



STANISLAUS COUNTY CIVIL GRAND JURY

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CORRESPONDENCE I

2007-2008

GRAND JURY MEMBERS

JUDITH C. MAHAN, FOREPERSON

June 26, 2008

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Thomas Mayfield
Chairman
Stanislaus County Board of Supervisors
1010 10th Street, Suite 6500
Modesto, CA 95354

Supervisor Mayfield:

Two working days prior to its release to the public, the Civil Grand Jury is providing you and/or your agency the attached copy of the portions of the grand jury report relating to you or your agency. You or other affected people may review this but the Penal Code prohibits you from disclosing any contents of the reports prior to its public release.

Your response to the recommendations must be submitted to Presiding Judge Donald E. Shaver, Superior Court - Stanislaus County, P. O. Box 3488, Modesto, CA 95353. We are enclosing guidelines that may be helpful as you prepare your response. You are asked to submit an original hard copy and an electronic copy.

Sincerely,

Judith C. Mahan
Foreperson

Attachments - Reports 08-25 and 08-27

BOARD OF SUPERVISORS
2008 JUN 26 A 10:20

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STANISLAUS COUNTY CIVIL GRAND JURY
2007-2008

CASE # 08-25

CORRECTIONAL FACILITIES INSPECTIONS

BOARD OF SUPERVISORS
2008 JUN 26 A 10:20

SUMMARY

Annual inspections of custodial facilities are mandated by The California Penal Code, Section 919 (b). The Stanislaus County Civil Grand Jury did not initiate these investigations as a direct or an indirect result of a complaint filed by any person.

The methods of investigation included:

- On-site visits with tours through each facility by members of the Stanislaus County Civil Grand Jury.
- Communication between the Stanislaus County Civil Grand Jury's Planning, Building, and Property Committee and the supervisors of the various facilities in the county.
- On-site conferences with selected members of each facility's staff.
- Examination of pertinent publications provided by the Stanislaus County Sheriff's Department staff and Probation Department staff.
- Examination of County of Stanislaus Public Safety Services Master Plan, June 2007, Executive Summary. This plan refers to the 1988 Jail Needs Assessment and Master Plan.
- Examination of County of Stanislaus Sheriff's Department's Jail Needs Assessment, June 2007, Executive Summary.
- Examination of Stanislaus County Probation Department's Juvenile Commitment Facility Needs Assessment, April 2008, Executive Summary.

Four facilities were inspected in March 2008: the Main Jail, the Public Safety Center, the Probation Department's Juvenile Facility, and the Sheriff's Honor Farm. These custodial facilities, for the most part, are generally managed well and in reasonably good condition with exception of the Main Jail and portions of the Honor Farm, which show clear signs of age.

As a result of these investigations, various findings were developed.

The Main Jail is crowded and outdated. Staff work areas as well as custodial sections are in noticeably poor condition. The entire facility should be replaced. Replacement of this facility was recommended in the 1988 Jail Needs Assessment and Master Plan.

The Public Safety Center is in good condition but becoming crowded.

The Juvenile Facility is in good condition but needs expansion to handle the longer-term wards it is housing. In addition, the County needs to establish a separate long-term

commitment facility at that location to separate sentenced (commitment) wards from unsentenced (court-process) wards.

The Sheriff's Honor Farm is crowded and some sections are in poor-to-fair condition. Replacement of this facility was recommended in the 1988 Jail Needs Assessment and Master Plan. The Honor Farm needs a backup generator to handle power outages in winter.

Staffing levels should be evaluated and increased as necessary for staff and inmate safety. Increased advocacy for youth in the Juvenile Facility as a preventive measure should be proactive rather than reactive. It is the opinion of this Grand Jury that there is greater advocacy for animals in Stanislaus County than for children.

INTRODUCTION

The Stanislaus County Civil Grand Jury is mandated by California Penal Code Section 919(b), "to inquire into the condition and management of the detention facilities within the county." The mandate for these inspections is a part of the overall need to ensure that public agencies are properly serving the County and its citizens.

This mandate has been widely interpreted by past grand juries to range from simple visits to one or more of the facilities within their jurisdiction with a brief report as to the condition of those facilities to very detailed inspections of specific aspects of a facility's operation. This is, of course, in addition to the need to conduct investigations brought to any California Civil Grand Jury by a citizen, a person in custody, or a custodial staff member.

Custodial facilities are an unfortunate component of public service agencies. Aspects of their missions include:

- Public safety – keeping lawbreakers and dangerous individuals away from the general public
- Education and guidance – attempted re-education of offenders
- Individual safety – keeping various groups of offenders away from each other
- Law enforcement and justice – providing appropriate incarceration facilities as needed.

To properly fulfill their missions, these public service agencies need adequate, dedicated, and trained staff, and appropriate structural facilities. The 2007-2008 Stanislaus County Civil Grand Jury chose to focus on the physical facilities of the local correctional system, and inmate and juvenile ward programs.

METHOD OF INVESTIGATION

Members of the 2007-2008 Stanislaus County Civil Grand Jury met and discussed the extent to which the facilities within Stanislaus County should be inspected and evaluated. The members then refined the scope and level of detail to which those inspections should extend.

The following areas were selected for review:

- Issues related to inmate, ward and staff safety
- Programs such as educational and recreational opportunities
- Medical care
- Inmate and ward classification
- Meals, visitation, and family contact
- Adequacy of the facilities/work spaces for administrative functions
- Overall condition of the facilities
- Effectiveness of the facilities to handle staff functions and the inmate and ward populations
- Staffing loads

The Stanislaus County Civil Grand Jury requested and was provided with safety inspection reports for all facilities for the past two years. Appointments were made with the various jail managers for on-site visits by the members of the Stanislaus County Civil Grand Jury.

Members of the Stanislaus County Civil Grand Jury made personal visits to the four facilities located within the county: the Main Jail at 1115 H Street in downtown Modesto; the Public Safety Center, 200 E. Hackett Road just south of Modesto; the Probation Department's Juvenile Facility, 2215 Blue Gum Avenue near the MJC West campus; and the Honor Farm, 8224 West Grayson Road. These inspections occurred during the week of March 3-7, 2008.

FACILITY DISCUSSIONS, FINDINGS AND RECOMMENDATIONS

Main Jail Facility

Report on Main Jail Facility

Physical plant and general safety

The Main Jail was built in 1954 to house 396 inmates. The structure predates the Americans With Disabilities Act (ADA) requirements. The overall condition of the facility was between poor and good, considering its age. The walls, floors, and windows appeared clean. However, there are apparent leaks, as many of the walls have water stains. There was standing water in some of the halls, particularly on the second and third floors. Plastic coverings of interior fluorescent ceiling lights are yellowed, making the lighting dim. Cables from outlets to the portable telephone carts (low-voltage) were lying on the floors in a manner to constitute a tripping hazard. In addition, severed cables were noticed. Further, these cables appeared to be vulnerable to inmate access as possible weapons. Some of the walls appeared to be in need of paint. The second floor medical room had paint peeling from the ceiling. The booking entry area was clean, apparently having been freshly painted. All areas were clean and free of trash.

Some safety signage needs replacement or refurbishing, as it was difficult to read. Exit signage appears adequate, given the age of the building. Some fire door signage was worn off in the inmate workers' quarters.

Building plans were maintained on site with two sets in the lieutenant's office and one in maintenance.

The back-up generator was located near the maintenance shed and is tested monthly.

Fire drills: Run-throughs are done per policy and procedures, on paper, as it is impractical to do any real tests due to security issues. Evacuation locations are the tunnel to courts, the inmate workers' quarters, and the sally port entrance to the facility.

