THE FINAL REPORT OF THE

2004 – 2005

GRAND JURY

Table of Contents

Imperial County Grand Jury

June 13, 2005

The Honorable Raymond J. Cota
Imperial County Presiding Judge
Superior Court
El Centro, CA 92243

Dear Judge Cota & Citizens of Imperial County

In representation of the Imperial County Grand Jury for the term 2004-2005, I would like to inform you that it has been an honor to serve you and the residents of Imperial County.

Accompanying this letter are copies of the final reports of the 2004-2005 Imperial County Grand Jury, and with them the required responses to the recommendations that have been received to date. And so with its duties completed, it is now time to bring this Grand Jury to a close.

It seems to be all too soon to be winding things up, but we have taken a long, sometimes arduous, journey to reach this point in our Grand Jury year. This group of 19 citizens of Imperial County has learned to work together while maintaining and respecting the individuality of its members for the mutual goal of the completion of its yearlong responsibilities. For me, as the foreperson, it has been an interesting, challenging exercise, full of frustration, pleasure and, most all, pride in the final reports submitted by this most excellent Grand Jury.

I want to thank each of the jurors for their unselfish service and dedication in meeting the challenge of completing thorough investigations and reducing those investigations to concise and understandable reports. Our special gratitude to Virginia Alonso, Jury Coordinator, and staff for their continued assistance and support.
Thank you, Judge Cota, and Mr. Jose Octavio Guillen, Court Executive Officer, for your guidance and support.

Sincerely,

Francisco G. Pacheco
Foreperson

ROLE AND SCOPE
OF
THE COUNTY GRAND JURY

The Grand Jury is a civil oversight body, composed of 19 local citizens, who serve a term of twelve months. The Jury conducts random visits and or audits of local public agencies, government and officials for any abuse of authority or misappropriation of funds. The jury does not deal with criminal matters; rather it concerns itself solely with civil issues. During the course of an investigation, if criminal activity is suspected or uncovered, the matter would then be turned over to the Imperial County District Attorney for further action. All counties within the State of California are required to have a Grand Jury. The District Attorney has the option to form additional special grand juries, chosen from the jury pool to handle criminal cases and thus insure indictment by those who represent a random cross section of the community. Some counties utilize their Grand Jury for both criminal and civil duties.

2004-2005
IMPERIAL COUNTY GRAND JURY

Membership

Francisco Pacheco ..... Foreperson

N. O. "Benny" Benavidez ..... Foreperson Pro-Tem

Raymond Bracamonte ..... Treasurer

Theresa Plank ..... Secretary

Thelma Baker ..... Edit Secretary

Kari Roper ..... Sergeant at Arms

Robert Aguilar, Captain-Law Enforcement Committee

Roy Alsip

Bill Bramer, Captain-Health and Welfare Committee

Juan Campos

Thomas Dineley

John Duesenberg

Alvis Roy Harrington, Captain-Administration Committee

Barbara A. Garcia

Richard "Dick" Martin

Marty Phillips

Mary Slaughter

Allan Starr

Paula Urquidez

Former Members

Brian Donley Ed Voveris

GRAND JURY
INVESTIGATIONS AND TOURS

Date: March 14, 2005

To: 2004/2005 Imperial County Grand Jury
Francisco Pacheco
Grand Jury Foreman

From: Health and Welfare Committee

Subject: Salton Community Services District Investigation

In September of 2004, the 2004/2005 Imperial County Grand Jury received two letters citing several complaints against two board members of the Salton Community Services District (SCSD or District) regarding their involvement with the District's fire operations. That matter was given to the Health and Welfare Committee (Committee) to further investigate those complaints. In their proceedings, the Committee spent a considerable amount of time discussing the SCSD fire operations with all five SCSD Board of Directors, the General Manager, the Assistant General Manager, the bookkeeper and a volunteer firefighter.

In addressing all of the original complaints as cited in the two letters, the Committee respectfully submits to this Grand Jury the complaint, an investigation summary and the Committee's recommendation for resolution. The Committee also requests that this Grand Jury approve the Committee's recommendations, and to issue a request to the SCSD Board of Directors to respond in unison to our recommendations in writing (with pertinent supporting documentation) to this Grand Jury within 45 days from the date of this letter.

COMPLAINTS

Complaint #1: Having two fire stations in a community of less than 1,000 people is a violation of the Health and Safety Code 14828 [SCSD and the Desert Shores Improvement Association (DSIA) at the Desert Shores location].

Investigation Summary

Through the Committee's discussions with SCSD officials/staff, it appears that two organizations (as named above) are operating the Desert Shores' fire station, while only one of those organizations, the SCSD, is legally mandated to fund and manage the operations pursuant to an agreement between the County of Imperial and the SCSD dated May 21, 2003. The second organization, the DSIA, has no legal authority to supersede the SCSD authority in those operations.

In a related matter, under current practice, the SCSD Board of Directors is allowing one of their Directors, also a SCSD volunteer firefighter and a member of the DSIA Board of

Directors, to make donated equipment acquisitions without prior SCSD Board of Director's approval.

The SCSD Board of Directors is also allowing the funding of operational expenses (utilities, insurance, etc) of the Desert Shores' fire station by the owner of the building, also a SCSD volunteer firefighter and board member of both the SCSD and the DSIA, and also by another SCSD Director.

It also appears from the Committee's numerous discussions with SCSD personnel, that the General Manager of SCSD has very little functional authority at the Desert Shores' fire station due to the aforementioned practices. It was further observed by Committee members that one of the SCSD Directors appears to carry most of the authority (even over the Fire Chief) regarding the day to day operations of the Desert Shores' fire station.

