

# **Santa Cruz County Grand Jury**



**2006-2007**

# **Final Report**



# County of Santa Cruz

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## **GRAND JURY**

701 OCEAN STREET, ROOM 318-I  
Santa Cruz, Ca 95060  
(831) 454-2099

June 28, 2007

Your Honor Judge Almquist and Citizens of Santa Cruz County,

We respectfully offer our report to the citizens of Santa Cruz County with the hope that we have contributed to the transparency of government and a deeper understanding of our county services. We have researched each report as thoroughly as possible and gathered a depth and breath of knowledge that could not have been gained in any other way. In so doing, the Grand Jury has followed a tradition that dates back to medieval England's King Henry II.

The practice of overseeing local government was included in the formation of the colonies and incorporated into the writing of the U.S. Constitution. In California, the Grand Jury system has existed in every county since 1850. It has the charge to examine local governmental agencies and effect change by producing findings, recommendations for improvement and commendations. The title "Grand" refers to the seating of a panel of 19 members instead of 12 in the criminal jury system.

Santa Cruz County is one of the few remaining counties to select their jurors from the list of voters and vehicle registrations. The jurors are selected in a drawing after going through a selection process to assure representation from each of the supervisorial districts and interviews with the presiding judge. Now that the work is completed in the Santa Cruz Grand Jury Report of 2006-07, we will pass the torch to the next year's jurors.

Each of us as jury members gained new and unexpected insights that greatly helped us meet the challenges that we faced, and I would like to offer my sincere thanks to each member for being willing to work diligently and professionally to the end of our term of service.

We would also like to thank those who provided material during our investigations, thereby helping to set a higher degree of accountability and endeavor to benefit our County. Due to the fact that an average citizen has limited time to observe and ask questions of their governing body, we, the jury, sought to be the ears, eyes and voice in your quest for excellence in government.

Sincerely,

Yamindra KanagaSundaram  
Foreperson  
2006-2007 Grand Jury of Santa Cruz County

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2006-2007 Final Report**

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## **Introduction to the Santa Cruz County Grand Jury**

### **Two Types of Grand Juries in Santa Cruz County**

As with many California counties, Santa Cruz County has two types of Grand Juries. The regular, or civil, Grand Jury is an investigative body that serves for one year. There are nineteen members on the jury. The civil Grand Jury is not involved with trials but rather serves as a watchdog over local government and other tax-supported entities.

The other Grand Jury is a criminal Grand Jury that deals with issuing indictments (charging a person with a criminal or public offense). This jury is called up as needed on a case-by-case basis.

### **Duties and Powers of the Civil Grand Jury**

The Civil Grand Jury has three primary functions:

- To randomly audit local governmental agencies and officials.
- to publish its investigative findings and recommendations toward improving those governmental operations in the interest of the community being served.
- To investigate citizens' complaints.

The Civil Grand Jury investigates local government agencies and officials to evaluate if they are acting properly. If a Grand Jury determines that they are not, it has various options. The most frequently used option is the presentation of a report outlining the Grand Jury's findings and recommendations in the matter. Such reports are public and sometimes attract media attention. Agencies or elected officials discussed in the report must respond specifically to the report's findings and recommendations according to a specific timeline.

Citizens may file complaints with the Grand Jury to request that it investigate what they perceive as wrongdoing by a public agency, such as a school district or a police department. The Jury decides if a complaint has merit and is not obligated to pursue every complaint. County complaint forms are available from the following address:

Santa Cruz County Grand Jury  
701 Ocean Street, Room 318-I  
Santa Cruz, CA 95060  
(831) 454-2099  
FAX (831) 454-3387  
[grandjury@co.santa-cruz.ca.us](mailto:grandjury@co.santa-cruz.ca.us)  
[www.co.santa-cruz.ca.us/grandjury](http://www.co.santa-cruz.ca.us/grandjury)

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**Grand Jurors  
2006-2007**

Yamindira KanagaSundaram, Foreperson

Margaret Cheney

Carol Felton

Janette George

Hilary Hamm

Carol Hara

Bill Hay

Jonathan Krupp

Armand Langmo

Charlie McFadden

Pat Rex

Eric Rice

Bob Shaw

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2006-2007 Santa Cruz County Grand Jurors, from left: Pat Rex, Hilary Hamm, Carol Hara, Janette George, Jon Krupp, Margaret Cheney, Bill Hay, Charlie McFadden, Eric Rice, Bob Shaw, Armand Langmo, and Yamindira KanagaSundaram. Not pictured: Carol Felton

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# **Santa Cruz County**

## **Grand Jury**

### **Final Report:**

Section 1  
Audit and Finance Committee Reports

## **Window Dressing or Effective Oversight? Citizen Oversight Committee, Measure D Bonds Cabrillo Community College District**

### ***Synopsis***

An investigation was completed to determine if the Cabrillo Community College District had clearly identified and described the projects proposed to the voters and effectively initiated, structured and implemented the Citizen Oversight Committee (COC) required as part of Measure D, a \$118.5 million Bond Fund passed by county voters in March 2004. The investigation reviewed the performance of the oversight committee, including its reports to the public. The investigation did not reveal any misappropriation of funds or any violations of the law or regulations in the creation and operation of the committee. However, it did reveal several areas where the district and the committee could improve oversight and provide greater transparency to the public in the expenditure of the bond funds.

### ***Definitions***

#### **COC**

Citizen Oversight Committee.

#### **Independent Audit**

An audit by a Certified Public Accountant of the financial statement of the District's Measure D Bond Fund and a performance audit to assure that funds have only been expended on voter approved projects.

#### **Measure D Funds**

The \$118.5 million Measure D Bond Funds passed by the County voters in March 2004 to use for construction, rehabilitation and leasing of school facilities.

### ***Background***

#### **Legislation**

Proposition 39, an initiative constitutional amendment and statute, was passed by state voters in November of 2000. It amended the California Constitution and resulted in a revision to the California Education Code. It provided for a 55% vote to pass local bond measures, in lieu of the standard 2/3 vote requirement, if specific accountability requirements were incorporated in the bond measure. These "accountability requirements" (Article XIII A Sec 1 (b) (3) of the California Constitution) for school bond measures are summarized as follows:

- Must require that funds can only be spent for construction, rehabilitation, and/or leasing of facilities including furnishings and equipment.
- Must contain a list of specific school facilities projects to be funded.

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- Must require an independent annual performance audit to ensure that funds have only been spent for the projects listed in the measure.
- Must require an independent annual financial audit until funds have been spent.

In addition, California Education Code Sections 15278-15282 directs that the bond measure require the formation of an independent Citizen Oversight Committee. Its purpose is to inform the public as to the district’s compliance with the above accountability requirements. The scope of its activities is divided into two categories, required and optional, as follows:

Required	Optional
<ol style="list-style-type: none"> <li>1. Ensure that the district conforms to accountability requirements.</li> <li>2. Ensure that the district does not spend these funds on salaries or other operating expenses.</li> </ol>	<ol style="list-style-type: none"> <li>1. Receive and review performance audits.</li> <li>2. Receive and review financial audits.</li> <li>3. Inspect school facilities and grounds.</li> <li>4. Receive and review deferred maintenance proposals.</li> <li>5. Review efforts by the district to implement cost-saving measures</li> </ol>

The Education Code also specifies that the Citizen Oversight Committee shall:

- Consist of a least seven members. Four members shall come from specified interest groups.
- Have members who are not district employees, officials, contractors, vendors or consultants.
- Have members who serve for a term of two to four years without compensation.
- Receive from the district all necessary technical and administrative support to further its purpose.
- Hold meetings open to the public with published meeting minutes.
- Report on its activities to the public at least once per year.

Measure D bonds for the Cabrillo Community College District for \$118.5 million committed the district to incorporate statutory requirements described above to qualify for the 55% voter approval standard.

**Status of Measure D funds**

Design and construction is well under way on a number of projects. Some projects are complete. As of June 30, 2006, \$24.4 million had been expended and a total of \$101. 2 million had been committed. The oversight committee has published two annual reports, and two annual financial and performance audits have been conducted. Enough work has been completed to allow an initial evaluation of the performance of the district and the Citizen Oversight Committee in meeting their obligations under Measure D.

**Voter Pamphlet Information**

The California Constitution requires that a bond measure contain a list of specific school facility projects for accountability purposes. The list contained in the voter pamphlet for Measure D was organized into a paragraph format naming categories of projects, albeit with some specific projects noted. This specific list is not used in subsequent documents as the projects are reported on and tracked. In fact, a new approach to the list is developed for each type of report. The following illustrates the point:

Voter Pamphlet (VP).....	9 categories of projects
Master Plan of November 3 2004 (referenced in VP).....	29 projects/categories
COC 1 <sup>st</sup> Annual Report (2005).....	17 projects/categories
2005 Audit Report.....	8 projects/categories
2006 Audit Report.....	7 projects/categories
COC 2 <sup>nd</sup> Annual Report (2006).....	22 projects/categories
Master Plan, Measure D Project list January 18, 2007.....	70 projects

It’s understood that the format of the project descriptions used for the voter pamphlet may have been drafted for ease of reading; however, this format makes the reporting and accountability to the public problematic. It is not as transparent as it could be.

The reference to the District Facilities Master Plan and the November 3, 2003 amendment is not very helpful either. Even if a voter were to take the trouble to find this document, the amendment still deals largely in categories of projects, not strictly a list of specific projects. The net effect is that the specific project list is more obscure than necessary.

It seems clear from the language of the law that there is to be a certain level of specificity in the project list. It states, “A list of specific school facilities projects to be funded...” shall be included in the proposition as an “accountability requirement” (Article XIII A Sec 1 (b) (3). If the list is specific, clear and well defined, it will be traceable in reports to the public as to when funds are expended and when they are not. Accountability will thereby be maintained. It should start with the master plan and the voter pamphlet and then be carried through to other reports and documents.

It is recognized that the list will change somewhat over time to adjust to unforeseen circumstances. This should be covered by annotations to the list. There is no suggestion that anyone is trying to mislead the public, but the public has a right to understand what they are voting for and what they are getting as the projects progress.

### **Independence of the Citizen Oversight Committee**

The Education Code stipulates that an oversight committee member shall not be an employee, or an official of the district or a vendor, contractor or consultant to the district. In order for the committee to provide objective oversight, this independence is essential. It appears that the district has met the letter of the law. The question remains as to whether this specific legal requirement is all that is necessary to provide credible independent oversight.

There are several practical things that the district could do to enhance the independence and thus the credibility of the oversight committee and the district's standing in the eyes of the public. The normal review functions could include additional items which may result in recommendations to the board for consideration. After a response from the board, the oversight committee would go on record with its acceptance or its objection. Some examples that the committee could undertake are:

- By-laws
- Selection of the independent auditor
- Audit scope and methodology (prior to the audit)
- Final audit report (prior to board acceptance)

### **Citizen Oversight Committee Membership**

The seven-member minimum requirement listed in the Education Code allows for five members from interest groups (a business person, taxpayer, senior citizen, representative from a college support organization and a student) as well as two at-large members not belonging to one of these groups. Since it is likely that some expertise that would benefit the committee in its work would be found in the at-large members, the possibility of increasing the number of members to bring a broader range of expertise should be considered. The argument that more at-large members would dilute the voices of the stipulated interest groups is true. However, that was already contemplated in the law when it stipulated that seven members is a minimum.

There are a number of specific areas of expertise that could be invited in press releases and other solicitations and should be given weight in consideration for COC membership. Some of these areas are as follows:

- Accounting
- Financial Management
- Auditing

- Construction
- Construction Management
- School Administration
- Experience with DSA
- Value Engineering

### **Citizen Oversight Committee By-Laws**

The committee's by-laws were prepared by the district and issued to the committee. The by-laws authorize facility inspections and review functions for: the audit report, deferred maintenance proposals and cost-saving measures when offered by the district. The available meeting minutes do not reflect any review of deferred maintenance and cost saving proposals.

The by-laws do not define the process to deal with concerns or issues raised by the oversight committee itself. They do not authorize a committee role in working with the district to establish priorities when projects are delayed or cancelled, as suggested by the text of Measure D. In fact, the by-laws devote twice as much space to what the committee is not authorized to do than what they are authorized to do.

### **Independent Audit Report**

The performance audit dated June 30, 2005 reported on some categories of projects traceable to the Master Facilities Plan and the November 3, 2003 amendment, but not on a complete specific project list that could be regularly monitored in future reports. It did not list the authorized projects for which no funds have been expended. Such listing may not be required by the law but would enhance transparency and aid the voter in understanding the status of the Measure D projects. This first audit report does not mention the total number of invoices paid with Measure D funds and the number of invoices checked and their total value. Such numbers would give a better insight to the scope of the audit and the basis for accepting the conclusions of the audit. It merely states that they found no non-compliances. Since we do not know the size of the sample and the total number of invoices, the Grand Jury does not have a basis for judging the reliability of the implied conclusion that there have been no misappropriations of funds.

The performance audit dated June 30, 2006 has similar shortcomings. Although the inspected invoices (totaling 25% of expended funds) are listed, the total available invoices for inspection are not listed. Furthermore, the 25% value was not applied to each category of expenditure. All that is certified is that they found no misappropriations in what they looked at. We, therefore, do not have an independent auditor's opinion that there have been no misappropriations of funds.

### **Construction Quality Control and Construction Safety Programs**

The Citizen Oversight Committee appears to have no role in the review of construction quality control and construction safety programs. Although such a role is not required by

law, one might expect that the committee would insist on seeing program documentation to confirm that such programs are in place. Quality control problems could have a serious impact on cost and schedule. The public is reliant on the district to oversee these functions. The district contracts with contractors, the construction manager and inspector of record to assure quality and safety. However, in order to manage these areas and ensure compliance, an agreement on the definition of roles and responsibilities is critical.

The district has not fully implemented or defined an integrated program that captures all construction activities. The design team and the construction contractors play the key role, but the oversight function of the district over the contractors, construction manager and the inspector of record is critical to such projects. Many elements are in place, but there is no single document for each of these two areas that defines the role and responsibilities of all the parties.

### ***Findings***

1. The specific project list which defines for the voters what they are voting on is not clear and consistent in the District Master Plan, voter pamphlet, COC Annual Report and the performance audits.
2. The district has narrowly interpreted (as reflected by the development and provisions in the by-laws) the requirement for COC independence. It meets the minimum membership requirements specified in the California Education Code.
3. The district limited the membership to the legally required seven members and did not pursue expanding the number of members to obtain relevant expertise on the oversight committee to provide more effective oversight.
4. The Citizen Oversight Committee by-laws were, in effect, imposed on the committee without significant discussion or a vote by the committee members. These by-laws limited the committee's authorized activities (only four listed activities) to less than what was communicated to the voters that is to "work with the Citizen's Oversight Committee on prioritizing ... projects..." per the voter pamphlet.
5. The independent performance audit reports by two CPAs did not express an opinion about whether or not there had been any misappropriation of funds.
6. The district has not defined and published an integrated construction quality control program document and a construction safety program document for the Measure D projects.
7. One inspector of record did not agree that he had responsibility for what was called "quality control" by the construction manager.

## **Conclusions**

1. Greater transparency can and should be achieved in tracking projects. In order for the oversight committee, auditors, district staff and the public to track the specific projects throughout the life of the Measure D program, it is necessary for the district to define and maintain a consistent, detailed specific list in all the public documents.
2. The oversight committee would be more credible and effective if it were to function with more independence and a broader scope of authorized activities.
3. The oversight committee could be more effective if it were to have members with expertise covering more of the relevant Measure D program activities.
4. The oversight committee should be given the opportunity to review, discuss, propose and then formally adopt its own by-laws.
5. The performance audits are not adequate to establish, with credibility, that there have been no misappropriations of funds.
6. Some projects have had significant quality control problems. One inspector of record was released from the program by the district in part due to disagreements over the inspector's role in quality control. With regard to construction safety, there have not been major safety incidents to date. In both these areas, however, a more defined and rigorous approach to management is needed.
7. The members of the COC are sincere and civic minded. They deserve our thanks for being willing to serve. Furthermore, the district staff was found to be cooperative and competent in their dealings with the Grand Jury.
8. The oversight of the Measure D Bond projects is more than "window dressing," but it can be improved.

## **Recommendations**

1. For bond measures, the district should develop a clearly numbered specific facilities project list for the voter pamphlet and use that specific list in future tracking and reporting.
2. For future Citizen Oversight Committee annual reports, the committee should develop a specific facilities project list that translates all of the Measure D project categories to a project list and identifies those projects for which Measure D funds are planned but have not been expended to date.
3. The independence of the oversight committee should be strengthened. The committee should be more proactive and take the following steps with the district's concurrence and cooperation:
  - Review, recommend changes to the district, if any and, formally adopt the by-laws, with or without comments.



- Review and formally comment on the selection of the independent auditor prior to the appointment.
  - Review and formally recommend changes to the District, if any, on the audit scope and methodology prior to the audit being conducted.
  - Review and comment to the District on the final audit report and formally accept with or without comments.
4. Increase efforts to solicit membership in the Citizen Oversight Committee to a broader audience such as with newspaper advertisements and/or announcements inviting individuals with specific relevant expertise to apply.
  5. Revise by-laws to describe the process for resolving issues of concern to the oversight committee.
  6. Revise by-laws to include the committee's role in prioritizing projects for delays or cancellations as described in Measure D.
  7. The district should document the roles and responsibilities of the district, the construction manager, the contractors and the inspector of record for construction quality control and safety.
  8. In the future, the auditor should use a more specific facilities project list.
  9. In future audits, the processes and a sufficient number of invoices should be tested to allow the auditor to render an opinion with a high and defined level of confidence that there has been no misappropriation of funds.
  10. In future audits, the auditor should report on the number of invoices examined and the total invoices processed for the Measure D fund.

***Responses Requested***

<b><i>Entity</i></b>	<b><i>Findings</i></b>	<b><i>Recommendations</i></b>	<b><i>Respond Within</i></b>
Cabrillo Community College Governing Board	1 - 7	1 - 10	90 Days October 1, 2007

## **References**

### **Documents**

Voter Pamphlet for Santa Cruz County March 2, 2004  
Cabrillo College District Facilities Master Plan November 3, 2003 update  
Cabrillo College District Facilities Master Plan March 7, 2007 update  
Cabrillo College Organizational Chart dated September 2, 2004  
Citizens Oversight Committee Annual Report March 2004 through June 2005  
Citizens Oversight Committee Annual Report March 2005 through June 2006  
COC Meeting Minutes dated August 24, 2004  
COC Meeting Minutes dated December 14, 2004  
COC Meeting Minutes dated March 8, 2005  
COC Meeting Minutes dated June 14, 2005  
COC Meeting Minutes dated July 12, 2005  
COC Meeting Minutes dated August 4, 2005  
COC Meeting Minutes dated Nov 9, 2005  
COC Meeting Minutes dated February 7, 2006  
COC Meeting Minutes dated May 9, 2006  
COC Meeting Minutes dated August 8, 2006  
Measure D Bond Fund Financial and Performance Audit June 2005  
Measure D Bond Fund Financial and Performance Audit June 2006  
District By-Laws for Citizens Oversight Committee — undated  
Stradling/Yocca/Carlson/Routh--Bond Council Agreement of May 1, 2003  
Bogard/Kitchell Agreement for Construction Management Services of January 7, 2004  
and amended March 1, 2006  
Bogard/ Kitchel (David Tanza) letter of March 15, 2007 Subject: Quality Control  
CA Constitution Article XIII A Section 1 Subdivision (b) Paragraph 3  
CA Education Code Section 15278-15282  
CA Building Standards Administrative Code, Part 1, Title 24, Sec 4-341 to 343

### **Web Sites**

Cabrillo Community College and COC: [www.cabrillo.edu](http://www.cabrillo.edu)  
California Constitution text: [www.leginfo.ca.gov/const.html](http://www.leginfo.ca.gov/const.html)  
California Education Code: [www.leginfo.ca.gov](http://www.leginfo.ca.gov)  
San Joaquin Delta College and COC: [www.bond.deltacollege.edu](http://www.bond.deltacollege.edu)  
El Camino College and COC: [www.elcamino.edu](http://www.elcamino.edu)

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## **Property Assessment: What's business property really worth?**

### ***Synopsis***

The Santa Cruz County Grand Jury reviewed the process used by the Santa Cruz County Assessor's Office to establish value and determine the reduced assessment on a business property.

The Grand Jury used information from a previously decided case of a large commercial entity that involved a collection of businesses, parcels and associated improvements. One of the key elements of this case was the use of an assessment methodology known as the "income method" for, at least in part, determining the fair market value of a business property.

The Grand Jury's objective was not to validate or "second guess" the assessor's actual determination of the full cash value in the case reviewed but to understand the process employed in making that determination and to evaluate whether that process would deliver a fair and reasonable property valuation. No attempt was made to review all of the assessor's processes.

### ***Definitions***

#### **Assessment**

An estimate of the "full cash value" of a parcel and improvements for the purpose of determining the property tax.

#### **Capitalization**

Converting regular income over a period of time to an equivalent monetary value.

#### **Comparables**

Like properties, equipment and improvements having known market values that can be used to estimate the value of targeted properties, equipment and improvements.

#### **Consolidated Financial Reports**

A combined financial statement for a corporate entity which includes all of the profit centers in one combined financial statement.

#### **EBITDA**

Earnings Before Interest, Taxes, Depreciation, and Amortization — a measure of business income.

#### **Income Method**

A property assessment methodology used to establish the value of business property in which capitalization of a net income stream is used as one approximation. That is to say, we estimate the capital investment that would be required to produce the net revenue stream. We must assume a reasonable rate of return commensurate with the risk. The

resultant capital investment would include land and improvements. To arrive at a calculated land value, the value of the improvements would be subtracted.

**Parcel**

Basic unit of real property subject to an assessment.

**Proposition 13**

An amendment to the California Constitution passed by the voters in June 1978, governing the taxation of real property. Proposition 13 prescribed an assessment structure for establishing the base full cash value of a property and imposed limits on increases in the assessment above the base.

**Proposition 8**

An amendment to the California Constitution that amended portions of Proposition 13 (see below) passed by the voters in November 1978. Proposition 8 permits property tax payers to request a reassessment of their property when they believe that their property has been reduced in value due to damage or other economic conditions. As Proposition 13 did not provide a mechanism for reducing the assessment, Proposition 8 was passed a short time later to incorporate a reduction mechanism.

***Background***

**Assessor's Office Responsibilities**

Property taxes are based on the assessed value of a property. It is the responsibility of the assessor to establish the full cash value of the property upon which the amount of property tax is calculated. The assessor does not collect taxes nor set the rules for how a property is assessed. In order to meet the responsibilities of the office, the assessor must:

- Locate and identify the ownership of all taxable property in the county.
- Establish a value for each property subject to property taxation.
- List the value of each property on the assessment roll.
- Apply any applicable legal exemptions and exclusions.

**Assessed Valuations**

The assessed value of real property is determined by law which includes the effects of Proposition 13. Proposition 13, passed in June of 1978, requires that the assessed value of real property be set at the 1975-76 full cash value (base year value). Real property is then reappraised only when a change in ownership occurs, or after new construction is completed. Generally, a change in ownership is a sale or transfer of property; new construction is an addition or improvement to a property. Except for these two instances, property assessments can be increased annually by the percentage increase in the consumer price index but by not more than 2%.

However, business personal property (non-land/improvements such as equipment) and certain restricted properties are reappraised annually. The owners of all businesses must file a property statement each year detailing costs of all supplies, equipment and fixtures

at each location. This annual statement is required unless the property qualifies for direct assessment (appraised by assessor). Business inventory is exempt from taxation.

Proposition 8, passed in November of 1978, amended Proposition 13 providing clarifications and a mechanism allowing an assessor to reduce an assessment when a property has been substantially damaged or its value has been reduced by “other factors” such as economic conditions. A reduction to the base-year value under the auspices of Proposition 8 is not permanent. Assessors are required to track every reduction until the base year value is restored.

A number of factors are used in assessing or reassessing the value of business property:

- Market price of comparable land, considered at the most likely highest value usage.
- Construction costs.
- Equipment and improvements costs.
- Business income, commonly EBITDA – earnings before interest, taxes, depreciation, and amortization.

### **Disputed Assessments**

It is the assessor’s responsibility to establish a value for each property subject to property taxation. Property owners who disagree with the assessor’s appraisal can present their case to the assessor and provide evidence supporting a claim for a lower assessment.

In the event that the property owner fails to convince the assessor, the property owner has the right to appeal to the Assessment Appeals Board, a three-person board of citizens appointed by the Santa Cruz County Board of Supervisors.

Finally, property owners who are not satisfied with a determination by the Assessment Appeals Board can take their case to Superior Court.

### **Scope**

The scope of this Grand Jury investigation was limited to a review of the assessor’s process used to reassess a unique commercial property owned by a privately held company. No attempt was made by the Grand Jury to validate or “second guess” the assessed value determined by the assessor.

