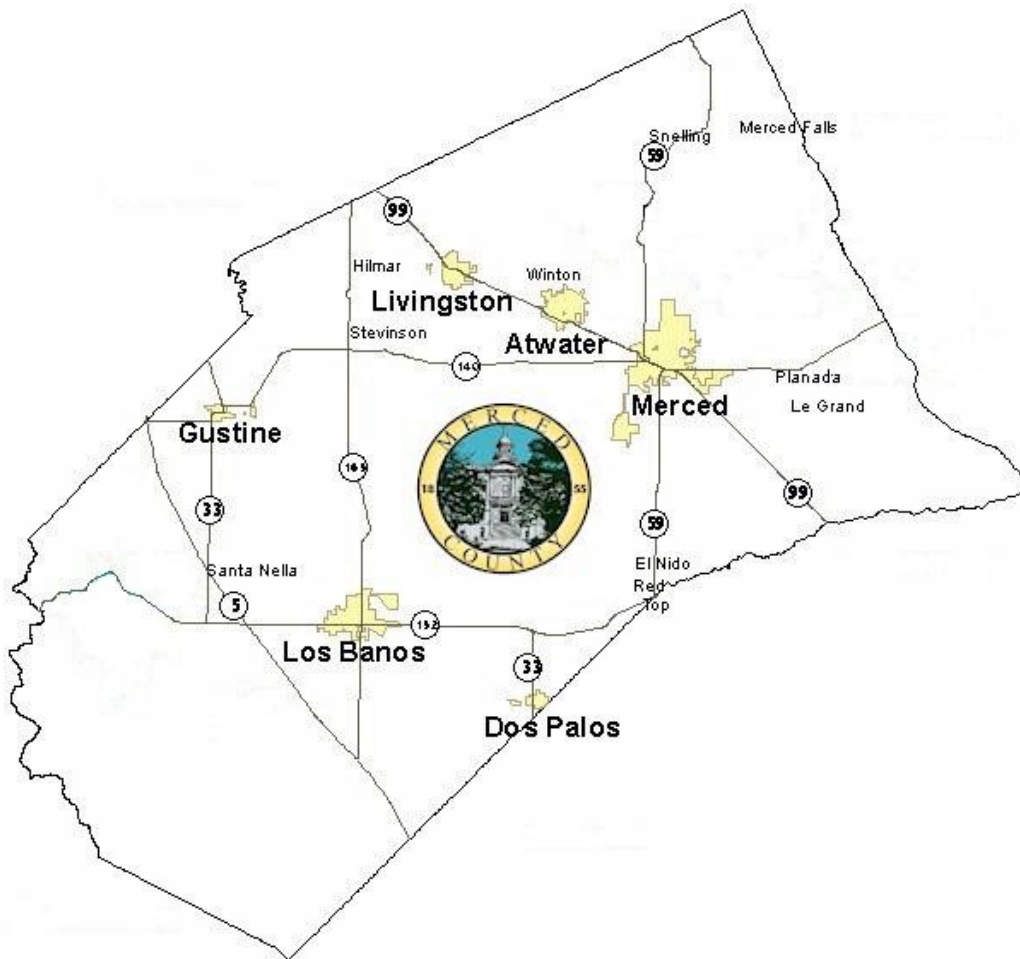


# Merced County

## Civil Grand Jury Final Report



**2010 - 2011**

**Merced County Civil Grand Jury  
2010-2011 Final Report**

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**MERCED COUNTY  
GRAND JURY**

PO Box 2034  
Merced, California 95344  
<http://www.co.merced.ca.us/grandjury>

June 17, 2011

The Honorable Marc Garcia  
Presiding Judge of the Civil Grand Jury  
Merced County Superior Court

Dear Judge Marc Garcia:

The 2010-2011 Merced County Civil Grand Jury is honored to present this Final Report to the court and to the citizens of Merced County in accordance with the California Penal Code, Section 933. This report encompasses many dedicated hours and involves sincere, thoughtful decisions. Investigations covered agencies of county and city governments as well as complaints from citizens.

The Civil Grand Jury appreciates the cooperation and respect extended to us by all government and public agencies. This cooperation contributed to completion of the report. The acceptance of the findings and the implementation of our recommendations are now the responsibility of the agencies and departments identified in the 2010-2011 Civil Grand Jury Report.

Of the sixteen complaints received by this Civil Grand Jury, seven complaints were investigated, seven were declined, and two were deferred to the 2011-2012 Merced County Civil Grand Jury.

As mandated by law, the Civil Grand Jury inspected two county correctional facilities and Merced County Jail. Police stations in Los Banos and Dos Palos were also visited.

Members of the Civil Grand Jury appreciate the opportunity to serve the citizens of Merced County. All jurors will agree that serving on this Civil Grand Jury has been a challenging and rewarding but, above all, a very educational experience.

Thank you for your support, encouragement, and counsel.

Sincerely,

Barbara Ellington, Foreperson  
2010-2011 Merced County Civil Grand Jury

## Merced County Civil Grand Jury Members

Michelle Allison  
Elizabeth Avila  
Kathy Bishop  
Regina Chavez  
Jean Corp  
Barbara Ellington  
Daniel Gaines  
Deborah Giannone  
Jessica Grimaldo \*  
Ilung (Annie) Hsu  
Barbara Jamison  
John Jesus  
Nicole Madril \*  
Babs Ratzlaff  
Annette Tomsha  
Christiane Traub  
Ruben Violante, Sr.  
William Watts  
Douglas Widner

Barbara Ellington – Foreperson  
Babs Ratzlaff – Foreperson Pro Tem  
Ilung (Annie) Hsu – Recording Secretary

Note: Grand Jurors reside in the following communities within the County of Merced:

Atwater	Gustine
Hilmar	Livingston
Los Banos	Merced
Winton	

\* Jurors unable to complete the full term

# 2010-11 Merced County Civil Grand Jury Committee Assignments

## **Administration/Finance**

Douglas Widner - Chairperson  
Jean Corp  
Debbie Giannone  
Ilung (Annie) Hsu  
John Jesus

## **Health/Education/Welfare**

Elizabeth Avila - Chairperson  
Jessica Grimaldo \*  
Barbara Jamison  
Christiane Traub  
Ruben Violante, Sr.

## **Environment/Transportation**

Dan Gaines - Chairperson  
Kathy Bishop  
Regina Chavez  
Bill Watts

## **Law/Justice**

Babs Ratzlaff - Chairperson  
Michelle Allison  
Nicole Madril \*  
Annette Tomsha

\* Jurors unable to complete the full term

## **Complaints Investigated**

## **Complaint 10-11-06**

### **Child Protective Services/Mandated Reporters**

#### **Summary**

The Merced County Civil Grand Jury received a complaint regarding Child Protective Services (CPS) and their service to children and to the Mandated Reporters.

#### **Method**

The Merced County Civil Grand Jury conducted interviews with the Director of Human Services, the former Child Welfare Services Director, Administrative staff and Mandated Reporters from several schools within Merced County. A group of Civil Grand Jurors visited the Foster Parent Training Facility where we were guided through the introduction for prospective foster parents. Deputy Director of Child Welfare Services, Laura De Cocker, and a co-worker explained briefly the training session given to Mandated Reporters. Documents were given to the Civil Grand Jury Members including, "The California Child Abuse & Neglect Reporting Law, Issues and Answers for Mandated Reporters", printed by California Department of Social Services Office of Child Abuse Prevention

#### **Findings**

The Merced County Civil Grand Jury discovered that it is unclear to both the school administrators and to CPS just who is required to provide training for Mandated Reporters or how much training should take place. Among some school district personnel, there is confusion regarding who constitutes a mandated reporter.

The Civil Grand Jury discovered through interviews with administrators and staff at schools throughout Merced County that there were inconsistencies in training available to all school staff designated as Mandated Reporters. Our interviews with administrators included all levels of education from elementary through high school.

The training of Mandated Reporters in schools or elsewhere is not considered by CPS to be their responsibility. They do not contact the school administrators within Merced County to arrange for training session for the schools staff. They do conduct training sessions for a school if requested to do so. However, this training session is considered by some of the attendees to be too brief and/or unsatisfactory.

The administrative staff in more than one school was unaware of their obligation to train their staff in Mandated Reporting. Many administrators require incoming staff to read and sign a document designating their responsibility as a Mandated Reporter. However, there are no explanations or guidance to help staff determine what to do, or even know the process to complete the report form.

The Civil Grand Jury also learned that by state law, a Mandated Reporter must file a written report to CPS within 36 hours of making a verbal report. CPS in turn, and by law, must send a written report to the Mandated Reporter within 30 days of receiving the written report. The Civil Grand Jury determined that there are inconsistencies in responding by CPS caseworkers. Often a response to the Mandated Reporter by the caseworker is a printed form with a check list but no written response.

The Jurors found through our interviews that CPS caseworkers are not willing to maintain contact with school staff. CPS claims that confidentiality must be maintained.

One school district, where we interviewed, has contracted with a social worker who is available two days a week on the three school campuses. The school district contracts through Merced County Department of Education who contracts with the social workers. This program is paid for by the school district. The administration and staff believe that this program is beneficial to the students and to the school climate. This district also offers a parenting program to assist parents in working with their children.

## **Recommendations**

The Merced Civil Grand Jury recommends that all school administrators in each school district within Merced County become familiar with the state laws regarding Mandated Reporters. We also suggest that they become knowledgeable in the complete realm of Child Protective Services. The administrators need to establish consistent and educational training sessions for all staff involved as Mandated Reporters. The Merced Civil Grand Jury extends these recommendations to all organizations that provide services to youth.

