprints. This device is currently used in the field and connects to all files on fingerprints from previous criminal booking records.

Equipment Utilization

10. During the Grand Jury review of SID, it was reported that they were utilizing existing equipment to meet current needs. They have received \$1.7 million in grant money for a New Breathalyzer, DNA and other lab equipment. A crime scene truck was donated by San Manuel Indian Tribe. They have a Life Cycle Replacement Program now for lab equipment that requires repair or replacement. They indicated that it is more cost effective to purchase modern equipment than to contract out the projects.

Outsourcing

11. The SID department utilizes the FBI Data Base. Even when they use another lab to do some of their work San Bernardino County is responsible to review all the data received, prior to processing it further in the court system. By obtaining additional equipment they can increase the annual output. It should be noted some of the examination/testing costs are paid for by the suspect convicted of the crime.

Current Working Space Needs

12. In regards to working space at the SID, they indicated that according to the American Society of SIDs, 750 to 1000 square feet per analyst is recommended. Currently, they have 250 square feet for each of their 14 analysts and have 17,000 square feet of storage space in the warehouse where 300,000 items are stored. With the ever increasing rate of crime this number of items collected will increase as well.

13. The current facility cannot accommodate additional staffing. Therefore, a new facility is required. It was reported that the SID is in the process of looking for a larger building and one that can handle the overcrowding situation, as well as to provide adequate workspace for their current and future staff. A commercial building identified as the Hallmark building has been looked into and is located in the northern area of San Bernardino. The Hallmark building has 60,000 square feet for the lab, plus warehouse space and space to expand in the future. The cost of the Hallmark building is within the \$25 million allocated by the Board of Supervisors, but the question is, will they have adequate monies for the modification. Discussions are in the process at this time as to the costs and needs of the SID. It appears that it will take 1½ to 2 years to complete the project.

RECOMMENDATIONS

- 10-25 Expand the SID facility to alleviate overcrowding working conditions which will provide adequate workspace for current and future staff.
(Findings 1, 2, 13)

- 10-26 Provide SID with the additional staffing of 18 personnel required to eliminate their existing backlog and stay abreast of their heavy workload.
(Findings 5, 6)

10-27 Provide the SID with additional office furnishing required of adding 18 personnel, including computers, desks, and any other office items that maybe required. (Finding 13)

10-28 Provide additional warehouse space for storing and securing physical evidence. (Findings 12, 13)

<u>RESPONDING AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DATE</u>
Sheriff-Coroner	10-25 through 10-28	09-30-2010