### **Findings**

1. The case studied involved one company having a large number of parcels and multiple businesses. It was necessary for the assessor, with the property owner’s eventual concurrence, to segregate the parcels and associated improvements and other assets in order to determine which parcels, improvements and other assets were related to the requested assessment reduction.

2. The business associated with the requested assessment reduction in this particular case is relatively unique making the use of “comparables” difficult. The Assessor’s Office, therefore, relied on the Income Method for determining the value of the property.
3. The initial assessment was established using base-year values adjusted per the requirements of Proposition 13 and augmented by annual valuations of equipment. Reductions under the auspices of Proposition 8 were based on multiple factors including the capitalization of the business’ five-year average income stream.
4. A one-year study of the business was conducted by the assessor. Industry experts were consulted to assure the assessor’s understanding of the business and the reasonableness of various valuations.
5. Externally audited consolidated financial reports were used as a starting point for the income analysis. Secondary financial reports, isolating the business associated with the requested assessment reduction from the consolidated financials, were prepared by the property owner.
6. The property owner’s accounting processes, audited consolidated financial reports and breakouts were tested by the assessor’s staff working both at the property owner’s site and in the Assessor’s Office.
7. An agreement stipulating the value of the property in question for tax purposes (Settlement Agreement and Mutual Release) was approved by the Assessment Appeals Board and executed by the property owner and the county.
8. Annual reviews by the assessor of the reduced assessment are being conducted as required.

## **Conclusions**

1. Based only on the case described in this report, the Grand Jury found the assessor’s process for handling the request for a reduced assessment of business property owned by a privately held company to be reasonable, thorough and professionally conducted.
2. A company’s stated income can be suppressed by paying excessive salaries or other benefits to owners, employees or vendors. This can affect the company’s Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA), which can then artificially lower its assessment.
3. A higher level of confidence in the financial statements provided by business property owners would be realized by having an external auditing firm review and certify the statements. The certification should apply to that portion of the business which is being used for property evaluation purposes.
4. The current Assessor’s Office web site does a reasonably good job of describing the assessor’s functions for the majority of the county’s properties. However, many citizens are concerned about how the larger county taxpayers are assessed

and whether their size and influence leads to preferential treatment.

5. A more effective public outreach could reduce the concerns about possible preferential treatment for some large high profile land parcels.

***Recommendations***

1. Expand the Assessor’s Office web site to include a discussion of how business assessments are conducted. Without disclosing confidential financial information, the methodology used by the Assessor’s Office should be explained for different categories of properties so that the appraisal approach is more transparent. This would enhance the public’s understanding and perception of the fairness of the assessment process.
2. When the income method is used, thoroughly investigate the ownership structure of a business to assure that the Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) is not being reduced through expenses that principally benefit the owners or owner-related parties (e.g., excessive salaries, “consultancies,” travel and entertainment, gifts). If such expenses are found to have reduced the income of the business being evaluated, they should be added back into the stated EBITDA.
3. When using a business property owner’s financial statements to determine the income stream to be used in the assessment of business property, require that those statements be audited and certified by an independent external auditing firm for the applicable portion of the business.

***Responses Required***

<b><i>Entity</i></b>	<b><i>Findings</i></b>	<b><i>Recommendations</i></b>	<b><i>Respond Within</i></b>
Santa Cruz County Assessor		1-3	60 Days September 1, 2007



## Appendix – Sources

### Documents

Property owner’s financial reports — audited consolidated financial reports, breakout of financials describing the business associated with requested assessment reduction.

Assessor’s working documents — spreadsheets used in validating property owner’s breakout.

Settlement Agreement and Mutual Release (“Stipulation Agreement”).

Other legal documents — Assessor’s Office.

### Web Sites

Proposition 8 (1978) — <http://traynor.uchastings.edu/cgi-bin/starfinder/18364/calprop.txt>

Proposition 13 (1978) — [http://www.leginfo.ca.gov/.const/.article\\_13A](http://www.leginfo.ca.gov/.const/.article_13A)

Santa Cruz County Assessor — <http://www.co.santa-cruz.ca.us/asr/index.htm>



# **Santa Cruz County**

## **Grand Jury**

**Final Report:**  
Section 2  
Cities and County Committee Report

## **Electronic Voting A Strategy for Managing the Voting Process**

### ***Synopsis***

The Grand Jury investigated Santa Cruz County's response to the requirements of the "Help America Vote Act" and the county's effectiveness in implementing so-called "electronic" or "computerized" voting machines. The investigation revealed that the county's strategy in deploying new voting machines was effective. The overall security, reliability and accuracy of the voting and counting process were found to have met reasonable expectations. In general, the suitability of polling stations and worker training was also found to have been adequate. Public reaction to electronic voting was measured in an exit poll on the day of the November 2006 election. There were areas that could be further improved from the standpoint of efficiency and public confidence and understanding of the process. These areas are identified in this report.

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*"This is the biggest change we've seen in the elections process in the history of the nation."*

Bruce McPherson, former California Secretary of State

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### ***Background***

"The Help America Vote Act" (HAVA or the Act) was passed by Congress in 2002 to provide assistance with the establishment of minimum election administration standards for federal elections. HAVA provides the states with funds, which in part are to be disseminated to the counties to meet the various provisions of the Act. The Act requires:

- Nationwide implementation of provisional voting.
- Voter ID requirements for new voters in federal elections.
- Replacement of punch card and lever voting machines.
- Voting system accessibility for voters with specific needs.
- A centralized statewide voter registration database in each state and territory.
- Specialized handling of absentee ballot applications for military and overseas voters.
- Each state and territory to define what constitutes a valid vote.

As the result of both federal and state legislation, HAVA and California's Proposition 41 (the Voting Modernization Act), major changes are occurring in the processes by which state and Santa Cruz County voters cast their ballots, as well as in the way votes are tabulated. Regarding the move to electronic voting machines, the former California Secretary of State, Bruce McPherson, said: "This is the biggest change we've seen in the elections process in the history of the nation."

With this change, specialized computers are used directly by voters in casting their ballots and provide for automation of the tabulation of the votes.

Early attempts to use such machines around the country have led to a number of problems — from power outages that made machines unusable, to machines rebooting for unknown reasons mid-day during an election, to difficulties experienced by precinct staff in starting the machines and properly capturing totals.

There are several vendors of voting machines, including: Sequoia Systems (the system used by Santa Cruz County in the November 2006 election), Diebold Machine, and ES&S Machine. To date, there have not been any reports of significant Sequoia failures, but serious concerns have been raised about the reliability of other systems. In North Carolina, it was reported that 16,000 votes were lost (Diebold Machine). Also, there were 18,000 missing votes in Florida, which have not been resolved (ES&S Machine).

Reliability concerns arise both from questions about the workings of the generally privately owned and proprietary software and the vulnerability of the machines to fraud. According to an expert, fraud results from manipulations of the operating software (hacking) or of physical manipulations, such as swapping out memory cards containing the machine software and/or the vote totals. The new California Secretary of State, Debra Bowen, has recently commissioned a study of the matter. She has formed a team of highly technical members. They will be doing a “top to bottom” review of the various voting systems. This study will include:

- Reviewing the source code. It is proposed to maintain the source code at the state level.
- Performing “attack” testing to ensure that the system cannot be hacked.
- Conducting a voting system documentation study.

This will be the first time that Sequoia Voting Systems has been reviewed by the State of California.

Santa Cruz County evaluated several options before selecting Sequoia Systems as the vendor for new voting equipment. Santa Cruz County has been notably cautious in their approach to changing the voting processes, both because of concerns regarding the reliability of the new systems and because of cost issues. Our county has opted to implement the minimum legally required system — which is to have a single touch screen machine in each precinct polling location and to allow voters to choose between paper ballots capable of being optically scanned or the touch screen machine. Although optical scanning had been used in earlier elections, voters began using touch screen machines in the last election (November 2006).

## **Scope**

The Grand Jury has chosen to review the following issues as they relate to the new voting process:

- Adequacy of security in the election process.
- Performance of the voting machines.
- Reliability and accuracy of the vote tallies.
- Adequacy of poll worker training.
- Suitability of polling place physical arrangements.
- Adequacy of election staffing.
- Adequacy of public education of the voting process.
- Suitability of the current strategy to comply with the Help America Vote Act.
- Poll worker and voter opinions of the new process.
  - Poll worker and voter surveys.
  - Grand Jury observations.

## **Definitions**

### **400C Ballot Counter**

Machine that counts the paper absentee ballots.

### **Electronic Voting**

Using computers to capture, record and tally votes.

### **HAVA**

Help American Vote Act — act passed by Congress in 2002 which specifies that all federal elections must meet certain minimum standards.

### **Memory Pack**

A cartridge which plugs into scanner and contains the files unique to that precinct.

### **Memory Stick**

A portable device which stores data.

### **Optical Scanner**

Computer equipment that scans, counts, and accumulates the paper ballots.

### **Paper Trail**

Verification of each voter's choices. The paper trail on the touch screen computer consists of a compilation of the voter's votes that is visible to the voter at the end of the ballot process.

### **Polling Place**

A place where people vote, usually — but not always — voting precincts have their own polling places.

**Poll Worker**

A person who is trained to work in the polling place.

**Proposition 41**

Voting Modernization Act of 2002 — state proposition which authorized the state to sell \$200 million in bonds for updating voting systems.

**Proprietary**

Exclusive; secret; may not be accessed by anyone but the owner.

**Results Cartridge**

A cartridge which plugs into the touch screen machine; it contains the unique form for that precinct and a data field for counting the votes as they are input on the screen by the voter.

**Sequoia Systems**

One of several voting computer system vendors; the vendor chosen by Santa Cruz County and used in the November 2006 election.

**SERVE**

Secure Electronic Registration and Voting Equipment.

**SQL Server**

SQL (Structured Query Language) is the programming language that communicates or interfaces with the database that stores voting data. The server is the main computer on which the database resides.

**Touch Screen**

A computer display which the voter can control by touching the screen.

**Voting Precinct**

One of several districts into which a city or county is divided for voting. Most precincts have their own polling places, but in Santa Cruz County’s November 2006 election, some precincts shared polling places.

***Findings***

**1. Adequacy of Security in the Election Process**

**A. Data Security**

1. The Sequoia Systems (Sequoia) software is privately owned and proprietary. California is requesting that the code be accessible to the state.
2. Sequoia equipment and software goes through extensive testing by Sequoia Systems. This testing is required by the state.
3. The Sequoia Systems’ touch screen voting machine uses a voter verified paper trail which is the fundamental protection against software errors in recording the vote, provided there is a good audit procedure following the election.
4. Procedures are in place to protect the integrity of the data on the voting machines’ memory packs and results cartridges. These items are external and

removable and protected with traceable seals. Any sign of tampering with the seals is reported to the Election Department and investigated. There is a standard reporting form, and written procedures are provided to the poll workers.

5. The ballot information file for each precinct was created by the Santa Cruz County Election's Department's Information Systems Analyst and the program coordinators. It was sent electronically to Sequoia, the vendor, where the ballot election files were created. Sequoia also provided the printed paper ballots. There was a unique file created for each precinct. Files were then sent back electronically to the SQL server which resides in the Information Systems Analyst's office for updating and testing. Sequoia provided all testing scripts and assisted in the testing this past election.
6. Prior to the November 2006 election, the ballot information was reviewed, modified and approved by the county program coordinators and the Information Systems Analyst until it was ready to be sealed. The Information Systems Analyst, via a memory stick, manually extracted the data and loaded it onto a stand-alone laptop system. The cartridges for the voting machines were written from this system. They were sealed and coded. Once sealed, they were ready for distribution to the voting machines.
7. During the last election, some areas for improvement on warehouse check-in and out of equipment were noted. For example, the person checking out equipment was not identified.

## **B. Warehouse Security**

8. All voting equipment and accessories for Santa Cruz County are stored in a secure warehouse within the city of Santa Cruz. The exception to this is the SQL server, which is used as a network server for the Elections Department, and the 400C (absentee paper ballot counter) which resides in the Information Systems Analyst's secured office. All files are backed up and stored in a storage area offsite at the Elections Department warehouse.
9. The results cartridges for the touch screens and memory packs for the scanners are created on a stand-alone computer at the warehouse. They are then loaded and sealed into the appropriate precinct equipment and stored until ready to be shipped to the polling place. Access to both the warehouse and office are controlled through the use of color-coded security badges. Four Elections Department supervisors with the widest access to the county's voting machines and voting materials have their own color-coded badge. Temporary employees, who must be escorted and supervised inside the secure area, have a different color badge, as do permanent Elections Department employees, visitors and exhibitors, and voting machine vendors.
10. The warehouse has an alarm system, provided by First Alarm. An access card is required in order to enter. The Information Systems Analyst, Department Information Systems Specialist and the Election Officer have the First Alarm access code.

11. A large door is locked from the inside. All equipment is within a caged area of the warehouse with controlled access.

### **C. Poll Site Security/Physical Equipment**

12. The assigned person at each precinct picks up the voting equipment from the warehouse the day before the election. The cartridges are already in place and sealed. A poll worker takes the equipment home. On election day, they take it to the polling place and set it up.
13. At the close of the polls, two designated persons break the seals on the results cartridge and the memory pack and remove them from the machines. Cartridges and seals are put in a sealable orange bag. The printer is removed from the touch screen machine for transport. The orange bag and printer are prepared by an inspector and a designated person. These items are taken to the election department, where the bags are checked, verified, and stored in the Information Systems Analyst office until ready to tally. The person who checked out the equipment and brought it to the polling site is also responsible for taking it back to the county building. All voting equipment is eventually returned to the warehouse for storage.
14. After the November 2006 election, the above process was reviewed by election staff. It was found that there were delays in equipment check-in.
15. The issue of fire protection of the polling places was not addressed when the polling places were chosen. Since most poll sites are in public buildings, it was assumed that the fire protection available at the poll site location would be relied on.

## **2. Performance of the Voting Machines**

17. Sequoia Systems is a state-approved vendor for the new voting equipment. They were chosen by Santa Cruz County to provide the voting equipment.
18. The touch screen voting machine has a printer which records the votes. It has 300 feet of paper inside the machine. During the last election, the paper often jammed.
19. During the November 2006 election, two or three scanners failed and at least 12 printers jammed. When the failed scanners were tested, it was determined that they probably had been damaged in transport.
20. The 400C Ballot Counter Machine reads the ballots very quickly. However, the catch basket, which is located outside the machine, is not large enough to hold all of the ballots. As a result, ballots can get bent or be ejected onto the floor.



### 3. Reliability and Accuracy of the Vote Tallies

21. The results cartridge plugs into touch screen equipment. It contains a database for capturing the votes as they are input by the voter. This cartridge cannot be removed without breaking a seal.
22. The memory pack plugs into the optical scanner. It also uses a database for capturing the votes as they are input when the ballot is scanned. The memory pack cannot be removed without breaking a seal.
23. Firmware (software imbedded in the machine) operates the machines. The Secretary of State demands the firmware be at a specific level (version). It cannot be changed after 60 days prior to election. A test is run to ensure the firmware level (version) is correct.
24. To ensure the reliability and accuracy of the equipment, logic and accuracy testing is conducted by the vendor and county personnel. Some experts believe that this testing is insufficient for validating the accuracy and reliability of the vote. They argue that it consists only of verifying whether the equipment is working. It does not evaluate the equipment's security.
25. After they are finished voting, voters who use the touch screen equipment can verify the accuracy of their votes by looking at a compilation of their votes that is displayed in a window on the machine.
26. Following a written procedure, the designated poll worker and one other poll worker break the outer seal and assist the first voter to verify prior to his or her vote that the "total votes" displayed is zero. Both the poll worker and the voter sign an official document verifying that the vote count is zero.
27. On 10 percent of machines, a random sample with full paper recount is taken to check that the machines are tallying correctly.
28. After the November 2006 election, Capitola initiated a manual recount. Each precinct was reconciled separately. With approximately 3000 votes to count, it came out to within one vote of the machine count. The final election results did not change.
29. During the November 2006 election, a number of absentee ballots had to be redone due to the types of pens used. Some voters used pens that bled through the paper and could not be read by the scanner.
30. Provisional ballots were being used for voters who had come to the wrong polling place. Some provisional ballots had to be redone because they were folded the wrong way.

#### **4. Adequacy of Poll Worker Training**

31. An organized training plan with documentation was provided for the poll workers and inspectors. One person at each polling site was trained and certified to use the machines. There were “rovers” who traveled between polling sites to check on machines and supplies.
32. Before the November 2006 election, county staff did a lot of on-the-job training while concurrently preparing for the election because the equipment arrived late.
33. The training documentation from the vendor had to be completely redone because it had to be customized to the design of the Santa Cruz County election model.
34. In the future, the Elections Department plans to create a professional DVD to supplement poll worker training.
35. Poll workers have documentation binders which have flip charts and checklists. Also, they are trained how to deal with the press and observers.
36. Poll workers indicated they wanted more “hands-on training” with the machines in addition to having more poll workers trained on the equipment. These machines are sophisticated computer equipment, and if something goes wrong, many poll workers don’t know what to do. (See Poll Worker Survey in the Appendix for more information.)

#### **5. Suitability of Polling Place Physical Arrangements**

37. The physical arrangement of the polling places was similar to past elections. This consistency contributed to a stable atmosphere.
38. The touch screen machine was positioned with the back of the machine to the wall. This placement meant that the voter’s selections could be seen by others standing nearby.
39. The county was proactive in making the touch screen machine wheel chair accessible by re-engineering the support legs. In addition, they custom designed carrying bags for the scanner.
40. Santa Cruz County was sued by the State Attorney General for not following Americans with Disabilities Act (ADA) regulations for polling sites. The parties agreed to settle the lawsuit without finding that the county had violated the ADA regulations.
41. Some polling places that were shared by more than one precinct also shared touch screen machines. This arrangement caused some confusion because voters had to identify which precinct they were voting in as the first step in the voting process, and many did not know.

## **6. Adequacy of Election Department staffing**

42. In the start-up process for the new voting system, the Department Information Systems Specialist, Elections Officer, Assistant County Clerk and the Information Systems Analyst were trained first, and then they were able to provide training for others. Sometimes training occurred simultaneously with the installation of the new equipment.
43. The staffing for the poll places was conducted in the same manner as in previous elections. Polling place staff is typically temporary help from the community. The polling place supervisors are relied upon to pick up the equipment at the warehouse the day before the election, keep it at their houses overnight and take it to their polling places in the morning for set up.

## **7. Adequacy of Public Education of the Voting Process**

44. In an effort to educate the public, the Elections Department distributed thousands of voter pamphlets to the public via U.S. mail. The department personnel also gave speeches and distributed educational material at local public schools, bookstores, the Capitola Mall, and the county fair. Media promotion included television and public radio interviews and press releases.
45. Despite the education campaign, some voters were confused as to how to mark their ballots. For example, some voters who used the paper ballots did not understand how to connect the arrows to the candidate or issue they were voting on.
46. In general, voters who used the touch screen machine seemed unaware of the importance of verifying their votes by comparing them with the compilation of their ballot that was visible through a window on the machine.

## **8. Suitability of the Current Strategy to Comply with HAVA**

47. County election officials determined that there would be one touch screen at each polling place. The new scanner would be the main voting machine. They reported that this choice proved to be a good decision. Not only did it provide the necessary accommodations for voters with disabilities, but it also ensured the reliability of the voting process. Having a mixture of technologies ensured that votes could be cast in the event of equipment failures. For example, if the touch screen printer jammed, except for those who are sight impaired, voters had an option to use a paper ballot.

48. A recent news release announced that Florida will shift its voting system to a system of casting paper ballots counted by scanning machines. Several counties around the country will be moving to adopt the touch screen system with the paper trail.

## **9. Poll Worker and Voter Opinions of the New Process**

### **A. Poll Worker and Voter Surveys**

49. On election day, the Grand Jury conducted a two-part poll worker survey and collected 104 surveys for analysis. The first part of the survey covered the poll worker training (see #4 above — Adequacy of Poll Worker Training), and the second part was a critique of the election day process. While most were extremely positive as to the work of the Elections Department, they made substantive recommendations for continued improvement of the elections process including the use and placement of the equipment. [See Appendix for full results of the survey.]

One hundred and four poll workers out of a total of 917 in Santa Cruz County were surveyed. They were asked to rate aspects of the voting experience from 1 to 5, with five being the best rating possible. The results were as follows:

- Training materials: 4.3
  - Overall preparation: 4.0
  - Adequacy of election day staffing: 4.5
  - Ease of equipment set up: 4.3
  - Workers indicated they wanted more training on the machines and “hands on” practice.
50. The Grand Jury also conducted exit surveys with 320 voters throughout the county. (The total votes cast was recorded as 50,189 in 170 polling places.) The results of the survey are as follows:
    - Only about 19 percent of the sample chose to use the touch screen machines.
    - One hundred percent of those who chose to use the touch screen felt comfortable using it.
    - Ten percent of those who chose to use the paper ballot with optical scanner felt uncomfortable using it.

### **B. Grand Jury Observations**

51. Members of the Grand Jury made general observations while conducting the exit voter and poll worker’ surveys at the November 2006 election. They witnessed the failure of some equipment and agreed with many of the

solutions suggested by the poll workers. [See Appendix for more information about the survey.]

52. During the November 2006 election, it was observed that most poll workers gave paper ballots to the voters and did not indicate that the touch screen method was available.
53. It was also observed that not all voters were offered a receipt for voting when they used the touch screen machine.

## **Conclusions**

1. It is a matter of national priority to have a transparent electronic process and accurate election results.
2. The County Elections Department has done a good job of securing the voting data. It has provided traceable seals, “stand-alone” cartridge creation and storage, extensive testing, detailed procedures and complete systems backup.
3. The touch screen voting machine adopted by the county uses a voter-verified paper trail which provides verifiable voting results and a method for testing. This system, combined with a good audit procedure, ensures voting accuracy.
4. For the November 2006 election, Sequoia Systems not only supplied the test cases, but also assisted in the testing. There was no independently controlled testing in addition to what the vendor provided.
5. The Elections Department warehouse — where the cartridges are prepared and stored until ready for shipment to the polling place — is sufficiently secure. Besides being badge access controlled, it is protected by the First Alarm Security System.
6. Proper procedures are in place to ensure the security of the data.
7. All types of equipment had problems. Printers jammed, and two or three scanners failed. Proactive planning by the Elections Department helped mitigate these problems.
8. The 400C Ballot Counter had problems that need to be corrected in the future. Although it counted the votes quickly, some ballots were damaged when they were ejected from the machine.
9. The Elections Department was proactive in creating written procedures for all aspects of the election process and identifying areas of improvement after the election. Poll workers were supplied with good procedures to do their jobs.
10. The touch screen set up provided adequate wheel chair access. The Elections Department was proactive in re-engineering the machine support legs to accommodate a wheel chair. However, the placement of the touch screen computers in some polling places contributed to the lack of voter privacy,

Also, some co-located precincts shared a touch screen, which confused some voters when they were asked to identify their precinct.

11. The fact that Santa Cruz County is not flat in several locations and uses many older buildings as polling sites led to a lawsuit against the county alleging the county's failure to comply with accessibility regulations. The parties agreed to settle the lawsuit without finding that the county had violated the Americans with Disabilities Act requirements.
12. Because several staffers had to be both trainers and trainees, the Elections Department was stretched very thin in training for the new voting system. Due to this shortage of staff and time crunches, some poll workers were not completely prepared. Even though the poll workers were trained to advise voters that the touch screen was available for their use, most workers presented the paper ballot as the only option.
13. Voter awareness and understanding of the new voting process could have been better. Even though voters were informed about the new process, many lacked a good understanding of how it differed from the previous process, and some were confused about the new ballots. Many understood that the touch screen was new but did not realize that their paper ballot was being scanned, which was a new process.
14. Although there was some confusion over the new process, most voters felt comfortable using the new equipment.
15. Although this change in the voting system complied with the "Help America Vote Act," using the new technology did, in fact, take longer, cost the county more and required more staff and testing.
16. The strategy to put just one touch screen at each polling place proved to be a good one. It satisfied the requirements for voter accessibility while providing more current technology for voters. The mixture of technology also provided backup. If the printer or other equipment had a problem, voters had another way to cast their votes.

## **Recommendations**

1. The Elections Department should continue to make security improvements, thereby ensuring the integrity of the data.
2. Because this was the first year using the new electronic voting system, the Elections Department relied heavily upon the vendor for testing and support. In the future, the Election Department needs to create and conduct its own testing program.
3. The use of the verifiable paper trail on the touch screen voting machine has proven successful. Public awareness of this method of verification should be stressed in the future.
4. The poll workers should continue to follow procedures established for ensuring the security of the data, which include traceable seals on the memory packs and results cartridges and procedures for handling the seals. If a seal is found broken on a machine, that machine should not be used. In addition, all machines which have a broken seal at the end of the day, should undergo a full manual count.
5. The Elections Department should work with the vendor to solve the various problems that arose with the ballot counter damaging ballots.
6. The Elections Department should set up procedures for auditing the absentee ballots.
7. Because comprehensive poll worker training proved difficult to provide with a limited staff and it is important to have most poll workers trained on the machines, staffing should be increased so that the management is not stretched too far by overseeing the election process while also training other staff and temporary employees.
8. In future elections, the touch screen machines should be set up to provide more privacy for the voter. The side panels should also be larger for privacy in voting.
9. Each precinct should have its own touch screen in the future to avoid voter confusion.
10. Because the “ledger” size of the paper ballots was too large to fit comfortably in the old polling booths, the size of the paper should be adjusted to solve this problem.
11. Because of the common practice of storing the equipment at the polling place supervisor’s house overnight, these supervisors should be identified as far in advance as possible to allow for additional training on security procedures and the vulnerability of the equipment.
12. The Elections Department should plan to strengthen its “advertising” campaign for future elections. It should focus on educating the voters to verify the paper trail when using the touch screen equipment.
13. The Elections Department should review the appendix to this report and take appropriate action based on poll worker and public responses.