The Mandated Reporters need to be better informed of their responsibilities. They need to be able to determine when to contact CPS, and they need to feel comfortable in completing the required written form. In order to achieve this goal, a GOOD training program needs implementation.

Current training for Mandated Reporters is grossly inadequate. Child Protective Services is in a unique position to provide a comprehensive training



program that follows state guidelines and should include updated and relevant videos, hands-on training, and other related materials.

The Civil Grand Jury recommends that Child Protective Services personnel be more willing to communicate with the Mandated Reporters, especially those people who interact daily with the child involved. CPS must be more responsive to the Mandated Reporter without revealing confidential information. The check list is inadequate when the Mandated Reporter needs insight to help the child in the school environment.

The Civil Grand Jury requests that school district administrators in all of the county school districts consider contracting for an on campus social worker service. Services to families and children involved would be greatly improved by such a program. Also, implementing other programs, such as parent education, would be beneficial for parents and students of all ages. We realize there are severe budget cutbacks but perhaps grants or other funding is available.

The Civil Grand Jury base our recommendations on facts discovered in the investigation. Our goal is to improve family life and educational experiences for all children within each community.

### **Commendations**

The Civil Grand Jury salutes all people involved in the well-being, health, care, and education of children. We recognize that the Child Protective Services caseworkers carry a heavy case load. The demand on educators to teach not only academic subjects but also social standards and life skills takes patience and understanding. We believe that by working together through improved communication, everyone involved will benefit.

## **Complaint No. 09-10-27 Merced County Fire Department**

### **Summary**

The 2010-2011 Merced County Civil Grand Jury received an anonymous complaint requesting that it investigate the alleged mismanagement of the Merced County Fire Department. The complainant identified five conditions or incidents that were described as being inappropriate, and possibly illegal.

The complainant made numerous allegations, including: abuse of overtime system and payments; failure to accurately document hours worked; improper government activity; misappropriation of Merced County funds; gross negligence by management staff; incompetence/inefficiency of staff; abuse of authority; inappropriate timesheet activity; failure to perform duties; suspicious vendor and policy (appropriations) changes for benefit of family and friends; misappropriation/theft of department equipment; mistreatment of employees, including discrimination, favoritism, hostile work environment, and retaliation; and violations of Merced County “Weapons in the Workplace” policies with regard to animal cruelty.

The Merced County Civil Grand Jury received specific complaints against the Division Chief and two Battalion Chiefs, alleging, among other things, conflicts of interest, misuse of public and private funds, excess overtime and a general lack of management within the department.

### **Background**

Merced County Fire Department, which provides fire protection and prevention services to the residents of Merced County, is one of thirty-five counties within California that contracts with CALFIRE, a division of the California Department of Forestry and Fire Protection, for the provision of emergency services. CALFIRE operates twenty (20) fire stations throughout the county. Station 73 in Santa Nella is a state CDF facility and not under the control of the county.

### **Method**

Based on the submission of documents, the Grand Jury believed there to be sufficient grounds to conduct an investigation into allegedly inappropriate activity within the Merced County Fire Department. Interviews were conducted and additional materials relating to the allegations were gathered to either support or dismiss the claims.

The Civil Grand Jury conducted several site visits, reviewed relevant material and interviewed key County and CALFIRE personnel. The site visits included touring the Los Banos Fire Station. The Committee also reviewed the following materials: ancillary complaints filed by fire department personnel (both administrative and fire classifications), and their respective resolutions, Administrative Law Judge facts and findings and third party mediation and investigative reports.

## **Findings**

There was sufficient evidence to support the claims regarding inappropriate timesheet activity resulting in excess and unearned overtime pay. The unusual nature of station shifts makes it impossible for no overtime to be incurred. The Unit Chief informed the Civil Grand Jury that he has made several changes to the scheduling procedures that have drastically reduced the amount of overtime within the department.

There is a close relationship between the Division Chief and two of the Battalion Chiefs. The Civil Grand Jury did not find evidence of a conflict of interest or nepotism; however, the perception of such a conflict of interest or nepotism could be construed from the facts.

Equipment, parts and furniture purchases made by the Department maintenance shop and within individual stations were appropriate and within the county guidelines. High-end purchases were within the allocated amounts for the Department and did not exceed the budgeted amount for such purchases.

Monies from the Volunteer Firefighters Recreational Fund were used appropriately and with the approval of that group.

The Grand Jury did find that a Battalion Chief inappropriately and without authority asked a Fire Engineer to bring a pellet gun to the station in order to shoot crows and dogs wandering onto the property.

Abusive behavior by management as a result of whistle-blowing activities was unfounded. Complaints of harassment retaliation were unfounded.

Allegations that the Division Chief failed to provide an appropriate level of supervision, discipline and training were found to be partially substantiated.

## **Recommendations**

The Merced County Fire Department needs management training at all levels of supervisory positions. Currently, no management skills training is required or given to new or veteran Battalion Chiefs. It is the recommendation of the Grand

Jury that specialized management skills training be a requirement for all newly appointed Chiefs, and continuing education requirements for veteran Chiefs at every level.

Coursework requirements should include communications, team building, discipline and critical analysis, the evaluation process and motivational techniques.

### **Commendations**

The Grand Jury would like to commend both the Merced County Fire Department and CALFIRE for their successful work in protecting and educating Merced County. Their efforts have not gone unnoticed by the Grand Jury.

## **Complaint 10-11-01 Merced County Irrigation District**

### **Summary**

The Merced County Civil Grand Jury received a complaint concerning the cleaning of a privately owned ditch authorized and directed by Merced Irrigation District (MID) Management. MID's equipment and employees were employed to do the work.

### **Method**

The Civil Grand Jury interviewed MID General Manager, MID Board of Directors, MID employees, and landowners within the MID district. Documents containing information on MID policies received from MID management were reviewed, as well as the California Code (Article 16, Public Finance) which is very specific concerning the use of public utilities assets for a private benefit.

### **Findings**

The Civil Grand Jury finds that the private ditch in question was cleaned using equipment and employees of MID. The ditch feeds off of Baily"A" lateral and is privately owned by several landowners. The cost to MID is estimated to be approximately \$2,000 in use of labor and equipment. It also appears that MID has made no attempt to recoup the cost from the landowners of the privately owned ditch. A portion of the complaint centered on the possibility that favors were being done for particular landowners.

The Grand Jury finds that after much research and interviewing witnesses that no intentional favoritism was shown. The ditch cleaning occurred during the peak of crop growing season. An effort was made to supply water to a grower and to ensure a profit to MID.

In investigating this matter, the Grand Jury discovered an inconsistency in what is billable and in what is not billable by MID to the public sector. Documents indicate that the private irrigation ditches are not clearly defined. There is a lack of records to identify private canal ownership. In many instances the landowner with a private ditch on his land is not aware of the responsibility of maintaining the ditch.

## **Recommendations**

The Merced County Civil Grand Jury recommends that MID make an attempt to recover the \$2,000 from the landowners who benefited the most from the ditch cleaning.

The Civil Grand Jury cautions MID in the performance of any private work that is ordered to be done for a MID customer on privately owned ditches or canals for landowners. Accurate records should be maintained on land ownership. A consistent price rate should be charged for services performed. This would alleviate any complaints of favoritism to any one customer.

The Civil Grand Jury recommends that MID notify each new landowner by written communication of the landowner's responsibility in the maintenance of open ditches on the landowner's property. This would operate to prevent misunderstanding concerning maintenance of open ditches.

This Civil Grand Jury also recommends that MID update all of their records of land ownership AND of all property deeds of right of way held by MID. This information should be made available to the landowners who use the MID irrigation system.

## **Commendations**

The Civil Grand Jury thanks all of those involved in this investigation. We realize that all concerned had MID's and the public's interest as the number one priority.

## **Complaint 09-10-09**

### **City of Los Banos: Community Center**

#### **Summary**

The Merced County Civil Grand Jury received a complaint, 09-10-09, for an investigation of the two embezzlement cases in the City of Los Banos.

The complainant 09-10-09 also questioned the wisdom of spending \$12.5 million on building a Community Center when the City of Los Banos had recently declared fiscal hardship.

The complainant was questioning whether the money that the City of Los Banos received was a Grant that they would not have to pay back, or a Bond that would have to be repaid. In addition, the complainant would like to know if the Community Center is able to sustain itself, once completed and in operation.

The complainant also stated that the citizens deserved to have answers to many questions regarding two embezzlement cases that occurred within the City in a very short time period. This report pertains to the spending of \$12.5 million to build the community center. The complaint regarding the two embezzlement cases is in a separate report. For information on the City of Los Banos embezzlement cases, please refer to Complaint 09-10-13.

#### **Method**

The Civil Grand Jury conducted interview with the City of Los Banos Council Members, employees of the city, the City Manager, the City and County RDA Directors, as well as the complainant. Various documents and correspondence were also reviewed by members of the Civil Grand Jury.

#### **Findings**

The Civil Grand Jury, through investigative interviews, learned the City of Los Banos was forced to eliminate police and fire department personnel due to financial hardship. However, the City Council had approved to spend \$12.5 million to build a Community Center that will carry an annual cost of \$300,000 for the city.

The Civil Grand Jury found the Community Center was in its planning stage in September of 2003. A Public Bid was put opened to the public. Acquisition Plans for phasing the center were drawn. In April of 2004 Public Hearings were held by the Los Banos City Council for assessment. Community Forums were

held and surveys were taken in the community to determine support for the project. In February, 2005, a second Citizen Task Force was created at a City Council Meeting and planning began. The Community Center development was written into a time line for the Los Banos Rail Corridor. The center has been in operation since August, 2010. The total cost of building the Community Center was approximately \$12.5 million with money from bond sales totaling \$17 million.