Fire safety items (fire extinguishers, hoses, etc.) were clearly marked and appear to be adequate per applicable codes. Smoke detectors and fire extinguishers were available.

Contained breathing equipment is located throughout facility and tested yearly; the staff is trained to use it. The equipment is used to evacuate prisoners in case of fire.

Staff Working Conditions

The administration/staff areas appeared clean and neat. The walls in some areas looked old and in need of paint. The offices, some of which are used for booking, classification, supplies, medical treatment, etc. appeared adequately maintained. Some staff duty stations appeared neat but physically cramped – not allowing sufficient space for staff to conduct work tasks. Medical offices appeared cramped. Staff expressed need for more storage for files and inmate property.

A shortage exists per staff comments: current staffing level is 2 per 150 inmates.

Staff was cordial and very cooperative to all our queries.

Inmate Housing and Processing

About 35-50 male inmates are admitted daily. Normal length of stay is one year, or less, with some exceptions. Minimum Security sections consist of 12-man dorms and 1- or 2-man cells. Inmates are classified according to attitude and behavior, and any background abnormalities.

At the inmate entry area, officers store their guns in locked boxes and arrestees are searched.

Booking instructions are posted on the wall. Booking – Pre-booking area has a fingerprint scanner that provides information to determine if an arrestee is currently in the system. Post-booking area – The inmate waits until an officer comes to continue booking. Inmates with what may be considered lightweight charges are "cited out" with a court appearance date. If an inmate is not considered sober, the inmate is placed in the sobering cell until he is coherent and cooperative. Inmate is visually observed every 15

minutes around the clock, and is given an arousal check every 30 minutes. An inmate's personal property is placed in the property drawer in sealed bag, after being listed, and the list is signed by the inmate and the booking clerk. Each new inmate is stripped and searched and issued a color-coded suit, based on initial pre-classification, then placed in a temporary cell until classified. Inmates are classified within 12 hours, and reclassified after 30 days or upon request and after 60 days

Inmates displaying good behavior have a chance to work in the kitchen and janitorial jobs. About 62 inmates work in this capacity and are housed near the kitchen in a "dark room" for inmates that work the graveyard shift and a dorm-style room known as the Inmate Workers Quarters. A common area has restrooms, separate showers and sitting room with tables and chairs, phones and television. The area was clean with minimum odor. These inmates are given extra food and other benefits as an incentive for work and good behavior.

A cell is provided on the first floor for sight-impaired or physically handicapped individuals. Alternatively, these inmates might be sent to the Public Safety Center.

In the cell management scheme, all cells are searched with one or two cells being randomly selected for search per shift.

The first floor unit has two safety cells with padded walls. Inmates placed here are evaluated every four hours by medical staff. Every safety cell is checked every 15 minutes. Handicapped inmates would stay on the first floor level. The second floor is permanent housing for medium security inmates and the third floor is for maximum security inmates. Monitors display all areas on the floor that can be video monitored; however, cameras do not view into cells, per privacy laws.

There is a tunnel from the jail to the courthouse. There are holding cells located in the tunnel near the courthouse entrance for inmates waiting to appear. Usually, 70-100 inmates per day are handled here. All Stanislaus County adult detention facilities bring inmates to this area for court appearances.

The visitor foyer is clean and well marked, with locked boxes available for visitors. Inmates are allowed two half-hour visits per week.

Inmate Medical Care

All incoming inmates must complete a medical questionnaire – this is the collection point for inmate-declared medical issues. After this, field officers and jail staff share information regarding observed medical issues, psychological issues, etc.

The 2005-2006 Stanislaus County Civil Grand Jury made several recommendations for revisions to the medical screening process as the result of a complaint filed by an arrestee. It appears that all of these recommendations have been put in place and current staff feels that the issues brought up in that investigation have been resolved.

Any inmate displaying any warning signs of suicide is placed in a padded, safety cell, and observed twice every 30 minutes. These inmates are evaluated by medical staff every 6 hours. Inmates with an infectious or communicable disease are isolated in a cell (or, possibly transported to Doctors Hospital) and a public health officer is notified. There is a medical office on each floor, located next to locked staff area. There is a defibrillator located on the control floor. The dental office is rather austere. No preventative dentistry or hygiene is provided. Some cases are referred out.

Inmate Programs

As inmates are charged for telephone use, all telephone income is used to benefit inmates through the Inmate Welfare Fund (for television, etc.). There are outdoor exercise areas on the roof, which are divided into two areas with a separate area for two staff members. The area appeared to be adequately maintained and well supervised. Staff stated that many inmates do not take advantage of this recreation facility. This area is open all year from 6:00 a.m. until 10:00 p.m. Inmates are allowed three hours of recreation per week in two or three sessions. Inmates are provided with General Education Development (GED) programs. There is a law library on the third floor with reference material, however all books remain in the library.

Kitchen

The food preparation area appeared clean. All food is prepared at the central kitchen in the Public Safety Center and then transported to the downtown site. Most food is heated on-site, then distributed on carts and served to inmates. Trash was bagged and placed in proper bins.

Findings for Main Jail Facility

The Stanislaus County Civil Grand Jury finds the following:

- 1] The staff does a good job with order and cleanliness considering age of facility and size constraints. Medical offices appeared cramped. Storage areas for inmate property are crowded. Cell areas are very crowded.
- 2] There were wet floors, with standing water, in the outside aisles of the second and third floors.
- 3] Low-voltage cables from outlets to the portable telephone carts were draped over the floors in a manner to constitute a tripping hazard. In addition, there were severed cables on the floor. Further, these cables appeared to be vulnerable to inmate access for use as weapons.
- 4] Some staff duty stations appeared physically cramped – not allowing sufficient space for staff to conduct work tasks.
- 5] Additional staffing is needed.

Recommendations for Main Jail Facility

1] Include the following items in designs for a new facility – and proceed with the construction of that new facility:

- Larger staff work areas: medical offices, cell-floor duty stations
- Larger inmate property storage areas
- Larger inmate housing areas

Replace this facility as recommended in the 1988 Jail Needs Assessment and Master Plan.

2] Improve housekeeping to eliminate the water standing on the floors.

3] Use cable spools to contain loose cables. Remove or repair severed cables.

4] Digitize as many records as possible to save storage space.

5] Evaluate operation and expand staffing to fill appropriate vacancies. The Jail Needs Assessment, June 2007, recommended a number of staffing increases as shown in Section G, pages G.1-G.2.

Facility escort staff
Correctional officers in Central Control

Sheriff's Public Safety Center

Report on Public Safety Center

Physical Plant and General Safety

The facility is in overall excellent condition; it was built in 1993. The walls, floors, and windows are clean and well maintained. Some areas are carpeted and most furniture is in good shape. The halls are wide with good lighting. Many areas have skylights. No offensive odors were detected. The public areas have adequate restrooms and drinking fountains. Sprinkler systems are apparent throughout.

The general grounds are almost "park-like." The buildings are situated in a large open area. There is ample parking and the areas appear clean and well lit. Stanislaus County owns the land and has long-range plans for expansion.

Building plans are kept on-site in the Master Control Room, Unit B. There is a backup generator near the food preparation building. Fire drills are performed according to existing policies and procedures. There is plenty of secure outside space to evacuate inmates. Breathing apparatus and other fire safety/life safety equipment appears adequate and up to standards. Exits are clear. The building signage appears up to applicable code.

The visitor foyer is clean and freshly painted. A display case listed prisoners' names and housing locations. Locked boxes are available for officers' guns as well as lockers are available for visitors to store personal belongings during visit.

The Intake Area is currently under review for some re-design.

Staff Working Conditions

The administration/staff areas are clean and well equipped. The furniture is in very good shape and the areas have ample lighting.