14. Since a number of poll workers dropped out the night before and morning of election day, requiring substitutes that were not trained, a pool of trained alternate poll workers should be available on election day to substitute in case of poll worker absenteeism.

**Commendations**

1. The Elections Department has provided a secure warehouse to protect the equipment and store the data. They have done an excellent job with physical security.
2. Since all types of the new voting equipment had operational problems, the Elections Department should be commended for using a mixed equipment approach that allowed for backup in case a machine had problems. Except for the visually impaired, this approach mitigated most problems.
3. The Elections Department did an excellent job of ensuring that the votes were tallied correctly. Procedures were put in place to ensure a starting count of zero, traceable seals, verifiable paper trail and a 10 percent manual count.
4. The Election Department provided all workers with good procedures to do their jobs. Written procedures will ensure the smooth operations of future elections.
5. The Elections Department should be commended for being proactive in making the environment available for the voters with disabilities.
6. The Elections Department deserves a major commendation on its strategy of putting just one touch screen at each polling place.

**Responses Required**

<i>Entity</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Respond Within</i>
Santa Cruz County Board of Supervisors		7	60 Days September 1, 2007
Elections Officer	1 - 46	1-14	90 Days October 1, 2007



## **Sources**

### **Interviewed:**

- County Clerk and Election Department staff
- Department Information Systems Specialist
- Information Systems Analyst
- Assistant County Clerk
- Electronic Voting Expert

### **Reviewed:**

- Board Minutes
- County Reports.
- Newspaper Articles

### **Web Sites:**

- Santa Cruz County Elections Department. This has a great deal of information about the plan for the last November election and links to info on the products to be used. There is also information about the bidding and selection process. (<http://votescount.com/>).
- Online flash demo of use of a touch screen voting machine. <http://sequoiavote.com/demo.php?lang=vv>
- Brochure of the new optical scan system. <http://www.sequoiavote.com/docs/insight.pdf>
- Link to the Sequoia Brochure describing the touch screen machines. <http://sequoiavote.com/docs/AVCEdge.pdf>
- A national website devoted to the controversy. [www.blackboxvoting.org](http://www.blackboxvoting.org)
- A 38 page report from an Secretary of State funded study. <http://accurate-voting.org/2006/02/19/security-analysis-of-the-accubasic-interpreter.pdf>
- A panel appeared on the News Hour with Jim Lehrer, discussing this issue. This is a transcript of that telecast. [http://www.pbs.org/newshour/bb/politics/jan-june06/voting\\_06-15.html](http://www.pbs.org/newshour/bb/politics/jan-june06/voting_06-15.html)
- An executive summary of the “Secure Electronic Registration and Voting Experiment” (SERVE) A few lines down is a link to click to the author’s bios. <http://servesecurityreport.org/>
- The official site of the California Secretary of State: <http://www.ss.ca.gov/>

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## **Electronic Voting A Strategy for Managing the Voting Process Appendix**

### ***Voter & Poll Worker Surveys – Procedure***

As part of the inquiry into the electronic voting, the Grand Jury was interested in the voter response to the changes, poll worker training, and observing Election Day procedures.

Two informal survey forms were developed to gather voter and poll worker response.

Grand Jury members signed up to observe at the polling places of their choice and at the time they desired to participate.

Attending a poll worker training was an option offered to the jury members. Some but not all jury members elected to attend the training.

Each participating jury member was given a packet of materials at the full panel meeting. This packet included the following:

- Blank Voter Survey Forms in English and Spanish
- Blank Poll Worker Survey Forms
- An ID Badge from the County Elections Department
- A letter of introduction from the Registrar of Voters
- Poll observation instructions from the Registrar of Voters
- Clipboards and pencils

Voters could either fill out the survey on their own or give their answers to the jury member who recorded their responses.

Poll workers were given the opportunity to fill out the surveys on the spot or when they had time during the day, with a jury member coming back to collect them.

At the end of Election Day, each participating jury member returned their materials to a box in the jury room along with their observations at various precincts. The results were tallied and all responses recorded. The following is the compilation results of the voter and poll worker surveys. Due to the volume of written comments, a sampling of the comments is included here.

A total of 320 voter surveys were collected and tallied.

A total of 104 poll workers surveys were collected and tallied.

## Voters Survey and Talled Responses

**Total: 320**

1. Did you vote using the touch screen or the optical scanner, and why?

- Touch Screen:**..... 57
- Optical Scanner:**..... 245
- Absentee:**.....17
- Audio system:**.....1

Why?	<u>Touch Screen</u>	<u>Optical</u>	<u>Absentee</u>	<u>Audio</u>
<input type="radio"/> <b>Available:</b> .....	16	82	1	0
<input type="radio"/> <b>Ease of Use:</b> .....	14	53	3	0
<input type="radio"/> <b>Trustworthy:</b> .....	3	55	0	0
<input type="radio"/> <b>Other:</b> .....	22	40	0	0

A) If you used the touch screen, how did you check your vote?

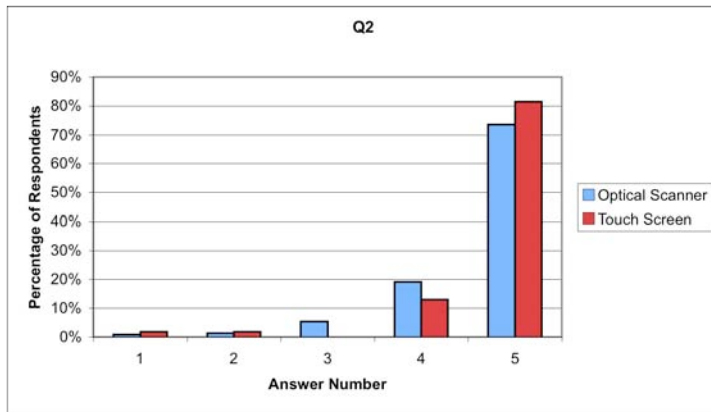
- Touch Screen:**..... 10
- Voter Verified Paper Trail:**.. 12
- Both:**..... 28
- Neither:**..... 2

B) If you used the optical scanner, did it accept your ballot easily?

- Yes:**..... 207
- No:**..... 7

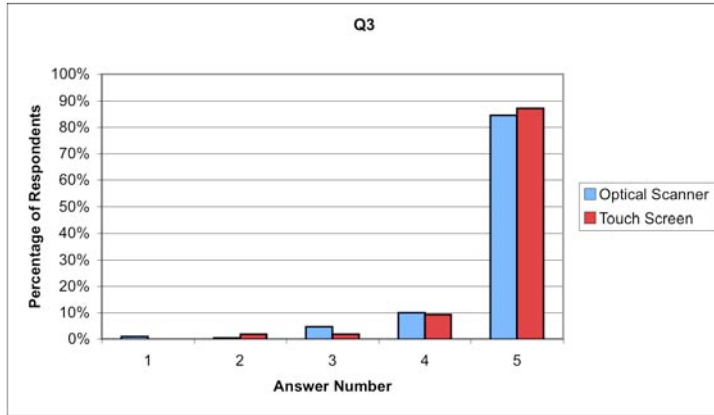
Please answer the following questions on a scale of 1 to 5.

2. Were the instructions for voting clear and easy to understand?



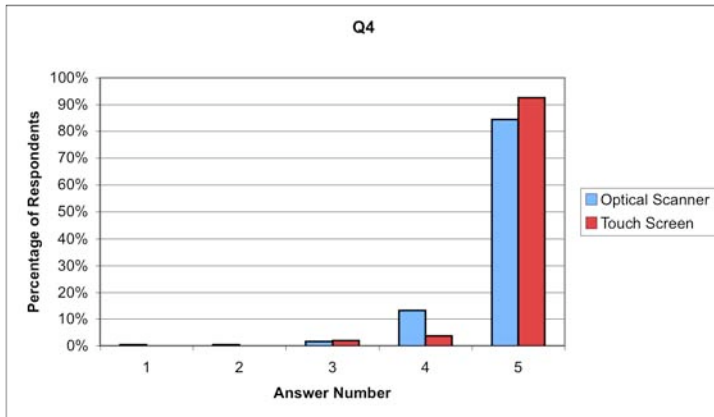
	1	2	3	4	5	N/A
<b>Touch Screen</b>	1	1	0	7	44	1
<b>Optical Scanner</b>	2	3	13	46	177	
<b>Absentee/Audio</b>			1		9	

3. How easy was it to cast your vote?



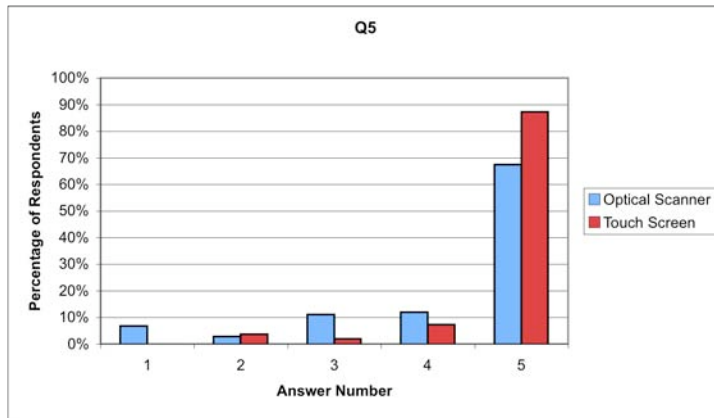
<b>Touch Screen</b>	<b>1</b> 0	<b>2</b> 1	<b>3</b> 1	<b>4</b> 5	<b>5</b> 47	
	Difficult-----Easy					
<b>Optical Scanner</b>	<b>1</b> 2	<b>2</b> 1	<b>3</b> 11	<b>4</b> 24	<b>5</b> 205	
	Difficult-----Easy					
<b>Absentee/Audio</b>				<b>4</b> 1	<b>5</b> 7	<b>N/A</b> ---- 1

4. Were the poll workers helpful?



<b>Touch Screen</b>	<b>1</b> 0	<b>2</b> 0	<b>3</b> 1	<b>4</b> 2	<b>5</b> 50	<b>N/A</b> ---- 1
	Not Helpful-----Helpful					
<b>Optical Scanner</b>	<b>1</b> 1	<b>2</b> 1	<b>3</b> 4	<b>4</b> 33	<b>5</b> 212	
	Not Helpful-----Helpful					
<b>Absentee/Audio</b>					<b>5</b> 8	<b>N/A</b> ---- 1

5. Do you feel comfortable with the new voting methods?



<b>Touch Screen</b>	<b>1</b> 0	<b>2</b> 2	<b>3</b> 1	<b>4</b> 4	<b>5</b> 48
	Uncomfortable-----				Comfortable
<b>Optical Scanner</b>	<b>1</b> 17	<b>2</b> 7	<b>3</b> 28	<b>4</b> 30	<b>5</b> 170
	Uncomfortable-----				Comfortable
<b>Absentee Audio</b>			<b>3</b> 1		<b>5</b> 5 N/A---- 2
					<b>5</b> 1

**Absentee Voter Comments:**

- Voters surveyed said they chose to vote absentee because of the convenience it affords and out of a lack of trust of voting machines. Two respondents said taking time during the day to vote did not fit in with their work hours, and three reported that they appreciated the additional time they could take filling out the ballot. Respondents also pointed to voting machine software being “too easy to hack into,” news reports of tampering with voting machine software and concern that their vote “might not count” as reasons for voting absentee.

**Voter Comments on Touch Screen:**

- Asked whether they used the touch screen or optical scanner, and why, voters responded that they chose the touch screen out of curiosity, a desire to “try the latest technology,” and to generate less paper waste.
- Regarding whether the machines were easy to use, voters responded that “the instructions weren’t clear and the system wasn’t very well thought-out,” and that they could envision “the elderly having a lot of problems with the touch screen system.” Some voters thought that the system was “not particularly user friendly,” while others responded that “it was as easy as pie to use.”
- A comment was received that “poll workers should be better screened as to their ability to perform needed tasks.” However, another voter admitted that they had not read instructions in using the touch screen.
- Voters were also asked about reviewing their ballot after they had voted. “The only problem was in reviewing my ballot. I made a mistake – how to make a correction was not intuitive,” said one

respondent. “You had to actually touch the button of the candidate you mistakenly voted for to “undo” your vote. And then vote for the correct candidate,” another responded.

- General comments regarding the touch screen voting machine included enthusiasm for the new technology in comments such as “it was fun to be the first,” “it went pretty fast,” and “there were too few machines so we had to wait in line. But the machines were great!” Wariness of the new system was also clearly evident through comments such as “needed pencil eraser to actually ‘touch’ screen,” “unclear what to do with a mistake,” “change of vote not easy or clear,” “did not get a receipt; did I really vote?” and “I am a computer/electronics engineer, and do not trust the new electronic system. The ability will always exist with them to tamper with the results and not leave a trace.”  
 “Great new technology!”/ “Great system and location. Easy parking! Thank you.”/  
 “I am slow catching on - curious – good idea – I could really check corrected / mistake”

### ***Voter Comments on Optical Scanner:***

- Asked whether they had used the touch screen or optical scanner, and why, voters said they did not know there was a choice, that they had been “directed” to the optical scanner, or that they had been handed a paper ballot. Others said they had tried the touch screen, but had trouble working with it and given up, that a touch screen was not available at the precinct at the time they voted, that they felt there was less opportunity for failure than with the touch screen, and that they felt it was a faster way of voting than the touch screen. Other voters responded that they felt the optical scanner was more “trustworthy” than the touch screen and that “one mistake (on the touch screen) spoils the ballot” and it then has to be entirely redone. Many respondents offered positive comments regarding the optical scanners, including “great—easy and quick,” “liked the paper,” “I feel good that my vote will count,” “very convenient and easy,” and “so much better than in the past.”
- Asked about poll worker assistance with the optical scanners, voters surveyed were highly complimentary of the poll workers. One said it “would have been helpful for poll workers to advise/warn that paper method writing has changed from bubble to fill in arrow,” while another suggested vests or arm bands to distinguish poll workers from voters in some of the larger precinct voting stations.
- Asked specifically about their impressions of the optical scanner ballot and equipment, voters noted confusion over the supposed need for a “special pen” to record votes when a regular ball point pen seemed to work fine,” and uncertainty involving where and how to draw an arrow on the screen to register a vote for a particular person or issue compared with the previous method of punching a hole on the ballot. Other concerns involved the ballot being “too big” “bulky,” or “cumbersome,” a need for more voting booths and booths to be bigger, and a desire that the Election Day ballot more closely mirror the appearance of the Sample Ballot sent out before the election so that voters are familiar with it. One voter expressed concern that the system can be intimidating to people who are not naturally assertive.
- Voters were surveyed about the paper trail created by using an optical scanner ballot. Several voters expressed a strong preference for a paper trail, again citing concern over the possibility for fraud. One voter expressed acceptance of the current system, responding that problems are “yet to be seen,” but much more frequently voters expressed distrust in the use of computers in voting,

citing the possibility that voting data can be “manipulated,” or that computer voter fraud could contribute to a “bloodless coup.” Some voter comments included: “our system has lost control to possible fraud;” “I’m against computers, unless the (there) is a clear paper trail to back up the results;” “I like the paper trail in case of recount;” “don’t trust the touch screen!” and “electronic voting is problematic and requires a paper trail ... to protect American democracy.” However, the paper trail generated by the optical scanner did not satisfy all voters. One voter responded that “I get my stub to prove I voted, but no printout of what I voted for. I am suspicious of any electronic machine counting my vote!”



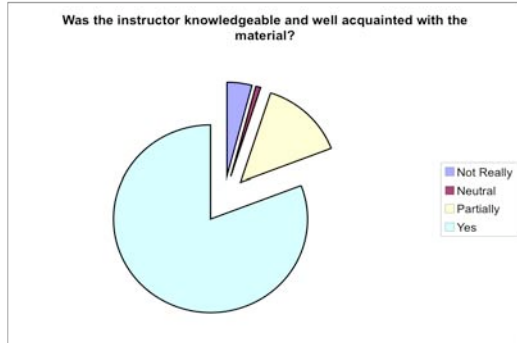
**Poll workers Survey (Part – 1)**

Declined ---- 1

**Total: 104**

**Training**

1. Was the instructor knowledgeable and well acquainted with the material?



1 0                      2 4                      3 1                      4 14                      5 80                      N/A -----1

**Unknowledgeable-----Knowledgeable**

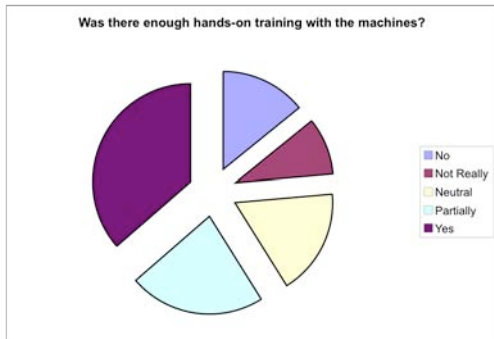
2. Were the training materials well prepared and easy to understand?



1 2                      2 2                      3 9                      4 31                      5 51                      N/A -----1

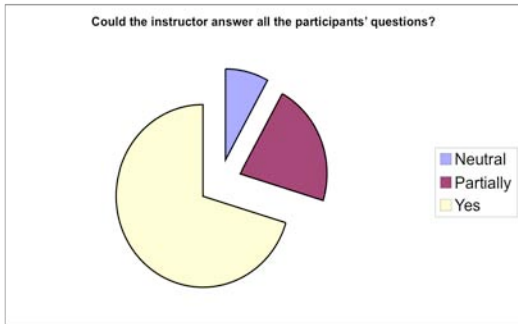
**Difficult-----Easy**

3. Was there enough hands-on training with the machines?



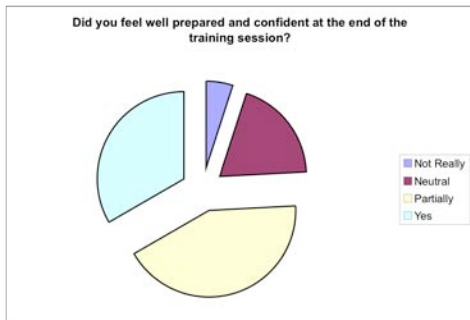
1 12                      2 8                      3 15                      4 19                      5 31                      No training --1  
N/A ----- 6

4. Could the instructor answer all the participants' questions?



1 0                      2 0                      3 8                      4 21                      5 69  
 None-----All                      N/A -----1

5. Did you feel well prepared and confident at the end of the training session?



1 0                      2 5                      3 19                      4 42                      5 33  
 Unprepared-----Prepared

**Poll Worker Training Comments:**

- Poll workers reported positive experiences. They included: “It was unsettling when you first beginning but (the Elections Department was) able to answer all questions I had;” and “our inspector made the training and the voting poll experience a great one.” Santa Cruz County Clerk Gail Pellerin and her training staff were complimented by poll workers.
- Some poll workers reported that they had not taken a training class provided by the Elections Department and had not undergone training in how to use the new touch screen voting system. Some who had not undergone training, however, reported that they felt they were able to perform their job capably either with training on Election Day or with assistance from other more experienced poll workers at their precinct.
- Comments by poll workers who experienced problems or had recommendations included: “Disorganized training materials. The presenters were not experienced with presenting the information even though they were clearly the experts in the election material;” “not enough training on the process – too much on machines with no context.” A recurring response by poll workers suggested more hands-on training with the voting computers used on Election Day is needed. One poll worker responded, “I felt well prepared by training and the handouts – the ‘special circumstances’ material was very, very helpful! My recommendation is that when there is

more than one precinct at a polling site, that an ‘inspector general’ would help alleviate confusion ... in (interpreting) the guidelines and directions.”

- Two poll workers echoed voters in responding that “ballots are too big for booth,” while another observed, “the sample ballot used was too simple—needs to be more real.”

**Poll workers Survey (Part 2)**

**Same 104 surveys continued.**

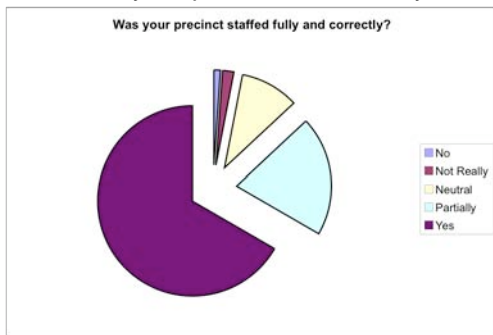
**Election day**

6. Did the training provide adequate guidelines for operations today?



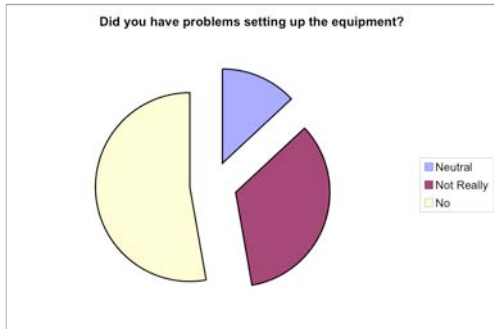
1 2 2 3 18 4 23 5 48 N/A ----- 1  
**Inadequate-----Adequate**

7. Was your precinct staffed fully and correctly?



1 1 2 2 3 10 4 20 5 66  
**Understaffed-----Well staffed**

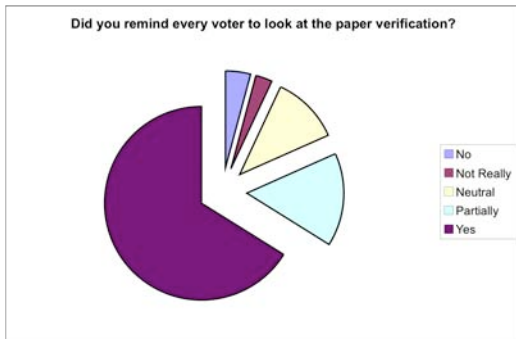
8. Did you have problems setting up the equipment?



1 0      2 0      3 12      4 31      5 48  
**Difficult**-----**Easy**

N/A ----- 2

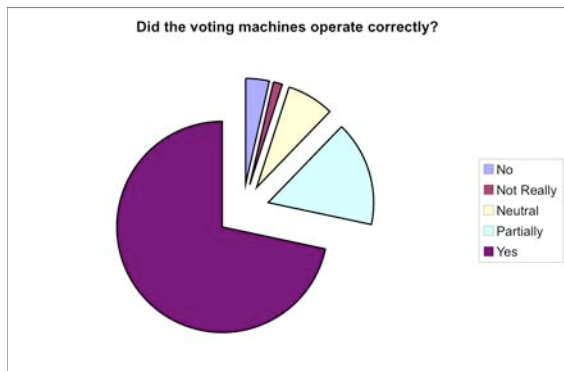
9. Did you remind every voter to look at the paper verification?



1 3      2 2      3 8      4 11      5 47  
**None**-----**All**

N/A ----- 7

10. Did the voting machines operate correctly? If not, please describe the problems.



1 3      2 1      3 6      4 13      5 58  
**Incorrect**-----**Correct**

N/A ----- 5



“sometimes timely, sometimes not;” “machine tech was called about problem, arrived in about 10 minutes—will bring new machine.”

**Observations/Suggestions:**

- Some general observations and suggestions offered by poll workers included: “Paper ballots are **very** difficult to remove with voter stub. Takes extra time to tear off properly. Need a sign on scanner that says BALLOT BOX;” “precinct number on voter pamphlet should be in much larger print;” “need more touch screens! Too many people had to wait!” and “I am amazed and impressed by the thoroughness of the checks to make sure the election is not tampered with by anyone. Kudos to Santa Cruz Election Dept.”