Recommendations

Since only one organization is legally mandated to operate both fire stations, the SCSD Board of Directors must take a more proactive role in exerting their elected responsibilities in the operations of the Desert Shores' fire station. In meeting that responsibility, the following actions are recommended by the Committee:

The two SCSD Directors should not be allowed to fund the normal operating expenses of the Desert Shores' fire station. However, SCSD personnel should be given the opportunity to make monetary donations to the District. These donations would be given to the fiscal officer of the District, deposited into the District's bank account, documented as a donation on the financial records and dispersed via the same approval process normal District disbursements are made. The current practice implies (and is practiced) that both of the Directors exercise unlimited control over the operations and equipment at the Desert Shores' fire station.

SCSD personnel should not be allowed to acquire donated equipment without a majority vote of the SCSD Board of Directors in approval of the acquisition. However, in emergency situations, the Board of Directors should consider allowing the SCSD General Manager to approve donated equipment acquisitions.

All SCSD fire personnel should be given unlimited access to both fire stations, and that all authorized District fire personnel should be able to utilize the District's/County's equipment at both locations on an as needed basis.

Equipment acquisition (new/donated) guidelines should be incorporated into the rules and regulations of the District. In addition, all equipment used by either fire station should be inventoried as a SCSD property item.

Violations of any SCSD's rule and regulation should be dealt with in the District's appropriate disciplinary (administrative) manner. It is also strongly advised, that the SCSD Board of Directors provide unlimited support to the General Manager in his enforcement of the District's rules and regulations.

Another recommended alternative to this situation would be for all parties [including the Local Agency Formation Commission (LAFCO) and the County] to investigate a plan where the Desert Shores' fire station could form its own fire district and not be under the umbrella of the SCSD.

Complaint #2: The Desert Shores' fire station was moved from the District's old building to a larger building owned by a member of the SCSD Board of Directors.

Investigation Summary

The building that was used formerly as the operation center for the Desert Shores' fire station was old and did not have much room for fire equipment, etc. The new building/lot is much larger with more room to safely secure the SCSD's and the County's fire equipment.

Recommendation

While the Committee is in agreement with the increased utility of the new building/lot, the acquisition of the building for the SCSD's use was inappropriate. The building is owned by one of the SCSD Directors whom voted in favor of the move. The Committee feels that the owner/Director's vote was a conflict of interest and that the Director should have abstained from voting in approving the move.

Complaint #3: DSIA requisitioned a surplus fire truck and then rented it back to the SCSD.

Investigation Summary

Through the Committee's discussions with SCSD officials/staff, it became evident that one of the SCSD Directors has (on numerous occasions) acquired donated fire equipment for the Desert Shores' fire operation without the majority of the SCSD Board of Directors voting in favor of the acquisition or, in emergency situations, from the District's General Manager.

Recommendation

The Committee's recommendation for acquiring (new/donated) fire equipment is detailed in complaint #1.

Complaint #4: Items exceeding $1,000 were purchased without the SCSD Board of Directors' approval.

Investigation Summary

Through documented evidence given to the Committee and by discussions with the District's bookkeeper, there is no evidence that "individual" purchases exceeding $1,000 were being made without the SCSD's Board of Directors approval.

Recommendation

The District is in compliance; no further action is needed by the SCSD Board of Directors or the District's General Manager. However, the Committee is requesting that the General Manager provide this Grand Jury with the SCSD audit report for Fiscal Year 2003/2004 for our review.

Complaint #5: The SCSD Fire Chief was dismissed improperly.

Investigation Summary

During this past year, a volunteer SCSD Fire Chief was relieved of his duties.

Recommendation

The Committee, through their discussions with the SCSD's officials/staff, was unclear as to why the former chief was dismissed from his volunteer position as a Fire Chief. There was no clear reason given to the Committee detailing the former chief's violations of the District's pertinent rules and regulations regarding dismissals. When the former chief asked the SCSD Board of Directors for a reason for his dismissal, his request was either ignored or denied. While the dismissal may have been for legitimate reasons, the Committee strongly recommends that the District adhere and enforce their own rules and regulations regarding disciplinary action against a paid or volunteer District employee.

Complaint #6: Operators of the SCSD's fire department equipment are not having a medical checkup to operate equipment.

Investigation Summary

Through the Committee's discussions with SCSD officials/staff, it was not readily apparent from those we spoke with that an operator of the District's/County's fire equipment needs to pass a periodic medical exam prior to operating such equipment.

Recommendations

It is the recommendation of this Committee that the District's General Manager research this matter through the Department of Motor Vehicles (DMV) and by contacting the Imperial County's Risk Manager to make a determination as to whether a medical exam is required to operate the District's/County's fire equipment. However, regardless of the requirement of the DMV, and for obvious safety reasons, it is the recommendation of the Committee that the SCSD Board of Directors, through the approval of the County's Risk Manager, incorporate this policy into the District's rules and regulations, and to enforce this policy on a consistent basis. It is also the recommendation of this Committee that the District's General Manager maintain this information in the employee's personnel file and to notify District staff in a timely manner of their periodic physicals.

Complaint #7: The fire station at Desert Shores has "at least" one juvenile responding to emergencies.

Investigation Summary

The Committee heard from several persons associated with the SCSD fire operations that juveniles (18 years of age or younger) are responding to emergencies and have also been observed to be in or around the emergency site assisting District fire personnel. One of the SCSD Directors stated to the Committee that the juveniles are a part of an explorer program (the Director is the apparent coordinator) at the Desert Shores' fire station and that the juveniles do not respond or take part in emergency operations. The District's General Manager has addressed this issue through a memorandum dated September 14, 2004, to all SCSD's staff regarding the involvement of juveniles in the District's fire operations. The Committee also discovered through or discussions with District officials/staff (with the exception of two SCSD Directors), that no one is aware that such a program exists at the Desert Shores' fire station. There was also concern expressed among those the Committee talked with that "at least" one of the juveniles in the explorer program is not enrolled and/or attending school on a regular basis.