According to the documents the Civil Grand Jury received, the Los Banos Redevelopment Agency 2006 Tax Allocation Bond states:

“The 2006 bonds are special obligations of the agency and, as such, are not a debt of the City of Los Banos, the State of California, and of their political subdivisions and neither the City, State, nor any of their political subdivisions other than the agency to the limited extent as described herein is liable for the payment thereof. In no event shall the 2006 bonds be payable out of any funds or properties other than tax revenues of the agency as set forth in the indenture. The 2006 bonds do not constitute indebtedness within the meaning of any constitutional or statutory debt limit or restriction. The agency has no taxing powers.”(page 11)

“Interest on the 2006 Bonds will be payable on March 1<sup>st</sup> and September 1<sup>st</sup> of each year, commencing on March 1<sup>st</sup> of 2007.”  
(Front Cover)

The Maze and Associates Financial Review ending June 20, 2009, found the RDA not in compliance with the Bond regulation. Specifically:

“**Condition:** As of fiscal year ending June 30, 2009, the Redevelopment Agency did not maintain appropriate amount of reserve balance for 2006 Tax Allocation Bond.”

“**Criteria:** [...] As of June 30, 2009, the minimum amount of the reserve should be \$972,595.70. However, the balance of the reserve account of that date was \$962,793.00, a discrepancy of \$9,802.70.”

The city management responded to the audit stating they will perform an annual review to ensure proper reserve is available in the account.

## **Recommendations**

The Civil Grand Jury feels that the annual review is not sufficient as the bond payment is paid on a semi-annual basis. Consequently, we recommend that



the City of Los Banos perform an audit review for RDA 2006 Tax Allocation Bonds reserved at least on a semi-annual basis, to insure the minimum reserve amount of \$972,595.70 is in this account to maintain compliance with the Bond regulations as prescribed by Federal Law.

The Civil Grand Jury is also recommending the Civil Grand Jury of 2011-2012 review the financial audit report for 2010-2011 to check on the implementation of the recommendations of this report.

### **Commendation**

The Grand Jury thanks all of those involved in this investigation. We realize that all concerned had the City of Los Banos and the public interest of the Community Center as their number one priority.

## **Complaint 09-10-13 City of Los Banos**

### **Summary**

The Merced County Civil Grand Jury received a request for an investigation of two embezzlement cases involving the City of Los Banos. The complainant felt that the investigation done by the Los Banos Police Department failed to adequately address some of the issues. The complainant also questioned the hiring practices of the city, especially in regards to background checks.

The complainant also questioned whether the City of Los Banos Human Resources Department was aware that the second embezzler had a previous record of embezzling from the private sector.

### **Method**

A complaint was submitted to Merced County Civil Grand Jury regarding two embezzlement cases that took place in the City of Los Banos, resulting in a total loss of over \$2 million. The complainant felt that the City of Los Banos had failed to address several pertinent issues, including the fact that the City of Los Banos had hired a forensic accountant to work along with the Los Banos Police Department. In addition, the Los Banos Police Department performed an investigation of its own city government giving the appearance of impropriety.

The Civil Grand Jury conducted interviews with the City of Los Banos Council Members, employees of the city, the City Manager, the City and County RDA Directors, as well as the complainant. Various documents and correspondence were also reviewed by members of the Civil Grand Jury. The Civil Grand Jury also consulted with the District Attorney's office.

### **Findings**

The Civil Grand Jury found the District Attorney's office believed the Los Banos Police Department could handle the investigation. The police report was turned into the DA's office and it was approved.

The individuals interviewed by the Civil Grand Jury stated that the City of Los Banos Human Resources Department has a formal hiring procedure, and such procedure was followed when hiring the second embezzler, who passed the Live Scan Fingerprinting. This form of identification is used as a primary tool of law enforcement agencies when performing background checks on individuals.

In reviewing the Annual Financial Statement Audits from 2006 to 2009 the Civil Grand Jury found that, although recommendations were given to the city, it appears that the city has not followed the suggested recommendations made by the first auditing committee.

### **Recommendations**

The Civil Grand Jury recommends the proper finance department supervisors review and implement the following, but not limited to, questionable items found within the statements:

- “Incomplete or missing documentation for payroll records (2006-2, 2006-3, 2006-4, 2008-2, and 2008-3)”
- “Cash receipts cannot be traced to cash receipt journal (2006-9 and 2007-2)”

The Civil Grand Jury is also recommending the Civil Grand Jury of 2011-2012 review the financial audit report for 2010-2011 to check on the implementation of recommendations against the past years reports.

### **Commendations**

The Grand Jury thanks all of those involved in this investigation.

**Complaint: 10-11-03 (A & B)**  
**City of Los Banos: Neighborhood Stabilization Program (NSP)**

**Summary**

The Merced County Civil Grand Jury received a request for an investigation of a complaint regarding possible misuse of the \$2.4 million that the City of Los Banos received from the Neighborhood Stabilization Program (NSP).

**Background/Method**

The complainant 10-11-03 believed the City of Los Banos misused the \$2.4million, received from the Neighborhood Stabilization Program (NSP). In addition, the complainant felt that local realtors were not given a fair opportunity to participate in the Neighborhood Stabilization Program.

The Complainant stated the following:

1. The NSP used money to purchase homes that needed to be renovated, instead of using the money for soft second loans.
2. Some of the homes that were purchased by the City of Los Banos did not meet the NSP requirements/guidelines.
3. Realtor participation procedure/guidelines were changed in the middle of the process.
4. There was insufficient communication between the NSP administrators and the local realtors.
5. It appears that not all allocated funds were used appropriately.
6. Habitat for Humanity should not have received money during the initial phase of the NSP distribution of funds.

The Merced County Civil Grand Jury conducted an interview with personnel from the City of Los Banos Redevelopment Agency, the Merced County Redevelopment Agency Advising Agency, Merced County Association of Government (MCAG), and local realtors, as well as with, the complainant. Various documents and correspondence were also reviewed.

**Findings**

The Civil Grand Jury found that, due to time constraints, the City of Los Banos had to purchase homes in a short period of time or risk losing the funds. The NSP was faced with two difficult problems; outside investors were willing to pay a higher price on foreclosed homes, and banks were not willing to loan money for homes that needed major renovations.

With limited funding and strict regulations, the NSP was not able to compete with outside investors to purchase homes within the City of Los Banos. There was, also, too large a gap between what banks were willing to loan on a first mortgage and what the soft second loans would cover. The NSP administrators elected to purchase homes instead of disbursing soft second loans.

Due to NSP regulations, the staff from NSP was unable to find enough homes within the selected tracts that met these requirements. The NSP advisor received approval from the State of California to purchase homes outside of the designated area; however, all of the other NSP requirements had to be met.

The NSP administrators stated in their interview that they were continually forced to modify their communications with the local realtors, due to the demands and constraints of the NSP program. These modifications may have caused realtors to receive outdated information and miss opportunities to participate in the program because of time constraints. Invitations to attend training seminars were sent to local offices by fax, with a short response time allotted for participation. Formal written invitations were not sent to offices because of these time constraints.

The NSP Advisor and the City Manager, working together, created a small committee to interview candidates, selecting one individual to hire as the official real estate agent for the City of Los Banos. All paperwork was processed through proper channels. However, one of the individuals on the selection committee was the supervisor of the individual who was eventually chosen. Questioning revealed that of the eight applicants, six were from the same realty office.

The Civil Grand Jury determined that all NSP funds were accounted for, and are still in circulation to purchase more homes to benefit homebuyers.

Habitat for Humanity was given \$1 million, so that they could acquire homes that needed major repairs and renovate them; thereby, allowing low income families who could not otherwise own a home, the ability to purchase one. There was no regulation about when, or if, Habitat for Humanity should receive further funding.

## **Recommendations**

The Merced County Civil Grand Jury recommends that the City of Los Banos establish hiring criteria for the city real estate representative position. These criteria should specify minimum qualifications and term limits and a salary range for this position. The selection committee should follow the hiring procedures to the City of Los Banos. This is necessary in order to avoid the perception of impropriety and conflict of interest. No one on the selection committee should be able to gain financially from the selection choice.

The NSP administrators should communicate better with the local real estate community. They should develop a more structured and uniform set of policies to preserve impartiality, preventing the impression of favoritism.

### **Commendations**

The Civil Grand Jury thanks all of those involved in this investigation.

### **Glossary/Appendix**

Soft Second Loan (Soft Second Gap Financing): difference between primary loan and purchase price. May include closing costs (capped) and partial down payment (subject to primary lenders requirements.).

Neighborhood Stabilization Program (NSP): was part of the Housing and Economic Recovery Act of 2008. It is designed to assist low to moderate income families purchase a home. Some of the NSP regulations include:

- housing units must be foreclosed and vacant
- purchase price must be at least 1% below the appraised value
- homes must be located within Los Banos Census Tracts 22.02 and 23.02 (unless approval is received from the State of California)
- homes must be modest housing units

## **Complaint 10-11-02 Planada School District Board of Trustees**

### **Summary**

The Merced County Civil Grand Jury received a complaint concerning conflict of interest, unfair hiring practices by the Board of Trustees of the Planada School District, and nepotism. The complainant also questioned changing the year of elections for school board members.

### **Method**

Members of the Merced County Civil Grand Jury interviewed the complainant, the Planada School District Superintendent, members of the Board of Trustees and other employees of the school district.

Documents received from the Planada School District office included Board of Trustees policies and procedures, Board minutes for 2010 board meetings and the county school board election code.