***Election Day Observations by Grand Jury Members Observing at the Polls***

- A number of precincts were combined to make better use of handicapped access. In one instance three precincts were combined because of facility handicapped access. In attempting to follow the mandates of the law, other voters were displaced from their usual voting places and expressed concern and frustration when they had to leave to find their “new” polling place. The county moved precincts around and voters were observed being confused and sent to other sites. Touch screen machines were shared by three precincts at one voting location. Only the operator enters the precinct number into the machine, which can create confusion.
- A number of voters told poll workers that they did not get their absentee ballots. One precinct had so many absentee ballots they had to band them with rubber bands. Absentee ballots are not secured; they can’t fit in the envelope provided by the Elections Department.
- An inspector was sitting next to the voting machine which limited privacy for those voting with the electronic voting machine. People who came up to talk to the poll worker stood behind the voter and were not directed away from the voting area by the poll worker.
- The time required to cast a vote seemed about the same for both electronic and paper.
- Most people used the paper ballot at the U.C. Santa Cruz polling station. Some did so and commented they were using it because they did not trust the touch screen. As is typical at campus precincts, many of the voters who came to the UCSC polling station did not understand or know they had to go to their registered polling place. Many had registered at a different location and forgot where they were supposed to go. It happens all the time. A phone number was offered for them to call and find out their polling place. One student thought the county should provide a phone for voters to use to make the call to find their polling place.
- This was a long ballot and took some time for voters to complete. There was one touch screen and at times the wait for the unit was 20 minutes or more. Most voters opted for paper if they thought the wait for the touch screen was too long. Not many actually wanted to use the touch screen, but a few who thought about it went to paper when the wait was too long.



# **Santa Cruz County**

## **Grand Jury**

### **Final Report:**

Section 3  
Criminal Justice Committee Reports

## **Santa Cruz County Jails Review**

### ***Background***

There are seven detention facilities that comprise the jail system in Santa Cruz County. Six are operated by the Santa Cruz County; the seventh, Camp 45, is operated by the state:

1. Main Jail
2. Rountree Medium
3. Rountree Minimum
4. Juvenile Hall
5. Blaine Street
6. Court Holding
7. Camp 45

The Main Jail, Rountree facilities, Blaine Street and the Court Holding cells are operated by the Santa Cruz County Sheriff. Juvenile Hall is operated by the Probation Department. The budget for each of these facilities is under the control of the county Board of Supervisors. Camp 45 is operated by the California Department of Corrections, and its budget is under the control of the State of California.

### ***Scope***

The Grand Jury is mandated by California Penal Code § 919(b) to inspect and report on the conditions and management of the jail facilities within the county. To satisfy this mandate, the Criminal Justice Committee and other members of the Grand Jury: (1) inspected the Main Jail, Rountree facilities, Blaine Street, and Juvenile Hall; (2) spoke with management, staff, and inmates at each facility; (3) reviewed previous Grand Jury reports, paying particular attention to prior recommendations; and (4) reviewed California Department of Corrections and Rehabilitation inspection reports for each facility.

### ***Main Jail***

The Santa Cruz Main Jail is located at 259 Water Street, across the street from the County Courthouse. Three visits were made. The first visit was during the afternoon and early evening on September 29, 2006, the second visit in the afternoon on Sept. 30, 2006, and the third visit in the evening on Feb. 2, 2007.



## **Main Jail Findings**

1. In 2006, the average daily number of inmates housed in the Main Jail was 340. On September 29 and 30, 2006, the total inmate population was 317. Approximately 10 percent of these inmates were female. On Feb. 2, 2007, the population was 321. Although there are a maximum of 424 beds available, the Main Jail's rated capacity is 311. This capacity is set by the California Corrections Standards Authority, which inspects the jail every two years.
2. The Sheriff's 2007 report on overcrowding, presented to the County Board of Supervisors in February 2007, reported that, "Although jail bookings decreased by only 1 percent, the average monthly population at the Main Jail is down 10 percent compared to 2005. The average monthly Main Jail population in 2005 was 386 in comparison to 346 in 2006."
3. In April 2007, the Governor and California State Legislature approved a prison reform measure aimed at easing overcrowding at state prisons. The measure includes \$1.2 billion in funding to increase the number of beds at county jails statewide by 13,000, with a requirement that counties receiving state funds match 25 percent of the state's contribution. Counties that assist the state in providing re-entry facilities and mental health programs for state prison parolees will receive preference from the state for the local jail funding.
4. The jail population consists of both male and female inmates who have cases pending, have been sentenced, or who are awaiting sentencing. Approximately 75 percent of inmates housed in the jail are repeat offenders. On Sept. 30, 2006, 80 percent were not yet sentenced.
5. The jail population is segregated, with members of competing gangs housed in separate units, each with their own recreation room and exercise yard. Inmates with psychological problems, sex offenders and those who are violent are also segregated from the rest of the Main Jail population. Meals are served separately to eliminate contact. Jail inmates come into contact with inmates from other wings only during travel to court appearances.
6. At least one bilingual officer is on duty during every shift. Corrections officers said the Sheriff's Office neither actively encourages nor discourages officers to learn Spanish, a prevalent language of inmates at the jail.
7. The Sheriff's Office spent \$99,000 in 2006 on remodeling and mildew removal in one of the shower facilities at the Main Jail.
8. Arrestees who are drunk at the time of their arrest are put in the jail's drunk tank for a minimum of five hours. The Sheriff's Office collects information on "serial inebriates," those arrested at least four times within a 30-day period on suspicion of being drunk in public. The Santa Cruz County District Attorney's office uses the information as part of the implementation of Proposition 36, the statewide measure passed in 2000 that allows first- and second-time nonviolent, simple drug possession offenders the opportunity to receive substance abuse treatment instead of incarceration.

9. Everyone who is admitted to the jail for 14 days or longer is examined by a doctor. The jail also offers limited dentistry (including pulling teeth, but not fillings or more extensive dental work). Testing of inmates for tuberculosis is now mandatory.
10. There are two nurses on duty overnight, more during days.
11. The entire corrections staff was retrained in the use of stun guns in fall 2006 following the death of an inmate in custody who had been subdued by a stun gun. Stun guns were reintroduced back into the jail in October 2006.
12. Medical records during the September visits were found stored out in the open in a hallway, possibly in violation of Health Insurance Portability and Accountability Act privacy requirements. The records were stored properly in a storage room during the February visit.
13. In November 2006, the Sheriff's Office initiated regular one-hour Sunday tours of the Main Jail that are open to the public. Approximately 250 people had toured the Main Jail as of May 2007.
14. Corrections officers work 12-hour shifts with no overlap of shifts.
15. As of March 13, 2007, 12 corrections officer positions at the jails were unfilled.
16. On busy nights, particularly Fridays and Saturdays, the jail cannot accept and process persons arrested as fast as they are brought to the jail. As a result, police cars from all the county's law enforcement jurisdictions often queue up outside the jail, with police personnel forced to wait, sometimes more than an hour, for their turn. During this time, the officers are off the streets rather than patrolling.
17. The Main Jail is scheduled to install a new fingerprinting system that will enable officers to scan a prisoner's thumb print as soon as they drive into the intake port. This system will begin the process of identifying the prisoner, saving the officer time later into the intake process. The same fingerprinting system will also be used to scan prisoners before they are released from jail, providing positive identification and reducing the chance that an inmate will be released erroneously.
18. The county's only booking facility is in the Main Jail. Police working in the south part of the county must transport persons who are arrested to the Main Jail in Santa Cruz for booking.
19. Creation of a new "prisoner classification system," recommended by the National Institute of Corrections, is due to be completed this spring or summer. One of the expected benefits of the new system will be a more comprehensive analysis of new prisoners, possibly resulting in an increase in the number of inmates qualifying for rehabilitation programs rather than incarceration in the Main Jail. Also, as recommended by the National Institute of Corrections, a "Jail Population Control Officer" has been appointed temporarily to monitor jail overcrowding until the new classification system is completed, at which time a "classification team" of corrections officers will take over the task.
20. Medical services at the Main Jail, as well as at the other corrections facilities in the county, are provided by the Santa Cruz County Health Services Agency.

21. In the majority of counties in California, medical services are contracted out by the county's Sheriff's Department to private companies. In most of the remaining counties, the Sheriff's Department is responsible for providing medical care for inmates. The model used in Santa Cruz County with the county's Health Services Agency responsible for providing medical care for inmates is unusual, though not unique.
22. The California Code of Regulations establishes requirements for medical care in county jails. Title 15, Minimum Standards for Local Detention Facilities, Article 11, Medical/Mental Health Services, Sec. 1200, establishes that the Sheriff's Office is ultimately responsible for the provision of health care within the jails. It states, "Responsibility for Health Care Services: (a) In Type I, II, III, and IV facilities, the facility administrator shall have the responsibility to ensure provision of emergency and basic health care services to all inmates."
23. Detention Medical Services is a small portion of the Santa Cruz County Health Services Agency's responsibilities and budget. The overall budget for the Health Services Agency is \$135 million; the total budget for Detention Medical Services is \$3 million. Of the 20 Health Services Agency's Detention Medical Services positions, two-thirds are nurses. Four and a half positions in Detention Medical Services were vacant as of March 2007.
24. The Health Services Agency is working toward computerization of all reports and paperwork, but computerization of jail reports for the handling of medications and tracking medical reports has been delayed.
25. Nursing staff turnover at the jail has been high, partly attributable to the higher salaries nurses can earn both locally at private health institutions in the county, including the hospital, and in jails in other counties. There have been suggestions that the Detention Medical Services department, because it comprises only a fraction of the entire Health Services Agency's mission, is not being given the attention or resources necessary to operate efficiently, and that Detention Medical Services is losing trained, experienced personnel, resulting in lost productivity and expertise and higher training costs. Salaries for detention medical services personnel are currently under review to determine their competitiveness with other similar positions. County administrators and labor representatives for nurses initiated negotiations for a new contract in spring, 2007.
26. The Interim Director of Detention Medical Services is conducting an assessment of costs, staffing, issues involving who has authority over detention medical services staff, and state statutory guidelines for providing medical care to inmates. The goal of the assessment is to determine, 1) whether inmate care is best managed through the county's Health Services Agency; 2) if the county would be better served by having the Sheriff's Office manage Detention Medical Services itself; or 3) if the Sheriff's Office should contract out to a private health provider. The report is projected to be completed sometime in 2008.

### ***Main Jail Conclusions***

1. The facility is well-managed. Officers and staff conducted themselves in a professional manner during inspections, answered questions asked of them in a thorough and knowledgeable manner, promptly provided backup information when requested and exhibited a sense of pride in their work.
2. Overcrowding at the Main Jail continues to be a problem. Although the Sheriff's Office is actively working to find solutions, the state's recently approved prison reform package may increase the number of prisoners serving their sentence in county jail who previously would have been incarcerated in a state prison.
3. The institution of mandatory testing for tuberculosis has reduced the risk to staff and inmates of contracting this illness.
4. The new program of public tours at the Main Jail is a positive step in developing stronger community relations between the Sheriff's Office and the public.
5. The Health Services Agency does a professional and adequate job of providing detention medical services for the Main Jail and other corrections facilities in Santa Cruz County, but it does not appear that this arrangement is the most effective and efficient for either the Health Services Agency or the Sheriff's Office.
6. Noncompetitive pay scales for both health services workers in the jail and corrections officers continue to make it difficult to attract and retain experienced employees.
7. The lack of computerization in handling medications and tracking of medical reports exacerbates the difficult and time-consuming work that nurses must perform at the Main Jail.
8. The lack of a booking facility in the southern portion of Santa Cruz County reduces the time officers are available in their own jurisdictions.

### ***Main Jail Recommendations***

1. The Sheriff's Office should implement its new prisoner classification system as soon as possible and continue to look for additional ways to reduce overcrowding.
2. The Sheriff's Office should aggressively pursue opening a second booking facility in the southern portion of the county, as well as additional methods of expediting the process for officers delivering arrestees to the jail.
3. The Sheriff's Office should continue to offer tours of the Main Jail to the public and consider extending the practice to its Rountree facilities in Watsonville.
4. The Board of Supervisors should evaluate the compensation given to Sheriff's Office corrections staff and the Health Services Agency's Detention Medical Services staff to assure the parity of pay of those positions compared with similar jobs elsewhere.

5. The Sheriff’s Office and Health Services Agency should expedite their review of the most effective and cost-efficient way to provide health services to the jails, including reviewing the possibility of contracting out some or all of the jails’ health care needs to a private company.
6. The Sheriff’s Office should encourage Spanish language training for correctional officers.

**Main Jail Commendation**

Jail administrators and staff and Detention Medical Services staff should be commended for their professionalism.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
Santa Cruz County Board of Supervisors	14, 25, 26	4	60 Days September 1, 2007
Santa Cruz County Sheriff-Coroner	2, 3, 17, 19 16, 18 13 22, 25, 26 6	1 2 3 5 6	60 Days September 1, 2007
Santa Cruz County Health Services Agency	22, 25, 26	5	60 Days September 1, 2007

**Rountree Medium and Minimum Security jails**

**Background**

The Rountree Facility is located on Rountree Lane in Watsonville. The facility was built in 1993 on 11 acres and incorporates both medium and minimum security facilities for male inmates who have been sentenced. The medium security facility houses inmates who have been determined to not require the maximum segregation provided by the Main Jail, but who still require locked incarceration and/or segregation from other prisoners; the minimum security facility houses inmates who are determined not to pose a threat, qualify for work-release programs and do not have a high level of criminal sophistication. Both Rountree facilities house inmates who have been convicted and sentenced for up to one year in jail.

## ***Rountree Findings***

1. The Grand Jury visited the Rountree facilities on Nov. 11, 2006. The maximum capacity of the Rountree medium security facility is 100 inmates; the population on Nov. 11 was 70. The minimum security facility has a maximum capacity of 280 inmates; the population on Nov. 11 was 90.
2. There are at least five correctional officers on duty at any given time at the medium security facility. Three officers work the day shift at the minimum security facility, three work the swing shift, and two work the overnight shift.
3. The living areas are dormitory style. A correctional officer is present in the dormitory at all times.
4. The annual state inspection for Rountree, conducted on June 27, 2006, found the facility in substantial compliance with environmental health, nutritional, and medical/mental health policies. It noted, however, “the lack of any onsite medical records for use by medical staff raises concerns regarding the ability to make accurate diagnostic and treatment decisions onsite. Currently, the Main Jail staff must be contacted to receive any medical history, diagnoses, or treatment decisions. This degree of communication is intensive and occasionally results in lack of sufficient data being transmitted.”
5. The dining halls in both the medium and minimum security facilities were clean, the floors mopped, tables wiped clean. Prisoners are served a sufficient quantity of food to meet state-mandated daily caloric requirements.
6. A brick pathway on the south side of the medium security building is cracked and presents a trip hazard.
7. A nurse is on site at the facility four days a week, Tuesday through Friday, for eight hours each day. Medications are distributed twice a day in marked bubble packs that help prevent the wrong medications from being distributed to inmates. If an inmate is injured when a nurse is not present, or the injury requires more extensive treatment, the inmate is taken to the Main Jail or Watsonville Medical Clinic.
8. The SAFE (Substance Abuse Free Environment) Program, which involved counselors visiting the facility every day with voluntary programs for prisoners aimed at ending drug use, was cancelled as of June 30, 2006. Funding for the program, which had been court-ordered, was not renewed by the county. The Sheriff’s Office determined that the program was ineffective. Inmates who participated in the last SAFE Program offered at Rountree in 2006 before it was cancelled had already re-offended and been rearrested several months later.
9. There is an automated external defibrillator (AED) at Rountree, but staff does not feel comfortable operating it.
10. A program modeled after the minimum security facility requires prisoners to begin their day by sitting up and being active when they wake rather than simply lying in bed all day and sleeping and then being more disruptive at night. The program was initiated in the medium security facility in October 2006. On Monday through Friday, inmates are required after eating breakfast to make their

- beds and clean themselves up. They can go to classes, or if they choose, they can sit on their bunk, but they are not allowed to lie down and go back to sleep.
11. The number of activities available to inmates in the medium security facility, including ping pong tables, weights, and additional educational opportunities, has been expanded to provide inmates with more incentive to be more active during the daytime.
  12. Spanish is the primary language for approximately half of the inmates in the medium-security facility. Seventy percent of the Rountree staff speaks Spanish and a Spanish-speaking officer is on duty most, but not all, of the time.
  13. Security cameras are being added above the guard watch stations in each unit in the medium security facility to increase officer safety and inmate monitoring at night.
  14. The Rountree medium security facility does not house women. There is presently no medium security detention facility in Santa Cruz County for women; they are either housed in the high security Main Jail, or if they have been sentenced and meet certain criteria, they are housed at the minimum security Blaine Street facility.
  15. Rountree does not house mentally unstable inmates who need frequent medical attention medication. It also does not house inmates with chronic medical conditions that require regular medical care. Those inmates are housed in the Main Jail facility.
  16. As noted in previous years' Grand Jury reports, the lack of an on-site nurse precludes inmates who require cardiac, psychotropic drug combinations, or injectable medications from being placed in the medium or minimum security facility. The Health Services Agency, which is responsible for providing medical care for prisoners, is studying the possibility of expanding the availability of nursing care at Rountree to 24 hours a day, seven days a week. The results of that study were due this past spring.
  17. Inmates at the minimum security facility, also known as "the farm," are monitored by head counts taken three times each day.
  18. Between 7:00 a.m. and 3:00 p.m., Monday through Friday, inmates at the farm are outside the facility at work on work crews or off-premises on work-release programs.
  19. The farm includes a well-equipped computer lab that provides basic computer skills and training, and an auto repair shop for learning basic automotive repair and body work skills.
  20. The population center of the county is shifting to the south and there is no booking and intake facility other than at the Main Jail in the city of Santa Cruz.

## ***Rountree Conclusions***

1. The physical appearance of the facility, including the kitchen and living areas, is exemplary.
2. Staff confidence in how to use the facility's automated external defibrillator is not sufficient.
3. Facility administrators have increased the number and variety of activities available to inmates in the medium security facility during the daytime. Concurrently, the program initiated to prevent inmates from sleeping or lying in bed all day helps redirect their energy, resulting in more productive days and less disruptive nights.
4. Staffing is not adequate to ensure that at least one Spanish-speaking corrections officer is on duty at all times.
5. The lack of a medium security facility that can house lower-risk female inmates and chronically ill inmates results in inmates who would qualify for such a facility continuing to serve sentences in the more severe environment of the Main Jail.
6. Round-the-clock nursing staff would enable the Sheriff's Office to shift some low-risk prisoners out of the overcrowded Main Jail and into the less-utilized medium security facility. It could also decrease costs related to transportation and treatment of inmates to the Main Jail or a local clinic when they are sick. It may or may not be cost-effective to expand the nursing staff at Rountree, given that it has not been determined how many inmates would benefit or what the transport costs would be.
7. The minimum security facility continues to be a positive and productive alternative to more restrictive incarceration for low-risk inmates to serve their time productively and take advantage of educational opportunities that can decrease their potential to re-offend.
8. Medical records for inmates are not kept onsite at the Rountree facility. However, the county's Detention Medical Services utilizes a screening process that prevents inmates with medical conditions that necessitate a higher level of medical care from being transferred from the Main Jail to Rountree, minimizing the potential for diagnosis and treatment complications.
9. Security and safety within the medium security units will be improved by the planned addition of cameras above the guard watch stations.
10. Having a booking and intake facility at Rountree would reduce travel time for officers coming from South County.



**Rountree Recommendations**

1. The Sheriff’s Office should provide guards with additional training in using the onsite automated external defibrillator.
2. The Sheriff’s Office should encourage additional Spanish language training for corrections officers.
3. The Sheriff’s Office should review the report from the Health Services Agency when completed to determine whether expanding nursing at Rountree is warranted.
4. The Sheriff’s Office should aggressively pursue adding a booking and intake facility at Rountree.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
Santa Cruz County Board of Supervisors	9 12 20	1 2 3	60 Days September 1, 2007
Santa Cruz County Probation Dept.	5, 13, 14	4 & 5	90 Days October 1, 2007

**Juvenile Hall**

**Background**

Santa Cruz County Juvenile Hall, located at 3650 Graham Hill Road, was built in 1968. Undergoing several modifications over the years, the facility currently has a capacity level of 42 beds. The Juvenile Hall site also houses Juvenile Court and some of the Probation Departments' offices. About 25 of the county’s approximately 70 probation officers are dedicated to serving juveniles.

Santa Cruz County Juvenile Hall has been designated a model site for the Annie E. Casey Foundation Juvenile Detention Alternative Initiative (JDAI) — one of only four facilities in the nation. The objectives of JDAI are:

- To reduce the number of children unnecessarily or inappropriately detained.
- To minimize the number of youth who fail to appear in court or re-offend pending adjudication.

- To redirect public funds toward successful reform strategies.
- To improve conditions of confinement.

The Grand Jury visited on Oct. 21, 2006, and again on March 23, 2007. This year's budget included an allocation of \$175,000 to install new video monitoring cameras and new intercoms to communicate with inmates in their rooms; as of March 23rd, proposals for the work were being evaluated with installation anticipated to start in the next few weeks; the new cameras and intercoms will make staff feel safer and wards more comfortable.

## ***Juvenile Hall Findings***

### **Facilities**

1. Juvenile Hall has been rated to house 42 juveniles by the California Department of Corrections. The average daily population in October 2006 was 24 and in March 2007, it was 35. In recent years, Juvenile Hall regularly housed more than 50 juveniles at a time. The Santa Cruz County Probation Department has experienced considerable success at finding alternatives to incarceration for juveniles arrested or awaiting trial.
2. Juveniles between the ages of 12 to 18 are housed in two different units: the "A" unit houses older, more sophisticated offenders who have committed more serious crimes, and the "B" unit houses girls and the younger and less sophisticated detainees. There have been no escapes during the past year.
3. Juveniles who are sentenced are sent out of county to one of the facilities operated by the Department of Juvenile Justice to serve their sentence. There are no DJJ facilities in Santa Cruz County.
4. The facility is over 30 years old but appears to be well maintained. It is clean and orderly. There is a modest capital investment made annually.
5. The recreation yard is relatively small, uncovered and paved with asphalt and concrete. There is an attractive ball field, an asphalt volleyball court and grassy areas adjacent to the building. These areas are not currently used by the facility since they are not secured by necessary fencing. And, while less serious offenders could use the area without the secure fencing, Juvenile Hall does not have enough staff with the new level of credentials necessary to cover the inside and outside areas at the same time.
6. An inspection of the kitchen and dining area found it clean and orderly. An evening meal ready for serving suggested that detainees are given food that is healthy, tastes good and meets nutritional guidelines set by the state.
7. Each juvenile is provided with a secure living space; they double up in some rooms but there appeared to be ample space. The rooms contain a sink and drinking fountain. Recently, the doors to the rooms were replaced and modified to swing out into the hall rather than into the rooms, freeing up living area and increasing safety.

8. The day rooms, classrooms and a library appeared to be clean, orderly and well stocked with reading materials, television, computers and video equipment (i.e., projector in classroom, video entertainment equipment in the day room).
9. According to staff, Juvenile Hall does not have adequate heating and there is no air conditioning. Replacement of the Heating, Ventilation and Air Conditioning system has been identified for future funding.

## **Operations**

10. The staff seemed genuinely concerned with the welfare of the youth brought to the facility. Their emphasis appeared to be on matching the needs of the juvenile to the appropriate community resource (versus detention and warehousing). Youth selected for detention are only those considered high-risk (e.g., danger to the community, unlikely to appear for court date) or those needing a place to stay while awaiting placement with parents, a social program or foster care.
11. Juveniles brought to Juvenile Hall undergo two extensive risk assessments to determine who poses a threat to the public and who can be released to house arrest. The assessment includes determining drug use and thoughts of suicide. Detainees are given a complete physical, including testing for tuberculosis and sexually transmitted diseases. The exams are private and one detainee at a time.
12. Two-thirds of the staff is bilingual; half speak Spanish.
13. Hot breakfasts are no longer served due to funding limitations. Some juveniles don't feel it is worth the effort to get up so early for cold cereal in the morning and expressed a desire to have hot meals reinstated.
14. Juveniles detained are given medical attention including checks for physical abuse, an annual physical and immunizations. Nursing staff is available on-site (not around the clock). All staff is trained in CPR, 24 hours of training mandated each year. There is no automated external defibrillator on site (but they want one, primarily for staff due to remoteness of location).
15. Santa Cruz County Juvenile Hall has child mental health services eight hours per day, seven days a week and drug and alcohol specialist services 40 hours a week.
16. Juvenile Hall has its own community school for instruction provided in three school rooms through the Santa Cruz County Office of Education. Juveniles receive 180 minutes of schooling each day, the same as public schools; school is year-round; students rotate during the day to different rooms; teachers stay in the same room.
17. A variety of programs are offered to youth, including those from Barrios Unidos, yoga, substance abuse counseling, writing, and poetry instruction. The poetry program is immensely popular among the wards and offers them instruction in the writing arts. It gives participants the opportunity to have their writing in a weekly newsletter published by Pacific News Service. This program provides a therapeutic opportunity and builds self-esteem.