The operating staff consists of 23 sheriff deputies for 680 inmates. One officer in a central control room controls the entire facility. In addition, two officers are stationed in the B Unit control center, which surrounds the main control room.

Staff comments that the facility is understaffed; the operation needs the staff doubled for safety and thoroughness. Overtime usually amounts to 8-12 hours per shift.

Inmate Housing and Processing

Intake Area - Only female inmates are booked here. Bookings average 45 per day, or about 12-14 per shift. Males are not booked at the Public Safety Center, but are received via the main jail or Honor Farm transfer. There is a common area for non-disruptive inmates to wait for booking. There are two holding cells for disruptive inmates and one "sobering" cell for inmates under the influence of drugs or alcohol. Inmates placed in these padded cells are checked every 15 minutes. Each incoming inmate is provided two free telephone calls within two hours of intake. Inmates being admitted are fingerprinted, photographed, searched, and issued a color-coded uniform, depending on their classification.

B Unit – The Master Control Room is located in a raised, secured, glass-walled room in the center of this unit. The control room is surrounded by locked areas dividing inmates. This unit houses inmates with mental health issues as well as other problematic inmates. Cell doors are solid, as these inmates tend to spit and throw body fluids at staff. Regarding inmates housed in B-Unit, staff feels that mentally unstable inmates should not be housed in a jail facility, as they are unpredictable and dangerous. Manageable inmates can leave their cells and recreate with the group in an area outside and in front of their cells. Inmates are allowed three hours per week to exercise. Those who exhibit poor behavior can only come out and exercise individually. There is one safety cell in this unit, as well as a visitor room. Another section is provided for problem inmates.

The maximum length of stay in this facility is one year per conviction.

The restraint chair is a device used to subdue an out-of-control inmate without the risk of choking. A prisoner in the "chair" is checked every 15 minutes. Constraining an individual in this manner is very staff-intensive.

The facility is divided into units, and inmates are assigned to a unit by classification. Each unit houses 86 inmates with 1 staff member. Each unit has a recreation area and six showers. One unit is handicapped-compliant. Inmates are provided GED opportunities, drug counseling, and access to clergy.

Video Court – An inmate can opt to be arraigned by this method. There is a room equipped with a TV monitor and camera wherein arraignment occurs.

There is the Minimum Housing Unit – a separate building – on the property. The housing building is divided into two areas. Inmates have access to a common area within each enclosure. The common area has game tables, telephones, restrooms and showers. Inmates can recreate outside this unit in a separate exercise area.

There is a Visitor Center building near this Minimum Housing Unit where visits are allowed on Saturday and Sunday; each inmate gets two 30-minute visits per weekend. The visitor room is one large area with double rows of chairs that face each other, two or three feet apart. Visitors are pre-qualified (screened) by staff before admittance.

Inmate Medical

This facility has a medical isolation room for inmates with tuberculosis. At intake, the inmate's Medical Questionnaire is used to determine medical issues, contagious ailments, or psychological issues, whereupon medical staff meets with the inmate and the inmate is given a thorough work-up. There is a nurse on the premises as well as a physician on shift and on call.

Inmate Programs

The outdoor exercise areas are extensive. They include both cemented and grassy areas. The location of this facility creates an expansive, very open environment. Inmates are allowed clergy contact, doctor, and lawyer visits. A multipurpose room in each unit is used for these visits.

Food Preparation and Handling

The food preparation building is state-of-the-art and has the capacity to prepare 30,000 meals per day. It provides meals for Stanislaus County and one other county. Stanislaus County is currently in negotiations to provide meals to a third county. The kitchen currently makes 5,000 meals per day with a crew of 30 inmates and 12 staff members. The kitchen is very clean, organized, and well maintained. Cost of food is \$5.50 per day per inmate. Special meals are provided on appropriate documentation. All meals are turkey-based, eliminating many problems in accommodating dietary restrictions. A very nice staff cafeteria is part of this facility. This facility is periodically inspected by the Stanislaus County Health Department.

Findings for Public Safety Center

The Stanislaus County Civil Grand Jury finds that:

- 1] A video arraignment program had been implemented, but not utilized to full capacity.
- 2] Staff feels that mentally unstable inmates should not be housed in a jail facility, as they are unpredictable and dangerous.
- 3] Additional staffing is requested. The Jail Needs Assessment, June 2007, recommended a number of staffing increases as shown in Section G, pages G.1-G.2.

Internal facility escort correctional officer

External transportation staff

"B" Control staff (jail command post and inmate supervision)

Minimum Housing Unit staff

Medical security position

CSO positions.

- 4] The facility overall is in excellent condition; it was built in 1993. All visible areas appeared clean and well maintained. No trash was visible.

Recommendations for Public Safety Center

The Stanislaus County Civil Grand Jury recommends the following actions:

- 1] Expand the video arraignment program to include all inmates (to the extent possible). Can this program be made mandatory? This should have several positive impacts on the operation of the Public Safety Center. It would:
 - Reduce staffing needs and possibly reduce under-staffing situations.
 - Save money that is being used for transport vehicle operation and maintenance.
 - Decrease security vulnerabilities at the Public Safety Center because fewer inmates would need to be transported outside the facility.
 - Improve control of combative or abusive inmates who are easier to control when they are not taken outside the facility.
 - Allow the prompt arraignment of inmates who have medical conditions.
- 2] Evaluate the placement of verifiably mentally unstable inmates in this facility.
- 3] Evaluate operations and expand staffing to fill appropriate vacancies.
- 4] Continue good housekeeping.

Probation Department/Juvenile Detention Center

Report on Juvenile Detention Center

Physical Plant and General Safety

Building plans are kept on site. The building was opened in 1978, expanded in 2000 (30 more beds), and again in 2002 (40 more beds); and now has 158 beds. This is the only juvenile facility in Stanislaus County. The building is in good condition, and the facility is clean, trash is properly contained, and no odors were noticed. Exterior doors were well painted; a few interior doors had peeling paint.

There is a back-up generator on site, with two 500-gallon fuel tanks. There are evacuation drills monthly. Wards are evacuated into secure yard areas. Exits were clear, exit signage is good; and appears up to code. Fire safety equipment is contained in secure plumbing chases. Fire extinguishers are adequately placed throughout building.

Staff Working Conditions

Staffing levels are governed by Title 15, which requires one staff member for every ten wards. Staff stated that the booking area is sufficient, but could be re-organized to make the space more efficient.

The staff stated that the greatest need is for a juvenile commitment facility where longer-sentenced wards could be placed for continued care after their initial stay. Stanislaus is the only county south of Sacramento, regardless of size, that does not have such a Commitment Facility. Presently, wards that stay longer than 20-25 days receive recycled facility programs, as that is what the probation department can offer. Programs are repeated every 20-25 days, as that is the current program interval based on the typical ward's expected length of stay. Repeating the program is not effective, and causes boredom. A commitment facility is designed for longer term wards wherein effective counseling, parental counseling, training programs, drug and alcohol programs, vocational programs, agricultural programs, and other intervention programs would be offered. This facility would offer a better chance of "breaking cycles".

The administration continues to request that funds for this commitment facility be allocated by the County CEO and County Board of Supervisors. Presently there are some funding opportunities – such as a grant for 75 percent of building costs from the State of California. If this grant is obtained, the Board of Supervisors might be more willing to provide the amount remaining for this much-needed facility. The County owns 14 acres adjacent to the present Juvenile Detention Center that could be used for this purpose. The facility would be built to house about 90 wards. Much of the infrastructure is already present on the existing property.

Inmate Housing and Processing

About 1800-2000 youths are processed annually at this facility. The population is co-ed, although housed separately. The average stay is 20-25 days and then the ward is usually

released to home, foster care, or group home, and sometimes to other counties for continued care.