Recommendations

Through the Committee's discussions with numerous District officials/staff, we have come to the conclusion that the above complaint can be substantiated. In fact, there were some witnesses that observed at least one juvenile was still engaged in emergency operations even after the General Manager's memorandum was issued in September 2004. This practice may create a liability for the SCSD and the County of Imperial if any of the juveniles are injured responding to or being injured at the emergency site. While the Committee believes that it is honorable to have a legitimate explorer program to teach and train juveniles about fire safety and operations, it is not acceptable to have juveniles in harms way.

The Committee also takes this opportunity to admonish the other SCSD Directors that have (appeared to) ignore this situation at the Desert Shores' fire station. The Committee strongly advises that the SCSD's Board of Directors develop and approve written guidelines for the explorer program and to seek advisement when doing so by both the County's Risk Manager and the County's Fire Chief.

The Committee requests that those guidelines be included with the SCSD's response to this investigation.

(Please note: The issue with the juvenile(s) not enrolled and/or attending school will be referred to this Grand Jury to further investigate under a separate complaint.)

Complaint #8: The Brown Act is being violated.

Investigation Summary

There was no indication through written proof or through the Committee's discussion with SCSD officials/staff that the SCSD Board of Directors is in violation of the Brown Act.

Recommendation
None.

CONCLUSION

As the SCSD's General Manager so aptly states in frequent memorandums to the District's officials and staff, "all fire personnel must understand that they are basically public servants that provide a needed service to all residents of the greater Salton Sea area." In harmony with that statement and in summary to our investigation, the Committee would like to list several observations that would serve as a general guideline to those SCSD staff personnel that carry out their day to day responsibilities of the District. Those observations are as follows:

- If practical, no Board of Director with the SCSD should serve as a volunteer firefighter (and vice versa) with either fire station.
- The Board of Directors should not micromanage either fire department. This task is the responsibility of the designated Fire Chief and the District's General Manager.
- The Board of Directors should remember that the only place that they have any authority is in a formal session (advanced notice required), and minutes of that session should be approved and published by the board.
- All District personnel must follow the designated line of authority, including the SCSD Board of Directors. The applicable lines of authority should be incorporated into the District's rules and regulations. Failure to follow those pertinent rules and regulations should result in disciplinary (administrative) action against the violator.

The Committee would like to take this opportunity to compliment all the SCSD officials and staff for their straightforwardness in their numerous discussions with Committee members throughout the investigative process. The members of this Committee look forward to the full Grand Jury accepting their recommendations as stated above.

6/15/2005

HEALTH & WELFARE COMMITTEE

2004-2005 Imperial County Civil Grand Jury

Subject: Youth

During an investigation of the Salton Community Services District by the Health & Welfare Committee of the 2004-2005 Imperial County Civil Grand Jury, we were made aware of a minor, under the age of 18, who was responding to fire department and medical aid calls. This minor has a department radio, badge and full fire gear. It was also apparent he was not attending school on a regular basis because of the amount of time he apparently spends at the fire station.

The Committee felt this was child endangerment as well as a liability for the fire department and the County.

One of the problems we encountered was that the West Shores High School is located in Imperial County, but the school is under the "umbrella" of the Coachella Valley Unified School District in Riverside County and that the minor lives in Imperial County.

The Director of Child Welfare and Attendance for the Coachella Valley Unified School District was informed of the situation and he stated he would look into the matter.

RECOMMENDATION

It is the recommendation of the 2004/2005 Grand Jury that this matter be referred to the Riverside County Superintendent of Schools for investigation.

June 1, 2005

Imperial County Grand Jury 2004-5
Administrative Committee

Subject:

Policies and Procedures regarding Sexual Harassment complaints from Imperial County Personnel

Area of Concerns:

The complaint brought against Imperial County by former Director of Human Resources and Risk Management in September of 2004, became a topic of interest to the Grand Jury, which unanimously elected the Administrative Committee to look into county policies and procedures with regards to sexual and physical harassment/abuse complaints.

Background:

The Grand Jury requested documents pertaining to the complaint against Imperial County from County Counsel. It was the Grand Jury's assumption that insight into alleged incidents of sexual harassment and/or discrimination by elected officials and county employees should be investigated if they were merited from these documents. Verbal and written requests for said documents were made to County Counsel starting in late August of 2004, again in September of 2004 and in October of 2004. These documents were finally received in November of 2004.

After reviewing these documents, a meeting was requested with Human Resources Director Dan Devoy in December of 2004. The GJ obtained from him the Imperial Codified Ordinances Policy Book and Imperial County Employee Handbook. Mr. Devoy also provided the GJ with a compilation of all complaints by employees for the last two years and their resolutions.

After reviewing both policy handbooks, the GJ requested a meeting with Mr. Devoy, Ronald Grassi, Deputy County Executive Officer and Mr. Ralph Cordova, County Counsel on March 22, 2005. The GJ members left the meeting satisfied that our questions were answered and suggestions were well received.

Findings:

After reading both policy books secured from Human Resources and the Imperial County Sexual Harassment policy, the Grand Jury came to these findings:

1. The Imperial County Sexual Harassment Policy and Employee Handbook are not congruent with each other; Specifically the wording in complaint procedures do not match. (Ref. Page .7, Employee Hand Book, Sec. XIV. DISCRIMINATION / HARASSMENT COMPLAINT PROCEDURE); http://www.imperialcounty.net/human-resources/SexualHarrassment.htm, (Imperial County Sexual Harassment Policy "Online" Sec. VII Procedures.)

2. There is a lack of congruency and clarity in both complaint procedures that allows complainants to forgo the entire complaint process and file directly with the Equal Employment Opportunity Officer (EEO). See ref. below:

- Employee Hand Book XIV, 2(b). - If their department does not respond or if the response does not satisfactorily address the complaint, the employee may formalize the complaint within the department or the employee may contact the Equal Employment Opportunity (EEO) Office for assistance in informally resolving the complaint. (Formal complaint resolution is covered in the following section.)