### ***Juvenile Hall Conclusions***

1. The facility continues to be well managed with staff who appear to listen to the juveniles and work to improve, as best they can, the lives of the youth they serve.
2. Once the new video monitoring and intercom installation is completed, staff will be better able to communicate with inmates in their rooms and will make staff feel safer and the inmates more comfortable.
3. Installation of the new heating, ventilation and air conditioning system would improve conditions for staff and wards.
4. A covered (shaded) recreation yard would allow for greater outdoor physical activity during inclement weather.
5. Programs that get the juveniles outdoors on a more regular basis are extremely limited.
6. Securing the fencing around the upper field would allow the detainees to use the spacious grassy area, a basketball hoop and volleyball net and have access to a general open air feeling not found in the rest of the facility.
7. Staff needs to work to attain the new level of credentials to monitor the inside and outside areas at the same time.
8. Providing hot breakfasts, if only on weekends, would improve morale.
9. Putting an automated external defibrillator on site would be desirable due to the remoteness of the Juvenile Hall site.
10. Santa Cruz County can be proud that it is a model site of the Annie E. Casey Foundation Juvenile Detention Alternative Initiative.

### ***Juvenile Hall Recommendations***

1. The Board of Supervisors should prioritize the fencing required to use the adjacent ball field, volleyball court and grassy courtyard to increase exercise opportunities for the juveniles.
2. The Board of Supervisors should ensure that the money budgeted to upgrade the heating and ventilation system at Juvenile Hall be implemented.
3. Sufficient money should be budgeted and allocated by the Board of Supervisors for the construction of a covering over the courtyard area, which would provide an outdoor exercise area during poor weather conditions.
4. Additional programs that would get the juveniles outdoors and provide an educational experience, such as Life Lab at the University of California, Santa Cruz, should be considered.
5. Hot breakfasts should be reinstated, at least on weekends.
6. Funds should be allocated for an automated external defibrillator.

**Juvenile Hall Commendations**

1. The Board of Supervisors should commend the Probation Department and Juvenile Hall staff for their professionalism and their dedication to the community.
2. The Board of Supervisors is to be commended for its continuing support for investment in capital improvements to Juvenile Hall, such as the funds authorized for new video monitoring cameras and new intercoms.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
Santa Cruz County Board of Supervisors	9,	1 – 3, 6 & 7	60 Days September 1, 2007
Santa Cruz County Probation Dept.	5, 13, 14	4 & 5	90 Days October 1, 2007

**Blaine Street**

**Background**

Blaine Street Women’s Minimum Security Jail is located at 144 Blaine St., Santa Cruz. It has been in operation since 1984. Female inmates who have been sentenced and rated minimum security are housed here. The jail facility, a converted residence, is located in a residential neighborhood behind the Main Jail. It has a maximum capacity of 36 inmates. Blaine Street is currently operated at less-than-full capacity due to screening criteria, which disqualifies many inmates from being accepted.

**Blaine Street Findings**

1. To be housed at the Blaine Street facility, women must have no history of violence in jail and have not been charged with a violent crime.
2. Six inmates walked away from the facility in 2006. Four were caught in 2006 and two were caught in February 2007. If a woman walks away, she is not chased; instead, a warrant is issued. When captured, the woman is returned to the Main Jail facility and charged with a felony.
3. The average age is 20-30 years old, and the ethnic makeup mirrors the county population.

4. The recidivism rate is estimated at approximately 40 percent. Currently no records are kept to track recidivism.
5. Because there are no medical facilities at Blaine St. and a nurse only visits four times a week, women with mental health problems, with medical conditions such as diabetes, or those who are being treated with psychiatric medications are not housed at Blaine St. Inmates can be taken to the Main Jail next door or the classroom can be used when privacy is required, but in the event of a medical or safety emergency, it can take at least two minutes for emergency personnel to arrive from the Main Jail.
6. All staff is trained in CPR and first aid, but there is no automated external defibrillator located at Blaine Street.
7. All women housed in this facility at the time of the Grand Jury visits were incarcerated for drug and/or alcohol charges, and most are incarcerated for methamphetamine use. Some are charged with other crimes committed while under the influence of drugs.
8. Women are urine tested on admission. If there are any drugs identified in their systems, they are sent to detoxification at the Main Jail.
9. Inmates are allowed family visits of one two-hour visit per week. With supervision from Child Protective Services (CPS), they could have 2-3 visits per week. Visits usually take place in the dining and patio areas.
10. Several programs and services are available to the inmates.
  - 10.1 A program called New Direction works to reduce the risks of children who live in the county and whose parents are incarcerated. This service is provided by a partnership of the Santa Cruz County Probation Department, Sheriff's Office, SAFE (Secure and Free Environment, a Residential Substance Abuse Treatment) Program and community-based, non-profit Pajaro Valley Prevention and Student Assistance.<sup>1</sup>
  - 10.2 Friends Outside is a program available to help lessen the trauma of incarceration for inmates and their families, to provide information that can lead to positive changes, and to assist ex-offenders with their re-entry into the community.<sup>2</sup>
  - 10.3 In addition to work release programs, inmates are kept busy with numerous facility work programs. Job assignments available are cooking at Blaine St. and the Main Jail, cleaning the facility, yard work on the grounds, laundry and a mending service for inmate uniforms.
  - 10.4 There is a classroom with computers at Blaine Street where word processing and other computer skills are taught by Adult Education.
  - 10.5 Walnut Ave. Women's Center offers inmates domestic violence services.

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<sup>1</sup> <http://sccounty01.co.santa-cruz.ca.us/prb/grants/newdirection.asp>, New Direction.

<sup>2</sup> <http://www.unitedwaysc.org/FriendsOutside.shtml>, Friends Outside.

- 10.6 Religious programs are offered.
- 10.7 Voice Weavers comes quarterly to sing with the women.
- 10.8 Some of the in-house classes offered are GED, substance abuse education, Narcotics Anonymous, Alcohol Anonymous, positive parenting, yoga, crochet and knitting.
- 10.9 Gemma is a non-profit organization that has just started offering classes to Blaine St. inmates. Gemma is committed to helping women reunite with the community after incarceration. Their program is structured toward assisting inmates recover from drugs and alcohol as well as empowering them in the transformation of their lives.<sup>3</sup>

At the time of the February Blaine St. review, six or seven inmates were taking classes in the new Gemma day program. These inmates were screened before being enrolled in the Gemma programs.

Some of the classes and services Gemma provides are: life skills; relapse prevention; anger management; assistance with career choices, job applications, resumes, job searches and resource directories; classes in reading, math, and GED preparation; domestic violence assistance and resources; help with obtaining birth certificates, California ID, and/or driver's license; and court advocacy assistance.

- 11 The inmates the Grand Jury spoke to provided positive feedback.
  - 11.1 Inmates were grateful they were at Blaine Street instead of the Main Jail.
  - 11.2 Several inmates praised the staff, especially the supervisor, Minnie Rodriguez.
  - 11.3 Many inmates felt they were being helped by the drug prevention programs. One person said that this was her first opportunity ever to go through a drug program. Most praised the support they were getting from the other women at the facility, and one said it felt like they were the family she never had.
- 12. Blaine Street staff hopes that the county could develop a new program to help them to reduce on-the-job stress. Exercise programs and gym memberships were suggested by staff members.

### ***Blaine Street Conclusions***

- 1. The Blaine Street facility appeared to be well managed, orderly and exceptionally clean.
- 2. Programs like Gemma, New Direction and Friends Outside are beneficial to the well-being of inmates and aid in rehabilitation.

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<sup>3</sup> <http://www.gemmasantacruz.org/>, Gemma.

**Blaine Street Recommendations**

1. Because drug use crimes are consensual in nature, programs like Gemma, New Direction, Alcoholics Anonymous and Narcotics Anonymous are crucial to rehabilitation. These types of programs should continue to be available to inmates, and inmates should be encouraged to participate.
2. An automated external defibrillator should be installed at Blaine Street.
3. A stress relief program should be developed for correctional officers.
4. Specific records should be kept to track recidivism. This data could be used to develop programs to assist in reducing recidivism.

**Blaine Street Commendations**

1. The Grand Jury would like to commend the Sheriff and the Blaine Street staff for their excellent attitude toward the inmates. Our escort's manner toward the inmates was indistinguishable from her manner toward us. Deprivation of liberty is the court ordered punishment for inmates' offenses. Jail staff should not (and at Blaine Street does not) add to the punishment by their basic treatment of inmates.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
Santa Cruz County	10.1-10.9	1	60 Days September 1, 2007
Sheriff-Coroner	6	2	
	12	3	
	4	4	

**Court Holding Facility**

**Court Holding Facility**

The Court Holding Facility is located in the basement of the Superior Court building located at 701 Ocean Street in Santa Cruz and is operated by the Santa Cruz County Sheriff's Office. Inmates are transported by vehicle from their custodial facility and held at this facility before and after their court appearances.



### ***Court Holding Facility Findings***

1. The Court Holding Facility passed inspection June 26, 2006, by the California Department of Corrections and Rehabilitation.
2. The facility consists of five large concrete rooms for holding inmates. Three are for male inmates, one is for female inmates, and one is for juveniles and inmates who need to be segregated from others.
3. Approximately 50 inmates per day are held in the court holding rooms.
4. Inmates may change into personal clothing before appearance at a jury trial.
5. Holding rooms are monitored by video surveillance.
6. In the past year, the Sheriff's Office has added video surveillance cameras outside the entrance to the facility and stairwell leading to courtrooms. However, the Sheriff's Office does not possess the equipment needed to record the facility's video surveillance.
7. The facility was found to be clean and well maintained.

### ***Court Holding Facility Conclusions***

1. The facility is well organized and operated in an efficient manner.
2. Because the video surveillance at the Holding Facility is not recorded, there is no record of activity at the holding facility in the event of a problem.

### ***Court Holding Facility Recommendation***

1. Video surveillance at the Holding Facility should be recorded to provide a record of activity at the holding facility in the event of a problem.

### ***Responses Required***

<b><i>Entity</i></b>	<b><i>Findings</i></b>	<b><i>Recommendations</i></b>	<b><i>Respond Within</i></b>
Santa Cruz County Sheriff-Coroner	6	1	60 Days September 1, 2007

## **Last Night, First Right Police Surveillance of First Amendment Activity**

### ***Synopsis***

In this post-9/11 era, it can be particularly difficult for law enforcement to find the proper balance between protecting the public and upholding our constitutional rights of freedom of speech and assembly. A case in point is the controversy that arose over the Santa Cruz Police Department's undercover surveillance of the planning by a citizen group for a New Year's Eve parade in December 2005. This investigation was conducted as a result of that incident and subsequent police department follow-up.

Parade organizers and other members of the public have questioned the need for the Santa Cruz Police Department's undercover surveillance of the planning for this event and have raised questions about the police department's review of the operation. However, the process ultimately worked out to the benefit of both residents and law enforcement. The city's independent police auditor conducted a thorough and balanced report of the surveillance operation and the thinking behind it. That opened a community dialogue on the issue of surveillance of groups involved in political speech and activity, which, in turn, led to the adoption by the police department of new rules to govern these types of investigations in the future.

### ***Background***

In October 2005, officers with the Santa Cruz Police Department (SCPD) learned that a group of people were meeting to plan a New Year's Eve parade in downtown Santa Cruz on Dec. 31, 2005. The group intended to hold an event titled, "The Last Night Santa Cruz DIY (Do It Yourself) Parade." The event was to be "a decentralized, collective, spontaneous, open, public New Year's Eve celebration in Santa Cruz."<sup>1</sup>

For several years prior to New Year's Eve 2005, the City of Santa Cruz had officially sanctioned a "First Night" party whose organizers sought, paid for and received city permits, which allowed street closures, music, booths and increased police presence at the event. However, First Night was disbanded after the New Year's Eve 2004 event, and no city-authorized event was planned for New Year's Eve 2005. Organizers of the 2005 DIY parade did not apply for a parade permit because they neither wanted nor sought city involvement or approval. In addition to throwing a party, part of the purpose behind the event was to "reclaim"<sup>2</sup> the streets for the public by intentionally not involving city officials or police in the planning of or approval for the event and, in so doing they believed they were making a statement about the need to preserve individuals' rights of self-control and self-governance.

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<sup>1</sup> [http://www.seedwiki.com/wiki/last\\_night\\_diy/manifesto](http://www.seedwiki.com/wiki/last_night_diy/manifesto), Last Night Santa Cruz DIY Parade Manifesto.

<sup>2</sup> DIY Parade Manifesto.

When Santa Cruz police officers learned of the planning for the event in late October 2005, they briefly reviewed a “Last Night Santa Cruz DIY Parade” web site that was being used by the organizers to spread information about the upcoming event. Members of the Police Department, based on their experience with some previous public events downtown that got out of control, became concerned that such an uncontrolled event might cause a public safety traffic hazard or that people attending might become rowdy and dangerous. A decision was made to send two undercover police officers to the DIY Last Night group’s planning meeting on Oct. 29, 2005, to learn more about the event that was being planned and the people who were planning it. Two officers attended the meeting in plain clothes and gave false names when they identified themselves.

The two officers who attended the meeting were later recognized and identified by DIY parade organizers. In the days leading up to the New Year’s Eve DIY Last Night parade, organizers notified the Santa Cruz *Sentinel* that their meeting had been attended by undercover police officers and the *Sentinel* reported the story on Dec. 31, 2005.

In January 2006, in the wake of public sentiment that the use of undercover police surveillance amounted to a violation of the public’s right of free speech, the SCPD opened an internal investigation of the DIY Last Night Parade surveillance. An internal investigation was conducted by the police official who had authorized the undercover operation. His investigation determined that no laws or police policies had been violated by the operation.

In February 2006, the Independent Police Auditor for the City of Santa Cruz, initiated a review of the undercover operation. Aaronson issued his own report on the undercover operation on March 20, 2006, that included several conclusions:

- The undercover surveillance “more than likely ... violated the civil rights of the parade organizers.”<sup>3</sup>
- A permitless parade is a violation of the law, but it does not constitute much of a credible basis for intruding on anyone’s civil rights.<sup>4</sup>
- Police failed to recognize that the parade was intended as a form of civil disobedience and constituted political speech which should have prompted a higher level of scrutiny within the department of the validity of the undercover operation.<sup>5</sup>
- The department was obligated to attempt to collect information about the planned event, not to prevent it but to be in a position to respond to it as it unfolded.<sup>5</sup>
- The (Police) Department and its employees were entirely well-intentioned and acted without any recognition of how close the constitutional line was.<sup>6</sup>
- Neither Santa Cruz nor the vast majority of other law enforcement agencies, large or small, have explicit policies which adequately deal with this issue.<sup>7</sup>

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<sup>3</sup> Report by Robert H. Aaronson to Richard Wilson, Santa Cruz City Manager, p. 2, March 20, 2006.

<sup>4</sup> Aaronson, p. 31.

<sup>5</sup> Aaronson, p. 31.

<sup>6</sup> Aaronson, p. 33-34.

<sup>7</sup> Aaronson, p. 33.

In June 2006, following consultation with the Santa Cruz City Attorney, the City Council's Public Safety Committee and a representative of the American Civil Liberties Union, the Santa Cruz Police Department adopted Departmental Directive, Section 610, Undercover Operations—First Amendment Activity. The policy spells out the conditions necessary for the police department to initiate undercover operations of entities or activities that may be protected under the First Amendment of the U.S. Constitution. In considering whether to allow an undercover operation, and in reviewing it while it is ongoing and after it has concluded, the policy requires that:

- There be “reasonable suspicion to believe that the subject of the investigation is planning criminal activity.”<sup>8</sup>
- The Police Department first attempt “direct and open communication”<sup>9</sup> with the subject, as well as less-intrusive investigatory techniques like reviewing information on the Internet, before resorting to undercover operations.
- The police chief authorize all undercover operations of events that may fall under First Amendment activities, and that the city attorney also review the reasons for undertaking the investigation.<sup>10</sup>
- The city annually issue a public report outlining how many First Amendment activity undercover operations were sought, how many were approved, and how many were denied, and if the city's independent police auditor believes any investigations violated the policy.<sup>11</sup>

## **Scope**

This investigation originated as a review of the Santa Cruz Police Department's undercover police surveillance of the parade planning activities, its subsequent investigation of that undercover surveillance, and its response. The investigation also incorporated a review of other law enforcement agencies in Santa Cruz County and their policies regarding undercover surveillance of activities that could be reasonably claimed as protected by the First Amendment and any policies directing such surveillance.

## **Findings**

1. There is tension between the competing priorities of law enforcement's responsibility to ensure public safety while protecting constitutional rights of free speech and free assembly.
  - 1.1 Worldwide reports of terrorism, 9/11 and enactment of the U.S. Patriot Act have heightened public sensitivity toward criminal activity on every level, from the lowest local infraction to the most serious national acts. Similarly, the public's sensitivity to and awareness of incursions into

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<sup>8</sup> Santa Cruz Police Departmental Directive Section 610, p. 1, July, 2006.

<sup>9</sup> S.C. Police Directive, p. 1.

<sup>10</sup> S.C. Police Directive, p. 2.

<sup>11</sup> S.C. Police Directive, p. 3.

constitutionally protected freedom of speech and freedom of assembly is also heightened. Previous holiday-oriented gatherings downtown Santa Cruz had resulted in significant property damage and serious personal injury.

- 1.2 The officers involved in the undercover operation did not consider the political aims of the group they investigated, focusing instead on the public safety ramifications of the Last Night Parade.
- 1.3 Some Santa Cruz residents were eager to jump to the conclusion that the Last Night Santa Cruz DIY Parade surveillance was part of a larger conspiracy to squelch civil rights.
2. In addition to the police surveillance conducted by the Santa Cruz Police Department, there have been reports of law enforcement conducting surveillance of events that have subsequently been determined to be First Amendment-related activities in other areas across the country.
  - 2.1 In April 2005, students at the University of California, Santa Cruz, protested military recruiters' attendance at an on-campus career fair. It was learned eight months later that the Pentagon had classified the student protest as a "credible threat"<sup>12</sup> and Defense Department representatives had conducted undercover monitoring of the event.
  - 2.2 Monitoring of First Amendment-protected activities in recent years has occurred in Oakland, Fresno, Contra Costa County, San Francisco and New York City.<sup>13</sup>
  - 2.3 No evidence has been found that the Santa Cruz Police Department or other Santa Cruz County law enforcement agencies have engaged in undercover surveillance of First Amendment-protected political activity in recent years beyond the Last Night DIY parade.
3. Parade organizers broke the law, but there is no evidence that the organizers posed a serious threat to public safety.
  - 3.1 By publicly stating they did not intend to apply for a parade permit, the Last Night DIY organizers knowingly intended to break the law. The law broken was an infraction, the lowest level of violation, generally indicative of not being of a serious or threatening nature.
  - 3.2 On New Year's Eve 2005, the Last Night Santa Cruz DIY Parade was held as planned, and no major problems were reported.
  - 3.3 Following the direction of its new First Amendment policy, a city official contacted organizers of the Dec. 31, 2006, New Year's Eve's parade prior to the event and attempted to convince them to apply for a free Noncommercial Event permit. Organizers declined, and the police department did not pursue the matter further. A second Last Night Santa

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<sup>12</sup> UC Santa Cruz Message from the Chancellor, Dec. 28, 2005.

<sup>13</sup> ACLU-NC report, "The State of Surveillance," pp. 12-19, July 2006.

Cruz DIY Parade was held on Dec. 31, 2006, at which no serious problems were reported.

4. There were no clear policies in place in Santa Cruz in 2005 to provide guidance for this type of surveillance.
  - 4.1 There is little recent case law establishing what is permissible and what is not permissible in the area of police undercover surveillance of First Amendment-protected activities. Much of the case law that guides undercover infiltration of free speech groups dates to the 1960s and 1970s and is not entirely applicable to the civil rights and law enforcement issues that predominate in the post-9/11 world.
  - 4.2 The office of the California Attorney General in 2003 issued a report that provided a summary of state law regarding police intelligence collection operations titled "Criminal Intelligence Systems: A California Perspective," but local law enforcement have found it difficult to interpret.
  - 4.3 Prior to adoption of a new policy by the Santa Cruz Police Department regarding undercover operations of First Amendment-protected activities, only two cities, San Francisco and Washington, D.C., had explicit policies defining when and under what circumstances police may engage in undercover investigation of First Amendment-protected activities.
  - 4.4 Police officers receive minimal training in First Amendment and free-speech issues, usually prior to becoming an officer while they are in the police academy.
  - 4.5 None of the other local law enforcement agencies in Santa Cruz County have a policy in place regarding undercover surveillance of First Amendment activities. The Scott's Valley Police Department is reviewing its policies regarding surveillance and anticipates adopting changes this summer.
  - 4.6 The police official who authorized the undercover operation was also the one who conducted the department's internal investigation.
  - 4.7 The Santa Cruz Police Department was reluctant to address the issue to the public's satisfaction. What was and was not released to the public was also complicated by state-mandated limitations upon what can be legally disclosed regarding police personnel matters, not by obfuscation by the police department.
5. In the wake of the surveillance incident, the Santa Cruz Police Department has created new policies to guide it in the future when balancing public safety and constitutional protections for free speech and assembly.
  - 5.1 The City of Santa Cruz employs an independent police auditor, who reports to the city manager, not the police department. He reviews internal affairs investigations for accuracy and thoroughness.

- 5.2 No other law enforcement agencies in Santa Cruz County employ an independent police auditor as the City of Santa Cruz does.
- 5.3 The Santa Cruz City Council empowers a subcommittee of three council members to act as a Public Safety Committee and review police issues that come before the city, adding another layer of scrutiny of police actions beyond the independent auditor.
- 5.4 Santa Cruz Police Departmental Directive Section 610 establishes a minimum threshold of “reasonable suspicion” of anticipated criminal activity before police can initiate undercover surveillance of First Amendment-protected activity. However, there is no simple all-encompassing definition of what constitutes reasonable suspicion; it will be considered on a case-by-case basis.
- 5.5 The new Santa Cruz Police Departmental Directive Section 610 establishes a clear chain of command that includes the chief of police that must be followed in authorizing such undercover operations. Both the chief of police and the Santa Cruz city attorney must now review proposed undercover surveillance of First Amendment-protected activity.
- 5.6 Several sections of the Santa Cruz Police Department’s new policy regarding surveillance of political activities are now cited as “Best Practices Guidelines for First Amendment Activities,”<sup>14</sup> including acknowledgement of citizens’ rights afforded under the U.S. Constitution; the chain of command to be followed in deciding whether to initiate a surveillance operation of political activity; and what police officers can and cannot do when investigating protected claims of political activity.
- 5.7 The Santa Cruz City Council Public Safety Committee has requested further review of the new policy regarding surveillance of First Amendment-protected activities by the city manager with regard to five additional points the American Civil Liberties Union of Northern California, recommends be included in the policy. The ACLU recommends that the new policy be expanded to add these protections: Add a reference to the California Constitution's Right of Privacy; narrow the scope of “reasonable suspicion” in determining when undercover operations may be allowed; clarify the meaning of less intrusive tactics in the new policy; add guidance regarding video surveillance; and expand provisions for auditing and reporting of undercover operations.

## **Conclusions**

1. Every city has its own character which may influence where the appropriate balance lies between protecting free speech and guarding against possible threats of criminal acts, particularly in a post 9/11 world. The orientation of residents in the cities of Santa Cruz, Capitola, Watsonville, Scotts Valley, and the unincorporated areas of the

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<sup>14</sup> ACLU, pp. 26-30.

county vis-à-vis police are unique to each municipality. But overlaying every community's consideration of this issue are the protections provided in the First Amendment of the United States Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

2. The fluid nature of interpretation of the First Amendment, and the lag time between shifts in public attitudes and the creation of new case law, make it difficult for police departments to create policies that are specific enough to anticipate every possible scenario and provide police officers with definitive guidelines as to whether a particular form of surveillance is proper.
3. Undercover surveillance is an important and legitimate tool in the investigation of gangs, drug violations and a host of other criminal activities.
4. The organizers of the Last Night Santa Cruz DIY Parade did not pose a threat or hazard to public welfare.
5. The likelihood of this type of scenario repeating itself appears slight due to the exposure this incident received. Other Santa Cruz County law enforcement agencies should learn from the Santa Cruz Police Department's experience. Having an established policy in place to guide such investigations could prevent other law enforcement agencies from facing the same exposure. Also, an established policy could provide law enforcement agencies with a positive public relations tool to show that the department is trying to anticipate problems. However, it is important to recognize that the relationship between a city's residents and its police department varies from city to city, and there is no "one size fits all" solution that will work for every law enforcement agency.
6. Police were not out of line in viewing the Last Night DIY Santa Cruz Parade as a potential threat to public safety, given the history of stabbings and violence at previous downtown events. The parade's organizers did not intend to cause property damage or personal injury, but large gatherings where people consume alcohol can create dangerous situations which are unanticipated by those planning the event.
7. The absence of police policy in the area of surveillance of politically protected speech and activity suggests that police are involved with more immediate public safety issues and that the Last Night Santa Cruz DIY Parade surveillance was an anomaly rather than "the tip of the iceberg" of wider police surveillance.
8. The rightness or wrongness of the Last Night Santa Cruz DIY Parade investigation hinges upon interpretations of law and competing priorities upon which reasonable people on both sides of the issue differ.
9. Not considering the political element inherent in the Last Night DIY Santa Cruz Parade hampered police from recognizing potential free speech and First Amendment issues that may have caused them to reconsider the necessity of the undercover operation.