Hard cases are sent to Department of Juvenile Justice (the old California Youth Authority).

Unit 1 - Booking: All wards are booked, evaluated by medical staff, and classified within two hours. Each ward gets one telephone call after booking; he or she can repeat the attempt until successful. The ward enters and pertinent information is put in the system. Wards are fingerprinted and photographed and data is sent electronically to Department of Justice for verification. The ward showers and is issued a clean, color coded uniform - orange for maximum security or grey tee shirts with navy blue pants for all other wards. The ward's personal property is placed in blue garment bags and the ward signs-off on the storage. The property bags are locked in a secure area.

Unit 3 - A typical unit: Cells are single, double, or quads. The honor room is larger and awarded to wards with good behavior. The common area between units is used for classrooms. Each room has a call-button for wards to reach the staffed desk. The common area and cells were clean. This unit housed the Intensive Treatment Unit (ITU) for wards with drug and alcohol problems. There is one-to-one counseling for these wards.

Unit 5 - Maximum Security wards.

Unit 6 - Transition Unit, all cells are single cells.

Unit 7 - Special Needs: This unit is for wards with mental health issues, or who are achieving below grade level.

Unit 8 - This unit houses female wards.

Room check is every 15 minutes, facility-wide (every 30 minutes between 11PM and 7AM).

The units have a separate classroom adjacent to the common area. The wards receive 270 minutes per day of instruction time. The Welfare Fund is used for exercise equipment and television. Beds have solid concrete bases. Regular telephone calls are limited to 10 minutes. One cell is handicap-accessible.

The wards are locked in their cells during shift change. Girls are not routinely allowed make-up. Posters are awarded for good behavior. The wards participate in a Behavior Modification Program wherein points are given for good behavior and can be used for TV time, chips and sodas (provided by parents), or more exercise time.

Inmate Medical

Health Services - During initial intake, wards undergo a mental health screening as well as a medical exam. If there is an immediate need for medical treatment, the ward is sent

to Doctors Hospital for medical clearance. Physicals are given within 72 hours of booking. The medication room is locked. The file room must keep wards' health records for 5 years, 10 years for pregnant wards. The facility is staffed by RNs and LVNs, and a physician visits the facility once a day.

Inmate Programs

Exercise - Weekdays, each ward engages in one hour of large-muscle exercise per day; weekends, three hours per day. Wards may recreate outside; there are basketball and volleyball courts, and a BBQ area with tables. The exercise field is surrounded by 16' fencing (8' is anti-climb fence) topped with razor wire.

Clergy and a "Youth for Christ" program are available. Clergy offers one-to-one counseling, Bible study, and church services.

Food Preparation and Handling

Food for the facility is provided by The Howard Training Center in Ceres.

Findings for Juvenile Detention Center

The Stanislaus County Civil Grand Jury finds:

- 1] That there are inadequate juvenile justice, mental health, and vocational programs to properly rehabilitate the sentenced (long-term) wards being housed in the facility. Currently, both sentenced and un-sentenced wards are housed here. The current programs are designed for short-term wards (about 30 days); so long-term wards (60 days or longer) just receive repetitions of the same short programs.
- 2] That the Stanislaus County Juvenile Justice program is a critical element in the overall justice system, and its successful operation is to the immediate benefit of Stanislaus County.
3. That the housing capacity of the Stanislaus County Juvenile Justice facility will have become inadequate by the year 2010. In the Juvenile Commitment Needs Assessment, April 2008, it was previously recommended to add at least 80 beds at this location, to bring the total to 238 beds. This addition would bring the housing capacity in line with the recommendations of that assessment as projected through the year 2010. By the year 2020, the projections showed a potential need for a total of 297 beds, or an additional 139 beds more than currently available.
- 4] Lack of family involvement in offenders' treatment can affect recidivism.

Recommendations for Juvenile Detention Center

The Stanislaus County Civil Grand Jury recommends the following items:

1) Develop longer-term juvenile justice, mental health, and vocational programs for those sentenced wards that serve longer terms (more than 60 days). This could reduce recidivism, boredom, attitude problems, etc.

In the juvenile justice scheme with both a juvenile hall and a juvenile commitment facility, the juvenile hall residents would be un-sentenced wards (pre-adjudication); the commitment facility residents would be sentenced wards (post-adjudication).

2) Develop plans and move forward with the youth commitment facility (youth honor farm) project for housing sentenced wards. This project should have about 90 beds. As the County already owns the land, there is no land acquisition problem in proceeding with this project. The need for this facility is described in the Juvenile Commitment Needs Assessment, April 2008, as an "urgent service gap in the Juvenile Criminal Justice System." (Executive Summary, page EX.2)

Potential benefits include:

- Keeping sentenced wards local, allowing for more family involvement in the rehabilitation process.
- Enhancing family counseling opportunities with local incarceration.
- Separating sentenced wards from court-process wards.
- Allowing for more comprehensive education programs, including vocational programs.

3] Expand the current facility for un-sentenced wards, per the recommendations of the Juvenile Commitment Needs Assessment, April 2008.

4] Strongly advocate for more family-involvement programs – such as whole-family counseling – for all wards. Possibly, even advocate for the courts to mandate such whole-family programs, where possible.

Sheriff's Honor Farm

Report on Sheriff's Honor Farm

Physical Plant and General Safety

The facility was built in the late 1960s and the barracks were added in the early 1970s. The barracks are not ADA-compliant; if remodeled or expanded, the facility would have to be brought into compliance.

Staff Working Conditions

Current staff level is 41, with 2 vacancies. Four more positions are clearly needed, especially on the graveyard shift, the lack of which constitutes a security risk.

The facility needs a reliable generator, as there is no alternative reliable power source available during outages. During power outages, which can be frequent during the winter, the sewer system pumps fail, creating a serious wastewater problem.

Inmate Housing and Processing

The downtown main jail classifies the inmates and then they are sent to the Honor Farm, which houses 360 inmates. The average maximum length of stay is three to seven months. There are three main barracks, with 86 inmates per barracks with a common bathroom that includes toilets, sinks, and showers. There is a security check every hour. An additional barracks is Barracks 4, a medium security unit, mostly housing unsentenced inmates. This is overflow from the downtown main jail. The capacity of Barracks 4 is 90 inmates, with 6 per cell. Barracks 4 is U-shaped, and the inmates' recreation area is an open area in the middle.

Inmate Programs

Inmates work for extra food, a chance to learn a trade, other privileges, and early release credit. All inmates are required to work. Staff is trying to organize a job placement program.

The Inmate Welfare Fund is used for a large screen TV, tractors, etc. The inmates participate in a weekly "Clean Barracks Contest" where the winning barracks gets to choose the movie to be shown on the large screen.

Outside work crews are dispatched from the Honor Farm: an average of 100 inmates participate per day. Half of these crews are supervised by civilians. The inmate crews work on projects for city parks, Department of Forestry, landfill, public works, and roadside cleanup.

Training programs include wood shop, metal shop, greenhouse, and small engine shop. The Honor Farm staff looks for inmates who have skills to match jobs and then offers an apprentice program for other eligible inmates.

There is a large recreation field, fenced with anti climb and razor wire.

There are several intervention programs available to the inmates: - drug counseling, parenting programs, Men in Recovery, T.A.L.K. (Teaching And Loving Kids) a positive-parenting program, Breaking Barriers, and Friends Outside. A chaplain is available.

The Honor Farm has a recycled metal bin, and revenue from sales of metal is returned to the County General Fund. There is an inmate garden where potatoes, corn, onions, and garlic are grown. A safety meeting is held every Monday, where use of tools and general safety matters are covered.