- Imperial County Sexual Harassment Policy - A complaint alleging sexual harassment shall be filed according to standard complaint procedures given in the Employee Personnel Handbook, or may be filed directly with the Equal Employment Opportunity Officer.

3. There is concern over employees having to report his/her complaint verbally to an immediate supervisor and the time frame that follows for a response. See ref. Below:

- Employee Hand Book XIV, 2 (a)- An employee who has a discrimination complaint should informally discuss their complaint with their immediate supervisor or department management personnel. The department should respond orally to the employee within five (5) days.

4. This prolonged complaint procedure could still allow whatever harassment to continue or escalate in the meantime. Ref Employee Hand Book XIV, 3. “Formal Discrimination Complaint with EEO office.”
    - 5 day response time from EEO
    - 20 day investigation period
    - Must file within 10 days to Employee Appeals board if you do not agree with EEO findings

5. Both ordinance policy book and employee handbook recently updated but not Sexual Harassment and Procedure Policy.

Recommendations:

The Grand Jury recommends to Mr. Dan Devoy, Director of Human Resources to see that:

1. Both the Imperial County Ordinances Policy Book and Imperial County Employee's handbook is uniform in all aspects.

2. The wording regarding the process should be easier to understand and the options to file directly with the EEO are prominently placed in the handbook.

3. During new employee orientation an overview of key terms and procedures should be made both orally and written.

4. A complaint form may be downloaded from the county website to ensure confidentiality. With the complaint submitted in a sealed envelope physically by complainant to the HR Director or Deputy County Executive Officer or designee as specified in complaint procedure to ensure continued confidentiality.

5. The Sexual Harassment Policy and Complaint Procedures be updated, just as were both other manuals.

Administrative Committee
Grand Jury 2004-5

February 11, 2005
Imperial County Juvenile Facility
2004/2005 Grand Jury members

Subject: Inspection of Imperial County Juvenile Facility

Inspection of the Imperial County Juvenile Facility was conducted on by members of the 2004/2005 Grand Jury on February 11, 2005.

The committee was greeted and met with Chief Probation Officer Michael Kelley, Deputy Probation Officer Gary Tackett, Juvenile Hall Manager George Zaragoza and Receiving Home Supervisor Ramona Campos.

A very thorough and professional briefing was conducted by Chief Probation Officer and his staff. All documents requested by the committee was prepared foe each member for review. All concerns and questions asked were professionally answered by each respecting Officer. The Committee was very impressed by the conduct and professionalism shown. We thank them for their complete cooperation.

A tour of the facility was conducted. We were escorted and guided by Chief Probation Officer Kelley and his staff and were provided all necessary information and all questions were answered.

Several juveniles of different ages and housed in different dormitories were interviewed by members of the committee. The juveniles stated they are well treated and please with all staff members. It was noted that their dorm bedding, clothing and personal appearance, including haircuts, were clean and neat.

We questioned the maintenance of the self-contained breathing apparatus and the frequency of training in their use and operation by all Officers and employees. The Grand Jury recommends that all Officers and employees be periodically trained in the use and operation of the unit.

Chief Probation Officer Kelley and his staff are commended for the operation and efficiency of their facility. Congratulations, keep up the professionalism and good work.

February 11, 2005

Betty Jo McNeece Receiving Home Facility
2004/2005 Grand Jury Members

Subject: Betty Jo McNeece Receiving Home

Grand Jury member's inspection of the Betty Jo McNeece Receiving Home Facility was conducted on February 11, 2005. Chief Probation Officer Michael Kelley and his staff escorted us during the tour.

It was noted that the classrooms were neat and well equipped with books and supplies. The Instructor gave us a brief on the type of instruction and education given to the residents.

Infant wards and dormitories were also neat and clean. Infant wards are manned at all times when infants are in the rooms.

We recommend that parenting classes be scheduled as they would be helpful to both the parents and children. Hopefully with the parents attending this type of instruction, the children would be returned to a more healthy and structured environment.

The kitchen and dining areas were toured and noted to be clean and neat. Ample supply of food and canned goods were in stock. It was noted that a health card for one of the employees had expired.

The Grand Jury supports the staff effort to transfer operation of the home to the Department of Social Services.

The staff of the Betty Jo McNeece Receiving Home is to be commended for their dedication to the children who are housed at the facility.

Again, Chief Probation Officer Kelley and staff are doing an outstanding job in the operation of the Betty Jo McNeece Receiving Home. The 2004/2005 Grand Jury would like to thank them for their cooperation.

February 11, 2005

Imperial County Jail Facility

2004/2005 Grand Jury Members

Subject: Imperial County Jail Facility

Inspection of the Imperial County Jail Facility was conducted by the 2004/2005 Grand Jury Members on February 11, 2005.

Jury members met in the Sheriff's conference room with Under Sheriff Chuck Jernigan, Captain Bill Willard and Lieutenant Richard Sotelo. We were provided with the documents requested, briefed on administration concerns and other pertinent matters.

After the briefing we were escorted on a tour of the entire facility by Captain Willard and Lieutenant Sotelo.

During the tour several discrepancies were noted and pointed out to the Captain and/or Lieutenant.

- Being as it was a raining day, several leaks were noticed in the facility.

  Two of the leaks were inside ceiling light fixtures, which could cause an electrical short and/or fire. Recommend that corrective action be taken as soon as possible.

- Inquires were made in regards to the function of the fire alarm and automatic sprinkle systems. Captain Willard stated the fire alarm system in the entire facility was operational, but the jury members did not test.

  It was asked if the sprinkle system was connected to the alarm system and discovered it is not. The Grand Jury recommends the County Property Services Department assess the feasibility of connecting the sprinkle system to the fire alarm system.