10. Police officers working the streets must navigate a complex web of directives and guidelines in the performance of their duties and are responsible for upholding a wide array of laws. It is the responsibility of police department management to be aware of these developments so that when a situation arises, they can correctly advise their officers how to proceed.
11. The adoption of Santa Cruz Police Departmental Directive Section 610 and the exposure that police handling of the Last Night Santa Cruz DIY Parade received makes it unlikely that undercover operations of First Amendment-protected activities will be undertaken in the future without more extensive advance scrutiny.
12. Although the Santa Cruz Police Department conducted its own internal investigation, the independence of the investigation was compromised by the fact that the police official who conducted the internal investigation was also the police official who authorized the undercover operation causing suspicion of the findings by some members of the public.
13. The report issued by the city's independent auditor served a useful role and aided in preventing further deterioration of the relationship between the Santa Cruz Police Department and residents. The report enabled residents and the police department to come together in the wake of the controversy to try and find some mutually acceptable common ground.
14. The Santa Cruz Police Department's adoption of Departmental Directive Section 610 puts it ahead of almost all other cities in the state and the nation in addressing the potential legalities surrounding this type of investigation.
15. The Santa Cruz Police Departmental Directive Section 610 is a step forward in spelling out under what conditions undercover surveillance of First Amendment activity may occur.
16. The more straightforward and less legally complicated Santa Cruz Police Departmental Directive Section 610 is kept, the more likely it is to be understood and adhered to.
17. Citizens often interact only with their police department when something bad happens—they receive a traffic citation, are stopped for drunk driving, are told they cannot do something—creating a skewed view of police by some of the public, and of the public by some of the police.

## ***Recommendations***

1. Police chiefs and the county sheriff should ensure they are familiar with the most recent case law involving surveillance of activities involving free speech and freedom of assembly that are protected under the California and U.S. Constitutions.
2. Law enforcement must be cognizant of the wide range of activities that fall under the umbrella of the First Amendment when considering surveillance operations.
3. Every law enforcement agency in the county should establish procedures, tailored within constitutional limitations to meet their own unique identities, for authorizing

surveillance of groups or individuals that may be protected under the First Amendment. Any such approved surveillance operations should establish a clear chain of command for authorizing such surveillance and include provisions for review by the chief of police and legal counsel.

4. The City of Santa Cruz should carefully weigh recommendations by the American Civil Liberties Union (ACLU) that Santa Cruz Police Departmental Directive Section 610 be expanded against the desirability of keeping Departmental Directive Section 610 simple and easily understood.
5. The cities of Watsonville, Capitola and Scotts Valley, and the Santa Cruz County Sheriff's Department should consider contracting with an independent auditor who is not employed by the police department to review those grievances by the public that cannot be satisfactorily resolved within each department's internal affairs unit.
6. People taking part in protests and other public activities that claim protection under the First Amendment must recognize the potential for events to spin out of their control, and for criminal elements to attach themselves to those events, creating real public safety problems that police must address.
7. Residents should take advantage of community outreach programs provided by police departments, including ride-alongs, neighborhood watch programs, and jail tours. These provide opportunities to get to know how police work in non-emergency situations and can foster a positive rapport that will facilitate mutual trust between the public and law enforcement.

### ***Commendations***

1. The organizers of Last Night Santa Cruz for holding a peaceful event each of the past two New Year's Eves.
2. The City of Santa Cruz for employing an independent police auditor.
3. The Independent Police Auditor for conducting a thorough investigation.
4. The Santa Cruz Police Department for taking corrective action and being among the first municipalities in the nation to develop such a policy.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
City of Santa Cruz Police Department	1.3, 2.1, 2.2, 4.1, 4.3-4.5, 5, 5.4-5.8	1-4	60 days September 1, 2007
City of Capitola Police Department	1.3, 2.1, 2.2, 4.1, 4.2, 4.3-4.5, 5, 5.1-5.8	1-3, 5	60 days September 1, 2007
City of Watsonville Police Department	1.3, 2.1, 2.2, 4.1, 4.2, 4.3-4.5, 5, 5.1-5.8	1-3, 5	60 days September 1, 2007
City of Scotts Valley Police Department	1.3, 2.1, 2.2, 4.1, 4.2, 4.3-4.5, 5, 5.1-5.8	1-3, 5	60 days September 1, 2007
Santa Cruz County Sheriff-Coroner	1.3, 2.1, 2.2, 4.1, 4.2, 4.3-4.5, 5, 5.1-5.8	1-3, 5	60 days September 1, 2007
Santa Cruz City Council	4.2, 5.4, 5.6-5.8	4	60 days September 1, 2007

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### **Web sites**

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- The Last Night Santa Cruz DIY Parade online discussion group,  
<http://lists.riseup.net/www/arc/lastnightdiy>.
- Santa Cruz Sentinel – Online Edition, [www.santacruzsentinel.com](http://www.santacruzsentinel.com).
- University of California, Santa Cruz, online News/Events,  
<http://messages.ucsc.edu/05-06/12-28.response.asp>.
- San Francisco Chronicle, <http://www.sfgate.com/>, Associated Press story, "Jury: WTO protesters' rights violated," Jan. 30, 2007.
- New York Times, <http://www.nytimes.com>, "Judge Restricts New York Police Surveillance," Feb. 15, 2007, and "Mayor Defends Spying by Police Before G.O.P. Convention," March 28, 2007.

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# **Santa Cruz County**

## **Grand Jury**

### **Final Report:**

Section 4

Health and Human Services Committee Report

## **Surviving Sudden Cardiac Arrest: Improving the Odds with Automated External Defibrillators**

### ***Synopsis***

The Grand Jury investigated the need for Automated External Defibrillators (AEDs) in Santa Cruz County, how they are currently being deployed, and what policies are in place for their use in saving the lives of sudden cardiac arrest (SCA) victims.

An estimated 325,000 lives are lost each year in the United States due to sudden cardiac arrest.<sup>1</sup> From October 2004 through September 2006, 484 people were victims of sudden cardiac arrest in Santa Cruz County alone.<sup>2</sup> With the recent advances in technology, the modern AED units are simple and relatively low cost. Many lives could be saved if they were made available and used within the first few minutes after the onset of sudden cardiac arrest. Although fire and ambulance services in the county are well equipped and have an excellent reputation for effective medical response, their ability to reach a patient who is suffering from sudden cardiac arrest in time is highly problematic. The solution lies with AEDs being more widely distributed at key sites throughout the county.

In providing what is fast becoming a “standard of care,” the county must keep up to date with technology, national trends and the legal liability associated with failure to be proactive. The county should re-examine its policy and its requirements for the placement of AEDs as recommended in this report.

### ***Definitions***

#### **AED**

Automated External Defibrillator — a computerized medical device that automates the process of administering an electrical shock to the heart to restore its natural rhythm.

#### **Advanced Life Support (ALS)**

Medical care provided by emergency medical technicians trained to assess a patient's condition, administer drugs, defibrillate and provide advanced airway management prior to transportation to the hospital.

#### **AMR**

American Medical Response — a private ambulance service that coordinates with emergency services agencies in the county for first responder Advanced Life Support service. AMR is the sole provider of medical transport in the county.

#### **Basic Life Support (BLS)**

Basic Life Support consists of a number of life-saving techniques focused on the ‘ABCs’ of pre-hospital emergency care: Airway, Breathing and Circulation. BLS generally does

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<sup>1</sup> Sudden Cardiac Arrest Association, <http://www.early-defib.org/learn.asp>

<sup>2</sup> Santa Cruz County Cardiac Arrest Audit 2004-2006, May 2007, p. 2 (hereafter referred to as “SCA Audit.”).

not include the use of drugs or invasive skills, but with advances in AEDs may now include defibrillation.

**CPR**

Cardio-Pulmonary Resuscitation.

**EMSIA**

Emergency Medical Services Integration Authority — a combination of county fire districts and departments that work together with American Medical Response to provide Advanced Life Support medical services in Santa Cruz County.

**Net Com**

Santa Cruz Consolidated Emergency Communications Center — the county’s primary response and dispatch center for 911 calls.

**PAD**

Public Access Defibrillator — an AED that is available in public and/or private places where large numbers of people gather or people who are at high risk for heart attacks live.

**Standard of Care**

The level of service that the average, prudent provider in a given community would practice.

**VF/VT**

Ventricular Fibrillation/Ventricular Tachycardia — chaotic heart rhythms that can be restored to a natural spontaneous rhythm through defibrillation.

***Background***

Heart disease is a serious public health issue. In the United States, at least 61 million people have cardiovascular disease, resulting in an estimated 1 million deaths per year. About one-third of these deaths, 300,000 to 400,000, are due to sudden cardiac arrest, the sudden and unexpected loss of heart function.<sup>3</sup>

Most often, sudden cardiac arrest is due to chaotic beating of the large chambers of the heart, called ventricular fibrillation. Typically, its victims have no warning and quickly collapse and lose consciousness. The only treatment that can save their lives is the quick use of a defibrillator, a medical device that administers an electrical shock to the heart to restore its synchronous pumping rhythm. Defibrillators work by giving the heart a controlled electric shock that has the chance to resynchronize the contraction of the heart muscle and restore its normal rhythm.

The overall survival rate for out-of-hospital cardiac arrest is 6.4 percent nationally and 6 percent in Santa Cruz County.<sup>4</sup> Immediate treatment with defibrillation can improve the odds of survival significantly — resulting in greater than 90 percent survival. Every

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<sup>3</sup> American Heart Association, <http://www.americanheart.org/presenter.jhtml?identifier=4478>

<sup>4</sup> SCA Audit, p. 4.



minute of delay decreases the survival rates by 10 percent; after 10 minutes without defibrillation, it is highly unlikely that a sudden cardiac arrest victim will survive.

Defibrillators are available in two forms, manual and automated. Only trained medical professionals are qualified to use manual defibrillators. Manual defibrillators require interpretation of the patient's condition and an understanding of the capabilities of the defibrillator to deliver an effective and safe shock.

Recently, as a result of technological advances and the development of special computer applications, a new kind of defibrillator has become available. Today's AED uses embedded computer chips and sophisticated programming to analyze heart rhythms quickly and accurately and determine if a shock should be given. It will only deliver a shock if the readings indicate that one is necessary. This automation makes it possible for non-medically trained individuals to deliver the same life-saving treatment as medical professionals without risking an accidental or inappropriate shock. Most modern AEDs are equipped with synthesized voice instructions telling the user how to proceed in the case of a cardiac emergency. This new equipment is very easy to use. In fact, in one study, untrained sixth graders took only 30 seconds longer than trained emergency service technicians to prepare a patient for a shock.<sup>5</sup>

Another advantage of modern automated defibrillators is the fact that, like most electronic equipment, they have become more affordable and available to the general public. In the past, their cost put them out of the reach of most people, but today they can be purchased through retail and online outlets for prices ranging from about \$1,000 to \$2,000.

The American Heart Association has recognized four critical factors associated with improved survival rates from sudden cardiac arrest in communities. More people survive when this sequence of events, called the Chain of Survival, happens as quickly as possible. These four steps are:

1. Early Access — recognizing that a cardiovascular emergency exists and immediately notifying the Emergency Medical Services (EMS) system, usually by calling 911.
2. Early CPR — starting CPR immediately after cardiac arrest to circulate blood to vital organs buys time for the victim until defibrillation can be administered.
3. Early Defibrillation — defibrillation of the victim as soon as equipment arrives.
4. Early Advanced Care — trained health care providers arriving quickly to administer advanced lifesaving interventions.

Establishing a viable chain of survival in a community requires an integrated plan that relies on the cooperation of local government agencies and ordinary citizens to know what to do and be prepared to take action when an emergency occurs.

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<sup>5</sup> Gundry, W., Comess, K., DeRook, F., and Jorgenson, D. AEDs user-friendly — even for children, October 17, 1999. [http://www.eurekalert.org/pub\\_releases/1999-10/AHA-Auef-171099.php](http://www.eurekalert.org/pub_releases/1999-10/AHA-Auef-171099.php)

## ***Findings***

### **Status of Emergency Services in Santa Cruz County**

1. The 911 system for most of Santa Cruz County is administered through the Santa Cruz Consolidated Emergency Communications Center, commonly called Net Com. Additional public safety answering points for the 911 system are in Scotts Valley and at the University of California's Santa Cruz campus.
2. Net Com is an up-to-date, modern facility. Dispatchers have access to computer-aided dispatch systems that allow them to rapidly send police, fire, and medical assistance when needed. For medical calls involving a person not breathing, such as sudden cardiac arrest, Net Com was able to dispatch Emergency Medical Service units within 60 seconds 92 percent of the time in 2006.
3. The Emergency Medical Services Integration Authority (EMSIA) — consisting of the Aptos/La Selva Fire District, Central Fire District, Scotts Valley Fire District, City of Watsonville Fire Department, and City of Santa Cruz Fire Department — provides first responder Advanced Life Support (ALS) medical services to the urban areas of the county.
4. The remainder of the county receives first responder Basic Life Support medical services from a variety of smaller fire departments and the California Department of Forestry.
5. American Medical Response (AMR), a private ambulance service, coordinates with the EMSIA agencies for first responder ALS service and through its contract with the County of Santa Cruz is the sole provider of medical transport in the county.
6. EMSIA fire agencies are able to provide a paramedic to a medical emergency within eight minutes of dispatch 90 percent of the time in urban areas.
7. AMR is able to provide an ambulance to a medical emergency within 12 minutes of dispatch 90 percent of the time.
8. A fire department paramedic is the first one to arrive at a medical emergency about 60 percent of the time.
9. The expectations of service are carefully listed in the emergency services' contracts issued by the county to American Medical Response. AMR coordinates its services with the EMSIA to ensure the best possible service to the citizens of Santa Cruz County.

### **AED Distribution and Training**

10. Manual defibrillators, such as those carried by fire department and AMR paramedics, are expensive and complex and require significant training and experience to be effective. Conversely, automated external defibrillators (AEDs) are reasonably priced and simple to operate by anyone with a minimum of training.

11. Santa Cruz County does not have a comprehensive policy regarding the distribution and installation of AEDs in public locations.
12. AEDs are carried in police patrol cars in Scotts Valley. No other law enforcement agencies in the county require AEDs in their vehicles.
13. The locations of AEDs in the county are not available to Net Com dispatchers.
14. When AEDs are deployed in public buildings, they are often not visible and therefore not accessible when needed.
15. CPR classes, including training in the use of AEDs, are available through a variety of sources in the county.

### **Need for AEDs**

16. While immediate CPR can buy valuable time for a sudden cardiac arrest victim, defibrillation is the only treatment that can save the victim's life by restoring the heart's spontaneous rhythm.
17. People of any age may suffer sudden cardiac arrest and die suddenly.
18. Sudden cardiac arrest is different from a heart attack although coronary artery disease may reduce heart circulation and eventually result in SCA.
19. Often the first sign that a person is vulnerable to ventricular fibrillation is an attack that results in sudden cardiac arrest and death.
20. In Santa Cruz County, approximately 250 people per year are victims of out-of-hospital sudden cardiac arrest. From October 2004 through September 2006, more than half of these victims (51 percent) were not candidates for resuscitation, mostly because too much time had elapsed before emergency medical services could be activated.<sup>6</sup>
21. Some common causes for sudden cardiac arrest include asphyxia due to drowning or other oxygen deprivation, congenital heart conditions, sudden blows to the chest, electrocution, and coronary artery disease.
22. The worst combination for cardiac arrest survival is if patients collapse without witnesses, and when discovered, receive no bystander CPR while emergency services personnel are en route. In a two-year period in Santa Cruz County, only two of 215 patients in this situation had their hearts begin to beat again, and neither survived. When sudden cardiac arrest was witnessed and immediate CPR was administered, nearly a quarter of the victims regained pulses and 10 percent survived. The survival rate jumped to 19 percent when EMS professionals witnessed cardiac arrest and could begin treatment immediately. There were 16 EMS-witnessed cases in the two-year period, and three of those were found to be

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<sup>6</sup> SCA Audit, p. 6.

- in ventricular fibrillation (as opposed to those with no electrical activity or pulse). All three were successfully resuscitated with defibrillation only.<sup>7</sup>
23. Some experts believe that a connection may exist between the use of ‘Tasers’ by law enforcement and sudden cardiac arrest in some individuals.
  24. To improve the survival rate of victims of out-of-hospital cardiac arrest in Santa Cruz County, the Emergency Medical Services Integration Authority recommends “promulgating citizen CPR programs, Public Access Defibrillator (PAD) programs, and continued rapid EMS response using all the latest AHA (American Heart Association) recommendations for CPR, defibrillation, and advanced life support care.”<sup>8</sup>

### **Laws related to AEDs**

25. Effective July 1, 2007, the State of California will require all health clubs to be equipped with AEDs on site and establish a program of training, maintenance, and record keeping.
26. Good Samaritan laws protect most citizens from liability if they take action in a medical emergency, which includes using an AED. Conversely, lawsuits have been filed against organizations such as amusement parks and airline companies for not having AEDs readily available.
27. AEDs are now required at FAA governed airports and on all commercial airliners.
28. The Federal Cardiac Survival Act of 2000 (Public Law 106-505) directed the Health and Human Services Department to establish guidelines for evaluating and installing AEDs in federal buildings.

### **Conclusions:**

1. In Santa Cruz County, the American Heart Association’s recommended ‘Chain of Survival’ for victims of sudden cardiac arrest is incomplete. Specifically, the availability of early CPR and early defibrillation is lacking.
2. Although Net Com and the Emergency Medical Services Integration Authority cooperate to ensure advanced life support (ALS) services are sent to medical emergencies as quickly as possible, even the most rapid dispatch and transit times by Net Com and ALS providers will rarely get a defibrillator to the victim within the three- to five-minute window recommended by the American Heart Association for best survival, especially in outlying areas of the county.
3. Modern AEDs are simple to use and can improve the chances of surviving sudden cardiac arrest if they are deployed in the community and if there is a base

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<sup>7</sup> SCA Audit, p. 6.

<sup>8</sup> SCA Audit, p. 9.

- population of trained citizens able to step in when a medical emergency requiring the use of an AED occurs.
4. When AEDs are deployed in the community, they need to be made visible and readily accessible to the public so they can be used immediately.
  5. Net Com staff could improve response time in cases of sudden cardiac arrest if they knew the locations of nearby AEDs.
  6. Deaths due to sudden cardiac arrest can be reduced through a combined program of public education in CPR and effective public access defibrillator (PAD) implementation.
  7. The availability of an AED is becoming the expected 'standard of care' in many situations.
  8. The availability of AEDs in county buildings — and their deployment in sudden cardiac arrest incidents — may protect the county from possible litigation and financial liability.
  9. Providers of AEDs may be protected from liability if they comply with simple regulations regarding training, maintenance, record keeping, and medical oversight.

### ***Recommendations***

1. The Santa Cruz County Health Services Agency should establish a public education program to enhance the community's knowledge and awareness of CPR and the use of AEDs as a life-saving measure.
2. The locations of AEDs in the county should be entered in Net Com's Computer-Assisted Dispatch system.
3. Santa Cruz County should require AEDs in county buildings with more than 100 employees or daily visitors and in county detention facilities, including Juvenile Hall.
4. Santa Cruz County should encourage the use of AEDs in the following public locales and private settings:
  - Public schools
  - Public swimming pools
  - Public libraries
  - Large concerts and other public events
  - Public golf courses
  - Churches with a capacity of 100 or more
  - Private schools
  - Private recreation clubs

- Medium to large hotels and motels
  - Shopping centers
  - Medical and dental offices
  - Private golf courses
  - Senior citizen centers and care facilities
5. The county and each city should equip law enforcement vehicles with AEDs.
  6. The county should establish a mechanism to ensure that once AEDs are deployed by public agencies, those responsible meet the requirements needed to shield the county from liability by providing training, maintenance, record keeping and medical oversight.
  7. The county should establish a reporting and inspection mechanism to ensure that AEDs deployed in the community are identified by Net Com and thereby viable in case of an emergency.
  8. The county should develop a strategy for implementing a meaningful public access defibrillator program that meets the criteria of the American Heart Association and American Red Cross recommendations.
  9. The county should explore funding opportunities to pay for an expanded public access defibrillator program from both public and private sources, possibly enlisting the aid of community service organizations.

### ***Commendation***

Santa Cruz County's emergency services teams and organizations for providing the most efficient and responsive services possible under current conditions.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
Santa Cruz County Consolidated Emergency Communications Center	1, 2, 13	2	90 days October 1, 2007
Santa Cruz County Health Services Agency	11	1, 3, 4, 6-9,	90 days October 1, 2007
Santa Cruz County Board of Supervisors		1, 3, 4, 6, 8, 9	60 days September 1, 2007
Santa Cruz County Emergency Medical Services Integration Authority	1-10, 16-24		90 days October 1, 2007
Santa Cruz County Sheriff	12	5	60 days September 1, 2007
City of Santa Cruz Police Department	12	5	90 days October 1, 2007
City of Scotts Valley Police Department	12	5	90 days October 1, 2007
City of Capitola Police Department	12	5	90 days October 1, 2007
City of Watsonville Police Department	12	5	90 days October 1, 2007

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# **Santa Cruz County**

## **Grand Jury**

### **Final Report:**

Section 5

Schools and Libraries Committee Reports

## **Checked In: Santa Cruz City-County Library System Follow-up Review**

### ***Synopsis***

The 2006-2007 Grand Jury followed up on a 2004-2005 Grand Jury review of the Santa Cruz County Library System. In addition to investigating the status of previous recommendations, the 2006-2007 Grand Jury looked into worker safety and hiring practices. The Grand Jury gathered information by interviewing upper management, most branch managers and some employees. The Jury also toured library facilities, including most of the local branches. It was discovered that some previous recommendations been appropriately addressed, while others still require attention.

### ***Background***

#### **Prior Grand Jury Recommendations**

In 2004-2005, the Santa Cruz County Grand Jury did an extensive review of the Santa Cruz City-County Library System, an investigation which resulted in the following recommendations:

- “The Santa Cruz City Manager should review the Director of Libraries’ job performance according to the Library Joint Powers Authority Agreement.”
- “Library administration should conduct an efficiency study, to find reasonable alternatives to the way staff are located within the library system and are rotated in and out of the central branch.”
- “The Joint Powers Authority Board should immediately begin to find an alternative to the crowded and inefficient location at 1543 Pacific Avenue.”
- “Since the operation of the Santa Cruz City-County Library System depends on Measure B Sales tax revenue that will expire in 2013, economy measures and new funding sources must be found to maintain existing levels of service.”
- “The library staff and Joint Powers Authority Board must develop contingency plans for the future capital projects if a bond issue is unsuccessful at the polls.”

#### **Library System Mission Statement**

“Serving County residents since 1917, the mission of the Santa Cruz Public Libraries, California is to provide materials and services which help community residents meet their personal, educational, cultural, and professional information needs. Our mandate is to provide free information services to all residents of Santa Cruz, Scotts Valley, Capitola, and the County's unincorporated areas.

We do this through a system of branch libraries stretching from La Selva Beach to Boulder Creek, via an Outreach Program serving those unable to get to a library, through

telephone reference services, dial-up access to our computer catalog, and other electronic databases. Our collections are linked by an automation system which tells where any System book or other item is located and whether it is available for checkout.”<sup>1</sup>

**Library System-Branches-Current and Planned**

The following table represents the current status of the branches as of April 2007, and identifies priority projects for improvements.

BRANCH/DEPT	CURRENT FACILITY SQ FT	PLANNED FACILITY SQ FT	AVG DAILY USAGE	PRIORITY **
Aptos Branch (Tier II) *	8000	12,500	600	Deferred
Aptos Branch Parking Lot			N/A	Priority
Boulder Creek Branch (Tier I) *	7500	7,500	250	None
Branciforte Branch (Tier I)	7500	7,500	500	None
Capitola Branch (Tier I) *	4320	7,500	500	Priority
Central Branch (Tier III) *	44,000	55,000	1200	Priority
Felton Branch (Tier I) *	1,250	7,500	300	Priority
Garfield Park Branch (Tier I)	2,343	2,343	150	None
La Selva Beach Branch (Tier I)	2,200	2200	115	None
Live Oak Branch (Tier II) *	12,500	12,500	600	None
Scotts Valley Branch *	5,300	12,500	300	Priority
Pacific Ave Headquarters *	11,450	12,000	N/A	Priority
[1]	[2]	[3]	[4]	[5]

\*The Grand Jury interviewed staff and toured branch.

\*\*Priority (Capital Spending)

**Definitions**

**Joint Powers Authority Board**

The Joint Powers Authority Board (JPA Board) oversees the operations of the Santa Cruz County Library systems, setting policies and exercising responsibilities delegated to in the Joint Powers Agreement. The JPA Board consists of nine appointed members — two from the Santa Cruz City Council; two from the Santa Cruz County Board of Supervisors; one each from the Capitola and Scotts Valley City Councils; and three at-large citizens appointed by majority vote of the Board representing the geographic diversity of the area.

**Lock Box**

A secured locked box which contains emergency procedures and keys.