Food Preparation and Handling

Meals are delivered from the central kitchen at Public Safety Center. The Honor Farm keeps three days of food on hand at all times.

Findings for Sheriff's Honor Farm

The Stanislaus County Civil Grand Jury finds:

- 1] That the Honor Farm is generally short-staffed; particularly the graveyard shift.
- 2] That serious sewer problems develop during power-outage situations. This happens frequently during the winter. When electrical power is out for more than a half hour, the sewage system ceases to operate, creating a health hazard. Portable toilet units (Porta-Potties) can be placed in the barracks, but the main sewer problems must still be dealt with separately.
- 3] The vocational skill programs available are limited in scope and depend, to a great extent, on outside donations.
- 4] Some of the Honor Farm buildings are in poor condition.
- 5] Many of the Honor Farm projects result in significant cost savings to the County.

Recommendations for Sheriff's Honor Farm

The Stanislaus County Civil Grand Jury recommends that the County:

- 1] Evaluate operations and expand staffing to fill appropriate vacancies. The Jail Needs Assessment, June 2007, recommends a number of staffing increases as shown in Section G, pages G.1-G.2.

Correctional staff for Barracks 2 and 3 on the night shift
Transportation staff (all three shifts).

- 2] Immediately obtain and install a new emergency generator system. This would alleviate winter sewer problems caused by power outages.
- 3] Expand vocational skill programs as much as possible. Fund these programs to provide a permanent base of skills opportunities. Provide a vocational job-placement and tracking program.
- 4] Replace or rebuild buildings and upgrade others as needed. Replacement of this entire facility was recommended in the 1988 Jail Needs Assessment and Master Plan.
- 5] Continue and expand these programs. Seek appropriate partnerships with the business community.

General/All Facilities

General Findings

1] Jail management and staff are doing extremely well with the current environment and within existing constraints. The Public Safety Center and Juvenile Detention Center are excellent facilities. However, there are many structural shortcomings in the Main Jail and the Honor Farm. The Main Jail's outdated design and cramped location will not allow for expansion. The Honor Farm facility lacks adequate security and its remote location creates a response time problem in case of a need for backup personnel. From County of Stanislaus Sheriff's Department – Jail Needs Assessment, June 2007. Executive Summary, p EX.2).

2] The Juvenile Detention Center houses sentenced and un-sentenced wards in the same facility.

3] Review of a sample of the safety inspection reports and related documents provided by the Sheriff's Department and the Probation Department found that items identified as deficient were handled in a reasonable and timely manner.

The staff and management personnel of each facility were operating their plant in a responsible manner. The staff members knew their jobs and performed their duties well. The management was comfortable responding to questions posed by the visiting members of the grand jury.

4] The total bed count in the three adult detention facilities is currently 1492. The executive summary of the County of Stanislaus Sheriff's Department – Jail Needs Assessment, June 2007 show a projection of 1913 total beds needed – an increase of 421 beds. The bed count of 1492 includes 100 double-bunk beds. Should the county need to eliminate this condition, then an additional 521 beds must be produced to meet the projection that is only two years in the future. The report describes this bed shortage as an "urgent service gap in the adult criminal justice system" (Executive Summary, p EX.1). Should this recommended expansion not take place, additional, critical pressure on early release programs is certain.

5] All of the facilities provided many of the necessary programs for the inmates.

6] There are critical staffing shortages that put the safety of staff as well as inmates and wards in jeopardy. The Jail Needs Assessment, June 2007, details staffing recommendations in Section G, pages G.1-G.2.

7] Staffing shortages impede professional development programs, which, in turn, negatively affect staff promotion and retention.

8] All four facilities appeared reasonably clean and trash-free.

General Recommendations

- 1] Demolish the Main Jail and Honor Farm and add the needed beds at the Public Safety Center property, as the County owns additional property at that location. These changes were already recommended in the 1988 Jail Needs Assessment and Master Plan. Conversion of the Main Jail to a short-term court holding facility has also been proposed.
- 2] Build the juvenile commitment facility immediately. This commitment facility would enable the separation of sentenced and un-sentenced wards. In the current Juvenile Commitment Facility Needs Assessment, it has been recommended that the county build this commitment facility on the existing property on Blue Gum Avenue.
- 3] Continue to train all staff thoroughly.
- 4] Expand bed capacity by building new facilities on existing County-owned property.
- 5] Expand inmate programs as needed – especially the educational and counseling programs at the Juvenile Detention Center.
- 6] Carefully evaluate staffing needs at all adult facilities. Recruit, hire, and train new staff members. The Jail Needs Assessment, June 2007, recommends a number of staffing increases as shown in Section G, pages G.1-G.2.

Main Jail

Facility escort staff

Correctional officers in Central Control

Public Safety Center

Internal facility escort correctional officer

External transportation staff

“B” Control staff (jail command post and inmate supervision)

Minimum Housing Unit staff

Medical security position

CSO positions.

Honor Farm

Correctional staff for Barracks 2 and 3 on the night shift

Transportation staff (all three shifts)

- 7] Improve professional development programs as needed.
- 8] Continue the good housekeeping.

RESPONSES REQUIRED

Office of the Stanislaus County Sheriff
Stanislaus County Probation Department
Board of Supervisors, Stanislaus County
Stanislaus County C.E.O.

APPENDIX

TRG Consulting. June 26, 2007. Stanislaus County Public Safety Services Master Plan.
Stanislaus County, CA.

TRG Consulting. April 11, 2008. Juvenile Commitment Facility Needs Assessment.
Stanislaus County CA.

**STANISLAUS COUNTY CIVIL GRAND JURY
2007-2008**

CASE # 08-27

**CONTAINING THE EMERGING THREAT OF HEPATITIS C
THROUGH A SYRINGE EXCHANGE PROGRAM**

2008 JUN 26 A 10:20

BOARD OF SUPERVISORS

SUMMARY

The purpose of this investigation was to examine the adequacy of Stanislaus County response to the most prevalent emerging public health threat, the blood-borne pathogen disease Hepatitis C, with a reservoir in the injection drug user population and the potential to spread among the general population without adequate intervention. Hepatitis C is the second most frequently transmitted infectious disease in the county and the "GIANT IN THE CLOSET," according to Stanislaus County Public Health Department's Community Health Report of 2006. The Stanislaus County Civil Grand Jury, as a public health measure, initiated this investigation for the people of Stanislaus County.

The Stanislaus County Civil Grand Jury's review determined, from examining the existing legislation, studies, hearing testimony of expert witnesses and other resources, that a syringe exchange program is the best of the prevention measures available against the spread of Hepatitis C and other blood-borne pathogens.

The Stanislaus County Civil Grand Jury recommends that the provisions of AB 547 (Berg) be adopted by the Board of Supervisors of Stanislaus County to allow the Public Health Department or a contractor to provide syringe exchange program services in the county.

A syringe exchange program would reduce the rate of new infections from Hepatitis C, human immunodeficiency virus, which causes acquired immune response deficiency syndrome, (HIV/AIDS) and other blood-borne pathogen diseases in Stanislaus County. Further, a syringe exchange program would provide a means to exchange dirty syringes for sterile syringes, enabling proper disposal of dirty syringes and allowing for the introduction of other social and health services to the community.

Safe community disposal of used syringes is a significant public health issue. A syringe exchange program would reduce the spread of Hepatitis C and other blood-borne pathogens among law enforcement officials, health care workers, sanitation workers, and others exposed to discarded syringes, including injection drug users, their sexual partners and their children in Stanislaus County. Further, it would reduce significantly the ongoing risk to all health care workers who serve all populations without regard to medical, financial or social history.