- It as noted that part of the wall padding in the “safety cell” was torn. This is considered a safety issue. Recommendation that the padding be repaired as soon as possible.
- The members questioned the training and maintenance of the Self Contained Breathing Apparatus (SCAB) installed throughout the facility. No records of training once they are hired. Some units had opened covers or were partially opened; some masks were hanging loose. A life safety piece of equipment such as a SCBA should be checked on a regular basis to insure it is in good working order. All Officers should bet trained in the use and operation of the unit on a regular scheduled basis.

- The members were also given a tour of the Medical Ward and briefed by personnel on their duties and responsibilities. Found the medical ward satisfactory and clean. TB testing is mandatory for all inmates and are administered by the medical contractor.

The Captain was asked about TB testing for all Correctional Officers and we were informed they are a requirement upon hiring, but optional after employment. State Correctional Officers are required to have test done prior to the appointment and each year after. The Grand Jury requests an explanation as to the difference in the TB testing requirements between County and State.

The Grand Jury members observed a weight machine in the dining hall for inmate use. It is a requirement in the State Prison System that weights are not allowed for inmate use. It is recommended that the County adopt this rule for the Correctional Officers own personal safety.

While on the tour, members of the Grand Jury witnessed a TASER shooting of an unruly inmate. However, video taping of this incident was not witnessed by any of the tour participants. The Grand Jury makes the recommendation that videotaping be implemented during this type of event to protect the County and Correctional Officers for any excessive use of force accusations by inmates.

While waiting for the Grand Jury tour to begin, one of the tour participants walked in to the jail administrative area and asked an employee where the restrooms were located. Without asking for any type of identification the employee “buzzed” the participant in to use the restroom. The Grand Jury recommends that County Jail employees ask for identification, purpose of visit, etc., prior to allowing public access to a secured area.

During the kitchen and dining room segment of the tour, it was noted the area was clean, however no health cards for employees handling food were posted on site. The Captain stated that for security reasons they are kept in the kitchen supervisor’s office.

The issue of staffing was discussed, and the Under Sheriff stated they were experiencing problems in this area due to the disparity of pay.

He stated that the Correctional Officers transfer to other Law Enforcement Agencies for better salaries and benefits. The Grand Jury recommends the County to review the staffing problem.

Overall, the jail facility was found to be in good condition and clean. It appears to be well managed. The staff was courteous, attentive, professional and cooperative in briefing and during the tour.

The Jury members were thanked by the Under Sheriff and invited back anytime to see or check the facility. We thank the Under Sheriff and staff for their cooperation.

06-17-05

Imperial County Grand Jury Law Enforcement Committee 2004-5

Subject of Investigation:

El Centro Police Department (E.C.P.D.)

Reason for Investigation:

A Complaint Form was submitted against the city of El Centro's Police Department alleging several complaints of inappropriate behavior and abuse under the color of authority. At the time of the complaints, the complainant had been under investigation as well as interviewed on video. The complainant was subsequently arrested.

Background:

Grand Jury **(G.J.)** members met with the complainant for review and clarification of the complaints, which the complainant confirmed and the G.J. agreed to investigate.

G.J. asked and received policies and procedures from the city of El Centro related to the charges against the complainant. The policies were well defined and easy to understand. Investigative reports were requested from E.C.P.D. as well as a meeting with the detective to review their reports and view the video of the complainant's interview. The officer was asked about the alleged inappropriate behavior towards the complainant. The officer stated that due to the nature of the charges, they were unaware of the complainant's state of mind during the initial contact and were trying to maintain a safe and secure environment.

Findings:

After researching the City of El Centro's policies related to the nature of the charges, as well as the investigating reports by the officer, along with the viewing of the video; the complainant agreed to speak with the officer as to his involvement regarding the charges brought against him. The Grand Jury concluded that the El Centro Police Department was acting within the scope of their duties and no further action is required.

Recommendations:

The Grand Jury would like to thank the El Centro Police Department, and at this time do not have any recommendations.

Response Required:
At this time a response is not requested to the Imperial County Grand Jury or the Imperial County Superior Court.

Acknowledgments:
The Grand Jury would like to thank the El Centro Police Department and the staff for their assistance in our investigation.

SUBJECT OF INVESTIGATION:

CALIPATRIA STATE PRISON

Reason for Investigation:

The Grand Jury is required by State Law Penal Code Section 919 (b) to inquire into the conditions and management of the public prisons within the county.

Background Information:

The 2004-2005 Imperial County Grand Jury conducted a tour of the Calipatria State Prison. The Warden and several staff including the directors of the Vocational Program, Educational Program, Head Clergy and the Head of the Cafeteria presented the jurors with information regarding the programs offered by the prison. We were also provided with information on the prisons policies and attempts to control drug use, gang activity and other illegal activity that unfortunately is part of the prisoners' lifestyles.

Facilities:

Calipatria State Prison includes a Level I and Level IV facilities designed to accommodate approximately 4000 inmates. The Level IV facility houses high-risk offenders that require maximum-security measures. The Level I facility is located outside of the security perimeter and houses lower level offenders.

Findings:

All areas that were toured were found to be in good condition and well staffed.

Recommendations:
The Grand Jury would like to thank the Warden and his staff, and at this time do not have any recommendations.

Response Required:
At this time a response is not requested to the Superior Court or the Imperial County Grand Jury.

Acknowledgments:
The Grand Jury would like to thank the Warden and his staff for an informative tour, and well maintained facility.

Subject of Investigation

Centinela Prison

P.O. Box 731
Imperial, Ca 92251

Reason for Investigation:

The Grand Jury is required by State Law Penal Code Section 919 (b) to inquire into the conditions and management of the public prisons within the county.

Background Information:

The 2004-2005 Imperial County Grand Jury conducted a tour of Centinela State Prison on April 1, 2005. The Warden and several of his staff were present and provided jurors with an informational packet containing the official magazine of Centinela State Prison, an Institution Profile sheet, Description of the Prison packet and an agenda. We were also provided verbally, in great detail, about several statistical facts about Centinela as well as the entire California Prison System.