<sup>1</sup> Library Mission Statement, <http://www.santacruzpl.org/libraryadmin/libmiss.shtml>

### **Tier I Branches**

The smaller neighborhood libraries that have neither the space nor the resources to provide complete information services to their communities. Instead, a Tier I provides a popular materials collection, meets the ready reference needs of adults, and endeavors to meet the library information needs of children through the junior high level.

### **Tier II Branches**

Larger branches, serving regional populations. They have bigger collections, provide more reference services, and endeavor to meet the information needs of youngsters through the high school level. The service area of a Tier II branch usually encompasses Tier I branches as well.

### **Tier III Branch**

The single Tier III branch is the Central Branch in downtown Santa Cruz. It serves as system headquarters for the collections, reference and youth services, and has special collections such as local history, California, and genealogy.

## **Scope**

### **Follow up on Previous Investigation**

1. Verified that the change in the job performance review process for the director of libraries is an operational procedure.
2. Verified that the procedure of branch staff rotation is a viable procedure.
3. Investigated if alternatives to the 1543 Pacific Avenue facility were identified, as agreed.
4. Investigated the long-range facility plan to determine if the plan is on track.
5. Verified that a funding process is in place and determined if a financial plan was in place for FY2005-FY2006.
6. Investigated the status of contingency plans for any future capital projects, if a bond issue is unsuccessful at the polls.

### **Additional Investigation**

7. Reviewed the hiring practices for the library.
8. Investigated the safety/worker's compensation issue and actions taken.
9. Toured most library branches to understand their operation.



## **Findings**

1. *Director of Libraries Job Review Process:* In February of 2006, the JPA Board adopted an official procedure for appraising the performance of the director of libraries. A standard written job description, which is part of the City of Santa Cruz personnel system, has been established. It has been verified that the director of libraries' performance evaluations are now current.
2. *Staff Rotation:* Contrary to previous findings, the Grand Jury found that library staff are happy with rotation practices. The library has been practicing staff rotation for more than ten years. The Central Branch circulation and reference staff is rotated in and out of the headquarters facility on Pacific Avenue. They rotate in four-hour shifts based on established work schedules. Staff rotation is in place to:
  - Reduce injuries and stress illness.
  - Cover required workload hours on the reference desk.
  - Provide cross-training and job backup.
  - Offer job enrichment.
  - Improve staff morale.
  - Reduce staff turnover.
  - Reduce worker compensation claims.

Larger branches practice staff rotation internally while some small branches do not have enough staff to rotate. There is 'on call' staff to fill in occasionally if required. Some employees feel that the staff rotation gives most library employees a chance to work directly with customers and understand the public's needs.

3. *Alternatives to 1543 Pacific Avenue:* The Director of Libraries is aware of the urgency for having a plan in place for this location. The city manager noted that they may extend the lease on Pacific Avenue until 2013 and that more financial analysis must be done. In 2006, the director appointed a Capital Projects Priorities Subcommittee. This committee is responsible for developing a long-range facilities plan.
4. *Funding Plans:* A five-year budget plan, "Library Strategic Financial Plan" was prepared in 2006. It was developed with the following funding assumptions:
  - Sales tax revenues will increase 3% per year.
  - County Library Fund increased 7.5% in FY 2006-07 and will increase 5% each year thereafter.
  - Fees, fines and miscellaneous revenues will increase 1% per year.
  - Bequest appropriations will remain at the same level of funding.
  - The library will receive estimated carry over funds, grants, and gifts.

5. *Contingency Planning:* In 2005, the JPA Board adopted a policy that keeping branches open was the “cornerstone” of the budget process and that closing branches should not be considered in contingency planning.
6. *Worker Safety:* An outside consultant prepared a safety recommendations report for the JPA. The Director of Libraries was asked to come back with an action plan on the safety recommendations that were made. Upon review of this report entitled “Promoting Worker Safety at the Library — An Action Plan,” the JPA Board accepted it unanimously. In addition:
  - The library added a “Safe/Ergonomic Practices” section to the standard employee appraisal form to raise the safety awareness of the employees.
  - The library has a safety committee which issues an annual report and periodic updates.
  - According to management, training the staff in ergonomics has reduced the workers compensation claims. Most work-groups have someone in charge of stretch breaks where three or more people use the same circulation desk.
7. *Hiring Practices:* The library does considerable hiring from outside the county library system for higher-level positions. This practice has caused morale problems and has increased costs to the system. Many of the current staff have attended college to get their Masters in Library Science with the sole purpose of advancing their careers but have not found it helpful in getting promoted.

*Other Hiring Practice Issues:*

- The practice of hiring half-time employees enables the library to stay open more hours to serve the public. It also has some cost-savings benefits. Many of the branches are understaffed, based on the number of customers they serve. However, hiring half-time employees also limits opportunities for full-time staff to be promoted.
  - The branches would like to have more frequent staff meetings, but find it hard to balance this need with the priority of keeping the library open for the public.
  - In April 2006, the library had a meeting for all staff system-wide. The focus of this meeting was on the Central Branch. As a result of the meeting, work groups were formed to address issues. In December 2006, a summary report was sent to all staff system-wide. The employees reported that there was not adequate follow-up in the areas of communication and the update of job classifications. Library employees sometimes stay with their jobs because they like the Santa Cruz community and wish to make a career and home here, not because they feel there are equitable hiring practices or opportunities for job advancement.
8. *Branch Findings:* In at least one branch, emergency lock boxes were not easily accessible.

## **Conclusions**

1. The previous recommendation that the Santa Cruz City Manager review the Director of Libraries' job performance according to the Library Joint Powers Authority Agreement has been met. The Director of Libraries' Job Review Process is in place and operational.
2. In contrast to the previous Grand Jury's recommendations, staff rotation is now a viable process. Staff does not work more than four hours at a time on the reference desk, which relieves stress caused by repetitive work.
3. The recommendation that the JPA Board should immediately begin to find an alternative to the Pacific Avenue facility has not yet been met. Alternatives to this location have yet to be identified. Although the JPA Subcommittee on Capital Project Priorities has produced a plan for capital spending, the plan is very broad and does not provide enough detail for the JPA Board to make a funding decision.
4. While funding plans are in place in the form of a five-year strategic financial plan, new sources of funding have yet to be identified.
5. Contingency planning has not been addressed. In the event of reduced funding, there is no contingency plan in place. Although keeping branches open has been declared as a core service and may be desirable, this policy does not provide for the possibility of reduced funding.
6. The Director of Libraries' emphasis on worker safety and ergonomics and the on-going rotation of staff have had a positive effect on workers' compensation claims and employee morale.
7. Employees are aware of the Safety and Ergonomics Plan, but follow-up training has been overlooked and needs to be addressed.
8. The hiring practices of the library are in dire need of reform. The practice of hiring outside the local library system for the higher-level positions has caused low morale and poor expectations of job advancement.
9. During an emergency, staff at one location could not easily access the lock box key or operate it.

## **Recommendations**

1. *Worker safety* (including ergonomics training), should continue to be a priority. Additional emphasis should be placed on annual refresher courses. An annual training report reviewed and approved by the JPA Board would help ensure the on-going improvement of the program.
2. *Staff rotation*: Because staff rotation is a viable process which has had a positive effect on employee safety, the staff rotation process should be continued.
3. *Annual budget*: The annual budget process is in place and should be continued.

4. *Hiring practices:* The library’s hiring practices should undergo a complete review to determine whether reform is required. If employees felt that there was a career path with the Santa Cruz Library System, morale would improve and good employees would stay. A policy should be put in place which encourages internal employee advancement and incorporates methods such as career and succession planning. Career ladders or job families should be established so that employees can advance “in position” as their levels of expertise increase. Also, library job classifications should be updated.
5. *Capital spending plan:* The JPA Board should identify alternatives to the continued use of the 1543 Pacific Avenue facility. The JPA Subcommittee on Capital Project Priorities should prepare a more detailed plan for capital spending which would help them make an informed decision on future facility needs. For major projects, they should do a detailed financial analysis which discloses all costs, time to execute and return on investment.
6. *Contingency funding:* A contingency funding plan needs to be put in place in the event of a worst-case scenario, such as a bond measure not passing or the revenues from sales tax not increasing.
7. *Emergency procedures:* Branch managers need to review emergency response procedures and verify that all information, materials and equipment are up to date, functioning and accessible.

**Commendation**

The Joint Powers Authority, City Manager and Director of Libraries are to be commended for establishing current procedures for the job performance review of the Director of Libraries.

**Responses Required**

<b>Entity</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within</b>
JPA Board	1, 3-7	1-4	90 Days October 1, 2007
Director of Libraries	1-8	1-5	90 Days October 1, 2007
Santa Cruz City	1, 3-7	1-4	90 Days October 1, 2007

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### **Reports & Memos**

- City of Santa Cruz Director of Libraries Job Description
- Joint Powers Authority Memo, January 17, 2006, Director of Libraries Job Description Approval
- Promoting Worker Safety at the Library, An Action Plan, Report, August 2004
- Joint Powers Authority Memo, May 23, 2005, Update on Library Worker Safety Activities
- Santa Cruz Public Library Safety Committee Annual Report 2005-06
- Joint Powers Authority Board Subcommittee on Capital Project Priorities, Report March 28, 2006
- Ready to Check-Out? Santa Cruz City-County Library System 2004-2005
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### **Board minutes**

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## **Report Card**

### **Pajaro Valley Unified School District**

#### **Synopsis**

The 2006-2007 Grand Jury conducted an investigation into the performance of the Pajaro Valley Unified School District. The jury investigated how well the district's board of trustees has managed its fiscal oversight responsibilities and looked into allegations of an appearance of conflict of interest on the part of the superintendent. The jury found that the district, in particular its board of trustees, has in many respects failed in the performance of those duties. The board did not provide effective oversight of fiscal matters nor did it take corrective action for failed management tools and practices. The results of the investigation of the appearance of a conflict of interest are inconclusive.

#### **Background**

The Pajaro Valley Unified School District (PVUSD) Board of Trustees is charged with providing the children in the district with the best possible education. It is the board's responsibility to assure the taxpayers that school funds are spent legitimately and efficiently and that the students are getting the highest quality teachers, curriculum, and school facilities possible. It is also the board's responsibility to hire and give direction to a superintendent who is responsible for managing school funds and instructional programs.

Not only has the PVUSD board failed to meet its responsibilities, but according to local papers, the school district continues to be in a state of chaos.<sup>1</sup> The board continues to be criticized by local newspapers and community members for years of failure to bring its students up to grade level and meet state and federal requirements.

The district has argued that political interference, unfair measurement tactics, lack of funds, impoverished families, the prevalence of speakers of English as a second language, cultural imperatives, and micromanagement have hindered the district's progress. However, the question remains — has the Pajaro Valley Unified School District provided its students with the education they deserve?

The Grand Jury investigated reported problems with the PVUSD and its superintendent of schools, as well as concerns that large sums of money and resources have been wasted. The Grand Jury discovered that the district not only paid more than \$1,300,000 for an educational program and related materials that were inadequate and inappropriate, but the materials were purchased from the new superintendent's recent employer and she did not exempt herself from the purchasing process. Did her position as superintendent have a direct or indirect influence over those purchases? That is one of the questions the Grand Jury set out to investigate. The Grand Jury also looked into how the Pajaro Valley Unified School District Board of Trustees handled its fiscal oversight responsibilities.

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<sup>1</sup> *Santa Cruz Sentinel*, "County school boards OKs office move, Pajaro Valley educators, trustees blast deal to buy Harvey West space," April 21, 2007.

## **Scope**

The Grand Jury investigated:

- The allegation of conflict of interest by the PVUSD Superintendent of Schools
- The PVUSD Board of Trustee's oversight of the district budget, expenditures and construction projects
- Possible Brown Act violations
- Teaching standards and related expenditures
- The viability of the "Zone System" — the geographically determined management structure by which the district is organized

The Grand Jury conducted 45 interviews of:

- Voters
- Parents
- Students
- Board members (past and present)
- Administrators
- Community Activists
- District and School Staff, Site Council Committee Members
- Teachers

The Grand Jury reviewed:

- Board minutes from the internet archives for the years 2000 – 2007
- Prior years' board reports
- Documentation
- Contracts
- Press releases
- Promotional materials from America's Choice and the National Center for Education and the Economy

## **Terms and Definitions**

### **America's Choice**

A for-profit company selling educational strategies, training, materials and texts. Was an integral part of National Center for Education and the Economy, an educational strategies developer and promoter.

### **Board**

Pajaro Valley Unified School District Board of Trustees.

### **COP**

Certificate of Participation — a type of financing where an investor purchases a share of the lease revenues of a program rather than the bond being secured by those revenues.

### **County Office of Education**

Santa Cruz County Office of Education (COE) has responsibility to oversee all school districts within the county for good governance, fiscal integrity and to supply centralized services.

### **DAG Report**

A report by the District Alternative Governance Committee on the failure of seven district schools to meet educational standards.

### **District**

Pajaro Valley Unified School District.

### **FCMAT**

Fiscal Crisis and Management Assistance Team — a State of California organization mandated by AB1200 to help California's local educational agencies fulfill their financial and management responsibilities.

### **FPPC**

Fair Political Practices Commission — a California State body charged to ensure fair, impartial interpretation of political campaign, lobbying and conflict of interest laws.

### **Gold Study**

*English Learner Programs Evaluation*, February 2007, Norm Gold Associates. A study which determined many of the problems of the districts' delivery of education to the English language learners population of the school district – approximately 45 percent of the schools' population.

### **Management Audit Study**

*Organizational and Efficiency Study*, October 12, 2004, School Services of California. A study commissioned by PVUSD Board of Trustees and prepared for the board's Management and Audit Committee. Its scope included interviewing more than 130 employees and community members and reviewing the organizational and functional practices of the PVUSD administration.

### **Nine Essential Program Components**

Nine teaching and administrative strategies to ensure quality education and grade level attainment for all students in English, reading, language arts and mathematics, as designated by the California Department of Education, September 2006.



**NCEE**

The National Center for Education and the Economy — a developer and promoter of America’s Choice Strategy training, materials and texts.

**SAIT**

California State Department of Education’s School Assistance and Intervention Team. The SAIT process is a state intervention currently charged with bringing the two district schools into compliance with state educational standards.

***Findings***

**A. The Purchase of Educational Materials Influenced by the PVUSD Superintendent of Schools**

1. In early 2003, within months of leaving a position with the for-profit company America’s Choice, the superintendent asked a subordinate to purchase the America’s Choice Million Words Campaign. This request was followed up in 2003, 2004, and 2005 when she encouraged subordinates to purchase a multi-year educational program from America’s Choice — including licenses, texts, materials and training — for three schools. Amounts paid over the three-year initial period (2003-2004, 2004-2005, 2005-2006) amounted to more than \$1,300,000, according to a review of the documentation.
2. The superintendent was intimately familiar with the America’s Choice program. According to her resume, when she was employed by the National Center for Education and the Economy (NCEE), she “assisted in the development and refinement of the comprehensive school design America’s Choice.” America’s Choice is a subsidiary of NCEE.
3. The superintendent, as a former employee of America’s Choice, was reportedly offered a stock purchase option.
4. The superintendent’s did not clearly indicate her connection to America’s Choice when she encouraged its purchase by her subordinates.
5. The district’s ethics policy includes conflict of interest guidelines which may apply in this type of situation, but because this policy is not dated, it is not clear when it went into effect.

**B. PVUSD Board of Trustees’ Fiscal and Management Oversight**

6. Several concerns with the budget review process were investigated.
  - 6.1 The PVUSD’s annual budget and amended budgets are often delivered to the board without adequate time for the trustees to study and understand their contents.
  - 6.2 According to some board members (past and present), they are discouraged from asking questions because asking questions makes the meetings last too long.

- 6.3 Some board members reported that they do not understand the budget and that the budget and amendments are not an area of their individual interest.
7. There are differences of opinion within the board as to what constitutes appropriate fiscal oversight.
  - 7.1 A number of trustees (past and present) stated they prefer to trust that the budget is an accurate and efficient document not needing their input or oversight.
  - 7.2 None of the board members interviewed (past and present) knew the dollar amount or types of purchases that should go to the board for approval.
  - 7.3 Some board members and district staff reported that they did not know that there were policies and procedures concerning board oversight.
8. Difficulties overseeing expenditures were reported.
  - 8.1 At regular board meetings, the consent packet includes a listing of some payments and some purchase orders. The listings of disbursements and purchase orders are not all-inclusive and are not reported in a format that allows board members to oversee expenditures effectively.
  - 8.2 Board members reported they did not review purchases made from categorical or grant funds and some reported they thought of these funds as “free money” that didn’t require oversight.
  - 8.3 Purchases were made from a new vendor (NCEE-America’s Choice) of a multi-year program and materials amounting to over \$1,300,000 without specific board approval. These purchases were paid from various funding sources including categorical funds (state, federal and private funds with specific purposes and requirements).
9. The district has a recent history of being governed by interim superintendents.
  - 9.1 The district applied for “interim” superintendent status with an emergency waiver while having another interim superintendent under contract.
  - 9.2 At the time of the writing of this report, the district is being served by a part-time (60 percent) interim superintendent.
  - 9.3 It takes time for a district to set its priorities, establish a search committee and begin the process of filling the position of superintendent. However, to date, the board has not begun the process of filling the position of full-time superintendent. Instead, the board is considering creating the position of deputy superintendent.
  - 9.4 A letter signed by approximately 500 teachers was presented to the board requesting a full-time superintendent.

### **C. Allegations of Brown Act Violations**

10. There is evidence that the Pajaro Valley Unified School District Board of Trustees may have not complied with the state’s open meeting laws referred to as the Ralph M. Brown Act.

10.1 The Brown Act requires that in advance of meetings, closed and open session topics be clearly identified with a description of the subject matter to be considered.

10.2 The following are two examples of agenda items with questionable descriptions:

- In a closed meeting session on January 17, 2007, the board discussed terminating the current interim superintendent and rehiring the former superintendent in the interim role. However, the agenda item simply stated, “2.1a Title of Position, Interim Superintendent.”

The board approved the termination and appointment with a majority vote.

- In open session of the same January 17, 2007 meeting, agenda item 12.5 stated, “Report, discussion and possible action to approve Amended contract for Interim Superintendent.” The backup information for this agenda item stated, “The current contract for the Interim covers the responsibilities for both the Interim Superintendent and the Interim Associate Superintendent.” As reported to the Grand Jury, several of those in attendance assumed this item referred to the responsibilities of the current Interim Superintendent, but, in fact, it referred to the previous closed meeting discussion of two superintendents — the person who was currently filling a dual role as Interim and Associate Superintendent and the former superintendent who was being rehired. At best, this description was vague and confusing. Even if it were legal under the Brown Act, it does not provide the detailed level of transparency required to maintain public confidence.

#### **D. Board’s Oversight of Construction Funds**

11. Because of the way it was funded, the public had little opportunity to weigh in on a multi-million dollar school construction project. In 1997, the board approved \$10 million Certificate of Participation (COP) through Paine Webber to cover construction costs of schools. California Financial Services was chosen to administer the fund. Initial costs for the note came out of the COP itself before any money was available to PVUSD. This is a method of obtaining funds without public notice beyond that provided by the normal board agenda. This lack of publicity deprived parents and citizens of a reasonable opportunity to express an opinion.

12. Individual trustees were not aware of the disadvantages of Certificate of Participation funding.

12.1 The financing cost for COPs is higher than for general obligation bonds.

12.2 Certificate of Participations require a debt-service reserve fund, typically 10 percent of the principal. Using this method usually increases the principal amount borrowed. In this case, according to CFS Financial

reports, \$2.4 million in fees were paid to obtain the Certificate of Participation, leaving only \$7.6 million for school projects.

13. The board faced numerous problems and cost overruns for construction projects.
  - 13.1 The board faced public controversy when the site for the new high school was under review. After architectural plans were drawn for a site that had been secured and approved, many members of the Watsonville community insisted the school be built elsewhere. The board agreed and approved the Harkins Slough Wetlands as the new site. Changing the site cost the district many millions of dollars in the following areas:
    - The original architectural plans were not designed for the multilevel terrain of the wetlands. The new school would also be located in the airport flight path turning zone. As a result, the school had to be redesigned. (Estimated loss of \$1.9 million just for the new architectural plans.)
    - Extensive environmental studies were required. To get approval to build on the new site, the board had to give up a portion of the land and build the Wetlands Educational Resource Center as required by the Watsonville Municipal Code. (Estimated cost of center: \$690,000.) Because there was less buildable space, the high school on the new site was 41,000 sq. ft. smaller than the one designed for the original site.
    - The change in architectural plans required that an additional 60,000 cubic yards of soil had to be trucked away. (Cost: approximately \$161,000.)
    - A cafeteria was built which can seat only 328 students, yet the school will have approximately 2200 students. The kitchen facilities are also inadequate. Therefore, the food will have to be prepared in a kitchen that was remodeled at the district offices. This cafeteria was part of the original plan, and when money was not available, district administration made it a separate project paid for through a bond measure.
  - 13.2 Mold was found in the new school buildings. Cleaning up the mold cost the district \$2.5 million. A lawsuit is still pending and legal fees are still being incurred. To date, they are estimated to be approximately \$2.7 million.
14. When applying for funding, the board acted against the advice of financial counsel.
  - 14.1 The board asked for an additional Certificate of Participation for \$12.5 million in May 2000 to pay off the previous Certificate of Participation and had \$2.5 million left to use as needed.
  - 14.2 The district owed \$12.5 million in a Certificate of Participation with almost \$750,000 in fees. Financial counsel advised the board not to take

out the loan. The board, however, voted to take out the loan, with one trustee opposing.

15. The district continued to make poor management decisions related to construction projects and other financial issues.
  - 15.1 The board approved an air pressurized fabric structure as a temporary gym for Aptos High School without respect to state regulations for that type of structure which require that it meet permanent rather than temporary use standards. The district lost over \$130,000 in costs incurred in the purchase, move and set up of a structure that was not approved by the state.
  - 15.2 The district had the opportunity to receive federal funds for needed high-speed internet access for the entire district. However, the administration filed the application late and the Federal Communications Commission denied the funds, resulting in a loss to the district of \$900,000.
16. As of the writing of this report, the California Department of State Architects has not given final approval to the Pajaro Valley High School construction project.

#### **E. Teaching Standards and Expenditures**

17. Schools in the district are not meeting teaching standards.
  - 17.1 The California State Department of Education's School Assistance and Intervention Team (SAIT) took over Pajaro Middle School and H.A. Hyde Elementary School. The SAIT process is a state intervention currently charged with bringing the two persistently lowest achieving district schools into compliance with standards that will improve their achievement scores. The SAIT team has set benchmarks and goals for these schools to teach state-approved consistent strategies and texts.
  - 17.2 SAIT required re-training of teachers and principals in implementing consistent instructional methods that teach to state standards and use state compliant texts.
  - 17.3 In 2006, a District Alternative Governance (DAG) committee was formed and charged with investigating reasons for failure at seven of the lowest performing schools. The seven schools selected were Freedom, Hall District, Mintie White, Ohlone, Starlight, E.A. Hall, and Rolling Hills. In those seven schools, the DAG committee found instructional methods, texts and materials being used that were inconsistent and did not meet state standards. (See SAIT findings above.) Actions were implemented to institute the Nine Essential Program Components required by the state to remedy the inconsistencies and failure to meet state standards in those seven schools. In 2006, the SAIT team established a timeline for implementation and made assignments for accomplishment beginning in early 2007.

18. Some of the training efforts prescribed by the DAG have met with difficulty. Some of the teachers and principals report they have been unable to go to trainings because there are not enough substitutes to teach their classes. Those who have not been trained cannot use the state-compliant strategies and texts in their classrooms.
19. In all the low achieving schools, there is a large population of students for whom English is a second language. According to an extensive review of the district's bilingual programs called the Gold Study, adequate quality instruction and consistent goals and implementation of a language learning system were not in place as of February 2007.
20. Expensive educational materials from America's Choice are not being used or have been deemed inappropriate. There are boxes of expensive texts — some not even opened — in school storerooms, which the teachers choose not to use in their classrooms.

## **F. The Zone System**

21. The Pajaro Valley Unified School District is divided into three geographical zones, each of which is managed by a Zone Assistant Superintendent. A lack of support and communication between district personnel and zone management has been reported.
  - 21.1 Teachers, principals and support staff expressed a lack of support from their Zone Assistant Superintendent. However, the North Zone interviewees expressed less concern than the South and Central Zone interviewees.
  - 21.2 Interviewees from all three zones indicated they had never received a clear explanation of the functions of the Zone Assistant Superintendent.
  - 21.3 Teacher and support staff interviewees reported they have spoken with their Zone Assistant Superintendent primarily when dignitaries or evaluators from outside the district were visiting the school.
  - 21.4 Interviewees said that the lack of communication and support from the district contributed to low morale and an opinion that the district did not know and had little concern for the challenges in the classrooms.
  - 21.5 The Gold Study and the 2004 Management Audit Study found that the Zone Assistant Superintendents make their own decisions with little or no board oversight. In effect, the zones act as small school districts without a board of trustees.
  - 21.6 Zone meetings are poorly publicized, resulting in parts of the community not knowing or being able to express concerns affecting their schools. No minutes or agendas are kept or published of these meetings.
  - 21.7 Although school board members occasionally attend zone meetings, they are not required to, nor do the Zone Assistant Superintendents who preside

over the meetings thoroughly report back to the board the concerns raised or the issues discussed in the meetings.