A study titled Science-based literature on Syringe Exchange Programs (SEPs) 1996-2007, dated October 2007, by Joanna Berton Martinez, revealed the following information about syringe exchange programs:

- SEPs do reduce HIV transmission. (and, by extension, Hepatitis C)
- SEPs do increase enrollment in drug treatment programs
- SEPs do reduce risky behaviors and injection drug use
- SEPs do not promote substance abuse

In other studies, it was found that syringe exchange programs themselves do not encourage the use of illegal drugs and do not increase criminal activity.

BACKGROUND

The Mission Statement of the Board of Supervisors of Stanislaus County reads:

“Stanislaus County serves the public interest by promoting public health, safety, welfare and the local economy in an efficient, cost-effective manner.”

In 2002 the Stanislaus County Hepatitis C Task Force was convened within the Public Health Department to create the Stanislaus County Hepatitis C Strategic Plan with a goal.

“To reduce the number of people newly infected with Hepatitis C in Stanislaus County.”

The Stanislaus County Hepatitis C Strategic Plan was completed in July 2006, and states in part:

“Stanislaus County has taken a lead in addressing Hepatitis C since 2002. In 2002 it was identified as one of the emerging health crisis (sic) of this county. The Stanislaus County rate exceeds the State of California rate as well as Healthy People 2010 target rate. Based on this data, Stanislaus County has taken a proactive role in reducing the number of infections in the county.”

However, the projection for 2008 sees a rise in reported cases. In the first quarter of calendar year 2008, 155 cases of Hepatitis C have been identified, which could indicate an annualized number of 620 cases will be reported, which is up from the previous year. That calculates to 11.9 newly identified cases of Hepatitis C each week.

Five actions steps were outlined in the Stanislaus County Hepatitis C Strategic Plan for the first year of a two-year strategy. All of the action steps have been completed except the most effective one,

“Seek to obtain approval to develop a syringe exchange program with the Board of Supervisors, Drug Advisory Board, and other interested parties.”

According to the Stanislaus County Hepatitis C Strategic Plan, it was an explicit objective of the Task Force to:

“Develop and implement a Hepatitis C education and prevention program for the general public, identified high risk populations, health care providers, law enforcement personnel, and other affected populations.”

Among other objectives, the plan reads:

“During year two the Public Health Department should: Develop and implement a syringe exchange program.”

The 2006 Stanislaus County Community Health Report, named Strength in Unity, noted that:

“In fact, **hepatitis C is the second most frequent communicable disease within Stanislaus County**, second only to Chlamydia, a sexually transmitted infection.”

The report noted this about Hepatitis C:

“It has been labeled the GIANT IN THE CLOSET because it is a chronic, insidious infection, which is not detected until severe liver damage has occurred.”

On August 10, 2006, the Stanislaus County Police Chiefs', Sheriff's and District Attorney's Association sent a letter to the Board of Supervisors on the subject of Syringe Distribution, which in pertinent part states:

“We do believe there may be merit in a needle exchange program, depending on the structure employed.”

Thus, both the public health and law enforcement approaches can co-exist with the common goal of harm reduction in Stanislaus County, through reducing the spread of blood-borne pathogen diseases by providing new syringes to injection drug users in exchange for dirty syringes in a syringe exchange program.

METHOD OF INVESTIGATION

The Stanislaus County Civil Grand Jury conducted interviews with Health Services Agency (HSA) management and staff, law enforcement management and harm reduction professionals. The Stanislaus County Civil Grand Jury reviewed science based literature, Stanislaus County statistical data, laws, worldwide statistics and harm reduction information.

FINDINGS AND RECOMMENDATIONS

Medical/Health Considerations

FINDING 1

Hepatitis C is the second most frequently transmitted communicable disease within Stanislaus County. Calendar year 2008 has started with 155 cases the first quarter, indicating that an annualized number of 620 cases could be reported, which is up from the previous year. New cases of Hepatitis C are projected to be identified at the rate of 11.9 per week for 2008.

FINDING 2

The most effective prevention strategy against Hepatitis C among injection drug users is the employment of a sterile syringe and needle for each injection.

FINDING 3

According to the Stanislaus County Health Services Agency, "Table 9. Mode of exposure 2007 Hepatitis C cases in Stanislaus." of the 519 cases identified, 69.4% did not know how they got the disease, 16.4% acquired it through injection drug use, and the remainder through other means.

FINDING 4

Currently there are no vaccines available against Hepatitis C or HIV.

FINDING 5

According to testimony, in a recent study in Stanislaus County, 25% of those tested at drug treatment programs tested positive for Hepatitis C.

FINDING 6

Further, 33.4% of reported HIV/AIDS cases in Stanislaus County were related to injection drug use.

FINDING 7

Injection drug users become infected by and transmit blood-borne pathogen disease viruses to others primarily through sharing contaminated syringes.

FINDING 8

The National Institutes of Health estimates that in the United States, at least seventy percent (70%) of injection drug users have Hepatitis C and between fifteen and twenty percent (15%-20%) have HIV.

Harm Reduction Factors

FINDING 9

According to the HIV Prevention Bulletin issued by the US Department of Health and Human Services, Centers for Disease Control, Health Resources and Services Administration (HRSA), National Institute on Drug Abuse, (NIDA), Substance Abuse and Mental Health Services Administration (SAMHSA), and the Morbidity and Mortality Weekly Report of the Center for Disease Control, November 9, 2007, persons who inject drugs should use sterile syringes to prevent the transmission of HIV.

FINDING 10

Syringes and equipment are shared for many reasons, but primarily because legal barriers have limited the access to sterile syringes. Removing legal sanctions against syringe possession would encourage proper disposal of dirty syringes through a legal syringe exchange program.

FINDING 11

In a syringe exchange program, a used syringe is required in exchange for a new syringe, thereby enabling the proper disposal of dirty syringes and not increasing the number of syringes circulating in the county.

FINDING 12

Harm reduction strategies, such as allowing legal syringe exchange programs, reduce the spread of Hepatitis C and other blood-borne pathogens to law enforcement officials, health care providers, family members, newborn infants, and uninfected injection drug users.

FINDING 13

Outreach projects associated with syringe exchange programs provide introductions to early medical treatment for other problems affecting injection drug users. Services offered include risk reduction behavior counseling, housing programs, recovery programs, job placement, and referrals to related services.

FINDING 14

Safe community disposal of used syringes is a significant public health issue. A legal syringe exchange program would reduce the spread of Hepatitis C and HIV/AIDS among people, their sexual partners, their children, law enforcement officials, health care providers, sanitation workers and others exposed to discarded syringes in Stanislaus County.

Cost factors and related budget savings

FINDING 15

HIV/AIDS patients are among the most expensive patients in the public health system. The direct lifetime medical cost for an HIV/AIDS patient from the time of diagnosis until death is estimated to be between \$144,000 and \$600,000.

FINDING 16

The direct lifetime medical cost of a Hepatitis C patient is estimated to be \$100,000. If a liver transplant is needed the additional cost would be at least \$300,000.

FINDING 17

The estimated costs of treatment of Hepatitis C and HIV do not include the social implications of lost wages, disability benefits, unemployment or the fiscal impact of lost tax revenue and Social Security contributions.

FINDING 18

A clean syringe costs pennies compared to the lifetime medical and social costs of caring for chronically ill patients.

FINDING 19

The 2007 budget for the Fresno syringe exchange program, a private enterprise, was \$47,000. None of its budget was subsidized by Fresno County. It was funded by grants and donations.

FINDING 20

A study titled Science-based literature on Syringe Exchange Programs (SEPs) 1996-2007, dated October 2007, by Joanna Berton Martinez, reveals the following information:

- SEPs reduce HIV transmission
- SEPs do increase enrollment in drug treatment programs
- SEPs do reduce risky behaviors and injection drug use
- SEPs do not promote substance abuse.