Facilities:

Centinela State Prison includes Level I, II, III, and IV facilities, designed to accommodate 1952 inmates, but which actually houses 4134 inmates. The Level IV, Maximum Security Inmates are currently being transferred out to other state prisons. In addition there is a Level I facility located outside of the security perimeter which is designed to house 208 inmates, but which actually houses 330 inmates.

Centinela is currently using only two of the twelve towers surrounding its facility to maintain an unobstructed view of the fence and structures within the security perimeter, these towers are manned twenty four hours a day.

Findings:

All areas toured including Facility A, Central Kitchen, Correctional Treatment Center, and Administrative Segregation Unit C-6, were found to be in operating condition and well staffed.

Recommendations:

The Grand Jury would like to thank the Warden and his staff, and at this time do not have any recommendations.

Response Required:

At this time a response is not requested to the Imperial County Grand Jury or the Imperial County Superior Court.

Acknowledgments:

The Grand Jury would like to thank the Warden and his staff for an informative tour and well maintained facility.

Imperial County Grand Jury 2004-2005
Health and Welfare Committee

Subject:

Polices and Procedures relating to screening of visitors and the security of prisoners, County and Court Employees at Brawley, Calexico Courts, and the Courthouse in El Centro.

Areas of Concern:

Overall safety of Court Visitors and Court/County employees.

Background:

The Court Facilities in the cities of Brawley, Calexico and El Centro were visited.

Findings:

This report will not be published due to the security risk for County/Court employees and prisoners. Our findings and concerns have been forwarded to County Counsel, other County Officials and Judge Raymond A. Cota for review.

RESPONSES TO THE GRAND JURY'S INVESTIGATIONS AND TOURS

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May 19, 2005

Imperial County Grand Jury
c/o Francisco Pacheco, Grand Jury Foreman
Imperial County Courthouse
939 Main Street
El Centro, CA 92243

Re: Salton Community Services District (SCSD) Investigation

Dear Mr. Pacheco:

This letter is in response to your letter of April 22, 2005 to Tom Cannell of the Salton Community Services District containing the report of the Health and Welfare Committee's investigation of certain matters dated March 14, 2005 (the "Report").

I met with the Board of Directors of the SCSD in closed session on May 6, 2005 to discuss the allegations contained in the Report. I also received information from the General Manager and the Assistant General Manager relating to the allegations. This letter contains information that was provided to me by the Directors by the General Manager and the Assistant General Manager and responds to the Report as required by Penal Code 933.05.

"Complaint #1: "Having two fire stations in a community of less than 1,000 people is a violation of Health and Safety Code 14828 [SCSD and the Desert Shores Improvement Association (DSIA) at the Desert Shores location]."

The Salton Community Services District has two fire stations. One in Salton City and one in Desert Shores. At the time the Grand Jury performed its investigation the Desert Shores Fire Station was located in a building owned by Shirley Palmer, one of the Directors. The Desert Shores Fire Station is currently being moved back to a different location owned by the SCSD.

There is no authoritative figure for the population in Desert Shores. According to one Director it had a population of somewhere over 900 at the time of the 2000 census. Others believe that the current population is over 1,200. It is probable that the population of Desert Shores is in excess of 1,000 and that Health and Safety Code 14828 does not apply.

I have been informed that the Desert Shores Improvement Association ("DSIA") is a non-profit public benefit corporation which has received tax exempt status from the Internal

Revenue Service under Internal Revenue Code Section 501(c)(3). DSIA has certain fire fighting functions. DSIA has a contract with the U. S. Department of Forestry and the California Department of Forestry to provide a three-man team and equipment for fires outside of the SCSD. Therefore, it would appear that the DSIA was not operating as a fire department in the Desert Shores area.

The SCSD does not use any of DSIA's assets other than one pumper truck which is provided to the SCSD free of charge. The DSIA and the SCSD operations and/or assets will not be commingled in the future.

As pointed out in the Committee's investigation, the premises previously used by the fire department in Desert Shores are owned by Ms Shirley Palmer, who is a Director of the SCSD. Ms Palmer provided the premises free of charge to SCSD. Ms. Palmer paid the liability insurance, the telephone, the fax and the utilities at the Desert Shores Fire Department. Originally, the SCSD was to pay for these expenses but Ms. Palmer never collected these amounts. In the future this will not be an issue because the Desert Shores Fire Station has been moved out of the building owned by Ms. Palmer.

Dave Patterson (no relation to the author), who is a Director of the SCSD, indicated that he indeed has acquired donated equipment from government agencies in different parts of California. However, he solicited the donations on behalf of the DSIA, not the SCSD, and title to the equipment was taken in the name of DSIA.

The General Manager of the SCSD, Mr. Tom Cannell, does have ultimate authority over the Desert Shores Fire Station and did had authority over it when it was located in Ms. Palmer's building. Mr. Patterson, also a volunteer firefighter, who works from the Desert Shores Fire Station and all other volunteer firefighters at the Desert Shores Fire Station report to Mr. Cannell, and are subject to his authority. All of the personnel who operate from the Desert Shores Fire Department have undergone an interview with Mr. Cannell, have taken a drug test, and have a personnel file which is maintained by Mr. Cannell in the SCSD offices.

In the past the volunteer firefighters at the Desert Shores Fire Department and firefighters at the Salton City Fire Department did not have reciprocal access to the two fire stations. This is no longer the case now that the SCSD building in Desert Shores is being utilized. SCSD equipment is separately inventoried to avoid possible confusion with DSIA equipment.

"Complaint #2: The Desert Shores fire station was moved from the District's old building to a larger building owned by a member of the SCSD Board of Directors."

As mentioned above, the Desert Shores Fire Station has been moved back to the SCSD building in Desert Shores and is no longer located in the building owned by Ms. Shirley Palmer. Prior to that time, Ms. Palmer provided the premises she owns to SCSD free of rent or any other charges. Under the original arrangement the SCSD was to pay for utilities, telephone and

insurance meaning that her financial interests would not be significantly affected. This situation that the Grand Jury identified no longer exists.