### **Findings**

The Civil Grand Jury finds that while the school board of trustees has the final decision concerning employment of individuals for the school district, the school superintendent recommends individuals for employment. This is done following completion of application forms, written tests and interviews. The board members do not participate in the selection process. When a prospective employee, or an employee to be released from a position, is related to a board member, that board member abstains from voting.

The Civil Grand Jury finds that the issue of nepotism is clearly addressed in the Board of Trustees Policies and Procedures. However, taking into consideration that Planada is a small community and many of its residents are related, there is a high probability of relatives being employed by the school district.

The Civil Grand Jury finds that the complaint concerning the issue of the Board of Trustees arbitrarily changing the year of elections of board members is unfounded. The county election policies clearly state the procedure for changing election years. The change of election years can only be done with the approval of the Merced County Board of Supervisors.

The Civil Grand Jury found evidence of two incidents not addressed in the complaint that were in direct violation of school district policies.

During the interview process, the Civil Grand Jury became aware of two separate occasions that a board member verbally reprimanded district employees for alleged work related misconduct. The first employee interviewed referred to a board member questioning and addressing an incident that was outside the scope of that employee's job responsibilities. The other employee, who is a supervisor in the school district, stated that this same board member addressed him in an unprofessional manner and accused him of providing confidential information to an employee who wanted to apply for another job within the district. The employees feel that the actions taken by the board member were unfair and out of his/her jurisdiction.

### **Recommendations**

If issues like these are not addressed and corrected at the right time, the door is left open for these kinds of incidents to continue to occur. The Merced County Civil Grand Jury highly recommends that the Planada School District Board of Trustees receive annual training on School Board Policies and Procedures, the Brown Act, and Robert's Rules of Order. Newly elected board members should be fully trained in these areas upon taking office.



## **Disposition of Other Complaints**

**Complaint 09-10-25  
Los Banos City Council  
And  
Redevelopment Agency**

The Merced County Civil Grand Jury received a complaint alleging that the Los Banos City Council transferred a partial amount of employees' salaries from the city's general fund to the city's RDA account.

The Civil Grand Jury made a concerted effort to contact the complainant for further information, but was unable to do so. As a result, we declined the complaint.

**Complaint 10-11-04  
Los Banos City Officials, Merced County Officials  
And  
Other Local and State Officials**

The Merced County Civil Grand Jury received a complaint against the Los Banos Police Department concerning an investigation and included additional persons in county and state departments and offices.

The Civil Grand Jury declined to investigate the complaint due to the extensive number of departments and agencies involved, as well as jurisdictional aspects of the complaint.

**Complaint 10-11-05  
Citation Department of the City of Merced**

The Merced County Civil Grand Jury received a complaint to investigate policy violations in the Merced Police Department.

The Civil Grand Jury declined to investigate the complaint because it concluded that all entities involved dealt with the claim according to written policies.

**Complaint 10-11-07  
Police Staff Personnel**

The Merced County Civil Grand Jury received a complaint requesting an investigation of a policy violation by the Merced Police Department.

The complainant was advised that other avenues of resolution were available and that the Civil Grand Jury would take no action at this time.

**Complaint 10-11-08  
California Department of Corrections Parole Officer**

Merced County Civil Grand Jury received a complaint concerning actions of a parole officer.

The Civil Grand Jury declined to investigate this complaint due to jurisdictional limitations of the Civil Grand Jury.

**Complaint 10-11-09  
Rental under Section 8**

The Merced County Civil Grand Jury received a complaint involving a rental under a Section 8 agreement.

The Civil Grand Jury advised the complainant to seek other avenues available for resolution.

**Complaint 10-11-10  
Atwater City Council  
And  
Atwater City Departments**

The Merced County Civil Grand Jury received a complaint involving several service departments and the city council in Atwater.

The Civil Grand Jury recommended that the complainant resolve some of the issues by seeking information from the departments involved. One subject area of the complaint has been referred to the 2011-2012 Civil Grand Jury.

**Complaint 10-11-11  
Merced Police Department**

The Merced County Civil Grand Jury received a complaint to investigate the conduct of an officer concerning an arrest.

The Civil Grand Jury declined to investigate the complaint because the police were following proper procedures according to California Penal Code 148.

**Complaint 10-11-12  
Merced County Child Support Services Office**

The Merced County Civil Grand Jury received a complaint involving the Merced County Child Support Service Office.

The Civil Grand Jury notified the complainant that due to insufficient time to investigate this complaint thoroughly by this grand jury, the complaint has been referred to the 2011-2012 Civil Grand Jury.

**Complaint 10-11-13  
Monterey County Officials**

The Merced County Civil Grand Jury received a complaint concerning officials in Monterey County.

The Civil Grand Jury declined to proceed with this complaint because it is not within its jurisdiction.

## **Mandated Inspections**

## **John Latorraca Correctional Center Mandated Annual Inspection**

### **Introduction**

The Merced County Grand Jury inspected the John Latorraca Correctional Center Facilities located at 2584 W. Sandy Mush Road, Merced, on February 8, 2011. California Penal Code Section 919(b) mandates the Civil Grand Jury annually inspect correction facilities within Merced County.

The Merced County Sheriff's Office, under the command of Sheriff Mark Pazin, is responsible for the operation of the facility. The site is under the direct supervision of Commander Joe Scott, who provided the Civil Grand Jury Members with a power point presentation. The Grand Jury toured the facility which was conducted by Commander Scott.

### **Findings**

Staffing at the jail remains a problem. One Commander position has not been filled. Commander Scott is in charge of both the Correctional Center and the Main Jail.

Presently, there are twelve Sergeants; eighty-two correctional officers (three positions are open), twelve part-time correctional officers, fourteen clerical staff, one food services supervisor, seven food services workers, two full time commissary workers, one part time commissary worker, and one full time maintenance worker.

In 2010 the total bookings numbered 13,843. Daily population is 1,005. The average daily population on programs is 147. On average, the inmate population is 531 male and 54 female.

The medical facility is staffed with an RN and an LVN. This allows for sick call and other medical attention. The positions are staffed 24 hours. Dental care is available also at the medical facility. The incoming inmates must have a complete health screening before assignment to a dorm .

The kitchen is clean. The staff serves two hot meals, breakfast and dinner, and one cold meal at lunch. Meals are delivered to the dorms. The dining room is not large enough to accommodate the number of inmates. The safety of the inmates and the supervising deputies is a constant consideration. The kitchen staff prepares meals delivered to Iris Garrett Juvenile Center and the Main County Jail downtown.

The Correctional Center facility is twenty years old. Continual maintenance is a drain on the budget. The inmates continually damage the inside sheetrock walls of the dorms.

The bunk beds are stacked three high for the inmates sleeping quarters. There are three dorm blocks which are used to separate the inmates by gang affiliations and others. The inmates from each dorm are allowed yard time on separate schedules.

The software programs have been updated.

A new solar power system is being installed.

The filtration system, which has been a problem in the past, is in the process of being upgraded.

### **Recommendations**

An immediate attempt should be made to fill one of the vacant commander positions.

The Grand Jury also recommends two officers be assigned to duty in the control room per shift to maintain better observation of the monitor screens should one deputy be called away.

The Board of Supervisors should seriously consider funding for replacement of the twenty year old dorms with a new facility. This will reduce maintenance cost and increase the number of dorms to accommodate the overcrowding of inmates per dorm which now exists. The alternate solution would be to replace the existing sheet rock interior walls in the dorms with concrete or cinderblock. This would improve the security of the structure and reduce maintenance expenses. We are aware of the budget constraints but we consider this a priority.

The standing Grand Jury recommends that the incoming Civil Grand Jury of 2011-2012 tour John Latorraca Correctional Center, including viewing the dorms for both men's and women's facilities.

### **Commendations**

We, the Merced County Civil Grand Jury, commend the staff and supervisory personnel at the John Latorraca Correctional Center for their efforts to maintain safe work conditions and safety standards for all inmates.

## **Iris Garrett Juvenile Justice Correction Center Mandated Annual Inspection**

### **Introduction**

California Penal Code, Section 919 (b) mandates that the Civil Grand Jury inspect correctional facilities within the county each year. The Merced County Civil Grand Jury visited Iris Garrett Juvenile Justice Correction Center located at 2840 West Sandy Mush Road, Merced, on March 22, 2011.

The Civil Grand Jury members toured the entire facility. We were met by Chief Probation Officer Scott Ball, Assistant Chief Chris Bobbit and Program Manager Heidi Szakala. We met with Judge David Moranda who is assigned full time to the court within the facility.

### **Findings**

Judge David Moranda presides over court hearings in the facility's courtroom. He conducts evaluations and meets with parents of the juveniles. This expedites the judicial process and eliminates transportation to another court.

The facility has a maximum capacity of 120 juveniles. Currently the facility houses 99 juveniles. The number of juveniles changes constantly. The ratio of staff to inmate is 1 to 10. Six officers are assigned to each of the two buildings. Girls are housed in the area containing the very young boys. The facility meets ADA requirements, which means that the cells are wheelchair accessible and showers are equipped with handicap bars for disabled. The computerized system uses a camera to identify inmates by facial recognition as well as finger printing.

There are four classrooms in each building. Teachers are assigned to conduct regular academic classes geared to the students' needs. Classes begin at 8 am and end at 3 pm. The staff operates vocational programs available to juveniles who earn points through a merit program. Other earned activities include field trips and camping. All of these activities are designed to expand the knowledge and to broaden life skills of the juveniles through experiences.

There are well organized and supervised recreational activities, including volleyball and basketball. A nice basketball court with overhead covering was constructed just outside of one unit. The juveniles do not have television but do have access to a video library.