FINDING 21

Syringe exchange programs do not encourage the use of injection drugs and do not increase criminal activity.

Enabling Legislation

FINDING 22

Assembly Bill 547, Berg, was signed by Governor Schwarzenegger and went into effect January 1, 2006. The bill amends previous legislation (AB 136, Mazzoni) to allow counties and cities to authorize syringe exchange programs in their jurisdictions without the necessity to declare a state of local emergency. The purpose of AB 547 is to simplify the procedure for syringe exchange program authorization in order to encourage the integration of syringe exchanges into Hepatitis C and HIV prevention efforts throughout the State of California.

FINDING 23

Five years ago, AB 136 was signed into law, creating Health and Safety Code Section 11364.7(a). The law reads, in part:

“No public entity, its agents, or employees shall be subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.”

Health and Safety Code Section 11364.7(a) protected local government organizations, their employees, and authorized subcontractors in local health jurisdictions that declared a local health emergency from criminal prosecution for distribution of syringes.

The requirement to declare a local emergency has been rescinded by AB 547.

Support for Syringe Exchange Programs

FINDING 24

The Stanislaus County Civil Grand Jury finds that there is considerable support for syringe exchange programs and for AB 547. National organizations in support of syringe exchange programs include the following:

- American Bar Association
- American Medical Association
- American Academy of Pediatrics
- American Nurses Association
- American Public Health Association
- American Pharmaceutical Association
- American Psychological Association
- American Red Cross
- Council of State and Territorial Epidemiologists

National Black Caucus of State Legislators
National Black Police Officers Association
National Alliance of State and Territorial AIDS Directors
National Association of State Alcohol and Drug Abuse Directors
U.S. Conference of Mayors
U.S. Government Accounting Office
Health & Human Services
National Institute on Drug Abuse

FINDING 25

California supporters of AB 547 and syringe exchange programs include:

Health Officers Association of California
California Chapter, National Association of Social Workers
California Narcotic Officers' Association
California Medical Association
California Peace Officer's Association
California State Association of Counties
County Alcohol and Drug Program Administrators Association of California
County Health Executives Association of California

FINDING 26

Stanislaus County supporters of AB 547 and a syringe exchange program include:

Advisory Board for Substance Abuse Programs of Stanislaus County
Hepatitis C Coalition of Stanislaus County
Local Implementation Group of Stanislaus County

RECOMMENDATION 1

The Stanislaus County Civil Grand Jury recommends that the Stanislaus County Board of Supervisors adopt a resolution enabling the provisions of AB 547, thus allowing the operation of a syringe exchange program within Stanislaus County.

RECOMMENDATION 2

The Stanislaus County Civil Grand Jury recommends that the Stanislaus County Board of Supervisors direct the Public Health Department of the Health Services Agency to provide a syringe exchange program, or to seek a contractor, to provide syringe exchange program services within Stanislaus County.

RESPONSES REQUIRED

Stanislaus County Board of Supervisors
Stanislaus County Department of Public Health

APPENDIX

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STATE LEGISLATION:

BILL NUMBER: AB 547 CHAPTERED
BILL TEXT

CHAPTER 692

FILED WITH SECRETARY OF STATE OCTOBER 7, 2005

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PASSED THE ASSEMBLY AUGUST 29, 2005

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AMENDED IN SENATE JULY 11, 2005

INTRODUCED BY Assembly Members Berg and Richman
(Coauthors: Assembly Members Bass, Calderon, Chan, Chu, Cohn, De
La Torre, Dymally, Evans, Goldberg, Hancock, Jones, Koretz, Laird,
Leno, Levine, Lieber, Montanez, Mullin, Oropeza, Pavley,
Ridley-Thomas, Saldana, Salinas, and Vargas)
(Coauthors: Senators Alquist, Chesbro, Kehoe, Kuehl, Lowenthal,
Migden, and Romero)

FEBRUARY 16, 2005

An act to amend Section 11364.7 of, and to add Chapter 18 (commencing with Section 121349) to Part 4 of Division 105 of, the Health and Safety Code, relating to clean needle and syringe exchange.

LEGISLATIVE COUNSEL'S DIGEST

AB 547, Berg

Clean needle and syringe exchange projects.

Existing law authorizes pharmacists and physicians to furnish hypodermic needles and syringes without a prescription or permit for human use in the administration of insulin or adrenaline.

Existing law prohibits any public entity, its agents, or employees from being subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

This bill would instead authorize cities, counties, or cities and counties to have a clean needle and syringe exchange project that, in consultation with the State Department of Health Services, authorizes this exchange, as recommended by the United States Secretary of Health and Human Services and as part of a network of comprehensive services.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The rapidly spreading acquired immunodeficiency syndrome (AIDS) epidemic, and the more recent spread of blood-borne hepatitis, pose an unprecedented public health crisis in California, and threaten, in one way or another, the life and health of every Californian.

(b) Injection drug users are the second largest group at risk of becoming infected with the human immunodeficiency virus (HIV) and developing AIDS, and they are the primary source of heterosexual, female, and perinatal transmission in California, the United States, and Europe.

(c) According to the Office of AIDS, injection drug use has emerged as one of the most prevalent risk factors for new AIDS cases in California.

(d) Studies indicate that the lack of sterile needles available on the streets, and the existence of laws restricting needle availability promote needle sharing, and consequently the spread of HIV among injection drug users. The sharing of contaminated needles is the primary means of HIV transmission within the injection drug user population.

(e) Most injection drug users use a variety of drugs, mainly heroin, cocaine, and amphetamines. Because amphetamine- and cocaine-injecting drug users inject more frequently than heroin users, their risk for HIV infection is higher.

SEC. 2. Section 11364.7 of the Health and Safety Code is amended to read:

11364.7. (a) Except as authorized by law, any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

No public entity, its agents, or employees shall be subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to Chapter 18 (commencing with Section 121349) of Part 4 of Division 105.

(b) Except as authorized by law, any person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.

(c) Except as authorized by law, any person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years his or her junior, or who, upon the grounds of a public or private elementary, vocational, junior high, or high school, possesses a hypodermic needle, as defined in paragraph (7) of subdivision (a) of Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or

(c) by a holder of a business or liquor license issued by a city, county, or city and county, or by the State of California, and in the course of the licensee's business shall be grounds for the revocation of that license.

(e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and may be seized by any peace officer pursuant to Section 11471.

(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

California Health and Safety Code, Division 105, Part 4, Chapter 18.
HEALTH AND SAFETY CODE SECTION 121349-121349.3

121349 (a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to attempt to reduce the spread of HIV infection and blood-borne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city and county, county, or city upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1

121349.1. A city and county, or a county, or a city with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Health Services, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among injection drug users. Providers participating in an exchange project authorized by the county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for possession of needles or syringes during participation in an exchange project.

121349.2. Local government, local public health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on an annual basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare of clean needle and syringe exchange programs are addressed and mitigated.

121349.3. The health officer of the participating jurisdiction shall present annually at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to assure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

BILL NUMBER: SB 1159 CHAPTERED
BILL TEXT

CHAPTER 608

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AMENDED IN SENATE MARCH 16, 2004

INTRODUCED BY Senator Vasconcellos

(Principal coauthors: Assembly Members Berg and Nation)

(Coauthors: Assembly Members Goldberg, Hancock, Jerome Horton,
Koretz, Laird, Levine, and Vargas)

FEBRUARY 2, 2004

An act to amend Sections 4145 and 4147 of, and to repeal Section 4146 of, the Business and Professions Code, to amend Section 11364 of, and to add Chapter 13.5 (commencing with Section 121285) to Part 4 of Division 105 of, the Health and Safety Code, relating to hypodermic needles and syringes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, Vasconcellos. Hypodermic needles and syringes.