"Complaint #3: DSIA requisitioned a surplus fire truck and then rented it back to SCSD."

As mentioned above, Mr. Patterson acquired donated fire equipment on behalf of DSIA not on behalf of SCSD. DSIA lent one pumper truck to SCSD free of charge. SCSD will take steps to adopt a policy that all acquisitions for the SCSD Fire Department will be accepted by the Board of Directors of the SCSD or in emergency situations, by the General Manager.

"Complaint #4: Items exceeding $1,000 were purchased without the SCSD Board of Director's approval."

As stated in the recommendation of the Committee, the District is in compliance. No violation was found. A copy of the SCSD audit report for the fiscal year 2003-2004 will be forwarded to you when available.

"Complaint #5: The SCSD Fire Chief was dismissed improperly. The recommendation indicates that no clear reason was given for the termination of the Fire Chief."

Employees of SCSD are "at will" employees. Therefore, no reason for dismissal is required. Additional circumstances concerning this situation are confidential.

"Complaint #6: Operators of the SCSD's fire department equipment are not having a medical check-up to operate the equipment."

The General Manager of the District, Mr. Cannell spoke with the Imperial County's Risk Manager and Fire Chief regarding medical check ups. Action will be taken to adopt the County's rules and regulations requiring a medical exam every two years.

"Complaint #7: The fire station at Desert Shores has at least one juvenile responding to emergencies."

Mr. David Patterson, who is involved in the Explorers program, assured me that juveriles are never placed in harms way and are not allowed to be exposed to inappropriate situations such as gore. The Explorers program is operated according to rules and regulations of the Boy Scouts of America. These Explorers programs operate throughout Imperial County and other counties. Mr. Patterson indicated that the juvenile, who is not enrolled in school, is being home schooled.

"Complaint #8: The Brown Act is being violated."

As indicated, the Grand Jury found that there was no violation of the Brown Act.

"Conclusions of Grand Jury"

"1. No member of Board of Director of the SCSD should serve as a volunteer firefighter (and vice a versa) with either fire station."

The two directors who are volunteer firefighters indicated that they would not give up their board positions or their volunteer firefighter positions. They feel that they are important to the community in both roles. The Grand Jury should bear in mind that the population of the area is relatively small and that there are a limited number of people willing to serve on the fire department.

"2. The Board of Directors should not micromanage either fire department. This task is the responsibility of the designated fire chief and the District's General Manager."

"3. The Board of Directors should remember that the only place they have any authority is a formal session (advance notice required), and the minutes of that session should be approved and published by the board. Board members are aware of this requirement."

The Directors are aware and have been reminded that they do not have the authority, as Directors, to act on a day-to-day basis with respect to the operations of the SCSD.

"4. All District personnel must follow the designated line of authority including SCSD Board of Directors. The applicable lines of authority should be incorporated into the District's rules and regulations. Failure to follow those pertinent rules and regulations should result in disciplinary and administrative action against the violator."

Action will be taken to incorporate the suggestions into the rules and regulations.

Very truly yours,

Robert L. Patterson

Robert L. Patterson
for BEST BEST & KRIEGER LLP

RLP:krg

cc: Tom Cannell, General Manager
Salton Community Services District

RMR:S\RLP\052158.4

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May 23, 2005

Imperial County Grand Jury
c/o Francisco Pacheco, Grand Jury Foreman
Imperial County Courthouse
939 Main Street
El Centro, CA 92243

Re: Salton Community Services District (SCSD) Investigation

Dear Mr. Pacheco:

Since my initial letter to the Imperial County Grand Jury (dated May 19, 2005), it has come to my attention that Ms. Shirley Palmer has resigned from the Salton Community Services District Volunteer Fire Department. I thought the Grand Jury would be interested in knowing of Ms. Palmer's resignation because in the Grand Jury's letter of April 22, 2005 it was suggested that members of the Board of Directors should not be members of the board as well as volunteer fire fighters.

Very truly yours,

Robert L. Patterson

Robert L. Patterson
for BEST BEST & KRIEGER LLP

RLP:krg

cc: Tom Cannell, General Manager
Salton Community Services District

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33

IMPERIAL COUNTY SHERIFF'S OFFICE
HAROLD D. CARTER
SHERIFF - CORONER - MARSHAL

May 10, 2005

Grand Jury
939 Main St.
El Centro, CA 92243

RE: Imperial County Jail Facility Inspection Report
Inspection date of February 11, 2005

I would like to thank the Grand Jury for the recent inspection of the Correctional Facilities of the Sheriff's Department. It is beneficial to the department to have an inspection of the facilities by an outside source.

Areas of the inspection that need improvement or repairs will be given a top priority and will be completed in a timely manner.

The Grand Jury is welcome at any time to further inspect the correctional facilities. Please find the response to your inspection to be inclusive of all of the noted areas of deficiency. Please contact me if you have any further questions regarding the Corrections Division operation.

Sincerely,

Harold D. Carter
Sheriff – Coroner - Marshal

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34

Response to Grand Jury Inspection February 11, 2005

Captain Bill Willard
Jail Commander
May 10, 2005

1. Roof leaking into light fixtures

   Recommendation has been implemented and County Property Services has repaired the roof.

2. Sprinkler System – Fire Alarm

   County Property Services advises that there is an alarm system available for the sprinkler system. The alarm system would announce the activation of a sprinkler head, alerting staff to the presence of a fire. The sprinkler system works on the detection of heat and each head is activated individually with an increase in temperature.

   The fire alarm system is a smoke detector system that is located in the exhaust air condition duct work.

   The Sheriff's Department will look into the feasibility of installing an alarm system for the current sprinkler system.

3. Damage to Safety Cell

   Recommendation to repair the torn portion of the wall of the Safety Cell has been implemented and the wall was repaired approximately three weeks ago.