The jail ministries offer sessions on Wednesday evenings and services on Sunday. Attendance is on a voluntary basis.



The kitchen area was clean and well managed. Well balanced meals including snacks, consisting mostly of fresh fruits, are prepared at nearby John Latorraca Correctional Facility. They are transported to the Iris Garrett Center at a scheduled time.

Medical staffing, which consists of an RN and an LVN, is provided by California Forensic Medical Group. The medical staff is on duty from 7 am to 11 pm and they are available "on call". A medical doctor visits the facility two times per week and is also "on call". A mental health physician is available every Friday. Mental health counselors are available on site most of the time.

The Bear Creek Academy is an innovative program through which juveniles may earn their way out of detention. The program operates on a points system whereby the selected juveniles earn, or lose points based on behavior and participation in activities such as community service, work, and education programs. The program offers incentives for good behavior.

### **Commendations**

The staff and administration of Iris Garrett Juvenile Correction Center are to be commended for the excellent work they are doing. The facility is very secure and well managed. The staff strives to provide novel and innovative programs for the juveniles at the facility.

We are impressed with all that we saw and heard concerning the operation of the facility.

## **Merced County Sheriff's Department Mandated Annual Inspection – Main Jail and Office**

### **Introduction**

The Merced County Grand Jury inspected the main Merced County Jail at 700 West 22<sup>nd</sup> Street, Merced on April 20, 2011. This was a mandated inspection as prescribed by California Penal Code 919(b). Members of the Grand Jury met with Commander James Scott who conducted the tour. Following is an overview of the jail operations and a report of the facility's personnel and equipment needs.

### **Findings**

There are two sections to the main jail; the first section was built in 1960 and the second section was added in 1995. The older section of the jail is still in use; however, it is not equipped with a fire sprinkler system, only smoke detectors. The newer section of the jail is well-lit, air-conditioned and a fire sprinkler system is installed and in use.

The control center has been upgraded and the video equipment is adequate. It is manned by one officer, which appears to be sufficient.

The booking unit is staffed by two correctional personnel to facilitate inmate bookings. Strip searches have been reinstated; new inmates are searched twice, the first time for medical reasons and the second for contraband.

Medical and dental services are combined into one facility, which is staffed by an RN, LVN and board-certified medical doctor practicing in Merced County. The doctor is on duty twice a week and on call for emergencies. The medical services appear to adequately meet the needs of the inmates.

All meals are prepared at the John Latorraca Correctional Center facility and dispersed to prisoners by trustee inmate labor.

Members were given a tour of the Alternative Sentencing Programs by Sergeant Ristine, who explained how the different programs worked and their processes.

As noted above, strip searches have been reinstated to improve officer safety and jail personnel now have a secure parking area to park personal vehicles while on duty.

**Recommendations**

The Sheriff's administration has made several requests for updated equipment, especially cameras and other monitoring equipment. The updated equipment would enhance the correctional officer's ability to monitor inmate activity inside the jail.

**Commendations**

The staff of the Merced County Main Jail is to be commended for the professional manner in which they perform their duties and their commitment to public safety under such stressful conditions.

# **Los Banos Police Department and Jail Mandated Inspection**

## **Introduction**

The Merced County Grand Jury inspected the Los Banos Police Department and Jail located at 945 5<sup>th</sup> Street, Los Banos, CA. This was a mandated inspection as prescribed by California Penal Code § 919(b). Members of the Grand Jury were met at the facility by Police Chief Gary Brizzzee. Chief Brizzzee conducted a thorough tour of the jail and police department facilities and answered questions by the Grand Jury. Following is an overview of the jail operations and a report of the facility's personnel and equipment needs.

## **Findings**

Los Banos operates a Type I jail facility, which, as set per statute, houses no more than twenty inmates for up to 96 hours, excluding holidays. The California Highway Patrol, Dos Palos Police Department, California Fish & Game, the Merced County Sheriff's Department and the Gustine Police Department all utilize the Los Banos jail for booking purposes.

The jail is part of the police department facility and was designed according to the standards in effect at the time of its construction in 1969. The jail has passed all required inspections, including those required by the Health Department, Fire Department and Juvenile Justice Agencies.

There is one cell (the "soft" room) designed to hold inmates who may be in danger of injuring themselves. A kitchen area furnishes three meals a day to inmates as mandated by State regulation.

The Los Banos facility does not hold violent or mentally disturbed detainees as they are considered "unique" inmates. These inmates are immediately transported to the appropriate County facility in Merced.

The evidence room is small but well-equipped. Security of the facility is well maintained and the control center is well-equipped for the size of the facility.

After reviewing the current preventative maintenance logs for the fuel generator, the Grand Jury noted that the maintenance logs do not include all fluid levels, pressures and temperatures, nor do the monthly tests include load transfers. It was also noted that rust was accumulating on the generator. It is possible that the time allotted for testing is not long enough.

## **Recommendations**

The Los Banos Police Department and Jail are a well-run facility, but could use some updated equipment such as larger monitor for the 911 situation room. The Grand Jury also suggests that the fuel generator located in the police compound be replaced. We also recommend that a formal maintenance training program should be implemented and suggest that personnel extend the time for testing to 60 minutes in order to reach the proper motor temperature to evaporate condensation and reduce rust.

## **Commendations**

The staff of the Los Banos Police Department and Jail is to be commended for the professional manner in which they perform their duties and their commitment to public safety.

## **Dos Palos Police Department Mandated Inspection**

### **Introduction**

On May 19, 2011, members of the Merced County Grand Jury inspected the City of Dos Palos Police Department located at 1546 Golden Gate Avenue, Dos Palos California. The Merced County Grand Jury has, at its discretion under California Penal Code 925(a), the option to investigate and report on the operations, accounts, and records of officers, functions, methods or system of performing duties of law enforcement agencies within Merced County.

We were met by the Dos Palos Chief of Police Barry Mann and given a brief overview of the department, followed by a tour of the facilities. Chief Mann has been with the department since 2001 and became Police Chief in 2004.

### **Findings**

The police department is housed in a building circa 1950s with only maintenance and repairs until now. It is currently in a remodeling mode with a majority of the labor furnished by department personnel and, due to budget constraints, most of the materials donated by area businesses. Chief Mann expects to be finished sometime in the near future.

The Dos Palos Library is housed in the same building along with city administration offices.

The dispatch area has one dispatcher 24/7 and has been recently upgraded with state-of-the-art communications and monitoring equipment.

The Chief does not have an administrative assistant. There are eight sworn officers and six reserve officers on the police force; Dos Palos does not currently have any ranked officers or detectives. All officers are POST Certified and current with their Basic Peace Officers Standard Training.

Patrol cars are equipped with mobile data terminals. The terminals also provide GPS for tracking vehicles and are linked to the dispatch terminals.

The K-9 unit is active and consists of two officers with dogs. Chief Mann is one of the K-9 officers as well as the Resource Officer for local schools.

The arrestees are now taken to Merced for booking and detention.

## **Recommendations**

The entrance area to the Police Department is underutilized. The Grand Jury recommends that this space be used to provide seating for visitors and an area to display informational literature.

The Grand Jury recommends that the Dos Palos Police Department continue with the station remodel as time and resources permit.

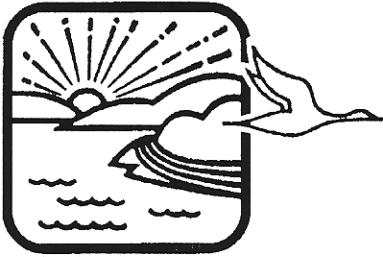
The 2010-2011 Grand Jury recommends that the 2011-2012 Grand Jury revisit the Dos Palos Police Department to review their progress.

## **Commendations**

The Civil Grand Jury commends Chief Mann for his efforts in improving police and community relations and applauds his resourceful methods in providing exemplary public safety services on a very tight budget. We believe Chief Mann's position as Resource Officer is an asset to the community.

## **Responses to the 2009-2010 Final Report**





# City of Los Banos

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## Police Department

July 2, 2010

TO: Presiding Judge of Merced County  
FROM: Gary Brizzee, Chief of Police  
SUBJECT: 2009-2010 Grand Jury Report

I have received and reviewed the 2009-2010 Grand Jury Report. The Police Department is in the process of repairing the cell mentioned in the Annual Jail Inspection; the repairs should be completed this fiscal year. No other comments required.

Respectfully,

A handwritten signature in cursive script, appearing to read "Brizzee".

Gary Brizzee  
Chief of Police

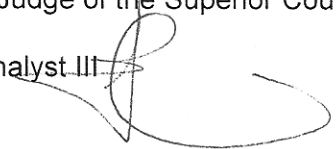


COUNTY EXECUTIVE OFFICE

Dimitrios O. Tatum  
County Executive Officer

2222 "M" Street  
Merced, CA 95340  
(209) 385-7637  
(209) 385-7375 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

DATE: August 30, 2010  
TO: Judge John Kiriara, Presiding Judge of the Superior Court  
FROM: Angelo Lamas, Management Analyst III   
SUBJECT: **Grand Jury Response**

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Enclosed are the appropriate County department responses for the final Grant Jury report for Fiscal Year 2009/2010. The Board of Supervisor response to the Grand Jury report is expected in September.

cc: Linda Roland, 2009-2010 Merced County Grand Jury Foreman ✓  
Merced County Board of Supervisors ✓  
Larry T. Combs, County Executive Officer




**Administrative Services**

**Mark A. Cowart**  
*Chief Information Officer*

2222 "M" Street  
Merced, CA 95340  
(209) 385-7690  
(209) 725-3535 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

Date: July 27, 2010  
From: Mark A. Cowart, Director/CIO   
Administrative Services  
To: Angelo Lamas  
Cc:  
Subject: 2009/2010 Grand Jury Report

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This is to acknowledge I have received and reviewed the 2009/2010 Grand Jury Report.  
Administrative Services has no issues to report.