(1) Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes. Under existing law, a prescription is required to purchase a hypodermic needle or syringe for human use, except to administer adrenaline or insulin.

This bill, subject to authorization by a county or city, would authorize a licensed pharmacist, until December 31, 2010, to sell or furnish 10 or fewer hypodermic needles or syringes to a person for human use without a prescription if the pharmacy is registered with a local health department in the Disease Prevention Demonstration Project, which would be created by the bill to evaluate the long-term desirability of allowing licensed pharmacies to sell or furnish nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C.

The bill would require a pharmacy that participates in the Disease and Demonstration Project pursuant to county or city authorization to comply with specified requirements, including registering with the local health department. The bill would require the State Department of Health Services, in conjunction with an advisory panel, to evaluate the effects of allowing the sale of hypodermic needles or syringes without prescription, and

would require a report to be submitted to the Governor and the Legislature by January 15, 2010. The bill would encourage the State Department of Health Services to seek funding from private and federal sources to pay for the evaluation. The bill would impose various other duties on local health departments, thereby imposing a state-mandated local program. The demonstration program would terminate on December 31, 2010.

Alternatively, the bill would also authorize the sale or furnishing of hypodermic needles or syringes to a person for human use without a prescription if the person is known to the furnisher and has previously provided the furnisher with a prescription or other proof of a legitimate medical need.

The bill would make it unlawful to discard or dispose of a hypodermic needle or syringe upon the grounds of a playground, beach, park, or any public or private elementary, vocational, junior high, or high school. The bill would make a knowing violation of this prohibition a crime, thereby imposing a state-mandated local program.

(2) Existing law requires a pharmacist to keep detailed records of nonprescription sales of hypodermic needles and syringes. This bill would delete that requirement.

(3) Existing law prohibits the possession and sale of drug paraphernalia. This bill, until December 31, 2010, subject to authorization by a county or city, would allow a person to possess 10 or fewer hypodermic needles or syringes if acquired through an authorized source.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(5) This bill would make the operation of its provisions contingent upon the enactment of SB 1362.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4145 of the Business and Professions Code is amended to read:

4145. (a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if one of the following requirements is met:

(1) The person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(2) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within the city, for the period commencing January 1, 2005, and ending December 31, 2010, a pharmacist may furnish or sell 10 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older if the pharmacist works for a pharmacy that is registered for the Disease Prevention Demonstration Project pursuant to Chapter 13.5 (commencing with Section 121285) of Part 4 of Division 105 of the Health and Safety Code and the pharmacy complies with the provisions of that chapter.

(b) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals, providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

SEC. 2. Section 4146 of the Business and Professions Code is repealed.

SEC. 3. Section 4147 of the Business and Professions Code is amended to read:

4147. (a) For the purposes of this section, "playground" means any park or outdoor recreational area specifically designed to be used by children that has play equipment installed or any similar facility located on public or private school grounds or county parks.

(b) Any hypodermic needle or syringe that is to be disposed of, shall be contained, treated, and disposed of, pursuant to Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

(c) It is unlawful to discard or dispose of a hypodermic needle or syringe upon the grounds of a playground, beach, park, or any public or private elementary, vocational, junior high, or high school.

(d) A person who knowingly violates subdivision (c) is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred dollars (\$200) and not more than two thousand dollars (\$2,000), or by imprisonment in a county jail for up to six months, or by both that fine and imprisonment.

(e) Subdivision (c) does not apply to the containment, treatment, and disposal of medical sharps waste from medical care or first aid services rendered on school grounds, nor to the containment, treatment, and disposal of hypodermic needles or syringes used for instructional or educational purposes on school grounds.

SEC. 4. Section 11364 of the Health and Safety Code is amended to read:

11364. (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in

subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in

subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within in the city, for the period commencing January 1, 2005, and ending December 31, 2010, subdivision (a) shall not apply to the possession solely for personal use of 10 or fewer hypodermic needles or syringes if acquired from an authorized source.

SEC. 5. Chapter 13.5 (commencing with Section 121285) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 13.5. DISEASE PREVENTION DEMONSTRATION PROJECT

121285. (a) The Disease Prevention Demonstration Project, a collaboration between pharmacies and local and state health officials, is hereby authorized for the purpose of evaluating the long-term desirability of allowing licensed pharmacists to furnish or sell nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C.

(b) The State Department of Health Services shall evaluate the effects of allowing pharmacists to furnish or sell a limited number of hypodermic needles or syringes without prescription, and provide a report to the Governor and the Legislature on or before January 15, 2010. The State Department of Health Services is encouraged to seek funding from private and federal sources to pay for the evaluation. The report shall include, but need not be limited to, the effect of nonprescription hypodermic needle or syringe sale on all of the following:

- (1) Hypodermic needle or syringe sharing practice among those who inject illegal drugs.
- (2) Rates of disease infection caused by hypodermic needle or syringe sharing.
- (3) Needlestick injuries to law enforcement officers and waste management employees.
- (4) Drug crime or other crime in the vicinity of pharmacies.
- (5) Safe or unsafe discard of used hypodermic needles or syringes.

(6) Rates of injection of illegal drugs.

(c) The State Department of Health Services shall convene an uncompensated evaluation advisory panel comprised of all of the following: two or more specialists in the control of infectious diseases; one or more representatives of the California State Board of Pharmacy; one or more representatives of independent pharmacies; one or more representatives of chain pharmacy owners; one or more representatives of law enforcement executives, such as police chiefs and sheriffs; one or more representatives of rank and file law enforcement officers; a specialist in hazardous waste management from the State Department of Health Services; one or more representatives of the waste management industry; and one or more representatives of local health officers.

(d) In order to furnish or sell nonprescription hypodermic needles or syringes as part of the Disease Prevention Demonstration Project in a county or city that has provided authorization pursuant to Section 4145 of the Business and Professions Code, a pharmacy shall do all of the following:

(1) Register with the local health department by providing a contact name and related information, and certify that it will provide, at the time of furnishing or sale of hypodermic needles or syringes, written information or verbal counseling on all of the following:

(A) How to access drug treatment.

(B) How to access testing and treatment for HIV and hepatitis C.

(C) How to safely dispose of sharps waste.

(2) Store hypodermic needles and syringes so that they are available only to authorized personnel, and not openly available to customers.

(3) In order to provide for the safe disposal of hypodermic needles and syringes, a registered pharmacy shall provide one or more of the following options:

(A) An onsite safe hypodermic needle and syringe collection and disposal program.

(B) Furnish or make available for purchase mail-back sharps disposal containers authorized by the United States Postal Service that meet applicable state and federal requirements, and provide tracking forms to verify destruction at a certified disposal facility.

(C) Furnish or make available for purchase personal sharps disposal containers that meet state and federal standards for disposal of medical waste.

(e) Local health departments shall be responsible for all of the following:

(1) Maintaining a list of all pharmacies within the local health department's jurisdiction that have registered under the Disease Prevention Demonstration Project.

(2) Making available to pharmacies written information that may be provided or reproduced to be provided in writing or orally by the pharmacy at the time of furnishing or the sale of nonprescription hypodermic needles or syringes, including all of the following:

- (A) How to access drug treatment.
- (B) How to access testing and treatment for HIV and hepatitis C.
- (C) How to safely dispose of sharps waste.
- (f) As used in this chapter, "sharps waste" means hypodermic needles, syringes, and lancets.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 7. This act shall become operative only if Senate Bill 1362 of the 2003-04 Regular Session is enacted and becomes effective on or before January 1, 2005.