4. Self Contained Breathing Apparatus Training

   Agree with findings of the Grand Jury.

   All Correctional Officers as well as Correctional Clerks are trained in the use of the Self Contained Breathing Apparatus that are located in both facilities. Officers are given a fire safety class where they learn to use the SCBA as well as responding to fires and the evacuation of inmates. Correctional Clerks in control rooms are trained in the use of the SCBA in order to staff control rooms in the event of a fire.

   Training files for each officer are maintained by the Corrections Division Training Officer. The next scheduled fire safety training class for

Corrections personnel will be September 2005. In service Fire Safety training is done biannually.

On a weekly basis, the mid night shift checks the SCBAs and all fire extinguishers in both facilities and prepares a report for the Corrections Division Safety Officer. The Safety Officer then will make the necessary repairs, replacement of masks or re-filling of the air tanks.

5. Tuberculosis Testing of personnel

New employees are tested for tuberculosis during the re-employment County physical examination. Annual tuberculosis testing is offered to Corrections employees on a voluntary basis. It is not mandatory for employees to submit to TB testing. In order to require mandatory testing for TB, the employees' MOU would have to reflect this through the meet and confer process in order to change a condition of employment. Apparently the State has implemented a mandatory testing for TB.

5. Weight Machines for inmates

Weight machines are located in both Correctional facilities. These machines are located under roofs where inmates can access them during rainy weather.

Inmates have two options for their three hour per week recreation program at the Regional Adult Detention Facility. They can either play basketball or volley ball in the outdoor concrete recreation yard or access the weight machines.

At the Herbert Hughes Correctional Facility, the outdoor recreation yard is dirt and is not useable during rain. During rainy weather, inmates are recreated inside the weight room.

The average stay for inmates in our facilities is thirty days. Therefore inmates do not have long term access to weight equipment in order to significantly increase their strength. Free weights were removed from both facilities ten years ago.

7. TASER shooting of inmate

The Grand Jury was present during the application of the TASER to one of the inmates. All housing areas of the jail have two digital recording cameras in the day rooms of each module. This incident was digitally recorded and a copy of the incident was placed onto CD for evidence and for future less lethal training classes.

8. Building Security

Agree with findings of the Grand Jury.

All employees have been instructed to ask for identification prior to a non-employee entering the building. The Sheriff is currently looking into the installation of card reader door opener for all doors into the building in order to increase security of the building.

9. Posted Food Handlers cards

Agree with findings of the Grand Jury.

Health code requires that food handler cards be posted in a visible Location. Since the inspection, food handler cards have been posted in the dining room of the Herbert Hughes Correctional Facility.

10. Staffing Problem

Agree with findings of the Grand Jury.

Retention of employees has been an on-going problem due to disparity Of pay for employees compared to other agencies. Bargaining units within the Sheriff's Department are working to increase pay for staff.

COUNTY OF IMPERIAL

MICHAEL W. KELLEY
Chief Probation Officer

PEDRO J. SALGADO
Chief Deputy Probation Officer
Adult / Administrative Services

GARY L. TACKETT
Chief Deputy Probation Officer
Juvenile Operations / Institutions

PROBATION DEPARTMENT

PROBATION DEPARTMENT
JUVENILE HALL
RECEIVING HOME

324 Appiestill Road
El Centro, CA 92243

Telephone: (760) 339-6229
Fax: (760) 352-8932

June 13, 2005

Francisco Pacheco
Grand Jury Foreman
939 Main Street
El Centro, CA 92243

Please accept the following as our response to the 2004/2005 Grand Jury inspection and recommendation:

BETTY JO MCNEECE RECEVING HOME

Recommendation:

We recommend that parenting classes be scheduled as they would be helpful to both the parents and children. Hopefully with the parents attending this type of instruction, the children would be returned to a more healthy and structured environment.

Response:

Every parent with children in the receiving home are ordered by Juvenile Court to attend parenting classes. This recommendation is currently in effect. In addition, children in the receiving home that have infants or who are sexually active (teenagers) are also given parenting classes along with presentations concerning parental responsibilities.

In the future, when full authorization is given to Department of Social Services along with Behavioral Health over the receiving home, we anticipate that additional in-custody and out-of-custody counseling services will be provided to parents and children.

JUVENILE HALL

Recommendation:

That all officers and employees be periodically trained in the use and operation of the self-contained breathing apparatus.

Response:

The Juvenile Hall staff have received training on the two self-contained breathing apparatus and have ongoing updated training. All of the supervisors and several line staff were retrained on the two self-contained breathing apparatus on May 17, 2005 by Captain Tony Moreno of the Imperial County Fire Department. Captain Tony Moreno is a certified trainer on self-contained breathing apparatus. We have at least one staff on each shift that is certified to utilize a breathing apparatus. Further, we are sending two supervisors to in-depth certification training to enable our department to do our own trainings each year with all staff. These two supervisors will be certified in late June 2005. They will work closely once certified with the County Fire Department to keep our equipment operational and staff well trained in the usage of the safety equipment. Documentation of these trainings and staff trained will be kept on a yearly basis.

Thank you for the opportunity to respond to the Grand Jury recommendations. If any additional information is required, please do not hesitate to contact me. You may be assured of my full and complete cooperation on all matters.

Very truly yours,

Michael W. Kelley
Chief Probation Officer

MWK/mh

39

RECOMMENDATIONS
FOR THE
2005-2006 GRAND JURY

The Imperial County Grand Jury recommends that the 2005-2006 Grand Jury conduct a follow up tour/investigation of the:

1) Imperial County Jail Facility.
2) Explorer Program at the Salton Community Services District.
3) Imperial County's Sexual Harassment Policy.

New Tours:

1) Imperial County Adult Detention Facilities
2) Imperial County Court Holding Facilities
3) Calexico Police Facility

To review the implementation of the 2004-2005 recommendations from the report of the Grand Jury.

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End of Report