MAC/amm

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07-30-10 9:12:33 RCVD



**DEPARTMENT OF AGRICULTURE**

David A. Robinson  
*Agricultural Commissioner*  
*Director of Weights and Measures*  
*Director of Animal Control*

2139 Wardrobe Avenue  
Merced, CA 95341-6495  
Phone: (209) 385-7431  
Fax: (209) 725-3536  
Los Banos Office: (209) 827-2030

Animal Control: (209) 385-7436  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

DATE: July 6, 2010

TO: Angelo Lamas, County Executive Office

FROM: David Robinson, Agricultural Commissioner

SUBJECT: **ACKNOWLEDGMENT FO THE 2009/2010 GRAND JURY REPORT**

I have received and reviewed the 2009/2010 Grand Jury Report. I find no issues in the report which pertain to matters under my control.



AUDITOR-CONTROLLER

Lisa Cardella-Presto, CPA  
Auditor-Controller

2222 "M" Street  
Merced, CA 95340  
(209) 385-7511  
(209) 725-3900 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

July 6, 2009

TO: Presiding Judge  
Merced County Superior Court

FROM: Lisa Cardella-Presto, CPA  
Auditor-Controller

SUBJECT: 2009-2010 Grand Jury Report

I have received the 2009/2010 Grand Jury Report. There were no issues in the report that pertain to the Auditor-Controller's Office and, therefore, I am submitting this letter to indicate that I have reviewed the report.

LCP/ln



COUNTY ASSESSOR-RECORDER

Kent B. Christensen  
Assessor-Recorder

2222 "M" Street  
Merced, CA 95340  
(209) 385-7631  
(209) 725-3956 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

July 30, 2010

TO: Honorable John Kiriara, Presiding Judge  
Merced County Superior Court

FROM: Kent B. Christensen  
Merced County Assessor-Recorder

SUBJECT: 2009-2010 Grand Jury Report

I have received and reviewed the Merced 2009-2010 Grand Jury Report and have determined that there are no issues that pertain to the Assessor or Recorders Office.

Sincerely,

Kent B. Christensen  
Merced County Assessor-Recorder

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DEPARTMENT OF COMMERCE, AVIATION  
AND ECONOMIC DEVELOPMENT

Mark J. Hendrickson  
*Director*

2507 Heritage Drive  
Atwater, CA 95301  
(209) 385-7686  
(209) 383-4959 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

DATE: July 9, 2010

TO: The Honorable Donald Proietti  
Presiding Judge of the Civil Grand Jury

FROM: Mark J. Hendrickson   
Director of the Commerce, Aviation and Economic Development Department

RE: I have reviewed the 2009-2010 Grand Jury Report and there are no issues in the report that pertain to matters under the control of my department. If I can be of further assistance, please feel free to contact me at your earliest convenience.



DEPARTMENT OF  
CHILD SUPPORT SERVICES

Kathy Hassett  
Director

780 Loughborough Drive  
Merced, CA 95348  
(866) 901-3212  
(209) 722-0556 Fax  
www.merceddcss.com

Mailing Address  
P.O. Box 3199  
Merced, CA 95344

Equal Opportunity Employer

July 26, 2010

TO: Honorable John Kiriara  
CC: Larry Combs, County Executive Officer  
ATTN: Angelo Lamas  
RE: Grand Jury Report Response 2009/2010  
Child Support Complaint # 09-10-08

The Merced County Department of Child Support Services acknowledges that we have received and reviewed the 2009/10 Grand Jury Report.

Complaint 09-10-08 contained in the report states that the Grand Jury received a complaint alleging that the Merced Child Support Office was not returning calls made by the complainant. The Grand Jury declined to investigate the complaint because the complainant had already sent letters to the Merced County District Attorney's office, California Child Support office, Arizona Child Support Office, and the Arizona Attorney General's Office.

Although, the Department is not required to respond to any recommendations for corrective action, we would like to advise the Grand Jury that documented Departmental policy for returning customer calls provides that phone calls should be returned within 24 hours. Any complaint received alleging that this policy was not adhered to, would be resolved through the Department's formal complaint resolution process.

Sincerely,

Kathy Hassett  
Director





**DISTRICT ATTORNEY**  
LARRY D. MORSE II

2222 M Street  
Merced, CA 95340  
Phone (209) 385-7381  
Fax (209) 725-3669

Assistant District Attorney  
JOSEPH M. TRESIDDER

Chief Deputy District Attorney  
HAROLD L. NUTT

Chief Deputy District Attorney  
JOHN J. GOOLD

Director of Administrative Services  
JEANNETTE M. PACHECO

**INVESTIGATIONS**

(209) 385-7383

Chief Investigator  
PATRICK N. LUNNEY

**VICTIM WITNESS**

(209) 385-7385

Victim Witness Program Director  
LISA DeSANTIS

**LOS BANOS DIVISION**

445 I Street  
Los Banos, CA 93635  
Phone (209) 710-6070  
Fax (209) 827-2029

August 5, 2010

Honorable John Kiriara  
Presiding Judge  
Merced County Superior Court  
2260 "M" Street  
Merced, CA 95340

Re: 2009-2010 Grand Jury Report

Your Honor:

I have received and reviewed the 2009-2010 Grand Jury Final Report. There are no issues in the report which require further action by the Merced County District Attorney's Office.

Sincerely,

  
Larry D. Morse II  
District Attorney



## FIRE DEPARTMENT

735 MARTIN LUTHER KING JR. WAY  
MERCED, CA 95341  
TELEPHONE (209) 385-7344  
FAX (209) 725-0174

DALE A. HUTCHINSON  
*Fire Chief*  
(209) 966-3622

SCOTT NEWMAN  
*Division Chief*  
(209) 385-7450

July 14, 2010

To: Presiding Judge John Kiriara

From: Dale Hutchinson   
Fire Chief

Subject: 2009/2010 Grand Jury Report

I have reviewed the 2009/2010 Grand Jury Report and there are no issues involving the Merced County Fire Department that need to be responded to.

Should you have any further questions or comments, please contact Division Chief Scott Newman at 209-385-7450 or [scott.newman@fire.ca.gov](mailto:scott.newman@fire.ca.gov),

Thank you.

Is



DEPARTMENT OF PUBLIC HEALTH

**Tammy Moss**  
*Director of Public Health*

Administration  
260 E. 15th Street  
Merced, CA 95341-6216  
(209) 381-1200  
(209) 381-1215 (FAX)  
[www.co.merced.ca.us/health](http://www.co.merced.ca.us/health)

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July 19, 2010

Angelo Lamas  
County Executive Office  
2222 M Street  
Merced, CA 95340

Dear Mr. Lamas:

The Department of Public Health has reviewed the 2009/2010 Grand Jury Report and there are no issues in the report that pertain to matters under the control of our department. If I can be of further assistance, please feel free to contact me at your earliest convenience.

Sincerely,

Tammy Moss  
Director of Public Health



## HUMAN SERVICES AGENCY

Ana Pagan  
Director

2115 W. Wardrobe Avenue  
(209) 385-3000  
(209) 354-2501 Fax  
www.co.merced.ca.us

**Mailing Address**  
P.O. Box 112  
Merced, CA 95341-0112

Equal Opportunity Employer

July 7, 2010

The Honorable John Kiriara  
Presiding Judge  
Superior Court of California, Merced County  
2222 M Street  
Merced, CA 95340

Regarding: Grand Jury Report 2009/2010

I have received and reviewed the report.

The Human Services Agency was mentioned as part of complaints # 09-10-18 and 09-10-19. The Grand Jury declined to investigate because it was apparent from the written documents that the Agency acted appropriately.

There were no other issues in the report that pertain to matters under my control.

Sincerely,

Ana Pagan  
Director

cc: Angelo Lamas, County Executive Office



COUNTY EXECUTIVE OFFICE  
Human Resources

Larry T. Combs  
*County Executive Officer*

Robert A. Morris  
*Human Resources Director*

2222 "M" Street  
Merced, CA 95340  
(209) 385-7682  
(209) 385-7375 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

July 9, 2010

John Kiriwara  
Presiding Judge  
Superior Court of California  
627 W. 21<sup>st</sup> Street  
Merced, CA 95340

RE: 2009-2010 GRAND JURY REPORT

Dear Honorable Judge:

I have received and reviewed the 2009/2010 Grand Jury Report and have found no issues in the report that pertain to the Human Resources Department.

Sincerely,

Robert A. Morris  
Director of Human Resources

Cc: Mr. Angelo Lamas  
County Executive Office  
2222 M. Street  
Merced, CA 95340



MERCED COUNTY LIBRARY

Jacque Meriam  
County Librarian

2100 "O" Street  
Merced, CA 95340  
(209) 385-7484  
(209) 726-7912 Fax  
jmeriam@co.merced.ca.us  
Equal Opportunity Employer

TO: Presiding Judge  
Merced County Superior Court

FROM: Jacque Meriam  
Merced County Librarian

SUBJECT: 2009-2010 Merced Grand Jury Report

DATE: July 20, 2010

I, Jacqueline M. Dodd Meriam, Merced County Librarian, via e-mail, have received and reviewed the 2009-2010 Merced Grand Jury Report. There are no issues in the report which pertain to the Merced County Library System.