- 21.8 The Zone Assistant Superintendents may have discussed zone meetings with the superintendent. However, no record is kept of these discussions. Therefore, there is no way to determine if issues are being adequately addressed or resolved, and no way for the board to participate or provide oversight.
22. Several demographic differences exist between and within zones.
  - 22.1 The current North Zone system has significantly different socio-economic demographics than the other two zones. Under-achieving students have become the norm in the schools of the South and Central Zones. They have been achieving scores averaging at least two years below grade level for all of the years examined. However, the grade level and achievement scores of most of the schools in the North Zone have been significantly higher and appear to be climbing every year.
  - 22.2 There is a significant difference in the available per-student categorical funds and enhancement money available to South and Central zones to the exclusion of the North Zone. Because of the disparity of categorical funds to North Zone schools, those students who need English learner assistance in the North Zone — a small population of students — get far less assistance than students of the same language acquisition status who live in South or Central Zones.
  - 22.3 According to the audit study, the North Zone “does its own thing,” and the stakeholders interviewed believe that the district has agreed not to interfere.
  - 22.4 Those interviewed from the North Zone were aware of the fact that South and Central Zones receive substantially more money per student due to state and federal funding for the impoverished and under-performing schools.
  - 22.5 According to the management audit, zone meetings are evaluated by the parents as more important than board-level meetings because the board does not know the concerns from any one particular zone.

## **Conclusions**

### **A. The Appearance of a Conflict of Interest on the Part of the Superintendent**

1. The superintendent's actions in the purchase of America's Choice materials appear to have violated the district's ethics policy concerning conflict of interest. However, since the district's ethics policy is undated, it cannot be determined if it was in place at the time these actions were undertaken.

### **B. The Board's Fiscal and Management Oversight Responsibilities**

2. The board failed to perform proper oversight of the district budget.
  - 2.1 Various board members did not know or understand the budgets and amendments well enough to make informed opinions of their accuracy or justifications.
  - 2.2 The board's lack of oversight in reviewing the budgets and amendments may have resulted in unnecessary expenditures of large sums of money.
3. The board failed to perform proper oversight of district expenditures. The packet information the board receives is too loosely organized to assure the board they are reviewing all of the purchases or disbursements for a given period.
4. The board's inadequate oversight may have resulted in undiscovered inappropriate or imprudent spending over the past five years.
5. A reasonable explanation has not been offered for why the process of hiring a full-time superintendent has been slow.

### **C. Allegation of Brown Act Violations**

6. The actions of the board on January 17, 2007 in closed and open sessions did not comply with the spirit — if not the letter — of the Brown Act because the two intended actions were not clearly described on the agenda.

### **D. The Board's Oversight of School Construction Projects**

7. The PVUSD Board did not provide sufficient oversight of construction expenses.
  - 7.1 The PVUSD Board signed off on two Certificates of Participation (COP) totaling \$12.5 million at the cost of several million dollars over six years. Using Certificates of Participation is not cost effective. Other districts in California have gotten into trouble using COPs because they could not pay them back.
  - 7.2 The board should have consulted with the City of Watsonville and conducted an in-depth feasibility study on the impact to the community of building the high school in the current location. The new site not only



incurred cost over runs due to unanticipated problems, but it does not provide adequate sports and cafeteria facilities for the students. Nor is there room for a facility that was planned for the safe storage of materials for chemistry classes.

8. The cost of the architect is probably justified because the plans were changed so many times. The architectural firm, however, may have some responsibility for the mold situation if their design did not provide adequate ventilation for a building so close to the wetlands.

## **E. The District's Management of Instructional Programs**

9. The Pajaro Valley Unified School District superintendent and assistant superintendents have failed to provide leadership, rigorous standards, and management of instructional programs.
  - 9.1 The intervention of the state's School Assistance and Intervention Team (SAIT) at H.A. Hyde Elementary and Pajaro Middle schools reflects on the district's mismanagement of these schools.
  - 9.2 The texts previously used in the classrooms, before the SAIT intervention, were inappropriate, and the money was misspent. Those texts were found to be inconsistent with quality instructional delivery.
  - 9.3 The District Alternative Governance committee has had to assume district management's role of managing the seven schools in jeopardy of needing state intervention.
  - 9.4 There are approximately 10 other schools in the district with many of the same inconsistencies and non-compliance problems as those addressed by the District Alternative Governance committee and SAIT.
  - 9.5 Every day that quality English language learner instruction is not being delivered in PVUSD classrooms means these students are falling further behind. The Gold Study of 2007 clearly indicates the failed management of this vital area of instruction for PVUSD students.
  - 9.6 The current district leadership has demonstrated poor management of the schools in the following areas:
    - o Lack of consistent and effective teaching strategies.
    - o Lack of achievement benchmarks and failure to rigorously pursue attainment of those benchmarks.
    - o Failure to empower and support good teachers and provide quality, state-approved texts.
  - 9.7 The results of poor school management are reflected in the fact that students are failing to achieve grade level goals.

## **E. The Effectiveness of the Zone System**

10. The Zone System is failing as an effective management organizational structure.
  - 10.1 The current zone system promotes de facto cultural and racial segregation. If it is desirable to keep the Zone System, efforts must be made to encourage cross zone collaboration of students.
  - 10.2 The practice of not documenting zone meetings results in a lack of communication to the entire board about issues the community raises in zone meetings and a lack of total community awareness of problems and solutions that all zones are encountering.
  - 10.3 The two-level governing process (district and zone) contributes to inconsistencies in practices, poor communication, a lack of accountability, and a lack of awareness of the total district by the board. Board failure to provide oversight is the result.

## **Recommendations**

1. Since it is unknown when the district's ethics policy was enacted, the board must determine if the superintendent's actions concerning the purchase of materials from a former employer were in violation of policy. Addressing this issue will contribute to the credibility of the board and engender confidence from the community.
2. The board needs to develop a comprehensive fiscal oversight policy.
  - 2.1 The board should develop reasonable criteria for maintaining fiscal oversight responsibilities and perform oversight by diligently reviewing purchase orders and disbursements that meet designated dollar totals and/or determine other criteria for oversight.
  - 2.2 The board must be sure it is reviewing disbursements from all funds for which it is responsible; this review must include — but is not limited to — disbursements from categorical and grant funds.
  - 2.3 Any consultant fees from any fund should be reported to the board in the same timely manner as other disbursements.
  - 2.4 The annual independent audit should verify that the board has been made aware of all consultants' fees.
  - 2.5 The board should place in the Independent Audit Scope a provision that the Independent Auditor will ascertain that all expenditures and purchases requiring board oversight were, in fact, presented to the board in a clearly defined format and were timely, complete and accurate.
  - 2.6 A Fiscal Crisis and Management Assistance Team (FCMAT) study for the period 2002-2007 should be contracted to determine if all operational and instructional expenditures and disbursements were appropriate and prudent. The board should take any actions necessary to resolve problems uncovered by the study.

- 2.7 The board should examine the educational and financial value when approving large or multiple-year contracts for licenses or services, regardless of which taxpayer funds are allocated to pay for them.
- 2.8 One of the highest priorities of the board should be safeguarding the taxpayer monies.
- 2.9 The board must be vigilant in the following areas:
  - assuring the delivery of quality education to all the students, including knowing what educational strategies are being delivered.
  - overseeing the superintendent and requiring adherence to goals and benchmarks needed to achieve district responsibilities.
  - maintaining open communication with students, community and parents.
3. The PVUSD Board should take appropriate steps to ensure better oversight of construction projects.
  - 3.1 The district's list of vendors involved in the construction projects should be reviewed and their performance audited. This information about vendors should be made public.
  - 3.2 A Certificate of Participation should only be used in dire financial situations. The board should first consider other methods of financing.
  - 3.3 In future construction, the location should be secured before the district invests in a design project.
  - 3.4 Since the Grand Jury determined that no effective oversight of construction project spending has been done, a Fiscal Crisis and Management Assistance Team study for the period 2002-2007 should be contracted to determine if all construction expenditures were appropriate and prudent. This study would provide a clean slate for the board to institute more prudent oversight of future construction projects.
4. The superintendent needs to effectively manage instruction and implement a consistent plan throughout the district.
  - 4.1 The School Assistance and Intervention Team (SAIT) changes, the District Alternative Governance (DAG) committee recommendations, and those of the Gold Study should be implemented as soon as possible in all the under-achieving schools in the district in order to garner consistency and measurability of the learning benchmarks.
  - 4.2 The Nine Essential Program Components as set by the California Department of Education and used by the DAG team should be instituted in all regular elementary, middle and high schools in the District. A grid plan similar to the one developed by the DAG team should be worked out for each school using the format and benchmarks set by the DAG report and setting early attainment dates. The assistant superintendents and the superintendent should be the primary persons responsible for performing

this task, and the principals and the school staffs should collaborate with one another until all of those benchmarks are set and met.

- 4.3 Those barriers to good education that are management-related — as spelled out in four management studies, the DAG, the SAIT, the Gold Study and the Management Audit Study — should be remedied immediately with assertive, scheduled and measured action by those persons in charge – the superintendent and whatever deputies the superintendent designates. This is a primary responsibility and must not be avoided or delayed by studies and the formation of committees. All of these actions and benchmarks should be in place for the next school year to remove any inconsistencies and failures to teach to approved strategies and goals.
- 4.4 District staff should give a monthly status report of the benchmarks accomplished and the status of those in process with scheduled dates of completion.
  - o Those benchmarks not accomplished within the scheduled dates should be discussed and remedied and new firm dates set for accomplishment.
  - o Those benchmarks achieved and verified should be met with much fanfare. This will contribute to credibility of the board and confidence from the community
- 4.5 In concurrence with the Gold Study, the Management Audit Report and the recommendations of many of the stakeholders, an expert curriculum specialist should be hired immediately and given the responsibility and authority to review the integrity and consistency of the district-wide curricula, texts, standards and teaching strategies.
- 5. The purpose and attendance requirements of zone meetings should be clearly defined. The meetings should be well publicized and accessible to all. Agendas and minutes should be readily available.
- 6. Zone management should establish a uniform method of communicating their deliberations and actions to the board.

**Responses Required**

<i>Entity</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Respond Within</i>
Pajaro Valley Unified School District Board of Trustees	1, 2, 4, 5, 6-9, 10-22	1-6	90 Days October 1, 2007

## **Sources**

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- 2-7-07 Schools chief warns of low expectations, O'Connell: Minority students suffer because of racial bias, *Santa Cruz Sentinel* [O'Connell is State Superintendent of Schools.]
- 2-07-07 DAG Study, *Overview of PVUSD District Alternative Governance Committee Process* as presented to the PVUSD Board February 7, 2007, included in Board Study Packet
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- 2-9-07 PVUSD headed to trial over P.V. High School \$1.5 million mold cleanup, *Santa Cruz Sentinel*
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- 3-27-07 School district employees silenced, Mays says only she can discuss schools with press, public, *Register Pajaronian*

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- 4-22-07 How a School Gets Into and Out of Federal Sanctions,  
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5-25-07	P.V. District in discord over new post, <i>Santa Cruz Sentinel</i> [Regarding the hiring of a deputy superintendent.]
Date unknown	Pajaro Valley Unified School District Board of Trustees Bylaw 9270 'Conflict of Interest'
Date unknown	Government Code 89503, Government Code 81013, The Political Reform Act of 1974; Article 2, Chapter 7
Multiple dates	Warrants, Invoices, Purchase Orders 2003-2006 to NCEE: school years 2003-2004, 2004-2005, 2002-5-2006 Watsonville HS, Pajaro MS, Calabasas ES. Doesn't include travel, personal expenses for training etc.; not audited.

### **Web Sites:**

Center for Public Integrity

<http://www.publicintegrity.org/default.aspx>

Senate Governmental Affairs Committee

<http://www.senate.gov~govt-aff/>

SEC – Securities and Exchange Commission

<http://www.sec.gov/>

COP Information

<http://www.scgi/2001/certpart.htm>

Mays' stormy return to PVUSD

[www.santacruzlive.com/blogs/education/2007/03/27/mays-stormy-return-to-pvUSD/](http://www.santacruzlive.com/blogs/education/2007/03/27/mays-stormy-return-to-pvUSD/)

The Education Innovator, October 25, 2004

[www.ed.gov/print/news/newsletters/Innovator/2004/1025.html](http://www.ed.gov/print/news/newsletters/Innovator/2004/1025.html)



# **Santa Cruz County**

## **Grand Jury**

**Final Report:**  
Section 6  
Special Districts Committee Report

## **A Question of Ethics**

### **Are local agencies complying with new ethics law?**

#### **Synopsis**

The Santa Cruz Grand Jury investigated whether county, city and special district government agencies are complying with a new ethics law, Assembly Bill (AB) 1234. Each agency was asked if staff had taken the required ethics training, if they could provide any written ethics policy, and if they had any comments on the new law. The Grand Jury found complete compliance by all 26 agencies in the county.

#### **Background**

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*"...all power is a trust; ... we are accountable for its exercise."*

— British Prime Minister Benjamin Disraeli

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According to more than a decade of research by the Institute for Global Ethics, most people around the world — regardless of nationality, culture or religion — agree that acting ethically, or doing what is considered good and/or right, is of primary importance. And although they express the concepts in different ways, most people believe that to act ethically means to be compassionate, fair, honest, respectful, and responsible.<sup>1</sup> As elected officials are expected to act in the best interests of the public, office holders should be held to a high standard of ethical behavior. Citizens need to know that government officials not only understand but follow the ethical standards that are required of them. On October 7, 2005, the governor signed Assembly Bill No. 1234<sup>2</sup> into law. Effective January 1, 2006, AB 1234 requires (among other things) that local officials who receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles by December 31, 2006. The requirement applies not only to the governing body of a local agency but also to commissions, committees, boards, or other local agency bodies, whether permanent or temporary, decision-making or advisory. Training must be renewed every two years.

Information and resources have been established by the Office of the Attorney General.<sup>3</sup> On-line training is supplied by the attorney general<sup>4</sup> and the Fair Political Practices Commission (FPPC)<sup>5</sup>. The California Special Districts Association offers a DVD of

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<sup>1</sup> Institute for Global Ethics, <http://www.globalethics.org/about/faq.htm>

<sup>2</sup> California State Senate website, information about AB 1234, [http://info.sen.ca.gov/pub/05-06/bill/asm/ab\\_1201-1250/ab\\_1234\\_bill\\_20051007\\_chaptered.html](http://info.sen.ca.gov/pub/05-06/bill/asm/ab_1201-1250/ab_1234_bill_20051007_chaptered.html)

<sup>3</sup> Office of the Attorney General, Ethics Training Courses for State Officers; hereafter cited as OAG, <http://caag.state.ca.us/ethics/>

<sup>4</sup> OAG. <http://caag.state.ca.us/ethics/>

<sup>5</sup> Online AB 1234 Ethics Training; hereafter cited as Online Training, <http://locaethics.fppc.ca.gov/ab1234/>

ethics training.<sup>6</sup> The Institute for Local Government also provides AB 1234 Compliance Resources.<sup>7</sup>

Online training is free and available to all citizens at <http://localethics.fppc.ca.gov>. The state recommends that a copy of Proof of Participation of Ethic Training is retained in personal records by agencies that fall under this law for at least five years.<sup>8</sup>

As explained in the online course provided by the FPPC,<sup>9</sup> ethics law falls into four categories, each of which relate to certain ethical principles:

- Personal financial gain.
- Personal advantages and perks.
- Governmental transparency.
- Fair processes.

The objectives of the FPPC course are:

- To familiarize you with laws that governs your service.
- To help you recognize when to ask questions of your agency counsel.
- To encourage you to think beyond legal restrictions and provide tools for doing so.
- To help you comply with the state mandatory ethics education requirements.

Among the best practices recommended by the FPPC are:

- Make all decisions with only the public's interests in mind.
- Before you make a decision, carefully consider whether you have a benefit or personal interest in the matter under consideration.
- Consider very carefully whether receiving a particular benefit is worth the risk that someone will try to correlate it with your actions as a decision-maker.
- Assume all information is public or will become public.
- Don't discuss agency business with fellow board members outside meetings.
- Be aware of the kinds of economic interests that can trigger a need to step aside from being involved in a decision.
- Talk with your agency counsel early on to enable him or her to perform the complex analysis required to help you determine whether you will need to step aside from participating in a decision.
- Avoid the temptation to look at public service as an opportunity for financial gain.
- Look at every decision and ask yourself whether it involves a financial interest for you.

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<sup>6</sup> California Special Districts Association website, <http://www.csda.net/>

<sup>7</sup> Institute for Local Government website, <http://www.ca-ilg.org/trust>

<sup>8</sup> League of California Cities, Ethics Law: Reference for Local Officials, [http://www.cacities.org/resource\\_files/25287.ELR2007.pdf](http://www.cacities.org/resource_files/25287.ELR2007.pdf)

<sup>9</sup> Online Training, <http://localethics.fppc.ca.gov/ab1234/>

- Comply with legal reporting requirements on your Statement of Economic Interests (threshold: anything \$50 or more from a single source over a calendar year).
- Avoid exceeding the annual gift limit of \$360.
- Know when you need to disqualify yourself in matters involving a person who has given you \$360 in gifts over the preceding 12 months.
- Know what kinds of gifts are prohibited, not just limited.
- Ask the value of all gifts so you can track and properly report them.
- Avoid perks and the temptation to rationalize about them.
- Be guided by principles of fairness and merit-based decision-making in contracting decisions.

## **Scope**

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*“Even the most rational approach to ethics is defenseless if there isn't the will to do what is right.”* — Alexander Solzhenitsyn

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The scope of this investigation was to determine if government agencies in Santa Cruz County were following the requirements of AB 1234 by taking the online course or the classroom training. In November 2006, the Special Districts Committee of the Grand Jury mailed questionnaires to local government agencies that fall under the requirement to comply with AB 1234.

This questionnaire consisted of the following questions:

- Has your organization met the ethics training requirements of AB 1234?
- If yes, how and when did you accomplish this task?
- If no, what is your plan to obtain training? Note that this must be accomplished by December 31, 2006.
- How did your organization find out about AB 1234?
- If you have a written ethics policy, please submit it with this survey.
- Do you have any additional comments about AB 1234?

## **Findings**

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*“Relativity applies to physics, not ethics.”*

— Albert Einstein

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1. The Grand Jury received verification of compliance of AB 1234 from these agencies:
  - Santa Cruz County:  
Davenport Sanitation District, Freedom Sanitation District, Graham Hill Rd. County Service Area, Pajaro Storm Drain Maintenance District, County Flood Control & Water Conservation District, County Sanitation District, Solid Waste Disposal District, County Service Area Manager
  - Cities:  
Santa Cruz, Scott Valley, Capitola, Watsonville
  - Water Districts:  
Scotts Valley, Soquel Creek, San Lorenzo Valley, Pajaro Valley
  - Fire Protection Districts:  
Central, Pajaro Valley, Zayante, Aptos/La Selva, Ben Lomond, Scotts Valley, Boulder Creek, Felton
  - Salsipuedes Sanitary District
  - Pajaro Valley Cemetery District
2. The County Administrative Office reported to the County Board of Supervisors outlining requirements of AB 1234, who then directed all county department heads to comply.
3. All county employees are subject to the provisions of Government Code Section 1126, et seq., Santa Cruz County Code Section 3.40 and Section 173 of the County Personnel Rules and Regulations regarding incompatible activities.
4. The County Board of Supervisors directed the Personnel Department to maintain records of training completed by officials.
5. Special district agencies learned of ethics training requirements from counsel, district associations and financial auditors.
6. Seven agencies provided their written ethics policies.
7. Most county officials opted to take the ethics course online.
8. At least four special district agencies had staff who took an online ethics course.
9. Three agencies staff received training from their independent auditors.
10. Five identified legal counsel as providing training.
11. District Association meetings provided training classes to at least eight agencies.

12. Two agencies reported the training was helpful and informative.
13. One agency commented that state officials would benefit from this training.

## **Conclusion**

The agencies in Santa Cruz County are complying with AB 1234 by participating in ethics training and developing policies to comply.

## **Commendation**

The Santa Cruz County Grand Jury thanks all county agencies for responding to our survey and complying with AB 1234.

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*“The government is merely a servant — merely a temporary servant; it cannot be its prerogative to determine what is right and what is wrong, and decide who is a patriot and who isn't. Its function is to obey orders, not originate them.”*

— Mark Twain

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## **Sources**

- Responses to Grand Jury questionnaire by 26 county agencies
- Web sites:
  - Institute for Global Ethics  
<http://www.globalethics.org/about/faq.htm>
  - California State Senate  
[http://info.sen.ca.gov/pub/05-06/bill/asm/ab\\_1201-1250/ab\\_1234\\_bill\\_20051007\\_chapterd.html](http://info.sen.ca.gov/pub/05-06/bill/asm/ab_1201-1250/ab_1234_bill_20051007_chapterd.html)
  - Office of the Attorney General  
<http://caag.state.ca.us/ethics/>
  - OnLine AB 1234 Ethics Training  
<http://localethics.fppc.ca.gov/ab1234/>
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  - Institute for Local Government  
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# **Santa Cruz County**

## **Grand Jury**

### **Final Report:**

Section 7  
Instructions for Respondents

## Instructions for Respondents

Key provisions of Penal Code § 933.05 require that responding officials or governmental entities must specifically comment upon each finding and each recommendation of the Grand Jury Report, rather than preparing a generalized response. Each published finding must be acknowledged by the respondents as correct or incorrect. Explanations for disagreements must be provided. Please use the format below to prepare your response. The full text of Penal Code § 933.05 is provided below.

### ***Response Format***

1. Provide the title and page number from the original report.
2. Provide the date of the response.
3. Quote the text of the original finding.
4. Respond to the finding indicating if the entity:
  - AGREES
  - PARTIALLY AGREES
  - PARTIALLY DISAGREES
  - DISAGREES
5. If the entity partially agrees or disagrees with the finding, specify the area of disagreement in the finding and include an explanation.
6. Quote the text of the original recommendation.
7. Respond to the recommendation indicating if the recommendation:
  - has been implemented;
  - has not yet been implemented, but will be implemented in the future, with a time frame for implementation;
  - requires further analysis with an explanation, scope, parameters and the time frame for completion which should not exceed six months; or
  - will not be implemented because it is not warranted or is unreasonable, with an explanation.
8. Respond to each report in a separate document or separate pages of one document to allow the easy distribution of the responses to the various committees.
9. For an example, see Response Report to the 2005-2006 Santa Cruz County Grand Jury Final Report: <http://www.co.santa-cruz.ca.us/grandjury>.
10. An electronic version of the report in Microsoft Word format is available for the respondents to use to create their response report. To request an electronic copy of the report, send e-mail to: [grandjury@co.santa-cruz.ca.us](mailto:grandjury@co.santa-cruz.ca.us).

11. If you have questions about the response report, please contact the Grand Jury by calling (831) 454-2099 or by e-mail – [grandjury@co.santa-cruz.ca.us](mailto:grandjury@co.santa-cruz.ca.us).

### ***When to Respond***

A table indicating which entities are required to respond follows each report. This table also includes the corresponding finding and recommendation numbers requiring a response and the number of days each entity has to respond. Responses from elected officials or administrators are required no later than sixty (60) days from the publication of this report. Responses from the governing body of any public entity are required no later than ninety (90) days from the publication of this report.

### ***Where to Respond***

Please send one hard copy of the response to the presiding judge at:

The Honorable Judge Paul Mariganda  
Presiding Judge  
Santa Cruz Superior Court  
701 Ocean Street  
Santa Cruz, CA 95060

Please send an electronic version of the report in Microsoft Word format to the Grand Jury. Send the electronic version of the report via e-mail to: [grandjury@co.santa-cruz.ca.us](mailto:grandjury@co.santa-cruz.ca.us). Sending the electronic version of the report to the Grand Jury expedites the process of producing the response report.

### ***Penal Code § 933.05***

- 1) For purposes of subdivision (b) of § 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
  - a) The respondent agrees with the finding.
  - b) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- 2) For purposes of subdivision (b) of § 933, as to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
  - a) The recommendation has been implemented, with a summary regarding the implemented action;
  - b) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation;
  - c) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department

- being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report; or
- d) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
  - 3) However, if a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county department headed by an elected officer, both the department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected department head shall address all aspects of the findings or recommendations affecting his or her department.
  - 4) A Grand Jury may request a subject person or entity to come before the Grand Jury for the purpose of reading and discussing the findings of the Grand Jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
  - 5) During an investigation, the Grand Jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the Grand Jury, determines that such a meeting would be detrimental.
  - 6) A Grand Jury shall provide to the affected agency a copy of the portion of the Grand Jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

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