JUL 21 REC'D

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DEPARTMENT OF MENTAL HEALTH  
Administration

Manuel J. Jimenez, Jr.  
MA, MFT  
Director

Administration  
480 East 13<sup>th</sup> Street  
Merced, CA 95341  
(209) 381-6813  
(209) 725-3676 Fax  
www.co.merced.ca.us

Mailing Address  
PO Box 2087  
Merced, CA 95344

Equal Opportunity Employer

DATE: July 6, 2010  
TO: Angelo Lamas, Management Analyst III  
County Executive Office  
FROM: Manuel J. Jimenez, Jr.  
SUBJECT: Merced County Grand Jury Final Report 2009-2010

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The Merced County Mental Health Department has received and reviewed the 2009-2010 Merced County Grand Jury Final Report. There are no issues to report on at this time.

If you require any further information, please contact me.

07-07-10A10:20 RCVD



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**Robert A. Lewis**  
*Development Services Director*

2222 "M" Street  
Merced, CA 95340  
(209) 385-7654  
(209) 726-1710 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

August 6, 2010

Honorable Judge, John Kiriara  
Merced County Superior Court  
670 W. 22<sup>nd</sup> Street  
Merced, CA 95340

Re: **Response to 2009/2010 Grand Jury Report**

Dear Judge Kiriara,

Thank you for the opportunity to review and respond to the 2009/2010 Grand Jury Report. The Merced County Planning and Community Development Department has reviewed the report in its entirety and finds there are no issues that would pertain to matters under the control of the department or the department head.

If I can be of further assistance, please feel free to have your staff contact me at your earliest convenience at (209) 385-7654 ext. 4400 or at [rlewis@co.merced.ca.us](mailto:rlewis@co.merced.ca.us)

Sincerely,

Robert A. Lewis  
Development Services Director





PROBATION DEPARTMENT



Brian L. Cooley  
Chief Probation Officer

July 14, 2010

To: Honorable John Kiriara, Judge  
Merced County Superior Court

From: Brian L. Cooley   
Chief Probation Officer

RE: Acknowledgement/Response to Grand Jury Inspection 09/10

This memorandum is to acknowledge the fact that the Merced County Grand Jury toured the Iris Garrett Juvenile Justice Correctional Complex on August 24, 2009, and that there were no recommendations made.

cc: Jerry O'Banion, Chairperson, Board of Supervisors  
Larry T. Combs, County Executive Officer  
James Brown, Assistant County Executive Officer

Merced Office  
(Administration and  
Juvenile Services)  
2150 "M" Street, 2nd Floor  
Merced, CA 95340  
(209) 385-7494  
(209) 725-3999 Fax  
www.co.merced.ca.us

Merced Office  
(Adult Services)  
3191 M Street  
Merced, CA 95348  
(209) 381-1380  
(209) 725-3737 Fax

Atwater Office  
1691 3<sup>rd</sup> Street  
Atwater, CA 95301  
(209) 357-7610  
(209) 358-2943 Fax

Los Banos Office  
445 "I" Street  
Los Banos, CA 93635  
(209) 710-6050  
(209) 826-2811 Fax

Iris Garrett Juvenile Justice  
Correctional Complex  
2840 W. Sandy Mush Rd.  
Merced, CA 95341  
(209) 381-1400  
(209) 725-3505 Fax

Equal Employment Employer

jmf



**PUBLIC DEFENDER**

**Michael L. Pro**  
*Public Defender*

2150 "M" Street  
Merced, CA 95340  
(209) 385-7692  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

August 12, 2010

TO: John Kiriara, Presiding Judge of the Superior Court

FROM: Michael L. Pro, Merced County Public Defender

RE: 09/10 Grand Jury Report

The Merced County Public Defenders Office has read and reviewed the 09/10 Grand Jury Report and has no comment.

MLP:jh



**DEPARTMENT OF PUBLIC WORKS**

**Paul A. Fillebrown**  
Director

715 Martin Luther King Jr. Way  
Merced, CA 95340-6041  
(209) 385-7602  
(209) 725-3989 Fax  
www.co.merced.ca.us

Building Services  
Countywide Transit  
Parks and Recreation  
Road  
Fleet Management  
County Surveyor  
Solid Waste  
Professional Services  
Building & Safety  
Castle Airport

Equal Opportunity Employer

**DATE:** July 30, 2010  
**TO:** Presiding Judge John Kiriara  
**FROM:** Paul A. Fillebrown, Director of Public Works  
**SUBJECT:** Comments/Responses to the 2009-2010 Grand Jury Report

**MEMORANDUM**

---

Kindly be advised that I have received and reviewed the 2009/2010 Merced County Grand Jury Report.

There are no issues in the report which pertain to matters regarding my Department, so I have no detailed comments.

PAF:ll

cc: Larry Combs, County Executive Officer



**MERCED COUNTY  
EMPLOYEES' RETIREMENT  
ASSOCIATION**

**3199 "M" Street  
Merced, California 95348**

**MARIA L. AREVALO**  
Plan Administrator

Telephone 209-725-3636  
Fax 209-725-3637

July 6, 2010

Presiding Judge John Kiriara  
Superior Court, Merced County  
627 W. 21<sup>st</sup> Street  
Merced, Calif. 95340

Dear Judge Kiriara,

I have received and reviewed the 2009/2010 Grand Jury Report and have found no issues in the report that pertain to the Merced County Employees Retirement Association (MCERA) or which require a response from the MCERA.

Sincerely,

Maria L. Arevalo  
Retirement Plan Administrator



MARK N. PAZIN  
COUNTY OF MERCED  
OFFICE OF THE SHERIFF-CORONER

August 11, 2010

The Honorable John D. Kiriara  
Presiding Judge  
Merced County Superior Court  
627 W. 21<sup>st</sup> Street  
Merced, CA 95340

Re: **Response to Grand Jury Report 2009/2010**

Dear Judge Kiriara:

Attached please find my response to the 2009/2010 Grand Jury Report.

My staff and I appreciate the Grand Jury's role in helping to assure accountability to both the public we serve and the men and women who provide that service. It was our pleasure to work with the Grand Jury members during the past year.

We also understand that it is difficult for such a group to truly appreciate the size, complexity and responsibilities of a Sheriff-Coroner's office from some brief tours and casual interviews. Even the most dedicated evaluator would have a difficult time understanding the challenges associated with managing an around-the-clock and uniquely diverse law enforcement agency such as ours.

Although management and supervisory personnel within the Sheriff's office have been dramatically reduced since the 2009/2010 Grand Jury was convened, the remaining administrative staff continues their commitment to providing both officer and civilian Sheriff's personnel with the best equipment and training possible.

Every employee of the Sheriff's office performs "under trying and dangerous conditions". That fact is not likely to change as the human element cannot be entirely influenced by the acquisition

of equipment or the adoption of policy. Our most valuable resource continues to be the men and women who serve their community through this office.

Respectfully Submitted,

A handwritten signature in black ink that reads "Mark N. Pazin". The signature is written in a cursive style with a long, sweeping underline.

Mark N. Pazin  
Sheriff-Coroner

Attachment

Cc: Angelo Lamas, County Executive Office

## COMPLAINT 09-10-07

### Merced County Sheriff's Office

Three of the five remaining top administrative positions were re-staffed in December of 2009 due to the retirement of some senior personnel.

The Sheriff has directed his "new" command staff to rely upon the various County Administrative and Executive Departments for their specialized expertise as it relates to certain aspects of his operation.

Additionally, the members of the command staff have committed themselves to strict compliance with County hiring regulations and a collaborative relationship with Human Resources Personnel.

The subject deputy in this complaint continues to contribute to the Sheriff's mission in an important way as the agency's Policy and Training Compliance Officer.

Thanks largely to his efforts, experience and education, this Office has significantly reduced potential liability by constantly reviewing and updating its' policies and providing for high-quality, "in-house" P.O.S.T. certified training in 39 subjects.

The following findings associated with the Correctional Division were presented in the 2009 Grand Jury Report:

- The jail environment has an increase of inmate on inmate assaults.
- Water filtration system.
- Strip search policy.
- Housing unit searches.
- Evacuation Plan.
- Main Jail cameras

### INMATE ASSAULTS

When violent offenders are housed together in large groups there is a propensity for aggressive and violent behavior. The rated capacity at the Merced County Jail (MCJ) is 189 and at the John Latorraca Correctional Center (JLCC) it is 564 beds. The inmate population at MCJ and at the JLCC consists of 80 percent pre-trial and 20 percent sentenced. All the pre-trial inmates are charged with at least one felony or a violent misdemeanor. The population at JLCC is consistently above the rated capacity, averaging 620 inmates annually, which leads to increased tensions between inmates and correctional staff. Security, and health and welfare checks are completed and documented every hour which serves as a deterrent but will not prevent the violent behavior. **During a recent Corrections Standard Authority (CSA) inspection, dated June 30, 2010, the report states, "security checks occur well within prescribed limits and event documentation was thorough and informative."**

### WATER FILTATION SYSTEM

**The water filtration system for the JLCC is operational.** Since December of 2009, there has not been a **water issue order** to provide bottled water at the facility. Any information regarding testing

and frequency would need to be addressed to the Department of Public Works. The Department of Public Works monitors and tests the water frequently.

### STRIP SEARCH POLICY

Since the Grand Jury inspection, the strip search policy has been revised. The revision was based on the Ninth Circuit Court of Appeal's decision in the case *Bull v. City and County of San Francisco*. The Court acknowledged that a detention facility is a unique place fraught with serious security dangers. **Correctional supervisors have the discretion to authorize strip searches when the facts suggest that there is a potential safety and security issue to the facility and staff.**

The concealed weapon mentioned in the Grand Jury Report was detected through technological means. **A visual "strip" search would not have resulted in the discovery of the contraband.**

### HOUSING UNIT SEARCHES

**Budgetary considerations have not, and will not, be a factor when planning cell and dormitory searches.** As stated earlier, correctional officers are in inmate housing units every hour conducting security, safety and welfare inspections. Searches are conducted randomly throughout the week and can be completed at anytime at the discretion of the shift supervisor or correctional officers. Organized searches are also scheduled by shift supervisors with on-duty staff or coordinated with the Special Emergency Response Team (SERT).

### EVACUATION PLAN

Evacuation plans were trained and exercises were conducted in June 2009. A 24 hour Critical Incident Management in Corrections for Supervisors and Managers course was conducted for all supervisors and officers in charge. The course is designed to instruct supervisors in all hazards and the use of a four step incident management plan that is tailored specifically to the corrections environment.

### MAIN JAIL CAMERAS

The Main Jail cameras are being replaced and upgraded.

### MAIN JAIL PARKING

Sheriff's personnel have made various attempts to arrange equitable sharing of the office's adjacent parking lot but have been unsuccessful to date.

A total of 44 parking spaces are reserved for library use (15 for library employees) with a balance of 23 spaces left for the public and other county employees. Sheriff's employees routinely return to their vehicles after 11:00 p.m. and throughout the early morning hours.





403 "F" STREET ★ LOS BANOS, CA 93635

209-826-5166 ★ FAX 209-826-8737

July 9, 2010

Honorable John Kiriara  
Presiding Judge, Merced County Superior Court  
Merced County Executive Office  
2222 M Street  
Merced, CA 95340

Re: Acknowledgment of 2009/2010 Grand Jury Report

Please note I have received and reviewed the 2009/2010 Grand Jury Report. There are no issues in the report which pertain to matters under my control.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Brandt".

Ron Brandt  
Manager


**MERCED**  
COUNTY CLERK  
TREASURER - TAX COLLECTOR  
**Karen D. Adams, CPA**

**Karen D. Adams, CPA**  
Treasurer-Tax Collector-Clerk

2222 "M" Street  
Merced, CA 95340  
(209) 385-7307  
(209) 725-3905 (Fax)  
[www.mercedtaxcollector.org](http://www.mercedtaxcollector.org)  
[www.mercedelections.org](http://www.mercedelections.org)

August 2, 2010

TO: Honorable John Kiriara, Presiding Judge  
Merced County Superior Court

FROM: Karen D. Adams, CPA  
Treasurer-Tax Collector- County Clerk 

SUBJECT: 2009-2010 GRAND JURY REPORT

I received and reviewed the 2009-2010 Grand Jury Report. I find no reference to departments under my control and have no comments regarding any of the findings or recommendations contained in the report.

Thank you!



**DEPARTMENT OF  
WORKFORCE INVESTMENT**

**Andrea T. Baker**  
*Director*

**Joanne Presnell**  
*Assistant Director*

1880 Wardrobe Avenue  
Merced, CA 95341-6407  
(209) 724-2000  
(209) 725-3592 Fax  
[www.co.merced.ca.us/index.asp?NID=9](http://www.co.merced.ca.us/index.asp?NID=9)

**MEMORANDUM**

Equal Opportunity Employer

July 7, 2010

**To:** Honorable Donald Proietti, Presiding Judge

**Attn:** Angelo Lamas, Management Services Analyst

**From:** Andrea T. Baker, Director, Department of Workforce Investment *ATB*

**Subject:** Acknowledgement of the 2009/2010 Grand Jury Report

I am acknowledging receipt of the Grand Jury report of 2009/2010. I have reviewed the report and have concluded that issues that pertain to matters under my control included in the report will be resolved should it be investigated by the United States Department of Justice Office of Civil Rights Division, Disability Right Section.

**STRIVING FOR EXCELLENCE**



September 28, 2010

The Honorable John Kiriara  
Presiding Judge of the Superior Court  
Superior Court of California, County of Merced  
670 West 22<sup>nd</sup> Street  
Merced, CA 95340

RE: Board of Supervisors Grand Jury Response

Dear Presiding Judge Kiriara:

The Board of Supervisors appreciates the Merced County Grand Jury's responsibilities and commitment to public service. Pursuant to Penal Code 933, responses from elected and appointed officials have been received and appropriately forwarded. The following acknowledgements and information is respectfully submitted relating to matters under the jurisdiction of the Board of Supervisors.

**Mandated Inspections – Iris Garrett Juvenile Justice Correctional Complex**

The Grand Jury conducted a mandated inspection of the Iris Garrett Juvenile Justice Correctional Complex, located at 2840 W Sandy Mush Road, in Merced. The Grand Jury was satisfied with their visit to the facility.

The Merced County Board of Supervisors commends the men and women who serve at the Juvenile Correctional Complex and is proud to have such dedicated public safety staff.

**Mandated Inspections – John Latorraca Correctional Facility and Main Jail**

The Grand Jury conducted an inspection of the John Latorraca Correctional Facility at 2584 W Sandy Mush Road, in Merced. The Grand Jury recommended that county officials seek funding to ensure adequate staffing for the facility and for adding building capacity.

In 2008, the County submitted a proposal and funding application to the California State Department of Corrections and Rehabilitation for an additional ninety six beds and associated support facilities at the John Latorraca Correctional Center; however, Merced County was not among the counties that were awarded the grant. In addition to the funding challenges associated with capital improvements to the facility, funding also would need to be identified for increased staffing and operational costs. The Board of Supervisors recognizes that public safety is a priority for the County and will continue to work with the Sheriff to identify possible funding alternatives toward expanding the John Latorraca facility.

The Grand Jury Report included a recommendation that the Sheriff's Department overtime policy be reviewed in order to provide correctional staff with overtime to complete inmate dormitory searches. The Report also indicated that the Department's policy regarding strip searches be reevaluated to provide that correctional staff be able to conduct strip searches to assist in detecting contraband that may enter the facility.

**Board of Supervisors**

**John Pedrozo**  
Supervisor, District One

**Hubert "Hub" Walsh, Jr.**  
Supervisor, District Two

**Michael G. Nelson**  
Supervisor, District Three

**Deidre F. Kelsey**  
Supervisor, District Four

**Jerry O'Banion**  
Supervisor, District Five

**Larry T. Combs**  
County Executive Officer

Merced County  
Administration Building  
2222 "M" Street  
Merced, CA 95340  
(209) 385-7366  
(209) 726-7977 Fax  
[www.co.merced.ca.us](http://www.co.merced.ca.us)

Equal Opportunity Employer

**Striving for  
Excellence**

Since the Grand Jury conducted their inspection, policy has been revised to permit correctional supervisors the discretion to authorize strip searches when there are indications of a potential safety and security issue to the faculty and staff. In regards to the recommendation for overtime, dorm searches are not and have never been based on the budget consideration or availability of overtime. Dorm searches are conducted randomly throughout the week and are conducted at anytime based on the discretion of the shift supervisor or correctional officers.

The Grand Jury also reported that the water filtration system at the facility did not meet state requirements. On the contrary, the water filtration system does meet state drinking water standards, and bottled water is only provided when the media in the filtration system treatment vessels need replacement, which is considered standard maintenance. The use of bottled water in the future will not be necessary once the final system improvements are completed this fiscal year.

Subsequent to their inspection of the Main Jail located at 700 W 22<sup>nd</sup> Street in Merced, the Grand Jury recommended that the Sheriff Department include funding for additional cameras and monitors in the jail facility to assist correctional officers' ability to monitor jail activity. The Board of Supervisors agrees that enhanced monitoring is imperative to the safety and security of the correctional officers and has approved the installation of upgraded cameras in the Main Jail.

The Grand Jury also reported that a secure area be provided to park correctional staff' personal vehicles while on duty. The Board of Supervisors understands that a dedicated, secure area for correctional staff parking would be ideal; however, at this time there is limited parking available because parking is shared with County Library employees, Library patrons and the general public. At this time, current budget constraints, market conditions, and a lack of available land prevents the construction of additional parking; however, the Board remains committed to the safety of its employees and will continue to evaluate options for parking expansion. The Merced County Board of Supervisors commends the men and women who serve at the John Latorraca Correctional Facility and Main Jail for their dedication, and understands the needs of the County's public safety agencies, particularly during these difficult fiscal times. The Board will continue to work with the Sheriff's department to most efficiently provide the necessary services to County residents.

#### **Complaint 09-10-07**

The Grand Jury investigated a complaint regarding the hiring of a practicing attorney as a Deputy Sheriff that was assigned as a Legal Advisor to the Sheriff Department. The Grand Jury recommended that the Sheriff and Sheriff Administration take greater care to ensure that the department is compliant with county rules and regulations, and effectively utilize the resources provided by other departments such as Human Resources and County Counsel.


#### **Response**

The County made changes to ensure that the Deputy Sheriff in this case has returned to normal duties, eliminating any need for overtime. The Grand Jury recognized the County in their report for taking immediate action in regard to this issue.

## Conclusion

In closing, the Board of Supervisors thanks the Grand Jury for its efforts and appreciates its responsibilities to provide thoughtful recommendations to improve our County and community. The Board will continue to make every effort to ensure that County departments are operating at an optimum level of efficiency and in accordance with public policies in order to best provide services for County residents.

Respectfully submitted,



Jerry O'Banion, Chairman  
Board of Supervisors

cc: Linda L. Roland, 2009-2010 Merced County Grand Jury Foreman ✓  
Larry T. Combs, County Executive Officer